ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,

Appellant,

vs.

JAMES D. BLACK,

Appellee.

On Appeal from the Ashland County Court of Appeals, Fifth Appellate District

Case No. 2013-0552 & 2013-0805

Appellate No. 12-COA-018

REPLY BRIEF OF APPELLANT, STATE OF OHIO

Ramona J. Rogers (#0031149)
Ashland County Prosecuting Attorney
By: Andrew N. Bush (#0084402)
Assistant Prosecuting Attorney
110 Cottage Street, Third Floor
Ashland, Ohio 44805
(419) 289-8857
Fax No. (419) 281-3865

COUNSEL FOR APPELLANT, STATE OF OHIO

Daniel D. Mason
145 Westchester Drive
Amherst, Ohio 44001
(440) 759-1720

COUNSEL FOR APPELLEE, JAMES D. BLACK

RECEIVED
SEP 04 2013
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
SEP 04 2013
CLERK OF COURT
SUPREME COURT OF OHIO

TABLE OF CONTENTS

TABLE OF AUTHORITIES CITED..... iii

ARGUMENT..... 1

PROOF OF SERVICE..... 2

TABLE OF AUTHORITIES

I. TABLE OF CASES & STATUTES CITED

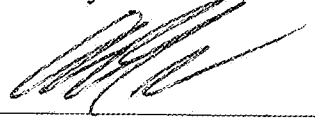
Felix v. United States, 508 A.2d 101 (D.C. App 1986) 1

ARGUMENT

Appellee's argument that *Felix v. United States*, 508 A.2d 101 (D.C. App 1986) stands for the notion that the Interstate Agreement on Detainers (hereinafter IAD) applies to county jail inmates is a blatant mischaracterization of the facts and the law contained in that case. Appellee first claims that the defendant in *Felix* was "awaiting transfer to a state correctional facility." (Appellee's brief at p. 10). Actually, the defendant in *Felix* was already in a state correctional facility, specifically a New York state prison receiving and transit institution at Ossining, not a county jail. *Id.* at 102. Appellee in this matter claims that the state in *Felix* argued that the IAD did not apply because the "defendant had merely been in a county jail." (Appellee's brief at p. 10). This is simply not what the state argued in *Felix*, likely because the Defendant in that case was not in a county jail. The state argued that the IAD did not apply to a person in a state prison receiving and transit unit that is "awaiting transfer to a permanent correctional institution." *Id.* at 105. Appellee then, paraphrasing rather than directly quoting the *Felix* decision, claims that court held that the IAD applies to a term of incarceration "regardless of whether it was in a county jail or a state correctional facility. *Id.* at 106." (Appellee's brief at p. 10). The *Felix* decision never made such a holding and does not even touch upon the issue of whether the IAD applies to county jails. In fact, Appellee's citation to page 106 of the *Felix* decision is highly questionable considering the words "county jail" never even appear on page 106 of the *Felix* decision.

Appellee attempts to construe his view as the "widely accepted view" based on *Felix*. The fact of the matter is, as previously stated in Appellant's merit brief, there is a disagreement among the states. Appellee's claim that his position is the "widely accepted view," particularly based on a complete misstatement of *Felix*, is not supported by the law.

Respectfully submitted,



ANDREW N. BUSH
#0084402
Assistant Prosecuting Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and correct of the foregoing Brief of Appellee State of Ohio was sent to Attorney Dan Mason, legal counsel for Appellee, at 145 Westchester Drive, Amherst, Ohio 44001, by regular U.S. Mail postage prepaid, this 30 day of August, 2013.

ANDREW N. BUSH
#0084402
Assistant Prosecuting Attorney