

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO

Appellee

vs.

ERIC JONES

Appellant

Case No. C 13 0804

Trial No. B 13 03301

14-1317

MEMORANDUM IN SUPPORT OF JURISDICTION

FILED  
AUG 04 2014  
CLERK OF COURT  
SUPREME COURT OF OHIO

Joseph Deters  
Hamilton County Prosecutor  
230 E. Ninth Street, Suite 4000  
Cincinnati, OH 45202  
513-946-3000  
513-946-3021 (fax)

Roger W. Kirk  
Supreme Court #0024219  
114 E. Eighth Street  
Cincinnati, OH 45202  
513-272-1100  
513-621-2525 (fax)

ATTORNEY FOR APPELLEE

ATTORNEY FOR APPELLANT

RECEIVED  
AUG 04 2014  
CLERK OF COURT  
SUPREME COURT OF OHIO

**TABLE OF CONTENTS**

TABLE OF CONTENTS..... ii

ISSUES OF THIS CASE RAISE SUBSTANTIAL CONSTITUTIONAL QUESTIONS  
AND ARE OF GREAT PUBLIC INTEREST .....1

STATEMENT OF THE CASE AND PROCEDURAL POSTURE .....1

**First Proposition of Law:** When the trial court does not notify the defendant that he has the  
right to earn limited prison time credit, it commits reversible error calling for remand of the  
case.....2

CONCLUSION.....3

CERTIFICATE OF SERVICE .....3

APPENDIX.....4

IN THE SUPREME COURT OF OHIO

STATE OF OHIO	:	Case No.	C 13 0804
	:		
Appellee	:	Trial No.	B 13 03301
	:		
vs.	:	<b>MEMORANDUM IN SUPPORT OF</b>	
	:	<b>JURISDICTION</b>	
ERIC JONES	:		
	:		
Appellant	:		

**ISSUES OF THIS CASE RAISE SUBSTANTIAL CONSTITUTIONAL QUESTIONS  
AND ARE OF GREAT PUBLIC INTEREST**

Eric Jones asks this Court to accept jurisdiction regarding the propositions of law that the Hamilton County Common Pleas Court violated his due process rights and erred to his prejudice when the trial court entered a judgment entry of conviction and erroneous sentence. This case is of public or great general interest and involves a substantial constitutional question because the decision rendered in this matter by the First District Court of Appeals is erroneous by failing to recognize the assignments of error argued in the appeal violated his constitutional due process rights and is in conflict with other Ohio appellate courts. Thus, this Court needs to adjudicate this appeal to resolve and clarify for all appellate courts the due process questions raised herein.

**STATEMENT OF THE CASE AND PROCEDURAL POSTURE**

Appellant (Jones) was indicted by the Hamilton County Grand Jury for carrying concealed weapons (CCW), felony 4. Jones entered a plea bargain where he pled guilty to a reduced F-5 attempted carrying concealed weapons (Ohio Revised Code §2923.12, 2923.02). The trial court sentenced Jones to 3 years community control with 90 days in the Hamilton

County Justice Center.

Jones, through counsel, timely filed this notice of appeal.

On May 28, 2013, in Hamilton County, Ohio, Eric Jones had a loaded gun concealed on his person. It does not appear that he fired the gun but sustained gunshot wounds to his abdomen from the police during this incident.

**First Proposition of Law:** When the trial court does not notify the defendant that he has the right to earn limited prison time credit, it commits reversible error calling for remand of the case.

Ohio Crim.R.11 requires a trial court to provide notice to a defendant of the maximum possible penalties the defendant faces when he enters a guilty plea to misdemeanor and felony offenses. This is required in the interest of fundamental fairness and due process. If the trial court does not provide the referenced notice, the defendant's guilty plea is prejudiced because he cannot knowingly, voluntarily, or intelligently enter the plea without being provided complete information as to the full penalties possible.

The trial court erred to Jones' prejudice when it failed to inform him during his guilty plea hearing that he was eligible to earn days of credit for reduction of prison term under circumstances specified under Ohio Revised Code §2967.193. (T.p. 1-16) The Ohio Revised Code §2967.193 language is generally contained in the guilty plea entry, but because the court did not verbally go over this process it rendered the plea defective. These credit days are not automatic but must be earned. This failure to notify him rendered Jones' guilty plea not knowing and voluntary, and the sentence should be vacated and remanded for correction. This is the case even though Jones was not sentenced to prison, but if he violated his community control later he would face prison time and the notification is thus necessary.

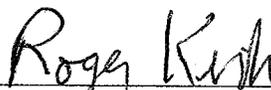
Therefore, Jones' guilty plea was not knowingly, voluntarily or intelligently made and his

Crim.R.11 and due process rights were not complied with.

**CONCLUSION**

Based on the foregoing, Eric Jones asks this Court to take jurisdiction of this case.

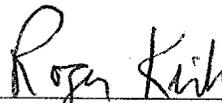
Respectfully submitted,



\_\_\_\_\_  
Roger W. Kirk  
Supreme Court #0024219  
Attorney for Defendant-Appellant  
114 E. Eighth Street  
Cincinnati, OH 45202  
(513) 272-1100

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Memorandum in Support of Jurisdiction was hand-delivered to the office of the Hamilton County Prosecutor on July 18, 2014.



\_\_\_\_\_  
Roger W. Kirk  
Attorney for Defendant-Appellant

**APPENDIX**

Judgment Entry of the First District Court of Appeals

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-130804
	:	TRIAL NO. B-1303301
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
ERIC JONES,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Eric Jones pleaded guilty to attempted carrying of a concealed weapon. The trial court sentenced him to three years of community control and 90 days in jail. In one assignment of error, Jones claims that his plea was not knowing, intelligent, and voluntary because the trial court failed to ask Jones if he was a United States citizen, and because the court failed to inform Jones of the possibility of earning prison-time credit. These arguments have no merit.

At Jones's plea hearing, the trial court personally addressed Jones and asked if he was a United States citizen. Jones replied that he was. And Jones indicated on his plea form that he was a citizen of the United States. The record, therefore, does not reflect the error alleged.

As to Jones's second argument, the trial court was not required to inform Jones that he may be entitled to earn prison-time credit. Jones was not sentenced to prison

**OHIO FIRST DISTRICT COURT OF APPEALS**

---

so such a notification would have been meaningless. And even if Jones had been sentenced to prison, the trial court was under no obligation to inform him of the possibility of earned days of credit. *See State v. Curless*, 1st Dist. Hamilton No. C-130204, 2014-Ohio-1493, ¶ 13.

Jones's sole assignment of error is overruled. The trial court's judgment is affirmed.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., HENDON and DEWINE, JJ.**

To the clerk:

Enter upon the journal of the court on June 25, 2014

per order of the court \_\_\_\_\_  
Presiding Judge