

ORIGINAL

IN THE SUPREME COURT OF OHIO.

State of Ohio :

Appellee :

v's :

David Keeley :

Appellant :

FILED
FEB 09 2015
CLERK OF COURT
SUPREME COURT OF OHIO

Case No. 2014-1360

MOTION FOR RECONSIDERATION

Court of Appeals

Case No. 13-CA-34

Now comes the Appellant, David Keeley, Pro Se, in the above styled cause and respectfully moves this Court to reconsider the Supreme Court of Ohio decision to deny jurisdiction on the Appellants Notice of Appeal. The Supreme Courts entry was filed on the 28th January, 2015 and was received by the Appellant on the 3rd February, 2015, via the Belmont Correctional Institutions legal mail system.

The Appellant was appealing the court of appeals decision on the Appellants Post-Conviction application. This decision was given on the 21st February, 2014, and the reconsideration dated the 3rd July, 2014, with the subsequent Notice of Appeal filed in the Supreme Court of Ohio on the 8th August, 2014, Case No. 2014-1360.

This is filed pursuant to S.Ct.Prac.R.11.2. A memorandum in support is attached explaining the reasons why this Court should grant this motion.

RECEIVED
FEB 09 2015
CLERK OF COURT
SUPREME COURT OF OHIO

Respectfully Submitted,



David Keeley, #647623
Appellant, Pro Se

Belmont Correctional Inst.
Post Office Box 540
St.Clairsville, OH, 43950

MEMORANDUM IN SUPPORT.

Under **S.Ct.Prac.R.2.1(A)(2)** the Appellants appeal is a claimed appeal of right because it is an appeal from the court of appeals and involves constitutional violations. **S.Ct.Prac.R.2.1(A)(2)** states:

"Claimed appeals of right. An appeal that claims a substantial constitutional question, including an appeal from the decision of a court of appeals under App.R.26(B) in a noncapital case, may invoke the appellate jurisdiction of the Supreme Court and shall be designated a claimed appeal of right. In accordance with **S.Ct.Prac.R.3.6**, the Supreme Court will determine whether to accept the appeal."

Therefore, the determination of this Court to accept the appeal is governed by **S.Ct.Prac.R.3.6(B)(1)(a)(b)** and has two choices:

S.Ct.Prac.R.3.6(B) Decision on Jurisdiction.

(1) If the appeal is a claimed appeal of right, the Supreme Court will either:

(a) Dismiss the appeal as not involving any substantial constitutional question; or

(b) Accept the appeal.....

As the appeal was dismissed then it can only be for the reason of "not involving any substantial constitutional question".

The underlying assignments that were part of the appeal to the Court of Appeals were on constitutional grounds and Due Process violations. The issues that were being appealed to this Court were for Due Process violations made by the appellate court in its denial of the Appellants post-conviction petition.

The facts are the trial court denied the Appellants petition with the statement "failed to show that he is entitled to post-conviction relief." The post-conviction statute was not followed because no "findings of fact or conclusions of law" were given despite this being a requirement of R.C.2953.21. The Appellant appealed to the Fourth District Court of Appeals who stated that

res judicata as a reason the trial court denied the petition. The trial court did not state this, only the appellate court. Case Law and the statutes clearly state that the determination for denial of a post-conviction relief petition must come from the trial judge. It is strange that these are the same issues that the appellate court stated, in an earlier appeal, that res judicata could not apply. See 12CA15.

The trial court and the appellate court both disregarded the statutes in making their decisions and, because there is no review of the errors that appeals courts make, this trend will continue.

CONCLUSION.

Because of these reasons and because Due Process has been violated and is a constitutional issue, and because the assignments included constitutional issues, (ineffective trial counsel, etc.), this Court should accept jurisdiction of this case and allow the Appellant to submit his merit brief.

Respectfully Submitted,



David Keeley, #647-623
Appellant, Pro Se
Belmont Correctional Inst.
Post Office Box 540
St. Clairsville, OH, 43950

CERTIFICATE OF SERVICE.

I, the undersigned, do hereby certify that a true and accurate copy of the foregoing Motion has been sent by regular U.S. mail to the office of the Washington County Prosecutor on this the 4th day of February, 2015.



David Keeley, #647623