

STATE OF OHIO)
)SS.
COUNTY OF LAKE)

IN THE COURT OF APPEALS
ELEVENTH DISTRICT

STATE OF OHIO,

JUDGMENT ENTRY

Plaintiff-Appellee,

CASE NO. 2013-L-089

- vs -

THOMAS WRIGHT, JR.,

Defendant-Appellant.

FILED
COURT OF APPEALS
AUG 05 2015
MAUREEN G. KELLY
CLERK OF COURT
LAKE COUNTY, OHIO

Pursuant to the analysis set forth in this court's opinion of *State v. Wright*, 11th Dist. Lake No. 2013-L-089, 2015-Ohio-2601, this court finds that the judgment entered in *Wright* is in conflict with the judgment pronounced on the same question by the Eight District Court of Appeals in *State v. Klembus*, 8th Dist. Cuyahoga No. 100068, 2014-Ohio-3227, appeal accepted Sup.Ct. 141 Ohio St.3d 1473, 2015-Ohio-554.

Ohio Constitution, Article IV, Section 3(B)(4) provides:

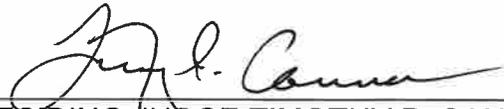
Whenever the judges of a court of appeals find that a judgment upon which they have agreed is in conflict with a judgment pronounced upon the same question by any other court of appeals of the state, the judges shall certify the record of the case to the supreme court for review and final determination.

Pursuant to the foregoing constitutional provision, we sua sponte certify a conflict on the following question to the Supreme Court of Ohio for review and final determination:

Whether Ohio Revised Code 2941.1413, the repeat OVI offender specification, violates a defendant's constitutional right to Equal Protection under Article I, Section 2 of the Ohio Constitution and the Fourteenth Amendment of the United States Constitution to the extent that it affords a prosecutor the discretion to include the specification and thereby obtain a harsher prison sentence for the underlying offense without proof of any additional element or fact?

The attention of counsel for both appellant and appellee are called to the Rules of Practice of the Supreme Court, Section 8, Certified-Conflict Cases, for further proceedings.

IT IS SO ORDERED.



PRESIDING JUDGE TIMOTHY P. CANNON

THOMAS R. WRIGHT, J.,

COLLEEN MARY O'TOOLE, J.,

concur.