Supreme Court of Ohio Clerk of Court - Filed October 01, 2015 - Case No. 2015-1610

IN THE SUPREME COURT OF OHIO

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| IN RE R.A.H., JR., A MINOR CHILD | : | ON APPEAL from the Cuyahoga County Court of Appeals Eighth Appellate District |
| | : | C.A. Case No. 101936 |

# MEMORANDUM IN SUPPORT OF JURISDICTION OF MINOR CHILD-APPELLANT, R.A.H., JR.

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**Explanation of why this case is one of public or great general interest and involves a substantial constitutional question**

R.A.H., Jr. was adjudicated delinquent of violating R.C. 2907.02(A)(1)(b) and R.C. 2907.02(A)(2) based on a single act of digital penetration. *Op.* at ¶ 17. Had he been an adult at the time of the act, the offenses would have merged pursuant to R.C. 2941.25 and the analysis set forth by this Court in *State v. Johnson*, 128 Ohio St.3d 153, 2010-Ohio-6314, 942 N.E.2d 1061, ¶ 41-42. But, because R.A.H.'s case was prosecuted in juvenile court, the Eighth District Court of Appeals, applying *Blockburger v. United States*, 284 U.S. 299, 52 S.Ct. 180, 76 L.Ed. 306 (1932), held that merger was not required in his case. *Op.* at ¶ 18-19.

To determine if offenses should merge as allied offenses of similar import, this Court has rejected the abstract, elemental-matching analysis from *State v. Rance*, 85 Ohio St.3d 632, 710 N.E.2d 699 (1999). *Johnson* at ¶ 41-42. In overruling *Rance*, this Court implemented an analysis that focuses on the defendant's conduct: "whether it is possible to commit one offense and commit the other with the same conduct;" and, whether "the offenses were committed by the same conduct, i.e., 'a single act, committed with a single state of mind.'" *Id.* at ¶ 48-49. "If the answer to both questions is yes, then the offenses are allied offenses of similar import," and they must be merged. *Id.* at ¶ 50. This test reinforces the spirit of the double jeopardy protections against "shotgun convictions." *Id.* at ¶ 43.

But, the Eighth District has reinstated a *Rance*-like abstract elemental-matching test in juvenile cases—the very test this Court overruled in *Johnson*. *Op.* at ¶ 18-19. This Court is already reviewing the question of whether *Johnson* applies to juvenile delinquency cases in Case No. 2014-2190, *In re: A.G., A Minor Child.* Accordingly, R.A.H. respectfully requests that this Court accept jurisdiction of his first proposition of law and hold it for the decision in *A.G.*

But, this Court's decision in *A.G.* will not address all of the questions presented in this appeal. In addition to being adjudicated delinquent of allied offenses of similar import, R.A.H. was

also classified as a tier I juvenile sex offender registrant under Senate Bill 10 ("S.B. 10"). *Op.* at ¶ 20. On appeal, R.A.H. alleged that his mandatory classification violates the Equal Protection Clauses of the U.S. and Ohio Constitutions and that the extension of his registration duties beyond the age jurisdiction of the juvenile court violates due process. *Id.* at ¶ 20-23. This Court is reviewing both of those questions in Case No. 2014-0607, *In re: D.S., A Minor Child*, and Case No. 2014-1315, *In re: M.R., A Minor Child* (*appeal accepted and held for D.S., with briefing stayed on Third Proposition of Law*). Accordingly, R.A.H. respectfully requests that this Court accept jurisdiction of his second proposition of law and hold it for its decision in *D.S.* and *M.R.*

**Statement of the Case and Facts**

The Eighth District adduced the relevant facts of this case as follows:

> A complaint was filed in the juvenile court against R.H. for one count of gross sexual imposition and two counts of rape. R.H. refused to enter a plea; therefore, the matter proceeded to the adjudicatory and dispositional hearings before the trial court where the following evidence was presented.
>
> On October 27, 2013, the mother of H.Y. dropped off 12-year old H.Y. at her paternal grandmother's home located on Kennedy Avenue in Cleveland, Ohio, in order for her to spend the weekend with her father. The child had a distant relationship with her father and had not seen him, or his side of the family, for at least several years. However, the father had been begging the child's maternal grandmother to be able to visit the child. The child's mother allowed the visitation as long as the father stayed with the child and did not leave the child alone in the father's family's presence.
>
> On October 28, 2013, the grandmother had a family party. H.Y. slept on the couch in the living room with her younger female cousin. Another cousin slept on another couch. According to H.Y., she was asleep on her stomach with her hands above her head when R.H., her 16-year old cousin, came downstairs to use the bathroom. She said the light in the bathroom woke her up. She stated that R.H. approached her on the couch and held down her arms with one hand, while the other hand went inside her pink leggings and underwear and she felt R.H. insert his finger in her "front private part," which she explained was the part of the body from which she urinated. H.Y. stated she was able to kick her cousin Samaria's legs to wake her up. R.H. then told her if she told anyone he would "kill her" and went back upstairs. H.Y. told her cousin Samaria what had happened. They then went back to sleep.
>
> The next morning, H.Y. told a couple of other cousins what had happened and eventually, her father heard what had occurred. A family meeting was assembled in

> the dining room, which included H.Y., R.H., her father, grandmother, and aunts. H.Y. accused R.H. of touching her, and R.H. denied the accusation.
>
> * * *
>
> The trial court found R.H. delinquent of all counts. The trial court ordered a six-month commitment for the gross sexual imposition and a commitment for 12 months for each of the rape counts. The trial court then suspended the commitments imposed and placed him on community control for two years.

*Op.* at ¶ 3-6, 10. R.A.H. timely appealed.

On appeal, R.A.H. alleged that his adjudication for gross sexual imposition was not supported by sufficient evidence, which the Eighth District sustained. *Id.* at ¶ 11, 16. R.A.H. also alleged that because the evidence supported only a single incident of digital penetration, the State had to elect which charge to pursue for disposition because double jeopardy precluded R.A.H. from being adjudicated delinquent of both for a single act. *Id.* at ¶ 16. The Eighth District found that the elemental comparison test in *Blockburger* applied to R.A.H.'s case and under that test, R.A.H. could lawfully be found delinquent of and receive disposition for both offenses. *Id.* at ¶ 19, citing *Blockburger*, 284 U.S. 299, 52 S.Ct. 180, 76 L.Ed. 306. R.A.H. also challenged the constitutionality of his classification as a tier I juvenile sex offender registrant. *Op.* at ¶ 20. Applying plain error review, and relying in part on the Seventh District's decision in *In re M.R.*, 7th Dist. Jefferson No. 13JE30, 2014-Ohio-2623, the Eighth District found that R.A.H.s' classification did not violate due process or equal protection. *Op.* at ¶ 20-31. The court released its decision on August 20, 2015. This appeal timely follows.

## Argument

### First Proposition of Law

**The merger analysis set forth in *State v. Johnson* applies to juvenile delinquency proceedings to protect a child's right against double jeopardy. Fifth and Fourteenth Amendments to the U.S. Constitution; Ohio Constitution, Article I, Sections 2, 16.**

The Double Jeopardy Clause of the Fifth Amendment to the U.S. Constitution provides that no person shall "be subject for the same [offense] to be twice put in jeopardy of life or limb." The Double Jeopardy Clause protects against multiple prosecutions for the same offense after acquittal or conviction, and protects against multiple punishments for the same offense. *Brown v. Ohio*, 432 U.S. 161, 165, 97 S.Ct. 2221, 53 L.Ed.2d 187 (1977). Juveniles are entitled to the same double jeopardy protections as adults. *Breed v. Jones*, 421 U.S. 519, 531, 95 S.Ct. 1779, 44 L.E.2d 346 (1975), *superseded by statute,* citing *Green v. United States*, 355 U.S. 184, 187, 78 S.Ct. 221, 2 L.Ed.2d 199 (1957); *see also In re Cross*, 96 Ohio St.3d 328, 2002-Ohio-4183, 774 N.E.2d 258, ¶ 25 ("There is a clear difference between the role and power of the juvenile court in delinquency matters as opposed to matters involving abused or neglected children[; and t]he criminal aspects of juvenile delinquency proceedings require greater constraints on juvenile courts.").

*A. Revised Code Section 2941.25 is the codification of the constitutional principle, and not an enhanced statutory protection.*

For adults, R.C. 2941.25 is the "prophylactic statute that protects a criminal defendant's [Double Jeopardy rights]." *Johnson*, 128 Ohio St.3d 153, 2010-Ohio-6314, 942 N.E.2d 1061, at ¶ 45. Although there is no corresponding juvenile statute, and an adjudication of delinquency is not a "conviction," children are charged with violations of the criminal code. And, there is no difference between an adult's and a juvenile's right to be free from multiple punishments for one offense. *See Breed* at 530 (finding that a juvenile's "commitment is a deprivation of liberty"); *In re Gault*, 387 U.S. 1, 50, 87 S.Ct. 1428, 18 L.Ed.2d 527 (1967) ("It is incarceration against one's will, whether it is called

'criminal' or 'civil.'"). Therefore, like an adult defendant, a juvenile offender cannot be subject to multiple punishments for offenses that should merge.

*B. This Court overruled State v. Rance's abstract, elemental-matching, and announced the appropriate merger analysis in State v. Johnson.*

This Court has a lengthy history in merger jurisprudence. *Johnson* at ¶ 10-52. Initially, under the *Rance* test, courts were tasked with matching elements of offenses in the abstract. *Id.* at ¶ 44. But, this Court overruled *Rance* and imposed a test that reinforces the spirit of double jeopardy protections against "shotgun convictions." *Id.* at ¶ 43. Specifically, this Court held that a court must first determine "whether it is possible to commit one offense and commit the other with the same conduct;" and, second, "whether the offenses were committed by the same conduct, i.e., 'a single act, committed with a single state of mind.'" *Id.* at ¶ 47-48. "If the answer to both questions is yes, then the offenses are allied offenses of similar import," and they must be merged. *Id.* at ¶ 50. This Court shifted the focus from abstract principles to a defendant's specific conduct. *Id.* at ¶ 44.

*C. The Eighth District employs a different standard for juveniles than adults.*

In its decision, the Eighth District held that a single act resulted in R.A.H.'s violating R.C. 2907.02(A)(1)(b) and 2907.02(A)(2). *Op.* at ¶ 19. And while the court found that children are entitled to double jeopardy protections, it held that those protections are enforced "solely by use of the *Blockburger* test;" and, that under *Blockburger*, merger was not required in R.A.H.'s case. *Id.* at ¶ 18-19. The court reasoned that the double jeopardy protection codified in R.C. 2941.25 need not apply to children because a "juvenile is not being convicted of a criminal offense." *Id.* at ¶ 18.

But, the Eighth District's reasoning ignores the fact that juveniles have the same right to be free from double jeopardy as adults, and that this Court's holding in *Johnson* is rooted in the Ohio Constitution's double jeopardy protection. *Johnson*, 128 Ohio St.3d 153, 2010-Ohio-6314, 942 N.E.2d 1061, at ¶ 49, quoting *Rance*, 85 Ohio St.3d 632, 710 N.E.2d 699; *see also Cross*, 96 Ohio St.3d 328, 2002-Ohio-4183, 774 N.E.2d 258, at ¶ 23, citing *Breed* 421 U.S. at 531, 95 S.Ct. 1779, 44 L.E.2d

346. And in *Johnson*, this Court held that this constitutional protection is fulfilled when a court analyses whether the two offenses were committed by the same conduct, "i.e., 'a single act committed with a single state of mind.'" *Johnson* at ¶ 49.

*D. Because children are entitled to the same double jeopardy protections as adults, the merger analysis set forth in State v. Johnson must apply to juvenile proceedings.*

The juvenile court imposed two suspended commitments for R.A.H.'s adjudications for rape, even though both counts included the same victim and a single incident of digital penetration. *Op.* at ¶ 3-6, 11, 19. The Eighth District found that R.A.H. was entitled to a lower standard of double jeopardy protection because he was a juvenile. *Id.* at ¶ 18. But, this is not true. Like an adult's commitment to prison, a child's commitment to DYS is "a deprivation of liberty." *See Breed*, 421 U.S. at 530, 95 S.Ct. 1779, 44 L.E.2d 346. And, such commitments are considered "incarceration against one's will, whether it is called 'criminal' or 'civil.'" *Gault*, 387 U.S. at 50, 87 S.Ct. 1428, 18 L.Ed.2d 527. Therefore, like adults, juveniles are entitled to the same double jeopardy protections as adults. *Breed at* 531; *Cross*, 96 Ohio St.3d 328, 2002-Ohio-4183, 774 N.E.2d 258, at ¶ 25.

If the merger analysis set forth in *Johnson* is not applied to juvenile adjudications and commitments, children could serve consecutive commitments for offenses that arose out of the same conduct, committed with a single state of mind, and in blatant violation of their right to be free from double jeopardy when their adult counterparts would not. *See Johnson* at ¶ 47-48. This Court is currently reviewing whether juveniles are entitled to the same double jeopardy protections as adults under *Johnson*. *See* Case No. 2014-2190, *In re: A.G., A Minor Child.* Accordingly, R.A.H. respectfully requests that this Court accept jurisdiction of his first proposition of law and hold it for its decision in *A.G.*

## Second Proposition of Law

**A juvenile court commits plain error when it classifies a child as a tier I juvenile sex offender registrant under R.C. 2152.83(A) because the mandatory classification of 16- and 17-year-old first time juvenile offenders violates Equal Protection, and the extension of a court's classification order beyond the age jurisdiction of the juvenile court violates due process. Fourteenth Amendment to the U.S. Constitution; Ohio Constitution, Article I, Section 9.**

*A. The extension of a punitive sanction beyond the age jurisdiction of the juvenile court violates due process.*

A juvenile court's power "is derived from Section 1, Article IV of the Constitution of Ohio, and the court is established and its jurisdiction is defined by [O.R.C.] Chapter 2151 * * *." *The State, ex rel. Schwartz, Judge v. Haines, Director of Mental Hygiene and Correction*, 172 Ohio St. 572, 573, 179 N.E.2d 46 (1962). Juvenile courts have exclusive jurisdiction over children who are alleged to be delinquent. R.C. 2151.23(A)(1). In delinquency proceedings, "child" means a person who is under 18 years of age, except as otherwise provided" in R.C. 2152.02(C)(2)-(6). R.C. 2152.02(C)(1); *In re Andrew*, 119 Ohio St.3d 466, 2008-Ohio-4791, 895 N.E.2d 166, ¶ 4-17.

Generally, the juvenile court's jurisdiction over a child terminates when the child turns 21. Specifically, R.C. 2152.22(A) provides that, once validly entered, dispositions made under R.C. 2152 "shall be temporary and shall continue for a period that is designated by the court in its order, until terminated or modified by the court or until the child attains twenty-one years of age." But, a narrow exception exists for youth who are subject to Ohio's juvenile registration and notification statutes.

Revised Code Section 2152.23(A)(15) authorizes juvenile courts to "conduct hearings, and to make determinations, adjudications, and orders authorized or required under sections 2152.82-2152.86[1] and Chapter 2950 of the Revised Code" for delinquent children. In turn, R.C. 2152.83(E) indefinitely extends the jurisdiction of the juvenile court beyond the termination of a case, or beyond

[1] This Court found R.C. 2152.86 unconstitutional in *In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E. 2d 729, ¶ 86.

the age of 21, for juvenile offender registrants. But, under recent and well-established precedent from this Court, this extension is contrary to the purposes of juvenile delinquency dispositions.

This Court has found that R.C. 2950 is punitive. *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108, ¶ 16. That holding was extended to juvenile registration cases as well. *In re D.J.S.*, 130 Ohio St.3d 257, 2011-Ohio-5342, 957 N.E.2d 291; *Cases held for the decision in In re D.J.S.*, 130 Ohio St.3d 253, 2011-Ohio-5349, 957 N.E.2d 288; and *C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729, at ¶ 11, 86. And, this Court has recognized that "punishment is not the goal of the juvenile system, except as necessary to direct the child toward the goal of rehabilitation." *In re Caldwell*, 76 Ohio St.3d 156, 157, 666 N.E.2d 1367 (1996); *In re Kirby*, 101 Ohio St.3d 312, 2004-Ohio-970, 804 N.E.2d 476; R.C. 2152.01. As such, inquiries into the appropriateness of a disposition must begin with that premise and implement efforts to protect society during the period of rehabilitation. *Id.* Therefore, if registration under S.B. 10, although punitive, is necessary to protect society from delinquent acts of a child who is being rehabilitated and hold that child accountable; then, like other delinquency dispositions, it can only be in effect through the child's period of rehabilitation, which is until the age of 21. R.C. 2152.22(A). Once the child turns 21, the period of rehabilitation is over and all delinquency dispositions must cease.

A legislative choice based on a categorical determination violates due process when it creates "a non-rebuttable presumption that the juvenile who committed the crime is equally morally culpable as an adult who committed the same act." Martin Guggenheim, *Graham v. Florida and A Juvenile's Right to Age-Appropriate Sentencing,* 47 Harv.C.R.-C.L.L.Rev. 457, 490-91 (2012). *See also In the Interest of J.B.*, No. 87 MAP 2013, 2014 Pa. LEXIS 3468 (Pa. Dec. 29, 2014) (finding that the irrebuttable presumption created by Pennsylvania's SORNA violated the due process rights of juvenile offenders). Further, the Supreme Court of the United States has struck down statutes creating irrebuttable presumptions because they "have long been disfavored under the Due Process

Clauses of the Fifth and Fourteenth Amendments." *Vlandis v. Kline,* 412 U.S. 441, 446, 93 S.Ct. 2230, 37 L.Ed.2d 63 (1973). An irrebuttable presumption violates due process when the presumption is deemed not universally true and a reasonable alternative means of ascertaining" the presumed fact are available. *J.B.* at 39, citing *Vlandis* at 452. R.C. 2152.83(A) creates an irrebuttable presumption despite the fact that reasonable alternative means exist for ascertaining whether a child poses a future risk to the community.

Revised Code Section 2152.83(A) mandates the classification of 16- and 17-year-old, first-time offenders as juvenile sex offender registrants based solely on their age. As such, the statute presumes that 16- and 17-year-olds who commit sexually oriented offenses are automatically pose a future risk to the community, such that registration is required for that group of children. But, this is not universally true. With recidivism rates as low as 4%-10% among Ohio children who have committed sexually oriented offenses, the vast majority of juveniles who are eligible for registration pose no threat to the public. The Ohio Association of County Behavioral Health Authorities, *Behavioral Health: Developing a Better Understanding, Juvenile Sex Offenders*, Volume 3, Issue I, p.1.

And, Ohio law provides a reasonable alternative means for courts to determine whether a 16- or 17-year-old first-time offender should be classified as a juvenile offender registrant. *See* R.C. 2152.83(B). R.C. 2152.83 governs the classification procedure for discretionary registrants; and, R.C. 2152.83(D) outlines a number of factors for the juvenile court to consider in determining whether to require a 14- or 15-year-old, first-time offender should register as a juvenile offender registrant. These factors include, but are not limited to the following: the nature of the offense, whether the child has shown remorse, the results of any treatment and professional assessments of the child, and the factors outlined in R.C. 2950.11 and 2929.12. R.C. 2152.83(D). This procedure, which is already in place for discretionary registrants, is a reasonable alternative means for determining whether 16-

and 17-year-old, first-time offenders should be required to register as juvenile sex offender registrants.

Because R.C. 2152.83(A) categorically requires all 16- and 17-year-old children to be registered as sex offenders, notwithstanding a reasonable alternative means for ascertaining whether the child poses a risk to the community, it creates an irrebuttable presumption that cannot pass constitutional muster.

This Court is already considering whether the extension of a juvenile court's classification order beyond the age jurisdiction of the juvenile court violates due process. *See* Case No. 2014-0607, *In re: D.S., A Minor Child.* Accordingly, R.A.H. respectfully requests that this Court accept jurisdiction of his first proposition of law and hold it for its decision in that case.

*B. R.C. 2152.83(A) violates equal protection because it mandates the classification of 16- and 17-year-old first-time offenders as sex offender registrants.*

The United States Supreme Court has found that while children's constitutional rights are not indistinguishable from those of adults "children generally are protected by the same constitutional guarantees against governmental deprivations as are adults." *Bellotti v. Baird*, 443 U.S. 622, 635, 99 S.Ct. 3035, 61 L.Ed.2d 797 (1979). The guarantee of equal protection of the laws means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or classes in the same place and under like circumstances. Fourteenth Amendment to the U.S. Constitution; Ohio Constitution, Article I, Section 2. The Ohio Constitution provides, "all political power is inherent in the people. Government is instituted for their equal protection and benefit * * *." Ohio Constitution, Article I, Section 2.

In order to be constitutional, a law must be applicable to all persons under like circumstances and not subject individuals to an arbitrary exercise of power. *Conley v. Shearer*, 64 Ohio St.3d 284, 288-289, 595 N.E.2d 862 (1992). In other words, the Equal Protection Clause prevents the state from treating differently or arbitrarily, persons who are in all relevant respects alike. *Park*

*Corp. v. Brook Park*, 102 Ohio St.3d 166, 2004-Ohio-2237, 807 N.E.2d 913. The Equal Protection clause of the Ohio Constitution has been interpreted to be essentially identical to that provision of the U.S. Constitution. *Sorrell v. Thevenir*, 69 Ohio St.3d 415, 424, 633 N.E.2d 504 (1994).

Revised Code Section 2152.83 differentiates between first-time juvenile offenders based solely upon the child's age at the time of the offense as follows: Children who were 13 years old or younger at the time of committing their offense are not subject to sex offender classification or registration. R.C. 2152.83(A)(1)-(B)(1). Children who were 14 or 15 at the time of their offense are subject only to discretionary classification. R.C. 2152.83(B)(1). Those children, if committed to a secure facility, are assessed for the effectiveness of their disposition and of any treatment provided to them, and the juvenile court determines whether the child should be classified as a juvenile offender registrant. R.C. 2152.83(B)(2). But, children who were 16 or 17 at the time of their offense are subject to mandatory classification, and are not entitled to a court's determining whether they should be classified; rather, the court must classify them as juvenile sex offender registrants. R.C. 2152.83(A)(1).

Although the legislature may set more severe penalties for *acts* that it believes should have greater consequences, the differences in R.C. 2152.83 are not based on acts of greater consequence, but simply on the child's age at the time of the offense. The proper standard of review for classifications based upon age is the rational basis test. *Massachusetts Board of Retirement v. Murgia*, 427 U.S. 307, 96 S.Ct. 2562, 49 L.Ed.2d 520 (1976). If the age-based classification is not rationally related to the State's objective in making the classification, it will be found to be in violation of the Equal Protection Clause of the U.S. Constitution. *Id.* at 315 (holding that the classification was rationally related to the State's objective).

Treating children differently from adults makes sense. The United States Supreme Court has recognized that even children who are prosecuted as adults for very serious crimes are "categorically

less culpable than the average criminal." *Roper v. Simmons*, 543 U.S. 551, 567, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005); *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010). The Court held that "juvenile offenders cannot with reliability be classified among the worst offenders." *Roper* at syllabus. These findings apply generally to all adolescents under the age of 18. *Id.*

The differential treatment of children under R.C. 2152.83 is not supported by empirical evidence, which recognizes the differences between adults and children, not between older children and younger children. Notwithstanding the lack of scientific support, R.C. 2152.83 draws bright-line distinctions between children who were 16 or 17, children who were 14 or 15, and children who were under 14 at the time of their offense.

The legislature may impose special burdens on defined classes in order to achieve permissible ends, but equal protection requires that the distinctions drawn are relevant to the purpose for which the classification is made. *Rinaldi v. Yeager*, 384 U.S. 305, 309, 86 S.Ct. 1497, 16 L.Ed.2d 577 (1966) (finding that there must be some rationality in the nature of the classes singled out). The provisions of R.C. 2152.83 do not demonstrate such relevance and the General Assembly gives no rationale for treating older children who have committed a sex offense differently from younger children who have committed the same sex offense; therefore, R.C. 2152.83, which allows for similarly-situated children to receive disparate treatment without any rational basis whatsoever, cannot withstand constitutional scrutiny.

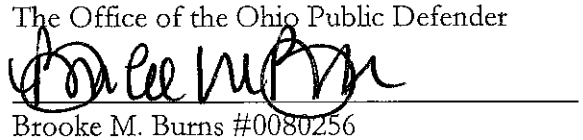
This Court is currently reviewing whether the mandatory classification of 16- and 17-year-old, first-time offenders is constitutional. *See* Case No. 2014-1315, *In re: M.R., A Minor Child* (*appeal accepted and held for D.S., with briefing stayed on Third Proposition of Law*). Accordingly, R.A.H. respectfully requests that this Court accept jurisdiction of R.A.H.'s second proposition of law and hold it for its decision in that case.

## Conclusion

R.A.H.'s appeal raises a substantial constitutional question, concerns felony-level offenses, and is of great general interest. And, this Court is already considering the issues presented in each of R.A.H.'s propositions of law in Case No. 2014-2190, *In re: A.G., A Minor Child*, Case No. 2014-0607, *In re: D.S., A Minor Child*, and Case No. 2014-1315, *In re: M.R., A Minor Child.* Accordingly, he respectfully requests that this Court accept jurisdiction of this case and hold it for the decisions in those cases.

Respectfully submitted,

The Office of the Ohio Public Defender



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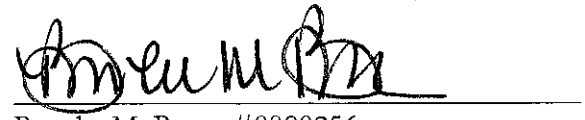
## Certificate of Service

The undersigned counsel certifies that a copy of the foregoing MEMORANDUM IN SUPPORT OF JURISDICTION OF MINOR CHILD-APPELLANT R.A.H., JR. was served by ordinary U.S. Mail this 1st day of October, 2015 to the office of Timothy McGinty, Cuyahoga County Prosecutor, Appeals Division, 8th Floor, Justice Center, 1200 Ontario Street, Cleveland, Ohio 44113.



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IN THE SUPREME COURT OF OHIO

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| IN RE R.A.H., JR., A MINOR CHILD | : | ON APPEAL from the Cuyahoga County Court of Appeals Eighth Appellate District |
| | : | C.A. Case No. 101936 |

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**APPENDIX TO MEMORANDUM IN SUPPORT OF JURISDICTION OF MINOR CHILD-APPELLANT R.A.H., JR.**

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