Supreme Court of Ohio Clerk of Court - Filed December 08, 2015 - Case No. 2015-1341

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	)	Case Nos. 2015-1341 & 2015-1342
	)	
Plaintiff-Appellee,	)	On Appeal from the
	)	Lake County Court of Appeals,
v.	)	Eleventh Appellate District
	)	
THOMAS WRIGHT, JR.	)	
	)	Court of Appeals Case Nos. 12-CR-744 &
Defendant-Appellant.	)	12-CR-326

APPELLEE'S RESPONSE IN OPPOSITION TO APPELLANT'S MOTION FOR LEAVE TO ADD AN ASSIGNMENT OF ERROR

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Thomas Wright, Jr., #A643-866
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P. O. Box 640
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APPELLANT

MEMORANDUM IN RESPONSE

On December 7, 2015, Appellant Thomas J. Wright filed a pro se "Motion for Leave to Add an Assignment of Error" in Supreme Court Case Nos. 2015-1341 and 2015-1342, which have been consolidated by this Court and held pending this Court's decision in *State v. Klembus*, 2014-1557, regarding the constitutionality of the repeat OVI specification. In his pending cases, Appellant is represented by counsel from the State Public Defender's Office, yet he filed this current motion pro se. He alleges that counsel declined to raise the assignment of error he now presents regarding the appellate court's rejection of his argument pertaining to an alleged uncounseled prior OVI conviction. *State v. Wright*, 11th Dist. Lake No. 2013-L-089, 2015-Ohio-2601, ¶15-35. There are procedural defects in Appellant's pro se filing.

First, Appellant is represented by counsel and should only be filing documents through his attorney. Second, even if his attorney declined to present the issue he now raises, the filing of a "motion for leave to add an assignment of error" is not contemplated by the Supreme Court Rules of Practice, nor is it a proper vehicle to review a proposed issue when a case has been accepted as a certified conflict case and a jurisdictional appeal, as was done in the instant matter. This Court cannot "add" Appellant's proposed assigned error because it is not an issue that has been accepted by this Court. Moreover, Appellant's proposed assigned error is not of public or great general interest. In fact, the appellate court thoroughly rejected his fact-specific challenge to his prior conviction. *Wright* at ¶ 15-35.

Accordingly, as Appellant's filing is procedurally defective, this Court should deny his request.

CONCLUSION

For the foregoing reasons, the State of Ohio, Appellee herein, respectfully requests that this Honorable Court deny Appellant's pro se "Motion for Leave to Add an Assignment of Error."

Respectfully submitted,

By: Charles E. Coulson, Prosecuting Attorney

By: /s Alana A. Rezaee

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PROOF OF SERVICE

A copy of the foregoing Appellee's Response in Opposition to Appellant's pro se "Motion for Leave to Add an Assignment of Error" was sent by regular U.S. Mail, postage prepaid, to Appellant, Thomas Wright, Jr., #A643-866, Trumbull Correctional Institution, P. O. Box 640, Leavittsburg, OH 44430, and to counsel for the Appellant, Stephen A. Goldmeier, Esquire, Assistant State Public Defender, Office of Ohio Public Defender, 250 East Broad Street Suite 1400, Columbus, OH 43215, on this 8th day of December, 2015.

/s Alana A. Rezaee
Alana A. Rezaee (0077942)
Assistant Prosecuting Attorney

AAR/klb