

**IN THE SUPREME COURT OF OHIO**

STATE OF OHIO	)	CASE NO. 2013-1619
	)	
Plaintiff/Appellant	)	ON APPEAL FROM THE CUYAHOGA
	)	COUNTY COURT OF APPEALS
VS.	)	EIGHTH APPELLATE DISTRICT
	)	
MATTHEW MOLE	)	COURT OF APPEALS
	)	CASE NUMBER CA98900
Defendant/Appellee	)	

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**DEFENDANT-APPELLEE'S RESPONSE IN  
OPPOSITION TO MOTION FOR RECONSIDERATION**

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## RESPONSE TO MOTION FOR RECONSIDERATION

There is no reason offered by the State to cause this Court to reconsider its ruling in the herein case. The Court thoroughly and meticulously examined the issues presented and determined that RC. §2907.03(A)(13) violated both the Federal and Ohio Constitutions.

The Court determined there was absolutely no justification for differential treatment of peace officers under the criminal law while acting as private citizens when there is no connection between the criminalized conduct and the official duties or other aspects of the occupation of a peace officer.

The Court considered the reasoning and argument by the State in support of the constitutionality and found it to be fallacious. In considering both Federal and State law, the Court provided:

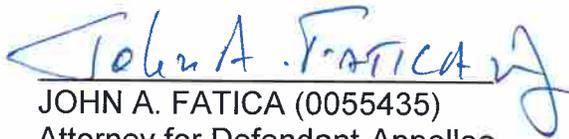
When criminalization is based solely on the status of the classified group without any relationship to a legitimate state interest, the classification may be found to be unconstitutionally arbitrary. See *Wheeler Steel Corp. V. Glaner*, 337 U.S. 562, 69 S.Ct. 1291, 93 L.Ed. 1544 (1949).

The Court went on to say that the statute at issue here reflects impermissible arbitrariness. The Court further stated that the differential treatment of peace officers in the statutory scheme pursuant to R.C. §2907.03(A)(13) is based on an irrational classification. There is no connection between the classification and the prohibited act.

More importantly, the State fails to appreciate that this court found R.C. §2908.03(A)(13) unconstitutional under both the Federal and Ohio Constitutions.

All issues having been thoroughly considered by this Court, the Motion for Reconsideration should be denied.

Respectfully submitted,



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PROOF OF SERVICE

A copy of the foregoing was mailed this 18<sup>th</sup> day of August, 2016 to the following  
via regular United States Mail:

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