

**THE STATE OF OHIO, APPELLANT, v. ROHRBAUGH, APPELLEE.**

**[Cite as *State v. Rohrbaugh*, 121 Ohio St.3d 1210, 2009-Ohio-479.]**

*Motions to dismiss denied.*

(Nos. 2008-2127 and 2008-2249 — Submitted January 13, 2009 — Decided  
February 10, 2009.)

APPEAL from and CERTIFIED by the Court of Appeals for Logan County,  
No. 8-07-28, 178 Ohio App.3d 211, 2008-Ohio-4781.

ON MOTION TO DISMISS

---

{¶ 1} The Ohio Public Defender has filed motions to dismiss the state's notice of appeal and notice of order certifying a conflict in these cases because of the state's failure to serve the notice of appeal and notice of order certifying a conflict on the Ohio Public Defender as required by S.Ct.Prac.R. XIV(2)(A)(3), which provides as follows: "In a case involving a felony, when a county prosecutor files a notice of appeal under S.Ct.Prac.R. II or an order certifying a conflict under S.Ct.Prac.R. IV, the county prosecutor shall also serve a copy of the notice or order on the Ohio Public Defender." The Ohio Public Defender asserts that the failure of county prosecutors to comply with S.Ct.Prac.R. XIV(2)(A)(3) is a recurring problem that interferes with its ability to fully discharge its responsibilities.

{¶ 2} We note that there was an unquestioned failure by the Logan County Prosecuting Attorney to comply with the requirements of S.Ct.Prac.R. XIV(2)(A)(3) in these cases. We further note that it should not be the responsibility of the Ohio Public Defender to monitor compliance with the rule by county prosecuting attorneys. Rather, county prosecuting attorneys have a clear duty to comply with S.Ct.Prac.R. XIV(2)(A)(3). Compliance is not optional.

SUPREME COURT OF OHIO

{¶ 3} County prosecuting attorneys and their staffs are on notice that failure to comply with the requirements of S.Ct.Prac.R. XIV(2)(A)(3) in the future may result in the dismissal of a notice of appeal or a notice of order certifying a conflict or other appropriate sanctions.

{¶ 4} We deny the motions to dismiss in these cases. However, the Logan County Prosecutor is ordered to serve the notice of appeal and notice of order certifying a conflict on the Ohio Public Defender and to notify this court of the dates of such service. The Ohio Public Defender may file an amicus memorandum in response to the memorandum in support of jurisdiction within 30 days of the date of service of the notice in case No. 2008-2127. The court will not consider the jurisdictional memoranda in case No. 2008-2127 or the notice of order certifying a conflict in case No. 2008-2249 until either the Ohio Public Defender has filed a memorandum or the time for filing a memorandum has passed.

MOYER, C.J., and PFEIFER, LUNDBERG STRATTON, O'CONNOR, O'DONNELL, LANZINGER, and CUPP, JJ., concur.

---

Gerald L. Heaton, Logan County Prosecuting Attorney, and Eric C. Stewart, Chief Assistant Prosecuting Attorney, for appellant.

Marc S. Triplett, for appellee.

Timothy Young, Ohio Public Defender, and Melissa M. Prendergast, Assistant Public Defender, for amicus curiae, Ohio Public Defender.

---