

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
SCIOTO COUNTY

IN THE MATTER OF: :

JESSICA L. BROWN : Case No. 02CA2861

: DECISION AND JUDGMENT ENTRY

Released 2/5/03

APPEARANCES:

Vena Marshall, Minor Child, by Eddie F. Marshall, Father,
and Sandra D. Marshall, Mother, pro se appellants.

J. B. Marshall, Jr., Portsmouth, Ohio, for appellee.

Harsha, J.

{¶1} This appeal was filed October 18, 2002 by Vena Marshall, a juvenile, and her parents, Eddie and Sandra D. Marshall. The action in the trial court was a delinquency proceeding for an alleged assault in the Court of Common Pleas of Scioto County, Juvenile Division, in which Jessica L. Brown was the defendant and Vena Marshall was the alleged victim. The trial court held that the state had not proved its case beyond a reasonable doubt and the defendant had established the affirmative defense of self-defense by a preponderance of the evidence.

{¶2} On December 11, 2002, we issued an order requiring appellants to show cause why we were not

compelled to dismiss the appeal and why their appeal, essentially on behalf of the state, the real party in interest, did not implicate the Double Jeopardy Clause of the Fifth Amendment to the Constitution of the United States.

{¶3} Appellants have filed no response to the order. App.R. 4(A) requires "a party" to file an appeal within thirty days of the entry or order appealed from with an exception for some civil cases. It appears that appellants were not parties to the action in the trial court nor have they established that they come within any classification of nonparties entitled to appeal. Accordingly, the case is dismissed because the appellants' lack of standing to pursue it. Moreover, even if a proper party, i.e., the state, had filed the appeal, double jeopardy principles prevent an appeal from an acquittal.

APPEAL DISMISSED.

JUDGMENT ENTRY

It is ordered that the APPEAL BE DISMISSED and that Appellee recover of Appellant costs herein taxed.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Scioto County Common Pleas Court, Juvenile Division, to carry this judgment into execution.

Any stay previously granted by this Court is hereby terminated as of the date of this entry.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure. Exceptions.

Abele, J. & Kline, J.: Concur

For the Court

BY: _____
William H. Harsha, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.