

# THE SUPREME COURT OF OHIO

STATE OF OHIO )  
PLAINTIFF/APPELLEE, ) CASE NO. 2019-0545  
VS. ) On Appeal from Wyandot County  
JORDAN A. LITTLE, ) Court of Appeals, Third Appellate  
DEFENDANT/APPELLANT. ) District

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## MEMORANDUM IN RESPONSE

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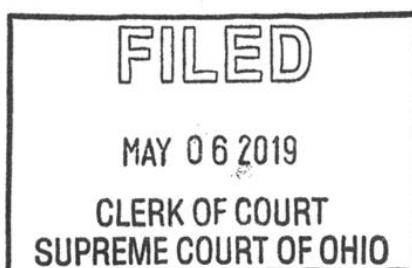
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**STATE OF OHIO**

**COUNSEL FOR APPELLANT**

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### **Statement of Appellee's position**

This matter does not involve a substantial constitutional question, leave to appeal should not be granted in this matter, and this case is not of public or great general interest.

### **Argument**

#### **Appellant's Proposition of Law**

A person's past juvenile conduct does not trigger a legal basis for a common pleas court to impose consecutive sentences in an adult case.

Revised Code section 2929.12, Seriousness and recidivism factors, specifically instructs a trial court to consider whether an offender was adjudicated a delinquent child or has a history of criminal convictions when fashioning an appropriate sentence. See R.C. 2929.12 (D) (2). R.C. 2929.12 (D) (3) directs the trial court to further consider whether an offender has been rehabilitated to a satisfactory degree after previously being adjudicated a delinquent child. A trial court should not be required to put on the blinders and ignore an offender's history of juvenile delinquent behavior when exercising its discretion to impose what the court considers to be an appropriate sentence. Doing so would be contrary to what a sentencing court is required to consider when imposing a sentence upon an offender.

This Court has made it clear that an adjudication of juvenile delinquency is not a criminal conviction and may not be used to enhance the penalty for a later crime. *State v. Hand*, 149 Ohio St.3d 94, 2016-Ohio-5504, 73 N.E.3d 448. The *Hand* decision was clear and no further guidance or explanation is needed. It is not permissible to enhance a penalty for a later crime by using an adjudication of delinquency. Appellant's efforts to expand *Hand* to a degree that would require a trial court to ignore an offender's history of juvenile delinquent behavior when imposing sentence is not only contrary to the purposes and principals of sentencing, but also dangerous.

Currently, trial courts have broad discretion when fashioning sentences. Trial courts are guided to not only consider certain enumerated factors, but also any other relevant factors indicating whether an offender is likely to commit future crimes. See R.C. 2929.12 (D).

Obviously, trial courts must distinguish the appropriate amount of weight to give each relevant factor when deciding the imposition of an appropriate sentence. Furthermore, a trial court, in order to impose a consecutive sentence must make findings required by R.C. 2929.14(C) (4).

The trial court in this matter made the correct statutory findings for the imposition of consecutive sentences. The trial court found that the offender's history of criminal conduct-*juvenile* and adult, demonstrated consecutive sentences were necessary to protect the public from future crime by the offender pursuant to 2929.14(C)(4)(c). Furthermore, the trial court found that at least two of the multiple offenses were committed as part of one or more courses of conduct and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct pursuant to R.C. 2929.14(C) (4) (b). Either of the findings would have been sufficient to justify the imposition of consecutive sentences, here we had two.

The trial court finding that consecutive sentences were necessary pursuant to its findings pursuant to R.C. 2929.14(C) (4) certainly did not hinge on the Appellant's juvenile history. While the trial court did mention the Appellant's history of criminal conduct, adult and *juvenile*, it was not used as the only basis for imposing consecutive sentences.

R.C. 2929 provides guidance to a trial court when exercising its full discretion when fashioning a sentence. Trial courts should not be tasked with the considering the multiple provisions in a vacuum. Here, Appellant asserts the trial court should not have considered the

offender's juvenile adjudications with respect to the imposition of consecutive sentences pursuant to R.C. 2929.14 (C) (4), all the while R.C. 2929.12 (D) specifically instructs the trial court to consider whether an offender has a history of juvenile adjudications when considering its sentence.

The Court's decision in *Hand* makes it clear that an adjudication of juvenile delinquency is not a criminal conviction and may not be used to enhance the penalty for a later crime. No further explanation or interpretation is necessary. The decision should not be expanded to inhibit a trial court from considering all relevant factors set forth in R.C. 2929 when exercising its discretion to impose an appropriate sentence.

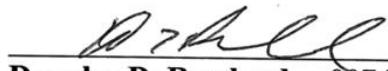
Wherefore, this matter does not involve a substantial constitutional question, this case is not of public or great general interest, and leave to appeal should not be granted.

Respectfully submitted,

  
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**PROOF OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing Memorandum in Response was served upon Andrew R. Mayle, Attorney for Appellant, by regular U.S. Mail sent to P.O. Box 263, Perrysburg, Ohio 43552 on the 2<sup>nd</sup> day of May, 2019.

  
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