

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

December 6, 2022

[Cite as *12/06/2022 Case Announcements #2, 2022-Ohio-4337.*]

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## APPEALS NOT ACCEPTED FOR REVIEW

### **2022-1112. State v. Galinari.**

Hamilton App. No. C-210149, [2022-Ohio-2559](#).

Donnelly, J., concurs, with an opinion joined by Brunner, J.

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#### **DONNELLY, J., concurring.**

{¶ 1} We don't have much to go on in this case; appellant Devin Galinari's memorandum in support of jurisdiction was filed pro se, and the state did not file a memorandum in response. But what we do have is troubling. This court has declined to accept this appeal—properly so given that the only proposition of law addresses whether the imposition of consecutive sentences was an abuse of discretion. Nevertheless, I believe that we should appoint counsel to assist Galinari. I am concerned that we are missing an opportunity to consider the profoundly unsettling issue that underlies this case.

{¶ 2} The third sentence of the court of appeals' opinion states, "In the midst of a mental-health crisis, Galinari used an aluminum bat to damage the windows of a church and car windshields in a nearby dealership parking lot." 2022-Ohio-2559, ¶ 2. He went on to assault two people. The key phrase is "[i]n the midst of a mental-health crisis." If Galinari committed the crimes while in a mental-health crisis, then the law requires that he be treated differently than if he had acted while not in a mental-health crisis. Nothing that I have read in the court of appeals' opinion or Galinari's brief indicates that he was not acting while in a mental-health crisis, but he appears to have been treated no differently than a defendant who acted while not in

a mental-health crisis. If true, then this case demonstrates how easily mentally ill people can enter the prison system.

{¶ 3} The court of appeals’ opinion states that Galinari was initially found incompetent to stand trial but that he had been “restored to competency.” *Id.* at ¶ 3. It is beyond question that his being restored to competency cannot relate back to the time of the assaults, yet Galinari appears to have been sentenced as if he had been competent at the time the offenses were committed.

{¶ 4} Given that Galinari’s proposition of law addresses only the imposition of consecutive sentences, the underlying issue is beyond our contemplation in this appeal as it has been presented to us. But I would appoint defense counsel to see whether there is a path that would allow us to address the underlying issue, which is a matter of great public importance.

BRUNNER, J., concurs in the foregoing opinion.

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