

IN THE
COURT OF APPEALS OF INDIANA

CAUSE No. 48A02-0912-CR-1210

ROBERT L. GOSHA,

Appellant (Defendant below),

v.

STATE OF INDIANA,

Appellee (Plaintiff below).

Appeal from the Superior Court of Madison
County, Division I

Cause No. 48D01-0702-FC-00032

Hon. Dennis Carroll, Judge.
Hon. Thomas Newman, Jr., Judge.

PETITION FOR REHEARING

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STATEMENT OF THE ISSUE ON REHEARING

Whether the Court properly interpreted the State's argument that the Drug Court should conduct the termination hearing as provided by statute.

ARGUMENT

THE DRUG COURT SHOULD CONDUCT THE TERMINATION HEARING.

When terminating a person's participation in a drug court program, Indiana Code Section 12-23-14.5-15(d) provides as follows:

If the *drug court* determines, after a hearing, that:

- (1) the person violated a condition established under subsection (b); or
- (2) the period of time that the conditions established under subsection (b) were in effect expired before the person successfully completed each condition established by the drug court;

the *drug court* may terminate the person's participation in the drug court.

(emphasis supplied). The Court in its original opinion, stated: “We agree with the State that the trial court, not the Drug Court, shall conduct the hearing.” Slip op. at 5 n.2. The State, however, in its Brief of Appellee, argued that the Drug Court, not the trial court, must conduct the hearing. Br. of Appellee at 9 (citing I.C. § 12-23-14.5-15(d)). The State believes the original opinion contains a scrivener’s error that should be corrected on rehearing.

CONCLUSION

The State respectfully requests that this Court grant rehearing to clarify its original opinion and hold that the Drug Court must conduct the termination hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do solemnly affirm under the penalties for perjury that on June 28, 2010, I served upon the opposing counsel in the above-entitled cause two copies of the Petition for Rehearing by causing the same to be deposited in the United States mail first-class postage prepaid, addressed as follows:

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