

IN THE  
INDIANA COURT OF APPEALS  
CASE NO. 18A-PL-2334

STATE OF INDIANA,	)	
	)	Appeal from the Howard Superior Court 4
Appellant/Defendant,	)	
	)	Trial Court Case No. 34D01-1805-PL-334
VS.	)	
	)	The Honorable George A. Hopkins, Judge
DOUGLAS KIRBY,	)	
	)	
Appellee/Plaintiff.	)	

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**APPELLEE'S BRIEF**

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A.    THIS COURT'S PREVIOUS DECISION FINDING THE UNLAWFUL-ENTRY STATUTE UNCONSTITUTIONAL AS APPLIED TO KIRBY IS THE LAW OF THE CASE AND SHOULD PRECLUDE THIS COURT FROM RECONSIDERING THE ISSUE.	
B.    THE COURT CORRECTLY DECIDED THAT THE UNLAWFUL-ENTRY STATUTE AS APPLIED TO KIRBY IS AN EX POST FACTO LAW IN VIOLATION OF KIRBY'S CONSTITUTIONAL RIGHTS.	
1.    Kirby has a realistic, non-hypothetical danger of sustaining a direct injury as a result of the operation or enforcement of the unlawful-entry statute.	
2.    The effects of the law on Kirby are excessively punitive.	

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