

**IN THE COURT OF APPEALS**  
**FIRST APPELLATE DISTRICT OF OHIO**  
**HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-110268
Plaintiff-Appellee,	:	TRIAL NO. B-9401363
vs.	:	<i>JUDGMENT ENTRY.</i>
HARRY MITCHELL,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Defendant-appellant Harry Mitchell presents on appeal a single assignment of error challenging the Hamilton County Common Pleas Court’s judgment overruling his “Motion to Enforce Plea Agreement.” We do not reach the merits of the assignment of error.

In his motion, Mitchell requested “specific performance” of his plea agreement “pursuant to Crim.R. 32.1.” He attached to the motion a “Memorandum in Support.” But except for its caption, the supporting memorandum is illegible.

Crim.R. 47 and Loc.R. 14(A) of the Court of Common Pleas of Hamilton County, General Division, require a motion to be supported by a memorandum containing a statement of the grounds for the motion, citations to the authorities upon which the movant relies, and page and document references for the motion’s factual assertions. Because Mitchell’s supporting memorandum was illegible, it did not comply with Crim.R. 47 and Loc.R. 14(A). And because his memorandum did

not comply with Crim.R. 47 and Loc.R. 14(A), it could not be said to have “place[d] the prosecutor [or] the court on notice of the issues to be decided.” *State v. Schindler*, 70 Ohio St.3d 54, 1994-Ohio-452, 636 N.E.2d 319, paragraph one of the syllabus.

Therefore, the common pleas court properly declined to grant Mitchell the relief sought in his motion. But instead of overruling the motion on its merits, the court should have entered judgment striking the motion. Accordingly, upon the authority of App.R. 12(A)(1)(a), we modify the entry overruling the motion to reflect a judgment striking the motion. And we affirm the judgment as modified.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., SUNDERMANN and FISCHER, JJ.**

To the clerk:

Enter upon the journal of the court on December 21, 2011

per order of the court \_\_\_\_\_  
Presiding Judge