

Issue One : a “One-size-fits-all “ approach to the problem of hard drug use

Issue One provides that a person in Ohio who uses or possesses hard drugs like heroin, cocaine, meth and fentanyl cannot be sentenced to a criminal offense more serious than a misdemeanor. Whether you are the 18-year-old college student experimenting with meth for the first time or the offender who has been convicted multiple times for drug trafficking and other violent offenses, the result under Issue One is the same: “a misdemeanor for one, a misdemeanor for all.” And, at sentencing, unless you have been convicted two times before in the last two years, the judge can’t sentence you to jail; you must be placed on probation. Even though the offender’s family, the judge, perhaps even the defendant himself knows that he is not safe on the streets and will likely go back to drug use, a judge has no choice – she must tell the hard drug user: “You are free to go. See the bailiff on the way out.”

Issue One is not a bad idea because it keeps hard drug users out jail and especially prison. It is a very bad idea because it keeps ALL hard drug users out of jail and prison – regardless of their prior criminal record, their willingness to change and level of risk to themselves and others. It doesn’t allow judges to make reasoned choices based on the facts of the case, the characteristics of the offender, and input from treatment providers.

Are SOME hard drug users in jail and prison? Yes. Are ALL hard drug users in jail in prison? Not by a long shot. The vast majority are on probation after serving some time in jail, are in counseling, and are being drug tested and supervised by a probation officer. As to the rest – those who refuse to engage in treatment, who continue to associate with drug traffickers, and defiantly disregard others’ rights and safety, then a jail or prison sentence-after all other alternatives have been tried- may be necessary. Hard drug users need to face squarely the consequences of their actions and decisions in those circumstances. To do otherwise would threaten public safety and just encourage further drug use.

Sentencing decisions are best made in the courtroom, not by way of a Constitutional amendment which paints with a broad brush and ties the hands of judges who are in the best position, with the input of treatment professionals, to decide what is the most effective sentence for individuals before them. There should not be a “one-size-fits-all “approach to the problem of hard drug use. Vote NO on Issue One !

Judge Richard E. Berens

Fairfield County Common Pleas Court