

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :
Appellee, : Case No. 2005-2436
-vs- :
JAMES TRIMBLE, :
Appellant. : **DEATH PENALTY CASE**

ON APPEAL FROM THE PORTAGE COUNTY COURT OF COMMON PLEAS

CASE NO. 05 CR 00022

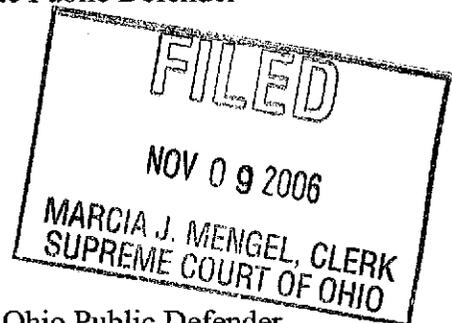
**MOTION FOR STAY OF EXECUTION PENDING DISPOSITION OF ALL
AVAILABLE STATE REMEDIES**

EXECUTION DATE: NOVEMBER 15, 2006

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COUNSEL FOR APPELLANT

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :
Appellee, : Case No. 2005-2436
-vs- : Appeal taken from Portage County
JAMES TRIMBLE, : Court of Common Pleas
: Case No. 05 CR 00022
Appellant. : **DEATH PENALTY CASE**

MOTION FOR STAY OF EXECUTION

Now comes the appellant, James Trimble, by and through the undersigned counsel, and moves this Court to stay his **execution set for November 15, 2006**, pending disposition of his direct appeal, and all other available state remedies, by this Court. The reasons for this motion are more fully set forth in the attached memorandum.

Respectfully submitted,

DAVID H. BODIKER
Ohio Public Defender



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**MEMORANDUM IN SUPPORT OF MOTION TO STAY EXECUTION
PENDING DISPOSITION OF AVAILABLE STATE REMEDIES**

Appellant James Trimble was found guilty of Aggravated Murder and sentenced to death by the trial court. Appellant is currently sentenced to die on November 15, 2006. Trimble has a right to a direct appeal to the Ohio Supreme Court under Ohio Const. art. IV, § 2 (B)(2)(c). In McDonald v. Missouri, 464 U.S. 1306 (1984), the United States Supreme Court stated that every defendant who has a right of direct review from a sentence of death is entitled to have that review before paying the ultimate penalty. Accordingly, a stay is warranted to allow Trimble adequate time to seek direct review of his convictions and sentences. See State v. Steffen, 70 Ohio St. 3d 399, syl. (1994) (capital defendant entitled to stay of execution to seek both direct review **and state postconviction remedies**). Additionally, in State v. Glenn, 33 Ohio St.3d 601, 514 N.E.2d 869 (1987), this Court held that, “where a motion for stay of execution pending exhaustion of post-conviction proceedings has been filed, a stay will be granted for a period of six months during which time period a petition for post-conviction relief must be filed.”

On December 30, 2005, Trimble filed his notice of appeal and praecipe in this Court. On May 1, 2006, the Portage County Court of Common Pleas appointed the Ohio Public Defender to represent Trimble for his postconviction remedies. As of November 9, 2006 this Court’s online docket does not reflect that the record has been filed. Trimble’s oral argument will not be heard in this Court until well after the current execution date. Therefore, this case will not be completed before November 15, 2006. This Stay of Execution is being sought to allow a thorough and considered review of Trimble’s conviction and sentence.

Therefore, James Trimble respectfully requests this Court to stay his execution, pending the final disposition of his direct appeal and all postconviction remedies.

Respectfully submitted,

DAVID H. BODIKER
Ohio Public Defender

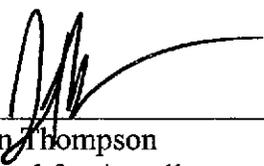


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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing MOTION FOR STAY OF EXECUTION was forwarded by regular U.S. mail to Victor Vigluicci, Portage County Prosecuting Attorney, 466 South Chestnut Street, Ravenna, Ohio 44266, on this 9th day of November, 2006.



Justin Thompson
Counsel for Appellant