

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,

Appellee,

vs.

JAMES P. FRAZIER,

Appellant.

\* Supreme Court Case No.: 05-1316  
\*  
\* On Appeal from the  
\* Lucas County Court of  
\* Common Pleas  
\*  
\*  
\* Common Pleas  
\* Case No. CR04-1509

DEATH PENALTY CASE

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MOTION FOR STAY OF EXECUTION OF APPELLANT,  
JAMES P. FRAZIER

EXECUTION DATE: JANUARY 15, 2008

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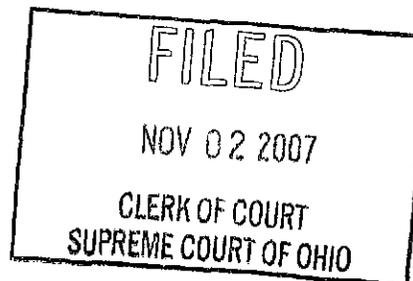
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Motion for Stay of Execution

of Appellant JAMES P. FRAZIER

Appellant, JAMES P. FRAZIER, through undersigned counsel, moves this Court to stay his execution now set for January 15, 2008, pending filing and disposition of his petition for writ of certiorari to the United States Supreme Court. The reasons for this motion are more fully set forth in the attached memorandum.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF MOTION FOR STAY OF EXECUTION**

Appellant, JAMES P. FRAZIER, through undersigned counsel, moves this Court for a stay of execution of sentence, currently scheduled for January 15, 2008, pending filing and disposition of a petition for writ of certiorari to the United States Supreme Court.

On October 10, 2007, this Court affirmed Mr. Frazier's conviction and death sentence on direct appeal. *State v. Frazier*, 115 Ohio St.3d 139, 2007-Ohio-5048. That same day, this Court set an execution date of January 15, 2008. Mr. Frazier fully intends to file a petition for writ of certiorari with the United States Supreme Court.

Under this Court's decisions in *State v. Glenn* (1987), 33 Ohio St. 3d 601,<sup>1</sup> and *State v. Steffen* (1994), 70 Ohio St.3d 399, appellant is entitled to a stay of execution until he has "exhausted direct review, . . . one round of post-conviction relief, and one motion for delayed reconsideration in the court of appeals and in the Supreme Court . . . ." 70 Ohio St.3d at 412.

In this case, the direct appeal continues as Mr. Frazier is filing a timely petition for writ of certiorari in the United States Supreme Court. As a consequence, absent a stay of execution, the principles of fairness and justice underlying *Glenn*

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<sup>1</sup>In *State v. Glenn*, this Court set forth its policy of providing indefinite stays of execution to exhaust all state post-conviction proceedings, including any appeals.

and *Steffen* would be rendered nullities and the procedures Appellant seeks to pursue to vindicate his rights would be rendered illusory.

Accordingly, and in the interests of justice and not delay, Appellant asks this Court to stay his execution pending disposition of his motion for reconsideration and filing and disposition of a petition for writ of certiorari to the United States Supreme Court.

Respectfully submitted,

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**PROOF OF SERVICE**

I hereby certify that a copy of the foregoing was hand delivered to the office of the Lucas County Prosecuting Attorney, marked to the attention of David F. Cooper, Assistant Prosecutor, Counsel of Record for Appellee, State of Ohio, this \_\_\_\_ day of November 2007.

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SPIROS P. COCOVES  
COUNSEL FOR APPELLANT  
JAMES P. FRAZIER