

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,

\* Supreme Court No.: 2007-2027

Appellee,

\*

\* On Appeal from the  
\* Lucas County Court of  
\* Common Pleas  
\* Case No. CR06-3581

vs.

\*

WAYNE S. POWELL,

\*

Appellant.

\*

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DEATH PENALTY CASE

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MOTION FOR STAY OF EXECUTION OF APPELLANT,  
WAYNE S. POWELL

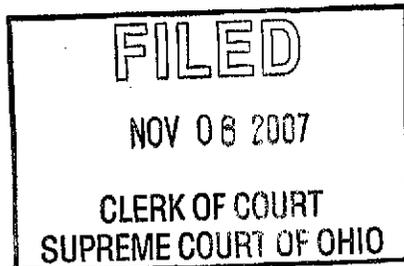
EXECUTION DATE: MARCH 13, 2008

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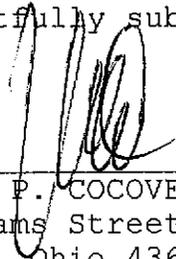
COUNSEL FOR APPELLANT, WAYNE S. POWELL

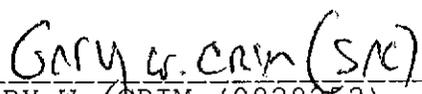
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COUNSEL FOR APPELLEE, STATE OF OHIO

Motion for Stay of Execution  
of Appellant WAYNE S. POWELL

Appellant, WAYNE S. POWELL, through undersigned counsel, moves this Court to stay his execution now set for March 13, 2008, pending filing and disposition of his appeal before this Court. The reasons for this motion are more fully set forth in the following memorandum in support.

Respectfully submitted,

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

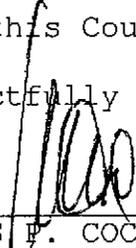
Appellant, WAYNE S. POWELL, through undersigned counsel, moves this Court for a stay of execution of sentence, currently scheduled for March 13, 2008, pending completion of his direct appeal by this Court.

Mr. Powell fully intends to pursue his appeal before this Court. At this point he is waiting for the record to be transmitted to this Court. Under this Court's decisions in *State v. Glenn* (1987), 33 Ohio St. 3d 601, 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 appellate process continues as Mr. Powell intends to pursue his direct appeal. Moreover, the deadline for filing the merit brief with this Court will not expire until after the scheduled execution date. As a consequence, absent a stay of execution, the principles of fairness and justice underlying *Glenn* 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 the filing and disposition of his direct appeal to this Court.

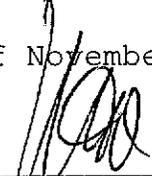
Respectfully submitted,

  
\_\_\_\_\_  
SPIROS P. COCOVES  
and  
GARY W. CRIM

COUNSEL FOR APPELLANT,  
WAYNE S. POWELL

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing motion for stay of execution was sent by regular U.S. Mail, postage prepaid, to Julia Bates, Lucas County Prosecuting Attorney, Lucas County Courthouse, 700 Adams Street, Toledo, Ohio 43624, counsel of record for appellee, State of Ohio, this 2nd day of November 2007.



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SPIROS P. COCOVES  
COUNSEL FOR APPELLANT,  
WAYNE S. POWELL