

IN THE SUPREME COURT OF OHIO

State of Ohio

On Appeal from the Ashland County  
Court of Appeals, Fifth Appellate District

Appellant

v.

Brian K. Siler

Case No. 2006-0185

Appellee

Appellate No. 02COA-028

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MOTION FOR STAY OF MANDATE

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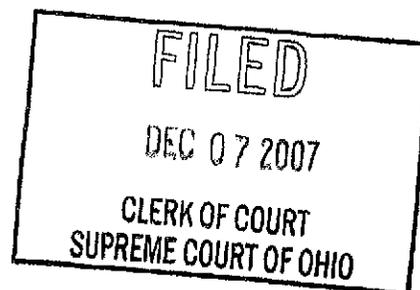
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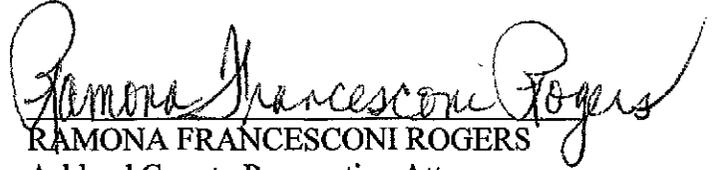
**MOTION FOR STAY OF MANDATE**

Now comes the State of Ohio and moves this Court for an Order staying the mandate in the judgment decided October 25, 2007, to allow the State of Ohio time to file a petition for a writ of certiorari with the United States Supreme Court. The State has ninety days from the date of final judgment by this Court in which to petition the United States Supreme Court for a writ of certiorari. The State will be seeking review in the United States Supreme Court on the basis that since its decision in *Crawford v. Washington* (2004), 541 U.S. 36, the United States Supreme Court has not reviewed the issue of how to evaluate adherence to the Confrontation Clause when statements are made by a very young child to law enforcement. The State makes this motion pursuant to S. Ct. Prac. R. XIV § 4, which states that “[u]nless otherwise prohibited by these rules, an application for an order . . . shall be made by filing a motion for the order,” and 28 U.S.C. § 2101 (f), which states:

In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment.

WHEREFORE, the State moves this Court to stay the mandate until the State has an opportunity to seek review of this matter by the United States Supreme Court.

Respectfully submitted,

A handwritten signature in black ink that reads "Ramona Francesconi Rogers". The signature is written in a cursive style with a large initial "R" and a long, sweeping tail.

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CERTIFICATE OF SERVICE

I certify that a copy of this Motion for Stay of Mandate was sent by ordinary U.S. mail to counsel for Appellee, Jill Stone and Craig Jaquith, Office of the Ohio Public Defender, 8 East Long Street, 11<sup>th</sup> Floor, Columbus, Ohio 43215, on this 5<sup>th</sup> day December, 2007.

A handwritten signature in cursive script that reads "Ramona Francesconi Rogers". The signature is written in black ink and is positioned above the printed name.

RAMONA FRANCESCONI ROGERS

(#0031149)

Prosecuting Attorney