

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :
Appellee, : Case No. 07-2425
-vs- : Appeal taken from Butler County
DONALD J. KETTERER, : Court of Common Pleas
: Case No. CR 2003-03-0309
Appellant. : This is a death penalty case.

NOTICE OF APPEAL OF APPELLANT DONALD J. KETTERER

ROBIN PIPER
Prosecuting Attorney

Michael A. Oster (0076491)
Assistant Prosecuting Attorney

Butler County Prosecutor's Office
Government Services Center
High Street, 11th Floor
Hamilton, Ohio 45011
(513) 887-3474

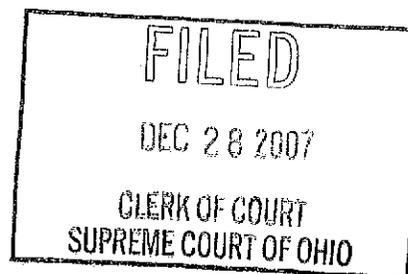
COUNSEL FOR APPELLEE

DAVID H. BODIKER
Ohio Public Defender

RANDALL L. PORTER (0005835)
Assistant State Public Defender
Counsel of Record

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Columbus, Ohio 43215
(614) 466-5394 (Voice)
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COUNSEL FOR APPELLANT



IN THE SUPREME COURT OF OHIO

STATE OF OHIO, : **Case No.**
Appellee, :
-vs- : **Appeal taken from Butler County**
 : **Court of Common Pleas**
DONALD J. KETTERER, : **Case No. CR 2003-03-0309**
Appellant. : **This is a death penalty case.**

DONALD KETTERER'S NOTICE OF APPEAL

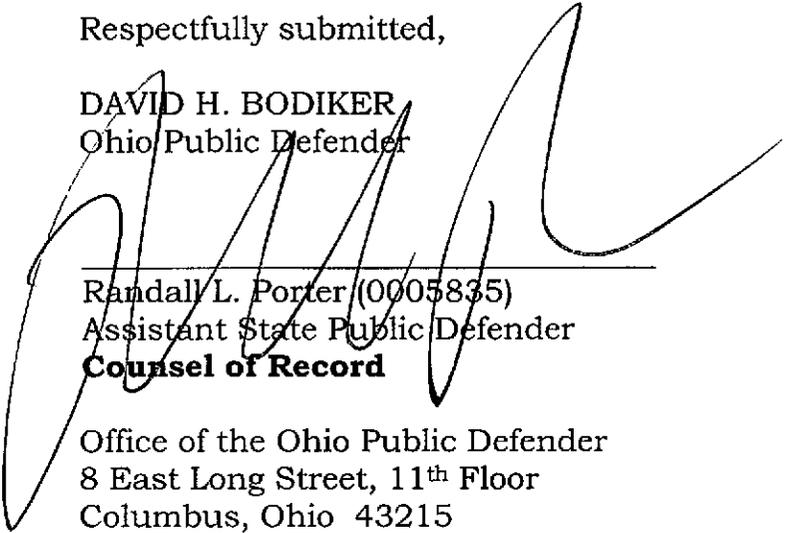
Appellant Donald J. Ketterer hereby gives notice of appeal to the Supreme Court of Ohio from the Amended Re-Sentencing Judgment Entry of Conviction of the Butler County Court of Common Pleas entered in Case No. CR 2003-03-0309 on November 15, 2007.

This is a capital case and the date of the offense is February 24, 2003. See Supreme Court Rule of Practice XIX, § 1(A). This Court has affirmed Donald Ketterer's convictions and death sentence. *State v. Ketterer* 111 Ohio St. 3d 70, 2006-Ohio-5283, 855 N.E. 2d 48. On April 18, 2007, this Court vacated the non-capital offenses and remanded the matter for re-sentencing. *State v. Ketterer* 113 Ohio St. 3d 1463, 2007-Ohio-1722. On July 13, 2007, Donald Ketterer appealed from the re-sentencing proceedings. *State v. Ketterer*, Ohio Supreme Court Case No. 07-1261. This appeal is from the November 15,

2007 resentencing entry which the three judge panel entered after Donald Ketterer had instituted his pending appeal to this Court.

Respectfully submitted,

DAVID H. BODIKER
Ohio Public Defender



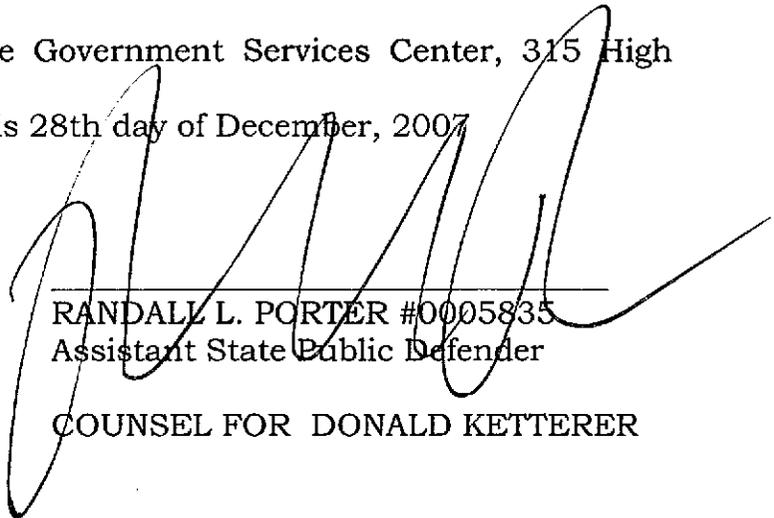
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COUNSEL FOR APPELLANT

CERTIFICATE OF SERVICE

I certify a copy of the foregoing Notice Of Appeal has been sent by electronic and regular U.S. mail to Michael A. Oster, Jr. Assistant Butler County Prosecuting Attorney at the Government Services Center, 315 High Street, Hamilton, Ohio 45011 on this 28th day of December, 2007



RANDALL L. PORTER #0005835
Assistant State Public Defender

COUNSEL FOR DONALD KETTERER

R. Porter

FILED BUTLER CO.
COURT OF COMMON PLEAS

COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

NOV 15 2007

STATE OF OHIO

CASE NO. CR2003-03-0309

CINDY CARPENTER
CLERK OF COURTS

Plaintiff

ONEY, J., SAGE, J. and CREHAN, J.

vs.

AMENDED RE-SENTENCING
JUDGMENT OF CONVICTION ENTRY
{NUNC PRO TUNC: May 29, 2007}

DONALD JOSEPH KETTERER

Defendant

On May 24, 2007 defendant's re-sentencing hearing was held on the noncapital offenses, Counts Two, Three, Four and Five, pursuant to Ohio Revised Code Section 2929.19 and the decision in State v. Ketterer, 113 Ohio St.3d 1463, 2007-Ohio-1722, the previous judgment of conviction and sentence as to Count One having been affirmed in State vs. Ketterer, 111 Ohio St.3d 70, 2006-Ohio-5283, certiorari denied (May 14, 2007), _____ U.S. _____, 2007 WL812004. Defense attorney Randall Porter, and the defendant were present and defendant was advised of and afforded all rights pursuant to Crim. R. 32. The Court has considered the record, the charges, the defendant's Guilty Finding by Judges, and findings as set forth on the record and herein, oral statements, any victim impact statement and pre-sentence report, as well as the principles and purposes of sentencing under Ohio Revised Code Section 2929.11, and has balanced the seriousness and recidivism factors of Ohio Revised Code Section 2929.12 and whether or not community control is appropriate pursuant to Ohio Revised Code Section 2929.13, and finds that the defendant is not amenable to an available community control sanction. Further, the Court has considered the defendant's present and future ability to pay the amount of any sanction, fine or attorney's fees.

The Court finds that the defendant has been found guilty of:

AGGRAVATED ROBBERY as to Count Two, a violation of Revised Code Section 2911.01(A)(3) a first degree felony. With respect to this Count, the defendant is hereby sentenced to:

Prison for a period of 9 years.
This sentence will be served **consecutive** to Count One.
Fine in the amount of \$2,000

AGGRAVATED BURGLARY as to Count Three, a violation of Revised Code Section 2911.11(A)(1) a first degree felony. With respect to this Count, the defendant is hereby sentenced to:

Prison for a period of 9 years.
This sentence will be served **consecutive** to Count Two.
Fine in the amount of \$2,000

GRAND THEFT as to Count Four, a violation of Revised Code Section 2913.02(A)(1) a fourth degree felony. With respect to this Count, the defendant is hereby sentenced to:

Prison for a period of 17 months.
This sentence will be served **concurrent** with Count(s) Two and Three.

BURGLARY as to Count Five, a violation of Revised Code Section 2911.12(A)(3) a third degree felony. With respect to this Count, the defendant is hereby sentenced to:

Prison for a period of 4 years.

This sentence will be served **consecutive** to Count(s) Two and Three.
Fine in the amount of \$1,000

Credit for 1556 served is granted as of this date.

As to Count(s) Two, Three, Four and Five:

The Court has notified the defendant that post release control is Mandatory in this case up to a maximum of 5 years, as well as the consequences for violating conditions of post release control imposed by the Parole Board under Revised Code Section 2967.28. The defendant is ordered to serve as part of this sentence any term of post release control imposed by the Parole Board, and any prison term for violation of that post release control. The defendant is therefore ORDERED conveyed to the custody of the Ohio Department of Rehabilitation and Correction.

Defendant is ORDERED to pay:

Costs of prosecution, supervision and any supervision fees permitted pursuant to Revised Code Section 2929.18(A)(4).

The Court further advised the defendant of all of his/her rights pursuant to Criminal Rule 32, including his/her right to appeal the judgment, his/her right to appointed counsel at no cost, his/her right to have court documents provided to him/her at no costs, and his / her right to have notice of appeal filed on his behalf.

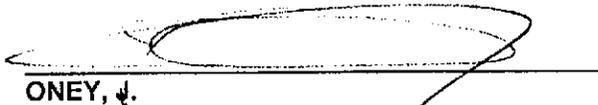
Directive to Ohio Department of Rehabilitation and Correction: Please notify the Butler County Court of Common Pleas of any major changes of incarceration status including but not limited to release, transfer, execution or death of the defendant.

{This *nunc pro tunc* entry is necessary to properly and legally reflect the Court of Common Pleas Judgement of Conviction that was originally entered on May 24, 2007, and journalized on May 29, 2007}.

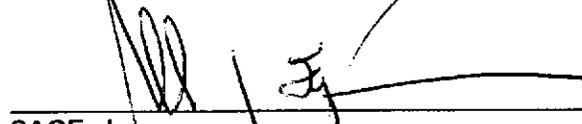
APPROVED AS TO FORM:

ENTER

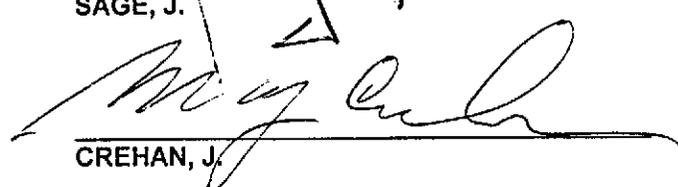
ROBIN N. PIPER
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO



ONEY, J.



SAGE, J.



CREHAN, J.

MAO/beg
May 25, 2007
November 7, 2007 amended