

In The Supreme Court Of Ohio

State Of Ohio, :
Appellee, :
-vs- : Case No.: 2007-1741
Edward Lang, :
Appellant. : **This Is A Capital Case.**

On Appeal From The Court Of
Common Pleas Of Stark County
Case No. 2006CR1824A

Motion To Unseal Portions Of Record Filed Under Seal

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Stark County Prosecutor

Office of the
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Death Penalty Division
Counsel of Record

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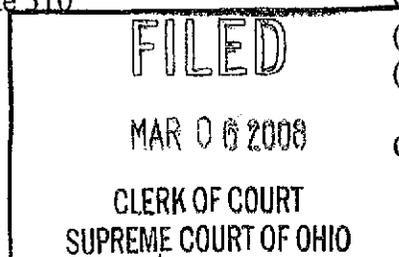
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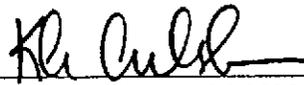
Motion To Unseal Portions Of Record Filed Under Seal

Appellant Edward Lang moves this Court to unseal documents that the trial court ordered sealed and made part of Lang's record in Case No. 2006CR1824A. The reasons for this request are set forth in the attached memorandum.

Respectfully submitted,

Office of the Ohio Public Defender

Joseph E. Wilhelm - 0055407
Chief Counsel - Death Penalty Division
Counsel of Record

By: 
Kelly L. Culshaw - 0066394
Supervisor, Death Penalty Division

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Memorandum In Support

Edward Lang was convicted of aggravated murder and sentenced to death. He is currently before this Court on his appeal as of right. The Stark County Clerk of Court's submitted to this Court portions of the record under seal, including but not limited to: jury questionnaires (Dkt. Entry July 26, 2007); grand jury transcripts (Dkt. Entry June 14, 2007); and jury excuse list (Dkt. Entry June 14, 2007). Lang moves this Court to unseal these documents for counsel's review.

Lang has a right to a complete and unabridged record for his capital appeal. State ex rel. Spirko v. Court of Appeals, Third Appellate District, 27 Ohio St. 3d 13, 16, 501 N.E.2d 625, 627 (1986). See also State v. D'Ambrosio, 67 Ohio St. 3d 185, 200, 616 N.E.2d 909, 921 (1993). Further, Sup. R. Prac. 19(3)(A) states that the record on appeal in death cases "shall consist of the original papers filed in the trial and exhibits to those papers [as well as] the transcript of proceedings, including all exhibits...."

The trial court's order to seal these items and make them a part of the record in Lang's aggravated murder case demonstrates the court's express belief that these items were directly relevant to Lang's capital case. Under Sup. R. Prac. 19(3)(A) and (D), these materials are documents that may be material to Lang's appeal.

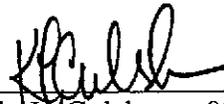
These materials may present issues for Lang's Merit Brief and for his oral argument. A thorough review of the entire record is necessary to give Lang a full and fair opportunity to litigate his appeal as of right in this Court. Without a complete record for review, counsel cannot provide effective representation to Lang on this appeal as of right. See State v. Buell, 70 Ohio St. 3d 1211, 639 N.E.2d 110 (1994); Evitts v. Lucey, 469 U.S. 387 (1985).

Wherefore, Lang requests that this Court unseal grand jury testimony, jury questionnaires, jury excuse list and any other portions of the record submitted under seal to this Court by the Stark County Clerk's Office.

Respectfully submitted,

Office of the Ohio Public Defender

Joseph E. Wilhelm - 0055407
Chief Counsel - Death Penalty Division
Counsel of Record

By: 

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Supervisor, Death Penalty Division

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Certificate of Service

I hereby certify that a true copy of the Motion To Unseal Portions Of Record Filed Under Seal was forwarded by regular U.S. Mail to John D. Ferrero and Mark Caldwell, Stark County Prosecutor, 110 Central Plaza South, Suite 510, Canton, Ohio 44702-1413, this 6th day of March, 2008.



Kelly L. Culshaw
Counsel for Appellant