

IN THE SUPREME COURT OF OHIO

STATE OF OHIO

Appellee

-vs-

PHILLIP L. JONES

Appellant

\*

CASE NO. **08-0525**

\*

On Appeal from the Summit County  
Common Pleas Court,

\*

Case No. 2007 04 1294

\*

CAPITAL CASE

\*

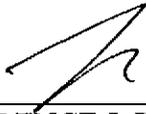
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MOTION FOR LEAVE TO PROCEED  
IN FORMA PAUPERIS

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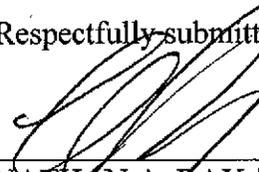
Appellant, PHILLIP L. JONES, through undersigned counsel, respectfully requests leave to file his Notice of Appeal, in his direct appeal of right, to the Supreme Court of Ohio without prepayment of costs or fees and to proceed in forma pauperis pursuant to Rule XV, Section 3. A copy of the Entry of Appointment of Counsel is attached to this Motion.

Respectfully submitted,



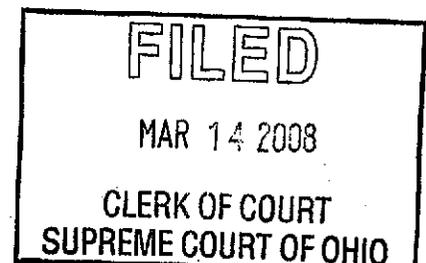
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PROOF OF SERVICE

I hereby certify that a copy of the foregoing has been mailed by regular U.S. Mail this 11<sup>th</sup> day of March, 2008, to the Summit County Prosecutor's Office, 53 University Avenue, Akron, Ohio 44308.



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NATHAN A. RAY  
LAWRENCE J. WHITNEY  
Counsel for Appellant

DANIEL M. HOPKINSON  
**IN THE COURT OF COMMON PLEAS  
COUNTY OF SUMMIT**

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SUMMIT COUNTY  
THE STATE OF OHIO DEPT. OF COURTS

Case No. CR 07 04 1294

vs.

PHILLIP L. JONES  
PAGE ONE OF TWO

**JOURNAL ENTRY**

THIS DAY, to-wit: The 30<sup>th</sup> day of January, A.D., 2008, now comes the Prosecuting Attorney on behalf of the State of Ohio, the Defendant, PHILLIP L. JONES, having previously pled NOT GUILTY to the charges to the original Indictment on May 9, 2007, and pled NOT GUILTY to the Specifications contained in the Supplement One to Indictment on October 24, 2007; being in Court with counsel, KERRY O'BRIEN and DONALD HICKS, for sentencing hearing pursuant to O.R.C. 2929.19. The Defendant was afforded all rights pursuant to Crim. R. 32. The Court has considered the record, oral statements, as well as the principles and purposes of sentencing under O.R.C. 2929.11, and the seriousness and recidivism factors under O.R.C. 2929.12.

The Court finds that the Defendant heretofore on December 17, 2007 was found GUILTY by a Jury of AGGRAVATED MURDER, as contained in Count One (1) of the Indictment, with DEATH SPECIFICATION ONE TO COUNT ONE of the Supplement One to Indictment, and with REPEAT VIOLENT OFFENDER SPECIFICATION TWO TO COUNT ONE of the Supplement One to Indictment; GUILTY of the crime of MURDER, as contained in Count Two (2) of the Indictment, with REPEAT VIOLENT OFFENDER SPECIFICATION ONE TO COUNT TWO of the Supplement One to Indictment; and GUILTY of the crime of RAPE, as contained in Counts Three (3) and Four (4) of the Indictment, with REPEAT VIOLENT OFFENDER SPECIFICATION ONE TO COUNT THREE of the Supplement One to Indictment, and REPEAT VIOLENT OFFENDER SPECIFICATION ONE TO COUNT FOUR of the Supplement One to Indictment, which offenses occurred after July 1, 1996, and the Court found the Defendant guilty of same.

Thereupon, on January 11, 2008, the Jury having unanimously found by proof beyond a reasonable doubt that the aggravating circumstance the Defendant was found Guilty of committing outweighed the mitigating factors as to the charge of AGGRAVATED MURDER, as to the death of Susan Christian Yates, as contained in Count One (1) of the Indictment, with DEATH SPECIFICATION ONE TO COUNT ONE. Based on the above findings, the Jury recommended "Death" for the Defendant on Count One (1) of the Indictment.

Thereupon, the Court inquired of the said Defendant if he had anything to say why judgment should not be pronounced against him; and having nothing but what he had already said and showing no good and sufficient cause why judgment should not be pronounced:

IT IS THEREFORE ORDERED AND ADJUDGED BY THIS COURT that the Defendant, PHILLIP L. JONES, be committed to the Ohio Department of Rehabilitation and Correction for punishment of the crime of AGGRAVATED MURDER, as to the death of Susan Christian Yates, as contained in Count One (1) of the Indictment, Ohio Revised Code Section 2903.01(B), a special felony, with Specification One to Count One the sentence is DEATH; that he serve a period of Ten (10) Years for REPEAT VIOLENT OFFENDER SPECIFICATION ONE TO COUNT THREE, and Ten (10) Years for REPEAT VIOLENT OFFENDER SPECIFICATION ONE TO COUNT FOUR, and that he serve Ten (10) Years for punishment of the crime of RAPE, on each of two (2) counts, Ohio

Revised Code Section 2907.02(A)(2), felonies of the first (1<sup>st</sup>) degree, and that the said Defendant pay the costs of this prosecution for which execution is hereby awarded; said monies to be paid to the Summit County Clerk of Courts, 205 South High Street, Akron, Ohio 44308-1662.

IT IS FURTHER ORDERED that the Court, pursuant to Section 2941.25(A), Ohio Revised Code, declines to sentence said Defendant on the charge of MURDER, as contained in Count Two (2) of the Indictment, with REPEAT VIOLENT OFFENDER SPECIFICATION ONE TO COUNT TWO, Ohio Revised Code Section 2903.02(B), a special felony, for the reason that said offense is merged with the charge of AGGRAVATED MURDER, as contained in Count One (1). Thereupon, the Court was precluded from imposing a sentence on the REPEAT VIOLENT OFFENDER SPECIFICATION TWO TO COUNT ONE pursuant to Revised Code 2929.14(D)(2).

IT IS FURTHER ORDERED that the sentence imposed in Counts Three (3) and Four (4) be served CONSECUTIVELY with each other.

IT IS FURTHER ORDERED that the sentence imposed on each of the two (2) REPEAT VIOLENT OFFENDER SPECIFICATIONS be served CONCURRENTLY with each other, but CONSECUTIVELY with the sentence imposed in Counts Three (3) and Four (4), for a total of thirty (30) years.

Pursuant to R.C. 2967.28, after release from prison, the Defendant is ordered subject to post-release control to the extend the parole board may determine, as provided by law. The Defendant is further Ordered to pay all prosecution costs, including any fees permitted, pursuant to O.R.C. 2929.18(A)(4).

IT IS FURTHER ORDERED that credit for time served is to be calculated by the Adult Probation Department, and will be forthcoming in a subsequent journal entry.

Upon consideration of the factors set forth in R.C. 2950.09(B)(2) and the evidence presented herein, the Court FINDS by clear and convincing evidence that the Defendant engaged in acts which indicate the Defendant is a TIER III SEX OFFENDER, subject to community notification.

Pursuant to R.C. 2950.09(C), the Court therefore DETERMINES and ADJUDICATES that the Defendant is a TIER III SEX OFFENDER, and all parties stipulate to the Defendant being a TIER III SEX OFFENDER, subject to community notification.

Defendant is required to register in person with the sheriff of the county in which the Defendant establishes residency within 3 days of coming into that county. The Defendant is also required to register in person with the sheriff of the county in which the Defendant establishes a place of education or employment immediately upon coming into that county. If the Defendant establishes a place of education or place of employment in another state but maintains a residence here, the Defendant is also required to register in person with the sheriff or other appropriate official in that other state immediately upon coming into that state.

After the initial date of registration, the Defendant is required to periodically verify his residence address, place of employment and/or place of education at the county sheriff's office no earlier than 10 days prior to Defendant's verification date.

If the Defendant changes residence address, place of employment, and/or place of education, the Defendant shall provide written notice in person of that change to the sheriff with whom the Defendant most recently registered, and to the sheriff in the county in which the Defendant intends to reside, or establish a place of employment, and/or place of education at least 20 days prior to any change and no later than 3 days after change of employment.

The Defendant shall provide written notice in person, within 3 days, of any change in vehicle information, email addresses, internet identifiers, or telephone numbers registered to or used by the Defendant, to the sheriff with whom the Defendant has most recently registered.

The Defendant is required to fulfill these requirements for life with in-person verification every 90 days.

Failure to register, failure to verify residence at the specified times or failure to provide notice of a change in residence address or other required information as described above will result in criminal prosecution.

IN THE COURT OF COMMON PLEAS  
COUNTY OF SUMMIT

THE STATE OF OHIO )  
 )  
 vs. )  
 )  
 PHILLIP L. JONES )  
 PAGE TWO OF TWO )

Case No. CR 07 04 1294

JOURNAL ENTRY

You have the right, under R.C. 2950.031 or 2950.032 to challenge your Tier classification for an offense committed prior to January 1, 2008. In order to challenge your classification, a petition must be filed within 60 days of this Notice.

The Official in charge of the Defendant's correctional facility, or designee thereof, is hereby ORDERED to enter the within determination in the Defendant's institutional record and IS FURTHER ORDERED to cause a DNA specimen to be collected in accordance with R.C. 2901.07, to collect all items set forth in R.C. 2950.03(C), and forward them to the Bureau of Criminal Identification, and to Notify the Defendant of all applicable Registration duties as set forth in R.C. 2950.03.

THEREUPON, the Court informed the Defendant of his right to appeal pursuant to Rule 32A2, Criminal Rules of Procedure, Ohio Supreme Court, at which time the Defendant expresses his intent to appeal, and further, the Court appoints Attorney LAWRENCE WHITNEY and Attorney NATHAN RAY to represent the Defendant for purposes of appeal, as the Defendant is in indigent circumstances, and unable to employ counsel.

IT IS FURTHER ORDERED that the Defendant is to be conveyed by the Sheriff of Summit County, Ohio, within Five (5) Days to the CORRECTIONAL RECEPTION CENTER at Orient, Ohio, for immediate transport to the SOUTHERN OHIO CORRECTIONAL FACILITY as Lucasville, Ohio, and that he be there safely kept until the 30<sup>th</sup> day of January, 2009, on which day, within an enclosure, inside the walls of said SOUTHERN OHIO CORRECTIONAL FACILITY, prepared for that purpose, according to law, the said Defendant PHILLIP L. JONES, shall be administered a lethal injection by the Warden of the said SOUTHERN OHIO CORRECTIONAL FACILITY, or in the case of the Warden's death or inability, or absence, by a Deputy Warden of said Institution; that the said Warden or his duly authorized Deputy, shall administered a lethal injection until the Defendant, PHILLIP L. JONES, is DEAD.

APPROVED:  
January 30, 2008  
jam

*Mary F. Spicer*  
MARY F. SPICER, Judge  
Court of Common Pleas  
Summit County, Ohio

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cc: Prosecutor Becky Doherty/Brian LoPrinzi  
Criminal Assignment  
Attorney Kerry O'Brien #15  
Attorney Donald Hicks #46  
Attorney Nathan Ray #5  
Attorney Lawrence Whitney #5  
Adult Probation Department  
Court Convey  
Registrar's Office  
SCJ, Barb Perkins