

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,

Appellee,

v.

MARQUIS HAIRSTON,

Appellant.

Case No. 07-0394

MOTION FOR RECONSIDERATION

Now comes counsel for Marquis Hairston and moves this Court to reconsider its opinion of May 21, 2008, wherein it affirmed the decision of the Tenth District Court of Appeals. Additional support for this request is presented in the Memorandum in Support that is attached hereto.

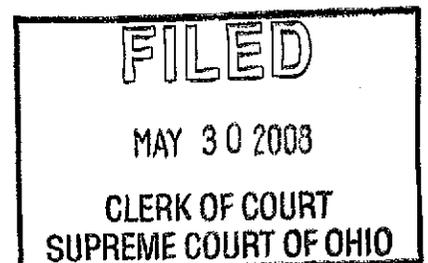
Sincerely,

CLARK LAW OFFICE



Toki M. Clark (#0041493)
233 South High Street, 3rd Floor
Columbus, OH 43215
(614) 224-2125

Counsel for Appellant
Marquis Hairston



MEMORANDUM IN SUPPORT

On May 21, 2008, this Court issued an Opinion wherein it affirmed the Tenth District Court of Appeals in upholding the imposition of a 134-year prison sentence for Appellant Marquis Hairston, despite Appellant's claims that such a sentence is cruel and unusual punishment and in violation of the Eighth Amendments to the United States Constitution and Ohio Constitution. Counsel for Appellant Marquis Hairston respectfully requests that this Court reconsider its ruling of May 21, 2008, for supplemental reasons that were not raised before in this Court or in this case.

At the time Marquis Hairston entered a guilty plea in the Franklin County Common Pleas Court, the trial court was not aware of pertinent mitigating factors. These pertinent mitigating factors may very well have resulted in a different sentence for Mr. Hairston than the one imposed. The supplemental reasons that compel this court to reconsider its opinion stem from Marquis Hairston's childhood experiences where he—as a minor—had to manage and process emotional abuse, sexual abuse, and physical abuse. The physical abuse included severe blows to his head by a parent. A young Marquis had to negotiate these experiences in solitude, within the confines of a child's mind. These traumatic experiences suffered by Marquis Hairston, the child, beginning at age four, were never brought to the court's attention or conveyed to his trial counsel. Given the nature of the abuse, this information could have impacted the sentence imposed at the trial court. (See Affidavit, attached)

Childhood is an extremely important developmental stage in the creation of an adult. For this reason, we as a society strive to generate a safe and nurturing environment

for all children. Marquis Hairston's early developmental period, however, was not safe and was not nurturing. The childhood he had to navigate was filled with horror.

From age four (4) through six (6), Marquis' mother would hogtie him and put him in the closet of her bedroom. (Affidavit Paragraph 7) This occurred while Marquis was living at the corner of Oakwood and Fours in Franklin County. (Affidavit P. 7) While hogtied, he was left naked with no food or water for time frames of one day, two days and even three days. (Affidavit P. 8) Marquis was hogtied by his mother as a child on three to four occasions that he can recall. (Affidavit P. 8) The hogtying aspect of this is particularly significant because in the German Village robberies, one of the four victims was hogtied.

Marquis was also sexually abused as a child. (Affidavit P. 9) He claims he was sexually abused by his mother. (Affidavit P. 9) According to Marquis, his mother would threaten him and then force him to perform oral sex on her two (2) to three (3) times per week. (Affidavit P. 10) His mother would also force a young Marquis to watch her engage in sex acts with other women. (Affidavit P. 11)

In addition to the sexual abuse he suffered, Marquis suffered physical abuse as a child. (Affidavit P. 13) His mother beat him so bad once she broke a broom on his head. (Affidavit P. 14) The beatings to his head were so bad he still has scars on the back of his head. (Affidavit 14) The physical abuse Marquis endured is relevant and should be taken into consideration with respect to this Motion for Reconsideration. It should be taken into consideration because the beatings to the head may have resulted in long term injury that may have had an impact with respect to the offenses committed and with respect to his defense at the trial level with respect to his plea being knowingly,

intelligently and voluntarily made. Marquis Hairston and our society both would have benefitted had all of the foregoing been presented at the trial level. If this matter had been explored at the trial level, it could perhaps have impacted the sentence or the plea or other options that could have been raised.

Marquis Hairston's sexual and physical abuse began at about age four (4). He was placed into the jurisdiction of the Franklin County Children Services when he was about seven (7) or eight (8) years old. (Affidavit P. 5) Through FCCS, he was exposed to counseling through Hannah Neil. (Affidavit P. 6) But Marquis contends that FCCS did not protect him from his mother. (Affidavit P. 15) Further, according to Marquis, FCCS neglected him as a child and failed to give him the proper assistance he needed.

Given the foregoing, counsel for Appellant Marquis Hairston respectfully requests that this honorable Court reconsider its May 21, 2008 opinion and remand this matter to the trial court for resentencing.

CONCLUSION

The state of Ohio recently held its first Summit on Children. The summit was designed to be a collaborative effort, with the state's 88 county child care agencies sharing and exchanging ideas, all for the ultimate goal of improvement when it comes to dealing with abused and neglected children. Franklin County opted out of the summit, contending that essentially it did not need the summit.

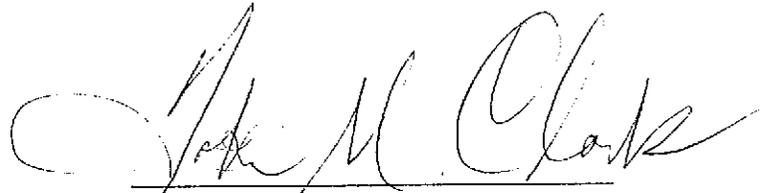
Marquis Hairston is a product of the Franklin County Children Services. He contends that Franklin County Children Services failed to protect him and neglected him, and failed to provide the proper help he needed as a child when he was forced 2 and 3 times a week to engage in sex acts with his mother, and when he was suffering head

injuries and emotional abuse and all the other abuses listed above. When a young Marquis was under the jurisdiction of FCCS, perhaps he would have greatly benefitted from collaborative statewide efforts to enhance the effectiveness of the child care agencies. If in fact FCCS failed him in his youth, we ask that this court reconsider its Opinion and revisit this case.

Given the foregoing, Marquis Hairston respectfully requests that this Court reconsider its ruling of May 21, 2008, and remand the matter to the trial court for resentencing.

Respectfully submitted,

CLARK LAW OFFICE



Toki M. Clark (#0041493)
233 South High Street, 3rd Floor
Columbus, Ohio 43215
(614) 224-2125

CERTIFICATE OF SERVICE

Counsel for Appellant Marquis Hairston hereby certifies that a true and accurate copy of the foregoing Motion for Reconsideration was sent by regular U.S. Mail to Steven Taylor, Esq., Office of the Prosecuting Attorney, 369 South High Street, 14th Floor, Columbus, Ohio 43215, this 30th day of May, 2008.



TOKI M. CLARK

THE SUPREME COURT OF OHIO

STATE OF OHIO,

Case No. 2007-0394

vs.

MARQUIS A. HAIRSTON,

AFFIDAVIT

STATE OF OHIO

SS

COUNTY OF SCIOTO

THE UNITED STATES

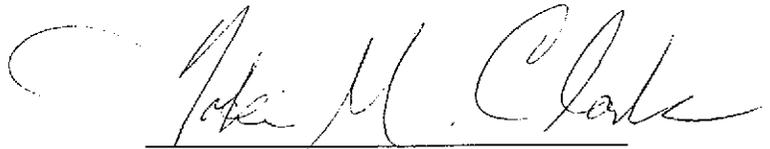
I, Marquis Hairston, duly sworn and cautioned, state as follows:

1. I am currently under the jurisdiction of the Ohio Department of Rehabilitation and Correction.
2. I was sentenced in Franklin County Common Pleas Court by Judge Julie Lynch.
3. Judge Lynch sentenced me to 134 years of incarceration.
4. At the time of the sentencing, I did not convey to the court all mitigating damages that should have been brought to the court's attention. They were not brought to the court's attention because my lawyer was not aware of my juvenile past.
5. I was placed in Franklin County Children Services when I was around 7 or 8-years-old.
6. I also received counseling as a child, through Hannah Neil.
7. From ages 4 through about 6, my mother would hogtie me and lock me (or block door) in closet of her bedroom, at our house on the corner of Oakwood and Fours.
8. While hogtied, I was naked, and left with no food or water, from 1 to 3 days at a time. This occurred 3 to 4 different times, from ages 4-6.

895215
5/23/08
[Signature]

9. Also as a child, my mother sexually abused me.
10. My mother, through threats, would force me to perform oral sex on her, 2 to 3 times per week. This occurred in her bedroom on her bed. This occurred for an extended period of time.
11. My mother would make me watch her engage in sex acts with other women.
12. My mother, I think on only 1 occasion, made me perform oral sex on her female friend.
13. My mother physically abused me. She would beat me as a child with belts (buckle-side) and her fists, and with a broom.
14. Once my mother broke the broom while beating me on my head. I still have scars on the back of my head from the beatings. I also have scars on my face and little marks on my body.
15. Franklin County Children Services did not protect me. They neglected me and they did not give me the proper help that I needed as a child. FURTHER AFFIANT SAYETH NAUGHT
- AD 60 5123108
Marquis Hairston

Sworn to before me and subscribed in my presence this 23rd day of May, 2008.



Notary Public

TOM MICHELLE CLARK, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Number 14749 R.C.