



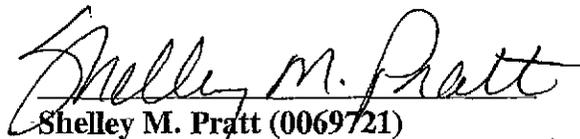
**IN THE SUPREME COURT OF OHIO  
COLUMBUS, OHIO**

|                      |   |                         |
|----------------------|---|-------------------------|
| STATE OF OHIO,       | ) | OHIO SUPREME COURT      |
|                      | ) | CASE NO. 2008-0045      |
| Plaintiff-Appellant, | ) |                         |
|                      | ) |                         |
| -vs-                 | ) | APPELLANT'S RESPONSE TO |
|                      | ) | APPELLEE'S MOTION TO    |
| SONNY HATFIELD,      | ) | SUSPEND EXECUTION OF    |
|                      | ) | SENTENCE                |
| Defendant-Appellee.  | ) |                         |

Now comes the State of Ohio, by and through its counsel, Shelley M. Pratt, Assistant Prosecutor to Thomas L. Sartini, the duly qualified, elected and acting Prosecuting Attorney for Ashtabula County, Ohio, and for reasons more fully set forth in the Memorandum attached hereto and incorporated herein by reference, respectfully requests this Honorable Court to overrule appellee's Motion to Suspend Execution of Sentence.

Respectfully submitted,

**THOMAS L. SARTINI (0001937)**  
**PROSECUTING ATTORNEY**

  
**Shelley M. Pratt (0069721)**

**Assistant Prosecutor**  
Office of the Prosecuting Attorney  
Ashtabula County Courthouse  
25 West Jefferson Street  
Jefferson, Ohio 44047-1092  
(440) 576-3662 Fax (440) 576-3600

## MEMORANDUM

In his Motion to Suspend Execution of Sentence it appears as if appellee is making a request for an appeal bond. Pursuant to App. R. 8 a defendant may request bail and suspension of sentence in a *criminal* case. App. R. 8. App. R. 8(B) provides:

Application for release on bail and for suspension of execution of sentence after judgment of conviction shall be made in the first instance in the trial court. Thereafter, if such application is denied, a motion for bail and suspension of execution of sentence pending review may be made to the court of appeals or to two judges thereof.

App. R. 8(B).

In the present case it appears that appellee did not comply with App. R. 8(B). Appellee did not request an appeal bond at the trial court level. Appellee also neglected to request an appeal bond from the Eleventh District Court of Appeals. Appellee's failure to seek an appeal bond as provided for in App. R. 8(B) precludes him from being eligible for an appeal bond from this Honorable Court. *State v. Fleetwood*, 2<sup>nd</sup> Dist. App. No. 8186 at 81, 1983 WL 4822.

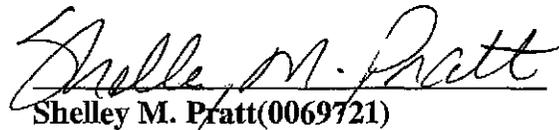
Moreover, the State submits that appellee is not an appropriate candidate for an appeal bond. "[T]he release of an accused on bail after conviction and pending an appeal is not a matter of right but a question to be resolved by an exercise of the sound discretion of the court." *Coleman v. McGettrick* (1965), 2 Ohio St.2d 177, 180, 207 N.E.2d 552.

Appellee was convicted of Aggravated Vehicular Homicide in the present case. Appellee had a prior history of criminal behavior at the time of this conviction. (Sent. T.p. 18.) Appellee was convicted of burglary and felonious assault as a juvenile. (Sent. T.p. 27-28.) Appellee was convicted of felony drug possession in 2001 and placed on community control. After being given an opportunity for rehabilitation at NEOCAP, appellee still violated probation. (Sent. T.p. 18, 29-30.)

Appellee's risk to the community is further evidenced by his committing criminal acts while released on bond in the present case. Appellant was convicted of Drug Trafficking, the offense having been committed while the present case was pending. (Sent. T.p. 19, 30-31.) Accordingly, appellee's request for an appeal bond must be denied.

Respectfully submitted,

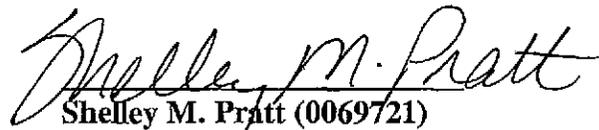
**THOMAS SARTINI (0001937)  
PROSECUTING ATTORNEY**



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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing Appellant's Response to Appellee's Motion to Suspend Execution of Sentence has been served via ordinary U.S. Mail, postage prepaid, this 25<sup>th</sup> day of June, 2008, upon Joseph A. Humpolick, Ashtabula County Public Defender, 4817 State Road, Suite 202, Ashtabula, Ohio 44004.



**Shelley M. Pratt (0069721)**  
**Assistant Prosecutor**  
COUNSEL OF RECORD

COUNSEL FOR APPELLEE,  
STATE OF OHIO