IN THE SUPREME COURT OF OHIO

CASE NO. 2007-1478

THE STATE OF OHIO,	)	
Plaintiff-Appellant	)	On Appeal from the Lake County Court of Appeals, Eleventh Appellate District
-vs-	)	
JENNIFER L. JEFFRIES,	)	
Defendant-Appellee	)	Court of Appeals Case No. 2005-L-057

MOTION FOR CLARIFICATION OF JUDGMENT ENTRY

R. PAUL LaPLANTE (0015684)
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FILED
DEC 18 2008
CLERK OF COURT
SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

CASE NUMBER 2007-1478

THE STATE OF OHIO,	)	
Plaintiff-Appellant	)	**MOTION FOR CLARIFICATION OF JUDGMENT ENTRY**
-vs-	)	
JENNIFER L. JEFFRIES,	)	
Defendant-Appellee	)	

Now comes the Appellee, Jennifer L. Jeffries, by and through counsel, Vanessa R. Clapp, Assistant Lake County Public Defender, and hereby moves this Honorable Court, pursuant to Rule XIV, Section 4, of the Supreme Court Rules of Practice, for clarification of paragraph two of its judgment entry dated August 7, 2008 due to the following:

On August 7, 2008, this Court reversed the Eleventh District Court of Appeals judgment granting Ms. Jeffries a new trial. In the second paragraph of its judgment entry, this Court ordered that a mandate be sent to the Lake County Common Pleas Court to carry the judgment into execution and ordered a copy of the entry to be certified to the Clerk of the Court of Appeals for Lake County. (See Appendix for Ohio Supreme Court Judgment Entry)

On December 5, 2008, Ms. Jeffries filed in the Eleventh District Court of Appeals a Motion for Appellate Court Ruling on Remaining Assignments of Error. In that motion, she requested the appellate court to issue a ruling on the remaining eight assignments of error which Ms. Jeffries had raised in her brief and addressed during oral arguments, but which the appellate court had found to be moot due to its ordering of a new trial. These assignments related to a variety of appellate issues, including errors in jury instructions, a

manifest weight challenge to her conviction, constitutional challenges to the felony-murder statute, general sentencing issues and a *Blakely* sentencing error. Ms. Jeffries asserted that, due to this Court's judgment reversing the appellate court's decision, the issues raised were no longer moot and must be addressed in order for Ms. Jeffries's federal and state constitutional rights and statutory rights to appeal to be satisfied.

On December 17, 2008, the Eleventh District Court of Appeals overruled Ms. Jeffries's motion, with, in part: "As a general proposition, this court would agree that when the Supreme Court reverses a decision of an appellate court, the matter is usually remanded to the appellate court for further proceedings if the latter court did not consider all of the pending assignments of error in its original opinion. However, in the instant case, a review of the Supreme Court's final entry readily shows that the matter was not remanded to this court. Instead, the case was sent directly back to the trial court so that the imposed sentence could now be executed." (See Appendix for Eleventh District Court of Appeals Judgment Entry)

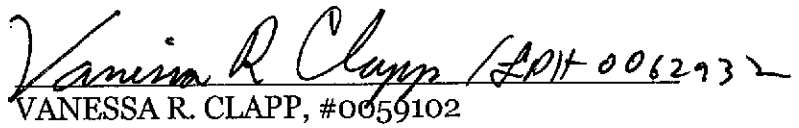
The appellate court continued: "Under such circumstances, this court does not have the basic jurisdiction to proceed in the manner requested by appellant. Unless this court were to receive further clarification from the Supreme Court, any additional action on our part would conflict with the authority of the trial court to carry the judgment into execution." (See Judgment Entry in attached Appendix)

Thus, the appellate court has ruled that it does not have jurisdiction to rule on the unaddressed assignments of error due to the wording of paragraph two of this Court's mandate. As Ms. Jeffries's convictions are serious and her prison sentence is twenty-two years to life, the necessity of a complete review of all of her appellate issues is particularly

compelling.

Ms. Jeffries thus respectfully requests this Court to clarify paragraph two of its judgment entry so that the Eleventh District Court of Appeals can complete its review of her appeal as of right.

Respectfully submitted,



VANESSA R. CLAPP, #0059102
Supervising Attorney-Appellate Division
Lake County Public Defender's Office
125 E. Erie St.
Painesville, Ohio 44077
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PROOF OF SERVICE

A copy of the foregoing Motion is on this 18th day of December, 2008, sent by inter-office mail to Charles Coulson, Lake County Prosecutor, 105 Main Street, Painesville, Ohio 44077.

VANESSA R. CLAPP, #0059102
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APPENDIX

(1)

Judgment Entry
Ohio Supreme Court
Case No. 2007-1478
State of Ohio v. Jennifer L. Jeffries

(2)

Judgment Entry
Eleventh District Court of Appeals
Case No. 2005-L-057
State of Ohio v. Jennifer L. Jeffries

EXHIBIT

1

FILED

AUG 07 2008

CLERK OF COURT
SUPREME COURT OF OHIO

The Supreme Court of Ohio

State of Ohio

v.

Jennifer L. Jeffries

Case No. 2007-1478

JUDGMENT ENTRY

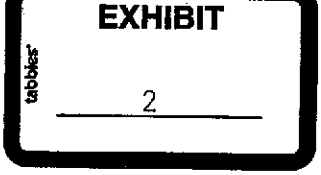
APPEAL FROM THE
COURT OF APPEALS

This cause, here on appeal from the Court of Appeals for Lake County, was considered in the manner prescribed by law. On consideration thereof, the judgment of the court of appeals is reversed consistent with the opinion rendered herein.

It is further ordered that costs are assessed pursuant to S.Ct.Prac.R XI(5) and that a mandate be sent to the Court of Common Pleas for Lake County to carry this judgment into execution and that a copy of this entry be certified to the Clerk of the Court of Appeals for Lake County for entry.

(Lake County Court of Appeals; No. 2005L057)

THOMAS J. MOYER
Chief Justice



STATE OF OHIO)
)SS.
COUNTY OF LAKE)

IN THE COURT OF APPEALS
ELEVENTH DISTRICT

STATE OF OHIO,

Plaintiff-Appellee,

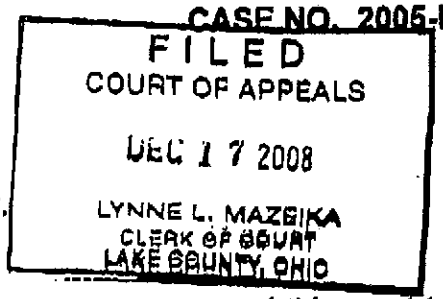
-vs -

JENNIFER L. JEFFRIES,

Defendant-Appellant.

JUDGMENT ENTRY

CASE NO. 2005-L-057



Appellant, Jennifer L. Jeffries, has now moved this court to go forward on the remaining eight assignments of error in the instant appeal. As the basis for her motion, appellant notes the following facts: (1) in June 2007, a majority of this court rendered an opinion in which her criminal conviction was reversed and the case was remanded to the trial court for further proceedings; (2) in reaching the conclusion that a new trial was warranted, our opinion only addressed three of her eleven assignments; (3) the remaining assignments were not discussed for the reason that they had become moot; (4) in August 2008, the Supreme Court of Ohio issued a decision which reversed our determination and reinstated the trial court's judgment; and (5) as part of its final entry, the Supreme Court specifically ordered that a mandate be sent to the common pleas court to carry the judgment into execution.

In her present submission, appellant maintains that, since the basis of our prior decision to reverse has now been vacated, she is entitled to an immediate ruling upon the assignments which were not addressed in our opinion. Appellant

further asserts that a complete review of her prior arguments is warranted in this instance because she has been given an indefinite sentence of twenty-two years to life.

As a general proposition, this court would agree that when the Supreme Court reverses a decision of an appellate court, the matter is usually remanded to the appellate court for further proceedings if the latter court did not consider all of the pending assignments of error in its original opinion. However, in the instant case, a review of the Supreme Court's final entry readily shows that the matter was not remanded to this court. Instead, the case was sent directly back to the trial court so that the imposed sentence could now be executed.

Under such circumstances, this court does not have the basic jurisdiction to proceed in the manner requested by appellant. Unless this court were to receive further clarification from the Supreme Court, any additional action on our part would conflict with the authority of the trial court to carry the judgment into execution.

Pursuant to the foregoing analysis, it is the order of this court that appellant's motion to proceed on the final eight assignments of error is hereby overruled.

Colleen Mary O'Toole

JUDGE COLLEEN MARY O'TOOLE

DIANE V. GRENDELL, P.J., concurs.

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TIMOTHY YOUNG
State Public Defender

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Terry,

Here is the journal entry that we discussed. Please note the italics and bold at the bottom of page one regarding the 1yr. min.

- Angie Miller

JULIE M. KAGEL
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IN THE COURT OF COMMON PLEAS OF MARION COUNTY, OHIO
GENERAL DIVISION

STATE OF OHIO,	:	Case No. 05-CR-0028
Plaintiff,	:	
-vs-	:	JUDGE ROBERT S. DAVIDSON
JOHN MUNICHELLO,	:	JUDGMENT ENTRY
Defendant.	:	
	:	

This day this cause came on to be heard on the Defendant's Motion to Grant Jail Time Spent Confined in Halfway House previously filed herein. The Court finds said motion to be not well taken and is hereby denied. Costs are to be paid by the Defendant.

It is so ORDERED.

JUDGE ROBERT S. DAVIDSON

cc: Lawrence Babich
Defendant
Probation Department