IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	
	:	Case Nos. 2008-2133, 2008-2228
Plaintiff-Appellant,	:	
	:	On Appeal from the Montgomery County Court of Appeals Second Appellate District
vs.		
RICHARD L. UNDERWOOD, JR.,	:	
		C.A. Case No. 22454
Defendant-Appellee.	:	

FILED
FEB 12 2009
CLERK OF COURT
SUPREME COURT OF OHIO

MOTION FOR THE APPOINTMENT OF THE OFFICE OF THE OHIO PUBLIC DEFENDER AS COUNSEL

Richard L. Underwood, Jr. moves this Court to appoint the Office of the Ohio Public Defender as counsel in the above-captioned case. This Court has accepted the State's appeal as a certified conflict in case no. 2008-2228, as well as Propositions I and II contained in the State's Memorandum in Support of Jurisdiction in case no. 2008-2133. (January 28, 2009 Decision). This Court has also consolidated the above cases. The consolidated case involves a felony, and Mr. Underwood is indigent. Mr. Underwood's Affidavit of Indigency is attached to this motion. Supreme Court Practice Rule III, Section 7 states that:

> If the Supreme Court grants leave to appeal in a discretionary appeal involving a felony and an unrepresented party to the appeal is indigent, the Supreme Court will appoint the Ohio Public Defender or other counsel to represent the indigent party or order the court of appeals to appoint counsel as provided in S. Ct. Prac. R. II, Section 2(D)(2).

In accordance with S. Ct. Prac. R. III, Section 7, Mr. Underwood requests that this Court appoint the Office of the Ohio Public Defender as counsel in the above-captioned case.

Respectfully submitted,

OFFICE OF THE
OHIO PUBLIC DEFENDER

CLAIRE R. CAHOON #0082335
Assistant State Public Defender
Counsel of Record

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COUNSEL FOR DEFENDANT-APPELLANT
RICHARD L. UNDERWOOD, JR.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Motion for Appointment of the Office of the Ohio Public Defender As Counsel.** was forwarded by regular U.S. Mail to Kelly D. Crammer, Montgomery County Assistant Prosecutor, 301 W. Third Street, Fifth Floor, Courts Building, Dayton, Ohio 45422, on this 12th day of February, 2009.

CLAIRE R. CAHOON #0082335
Assistant State Public Defender
Counsel of Record

COUNSEL FOR DEFENDANT-APPELLANT
RICHARD L. UNDERWOOD, JR.

#294455

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	
vs.	:	Case No. _____
RICHARD L. UNDERWOOD, JR.,	:	
Defendant-Appellant.	:	

AFFIDAVIT OF INDIGENCY

I, Richard L. Underwood, Jr., do hereby state that I am without the necessary funds to pay the costs of this action for the following reasons:

I am currently incarcerated at the London Correctional Institution and I have been incarcerated since 6-4-07. I work at the prison but receive only 15.00 dollars per month.

Pursuant to Rule XV, Section 3, of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived.

RICHARD L. UNDERWOOD, JR.

Sworn to, or affirmed, and subscribed in my presence this 6 day of Feb., 2009.

Notary Public
My Commission Expires: _____

NOTARIAL SEAL STATE OF OHIO

LORI L. PETERMAN
Notary Public, State of Ohio
My Commission Expires
06-27-2012

[Note: This affidavit must be executed not more than six months prior to being filed in the Supreme Court in order to comply with S. Ct. Prac. R. XV, Sec. 3. Affidavits not in compliance with that section will be rejected for filing by the Clerk.]