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A. Any admissible evidence, including circumstantial evidence, may be used to establish the amount of the drug involved, for purposes of applying quantity-based penalty enhancement provisions such as R.C. 2925.03(C)(4)(g), when a defendant is convicted of offering to sell a controlled substance under R.C. 2925.03(A)(1).10

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INTRODUCTION

A federal district court has asked this Court to answer a question of Ohio state law, and Respondent Warden urges the Court to accept the request. The Court's guidance is needed not only to resolve Petitioner Garr's federal habeas challenge to his conviction for drug trafficking, but also to settle a conflict in the state appeals courts over the meaning of this Court's decision in *State v. Chandler*, 109 Ohio St. 3d 223, 2006-Ohio-2285.

Both *Chandler* and this case concern R.C. 2925.03(C)(4)(g), the "major drug offender" provision ("MDO Penalty") of Ohio's drug-trafficking statute. R.C. 2925.03(A)(1) prohibits selling drugs and *offering* to sell drugs, too. The MDO Penalty raises the crime's felony level and enhances the penalty if "the amount of the drug involved equals or exceeds" specified quantities for various drugs. If the drug is cocaine—as here and in *Chandler*—the baseline offense for trafficking is a fifth-degree felony unless a penalty-enhancing provision applies. R.C. 2925.03(C)(4)(a). The MDO Penalty raises the crime to a first-degree felony if the sale or offer involved 100 grams or more of crack cocaine or 1000 grams or more of cocaine that is not crack cocaine. That, in turn, triggers a mandatory prison sentence of ten years.

In *Chandler*, the defendant sold 131 grams of baking soda as purported "crack cocaine," and the Court upheld the conviction but vacated the MDO Penalty. *Id.* at ¶¶ 21-22. As to the conviction, the Court noted that the crime of "offer[ing] to sell" did not require a completed sale; the offer alone was enough. *Id.* at ¶ 9. But the MDO Penalty could not apply, said the Court: lab tests showed that the substance Chandler sold was *only baking soda*, so the jury could not have found that the "drug involved" was actually crack cocaine. *Id.* at ¶¶ 16, 19.

Garr's case now asks how *Chandler* applies when no drug is recovered at all after an incomplete sale, as opposed to a "fake drug." That is, the question is whether the MDO Penalty can apply when circumstantial evidence showed that Garr planned to sell actual cocaine, not a

counterfeit substance—but no drug or other substance was ever recovered or tested at all. The state appeals court upheld his conviction and distinguished *Chandler* on evidentiary grounds. *State v. Garr* (1st. Dist.), 2007-Ohio-3448 (“Garr State App. Op.”), ¶¶ 5-7. The appeals court read *Chandler* as correcting the Chandler jury’s “mistake of fact” in concluding that “baking soda was tantamount to cocaine.” Garr State App. Op. ¶ 4. In Garr’s case, the appeals court reasoned, the jury could conclude that over 100 grams of real crack were “involved” in his offer because Garr reassured the would-be buyer, in recorded conversations played to the jury, that the drug would be high quality and would not be counterfeit. *Id.* at ¶ 6. It upheld the MDO Penalty.

In sharp contrast with *Garr*, another state appeals court held that *Chandler* precludes any quantity-based penalty enhancement unless the State introduces at trial the requisite amount of the drug involved. See *State v. Mitchell* (7th App. Dist.), 2008-Ohio-6920. In *Mitchell*, the defendant agreed to sell a bulk amount of Oxycontin, but he did not yet possess it, so he sought to obtain some. *Id.* at ¶ 4. His arrest cut off his plans, so his conviction was based on the offer alone. The court held that the absence of any actual drug meant that a “bulk amount” enhancement (similar to the MDO Penalty) could not apply, regardless of evidence that the defendant’s offer involved a plan to sell a real, not fake, drug. *Id.* at ¶¶ 20, 28, 34.

The conflict between *Garr* and *Mitchell* has led the federal court addressing Garr’s habeas petition to ask this Court to clarify Ohio law, and the Warden agrees that this Court should answer the question. The conflict shows that Ohio’s own courts need guidance, and the habeas context enhances the need for review, so that federal courts are not required to address Ohio law without that guidance. As previewed below, the Warden submits that the *Garr* appeals court was right, but at this stage, the more important point is that this Court should address the issue.

STATEMENT OF THE CASE AND FACTS

- A. Garr offered to sell cocaine to an informant, promising that the drug would be high-quality and not counterfeit, but the deal was never completed and no substance was ever recovered.**

During a sting operation, Garr told a police informant that he would sell him two kilograms of cocaine for \$42,000. Garr State App. Op. at ¶ 2. Garr detailed the terms of the offer in conversations that were recorded and later played to the jury at Garr's trial. *Id.* at ¶¶ 2, 6. The amount of the cocaine was identified multiple times and was never less than two kilograms. *Id.* at ¶ 6. During one conversation, the informant indicated that he would not pay for the cocaine if it was counterfeit. *Id.* During another conversation, Garr assured the informant that the cocaine he intended to sell him was of high quality. *Id.* Because of a dispute over payment, the sale did not take place and the cocaine was not recovered. *Id.* at ¶¶ 2, 6.

- B. The state appeals court upheld Garr's conviction and the MDO Penalty, reasoning that the conversations were circumstantial evidence that Garr offered to sell real cocaine.**

Garr was arrested and charged with drug trafficking, although the sale was never completed, based on the recordings of his offer to sell cocaine. *Id.* at ¶¶ 1-2. The jury heard the evidence described above, and it found that Garr offered to sell more than 1000 grams of cocaine. *Id.* at ¶ 7. Garr was convicted of drug trafficking as a first-degree felony with a corresponding MDO Penalty, and the court imposed the mandatory ten-year sentence. *Id.* at ¶ 1

The state appeals court upheld both the conviction and the MDO Penalty with its ten-year sentence. *Id.* at ¶ 8. The appeals court reasoned that *Chandler* did not require the production of actual drugs, in the requisite quantity, in every penalty enhancement case. *Id.* at ¶¶ 4-5. Rather, the appeals court read *Chandler* as requiring *some* evidence that the "amount of the drug involved" in a sale or offer included some amount of real drugs, but it held that such evidence could be direct or circumstantial, as in any case. *Id.* at ¶ 5. It explained that the jury's

conclusion in *Chandler* was contradicted by the scientific evidence that the only substance the defendant planned to sell was purely baking soda, not cocaine or any other illegal drug. *Id.* at ¶ 4. Here, by contrast, Garr's jury was able to conclude that he offered to sell real cocaine, based on his representations that the cocaine would not be counterfeit and would be high quality. *Id.* at ¶¶ 5-7.

This Court declined review. *State v. Garr*, 115 Ohio St. 3d 1475, 2007-Ohio-5735.

C. Garr challenged his conviction in federal habeas proceedings, and the federal court has now asked this Court to clarify the Ohio law that applies to Garr's case.

Garr filed a federal habeas corpus petition, claiming that his Ohio conviction violates his federal constitutional rights. The federal Constitution requires that all state convictions be supported by proof beyond a reasonable doubt, *In re Winship* (1970), 397 U.S. 358, and that means that every element of a crime must be supported by sufficient evidence, *Jackson v. Virginia* (1979), 443 U.S. 307, 319. Thus, federal habeas review in this type of challenge involves a mix of federal and state law: federal law determines whether the federal sufficiency standard is met, but state law defines what the elements of a crime are to begin with. Thus, the parties and the federal district court agree that the federal court cannot resolve Garr's habeas petition without first resolving what proof Ohio law requires of the State in convicting someone of first-degree felony drug-trafficking with an MDO Penalty.

Garr argued to the federal court that Ohio law requires the State to establish the weight and identity of the substance he offered to sell, and he says that the absence of any actual substance means that the evidence was insufficient, as a matter of law, to support a first-degree felony conviction with corresponding MDO Penalty. See Certification Order in *Garr v. Warden*, U.S. District Court for the Southern District of Ohio, Case No. 1:08cv293, July 16, 2009 ("Federal Certification Order") (also filed in this Court, docketed July 22, 2009, in Case No. 2009-1323),

at 1, 4. Thus, he insists that he could have been convicted of a fifth-degree felony, at most. The Warden, by contrast, urges that the circumstantial evidence identified by the state appeals court is sufficient to show that Garr offered to sell real cocaine, and the absence of any contradictory evidence—such as the presence of fake drugs, as in *Chandler*—leaves the circumstantial evidence sufficient.

The federal district court reviewed this Court's *Chandler* decision, and the appeals courts' decisions in *Garr* and *Mitchell*, and the federal court determined that it was unclear how Ohio law applied to Garr's case. See Federal Certification Order at 4-9. It concluded that this case warranted certification to this Court to address the issue, because it is preferable for a state's highest court to resolve an issue of state law, especially when the state's appeals courts are split on the issue. *Id.* at 7, 8.

Consequently, the federal district court has asked this Court to answer the following question:

Whether the Supreme Court of Ohio's decision in *State v. Chandler*, 109 Ohio St.3d 223, 2006 Ohio 2285 (2006), as described in the syllabus of the court, to wit: "[a] substance offered for sale must contain some detectable amount of the relevant controlled substance before a person can be sentenced as a major drug offender under Ohio Revised Code 2925.03(C)(4)(g)," extends to cases where the substance offered for sale was never observed, tested, or recovered to ascertain whether it contained a detectable amount of the controlled substance, but no affirmative evidence was presented to call into question the defendant's representation in his offer to sell, or to refute the jury's factual finding, that the substance was in fact a controlled substance in an amount that equaled or exceeded 1000 grams.

Id. at 8. The Warden now urges the Court to accept this question and answer it for the federal court and for the ultimate benefit of Ohio courts as well.

THIS COURT SHOULD ANSWER THE CERTIFIED QUESTION

The Warden urges this Court to answer the certified question. As detailed below, the state appeals courts are already in conflict on this issue, so the Court's guidance is needed to ensure equal treatment of defendants across Ohio's appellate jurisdictions. Also, this important question is likely to recur, as drug-trafficking convictions frequently involve incomplete sales and a lack of recovered drugs. Finally, the Court should address this issue in this federal habeas context, rather than await another case, because it is better for this Court to address the issue rather than leave federal courts to resolve Ohio law without the Court's guidance.

A. Ohio's appeals courts are already split on the issue, showing the need for guidance.

The appeals courts' decisions in *Garr* and *Mitchell* squarely conflict on the issue raised by the district court's question, and that alone warrants the Court's review of the issue. See Federal Certification Order at 6 ("Thus, there is a conflict among Ohio's appellate courts as to the proper interpretation of *Chandler* and whether a defendant is subject to the increased penalties of the drug trafficking statute based on the amount of drugs offered for sale when no drugs are recovered and/or tested.").

As noted above, the First District, in affirming *Garr*'s conviction, read *Chandler* as relying on the affirmative evidence of the baking soda as contradicting the jury's finding. *Garr* State App. Op. at ¶ 4. Under that view, *Chandler* may require some showing that the amount of the drug "involved" is a real drug, but the evidence on that point may be still be circumstantial, and the evidence does not necessarily need to be the presence of the drug itself. *Id.* at ¶¶ 4-5. In *Chandler*, there was a "substance" involved, but the undeniable fact that it was baking soda precluded any conclusion that real drugs were on offer, based on circumstantial evidence involving the terms of the offer or other evidence. *Id.* at ¶ 4. But where no such physical

evidence contradicts a conclusion based on circumstantial evidence, a jury may still conclude in that manner. *Id.* at ¶ 5.

The Seventh District’s reasoning in *Mitchell* conflicts with *Garr*, as the federal court noted, Federal Certification Order at 6, and as the *Mitchell* court also explained, 2008-Ohio-6920, ¶¶ 27-29. The *Mitchell* court criticized the First District’s reasoning in *Garr*, *id.* at ¶ 28, and it held that *Chandler* precludes any quantity-based penalty enhancement—whether the MDO Penalty in *Chandler* and *Garr* or the “bulk amount” enhancement in *Mitchell*—in *any* case in which the State does not produce the substance at trial. *Id.* at ¶ 34. The *Mitchell* court did, at one point, offer the alternative view that the facts of its case could be distinguished from *Garr*, as opposed to conflicting purely on law. *Id.* at ¶ 28 (“Even if the *Garr* court’s interpretation and method of distinguishing *Chandler* were correct, which is highly debatable, *Garr* itself is distinguishable from the case at bar.”). But that comment does not eliminate the plain legal conflict between the two decisions, as *Mitchell* held that *Chandler* prevents *any* quantity-based penalty enhancement in the absence of actual drugs, lab-tested and brought to trial. *Id.* at ¶ 34 (“To conclude the analysis, the Supreme Court’s *Chandler* case ruled that the penalty enhancement provisions in the drug trafficking statute cannot be used where there is no detectable trace of the alleged substance.”).

The *Garr* court surely would have ruled differently if it applied its legal rule to the facts of *Mitchell*. In *Mitchell*, the defendant did not have any substance on hand—real or fake—when he completed the offer. He *intended* to acquire the drugs after his customer placed the order. Under the *Garr* court’s approach, a jury should have been able to conclude that the *Mitchell* defendant’s offer “involved” real drugs, based on circumstantial evidence supporting his plan to secure real drugs, such as his promise to the prospective customer to do so.

In short, it seems undeniable that defendant Garr would have had his MDO Penalty vacated under the *Mitchell* court's holding, while defendant Mitchell would have had his bulk-amount penalty enhancement upheld under the *Garr* court's holding. That alone warrants correction, for the fundamental reason that different defendants ought not face different results throughout Ohio. Further, prosecutors and courts need guidance now before exacerbating such differences.

In addition, the facts of these cases, along with common knowledge about the drug trade, suggest that these scenarios, and similar ones turning on the same issue, will recur frequently until this Court resolves the issue. No one disputes that an offer alone can support a conviction, as the Court re-affirmed in *Chandler*. *Chandler*, 2006-Ohio-2285, ¶ 9. And the nature of drug deals, and of informant arrangements, mean that many prosecutions will be based on offers without completed sales. Many of those cases will involve the absence of any recovered drugs, because if circumstances require law enforcement to arrest suspects without consummating the sale, that typically means that the seller is not carrying the drugs at the moment of arrest, so it is likely that the drugs' location will not be discovered. Indeed, that seems especially likely in the case of higher-quantity sales, as opposed to smaller amounts, because the larger the supply, the more likely that the seller does not carry them, but arranges for a later transfer at a "safer" locale. Further, the scenario in *Mitchell*—that is, when the offeror does not even have the drugs in a cache somewhere, but works to obtain them only after he has a prospective buyer lined up—seems especially likely to involve large amounts, as a seller might be able to satisfy smaller orders on the spot, but not larger ones. All this means that cases invoking the quantity-based penalty enhancements, but in the absence of recovered drugs, will only increase, so the Court should resolve questions about this scenarios sooner rather than later.

B. The immediate federal habeas context is particularly ripe for review, as it is better for federal courts to act with this Court's guidance on such important issues.

As shown above, the Court should address this issue sooner rather than later. Given that need, the Warden urges that the need to answer the certified questions is especially acute here, because a federal court needs guidance. That is, the federal court asking this question must address Garr's petition, with or without this Court's guidance. To be sure, federal courts addressing petitions often must resolve state-law issues as part of the ultimate question of federal relief, but in some of those cases, the question might affect one or few defendants. But here, the recurring nature of this fact pattern will mean not only a recurrence of state-court cases, but also, the issue will recur in federal habeas cases as well. In fact, in this case, either Garr or the Warden would be likely to appeal the district court's decision to the federal appeals court, in the absence of this Court's guidance. That federal appellate decision would then govern future habeas cases arising from those cases in which the state courts uphold MDO Penalties.

Thus, if this Court waits until more state appeals courts address the issue, the interim result could be that more defendants have their cases resolved by federal courts—possibly in a direction opposite the one this Court will ultimately reach. Consequently, the Court should resolve the issue now, before more cases go through the pipeline.

In sum, the Court should accept the federal court's question to ensure clarity and uniformity. And, as briefly noted below, the Warden will urge the Court, if it accepts the question, to hold that no further evidence was needed to uphold Garr's MDO Penalty as a matter of Ohio law.

ARGUMENT

Respondent Warden's Proposition of Law:

A person may be sentenced as a major drug offender under R.C. 2925.03(C)(4)(g) without necessarily offering direct scientific proof, such as lab testing of a recovered substance, that a substance offered for sale contained some detectable amount of the relevant controlled substance. No such proof is needed in cases where the substance offered for sale was never observed, tested, or recovered to ascertain whether it contained a detectable amount of the controlled substance, and where no affirmative evidence was presented to call into question the defendant's representation in his offer to sell, or to refute the jury's factual finding, that the substance was in fact a controlled substance in the requisite amount. Any admissible evidence, including circumstantial evidence, may be used to establish the underlying offense of offering to sell a controlled substance under R.C. 2925.03(A)(1) and to establish the amount and identity of the drug involved to permit the application of R.C. 2925.03(C)(4)(g). (State v. Chandler, 2006-Ohio-2285, construed and applied.)¹

As noted above, the sole question at this stage is whether the Court should accept the certified question and agree to answer it, and the Warden urges it to do so. On the merits, the Warden urges the Court to answer the question in the way the state appeals court in *Garr* did, that is, to hold that *Garr*'s MDO Penalty was validly imposed, because Ohio law does not require the State to provide a tested substance in every MDO case, such as when no substance is ever recovered and circumstantial evidence supports a finding that the defendant offered to sell a real drug.

- A. Any admissible evidence, including circumstantial evidence, may be used to establish the amount of the drug involved, for purposes of applying quantity-based penalty enhancement provisions such as R.C. 2925.03(C)(4)(g), when a defendant is convicted of offering to sell a controlled substance under R.C. 2925.03(A)(1).**

The state may establish any element of a crime through circumstantial evidence. Indeed, the Court has long "embraced the notion that there can be no bright-line distinction regarding the probative force of circumstantial and direct evidence." *State v. Jenks* (1991), 61 Ohio St. 3d 259, 272. Both "inherently possess the same probative value." *Id.* A conviction under R.C.

¹ This proposition essentially restates, as a proposition rather than a question, the phrasing used by the federal district court. The federal court's wording is reproduced in full above at 4.

2925.03(A)(1) is proper if the elements are proven by either direct or circumstantial evidence. The elements necessary to prove the offense of drug trafficking are that a defendant knowingly sell or offer to sell a controlled substance. The enhanced penalty provisions apply if evidence proves that the controlled substance sold or offered for sale exceeds a certain amount.

The identity and the amount of the drug involved are the bases for the offense and the enhanced penalty under R.C. 2925.03(C)(4)(g), and those elements, just like the elements of any other criminal offense, may be proven by any admissible evidence including circumstantial and direct evidence. No special evidentiary rule requires “direct evidence only” in such cases.

In this case, sufficient evidence was presented to support the jury’s finding that Garr offered to sell over 1000 grams of cocaine, as he offered to sell two kilograms. Garr State App. Op. at ¶¶ 6-7. That evidence was not contradicted by any other evidence, in contrast with the facts of *Chandler*. Garr State App. Op. at ¶ 4. In *Chandler*, the lab tests showed that the substance that the defendant offered to sell, and indeed produced, was baking soda. *Chandler*, 2006-Ohio-2285, ¶ 3, 19. That amounted to reliable, scientific evidence to refute the jury’s finding that the defendant offered to sell more than 100 grams of crack cocaine. *Id.*; Garr State App. Op. at ¶ 4. *Chandler* did not establish a new “direct evidence” requirement for proving the identity and quantity of a drug offered for sale; rather, *Chandler* corrected a jury’s unsupportable conclusion that the baking soda *was* crack cocaine. See Garr State App. Op. at ¶ 4 (“The court noted that the jury had made a mistake of fact when it had concluded that baking soda was tantamount to crack cocaine.”); *Chandler*, 2006-Ohio-2285, ¶ 19 (“In this case, the jury found that 130.87 grams of baking soda equaled or exceeded 100 grams of crack cocaine.”).

Thus, *Chandler*, on its own terms, does not require invalidation of Garr’s MDO Penalty, and the Court should not extend *Chandler* to cases in which no drugs are recovered and no

evidence contradicts the circumstantial evidence showing real drugs were involved in the offer. That result is not mandated by *Chandler* itself, which was based not on the *absence* of any drugs, but on the *presence* of a “fake drug.” That is shown not only by the Court’s discussion of the jury’s unsupported factual finding, but also by the Court’s reference to the separate statute prohibiting the sale of counterfeit controlled substances. See *id.* at ¶ 20 (citing R.C. 2925.37(B)). That statute may be used as an alternative basis for prosecution *only* in “fake drug” cases, as in *Chandler*, not in “no drug” cases, as here.

Finally, extending *Chandler* to cases such as Garr’s—that is, to require the introduction of an actual recovered substance in every case involving a quantity-based penalty enhancement—would mean that such enhancements could only be used in actual sale cases, and could never be invoked in offer-to-sell cases. That would mean that those planning major drug sales would be convicted of no more than a fourth- or fifth-degree felony. That is wrong not just as a matter of the General Assembly’s intent in establishing quantity-based penalty enhancements, but also, as explained below, it is inconsistent with the Assembly’s choice to treat offers to sell no differently from actual sales.

B. The General Assembly chose to equate offers to sell and actual sales, so selectively eliminating the availability of penalty enhancements in offer-to-sell cases is contrary to legislative intent.

As explained above, *Chandler* can and should be properly read as addressing the evidentiary problem unique to the “fake drug” scenario, in which the scientific evidence showed that the substance “involved” in the offer was not a controlled substance in the requisite quantity. If, instead, *Chandler* is extended to require the introduction at trial of an actual drug in *all* cases before invoking a penalty enhancement, such a result would plainly contradict the General Assembly’s intent. That is so because the requirement would eliminate the availability of the

enhancements in all, or virtually all, cases based on an offer to sell rather than an actual sale, despite the General Assembly's intent to equate offers and actual sales.

The Court has long explained the need for adherence to both statutory text and to the underlying legislative intent that the text embodies. Thus, in interpreting the language of a statute, a court must give effect to the words used and their context. In giving effect to the words used, a court should not add or take away from the words used. *Rice v. CertainTeed Corp.* (1999), 84 Ohio St. 3d 417, 419. Similarly, a court should not modify unambiguous language. *State ex rel. Sears, Roebuck & Co. v. Industrial Commission of Ohio* (1990), 52 Ohio St.3d 144, 148. And a court should look at the entire statute in its context. R.C. 1.47(B); *Dupps Co. v. Lindley* (1980), 62 Ohio St. 2d 305, 307.

Here, applying those principles shows that the General Assembly chose to treat offers to sell drugs as identical to actual sales, and that equal treatment extends to the quantity-based penalty enhancements as well as to the basic offense. Nothing in the language of R.C. 2925.03, in any of its many provisions, suggests that an offer to sell a controlled substance or the sale of that substance should be punished any differently. Instead, the need for equal treatment starts with R.C. 2925.03(A)(1), with its "sell or offer to sell" language, and it follows throughout the detailed sentencing plan in the remainder of R.C. 2925.03.

Where a defendant is convicted under R.C. 2925.03(A)(1) of either selling or offering to sell a controlled substance, and the State has proven the elements of the offense, the provisions of R.C. 2925.03 then apply to a plethora of drugs in varying amounts and make specific, detailed provisions for sentencing. The MDO Penalty pertaining to cocaine and crack cocaine, R.C. 2925.03(C)(4), is only one of many provisions of setting forth penalties relating to various drug amounts, and again, no provision within R.C. 2925.03 distinguishes between selling and

offering, whether for issues of proof or punishment. This elaborate legislative design deals with many facets of drug trafficking, and its comprehensive scope shows that every provision was well-considered. A legislature that carefully broke down several levels of penalties, with separate multi-level quantity scales for each drug, surely knew how to separate actual sales from offers to sell if it wished to do so. It did not, and instead, it equated sales and offers.

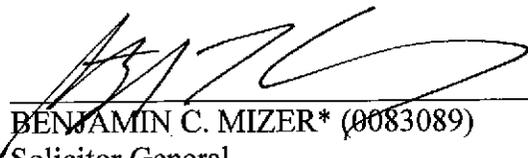
Yet extending *Chandler* to Garr's case would plainly distinguish sales from offers, as such an extension would categorically limit quantity-based penalty enhancements to "actual sale" cases, precluding such enhancements in all "offer to sell" cases. By their nature, cases based on an offer to sell a controlled substance will rarely, if ever, involve a testable, quantifiable amount of the substance; otherwise, the case would be an "actual sale" case. The only way to preserve the statute's design, which treats sales and offers the same, is to reject an "actual substance recovered" rule, and to recognize that *Chandler*'s impact is limited to the "fake drug" scenario in which it arose.

CONCLUSION

For the above reasons, Respondent Warden asks this Court accept the certified question and answer it in the negative as set forth in Respondent's Proposed Proposition of Law.

Respectfully submitted,

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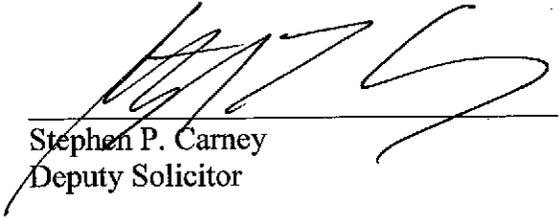
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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Preliminary Memorandum of Respondent Warden in Support of the Answering the Certified Question was served by U.S. mail this 11th day of August, 2009 upon the following counsel:

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