

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,

Appellee,

-vs-

LINDA S. COOK,

Appellant.

* Case No.: 2009-2122
 * C.A. Case No.: L-08-1301
 * C.P. Case No.: CR07-2498
 *
 * APPEAL FROM THE LUCAS
 * COUNTY COURT OF APPEALS,
 * SIXTH APPELLATE DISTRICT
 *
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APPELLEE'S MOTION FOR EXTENSION

JULIA R. BATES, PROSECUTING ATTORNEY
LUCAS COUNTY, OHIO

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COUNSEL FOR APPELLANT, LINDA S. COOK

FILED
 MAY 10 2010
 CLERK OF COURT
 SUPREME COURT OF OHIO

MOTION FOR EXTENSION OF TIME

Pursuant to S. Ct. Prac. R. XIV Section 3(B)(2)(b), the State of Ohio seeks a ten day extension of time in which to file its brief on the merits. The State anticipates filing the brief on or before May 22, 2010. No previous extensions have been sought or received, and the requested extension will enable the State to review an amicus curiae brief anticipated from the Office of the Attorney General before filing its brief on the merits in this case.

The State further notes that on May 6, 2010, the undersigned requested via e-mail that appellant's counsel, Attorney Potts, stipulate to an extension in order to allow additional time for this Court to decide whether to accept a discretionary appeal involving the same set of facts but a different issue related to the application of the statute of limitations.¹ The undersigned had hoped that, in the event the discretionary appeal was accepted, the State could move to consolidate the discretionary appeal and the certified conflict, so that only one brief on the merits would be required, rather than two.

The undersigned did not receive a prompt response to the e-mail, and on May 7, 2010, the undersigned called Attorney Potts' office. Upon being told that Attorney Potts was not available, the undersigned left a message but did not receive a call back that day. On May 10, 2010, she telephoned Attorney Potts again, who told her that he would not stipulate to the extension, because he believed that his client's interests would not be served by permitting a combined brief in the matter.

¹The memorandum in support of jurisdiction in Case No. 2009-2299 was filed on March 11, 2010, and the memorandum in opposition was filed on April 11, 2010.

The undersigned did not anticipate an objection to the request, and due to the delay in the response by appellant's counsel, she is not prepared to file a response by the current due date of May 12, 2010. Additionally, as noted earlier, the undersigned has been notified that the Office of the Attorney General intends to file an amicus curiae brief, and she anticipates receiving the brief shortly.

Accordingly, the State seeks a ten day extension of time in which to file its brief on the merits.

Respectfully submitted,

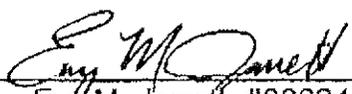
JULIA R. BATES, PROSECUTING ATTORNEY
LUCAS COUNTY, OHIO

By: 
Evy M. Jarrett, #0062485
Assistant Prosecuting Attorney
Counsel for Appellee

Assistant Prosecuting Attorney
Counsel for Appellee

CERTIFICATION

I certify that a copy of the foregoing was sent via ordinary U.S. Mail this 10th day of May, 2010, to John F. Potts, 405 Madison Avenue, Ste. #1010, Toledo, Ohio 43604, Counsel for Appellant.


Evy M. Jarrett, #0062485
Assistant Prosecuting Attorney
Counsel for Appellee