

ORIGINAL

In The Supreme Court of Ohio

State of Ohio, :
Appellee, : Case No. 10-0576
-vs- : Appeal taken from Stark County
James Mammone, III, : Court of Common Pleas
: Case No. 2009-CR-0859
Appellant. : **Capital Case**

Appellant's Motion for Stay of Execution

Execution Date: June 8, 2010

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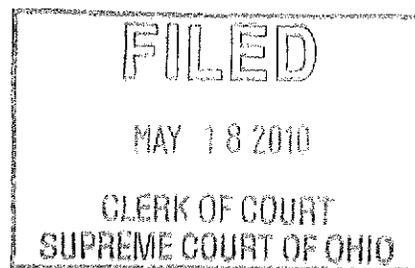
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Appellant's Motion for Stay of Execution

Now comes the appellant, James Mammone, III, by and through the undersigned counsel, and moves this Court to stay his **execution set for June 8, 2010**, pending disposition of his direct appeal by this Court. The reasons for this motion are more fully set forth in the attached memorandum.

Respectfully submitted,

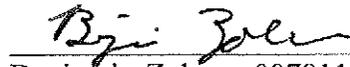
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**MEMORANDUM IN SUPPORT OF MOTION TO STAY EXECUTION
PENDING DISPOSITION OF APPEAL**

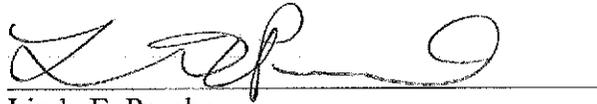
Appellant James Mammone, III was found guilty of Aggravated Murder and sentenced to death by the trial court. Appellant is currently sentenced to die on June 8, 2010. Mammone has a right to a direct appeal to the Ohio Supreme Court under Ohio Const. art. IV, § 2 (B)(2)(c). In McDonald v. Missouri, 464 U.S. 1306 (1984), the United States Supreme Court stated that every defendant who has a right of direct review from a sentence of death is entitled to have that review before paying the ultimate penalty. Accordingly, a stay is warranted to allow Mammone adequate time to seek direct review of his convictions and sentences. See State v. Steffen, 70 Ohio St. 3d 399, syl. (1994) (capital defendant entitled to stay of execution to seek both direct review and state post-conviction remedies).

On April 2, 2010, Mammone filed his notice of appeal and praecipe in this Court. The record is due within 90 days. Mammone's brief is not due in this Court until well after the current execution date. This case will not be completed before June 8, 2010. Mammone seeks this Stay of Execution to allow a thorough and considered review of his conviction and sentence.

Therefore, Mammone respectfully requests this Court to stay his execution, pending the final disposition of his appeal.

Certificate Of Service

I hereby certify that a true copy of the foregoing Appellant's Motion for Stay of Execution was forwarded by first-class, postage prepaid U.S. Mail to John D. Ferrero, Prosecuting Attorney, Stark County, 110 Central Plaza South, Suite 510, Canton, Ohio 44702, on May 18th, 2010.

A handwritten signature in black ink, appearing to read 'L. Prucha', is written over a horizontal line.

Linda E. Prucha
Supervisor, Death Penalty Division
Counsel For Appellant