

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	Case No. 2010-0251
Plaintiff-Appellant,	:	On Appeal from the Montgomery
v.	:	County Court of Appeals
	:	Second Appellate District
JEFFREY L. LYNN,	:	Court of Appeals
Defendant-Appellee.	:	Case No. 22946

Motion for Appointment of Counsel

Mathias H. Heck, Jr.
Hamilton County Prosecutor

Office of the Ohio Public Defender

R. Lynn Nothstine #0061560
Assistant Prosecuting Attorney
(Counsel of Record)

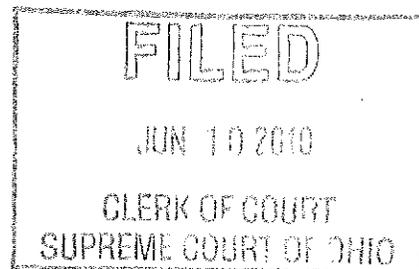
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Counsel for Plaintiff-Appellant

Counsel for Defendant-Appellee



Motion for Appointment of Counsel

Appellee Jeffrey Lynn respectfully asks this Court to appoint the Office of the Ohio Public Defender to represent him in this State's appeal. This Court accepted jurisdiction over the State's appeal on May 5, 2010, ordering that the following proposition of law be fully briefed and argued:

Where there is a clerical error in an aggravated burglary indictment regarding the name of the underlying offense, and the defense is notified of the error, the court does not violate due process by instructing the jury on the underlying offense that was demonstrated by the evidence at trial.

Attorney Michael L. Wright was counsel of record for Mr. Lynn in the direct appeal in the Second District Court of Appeals, but no longer represents Mr. Lynn. Mr. Wright spoke to Mr. James Foley, Supervising Attorney of the Intake Division for the Office of the Ohio Public Defender, and informed him that he did not intend or desire to continue representing Mr. Lynn in the appeal that has been accepted by this Court.

The Ohio Public Defender has agreed to assume the representation of Mr. Lynn for the appeal before this Court. This Court should appoint the Ohio Public Defender for this appeal because Mr. Lynn lacks the skill and knowledge necessary to adequately pursue and protect his rights without the assistance of counsel. And, because this appeal was instituted by the State of Ohio, Mr. Lynn has no choice but to defend his claims.

Accordingly, Appellee Jeffrey L. Lynn respectfully requests that this Court appoint the Office of the Ohio Public Defender to act as his counsel for the appeal currently pending in this Court under Case Number 2010-0251.

Respectfully submitted,

Office of the Ohio Public Defender



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Certification of Service

This is to certify that a copy of the foregoing **Motion for Appointment of Counsel** was forwarded by regular, U.S. mail to R. Lynn Nothstine, Assistant Prosecuting Attorney, Montgomery County Prosecutor's Office, Appellate Division, P.O. Box 972, 301 West Third Street, Suite 500, Dayton, Ohio 45422, this 10th day of June, 2010.



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