

Original
ORIGINAL

IN THE SUPREME COURT OF OHIO

STEVEN CROTTS A430-972
STATE OF OHIO EX REL.
MANSFIELD CORRECTIONAL INSTITUTION
P.O. BOX 788
MANSFIELD, OHIO 44901-0788

CASE NO. 10-1085

Petitioner,

vs.

KEITH SMITH, WARDEN
MANSFIELD CORRECTIONAL INSTITUTION
1150 NORTH MAIN STREET
MANSFIELD, OHIO 44903

Respondent.

Second Addition to Previously Filed Application for Writ of Habeas Corpus

STEVEN CROTTS A430-972
Mansfield Correctional Institution
P.O. Box 788
Mansfield, OH 44901-0788

PETITIONER, *PRO SE*

RICHARD CORDRAY
Ohio Attorney General
150 East Gay Street
Columbus, OH 43215

ATTORNEY FOR RESPONDENT

FILED
JUL 01 2010
CLERK OF COURT
SUPREME COURT OF OHIO

RECEIVED
JUL 01 2010
CLERK OF COURT
SUPREME COURT OF OHIO

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STATE OF OHIO EX REL.
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Second Addition to Previously Filed Application for Writ of Habeas Corpus

Now comes the Petitioner, pursuant to Rule VIII Section 7 of the Rules and Practices of the Supreme Court of Ohio and hereby presents an addition to the previously filed Application for Writ of Habeas Corpus. The attached Affidavit from Attorney David Doughten did not arrive on time to be filed with the Petition. The affidavit of Atty. David Doughten is objective proof of counsel's ineffectiveness and thereby a Sixth Amendment violation in support of the Application for Writ of Habeas Corpus. This document will be referred to in any further proceedings as Second Addition to the Writ.



STEVEN CROTTS A430-972
Mansfield Correctional Institution
P.O. Box 788, 1150 North Main Street
Mansfield, OH 44901-0788

PETITIONER, ***PRO SE***

CERTIFICATE OF SERVICE

The undersigned Petitioner hereby certifies that he has sent a copy of the foregoing Motion to Extend Time to RICHARD CORDRAY, Attorney General, by regular U.S. Mail on this 27 day of June, 2010.



*Steven Crofts, Pro Se
Petitioner*

IN THE SUPREME COURT OF OHIO

NO. 03-1161

ORIGINAL
ON COMPUTER-JJ

State of Ohio

Appellant Cross-Appellee,

-v-

Steven Crotts

Appellee Cross-Appellant.

On Appeal from the Cuyahoga
County Court of Appeals,
Eighth Appellate District

Court of Appeals
Case No.81477

ORIGINAL

MOTION TO WITHDRAW AS COUNSEL

FILED
JAN 06 2004
MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

WILLIAM MASON, ESQ.
Cuyahoga County Prosecutor
1201 Ontario Street, Ninth Floor
Cleveland, OH 44113
(216) 443-7800

DAVID L. DOUGHTEN, ESQ.
Regis. No. 0002847
4403 St. Clair Avenue
Cleveland, OH 44103-1125
(216) 361-1112

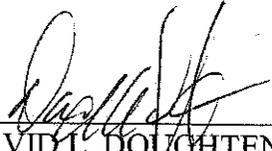
Counsel for Appellant Cross-Appellee

Counsel for Appellee Cross-Appellant

RECEIVED
JAN 06 2004
MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

Proof of Service

A copy of the foregoing was served upon William D. Mason, Cuyahoga County
Prosecutor, 1201 Ontario Street, Ninth Floor, Cleveland, OH 44113 by Regular U.S. Mail on this
____ day of January, 2004.



DAVID L. DOUGHTEN
Counsel For Appellant

MEMORANDUM IN SUPPORT

Undersigned counsel was retained as counsel of record in State of Ohio v. Steven Crotts Case No. 03-1161. Counsel also represented Mr. Crotts in the Eighth District Court of Appeals. The Eighth District Court of Appeals reversed Mr. Crotts' convictions. The state's appeal and the appellant's cross-appeal were both accepted by this Court.

Pursuant to the forty days allowed for the State to file its brief, counsel scheduled December 4, 2003, as the due date of the State's Merit Brief. In fact, the State properly filed its brief on December 1, 2003. Counsel did receive a copy of the State's Brief, but it did not include a time stamp with the filing date.

Counsel represents John Glenn Roe on his death appeal, Sup. Ct. No. 87-1879. On December 10, 2003, this Court set an execution date of February 3, 2004. Mr. Roe is out of appeals. Counsel immediately began preparing for his clemency hearing which is scheduled for January 9, 2004. Counsel has represented Mr. Roe since his postconviction petition and throughout the federal proceedings, including the United States Supreme Court. Although the Ohio Public Defenders Office will conduct the clemency hearing, counsel necessarily needed to work with that office to properly prepare the materials.

In addition, counsel, in concert with the State Defenders office, filed an action to stay the execution based on the unconstitutionality of Ohio's lethal injection procedure in federal court on December 31, 2003. Counsel is representing Mr. Roe while the Defender office is representing Lewis Williams, set for execution on January 14, 2004.

Because of counsel's preoccupation with the Roe execution, counsel neglected to check

with the clerk's office for the actual filing date. Counsel believed the appellee's merit brief to be due January 5, 2004. Counsel completed the brief over the weekend following the New Year Holiday. It was not completed in time for a mailed brief to be delivered timely.

Therefore, on January 5, 2004, undersigned counsel called the clerk's office of this Court for the purpose of filing an extension to facilitate the filing of the brief. At this time, counsel discovered that the State's brief had been filed earlier than was anticipated. Because thirty days fell on New Year's Day, the brief was actually due for filing on Friday, January 2, 2004, instead of Monday, January 5, 2004. Counsel discovered that the Court was open on January 2, 2004, and therefore, January 2, 2004, was not a legal holiday. Therefore counsel could not file for the extension of time for the purposes of filing the Appellee's merit brief in a timely manner.

Supreme Court Rule VI, Section 6, provides this Court with the discretion to dismiss an appellant's appeal for the failure to file timely. It is presumed that this would apply to cross-appellant's accepted issues. If this Court chooses to dismiss Mr. Crotts' appeal, undersigned counsel would not longer have the trust of his client due to his misstep.

Conclusion

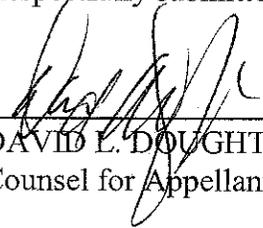
It is therefore requested that this Honorable Court should this Court in its discretion dismiss the appeal of the appellee cross-appellant, the failure of counsel to timely file the merit brief would be in contravention of his duties to his client. It is requested that counsel be permitted to withdraw so that new counsel could be obtained. (See attached affidavit of counsel)

On January 5, 2004, counsel attempted to file a motion to preserve the merits of the issues on behalf of Mr. Crotts. The clerk refused to accept the motion. Therefore, counsel is left with

no choice but to admit his error and withdraw as counsel.

Wherefore, should this court dismiss the issues accepted in the cross appeal, undersigned counsel respectfully requests that this Honorable Court allow counsel to withdraw so that new counsel may be obtained.

Respectfully submitted,



DAVID L. DOUGHTEN
Counsel for Appellant

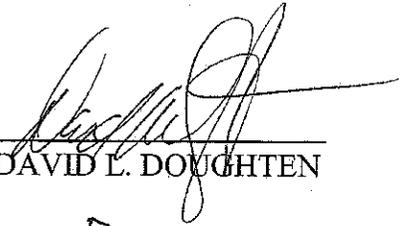
STATE OF OHIO :
 : SS. AFFIDAVIT
COUNTY OF CUYAHOGA :

NOW COMES DAVID L. DOUGHTEN, being first duly sworn according to law, and states the following:

1. I was retained as counsel of record in State of Ohio v. Steven Crotts Case No. 03-1161. Counsel also represented Mr. Crotts in the Eighth District Court of Appeals.
2. The Eighth District Court of Appeals reversed Mr. Crotts' convictions. The state's appeal and the appellant's cross-appeal were both accepted by this Court.
3. Pursuant to the forty days allowed for the State to file its brief, counsel scheduled December 4, 2003, as the due date of the State's Merit Brief. In fact, the State properly filed its brief on December 1, 2003. Counsel did receive a copy of the State's Brief but it did not include a time stamp with the filing date. Undersigned counsel failed to call the clerk's office to confirm the filing date.
4. Counsel completed the brief over the weekend following the New Year' Holiday. It was not completed in time to mail the brief for the believed due date of January 5, 2004.
5. On January 5, 2004, undersigned counsel called the clerk's office of this court for the purpose of filing an extension to facilitate the filing of the brief which was to be mailed that same date. At this time, counsel discovered that the State's brief had been filed earlier than was anticipated. Because thirty days fell on New Year's Day, the brief was actually due for filing on Friday, January 2, 2004, instead of Monday, January 5, 2004. Counsel discovered that the Court was open on January 2, 2004, and therefore, January 2, 2004, was not a legal holiday. Therefore counsel could not file for the extension of time for the purposes of filing the Appellee's merit brief in a timely manner.
6. Supreme Court Rule VI, Section 6, provides this Court with the discretion to dismiss an appellant's appeal for the failure to file timely. It is presumed that this

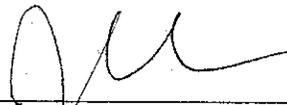
would apply to cross-appellant's accepted issues. Clearly, the failure of counsel to timely file the merit brief is in contravention of his duties to his client.

FURTHER AFFIANT SAYETH NAUGHT.



DAVID L. DOUGHTEN

SWORN TO AND SUBSCRIBED in my presence this 5th day of January, 2004.



NOTARY PUBLIC
Commission Expires:
att. at Law
NO EXP. DATE