

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO.,
PLAINTIFF-APPELLANT,

S.C. CASE NO. 10 - 1636

On Appeal from the Clark
County Court of Appeals
Second Appellate District

VS.

Court of Appeals Case
No 09 CA 0013

TONEISHA GUNNELL,
DEFENDANT-APPELLEE.

MOTION TO VACATE STAY OF EXECUTION
ENTERED SEPTEMBER 17, 2010

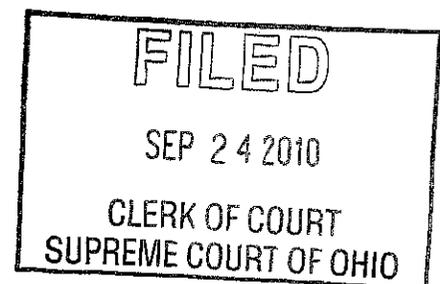
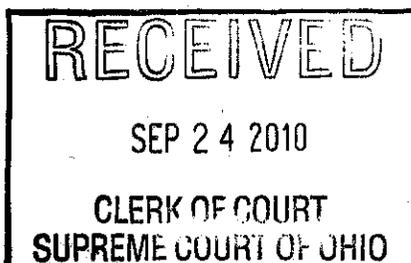
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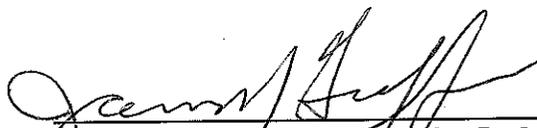
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Counsel for Plaintiff-Appellant



REQUESTED RELIEF

Now comes Tonisha Gunnell, through her counsel, who respectfully moves this Court to vacate the Stay of Execution entered by this Court on Friday, September 17, 2010, or in the alternative, to set a personal recognizance bond for Appellee while this matter is pending.



James N. Griffin, Counsel for Defendant-Appellee
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MEMORANDUM

The Appellee is not a risk of flight. Prior to June 5, 2005, Appellee had been a long time resident of Columbus, Ohio. On the day this incident occurred, she was living with her mother in Columbus, Ohio. She would return to her mother's home at 1291 North 6th Street, Columbus, Ohio., while waiting for this appeal process to be completed.

Appellee acknowledges that immediately after the incident in the mall parking lot, she fled to her home in Columbus, Ohio. She went to her children and her mother. However, the next afternoon, accompanied by family members, she went to the Columbus, Ohio, Police Department Headquarters and surrendered to the Homicide Division detectives. If Appellee had been inclined to abscond, that

would have been the opportune time.

If the State proceeds with this appeal, the minimum time for resolution will be measured in months, not days. Because there is a reasonable alternative to having Appellee sit incarcerated, it would be unjust to force her to remain incarcerated while this matter is pending. Appellee does not believe that this Court will overrule the Second District Court of Appeals.

Appellant ignores the fact that in this appeal, Toneisha Gunnell is the appellee. If she flees the jurisdiction of this Court, she places herself in substantially more jeopardy than she now faces.

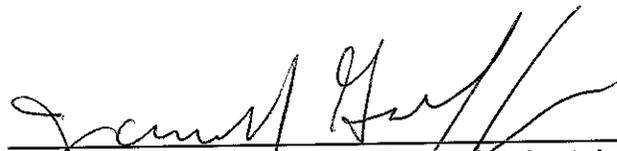
For these reasons, this Court should vacate the Stay Order of September 17, 2010.



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Certificate of Service

I hereby certify that a copy of the foregoing pleading was served by mailing a copy by regular U.S. Mail to Amy M. Smith, P O. Box 1608, Springfield, Ohio 45501 this 22nd Day of September, 2010.



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