

In The Supreme Court of Ohio

State of Ohio, :
 Appellee, : Case No. 11-0093
 -vs- : Appeal taken from Butler County
 Court of Common Pleas
 Donald J. Ketterer, : Case No. CR 2003-03-0309
 Appellant. : This is a death penalty case

NOTICE OF APPEAL OF APPELLANT DONALD J. KETTERER

ROBIN PIPER
 Prosecuting Attorney

Office of the
 Ohio Public Defender

Michael A. Oster (0076491)
 Chief of the Appellate Division
 Counsel of Record

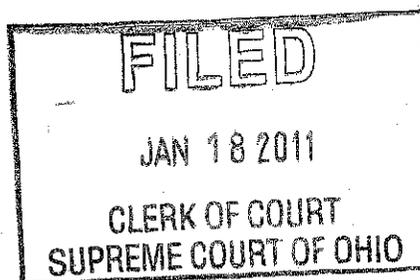
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COUNSEL FOR APPELLEE

COUNSEL FOR APPELLANT



In The Supreme Court of Ohio

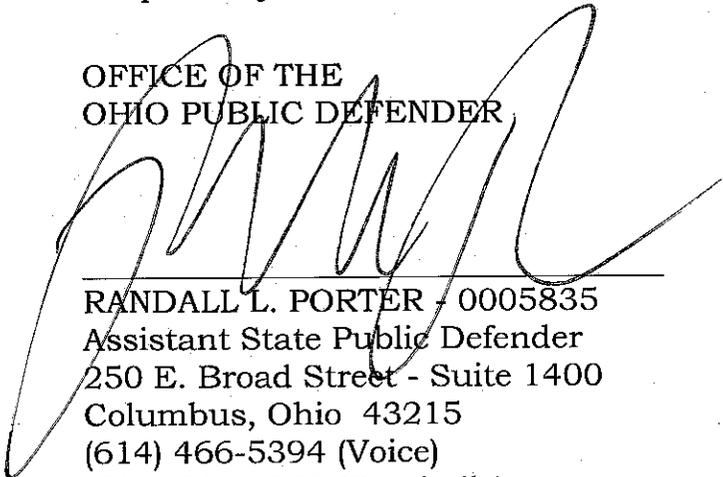
State of Ohio, :
Appellee, : **Case No.**
-vs- : **Appeal taken from Butler County**
 : **Court of Common Pleas**
Donald J. Ketterer, : **Case No. CR 2003-03-0309**
Appellant. : **This is a death penalty case**

NOTICE OF APPEAL OF APPELLANT DONALD J. KETTERER

Appellant Donald J. Ketterer hereby gives notice of appeal to the Supreme Court of Ohio from the decision and judgment entry of the Butler County Court of Common Pleas, entered on December 3, 2010. See Exhibit A. This is a capital case and the date of the offense is February 4, 2003. See Supreme Court Rule of Practice 19.1

Respectfully submitted,

OFFICE OF THE
OHIO PUBLIC DEFENDER

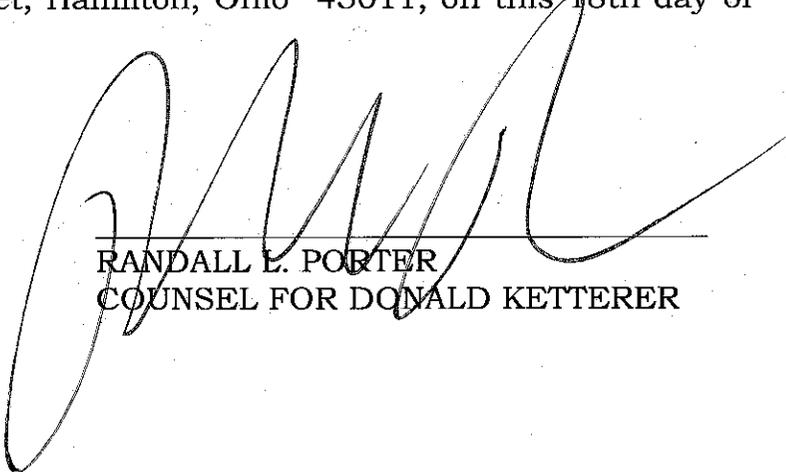


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COUNSEL FOR DONALD KETTERER

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Notice Of Appeal Of Appellant Donald J. Ketterer* was forwarded by electronic and first-class, postage prepaid U.S. Mail to Michael A. Oster, Jr., Assistant Butler County Prosecuting Attorney and Chief of the Appellate Division, at the Government Services Center, 315 High Street, Hamilton, Ohio 45011, on this 18th day of January, 2010.



RANDALL E. PORTER
COUNSEL FOR DONALD KETTERER

IN THE COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO : FILED BUTLER CO.
COURT OF COMMON PLEAS : CASE NO. CR 2003 03 0309

Plaintiffs : DEC 03 2010 : (Patricia S. Oney, Judge)
 : (Matthew J. Crehan, Judge)
 : (Michael J. Sage, Judge)

vs.

CINDY CARPENTER
CLERK OF COURTS

DONALD J. KETTERER

Defendants

**PRIORITY
JUDGMENT OF CONVICTION
ENTRY
(This is a Final Appealable Order)**

This case is on remand from the Ohio Supreme Court for the sole purpose of addressing the issues of post release control on Counts Two, Three, Four and Five.

This 2nd day of December 2010, came the Prosecuting Attorney into the Court, and the Defendant personally appearing with his Counsel, Randall Porter. A plea of guilty, and the findings of the three-judge panel being set forth in the previous Entries of the Court filed January 30, 2004 and February 4, 2004, are expressly included herein by reference.

Wherefore, the Defendant being informed that he stands convicted of **AGGRAVATED ROBBERY** contrary to R.C. 2911.01(A)(3), a felony of the first degree as charged in Count Two of the indictment; **AGGRAVATED BURGLARY** contrary to R.C. 2911.11(A)(1), a felony of the first degree as charged in Count Three of the Indictment, **GRAND THEFT OF A MOTOR VEHICLE**, a felony of the fourth degree contrary to R.C. 2913.02(A)(1) as charged in Count Four of the Indictment, and **BURGLARY** contrary to R.C. 2911.12(A)(3), a felony of the third degree as charged in Count Five of the Indictment, and after having heard all the facts adduced by both parties, the panel of three Judges after the Court afforded counsel an opportunity to

Judge

PATRICIA S. ONEY
Common Pleas Court
Butler County, Ohio

speak on behalf of the Defendant, and the Court addressed the defendant personally and asked if he wished to make a statement in his own behalf or present any information in mitigation of punishment, and nothing being shown as to why sentence should not now be pronounced,

For reasons stated on the record, and after consideration of the factors under R.C. 2929.12, the Court also finds that prison is consistent with the purposes of R.C. 2929.11 and that the defendant is not amenable to an available community control sanction.

Further, the Court has considered the Defendant's present and future ability to pay the amount of any sanction, fine or attorney's fees.

It is **ORDERED** as to Count Two that the Defendant be sentenced to be imprisoned for a **stated prison term of nine (9) years** and pay a fine of two thousand (\$2,000.00) dollars, which sentence carries **five (5) years** mandatory post release control pursuant to 2967.28(B)(1).

It is **FURTHER ORDERED** as to Count Three that the Defendant be sentenced to be imprisoned for a **stated prison term of nine (9) years**, which term of imprisonment shall be served **consecutively** with the term of imprisonment heretofore imposed as to Count Two, and pay a fine of two thousand (\$2,000.00) dollars, which sentence carries **five (5) years** mandatory post release control pursuant to 2967.28(B)(1).

It is **FURTHER ORDERED** as to Count Four that the defendant be sentenced to be imprisoned for a **stated prison term of seventeen (17) months**, which term of

Judge
PATRICIA S. ONEY
Common Pleas Court
Butler County, Ohio

imprisonment shall be served **concurrently** with the terms of imprisonment heretofore imposed as to Counts Two and Three, and which sentence carries discretionary **three (3) years** post release control pursuant to 2967.28(C).

It is **FURTHER ORDERED** as to Count Five that the Defendant be sentenced to be imprisoned for a **stated prison term of four (4) years**, which term of imprisonment shall be served **consecutively** with the terms of imprisonment heretofore imposed as to Counts Two and Three, and pay a fine of one thousand (\$1,000.00) dollars, which sentence carries discretionary **three (3) years** post release control pursuant to 2967.28(C).

The Court has considered whether or not community control is appropriate pursuant to Ohio Revised Code Section 2929.13 and finds that the Defendant is not amenable to an available community control sanctions.

Therefore, the sentences as to Counts Two, Three and Five are to be served **consecutively** to each other, and Counts Two, Three, Four and Five are to be served **consecutively** to Count One.

The Court has notified the Defendant about the terms of post release control as previously indicated, and the Court also advised the Defendant of the consequences for violating conditions of post release control imposed by the parole Board under Revised Code Section 2967.28, and that the Parole Board may impose a prison terms of up to one-half of the prison term originally imposed on the offender if he violates supervision or a condition of post release control. The Defendant is Ordered to serve as part of this sentence any term of post release control imposed by the Parole Board, and any prison term for violation of that post release control.

Defendant is hereby further advised of all his rights pursuant to Criminal Rule 32,

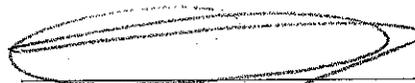
Judge

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Common Pleas Court
Butler County, Ohio

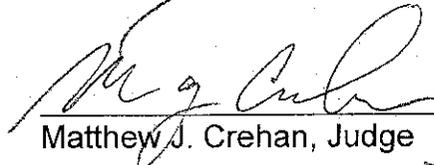
including his right to appeal the judgment, his right to appointed counsel at no cost, his right to have court documents provided to him at no cost, and his right to have a notice of appeal filed on his behalf.

Defendant is therefore **ORDERED** conveyed to the custody of the **Ohio Department of Rehabilitation and Correction**. Credit for **2,838 days** is granted as of this date of sentencing along with future custody days in the Butler County Jail while Defendant awaits transportation to the appropriate state institution, to be certified by the Sheriff. Defendant is **ORDERED** to pay all costs of prosecution.

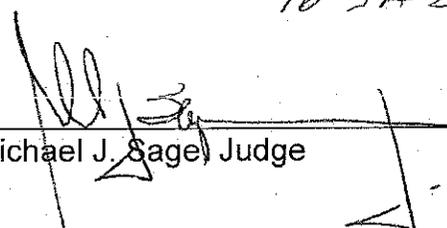
ENTER



Patricia S. Oney, Judge



Matthew J. Crehan, Judge *By Assignment*
10 JA 2571



Michael J. Sage, Judge

Judge
PATRICIA S. ONEY
Common Pleas Court
Butler County, Ohio

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