

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,)	Case No. 1998-2542
)	
Plaintiff-Appellee,)	Death Penalty Case
)	
v.)	
)	
FREDERICK TREESH,)	
)	
Defendant-Appellant.)	

MOTION TO SET EXECUTION DATE

CHARLES E. COULSON (0008667)
 LAKE COUNTY PROSECUTING ATTORNEY
 Administration Building
 105 Main Street, P.O. Box 490
 Painesville Ohio 44077
 (440) 350-2683 Fax (440) 350-2585

RECEIVED
 MAR 31 2011
 CLERK OF COURT
 SUPREME COURT OF OHIO

COUNSEL FOR APPELLEE, STATE OF OHIO

S. ADELE SHANK (0022148)
 Law Office of S. Adele Shank
 3380 Tremont Road, 2nd Floor
 Columbus, OH 43221
 (614) 326-1217

TIMOTHY F. SWEENEY (0040027)
 Law Office of Timothy F. Sweeney
 The 820 Building, Suite 430
 820 West Superior Ave.
 Cleveland, Ohio 44113-1800
 (216) 241-5003

FILED
 MAR 31 2011
 CLERK OF COURT
 SUPREME COURT OF OHIO

COUNSEL FOR APPELLANT, FREDERICK TREESH

Now comes the State of Ohio, by and through Charles E. Coulson, Lake County Prosecuting Attorney and respectfully requests that this Court set a date for the execution of Appellant Frederick Treesh. As outlined below, Treesh presently has exhausted his state and federal appeals. Accordingly, it is appropriate for this Court to set a date for execution.

Procedural History

Indictment

Late in the evening of August 27, 1994, Treesh shot and killed Henry Dupree and attempted to kill Louis Lauver during Treesh's robbery of Vine Street News in Eastlake. The Lake County Grand Jury returned a seven-count indictment against Treesh, that included a charge of aggravated murder in violation of R.C. 2903.01 with death penalty specifications.

Trial

On February 16, 1995, a jury in Lake County found Treesh guilty one of count of aggravated murder with two aggravating circumstances, two counts of attempted aggravated murder, one count of felonious assault, and one count of aggravated robbery. Each of these five counts included a firearm specification. At the conclusion of the penalty phase, the jury recommended that the trial court sentence Treesh to death. The trial court adopted the jury's recommendation, and Treesh was accordingly sentenced to death on March 2, 1995.

Direct Appeal

Treesh initially appealed the decision of the trial court to the Eleventh District Court of Appeals, which affirmed his conviction and death sentence on October 19, 1998. *State v. Treesh* (Oct. 19, 1998), 11th Dist. No. 95-L-057. Treesh then appealed to this Court, which also rejected his claims and affirmed his conviction and sentence. *State v. Treesh*, 90 Ohio St.3d 460, 2001-Ohio-4, 739 N.E.2d 749. Treesh sought a writ of certiorari from the United States Supreme Court on this direct appeal, but this request was rejected as well. *Treesh v. Ohio* (2001), 553 U.S. 904, 121 S.Ct. 2247.

Post-conviction Review

Treesh filed a petition for post-conviction relief on Dec. 5, 1996. The trial court dismissed Treesh's petition for post-conviction relief without an evidentiary hearing. On appeal, the Eleventh District Court of Appeals affirmed the trial court's denial of post-conviction relief. *State v. Treesh* (Dec. 21, 1998), 11th Dist. No. 97-L-080. The Supreme Court of Ohio rejected Treesh's appeal, concluding that it did not present a substantial constitutional question. *State v. Treesh*, 85 Ohio St.3d 1476, 709 N.E.2d 848.

Federal Habeas Corpus

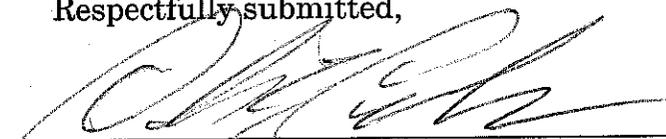
Treesh sought a writ of habeas corpus from the United States District Court for the Northern District of Ohio on June 10, 2002. The District Court denied the petition on March 31, 2007. *Treesh v. Bagley* (March 31, 2007), N.D. Ohio No. 1:02 CV 462.

Treesh appealed this decision to the Sixth Circuit Court of Appeals, and the Court of Appeals affirmed the decision of the district court. *Treesh v. Bagley* (C.A. 6, 2010), 612 F.3d 424. Treesh sought review in the United States Supreme Court, but his petition for a writ of certiorari was denied March 21, 2011. *Treesh v. Bagley* (2011), -- U.S. --, -- S.Ct. --. A copy of the order is attached as Exhibit 'A'. As of the denial of this last petition, Treesh has no further appeals pending in state or federal courts.

Conclusion

Treesh's convictions and sentence of death are lawful. The state and federal reviews are complete, and Treesh does not have any pending state or federal appeals. Therefore, the State respectfully moves this Court to set an execution date in this case.

Respectfully submitted,



CHARLES E. COULSON (0008667)
LAKE COUNTY PROSECUTING ATTORNEY
Administration Building
105 Main Street, P.O. Box 490
Painesville, Ohio 44077
(440) 350-2683 Fax (440) 350-2585

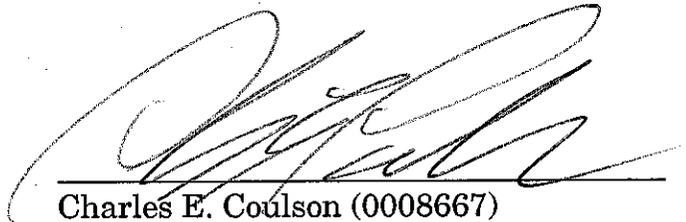
PROOF OF SERVICE

On this 30th day of March, 2011, a copy of the foregoing Motion to Set Execution Date, was mailed to the following counsel for the appellant:

S. Adele Shank
Law Office of S. Adele Shank
3380 Tremont Road, 2nd Floor
Columbus, OH 43221

Timothy F. Sweeney
Law Office of Timothy F. Sweeney
The 820 Building, Suite 430
820 West Superior Ave.
Cleveland, Ohio 44113-1800

Timothy Young
Ohio Public Defender
250 East Broad Street, Suite 1400
Columbus, Ohio 43215



Charles E. Coulson (0008667)
Prosecuting Attorney

CEC/klb

07-3524

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

March 21, 2011

FILED

MAR 23 2011

LEONARD GREEN, Clerk

Clerk
United States Court of Appeals for the Sixth Circuit
524 Potter Stewart Courthouse
100 East Fifth Street
Cincinnati, OH 45202

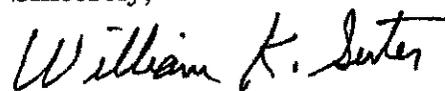
Re: Frederick Treesh
v. Margaret Bagley, Warden
No. 10-7930
(Your No. 07-3524)

Dear Clerk:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



William K. Suter, Clerk

Exhibit 'A'