

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO

Plaintiff-Appellee,

Case No. 2010-2225

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

vs.

RICHARD MILLER, II

C.A. Case No. 2008 CA 90

Defendant-Appellant.

MOTION FOR RECONSIDERATION

Richard Miller, II
Inmate Number A-587-232
London Correctional Institution
1580 State Route 56 SW
P.O. Box 69
London, Ohio 43140

Defendant-Appellant, pro se

Stephen A. Schumaker,
PROSECUTING ATTORNEY
Clark County Prosecutor
50 E. Columbia Street, 4th Floor
P.O. Box 1608
Springfield, Ohio 45501

Attorney for State of Ohio
Plaintiff-Appellee

RECEIVED
APR 01 2011
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
APR 01 2011
CLERK OF COURT
SUPREME COURT OF OHIO

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MOTION FOR RECONSIDERATION

Richard Miller, II, respectfully move this Court to reconsider its decision according to S.Ct.Prac.R.11.2. Appellant in this matter, has attached affidavits to this request contesting that such reconsideration is in the pursuit of justice. On March 21, 2011, Deputy Clerk Kimberly, sent notification that the legal documents sent, which was in a timely manner, required permission from the Chief Justice to be filed. This permission entry was already granted, to which, March 18, 2011 was the last date that such documents could be submitted. Those documents did reach the clerk of courts office by the 18th of March, but Deputy Clerk Kimberly refused to submit such document.

On March 24, 2011, those same legal documents was mailed back out of the institution explaining to the Deputy Clerk Kimberly that Chief Justice O'Connor already approved the delayed filing and please file such documentation according to the Supreme Court Rules of Procedure.

On March 29, 2011, I received another notification that I have not showed "requisite diligence" in pursuing relief from this Court. This order was filed on March 23, 2011, to which, this motion asking for a reconsideration to such determination is based on Deputy Clerk Kimberly denial to file such

documents that was in a timely manner. Please find attached the letter sent from Deputy Clerk Kimberly, the cover letter for which was with my documents, reply letter to Deputy Clerk Kimberly, and receipt that such document was resubmitted with reply letter.

Therefore, I asking that this Court reconsider is decision and allow such documents to be submitted which justice so requires.

Respectfully submitted,



Richard Miller, II
Inmate Number A-587-232
London Correctional Institution
1580 State Route 56 SW
P.O. Box 69
London, Ohio 43140

Defendant-Appellant, pro se

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum of Jurisdiction was forwarded by regular U.S. Mail to Clark County Prosecuting Attorney Office at; 50 East Columbia Street, Springfield, Ohio 45501 on this 29th day of March, 2011.



Richard Miller, II
Defendant-Appellant, pro se

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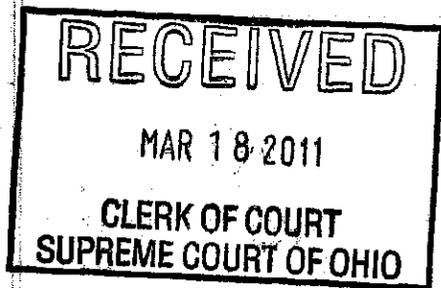
APPENDIX TO

**MEMORANDUM IN SUPPORT OF JURISDICTION
OF APPELLANT RICHARD MILLER, II**

To The Clerk:

Please send a stamped copy
of the following Document for my
records, please

Thank You!



App. 1

The Supreme Court of Ohio

OFFICE OF THE CLERK

65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

CHIEF JUSTICE
MAUREEN O'CONNOR

CLERK OF THE COURT
KRISTINA D. FROST

JUSTICES
PAUL E. PFEIFER
EVELYN LUNDBERG STRATTON
TERRENCE O'DONNELL
JUDITH ANN LANZINGER
ROBERT R. CLIPP
YVETTE MCGEE BROWN

TELEPHONE 614.387.9530
FACSIMILE 614.387.9539
www.supremecourt.ohio.gov

March 21, 2011

Richard Miller, II 587-232
London Correctional Institution
P. O. Box 69
London, OH 43140

Dear Mr. Miller:

The enclosed documents were not filed, as they do not comply with the Rules of Practice of the Supreme Court of Ohio. Specifically, they were not received by the 45-day deadline imposed by Rule 2.2(A)(1). The Clerk's Office is not permitted to file untimely documents. The deadline for appealing a decision dated October 1, 2010, was November 15, 2010. These documents were not received until March 18, 2011.

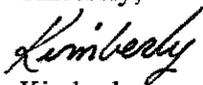
If you are appealing a felony conviction on the merits, it is possible to file a delayed appeal after the 45-day time period has passed by submitting a notice of appeal listing the date of the court of appeals judgment being appealed and that the case involves a felony, a motion for delayed appeal, and a notarized affidavit of indigency meeting the Court's requirements (or an entry appointing you counsel or the \$100 filing fee). A motion for delayed appeal must state the date of the entry of the judgment being appealed and give adequate reasons for the delay; a copy of the decision being appealed must be attached. An affidavit in support of the facts set forth in your motion is also required. See Rule 2.2(A)(4); Rule 2.2(B)(1); and Rule 15.3, for more information.

If you timely filed an application for reconsideration in the court of appeals, please see Rule 2.2(A)(5).

Please also note that Rule 14.2(E) requires you to provide notice to the other party in the case when documents are rejected.

A copy of the Rules of Practice and our Pro Se Guide to Filing an Appeal in the Supreme Court are enclosed for further guidance.

Sincerely,



Kimberly
Deputy Clerk

App. 2

Richard Miller, II

Inmate Number 587-232
London Correctional Institution
P.O. Box 69
London, Ohio 43140

March 24, 2011

The Supreme Court of Ohio
Clerk of Court
Kimberly, Deputy Clerk
65 South Front Street
Columbus, Ohio 43215-3431

In Re: REGARDING MEMORANDUM OF JURISDICTION FILING DATE

Dear Kimberly, Deputy Clerk:

The enclosed documents will verify that the Supreme Court Chief Justice, Maureen O'Connor, already granted me leave to file my memorandum in support of jurisdiction. That entry was entered on the 16th of February 2011, to wit, the thirty days would not have expired until after March 18, 2011,

The stamped on the memorandum in support of jurisdiction will show that the documents did arrived on time to be filed by your office. Also, attached is copies of documents that will show the appropriate procedures was followed when submitting my documents to your office to be filed. (1) Samples from the Ohio Public Defender Office; (2) Entry for Approval from Chief Justice; (3) Documents shows Clerk of Court Stamped Document; (4) Copy of your correspondence; (5) Memorandum in support of jurisdiction and additional documents for to verify filing.

As stated in your correspondence " Specifically, they were not received by the 45-day deadline by Rule 2.2(A)(1). The Clerk's Office is not permitted to file untimely documents." These document was submitted on the last day that they could be filed, which was approved by the Chief Justice of the Supreme Court. There was no other reasons why these documents didn't get filed by your office and I'm now asking that your office please file the enclosed documents.

Please contact me as soon as possible about this matter for further instruction to what need to be done in this situation for my documents can be filed by your office without any further delays.

Sincerely,

Richard L. Miller II

Richard Miller, II
Concern Petitioner

Personal A/C Withdrawal Check Out-Slip

Dollars: 2 Cents: 87

Institution:

Loft

Date:

3/24/11

Name:

Address:

City:

State:

Zip Code:

Postage Copies ID Misc. Check-out CK # _____

The inmate's signature on this withdrawal request verifies that the information listed above has been read to or by the inmate and is correct. In the event of an error in the address which results in the return of this package, the inmate shall assume financial responsibility.

Inmate's Signature:

WILLIE

Number:

587-232

Block & Cell Number:

X H 9 129T

Approved By:

Witnessed:

[Signature]

LEGAL MAIL

Ship VIA:

Date Processed:

DRC 1004 (Rev. 3/01)

DISTRIBUTION:

WHITE - Cashier

CANARY - Inmate

Pink- _____

ACA 4046

App.