

In The Supreme Court Of Ohio

State Of Ohio, :
Appellee, :
v. : Case No.: 2010-1373
Ashford Thompson, :
Appellant. : **This Is A Capital Case.**

**APPELLANT THOMPSON'S UNOPPOSED MOTION TO RESET THE FILING
DEADLINE FOR HIS MERIT BRIEF**

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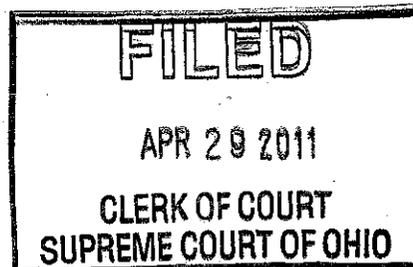
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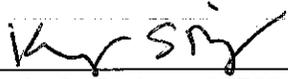
On Appeal From The Court Of
Common Pleas Of Summit County
Case No. CR 2008-07-2390

**APPELLANT THOMPSON'S UNOPPOSED MOTION TO RESET THE FILING
DEADLINE FOR HIS MERIT BRIEF**

Pursuant to Ohio Sup. Ct. R. Prac. 19.5 and 19.6 Appellant Ashford Thompson moves this Court to order that the briefing schedule in this case be reset so that his 180 day time period to file his merit brief begins to run from the date the full record was filed—April 21, 2011. The State has indicated, through counsel, that it has no objection to this request. Thompson was convicted of a capital crime and sentenced to death. The reasons for this request are set forth in the attached memorandum.

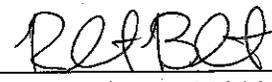
Respectfully submitted,

Office of the
Ohio Public Defender

By: 

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Assistant State Public Defender
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Assistant State Public Defender

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Counsel For Appellant

Memorandum

Ashford Thompson was convicted of aggravated murder and sentenced to death. He is currently before this Court on an appeal of right. The record on appeal in Thompson's capital case was incomplete because the jury questionnaires were not included in the initial record that was filed.

Initially, Thompson's counsel contacted the trial court reporter, the clerk's office, and the trial judge's bailiff in an effort to obtain the questionnaires, and none located them. Counsel reviewed Thompson's trial attorneys' files in an effort to locate the questionnaires, without success.

On March 22, 2011 Thompson filed a Motion to Supplement the Record asking this Court to order that the Summit County Clerk of Courts produce the questionnaires. After filing the Motion, the clerk contacted Thompson's appellate counsel to inform them that the questionnaires had been found. On April 7, 2011 this Court granted the Motion and directed the Clerk to supplement the record. On April 21, 2011 the record was so supplemented.

Under § 16, Article I of the Ohio Constitution, Thompson is entitled to a “complete, full, and unabridged transcript of all proceedings against him so that he may prosecute an effective appeal.” *State ex. rel. Spirko v. Court of Appeals, Third Appellate Dist.*, 27 Ohio St. 3d 13, 18 (1986). Appellate counsel must present to this Court any and all errors apparent from the record.

Voir dire in all capital cases is extensive and Thompson’s case is no exception. *See e.g., State v. Trimble*, 122 Ohio St. 3d 297, 306 (2009); *State v. Cunningham*, 105 Ohio St. 3d 197, 203 (2005); *State v. Vrabel*, 99 Ohio St. 3d 184, 194 (2003) (all capital cases describing voir dire as extensive). The transcript of voir dire in Thompson’s case takes up 9 volumes, and the trial court and counsel examined over 110 jurors. Without the juror questionnaires it cannot be fairly said Thompson’s transcript was complete and thus, the time period for filing his merit brief should not have started to run.

The State does not object to Thompson’s request.

WHEREFORE, Thompson requests this Court reset the filing deadlines pursuant to Ohio Sup. Ct. R. Prac. 19.5 and 19.6 such that the 180 day time period for his merit brief begins when the jury questionnaires were filed—April 21, 2011.

Respectfully submitted,

Office of the
Ohio Public Defender

By: 

Kimberly S. Rigby – 0078245
Assistant State Public Defender
Counsel of Record

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Counsel For Appellant

Certificate Of Service

I hereby certify that a true copy of the foregoing Motion was forwarded by regular U.S. Mail to Richard Kasay, Assistant Summit County Prosecutor, 53 University Ave., Akron, Ohio 44308, this 29th day of April, 2011.

Kimberly S. Rigby
Kimberly S. Rigby – 0078245
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