

ORIGINAL

In The Supreme Court of Ohio

State of Ohio, :
Appellee, : Case No. 2010-2198
-vs- : Appeal taken from Butler County
Court of Common Pleas
Calvin McKelton, : Case No. 2010-02-0189
Appellant. : **Capital Case**

APPELLANT MCKELTON'S MOTION FOR EXTENSION
OF TIME TO FILE TRANSCRIPT

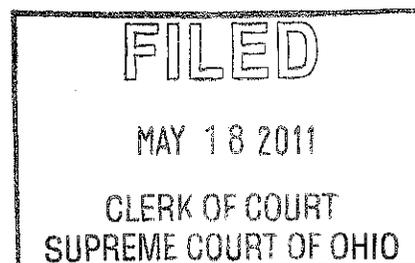
Office of the Ohio Public Defender

Pamela J. Prude-Smithers-0062206
Chief Counsel, Death Penalty Division

Jennifer A. Prillo - 0073744
Assistant State Public Defender
Counsel of Record

Office of the Ohio Public Defender
250 East Broad St., Suite 1400
Columbus, Ohio 43215
(614)466-5394
(614)644-0708 (FAX)
Pam.Prude-Smithers@opd.ohio.gov
Jennifer.Prillo@opd.ohio.gov

Counsel For Appellant



In The Supreme Court of Ohio

State of Ohio, :
Appellee, : Case No. 2010-2198
-vs- : Appeal taken from Butler County
Court of Common Pleas
Calvin McKelton, : Case No. 2010-02-0189
Appellant. : **Capital Case**

APPELLANT MCKELTON'S MOTION FOR EXTENSION
OF TIME TO FILE TRANSCRIPT

Appellant Calvin McKelton, through counsel, requests an extension of time until July 1, 2011 to file the transcript with the clerk of this Court. *See* Sup. Ct. Prac. R. 19.5(C). Appellant's motion is supported by the court reporter's affidavit as required by Sup. Ct. Prac. R. 19.5(C)(3). (*See* Exhibit A). The reasons for this request are explained in the attached memorandum.

Respectfully submitted,

Office of the
Ohio Public Defender



Pamela J. Prude-Smithers-0062206
Chief Counsel, Death Penalty Division

Jennifer A. Prillo - 0073744
Assistant State Public Defender
Counsel of Record

Office of the Ohio Public Defender
250 East Broad St., Suite 1400
Columbus, Ohio 43215
(614)466-5394
(614)644-0708 (FAX)

Counsel For Appellant

MEMORANDUM

Appellant Calvin McKelton was convicted of capital murder and sentenced to death in the Court of Common Pleas of Butler County. He timely filed his notice of appeal on December 17, 2010. The record was due to be filed by appellant on March 21, 2010. *See* Sup. Ct. Prac. R. 19.5(A)(1). On March 17, 2011, Appellant moved for an extension of sixty days to file that record. This Court granted that motion, and appellant's record was then due to be filed on May 20, 2011. However, appellant cannot file the record by May 20, 2011 because the court reporter is unable to complete the trial transcript without an additional extension of time.

Attached to this motion as Exhibit A is the affidavit of the court reporter responsible for preparing appellant's transcript. *See* Sup. Ct. R. Prac. 19.5(C)(3). As a result of her continuing duties as a court reporter for the Butler County Court of Common Pleas and the length of appellant Calvin McKelton's trial, the court reporter will be unable to complete the transcript by the May 20, 2011 deadline. (Exhibit A). Accordingly, appellant Calvin McKelton, through counsel, requests an extension of time until July 1, 2011 to file the record with the clerk of this Court.

Respectfully submitted,

Office of the
Ohio Public Defender



Pamela J. Prude-Smithers-0062206
Chief Counsel, Death Penalty Division

Jennifer A. Prillo - 0073744
Assistant State Public Defender
Counsel of Record

Office of the Ohio Public Defender
250 East Broad St., Suite 1400

Columbus, Ohio 43215
(614)466-5394
(614)644-0708 (FAX)

Counsel For Appellant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing APPELLANT MCKELTON'S MOTION FOR EXTENSION OF TIME TO FILE TRANSCRIPT was forwarded by regular U.S. Mail to Michael Gmoser, Butler County Prosecutor, 315 High Street, 11th Floor, Hamilton, Ohio 45011, this 18th day of May 2011.



Pamela J. Prude-Smithers-0062206
Chief Counsel, Death Penalty Division

Counsel For Appellant

339456

IN THE SUPREME COURT OF OHIO

STATE OF OHIO

Trial Case No. CR2010-02-0189
Supreme Court No. 2010-2189

PLAINTIFF-APPELLEE

VS.

Affidavit in Support of
Motion for an Extension
Of Time to File Transcript

CALVIN MCKELTON

DEFENDANT-APPELLANT

Now comes Jennifer Olivier, Official Court Reporter of the Butler County Common Pleas Court who, having been first duly sworn, does say as follows:

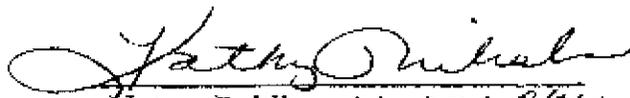
I was present for the majority of all pretrial proceedings and all of the jury trial in the capital murder case of State of Ohio vs. Calvin McKelton, Case No. CR2010-02-0189.

The transcripts for the pretrial hearings and jury trial covered by me are in excess of 2,500 pages and I am unable to complete the transcript on the scheduled due date of May 20, 2011.

I respectfully request an extension of time to complete the transcript as directed until July 1, 2011 without further need to supplement the record.


Jennifer Olivier, Official Court Reporter
Butler County Common Pleas Court

Sworn to before me and subscribed in my presence this 12th day of May, 2011.


Notary Public *State of Ohio*
My commission expires 8-24-12