

ORIGINAL

IN THE SUPREME COURT OF OHIO

IN RE: J.A.M.,

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Case No. 2010-0780

On Appeal from the Wyandot  
County Court of Appeals  
Third Appellate District

C.A. Case No. 16-09-17

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**SECOND MOTION TO STAY THIS COURT'S OCTOBER 20, 2011 MANDATE**

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**SECOND MOTION TO STAY THIS COURT'S OCTOBER 20, 2011 MANDATE<sup>1</sup>**

J.A.M., through counsel, requests that this Court stay its October 20, 2011 mandate in this case pending the outcome of *State of Ohio ex rel Pression Jean-Baptiste v. Honorable James W. Kirsch*, 2011-0934. The reasons for this motion are more fully stated in the attached memorandum in support.

Respectfully submitted,

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<sup>1</sup> At the time J.A.M. filed his motion for reconsideration or, in the alternative, motion to stay this Court's October 20, 2011 mandate on October 31, 2011, undersigned counsel was mistaken about J.A.M.'s age.

## MEMORANDUM IN SUPPORT

On October 20, 2011, this Court found that the retroactive application of Senate Bill 10 to persons “who committed sex offenses prior to its enactment, violates Section 28, Article II of the Ohio Constitution, which prohibits the General Assembly from passing retroactive laws.” *In re D.J.S.*, Slip Opinion No. 2011-Ohio-5342, at syllabus. Following *D.J.S.*, this Court reversed J.A.M.’s classification under the authority of *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374. (Attached.) In addition, this Court remanded J.A.M.’s case to the Wyandot County Juvenile Court for application of *Williams*. *Id.*

On October 31, 2011, J.A.M. asked this Court to reconsider the remedy imposed or, in the alternative, to stay this Court’s October 20, 2011 mandate pending the resolution of *In re J.V.*, Case No. 2011-0207 and *State of Ohio ex rel Pression Jean-Baptiste v. Honorable James W. Kirsch*, Case No. 2011-0934. In its response, Counsel for the State of Ohio noted correctly, that J.A.M. has not yet turned twenty-one years of age.

Although J.A.M. has not yet turned twenty-one years of age, a question regarding the juvenile court’s jurisdiction to proceed in his case still remains. Specifically, Ohio Department of Youth Services (DYS) records reflect that J.A.M. was released from his DYS institution to parole on August 21, 2009, and was discharged from DYS parole supervision on May 26, 2010:

08/21/2009	CHJCF-Dorm F	COLUMBUS REGION	Released from Institution to Parole (REL)
08/21/2009	COLUMBUS REGION	COLUMBUS - UNIT 1	Confirmed Arrival Parole (CAP)
10/19/2009	COLUMBUS - UNIT 1	TOLEDO REGION	Transferred Out - Parole - Waiting Arrival (PARR)
10/19/2009	TOLEDO REGION	TOLEDO - UNIT 1	Transferred In - Parole - Arrived (PA)
12/01/2009	TOLEDO - UNIT 1	TOLEDO - UNIT 1	Transferred In-Unit Parole (THPA)
05/26/2010	TOLEDO - UNIT 1	TOLEDO - UNIT 1	Discharged Regular (DIS)

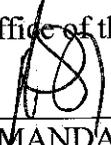
*Ohio Department of Youth Services Movement Report for [J.A.M.].*

Whether a juvenile court had jurisdiction to hold a juvenile sex offender classification hearing for a person who has fully satisfied his juvenile court disposition and who has been

discharged from DYS supervision on parole is specifically at issue in *State ex rel. Jean-Baptiste v. Kirsch*. (Case No. 2011-0934, *Appellant's Merit Brief*, pp. 16-20). Accordingly, because the outcome of *State ex rel. Jean-Baptiste v. Kirsch* will directly affect whether the Wyandot County Juvenile Court has jurisdiction to impose an initial classification on J.A.M. now that he has fully satisfied his juvenile-court disposition, J.A.M. respectfully requests that this Court stay its October 20, 2011 mandate pending the outcome of *State ex rel. Jean-Baptiste v. Kirsch*.

Respectfully submitted,

Office of the Ohio Public Defender

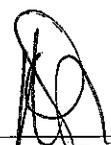
  
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COUNSEL FOR J.A.M.

### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was forwarded by regular U.S. Mail this 7<sup>th</sup> day of November, 2011 has been sent by regular U.S. mail, postage prepaid, to the office of Douglas D. Rowland, Wyandot County Assistant Prosecuting Attorney, 137 S. Sandusky Avenue, Upper Sandusky, Ohio 43351.

  
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