

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,

: Case Nos. 11-0990 & 11-1627

Plaintiff-Appellant (and appellee)

: C.A. No. 10 CA 07

v.

: T.C. No. 09 CR 227

CARL R. SIMONS,

: Appeal from Champaign  
County Court of Appeals

Defendant-Appellee (and appellant)

: Second Appellate District

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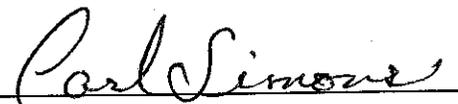
MOTION TO APPOINT COUNSEL

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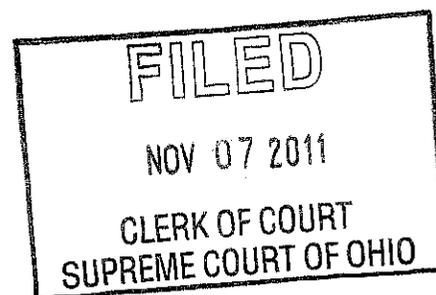
NOW COMES the Defendant-Appellee (and appellant), Carl R. Simons, *pro se*, and hereby moves the Court for an order appointing counsel to represent him pursuant pursuant to S.Ct.Prac. R. 2.2(D)(2) & 3.6.

The reasons for this request are attached by memorandum.

Respectfully submitted,



Carl Simons, *pro se*  
#625933  
P.O. Box 740  
London, Ohio 43140



## MEMORANDUM IN SUPPORT

1. This matter concerns the same case and appeal processed through the trial and Second District Court of Appeals. The defendant was not served with the decision until four months after the decision was made, and even then, not until after he had complained to the trial and appellate courts, this Court, and the federal court. After the defendant was served he then discovered that the plaintiff had filed a notice of appeal in the case, though the defendant has never been served with this either. After learning that the plaintiff had filed a notice of appeal (11-0990), the defendant filed a notice of cross appeal, however, the clerk of this Court docketed it as a separate appeal (11-1627). This resulted in the defendant being entered as the *appellee* in 11-0990, and as the *appellant* in 11-1627 and created a clerical and appeal nightmare. The defendant has explained this in all of his filings and letters to the clerk but this anomalous situation continues. See attached October 2, 2011 letter. It would take a lawyer to unraveling this agglomeration if there is any hope if doing so.
  
2. The defendant is a lawman at law and has a very limited and unpredictable access to a law library. The prison law library has only two WestLaw/typing terminals for the entire population. The defendant is limited to a couple hours per week to use the law library and he must race and beat every other litigant to the terminals to be able to research and type anything. Additionally, the law library is closed for every reason imaginable including painting, plumbing, maintenance, shake downs, lock downs, SRT and SWAT drills, C.O. parties, shortage of staff, weather problems, power outages, etc. Therefore, the defendant is unable to meet the research and filing deadline demands of these cases, which is actually the same case. Please note that a *MOTION TO CONSOLIDATE CASES* is being filed with this motion.

Therefore, for these reasons the defendant asks that this motion for appointment of counsel be granted.

Respectfully submitted,



Carl Simons, *pro se*

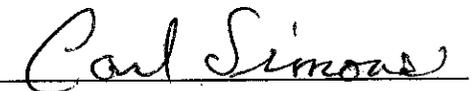
#625933

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing, and attachment, was sent to the CHAMPAIGN COUNTY PROSECUTOR, 200 N. MAIN STREET, URBANA, OHIO 43078 by U.S. Mail this 4<sup>th</sup> day of November, 2011.



Carl Simons

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October 7, 2011

CLERK OF THE COURT  
OHIO SUPREME COURT, 65 SOUTH FRONT STREET  
COLUMBUS, OHIO 43215-3431

Re: GEN-2011-1627, Case Caption? and associated questions.

Dear Clerk of the Court,

I received my file-stamped documents back from you, however, you have me listed as the appellant and the plaintiff listed as the appellee. All of the documents and information I sent you explained that the plaintiff had filed his Notice of Appeal first, several months ago, but failed to serve me. In fact, I still have not been served. And so, wouldn't I then be filing a cross appeal, as the appellee? Or did you file my Notice of Appeal and assign me as a completely separate appeal? If so, this will greatly complicate things as I will not be addressing the plaintiff's appeal (already filed) and my case may be bounced out as res judicata. Please see the documents which I filed with your office.

I also have the following questions:

- 1) What will my case caption be? Shouldn't I be the appellee, since the plaintiff filed his notice of appeal first?
- 2) I believe that I should be provided service with the plaintiff's notice of appeal, and/or that all filing and response dates be reset due to the plaintiff's failure to serve me, or, that his appeal be dismissed due to the lack of service.
- 3) Are the required number of copies waived in my case, as requested, due to my indigency.
- 4) Am I eligible to file for Appointment of Counsel?

I would greatly appreciate your assistance in answering these questions and your attention to the correct caption issue.

Sincerely,

  
Carl Simons

P.S. I have served the plaintiff with every document I have filed.

RECEIVED

OCT 12 2011

CLERK OF COURT