

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Appellant, : Case No. 2011-1664  
 :  
 v. : On Certified Conflict of Cuyahoga  
 : County Court of Appeals, Eighth  
 Robert Moore, III, : Appellate District Case Nos. 96111 &  
 : 96112  
 :  
 Defendant-Appellee. :

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**Motion for Appointment of Counsel**

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William Mason  
Cuyahoga County Prosecutor

Office of the Ohio Public Defender

Daniel T. Van #000084614  
Assistant Prosecuting Attorney  
(Counsel of Record)

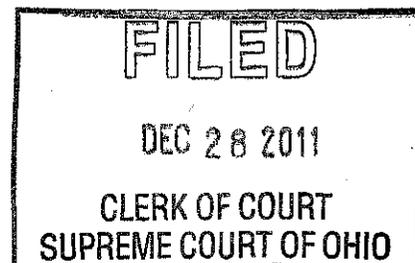
Sarah G. LoPresti #0083928  
Assistant State Public Defender

1200 Ontario Street, 8<sup>th</sup> Floor  
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250 East Broad Street - Suite 1400  
Columbus, Ohio 43215  
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sarah.lopresti@opd.ohio.gov

Counsel for Plaintiff-Appellant  
State of Ohio

Counsel for Defendant-Appellee  
Robert Moore III



## Motion for Appointment of Counsel

Appellee Robert Moore III respectfully asks this Court to appoint the Office of the Ohio Public Defender to represent him in this certified conflict. This Court certified a conflict in Cuyahoga County Court of Appeals Case Nos. 96111 and 96112, ordering that the following issue be fully briefed and argued:

Whether a trial court's failure to impose the statutorily mandated fine required by R.C. 2925.11(E) and 2929.18(B)(1) when no affidavit of indigency is filed with the clerk of court prior to the filing of the trial court's journal entry of sentencing renders that part of the sentence waiving the fine void.

Mr. Moore was pro se in the Eighth District Court of Appeals. The Ohio Public Defender agreed to assume the representation of Mr. Moore in the matter before this Court. This Court should appoint the Ohio Public Defender for this appeal because Mr. Moore lacks the skill and knowledge necessary to adequately pursue and protect his rights without the assistance of counsel.

Accordingly, Robert Moore III respectfully requests that this Court appoint the Office of the Ohio Public Defender to act as his counsel for the certified conflict currently pending in this Court in Case Number 2011-1664.

Respectfully submitted,

Office of the Ohio Public Defender



By: Sarah G. LoPresti #0083928

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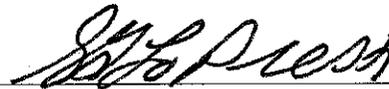
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Counsel for Appellee Robert Moore III

**Certification of Service**

This is to certify that a copy of the foregoing **Motion for Appointment of Counsel** was forwarded by regular, U.S. mail to Daniel T. Van, Assistant Prosecuting Attorney, Cuyahoga County Prosecutor's Office, 1200 Ontario Street, 8<sup>th</sup> Floor, Cleveland, OH 44113, this 28th day of December, 2011.



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Sarah G. LoPresti #0083928  
Assistant State Public Defender

Counsel for Appellee Robert Moore III

#359071v2

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :  
 Plaintiff-Appellee, :  
 vs. : Case No. 2011-1664  
 ROBERT MOORE, :  
 Defendant-Appellant. :

**AFFIDAVIT OF INDIGENCY**

I, Robert Moore, do hereby state that I am without the necessary funds to pay the costs of this action for the following reasons:

I am currently incarcerated at the Grafton Correctional Institution and I have been incarcerated since 2009. I work at the prison but receive only \$20.00 dollars per month.

Pursuant to Rule 15.3(A), of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived.

Robert Moore  
 ROBERT MOORE

Sworn to, or affirmed, and subscribed in my presence this 13 day of December 2011.

Elizabeth Osborne  
 Notary Public  
 My Commission Expires: 06-25-2016



ELIZABETH OSBORNE  
 Notary Public, State of Ohio  
 My Commission Expires  
 June 25, 2016  
 Recorded in Lorain County