

In The Supreme Court of Ohio

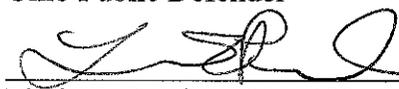
State of Ohio, :
 Appellee, : Case No. 11-0857
 -vs- : Appeal taken from Cuyahoga County
 Court of Common Pleas
 Denny Obermiller, : Case No. CR 10-542119-A
 Appellant. : **Capital case**

Appellant's Motion for Stay of Execution

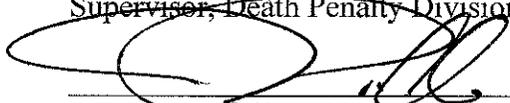
Now comes the appellant, Denny Obermiller, by and through the undersigned counsel, and moves this Court to stay his **execution set for February 25, 2012**, pending disposition of his direct appeal by this Court. The reasons for this motion are more fully set forth in the attached memorandum.

Respectfully submitted,

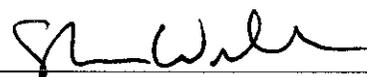
Office of the
Ohio Public Defender



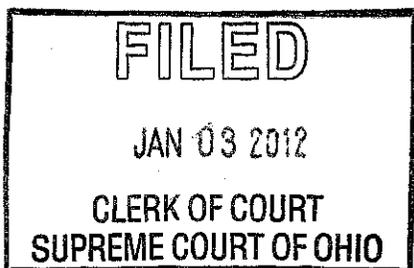
 Linda E. Prucha – 0040689
 Supervisor, ~~Death Penalty~~ Division



 Jennifer A. Prillo – 0073744
 Assistant State Public Defender



 Shawn Welch – 0085399
 Assistant State Public Defender
 Office of the Ohio Public Defender
 250 E. Broad St., Suite 1400
 Columbus, Ohio 43215
 (614) 466-5394
 (614) 644-0708 – Fax
 Counsel For Appellant



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Appellant's Motion for Stay of Execution

Execution Date: February 25, 2012

William D. Mason – 0037540
Prosecuting Attorney
Cuyahoga County
1200 Ontario St.
Cleveland, Ohio 44113
(216) 443-7800
(330) 698-2270 – Fax

Counsel For Appellee

Office of the
Ohio Public Defender

Linda E. Prucha – 0040689
Supervisor, Death Penalty Division

Jennifer A. Prillo – 0073744
Assistant State Public Defender

Shawn P. Welch – 0085399
Assistant State Public Defender

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Counsel For Appellant

**MEMORANDUM IN SUPPORT OF MOTION TO STAY EXECUTION
PENDING DISPOSITION OF APPEAL**

Appellant Denny Obermiller pled guilty to two counts of Aggravated Murder and was sentenced to death by the trial court. Appellant is currently sentenced to die on February 25, 2012. Obermiller has a right to a direct appeal to the Ohio Supreme Court under Ohio Const. art. IV, § 2 (B)(2)(c). In McDonald v. Missouri, 464 U.S. 1306 (1984), the United States Supreme Court stated that every defendant who has a right of direct review from a sentence of death is entitled to have that review before paying the ultimate penalty. Accordingly, a stay is warranted to allow Obermiller adequate time to seek direct review of his convictions and sentences. See State v. Steffen, 70 Ohio St. 3d 399, syl. (1994) (capital defendant entitled to stay of execution to seek both direct review and state post-conviction remedies).

On July 6, 2011, this court granted Obermiller's motion for delayed appeal. The record was filed on September 30, 2011. Obermiller's brief is not due in this Court until well after the current execution date. This case will not be completed before February 25, 2012. Obermiller seeks this Stay of Execution to allow a thorough and considered review of his conviction and sentence.

Therefore, Obermiller respectfully requests this Court to stay his execution, pending the final disposition of his appeal.

Certificate Of Service

I hereby certify that a true copy of the foregoing Appellant's Motion for Stay of Execution was forwarded by first-class, postage prepaid U.S. Mail to William D. Mason, Prosecuting Attorney, Cuyahoga County, 1200 Ontario St., Cleveland, Ohio 44113, on January 3, 2012.

A handwritten signature in black ink, appearing to read 'L. Prucha', written over a horizontal line.

Linda E. Prucha
Supervisor, Death Penalty Division
Counsel For Appellant