

**IN THE SUPREME COURT OF OHIO**

STATE OF OHIO,

:

Appellee,

:

-vs-

:

CASE NO.: 2012-0405

RAYSHAWN JOHNSON,

:

Appellant.

:

**This Is A Capital Case.**

On Appeal From The Court Of Common Pleas Of Hamilton County  
Common Pleas Case No. B9708745

**APPELLANT RAYSHAWN JOHNSON'S MOTION  
TO SUPPLEMENT THE RECORD**

Office of the  
Hamilton County Prosecutor

Office of the  
Ohio Public Defender

JOSEPH T. DETERS - 0012084  
Hamilton County Prosecutor

LINDA PRUCHA – 0040689  
Supervisor Death Penalty Division

Office of the Hamilton County Prosecutor  
230 East Ninth Street, Suite 4000  
Cincinnati, Ohio 45202

TYSON FLEMING – 0073135  
Assistant State Public Defender

Office of the Ohio Public Defender  
250 East Broad St., Suite 1400  
Columbus, Ohio 43215  
(614)466-5394  
(614)644-0708 (FAX)  
Linda.Prucha@opd.ohio.gov.  
Tyson.Fleming@opd.ohio.gov

COUNSEL FOR APPELLEE,  
STATE OF OHIO

COUNSEL FOR APPELLANT,  
RAYSHAWN JOHNSON

**FILED**  
SEP 11 2012  
CLERK OF COURT  
SUPREME COURT OF OHIO

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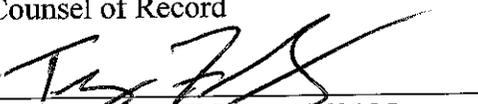
Pursuant to Ohio Sup. Ct. R. Prac. 19, § 3(D), Appellant Rayshawn Johnson moves this Court to order that the record be supplemented with the jury questionnaires and the transcripts of the hearings held in the Hamilton County Court of Common Pleas on March 9, 2009 and April 1, 2009 in case number B9708745. Johnson was convicted of a capital crime and sentenced to death. Ohio Rev. Code Ann. § 2929.05 mandates appellate review of the entire record in his direct appeal. It is necessary to supplement the record in order to comply with this statutory mandate. The reasons for this request are set forth in the attached memorandum.

Respectfully submitted,

Office of the Ohio Public Defender



LINDA PRUCHA - 0040689  
Supervisor Death Penalty Division  
Counsel of Record



TYSON FLEMING - 0073135  
Assistant State Public Defender

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 IN SUPPORT

Rayshawn Johnson was convicted of aggravated murder and sentenced to death. He is currently before this Court on appeal as a matter of right. The Clerk of the Hamilton County Common Pleas Court has submitted to this Court the record from the trial. Under Article I, § 16, of the Ohio Constitution, Johnson is entitled to a “complete, full, and unabridged transcript of all proceedings against him so that he may prosecute an effective appeal.” *State ex. rel. Spirko v. Court of Appeals, Third Appellate Dist.*, 27 Ohio St. 3d 13, 18, 501 N.E.2d 625, 629 (1986). The record before this Court is not complete.

Upon review of this case, counsel for Appellant Johnson discovered that parts of the record were missing from the record filed with the Clerk of this Court. Specifically, the record is missing the jury questionnaires and the transcripts from hearings held on March 9, 2009 and April 1, 2009 in the Hamilton County Court of Common Pleas. These transcripts and jury questionnaires are necessary to the determination of issues presented in this appeal.

In capital cases, it is essential that all proceedings be accurately transcribed and incorporated into the record. A thorough review of the entire record is necessary to give Johnson a full and fair opportunity to litigate his appeal as of right in this Court. The United States Supreme Court has “emphasized . . . the importance of reviewing capital sentences on a *complete record*.” *Dobbs v. Zant*, 506 U.S. 357, 358 (1993) (emphasis added). And “meaningful appellate review” plays a “crucial role . . . in ensuring that the death penalty is not imposed

arbitrarily or irrationally.” *Parker v. Dugger*, 498 U.S. 308, 321 (1991). Also, without a complete record for review, counsel cannot provide effective representation to Johnson. See *State v. Buell*, 70 Ohio St. 3d 1211, 639 N.E.2d 110 (1994); *Evitts v. Lucey*, 469 U.S. 387 (1985).

Sup. Ct. R. Prac. XIX, § 3(D) authorizes this Court to direct supplementation of material items omitted from the record by error or accident. Further, O.R.C. § 2929.05 mandates that this Court review the entire record in a capital case. This Court should correct the record and order the jury questionnaires and the transcripts be certified into the appellate record.

WHEREFORE, Appellant Rayshawn Johnson requests that this Court order the Clerk of the Hamilton County Court of Common Pleas to supplement the jury questionnaires and the transcripts from the March 9, 2009 and April 1, 2009 hearings into the record before this Court.

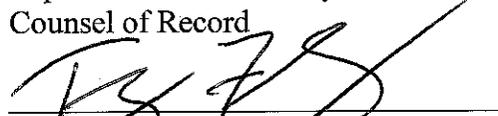
Respectfully submitted,

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LINDA PRUCHA – 0040689

Supervisor Death Penalty Division  
Counsel of Record



TYSON FLEMING – 0073135

Assistant State Public Defender

Office of the Ohio Public Defender

250 East Broad St., Suite 1400

Columbus, Ohio 43215

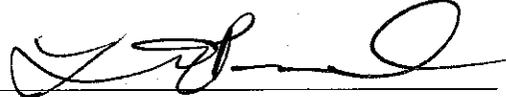
(614)466-5394

(614)644-0708 (FAX)

COUNSEL FOR APPELLANT

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing NOTICE OF APPEAL was forwarded by regular U.S. Mail to Joseph T. Deters, Hamilton County Prosecutor, 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202 this 11<sup>th</sup> day of September, 2012.



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Linda Prucha – 0040689  
Counsel for Appellant