

ORIGINAL

In The Supreme Court Of Ohio

State Of Ohio, :
 Appellee, :
 -Vs- : Case No.: 2007-2027
 Wayne Powell, :
 Appellant. : **This Is A Capital Case.**

ON APPEAL FROM THE COURT OF
 COMMON PLEAS OF LUCAS COUNTY
 CASE NO. CR06-3581

APPELLANT'S MOTION FOR STAY OF EXECUTION

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Office of the Ohio Public Defender

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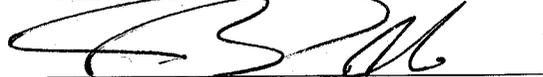
ON APPEAL FROM THE COURT OF
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Now comes Wayne Powell, by and through counsel, and moves this Court to stay the execution set for May 7, 2014, and for a judgment entry continuing his stay of execution pending exhaustion of his available state remedies. A memorandum in support is attached and incorporated herein.

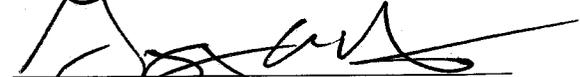
Respectfully submitted,

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MEMORANDUM

On June 13, 2012 this Court affirmed Mr. Powell's conviction and death sentence and set an execution date of May 7, 2014. However, at this time, Mr. Powell continues to litigate his postconviction petition. That petition remains in the Lucas County Court of Common Pleas. *State v. Powell*, Lucas County C.P. Case No. CR06-3581.

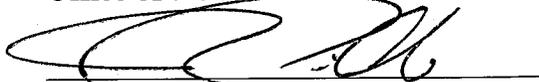
Under *State v. Steffen*, 70 Ohio St. 3d 399, 639 N.E.2d 67 (1994), Mr. Powell is entitled to a stay of execution until he has "exhausted . . . one round of postconviction relief, and one motion for delayed reconsideration under *State v. Murnahan*." See also *State v. Glenn*, 33 Ohio St. 3d 601, 514 N.E.2d 869 (1987).

Mr. Powell has not yet exhausted all of his state remedies. Mr. Powell's postconviction petition is currently pending in the Lucas County Court of Common Pleas. *State v. Powell*, Lucas County C.P. Case No. CR06-3581. Also, on December 24, 2012, Mr. Powell has filed an Application for Reopening pursuant to Supreme Court Practice Rule 11.6. That application remains pending before this Court.

Accordingly, Mr. Powell respectfully requests that this Court grant a stay of execution pending the exhaustion of available state remedies in accordance with *Steffen*, 70 Ohio St. 3d 399, 639 N.E.2d 67.

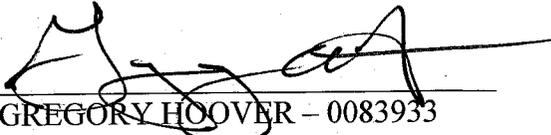
Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **MOTION FOR STAY OF EXECUTION** was forwarded by first-class, postage prepaid U.S. Mail to David Cooper, Lucas County Assistant Prosecuting Attorney, Lucas County Courthouse, Suite 250, Adams and Erie St., Toledo, OH, 43604 on this 2nd day of January, 2013.


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