

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO :
Plaintiff-Appellee : CASE NO: 2002-1604
-vs- :
CLEVELAND JACKSON : **Death Penalty Case**
Defendant-Appellant :

PLAINTIFF-APPELLEE'S MOTION TO SET EXECUTION DATE

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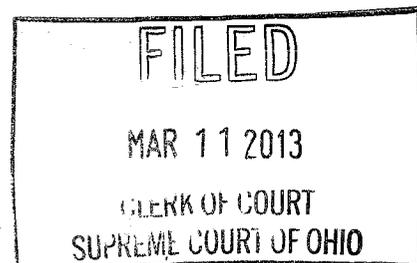
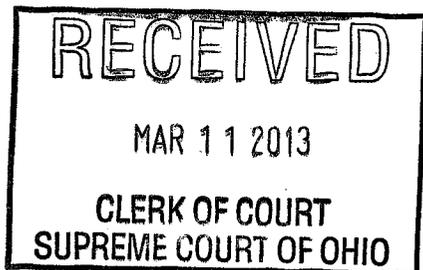
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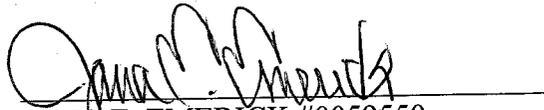
PLAINTIFF-APPELLEE'S MOTION TO SET EXECUTION DATE

Now comes the State of Ohio, by and through the undersigned prosecuting attorneys, and moves this Court to set an execution date for the defendant-appellant, Cleveland Jackson. The reasons in support of this motion are set forth in the attached memorandum.

Respectfully submitted,



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MEMORANDUM

INTRODUCTION

On January 3, 2002, in Lima, Allen County, Ohio, defendant-appellant, Cleveland Jackson (“defendant”), and his half-brother, Jeronique Cunningham, robbed a group of eight people at gunpoint, and then both opened fire on the group at close range. Three-year-old Jayla Grant and 17-year-old Leneshia Williams both died as a result. Following a trial by jury, defendant was found guilty of the aggravated murders of Jayla Grant and Leneshia Williams and was sentenced to death. Defendant was also convicted and sentenced on numerous non-capital offenses.

Defendant thereafter filed a direct appeal, as of right, in the Supreme Court of Ohio. This Court affirmed defendant’s convictions and sentences on all non-capital offenses. This Court affirmed defendant’s convictions for the aggravated murders of both deceased victims, and affirmed the death sentence for the aggravated murder of Leneshia Williams. The death sentence for the aggravated murder of Jayla Grant was vacated, and the case was remanded to the trial court for resentencing consistent with R.C. 2929.06.¹

In addition to the direct appeal filed in this Court, defendant has pursued all available avenues of appeal afforded under both Ohio and federal law. Every court that has examined defendant’s claims has upheld defendant’s aggravated murder convictions and the death sentence for the murder of Leneshia Williams. Defendant has now completed all state and federal litigation challenging his convictions and his death

¹ The trial court conducted a resentencing hearing on January 8, 2007, pursuant to the remand order of this Court, at which time defendant was sentenced to life without parole for the aggravated murder of Jayla Grant.

sentence, and the State of Ohio accordingly requests that this Court set an execution date in this matter.

STATE COURT PROCEEDINGS

As noted, defendant was convicted and sentenced to death in the Allen County Court of Common Pleas for the aggravated murders of Jayla Grant and Leneshia Williams, as well as being convicted and sentenced on numerous non-capital offenses.

Defendant perfected a direct appeal as of right in the Supreme Court of Ohio, where the death penalty for the murder of Jayla Grant was vacated, but where the defendant's remaining convictions and sentences were affirmed, including the death sentence for the murder of Leneshia Williams. *State v. Jackson*, 107 Ohio St.3d 53, 2005 Ohio 5981. Reconsideration was denied by this Court. *State v. Jackson* 108 Ohio St.3d 1418, 2006 Ohio 179. A stay of execution was granted by this Court. *State v. Jackson*, 108 Ohio St.3d 1422, 2006 Ohio 289. An application to reopen the appeal was denied by this Court in *State v. Jackson*, 110 Ohio St.3d 1435, 2006 Ohio 3862.

Defendant filed a petition for postconviction relief, which was denied by the trial court and affirmed on appeal. *State v. Jackson*, 3rd Dist. No. 1-04-31, 2004 Ohio 5350. This Court declined further review. *State v. Jackson*, 107 Ohio St.3d 1697, 2005 Ohio 6763 (reconsideration denied by *State v. Jackson*, ___ Ohio St.3d ___, 2006 Ohio 665).

FEDERAL COURT PROCEEDINGS

Following the decision of the Supreme Court of Ohio in this case on direct appeal, the United States Supreme Court declined further review. *Jackson v. Ohio* 548 U.S. 912, 2006 U.S. LEXIS 5036.

After defendant pursued and exhausted his state court remedies, defendant filed a petition for a writ of habeas corpus with the United States District Court for the Northern District of Ohio. In 2008, the District Court denied defendant's petition. *State v. Jackson*, 2008 U.S. Dist. LEXIS 36061. In 2012, the Sixth Circuit Court of Appeals affirmed. *Jackson v. Houk*, 2012 U.S. App. LEXIS 15182 (6th Cir. Ohio, 2012). On February 19, 2013, the United States Supreme Court declined further review. *Jackson v. Houk*, ___ U.S. ___, United States Supreme Court Case No. 12-7159.

OTHER LITIGATION

Defendant is a plaintiff in the *Ohio Execution Protocol Litigation*, U.S. District Court, Southern District of Ohio, Civil Docket 2:11-cv-01016 GLF-MRA, but has not received a stay of execution based on this litigation.

CONCLUSION

As outlined, defendant has fully exhausted all available legal challenges to his convictions and his death sentence. In *State v. Steffen* (1994), 70 Ohio St.3d 399, 412, this Court held that once a capital defendant has exhausted his direct appeal, post-conviction review, and delayed reconsideration review, any further filings are likely to be interposed for purposes of delay, and that a capital defendant would have to petition this Court for a stay to allow further litigation.

As this Court stated in *State v. Steffen, supra*, at 406:

We, as a society, are justifiably tentative about imposing death as a punishment for crimes. Having assumed the power to take life, we have striven for a level of assurance in our decisions that is probably not humanly possible. We have created a web of procedures so involved that they threaten to engulf the penalty itself. We arrive at a point, however, where greater certitude is not reasonably possible.

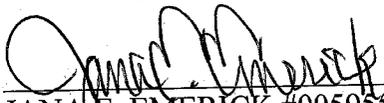
There comes a time where the possibility that something else can be discovered approaches the vanishing point. Then we must end our inquiry and act upon the conclusion we have reached. Procrastination will not satisfy the soul.

As the defendant in the instant case has exhausted his state and federal review, there is no further impediment to prevent this Court from lifting the stay of execution previously ordered, and scheduling an execution date. Accordingly, the State of Ohio respectfully requests that this Court set a date for the execution of defendant-appellant, Cleveland Jackson, so that the sentence ordered in this case may be carried out.

Respectfully submitted,



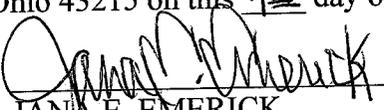
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PROOF OF SERVICE

I hereby certify that a copy of the foregoing was served upon John Brendan Gibbons, Current Counsel of Record for the Defendant-Appellant, 1370 Ontario Street, Standard Building Suite 2000, Cleveland, Ohio 44113, and on David C. Stebbins, formerly Counsel of Record for Defendant-Appellant in the Supreme Court of Ohio, 10 West Broad Street, Suite 1020, Columbus, Ohio 43215 on this 7th day of March, 2013 by regular United States Mail.



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