

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :

Plaintiff-Appellee, :

-vs- : Case No. 1998-726

KAREEM JACKSON, :

Defendant- Appellant. : This is a death penalty case.

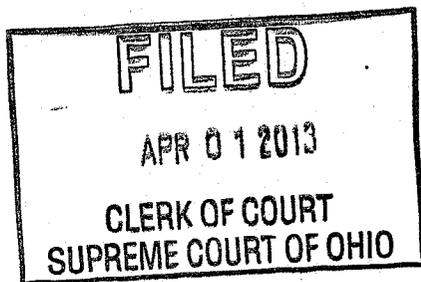
MEMORANDUM IN OPPOSITION TO MOTION OF PLAINTIFF-APPELLEE STATE OF OHIO TO SET EXECUTION DATE AND MOTION OF PLAINTIFF-APPELLEE STATE OF OHIO FOR EXPEDITED CONSIDERATION

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Counsel for Plaintiff-Appellee

Counsel for Defendant- Appellant

MEMORANDUM IN OPPOSITION

On March 28, 2013, the State of Ohio filed a Motion to Set Execution Date and for Expedited Consideration. In essence, the prosecutor is requesting that this Court set Mr. Jackson's execution date six months from now in advance of other death row inmates who have scheduled dates and other motions for execution dates that are pending. Counsel for Mr. Jackson objects to the request to expedite his case. There is no compelling interest advanced by the State of Ohio to justify the setting of an expedited execution date.

On February 27, 2013, the Capital Habeas Unit of the Office of the Federal Public Defender for the Northern District of Ohio was appointed by the federal district court for the Southern District of Ohio to assist habeas counsel from the Ohio Public Defender with preparations for clemency. As counsel for the State of Ohio discussed in their motion, the case against Mr. Jackson began sixteen years ago. Newly appointed counsel are not familiar with Mr. Jackson's case and will need time to do so. Expediting the setting of an execution date would leave insufficient time for counsel to investigate the facts and issues of this case at a time when in depth knowledge of the case is critical.

In order to prepare an adequate and effective clemency presentation, counsel must undertake a full investigation of the case. The ABA *Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases* (rev. ed. 2003), reprinted in 31 Hofstra L. Rev. 913, 937 (2003) (footnote omitted), speak to the scope of the review counsel must conduct in order to effectively discharge counsel's duties. The ABA *Guidelines* require counsel to:

- "be familiar with the procedures for and permissible substantive content of a request for clemency";
- to "conduct an investigation in accordance with Guideline 10.7";

- to “ensure that clemency is sought in as timely and persuasive a manner as possible, tailoring the presentation to the characteristics of the particular client, case and jurisdiction”; and
- to “ensure that the process governing consideration of the client’s application is substantively and procedurally just, and, if its not, should seek appropriate redress.”

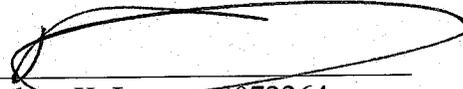
Guideline 10.15.2, 31 Hofstra L. Rev. at 1088. Counsel require adequate time to conduct a thorough investigation and review of Mr. Jackson’s case. The setting of an expedited execution date is unnecessary in this case and could deny Mr. Jackson’s rights to due process and equal protection. In addition, counsel may discover during the review and investigation of Mr. Jackson’s case, that there are issues that will necessitate further litigation in state and federal court. *See, Martinez v. Ryan*, 132 S. Ct. 1309 (2012).

While the CHU will work closely with current counsel from the Office of the Ohio Public Defender, the review and investigation of Mr. Jackson’s case by the Capital Habeas Unit will also be effected by the anticipated furlough of all employees of the Office of the Federal Public Defender beginning May 10, 2013, as a result of the national sequester order signed by President Obama that require severe budgetary reductions to most federal agencies. This budget crisis was not a reality when the CHU accepted the appointment to Mr. Jackson’s case. Employees of the CHU will be prohibited from working every Friday until at least the end of September, and there is a possibility the furloughs could continue into the next fiscal year.

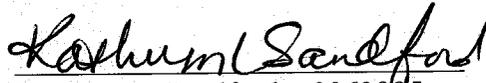
Therefore, the granting of the State of Ohio’s request to set Mr. Jackson’s execution date in an expedited fashion will impose an necessary heavy burden on counsel and deprive Mr. Jackson of his rights to due process and adequate representation. For all of these reasons, Appellant requests this Court deny the State of Ohio’s motion for expedited consideration.

Respectfully submitted,

Office of the Ohio Public Defender



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Assistant State Public Defender
Counsel of Record

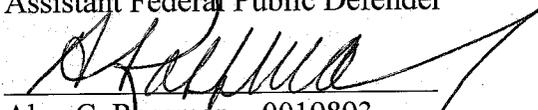


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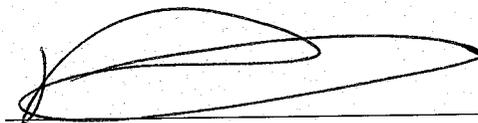


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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Memorandum in Opposition was forwarded by first-class, postage prepaid U.S. Mail to Steven L. Taylor, Chief Counsel, Appellate Division, Franklin County Prosecutor's Office, 373 South High Street, 13th Floor, Columbus, Ohio 43215, on the 1st day of April, 2013.



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