

ORIGINAL

IN THE  
SUPREME COURT OF OHIO

STATE OF OHIO,	:	
Plaintiff-Appellee	:	Case No. 1999-0093
	:	
v.	:	Death Penalty Case
	:	
JAMES G. HANNA,	:	
Defendant-Appellant.	:	

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MOTION TO SET EXECUTION DATE

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**Case No. 1999-0093**

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Now comes the State of Ohio, and moves this Court to set an execution date for the Defendant, James G. Hanna. The reasons in support of this motion are set forth in the attached memorandum.

Respectfully submitted,



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## MEMORANDUM IN SUPPORT

### **INTRODUCTION**

In 1998, the Warren County Court of Common Pleas convicted and sentenced the Defendant, James G. Hanna, to death for the aggravated murder of his cellmate Peter Copas. In the succeeding 15 years, the Defendant has pursued all avenues of appeal available under applicable Ohio and federal law in hopes of overturning his conviction and sentence. Every level of the court system—from the Warren County Court of Common Pleas to the Supreme Court of the United States—has upheld his aggravated murder conviction and death sentence. Since the Defendant has completed all state and federal litigation available to him, the State of Ohio respectfully requests this Court to set an execution date for him.

### **STATE COURT PROCEEDINGS**

On August 22, 1997, while already having served almost two decades of a life sentence for murder at Lebanon Correctional Institution, the Defendant stabbed his cellmate of four days in the eye with a sharpened paintbrush and hit Peter Copas in head with a padlock placed in a sock. Nearly three weeks later, Peter Copas died due to complications with the sharpened paintbrush causing extensive brain injuries.

In a letter to an inmate at the Southern Ohio Correctional Facility, the Defendant described the events that had occurred follows:

Well, it's like this Dennis, I caught a murder # 1 case on my cellie at Lebanon. He was a maggot baby-raper-killer I found out, and those idiots of the administration there wouldn't move him the hell out of my cell, so I took him out of his misery. I made him suffer pretty good too, because first of all, I stabbed one of his eyeballs up out of its socket, and then I beat all on his stupid-ass-head off-and-on for two (2) hours (4:00 a.m. to 6:00 a.m.) in the morning until count

time when they came and got us both up out of the cell. --He lived for twenty-and-a-half (20 1/2 ) hours after that before he croaked.

*State v. Hanna*, 95 Ohio State 3d 285, 2002-Ohio-2221, 767 N.E.2d 678, ¶17.

A Warren County Grand Jury indicted the Defendant on January 26, 1998 for purposely causing Peter Copas' death with prior calculation and design, a violation of R.C.<sup>1</sup> 2903.01(A). Additionally, the capital count included three specifications: (I) committing the offense while as a prisoner in a detention facility, under R.C. 2929.04(A)(4); (II) being previously convicted of a prior offense that included the essential element of a purposeful killing, under R.C. 2929.04(A)(5); and (III) being a repeat violent offender, under R.C. 2929.01.

The case went to trial on October 28, 1998. The Defendant was convicted by a jury of the aggravated murder charge and the specification for committing the offense while as a prisoner in a detention facility. The trial judge separately found him guilty of the other two specifications. The jury recommended a death sentence, and the trial court sentenced him to death for the murder of Copas and eight years for the repeat violent offender specification.

The Defendant directly appealed his convictions and sentence to the Supreme Court of Ohio. The Supreme Court of Ohio affirmed the Defendant's convictions and death sentence. *Hanna*, 2002-Ohio-2221. The Supreme Court of the United States denied the Defendant's Petition for Writ of Certiorari. *Hanna v. Ohio*, 537 U.S. 1036, 123 S.Ct. 554, 154 L.Ed.2d 455 (2002).

The Defendant then filed a petition for post-conviction relief in the Warren County Court of Common Pleas. The trial court denied the Defendant's petition, which

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<sup>1</sup> Ohio Revised Code.

was affirmed on appeal in the Warren County Court of Appeals, Twelfth Appellate District. *State v. Hanna*, 12th Dist. No. CA2001-04-032, 2001-Ohio-8623. This Court declined further review. *State v. Hanna*, 96 Ohio St.3d 1441, 2002-Ohio-3344, 770 N.E.2d 1050.

### **FEDERAL COURT PROCEEDINGS**

On November 17, 2003, the Defendant filed a petition for writ of habeas corpus with the United States District Court for the Southern District of Ohio. An evidentiary hearing was conducted on March 20 and 21, 2007. On November 18, 2008, the magistrate judge issued a report and recommendation that recommended denying the Defendant's writ of habeas corpus. The district court judge adopted the recommendation and denied the Defendant's petition for writ of habeas corpus. *Hanna v. Ishee*, S.D. Ohio No. C-1:03-CV-801, 2009 WL 485487 (Feb. 26, 2009). The Sixth Circuit Court of Appeals affirmed the district court's decision. *Hanna v. Ishee*, 694 F.3d 596 (6th Cir. 2012). On October 7, 2013, the Supreme Court of the United States declined further review. *Hanna v. Robinson*, \_\_\_ U.S. \_\_\_, 2013 U.S. LEXIS 6412.

### **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 upon this litigation.

### **CONCLUSION**

The Defendant has fully exhausted all available legal challenges to his convictions and death sentence. In *State v. Steffen*, 70 Ohio St.3d 399, 412, 639 N.E.2d 67 (1994), this Court held, once a capital defendant has exhausted his direct appeal, post-

conviction relief and 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. The Defendant does not have any pending petition for stay before this Court.

As Chief Justice Moyer observed in *Steffen*,

[w]e, 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.

*Id.* at 407.

Since the Defendant has exhausted his state and federal review, there is no further impediment to prevent this Court from setting an execution date. Accordingly, the State of Ohio respectfully requests this Court to set a date for James G. Hanna's execution.

Respectfully Submitted,



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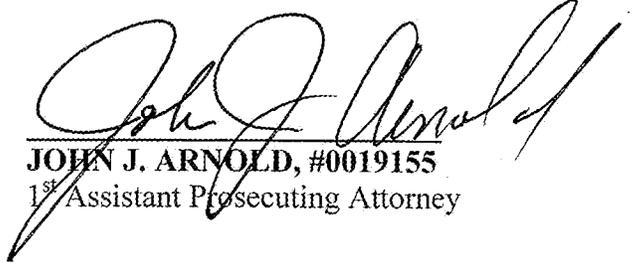


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**CERTIFICATE OF SERVICE**

I, hereby certify that a copy of the foregoing was mailed by Ordinary US Mail to Rachel Troutman & Tyson L. Flemming, Assistant State Public Defenders, 250 East Broad Street, Suite 1400, Columbus, Ohio 43215 on this the 17<sup>th</sup> day of OCTOBER, 2013.



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