

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO

Plaintiff-Appellee,

Case no. 2005-1656

v.

ROLAND T. DAVIS

*[Death Penalty Case Appeal]*

Defendant-Appellant.

*[On Direct Appeal From Licking County  
Court of Common Pleas]*

---

APPELLEE'S NOTICE, PURSUANT THIS COURT'S ORDER OF JANUARY 17, 2008,  
THAT ALL PROCEEDINGS BEFORE COURTS OF THIS STATE  
HAVE BEEN EXHAUSTED

---

*Counsel for Appellee:*

**Kenneth W. Oswald (0037208)**  
Prosecuting Attorney

*Counsel of Record*

Licking County Prosecutor's Office  
20 South Second Street  
Newark, Ohio 43055  
(740) 349-6195  
(740) 349-6179 [fax]

*Counsel for Appellant:*

**David C. Stebbins (0005839)**  
Counsel of Record  
400 South Fifth Street, Suite 202  
Columbus, Ohio 43215  
(614) 228-9058  
(614) 221-8601 [fax]

*Counsel of Record*

**Carol Wright (0029782)**  
Federal Public Defender's Office  
Capital Habeas Unit  
1450 Liberty Avenue  
Pittsburgh, PA 15222-3714  
(412) 644-6565

FILED

NOV 27 2013

CLERK OF COURT  
SUPREME COURT OF OHIO

NOTICE

By Order of this Court filed January 17, 2008 this Court granted Defendant-Appellant a stay of his execution. That Order provided:

This cause came on for further consideration of appellant's motion for stay of execution scheduled for April 2, 2008. Upon consideration thereof,

It is ordered by the Court that the motion is granted.

It is further ordered that this stay shall remain in effect until exhaustion of all state post-conviction proceedings, including any appeals.

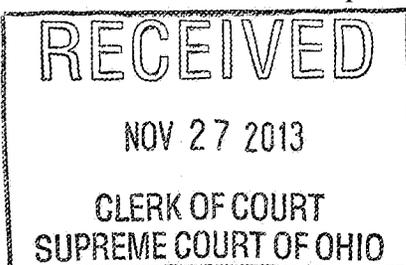
It is further ordered that counsel for appellant and for the appellee shall notify this Court when all proceedings for post-conviction relief before the courts of this state have been exhausted.

(Order of January 17, 2008.)

The Appellee hereby notifies this Court that, with the denial by this Court of discretionary jurisdiction in Case No. 2012-0474 on June 15, 2013, to Appellee's knowledge and belief, the Appellant has exhausted "all proceedings for post-conviction relief *before the courts of this state*". (Order of January 17, 2008. Emphasis added.)

The Appellee would, however, advise the Court that the Appellant currently has federal proceedings pending to include: (1) a pending Petition for a Writ of Certiorari before the United States Supreme Court in *Davis v. Ohio*, Case No. 13-7225; and (2) pending, but stayed, federal district court habeas proceedings in *Davis v. Bobby*, Fed. District Court for the Southern District of Ohio, Case No. 2:10-cv-107.

While this Court may have intended for a Petition for a Writ of Certiorari to the United States Supreme Court to be included in the scope of the stay previously granted given that prior Order's use of the phrase "including any appeals", this Court's later use of the phrase "before



the courts of this state” in the provisions of the Order requiring counsel to provide Notice, suggested otherwise.

Accordingly, the Appellee, out of an abundance of caution, is providing the instant notice given that all proceedings before the courts of “this state” have been exhausted.

Respectfully submitted,



\_\_\_\_\_  
Kenneth W. Oswalt, Reg. #0037208  
Prosecuting Attorney

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been sent by regular U.S. Mail this 26<sup>th</sup> day of November, 2013 to the Attorney for Defendant-Appellant as identified on the coversheet hereto. *In addition*, a courtesy copy of this Notice was also provided this same date, and also by regular U.S. Mail to, Attorney Kort Gatterdam (who represents Defendant-Appellant in the pending proceedings before the United States Supreme Court), at Carpenter, Lipps & Leland, LLP, 280 Plaza, Suite 1300, 280 North High Street, Columbus, Ohio 43215.



\_\_\_\_\_  
Kenneth W. Oswalt, Reg. #0037208  
Prosecuting Attorney