

ORIGINAL

IN THE
SUPREME COURT OF OHIO

STATE OF OHIO : NO. 2013-1010
Plaintiff-Appellee :
vs. :
TERRELL VANZANDT, F.K.A. :
TERRELL ASBERRY :
Defendant-Appellant :

MOTION TO STRIKE APPELLANT'S MERIT BRIEF OR TO
ORDER SERVICE AND TO IMPOSE A NEW FILING DEADLINE
PURSUANT TO RULE 3.11(D)

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FILED
JAN 03 2014
CLERK OF COURT
SUPREME COURT OF OHIO

COUNSEL FOR DEFENDANT-APPELLANT, TERRELL VANZANDT, F.K.A. TERRELL
ASBERRY

RECEIVED
JAN 03 2014
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STATE OF OHIO	:	NO. 2013-1010
Plaintiff-Appellee	:	
vs.	:	<u>MOTION TO STRIKE</u>
TERRELL VANZANDT, F.K.A.	:	<u>APPELLANT'S MERIT BRIEF OR</u>
TERRELL ASBERRY	:	<u>TO ORDER SERVICE AND TO</u>
Defendant-Appellant	:	<u>IMPOSE A NEW FILING</u>
	:	<u>DEADLINE PURSUANT TO RULE</u>
	:	<u>3.11(D)</u>

Pursuant to Rule 3.11(D), the State of Ohio moves to strike the appellant's merit brief or to order the appellant to provide proper service and to impose a new deadline for filing a responsive merit brief because it did not receive its service copy of the appellant's brief.

For reasons that are unknown to the parties, the State did not receive its service copy of the appellant's brief. The State has spoken to counsel for the appellant and she has no objection to this motion, but will be filing a memorandum in response. Because the State is now aware that the appellant's merit brief has been filed and because the State has no reason to believe that the lack of service was anything more than a mistake on someone's part, it requests that the Court order that the document be served upon it and that a new filing deadline be imposed.

The State would note that it has known the appellant's counsel for a very long time and has a strong working relationship with her. The State wishes to emphasize that it has no doubt that whatever caused it to not receive the service copy of its brief was nothing more than some unfortunate mishap.

The State, therefore, asks this Court to either strike the appellant's brief or, more preferably, to order that the appellant serve his brief upon the State and to impose a new filing deadline.

Respectfully,

Joseph T. Deters, 0012084P
Prosecuting Attorney

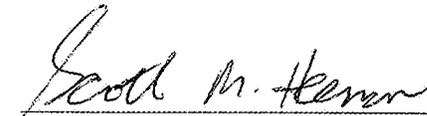


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Attorneys for Plaintiff-Appellee, State of
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PROOF OF SERVICE

I hereby certify that I have sent a copy of the foregoing Memorandum in Response, by United States mail, addressed to Christine Y. Jones, Law Office of the Hamilton County Public Defender, 230 East Ninth Street, Third Floor, Cincinnati, Ohio 45202, counsel of record, this day of January, 2014.



Scott M. Heenan, 0075734P
Assistant Prosecuting Attorney