

ORIGINAL

IN THE SUPREME COURT OF OHIO

MALIK ALLAH-U-AKBAR,

"CASE NO. 98-1483"

v.

"DEATH PENALTY CASE"

STATE OF OHIO

MOTION FOR SUMMARY JUDGMENT UPON
RULE 60 (B) (4) MOTION
FOR RELIEF FROM JUDGMENT

MALIK ALLAH-U-AKBAR
358112/dr3-331B
15802 State Route 104 N.
Chillicothe, Ohio 45601
Pro Se.

Nicholas Iarocci,
Counsel of Record,
Ashtabula County Prosecutor
25 W. Jefferson St.
Jefferson, Ohio 44047

RECEIVED
JUL 24 2014
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
JUL 24 2014
CLERK OF COURT
SUPREME COURT OF OHIO

MEMORANDUM IN SUPPORT

1. Only Congress has the power to make the laws. For under our system it is only the legislative branch embodied by Congress, and not the courts, which can make conduct criminal. United States v. Lanier, 520 U.S. 259, ___, n. 6, 137 L. Ed. 2d 432, 117 S. Ct. 1219, 1997 U.S. LEXIS 2079, *16 (1997); United States v. Hudson, 11 U.S. 32, 7 Cranch 32, 3 L. Ed. 259 (1812). What the state and court did was not authorized by the legislature. Therefore, the state lacked authority to separate the underlying felony from the alleged murder and prosecute the murder without the underlying felony. The state action violated the separation of powers doctrine. "Had the General Assembly intended that the death penalty be applied to those who simply attempt to avoid apprehension on a warrant, it would not have included the words "committed by the offender." State v. Jones, 91 Ohio St. 3d at 348.

2. In State v. Simpkins, 117 Ohio St. 3d 420, 2008-Ohio-1197, 884 N.E.2d 568, the Supreme Court reiterated that courts do not have authority to substitute different sentences for what is required by law. The court stressed that when judges disregard what the law clearly commands, they act without authority, and "such actions are not mere errors that render a sentence voidable rather than void."

3. There are no genuine issues of material fact that there was separation of the "indictments;" which violates Harris v. Oklahoma, 432 U.S. 682 (1977). (Ex. #3)

4. There are no genuine issues of material fact that the Vettel court didn't have jurisdiction over aggravated robbery, therefore, did not have jurisdiction for aggravated

(felony) murder, an element of which was the aggravated robbery. (Ex. #3)

5. There are no genuine issues of material fact that the failure to instruct the jury on reasonable doubt of the elements of aggravated robbery vitiates all the jury's findings and does not constitute a verdict of guilty beyond a reasonable doubt of aggravated murder. Sparf & Hansen v. United States, 156 U.S. 51, 105 (1895); Apprendi v. New Jersey, 530 U.S. 466, 490; Sullivan v. Louisiana, 508 U.S. 275, 278. (Ex. #6, #7, #8)

6. There are no genuine issues of material fact that the fact that Mr. Akbar was acquitted of aggravated robbery by the Mackey court. Evans v. Michigan, 133 U.S. 1069 (2013). (Ex. #5)

7. Therefore, it is without a doubt that the Mr. Akbar is entitled to the judgment of immediate release, as a matter of law cited above and below.

MOTION FOR SUMMARY JUDGMENT

8. Mr. Akbar incorporates paragraphs 1-7 by reference herein as if fully rewritten.

9. Summary judgment provides a procedure for promptly and efficiently disposing of actions or issues where there exists no genuine issue of material fact. Federal Rules of Civil Procedure 56 (C) provides in part that Summary Judgment “shall be rendered if the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56 (C).

10. Fed. R. Civ. P. 56 (C) requires that there be genuine issues as to material fact to

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defeat a properly supported motion for Summary Judgment, not merely the existence of some alleged factual dispute between the parties. **Anderson v. Liberty Lobby, Inc.** 477 U.S. 242, 247-8 (1986). The substantial law involved in the case will determine which facts are material. Only disputes over outcome determinative facts will bar a grant of Summary Judgment.

11. While the moving party bears the initial burden of demonstrating that there are no genuine issues of material fact, the party opposing the motion has the burden to come forth with sufficient proof to support its claim that there exists genuine issues of material fact, particularly when that party has had an opportunity to conduct discovery. **Celotex Corp. v. Catrett**, 477 U.S. 317, 323 (1986).

12. There is no genuine issue of material fact that Mr. Akbar was not charged in (indictment) case no. 97-CR-221 with the allegations contained in the "indictment" of case no. 97-CR-220. (Ex. #1, 2#). "There can be no trial, conviction, or punishment for a crime without a formal and sufficient accusation. In the absence thereof the court acquires no jurisdiction whatever, and if it assumes jurisdiction, a trial and conviction are a nullity. * * *," **STEWART v. STATE (1932)**, 41 Ohio App. 351, at 353-354.

13. There is no genuine issue of material fact that the assignment of case no. 97-CR-220 "aggravated robbery indictment" to the court of "Judge Mackey" means that the court of "Judge Vettel" did not have jurisdiction to try, convict, or sentence Mr. Akbar for case no. 97-CR-220 (Ex. #3). Thus, Mr. Akbar is entitled to judgment as a matter of law.

14. There are no genuine issues of material fact that the state divided felony murder into two separate crimes/charges/indictments, therefore, Mr. Akbar's custody has been in violation of double jeopardy, at least, since that division took place. **Harris v. Oklahoma, 433 U.S. 682 (1977).** The Supreme Court has described its *per curiam* in **Harris** as standing for the proposition that, for double jeopardy purposes, "the crime generally described as felony murder" is not "a separate offense distinct from its various elements." **Illinois v. Vitale, 447 U.S. 410, 420-421, 65 L. Ed. 2d 228, 100 S. Ct. 2260 (1980).**

15. There is no genuine issue of material fact that according to the "Supreme Court" of Ohio's interpretation of Ohio law,

"R.C. 2929.04(A) plainly states that all of the aggravating circumstances listed therein, including that contained in subsection (A)(3) [aggravated robbery], must be proven beyond a reasonable doubt. Indeed, conviction under any lesser standard of proof would be inconsistent with the Due Process Clause of the Fourteenth Amendment to the United States Constitution. . . . Had the General Assembly intended that the death penalty be applied to those who simply attempt to avoid apprehension on a warrant, it would not have included the words "committed by the offender.""

State v. Jones, 91 Ohio St. 3d at 347-348.

16. There are no genuine issues of material fact that the trier of facts were not instructed on any of the elements of aggravated robbery.

17. There are no genuine issues of material fact, therefore, that the "Ohio Supreme Court" affirmed a hypothetical verdict (on elements of aggravated robbery) that was not, in fact, rendered, which an appellate court may not do. Thus, Mr. Akbar is entitled to judgment as a matter of law. **Sullivan v. Louisiana, 508 U.S. 279.**

18. There are no genuine issues of material fact that “it is axiomatic that a conviction upon a charge not made or upon a charge not tried constitutes a denial of due process.”

Cole v. Arkansas, 333 U.S. 196, 201; Presnell v. Georgia, 439 U.S. 14.

19. There are no genuine issues of material fact that those charges (case no. 97-CR-220) were dismissed, nolle prosequi, (June 9th, 1998) prior to “Final Appealable Order” (June 11th, 1998). (Ex. 5#, #7)

20. There are no genuine issues of material fact that *nolle prosequi* means: I will (have not) not prosecute. Therefore, by the state's own admission, not been prosecuted for, nor found guilty of, aggravated robbery. Thus, Mr. Akbar is entitled to judgment as a matter of law. (Ex.#5)

21. There are no genuine issues of material fact *nolle prosequi* amounts to an acquittal under state and federal law.

22. A *nolle prossed* case ceases to exist. A nolle prosse cannot be entered by the state without operating as an acquittal to the accused. Any action taken subsequent to filing of the *nolle prosequi* is nullity. **Green v. United States, 355 U.S. 184 (1957).**

23. There are no genuine issues of material fact that the court's entry of dismissal/acquittal is the law of the case regarding aggravated robbery. (Ex. #5)

25. There are no genuine issues of material fact that any relitigation of Mr. Akbar's guilt or innocence on aggravated robbery is precluded by double jeopardy and collateral estoppel. Thus, Mr. Akbar is entitled to judgment as a matter of law.

26. There are no genuine issues of material fact that the a court without jurisdiction

cannot try, convict, or sentence a person; its pronouncements are void. A nullity. "The effect of determining that a judgment is void is well established. It is as though such proceedings had never occurred; the judgment is a mere nullity and the parties are in the same position as if there had been no judgment." State v. Bezak, 114 Ohio St.3d 94, 2007 Ohio 3250, 868 N.E.2d 961, P 12, quoting Romito v. Maxwell (1967), 10 Ohio St.2d 266, 267-268, 39 O.O.2d 414, 227 N.E.2d 223.

27. There are no genuine issues of material fact that a void judgment does not constitute a "Final Appealable Order." Ohio appellate courts have uniformly recognized that "void judgments do not constitute final, appealable orders." **State ex rel. Carnail v. McCormick**, 125 Ohio St. 3d 124 (2010). See generally Brown v. Brown, 183 Ohio App.3d 384, 2009 Ohio 3589, 917 N.E.2d 301, P 21; State v. Gilmer, 160 Ohio App.3d 75, 2005 Ohio 1387, 825 N.E.2d 1180, P 6; State v. Whitehouse, Lorain App. No. 09CA009581, 2009 Ohio 6504, P 8; Pauer v. Langaa, Cuyahoga App. No. 83232, 2004 Ohio 2019, P 12; Reed v. Montgomery Cty. Bd. of Mental Retardation & Dev. Disabilities (Apr. 27, 1995), Franklin App. No. 94APE10-1490, 1995 Ohio App. LEXIS 1755, 1995 WL 250810, *4.

28. A court of appeals has no jurisdiction over orders that are not final and appealable, **Section 3(B)(2), Article IV, Ohio Constitution**.

29. There are no genuine issues of material fact that acquittal of the aggravated robbery is an acquittal of elements of the state's theory of prior calculation and design; I.e. aggravated murder. Thus, Mr. Akbar is entitled to judgment as a matter of law.

EVANS v. MICHIGAN, 133 S.Ct. 1069 (2013); APPRENDI v. NEW JERSEY, 530 U.S. 466.

30. There are no genuine issues of material fact that the state removed from the trier of fact's consideration whether Mr. Akbar committed aggravated robbery and thus directed the verdict as to the elements of prior calculation and design, I.e. aggravated (felony) murder. The state was relieved of its burden. The jury was prevented from finding the Petitioner not guilty. There has been no trial by jury.

31. There are no genuine issues of material fact that the state cannot hold a Person in custody for over sixteen years where he's been acquitted of the charge. His speedy trial rights have been violated. There is no process by which the state can make its incarceration of Mr. Akbar legal. The process was void from the point the "indictments" were divided, at least. Secondly, proceedings became void at the point Mr. Akbar was acquitted of aggravated robbery, June 9th, 1998. Double Jeopardy precluded trial, conviction, sentence, respectively, then and it precludes further imprisonment now.

32. The only valid judgment in the case is the dismissal/acquittal of the aggravated robberies (Ex. #5). **EVANS v. MICHIGAN, 133 S.Ct. 1069 (2013).** Mr. Akbar is entitled to that judgment as a matter of law. The fact that the court "misconstrued" the statutes necessary to charge and convict is the state's error. The Supreme Court has long held that a verdict of acquittal cannot be reviewed without putting a defendant twice in jeopardy, and thereby violating the U.S. Constitution.

33. The court's "misunderstanding" of the elements necessary to sustain a conviction

also caused it to erroneously deny the Rule 29 motion, and was no misunderstanding at all. Mr. Akbar asserts that the court and prosecutor knew exactly what they were doing.

34. It is well settled in Ohio that a void indictment makes the judgment of conviction equally void. A void indictment renders the judgment void for lack of jurisdiction of the subject matter. *State v. Cimpritz (1953), 158 Ohio St., 490.* "All crimes are statutory.

The elements necessary to constitute the crime must be gathered wholly from the statute and the crime must be described within the terms of the statute. Moreover, no act is a crime except an act done in violation of the express provisions of a statute or ordinance legally enacted." *Cimpritz, 158 Ohio St. at 492.* (underline added) "A void indictment [is] one which describes no offense that exists under the statutes of the state."

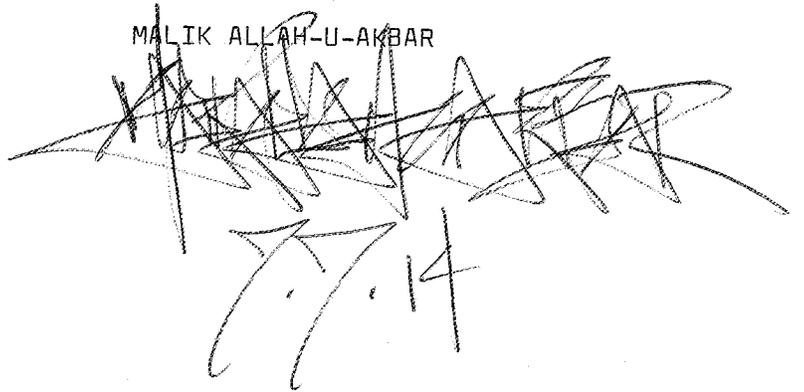
Henderson v. Cardwell (C.A.6, 1970), 426 F.2d 150, 152. The law is clear in Ohio that "if a vital and material element identifying or characterizing an offense is omitted from an indictment, the indictment is insufficient to charge an offense and cannot be remedied by the court." *Cimpritz, 158 Ohio St. at 493.* "It follows that the court may not supply words essential to the description of an offense, without which no violation is charged."

State v. Parker (1948), 150 Ohio St. 22, 26, 80 N.E.2d 490.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion For Summary Judgment was sent to Nicholas Iarocci, Ashtabula County Prosecutor, 25 W. Jefferson St., Jefferson, Ohio 44047, on this 7th day of July, 2014, by regular U.S. mail.

MALIK ALLAH-U-AKBAR

A large, dense handwritten signature in black ink, appearing to be 'MALIK ALLAH-U-AKBAR', is written over the typed name. Below the signature, the date '7.7.14' is handwritten.

(9)

220
CASE NO. 97-CR-DIRECT

1

1997 GRAND JURY
SEPTEMBER SESSION, NOVEMBER RECALL, SPECIAL SESSION

COMMON PLEAS COURT
Ashtabula County, Ohio

THE STATE OF OHIO

vs.

ODRAYE G. JONES

INDICTMENT FOR:

AGGRAVATED ROBBERY (TWO COUNTS) (F-1) (w/spec.)

NOV 26 9 12 AM '97
CAROL A. HEAD
COMMON PLEAS COURT
ASHTABULA CNTY. OH
FILED

A TRUE BILL

Susan E. Golen
SUSAN E. GOLEN
GRAND JURY FOREMAN

RECEIVED
97 NOV 26 AM 10 47
W. R. JOHNSON, SHERIFF
ASHTABULA COUNTY
ASHTABULA, OHIO

THOMAS L. SARTINI
PROSECUTING ATTORNEY

INDICTMENT - TWO COUNTS

STATE OF OHIO)
) SS.
COUNTY OF ASHTABULA)

CASE NO.- DIRECT

STATE OF OHIO VS. ODRAYE G. JONES

Of the September Term, November Recall, Special Session, November 25, 1997:

THE JURORS OF THE ASHTABULA COUNTY GRAND JURY of the State of Ohio on their oaths, in the name and by the authority of the State of Ohio, do find and present that:

COUNT ONE

On or about the 18th day of October, 1997, in the City of Ashtabula, Ashtabula County, Ohio, one ODRAYE G. JONES did, in attempting or committing a theft offense, as defined in section 2913.01 of the Revised Code, or in fleeing immediately after the attempt or offense did have a deadly weapon, as defined in section 2923.11 of the Revised Code, on or about his person or under his control and did display the weapon, brandish it, indicate that he possessed it, or used said weapon.

Specification 1 of Count One: The Grand Jury further finds and specifies that ODRAYE G. JONES had a firearm on or about his person or under his control while committing this offense and displayed the firearm, brandished the firearm, indicated that he possessed the firearm, or used it to facilitate the offense in violation of Section 2941.145 of the Ohio Revised Code.

This act, to-wit: Aggravated Robbery, with a three (3) year firearm specification, constitutes a Felony of the First degree, contrary to and in violation of the Ohio Revised Code, Title 29, §2911.01, and against the peace and dignity of the State of Ohio.

COUNT TWO

On or about the 8th day of November, 1997, in the City of Ashtabula, Ashtabula County, Ohio, one ODRAYE G. JONES did, in attempting or committing a theft offense, as defined in section 2913.01 of the Revised Code, or in fleeing

immediately after the attempt or offense did have a deadly weapon, as defined in section 2923.11 of the Revised Code, on or about his person or under his control and did display the weapon, brandish it, indicate that he possessed it, or used said weapon.

Specification 1 of Count Two: The Grand Jury further finds and specifies that **ODRAYE G. JONES** had a firearm on or about his person or under his control while committing this offense and displayed the firearm, brandished the firearm, indicated that he possessed the firearm, or used it to facilitate the offense in violation of Section 2941.145 of the Ohio Revised Code.

This act, to-wit: Aggravated Robbery, with a three (3) year firearm specification, constitutes a Felony of the First degree, contrary to and in violation of the Ohio Revised Code, Title 29, §2911.01, and against the peace and dignity of the State of Ohio.

RESPECTFULLY SUBMITTED,



THOMAS L. SARTINI, 0001937
PROSECUTING ATTORNEY

221
CASE NO. 97-CR-DIRECT

EX-#2

1997 GRAND JURY
SEPTEMBER SESSION, NOVEMBER RECALL, SPECIAL SESSION

P-230
H/W-230

COMMON PLEAS COURT
Ashtabula County, Ohio

THE STATE OF OHIO

vs.

ODRAYE G. JONES

INDICTMENT FOR:

AGGRAVATED MURDER w/specs

NOV 26 9 13 AM '97
CAROL A. H. ALLEN
COMMON PLEAS COURT
ASHTABULA COUNTY
FILED

A TRUE BILL

Susan E. Golen

SUSAN E. GOLEN
GRAND JURY FOREMAN

THOMAS L. SARTINI
PROSECUTING ATTORNEY

✓

MF 1343

INDICTMENT - ONE COUNT

STATE OF OHIO)
) SS.
COUNTY OF ASHTABULA) CASE NO.- DIRECT

STATE OF OHIO VS. ODRAVE G. JONES

Of the September Term, November Recall, Special Session, November 25, 1997:

THE JURORS OF THE ASHTABULA COUNTY GRAND JURY of the State of Ohio on their oaths, in the name and by the authority of the State of Ohio, do find and present that:

COUNT ONE

On or about the 17th day of November, 1997 in the City of Ashtabula, Ashtabula County, Ohio, one ODRAVE G. JONES did, purposely and with prior calculation and design, cause the death of another, to wit: William D. Glover, Jr., a peace officer, in violation of Section 2903.01 (A) of the Ohio Revised Code and against the peace and dignity of the State of Ohio.

Specification 1 of Count One: The Grand Jury further finds and specifies that the offense was committed for the purpose of escaping detection, apprehension, trial, or punishment of another offense committed by the defendant, to wit; aggravated robbery, an aggravating circumstance as specified in Section 2929.04 (A) (3) of the Ohio Revised Code.

Specification 2 of Count One: The Grand Jury further finds and specifies that the victim of the offense, William D. Glover, Jr., was a peace officer, as defined in Section 2935.01 of the Ohio Revised Code whom the defendant had reasonable cause to know or knew to be such and at the time of the offense the victim, William D. Glover Jr. , was engaged in his duties as a peace officer, an aggravating circumstance as specified in Section 2929.04 (A) (6) of the Ohio Revised Code.

Specification 3 of Count One: The Grand Jury further finds and specifies that ODRAYE G. JONES had reasonable cause to know or knew William D. Glover, Jr., was a peace officer as defined in Section 2935.01 of the Ohio Revised Code, and that it was Odraye G. Jones' specific purpose to kill a peace officer at the time of the offense, an aggravating circumstance as specified in Section 2929.04 (A) (6) of the Ohio Revised Code.

Specification 4 of Count One: The Grand Jury further finds and specifies that ODRAYE G. JONES had a firearm on or about his person or under his control while committing this offense and displayed the firearm, brandished the firearm, indicated that he possessed the firearm, or used it to facilitate the offense in violation of Section 2941.145 of the Ohio Revised Code.

This offense constitutes the crime of Aggravated Murder with specifications, an offense for which the Death Penalty may be imposed, with a Three Year Firearm Specification, in such case made and provided and against the dignity of the State of Ohio.

RESPECTFULLY SUBMITTED,


THOMAS L. SARTINI, 0001937
PROSECUTING ATTORNEY

E. # 3

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

DEC 4 2 45 PM '97
CAROL A. HEAD
COMMON PLEAS COURT
ASHTABULA COUNTY, OH
FILED

THE STATE OF OHIO,

Plaintiff,

-vs-

ODRAYE G. JONES,

Defendant.

CASE NO. 97-CR-220

JUDGMENT ENTRY

This 3rd day of December, 1997, came Prosecuting Attorney Thomas L. Sartini and Assistant Prosecuting Attorney Ariana Tarighati; and also came the defendant, Odraye G. Jones, under warrant heretofore issued on an indictment charging under each of Counts One and Two the offenses of Aggravated Robbery, with specifications, in violation of R.C. 2911.01, the same being felonies of the first degree.

Whereupon, the Court explained to the defendant the nature of the charges and provided an explanation of his rights pursuant to Criminal Rule 10.

The Court determined that the defendant, Odraye G. Jones, was an indigent person and appointed Marc B. Minor and Andrew J. Love of the State Public Defender's Office as counsel for the defendant for arraignment purposes only. With said counsel present in court, the defendant was thereupon arraigned. The Court further appointed David L. Doughten as trial counsel of record for the defendant in this case.

A copy of the indictment having been furnished the

Case No. 97-CR-220
Ohio v. Jones

December 4, 1997

defendant more than one day prior hereto, and counsel having had the opportunity to examine it, the defendant thereupon waived the reading of the indictment.

The defendant then being inquired of by the Court whether he is guilty or not guilty of the offenses as charged for plea says to each count that he is not guilty.

The date for trial will be set by the Assignment Commissioner of this Court within the time limits of R.C. 2945.71(C), and written notice thereof furnished to counsel.

Upon inquiry of the Court, the defendant indicated that he has been incarcerated on this case since November 18th, 1997.

This case is assigned to Judge Alfred W. Mackey.

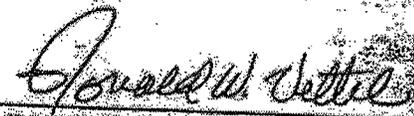
Bond as previously set in the sum of Fifty Thousand Dollars (\$50,000.00) cash or surety is continued. The defendant is remanded to the custody of the Ashtabula County Sheriff's Department in lieu of posting said bond.

Pursuant to Civil Rule 58(B), the Clerk of this Court is ordered to serve copies of this Judgment Entry upon Prosecuting Attorney Thomas L. Sartini; defense counsel for the arraignment, Marc B. Minor and Andrew J. Love of the State Public Defender's Office, 8 East Long Street, 11th Floor, Columbus, Ohio 43215; to trial counsel, David L. Doughten, 4403 St. Clair Avenue, Cleveland, Ohio 44103-1125; Honorable Alfred W. Mackey; the

Case No. 97-CR-220
Ohio v. Jones

December 4, 1997

Ashtabula County Sheriff's Department; and the Assignment
Commissioner.



RONALD W. VETTEL, JUDGE

December 4, 1997
RWV/tlt

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

DEC 4 2 41 PM '97
CAROL A. HEAD
COMMON PLEAS COURT
ASHTABULA CNTY. OH.
FILED

THE STATE OF OHIO,)
)
Plaintiff,)
)
-vs-)
)
ODRAYE G. JONES,)
)
Defendant.)

CASE NO. 97-CR-221
JUDGMENT ENTRY

This 3rd day of December, 1997, came Prosecuting Attorney Thomas L. Sartini and Assistant Prosecuting Attorney Ariana Tarighati; and also came the defendant, Odraye G. Jones, under warrant heretofore issued on an indictment charging Aggravated Murder, with specifications of aggravating circumstances and a specification of firearm use, in violation of R.C. 2903.01(A).

Whereupon, the Court explained to the defendant the nature of the charge and provided an explanation of his rights pursuant to Criminal Rule 10.

The Court determined that the defendant, Odraye G. Jones, was an indigent person and appointed Marc B. Minor and Andrew J. Love of the State Public Defender's Office as counsel for the defendant for arraignment purposes only. With said counsel present in court, the defendant was thereupon arraigned. The Court further appointed David L. Doughten as lead counsel and Robert L. Tobik as co-counsel to serve as trial counsel of record for the defendant in this case. Both of said counsel are

Case No. 97-CR-221
Ohio v. Jones

-2-

December 4, 1997

certified by the Ohio Supreme Court pursuant to Rule 20 of the
Rules of Superintendence for the Courts of Ohio.

A copy of the indictment having been furnished the defendant more than one day prior hereto, and counsel having had the opportunity to examine it, the defendant thereupon waived the reading of the indictment.

The defendant then being inquired of by the Court whether he is guilty or not guilty of the offense as charged and the specifications for plea says to the charge and each specification that he is not guilty.

The date for trial will be set by the Assignment Commissioner of this Court within the time limits of R.C. 2945.71(C), and written notice thereof furnished to counsel.

Upon inquiry of the Court, the defendant indicated that he has been incarcerated since November 17th, 1997.

This case is assigned to Judge Ronald W. Vettel.

The defendant's request for bond is hereby denied for the reason that the Court finds that this is a capital case and the proof is evident or the presumption great. The defendant is ordered to be held without bond.

Pursuant to Civil Rule 58(B), the Clerk of this Court is ordered to serve copies of this Judgment Entry upon Prosecuting Attorney Thomas L. Sartini; defense counsel for the arraignment, Marc B. Minor and Andrew J. Love of the State Public Defender's Office, 8 East Long Street, 11th Floor, Columbus, Ohio 43215;

001465

Case No. 97-CR-221
Ohio v. Jones

-3-

December 4, 1997

to trial counsel, David L. Doughten, 4403 St. Clair Avenue,
Cleveland, Ohio 44103-1125, and Robert L. Tobik, 4403 St. Clair
Avenue, Cleveland, Ohio 44103; Honorable Ronald W. Vettel; the
Ashtabula County Sheriff's Department; and the Assignment
Commissioner.


RONALD W. VETTEL, JUDGE

December 4, 1997
RWV/tlt

001466

COURT OF COMMON PLEAS
ASHTABULA COUNTY
25 WEST JEFFERSON STREET
JEFFERSON, OHIO 44047-1092

EX #4

Judge Alfred W. Mackey
Judge Gary L. Yost
Judge Ronald W. Vettel

Date: December 8, 1997

TO: SANDY CLAYPOOL
SHERIFF'S DEPT.

Case No. 97 CR 00220

STATE OF OHIO

VS

ODRAYE G JONES

will be on for JURY TRIAL on Tuesday, February 10, 1998, at 09:00 AM
before Judge ALFRED W. MACKEY.

By: David F. Silva
Assignment Commissioner
PH: 440-576-3686 or 576-3687

cc: FILE COPY
DAVID L. DOUGHTEN
PROSECUTING ATTORNEY
GLEN OSBURN
JOHN BERNARDO

001458

COURT OF COMMON PLEAS
ASHTABULA COUNTY
25 WEST JEFFERSON STREET
JEFFERSON, OHIO 44047-1092

Judge Alfred W. Mackey
Judge Gary L. Yost
Judge Ronald W. Vettel

Date: December 8, 1997

TO: SANDY CLAYPOOL
SHERIFF'S DEPT.

Case No. 97 CR 00221

STATE OF OHIO

VS

ODRAYE G JONES

will be on for JURY TRIAL on Tuesday, February 03, 1998, at 09:00 AM
before Judge RONALD W. VETTEL.

By: David F. Silva
Assignment Commissioner
PH: 440-576-3686 or 576-3687

cc: FILE COPY
DAVID L. DOUGHTEN
ROBERT L. TOBIK
PROSECUTING ATTORNEY
GLEN OSBURN
JOHN BERNARDO

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

EX-15

STATE OF OHIO,

Plaintiff,

~~ATT. RECEIVED~~

CASE NO. 97-CR-220

JUDGE ALFRED W. MACKEY

vs.

ODRAYE JONES

Defendant.

MOTION TO DISMISS

JUN 9 4 21 PM '98
COURT CLERK
ASHTABULA COUNTY, OHIO

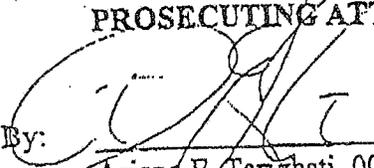
This day, came the Ashtabula County Prosecuting Attorney, THOMAS L. SARTINI, by and through Ariana E. Tarighati, Chief Assistant Prosecutor, on behalf of the State of Ohio, and with leave of Court and for good cause shown, enters a nolle prosequi, without prejudice, in the above captioned case for the reason that the defendant was convicted of Aggravated Murder and sentenced to the death penalty in Case Number 97-CR-221. The prosecutor's office has contacted the Ashtabula City Police Department and the victim in the above captioned matter and they concur in the resolution of this case in this manner. Given that the defendant has received a sentence of death, the interests of justice would not be served by further prosecution herein.

Wherefore, the State of Ohio respectfully requests this Honorable Court to dismiss the above captioned case without prejudice.

Respectfully submitted,

THOMAS L. SARTINI 0001937
PROSECUTING ATTORNEY

By:

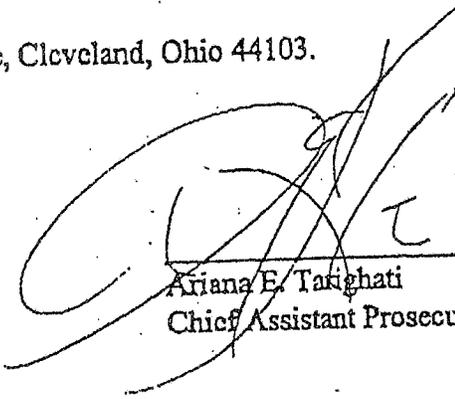

Ariana E. Tarighati 0039372
Chief Assistant Prosecutor

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MF 1386

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Dismiss has been sent by regular U.S. Mail this 10th day of June, 1998, to David Doughten and Robert Tobik, attorneys for Defendant, at 4403 St. Clair Avenue, Cleveland, Ohio 44103.



Ariana E. Tarighati
Chief Assistant Prosecutor

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

JUN 9 4 33 PM '98

STATE OF OHIO,
Plaintiff,

CAPED 4511)
COM. COURT)
ASHTABULA COUNTY, OH.)
FILED)

vs.

ODRAYE JONES,
Defendant.

CASE NO. 97-CR-220
JUDGE ALFRED W. MACKEY
JUDGMENT ENTRY

Upon application and for good cause shown, the Court finds Plaintiff's Motion To
Dismiss without prejudice is well taken.

IT IS SO ORDERED.

Alfred W. Mackey
JUDGE ALFRED W. MACKEY
CIV-I-7

Ex. #6

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A "firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. Firearm includes an unloaded firearm and any firearm which is inoperable but which can readily be rendered operable.

"On or about his person or under his control" means on or so near to his person as to be conveniently accessible and within his immediate physical reach.

To facilitate the offense, means to make easy or easier to carry out.

If your verdict is guilty of Aggravated Murder, you will then determine beyond a reasonable doubt under specification number one, whether the defendant, Odraye G. Jones, committed the offense of Aggravated Murder for the purpose of escaping apprehension, trial or punishment for another offense committed by the defendant.

Under specification number 2, whether the victim of the offense, William D. Glover, Jr., was a peace officer whom the defendant had reasonable cause to know or knew to be a peace

THE COMBY GROUP | 800 255 5040

1 written instructions.

2 The verdict form is a seven-page
3 document. On the first page it starts out with
4 the caption. It says Verdict, Court of common
5 Pleas, Ashtabula County, Ohio, May Session,
6 1998. Then it has the caption of the case. It
7 says State of Ohio, Plaintiff v. Odraye G.
8 Jones, Defendant, Case No. 97-CR-221, Indictment
9 for Aggravated Murder.

10 The first paragraph reads as follows:
11 "We, the jury in this case, being duly impaneled
12 and sworn, find the defendant, Odraye G.
13 Jones...", and then you'll see a single asterisk
14 and a blank line. If you look down below the
15 paragraph you'll see another single asterisk and
16 behind it the words "Insert in ink guilty or not
17 guilty." So on that blank line you will insert
18 the word "guilty" or the words "not guilty" in
19 accordance with your findings. And it goes on,
20 "...of Aggravated Murder in the manner and form
21 as he stands charged in the indictment under
22 Section 2903.01(A) of the Ohio Revised Code."

23 Then down below that paragraph you're
24 going to see two additional paragraphs in
25 parentheses. The first paragraph reads "If you

1 find the defendant guilty of Aggravated Murder
2 in the form above, you will consider and
3 complete the following verdict forms relating to
4 specifications 1, 2, 3 and 4."

5 The next paragraph in parenthesis says
6 "If you find the defendant not guilty of the
7 offense of Aggravated Murder, or if your unable
8 to reach a unanimous verdict of either guilty or
9 not guilty of Aggravated Murder, you will
10 consider and complete the following verdict form
11 on Page 6." If that were the case, you would
12 then go to Page 6. Below that you'll see 12
13 signature lines.

14 On Page Number 2, is specification
15 number 1. It reads, "We, the jury in this case,
16 find the defendant, Odraye G. Jones...", and
17 there you'll see a double asterisk, two of them.
18 If you look down that paragraph, you'll see
19 another double asterisk and behind it the words
20 "Insert in ink did or did not" on that blank
21 line directly to the right the word "did" or the
22 words "did not" in accordance with your
23 findings. And it goes on, "...commit the
24 offense of Aggravated Murder for the purpose of
25 escaping apprehension, trial, or punishment for

1 another offense committed by the defendant.
2 Again you'll see 12 signature lines below that
3 specification. The last line is always
4 reserved for the foreman or forelady.

5 On Page 3, it says specification number
6 2. "We, the jury in this case, find that the
7 victim of the offense, William D. Glover, Jr..."
8 and behind that you're going to see three
9 asterisks or a triple asterisk. And if you look
10 down below that paragraph you'll see another
11 triple asterisk and the words "Insert in ink was
12 or was not." On that first blank line you're
13 going to write in "was" or "was not" in
14 accordance with your findings. And it goes on,
15 "...a peace officer, whom the defendant...", and
16 then you'll see a double asterisk and you look
17 below. You'll see another double asterisk with
18 the words "Insert in ink did or did not".

19 So on that second line you're going to
20 write in the words "did" or "did not" in
21 accordance with your findings. And it goes on,
22 "... know or have reasonable cause to know to be
23 a peace officer, and at the time of the offense
24 the victim, William D. Glover, Jr...", and again
25 a triple asterisk with the words "Insert in ink

7/7

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

STATE OF OHIO,)
)
 Plaintiff,)
)
 vs.)
)
 ODRAYE G. JONES,)
)
 Defendant.)

CASE NO. 97-CR-221

~~FINAL APPEALABLE ORDER~~

SENTENCING OPINION
OF THE COURT

JUN 11 4 01 PM '98

This opinion is rendered pursuant to Ohio Revised Code §2929.03(F).

The trial of this cause commenced on May 5, 1998, a Jury was sworn on May 14, 1998, and the Jury returned a verdict on May 26, 1998, finding the Defendant guilty of Aggravated Murder, in violation of Ohio Revised Code §2903.01(A). The Defendant, Odraye G. Jones, was convicted of purposely and with prior calculation and design causing the death of another, to-wit: William D. Glover, Jr. In addition, the Jury returned a verdict of guilty of Specification No. 1 an aggravating circumstance as specified in Ohio Revised Code §2929.04(A)(3), of Specification No. 2 an aggravating circumstance as specified in Ohio Revised Code §2929.04(A)(6), and of Specification No. 3 an aggravating circumstance as specified in Ohio Revised Code §2929.04(A)(6). Thereafter, and prior to the commencement of the sentencing phase of the trial, the Court merged Specification No. 2 and Specification No. 3.

On June 2, 1998, the Court commenced the sentencing phase of the trial and on June 4, 1998, the Jury returned a verdict recommending the penalty of death.

On June 8, 1998, the Court conducted a sentencing hearing at which time the Court found independently, after weighing the aggravating circumstances against the mitigating factors, that the aggravating circumstances outweighed the mitigating factors beyond a reasonable doubt, and the Court thereupon imposed the sentence of Death.

The Court finds that the following aggravating circumstances were proved beyond a reasonable doubt, to-wit:

1. That the Defendant committed the offense of Aggravated Murder for the purpose of escaping apprehension, trial or punishment for the commission of another offense committed by the Defendant. The evidence established that on November 10, 1997, a warrant for the arrest of the Defendant, Odraye G. Jones, was issued by the Ashtabula Municipal Court on a charge of Aggravated Robbery. The Defendant was aware that he was wanted by the police and had discussed this fact with Jimmy Lee Ruth. The Defendant told Ruth he knew he was facing a lot of time and if the police tried to arrest him he would shoot the police. The evidence established that at the time Officer Glover exited his police cruiser and approached the Defendant who was standing on a porch at 907 West 43rd Street, that the officer motioned to the Defendant and stated "You know why I am here, I am only doing my job". The Defendant then jumped over the railing of the porch and began to flee north along the side of the residence. Officer Glover took off in pursuit of the Defendant and after chasing him,

to the rear of the residence and behind a garage area, was shot four (4) times by the Defendant who was observed to produce a hand gun and fire the fatal shots.

2. That the Defendant, at the time he committed the offense of Aggravated Murder, knew or had reasonable cause to know that the victim, William D. Glover, Jr., was a peace officer who, at the time, was engaged in his duties as a peace officer. The evidence in this case establishes that Officer Glover, on November 17, 1997, at the time he approached the Defendant, exited a marked police cruiser and was in full uniform. The Defendant had observed Officer Glover drive by in a police car and had been told by Jimmy Lee Ruth that the police car had turned around and was returning to them. Officer Glover approached the Defendant, motioned to him to come off of a porch at 907 West 43rd Street, Ashtabula, Ohio, and stated "You know why I am here, I am only doing my job". At that time, the Defendant jumped the hand rail on the porch and fled along the side of the house in a northerly direction. The evidence established that Officer Glover pursued the Defendant around the side of the house and into a field located at the rear of a garage. At that point, the Defendant was observed by witness, Theresa Taylor, to pull a hand gun from his coat pocket, to extend his right arm and to fire the gun at the police officer. The evidence established that the officer fell to ground after the first two shots, at

which time the Defendant walked back to the officer, and from a distance of two to twelve inches, fired two more shots, one striking the officer below the eye and the second shot striking him in the top of the head. Scientific evidence established that gun powder residue and stippling found on the deceased established the close proximity of the fatal shots. The victim was, in fact, a full time patrolman employed by the Ashtabula City Police Department in Ashtabula County, Ohio. From tape recordings made of the police radio system, it was established that Officer Glover, at the time, was attempting to arrest the Defendant on the warrant for Aggravated Robbery previously issued by the Ashtabula Municipal Court.

The Court has considered and weighed the mitigating factors which were presented by the Defendant. Those mitigating factors are as follows:

1. The nature and circumstances of the offense has been considered by the Court to determine whether they are mitigating in nature. From the evidence, it has been established that the Defendant fled from the victim in order to avoid apprehension on an Aggravated Robbery warrant previously issued by the Ashtabula Municipal Court. During the pursuit, the evidence established that the Defendant ran behind a residential home and into an open field at the rear of a garage. The Defendant pulled a hand gun from his coat pocket and shot the officer pursuing him in the shoulder and arm areas. When the officer fell to ground, the

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Defendant walked back to him and fired two more shots striking the victim below the eye and into the top of his head. The evidence clearly indicates that the two fatal shots were fired at a range of two to twelve inches after the officer had been struck in the shoulder and arm. The Defendant was arrested minutes after the shooting as he fled in a northerly direction two and one-half blocks from the scene. Defendant was observed to drop a hand gun which was later proved to be the murder weapon. It was also established that he had gun powder residue on his hands. The evidence in this case establishes that the killing was an execution style slaying and that there is absolutely nothing in mitigation in the nature and circumstances of the offense.

2. The history, character and background of the Defendant has been considered and weighed by the Court. The evidence presented establishes that the Defendant, Odraye G. Jones, was born on September 21, 1976. His mother, Darlene Jones, was fifteen years old at the time. During the Defendant's infancy, his mother avoided parental responsibility as established by evidence that she did not desire to feed him after his birth in the hospital, and did not care to hold or embrace the child. The Defendant's mother was in and out of his life, the Defendant living with his foster grandmother for periods of time and then with his mother. At the Defendant's age of thirteen, his mother died of an apparent drug overdose. She had been convicted previously of criminal offenses⁴⁻³⁰ and had been incarcerated during⁵

the Defendant's youth. The Defendant had no knowledge as to the identity of his father until his mother's death at his age of thirteen. No male played a role in the raising or development of the Defendant. There were no male role models in his life.

The evidence indicates that the Defendant's family was dysfunctional and that he was raised in a culture of violence. Numerous friends and relatives of the Defendant either died or were killed in violent manners or were otherwise incarcerated. Records indicated that when the Defendant was a youth on some occasions he walked himself to the hospital for medical treatment being without an adult to supervise or look after him. Evidence was received that the Defendant was provided a home with his foster grandmother, Theresa Lyons, who attempted to put a roof over his head and provide him with the necessities in life. However, Ms. Lyons was gainfully employed and often worked second shift leaving the Defendant basically unsupervised or, during his tender years, in the care of other teenage foster children. The Defendant experienced difficulty in school after the death of his mother, was often absent for periods of thirty to forty days per school year, and was eventually expelled from school for setting a fire in a waste basket. The Defendant had contacts with the juvenile justice system and had experimented with marijuana during his school years. During 1994, the Defendant was injured when struck in the head by a hammer and was hospitalized after being life flighted to Metro General Hospital in Cleveland, Ohio.

Defendant was hospitalized for three days and according to testimony, he sustained a fractured skull which did not impact the brain or cause any brain injury. The Defendant never returned for follow up treatment after being released from the hospital. However, this incident did adversely affect him in that he became isolated and distrustful of people he had previously considered to be friends. The Defendant gravitated toward gang involvement in order to provide bonds and interactions with other people which were so lacking in his family life. The Court finds that the history, character and background of the Defendant indicate that the Defendant was deprived morally and socially and raised in a culture of violence. Due to his upbringing, the Defendant never had the moral and ethical training and teaching that one would expect to receive from nurturing parents. The Court finds this mitigating factor is entitled to some weight.

3. The Court has considered the youth of the Defendant who was born on September 21, 1976, and who was of the age of twenty-one years at the time he committed the Aggravated Murder. However, the Court also finds that the Defendant had a relatively high IQ having been examined by Dr. Eisenberg and Dr. Kinny. The expert witnesses placed his IQ in the range of 112. The Court finds that the youth of the Defendant is entitled to some modest weight.

4. The Court has considered the other mitigating factors submitted by the Defendant and finds that the Defendant suffers from an antisocial personality disorder. Dr. Eisenberg testified that the evidence was overwhelming that he had this disorder, the features and symptoms of which are a need for immediate gratification, the failure to consider the long range consequences of specific actions, a lack of empathy, an adolescent level of relationships which are immature and impulsive and a manipulative nature with indifference to the consequences of his activities. Evidence was also received that the Defendant suffers from an attachment disorder which prevents him from forming bonds or attachments with other people based on a deep seeded fear of separation which may later occur. This caused the Defendant to be a loner and to be suspicious of other persons which caused him to avoid any lasting relationships with others. The Defendant was also diagnosed as having a paranoid feature to the anti-social personality disorder which caused him to be suspicious of the motives of other persons. The loss by death of his mother, a minor child and other friends and relatives all contributed to the creation of the attachment disorder and the paranoid feature. Dr. Kinny also testified that he diagnosed an attention deficit and a residual speed of processing deficiency in the Defendant in that he could not rapidly process new information which caused him to be irritable, and, when combined with his ^{As 42}paranoia, to trigger aggressive

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outbursts when confronted with changing situations. Dr. Kinny attributed this feature to the trauma suffered by the Defendant in the attack wherein a hammer was used to strike him in the head. However, this testimony was somewhat rebutted by the testimony of Dr. Robert White who testified on rebuttal that the head injury suffered by the Defendant in 1994 was minor in nature and did not involve injury to the brain itself. Dr. White testified that he doubted that any significant brain injury was suffered by the Defendant, and that he suffered no adverse affect upon his emotional or cognitive functions as a result of the hammer inflicted injury.

The Court has also considered the evidence from both Dr. Eisenberg and Dr. Kinny that the Defendant, on November 17, 1997, was able to differentiate between right and wrong conduct and that he understood the criminality of his conduct. The expert witnesses both agreed that the Defendant was able to make choices and that the decision to kill Officer Glover was made freely in spite of his antisocial personality disorder with paranoid feature and his attachment disorder. The evidence clearly established that these disorders did not effect the Defendant's knowledge of the criminality of his conduct and did not prevent him from conforming his conduct to the requirements of law. The Court concludes that this evidence, along with the evidence that the Defendant was fairly sophisticated and more intelligent than the expert witnesses had initially been led to believe, tend to

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lessen the weight to be accorded these other mitigating factors. The Court, therefore, finds that the other mitigating factors should be accorded little weight.

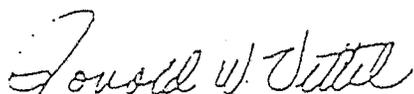
Upon weighing the aggravating circumstances, the Court finds, from the evidence, that the Defendant could have escaped arrest or apprehension once the officer was shot in the shoulder and the arm. In addition, the Defendant testified that he could have outrun the police officer without the necessity of using deadly force. The Court finds that the act of killing a police officer who, in the pursuit of his duties is attempting to apprehend a person accused of a felony crime, strikes at the very heart of the justice system. The criminal justice system is designed to protect both the rights of the accused and the rights of the victims. However, one who commits a purposeful killing with prior calculation and design in order to avoid apprehension, punishment or trial, seeks to defeat the entire system of criminal justice and strikes a fatal blow at its heart. The Court has also considered the fact that the victim was known by the Defendant to be a duly authorized and employed police officer with the City of Ashtabula, who at the time was engaged in his official duties. The Court finds that the aggravating circumstances are entitled to great or substantial weight.

Upon consideration of the relevant evidence raised at trial, the relevant testimony, the other evidence, and the arguments of counsel, it is the judgment of the Court that the aggravating

circumstance outweigh the mitigating factors beyond a reasonable doubt. This determination is made by the Court separately and distinctly from that made by the Jury. Accordingly, the Court sentenced the Defendant, Odraye G. Jones, to death and this pronouncement was made on June 8, 1998.

Pursuant to Civil Rule 58(B), the Clerk of this Court is directed to serve notice of this judgment and its date of entry upon the journal upon the following: Thomas L. Sartini, Prosecuting Attorney; David L. Doughten, Esq. & Robert L. Tobik, Esq., 4403 St. Clair Avenue, Cleveland, Ohio 44113; Clerk of the Supreme Court of Ohio, State Office Tower, 30 East Broad Street, Columbus, Ohio 43266-0419; Joseph E. Wilhelm, Esq., The State Public Defenders Office, 8 East Long Street, Columbus, Ohio 43266-0587; Robert A. Dixon, Esq., 1280 West Third Street, First Floor, Cleveland, Ohio 44113-0000; and, the Assignment Commissioner.

I also certify that a copy of the foregoing opinion was duly mailed by ordinary U.S. Mail to the Clerk of Courts of the Supreme Court of Ohio on this 11 day of June, 1998, by the undersigned Judge.


RONALD W. VETTEL, JUDGE

5/18

VERDICT

Court of Common Pleas
Ashtabula County, Ohio
May Session, 1998

THE STATE OF OHIO,)
)
 Plaintiff,)
)
 -vs-)
)
 ODRAYE G. JONES,)
)
 Defendant.)

CASE NO. 97-CR-221

INDICTMENT FOR:
Aggravated Murder

MAY 21 8 58 AM '98
COURT AHEAD
COMMISSIONER OF COURTS
ASHTABULA COUNTY, OHIO

We, the Jury in this case, being duly empaneled and sworn,
find the Defendant, ODRAYE G. JONES (*) Guilty
of Aggravated Murder, in the manner and form as he stands charged
in the Indictment, under §2903.01(A) of the Ohio Revised Code.

(*) INSERT IN INK: "GUILTY" or "NOT GUILTY"

(If you find the Defendant guilty of Aggravated Murder
in the above form, you will consider and complete the
following verdict forms relating to Specifications
1,2,3 and 4.)

(If you find the Defendant not guilty of the offense of
Aggravated Murder, or if you are unable to reach a
unanimous verdict of either guilty or not guilty of
Aggravated Murder, you will consider and complete the
following verdict form on page 6.)

Wade W. Blochum
Mary Ruliy
Wayne L. Pierce
Binger F. Whitehead
Matthew S. Kahlert
Dwaine Hayes

Leslie M. Pirey
Jane L. Edyson
Mary Lou Mason
Ivan D. Cooper
George M. Carter
John L. Washburn

Foreman or Forelady

230 - 710 61366

VERDICT FORM
"STATE V. JONES"; CASE NO. 97-CR-221

MAI 27 8 58 AM '98
COURT CLERK'S COURT
COMMON PLEAS COURT, OHIO
ASSIGNED FILED

SPECIFICATION NUMBER 1:

We, the Jury in this case, find the Defendant, ODRAYE JONES, (**) DID commit the offense of Aggravated Murder for the purpose of escaping apprehension, trial or punishment for another offense committed by the Defendant.

(**) INSERT IN INK: "DID" or "DID NOT"

Wade W. Brockway
Mary Kisley
Wayne D. Pierce
Dinger F. Whitehead
Matthew S. Fallitto
Doune Hips

Leslie M. Ruland
Jane L. Edinger
May Lou Mason
Edward Cooper
George Mathis
Tom L. Washburn
Foreman or Forelady

VERDICT FORM
"STATE V. JONES"; CASE NO. 97-CR-221

MAY 27 8 59 AM '98
CAROL A. HEINZ
CLERK OF THE COURT
COLUMBIANA COUNTY, OH.
FILED

SPECIFICATION NUMBER 2:

We, the Jury in this case, find that the victim of the offense, William D. Glover, Jr., (***) WAS a peace officer, whom the Defendant (**) DID know or have reasonable cause to know to be a peace officer, and at the time of the offense, the victim, William D. Glover, Jr.

(***) WAS engaged in his duties as a peace officer.

(***) INSERT IN INK: "WAS" or "WAS NOT"

(**) INSERT IN INK: "DID" or "DID NOT"

Wade W. Broadway

Leon M. Reese

Mary Riskey

Jane L. Edison

Marysue D. Pierce

Mary Lou Mason

Dinger F. Whitehead

Ivan D. Cooper

Matthew S. Palmiter

George Mattheis

Dwayne Hays

Robert L. Westman
Foreman or Forelady

VERDICT FORM
"STATE V. JONES"; CASE NO. 97-CR-221

APR 21 8 59 AM '98
CLERK OF DISTRICT COURT
ASHESFIELD

SPECIFICATION NUMBER 3:

We, the Jury in this case, find that the Defendant, ODRAYE G. JONES, (**) DID know or have reasonable cause to know that William D. Glover, Jr. was a peace officer and that it (***) WAS the Defendant's specific purpose to kill a peace officer at the time of the offense.

(**) INSERT IN INK: "DID" or "DID NOT"

(***) INSERT IN INK: "WAS" or "WAS NOT"

Wade H. Brockway
Mary Risley
Margorie D. Pierce
Dinger J. Whitehead
Matthew S. Solitts
Dwayne Hayes

Lael M. Rising
Jane S. Edipon
Mary Louise Mason
Grand Cooper
George M. Matter
Tom L. Washburn
Foreman or Forelady

VERDICT FORM
"STATE.V. JONES"; CASE NO. 97-CR-221

MAILED
60 HOURS
FILED
CLERK OF COURT
MAY 27 8 59 AM '98

SPECIFICATION NUMBER 4:

We, the Jury in this case, find that the Defendant, ODRAYE G. JONES, at the time he committed the offense (**) DID have a firearm on or about his person or under his control and (**) DID use the firearm to facilitate the offense.

(**) INSERT IN INK: "DID" or "DID NOT"

Wade W. Brockway
Mary Resley
Margaret D. Pierce
Binger F. Whitehead
Matthew S. Kallitka
Dwayne Hays

Leah M. Rising
Jane R. Edison
Mary Lou Mason
Ivan D. Cooper
Gene Mathis
Ray L. Workman
Foreman or Forelady

NOV 27 8 53 AM '98
CLERK OF COURT
OHIO
COMPLAINT FILED
ASSISTANT CLERK

VERDICT FORM
"STATE V. JONES"; CASE NO. 97-CR-221

We, the Jury in this case, being duly empaneled and sworn, find the Defendant, ODRAYE G. JONES, (*) _____ of the lesser included offense of Murder under §2903.02(A) of the Ohio Revised Code.

(*) INSERT IN INK: "GUILTY" or "NOT GUILTY"

(If you find the Defendant guilty of the lesser offense of Murder, you will consider and complete the following verdict form relating to Specification Number 4.)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Foreman or Forelady

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

Jun 4 4 13 PM '98
Clerk of Court
ASHTABULA COUNTY, OHIO

STATE OF OHIO,)
)
 Plaintiff,)
)
 -VS-)
)
 ODRAYE G. JONES,)
)
 Defendant.)

CASE NO. 97-CR-221

VERDICT
(Death)

We, the Jury, being duly impaneled and sworn, do find beyond a reasonable doubt that the aggravating circumstances which the Defendant, ODRAYE G. JONES, was found guilty of committing outweigh the mitigating factors in this case and, a sentence of death is imposed herein.

- 1. Mary R. Rusler
- 2. Margaret M. Pierce
- 3. Mary Lou Whisenand
- 4. Debra Hays
- 5. Wanda Bratton
- 6. James D. Cooper

- 7. Matthew Sablitt
- 8. Jane Edison
- 9. Dwight F. Whitehead
- 10. Leslie M. Pridemore
- 11. Wade W. Harrison
- 12. John J. Waldman

DATE: 6-4-98

348 01089

287-

VERDICT FORM
"STATE V. JONES"; CASE NO. 97-CR-221

SPECIFICATION NUMBER 4:

We, the Jury in this case, find that the Defendant, ODRAYE
G. JONES, at the time he committed the offense (**)
have a firearm on or about his person or under his control and
(**) use the firearm to facilitate the offense.

(**) INSERT IN INK: "DID" or "DID NOT"

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Foreman or Forelady

Date: MAY 26, 1998