

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :
 Appellee, :
 -vs- : **14-0273**
 : CASE NO. 2014-0237
 CURTIS CLINTON, : **This is a capital case.**
 Appellant. : Expedited ruling requested

On Appeal From the Court Of
 Common Pleas of Erie County
 Case No. 2012 CR 0383

MOTION TO UNSEAL RECORD

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IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :
Appellee, :
-vs- : CASE NO. 2014-0273
CURTIS CLINTON, :
Appellant. : **This is a capital case.**

MOTION TO UNSEAL RECORD

Appellant Curtis Clinton, through counsel, moves this honorable Court to unseal proceedings that took place in the Common Pleas Court of Erie County, Case No. 12 CR 0383, which the trial court ordered to be sealed and made a part of the record in Clinton's criminal case. The reasons for this request are set forth in the attached memorandum.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Curtis Clinton was convicted of aggravated murder and sentenced to death. He is currently before this Court on an appeal as of right. On May 29, 2014, the Erie County Clerk of Court's submitted to this Court the record from Clinton's capital trial. Along with the submitted record were juror questionnaires and other documents and filings filed under seal. Clinton moves this Court to unseal these documents for counsel's review.

Clinton has a right to a complete and unabridged record for his capital appeal. *State ex rel. Spirko v. Court of Appeals, Third Appellate District*, 27 Ohio St. 3d 13, 16, 501 N.E.2d 625, 627 (1986). *See also State v. D'Ambrosio*, 67 Ohio St. 3d 185, 200, 616 N.E.2d 909, 921 (1993). Further, Sup. R. Prac. 11.03(B)(2) states that the record on appeal in death cases "shall consist of the original papers filed in the trial and exhibits to those papers [as well as] the transcript of proceedings, including all exhibits..."

The trial court's direction that these motions be sealed as a part of the record in Clinton's aggravated murder case demonstrates the court's express belief that these proceedings were directly relevant to his capital case. Pursuant to Sup. R. Prac. 11.03(B)(2) and (4), these materials are documents that may be material to Clinton's appeal.

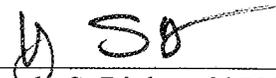
These portions of the record may present issues for Clinton's Merit Brief and Post-Conviction Petition. A thorough review of the entire record is necessary to give Clinton a full and fair opportunity to litigate his appeal as of right in both this Court and the Common Pleas Court of Erie County. Without a complete record for review, counsel cannot provide effective representation to Clinton. *See State v. Buell*, 70 Ohio St. 3d 1211, 639 N.E.2d 110 (1994); *Evitts v. Lucey*, 469 U.S. 387 (1985).

This Court has previously granted motions to unseal in death penalty cases. *See State v. Short*, 113 Ohio St. 3d 1482, 865 N.E.2d 908 (2011); *State v. Neyland*, 122 Ohio St. 3d 1461, 909 N.E.2d 133 (2009); *State v. Roberts*, 117 Ohio St.3d 1428, 882 N.E.2d 447 (2008); *State v. Lang*, 117 Ohio St.3d 1435, 883 N.E.2d 454 (2008) (grand jury materials denied, but jury questionnaires granted); *State v. Brown*, 108 Ohio St.3d 1419, 841 N.E.2d 322 (2006); *State v. Diar*, 111 Ohio St. 3d 1422, 855 N.E.2d 88 (2006); *State v. Hand*, 102 Ohio St. 3d 1414, 806 N.E.2d 1004 (2004); *State v. Ketterer*, 103 Ohio St.3d 1520, 817 N.E.2d 105 (2004); *State v. McKnight*, 99 Ohio St. 3d 1520, 792 N.E.2d 1134 (2003); *State v. Adams*, 98 Ohio St.3d 1414, 781 N.E.2d 1021 (2003); *State v. Ahmed*, 96 Ohio St.3d 1527, 776 N.E.2d 107 (2002); *State v. Sanders*, 88 Ohio St.3d 1461, 726 N.E.2d 1000 (2000); and, *State v. Smith*, 88 Ohio St. 3d 1449, 725 N.E.2d 288 (2000).

WHEREFORE, Clinton requests that this Court unseal all portions of the record filed under seal by the Erie County Clerk's Office.

Respectfully submitted,

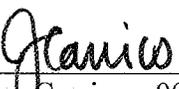
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Unseal Record was sent by first-class mail to Kevin J. Baxter, Erie County Prosecutor, Erie County Office Building, 247 Columbus Avenue, Suite 319, Sandusky, Ohio 44870 and to Thomas E. Madden, Senior Assistant Attorney General – Special Prosecutor, Ohio Attorney General’s Office, 150 East Gay Street, 16th floor, Columbus, Ohio 43215 on this 19th day of August, 2014.

By: 

Kimberly S. Rigby - 0078245
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