

ORIGINAL

In the Supreme Court of Ohio

STATE OF OHIO,

Appellee

-vs-

WILLIE G. WILKS, JR.,

Appellant

Case N° 2014-1035

On Appeal from the Mahoning
County Court of Common Pleas

Case N° 2013 CR 00540

MOTION OF APPELLANT WILLIE G. WILKS, JR.
TO ENLARGE TIME TO TRANSMIT TRIAL RECORD

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} Case N^o 2014-1035

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} Case N^o 2013 MA 00540

MOTION OF APPELLANT WILLIE G. WILKS, JR. TO ENLARGE TIME TO TRANSMIT TRIAL RECORD

COMES NOW THE APPELLANT, WILLIE G. WILKS, JR., through the undersigned counsel, and moves this Honorable Court for an Order enlarging by sixty (60) days the time in which Appellant may transmit the record.

For cause, Appellant was convicted of a capital crime and sentenced to death. He filed a Notice of Appeal, directly appealing to this Court from the Mahoning County Court of Common Pleas. Because of the change to the Ohio Constitution, voted upon in the 1994 general election, direct appeals in cases where the death sentence has been imposed, proceed directly to this Court. Accordingly, the record must be prepared and transmitted.

As demonstrated by the accompanying affidavits (Exhibits A, B,

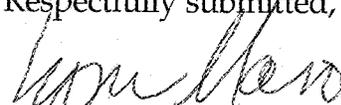
andC), made a part hereof by this reference, the trial transcript is not yet complete. The court reporters have been working diligently toward that end, but they have not physically been able to complete the transcript due to the press of their business and the fact that they are needed on a daily basis in the various courts to which they are assigned to record trials and hearings. As a result, they require up to sixty (60) days of additional time to complete the transcripts. Also attached is the affidavit of Kathi M. Welsh (Exhibit D), Chief Deputy of the Mahoning County Clerk of Court. As her affidavit indicates, she cannot transmit the record to this Court until the entire record is complete, which obviously includes the trial transcript.

This Motion is not made for the purpose of delay. As the Court knows, well established appellate law in this State requires the Appellant to direct the court to specific portions of the record claimed to support the proposition of law, which Appellant asks the Court to adopt. This cannot be done without a complete record. The lack of a complete record can work to deny an appellant constitutionally protected freedoms. These include due process of law, equal protection of the laws, the effective assistance of counsel, and meaningful access to the courts. See, e.g., Sixth and Fourteenth Amendments to the United States Constitution and

Article I, Sections 2, 10, and 16 of the Ohio Constitution. See, also, e.g.,
State, ex rel. Spirko, v. Judges of the Court of Appeals, Third Appellate District,
27 Ohio St.3d 13, 501 N.E.2d 625 (1986) (*per curiam*); *State v. Ishmail*, 54
Ohio St.2d 402, 377 N.E.2d 500 (1978).

WHEREFORE, Appellant prays for an Order of this Court enlarging
the time within which the record must be transmitted to the Clerk of this
Court by sixty (60) days, so that the record will now be due on or before
November 20, 2014.

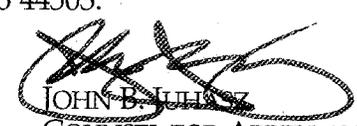
Respectfully submitted,


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COUNSEL FOR APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was sent by regular U.S.
mail on the 19 day of September, 2014 to: Mr. Ralph M. Rivera, Esq., 21 West
Boardman Street, Youngstown, Ohio 44503.


JOHN B. JUHASZ
COUNSEL FOR APPELLANT

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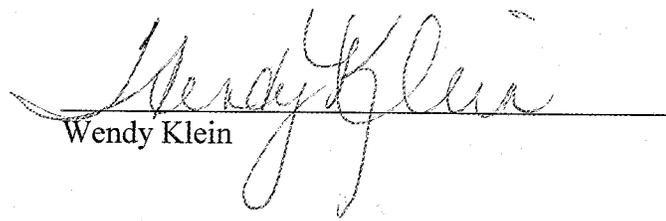
AFFIDAVIT

County of Mahoning:)
State of Ohio)

The undersigned, being first duly sworn, deposes and states of her own personal knowledge the following:

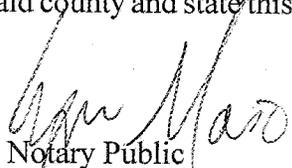
- 1. I am a Registered Professional Reporter and I am employed with the Official Court Reporter's Office for Mahoning County, Ohio.
- 2. I was one of the Court Reporters who recorded the proceedings in *State of Ohio v. Willie Wilks, Jr.* Mahoning County Court of Common Pleas Case No. 2013 CR 540; Ohio Supreme Court Case No. 14-1035.
- 3. After the above-captioned case was appealed, I was requested to transcribe the court proceedings.
- 4. In addition to transcribing cases for purposes of appeal, I have daily courtroom assignments wherein I take the record for proceedings as they occur.
- 5. I have a large backlog of transcripts to prepare as I am working on other appellate transcripts as well.
- 6. The transcripts for the above-captioned case are still in the process of being prepared and are not completed.
- 10. I am requesting an additional 60-day extension to complete these transcripts.

Further Affiant sayeth naught.


Wendy Klein

State of Ohio:
County of Mahoning:

Wendy Klein, having personally appeared before me and having sworn to and subscribed to the foregoing, before me a Notary Public in and for said county and state this 19th day of September, 2014.


Notary Public

Lynn Maro, Attorney At Law
Notary Public-State of Ohio
My Commission has no expiration date
Sec. 147.03 R.C.

EXHIBIT A

AFFIDAVIT

County of Mahoning:)
State of Ohio)

The undersigned, being first duly sworn, deposes and states of her own personal knowledge the following:

1. I am a Registered Professional Reporter and I am employed with the Official Court Reporter's Office for Mahoning County, Ohio.
2. I was one of the Court Reporters who recorded the proceedings in *State of Ohio v. Willie Wilks, Jr.* Mahoning County Court of Common Pleas Case No. 2013 CR 540; Ohio Supreme Court Case No. 14-1035.
3. After the above-captioned case was appealed, I was requested to transcribe the court proceedings.
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10. I am requesting an additional 60-day extension to complete these transcripts.

Further Affiant sayeth naught.


Chastity Feezle

State of Ohio:
County of Mahoning:

Chastity Feezle, having personally appeared before me and having sworn to and subscribed to the foregoing, before me a Notary Public in and for said county and state this 19th day of September, 2014.


Notary Public

Lynn Maro, Attorney At Law
Notary Public-State of Ohio
My Commission has no expiration date
Sec. 147.03 R.C.

EXHIBIT B

AFFIDAVIT

County of Mahoning:)
State of Ohio)

The undersigned, being first duly sworn, deposes and states of her own personal knowledge the following:

- 1. I am a Registered Professional Reporter and I am employed with the Official Court Reporter's Office for Mahoning County, Ohio.
- 2. I was one of the Court Reporters who recorded the proceedings in *State of Ohio v. Willie Wilks, Jr.* Mahoning County Court of Common Pleas Case No. 2013 CR 540; Ohio Supreme Court Case No. 14-1035.
- 3. After the above-captioned case was appealed, I was requested to transcribe the court proceedings.
- 4. In addition to transcribing cases for purposes of appeal, I have daily courtroom assignments wherein I take the record for proceedings as they occur.
- 5. I have a large backlog of transcripts to prepare as I am working on other appellate transcripts as well.
- 6. The transcripts for the above-captioned case are still in the process of being prepared and are not completed.
- 10. I am requesting an additional 60-day extension to complete these transcripts.

Further Affiant sayeth naught.



Misti Simon

State of Ohio:
County of Mahoning:

Misti Simon, having personally appeared before me and having sworn to and subscribed to the foregoing, before me a Notary Public in and for said county and state this 19th day of September, 2014.


Notary Public

Lynn Maro, Attorney At Law
Notary Public State of Ohio
My Commission has no expiration date
Sec. 147.03 R.C.

EXHIBIT C

STATE OF OHIO

}
ss.

AFFIDAVIT

COUNTY OF MAHONING }

I, Kathi M. Welsh, being first duly sworn and cautioned according to law, depose and say the following of my own personal knowledge.

1. I am the Chief Deputy Clerk of Court for the Court of Common Pleas of Mahoning County, Ohio.

2. In such capacity, I have the responsibility to assemble, prepare for transmission, transmit, and insure that the trial record is in proper format for the case of *State of Ohio v. Willie G. Wilks, Jr.*

3. I have been advised by counsel for the Appellant that they have consulted with the Official Court Reporters of Mahoning County, and that the court reporters responsible for transcribing trial transcript are unable to complete the trial transcript by September 19, 2014 so that I may transmit the entire trial record of *State v. Wilks* to the Supreme Court of Ohio, by September 22, 2014.

4. I have been working to prepare the trial record for transmission, but without the trial transcript I cannot submit the complete trial record to the Clerk of the Supreme Court of Ohio.

EXHIBIT D

5. If the trial transcript is completed within the next 60 days or less, I will be able to transmit the complete trial record to the clerk of the Supreme Court of Ohio within 60 days of September, 21, 2014.

6. This affidavit is submitted in support of a motion by Appellant's counsel to enlarge the time within which the record may be transmitted to the clerk of the Supreme Court of Ohio.

And further affiant sayeth naught.



KATHI M. WELSH

Before me, a Notary Public in and for said County and state, personally appeared the above named Kathi M. Welsh, who subscribed to the foregoing in my presence and who acknowledged before me that the averments therein made are true to the best of her knowledge, information, and belief.

In Witness Whereof, I have hereunto set my hand and notarial seal at Youngstown, Ohio this 19th day of September, 2014.



Notary Public

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Lynn Maro, Attorney At Law
Notary Public - State of Ohio
My Commission has no expiration date
Sec. 147.03 R.C.