

ORIGINAL

In The Supreme Court Of Ohio

State Of Ohio,	:	Case No. <b>2010-0854</b>
	:	
Appellee,	:	Common Pleas Case No.
	:	B 0901629/B 0904028
-vs-	:	
	:	
Anthony Kirkland	:	
Appellant.	:	<b>Death Penalty Case</b>

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**MOTION FOR STAY OF EXECUTION OF DEATH SENTENCE PENDING  
DISPOSITION OF AVAILABLE STATE REMEDIES**

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**FILED**

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CLERK OF COURT  
SUPREME COURT OF OHIO

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Anthony Kirkland respectfully moves this Court for an Order continuing his stay of execution pending exhaustion of his available state remedies. On February 25, 2011, Kirkland timely filed a petition for postconviction relief in the Court of Common Pleas, Hamilton County, Ohio. The trial court denied Kirkland's petition on June 27, 2012. On December 5, 2012, Kirkland filed a timely appeal in the Court of Appeals, First Appellate District, Hamilton County, Ohio. Those proceedings are pending. The reasons for this motion are set forth in the attached Memorandum.

Respectfully submitted,

OFFICE OF THE  
OHIO PUBLIC DEFENDER



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Counsel of Record



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ELIZABETH ARRICK (0085151)  
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**Counsel for Appellant-Petitioner**

**MEMORANDUM**

On May 13, 2014, this Court affirmed Anthony Kirkland's convictions and death sentence. (Exhibit A). Previously, this Court granted a stay of execution for Kirkland pending his direct appeal. Upon the denial of that appeal, this Court has set January 11, 2017 as the new execution date for Kirkland. (Exhibit A).

Kirkland now moves this Court for an order continuing his stay of execution pending the exhaustion of available postconviction remedies, including all appeals. Under *State v. Steffen*, 70 Ohio St. 3d 399, 639 N.E.2d 67 (1994), Kirkland is entitled to a stay of execution until he has "exhausted ... one round of postconviction relief, and one motion for delayed reconsideration ... in the court of appeals ...." 70 Ohio St.3d at 412, 639 N.E.2d at 77. *See also State v. Glenn*, 33 Ohio St. 3d 601, 514 N.E.2d 869 (1987).

On December 5, 2012, Kirkland filed an appeal requesting review of the trial court's denial of his Petition for Post-Conviction Relief pursuant to Ohio Revised Code Section 2953.21 (Exhibit B). The appeal is currently pending in the First District Court of Appeals. Thus, a stay is needed to ensure that the issues raised in his postconviction petition and subsequent appeals are fully resolved. This Court has granted similar motions. *See, e.g., State v. Raglin*, 85 Ohio St. 3d 1429, 707 N.E.2d 945 (1999).

WHEREFORE, Anthony Kirkland respectfully requests that this Honorable Court grant a stay of execution pending the exhaustion of available state remedies, and more specifically, his postconviction proceedings, in accordance with *State v. Steffen*, 70 Ohio St. 3d 399, 639 N.E.2d 67.

Respectfully submitted,

OFFICE OF THE  
OHIO PUBLIC DEFENDER

By:   
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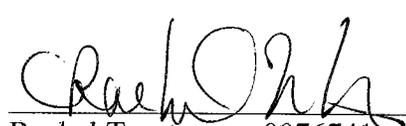
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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of **Appellant Kirkland's Motion for Stay of Execution** was forwarded by regular U.S. First Class Mail to William E. Breyer, Chief Assisting Prosecuting Attorney, 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202, on the 30th day of September, 2014.

  
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