

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,)	SUPREME COURT
)	CASE NO. 2011-1921
Plaintiff-Appellee,)	
)	
vs.)	
)	This is a death penalty case.
ANTHONY SOWELL,)	
)	
Defendant-Appellant,)	
)	
)	

**BRIEF OF AMICUS CURIAE AMERICAN CIVIL LIBERTIES UNION OF OHIO
FOUNDATION, INC. IN SUPPORT OF APPELLANT ANTHONY SOWELL**

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STATEMENT OF INTEREST OF AMICUS CURIAE

Amicus curiae the American Civil Liberties Union of Ohio Foundation, Inc. (“ACLU”) is the Ohio affiliate of the national American Civil Liberties Union, one of the oldest and largest organizations in the nation dedicated to the preservation of the Bill of Rights and the defense of the freedoms set forth therein. With some five hundred thousand members across the country, and with almost thirty thousand members and supporters in Ohio, the ACLU appears routinely in state and federal courts, both as amicus and as direct counsel, without bias or political partisanship, to hold the government accountable to the public and to protect the rights of individuals.

This case implicates the mission and values of the ACLU because it concerns the Sixth Amendment right of a criminal defendant to an open and public trial and the First Amendment right of the public to observe judicial proceedings.

STATEMENT OF FACTS

Amicus curiae adopts the Statement of Facts submitted in the brief on the merits filed by Appellant Anthony Sowell.

ARGUMENT

I. The Sixth Amendment Right To A Public Trial Is Never More Essential Than In Cases of Notoriety.

The Supreme Court of the United States has repeatedly emphasized the seminal and vital nature of the public trial, dating to the earliest origins of the American justice system. *See generally, e.g., Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 564-75 (1980); *Press-Enterprise Co. v. Superior Court of Cal., Riverside Cnty.*, 464 U.S. 501, 505-10 (1984) (“*Press-Enterprise P*”). The practice originated with English local courts prior to the Norman Conquest—“moots” where public attendance was compulsory—continuing unabated over the

centuries into the colonial period and American democracy. Indeed, “although great changes in courts and procedure took place” in the history of the English legal tradition, “one thing remained constant: the public character of the trial at which guilt or innocence was decided.” *Richmond Newspapers*, 448 U.S. at 566. Leading jurists and legal scholars saluted its importance in lofty language; as one observed, “[w]ithout publicity, all other checks are insufficient: in comparison of publicity, all other checks are of small account. Recordation, appeal, whatever other institutions might present themselves in the character of checks, would be found to operate rather as cloaks in reality, as checks only in appearance.” *Id.* at 569 (quoting J. Bentham, RATIONALE OF JUDICIAL EVIDENCE 524 (1827)); *see also id.* at 566-69 (citing Blackstone and Hale, and writings approved by the First Continental Congress).

This distinctive feature of English law continued to be the standard practice through the colonial period in America. Several of the earliest colonial charters expressly guaranteed it. *Richmond Newspapers*, 448 U.S. at 591. Members of the public famously attended the murder trial of British soldiers after the Boston Massacre, where their attendance was considered crucial. *Press-Enterprise I*, 464 U.S. at 507 (citing the Legal Papers of John Adams). Upon examining the history, Justice Blackmun once remarked that “[t]here is no evidence that any colonial court conducted criminal trials behind closed doors[.]” *Gannett Co. v. DePasquale*, 443 U.S. 368, 425 (1979) (concurring and dissenting).

Today’s constitutional presumption of a public trial is therefore “no quirk of history; rather, it has long been recognized as an indispensable attribute of an Anglo-American trial.” *Richmond Newspapers*, 448 U.S. at 569. The Sixth Amendment guarantee of a criminal defendant’s “right to a speedy public trial” codified a right and practice that had existed for centuries, and vested it in the accused as a guarantee of fairness and transparency. U.S. CONST.

amend. VI; see *Presley v. Georgia*, 558 U.S. 209, 212 (2010); *Waller v. Georgia*, 467 U.S. 39, 46 (1984) (the public trial guarantee is “one created for the benefit of the defendant”) (internal citation omitted). So critical is this right that it is dually held; in addition to a defendant’s Sixth Amendment right to a public trial, the American public possesses a commensurate right—guaranteed by the First Amendment—to witness and monitor the workings of criminal justice by access to criminal trials. See *Presley*, 558 U.S. at 212; *Press-Enterprise I*, 464 U.S. at 510.

The Supreme Court has not spoken as to whether the two rights are precisely coextensive, though it is clear that they overlap to a great degree and both serve an overpowering public interest. See *Presley*, 558 U.S. at 213. Indeed, even aside from the goals of ensuring fairness and of protecting the court from allegations of impropriety, public access serves the practical purpose of reassuring a skeptical or enraged community:

When a shocking crime occurs, a community reaction of outrage and public protest often follows. Thereafter the open processes of justice serve an important prophylactic purpose, providing an outlet for community concern, hostility, and emotion. Without an awareness that society’s responses to criminal conduct are underway, natural human reactions of outrage and protest are frustrated and many manifest themselves in some form of vengeful “self-help,” as indeed they did regularly in the activities of vigilante “committees” on our frontiers.” “The accusation and conviction or acquittal, as much perhaps as the execution of punishment, [operate] to restore the imbalance which was created by the offense or public charge, to reaffirm the temporarily lost feeling of security and, perhaps, to satisfy that latent ‘urge to punish.’”

Richmond Newspapers, 448 U.S. at 571 (quoting Gerhard Mueller, *Problems Posed by Publicity to Crime and Criminal Proceedings*, 110 U. Pa. L. Rev. 1, 6 (1961)); see also *Press-Enterprise I*, 464 U.S. at 508-09 (1984) (“[P]ublic proceedings vindicate the concerns of the victims and the community in knowing that offenders are being brought to account for their criminal conduct by jurors fairly and openly selected.”); *Applications of Nat’l Broad. Co., Inc. v. Presser*, 828 F.2d 340, 345 (6th Cir. 1987) (right of access “is, in part, founded on the societal interests in public awareness of, and its understanding and confidence in, the judicial system”).

This rationale is never more applicable than in cases of extreme notoriety, particularly those involving violent crimes in which the public has taken a strong interest – in other words, cases like this one. *See, e.g., Press-Enterprise Co. v. Superior Court of Cal., Riverside Cnty.*, 478 U.S. 1, 13 (1986) (“*Press-Enterprise II*”) (“Criminal acts, especially certain violent crimes, provoke public concern, outrage, and hostility.”). The concurrent Sixth and First Amendment rights guaranteeing a public trial are of particular import, and courts must be particularly hesitant to close the courtroom doors to the public because centuries of tradition, fairness to the defendant, and the public interest demand it.

II. The Sixth Amendment Right To A Public Trial Attaches To Pretrial Suppression Hearings and Voir Dire.

The Sixth Amendment right to a public trial unequivocally attaches to pretrial voir dire and suppression hearings. *Presley v. Georgia*, 558 U.S. 209, 213 (2010) (holding that the Sixth Amendment right to a public trial extends to voir dire); *Waller v. Georgia*, 467 U.S. 39, 47 (1984) (holding that a “defendant’s Sixth Amendment right to public trial applies to a suppression hearing,” reasoning that “suppression hearings often are as important as the trial itself”). The Supreme Court initially recognized the public’s right to attend pretrial voir dire and suppression hearings under the First Amendment, finding that the right could “give way in certain cases to other rights or interests” only in rare circumstances. *Id.* at 45. The Supreme Court extended its First Amendment rationale to the Sixth Amendment, finding that a criminal defendant’s right to a public trial should not be any less protected than the public’s implicit First Amendment right to be present at trials. *Id.* (“The central aim of a criminal proceeding must be to try the accused fairly, and [our] cases have uniformly recognized the public-trial guarantee as one created for the benefit of the defendant.” (internal quotations omitted)); *Presley*, 558 U.S. at 213 (finding that there is “no legitimate reason” in the context of voir dire to give greater

protection to a non-party's First Amendment right than the accused has under the Sixth Amendment because the public trial guarantee is for the defendant's benefit).

Courts have highlighted the fundamental importance of having voir dire and suppression hearings remain open to the public. For example, in *Waller*, the Supreme Court explained that “[t]he need for an open proceeding may be particularly strong as to suppression hearings,” because open proceedings resemble trials, they encourage witnesses to be honest, and also because the public “has a strong interest in exposing substantial allegations of police misconduct to the salutary effects of public scrutiny.” *Id.* at 47. And, in *Press-Enterprise I*, the Supreme Court explained that public access is particularly important at the voir dire stage in cases of high notoriety because, where a violent crime has provoked “public concern, even outrage and hostility,” public proceedings “vindicate[s] the concerns of the victims and the community in knowing that offenders are being brought to account for their criminal conduct by jurors fairly and openly selected.” 464 U.S. at 509 (internal citations omitted).

Criminal defendants' Sixth Amendment—and the public's First Amendment—rights are fully protected in state courts. *Presley*, 558 U.S. at 212; *State ex. rel. The Repository Div. of Thompson Newspapers, Inc. v. Unger*, 28 Ohio St.3d 418, 420-22 (1986) (recognizing that the right to a public trial is fundamental and should be overridden only in limited circumstances, and even then, only to the extent necessary to protect this interest). Thus, Appellant was entitled not only to a public trial, but to publicly accessible pretrial proceedings.

III. The Appellant's Sixth Amendment Rights Were Violated, As Was the Public's First Amendment Right

The United States Supreme Court has established a clear standard (the “*Waller* standard”) that must be met before a trial court can exclude the public from voir dire or from a suppression hearing:

[T]he party seeking to close the hearing must advance an overriding interest that is likely to be prejudiced, the closure must be no broader than necessary to protect the interest, the trial court must consider reasonable alternatives to closing the proceeding, and it must make findings adequate to support the closure.

Waller, 467 U.S. at 48; *Presley*, 558 U.S. at 214 (quoting *Waller*); see also *Unger*, 28 Ohio St.3d at 421-22 (“The presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest.” (internal quotations omitted)). The burden is on the trial court to ensure that the least restrictive alternative is employed, and not on the defendant (or the public) to suggest alternatives to complete closure. *Id.* Here, the trial court violated Appellant’s Sixth Amendment right to a public trial by excluding the public from both the voir dire and suppression hearing.

A. Appellant’s Sixth Amendment Right Was Violated By The Trial Court’s Closing Of Witherspoon Voir Dire.

As noted above, a criminal defendant’s Sixth Amendment right to a public trial includes a right to a public voir dire. *Presley*, 558 U.S. at 213. Exceptions to this general rule exist, but are rare and narrowly interpreted. *Id.* (citing *Waller*, 467 U.S. at 45); see also *State ex rel. Beacon Journal Publ’g Co. v. Bond*, 98 Ohio St. 3d 146, 2002-Ohio-7117, ¶ 28. Before excluding the public from voir dire, courts must overcome the presumption of openness by way of the *Waller* standard. See 467 U.S. at 48..

The closure of voir dire in the present case failed to meet the *Waller* standard. The trial court (1) articulated no cognizable overriding interest advanced by the party seeking closure ; (2) failed to employ any less restrictive options, or even to consider any other option before closure; and (3) offered no specific findings to support its decision to close the voir dire.

1. The trial court articulated no cognizable interest advanced by the party seeking closure.

An interest sufficient to override a defendant's Sixth Amendment right—and the First Amendment right of the public to access—must “be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.” *Presley*, 558 U.S. at 215 (quoting *Press-Enterprise I*, 464 U.S. at 510). Mere conclusory assertions that publicity might deprive the defendant of a right to a fair trial are insufficient. *Id.* (citing *Press-Enterprise II*, 478 U.S. at 15).

The overriding interest put forth by the *Sowell* trial court was precisely of the type warned against in *Presley*: a conclusory assertion that the right to a fair trial would be at risk, unsupported by specific findings. *See id.* at 215. The trial court baldly stated that the “defendant’s right to a trial by an impartial jury” under the Sixth and Fourteenth Amendments could be prejudiced, opining that jurors would be generally more likely to be candid outside the presence of the public in death penalty cases. (Tr. 5152-53.) There were no findings specific to the case at hand at all, but merely vague statements about abstract risks to a fair trial, statements which are patently insufficient to justify closure. *See In re Petitions of Memphis Pub. Co.*, 887 F.2d 646, 649 (6th Cir. 1989) (holding that the “naked assertion by the district court” that the right to a fair trial “might well be undermined” was insufficient to justify closure); *Press-Enterprise II*, 478 U.S. at 14 (“If the interest asserted is the right of the accused to a fair trial, the * * * hearing shall be closed only if specific findings are made” demonstrating probable prejudice and lack of reasonable alternative); *Bond*, 2002-Ohio-7117, ¶ 32 (at oral voir dire “it is undisputed that the mere risk of untruthfulness does not give rise to a substantial probability of prejudice”); *cf. State ex rel. Toledo Blade Co. v. Henry Cnty. Court of Common Pleas*, 125 Ohio St.3d 149, 2010-Ohio-1533, ¶ 36 (absent specific evidence, the court may not “presume” that

publicity will constitute a threat to the administration of justice). Indeed, the trial court’s logic could be used to justify exclusion of the public from any *Witherspoon* voir dire at all, which would lead to an absurd result in light of the Supreme Court’s repeated admonition that it is precisely in trials for the most violent and notorious crimes—death penalty cases, in other words—when transparency and public access are most critical. *Press-Enterprise II*, 478 U.S. at 13 (noting the importance of public access to trials for violent crimes); *Richmond Newspapers*, 448 U.S. at 571 (similar); see also *Presley*, 558 U.S. at 213 (exceptions to the presumption of openness are “rare”).

2 & 3. Even if closure were warranted, sealing the courtroom for the entire voir dire was much broader than necessary, and the court failed to consider any alternatives.

The process of juror selection is a matter of importance “not simply to the adversaries but to the criminal justice system,” for which reason the trial court has the affirmative responsibility to consider reasonable alternatives to closure, even if such alternatives are not offered by the parties. *Presley*, 558 U.S. at 215 (citing *Press-Enterprise I*, 464 U.S. at 505). Indeed, the Court in *Presley* held that “[t]rial courts are obligated to take every reasonable measure to accommodate public attendance at criminal trials,” including at the voir dire stage. *Id.*

Despite having made no case-specific findings supporting closure, the trial court proceeded to seal the courtroom for the entirety of the *Witherspoon* voir dire process. (Tr. 5148-49.) As the State correctly noted in moving for a mistrial—citing the risk of Sixth and First Amendment violations—the trial court indeed had narrower options available to it, but did not consider them before closing the courtroom. (See Tr. 5157-58.) Specifically, the court could have considered the privacy interests of the jurors on a case-by-case basis, closing the proceedings only as necessary to protect the individual. That very method was expressly found to be appropriate by this Court in *Bond*, stating, “*Press-Enterprise I* thus teaches that an

individualized examination of each prospective juror’s circumstances is appropriate in considering the privacy interests of such jurors.” 2002-Ohio-7117, at ¶ 21. Contrary to these dictates, in the case at hand, after completing the closed *Witherspoon* voir dire, the trial court stated that “there is no reason * * * to go back and basically summon a new jury and do individual sequestered voir dire with 200 jurors and have individual closures of each session as requested by the jurors.” (Tr. 5160.)

The trial court’s reasoning and methods simply failed to meet the constitutional standard. *Presley* and its predecessors provide unequivocally that responsibility for the proper conduct of juror selection lies with the trial court. 558 U.S. at 214; *Press-Enterprise I*, 464 U.S. at 511. The burden to overcome the presumption of openness is a high one, requiring that the court take “every reasonable measure” to keep the public in the room. *Presley, id.* at 215. Yet rather than striking the balance of interest with “special care” as prescribed by the Supreme Court, *id.* at 213, and in defiance of this Court’s holding in *Bond*, the trial court dismissed individual closures as “putting form over substance.” (Tr. 5160.)

4. The trial court made no specific findings to support its decision to close voir dire.

As explained above, the trial court’s decision to close the *Witherspoon* voir dire was made without any specific findings demonstrating an interest compelling enough to override the right to a public trial; instead it merely stated, in the abstract, that there might be a risk to the defendant’s right to a fair trial. (Tr. 5152-53.) Indeed, the constitutional implications of its decision were not discussed on the record, and no relevant findings were made, until *after* the process had already been completed. (Tr. 5148-49.) Once the damage was done, the trial court concluded—again, without specific reasoning or findings—that to go back through the process would be overly burdensome. (*See* Tr. 5160.)

In sum, the trial court's decision to close the *Witherspoon* voir dire failed to meet the *Waller* standard and was therefore flatly contrary to federal and Ohio precedent. Such a violation of the right to open trial is a structural error not subject to harmless error analysis, as both this Court and the United States Supreme Court have held. *See, e.g., State v. Bethel*, 110 Ohio St. 3d 416, 2006-Ohio-4853, ¶ 82; *Waller*, 467 U.S. at 49 (“The parties do not question the consistent view of the lower federal courts that the defendant should not be required to prove specific prejudice in order to obtain relief for a violation of the public-trial guarantee.”). The *Witherspoon* process having been conducted in contravention of the Appellant's Sixth Amendment rights, he is entitled to a new jury and a new trial. *See id.*

B. Appellant's Sixth Amendment Right Was Violated By The Trial Court's Closing Of The Suppression Hearing.

As with voir dire, Appellant was entitled to have the public present during his suppression hearing absent a compelling showing by the State of an overriding interest in closure. *See Waller*, 467 U.S. at 47. Despite the fact that no such showing appears in the record, the trial court closed the suppression hearing in its entirety over Appellant's objection. (Tr. at 380-82.)¹ The trial court's closure would have been constitutionally sound only if it had met the four-part test set out in *Waller*. It did not. Under *Waller*, (1) the State did not articulate an overriding interest in closure; and (2) the trial court did not narrowly tailor the closure, (3) consider any reasonable alternatives, or (4) place its findings on the record. *Waller*, 467 U.S. at 47; *Unger*, 28 Ohio St.3d at 421-22 The trial court's decision to close the suppression hearing, meeting none of the *Waller* factors, fell far short of this standard.

¹ Appellant's counsel specifically objected to closing the courtroom during the suppression hearing, stating “we do object to closing the courtroom. It should be a public proceeding, we do object for the record to closing these proceedings to the public. (Tr. at 382).

1. The trial court articulated no cognizable interest advanced by the party seeking closure.

There is no indication in the record that the State offered any interest, let alone an overriding interest, in closing the proceedings. The only reason the Court gave for closing the suppression hearing was to protect the jury pool from the taint of pretrial publicity. (Tr. at 380-81.) It is unclear whether the State had offered that as a reason to close the hearing or whether the Court unilaterally determined that the hearing should be closed. Because the record does not establish that the State offered any overriding interest in favor of closure, the first element of the *Waller* test is unsatisfied. See *State v. Alexander*, 7th Dist. No. 03 CA 789, 2004-Ohio-5525, ¶ 21 (holding that the first factor in the *Waller* test was not met when “[t]he prosecution in the instant matter never set forth any overriding interests in support of his request to close the courtroom.”).

But even if pretrial publicity had been offered by the State as a reason to close the suppression hearing, that would not be a sufficiently compelling reason to override Mr. Sowell’s Sixth Amendment right to a public trial. A conclusory assertion, like the one given by the trial court in this case that pretrial publicity required closing the courtroom to the public, will not withstand judicial scrutiny. *Press-Enterprise II*, 478 U.S. at *15 (in the context of the First Amendment, finding that the danger of pretrial publicity was insufficient to justify excluding the public during pretrial hearing, despite the defendant’s position that it should be closed); *State v. Washington*, 142 Ohio App. 3d 268, 271 (8th Dist. 2001) (O’Donnell, J.), (“The mere possibility of prejudice, however * * * is not tantamount to a substantial probability of likely prejudice and cannot justify abridging * * * [the defendant’s] constitutional protections in the case at hand.”); see also *In re Petitions of Memphis Pub. Co.*, 887 F.2d at 649 (mere assertion that the right to a fair trial “might well be undermined” was insufficient to justify closure of proceedings).

Closure due to pretrial publicity was particularly egregious in Appellant's trial because the State would not have suffered any prejudice if the session had been open. Rather, any prejudice from the publicity would have inured solely to Appellant's defense. *See, e.g., Press-Enterprise II*, 478 U.S. at 14 (noting that "[p]ublicity concerning the proceedings at a pretrial hearing * * * could influence public opinion against a defendant and inform potential jurors of *inculpatory* information wholly inadmissible at the actual trial." (emphasis added and internal quotations omitted)). But Appellant did not move to close the hearing; to the contrary, Appellant *objected* to closing the hearing. Thus, while the suppression hearing may have been sensational, that alone was insufficient to override both Appellant's Sixth Amendment right to a public trial and the public's First Amendment right to have access to the hearing, particularly where Appellant *wanted* the hearing to remain open. *See Waller*, 467 U.S. at 47 n. 6 (reasoning that where the defendant objects to closure of the hearing, the pretrial publicity rationale for closing the courtroom to the public "is largely absent").

2 & 3. Even if closure were warranted, sealing the courtroom for the entire suppression hearing was much broader than necessary, and the court failed to consider any alternatives.

Even if the State had put forth a legitimate interest in seeking closure, the trial court was required to consider less restrictive alternatives to closing the entire suppression hearing. In *Waller*, for example, the United States Supreme Court ordered a new hearing where the trial court failed to consider "directing the government to provide more detail about its need for closure, *in camera* if necessary, and closing only those parts of the hearing that jeopardized the interests advanced." 467 U.S. at 48-49. Instead, the trial court here immediately defaulted to the *most restrictive* option available. There is nothing in the record showing that the trial court considered any alternative to total closure, including limiting closure of the proceedings for specific witnesses or testimony. (*See Tr.* 380-86.) The trial court, therefore, violated

Appellant's Sixth Amendment right by failing to consider less restrictive alternatives or narrowly tailoring closure of the courtroom.

4. The trial court made no specific findings to support its decision to close the suppression hearing.

It is unclear what the trial court considered because the record is cryptically sparse as to the trial court's decision-making process. That, too, largely occurred in private. (Tr. at 380.) The trial court stated on the record only that it had "discussions with counsel in chambers" regarding the suppression hearing and that the suppression hearing would be closed to the public "due to the sensitive nature of the evidence and potential for suppression of evidence that, if released to the public at this time, would potentially prejudice any jury pool." (Tr. at 380-81.) The trial court did not, for example, explain what made certain evidence so sensitive that this qualified as the rare case where closing the entire hearing to the public could possibly be appropriate. *See Presley*, 558 U.S. at 213 (exceptions to the presumption of openness are "rare") The lack of a record made closure to the public particularly inappropriate. *See State v. Alexander*, 7th Dist. No. 03 CA 789, 2004-Ohio-5525, ¶ 25 (7th Dist. Oct. 18, 2004) ("The lack of a record to support closing the courtroom during the victim's testimony leaves this Court with no alternative but to find that the trial court erred in closing the courtroom."); *Washington*, 142 Ohio App.3d at 272 (reversing and remanding for retrial where, when "constrained to the record before [it]," there was insufficient evidence that the court made findings to support closing trial during informant's testimony).

The United States Supreme Court recognized that particularly where, as here, the hearing relates to allegations of police misconduct, the public has a great interest in having access to suppression hearings *See Waller*. at 47. The lack of a record only compounds this problem.

CONCLUSION

The Sowell trial was marred by the exact type of closed-door proceedings that our jurisprudence condemns. Given the gruesome and sensational allegations against him, Appellant's case was of extreme interest to the public. All proceedings should have remained open to ensure not only that Appellant received a fair trial, but also to allow the public to see that justice was being done.

If the trial court's ruling stands in this case, criminal defendants' Sixth Amendment rights may be ignored in any case of notoriety simply because there is the potential for pretrial publicity, even if the defendant is willing to accept that risk. Such a rule would directly contravene United States Supreme Court precedent permitting closure only in the extraordinary instance where justified by the overriding interest of the party seeking closure.

This, certainly, is not that rare case. Rather, it was in Appellant's and the public's interests to allow the hearing to remain open. The trial court failed to follow the clear guidance of this Court and the United States Supreme Court when it closed both voir dire and the suppression hearing, each in their entirety, with no compelling justification, no considered alternative, and no reasoned analysis appearing in the record. Given the importance of the rights at issue, these errors cannot stand.

For the foregoing reasons, amicus curiae the American Civil Liberties Union of Ohio respectfully requests that this Honorable Court reverse the judgment and death sentence imposed in this case and grant Defendant-Appellant Anthony Sowell a new trial or sentencing hearing.

Respectfully submitted,



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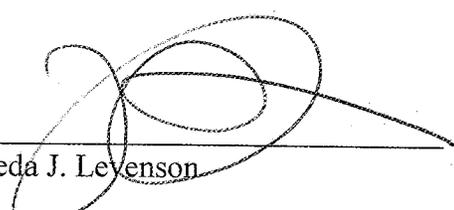
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