

ORIGINAL

In the Supreme Court of Ohio ORIGINAL

STATE OF OHIO,

Appellee

-vs-

WILLIE G. WILKS, JR.,

Appellant

Case No 2014-1035

On Appeal from the Mahoning
County Court of Common Pleas

Case No 2013 CR 00540

DEATH PENALTY CASE

APPELLANT WILLIE G. WILKS, JR.'S
MOTION TO UNSEAL RECORD

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APPELLANT WILLIE G. WILKS, JR.'S MOTION TO UNSEAL RECORD

COMES NOW THE APPELLANT, WILLIE G. WILKS, JR., through the undersigned counsel, and moves this Honorable Court for an Order to unseal proceedings that took place in the Common Pleas Court of Mahoning County, Case No. 13 CR 00540, which the trial court ordered to be sealed, and to be made a part of the record in Wilks's criminal case. The reasons for this request are set forth in the attached memorandum.

WHEREFORE, Appellant prays for an Order of this Court unsealing the items hereafter described.

Respectfully submitted,



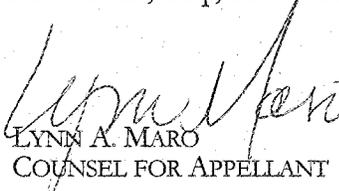
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CERTIFICATE OF SERVICE

15th I hereby certify that a true copy of the foregoing was sent by regular U.S. mail on the day of December, 2014 to: Mr. Ralph M. Rivera, Esq., 21 West Boardman Street, Youngstown, Ohio 44503.



LYNN A. MARO
COUNSEL FOR APPELLANT

C:\Users\Lynn\Documents\wilks\Unsealrecarddr2.wpd Sat 13 Dec 2014 06:02 pm 1802 hrs

MEMORANDUM IN SUPPORT
OF MOTION TO UNSEAL

Appellant, WILLIE G. WILKS, JR. was convicted of aggravated murder and sentenced to death. He is currently before this Court on an appeal as of right. On November 24, 2014, the Mahoning County Clerk of Courts submitted to this Court the record from Wilks's capital trial. Along with the submitted record were three items that were filed under seal. These items are Item No. 3 (Index No. 89) Transcript of Grand Jury Proceeding, Item No. 4 (Index No. 207) Prosecutor's File, and Item No. 6 (Index No. 245) Transcript of In-Chamber Hearing and Court's Exhibit No. 2.

Wilks moves this Court to unseal these documents for counsel's review, or, in the alternative, to allow counsel, including counsel from the Ohio Public Defender's Office who are working on Wilks's post-conviction petition, to view and to copy the contents.

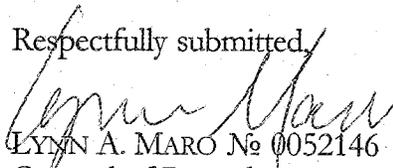
Wilks has a right to a complete and unabridged record for his capital appeal. See, *State ex rel. Spirko v. Court of Appeals, Third Appellate District*, 27 Ohio St. 3d 13, 16, 501 N.E.2d 625, 627 (1986). See, also, *State v. D'Ambrosio*, 67 Ohio St. 3d 185, 200, 616 N.E.2d 909 (1993). Further, Sup. R. Prac. R. 19(3)(A) 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 items be sealed as a part of the record in Wilks'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. R. 19(3)(A) and (D), these materials are documents that may be material to Wilks's appeal.

These portions of the record may present issues for Wilks's Merit Brief and Post-Conviction Petition. It is incumbent upon counsel to review the items, as a thorough review of the entire record is necessary to afford Wilks a full and fair opportunity to litigate his appeal as of right in this Court and to raise constitutional matters partially or wholly supported *dehors* the record in the Common Pleas Court of Mahoning County. Without a complete record for review, counsel cannot provide effective representation to Wilks. See, *State v. Buell*, 70 Ohio St.3d 1211, 639 N.E.2d 110 (1994); and, *Evitts v. Lucey*, 469 U.S. 387, 105 S. Ct. 830, 83 L.Ed.2d 821 (1985).

WHEREFORE, Wilks requests that this Court unseal all portions of the record that were held under seal by the Mahoning County Clerk's office and so filed in this Court.

Respectfully submitted,


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