

ORIGINAL

In The Supreme Court Of Ohio

State Of Ohio, :
 Appellee, :
 -vs- : Case No. **2010-0854**
 Anthony Kirkland :
 Appellant. : **Death Penalty Case**

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 SUPREME COURT OF OHIO

**On Appeal from the
 Hamilton County Court of Common Pleas
 Case No. B 0901629 & B 0904028**

**Appellant Anthony Kirkland's Application For Reopening Pursuant To
 S.Ct. Prac. R. 11.06**

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State Of Ohio, :
Appellee, :
-vs- : Case No. **2010-0854**
Anthony Kirkland :
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Appellant Kirkland's Application For Reopening Pursuant To S.Ct. Prac. R. 11.06

The Due Process Clause guarantees effective assistance of counsel on a criminal appeal as of right. *Evitts v. Lucey*, 469 U.S. 387 (1985). Appellate counsel must act as an advocate. *See, e.g., Anders v. California*, 386 U.S. 738 (1967); *Penson v. Ohio*, 488 U.S. 75 (1988). As can be seen from the dearth of meritorious issues filed as well as the oral argument presented in this case¹, appellate counsel were prejudicially ineffective. Exh. A. This Court must reopen Kirkland's direct appeal. *State v. Murnahan*, 63 Ohio St. 3d 60 (1992); S.Ct. Prac. R. 11.6.

PROPOSITION OF LAW NO. I: An Appellant's rights to due process and the effective assistance of counsel are violated when appellate counsel fails to ensure that the appellate record is complete. U.S. Const. Amends. V, VI, VIII, and XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

Direct appeal counsel were ineffective for failing to ensure a complete record on appeal. Kirkland is entitled to a "complete, full and unabridged transcript of all proceedings against him so that he may prosecute an effective appeal." *State ex. rel. Spirko v. Court of Appeals, Third Appellate Dist.*, 27 Ohio St.3d 13, 18 (1986); *Griffin v. Illinois*, 351 U.S. 12 (1956); S.Ct. Prac. R. 5.1. Appellate counsel were ineffective for failing to raise a timely motion for the inclusion of

¹ See Oral Argument at 4:40, 6:00-7:20 (counsel concedes meritorious issues); 53:50 (counsel does not know what aggravating circumstance is).

the questionnaires in the record. *Cf. State v. Williams*, 73 Ohio St. 3d 153, 161 (1995). Because of counsel's failure to file the questionnaires before filing the Brief of Appellant, Kirkland was deprived of the ability to raise issues apparent from the review of the questionnaires. *See* Proposition of Law III & V.

PROPOSITION OF LAW NO. II: Direct appeal counsel failed to raise several instances of trial court errors, prosecutorial misconduct, and ineffective assistance of counsel in violation of Kirkland's due process rights.

Direct appeal counsel failed to raise numerous meritorious issues of trial court errors, prosecutorial misconduct, and ineffective assistance of counsel. *See* Propositions of Law I, III-VI). Even without these errors, all seven justices already determined that Kirkland did not receive a fair trial and three justices would have remanded his case for a new penalty phase. "There was a reasonable probability of success had he presented those claims on appeal." *State v. Were*, 120 Ohio St. 3d 85, 88 (Ohio 2008) (internal citations omitted).

Appellate counsel were prejudicially ineffective for failing to raise meritorious issues of Appellant Kirkland's behalf.² The failure to present a meritorious issue for review constitutes ineffective assistance of appellate counsel. *See Franklin v. Anderson*, 434 F.3d 412 (6th Cir. 2007); *State v. Ketterer*, 111 Ohio St.3d 70 (2006). Had Kirkland's appellate counsel presented the following issues, the outcome of the appeal would have been different. *Strickland v. Washington*, 466 U.S. 668 (1984)³.

PROPOSITION OF LAW NO. III: A defendant's right to fair trial and due process is violated when a biased juror sits on his jury. U.S. Const. Amends. V, VI, VIII, and XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

² Due to the page limitation imposed by S. Ct. Prac. R. 11.06, Kirkland is unable to fully brief the issues not raised by prior appellate counsel. As such, Kirkland's failure to fully brief every single point outlined should not be the basis of a waiver of that issue or point.

³ A cite to *Strickland v. Washington*, 466 U.S. 668 (1984) should be included at each place that ineffective assistance of counsel is herein alleged.

"The right to jury trial guarantees to the criminally accused a fair trial by a panel of impartial, 'indifferent' jurors." *Morgan v. Illinois*, 504 U.S. 719, 727 (1992) (citing *Irvin v. Dowd*, 366 U.S. 717, 722 (1961)). More than one juror was biased against Kirkland, and the inclusion of just one biased juror violated Kirkland's constitutional rights. *Irvin*, 366 U.S. at 722, *In re Murchison*, 349 U.S. 133, 136 (1955), *Patton v. Yount*, 467 U.S.1025, 1036 (1984). This bias was evident in her answers on her questionnaire. Juror Mascus informed defense counsel that she would not be a fair juror and that, if she were the defendant, she would not let her on the jury. Exh. B. During voir dire, Juror Mascus told the court that her co-worker had come to work very upset because she worked had with Crawford. *Id.* The juror stated, "I bought her some flowers to try and cheer her up and we . . . talked about it." *Id.* Mascus was empaneled and deliberated Kirkland's case to verdict.

Juror Casada's answers also indicated bias. When asked if he would be able to look at the photographs of the victims, he responded that "the ones that were murdered, they deserve . . . someone that can step up and make that decision." Tr. 523. That decision was clearly the death penalty. Juror Kelso indicated on her questionnaire she believed a law enforcement officer's testimony was entitled to more weight simply because he or she is a law enforcement officer and indicated she had a negative opinion in general of defense attorneys (Exh. C), yet defense counsel failed to ask a single question for further clarification on either of these matters. *See* Tr. 649-652. Juror Lubbers indicated on her questionnaire that the death penalty was appropriate with very few exceptions where someone has been murdered and agreed with the statement that "The death penalty should always be used as the punishment for every murder." Exh. D. Defense counsel failed to inquire further regarding Juror Lubbers' beliefs. *See* Tr. 638-642.

The same is true for alternate juror Tracey Antoniades. Juror Antoniades referred to the person who committed the crimes as “a monster,” and she admitted that she formed an opinion about Kirkland. Exh. E, p.10, 11. But defense counsel did not question her about her statements on this, race, bias toward prosecution and against defense, and passed for cause. Tr. 772.

PROPOSITION OF LAW NO. IV: A trial court violates a defendant’s constitutional rights to a fair trial and due process when it commits prejudicial errors during the trial. U.S. Const. Amends. V, VI, VIII, and XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

The trial court violated Kirkland’s federal and state constitutional rights when it:

a) **admitted cumulative, gruesome photos in both phases.** The probative value of each photo must outweigh any potential danger of prejudice. *State v. Morales*, 32 Ohio St. 3d 252, 258 (1987); Evid. R. 403(A). Photos must also be excluded if they are “repetitive or cumulative in number.” *State v. Maurer*, 15 Ohio St.3d 239, syl. para. 7 (1984). The gruesome and cumulative photos were admitted in both phases and deprived Kirkland of his right to a fair trial and due process. See Tr. 815-16, 918, 925-29, 942-52, 971-80, 1014-23, 1070-75, 1097, 1210-11, 2069-70.

b) **allowed the admission of victim impact evidence.** Victim impact evidence must be excluded from the trial phase because it “serves to inflame the passion of the jury with evidence collateral to the principal issue at bar.” See *State v. White*, 15 Ohio St. 2d 146 (1968). This evidence is only admissible when it relates to the “facts attendant to the offense.” *State v. Fautenberry*, 72 Ohio St.3d 435 (1995). The State committed misconduct when it introduced impermissible evidence at trial (Tr. 887-89, 893, 993-1003, 1013, 1032-40, 1138-40, 1142-45, 1163-64) and in mitigation (Tr. 2069-70). The court erred in allowing it, and counsel were ineffective to Kirkland’s prejudice for failing to object to it.

c) **improperly admitted all trial phase exhibits during penalty phase:** It is the trial court's responsibility, not the jury's, to determine what evidence is relevant. The trial court errs in admitting all the evidence from the trial phase into the penalty phase and instructing the jury to consider "all the evidence, including exhibits presented in the first phase of this trial *which you deem to be relevant,*" without making a relevancy determination, and that is what the court did here. *State v. Getsy*, 84 Ohio St.3d 180, 201 (1998); *State v. Lindsey*, 87 Ohio St.3d 479, 484-485 (2000). The court told the jury, "some of the evidence and testimony that you considered in the trial phase of this case may not be considered in this sentencing phase," but it never told the jurors *what* evidence should not be considered. Tr. 2229. *See also* tr. 1690. Even after defense counsel objected to the admission of all the exhibits, the court failed to conduct its own review. Tr. 2250-51. The court relied upon counsel to review the evidence and make sure "nothing inappropriate goes back." Tr. 2251.

This abdication of responsibility was especially problematic here because "the prosecution repeatedly urged the jury to weigh the specific details of the murder against the mitigation." *State v. Kirkland*, 140 Ohio St. 3d 73, 86-87 (2014). It was up to the court to correct that misinformation. No one ever did.

PROPOSITION OF LAW NO. V: A capital defendant is denied the right to the effective assistance of counsel when counsel prejudicially fails his client during his capital trial. U.S. Const. VI and XIV.

Normally when evaluating claims of ineffective assistance of counsel, this Court must determine if counsel's performance was deficient, and if so, whether petitioner was prejudiced by that deficient performance. *Strickland*, 466 U.S. at 686-87. But the standard in *United States v. Cronin*, 466 U.S. 648 (1984) is applicable here, because Kirkland essentially had no counsel fighting for him. Prejudice should be presumed.

Kirkland's counsel did very little during the trial phase, failing to even insure that Kirkland's confessions were properly redacted. Counsel promised the jurors that their arguments would come during the penalty phase. But when the penalty phase arrived, counsel provided no help to Kirkland. In fact, counsel made statements that sounded more like the prosecution than the defense. "If no actual 'Assistance' 'for' the accused's 'defence' is provided, then the constitutional guarantee has been violated." *United States v. Cronin*, 466 U.S. 648, 654 (1984).

At the very least, Kirkland's counsel rendered deficient performance to Kirkland's prejudice by:

- a) **failing to object to the admission of other acts testimony, gruesome photographs, victim impact testimony.** Counsel's failure to object was ineffective and prejudicial.
- b) **failing to object to prosecutorial misconduct throughout Kirkland's trial.** See Proposition of Law VI. *Washington v. Hofbauer*, 228 F.3d 689, 709 (6th Cir. 2000).
- c) **failing to advocate for their client during trial phase.** During voir dire, jurors were told Kirkland was on trial for four murders. However, following the jury being empaneled Kirkland, on the advice of his attorneys, pled guilty to two of the four homicides. Counsel admitted that under normal circumstances they would have objected to any indication of the prior murders. Tr. 849-51. But counsel failed to even attempt to advocate for Kirkland. As a result, the State essentially tried all four cases together, and Kirkland received no benefit from pleading guilty to the Rolison and Newton murders as defense counsel clearly intended.
- d) **failing to ensure statements were properly redacted:** Trial counsel filed a motion requesting specific portions of Kirkland's statements to police be redacted on December 22, 2009. Exh. F. The statements encompassed inadmissible and prejudicial statements of Kirkland's other bad acts, previous incarceration, and possible warrants. The State agreed to redact many the requested portions of Kirkland's statements (Exh. G) but it failed to adequately do so. Multiple statements came in for the jury to hear. Tr. 1350, 1391, 1395, and 1400.

The audio included references such as:

- Kirkland references parole officer, says “probably put warrants and everything out on me” Tr. 1350
- Kirkland says “That bike would help me a lot better than it would him on foot.” Officer asks, “Okay. Because you’ve got the warrants and all that?” Kirkland: “That’s right.” Tr. 1391
- Kirkland again discussing having warrants Tr. 1395
- Kirkland talks about restraining order Tr. 1400
- Officer says, “you got warrants” Tr. 1405
- Kirkland references dude that I got the warrants with Tr. 1416
- references to the “first incident” with Leola Tr. 1590-91
- “whatever it was that I had done that it was done and over with with her” Tr. 1591
- Officer says, “you have a propensity to like younger women. Like Mia was young. Whether that happened or—” and Kirkland responds, “Maya told me she was 19.” Tr. 1625
- “Maya . . . was wanting money for what you did maybe.” Tr. 1626

In order to prevent the jury from hearing this, all defense counsel would have had to do is listen to the audio before it was played. Again, the prosecution did not oppose most of the redactions sought by the defense, so it obviously would not be adverse to fixing what needed fixed.

Defense counsel compounded their ineffectiveness by then permitting the audio to go back to the jury. The prosecution sought to admit the audio heard by the jury, and it was admitted *without objection* by the defense. Tr. 1679. Exhibits 7(c), 8(c), and 9(c) were admitted. Tr. 1678-79. The trial judge told the jurors to rely on the audio versions of what they heard, not the transcripts, because the transcripts differed. Tr. 1694.

e) **failing to subject State’s case to meaningful adversarial testing:** The State presented 28 witnesses. *See* Master Index, pp. 2316-18. Defense counsel only subjected four of those witnesses to cross-examination. *See id.* at 2317-18. The testimony from the trial phase is just under 1000 pages, but the total pages of cross-examination equals approximately **17 pages**: nine

pages for Keith Witherell (tr. 1526-34), seven pages for William Hilbert (tr. 1777-84), one page for Eric Karaguleff (bottom of 1796 to top of 1797), one paragraph for Karen Looman (tr. 1828). “[I]f counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, then there has been a denial of Sixth Amendment rights that makes the adversary process itself presumptively unreliable.” *Cronic*, 466 U.S. at 659. This was “constitutional error of the first magnitude and no amount of showing of want of prejudice would cure it.” *Id.* (internal citations omitted)

f) failing to effectively conduct voir dire. Defense counsel did not voir dire the jurors about mitigation. Counsel also failed to voir dire jurors about answers that indicated bias. Defense counsel not only passed for cause, but they asked no questions of Mascus. Tr. 574. Exh. B. Defense counsel asked no follow up to Juror Casada, whose answers also indicated bias. Tr. 523. Juror Kelso indicated on her questionnaire she believed a law enforcement officer’s testimony was entitled to more weight simply because he or she is a law enforcement officer and indicated she had a negative opinion in general of defense attorneys, yet defense counsel failed to ask a single question for further clarification on either of these matters. Exh. C. Juror Lubbers indicated on her questionnaire that “The death penalty should always be used as the punishment for every murder.” Exh. D. Defense counsel failed to inquire further regarding Juror Lubbers’ beliefs.

Juror Antoniadis referred to the person who committed the crimes as “a monster,” and she admitted that she formed an opinion about Kirkland. Exh. E. But defense counsel did not question her about her statements and passed for cause. Tr. 772.

g) failing to request a change of venue. One-hundred-ten potential jurors filled out questionnaires in Kirkland’s case and eighty-eight of those admitted to having prior knowledge

of the case. *See* Juror Questionnaires, filed June 17, 2011. Twenty-seven stated that they were already convinced of Kirkland's guilt. Ten of the sitting jurors admitted to having prior knowledge of the case and one of the sitting jurors and all four alternates admitted both outside knowledge and admitted that they considered Kirkland guilty based on media reports. [Juror questionnaires 48, 51, 52, 54].

h) failing to effectively advocate during mitigation. Defense counsel told the jurors in trial phase opening statements that "we expect this will go to a second stage and we expect that we will present our arguments there." Tr. 884. But once they got to the second stage, defense counsel seemingly advocated for Kirkland to receive the death penalty: "[I]f you could kill him, strangle him, burn him up, bring him back to life and do it again, you might be warranted in saying I don't care what the judge is telling me, it happens now." Tr. 2173. In mitigation opening, counsel acknowledged feeling anger toward their own client. Tr. 2069. They did it again in closing (Tr. 2179) and also called Kirkland a "psychopathic liar." Tr. 2174.

These failures, alone and in the cumulative, establish that Kirkland had no counsel working for him. *Cronic*, 466 U.S. at 659. Prejudice should be presumed, but it is also evident that these errors prejudiced Kirkland. *Strickland*, 466 U.S. 668.

PROPOSITION OF LAW NO. VI: A capital defendant is denied his substantive and procedural due process rights to a fair trial and reliable sentencing as guaranteed by U.S. Const. Amends. VIII and XIV; Ohio Const. Art. I, §§ 9 and 16 when a prosecutor commits acts of misconduct during his capital trial.

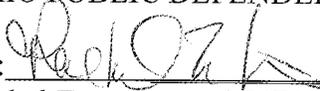
Here, during both phases of Kirkland's capital trial, the prosecutor committed acts of misconduct that deprived Kirkland of a fair trial and a reliable sentence. *See Donnelly v. DeChristoforo*, 416 U.S. 637, 643 (1974). The following include the specific examples:

- a) **elicited inflammatory information.** The State elicited victim impact evidence irrelevant to any fact of consequence. All were irrelevant and inflammatory. *See* Proposition of Law IV. The state asked Dr. Stephens if he was looking for a “serial killer” Tr. 1030.
- b) **used inadmissible and prejudicial evidence.** The State admitted prejudicial and inadmissible evidence to the jury. *See* Proposition of Law IV & V.
- c) **made gratuitous and inflammatory remarks.** In opening statements the prosecutor referred to Kirkland as a “vicious serial killer”. Tr. 857.
- d) **improperly used knife as demonstrative evidence in closing argument.** “[T]he state's closing remarks in the penalty phase were improper and substantially prejudicial.” *Kirkland*, 140 Ohio St. 3d. at 87. So too was the prosecutor’s use of demonstrative evidence in closing. *Berger v. United States*, 295 U.S. 78, 89 (1935). The transcript demonstrates that the prosecutor told the jury “.....[used this knife]... [cut off clothes].” Tr. 2165 At the end of prosecutor’s argument, the judge told the prosecutor he could put the knife away. Tr. 2167. “Demonstrative evidence is admissible if it satisfies the general standard of relevance set forth in Evid.R. 401 and if it is substantially similar to the object or occurrence that it is intended to represent. *State v. Palmer*, 80 Ohio St.3d 543, 566 (1997).

CONCLUSION. This Court must grant Kirkland’s Application for Reopening. S.Ct. Prac. R. 11.6.

Respectfully submitted,

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Counsel For Appellant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of **Appellant Kirkland's Application for Reopening** 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 23rd day of December, 2014.


Rachel Troutman – 0076741
Supervisor, Death Penalty Division

Counsel For Appellant

EXHIBIT A

In The Supreme Court Of Ohio

State Of Ohio,	:	
Appellee,	:	
-vs-	:	Case No.: 2010-0854
Anthony Kirkland,	:	
Appellant.	:	This Is A Capital Case.

AFFIDAVIT OF RACHEL G. TROUTMAN

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

I, Rachel Troutman, after being duly sworn, hereby state as follows:

1. I am an attorney licensed to practice law in the state of Ohio, and I have been an assistant state public defender since 2003. My sole area of practice is capital litigation.
2. I was assigned to work on Anthony Kirkland's post-conviction appeal.
3. I have reviewed the record in *State v. Anthony Kirkland*, Hamilton County Common Pleas Case No. B 0901629 & B090428. I have also reviewed the direct appeal briefs and oral argument presented to this Court in this case.
4. I am Rule 20 certified to represent indigent clients in death penalty appeals.
5. Because of the focus of my practice of law, my Rule 20 certification, and my attendance at death-penalty seminars, I am aware of the standards of practice involved in the appeal of a case in which the death sentence was imposed. Because of my specialized practice, I have also taught as faculty at the Ohio Association of Criminal Defense Lawyers annual death penalty seminar as well as the Ohio State Bar Association annual death penalty seminar, both held in Columbus, Ohio.
6. The Due Process Clause of the Fourteenth Amendment guarantees effective assistance of counsel on an appeal as of right. *Evitts v. Lucey*, 469 U.S. 587 (1985).
7. In Ohio, the professional norms that govern capital appellate attorneys are the American Bar Association's Guidelines for the Appointment and Performance of Defense Counsel

in Death Penalty Cases (hereinafter “ABA Guidelines.”) The ABA Guidelines apply “from the moment the client is taken into custody and extend to all stages of every case.” Guideline 1.1 (B).

8. The initial responsibility of appellate counsel, once the transcript is filed, is to ensure that the entire record has been filed with the appellate court. Appellate counsel has a fundamental duty in every criminal case, and especially in a capital case, to ensure that the entire record is before the reviewing courts on appeal. R.C. 2929.05; *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); See also *Griffin v. Illinois*, 351 U.S. 12, (1956) (recognizing the necessity of the transcript in order to vindicate a defendant’s constitutional right to appellate review).
9. After ensuring that the record is complete, counsel must then review the entirety of the record for purposes of issue identification. This review of the record not only includes the transcript, but also the trial motions, exhibits, and the jury questionnaires. If the jury questionnaires are not a part of the record, counsel must file a motion to supplement the record as soon as possible so that any issues therein are able to be raised on appeal.
10. Kirkland’s direct appeal counsel failed to timely supplement the record with the juror questionnaires. **See Proposition of Law No. I.** See also ABA Guideline 10.7(B)(2) (“Counsel at every stage have an obligation to satisfy themselves independently that the official record of the proceedings is complete and to supplement it as appropriate.”) They supplemented the record with the questionnaires after they filed their brief on Kirkland’s behalf. Counsel did not, therefore, include the questionnaires in the record in time to identify and raise issues that were apparent from the questionnaires. Specifically, there were biases that were evident from the answers of jurors who decided Kirkland’s case. These errors are more fully explained in **Proposition of Law No. II.**
10. For counsel to properly identify issues, they must have a good knowledge of criminal law in general. Most trial issues in capital cases will be decided by criminal law that is applicable to non-capital cases. As a result, appellate counsel must be informed about the recent developments in criminal law when identifying potential issues to raise on appeal.
11. Counsel must remain knowledgeable about recent developments in the law after the merit brief is filed. Keeping up on Rule 20 certification and attending annual seminars is one of the best ways to stay informed and abreast of new developments in the law.
12. Since the reintroduction of capital punishment in response to the Supreme Court’s decision in *Furman v. Georgia*, 408 U.S. 238 (1972), the area of capital litigation has become a recognized specialty in the practice of criminal law. Many substantive and procedural areas unique to capital litigation have been carved out by the United States Supreme Court. As a result, anyone who litigates in the area of capital punishment must be familiar with this Supreme Court precedent and developments in the law to raise and preserve all relevant issues for appellate review.

13. Appellate representation of a death-sentenced client requires recognizing that the case will most likely proceed to the federal courts at least twice: first, on petition for Writ of Certiorari in the United States Supreme Court, and again on petition for Writ of Habeas Corpus filed in a federal district court. Appellate counsel must preserve all issues throughout the state-court proceedings on the assumption that relief is likely to be sought in federal court. The issues that must be preserved are not only issues unique to capital litigation, but also case- and fact-related issues unique to the case that impinge on federal constitutional rights.
14. It is a basic principle of appellate practice that to preserve an issue for federal review, the issue must be exhausted in the state courts. This is all the more important in light of a recent case out of the United State Supreme Court, *Cullen v. Pinholster*, 131 S. Ct. 1388 (2011). To exhaust an issue, the issue must be presented to the state courts in such a manner that a reasonable jurist would have been alerted to the existence of a violation of the United States Constitution. The better practice to exhaust an issue is to cite directly to the relevant provisions of the United States Constitution in each proposition of law to avoid any exhaustion problems in federal court.
15. It is important that appellate counsel realize that the reversal rate in the state of Ohio is approximately eleven percent on direct appeal and two percent in post-conviction. It is my understanding that forty to sixty percent (depending on which of several studies is relied upon) of all habeas corpus petitions are granted. Thus, appellate counsel must realize that in Ohio, a capital case is very likely to reach federal court and, therefore, counsel should prepare the appeal accordingly. Moreover, Guideline 10.8(A)(3)(b) instructs counsel to “evaluate each potential claim in light of...the near certainty that all available avenues of post-conviction relief will be pursued in the event of conviction and imposition of a death sentence.”
16. It is my understanding that a significant number of reversals in federal court are based upon ineffective assistance of trial counsel. That makes it absolutely crucial that all claims of ineffective assistance be briefed and preserved for federal court review.
17. Guideline 10.8(B)(1) of the ABA Guidelines advise “counsel who decide to assert a particular legal claim” to “present the claim as forcefully as possible, tailoring the presentation to the particular facts and circumstances in the client’s case and the applicable law in the particular jurisdiction.” This is particularly relevant to Kirkland’s **Proposition Of Law No. V.**
18. Based on the foregoing standards, I reviewed the record in Anthony Kirkland’s case. In addition to direct appeal counsel’s failure to ensure a complete record, identified in Proposition of Law I, I have identified the following issues that should have been evaluated by appellate counsel and fully presented to this Court:

PROPOSITION OF LAW NO. II: : A defendant’s right to fair trial and due process is violated when a biased juror sits on his jury. U.S. Const. Amends. V, VI, VIII, and XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16, and 20. See also ABA Guideline 10.10.2.

“A fair trial in a fair tribunal is a basic requirement of due process.” *In re Murchison*, 349 U.S. 133, 136 (1955). “The right to jury trial guarantees to the criminally accused a fair trial by a panel of impartial, ‘indifferent’ jurors.” *Morgan v. Illinois*, 504 U.S. 719, 727 (1992) (citing *Irvin v. Dowd*, 366 U.S. 717, 722 (1961)). More than one juror was biased against Kirkland, and the inclusion of just one biased juror violated Kirkland’s constitutional rights. *Irvin*, 366 U.S. at 722, *In re Murchison*, 349 U.S. 133, 136 (1955), *Patton v. Yount*, 467 U.S.1025, 1036 (1984). This bias was evident in her answers on her questionnaire. Juror Mascus informed defense counsel that she would not be a fair juror and that, if she were the defendant, she would not let her on the jury. Exh. B. During voir dire, Juror Mascus told the court that her co-worker had come to work very upset because she worked had with Crawford. *Id.* The juror stated, “I bought her some flowers to try and cheer her up and we . . . talked about it.” *Id.* Mascus was empaneled and deliberated Kirkland’s case to verdict.

Juror Casada’s answers also indicated bias. When asked if he would be able to look at the photographs of the victims, he responded that “the ones that were murdered, they deserve . . . someone that can step up and make that decision.” Tr. 523. That decision was clearly the death penalty. Juror Kelso indicated on her questionnaire she believed a law enforcement officer’s testimony was entitled to more weight simply because he or she is a law enforcement officer and indicated she had a negative opinion in general of defense attorneys (Exh. C), yet defense counsel failed to ask a single question for further clarification on either of these matters. Juror Lubbers indicated on her questionnaire that the death penalty was appropriate with very few exceptions where someone has been murdered and agreed with the statement that “The death

penalty should always be used as the punishment for every murder.” Exh. D. Defense counsel failed to inquire further regarding Juror Lubbers’ beliefs.

The same is true for alternate juror Tracey Antoniades. Juror Antoniades referred to the person who committed the crimes as “a monster,” and she admitted that she formed an opinion about Kirkland. Exh. E, p.10, 11. Her questionnaire demonstrates clear bias against Kirkland and for the prosecution. As an initial matter, her answers to general questions demonstrate that she is biased toward the police and prosecution, against defense attorneys and black men, and that she had once been the victim of an attempted kidnapping. She “agreed” with the statement “the testimony of a law enforcement officer is entitled to more weight simply because he or she is a law enforcement officer.” *Id.* at 9. She expressed the opinion that she “sometimes wonder[s] how [defense attorneys] can sleep at night.” *Id.* at 10. She expressed that she is “not comfortable around groups of young black men.” *Id.* at 12. She was the victim of an attempted kidnapping. *Id.* at 16. She expressed that “too many criminals get off on technicalities,” and “maybe there should be profiling.” *Id.* at 17.

Juror Antoniades’ answers with respect to Kirkland make her inclusion as an alternate juror even worse. She acknowledged that she had an opinion about the crime and who is responsible, writing, “A very terrible crime committed to an innocent little girl! What a monster!” *Id.* at 10. She also responded in the affirmative in response to a question whether she has had occasion to form an opinion about who murdered Crawford, Kenney, Newton, and Rolison, and wrote, “what kind of person, monster could do that to a child?” *Id.* at 11.

But defense counsel did not question her about her statements and passed for cause. Tr. 772.

PROPOSITION OF LAW NO. IV: A trial court violates a defendant’s constitutional rights to a fair trial and due process when it commits prejudicial errors during the trial. U.S. Const. Amends. V, VI, VIII, and XIV; Ohio Const. art. I, §§ 1, 2, 5, 9, 10, 16, and 20.

The trial court violated Kirkland's federal and state constitutional rights when it:

- a) **admitted cumulative, gruesome photos in both phases.** The probative value of each photo must outweigh any potential danger of prejudice. *State v. Morales*, 32 Ohio St. 3d 252, 258 (1987); Evid. R. 403(A). Photos must also be excluded if they are "repetitive or cumulative in number." *State v. Maurer*, 15 Ohio St.3d 239, syl. para. 7 (1984). The gruesome and cumulative photos were admitted in both phases and deprived Kirkland of his right to a fair trial and due process. See Tr. 815-16, 918, 925-29, 942-52, 971-80, 1014-23, 1070-75, 1097, 1210-11, 2069-70.
- b) **allowed the admission of victim impact evidence.** Victim impact evidence must be excluded from the trial phase because it "serves to inflame the passion of the jury with evidence collateral to the principal issue at bar." See *State v. White*, 15 Ohio St. 2d 146 (1968). This evidence is only admissible when it relates to the "facts attendant to the offense." *State v. Fautenberry*, 72 Ohio St.3d 435 (1995). The State committed misconduct when it introduced impermissible evidence at trial (Tr. 887-89, 893, 993-1003, 1013, 1032-40, 1138-40, 1142-45, 1163-64) and in mitigation (Tr. 2069-70). The court erred in allowing it, and counsel were ineffective to Kirkland's prejudice for failing to object to it.
- c) **improperly admitted all trial phase exhibits during penalty phase:** It is the trial court's responsibility, not the jury's, to determine what evidence is relevant. The trial court errs in admitting all the evidence from the trial phase into the penalty phase and instructing the jury to consider "all the evidence, including exhibits presented in the first phase of this trial *which you deem to be relevant*," without making a relevancy determination, and that is what the court did here. *State v. Getsy*, 84 Ohio St.3d 180, 201 (1998); *State v. Lindsey*, 87 Ohio St.3d 479, 484-485 (2000). The court told the jury, "some of the evidence and testimony that you

considered in the trial phase of this case may not be considered in this sentencing phase,” but it never told the jurors *what* evidence should not be considered. Tr. 2229. *See also* tr. 1690. Even after defense counsel objected to the admission of all the exhibits, the court failed to conduct its own review. Tr. 2250-51. The court relied upon counsel to review the evidence and make sure “nothing inappropriate goes back.” Tr. 2251.

This abdication of responsibility was especially problematic here because “the prosecution repeatedly urged the jury to weigh the specific details of the murder against the mitigation.” *State v. Kirkland*, 140 Ohio St. 3d 73, 86-87 (2014). It was up to the court to correct that misinformation. No one ever did.

PROPOSITION OF LAW NO. V: A capital defendant is denied the right to the effective assistance of counsel when counsel prejudicially fails his client during his capital trial. U.S. Const. VI and XIV. See also ABA Guidelines 10.11

Normally when valuating claims of ineffective assistance of counsel, this Court must determine if counsel’s performance was deficient, and if so, whether petitioner was prejudiced by that deficient performance. *Strickland*, 466 U.S. at 686-87. But the standard in *United States v. Cronin*, 466 U.S. 648 (1984) is applicable here, because Kirkland essentially had no counsel fighting for him. Prejudice should be presumed.

Kirkland’s counsel did very little during the trial phase, failing to even insure that Kirkland’s confessions were properly redacted. Counsel promised the jurors that their arguments would come during the penalty phase. But when the penalty phase arrived, counsel provided no help to Kirkland. In fact, counsel made statements that sounded more like the prosecution than the defense. “If no actual ‘Assistance’ ‘for’ the accused’s ‘defence’ is provided, then the constitutional guarantee has been violated.” *United States v. Cronin*, 466 U.S. 648, 654 (1984). At the very least, Kirkland’s counsel rendered deficient performance to Kirkland’s prejudice by:

a) **failing to object to the admission of other acts testimony, gruesome photographs, victim impact testimony.** Counsel's failure to object was ineffective and prejudicial.

b) **failing to object to prosecutorial misconduct throughout Kirkland's trial.** See Proposition of Law No. IV. *Washington v. Hofbauer*, 228 F.3d 689, 709 (6th Cir. 2000).

c) **failing to advocate for their client during trial phase.** During voir dire, jurors were told Kirkland was on trial for four murders. However, following the jury being empaneled Kirkland, on the advice of his attorneys, pled guilty to two of the four homicides. Counsel admitted that under normal circumstances they would have objected to any indication of the prior murders. Tr. 849-51. But counsel failed to even attempt to advocate for Kirkland. As a result, the State essentially tried all four cases together, and Kirkland received no benefit from pleading guilty to the Rolison and Newton murders as defense counsel clearly intended.

d) **failing to ensure statements were properly redacted:** Trial counsel filed a motion requesting specific portions of Kirkland's statements to police be redacted on December 22, 2009. Exh. F. The statements encompassed inadmissible and prejudicial statements of Kirkland's other bad acts, previous incarceration, and possible warrants. The State agreed to redact many the requested portions of Kirkland's statements (Exh. G), but it failed to adequately do so. Multiple statements came in for the jury to hear. (Tr. 1350, 1391, 1395, and 1400.)

The audio included references such as:

- Kirkland references parole officer, says "probably put warrants and everything out on me" Tr. 1350
- Kirkland says "That bike would help me a lot better than it would him on foot." Officer asks, "Okay. Because you've got the warrants and all that?" Kirkland: "That's right." Tr. 1391
- Kirkland again discussing having warrants Tr. 1395
- Kirkland talks about restraining order Tr. 1400
- Officer says, "you got warrants" Tr. 1405
- Kirkland references dude that I got the warrants with Tr. 1416
- references to the "first incident" with Leola Tr. 1590-91
- "whatever it was that I had done that it was done and over with with her" Tr. 1591

-Officer says, “you have a propensity to like younger women. Like Mia was young. Whether that happened or—” and Kirkland responds, “Maya told me she was 19.” Tr. 1625

-“Maya...was wanting money for what you did maybe.” Tr. 1626.

In order to prevent the jury from hearing this, all defense counsel would have had to do is listen to the audio before it was played. Again, the prosecution did not oppose most of the redactions sought by the defense, so it obviously would not be adverse to fixing what needed fixed. _____

Defense counsel compounded their ineffectiveness by then permitting the audio to go back to the jury. The prosecution sought to admit the audio heard by the jury, and it was admitted *without objection* by the defense. Tr. 1679. Exhibits 7(c), 8(c), and 9(c) were admitted. Tr. 1678-79. The trial judge told the jurors to rely on the audio versions of what they heard, not the transcripts, because the transcripts differed. Tr. 1694.

e) **failing to subject State’s case to meaningful adversarial testing:** The State presented 28 witnesses. *See* Master Index, pp. 2316-18. Defense counsel only subjected four of those witnesses to cross-examination. *See id.* at 2317-18. The testimony from the trial phase is just under 1000 pages, but the total pages of cross-examination equals approximately **17 pages**: nine pages for Keith Witherell (tr. 1526-34), seven pages for William Hilbert (tr. 1777-84), one page for Eric Karaguleff (bottom of 1796 to top of 1797), one paragraph for Karen Looman (tr. 1828). “[I]f counsel entirely fails to subject the prosecution’s case to meaningful adversarial testing, then there has been a denial of Sixth Amendment rights that makes the adversary process itself presumptively unreliable.” *Cronic*, 466 U.S. at 659. This was “constitutional error of the first magnitude and no amount of showing of want of prejudice would cure it.” *Id.* (internal citations omitted)

f) failing to effectively conduct voir dire. Defense counsel did not voir dire the jurors about mitigation. Counsel also failed to voir dire jurors about answers that indicated bias. Defense counsel not only passed for cause, but they asked no questions of Mascus. Tr. 574. Exh. B. Defense counsel asked no follow up to Juror Casada, whose answers also indicated bias. Tr. 523. Juror Kelso indicated on her questionnaire she believed a law enforcement officer's testimony was entitled to more weight simply because he or she is a law enforcement officer and indicated she had a negative opinion in general of defense attorneys (Exh. C), yet defense counsel failed to ask a single question for further clarification on either of these matters. Juror Lubbers indicated on her questionnaire that "The death penalty should always be used as the punishment for every murder." Exh. D. Defense counsel failed to inquire further regarding Juror Lubbers' beliefs.

Juror Antoniades' questionnaire demonstrates clear bias against Kirkland and for the prosecution. Exh. E. As an initial matter, her answers to general questions demonstrate that she is biased toward the police and prosecution, against defense attorneys and black men, and that she had once been the victim of an attempted kidnapping. She "agreed" with the statement "the testimony of a law enforcement officer is entitled to more weight simply because he or she is a law enforcement officer." *Id.* at 9. She expressed the opinion that she "sometimes wonder[s] how [defense attorneys] can sleep at night." *Id.* at 10. She expressed that she is "not comfortable around groups of young black men." *Id.* at 12. She was the victim of an attempted kidnapping. *Id.* at 16. She expressed that "too many criminals get off on technicalities," and "maybe there should be profiling." *Id.* at 17.

Juror Antoniades' answers with respect to Kirkland make her inclusion as an alternate juror even worse. She acknowledged that she had an opinion about the crime and who is

responsible, writing, “A very terrible crime committed to an innocent little girl! What a monster!” *Id.* at 10. She also responded in the affirmative in response to a question whether she has had occasion to form an opinion about who murdered Crawford, Kenney, Newton, and Rolison, and wrote, “what kind of person, monster could do that to a child?” *Id.* at 11.

But defense counsel did not question her about her statements and passed for cause. Tr. 772.

g) failing to request a change of venue. One-hundred-ten potential jurors filled out questionnaires in Kirkland’s case and eighty-eight of those admitted to having prior knowledge of the case. *See* Juror Questionnaires, filed June 17, 2011. Twenty-seven stated that they were already convinced of Kirkland’s guilt. Ten of the sitting jurors admitted to having prior knowledge of the case and one of the sitting jurors and all four alternates admitted both outside knowledge and admitted that they considered Kirkland guilty based on media reports. [Juror questionnaires 48, 51, 52, 54].

h) failing to effectively advocate during mitigation. Defense counsel told the jurors in trial phase opening statements that “we expect this will go to a second stage and we expect that we will present our arguments there.” Tr. 884. But once they got to the second stage, defense counsel seemingly advocated for Kirkland to receive the death penalty: “[I]f you could kill him, strangle him, burn him up, bring him back to life and do it again, you might be warranted in saying I don’t care what the judge is telling me, it happens now.” Tr. 2173. In mitigation opening, counsel acknowledged feeling anger toward their own client. Tr. 2069. They did it again in closing (tr. 2179) and also called Kirkland a “psychopathic liar.” Tr. 2174.

These failures, alone and in the cumulative, establish that Kirkland had no counsel working for him. *Cronic*, 466 U.S. at 659. Prejudice should be presumed, but it is also evident that these errors prejudiced Kirkland. *Strickland*, 466 U.S. 668.

PROPOSITION OF LAW NO. VI: A capital defendant is denied his substantive and procedural due process rights to a fair trial and reliable sentencing as guaranteed by U.S. Const. Amends. VIII and XIV; Ohio Const. Art. I, §§ 9 and 16 when a prosecutor commits acts of misconduct during his capital trial.

Here, during both phases of Kirkland's capital trial, the prosecutor committed acts of misconduct that deprived Kirkland of a fair trial and a reliable sentence. *See Donnelly v. DeChristoforo*, 416 U.S. 637, 643 (1974). The following include the specific examples:

- a) **elicited inflammatory information.** The State elicited victim impact evidence irrelevant to any fact of consequence. All were irrelevant and inflammatory. *See* Proposition of Law II. The state asked Dr. Stephens if he was looking for a "serial killer" Tr. 1030.
- b) **used inadmissible and prejudicial evidence.** The State admitted prejudicial and inadmissible evidence to the jury. *See* Proposition of Law III-IV.
- c) **made gratuitous and inflammatory remarks.** In opening statements the prosecutor referred to Kirkland as a "vicious serial killer". Tr. 857.
- d) **improperly used knife as demonstrative evidence in closing argument.** "[T]he state's closing remarks in the penalty phase were improper and substantially prejudicial." *Kirkland*, 140 Ohio St. 3d. at 87. So too was the prosecutor's use of demonstrative evidence in closing. *Berger v. United States*, 295 U.S. 78, 89 (1935). The transcript demonstrates that the prosecutor told the jury "...[used this knife]... [cut off clothes]." Tr. 2165 At the end of prosecutor's argument, the judge told the prosecutor he could put the knife away. Tr. 2167. "Demonstrative evidence is admissible if it satisfies the general standard of relevance set forth in Evid.R. 401 and if it is substantially similar to the object or occurrence that it is intended to represent. *State v. Palmer*, 80 Ohio St.3d 543, 566 (1997).

19. These issues are meritorious and warrant relief. Thus, appellate counsel's failure to present these errors amounts to ineffective assistance of appellate counsel in this case.

20. Appellate counsel failed to raise these issues in appellant Anthony Kirkland's direct appeal to this Court. Based on my evaluation of the record and understanding of the law, I believe the issues raised in this Application to Re-open are meritorious. Also, had appellate counsel raised these issues, each error would have been properly preserved for federal-court review.
21. Therefore, Appellant Anthony Kirkland was detrimentally affected by the deficient performance of his former appellate counsel.

Further affiant sayeth naught.



Rachel Troutman
Counsel for Kirkland

Sworn to and subscribed before me on this 23rd day of December, 2014.



Notary Public



TERI SLACK
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES Apr. 9, 2017

JUROR QUESTIONNAIRE

11

JUROR NAME AND NUMBER Sallie M. Masous-356443

1. Age: 60

2. What is your gender? Male Female

3. What is your race? (please circle)

- a) White/Caucasian
- b) Black/African American
- c) Hispanic/Latino
- d) Asian/Pacific Islander
- e) Other (please state) _____

4. If you have children, please list (include children not living with you):

<u>Sex</u>	<u>Age</u>	<u>Does child live with you</u>	<u>Level of education</u>	<u>Occupation</u>
<u>F</u>	<u>25</u>	<u>yes</u>	<u>attend college</u>	<u>Student</u>
<u>M</u>	<u>23</u>	<u>yes</u>	<u>HS grad</u>	<u>Unemp</u>

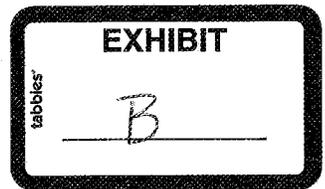
5. Do you have any medical or physical condition that might make it difficult for you to serve as a juror? (Please include any hearing or eyesight problem.) Yes No

Please describe: _____

6. Are you taking any medications that might make it difficult for you to serve as a juror? Yes No

7. Do you have any problems or areas of concern at home or at work that might interfere with your duties as a juror during trial? Yes No

If yes, please describe: _____



002103

8. What part of town do you live in? (Please circle one.)
 City Suburb _____ Rural _____
9. How long have you lived at your present residence?
2 years
10. Do you own or rent? Own _____ Rent
11. List areas of past residence within the last ten years and indicate how long you lived in each location (you do not need to give addresses):
College Hill - 14 years
12. Where were you born? Centri
13. Where were you raised? Centri
14. Is English your first language? Yes No _____
 If no, what is your first language? _____
15. Do you have any difficulty:
 Reading English? Yes _____ Sometimes _____ No
 Understanding spoken English? Yes _____ Sometimes _____ No
16. Are you currently employed outside the home? Yes No _____
 If so, by whom are you employed? UMADAP of Centri, Inc
 Full or part-time? full-time
 If part-time, how many hours per week? _____
 How long have you been so employed? 20 years
17. What are your specific duties and responsibilities on the job?
Chief Financial Officer
18. Do you have the authority to hire and fire employees or have a significant say in these decisions if someone else has the final word? Yes No _____

002104

10 *WJA* If not currently employed outside the home, please check the category that applies to your employment status:

- Homemaker
- Student
- Unemployed-looking for work
- Retired
- Unemployed-not looking for work
- Disabled
- Other (please explain) _____

WJA If you are not currently employed outside the home, but were previously so employed, please describe your most recent form of employment, stating the name of your employer, whether you were employed full or part-time, when and for how long you were so employed: _____

21. Please list your work experience over the past ten years and state when and for how long you were employed at each job. Please give a brief description of each job.

UPLADAD of Centi, Inc Since 1988
Started as part-time Receptionist - to
Secretary to Director - ABM Mgr. - to
CFO

22. Have you ever worked in journalism or the news industry in any capacity?

Yes No

If yes, please state where and when you were so employed and give a brief description of your duties: *Centi Communicator - Small AIA Weekly*
Newspaper Clerk-typist - 10 years ago
Assisted getting paper out - proofed Ling etc

23. Do you have any close friends or relatives who either have worked or are currently working in journalism or in the news industry in any capacity? Yes No

If yes, please state where and when he or she was so employed and give a brief description of his or her duties: *Centi Communicator Editor responsible*
for getting out weekly news - did some reporting

24. Have you ever worked in a laboratory or in any medical research or testing facility?

Yes _____ No

If yes, please describe your duties and when and for how long you were so employed:

25. Do you now work or have you ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)?

Yes _____ No

If yes, please describe the position(s) and dates in detail: _____

26. Have any of your relatives and/or close friends ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)? Yes _____ No

If yes, please describe in detail: _____

27. What is the highest grade in school that you completed? Associates Degree

BUSINESS ADM

28. Please name any educational programs you have attended (vocational schools, certification programs, part-time study):

COURT TECH - OACo College ASS Degree
BUSINESS ADM

29. If you attended any schools or colleges after high school, please name the schools and colleges you attended, your major areas of study, and the field in which you obtained your degree(s):

OACo COLLEGE - Associate Business ADM

30. Are you currently in school? Yes _____ No

If yes, which school and what are you studying? _____

002106

31. Do you plan to attend school in the future? Yes _____ No

If yes, where do you plan to go and what do you plan to study? _____

N/A

What special training or skills do you have? (Please include any technical, medical, psychology or scientific training and special skills acquired on the job.) _____

33. While in school, what was your favorite subject? ENGLISH

34. What was your least favorite subject? Math

35. Do you have any legal training or have you taken any law course? Yes _____ No _____

If yes, please explain: BUSINESS LAW PART OF COURSE OF STUDY

36. Do you know anyone who has been a victim of a sexually motivated crime? Yes No _____

If yes, please explain: Neighbor victim of date rape.

37. Why do you think people commit sex offenses?

Power they have over their victims

38. This case involves allegations of sexual assault. Knowing that, would that prevent you from serving as an impartial juror?

Yes _____ No

If yes, please explain _____

39. Have you ever served in the military? Yes _____ No
If yes, please list: Branch of service: _____
Rank: _____ Dates of service: _____

40. Do you have combat experience? Yes _____ No
If yes, please explain: _____

41. Were you ever involved in any way with military law enforcement, court martial or investigations? Yes _____ No
If yes, please explain: _____

42. Was your spouse or significant other ever in the military? Yes _____ No
If yes, what branch and when? _____

43. Please complete regarding your current spouse or partner:
Spouse/partner's place of birth? CA
Spouse/partner's race or ethnic background? A/A
Spouse/partner's current employment status? UNEMPLOYED
Spouse/partner's occupation? (If that person is retired, unemployed or disabled, what his or her occupation?) DISABLED
By whom is he or she employed? N/A
How long has he or she worked there? N/A
What is the last level of education he or she completed? (Please list any degrees he or she has.) 9th grade

44. What are/were your parents' (and/or step-parents') occupations? (If retired or deceased, what did they do?)
Mother Community Activist Step-Mother _____
Father CONSTRUCTION WORK Step-Father _____

002108

45. Do you have any brothers or sisters with whom you were raised? Yes No

If yes, please list:

<u>Sex</u>	<u>Age</u>	<u>Occupation</u>
F	67	RETIRED
F	58	WORKS WITH IN-SCHOOL Suspension Students
M	55	DISABLED

46. Have you ever been in a courtroom before? Yes No

If yes, how many times and for what purpose(s)? _____

47. Have you or any family members or close friends ever sued or been sued in a civil action?

Yes No

If yes, please explain the nature of the dispute(s): _____

48. Have you ever served on a trial jury before? Yes No

For each time you have sat on a trial jury, please indicate whether it was a criminal case or a civil case:

<u>Type of case</u>	<u>Year</u>	<u>Was a verdict reached?</u> (Please DO NOT state the verdict)

49. Have you ever served on a grand jury? Yes No

If yes, was it state or federal and when was it? _____

50. Have you ever been the foreperson of a trial jury or grand jury? Yes No

If yes, please state what type of case and when: _____

002109

In this case, the defendant is presumed innocent. No issue about the potential penalty could possibly arise unless the State of Ohio first proves beyond a reasonable doubt that the defendant is guilty of a capital murder crime. In any case where a possible punishment may be the death penalty, the law requires that jurors answer questions regarding their thoughts, feelings and opinions about the Death Penalty. You must not assume from any of the questions asked that the Defendant is in fact guilty of anything.

51. Please describe your views on the death penalty:

I KNOW THE DEATH PENALTY IS NECESSARY
IN SOME INSTANCES -- THE NATURE OF THE
CRIME DRAWS THE DEATH PENALTY. I HAVE
MIXED FEELINGS. WHETHER I SHOULD BE
THE PERSON MAKING A LIFE OR DEATH
DECISION

52. Have you ever held a different view on the death penalty? Yes ___ No

If "yes," what caused you to change your view?

53. Which of the following statements best reflects your view of using the death penalty (check one)?

- Appropriate in every case where someone has been murdered.
- Appropriate with very few exceptions where someone has been murdered.
- Appropriate in some murder cases, but inappropriate in most murder cases.
- Opposed with very few exceptions.
- Opposed in all cases.

002110

54. DIRECTIONS: Place a check in one of the spaces next to each statement indicating your agreement and/or disagreement with the statement at the left.

Statement	Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
The death penalty should never be used as the punishment for any murder.					✓	
The death penalty should always be used as the punishment for every murder.					✓	
The death penalty should sometimes be used as the punishment in certain murder cases.	✓					ESM
Only a guilty person would object to a search of his or her home.						✓
A person sentenced to death in Ohio will probably never be executed.				✓		
It does not make any difference to me whether or not we have a death penalty in Ohio.				✓		
Convicted criminals always get out of prison too soon.					✓	
The testimony of a law enforcement officer is entitled to more weight simply because he or she is a law enforcement officer.					✓	
The testimony of a law enforcement officer is entitled to less weight simply because he or she is a law enforcement officer.					✓	
The courts have made it too difficult to prosecute and convict criminals.					✓	
If the prosecution goes to the trouble to bring someone to trial, that person is probably guilty.					✓	

002111

People in prison have a better life than most of the taxpayers who pay for the prisons.					✓	
---	--	--	--	--	---	--

55. A defendant in a criminal case has a right to testify and produce evidence, but a defendant does not have to testify or produce any evidence. Do you believe that a defendant in a criminal case should testify or produce some evidence to prove that he or she is not guilty?
 Yes _____ No

If yes, please explain why: _____

56. Because this case has received some publicity, some of you may have heard or read something about this case at some time. It is vitally important that you truthfully answer the following questions concerning what you have learned about this case from the media.

Please indicate from what sources you have learned about this case (check as many as apply):

Television _____ Newspapers _____
 Radio _____ Have had conversations with other people _____

Have overheard other people discuss it _____

Other _____ (Please specify) *Ms. Crawford - I work for a social service agency that works with students - she was being mentored by co-workers*

57. Based on what you may have heard about this case, do you have an impression or opinion about what happened and who is responsible? Yes _____ No

If "yes," please explain: _____

N/A

58. Do you know or are you acquainted with any persons in the following positions (if so, please check the appropriate boxes):

- The Judge
- The Bailiff
- The Clerk of Courts
- Other Employees in the Courthouse
- The County Prosecutor or an employee in that Office
- Law Enforcement Officers working in this County
- The Defense Attorneys or someone employed by them

002112

59. Do you have a family member or close friend who works in the Legal System (e.g., lawyers, police officers, probation officers, federal agents, prison or jail guards or other institutional employees)?

Yes _____ No

If yes, what are their names and please describe how you know them: _____

60. What are your opinions, if any, about prosecuting attorneys in general? _____

Elected officials doing what taxpayers expect

61. What are your opinions, if any, about criminal defense attorneys in general? _____

Everyone is entitled to a good defense

62. Since the deaths of the Sherree Crawford, Mary Jo Newton, Kimya Rolison, and Esme Kenney, have you had occasion to form an opinion about who you think murdered them?

Yes No _____

If yes, please explain: *My information is from the media television newspapers - very compelling Against defendant*

63. Did you know any of these 4 people named above or ever encounter any of them before they died?

Yes No _____

If yes, please explain: *Ms. Crawford not personally through Co-workers*

64. Do you know any of any of their relatives? Yes _____ No

If yes, please explain: _____

002113

65. Do you know Anthony Kirkland? Yes _____ No

If yes, please explain: _____

66. Do you know any of Anthony Kirkland's relatives? Yes _____ No

If yes, please explain: _____

67. When you were growing up, what was the racial and ethnic make-up of your neighborhood?

African American

68. Is there any racial or ethnic group that you do not feel comfortable being around?

Yes _____ No

If yes, please explain: _____

69. With respect to the issue of racial discrimination against African-Americans in our society, do you think it is:

A very serious problem A somewhat serious problem _____
Not too serious _____ Not at all serious _____ Not a problem _____

70. Have you ever had a negative or frightening experience with a person of another race?

Yes _____ No

If yes, please explain the circumstances: _____

71. Have you ever been exposed to persons who exhibited racial, sexual, religious and/or ethnic prejudice? Yes No _____

If yes, please describe the experience: *Walking in downtown Cynth,*
being called names by caucasians homeless males -

002114

72. Are you a member of any group or organization which is concerned with racial or ethnic issues? Yes _____ No

If yes, please identify the groups: _____

73. Are you a member of any private club, civic, professional or fraternal organization which limits its membership on the basis of race, ethnic origin, gender or religion?

Yes _____ No

If yes, please identify the group(s) or organization(s): _____

74. Do you feel that people are overly sensitive about racial and ethnic jokes?

Yes _____ No

75. Do you identify with any religious or spiritual group, denomination, or set of teachings?

Yes No _____

If yes, please provide the following information:

How active are you? Moderately

Have you ever held a position of responsibility in your religious community? No

76. Are you active in politics? Yes _____ No

If yes, please explain: _____

77. Generally speaking, do you consider yourself to be (check one):

Very Conservative	_____	Liberal	_____
Conservative	_____	Very Liberal	_____
Moderate	<input checked="" type="checkbox"/>	Other	_____

002115

78. Have you ever consulted with an expert other than a medical doctor?

Yes _____ No

If yes, please specify the type of expert and the purpose for which she or he was consulted:

79. Are you familiar with psychological testing? Yes _____ No

If yes, how do you feel about the validity of these tests? _____

80. Have you ever studied psychiatry, psychology, or any related subjects?

Yes No _____

If yes, please explain: Part of training - Course of Study

81. Have you, or any member of your family, or close friend ever consulted a psychiatrist or psychologist for professional services? Yes No

If yes, how did this consultation affect your opinion about the value of psychiatry or psychology? Please explain: Mental health was improved

82. If not answered elsewhere, have you, or any member of your family, or a close friend ever received treatment for drug or alcohol use? Yes _____ No

83. There is a wide range of opinions about psychologists, psychiatrists, counselors and therapists. Generally, how do you regard these professions?

These are professions that are needed

84. Do you know anyone who has a mental health problem? Yes No _____

If so, without violating your sense of the right to privacy, please briefly describe the situation: Know someone that is bi polar - everything is fine as long as meds are kept up

002116

85. Do you think people are born with mental health problems or do they develop after birth or both?

Born with _____ After birth _____ Both

86. Do you have any specialized training or course work in medicine, science or biology?

Yes _____ No

If yes, please describe: _____

87. Did you take science or math courses in college? Yes No _____

If yes, what types of course(s) (e.g., biology, chemistry, physics, math): _____

88. Please check the answer which best describes how comfortable you usually feel dealing with mathematical concepts:

- Usually very comfortable
 Usually fairly comfortable
 Usually fairly uncomfortable
 Usually very uncomfortable

89. Have you ever taken any courses in statistics? Yes _____ No

If so, please state when and where: _____

90. Are you or have you been a member of Neighborhood Watch? Yes _____ No

If yes, what was the nature of your involvement? _____

002117

~~91A~~ Do you have: (please check)

Security bars _____

Alarms _____

Guard dog _____

Weapons for self-protection _____

92. Have you or anyone close to you ever had a negative experience with a person who was high on drugs or drunk? Yes _____ No _____

If yes, please describe: _____

93. Do you belong to any group or organization which is concerned with drug or alcohol abuse? Yes No _____

If yes, please describe: I WORK FOR A DRUG PREVENTION AGENCY - WE WORK WITH STUDENTS AS WELL AS EX-OFFENDERS

94. Do you belong to any group or organization which is concerned with crime prevention or victims' rights? Yes _____ No

If yes, please describe: _____

95. Have you ever been a victim of a crime? Yes No _____

If yes, how many times? 1

What type of crime(s)? ROBBERY - 30-35 years ago

96. Did you or anyone else report it to the police? Yes No _____

If no, why not? _____

97. Were you interviewed by police? Yes No _____

98. Was the suspect caught? Yes _____ No

002118

99. Do you feel the job the police did on it was

Satisfactory _____ Why? _____

Unsatisfactory 1 Why? Only had contact once
no type of follow-up

100. Did you testify in court? Yes _____ No ✓

101. How has that experience affected your impressions about the criminal justice system?

Still have confidence

N/A
102. Other than answers you may have already given, have you had a good or positive experience with any police officers? Yes _____ No _____

Please explain and indicate the police agency involved: _____

N/A
103. Other than answers you may have already given, have you had a bad or negative experience with any police officers? Yes _____ No _____

Please explain and indicate the police agency involved: _____

104. In the past several years there has been much public discussion concerning the issue of crime in our society. Please describe your personal feelings about this issue.

Crime in our society at some point
starts at home. Whether parents or
care-givers should take responsibility for
behavior of their children that will
some day be adults.

105. What are your thoughts about whether the police carefully and completely investigate crimes?

I think they do their job correctly

106. Do you think that crime is:

Going up _____

Going down

Remaining the same _____

107. Do you feel that people convicted of crimes are treated:

Too leniently _____

Too harshly _____

Justly

108. What do you believe are the major causes of crime?

Poverty

109. Have you, or a member(s) of your family, or someone close to you ever been accused of or charged with a criminal offense? Yes No _____

If yes, how was this person related to you? Brother

What was the crime? Murder

Were you (they) convicted? Yes No _____

How has that experience affected your impressions about the criminal justice system?

Everyone should have a paid lawyer - PD did not do the job...

110. Have you ever visited or been inside a prison/jail? Yes No _____

If yes, please explain the circumstances and describe how it made you feel:

Visited my brother... didn't like all the doors locking behind me.

111. Have you ever spoken with someone who works at a prison/jail or an inmate in a prison/jail about their experiences? Yes No _____

If yes, please explain the circumstances:

Conversation with sibling jail not a good place to be.

112. Do you currently, or have you during the past five (5) years, done any volunteer work?

Yes _____ No

If so, for what organization(s): _____

113. Are there any charities or political organizations to which you make donations?

Yes _____ No

If "yes," please explain: _____

114. What type of books do you prefer? (Example: non-fiction, historical, romance, espionage, mystery) Mystery

115. Do you read a newspaper on a regular basis?

Yes No _____

If yes, which newspaper(s): Enquirer

116. Do you read any magazines or periodicals on a regular basis?

Yes No _____

If yes, which ones? Esquire

117. Which television shows do you watch on a regular basis? Reality - Big Brother
Survivor - etc

118. Do you ever watch television programs that show real life police activities such as "Cops," "America's Most Wanted," or "First 48"? Yes No _____

If yes, Very often _____ Occasionally Almost never _____

119. When you have the time, what are your leisure time interests, hobbies, and activities?

Reading playing Cards

N/A

120. What, if any, groups or organizations do you belong to now or have you belonged to for a significant period of time in the past?

A. Now: _____

B. Previously: _____

N/A

121. Have you served as an officer in any one of these groups? Yes _____ No _____

If yes, which group(s): _____

122. In what sorts of situations would you consider yourself to be --

A Leader: When I have more knowledge/experience
ABOUT SITUATION

A Follower: WHEN I DON'T HAVE KNOWLEDGE/EXPERIENCE
ABOUT SITUATION

123. Is there any reason why, if you were the defendant, you would not want someone in your state of mind on the jury? Yes No _____

124. Apart from what you may have read or heard, do you have any personal knowledge of this case or the charges that have been referred to? Yes _____ No

If the answer is yes to the above, please state what your personal knowledge consists of:

125. Do you know any of the other prospective Jurors in this case? Yes _____ No

If yes, please explain:

126. If selected to serve as a juror on this case, the Court would order you not to read, listen to or watch any accounts of this case reported by television, radio or other news media. Will you have any difficulty following this order?

Yes _____ No Do not know _____

127. If you are selected as a juror in this case, the Court would order you not to discuss this case with anyone unless and until permitted to do so by the Court. Will you have any difficulty in following this order?

Yes _____ No Do not know _____

128. As a result of answering this Juror Questionnaire, have you started to form any opinions about this case? Yes _____ No

If yes, please explain:

129. Is there anything going on in your life either at home or at work that might make it difficult for you or distract you if your were seated as a juror in this case? Yes _____ No

If "Yes", please explain:

130. Is there any matter not covered by this questionnaire that you think the attorneys or Court might want to know about when considering you as a juror in this case? _____

I DO HEREBY SOLEMNLY SWEAR OR AFFIRM THAT THE ANSWERS TO THE FOREGOING QUESTIONS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Date: 2/20/10

Signature: Jellie M. Marcus

8. What part of town do you live in? (Please circle one.)
City Suburb _____ Rural _____
9. How long have you lived at your present residence?
24 years
10. Do you own or rent? Own Rent _____
11. List areas of past residence within the last ten years and indicate how long you lived in each location (you do not need to give addresses):
N/A
12. Where were you born? Reading, PA
13. Where were you raised? Reading, PA
14. Is English your first language? Yes No _____
If no, what is your first language? _____
15. Do you have any difficulty:
Reading English? Yes _____ Sometimes _____ No
Understanding spoken English? Yes _____ Sometimes _____ No _____
16. Are you currently employed outside the home? Yes _____ No
If so, by whom are you employed? Tri-State Center for Financial Training
Full or part-time? full-time
If part-time, how many hours per week? _____
How long have you been so employed? 10 years
17. What are your specific duties and responsibilities on the job?
Executive Director - sales, finance, operations of educational not for profit
18. Do you have the authority to hire and fire employees or have a significant say in these decisions if someone else has the final word? Yes No _____

002170

19. If not currently employed outside the home, please check the category that applies to your employment status:

- N/A
- Homemaker Student
 Unemployed-looking for work Retired
 Unemployed-not looking for work Disabled
 Other (please explain) _____

20. If you are not currently employed outside the home, but were previously so employed, please describe your most recent form of employment, stating the name of your employer, whether you were employed full or part-time, when and for how long you were so employed:

N/A

21. Please list your work experience over the past ten years and state when and for how long you were employed at each job. Please give a brief description of each job.

N/A

22. Have you ever worked in journalism or the news industry in any capacity?

Yes No

If yes, please state where and when you were so employed and give a brief description of your duties: _____

23. Do you have any close friends or relatives who either have worked or are currently working in journalism or in the news industry in any capacity? Yes No

If yes, please state where and when he or she was so employed and give a brief description of his or her duties: _____

002171

24. Have you ever worked in a laboratory or in any medical research or testing facility?

Yes _____ No

If yes, please describe your duties and when and for how long you were so employed:

25. Do you now work or have you ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)?

Yes _____ No

If yes, please describe the position(s) and dates in detail: _____

26. Have any of your relatives and/or close friends ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)? Yes No _____

If yes, please describe in detail: my father was a Federal District Court Judge

27. What is the highest grade in school that you completed? BA college

28. Please name any educational programs you have attended (vocational schools, certification programs, part-time study):

I have taken courses administered @ my NOT for profit, law building, Principles of Banking, Analyzing Financial Statements

29. If you attended any schools or colleges after high school, please name the schools and colleges you attended, your major areas of study, and the field in which you obtained your degree(s):

Dartmouth University BA German & Economics major

30. Are you currently in school? Yes _____ No

If yes, which school and what are you studying? _____

002172

31. Do you plan to attend school in the future? Yes _____ No
If yes, where do you plan to go and what do you plan to study? _____
N/A

32. What special training or skills do you have? (Please include any technical, medical, psychology or scientific training and special skills acquired on the job.) _____
Managing a not for profit

33. While in school, what was your favorite subject? History

34. What was your least favorite subject? Math

35. Do you have any legal training or have you taken any law course? Yes _____ No
If yes, please explain: _____
N/A

36. Do you know anyone who has been a victim of a sexually motivated crime? Yes _____
No
If yes, please explain? _____

37. Why do you think people commit sex offenses?
character deficiency

38. This case involves allegations of sexual assault. Knowing that, would that prevent you from serving as an impartial juror?
Yes _____ No
If yes, please explain _____

39. Have you ever served in the military? Yes _____ No

If yes, please list: Branch of service: N/A

Rank: N/A Dates of service: N/A

40. Do you have combat experience? Yes _____ No

If yes, please explain: NA

41. Were you ever involved in any way with military law enforcement, court martial or investigations? Yes _____ No

If yes, please explain: N/A

42. Was your spouse or significant other ever in the military? Yes _____ No

If yes, what branch and when? N/A

43. Please complete regarding your current spouse or partner:

Spouse/partner's place of birth? Dayton, OH

Spouse/partner's race or ethnic background? Caucasian

Spouse/partner's current employment status? employed

Spouse/partner's occupation? (If that person is retired, unemployed or disabled, what his or her occupation?) Psychologist

By whom is he or she employed? Bridgepoint

How long has he or she worked there? 10 years

What is the last level of education he or she completed? (Please list any degrees he or she has.) PhD Psychologist

44. What are/were your parents' (and/or step-parents') occupations? (If retired or deceased, what did they do?)

Mother Nurse, housewife Step-Mother _____

Father Federal Judge Step-Father _____

002174

45. Do you have any brothers or sisters with whom you were raised? Yes X No

If yes, please list:

<u>Sex</u>	<u>Age</u>	<u>Occupation</u>
F	62	notired
M	59	lawyer

46. Have you ever been in a courtroom before? Yes X No
If yes, how many times and for what purpose(s)? my father's courtroom

47. Have you or any family members or close friends ever sued or been sued in a civil action?
Yes No X

If yes, please explain the nature of the dispute(s): N/A

48. Have you ever served on a trial jury before? Yes No ✓
For each time you have sat on a trial jury, please indicate whether it was a criminal case or a civil case:

<u>Type of case</u>	<u>Year</u>	<u>Was a verdict reached?</u> <small>(Please DO NOT state the verdict)</small>
	<u>N/A</u>	

49. Have you ever served on a grand jury? Yes No ✓
If yes, was it state or federal and when was it? N/A

50. Have you ever been the foreperson of a trial jury or grand jury? Yes No ✓
If yes, please state what type of case and when: N/A

In this case, the defendant is presumed innocent. No issue about the potential penalty could possibly arise unless the State of Ohio first proves beyond a reasonable doubt that the defendant is guilty of a capital murder crime. In any case where a possible punishment may be the death penalty, the law requires that jurors answer questions regarding their thoughts, feelings and opinions about the Death Penalty. You must not assume from any of the questions asked that the Defendant is in fact guilty of anything.

51. Please describe your views on the death penalty:

I believe strongly in the death penalty for severe crimes

52. Have you ever held a different view on the death penalty? Yes ___ No

If "yes," what caused you to change your view?

N/A

53. Which of the following statements best reflects your view of using the death penalty (check one)?

- Appropriate in every case where someone has been murdered.
- Appropriate with very few exceptions where someone has been murdered.
- Appropriate in some murder cases, but inappropriate in most murder cases.
- Opposed with very few exceptions.
- Opposed in all cases.

002176

54. DIRECTIONS: Place a check in one of the spaces next to each statement indicating your agreement and/or disagreement with the statement at the left.

Statement	Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
The death penalty should never be used as the punishment for any murder.						X
The death penalty should always be used as the punishment for every murder.			X			
The death penalty should sometimes be used as the punishment in certain murder cases.	X					
Only a guilty person would object to a search of his or her home.					X	
A person sentenced to death in Ohio will probably never be executed.					X	
It does not make any difference to me whether or not we have a death penalty in Ohio.					X	
Convicted criminals always get out of prison too soon.			X			
The testimony of a law enforcement officer is entitled to more weight simply because he or she is a law enforcement officer.		X				
The testimony of a law enforcement officer is entitled to less weight simply because he or she is a law enforcement officer.					X	
The courts have made it too difficult to prosecute and convict criminals.				X		
If the prosecution goes to the trouble to bring someone to trial, that person is probably guilty.					X	

002177

People in prison have a better life than most of the taxpayers who pay for the prisons.							X
---	--	--	--	--	--	--	---

55. A defendant in a criminal case has a right to testify and produce evidence, but a defendant does not have to testify or produce any evidence. Do you believe that a defendant in a criminal case should testify or produce some evidence to prove that he or she is not guilty?

Yes _____ No X

If yes, please explain why: Testifying by the defendant is optional lawyer

56. Because this case has received some publicity, some of you may have heard or read something about this case at some time. It is vitally important that you truthfully answer the following questions concerning what you have learned about this case from the media.

Please indicate from what sources you have learned about this case (check as many as apply):

Television X

Newspapers _____

Radio _____

Have had conversations with other people _____

Have overheard other people discuss it _____

Other _____ (Please specify) _____

57. Based on what you may have heard about this case, do you have an impression or opinion about what happened and who is responsible? Yes _____ No X

If "yes," please explain: N/A

58. Do you know or are you acquainted with any persons in the following positions (if so, please check the appropriate boxes):

The Judge

The Bailiff

The Clerk of Courts

Other Employees in the Courthouse

Judge I know Ethna Cooper and her Bailiff

The County Prosecutor or an employee in that Office

Law Enforcement Officers working in this County

The Defense Attorneys or someone employed by them

65. Do you know Anthony Kirkland? Yes _____ No

If yes, please explain: _____

66. Do you know any of Anthony Kirkland's relatives? Yes _____ No

If yes, please explain: _____

67. When you were growing up, what was the racial and ethnic make-up of your neighborhood?

_____ *caucasian* _____

68. Is there any racial or ethnic group that you do not feel comfortable being around?

Yes _____ No

If yes, please explain: _____

69. With respect to the issue of racial discrimination against African-Americans in our society, do you think it is:

A very serious problem A somewhat serious problem _____
Not too serious _____ Not at all serious _____ Not a problem _____

70. Have you ever had a negative or frightening experience with a person of another race?

Yes _____ No

If yes, please explain the circumstances: _____

71. Have you ever been exposed to persons who exhibited racial, sexual, religious and/or ethnic prejudice? Yes No _____

If yes, please describe the experience: *Many people in day to day life have prejudicial opinions and state them openly.*

72. Are you a member of any group or organization which is concerned with racial or ethnic issues? Yes _____ No X

If yes, please identify the groups: N/A

73. Are you a member of any private club, civic, professional or fraternal organization which limits its membership on the basis of race, ethnic origin, gender or religion?

Yes _____ No X

If yes, please identify the group(s) or organization(s): N/A

74. Do you feel that people are overly sensitive about racial and ethnic jokes?

Yes _____ No X

75. Do you identify with any religious or spiritual group, denomination, or set of teachings?

Yes _____ No X

If yes, please provide the following information:

How active are you? N/A

Have you ever held a position of responsibility in your religious community? N/A

76. Are you active in politics? Yes _____ No ✓

If yes, please explain: _____

77. Generally speaking, do you consider yourself to be (check one):

Very Conservative	<u>✓</u>	Liberal	_____
Conservative	_____	Very Liberal	_____
Moderate	_____	Other	_____

78. Have you ever consulted with an expert other than a medical doctor?

Yes _____ No X

If yes, please specify the type of expert and the purpose for which she or he was consulted:

N/A

79. Are you familiar with psychological testing? Yes X No _____

If yes, how do you feel about the validity of these tests? Valid if qualified

Psychologist

80. Have you ever studied psychiatry, psychology, or any related subjects?

Yes _____ No X

If yes, please explain:

N/A

81. Have you, or any member of your family, or close friend ever consulted a psychiatrist or psychologist for professional services? Yes ✓ No _____

If yes, how did this consultation affect your opinion about the value of psychiatry or psychology? Please explain: positive view

82. If not answered elsewhere, have you, or any member of your family, or a close friend ever received treatment for drug or alcohol use? Yes X No _____

83. There is a wide range of opinions about psychologists, psychiatrists, counselors and therapists. Generally, how do you regard these professions? needed in

our society

84. Do you know anyone who has a mental health problem? Yes _____ No X

If so, without violating your sense of the right to privacy, please briefly describe the situation: _____

002182

85. Do you think people are born with mental health problems or do they develop after birth or both?

Born with _____

After birth ~~_____~~

Both

86. Do you have any specialized training or course work in medicine, science or biology?

Yes _____ No

If yes, please describe: _____

N/A

87. Did you take science or math courses in college? Yes No _____

If yes, what types of course(s) (e.g., biology, chemistry, physics, math): psychology,
biology

88. Please check the answer which best describes how comfortable you usually feel dealing with mathematical concepts:

_____ Usually very comfortable

Usually fairly comfortable

_____ Usually fairly uncomfortable

_____ Usually very uncomfortable

89. Have you ever taken any courses in statistics? Yes No _____

If so, please state when and where: college

90. Are you or have you been a member of Neighborhood Watch? Yes _____ No

If yes, what was the nature of your involvement? _____

002183

91. Do you have: (please check)

Security bars NO

Alarms NO

Guard dog NO

Weapons for self-protection NO

92. Have you or anyone close to you ever had a negative experience with a person who was high on drugs or drunk? Yes No

If yes, please describe: _____

93. Do you belong to any group or organization which is concerned with drug or alcohol abuse? Yes No

If yes, please describe: _____

94. Do you belong to any group or organization which is concerned with crime prevention or victims' rights? Yes No

If yes, please describe: _____

95. Have you ever been a victim of a crime? Yes No

If yes, how many times? multiple

What type of crime(s)? robbery in my driveway, also cars damaged in my driveway & robbed

96. Did you or anyone else report it to the police? Yes No

If no, why not? _____

97. Were you interviewed by police? Yes No

98. Was the suspect caught? Yes No

002184

99. Do you feel the job the police did on it was

Satisfactory Why? difficult to find criminals
who commit those types of crimes

Unsatisfactory _____ Why? _____

100. Did you testify in court? Yes _____ No

101. How has that experience affected your impressions about the criminal justice system?

Small crimes are really not investigated
because of a lack of resources

102. Other than answers you may have already given, have you had a good or positive experience with any police officers? Yes No _____

Please explain and indicate the police agency involved: Concordia police
when reporting a crime, have come
to our home

103. Other than answers you may have already given, have you had a bad or negative experience with any police officers? Yes _____ No

Please explain and indicate the police agency involved: _____

104. In the past several years there has been much public discussion concerning the issue of crime in our society. Please describe your personal feelings about this issue.

There is too much crime in this
city. There are a lot of reasons for it,
many families without present
values, lack of education, lack of
good role models.

002185

105. What are your thoughts about whether the police carefully and completely investigate crimes?

Police investigate the big crimes
and catch many criminals.

106. Do you think that crime is:

Going up Going down Remaining the same

107. Do you feel that people convicted of crimes are treated:

Too leniently Too harshly Justly

108. What do you believe are the major causes of crime? lack of education,
lack of good role models in the home,
poverty

109. Have you, or a member(s) of your family, or someone close to you ever been accused of or charged with a criminal offense? Yes No

If yes, how was this person related to you? cousin

What was the crime? murder

Were you (they) convicted? Yes No

How has that experience affected your impressions about the criminal justice system?

It was a long time ago. It did not
change my opinion

110. Have you ever visited or been inside a prison/jail? Yes No

If yes, please explain the circumstances and describe how it made you feel:

N/A

111. Have you ever spoken with someone who works at a prison/jail or an inmate in a prison/jail about their experiences? Yes No

If yes, please explain the circumstances: I had a speaker for a
seminar who was about 1966. I no
longer hire him to speak.

112. Do you currently, or have you during the past five (5) years, done any volunteer work?

Yes No

If so, for what organization(s): Greater Cincinnati
Micro Enterprise Initiative (GCMIT)
Cincinnati Economic Center

113. Are there any charities or political organizations to which you make donations?

Yes No

If "yes," please explain: GCMIT

114. What type of books do you prefer? (Example: non-fiction, historical, romance, espionage, mystery) fiction

115. Do you read a newspaper on a regular basis?

Yes No

If yes, which newspaper(s): Cincinnati Enquirer

116. Do you read any magazines or periodicals on a regular basis?

Yes No

If yes, which ones? New York Magazine

117. Which television shows do you watch on a regular basis? Fox News

O'Reilly, Hannity

118. Do you ever watch television programs that show real life police activities such as "Cops," "America's Most Wanted," or "First 48"? Yes No

If yes, Very often Occasionally Almost never

002187

119. When you have the time, what are your leisure time interests, hobbies, and activities?

cook, exercise, read

120. What, if any, groups or organizations do you belong to now or have you belonged to for a significant period of time in the past?

A. Now: N/A

B. Previously: N/A

121. Have you served as an officer in any one of these groups? Yes ___ No ___

If yes, which group(s): N/A

122. In what sorts of situations would you consider yourself to be --

A Leader: at work and in social settings
Also work GCMJ

A Follower: N/A

123. Is there any reason why, if you were the defendant, you would not want someone in your state of mind on the jury? Yes ___ No X

124. Apart from what you may have read or heard, do you have any personal knowledge of this case or the charges that have been referred to? Yes ___ No X

If the answer is yes to the above, please state what your personal knowledge consists of:

125. Do you know any of the other prospective Jurors in this case? Yes _____ No

If yes, please explain:

N/A

126. If selected to serve as a juror on this case, the Court would order you not to read, listen to or watch any accounts of this case reported by television, radio or other news media. Will you have any difficulty following this order?

Yes _____ No Do not know _____

127. If you are selected as a juror in this case, the Court would order you not to discuss this case with anyone unless and until permitted to do so by the Court. Will you have any difficulty in following this order?

Yes _____ No Do not know _____

128. As a result of answering this Juror Questionnaire, have you started to form any opinions about this case? Yes _____ No

If yes, please explain:

129. Is there anything going on in your life either at home or at work that might make it difficult for you or distract you if you were seated as a juror in this case? Yes No _____

If "Yes", please explain:

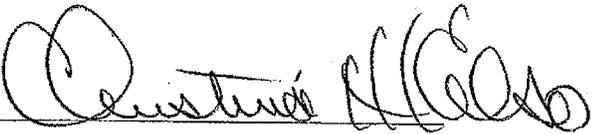
This is a very busy time at work. As Executive Director it is my job to make decisions. It would be difficult to concentrate 100%

002189

130. Is there any matter not covered by this questionnaire that you think the attorneys or Court might want to know about when considering you as a juror in this case? NO

I DO HEREBY SOLEMNLY SWEAR OR AFFIRM THAT THE ANSWERS TO THE FOREGOING QUESTIONS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Date: 2/26/10

Signature: 

JUROR QUESTIONNAIRE

12

JUROR NAME AND NUMBER Paige Wobers 378832

1. Age: 21

2. What is your gender? Male Female

3. What is your race? (please circle)

a) White/Caucasian

b) Black/African American

c) Hispanic/Latino

d) Asian/Pacific Islander

e) Other (please state) _____

4. If you have children, please list (include children not living with you):

<u>Sex</u>	<u>Age</u>	<u>Does child live with you</u>	<u>Level of education</u>	<u>Occupation</u>
<u>NA</u>	<u>N/A</u>			

5. Do you have any medical or physical condition that might make it difficult for you to serve as a juror? (Please include any hearing or eyesight problem.) Yes No

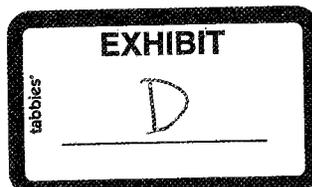
Please describe: NA

6. Are you taking any medications that might make it difficult for you to serve as a juror?

Yes No

7. Do you have any problems or areas of concern at home or at work that might interfere with your duties as a juror during trial? Yes No

If yes, please describe: NA



002126

8. What part of town do you live in? (Please circle one.)
 City _____ Suburb Rural _____
9. How long have you lived at your present residence?
17 years
10. Do you own or rent? Own Rent _____
11. List areas of past residence within the last ten years and indicate how long you lived in each location (you do not need to give addresses):
~~NA~~ NA
12. Where were you born? Cincinnati
13. Where were you raised? Cincinnati
14. Is English your first language? Yes No _____
 If no, what is your first language? _____
15. Do you have any difficulty:
 Reading English? Yes _____ Sometimes _____ No
 Understanding spoken English? Yes _____ Sometimes _____ No
16. Are you currently employed outside the home? Yes No _____
 If so, by whom are you employed? The Christ Hospital
 Full or part-time? Full Time
 If part-time, how many hours per week? _____
 How long have you been so employed? 6 mos
17. What are your specific duties and responsibilities on the job? Registered Nurse - managing health care of patients on geriatrics unit
18. Do you have the authority to hire and fire employees or have a significant say in these decisions if someone else has the final word? Yes _____ No

002127

19. If not currently employed outside the home, please check the category that applies to your employment status:

- Homemaker NA Student
 Unemployed-looking for work Retired
 Unemployed-not looking for work Disabled
 Other (please explain) _____

20. If you are not currently employed outside the home, but were previously so employed, please describe your most recent form of employment, stating the name of your employer, whether you were employed full or part-time, when and for how long you were so employed: NA NA

21. Please list your work experience over the past ten years and state when and for how long you were employed at each job. Please give a brief description of each job.

Gannett Tel-Sel - APRIL 2007 - May 2008
telemarketing newspapers in central
and northern Ohio
Empire Building Co - secretarial work for contracting
company

22. Have you ever worked in journalism or the news industry in any capacity?

Yes No

If yes, please state where and when you were so employed and give a brief description of your duties: NA

23. Do you have any close friends or relatives who either have worked or are currently working in journalism or in the news industry in any capacity? Yes No

If yes, please state where and when he or she was so employed and give a brief description of his or her duties: NA

002128

24. Have you ever worked in a laboratory or in any medical research or testing facility?
Yes _____ No

If yes, please describe your duties and when and for how long you were so employed:

NA

25. Do you now work or have you ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)?
Yes _____ No

If yes, please describe the position(s) and dates in detail: NA

26. Have any of your relatives and/or close friends ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)? Yes _____ No

If yes, please describe in detail: NA

27. What is the highest grade in school that you completed? ^{high school graduate} ~~Associates Nursing~~

28. Please name any educational programs you have attended (vocational schools, certification programs, part-time study):

NA

29. If you attended any schools or colleges after high school, please name the schools and colleges you attended, your major areas of study, and the field in which you obtained your degree(s):

NKU - Nursing

Christ Hospital Nursing School - Associates Nursing

30. Are you currently in school? Yes _____ No

If yes, which school and what are you studying? NA

002129

31. Do you plan to attend school in the future? Yes No
If yes, where do you plan to go and what do you plan to study? masters
of Nursing - unsure where
32. What special training or skills do you have? (Please include any technical, medical, psychology or scientific training and special skills acquired on the job.)
general nursing skills - assessments, drawing
blood, computer skills related to charting
33. While in school, what was your favorite subject? science
34. What was your least favorite subject? math
35. Do you have any legal training or have you taken any law course? Yes No
If yes, please explain: NA
36. Do you know anyone who has been a victim of a sexually motivated crime? Yes
No
If yes, please explain? NA
37. Why do you think people commit sex offenses?
unsure
38. This case involves allegations of sexual assault. Knowing that, would that prevent you from serving as an impartial juror?
Yes No
If yes, please explain NA

002130

39. Have you ever served in the military? Yes _____ No
 If yes, please list: Branch of service: NA
 Rank: _____ Dates of service: _____

40. Do you have combat experience? Yes _____ No
 If yes, please explain: NA

41. Were you ever involved in any way with military law enforcement, court martial or investigations? Yes _____ No
 If yes, please explain: NA

42. Was your spouse or significant other ever in the military? Yes _____ No
 If yes, what branch and when? NA

43. Please complete regarding your current spouse or partner:
 Spouse/partner's place of birth? NA
 Spouse/partner's race or ethnic background? _____
 Spouse/partner's current employment status? _____
 Spouse/partner's occupation? (If that person is retired, unemployed or disabled, what his or her occupation?) _____
 By whom is he or she employed? _____
 How long has he or she worked there? _____
 What is the last level of education he or she completed? (Please list any degrees he or she has.) _____

44. What are/were your parents' (and/or step-parents') occupations? (If retired or deceased, what did they do?)
 Mother RN Step-Mother _____
 Father engineer Step-Father _____

45. Do you have any brothers or sisters with whom you were raised? Yes No

If yes, please list:

<u>Sex</u>	<u>Age</u>	<u>Occupation</u>
M	24	Accountant
M	24 23	Student

46. Have you ever been in a courtroom before? Yes No

If yes, how many times and for what purpose(s)? NA

47. Have you or any family members or close friends ever sued or been sued in a civil action?

Yes No

If yes, please explain the nature of the dispute(s): NA

48. Have you ever served on a trial jury before? Yes No

For each time you have sat on a trial jury, please indicate whether it was a criminal case or a civil case:

<u>Type of case</u>	<u>Year</u>	<u>Was a verdict reached?</u> <u>(Please DO NOT state the verdict)</u>
---------------------	-------------	---

<u>NA</u>		
-----------	--	--

49. Have you ever served on a grand jury? Yes No

If yes, was it state or federal and when was it? NA

50. Have you ever been the foreperson of a trial jury or grand jury? Yes No

If yes, please state what type of case and when: NA

In this case, the defendant is presumed innocent. No issue about the potential penalty could possibly arise unless the State of Ohio first proves beyond a reasonable doubt that the defendant is guilty of a capital murder crime. In any case where a possible punishment may be the death penalty, the law requires that jurors answer questions regarding their thoughts, feelings and opinions about the Death Penalty. You must not assume from any of the questions asked that the Defendant is in fact guilty of anything.

51. Please describe your views on the death penalty:

I believe the death penalty is appropriate
in some cases for justice to be served

52. Have you ever held a different view on the death penalty? Yes ___ No X

If "yes," what caused you to change your view?

53. Which of the following statements best reflects your view of using the death penalty (check one)?

- Appropriate in every case where someone has been murdered.
- Appropriate with very few exceptions where someone has been murdered.
- Appropriate in some murder cases, but inappropriate in most murder cases.
- Opposed with very few exceptions.
- Opposed in all cases.

002133

54. DIRECTIONS: Place a check in one of the spaces next to each statement indicating your agreement and/or disagreement with the statement at the left.

Statement	Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
The death penalty should never be used as the punishment for any murder.					✓	
The death penalty should always be used as the punishment for every murder.		✓				
The death penalty should sometimes be used as the punishment in certain murder cases.				✓		
Only a guilty person would object to a search of his or her home.					✓	
A person sentenced to death in Ohio will probably never be executed.					✓	
It does not make any difference to me whether or not we have a death penalty in Ohio.					✓	
Convicted criminals always get out of prison too soon.					✓	
The testimony of a law enforcement officer is entitled to more weight simply because he or she is a law enforcement officer.				✓ PL		✓
The testimony of a law enforcement officer is entitled to less weight simply because he or she is a law enforcement officer.				✓		
The courts have made it too difficult to prosecute and convict criminals.				✓		
If the prosecution goes to the trouble to bring someone to trial, that person is probably guilty.					✓	

People in prison have a better life than most of the taxpayers who pay for the prisons.					✓		
---	--	--	--	--	---	--	--

55. A defendant in a criminal case has a right to testify and produce evidence, but a defendant does not have to testify or produce any evidence. Do you believe that a defendant in a criminal case should testify or produce some evidence to prove that he or she is not guilty?
 Yes ___ No X

If yes, please explain why: I believe he or she should have the opportunity, not the obligation to defend himself or refute charges

56. Because this case has received some publicity, some of you may have heard or read something about this case at some time. It is vitally important that you truthfully answer the following questions concerning what you have learned about this case from the media.

Please indicate from what sources you have learned about this case (check as many as apply):

- Television ___ Newspapers ___
 Radio ___ Have had conversations with other people ___
 Have overheard other people discuss it ___
 Other ___ (Please specify) NA

57. Based on what you may have heard about this case, do you have an impression or opinion about what happened and who is responsible? Yes ___ No X

If "yes," please explain: NA

58. Do you know or are you acquainted with any persons in the following positions (if so, please check the appropriate boxes):

- The Judge
- The Bailiff
- The Clerk of Courts
- Other Employees in the Courthouse
- The County Prosecutor or an employee in that Office
- Law Enforcement Officers working in this County
- The Defense Attorneys or someone employed by them

NA

002135

59. Do you have a family member or close friend who works in the Legal System (e.g., lawyers, police officers, probation officers, federal agents, prison or jail guards or other institutional employees)?

Yes No

If yes, what are their names and please describe how you know them: _____

Susannah Meyer (lawyer) - cousin

60. What are your opinions, if any, about prosecuting attorneys in general? No opinion

61. What are your opinions, if any, about criminal defense attorneys in general? No opinion

62. Since the deaths of the Sherree Crawford, Mary Jo Newton, Kimya Rolison, and Esme Kenney, have you had occasion to form an opinion about who you think murdered them?

Yes No

If yes, please explain: NA

63. Did you know any of these 4 people named above or ever encounter any of them before they died?

Yes No

If yes, please explain: NA

64. Do you know any of any of their relatives? Yes No

If yes, please explain: NA

65. Do you know Anthony Kirkland? Yes _____ No

If yes, please explain: NA

66. Do you know any of Anthony Kirkland's relatives? Yes _____ No

If yes, please explain: NA

67. When you were growing up, what was the racial and ethnic make-up of your neighborhood?

estimate 5-10 African American / >90% white

68. Is there any racial or ethnic group that you do not feel comfortable being around?

Yes _____ No

If yes, please explain: _____

69. With respect to the issue of racial discrimination against African-Americans in our society, do you think it is:

A very serious problem A somewhat serious problem _____

Not too serious _____ Not at all serious _____ Not a problem _____

70. Have you ever had a negative or frightening experience with a person of another race?

Yes _____ No

If yes, please explain the circumstances: NA

71. Have you ever been exposed to persons who exhibited racial, sexual, religious and/or ethnic prejudice? Yes No _____

If yes, please describe the experience: extended family uncles, cousins, etc are prejudice against African Americans

002137

72. Are you a member of any group or organization which is concerned with racial or ethnic issues? Yes _____ No

If yes, please identify the groups: NA

73. Are you a member of any private club, civic, professional or fraternal organization which limits its membership on the basis of race, ethnic origin, gender or religion?

Yes _____ No

If yes, please identify the group(s) or organization(s): NA

74. Do you feel that people are overly sensitive about racial and ethnic jokes?

Yes _____ No

75. Do you identify with any religious or spiritual group, denomination, or set of teachings?

Yes No _____

If yes, please provide the following information:

How active are you? very

Have you ever held a position of responsibility in your religious community? NO

76. Are you active in politics? Yes _____ No

If yes, please explain: NA

77. Generally speaking, do you consider yourself to be (check one):

Very Conservative	_____	Liberal	<input checked="" type="checkbox"/>
Conservative	_____	Very Liberal	_____
Moderate	_____	Other	_____

78. Have you ever consulted with an expert other than a medical doctor?

Yes _____ No

If yes, please specify the type of expert and the purpose for which she or he was consulted:

NA

79. Are you familiar with psychological testing? Yes No _____

If yes, how do you feel about the validity of these tests? Somewhat familiar

I feel as if they're a tool to help determine functioning, but do not declare a clear answer

80. Have you ever studied psychiatry, psychology, or any related subjects?

Yes No _____

If yes, please explain: (psychology in nursing school)

81. Have you, or any member of your family, or close friend ever consulted a psychiatrist or psychologist for professional services? Yes _____ No

If yes, how did this consultation affect your opinion about the value of psychiatry or psychology? Please explain: NA

82. If not answered elsewhere, have you, or any member of your family, or a close friend ever received treatment for drug or alcohol use? Yes No _____

(uncle)

83. There is a wide range of opinions about psychologists, psychiatrists, counselors and therapists. Generally, how do you regard these professions? No opinion

84. Do you know anyone who has a mental health problem? Yes _____ No

If so, without violating your sense of the right to privacy, please briefly describe the situation: NA

002139

85. Do you think people are born with mental health problems or do they develop after birth or both?

Born with _____ After birth _____ Both X

86. Do you have any specialized training or course work in medicine, science or biology?

Yes X No _____

If yes, please describe: Nursing

87. Did you take science or math courses in college? Yes X No _____

If yes, what types of course(s) (e.g., biology, chemistry, physics, math): Biology, Anatomy

88. Please check the answer which best describes how comfortable you usually feel dealing with mathematical concepts:

- _____ Usually very comfortable
X _____ Usually fairly comfortable
_____ Usually fairly uncomfortable
_____ Usually very uncomfortable

89. Have you ever taken any courses in statistics? Yes _____ No X

If so, please state when and where: Q

90. Are you or have you been a member of Neighborhood Watch? Yes _____ No X

If yes, what was the nature of your involvement? NA

91. Do you have: (please check)

Security bars _____

Alarms _____

Guard dog _____

Weapons for self-protection _____

92. Have you or anyone close to you ever had a negative experience with a person who was high on drugs or drunk? Yes _____ No

If yes, please describe: _____

93. Do you belong to any group or organization which is concerned with drug or alcohol abuse? Yes _____ No

If yes, please describe: _____

94. Do you belong to any group or organization which is concerned with crime prevention or victims' rights? Yes _____ No

If yes, please describe: _____

95. Have you ever been a victim of a crime? Yes _____ No

If yes, how many times? NA

What type of crime(s)? NA

96. Did you or anyone else report it to the police? Yes _____ No

If no, why not? NA

97. Were you interviewed by police? Yes _____ No

98. Was the suspect caught? Yes _____ No NA

002141

99. Do you feel the job the police did on it was
Satisfactory _____ Why? NA

Unsatisfactory _____ Why? _____

100. Did you testify in court? Yes _____ No _____ NA

101. How has that experience affected your impressions about the criminal justice system?
NA

102. Other than answers you may have already given, have you had a good or positive
experience with any police officers? Yes X No _____

Please explain and indicate the police agency involved: helpful officers
after a wreck in Green Township, downtown
Cincinnati

103. Other than answers you may have already given, have you had a bad or negative
experience with any police officers? Yes _____ No X

Please explain and indicate the police agency involved: NA

104. In the past several years there has been much public discussion concerning the issue of
crime in our society. Please describe your personal feelings about this issue.

It's definitely an issue in this time and this
city. Although I haven't been directly related/affected by
to any crimes, it's still a pressing issue and
a threat

105. What are your thoughts about whether the police carefully and completely investigate crimes?

Unsure - no experience

106. Do you think that crime is:

Going up _____

Going down _____

Remaining the same X

107. Do you feel that people convicted of crimes are treated:

Too leniently _____

Too harshly _____

Justly X

108. What do you believe are the major causes of crime? money, loss of-

sense of purpose, hatred

109. Have you, or a member(s) of your family, or someone close to you ever been accused of or charged with a criminal offense? Yes _____ No X

If yes, how was this person related to you? NA

What was the crime? NA

Were you (they) convicted? Yes _____ No NA

How has that experience affected your impressions about the criminal justice system?

NA

110. Have you ever visited or been inside a prison/jail? Yes _____ No X

If yes, please explain the circumstances and describe how it made you feel: _____

NA

111. Have you ever spoken with someone who works at a prison/jail or an inmate in a prison/jail about their experiences? Yes _____ No X

If yes, please explain the circumstances: NA

112. Do you currently, or have you during the past five (5) years, done any volunteer work?

Yes No

If so, for what organization(s): Whiz Kids, City Gospel Mission,
Clifton Campus, Central Detroit Community Development

113. Are there any charities or political organizations to which you make donations?

Yes No

If "yes," please explain: NA

114. What type of books do you prefer? (Example: non-fiction, historical, romance, espionage, mystery) mystery, Fiction, Christian

115. Do you read a newspaper on a regular basis?

Yes No

If yes, which newspaper(s): NA

116. Do you read any magazines or periodicals on a regular basis?

Yes No

If yes, which ones? NA

117. Which television shows do you watch on a regular basis? one tree hill

118. Do you ever watch television programs that show real life police activities such as "Cops," "America's Most Wanted," or "First 48"? Yes No

If yes, Very often _____ Occasionally _____ Almost never _____

002144

119. When you have the time, what are your leisure time interests, hobbies, and activities?

Sports, reading,

120. What, if any, groups or organizations do you belong to now or have you belonged to for a significant period of time in the past?

A. Now: _____

B. Previously: Cincinnati Navigators (UC)

121. Have you served as an officer in any one of these groups? Yes _____ No

If yes, which group(s): _____

122. In what sorts of situations would you consider yourself to be --

A Leader: in faith, personality

A Follower: at work

123. Is there any reason why, if you were the defendant, you would not want someone in your state of mind on the jury? Yes _____ No

124. Apart from what you may have read or heard, do you have any personal knowledge of this case or the charges that have been referred to? Yes _____ No

If the answer is yes to the above, please state what your personal knowledge consists of:

NA

002145

125. Do you know any of the other prospective Jurors in this case? Yes _____ No

If yes, please explain:

N/A

126. If selected to serve as a juror on this case, the Court would order you not to read, listen to or watch any accounts of this case reported by television, radio or other news media. Will you have any difficulty following this order?

Yes _____ No Do not know _____

127. If you are selected as a juror in this case, the Court would order you not to discuss this case with anyone unless and until permitted to do so by the Court. Will you have any difficulty in following this order?

Yes _____ No Do not know _____

128. As a result of answering this Juror Questionnaire, have you started to form any opinions about this case? Yes _____ No

If yes, please explain:

N/A

129. Is there anything going on in your life either at home or at work that might make it difficult for you or distract you if your were seated as a juror in this case? Yes _____ No

If "Yes", please explain:

N/A

130. Is there any matter not covered by this questionnaire that you think the attorneys or Court might want to know about when considering you as a juror in this case? _____

NA

I DO HEREBY SOLEMNLY SWEAR OR AFFIRM THAT THE ANSWERS TO THE FOREGOING QUESTIONS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Date: 02.26.10

Signature: *PMM La*

52

JUROR QUESTIONNAIRE

JUROR NAME AND NUMBER TRACEY ANTONIADES 369187

1. Age: 46

2. What is your gender? Male Female

3. What is your race? (please circle)

- a) White/Caucasian
- b) Black/African American
- c) Hispanic/Latino
- d) Asian/Pacific Islander
- e) Other (please state) _____

4. If you have children, please list (include children not living with you):

<u>Sex</u>	<u>Age</u>	<u>Does child live with you</u>	<u>Level of education</u>	<u>Occupation</u>
M	14	YES		
F	13	YES		
M	9	YES		

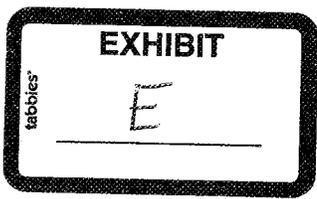
5. Do you have any medical or physical condition that might make it difficult for you to serve as a juror? (Please include any hearing or eyesight problem.) Yes No

Please describe: N/A

6. Are you taking any medications that might make it difficult for you to serve as a juror? Yes No

7. Do you have any problems or areas of concern at home or at work that might interfere with your duties as a juror during trial? Yes No

If yes, please describe: N/A



002422

8. What part of town do you live in? (Please circle one.)

City _____ Suburb _____ Rural _____

9. How long have you lived at your present residence?

13 1/2 YEARS

10. Do you own or rent? Own _____ Rent _____

11. List areas of past residence within the last ten years and indicate how long you lived in each location (you do not need to give addresses):

I HAVE LIVED IN PRESENT HOME 13 1/2 YEARS

12. Where were you born? CINCINNATI, OH

13. Where were you raised? HUDSON, OH, CHICAGO, IL, TROY, MI

14. Is English your first language? Yes _____ No _____

If no, what is your first language? _____

15. Do you have any difficulty:

Reading English? Yes _____ Sometimes _____ No _____

Understanding spoken English? Yes _____ Sometimes _____ No _____

16. Are you currently employed outside the home? Yes _____ No _____

If so, by whom are you employed? PUBLICIS / ASTRA ZENECA

Full or part-time? FULL

If part-time, how many hours per week? 0

How long have you been so employed? 8 months

17. What are your specific duties and responsibilities on the job?

PROVIDE PRIMARY CARE PHYSICIANS WITH
DRUG SAMPLES FORMULARY ACCESS INFORMATION
AND PHYSICIAN/PATIENT EDUCATION

18. Do you have the authority to hire and fire employees or have a significant say in these decisions if someone else has the final word? Yes _____ No _____

002423

19. If not currently employed outside the home, please check the category that applies to your employment status:

N/A Homemaker Student
 Unemployed-looking for work Retired
 Unemployed-not looking for work Disabled
 Other (please explain) _____

20. If you are not currently employed outside the home, but were previously so employed, please describe your most recent form of employment, stating the name of your employer, whether you were employed full or part-time, when and for how long you were so employed:

N/A

21. Please list your work experience over the past ten years and state when and for how long you were employed at each job. Please give a brief description of each job.

1997 - 2009 STAY AT HOME MOM
2009 - PRESENT PHARMACEUTICAL REP

22. Have you ever worked in journalism or the news industry in any capacity?

Yes No

If yes, please state where and when you were so employed and give a brief description of your duties:

N/A

23. Do you have any close friends or relatives who either have worked or are currently working in journalism or in the news industry in any capacity? Yes No

If yes, please state where and when he or she was so employed and give a brief description of his or her duties:

FRIEND DAVE WAGNER WAS A NEWS ANCHOR AT CHANNEL 5 4 YEARS AGO.

002424

24. Have you ever worked in a laboratory or in any medical research or testing facility?

Yes _____ No _____

If yes, please describe your duties and when and for how long you were so employed:

N/A

25. Do you now work or have you ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)?

Yes _____ No _____

If yes, please describe the position(s) and dates in detail: _____

N/A

26. Have any of your relatives and/or close friends ever worked in law enforcement or the security field (including federal, military, state, county, corrections, city, auxiliary, volunteer, etc.)? Yes _____ No _____

If yes, please describe in detail: MY FATHER WAS A

CINCINNATI POLICE OFFICER FROM 1962-1964. HE THEN COMPLETED HIS COLLEGE DEGREE AND WORKED IN THE INSURANCE INDUSTRY.

27. What is the highest grade in school that you completed? COLLEGE GRAD BACHELOR OF SCIENCE DEGREE

28. Please name any educational programs you have attended (vocational schools, certification programs, part-time study):

N/A

29. If you attended any schools or colleges after high school, please name the schools and colleges you attended, your major areas of study, and the field in which you obtained your degree(s):

MIAMI UNIVERSITY
MARKETING MAJOR
BACHELOR OF SCIENCE DEGREE

30. Are you currently in school? Yes _____ No _____

If yes, which school and what are you studying? _____

N/A

31. Do you plan to attend school in the future? Yes _____ No _____
If yes, where do you plan to go and what do you plan to study? _____

N/A

32. What special training or skills do you have? (Please include any technical, medical, psychology or scientific training and special skills acquired on the job.) _____

N/A

33. While in school, what was your favorite subject? MARKETING / DESIGN

34. What was your least favorite subject? ACCOUNTING

35. Do you have any legal training or have you taken any law course? Yes ~~No~~

If yes, please explain: I TOOK BUSINESS LAW IN COLLEGE

36. Do you know anyone who has been a victim of a sexually motivated crime? Yes
No _____

If yes, please explain? WHEN I WAS AN R.A. (RESIDENT ASSISTANT) IN COLLEGE ONE OF THE GIRLS ON MY FLOOR WAS RAPED.

37. Why do you think people commit sex offenses?
I THINK THERE CAN BE MANY REASONS, MENTALLY ILL, VICTIMS OF ABUSE, VIOLENT BAD, DRUGS

38. This case involves allegations of sexual assault. Knowing that, would that prevent you from serving as an impartial juror?

Yes _____ No _____

If yes, please explain N/A

39. Have you ever served in the military? Yes _____ No _____
If yes, please list: Branch of service: _____
Rank: _____ Dates of service: _____

40. Do you have combat experience? Yes _____ No _____
If yes, please explain: _____

41. Were you ever involved in any way with military law enforcement, court martial or investigations? Yes _____ No _____
If yes, please explain: _____

42. Was your spouse or significant other ever in the military? Yes _____ No _____
If yes, what branch and when? _____

43. Please complete regarding your current spouse or partner:
Spouse/partner's place of birth? CANTON, OH
Spouse/partner's race or ethnic background? WHITE / CAUCASIAN
Spouse/partner's current employment status? EMPLOYED
Spouse/partner's occupation? (If that person is retired, unemployed or disabled, what his or her occupation?) SALES MANAGER
By whom is he or she employed? GENERAL ELECTRIC
How long has he or she worked there? 20 YEARS
What is the last level of education he or she completed? (Please list any degrees he or she has.) BACHELOR OF SCIENCE -
COLLEGE GRADUATE

44. What are/were your parents' (and/or step-parents') occupations? (If retired or deceased, what did they do?)

Mother STAY-AT-HOME MOM Step-Mother _____
Father INSURANCE INDUSTRY Step-Father _____

002427

45. Do you have any brothers or sisters with whom you were raised? Yes No

If yes, please list:

<u>Sex</u>	<u>Age</u>	<u>Occupation</u>
M	45	DEVELOPER
M	42	LOCATION MANAGER

46. Have you ever been in a courtroom before? Yes No

If yes, how many times and for what purpose(s)? _____

47. Have you or any family members or close friends ever sued or been sued in a civil action?

Yes No

If yes, please explain the nature of the dispute(s): _____

48. Have you ever served on a trial jury before? Yes No

For each time you have sat on a trial jury, please indicate whether it was a criminal case or a civil case:

<u>Type of case</u>	<u>Year</u>	<u>Was a verdict reached?</u> (Please DO NOT state the verdict)

49. Have you ever served on a grand jury? Yes No

If yes, was it state or federal and when was it? _____

50. Have you ever been the foreperson of a trial jury or grand jury? Yes No

If yes, please state what type of case and when: _____

In this case, the defendant is presumed innocent. No issue about the potential penalty could possibly arise unless the State of Ohio first proves beyond a reasonable doubt that the defendant is guilty of a capital murder crime. In any case where a possible punishment may be the death penalty, the law requires that jurors answer questions regarding their thoughts, feelings and opinions about the Death Penalty. You must not assume from any of the questions asked that the Defendant is in fact guilty of anything.

51. Please describe your views on the death penalty:

I BELIEVE IN THE DEATH PENALTY

52. Have you ever held a different view on the death penalty? Yes _____ No _____
If "yes," what caused you to change your view?

53. Which of the following statements best reflects your view of using the death penalty (check one)?

- Appropriate in every case where someone has been murdered.
- Appropriate with very few exceptions where someone has been murdered.
- Appropriate in some murder cases, but inappropriate in most murder cases.
- Opposed with very few exceptions.
- Opposed in all cases.

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54. DIRECTIONS: Place a check in one of the spaces next to each statement indicating your agreement and/or disagreement with the statement at the left.

Statement	Strongly Agree	Agree	Slightly Agree	Slightly Disagree	Disagree	Strongly Disagree
The death penalty should never be used as the punishment for any murder.					✓	
The death penalty should always be used as the punishment for every murder.				✓		
The death penalty should sometimes be used as the punishment in certain murder cases.		✓				
Only a guilty person would object to a search of his or her home.			✓			
A person sentenced to death in Ohio will probably never be executed.					✓	
It does not make any difference to me whether or not we have a death penalty in Ohio.					✓	
Convicted criminals always get out of prison too soon.		✓				
The testimony of a law enforcement officer is entitled to more weight simply because he or she is a law enforcement officer.		✓				✗
The testimony of a law enforcement officer is entitled to less weight simply because he or she is a law enforcement officer.						✓
The courts have made it too difficult to prosecute and convict criminals.	✓					
If the prosecution goes to the trouble to bring someone to trial, that person is probably guilty.					✓	

65. Do you know Anthony Kirkland? Yes _____ No
If yes, please explain: _____

66. Do you know any of Anthony Kirkland's relatives? Yes _____ No
If yes, please explain: _____

67. When you were growing up, what was the racial and ethnic make-up of your neighborhood?
 MOSTLY CAUCASIAN

68. Is there any racial or ethnic group that you do not feel comfortable being around?
Yes No _____
If yes, please explain: I AM NOT COMFORTABLE AROUND GROUPS OF YOUNG BLACK MEN

69. With respect to the issue of racial discrimination against African-Americans in our society, do you think it is:
A very serious problem _____ A somewhat serious problem ✓
Not too serious _____ Not at all serious _____ Not a problem _____

70. Have you ever had a negative or frightening experience with a person of another race?
Yes No _____
If yes, please explain the circumstances: IN A PARKING GARAGE DOWNTOWN - YOUNG BLACK MAN MADE RUDE COMMENTS TO ME

71. Have you ever been exposed to persons who exhibited racial, sexual, religious and/or ethnic prejudice? Yes _____ No
If yes, please describe the experience: _____

72. Are you a member of any group or organization which is concerned with racial or ethnic issues? Yes _____ No

If yes, please identify the groups: _____

73. Are you a member of any private club, civic, professional or fraternal organization which limits its membership on the basis of race, ethnic origin, gender or religion?

Yes _____ No

If yes, please identify the group(s) or organization(s): _____

74. Do you feel that people are overly sensitive about racial and ethnic jokes?

Yes _____ No _____

75. Do you identify with any religious or spiritual group, denomination, or set of teachings?

Yes _____ No _____

If yes, please provide the following information:

How active are you? NOT VERY

Have you ever held a position of responsibility in your religious community? NO

76. Are you active in politics? Yes _____ No _____

If yes, please explain:

I KEEP UP ON ISSUES AND CANDIDATES
I HAVE WORKED ON CAMPAIGNS

77. Generally speaking, do you consider yourself to be (check one):

Very Conservative	<input type="checkbox"/>	Liberal	<input type="checkbox"/>
Conservative	<input checked="" type="checkbox"/>	Very Liberal	<input type="checkbox"/>
Moderate	<input type="checkbox"/>	Other	<input type="checkbox"/>

78. Have you ever consulted with an expert other than a medical doctor?

Yes _____ No _____

If yes, please specify the type of expert and the purpose for which she or he was consulted:

79. Are you familiar with psychological testing? Yes _____ No _____

If yes, how do you feel about the validity of these tests? _____

80. Have you ever studied psychiatry, psychology, or any related subjects?

Yes _____ No _____

If yes, please explain: _____

81. Have you, or any member of your family, or close friend ever consulted a psychiatrist or psychologist for professional services? Yes _____ No _____

If yes, how did this consultation affect your opinion about the value of psychiatry or psychology? Please explain: _____

82. If not answered elsewhere, have you, or any member of your family, or a close friend ever received treatment for drug or alcohol use? Yes _____ No _____

83. There is a wide range of opinions about psychologists, psychiatrists, counselors and therapists. Generally, how do you regard these professions? _____

PROBABLY HELPFUL FOR SOME PEOPLE, I THINK THERE ARE A LOT OF BAD THERAPISTS - KEEP TELLING PEOPLE WHAT THEY WANT TO HEAR SO THEY'LL KEEP COMING BACK

84. Do you know anyone who has a mental health problem? Yes _____ No _____

If so, without violating your sense of the right to privacy, please briefly describe the situation: _____

85. Do you think people are born with mental health problems or do they develop after birth or both?

Born with _____

After birth _____

Both

86. Do you have any specialized training or course work in medicine, science or biology?

Yes _____ No _____

If yes, please describe: _____

87. Did you take science or math courses in college? Yes _____ No _____

If yes, what types of course(s) (e.g., biology, chemistry, physics, math): _____

CALCULUS, STATISTICS, PHYSICS

88. Please check the answer which best describes how comfortable you usually feel dealing with mathematical concepts:

✓ _____ Usually very comfortable

_____ Usually fairly comfortable

_____ Usually fairly uncomfortable

_____ Usually very uncomfortable

89. Have you ever taken any courses in statistics? Yes ✓ No _____

If so, please state when and where: _____

MIAMI UNIVERSITY 1985

90. Are you or have you been a member of Neighborhood Watch? Yes _____ No _____

If yes, what was the nature of your involvement? _____

91. Do you have: (please check)

Security bars _____

Alarms _____

Guard dog _____

Weapons for self-protection *my husband has a gun*

92. Have you or anyone close to you ever had a negative experience with a person who was high on drugs or drunk? Yes _____ No _____

If yes, please describe: _____

93. Do you belong to any group or organization which is concerned with drug or alcohol abuse? Yes _____ No _____

If yes, please describe: _____

94. Do you belong to any group or organization which is concerned with crime prevention or victims' rights? Yes _____ No _____

If yes, please describe: _____

95. Have you ever been a victim of a crime? Yes _____ No _____

If yes, how many times? ONCE

What type of crime(s)? ATTEMPTED KIDNAPPING

96. Did you or anyone else report it to the police? Yes _____ No _____

If no, why not? _____

97. Were you interviewed by police? Yes _____ No _____

98. Was the suspect caught? Yes _____ No _____

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99. Do you feel the job the police did on it was

Satisfactory Why? THEY TOOK IT SERIOUSLY
ESCORTED ME HOME AND FOLLOWED UP.

Unsatisfactory _____ Why? _____

100. Did you testify in court? Yes _____ No

101. How has that experience affected your impressions about the criminal justice system?

CAUTIOUSLY OPTIMISTIC.

102. Other than answers you may have already given, have you had a good or positive experience with any police officers? Yes No _____

Please explain and indicate the police agency involved: _____

MONTGOMERY POLICE STATION -
HAMILTON COUNTY SHERIFFS

103. Other than answers you may have already given, have you had a bad or negative experience with any police officers? Yes _____ No

Please explain and indicate the police agency involved: _____

N/A

104. In the past several years there has been much public discussion concerning the issue of crime in our society. Please describe your personal feelings about this issue.

I FEEL LAW ENFORCEMENTS HANDS
ARE TIED - TOO MANY CRIMINALS
GET OFF ON TECHNICALITIES, MAYBE
THERE SHOULD BE PROFILING - THAT
WAY MAY CREATE PRESSURE FOR PEOPLE
TO BEHAVE BETTER.

002438

105. What are your thoughts about whether the police carefully and completely investigate crimes?

I THINK THEY ARE TAUGHT WELL
AND DO THEIR BEST TO NOT CONTAMINATE
CRIME SCENES.

106. Do you think that crime is:

Going up _____

Going down _____

Remaining the same _____

107. Do you feel that people convicted of crimes are treated:

Too leniently _____

Too harshly _____

Justly

108. What do you believe are the major causes of crime?

POVERTY, LACK OF EDUCATION, IDLE TIME,
DRUGS

109. Have you, or a member(s) of your family, or someone close to you ever been accused of or charged with a criminal offense? Yes _____ No _____

If yes, how was this person related to you? _____

What was the crime? _____

Were you (they) convicted? Yes _____ No _____

How has that experience affected your impressions about the criminal justice system?

N/A

110. Have you ever visited or been inside a prison/jail? Yes _____ No _____

If yes, please explain the circumstances and describe how it made you feel: _____

N/A

111. Have you ever spoken with someone who works at a prison/jail or an inmate in a prison/jail about their experiences? Yes _____ No _____

If yes, please explain the circumstances: _____

N/A

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112. Do you currently, or have you during the past five (5) years, done any volunteer work?

Yes _____ No _____

If so, for what organization(s): MERCHER ELEMENTARY SCHOOL

113. Are there any charities or political organizations to which you make donations?

Yes _____ No _____

If "yes," please explain: _____

I HAVE FINANCIALLY SUPPORTED POLITICIANS CAMPAIGNS

114. What type of books do you prefer? (Example: non-fiction, historical, romance, espionage, mystery) NON-FICTION

115. Do you read a newspaper on a regular basis?

Yes No

If yes, which newspaper(s): CINTI ENQUIRER

116. Do you read any magazines or periodicals on a regular basis?

Yes _____ No

If yes, which ones? _____

117. Which television shows do you watch on a regular basis? _____

ELLEN DEGENERES, SPORTS, NEWS, MODERN FAMILY

118. Do you ever watch television programs that show real life police activities such as "Cops," "America's Most Wanted," or "First 48"? Yes _____ No

If yes, Very often _____ Occasionally _____ Almost never _____

119. When you have the time, what are your leisure time interests, hobbies, and activities?

TENNIS, READING, ATTENDING MY CHILDREN'S SPORTS ACTIVITIES, GOING OUT WITH FRIENDS

120. What, if any, groups or organizations do you belong to now or have you belonged to for a significant period of time in the past?

A. Now: ~~N/A~~ MERCER PTA, NIAGER PTA

B. Previously: ~~N/A~~ ~~MERCER PTA~~

121. Have you served as an officer in any one of these groups? Yes No

If yes, which group(s): ~~N/A~~ HEAD OF 6th GRADE ACTIVITIES FOR FOREST HILLS SCHOOL DISTRICT

122. In what sorts of situations would you consider yourself to be --

A Leader: AREAS THAT ARE MY STRENGTHS

A Follower: A FOLLOWER IN SITUATIONS NOT FAMILIAR TO ME.

123. Is there any reason why, if you were the defendant, you would not want someone in your state of mind on the jury? Yes ___ No

124. Apart from what you may have read or heard, do you have any personal knowledge of this case or the charges that have been referred to? Yes ___ No

If the answer is yes to the above, please state what your personal knowledge consists of:

N/A

125. Do you know any of the other prospective Jurors in this case? Yes _____ No

If yes, please explain:

N/A

126. If selected to serve as a juror on this case, the Court would order you not to read, listen to or watch any accounts of this case reported by television, radio or other news media. Will you have any difficulty following this order?

Yes _____ No Do not know _____

127. If you are selected as a juror in this case, the Court would order you not to discuss this case with anyone unless and until permitted to do so by the Court. Will you have any difficulty in following this order?

Yes _____ No _____ Do not know

128. As a result of answering this Juror Questionnaire, have you started to form any opinions about this case? Yes _____ No

If yes, please explain:

N/A

129. Is there anything going on in your life either at home or at work that might make it difficult for you or distract you if you were seated as a juror in this case? Yes No _____

If "Yes", please explain:

MILDLY DISTRACTED - I HAVE 3 CHILDREN I NEED TO GET OFF TO SCHOOL IN THE MORNING.
I AM STARTING IN A NEW TERRITORY IN MY JOB ON MONDAY, MARCH 1ST.

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130. Is there any matter not covered by this questionnaire that you think the attorneys or Court might want to know about when considering you as a juror in this case? _____

N/A

I DO HEREBY SOLEMNLY SWEAR OR AFFIRM THAT THE ANSWERS TO THE FOREGOING QUESTIONS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Date: 2-26-10

Signature: Tracey L. Antonick



**PATRICIA M. CLANCY
HAMILTON COUNTY CLERK OF COURTS**

COMMON PLEAS DIVISION

**ELECTRONICALLY FILED
December 22, 2009 11:05 AM
PATRICIA M. CLANCY
Clerk of Courts
Hamilton County, Ohio
CONFIRMATION 66267**

STATE OF OHIO

B 0901629

vs.

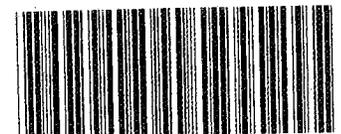
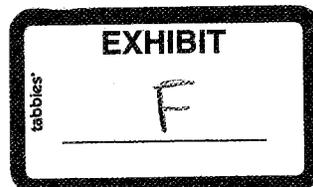
ANTHONY KIRKLAND

**JUDGE
CHARLES J KUBICKI JR**

FILING TYPE: MOTION

PAGES FILED: 3

EPR200



D86354149

THE STATE OF OHIO, HAMILTON COUNTY

COURT OF COMMON PLEAS

CRIMINAL DIVISION

STATE OF OHIO : No. B-091629
Plaintiff : Judge Kubicki
vs. : DEFENDANT'S MOTION TO
 : STRIKE PORTIONS OF
ANTHONY KIRKLAND : STATEMENT OF DEFENDANT
Defendant :

Below is a line by line list of statements, made by the Defendant during the interviews conducted by the Cincinnati Police that are requested to be stricken:

3-8-09, 1100 HRS

Page 14, lines 6-7 "You know you got warrants."
Page 25, line 3 "You got warrants."
Page 36, line 3 "You had warrants."
Page 44, line 25 "I had the warrants."
Page 45, lines 1-2 "Warrants... didn't know about the warrants."
Page 46, lines 9-10 "Got put out by the um, the VOA."
Page 48, lines 23-24 "Protection order, restraining order."
Page 62, line 4 "You got the warrants."
Page 62, lines 15-16 "I got the warrants."
Page 68, lines 9-11 "About me stabbing."
Page 99, lines 9-12 "Restraining order."
Page 102, line 16 "Restraining order on you, or protection order."
Page 117, lines 22-24 "I couldn't go to um, the hospital because of the warrants."
Page 133, lines 25 "Five warrants" – Page 134, line 6
Page 136, lines 18-19 "You've been on the news"

3-8-09, 1639 HRS

Page 9, lines 2-12 "In prison last time."
Page 10, lines 23-25 "Jammed up for first murder."
Page 12, line 8 "You went to prison."
Page 13, lines 18-19 "How many years did you spend in prison?"
Page 14, lines 14-16 "In prison."
Page 17, lines 7-8 "I got out in 2003."
Page 18, lines 3-5 "Got jammed up for a rape."
Page 19, lines 11-18 "Telephone harassment."
Page 20, line 1 "You come out of prison."
Page 21, lines 1-9 "Sixteen year old that was raped."

Page 22, line 2 "Out there struggling" – Page 24, line 3
Page 27, line 25 "After I went to prison" – Page 28, line 6
Page 48, lines 15-18 "Initial crime."
Page 68, lines 20-23 "Maya told me she was nineteen."
Page 71, line 24 "Rape thing" – Page 72, line 2
Page 78, lines 24-25 "I got kicked out of VOA."
Page 82, lines 23-24 "Prison on your importuning."

3-8-09, 1925 HRS

Page 30, lines 18-19 "I was locked up for 08."
Page 33, lines 7-11 "Got pulled over by police."
Page 34, lines 7-9 "After police stop."
Page 48, lines 17-19 "You weren't locked up."
Page 50, lines 9-11 "Got stopped by the police."
Page 62, line 6 – Page 63, line 8 "Locked up 07."

3-11-09, 1255 HRS

Page 2, line 25 "That warrant."
Page 4, lines 19-23 "I was in the VOA."
Page 5, lines 1 "Rules of VOA" – Page 6, line 13
Page 11, lines 1-6 "Springfield Township... he checked the girls ID too."
Page 16, lines 3-4 "Only two days I wasn't AWOL."
Page 17, lines 21-23 "AWOL... Christmas day."
Page 20, lines 22-25 "Had me arrested."
Page 22, line 15 "Called her Mia" – Page 23, line 5
Page 33, line 6 "Prison release in 2003."
Page 33, lines 20 "Rape acquittal" – Page 34, line 4
Page 35, lines 2-3 "Stopped on December 23, by a cop."
Page 48, lines 7-9 "Becky and your subsequent stint in trial."
Page 60, lines 2-7 "Felony assault charges on me."

Respectfully submitted,

S/ Norman A. Aubin
NORMAN A. AUBIN (0022907)
Attorney for Anthony Kirkland
FAULKNER & TEPE, LLP
2200 Fourth & Vine Tower
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Cincinnati, Ohio 45202
Phone: (513) 421-7500
Fax: (513) 421-7502

S/ William M. Welsh
William M. Welsh (0059973)
Counsel for Defendant
215 E. Ninth Street
Suite 100
Cincinnati, Ohio 45202
Phone: (513) 241-1989
Fax: (513) 929-9337

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Demand was delivered to the office of the Hamilton County Prosecuting Attorney this 22nd day of December, 2009.

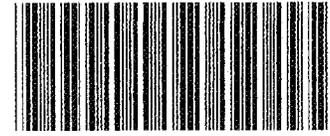
S/William M. Welsh
William M. Welsh

THE STATE OF OHIO, HAMILTON COUNTY

COURT OF COMMON PLEAS

CRIMINAL DIVISION

STATE OF OHIO : NO. B-0901629
Plaintiff : (Judge Kubicki)



D86623939

vs. : RESPONSE TO DEFENDANT'S
ANTHONY KIRKLAND : MOTION TO STRIKE PORTIONS OF
 : STATEMENT OF DEFENDANT

Defendant :

Below is a line by line response to defendant's motion to strike certain portions of the interviews of defendant by Cincinnati Police:

3-8-09, 1100 HRS

Page 14 lines 6-7 "Because you know you got warrants." No objection to removal

Page 25 line 3 "You got warrants" No objection to removal

Page 36 line 3 "You had warrants" No objection to removal

Balance of cited portions State objects to removal

3-8-09, 1639 HRS

Page 9 lines 2-12 No objection to removal

Page 10 line 18 "I know...Number two" Page 11 line 6 No objection to removal

Page 14 line 14 "You know...you, you" Page 16

Page 17 line 7 "When I got out"

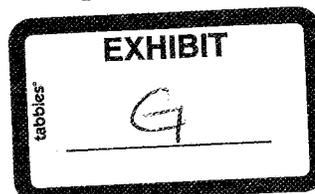
Page 18 line 3-6 No objection to removal

Page 20 line 1 No objection to removal

Page 20 line 2 "I forget...end of line 3 No objection to removal

Page 20 line 11-19 Cannot find objected to language

Page 20 line 24 "I'm like...Page 21 line 10 No objection to removal



Page 22 line 2 – Page 24 line 3 No objection to removal
Page 24 line 17 “But you...to do.” Page 24 line 22 No objection to removal
Page 27 line 25 “after I went to prison.” No objection to removal
Page 28 line 5 “until...prison” Page 28 line 6 No objection to removal
Page 48 line 17-18 No objection to removal
Page 69 line 20-23 Cannot find objected to language
Page 71 line 23 – Page 72 line 2 No objection to removal
Page 78 line 24-25 State objects to removal
Page 82 line 22 – Page 83 line 1 No objection to removal

3-8-09, 1925 HRS

Page 62 line 6 – Page 63 line 6 No objection to removal
Balance of cited portions State objects to removal

3-11-09, 1255 HRS

Page 5 line 8 – Page 6 line 13 No objection to removal
Page 22 line 15 – Page 23 line 5 No objection to removal
Page 33 line 6 “your prison release in” No objection to removal
Page 33 line 20 – Page 34 line 4 No objection to removal
Balance of cited portions State objects to removal

Respectfully submitted,



Mark E. Piepmeier, 0006894P
Chief Assistant Prosecuting Attorney
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202
513/946-3078

CERTIFICATE OF SERVICE

I hereby certify that on this 29 day of December, 2009, a copy of this document was served upon counsel for defendant by ordinary U.S. mail addressed to A. Norman

Aubin, Attorney at Law, 2200 Fourth & Vine Tower, 5 West Fourth Street, Cincinnati, Ohio 45202, and William M. Welsh, Attorney at Law, 215 East Ninth Street, Suite 100, Cincinnati, Ohio 45202.

A handwritten signature in cursive script that reads "Mark E. Piepmeier". The signature is written in dark ink and is positioned above a horizontal line.

Mark E. Piepmeier, 0006894P
Chief Assistant Prosecuting Attorney