

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :
Appellee, :
-vs- : Case No. 2014-1035
WILLIE G. WILKS, JR., : *Death Penalty Case*
Appellant :

**ON APPEAL FROM THE MAHONING COUNTY
COURT OF COMMON PLEAS, CASE NO. 2013 CR 00540**

MOTION TO APPOINT COUNSEL

Kathleen McGarry, #0038707
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*On Behalf of Appellant,
Willie G. Wilks, Jr.*

Mr. Paul J. Gains, Esq. (#0020323)
Mr. Ralph Rivera, Esq. (#0082063)
Mahoning County Prosecutor
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Telephone: 330.740.2330
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Counsel for Appellee

SUGGESTION/MOTION FOR APPOINTMENT OF COUNSEL

On June 24, 2015 undersigned counsel, Kathleen McGarry, was contacted by Rachel Troutman, Supervising Attorney of the Death Penalty Division of the Office of the Ohio Public Defender concerning direct appeal representation of the Appellant, Willie G. Wilks, Jr. Mr. Wilks is before the Court on an appeal as of right in a death penalty case. Ms. Troutman represents Mr. Wilks in his post-conviction action. The Office of the Public Defender is unable to take the direct appeal of this case.

Ms. Troutman explained that direct appeal counsel had a conflict of interest in the case which was newly discovered and asked undersigned counsel if she would be willing to represent Mr. Wilks. Ms. Troutman further indicated that the motion to withdraw would likely be filed by current appellate counsel today, June 29, 2015.

Over the weekend, Ms. McGarry contacted John P. Parker, and he indicated he was willing to co-counsel as appellate counsel on the case. Both Ms. McGarry and Mr. Parker are certified as Appellate Counsel by the Commission on Appointment of Counsel in Capital Cases.

The Motion to Withdraw was filed by appellate counsel this morning. Undersigned counsel is willing to represent Mr. Wilks on appeal. However, counsel is aware that Mr. Wilkes Merit Brief is currently due on July 20,

2015. Counsel is willing to undertake the representation of Mr. Wilks if provided the time to properly represent him on appeal. S.C.Prac.R. 11.05(B) provides that the merit brief be filed with the Supreme Court within one hundred eighty days from the filing of the record. Undersigned counsel would suggest that the merit brief be due one hundred eighty days from the date of appointment.¹ This request is similar to the relief granted in *State v. Anthony Sowell*, Sup. Crt Case No. 2011-1921. In that case, one of Mr. Sowell's counsel withdrew from the case and new counsel was appointed. The Court reset the briefing schedule for 180 days after the date the new second counsel was appointed to represent Mr. Sowell.

Undersigned counsel is coming forward with this Motion at the request of the Office of the Public Defender in order to provide seamless representation to Mr. Wilkes, who is on death row waiting for his appeal to be filed.

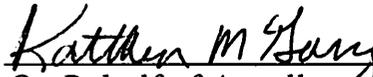
Respectfully submitted,

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¹ The rules further provide for one extension of time in accordance with the provisions of S.Ct.Prac.R. 3.03(B)(2).

and

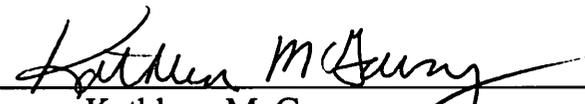
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On Behalf of Appellant
Willie G. Wilks, Jr.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Motion for Appointment of Counsel was forwarded by e-mail service to Paul Gaines (pgains@mahoningcountyoh.gov) Ralph M. Rivera (rrivera@mahoningcounty.gov), Lynn Maro (Schoejlka@aol.com), and John B. Juhasz (Jbjuhasz@gmail.com) this 30th. day of June, 2015.



Kathleen McGarry
On Behalf of Willie Wilks