

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, :
 :
 Appellee, :
 :
 vs. : Case No. 2010-1406
 :
 MARK PICKENS, :
 :
 Appellant. : **Capital Case**

**On Appeal from the
Hamilton County Court of Common Pleas
Case No. B-0905088**

**MOTION FOR STAY OF EXECUTION PENDING
DISPOSITION OF AVAILABLE REMEDIES
EXECUTION SCHEDULED FOR JULY 19, 2017.**

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COUNSEL FOR APPELLANT
MARK PICKENS

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EXECUTION SCHEDULED FOR JULY 19, 2017.**

Mark Pickens moves this Court to stay his **execution set for July 19, 2017**, pending disposition of his available remedies. The reasons for this motion are more fully set forth in the attached memorandum.

Respectfully submitted,

OFFICE OF THE
OHIO PUBLIC DEFENDER

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Counsel For Mark Pickens

**Memorandum In Support Of Motion To Stay Execution
Pending Disposition Of Appeal**

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

On May 17, 2011, Pickens filed his Petition to Vacate or Set Aside Sentence Pursuant to Ohio Revised Code Section 2953.21 (Exhibit B). Pickens was denied relief in the trial court and timely appealed to the First District Court of Appeals. Thus, a stay of execution is needed to ensure that the issues raised in his postconviction petition are fully resolved. This Court has granted similar motions. *See, e.g., State v. Raglin*, 85 Ohio St. 3d 1429, 707 N.E.2d 945 (1999).

WHEREFORE, Mark Pickens respectfully requests that this Honorable Court grant a stay of execution pending the exhaustion of available state remedies, and more specifically, his

postconviction proceedings, in accordance with *State v. Steffen*, 70 Ohio St. 3d 399, 639 N.E.2d 67 (1994).¹

Respectfully submitted,

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¹ Additionally, Pickens' Petition for Writ of Certiorari is currently pending in the United States Supreme Court. It was filed on August 27, 2015.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **MOTION FOR STAY OF EXECUTION PENDING DISPOSITION OF AVAILABLE REMEDIES** was sent by regular United States mail, addressed to Phillip Cummings, Assistant Prosecuting Attorney, Hamilton County Prosecutor's Office, 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202 on September, 1, 2015.

s/ Tyson Fleming
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COUNSEL OF APPELLANT