

In the  
**Supreme Court of Ohio**

|                              |   |                                |
|------------------------------|---|--------------------------------|
| MARCUS PRYOR II,             | : | Case Nos. 2015-0767; 2015-0770 |
|                              | : |                                |
| Appellee,                    | : | On Appeal from the             |
|                              | : | Summit County                  |
| v.                           | : | Court of Appeals,              |
|                              | : | Ninth Appellate District       |
| DIRECTOR, OHIO DEPARTMENT OF | : |                                |
| JOB AND FAMILY SERVICES,     | : | Court of Appeals               |
|                              | : | Case No. 27225                 |
| Appellant.                   | : |                                |

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**RESPONSE OF APPELLANT DIRECTOR,  
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES, TO REQUEST OF  
AMICI CURIAE TO PARTICIPATE IN ORAL ARGUMENT**

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The Director takes no position on the Legal Aid Society's request for oral argument time, but urges the Court to reject Legal Aid's request to tilt the scales by giving extra time to their side of the case, as the Court should instead preserve equal time to both sides. Legal Aid understandably asks that its proposed amicus time does not come from Pryor's, as Pryor did not consent to share time. But the resulting inequality is wrong both on principle and as an incentive for future cases. Consequently, the Court should avoid that problem, if it grants the Motion, by giving the Director additional time so that both sides' total times are equal.

While the fairness of equal time is self-evident, the problem of inadvertent incentives created by Legal Aid's approach arises by comparison to the usual practice for shared time. When a party *consents* to sharing with an amicus, the time is shared within that side's fifteen minutes. Further, if the party goes overtime beyond the planned allocation, the amicus is left only with the remainder (subject to the Court's ad hoc allowance of extra time by grace, of course). But if Legal Aid is allowed *extra* time here, that outcome creates an incentive for future parties to refuse consent, so that their side receives more time.

In urging equality, the Director is mindful that actual time varies case-by-case, based on the Court's questions and the ad hoc allowance of time, and precise equal time in *result* is not guaranteed. The Director urges only that the starting allocation be equal. Separately, the Director notes that extra time may be warranted for a neutral amicus, that is, one who truly supports neither party. But here, the Director's counsel should have the same time as both Legal Aid's counsel and Pryor (who, though now a lawyer, represents himself pro se).

While the Court could, of course, maintain equality by taking the time from Pryor's fifteen minutes, adding time to both sides is better. If "extraordinary circumstances" justify an amicus without consent, those circumstances should also justify a few more minutes for equality.

Respectfully submitted,

MICHAEL DEWINE (0009181)  
Ohio Attorney General

*/s Eric E. Murphy*

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## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Response of Appellant to Request of Amici Curiae to Participate in Oral Argument was served by e-mail this 12th day of January, 2016, upon the following:

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