

**IN THE  
SUPREME COURT OF OHIO**

<b>STATE OF OHIO</b>	:	<b>NO. 2010-0854</b>
Plaintiff-Appellee	:	<b>This is a death penalty case</b>
vs.	:	
<b>ANTHONY KIRKLAND</b>	:	
Defendant-Appellant	:	

**APPELLEE'S NOTICE OF ADDITIONAL AUTHORITY**

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## APPELLEE'S NOTICE OF ADDITIONAL AUTHORITY

On October 4, 2016, Defendant-Appellant Anthony Kirkland filed a notice of additional authority in his opposition to the State's Motion for Reconsideration. Kirkland requests this Court to rely on "*Russell v. Alabama*, No. 15-9918, 2016 U.S. LEXIS 4959, at \*1 (October 3, 2016) wherein the United States Supreme Court granted petitioner Russell's petition for writ of certiorari. In granting the writ, the Supreme Court summarily vacated Russell's death sentence and remanded the case to the Court of Criminal Appeals of Alabama for further consideration in light of *Hurst v. Florida*, 577 U.S. \_\_\_\_, 136 S.Ct. 616, 193 L.Ed. 2d 504 (2016)

The type of order the Supreme Court entered in *Russell v. Alabama*, supra is known as grant, vacate, and remand ("GVR") order. A GVR order does not carry precedential weight and does not constitute a final determination on the merits. See *In re Whirlpool Corp. Front-Loading Washer Products Liability Litigation*, 722 F.3d 838, 845 (6<sup>th</sup> Cir. 2013), cert. denied, ---- U.S. ---, 134 S.Ct. 1277, 188 L.Ed. 2d 298 (2014) *Gonzalez v. Justices of Mun. Ct. of Boston*, 420 F.3d 5, 7 (1<sup>st</sup> Cir. 2005); see also *Tyler v. Cain*, 533 U.S. 656, 666 n. 6, 121 S.Ct. 2478, 150 L.Ed 632 (2001).

Accordingly, Appellee submits that *Russell v. Alabama* is not dispositive to Kirkland's legal position.

Respectfully,

Joseph T. Deters, 0012084P  
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/s/Ronald W. Springman, Jr.  
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**PROOF OF SERVICE**

I hereby certify that I have sent a copy of the foregoing Appellee's Notice of Additional Authority, by United States mail, addressed to Rachel Troutman (0076741), Elizabeth Arrick (0085151), Assistant State Public Defenders, Office of the Ohio Public Defender, 250 East Broad Street, Suite 1400, Columbus, Ohio 43215-2998, counsel of record, this 6th day of October, 2016.

*/s/Ronald W. Springman, Jr.* \_\_\_\_\_  
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