

No. : _____

IN THE SUPREME COURT OF THE UNITED STATES

Joseph I. Wilkes - Petitioner

vs.

State of Ohio - Respondent

APPENDIX A

Fifth District Court of Appeals

Stark County, Ohio

Judgment Entry of Sept. 12, 2022.

2022 CA 0095

3304517249 Fifth District 4

LYNN M. TODARO
CLERK OF COURT OF APPEALS
STARK COUNTY, OHIO

2022 SEP 12 PM 1:47

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO,

Plaintiff - Appellee

-vs-

JOSEPH I. WILKES,

Defendant - Appellant

JUDGMENT ENTRY

Case No. 2022CA00095

2019CR 842
Reinbold

This matter comes before the Court upon Appellant's "Motion for Leave to File Delayed Appeal." Appellant seeks to appeal the trial court's entry dated October 7, 1999. He claims he did not timely file a notice of appeal because he was told that he could not file an appeal. We have not received a response from the Appellee.

Wilkes entered into a plea agreement in 1999 that was submitted to the trial court and made part of the record. In the agreement the state agreed not to pursue the death penalty in exchange for Wilkes waiving several rights, including his right to have his sentence determined by a three judge panel and his right to appeal:

The defendant specifically waives his right to have his sentence determined by a three judge panel, pursuant to R.C. 2929.03(C)(2)(b)(i), and accepts the sentence as outlined in this negotiated plea. Pursuant to the negotiated plea agreement and Section 2953.08(D) of the Ohio Revised Code, defendant, upon pleading guilty to the charged offense and attendant specification and receiving the sentence outlined above, waives his right to

LYNN M. TODARO, CLERK

By Deputy
Date 09/12/2022

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3304517249 Fifth District 4

challenge on appeal the sentence imposed in this case. In addition, defendant waives his right to appeal on all other issues.

I further acknowledge that my guilty plea will operate as a waiver of my right to appeal any of the Court's pretrial rulings. I also acknowledge that my guilty plea relieves the Court of its obligation to rule on any outstanding motions in this case, and operates as a waiver of my right to appeal thereon.

I understand that I am waiving (giving up) my right to appeal. Pursuant to section 2953.08(D) and the terms of the negotiated plea agreement, I also understand that I have waived my right to challenge on appeal the sentence imposed in this case.

Judgment Entry, Oct. 7, 1999, pages 8, 10.

Wilkes explains that the more than twenty year delay in filing his motion for a delayed appeal is a result of his lack of knowledge regarding the law and that he only recently discovered the basis for his proposed appeal. We find Wilkes' reasons are insufficient to justify a more than twenty-year delay and that he was properly advised regarding his waiver of his right to appeal. *State v. Silsby* (2008), 119 Ohio St.3d 370, 372, 894 N.E.2d 667, 669; *State v. Sims*, 27 Ohio St.2d 79, 272 N.E.2d 87 (1971)

Upon consideration, Appellant's motion is denied.

3304517249 Fifth District 4

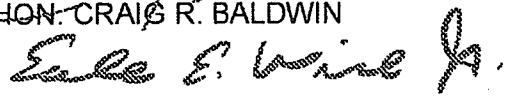
MOTION DENIED.

COSTS TO APPELLANT.

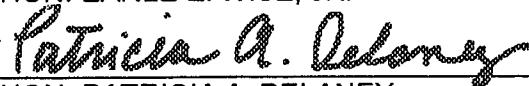
CAUSE CLOSED.



HON. CRAIG R. BALDWIN



HON. EARLE E. WISE, JR.



HON. PATRICIA A. DELANEY

No.: _____

IN THE SUPREME COURT OF THE UNITED STATES

Joseph I. Wilkes - Petitioner

vs.

State of Ohio - Respondent

APPENDIX B

Court of Common Pleas

Stark County Ohio

Judgment Entry with annexed plea agreement

Oct. 7, 1999, 1999 CR 0842

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

PHIL G. GIAVASIS
CLERK OF COURTS
STARK COUNTY, OHIO

99 OCT -7 AM 9:25

STATE OF OHIO,

CASE NO. 1999-CR-0842

Plaintiff,

JUDGE RICHARD D. REINBOLD, JR.

vs.

JUDGMENT ENTRY

JOSEPH I. WILKES

CHANGE OF PLEA AND
SENTENCE IMPOSED

Defendant.

This day, September 27, 1999, the defendant, JOSEPH I. WILKES, came in the custody of the sheriff, and accompanied by his counsel, Steven Lodico, Esq. and Wayne Graham, Esq. , and the defendant having heretofore entered a plea of not guilty of the crime of Aggravated Murder, 1 Count, [R.C. §2903.01(A)], with Death Penalty Specification [R.C. §§2929.04(A)(2)], as charged in the Indictment, informed the Court that he had consulted with his counsel and that his counsel had fully informed him as to the nature of the charge with the specification and the elements constituting the crime and the specification under the statutes pertaining to them including the penalties and the right to a trial by jury and that the defendant desired to withdraw his former plea of not guilty.

Whereupon the Court having granted leave, the defendant withdrew his plea of not guilty and thereupon the Court inquired of the defendant as to whether or not he desired to plead further, to which inquiry the defendant replied that he is guilty of the crime of Aggravated Murder, 1 Count, [R.C. §2903.01(A)], with Death Penalty Specification [R.C. §§2929.04(A)(2)], as contained in the Indictment, which said plea was accepted by the Court. Thereupon the Prosecuting Attorney moved that sentence be pronounced against said defendant pursuant to the negotiated plea agreement set forth in the attached Plea of Guilty Form (Crim. R. 11(C) and (F).

SCANNED

Whereupon the Court was duly informed in the premises on part of the State of Ohio, by the Prosecuting Attorney, and on the part of the defendant, by the defendant and his counsel, and thereafter the Court asked the defendant whether he had anything to say as to why judgment should not be pronounced against him, and the defendant, after consulting with his counsel, said that he had nothing further to say except that which he had already said, and showing no good and sufficient reason why sentence should not be pronounced, and defendant having been afforded his rights under Crim. Rule 32 and having heretofore waived his right to a sentencing hearing, and further having agreed to the sentence set forth below:

1. Aggravated Murder [R.C. §2903.01(A)], 1 Count, with Death Penalty Specification, [R.C. §§2929.04(A)(2)] - Life imprisonment with parole eligibility after 30 full years incarceration;.

The Court has considered the record, oral statements, any victim impact statement as well as the principles and purposes of sentencing under Ohio Revised Code Section 2929.11 and has balanced the seriousness and recidivism factors of Ohio Revised Code Section 2929.12.

The Court finds that the defendant has been convicted of Aggravated Murder, 1 Count, [R.C. §2903.01(A)], with Death Penalty Specification, [R.C. §§2929.04(A)(2)], subject to Section 2929.03(C)(2)(a)(i) of the Ohio Revised Code.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this defendant shall be remanded to the Lorain Correctional Institution in Grafton, Ohio to serve the sentence of life imprisonment with parole eligibility after 30 full years for the charge of Aggravated Murder, 1 Count, [R.C. §2903.01(A)] with Death Penalty Specification, [R.C. §§2929.04(A)(2)],

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this defendant shall serve each March 31st in solitary confinement.

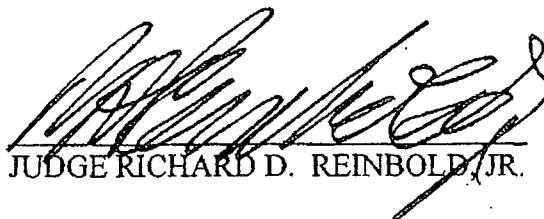
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the fines applicable to the charged offenses in the Indictment are waived by operation of defendant's indigent status and pursuant to the negotiated plea agreement.

The Court has notified the defendant, that bad time may be imposed by the Parole Board under Revised Code Section 2967.11 for certain rule violations committed while in prison, and the Court has further notified the defendant that post release control for eligible offenders is mandatory up to a maximum of 5 years, as well as the consequences for violating conditions of post-release control imposed by the Parole Board under Revised Code Section 2967.28.

Defendant is therefore ordered conveyed to the custody of the Ohio Department of Rehabilitation and Correction. Credit for _____ days is granted as of this date along with future custody days while defendant awaits transportation to the appropriate state institution.

(_____) signature of sheriff's representative.

IT IS SO ORDERED.



JUDGE RICHARD D. REINBOLD, JR.

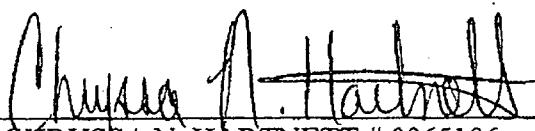
APPROVED BY:



ROBERT D. HOROWITZ #0000395
STARK COUNTY PROSECUTING
ATTORNEY



JONATHAN S. BAUMOL, # 0059594
ASSISTANT PROSECUTING ATTORNEY



CHRYSSA N. HARTNETT, # 0065106
ASSISTANT PROSECUTING ATTORNEY

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO

STATE OF OHIO,

CASE NO. 1999CR0842

Plaintiff,

vs.

JUDGE RICHARD D. REINBOLD, JR.

JOSEPH I. WILKES

PLEA OF GUILTY,
CRIMINAL RULE 11(C) and (F)

Defendant.

I, JOSEPH I. WILKES, am represented by Attorneys, Steve LoDico and Wayne Graham. My attorneys and the Court have advised me that I am charged with the crime:

<u>Offense Including Specifications</u>	<u>Revised Code Section</u>	<u>Degree of Felony</u>
Aggravated Murder, 1 Ct. with Death Penalty Specification [R.C. 2929.04(A)(2)]	R.C. 2903.01(A)	Capital Murder (Death Penalty)

I understand the maximum penalty as to each count is as follows:

<u>Offense</u>	<u>Range/ Maximum Prison Term (yrs./mos)</u>	<u>Maximum Fine</u>	<u>Prison Term is Mandatory</u>	<u>Prison Term is Presumed Necessary</u>
Aggravated Murder, 1 Ct. (R.C. 2903.01(A)) with Death Penalty Specification [R.C. 2929.04(A)(2)]	Death: life imprisonment without parole; life imprisonment with parole eligibility after serving 30 full years; or life imprisonment with parole eligibility after serving 25 full years.	\$ 25,000	yes	yes

I understand that a plea to any other felony offense could result in the court imposing a consecutive sentence.

In addition I understand that court costs, statutory fines, restitution and other financial sanctions including day fines, and reimbursement for the cost of a community control sanction including the cost of confinement may be imposed.

I understand that I have a right to a sentencing hearing. I understand that I will be provided with an opportunity to present information relevant to my sentence in this case.

I understand that I am charged with a crime that requires a mandatory prison sentence, and I understand that I will receive a prison term.

I understand that if I am now on felony probation or parole, this plea may result in revocation proceedings and a new sentence could be imposed consecutively.

I have been advised by my attorney and the court that, in addition to my sentence, possible "Bad Time" is part of the maximum penalty for this offense. Therefore, additional prison time may be added to my sentence by the Parole Board for acts committed by me while in prison that are a crime under Ohio or United States laws. This time can be added administratively under

day periods for each such violation of law while I am in prison. I understand that "Bad Time" cannot exceed a maximum of 1/2 the total term imposed for all offenses as set out above.

I understand that I am entering a plea to an offense with a sentence for which I will not be eligible for parole or any early release. I also understand, and have been advised by my counsel and the Court, that the Court is required to inform me of post release control or supervision by the Adult Parole Authority. Post release control is mandatory in this case. The control period may be a maximum term of five (5) years. A violation of any post-release control rule or condition can result in more restrictive sanctions while released, an increased duration of supervision or control, up to the maximum set out above and/or re-imprisonment even though I have served the entire stated prison sentence imposed upon me by this court for all offenses set out above. Re-imprisonment can be imposed in segments of up to 9 months but cannot exceed a maximum of 1/2 of the total term imposed for all of the offenses set out above. If I commit another felony while subject to this period of control or supervision I may be subject to an additional prison term consisting of the maximum period of unserved time remaining on post release control as set out above or 12 months, whichever is greater. This prison term must be served consecutively to any term imposed for the new felony I am convicted of committing.

I understand that my guilty plea will result in a conviction for the crime charged and that the Court can sentence me immediately after accepting my plea and upon completion of my sentencing hearing.

a Plea of Guilty I am waiving (giving up) the following

Constitutional Rights:

1. My right to have a jury trial or a trial to the Court;
2. My right to confront witnesses against me;
3. My right to have compulsory process for obtaining witnesses in my favor (the right to subpoena witnesses in my favor);
4. My right to require the State to prove my guilt beyond a reasonable doubt;
5. My right not to be compelled to testify against myself.

I hereby acknowledge that I understand all of the above, and that all of the above terms have been explained to me.

In Open Court, this 27th day of September, 1999 I do hereby waive (give up) the rights listed above.



STEVEN LODICO
COUNSEL FOR DEFENDANT



WAYNE GRAHAM
COUNSEL FOR DEFENDANT



JOSEPH I. WILKES
DEFENDANT

JONATHAN S. BAUMOEL, # 0059594
ASSISTANT PROSECUTING ATTORNEY



CHRYSSA N. HARTNETT, #0065106
ASSISTANT PROSECUTING ATTORNEY

Pursuant to Rule 11(F) of the Ohio Rules of Criminal Procedure, this instant guilty plea is being entered pursuant to the following terms and conditions of a negotiated plea agreement. The terms and conditions of the negotiated plea

agreement are as follows:

The Defendant shall enter a plea of guilty to the offense of Aggravated Murder, one count, [R.C. 2903.01(A)], with death penalty specification, [R.C. 2929.04(a)(2)], and shall be sentenced pursuant to R.C. 2929.03(D)(3)(iii), to life imprisonment, with parole eligibility after serving thirty (30) full years.

The defendant shall testify truthfully and with complete disclosure in any and all proceedings concerning the death of Yvonne Layne. If the defendant fails to testify truthfully and with complete disclosure in any and all proceedings concerning the death of Yvonne Layne, the State of Ohio may void this plea agreement.

All fines will be waived.

The defendant specifically waives his right to have his sentence determined by a three judge panel, pursuant to R.C. 2929.03(C)(2)(b)(i), and accepts the sentence as outlined in this negotiated plea.

Pursuant to the negotiated plea agreement and Section 2953.08(D) of the Ohio Revised Code, defendant, upon pleading guilty to the charged offense and attendant specification and receiving the sentence outlined above, waives his right to challenge on appeal the sentence imposed in this case. In addition, defendant waives his right to appeal on all other issues.

The defendant, having been informed of his right to a sentencing hearing, waives this right to such a hearing.

In consideration for entering a plea of guilty to the indictment, accepting the sentence as indicated in this

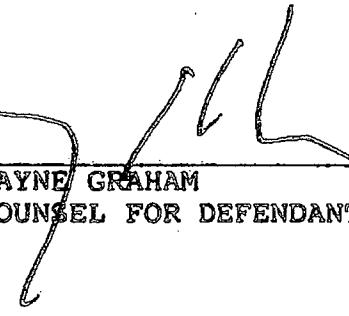
negotiated plea agreement, and promising to testify truthfully and with complete disclosure in any and all proceedings concerning the death of Yvonne Layne, the State of Ohio will not seek the death penalty or a lifetime prison sentence without parole eligibility.

If any other sentence is imposed by this Court other than outlined above, or is modified by any reviewing court, this negotiated plea agreement shall be rendered null and void, and the defendant shall be prosecuted pursuant to the indictment filed in this case, and the defendant shall be subject to all possible penalties according to law, including the death penalty.

These terms and conditions outlined in this guilty plea form are the sole terms and conditions of the agreement between the State of Ohio and the defendant.

I hereby acknowledge that I understand and accept the terms and conditions of this negotiated plea pursuant to Criminal Rule 11(F).


STEVEN LODICO
COUNSEL FOR DEFENDANT


WAYNE GRAHAM
COUNSEL FOR DEFENDANT


JOSEPH T. WILKES
DEFENDANT


JONATHAN S. BAUMEL, # 0059594
ASSISTANT PROSECUTING ATTORNEY


CHRYSSE S. HARTNETT #0065106
ASSISTANT PROSECUTING ATTORNEY

I hereby withdraw my plea of Not Guilty to the Indictment which was duly served upon me in this case.

I hereby enter a Plea of Guilty to the charge of:

Offense:

Aggravated Murder, 1 Ct.

with Death Penalty Specification

[R.C. 2929.04(A)(2)]

Revised Code Section

[R.C. 2903.01(A)]

No threats or promises have been made to me by anyone to secure my Plea of Guilty, other than what has been stated above pursuant to Crim. R. 11(F). I acknowledge that I am pleading guilty freely and voluntarily.

I further acknowledge that my guilty plea will operate as a waiver of my right to appeal any of the Court's pretrial rulings. I also acknowledge that my guilty plea relieves the Court of its obligation to rule on any outstanding motions in this case, and operates as a waiver of my right to appeal thereon.

I further acknowledge that I understand the nature of the charge and the maximum penalties involved upon conviction.

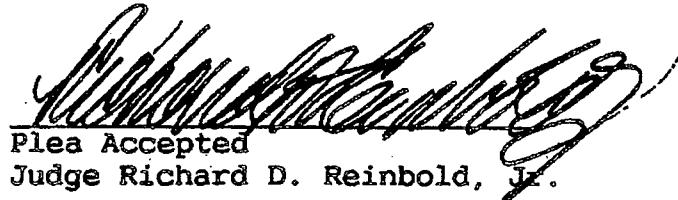
I have complete confidence in my lawyers and acknowledge that they have effectively and diligently represented me.

It is solely my own choice to enter a Plea of Guilty with full knowledge of the other alternatives available to me.

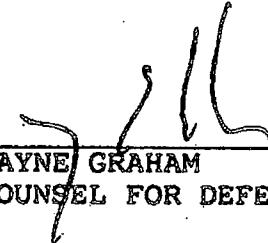
I understand that I am waiving (giving up) my right to appeal. Pursuant to section 2953.08(D) and the terms of the negotiated plea agreement, I also understand that I have waived my right to challenge on appeal the sentence imposed in this case. I also understand that the guilty plea and sentence will be null and void if any of the terms are not satisfied. I understand the consequences of a conviction upon me if I am not a citizen of the United States of America.

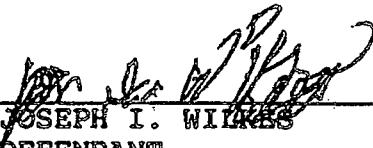
Dated this 27th day of September, 1999.

Signed in the presence of:

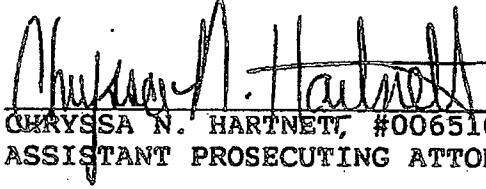

Plea Accepted
Judge Richard D. Reinbold, Jr.


STEVEN LODICO
COUNSEL FOR DEFENDANT


WAYNE GRAHAM
COUNSEL FOR DEFENDANT


JOSEPH I. WILKES
DEFENDANT


JONATHAN S. BAUMEL, # 0059594
ASSISTANT PROSECUTING ATTORNEY


CHRYSSA N. HARTNETT, #0065106
ASSISTANT PROSECUTING ATTORNEY


COURT REPORTER

No. : _____

IN THE SUPREME COURT OF THE UNITED STATES

Joseph I. Wilkes - Petitioner

vs.

State of Ohio - Respondent

APPENDIX C

Supreme Court of Ohio

Judgment Entry of April 11, 2023

22-1261

The Supreme Court of Ohio

State of Ohio

Case No. 2022-1361

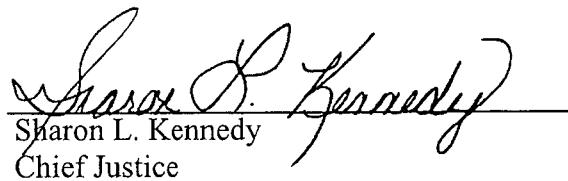
v.

E N T R Y

Joseph I. Wilkes

Upon consideration of the jurisdictional memoranda filed in this case, the court declines to accept jurisdiction of the appeal pursuant to S.Ct.Prac.R. 7.08(B)(4).

(Stark County Court of Appeals; No. 2022CA00095)



Sharon L. Kennedy
Chief Justice

**Additional material
from this filing is
available in the
Clerk's Office.**