

No. _____

In the Supreme Court of the United States

DUANE SHORT
Petitioner,

v.

STATE OF OHIO,
Respondent.

On Petition for Writ of Certiorari to
the Supreme Court of Ohio

APPLICATION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Petitioner, Duane Short, respectfully requests leave to file the attached petition for writ of certiorari without payment of costs and to proceed *in forma pauperis*.

Petitioner, with respect to the basis of the attached petition, was granted leave to proceed *in forma pauperis* in the following courts: the Montgomery Common Pleas Court found Petitioner Short indigent and appointed counsel for his capital proceedings, *See State v. Short*, Case No. 2004 CR 02635, (Montgomery County C.P.); the Montgomery County Court of Appeals recognized Short's indigent status and ordered its clerk to revise the financial records to waive all costs and fees imposed against Short following his appeal; and the Court below, the Supreme Court of Ohio, found Short indigent and appointed counsel for his direct appeal and also for his

Application to Re-Open, *State v. Short*, 129 Ohio St.3d 360, 2011-Ohio-3641. *See* appointment orders, attached hereto as Exhibit A.

Every court since Petitioner Short was indicted in 2004 on charges that carried the potential for the death penalty has permitted him to proceed *in forma pauperis*. Petitioner Duane Short respectfully requests leave to file the attached petition for writ of certiorari without payment of costs and to proceed *in forma pauperis*.

Respectfully submitted,

OFFICE OF THE OHIO PUBLIC DEFENDER

/s/ Erika M. LaHote
Erika M. LaHote [0092256]
Assistant Public Defender
Counsel of Record

Kimberly S. Rigby [0078245]
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DAN FOLEY
CLERK OF COURTS
MONTGOMERY COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

STATE OF OHIO,

CASE NO. 2004 CR 02635

Plaintiff,

JUDGE MARY KATHERINE HUFFMAN

v.

DUANE SHORT,

ENTRY OF APPOINTMENT

Defendant.

The court having found that it is necessary to appoint appellate counsel for the Defendant herein, it is hereby ORDERED that Dennis J. Adkins and Gary W. Crim are hereby APPOINTED as appellate counsel for the Defendant herein.

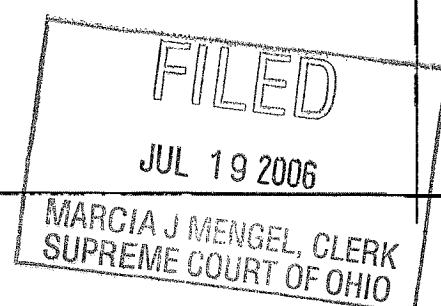
IT IS SO ORDERED.

JUDGE MARY KATHERINE HUFFMAN

Copies of the above were sent to all parties listed below by ordinary mail this date of filing.

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**EXHIBIT****A**

2

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FILED

SEP 06 2011

The Supreme Court of Ohio

CLERK OF COURT
SUPREME COURT OF OHIO

State of Ohio

v.

Duane Short

Case No. 2006-1366

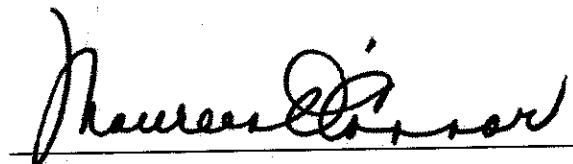
E N T R Y

This cause came on for further consideration upon the filing of appellant's motion for stay of execution scheduled for January 9, 2013, and motion for appointment of counsel. Upon consideration thereof, it is ordered by the Court that the motions are granted.

It is further ordered that this stay shall remain in effect until exhaustion of all state post-conviction proceedings, including any appeals. Counsel for appellant and for appellee shall notify this Court when all proceedings for post-conviction relief before the courts of this state have been exhausted.

It is further ordered by the Court that the Ohio Public Defender's office is appointed to represent appellant in this case.

(Montgomery County Court of Common Pleas; No. 2004CR02635)



Maureen O'Connor
Chief Justice