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VIA OVERNIGHT DELIVERY

Scott Harris, Clerk
The United States Supreme Court
One First Street, N.E.
Washington, D.C. 20543

Re: *Malik Allah-U-Akbar, fka Odraye G. Jones v. Margaret Bradshaw,*
Warden, U.S. Supreme Court Case No. 25-6909

Dear Mr. Harris:

This case is not properly characterized as a “capital case.” The Warden is therefore waiving a response to Allah-U-Akbar’s petition for a writ of *certiorari* as permitted by Rule 15.1 and 15.5. If the Court disagrees with the Warden’s interpretation of the Court’s rules, the Warden readily will file a brief in opposition.

Rule 15.1 states that a brief in opposition to a petition for a writ of *certiorari* “is not mandatory except in a capital case.” A capital case is defined in Rule 14.1(a) as a case in which a “petitioner or respondent is under a death sentence that may be affected by the disposition of the petition.” Allah-U-Akbar applied the “capital case” designation to his petition, and the Court docketed this case accordingly.

Allah-U-Akbar is wrong. This case does not qualify as a capital case under the Court’s rules because Allah-U-Akbar is not currently under a death sentence. Although Allah-U-Akbar had previously been sentenced to death, a state court vacated that sentence. Consequently, Allah-U-Akbar is no longer in the custody of the respondent Warden pursuant to a death sentence. He is instead in the custody of the Ashtabula County Sheriff while he awaits resentencing.

Allah-U-Akbar implicitly acknowledges that the “capital sentence” label on his petition is not accurate. He admits that the State vacated his death sentence and that he is currently awaiting a penalty phase retrial. *See* Pet.i, n.1. But if Allah-U-Akbar is awaiting a new penalty phase retrial then he, by definition, cannot be “under a death sentence” as Rule 14.1(a) requires.

Because Allah-U-Akbar is not currently under a sentence of death, his petition is not properly characterized as a capital case, and Rule 15.1 does not require the Warden to file a response.

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cc: Kathryn Lee Bailey, Petitioner's Counsel