

**UNITED STATES COURT OF APPEALS**

FOR THE SIXTH CIRCUIT

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IN RE: OHIO EXECUTION PROTOCOL.

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ANGELO FEARS, et al.,

*Plaintiffs,*

GARY OTTE; RONALD PHILLIPS; RAYMOND TIBBETTS,

*Plaintiffs-Appellees,*

v.

DONALD MORGAN, et al.,

*Defendants-Appellants.*

}  
No. 17-3076

Appeal from the United States District Court  
for the Southern District of Ohio at Columbus.  
No. 2:11-cv-01016—Michael R. Merz, Magistrate Judge.

Decided and Filed: April 25, 2017

Before: COLE, Chief Judge; BATCHELDER, MOORE, CLAY, GIBBONS,  
ROGERS, SUTTON, McKEAGUE, GRIFFIN, KETHLEDGE,  
WHITE, STRANCH, and DONALD, Circuit Judges.

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**ORDER**  
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A majority of the Judges of this Court\* in regular active service has voted for rehearing en banc of this case. Sixth Circuit Rule 35(b) provides as follows:

The effect of the granting of a hearing en banc shall be to vacate the previous opinion and judgment of this court, to stay the mandate and to restore the case on the docket sheet as a pending appeal.

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\* Judge Cook recused herself in this case.

Accordingly, it is ORDERED, that the previous opinion and judgment of this court are vacated, the mandate is stayed and this case is restored to the docket as a pending appeal.

The Clerk will direct the parties to file supplemental briefs; this matter is scheduled for oral argument on June 14, 2017.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt". The signature is written in a cursive, flowing style.

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Deborah S. Hunt, Clerk