

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

CEDRIC CARTER,

Petitioner,

-vs-

BETTY MITCHELL, Warden,

Respondent.

:

Case No. 1:98-cv-853

:

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

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**JUDGMENT INCLUDING CERTIFICATE OF APPEALABILITY**

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This capital habeas corpus case is before the Court on remand from the Sixth Circuit. *Carter v. Mitchell*, 693 F.3d 555 (6<sup>th</sup> Cir. 2012). Pursuant to Fed. R. Civ. P. 58, and upon the Court's Entry and Order of June 10, 2013 (Doc. No. 181), it is the judgment of this Court:

1. That Petitioner Cedric Carter's Twenty-Eighth and Twenty-Ninth Grounds for Relief be, and they hereby are, **DISMISSED WITH PREJUDICE**; and
2. Petitioner is granted a certificate of appealability on the three issues remanded by the Sixth Circuit Court of Appeals, to wit,

(1) Was Petitioner denied effective assistance of trial counsel by his attorney's eliciting unfavorable testimony from a mitigation expert during the penalty phase of his capital trial?

(2) Was Petitioner denied effective assistance of trial counsel by his attorney's failure to call Petitioner's mother as a witness during the penalty phase of the trial?

(3) Was Petitioner denied effective assistance of trial counsel by his attorney's failure to insist that the trial court provide the jury with a transcript of Dr. Chiappone's testimony?

Pursuant to the Entry and Order of June 27, 2013 (Doc. No. 185), it is further the judgment of this Court

1. That Petitioner's Motion to Stay Federal Habeas Proceedings and Hold Them in Abeyance (Doc. No. 165) be, and it hereby is DENIED; and
2. Petitioner is granted a certificate of appealability on the question whether this Court should have granted the requested stay.

This Judgment is approved as to form and the Clerk is ORDERED to enter it forthwith and to terminate this case on the docket of this Court.

July 31, 2013.

**s/Thomas M. Rose**

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Thomas M. Rose  
United States District Judge