

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

In re: OHIO EXECUTION
PROTOCOL LITIGATION,

: Case No. 2:11-cv-1016

Chief Judge Edmund A. Sargus, Jr.
Magistrate Judge Michael R. Merz

This Order relates to Plaintiff
Gary Otte.

PRELIMINARY INJUNCTION HEARING SCHEDULING ORDER

This § 1983 capital case is before the Court on Plaintiff Garry Otte's Motion for Stay of Execution, Temporary Restraining Order, and Preliminary Injunction (ECF No. 1168). Defendants have now filed their Response in Opposition (ECF No. 1182) which in part requests the Court not to proceed with any hearing on the Motion. *Id.* at PageID 44428-30.

Having reviewed Defendants' Response, the Court finds it is inappropriate to adjudicate the preliminary injunction motion without providing Plaintiff Otte an opportunity to present evidence. Accordingly, the preliminary injunction hearing remains set for 9:30 A.M. on Wednesday, September 6, 2017, in Courtroom No. 4 at the Dayton location of court. The Court has reserved only one day for the taking of evidence on this Motion because of the need to file a decision in time to allow appellate review before the scheduled execution date of September 13, 2017.

To prepare for the hearing, it is hereby ORDERED:

1. Each party shall file a hearing witness list with a precis of the expected testimony and a curriculum vitae for any proposed expert not later than 4:00 P.M. on Tuesday, September 5, 2017.
2. Each party shall file all of that parties proposed documentary exhibits not later than 4:00 P.M. on Tuesday, September 5, 2017. Each party shall then tender to the Courtroom Deputy at the commencement of the hearing four printed copies of the exhibits which show the PageID number. The copies shall be bound in three-ring binders, tabbed to permit ease of reference. Plaintiffs' exhibits shall be designated PX1, et seq.; Defendants shall be designated DX1, et seq. Attorneys examining witnesses shall reference the PageID number about which examination is occurring.
3. Each party may, but is not required to, file proposed findings of fact and conclusions of law. If a party elects to file such a document, (1) it must be filed not later than 4:00 P.M. on Tuesday, September 5, 2017, and (2) the filing party must furnish the Court with an electronic copy of the proposed findings in Word format.

August 31, 2017.

s/ *Michael R. Merz*
United States Magistrate Judge