

**District of Columbia
Court of Appeals**

No. M-225-05

BEFORE: Washington, Chief Judge; Terry, Schwelb, Farrell, Wagner, Ruiz, Reid,
Glickman and Kramer, Associate Judges.

O R D E R
(FILED - September 27, 2005)

WHEREAS this court, in the interest of judicial economy, has in the past routinely granted requests to stay criminal appeals upon the filing of a D.C. Code §23-110 motion in Superior Court, so that, if the D.C. Code §23-110 motion is denied, the appeal from its denial could be consolidated with the pending appeal, *see Shepard v. United States*, 533 A.2d 1278, 1280 (DC 1987), and

WHEREAS this court has determined that the interests of judicial economy are no longer served due to the delays in the resolution of D.C. Code §23-110 motions or the filing of multiple D.C. Code §23-110 motions pending resolution of the appeal, and this has led this court to encourage counsel to avoid deferring the resolution of the direct appeal, as appropriate, *see Williams v. United States*, 783 A.2d 598, 602 n.4 (2001)(en banc), and

WHEREAS the obligations imposed on appellate counsel by this court in *Shepard v. United States*, 533 A.2d 1278, 1280 (DC 1987) and *Doe v. United States*, 583 A.2d 670 (DC 1990), do not require that this court stay appeals to protect the rights of appellants, it is

ORDERED that this court will no longer routinely grant requests to stay criminal appeals pending the resolution of D.C. Code §23-110 motions. Counsel may, in an appropriate case, file a motion showing good cause for staying the appeal to await the outcome of the trial court motion. Further, if the appeal is consolidated with other appeals, counsel must specifically address the impact of any suggested stay on the other appellants. This court notes that the obligations imposed on appellate counsel by *Shepard*, supra, and *Doe*, supra, are not affected by this order. Counsel is still obligated to determine if there is a sufficient basis for filing a motion for relief pursuant to D.C. Code §23-110 and to either file such a motion or assist the appellant in filing a motion

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for appointment of counsel in Superior Court to file such a motion. Counsel is reminded that the failure to file a D.C. Code §23-110 motion during the pendency of the direct appeal may create a procedural bar to the consideration of such a claim in the trial court. See *Shepard*, supra. Counsel should review the document entitled “Obligations of Counsel” (para. 5, Obligations to the Client), which sets out the duties of appointed counsel in criminal appeals. (A copy of this document may be found at <http://www.dcappeals.gov/dccourts/appeals/cja.jsp>)

ENTERED BY DIRECTION OF THE COURT:

GARLAND PINKSTON, JR., Clerk