

COMMONWEALTH OF KENTUCKY  
SUPREME COURT  
FILE NO. 2017-SC-\_\_\_\_\_

(Court of Appeals No. 2017-CA-001327)

COMMONWEALTH OF KENTUCKY

APPELLANT

VS.

TRAVIS BREDHOLD

APPELLEE

MOTION TO TRANSFER APPEAL

Comes the Commonwealth of Kentucky, by counsel, and pursuant to CR 74.02 respectfully requests that the Commonwealth's appeal in the case of *Commonwealth of Kentucky v. Travis Bredhold* (2017-CA-001327), noticed and filed with the Court of Appeals on August 18, 2017, be transferred to this Court for consideration on the merits.

This appeal is of great and immediate public importance as it addresses the constitutionality of the Commonwealth's capital sentencing scheme. Specifically, the Fayette Circuit Court has made a pre-trial ruling that the imposition of the death penalty on persons under the age of twenty-one (21) at the time of the offense violates the Eighth Amendment of the United States Constitution. Essentially, the Fayette Circuit Court has determined that "evolving standards of decency" now require shifting the bright-line rule established by the United States Supreme Court in *Roper v. Simmons*, 543 U.S. 551 (2005), from precluding the death penalty for persons under

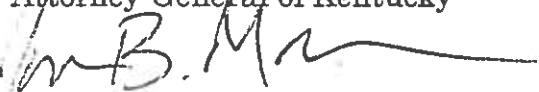
the age of eighteen (18) to persons under the age of twenty-one (21). Such a determination is very unusual for a trial court and raises an issue of first impression that will have a dramatic effect on the Commonwealth's ability to prosecute this or any future capital cases against defendants under the age of twenty-one (21).

Given the uniqueness of this case, the fact that it deals specifically with the prosecutions ability to seek the death penalty, and the great impact any appellate decision will likely have on the future practice of capital cases, the Commonwealth believes the case meets the requirements of CR 74.02(2) and believes its request for transfer should be granted.

WHEREFORE, the Commonwealth respectfully prays this Court to grant its motion pursuant to CR 74.02 to transfer the Commonwealth's appeal in *Commonwealth v. Travis Bredhold*, 2017-CA-1327, to this Court for briefing and consideration on the merits.

Respectfully submitted,

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NOTICE

Please take notice that the foregoing Motion to Transfer Appeal has been filed in the Office of the Clerk of the Supreme Court of Kentucky this 25th day of August, 2017, to be considered at the convenience of the Court.

  
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Transfer Appeal has been hand delivered, this 25th of August, 2017, to Sam Givens, Clerk of the Court of Appeals; and sent via first class mail, postage prepaid, to Hon. Ernesto Scorsone, Fayette Circuit Court Judge, 120 North Limestone, Lexington, Kentucky 40507; Hon. Lou Anna Red Corn, Fayette Commonwealth's Attorney, 116 North Upper Street, Suite 300, Lexington, Kentucky 40507; and Hon. Joanne Lynch and Hon Audrey Woosnam, attorneys for Travis Bredhold, 487 Frankfort Road, Suite 2, Shelbyville, Kentucky 40065.

  
Assistant Attorney General

# APPENDIX

- 1) *Commonwealth of Kentucky v. Travis Bredhold*, 2017-CA-001327-MR  
Commonwealth's Notice of Appeal Filed August 18, 2017 ..... 1 - 2
  
- 2) *Commonwealth of Kentucky v. Travis Bredhold*, 14-CR-000161  
Fayette Circuit Court Order Declaring Kentucky's Death Penalty  
Statute As Unconstitutional Entered August 1, 2017 ..... 3 - 15