

UNITED STATES COURT OF APPEALS

SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

CHAMBERS OF
CORNELIA G. KENNEDY
CIRCUIT JUDGE
U. S. COURT HOUSE
DETROIT, MICHIGAN 48226

October 21, 1981

John P. Hehman, Clerk
United States Court of Appeals
for the Sixth Circuit
Cincinnati, OH 45202

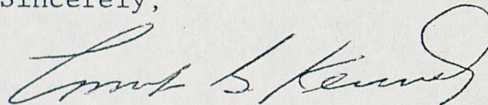
Re: 80-3288, Wall v. Engle
10/12/81

Dear Mr. Hehman:

Please sign and enter the enclosed order in the above case.

Judges Merritt and Unthank have concurred.

Sincerely,



Cornelia G. Kennedy

Enc.

cc: Judge Merritt
Judge Unthank ✓

5.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

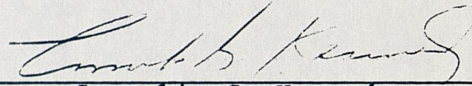
PANEL REPORT

DATE: Monday, October 12, 1981, #1, 1:30 p.m.

PANEL: Merritt, Kennedy, and Unthank

NO: 80-3288, Tewey Lee Wall v. Engle, Supt., etc.
S.D. Ohio - Kinneary, J.

Attached for your review is an order in the above-entitled case, which is being circulated in lieu of a panel report. It is called to the particular attention of Judges Merritt and Unthank.



Cornelia G. Kennedy

Enc.

cc: All Judges

*10-16-81
Reallocation
referred
Unthank*

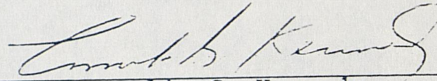
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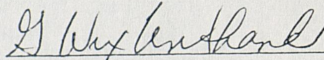
Enc.

cc: All Judges

October 16, 1981

Dear Judge Kennedy:

I concur.



G. Wix Unthank

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

TEWEY LEE WALL,

Petitioner-Appellant,

O R D E R

v.

TED ENGLE, SUPT.,

Respondent-Appellee.

Before: MERRITT and KENNEDY, Circuit Judges; and UNTHANK,
District Judge.*

Petitioner Wall raises six issues in this appeal from the conditional denial of his writ of habeas corpus. The first five are: (1) whether there was sufficient evidence to support Wall's conviction by an Ohio jury for first degree murder; (2) whether it was a violation of Wall's constitutional rights at trial to require him to establish the affirmative defense of insanity by a preponderance of the evidence; (3) whether Wall was denied a speedy trial; (4) whether Wall's constitutional rights were violated when the trial court failed to give an instruction on various lesser included offenses; and (5) whether Wall received constitutionally adequate representation by counsel at his trial. The District Court denied the writ conditioned on Ohio's providing a retrospective hearing to determine whether Wall was competent to stand trial in 1973. Initially, Wall also

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The Honorable G. Wix Unthank, United States District Court,
Eastern District of Kentucky, sitting by designation.

contended on appeal that this is not a sufficient remedy to protect his right to due process of law. He later moved to withdraw this issue.

For the reasons stated by the District Court we hold that the first five issues raised by appellant do not entitle him to a writ. We also agree with the District Court that a retrospective hearing will adequately protect appellant's due process rights.

Accordingly, the judgment of the District Court is affirmed.

ENTERED BY ORDER OF THE COURT

Clerk