

FLEMING GETS ANOTHER STAY; CASE TO U. S. SUPREME COURT

CLEVELAND, Ohio, May 23.—Former Councilman Thomas W. Fleming is in smiles again, his counsel, Alexander H. Martin, securing another 10 days' stay from the state supreme court, enabling him to assemble his records of the Fleming trial to present his appeal to the United States supreme court. By the granting of the writ empowering Martin to proceed with the appeal the mandate ordering Fleming to start serving his sentence is overridden.

Fleming, who had been in Canada vacationing with Jack Johnson, surrendered to the authorities on his arrival from Canada. Soon after his arrival Fleming's son, Atty. Thomas

W. Fleming Jr., brought the stay of execution papers from Columbus, making the trip in his auto in three and one-half hours.

Fleming's appeal claims that it violates a man's constitutional rights to imprison him in the Columbus penitentiary. Imprisonment in the antiquated prison, scene of the recent disastrous fire, would constitute "cruel and unusual punishment," which is prohibited by the United States Constitution. It is argued in the appeal. The 10 days' stay will expire May 26. If the United States supreme court falls Fleming, he will then appeal to Governor Cooper to save him from the pen