

IN THE SUPREME COURT OF OHIO

Original copy

CASE NO: 07-330

ALRENZO BLANDIN
607 MARION-WILLIAMSPORT
ROAD EAST
P.O.BOX 1812
MARION, OHIO 43301,

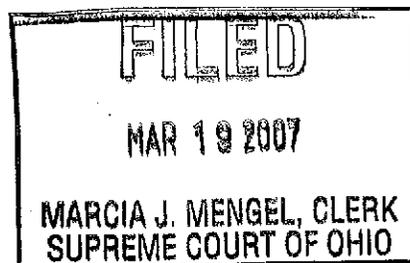
Original Action In Mandamus

Relator,

-Vs-

BECK, ALLEN COUNTY SHERIFF
301 N. MAIN STREET
P.O.BOX 1243
LIMA, OHIO 45802-1243,

Respondent.



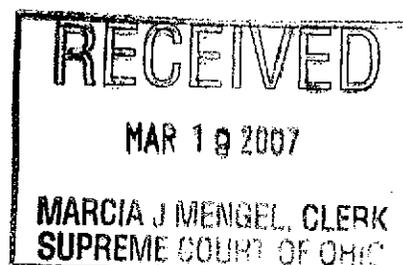
PETITIONER'S RESPONSE TO RESPONDANT'S MOTION TO DISMISS

Alrenzo Blandin #538-507, (Acting Pro Se.)
670 Marion-Williamsport Rd. East
P.O.Box 1812
Marion, Ohio 43301

Counsel for Petitioner, Pro Se.

Jana E. Emerick (Counsel of Record)
Allen County Asst. Prosecutor
Court of Appeals Building
204 N. Main Street
Suite 302
Lima, Ohio 45801

Counsel for Respondent.



MEMORANDUM

The respondent answers this writ by assuming several assertions that are not presented in the writ, and therefore cannot be accepted as fact. Initially, the respondent states that Relator claims he has funds *currently* being held in a commissary account at the Allen County jail. The Relator does not believe or assert this to be the case. The Relator has stated that agents of the respondent took the funds from his person. Whether or not those funds were deposited into the Relator's commissary account is a matter of whether or not the respondent or his agents complied with jail policy and procedure. The petition does not speak to these facts. What is at issue is that the money was taken by the Sheriff and not returned. If the petitioner were to speculate as to what in fact became of his money, he would answer that he believes law enforcement officers misappropriated the funds. The petition speaks to policy and not reality.

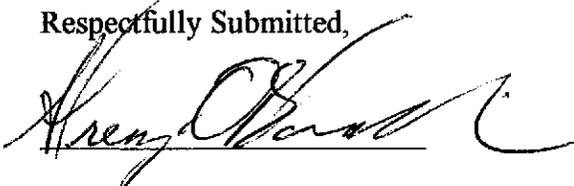
The respondent's legal analysis of the case is lacking accuracy, fact, or knowledge of the petitioner's past legal petitions. He asserts that the petitioner "*has not alleged nor demonstrated that he has pursued any available legal course of action.*" This is simply a smoke screen to perpetually delay the ultimate duty and responsibility of the respondent to comply with the clear duty imposed upon him by himself to release the funds to the petitioner. The respondent argues that, *arguendo*, assuming the truth of the assertions in the writ, the petitioner should not be granted relief from this Honorable Court until he has been first made dizzy by the endless and time consuming legal course of other actions. But why? Consider the continued delay that would result by the respondent's suggested course of actions. "*Replevin, complaint for damages as a result of breach of contract or wrongful conversion, for instance.*" All these just to name a few I suppose. Anything *but* this Court deciding the writ upon its merit *today*. The respondent demeans the acumen of this Court when he implies that whether or not justice would be served by the granting of this writ by this Court is immaterial; so long as there is any *other* conceivable course of action. The instant petition does not involve the *breach* of any contract, since the seizing of the petitioner's funds was not the result of any "*consideration*" on the part of the petitioner, and he did not *enter into* any such agreement for the confiscation of his funds. The funds were taken *per jail policy* but not returned. That does not constitute a

“contract”. The respondent further asserts that the petitioner should challenge the denial of his funds through *wrongful conversion* complaint. But the actual conversion does not comply with the requirements of filing such a complaint. The petitioner’s funds were not converted by a “*wrongful act*” by the respondent *at the time* of its conversion. Furthermore, at the time of conversion the petitioner did not have the right to possess his funds *on his person*. Finally, the respondent does not speak to the prior order of the Allen County Common Pleas Court filed on July 5, 2006, which orders the funds to be released pursuant to a motion filed by the petitioner with the Court on May 31, 2006. This motion and order is attached to this response titled Appendix 1-4. The petitioner has already attached a copy of the evidence inventory to the initial writ, and the Court may take note that the funds in question are not included in this inventory, therefore, the respondent has no just reason for withholding these funds from the petitioner, and this writ should be granted.

IN CONCLUSION

The petitioner asserts that he has established that the alternate course of actions proffered by respondent are neither appropriate nor reasonable since the respondent has a previous order from the Common Pleas Court that he has failed to comply with already. For the foregoing reasons the petitioner request that the respondents motion to dismiss be denied and the funds ordered returned expeditiously.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Alrenzo Blandin", written in a cursive style.

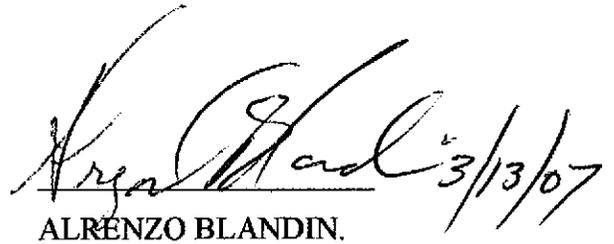
3/13/07

Alrenzo Blandin, (Acting pro se.)

PROOF OF SERVICE

I CERTIFY THAT A COPY OF THE FOREGOING RESPONSE WAS SENT
BY REGULAR US MAIL ON March 13, 2007, TO:

Jana E. Emerick (Counsel of Record)
Allen County Asst. Prosecutor
Court of Appeals Building
204 N. Main Street
Suite 302
Lima, Ohio 45801

A handwritten signature in black ink, appearing to read "Alrenzo Blandin", with the date "3/13/07" written to the right of the signature. The signature is written over a horizontal line.

ALRENZO BLANDIN.

COMMON PLEAS COURT
FILED
IN THE COURT OF COMMON PLEAS
ALLEN COUNTY, OHIO: 47

STATE OF OHIO,

Plaintiff,

v.

ALRENZO O. BLANDIN,

Defendant.

DINA C. STALEY-BURLEY
CLERK OF COURTS
ALLEN COUNTY, OHIO

: Case No. CR 2005-0350

: JUDGE JEFFREY L. REED

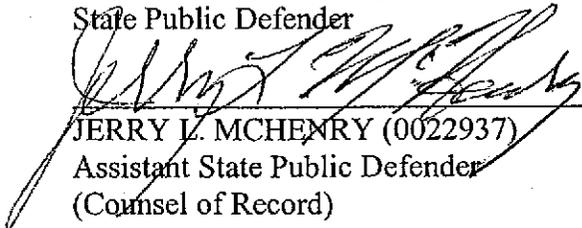
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**DEFENDANT'S REQUEST FOR AN ORDER THAT
CERTAIN PROPERTY BE RETURNED**

Now comes the Defendant and moves this Court to Order that any and all property seized from him by law enforcement officers, not intended by the prosecution to be presented as evidence, be returned to him or to those persons whom he might designate.

Respectfully submitted,

DAVID H. BODIKER (0016590)
State Public Defender


JERRY L. MCHEMRY (0022937)
Assistant State Public Defender
(Counsel of Record)

Office of the Ohio Public Defender
8 East Long Street - 11th Floor
Columbus, Ohio 43215
(614) 466-5394
(614) 728-3670 (Fax)

COUNSEL FOR ALRENZO O. BLANDIN

MEMORANDUM IN SUPPORT

At the time of his arrest, on August 3, 2005, certain property was taken from the possession of the Defendant, by law enforcement officials. This property includes, but is not limited to, an automobile (described as a blue Mercedes), which Defendant was driving at the time of his initial traffic stop, and United States currency, in the approximate amount of One Thousand Nine Dollars (\$1,009.00), which was taken from his possession as he was slated into the county jail.

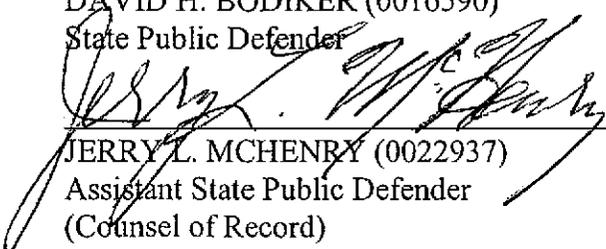
This property has no relevance or probative value, to help the State prove its allegations. This property was not seized pursuant to the warrant issued by the Court, in this case. The currency, in fact, was taken from Mr. Blandin's possession during the routine booking process, at the county jail. This property is not demonstrably the fruits of any crime, not an instrumentality of any criminal activity.

Therefore, the Defendant requests this Court to order the return of, or release to him or his designates, any property including but not limited to, that specifically mentioned above which has no evidentiary value to the accused. This request is made to prevent an unconstitutional taking of the Defendant's property pursuant to the Fourth, Fifth and Fourteenth Amendments of the United States Constitution and Article I, Sections 1, 14 and 19, of the Ohio Constitution.

Respectfully submitted,

DAVID H. BODIKER (0016590)

State Public Defender


JERRY L. MCHENRY (0022937)

Assistant State Public Defender

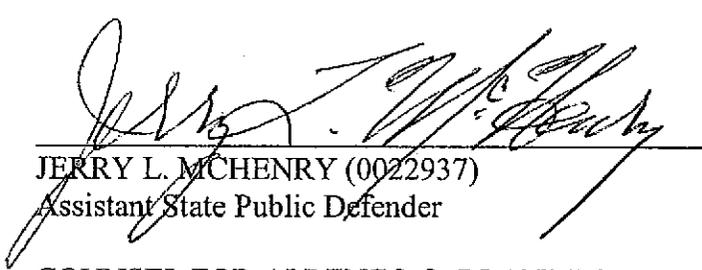
(Counsel of Record)

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Columbus, Ohio 43215
(614) 466-5394
(614) 728-3670 (Fax)

COUNSEL FOR ALRENZO O. BLANDIN

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing DEFENDANT'S REQUEST FOR AN ORDER THAT CERTAIN PROPERTY BE RETURNED was served by regular U.S. Mail on M. Daniel Berry, Assistant Prosecutor, Allen County, 204 N. Main Street, Suite 302, Lima, Ohio 45801 on this 26th day of May, 2006.



JERRY L. MCHENRY (0022937)
Assistant State Public Defender

COUNSEL FOR ALRENZO O. BLANDIN

236896

COMMON PLEAS COURT
IN THE COURT OF COMMON PLEAS OF ALLEN COUNTY, OHIO

STATE OF OHIO,

2006 JUL -5 * AM 8:29

PLAINTIFF

CASE NO.: CR 2005 0350

-v-

ALRENZO BLANDIN,

JUDGMENT ENTRY

DEFENDANT

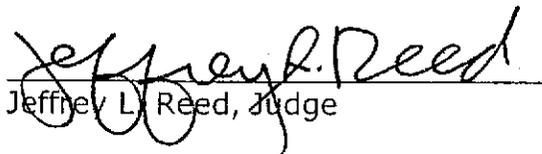
This matter comes on for consideration of the defendant's request for an order that certain property be returned filed on May 31, 2006.

Upon consideration, the Court finds the motion well taken as far as concerns property being held by law enforcement that is not intended to be used as evidence, does not contain potential evidence or that is not contraband.

Therefore, it is ORDERED that law enforcement return to defendant, or his representative any items being held that is not intended to be used as evidence, does not contain potential evidence or that is not contraband.

Inasmuch as defendant's Mercedes Benz or the cash seized from defendant may be used as evidence and may be relevant it is ORDERED not to be returned.

July 3, 2006


Jeffrey L. Reed, Judge