

IN THE SUPREME COURT OF OHIO

KHABIR A. TISDALE,

Appellant,

vs.

MICHELE EBERLIN, Warden,

Appellee.

CASE NO. 07-0533

On Appeal from Belmont  
County Court of Appeals,  
Seventh Judicial District

Court of Appeals  
Case No. 06 BE 63

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REPLY BRIEF OF APPELLANT KHABIR A. TISDALE

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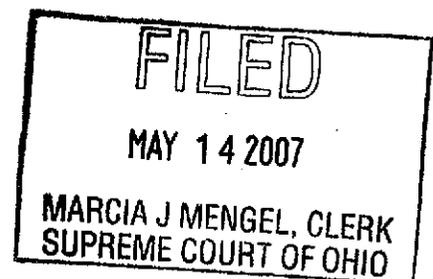
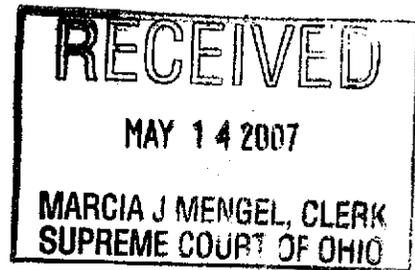


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## STATE OF THE CASE

On March 6, 2007, Seventh Judicial District court of appeals entered opinion and journal entry dismissing pro se Petition for Writ of Habeas Corpus. Petition sought immediate release pursuant to Columbiana and Jefferson County courts lacking jurisdiction to proceed to convictions.

On March 23, 2007, notice of appeal to this Honorable Court was filed. on April 9, 2007, notice of record issued from this Court, thereby perfecting instant appeal.

On April 16, 2007, Appellant filed pro se merits brief, propositioning two issues of law. Specifically, Appellant argued that: habeas corpus petition is not fatally defective, succumbable to dismissal, for failure to attach all pertinent commitment papers; and because R.C. 2941.401 is jurisdictional, evincing object or purpose to limit courts authority, habeas will lie to vindicate noncompliance.

On or about April 30, 2007, Appellee, inter alia, filed what's labelled a memorandum in opposition to jurisdiction but, ideally, should constitute her merits brief. Appellee's arguments lack merit and evade confrontation on crux issues presented to this Honorable Court.

Hence, Appellant is now before this Honorable Court to urge finality and to evince why liberty ought to be fully restored.

## ARGUMENT

As an overture, Appellant would note that factual allegations contained in petition were sufficient enough to survive a motion to dismiss.

Furthermore, Appellee stills fails to grasp R.C. 2941.401 jurisdictional value, and that asserting a violation of such attacks the trial court's jurisdiction. *State v. Bellman* (1999), 86 OS3d 208; *Wireman v. Ohio Adult Parole Authority* (1988), 38 OS3d 322. Hence, Appellant is at no burden to present an innuenduous paradigm on merits of claim, because this Court has previously did an admirable exemplification of the matter in *Bellman*.

Moreover, R.C. 2725.04(D) unambiguously, unequivocally and definitely sets forth that failure to attach all pertinent commitment papers does not, in itself, reduce a Petition for Writ of Habeas Corpus to a fatality. *Watkins et al. v. Collins, Dir.* (2006), 111 OS3d 425. Appellee's reliance on this Court's previously rigid application of R.C. 2725.04(D) lacks empathy for a clear change in controlling law. Even if Appellee could take solace in novelty of issue, she still cured Appellant's substantive defect to invoke adjudication of merits. Purpose of commitment papers being attached to petition is to give a complete understanding of the petition. Because Appellee not only provided deficient judgment entry, but further admitted to cause, nature and term it documented, an unequivocal understanding of claim can be reached without resort to a trigonometrical touchstone. Hence, no dismissal is, or was, warranted in this case.

#### CONCLUSION

WHEREFORE, above reasons and those presented in merits brief, Appellant prays upon reversal of dismissal and allowance of Writ of Habeas Corpus.

MAY IT SO BE ENJOINED.

Respectfully submitted,

*Kh Bair A. Tisdale*  
KHAIR A. TISDALE, pro se.

#### PROOF OF SERVICE

A copy of this REPLY BRIEF has been sent by regular U.S. mail to counsel for Appellee: Stuart A. Cole; Asst. Atty. Gen.; at 150 E. Gay st., 16th Fl.; Columbus, Ohio 43215-6001 on this 9th day of May, 2007.

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