

IN THE SUPREME COURT OF OHIO

STATE EX REL. ALRENZO BLANDIN : CASE NO: 07-330
Relator :
-vs- :
DANIEL W. BECK : ORIGINAL ACTION
ALLEN COUNTY SHERIFF : IN MANDAMUS
Respondent :

RESPONDENT'S BRIEF

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RELATOR PRO SE

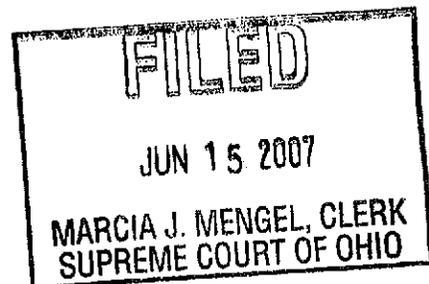


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STATEMENT OF THE CASE AND THE FACTS

The relator, Alrenzo Blandin, has filed a petition for a writ of mandamus through which he seeks an order from this court compelling the respondent, the Sheriff of Allen County, Ohio, to release money that relator claims belongs to him and that relator claims is currently being held by the respondent in a commissary account at the Allen County Jail.

The relator is an inmate who is incarcerated with the Ohio Department of Rehabilitation and Correction. As set forth in his petition and the documents appended thereto, relator alleges he was arrested in Allen County on August 3, 2005, and booked into the Allen County Jail. Relator maintains that at the time of his arrest, \$1,058.00 in cash was taken from relator's person and, pursuant to jail policy, placed into a commissary account for relator at the Allen County Jail.

Relator's petition asserts that on December 22, 2006, he was transferred from the Allen County Jail to the Ohio Department of Rehabilitation and Correction, to serve a prison term relating to a felony conviction. Relator maintains that at the time relator was transferred to prison, the funds credited to his commissary account at the Allen County Jail were not released to relator, or to his appointed representative, and relator claims that those funds are still being held by the Allen County Jail, which is under the supervision and control of the respondent. Finally, relator asserts that he has made several requests that the funds be released to him, but that he has not received a response from the Allen County Sheriff's Office.

LEGAL ANALYSIS

“In order to grant a writ of mandamus, a court must find that the relator has a clear legal right to the relief prayed for, that the respondent is under a clear legal duty to perform the requested act, and that relator has no plain and adequate remedy at law.” *State ex rel. Rogers v. Taft* (1992), 64 Ohio St.3d 193, 198. It is also provided in R.C. 2731.05 that “[t]he writ of mandamus must not be issued when there is a plain and adequate remedy in the ordinary course of law.”

In the instant case, a review of the evidentiary materials filed by respondent, specifically the affidavit of Sgt. Clyde Breitigan of the Allen County Sheriff’s Office, establishes that the relator was arrested on August 3, 2005, for the possession of a large quantity of crack cocaine. At the time of his arrest, relator had \$1,058.80 in U.S. currency on his person. Pursuant to jail policy, the \$1,058.80 was documented by the arresting officer at the time relator was booked into the Allen County Jail, and the cash was taken from relator to be placed on his behalf into a commissary account at the jail.

However, immediately following relator’s arrest, a jail administrator turned the \$1,058.80 over to investigators from the West Central Ohio Crime Task Force, upon receiving the information that the money may be evidence in the drug case against respondent.

As a result of the narcotics found in his possession on August 3, 2005, respondent was subsequently indicted by the Allen County grand jury on multiple drug violations. On December 5, 2006, a jury trial commenced in that case. On December 13, 2006, the jury returned a verdict finding relator guilty of four possession charges as follows: Count 1 - possession of crack-cocaine, a felony of the fourth degree; Count 2 – possession of

cocaine, a felony of the fifth degree; Count 3 – possession of crack cocaine, a felony of the first degree; and Count 4 – possession of cocaine, a felony of the second degree.

Following the jury verdict, the case then proceeded directly to sentencing and relator was sentenced to an aggregate term of twenty years, six months in prison. As part of the sentencing, relator was ordered by the trial court to pay a mandatory drug fine of \$20,000.00 as to Count 3 and a mandatory drug fine of \$15,000.00 as to Count 4.

On February 26, 2007, the trial court filed a judgment entry in relator's criminal case ordering that the cash seized from relator at the time of his arrest be executed upon and applied to the mandatory drug fines in the criminal case.

On February 26, 2007, the Clerk of Courts of Allen County Court of Common Pleas then issued an order of execution to the Allen County Sheriff that the money seized from relator and being held by the West Central Ohio Crime Task Force be executed upon to be applied to costs of prosecution in relator's criminal case.

On February 28, 2007, the Allen County Sheriff's Office served the order of execution relating to relator's funds upon the West Central Ohio Crime Task Force. Pursuant to the court order, the West Central Ohio Crime Task Force turned over the \$1,058.80.

A review of the official records of the Clerk of Courts of the Allen County Court of Common Pleas reflects that in the case of *State of Ohio v. Alrenzo Blandin*, case number CR2005 0350, a return was filed relating to the February 26, 2007, order of execution by Sgt. Alan Mefford of the Allen County Sheriff's Office on February 28, 2007. The return signed by Sgt. Mefford reflects that he collected the \$1,058.80 in cash from the West Central Ohio Crime Task Force on February 28, 2007, that the money was

deposited in the sheriff's office checking account, and that check #8711 was then written to the Clerk of Courts in order to forward those funds to the Clerk's Office, to be paid toward the mandatory fine, pursuant to the trial court's order in relator's criminal case.

A review of the official records of the Clerk of Courts of the Allen County Court of Common Pleas also reflects further documentation that the Clerk of Courts received the funds from the Allen County Sheriff's Office and then applied the \$1,058.80 to drug related fines in case number CR2005 0350, on behalf of relator, also pursuant to the trial court's order.

Thus, regarding the claims made by relator in his complaint for a writ of mandamus, it is true that, following relator's felony conviction and sentence, relator was transferred from the Allen County Jail in Lima, Ohio to the Ohio Department of Rehabilitation and Correction to serve a prison term. It is also true that at the time relator was transferred to prison, the \$1,058.80 on which he makes claim was not released by respondent to relator, or to his appointed representative. However, contrary to the claim made by relator in support of his complaint for a writ of mandamus, those funds are **not** still being held by the Allen County Jail, or the Allen County Sheriff's Office, as the money was executed upon pursuant to court order, seized for the payment of fines and costs in relator's felony case, and applied to the payment of fines in relator's felony case.

CONCLUSION

In summary, the respondent requests that the relator's petition for a writ of mandamus be denied, for the reason that relator has failed to establish, under the circumstances of this case, that relator has a clear legal right to the relief prayed for, or that the respondent is under a clear legal duty to perform the requested act. Moreover, if relator seeks to challenge the propriety of the trial court's order and subsequent seizure of relator's money, that is an issue that could be raised in a direct appeal in relator's criminal case and, therefore, relator has a plain and adequate remedy in the ordinary course of law.

Respectfully submitted,



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PROOF OF SERVICE

I hereby certify that a copy of the foregoing was served upon Alrenzo Blandin, Relator Pro Se, Inmate #538-507, 670 Marion-Williamsport Road East, P.O. Box 1812, Marion, Ohio 43301 on this 13th day of June, 2007 by regular United States mail.



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APPENDIX

2731.05 Adequacy of law remedy bar to writ.

The writ of mandamus must not be issued when there is plain and adequate remedy in the ordinary course of the law.

Effective Date: 10-01-1953