

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel. Aden D. Fogel, \*  
Richland Correctional Inst. \*  
#A451-382 \*  
P.O. Box 8107 \*  
Mansfield, Ohio 44901 \*

Relator, \*

VS. \*

Edward M. Zaleski, Judge \*  
Lorain County Common Pleas Court \*  
225 Court Street \*  
Elyria, Ohio 44036-0749 \*

Respondent. \*

Supreme Court No.

07-1897

ORIGINAL ACTION IN  
PROHIBITION

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COMPLAINT FOR A WRIT OF PROHIBITION

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Aden D. Fogel  
Richland Correctional Inst.  
#A451-382  
P.O. Box 8107  
Mansfield, Ohio 44901

Relator Pro se



COMPLAINT FOR A WRIT OF PROHIBITION

Aden D. Fogel, inmate number A451-382, asks this Honorable Court to issue a Writ of Prohibition preventing the Lorain County Common Pleas Court, the Honorable Edward M. Zaleski, Judge, from conducting a re-sentencing hearing scheduled for October 22, 2007, or taking any action in Lorain County Common Pleas Court case number 02CR061956, as on October 3, 2007, Relator perfected an appeal in the underlying case, Ohio Ninth District Court of Appeals case number 07CA009261, effectively divesting the Lorain County Common Pleas Court of jurisdiction.

In support of this request, the Relator states as follows:

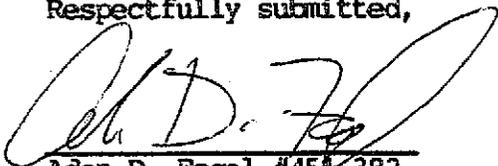
1. On or about July 25, 2007, the Relator received a Journal Entry Notice from the Respondent notifying Relator that the Lorain County Common Pleas Court was holding a re-sentencing hearing for Lorain County Common Pleas Court criminal case number 02CR061956 on October 22, 2007, 10:30 a.m., pursuant to O.R.C. §2929.191.  
(See Exhibit A)
2. On August 15, 2007, Relator filed a Pro se Motion for Dismissal of Proceedings scheduled for October 22 2007. (See Exhibit B)
3. On September 10, 2007, Relator filed a Pro se Supplemental Evidentiary Submission in support of Motion for Dismissal of Proceedings.
4. On September 12, 2007, the Respondent denied Relator's Motion for Dismissal.
5. On October 3, 2007, Relator perfected an appeal with the Ohio Ninth District Court of Appeals, case number 07CA009261.

6. The Relator states that case number 02CR061956 has been scheduled by the Court for re-sentencing on October 22, 2007 at 10:30 a.m.
7. The Relator states that because he perfected an appeal on October 3, 2007 in the Ohio Ninth District Court of Appeals, the entire case was removed to the Court of Appeals and Respondent lost all power to do anything in the case.
8. The Relator states that Judge Zaleski is the Judge in Lorain County Common Pleas Court who sentenced him originally and who has scheduled the re-sentencing hearing for October 22, 2007, 10:30 a.m.

WHEREFORE:

- A. Relator prays for a prementory writ to issue ordering the Respondent to cease any action and/or re-sentencing hearing until this Honorable Court decides the issues presented in this case.
- B. In the alternative, Relator prays for an alternative writ directing the Respondent to show cause why the proceedings in the lower Court should not be prohibited pending final determination of this Honorable Court.

Respectfully submitted,



Aden D. Fogel #451-382  
Relator Pro se

STAMP "FILED"  
AND RETURN

IN THE COURT OF COMMON PLEAS

LORAIN COUNTY, OHIO

CRIMINAL DIVISION

FILED  
LORAIN COUNTY

2007 AUG 15 A 11: 59

CLERK OF COMMON PLEAS  
ROM NAWAKOWSKI

STATE OF OHIO,  
Plaintiff,

Criminal Case No. 02 CR 061956  
Before: HONORABLE JUDGE ZALESKI

- vs -

MOTION FOR DISMISSAL OF PROCEEDINGS, dated:  
'October 22, 2007,' pursuant to O.R.C. Sec.  
2929.191.

ADEN FOGEL,  
Defendant ['Movant'].

[C]omes now, 'ADEN FOGEL,' [d]efendant ('pro se') in the above entitled cause, and does hereby respectfully move this Honorable Court for an order 'DISMISSING' ('with prejudice') the currently scheduled: 'October 22, 2007-Post Release Control' penalty enhance proceedings. see: In re Zilba, 673 N.E. 2d 997, 110 Ohio App. 3d 258 (Ohio App. 6 Dist. 1996); and, Johnson v. Mabry, 602 F. 2d 167 (1979).

In further support of the relief heretofore requested, defendant has annexed hereto his 'MEMORANDUM OF LAW' and 'AFFIDAVIT OF VERITY' therefore.

[R]elief is accordingly sought.

[ ]

APA Gauthier  
Defendant  
Atty. To be Appt.

**JOURNAL ENTRY**  
**COURT OF COMMON PLEAS**  
**Lorain County, Ohio**  
Ron Nabakowski, Clerk

Case No. 02CR061956

STATE OF OHIO \_\_\_\_\_ Plaintiff \_\_\_\_\_

-vs-

ADEN FOGEL \_\_\_\_\_ Defendant \_\_\_\_\_

Date \_\_\_\_\_ J.E. Vol. \_\_\_\_\_ Page \_\_\_\_\_

Case scheduled for re-sentencing on October 22, 2007 at 10:30 a.m. pursuant to R.C. 2929.191.  
The Lorain County Sheriff's Department is hereby ordered to convey Aden Fogel, inmate  
number A451382 from the Richland Correctional Institution, 1001 Olivesburg Road, Mansfield,  
Ohio to the Lorain County Justice Center, 225 Court Street, Elyria, Ohio on the above date.  
Attorney William Willis is appointed to represent defendant for purposes of  
re-sentencing.

  
\_\_\_\_\_  
JUDGE

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel., Aden D. Fogel, \*  
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VS. \*

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Elyria, Ohio 44036-0749 \*

Respondent. \*

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RELATOR'S AFFIDAVIT IN SUPPORT OF COMPLAINT FOR WRIT OF PROHIBITION  
PURSUANT TO SUP. CT. PRAC. R. X(4)(B)

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Aden D. Fogel  
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#A451-382  
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Relator Pro se

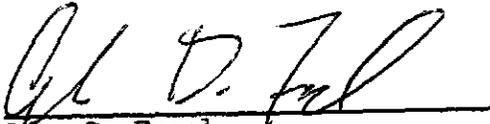
AFFIDAVIT IN SUPPORT OF COMPLAINT FOR A WRIT OF PROHIBITION

STATE OF OHIO            )  
                                  )    ss:  
COUNTY OF RICHLAND    )

The Relator, Aden D. Fogel, Pro se, being first duly sworn, states as follows:

1. My name is Aden D. Fogel, inmate number A451-382.
2. I am incarcerated and housed at the Richland Correctional Institution, P.O. Box 8107, Mansfield, Ohio 44901.
3. I am representing myself in Pro se fashion in the instant matter.
4. On or about July 25, 2007, the Respondent forwarded to me, by regular First Class U.S. Mail, a Journal Entry Notice of a re-sentencing hearing to be held on October 22, 2007 at 10:30 a.m.
5. On August 15, 2007, I filed a Pro se motion with the Lorain County Court of Common Pleas requesting dismissal of the proceedings scheduled for October 22, 2007, 10:30 a.m.
6. On September 10, 2007, I filed a Pro se Supplemental Evidentiary Submission in support of August 15, 2007 Motion to Dismiss Proceedings.
7. On September 12, 2007, Respondent, Judge Edward M. Zaleski, denied the August 15, 2007 motion to dismiss.
8. On October 3, 2007, I perfected an appeal of the September 12, 2007 denial in the Ohio Ninth District Court of Appeals, case number 07CA009261.
9. Relator believes, after conducting the appropriate legal research, that the Respondent is without jurisdiction to take action in the underlying criminal case and/or hold a re-sentencing hearing.

FURTHER AFFIANT SAYETH NAUGHT.



Allen D. Fogel  
Inmate number A451-382

Relator Pro se

SWORN TO AND SUBSCRIBED in my presence this 5 day of October 2007.

  
Notary Public