

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	10-1116
	:	
Plaintiff-Appellee,	:	On Appeal from the <u>HOCKING</u>
	:	<u>County Court</u>
vs.	:	of Appeals, <u>4th</u>
	:	Appellate District
<u>JOHN A. JOHNSON</u> ,	:	
	:	Court of Appeals
Defendant-Appellant,	:	Case No. <u>10CA01</u>

MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT JOHN A. JOHNSON

JOHN A. JOHNSON, A145-213  
NAME AND NUMBER

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INSTITUTION

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State v. JOHNSON (2010), HOCKING App. No. 10CA01 unreported

## EXPLANATION OF WHY THIS CASE IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION

The United States Constitution and the Constitution of this State, with respect to Article I, Section 10, guarantee's the Right to Appeal based upon certain requirements.

This court, in several rulings, has made it plain that absent a Final, Appealable Order a criminal defendant lacks standing as to his Rights to Appeal; and, the Appellate court lacks jurisdiction to hear his appeal. See, State v. Baker, (2008), 119 Ohio St.3d 197, 893 N.E.2d 163.

Furthermore, this court has reasoned that the unambiguous language in Statutes and Legislative Enactments cannot be misconstrued to fit an idea or perception that is not supported by the clear intent of the law. See, State v. Grosse, (2009), WL 3756960 (Ohio App.9th Dist.), 2009-Ohio-5942; State ex rel. Wolfe v. Delaware County Bd. of Elections, 88 Ohio St.3d 182, 184, 724 N.E.2d 771, (2000); and State v. Elam, 68 Ohio St.3d 585, 587, 629 N.E.2d 442 (1994).

In the case presented here, Appellant was removed from Death Row in the month of August, 1978, Case No. 78-510; decided by the United States Supreme Court in, Lockett v. Ohio, (1978), 438 U.S. 586, and, Bell v. Ohio, (1978), 438 U.S. 637, and endorsed by this Court on August 16, 1978. Subsequent thereto, the Ohio Legislator's Amended Statutes, specifically Statute §2967.19 in Am.S.B.1, on July 01, 1981, which was signed into law making it applicable to Appellant by both Legislative and Statutory enactment.

In June, 2007 Appellant realized that he was still under a sentence of death and, that no Final, Appealable Journal Entry Order of Commitment was ever issued. This has resulted in Appellant's Commitment being totally Void, a Nullity.

## STATEMENT OF THE CASE

On November 25, 1975 Appellant was indicted by a Cuyahoga County Grand Jury on the counts of: Kidnapping, R.C.§2905.01; Rape, R.C.§2907.02; and, Aggravated Murder, R.C.§2903.01 w/specifications.

Following a Jury trial on March 05, 1976 Appellant was found guilty of the above-named counts and was sentenced to death for the aggravated murder w/specifications, and sentenced to seven to twenty five years for kidnapping and for rape, counts to run consecutively according to the last line of Appellant's un-signed Journal Entry Order of Commitment of May 20, 1976.

## STATEMENT OF THE FACTS

On August 16, 1978 the U.S. Supreme Court in the cases of Lockett v. Ohio, and Bell v. Ohio supra, ruled that Ohio's Death Penalty was unconstitutional. This Ohio State Supreme Court agreed and Ordered that the death sentences listed on the Entry Order dated August 16, 1978 by the Supreme Court be vacated and a "Life" sentence be imposed. The Entry further ordered the Clerk of the Ohio Supreme Court to notify the Clerk's of the Counties named herein, or, listed in this Entry Order.

Appellant was removed from death row and placed into the prisons General prison population where he has remained ever since. He was never returned back to his sentencing court for a new sentence, nor did he ever receive any notification from any court stating that his sentence was hereby changed.

Following, on July 01, 1981, Ohio's General Assembly Amended Statute §2967.19 in Am.S.B.1. Sec. 3 to read in part, "Any such person shall, upon resentencing after the persons sentence of death is vacated, be sentenced to life imprisonment with parole eligibility after serving fifteen years of imprisonment."

However, appellant was never returned back to the sentencing court for this legislatively and statutorilly imposed 15-Life sentence. Nor was appellant's un-signed, non-final and non-appealable Journal Entry ever modified or changed to reflect this newly imposed, legislatively and statutorilly enacted new sentence. Appellant's original Journal Entry remained un-changed, un-signed, non-final and non-appealable, a Void Journal Entry Order of Commitment as it appears to this very day.

Had this newly enacted, legislatively approved and statutorilly imposed

15-Life been given to appellant, then appellant's first meaningful parole consideration would have been conducted in 1990, instead of 1995, a full twenty years into his incarceration.

This, in and of itself created a Due Process Rights violation, even given the fact that his Journal Entry Order of Commitment has never been made Final and/or Appealable in the first instance.

It is from this un-signed, Void Journal Entry on file in the sentencing court of Cuyahoga County Court of Common Pleas that has created this foregoing case. After thirty four (34) plus years appellant still remains incarcerated over this Void Journal Entry Order of Commitment.

## FIRST PROPOSITION OF LAW

APPELLANT'S DUE PROCESS AS GUARANTEED HIM BY THE UNITED STATES CONSTITUTION, AND ARTICLE I, SECTION 10 OF THE OHIO CONSTITUTION WAS VIOLATED WHEN THE APPELLATE COURT FAILED TO IMPOSE A LEGAL SENTENCE WHICH IS MANDATED BY LAW AND THE CONSTITUTIONS, BOTH STATE AND FEDERAL.

**I. VOID JUDGEMENT:** The Journal Entry Order of Commitment issued on May 20, 1976 by the Cuyahoga County Court of Common Pleas and entered on that court's docket entry is an unsigned, non-final and non-appealable Order of Commitment. Said Journal Entry is Void and the Commitment imposed upon Appellant does not comply with former O.R.C.32(B), hereinafter 32(C), nor does said Journal Entry comply with R.C. §2505.02 as to the legal definition of a Final Appealable Order. Appellant's only docketed Journal Entry Order of Commitment does not set forth the Plea, the Verdict or Findings, nor does it contain the Signature of the issuing Judge.

Furthermore, it does not validly dispose of all three (3) offenses charged in the indictment. Without a Valid Final Judgement, which cannot be had "without" a Judges Signature, the verdict or findings, and a valid disposition of all charges, the trial court lacked the necessary power, authority and jurisdiction to make the Order of Commitment of Appellant.

In order for a "Journal Entry" in a criminal case to constitute a Valid Final Judgement upon which a commitment can be ordered, it must contain all of the elements of a valid, final order, see R.C. §2505.02 and Crim.R.32(C).

In addition to the Caption of the Case and a designation that the document is a Judgement or other Entry, Crim.R.32(C) sets forth five (5) requirements that define what constitutes a Valid Final Judgement and/or Order in a Criminal Case; (1) the plea, (2) the verdict or findings, (3) the

sentence, (4) the judges signature, and (5) the clerk's "Filed" stamp, indicating that it was filed and journalized in the case. In re Mitchell, (1994), 93 Ohio St.3d 153; State v. Ginocchio, (1987), 38 Ohio App.3d 105; State v. Breedlove, (1988), 46 Ohio App.3d 178.

The "Journal Entry" filed in Appellant's criminal case was "never" signed by a judge, does not contain a judges signature; contains only a typewritten name of a judge; and absent the signature of the judge makes Appellant's Journal Entry Void, a Nullity and does not constitute a Final, Appealable Order according to R.C. §2505.02 and Crim.R.32(C).

In addition to a lack of a judges signature, the Journal Entry does not set forth the plea, verdict, or the findings; it sets forth only the name and the Statute numbers of the charged offenses, and a retrospective statement "Defendant, on a former day in court, having been found guilty by a jury of," does not make a finding, but only suggests the existence of a verdict, and makes no finding whatsoever by the court. This very type of language was discussed in detail by the ninth District Court of Appeals in State v. Frazier, (2006), WL 1791016, un-reported; wherein the court stated that such language, when read under the "plain and ordinary language requirement" refers to some un-identified prior findings, but makes no actual finding itself within the very document where it is required by Crim.R.32(C) to be made. The court further stated that in order for a "finding" to comply with the rules, and to constitute a final judgement, it must be a positive, present-tense statement, such as "the court finds."

See also, State v. Sandlin, 2006-Ohio-5021 (4th Dist.), un-reported, where the court identically decided the same issue, and then stated "[t]he trial court's sentencing entry does mention that the appellant 'has been convicted of' tampering with records and forgery, but that's not the same as

setting forth the verdict. Strict compliance with Crim.R.32(C) is required, see State v. Lovelace, (Jan. 15, 1999), Hamilton App.No. 970983; State v. Klein, (Dec. 04, 1988), Hamilton App.No. 970788. Thus, a trial court must actually specify that a jury "rendered" a verdict.

Ginocchio, supra, said this requirement exists "because compliance with Crim.R.32(C) formalities can the court be assured that it is correctly and completely informed of the trial court's judgement or Order from which the appeal is taken."

The trial court's Journal Entry is "File" stamped by the Clerk, but that does not make it valid. The clerk should not have accepted the document for filing without a judge having first signed it, State ex rel. Drucker v. Reichle, 81 N.E.2d 735 (8th Dist. 1948).

The Journal Entry of the trial court does not comply with Crim.R.32(C); it is Void, and has never created Statutory Appellate Jurisdiction. See, Davidson v. Remi, (1986), 115 Ohio App.3d 688, 692, ("if a judgement appealed is not a Final Appealable Order, the appellate court has no jurisdiction to consider it, and the appeal must be dismissed"; State v. Dickey, (1991), 74 Ohio App.3d 587, (failure to comply with Crim.R.32(C) results in a lack of a Final Appealable Order).

See also, State ex rel. Hansen v. Reed, (1992), 63 Ohio St.3d 597; State v. Tripodo, (1977), 50 Ohio St.2d 124, (lack of a final appealable order is defect in court of appeals jurisdiction requiring dismissal).

The fact that no appellate jurisdiction is created by the Void "Journal Entry" of the trial court not only demonstrates that there is no valid "commitment" filed against appellant upon which he may be lawfully held, but it also shows beyond argument that the appellant has no remedy of appeal. Thus, without any remedy of the appellate process, appellant has

shown a total lack of Due Process afforded to him, as well as his Rights to Equal Protection under the law being totally and completely violated.

The law on Crim.R.32(C) has been well settled for many years, and has now been reinforced in State v. Baker. In State v. Baker, (2008), 119 Ohio St.3d 197, 893 N.E.2d 163, this very same Ohio Supreme Court (hereinafter Supreme Court) stated in ¶6; A Court of Appeals has no jurisdiction over orders that are not Final and Appealable. Section 3(B)(2), Article IV, Ohio Constitution. See also, R.C.§2953.02. The Supreme Court went on to further determine in this same section of Baker, that the Appellate Court's should apply definitions of 'Final Order' contained in R.C.§2505.02. State v. Muncie, (2201), 91 Ohio St.3d 440, 444, 746 N.E.2d 1092 citing; State ex rel. Leis v. Kraft, (1984), 10 Ohio St.3d 34, 36, 10 OBR 237, 460 N.E.2d 1372.

This Supreme Court in §18 of Baker went on to explain in entering a Final Appealable Order in a criminal case, the trial court must comply with Crim.R.32(C), which states: "A Judgement of Conviction shall set forth the plea, verdict or findings, and the sentence. If the defendant is found not guilty or for any other reason entitled to be discharged, the court shall render judgement accordingly. The judge shall sign the judgement and the clerk shall enter it on the journal. A judgement is effective only when entered on the journal by the clerk."

Journalization of the judgement of conviction pursuant to Crim.R.32(C) starts the thirty (30) day appellate clock ticking. App.R.4(A); see also, State v. Tripodo, (1977), 50 Ohio St.2d 124, 4 O.O.3d 280, 363 N.E.2d 719.

As is apparent from the aforementioned quote of Baker, in order for a judgement to become effective the trial court shall sign the judgement. A clear reading of appellant's Journal Entry clearly shows a lack of any judges signature or plea.

In §11 of Baker, the Supreme Court states that the Ninth District has stated that there are five elements that constitute a judgement of conviction: (1) the plea; (2) the verdict or findings; (3) the sentence; (4) the signature of the judge; and (5) the time stamp of the clerk to indicate journalization.

Further, in ¶12 this Supreme Court when on the state: "A more logical interpretation of Crim.R.32(C)'s phrase "the plea, verdict or findings, and the sentence" is that a trial court is required to sign and journalize a document memorializing the sentence." Obviously, appellant's Journal Entry dated May 20, 1976 contains "no" trial court judges signature, nor a stated plea on it's face.

In ¶15 of Baker, this Supreme Court stated that the Twelfth District's interpretation allowing multiple documents to constitute a Final, Appealable Order is in error. This Supreme Court went on to say that "Only one document can constitute a Final, Appealable Order."

[Crim.R.32(C)] now requires that a judgement in a criminal case be reduced to writing, signed by the judge and entered by the clerk, State v. Tripodo, supra.

Lastly, in ¶16 of Baker, this Supreme Court in it's concurring opinion now holds that a judgement of conviction is a final appealable order under R.C.§2505.02 when it sets forth (1) the guilty plea, the jury verdict, or the findings of the court upon which the conviction is based; (2) the sentence, (3) the signature of the judge; and (4) the time stamp showing journalization by the clerk of court. Simply stated, a defendant is entitled to appeal an order that sets forth the manner of conviction and the sentence.

Appellant does not want to appear one-sided, so the following is the

dissenting opinion of State v. Baker, supra, given by this court's former Chief Justice Moyer. The former Chief Justice wrote in ¶22: However, we have repeatedly stated that we first look to the plain language of a statute or rule and apply it as "written when it's meaning is unambiguous and definite." Portage Cty. Bd. of Commrs. v. Akron, 109 Ohio st.3d 106, 2006-Ohio-954, 846 N.E.2d 478, ¶52, citing State ex rel. Savarese v. Buckeye Local School Dist. Bd. of Edn., (1996), 74 Ohio St.3d 543, 545, 660 N.E.2d 463. Further, we "reads [ ] words and phrases in context and constru[e] them in accordance with the rules of grammar and common usage." State ex rel. Choices for South-Western City Schools v. Anthony, 108 Ohio St.3d 1, 2005-Ohio-5362, 840 N.E.2d 582, at ¶40, citing State ex rel. Rose v. Lorain Cty Bd. of Elections, (2000), 90 Ohio St.3d 229, 231, 736 N.E.2d 886; R.C.§1.42.

Following, in ¶26 the former Chief Justice Moyer states; "The Ninth District Court of Appeals does not try to complicate Crim.R.32(C) with lengthy analysis interpreting the rule." Rather, the court of appeals lists five elements included in Crim.R.32(C), as they are plainly stated:

- 1) the plea,
- 2) the verdict or findings;
- 3) the sentence;
- 4) the signature of the judge; and
- 5) the time stamp of the clerk to indicate journalization.

In State v. Miller, 9th Dist.No. 06CA0046-M, 007-Ohio-1353, 2007 WL 879666, at ¶15. The court of appeals then proceeds in Miller to review the trial court's judgement entry to locate each of the five elements. Finding one of the elements missing, the court of appeals concludes that the entry fails to comply with Crim.R.32(C) and dismisses the appeal for a lack of a final appealable order. Id. at ¶20.

Further, in ¶28 former Chief Justice Moyer states in writing; the Ninth District Court of Appeals has not required that additional language be included in the judgement of conviction; the court of appeals decision has simply required the five elements required by this court's rule. Justice O'Connor also concurred in the aforementioned opinion of former Chief Justice Moyer.

Lastly, in a more recent decision, this Supreme Court reinforced the necessity of a valid final judgement entry in State v. Culgan, (2008), 119 Ohio st.3d 535, 895 N.E.2d 805, decided on September 18, 2008. This Supreme Court stated in the case of Culgan that the Journal Entry in that case was also missing a required element (the Guilty Plea). This Supreme Court ruled that even though Culgan appealed his case, he was entitled to have a valid, judgement rendered, and entitled to appeal such judgement.

#### SECOND PROPOSITION OF LAW

APPELLAMNT'S DUE PROCESS AND EQUAL PROTECTION AS GUARANTEED HIM BY THE OHIO CONSTITUTION, ARTICLE I, SECTION 10 & 16, AND U.S.C.A. CONSTITUTIONAL AMENDMENTS 5 AND 14 AMONG OTHERS WERE DENIED TO HIM WHEN RES JUDICATA WAS APPLIED IN A MANNER WHICH BORDERS ON A MISCARRIAGE OF JUSTICE WHEN THE APPELLATE COURT FAILED TO VACATE THE VOID SENTENCE AND ORDER THAT A LEGAL SENTENCE BE IMPOSED, WHICH WAS GIVEN BY OHIO LEGISLATOR'S, IMPOSED BY STATUTE, AND MANDATED BY LAW BY BOTH STATE AND FEDERAL CONSTITUTIONS.

**II. RES JUDICATA:** Appellant's Due Process Rights and his Rights to Equal Protection under the law was completely violated and denied to appellant when the Fourth Appellate District applied Res Judicata in a manner totally

inconsistent to the Law's and Constitution's of both Ohio and the United States.

It is a well settled principle of law that a Void Judgement cannot be appealed. Keeping this principle in mind it will be noted that Res Judicata can only be applied to a Valid, Final Appealable judgement; it cannot be applied to a Void Judgement which can never be made Final and/or Appealable. Any imposition of Res Judicata against appellant would have to fail as the original Motion to Vacate a Void Judgement and Petition for a Writ of Habeas Corpus in the Fourth Appellate District deals solely with the issue of a non-final and non-appealable judgement.

Keeping the aforementioned thought in mind, appellant would turn this court's attention to the topic of successive petitions. The term "successive" is ordinarily used to denote that an appellant has repeated similar claims in additional petitions. However, the claim here before this Supreme Court is entirely different in that it demonstrates beyond argument that there is no valid, final appealable judgement and/or commitment upon which to hold the appellant. Further, this new claim is against a different custodial party. See, Quality Ready Mix Inc. v. Mamone, (1988), 35 Ohio St.3d 324, (a prior judgement will not be afforded Res Judicata effect where the latter preceding to which it is sought to be applied involves different issues and different parties); Morganfield v. Archibald, 3 Ohio C.D. 391, 1894 WL 1384, (a judgement in Habeas Corpus is no bar to a different judgement in another Habeas Corpus proceeding where the parties and subject matter are different). See also, In re Knight, (1944), 144 Ohio St. 257, 20 Ohio Op. 407, (Res Judicata in Habeas Corpus actions apply only to the same questions under the same set of facts).

Moreover, res judicata is not to be applied in a manner that

encroaches upon fundamental rights, including the right to due process. Bentley v. Grange Mut. Cas. Ins. Co., 119 Ohio App.3d 93, (10th Dist. 1997).

Nor should Res Judicata be applied so rigidly as to defeat the ends of justice or so as to work an injustice. Davis v. Wal-Mart Stores Inc., (2001), 93 Ohio St.3d 488.

Because it is indisputable that the attempted judgement of conviction and commitment on file in the Cuyahoga County Court of Common Pleas does not comply with Crim.R.32(C) or R.C.§2505.02; does not contain a judges signature, and has never become a final appealable order giving appellate jurisdiction to any court, it goes beyond question that any claims as to Res Judicata, Collateral Estoppel, or Successive Petitions will fail under the context of there simply being no final, appealable order ever conceived in appellant's case.

Further, on July 01, 1981 Ohio's Legislator's stated in Volume CXXXIX, Legislative Acts-Passed and Joint Resolutions Adopted by the One Hundred and Fourteenth General Assembly of Ohio, Am.S.B.1, Section 3 in part; "The person shall not be eligible for diminution of time that is required to be served before parole eligibility under Section §2967.19 of the Ohio Revised Code. Any such person shall, upon re-sentencing after the person's sentence of death is vacated, be sentenced to Life imprisonment with parole eligibility after serving fifteen years of imprisonment.

Lest, it be over-looked, the above cited legislative enactment also clearly stated that this new law would be covered by Statute §2967.19 of Ohio's Revised Code.

This clearly shows that a 15-Life sentence was to be imposed upon appellant "after" appellant's sentence of death was vacated by the United States Supreme Court, and by this very same Ohio State Supreme Court on

August 16, 1978, over the cases of Lockett v. Ohio, (1978), 438 U.S. 586, and Bell v. Ohio, (1978), 438 U.S. 637.

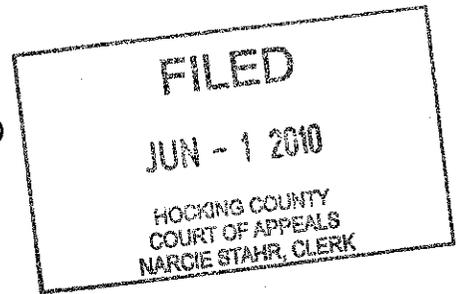
In the case of State v. Grosse, 2009 WL 3756960 (Ohio App.9th Dist.), 2009-Ohio-5942, in ¶15; Regarding whether Statutes reflect legislative intent the Ohio Supreme Court has explained that, "in construing a statute," "[l]egislative intent is the preeminent consideration." State ex rel. Wolfe v. Delaware County Bd. of Elections, 88 Ohio St.3d 182, 184, 724 N.E.2d 771 (2000). To determine legislative intent, the first step is to "review the statutory language [,]...accord[ing] the words used in their normal, or customary meaning." *Id.* "[W]hen the language of a statute is plain and unambiguous and conveys a clear and definite meaning, there is no need to apply rules of statutory interpretation." State ex rel. Jones v. Conrad, 92 Ohio St.3d 389, 392, 750 N.E.2d 583 (2001). In those situations, this Court's "only task is to give effect to the words used." State v. Elam, 68 Ohio St.3d 585, 587, 629 N.E.2d 442 (1994). "Courts do not have the authority to ignore, in the guise of statutory interpretation, the plain and unambiguous language in a statute." Pike-Delta-York Local Sch. Dist. Bd. of Educ. v. Fulton County Budget Comm'n., 41 Ohio St.2d 147, 156, 324 N.E.2d 566 (1975).

As a final note, quite simply appellant has no Journal Entry Order of Commitment on file in any court in Ohio that can be viewed as a Final, Appealable Order. The appellate court's only duty was to recognize that appellant's Journal Entry is Void, and then rule as the law requires.

Instead, the Appellate Court allowed the State to remain in Default, ignored appellant's Void Journal Entry, applied Res Judicata in a manner that encroaches upon being a miscarriage of justice, and then ruled Sua Sponte against appellant's Petition, when it's clear that no Appellate jurisdiction exists to do so.



IN THE COURT OF APPEALS OF OHIO  
FOURTH APPELLATE DISTRICT  
HOCKING COUNTY



State ex rel. John A. Johnson, : Case No. 10CA1  
Petitioner, : **DECISION AND**  
v. : **JUDGMENT ENTRY**  
Francisco Pineda, Warden, :  
Respondent. :

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APPEARANCES:

John A. Johnson, Hocking Correctional Facility, Petitioner.

Richard Cordray, Ohio Attorney General, and Diane Mallory, Assistant Attorney General, Columbus, Ohio, for Respondent.

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McFarland, P.J.:

Petitioner, John A. Johnson, has filed a petition for a writ of habeas corpus to compel respondent, Hocking Correctional Facility Warden Francisco Pineda, to release him from prison. Johnson argues that his convictions for rape and kidnapping are void because the trial court did not comply with Crim.R. 32. He also argues that his conviction for aggravated murder is invalid because the judgment is not signed or file-stamped. Because res judicata bars Johnson's successive habeas corpus petition, the writ of habeas corpus is **DENIED** and the petition is sua sponte **DISMISSED**.

In 1975, a Cuyahoga County grand jury indicted appellant on one count each of kidnapping, rape, and aggravated murder. The aggravated murder charge included a death penalty specification. A jury found appellant guilty of all counts and the trial court

sentenced him to an indefinite prison term for the kidnapping and rape convictions and imposed the death penalty for the aggravated murder charge. Appellant's convictions were affirmed on appeal. *State v. Johnson* (Jan. 30, 1978), Cuyahoga App. No. 36618, 1978 WL 217677. The Supreme Court of Ohio, however, modified appellant's death sentence and reduced it to life imprisonment.

In 1998, Johnson filed a petition in the Court of Appeals for Richland County for a writ of habeas corpus to compel his release from prison because he had never been returned to the common pleas court for resentencing pursuant to Crim.R. 32 and 43 after his death sentence had been modified. The court of appeals dismissed Johnson's petition, and on appeal, the Supreme Court affirmed. *Johnson v. Mitchell* (1999), 85 Ohio St.3d 123, 1999-Ohio-441.

In 2007, Johnson filed a second petition for a writ of a habeas corpus in the Court of Appeals for Richland County. Johnson argued that he was entitled to the writ because both his 1976 sentencing entry and the Supreme Court's 1978 entry modifying his death sentence to life imprisonment were void for several reasons, including that the sentencing entry did not comply with Crim.R. 32. The court of appeals dismissed Johnson's petition, and on appeal the Supreme Court affirmed, holding that Johnson was barred by res judicata from filing a successive habeas corpus petition. *State ex rel. Johnson v. Hudson*, 118 Ohio St.3d 308, 2008-Ohio-2451.

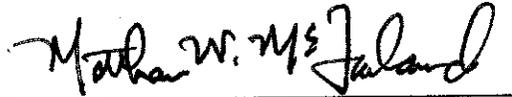
As we noted earlier, Johnson has raised the same claims in his most recent petition that he did in 2007. Res judicata, however, bars a petitioner from filing successive habeas corpus petitions. *State ex rel. Childs v. Lazaroff*, 90 Ohio St.3d 519, 520, 2001-Ohio-9. See, also, *State ex rel. Tarr v. Williams*, 112 Ohio St.3d 51, 2006-

Ohio-6368, at ¶4. As such, Johnson's claims are forever barred.

**CASE DISMISSED. COSTS TO PETITIONER. ANY PENDING MOTIONS ARE DENIED AS MOOT. IT IS SO ORDERED.**

Harsha, J., Abele, J.: Concur.

**FOR THE COURT**



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Matthew W. McFarland  
Presiding Judge

**NOTICE**

**This document constitutes a final judgment entry and the time period for appeal commences from the date of filing with the clerk.**

**Pursuant to Civ.R. 58(B), the clerk is ORDERED to serve notice of the judgment and its date of entry upon the journal on all parties who are not in default for failure to appear. Within three (3) days after journalization of this entry, the clerk is required to serve notice of the judgment pursuant to Civ.R. 5(B), and shall note the service in the appearance docket.**