

In the State of Ohio)

) SS:

The County of Marion)

Relator's Affidavit Specifying the Details of the Claim

The Relator having first been duly sworn, states that the following facts, statements, and allegations, are made upon personal, firsthand knowledge, and are true and correct to the best of the Relator's knowledge, recollection, and belief, are matters relevant and admissible in the above captioned action, and are matters that the Relator is competent to testify to under penalty of law; and the relator further states that:

1. The Relator is the defendant in State of Ohio v. John Wells, Jefferson County Court of Common Pleas case no. 97-CR-163, was called the "appellant" in State of Ohio v. John Wells, 7th Dist. Court of Appeals No. 98-JE-3, to which the above captioned original action in Mandamus relates;

2. The Relator filed a motion in the Jefferson County Court of Appeals, also known as the 7th Dist. Court of Appeals, asking the Respondents to vacate the judgment rendered by the Respondents in the above referenced appeal, and to dismiss such appeal on the grounds that the "Judgment Entry of Sentence" does not comply with Crim.R. 32(C) under either pre- or post-State v. Baker (2008), 119 Ohio St.3d 197 (Exhibit 1) ;(See Judgement Entry, Exhibit 3);

3. Although the Respondents had previously admitted that the Relator's "Judgment Entry of Sentence" does not comply with Crim.R. 32(C), and thusly knew that such judgment was not final, and thusly knew that subject matter jurisdiction over the above referenced appeal was wanting, on February 17, 2010, the Respondents specifically refused to render a judgment on the motion

(Exhibit 2);

4. On March 30, 2010, after refusing to render a judgment on the Relator's motion to vacate the judgment and dismiss the appeal, the Respondents again admitted that the Relator's "Judgment Entry of Sentence" does not comply with Crim.R. 32(C), in State ex rel. Moore v. Krichbaum, 7th Dist. Appeal No. 09-MA-201;

5. Article IV, section 3, of the Ohio Constitution provides Courts of Appeals with jurisdiction of "judgments and final orders" as may be provided by law, i.e., statutes; whereas R.C. 2505.02 and 2953.02 are the implementing statutes, and Crim.R. 32(C) defines what a "judgment" is and must consist of in a criminal case, and, the Respondents having repeatedly admitted that the Relator's "Judgment Entry of Sentence" does not comply with Crim.R. 32(C), thereby admits that the judgment is not final, and that the above referenced appeal was determined despite the want of subject matter jurisdiction;

6. An attack upon a judgment for want of subject matter jurisdiction may be made at any time, without regard to any rule or statute governing procedure, and the power of a court to vacate its judgments that are void for want of subject matter jurisdiction is an inherent power derived from Ohio's Constitution, as shown in Section A of the Memorandum in Support of the Verified Complaint/Petition for a Writ of Mandamus;

7. Because it is well settled that Courts of Appeals are required to raise the issue of the want of subject matter jurisdiction sua sponte; because such courts are required as a matter of law to dismiss an appeal where there is a want of subject matter jurisdiction, and because the power to vacate void judgments is inherent and not subject to restrictions of time or procedural rule or statute, the Respondents owe the Relator a Clear legal duty to vacate the judgment and dismiss the appeal for want of subject matter jurisdiction;

8. Because the Respondents are the very same entity and judges who acted in the above referenced appeal, and remain in the position to perform the specific act(s) sought to be compelled, they are the proper respondents in this action, and owe the Relator a clear legal duty to vacate the judgment and dismiss the appeal for want of subject matter jurisdiction;

9. Because the "Judgment Entry of Sentence" has not become final, and the respondents lacked subject matter jurisdiction when the above referenced appeal was filed and determined, such appeal was never legally "opened"; there was never a judgment to "affirm" so as to deprive the Respondents of the "further jurisdiction to act in" the above referenced appeal, and such continuing jurisdiction is the very inherent power that is derived from the Constitution of Ohio;

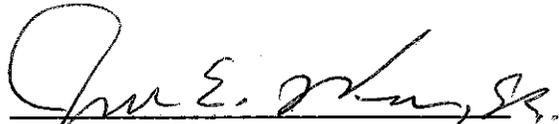
10. Therefore, the Respondents owe the Relator a clear legal duty, and the Relator is owed a clear legal duty by the Respondents, upon the Relator's motion or sua sponte, to determine whether subject matter jurisdiction is wanting in the above referenced appeal, on the same basis set forth above in paragraphs 7 and 8;

11. Because the "Judgment entry of Sentence" does not comply with Crim.R. 32(C) as repeatedly admitted by the Respondents, subject matter jurisdiction is wanting over any appeal therefrom; and because the Respondents refused to render a judgment on the Relator's Motion to Vacate Judgment and Dismiss Appeal for Want of Subject Matter Jurisdiction, such refusal is not a final appealable order, and the relator has no adequate remedy available to him in the ordinary course of the law.

12. For the foregoing reasons, the Relator is entitled to judgment either compelling the Respondents to determine their own jurisdiction in the above referenced appeal, and to vacate the judgment and dismiss the appeal for want

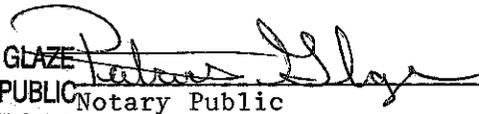
of jurisdiction; or, alternatively, compelling the Respondents to exercise their inherent power derived from the Ohio Constitution, and vacate the judgment and dismiss the above referenced appeal as the Respondents' want of subject matter jurisdiction is apparent.

Respectfully submitted,


John E. Wells, Sr.
Relator

Sworn and subscribed before me this 30th day of JANUARY, 2011




PATRICK GLAZE
NOTARY PUBLIC Notary Public
STATE OF OHIO
MY COMMISSION EXPIRES
MAY 31, 2014

May 31, 2014
My Commission Expires: