ORIGINAL

IN THE SUPREME COURT OF OHIO

11-0699

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| STATE OF OHIO, | : | Case No. [redacted] |
| Plaintiff-Appellee, | : | On Appeal from the HAMILTON County Court of Appeals |
| vs. | : | FIRST Appellate District |
| MAURICE CHAPMAN, | : | C.A. Case No. C-1000473 |
| Defendant-Appellant. | : | |

**MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT** MAURICE CHAPMAN


MAURICE CHAPMAN 629-864
NAME AND NUMBER

LEBANON CORRECTIONAL INSTITUTION
INSTITUTION

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LEBANON, OHIO 45036
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## EXPLANATION OF WHY THIS IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTION QUESTION.

THIS CASE IS OF PUBLIC AND GREAT GENERAL INTEREST, DUE TO THE JUDICIAL SYSTEM IN CINCINNATI, OHIO KNOWINGLY VIOLATING THE GOD GIVEN, HUMAN, CONSTITUTIONAL AND CIVIL RIGHTS OF UNITED STATES BORN AND NATURALIZED CITIZENS. THE COURTS ARE SUPPOSE TO BE A PLACE OF JUSTICE, NOT OF CORRUPTION AND RACISM TOWARDS AFRICAN-AMERICANS; THE POOR AND THE OPPRESSED. MR. CHAPMAN HAS HAD HIS FIFTH; SIXTH; EIGHTH; NINETH; TENTH AND FOURTEENTH AMENDMENT RIGHTS VIOLATED BY THE JUDICIAL SYSTEM IN CINCINNATI, OHIO. NEITHER IS THERE PROOF THAT MR. CHAPMAN HAD HIS MIRANDA RIGHTS [MIRANDA V. ARIZONA]. MR. CHAPMAN IS DEPRIVED OF LIFE, LIBERTY AND THE PURSUIT OF HAPPINESS. [DECLARATION OF INDEPENDENCE]. JUDGES AND PROSECUTORS ARE COMMITTING GREAT ACTS OF MISCARRIAGES OF JUSTICE, WHICH IS NOT CONSISTENT WITH THE SPIRIT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA. MR. CHAPMAN (LIKE OTHERS) HAD HIS "SPEEDY TRIAL" RIGHTS VIOLATED. HE WAS IN THE HAMILTON COUNTY JUSTICE CENTER FROM OCTOBER 17, 2009 UNTIL JULY 7, 2010 [U.S. V. ANDREWS]; [2945.71(C)(2),(E)]. MR. CHAPMAN (AS OTHERS) WAS DENIED "EFFECTIVE" ASSISTANCE OF COUNSEL. HE WAS GIVEN COUNSEL THAT DID ENOUGH TO MAKE IT LOOK AS IF HE WAS DOING HIS JOB. THERE WAS CRUCIAL AND DETRIMENTAL EVIDENCE TRIAL COUNSEL REFUSED TO USE. [UNITED STATES V. NIXON]. THE JUDGES, PROSECUTORS AND ATTORNEYS IN MR. CHAPMAN'S CASE FELT HE WASN'T "WELL VERSED IN THE LAW," SO WE CAN DO AS WE PLEASE. HOWEVER, MR. CHAPMAN KNEW MORE THAN WHAT THEY THOUGHT. THEY (JUDICIAL SYSTEM) DO THESE UNLAWFUL ACTS TOWARD ANYONE WITHOUT MONEY. [GIDEON V. WAINWRIGHT]. MR. CHAPMAN'S TRIAL COUNSEL REFUSED TO ASK THE JURY THAT CONSISTED OF ELEVEN EUROPEAN-AMERICANS AND ONE AFRICAN-AMERICAN ABOUT THEIR RACIAL PREJUDICE. [HAM V. SOUTH CAROLINA]. EVENTHOUGH, MR. CHAPMAN IS NOT A CIVIL RIGHTS ACTIVIST, HE IS A HUMAN RIGHTS ACTIVIST. NO ONE SHOULD RECEIVE UNJUST ACTS, SOLELY ON THE BASES OF THE COLOR OF THEIR SKIN. IS THAT JUSTICE? DOES THESE ATROCITIES NOT VIOLATE THE SUPREME LAW OF THE LAND AND ALL LAWS? [2921.45(A)]. WHAT IS THE PURPOSE OF THE CONSTITUTION AND THE LAW, IF THOSE SWORN TO UPHOLD, PROTECT AND SUPPORT IT VIOLATE IT? THESE UNRIGHTEOUS ACTS WILL CONTINUE IF THEY ARE NOT CONFRONTED AND CONQUERED. PLEASE ACCEPT THIS CASE AND STOP THESE ILLEGAL ACTIONS OF JUDICIAL MISCONDUCT. THE COURT REPORTERS ALTER TRANSCRIPTS, ALSO.

THESE ILLEGAL ACTIONS ARE TAKING PLACE ON A DAILY BASIS IN CINCINNATI, OHIO. MAURICE CHAPMAN, SR. IS NOT THE ONLY WHOSE CONSTITUTIONAL AND CIVIL RIGHTS HAVE BEEN VIOLATED. SOME OF THESE APPELLATE JUDGES COMMITTED THESE ACTS BEFORE THEY BECAME APPEAL COURT JUDGES. HAD TRIAL COUNSEL (HUGH P. MCKLOSKEY, JR.) USED THE POLICE REPORT AND MEDICAL RECORDS MR. CHAPMAN HAD, THE OUTCOME OF THE TRIAL "SHOULD HAVE BEEN" DIFFERENT. [STRICKLAND V. WASHINGTON; STATE V. SMITH (1985), 17 OHIO ST. 3d 98; STATE V. BRADLEY (1989), 42 OHIO ST. 3d 136; STATE V. LYTLE (1976), 48 OHIO ST. 2d 391; STATE V. HESTER (1976), 45 OHIO ST. 2d 71 AND YOUNG V. RAGEN (1949), 337 U.S. 235] MR. CHAPMAN SHOULD HAVE NEVER WENT TO TRIAL, DUE TO THE FACT OF HIS MOTION FOR DISMISSAL. MR. CHAPMAN SENT A LETTER TO THE CLERK OF COURTS REQUESTING DOCUMENTS (SOME HE ALREADY HAS) DURING THE WEEK OF APRIL 3, 2011. IT IS NOW GOING ON TWO WEEKS. THIS LEADS MR. CHAPMAN TO BELIEVE THEY ARE AGAIN ALTERING DOCUMENTS. MR. CHAPMAN BY LAW IS NOT REQUIRED TO BE A LAWYER, BUT BY LAW HE IS TO BE REPRESENTED BY "EFFECTIVE" LEGAL COUNSEL.

IF THE APPEALS COURT ONLY WENT BY APPELLATE COUNSELS BRIEF, INSTEAD OF LOOKING AT THE RECORD THEMSELVES, THEN IT IS OBVIOUS WHY MR. CHAPMAN IS STILL IN PRISON. THEN, WE CAN ONLY SEND TO THE SUPREME COURT THINGS FROM THE APPELLATE COURT. IF, THE APPELLATE COUNSEL DOESN'T DO HIS JOB, THEN THE DEFENDANT (IF HE DOESN'T HAVE MONEY) MUST DO HIS OWN LEGAL WORK, EVENTHOUGH, BY LAW HE'S NOT REQUIRED TO BE A LAWYER. TO PROVE THAT COURT REPORTERS IN CINCINNATI ARE ALTERING RECORDS, MR. CHAPMAN HAS ENCLOSED PROOF. IF, MR. CHAPMAN HAD BEEN OFFERED A DEAL AND ACCEPTED, WHY DID HE GO TO TRIAL? [T.P.A. 399]. THERE'S ALOT MORE, BUT UNFORTUNATELY, MR. CHAPMAN DOES NOT HAVE MANY FUNDS TO DO ALL HE NEEDS DONE. WE, THEN SEE JUDGE DINKELACKER SPEAKING OF "90

DAY SPEEDY TRIAL" BEING WAIVED, BUT WHAT LEGAL PROOF IS THERE THAT MR. CHAPMAN WAIVED THIS RIGHT? [T.P.A. 399]. THERE IS NO RECORD IN OPEN COURT TO PROVE THIS. THEN, TO SPEAK OF A NEW ATTORNEY, WHO WAS ASSIGNED TO ME A WEEK AFTER MY OLD ONE RESIGN, DOES NOT MEAN THAT MY RIGHTS WERE WAIVED. [T.P.A. 400]. IN FACT, THAT STATEMENT BY JUDGE DINKELACKER CONTRADICTS THE JAIL TIME CREDIT I RECEIVED. THE CITY OF CINCINNATI (JUDICIAL SYSTEM) IS KNOWINGLY VIOLATING U.S. BORN AND NATURALIZED CITIZENS GOD GIVEN, HUMAN, CONSTITUTIONAL AND CIVIL RIGHTS. ARTICLE 6 SECTION 2 OF THE U.S. CONSTITUTION, TELLS US " THE CONSTITUTION IS THE SUPREME LAW OF THE LAND AND ALL JUDGES ARE BOUND THEREBY." HOWEVER, JUDGES IN CINCINNATI SEEM TO BELIEVE THEY ARE ABOVE THE SUPREME LAW OF LAND.

SINCERELY,

Maurice Chapman, Sr.

MAURICE CHAPMAN, SR.
629-864 1-J-36
P.O. BOX 56
LEBANON, OHIO 45036

## STATEMENT OF THE CASE AND THE FACTS

OCTOBER 17, 2009, MAURICE CHAPMAN SR. WAS ACCUSED OF CUTTING BOBBY TURNEY WITH A BOX CUTTER. HOWEVER, MR. TURNEY GAVE TWO DIFFERENT COLORS OF ALLEGED WEAPON. [T.P. 214; 277]. THE STATES TWO KEY WITNESSES (MR. TURNEY AND MS. JALESSA HILL) CONTRADICTED EACH OTHERS TESTIMONY ON NUMEROUS ACCOUNTS. [T.P. 209; 213; 226; 253-255]. TRIAL COUNSEL SHOULD HAVE PINPOINTED THESE CONTRADICTIONS, BUT HE WASN'T OBTAINED OR RETAINED BY MR. CHAPMAN, WHO HAS MULTIPLE SCLEROSIS. TRIAL COUNSEL REFUSED TO USE THE POLICE REPORT AND MEDICAL RECORDS, MR. CHAPMAN HAD WITH HIM IN COURT. THESE WOULD HAVE GIVEN TRUTH TO LIES. [T.P. 230; 235; 254-255; 257-259] MS. HILL GAVE TWO DIFFERENT TIMES OF THE FIGHT. MR. TURNEY OBVIOUSLY HAD A FIGHT WITH SOMEONE ELSE BESIDES MR. CHAPMAN. [T.P. 299-300; 320; 328-330]. MS. HILL USED THE "N-WORD" IN TRIAL, WHICH MR. CHAPMAN NOTICED JUROR MAURA O'CONNER SMILING. THAT'S WHY HE ASKED TRIAL COUNSEL TO QUESTION THE ELEVEN EUROPEAN-AMERICANS ON THEIR RACIAL PREJUDICE [POWELL V. ALABAMA]. THE POLICE REPORT AND MR. CHAPMAN TESTIFYING ON TIME OF HIS SONS BIRTHDAY PARTY PROVES MR. TURNEY AND MS. HILL WERE DISHONEST AND COMMITTED PER JURY. [T.P. 241]. BEFORE TRIAL BEGAN ON JUNE 15th-17th (NOT THE 14th), MR. CHAPMAN WAS DEALING WITH RACISM BY THE FIRST JUDGE. THIS WAS JUDGE JODY M. LUEBBERS. APPELLATE COUNSEL NEVER MENTIONED THE NAME OF THE JUDGE. [A.B. 1]. APPELLATE COUNSEL SPOKE OF ARRAIGNMENT. [A.B. 1]. HOWEVER, THE APPEARANCE DOCKET STATED OTHERWISE. [MUNICIPAL #/09/CRA/35494]. SO, IF MR. CHAPMAN WAS NOT IN COURT, HOW COULD HE SIGN A WAIVER? TRIAL COUNSEL DID NOT COME VISIT MR. CHAPMAN IN ORDER TO PROPERLY PREPARE FOR TRIAL. [A.B. 1]. MR. CHAPMAN IS NOT RICH; YET, THIS DOES NOT MEAN VIOLATE HIS RIGHTS. APPELLATE COUNSEL SPOKE ON MR. TURNEY BLEEDING AND OFFICER METZ. [A.B. 8]. TRIAL COUNSEL SPOKE ON BLOOD. [T.P. 214; 240; 267-269; 280-281]. COURT REPORTERS ARE ALTERING TRANSCRIPTS, THEREFORE, PLACING THEM IN CONCERT WITH THESE UNJUST ACTIONS. THESE RACIST ACTS GO AGAINST THE U.S. CONSTITUTION. [STRAUDER V. WEST VIRGINIA (1880) 100 US 303, at p. 307-308, 25 L Ed 664]. IT SEEMS THAT JUDGES LUEBBERS AND DINKOLACKER WENT OUTSIDE THE AGREEMENT OF THE CONSTITUTION. IT ALSO SEEMS THAT THEIR ACTIONS DIRECTLY CONTRADICT THE CONSTITUTION. THIS MUST BE SQUARED AWAY AND MADE LEVELED. MR. CHAPMAN COMMITTED THE AGGRAVATED ARSON, DUE TO THE ABORTION OF HIS CHILD. HE SET A FORM HAT (LESS THAN A FOOT) ON FIRE AND PUT IT OUT. HE WAS WRONG AND ADMITTED HIS WRONG. THE PERSON ON THE RAPE CASE SAID "THEY HAD SEX." MR. CHAPMAN

TESTIFIED THAT THEY DIDN'T AND HAD HIS EX-WIFE IN COURT AS A WITNESSE TO PROVE HE WAS AT HOME, DURING THE TIME THIS WAS SUPPOSE TO HAVE TAKEN PLACE. THE ALLEGED VICTIM STATED "THERE WAS "FULL VAGINAL" INTERCOURSE (ALL THE WAY IN) AND HALF ANAL INTERCOURSE (HALF WAY IN). MR. CHAPMAN TESTIFIED HE DID NOT HAVE SEX WITH HER. THERE WAS NO DNA, MEDICAL RECORDS OR PROFESSIONAL MEDICAL EXAMINER PRESENT. BY HER OWN TESTIMONY OF HAVING SEX WITH MR. CHAPMAN, HOW WAS HE FOUND GUILTY OF ATTEMPT? SHE DIDN'T SAY "HE ATTEMPTED TO HAVE SEX WITH ME.

CITINGS FOR THIS CASE:

CORBIN V. CLEVELAND, 144 OHIO ST. 32, 28 O.O. 562, 56 N.E. 2d 214; STATE V. WADDELL (1996), 75 OHIO ST. 3d 163, 166, 661 N.E. 2d 1043; STATE V. MORELAND (1996), 50 OHIO ST. 3d 55, 552 N.E. 2d 894 ¶ 93; OREGON V. ICE R.C. §§ 2929, 14(C)(4), 2929, 41(A), ARTICLE I, SECTION 10, 16 OHIO CONSTITUTION; STATE V. SMITH, 80 OHIO ST. 3d 89, 108-109, 1997-OHIO-335; STATE V. FEASTER, SUMMIT APP. NO. 24367 2009-OHIO-2558; STATE V. HAWCOCK, 108 OHIO ST. 3d 57, 2006-OHIO-160 ¶ 129-130; STATE V. BARNES (2002), 94 OHIO ST. 3d 21, 27, 759 N.E. 2d; STATE V. DIXON 152 OHIO APP. 3d 760, 2005-OHIO-2556 ¶ 21

## PROPOSITION OF LAW

① THE FIRST ASSIGNMENT OF ERROR IS THE APPEALS COURT DECISION, WITHOUT THE CLERK OF COURTS STAMP ON IT. THIS LEAVES TO QUESTION THE AUTHENTICITY OF THIS DOCUMENT. TO MY KNOWLEDGE ALL DOCUMENTS SENT TO THE CLERK OF COURTS MUST BE FILED, STAMPED AND DATED. THIS MAKES ME BELIEVE THIS WAS PURPOSELY DONE. ② APPELLATE COUNSEL SHOULD HAVE ARGUED THE CONTRADICTION PERTAINING TO THE TIME OF EVENTS THAT THE STATES TWO KEY WITNESSES CONTRADICTED EACH OTHER ON. TRIAL TRANSCRIPTS SHOWS TO MANY LIES BY THE STATES TWO KEY WITNESSES. AND THE JUDGE (DINKELACKER) COULD OVERRIDE THE GUILTY PLEA GIVEN BY AN UNRIGHTEOUS JUROR, WHO HE NOTICED THESE LIES. COURTS SEEM TO AMEND THE CONSTITUTION RATHER THAN CORRECTLY INTERPRETING IT. ③ APPELLATE COUNSEL SHOULD HAVE QUESTIONED AS TO THE WHEREABOUTS OF THE POLICE REPORT AND MEDICAL RECORDS. THEY WERE BOTH SPOKEN ABOUT AT TRIAL. ④ ASSIGNMENT OF ERROR: INEFFECTIVE ASSISTANCE OF COUNSEL; A SUPREME COURT RULED THAT THE ASSISTANCE OF COUNSEL IS A "FUNDAMENTAL" PART OF A DEFENDANTS RIGHT TO A FAIR TRIAL. THE COURT RULED THAT THE RIGHT TO COUNSEL NECESSARILY MEANS "EFFECTIVE" COUNSEL: THAT IS A LAWYER WHO ACTUALLY HELPS THE DEFENDANT. [STRICKLAND V. WASHINGTON; POWELL V. ALABAMA] TRIAL JUDGE (DINKELACKER); VISITING JUDGE IS AN APPEALS COURT JUDGE (STATE V. GANDY) AND IS OBVIOUSLY FRIENDS WITH APPELLATE JUDGES. IN FACT, HE WAS THE THIRD JUDGE (SUNDERMAN AND HENDON) IN STATE V. GANDY; TWO OF THE JUDGES THAT GAVE AN OPINION (BIAS) IN STATE V. CHAPMAN. MR. CHAPMAN DIDN'T RECEIVE A FAIR TRIAL OR A FAIR APPEAL. ⑤ DUE PROCESS OF LAW: THIS MEANS JUDGES WHEN HEARING A CASE MUST FOLLOW THE PROCEDURES PROVIDED BY THE U.S. CONSTITUTION AND ALL LAWS; LAW MUST BE PROPERLY APPLIED. [UNITED STATES V. CARLTON (1994) 512 US 26, 129 L Ed 22, at P.33, 114 S ct 2018]. JUDGES LUEBBERS AND DINKELACKER ACTED IN BAD BEHAVIOR, NOT GOOD BEHAVIOR AS STATED IN ARTICLE 3 SECTION 1. ⑥ APPELLATE COUNSEL IS WELL VERSED IN THE LAW AND SHOULD HAVE WENT INTO DEPTH ABOUT THE VIOLATIONS OF MR. CHAPMAN'S SIXTH, EIGHTH, NINETH, TENTH AND FOURTEENTH, AND FIFTH AMENDMENT RIGHTS, UNDER THE UNITED STATES CONSTITUTION. HE ALSO SHOULD HAVE EXPOUNDED ON THE OHIO CONSTITUTION AND ALL LAWS HE KNOWS WAS VIOLATED. [WASHINGTON V. GLUCKSBURG (1997) 521 US 702, 138 L Ed 772, at 787, 117 S Ct 2258]; [TROXELL V. GRANVILLE (2000) 530 US n.a., 147 L Ed 2d 49, at p.56, 120 S ct 2054]; STRAUDER V. WEST VIRGINIA (1880) 100 US 303, at p. 307-308, 25 L Ed 664.

## MEMORANDUM IN SUPPORT

MAURICE CHAPMAN, SR. WAS ARRESTED ON OCTOBER 17, 2009 FOR TWO COUNTS OF FELONIOUS ASSAULT A FELONY OF THE SECOND DEGREE, PURSUANT TO ORC 2903.11. MAURICE CHAPMAN, SR. POSSESSES EVIDENCE THAT WOULD HAVE CAUSED A DIFFERENT OUTCOME AT TRIAL, HAD TRIAL COUNSEL USED IT. MAURICE CHAPMAN, SR. WAS HELD IN THE HAMILTON COUNTY JUSTICE CENTER FROM OCTOBER 17, 2009 UNTIL JULY 7, 2010. HE HAS PROVIDED PROOF THAT HE COULD AFFORD TO PROVE THAT HIS CONSTITUTIONAL AND CIVIL RIGHTS HAVE BEEN VIOLATED BY THOSE SWORN TO UPHOLD, PROTECT, AND SUPPORT THE CONSTITUTION OF THE UNITED STATES OF AMERICA; OHIO CONSTITUTION AND ALL LAWS. MAURICE CHAPMAN, SR. BY LAW IS NOT REQUIRED TO BE AN ATTORNEY.

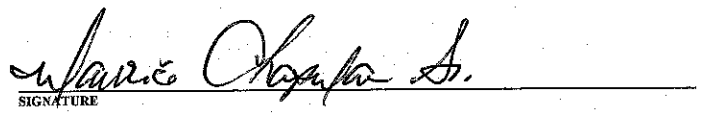
HE PRAYS THAT THE COURT WILL TAKE INTO CONSIDERATION THE OATH THAT THEY TOOK AND LOOK AT ALL THE EVIDENCE, AND DOCUMENTS SENT. HE ALSO PRAYS THAT THE COURT WILL GIVE HIM AND OTHERS JUSTICE. HE PRAYS THE COURT WILL GRANT HIM HIS FREEDOM AND RELEASE HIM FROM PRISON IN ORDER TO PURSUE LIFE, LIBERTY AND HAPPINESS.

RESPECTFULLY SUBMITTED,

Maurice Chapman, Sr.
PRO SE

MAURICE CHAPMAN, SR.
629-864 1-J-36
3791 W STATE ROUTE 63 (P.O. BOX 56)
LEBANON, OHIO 45036-9585

## CONCLUSION



SIGNATURE

MAURICE CHAPMAN 629-864

NAME AND NUMBER

LEBANON CORRECTIONAL INSTITUTION

INSTITUTION

P.O. BOX 56

ADDRESS

LEBANON, OHIO 45036

CITY, STATE & ZIP

DEFENDANT-APPELLANT, **PRO SE**

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum in Support of Jurisdiction was forwarded by regular U.S. Mail to RACHAEL LIPMAN CURRAN, Prosecuting Attorney, HAMILTON County, 230 EAST NINTH STREET, SUITE 4000 CINCINNATI, Ohio 45202, this 20th day of APRIL, 2011.

Maurice Chapman, Sr.
SIGNATURE

MAURICE CHAPMAN, SR. 629-864
NAME AND NUMBER

DEFENDANT-APPELLANT, **PRO SE**

**IN THE COURT OF APPEALS**
**FIRST APPELLATE DISTRICT OF OHIO**
**HAMILTON COUNTY, OHIO**

| | | |
|---|---|---|
| STATE OF OHIO, | : | APPEAL NO. C-100473<br>TRIAL NO. B-0907147 |
| Plaintiff-Appellee, | : | |
| vs. | : | *JUDGMENT ENTRY.* |
| MAURICE CHAPMAN, | : | |
| Defendant-Appellant. | : | |

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.[1]

Following a jury trial, defendant-appellant Maurice Chapman was convicted of two counts of felonious assault.

At trial, the state presented evidence that, during a party at Chapman's home, he went outside to Bobby Turney's car, banged on the window, and demanded that Turney get out of the car. When Turney got out of the car, Chapman punched him three times in the face. The two men fell to the ground, and Chapman hit Turney three more times. Other people pulled them apart, and Chapman went into his home.

A few minutes later, Chapman went back outside, pulled a box cutter from his pocket, and slashed Turney's neck from beneath his left ear to the front of his throat. Turney tied a T-shirt around his neck and drove to a hospital located three blocks

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[1] See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

away, running several red lights on the way. The laceration required multiple staples and left a four- to five-inch-long scar.

Turney's girlfriend, Jalessa Hill, testified that, after the fight, she saw Chapman come into the home, grab something from a coat pocket, and run back outside. Then she heard Turney scream and saw Chapman come back into the home.

Chapman testified that, once the initial fight had been broken up, he went into his house and did not come out until the police arrived. He denied cutting Turney.

In his first and second assignments of error, Chapman now challenges the weight and sufficiency of the evidence upon which his convictions were based.

In a challenge to the sufficiency of the evidence, the question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found all the essential elements of the crime beyond a reasonable doubt.[2] In reviewing a challenge to the weight of the evidence, we sit as a "thirteenth juror."[3] We must review the entire record, weigh the evidence, consider the credibility of the witnesses, and determine whether the trier of fact clearly lost its way and created a manifest miscarriage of justice in finding the defendant guilty.[4]

At trial, the state presented ample evidence that Chapman had knowingly caused physical harm to the victim by means of a deadly weapon and had caused him serious physical harm. Although Chapman provided a different version of the events, our review of the record does not persuade us that the jury clearly lost its way

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[2] See *State v. Jenks* (1991), 61 Ohio St.3d 259, 574 N.E.2d 492, paragraph two of the syllabus.
[3] *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541.
[4] Id.

in finding Chapman guilty of the offenses. Accordingly, we overrule the first and second assignments of error.

In his third assignment of error, Chapman argues that he was denied the effective assistance of trial counsel. Reversal of a conviction for ineffective assistance of counsel requires the defendant to show that counsel's performance was deficient and that the deficient performance prejudiced the defendant so as to deprive him of a fair trial.[5]

First, Chapman contends that counsel failed to communicate with him by not visiting him in jail prior to trial. But the record does not support this contention. Chapman did not seek new counsel and instead insisted on going to trial. He has failed to demonstrate that counsel's alleged failure to visit resulted in any prejudice.

Next, Chapman argues that counsel was ineffective for failing to renew a Crim.R. 29 motion for judgments of acquittal at the end of the defense's case. Given that there was sufficient evidence to support Chapman's convictions, he cannot now demonstrate that his trial counsel's failure to renew the Crim.R. 29 motion resulted in any prejudice to him.[6] We overrule the third assignment of error.

In his fourth assignment of error, Chapman argues that the trial court abused its discretion in denying his motion to dismiss. Chapman's motion alleged that his rights to due process were violated because he had not been arraigned in open court as required by Crim.R. 10. However, the record demonstrates that Chapman had executed a written waiver of his right to be present at an arraignment when he entered his plea of not guilty, in accordance with Crim.R. 10(B). Accordingly, the

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[5] See *Strickland v. Washington* (1984), 466 U.S. 668, 687, 104 S.Ct. 2052; *State v. Bradley* (1989), 42 Ohio St.3d 136, 538 N.E.2d 373.
[6] See *State v. Burrow* (2000), 140 Ohio App.3d 466, 471, 748 N.E.2d 95.

trial court did not abuse its discretion in denying the motion. We overrule the fourth assignment of error and affirm the judgment of the trial court.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27.

**SUNDERMANN, P.J., HENDON and CUNNINGHAM, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on March 16, 2011

per order of the Court _____.
Presiding Judge

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

ENTERED
JUL 02 2010

date: 06/30/2010
code: GJEI
judge: 198

Judge: PATRICK T DINKELACKER
7-1-10

NO: B 0907147

STATE OF OHIO
VS.
MAURICE CHAPMAN

JUDGMENT ENTRY: SENTENCE: INCARCERATION

Defendant was present in open Court with Counsel **HUGH P MCCLOSKEY JR** on the **30th** day of **June 2010** for sentence.
The court informed the defendant that, as the defendant well knew, after defendant entering a plea of not guilty and after trial by jury, the defendant has been found guilty of the offense(s) of:
**count 1: FELONIOUS ASSAULT, 2903-11A2/ORCN,F2**
**count 2: FELONIOUS ASSAULT, 2903-11A1/ORCN,F2**

The Court afforded defendant's counsel an opportunity to speak on behalf of the defendant. The Court addressed the defendant personally and asked if the defendant wished to make a statement in the defendant's behalf, or present any information in mitigation of punishment.

Defendant is sentenced to be imprisoned as follows:
**count 1: CONFINEMENT: 8 Yrs DEPARTMENT OF CORRECTIONS**
**count 2: CONFINEMENT: 8 Yrs DEPARTMENT OF CORRECTIONS**

**THE DEFENDANT IS TO RECEIVE CREDIT FOR TWO HUNDRED SIXTY (260) DAYS TIME SERVED.**

**THE DEFENDANT IS TO PAY THE COURT COSTS.**

**FURTHER, IN ACCORDANCE WITH RC 2901.07, THE DEFENDANT IS REQUIRED TO SUBMIT A DNA SPECIMEN WHICH WILL BE COLLECTED AT THE PRISON, JAIL, CORRECTIONAL OR DETENTION FACILITY TO WHICH THE DEFENDANT HAS BEEN SENTENCED. IF THE SENTENCE INCLUDES ANY PERIOD OF PROBATION OR COMMUNITY CONTROL, OR IF AT ANY TIME THE DEFENDANT IS ON PAROLE, TRANSITIONAL CONTROL OR POST-RELEASE CONTROL, THE DEFENDANT WILL BE REQUIRED, AS A CONDITION OF PROBATION, COMMUNITY CONTROL, PAROLE, TRANSITIONAL CONTROL OR POST-RELEASE CONTROL, TO**

Defendant was notified of the right (A)(2)

D88964858

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 06/30/2010
code: GJEI
judge: 198

Judge: PATRICK T DINKELACKER

NO: B 0907147

STATE OF OHIO
VS.
MAURICE CHAPMAN

JUDGMENT ENTRY: SENTENCE: INCARCERATION

SUBMIT A DNA SPECIMEN TO THE PROBATION DEPARTMENT, ADULT PAROLE AUTHORITY, OR OTHER AUTHORITY AS DESIGNATED BY LAW. IF THE DEFENDANT FAILS OR REFUSES TO SUBMIT TO THE REQUIRED DNA SPECIMEN COLLECTION PROCEDURE, THE DEFENDANT WILL BE SUBJECT TO ARREST AND PUNISHMENT FOR VIOLATING THIS CONDITION OF PROBATION, COMMUNITY CONTROL, PAROLE, TRANSITIONAL CONTROL OR POST-RELEASE CONTROL.

AS PART OF THE SENTENCE IN THIS CASE, THE DEFENDANT SHALL BE SUPERVISED BY THE ADULT PAROLE AUTHORITY AFTER DEFENDANT LEAVES PRISON, WHICH IS REFERRED TO AS POST-RELEASE CONTROL, FOR THREE ( 3 ) YEARS.

IF THE DEFENDANT VIOLATES POST-RELEASE CONTROL SUPERVISION OR ANY CONDITION THEREOF, THE ADULT PAROLE AUTHORITY MAY IMPOSE A PRISON TERM, AS PART OF THE SENTENCE, OF UP TO NINE ( 9 ) MONTHS, WITH A MAXIMUM FOR REPEATED VIOLATIONS OF FIFTY PERCENT ( 50% ) OF THE STATED PRISON TERM. IF THE DEFENDANT COMMITS A NEW FELONY WHILE SUBJECT TO POST-RELEASE CONTROL, THE DEFENDANT MAY BE SENT TO PRISON FOR THE REMAINING POST-RELEASE CONTROL PERIOD OR TWELVE ( 12 ) MONTHS, WHICHEVER IS GREATER. THIS PRISON TERM SHALL BE SERVED CONSECUTIVELY TO ANY PRISON TERM IMPOSED FOR THE NEW FELONY OF WHICH THE DEFENDANT IS CONVICTED.

Defendant was notified of the right to appeal as required by Crim. R 32(A)(2)

**THE FOLLOWING CRIMES INFORMATION IS COMPUTER GENERATED AT THE TIME OF ADMISSION AND MAY NEED TO BE VERIFIED WITH THE RECORD OFFICE.**

**Please examine this IMMEDIATELY, paying particular attention to the following:**

1. **ALL INMATES- Look under the heading of "JTC" (jail time credit) and check for accuracy. Consult legal packet for further information on "JAIL CREDIT".**

2. **CRIMES PRIOR TO JULY 1, 1996- Heading "FEL" indicates degree of felony. Aggravated felonies have an "A" before the degree number. Consult legal packet as to importance of an aggravated felony in terms of "SHOCK/ SUPER-SHOCK" eligibility.**

   **CRIMES AFTER JULY 1, 1996- Heading "FEL" indicates degree of felony, which determines time frame for "JUDICIAL RELEASE" eligibility. See Legal Packet under "JUDICIAL RELEASE" for further explanation.**

3. **CRIMES PRIOR TO JULY 1, 1996- Headings "GN" and "AIT" indicates you are serving a "gun spec" (GN) or a period of "actual incarceration time" (AIT). See packet under "SHOCK/SUPER-SHOCK" for importance of these terms.**

   **CRIMES AFTER JULY 1, 1996- Heading "AIT/MAND" refers to any MANDATORY INCARCERATION that you must serve. See Legal packet under "JUDICIAL RELEASE" for further information of effect of mandatory sentences.**

4. **ALL INMATES- Consult Legal Packet under "APPEAL" or "APPEAL OF RIGHT" for information on filing an appeal.**

5. **Heading "CS" designates whether your sentences are conSecutive "S" or conCurrent "C" to each other.**

**FOUND GUILTY** **SHOCK PAROLE ELIGIBILE: NO**

## OFFENSE DATA

| * | OFFENSE | START mmddyy | COUNTS | CL | JAIL TIME CREDIT | GUN YEARS | DEF/ TERM | MIN/ FULL | MAX SENTENCE | A/I MANDATORY | LIFE DEATH | COUNTY | DOCKET NUMBER | C N | DEG FEL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FEL ASSAULT | 07/07/10 | 2 | C | 266 | | 8.00 | | | | | HAMI | B0907147 | C | 2 |

HUGH P. McCLOSKEY, JR., LLC.
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1110 Pendleton Street, Suite #1
Cincinnati, Ohio 45202

CINCINNATI OH 452

30 JAN 2010 PM 2 T

N42E

***ATTORNEY-CLIENT PRIVILEGED MAT***
Maurice Chapman
Inmate ~~#1345364~~ 1364629
900 Sycamore Street
Cincinnati, Ohio 45202

LEGAL MAIL
OPEN IN THE PRESENCE
OF THE INMATE

452024317

1364629

# CINCINNATI POLICE DEPARTMENT
# ARREST AND INVESTIGATION REPORT

ITN: _____ ACE ☐ YES ☐ NO

HAM. CO. CASE NO. _____ CONTROL NO. 1345364 ARREST REPORT NO. _____ NB

| NAME OF ARRESTED - LAST, FIRST, MIDDLE | TITLE | ADDRESS - NUMBER, STREET, APT. NO., CITY, STATE, ZIP CODE |
|---|---|---|
| Chapman, Maurice | | 2356 Harrison Ave Cinci OH 45211 |

| TELEPHONE NO. | NICKNAME OR ALIAS | SEX | RACE | HEIGHT | WEIGHT | HAIR | EYES | AGE | DATE OF BIRTH | PLACE OF BIRTH |
|---|---|---|---|---|---|---|---|---|---|---|
| 8850156 | | M | B | 507 | 160 | BLK | BRO | 42 | 5/12/67 | |

| MARITAL STATUS | SOCIAL SECURITY NO. | DESCRIPTION OF CLOTHING AT TIME OF ARREST | MARKS, SCARS, DEFORMITIES, TATTOOS |
|---|---|---|---|
| M | | Grey pants, white shirt | tattoos rt. arm, chest, Tel a |

| DRIVER'S LICENSE NO. / STATE / YEAR OF EXPIRATION | VEHICLE - YEAR, MAKE, MODEL, COLOR | VEHICLE LICENSE NO. / STATE / YEAR OF EXPIRATION |
|---|---|---|
| | | |

DOES ARRESTED HAVE ANY HEALTH PROBLEMS, ILLNESSES, INJURIES, OR MENTAL DISORDERS ☐ NO ☒ YES, EXPLAIN MS

| NAME OF SPOUSE / NEXT OF KIN - EMERGENCY NOTIFICATION TELEPHONE NO. | NAME AND ADDRESS OF EMPLOYER (IF MINOR, NAME OF SCHOOL) | EMPLOYER'S TELEPHONE NO. |
|---|---|---|
| Carrie Chapman 8850156 | T & T Fashions | |

| PLACE OF ARREST (NUMBER, STREET, APT. NO., CITY, STATE, ZIP CODE) | DISTRICT | DATE OF ARREST | TIME OF ARREST | VICE ACTIVITY ARREST |
|---|---|---|---|---|
| 3353 Queen City Ave Cinci OH 45211 | 3 | 10/17/09 | 1828 | ☐ YES ☒ NO |

| LOCATION OF OFFENSE (NUMBER, STREET, APT. NO., CITY, STATE, ZIP CODE) | DISTRICT | DATE OF OFFENSE | TIME OF OFFENSE | TYPE OF PREMISES |
|---|---|---|---|---|
| 3353 Queen City Ave Cinci OH 45211 | 3 | 10/17/09 | 1801-6" | apt. complex |

| CHARGES (INCLUDE SECTION NUMBER, DEGREE OF OFFENSE, AND WARRANT OR CAPIAS NUMBER) | CONFIRMED BY | FORFEITURE APPLICATION DIS-94 |
|---|---|---|
| 1. Assault 2903.13 M FAD | | ☐ YES ☒ NO |

| | MEANS OF ARREST | COMPLAINANT'S NAME |
|---|---|---|
| 2. | PHY | Bobby Turney |

| | PRISONER SEARCHED BY | TRIAL PREPARATION REPORT F527B |
|---|---|---|
| 3. | Spellman | ☐ YES ☒ NO |

| ARRESTING OFFICER(S) | BADGE NO. | AGENCY / DISTRICT / UNIT | NEEDED FOR COURT | JACKET NUMBER | OFF-DUTY DETAIL ARREST |
|---|---|---|---|---|---|
| 1. Spellman | P783 | CPD13 | ☐ YES ☒ NO | | ☐ YES ☒ NO |
| 2. Metz | P893 | CPD13 | ☒ YES ☐ NO | OTHER REPORTS MADE: 301 | DRUG COURT: ☐ OPPOSED ☒ NOT OPPOSED |

| CODEFENDANT'S NAME | CONTROL # OR SS # | CHARGE(S) | ARREST MADE | STATEMENT TAKEN (IF YES, ATTACH A COPY TO FORM 527B) |
|---|---|---|---|---|
| 1. | | | ☐ YES ☐ NO ☐ PENDING | ☐ NO ☐ YES ☐ ORAL ☐ WRITTEN ☐ TAPED |
| 2. | | | ☐ YES ☐ NO ☐ PENDING | ☐ NO ☐ YES ☐ ORAL ☐ WRITTEN ☐ TAPED |

FOR H.C.J.C. USE ONLY

FACTS OF ARREST (USE TRIAL PREPARATION REPORT FOR ADDITIONAL INFORMATION, IF NECESSARY)

FINGERPRINTS

Victim, Bobby Turney states that during a physical altercation with the arrested he was cut with a box cutter. Victim had visible injuries.

| ARRESTED RELEASED TO (AGENCY / OFFICER) | DATE / TIME | SUPERVISOR | BADGE NO. |
|---|---|---|---|
| | | | |

I AGREE TO APPEAR IN COURT

☐ ROOM A ☐ ROOM B ☐ ROOM 121 (DUI) ☐ O.R. BOND

☐ HAMILTON CO. MUNICIPAL CT. 1000 SYCAMORE ST. CINCINNATI, OHIO

☐ HAMILTON COUNTY JUVENILE CT. 800 BROADWAY CINCINNATI, OHIO

☐ OTHER _____ ☐ WHEN NOTIFIED BY COURT

ON: _____ DATE TIME

_____ DEFENDANT'S SIGNATURE

*FAILURE TO APPEAR WILL CAUSE A WARRANT TO BE ISSUED FOR YOUR ARREST*

EVIDENCE INFORMATION

*(IF MORE THAN ONCE ARREST, INCLUDE EVIDENCE FROM THIS ARRESTED ONLY)*

| DRUGS | WEIGHT | PKG WGT | PAGE | LINE |
|---|---|---|---|---|
| | | | | |
| | | | | |

| CURRENCY (ENTER DOLLAR AMOUNT) | PAGE | LINE |
|---|---|---|
| OTHER PROPERTY | | |

FORM 527 (Rev. 12/05) ETC