

Original ORIGINAL

IN THE SUPREME COURT OF OHIO

JUDGE BRIDGET M. MCCAFFERTY FOR
CUYAHOGA CO. COMMON PLEAS COURT

Case No.: Cr10541727-A

Respondent

11-1107

Vs.

CHRISTOPHER DUFFIN

Relator

**REQUEST FOR ISSUANCE OF WRIT OF PROCENDENDO BY CHRISTOPHER DUFFIN
(COMPLAINT)**

By:
RELATOR
CHRISTOPHER DUFFIN #593-694
BECL, P.O. BOX 540
ST. CLAIRSVILLE, OHIO, 43950
COUNSEL FOR RELATOR, PRO SE

FILED
JUN 27 2011
CLERK OF COURT
SUPREME COURT OF OHIO

RESPONDENT
JUDGE BRIDGET M. MCCAFFERTY
21C JUSTICE CNTR.
1200 ONTARIO ST.
CLEVELAND, OH, 44113

CUYAHOGA COUNTY PROSECUTOR
1200 ONTARIO ST.
CLEVELAND, OH, 44113
COUNSEL FOR RESPONDENT, STATE OF OHIO
CUYAHOGA COMMON PLEAS JUDGE DONNELLY

RECEIVED
JUN 27 2011
CLERK OF COURT
SUPREME COURT OF OHIO

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JUDGE MCCAFFERTY FOR CUYAHOGA
COUNTY COMMON PLEAS COURT

Case No.: Cr10541727-A

Respondent

Vs.

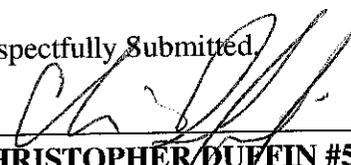
CHRISTOPHER DUFFIN

Relator

**REQUEST FOR ISSUANCE OF WRIT OF PROCENDENDO BY CHRISTOPHER DUFFIN
(COMPLAINT)**

Now comes Christopher Duffin, Relator Pro Se, and hereby Moves this Honorable Court to issue a Writ of Procendendo, directing the Respondent to rule upon the Relator's Motion for Jail Time Credit. Said Motion was filed on the 7th day of June, 2011. Relator submits his reasons for making this request in the Memorandum in Support attached hereto.

Respectfully Submitted,


CHRISTOPHER DUFFIN #593-694
BECI, P.O. BOX 540
ST. CLAIRSVILLE, OH, 43950

IN THE SUPREME COURT OF OHIO

JUDGE MCCAFFERTY FOR CUYAHOGA
COUNTY COMMON PLEAS COURT

Case No.: Cr10541727-A

Respondent

Vs.

CHRISTOPHER DUFFIN

Relator

AFFIDAVIT OF INDEGENCY OF CHRISTOPHER DUFFIN

I, Christopher Duffin, do hereby solemnly swear that I have no funds of any kind and no assets of any value and, therefore, cannot afford to pay for any legal services, fees or costs which may arise from this or any other action I take in regards to the above captioned case numbers.

I receive \$20.00 a month institutional state pay, and limited financial "gifts" from family and friends, though those gifts are limited and unreliable. The money I do have I must use to purchase hygiene, co-pay medical and dental, pay for postage to communicate with family and friends, and pay for legal copies, material and postage in order to perfect and mail my legal documents.

Respectfully Submitted,

[Signature]
CHRISTOPHER DUFFIN #593-694
BECL, P.O. BOX 540
ST. CLAIRSVILLE, OH, 43950

Sworn to and subscribed in my presence on this the 22 day of June, 2011.



Jay Meager
Notary Public
In and for the State of Ohio
My Commission Expires
12-19-12

[Signature]
NOTARY PUBLIC

IN THE SUPREME COURT OF OHIO

JUDGE MCCAFFERTY FOR CUYAHOGA
COUNTY COMMON PLEAS COURT

Case No.: Cr10541727-A

Respondent

Vs.

CHRISTOPHER DUFFIN

Relator

AFFIDAVIT OF CHRISTOPHER DUFFIN

I, Christopher Duffin, do hereby solemnly swear that the facts contained within this Motion for Writ of Procendendo (Complaint) are true and correct to the best of my knowledge and belief.

I have filed a Jail Time Credit Motion. The credit I am owed should bring my out date to July 17th, 2010. It is currently July 30, 2010. Judge McCafferty has yet to rule on my Jail Time Credit Motion. I feel my Due Process Rights are being violated as a result.

Respectfully Submitted,

Christopher Duffin
CHRISTOPHER DUFFIN #593-694
BECL, P.O. BOX 540
ST. CLAIRSVILLE, OH, 43950

Sworn to and subscribed in my presence on this the 22 day of June, 2011.



Jay Meager
Notary Public
in and for the State of Ohio
My Commission Expires
12-19-12

Jay Meager
NOTARY PUBLIC

IN THE SUPREME COURT OF OHIO

JUDGE MCCAFFERTY FOR CUYAHOGA
COUNTY COMMON PLEAS COURT

Case No: Cr10541727-A

Respondent

Vs.

CHRISTOPHER DUFFIN

Relator

AFFIDAVIT OF CHRISTOPHER DUFFIN

I, Christopher Duffin, do hereby solemnly swear that I have filed no Civil Actions of any kind in any Court in the previous five years.

Respectfully Submitted,

Cr Duffin
CHRISTOPHER DUFFIN #593-694
BECL, P.O. BOX 540
ST. CLAIRSVILLE, OH, 43950

Sworn to and subscribed in my presence on this the 22 day of June, 2011.

Jay Meager
NOTARY PUBLIC



Jay Meager
Notary Public
In and for the State of Ohio
My Commission Expires
12-19-12

MEMORANDUM IN SUPPORT

On the 7th day of June, 2011, Relator filed, with the Clerk of Cuyahoga County Common Pleas Court, a Motion for Jail Time Credit. Relator has not received a response to this Motion, from the Court or otherwise. Relator is requesting that this Court issue Writ of Procendendo in order for him to receive the relief requested.

Relator has a clear legal right to receive a judgment on this Motion, and has no other adequate remedy at law to receive said judgment other than to file this request for Writ of Procendendo. Both the Court and the State failing to respond has certainly and unnecessarily delayed this proceeding and interfered with the ordinary Court procedure and process.

Judgment in this matter should not be delayed until after Relator's potential out-date. He has a clear legal right to know if he is entitled to the relief he seeks through his Motion before his potential out-date. Failure to render judgment before then would be a violation of Relator's due process rights.

STATE EX. REL. PARKS V. OLIVITO, 7th Dist., Aug. 21, 2008, ¶2: "In order to be entitled to a writ of procendendo, a Relator must establish a clear legal right to require a respondent to proceed, a clear legal duty on the part of the respondent to proceed, and the lack of an adequate remedy in the ordinary course of law. *STATE EX REL SHERRILLS V. CUYAHOGA CTY. COURT OF COMMON PLEAS*, 72 Ohio St.3d 461 462, 1995-Ohio-0026. A writ of procendendo is appropriate when a court has either refused to render a judgment or has unnecessarily delayed proceeding to judgment. *STATE EX REL MILEY V. PARROT*, 77 Ohio St.3d 64, 65, 1996-Ohio-0350. The writ of procendendo may not interfere with ordinary court procedures or process. *STATE EX REL RATLIFF V. MARSHALL* (1972) 30 Ohio st.2d 101, 102. The writ will not in any case attempt to control the inferior court as to what judgment shall be entered. *STATE EX REL NIEDERLEHNEN V. MACK* (1932) 125 Ohio St. 559, 564, ***[2, ¶5]: ***A litigant should be given the courtesy of a judgment entry expressing the trial court's belief that it does not have jurisdiction to address a particular issue so that the litigant can challenge that entry on appeal, if the litigant chooses to do so. A trial court cannot simply refuse to act."

Relator is in no way attempting to force Respondent to grant said Motion. He just wants it to be ruled upon so he can receive the relief to which he is entitled.

CONCLUSION

Relator hereby respectfully moves this Honorable Court to issue a Writ of Procendendo in this matter so that he can receive the relief requested. Any further delay in these matters would be a violation of Relator's due process rights, as he is clearly entitled to the relief requested. Relator thanks this Honorable Court for its time in this matter.

Respectfully Submitted,



CHRISTOPHER DUFFIN #593-694
BECI, P.O. BOX 540
ST. CLAIRSVILLE, OH, 43950

CERTIFICATE OF SERVICE

I, Christopher Duffin, do hereby Certify that I delivered, to the Be.C.I. Mailroom, a true and correct of the foregoing Motion for Writ of Proendendo (Complaint), addressed to the Cuyahoga Co. Prosecutor's Office, 1200 Ontario St., Cleveland, OH, 44113, on this the 22 day of June, 2011, to be mailed by regular U.S. Mail.

Respectfully Submitted,

CHRISTOPHER DUFFIN #593-694
BECI, P.O. BOX 540
ST. CLAIRSVILLE, OH, 43950



IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO
Plaintiff

2010 NOV 24 A 8:45

Case No: CR-10-541727-A

Judge: BRIDGET M MCCAFFERTY

CHRISTOPHER DUFFIN
Defendant

GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY
INDICT: 2925.11 DRUG POSSESSION

JOURNAL ENTRY

DEFENDANT IN COURT. COUNSEL JOSEPH T. GEORGE PRESENT.
COURT REPORTER PRESENT.
ON A FORMER DAY OF COURT THE DEFENDANT PLEAD GUILTY TO DRUG POSSESSION 2925.11 A F5 AS CHARGED
IN THE INFORMATION.
DEFENDANT ADDRESSES THE COURT.
THE COURT CONSIDERED ALL REQUIRED FACTORS OF THE LAW.
THE COURT FINDS THAT PRISON IS CONSISTENT WITH THE PURPOSE OF R. C. 2929.11.
THE COURT IMPOSES A PRISON SENTENCE AT THE LORAIN CORRECTIONAL INSTITUTION OF 8 MONTH(S).
POST RELEASE CONTROL IS PART OF THIS PRISON SENTENCE FOR UP TO 3 YEARS FOR THE ABOVE FELONY(S)
UNDER R.C.2967.28. DEFENDANT ADVISED THAT IF POST RELEASE CONTROL SUPERVISION IS IMPOSED
FOLLOWING HIS/HER RELEASE FROM PRISON AND IF HE/SHE VIOLATES THAT SUPERVISION OR CONDITION OF
POST RELEASE CONTROL UNDER RC 2967.131(B), PAROLE BOARD MAY IMPOSE A PRISON TERM AS PART OF THE
SENTENCE OF UP TO ONE-HALF OF THE STATED PRISON TERM ORIGINALLY IMPOSED UPON THE OFFENDER.
DEFENDANT TO RECEIVE JAIL TIME CREDIT FOR 2 DAY(S), TO DATE.
DEFENDANT IS TO PAY COURT COSTS.
DEFENDANT REMANDED.
SHERIFF ORDERED TO TRANSPORT DEFENDANT CHRISTOPHER DUFFIN, DOB: 06/09/1968, GENDER: MALE, RACE:
WHITE.
THIS ENTRY TAKEN BY JUDGE WILLIAM J COYNE.

*Time taken
never
received*

11/19/2010
CPEDB 11/19/2010 15:59:08

W. J. Coyne

Judge Signature Date

SENT
11/19/2010

*My time should have NOV. 19th
It started on the 30th
My reale date should be July 17th
honor + cost*

Page 1 of 1

I CERTIFY the above to be a true copy of the said
Judgment and Sentence. Given under my hand and seal
of said Court this 29 day of Nov., 2010

GERALD E. FUERST, Clerk, By A. Pelleschi
Deputy

sent to the within order and sentence of the Court, I did convey the
to named _____, to _____ on, _____, 2010

JOE REID, Sheriff, By _____ Deputy Sheriff

