

JASON JONES
RELATOR

V.

JUDGE A. NASTOFF
RESPONDANTS

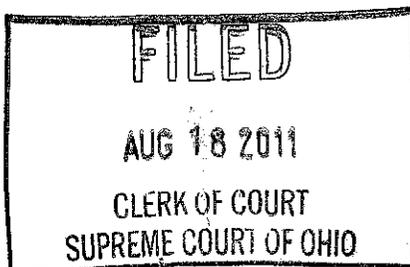
ORIGINAL ACTION IN MANDAMUS

11-1417

Complaint For Writ Of Mandamus

JASON JONES 529 115
ROSS CORRECTIONAL INSTITUTION
PO BOX 7010
CHILLICOTHE, OHIO 45601
pro se

JUDGE A. NASTOFF
COMMON PLEAS COURT
BUTLER COUNTY PROSECUTORS OFFICE
HAMILTON, OHIO 45011
315 HIGH STREET



STATEMENT OF FACTS UPON WHICH THE CLAIM FOR RELIEF IS BASED

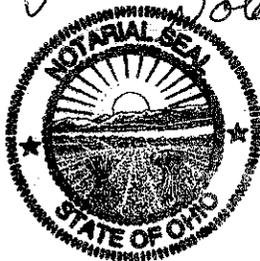
The Realator asserts that he has not had a true copy of his trial Transcripts and that he needs to make a proper showing that his trial counsel was ineffective. The relator has made multiple attempts to obtain the important transcripts and was instructed by Judge Nastoff to motion the court for them and he will rule accordingly and that there must be a open appeal pending. On two occasions relator has complied to the instructions of the judge, where as the trial court unfairly waited until the appeal was exhausted and disposed of to rule on the motion for transcripts that was wrongfully denied.

The affiant is competent to testify to all matters stated in the complaint and humbally requests this honorable court to grant the relator his transcripts so that he can make a proper and precise showing of the claims he wishes to bring forth in his Withdrawal Of Guilty Plea motion and also post appeal remedies pursuant to GREEN V. BRINGANO 904 F. supp 675, page 677 citing LANE V. BROWN, 372 u.s. 477,484-485,83 s. ct.786. 772-773,LANE V. BROWN ,supra, in turn cites to BURNS V. OHIO, 360 u.s. 252-257, 79 S.ct 1164,1168.

Jason Jones
Jason Jones 529-115
RCI PO box 7010
chilly, Ohio 45601
Jason Jones

*Sworn & subscribed before me this 15th
day of August 2011*

Janet E Speary
Notary



Janet E. Speary
Notary Public - Ohio
My Commission Expires 8-25-2013

THE STATE EX REL, JASON JONES
RELATOR

TRIAL COURT CASE NO:05 CR-09-1631

VS.

JUDGE ANDREW NASTOFF
RESPONDANTS

APPELLET CASE NO: 2010-09-242

Now comes Jason Jones, Relator-PRO Se, to petition this court to issue a WRIT OF MANDAMUS upon Judge A. Nastoff, Respondants. Relator claims that he is intitled to a transcript at state's expense in his preparation for his WITHDRAW OF GUILTY PLEA MOTION. under U.S.C. 2254. Relator claims that he can not perfect his notion without the important trial transcripts he is requesting in order to raise constitutional cognizable claims and to make a percise and proper showing of how his trial counsel was ineffective pursuant to CRIM.R.52(B). The defendant claims that in order to seek relief he needs his trial transcripts because the depending on memory is such a case that would be foolish and impossible in cases of lengthy trials, pursuant to HARDY V. UNITED STATES, 375, US, 277, 288. 845.84 S. CT. 424, 431, 11 L. 2d 331 (1964). Therefor relator Humbally requests this honorable court to grant him the transcripts of his jury trial and related documents. Relator explains his contition in his memorandum below.

MEMORANDUM

TO BE ENTITLED TO A Writ of mandamus, relator must establish a clear legal right to the relief requested, a clear legal duty to provide such relief, and the lack of adequete remedy in the ordinary course of law. STATE EX REL ZIMMERMAN V. THOMPkins (1996) 633 N E. 2d 639. It is wall established that the mere existence of anouther remedy does not bar the issuance of a writ of mandamus. STATE EX REL EMMICH

V. INDUSTRIAL COMMISSION 148 OHIO ST 658. To begin, relator filed a motion for transcripts and other related documents at states expence, on february 15, 2008 in theButler County court of common pleas, however the court denied the motion on April 9, 2008. For reasons there is no Appeal pending in this case. On May 8, 2008 the relator filed a reconsideration claiming that there is a Appeal pending under case no: 2008-04-0100 and was denied on June 2, 2008 and following on June 3, 2008 relator's Appeal was dismissed. On July 1, 2009 Relator filed a Complaint For Writ Of Mandamus and was denied on Aug 26, 2009 for reasons upon consideration of respondents "Failure to state a claim upon which relief may be granted". And on Aug 26, 2010 relator appeared before Honorable judge Nastoff for Resentencing Hearing whereas the relator explained his contention as to why he needs his Trial Transcripts and related documents, and was instructed to motion the court in writing and he will rule on it accordingly Relator timely appealed, and on ~~Sept~~ ^{JAN, 20, 2011} filed a motion for transcripts and related documents and was ~~denied on~~ ^{NO RESPONSE}. Relator has no plain and adequate remedy at law other than to petition this court **STATE EX REL. HOWARD V. FERRERI, 70 OHIO st. 3d 587, 1995-ohio-130, 639 N.E. 2d 1189;**

Relator maintains that he is entitled to a transcript at state expence in his preparation for his Motion For Withdraw Of Guilty Plea Hearing. Relator is in need of the transcripts of his Jury Trial held on August 10 and 11th 2006 and other related documents which is necessary to prosecute his claims and fully demonstrate errors stemming from his state conviction. The equal protection clause dictates that the state must provide indigent criminal defendant's with transcripts when that transcript is needed for an effective appeal or an effective defence. **STATE V. ARRINGTON (1975) 42 Ohio St 2d 114.** A writ of mandamus will not be granted to compel the issuance of a transcript at state

expenche, where the relator has no appeal pending before the court but seeks a transcript to effectively prosecute his cause before the Butler County District Court seeking a WITHDRAW OF GUILTY PLEA hearing STATE EX REL KNIGHT V. TYACK (1982) 5 Ohio App 3d 136.

Relator asserts that he has not received a transcript that he is requesting and that the transcript that he seeks to possess is to prepare his defense in his MOTION FOR WITHDRAW OF GUILTY PLEA HEARING moreover, an indigent defendant has a right to only one transcript at state expense. STATE EX REL PARTEE V. MCMAHON (1963) 175 OHIO ST 243. Consistent with the argument above, relator also requests additional documents that is necessary for his proceedings of two separate hearings. to wit: Motion hearing held on December 16, 2005 and including Order for sheriff to perform fingerprinting, which was a hearing held on August 11, 2006. Because relator has demonstrated a clear legal right to a transcript at state expense and respondent has a clear legal duty to provide the transcripts at state expense, relator respectfully requests that this honorable court grant his petition for Writ of Mandamus and that the transcripts in which he seeks, be provided to him at state expense.

RESPECTFULLY SUBMITTED

Jason Jones

Jason Jones 529 115
RCI PO BOX 7010
Chilli OH 45601

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion and Memorandum was mailed to the Butler County Prosecutor, by regular U.S. mail po. box 515 Hamilton, Ohio 445012 on this 12th day of July 2011.

Jason Jones

CINDY CARPENTER
CLERK OF COURTS

COURT OF COMMON PLEAS

BUTLER COUNTY, OHIO

STATE OF OHIO

Plaintiff

vs.

JASON JONES

Defendant

* Case Number: CR05-09-1631

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Judge Nastoff

DECISION AND JUDGMENT

ENTRY

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This matter came on to be heard upon the motion for transcripts to be prepared and provided to the Defendant at the State's expense filed on February 15, 2008.

The Defendant is requesting transcripts of the jury trial and pretrial hearings and for the production of related documents at State's expense.

The Court has reviewed the official file and docket in this case and does not find that there is an appeal pending in this case.

The Court notes that the appeal filed under Case Number: CA06-09-0228 was dismissed on April 9, 2007 (copy attached). The Court further finds that the appeal filed

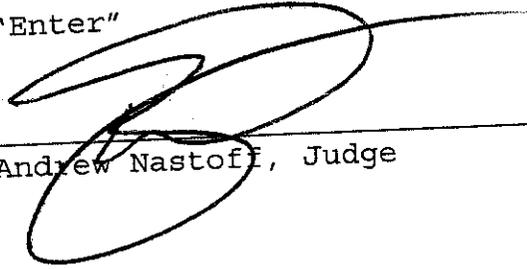
Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

under Case Number: CA06-12-0312 was also dismissed January 5, 2007 and an Entry Denying Application for Reconsideration was filed on March 20, 2007 (copies attached).

There is no provision to provide the documents requested by the Defendant on the basis of the present state of the record.

Therefore, the Defendant's motion for the preparation and transcription of the proceedings are not well taken and is overruled.

"Enter"



Andrew Nastoff, Judge

COPIES TO:

Lee Oldendick
315 High Street
Hamilton, OH 45011

Jason Jones - #529-115
16149 State Route 104 North
Chillicothe, OH 45601

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

STATE OF OHIO

Plaintiff,

CASE NO. CRO05-09-1631

JUDGE. NASTOFF

Jason Jones
Defendant,

MOTION TO RECONSIDER

Now comes defendant, Jason Jones PRO SE, and hereby requests this court to reconsider the Defendants motion for trial transcripts and related documents at states expense.

The defendant motioned the court on 2-15-08, for trial transcripts and related documents. On 4-9-08, the trial court denied the motion finding that there is no appeal pending in this case

On 4-11-08, The twelfth District court of Appeals opened a appeal in this matter under case number CA 2008-04-0100.

WHEREFORE, the Defendant humbally requests the Trial court to reconsider the Defendants motion FOR TRIAL TRANSCRIPTS AND RELATED DOCUMENTS AT STATES EXPENSE, so that Defendant will have all documents needed to further Pursue this matter.

Respectfully Submitted

Jason Jones

CERTIFICATE OF SERVICE

I certify that a copy of this motion was mailed to the Butler County Prosecutor's Office 315 High Street, 11th Floor Hamilton, OHIO 45011 ON THE DAY OF 2008

Jason Jones

COURT OF COMMON PLEAS

BUTLER COUNTY, OHIO

STATE OF OHIO

Case Number: CR05-09-1631

Plaintiff FILED BUTLER CO. COURT OF COMMON PLEAS

Andrew Nastoff, Judge

vs.

JUN 02 2008

DECISION AND JUDGMENT ENTRY

JASON JONES

CINDY CARPENTER
CLERK OF COURTS

Defendant

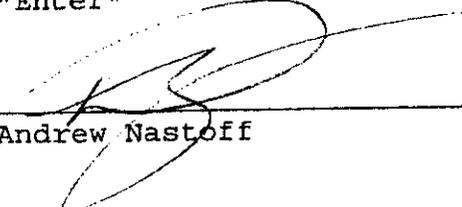
* * * * *

This matter came on to be heard upon the Defendant's motion to reconsider.

The Court has reviewed the official case file in this matter.

After a thorough review, the Court does not find the Defendant's motion for reconsideration to be well taken and the motion is hereby overruled.

"Enter"


Andrew Nastoff

COPIES TO:

Lee Oldendick
Assistant Prosecuting Attorney
315 High Street - 11th Floor
Hamilton, OH 45011

Jason Jones - #529115
P.O. Box 7010
Chillicothe, OH 45601

Judge Andrew Nastoff
Common Pleas Court
Butler County, Ohio

ProSe

IN THE COURT OF APPEALS OF BUTLER COUNTY, OHIO

STATE OF OHIO,	:	CASE NO. CA2008-04-100
Appellee,	:	<u>ENTRY OF DISMISSAL</u>
vs.	:	
JASON JONES,	:	
Appellant.	:	

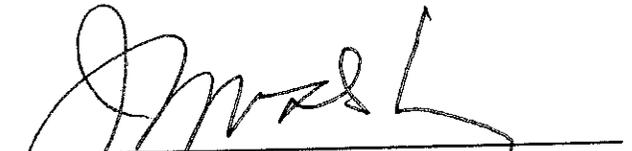
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COURT OF APPEALS

JUN 03 2008

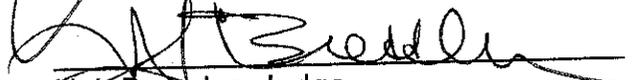
CINDY CARPENTER
CLERK OF COURTS

The court having denied appellant's motion for leave to file a delayed appeal, this cause is hereby DISMISSED, with prejudice, costs to appellant.

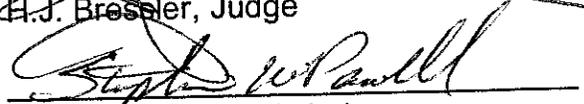
IT IS SO ORDERED.



James E. Walsh, Presiding Judge



H.J. Bressler, Judge



Stephen W. Powell, Judge

The Supreme Court of Ohio

FILED

AUG 25 2009

CLERK OF COURT
SUPREME COURT OF OHIO

Jason Jones

Case No. 2009-1204

v.

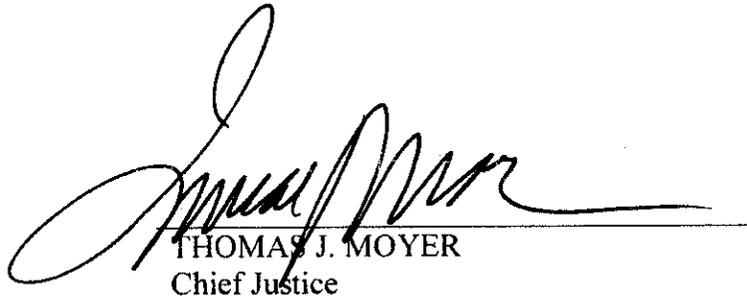
IN MANDAMUS

A. Nastoff, Judge

ENTRY

This cause originated in this Court on the filing of a complaint for a writ of mandamus. Upon consideration of respondent's motion to dismiss,

It is ordered by the Court that the motion to dismiss is granted. Accordingly, this cause is dismissed.



THOMAS J. MOYER
Chief Justice

FILED
IN THE COURT OF COMMON PLEAS
BUTLER COUNTY

2011 JAN 20 PM 2:52

CASE NO: CR 2005-09-1631

STATE OF OHIO

PLAINTIFF

VS.

BUTLER COUNTY
CLERK OF COURTS

JUDGE: NASTOFF

JASON JONES

DEFENDANT.

SUPPLEMENTAL
MOTION FOR TRANSCRIPTS OF JURY TRIAL AND PRE-TRIAL HEARING
AND THE PRODUCTION OF ALL RELATED DOCUMENTS AT STATE EXPENSE

Now comes Defendant, Jason Jones, pro se, respectfully moving this Court to order the transcripts of his pre-trial and trial, along with the judgment entry from the resentencing. A Memorandum in support is attached. and exhibits.

The defendant is in the process of filing a Withdraw of Plea Motion, and has a open appeal in this matter "case no. CA 1009-0242" The jury trial transcripts are necessary for him to facilitate that notion. The defendant was resentenced on 8-26-10 and he requested his transcripts for the reason explained with this Court. as stated in the attached exhibits. He now places this motion from the request with this Court.

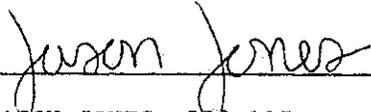
The defendant was resentenced for a void judgment entry from lack of postrelease control notice. The defendant plans to withdraw his plea pursuant to STATE v BOSWELL, 121 OHIO ST 3d 575, 2009-OHIO-1577, 906 N.E. 2d 422.

In GREEN V. BRINGANO 904 F. Supp 675 at page 677 of the opinion, the court addressed not only Mr. Greene's right to transcripts of his trial on direct appeal, but also discussed Mr. Green's right to documents and transcripts of his trial for post-appeal remedies created by the state, citing LANE v. BROWN, 372 U.S. 477 484-485, 83 S.Ct. 768, 772-773, Lane v. Brown, supra, in turn cites to BURNS V. OHIO, 360 U.S. 252 257, 79 S.Ct. 1164, 1168. And also defendant is in need of the 12-16-05 Handwriting exemplars Hearing transcripts as Humbally requested above.

CONCLUSION

The defendant is presently incarcerated and has no access in or outside assistance to obtain the the above mentioned documents..

Respectfully Submitted,



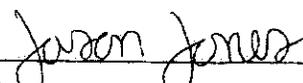
JASON JONES, 529-115

R C I po box 7010

Chilli,OH 45601

CERTIFICATE OF SERVICE

I certify that a copy has been sent to the Butler county Prosecutors Office.



JASON JONES 529115

1 MR. BEANE: Judge, there are some other issues
2 that he wants to address the Court on.

3 THE COURT: Before we move onto separate matters,
4 is there anything further on this matter from the
5 State.

6 MR. BURRESS: No, Your Honor. Thank you.

7 THE COURT: Any further related to this matter?

8 MR. BEANE: No, Your Honor.

9 THE COURT: What else did Mr. Jones want to talk
10 about?

11 THE DEFENDANT: Your Honor, I on numerous
12 occasions I tried to motion the Court for a copy of the
13 trial transcripts in this matter. I am attempting to
14 do a withdraw of guilty plea due to ineffective
15 assistance of counsel. And there is important
16 information in those trial transcripts that I need to
17 show that my counsel is ineffective. During the
18 initial first part of the trial, my attorney asked the
19 Court to ask the prosecution to give him a copy of the
20 related Hamilton County trial transcripts, and you told
21 my attorney that is the defense's job to come to trial
22 prepared in order to fight the case. During the whole
23 trial, Your Honor, I was confused. I was confused
24 about the nature of the plea. My lawyer constantly
25 contradicted hisself in telling me one thing and then

1 coming back and telling me something totally different
2 without remembering what he initially told me. He
3 suffered from chronic memory loss.

4 In the Hamilton County trial transcripts, I have
5 got under oath where he admits he is suffering from
6 Alzheimer's. I have a copy of those trial transcripts
7 and with a copy of these trial transcripts, I can
8 properly prepare my motion and show that this Court --
9 my trial counsel was ineffective. So, I am here to
10 just beg for you to give me a copy of those trial
11 transcripts in this matter.

12 THE COURT: Mr. Burress?

13 MR. BURRESS: I really don't have a position. I
14 don't know if there is any local authority to order it.

15 THE COURT: Okay. This has been -- I mean, there
16 have been direct appeals, there have been written --
17 numerous ancillary types of criminal proceedings filed
18 by Mr. Jones in this matter. They have all been dealt
19 with and disposed of, I believe, including multiple
20 requests for the transcript. I believe every time
21 there has been a request made, there has not been any
22 pending appeal. And I believe that that is the
23 requirement. I believe if there is a pending appeal,
24 he is entitled to a transcript to be prepared. And as
25 far as a transcript of the trial, this is a matter