

ORIGINAL

OHIO SUPREME COURT
STATE OF OHIO

12-0529

Sup. Ct No. _____

STATE OF OHIO
LA'MON R. AKEMON JR.
Ross Correctional Institution
P.O. Box 7010
Chillicothe, Ohio 45601
RELATOR

APP. CASE NO. C-110855

ORIGINAL ACTION FOR
WRIT OF MAMDAMUS

V.
LEE H. HILDEBRANDT, JR, et.al (Judge)
FIRST APPELLATE DIST. OF OHIO
HAMILTON, COUNTY, OHIO
12th Floor, 230 East Ninth Street
Cinati, Ohio 45202-2138

TRIAL CASE NO B-0309830
COMMON PLEA COURT

PETITION FOR WRIT OF MAMDAMUS

Now comes **Relator, La'Mon R. Akemon**, actong pro-se, who has no plain and adequate remedy at law. The court is refusing to take judicial notice of decisional constitutional and statutory law of this State. I respectfully request that this Honorable Court pursuant to **Article IV, Section 3(B)(1)(b)** of the **Ohio Constitution**, and **O.R.C. 2731.02** invoke its original jurisdiction and issue herein the Great **Writ Of Mamdamus** upon Honorable **Lee H. Hildebrandt Jr. et. al (Judge)** in the First Appellate District Judge located in Hamilton County, Ohio herein the responsible party: and command the same to carry out its legal duties and obligation to Relator's appeal in accordance with The Supreme Court of Ohio Precedent, ("Stare Decisis") in **In re Anderson (2001), 92 Ohio St.3d 63, 67, 748 N.E. 2D 67**. If the appellants are not served with timely notice, the appeal period is tolled until the appellants have been served. Consequently, **App.R. 4(A)**"tolls the period for filing a notice of appeal***if service is not made within the three-day period of **Civ.R. 58(8(B), State ex rel. Hughes v. Celeste (19930, 67 Ohio St. 3d 429. 431, 619 N.E.2d ,412.**

The Court may, pursuant to **O.R.C. 2731.02**, issue any Writ not specifically provided for or prohibited by statute, necessary to enforce the administration of justice.

For reason more fully explained in the accompanying memorandum in support. **Relator** prays his is granted as law and justice are required.

FILED
MAR 29 2012
CLERK OF COURT
SUPREME COURT OF OHIO

INTRODUCTION FOR RELIEF

Petitioner seeks relief from the respondent decision that has prejudiced **Petitioner** and denying him a appeal (**As Of Right**), by continuing interference. The facts of this case show substantial interference by respondent and repeated refusal to comport with the common law as mandated by this Honorable Court in **In re Anderson (2001), 92 Ohio St.3d 63, 67, 748 N.E. 2D 67** , If the appellants are not served with timely notice, the appeal period is tolled until the appellants have been served. Whereas, in these circumstances that appeal period is tolled, consequently, **App.R. 4(A)**”tolls the period for filing a notice of appeal***if service is not made within the three-day period of **Civ.R. 58(8(B), State ex rel. Hughes v. Celeste (1993), 67 Ohio St. 3d 429, 431, 619 N.E.2d ,412.** Furthermore, **Petitioner**, ask this **Court** to thoroughly follow the evidence and thoroughly examine all the facts presented in **Petitioner's** Mandamus. Thereby it is by overwhelming preponderance of the evidence presented by **Petitioner**. That **Petitioner** appeal time had been tolled in accordance with the (“**Stare Decisis**”) decision enter by this **Honorable Court**.

MEMORANDUM IN SUPPORT

On **March 8, 2004** the **Relator** entered into a plea of guilty to trafficking in cocaine, (2) two counts, felonies of the first degree.

On **April 30th, 2004** the **Relator** was sentence by the trial court to (2) two concurrent ten (10) years terms of imprisonment.

The **Relator** challenge the conviction several time's into the 1st District Court Of Appeals .

On **August 24, 2009** **Relator** filed a Motion To Resentence pursuant to **Crim.R. 47 State v. Bezak(2007)**.

Trial Court fail to notify **Relator** of the court's judgment entry and **Relator** discovered on **September 24, 2009**, upon his own due diligence that a decision and judgment entry was filed on **August 31, 2009**.

Relator received on **October 6, 2009** via **U.S. Mail** a certified (**A True Copy Of The Original**) and **ATTEST** by **Patricia M. Clancy** Deputy Clerk of said Judgment entry. (**See Ex. A**)

Relator represents to this Court that the date enter beneath the deputy initial of **10/2/09**, reflect the date of the **Relator** phone call to the clerks office. (**See Ex. A**)

On **October 21, 2009** **Relator** filed a Notice Of Appeal into 1st Dist. Court Of Appeals case case **C-090749**. (**See Ex. B**)

On **November 10, 2009** appeal **C-090749** the **1st Dist. Court Of Appeals** found that the Motion was not taken and is overruled as moot. Notice of judgment entry was not served on the appellant, and the notice of appeal is regarded as timely filed. (See Ex. C)

On **April 6, 2010**, the **1st Dist. Court Of Appeals** remanded **Relator** back for re-sentence pursuant to **Relator's** original sentence was "Deemed null and Void.

On **April 19, 10**, **Relator** filed a Motion To Withdraw Plea. (See Ex. E, Appearance Docket)

On **June 15, 10**, the court denied **Relator** Motion To Withdraw and re-sentence **Relator**.

Prosecution filed a **Memorandum In Opposition To Withdraw Plea** filed on **June 14, 10** and mailed to **Relator** on **June 15, 10**, and sent by **U.S. Mail June 15, 10** (See Ex. D, pg. 9)

Relator discover when he was return from the Ham. Co. jail on **June 17**, and received on **June 18,10**, prosecution **Memorandum In Opposition To Withdraw Plea** filed on **June 14, 10**.

Relator filed on **June 25, 2010** a **Motion To Stay entry of any judgment from the hearing held on June 15, 2010 and recall the Defendant for a hearing that comports with due process** because upon **Relator** return from Hamilton Co. jail back to D.C.I. **Relator** had received legal mail on **June 17, 10** from the prosecution motion of Opposition filed on **June 14, 10**, and received on **June 18, 10**. Opposing **Relator** Motion to Withdraw plea that was filed **April 19, 10**. (See Ex. D)

On **August 6, 10** **Relator** filed a **Motion To Proceed And To Expedite Judgment Pursuant To Crim. R. 47**, to **Relator's Motion To Stay** filed **June 25, 10** (See Ex. E, Appearance Docket)

On **October 15, 10** **Relator** filed a **Motion To Take Judicial Notice Of Sup. R. 40 And To Proceed To Judgment**, to **Relator's Motion To Stay** filed **June 25, 10** (See Ex. E, Appearance Docket)

Both petition **Motion To Proceed And To Expedite Judgment Pursuant To Crim. R. 47** and **Motion To Take Judicial Notice Of Sup. R. 40** were filed before **Relator** realized the journalized entry of the re-sentence enter on **July 9, 10**, until **Relator** received prosecution praecipe on **November 9, 10**.

Relator received and seen for the first time journalized entry of re-sentence enter on **July 9, 10** attach to prosecution praecipe filed **November 4, 10**, and received **November 9, 10**. (See Ex. F)

Relator made several attempt by **U.S. Mail** to the Hamilton Co. clerk of court to receive said judgment entry enter on **July 9, 10** and as to why entry was not served upon **Relator** and whether aren't the Motion To Withdraw had been ruled upon as well but to **No A Vial** from the clerks office.

Relator was afforded a call to the clerks office on **January 28, 2011** in which **Relator** inquired as to why **Relator** had not been given proper notice of judgment entry enter on **July 9, 2010** as **Relator** is a party in these proceeding and has a decision been enter on **Relator's** motion to withdraw plea.

Clerk inform **Relator** that a judgment entry had been enter on **Relator** motion to withdraw plea and apologized and further promise that **Relator** would receive a Certified Copy of both decision from **June 15, 2010** and **July 9, 2010**.

On **February 1, 2011 Relator** received as promise from the clerks office (**A True Copy Of The Original**) enter **6/15/10 ATTEST Patricia M. Clancy** dated **1/28/11** Entry Denying Motion To Withdraw Plea and (**A True Copy Of The Original**) enter **7/9/10 ATTEST Patricia M. Clancy** dated **1/28/10** of judgment Entry : Sentence. (**See Ex. G**)

Relator represents to this Court that the (Date Enter) beneath the Deputy initial of **1/28/11** reflects the date of **Relator** phone call to the clerks office. (**See Ex. G**)

On **February 14, 2011 Relator** filed Notice Of Appeal into the 1st Dist Court Of Appeals case no. **C-1100092** only **13**days after receiving the certified (**True Copy Of The Original**) (**See Ex. H**)

On **March 9, 11** the 1st Dist. Court of Appeals enter a entry of Dismissals of **Relator's** appeal *sua sponte* the notice of appeal was not timely filed. Appellant did not file a motion for a delayed appeal in accordance with **Appellate Rule 5 (A)**. (**See Ex. I**)

Relator represents to this Court that both appeals case no. **C-090749** and **C-1100092** were in deeded inferred by the same trial court and same exact circumstances. Whereas the trial court filed to serve upon **Relator** a final appealable order in a timely matter. Whereby appeal **C-090749** was accepted and case no. **C-1100092** was denied.

Relator represents to this **Court** that **Relator** has a clear legal right to the request relief.

On **June 16, 11 Relator** filed a Writ of Mandamus into the Ohio Supreme Court Sup. Ct. no. **11-10**

Respondent also claimed that **Relator** did not diligently defend his rights.

Relator represents to this **Court** that this is furthest from the truth!

Relator represents that the 1st **Dist. Court of Appeal** has define **Due diligence**" is "[t]he diligence reasonable expected from , and ordinarily exercised by , a person who seeks to satisfy a legal requirement or to discharge an obligation" (**Black's Law Dictionary**) **State v Love N.E.2d,2006 WL 3393607 (Ohio App. 1st Dist.), 2006-Ohio6158.**

Relator represents that through his own "due diligence" **Relator** tried to have the trial court *adjudicative* and *promptly dispose* **Relator's Motion To Stay entry of any judgment from the hearing held on June 15, 2010** before journalizing judgment entry of re-sentencing on **July 9, 10** from the hearing on **June 15, 10.**

On **June 25, 10** upon the due diligence of the **Relator** filed a **Motion To Stay entry of any judgment from the hearing held on June 15, 2010** and recall the Defendant for a hearing that comports with due process because prosecutor had violated **Relator** due process right guaranteed under the 14th Amendment of the U.S. Constitution of Equal Protection and Due Process under the course of the law and committed prosecutorial misconduct. (**See Ex. D**)

Now the reason for **Relator June 25, 2010** a **Motion To Stay entry of any judgment from the hearing held on June 15, 2010** and recall the Defendant for a hearing that comports with due

process was clearly articulated in the motion and was filed after Relator return on June 17, 10 to Dayton Correctional Institution from the Ham. Co. jail. Whereas Relator discover the prosecution late filing of motion opposing Relator withdrawal of plea. (See Ex. D)

Relator absolutely had no reason to inquire about a journalize entry from the trial court because Relator filed on June 25, 11, a Motion To Stay entry of any judgment from the hearing held on June 15, 2010 and recall the Defendant for a hearing that comports with due process (15)days before the journalizing re-sentence on July 9, 10, and had no knowledge of any entry made on June 15,10.

Whereby Relator had thought that the trial court was considering Relator's Motion To Stay entry of any judgment from the hearing held on June 15, 2010 and recall the Defendant for a hearing that comports with due process .

One can only imagine why the prosecution chose to file his motion one day before the schedule hearing and send prove of service to D.C.I. When Relator had been housed in the County jail since June 9,10 until June 17, 10 (See Ex. D, pg. 6)

Clearly the prosecution could have walk across the street and serve upon Relator the motion or sent prove of service to Relator at the County jail of prosecution motion of Opposition filed June 14, 10.

There is no excuse for the prosecution to send service to D.C.I. Due to the fact the prosecution knew Relator would be in court on the June 15, 10 because it was order and agree upon by both the trial court and prosecution. (See Ex. J)

Whereby prosecution had to believe Relator would some how receive his Motion of Opposition the same day it was filed June 14, 10.

Nor did the prosecution try to apprise Relator of said filing in court on June 15, 10. (See transcript of re-sentence hearing held on June 15, 10, filed under Ohio Supreme Court case no.11-0369 pgs. 6-8)

This was deliberately done by the prosecution and condone by the trial court to allow such prosecutorial misconduct. Which Relator believe that the trial court was apart of the plan to "Besmirch" Relator an opportunity to reply and be heard in court.

Now granted Relator motion to withdraw plea was filed on April 19, 10 so why did the prosecution wait until the day before the hearing to file it's motion. Whereas prosecution was clearly procedurally time barred from responding to Relator motion.

Relator represents to this Court that surely such denial to apprise any "party" who is listed as attorney for the record would not have been acceptable or allowed by any license Attorney but was condone and prohibited because Relator is acting as a pro-se litigant.

On it's own this Court should recognize and con seed that Relator Motion To Stay entry of

any judgment from the hearing held on June 15, 2010 and recall the Defendant for a hearing that comports with due process was filed on June 25, 10 which articulate the reason and relief sought by Relator was filed before the trial court judgment entry of the Re-sentence enter on July 9, 10. Whereby Relator and clearly tried to adjudicate the motion before the journalized entry of the re-sentence enter on July 9, 10, in which Relator had no knowledge a entry was journalized.

Thereby it was not the lack of Relator "due diligence" to defend his right to his appeal (As of Right) as respondent had claimed but rather the "lack" of the trial court diligence to "perform judicial and administrative duties competently and diligently" in accordance with Ohio Code of Judicial Conduct. Conon 2 Rule 2.5

Whereas "a judge should seek the necessary docket time, court staff, expertise, and resource to discharge all adjudicative and administrative responsibilities. Thus, disposing of matter promptly and efficiently, and have issue resolved without unnecessary cost or delayed". Ohio Code of Judicial Conduct. Conon 2 Rule 2.5 2&4

Therefore, Trial Court deliberately chose to ignore Relator Motion To Stay entry of any judgment from the hearing held on June 15, 2010 and recall the Defendant for a hearing that comports with due process and demonstrate the court's abuse of discretion and journalize re-sentencing on July 9, 10 from the hearing held June 15, 10 and failing to serve notice upon Relator of final appealable order .

Verification letter of Relator's legal mail received at Dayton. Correctional. Institution by the Institution Inspector from July 9, 10 until August 9, 10, no legal mail had been received from the court's. (See Ex. K)

Whereas, the trial court should have taken the initiative and first, adjudicate the Motion To Stay entry of any judgment from the hearing held on June 15, 2010 and recall the Defendant for a hearing that comports with due process by ruling on the Motion To Stay and then journalize the new sentence and send said decision and entries to Relator.

Whereby, the trial court acted asthough Relator's Motion To Stay did not exist.

Whereas the respondent claim that Relator did not diligently defend his right is clearly merit less and without substance. Due to the fact Relator clearly articulated in his Motion To Stay entry of any judgment from the hearing held on June 15, 2010 and recall the Defendant for a hearing that comports with due process .

On it's own this this Honorable Court can recognize that the entry enter on August 31, 09 and the date enter beneath Patricia M Clancy of 10/2/09, is the date in which (A True Copy of The Original) was sent and received by Relator on October 6, 09 had only taken 4days to arrive. (See Ex. A)

Thus, entry enter on June 15, 10 and July 9, 10, and the date enter beneath Patricia M Clancy of 01/28/11, is the date in which (A True Copy of The Original) was sent and received by Relator on February 1, 11 had only taken 4days to arrive. (See Ex. G)

Relator represents to this Court that at the time **Relator** did not know that the Institutional Inspector verification letter used in **Relator Motion To Stay entry of any judgment from the hearing held on June 15, 2010 and recall the Defendant for a hearing that comports with due process would be helpful**. To prove no entry enter on **June 15,10** was never sent to **Relator**. The letter state's that from the month of **June 2010, until June 21,10**. **Relator** received only one piece of legal mail from the Ham. Co. prosecution office. (See **Ex. D, pg. 6**)

Thereby the **June 15, 10** entry denying motion to withdraw plea clearly should have been sent and received within those **7days** until **June 21, 10** but ratter received **February 1, 11**.

Whereby, **July 9, 10**, journalized re-sentence entry was never sent to **Relator** until **February 1, 11**. (See **Ex. K**)

The **Ohio Supreme Court** has clearly stated in these cases only, If the appellants are not served with timely notice, the appeal period is tolled until the appellants have been served. **In re Anderson (2001),92 Ohio St.3d 63, 67, 748 N.E. 2D 67**. Consequently, **App.R. 4(A)**"tolls the period for filing a notice of appeal***if service is not made within the three-day period of **Civ.R. 58(8(B), State ex rel. Hughes v. Celeste (19930, 67 Ohio St. 3d 429. 431, 619 N.E.2d ,412**.

Whereas, **Relator** received and seen for the first time the journalized re-sentence attached to prosecution praecipe and thereafter **Relator** by all means possible exercise his "**due diligence**" to obtain said judgment entry and was not successful until **February 1, 11**.

Whereby, **Relator** filed his notice of appeal into 1st Dist. Court of Appeals (As Of Right) case no. **C-1100092** on **February 14, 11**, only **13days** after receiving entries because **Relator** appeal was tolled until **February 1, 11**.

The 1st Dist. Court of Appeals claimed appeal was not timely filed and appellant did not file a motion for delayed appeal. (See **Ex. I**)

Clearly the 1st Dist. Court of Appeals decision is contradictory to the Ohio Supreme Court ("**Stare Decisis**") that said in these cases Consequently, **App.R. 4(A)**"tolls the period for filing a notice of appeal***if service is not made within the three-day period of **Civ.R. 58(8(B), State ex rel. Hughes v. Celeste (19930, 67 Ohio St. 3d 429. 431, 619 N.E.2d ,412**. Thereby **Relator** time period was tolled pursuant to **App.R. 4(A)** and not pursuant to **App.R. 5(A)** in which the respondent claims.

On **December 27, 11** **Relator** filed his delayed appeal as order by the 1st Dist. Appellate Court.

On **January 25, 12** the Appellate court claimed appellant has fail to provide sufficient reason for failing to perfect an appeal as of right. (See **Ex. L**)

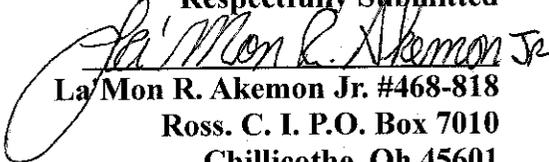
Therefore, in those instance whereas appellant are not served with timely notice, the appeal period is tolled until the appellants have been served. **In re Anderson (2001),92 Ohio St.3d 63, 67,**

748 N.E. 2D 67, henceforth the **Relator** time period "Clock" has been reset pursuant to **App. R. 4(A)**. Whereas no delayed appeal is necessary or required under **App. R. 4(A)**.

Relator was provoke and forced to file a delayed appeal from case **C-1100092** and thus filed a delayed appeal in case no. **C-110855** in which the appellate court claimed appellant has fail to provide sufficient reason for failing to perfect an appeal as of right.

Relator represents to this Court that **Relator** has incurred unnecessarily prejudiced and damage by the unwarranted delay of **Relator's** appeal of right. Respondent's actions have been intentional and based upon unsubstantiated evidence in support of their claim that **Relator** was untimely in his filing of an appeal of right. Respondent's action demonstrate an abuse of discretion and disregards Ohio Supreme Court decisions. Because **Relator's time to appeal** was "tolled", his appeal was timely and this case should be remanded to the Court of Appeals for an appeal of right.

Respectfully Submitted


La'Mon R. Akemon Jr. #468-818

Ross, C. I. P.O. Box 7010
Chillicothe, Oh 45601
Defendant-Appellant, Pro-Se

CERTIFICATE OF SERVICE

This is to Certify that a copy of the foregoing Motion was served by regular mail and served upon Joseph T. Deters, Hamilton County Prosecutor at 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202 on this 26 day of March, 2012


Defendant-Appellant, Pro-S

AFFIDAVIT OF PRIOR CIVIL FILINGS
pursuant to R.C. Sec. 2969.25 (A)

STATE OF OHIO
COUNTY OF MONTGOMERY

SWORN STATEMENT

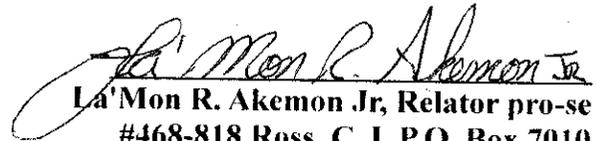
I, **La'Mon R. Akemon Jr**, Relator in the forgoing civil action, do hereby verify in accordance with R.C. 2969.25(A) that I filed Two (1) civil action within the last (5) year and that civil action is identified as:

PETITION FOR for a PAUPERIS CERTIFICATE OF APPEALABILITY FILED IN: THE UNITED STATE SIXTH CIRCUIT COURT, CINATI, OHIO CASE NO. 07-4374

DATE FILED: September 4, 2008 APPLICATION FOR A COD DENIED

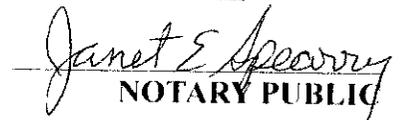
La'Mon R. Akemon Jr., also verify that I have not been found to be a frivolous lawsuit litigant in the last five (5) years. This is my declaration made under the penalties of perjury after having been duly sworn.

Affiant firther sayeth naught.


La'Mon R. Akemon Jr, Relator pro-se
#468-818 Ross. C. I. P.O. Box 7010
Chillicothe, Ohio 45601

NOTARY

La'Mon Akemon, APPEARED BEFORE AND PERSONALLY SWORN TO THE FOREGOING UNDER THE PENALTY OF PERJURY AND SUBSCRIBED TO THE SAME PERSONALLY IN MY PRESENCE ON THE 6 DAY OF MARCH 2012.


NOTARY PUBLIC

MY COMMISSION EXPIRE ON 8/25/2013



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

EX. A

RECORDED
AUG 31 2009

Jody M. Luebbers
JUDGE JODY M. LUEBBERS 8/21/09
date



COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

COPY FILED
CLERK OF COURTS
HAMILTON COUNTY
OCT - 2 2009
PATRICIA M. CLANCY
COMMON PLEAS COURTS

STATE OF OHIO	:	CASE NO. B-0309830
Plaintiff	:	(JUDGE LUEBBERS)
vs.	:	<u>ENTRY OVERRULING</u>
LA'MON AKEMON	:	<u>MOTION FOR</u>
Defendant	:	<u>RESENTENCE</u>

This matter having come before the court on the defendant's motion for resentence and, the court being fully advised and after due consideration, finds the said motion not well taken and hereby overrules the same.

To all of which the defendant objects.

A TRUE COPY OF THE ORIGINAL
ENTERED 08/31/09
ATTEST PATRICIA M. CLANCY
CLERK.
BY *J*
DEPUTY
DATE 10/02/09



PLEASE TIME STAMP DATE and RETURN!

Ex. B

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

STATE OF OHIO,

Plaintiff-Appellee,

vs

LA'MON AKEMON,

Defendant-Appellant.

App. Ct. Ca. No. C0900747

Trial Ct. Ca. No. B-0309830

ON APPEAL FROM THE HAMILTON
COUNTY COMMON PLEAS COURT

NOTICE OF APPEAL OF LA'MON AKEMON

La'Mon Akemon, I.D. #468-818

Dayton Correctional Institution

4104 Germantown Street

Dayton, Ohio 45417

Defendant-Appellant- Pro-Se

Joseph T. Deters

Hamilton County Prosecuting Attorney

230 East Ninth Street, Suite 4000

Cincinnati, Ohio 45202

Attorney For The Plaintiff-Appellee- State of Ohio

FILED
COURT OF APPEALS

OCT 21 2009

PATRICIA M. CLANCY
CLERK OF COURTS
HAMILTON COUNTY

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

Ex. B

STATE OF OHIO,
Plaintiff-Appellee,
vs
LA'MON AKEMON,
Defendant-Appellant.

FILED
COURT OF APPEALS

OCT 21 2009

PATRICIA M. CLANDY
CLERK OF COURTS
HAMILTON COUNTY

App. Ct. Ca. No. CO900747

Trial Ct. Ca. No. B-0309830

ON APPEAL FROM THE HAMILTON
COUNTY COMMON PLEAS COURT

MOTION FOR LEAVE TO PROCEED INSTANTER

Now comes La'Mon Akemon, Defendant-Appellant, and hereby moves this Court for Leave To Proceed INSTANTER in the filing of his Notice of Appeal that is being filed in conjunction with this instant motion, from the Hamilton County Common Pleas Courts Decision and Judgment Entry that was entered on August 31, 2009.

The Defendant-Appellant, La'Mon Akemon, filed a Pro-Se Motion For Resentencing on August 24, 2009 in the Hamilton County Common Pleas Court in Case number B-0309830. On August 31, 2009 a Decision and Judgment Entry overruling the Defendant-Appellant's motion was entered. However, the Clerk breached their duties promulgated under **Sup.R.7(A)** and **Civ.R.58(B)**, by not serving NOTICE of said Decision and Judgment Entry upon the Defendant-Appellant-Pro-Se pursuant to **Crim.R.49(B)** and **Civ.R.5(B)** as the Defendant-Appellant is a "party" in these proceedings and is the attorney of record as he is acting in Pro-Se status. The breach of duty by the Clerk thereby prejudiced the Defendant-Appellant, La'Mon Akemon, a Pro-Se litigant under **App.R.4(A)** with regards to the Defendant-Appellant's Due Process Guarantees.

Defendant-Appellant, La'Mon Akemon, represents to this Court that he did discover on September 24, 2009, upon the exercise of his own due diligence, that a Decision and Judgment Entry was filed on August 31, 2009. Through the aid of the Defendant-Appellant's Correctional Counselor, Sgt. R. Johnson here at Dayton Correctional Institution, the Defendant-Appellant was afforded a telephone call

Ex. C

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

STATE OF OHIO,

APPEAL NO. C-090749
TRIAL NO. B-0309830

Appellee,

vs.

ENTRY OVERRULING MOTION
FOR LEAVE TO PROCEED
INSTANTER AS MOOT

LA'MON AKEMON,

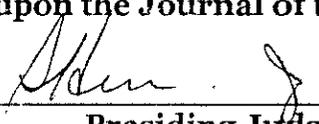
Appellant.

This cause came on to be considered upon the *pro se* motion of the appellant for leave to proceed instanter.

The Court finds that the motion is not well taken and is overruled as moot. Notice of judgment was not served on the appellant, and the notice of appeal is regarded as timely filed.

To The Clerk:

Enter upon the Journal of the Court on NOV 10 2009 per order of the Court.

By: 
Presiding Judge

(Copies sent to all counsel)

IN THE COMMON PLEAS COURT
FOR HAMILTON COUNTY, OHIO
CRIMINAL DIVISION

COPY FILED
CLERK OF COURTS
HAMILTON COUNTY
JUN 25 2010
PATRICIA M. GLANCY
COMMON PLEAS COURTS

STATE OF OHIO,
Plaintiff,
v.
LA'MON AKEMON,
Defendant.

Ex. D

Case No. 0309830

Judge Jody M. Luebbers

MOTION TO STAY ENTRY OF ANY JUDGMENT
FROM THE HEARING HELD ON JUNE 15, 2010
AND RECALL THE DEFENDANT FOR A HEARING
THAT COMPORTS WITH DUE PROCESS AND
CRIM.R. 32.1

Now comes La'Mon Akemon, Defendant (Pro-Se), and hereby moves this Court to **STAY** entry of any judgment from the hearing that was held on June 15, 2010 and for this Court to **RECALL** the Defendant for a proper hearing that comports with Due Process Rights of the Defendant and his right to an Evidentiary Hearing as mandated by the Ohio Supreme Court in *State v. Xie* (1992), 62 Ohio St.3d 521 and Ohio Crim.R.32.1. Reasons for the instant motion are more fully articulated in the Memorandum that follows.

MEMORANDUM

The Defendant, La'Mon Akemon (hereinafter "Defendant"), represents to this Court that on April 6, 2010 the First District Court of Appeals VACATED the Defendant's sentence and remanded the Defendant's case back to this Court due to the initial sentence that was imposed by this Court being rendered a nullity and thus, VOID.

The Defendant further represents to this Court that on April 19, 2010, he filed a Pro-Se "Motion To Withdraw his Guilty Plea" and thus, said motion must be considered a "Pre-Sentence Motion" and should be freely and liberally granted. *State v. Boswell* (2009), 121 Ohio St3d 575.

EX. D

The original Entry from the First District Court of Appeals dated April 6, 2010, ordered that the remand and any hearing be conducted and the record supplemented by May 26, 2010. In the event that the record was not supplemented "counsel for Appelle, State of Ohio, was ordered to file a Memorandum regarding the status of the remand by May 28, 2010.

The Plaintiff's DID NOT comply with the Order of the First District Court of Appeals or the Plaintiff blatantly refused to serve any Memorandum upon the Defendant despite the fact that he is a "PARTY" and entitled to NOTICE of ALL filings. Moreover, the Defendant DID NOT receive or hear anything from April 6, 2010 until June 9, 2010, the day the Hamilton County Sheriff picked the Defendant up from Dayton Correctional Institution and transported him to the Hamilton County Jail to await the surprise scheduled hearing on June 15, 2010.

During this Lapse of time between April 19, 2010—the filing of Defendant's Crim. R. 32.1 Motion and, transport to the Hamilton County Jail on June 9, 2010, the Defendant DID NOT receive any "Opposition" from the Plaintiff, State of Ohio, pursuant to Loc. R. 14(B) thus, the Defendant was planning on, at the very least, his Due Process Right to the evidentiary hearing as is mandated by the Ohio Supreme Court in *Xie & Boswell, supra*. This basic fundamental Due Process right was completely thwarted by the in concert witchhunt tactics of the state government Prosecutor, Philip Cummings, Timothy R. Cutcher, the completely ineffective attorney appointed to the Defendant and, Judge Jody Luebbers, acting as trier of fact.

Furthermore, the Defendant filed on June 15, 2010 a "Motion To Vacate the Plea entered on March 8, 2004 for Lack of Jurisdiction". The Defendant served the Plaintiff on June 10, 2010, actually the Defendant placed said Motion in the mailbox at Dayton Correctional Institution the morning of June 9, 2010. At the hearing on June 15, 2010, the Defendant attempted to address the Court regarding said Motion, however, the Court muzzled the Defendant and threatened the Defendant with sanctions of contempt and additional time added to the original Ten year sentence,

when the Defendant was merely attempting to apprise the Court of this Motion that contained the Jurisdictional defects that the Court SHOULD have recognized on its own. On this fateful day, when the wheels of justice came to a grinding halt against the Defendant, the Plaintiff, State of Ohio, WAS permitted to proceed on his motion in Opposition that was filed on June 14, 2010, and the Certificate of Service indicates that this Motion in Opposition was deliberately sent to Dayton Correctional Institution when the Hamilton County Prosecutor, Philip Cummings, was fully aware that the Defendant was being housed at the Hamilton County Jail. Moreover, the court appointed attorney for the Defendant was NOT served with this motion in Opposition. These acts are plain and obvious and, serve to thwart any Due Process Rights of Notice and an opportunity for the Defendant to be heard in "REPLY".

Furthermore, for this Court to entertain these fraudulent tactics, it is apparent that justice for the Defendant is being obstructed. This is a crime in the State of Ohio and negates any immunities that may be observed.

The Defendant has attempted to formally bring fundamental constitutional rights that are guaranteed to the Defendant, directly to the attention of this Court through his filings of April 19, 2010 and June 15, 2010, regarding substantial judicial compliance and fairness, to absolutely no avail. These fundamental constitutional deprivations have to be attributed as subjecting the Defendant to a biased and hostile environment without due process of law. The Court, as trier of fact, should have recognized, on its own accord, the lack of subject matter jurisdiction regarding the imposition of Post-Release control and, at the very least, should have permitted the Defendant an opportunity to be heard on his June 15, 2010 filing as the Plaintiff was on their June 14, 2010 filing.

Pursuant to Loc. R. 14(B) the Defendant MUST be Provided the opportunity to "REPLY" to the Plaintiff's motion in Opposition filed on June 14, 2010, that was NOT served and received by the Defendant until June 18, 2010 after his return

to the Dayton Correctional Institution on June 17, 2010.

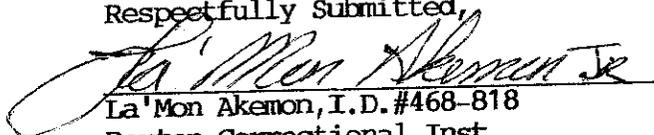
In support of all of the contentions made herein by the Defendant, the Defendant offers the following as the "Defendant's Exhibits A, B, & C".

- 1) "Defendant's Exhibit A", Department of Rehabilitation and Correction letter signed by Alan Mattingly, Institution Inspector, dated June 21, 2010;
- 2) "Defendant's Exhibit B", copy of "Legal Mail Log" from Dayton Correctional Institution bearing receipt of the Plaintiff's "Motion in Opposition";
- 3) "Defendant's Exhibit C", copy of the Envelope that the Plaintiff's "Motion

In Opposition" was sent in bearing a U.S. Postal Service stamp date of June 15, 2010, again, displaying the fraudulent representations of service. The Entry dated June 15, 2010 "Denying the Defendant to Withdraw Plea", is a clear fraudulent act in concert with the State of Ohio, thereby violating the Defendant's Due Process rights under Loc. R. 14(B). Moreover, the Entry does NOT contain the "findings of fact and Conclusions of law" to support the denial that was specifically moved for by the Defendant's filing of April 19, 2010.

Wherefore, for the reasons stated herein, the Defendant, La'Mon Akemon, hereby moves this Court to **STAY** Entry of any Judgment from the hearing that was held on June 15, 2010 and for this Court to **RECALL** the Defendant for a proper hearing that comports with the Defendant's Due Process rights of an Evidentiary Hearing that is in accordance to the mandate of the Ohio Supreme Court under Xie & Boswell, *supra*, and Crim. R. 32.1. In addition GRANT an Extension for the Defendant to "REPLY" to the Plaintiff's Motion in Opposition.

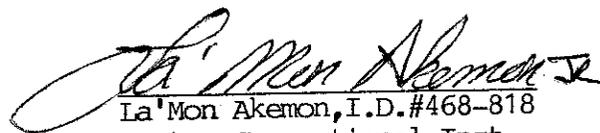
Respectfully Submitted,



La'Mon Akemon, I.D. #468-818
 Dayton Correctional Inst.
 4104 Germantown Street
 Dayton, Ohio 45417
 Defendant-Pro-Se.

CERTIFICATE OF SERVICE

I, the undersigned hereby certify that a true copy of the foregoing was served upon the Hamilton County Prosecutor, Philip R. Cummings @ 230 East Ninth Street, Suite 4000, Cincinnati, Ohio 45202 by way of ordinary U.S. Postal Service this 22 day of June, 2010.



La'Mon Akemon, I.D.#468-818
Dayton Correctional Inst.
4104 Germantown Street
Dayton, Ohio 45417
Defendant-Pro-Se.



Ohio Department of Rehabilitation and Correction

Dayton Correctional Institution
4104 Germantown Pike
Dayton, OH 45418

Ted Strickland, Governor

www.drc.ohio.gov

Terry Collins, Director

Date: June 21, 2010
Ref: Legal Mail for Inmate LaMon Akemon 468-818

"DEFENDANT'S
EXHIBIT D"

To Whom It May Concern:

Please be advised that Inmate Akemon 468-818 requested verification of his legal mail received here at the Dayton Correctional Institution during the month of June 2010 to date. Therefore, according to the Mailroom Officer, she verified that Inmate Akemon received only one piece of legal mail from the Hamilton County Prosecuting Attorney, Joseph Deters on 6-18-10. No other legal mail from Hamilton County Clerk was received according to the Legal Mail Log maintained in the Mailroom Office.

Also, please be advised that Inmate LaMon Akemon was out to court from June 9, 2010 until his return on 6-17-10.

If you have any further questions regarding this matter, please contact me at 937-263-0060 Ext. 5021.

Sincerely,

Alan J. Mattingly, Inspector/ACA Manager DCI/MEPRC

"DEFENDANT'S EXHIBIT D"

'DEFENDANT'S EXHIBIT A' D

Legal Mail Log

Date Received by Institution		Inmate Name	Inmate Number	Lock Assignment	Sender's Name & Address	Inmate's Signature of Receipt	Date of Receipt
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6-13-10
6-15-10		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6-17-10
6-15-10		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6/16/10
6-15-10		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6/16/2010
6-16-10		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6-17-2010
6-16-10		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6-17-10
6-16-10		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6-17-10
6-17-10		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6-19-10
6-17-10		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6-18-10
6-17-10		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6-18-2010

Institution: DCU

JOSEPH J. PETERS - Hamilton County
 PROSECUTING ATTORNEY
 APPELLATED DIVISION - 2300 ENCLINE ST
 SLUICRUDD (UNCLINICAL) OHIO 45202
 468-818

"DEFENDANT'S EXHIBIT D"

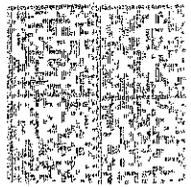
"DEFENDANT'S EXHIBIT D"

JOSEPH T. DETERS
HAMILTON COUNTY PROSECUTING ATTORNEY

Appellate Division
230 East Ninth Street, Suite 4000
Cincinnati, OH 45202

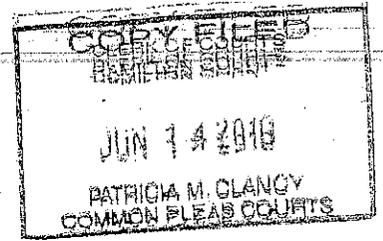
La'Mon Akemon
Inst. #468-818
Dayton Correctional Institution
4104 Germantown Street
Dayton, Ohio 45417

2/10/13



\$00.00
06/15/2011
US POSTAGE

"DEFENDANT'S EXHIBIT D"



THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS
CRIMINAL DIVISION

STATE OF OHIO : Case No. B-0309830
Plaintiff : Judge Jody M. Luebbers
vs. : STATE'S SENTENCING
LA'MON AKEMON : MEMORANDUM AND
 : MEMORANDUM IN
Defendant : OPPOSITION TO MOTION TO
 : WITHDRAW PLEA

On April 6, 2010, the Court of Appeals remanded the case to this Court for a re-sentencing hearing so that this Court could properly notify Akemon that he is subject to five years mandatory post-release control.¹

The State requests that this Court sentence Akemon to his original ten year aggregate sentence in the Department of Corrections for the two counts of trafficking to which he plead guilty in 2004. (See sentencing entry attached.) This time, however, the trial court must also notify Akemon that he is subject to a five year mandatory term of post-release control.²

The State also requests that this Court deny defendant's April 19, 2010 Motion to Withdraw Plea. Akemon again seeks to withdraw his plea and asks this Court to employ the more liberal pre-sentence standard. His motion should be denied.

Crim.R. 32.1 states that a "motion to withdraw a plea of guilty or no contest may be made only before sentence is imposed; but to correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw

¹ *State v. Akemon*, C-090749 (April 6, 2010) (attached)
² See R.C. 2929.19(B)(3)(c), R.C. 2967.28(B)(1)

E.E

Municipal Case Number: C03/CRA/38612
 Case Caption: STATE OF OHIO vs. LAMON AKEMON
 Judge: JODY M LUEBBERS
 Filed Date: 10/17/2003
 Case Type: 4 - SUMMONS ON INDICTMENT
 Race: BLACK - AFRICAN AMERICAN
 Sex: M
 Age: 47
 Date of Birth: 5/12/1963
 Bond Amount: \$100000 STRAIGHT
 Bond Amount: \$ RELEASED ON OWN RECOGNIZANCE
 Count 1: TRAFFICKING IN COCAINE W/SPEC 2925-03A1 ORCN
 Disposition: 7/9/2010 DOCC DEPARTMENT OF CORRECTIONS
 Count 2: TRAFFICKING IN COCAINE WITH SPECIFICATION 2925-03A2 ORCN
 Disposition: 4/30/2004 3D DISMISSAL
 Count 3: POSSESSION OF COCAINE WITH SPECIFICATION 2925-11A ORCN
 Disposition: 4/30/2004 3D DISMISSAL
 Count 4: TRAFFICKING IN COCAINE W/SPEC 2925-03A1 ORCN
 Disposition: 7/9/2010 DOCC DEPARTMENT OF CORRECTIONS

Non-Printer Friendly Version

Case History

Doc	Image#	Date	Description	Amount
		12/22/2010	ENTRY OF DISMISSAL (C 0900749)	
		11/22/2010	TRANSCRIPT OF DOCKET AND JOURNAL ENTRIES FILED ***SUPPLEMENTAL***	
		10/15/2010	MOTION TO TAKE JUDICIAL NOTICE OF SUP.R.40 AND TO PROCEED TO JUDGMENT.	
		8/6/2010	MOTION TO PROCEED AND TO EXPEDITE JUDGMENT PURSUANT TO CRIM. R. 47.	
			JUDGMENT ENTRY: SENTENCE: INCARCERATION THE SENTENCES IN COUNTS #1 AND #4 ARE TO BE SERVED CONCURRENTLY WITH EACH OTHER. THE TOTAL AGGREGATE SENTENCE IS TEN (10) YEARS IN THE DEPARTMENT OF CORRECTIONS. THERE ARE NO SENTENCES IMPOSED AS TO SPECIFICATIONS TO COUNTS #1 AND #4. THE DEFENDANT IS TO RECEIVE CREDIT FOR ALL TIME SERVED. THE DEFENDANT IS TO PAY \$20,000.00 FINES AS TO EACH COUNT OF WHICH \$10,000.00 IS MANDATORY FOR A TOTAL FINE OF \$40,000.00. THE DEFENDANT IS TO PAY THE COURT COSTS. THE DEFENDANT IS TO PAY PUBLIC DEFENDER ATTORNEY FEES. THE DEFENDANT IS TO MAKE RESTITUTION IN THE AMOUNT OF \$84.00 FOR COSTS OF LAB FEE. ***RE-SENTENCE***	
		7/9/2010	SENTENCED COUNT 4: TRAFFICKING IN COCAINE W/SPEC CONFINEMENT: 10 YRS DEPARTMENT OF CORRECTIONS DRIVER'S LICENSE SUSPENSION: 1 YRS	
		7/9/2010	SENTENCED COUNT 1: TRAFFICKING IN COCAINE W/SPEC CONFINEMENT: 10 YRS DEPARTMENT OF CORRECTIONS DRIVER'S LICENSE SUSPENSION: 1 YRS	
		7/2/2010	CLERK'S TRANSCRIPT FILING FEE	
		6/28/2010	TRANSCRIPT OF PROCEEDINGS B0309830 (C 0900749)	
		6/25/2010	MOTION TO STAY ENTRY OF ANY JUDGMENT FROM THE HEARING HELD ON JUNE 15, 2010 AND RECALL THE DEFENDANT FOR A HEARING THAT COMPORTS WITH DUE PROCESS	
		6/15/2010	ENTRY DENYING: MOTION TO WITHDRAW PLEA	
		6/15/2010	FILING	
		6/14/2010	STATE'S SENTENCING MEMORANDUM AND MEMORANDUM IN OPPOSITION TO MOTION TO WITHDRAW PLEA	
		5/27/2010	ENTRY ORDERING RETURN OF INMATE	
		4/19/2010	MOTION TO WITHDRAW PLEA PURSUANT TO CRIM. R. 32.1	
		1/5/2010	COURT OF APPEALS OF HAMILTON COUNTY CASE NO. C 0900749, TRANSCRIPT OF DOCKET AND JOURNAL ENTRIES FILED	
		10/22/2009	NOTICE OF APPEAL FILED NO. C090749 COPY SENT TO HAMILTON COUNTY PROSECUTOR	
		8/31/2009	ENTRY OVERRULING MOTION FOR RESENTENCE	
		8/24/2009	MOTION TO RESENTENCE, PURSUANT TO CRIM. R. 47 STATE V. BEZAK(2007),	
		7/30/2009	JUDGMENT ENTRY AND DECISION AFFIRMING JUDGMENT OF TRIAL COURT AS MODIFIED (B0309830) (C 0800443)	
		9/11/2008	TRANSCRIPT OF PROCEEDINGS (C-080443)	
		7/17/2008	COURT OF APPEALS OF HAMILTON COUNTY CASE NO. C-080443	
		6/14/2008	JUDGE ASSIGNED CASE ASSIGNED TO LUEBBERS/JODY/M PRIMARY	
		6/14/2008	JUDGE REASSIGNED CASE TRANSFERRED FROM TRIANTAFILOU/ALEX PRIMARY	
		5/30/2008	PRAECIPE	
		5/30/2008	MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND WAIVE PAYMENT OF FILING FEES & COURT COSTS	
		5/29/2008	NOTICE OF APPEAL FILED NO. C080443 COPY SENT TO HAMILTON COUNTY PROSECUTOR	
		5/12/2008	ENTRY OVERRULING MOTIONS TO WITHDRAW PLEA	
		4/30/2008	ENTRY ORDERING RETURN OF INMATE	
		4/15/2008	ENTRY OF CONTINUANCE UNTIL 4-30-2008	
		4/9/2008	SUPPLEMENT TO MOTIONS TO WITHDRAW PLEA.	
		3/20/2008	JUDGE ASSIGNED CASE ASSIGNED TO TRIANTAFILOU/ALEX PRIMARY	
		2/28/2008	ENTRY ORDERING OF DEFENDANT FOR COURT HEARING IN HAMILTON COUNTY	
		2/26/2008	ENTRY OF CONTINUANCE 3/18/08	
		2/20/2008	STATE'S SUPPLEMENTAL RESPONSE TO AKEMON'S REPLY MEMORANDUM OF JANUARY 17, 2008	
		2/19/2008	STATE'S RESPONSE TO AKEMON'S REPLY MEMORANDUM OF JANUARY 17, 2008	
		1/17/2008	RESPONSE TO MEMORANDUM IN OPPOSITION	

Ex. F

THE STATE OF OHIO, HAMILTON COUNTY

COURT OF COMMON PLEAS

STATE OF OHIO

Plaintiff

vs.

LAMON AKEMON

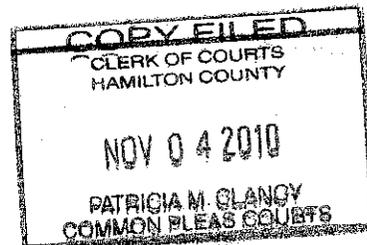
Defendant

TRIAL NO. B-0309830

APPEAL NO. C-090749

(Judge Luebbers)

PRAECIPE



TO THE CLERK:

Please prepare, certify, and forward with this to the Clerk of the Court of Appeals, First Appellate District, Hamilton County, Ohio for docketing heretofore and hereafter entered, the judgment entry of July 9th, 2010 resentencing Defendant Akemon. Copies of the entry are attached hereto.

Respectfully,

Philip R. Cummings, 0041497P
 Assistant Prosecuting Attorney
 230 East Ninth Street, Suite 4000
 Cincinnati, Ohio 45202
 513/946-3052

CERTIFICATE OF SERVICE

I hereby certify that on this 4 day of November, 2010, I have posted a copy of the above entitled document to counsel for the defendant by posting same in the United States mail addressed to LaMon Akemon, #468-818, Dayton Correctional Institution, 4104 Germantown Pike, Dayton, OH 45418.

Philip R. Cummings, 0041497P
 Assistant Prosecuting Attorney

Ex. G

PATRICIA M. CLANCY
HAMILTON COUNTY
CLERK OF COURTS
1000 MAIN ST - ROOM 315
CINCINNATI, OH 45202

Sharon Okunow #4105 918

4104 Poplarwood Pk.

Dayton, OH 45417

Patricia M. Clancy



Ex. G

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

ENTERED
JUN 15 2010

STATE OF OHIO
Plaintiff

CASE No. B-0309830

-vs-

Judy M. Luebbers
JUDGE JODY M. LUEBBERS

LAMON AKEMON
Defendant

ENTRY DENYING MOTION
TO WITHDRAW PLEA

This cause came before the Court for hearing on Defendant's Motion
To Withdraw his Previously Entered Plea of Guilty.

The Court reviewed the motion and heard the arguments set forth by the Defendant,
who was present at the hearing.

The Court determines that the motion is not well taken, is DENIED.

To all of which the defendant excepts.

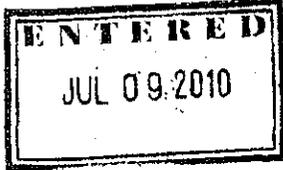


A TRUE COPY OF THE ORIGINAL
ENTERED 06/15/10
ATTEST PATRICIA M. CLANCY
CLERK.
BY *PC*
DEPUTY
DATE 01/28/11

EX. 6

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 06/15/2010
code: GJEI
judge: 255



Jody M Luebbers
Judge: JODY M LUEBBERS

NO: B 0309830

STATE OF OHIO
VS.
LAMON AKEMON

JUDGMENT ENTRY: SENTENCE:
INCARCERATION
RE-SENTENCE

Defendant was present in open Court with Counsel **TIMOTHY R CUTCHER** on the 15th day of **June 2010** for sentence.

The court informed the defendant that, as the defendant well knew, the defendant had pleaded guilty, and had been found guilty of the offense(s) of:

- count 1: **TRAFFICKING IN COCAINE W/SPEC, 2925-03A1/ORCN,F1**
- count 4: **TRAFFICKING IN COCAINE W/SPEC, 2925-03A1/ORCN,F1**
- count 2: **TRAFFICKING IN COCAINE WITH SPECIFICATION, 2925-03A2/ORCN,F1, DISMISSAL**
- count 3: **POSSESSION OF COCAINE WITH SPECIFICATION, 2925-11A/ORCN, DISMISSAL**

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: 10 Yrs DEPARTMENT OF CORRECTIONS DRIVER'S LICENSE SUSPENSION: 1 Yrs**
- count 4: **CONFINEMENT: 10 Yrs DEPARTMENT OF CORRECTIONS DRIVER'S LICENSE SUSPENSION: 1 Yrs**

THE SENTENCES IN COUNTS #1 AND #4 ARE TO BE SERVED CONCURRENTLY WITH EACH OTHER.

THE TOTAL AGGREGATE SENTENCE IS TEN (10) YEARS IN THE DEPARTMENT OF CORRECTIONS.

THERE ARE NO SENTENCES IMPOSED AS TO SPECIFICATIONS TO COUNTS #1 AND #4.

THE DEFENDANT IS TO RECEIVE CREDIT FOR ALL TIME SERVED.

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

EX. 6

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 06/15/2010
code: GJEI
judge: 255

Judge: JODY M LUEBBERS

NO: B 0309830

STATE OF OHIO
VS.
LAMON AKEMON

JUDGMENT ENTRY: SENTENCE:
INCARCERATION
RE-SENTENCE

THE DEFENDANT IS TO PAY \$20,000.00 FINES AS TO EACH COUNT OF WHICH \$10,000.00 IS MANDATORY FOR A TOTAL FINE OF \$40,000.00.

THE DEFENDANT IS TO PAY THE COURT COSTS.

THE DEFENDANT IS TO PAY PUBLIC DEFENDER ATTORNEY FEES.

THE DEFENDANT IS TO MAKE RESTITUTION IN THE AMOUNT OF \$84.00 FOR COSTS OF LAB FEE.

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 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 FIVE (5) YEARS.

mandatory

Ex. G

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 06/15/2010
code: GJEI
judge: 255

Judge: JODY M LUEBBERS

NO: B 0309830

STATE OF OHIO
VS.
LAMON AKEMON

JUDGMENT ENTRY: SENTENCE:
INCARCERATION
RE-SENTENCE

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.

RE-SENTENCE

EX. H

Please Time Stamp, Date and Return!

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

STATE OF OHIO,

APPEAL NO. C 1100092

Appellee,

FILED
COURT OF APPEALS

TRIAL NO. B-0309830

Vs.

FEB 14 2011

LA'MON AKEMON

PATRICIA M. CLAWLY
CLERK OF COURTS
HAMILTON COUNTY

ON APPEAL FROM THE HAMILTON

Appellant

COUNTY COMMON PLEAS COURT

NOTICE OF APPEAL OF LA'MON AKEMON

La'Mon Akemon, I.D. #468-818

4104 Germantown Pike.

Dayton, Ohio 45417

Defendant-Appellant Pro Se

Joseph T. Deters

Hamilton County Prosecuting Attorney

230 East Ninth Street, Suite 4000

Cincinnati, Ohio 45202

Attorney For The Plaintiff-Appellee State of Ohio

Please time stamp. L.H. — Ex. H

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

APPEAL NO. C 1100092

TRIAL NO. B-0309830

STATE OF OHIO,

Appellee,

Vs.

LA'MON AKEMON

Appellant

FILED
COURT OF APPEALS

FEB 14 2011

PATRICIA W. CLANCY
CLERK OF COURTS
HAMILTON COUNTY

ON APPEAL FROM THE HAMILTON
COUNTY COMMON PLEAS COURT

MOTION FOR LEAVE TO PROCEED INSTANTER

Now comes La'Mon Akemon, Defendant-Appellant, and hereby moves this Court for Leave To Proceed INSTANTER in the filing of his Notice of Appeal that is being filed in conjunction with this INSTANTER motion, from the Hamilton County Common Pleas Court Decision and Judgment Entry that was entered on June 15, 2010 and July 9, 2010 in Case No. B-0309830.

The Defendant-Appellant La'Mon Akemon filed a Pro-Se Motion To Withdraw Plea Pursuant To Crim.R. 32.1 filed on April 19, 2010 in Hamilton County Common Plea in Case No. B-0309830. On June 15, 2010 Defendant-Appellant was Re-sentence Case NO. B-0309830 pursuant to the 1st Dist. Appellate Court Decision Entry *GRANTING MOTION TO REMAND* before actual sentencing occurred, Defendant-Appellant's motion to withdraw plea (filed on April 19, 2010) was overruled by re-sentencing court (Hamilton County Common Pleas Court) who then proceeded to re-sentence the Defendant-Appellant's in Case No. B-0309830. On July 9, 2010 a Decision and Judgment Entry to Defendant-Appellant's re-sentencing was enter. However, the Clerk breached the duties promulgate under Sup.R.7(A) and Civ.R.58(B), by not serving Notice of said Decision and Judgment Entries upon the Defendant-Appellant Pro- Se pursuant to Crim.R.49(B) and Civ.R.5(B) as the Defendant-

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

STATE OF OHIO,

APPEAL NO. C-110092
TRIAL NO. B-0309830

Appellee,

vs.

ENTRY OF DISMISSAL

LA'MON AKEMON,

Appellant.

This cause came on to be considered upon the appeal from the trial court.

The Court *sua sponte* dismisses the appeal for failure of the appellant to comply with the Ohio Rules of Appellate Procedure to wit: the notice of appeal was not timely filed. See Appellate Rule 4 (A). In addition, appellant did not file a motion for delayed appeal. See Appellate Rule 5 (A).

Further, all other pending motions are overruled as moot.

It is further ordered that a certified copy of this judgment shall constitute the mandate to the trial court pursuant to Rule 27, Ohio Rules of Appellate Procedure.

To The Clerk:

Enter upon the Journal of the Court on MAR - 9 2011 per order of the Court.

By: 
Presiding Judge

(Copy sent to counsel)

Ex. J

COURT OF APPEALS
FIRST APPELLATE DISTRICT
HAMILTON COUNTY, OHIO

FILED
COURT OF APPEALS

MAY 27 2010

PATRICIA M. CLANCY
CLERK OF COURTS
HAMILTON COUNTY

STATE OF OHIO

NO. C-090749

Plaintiff-Appellee

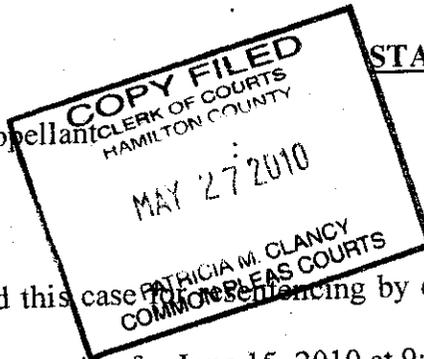
Trial Court Case No. B-0309830

vs.

LA'MON AKEMON

Defendant-Appellant

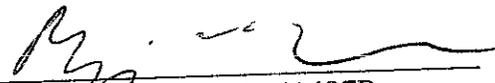
STATUS MEMORANDUM



This Court remanded this case for re-sentencing by entry dated April 6, 2010. The trial court has scheduled the re-sentencing for June 15, 2010 at 9:00 a.m.

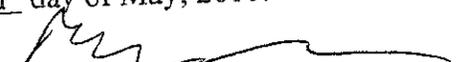
Respectfully,

Joseph T. Deters, 0012084P
Prosecuting Attorney


Philip R. Cummings, 0041497P
Assistant Prosecuting Attorney
230 East Ninth Street, Suite 4000
Cincinnati, Ohio 45202
Phone: 946-3012
Attorneys for Plaintiff-Appellee

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing Status Memorandum, by United States mail, addressed to La'mon Akemon, Pro se, Inst. #468-818, Dayton Correctional Inst., 4104 Germantown Pike, Dayton, Ohio 45418, this 27th day of May, 2010.


Philip R. Cummings, 0041497P
Assistant Prosecuting Attorney

Ex. K



Ohio Department of Rehabilitation and Correction

Dayton Correctional Institution
4104 Germantown Pike
Dayton, OH 45418

John R. Kasich, Governor

www.drc.ohio.gov

Gary C. Mohr, Director

Date: May 16, 2011

Ref: Legal Mail for Inmate LaMon Akemon 468-818

To Whom It May Concern:

Please be advised that Inmate Akemon 468-818 requested verification of his legal mail receive here at the Dayton Correctional Institution during the month July 9, 2010 through August 9, 2010. Therefore, I contacted C/O Alma Thomas, Mailroom Office and she verified that Inmate Akemon received only two pieces of legal mail on 7-14-10 from Attorney Arenstein & Gallagher and on 7-20-10 mail was from Cincinnati Bar Association. No other mail was received from July 21, 2010 through August 9, 2010 according to the Legal Mail Log maintained in the Mailroom office.

If you have any further questions regarding this matter, please contact me at 937-263-0060 Ext. 5021.

Sincerely,

Alan J. Mattingly, Inspector/ACA Manager DCI/MEPRC

Ex. L

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

STATE OF OHIO,

APPEAL NO. C-110855
TRIAL NO. B-0309830

Appellee,

vs.

ENTRY OVERRULING MOTION
FOR DELAYED APPEAL

LA'MON AKEMON, JR.,

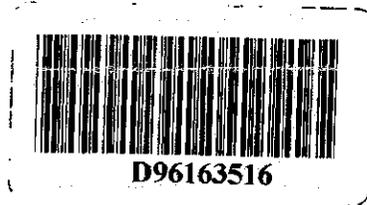
Appellant.

ENTERED
JAN 25 2012

This cause came on to be considered upon the *pro se* motion of the appellant for leave to file a delayed appeal.

The Court finds that the motion is not well taken and is overruled as the appellant has failed to provide sufficient reasons for failure to perfect an appeal as of right.

Further, all other pending motions are overruled as being moot.



To The Clerk:

Enter upon the Journal of the Court on JAN 25 2012 per order of the Court.

By: _____

Presiding Judge

(Copies sent to all counsel)