

IN THE SUPREME COURT OF OHIO

COREY J. WILLIAMS,

Appellant,

-VS-

LEANN WALKER-WILLIAMS,  
ACTING WARDEN,

Appellee.

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Case No. 2012-0085

Direct Appeal from Marion  
County Court of Appeals,  
Third Appellate District

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APPELLANT COREY WILLIAMS' REPLY BRIEF

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Corey J. Williams (591-730)  
Grafton Correctional Institution  
2500 South Avon-Belden Rd.,  
Grafton, Ohio. 44044

Pro se Appellant

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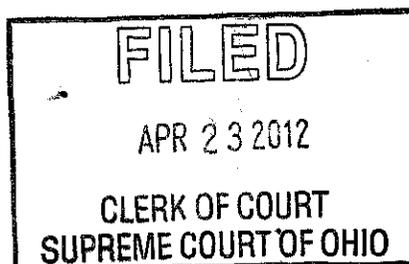
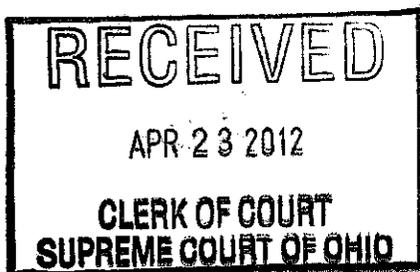


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## STATEMENT OF THE FACTS

On September 7, 2012, Appellant, Corey Williams, hereinafter (Williams) filed a writ in habeas corpus in the Third Appellate District Court of Appeals and initiated Case No. 9-11-56.

Appellant's petition named acting N.C.C.C. Warden Leann Walker Williams as the respondent and alleged that he was unlawfully imprisoned because the agreed, amended lesser charges were not indicted by a grand jury, the agreed amendments changed the identity of the charges and that the parties could not agree to alter the law in a plea agreement. See habeas corpus petition at ¶5-8.

On January 5, 2012, the Third Appellate District Court of Appeals issued a judgment entry that dismissed Williams habeas corpus petition. See Court of Appeals Judgment Entry.

On March 8, 2012, Williams filed a timely notice of appeal in the Supreme Court of Ohio and claimed an appeal of right under S.Ct. Prac.R.2.2(A)(1), Williams assigned as a proposition of law the following;

1. The Court of Appeals erred resulting in prejudice to the Appellant where the court granted Appellee (sic) motion to dismiss for failure to state a claim upon which relief can be granted.
2. Did the Court of Appeals erred (sic) in dismissing the Appellant's habeas corpus petition by overruling *Flynt v. Dinkelacker* (2004), 156 Ohio App.3d 595, ¶26 (parties cannot agree to alter the law).

On April 3, 2012, Appellee filed an answer brief and asked the Court to affirm the January 5, 2012, decision of the Third Appellate District Court of Appeals that dismissed Williams' original action and habeas petition because his habeas petition and appeal

are now moot, where Williams is not currently in the N.C.C.C. Warden's custody or within the jurisdiction of the Third Appellate District Court of Appeals. See Appellee's answer brief at page 4.

Appellee counters the above proposition of laws by raising the following arguments;

Proposition of law No.I:

Williams appeal is moot because Williams is not in Appellee's custody and the Third District Court of Appeals lacks jurisdiction to grant relief.

Although Appellant Williams was previously incarcerated in the N.C.C.C and was previously under the N.C.C.C. Warden's control Williams requested a transfer due to a claimed visitation hardship and Williams was transferred to Grafton Correctional Institution in Lorain County on March 26, 2012. (Appx. 7) Grafton Correctional Institution is under Warden Kimberly Clipper's control and Lorain County is subject to the Ninth District Court of Appeals territorial jurisdiction. R.C.2501.01(1). After Williams' custodial transfer the N.C.C.C. Warden was no longer a proper respondent under R.C. 2725.04(B), the Third District Court of Appeals lost jurisdiction over Williams' petition pursuant to R.C.2725.03 and the habeas action became moot.

APPELLANT'S REPLY

Here, Appellee's counsel is alerting this Supreme Court of Ohio that N.C.C.C. Warden has purposely violated the rule under R.C.2725.24, the provision that prisoner shall not be removed from custody of one officer to another, which provides:

"A person committed to prison, or in the custody of an officer for a criminal matter, shall not be removed therefrom into the custody of another officer, unless by legal process, or unless the prisoner is delivered to an inferior officer to be taken to jail, or by order of the proper court, is removed from one place to another within this state for trial, or in case of fire, infection, or other necessity."

A person who, after such commitment, makes, signs, or countersigns a warrant for such removal contrary to this section shall forfeit to the party aggrieved five hundred dollars."

This Supreme Court has jurisdiction over the State of Ohio and to deny Williams habeas relief because Appellee violated the rules governing habeas corpus to defeat justice is absurd, her argument should be overruled, because appellee should not benefit by violating the rules of law.

#### ARGUMENT

Since both proposition of laws II and IV relate to the same issue they will be addressed together.

#### Proposition of law No.II:

Williams is not entitled to habeas relief because he is imprisoned due to a valid sentencing order issued by a court of competent jurisdiction.

Petitioner Williams has not demonstrated that he is entitled to immediate release, as previously stated, Williams is currently incarcerated due to his September 2, 2010 nonsupport of Dependents conviction and sentence rendered in Erie County Common Pleas Court case No. 2007-CR-422 and his September 1, 2010 Attempted Gross Sexual Imposition and Endangering Children convictions and sentences rendered in Erie County Common Pleas Court Case No. 2009-CR-291. Williams' aggregated prison sentence in his cases is 2 years and 10

months and his prison sentence does not expire until May 21, 2012.  
(Appx.2) (Appx.5)

Proposition of Law No.IV:

Williams' habeas petition is subject to dismissal because he did not attach all his pertinent commitment papers.

In this case Williams attached the judgment entry of conviction from Erie County Common Pleas Court Case No. 2009-CR-291 regarding his Attempted Gross Sexual Imposition and Child Endangering convictions and sentences, however Williams failed to attach his judgment entry of conviction from Erie County Common Pleas Court Case #2007-CR-422 regarding Nonsupport of Dependents conviction and sentence. (Appx.6) Since Williams is currently incarcerated under that sentence and he is seeking immediate release from prison, those commitment papers are relevant to his habeas petition, especially give the consecutive nature of his sentence. Williams' concealment did not give the appellate court an accurate depiction of facts and interfered with the court's ability to make a complete determination. Since Williams' failed to attach all his commitment papers to his original habeas petition, the petition must be dismissed pursuant to R.C.2725.04(D) and the Third District Court of Appeals did not err in dismissing the petition pursuant to Civ.R.12(b)(6).

APPELLANT'S REPLY

Here, Appellee disregards the fact that the Court lack jurisdiction over the offenses in Erie County Common Pleas Case #2009-CR-291, and therefore, the judgment of convictions and sentences are void, and the sentence in Erie County Common Pleas Case #2007-CR-422 had expired. Further, Appellee should had raised these issues before

the Court of Appeals and therefore, they are waived and barred by the res judicata principles. State v. Perry (1967), 10 Ohio St.2d 175.

#### ARGUMENT

##### Proposition of Law No.III:

Williams is not entitled to relief because his claims are not cognizable in a habeas corpus action since there are adequate remedies at law to raise the same claims and the claims are barred by res judicata.

In the present case, Williams cannot prove any set of facts that would entitle him to an extraordinary writ of habeas corpus and immediate release from confinement. Williams' claims are not cognizable in an R.C.Chapter 2725 habeas corpus action because he is alleging defects in the indictment process and challenging the propriety of his guilty plea. Williams' claims do not affect the sentencing court's jurisdiction and the proper forum for Williams to challenge the amended charges and his guilty pleas was by appeal or a post-conviction motion. Consequently, res judicata prevented the appellate court from substantively reviewing Williams' claims and the appellate court's decision to dismiss Williams' habeas petition under Civ.R.12(b)(6) is correct and should be affirmed.

##### APPELLANT'S REPLY

Here, Appellee's arguments is misleading and improper, Williams does not allege defects in the indictment process, nor challenge the propriety of his guilty plea, rather Williams claims that the Erie County Court of Common Pleas was without jurisdiction to enter the judgment of convictions of Attempted Gross Sexual Imposition, and Endangering Children in Erie County Court of Common Pleas Case No.

2009-CR-291, because there is no charging instrument either by indictment, information or complaint and Crim.R.7 (D) does not provide for amendment to change the charges of the indictment, for which, Williams was charged.

Accordingly, Appellee's argument should be overruled.

CONCLUSION

Based on the foregoing Williams request this Honorable Supreme Court of Ohio to reverse the judgment of the Third Appellate District Court of Appeals and grant the relief stated in the habeas corpus petition as he is unlawfully imprisoned.

Respectfully submitted,

Corey J. Williams 591-730  
Appellant, Corey Williams  
Inmate No. 591-730,  
Grafton Correctional Inst.,  
2500 South Avon-Belden Rd.,  
Grafton, Ohio. 44044.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing APPELLANT COREY WILLIAMS' REPLY BRIEF was sent by regular U.S. Mail to Ohio Attorney General Mike DeWine, at Criminal Justice Section, 423000, 150 East Gay Street, 16th Floor, Columbus, Ohio. 43215-3130. This \_\_\_ day of April 2012.

Respectfully submitted,

Corey J. Williams  
591-730