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ORIGINAL

IN THE SUPREME COURT OF OHIO 12-0957

STATE OF OHIO,

PLAINTIFF-APPELLEE,

V

DAIRES HALL,

DEFENDANT-APPELLANT.

ON APPEAL FROM THE HONORABLE HAMILTON COUNTY COURT OF COMMON PLEAS CASE NUMBER B0907857

ON APPEAL FROM THE HONORABLE COURT OF APPEALS FOR THE FIRST APPELLATE DISTRICT OF OHIO CASE NUMBER C100359

SUPREME COURT OF OHIO CASE NO

DEFENDANT-APPELLANT'S PRO SE MOTION FOR LEAVE TO FILE A DELAYED NOTICE OF APPEAL PURSUANT TO SUPREME COURT RULES OF PRACTICE, RULE 2.2(A)(4)(a)

PAULA E. ADAMS 0069036P (COUNSEL FOR RECORD)
ASSISTANT PROSECUTING ATTORNEY
230 EAS NINTH STREET – SUITE 4000
CINCINNATI, OHIO 45202

DAIRES HALL (COUNSEL FOR RECORD)
INMATE NUMBER #628-690 PRO SE
LEBANON CORRECTIONAL INSTITUTION
PO BOX 56
LEBANON, OHIO 45036

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JUN 04 2012
CLERK OF COURT
SUPREME COURT OF OHIO

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FILED
JUN 04 2012
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SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, PLAINTIFF-APPELLEE, V DAIRES HALL, DEFENDANT-APPELLANT.	ON APPEAL FROM THE HONORABLE HAMILTON COUNTY COURT OF COMMON PLEAS CASE NUMBER B0907857 ON APPEAL FROM THE HONORABLE COURT OF APPEALS FOR THE FIRST APPELLATE DISTRICT OF OHIO CASENUMBER C10000359 SUPREME COURT OF OHIO CASE NUMBER _____

DEFENDANT-APPELLANT'S PRO SE MOTION FOR LEAVE TO FILE A DELAYED NOTICE OF APPEAL PURSUANT TO SUPREME COURT OF OHIO RULES OF PRACTICE, RULE 2.2(A)(4)(2)

NOW COMESTHE DEFENDANT-APPELLANT-DAIRES HALL-INMATE NUMBER #628-690 PRO SE, WHO BRINGS HIS "DEFENDANT-APPELLANT'S PRO SE MOTION FOR LEAVE TO FILE A DELAYED NOTICE OF APPEAL PURSUANT TO SUPREME COURT OF OHIO RULES PRACTICE, RULE 2.2(A)(4)(2)" WHILE HE IS SEEKING THE HONORABLE SUPREME COURT OF OHIO TO [GRANT]HIS DELAYED APPEAL. HAINES V KERNER – FIRST AMENDMENT-OHIO CONSTITUTION.

RESPECTFULLY SUBMITTED,

Daires Hall

DAIRES HALL #628-690 PRO SE
LEBANON CORRECTIONAL INSTITUTION
PO BOX 56
LEBANON, OHIO 45036

MEMORANDUM IN SUPPORT

THE DEFENDANT-APPELLANT-DAIRES HALL-INMATE NUMBER #628-690 PRO SE (HERE INAFTER APPELLANT) CAREFULLYCOMPLAINS THAT THE LECI PRISON LAWLIBRARY SUPRERVISOR CREATED A DELAYED PROCESS FOR THE APPELLANT COMING/LEAVING THE HONORABLE COURT OF APPEALS FOR THE FIRST APPELLATE DISTRICT OF OHIO IN CASE NUMBER 1000359 IN CINCINNATI, OHIO – TO – THE HONORABLE SUPREME COURT OF OHIO. THE APPELLANT HAD [PRO SE] RESEARCH AND RE-RESEARCH

FEDERAL AND OHIO CASE LAWS FOR HIS CRIMINAL APPEALS IN THE HONORABLE SUPREME COURT OF OHIO. WHEN THE APPELLANT HAD COMPLETED BRIEFING HIS NOTICE OF APPEAL, DEFENDANT-APPELLANT DAIRES HALL MEMORANDUM IN SUPPORT OF JURISDICTION, AFFIDAVIT OF DAIRES HALL, AFFIDAVIT OF INDIGENCY AND APPENDIXES FOR/ON THE LECI PRISON LAWLIBRARY WORD PROCESSOR DATA-BASE, THE LECI PRISONLAWLIBRARY SUPERVISOR MR.BILLY DEEBAILEY [DELECTED] APPELLANT'SENTIRE [PRO SE] ABOVELISTED PLEADINGS FROM HIS WORD PROCESSOR DATABASE SIMPLY BECAUSE APPELLANT WAS IN THE PRISON G.E.D. EDUCATION AREA TOO LONG WITHOUT RETREIVING HIS [PRO SE] ABOVE LISTED PLEADINGS FROM THE PRISON WORD PROCESSOR DATABASE! THIS/THESE INCIDENTS OCCURRED FROM JUNE 25TH 2011-TO-AUGUST 11TH 2011! THE DEFENDANT-APPELLANT-DAIRES HALL-INMATE NUMBER #628-690 PRO SE HAD TO [RE-RESEARCH] HISLEGAL CASE, FEDERAL AND STATE CASE LAWS TO TO COME BEFORE THE HONORABLE SUPREME COURT OF OHIO IN A DELAYED MANNER PURSUANT TO SUPREME COURT OF OHIO RULES OF PRACTICE, RULE 2.2(A)(4)(2).

THE DEFENDANT-APPELLANT-DAIRES HALL-INMATE NUMBER #628-690 PRO SE LEGALLY COMPLAINS THAT HE SHOULD BE CONVICTED AND SENTENCE TO [INVOLUN-TARY MANSLAUGHTER WITH HAVING A WEAPON WHILE UNDER DISABILITY-OR-NEG-LIGENT HOMICIDE WITH HAVING A WEAPON WHILE UNDER DISABILITY-OR- RECKLESS HOMICIDE WITH HAVING A WEAPON WHILEUNDER DISABILITY]!

THE DEFENDANT-APPELLANT-DAIRES HALL-INMATE NUMBER #628-690 PRO SE [PER-SONALLY AND LEGALLY APOLOGIZE TO THE HONORABLE SUPREME COURT OF OHIO FOR THE ABOVELISTED INCIDENTS THAT BRINGS HIM BEFORE THE HONORABLE SUPREME COURT OF OHIO IN A DELAYED MANNER! AN ERROR THAT ISPLAIN AND

INDISPUTABLE, AND THAT AMOUNTS TO A COMPLETE DISREGARD OF THE CONTROLLING LAW OR THE CREDIBLE LAW OR THE CREDIBLE EVIDENCE IN THE RECORD. MANIFEST ERROR-BLACK'SLAW DICTIONARY EIGHTH EDITION (1999).

BEFORE THE FILING AND FROM PAGES 1 THROUGH 14 OF HIS "DEFENDANT-APPELLANT PRO SE APPLICATION FOR RECONSIDERATION ON AN APPEALS OF RIGHT (PURSUANT TO OHIO RULES OF APPELLATE PROCEDURE, APP.R.26(B))," APPELLANT WAVIED HIS RIGHT TO A JURY TRIAL AND A BENCH TRIAL BEGINNING ON THE 20TH DAY OF MAY 2010. THE STATE PRESENTED THE FOLLOWING EVIDENCES AT APPELLANT'S GUILTY PLEA HEARING. CINCINNATI POLICE OFFICERS RESPONDED TO A REPORT OF [AN ACCIDENTAL SHOOTING OF MS. CANDACE TATE]. AT THE SCENE, ONE INDIVIDUAL, MR. TRAVIS CLARK WAS THE INDIVIDUAL APPELLANT WAS TRYING TO SHOOT WHILE LOCATED IN HIS AUTOMOBILE. THE ACCIENTAL SHOOTING OF THE INNOCENT BYSTANDER [MS. CANDACE TATE] WAS DEAD FROM GUNSHOT WOUNDS AND WAS TRANS PORTED TO THE HOSPITAL. POLICE OFFICERS FOUND MULTIPLE SHELL CASINGS NEAR BY THE VEHICLE MR.TRAVIS CLARK WAS IN; THE OFFICERS ALSO NOTED BULLET STRIKES ON HIS VEHICLE. NO WEAPON WAS FOUND AT THE SCENE. SHORTLY AFTER THE SHOOTING, DETECTIVES INTERVIEWED MR.TRAVIS CLARK AT THE POLICE STATION WHEREBY HE INDICATED THAT APPELLANT WAS TRYING TO SHOOT HIM FROM MR.TRAVIS CLARK EARLIER SHOOTING OF THE APPELLANT AND THAT APPELLANT [ACCIDENTIALLY SHOT INNOCENT BYSTANDER MS. CANDACE TATE ISNTEAD]!

MR.TRAVIS CLARK RELATED TO DETECTIVES THAT APPELLANT [DID NOT] WANT TO SHOOT THE INNOCENT BYSTANDER MS.CANDACE TATE! CINCINNATI DETECTIVES TOOK AN [09-H-54-HOMICIDE OF CANDACE TATE FROM APPELLANT AS AN INTERROGATION STATEMENT OF DAIRES HALL] WELL-BEFORE APPELLANT'S GUILTY PLEA HEARING. CRIME SCENE WITNESSES, POLICE, MR.TRAVIS CLARK HIMSELF AND THE APPELLANT HIMSELF IMMEDIATELY IDENTIFIED APPELLANT AS THE SHOOTER.

APPELLANT WAS APPRENHENDED BY POLICE OFFICERS THEREAFTER.

APPELLANT GAVE THE FOLLOWING ACCIENTAL ACCOUNTS OF THE EVENTS OF THE ACCIENTAL SHOOTING OF THE INNOCENT BYSTANDER [MS.CANDACE TATE]:

"ON THE INCIDENT DATE, APPELLANT WAS AT A PARTY. MS CANDACE TATE WAS AT THE PARTY. THEN.LETER, MR. TRVIS CLARK ARRIVED. MR. TRAVIS CLARK SHOT AND WOUNDED APPELLANT A FEW WEEKS EARLIER, AND THAT MEMORY OF THE INCIDENT WASN'T MISSING FROM APPELLANT'S MEMORY. WHEN MR. TRAVIS CLARK DROVE UP, [APPELLANT BEGAN SHOOTING AT HIM AND HIS VEHICLE NOT KNWOING THAT THE INCIDENT BYSTANDER MS.CANDACE TATE WAS IN THE AREA! DESPITE BEING SHOT, APPELLANT BECAME AND REMAINED "REMORSEFUL]!" MR. TRAVIS CLARK LEFT THE CRIME SCENE AND TRIED TO AVOID CRIMINAL CHARGES WITH THE TWO DETECTIVES AND THE STATE OF OHIO. MR.TRAVIS CLARK STATED TO INTERROGATION DETECTIVES THAT HE DIDN'T WANT TO BE APART OF THIS INCIDENT THAT APPELLANT HAD CAME OUT TO SHOOT HIM, POINTED A GUN AT HIM AND TRIED TO SHOOT HIM! APPELLANT THEN TOOK OFF RUNNING DOWN THE STREET. APPELLANT HEARD FEMALES SCREAMING!

APPELLANT STATED ON HIS OWN BEHALF TO CINCINNATI DETECTIVES. APPELLANT, ADMITTED TO SHOOTING AT MR. TRAVIS CLARK, HIS VEHICLE AND DIDN'T KNOW THAT THE INNOCENT BYSTANDER MS. CANDACE TATE WAS IN THE AREA! HE HAD KNOWN MR.TRAVIS CLARK, [BUT NOT MS.CANDACE TATE]! ACCORDING TO APPELLANT, AFTER HE SHOT AT MR. TRAVIS CLARK AND HIS VEHICLE, APPELLANT WAS "SCARRED," AND RAN AND THE GUN WENT ELSEWHERE. APPELLANT STATED THAT HE WAS UNAWARE THAT MS.CANDACE TATE HAD BEEN SHOT UNTIL POLICE AND DETECTIVES LATER INFORMED HIM THAT THE INNOCENT BYSTANDER MS.CANDACE TATE WAS DEAD! APPELLANT SHOT AT MR.TRAVIS CLARK AND HIS VEHICLE MAINLY BECAUSE MR.TRAVIS CLARK SHOT AND SERIOUSLY PHYSICALLY INJURED HIM WEEKS EARLIER! [APPELLANT DENIED INTENTIONALLY SHOOTING THE INNOCENT BYSTANDER MS.CANDACE TATE WHILE STATING THAT HE WANTED TO JUST SHOOT MR. TRAVIS CLARK!

APPELLANT'S [LONE] ASSIGNMENT OF ERROR: "AFTER A COMPREHENSIVE REVIEW OF THE COMPLETE RECORD, APPELLATE COUNSEL IS UNABLE TO FIND ERROR WHICH WOULD ENTITLE APPELLANT TO RELIEF!" YET, THE ABOVE LISTED INFORMATION SHOULD BE CONSIDERED AND APPELLANT IS MORE THAN WILLING AND READY TO SIGN A GUILTY PLEA AGREEMENT "INVOLUNTARY MANSLAUGHTER WITH HAVING

WEAPON WHILE UNDER DISABILITY-OR-NEGLIGENT HOMICIDE WITH HAVING A WEAPON WHILE UNDER DISABILITY-OR-RECKLESS HOMICIDE WITH HAVING A WEAPON WHILE UNDER DISABILITY!

FAR AND AWAY FROMAPPELLANT'S [LONE] ASSIGNMENT OF ERROR, APPELLANT CHALLENGES HIS CONVICTIONS AS NOT SUPPORTED BY SUFFICIENT EVIDENCES AND TOWARDS THE ABOVE THREE (3) LISTED REVISED CODES! HE ALSO ASSERTS THAT THE GUILTY (TRIAL) PLEA COURT, ANDAPPELLANT'S GUILTYPLEA INEFFECTIVE ASSISTANCE OFCOUNSEL [ERRED] IN FAILING TOCONSIDER THE DEFENSES OF [ACCIDENT] IN THISLEGAL CASE!

REVISED: TUESDAY, FEBRUARY 21ST 2012. THE APPELLANT HAD JUST STARTED ADDRESSING HIS "DEFENDANT-APPELLANT'S PRO SE MOTION FOR LEAVE TO FILE A DELAYED NOTICE OF APPEAL (PURSUANT TO SUPREME COURT OF OHIO RULES OF PRACTICE, RULE 2.2(A)(4)(2)" TO THE HONORABLE SUPREME COURT OF OHIO TO DISCUSS THE APPELLANT'S [DISMISSAL] OF MURDER WITH HAVING A WEAPON WHILE UNDER DISABILITY CHARGES AGAINST HIM WHEN HE WAS PLACED IN LEBANON CORRECTIONAL INSTITUTION (HEREINAFTERLECI) SEGREGATION FOR SOME THREE (3) MONTHS THAT SWAYED THE APPELLANT FROMENTERING THE HONORABLE SUPREME COURT OF OHIO EARLIER! THAT SHOOKED-UP HIS "DELAYED" [PRO SE] PERSONAL AND LEGAL EFFORTS THEREIN AND HEREIN!

THE ABBREVIATED SEGREGATION PROCESS FORCED THE APPELLANT TO [CANCEL] THE "DELAYED" FILING OF HIS "DEFENDANT-APPELLANT'S PRO SE MOTION FOR LEAVE TO FILE A DELAYED NOTICE OF APPEAL (PURSUANT TO SUPREME COURT OF OHIO RULES OF PRACTICE, RULE 2.2(A)(4)(2))" IN THE HONORABLE SUPREME COURT OF OHIO YET, ANOTHER RESEARCHING, RE-RESEARCHING, TYPING, BRIEFING BY THE APPELLANT DID GO AS EXPECTED AFTER HE WAS RELEASED AND GIVEN AN LECI LAW

LIBRARY PASS, IT HAS HIM BEFORE THE HONORABLE SUPREME COURT OF OHIO HEREIN AND NOW!

MIXING AN/HIS APOLOGY, LEGAL CASE LAW AND THE "DELAYED" PRIVILEGE TO [ENTER] THE HONORABLE SUPREME COURT OF OHIO WITH A LESSER INCLUDED OFFENSE(S) ALLEGATIONS OF THE ABOVE THREE (3) LISTED OHIO REVISED CODE, THE APPELLANT HOPES HIS LEGAL CASE WILL BEGIN IN THE HONORABLE SUPREME COURT OF OHIO HEREIN!

WHEREFORE, DEFENDANT-APPELLANT-DAIRES HALL-INMATE NUMBER #628-690 PRO SE, HOPES THE HONORABLE SUPREME COURT OF OHIO WILL [GRANT] HIS "DEFENDANT-APPELLANT'S PRO SE MOTION FOR LEAVE TO FILE A DELAYED NOTICE OF APPEAL (PURSUANT TO SUPREME COURT OF OHIO RULES OF PRACTICE, RULE 2.2(A)(4)(2))" TO [CORRECT] A MANIFEST ERROR IN ASSOCIATION WITH A MANIFEST MISCARRIAGE OF JUSTICE SO THAT HIS FIRST, SIXTH, FOURTEENTH CONSTITUTIONAL AMENDMENT RIGHTS ALONG WITH HIS OHIO-CONSTITUTION-ARTICLE I SECTION 1 RIGHT TO FREEDOM RIGHTS WILL [NOT] BE VIOLATED AS DEEMED NECESSARY IN THE INTERESTS OF JUSTICE.

RESPECTFULLY SUBMITTED,

Daires Hall

DAIRES HALL #628-690 PRO SE
LEBANON CORRECTIONAL INSTITUTION
PO BOX 56
LEBANON, OHIO 45036

CERTIFICATE OF SERVICE

I-THE DEFENDANT-APPELLANT-DAIRES HALL-INMATE NUMBER #628-690 PRO SE, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE FOREGOING "DEFEN-

DANT-APPELLANT'S PRO SE MOTION FOR LEAVE TO FILE A DELAYED NOTICE OF APPEAL (PURSUANT TO SUPREME COURT OF OHIO RULES OF PRACTICE, RULE 2.2(A)(4)(2))" WAS SENT BY REGULAR U S MAIL TO: MS. PAULA E ADAMS-ASSISTANCE PROSECUTING ATTORNEY-230 EAST NINTH STREET-SUITE 4000-CINCINNATI, OHIO 45202

THIS 31 DAY OF May 2012.

Daires Hall

DAIRES HALL #628-690 PRO SE

Please File Stamp And Return A Copy To Me

STATE OF OHIO)
) IN THE SUPREME COURT OF OHIO
WARREN COUNTY)

AFFIDAVIT OF DAIRES HALL

I-THE DEFENDANT-APPELLANT-DAIRES HALL-INMATE NUMBER #628-690 PRO SE, DO DEPOSE AND SAY THAT THE STATEMENTS MADE IN MY "DEFENDANT-APPELLANT'S PRO SE MOTION FOR LEAVE TO FILE A DELAYED NOTICE OF APPEAL PURSUANT TO SUPREME COURT OF OHIO RULES OF PRACTICE, RULE 2.2(A)(4)(2)" ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

FURTHER AFFIANT SAYETH NAUGHT.

Daires Hall
DAIRES HALL #628-690 PRO SE

SWORNED TOAND SUBSCRIBED BEFORE ME, A NOTARY PUBLIC, WARREN COUNTY, OHIO, THIS 11 DAY OF ~~OCTOBER 2011~~ ~~MARCH~~ MAY 2012.

Billy Dee Bailey
NOTARY PUBLIC

BILLY DEE BAILEY
NOTARY PUBLIC • STATE OF OHIO
Recorded in Butler County
My commission expires Mar. 27, 2015

STATE OF OHIO) IN THE SUPREME COURT OF OHIO
)
WARREN COUNTY)

AFFIDAVIT OF DAIRES HALL

I-THE DEFENDANT-APPELLANT-DAIRES HALL-INMATE NUMBER #628-690 PRO SE, DO SOLEMNLY SWEAR THAT UNDER THE PENALTY OF PERJURY THAT THE STATEMENTS LISTED IN MY "DEFENDANT-APPELLANT'S PRO SE MOTION FOR LEAVE TO FILE A DELAYED NOTICE OF APPEAL (PURSUANT TO SUPREME COURT RULES OF PRACTICE, RULE 2.2(A)(4)(a)," HIS "AFFIDAVIT OF DAIRES HALL," HIS "AFFIDAVIT OF INDIGENCY," AND HIS FORTHCOMING "MEMORANDUM IN SUPPORT OF JURISDICTION" ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

FURTHER AFFIANT SAYETH NAUGHT. Daires Hall
DAIRES HALL #628-690 PRO SE

SWORNED TO AND SUBSCRIBED BEFORE ME, A NOTARY PUBLIC, WARREN COUNTY, OHIO THIS 11 DAY OF MAY 2012.

Billy Dee Bailey
NOTARY PUBLIC

BILLY DEE BAILEY
NOTARY PUBLIC • STATE OF OHIO
Recorded in Butler County
My commission expires Mar. 27, 2015

RECEIVED
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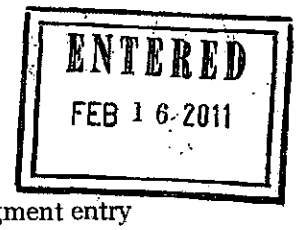
CLERK OF COURT
SUPREME COURT OF OHIO

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

STATE OF OHIO,	:	APPEAL NOS. C-100359 C-100370
Plaintiff-Appellee,	:	TRIAL NO. B-0907857
vs.	:	*JUDGMENT ENTRY.*
DAIRES HALL,	:	
Defendant-Appellant.	:	



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

Defendant-appellant Daires Hall pleaded guilty to one count of murder with a firearm specification. The trial court sentenced Hall to 18 years to life in prison.

In this appeal, as provided in *Anders v. California*,[2] Hall's appointed counsel has advised this court that, after a thorough review of the record, no arguable assignments of error exist to warrant a reversal of the trial court's judgment. Counsel has advised Hall of this determination and has asked this court to conduct an independent review of the record to determine whether the proceedings below were free from prejudicial error.[3] Counsel has also filed a motion to withdraw as Hall's attorney. Hall, on his own behalf, has asserted potential assignments of error.

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[1] See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.
[2] (1967), 386 U.S. 738, 87 S.Ct. 1396.
[3] See *State v. Dorsey*, 1st Dist. No. C-070147, 2007-Ohio-5869; *State v. Mackey* (Dec. 17, 1999), 1st Dist. No. C-990302; *Freels v. Hills* (C.A.6, 1988), 843 F.2d 958.

After reviewing the entire record, we are satisfied that Hall's counsel has provided his client with a diligent and thorough search of the record and has correctly concluded that the proceedings below were free from prejudicial error.[4] We hold that no grounds exist to support a meritorious appeal. Therefore, we affirm the trial court's judgment and overrule counsel's motion to withdraw. We find the appeal to be frivolous under App.R. 23 and R.C. 2505.35, but refrain from taxing costs and expenses against Hall because he is clearly indigent.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

DINKELACKER, P.J., HENDON and FISCHER, JJ.

To the Clerk:

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

per order of the Court Patrick Dinkelacker

Presiding Judge

ENTERED
FEB 16 2011

[4] See *Penson v. Ohio* (1988), 488 U.S. 75, 109 S.Ct. 346; *Dorsey*, supra.