

IN THE OHIO SUPREME COURT

12-0986

Case No. _____

State Ex.Rel.Antwan D.Colvin,
PO.BOX.209.Orient Ohio.43146.

Relator.

**Original Action Writ Of
Prohibition:**

v

Montgomery County Common Pleas
Court. Judge Mary Katherine
Huffman.3 Courthouse.41 N.Perry
St.Dayton Ohio 45402-2155.

RECEIVED
JUN 08 2012
CLERK OF COURT
SUPREME COURT OF OHIO

Antwan D.Colvin#611-116.PO.BOX.209
Orient Ohio 43146.Pro,Se,Counsel
For The Relator.-----
Montgomery County Common Pleas Court.
Judge Mary Katherine Huffman.3 Court-
house.41 N.Perry St.Dayton Ohio 45402-
2155.

FILED
JUN 08 2012
CLERK OF COURT
SUPREME COURT OF OHIO

Verified Petition.

JURISDICTION OF THE COURT

The Ohio Supreme Court has Jurisdiction over a original action for writ of prohibition and the court Jurisdiction is invoked under Ohio Constitution Article IV §2(B)(1); (B1).The supreme court shall have original Jurisdiction in the following;

(b).Prohibition.State v Ex.Rel.Smith v Yost 2005 App.Lexis 675

A writ of prohibition can lie to require a judge to correct the results of a prior act on which he lacked the jurisdiction to perform.State Ex.Rel.Litty v Leskovyansky,1996, 671 NE2d.236,Accordingly if the relator could satisfy the element of a writ of prohibition a writ could issue requiring the vacation of the conviction.State Ex.Rel.Sliwunski v Unruh,886 NE2d.201(2008)To be entitled to the writ of prohibition a relator has to establish that,1).A Judge was about to exercise judicial or quasi-judicial power;2). The exercise of that power was unauthorized by law;3).Denying the writ would result in injury of which no other adequate remedy exists in the ordinary course of law.State Ex. Rel.Bell v Pfeiffer,961 NE2d.181(2012).

Respondent Huffman common pleas court montgomery county ohio is about to exercise judicial powers in continuing a course of action the respondent has no legal authority or jurisdiction to continue such action.Pratts v Hurley 806 NE2d.992(Ohio 2004),Subject matter jurisdiction goes to the power of the court to adjudicate the merits of a case,It can never be waived and maybe challenged at any time.United States v Cotton,2002,535 U.S.625,630,122 SCT.1781.State Ex.Rel.Tubbs Jones v Suster(1998)701 NE2d.1002,It is a condition precedent to the court ability to hear the case,

if a court acts without jurisdiction then any proclamation by that court is void **Patton v Diemer**, 518 NE2d.941(Ohio 1988)The term jurisdiction is also used when referring to a court exercise of its jurisdiction over a particular case.**State v Parker**, 95 Ohio St.3d.2002 Ohio 2833,769 NE2d.846,**State v Swiger**(1998)125 Ohio App3d.456,462,708 NE2d.1033,The third category of jurisdiction, Jurisdiction over the particular case encompasses the trial court authority to determine a specific case within that class of cases that is within its subject matter jurisdiction it is only when the trial court lacks subject matter jurisdiction that its judgment is void;

Lack of jurisdiction over the particular case merely renders the judgment voidable **Parker at p.2;Swiger 125 Ohio App.3d.at 462,708 NE2d.1033**,Once a tribunal has jurisdiction over both the subject matter of a action and the parties to it the right to hear and determine it perfect and the decision of every question thereafter arising it but the exercise of the jurisdiction thus conferred.**State Ex.Rel.Pizza v Reyford** (1992)62 Ohio St3d.382,384,582 NE2d.992.

- 1).Relator entered a plea of guilty to one count of failure to comply with order or signal of police officer in violation of R.C.2921.331 before the trial court.
- 2).Without delay the trial court imposed a(2)Two years sentence upon the relator.
- 3).MAR.29th 2012,The Adult Parole Authority-(hereafter-APA)approved the relator placement in Transitional Control(TC)pursuant to R.C. 2967.29 and DRC policy 5120-12-01(A)(C),5120-12-02(E)Screening selection And Notice Of Transfer.

- 4).The(APA)notified the respondent pursuant to DRC.policy 5120-12-02 (E)of the relator pending release on(TC).
- 5).APRIL 5th 2012,The respondent adjudicated or disapprove the relator placement on(TC)**R.C.2967.26**
- 6).Respondent committed prejudicial error when the trial court rendered its disapproval of the relator placement on(TC).
- 7).The record show,at the relator sentencing hearing of JUNE 1st 2010 the respondent failed to adjudicate whether or not the court would approve,disapprove and or recommend to the (APA)relator participation in the(TC)program as required by Ohio law **R.C.2929.19(D)**which states;
(D).The sentencing court pursuant to division(I)(1)of section 2929.14 of the revised code may recommend placement of the offender in a program of shock incarceration under section 5120-031 of the revised code or an intensive program prison under section 5120-032 of the revised code **disapprove placement** of the offender in a program or prison of that nature or make no recommendation if the court recommends or disapproves placement **it shall make a finding that gives its reasons for its recommendation or disapproval.**
- 8).The respondent sentencing entry fail to make any findings on the record whether or not the relator would be entitled to placement on (TC).

State v Howard,944 NE2d.258(2010)We conclude that trial court erred when it disapproved of shock incarceration and intensive program prison without making the findings required by R.C.2929.19(D)

State v Porcher 2011 Ohio App.Lexis 4885,A trial court error when it disapproves of shock incarceration or intensive program prison without making certain finding required by 2929.14.

9).Respondent does not have to impose(TC)placement under R.C.2929.14

But once the trial court adjudicated its intent of disapproval of the relator participation in the program,respondent had to place they reasons on the record at the sentencing hearing R.C.2929.19(D) which respondent fail to do so.

10).Since the respondent failed to place its reasons on the record at the sentencing hearing,respondent has no legal authority to disapprove the relator placement on(TC) and or no jurisdiction to render judgment upon the subject matters R.C.2929.19(D)**State**

v Beasley

State v Beasley,471 NE2d.774(Ohio 1994)The function and duty of a court is to apply the law as written,crimes are statutory as are the penalties and the only sentence which a trial judge may impose is that provide for by statute.A court has no power to substitute a different sentence for that provide for by law.**State v Simpkins,884 NE2d.586(Ohio 2008) State v Long,372 NE2d.804(Ohio 1978)**

11).Respondent is about to disregard ohio law R.C.2929.19(D)and continue this course of action of disapproval of the relator (TC)placement when the trial court does not have any jurisdiction to continue such action a manifest injudtice has occurred in this case where no adequate remedy exist in the ordinary course of the law except through this writ.

CONCLUSION

Respondent is without jurisdiction to rendered any judgment of disapproval of the relator placement on(TC).

Relator move the court to issue this writ against the respondent and order them to remove their judgment of disapproval off the record where the relator could receive placement on(TC).

Submitted By

Antwan D. Colvin #611-116

Antwan D. Colvin #611-116. P.O. BOX. 209
Orient Ohio 43146.

DATE 6-1-2012

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State Ex.Rel.Antwan D.Colvin,
Relator.

Montgomery County Common Pleas Court.
Judge Mary Katherine Huffman,
Respondent.

Original Action Writ Of
Prohibition:

STATE OF OHIO§
COUNTY PICKAWAY§

Verification Of Petition

I Antwan D.Colvin#611-116,Certify and Verify as the affiant first
dulty cautioned to the penalty of perjury Do somnly swear the following statements
raised in the writ of prohibition are true and correct to the best of my knowledge
and I have personal knowledge of all the facts herein;I'm competent to testify to
the same.

Submitted By
Antwan D. Colvin

Antwan D.Colvin#611116.PO.BCX.209 Orient
Ohio 43146.

Sworn to me a notary public in the State Of Ohio,County of Pickaway Ohio,and
Subscribed in my presence on this 1st day of June 2012.



OSCAR YOUNG, Notary Public
In and for the State of Ohio
My Commission Expires Feb. 28, 2017

Oscar Young
NOTARY