

IN THE SUPREME COURT OF OHIO

**BUREAU OF SENTENCING COMPUTATIONS
CHIEF MELISSA ADAMS
(OR, IF MELISSA ADAMS IS NO LONGER
ACTIVE, THEN CURRENT CHIEF OF BUREAU
OF SENTENCING COMPUTATIONS)**

Respondent,

Case No.: CR-06-487880-A

12-1430

v.

HECTOR JOHNSON
Relator.

**RELATOR HECTOR JOHNSON'S MOTION FOR WRIT OF MANDAMUS
(COMPLAINT)**

Now comes Hector Johnson, Relator pro se, and hereby Moves this Honorable Court to issue a Writ of Mandamus, directing the Respondent to credit Relator with jail time credit which was granted Relator by the Cuyahoga County Court of Common Pleas on March 30th, 2012. Since the granting of his Motion, Relator has yet to be credited the jail-time credit granted, despite writing to BOSCO and requesting the he be credited. Respondent has a clear legal duty to credit Relator with the jail-time granted to him by the Court, and Relator has no other adequate remedy at law to receive this credit other than to file this Mandamus. Details are set forth in the Memorandum in Support attached hereto. Relator thanks this Honorable Court for its time in this matter.

Respectfully Submitted,

Hector Johnson
HECTOR JOHNSON, #554-375

PO Box 540
68518 Bannock Road
St. Clairsville, Ohio 43950-0540

RECEIVED
AUG 22 2012
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
AUG 22 2012
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Case No.: LR-06-487880-A

Respondent,

v.

HECTOR JOHNSON
Relator.

AFFIDAVIT OF HECTOR JOHNSON

I, Hector Johnson, do hereby solemnly swear that I have filed one Civil Action in the previous five years:

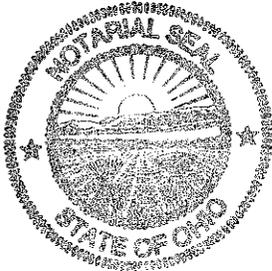
3. Writ for Habeas Corpus, U.S. District Court, Northern District of Ohio, Eastern Division, filed in May of 2011.

Respectfully Submitted,



HECTOR JOHNSON, #554-375
PO Box 540
68518 Bannock Road
St. Clairsville, Ohio 43950-0540

Sworn to and subscribed in my presence on this 4 day of May, 2012



Jay Meager
Notary Public
in and for the State of Ohio
My Commission Expires
12-19-12



NOTARY PUBLIC

IN THE SUPREME COURT OF OHIO

BUREAU OF SENTENCING COMPUTATIONS
CHIEF MELISSA ADAMS
(OR, IF MELISSA ADAMS IS NO LONGER
ACTIVE, THEN CURRENT CHIEF OF BUREAU
OF SENTENCING COMPUTATIONS)

Case No.: 21-06-487880-A

Respondent,

v.
HECTOR JOHNSON
Relator.

AFFIDAVIT OF VERITY OF HECTOR JOHNSON

I, Hector Johnson, do hereby solemnly swear that the facts contained within this Motion for Writ for Mandamus (COMPLAINT) are true and correct to the best of my knowledge and belief.

I have filed a Motion for Jail Time Credit to receive credit for time I spent in New Jersey awaiting extradition to Ohio for the case I am currently incarcerated on. That jail time credit was granted, however, the time was never credited to me by the Bureau of Sentence Computations. I have written to BOSCO, and have been ignored.

I feel I have a legal right to be credited the time granted to me by the Courts, and I feel I have no other legal recourse to obtain that time other than to file this Mandamus.

Respectfully Submitted,

Hector Johnson
HECTOR JOHNSON, #554-375
PO Box 540
68518 Bannock Road
St. Clairsville, Ohio 43950-0540



Jay Meager
Notary Public
In and for the State of Ohio
My Commission Expires
12-19-12

Sworn to and subscribed in my presence on this 14 day of May, 2012

Jay Meager
NOTARY PUBLIC

MEMORANDUM IN SUPPORT

Relator filed, with the Cuyahoga County Clerk of the Common Pleas Court, a Motion for Jail Time Credit, which was Time-Stamped by the Clerk of Court on the 13th day of February, 2012. Relator never actually received a journal entry in the mail in regards to this Motion, however, when he inquired to his Case Manager about the status of his Motion, his Case Manager informed him that his Motion had been granted on March 30th, 2012. Despite this fact, Relator's out-date had not been changed.

Relator then wrote to the Cuyahoga County Clerk of Courts on June 27th, 2012, explaining the situation. In his letter, Relator requested verification that his Jail Time Credit Motion had been granted so that he could send it to the Bureau of Sentence Computations and request them to credit him with the time granted him by the Court. Shortly thereafter, Relator received a copy of the Journal Entry granting the Motion.

Relator then promptly wrote a letter, with the journal entry attached, to BOSCO explaining his situation and asking that the credit granted him by the Court be credited to him and his out-date be adjusted accordingly. To date, Relator has never received any sort of response from BOSCO, nor has his out-date changed at all.

Relator is attempting to be credited for time that he spent awaiting extradition to Ohio from New Jersey in regards to the case for which he is currently incarcerated. Relator signed extradition papers for Ohio on September 23rd, 2007, and was held from that date awaiting extradition. According to law, Relator's time towards his sentence should begin to run on the day that he signed the extradition papers.

*STATE OF OHIO, Plaintiff-Appellee, - vs - GRANT PAINTER, Defendant-Appellant, 2009 Ohio 4929, *; 2009 Ohio App. LEXIS 4178, **: "Credit is to be given for time spent awaiting extradition on the subject offense. Even though credit for time served while awaiting extradition is not listed in the statute, it does not preclude a defendant from receiving credit for that time served as long as the reason for the confinement*

arose out of the offense for which the prisoner was convicted and sentenced.”

After being extradited, Relator was sentence in that case to a five year definite sentence. However, his current out-date is set for October 3rd, 2012. Common sense dictates that, since Relator was sentenced to a five year definite sentence, and there are two leap years within that particular five year span, then Relator's out-date should be set for September 21, 2012. It is not, and all jail time credit has been granted by the Courts. Therefore, since the Court has already made a factual determination as to the number of days of confinement that Relator is entitled to have credited towards his sentence, it is now the clear legal duty and responsibility of the O.D.R.C., or more specifically, the branch of the O.D.R.C. which deals with calculating jail time credit, BOSCO, the Respondent in this case, to adjust Relator's out-date accordingly. This fact has been repeatedly held by Ohio State Appellate Courts.

“Although the Ohio Department of Rehabilitation and Correction has a mandatory duty pursuant to R.C. 2967.191 to credit an inmate with jail time already served, it is the trial court that makes the factual determination as to the number of days of confinement that a defendant is entitled to have credited toward his sentence.”

Id. at: *CHARLES A. WILLIAMS, Plaintiff v. OHIO DEPARTMENT OF REHABILITATION AND CORRECTION*, 2008 Ohio 7060, *; 2008 Ohio Misc. LEXIS 286, **; *DONALD SHUCK, Plaintiff v. DEPARTMENT OF REHABILITATION AND CORRECTION, Defendant*, 2009 Ohio 644, *; 2009 Ohio Misc. LEXIS 1, **; *STATE OF OHIO, Plaintiff-Appellee vs. MARK E. COYLE, Defendant-Appellant*, 2010 Ohio 2130, *; 2010 Ohio App. LEXIS 1758, **; *STATE OF OHIO, Plaintiff-Appellee - vs- KIMBERLY A. FARNER, Defendant-Appellant*, 2012 Ohio 317, *; 2012 Ohio App. LEXIS 267, **.

CONCLUSION

Relator hereby respectfully moves this Honorable Court to issue a Writ of Mandamus in this matter compelling Respondent to adjust Relator's out-date in accordance with the jail-time credit

granted to Relator by the Courts. Respondent clearly has a legal obligation to do so, and has not fulfilled that legal obligation. Relator thanks this Honorable Court for its time and consideration in this matter.

Respectfully Submitted,


HECTOR JOHNSON, #554-375
68518 Bannock Road
St. Clairsville, Ohio 43950-0540

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion was sent by regular U.S. mail to the Cuyahoga County Prosecutor's Office on this the 8 day of 15, 2012.

Respectfully Submitted,


HECTOR JOHNSON, #554-375
PO Box 540
68518 Bannock Road
St. Clairsville, Ohio 43950-0540

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Case No.: CJ-06-487880-A

Respondent,

v.

HECTOR JOHNSON
Relator.

Affidavit of Indigency

I, Hector Johnson, do hereby state that I am without the necessary funds to pay the costs of this action for the following reason(s):

1. I am a State Prisoner incarcerated in a Correctional Institution within the State of Ohio, stationed in the City of St. Clairsville, County of Belmont and that I am without the necessary funds with which to pay for the cost of this action;
2. I am without possession of real or personal property and assets of sufficient value with which to offer as security for such costs;
3. I am a true indigent and pauper within the meaning of the law.
4. I make only \$ 15 a month, and only have access that money for a couple weeks out of the month.
5. I must use that money to pay for hygiene, co-pay medical and dental, pay for materials to perfect legal documents, postage to mail legal documents and to stay in contact with

family and friends, and all other necessities required for basic minimum survival within prison.

As a result of the above stated facts, I cannot pay for any legal financial obligations which my come with the filing of this appeal, nor can I afford to make all copies required by Supreme Court Rules.

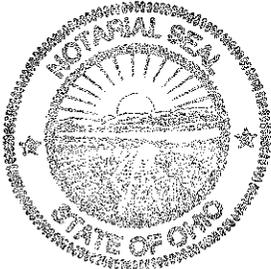
Pursuant to Rule 15.3, of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived, and I am also further requesting that this Honorable Court accept the copies sent and waive the rule in regards to the number of copies required for the filing of this appeal.

I thank this Honorable Court for its time and consideration in this matter.

Hector Johnson
HECTOR JOHNSON, #554-375
Affiant

Sworn to, or affirmed, and subscribed in my presence this 14 day of August, 2012.

J. Meager
Notary Public



Jay Meager
Notary Public
In and for the State of Ohio
My Commission Expires

Hector Johnson
My Commission Expires: 12-19-12