

IN THE SUPREME COURT OF OHIO

13-0341

KENNETH PRUITT,
Petitioner,

Court No. _____
Trial Case No. B0901851

v.

BRIAN COOK, WARDEN,
Respondent.

PETITION FOR WRIT OF HABEAS
CORPUS/ MOTION FOR SUMMARY
JUDGMENT.

(Immediate Hearing Requested)

In the interest of Justice, pursuant to Ohio Revised Code 2725.01 and 2725.04, Petitioner, Kenneth Pruitt, a Prisoner in the Pickaway Correctional Institution, petitions this Honorable Court to issue a writ of Habeas Corpus ordering Brian Cook, Warden, to bring petitioner before this Court for a hearing and thereafter to issue an Order terminating the petitioner's unlawful detention.

In accordance with Ohio Revised Code 2725.04, the Petitioner "Kenneth Pruitt" states: Petitioner is being restrained of his Liberty at Pickaway Correctional Institution, due to jail time credit previously granted by the trial court on February 17th, 2011, and that based on the attached Memorandum In Support and Supporting Documents; Brian Cook, Warden of Pickaway Correctional Institution, refused to enforce such jail time credit, and is restraining Petitioner of his Liberties based on the Attached Memorandum and Supporting Documents, at Pickaway Correctional Institution, and copies of the commitment papers or cause of detention of Petitioner is attached with this Petition for Writ of Habeas Corpus, which support the claim that petitioner's detention is unlawful.

Respectfully Submitted,

Kenny Pruitt
KENNETH PRUITT, Pro se

BRIAN COOK, WARDEN
Pickaway Correctional Inst.
11781 State Route 762
Orient, Ohio 43146
Respondent

KENNETH PRUITT #A635780
Pickaway Correctional Inst.
P.O. Box 209
Orient, Ohio 43146
Petitioner-Pro se

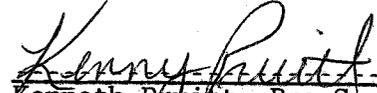
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FEB 25 2013
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
FEB 25 2013
CLERK OF COURT
SUPREME COURT OF OHIO

VERIFICATION CLAUSE

Undersigned Petitioner, Kenneth Pruitt, verifies the truth and accuracy of the allegations made in this Petition for Writ of Habeas Corpus, pursuant to Ohio Revised Code 2725.04.

Respectfully submitted,



Kenneth Pruitt, Pro Se

Sworn to and Subscribed in my presence, a Notary Public for the State of Ohio, in the County of Pickaway, this 19 day of February, 2013.



Notary Signature Carl Bridgforth
Notary Public, State of Ohio
My Commission Expires 06-02-2014


MEMORANDUM IN SUPPORT

On or about March 26th, 2009, Petitioner was indicted by the Hamilton County Grand Jury on three counts for violation of R.C. 2925.11(A), Possession of Cocaine, One third degree felony and two first degree felonies, and One count for violation of R.C. 2925.03(A)(1), Trafficking in Cocaine, a second degree felony, on two counts for violation of R.C. 2925.03(A)(2), Trafficking in Cocaine, first degree felonies, and on One count for violation of R.C. 2923.13 (A)(2), Having Weapons While Under Disability, a third degree felony.

On March 22nd, 2010, Petitioner, as part of a Plea Bargain, plead guilty to all counts set forth in the indictment.

On July 28th, 2010, Petitioner was sentenced to five (5) years in prison to be served in the Ohio Department of Rehabilitation and Correction. However, the Sentencing Entry filed on August 3rd, 2010, was vague as to the amount of credit for time served the petitioner was promised to be credited towards his

sentence. **See Attachment A.**

On August 11th, 2010, Petitioner filed a Motion for Jail Time Credit in the Common Pleas Court, and on August 24th, 2010, the Sentencing Judge, granted Petitioner's Motion as filed. Note: There was no Memorandum In Opposition filed by the Prosecuting Attorney.

On September 22nd, 2010, Petitioner was Re sentenced for Post Release Control Notification, following the granting of Petitioner's Motion. However, the Entry filed on December 13th, 2010, was also vague, and omitted the number of days Petitioner was granted to be credited towards his sentence. **See Attachment B.**

On December 13th, 2010, after correspondence with the Respondent's Bureau of Sentence Computation, Petitioner filed a second Motion to the trial court seeking clarification of the specific amount of local jail credit the Petitioner was entitled to have credited towards his sentence. **See Attachment (C).**

On February 17th, 2011, the Trial Court forwarded its determination of local jail credit, in another Entry Granting Motion For Jail Time Credit, to the Respondent, for a total of 1,530 days of jail credit, which included any credits previously granted. **See Attachment D.**

On February 17th, 2011, the Adult Parole Authority acknowledged the Trial Courts determination of local jail credit, and made their determination that the Petitioner, "as a result of the 02/17/2011 assessment", will be placed under Post Release Control, with the Tentative Start Date of 05/23/2011. **See Attachment (E).** **Note:** The Notification was signed by the Parole Hearing Officer and "CC" to all parties listed on the PRC Notification. **See Attachment (E).**

The respondent neglected its statutory duty to ascertain accurate expiration of the Petitioner's sentence date (ESD), failing to follow the original Sentencing Court's Entry of February 17th, 2011, signed by the Sentencing Judge Nadel. **See Attachment (H).**

The Respondent's Record Office is required to reduce an inmate's sentence

by the number of days specified in the Sentencing Court Entry, plus the number of days the offender was confined between the date of the entry and the date he was committed to the institution. Ohio Adm. Code 5120-2-04(D). See Stroud v. Dept. of Rehabilitation and Correction, Not Reported in N.E. 2d, 2003 WL 220549, Ohio Ct. CL. 2003.

Crim.R. 32.2(D) provides that : In addition, if the defendant is committed to a penal or reformatory institution, the Court shall forward a statement of the number of days confinement which the defendant is entitled to have credited to his minimum or maximum sentence. Furthermore, the respondent cannot ignore the determination of the Common Pleas Court and make their own determination based upon inquiries rather than any type of more formal administrative*** 117 determination.

The law has been and still is clear that, "although the Adult Parole Authority 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 confinement that a defendant is entitled to have credited towards his sentence. "State ex rel. Rankin v. Ohio Adult Parole Authority, 98 Ohio St. 3d 476, 786 N.E. 2d 1286, 2003-Ohio-2061, ¶ 7.

The Respondent is required to obey any order issued by a Court within its jurisdiction or power. As stated in 1981 Op. Atty. Gen. No. 81-053 at 2-210: where a Court has issued an order within its jurisdiction or power, disobedience of such Order is Contempt. See Attachment (H) paragraph 3.

If the situation were to arise where the Respondent questions a Court's authority to issue a particular order, or where a particular order is unclear as to the specific duties it impose upon the Respondent, it would be necessary for a Defendant or Counsel to contact the Court or the Prosecutor who handled the case, and request or seek a modification or clarification from the Sentencing Court.

Note: When the Petitioner's, Entry Granting Motion For Jail Time Credit was un-

clear, as to the exact amount of local jail credit the Petitioner was to receive (in the Entry filed August 24th, 2010), Petitioner, upon request from the Respondent, filed an additional Motion on December 13th, 2010, seeking Clarification of the intended Credit for Time Served. The Sentencing Judge Nadel, then confirmed that Credit in another Entry Granting Motion For Jail Time Credit, filed on February 17th, 2011. That order became the Judgment of the case and it was not appealed by any party, which made it a Final Judgment. See Attachment (D).

Even after the Court provided the Respondent with an Entry to clarify its erroneous interpretation of local jail credit and the intended sentence of Petitioner, which was personally handwritten and signed by the sentencing Judge Nadel, the Respondent refused to acknowledge the Court's authority, as well as the Adult Parole Authority's decision and Notification, both filed on February 17th 2011. See Attachment (D), (E), & (H) Paragraph 3.

Petitioner filed a writ of Mandamus on March 8th, 2012, which was dismissed on May 9th, 2012, and Petitioner was advised that Habeas Corpus rather than Mandamus was the proper action, by both, the Assistant Attorney General and the Ohio Supreme Court. See: **State ex rel. Rudolph v. Horton**, 119 Ohio St. 3d 350, 2008-Ohio-4476, 894, N.E. 2d 49, ¶ 3.

Pursuant to **State ex rel. Dailey v. Morgan**, 761 N.E. 2d 140 (Ohio Com. Pl. 2001), which is attached to and made apart of this petition: The Respondent "did not have authority to interpret or alter the clear and unambiguous statement in the trial court's judgment that awarded petitioner 1,530 days of local jail credit, even if the stated credit was contrary to law. See Attachment (G).

It is neither the prerogative of the Respondent, nor its authority, to refuse to enforce the unambiguous order of the Common Pleas Court, which clearly stated the amount of credit for time served the Petitioner was entitled to have credited toward his sentence. The entry dated February 17th, 2011, became the judgment of the case and was not appealed by any party. Indeed, the Respondent is not even a party of the Hamilton County Case and an Appeal would necessarily

need to be initiated by the local prosecutor's office that was responsible for prosecuting the underlying criminal offenses. In this case, the Prosecutor's office that was responsible for prosecuting the underlying criminal offenses: In this case, (the Prosecutor) did not file a Memorandum In Opposition (to either Motion **in this case**) to either Motion for Jail Time Credit filed in this case, nor did he appeal the Final Order filed on February 17th, 2011, because the credit granted to the petitioner was honored as part of a plea bargain.

The duty of the Respondent was to carry out the judgment of the court, and nothing more. To permit the Respondent to do otherwise would be to destroy the sanctity and finality of judgments. In this case, instead of carrying out the Order of the Common Pleas Court, the Respondent ignored the Court's Order and the court's determination of local jail credit, and made their own determination, by calling the Court's Bailiff, who is not even a party of the Hamilton County Case, and has no authority to interpret or alter the clear and unambiguous statement in the Trial Court's Judgment. For that reason, the Respondent was in **Contempt** once the Respondent received the clear and unambiguous Order from the trial court, and instead of entering the amount of local Jail Time Credit into the computer, the Respondent made a phone call. It is from the Respondent's interpretation of that Sentence and Entry (Order) that the problem arises. **See Attachment (F) and (H) Paragraph 3.**

The principle of finality of judgments has always been protected by the Courts. "A final judgment brings closure, certainty, and possibly a commitment to changed future behavior. These are societal benefits as well as benefits to the parties. **Wrongs are Righted through Judgments**".

Respectfully, if the Respondent would have simply complied with the Trial Court's Original (Order) Sentencing Entry filed on February 17th, 2011, which was properly forwarded to their office, and exercised their clear legal duty to ascertain accurate expiration of the Petitioner's sentence, as the Adult Parole

Authority did, the Petitioner would have been released, May 23rd, 2011, subject to only the sanctions of Post Release Control, as previously imposed by the Ohio Adult Parole Authority on February 17th, 2011. **See Attachment D & E.**

As a general proposition, Petitioner is also being held on a Void Sentence as of this date. Petitioner's case was reversed and remanded to the trial Court for a merger of the Allied Offenses in his case. The trial court lacked jurisdiction and authority to Re Sentence Petitioner to a new sentence.

LAW OF THE CASE DOCTRINE

LAW OF THE CASE DOCTRINE "provides that the decision of a reviewing court in a case remains the law of that case on the legal questions involved for all subsequent proceedings in the case at both the trial and reviewing levels." **Nolan v. Nolan, 11 Ohio St. 3d 1, 3, 11 Ohio B. 1, 462 N.E. 2d 410 (1984).** This rule "is necessary to ensure consistency of results in a case, to avoid endless litigation by settling the issues, and to preserve the structure of superior[**9] and inferior courts." *Id.* The law of the case doctrine requires lower courts to follow the mandates of reviewing courts when "confronted [on remand] with substantially the same facts and issues as were involved in the prior appeal." *Id.* Thus, litigants are not permitted to make new arguments to the trial court on remand that were raised or could have been raised on the first appeal. "[A]ll questions which existed on the record, and could have been considered on the first petition in error, must ever afterward be treated as settled by the first adjudication of the reviewing court." **Charles A. Burton Inc. v. Durkee, 162 Ohio St. 433, 438, 123 N.E. 2d 432 (1954)(quoting Pollock v. Cohen, 32 Ohio St. 514, 519 (1877)).**

"This is, when the trial court renders a decision on a particular issue, and that decision is both final and appealable, then following such appeal or waiver of appeal, the aggrieved party is precluded from resubmitting this same issue to the trial court in an effort to obtain a different result." **Rehoreg v.**

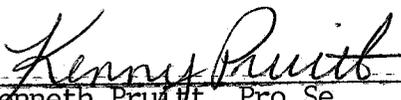
Stoneco, Inc. 9th Dist. No. 04 CA 008481, 2005 Ohio 12, at P10. Whereas, after the trial court granted Pruitt's Motion For Jail Time Credit on February 17th, 2011, and forwarded that Entry to the Respondent, it became the Judgment of the case. The February 17th, 2011 Entry Granting Motion For Jail Time Credit was not appealed by any party. See, **State ex rel. Dailey v. Morgan, 761 N.E. 2d 140.**

The Ohio Adult Parole Authority determined that Pruitt will be placed under Post Release Control with the Tentative Start Date of May 23rd, 2011, as a result of the 2/17/2011 assessment. **NOTE: Respondent had no authority to refuse to enforce that particular Order or contact the Judge's Office. In the same instance, a Bailiff has no authority to re do a Court's Order. See Exhibit (H).**

Pruitt's case was reversed and remanded back to the trial court for a merger of the allied offenses "**only**" after Appellate Review by the First District Court of Appeals, on September 30th, 2011, which was 4 months after Pruitt's original sentence and start date of PRC had expired. On remand, All other aspects of the case was affirmed. Pruitt and the State was then precluded from raising or resubmitting any issues regarding jail time credit in his case. Wherefore, Any error regarding the calculation of jail time credit contained in the Entry Granting Motion For Jail Time Credit, filed by the trial court on February 17th, 2011, was waived when the State and Pruitt failed to appeal that particular issue. Pruitt was not Re sentenced until November 7th, 2011, almost 6 months after his original sentence and start date of PRC had expired. The trial court exceeded its authority when it attempted to re sentence Pruitt on aspects of his sentence that were not Void or appealed, such as jail time credit previously granted. See, **State v. Fischer, 128 Ohio St. 3d 92, 2010-Ohio-6238 N.E. 2d 332, also State v. Gibson, 2011 Ohio 566;** Respondent's Record Office has Pruitt starting this new sentence on November 9th, 2011, which is considered **Double Jeopardy, Void,** and Contrary to Law. **See Attachment (I) and (J).**

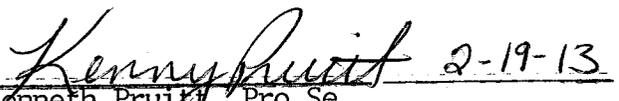
Therefore, based on the foregoing, Petitioner respectfully request that this Honorable Court Grant Writ of Habeas Corpus, and Order, Adjudge, and Decree that the Respondent immediately release Petitioner, Kenneth Pruitt, from confinement subject to only such sanctions of Post Release Control, as previously determined and imposed by the Ohio Adult Parole Authority, or issuance of any alternative Writ this Honorable Court deems necessary and just by this Honorable Court for adequate relief. Petitioner is entitled to immediate relief and release from confinement according to law, as well as conformity of the 14th Amendment to the United States Constitution, due process of law.

Respectfully submitted,


Kenneth Pruitt, Pro Se
P.O. Box 209 - P.C.I.
Orient, Ohio 43146

CERTIFICATE OF SERVICE

I, Kenneth Pruitt, certify that a copy of the foregoing Petition for the Writ of Habeas Corpus was mailed by regular U.S. Mail to the Warden Of Pickaway Correctional Institution at 11781 State Route 762, Orient, Ohio 43146, or at the designated location in the Ohio Supreme Court, Clerk of Courts Office, on the filed stamp date.


Kenneth Pruitt, Pro Se
#635-780
P.O. Box 209 - P.C.I.
Orient, Ohio 43146

AFFIDAVIT OF VERITY

I, Kenneth Pruitt, being competent to testify in a Court of Law and being able to do so with personal knowledge of the facts, do hereby depose and state, having first been duly sworn and cautioned as to the penalty of perjury, that in accordance with Ohio Revised Code 2969.25; I have filed other Civil actions in the last five (5) years; On May 17th, 2010, I filed a Federal Habeas Corpus, raising issues of pretrial Motions denied with out FFCL; **Kenneth Pruitt v. State of Ohio, 1:10-CV-313, U.S. District Court, Southern District of Ohio, Western Division**; State of Ohio and the Hamilton County Court of Common Pleas; and that Federal Habeas Corpus was dismissed without prejudice on June 25th, 2010, for being premature;

On May 24th, 2011, I filed a Federal Habeas Corpus, raising issues of jail time credit previously granted by the trial court, that Brian Cook refused to enforce; **Kenneth Pruitt v. Brian Cook, Warden, 1:11-CV-340, U.S. District Court, Southern District of Ohio, Western Division**; Brian Cook, Warden; That Petition was also dismissed without prejudice on March 6th, 2011, for being premature;

On March 8th, 2012, I filed a Writ of Mandamus, raising the issue that ODRC refused to follow the original order of the Hamilton County Court of Common Pleas, Entry Granting Motion For Jail Time Credit on February 17th, 2011; **Kenneth Pruitt v. Ohio Department Of Rehabilitation And Correction, Case No. 2012-0404, In The Ohio Supreme Court**; The writ was dismissed on May 9th, 2012, although the Respondent did not dispute the facts within the writ, I was advised that Habeas Corpus rather than Mandamus was the proper remedy;

On June 5th, 2012, I filed a Petition For Writ of Habeas Corpus, raising identical issues concerning Jail time credit previously granted , the Respondent's refusal to enforce that jail time credit, and that I was deprived of my Liberty at Pickaway Correctional Institution; **Kenneth Pruitt v. Brian Cook, Warden, Case No. 2012 CI 245, Pickaway County Court of Common Pleas**; The Petition was dismissed on November 14th, 2012, for failure to attach my most current commitment papers,

which were Void, Moot, and irrelevant to my Petition;

A timely Notice of Appeal was filed in the Fourth District Court Of Appeals from the dismissal of my Petition for Writ of Habeas Corpus; **Kenneth Pruitt v. Brian Cook, Warden, Case No. 12CA22; Fourth District Court of Appeals;** The Appeal was dismissed, Sua Sponte, because I filed the wrong Affidavit of Indigency, pursuant to R.C. 2969.25, although the Affidavit I filed was provided to me by the Law Library here at the Pickaway Correctional Institution;

On December 6th, 2012, I filed a Complaint in the Ohio Court of Claims, raising the issue of False Imprisonment and Monetary Relief; **Kenneth Pruitt v. Ohio Department of Rehabilitation And Correction, Case No. 2012-08591;** In The Court of Claims of Ohio; A timely Motion For Declaratory Judgment was also filed in this case; The Complaint was dismissed on January 29th, 2013 on the Defendant's Motion on the pleadings, and the Motion For Declaratory Judgment was rendered moot;

On February 7th, 2013, a timely Notice of Appeal was filed in the Tenth District Court of Appeals, from the dismissal of the Complaint; **Kenneth Pruitt v. Department of Rehabilitation And Correction, Case No. 2012-08591;** this Appeal is currently pending; this Petition For Writ of Habeas Corpus Follows;

I, Affiant, Petitioner, Kenneth Pruitt further asserts waiver of prepayment, and that the information submitted in this Petition For Writ of Habeas Corpus is true and correct to the best of my perception; and the supporting attachments are admissible as evidence in a Court of Law;

Further Affiant Sayeth Naught.


KENNETH PRUITT # A635780
Affiant In Pro se

Pickaway Correctional Institution
P.O. Box 209
Orient, Ohio 43146

Sworn to, affirmed and subscribed in my presence this 19 day of February 2013.

Carl Bridgeforth
NOTARY PUBLIC
My Commission Expires on:

[SEAL]



Carl Bridgeforth
Notary Public, State of Ohio
My Commission Expires 06-02-2014

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 07/28/2010
code: GJEI
judge: 109

RECORDED
AUG 03 2010

Attachment
#A



[Signature]
Judge NORBERT A NADEL

NO: B 0901851

STATE OF OHIO
VS.
KENNETH PRUITT

JUDGMENT ENTRY: SENTENCE:
INCARCERATION

Defendant was present in open Court with Counsel BARRY R LEVY on the 28th day of July 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: POSSESSION OF COCAINE, 2925-11A/ORCN,F3
- count 2: TRAFFICKING IN COCAINE, 2925-03A1/ORCN,F2
- count 3: POSSESSION OF COCAINE, 2925-11A/ORCN,F1
- count 4: TRAFFICKING IN COCAINE, 2925-03A2/ORCN,F1
- count 5: TRAFFICKING IN COCAINE, 2925-03A2/ORCN,F1
- count 6: POSSESSION OF COCAINE, 2925-11A/ORCN,F1
- count 7: HAVING WEAPONS WHILE UNDER DISABILITY, 2923-13A3/ORCN,F3

JAMES W. HEARN
CLERK OF COURTS
PICKAWAY COUNTY

2012 JUN -5 PM 2:16

FILED-COMMON PLEAS

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: 5 Yrs DEPARTMENT OF CORRECTIONS
- count 2: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
- count 3: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
- count 4: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
- count 5: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
- count 6: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
- count 7: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS

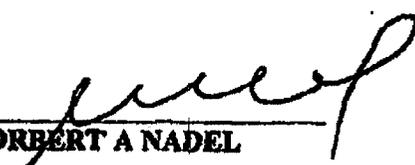
THE SENTENCES IN COUNTS #1, #2, #3, #4, #5, #6, AND #7 ARE TO BE SERVED CONCURRENTLY WITH EACH OTHER.

THE TOTAL AGGREGATE SENTENCE IS FIVE (5) YEARS IN THE DEPARTMENT OF CORRECTIONS.

THE DEFENDANT IS TO RECEIVE CREDIT FOR TIME SERVED.

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 07/28/2010
code: GJEI
judge: 109


Judge: NORBERT A NADEL

NO: B 0901851

STATE OF OHIO
VS.
KENNETH FRUITT

JUDGMENT ENTRY: SENTENCE:
INCARCERATION

**FINE OF \$5,000.00 AS TO COUNT #1 AND FINES OF \$10,000.00 AS TO
COUNTS #2, #2, #4, #5, #6, AND #7 ARE REMITTED.**

THE DEFENDANT IS TO PAY THE COURT COSTS.

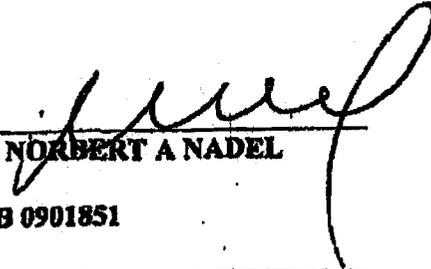
**THE DEFENDANT HEREIN IS NOT ELIGIBLE FOR INTENSIVE PRISON
PROGRAM, TRANSITIONAL CONTROL, JUDICIAL RELEASE, OR ANY
OTHER EARLY RELEASE PROGRAM AND IS TO SERVE THIS SENTENCE
IN ITS ENTIRETY.**

**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 MAY BE
SUPERVISED BY THE ADULT PAROLE AUTHORITY AFTER DEFENDANT
LEAVES PRISON, WHICH IS REFERRED TO AS POST-RELEASE CONTROL,
FOR UP TO THREE (3) YEARS AS DETERMINED BY THE ADULT PAROLE
AUTHORITY.**

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 07/28/2010
code: GJEI
judge: 109


Judge: NORBERT A NADEL

NO: B 0901851

STATE OF OHIO
VS.
KENNETH PRUITT

JUDGMENT ENTRY: SENTENCE:
INCARCERATION

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.

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 12/09/2010
code: GJEI
judge: 109

ENTERED
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D91110796

Judge: NORBERT A NADEL

NO: B 0901851

STATE OF OHIO
VS.
KENNETH PRUITT

Attachment
#B

JUDGMENT ENTRY: SENTENCE:
INCARCERATION
NUNC PRO TUNC 09/22/2010
CORRECTED
***RE-SENTENCE FOR POST
RELEASE CONTROL
NOTIFICATION***

Defendant was present in open Court with Counsel JOHN TRELEVEN on the 22nd day of September 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: POSSESSION OF COCAINE, 2925-11A/ORCN,F3
- count 2: TRAFFICKING IN COCAINE, 2925-03A1/ORCN,F2
- count 3: POSSESSION OF COCAINE, 2925-11A/ORCN,F1
- count 4: TRAFFICKING IN COCAINE, 2925-03A2/ORCN,F1
- count 5: TRAFFICKING IN COCAINE, 2925-03A2/ORCN,F1
- count 6: POSSESSION OF COCAINE, 2925-11A/ORCN,F1
- count 7: HAVING WEAPONS WHILE UNDER DISABILITY, 2923-13A3/ORCN,F3

2010 JUN - 5 PM 2:16
CLERK OF COURTS
HAMILTON COUNTY

FILED - COMMON PLEAS

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:

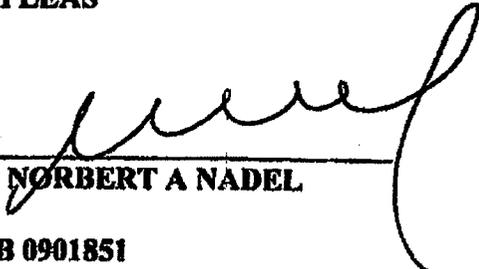
- count 1: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
- count 2: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
- count 3: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
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- count 5: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
- count 6: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
- count 7: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS

TRUE COPY OF THE ORIGINAL
ENTERED 12/13/10
ATTEST TRACY WINKLER
CLERK
BY _____
DEPUTY
DATE _____

THE SENTENCES IN COUNTS #1, #2, #3, #4, #5, #6, AND #7 ARE TO BE SERVED CONCURRENTLY WITH EACH OTHER.

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 12/09/2010
code: GJEI
judge: 109


Judge: NORBERT A NADEL

NO: B 0901851

STATE OF OHIO
VS.
KENNETH PRUITT

JUDGMENT ENTRY: SENTENCE:
INCARCERATION
NUNC PRO TUNC 09/22/2010
CORRECTED
***RE-SENTENCE FOR POST
RELEASE CONTROL
NOTIFICATION***

THE TOTAL AGGREGATE SENTENCE IS FIVE (5) YEARS IN THE
DEPARTMENT OF CORRECTIONS.

THE DEFENDANT IS TO RECEIVE CREDIT FOR TIME SERVED.

FINE OF \$5,000.00 AS TO COUNT #1 AND FINES OF \$10,000.00 AS TO
COUNTS #2, #3, #4, #5, #6, AND #7 ARE REMITTED.

THE DEFENDANT IS TO PAY THE COURT COSTS.

THE DEFENDANT HEREIN IS NOT ELIGIBLE FOR INTENSIVE PRISON
PROGRAM, TRANSITIONAL CONTROL, JUDICIAL RELEASE, OR ANY
OTHER EARLY RELEASE PROGRAM AND IS TO SERVE THIS SENTENCE
IN ITS ENTIRETY.

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

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 12/09/2010
code: GJEI
judge: 109

Judge: NORBERT A NADEL

NO: B 0901851

STATE OF OHIO
VS.
KENNETH PRUITT

JUDGMENT ENTRY: SENTENCE:
INCARCERATION
NUNC PRO TUNC 09/22/2010
CORRECTED
***RE-SENTENCE FOR POST
RELEASE CONTROL
NOTIFICATION***

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 THREE (3) YEARS.

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 FOR POST RELEASE CONTROL NOTIFICATION

CORRECTED, NUNC PRO TUNC 09/22/2010



D91130615

2012 JUN -5 PM 2:16

JAMES V. DEAN
CLERK OF COURTS
PICKAWAY COUNTY

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

FILED
2008 DEC 13 P 2:43
PATRICIA E. CLANCY...
CLERK OF COURTS, OH
HAMILTON COUNTY, OH

STATE OF OHIO,

Plaintiff

vs.

KENNETH PRUITT,

Defendant

Case No. B0901851

JUDGE NADEL

MOTION TO CLARIFY ENTRY GRANTING
MOTION FOR JAIL-TIME CREDIT.

Attachment
C

Now Comes, Kenneth Pruitt, (hereinafter Defendant), acting In Pro se, hereby moves this Honorable Court to clarify an Entry Granting Defendant's Motion For Jail-Time Credit pursuant to Criminal Rule 36, within the above-captioned case, that was found "well taken" from the Defendant's Motion For Jail Time Credit filed on August 11th, 2010, that contained 1,500 days credit.

However; The Bureau Of Sentence Computation have not sent the Defendant an "Update/Correction" printout of a new outdate. The amount of jail-time credit, "well taken" from the Defendant's motion, filed on August 11th, 2010, which contained the amount of days, was omitted in the Entry filed on August 24th, 2010, and shall be specified in an Entry to ensure that the Defendant receives the full amount of jail-time credit that is contained in the motion and granted to the Defendant, along with the 11 days credit for time served (as of the date of sentencing) plus conveyance time to the Institution, the court granted Defendant in the aforesaid Entry.

A TRUE COPY OF THE ORIGINAL ENTERED

ATTEST TRACY WINKLER
CLERK.

BY: DEPUTY
DATE: 1/17/12

THHEREFORE;Defendant prays for an amended,certified Journal Entry directing The Bureau Of Sentence Computation,as well as The Department Of Rehabilitation and Correction to comply with the herein Court's Order Granting the Defendant a total of 1,511days of jail-time credit,plus conveyance time to the Institution.

Respectfully Submitted,

Kenneth Pruitt - 11/26/10
KENNETH PRUITT - DEFENDANT in PRO SE
INSTITUTIONAL NO.: A635780
PICKAWAY CORRECTIONAL INSTITUTION

PO BOX209
ORIENT, OHIO 43146

CERTIFICATE OF SERVICE

I, Kenneth Pruitt, hereby certify that copies of this foregoing motion was mailed by regular U.S. Mail, to the Hamilton County Clerk of Courts on the 26th day of NOVEMBER, 2010.

Kenneth Pruitt - 11/26/10
KENNETH PRUITT - DEFENDANT

FILED-COMMON PLEAS

2012 JUN -5 PM 2:16

JAMES W. DEAN
CLERK OF COURTS
PICKAWAY COUNTY

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

ENTERED
FEB 17 2011

Attachment
#D

STATE OF OHIO

CASE NO.

B0901851

-vs-

ENTRY GRANTING MOTION
FOR JAIL TIME CREDIT

Kenneth Pruitt

This matter is before the Court on Defendant's Motion for Jail Time Credit, and the Court, being fully advised, hereby finds the Motion to be well taken and hereby grants the Defendant credit for time served for a total of 1530 days credit. This credit includes any credit previously granted.



Norbert A. Nadel, Judge

Date

2/17/11

A TRUE COPY OF THE ORIGINAL
ENTERED 2/17/11

ATTEST TRACY WINKLER
CLERK.

BY

Tracy Winkler
DEPUTY

DATE

1/17/12

2012 JUN

CLERK OF
PICKAWAY COUNTY



Ohio Department of Rehabilitation and Correction

Attachment # E

770 West Broad Str
Columbus, Ohio 432

John R. Kasich, Governor

www.drc.ohio.gov

Gary C. Mohr, Director

Thursday, February 17, 2011 2:43 P

PRC RESULT NOTIFICATION

D-8-27

Inmate: A635780 PRUITT, KENNETH
Institution: PICKAWAY CORRECTIONAL INSTITUTION
Most Serious Offense: 2925.11 4-POSS. OF DRUGS
Aggregate Sentence: 5.00 TERM

As a result of the 02/17/2011 assessment, it has been decided that the above inmate **WILL BE PLACED** under Post Release Control for the following term and under the following sanctions:

Tentative Start Date: 05/23/2011
Post Release Control Term: 5.00 Year(s)
Post Release Control Sanctions: BASIC SUPERVISION

Parole Board Imposed Special Conditions: I understand I will be subject to imprisonment of up to 1/2 my original sentence as a result of violations of my Post Release Control. Ineligible for sentence reduction.

BY THE AUTHORITY OF THE PAROLE BOARD CHAIR:



Parole Board Hearing Officer * **Parole Board Parole Officer ***

* This notification requires one signature.

CC: Inmate
 Warden
 Institution Record Office
 Central Records

Office of Victims' Services
 APA Placement
 Mental Health Services
 Unit Management Administrator



Ohio Department of Rehabilitation and Correction

Bureau of Sentence Computation
P.O. Box 451
Orient, OH 43141

John R. Kasich, Governor

www.drc.state.oh.us

Gary C. Mohr, Director

*Attachment
F*

April 6, 2011

Inmate Kenneth Pruitt #635780
PCI

Dear Inmate Pruitt:

I am in receipt of your correspondence regarding your sentence computation. Even though you may be entitled to jail time credit, our Department cannot apply it toward your sentence unless the Court specifically orders it in a judgment entry. We must follow the order of the Court and credit your sentence with only the credit that was granted in the sentencing entry plus any time that you served awaiting transportation to our reception facility.

We did receive this jail credit entry and had to call the Court to see if it contained prison time since you had been re-sentenced on this case. When I spoke with the Bailiff he said he had given the wrong amount and would send a corrected entry. We have applied the credit as per the corrected entry and your release date has been certified as 3/13/2014 and includes 4 days earned credit.

If you feel you are entitled to more jail time credit, I would suggest that you write your sentencing judge and ask that any credit for time served be forwarded to our office in a certified judgment entry. Do not send our office a copy of your motion, as we must wait for a decision from the Court. Upon receipt of the jail time credit entry from the Court, we will promptly adjust your release date accordingly and you will be notified.

Sincerely,

D. Warren
Bureau of Sentence Computation

cc: file

FILED-COMMON PLEAS
2012 JUN -5 PM 2:16
JAMES W. LEAN
CLERK OF COURTS
PICKAWAY COUNTY

JUN -5 PM 2:16
140 OhioJAMES W. DEAN
CLERK OF COURTS
PICKAWAY COUNTY

761 NORTH EASTERN REPORTER, 2d SERIES

115 Ohio Misc.2d 44

The STATE ex rel. DAILEY

v.

MORGAN, Warden.*

No. 01CV0293.

Court of Common Pleas of Ohio,
Marion County.

Decided Aug. 8, 2001.

Petitioner sought a writ of habeas corpus, alleging that he was entitled to local jail credit. The Court of Common Pleas, Marion County, Richard M. Rogers, J., held that Department of Rehabilitation and Correction did not have authority to alter clear and unambiguous statement in judgment that awarded petitioner 139 days of local jail credit.

Writ granted.

1. Habeas Corpus ¶671

Petitioner complied with habeas statute that required a copy of the cause of detention, as he attached to the petition a certified copy of court's sentencing entry that was relevant to his contention that he was entitled to local jail credit against sentence for escape, and petitioner was not required instead to attach commitment papers on any prior sentences that expired. R.C. § 2725.04(D).

2. Habeas Corpus ¶693

State's supplemental motion to dismiss habeas corpus petition, which petitioner filed on contention that he was entitled to local jail credit against sentence for escape, was without merit; since the supporting materials were not certified, they were not of an evidentiary quality.

* Reporter's Note: There was no appeal from

3. Constitutional Law ¶79**Sentencing and Punishment** ¶1181

Department of Rehabilitation and Correction did not have authority to interpret or alter clear and unambiguous statement in trial court's judgment that awarded defendant 139 days of local jail credit against his sentence for escape, even if the judgment was contrary to statute that required consecutive term of imprisonment if offender was an escapee. R.C. § 2929.14(E)(2).

4. Constitutional Law ¶79

Department of Rehabilitation and Correction has no authority to interpret or alter the clear and unambiguous statement contained in a court judgment.

5. Constitutional Law ¶79

It is neither the prerogative of the Department of Rehabilitation and Corrections, nor within its authority, to refuse to enforce the unambiguous terms of a sentence contained in a court judgment.

6. Habeas Corpus ¶710

In habeas proceeding in which petitioner alleged that he was entitled to local jail credit against sentence for escape, burden was on the state to demonstrate validity of court entries that purportedly reduced the jail-time credit that was originally awarded to petitioner.

7. Habeas Corpus ¶725

In habeas proceeding in which petitioner alleged that he was entitled to local jail credit against sentence for escape, state failed to substantiate claim that trial court reduced jail-time credit that was originally awarded petitioner, as it failed to obtain certified copies of court entries that it proffered in support of its claim.

the judgment of the court.

8. Evidence ~~8-383(3)~~

Court of Common Pleas cannot presume the legitimacy of court entries that are not properly authenticated.

Syllabus by the Court

1. The Department of Rehabilitation and Correction has no authority to interpret or alter the clear and unambiguous language contained in a court judgment.

2. The Department of Rehabilitation and Correction may not "correct" sentencing errors, real or perceived, by imposing the department's interpretation of a proper term of sentence.

William R. Dailey, pro se.

Betty D. Montgomery, Attorney General, and Thelma Thomas Price, Assistant Attorney General, for respondent.

RICHARD M. ROGERS, Judge.

This matter came on to be heard on a petition for habeas corpus on June 19, 2001. The petitioner, William R. Dailey, was present, without counsel. The respondent, Warden John Morgan, was represented by Thelma Thomas Price, Assistant Attorney General, Corrections Litigation Section. After discussion and testimony, it was apparent that the parties' dispute was limited to whether the petitioner is entitled to local jail credit from the Summit County Jail for the period of time between October 14, 1999 and February 29, 2000.

The evidence presented at the initial hearing demonstrated that on October 13, 1999, the petitioner was sentenced in Marion County to eighteen months' imprisonment in case No. 98CR238 and six months' imprisonment in case No. 98CR270, those terms to be served consecutively. The petitioner was subsequently sentenced in Summit County on February 29, 2000, to

eight months' imprisonment on a charge of escape. That sentence was journalized by entry filed March 2, 2000 in case No. 99-12-2882. On March 14, 2000, the Summit County Court of Common Pleas filed an additional entry, granting the defendant local jail credit of 139 days through the date of sentencing. The Summit County Judge later confirmed that credit by entry filed January 9, 2001.

The Records Supervisor of North Central Correctional Institution testified that he has refused to credit petitioner with the 139 days credit because the petitioner was already in custody during that period and receiving credit toward the Marion County cases. He further stated that, in so doing, he was complying with departmental policies. He further argued that if the Summit County Common Pleas Court intended the eight-month sentence from Summit County to be served consecutively to the Marion County cases, then the credits should not apply, because that would grant 139 days of credit on a concurrent sentence.

The issue then is whether the Ohio Department of Rehabilitation Correction has the authority to interpret the entries filed by the Judge of the Court of Common Pleas of Summit County, or whether it must abide by the clear language of the entry. This court, by entry filed June 19, 2001, granted the state further time to substantiate its claim that petitioner is not entitled to the 139 days of credit. Since the hearing in this matter, respondent has filed a motion to dismiss and a supplemental motion to dismiss, and the petitioner has filed motions to strike, a motion for summary judgment, and a motion for release on bail.

The court first considers the motion to dismiss and finds that it should be denied.

[1] Respondent first argued that petitioner failed to provide a copy of his commitment papers as required by R.C. 2725.04(D). This court disagrees. Petitioner attached a certified copy of his sentencing entry from the Court of Common Pleas of Summit County to his petition. It is from the respondent's interpretation of that sentence and related entries that the problem arises, and any prior sentences, which the parties agree have long since expired, are moot.

[2] Respondent next alleges that the petitioner has failed to comply with R.C. 2969.25. Again, respondent is mistaken. The petitioner did provide a separate affidavit specifically stating that he had not filed any prior civil actions during the preceding five years.

Finally, respondent simply claims that the petition lacks merit. This court addressed that issue in its initial review of the petition. Before issuing a writ of habeas corpus, this court necessarily had to determine whether the facts alleged created a prima facie case in favor of the petitioner's release. R.C. 2725.05 and 2725.06. Had the petition failed in that respect, this court would be required to refuse to issue the writ. Therefore, this branch of the motion to dismiss is also denied.

Having found all three arguments to be without arguable merit, the court is hard-pressed to understand why respondent has put the court to the time and trouble of reviewing a motion to dismiss.

[3] The respondent's supplemental motion to dismiss is likewise without merit, as it is not supported by any materials of an evidentiary quality. The attached entry, like all the materials submitted by the respondent, is not certified.

In consideration of a motion for summary judgment, the court may consider only those matters permitted by Civ.R.

56(C). Unfortunately, respondent again failed to submit any materials that may be properly considered by this court. The copies of entries that have been submitted by respondent are not certified, nor is the partial transcript that was submitted by respondent.

Petitioner did submit, with his petition, a certified copy of the judgment entry of the Court of Common Pleas of Summit County, filed March 2, 2000, which clearly and unambiguously states that petitioner was sentenced to eight months in prison on the offense of escape, a felony of the fifth degree. Petitioner also provided a certified copy of a judgment entry of the Court of Common Pleas of Summit County, filed March 14, 2000, which awarded petitioner 139 days of local jail time credit through the date of sentencing, which was February 29, 2000. The state has tendered to this court an uncertified copy of a transcript of the plea proceedings that clearly states that the prosecutor advised the court at the time of sentencing (February 29, 2000) that the defendant was to receive credit for jail time served from October 14, 1999.

The court finds from the evidence submitted that the petitioner was sentenced by the Court of Common Pleas of Summit County on February 29, 2000 to a term of eight months in prison. The parties have each stated that the sentence was to be served consecutively to petitioner's sentence in Marion County case No. 98CR238, pursuant to statute. See R.C. 2929.14(E)(2). (Therefore, this court will not consider whether the consecutive nature of a sentence must be stated in the sentencing entry or may be inferred by the Ohio Department of Rehabilitation and Correction, even though the original judgment did not suggest that the term was to be served consecutively.) However, the entries of the Court of Common Pleas of

Summit County (through and including the entry filed January 9, 2001) clearly state that the defendant was to receive credit for 139 days of local jail time.

[3, 4] While the stated credit might be contrary to law as alleged by respondent, it became the judgment of the case and was not appealed by any party. Respondent and the Ohio Department of Rehabilitation and Corrections have no authority to interpret or alter the clear and unambiguous statement contained in a court judgment.

[5] Respondent has acknowledged that the original sentence of the Court of Common Pleas of Summit County originally granted the petitioner 139 days credit against his Summit County case, case No. 99-12-2882, for time served from October 14, 1999 through February 29, 2000. It is not the department's prerogative, nor within its authority, to refuse to enforce the unambiguous terms of a sentence contained in a court judgment.

Indeed, respondent and the Ohio Department of Rehabilitation and Correction are not even parties in the Summit County case and would have no standing or authority even to appeal an incorrect sentence in that case. Such an appeal would necessarily need to be initiated by the local prosecutor's office that was responsible for prosecuting the underlying criminal offense. That is the same office that apparently represented to the court at the time of the plea, February 29, 2000, that the defendant was to be given local jail credit for time served from October 14, 1999. (See the uncertified transcript submitted with respondent's motion for summary judgment. That document, if properly submitted, would have given further substance to petitioner's claim that the jail time credit was intended as part of a plea bargain, which also obviously resulted in a reduction from a felony of the third degree

[the original charge] to a felony of the fifth degree.)

The duty of respondent and the Ohio Department of Rehabilitation and Correction is to carry out the judgment of the court, and nothing more. To permit otherwise would be to destroy the sanctity and finality of judgments.

The principle of finality of judgments has always been protected by the courts. "A final judgment brings closure, certainty, and possibly a commitment to changed future behavior. These are societal benefits as well as benefits to the parties. Wrongs are righted through judgments. Our justice system does not work without finality. Until then, the system's great value is in limbo. We take little from it, but we continually feed it with our energies, intellect, and emotions." *Wightman v. Consol. Rail Corp.* (1999), 86 Ohio St.3d 431, 443, 715 N.E.2d 546, 556.

Respondent has provided no authority to this court that suggests that the Ohio Department of Rehabilitation and Correction is empowered to arbitrarily and unilaterally alter the clear intention of a sentencing judgment entry.

[6-8] Respondent has attempted to demonstrate that the Court of Common Pleas of Summit County has corrected the apparent mistake and reduced the 139 days of jail-time credit originally awarded to the petitioner by a judgment filed June 27, 2001. However, respondent has not presented this evidence in any form that this court is permitted to consider. The copies of entries submitted by the respondent are not certified. This court cannot presume the legitimacy of entries not properly authenticated, and the burden was on the respondent to demonstrate their validity. Petitioner, acting *pro se*, was knowledgeable enough and capable enough to secure a certified copy of court

entries. There is no reason to believe that respondent or his attorney was incapable of the same. Certainly this court has allowed more than sufficient time for the proper submission of evidence.

This court, being limited to the evidence properly submitted, cannot determine that this corrective entry was actually filed. (The question of whether correction in the manner suggested would be proper is not before this court, but would rather be an issue for appeal if such an entry were filed.)

The court, therefore, finds that petitioner William R. Dalley is entitled to immediate release from the custody of the respondent and the Ohio Department of Rehabilitation and Correction.

The ruling of this court necessarily turns on the facts of this case, and the inadequacy of evidentiary materials submitted by respondent. However, the underlying issue addressed here is much bigger than the calculation of the release date of one prisoner. The question arises as to how many prisoners may have been detained contrary to the clear intentions of sentencing entries. The Ohio Department of Rehabilitation and Correction must be advised of its limitations in interpreting court judgments.

This court has had a previous experience of a similar nature, wherein the court was

requested by a prisoner to provide clarification of the intended sentence. Even after the court provided the institution with an entry to clarify its erroneous interpretation of the sentences and personally talked with prison records personnel, the institution refused to acknowledge this court's authority, and the prisoner was held until a date someone in the prison records department thought appropriate for release. Unfortunately, the individual had been released prior to this court becoming aware of the institution's refusal to comply with the court's orders, and no habeas corpus action was filed. If this court has now had two 16 such circumstances brought to its attention in recent months, how many others have gone unnoticed throughout this state?

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that respondent shall immediately release petitioner William R. Dalley from confinement, subject only to such sanctions of postrelease control as may be imposed by the Ohio Adult Parole Authority.

Judgment accordingly.





Ohio Department of Rehabilitation and Correction

Bureau of Sentence Computation
P.O. Box 2650
Columbus, OH 43216

Attachment #11

John F. Kasich, Governor

www.drc.ohio.gov

Gary C. Mohr, Director

TO: Linda Hill, Legal Assistant
Criminal Justice Section
Office of Ohio Attorney General Mike DeWine

FROM: Lora Heiss, Corr. Records Mgt. Supervisor *LHeiss*
Bureau of Sentence Computation

DATE: June 22, 2012

RE: Kenneth Pruitt, A635-780

Pursuant to your request for sentence computation on the above offender, I can provide the following.

Pruitt was admitted to ODRC on 8/4 10. He was sentenced on Hamilton Co. case B0901851 on 7/28/10. Judge Nadel sentenced him to a 5 years sentence on count 1, Possession, Felony 3; count 2 Trafficking, Felony 2; count 3 and 6, Possession, Felony 1; counts 4 and 5, Trafficking, Felony 1; and count 7, Having Weapon While Under Disability, Felony 3. The counts were ordered concurrent to each other for an aggregate sentence of 5 years. The entry was silent to jail credit so 7 days convey was applied from the day of sentencing up to his admission date. His computed release date was 7/26/15.

Our office received a jail time credit filed 8/24/10 granting 11 days credit as of the date of sentencing. Pruitt was resentenced 9/22/10 on B0901851 for PRC notification with no change to his sentence of 5 years. No credit was listed in the resentencing entry. His 5 years sentence was reduced by 11 days credit plus 6 days convey for a total of 17 days credit. His computed released was 7/15/15 which included 1 day of earned credit.

Our office received an entry filed 2/17/2011 granting 1530 day credit on his sentence. The judge's office was contacted and the bailiff informed our office that amount was incorrect and he would re-do the entry. We received an entry filed 2/18/11 granting 553 days as of 9/22/10 to which 4 days of conveyance time was added for a total of 557 days. His 5 years sentence was computed effective his return from court date of 9/27/10 and reduced by 557 days of credit for an Expiration of Stated Term of 3/15/14 which included 2 days earned credit.

Pruitt's sentence was reversed and remanded by the appellate court. He was resentenced on 11/7/11 to serve 5 years concurrently on counts 2, 3, 5, and 7. The resentencing entry granted 964 days credit plus 1 day convey was added for a total credit of 965 days. Again, the judge's office was contacted and the bailiff confirmed the amount in the entry was total credit and his release date should not change. His sentence was computed effective his return from court date of 11/9/11 and reduced by 965 days credit for a release date of 3/11/14 which included 6 days earned credit.

Due to receiving 6 more days of earned credit, Pruitt's Expiration of Stated Term is 3/5/14 as of this date.

I hope this information is helpful.

(8)

EXHIBIT

H

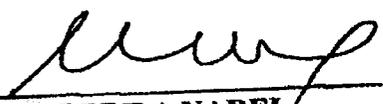
THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

ENTERED

NOV 14 2011

date: 11/07/2011
code: GJEI
judge: 109

Attachment I
Exhibit #


Judge: NORBERT A NADEL

NO: B 0901851

STATE OF OHIO
VS.
KENNETH PRUITT

JUDGMENT ENTRY: SENTENCE:
INCARCERATION
RE-SENTENCE

Defendant was present in open Court with Counsel MICHAELA M STAGNARO on the 7th day of November 2011 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 2: TRAFFICKING IN COCAINE, 2925-03A1/ORCN,F2

count 3: POSSESSION OF COCAINE, 2925-11A/ORCN,F1

count 5: TRAFFICKING IN COCAINE, 2925-03A2/ORCN,F1

count 7: HAVING WEAPONS WHILE UNDER DISABILITY,
2923-13A3/ORCN,F3

count 1: POSSESSION OF COCAINE, 2925-11A/ORCN, DISMISSAL

count 4: TRAFFICKING IN COCAINE, 2925-03A2/ORCN, DISMISSAL

count 6: POSSESSION OF COCAINE, 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 2: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS

count 3: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS

count 5: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS

count 7: CONFINEMENT: 3 Yrs DEPARTMENT OF CORRECTIONS

THE SENTENCES IN COUNTS #2, #3, #5, AND #7 ARE TO BE SERVED
CONCURRENTLY WITH EACH OTHER.

THE TOTAL AGGREGATE SENTENCE IS FIVE (5) YEARS IN THE
DEPARTMENT OF CORRECTIONS.

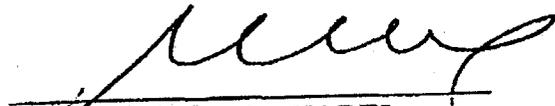
THE DEFENDANT IS TO RECEIVE CREDIT FOR NINE HUNDRED SIXTY
FOUR (964) DAYS TIME SERVED.



D95321218

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 11/07/2011
code: GJEI
judge: 109


Judge: NORBERT A NADEL

NO: B 0901851

STATE OF OHIO
VS.
KENNETH PRUITT

JUDGMENT ENTRY: SENTENCE:
INCARCERATION
RE-SENTENCE

FINES OF \$5,00.00 AS TO COUNT #2, \$10,000.00 AS TO COUNT #3, AND
\$10,000.00 AS TO COUNT #5 REMITTED.

THE DEFENDANT IS TO PAY THE COURT COSTS.

THE DEFENDANT IS NOT ELIGIBLE FOR ANY TYPE OF EARLY RELEASE
EXCEPT FOR ELIGIBLE EARNED DAYS OF CREDIT.

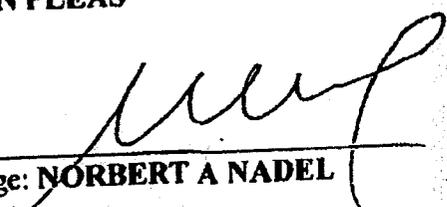
THE DEFENDANT HAS BEEN ADVISED THE HE/SHE MAY BE ELIGIBLE
TO EARN DAYS OF CREDIT UNDER THE CIRCUMSTANCES SPECIFIED IN
R.C. 2967-193; THE DEFENDANT WAS FURTHER ADVISED THAT DAYS OF
CREDIT ARE NOT AUTOMATIC, BUT MUST BE EARNED IN THE MANNER
SPECIFIED IN THAT SECTION.

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

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 11/07/2011
code: GJEI
judge: 109


Judge: NORBERT A NADEL

NO: B 0901851

STATE OF OHIO
VS.
KENNETH PRUITT

JUDGMENT ENTRY: SENTENCE:
INCARCERATION
RE-SENTENCE

LEAVES PRISON, WHICH IS REFERRED TO AS POST-RELEASE CONTROL,
FOR FIVE (5) YEARS.

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

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

FILED-COMM. PLEAS

ENTERED
OCT 04 2012

date: 09/27/2012
code: GJEI
judge: 109

*Exhibit # 5
Attachment*

2012 NOV 14 AM 11:39

JAMES W. DEAN
Judge: ~~NORBERTA WAGGERS~~
PICKAWAY COUNTY

NO: B 0901851

STATE OF OHIO
VS.
KENNETH PRUITT

JUDGMENT ENTRY: SENTENCE:
INCARCERATION
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Defendant was present in open Court with Counsel MICHAELA M STAGNARO on the 27th day of September 2012 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 2: TRAFFICKING IN COCAINE, 2925-03A1/ORCN,F2

count 3: POSSESSION OF COCAINE, 2925-11A/ORCN,F1

count 5: TRAFFICKING IN COCAINE, 2925-03A2/ORCN,F1

count 7: HAVING WEAPONS WHILE UNDER DISABILITY,
2923-13A3/ORCN,F3

count 1: POSSESSION OF COCAINE, 2925-11A/ORCN, DISMISSAL

count 4: TRAFFICKING IN COCAINE, 2925-03A2/ORCN, DISMISSAL

count 6: POSSESSION OF COCAINE, 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 2: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
DRIVER'S LICENSE SUSPENSION: 6 Mos

count 3: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
DRIVER'S LICENSE SUSPENSION: 6 Mos

count 5: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS
DRIVER'S LICENSE SUSPENSION: 6 Mos

count 7: CONFINEMENT: 5 Yrs DEPARTMENT OF CORRECTIONS

THE SENTENCES IN COUNTS #2, #3, #5, AND #7 ARE TO BE SERVED
CONCURRENTLY WITH EACH OTHER.

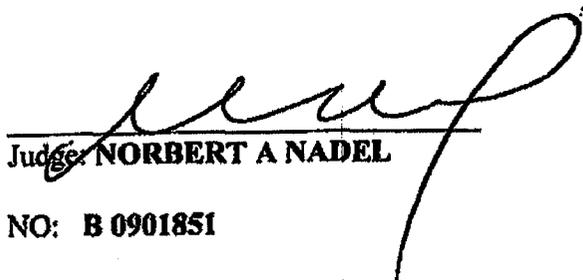
THE TOTAL AGGREGATE SENTENCE IS FIVE (5) YEARS IN THE
DEPARTMENT OF CORRECTIONS.



D99420923

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 09/27/2012
code: GJEI
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Judge: NORBERT A NADEL

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THE DEFENDANT IS TO RECEIVE CREDIT FOR NINE HUNDRED SIXTY FOUR (964) DAYS TIME SERVED AS OF NOVEMBER 7, 2011 AND ALL ADDITIONAL TIME SERVED.

FINES OF \$5,000.00 AS TO COUNT #2, \$10,000.00 AS TO COUNT #3, AND \$10,000.00 AS TO COUNT #5 ARE REMITTED.

THE DEFENDANT IS TO PAY THE COURT COSTS.

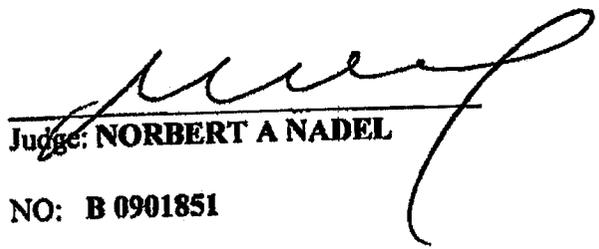
THE DEFENDANT IS NOT ELIGIBLE FOR ANY TYPE OF EARLY RELEASE EXCEPT FOR ELIGIBLE EARNED DAYS OF CREDIT.

THE DEFENDANT HAS BEEN ADVISED THE HE/SHE MAY BE ELIGIBLE TO EARN DAYS OF CREDIT UNDER THE CIRCUMSTANCES SPECIFIED IN R.C. 2967-193; THE DEFENDANT WAS FURTHER ADVISED THAT DAYS OF CREDIT ARE NOT AUTOMATIC, BUT MUST BE EARNED IN THE MANNER SPECIFIED IN THAT SECTION.

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.

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JUDGMENT ENTRY: SENTENCE:
INCARCERATION
RE-SENTENCE

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.

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

A TRUE COPY OF THE ORIGINAL
ENTERED 10/18/12
ATTEST TRACY WINKLER
CLERK
BY 
DEPUTY
DATE 10/18/12