

IN THE SUPREME COURT OF OHIO

KENNETH PRUITT#A635780,
Petitioner,

v.

BRIAN COOK, WARDEN,
Respondent.

: CASE NO. 13-0341
: Trial Case No. B0901851

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MOTION FOR JUDGMENT BY
DEFAULT.
(Habeas Corpus)

Now comes Petitioner, Kenneth Pruitt, acting in Pro se, and without the benefit of counsel, hereby move this Honorable Court to **GRANT** Habeas Corpus Relief pursuant to **R.C. 2725.06**, and render judgment by default in the above-styled case.

Petitioner has proven his claim and supported his Writ for Habeas Corpus, and the facts presented in the Petition entitle him to immediate relief as a matter of law. **R.C. 2725.01.**

The reasons for this Motion are more fully stated in the Memorandum In Support and Exhibit (H), which is attached to and made apart of this Motion.

Respectfully Submitted,

Kenneth Pruitt ^{KP}

KENNETH PRUITT, Pro se
Pickaway Correctional Institution
P.O. Box 209
Orient, Ohio 43146

RECEIVED
MAR 29 2013
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
MAR 29 2013
CLERK OF COURT
SUPREME COURT OF OHIO

MEMORANDUM IN SUPPORT

Petitioner filed a Writ of Habeas Corpus/Motion For Summary Judgment on February 25th, 2013, and Respondent, Brian Cook, Warden, failed to file an answer or Motion To Dismiss within twenty one days of service of the summons and complaint.

The fact remains that Petitioner was unambiguously granted 1,530 days of local jail credit to his maximum sentence and prison did not credit him with the time. Petitioner's petition shall be **GRANTED** as Brian Cook, Warden lacked authority to refuse to enforce the Entry Granting Motion For Jail Time Credit filed by the trial court on February 17th, 2011. See, State ex rel. Dailey v. Morgan, 761 N.E. 2D 140, 144.

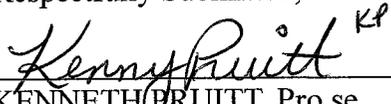
Respondent has provided no authority to this Court or any Court that suggest that Respondent had authority to refuse to enforce the Entry Granting Motion For Jail Time Credit, filed by the trial court on February 17th, 2011. **Exhibit (H) paragraph 3** provides proof that even after the trial court provided the Respondent with the February 17th, 2011 Entry Granting Motion For Jail Time Credit, to clarify the intended sentence and local jail credit, that petitioner was promised as part of his plea bargain, Respondent refused to acknowledge the court's authority. Whereas, the Respondent's refusal to enforce that particular Order placed Respondent in **Contempt of Court**.

Petitioner provided **Exhibit (H)** that clearly displays the unlawful and unauthorized acts of "Both" the Respondent and the trial court's Bailiff. The illegal communication between the Respondent's Bureau of Sentence Computation, and the trial court's Bailiff is deficient, contrary to law, and violated Petitioner's Constitutional Rights.

Petitioner also asserts that pursuant to **R.C. 2725.06**; when a petition for writ of habeas corpus is presented, if it appears that the writ ought to issue, a **Court** or **Judge** authorized to grant the writ must grant it forthwith.

Therefore, Petitioner Prays that this Honorable Court **GRANT** immediate relief according to law. Petitioner is entitled to Judgment as a matter of law, and pursuant to State ex rel. Dailey v. Morgan, 761 N.E. 2D 140, 142, 143, 144. Petitioner is also entitled to have the evidence submitted for Summary Judgment, or stipulation construed most strongly in his favor. See, Williams v. Fiorst United Church (1974), 37 Ohio St. 2d 150, 309 N.E. 2D 924; Temple v. Wean United Inc. (1997), 50 Ohio St.2d 317, 364 N.E. 2D 267. Petitioner also Prays for immediate release from confinement, and the Respondent shall be advised of his limitations in interpreting Court Judgments.

Respectfully Submitted,

 ^{KP}
KENNETH PRUITT, Pro se
Pickaway Correctional Institution
P.O. Box 209
Orient, Ohio 43146

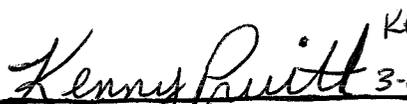
CERTIFICATE OF SERVICE

I, Kenneth Pruitt, certify that a copy of the foregoing “**Motion For Judgment By Default**” was mailed by regular U.S. Mail to Brian Cook, Warden, located at 11781 State Route 762, Orient, Ohio 43146, on this 27th day of March 2013.

 ^{KP}
KENNETH PRUITT #A635780
Petitioner-Pro se

cc:

Ohio Attorney General Office
150 East Gay Street, 16th Floor
Columbus, Ohio 43215
(Richard DeWine, Counsel of Record)

 ^{KP} 3-27-13
KENNETH PRUITT #A635780



Ohio Department of Rehabilitation and Correction

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

Attachment # H

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.

EXHIBIT

H