

ORIGINAL

State ex rel. KRISTOFFER T. MORRIS
2338 Northwest Street, Lima, Ohio
45802, Oakwood Correctional Inst.
(Relator-Petitioner)

CASE NO. 13-0565

v.

Judge, DAVID E. CAIN, of THE COURT OF
COMMON PLEAS, 345 South High Street,
Columbus, Ohio 43215, and THE JUDGES OF
THE COURT OF APPEALS, 10th DISTRICT, 373
South High Street, 13th Floor, Columbus,
Ohio, 43223, Franklin County
(Respondents)

ORIGINAL ACTION COMPLAINT
RELATORS PETITION FOR THE ISSUANCE
OF WRITS OF PROHIBITION AND
MANDAMUS

KRISTOFFER T. MORRIS
2338 NORTHWEST STREET, LIMA, OHIO
45802
PRO SE FOR RELATOR PETITIONER

MIKE DEWINE
OHIO ATTORNEY GENERAL
150 E, GAY STREET, COLUMBUS, OHIO
43215
COUNSEL FOR RESPONDENTS

FILED
APR 08 2013
CLERK OF COURT
SUPREME COURT OF OHIO

STATEMENT OF FACTS OF CASE

Relator, Kristoffer Morris is seeking for this Court to issue writs of prohibition and mandamus upon the named respondents in this action. The request is based on the following claims set forth;

1. Respondent, David Cain, Judge, of the court of common pleas in franklin county failed to comply with Crim.R.32(C) and R.C.2929.03(F), when he did not submit and file a "Separate Sentencing Opinion" in the Relators criminal case for aggravated murder with death penalty specifications. Once the trial court chose not to impose the death penalty upon Mr. Morris, but instead sentenced him to 66 yrs to life imprisonment, a separate sentencing opinion is required.
2. A writ of mandamus must issue due that the Relator has a substantive right to a final judgement and final, appealable order that complies with Crim.R.32(C) and R.C. 2929.03(F). Without the separate sentencing opinion there can be no final order.
3. A writ of prohibition must be issued due that Respondents, Judges Of The Court Of Appeals, in the 10th District, franklin county, patently and unambiguously lacked subject matter jurisdiction over the Relators original direct appeal. The court of appeals jurisdiction is limited to the rendering of decisions over appeals, and when the trial court has failed to file a proper final, appealable order under R.C.2505.02(B), the court of appeals lack jurisdiction over the merits of the case.
4. A writ of prohibition must issue in light that the judgement rendered by the Judges Of The Court Of Appeals in franklin county is void, a nullity, and must be vacated and corrected by the appellate court. When the trial court failed to combine the judgement entry of conviction with a separate sentencing opinion there was no final appealable order for the Relator to appeal and the appellate court was without jurisdiction to act.

For the forgoing reasons set forth the above claims, both a writ of prohibition and mandamus must issue upon the Respondents a resolution to this action.

I. CASE REVIEW

On July 22,2004, the franklin county grand jury returned a 22 count indictment against the Relator, which included aggravated murder charges with death penalty specifications. (See: Exhibit A,attached " Indictment for case no.04CR-48 66) The case proceeded to trial before a jury beginning on August 18,2005, and concluded on August 23,2005. The state did persue the death penalty in this case and the Relator was convicted by the jury of the aggravated murder charge with the death penalty specification in violation of R.C.2903.01, and R.C.2929.04(A)(5).

On August 18,2005, ~~subject~~ subject to R.C.2929.03(F) a mitigation hearing ~~g~~ was conducted before the jury to determine what the appropriate penalty would be for the defendants convictions. On August 23,2005 the jury returned a verdict and found unanimously that the aggravated circumstances did not outweigh the mitigating factors beyond a reasonable doubt and chose not to recommend the imposition of the death penalty upon Mr. Morris, but instead requested the court to impose ~~30 yrs to~~ life imprisonment. The Respondent, Judge David Cain,~~bypassed the~~ jury's recommendation and sentenced the Relator to a term of 66 years to life.

A judgement entry of conviction was filed by the court on August 25, 2005, at 4:17p.m. (See: Exhibit B,attached " Judgement Entry Of Conviction ") The court filed another judgement entry(Amended Entry) on September 14,2005 (See: Exhibit C,attached " Amended Judgement Entry) Although judgement entries were filed by the court in this case, Respondent, Judge David Cain did not comply with the mandatory requirements of R.C.2929.03(F), when he failed to combine and file the judgement entries with a "separate sentencing opinion". (See: Exhibit D,attached " Trial Court Docket Sheet ")

II. PROCEDURAL POSTURE

R.C.2929.03(F) requires that a separate sentencing opinion be filed in addition to the judgement enentry of conviction, and the statute specifies that the courts judgement is not final until the sentencing opinion has been filed; See: STATE V. KETTERER, SUPREME COURT OF OHIO,126 Ohio St. 3d 448,2010 Ohio 3831, 935 N.E.2d 9,2010 Ohio Lexis 1996,Decided August 25,2010.

In Ketterer's case this Supreme Court expressed that in aggravated murder cases subject to R.C.2929.03(F), the final appealable order consists of the combination of the judgement entry and sentencing opinion. (Id. Ketterer, at 17) This Court further held, in cases which R.C.2929.03(F) requires the court or panel to file a sentencing opinion, a final, appealable order consists of both the sentencing opinion filed pursuant to R.C.2929.03(F) and the judgement of conviction filed pursuant to Crim.R.32(C). (Id. Ketterer, at 18), and again this Court recognized that R.C.2929.03(F) requires the trial court to issue a separate sentencing opinion in addition to the judgement of conviction in cases in which the death penalty may be imposed. (Id. Ketterer, at 12)

Now, in the present case at bar, the state did pursue the death penalty, and the Relator was subjected to R.C.2929.03(F), and he could have received the death penalty for his conviction of aggravated murder, but instead the court imposed, 66 years to life after the mitigation phase concluded. R.C.2929.03(F) reads in part;

"The Court or panel, when it imposes life imprisonment under division (D) of this section, shall state in a separate opinion its findings of which of the mitigating factors set forth in division (B) of section 2929.04 of the Revised Code it found to exist, what other mitigating factors it found to exist, what aggravating circumstances the offender found guilty of committing, and why it could not find that these aggravating circumstances were sufficient to outweigh the mitigating factors.

The Relator, due to the Respondent, Judge Cain failure to submit and file the sentencing opinion in 2005, filed a motion with the trial court properly requesting the court to resentence him in compliance with R.C.2929.03(F), and to file a new sentencing entry combined with the separate sentencing opinion that constitutes a final, appealable order under Crim.R.32(C). The motion was filed on December 19, 2012. (See: Exhibit E, attached "Motion For Final Appealable Order and Resentencing") Although the trial court record clearly show that Respondent, Judge Cain did not file the separate sentencing opinion as required in this case, Judge Cain refused the Relators motion concluding that the motion was not well taken and denied the Relator his substantive right to a proper final judgement and final, appealable order refusing to file the separate sentencing opinion. (See: Exhibit F, attached "Entry Denying Motion For Resentencing and Final, Appealable Order")

III. WRIT OF MANDAMUS

The Relator now turns to this Court for mandamus resolution, and looks to the Supreme Court ruling in STATE EX REL. CULGAN V. MEDINA COUNTY COURT OF COMMON PLEAS, Supreme Court Of Ohio, 119 Ohio St. 3d 535, 2008 Ohio 4609, 895 N.E.2d 805, Decided September 18, 2008. In Culgan's case this Court held that, "[Procedendo and mandamus will lie when a trial court has refused to render, or unduly delayed rendering, a judgement. (Id. Culgan, at *P8) The Court cited State ex rel. Reynolds v. Basinger, 99 Ohio St.3d 303, 2003 Ohio 3631, 791 N.E.2d 459, P 5, holding, Sup.R.7 (A) provides that "[t]he judgement entry specified***in Criminal Rule 32 shall be filed and journalized within thirty days of the***decision. If the entry is not prepared and presented by counsel, it shall be prepared and filed by the court. "If the trial court refuses upon request or motion to journalize its decision, either party may compel the court to act by filing a writ of mandamus or a writ of procedendo" because" [a]bsent journalization of the judgement, [a party] cannot appeal it." (Emphasis sic, Id. Culgan, at**P8)

With this, in the present case of Relator, Kristoffer Morris, the refusal of Respondent, Judge David Cain to properly combine and file a new sentencing entry with the required separate sentencing opinion pursuant to R.C.2929.03(F), constitutes both a Crim.R.32(C) and R.C.2929.03(F) violation which warrants the issuance of a writ of mandamus upon Respondent, Judge Cain and compel him to file the new sentencing entry with the separate sentencing opinion producing a proper final judgement and final, appealable order in this case.

IV. WRIT OF PROHIBITION

Secondly, the Relator request this Court to issue a writ of prohibition upon the Respondents, Judges Of The Court Of Appeals, 10th District, Franklin county. The appellate court patently and unambiguously lacked jurisdiction over the Relator's original direct appeal. On May 17, 2007 the 10th district court of appeals rendered a judgement affirming the Relator's conviction(See: State v. Morris, 10th District, No.05AP-1032, 2007-Ohio-2382, 1-36), however the trial court judgement was non-final and non-appealable.(Id. Ketterer, at P17) In Ketterer's case this Court distinguished Ketterer from the case of State v. Baker, 119 Ohio St.3d 197, and agreed

MEMORANDUM IN SUPPORT

...with the state by holding that in aggravated-murder cases subject to R.C.2929.03(F), the final, appealable order consists of the combination of the judgement entry and the sentencing opinion. Because R.C.2929.03(F) requires the court to file a sentencing opinion, Baker does not control this case, because Baker addressed only noncapital criminal cases, in which a judgement of conviction alone constitutes a final, appealable order. The Court continued by stating, R.C.2929.03(F) requires that a separate sentencing opinion be filed in addition to the judgement of conviction, and the statute specifies that the court's judgement is not final until the sentencing opinion has been filed. Capital cases, in which an R.C.2929.03(F) sentencing opinion is necessary, are clear exceptions to Baker's "one document" rule. (Id. Ketterer, at P17)

Therefore, due that Respondent, Judge Cain did not file a separate sentencing opinion as required in this case in addition to the judgement of conviction, the court of appeals lacked jurisdiction to exercise judicial power over the Relator's direct appeal for lack of a final, appealable order in the trial court. This Supreme Court has well established that a writ of prohibition will lie when a court of appeals lacks jurisdiction over an appeal. See: State ex rel. Steffen v. Judges Of The Court Of Appeals For The First Appellate Dist. No. 2009-2166, Supreme Court Of Ohio, 126 Ohio St.3d 405, 2010 Ohio 2430, 934 N.E.2d 906, 2010 Ohio Lexis 1270, Decided June 3, 2010. Also See: State ex rel. Bates v. Court Of Appeals For The Sixth Appellate District, Supreme Court Of Ohio, 130 Ohio St.3d 326.

In the present case, the Judges Of The Court Of Appeals in the 10th district lacked jurisdiction entirely under R.C.2505.02(B), and thier judgement affirming the trial court's conviction for the aggravated murder charge in the Relator's criminal case without first obtaining the separate sentencing opinion from the trial court renders the appellate court judgement void, a nullity and must be vacated. Without the separate sentencing opinion there is no final, appealable order (Id. Ketterer, at P17) and without a final, appealable order there can be no appeal. (Id. Culgan, at P8, P9)

MEMORANDUM IN SUPPORT

Finally, the Relator request this Court to issue writs of prohibition and mandamus. Prohibition, to issue upon the Court Of Appeals in the 10th district compelling the appellate court to vacate the judgement it rendered over the Relator's appeal on May 17,2007 for lack of subject-matter jurisdiction and a final, appealable order from the trial court. And mandamus, to issue upon Respondent, Judge David Cain, compelling the trial judge to enter a new judgement entry of conviction combined with a separate sentencing opinion pursuant to R.C.2929.03(F), and Crim.R.32(C).

RESPECTFULLY SUBMITTED

Kristoffer Morris
Relator-Petitioner

AFFIDAVIT OF VERIFICATION

Kristoffer T. Morris, after first being duly sworn, deposes and states that he avers, that all claims herein are true and correct to the best of my knowledge and that I am competent to testify to all the claims brought forth in this original action complaint.

FUTHER AFFIANT SAYTH NAUGHT

Kristoffer Morris
AFFIANT

Sworn and subscribed before me, a Notary Public, this
2013.



day of APRIL
EDWARD A. FISHER
Notary Public, State of Ohio
My Commission Expires 1/11/2017

Edward A. Fisher
NOTARY PUBLIC

IN THE SUPREME COURT OF OHIO

State ex rel. Kristoffer T. Morris,
Relator,

Case No. _____

vs.

Judge, DAVIS E. CAIN, et al.,
Relators.

APPENDIX

Exhibit A: Indictment identifying death specification	A-1
Exhibit B: Judgment Entry filed 08/25/2005	B-1
Exhibit C: Amended Judgment Entry filed 09/14/2005	C-1
Exhibit D: Relevant portions of the Docket	D-1
Exhibit E: Motion for resentencing and final appealable order ..	E-1
Exhibit F: Entry denying motion for resentencing	F-1

State of Ohio,
Franklin County, ss:

INDICTMENT FOR: Aggravated Burglary with Specification (2911.11 R.C.) (F-1) (2 Counts); Impersonating A Peace Officer Or Private Policeman with Specification (2921.51 R.C.) (F-3) (1 Count); Robbery with Specification (2911.02 R.C.) (F-2) (1 Count); Robbery with Specification (2911.02 R.C.) (F-3) (1 Count); Kidnapping with Specification (2905.01 R.C.) (F-1) (4 Counts); Having Weapon While Under Disability (2923.13 R.C.) (F-3) (3 Counts); Aggravated Burglary with Specification (2911.11 R.C.) (F-1) (1 Count); ** Aggravated Murder with Specification (2903.01 R.C.) (-) (4 Counts); Attempted Murder with Specification (2923.02/2903.02 R.C.) (F-1) (3 Counts) and Felonious Assault with Specification (2903.11 R.C.) (F-1) (2 Counts); (Total: 22 Counts)**

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CRIMINAL COURT
FRANKLIN CO. OHIO

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CLERK OF COURTS

In the Court of Common Pleas, Franklin County, Ohio, of the Grand Jury term beginning May fourteenth, in the year of our Lord, Two Thousand Four.

Count 1

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Kristoffer T. Morris late of said County, on or about the 15th day of April in the year of our Lord, 2004, within the County of Franklin aforesaid, in violation of section 2911.11 of the Ohio Revised Code, by force, stealth, or deception, did trespass in 6836 Ridpath Rd., an occupied structure

Exhibit A-1 of 2

firearm, on or about his person or under his control, SPECIFICATION ONE TO THE ELEVENTH COUNT, in accordance with section 2941.145 of the Ohio Revised Code, the Grand Jurors further find and specify that the said Kristoffer T. Morris had a firearm on or about his person or under his control while committing the said Aggravated Burglary, and the said Kristoffer T. Morris displayed and/or brandished and/or indicated that he possessed the firearm, and/or the said Kristoffer T. Morris used the said firearm to facilitate the said Aggravated Burglary,

Count 12

The Jurors of the Grand Jury of the State of Ohio, duly selected, impaneled, sworn, and charged to inquire of crimes and offenses committed within the body of Franklin County, in the State of Ohio, upon their oath do find and present that Kristoffer T. Morris late of said County, on or about the 12th day of July in the year of our Lord, 2004, within the County of Franklin aforesaid, in violation of section 2903.01 of the Ohio Revised Code, did purposely, and with prior calculation and design, cause the death of another, to wit: Russell Bonner, and in compliance with section 2941.14 of the Ohio Revised Code, the Grand Jurors further find SPECIFICATION ONE TO THE TWELFTH COUNT, under section 2929.04(A)(7) of the Ohio Revised Code, that the offense at bar was committed while the offender was committing, attempting to commit, or fleeing immediately after committing or attempting to commit Aggravated Burglary, and either the offender was the principal offender in the commission of the aggravated murder, or, if not the principal offender, committed the aggravated murder with prior calculation and design, and in compliance with section 2941.14 of the Ohio Revised Code, the Grand Jurors further find SPECIFICATION TWO TO THE TWELFTH COUNT, under section 2929.04(A)(5) of the Ohio Revised Code, that the offense at bar was part of a course of conduct involving the purposeful killing of or attempt to kill two or more persons by the offender, SPECIFICATION THREE TO THE TWELFTH COUNT, in accordance with section 2941.145 of the Ohio Revised Code, the Grand Jurors further find and specify that the said Kristoffer T. Morris had a

[REDACTED]

18425 F 15

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

STATE OF OHIO, : TERMINATED: NO. 5 BY km
Plaintiff, :
-v- : Case No. 04CR-07-4866
KRISTOFFER T. MORRIS, : JUDGE CAIN
Defendant. :

JUDGMENT ENTRY

On August 18, 2005, the State of Ohio was represented by Assistant Prosecuting Attorneys Fred Mann and Scott Kirschman and the Defendant was represented by Attorney Lewis Williams and Javier Armengau. The case was tried by a jury which returned verdicts finding the Defendant **GUILTY** of the following offenses which reflects renumbered counts: **Count One** of the Indictment, to wit: **Aggravated Burglary with specification**, in violation of Section 2911.11 of the Ohio Revised Code, a felony of the first degree; **Count Two** of the Indictment, to wit: the lesser included offense of **Murder with specification**, in violation of Section 2903.02 of the Ohio Revised Code, an unclassified felony; **Count Three** of the Indictment, to wit: **Aggravated Murder with specification**, in violation of Section 2903.01 of the Ohio Revised Code, an unclassified felony; **Count Four** of the Indictment, to wit: the lesser included offense of **Involuntary Manslaughter with specification**, in violation of Section 2903.04 of the Ohio Revised Code, a felony of the first degree; **Count Five** of the Indictment, to wit: the lesser included offense of **Involuntary Manslaughter with specification**, in violation of Section 2903.04 of the Ohio Revised Code, a felony of the first degree; **Count Six** of the Indictment, to wit: **Attempted Murder with specification**, in violation of Section 2923.02 as it relates to Section 2903.02 of the Ohio Revised Code, a felony of the first degree; **Count Eight** of the Indictment, to wit: **Felonious Assault with specification**, in violation of Section 2903.11 of the Ohio Revised Code, a felony of the first degree; and **Count Ten** of the Indictment, to wit: **Felonious Assault with specification**, in violation of Section 2903.11 of the Ohio Revised Code, a felony of the first degree. The jury found the defendant **NOT GUILTY** of **Counts Seven and Nine, Attempted Murder**.

The Court found the defendant **GUILTY** of **Counts Seventeen and Twenty-Two, Having Weapon While Under Disability**.

On August 25, 2005, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Assistant Prosecuting Attorney Fred

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CLERK OF COURTS
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FRANKLIN COUNTY, OHIO

Exhibit B-1 of 3
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Mann and Scott Kirschman and the Defendant was represented by Attorney Lewis Williams and Javier Armengau.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement on his own behalf in the form of mitigation and to present information regarding the existence or non-existence of the factors the Court has considered and weighed.

The Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the facts set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is mandatory pursuant to R.C. 2929.13(F).

The Court hereby imposes the following sentence, for sentencing purposes Counts Two and Three merge and Counts Four and Five merge: Thirty (30) years to Life as to Count Three, Ten (10) years as to Count One, Ten (10) years as to Count Four, Ten (10) years as to Count Six with an additional Three (3) years for the use of a firearm (the firearm specifications in Counts One through Six merge for sentencing), Ten (10) years as to Count Eight, Ten (10) years as to Count Ten with an additional Three (3) years for the use of a firearm, Three (3) years as to Count Seventeen and Three (3) years as to Count Twenty-Two at the Ohio Department of Rehabilitation and Correction. Counts One, Ten, Seventeen and Twenty-Two are all to run concurrent with each other and all other counts. Counts Three, Four, Six and Eight are all to run consecutive to each other and two firearm specifications. Total time to be served at Ohio Department of Rehabilitation and Correction is 66 years to Life.

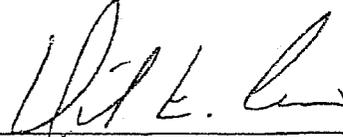
To ODRC: PLEASE KEEP DEFENDANT KRISTOFFER MORRIS SEPARATE FROM MARTIN SCOTT.

The Court, having considered the Defendant's present and future ability to pay a fine and financial sanctions, and, pursuant to R.C. 2929.18, hereby renders judgment for the following fine and/or financial sanctions: **No court costs or fines imposed.**

Exhibit B-2 of 3

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After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c), (d) and (e).

The Court finds that the Defendant has **429 days** of jail credit and hereby certifies the time to the Ohio Department of Corrections. The Defendant is to receive jail time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.



David E. Cain, Judge

cc: Prosecuting Attorney
Defendant's Attorney

Case No. 04CR-07-4866

Exhibit B-3 of 3

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CRIMINAL DIVISION

STATE OF OHIO,

TERMINATED: NO. 5 BY km

Plaintiff,

49595613

-v-

Case No. 04CR-07-4866

KRISTOFFER T. MORRIS,

JUDGE CAIN

Defendant.

FILED'S COURT OHIO

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AMENDED ENTRY

On August 18, 2005, the State of Ohio was represented by Assistant Prosecuting Attorneys Fred Mann and Scott Kirschman and the Defendant was represented by Attorney Lewis Williams and Javier Armengau. The case was tried by a jury which returned verdicts finding the Defendant **GUILTY** of the following offenses which reflects renumbered counts: **Count One** of the Indictment, to wit: **Aggravated Burglary with specification**, in violation of Section 2911.11 of the Ohio Revised Code, a felony of the first degree (Count Eleven of the original indictment); **Count Two** of the Indictment, to wit: the lesser included offense of **Murder with specification**, in violation of Section 2903.02 of the Ohio Revised Code, an unclassified felony (Count Twelve of the original indictment); **Count Three** of the Indictment, to wit: **Aggravated Murder with specification**, in violation of Section 2903.01 of the Ohio Revised Code, an unclassified felony (Count Thirteen of the original indictment); **Count Four** of the Indictment, to wit: the lesser included offense of **Involuntary Manslaughter with specification**, in violation of Section 2903.04 of the Ohio Revised Code, a felony of the first degree (Count Fourteen of the original indictment); **Count Five** of the Indictment, to wit: the lesser included offense of **Involuntary Manslaughter with specification**, in violation of Section 2903.04 of the Ohio Revised Code, a felony of the first degree (Count Fifteen of the original indictment); **Count Six** of the Indictment, to wit: **Attempted Murder with specification**, in violation of Section 2923.02 as it relates to Section 2903.02 of the Ohio Revised Code, a felony of the first degree (Count Sixteen of the original indictment); **Count Eight** of the Indictment, to wit: **Felonious Assault with specification**, in violation of Section 2903.11 of the Ohio Revised Code, a felony of the first degree (Count Nineteen of the original indictment); and **Count Ten** of the Indictment, to wit: **Felonious Assault with specification**, in violation of Section 2903.11 of the Ohio Revised Code, a felony of the first degree (Count Twenty-One of the original indictment). The jury found the defendant **NOT GUILTY** of **Count Seven** (Count Eighteen of the original indictment) and **Count Nine** (Count Twenty of the original indictment), **Attempted Murder**.

Exhibit C-1 of 3

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The Court found the defendant **GUILTY of Counts Seventeen and Twenty-Two**, both of the original indictment, to wit: **Having Weapon While Under Disability**, in violation of Section 2923.13 of the Ohio Revised Code, both are felonies of the third degree.

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On August 25, 2005, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Assistant Prosecuting Attorney Fred Mann and Scott Kirschman and the Defendant was represented by Attorney Lewis Williams and Javier Armengau.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement on his own behalf in the form of mitigation and to present information regarding the existence or non-existence of the factors the Court has considered and weighed.

The Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the facts set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is mandatory pursuant to R.C. 2929.13(F).

The Court hereby imposes the following sentence, for sentencing purposes Counts Two and Three merge and Counts Four and Five merge: **Thirty (30) years to Life as to Count Three, Ten (10) years as to Count One, Ten (10) years as to Count Four, Ten (10) years as to Count Six with an additional Three (3) years for the use of a firearm (the firearm specifications in Counts One through Six merge for sentencing), Ten (10) years as to Count Eight, Ten (10) years as to Count Ten with an additional Three (3) years for the use of a firearm, Three (3) years as to Count Seventeen and Three (3) years as to Count Twenty-Two at the Ohio Department of Rehabilitation and Correction. Counts One, Ten, Seventeen and Twenty-Two are all to run concurrent with each other and all other counts. Counts Three, Four, Six and Eight are all to run consecutive to each other and two firearm specifications. Total time to be served at Ohio Department of Rehabilitation and Correction is 66 years to Life.**

Exhibit C-2 of 3



To ODRC. PLEASE KEEP DEFENDANT CHRISTOFFER MORRIS
SEPARATE FROM MARTIN SCOTT.

The Court, having considered the Defendant's present and future ability to pay a fine and financial sanctions, and, pursuant to R.C. 2929.18, hereby renders judgment for the following fine and/or financial sanctions: **No court costs or fines imposed.**

After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c), (d) and (e).

The Court finds that the Defendant has **429 days** of jail credit and hereby certifies the time to the Ohio Department of Corrections. The Defendant is to receive jail time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.



David E. Cain, Judge

cc: Prosecuting Attorney
Defendant's Attorney

Case No. 04CR-07-4866



JOHN O'GRADY
CLERK OF THE COURT OF THE TENTH DISTRICT COURT OF APPEALS
FRANKLIN COUNTY, OHIO
APPEALS DIVISION

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2006 APR 14 PM 3:58
CLERK OF COURTS

STATE OF OHIO

05APA-09-1032

-VS-

KRISTOFFER T. MORRIS

**** NOTICE OF FILING OF SUPPLEMENTAL RECORD ****

NOTICE IS HEREBY GIVEN THAT PURSUANT TO OHIO RULES OF APPELLATE PROCEDURE, RULE 11(B), YOU ARE HEREBY NOTIFIED THAT THE SUPPLEMENTAL RECORD OF APPEAL WAS FILED IN THE COURT OF APPEALS ON: 04/14/06.

SUPPLEMENTAL RECORD CONTAINS:

0	PLEADINGS	ANDREW P. AVELLAND
0	TRANSCRIPTS OF PROCEEDINGS	ATTORNEY AT LAW
0	DEPOSITIONS	4181 EAST MAIN STREET
0	RECORD OF PROCEEDINGS	COLUMBUS, OH 43213-2975
1	ENVELOPE OF EXHIBITS	
0	MISCELLANEOUS EXHIBITS (POSTER BOARDS, PHOTOGRAPHS, ETC...)	

SUPPLEMENTLA RECORD DONE TO ADD 1 FLD OF EXHBTs TO THE RECORD.

** BRIEFS ARE DUE FROM ORIGINAL DATE OF FILING **

DATE MAILED TO COUNSEL: 04/14/06

** COUNSEL OF RECORD ARE ENCOURAGED TO CHECK THE RECORD TO MAKE SURE IT IS CORRECT AND COMPLETE. THE CLERK OF COURT OF APPEALS DIVISION IS OPEN FROM 8:00 A.M. TO 5:00 P.M. MONDAY THROUGH FRIDAY DURING WHICH HOURS THE RECORD MAY BE INSPECTED.

JOHN O'GRADY
CLERK OF COURTS

JENNIFER M. HENSELL
DEPUTY CLERK
(614) 462-3624

(APLQ27-A49)

Exhibit D-1 of 7

FILE #	DATE	CHG	SUB#	ACTN	DESCRIPTION	FIELD VALUES
273	081905	19	0002	2601	FNDG GLTY - JURY	FICHE: 49425 FRAME: J02
274	081905	20	0002	2701	FNDG NOT GLTY - JURY	FICHE: 49410 FRAME: A12
275	081905	21	0002	2601	FNDG GLTY - JURY	FICHE: 49410 FRAME: A13
276	082205	01	0001	8500	SUBPOENA - FILED	D 00 FICHE: 49418 FRAME: B19
277	082205	01	0002	8500	SUBPOENA - FILED	D 00 FICHE: 49418 FRAME: B20
278	082205	01	0004	8521	SUBPOENA - RET SRVD	082205 0.00 0.00 425 FICHE: 49422 FRAME: E07
279	082205	01	0005	8521	SUBPOENA - RET SRVD	082205 0.00 0.00 425 FICHE: 49422 FRAME: E08
280	082205	01	0006	8521	SUBPOENA - RET SRVD	082205 0.00 0.00 425 FICHE: 49422 FRAME: E09
281	082205	01	0007	8500	SUBPOENA - FILED	P 00 FICHE: 49418 FRAME: C01
282	082505	01	0001	0551	SENTENCE DISPO SHEET	FICHE: 49470 FRAME: B16
283	082505	01	0001	0552	SCHEDULING ORDER	7D 082505 0900 AM S FICHE: 49461 FRAME: E11
284	082505	03	0001	5743	JURY DEC DEFNDT SENT	04CR00486600 FICHE: 49470 FRAME: B15 VERDICT DEFT FOUND GUILTY A SENTENCE OF LIFE RECOM MENDED.
285	082505	11	0001	2600	FNDG GLTY - COURT	FICHE: 49470 FRAME: B14
286	082505	01	0002	1040	MISCELLANEOUS ORDER	FICHE: 49470 FRAME: B13 OATH TO OFFICERS OF SEQUESTERED JURY
287	082505	12	0002	0559	MERGED FOR SENTENCE	04CR00486600 FICHE: 49470 FRAME: B18
288	082505	16	0002	0500	INCARCERATION	FICHE: 49470 FRAME: B18 CST TO COUNTS 13,14, AND 19 AND THE TWO FIREARM SP ECIFICATIONS.
289	082505	01	0003	7776	NTC - PRISON IMPOSED	FICHE: 49470 FRAME: B17
290	082505	16	0003	0503	INCARCERATION-ACTUAL	FICHE: 49470 FRAME: B18 FOR USE OF FIREARM.
291	082505	01	0004	1936	ATTY WITHDRWAL ORDER	FICHE: 49461 FRAME: A13
292	082505	01	0006	0475	APTMNT OF CONS ON AP	62907 D FICHE: 49461 FRAME: A13
293	082505	11	0006	1800	JAIL TIME CREDIT	000000 429.0 FICHE: 49470 FRAME: B18
294	082505	01	0007	0550	CRIM DISPO SHEET FLD	FICHE: 49461 FRAME: E11

FILE #	DATE	CHG	SUB#	ACTN	DESCRIPTION	FIELD VALUES
295	082505	01	0008	9997	LETTERS	D FICHE: 49456 FRAME: G03 LETTER FROM SHORTRIDGE FAMILY TO JUDGE
296	082505	01	0009	9580	COURT RPT CERT FILED	AMCB 19.0 0.00 FICHE: 49456 FRAME: H13
297	082505	01	0010	2960	COSTS ASSESSED	FICHE: 49470 FRAME: B18
298	082505	01	0011	2900	COSTS SUSPENDED	FICHE: 49470 FRAME: B18
299	082905	01	0001	8600	WARRANT TO CONVEY	FICHE: 49493 FRAME: J04 NARRATIVE - SYS GEN RETURNED - SERVED
300	082905	01	0001	9950	STRIKE SCHED DATE	7D 092005 0900 AM FICHE: 49461 FRAME: E11
301	090105	01	0001	8621	WARRNT TO CON RET-SV	000000 10.00 6.50 FICHE: 49518 FRAME: F06
302	090605	01	0005	1040	MISCELLANEOUS ORDER	FICHE: 49258 FRAME: D01 TRIAL DATE SET FOR COUNTS 1 THROUGH 10 ONLY
303	090805	01	0001	9253	NTC CMTMENT/CAL SENT	FICHE: 49563 FRAME: E04
304	090905	01	0001	2604	JURY FEE ORDER	15.0 12 3 FICHE: 49573 FRAME: D15
305	091405	01	0001	1040	MISCELLANEOUS ORDER	FICHE: 49595 FRAME: G13 AMENDED JUDGMENT ENTRY - COUNTS 17 AND 22 ARE FELO NIES OF THE THIRD DEGREE. SHOWING RE-NUMBERED COUN TS.
306	091505	01	0001	9997	LETTERS	P FICHE: 49595 FRAME: G16 LETTER FILED FROM ODRC REQUESTING CORRECTED ENTRY.
307	091505	11	0001	9950	STRIKE SCHED DATE	7D 092005 0900 AM FICHE: 49470 FRAME: B18
308	091605	01	0001	9198	ATTY FEES-MOTION FOR D	FICHE: 49625 FRAME: I03
309	091605	01	0002	1701	ATTORNEY FEES ORDER	69776 D FICHE: 49625 FRAME: I03
310	092005	01	0001	2355	CONTINUANCE ORDER	7D 121205 0900 AM R1 092005 0900 FICHE: 49601 FRAME: H15
311	092005	01	0002	8431	WAIVR RGHT SPEEDY TR	FICHE: 49601 FRAME: H15
312	092005	01	0005	0550	CRIM DISPO SHEET FLD	FICHE: 49603 FRAME: F03
313	092005	01	0006	1040	MISCELLANEOUS ORDER	FICHE: 49644 FRAME: E18 ENTRY ORDERING ADDTL SUM OF \$2000.00 FOR SRVCS REN DERED BY MARTHA PHILLIPS.
314	092005	01	0007	1040	MISCELLANEOUS ORDER	FICHE: 49644 FRAME: E17 ENTRY ORDERING ADDTL SUM OF \$2000.00 FOR SRVCS REN DERED BY KATHRYN KOCH& ASSOC.

Exhibit D-3 of 7

FILE #	DATE	CHG	SUB#	ACTN	DESCRIPTION	FIELD VALUES
315	092005	01	0008	1040	MISCELLANEOUS ORDER	FICHE: 49644 FRAME: E16 ENTRY ORDERING ADDTL SUM OF \$2000.00 FOR SRVCS REN DERED BY DENNIS ENSBAUGH, PH.D.
316	092305	01	0001	9280	NOTICE RETURNED	H01 03 3 FICHE: 49688 FRAME: C03
317	092605	01	0001	9280	NOTICE RETURNED	H01 09 3 FICHE: 49697 FRAME: H15
318	092605	01	0001	9270	NOTC OF APPL - C/A	D 05AP1032 FICHE: 49701 FRAME: A01
319	092605	01	0002	8923	DOCKET STATMNT FILED	05AP1032 R FICHE: 49701 FRAME: A07
320	092605	01	0002	6825	PRAECIPE TO CLERK	FICHE: 49701 FRAME: A10
321	092605	01	0003	7968	TRANSCRPT-REQ TO FIL	D 05AP1032 FICHE: 49701 FRAME: A09
322	101305	01	0001	9198	ATTY FEES-MOTION FOR D	FICHE: 49851 FRAME: A05
323	101305	01	0002	1701	ATTORNEY FEES ORDER	20686 D FICHE: 49851 FRAME: A05
324	110305	01	0001	7900	MISC PAPER FILED	D FICHE: 50030 FRAME: A01 RECORDS DIVISION SIGN OUT FORM DOCUMENT CASE FILE 3VOL SENT TO C OF A
325	111605	01	0001	8500	SUBPOENA - FILED	P 00 FICHE: 50144 FRAME: A17
326	111605	01	0002	8500	SUBPOENA - FILED	P 00 FICHE: 50144 FRAME: A18
327	111605	01	0003	8521	SUBPOENA - RET SRVD	111605 0.00 0.00 100 FICHE: 50144 FRAME: D11
328	111605	01	0004	8500	SUBPOENA - FILED	P 00 FICHE: 50144 FRAME: D12
329	111605	01	0005	8300	SUBP FR SHRF FILED	P OH 37 FICHE: 50144 FRAME: D13
330	112105	01	0001	8521	SUBPOENA - RET SRVD	111705 30.00 18.50 425 FICHE: 50193 FRAME: B08
331	112105	01	0002	8521	SUBPOENA - RET SRVD	111705 6.00 15.50 425 FICHE: 50193 FRAME: B19
332	112305	01	0001	8321	SUBP FR SHRF RET SRV	111705 6.00 25.50 437 FICHE: 50202 FRAME: F08
333	112305	01	0002	8321	SUBP FR SHRF RET SRV	111705 6.00 25.50 437 FICHE: 50202 FRAME: F17
334	120105	01	0001	7763	CRT ORD WARR-APPLIC	FICHE: 50260 FRAME: C20
335	120105	01	0002	7765	CRT ORD WARR-ENTRY	FICHE: 50260 FRAME: D01
336	120105	01	0003	7764	CRT ORD WARR-ISSUED	FICHE: 50260 FRAME: D02
337	120205	01	0001	8600	WARRANT TO CONVEY	FICHE: 50271 FRAME: G13

FILE #	DATE	CHG	SUB#	ACTN	DESCRIPTION	FIELD VALUES
338	121205	01	0001	8621	NARRATIVE - SYS GEN WARRANT TO CON RET-SV	RETURNED - SERVED 000000 10.00 90.00 FICHE: 50351 FRAME: A11
339	121305	01	0001	7900	MISC PAPER FILED	D FICHE: 00000 FRAME: A01
340	121305	01	0002	8059	RECORD CERTIFICATION SHEET WITH 337 PLS. RECORD TRNSMT C OF A D 05AP1032	FICHE: 00000 FRAME: A01
341	121305	01	0003	0550	CRIM DISPO SHEET FLD	FICHE: 50323 FRAME: C01
342	121405	01	0001	7960	TRANSCRIPT - FILED	D 05AP1032 FICHE: 50366 FRAME: A05
343	121405	01	0002	7960	TRANSCRIPT OF PROCEEDINGS VOL.1 FOR JAN.21,2005. TRANSCRIPT - FILED	D 05AP1032 FICHE: 50366 FRAME: A13
344	121405	01	0003	7960	TRANSCRIPT OF PROCEEDINGS VOL.2 FOR AUG.9,2005. TRANSCRIPT - FILED	D 05AP1032 FICHE: 50366 FRAME: A14
345	121405	01	0004	7960	TRANSCRIPT OF PROCEEDINGS VOL.3 FOR AUG.10,2005 TRANSCRIPT - FILED	D 05AP1032 FICHE: 50366 FRAME: A16
346	121405	01	0005	7960	TRANSCRIPT OF PROCEEDINGS VOL.4 AUG.11,2005 TRANSCRIPT - FILED	D 05AP1032 FICHE: 50366 FRAME: A17
347	121405	01	0006	7960	TRANSCRIPT OF PROCEEDINGS VOL.5 FOR AUG.12,2005. TRANSCRIPT - FILED	D 05AP1032 FICHE: 50366 FRAME: A15
348	121405	01	0007	7960	TRANSCRIPT OF PROCEEDINGS VOL.6 AUG.16,2005 TRANSCRIPT - FILED	D 05AP1032 FICHE: 50366 FRAME: A18
349	121405	01	0008	8950	TRANSCRIPT OF PROCEEDINGS VOL.7 FOR AUG.22,2005. EXHIBIT FILED	D 05AP1032 FICHE: 00000 FRAME: A01
350	121505	01	0001	9277	EXHIBITS FILED 1 ENV(JURY INSTRUCTIONS) CORRECTED RECORD	05AP1032 FICHE: 00000 FRAME: A01
351	121605	01	0001	7963	CORRECTED RECORD SHEET TO ADD 7 TRS, & 5 ENVS(1 UNDERSEALED)OF EXHBTs. CLERK CERT-TRANS FEE	FICHE: 50401 FRAME: G20
352	121605	01	0002	1591	50% TRANS COST RMBRS AMCB	0.0 4177.50 FICHE: 50401 FRAME: G20

Exhibit D-5 of 7

FILE #	DATE	CHG	SUB#	ACTN	DESCRIPTION	FIELD VALUES
353	122105	01	0001	2355	CONTINUANCE ORDER	7D 022106 0900 AM R1 121205 0900 FICHE: 50397 FRAME: I17
354	122105	01	0002	8431	WAIVR RGHT SPEEDY TR	FICHE: 50397 FRAME: I17
355	122305	01	0001	8500	SUBPOENA - FILED	P 00 FICHE: 50447 FRAME: J12
356	122305	01	0002	8500	SUBPOENA - FILED	P 00 FICHE: 50447 FRAME: J13
357	122305	01	0003	8500	SUBPOENA - FILED	P 00 FICHE: 50448 FRAME: B19
358	122305	01	0004	8521	SUBPOENA - RET SRVD	122305 0.00 0.00 100 FICHE: 50448 FRAME: B18
359	122805	01	0001	8521	SUBPOENA - RET SRVD	122705 6.00 15.50 425 FICHE: 50476 FRAME: A05
360	122805	01	0002	8521	SUBPOENA - RET SRVD	122705 30.00 17.50 425 FICHE: 50476 FRAME: A16
361	010506	01	0001	9280	NOTICE RETURNED	H01 03 3 FICHE: 50528 FRAME: H18
362	021606	01	0001	0505	ORDER TO TRANSPORT	FICHE: 50901 FRAME: I15
363	022106	01	0001	2355	CONTINUANCE ORDER	7D 041706 0900 AM R1 022106 0900 FICHE: 50913 FRAME: E19
364	022106	01	0002	8431	WAIVR RGHT SPEEDY TR	FICHE: 50913 FRAME: E19
365	022206	01	0005	0550	CRIM DISPO SHEET FLD	FICHE: 50915 FRAME: E16
366	022406	01	0001	8300	SUBP FR SHRF FILED	P OH 37 FICHE: 50968 FRAME: H07
367	022406	01	0002	8500	SUBPOENA - FILED	P 00 FICHE: 50968 FRAME: H08
368	022406	01	0003	8500	SUBPOENA - FILED	P 00 FICHE: 50968 FRAME: H09
369	022406	01	0004	8500	SUBPOENA - FILED	P 00 FICHE: 50968 FRAME: G15
370	022406	01	0005	8500	SUBPOENA - FILED	P 00 FICHE: 50968 FRAME: G16
371	022706	01	0001	9280	NOTICE RETURNED	H01 09 3 FICHE: 50979 FRAME: B15
372	022806	01	0001	8521	SUBPOENA - RET SRVD	022706 30.00 17.50 425 FICHE: 50999 FRAME: I03
373	022806	01	0002	8521	SUBPOENA - RET SRVD	022706 6.00 15.50 425 FICHE: 50999 FRAME: J12
374	030106	01	0001	5192	PROS WITHDRAWN	FICHE: 50987 FRAME: C20
375	030106	01	0001	9289	RENOTICE HEAR SCHED	7D 041706 0900 AM R1 022106 0900 FICHE: 50987 FRAME: C20
376	030106	01	0002	6850	ASSGN ASST PROS ATTY	75306 P FICHE: 50987 FRAME: C20
377	031406	01	0001	8321	SUBP FR SHRF RET SRV	030306 6.00 35.00 437 FICHE: 51133 FRAME: A08

Exhibit D-6 of 7

FILE					FIELD VALUES			
#	DATE	CHG	SUB#	ACTN	DESCRIPTION			
378	031406	01	0002	8321	SUBP FR SHRF RET SRV	030306	6.00	35.50 437
						FICHE: 51133		FRAME: A09
379	031606	01	0001	9997	LETTERS		D	
						FICHE: 51149		FRAME: J19
					FROM DEPT REQUEST COPY OF TRIAL TRANSCRIPT			
380	041006	01	0001	8950	EXHIBIT FILED		D 05AP1032	
						FICHE: 00000		FRAME: A01
					EXHIBITS FILED 1 FLD (ST'S EX A2-T2)			
381	041206	01	0001	7763	CRT ORD WARR-APPLIC			
						FICHE: 51396		FRAME: F05
382	041206	01	0002	7765	CRT ORD WARR-ENTRY			
						FICHE: 51396		FRAME: F06
383	041206	01	0003	7764	CRT ORD WARR-ISSUED			
						FICHE: 51396		FRAME: F07
384	041406	01	0001	8015	SUPPML REC OF APPEAL			
						FICHE: 00000		FRAME: A01
					SUPPLEMENTAL RECORD SHEET TO ADD 1 FLD			
					(ST'S EX A2-T2).			

Exhibit D-7 of 7

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO
(Plaintiff)

v.

KRISTOFFER T. MORRIS
(Defendant)

Case No. 04CR-07-4866

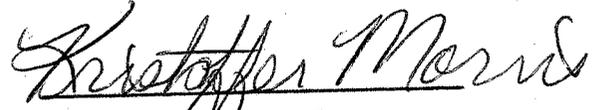
Judge: David Cain

MOTION FOR RESENTENCING AND A
FINAL APPEALABLE ORDER PURSUANT
TO CRIM.R. §2(C), R.C. 2505.02, AND
R.C. 2929.03(F)

Now comes the defendant Pro Se requesting this Court to enter a proper final judgement of conviction upon redentencing in accordance with the Ohio Supreme Court's ruling in **STATE V. KETTERER**, (Supreme Court Of Ohio) 126 Ohio St.3d 448, 2010-Ohio-3831, 935 N.E.2d 9.

Reasons for this request are provided in the attached Memorandum In Support. Exhibits have also been submitted by the defendant in this case.

RESPECTFULLY SUBMITTED


Defendant, Pro Se

Oakwood Correctional Inst.
2338 N. West Street
Lima, Ohio 45802

MEMORANDUM IN SUPPORT

On August 18, 2005 the defendant Kristoffer T. Morris was convicted by a jury of aggravated murder with a death penalty specification, in violation of R.C.2903.01 and R.C.2929.04(A) (5). On that same date (8/18/05), a mitigation hearing was conducted before the jury in order to determine what the appropriate penalty would be for the defendant's convictions.

Clearly, during the death penalty phase the jury would determine whether the aggravated circumstances did, or did not outweigh the mitigating factors in this case beyond a reasonable doubt. (See: R.C.2929.03(F))

On August 23, 2005 the jury returned a verdict and found unanimously that the aggravated circumstances did not outweigh the mitigating factors beyond a reasonable doubt choosing not to impose the death penalty upon Mr. Morris, but instead sentenced the defendant to a term of **66 years to Life**

Judgement Entries were filed in the docket journal. (See: Exhibit A9, attached)

Although three judgement entries were filed by the court in this case dating between July 24, 2006, August 25, 2005, and September 14, 2005 both the court journal (Exhibit A), and all three judgement entries filed by the court in this case fail to meet the mandatory requirements contained in R.C.2929.03(F) which affects the finality of the judgement rendered by this court in Mr. Morris's case. (See: Exhibits B, C, and D, attached)

In the court journal and in the judgement entries filed, the trial court clearly failed to file a separate sentencing opinion, R.C.2929.03(F) reads in part; " The court or panel, when it imposes life imprisonment under division (D) of this section, shall state in a separate opinion its specific findings of which of the mitigating factors set forth in division (B) of section 2929.04 of the Revised Code

...it found to exist, what other mitigating factors it found to exist, what aggravating circumstances ~~the~~ ~~offen-~~ ~~der~~ was found guilty of committing, and why it could not find that these aggravating circumstances were sufficient to outweigh the mitigating factors.

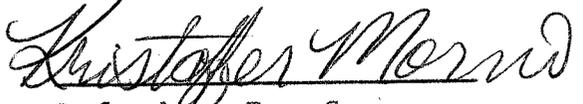
In STATE v. KETTERER, (See front page of this motion for citing), the Supreme Court Of Ohio specifically found, " in aggravated murder cases, R.C.2929.03(F) determines the nature of " a final appealable order. The Supreme Court further found that in aggravated murder cases subject to the statute the final, appealable order consist of the combination of the judgement entry and the sentencing opinion. Id Ketterer, Supra

The court also held that without the separate sentencing opinion in a death penalty case there cannot be a final appealable order. Id Ketterer, Supra

Clearly, in the present case of the defendant Kristoffer Morris, both the judgement entries and the trial court record submitted with this motion show that no separate opinion was filed by the trial court after sentencing. Therefore there is no final judgement rendered in the defendant's case pursuant to CRIM.R.32(C) and R.C.2505.02.

The defendant must be resentenced by this court and a proper final appealable order filed consisting of both the judgement entry of conviction and a separate sentencing opinion. Id Ketterer, Supra

RESPECTFULLY SUBMITTED


Defendant, Pro Se

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

STATE OF OHIO,

Plaintiff,

vs.

KRISTOFFER T. MORRIS,

Defendant.

Case No. 04CR-4866

Judge Cain

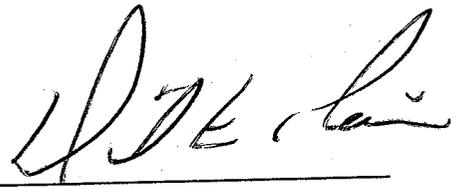
DECISION AND ENTRY DENYING DEFENDANT'S MOTION FOR RESENTENCING,
FILED DECEMBER 19, 2012

Rendered this 7th day of March 2013.

CAIN, J.

This matter is before this Court on Defendant's Motion to Dismiss, filed December 19, 2012. Upon reviewing Defendant's motion alongside the State's response, it is clear to the Court that Defendant is not entitled to the relief he seeks. As such, Defendant's motion is not well-taken, and is hereby DENIED.

IT IS SO ORDERED.



David E. Cain, Judge

Copies to:

Barbara A. Farnbacher
Counsel for Plaintiff

Kristoffer T. Morris
Counsel for Defendant

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2013 MAR -8 AM 8:16
CLERK OF COURTS

AFFIDAVIT OF INDIGENCY

STATE OF OHIO

CASE NO. _____

COUNTY OF ALLEN

SS:

I, Kristoffer Morris, a United States citizen and affiant herein,

after being cautioned and sworn, deposes and say:

- (1) That I am currently incarcerated at Oakwood Correctional Institution;
- (2) That I do not have the funds or monies to pay the cost within this action.
- (3) That I firmly believe that I am entitled to the relief requested;
- (4) That I am not represented by an attorney of law to undertake this task for me, so I must proceed in Pro Se;
- (5) That I am indigent as defined by the Ohio Revised Code;
- (6). That all of the avertments and statements contained herein are true and correct to the best of my knowledge and belief.

FUTHER AFFIANT SAYTH NAUGHT

Kristoffer Morris
Affiant Herein

Sworn and subscribed to in my presence, a
day of April, 2013



EDWARD A. FISHER
Notary Public, State of Ohio
My Commission Expires 1/11/2017

Edward A. Fisher
Notary Public

IN THE SUPREME COURT OF OHIO

State ex rel. Kristoffer T. Morris,
Relator,

Case No. _____

vs.

Judge, DAVID E. CAIN, et al.,
Respondents.

AFFIDAVIT PURSUANT TO
O.R.C. § 2969.25(A)

I, Kristoffer T. Morris, being competent to make this declaration and the Affiant herein, after fist being duly sworn and cautioned on my oath under penalty of perjury, do hereby attest to the following as required under Ohio Revised Code Section 2969.25(A):

(1) I have not commenced any civil action or appeal against a government agency or employee in the previous five years in any state or federal court.

(2) I clarify that the only exception to item (1) above might be the subject of the petition for the writs filed concurrently with this affidavit, that being the motion for resentencing and a final appeal-able order, which has been construed to be a civil action by various Ohio appellate courts. To that end, I also sought a petition for a writ of habeas corpus, and a petition for a writ of certiorari, all of which were merely further appeals of the criminal conviction that is the subject of the petition for the writs filed concurrently with this affidavit. Further, Affiant sayeth naught.

Kristoffer Morris

Kristoffer T. Morris #A505194
Oakwood Correctional Institution
2338 North West St.
Lima, Ohio 45802

Sworn to and subscribed in my presence, a Notary Public for the State of _____ this 2nd day of APRIL, 2013.



EDWARD A. FISHER
Notary Public, State of Ohio
My Commission Expires 1/11/2017

Edward A. Fisher

Signature of Notary Public

IN THE SUPREME COURT OF OHIO

State ex rel. Kristoffer T. Morris,
Relator,

Case No. _____

vs.

Judge, DAVID E. CAIN, et al.,
Respondents.

AFFIDAVIT PURSUANT TO
O.R.C. § 2965.25(C)

I, Kristoffer T. Morris, being competent to make this declaration and Affiant herein, after first being duly sworn and cautioned on my oath under penalty of perjury, do hereby attest to the following:

(1) I have none of the following with which to offer as security to obtain the fees related to this action (or for legal representation): real estate, stocks, bonds, automobiles, checking or savings account, rent payments, interest or dividends, pensions, annuities, disability, inheritances, life insurance payments, or the like.

(2) I have attached a statement that sets forth the balance in my inmate account for each of the preceding six months, as certified by the institutional cashier, pursuant to O.R.C. § 1965.25(C).

Further, Affiant sayeth naught.

Kristoffer Morris

Kristoffer T. Morris #A505194
Oakwood Correctional Institution
2338 North West St.
Lima, Ohio 45802

NOTARY PUBLIC

Sworn to and subscribed in my presence, a Notary Public for the State of Ohio, this 2nd day of APRIL, 2013.



EDWARD A. FISHER
Notary Public, State of Ohio
My Commission Expires 1/1/2017

Edward A. Fisher
Signature of Notary Public

03/20/2013

Allen Correctional Institution

Inmate Demand Statement

Inmate Name: MORRIS, KRISTOFFER
Lock Location: ACI,E2,EH2,T,,212

Number: A505194

Date Range: 09/01/2012 Through 03/21/2013

Beginning Account Balances:

Ending Account Balances:

	Saving	Debt	Payable		Saving	Debt	Payable
Electronics Usage	\$0.00	\$0.00	\$1.00	Electronics Usage C	\$0.00	\$0.00	\$1.00
Inmate's Personal	\$0.22	\$0.00	\$0.00	Inmate's Personal A	\$0.03	\$0.00	\$0.00
Begin Totals	\$0.22	\$0.00	\$1.00	End Totals	\$0.03	\$0.00	\$1.00

Transaction Date / Inst.	Transaction Amount	Description	Comment	Saving Balance	Debt Balance	Payable Balance
09/01/2012	\$0.00	\$15.00 Reservation to Pos Exemption	OdrC Pos Exemption	\$0.22	\$0.00	\$1.00
ACI						
09/07/2012	\$17.00	State Pay	State Pay	\$17.22	\$0.00	\$1.00
ACI						
09/07/2012	(\$1.00)	Electronics Usage Charge	Electronic Usage Charge	\$16.22	\$0.00	\$2.00
ACI						
09/08/2012	\$50.00	OffConnect Kiosk Deposit	4138448818480374066/HA MBOR, WILLIAM	\$66.22	\$0.00	\$2.00
ACI						
09/10/2012	(\$6.75)	Fundraisers - No Specific Club	VVA PHOTOS SEPTEMBER (OCF)	\$59.47	\$0.00	\$2.00
ACI						
09/12/2012	(\$50.00)	Withdrawal to SHEROME JACKSON	CK# 40972/SHEROME JACKSON/A505-194	\$9.47	\$0.00	\$2.00
ACI						
09/12/2012	\$50.00	Reversed Withdrawal to SHEROME JACKSON	Reversed Task No. 31647667	\$59.47	\$0.00	\$2.00
ACI						
09/12/2012	(\$45.00)	Withdrawal to SHEROME JACKSON	CK# 40988/SHEROME JACKSON/A505-194	\$14.47	\$0.00	\$2.00
ACI						
09/12/2012	\$50.00	Money Order	CRYSTAL CUNHALL	\$64.47	\$0.00	\$2.00
ACI						
09/14/2012	(\$5.75)	Postage Charges (USPS)	CERTIFIED W/ RECEIPT	\$58.72	\$0.00	\$2.00
ACI						
09/14/2012	(\$58.50)	Commissary Sale	Ticket Number 25017	\$0.22	\$0.00	\$2.00
ACI						
09/21/2012	\$32.00	OffConnect Kiosk Deposit	4138440242470871347/M ARTIN, NICOLE	\$32.22	\$0.00	\$2.00

ACI						
09/21/2012	(\$32.18) Commissary Sale	Ticket Number 25214	\$0.04	\$0.00	\$2.00	
ACI						
09/21/2012	\$50.00 Money Order	CRYSTAL CAMPBELL	\$50.04	\$0.00	\$2.00	
ACI						
09/27/2012	(\$50.00) Commissary Sale	Ticket Number 25450	\$0.04	\$0.00	\$2.00	
ACI						
10/01/2012	\$0.00 \$15.00 Reservation to Pos Exemption	OdrC Pos Exemption	\$0.04	\$0.00	\$2.00	
ACI						
10/01/2012	(\$2.00) Payment to Treasurer, State of Ohio	August & Sept. 2012 Electronicl Co-Pays	\$0.04	\$0.00	\$0.00	
ACI						
10/05/2012	\$17.00 State Pay	State Pay	\$17.04	\$0.00	\$0.00	
ACI						
10/05/2012	(\$1.00) Electronics Usage Charge	Electronic Usage Charge	\$16.04	\$0.00	\$1.00	
ACI						
10/07/2012	\$25.00 OffConnect Kiosk Deposit	4178744271042011442/HA MBOR, JOSEPH	\$41.04	\$0.00	\$1.00	
ACI						
10/11/2012	(\$41.02) Commissary Sale	Ticket Number 25926	\$0.02	\$0.00	\$1.00	
ACI						
10/29/2012	\$50.00 OffConnect Kiosk Deposit	4178760042279362867/HA MBOR, WILLIAM	\$50.02	\$0.00	\$1.00	
ACI						
11/01/2012	(\$15.00) Inmate's Personal Account	POS Exemption Transfer	\$35.02	\$0.00	\$1.00	
ACI						
11/01/2012	\$15.00 Pos Exemption	POS Exemption Transfer	\$50.02	\$0.00	\$1.00	
ACI						
11/01/2012	(\$1.00) Payment to Treasurer, State of Ohio	AOCI October 2012 Electronics Co-Pays	\$50.02	\$0.00	\$0.00	
ACI						
11/02/2012	(\$49.89) Commissary Sale	Ticket Number 26569	\$0.13	\$0.00	\$0.00	
ACI						
11/04/2012	\$50.00 OffConnect Kiosk Deposit	4228054213515043123/HA MBOR, WILLIAM	\$50.13	\$0.00	\$0.00	
ACI						
11/07/2012	(\$50.10) Commissary Sale	Ticket Number 26684	\$0.03	\$0.00	\$0.00	
ACI						
11/09/2012	\$17.00 State Pay	State Pay	\$17.03	\$0.00	\$0.00	
ACI						
11/09/2012	(\$1.00) Electronics Usage Charge	Electronic Usage Charge	\$16.03	\$0.00	\$1.00	

ACI					
11/15/2012	\$30.00 OffConnect Kiosk Deposit	4241181061413364018/KR ATZ, BERNARD	\$46.03	\$0.00	\$1.00
ACI					
11/16/2012	(\$45.58) Commissary Sale	Ticket Number 26976	\$0.45	\$0.00	\$1.00
ACI					
12/01/2012	\$0.00 \$15.00 Reservation to Pos Exemption	OdrC Pos Exemption	\$0.45	\$0.00	\$1.00
ACI					
12/04/2012	(\$1.00) Payment to Treasurer, State of Ohio	November 2012 AOCl Electric Co-Pays	\$0.45	\$0.00	\$0.00
ACI					
12/07/2012	\$17.00 State Pay	State Pay	\$17.45	\$0.00	\$0.00
ACI					
12/07/2012	(\$1.00) Electronics Usage Charge	Electronic Usage Charge	\$16.45	\$0.00	\$1.00
ACI					
12/10/2012	\$50.00 OffConnect Kiosk Deposit	4261791020278636850/CA MPBELL, CRYSTAL	\$66.45	\$0.00	\$1.00
ACI					
12/12/2012	(\$6.80) Copy Charges		\$59.65	\$0.00	\$1.00
ACI					
12/14/2012	(\$52.15) Commissary Sale	Ticket Number 27839	\$7.50	\$0.00	\$1.00
ACI					
12/14/2012	(\$2.10) Postage Charges (USPS)		\$5.40	\$0.00	\$1.00
ACI					
12/14/2012	(\$5.04) Postage Charges (USPS)		\$0.36	\$0.00	\$1.00
ACI					
12/18/2012	\$117.00 OffConnect Kiosk Deposit	4293361567323939123/HA MBOR, WILLIAM	\$117.36	\$0.00	\$1.00
ACI					
12/18/2012	(\$86.58) Commissary Sale	Ticket Number 28021	\$30.78	\$0.00	\$1.00
ACI					
12/18/2012	(\$9.71) Commissary Sale	Ticket Number 28023	\$21.07	\$0.00	\$1.00
ACI					
12/21/2012	(\$0.20) Copy Charges		\$20.87	\$0.00	\$1.00
ACI					
12/21/2012	(\$2.90) Copy Charges		\$17.97	\$0.00	\$1.00
ACI					
12/22/2012	\$57.00 OffConnect Kiosk Deposit	4293381768249631026/CA MPBELL, CRYSTAL	\$74.97	\$0.00	\$1.00
ACI					
12/27/2012	(\$64.04) Commissary Sale	Ticket Number 28225	\$10.93	\$0.00	\$1.00

ACI			\$9.78	\$0.00	\$1.00
12/31/2012	(\$1.15) Copy Charges				
ACI			\$9.78	\$0.00	\$1.00
01/01/2013	\$0.00 \$15.00 Reservation to Pos Exemption	OdrC Pos Exemption			
ACI			\$9.78	\$0.00	\$0.00
01/02/2013	(\$1.00) Payment to Treasurer, State of Ohio	AOCI December 2012 Electrical Co-Payments			
ACI			\$7.18	\$0.00	\$0.00
01/04/2013	(\$2.60) Copy Charges				
ACI			\$24.18	\$0.00	\$0.00
01/04/2013	\$17.00 State Pay	State Pay			
ACI			\$23.18	\$0.00	\$1.00
01/04/2013	(\$1.00) Electronics Usage Charge	Electronic Usage Charge			
ACI			\$21.18	\$0.00	\$1.00
01/07/2013	(\$2.00) Club Sales	VVA Photo Sales			
ACI			\$0.97	\$0.00	\$1.00
01/10/2013	(\$20.21) Commissary Sale	Ticket Number 28633			
ACI			\$0.97	\$0.00	\$1.00
02/01/2013	\$0.00 \$15.00 Reservation to Pos Exemption	OdrC Pos Exemption			
ACI			\$0.97	\$0.00	\$0.00
02/01/2013	(\$1.00) Payment to Treasurer, State of Ohio	ECP January 2013			
ACI			\$77.97	\$0.00	\$0.00
02/02/2013	\$77.00 OffConnect Kiosk Deposit	4344021374162460979/HA MBOR, WILLIAM			
ACI			\$9.77	\$0.00	\$0.00
02/06/2013	(\$68.20) Commissary Sale	Ticket Number 29403			
ACI			\$26.77	\$0.00	\$0.00
02/08/2013	\$17.00 State Pay	State Pay			
ACI			\$25.77	\$0.00	\$1.00
02/08/2013	(\$1.00) Electronics Usage Charge	Electronic Usage Charge			
ACI			\$23.65	\$0.00	\$1.00
02/13/2013	(\$2.12) Postage Charges (USPS)				
ACI			\$4.14	\$0.00	\$1.00
02/14/2013	(\$19.51) Commissary Sale	Ticket Number 29811			
ACI			\$0.29	\$0.00	\$1.00
02/25/2013	(\$3.85) Copy Charges				
ACI			\$0.29	\$0.00	\$1.00
03/01/2013	\$0.00 \$15.00 Reservation to Pos Exemption	OdrC Pos Exemption			

ACI 03/20/2013

ACI								
03/01/2013	(\$1.00) Payment to Treasurer, State of Ohio	February 2013 Electrical Co-Pays			\$0.29	\$0.00	\$0.00	
ACI								
03/05/2013	\$57.00 OffConnect Kiosk Deposit	4404985111580795187/HA MBOR, WILLIAM			\$57.29	\$0.00	\$0.00	
ACI								
03/06/2013	(\$57.20) Commissary Sale	Ticket Number 30493			\$0.09	\$0.00	\$0.00	
ACI								
03/08/2013	\$17.00 State Pay	State Pay			\$17.09	\$0.00	\$0.00	
ACI								
03/08/2013	(\$1.00) Electronics Usage Charge	Electronic Usage Charge			\$16.09	\$0.00	\$1.00	
ACI								
03/15/2013	(\$16.06) Commissary Sale	Ticket Number 30941			\$0.03	\$0.00	\$1.00	
ACI								

Outstanding Debts:

Start Date	Description	Case	Agency	County	Total Debt	Paid to Date	Balance Owed
	Electronics Usage Charge						\$0.00
04/01/2010	Court Costs	2009 CV02 002139	Franklin County Civil Division Clerk of Courts		(\$94.00)	\$94.00	\$0.00
06/15/2011	RIB - No Cash Slip Signature	TOCI 11-1985-A	Offender Financial Responsibility Fund - Treasurer of State		(\$42.88)	\$42.88	\$0.00
10/06/2011	RIB - No Cash Slip Signature	ToCI 11-1985-B	Offender Financial Responsibility Fund - Treasurer of State		(\$42.88)	\$42.88	\$0.00
08/06/2007	State Filing Fee	05 AP 1032	Franklin County Clerk of Courts		(\$65.00)	\$65.00	\$0.00
Total Outstanding Case Balances					\$0.00		

Outstanding Holds:

Start Date	Description	Case	Agency	County	Total Debt	Paid to Date	Balance Owed
Total Outstanding Case Holds					\$0.00		

Outstanding Investments / EPC:

Investment Type	Investment Type Description	Invest Company	Company Description	Balance
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I certify this document is a true and accurate account of the inmate's financial record on file in my office.

Jackie Bechtel Jak
 Jackie Bechtel, ACI Cashier

IN THE SUPREME COURT OF OHIO

State ex rel. Kristoffer T. Morris,
Relator,

Case No. _____

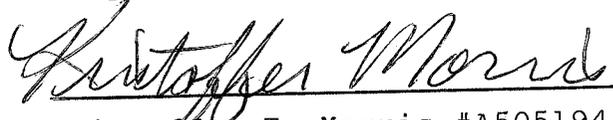
vs.

Judge, DAVID E. CAIN, et al.,
Respondents.

MOTION FOR LEAVE OF COURT
TO DISREGARD COPIES

Now comes the Relator, Kristoffer T. Morris, pro se, who hereby moves this Honorable Court for leave of Court to disregard the copy requirements set forth in Rule 8.5 of the Rules of Practice of the Supreme Court of Ohio. Rule 8.5 requires that a Relator include 12 copies, plus an additional copy for each of the named Respondents when filing a complaint in an original action. However, the Relator in the case at bar is indigent, and unable to afford the copies. As such, he requests that the Court grant him leave to disregard the copy requirements set forth in Rule 8.5. The Relator has included an Affidavit of Indigency and an Affidavit pursuant to R.C. 2965.25(C), which has a certified account statement attached. Thus, for the good cause asserted herein, as supported by the Affidavits and statements attached thereto, the Relator requests that the Court grant his motion for leave to disregard the copy requirements.

Respectfully submitted,



Kristoffer T. Morris #A505194
Oakwood Correction Institution
Attention C-Unit
2338 North West St.
Lima, Ohio 45801
RELATOR, PRO SE