

**IN THE SUPREME COURT OF OHIO**

STATE EX REL., EMANUEL NEWELL  
Allen Correctional Institution  
2338 North West Street  
Lima, Ohio 45801

Case No. 13-0862

**RELATOR-PETITIONER,**

**V.**

JUDGE: WILLIAM E. MAHON,  
of the Court of Common Pleas,  
Cuyahoga County, 1200 Ontario  
Street, Cleveland, Ohio 44113, and  
JUDGES OF THE COURT OF APPEALS  
OF THE EIGHTH DISTRICT, One  
Cuyahoga County, 202 Courthouse,  
W. Lakeside Ave., Cleveland, Ohio  
**RESPONDENTS.**

**PETITION REQUESTING  
ISSUANCE  
PROHIBITION AND MANDAMUS**

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**ORIGINAL ACTION COMPLAINT**

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EMANUEL NEWELL #206-453  
Allen Correctional Institution  
2338 North West Street  
Lima, Ohio 45801

**RELATOR-PETITIONER, PRO SE.**

**RECEIVED**  
MAY 28 2013  
CLERK OF COURT  
SUPREME COURT OF OHIO

**FILED**  
MAY 28 2013  
CLERK OF COURT  
SUPREME COURT OF OHIO

## STATEMENT OF FACTS

The Relator is requesting this Court to issue Writ's of Prohibition and Mandamus for the following reasons set forth;

1. Respondent, Judge, William E. Mahon, of the Cuyahoga County Court of Common Pleas violated Crim.R.32(C), when he used a nunc pro tunc order to effectively increase Relator's original prison term of 15 (actual) years, to 15 to 25 years, a more severe punishment. Once the original prison sentence of 15 (actual) years was in execution the trial judge lacked jurisdiction to use a nunc pro tunc entry to modify or increase the Relator's original sentence.
2. Judge, William E. Mahon violated Crim.R.32(C) and Crim.R.36, when he used a nunc pro tunc entry to do more than correct a mechanical mistake or omission, but instead used the nunc pro tunc order for the purpose of rendering a judicial decision that has not been previously issued by the trial court during the Relator's original sentence in open court. A trial judge is limited when using a nunc pro tunc order to properly reflect what the trial court actually did, not what the court might or should have done. A nunc pro tunc entry used by a trial court which exceeds the limited requirement of Crim.R.36 is erroneous, and void, and fails to meet the requirements of a final appealable order under Crim.R.32(C).
3. The Respondent's, Judges of the Court of Appeals in Cuyahoga County, 8<sup>th</sup> Dist., patently lacked subject matter jurisdiction over the Relator's original direct appeal. The Appellate Court erred when it considered the Relator's appeal from a nunc pro tunc entry that was in violation of Crim.R.32(C). The Appellate Court is prohibited from considering appeals that stem from an erroneous, or void judgment of a trial court.
4. Respondent's, Judges of the Court of Appeals rendered a void judgment over the Rlator's original direct appeal when it exercised judicial power over the improper nunc pro tunc entry of

the trial court. The Appellate Court judgment must be vacated and the Relator's original sentence of 15 (actual) years reinstated.

5. For these foregoing reasons the Relator requests Writ's of Prohibition and Mandamus to issue a resolution to this action.

## **MEMORANDUM IN SUPPORT**

### **I. CASE REVIEW**

On October 26, 1988, the Relator, Emanuel Newell was sentenced by the Respondent, Judge, William E. Mahon for his convictions after he was found guilty by a jury for one count of felonious assault of a police officer, and one count of having weapons under disability. Both counts of the indictment included a prior aggravated felony conviction with firearm specifications on both of the above counts in which he was convicted of by a jury following a jury trial. On October 26, 1988, Judge Mahon sentenced the Relator in open court to Three (3) years actual time on specifications of each count one and two, consecutive; sentenced on count one for a term of 15 years actual time due to prior aggravated specifications, with all sentences to be served consecutive to each other; however, the sentence on count two for the weapon under disability was to be served concurrent with count one of the indictment. After this judgment of sentencing was pronounced by the court, a Judgment Entry of Conviction was filed in the court journal pursuant to Crim.R.32(C). The judgment entry was received for filing by the court on October 31, 1988. See: (Exhibit A, attached "Judgment Entry of Conviction"). Also see: (Exhibit B, attached "Trial Court Docket Journal").

6. On November 1, 1988, the Relator was admitted to the Ohio Department of Rehabilitation and Corrections to begin serving the sentences imposed by the trial court on October 26, 1988. On December 2, 1988, while the Relator's original sentence was in execution, Respondent, Judge Mahon

used a nunc pro tunc order under Crim.R.36, with claims in the entry that he was correcting his mistake of sentencing the Relator to 15 actual years on October 26, 1988, and increased the Relator's sentence to a more severe punishment by adding 25 years to his sentence, and used the nunc pro tunc order to re-sentence the Relator to a 15 to 25 year prison sentence. See: (Exhibit C, attached "Trial Court Nunc Pro Tunc Entry.") See also: (Exhibit B, under the date of December 2, 1988 when the nunc pro tunc order was entered on the Court Journal). Although the trial judge did not actually sentence the Relator to a 15 to 25 year prison term in open court, the judge used the nunc pro tunc order for the purpose of rendering a legal decision that he felt he should have made on October 26, 1988 during the Relator's original sentencing hearing.

7. Subsequently, after the Judge used a nunc pro tunc order to increase the Relator's prior sentence, a fire occurred in the county clerks office in the same month of December, 1988, and the Relator's trial transcripts were destroyed in that fire. Thankfully, some documents were not destroyed due to the fire, and the Relator's appellate counsel was given copies of the original judgment entries that were entered on the court docket before the fire occurred. See: (Exhibits A, B, and C attached hereto).

## **II. PROCEDURAL POSTURE**

8. It is well settled law that when a nunc pro tunc order is used to make a legal judicial finding or decision on a matter when none was previously made is erroneous, and therefore void. See: *State v. Jama*, 189 Ohio App. 3D 687, 2010 Ohio 4739, 939 N.E.2d 1309, decided September 30, 2010. Consequently, an entry corrected by a nunc pro tunc order must reflect what the court had actually decided, not what the court might or should have decided. An improper nunc pro tunc order is void. (Id. Jama, at P14).

9. Clearly, a nunc pro tunc entry cannot be used to supply omitted actions or to indicate what

the trial court intended to decide. The nunc pro tunc order is not to be used to modify the court's judgment, but can be used to correct a sentence as long as it doesn't attempt to modify the original sentence that was imposed on the record in open court. See: *State v. Trapp*, (1977) 52 Ohio App.2d 189, 197-198, 368 N.E.2d 1278; *State v. Breedlove*, (1988) 46 Ohio App.3d 78, 546 N.E.2d 420; and *State v. Greulich*, (1988) 61 Ohio App.3d 22, 572 N.E.2d 132. In the present case at bar, the Respondent, Judge Mahon did modify the court's judgment when he increased the Relator's sentence to add 25 years to his prison term through the nunc pro tunc entry as it was contrary to law, and such an action violates the substantive requirements of Crim.R.32(C) and violates the limited requirements of Crim.R.36. See: *State v. Gilmore, Case No. 11 MA 30, Court of Appeals of Ohio, Seventh Appellate District, Mahoning County*, 2012 Ohio 5989, 2012 Ohio App. Lexis 5161, decided December 14, 2012.

10. Secondly, Judge Mahon lacked the authority to use a nunc pro tunc order to add 25 years to the Relator's prison sentence in light that the Relator had already been admitted to the Ohio Department of Rehabilitation and Corrections on November 1, 1988, See: (Exhibit D, attached "Ohio Department of Rehabilitation and Corrections Offender Detail Information"). The document clearly reflects that Emanuel Newell was admitted to the Ohio Department of Rehabilitation and Corrections on November 1, 1988, and had already began serving the 15 year sentence that was imposed on October 26, 1988.

11. In Ohio it is well established that a trial court lacks authority to use a nunc pro tunc entry to modify or increase a defendants sentence once the defendant has started serving time on that sentence. See: *State v. Bell*, (1990) 70 Ohio App.3d 765, 773 592 N.E.2d 848, and once the trial court carried that sentence into execution the court may no longer amend or modify that sentence. *See: State v. Addison*, (1987) 40 Ohio App.3d 7, 530 N.E.2d 1335, and if the trial court wants to correct what it believes to be an illegal sentence it may do so as long as it is in open court with the defendant present and with a full explanation for re-sentencing. See: *Columbus v. Rowland*, (1981) 2 Ohio App.3d 144,

12. In the case at bar, the Respondent, Judge Mahon use the nunc pro tunc entry to modify the Relator's sentence and increased the prison term even though the Relator had already began serving time on the original sentence within the Ohio Department of Rehabilitation and Corrections. This improper act further makes the trial court's nunc pro tunc order void and in violation of Crim.R.32(C). A trial court cannot simply use a nunc pro tunc order to change a sentence that has already been put into execution, and when the court uses a nunc pro tunc order to do so it amounts to more than the mere correction of a mechanical mistake or omission, and goes beyond the scope of the trial court's power under Crim.R.36. *See; State v. Plant, 2008 Ohio 4424, 2008 Ohio App. Lexis 3738*, decided September 3, 2008. See also: *State v. Keller, Case No. CA 98-07-011, Court of Appeals of Ohio, Twelfth District, Fayette County, 1999 Ohio App. Lexis 479*, decided February 16, 1999.

13. Therefore, the nunc pro tunc order entered by Judge Mahon on December 2, 1988 to increase the Relator's prison sentence while the Relator was confined in the Ohio Department of Rehabilitation and Corrections is void, and did not meet the requirements of a final appealable order under Crim.R.32(C) or R.C.2505.02(B).

14. Thirdly, the Eighth District Court of Appeals patently and unambiguously lacked subject matter jurisdiction under R.C.2505.02(B) to render a judgment over the Relator's original direct appeal. On December 6, 1990 the Appeals Court affirmed the Relator's conviction in part and vacated the sentence on one of the two (2) three year terms for a firearm. See: *State v. Newell, 1990 Ohio App. Lexis 5314, Eighth Appellate District*. However, the appeal was taken from the nunc pro tunc judgment entry that was in violation of Crim.R.36 and Crim.R.32(C). The Appellate Court lacked jurisdiction to take an appeal from the nunc pro tunc entry was not a valid judgment and violated Crim. R.32(C). (id. Gilmore, Supra).

15. In Gilmore's case, the Court of Appeals in the Seventh District held that pursuant to

Crim.R.32(C), the trial court in Gimore's case exceeded its authority to correct omissions and clerical errors when it entered what was in substance a modified sentence through an improper nunc pro tunc entry by the trial judge.

16. The nunc pro tunc entry in the present case of the Relator could not be appealed due that it was improperly used by the Respondent, Judge Mahon to increase the Relator's prison sentence and to modify the court's original judgment. (I.d. Trapp, supra, I.d. Breedlove, supra, I.d. Greulich, supra), and because the nunc pro tunc entry in this case violated Crim.R.36 it was not a final appealable order pursuant to R.C. 2505.02.

### **III. WRIT OF PROHIBITION AND MANDAMUS**

17. In this case the Respondent, Judge Mahon lacked jurisdiction to issue a nunc pro tunc entry modifying the court's original judgment by increasing the Relator's prison sentence while he was already admitted to the Ohio Department of Rehabilitation and Corrections, and the Court of Appeals patently and ambiguously lacked jurisdiction to render a decision over the appeal in which was taken on the improper nunc pro tunc entry of the trial court. That violated Crim.R.36 and Crim.R.32(C). Finally, the Relator now turns to this Honorable Court for support citing *State ex rel. Mayer v. Henson, No. 2002-0761, Supreme Court of Ohio, 97 Ohio St.3d 276, 2002 Ohio 6323, 779 N.E.2d 223, 2002 Ohio Lexis 2940*, decided December 4, 2002.

18. In Mayer's case, this Supreme Court agreed with Mayer by stating in its ruling that, "if a trial Judge patently and ambiguously lacked jurisdiction to issue a nunc pro tunc entry to modify a sentence, then a writ of prohibition or a writ of mandamus is available to prevent further unauthorized exercise of jurisdiction and to correct prior jurisdictionally unauthorized actions. (I.d. Mayer, at OVERVIEW).

19. In Mayer, this Supreme Court made it clear that, "nunc pro tunc" entries are limited in

proper use reflecting what the court actually decided, not what the court might or should have decided, or what the court intended to decide. (I.d. Mayer at P14). From this it is clear that when a trial judge uses a nunc pro tunc entry to modify a court's judgment based on a judicial decision the court intended to make or might or should have decided, such nunc pro tunc entry is improper, and a writ of prohibition or a writ of mandamus must be issued to prevent such action from occurring or correct the unauthorized act if it has already occurred. (I.d. Mayer, supra).

20. Moreover, it is also well established by this Supreme Court that when there is not a proper final appealable order from a trial court under R.C. 2505.02(B), the Court of Appeals patently and unambiguously lacks jurisdiction to consider the appeal, and if the Court of Appeals does consider such an appeal the Relator is entitled to a writ of prohibition under *Ohio Const. Art. IV 3(B)*. See: *State ex rel. Bates v. Court of Appeals for the Sixth Appellate District. No. 2011-1075, Supreme Court of Ohio, 130 Ohio St.3d 326, 2011 Ohio 5456, 958 N.E.2d 162, 2011 Ohio Lexis 2676, decided October 27, 2011, at P17. See also: State ex rel. Steffen v. Judges of the Court of Appeals for the First Appellate District., 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.*

21. In closing, the Relator is requesting this Court to issue writs of prohibition and mandamus upon all Respondent's named in this original action complaint. He requests a writ prohibition and mandamus be issued upon the trial court in Cuyahoga County to correct the prior jurisdictionally unauthorized action that was taken by Respondent, Judge Mahon when he used the nunc pro tunc entry improperly to increase the Relator's prison sentence on December 2, 1988, modifying the court's judgment that was previously rendered on October 26, 1988, and a mandamus must be issued to compel the trial court to vacate the improper nunc pro tunc judgment entry and reinstate the court's original decision rendered on October, 26 1988. Furthermore, the Relator requests this court to issue a writ of prohibition and mandamus upon Respondent's, Judges of the Court of Appeals in the Eighth

District, to correct the prior unauthorized jurisdictional action that was taken over the Relator's original direct appeal by the improper nunc pro tunc judgment entry from the trial court, and issue a mandamus to compel the Court of Appeals to vacate the void judgment that it rendered on the improper nunc pro tunc entry. For the aforementioned reasons writs of prohibition and mandamus must be issued.

Respectfully submitted,

  
EMANUEL NEWELL #206-453  
Relator-Petitioner

### AFFIDAVIT OF VERIFICATION

I, Emanuel Newell depose and state that all claims asserted in this original action complaint are true and correct to the best of my knowledge, and that I am competent to testify to all matters provided in this petition.

  
Emanuel Newell, Relator

### NOTARY PUBLIC

Sworn and subscribed in my presence a Notary Public for the State of Ohio on this 1st. day of May, 2013.

  
  
Signature of Notary Public

**IN THE SUPREME COURT OF OHIO**

THE STATE OF OHIO, EX REL.,  
EMANUEL NEWELL #206-453,  
Relator,

Case No. \_\_\_\_\_

v.

JUDGE WILLIAM E. MAHON ET AL.,  
Respondents.

**ORIGINAL ACTION**

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**RELATOR'S APPENDIX TO THE PETITION**

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- 1) JOURNAL ENTRY (filed October 31, 1988) ..... Exhibit A
- 2) TRIAL COURT DOCKET (portion relative to the petition – 6 pages total) ..... Exhibit B
- 3) NUNC PRO TUNC JOURNAL ENTRY (filed December 2, 1988) ..... Exhibit C
- 4) OFFENDER DETAIL INFORMATION (of admittance to the ODRC On Nov. 1, 1988) ..... Exhibit D

CRC  
M-11-1-88

STATE OF OHIO } SS.  
CUYAHOGA COUNTY

IN THE COURT OF COMMON PLEAS

SEPTEMBER TERM, 19 88

STATE OF OHIO

PLAINTIFF

TO-WIT: OCTOBER 26  
No: CR-226066

vs.

INDICTMENT FEL. ASSLT W/SPECS, HAVE WEP  
UNDR DIS W/SPECS

EMANUEL NEWELL

DEFENDANT

RECEIVED FOR FILING

OCT 31 1988

GERALD E. FUERST, CLERK

BY: *[Signature]* DEP.

JOURNAL ENTRY

DEFENDANT, IN OPEN COURT, REPRESENTED BY COUNSEL.  
NOW COMES THE JURY CONDUCTED INTO COURT BY THE BAILIFF AND RETURNED THE FOLLOWING VERDICT, TO-WIT: WE, THE JURY BEING DULY IMPANELED AND SWORN, DO FIND DEFENDANT, EMANUEL NEWELL, GUILTY OF FELONIOUS ASSAULT WITH SPEC., RC. 2903.11 AS CHARGED IN COUNT ONE. FURTHER THE COURT HAVING HEARD ALL THE EVIDENCE PRESENTED FINDS DEFENDANT GUILTY OF HAVING WEAPON U/DISABILITY, RC. 2923.13, WITH SPEC., AS CHARGED IN COUNT TWO OF THE INDICTMENT.

DEFENDANT WAS INFORMED OF THE VERDICT OF THE JURY AND FINDINGS OF THE COURT AND INQUIRED OF IF HE HAD ANYTHING TO SAY WHY JUDGMENT SHOULD NOT BE PRONOUNCED AND HAVING NOTHING BUT WHAT HE HAD ALREADY SAID.

DEFENDANT, EMANUEL NEWELL IS SENTENCED TO THE CORRECTIONAL RECEPTION CENTER, ORIENT, OHIO, UNDER BOTH COUNTS; THREE (3) YEARS ACTUAL TIME ON SPECIFICATIONS OF EACH COUNT ONE AND TWO, CONSECUTIVE; SENTENCE ON COUNT ONE FOR TERM OF FIFTEEN (15) YEARS ACTUAL TIME DUE TO PRIOR AGGRAVATED SPEC., ALL THESE SENTENCES TO BE SERVED CONSECUTIVE TO EACH OTHER; SENTENCE ON COUNT TWO FOR TERM OF ONE (1) YEAR, TO RUN CONCURRENT WITH COUNT ONE. PAY COURT COSTS.

DEFENDANT FOUND TO BE INDIGENT, ATTORNEY DAVE DOUGHTON APPOINTED TO HANDLE DEFENDANT'S APPEAL. DEFENDANT IS REMANDED TO CUSTODY.

VOL 822 257

JUDGE

WILLIAM E MAHON

C of 133/561

VA 10/27/88 11:24

THE STATE OF OHIO }  
Cuyahoga County } SS.  
I, GERALD E. FUERST, CLERK OF  
THE COURT OF COMMON PLEAS  
WITHIN AND FOR SAID COUNTY,  
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY  
TAKEN AND COPIED FROM THE ORIGINAL *Criminal*  
*Journal Entry CR 226066*  
NOW ON FILE IN MY OFFICE  
WITNESS MY HAND AND SEAL OF SAID COURT THIS *22nd*  
DAY OF *Dec* A.D. 20 *88*  
GERALD E. FUERST, Clerk  
*[Signature]* Deputy

EXHIBIT A

[REDACTED]

## DOCKET INFORMATION

**Case Number**                      **Case Title**                      **Image Viewer**  
 CR-88-226066-ZA STATE OF OHIO vs. EMANUEL NEWELL   AlternaTIFF

Proceeding Date	Filing Date	Side	Type	Description	Image
11/10/2011	11/10/2011	D1	MO	DEFENDANT'S AFFIDAVIT IN SUPPORT OF THE MOTION TO VACATE THE JOURNAL ENTRY FILED 12-02-1988, FILED. PRO SE TOLEDO CORR. INST. #206-453.	
11/10/2011	11/10/2011	D1	MO	DEFENDANT'S REPLY TO STATE'S BRIEF IN OPPOSITION TO DEFENDANT'S MOTION TO VACATE JOURNAL ENTRY FILED 12-02-1988, FILED. PRO SE TOLEDO CORR. INST. #206-453.	
10/24/2011	10/24/2011	P	MO	STATE'S BRIEF IN OPPOSITION TO DEFENDANT'S MOTION TO VACATE JOURNAL ENTRY FILED 12/02/1988, FILED.	
10/21/2011	10/21/2011	D1	GP	DEFENDANT'S AFFIDAVIT OF INDIGENCY, FILED. PRO-SE 206-453 TOLEDO CORR. INST.	
10/21/2011	10/21/2011	D1	MO	DEFENDANT'S MOTION TO VACATE JOURNAL ENTRY FILED 12/02/1988, FILED. PRO-SE 206453 TOLEDO CORR. INST.	
09/13/2011	09/13/2011	D1	MO	MOTION TO COMPEL AS FOR CONTEMPT IN DISOBEYING JUDGEMENT, FILED. PRO-SE 206-453 TOLEDO CORR. INST.	
05/29/2004	05/29/2004	D1	DR	RC 2743.70	
05/29/2004	05/29/2004	D1	CS	Jury Fees	
05/29/2004	05/29/2004	D1	DR	COURT REPORTER FEE	
05/29/2004	05/29/2004	D1	DR	WITNESS FEES	
05/29/2004	05/29/2004	D1	DR	Sheriff Fees	
05/29/2004	05/29/2004	D1	DR	Clerk Fees	
06/19/2000		D		THIS CAUSE CAME TO BE HEARD ON MARCH 31, 2000. DEFENDANT WAS PROVIDED AN OPPORTUNITY TO RESPOND TO THE PLAINTIFF'S MOTION TO REVIVE DORMANT JUDGMENT FOR COURT COSTS IN THE ABOVE CAPTIONED CASE. DEFENDANT HAS NOT SHOWN CAUSE WHY JUDGMENT SHOULD NOT BE REVIVED. IT IS ORDERED, ADJUDGED, AND DECREED THAT SAID JUDGMENT FOR COURT COSTS STAND REVIVED. ..KXL 06/22/00 09:46	
05/01/2000		D		DEFENDANT'S OBJECTIONS TO THE REVIVAL OF COURT COSTS, FILED PRO SE. (OSP 206453) ..KXL 05/02/00 09:55	
02/23/2000	02/28/2000	D		DEFENDANT'S MOTION FOR RELIEF FROM JUDGMENT, IS DENIED. HEARD BY JUDGE RICHARD J. MCMONAGLE. ..RXC 02/25/00 15:09	
02/22/2000		D		MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO CIVIL RULE 60(B), IN LIEU OF, CRIMINAL RULE 57, FILED PRO SE; OSP, INMATE #206-453. ..OLE 02/22/00 14:07	
02/15/2000		D		THE COURT HEREBY ORDERS THAT A NON-ORAL HEARING WILL BE HELD ON MARCH 31, 2000 ON THE ISSUE OF REVIVAL OF	

EXHIBIT B

JUDGMENTS FOR COURT COSTS IN THE ABOVE CAPTIONED CASE NUMBERS. DEFENDANT IS HEREBY ORDERED TO FILE ANY AND ALL EVIDENTIARY MATERIALS AND/OR OBJECTIONS TO THE REVIVAL OF COURT COSTS BY MARCH 31, 2000. ..KXL 02/18/00 12:08

01/28/2000	02/02/2000	D	DEFENDANT'S MOTION TO RESOLVE COURTS ORDERED ADJUDGED AND DECREED THAT SAID JUDGMENT FOR COURT COSTS STAND REVIEWED IN THE AMOUNT OF \$2,964.90 IS DENIED. HEARD BY JUDGE JOSE VILLANUEVA. ..CAL 01/31/00 13:10
01/24/2000		D	MOTION TO REVOKE COURTS ORDERED ADJUDGED AND DECREED THAT SAID JUDGMENT FOR COURT COSTS STAND REVIVED IN THE AMOUNT OF \$2,964.90, FILED PRO SE; OSP, INMATE #206-453. ..OLE 01/25/00 11:06
01/20/2000		D	MOTION TO REVOKE COURTS ORDERED ADJUDGED AND DECREED THAT SAID JUDGMENT FOR COURT COSTS STAND REVIVED IN THE AMOUNT OF \$2,964.90, WITH AFFIDAVIT OF EMANUEL NEWELL, FILED PRO SE; OSP, INMATE #206-453. ..OLE 01/24/00 12:12
12/27/1999		D	T JUDGMENT FOR COURT COSTS IN AMOUNT OF \$1640.50 REVIVED, OSJ. ..KXL 12/29/99 15:49
10/28/1998		D	LETTER SENT TO ADULT PAROLE AUTHORITY IN RESPONSE TO NOTICE OF HEARING ..DXE 10/28/98 10:48
08/06/1991		D	CAPTIONED CASE BEING AFFIRMED IN PART AND REMANDED TO THE COURT OF COMMON PLEAS BY ORDER OF THE COURT OF APPEALS, THIS CASE IS HEREBY RETURNED TO JUDGE WILLIAM E. MAHON FOR RESENTENCING SOLELY ON THE FIREARM SPECIFICATION OF THE SECOND COUNT (HAVING A WEAPON WHILE UNDER A DISABILITY). HEARD BY JUDGE FRANK GORMAN ..PK 08/06/91 14:50
12/26/1990		D	BY ORDER OF THE JOURNAL ENTRY AND MANDATE OF THE EIGHTH DISTRICT COURT OF APPEALS, IT IS HEREBY ORDERED THAT THE ORIGINAL SENTENCE IS MODIFIED AS TO COUNT TWO; THE THREE (3) YEAR ACTUAL INCARCERATION IS DELETED. IT IS FURTHER ORDERED THAT THE CLERK OF COURT'S FORWARD CERTIFIED COPIES OF THIS ENTRY ALONG WITH A COPY OF THE COURT OF APPEALS JOURNAL ENTRY TO THE INSTITUTION. ..CB 12/27/90 11:25
01/08/1990		D	MOTION FOR NEW TRIAL; BRADY NO FILE ..JC4401/08/90 11:08
01/05/1990		D	MOTION FOR A NEW TRIAL IS DENIED. DEFENDANT INDIGENT, DAVID L. DOUGHTON APPOINTED FOR APPEAL PURPOSES. CORRECTED ENTRY NOTES 1/5/90 PK: CHANGE SPELL ATTY NAME. ..CF 01/09/90 10:37
05/09/1989		D	MOTION FOR EXTENSION OF TIME TO DISPUTE DEFENDANT'S STATEMENT OF THE PROCEEDINGS IS GRANTED. ..PS 05/10/89 08:29
12/23/1988		D	NUNC PRO TUNC TO DECEMBER 2, 1988; DEFENDANT'S MOTION FOR TRANSCRIPT AND REPORTER TO BE PROVIDED AT STATE'S EXPENSE FOR THE APPEAL IN THIS CASE, IS GRANTED. ..PS 12/27/88 15:06
12/02/1988		D	NUNC PRO TUNC AS OF AND FOR OCTOBER 26, 1988: THE

DEFENDANT EMANUEL NEWELL IS SENTENCED TO THE CORRECTIONAL RECEPTION CENTER, ORIENT, OHIO, FOR A TERM OF FIFTEEN (15) YEARS ACTUAL INCARCERATION TO TWENTY-FIVE (25) YEARS, DUE TO PRIOR AGGRAVATED SPECIFICATIONS. (SENTENCE CORRECTED FROM FIFTEEN (15) YEARS ACTUAL TIME, TO ADD TWENTY- FIVE (25) YEARS TO SENTENCE. ) ..VA 12/02/88 09:11

11/15/1988	D	IT IS HEREBY ORDERED THAT BRIAN J. CORRIGAN, ESQ., HERETOFORE ASSIGNED AS COUNSEL FOR THE DEFENDANT IN THIS CAUSE, BE ALLOWED SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00) FOR SERVICES SO RENDERED. IT IS ORDERED THAT THE COURT CERTIFY SAID AMOUNT TO THE COUNTY AUDITOR AND THE COMMISSIONERS FOR ALLOWANCE AND PAYMENT. V 83208 F 1580845 112388 .. 02/03/89 09:45
10/26/1988	D	FEE BILL SUBMITTED BY BRIAN J. CORRIGAN, ESQ. ... 10/26/88 13:43
10/26/1988	D	DEFENDANT IN OPEN COURT, REPRESENTED BY COUNSEL. NOW COMES THE JURY CONDUCTED INTO COURT BY THE BAILIFF AND RETURNED THE FOLLOWING VERDICT, TO-WIT: " WE, THE JURY BEING DULY IMPANELED AND SWORN, DO FIND DEFENDANT, EMANUEL NEWELL, GUILTY OF FELONIOUS ASSAULT WITH SPEC., RC.2903.11 AS CHARGED IN COUNT ONE." FURTHER THE COURT HAVING HEARD ALL THE EVIDENCE PRESENTED FINDS DEFENDANT GUILTY OF HAVING WEAPON U/DISABILITY, RC.2923.13, WITH SPEC., AS CHARGED IN COUNT TWO OF THE INDICTMENT. DEFENDANT WAS INFORMED OF THE VERDICT OF THE JURY AND FINDINGS OF THE COURT AND INQUIRED OF IF HE HAD ANYTHING TO SAY WHY JUDGMENT SHOULD NOT BE PRONOUNCED AND HAVING NOTHING BUT WHAT HE HAD ALREADY SAID. DEFENDANT, EMANUEL NEWELL IS SENTENCED TO THE CORRECTIONAL RECEPTION CENTER, ORIENT, OHIO, UNDER BOTH COUNTS; THREE (3) YEARS ACTUAL TIME ON SPECI- FICATIONS OF EACH COUNT ONE AND TWO, CONSECUTIVE; SENTENCE ON COUNT ONE FOR TERM OF FIFTEEN (15) YEARS ACTUAL TIME DUE TO PRIOR AGGRAVATED SPEC., ALL THESE SENTENCES TO BE SERVED CONSECUTIVE TO EACH OTHER; SENTENCE ON COUNT TWO FOR TERM OF ONE (1) YEAR, TO RUN CONCURRENT WITH COUNT ONE. PAY COURT COSTS. DEFENDANT FOUND TO BE INDIGENT, ATTORNEY DAVE DOUGHTON APPOINTED TO HANDLE DEFENDANT'S APPEAL. DEFENDANT IS REMANDED TO CUSTODY. ..VA 10/27/88 11:24
10/25/1988	D	THIS DAY AGAIN COMES THE PROSECUTING ATTORNEY ON BEHALF OF THE STATE AND DEFENDANT, EMANUEL NEWELL, IN OPEN COURT, REPRESENTED BY COUNSEL WITH THE JURY PRESENT. WHEREUPON, THE SAID JURY HAVING HEARD ALL THE TESTIMONY ADDUCED, THE ARGUMENTS OF COUNSEL, AND THE CHARGE OF THE COURT, RETIRED TO THEIR ROOM IN CHARGE OF THE BAILIFF FOR DELIBERATION. JURY DELIBERATING. RECESSED UNTIL 9:30 A. M., WEDNESDAY, OCTOBER 26, 1988. ..VA 10/27/88 10:29
10/24/1988	D	ON TRIAL PROGRESS. ..CF 10/24/88 14:56
10/24/1988	D	CARMEN D. LORENZI FAILED TO APPEAR AS A JUROR ON THIS CASE. BENCH WARRANT TO ISSUE FOR JUROR. ADDRESS 2901 YORK AVE, CLEVELAND, OHIO ..VA 10/25/88 08:39
10/21/1988	D	ON TRIAL. ..CF 10/24/88 14:54

10/20/1988	D	ON TRIAL. .CF 10/24/88 14:54
10/19/1988	D	ON TRIAL. .CF 10/24/88 14:53
10/18/1988	D	THIS DAY AGAIN COMES THE PROSECUTING ATTORNEY ON BEHALF OF THE STATE AND DEFENDANT, EMANUEL NEWELL, IN OPEN COURT, REPRESENTED BY COUNSEL WITH THE JURY PRESENT. ON TRIAL, PROGRESS. .VA 10/20/88 09:35
10/17/1988	D	NOW COMES THE PROSECUTING ATTORNEY ON BEHALF OF THE STATE AND THE DEFENDANT, EMANUEL NEWELL, IN OPEN COURT, REPRESENTED BY COUNSEL. WHEREUPON, JURY PANEL HAVING BEEN EXAMINED, ACCEPTED AND SWORN, THIS CASE PROCEEDED TO TRIAL. ON TRIAL, PROGRESS. .VA 10/20/88 09:35
10/17/1988	D	IT IS ORDERED BY THE COURT THAT ALL PERSONS ENTERING COURT ROOM 22 (B), DURING THE TRIAL OF THIS CASE, STATE OF OHIO -VS- EMANUEL NEWELL, MUST VOLUNTARILY SUBMIT TO A SEARCH OF THEIR PERSON AND PROPERTY BY THE SHERIFF'S DEPUTIES OF THIS COUNTY. .VA 10/20/88 09:34
10/14/1988	D	THIS DAY AGAIN COMES THE PROSECUTING ATTORNEY ON BEHALF OF THE STATE AND DEFENDANT, EMANUEL NEWELL, IN OPEN COURT, REPRESENTED BY COUNSEL AND FULLY ADVISED OF HIS CONSTITUTIONAL RIGHTS. DEFENDANT WISHES TO HAVE A JURY TRIAL AS TO THE FIRST COUNT OF THE INDICTMENT, AND WAIVES JURY TRIAL AS TO THE SECOND COUNT OF THE INDICTMENT, AND TO BE TRIED BY THE COURT AS TO THE SECOND COUNT. .VA 10/27/88 11:10
10/14/1988	D	DEFENDANT IN COURT WITH COUNSEL, ADVISED OF HIS RIGHT TO APPEAR FOR TRIAL IN CIVILIAN CLOTHES. TRIAL IS SET FOR OCTOBER 17, 1988. .CF 10/17/88 09:39
10/13/1988	D	MOTION FOR DISCOVERY; MOTION IN LIMINE; MADDEN HAS FILE. .JC4410/17/88 10:22
10/07/1988	D	MOTION TO REAFFIRM AND ADOPT ALL MOTIONS FILED BY PREVIOUS DEFENSE COUNSEL; FILE. .JC4410/07/88 10:17
10/04/1988	D	MOTION OT DISMISS THE INDICTMENTS; THE BRADY RULE, DEFENDANT'S PROPOSED JURY INSTRUCTIONS; ANSWER TO DISCOVERY; GRAYS NO FILE .JC4410/06/88 08:25
09/30/1988	D	MOTION IN LIMINE; GRAYS NO FILE .JC4410/03/88 13:40
09/21/1988	D	MOTION TO SUPPRESS ALL EVIDENCE PRESENTED BY THE PROSECUTION, MOTION TO COMPEL COURT TO PERMIT THE DEFENDANT TO EXERCISE HIS RIGHT TO SUBPOENA POWER TO DEFEND HISSELF AGAINST THE PENDING CHARGES, MOTION TO DISMISS FOR DENIAL OF DUE PROCESS AND DENIAL OF RIGHT TO COUNSEL. MADDEN HAS FILE .JC4409/22/88 20:10
09/16/1988	D	MOTION TO SUPPRESS EYEWITNESS TESTIMONY. MADDEN HAS FILE .JC4409/19/88 23:22
08/26/1988	D	MOTION FOR DISCOVERY, MOTION TO DISMISS THE CHARGED AGAINST THE ACCUSED ;MADDEN WITH FILE .JC4408/29/88 14:34
08/23/1988	D	MOTION TO WITHDRAW (BRIAN CORRIGAN); FILE .JC4008/23/88 15:16
08/22/1988	D	DUE TO IRRECONCILABLE DIFFERENCES WITH HIS CLIENT,

ATTORNEY BRIAN CORRIGAN'S MOTION TO WITHDRAW AS COUNSEL IS GRANTED. COURT APPOINTS PUBLIC DEFENDER AS ATTORNEY IN THIS CASE. ..RC 08/26/88 09:10

08/16/1988 D MOTION FOR SEPERATION OF COUNTS; BUTLER HAS FILE ..JC4008/17/88 10:31

08/11/1988 D NUNC PRO TUNC TO JULY 25, 1988. AT THE REQUEST OF DEFENDANT'S ATTORNEY, TRIAL CONTINUED TO AUGUST 12, 1988 TO PERMIT DEFENDANT'S ATTORNEY MORE TIME TO PREPARE FOR TRIAL. ..LM 08/12/88 09:23

08/08/1988 D MOTION TO SUPPRESS EYE WITNESS IDENTIFICATION TESTIMONY; BUTLER WITH FILE ..JC4408/09/88 14:18

07/25/1988 D AT THE REQUEST OF DEFENDANT'S ATTORNEY, TRIAL IS CONTINUED TO AUGUST 12, 1988 TO PERMIT DEFENDANT'S ATTORNEY MORE TIME TO PREPARE FOR TRIAL. ..VA 08/11/88 08:54

07/22/1988 D MOTION FOR AN ORDER TO OBTAIN THE SERVICES OF AN EXPERIMENTAL PSYCHOLOGIST; BUTLER NO FILE ..JC4407/26/88 08:51

07/08/1988 D MOTION FOR DISCOVERY, REQUEST FOR BILL OF PARTICULARS, REQUEST FOR NOTICE, REQUEST THAT THE JUDGE DETERMINE THE EXISTENCE OF AN AGGRAVATED FELONY SPECIFICATION AT THE SENTENCING HEARING, MOTION FOR JURY VIEW OF PREMISES, MOTION FOR AN ORDER TO OBTAIN THE SERVICES OF AN INVESTIGATOR; BUTLER NO FILE MFD AND BOP MAILED AND FILED - FILE RETURNED TO BUTLER ..JC4407/21/88 15:51

06/30/1988 D PRE-TRIAL HELD, CASE SET FOR TRIAL JULY 27, 1988. ..DN 07/25/88 08:17

06/28/1988 D IT IS HEREBY ORDERED THAT MARK A. STANTON, ESQ., HERETOFORE ASSIGNED AS COUNSEL FOR THE DEFENDANT IN THIS CAUSE, BE ALLOWED SIX HUNDRED AND FORTY FIVE DOLLARS (\$645.00) FOR SERVICES SO RENDERED. IT IS ORDERED THAT THE COURT CERTIFY SAID AMOUNT TO THE COUNTY AUDITOR AND THE COMMISSIONERS FOR ALLOWANCE AND PAYMENT. V 77974 F 1531285 071188 .. 08/16/88 12:31

06/23/1988 D FEE BILL SUBMITTED BY MARK A. STANTON, ESQ. .. 06/23/88 10:12

06/20/1988 D MOTION FOR APPOINTMENT OF NEW COUNSEL; FELLENBAUM WITH FILE ..JC4006/22/88 12:33

06/20/1988 D DEFENDANT'S MOTION FOR APPOINTMENT OF NEW COUNSEL IS GRANTED. ATTORNEY BRIAN CORRIGAN IS APPOINTED AS NEW COUNSEL. AT REQUEST OF DEFENSE ATTORNEY, PRE-TRIAL CONTINUED TO JUNE 30, 1988. ..CF 06/21/88 09:44

06/08/1988 D AT REQUEST OF DEFENDANT'S ATTORNEY, PRE-TRIAL CONTINUED TO JUNE 20, 1988. ..CM 06/14/88 14:20

05/31/1988 D AT REQUEST OF DEFENSE ATTORNEY, PRE-TRIAL CONTINUED TO JUNE 8, 1988. ..CF 05/31/88 16:21

05/24/1988 D CASE SET FOR PRE-TRIAL JUNE 1, 1988. ..CM 05/25/88 09:29

05/18/1988 D MOTION FOR DISCOVERY, MOTION FOR BILL OF PARTICULARS; FELLENBAUM NO FILE MFD AND BOP MAILED AND

FILED ..JC4306/07/88 15:42

05/13/1988 D AND NOW THE DEFENDANT, IN OPEN COURT HAVING STATED THAT HE/SHE IS INDIGENT, AND IT APPEARING THAT HE/SHE IS IN INDIGENT CIRCUMSTANCES, AND UNABLE TO EMPLOY COUNSEL, THE COURT APPOINTS MARK STANTON, ESQ., AS COUNSEL FOR HIS/HER DEFENSE. ..FM 05/17/88 16:24

05/13/1988 D NOW COMES THE PROSECUTING ATTORNEY ON BEHALF OF THE STATE OF OHIO AND THE DEFENDANT IN OPEN COURT WAS FULLY ADVISED OF HIS/HER CONSTITUTIONAL RIGHTS, INCLUDING HIS/HER RIGHT TO COUNSEL. THE DEFENDANT, EMANUEL NEWELL, ACKNOWLEDGES THAT HE/SHE RECEIVED A COPY OF THE INDICTMENT FROM THE SHERIFF OF CUYAHOGA COUNTY. TWENTY-FOUR HOURS HAVING ELAPSED SINCE SERVICE OF THE INDICTMENT, DEFENDANT IN OPEN COURT WAIVED READING OF THE INDICTMENT. THEREUPON, THE SAID DEFENDANT IN OPEN COURT ENTERS A PLEA OF NOT GUILTY. JUDGE WILLIAM E. MAHON ASSIGNED. BOND SET AT \$25,000.00. IT IS FURTHER ORDERED THAT IF SAID DEFENDANT POSTS BAIL IN THIS CAUSE, AN ADDITIONAL AMOUNT SHALL BE ADDED TO THE AMOUNT OF BAIL AS SET FORTH IN O. R. C. 2743.70 AND O. R. C. 2949.091. DEFENDANT DECLARED INDIGENT, COUNSEL TO BE ASSIGNED. ..FM 05/13/88 12:49

04/13/1988 D CAPIAS TO ISSUE FOR DEFENDANT, EMANUEL NEWELL. ..FM 04/13/88 15:53

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CR  
M-12-5-88

STATE OF OHIO }  
CUYAHOGA COUNTY } SS.

IN THE COURT OF COMMON PLEAS

STATE OF OHIO

PLAINTIFF

TO-WIT: DECEMBER 7 1988 SEPTEMBER TERM 19 88  
NO. 88-226060 19 88

VS.

INDICTMENT FOR ASSAULT SPEC. HAVE WEP  
ON 11/15/88 BY SHERIFF

EMANUEL NEWELL

DEFENDANT

JOURNAL ENTRY

NUNC PRO TUNC AS OF AND FOR OCTOBER 26, 1988: ON CT ONE  
THE DEFENDANT EMANUEL NEWELL IS SENTENCED TO THE CORRECTIONAL RECEPTION  
CENTER, ORIENT, OHIO, FOR A TERM OF FIFTEEN (15) YEARS ACTUAL INCARCERATION  
TO TWENTY-FIVE (25) YEARS, DUE TO PRIOR AGGRAVATED SPECIFICATION.  
(SENTENCE CORRECTED FROM FIFTEEN (15) YEARS ACTUAL TIME, TO ADD TWENTY-  
FIVE (25) YEARS TO SENTENCE.)

RECEIVED FOR FILING

DEC 2 1988

GERALD E. FUERST, CLERK

BY [Signature] OCT

VOL 827 TO 586

JUDGE William E Mahon

WILLIAM E MAHON

12/02/88 09:11

THE STATE OF OHIO }  
Cuyahoga County } SS. I, GERALD E. FUERST, CLERK OF  
THE COURT OF COMMON PLEAS  
WITHIN AND FOR SAID COUNTY  
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY  
TAKEN AND COPIED FROM THE ORIGINAL Criminal  
Journal Entry CR 226060  
NOW ON FILE IN MY OFFICE  
WITNESS MY HAND AND SEAL OF SAID COURT THIS 22nd  
DAY OF Dec A.D. 1988  
GERALD E. FUERST, Clerk

EXHIBIT C

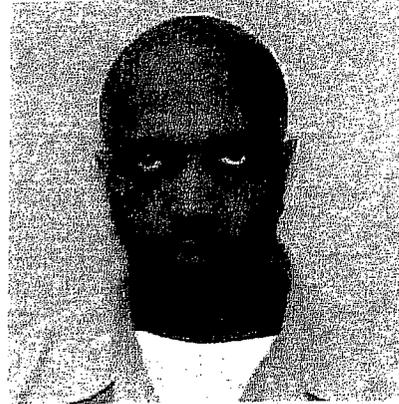
4/21/88

Ohio Department of Rehabilitation and Correction

Offender Detail Information

EMANUEL NEWELL

Number: A206453  
 DOB: 02/01/1961  
 Gender: Male  
 Race: Black  
 Admission Date: 11/01/1988  
 Institution: Toledo Correctional Institution  
 Status: INCARCERATED



Notice Information

No Notices for Offender.

Ohio Revised Code Felony Sentencing Chart

Victim Info

Offense Information

<b>RSP</b>	<b>Counts:</b> 1 ORC: 2913.51 2	<b>Victim Info</b>
<b>Committing</b> County: CUYAHOGA	<b>Admission</b> Date: 08/30/1979	<b>Degree of</b> <b>Felony:</b> Fourth
<b>CARRY CONCEALED WEAPON</b>	<b>Counts:</b> 1 ORC: 2923.12 2	<b>Victim Info</b>
<b>Committing</b> County: CUYAHOGA	<b>Admission</b> Date: 08/30/1979	<b>Degree of</b> <b>Felony:</b> Third
<b>VOL MANSLAUGHTER</b>	<b>Counts:</b> 1 ORC: 2903.03 2	<b>Victim Info</b>
<b>Committing</b> County: CUYAHOGA	<b>Admission</b> Date: 11/01/1988	<b>Degree of</b> <b>Felony:</b> First
<b>WEAPON UNDER DISABILITY</b>	<b>Counts:</b> 1 ORC: 2923.13 3	<b>Victim Info</b>
<b>Committing</b> County: CUYAHOGA	<b>Admission</b> Date: 11/01/1988	<b>Degree of</b> <b>Felony:</b> Fourth
<b>FEL ASSAULT</b>	<b>Counts:</b> 1 ORC: 2903.11 3	<b>Victim Info</b>
<b>Committing</b> County: CUYAHOGA	<b>Admission</b> Date: 11/01/1988	<b>Degree of</b> <b>Felony:</b> First

EXHIBIT D

**IN THE SUPREME COURT OF OHIO**

THE STATE OF OHIO, EX REL.,  
EMANUEL NEWELL #206-453,  
Relator,

Case No. \_\_\_\_\_

v.

JUDGE WILLIAM E. MAHON ET AL.,  
Respondent's.

**ORIGINAL ACTION**

---

**RELATOR'S AFFIDAVIT IN SUPPORT OF THE PETITION**

---

I, Emanuel Newell, being competent to make this declaration, after being duly sworn and cautioned on my oath under penalty of perjury, do hereby state all factual matters asserted in my petition for a writs of prohibition and mandamus in the action captioned above are true and correct. Pertinent to the resolution of the petition include, but are not limited to the following: (1) the entry attached as Exhibit A is a true copy of the Judgment Entry of Conviction filed by the court on October,31, 1988; (2) the trial court docket sheet attached as Exhibit B; and (3) the trial court "nunc pro tunc" entry attached as Exhibit C is a true copy of that filed with the court on December 2, 1988; and (4) when the court issued the amended entry (Exhibit C) I had already been conveyed to the Department of Corrections as of November 1, 1988 and had begun serving the sentence ordered in the original entry (Exhibit D). Further Affiant sayeth naught.

Respectfully submitted,

Emanuel Newell

Emanuel Newell #206-453  
Allen Correctional Institution  
2338 North West Street  
Lima, Ohio 45801

NOTARY PUBLIC

Sworn and subscribed in my presence, a Notary Public for the State of Ohio on this 1<sup>st</sup> day of May, 2013



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

[Signature]  
Signature of Notary Public

**IN THE SUPREME COURT OF OHIO**

THE STATE OF OHIO, EX REL.,  
EMANUEL NEWELL #206-453,  
Relator,

Case No. \_\_\_\_\_

v.

JUDGE WILLIAM E. MAHON ET AL.,  
Respondent's.

**ORIGINAL ACTION**

---

**RELATOR'S AFFIDAVIT FOR WAIVER  
OF PREPAYMENT OF FILING FEES**

---

I, Emanuel Newell, being competent to make this declaration, after being duly sworn and cautioned on my oath under the penalty of perjury, do hereby state: (1) that I am without the means to pay for the costs in this action, or for any legal representation, but believe that I am entitled by law to the relief requested in the petition for writs of prohibition and mandamus; (2) that I have no assets or income with which to offer security to obtain the fees, such as real estate, automobiles, stocks, bonds, pensions, annuities, dividends, or the like; and (3) that I have attached a statement that sets forth the balance in my inmate account for each of the last six months, which has been certified by the institutional cashier, as required by O.R.C. 2969.25 (c)(1). Further, Affiant sayeth naught.

Respectfully submitted,

Emanuel Newell

Emanuel Newell #206-453  
Allen Correctional Institution  
2338 North West Street  
Lima, Ohio 45801

NOTARY PUBLIC

Sworn and subscribed in my presence, a Notary Public for the State of Ohio on this 1st day of  
May, 2017



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

Edward A. Fisher

Signature of Notary Public

05/17/2013

Allen Correctional Institution

Inmate Demand Statement

Inmate Name: NEWELL, EMANUEL  
 Lock Location: ACI,E2,EH2,B,,247

Number: A206453

Date Range: 11/01/2012 Through 05/18/2013

Beginning Account Balances:

Ending Account Balances:

	Saving	Debt	Payable		Saving	Debt	Payable
Inmate's Person	\$35.64	\$0.00	\$0.00	Inmate's Personal A	\$12.50	\$0.00	\$0.00
<b>Begin Totals</b>	<b>\$35.64</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>End Totals</b>	<b>\$12.50</b>	<b>\$0.00</b>	<b>\$0.00</b>

Transaction Date / Inst.	Transaction Amount	Description	Comment	Saving Balance	Debt Balance	Payable Balance
11/01/2012	(\$15.00)	Inmate's Personal Account	POS Exemption Transfer	\$20.64	\$0.00	\$0.00
ACI						
11/01/2012	\$15.00	Pos Exemption	POS Exemption Transfer	\$35.64	\$0.00	\$0.00
ACI						
11/01/2012	(\$35.52)	Commissary Sale	Ticket Number 26518	\$0.12	\$0.00	\$0.00
ACI						
11/09/2012	\$18.00	State Pay	State Pay	\$18.12	\$0.00	\$0.00
ACI						
11/09/2012	\$33.50	JPay MoneyOrders	22050815/HEDGLIN, PATRLCLA	\$51.62	\$0.00	\$0.00
ACI						
11/15/2012	(\$42.76)	Commissary Sale	Ticket Number 26883	\$8.86	\$0.00	\$0.00
ACI						
11/15/2012	(\$2.46)	Commissary Sale	Ticket Number 26884	\$6.40	\$0.00	\$0.00
ACI						
11/20/2012	(\$6.36)	Commissary Sale	Ticket Number 27209	\$0.04	\$0.00	\$0.00
ACI						
12/01/2012	\$0.00	\$15.00 Reservation to Pos Exemption	OdrC Pos Exemption	\$0.04	\$0.00	\$0.00
ACI						
12/03/2012	\$108.50	JPay MoneyOrders	22472374/HEDGLIN, PATRICIA	\$108.54	\$0.00	\$0.00
ACI						
12/07/2012	\$18.00	State Pay	State Pay	\$126.54	\$0.00	\$0.00
ACI						
12/07/2012	(\$4.00)	Fundraisers - No Specific Club	VVA PHOTOS DECEMBER	\$122.54	\$0.00	\$0.00
ACI						
12/13/2012	(\$86.33)	Commissary Sale	Ticket Number 27725	\$36.21	\$0.00	\$0.00

ACI					
12/13/2012	(\$6.37) Commissary Sale	Ticket Number 27727	\$29.84	\$0.00	\$0.00
ACI					
12/21/2012	(\$2.45) Copy Charges		\$27.39	\$0.00	\$0.00
ACI					
12/26/2012	(\$16.79) Commissary Sale	Ticket Number 252995	\$10.60	\$0.00	\$0.00
ACI					
01/01/2013	\$0.00 \$15.00 Reservation to Pos Exemption	Odr Pos Exemption	\$10.60	\$0.00	\$0.00
ACI					
01/02/2013	\$33.50 JPay MoneyOrders	23027251/HEDGLIN, PATRICIA	\$44.10	\$0.00	\$0.00
ACI					
01/04/2013	(\$43.69) Commissary Sale	Ticket Number 28383	\$0.41	\$0.00	\$0.00
ACI					
01/04/2013	\$21.00 State Pay	State Pay	\$21.41	\$0.00	\$0.00
ACI					
01/15/2013	(\$16.35) Commissary Sale	Ticket Number 28964	\$5.06	\$0.00	\$0.00
ACI					
01/25/2013	(\$1.30) Postage Charges (USPS)		\$3.76	\$0.00	\$0.00
ACI					
01/25/2013	\$33.50 JPay MoneyOrders	23428069/HEDGLIN, PATRICIA	\$37.26	\$0.00	\$0.00
ACI					
02/01/2013	(\$15.00) Inmate's Personal Account	POS Exemption Transfer	\$22.26	\$0.00	\$0.00
ACI					
02/01/2013	\$15.00 Pos Exemption	POS Exemption Transfer	\$37.26	\$0.00	\$0.00
ACI					
02/06/2013	(\$7.43) Commissary Sale	Ticket Number 29402	\$29.83	\$0.00	\$0.00
ACI					
02/08/2013	\$24.00 State Pay	State Pay	\$53.83	\$0.00	\$0.00
ACI					
02/14/2013	(\$26.44) Commissary Sale	Ticket Number 29807	\$27.39	\$0.00	\$0.00
ACI					
02/26/2013	(\$15.57) Commissary Sale	Ticket Number 30337	\$11.82	\$0.00	\$0.00
ACI					
02/27/2013	(\$0.20) Postage Charges (USPS)		\$11.62	\$0.00	\$0.00
ACI					
02/27/2013	(\$0.40) Postage Charges (USPS)		\$11.22	\$0.00	\$0.00
ACI					

02/27/2013	(\$1.92) Postage Charges (USPS)		\$9.30	\$0.00	\$0.00
ACI					
02/27/2013	\$48.50 JPay MoneyOrders	24093800/HEDGLIN, PATRICIA	\$57.80	\$0.00	\$0.00
ACI					
03/01/2013	(\$15.00) Inmate's Personal Account	POS Exemption Transfer	\$42.80	\$0.00	\$0.00
ACI					
03/01/2013	\$15.00 Pos Exemption	POS Exemption Transfer	\$57.80	\$0.00	\$0.00
ACI					
03/03/2013	\$22.00 OffConnect Kiosk Deposit	4404984779341586739/RI CE, DEBORAH	\$79.80	\$0.00	\$0.00
ACI					
03/06/2013	(\$20.64) Commissary Sale	Ticket Number 30505	\$59.16	\$0.00	\$0.00
ACI					
03/08/2013	\$24.00 State Pay	State Pay	\$83.16	\$0.00	\$0.00
ACI					
03/11/2013	(\$4.50) Fundraisers - No Specific Club	VVA PHOTO'S-Oakwood	\$78.66	\$0.00	\$0.00
ACI					
03/13/2013	\$22.00 OffConnect Kiosk Deposit	4413918868673159475/RI CE, DEBORAH	\$100.66	\$0.00	\$0.00
ACI					
03/14/2013	(\$33.21) Commissary Sale	Ticket Number 30884	\$67.45	\$0.00	\$0.00
ACI					
03/19/2013	(\$17.50) Commissary Sale	Ticket Number 31081	\$49.95	\$0.00	\$0.00
ACI					
03/20/2013	\$33.50 JPay MoneyOrders	24548940/HEDGLIN, PATRICIA	\$83.45	\$0.00	\$0.00
ACI					
03/26/2013	(\$34.43) Commissary Sale	Ticket Number 31300	\$49.02	\$0.00	\$0.00
ACI					
03/30/2013	\$22.00 OffConnect Kiosk Deposit	4445378326473236786/RI CE, DEBORAH	\$71.02	\$0.00	\$0.00
ACI					
04/01/2013	(\$15.00) Inmate's Personal Account	POS Exemption Transfer	\$56.02	\$0.00	\$0.00
ACI					
04/01/2013	\$15.00 Pos Exemption	POS Exemption Transfer	\$71.02	\$0.00	\$0.00
ACI					
04/04/2013	(\$37.92) Commissary Sale	Ticket Number 31447	\$33.10	\$0.00	\$0.00
ACI					
04/05/2013	\$24.00 State Pay	State Pay	\$57.10	\$0.00	\$0.00
ACI					

04/07/2013	\$30.00 OffConnect Kiosk Deposit	4450065612808937779/HE DGLIN, PATRICIA	\$87.10	\$0.00	\$0.00
ACI					
04/11/2013	(\$53.61) Commissary Sale	Ticket Number 31844	\$33.49	\$0.00	\$0.00
ACI					
04/16/2013	\$22.00 OffConnect Kiosk Deposit	4461755169631658290/RI CE, DEBORAH	\$55.49	\$0.00	\$0.00
ACI					
04/17/2013	(\$8.93) Commissary Sale	Ticket Number 32045	\$46.56	\$0.00	\$0.00
ACI					
04/22/2013	\$33.50 JPay MoneyOrders	25192967/HEDGLIN, PATRICIA	\$80.06	\$0.00	\$0.00
ACI					
04/24/2013	(\$50.26) Commissary Sale	Ticket Number 32274	\$29.80	\$0.00	\$0.00
ACI					
04/26/2013	(\$1.85) Copy Charges		\$27.95	\$0.00	\$0.00
ACI					
04/29/2013	\$27.00 OffConnect Kiosk Deposit	4461780597448663347/RI CE, DEBORAH	\$54.95	\$0.00	\$0.00
ACI					
05/01/2013	(\$15.00) Inmate's Personal Account	POS Exemption Transfer	\$39.95	\$0.00	\$0.00
ACI					
05/01/2013	\$15.00 Pos Exemption	POS Exemption Transfer	\$54.95	\$0.00	\$0.00
ACI					
05/01/2013	(\$1.86) Commissary Sale	Ticket Number 32366	\$53.09	\$0.00	\$0.00
ACI					
05/03/2013	(\$1.00) Copy Charges		\$52.09	\$0.00	\$0.00
ACI					
05/03/2013	\$24.00 State Pay	State Pay	\$76.09	\$0.00	\$0.00
ACI					
05/09/2013	(\$64.75) Commissary Sale	Ticket Number 32790	\$11.34	\$0.00	\$0.00
ACI					
05/09/2013	(\$0.75) Copy Charges		\$10.59	\$0.00	\$0.00
ACI					
05/13/2013	\$22.00 OffConnect Kiosk Deposit	4493540628502176050/RI CE, DEBORAH	\$32.59	\$0.00	\$0.00
ACI					
05/15/2013	(\$20.09) Commissary Sale	Ticket Number 32969	\$12.50	\$0.00	\$0.00
ACI					

Outstanding Debts:

Start Date	Description	Case	Agency	County	Total Debt	Paid to Date	Balance Owed
Page: 4/5	A206453	NEWELL, EMANUEL				ACI	05/17/2013

<b>Total Outstanding Case Balances</b>	<b>\$0.00</b>
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Outstanding Holds:

Start Date	Description	Case	Agency	County	Total Debt	Paid to Date	Balance Owed
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<b>Total Outstanding Case Holds</b>	<b>\$0.00</b>
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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, ACI Cashier*

Jackie Bechtel, ACI Cashier

IN THE SUPREME COURT OF OHIO

THE STATE OF OHIO, EX REL.,  
EMANUEL NEWELL #206-453,  
Relator,

Case No. \_\_\_\_\_

v.

ORIGINAL ACTION

JUDGE WILLIAM E. MAHON ET AL.,  
Respondents.

**RELATOR'S AFFIDAVIT PURSUANT TO O.R.C. SECTION 2969.25(A)**

I, Emanuel Newell, being competent to make this declaration, after first being duly sworn and cautioned on my oath under penalty of perjury, do hereby state, as required by Ohio Revised Code Section 2969.25(A) that I have not commenced any civil actions or appeals against a government entity or employee in the previous five years in any state or federal court. The only possible exception would be the petition for a writ of mandamus and of procedendo filed with the Eighth District Court of Appeals on 04/10/12 (Case No. 98198 - decided 08/14/12), which was simply to compel the Cuyahoga County Court of Common Pleas to proceed to judgment regarding the very issue that is the subject of the instant action. However, I am of the understanding and belief that said petition for a writ of mandamus and of procedendo is not the type of civil action comporting with the requirements of R.C. 2969.25(A), nevertheless, such a petition is technically a civil action as it is governed by the Ohio Rules of Civil Procedure. Further, Affiant sayeth naught.

*Emanuel Newell*

Emanuel Newell #206-453  
Allen Correctional Institution  
2338 North West St.  
Lima, Ohio 45801

NOTARY PUBLIC

Sworn and subscribed in my presence, a Notary Public for the State of Ohio on this 10<sup>TH</sup> day of May, 2017



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

*Edward A. Fisher*

Signature of Notary Public