

IN THE SUPREME COURT OF OHIO

14-0199

FRANK RAY SHOOP,
Appellant,

-V-

STATE OF OHIO,
Appellee.

)
) On Appeal From The Hancock
) County Court of Appeals
) 3rd Appellate District
) Case No.: 5-13-19
)
)
)
)

MEMORANDUM IN SUPPORT OF JURISDICTION

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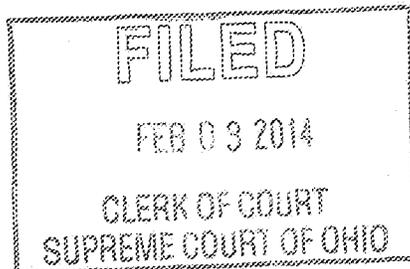
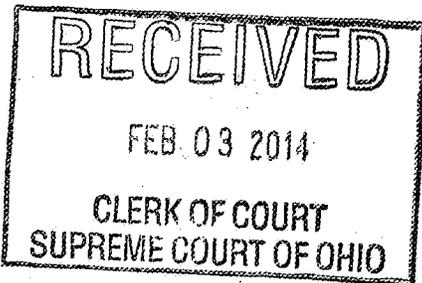


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JUDGMENT ENTRY FOR CASE NO.: 5-13-19 FILED ON DECEMBER 23,
2013, BY THE THIRD APPELLATE DISTRICT COURT

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STATEMENTS OF FACTS

Now comes the Appellant Frank Ray Shoop, acting in a Pro Se fashion, seeking this Honorable Court to GRANT this JURISDICTION of this APPEAL. This Court has the RIGHT and the JURISDICTION to look at this case and make the Decision you choose to make. The Decision could be to ACCEPT Jurisdiction of this Appeal and ORDER the Hancock County Prosecutor's Office to Respond IF they can.

Appellant has ATTEMPTED to receive a Discovery Package SEVERAL times and has ALWAYS been Denied. Now Appellant has ATTEMPTED to Receive Public Information/ Evidence/ Discovery/ Documents/ Information and it CONTINUES to be Denied. Since the Appellant OR his Court Appointed ALLEGED Defense Attorney NEVER Received ANY Discovery PRIOR to Trial OR since the Conviction, Appellant CONTINUES to be DENIED his DUE PROCESS RIGHTS.

Because of the FACT that the ALLEGED Defense Attorney did NOT Request ANY Discovery PRIOR to the Trial, Appellant has also had INEFFECTIVE ASSISTANCE OF COUNSEL, which is another Ohio Constitution and United States Constitution VIOLATION. The Hancock County Prosecutor's Office has also ADMITTED that some of the ALLEGED Public Information/ Evidence/ Discovery/ Documents/ Information I have Requested has NEVER Existed. I want to know which of the Public Information/ Evidence/ Discovery/ Documents/ Information NEVER Existed and IF it NEVER Existed, then WHY was it even mentioned during the Trial. I want the Hancock County Prosecutor's Office to SPECIFY with CERTIFICATION what NEVER Existed, what no longer Exist and what DOES Exist.

The Third Appellate District Court VIOLATED my RIGHTS by ALLOWING me to file my Appeal Brief, then the Prosecutor Filed his Appeal Brief, BUT I was NOT ALLOWED to File a Response to the Prosecutor's Brief. The Prosecutor's Brief had a lot of ERRORS in it, which I could NOT prove SIMPLY because I was NOT ALLOWED to Respond. Ohio Constitution and United States Constitution VIOLATIONS of DUE PROCESS and MORE.

The Third Appellate District Court VIOLATED my RIGHTS when they ALLOWED Oral Arguments, BUT also DENIED me the RIGHT to speak in my behalf. I represent myself and have the RIGHT to be present to Argue my case. I am ENTITLED to be present for EVERY Phase of my case according to the Laws, the Ohio Constitution and the United States Constitution. The Prosecutor or whoever was able to speak in behalf of the State and give MORE FALSE Information to the Appeal Court Judge(s).

I wrote a letter to the Magistrate Judge for a copy of the Transcripts or the Minutes of the Oral Arguments. Court Administrator and Magistrate Gregory B. Miller responded by Saying: “... there is no court reporter present and the arguments presented on appeal are not recorded.” and “... there are no copies of minutes or transcripts available.”. They ARE further VIOLATING my RIGHTS by NOT ALLOWING me to be present and speak in my own behalf, BUT they also VIOLATE my RIGHTS by NOT ALLOWING me to know what was said by the Prosecutor. ALL Hearings are REQUIRED to be Recorded.

The Third Appellate District Court VIOLATED my RIGHTS when they concentrated on the charge I was accused of, INSTEAD of the FACT that I have NEVER Received ANY Public Information/ Evidence/ Discovery/ Documents/ Information. PLUS, there is the FACT that the Prosecutor and Judge Reginald J. Routson admit that some of the ALLEGED Evidence NEVER EXISTED. They ALL CLAIM that I was convicted of sexually penetrating the ALLEGED Victim, which this was NEVER PROVEN. It was PROVEN that the ALLEGED Victim was STILL a virgin after the ALLEGED Incident. The ALLEGED Victim also states that the Incident NEVER occurred.

Hancock County Prosecutor Mark C. Miller, Hancock County Common Pleas Court Judge Reginald J. Routson and the Three Appellate Court Judge(s) CLAIM that I Appealed my sexual predatory classification on April 26,2006. How is that possible when I was NEVER classified until August 24,2006, and the Judgment was NOT Filed until August 28,2006 ?? Why would I Appeal something that did NOT EXIST OR why would the Third Appellate District Court Accept Jurisdiction of something that did NOT EXIST ?? I Do wonder if Court Administrator and Magistrate Gregory B Miller is RELATED to Hancock County Prosecutor Mark C. Miller ?? Appeal Court Judge Vernon Preston sat on the very Bench that Trial Court Prosecutor Robert Fry is NOW sitting at AND Hancock County Common Pleas Court Judge Reginald J. Routson was also a part of that Court. I was Informed that Appeal Court Judge Shaw is from Hancock County also. HOW can that NOT be PREJUDICIAL towards the Appellant ??

The Release of the Appellant due to the following Cause(s) of Denial of Due Process of Law and other Ohio Constitution VIOLATIONS plus United States Constitution VIOLATIONS, Which Has The Castration Of Just Cause Within The Causes Of American Jurisprudence. The following Complaint has to do with VIOLATIONS Committed and Continue to be Committed against the Appellant.

This Court has the RIGHT TO ACCEPT JURISDICTION over this case and the RIGHT TO DISCHARGE the Appellant, Pursuant to Ohio Revised Code, Sections §§ 2331.14 and 2725.17.

Appellee has been Clearly using the SHAM LEGAL PROCESS: Ohio Revised Code §

2921.52, to CONTINUE to Prosecute and/ or CONTINUE to keep the Appellant Incarcerated for the time he has been Incarcerated, because they do NOT want to give up what they have accumulated or let ANYONE else know exactly what they have been up to OR what they could do in the future.

Appellant knows of NOTHING on the Record that is True or that CAN be VERIFIED by the Appellee(s) to PROVE what they ALLEGED against the Appellant is True. Where on the other hand, Appellant HAS EVIDENCE TO PROVE that the State of Ohio (Prosecutor and Judge), gave FALSE INFORMATION and CONTINUES to give FALSE INFORMATION in order to keep the Appellant Incarcerated. Appellant is ACTUALLY INNOCENT and the Court had NO JURISDICTION to hold the Trial. Plus, IF the Court would ALLOW the Appellant to Receive the Public Information/ Evidence/ Discovery/ Documents/ Information that has been Requested, THEN the Appellant would have even MORE Evidence to use against the Appellee(s). This could be the VERY reason why they do NOT give the Appellant their ALLEGED Public Information/ Evidence/ Discovery/ Documents/ Information. BUT, I CANNOT get the Courts to look at the Evidence I do have OR UNDERSTAND that MOST of what the State of Ohio (Prosecutor), CLAIMED he had DURING the Trial, NOW HE SAYS HES NEVER EXISTED.

When the Prosecution REFUSES to address the FACT that the Appellant IS ENTITLED to the Public Information/ Evidence/ Discovery/ Documents/ Information, then they ARE further VIOLATING the Appellant's RIGHTS. Each and EVERY Public Official that has been voted in Office is REQUIRED to take an OATH OF OFFICE. With this OATH OF OFFICE, they SWEAR to DEFEND, PROTECT and UPHOLD the Ohio Constitution and the United State Constitution at ALL times.

When things ARE added to the Docket Sheet that is NOT TRUE, then SOMEONE is VIOLATING the Appellant's RIGHTS even further and showing PREJUDICE towards the Appellant. For Example ____ : On Pg. 1,#1 – Judicial Release is Denied on December 19,2013, when NONE was EVER Filed; The Decision and Order to Deny the Request for Public Information was Filed the FIRST TIME on June 26,2013, WHICH is why this Appeal Exist, Pg.3, #16 and then Judge Reginald J. Routson Denied it again on December 9,2013. For some reason, the December 9,2013, Denial is NOT on the Docket Sheet. See Exhibit _____. That was done AFTER Appellant Filed a Motion For Default Judgment on December 6,2013, Pg. 1, #2. Hancock County Justice System and the Third Appellate District Court CLAIMS that Appellant appealed a sexual predator classification on April 26,2006. That is NOT possible, because Appellant was NOT classified UNTILL August 28,2006, Pg. 5, #48.

The case is suppose to be told by the Docket Sheet and Journal Entry. HOW IS THAT

POSSIBLE WHEN THINGS ARE IN THE DOCKET SHEET THAT ARE NOT TRUE OR THINGS ARE NOT IN THE DOCKET SHEET THEY CLAIM OCCURED ?? The State of Ohio (Prosecutor and the Judge(s)) CLAIM certain things occurred and the dates do NOT match. They tell me to PROVE what I am stating and then they do NOT give me a chance to PROVE it in a Hearing. They CLAIM certain things occurred, BUT they do NOT have PROOF or ANYTHING showing it ACTUALLY occurred. I would like them to show this Court and myself WHEN Appellant's Court Appointed ALLEGED Defense Attorney OR Appellant was given ANY of the things that have been Requested.

Also, this has become a very Clear Act of becoming a DE FACTO GOVERNMENT. When the Appellee ALLOWED his/ her Office to Maintain themselves by a Display of Force against the Will of the RIGHTFUL LEGAL GOVERNMENT and has Maintained Success in overturning the Institution of the RIGHTFUL LEGAL GOVERNMENT by setting up THEIR OWN in Lieu thereof. Wortham -V- Walker, 133 Tex. 255, 128 S. W. 2d 1138, 1145. It is ALL too Clear that the Appellee(s) is ATTEMPTING to make a Mockery of this Justice System and also ATTEMPTING to DECEIVE ALL other Courts into thinking that the Issues presented of ACTUAL INNOCENCE and CORRUPTION DOES NOT matter. For the Appellee(s) and other Agent(s) of the State have Clearly lost their way and forgot ALL OF THEIR DUTIES AND OBLIGATIONS to the Ohio Constitution and the United States Constitution, OR they have become Mentally Disabled and Clearly can NO longer do their Legal Duty.

The Ohio Constitution and the United States Constitution VIOLATIONS Maintain to be INTENTIONAL and PURPOSEFUL ACTS used in the SHAM LEGAL PROCESS, O.R.C. § 2921.52, to Circumvent the Laws, while acting as a DE FACTO GOVERNMENT. (ALL ACTS OF CRIMINAL INTENT.)

Pursuant to O.R.C. § 2725.17: When the Judge(s) has examined the Cause(s) of Caption and Detention of what an Appellant brought before this Court and is Satisfied that the Appellant is UNLAWFULLY Imprisoned or Detained, he/ they SHALL IMMEDIATELY forthwith DISCHARGE the Appellant from Confinement.

On such Examinations, the Judge(s) may DISREGARD matters of Form OR Technicalities in ANY mittimus or order of Commitment by a Court or Office Authorized by Law to Commit.

Appellant Maintains that there is MORE than enough Evidence in the Records and Files to support the issues of this case at bar, being a VOID CONVICTION and therefore, this case DOES NOT LEGALLY EXIST. The Evidence, that the Appellant is ATTEMPTING to Obtain and is Constantly being held back on, would CONVINCE WHOEVER looked/ read/ studied such

Evidence and the Appellant would have been released PRIOR to ALL of this occurring.

Generally under the Ohio Public Records Act, O.R.C. § 149.43 et seq., reflects the Policy that OPEN GOVERNMENT serves the Public Interest and the Democratic System. O.R.C. § 149.43, MUST also be Liberally Construed in FAVOR of BROAD ACCESS to Public Records, with ANY doubt Resolved in FAVOR of DISCLOSURE. State ex rel., Bardwell -V- Cuyahoga County Bd. Of Comm'rs, 2009 Ohio App. LEXIS 4693, 2009 Ohio 5573 (October 19,2009) affirmed by 127 Ohio St. 3d 202, 2010 Ohio 5073, 937 N. E. 2d 1274, 2010 LEXIS 2679 (2010).

PROPOSITION OF LAW I:

THE COURTS FAILED AND VIOLATED APPELLANT'S CONSTITUTIONAL RIGHTS BY DENYING THE RIGHT TO PUBLIC INFORMATION, ESPECIALLY WHEN APPELLANT NEVER HAS HAD ANY DISCOVERY FOR CASE NO. 91-CR-09859

Even though the Appellant is Incarcerated, I have a RIGHT to ANY and ALL of the Public Information/ Evidence/ Discovery/ Documents/ Information that the State of Ohio/ Hancock County Prosecutor CLAIMED that he possessed DURING the trial. The Court Appointed ALLEGED Defense Attorney did NOT request ANY of the ALLEGED Public Information/ Evidence/ Discovery/ Documents/ Information, which made him INEFFECTIVE ASSISTANCE OF COUNSEL and VIOLATING Appellant's RIGHTS. This was and still is in VIOLATION of Criminal Rule 6; Criminal Rule 16; Rules of Evidence; Ohio Constitution: Section 10, Article I; Section 10, Article 16; and The United States Constitution: Amendments 1, 4, 5, 6, 8 and 14.

NUMEROUS cases have been overturned because of less VIOLATIONS than what has occurred in the Appellant's case. Appellant has been claiming his INNOCENCE. Therefore, the Appellant has decided that if the Prosecutor can use ALLEGED Public Information/ Evidence/ Discovery/ Documents/ Information that DOES NOT EXIST or that has NEVER EXISTED or that has NO BEARING on the case, then the Appellant has a RIGHT to know about it and have copies of it.

Prosecutor Mark C. miller acts like the Common Pleas Court had a choice of giving Appellant a 10-25 years Sentence or Life in prison. This was NO choice! The State of Ohio Appealed the Sentence and the Appellate Court Denied that Appeal.

Prosecutor Fry had mentioned DNA Testing during the Trial and even had an ALLEGED

Expert Witness present testifying at the Trial. Finally with the Appellant urging/ Forcing the ALLEGED Defense Attorney and NOT giving that up was able to make the Court Appointed ALLEGED Defense Attorney to ask about the Results of the DNA Testing and ask about the ALLEGED Expert Witness' Credentials. This ALLEGED Expert Witness stated that the Blood was so small that they could NOT do ANY DNA Testing on it. This ALLEGED Expert Witness could ONLY Determine that it was of Human Origin. This ALLEGED Expert Witness did NOT have ANY Credentials to PROVE their Qualifications. The ONLY way to determine ANY Blood is of Human Origin or something else, is to Determine the Type of Blood, YET this ALLEGED Expert Witness CLAIMED that they could NOT Determine the Type.

There is SEVERAL Questions about the ALLEGED Blood that I would like to have answered.

- 1) Why did the Prosecutor CLAIM there was DNA Testing, until the Defense made him tell the Truth?
- 2) Why was there NOT ANY PROOF that ANY Testing was ACTUALLY done at all?
- 3) Why was there NOT ANY PROOF there was ANY Blood?
- 4) Why was there NOT ANY PROOF that this ALLEGED Expert Witness was ACTUALLY an Expert?
- 5) Why was there NOT ANY PROOF that this ALLEGED Expert Witness was even a Doctor?
- 6) IF there was Blood and testing done, then why couldn't they PROVE who's Blood it was?
- 7) Why was the Prosecutor able to STILL talk about DNA Testing AFTER he ADMITTED there was NO DNA Testing.

IF there are NO Documents Verifying that there were NOT ANY Promise(s) and/or Deals were made to ANY or ALL State Witness(es) for their Testimony at Trial, THEN ANY and ALL Oral Promise(s) and/or Deal(s) made ALSO have to be Reported to the Court AND the Defense. The Appellant knows of one State Witness that Received Probation for the same crimes that she was already on Probation for. Has ANYONE ELSE or ANY of the State Witness(es) Family Members Received less of a Sentence for the Testimony at Appellant's Trial?

It IS MANDATORY that a Pre Sentence Investigation Report be done PRIOR to Sentencing. The Prosecutor CLAIMS that they do NOT Maintain Such Documents. BUT according to the Public Records Officer, the Prosecutor's Office DOES have this Report. I have SEVERAL Questions about this too.

- 1) Where is the ALLEGED Pre Sentence Report?

(6)

- 2) Did it **EVER** Exist?
- 3) Why would the Prosecutor's Office **NOT** have a copy of it?
- 4) Why does the Prosecutor **NOT** want to let the Appellant read it, **IF** it does Exist?

NOT ALL Grand Jury Proceedings are held in secret. It **IS MANDATORY** that the Indictment state **IF** it is or not, **BUT** sometimes they are held when things are **NOT** completely **LEGAL** though. The Appellant had a **RIGHT** to have an Attorney in his Defense **IF** he could afford one. **IF** the Prosecutor does **NOT** want the Appellant to have a copy of the Transcripts, then that means the Appellant can **STILL** Receive a copy of the **Original Complaint**, a Copy of **ANY** and **ALL** Public Information/ Evidence/ Discovery/ Documents/ Information presented to the Grand Jury and a copy of **ANY** and **ALL** Affidavits that went in front of the Grand Jury, **IF** there is **ANY**. Criminal Rule 6(E): “**..., but may disclose such matters only when so directed by the court preliminary to or in connection with a judicial proceeding, or when permitted by the court at the request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the Grand Jury.**” This Court **CAN** give permission for the Appellant to Receive what he is Requesting because there is **NO Original Complaint** or **ANY Affidavit** taken in front of the Grand Jury **PRIOR** to an Indictment being granted. There was **NO Evidence** at Trial, **SO** that means there could **NOT** have been **ANY Evidence** to present to the Grand Jury. Criminal Rule 12(C) states that with **NO Original Complaint**, **NO Affidavits** and/or **NO Evidence**, there can be **NO Indictment** and **THAT** may be the **MAIN REASON** the Prosecutor does **NOT** want the Appellant to know **ANY** of this.

The Prosecutor and Judge(s) know that a claim of **ACTUAL INNOCENCE** and **LACK OF SUBJECT MATTER JURISDICTION** can be presented at **ANY** time and **CANNOT** be barred by Res Judicata and thus **IS** a Justiciable Claim. **SUBJECT MATTER JURISDICTION CAN** be Conferred by virtue of Constitutional Provisions or Legislative Enactment, it **CANNOT** be waived by consent of the parties, 62 Ohio Jur. 3D Judgments § 115; 62 Ohio Jur. 3D Judgments § 117; 62 Ohio Jur. 3D Judgments § 119; 62 Ohio Jur. 3D Judgments § 120; 62 Ohio Jur. 3D Judgments § 121; and **MAY BE Raised At ANY Time In ANY Court** and **CANNOT Be Waived By The Principle Of Res Judicata.**

In State -V- Darmond, 131 Ohio St. 3d 1497, 2012 Ohio 1501, 964 N.E. 2D 439, 2012 Ohio LEXIS 898 (Ohio April 4,2012), the Cuyahoga County Common Pleas Court, Eighth Appellate District and the Ohio Supreme Court (2012-0081) has agreed on the Issue of Public Information/ Evidence/ Discovery/ Documents/ Information and are abiding by the Laws of Ohio and **BOTH** Constitutions.

Criminal Rule 16 governs discovery in criminal cases and states that the purpose of Discovery is to provide **ALL** parties in a criminal case with the information necessary for a **FULL** and **FAIR** adjudication of the **FACTS**, to protect the integrity of the Justice System and the **RIGHTS** of Defendants, and to protect the well-being of witnesses, victims and society at large. Criminal Rule 16(A). If a party **FAILS** to comply with Criminal Rule 16's Discovery REQUIREMENTS, a Trial Court may **ORDER** such party to permit the Discovery or Inspection, Grant a continuance, or **PROHIBIT** the party from Introducing into Evidence the Material **NOT** Disclosed, or it may make such other order as it deems just under the circumstances. Criminal Rule 16(L). It is within the Trial Court's sound discretion to decide what sanction to impose for a **Discovery VIOLATION**. Therefore, a Trial Court's Discovery Sanction will **NOT** be overturned **UNLESS** it was Unreasonable, Unconscionable, or Arbitrary. "Emphasis added."

The Court Appointed **ALLEGED** Defense Attorney did **NOT** request **ANY** Discovery and the State (Prosecutor) did **NOT** Present **ANY** Discovery to the Defense, the Court or the Jury, **THEREFORE**, the State **FAILED** to comply with Criminal Rule 16's Discovery REQUIREMENTS. The State has **ADMITTED** that some of the Discovery I have **REQUESTED NEVER EXISTED**. They **REFUSE** to state what **NEVER EXISTED** or what **NO LONGER EXISTS**, or what they still have. They **CLAIM** that I can not prove I never received **ANY**, where in **REALITY**, it is up to them to **PROVE** that **IDID RECEIVE IT** through the Docket.

A Trial Court or Appellate Court **MUST** inquire into the circumstances surrounding a Discovery Rule **VIOLATION** It is **ONLY** when Exclusion Acts to **COMPLETELY DENY** Defendant his or her Constitutional Right to present a **PROPER** Defense that the Sanction is impermissible. "Emphasis Added." In case at bar, the State **COMPLETELY DENIED** the Defendant **ANY** and **ALL ALLEGED** Evidence that he **CLAIMED** he had during Trial, **THEREFORE**, **DENIED** Defendant (Appellant) my Constitutional **RIGHTS** to present a **PROPER** defense.

The purposes of Discovery is to protect the **INTEGRITY** of the Justice System and the **RIGHTS** of Defendants. Criminal Rule 16(A). When potentially Exculpatory Evidence is at issue, the Prosecutor may **NOT** hide behind the shield of innocence, claiming that the police failed to advise him of such Evidence. Whether the nondisclosure is the responsibility of the officer or the Prosecutor makes **NO** difference. **It is the Government's FAILURE that DENIES the accused the process DUE him**. "Emphasis Added."

In Jones, this Court cited a Seventh Appellate District case; State -V- Crespo, Mahoning App. No. 03 MA 11, 2004 Ohio 1576, wherein the Court held that "[C]ommon sense dictates that the {holding in Lakewood} does **NOT** mean that a Trial Court must impose the 'least severe sanction' in

every case. Otherwise, Dismissal of an Indictment or Reversal of a Conviction could **NEVER** be an appropriate Sanction as there will always be a sanction less severe. "Emphasis added."

Criminal Rule 16(A). When potentially Exculpatory Evidence is at issue, "**the Prosecutor may NOT hide behind the shield of innocence claiming that the Police FAILED to advise him of such Evidence.** Whether the nondisclosure is the responsibility of the Officer or the Prosecutor makes **NO** difference. **It is the Government's FAILURE that DENIES the accused the Process DUE him.**" State -V- Sullivan (August 6,1990), Tuscarwas App. No. 89 AP 120094, 1990 Ohio App. LEXIS 3567, citing United States ex rel. Smith -V- Fairman (1985), 769 F. 2d 386.

In 2008, Ohio adopted the **OPEN DISCOVERY LAW**. Prosecutors are **STILL REFUSING** to **OBEY** the Open Discovery Law. They are the ones that **ABUSE** their Position.

States that mandate Open Discovery argue that laying out the entire case against someone before taking a case to a Jury **ENSURES** that Trials are about reaching the **TRUTH** rather than racking up convictions.

The American Bar Association decided 20 years ago that a **FAIR JUDICIAL SYSTEM** is worth the small risk of retaliation against witnesses. It recommended in 1994, that **ALL** States adopt the **OPEN DISCOVERY LAW**.

Prosecutor Cooney of North Carolina states: "**It's an insane system in which the Prosecutor decides who committed a crime and ... what Evidence he gives to the Defendant.**" Cooney also said: "**I don't think you can have a functioning system of justice without Open File Discovery. Because you are convicting the innocent.**"

"IF you've got NOTHING to HIDE as a Prosecutor, why wouldn't you be in favor of the OPEN LAW DISCOVERY ??

Prosecutor Sims of Denver, Col. States: "**We're the Government. We shouldn't be hiding the ball. It's our obligation to prove the case, and we should be able to win either way.**"

Hancock County Common Pleas Court Judge Reginald J. Routson and Hancock County Prosecutor Mark C. Miller is **ONLY** worried about **KEEPING AN INNOCENT MAN** convicted and in prison. They have the conviction and they do **NOT** want to give it up. The case at bar is **NOT** an Example of a Functioning System of Justice, **BUT** it is a **PERFECT EXAMPLE** of how to Convict an **INNOCENT MAN**. Also as Prosecutor Cooney states: "**IF you have NOTHING to HIDE**", **BUT** Prosecutor Miller has **PLENTY TO HIDE**. That is why he does **NOT** want the Appellant or Anyone else to see what they do **NOT** have or what they **NEVER** had as far the **ALLEGED** Evidence they **CLAIMED** they had during the Trial.

CONCLUSION

EVERYONE IS ENTITLED to their Discovery and also a RIGHT to be PROPERLY Represented.

Appellant has been Convicted and Incarcerated for a crime that he did NOT commit, BUT over Twenty-two (22) years later, he STILL continues to fight for Justice. According to the way Hancock County ALLEGED Justice System and the Third Appellate District Court makes their Decision, all that is needed is for SOMEONE to just say that you committed a crime. It does NOT matter if they were the victim or not, it does NOT matter if they have ANY Evidence or not (All they have to do is just say they have it, BUT they do NOT have to show ANY at all EVER.), it does NOT matter if you have witnesses to support you, (They will NOT be ALLOWED to Testify for you.).

The ONLY things that the Appellant Requested were things that are MANDATORY for the State to get a LEGAL INDICTMENT and a LEGAL CONVICTION.

For the reasons stated above are the reasons this Appeal SHOULD be GRANTED for the Appellant.

Respectfully Submitted,

Frank Ray Shoop

Frank Ray Shoop, Pro Se

253-298

Marion Correctional Institution

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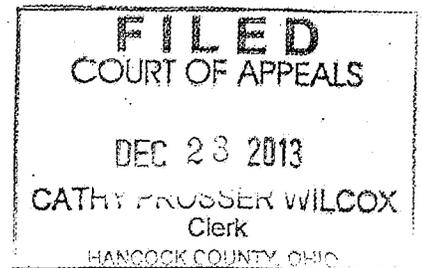
Marion, Ohio (43301-0057)

CERTIFICATE OF SERVICE

I, Frank Ray Shoop, Appellant in a Pro Se fashion, Certify that a True and Correct Copy of the Foregoing Motion has been sent by U.S. Regular Mail to Hancock County Prosecutor Mark C. Miller; Hancock County Prosecutor's Office; 514 South Main Street; Suite B; Findlay, Ohio 45840 on this 29th day of January, 2014.

Frank Ray Shoop

Frank Ray Shoop, Pro Se



IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
HANCOCK COUNTY

STATE OF OHIO,

PLAINTIFF-APPELLEE,

CASE NO. 5-13-19

v.

FRANK RAY SHOOP,

JUDGMENT
ENTRY

DEFENDANT-APPELLANT.

This appeal, having been placed on the accelerated calendar, is being considered pursuant to App.R. 11.1(E) and Loc.R. 12. This decision is, therefore, rendered by summary judgment entry, which is controlling only as between the parties to this action and not subject to publication or citation as legal authority under Rule 3 of the Ohio Supreme Court Rules for the Reporting of Decisions.

Defendant-appellant, Frank Ray Shoop, pro se, appeals the Hancock County Court of Common Pleas' decision denying his "Amendment to Petition Request Permission to Receive the following under Revised Code § 149.43." We affirm.

Received
12/31/13

Exhibit A

In February 1992, a jury convicted Shoop of one count of felonious sexual penetration in violation of former R.C. 2907.12(A)(1)(b), an aggravated felony of the first degree. (Doc. No. 62). The conviction stemmed from Shoop sexually penetrating the vagina of his two-year-old stepdaughter. (Doc. Nos. 1, 34). Shoop was sentenced to ten to twenty-five years. (May 18, 1992 JE, Doc. No. 64). We affirmed Shoop's conviction and sentence. *State v. Shoop*, 87 Ohio App.3d 462 (3d Dist.1993). (Doc. No. 77).

Thereafter, Shoop filed numerous post-conviction motions, all of which the trial court denied. We either affirmed the trial court's decisions or dismissed the appeals for lack of jurisdiction. *State v. Shoop*, 3d Dist. No. 05-04-25 (June 8, 2004) (motion to dismiss indictment for an alleged violation of speedy trial); *State v. Shoop*, 3d Dist. No. 05-05-11 (Aug. 15, 2005) (motion requesting DNA testing); *State v. Shoop*, 3d Dist. No. 05-10-33 (Nov. 23, 2010) (void conviction, challenging trial court's original jurisdiction and requesting an exchange of exculpatory evidence); *State v. Shoop*, 3d Dist. No. 05-11-09 (Apr. 12, 2011) (challenging trial court's jurisdiction); *State v. Shoop*, 3d Dist. No. 5-12-24 (Aug. 14, 2012) (requesting documents). Shoop also filed an unsuccessful appeal challenging his sexual predator classification. *State v. Shoop*, 3d Dist. No. 05-06-16 (Apr. 26, 2006).

On November 2, 2012, Shoop filed a motion to obtain several documents from his case—ranging from a copy of the original complaint (item no. 1) to the docket sheets (item no. 17)—on the basis of “R.C. 149.43(8).” (Doc. No. 205). The trial court determined that it could not rule upon the motion because Shoop did not cite an existing statute. (Doc. No. 207). Thereafter, Shoop amended his filing, and the trial court ordered Shoop to file a brief in support of his contention that the information he sought, if otherwise subject to the public records law, was necessary to support a justiciable claim. (Doc. Nos. 209, 211). Shoop filed his memorandum on January 25, 2013. (Doc. No. 213).

On June 26, 2013, the trial court overruled Shoop’s motion, concluding that much of the evidence Shoop sought did not exist, was not a public record; and, alternatively, if the information sought was a public record, Shoop failed to demonstrate that he had a justiciable claim pursuant to R.C. 149.43(B)(8). (Doc. No. 215). The trial court found that Shoop was seeking information to re-litigate his 1992 conviction, which has been the subject of numerous appeals and post-conviction motions, and which is now final. (*Id.*). The trial court also found that Shoop did not allege that the information sought was newly discovered evidence or, if it was, that it was not provided to him prior to trial or it even still exists. (*Id.*).

On July 18, 2013, Shoop filed a notice of appeal, which was assigned appellate case no. 05-13-19 and is presently before this Court. (*See* Doc. No. 219). Shoop fails to assert an assignment of error on appeal, so we will interpret his arguments as raising the following assignment of error:

Assignment of Error

The trial court erred by denying defendant-appellant's motion for public records related to his criminal conviction in trial court case no. 1991 CR 095859, because R.C. 149.43, known as the Sunshine Law, requires disclosure of the public records.

Shoop argues in his brief that the public records he requested are necessary to support his motion to vacate the “void judgment” based upon “sham legal process; ineffective assistance of counsel; illegal seizure of life and property; insufficient evidence; speedy trial time limitations; and prosecutorial misconduct.”

As initial matters, we decline the State's invitation to dismiss the appeal for Shoop's failure to comply with App.R. 16(A)(3), requiring appellants to set forth assignments of error for review. We also decline the State's offer to declare Shoop a “vexatious litigator” and prevent him from filing future appeals—that power resides with the trial court upon filing a separate civil complaint. R.C. 2323.52.

That being said, Shoop's appeal here is without merit for the several reasons outlined in the trial court's opinion. Many of the “public records” Shoop sought never existed, no longer exist, or are not public records as defined by R.C.

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149.43. Even if the information existed and fell under the definition of a public record, Shoop's request was overly broad. *See State ex rel. Sprague v. Wellington*, 7th Dist. Mahoning No. 11 MA 112, 2012-Ohio-1698, ¶ 6 (per curiam). Furthermore, res judicata bars the claims raised by Shoop; and, therefore, the information Shoop sought was not necessary to pursue a "justiciable" claim for purposes of R.C. 149.43(B)(8). *State v. Reid*, 2d Dist. Montgomery No. 24672, 2012-Ohio-1659, ¶ 9; *State v. Rodriguez*, 6th Dist. Wood No. WD-10-062, 2011-Ohio-1397. Nothing Shoop raised indicated that he was presenting a claim based on newly discovered evidence. R.C. 2953.23. Therefore, we cannot conclude that the trial court abused its discretion by denying Shoop's petition for public records under R.C. 149.43.

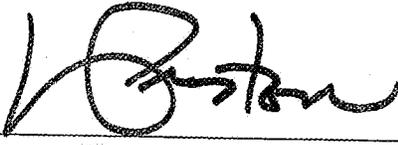
Shoop's assignment of error is, therefore, overruled.

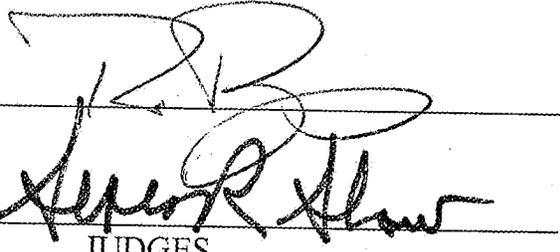
Accordingly, for the aforementioned reasons, it is the order of this Court that the Judgment Entry of the Hancock County Court of Common Pleas be, and hereby is, affirmed. Costs are assessed to Appellant for which judgment is hereby rendered. This cause is remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this judgment entry to the trial court as the mandate prescribed by App.R. 27, and

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serve a copy of this judgment entry on each party to the proceedings and note the date of service in the docket as prescribed by App.R. 30.





JUDGES

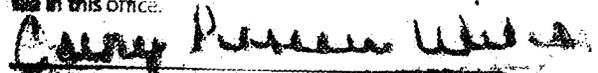
DATED: December 23, 2013

/jlr

I, the undersigned Clerk of the Common Pleas Court
for said Hancock Co., do hereby certify
that the foregoing is a true and correct copy of the

original Judgment Entry

File in this office.



Clerk of the Common Pleas Court



Clerk of the Common Pleas Court