

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OHIO

STATE OF OHIO ex rel.
JOHN J. ROHRER,)
100 Hospital Drive)
Athens, Ohio 45701)
Petitioner/Relator,)

Case No. 14-0268

-vs-

THE HONORABLE LEONARD.)
HOLZAPFEL, Judge of the Court of)
Common Pleas of Ross County,)
Ohio, Ross County Courthouse)
2 N Paint Street)
Chillicothe, Ohio 45601)

PETITION FOR HABEAS
CORPUS, COMPLAINT IN
PROHIBITION & MANDAMUS,
& MOTION FOR ALTERNATIVE
WRIT

And

GEORGE W. LAVENDER JR:)
Sheriff of Ross County, Ohio)
Ross County Law Enforcement)
Complex)
28 N. Paint Street)
Chillicothe, Ohio 45601)

And

JANE KRASON)
Chief Executive Officer)
Appalachian Behavioral Healthcare)
100 Hospital Drive)
Athens, Ohio 45701)
Respondents)

FILED
FEB 20 2014
CLERK OF COURT
SUPREME COURT OF OHIO

I
PROHIBITION AND MANDAMUS

1. The petitioner/relator, John J. Rohrer, is the defendant in Ross County Common Pleas Case No. 09CR000393, a criminal case in which he was found Not Guilty by Reason of Insanity, of felonious assault, on or about January 25, 2010 before the Honorable William J. Corzine.

2. Respondent Holzapfel is a common pleas judge assigned in December, 2013 by this Court to succeed Judge Corzine in the currently pending Ross County proceedings below, that were initiated by John's filings in that case on December 4, 2013.
3. The plaintiff in the Ross County case is the State of Ohio.
4. Respondent Lavender is the Ross County Sheriff.
5. Jane Krason is the chief executive officer of respondent Appalachian Behavioral Healthcare [ABH].
6. John has remained continuously confined either in the Ross County Jail or in state psychiatric hospitals, from the date of his arrest on or about September 1, 2009, until the present.
7. The trial docket sheet below [Ev. Relator Item I] shows that John was continuously incarcerated at the Ross County Jail from September, 2009 through February, 2010, much of that time being in solitary confinement. [Ev. Relator Item IV Ex. D & Ev. Relator Item XXII]
8. The docket sheet further shows that on 10/14/09 a prior judge permitted John's public defender to change his plea to NGRI, and on the same day, also ordered psychological evaluations by Shawnee Forensic Center, but only as to the issues of John's sanity at the time of the assault and his competence to stand trial.
9. The docket sheet makes no reference to any person or entity as being appointed to conduct an evaluation of John as a "mentally ill person subject to hospitalization by court order". It does, however, show that a 1/20/10 Entry scheduled an "evaluation hearing" for 1/22/10. No such hearing occurred.
10. On January 25, 2010, John waived jury trial in the case below, during an approximately 5 minute proceeding which combined a determination of competence to waive jury trial and other trial rights, with the taking of the plea of Not Guilty by Reason of Insanity at the time of the

assault.

11. A February 1, 2010 Entry [Ev. Relator Item XXI], said to be the memorialization of the January 25, 2010 proceeding, recites that John was determined to be a "mentally ill person subject to hospitalization by court order" based solely on a "report" stipulated to by the attorneys but that was not marked or admitted into evidence and its contents not made known to John.

12. Although Ohio Rev. Code Sec. 2945.40(D) mandates that the Court "make and maintain a full transcript" of this type of proceeding, this was not done. The undersigned is having to order it, and, due to its brevity, it is expected to become available within a few days.

13. John did not waive his procedural hearing rights under Sec. 2945.40 and it is believed that the transcript will reveal that he did not waive them, and was misled as to his rights to contest involuntary hospitalization, as is more fully set forth in the Statement of Facts contained in the Memorandum in support of the within Complaint and Petition..

14. In the rushed atmosphere of the combined hearing of 1/25/10, it would not have been possible for a reasonable person to have understood that the hearing rights under Sec. 2945.40(C) were different and separate from, the trial rights that had been discussed minutes earlier in the same hearing.

15. John was never explained the consequences of the public defender having "stipulated" to the off-the-record used to involuntarily commit him, was never explained that such "stipulation" could have cost him his right to cross examine the preparer of the out of court "report", or that involuntary commitment was not an automatic consequence of the NGRI plea.

16. That the proceedings of 1/25/10 did not qualify as the full commitment hearing under Ohio Rev. Code Sec. 2945.40(A) to which John was entitled but he has never been granted the discharged under Ohio Rev. Code Sec. 2945.40(B) that such failure should have provoked.

17. The 2/1/10 Entry [Ev. Relator Item XXI] purports to have committed John on that date to Twin Valley Behavioral Healthcare where John remained continuously, except for intervals of jailing to await hearings in the case below, until his September, 2012 transfer to respondent Appalachian Behavioral Healthcare [ABH].

18. On or about March 14, 2011, following a brief proceeding on March 4, 2011 before the previous judge, in which no exhibits were admitted and no testimony taken, except from John [Ev. Relator Item II, Ts. of 3/4/11], the previous judge signed a partial "Entry" ordering forced drugging to be administered "if needed" from a "list" referred in the "Entry" as being part of an "Attachment A" which is referred to as being incorporated into said partial Entry. [Ev. Relator III] The referenced "Attachment A" remains to this day, unattached to the March 14, 2011 Entry fragment, and missing from the court file.

19. The docket sheet below shows no filing of an application for a forced drugging order by the plaintiff or by any other entity, nor the nature of any notice of same which may have been given to John prior to the March 4, 2011 forced drugging "hearing".

20. The very brief March 4, 2011 "hearing" transcript documents that John testified he objected to being force drugged, that he had a disagreement about dosage level with his psychiatrist, that he was at the time of the hearing on a reduced amount of medication, and that he believed that the decision to force drug him and allow him no input into drugging decisions had already been made independently of his wishes in the matter. At the same "hearing", the previous judge stated on the record that he observed John to be "lucid" notwithstanding the absence of a forced drugging at that time.

21. During the March 4, 2011 proceeding, the previous judge informed John of none of his hearing rights under Ohio Rev. Code Sec. 2945.40(C)(1)-(5), including the right to independent

evaluation or the right to cross examine witnesses against him, and although said judge referred to a "stipulation" to the "contents" of a "report" from a "Dr. Santer" [Ts. p. 1], no such report was ever quoted from, marked, or admitted into evidence as an exhibit either during said hearing or at any other time.

22. It was not until the spring of 2013 that respondent ABH for the first time made available to John, upon the requests of his family, a copy of an un-file-stamped document self-labeled as "Attachment A" [Evidence relator Item IV, Exhibit C].

23. That no evidence is known to the undersigned to establish that relator's Exhibit C is the same as "Attachment 'A'" referred to but not admitted into evidence, during the March 4, 2011 forced drugging hearing.

24. That on November 8, 2011 Ohio voters approved the Health Freedom Amendment [Sec. 1.21] to the Ohio Constitution.

25. That on the basis of the March 14, 2011 Entry fragment, respondent ABH, despite having been notified of the deficiencies in such Entry fragment, continues to this day, to over-medicate John, causing him medical damage likely to be irreversible, including mitral valve prolapse and painful facial and neck twitches that may be symptomatic of tardive dyskinesia or fatal Neuroleptic Malignant Syndrome.

26. On September 10, 2012 the previous judge conducted another proceeding in which John was again not informed of any of his rights [Ev. Relator Item V, attached Ts. of 9/10/12], such as the right to cross-examine witnesses against him or his right to an "independent expert evaluation" of his status as a "mentally ill person" within the meaning of Ohio Rev.Code Sec. 5122.01(A) and (B).

27. That during the September 10, 2012 hearing the previous judge again referred to another off-

the-record “report and its’ [sic] contents” without marking it as an exhibit ,or admitting it into evidence, and without allowing John any opportunity to testify in objection to the finding that would come later in the 9/17/12 and 9//18/12 “Entries”, as to being “mentally ill” according to the statutory definition.

28. That during the September 10, 2012 proceeding, no evidence at all was presented except a brief monologue by the judge. The previous judge made no finding of mental illness under Sec. 5122.01(A) and recited no hearsay facts even from the out-of-court, unadmitted “report” from Twin Valley that might have supported such a finding, but instead recited facts purportedly from the “report” that reasonably indicated that John was *not* mentally ill.

29. Although the previous judge declined to make any findings of mental illness on 9/10/12, he somehow concluded on the record that he could bypass such finding and determine that the “least restrictive commitment” for John would be a transfer to respondent ABH.

30. On or about September 17 and 18, 2012 the former attorney for the *plaintiff* in the case, *acting as judge*, signed Entries said to memorialize the hearing of September 10, 2012 and purporting to assume jurisdiction to move John from Twin Valley to ABH for “involuntary civil commitment” and “to receive treatment”, where he remains to this day. [Evidence Relator Items VI & VII]

31. On December 4, 2013 attorney James K. Cutright , filed three (3) motions on behalf of John – the main motion seeking to vacate the forced drugging order, for unconditional discharge under Ohio Rev. Code Sec. 2945.401(J), and alternatively for an Order correcting some six (6) categories of violations of patient rights that continue to occur at ABH and for which there exists no adequate administrative remedy, as proved by relator’s efforts during 2013 to exhaust same. [Ev. Relator Item VIII, with Exhibit “M”]

32. The December 4, 2013 Motion to Vacate Forced Drugging and other relief is based, among other grounds, upon the absence of jurisdiction to enforce the March 4, 2011 Entry fragment on assortment of grounds: the Health Freedom Amendment to the Ohio Constitution (Sec. 1.21 Ohio Constitution), facial invalidity of that Entry fragment for incompleteness, failure of that Entry fragment to make any of the 3 required findings under *Steele v. Hamilton County Community Mental Health Bd.*, 90 Ohio St.3d 176 (2000), failure to accord John any substantive or procedural due process during the March 4, 2011 or September 10, 2012 hearings, and due to the unenforceability of the March, 2011 and September, 2012 purported entries under some nine (9) other grounds citing conflicts with Ohio statutes and caselaw, due process, the Americans with Disabilities Act, provisions of the Ohio Administrative Code, and human rights legislation and treaties.

33. Also on December 4, 2013 John's previous attorney filed a "Motion to Require Transportation" seeking an Order requiring respondent ABH to transport him directly to court appearances in the matter below and to "not be detained in any nonmedical facility used for detention of persons charged with or convicted of penal offenses." [Ev. Relator Item IX]

34. Also filed on December 4, 2013 was John's "Motion for Temporary Emergency Orders", with attached exhibits A-L7, which seeks an Order allowing him to be transported, by ABH staff to his medical doctors in Columbus, Ohio, for examinations and treatment to be paid by his family.

35. Attached to the Motion for Temporary Emergency Orders, is Exhibit "G", the September, 2013 affidavit of Dr. Sandra Pinkham, one of John's private physicians. [also attached to Relator's Motion for Expedited Issuance of Alternative Writ]

36. At paragraphs 4, 6, 7, and 8 of Dr. Pinkham's affidavit, she indicates that, based on a review of John's blood test results from respondent ABH records, for the period from September, 2012

through September, 2013, that he

“shows a worsening problem with hypoglycemia”,

that his records indicate he is being prescribed drugs at ABH

“that are known to cause violent behavior”,

that

“[h]is nutritional deficiencies would make him exceedingly sensitive to stress which in turn is preventing him from recovering from his mental and physical problems”

and that she would need to see him in her office in order

“to formulate a treatment plan to reverse this downward trend, and also allow me to assess his mental status, determine the presence of tardive dyskinesia, and the effects of reported indoor chemical pollutants on John’s previously diagnosed respiratory problems. “

37. Respondent Holzapfel conducted an off-the-record Status Conference in this matter on December 30, 2014 in which it is believed that the parties orally agreed that petitioner/ relator had the right to be examined and treated by his two privately retained physicians, Drs. Pinkham and Dr. DeMio.

38. Respondent judge is believed to have stated during said status conference that, notwithstanding John’s acknowledged right to second opinions about his medical condition, and treatment if needed, that he refused to permit ABH, or any other entity, including any private security company that John’s family might retain, to transport him to Columbus, to either of his physicians’ offices.

39. Respondent judge memorialized the December 30, 2014 status conference with two orders – one, entered on December 30, 2014 assigning John’s “Motion to Vacate Forced Drugging Order, for Final Termination of Commitment and/or Alternatively, for Order Restraining ABH from Continuing Violations of Patient Rights Legislation” “for completion of said hearing” on

February 27, 2014. [Ev. Relator Item X]

40. On January 2, 2014, respondent judge signed an “Order for Warrant of Removal”, which was then file-stamped January 3, 2014 [Ev. Relator Item XI]. In this Order for Warrant of Removal, respondent ordered the Ross County Sheriff, respondent Lavender, to enter Athens County and to “take custody of” John by “February 28, 2014”, *not* by the February 27, 2014 trial date.

41. On January 14, 2014 John filed a “Motion to Vacate Order for Warrant of Removal” in its entirety and submitted for respondent’s approval a proposed “Order Vacating Order for Warrant of Removal” that would have vacated the warrant and required respondent ABH to transport him to court on February 27, 2014 in time for the hearing, and to transport him in this way to all other court appearance in the case. [Ev. Relator Item XIII]

42. That on January 21, 2014, the undersigned attorney for John filed a Request for a pre-trial hearing [Ev. Relator Item XIV] in part to resolve each of the following still-pending, but unopposed, motions:

- a. “Motion for Temporary Emergency Orders” seeking transportation to John’s doctors
- b. “Motion for Order Requiring Transportation” seeking transportation to court without being jailed
- c. “Motion to Vacate Order for Warrant for Removal”.

43. That John’s January 14, 2014 “Motion to Vacate Order for Warrant of Removal” specifically disclosed to the respondent judge and plaintiff below that he planned to call witnesses during said pre-trial conference from respondent ABH who would be able to give testimony indicating that ABH had previously transported him to an outside physician, that petitioner/relator was never considered a security or safety risk during such transportations, to refute that any other reason existed to deny him transportation either to his physicians or to court, and that such transportation would be “routine” and according to the usual ABH protocol in which ABH or an ABH police

officer routinely transport s its patients to court and to doctors.

44. John's December 4, 2013 "Motion for Temporary Emergency Orders" with exhibits attached, disclosed to respondent and plaintiff below, not only his documented deteriorating health condition, but also his plans to call Drs. Pinkham and DeMio as witnesses for the February 27, 2014 hearing on the basis that by that time, he would have been recently examined by them. However John's physicians will not treat or examine him in the ABH visiting room, only in their offices, where their equipment is, as is further indicated by additional statements of Dr. Pinkham to this effect that the undersigned has repeatedly attempted to proffer to the Court.

45. That on January 22, 2014, the day after the undersigned filed objections to the issuance of the first warrant, respondent judge issued a new Order for Warrant of Removal of John [Ev. Relator Item XV], in which he declined to either refer to or vacate that portion of the January 3, 2014 Order for Warrant of Removal that still requires the Ross County Sheriff, respondent Lavender herein, to take custody of John by February 28, 2014, the day after the February 27, 2014 hearing on the forced drugging/unconditional discharge motion.

46. That respondent's January 22, 2014 "Order for Warrant of Removal", besides ordering the Ross County Sheriff to "take custody of" John, as respondent had previously ordered in the January 3, 2014 Order, went further and specifically directs the Ross County Sheriff to "PLEASE HAVE DEFENDANT AT THE ROSS COUNTY JAIL BY FEBRUARY 26, 2014."

[Capitalization in respondent's original]

47. That on January 25, 2014 relator/John became aware of respondent's January 22, 2014 Order for Warrant of Removal, and prepared a statement under penalty of perjury, witnessed by two individuals at ABH, addressing the reasons that the prospect of being incarcerated prior to hearing in the Ross County Jail, where he has previously been attacked and tasored, would

unnecessarily and unlawfully traumatize him. [Ev. Relator Item XXII, statement of John J. Rohrer dated 1/26/14, also attached to Relator's Motion for Expedited Issuance of Alternative Writ, filed concurrently herewith]

48. That on February 3, 2014 the undersigned filed a "Motion to Vacate Both Orders for Warrant of Removal" [Ev. Relator Item XVI]], upon which respondent judge declines to either rule or specifically assign for evidentiary hearing.

49. Although respondent judge granted, at least to some degree, the undersigned's request for pre-trial, which is now scheduled for February 21, 2014, that Order specifically states that respondent would consider only pre-trial motions on that date, "except for those filed 12/4/13". [Ev. Relator Item XVII, 2/6/14 Order] [emphasis supplied]

50. John's two motions pertaining to transportation, to court, and to his doctor, were both filed on 12/4/13. Neither has ever been scheduled to be heard at any time.

51.. Respondent judge continues to refuse to schedule any other hearing in which the undersigned would be allowed to present testimony proving that respondent ABH routinely transports patients to court and to physicians' offices outside Athens County, although the undersigned and John's previous attorney have requested such settings repeatedly.

52. The undersigned has no reasonable way to know which if any of his pre-trial motions might be heard or considered during the February 21, 2014 pre-trial hearing but believes respondent judge has clearly indicated he is unwilling to consider the transportation issues, at least not in time for the undersigned to adequately prepare for the February 27, 2014 hearing.

53. On 1/31/14 the undersigned issued a subpoena for John's appearance for the previously scheduled pre-trial not held due to weather. The return showing personal service of this subpoena on John was filed 2/3/14. [Ev. Relator Item XVIII] The undersigned expects to be able to prove

that respondent ABH has decided not to honor any further such subpoenas for John's court appearances.

54. That on February 7, 2014, the undersigned, in a further effort to secure John's appearance - as a litigant, rather than as a prisoner - for the 2/21/14 pre-trial hearing, sent an email to the judge's secretary asking that respondent judge endorse a subpoena for John's appearance [Item Ev. Relatoar XIX, copy of the email], but respondent has not to date endorsed such subpoena for John's appearance at the February 21, 2014 pre-trial.

55. That over the course of more than two months since John began filing for relief, on December 4, 2013, plaintiff below has filed no objections or any other responsive pleadings at all. Plaintiff, however, will not stipulate to any matter.

56. Respondent judge lacks jurisdictional power to issue any warrants for John to be jailed prior to hearing on his motions, when John is neither an accused nor convicted criminal defendant, and such actions are not only prohibited under Ohio Rev. Code Sec. 5122.17, they also threaten to deprive John of his right under Ohio Rev. Code Sec. 2945.40(C) to be present for "all hearings" without first being treated punitively and unlawfully.

57. Respondents Holzapfel and ABH both have clear legal duties to enforce John's right to access to medical evaluations and treatments offered to him by his privately retained physicians, but respondent judge's refusal to grant such access, coupled with actively blocking it, not only continues to endanger John's physical health and possibly his life, but also strips John and the undersigned of access to medical witnesses who can be prepared for hearing, in violation of John's constitutional and statutory rights to substantive and procedural due process and court access.

58. Respondent judge's refusal to date to vacate either Order for Warrant of Removal maintains

the unlawfully obtained ostensible authority of respondent sheriff to not only jail John before the hearing of February 27, 2014, but after it as well.

59. Respondent judge's actions in continuing to maintain both Orders for both warrants is a clear usurpation of judicial power and his failures to vacate and correct such acts despite repeated clear opportunities to do so, threaten John's health, his physical safety, his rights to due process of law, his rights to court access for redress, and his rights to be free of cruel or unusual punishments, along with an assortment of federal and state statutory rights.

60. On January 24, 2014 the undersigned filed a "Motion to Modify Hearing Order of 12/30/13, Strike Limiting Language, & for Additional Time", objecting to respondent's arbitrary limitation of testimony at the February 27, 2014 hearing, to one day for both parties. [Ev. Relator Item XX] This Motion requests at least one and one-half days to present John's evidence, exclusive of plaintiff's possible cross-examination, in order to adequately oppose any evidence that may be presented by the plaintiff below.

61. Respondent judge has no authority to deny John his reasonable opportunity to put on evidence by imposing arbitrary restrictions on the length of the hearing, particularly in light of respondent's ongoing actions in depriving him of a reasonable opportunity to call prepared medical witnesses on his own behalf, and in light of the still unvacated warrants that ostensibly authorize John to be detained in the jail both before and after the currently scheduled hearing..

62. John has no plain and adequate remedy in the ordinary course of the law, in that respondent's actions and failures to act to date have not resulted in a final appealable order within the meaning of Ohio Rev. Code Sec. 2505.02(B).

63. Unless this Court grants appropriate writs, John and the undersigned will be forced into another proceeding, on February 27, 2014, that is likely to be a sham that will not even permit the

undersigned to make a record for appellate review, in which respondent's actions will have stripped John of the reasonable availability of witnesses necessary to his defense, in which John is likely to be denied his opportunity to prove that respondent ABH's forced drugging of him with excessive levels of certain drugs actually endangers both him and society, and a sham in which respondent judge is unlawfully and actively sabotaging John's access to needed medical treatment thereby jeopardizing his physical and possible mental health by the unlawful use of judicial process to further traumatize John by ordering him jailed both prior to and after the hearing.

WHEREFORE, relator prays that a writ of prohibition issue as follows:

- (a) directing and restraining respondents Holzapfel and Lavender from enforcing either of the two orders for warrant of removal of relator to the Ross County Jail,
 - (b) prohibiting respondents Holzapfel and ABH from interfering with John's right to be present for all court appearances on his motions without being jailed,
 - (c) prohibiting respondents Holzapfel and ABH from interfering with John's right to be transported to his physicians for evaluation and treatment,
 - (d) prohibiting respondents Holzapfel and ABH from continuing to authorize forced drugging of John to the degree that his privately retained medical doctors require be discontinued in order to adequately evaluate or treat him,
 - (e) prohibiting respondent Holzapfel from enforcing the current arbitrary time restriction on the February 27, 2014 hearing so as to allow relator sufficient time to access and then present testimony of witnesses heretofore blocked,
- and
- (f) that an alternative writ be issued prohibiting respondents from engaging in the aforementioned acts, and requiring that said respondents appear and show cause if any they have, at a specified

time and place before this Court to demonstrate any reason that such writ of prohibition should not be made permanent.

Relator further prays for a writ of mandamus ordering as follows:

(g) directing respondent Holzapfel to vacate forthwith both orders for warrant of removal of relator to the Ross County Jail,

(h) directing respondent Holzapfel to order respondent ABH to transport John to all court appearances in the same manner that they transport other patients to court and without being jailed,

(i) directing respondent Holzapfel to order respondent ABH to transport John for his physician appointments for evaluation and treatment if indicated in the same manner that they have already transported him in the past,

(j) that respondents Holzapfel issue an Order forthwith prohibiting respondent ABH from interfering in any manner with any evaluations or treatments that may be indicated by relator's medical doctors, including any orders from said physicians seeking to discontinue current ABH conduct in forced drugging John,

(k) directing respondent Holzapfel to vacate the time restriction contained in the December 30, 2013 Order for Hearing so as to allow relator additional time following the hearing on February 27, 2014 in which to access and then present testimony of witnesses heretofore blocked,
and

(l) that respondents appear and show cause if any they have, at a specified time and place before this Court to demonstrate any reason that such writ of mandamus should not be made permanent,
and

for such further relief as to which this Court may deem that relator is entitled.

II

HABEAS CORPUS

64. The petitioner/ relator herein, John, hereby reiterates each and every allegation contained hereinabove as if fully re-written verbatim herein, and further states in support of the within petition for writ of *habeas corpus*, joined with the complaint herein for writs of prohibition and mandamus, as follows:

65. That John is restrained of his liberty, being involuntarily committed to respondent Appalachian Behavioral Healthcare [ABH], a state psychiatric hospital.

66. That the officer by whom he is so confined is Jane Krason, the chief executive officer of the aforementioned respondent ABH.

67. That the place where John is so restrained, confined, and forcibly drugged, is at Appalachian Behavioral Healthcare, 100 Hospital Drive, Athens, Ohio 45701.

68. That the judicial process by which ABH claims authority to keep him confined, i.e. the purported "Entry" of 2/1/10, the "Entry" fragment of March 14, 2011 and the purported entries of September 17 and 18, 2012, are attached to "Evidence of Petitioner/Relator" filed concurrently herewith.

69. That all three of the above mentioned purported entries were entered under mere color of law without subject matter jurisdiction to do so, having been based on a complete disregard of petitioner's hearing rights under Ohio Rev. Code Sec. 2945.40, a complete lack of supporting evidence due to being based on secret, off-the record hearsay communications of unknown authorship and never admitted into evidence, in violation of John's state and federal rights to due process of law and statutory hearing rights, all as set forth hereinabove and in the accompanying

Memorandum in support of this petition for *habeas corpus*.

70. That the complete absence of jurisdiction is plain from a superficial review of the record and transcripts in said case, as stated hereinabove, and as is further set forth in the Memorandum accompanying the within Petition and Complaint.

71. That petitioner John is not a mentally ill person subject to hospitalization by court order.

72. That although the aforementioned void "orders" refer to "treatment", John is not receiving treatment from respondent ABH. He is being warehoused under inhumane conditions, including forced drugging that qualify as torture within the meaning of 18 U.S.C. Sec. 2340 and in violation of the Nuremburg Code incorporated into Title 45 Vol. 46 of the Code of Federal Regulations, as is already fully set out in his December 4, 2013 flings below being ignored by respondents.

73. That petitioner John does not consent to the forced "treatment" that respondents ABH and Holzapfel are ordering inflicted upon him in violation of state and federal constitutional and statutory authority, including Sec. 1.21 of the Ohio Constitution, and the prohibitions against retaliation against disabled persons imposed by the Americans with Disabilities Act. [42 U.S.C. Code Sec. 12203]. Though not mentally ill, John qualifies as disabled and entitled to the protections of the ADA due to being "regarded as impaired" under 42 U.S.C. Sec. 12102(2)(B)(3).

74. That there is no lawful basis to continue to restrain petitioner of his liberty, but the continued deprivation of it also deprives John of his constitutional right to needed medical care by his own physicians, and endangers his life, all without due process of law as set forth hereinabove.

75. The release procedures of Ohio Rev. Code Sec. 5122.15(H) are unavailable and inapplicable to petitioner as specified in Ohio Rev. Code Sec. 2945.401(B).

76. The unlawful continuing actions, and failures to act, by respondents Holzapfel and ABH

demonstrate that they intend to continue John's unlawful confinement indefinitely, and that he cannot expect a plain, adequate or timely remedy by means of appeal, in his efforts to enforce his rights to be free of unlawful confinement.

WHEREFORE, petitioner prays that this Court, or a judge of this Court, issue a writ of *habeas corpus* to be served by the Clerk of this Court, or by the Sheriff of Athens County, Ohio, directing Jane Krason, chief executive officer of respondent Appalachian Behavioral Healthcare, to have the person of John J. Rohrer before this Court or any indicated judge of this Court at a time and place as may be specified by this Court, to make her lawful return of said writ pursuant to Ohio Rev. Code Secs. 2725.13.-2725.16, all in order that this Court may assure itself of the unlawful nature of petitioner's detention and forthwith discharge petitioner from such confinement, disregarding matters of form or technicalities.

Respectfully Submitted,

David L. Kastner
David L. Kastner (#0078355)
Attorney for Petitioner/Relator
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Beavercreek, Ohio 45432
dlkastner@sbcglobal.net



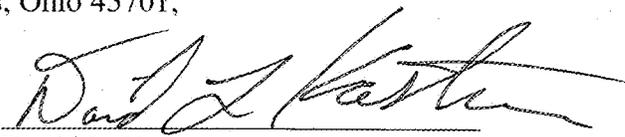
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PRAECIPE IN HABEAS CORPUS, PROHIBITION, & MANDAMUS

To the Clerk of the Ohio Supreme Court:

You are requested to issue a summons directed to the respondents and to send them each a copy of the summons, petition, and complaint by U.S. certified mail, and all accompanying documents filed concurrently herewith, return receipt requested, to each one as follows:

The Honorable Leonard Holzapfel, Ross County Courthouse Courtroom No. 1, 2 North Paint Street, Chillicothe, Ohio 45601,
Ross County Sheriff George W. Lavender Jr., 28 N. Paint Street, Chillicothe, Ohio, 45601 ,
ABH CEO Jane Krason, 100 Hospital Drive, Athens, Ohio 45701,
and to make proper return on said summons.

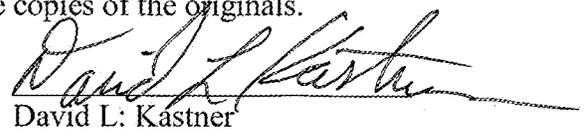


David L. Kastner

VERIFICATION

STATE OF OHIO)
) SS:
COUNTY OF GREENE)
 Montgomery

I, David L. Kastner, of lawful age, being first duly sworn upon my oath, state that I am the attorney for the petitioner/relator above named, that I have read the above and foregoing Petition for Habeas Corpus, Complaint in Prohibition & Mandamus, & Motion for Alternative Writ, know the contents therein referenced and can personally confirm that all averments contained in said Complaint have either been verified by me from the court file in Ross County Case No. 09CR000393 or are supported by statements of my client, or by the exhibits attached to said Petition and Complaint, which are true and accurate copies of the originals.



David L. Kastner

SUBSCRIBED AND SWORN to before me this 11 day of February, 2014.



CAROL A. EDWARDS, Notary Public
In and for the State of Ohio
My Commission Expires March 10, 2016

Carol A Edwards
Notary Public

CERTIFICATION

This is to certify that on this 11 day of February, 2014, I mailed a true and correct copy of the above and foregoing Petition and Complaint to the offices of the Ross County Prosecutor, at 72 N. Paint Street, Chillicothe, Ohio 45601, and filed a true and correct copy in the office of the Ross County Clerk of Courts, Paint and Main Streets, Chillicothe, Ohio 45601.

David L Kastner
David L. Kastner

STATE OF OHIO

COUNTY OF ATHENS

AFFIDAVIT

I, John J. Rohrer, the petitioner and relator in the within Complaint and Petition, declare the following:

1. That I have personal knowledge of the facts alleged in the Complaint and Petition being filed in the Ohio Supreme Court.
2. The allegations contained therein are true and accurate to the best of my knowledge and belief.
3. I declare under penalty of perjury to the best of my information and belief, that the foregoing is true and correct.

Executed this 11th day of February, 2014

John J. Rohrer

xc 48

bgj 1/29/10

FILED

FEB 1 2010

WITH THE JUDGE OF
THE ROSS COUNTY
COMMON PLEAS COURT

IN THE COURT OF COMMON PLEAS
ROSS COUNTY, OHIO

STATE OF OHIO
Plaintiff

Case No. 09 CR 393

VS

JOHN J ROHRER
Defendant

Entry

* * * * *

This case came on for hearing on the 25th day of January, 2010 on the issue of the defendant's competency to stand trial. The defendant was present and was represented for purposes of this hearing by attorney, John Scherff, attorney, Daniel Silcott, Mr. Rohrer's court appointed counsel being on vacation. Assistant Ross County Prosecuting Attorney, Richard Clagg appeared on behalf of the State of Ohio.

The parties stipulated to the report of Bob Stinson, Psy. D., a board certified forensic psychologist, on the issue of the defendant's competency to stand trial. No other evidence, testimony or argument were offered.

Based upon Dr. Stinson's report, the court finds that the defendant currently is able to understand the nature and the objective of the proceedings against him and to assist in his own defense and is therefore competent to stand trial.

The defendant then in writing and in open court and after his having an opportunity to consult with his attorney and being explained his rights to trial by jury



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under the Ohio and U.S. Constitutions, waived his right to trial by jury and agreed to proceed with a trial to court.

At the trial to court the parties stipulated to the police report on the incident of September 1, 2009, labeled joint exhibit A. The parties also stipulated to the report of Bob Stinson, Psy.D., a board certified forensic psychologist as to the defendant's mental condition at the time of the commission of the alleged offense. No other evidence, testimony or argument were offered. Based upon the stipulated matters, the court finds the state has proved beyond a reasonable doubt that on or about September 1, 2009, in Ross County, Ohio, the defendant John J. Rohrer, did knowingly cause physical harm to Warren Stevens by means of a deadly weapon.

The court further finds that the defense has proven by a preponderance of the evidence that at the time of the commission of the offense, the defendant did not know as a result of a severe mental disease, the wrongfulness of his acts.

The court therefore finds the defendant not guilty by reason of insanity.

By agreement of the counsel, the matter then proceeded for hearing pursuant to Ohio Revised Code Section 2945.40. The court explained to the defendant his rights as set forth in Ohio Revised Code Section 2945.40(C). Counsel for the state and the defense stipulated to the report of Dennis M. Eshbaugh Ph. D, clinical and forensic psychologist. No other testimony, evidence or argument were offered. Based upon that report, the court finds that it has shown by clear and convincing evidence that the defendant is a mentally ill person who is subject to hospitalization by court order. The court finds that the least restrictive commitment alternative available that is consistent with public safety and the welfare of the defendant giving preference to protecting public

safety is committed to the criminal wing of the Timothy B. Moritz Forensic Center and it is the order of the court that the defendant shall be committed to that facility. Such facility shall make the reports to the court required by Ohio Revised Code Section 2945.40(1), with the first report to be made after the initial six (6) months of treatment and thereafter every two years after the initial report is made.

All until further order of the court.

ENTER: 1-29-10


WILLIAM J. CORZINE
JUDGE, COMMON PLEAS COURT
ROSS COUNTY, OHIO

The Clerk of this Court is hereby directed to serve a copy of this Judgement Order, and its date of Entry upon the Journal, upon all counsel of record and all parties not represented by counsel, by personal service or by U.S. Mail, and to note service on the Docket.

Judge