

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	CASE NO.	15-0029
	:		
Plaintiff-Appellee,	:	On Appeal from the Summit	
	:	Court of Appeals, 9th Appellate	
	:	District	
	:		
vs.	:	C.A. No. CA-27230	
	:		
	:		
WILLIAM J. REEVES,	:		
	:		
Defendant-Appellant.	:		

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MEMORANDUM IN SUPPORT OF JURISDICTION  
OF APPELLANT WILLIAM J. REEVES

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WILLIAM J. REEVES #A641-986  
Lake Erie Correctional Institution  
P.O.Box 8000  
Conneaut, OH 44030-8000

DEFENDANT-APPELLANT, PRO SE

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COUNSL FOR APPELLEE: STATE OF OHIO

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PROPOSITION OF LAW NO. 1: .....

THE TRIAL COURT ERRED TO THE PREJUDICE OF THE APPELLANT VIOLATING HIS  
DUE PROCESS RIGHTS GUARANTEED UNDER THE FOUTEENTH AMENDMENT TO THE UNITED  
STATES CONSTITUTION, ARTICLE 1 SECTION 10 OF THE OHIO CONSTITUTION WHEN  
HE WAS PROMISED SURGERY AS PART OF HIS PLEA AGREEMENT.

A guilty plea must be reversed when it is proven that if not for a  
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EXPLANATION OF WHY THIS FELONY CASE RAISES A  
SUBSTANTIAL CONSTITUTIONAL QUESTION AND IS ONE  
OF PUBLIC OR GREAT GENERAL INTEREST

Appellant William J. Reeves contends that his case presents an explanation of why this case of public or great interest and involves a substantial Constitutional question pursuant to Section 16, Article 1 of the Ohio Constitution, and the 14th Amendment of The United States Constitution because it involves whether an Appellate Court errs to the prejudice of the Appellate when trial judge involves himself in the negotiations of a plea bargain, and Appellate Court fails to grant relief sought.

Appellate Court showed a miscarriage of justice when appellate was denied due course of law and equal protection of the law under a due process protection Pursuant to Section 16, Article 1 of the Ohio Constitution, "All courts shall be open and every person for an injury done him in his land, goods, person or reputation shall have remedy by due course of law, and shall have justice administered without denial or delay." Pursuant to the Amendment of the U.S. Constitution, "No state shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law: nor deny to any person within it's jurisdiction the equal protection of the laws."

The result of their decision in allowing the trial court judge to "dupe" a defendant into a plea agreement is preposterous when considering the reasons being presented was not enough to justify a denial.

Not surprisingly, the conclusion of the court of Appeals is contrary both to the common law practice and procedure and to all legal authority.

If Appellate Courts have exclusive jurisdiction as may be provided by law to affirm, modify or reverse judgements or final reviews by the 9th Appellate

EXPLANANATION OF WHY THIS FELONY CASE RAISES A  
SUBSTANTIAL CONSTITUTIONAL QUESTION AND IS ONE  
OF PUBLIC OR GREAT GENERAL INTEREST

District in this case, using it's discretion to deny issues raised, it would be severely compromised. Appellate Courts in Ohio could negate at will under this erroneous decision. Such a prospect is contrary to current case law and the state purpose of the discretionary Rule of Law that is not to be abused. The Appellate Court ignored those case precedents.

The relief sought will serve the public interest in this case. The grant of jurisdiction to hear this case and review the erroneous decision of the Court of Appeals will serve the public's interest as well, because it is always in the public's interest to preserve the integrity of the policy underlying the Appellate Court's discretion to reverse trial Courts finalities where situations like this arises.

Under their decision, the court puts in issue the essence of public interest and the fate of effective appellate reviews and Judgements in Ohio.

Further, without a ruling from this court mapping out with precision and clarity, correction to the Appellate Courts abuse of discretion, the public's interest would be misled in that publication.

This court must grant jurisdiction to hear this case and review the erroneous decision of the Court of Appeals.

## STATEMENT OF THE CASE AND FACTS

On March 9th, 2013 Mr. Reeves was indicted on one count of Illegal Assembly for Manufacturing; Illegal Manufacturing; Aggravated possession of Drugs; Endangering Children and Resisting Arrest. On or about March 30th, 2012 Mr. Reeves was indicted on one count each of Illegal Assembly; Aggravated Possession of Drugs. On or about February 25th, 2012 Mr. Reeves was indicted on one count each of Illegal Manufacturing; Illegal Assembly; Failure to Comply and Aggravated Possession of Drugs. Several Felonies and various degrees and also misdemeanor charges. Some were dismissed and others were amended to lesser degree felonies in exchange for Mr. Reeves to enter into a lengthy Criminal Rule 11 Plea negotiation. After various meetings with trial counsel and several changes, Mr. Reeves had agreed to accepting 8 years in exchange for changing his plea from not guilty to guilty on amended charges. Mr. Reeves was also told that part of his plea was he would be sent to prison and immediately have surgery done on his torn muscle that was damaged by excessive use of force by the police K-9. On May 17th, 2013 during sentencing, Mr. Reeves was present as judge Teodosio was ordering the state to note different things on plea form. As several discussions were held off record, Mr. Reeves asked his attorney to have the court say about his surgery to be done or he wouldn't agree to prison. Trial counsel asked the Court and Court stated the same. Court asked defendant if he was forced, coerced or threatened in any way to get a guilty plea. Defendant was none of above mentioned but promised, now noting off record, that he would be sent to prison and get the surgery he was asking for. The transcripts clearly show that even through defendant was being read his plea negotiation, defendant was not knowingly entering into an intelligent agreement.

## STATEMENT OF THE CASE AND FACTS

You can see by his unintelligent, almost assanine answers to the Court's questions that defendant is layman with high school education, at best and just knew that he was going for 8 years got to hug his mom and was getting surgery. He even told the Court that, I pray that I ain't got no court fines and, I'll be a doctor by the time I come home. Court should have in the least moved sentencing day back until Mr. Reeves could be mentally evaluated, after responses like that. Court said that his written form is used in his Court of review "much" of what we talked about. Keyword that tricked the words to his liking. Mr. Reeves was promised numerous times about the first thing surgery. Defendant went as far to ask the Court to say something in his behalf before sentencing. Court refused and told Mr. Reeves that he had to take his plea first. Now Mr. Reeves wants to make sure he gets his chance to say about the surgery but the court immediately moves forward to get Mr. Reeves to read his guilty plea into record. At the end of sentencing, Court asked if there was anything else and trial counsel on record said, yes your honor, and pointed to Mr. Reeves arm where then the Court used verbal gymnastics to dupe Mr. Reeves into thinking that he would get his surgery. Mr. Reeves was never evaluated and no surgery was ever performed. Leaving him disabled now. Mr. Reeves filed a direct appeal on an unfullfillable promise, given to him in open Court leading Mr. Reeves to believe that it was part of his plea agreement. A criminal Rule 32.1 is not needed in this case to correct manifested injustice. A plea deal was mot entered into knowingly or intelligently and a direct appeal is warranted.

ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW

PROPOSITION OF LAW NO. 1: THE TRIAL COURT ERRED TO THE PREJUDICE OF THE APPELLANT VIOLATING HIS DUE PROCESS RIGHTS GUARANTEED UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION, ARTICLE I SECTION 10 OF THE OHIO CONSTITUTION WHEN HE WAS PROMISED SURGERY AS PART OF HIS PLEA AGREEMENT.

When a guilty plea is not made knowingly, intelligently, and voluntary it must be Reversed Crim. R. 11(c) Governs the requirements to accept a felony guilty plea. The trial court erred to the prejudice of the appellant in violation of his Fourteenth Amendment Due process Rights when it accepted his plea base on a promise of receiving surgery in the Ohio Penal Institution. The interpretation and enforcement of plea agreements are governed by the principles of Contract Law. STATE v. MANGUS, 2007. Ohio. 5033 ¶ 11. Appellant Reeves' Agreement with the State Thus Far has been unfulfilled as agreed upon in the Plea Agreement. STATE v. REEVES C.A. NO. 27230.

A guilty plea must be reversed when it is proven that if not for a promise unfulfillable or unfulfilled, defendant would not have pled guilty and would have proceeded to trial. State v. Curry (1976), 49 Ohio App. 2d 180, 183. The only court which can provide relief from a sentence imposed in reliance on a breached plea bargain agreement in the court in which the plea was entered and the sentence imposed.

To be voluntary, defendant must plead with a full and complete understanding of the consequences of his act. See McCarthy v. United States, 394 U.S. 459, 466, 89 S.Ct.1166 (1969). My guilty plea which is induced by "unfulfillable or unfulfilled promises, made by either the prosecution, the court or defendant counsel is not voluntary."

See State v. Bowen, 52 Ohio St. 2d 27, 28, N.E. 2d 843 (1977),. At Sentencing several discussions were held off record where defendant asked about arm surgery. Defendant, being a layman and relying on trial counsel to

lead him in important decisions, believed that Judge was either going to let him get surgery before going to prison or was going to make sure that the surgery would be performed immediately after being sent to prison. In reference to transcript page 53.

Not being schooled in basic law or how the law works, Defendant's rely on trial counsel to assist them and be truthful and honest. A miscarriage of justice occurred here and it needs to be addressed.

CONCLUSION

For reasons discussed above, this case raises a substantial constitutional question, and involves matters of public and great general interest. The Appellant respectfully requests that this Court accept jurisdiction in this case so that the important issues presented will be reviewed on the merits.

Respectfully submitted,



Defendant-Appellant, pro se #A641-986

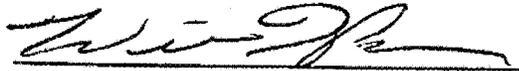
Lake Erie Correctional Institution

P.O.Box 8000

Conneaut, Ohio 44030-8000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing memorandum in support of Jurisdiction has been sent by U.S. Mail, first-class postage prepaid, Sherri Bevan Walsh, Prosecuting Attorney, Crim.Div., Safety Bldg, 53 University Ave, 6th Floor. Akron, Oh 44302-1608, On this 1st day of January, 2015.



Defendant-Appellant, pro se

COPY

STATE OF OHIO  
COUNTY OF SUMMIT

COURT OF APPEALS  
DANIEL J. MORRIGAN  
IN THE COURT OF APPEALS  
NINTH JUDICIAL DISTRICT  
ss: 2014 NOV 26 AM 8:57

STATE OF OHIO

SUMMIT COUNTY C.A. No. 27230  
CLERK OF COURTS

Appellee

v.

WILLIAM J. REEVES

Appellant

APPEAL FROM JUDGMENT  
ENTERED IN THE  
COURT OF COMMON PLEAS  
COUNTY OF SUMMIT, OHIO  
CASE Nos. CR 08 02 0386  
CR 09 07 2200  
CR 12 04 0938  
CR 12 04 1076  
CR 13 03 0710

DECISION AND JOURNAL ENTRY

Dated: November 26, 2014

WHITMORE, Judge.

{¶1} Appellant, William Reeves, appeals from the judgment of the Summit County Court of Common Pleas. This Court affirms.

I

{¶2} In May 2013, Reeves had five pending cases, and the trial court held a single plea hearing. Pursuant to a plea agreement, Reeves agreed to plead guilty to various charges in exchange for an eight-year prison sentence and the dismissal of the remaining charges. The court conducted a plea colloquy and accepted his plea. After finding Reeves guilty, the court proceeded straight to sentencing.

{¶3} During the sentencing portion of the hearing, Reeves requested the court delay the execution of his sentence so that he could have surgery to repair his arm, which had been injured

by a police dog. The court declined Reeves' request, but informed him that it would order surgery to be "evaluated and performed as soon as possible" within the correctional institution.

{¶4} Shortly after sentencing, Reeves filed motions to modify his sentence, waive court costs, and have a transcript prepared at the State's expense. The court denied his motions. In January 2014, Reeves, pro se, filed a motion seeking a delayed appeal. This Court granted his motion and appointed him appellate counsel. Reeves, through his attorney, now raises one assignment of error for our review.

## II

### Assignment of Error

APPELLANT'S PLEA WAS NOT KNOWING, INTELLIGENT AND VOLUNTARY AS IT WAS BASED UPON PROMISES WHICH COULD NOT OR WERE NOT KEPT.

{¶5} In his sole assignment of error, Reeves argues that his plea is constitutionally invalid because it was based on a "promise from the judge" that he would "be evaluated and receive his needed surgery as quickly as possible."

{¶6} "When a defendant enters a plea in a criminal case, the plea must be made knowingly, intelligently, and voluntarily. Failure on any of those points renders enforcement of the plea unconstitutional under both the United States Constitution and the Ohio Constitution." *State v. Lewis*, 9th Dist. Summit No. 27222, 2014-Ohio-4559, ¶ 5, quoting *State v. Barker*, 129 Ohio St.3d 472, 2011-Ohio-4130, ¶ 9. If a defendant is induced into pleading guilty based upon a promise by the court and the court does not fulfill that promise, the defendant's plea is not voluntary. See *State v. Bortner*, 9th Dist. Lorain No. 13CA010494, 2014-Ohio-4121, ¶ 15.

{¶7} Reeves argues that he “relied upon [the court’s] promise that he would receive surgery as part of his calculation in choosing to plead to the charges.” The transcript, however, does not support his assertion.

{¶8} At the plea hearing, the State put the terms of the plea negotiations on the record as it understood them to be. The State’s recitation of the agreement included a detailed list of which charges Reeves would plead guilty to, which charges the State would move to dismiss, and the agreed to sentence. Defense counsel confirmed that the State had provided an accurate recitation “as to the counts to which he would be pleading and as to the aggregate sentence.” There was no mention of surgery at this point.

{¶9} The court proceeded to conduct a plea colloquy, during which it reviewed the written plea agreement with Reeves, explained the maximum sentences for the offenses to which he was pleading guilty, and apprised him of his various constitutional rights. Reeves repeatedly indicated that he understood and twice confirmed that he had the opportunity to review the written plea form and had not been forced, coerced, or threatened to plead guilty. The court found Reeves had made a knowing, intelligent, and voluntary decision to enter a plea of guilty. At no point during the plea portion of the hearing did the State, Reeves, defense counsel, or the court mention surgery. The written plea agreement signed by Reeves is also devoid of any mention of surgery.

{¶10} After the court found Reeves guilty, the parties waived a pre-sentence investigation report and the court, without objection, proceeded to sentencing. The court asked Reeves if he had anything he wanted to say to mitigate his sentence. In response, Reeves discussed his troubles with addiction, thanked various people for their support, and, then, in closing, asked the court:

Before you send me to prison, let me get surgery on my arm for the police dog ripping my tricep in half. And Crystal Clinic, my doctors, I will pay for it.

You can put a 25 to life over my head and make sure I go to prison afterwards. And so that I could also give my mom a hug, because she had heart surgery and a heart valve replacement surgery. That's why I wanted to do this Tuesday. \* \* \*

{¶11} The court imposed the agreed to sentence for the various offenses and then stated:

On the issue of your arm, I'm going to – I have no problem with you getting that – they have excellent medical care involved in the institution. I'm going to order that he have that surgery evaluated and performed as soon as possible, but I'm not going to have you do that outside of the institution.

{¶12} The record does not support Reeves' contention that his plea was based upon a promise by the court that he would receive surgery. There was no discussion of surgery until after he entered his plea. If there is proof outside of the record that supports Reeves' position that surgery was part of the plea negotiations, a petition for post-conviction relief would be the appropriate remedy. *See State v. Porter*, 9th Dist. Medina No. 12CA0061-M, 2013-Ohio-3969, ¶ 38.

{¶13} Reeves' sole assignment of error is overruled.

### III

{¶14} Reeves' assignment of error is overruled. The judgment of the Summit County Court of Common Pleas is affirmed.

Judgment affirmed.

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There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

COPY

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.



BETH WHITMORE  
FOR THE COURT

HENSAL, P. J.  
CARR, J.  
CONCUR.

APPEARANCES:

ALAN M. MEDVICK, Attorney at Law, for Appellant.

SHERRI BEVAN WALSH, Prosecuting Attorney, and RACHEL M. RICHARDSON, Assistant Prosecuting Attorney, for Appellee.