ORIGINAL

STATE OF OHIO

Office of the Clerk
Supreme Court of Ohio
65 South Front Street, 8th Floor
Columbus, Ohio 43215-3431

Date: 4-10-15

RE: State of Ohio ex rel JOHN MARK ANDREWS V MICHAEL A. CICCONETTI, JUDGE
PAINESVILLE MUNICIPAL COURT

OHIO SUPREME COURT CASE NO: _____ 15-0586

Dear Clerk,

Please find One Original, and Three Copies of the following:

RELATOR'S PRO SE
PETITION FOR WRIT OF PROHIBITION

AFFIDAVIT OF INDIGENCE

CERTIFICATE OF SERVICE

that Relator respectfully requests to be filed, and scheduled for hearing at a date/time set forth by this Honorable Ohio Supreme Court.

Date: 4-10-15

Respectfully Submitted,

John M. Andrews

RELATOR IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
PAINESVILLE, OHIO 44024
(440) 391-3381

XC: Judge Michael Cicconetti
Painesville Prosecutor
Law Director Joseph Gurley

Honorable Michael A. Cicconetti
Painesville Municipal Court
7 Richmond Street
P.O. Box 601
Painesville, OH 44077

RECEIVED
APR 13 2015
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
APR 13 2015
CLERK OF COURT
SUPREME COURT OF OHIO

IN THE SUPREME COURT OHIO

Case No:_____

State of Ohio ex rel JOHN MARK ANDREWS, :
:
Relator, :
-VS- :
PAINESVILLE MUNICIPAL COURT :
HONORABLE JUDGE MICHAEL A. CICCONETTI, :
:
Respondent, :
_____/

RELATOR'S PRO SE
PETITION FOR WRIT OF PROHIBITION

NOW COMES, JOHN MARK ANDREWS, Relator presently filing in Pro Per, Who hereby moves this Honorable Ohio Supreme Court, pursuant to clearly established Ohio Court Rule 62 et seq; Ohio Appellate Court Rule 7 et seq; and any/all other Ohio Appellate Court Rules, by timely filing a meritorious Relator's Pro Se Petition For Writ of Prohibition, based upon any/all of the following:

(1) That the Relator- JOHN MARK ANDREWS is a U.S./Ohio Citizen that resides at 120 Court St, Chardon, Ohio 44024.

(2) That the Respondent Painesville Municipal Court Judge MICHAEL A. CICCONETTI is a Elected Judge at the Painesville Municipal Court, 7 Richmond Street, P.O. Box 601, Painesville, OH 44077.

(3) That the Respondent Painesville Prosecutor and Law Director JOSEPH GURLEY is a Prosecutor or Law Director at the Painesville Municipal Court. Whose address is 240 E. Main St., Painesville, OH 44077.

(4) That the Respondent- State of Ohio, via, Ohio Attorney General, Mike Dewine, at 30 E. Broad Street, 14th Floor, Columbus, Ohio 43215.

FACTS AND HISTORY OF CASE

(5) That on FEBRUARY 1,2015, at approximately 23:33, This Relator was involved unlawful Traffic Stop with Ohio State Police in fully marked OSP Cruizer(NOTE: OSP Dashcams automatically activates/records video/audio), for which, I was allegedly/erroneously charged for committed the misdemeanor offenses, OVI(NOT OVI-Refusal), ORC 4511.19A1A; and "Cross Div. Hwy", ORC 4511.35.

(6) That this Pro Se Relator was wrongfully/unlawfully charged for the alleged committing the misdemeanor offenses, OVI(NOT OVI-Refusal), ORC 4511.19A1A; and "Cross Div. Hwy", ORC 4511.35 without ALL the mandatory elements(ie, Corpus Delecti) of the crime ever being proven beyond a reasonable doubt in a light most favorable to the prosecution, based upon the unambiguous uncontested fact. That this Pro Se Relator lawfully refused to submit to a Voluntary BAC Test and the Ohio State Police Trooper failed to ever obtain a Search Warrant based upon probable cause to obtain mandatory BAC Test Results of Relator's Blood Alcohol Percentage within 2-Hours, in order, to charge, prosecute, convict and sentence this Relator for OVI First Offense. See Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560;(1979); State v. Jenks, 61 Ohio St.3d 259(1991); State v. Thompkins(1997), 78 Ohio St.3d 380, 386; State v. McKnight, 107 Ohio St.3d 101, 2005-Ohio-6046, 837 N.E.2d 315, ¶ 70.

(**NOTE**: Pursuant to clearly established Ohio Revised Codes at Section (D)(1)(b) of ORC 4511.19 "Operating vehicle under the influence of alcohol or drugs – OVI", clearly says: The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this division when a person submits to a blood, breath, urine, or other bodily substance test at the

request of a law enforcement officer under section 4511.191 of the Revised Code or a blood or urine sample is obtained pursuant to a search warrant. On the case at bar, The Respondents and State Police have no BAC Test Results obtained Voluntarily or Search in order to convict, but Respondent Prosecutor(Law Director) has adamantly made repeated futile attempts to coerce and extort this Relator into pleading Guilty to anything or lesser included/unrelated charge for this Relator to get his State Driver's License back instead of dismissing charge. It aint going to happen, and this will go Federal if this Honorable Ohio Supreme Court discipline/refuses to rule on Federal Question of Law.

(7) Further, Pursuant to clearly established Ohio State Highway Patrol Policy- OPS 902.20 "Alcohol and Drug Driver Enforcement" that on Page 5 of 17 of Ohio State Police Policy OSP-Number 902.20, Sections 6(a) through 6(c) clearly says that Troopers are required to get a search warrant, if someone refuses a test, and that if Trooper cannot get a warrant. That Trooper are authorized to use whatever reasonable means is necessary to get a chemical test from suspect or the driver at a hospital or doctor. See Division (B) of ORC 4511.192).

(8) On the case at bar, This Relator has been charged with First Offense OVI, not OVI-Refusal. The Ohio Supreme Court clearly established in State v. Miller, 2012-Ohio-997, that: "Both OVI and OVI-Refusal are first-degree misdemeanors, subject to the same maximum fine and the same maximum jail term. The additional element of refusal with a prior conviction elevates the mandatory minimum sentence only. It does not change the level/degree of offense is unchanged by the prior conviction, the prior conviction is not an essential element of the case". Now pay attention to the difference between being convicted and charged for OVI and OVI-Refusal. Because this will be the turning factor on whether this "PETITION FOR WRIT OF PROHBITION" should be granted in the Ohio Supreme Court.

(9) Under Ohio Law, In order to prove a simple OVI under R.C. 4511.19(A)(1)(a), The state is required to prove that the Relator was operating a vehicle under the influence of drugs, alcohol or a combination of both. State v. Hoover, 123 Ohio St.3d 418, 2009-Ohio-4993, ¶ 13. That provides: "No person shall operate any vehicle * * * if, at the time of the operation, * * * the person is under the influence of alcohol, a drug of abuse, or a combination of them." R.C. 4511.19(A)(1)(a). The State Police Report and Ticket has no BAC Test Result-

(10) However, In order to prove a **OVI-Refusal** under R.C. 4511.19(A)(2), The State must prove three elements: "(1) a DUI conviction within 20 years of the current violation, (2) operation of a motor vehicle while under the influence of alcohol or drugs, and (3) a refusal to submit to a chemical test while under arrest for the current DUI." Hoover at ¶ 13.

(11) The Honorable Supreme Court of Ohio made it clear in Hoover that a prior OVI conviction is an essential element under R.C. 4511.19(A)(2). There, the Court stated: "A person's refusal to take a chemical test is simply an additional element that must be proven beyond a reasonable doubt along with the person's previous DUI conviction to distinguish the offense from a violation of R.C. 4511.19(A)(1)(a)."(Emphasis added.) Id. At ¶ 21. Thus, Respondent complete lack Corpus Delecti in order to ever charge/prosecute/convict, or what us Laymans call "ELEMENTS OF THE OFFENSE". This Pro Se Relator hereby educates/admonishes the Respondent Judge and Prosecutor.

(12) In State v. Latham, 2012-Ohio-2106, ¶ 18, As the Ohio Supreme Court has further previously noted: In reviewing a claim of insufficient evidence, "the relevant inquiry is whether, after reviewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt." State v. Jenks, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus, following Jackson v. Virginia

(1979), 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560. Also see State v. Thompkins (1997), 78 Ohio St.3d 380, 386, 678 N.E.2d 541. State v. McKnight, 107 Ohio St.3d 101, 2005-Ohio-6046, 837 N.E.2d 315, ¶ 70.

(13) The Corpus Delicti of a crime consists of Two Elements, The act and the criminal agency of the act. State v. Van Hook (1988), 39 Ohio St.3d 256, 261; State v. Maranda (1916), 94 Ohio St. 364, paragraph one of the syllabus. Before an alleged confession is/admitted, there must be "some evidence outside of the confession that tends to prove some material element of the crime charged." Maranda, 94 Ohio St. 364 at paragraph two of the syllabus. This independent evidence need not equal proof beyond a reasonable doubt. Id. See State v. Black (1978), 54 Ohio St.2d 304; State v. Bencic (May 3, 1995), 9th Dist. No. 16895, at 17.See State v. Goff, 2003-Ohio-1134 ¶11.

(14) Although the Corpus Delicti rule is well established in Ohio, the practicality of the rule has come into question in light of the modern procedural safeguards afforded to criminal defendants as setforth in State v. Edwards (1976), 49 Ohio St.2d 31, 35-36. As such, the courts do not apply the rule with "dogmatic vengeance." Id. at 36. The burden on the state to produce "some evidence" of the corpus delicti is minimal. Van Hook, 39 Ohio St.3d at 261-62.

(15) That this Pro Se Relator claims/states that since date of arrest that this Pro Se Relator has appeared before this Honorable Court to be Arraigned on said alleged misdemeanor charges; That this Pro Se Relator has NO History of Alcohol/Substance Abuse; That this Pro Se Relator has NO prior convictions for OVI; and has done everything possible to expedite the immediate resolution of this case/appeal with the Plaintiff/State to no avail. This Pro Se Relator maintains, and has proven his ACTUAL INNOCENCE on the charges against him as mandated under both State and Federal Law. See SCLEP V DELO, 513 US 289, 325; 115 Sct 851(1995); BOUSLEY V U.S., 523 US 614, 623; 118 Sct 1604;

140 LEd2d 828(1998). Also see MILLER V FRANCIS, 269, F3d 609, 614(6th Cir.2001); SIMPSON V JONES, 238 F3d 399, 405(6th Cir.2000).

(16) That this Relator states that since this Relator that lives where no public transportation runs. That this Pro Se Relator Petition the Respondent Judge Michael Cicconetti to have his State Driver's Licensed Privileges fully Reinstated or have Limited Driver's License Privileges reinstated before depriving him of the fundamental Federal Constitutional Rights to Life, Liberty, Travel, Freedom of Movement, and to engage/exercise his Right to Interstate Travel and Commerce protected under the "Privileges, Immunities and Comity Clause" of Article 1, Section 8, Clause 3; Article 6, Section 2, Clause 1; and First and Fourteenth Amendments of the US Constitution, in order, to provide financial support for this Pro Sec Relator-Appellant's Right to Property and Pursuit of Happiness to provide for his family by being able to drive to work, go to doctors appointments, imminent courtdates, grocery store to shop for food, etc. as determined by the United States Supreme Court in Paul v. Virginia, 75 U.S. 168 (1869); Zobel v. Williams, 457 U.S. 55, 66 and 79(1982). Also see State v. Hollaender, 2014-Ohio-1782; Eastlake v. Komes, 2010-Ohio-2411; State v. Williams, 11th Dist. No. 2001-P-0112, 2002-Ohio-6920, Williams at ¶9- ¶10; State v. Ritch, 4th Dist. Scioto No. 99 CA 2634, 1999 WL 787924, *2 (Sept. 21, 1999); State v. Carter, 124 Ohio App.3d 423, 428 (2d Dist.1997); Bur. of Motor Vehicles v. Hesson, 4th Dist. Washington No. 85 X 13, 1986 WL 3414. This Relator hereby advises the Respondent Prosecutor of his manfest Malicious Prosecution, and that Relator will be filing a Federal Complaint For Civil Action Action and will have Federal Court hold case in Abeyance pending Relator's Acquittal by Jury Trial or Peremptory Reversal on direct Appeal By Right. The Respondent/Prosecutor WILL NOT be entitled to absolute Prosecutorial Immunity. See HECK *v.* HUMPHREY et al., 512 U.S. 477(1994).

(17) Thus, This Pro Se Relator will suffer a actual prejudicial "Irreparable Harm/Injury"(ie, Right

to Liberty/Freedom for being unable to provide for his family, will loose his job/house, and will suffer a actual significant financial hardship. That is NOT correctable or available while waiting for any decision at Jury Trial(or Appeal By Right) by being unlawfully "in custody" for said unlawful First Offense OVI Charge. That was unlawfully obtained without any of the mandatory BAC Blood Alcohol Test Results ever being obtained by Plaintiff or Law Enforcement either by this Relator submitting Voluntarily BAC Test OR by obtaining a Search Warrant according to Ohio State Police Policies/Procedures and State/Federal Law.

(18) That this Pro Se Relator demands a UNEDITED copy of any/all required Breath Analyzer Tests and/or blood/urine tests that were conducted on this Pro Se Relator for Intoxication on said date/time described herein, and is required under both State/Federal DUI Law in order to convict. Relator understands that it is the current Court practice/custom to have Ineffective Court-Appointed Public Defenders 'Practicing' Law not to file one pretrial motion, and then have all Relator's waive all their right to make a unintelligent and illusionary Guilty Plea for Lawfully Refusing to submit to a Field Sobriety Test, in order, to preserve the Status Quo to stuff the Painesville Municipal coffers(including Respondent CAFR Fund Account) by unlawfully ordering defendants to pay court fines/fees or face DEBTOR'S PRISON in violation of Federal Law as determined by the U.S. Supreme Court.

(19) That Relator claims/states that he has demanded a entire UNEDITED copy any/all clearly established non-exempt Policies and Procedures regarding how Ohio State Trooper(s) are required under State/Federal Law to conduct field sobriety tests for suspected alcohol/drug intoxication, including processing, obtaining, securing, collecting physical evidence, and obtaining a valid/legal court ordered search warrant to seize Relator's Blood for Blood Alcohol Testing under Probable cause; and in order to convict. Respondent has refused to disclose and wants to enter Malicious Prosecution

by means of abusing an upsurping Respondents Judicial Functions.

(20) That Relator claims/states that Ohio State Police Dashcam Video/Audio on said snowy winter night and of me being processed by Unknown Ohio Highway Patrol Trooper and other Unknown Officer(s) has Ohio State Trooper advising me on video that my refusal is not evidence for Jury Trial. See State v. Orians, 179 Ohio App. 3D 701, 2008-Ohio-6185(Where the Trial Court erroneously used an instruction linking refusal to take a test to consciousness of guilt that made repeated reference to intoxication, which is not an element of OVI, and informed the jury that the failure to provide an explanation for the refusal when asked for one could be considered as well).

(21) Upon simple review of clearly established In ORC 4501:1-1-25 "Report of peace officer; Request of **Commercial Motor Vehicle Driver** to submit to Blood, Breath or Urine Test(s) for Alcohol Concentration or Controlled Substances". It clearly says in Section (7) If the driver refused to submit to the requested test or tests, a statement that the driver refused to submit to the requested test or tests; and, Section(B) The driver's signature on the report shall constitute evidence of the fact that the peace officer read and showed the statement to the driver, **but shall not constitute evidence of whether or not the driver refused to submit to the requested test** or tests. If the driver refuses to sign acknowledging that the peace officer read and showed the statement to the driver, the peace officer shall note the driver's refusal to sign. The driver's refusal to sign shall not affect the validity or enforceability of the peace officer's report.

(22) In Section (D) If the report of the peace officer states that the driver refused to submit to the requested test or tests or states that the driver submitted to the requested test or tests which disclosed the presence of a controlled substance or an alcohol concentration of four hundredths of one per cent or more, the registrar shall notify the driver, by regular mail to the address stated on the

report, that the driver will be disqualified from driving a **commercial motor** vehicle for the period required by section 4506.16 of the Revised Code.

(23) Further, In ORC 4511.19 "Operating vehicle under the influence of alcohol or drugs – OVI", it clearly says in Section (D)(1)(b) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section or for an equivalent offense that is vehicle-related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in division (A) of section 4511.192 of the Revised Code as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this division when a person submits to a blood, breath, urine, or other bodily substance test at the request of a law enforcement officer under section 4511.191 of the Revised Code **or a blood or urine sample is obtained pursuant to a search warrant**. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if

in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood"(End Quote. Emphasis Added).

(24) According to ORC 4511.191 "Implied Consent" it clearly states in:

"Section (2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley **shall** be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

Section (3) The chemical test or tests under division (A)(2) of this section **shall** be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(a) If a law enforcement officer arrests a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer **shall** request the person to submit, and the person **shall** submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of

determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer **shall** advise the person at the time of the arrest that **if the person refuses** to take a chemical test **the officer may employ whatever reasonable means are necessary** to ensure that the person submits to a chemical test of **the person's whole blood** or blood serum or plasma(End Quote, Emphasis Added).

(25) That Relator claims/states that any/all of the requested/demanded exculpatory discovery material information is retained by the Respondent Painesville Municipal Court Prosecutor's Office, and/or by the Ohio State Police is for "Trial Preparations" and is non-exempt pertinent admissible exculpatory evidence, and that Relator is entitled to said Discovery by Right. Relator says that *per se the* high-tier limits on demanded mandatory Test Results in order to convict this Pro Se Relator for a First Offense DUI. That the Plaintiff must produce the following Evidence against the Relator as setforth pursuant to O.R.C. 4511.19(A)(1):

- (f) The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.
- (g) The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- (h) The person has a concentration of seventeen-hundredths of one gram or more

by weight of alcohol per two hundred ten liters of the person's breath.

- The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

(26) That Relator claims/states that the Prosecute, State Police, and Trial Court needs to come up with the mandatory/required CONCENTRATION OF ALCOHOL in this Relator's Blood, Breath, Urine etc and the Prosecute, Police, and Courts needs to compensate this Relator now or we can get all this Published in the State/Federal Lawbooks and I will provide DOZENS of innocent citizens/defendants to withdraw their Illusionary Guilty Pleas based upon Actual Innocence Defense, and/or the Respondents complete Lack of Corpus Delicti by Ineffective Public Defenders(or Pretenders) merely Representing defendants/people in name only to preserve the Status Quo and Legalized Court Racketeering.

(27) That Relator claims/states that he has a Federal Constitution Right under Equal Protection procedural Due Process of Law, Access to the Courts, and to Fair Trial to said exculpatory Discovery, in order, to present a valid/meritorious "Actual Innocence Defense", and/or to use said requested exculpatory Discovery to impeach/rebut any the credibility of witnesses and evidence against this Relator as clearly established by the U.S. Supreme Court Justices in Napue v. Illinois, 360 US 264(1959); Brady v. Maryland - 373 U.S. 83(1963); Giglio v. United States - 405 U.S. 150 (1972); Moore v. Illinois,408 U. S. 786, 810(1972); United States v. Agurs, 427 U.S. 97 (1976); U.S. V BAGLEY, 473 US 667; 105 Sct 3375; 87 LEd2d 481(1985); and/or Ohio Appellate Courts in State v. Lawson (1992), 64 Ohio St.3d 336, 343; State v. Parrish (1991), 71 Ohio App.3d 659, and Columbus v. Hamilton (1992), 78 Ohio App.3d 653.

(28) The Respondent Prosecutor is intentionally and in bad faith committing Prosecution Misconduct. Because the Respondent Prosecutor knows or reasonably should know that "The purpose

of Trial is as much the acquittal of an innocent person as it is the conviction of a guilty one." Application of Kapatos,208 F.Supp. 883, 888 (SDNY 1962); Giles v. Maryland, 386 U. S. 66, 98(1967) ("The State's obligation is not to convict, but to see that, so far as possible, truth emerges"). When evidence favorable to the defendant is known to exist, disclosure only enhances the quest for truth; it takes no direct toll on that inquiry. Moreover, the existence of any small piece of evidence favorable to the defense may, in a particular case, create just the doubt that prevents the jury from returning a verdict of guilty. The private whys and wherefores of jury deliberations pose an impenetrable barrier to our ability to know just which piece of information might make, or might have made, a difference. Id 693.

(29) That this Pro Se Relator claims/states that Respondent Painesville Municipal Court Judge Michael A. Ciccoinetti is "abusing or usurping judicial functions" by refusing to reinstate this Relator State Driver's License after 30-Day Restriction within the Painesville Municipal Court in violation of 4511.197 Appeal of implied consent suspension. Also see State v. Hollaender, 2014-Ohio-1782 ¶23; Smith v. Smith, 3d Dist. Wyandot No. 16-01-03, 2001 WL 929375, *1 (Aug. 16, 2001); State v. Ritch, 4th Dist. Scioto No. 99 CA 2634, 1999 WL 787924, *2 (Sept. 21, 1999); State v. Carter, 124 Ohio App.3d 423, 428 (2d Dist.1997); Bur. of Motor Vehicles v. Hesson, 4th Dist. Washington No. 85 X 13, 1986 WL 3414, *2 (Mar. 20, 1986). Thus, Respondent(s) is blatantly violating this Relator's clearly established Federal Constitutional Rights to Life, Liberty, Travel, Freedom of Movement, and to engage/exercise his Federal Right to engage in Interstate Travel and Commerce protected under the Privileges, Immunities and Comity Clause of Article 1, Section 8, Clause 3; Article 6, Section 2, Clause 1; Federal Supremacy Clause; and the First and Fourteenth Amendments of the US Constitution, in order, to provide financial support for this Pro Sec Defendant-Appellant-Appellant's Right to Property and Pursuit of Happiness

to provide for her family by being able to drive to work, go to doctors appointments, imminent courtdates, grocery store to shop for food, etc. as determined by the United States Supreme Court. Paul v. Virginia, 75 U.S. 168 (1869); Zobel v. Williams, 457 U.S. 55, 66 and 79(1982). Also see State v. Hollaender, 2014-Ohio-1782; Eastlake v. Komes, 2010-Ohio-2411; State v. Williams, 11th Dist. No. 2001-P-0112, 2002-Ohio-6920, Williams at ¶9- ¶10; State v. Ritch, 4th Dist. Scioto No. 99 CA 2634, 1999 WL 787924, *2 (Sept. 21, 1999); State v. Carter, 124 Ohio App.3d 423, 428 (2d Dist.1997); Bur. of Motor Vehicles v. Hesson, 4th Dist. Washington No. 85 X 13, 1986 WL 3414.

(30) In Ricciardi v. D'Apolito, 2010-Ohio-1016 **{¶2}** A writ of prohibition is an extraordinary judicial writ issuing out of a court of superior jurisdiction and directed to an inferior tribunal commanding it to cease abusing or usurping judicial functions. State ex rel. Jones v. Suster(1998), 84 Ohio St.3d 70, 73, 701 N.E.2d 1002. In order to obtain a writ of prohibition, the petitioner must prove: (1) that the court or officer against whom the writ is sought is about to exercise judicial or quasi-judicial power; (2) the exercise of that power is unauthorized by law; and (3) denying a writ will result in injury for which no other adequate remedy exists in the ordinary course of law. State ex rel. White v. Junkin(1997), 80 Ohio St.3d 335, 336, 686 N.E.2d 267. If a lower court patently and unambiguously lacks jurisdiction over the cause, prohibition will issue to prevent any future unauthorized exercise of jurisdiction and to correct the results of prior jurisdictionally unauthorized actions. State ex rel. Fraternal Order of Police, Ohio Labor Council, Inc. v. Franklin Cty. Court of Common Pleas(1996), 76 Ohio St.3d 287, 289, 667 N.E.2d 929.

(31) In conclusion, That this Relator's pro se pleadings cannot be held same standards as those drafted by attorney as held/ruled by the United States Supreme Court in Cooper v. Pate, 378 U. S. 546 (1964); Hughes v. Rowe, 449 U.S. 5, 9-10, 101 S.Ct. 173, 175-76, 66 L.Ed.2d 163 (1980); Boag v.

MacDougall, 454 U.S. 364, 365(1982); Haines V Kerner, 404 US 519, 521(1972); and accept Relator's allegations as true, unless they are clearly irrational or wholly incredible. Denton v. Hernandez, 504 U.S. 25, 33(1992) unless it appears 'beyond doubt that the Relator(pro se litigant) can prove no set of facts in support of his claim which would entitle him/her to relief.' Conley v. Gibson, 355 U. S. 41, 355 U. S. 45-46 (1957).

SUMMARY AND RELIEF

WHEREFORE, This Relator prays/requests that the Honorable Ohio Supreme Court Justices honors/grants the herein meritorious Relator's Pro Se Petition For Writ of Prohibition. By issuing an Order GRANTING Relator's Pro Se Petition For Writ of Prohibition. Since this Pro Se Relator has made a showing/proof: (1) that the court or officer against whom the writ is sought is about to exercise judicial or quasi-judicial power; (2) the exercise of that power is unauthorized by law; (3) denying a writ will result in injury for which no other adequate remedy exists in the ordinary course of law; (4) That this Relator will suffer a actual irreparable harm/injury by being unlawfully convicted for OVI for Lawfully Refusing a BAC Test without mandatory BAC Test Results Evidence being obtained Voluntarily or Search Warrant; and/or (5) a Substantial Prejudical Error would result in violating this Relator of his clearly established Federal Constitutional Rights Federal Constitutional Rights to Life, Liberty, Travel, Freedom of Movement, and to engage/exercise his Federal Right to engage in Interstate Travel and Commerce protected under the Privileges, Immunities and Comity Clause of Article 1, Section 8, Clause 3; Article 6, Section 2, Clause 1; Federal Supremacy Clause; and protected under Equal Protection Due Process of Law and Due Process Access to the Courts, protected under 1st, 4th, 5th, 6th, and 14th Amendments of the U.S. Constitution as determined by the US Supreme Court for refusing to Reinstate his State Driver's License, as all circumstances should dictate and Justice would so demand.

Date: 4/10/15

Respectfully Submitted,

Sworn to Before Me and Subscribed

My Presence this 10 Day of April 2015

John M. Andrews

RELATOR IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024
(440) 391-3381

Mike DiRauso
NOTARY PUBLIC

MIKE DIRAUSO
Notary Public, State of Ohio
My Commission Expires
January 15, 2018

IN THE SUPREME COURT OHIO

Case No:_____

State of Ohio ex rel JOHN MARK ANDREWS, :
:
Relator, :
-VS- :
PAINESVILLE MUNICIPAL COURT :
HONORABLE JUDGE MICHAEL A. CICCONETTI, :
:
Respondent, :
_____/

AFFIDAVIT OF INDIGENCE

NOW COMES, JOHN MARK ANDREWS, I/Relator presently filing in Pro Per, Who hereby moves this Honorable Ohio Supreme Court, pursuant to S.Ct. Prac. R. 3.06, and any/all applicable Ohio Court Rules, by filing a timely meritorious Affidavit of Indigence, based upon any/all of the following:

(1) That Relator has timely filed a Petition For Writ of Prohibition. In which, Relator has presented/raised meritorious important issues/arguments of Public or Great General Interest and involves a substantial Federal Constitutional Questions of Law. There is strong likelihood that Relator will prevail on the merits. Since Relator has made a made a substantial showing/proof (a) that the court or officer against whom the writ is sought is about to exercise judicial or quasi-judicial power; (b) the exercise of that power is unauthorized by law; and (c) denying a writ will result in injury for which no other adequate remedy exists in the ordinary course of law; and/or that a substantial prejudical error would result by such False Imprisonment by being unlawfully sentenced in blatant violation of clearly established Ohio Appellate Court case law precedence.

(2) That Relator states as his claim upon which relief should be granted is that the Respondent Painesville Municipal Court Judge Michael Cicconetti is abusing or usurping judicial functions, created manifest injustice, acted without subject matter jurisdiction, structurally erred, plain erred, and/or actually prejudiced this Pro Se Relator. By violating Relator's clearly established Federal Constitutional Rights to Life, Liberty, Travel, Freedom of Movement, and to engage/exercise his Federal Right to engage in Interstate Travel and Commerce protected under the Privileges, Immunities and Comity

Clause of Article 1, Section 8, Clause 3; Article 6, Section 2, Clause 1; Federal Supremacy Clause; and the First and Fourteenth Amendments of the US Constitution.

(3) That Relator is Married to Currently Medically Disabled Wife in Physical Rehabilitation. That is currently living on a fixed income, and any/all income is needed for monthly living expenses, such as- high rent, high taxes, bills, gas, insurance, food, etc.

(4) That Relator claims/states that any remaining balance on debts/bills owed is paid with assistance from family/friends, and needed to pay for legal assistance to prepare any/all litigation to perfect the herein meritorious Writ of Prohibition and Defend against Malicious Prosecution; Pay for required copies of pleadings; and postage of mailing/serving the herein litigation.

(5) In conclusion, That this Relator's pro se pleadings cannot be held same standards as those drafted by attorney as held/ruled by the United States Supreme Court in Cooper v. Pate, 378 U. S. 546 (1964); Hughes v. Rowe, 449 U.S. 5, 9-10, 101 S.Ct. 173, 175-76, 66 L.Ed.2d 163 (1980); Boag v. MacDougall, 454 U.S. 364, 365(1982); Haines V Kerner, 404 US 519, 521(1972);and accept Relator's allegations as true, unless they are clearly irrational or wholly incredible. Denton v. Hernandez, 504 U.S. 25, 33 (1992) unless it appears 'beyond doubt that the Relator(pro se litigant) can prove no set of facts in support of his claim which would entitle him to relief.' Conley v. Gibson, 355 U. S. 41, 355 U. S. 45-46 (1957).

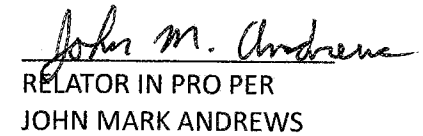
WHEREFORE, I/Relator requests/prays that this Honorable Ohio Supreme Court honors/grants the herein Relator's Affidavit of Indigence. By issuing an ORDER Granting Relator's Affidavit of Indigence, as all circumstances should dictate and Justice would so demand.

Date: 4/10/15

Respectfully Submitted,

Sworn to Before Me and Subscribed

My Presence this 10 Day of April 2015



RELATOR IN PRO PER
JOHN MARK ANDREWS
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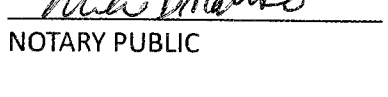
(440) 391-3381



NOTARY PUBLIC

MIKE DIRAUSO
Notary Public, State of Ohio
My Commission Expires
January 15, 2018

IN THE SUPREME COURT OHIO

Case No:_____

State of Ohio ex rel JOHN MARK ANDREWS, :
:
Relator, :
-VS- :
PAINESVILLE MUNICIPAL COURT :
HONORABLE JUDGE MICHAEL A. CICCONETTI, :
:
Respondent, :
_____/

STATE OF OHIO)
)SS.
COUNTY OF LAKE)

CERTIFICATE OF SERVICE

On_____2015, The undersigned served a copy of this Relator's Pro Se Petition For Writ of Prohibition; Affidavit Of Indigency; and Certificate of Service. Upon Respondent Painesville Municipal Court Judge MICHAEL A. CICCONETTI, Painesville Municipal Court, 7 Richmond Street, P.O. Box 601, Painesville, OH 44077; Respondent Painesville Prosecutor(Law Director) JOSEPH GURLEY at 240 E. Main St., Painesville, OH 44077; and the State of Ohio, via, Ohio Attorney General, Mike Dewine, at 30 E. Broad Street, 14th Floor, Columbus, Ohio 43215; By placing a copy of said documents in a sealed envelope, properly addressed with First Class US Postage being fully prepaid and depositing it in the US Mail.

I declare that the above statements are true to the best of my knowledge, information, and belief. 29 USC 1746 et seq.

Date: 4-10-15

Respectfully Submitted,

John M. Andrews

RELATOR IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
PAINESVILLE, OHIO 44024
(440) 391-3381

XC: Judge Michael Cicconetti
Painesville Prosecutor
Law Director Joseph Gurley