IN THE SUPREME COURT OF OHIO

State of Ohio, Plaintiff-Appellee,	:	Supreme Ct.No. 21-0301
vs	:	On Appeal from the Huron County Court of Appeals 6th Appellate Dist.Ohio.
Michael Kendell Luna, Defendant-Appellant.	:	Court of Appeals Nos. H-2018-16 & 17.Consolidated
	:	Huron Co.Common Pleas Nos. CRI-2017-0307 & CRI-2018-0327.

MEMORANDUM IN SUPPORT OF JURISDICTION

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STATEMENT OF A SUBSTANTIAL CONSTITUTIONAL QUESTION AND ISSUE OF GREAT PUBLIC AND GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION

Leave to appeal in this felony case should be granted,because it involves substantial constitutional questions pertaining to State abuses in the misapplications of law,namely of Criminal Rule 7(B),of RC 2901.11(A)(1) & RC 2931.03 & Criminal Rule 32(C) & RC 2505.02.The use,by the grand juries of the State,of disjunctive allegations of indictment. The abuse,by the State of speedy trial provisions of RC 2945.71 et seq.Of the denials of bond under the 8th Amendment.Of violations of Article iv,Sec.2 of the Federal Constitution.And of abuses,by Ohio counsels in PLEA AGREEMENTS versus Joint Recommendations under the Sixth Amendment.Prosecutorial misconduct and overall violations of Due Process and Equal Protection under the 14th Amendment. The Pulic is interested to know how trial and appellate courts,without jurisdiction,are sentencing criminal felony defendants and conducting appeals,assuming jurisdiction they did not lawfully acquire.

STATEMENT OF CASE AND FACTS

On Mar.27,2017,I was indicted on 2 counts of RC2925.03(A)(1)&(C)(3)(a).Case no.CRI-2017-0307.On Dec.4,2017,I was indicted on 1 count of RC2937.99(A)&(B).Both indictments had missing elements depriving the trial court of subject matter & general jurisdiction.I made bond in the former case.A trial date was set for Nov.14,2017 in the former case.I moved my place of residence,in Oct.2017,to St.Landry Parish in Louisiana.Without extradition proceedings,bondsman,Zac Crumrine arrested and returned me to Ohio on or about Apr.21,2018.I was denied bond on Apr.23,2018 in CRI-2018-0327.Pursuant to RC2945.71,I was never brought to trial in a timely fashion in either case.In CRI-2017-0307,I filed a pro se motion to dismiss the indictment.Of 8 counsels assigned to me in both cases,no counsel filed a motion to dismiss either indictment except Dempsey,but that motion was improperly done & withdrawn.On June 6,2018,I filed an RC2725,writ(H-2018-0436).Because the Court had no jurisdiction & because I wanted to get out of Todd Corbin's jail,I pleaded guilty,July 17,2018,based on a PLEA AGREEMENT not a Joint Recommendation.The agreement was that in exchange for Count 1,in CRI-2017-0307 being dismissed,& successful completion of a Community Control sanction(successfully completed,2/11/19) after which my probationary period would end.I appealed & was denied,then appealed to this Court.I filed an App.R.26(B) motion, was denied and am now before this Court.

PROPOSITION OF LAW NO.1:ARGUMENT & LAW

Both counts of indictment in CRI-2017-0307 were identical except for the dates.Both were missing 2 elements.Art.I,sec.10 guarantees me an indictment without missing element.RC2931.03 & RC2901.11(A)(1) guarantees me a Court with general & subject matter jurisdiction.The 6th Amendment guarantees me the right to be informed of the nature and cause of the accusation(s) brought against me.The 14th Amendment guarantees me equal treat- under state law.The 5th Amendment made applicable thru the 14th, guarantees me fundamental fairness via Due Process.All above were violated by the State,Grand Jury & Court.All of the above were violated in CRI-2018-0327,as well by the same as above. The State misapplied Crim.R.7(B).Disjunctive allegations were used in both indictments.Both indictments contained no underlying or predicate offenses.Both used the word,"OR",not,"AND". State vs Cimpritz,158 Oh.St.490:Gilliam vs State,19 Ohio Decisions 132:U.S. vs Clarke,87 US 92:U.S. vs Carll,105 US 611: U.S. vs Cruikshank,92 US 542;U.S. vs Simmons,96 US 360;State ex rel.The Leatherworks Partnership Co. vs Stuard,2002-Ohio-6477(Trumball Co.);State vs Luna,644 N.E.2d.1056(6th App.Dist). Ex Parte Bain,121 U.S.1. The trial Court lost subject matter jurisdiction when 2 elements were missing in the indictment in CRI-2017-0307 & 1 element in the indictment for CRI-2018-0327. General jurisdiction was lost in both indictments when said Court possessed no specific facts that told it that the grand jury meant,sold marijuana in the 2 counts of indictment of CRI-2017-0307 & same for 1 count of indictment of CRI-2018-0327,that is,failed to appear in connection with a felony.

As to both indictments/cases,I was not informed of the nature & cause of the accusations brought against me.As to similiarly situated defendants,I was disparately treated by the State without a rational basis for that disparity grounded in society's safety,welfare or benefit.

PROPOSITION OF LAW NO.2:ARGUMENT & LAW

On direct appeal(H-2018-16,17),the 6th Ohio Appellate Dist. was without jurisdiction over the MERITS of the appeal pursuant to RC2505.02 & State vs Lomax,744 N.E.2d. 249.The trial court was without jurisdiction to issue the sentencing mandate means that,as per RC2505.02,no substantial rights existed, the case did not effectively end,because I could have been reindicted,and no judgment was prevented,because,upon reindictment,I still could face trial for both indictments.Although the Federal Constitution does not guarantee me an appeal,once conferred upon,cannot be arbitrarily stipped away.I did not enjoy an appeal under the equal protection clause of the 14th Amendment.Same is true as to my App.R.26(B) motion,as the Court of Appeals had no jurisdiction over the MERITS.It was required to dismiss the appeal.As was said in Gravel vs U.S., 408 US 606:

> "...to determine how far the extension of judicial power to exercise subject matter jurisdiction exists,the appellate jurisdiction only itself extends so far as to define the trial court's power ,not to the meritable aspects of its decisions within the context of the question as to whether it had jurisdiction first and then how far that jurisdiction extended..."(1972).

The only "kind" of "jurisdiction" that the Appellate Court had was inherent/ministerial,to say: "We have no jurisdiction".

Ohio does not follow,nor is it held to U.S. vs Cotton,535 U.S.625.Cimpritz supra & Stuard supra,RC2901.11(A)(1) & RC2931.03 are still good law in Ohio.

PROPOSITION OF LAW NO.3:ARGUMENT & LAW

Jurisdictional challenges,by a criminal defendant in Ohio, CAN NEVER BE WAIVED OR FORFEITED.Guilty pleas by me on July 17,2018 do not waive jurisdictional defects in my indictments. Criminal Rules 12(C)(2) & 12(H) are clear.I am not saying that a guilty plea never waives or forfeits defects of indictment,I simply am saying that my guilty pleas did not waive or forfeit claims that-judged on their faces-the charges were those which the State may not constitutionally prosecute.See Menna vs New York,423 U.S. 61.Only those objections that must be raised before trial are waived or forfeited,but objections to the jurisdiction of the Court may be raised at any time.See State vs Lomax supra,Crim.R. 12(C)(2),12(H).As was so succintly stated in Fritts vs Krugh, 92 N.W.2d.604,354 Mich.97:

> "...A void judgment,as we all know, grounds no rights,forms no defense to actions taken thereunder,and is vulnerable to any manner of collateral attack.No statute of limitations or repose runs on its holdings,the matters thought to be settled thereby are no res judicata,and years later,when the memories may have grown dim and rights long been regarded as vested,any disgruntled litigant may reopen old wounds and once more probe its depths.And it is then as though trial and adjudication have never been."

I have a due process right to have my convictions overturned. As to similiarly situated criminal defendants,I was treated disparately by the State,who had no rational basis for that disparity grounded in society's safety,welfare or benefit.

PROPOSITION OF LAW NO.4:ARGUMENT & LAW

The trial court had no jurisdiction of any kind in CRI-2017-0307.Especially to set bond or to set a trial date.I appreciate the bond set,but I was under no obligation whatsoever to attend a Nov.14,2017 trial date for which I was indicted for not attending.That indictment also conferred no jurisdiction upon said court.At arraignment,I challenged the jurisdiction of said court,but was ignored.Not having jurisdiction in CRI-2018-0327, the court therein had no jurisdiction to DENY BOND.It follows then that it had no jurisdiction to issue WARRANT ON INDICTMENT-meaning that no probable cause existed,under the 4th Amendment,because the indictments in both cases stated no cognizable crimes upon which probable cause could exist for a warrant to exist of any kind.I was arrested in Louisiana by bondsman Zac Crumrine of Norwalk,Ohio,put on an airplane without extradition hearings before a federal judge as is required under Article iv,section 2 of the Federal Constitution.My arrest by James Gilliam,police officer for Willard,Ohio was also violative of the 4th Amendment in Case no.CRI-2017-0307 on or about Mar.28,2017.My 8th Amendment right to bond was violated,as well under State law & Ohio's Constitution.All of this above,also violated my equal protection rights under the 14th Amendment.I did not consent to personal jurisdiction at my arraignment in cri-2018-0327(Apr.23,2018).State vs Holbert,38 Oh.St.3d 113.Pursuant to Taylor vs Taintor,83 US 366;Wade vs Texas, 56 S.W. 337;Salter vs Georgia,54 S.E.685;Gernstein vs Pugh, 420 US 103;Munsey vs Clough,196 US 364;Pearce vs Texas,155 US 311;Michigan vs Doran,439 US 282;Compton vs Alabama,214

US 1,see also Am.Jur.2d."Bailments"Sec.67,140;Am.Jur. "Restatement",Security Sec.205(a)(iii),I was entitled to extradition proceedings before a Federal Judge,because Louisiana,the sending state does not recognize,as crimes, the two indictments' so-called "charges" contained therein, and does not recognize Ohio's trial court's jurisdiction based on those indictments as I was issued to,nor does it recognize,Zac Crumrine's rights to arrest me in Louisiana. See also Wilcox vs Nolze,34 Oh.St. 520.I was denied Due Process under the 14th Amendment;equal protection under the 14th Amendment;right to bond under the 8th Amendment and my Article iv,Sec.2 rights to extradition proceedings.

PROPOSITION OF LAW NO.5:ARGUMENT & LAW

Pursuant to RC 2945.71 et sec & the equal protection clause of the 14th Amendment & the due process clause of the 5th made applicable by the 14th Amendment & my 6th Amendment right to a speedy trial,the State did not bring me to trial upon indictments that stated charges & with a trial court with jurisdiction to hear these cases/indictments,within the time constraints of 270 days or 180 days pursuant to Superintendence Rule 39(B)(1)after indictment.When two indictments are absolutely void,not merely voidable,the rule that time begins to run as of the date of arrest of the subsequent indictment of the two DOES NOT APPLY.January 20,2019 was the maximum date within which I was to be brought to trial IN ANY EVENT.That was not consumated.As

the State was fully aware,as was the trial Court made abundantly aware that it had no jurisdiction over either indictment,and as such,the State could easily have moved to dismiss both indictments and reindicted me for both,but failed,then it follows that pursuant to Moore vs Arizona,414 US 25,this avaricious pursuit,by the State,of both cases,requires dismissal,WITH PREJUDICE,under Criminal Rule 48(B).

PROPOSITION OF LAW NO.6 :ARGUMENT & LAW

I was made to understand,by Gregory W.Meyers,counsel,the State & the trial court,that I would plead guilty to both indictments based on a FULL BLOWN CONTRACT LAW AGREEMENT, not a JOINT RECOMMENDATION.The plea and sentencing transcripts clearly show this from the trial court's own mouth. REMEMBER:The trial court was without jurisdiction to set these hearings let alone conduct them.The trial court sentenced me to the maximum for one count of a 5th degree felony in the first indictment(cri-2017-0307)which is 12 months(see transcript).The trial court sentenced me to the maximum sentence for a 4th degree felony,one count,in the 2nd indictment(cri-2018-0327) or 18 months.If my math and memory serve me well,that adds up to 30 months.Note in the sentencing hearing transcript that I was also sentenced to 3 additional months or 90 days in the county jail.That is unlawful,unconstitutional to exceed the maximum sentences allowable under Ohio Law.Pursuant to Senate Bill 66,2018 version of May,2018 that I was not eligible for prison.

Therefore,even assuming arguendo,the indictments were good, and that there was in place a FULL BLOWN AGREEMENT under contract law NOT A JOINT RECOMMENDATION,then my probation would end with successful completion of the Community Control Sanction(CROSSWEAH in Tiffin,Ohio)which was successfully completed on Feb.11,2019.See sentencing transcripts and plea transcripts,nowhere in the agreement under contract law does it say that I would pay fines or costs, in a continuing way adding up as I appealed,pay for the buy money of $25 the Willard police used in their so-called investigation AS TO THE DISMISSED CASE of the 1st indictment or cri-2017-0307,which was ordered.My counsel agreed with me that it was an agreement under contract law, that Count 1 would be dismissed,that I would plead guilty to Count 2 and Count one of the 2nd indictment,that I would be placed on probation only until completion of the Community Control Sanction and then probation would end.That no fines or costs would be imposed,but that he would move to have them waived and that the trial court agreed that it would waive,upon motion,the fines and costs because I am disabled,receiving SSI(which I was on at that time)and could not work.That was the agreement and nothing more.I had served,at sentencing jail time since April 23, 2018,really since my arrest in Louisiana,in addition I spent 2 days after arrest,until I made bond in March,2017 and would complete the Community Control Sanction from Oct.1,2018 til Feb.11,2019.That's enough time in the county jail for crimes Senate Bill 66 no longer are prison eligible.

My Math:2 days at gun point in Louisiana.County Jail from Apr. 21 to Oct.1,2018.CROSSWEAH CORRECTIONAL FACILITY from Oct.1, 2018 until Feb.11,2019.2 days in county jail from Mar.27 to Mar.29,2017.Both the county jail at Norwalk,Ohio & CROSSWEAH are CORRECTIONAL facilities.County jails have work release programs & so does CROSSWEAH as a CORRECTIONAL facility.In both anyone is under restraint.I have already done the "90 days",that I was sentenced to.The dismissed charge,count 1 in cri-2017-0307,was a 5th degree felony or 12 months in prison and I have alreay served that for in prison there is 2 month good time credits available,leaving 10 months,which, as said,I have already served. I am in a quandry as to how and why,after having served 2½ years of probation,that I am yet subject to 3("90 days")months incarceration,as well as 30(2½ years) months incarceration in prison? What kind of deal" is that,in exchange for count 1 being dismissed?Sounds like a railroad job,too many bites out of the apple.See the sentencing and plea transcripts.I haven't,yet to date,been credited with time served from August 29 to Oct.1,2018.I have alreay paid $600 dollars in fines & costs & "probation fees" that were not part of the CONTRACT LAW AGREEMENT.And yet I owe over $2,000 in fines and costs? Six months more ppobation, $25 for "buy money" for the case that was dismissed and $25 more of same for "buy money" in Count 2(cri-2017-0307)? My 14th Amendment Due Process Right is being violated-my equal protection rights under the 14th are being violated.

PROPOSITION OF LAW NO.7:ARGUMENT & LAW

The trial Court being without jurisdiction to issue a sentencing mandate-it follows,as said before,the court of appeals was without jurisdiction,except to dismiss the appeal.See Bramlette vs Mississippi,8 South 2nd. 234 citing Powell vs Mississippi, 12 South 524.Without jurisdiction,then,the Court of Appeals ordered that the sentencing document be corrected by issuance of a nunc pro tunc sentencing document which was never corrected,and as such,additionally deprived the Court of Appeals of jurisdiction as per RC 2505.02,as the Court stated itself on appeal,See record on appeal.
The original sentencing documents violated Crim.R.32(C)in that: 1)the sentencing document must be in one document not two,which is/was the case;2)The community control sanction is lumped into one order for both cases,instead of being imposed for each of two cases;3)it is not signed,because the signatures for the two documents issued on Aug.30,2018 are identical;4)the manner of conviction is not stated for nowhere exists on either document,describing whether the defendant(me),pleaded no contest or pleaded guilty to each indictment;5)the sentence imposed is in excess of that allowed by law & the sentence does not relect what occurred at the plea agreement date of July 17,2018,as to the dismissal of counts in their relation to both cases/indictments' counts.Even the "reissued nunc pro tunc" sentencing mandate is not signed or properly states the manner of conviction.

As such my 14th Amendment equal protection rights were violated,the right to be sentenced under Ohio Law the same as similiarly situated defendants and violates Due Process under the 5th Amendment made applicable by the 14th as to the process due in sentencing criminal defendants in Ohio notwithstanding the fact that the trial court was with jurisdiction.

PROPOSITION OF LAW NO.8:ARGUMENT & LAW

Michael K.Luna incorporates by reference each and every averment and proposition of law found heretofore stated above as if fully rewritten and considered herein this proposition of law.For all the reasons stated heretofore I was denied the effective assistance of counsel pursuant to the Sixth Amendment and Strickland vs Washington,104 S.Ct.2052,466 US 668.I demonstrate counsel,Gregory W. Meyers's deficient conduct and what he should have done:

1)He should have filed a state writ of habeas corpus arguing the trial court was without jurisdictions in both cases;He did not.

2)He should have moved for bond; He did not.

3)He failed to file motions to dismiss the indictments on grounds that the trial court was without subject matter & general jurisdiction; he did not do this.

4)He should have moved to dismiss the indictments on grounds that no extradition proceedings were had in Louisiana-he failed;

5)He was required to file motions to dismiss the indictments

on the grounds that the State violated my speedy trial rights-he failed.

6)He should have moved to have all bond conditions removed related to urine tests and probation like conditions-he failed.

7)He should have filed a state writ of habeas corpus to secure bond-he failed.

8)He failed to secure,for my inspection under discovery the name of the confidential informant(s)-he failed.

9)He should have had a trial in/over both indictments-he failed;

10)He should have insisted that the PLEA AGREEMENT be enforced as I understood it to be and no joint recommendation to be instituted against my understanding-he failed.

11)He should have had a full written plea AGREEMENT written up and signed by all parties in open court and on the record-he failed;

12)He should have moved for waiver of fines and costs on grounds that I am a disabled person as a matter of law-he failed;

13)After sentencing move to withdraw guilty pleas on grounds of non-compliance of the AGREEMENT as I understood it to be-he failed;

14)After sentencing move the trial Court to secure a sentencing mandate that comported with Crim.R.32(C)-he failed;

15)Move to arrest the judgments of sentencing on grounds that the trial court was without jurisdiction-he failed.

I was denied the right to the effective assistance of counsel.

CONCLUSION:For all the reasons stated herein the indictments should be dismissed with prejudice.

March 5,2021 Michael K. Luna

Michael K.Luna pro se

CERTIFICATE OF SERVICE

I certify that a true copy of this Memeorandum in Support of Jurisdiction was sent,via ordinary U.S. Mail service on the 8th day of March,Monday,2021 to the Huron County Prosecutors Office at 12 East Main Street, 4th Floor, Norwalk,Ohio 44857.

Michael K.Luna pro se
3265 Neal Zick Rd./Lot 33
Willard,Ohio 44890
419 951-5125

APPENDIX

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
HURON COUNTY

State of Ohio

Appellee

v.

Michael Kendall Luna

Appellant

Court of Appeals Nos. H-18-016
H-18-017

Trial Court Nos. CRI 2017-0307
CRI 2018-0327

DECISION AND JUDGMENT

Decided: JAN 2 9 2021

* * * * *

The matter is before the court on appellant Michael K. Luna's application to proceed (pursuant to R.C. 2323.52(F)(2)), filed on August 3, 2020. Appellant, who was previously adjudicated a vexatious litigator, seeks leave to proceed and file an application to reopen his appeal. Appellant also tendered his application to reopen his appeal under App.R. 26(B) based upon ineffective assistance of appellate counsel.

Appellee filed a motion to dismiss and a response to the application to reopen his appeal on August 3, 2020. Appellee argues that appellant should not be permitted to proceed because he failed to petition this court for leave to proceed before filing with the Ohio Supreme Court and his appeal would be an abuse of process and there are no reasonable grounds for the proceedings or application.

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R.C. 2323.52(F)(2) requires a person who has been determined to be a vexatious litigator "who seeks to institute or continue any legal proceedings in a court of appeals or to make an application * * * shall file an application for leave to proceed in the court of appeals in which the legal proceedings would be instituted or are pending. The court of appeals may not grant such an application for leave unless the court is "satisfied that the proceedings or application are not an abuse of process of the court and that there are reasonable grounds for the proceedings or application. *Id.*

The Supreme Court has determined that the two prong analysis found in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984) is the "appropriate standard to assess a defense request for reopening under App.R. 26(B)(5). *State v. Spivey*, 84 Ohio St.3d 24, 701 N.E.2d 696 (1998), citing *State v. Reed*, 74 Ohio St.3d 534, 535, 660 N.E.2d 456 (1996). The applicant must "prove that his counsel were deficient for failing to raise the issues he now presents, as well as showing that had he presented those claims on appeal, there was a 'reasonable probability' that he would have been successful." *Id.*, citing *Reed* at 535.

Appellant's potential application to reopen claims he did not receive effective assistance from his appellate counsel because his appellate counsel failed to argue several perceived errors in the trial court proceedings. Appellant argues that his indictment was defective due to "disjunctive allegations" which left the trial court without subject-matter jurisdiction. This in turn means that his plea and sentence were void. Appellant also argues that his speedy-trial rights were violated, his plea agreement was invalid because it

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did not reflect the agreement between the parties, and his bond was inappropriate because it was based on the same allegedly defective indictment. He finally argues there were several additional issues with trial counsel's assistance in the lower proceedings.

All of appellant's arguments and proposed assignments of error are based on whether appellant's indictment was defective. The proposed assignments of error stem from the defective indictment and the alleged failure to have subject-matter jurisdiction over any of the proceedings. Essentially, because the indictment was defective all of the other errors occurred. However, we previously determined that the indictment in this matter was not defective based on the argument presented by appellant.

As such, appellant has failed to prove that there is a reasonable probability that if appellate counsel had raised these arguments, the outcome would have differed. We, therefore, cannot find that appellant's application for leave is based on reasonable grounds. Appellant's application for leave is denied. Appellee's motion is dismiss is moot and appellant's application to reopen is denied.

Arlene Singer, J. _____ Arlene Singer
JUDGE

Thomas J. Osowik, J. _____ Thomas J. Osowik
JUDGE

Gene A. Zmuda, P.J. _____
CONCUR.
JUDGE

HURON COUNTY COMMON PLEAS COURT

Huron County Courthouse
2 E Main Street, Courthouse Rm 202
Norwalk, Ohio 44857

21
337

CERTIFICATE OF SERVICE

State Of Ohio Plaintiff	:	
vs	:	CASE NO. H 20180016 H 20180017
Luna, Michael K, et al. Defendant	:	

Decision & Judgment was served on the following:

PARTIES:		**SERVICE CODE:**
State Of Ohio	Norwalk, Oh 44857	N
Luna, Michael K	3265 Neal Zick Rd Lot 33 Willard Oh 44890	C

ATTORNEYS:

James Joel Sitterly Pro Se	Huron County Prosecutor 12 E Main St 4th Fl Norwalk OH 44857	F
CC HAND DEL TO	HURON CO COMMON PLEAS	

SUSAN S. HAZEL, CLERK OF COURTS

By: _____
Deputy Clerk

2-1-2021

SERVICE CODES:

A=Personal Service (Sheriff) E=Personal Service (Clerk)	B=Certified Mail F=Fax	C=Regular Mail N=Not Applicable	D=InterOffice Mail

DEFENDANT'S EXHIBIT QQ

DEFT'S COPY

INDICTMENT (Secret – Willard cases)

Criminal Rule 6, 7

2 cts. Trafficking in Drugs (Marihuana, Schedule I) – F5

(Subrosa)

THE STATE OF OHIO }
Huron County, ss. }

COURT OF COMMON PLEAS

Of the Term January in the year of Two Thousand Seventeen

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that:

MICHAEL KENDALL LUNA DOB 03/21/1955 SSN: XXX-XX-2108

COUNT I

On or about September 19, 2016, in Huron County Ohio, did knowingly sell or offer to sell a controlled substance or a controlled substance analog, and the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, a Schedule I controlled substance, in an amount less than bulk, in violation of **O.R.C. 2925.03(A)(1)&(C)(3)(a) (Trafficking in Drugs – Marihuana) (a felony of the fifth degree)** contrary to the statute in such cases made and provided and against the peace and dignity of the State of Ohio.

COUNT II

On or about October 3, 2016, in Huron County Ohio, did knowingly sell or offer to sell a controlled substance or a controlled substance analog, and the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, a Schedule I controlled substance, in an amount less than bulk, in violation of **O.R.C. 2925.03(A)(1)&(C)(3)(a) (Trafficking in Drugs – Marihuana) (a felony of the fifth degree)** contrary to the statute in such cases made and provided and against the peace and dignity of the State of Ohio.

Huron County Prosecutor

Assistant Huron County Prosecutor

SECRET

SUSAN S. HAZEL
CLERK

17 DEC -4 AM 11: 37

HURON COUNTY
COMMON PLEAS COURT
FILED

COPY

INDICTMENT

Criminal Rule 6, 7

1 ct. Failure to Appear as Required by Recognizance F4
(Subrosa)

COURT OF COMMON PLEAS
FOR HURON COUNTY, OHIO

STATE OF OHIO,

Plaintiff

vs.

MICHAEL KENDALL LUNA
DOB: 3/21/1955
SSN: XXX-XX-2108

Defendant.

Case No. CRI 20180327

Judge James W. Conway

On the term September

The Jurors of the Grand Jury of the State of Ohio, within and for the body of Huron County, being duly impaneled and sworn and charged to inquire of and present that:

COUNT ONE:

Michael Kendall Luna, on or about the 14th day of November, 2017, at the county of Huron aforesaid, did fail to appear as required by recognizance and the release was in connection with a felony charge or pending appeal after conviction of a felony in violation of Ohio Revised Code §2937.99(A), 2937.99(B), **Failure to Appear as Required by Recognizance**, a felony of the fourth degree.

The offense is contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

JAMES JOEL SITTERLY
HURON COUNTY
PROSECUTING ATTORNEY

Melissa L. Engel

Prosecutor or by his Assistant

NOTICE: Revised Code 2923.13 states that:
No person shall knowingly acquire, have, carry or use any firearm or dangerous ordnance if such person is under indictment for any felony of violence, or any felony offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse.

NOTICE: Revised Code 2937.99 states that:
(A) No person shall fail to appear as required, after having been released pursuant to section 2937.29 of the Revised Code. Whoever violates this section is guilty of failure to appear and shall be punished as set forth in division (B) or (C) of this section. (B) If the release was in connection with a felony charge or pending appeal after conviction of a felony, failure to appear is a felony of the fourth degree. (C) If the release was in connection with a misdemeanor charge or for appearance as a witness, failure to appear is a misdemeanor of the first degree.

In the Supreme Court of Ohio

State of Ohio,
Plaintiff-Appellee,

vs

Michael K.Luna,
Defendant-Appellant.

Supreme Ct.No._____

Huron Co.Court of Appeals,Sixth Appellate Dist.Nos.H-2018-16,17

APPLICATION TO PROCEED
(RC 2323.52(F)(2)

Applicant-appellant,Michael K.Luna,pro se,hereby applies leave to appeal in this case,but he is not obligated under RC 2323.52(F)(2) to do so,because the referred to statute only applies to cases heard in the lower courts not the Supreme Court and only applies to civil suits not criminal felony appeals,yet applicant does so anyways.The appelled is afraid applicant-appellant is correct in his propositions which would result in 100,000s of lawsuits against the State of Ohio and against himself in Federal Court if appellant wins arguments that there are no defense(s) to.Applicant has a pro se equal protection right to appeal,pro se,otherwise, automatically federal exhaustation requirements will be met on these propositions of law and applicant can proceed with Federal Habeas Corpus under Title 28 USCA Sec.2254. Accordingly,applicant seeks leave or some judgment order relative to these matters. It is so prayed for.

Michael K. Luna

Michael K.Luna pro se