

In The Supreme Court of Ohio

KESEAN MAURICE CONYERS

Relator pro se.

VS.

The Warden of Allen Corr. Inst
Respondent

Case No.

23-1429

MANDAMUS

Pursuant to S. Ct. Prac. R. 12 original action Section
12.03. Praties (MANDAMUS) Complaint

KeSean Maurice Conyers
P.O. Box 4501 A.C.I
Lima, Ohio 45801

Respondent.
The Warden of Allen Corr. Inst
P.O. Box 4501 A.C.I
Lima, Ohio 45801

FILED
NOV 09 2023
CLERK OF COURT
SUPREME COURT OF OHIO

RECEIVED
NOV 09 2023
CLERK OF COURT
SUPREME COURT OF OHIO

x KeSean Conyers
#775-204

Date: 10-27-2023

"MANDAMUS" Complaint.

Affidavit of Facts

Now Comes relator Kesian M. Conyers, has brought this action to this honorable Court of the Supreme Court of Ohio Due to the Errors made in the lower Courts.

Facts.

on 3-4-2020 relator was given a sentence of 15 to 17 years in prison, this relator was not given his full Constitutional rights at the time of sentencing. the trial court did error by not giving this relator (1) sentence, but multiple counts, and not under the allied offense statute where the merger was to happen it did not. this relator also was sentence under the Ragen takes act which do not apply to this relator.

This Relator is not a attorney, and has done his own ~~research~~ research to this date 9-25-2023 and see a plain error by the lower court. By not merging relator allied offenses

see state v. McLaughlin 2018-ohio-2333
HNI Merger of offenses, Tests for merger

In determining whether offenses are allied offenses of similar import within the meaning of R.C. § 2941.25, courts must evaluate three separate factors - the conduct, the animus, & the import. Two or more offenses of dissimilar import

~~Q.1~~

exist within the meaning of R.C. 2941.25(B).
When the defendant's conduct constitutes offenses involving separate victims or if the harm that results from each offense is separate & identifiable.

HN2 Merger of Offenses, Tests for Merger

A trial court and the reviewing court on appeal when considering whether there are allied offenses that merge into a single conviction under R.C. 2941.25(A) must first take into account the conduct of the defendant.

In other words, how were the offenses committed?

If any of the following is true, the offenses cannot merge and the defendant may be convicted & sentenced for multiple offenses: (1) the offenses are dissimilar in import or significance - in other words, each offense caused separate, identifiable harm; (2) the offenses were committed separately; or (3) the offenses were committed with separate animus or motivation.

HN3 Merger of offenses, Tests for merger

At its heart, the allied-offense analysis is dependent upon the facts of a case because R.C. 2941.25 focuses on the defendant's conduct. The evidence at trial or during a plea or sentencing hearing will reveal whether the offenses have similar import. When a defendant's conduct victimizes more than one person, the harm for each person is separate & distinct, and therefore, the defendant can be convicted of multiple counts.

Also, a defendant's conduct that constitutes two or more offenses against a single victim can support multiple convictions if the harm that results from each offense is separate & identifiable from the harm of the other offense. Two or more offenses of dissimilar import exist within the meaning of § 2941.25 (B) when the defendant's conduct constitutes offenses involving separate victims or if the harm that results from each offense is separate & identifiable.

HN4 Plain Error, Burdens of proof

Crim. R. 52(B). affords appellate courts discretion to

correct plain errors or defects affecting substantial rights notwithstanding an accused's failure to meet his obligation to bring those errors on the record, and must show an error, i.e., a deviation from a legal rule that constitutes an obvious defect in the trial proceedings. Even if the error is obvious, it must have affected substantial rights, and Ohio appellate courts have interpreted this aspect of the rule to mean that the trial court's error must have affected the outcome of the trial. The accused is required to demonstrate a reasonable probability that the error resulted in prejudice - the same deferential standard for reviewing ineffective assistance of counsel claims.

Memorandum in Support

To the Ohio Supreme Court relator comes to this Court with remorse for his past actions of the crime that im locked up for now.

On 3-04-2020 I was Sentenced to 180 mo Imprisonment for the Crimes of Aggravated Robbery and Kidnapping, also with a mandatory 3 year gun Spec. Upon Sentencing relator sentence was not merged as provided by R.C. 2941.25 which undermines the legislative intent of the allied offense Statute. As provided by your allied offense statute, relator was denied the proper opporotnity not due to ineffective assistance of Counsel, but to malicious prosecution. At the time of my offense relator was still in juvenile mind state with no regards or respect of others. As we look at State V. Hendrix, 2023-Ohio-17 holdings, The trial court erred in failing to merge the aggravated robbery under R.C. 2911.01 (A)(1). and Kidnapping under R.C. 2905.01 (A)(2). because there was no Seperate animus for the Kidnapping from the underlying felony of aggravated robbery. The restraint on victim's liberty was no longer than necessary to carry out the underlying robbery, the robbers movement of the victim was insubstantial, and the physical injuries inflicted on the victims were in futherance of the robbery rather than to facilitate asportation or restraint.

Relator has a clear right to have his sentence vacated and to be sentenced under allied offenses. Relator did not rob 3 CVS's this transaction came out of one CVS. Under the allied offense statute R.C. 2941.25 (A) states, Where the same conduct by defendant can be construed to constitute two or more allied offenses of similar import, the indictment or information may contain counts for all such offenses, but the defendant may be convicted of only one. State v. Winn, 121 Ohio St. 3d 413. Relator trial court erred by not merging defendant's aggravated robbery counts, State v. Winn 121 Ohio St. 3d 413 ~~HN4~~

HN4 Sentencing, Merger

The first step for determining whether two offenses are allied offenses of similar import requires comparing the statutory elements in the abstract, rather than comparing the offenses as charged in a particular indictment. However, nowhere does Rance mandate that the elements of compared offenses must exactly align for the offenses to be allied offenses of similar import under R.C. 2941.25 (A). A "strict textual comparison" has been rejected. Instead, if, in comparing the elements of the offenses in the abstract, the offenses are so similar that the commission of the other, then the offenses are allied offenses of similar import. Elements need not be identical for offenses to be allied.

Relief Sought

Relator looks for lower court to vacate Sentence
and give relator the proper Sentence under the Allied
offense statute.

Respectfully Submitted
Ke'Sean Conyers 775-204
A.O.C.I
P.O. Box 4501
Lima, Ohio 45801

In The Supreme Court Of Ohio

KESEAN MAURICE CONYERS ; Case No.
Relator prose;

vs.

Original Civil Action

The Warden of Allen Corr. Inst
Respondent

Hearing Requested

Affidavit of Prior Civil Action

Now comes KeSean M. Conyers, affiant herein, after first being duly cautioned according to law, deposes and states: Relator was neglected by trial counsel to have filed any prior actions.

Affiant KeSean Conyers

Sworn to, or affirmed, and subscribed in my presence this 30th day of October, 2023

Ira L. Collier
x Notary Public

3-11-2026
x My Commission Expires



Ira L. Collier
Notary Public, State of Ohio
My Commission Expires 03-11-2026