

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

Michael Fuller — PETITIONER  
(Your Name)

vs.  
Lashann Eppinger, Warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Supreme Court of Ohio

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(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael Fuller

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(Your Name)

2500 South Avon Belden Road

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(Address)

Grafton, Ohio 44044

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(City, State, Zip Code)

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(Phone Number)

**QUESTION(S) PRESENTED**

Whether Petitioner's maximum aggregate sentence has expired and he is being held unlawfully.

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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## TABLE OF AUTHORITIES CITED

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## STATUTES AND RULES

Ohio's Consecutive Sentence Statute O.R.C. 2929.41(E)(3)

## OTHER

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix B \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the Ninth District Court of Appeals \_\_\_\_\_ court appears at Appendix A \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_ A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was July 10, 2018. A copy of that decision appears at Appendix B.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_ A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The Fifth and Fourteenth Amendments to the United States

Constitution and Article I of the Ohio Constitution, and

O.R.C. Chapter 2725.01.

## STATEMENT OF THE CASE

On April 8, 2016, Petitioner, Michael Fuller filed a petition for a writ of habeas corpus in the Ninth District Court of Appeals, asserting that he was entitled to immediate release because his maximum aggregate sentence has expired pursuant to Ohio's Consecutive Sentence Statute R.C. 2929.41 (E)(3). Fuller and Eppinger both filed motions for summary judgment, and Eppinger filed a motion to dismiss. On September 15, 2017, the Ninth District Court of Appeals granted Eppinger's motion to dismiss the complaint. Fuller appealed. On July 10, 2018, the Supreme Court of Ohio affirmed.

## REASONS FOR GRANTING THE PETITION

Petitioner, Michael Fuller has served his maximum aggregate sentence and he is being held unlawfully.

Ohio's Consecutive Sentence Statute R.C. 2929.41(E)(3) is a self-executing statute which automatically limits the aggregate maximum minimum term to fifteen years.

In *State v. White*, 18 Ohio St. 3d 340, 341, 481 N.E. 2d 596 (1985), the Supreme Court of Ohio held the terms of R.C. 2929.41 (E)(3) are self-executing, automatically operating to limit the aggregate minimum sentencing term to fifteen years.

The decision of the Supreme Court of Ohio is in conflict with it's decision decided in *State v. White*, 18 Ohio St. 3d 340, 341, 481 N.E. 2d 596 (1985), and it is being administered in different ways.

The Supreme Court of Ohio has so far departed from the accepted and usual course of judicial proceedings, and sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.

Today there are thousands of prisoners currently incarcerated in the Ohio Department of Rehabilitation and Correction who are sentenced under Ohio's Consecutive Sentence Statute R.C. 2929.41(E)(3), who have served their maximum aggregate minimum sentence of fifteen years and are being held unlawfully.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael Truller

Date: August 7, 2018