

# The Supreme Court of Ohio

FILED

MAR 20 2019

CLERK OF COURT  
SUPREME COURT OF OHIO

Richard Curtis

v.

Lyneal Wainwright, Warden, Marion  
Correctional Institution

Case No. 2018-1084

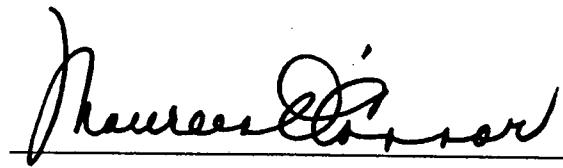
JUDGMENT ENTRY

APPEAL FROM THE  
COURT OF APPEALS

This cause, here on appeal from the Court of Appeals for Marion County, was considered in the manner prescribed by law. On consideration thereof, the judgment of the court of appeals is affirmed, consistent with the opinion rendered herein.

It is further ordered that a mandate be sent to and filed with the clerk of the Court of Appeals for Marion County.

(Marion County Court of Appeals; No. 9-18-14)



Maureen O'Connor  
Chief Justice

Edited

No. 2018-1084  
February 26, 2019  
Per Curiam (Sullivan, M.C.)  
File No. 7890

1                   **CURTIS, APPELLANT, v. WAINWRIGHT, WARDEN, APPELLEE.**

2                   [Cite as *Curtis v. Wainwright*, \_\_\_ Ohio St.3d \_\_\_, 2019-Ohio-\_\_\_.]

3                   *Habeas corpus—Allied-offense claims are nonjurisdictional and are not cognizable*

4                   *in habeas corpus—Alleged violation of Crim.R. 43(A) is not cognizable in*

5                   *habeas corpus—Court of appeals’ dismissal of petition affirmed.*

6                   (No. 2018-1084—Submitted January 29, 2019—Decided \_\_\_\_\_, 2019.)

7                   APPEAL from the Court of Appeals for Marion County, No. 9-18-14.

8                   \_\_\_\_\_

9                   **Per Curiam.**

10                  We affirm the judgment of the Third District Court of Appeals dismissing the

11                  petition of appellant, Richard Curtis, for a writ of habeas corpus.

12                  Curtis, an inmate at Marion Correctional Institution, was convicted in 2009 in

13                  Brown County Common Pleas Court of aggravated murder and murder, with each

1 count carrying a gun specification. After merging the offenses for purposes of  
2 sentencing, the trial court sentenced him to life imprisonment with the possibility of  
3 parole after 20 years for the aggravated-murder conviction, to be served  
4 consecutively to a three-year prison term for the attached gun specification. The  
5 Twelfth District Court of Appeals affirmed. The trial court later entered a nunc pro  
6 tunc entry to delete ambiguous language regarding merger and to delete a reference  
7 to postrelease control.

8 In May 2018, Curtis filed a habeas corpus petition in the Third District Court  
9 of Appeals, arguing that the trial court had improperly imposed multiple sentences  
10 for allied offenses and that his sentence is therefore void. Appellee, Warden Lyneal  
11 Wainwright, moved to dismiss Curtis's petition for failure to state a claim. The court  
12 of appeals granted the motion to dismiss.

13 A court may dismiss a habeas action under Civ.R. 12(B)(6) for failure to state  
14 a claim upon which relief can be granted "if, after all factual allegations are

1 presumed true and all reasonable inferences are made in [the petitioner's] favor, it  
2 appears beyond doubt that he could prove no set of facts entitling him to the  
3 requested extraordinary relief in habeas corpus." *Keith v. Bobby*, 117 Ohio St.3d  
4 470, 2008-Ohio-1443, 884 N.E.2d 1067, ¶ 10. This court reviews a dismissal under  
5 Civ.R. 12(B)(6) de novo. *State ex rel. McKinney v. Schmenk*, 152 Ohio St.3d 70,  
6 2017-Ohio-9183, 92 N.E.3d 871, ¶ 8.

7 The court of appeals correctly dismissed Curtis's petition, because his claim  
8 is not cognizable in a habeas corpus action. Curtis first argues that he is entitled to  
9 habeas relief because the trial court imposed multiple sentences for allied offenses,  
10 rendering the sentence void. But "allied-offense claims are nonjurisdictional and are  
11 not cognizable in habeas corpus." *Smith v. Voorhies*, 119 Ohio St.3d 345, 2008-  
12 Ohio-4479, 894 N.E.2d 44, ¶ 10.

13 Curtis also argues that he is entitled to a new sentencing hearing because the  
14 trial court improperly issued the nunc pro tunc entry outside his presence, *see*

1 Crim.R. 43(A). An alleged violation of Crim.R. 43(A) is not cognizable in habeas  
2 corpus. *Wilson v. Hudson*, 127 Ohio St.3d 31, 2010-Ohio-4990, 936 N.E.2d 42, ¶  
3 1.

4 Finally, Curtis contends that the nunc pro tunc entry is invalid because the  
5 sentence the trial court initially imposed violated R.C. 2941.25, which governs allied  
6 offenses. But because a common pleas court has subject-matter jurisdiction over  
7 felony cases, R.C. 2931.03, the trial court had jurisdiction to sentence Curtis and to  
8 determine whether R.C. 2941.25 applied. *See State ex rel. O'Neal v. Bunting*, 140  
9 Ohio St.3d 339, 2014-Ohio-4037, 18 N.E.3d 430, ¶ 13.

10 The court of appeals correctly dismissed Curtis's petition.

11 Judgment affirmed.

12

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13 Richard Curtis, pro se.

14 Dave Yost, Attorney General, and M. Scott Criss, Assistant Attorney General,

JUL 16 2018

IN THE COURT OF APPEALS OF OHIO  
THIRD APPELLATE DISTRICT  
MARION COUNTY

MARION COUNTY, OHIO  
JULIE M. KAGEL, CLERK

RICHARD CURTIS,  
PETITIONER,

CASE NO. 9-18-14

v.

LYNEAL WAINWRIGHT, WARDEN  
MARION CORRECTIONAL INSTITUTION,

JUDGMENT  
ENTRY

RESPONDENT.

This cause comes before the Court for determination of the petition for writ of habeas corpus filed by Petitioner, Richard Curtis; Respondent's motion to dismiss; and Petitioner's opposition and reply to the motion to dismiss.

In 2009, Petitioner was convicted in the Brown County Court of Common Pleas after jury trial of one count of Aggravated Murder and one count of Murder, with firearm specifications on each count. On count one, Petitioner was sentenced to life imprisonment, with parole eligibility after 20 years, consecutive to a 3-year term for the specification. On count two, Petitioner was sentenced to life imprisonment, with parole eligibility after 15 years, consecutive to a 3-year term for the specification, and gave notification of 5-years of post-release control. The trial court then ordered count two merged with count one for purposes of sentencing. The trial court's judgment was affirmed on appeal. *State v. Curtis*, 12<sup>th</sup> Dist. Brown

No. CA2009-10-037, 2010-Ohio-4945. Thereafter, in 2015, a Nunc Pro Tunc Sentencing Judgment was filed, apparently to include the means of conviction and more clearly reflect that count two merged with count one by removing the entire sentence imposed on count two.

Petitioner now asserts that he is unlawfully detained by Respondent and entitled to immediate release from confinement. Specifically, Petitioner asserts that his right to due process was violated because the trial court failed to properly merge the sentences for allied offenses of similar import. As a result, Petitioner requests that this Court issue a writ of habeas corpus ordering Respondent to release Petitioner or, alternatively, to "remand to the trial court for a de nova hearing."

Habeas corpus relief is not available to a prisoner held pursuant to a judgment of conviction of a court of record enjoying jurisdiction to render that judgment. *Burch v. Morris*, 25 Ohio St.3d 18 (1986); *Stahl v. Shoemaker*, 50 Ohio St.2d 351 (1977). Habeas corpus lies only if the prisoner is entitled to immediate release from confinement. *Pewitt v. Lorain Correctional Inst.*, 64 Ohio St.3d 470 (1992). Habeas corpus is not a substitute for, nor is it a concurrent remedy with, appeal. *Walker v. Maxwell*, 1 Ohio St.2d 136 (1965).

In the instant case, the Court finds that the petition does not properly attack the jurisdiction of the sentencing court and Petitioner is not entitled to immediate release from confinement. Alleged sentencing errors, including sentencing errors associated with properly merging allied offenses, are not cognizable in an action for

writ of habeas corpus. As such, we make no opinion regarding Petitioner's allied-offense claim or whether the Nunc Pro Tunc judgment corrected the alleged error. The Ohio Supreme Court has made clear that a claim alleging that multiple convictions should have merged as allied offenses of similar import is non-jurisdictional, subject to res judicata, and not cognizable in habeas corpus. *Smith v. Voorhies*, 119 Ohio St.3d 345, 2008-Ohio-4479, citing *Mosely v. Echols*, 62 Ohio St.3d 75 (1991).

Petitioner's reliance on *State v. Underwood*, 124 Ohio St.3d 365, 2010-Ohio-1, *State v. Billiter*, 134 Ohio St.3d 103, 2012-Ohio-5144, and similar cases is misplaced. *Underwood* resolved an allied-offense claim, but did so on direct appeal of the sentencing judgment, which was the remedy at law available to Petitioner. *Billiter* resolved a claim challenging the improper imposition of post release control, which is a different issue and not applicable herein. Consequently, the claim of petitioner that the trial court failed to properly merge the sentences for allied offenses of similar import is not properly raised in an action for writ of habeas corpus.

Furthermore, it must be noted that Petitioner's affidavit reflects that he has filed numerous, prior actions seeking a writ of habeas corpus, including one with this Court. *Curtis v. Bunting*, 3<sup>rd</sup> Dist. Marion No. 9-15-43, unreported judgment entry dismissing the petition on December 22, 2015; affirmed on appeal, *Curtis v. Bunting*, 149 Ohio St.3d 123, 2016-Ohio-7431. The doctrine of *res judicata* bars

successive habeas corpus petitions if the claims could have been raised in the initial petition. See *State ex rel. Rash v. Jackson*, 102 Ohio St.3d 145, 2004-Ohio-2053; *Turner v. Ishee*, 98 Ohio St.3d 411, 2003-Ohio-1671; and *Smith v. Walker*, 83 Ohio St. 3d 431, 1998-Ohio-30. See, also, *Fuggett v. Jeffreys*, 108 Ohio St.3d 1506, 2006-Ohio-1329, dismissing the petition for writ of habeas corpus.

Accordingly, Petitioner had an adequate remedy at law by means of appeal or post-conviction remedy to raise an alleged sentencing error. Petitioner's maximum sentence has clearly not expired and the motion to dismiss is well taken.

It is therefore **ORDERED, ADJUDGED and DECREED** that the petition for writ of habeas corpus be, and hereby is, dismissed and costs of the action are assessed to Petitioner, for which judgment is hereby rendered.

John B. Williamson  
Mark L. Lawrence  
Mark R. Shaw

JUDGES

DATED: JULY 13, 2018

/hls

IN THE COURT OF COMMON PLEAS

BROWN COUNTY, OHIO

STATE OF OHIO, \*

PLAINTIFF, \*

vs. \* CASE NO. 20092041

RICHARD CURTIS, \* APPEAL NO. CA2009-10-037

DEFENDANT. \*

SENTENCING

PROCEEDINGS HAD AND THE TESTIMONY  
TAKEN IN THE ABOVE-CAPTIONED MATTER BEFORE THE  
HONORABLE SCOTT T. GUSWEILER, JUDGE OF SAID COURT,  
SITTING BY ASSIGNMENT IN SAID COURT, IN OPEN  
COURT, COMMENCING SEPTEMBER 25, 2009.

APPEARANCES:

FOR THE PLAINTIFF:

Chris Van Harlingen

Jessica Little

FOR THE DEFENDANT:

R. Aaron Maus

Robert E. Rickey

**COPY**

(appx. C)

1 THE BAILIFF: All rise.

2 THE COURT: Be seated. We are back on the  
3 record on State of Ohio versus Richard Curtis,  
4 Case No. 20092041. At this time, it is the  
5 Court's intention to proceed to sentence.

6 Mr. Curtis, a jury of your peers has made  
7 a determination that you are guilty of  
8 aggravated murder, in violation of 2903.01(A),  
9 as well as a gun specification, that on or  
10 about the time of the offense you did have  
11 about your person or control a handgun while  
12 committing the offense; and Count 2, being  
13 murder, in violation of 2923.02(A), again, with  
14 the specification at the time of the commission  
15 of the offense, you did have on or about your  
16 person or control, a handgun, while committing  
17 the offense.

18 At this time, Counsel for Defense, is  
19 there any reason why we cannot proceed to  
20 sentence?

21 MR. MAUS: No, Your Honor.

22 MR. RICKY: No, Your Honor.

23 THE COURT: Anything that you would like  
24 to state on behalf of your client?

25 MR. MAUS: Judge, we would submit it with

1                   the suggestion that the agg. murder and murder  
2                   would merge for the purpose of sentencing. And  
3                   we would put the Court on notice that we would  
4                   intend on filing a Notice of Appeal, both the  
5                   conviction and sentence at this point.

6                   THE COURT: I understand.

7                   Mr. Curtis, is there anything that you  
8                   would like to tell the Court, prior to  
9                   sentence?

10                  THE DEFENDANT: Your Honor, I haven't  
11                  really thought a whole lot about this, other  
12                  than it seems to be a continuance of our family  
13                  tragedy. It seems like the whole family has  
14                  got, you know, internal scars that are -- well,  
15                  probably -- problem ever -- any -- anybody will  
16                  ever heal from 'em. No amount of sunshine will  
17                  heal 'em. I just don't think there's any  
18                  justice in the Court or outside of the Court,  
19                  you know. That's all.

20                  THE COURT: State of Ohio, anything that  
21                  you desire to present?

22                  MS. LITTLE: Your Honor, if it please the  
23                  Court, and Mr. Rickey, and Mr. Maus. Your  
24                  Honor, the State would, obviously, submit to  
25                  the Court, on the sentencing, that I do believe

1                   the victim's daughter would like to address the  
2                   Court, to go over victim impact.

3                   THE COURT: And they understand that they  
4                   are addressed -- to address me and not Mr.  
5                   Curtis?

6                   MS. LITTLE: Your Honor, I so advised her.

7                   THE COURT: Very well. Proceed.

8                   State your name and spell it, please.

9                   MS. ADKINSON: Elizabeth,  
10                   E-L-I-Z-A-B-E-T-H, middle initial L, last name  
11                   Adkinson, A-D-K-I-N-S-O-N.

12                   THE COURT: Proceed.

13                   MS. ADKINSON: Okay. Can I first start  
14                   off by thanking everybody who saw my mother as  
15                   a human being and a vital asset to my life and  
16                   took due diligence to bring me peace and  
17                   justice and my mother and everybody involved, I  
18                   would like to thank?

19                   And I would just like to explain to you  
20                   that I met Mr. Curtis when I was two years old,  
21                   and I loved Mr. Curtis. And that love that I  
22                   had for him, as a child, was used to beat me,  
23                   he walked around naked in front of me, for my  
24                   entire childhood. He was very perverted  
25                   towards me and my mother and my brother.

1           After my mother's murder, I was thrown to  
2           the dogs. I had no money. To this day, I have  
3           no family. The one source of unconditional  
4           love, was taken from me.

5           I moved from Eastern, which is a school of  
6           400 kids, to a school with 1,600 kids. I spent  
7           my lunch hours in the bathrooms crying all  
8           through high school. And I had to bear three  
9           children without my mother there. Every  
10           milestone that somebody would want their mother  
11           for, I didn't have mine.

12           My mother loved me. When my mother was  
13           alive, she showed me a love that I rarely see  
14           other mothers show their children. There was  
15           never one doubt, in my mind, that my mom loved  
16           me and my brother, more than anything in the  
17           world and would do anything for us. And even  
18           when she was feeling threatened of murder her  
19           first call was to an insurance company, because  
20           she was worried about me and my brother.

21           She loved us so much, and I needed that  
22           love. And life, for me, has been extremely  
23           difficult without it. All of my friends have  
24           their mothers. They have grandparents' day at  
25           school. My children don't go to school that

1 day, because they don't have a grandmother.

2 And, most of all, I loved -- I loved  
3 Richard Curtis. Through all the abuse and  
4 torture, it was all I knew. And I loved him  
5 very much. And I thought he loved me. But  
6 judging by the statement we just heard in this  
7 Court is my final confirmation: He did not  
8 love me, or my brother, or my mother.

9 And I have tried my best, throughout this  
10 proceeding, to respect you, your courtroom, the  
11 prosecutors, the defense, the witnesses,  
12 everybody involved. I have given it my  
13 absolute everything -- every fiber of my body  
14 has gone towards your respect, you and your  
15 courtroom.

16 And I hope that Dick gets to sit and think  
17 about everything I've just said, because it's  
18 not only my life, my three children, my  
19 husband, my brother, his two children.

20 Christmases aren't the same. My mother was a  
21 huge -- huge on Christmas. And now the word  
22 "mother," to me, is nothing more than an empty,  
23 hollow word. And the scars that are in me will  
24 be there for a lifetime, but, I will be able to  
25 deal with them much better now.

1           I needed this closure. My family needed  
2           this closure. I think a final apology and an  
3           explanation would be the ultimate closure;  
4           although, I'm sure after today I will never  
5           receive it. But there's not a day that's gone  
6           by, in my life, sir, that the loss of my mother  
7           hasn't impacted me and my family gravely. And  
8           that's all I have.

9           THE COURT: Thank you, ma'am.

10           Anyone else, State?

11           MS. LITTLE: No, Your Honor.

12           THE COURT: Anything else, by way of  
13           sentence?

14           MS. LITTLE: Your Honor, we would submit  
15           it to the Court.

16           THE COURT: Mr. Curtis, I believe you, in  
17           an unintentional way, hit the nail on the head  
18           as to the damage to this family, the damage to  
19           the peripheral family. I cannot imagine the 13  
20           years of grasping at night in bed, trying to  
21           wonder who took the life of my mother, my  
22           grandmother, my daughter. And I can think  
23           of -- of no offense that can rip the heart out  
24           of a family and rip the soul and the fiber out  
25           of a family than one of its own taking the life

1 of one of its own.

2 It's taken 13 years to bring justice to  
3 you, Mr. Curtis, but it will be the sentence of  
4 this Court as to Count 1, aggravated murder, in  
5 violation of 2903.01(A), that you term -- serve  
6 a term of life imprisonment with no -- with  
7 parole eligibility, only after serving the  
8 first 20 years. In addition, as to the  
9 specification, the Court will sentence you to  
10 an additional term of three years, mandatory,  
11 as it relates to Count 2.

12 It will be the sentence of this Court,  
13 sir, that you serve 15 years to life, on an  
14 indefinite term, of imprisonment, that you  
15 serve an additional three years on the handgun  
16 specification, as a mandatory term of  
17 imprisonment, pay the cost of prosecution.

18 Is there any request, as it relates to  
19 restitution, State of Ohio?

20 MS. VAN HARLINGEN: No, Your Honor. Thank  
21 you.

22 THE COURT: Clearly, there is no order  
23 that the Court, can make, that can adequately  
24 expound upon your loss or to ever compensate  
25 for that loss. The victims of crime, I will

1       instruct the State of Ohio, to give you that  
2       information, to, at least, get some semblance  
3       of assistance.

4           I will find, however, that the aggravated  
5       murder and the murder offenses, typically  
6       murder is an offense of a lesser included  
7       offense. The Court finds that it arises out of  
8       the same circumstances, the same criminal mens  
9       rea. And, as a result, the sentence as to  
10       Count 2 will merge into sentence as to Count 1.

11           At this time, is there anything further  
12       Counsel for Defense?

13           MR. RICKY: No, Your Honor.

14           MR. MAUS: No, Your Honor.

15           THE COURT: State of Ohio?

16           MS. VAN HARLINGEN: No, Your Honor. Thank  
17       you.

18           THE COURT: Mr. Curtis, I have to advise  
19       you that you have the right to appeal this  
20       matter, within 30 days from the date of this  
21       sentencing entry; do you understand, sir?

22           THE DEFENDANT: I do, Judge.

23           THE COURT: You have -- if you are unable  
24       to pay the cost of the transcript, record, or  
25       documents, you will be provided that at no cost

1 to yourself; do you understand that, sir?

2 THE DEFENDANT: I do.

3 THE COURT: I also must advise you, if you  
4 are unable to pay for an appeal, one may be  
5 filed for you, at no cost to you; do you  
6 understand, sir?

7 THE DEFENDANT: I do.

8 THE COURT: I also have to tell you, if  
9 you are unable to obtain counsel for your  
10 appeal, counsel will be appointed to you at no  
11 cost to you; do you understand that, sir?

12 THE DEFENDANT: I do.

13 THE COURT: Defendant's bond, of course,  
14 will be revoked. He will be remanded to the  
15 custody of the Brown County Sheriff's  
16 Department for execution of the sentence. And,  
17 for the record, the Court finds that the  
18 sentences are mandatory sentences, pursuant to  
19 2929.02 through 2929.04.

20 We will stand in recess at this time.

21 Gentleman, if you would please take the  
22 Defendant into custody, prior to anyone else  
23 leaving this courtroom. I would ask that you  
24 remain here, until Mr. Curtis is transported  
25 away from the building.

IN THE COURT OF COMMON PLEAS

BROWN COUNTY, OHIO

STATE OF OHIO, \*

PLAINTIFF, \*

VS. \* CASE NO. 20092041

RICHARD CURTIS, \* APPEAL NO. CA2009-10-037

DEFENDANT. \*

POST-RELEASE CONTROL ADVISEMENT

PROCEEDINGS HAD AND THE TESTIMONY  
TAKEN IN THE ABOVE-CAPTIONED MATTER BEFORE THE  
HONORABLE SCOTT T. GUSWEILER, JUDGE OF SAID COURT,  
SITTING BY ASSIGNMENT IN SAID COURT, IN OPEN  
COURT, COMMENCING SEPTEMBER 28, 2009.

APPEARANCES:

FOR THE PLAINTIFF:

Chris Van Harlingen

FOR THE DEFENDANT:

Robert E. Rickey

**COPY**

1                   THE COURT: This is the September 28, Two  
2                   Thousand and Nine Docket of the Court of Common  
3                   Pleas. The first case to be called is State of  
4                   Ohio vs. Richard Curtis, Case No. 20092041.

5                   The matter was added to the Court's Docket  
6                   this date, because the Court was somewhat  
7                   concerned as to, in an abundance of caution,  
8                   making sure that Mr. Curtis was placed on  
9                   notice of Post-Release Control. This hearing  
10                  will serve as an addendum to the sentencing  
11                  hearing, which took place this past Friday,  
12                  which was September 25th.

13                  Let the record reflect that Mr. Curtis is  
14                  in open court, good morning, represented by  
15                  counsel, Mr. Rickey. The State of Ohio is  
16                  present represented by Jessica Little and Chris  
17                  Van Harlingen.

18                  Mr. Curtis, I need to advise you, that as  
19                  to Count 2, the murder sentence, which is an  
20                  indefinite sentence of 15 years to life, that  
21                  upon your release from prison, on that  
22                  sentence, that there is a five-year mandatory  
23                  Post-Release Control, where you will be  
24                  required and placed under the terms and  
25                  conditions of the Adult Parole Authority.

1           If you violated their terms and  
2        conditions, you could be brought back before me  
3        and receive additional time, not to exceed  
4        one-half of your ultimate prison term. So if  
5        you ultimately serve 20 years, you could be  
6        brought back before me and receive up to an  
7        additional ten years for that bad time; do you  
8        understand that, sir?

9           THE DEFENDANT: Yes, I do, Judge.

10          THE COURT: Also, sir, while on that  
11        Post-Release Control, if you were to commit any  
12        new felony, not only could you be sentenced for  
13        the new felony, but you could be brought back  
14        before me and receive the greater of one  
15        additional year or the time left remaining on  
16        your Post-Release Control of five years; do you  
17        understand that, sir?

18          THE DEFENDANT: Yes, I do.

19          THE COURT: Now, in all likelihood, that's  
20        not going to happen, because, as you're aware,  
21        I merged Count 2 into Count 1, which basically  
22        means that your sentence is the life  
23        imprisonment with parole eligibility after 20  
24        years, which means that you will be released  
25        out, in all likely -- if you are released out

1       on parole, obviously, but in an abundance of  
2       caution, I wanted to make sure that you were  
3       aware of the Post-Release Control provisions.

4       I didn't want to put anything into an entry  
5       that I had not reviewed with you thoroughly to  
6       make sure that you understood it; do you  
7       understand that, Mr. Curtis?

8           THE DEFENDANT: Yes, I do.

9           THE COURT: Anything further, Mr. Rickey?

10          MR. RICKEY: No, Your Honor. Thank you.

11          THE COURT: While I have Mr. Curtis here,  
12       I assume, that, and -- and you had noted this,  
13       that you were gonna file an appeal. I assume  
14       once I placed these entries of record, that you  
15       will file that appeal sometime this week?

16          MR. RICKEY: Yes, Your Honor.

17          THE COURT: Is Mr. Curtis requesting that  
18       I appoint counsel for the purpose of his  
19       appeal?

20          THE DEFENDANT: Yes, sir.

21          THE COURT: Okay. Then we will go ahead,  
22       after you get the Notice of Appeal, if you will  
23       please let the Court know that it's been filed,  
24       and we will appoint Ms. Steddom as counsel for  
25       the purposes of the appeal for Mr. Curtis.

1                   Anything further, Mr. Rickey?

2                   MR. RICKEY: No, Your Honor. Thank you.

3                   THE COURT: Anything further, State of  
4                   Ohio?

5                   MS. VAN HARLINGEN: No, Your Honor.

6                   THE COURT: Thank you all for making  
7                   yourselves available today.

8                   Mr. Curtis, good luck to you in the  
9                   future, sir.

10                  THE DEFENDANT: Thank you, Judge.

11                  THE COURT: The Defendant will be remanded  
12                  to the custody of the Sheriff's Department.

13                  THE BAILIFF: All rise.

14                  (HEARING CONCLUDED)

CLERK OF COURTS IN THE COURT OF COMMON PLEAS  
BROWN COUNTY, OHIO

2009 SEP 28 PM 2:28

BROWN COUNTY, OHIO

STATE OF OHIO CLERK OF COURTS

Plaintiff

-vs-

RICHARD CURTIS

Defendant

\* Case No. 2009-2041

\* JUDGMENT ENTRY OF  
SENTENCE

\*

\*

On September 25, 2009, Defendant's sentencing hearing was held pursuant to Ohio Revised Code Section 2929.19. Defense Attorneys Robert Rickey and R. Aaron Maus the Prosecuting Attorney, Jessica Little and Assistant Prosecuting Attorney Chris Van Harlingen were present, as was the Defendant, who was afforded all rights pursuant to Criminal Rule 32. The Court has considered the record, oral statements, and any victim impact statement.

The Court finds that the Defendant was found guilty on September 25, 2009 of Count 1, a violation of R.C. 2903.01(A), Aggravated Murder with a firearm specification, and Count 2, a violation of R.C. 2903.02(A), Murder with a firearm specification, subject to a mandatory prison term pursuant to Section 2929.03 of the Ohio Revised Code.

It is therefore ordered that the Defendant serve a term on Count 1 of life imprisonment with parole eligibility after serving twenty years of imprisonment. The court further orders that the Defendant serve a consecutive term of imprisonment for three years on Specification One, and on Count 2, an indefinite sentence of 15 years to life imprisonment. The court further orders that the Defendant serve a consecutive term of imprisonment for three years on Specification One, all of which are mandatory prison terms pursuant to Revised Code Section 2929.13 (F).

The sentence in Count 2 is merged with Count 1 for purposes of sentencing.

The Court further orders as to Count 2 that the Defendant shall be subject to 5 years mandatory post release control is mandatory in this case, as well as the

**Jessica A.  
Little**

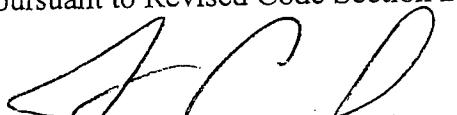
PROSECUTING  
ATTORNEY

Brown County  
200 E. Cherry St.  
Georgetown, Ohio 45121  
937/378-4151

consequences for violating conditions of post release control imposed by the Parole Board under Revised Code Section 2967.28. The Defendant is ordered to serve as part of this sentence any term of post release control imposed by the Parole Board, and any prison term for violation of that post release control.

The Defendant is therefore ordered conveyed to the custody of the Ohio Department of Rehabilitation and Correction. Credit for 220 days is granted for time served awaiting extradition from Florida and the time in Brown County Adult Detention Center awaiting trial, along with future custody days while the Defendant awaits transportation to the appropriate state institution. The Defendant is ordered to pay all costs of prosecution; and any fees permitted pursuant to Revised Code Section 2929.18 (A) (4).

Dated: \_\_\_\_\_

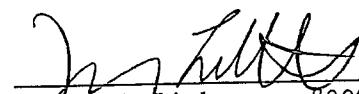


Scott T. Gusweiler, Judge



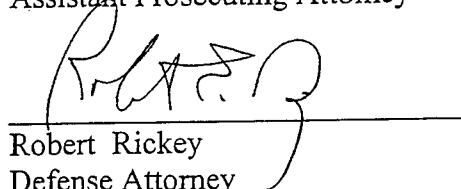
Chris Van Harlingen #0031155

Assistant Prosecuting Attorney



Jessica A. Little #0074623

Prosecuting Attorney



Robert Rickey

Defense Attorney

R. Aaron Maus

Defense Attorney

**Jessica A.  
Little**

PROSECUTING  
ATTORNEY

Brown County  
200 E. Cherry St.  
Georgetown, Ohio 45121  
937/378-4151

IN THE COURT OF COMMON PLEAS  
BROWN COUNTY, OHIO

STATE OF OHIO

FILED  
CLERK OF COURTS  
BROWN COUNTY, OHIO  
2015 AUG 26 AM 9:42  
L. CLARK GRAY  
CLERK OF COURTS

Plaintiff \* Case No. CRI2009-2041

vs.

RICHARD CURTIS

JUDGMENT ENTRY  
OF SENTENCE  
NUNC PRO TUNC TO  
SEPTEMBER 25, 2009

Defendant \*

On September 25, 2009, Defendant's sentencing hearing was held pursuant to R.C. 2929.19.

Defense attorneys Robert Rickey and R. Aaron Maus and the Prosecuting Attorney Jessica Little and Assistant Prosecuting Attorney Chris Van Harlingen were present, as was the Defendant, who was afforded all rights pursuant to Crim.R. 32. The Court has considered the record, oral statements, and any victim impact statement.

The Court finds that the Defendant was found guilty on September 25, 2009, after a jury trial, and was convicted of: Count 1, Aggravated Murder, with a firearm specification, in violation of R.C. 2903.01(A), and Count 2, Murder, with a firearm specification, in violation of R.C. 2903.02(A), subject to a mandatory prison term pursuant to R.C. 2929.03.

Thereupon, the Defendant, the Defendant's counsel, and the State of Ohio were given an opportunity to address the Court or offer evidence relative to sentencing. After considering the statements and evidence as submitted by the parties, and the Court, finding no good cause as to why sentence should not be imposed, after considering the principles of sentencing, and weighing all relevant factors including, but not limited to, R.C. 2929 et seq. and finding the following sentence consistent therewith, hereby sentences the Defendant as follows:

**CERTIFIED COPY**

COURT OF COMMON PLEAS  
BROWN COUNTY, OHIO  
CLERK: L. CLARK GRAY  
REPUTY

5370773

(APPX. F)

COUNT 1:

- Life Imprisonment with parole eligibility after serving twenty years of imprisonment in the Ohio Department of Corrections. The Court further orders that the Defendant serve a consecutive term of imprisonment for three years on the firearm specification.
- Court costs.

COUNT 2:

- The Court finds that Count 2 merges with Count 1 for the purposes of sentencing.

**FURTHER**, all costs of prosecution, appointed counsel fees, fines, and restitution are judgments enforceable pursuant to law by the parties in whose favor they are entered.

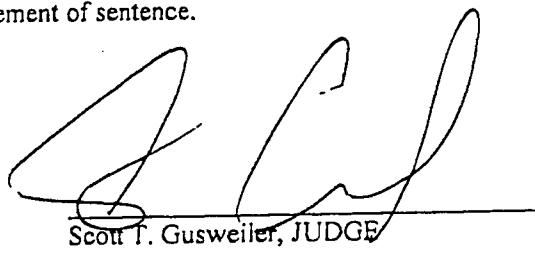
The Defendant shall receive 220 days of credit for jail time served in the within matter, plus any additional time spent incarcerated prior to being conveyed to the appropriate prison facility.

**FURTHER**, bond, if any, is hereby released.

The Defendant is hereby remanded to the custody of the Brown County Sheriff to be conveyed to the Ohio Department of Corrections for commencement of sentence.

Dated:

8/26/15

  
\_\_\_\_\_  
Scott F. Gusweiler, JUDGE

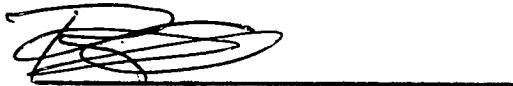
TO THE CLERK: Please deliver a certified copy of this Entry to the Brown County Sheriff's Office.

AFFIDAVIT

I Richard Curtis, affiant, after first being cauiooned and duly sworn do hereby states the following:

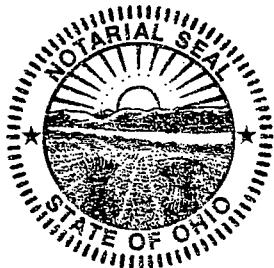
I am over the age of 21, competent to affirmatively testify that all documents contained in the appendices are true and accurate to the best of my knowledge and ability under the penalties of perjury.

AFFIANT FURTHER SAYETH NAUGHT.



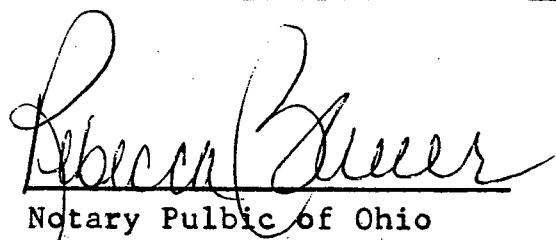
Richard Curtis

Sworn to or subscribed in my presence this 26<sup>th</sup> day of March,  
2019.



Rebecca M Bauer  
Notary Public  
State of Ohio

My Commission Expires  
October 05, 2019



Rebecca Bauer  
Notary Public of Ohio