

FILED-CT. OF APPEALS

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
PICKAWAY COUNTY

2021 JUN -2 AM 11:11

JAMES M. BEAN
CLERK OF COURTS
PICKAWAY COUNTY

State of Ohio,

Case No. 99CA33

Plaintiff-Appellee,

DECISION & JUDGMENT
ENTRY

v.

David K. Horsley,

Defendant-Appellant.

Appellant, David K. Horsley, filed a "Motion for Reconsideration of his Appeal," which we treat as an application for reopening pursuant to App.R. 26(B). In support of his motion, Mr. Horsley alleges his attorney failed to properly file his appeal. Mr. Horsley requests that he be permitted to appeal the October 14, 1999 decision of the trial court denying his motion to withdraw his guilty plea. The state has not responded to Mr. Horsley's motion. Because Mr. Horsley failed to establish any genuine issue as to whether he was deprived of the effective assistance of counsel on appeal we dismiss his application for reopening.

A review of the online docket indicates Mr. Horsley pled guilty on May 3, 1999 in Pickaway County Common Pleas Court Case No. 1998CR184. On October 6, 1999, Mr. Horsley filed a notice of appeal, which he later withdrew on November 24, 1999. As a result, this Court filed an entry dismissing his appeal on December 8, 1999.

"A defendant in a criminal case may apply for reopening of the appeal

APPENDIX A

from the judgment of conviction and sentence, based on a claim of ineffective assistance of appellate counsel." App.R. 26(B)(1). "Reversal of a conviction for ineffective assistance of counsel requires that the defendant show, first, that counsel's performance was deficient and, second, that the deficient performance prejudiced the defense so as to deprive the defendant of a fair trial." *State v. Koster*, 4th Dist. Ross No. 14CA25, 2017-Ohio-7499, ¶ 8, citing *State v. Drummond*, 111 Ohio St.3d 14, 2006-Ohio-5084, 854 N.E.2d 1038, ¶ 205.

"An application for reopening shall be granted if there is a genuine issue as to whether the applicant was deprived of the effective assistance of counsel on appeal." *State v. Moore*, 93 Ohio St.3d 649, 650, 2001-Ohio-1892, 758 N.E.2d 1130, quoting App.R. 26(B)(5). The appellant "bears the burden of establishing that there was a 'genuine issue' as to whether he has a 'colorable claim' of ineffective assistance of counsel on appeal." *Id.*, at 651 citing *State v. Spivey*, 84 Ohio St.3d at 25, 701 N.E.2d at 697.

Here, it appears trial counsel for Mr. Horsley properly filed a notice of appeal, which included a motion for the preparation of complete transcript of proceedings at state expense, an affidavit of indigency, a statement, praecipe, and notice to court reporter, and a docketing statement. Then, just over one month later, an agreed entry of withdrawal of notice of appeal was filed, which contained Mr. Horsley's signature, the signature of his counsel, and the prosecutor's signature. As a result, this Court filed an entry dismissing the appeal.

APPENDIX A

Consequently, because Mr. Horsley's appellate counsel *did* properly file a notice of appeal and appellant failed to establish any genuine issue as to whether he was deprived of the effective assistance of counsel on appeal, we dismiss Mr. Horsley's application for reopening. **APPLICATION DISMISSED.**

The clerk is **ORDERED** to serve a copy of this order on all counsel of record and unrepresented parties at their last known addresses by ordinary mail. **IT IS SO ORDERED.**

Abele, J., and Wilkin, J.: Concur.

FOR THE COURT



Jason P. Smith
Presiding Judge

APPENDIX A

The Supreme Court of Ohio

FILED

AUG -3 2021

CLERK OF COURT
SUPREME COURT OF OHIO

State of Ohio

v.

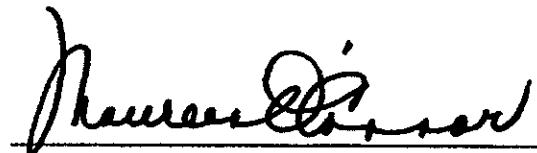
David K. Horsley

Case No. 2021-0750

ENTRY

Upon consideration of the jurisdictional memoranda filed in this case, the court declines to accept jurisdiction of the appeal pursuant to S.Ct.Prac.R. 7.08(B)(4).

(Pickaway County Court of Appeals; No. 99CA33)



Maureen O'Connor
Chief Justice

APPENDIX B

IN THE FOURTH DISTRICT COURT OF APPEALS, PICKAWAY COUNTY, OHIO

State of Ohio, :

Plaintiff, :

No. 99-CA-000033

vs. :

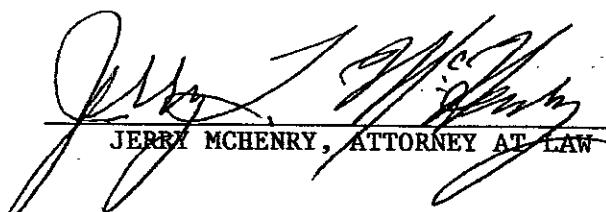
David K. Horsley, :

AGREED ENTRY

Defendant. :

99 NOV 24 AM 10:25
SHARON K. CLINE
CLERK OF COURTS
PICKAWAY COUNTY

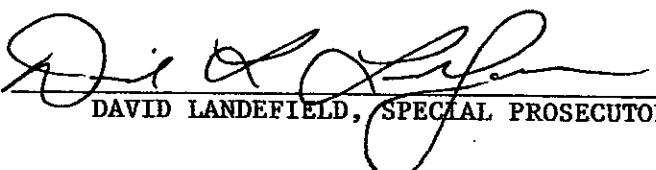
By agreement of the parties the Notice of Appeal filed in the above-mentioned case is hereby voluntarily WITHDRAWN without prejudice.



JERRY MCHENRY, ATTORNEY AT LAW



DAVID K. HORSLEY, DEFENDANT



DAVID LANDEFIELD, SPECIAL PROSECUTOR

APPENDIX C

IN THE COURT OF APPEALS
FOURTH APPELLATE DISTRICT
FILED - ~~PICKAWAY COUNTY~~ APPEALS

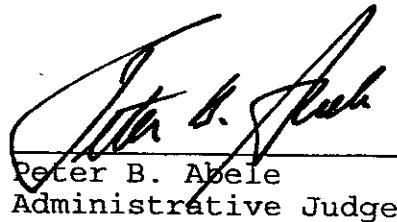
STATE OF OHIO, 99 DEC-8 AM 11:41

Plaintiff-Appellee ~~DAVID K. CLINE~~
vs. ~~CLERK OF COURTS~~
~~PICKAWAY COUNTY~~ Case No. 99 CA 33

DAVID K. HORSLEY, ENTRY
Defendant-Appellant.

Upon notice of agreement by the parties for dismissal, this appeal is hereby dismissed. Costs to the appellant.

For the Court,


Peter B. Abele
Administrative Judge

89 79 248

APPENDIX D

IN THE COURT OF COMMON PLEAS
PICKAWAY COUNTY, OHIO

STATE OF OHIO,

Plaintiff,

vs.

Case No. 98CR184

DAVID HORSLEY,

Defendant.

STANISLAW K. CLINE
CLERK OF COURTS
PICKAWAY COUNTY

99 AUG 10 AM 10: 16

FILED--COMM. PLEAS

NOTICE OF APPEARANCE

Now comes the undersigned counsel and hereby notifies the court and opposing counsel that she will represent Defendant, David Horsley, in the above-referenced matter.

Respectfully submitted,

DAVID H. BODIKER
DAVID H. BODIKER
Ohio Public Defender
Atty. Reg. No. 0016590

TRACEY LEONARD
TRACEY LEONARD
Assistant State Public Defender
Atty. Reg. No. 0064013

Office of the Ohio Public Defender
8 East Long Street - 11th Floor
Columbus, Ohio 43215-2998
(614) 466-5394

COUNSEL FOR DEFENDANT

APPENDIX E

IN THE COURT OF COMMON PLEAS
PICKAWAY COUNTY, OHIO

99 NOV 15 AM 11:02

STATE OF OHIO,

Plaintiff,

vs.

DAVID K. HORSLEY,

Defendant.

SHARON K. CLINE
CLERK OF COURTS
PICKAWAY COUNTY

C.P. Case No. 98-CR-184

**MOTION TO WITHDRAW AS COUNSEL AND FOR
APPOINTMENT OF NEW COUNSEL**

Defendant-Appellant, David K. Horsley, hereby respectfully requests the court to permit Tracey A. Leonard to withdraw as counsel and to appoint new counsel in the above captioned case on appeal.

The United States Supreme Court has long held that the Constitution does not provide for a right to appeal a state criminal conviction. **McKane v. Durston** (1894), 153 U.S. 684. However, where a state has undertaken to provide a process of appellate review, in implementing that procedure, the state must comply with due process and equal protection requirements. **Griffin v. Illinois** (1956), 351 U.S. 12.

The Ohio Constitution does not specifically provide for a "right" to appeal. However, Article IV, Section Three provides for the establishment of an appellate court system with jurisdiction "in any cause on review as may be necessary to its complete determination."

Ohio has established a statutory right to appeal. Revised Code Sec. 2505.03 states that "every final order, judgment or decree of a court . . . may be reviewed . . . unless otherwise provided by law." In conjunction, Rev. Code Sec. 2953.02 provides:

APPENDIX F

IN THE COURT OF COMMON PLEAS, PICKAWAY COUNTY, OHIO

99 AUG -9 AM 8:37

STATE OF OHIO

Case No. 98-CR-184

Plaintiff

SHARON K. CLINE
CLERK OF COURTS
PICKAWAY COUNTY

vs.

ENTRY OF CONTINUANCE

David K. Horsey,

Defendant

This matter came on for hearing on this 4th day of August 1999, with Judy C. Wolford, Assistant Prosecuting Attorney for Pickaway County being present and representing the State of Ohio, and the Defendant being present and represented by Jerry McHenry, Esquire, Columbus, Ohio, upon a miscellaneous hearing.

Thereupon counsel for Defendant informed the Court that he had just been appointed as counsel and needs additional time to research the case, the Court hereby continued the miscellaneous hearing until August 18, 1999, at 11:00 a.m.

Bond is continued.

APPROVED:

Judy C. Wolford
JUDY C. WOLFORD (0061529)
ASSISTANT PROSECUTING ATTORNEY


JUDGE

DATE: 8-9-99
91279 Pg 60

IN THE COURT OF COMMON PLEAS
PICKAWAY COUNTY, OHIO

STATE OF OHIO,

Plaintiff,

vs.

DAVID K. HORSLEY,

Defendant.

Case No. 98-CR-184

99 SEP -7 AM 8:04
SHARON K. CLINE
CLERK OF COURTS
PICKAWAY COUNTY

FILED--COMM. PLEAS

DEFENDANT'S MOTION TO DISQUALIFY THE
PICKAWAY COUNTY PROSECUTOR'S OFFICE

Now comes David K. Horsley, by and through counsel, and moves this Court to remove the Pickaway County Prosecutor and his entire staff from any further involvement in this case whatsoever. Mr. Horsley requests that a special, independent prosecutor, free from any conflict of interest, be appointed to represent the interests of the State of Ohio and Pickaway County.

The reasons for this request are more fully set forth in the attached Memorandum in Support.

Respectfully submitted,

David H. Bodiker

DAVID H. BODIKER - 0016590
Ohio Public Defender

Tracey Leonard
TRACEY LEONARD
Assistant State Public Defender
Atty. Reg. No. 0064013

APPENDIX H

Office of the Ohio Public Defender
8 East Long Street - 11th Floor
Columbus, Ohio 43215-2998
(614) 466-5394

COUNSEL FOR DEFENDANT

MEMORANDUM IN SUPPORT

David K. Horsley was indicted on November 6, 1998 for causing or attempting to cause harm to a peace officer in violation of Ohio Rev. Code § 2903.13(A). Mr. Horsley was represented in this matter by William Archer. Mr. Archer was involved in the change of plea and the sentencing of Mr. Horsley on June 11, 1999. Mr. Alan Sedlack prosecuted this case for the State. This matter is now before this Court upon Mr. Horsley's motion to withdraw his plea. In his motion, Mr. Horsley alleges that Mr. Archer's representations during the plea process, rendered the plea involuntary and unknowing. The prosecuting attorney opposes the motion to withdraw the plea. The Court has scheduled this matter for a hearing on September 8, 1999, where evidence of Mr. Archer's actions will be examined by the Court to determine whether the plea may be withdrawn to correct manifest injustice.

Mr. Archer began working for the Pickaway County Prosecutor's Office on August 2, 1999. It is clear from the hearing held on August 25, 1999, that in opposing the plea withdrawal, the prosecuting attorney is in the position of arguing that Mr. Archer's actions were appropriate with respect to his representation of Mr. Horsley. This situation, where the Assistant Prosecuting Attorney Alan Sedlack is now defending

Mr. Archer's actions as Mr. Horsley's attorney, and Mr. Archer is now employed by the same prosecutor's office, presents a conflict of interest.

Various ethical considerations are implicated by the conflict of interest before the Court. DR 5-105 provides:

- (A) A lawyer shall decline proffered employment if the exercise of his independent judgment on behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment, except to the extent permitted by DR 5-105(C).
- (B) A lawyer shall not continue multiple employment if the exercise of his independent professional judgment on behalf of a client will be or is likely to be adversely affected by his representation of another client, except to the extent permitted by DR 5-105(C).
- (C) In the situations covered by DR 5-105(A) & (B), a lawyer may represent multiple clients if it is obvious that he can adequately represent the interest of each and if each consents to the representation after full disclosure of the possible effect of such representation on the exercise of his independent professional judgment on behalf of each.
- (D) If a lawyer is required to decline employment or to withdraw from employment under DR 5-105, no other partner or associate of his or his firm may accept or continue such employment.

DR 4-101 provides in material part:

- (B) Except when permitted under DR 4-104(C), a lawyer shall not knowingly:
 - (1) Reveal a confidence or secret of his client.
 - (2) Use a confidence or secret of his client to the disadvantage of the client.
 - (3) Use a confidence or secret of his client for the advantage of himself or of a third person, unless the client consents after full disclosure.

(D) A lawyer shall exercise reasonable care to prevent his employees, associates, and others whose services are utilized by him from disclosing or using confidences or secrets of a client, except that a lawyer may reveal the information allowed by DR4-101(C) through an employee.

Ethical Consideration 5-1 provides:

The professional judgment of a lawyer should be exercised within the bounds of the law, solely for the benefit of his client and free of compromising influences and loyalties. Neither his personal interests, the interests of other clients, nor the desires of third persons should be permitted to dilute his loyalty to this client.

Ethical Consideration 5-14 provides:

Maintaining the independence of professional judgment required of a lawyer precludes his acceptance of continuation of employment that will adversely affect his judgment on behalf of or dilute his loyalty to a client. This problem arises whenever a lawyer is asked to represent two or more clients who may have differing interests, whether such interest be conflicting, inconsistent, diverse or otherwise discordant.

Finally, the American Bar Association's Standards with regard to the Prosecution Function provide, in material part:

Standard 3-1.3 Conflicts of Interest

- (a) A prosecutor should avoid the appearance or reality of a conflict of interest with regard to official duties.
- (b) A prosecutor should not represent a defendant in criminal proceedings in a jurisdiction where he or she is also employed as a prosecutor.
- (d) A prosecutor who has formerly represented a client in a matter in private practice should not thereafter use information obtained from that representation to the disadvantage of the former client unless the rules of attorney-client confidentiality do not apply or the information has become generally known.

Each of the above cited provisions are offended or compromised by allowing the Pickaway County Prosecuting Attorney's Office to remain on this case.

This Court, in the exercise of its judicial discretion, has the authority to order disqualification where such action is necessary to enforce the Code of Professional Responsibility. **State ex. rel. Keenan v. Calabrese** (1994), 69 Ohio St. 3d 176. The fact that Mr. Archer now works for the prosecutor's office, may give the prosecutor's office an unfair advantage in defending Mr. Archer's representation of Mr. Horsley. As Justice Stratton wrote:

When an attorney leaves his or her former employment and becomes employed by a firm representing an opposing party, a presumption arises that the attorney takes with him or her any confidences gained in the former relationship and shares those confidences with the new law firm.

Kala v. Aluminum Smelting & Refining Co., Inc. (1998), 81 Ohio St. 3d 1, 5.

Whether or not Mr. Archer actually divulges confidential information is immaterial. The situation to be avoided by disqualification is the appearance of impropriety. Where confidential information has not been improperly transmitted, the courts have recognized that the mere appearance of any impropriety acts as a detriment to the integrity of the justice system, and therefore mandates disqualification. In **State v. Boyd** (Mo. Ct. App. 1977), 560 S.W. 2d 296, the defendant was represented at trial by the public defender's office. During the course of the preliminary proceedings in the case, attorney Mark Bryant was a member of the public defender's office, although not personally assigned to Mr. Boyd's case. Mr. Bryant left the public defender's office, began working as an assistant prosecuting attorney, and prosecuted Mr. Bryant's case.

The Court held that "Mr. Bryant's employment as an assistant in the Public Defender's Office during part of the time that such office acted as counsel for the defendant followed by his prosecution of the defendant in the same case as Assistant Prosecuting Attorney creates an apparent conflict of interest and appearance of impropriety inimical to the proper administration of criminal justice." *Id.* at 298.

It is the access to confidential information which raises the question of a conflict. "It is unnecessary that the prosecuting attorney be guilty of an attempt to betray confidence; it is enough if it places him in a position which leaves him open to such charge." *Id.* (quoting **People v. Gerold** (Ill. 1914), 107 N.E. 165, 177. The **Boyd** court also relied on **State v. Burns** (Mo. 1959), 322 S.W.2d 736. In that case, the prosecuting attorney formerly represented defendant. The attorney assigned the case to an assistant, betrayed no confidences, and in no way participated in the prosecution. However, the conviction was still reversed: "We shall not attempt to weigh or measure the actual prejudice in a case of this kind, and we do not consider a more specific showing of prejudice to be necessary." *Id.* at 742.

A "prosecutor should avoid the appearance or reality of a conflict of interest with respect to official duties." ABA Standards for Criminal Justice, Section 3-1.2 (1980 2d ed.) In the official commentary on this section, it is stated:

... when the possibility of a conflict of interest arises, the prosecutor should recuse himself or herself ... It is of the utmost important that the prosecutor avoid participation in a case in circumstances where any implication of partiality may cast a shadow over the integrity of the office.

APPENDIX H

Due to an equally compelling need to avoid the appearance of impropriety and conflict of interest, and to safeguard the corresponding constitutional implications, the Pickaway County Prosecutor's Office should not participate in the plea withdrawl hearing.

Ohio courts have recognized the importance of maintaining the integrity of the bar. In **White Motor Corporation v. White Consolidated Industries, Inc.** (January 10, 1980), Cuyahoga App. No. 956, 771, unreported, the court explained that the "paramount concern, as expressed in the Code of Professional Responsibility, is that public confidence must reign supreme at all times." *Id.* at 10. The Court then continued, stating "that the public interest involved dictates that any doubt as to the existence of an asserted conflict should be resolved in favor of disqualification." *Id.* at 14. To maintain public confidence in the integrity of the criminal justice system, the prosecutor's office must be disqualified in the present case.

In **State v. Cooper** (1980), 63 Ohio Misc. 1, the Court was confronted with a situation where the accused's counsel was appointed as an assistant prosecuting attorney for Hancock County, Ohio. The accused objected to the continued involvement of the prosecuting attorney's office, as representative of the State in that prosecution. In response, the trial court ordered that the entire prosecutor's office be recused and that a special prosecutor be appointed to represent the case on behalf of the government. The Court stated in its opinion:

This Court specifically finds that there has been no communication between Mr. Fry [the defendant's former defense counsel, now assistant prosecutor] and the prosecutor or any member of his staff, but because of the overriding requirement that the public must be able to maintain the right to believe in the total integrity of the bar as a whole, the motion for the Hancock County Prosecutor and

David H. Bodiker /95
DAVID H. BODIKER - 0016590

Ohio Public Defender

Tracey Leonard
TRACEY LEONARD
Assistant State Public Defender
Atty. Reg. No. 0064013

Office of the Ohio Public Defender
8 East Long Street - 11th Floor
Columbus, Ohio 43215-2998
(614) 466-5394

COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing DEFENDANT'S MOTION TO
DISQUALIFY THE PICKAWAY COUNTY PROSECUTOR'S OFFICE was forwarded to
Alan Sedlack, Assistant Pickaway County Prosecutor, P.O. Box 910, 118 E. Main
Street, Circleville, Ohio 43113, this 3rd day of September, 1999.

Tracey Leonard
TRACEY LEONARD #0064013
Assistant State Public Defender

COUNSEL FOR DEFENDANT

96805

APPENDIX H

IN THE FOURTH DISTRICT COURT OF APPEALS OF OHIO
FOURTH APPELATE DISTRICT
PICKAWAY COUNTY, OHIO

2021 APR 28 AM 8:41

JAMES W. DEAN
CLERK OF COURTS
PICKAWAY COUNTY

STATE OF OHIO

CASE NO. 99 CA 33

Plaintiff-Appellee,

v.

DAVID K. HORSLEY

ON APPEAL FROM THE PICKAWAY

Defendant-Appellant

COUNTY COURT OF COMMON

PLEAS

CASE NO. 98 CR 184

DEFENDANT- APELLEANTS MOTION FOR RECONSIDERATION OF HIS APPEAL.

Now here comes the defendant, David K. Horsley, *Pro Se*, who respectfully requests an appeal of his Withdraw of Plea that took place on October 6, 1999 at 12 noon in the Pickaway County Court of Common Pleas.

My attorney at that time, Tracey Leonard, failed to properly file my appeal and as a result my appeal was denied. Her failure acted as a waiver to my right to an appeal.

I would add that she did not submit a stay of execution of sentence on my behalf.

In such situations the United States Supreme Court has identified in text that 17-1026 Garza v. Idaho as being the court precedent that governs such actions in the last paragraph of page 14.

"The more administrable and workable rule, rather, is the one compelled by our precedent: When counsel's deficient performance forfeits an appeal that a defendant otherwise would have taken, the defendant gets a new opportunity to appeal."

The Court goes on to oppose any actual statements made by the defendant.

For one, it would be difficult and time consuming for a postconviction court to determine—perhaps years later—what appellate claims a defendant was contemplating at the time of conviction.¹³

And notes at the bottom of page 13 of Garza explain this statement.

"13. To the extent relief would turn on what precisely a defendant said to counsel regarding specific claims, moreover, Garza rightly points out the serious risk of "causing indigent defendants to forfeit their rights simply because they did not know what words to use." Reply Brief 17."

***Garza v. Idaho* quoting *Roe v. Flores-Ortega*, 528 U.S. 470 (2000)**

begins by clearly asserting that prejudice is presumed.

"In *Roe v. Flores-Ortega*, 528 U. S. 470 (2000), this Court held that when an attorney's deficient performance costs a defendant an appeal that the defendant would have otherwise pursued, prejudice to the defendant should be presumed "with no further showing from the defendant of the merits of his underlying claims." *Id.*, at 484...."

These court cases show that time stops tolling when an appeal has not been properly filed by counsel.

The Defendant-Appellant respectfully request that his appeal be permitted.

As for the original charges we see that Judge P. Randall Knece states, at the end of the hearing on the withdraw of plea, that I as a defendant must prove that a conflict of interest denied due process.

In the landmark United States Supreme Court case of *Ward v Monroeville, Ohio* the Court shows that actual influence is not necessary but rather that the procedure in allowing William Archer to act as an attorney to represent a client in the same court that he was seeking a position with the prosecutor's office denies due process.

This all stems from me showing up 2 hours late for court after being at Archers office the day before where I specifically requested the time of the hearing from him.

This put Archer in a poor position. He had provided ineffective assistance of counsel and the person was blaming him. Normally, this would not be an issue but he was wanting the job as assistant prosecutor and being held responsible for a client being late may have jeopardized him obtaining that position to which he testified that he had been hired on August 1, 1999.

This position was a result of a prosecutor being terminally ill. Archer was well aware of a position in the Pickaway County Prosecutor's Office was coming open.

He testified that he did not recall anything that was said at his office the day before trial at the Withdraw of Plea hearing.

As I am a 4 year veteran of the U.S. Army who served on active duty during the Gulf War for which I received an Honorable Discharge and with no one opposing my claims the court must accept my version of events.

Tumey v Ohio states that,

Every procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict the defendant, or which might lead him not to hold the balance nice, clear, and true between the state and the accused denies the latter due process of law.

Attorney William Archer had reason to run in with a plea bargain for me to sign as his career hung in the balance. That is a great temptation to forget the burden of proof required to convict a defendant and hide the fact that he had in fact caused me to be late for court.

I arrived voluntarily after learning that the court time was that morning and did arrive at 11-11:30 A.M. on the date of the hearing which shows I had no intention of missing that court date or otherwise I would not have shown up at all.

As for the original charge of Assault on a Peace officer we see that Patrolman Baer was both victim and investigator.

This occurred right before shift change so there were 2 shifts of police officers capable of performing an investigation into his claims of assault. This denies the fundamental fairness demanded by the Constitution.

His testimony, if it is to be believed, was that I was suffering a medical emergency lying face down on the floorboards in the back of a patrol car. He opened the door and was kicked.

2903.13 Requires intent to do serious bodily harm. How can they prove intent when a person is suffering a medical emergency? A grown man in the floorboards of a car would have his feet on the door as it opened.

Had this been investigated by an impartial police officer they would have seen the problem in supporting a charge of assault as they cannot show intent. But Patrolman Baer was the sole investigator and filed those charges anyways.

The other police officer at the scene, Patrolman Schultzhouser, did not sign a statement to the facts of what occurred and failed to show to testify on Patrolman Baers behalf when compelled by the court to do so.

Patrolman Baers claims are not supported by witnesses or by any video evidence as Archer did not demand the police car videos, which would have supported my allegations, and he had no injuries.

I am the one with injuries that support my claims of being assaulted by Officer Baer.

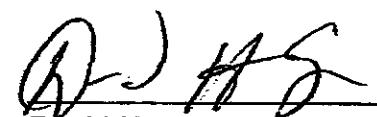
I would add that the Guide to Self-Representation in the 4th District Court of Appeals has been taken down.

I have included the Notice of Appeal submitted by Tracey Leonard and a copy of that dismissal.



David K. Horsley
Defendant, Pro Se
500 Engle Dr., Apt 537
McArthur, Ohio 45651.

I hereby certify that a true copy of the foregoing Appellants Motion was left with the Clerk of Courts of the Pickaway County Court of Common Pleas, 207 S Court St, Circleville, OH 43113, to be placed in the Prosecutors inbox.



David K. Horsley
Defendant, Pro Se

FILED-COMM. PLEAS

IN THE COURT OF COMMON PLEAS
PICKAWAY COUNTY, OHIO

99 NOV 15 AM 11:01

STATE OF OHIO,

FILED-CI OF APPEALS

MARION K. CLINE
CLERK OF COURTS
PICKAWAY COUNTY

Plaintiff,

vs.

99 NOV 15 AM 11:06

C.P. Case No. 98-CR-184

DAVID K. HORSLEY,

MARION K. CLINE
CLERK OF COURTS
PICKAWAY COUNTY

Defendant.

99CA 33

NOTICE OF APPEAL

Now comes David Horsely, through counsel, and hereby appeals to the Court of Appeals of Pickaway County, Ohio, Fourth Appellate District from a final judgment entered in this action on the 14th of October, 1999.

The attorney signing this notice hereby certifies that the judgment herein appealed is final as defined in R.C. 2505.02 and Civ. R. 54(B).

Respectfully submitted,

DAVID H. BODIKER - 0016590
Ohio Public Defender

TRACEY LEONARD
Assistant State Public Defender
Atty. Reg. No. 0064013

Office of the Ohio Public Defender
8 East Long Street - 11th Floor
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(614) 466-5394

COUNSEL FOR DEFENDANT

APPENDIX J