

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

HERMAN HARRIS JR. – PETITIONER, IN PRO SE

Vs.

THE SUPREME COURT OF OHIO – RESPONDENT(S)
THE ATTORNEY GENERAL FOR THE STATE OF OHIO

WRIT OF CERTIORARI
PETITIONER'S APPENDIX A

**INDICTMENT OF THE MONTGOMERY COUNTY
COMMON PLEAS COURT**

CASE NO. 92 – CR - 907

P-92-CRA-1956/Dayton Municipal Court

THE COURT OF COMMON PLEAS

THE STATE OF OHIO, MONTGOMERY COUNTY, PLAINTIFF

Vs.

HERMAN HARRIS, JR., DEFENDANT

APRIL 8th, 1992

P-92-CRA-1956/Dayton Municipal Court

PATRICK E MEYER
MONTGOMERY COUNTY

THE STATE OF OHIO, MONTGOMERY COUNTY

92 APR -8 PM 2:33
JAC

92-CR-907

THE COURT OF COMMON PLEAS, MONTGOMERY COUNTY
COURT OF COMMON PLEAS

January Terms in the year Nineteen Hundred and Ninety-two

MONTGOMERY COUNTY, ss.

THE GRAND JURORS of the County of Montgomery, in the name, and the authority of the State of Ohio, on their oaths do present and find that HERMAN HARRIS, JR.,

between the dates of March 30, 1992 and March 31,

*in the year
in the*

*one thousand nine hundred and ninety-two
County of Montgomery, aforesaid, and State of Ohio, by force, stealth or deception, did trespass in an occupied
structure, to-wit: a building located at 36 West Third Street, Dayton, Ohio or in a separately secured or
separately occupied portion thereof, with purpose to commit therein any theft offense, as defined in Section
2913.01(K) of the Revised Code, to-wit: a violation of Section 2913.02 of the Revised Code; or any felony;
and did then inflict or attempt to inflict or threaten to inflict physical harm to another, to-wit: Billy Lai, Sr.;
contrary to the form of the statute (in violation of Section 2911.11(A)(1) of the Ohio Revised Code) in such
case made and provided, and against the peace and dignity of the State of Ohio.*

SPECIFICATION TO COUNT ONE:

The Grand Jurors further find and specify that while committing the aforesaid offense, HERMAN HARRIS, JR., has been previously convicted in the State of Ohio of an Aggravated Felony on February 29, 1984 of Involuntary Manslaughter, in the case of State of Ohio versus HERMAN HARRIS, JR., being Case Number 84-CR-329, in the Common Pleas Court of Montgomery County, Ohio; and/or said defendant HERMAN HARRIS, JR., has also been previously convicted in the State of Ohio of an Aggravated Felony on March 14, 1979 of Aggravated Robbery, in the case of State of Ohio versus HERMAN HARRIS, JR., being Case Number 79-CR-171, in the Common Pleas Court of Montgomery County, Ohio; contrary to the form of the statute (in violation of Section 2941.142 of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

SECOND COUNT:

AND the grand jurors of this County, in the name and by the authority of the State of Ohio, upon their oaths, do find and present that: HERMAN HARRIS, JR., between the dates of March 30, 1992 and March 31, 1992, in the County of Montgomery, aforesaid, and State of Ohio, ~~in attempting or committing a theft offense~~, as defined in Section 2913.01(K) of the Revised Code, to-wit: Grand Theft (two prior convictions), to-wit: Aggravated Burglary, being Case Number 79-CR-171, a violation of Section 2911.11 of the Revised Code; and Breaking and Entering, being Case Number 77-CR-849, a violation of Section 2911.13 of the Revised Code; or in fleeing immediately after such attempt or offense, ~~did inflict~~, or attempt to inflict serious physical harm on another, to-wit: Billy Lai, Sr.; contrary to the form of the statute (in violation of Section 2911.01(A)(2) of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

SPECIFICATION TO COUNT TWO:

The Grand Jurors further find and specify that while committing the aforesaid offense, HERMAN HARRIS, JR., has been previously convicted in the State of Ohio of an Aggravated Felony on February 29, 1984 of Involuntary Manslaughter, in the case of State of Ohio versus HERMAN HARRIS, JR., being Case Number 84-CR-329, in the Common Pleas Court of Montgomery County, Ohio; and/or said defendant HERMAN HARRIS, JR., has also been previously convicted in the State of Ohio of an Aggravated Felony on March 14, 1979 of Aggravated Robbery, in the case of State of Ohio versus HERMAN HARRIS, JR., being Case Number 79-CR-171, in the Common Pleas Court of Montgomery County, Ohio; contrary to the form of the statute (in violation of Section 2941.142 of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

THIRD COUNT:

AND the grand jurors of this County, in the name and by the authority of the State of Ohio, upon their oaths, do find and present that: HERMAN HARRIS, JR., between the dates of March 30, 1992 and March 31, 1992, in the County of Montgomery, aforesaid, and State of Ohio, ~~in attempting or committing a theft offense~~, as defined in Section 2913.01(K) of the Revised Code, to-wit: Grand Theft (two prior convictions), to-wit: Aggravated Burglary, being Case Number 79-CR-171, a violation of Section 2911.11 of the Revised Code; and Breaking and Entering, being Case Number 77-CR-849, a violation of Section 2911.13 of the Revised Code; or in fleeing immediately after such attempt or offense, ~~did inflict~~, or attempt to inflict serious physical harm on another, to-wit: Billy Lai, Sr.; contrary to the form of the statute (in violation of Section 2911.01(A)(2) of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

SPECIFICATION TO COUNT THREE:

The Grand Jurors further find and specify that while committing the aforesaid offense, HERMAN HARRIS, JR., has been previously convicted in the State of Ohio of an Aggravated Felony on February 29, 1984 of Involuntary Manslaughter, in the case of State of Ohio versus HERMAN HARRIS, JR., being Case Number 84-CR-329, in the Common Pleas Court of Montgomery County, Ohio; and/or said defendant HERMAN HARRIS, JR., has also been previously convicted in the State of Ohio of an Aggravated Felony on March 14, 1979 of Aggravated Robbery, in the case of State of Ohio versus HERMAN HARRIS, JR., being Case Number 79-CR-171, in the Common Pleas Court of Montgomery County, Ohio; contrary to the form of the statute (in violation of Section 2941.142 of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

FOURTH COUNT:

AND the grand jurors of this County, in the name and by the authority of the State of Ohio, upon their oaths, do find and present that: HERMAN HARRIS, JR., between the dates of March 30, 1992 and March 31, 1992, in the County of Montgomery, aforesaid, and State of Ohio, did purposely cause the death of another, to-wit: Billy Lai Sr., while committing or attempting to commit, or while fleeing immediately after committing or attempting to commit an Aggravated Robbery and/or Aggravated Burglary, contrary to the form of the statute (in violation of Section 2903.01 (B) of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

SPECIFICATION TO COUNT FOUR:

The Grand Jurors further find and specify that while committing the aforesaid offense, HERMAN HARRIS, JR., was committing, attempting to commit, or fleeing immediately after committing or attempting to commit Aggravated Burglary and HERMAN HARRIS, JR., was the principal offender in the commission of the Aggravated Murder; contrary to the form of the statute (in violation of Section 2929.04 (A)(7) of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

SPECIFICATION TO COUNT FOUR:

The Grand Jurors further find and specify that while committing the aforesaid offense, HERMAN HARRIS, JR., was committing, attempting to commit, or fleeing immediately after committing or attempting to commit Aggravated Robbery and HERMAN HARRIS, JR., was the principal offender in the commission of the Aggravated Murder; contrary to the form of the statute (in violation of Section 2929.04 (A)(7) of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

SPECIFICATION TO COUNT FOUR:

The Grand Jurors further find and specify that while committing the aforesaid offense, HERMAN HARRIS, JR., was committing, attempting to commit, or fleeing immediately after committing or attempting to commit Aggravated Robbery and HERMAN HARRIS, JR., was the principal offender in the commission of the Aggravated Murder; contrary to the form of the statute (in violation of Section 2929.04 (A)(7) of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

SPECIFICATION TO COUNT FOUR:

The Grand Jurors further find and specify that HERMAN HARRIS, JR., committed the offense for the purpose of escaping detection; apprehension, trial, or punishment for another offense, to-wit: Aggravated Burglary committed by the offender; contrary to the form of the statute (in violation of Section 2929.04 (A)(3) of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

SPECIFICATION TO COUNT FOUR:

The Grand Jurors further find and specify that HERMAN HARRIS, JR., committed the offense for the purpose of escaping detection; apprehension, trial, or punishment for another offense, to-wit: Aggravated Robbery committed by the offender; contrary to the form of the statute (in violation of Section 2929.04 (A)(3) of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

SPECIFICATION TO COUNT FOUR:

The Grand Jurors further find and specify that HERMAN HARRIS, JR., committed the offense for the purpose of escaping detection; apprehension, trial, or punishment for another offense, to-wit: Aggravated Robbery committed by the offender; contrary to the form of the statute (in violation of Section 2929.04 (A)(3) of the Ohio Revised Code) in such case made and provided, and against the peace and dignity of the State of Ohio.

Indicted For:

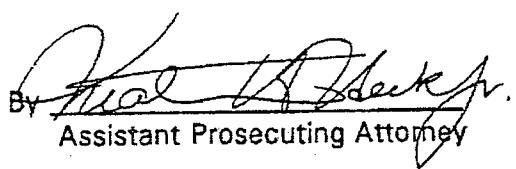
ONE COUNT: AGGRAVATED BURGLARY (2911.11)(A)(1) (Af1)
(prior aggravated felony specification)

TWO COUNTS: AGGRAVATED ROBBERY (2911.01)(A)(2) (Af1's)
(prior aggravated felony specification on each count)

ONE COUNT: AGGRAVATED MURDER (2903.01)(B)
(six (6) death penalty specifications)

Respectfully submitted,

LEE C. FALKE,
Prosecuting Attorney
Montgomery County, Ohio


By Lee C. Falke, Jr.
Assistant Prosecuting Attorney

"NOTICE: AS A RESULT OF THIS INDICTMENT, THE DEFENDANT MAY NOT KNOWINGLY ACQUIRE, HAVE, CARRY OR USE ANY FIREARM OR DANGEROUS ORDNANCE. SEE SECTION 2923.13 OF THE OHIO REVISED CODE."

Supreme Court # 001471

Judge Kessler

(A1)

ORDER

TO: GARY HAINES, Sheriff
Montgomery County, Ohio

You are commanded by the court to notify

HERMAN HARRIS, JR.

1813 Wabash Avenue

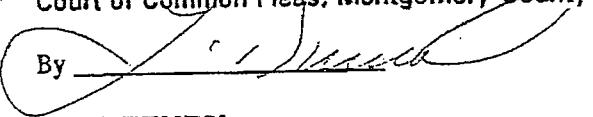
Dayton, Ohio 45405

PRESENTLY: Annex (City) Jail

THAT he has been indicted by the Grand Jury of Montgomery County and that each person named in the indictment is hereby ordered to personally appear at 8:30 A.M. on the 14th day of April, 1992 before the Honorable JOHN M. MEAGHER Judge of the Court of Common Pleas in Courtroom No. 5 in the Courts Building at 41 North Perry Street, Dayton, Ohio: and that FAILURE TO APPEAR WILL RESULT IN A WARRANT FOR ARREST, FORFEITURE OF BOND, IF ANY, OR ADDITIONAL CRIMINAL CHARGES FOR FAILURE TO APPEAR UNDER R.C. 2937.99.

I certify that this is a true copy of the original indictment on file in this office.

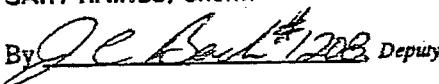
PATRICK F. MEYER, Clerk
Court of Common Pleas, Montgomery County

By 

RETURN

On the date stated next to the name of the defendant(s) below, I served a duly certified copy of the within Indictment and Order for appearance by handing the same to said defendant(s). *HERMAN HARRIS JR. 4-8-92 1510 hrs*

GARY HAINES, Sheriff

By  Deputy

Fees \$ _____

THE STATE OF OHIO, MONTGOMERY COUNTY
COURT OF COMMON PLEAS
January Term, 1992

The State of Ohio

vs.

HERMAN HARRIS, JR.

vs.

INDICTMENT FOR

SEE ATTACHED SHEET

A TRUE BILL

John J. Hain
Foreman of the Grand Jury

LEE C. FALKE
Prosecuting At'ty, Montgomery County

No. 92-CR-907

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

HERMAN HARRIS JR. – PETITIONER, IN PRO SE

Vs.

THE SUPREME COURT OF OHIO – RESPONDENT(S)
THE ATTORNEY GENERAL FOR THE STATE OF OHIO

WRIT OF CERTIORARI

PETITIONER'S APPENDIX B

THE MONTGOMERY COUNTY COMMON PLEAS COURT

TRIAL VERDICT

CASE NO. 92 – CR - 907

THE STATE OF OHIO, MONTGOMERY COUNTY, PLAINTIFF

Vs.

HERMAN HARRIS, JR., DEFENDANT

NOVEMBER 5th, 1993

FILED
COURT OF COMMON PLEAS

93 NOV -5 PM 12:32

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

STATE OF OHIO, : :

Plaintiff, : :

-vs- : CASE NO. 92-CR-907

HERMAN HARRIS, JR., : VERDICT

Defendant. : :

: : : :

We, the three member judicial panel, upon the issues joined in this case, do find the Defendant, Herman Harris, Jr., on the following counts:

Count #1 - Not Guilty of Aggravated Burglary

Count #2 - Guilty of the lesser included offense of Grand Theft (two prior convictions) and the specification of prior aggravated felony conviction

Count #3 - Not Guilty of Aggravated Robbery

Count #4 - Guilty of the lesser included offense of Murder

John W. Kessler
JOHN W. KESSLER, JUDGE

Walter A. Porter
WALTER A. PORTER, JUDGE

Lee A. Bixler
LEE A. BIXLER, JUDGE

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

HERMAN HARRIS JR. – PETITIONER, IN PRO SE

Vs.

THE SUPREME COURT OF OHIO – RESPONDENT(S)
THE ATTORNEY GENERAL FOR THE STATE OF OHIO

WRIT OF CERTIORARI
PETITIONER'S APPENDIX C

THE MONTGOMERY COUNTY COMMON PLEAS COURT

CASE NO. 92 – CR – 907

TERMINATION ENTRY (a)

THE STATE OF OHIO, MONTGOMERY COUNTY, PLAINTIFF

Vs.

HERMAN HARRIS, JR., DEFENDANT

NOVEMBER 17th, 1993

NOV 16 1993

FILED
COURT OF COMMON PLEAS

NOV 17 AM 9:47

CLERK OF COURTS
MONTGOMERY CO., OHIOIN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO	:	CASE NO. 92-CR-907
	:	JUDGE JOHN KESSLER
Plaintiff	:	
vs.	:	
HERMAN HARRIS, JR.	:	<u>TERMINATION ENTRY</u>
DOB: 1/18/59 SSN: [REDACTED]	:	
Defendant	:	

The defendant herein having been convicted of the offenses of: COUNT 2: GRAND THEFT (2 prior convictions) (prior offense of violence specification); COUNT 4: MURDER, was on November 5, 1993, brought before the Court;

WHEREFORE, it is the JUDGMENT and SENTENCE of the Court that the defendant herein be delivered to THE CORRECTIONS RECEPTION CENTER there to be imprisoned and confined for a term of not less than FOUR (4) years nor more than TEN (10) years on count 2 and not less than FIFTEEN (15) years to LIFE on count 4 to be served CONSECUTIVE to count 2;

and further, that he pay the costs of this prosecution taxed at \$ [REDACTED] upon which execution is hereby awarded, through the Montgomery County Clerk of Court's Office. Defendant is to receive credit for [REDACTED] days spent in confinement.

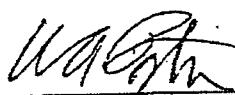
THE COURT DID FULLY EXPLAIN TO DEFENDANT HIS APPELLATE RIGHTS AND THE DEFENDANT INFORMED THE COURT THAT HE UNDERSTOOD SAID RIGHTS.

Page: 2
State vs. HARRIS
Case No. 92-CR-907

The defendant is sentenced under Sections 2913.02(A)(1)
and 2903.02 of the Ohio Revised Code. BOND IS RELEASED.


JUDGE JOHN W. KESSLER


JUDGE WALTER A. PORTER


JUDGE LEE A. BIXLER

MATHIAS H. HECK, JR., Montgomery County Prosecuting Attorney, 301
W. Third St., Fifth Floor, Dayton, Ohio 45402

ANGELA FRYDMAN, Assistant Montgomery County Prosecuting Attorney,
301 W. Third St., Fifth Floor, Dayton, Ohio 45402

BRIAN WEAVER, Attorney for Defendant, Public Defender's Office, 301
W. Third St., Lower Level, Dayton, Ohio 45402

MICHAEL KRUMHOLTZ, Attorney for Defendant, 400 Gem Plaza, Dayton,
Ohio 45402

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

HERMAN HARRIS JR. – PETITIONER, IN PRO SE

Vs.

THE SUPREME COURT OF OHIO – RESPONDENT(S)
THE ATTORNEY GENERAL FOR THE STATE OF OHIO

WRIT OF CERTIORARI

PETITIONER'S APPENDIX C

THE MONTGOMERY COUNTY COMMON PLEAS COURT

CASE NO. 92 – CR – 907

TERMINATION ENTRY (b)

THE STATE OF OHIO, MONTGOMERY COUNTY, PLAINTIFF

Vs.

HERMAN HARRIS, JR., DEFENDANT

April 2nd, 2010

FILED

2010 APR -2 AM 11:35

CLERK OF COMMON PLEAS
MONTGOMERY CO. OHIO

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
CRIMINAL DIVISION

I hereby certify this to be a true
and correct copy.

Witness my hand and seal this 7
day of April, 2010.

Angie E. Rantz, Clerk

Clerk of Common Pleas
Court of Montgomery County, Ohio

Anita Thomas, Deputy

STATE OF OHIO

CASE NO. 1992 CR 907

Plaintiff

JUDGE MARY L. WISEMAN

vs.

HERMAN HARRIS, JR.
DOB: 01/18/59 SSN: 268-68-5027

NUNC PRO TUNC 11-17-93
TERMINATION ENTRY

Defendant

The defendant herein having been found guilty by a three judge panel to the offense(s) of Count 2: Grand Theft (two prior convictions) (prior offense of violence specification) and Count 4: Murder, was on November 5, 1993, brought before the Court;

WHEREFORE, it is the JUDGMENT and SENTENCE of the Court that the defendant herein be delivered to the Correctional Reception Center there to be imprisoned and confined for a term of not less than FOUR (4) years nor more than TEN (10) years on Count 2 and not less than FIFTEEN (15) years to LIFE on Count 4, which is to be served CONSECUTIVELY to Count 2;

and further, that he pay the costs of this prosecution taxed at \$ _____ upon which execution is hereby awarded, through the Montgomery County Clerk of Courts Office. Defendant is to receive credit for _____ days spent in confinement.

The Court did fully explain to the defendant his appellate rights and the defendant informed the Court that said rights were understood.

The defendant is sentenced under Sections 2913.02(A)(1) and 2903.02 of the Ohio Revised Code. Bond is released.

Mary L. Wiseman
JUDGE MARY L. WISEMAN

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

HERMAN HARRIS JR. – PETITIONER, IN PRO SE

Vs.

THE SUPREME COURT OF OHIO – RESPONDENT(S)
THE ATTORNEY GENERAL FOR THE STATE OF OHIO

**WRIT OF CERTIORARI
PETITIONER'S APPENDIX D**

THE SEVENTH JUDICIAL DISTRICT COURT OF APPEALS

APPEALS COURT CASE NO. 488

DECISION/OPINION/ENTRY

June 30th 2022
(DATE OF DECISION/OPINION/ENTRY)

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

HERMAN HARRIS, JR.- PETITIONER

vs.

THE SUPREME COURT OF OHIO-RESPONDENT(S)
THE ATTORNEY GENERAL FOR THE STATE OF OHIO

THE OHIO SUPREME COURT AND SEVENTH DISTRICT COURT OF
APPEALS FOR NOBLE COUNTY, OHIO

JURISDICTION- OPINION

SEVENTH DISTRICT COURT OF
APPEALS FOR NOBLE COUNTY, OHIO

HERMAN HARRIS, JR.
INMATE No. #A285-745

Herman Harris, Jr.
HERMAN HARRIS, JR.
RICHLAND CORRECTIONAL INSTITUTION
1001 Olivesburg Rd. 44901, P.O. Box 8107
Mansfield, Ohio 44901-8107

PETITIONER, IN PRO SE

JUN 30 2022

Karen S. Staw
CLERK OF COURTS

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
NOBLE COUNTY

HERMAN HARRIS JR.,

Petitioner,

v.

STATE OF OHIO, AND/OR OHIO DEPARTMENT OF
REHABILITATION & CORRECTION DIRECTOR, AND/OR
ACTING DIRECTOR, AND/OR DIRECTOR'S DESIGNEE, AND/OR
NOBLE CORRECTIONAL INSTITUTION WARDEN,

Respondents.

OPINION AND JUDGMENT ENTRY
Case No. 22 NO 0488

Writ of Habeas Corpus

BEFORE:

Carol Ann Robb, Gene Donofrio, David A. D'Apolito, Judges.

JUDGMENT:
Dismissed.

*Herman Harris Jr., pro se, Richland Correctional Institution, 1001 Olivesburg Road,
P.O. Box 8107, Mansfield, Ohio 44901, Petitioner and*

Atty. Dave Yost, Ohio Attorney General, Atty. Jerri L. Forsnaught, Assistant Attorney General 30 E. Broad Street, 23rd floor, Columbus, Ohio 43215, , for Respondents.

Dated: June 29, 2022

PER CURIAM.

{¶1} Petitioner Herman Harris Jr., a self-represented prison inmate serving a life sentence, has filed this original action for a writ of habeas corpus. Harris names as respondents the warden of the Noble Correctional Institution (NCI), the prison facility where he was incarcerated when he filed this action, and the director of the Ohio Department of Corrections and Rehabilitation (ODRC), which operates the facility. Counsel for Respondents has filed a motion to dismiss pursuant to Civ.R. 12(B)(6). Because the Court no longer has territorial jurisdiction over the action, Harris's petition is dismissed.

{¶2} Harris was indicted in 1992 on one count of aggravated burglary under R.C. 2911.11(A)(1) with a prior-aggravated-felony specification, two counts of aggravated robbery under R.C. 2911.01(A)(2) with a prior-aggravated-felony specification on each count, and one count of aggravated murder under R.C. 2903.01(B) with six death-penalty specifications. The case proceeded to trial before a three-judge panel of the Montgomery County Common Pleas Court. Following trial, the panel found Harris guilty of grand theft and murder, and sentenced Harris to respective terms of four-to-ten years and fifteen years to life, to be served consecutively resulting in an aggregate sentence of nineteen years to life.

{¶3} On direct appeal, Harris raised four assignments of error: ineffective waiver of his constitutional right to a jury trial; denial of his constitutional right to the effective assistance of counsel; error in the trial court's overruling of his motion to suppress; and denial of his constitutional right to a speedy trial. The Second District Court of Appeals affirmed. *State v. Harris*, 2d Dist. Montgomery Nos. 14343, 92-CR-907, 1994 WL 718227 (Dec. 21, 1994). The Ohio Supreme Court subsequently denied Harris's motion for leave to file a delayed appeal. *State v. Harris*, 83 Ohio St.3d 1463, 700 N.E.2d 879 (1998).

{¶4} Eight years following his conviction and sentence, Harris filed a petition for postconviction relief in 2000. The trial court dismissed the petition as untimely and barred by the doctrine of res judicata. The Second District Court of Appeals affirmed the trial court's judgment. *State v. Harris*, 2d Dist. No. 18525, 2001 WL 109144 (Feb. 9, 2001).

{¶5} In 2011, Harris filed a Motion to "Correct Void Sentence and/or Judgment." He argued that his original judgment entry of conviction and sentence omitted the fact that he was found guilty by a three-judge panel and that a subsequent nunc pro tunc entry to correct the clerical error did not comply with the requirements set forth in Crim.R. 32(C) and by *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, 893 N.E.2d 163 (2008), for entry of a final appealable order. He further argued that the entry was invalid because it did not include the degree of the offense for either count and the entry was signed by one judge instead of all three judges on the panel. *Id.* The trial court held that the nunc pro tunc entry complied with Crim. R. 32(C) and *Baker*, and that Harris's remaining arguments were barred by res judicata. On appeal, the Second District Court of Appeals affirmed, concluding that the entry was a final, appealable order and that Harris's four assignments of error were barred by res judicata. *State v. Harris*, 2d Dist. Montgomery No. 24739, 2012-Ohio-1853.

{¶6} In 2019, Harris filed a petition for a writ of habeas corpus, substantially similar to the one presently before this Court, in the Tenth District Court of Appeals. The Tenth District sua sponte dismissed the action for lack of jurisdiction. *State ex rel. Harris v. Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 19AP-42, 2019-Ohio-2344.

{¶7} In his petition before this Court, Harris contends his sentence and "any foreseeable parole" have already been served. The thrust of Harris's claim is that for an offender, like himself, who has been denied parole, the Ohio General Assembly has failed to define with reasonable clarity the specific number of years that equals "to life" imprisonment. Harris then goes on to set forth four constitutional arguments in support of that claim: (1) substantive due process; (2) cruel and unusual punishment; (3) separation of powers; and (4) equal protection.

{¶8} The type of redress Harris is seeking is not available in a writ of habeas corpus. R.C. 2725.05 limits the scope of the writ to jurisdictional challenges only:

If it appears that a person alleged to be restrained of his liberty is in the custody of an officer * * * by virtue of the judgment or order of a court of record, and that the court or magistrate had jurisdiction to * * * render the judgment, or make the order, the writ of habeas corpus shall not be allowed.

If the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order.

{¶9} Here, Harris does not challenge the trial court's jurisdiction to convict and sentence him. R.C. 2725.05; *Wilson v. Rogers*, 68 Ohio St.3d 130, 131, 623 N.E.2d 1210 (1993). Rather, he questions the constitutionality of the parole statutory framework as applied to him. But the Ohio Supreme Court has routinely declared that testing a constitutional issue "is not the function of the state writ of habeas corpus." *Rodgers v. Capots*, 67 Ohio St.3d 435, 436, 619 N.E.2d 685 (1993). The Court noted that the defendant "must elect some other cause of action" to challenge the constitutionality of a statute. *Id.*; see also *Schoolcraft v. Wolfe*, 7th Dist. Noble No. 04 NO 323, 2005-Ohio-1355, ¶ 3 (a claimed violation of constitutional rights or an error in the sentence is reviewable on appeal and, accordingly, is not cognizable in habeas corpus); *Perotti v. Ishee*, 7th Dist. Mahoning No. 02-CA-58, 2002-Ohio-5518, ¶ 6 (testing the constitutionality of parole eligibility as to a particular inmate is not the function of a state writ of habeas corpus). Later, the Court elaborated that declaratory judgment is the proper remedy to determine the constitutionality or constitutional application of parole guidelines and reiterated habeas corpus is not available to question the constitutionality of parole conditions. *Hattie v. Anderson*, 68 Ohio St.3d 232, 235, 626 N.E.2d 67 (1994).

{¶10} Aside from the impropriety of a writ of habeas corpus as the legal avenue to seek redress for his constitutional claims, another more significant hurdle has arisen for Harris during the pendency of this proceeding. R.C. 2725.03 requires that actions in habeas corpus be filed in the county where an inmate or prisoner is confined:

If a person restrained of his liberty is an inmate of a state benevolent or correctional institution, the location of which is fixed by statute and at the time is in the custody of the officers of the institution, no court or judge other than the courts or judges of the county in which the institution is located has

jurisdiction to issue or determine a writ of habeas corpus for his production or discharge. Any writ issued by a court or judge of another county to an officer or person in charge at the state institution to compel the production or discharge of an inmate thereof is void.

(Emphasis added.) See also *Bridges v. McMackin*, 44 Ohio St.3d 135, 541 N.E.2d 1035 (1989) (R.C. 2725.03 allocates habeas corpus jurisdiction among the courts of appeals on a territorial basis).

{¶11} When Harris filed this action, he was an inmate at Noble Correctional Institution which is located in Noble County, one of the eight counties comprising the territorial jurisdiction of this Court. R.C. 2501.01(G). He is now an inmate in the Richland Correctional Institution which is located in Richland County, one of fifteen counties comprising the territorial jurisdiction of the Fifth District Court of Appeals. R.C. 2501.01(E).

{¶12} Accordingly, the Court dismisses this action on its own accord for lack of jurisdiction. Respondents' motion to dismiss is denied as moot.

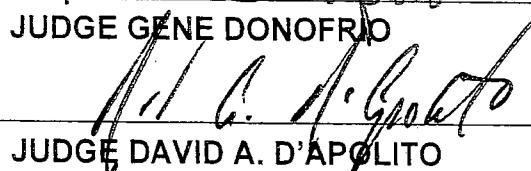
{¶13} Final order. Clerk to serve notice as provided by the Rules of Civil Procedure. No costs assessed.



JUDGE CAROL ANN ROBB



JUDGE GENE DONOFRIO



JUDGE DAVID A. D'APOLITO

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

HERMAN HARRIS JR. – PETITIONER, IN PRO SE

Vs.

THE SUPREME COURT OF OHIO – RESPONDENT(S)
THE ATTORNEY GENERAL FOR THE STATE OF OHIO

**WRIT OF CERTIORARI
PETITIONER'S APPENDIX (E)**

**THE SUPREME COURT OF OHIO
CASE NO: 2022-0931**

DECISION/OPINION/ENTRY

September 18th, 2022

(DATE OF DECISION/OPINION/ENTRY)

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

HERMAN HARRIS, JR.- PETITIONER

vs.

THE SUPREME COURT OF OHIO-RESPONDENT(S)
THE ATTORNEY GENERAL FOR THE STATE OF OHIO

THE OHIO SUPREME COURT AND SEVENTH DISTRICT COURT OF
APPEALS FOR NOBLE COUNTY, OHIO

JURISDICTION- OPINION

THE SUPREME COURT OF OHIO

HERMAN HARRIS, JR.
INMATE No. #A285-745


HERMAN HARRIS, JR.
RICHLAND CORRECTIONAL INSTITUTION
1001 Olivesburg Rd. 44901, P.O. Box 8107
Mansfield, Ohio 44901-8107

PETITIONER, IN PRO SE

The Supreme Court of Ohio

Herman Harris Jr.

v.

State of Ohio, and/or Ohio Department of Rehabilitation and Correction Director, and/or Acting Director, and/or Director's Designee, and/or Noble Correctional Institution Warden

Case No. 2022-0931

JUDGMENT ENTRY

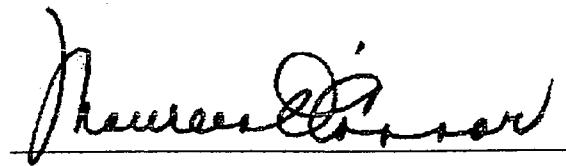
APPEAL FROM THE COURT OF APPEALS

This cause is pending before the court as an appeal from the Court of Appeals for Noble County. The records of this court indicate that appellant has not filed a merit brief, due September 21, 2022, in compliance with the Rules of Practice of the Supreme Court of Ohio and therefore has failed to prosecute this cause with the requisite diligence.

Upon consideration thereof, it is ordered by the court that this cause is dismissed.

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

(Noble County Court of Appeals; No. 22 NO 0488)



Maureen O'Connor
Chief Justice

The Supreme Court of Ohio

OFFICE OF THE CLERK

65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

CHIEF JUSTICE
MAUREEN O'CONNOR

CLERK OF THE COURT
SANDRA H. GROSKO

JUSTICES
SHARON L. KENNEDY
PATRICK F. FISCHER
R. PATRICK DEWINE
MICHAEL P. DONNELLY
MELODY J. STEWART
JENNIFER BRUNNER

TELEPHONE 614.387.9530
FACSIMILE 614.387.9539
supremecourt.ohio.gov

October 04, 2022

Herman Harris Jr. #285-745
Richland Correctional Institution
P.O. Box 8107
Mansfield, OH 44901

Re: Supreme Court of Ohio Case No. 2022-0931, *Herman Harris Jr. v. State of Ohio, and/or Ohio Department of Rehabilitation and Correction Director, and/or Acting Director, and/or Director's Designee, and/or Noble Correctional Institution Warden*

Dear Mr. Harris Jr.:

The enclosed appellant's brief is being returned because it does not comply with the Rules of Practice of the Supreme Court of Ohio. Specifically, it is untimely. Pursuant to Rule 16.02(A)(2), the appellant's brief must be filed within forty days from the date the clerk files the record. The appellant's brief was due on or before September 21, 2022. The enclosed appellant's brief was not received until October 4, 2022. Pursuant to Rule 3.02(B) the clerk shall refuse to file a document that is not timely received and motions to waive this rule are prohibited. Please note that this case was dismissed for want of prosecution on September 28, 2022. A motion for reconsideration of that decision is due for filing no later than October 11, 2022. A copy of the docket is enclosed for your reference.

For further guidance please refer to the copy of the Rules of Practice on file with your institution's library.

Sincerely,
Clerk's Office

Enclosure

The Supreme Court of Ohio

OFFICE OF THE CLERK

65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

CHIEF JUSTICE
MAUREEN O'CONNOR

CLERK OF THE COURT
SANDRA H. GROSKO

JUSTICES
SHARON L. KENNEDY
PATRICK F. FISCHER
R. PATRICK DEWINE
MICHAEL P. DONNELLY
MELODY J. STEWART
JENNIFER BRUNNER

TELEPHONE 614.387.9530
FACSIMILE 614.387.9539
supremecourt.ohio.gov

October 31, 2022

Herman Harris, Jr. #285-745
Richland Correctional Institution
P.O. Box 8107
Mansfield, OH 44901

Re: Supreme Court of Ohio Case No. 2022-0931,
Herman Harris Jr. v. State of Ohio, and/or Ohio Department of Rehabilitation, and Correction Director, and/or Acting Director, and/or Director's Designee, and/or Noble Correctional Institution Warden

Dear Mr. Harris:

The enclosed cause to show rehearing of direct appeal filing of appellant's merit brief and/or in the alternative delayed reconsideration for filing appellant's merit brief, and or delayed appeal application was not filed because the filing of a motion for reconsideration is untimely, and Rule 3.02(B) prohibits the clerk from filing of untimely documents or requests to waive the timeliness requirements. Pursuant to Rule 18.02(A), any motion for reconsideration must be filed within ten days after the date of the Supreme Court's decision. As the enclosed copy of the docket indicates, the court's final decision in your case was issued on September 28, 2022. Therefore, your motion for reconsideration was due in the clerk's office no later than October 10, 2022.

For additional information, please refer to the copy of the Rules of Practice on file with your institution's library.

Sincerely,
Clerk's Office

Enclosures

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

HERMAN HARRIS JR. – PETITIONER, IN PRO SE

Vs.

THE SUPREME COURT OF OHIO – RESPONDENT(S)
THE ATTORNEY GENERAL FOR THE STATE OF OHIO

WRIT OF CERTIORARI
PETITIONER'S APPENDIX OTHER

The OFFICE of the Ohio Public Defender

John Fenlon, Assistant State Public Defender Intake Section

October 6th, 2014

#427767 v1 – Harris, Herman Itr. 10-6-14

Petitioner requested assistance in filing writ of mandamus
Against the Ohio State Legislatures to have the maximum penalty/sentence
Of life imprisonment for conviction Murder defined with reasonable clarity



Office of the Ohio Public Defender
250 East Broad Street - Suite 1400
Columbus, Ohio 43215

www.opd.ohio.gov

(614) 466-5394

Fax (614) 728-8091

TTY (800) 750-0750

TIMOTHY YOUNG
State Public Defender

October 6, 2014

Herman Harris
285-745
Pickaway Correctional Institution
P.O. Box 209
Orient, Ohio 43146

Dear Mr. Harris:

Regretfully you found my last letter "offensive and assaulting to [your] intelligence." That was certainly not my intent. My reply was not meant to patronizing. If you disagree with my analysis that is certainly your prerogative.

Your follow up letter asked the following question: "*My legal question and constitutional concerns are clear. Is it possible that I may serve the remainder of my natural life incarcerated without being granted parole?*" The answer is "Yes."

Aggravated Murder (absent capital specifications) and Murder carry the same maximum penalty. Defendants convicted of either Aggravated Murder or Murder face the same possibility of life in prison. The offenses differ as their minimum term before becoming parole eligible. Those convicted of Murder have parole eligibility sooner. But they face a potential penalty of life in prison just like those convicted of Aggravated Murder. That was true in 1993 and is still true today.

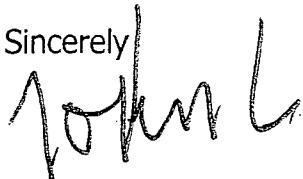
You asked that I "explain why you will not assist me in the filing of a Writ of Mandamus against the state legislature/the Ohio General Assembly having the state legislatures/the Ohio General Assembly define the specific number of years that equals and/or totals the specific number of years an offender must serve under incarceration when parole have been denied by the Ohio Adult Parole Board/Ohio Adult parole Authority, when have an offender serve his/her maximum sentence of life imprisonment."

The General Assembly chose not to set a specific term as the penalty for Murder. It decided to set and minimum and maximum term. It has left it to the Ohio Parole Board to make the ultimate release decision somewhere between those points. There is nothing unconstitutional about this statutory system.

The maximum penalty of life imprisonment for Murder is not a greatly disproportionate sentence in violation of the Eight and Fourteenth Amendment of the United States Constitution, or the Ohio Bill of Rights, Article I, §§ 2. 9. and 16.

This office will not assist you because you are not entitled to a writ of mandamus.

Sincerely



John Fenlon
Assistant State Public Defender
Intake Section

#427767 v1 - Harris, Herman ltr 10-6-14