

In the Supreme Court of the United States

TYSHAWN SHEPARD,
Petitioner,

v.

STATE OF OHIO,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF OHIO

MOTION TO PROCEED *IN FORMA PAUPERIS*

Pursuant to Rule 39 of this Court, Petitioner Tyshawn Shepard moves for leave to proceed *in forma pauperis* for the purpose of filing the enclosed Petition for Writ of Certiorari, as well as for any subsequent filings in this matter.

Mr. Shepard was found to be indigent and proceeded *in forma pauperis* in the trial court and in his direct appeals to the Eighth District Court of Appeals. Additionally, for purposes of Rule 39.1 it should be noted that Mr. Shepard was not required to pay filing fees in the Supreme Court of Ohio by virtue of his indigence and representation by appointed counsel. A copy of the order of appointment for his appeal direct appeal is appended to this Application. Having received a sentence of 8 – 12 years in prison, the Petitioner has been and remains incarcerated on this matter.

Accordingly, for these reasons, and in the interest of justice, Petitioner respectfully requests that his motion for leave to proceed *in forma pauperis* be granted.

Respectfully submitted.

CULLEN SWEENEY
Chief Public Defender



THOMAS T. LAMPMAN
Assistant Public Defender
Counsel of Record

ERIKA B. CUNLIFFE
Assistant Public Defender

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PUBLIC DEFENDER
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Counsel for Petitioner



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IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO
Plaintiff

TYSHAWN SHEPARD
Defendant

Case No: CR-20-653555-A

Judge: MICHAEL J RUSSO

INDICT: 2913.51 RSP - MV
2913.51 RECEIVING STOLEN PROPERTY
2925.03 TRAFFICKING OFFENSE
ADDITIONAL COUNTS...

JOURNAL ENTRY

THIS IS AN INDEFINITE SENTENCE UNDER THE REAGAN TOKES ACT S.B. 201/R.C. 2929.144

DEFENDANT IN COURT. COUNSEL KEVIN M SPELLACY PRESENT.

COURT REPORTER MARGUERITE PHILLIPS PRESENT.

ON A FORMER DAY OF COURT THE DEFENDANT PLEADED GUILTY TO DRUG POSSESSION 2925.11 A F2 AS AMENDED IN COUNT(S) 4 OF THE INDICTMENT DRUG POSSESSION IN AN AMOUNT EQUAL TO OR GREATER THAN 10 GRAMS BUT LESS THAN 20 GRAMS.

COUNT(S) 1, 2, 3 WAS/WERE DISMISSED.

DEFENDANT ADDRESSES THE COURT, PROSECUTOR FALLON MCNALLY ADDRESSES THE COURT, OTHERS ADDRESS THE COURT

THE COURT CONSIDERED ALL REQUIRED FACTORS OF THE LAW.

THE COURT IMPOSES A PRISON SENTENCE AT OF 8 YEAR(S).

DEFENDANT SENTENCED TO A MANDATORY SENTENCE OF A MINIMUM OF 8 YEARS AND A MAXIMUM OF 12 YEARS ON COUNT 4, FOR A STATED PRISON TERM OF 8 YEARS MINIMUM AND 12 YEARS MAXIMUM IMPRISONMENT.

THIS SENTENCE IS TO BE SERVED CONCURRENTLY WITH THE SENTENCES IMPOSED IN CASES CR-654172, 654033, AND 654029. THE COURT RECOMMENDS THAT DEFENDANT BE PLACED IN A FACILITY OTHER THAN LCI DUE TO SECURITY CONCERNS.

THE COURT HAS NOTIFIED THE DEFENDANT THAT PURSUANT TO R.C. 2929.19(B)(2)(C), IT IS REBUTTABLY PRESUMED THAT THE DEFENDANT WILL BE RELEASED FROM SERVICE OF THE SENTENCE ON THE EXPIRATION OF THE AGGREGATE MINIMUM PRISON TERM IMPOSED (AND AFTER THE SERVICE OF THE SPECIFICATION) OR PRESUMPTIVE EARLY RELEASE DATE, WHICHEVER IS EARLIER; THAT THE DEPARTMENT OF REHABILITATION AND CORRECTION MAY REBUT THE PRESUMPTION IF IT MAKES SPECIFIED DETERMINATIONS AT A HEARING REGARDING OFFENDER'S CONDUCT WHILE CONFINED, THREAT TO SOCIETY, RESTRICTIVE HOUSING AND/OR SECURITY CLASSIFICATION WHILE CONFINED PURSUANT TO R.C. 2967.271; MAY THEN MAINTAIN THE DEFENDANT'S INCARCERATION AFTER THE EXPIRATION OF THE AGGREGATE MINIMUM PRISON TERM FOR A REASONABLE TIME; AND MAY MAKE SUCH DETERMINATIONS MORE THAN ONE TIME UP TO THE AGGREGATE MAXIMUM PRISON TERM. THE TRIAL COURT CAN CONDUCT A HEARING AND FIND THE EARLY RELEASE DATE IS REBUTTED PURSUANT TO 2967.271(F)(1).

AS A RESULT OF THE CONVICTION(S) IN THIS CASE AND THE IMPOSITION OF A PRISON SENTENCE, AND PURSUANT TO R.C. 2967.28(F)(4)(C), THE DEFENDANT WILL/MAY BE SUBJECT TO A PERIOD OF POST-RELEASE CONTROL OF: A MANDATORY MINIMUM 18 MONTHS, UP TO A MAXIMUM OF 3 YEARS. THE ADULT PAROLE AUTHORITY WILL ADMINISTER THE POST-RELEASE CONTROL PURSUANT TO R.C. 2967.28,

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AND THE DEFENDANT HAS BEEN ADVISED THAT IF THE DEFENDANT VIOLATES POST-RELEASE CONTROL, THE PAROLE BOARD MAY IMPOSE A PRISON TERM AS PART OF THE SENTENCE OF UP TO HALF OF THE STATED PRISON TERM OR STATED MINIMUM TERM ORIGINALLY IMPOSED UPON THE DEFENDANT IN NINE-MONTH INCREMENTS. IF WHILE ON POST-RELEASE CONTROL THE DEFENDANT IS CONVICTED OF A NEW FELONY, THE SENTENCING COURT WILL HAVE AUTHORITY TO TERMINATE THE POST-RELEASE CONTROL AND ORDER A CONSECUTIVE PRISON TERM OF UP TO THE GREATER OF TWELVE MONTHS OR THE REMAINING PERIOD OF POST-RELEASE CONTROL.

DEFENDANT TO RECEIVE JAIL TIME CREDIT FOR 377 DAY(S), TO DATE.

COSTS WAIVED

FINE(S) WAIVED.

COURT FINDS THAT THE DEFENDANT IS INDIGENT AND WAIVES THE MANDATORY FINE.

DEFENDANT ADVISED OF APPEAL RIGHTS.

DEFENDANT INDIGENT, COURT APPOINTS PUBLIC DEFENDER AS APPELLATE COUNSEL.

TRANSCRIPT AT STATE'S EXPENSE.

ALL MOTIONS NOT SPECIFICALLY RULED ON PRIOR TO THE FILING OF THIS JUDGMENT ENTRY ARE DENIED AS MOOT.

THE COURT ELECTS TO NOT SUSPEND DEFENDANT'S DRIVING PRIVILEGES.

DEFENDANT REMANDED.

SHERIFF ORDERED TO TRANSPORT DEFENDANT TYSHAWN SHEPARD, DOB: 01/15/1992, GENDER: MALE, RACE: BLACK.

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Judge Signature

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