

APPENDIX A

Supreme Court November 5, 2025 Opinion

K-1

State ex rel. Allah-U-Akbar v. Schroeder, 2025-Ohio-5003

Copy Citation

Supreme Court of Ohio

July 8, 2025, Submitted; November 5, 2025, Decided

No. 2025-0217

Reporter

2025-Ohio-5003 * | 2025 Ohio LEXIS 2187 ** | 2025 LX 461057

THE STATE EX REL. ALLAH-U-AKBAR, APPELLANT,
v. SCHROEDER, JUDGE, APPELLEE.

Prior History:

APPEAL from the Court of Appeals for Ashtabula County, No. 2024-A-0076, 2024-Ohio-6118 [**1].

State ex rel. Allah-U-Akbar v. Schroeder, 2024-Ohio-6118, 2024 Ohio App. LEXIS 4753 (Dec. 31, 2024)

Disposition:

Judgment affirmed.

Core Terms

indictment, aggravate, death sentence, trial court, sentence, lack jurisdiction, murder, aggravated-robbery, mandamus, adequate remedy, direct appeal, ordinary course of law, aggravated-murder, death-penalty, resentence, judicial notice, jury's verdict, deprive, writ of prohibition, district court, unambiguously, patently, vacate

Headnotes/Summary

Headnotes

Prohibition—Mandamus—Inmate alleging defects in indictment and verdict

form has or had an adequate remedy in ordinary course of law through appeal

of his conviction and death sentence, and he failed to show that common-pleas-

court judge patently and unambiguously lacks jurisdiction to conduct further

proceedings in his criminal case—Court of appeals' judgment granting common-

pleas-court judge's motion to dismiss inmate's petition affirmed.

Counsel: Malik Allah-U-Akbar, Pro se.

Dave Yost, Attorney General, and Andrea K. Boyd, Assistant Attorney General, for appellee.

Judges: KENNEDY, C.J., and FISCHER, DEWINE, BRUNNER, DETERS,
HAWKINS, AND SHANAHAN, JJ.

Opinion

Per Curiam.

[*P1] Appellant, Odraye Jones, now known as Malik Allah-U-Akbar,1 was convicted of aggravated murder and sentenced to death in the Ashtabula County Court of Common Pleas in 1998. After this court affirmed Jones's conviction and death sentence on direct appeal, he sought a writ of habeas corpus in federal court. In 2022, a federal court affirmed his conviction but reversed his death sentence and ordered that it be vacated unless a new sentencing hearing was held. After the new sentencing **[**2]** hearing was scheduled to be held before appellee, Ashtabula County Court of Common Pleas Judge David A. Schroeder, Jones filed a petition in the Eleventh District Court of Appeals, seeking writs of prohibition and mandamus and generally arguing that the judge lacks jurisdiction to hold the hearing and resentence him. Judge Schroeder filed a motion to dismiss, which the Eleventh District granted. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. Background

[*P2] In 1997, Jones shot and killed a police officer. State v. Jones, 91 Ohio St. 3d 335, 2001-Ohio-57, ¶ 2-8, 744 N.E.2d 1163. The State indicted Jones on one count of aggravated murder, in violation of R.C. 2903.01(A), with three death-penalty specifications. See id. at ¶ 7. A jury found him guilty as charged and recommended that the trial court impose the death sentence. Id. at ¶ 8. The trial court sentenced Jones to death. Id. On direct appeal, this court affirmed the conviction and the death sentence. Id. at ¶ 96.

[*P3] Thereafter, Jones sought habeas corpus relief in federal court. In 2022, the United States Court of Appeals for the Sixth Circuit affirmed Jones's conviction but reversed his death sentence, holding that he received ineffective assistance of counsel during the penalty phase of his trial. Jones v. Bradshaw, 46 F.4th 459, 464 (6th Cir. 2022). The Sixth Circuit remanded the case to the district [**3] court "with instructions to issue a writ of habeas corpus vacating Jones's death sentence unless the State of Ohio conducts a new penalty-phase proceeding within 180 days of remand." Id. at 489.

[*P4] After the State failed to timely resentence Jones, the district court ordered the State to vacate his death sentence and release him from custody within five business days, while clarifying that his conviction remained valid and that the State was not prohibited from rearresting and resentencing him. See Jones v. Bradshaw, 2024 U.S. Dist. LEXIS 35794, 2024 WL 895153, *6, 11, 9 (N.D. Ohio Feb. 29, 2024). The State then rearrested Jones under the original indictment and committed him to

the Ashtabula County Jail pending resentencing. In May 2024, Judge Schroeder vacated Jones's death sentence and scheduled a new sentencing hearing.

[*P5] In the meantime, Jones moved the district court for relief from judgment under Fed.R.Civ.P. 60(b), asking the court to reconsider its determination that the State was not prohibited from rearresting and resentencing him. Jones v. Bradshaw, 2024 U.S. Dist. LEXIS 110284, 2024 WL 3161944, *1 (N.D. Ohio June 24, 2024). The court denied the motion, specifying that the writ at issue related "only to Jones' sentencing, not to his conviction." 2024 U.S. Dist. LEXIS 110284, [WL] at *5.

B. Jones's petition for writs of prohibition and mandamus

[*P6] In September 2024, Jones filed his petition for writs of prohibition and mandamus in the [**4] Eleventh District Court of Appeals. He argued that Judge Schroeder "lacks jurisdiction to conduct any proceedings" and requested that this court "enter a judgment of acquittal and/or order [Judge Schroeder] to enter a judgment of acquittal and/or dismiss the case for lack of jurisdiction."

[*P7] Judge Schroeder filed a motion to dismiss, which the Eleventh District granted under Civ.R. 12(B)(6). 2024-Ohio-6118, ¶ 2, 16 (11th Dist.). The Eleventh District held that "[d]espite the vacation of his sentence, Jones remains convicted" and that "[u]pon resentencing, Jones has an adequate remedy at law by way of appeal wherein he can raise any claim arising from his resentencing." Id. at ¶ 16.

[*P8] Jones has appealed to this court as of right.

II. LEGAL ANALYSIS

A. Motions

[*P9] We first address four motions Jones filed after the close of briefing.

[*P10] First, on July 11, 2025, Jones filed a motion asking us to take judicial notice of a decision of the United States Supreme Court: *Hewitt v. United States*, 605 U.S. 145 S.Ct. 2165, 222 L. Ed. 2d 613 (2025). *Hewitt* was issued after Jones filed his merit brief in this case. Although Jones brings the case to our attention in a motion for judicial notice, under S.Ct.Prac.R. 16.08, a party may file a citation to authority that is issued after the deadline for that party's merit brief. We treat Jones's motion as such a citation [**5] and grant the motion.

[*P11] Second, on July 11, Jones also filed a motion asking us to sanction Judge Schroeder and strike the judge's merit brief. In his motion, he argues that Judge Schroeder's arguments are frivolous and dishonest and were not made in good faith. But in substance, Jones's motion appears to be an attempt to file a supplemental brief on the merits. Supplemental briefing is generally not permitted, see S.Ct.Prac.R. 16.08, and the arguments made in Judge Schroeder's brief are not frivolous or otherwise sanctionable, see S.Ct.Prac.R. 4.03(A). We therefore deny the motion.

[*P12] Third, on September 8, Jones filed an additional motion for judicial notice. In the motion, Jones appears to challenge Judge Schroeder's jurisdiction in connection with Jones's rearrest for his aggravated-murder conviction. In addition, Jones appears to argue that he has been deprived of his speedy-trial rights. "Evid.R. 201 allows a court to take judicial notice of an adjudicative fact that is not subject to reasonable dispute." State ex rel. Macksyn v. Spencer, 2025-Ohio-2116, ¶ 16. Jones is not asking us to take notice of such a fact; rather, he is making additional substantive arguments. We therefore deny the motion.

[*P13] Finally, on October 20, Jones filed a motion to stay the underlying proceedings. We deny [**6] the motion to stay.

B. Standard of Review

[*P14] "This court reviews a dismissal under Civ.R. 12(B)(6) de novo." State ex rel. Brown v. Nusbaum, 152 Ohio St. 3d 284, 2017-Ohio-9141, ¶ 10, 95 N.E.3d 365. "A court may grant a motion to dismiss for failure to state a claim upon which relief can be granted, 'if, after all factual allegations of the complaint are presumed true and all inferences are made in the relator's favor, it appears beyond doubt that he can prove no set of facts entitling him to the' requested relief." State ex rel. Gideon v. Page, 177 Ohio St. 3d 1, 2024-Ohio-4867, ¶ 11, 250 N.E.3d 1, quoting State ex rel. Russell v. Thornton, 111 Ohio St. 3d 409, 2006-Ohio-5858, ¶ 9, 856 N.E.2d 966.

C. Prohibition

[*P15] Jones seeks a writ of prohibition, arguing that Judge Schroeder lacks jurisdiction to conduct further proceedings in his criminal case. To state a claim for a writ of prohibition, Jones must allege that (1) Judge Schroeder has exercised or is about to exercise judicial power, (2) the exercise of that power is unauthorized by law, and (3) denying the writ would result in injury for which no other adequate remedy exists in the ordinary course of the law. *Gideon* at ¶ 12. However, if Judge Schroeder patently and unambiguously lacks jurisdiction, Jones need not establish the lack of an adequate remedy in the ordinary course of the law. *Id.*

[*P16] Here, Judge Schroeder is exercising judicial power in Jones's criminal case, and Jones asserts three reasons—each discussed separately [**7] below—why the judge lacks jurisdiction to do so. First, Jones alleges that the statute providing for one of the death-penalty specifications of which he was convicted had been repealed at the time of his indictment, and he argues that Judge Schroeder lacks jurisdiction to conduct criminal proceedings related to the statute. Second, Jones argues that his aggravated-murder charge and conviction depended on predicate aggravated-robbery charges that the State dismissed before he was sentenced to death. Third, he argues that the jury's verdict form indicates that the jury never found the elements necessary

to support his conviction for aggravated murder; therefore, he argues, under R.C. 2945.75(A)(2), he should have been sentenced for involuntary manslaughter.

[*P17] Jones has or had an adequate remedy in the ordinary course of the law in that he could have raised any arguments challenging his aggravated-murder conviction in his direct appeal from his conviction. And he can raise any arguments challenging his new sentence on appeal from that sentence. See R.C. 2929.05(A); see also, e.g., State v. Roberts, 2017-Ohio-2998, 150 Ohio St. 3d 47, 78 N.E.3d 851 (deciding appeal after resentencing in capital case); State v. Ketterer, 2014-Ohio-3973, 140 Ohio St. 3d 400, 18 N.E.3d 1199 (same). Both opportunities for appeal constitute adequate remedies in the ordinary course [**8] of the law sufficient to defeat a petition for an extraordinary writ. See State ex rel. Kerr v. Pollex, 159 Ohio St. 3d 317, 2020-Ohio-411, ¶ 8, 150 N.E.3d 907 (noting that an appeal from a criminal conviction constituted an adequate remedy at law); State ex rel. White v. Woods, 156 Ohio St. 3d 562, 2019-Ohio-1893, ¶ 8, 130 N.E.3d 271 (noting that an appeal from a resentencing entry constituted an adequate remedy at law).

[*P18] To state a claim for prohibition, because Jones has or had an adequate remedy in the ordinary course of the law through appeal, he must show that Judge Schroeder patently and unambiguously lacks jurisdiction over his criminal case. For the reasons explained below, we conclude that he has failed to do so.

1. "Repealed" statute

[*P19] Jones first argues that the statute providing for two death-penalty specifications listed in his indictment and the jury's verdict form had been repealed by the time of his indictment. Jones shot his victim on November 17, 1997, and was indicted for aggravated murder in violation of R.C. 2903.01(A) on November 25, 1997. Two of the death-penalty specifications charged in the indictment stated that Jones violated R.C. 2929.04(A)(6). Prior to September 16, 1997, R.C. 2929.04(A)(6) allowed the death penalty to be imposed on a defendant charged with and convicted of killing a "peace officer" under certain specified circumstances. Am.S.B. No. 32, 147 Ohio Laws, Part III, 6273, 6275 (effective Aug. 6, 1997). Effective September 16, 1997, the [**9] General Assembly changed the term "peace officer" to "law enforcement officer" in the statute. Sub.H.B. No. 151, 147 Ohio Laws, Part I, 455, 463. The Ohio Constitution provides that when an act amends one or more sections of the Revised Code, "the section or sections amended shall be repealed." Ohio Const., art. II, § 15(D). Thus, the bill stated that R.C. 2929.04 was "amended," Sub.H.B. No. 151, 147 Ohio Laws, Part I, at 455, and that the existing section was "repealed," *id.* at Section 2, at 478.

[*P20] Noting that his indictment contained the words "peace officer" rather than "law enforcement officer" in charging the two specifications under R.C. 2929.04(A)(6), Jones appears to be arguing that the trial court lacked jurisdiction to convict him of the specifications because the version of the statute containing "peace officer" had been repealed by the time of his indictment. Jones also alleges that the elements of the specification that were identified in the jury's verdict form reflected the earlier

version of the specification, although he did not attach the jury-verdict form to his petition in support of this allegation.

[*P21] Although Jones claims that he was indicted and convicted under a repealed statute, R.C. 2929.04(A)(6) existed when he killed the officer, when he was indicted for that offense, and when he was convicted of it. The language of the indictment did [**10] not exactly replicate the language of the statute in existence at that time, but "alleged defects in an indictment do not deprive a trial court of jurisdiction," State ex rel. Martre v. Cheney, 174 Ohio St. 3d 254, 2023-Ohio-4594, ¶ 18, 236 N.E.3d 188, quoting State ex rel. Martre v. Watson, 171 Ohio St. 3d 810, 2023-Ohio-749, ¶ 11, 220 N.E.3d 806. Therefore, "[e]xtraordinary relief in prohibition is not available to attack the validity of an indictment." *Id.*; see also State ex rel. Nelson v. Griffin, 103 Ohio St. 3d 167, 2004-Ohio-4754, ¶ 6, 814 N.E.2d 866. Similarly, an error in the verdict form would not patently and unambiguously deprive the trial court of jurisdiction. See State ex rel. Dodson v. Smith, 2025-Ohio-1878, ¶ 24-25 (error in jury's verdict form did not deprive trial court of jurisdiction over the case). Jones could have raised these alleged defects in the indictment and verdict form in his direct appeal of his conviction and death sentence. See Martre at ¶ 18; Dodson at ¶ 27.

2. Dismissal of the aggravated-robbery charges

[*P22] One of the death-penalty specifications of which Jones was convicted alleged that he committed aggravated murder "for the purpose of escaping detection,

apprehension, trial, or punishment of another offense committed by the defendant, to wit[:] aggravated robbery, an aggravating circumstance as specified in Section 2929.04(A)(3) of the Ohio Revised Code." Jones stated in his petition that he was originally indicted for the aggravated robbery mentioned in the specification but that the State dismissed the aggravated-robbery charge shortly [**11] before he was sentenced to death. He argues that because the State dismissed the aggravated-robbery charge, the trial court lacked jurisdiction to convict him of aggravated murder. In support of this argument, Jones cites a decision of this court noting that "[w]hen a trial court unconditionally dismisses a case or a case has been properly voluntarily dismissed * * *, the trial court patently and unambiguously lacks jurisdiction to proceed, and a writ of prohibition will issue to prevent the exercise of jurisdiction." (Ellipsis in original.) State ex rel. Douglas v. Burlew, 106 Ohio St. 3d 180, 2005-Ohio-4382, ¶ 14, 833 N.E.2d 293, quoting State ex rel. Hunt v. Thompson, 63 Ohio St.3d 182, 183, 586 N.E.2d 107 (1992).

[*P23] The exhibits Jones attached to his petition indicate that the premise of his argument—that the aggravated-robbery charge was dismissed shortly before Jones was sentenced to death—is untrue. Rather, it appears that the trial court dismissed the aggravated-robbery charge several hours *after* Jones was sentenced to death. But regardless of whether the court dismissed the aggravated-robbery charge shortly before or after Jones was sentenced to death, such a dismissal would not deprive the trial court of jurisdiction to convict Jones of aggravated murder. In his capital case, Jones was charged with and convicted of aggravated murder, not aggravated robbery,

and the aggravated-murder charge was not dismissed. Although Jones also argues that the State's dismissal of the aggravated-robbery charge establishes that he lacks criminal liability for the aggravated-robbery offense that was the basis for the death-penalty specification, even if the dismissal did indicate a lack of criminal liability, this would go to the question whether Jones was guilty of the specification, not the trial court's jurisdiction over the specification or the aggravated-murder charge. See Cornell v. Schotten, 69 Ohio St. 3d 466, 1994-Ohio-74, ¶ 4, 633 N.E.2d 1111 (sufficiency-of-evidence claims are not jurisdictional in nature). Jones could have raised the impact of the dismissal of the aggravated-robbery charge on direct appeal of his aggravated-murder conviction. Moreover, to the extent that Jones is arguing that he must be indicted for and convicted of aggravated robbery as a predicate offense to the death-penalty specification, "there is no requirement that the state charge the defendant with the predicate offense as a separate count in the indictment," State ex rel. Myles v. Goering, 170 Ohio St. 3d 389, 2023-Ohio-483, ¶ 9, 213 N.E.3d 687.

3. Jury's verdict form

[*P24] R.C. 2945.75(A)(2) provides: "When the presence of one or more additional elements makes an offense one of more serious degree, a guilty verdict shall state **[**13]** either the degree of the offense of which the offender is found guilty, or that such additional element or elements are present. Otherwise, a guilty verdict constitutes a finding of guilty of the least degree of the offense charged." Jones claims

that the verdict from that the jury completed in finding him guilty of aggravated murder did not state the elements of that offense. Therefore—he argues, citing R.C. 2945.75(A)(2)—the trial court could only convict him of and sentence him for involuntary manslaughter, a lesser included offense of aggravated murder. See State v. Thomas, 40 Ohio St.3d 213, 533 N.E.2d 286 (1988), paragraph one of the syllabus (involuntary manslaughter is a lesser included offense of aggravated murder).

[*P25] Although Jones did not attach the jury's verdict form to his petition, on review of the Eleventh District's decision granting appellee's motion to dismiss, we accept as true the factual allegations in the petition. See Lunsford v. Sterilite of Ohio, L.L.C., 162 Ohio St. 3d 231, 2020-Ohio-4193, ¶ 22, 165 N.E.3d 245. But even if Jones could show that his aggravated-murder conviction violates R.C. 2945.75(A), "such a violation would not . . . deprive the trial court of subject-matter jurisdiction," State ex rel. King v. Watson, 174 Ohio St. 3d 183, 2023-Ohio-4189, ¶ 18, 235 N.E.3d 411. Jones could have raised his verdict's compliance with R.C. 2945.75(A) on direct appeal. See, e.g., State v. Mays, 2024-Ohio-4616, 177 Ohio St. 3d 131, 251 N.E.3d 41 (direct appeal from conviction based on verdict-form challenge under R.C. 2945.75(A)); State v. McDonald, 2013-Ohio-5042, 137 Ohio St. 3d 517, 1 N.E.3d 374 (same).

D. Mandamus

[*P26] Jones [**14] also seeks a writ of mandamus. To demonstrate entitlement to a writ of mandamus, he must establish three elements: (1) a clear legal right to the requested relief, (2) a clear legal duty on the part of Judge Schroeder to grant that relief, and (3) the lack of an adequate remedy in the ordinary course of the law. State ex rel. Cherry v. Breaux, 169 Ohio St. 3d 376, 2022-Ohio-1885, ¶ 8, 205 N.E.3d 450. Jones does not clearly distinguish between the mandamus relief and the prohibition relief he seeks, and much of his petition seeks to prevent Judge Schroeder from acting. "[A] complaint that seeks to prevent, rather than compel, an action is not proper for mandamus." State ex rel. Gen. Motors Corp. v. Indus. Comm., 117 Ohio St. 3d 480, 2008-Ohio-1593, ¶ 11, 884 N.E.2d 1075. Although Jones did ask in his petition that Judge Schroeder be ordered to "enter a judgment of acquittal" because the judge "lacks jurisdiction to conduct any proceedings," even if such an order would be obtainable in mandamus—as explained in the prohibition analysis above—none of Jones's claims implicate Judge Schroeder's jurisdiction. Moreover, Jones had an adequate remedy in the ordinary course of the law by bringing his claims on direct appeal from his conviction, and he will have such a remedy in the form of an appeal from his new sentence. Jones has not stated a claim entitling him to a writ of mandamus. [**15]

III. CONCLUSION

[*P27] Jones has not shown that Judge Schroeder patently and unambiguously lacks jurisdiction to conduct further proceedings in his criminal case. In addition, Jones had an adequate remedy in the ordinary course of the law to challenge his conviction, and he will have such a remedy in the form of an appeal from his new sentence. Therefore, he has not stated a claim for a writ of prohibition or a writ of mandamus. Accordingly, we affirm the Eleventh District Court of Appeals' judgment granting Judge Schroeder's motion to dismiss Jones's petition. We also grant Jones's motion for judicial notice filed on July 11, 2025, deny his motion for sanctions and to strike Judge Schroeder's merit brief, deny his motion for judicial notice filed on September 8, 2025, and deny his motion for a stay of the underlying proceedings.

Judgment affirmed.

Footnotes

- 1

The Eleventh District Court of Appeals' opinion below refers to appellant as Jones. For the sake of consistency, we do so as well in this opinion.

APPENDIX B

Eleventh District Court of Appeals December 31, 2024 Opinion

五-1

State ex rel. Allah-U-Akbar v. Schroeder, 2024-Ohio-6118

Copy Citation

Court of Appeals of Ohio, Eleventh Appellate District, Ashtabula County

December 31, 2024, Decided

CASE NO. 2024-A-0076

Reporter

2024-Ohio-6118 * | 2024 Ohio App. LEXIS 4753 ** | 2024 LX 32957

STATE OF OHIO ex rel., ALLAH-U-AKBAR, Relator, - vs - DAVID A. SCHROEDER, Respondent.

Subsequent History: Affirmed by State ex rel. Allah-U-Akbar v. Schroeder, 2025-Ohio-5003, 2025 Ohio LEXIS 2187 (Nov. 5, 2025)

Prior History:

[**1] Original Action for Prohibition and Mandamus.

State v. Jones, 83 Ohio St. 3d 1458, 700 N.E.2d 876, 1998 Ohio LEXIS 2980 (Oct. 15, 1998)

Disposition:

Petition dismissed.

Core Terms

sentence, adequate remedy at law, trial court, writ of prohibition, corpus, vacate

Case Summary

Overview

Key Legal Holdings

- Jones is not entitled to a writ of prohibition or writ of mandamus because he has an adequate remedy at law by way of appeal after being resentenced.
- Despite the vacation of his sentence, Jones remains convicted of aggravated murder.

Material Facts

- Jones was convicted of aggravated murder with prior calculation and design in 1998 and sentenced to death.
- The U.S. Sixth Circuit Court of Appeals granted Jones a conditional writ of habeas corpus in 2022, vacating his death sentence and instructing Ohio to conduct a new penalty phase within 180 days.
- Ohio failed to conduct the new sentencing hearing within the mandated period, leading to Jones's release from prison but allowing for his subsequent rearrest and resentencing.

Controlling Law

- Civ.R. 12(B)(6).

Court Rationale

The court reasoned that Jones is not entitled to the writs he seeks because he

has an adequate remedy at law by way of appeal after being resentenced.

Despite the vacation of his sentence, Jones remains convicted of aggravated

murder, and the Sixth Circuit's remand was limited in scope to conducting a

new penalty phase and resentencing.

Outcome
Procedural Outcome

The court granted the respondent's motion to dismiss and dismissed Jones's petition for writs of prohibition and mandamus in its entirety.

LexisNexis® Headnotes

• Civil Procedure > ... > Writs > Common Law Writs > Mandamus
• Evidence > Burdens of Proof > Clear & Convincing Proof

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HN1 **Common Law Writs, Mandamus**

To be entitled to a writ of prohibition, a relator must usually establish by clear and convincing evidence that: (1) the respondent is about to exercise judicial or quasi-judicial power without authority, (2) the exercise of that power is unauthorized by law, and (3) the relator has no adequate remedy in the ordinary course of the law. The existence of an adequate remedy at law precludes relief in prohibition. Absent a patent and unambiguous lack of

jurisdiction, a court having general subject-matter jurisdiction over an action

possesses the legal authority to determine its own jurisdiction, and a party

challenging its jurisdiction has an adequate remedy at law by way of a post-

judgment appeal. To be entitled to a writ of mandamus, the relator must satisfy

three elements: (1) the relator must have a clear legal right to have the public

official perform a particular act, (2) the official must have a clear legal duty to

do the act, and (3) the relator does not have another adequate remedy at law.

Mandamus will not issue where the relator has a plain and adequate remedy at

law.

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Counsel: Malik ~~Allah-U-Akbar~~. Relator, Pro se, Jefferson, OH.

For Respondent: Coleen M. O'Toole, Ashtabula County Prosecutor, and Mark Majer, Assistant Prosecutor, Jefferson, OH.

Judges: EUGENE A. LUCCI, P.J., MATT LYNCH, J., ROBERT J. PATTON, J., concur.

Opinion

PER CURIAM OPINION

PER CURIAM.

[*P1] This matter is before the court on a "Petition Writ of Prohibition and Mandamus" filed by relator, Odraye Jones aka Malik Allah-U-Akbar ("Jones"). Jones has filed against respondent, Ashtabula County Court of Common Pleas Judge, David A. Schroeder ("Judge Schroeder"). Jones seeks writs to preclude the trial court from proceeding with his sentencing hearing in his pending criminal case.

[*P2] Judge Schroeder filed a motion to dismiss on November 4, 2024. Jones filed a response to the motion to dismiss and motion to strike "facts" on November 25, 2024. Judge Schroeder filed a reply on December 10, 2024. After reviewing the pleadings, Judge Schroeder's motion to dismiss is granted and Jones's petition is accordingly dismissed in its entirety.

Substantive and Procedural Facts

[*P3] Jones is currently incarcerated at the Ashtabula County Jail arising from his conviction of aggravated **2 murder with prior calculation and design. He was convicted on May 26, 1998, and the case proceeded to the penalty phase. The jury recommended that he be sentenced to death. The trial court agreed and sentenced Jones to death and imposed a three-year mandatory term of imprisonment on the firearm specification. State v. Jones, 91 Ohio St.3d 335, 337, 2001- Ohio 57, 744 N.E.2d 1163 (2001). Jones appealed to the Supreme Court of Ohio. The Supreme

Court of Ohio affirmed the judgment of the trial court, including Jones's convictions, and upheld the sentence of death. *Id.* at 358.¹ Jones sought post-conviction relief, which was denied by the trial court without hearing. This Court affirmed the trial court's denial of Jones's post-conviction petition in *State v. Jones*, 2002-Ohio-2074 (11th Dist.). The Supreme Court of Ohio declined to accept jurisdiction. *09/11/2002 Case Announcements*, 96 Ohio St. 3d 1495, 2002-Ohio-4534, 774 N.E.2d 767.

[*P4] On August 22, 2022, the Sixth Circuit Court of Appeals granted Jones a conditional writ of habeas corpus. The Sixth Circuit remanded the case "to the district court with instructions to issue a writ of habeas corpus vacating Jones's death sentence unless the State of Ohio conducts a new penalty-phase proceeding within 180 days of remand." *Jones v. Bradshaw*, 46 F.4th 459, 487-89 (6th Cir. 2022). The State did not conduct the new sentencing hearing within the mandated period.

[*P5] Jones then sought [**3] an unconditional writ due to the State's failure to comply with the conditional writ. The federal district court granted "Jones' motion to issue an unconditional writ of habeas corpus and ordering Jones' release from state prison within five business days of the date of the Order, but den[ied] his request to bar retrial and allowing Jones' subsequent arrest and resentencing." *Jones v. Bradshaw*, 2024 U.S. Dist. LEXIS 110284, 2024 WL 3161944, *1 (N.D. Ohio June 24, 2024). Jones was transferred into the custody of the Ashtabula County Jail upon his rearrest.

[*P6] Jones subsequently filed an appeal to this court in Case No. 2024-A-0028. While that appeal was pending, the trial court granted the State's motion to vacate Jones's original sentence and formally vacated the sentence on May 29, 2024. Jones then filed a second appeal to this Court in Case No. 2024-A-0056. Jones also unsuccessfully sought to reopen his direct appeal in the Supreme Court of Ohio. See 07/23/2024 Case Announcements, 174 Ohio St. 3d 1546, 2024-Ohio-2718, 238 N.E.3d 112.

[*P7] Despite Jones's assertions to the contrary, Jones remains convicted of aggravated murder. The purpose of the Sixth Circuit's limited remand to the trial court is for the trial court to conduct a new penalty phase of the proceedings and sentence Jones accordingly.

Jones's Complaint

[*P8] In the instant petition, Jones alleges the following: [**4]

[*P9] [1.] "The 'trial court' lacks jurisdiction to conduct criminal proceedings based upon a repealed statute."

[*P10] [2.] "The 'trial court' lacks jurisdiction to impose a sentence based on an 'offense' that was dismissed June 9, 1988."

[*P11] [3.] "The court lacks jurisdiction to conduct sentencing on 'facts' not found by a jury, which are elements necessary to increase the seriousness of the offense."

[*P12] Specifically, Jones's petition seeks an order prohibiting the trial court from conducting the resentencing hearing.

[*P13] HNI "To be entitled to a writ of prohibition, a relator usually must establish by clear and convincing evidence (1) that the respondent is about to exercise judicial or quasi-judicial power without authority, (2) that the exercise of that power is unauthorized by law, and (3) that the relator has no adequate remedy in the ordinary course of the law." State ex rel. Andrews v. Lake Cnty. Court of Common Pleas, 170 Ohio St. 3d 354, 2022-Ohio-4189, ¶ 20, 212 N.E.3d 914 citing State ex rel. Sliwinski v. Burnham Unruh, 118 Ohio St. 3d 76, 2008-Ohio-1734, ¶ 7, 886 N.E.2d 201; State ex rel. Evans v. McGrath, 153 Ohio St. 3d 287, 2018-Ohio-3018, ¶ 4, 104 N.E.3d 779. The existence of an adequate remedy at law precludes relief in prohibition. State ex rel. Invesco Mgmt Co. L.L.C. v. Geauga Cty. Court of Common Pleas, 2012-Ohio-4651, ¶ 9 (11th Dist.). "[A]bsent a patent and unambiguous lack of jurisdiction, a court having general subject-matter jurisdiction over an action possesses the legal authority to determine its own jurisdiction, and a party challenging its jurisdiction has an adequate remedy at [**5] law by way of a post-judgment appeal." Id. at ¶ 10, quoting State ex rel. Bandarapalli v. Gallagher, 2010-Ohio-3886, at *1 (8th Dist.).

[*P14] Similarly, to be entitled to a writ of mandamus, the relator must be able to satisfy the following three elements: "(1) the relator must have a clear legal right to have the public official perform a particular act; (2) the official must have a clear legal duty to do the act; and (3) the relator does not have another adequate remedy at law." State ex rel. Brown v. Logan, 2004-Ohio-6951, ¶ 4 (11th Dist.), citing State ex rel. Greene v. Erright, 63 Ohio St.3d 729, 590 N.E.2d 1257 (1992). Mandamus will not issue where the relator has a plain and adequate remedy at law. State ex rel. Cioffi v. Stuard, 2011-Ohio-5707, ¶ 17 (11th Dist.), quoting State ex rel. Bd. of Edn. of Middletown City School Dist. v. Butler Cty. Budget Comm., 31 Ohio St.3d 251, 252, 31 Ohio B. 455, 510 N.E.2d 383 (1987). See also State ex rel. Berger v. McMonagle, 6 Ohio St.3d 28, 6 Ohio B. 50, 451 N.E.2d 225 (1983).

[*P15] Appellant claims that defects exist in the indictment, that his rearrest was illegal, and that statutory provisions in effect at the time he was convicted have been repealed. He seeks vacation of his convictions based on the trial court's lack of jurisdiction. Jones argues that Judge Schroeder lacks the authority to conduct new penalty phase proceedings and to sentence him accordingly.

[*P16] As noted above, since his initial conviction in 1998, Jones has litigated his convictions throughout the state and federal courts. His convictions have been consistently affirmed. Despite the vacation of his sentence, Jones remains convicted. The Sixth Circuit's remand is limited in scope and requires [**6] that the trial court conduct a new penalty phase of the proceeding and to resentence Jones. Upon

resentencing, Jones has an adequate remedy at law by way of appeal wherein he can raise any claim arising from his resentencing. Therefore, Jones is not entitled to a writ of prohibition or a writ of mandamus. Thus, in accordance with Civ.R. 12(B)(6), the claims for writ of prohibition are dismissed for failure to state a claim on which relief can be granted.

[*P17] Accordingly, all of Jones's claims are hereby dismissed and the petition is dismissed in its entirety. All costs adjudged against Jones in accordance with R.C. 2731.12.

EUGENE A. LUCCI, P.J., MATT LYNCH, J., ROBERT J. PATTON, J., concur.

Footnotes

• 1

Jones sought to reopen his direct appeal in 2024. The Supreme Court of Ohio denied Jones's application for reopening on July 23, 2024. 07/23/2024 Case Announcements, 174 Ohio St. 3d 1546, 2024-Ohio-2718, 238 N.E.3d 112.

APPENDIX C

"Trial Court" June 12, 2024 Entries

C-1

CLIENT'S COPY **COPY**

 **EMAILED**
JUN 2 0 2024

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

FILED

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THE STATE OF OHIO

Plaintiff,

vs.

ODRAYE G. JONES
nka Malik Allah U-Akbar
Defendant.

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CASE NO. 1997 CR 221.

JUDGE: DAVID A. SCHROEDER

JUDGMENT ENTRY

DEATH PENALTY CASE

ASST. CLERK
COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

PROCEEDING: Revocation of Defendant's *Pro Se* Status
DATE: June 12, 2024

**ATTORNEY-CLIENT
PRIVILEGE**

I. Relevant Procedural History

This Court has held numerous hearings in this matter since the remand. On multiple occasions the Defendant has been advised that motions filed and arguments made should be limited to issues pertaining to the limited remand and resentencing of his case. Specifically, when this Court granted the Defendant the right to represent himself, the Court's October 5, 2023 Order contained the following:

2. The following conditions apply to the Defendant's right of self-representation:
 - a. The Defendant shall respect the decorum of the Court;
 - b. The Defendant shall comply with Rules of Criminal Procedure and the Rules of Evidence;
 - c. The Defendant's arguments and challenges shall be constrained to the limited issues remanded to this Court by the Sixth Circuit Court of Appeals;
 - d. The Defendant shall have standby counsel appointed; and
 - e. Any violation of the Court rules or decorum will result in the Defendant's self-representation being terminated;

In granting the Defendant the right to represent himself, the Court was balancing the protection of the Defendant's *Faretta* Right and the well-established

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law regarding self-representation. The Court has given the Defendant numerous opportunities to show this Court that he can adequately represent himself in a case where life is literally at stake. To date, the Defendant has failed to comply with the terms of this Court's October 5, 2023 Order, specifically to 2(c). When confronted about his misdirected arguments, the Defendant has insisted that this Court and all of the other Courts that had ruled on his case have "gotten it wrong." The Defendant continues to file repeated motions that are all directed at the guilt phase of a case, even after repeated warnings and admonitions that doing so could result in the revocation of his self-representation.

II. Law and Analysis

The Court "may terminate self-representation by a defendant who deliberately engages in serious and obstructionist misconduct." *Faretta v. California*, 422 U.S. 806, 834 n. 46 (1975). "The right of self-representation is not a license to abuse the dignity of the courtroom" or "not to comply with relevant rules of procedural and substantive law." *Id.*

In *State v. Timson*, 10th Dist. No. 87AP-1212 (May 25, 1989), the Tenth District Court of Appeals affirmed the trial court's revocation of the Defendant's right to self-representation when the Defendant repeatedly filed motions and attempted defense strategies that were irrelevant to the charges against him. "The court found that this persistent conduct demonstrated an inability to competently defend himself and held that '[r]egardless of defendant's good faith or bad faith in pursuing his defense, a defense which is substantially irrelevant to the offenses charged, when conducted over the trial court's admonitions, is evidence of a pro se litigant's inability to represent himself at the trial on those charges.'" *State v. Phillips*, 10th Dist. Franklin No. 18AP-619, 2019-Ohio-2930, ¶ 23.

The Defendant was granted the right to proceed *pro se* on October 5, 2023. Since that date, the Defendant has filed 27 motions, many of which are repetitive, and 25 that are directed at the guilt portion of a death penalty case or post-conviction issues. The Defendant's continuous filing of motions that are contrary to this Court's orders and instructions indicate the Defendant's inability to

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abide by instructions from the Judge and continue to interfere with this Court's attempts to proceed with the penalty phase of the death penalty case.

Further, the Defendant refuses to accept rulings from higher courts that are binding on this Court. For example, at a motion hearing held in this case on June 11, 2024, the Defendant told the Court that it did not matter what the Sixth Circuit Court of Appeals has previously ordered, other than the Sixth Circuit's order to vacate the death sentence. Despite the Sixth Circuit Court of Appeals clearly affirming the verdict of guilt against the Defendant, he believes that he is entitled to an entirely new trial, at the very least, and that he should be released and not retried due to double jeopardy.

The State of Ohio has also expressed a position on the Defendant's continued self-representation. On February 12, 2024, the State filed a response to Defendant's Motion No. 10. The response included the following:

The Defendant should be removed as pro se Counsel and this Court should reinstate standby counsel and lead counsel, as they have a better understanding of caselaw and the statutory and relevant evidence to be used in a mitigation hearing. They are not as preoccupied with the evidence from the trial phase as the defendant, so as causing him to not focus or work on the mitigation as he should be doing. The Defendant is clearly not capable of understanding the parameters of the limited remand. He has spent that last several months wasting time instead of working on admissible evidence that can be legally admitted as mitigation. The State of Ohio has done nothing but bend over backward for this defendant to have additional time for his presentation of mitigation evidence and he has done nothing but waste the court's and counsel's time.

State of Ohio's Response to Defendant's Response to January 23, 2024 Entry, Motion #10, filed February 12, 2024, at pages 5-6.

This Court has a duty to protect all parties and the integrity of the proceedings, and the Defendant's behavior and tactics in self-representation has a direct effect on those very things. *State v. Cedeno, 8th Dist. Cuyahoga No.*

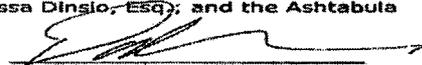
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102327, 2015-Ohio-5412, ¶ 34. This Court has continuously balanced the Defendant's sacred right of self-representation and the Court's duties involved with a proceeding of this nature. The Defendant was given several warnings, both written and oral, advising him that the Court would not consider arguments or pleadings outside the scope of the remand. Contrary to those warnings, the Defendant has used the opportunities awarded to him to delay the proceedings with repetitive pleadings outside the scope of this Court's limited jurisdiction or not relevant to the re-sentencing phase of this case. In a case where life is literally at stake, this Court cannot in good conscious let the Defendant continue to represent himself.

ORDER:

1. The Defendant is removed as his counsel forthwith.
2. Standby counsel, Attorney John B. Juhasz, Attorney Margaret Brunarski, and Attorney Melissa Dinsio, are immediately reinstated as trial counsel.
3. This case remains scheduled for a new Penalty Phase Trial on August 12, 2024 at 8:30 A.M.

The Clerk is directed to serve notice of this Entry upon the following: Colleen O'Toole, Ashtabula County Prosecuting Attorney; Dawn Cantalamessa, Chief Assistant Prosecuting Attorney; Odraye G. Jones, nka Malik Allah U-Akbar; John B. Juhasz, Esq.; Margaret Brunarski, Esq.; Melissa Dinsio, Esq.; and the Ashtabula County Sheriff.


DAVID A. SCHROEDER, JUDGE

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3. Defendant's Motion No. 11/ Motion for Judicial Notice, Evid. R. 201 of Supplemental, Controlling Authorities/ Request for Findings Crim. R. 12(F), Crim. R. 57(B), filed February 21, 2024.
 - a. The State of Ohio filed a response in opposition on March 12, 2024.
4. Defendant's Motion No. 12/ Motion to Correct the Record Ohio App. R. 9(E)/ Motion for Judicial Notice Evid. R. 201/ Motion to Suppress Crim. R. 10 and 12/ Motion to Dismiss, filed February 22, 2024.
 - a. The State of Ohio filed a response in opposition on March 12, 2024.
5. Defendant's Motion No. 13/ Motion to Suppress Testimonial Hearsay per Crawford v. Washington/ Motion to Dismiss, filed February 22, 2024.
 - a. The State of Ohio filed a response in opposition on March 12, 2024.
6. Defendant's Motion No. 14/ Motion for Funds for Eyewitness Expert, filed March 4, 2024.
 - a. The State of Ohio filed a response in opposition on March 11, 2024.
7. Defendant's Notice of Alibi Ohio Crim. R. 12.1, filed March 4, 2024.
 - a. The State of Ohio filed a response in opposition on February 12, 2024.
8. Defendant's Motion No. 15/ Motion for Recusal, filed March 8, 2024.
 - a. The State of Ohio did not file a response.
9. Defendant's Motion No. 16/ Motion to Prohibit Appearance in Restrains and Prison Clothes, filed March 8, 2024.
 - a. The State of Ohio filed a response on March 11, 2024, stating they do not oppose this request if he complies with the accepted standards and practices.
10. Defendant's Motion No. 9/ Motion for Leave to File a Motion for a New Trial, filed March 12, 2024.
 - a. The State of Ohio did not file a response.
11. Defendant's Motion No. 18/ Amended Motion for Leave/ Motion for New Trial, filed March 12, 2024.
 - a. The State of Ohio filed a response in opposition on March 26, 2024.
12. Defendant's Motion No. 21/ Motion to Compel Inventory of Biological Evidence, filed April 16, 2024.
 - a. The State of Ohio filed a response in opposition on May 20, 2024.

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13. Defendant's Motion No. 22/ Motion to Dismiss/ Motion for Release/ Release on Recognizance, filed April 16, 2024.
 - a. The State of Ohio did not file a response because Defendant later requested to withdraw this motion.
14. Defendant's Motion No. 23/ Motion to Withdraw Motion to Dismiss/ Motion for Release/ Release on Recognize, filed April 23, 2024.
 - a. The State of Ohio filed a response on May 2, 2024, stating they were not opposed to this request.
15. Defendant's Motion No. 24/ Motion to Suppress/ Motion to Dismiss/ Motion for Release/ Release on Recognizance, filed April 23, 2024.
 - a. The State of Ohio filed a response in opposition on May 14, 2024.
16. Defendant's Motion No. 25/ Motion for Discovery/ Motion to Dismiss, filed April 24, 2024.
 - a. The State of Ohio filed a response in opposition on May 2, 2024.
17. Defendant's Motion No. 27/ Motion for Order that there is No "Limited Remand", filed May 15, 2024.
 - a. The State of Ohio filed a response in opposition on June 10, 2024.
18. Defendant's Motion No. 28/ Supplemental Exhibits to Motion #26, filed May 15, 2024.
 - a. The State of Ohio filed a response in opposition on June 4, 2024.
19. Defendant's Motion No. 20/ Motion for DNA Testing, filed May 21, 2024.
 - a. The State of Ohio filed a response in opposition on May 20, 2024.
20. Defendant's Motion No. 29/ Defendant's Request for Judicial Notice of Supplemental Authorities for Motion #9, 10, 11, 13, 18, 24, 25/ Motion to Reverse Feb. 23, 2024 Entry, filed May 22, 2024.
 - a. The State of Ohio has not filed a response.
21. Defendant's Motion No. 30/ Supplemental Argument and Exhibits 11(A), 11(B), 22 to Motions #9, 10, 11, 13, 18, 19, 24, 25, filed May 29, 2024.
 - a. The State of Ohio filed a response in opposition on June 4, 2024 and June 7, 2024.
22. Defendant's Motion No. 31/ Motion for Acquittal Crim. R. 29(C), filed June 5, 2024.
 - a. The State of Ohio filed a response in opposition on June 7, 2024.

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23. Defendant's Motion No. 32/ Supplemental Authorities, filed June 5, 2024.
 - a. The State of Ohio filed a response in opposition on June 7, 2024.
24. Defendant's Motion No. 33/ Motion for New Trial/ Motion for Leave Crim. R. 33, filed June 7, 2024.
 - a. The State of Ohio filed a response in opposition on June 7, 2024.
25. Defendant's Motion No. 26/ Amended/ Supplemental Motion to Dismiss/ Motion for Release/ Release on Recognizance (Amended Motion No. 24), filed June 11, 2024.
 - a. The State of Ohio filed a response in opposition on May 14, 2024.
26. Defendant's Amended Motion No. 33/ Motion for New Trial/ Motion for Leave Crim. R. 33, filed June 11, 2024.
 - a. The State of Ohio has not filed a response in opposition.
27. Defendant's Motion No. 34/ Supplement to Motions No. 18, 26, 31, 33/ Motion for Judicial Notice Ohio Evid. R. 201(B)(D), filed June 11, 2024.
 - a. The State of Ohio has not filed a response in opposition.

I. 25 Motions Outside the Scope of the Remand

On February 23, 2024, this Court issued a Judgment Entry ruling on the Defendant's first six *pro se* motions. That Entry is fully incorporated herein. In that entry, and in numerous proceedings, in Court, on the record with the Defendant, this Court has made it perfectly clear that it will not consider anything outside the scope of the limited remand from the Sixth Circuit Court of Appeals. In addition, when this Court granted the Defendant the right to proceed *pro se*, he was advised that the Sixth Circuit Court of Appeals affirmed the verdict of guilt against the Defendant and ordered this Court to conduct a resentencing only.

Despite this Court's February 23, 2024 Judgment Entry and numerous verbal warnings on the record, the Defendant has proceeded to file 27 motions and 25 of the motions are directed at the guilt portion of his case, or are not ripe as they are post-conviction motions. For the reasons stated on the record and in the February 23, 2024, entry, this Court will not consider motions outside the scope of the limited remand.

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II. Motion to Recuse and Motion to Prohibit Appearance in Restraints and Prison Clothes

a. Motion to Recuse

At the hearing, the Court gave the Defendant the opportunity to argue his motion to recuse and gave the State the chance to respond. The Defendant did not raise one legitimate reason as to why this Court should recuse. Further, two separate motions to recuse have been filed with the Ohio Supreme Court and dismissed. Therefore, this Court finds no reason why this trial judge should recuse himself from this matter.

b. Motion to Prohibit Appearance in Restraints and Prison Clothes

The Defendant is requesting to appear at all court proceedings in civilian clothing. The State of Ohio is not opposed to this request as long as the Defendant complies with the accepted standards regarding civilian clothing at court proceedings. This Court agrees with the State. Defendant may appear at future hearings in civilian clothing if he has appropriate court attire delivered to the Ashtabula County Sheriff's Department at least 24 hours prior to each hearing.

Defendant has also requested that his restraints be removed at each hearing. At the past two hearings the Defendant has made this request and the Court has granted this request. The Court will continue to make the determination at each hearing based on the circumstances of that hearing.

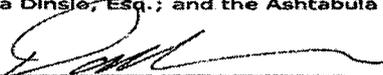
ORDER:

1. Defendant's Motion No. 15/ Motion for Recusal, filed March 8, 2024, is overruled.
2. Defendant's Motion No. 16/ Motion to Prohibit Appearance in Restraints and Prison Clothes, filed March 8, 2024, is overruled-in-part and granted-in-part. Defendant may appear at future hearings in civilian clothing if he has appropriate court attire delivered to the Ashtabula County Sheriff's Department at least 24 hours prior to each hearing. The Court will continue to make the determination at each hearing based on the circumstances of that hearing if the Defendant's restraints will be removed.

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3. The remaining 25 motions listed above have been considered in their entirety and are hereby dismissed due to being outside the scope of this Court's limited jurisdiction granted by the remand or for not being ripe to rule upon, as they are post-conviction motions.

The Clerk is directed to serve notice of this Entry upon the following: Colleen O'Toole, Ashtabula County Prosecuting Attorney; Dawn Cantalamessa, Chief Assistant Prosecuting Attorney; Odraye G. Jones, nka Malik Aillah U-Akbar; John B. Juhasz, Esq.; Margaret Brunarski, Esq.; Melissa Dinsie, Esq.; and the Ashtabula County Sheriff.


DAVID A. SCHROEDER, JUDGE

APPENDIX D

State Court Vacation of Judgment of Conviction

Exhibit 1(B)

J-1

EXHIBIT 1 (E)

COPY

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

THE STATE OF OHIO
Plaintiff,
vs.
ODRAYE G. JONES
nka Malik Allah U-Akbar
Defendant.

* CASE NO. 1997 CR 221
*
* JUDGE: DAVID A. SCHROEDER
*
* JUDGMENT ENTRY
(with Hearing Notice)
*
* DEATH PENALTY CASE
*
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FILED
JUN 29 10 58 AM '24
CLERK OF COURT
ASHTABULA COUNTY
OHIO

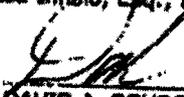
PROCEEDING: State of Ohio's Renewed Motion to Vacate Death Sentence Entry Filed on June 9, 1998, Pursuant to U.S. District Court Order, filed March 22, 2024. The Defendant has not filed a response.

ORDER:

1. Pursuant to the Order from the U.S. Northern District Court dated February 29, 2024, and the Eleventh District Court of Appeals Order dated May 20, 2024, the death sentence imposed on June 8, 1998, is hereby vacated.
2. A Motion Hearing is scheduled for June 11, 2024 at 1:00 P.M., at which time the Court will take argument on all pending motions.
3. The new Penalty Phase Trial is scheduled to commence August 12, 2024 at 8:30 A.M.

IT IS SO ORDERED.

The Clerk is directed to serve notice of this Entry upon the following: Colleen O'Toole, Ashtabula County Prosecuting Attorney; Dawn Cantalamessa, Chief Assistant Prosecuting Attorney; Odraye G. Jones, nka Malik Allah U-Akbar; John B. Juhasz, Esq.; Margaret Brunarski, Esq.; Melissa Dineo, Esq.; and the Ashtabula County Sheriff.


DAVID A. SCHROEDER, JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**