

ORIGINAL

IN THE SUPREME COURT OF OHIO

State of Ohio ex rel.
Jeffery Blair
Reg. # 214-560
Madison Correctional Institution
1851 State Route 56
P.O. Box 740
London, Ohio 43140,
Relator,
-vs-
Ohio Adult Parole Board
770 West Broad Street
Columbus, Ohio 43215,
Respondents.

Case No. 17-0163
(By Clerk)

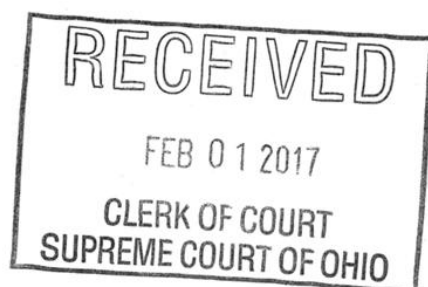
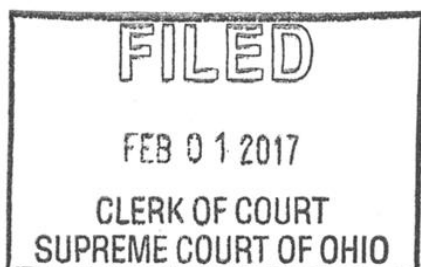
PETITION FOR RELIEF IN MANDAMUS

Comes now relator, Jeffery Blair, pro se and pursuant to Article IV, § (B)(1)(b), Ohio Constitution and Ohio Revised Code § 2731.02 et seq., moves this Honorable Supreme Court of Ohio to grant him relief in mandamus, compelling Respondents to correct the record concerning evidence of guilt that Respondents have repeatedly used in considering Relator for parole. Relator has a clear legal right for the record to speak the truth; Respondents have a minimum due process duty to exercise their discretion upon a correct record; and Relator had no other plain and adequate remedy at law to secure relief.

It Is So Prayed For

Respectfully submitted,

Jeffery Blair
Jeffery Blair-Relator



I. Jurisdiction

This Supreme Court of Ohio has original jurisdiction in mandamus and authority to grant relief pursuant to Article IV, § (B)(1)(b), Ohio Constitution and Ohio Revised Code § 2731.03 et seq..

II. Standard of Review

Mandamus is a writ issued in the name of the state to an inferior tribunal, a corporation, board or person, commanding the performance of an act which the law enjoins as a duty from an office, trust or station. In order to be entitled to relief, the relator must show that he has a clear legal right to the relief prayed for; that Respondents are under a legal duty to perform the act and that relator has no other plain and adequate remedy at law. Cf. *State ex rel. McGrath v. Ohio Adult Parole Authority*, 2003-Ohio-5062, 100 Ohio St. 2d 72, 796 N.E. 2d 526, Ohio Lexis 2563 (2003).

III. State of the Facts

On several occasions the Relator has appeared before the Respondent-Ohio Adult Parole Board for parole release consideration. On every occasion Respondents have cited to allegations that DNA testing and evidence adduced at trial of this case indicated that a sexual assault occurred. This allegation is patently incorrect information.

LAW & ARGUMENT

In *State ex rel. Keith v. Ohio Adult Parole Authority ET AL.*, 141 Ohio St. 3d 375, 24 N.E. 3d 1132 (2014), this Supreme Court of Ohio in citing to *Layne v. Ohio Adult Parole Authority*, 97 Ohio St. 3d 456, 780 N.E. 2d 548 (2002) held that there exists a minimum due process standard for the Ohio Adult Parole Authority that statutory language “ought to mean something”. *Id.* At ¶27. At issue in *Layne* were the words “eligible for parole” pursuant to former O.R.C. § 2967.13(A). The Court held that inherent in the language is “the expectation that a criminal offender will receive meaningful consideration for parole”. *Id.*

In the case sub judice, the language at issue involves the procedures relating to parole of a prisoner. The regulation setting forth the procedure for parole requires that in deciding on release of an inmate the

parole board is to consider numerous factors, including: (1) any reports prepared by any institutional staff member relating to the inmate's personality, social history, and adjustment to institutional programs and assignments; (2) any official report of the inmates prior criminal record, including a report or record of earlier probation or parole; (3) any presenter or post sentence report; (4) any recommendations regarding the inmate's release made at the time of sentencing or at any time thereafter by the sentencing judge, prosecuting attorney, or defense counsel and any information received from the victim or a victim's representative; (5) any reported of physical, mental or psychiatric examination of the inmate; (6) such other relevant written information concerning the inmate as may be reasonably available***; (7) written or oral statements by the inmate, other than grievances...(emphasis added.)

Relator submits as Layne did that this language must mean something. Id.

Evidently Respondents at the parole hearings have relied upon the opinion of the Ohio court of Appeals in State of Ohio v. Jeffery Blair, 592 N.E. 2d 854, 70 Ohio App. 3D 774 (1990), where the appellate court opinion stated that:

"[t]he trial court ordered Blair to supply the state with samples of his blood, hair, and saliva. These samples were sent to Cellmark Diagnostics, Inc., which performed 'length polymorphism' tests upon the DNA found in the spear taken from the corpse and car seat. These tests determined that the sperm had come from Blair".(emphasis ours.)

At no time did ~~Marcella~~ ^{Cellmark} conclude that sperm from relator was found on or inside the corpse as Respondents consistently allege at every parole consideration hearing. Attached hereto are copies of the actual DNA test results which conclude only that Realtor's DNA was found on the driver's seat of the car.(See exhibits A&B).

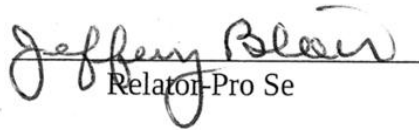
In effect then, in incorrectly concluding that realtor's DNA was found insider and or on the victim, both the Ohio Court of Appeals and Respondents have erroneously considered Relator guilty of a violation of Ohio Revised Code § 2903.01(B), Aggravated Murder in the commission of a Rape offense, a much higher offense and category the same as happened in Lane ,supra.

Conclusion

Accordingly, Respondents have a legal duty to consider Relator for parole eligibility for the offense of Murder per O.R.C. § 2903.02(A) not Aggravated Murder per O.R.C. § 2903.01(B); Relator has a minimal due process right to such consideration and possess no other plain and adequate remedy at law to obtain same. Lane, Keith, supra.

As a result, Respondents should be compelled to correct the record at Relator's next parole consideration hearing to be held in June, 2017 and adjudicate his case for the offense he was charged with and convicted of.

It Is So Prayed For


Relator-Pro Se

AFFIDAVIT IOF VERITY

I, Jeffery Blain, after first being duly sworn according to law, do hereby depose as follows:

1. That I am the Relator-Affiant herein and as such stand qualified to attest to the contents herein because of personal knowledge.
2. That I was convicted in the Clark county, Ohio Court of Common Pleas in case number 88-CR-369 of Murder under Ohio Revised Code § 2903.02(A) in 1990.
3. That I appeared before Respondent-Ohio Parole Board on multiple occasions for parole consideration hearings.
4. That on each occasion Respondents have insisted and or insinuated that I raped the victim in the case based upon DNA evidence adduced at trial of the case.
5. That these allegations are patently false.
6. That in effect, Respondents have considered my parole eligibility as if I was indicted, convicted and sentenced for Aggravated Felony Murder per Ohio Revised Code § 2903.01(B) a higher degree of offense and category.
7. That this Supreme Court of Ohio has condemned this practice in Layne v. Ohio Adult Parole Authority, 780 N.E. 2d 548 (2002).
8. That attached exhibits A & B are true copies of the original DNA reports received by me through discovery from the Clark County Prosecutor's Office and adduced as evidence at trial.
9. That all of the foregoing averments are true as I verily believe.

Further Affiant Sayeth Naught

Jeffery Blain
Affiant

STATE OF OHIO)

) SS:

COUNTY OF MADISON)

Sworn and subscribed to in my presence a notary public this 11 day of January 2017.

Jennifer Matyas
Notary Public



Jennifer L. Matyas
Notary Public - Ohio
My Commission Expires
09/15/2020



SUPPLEMENTAL REPORT OF LABORATORY EXAMINATION

September 7, 1989

Cellmark Diagnostics

20271 Goldenrod Lane
Germantown, Maryland 20874
Telephone (301) 428-4980
800-USA-LABS
Fax (301) 428-4877

David E. Smith
Assistant Prosecuting Attorney
50 E. Columbia
Springfield, OH 45502

RE: Your Case No. 88-CR-369
Cellmark Case No. F891241

In our report of July 20, 1989, the conclusion was given that the DNA banding pattern obtained from the from the blood labelled Jeffrey Blair matched a DNA banding pattern obtained from the piece of cloth labelled drivers side seat cover. The frequency of this banding pattern in the Caucasian population is approximately one in 2.6 million.

George Herrin, Jr.
George Herrin, Jr., Ph.D.

for Robin W. Cotton, Ph.D.
R&D Laboratory Manager

REPORT OF LABORATORY EXAMINATION
July 20, 1989

David E. Smith
Assistant Prosecuting Attorney
50 E. Columbia
Springfield, OH 45502

Your Case No. 88-CR-369
Our Case No. F891241

EXHIBITS:

The following items were received for analysis on May 18, 1989:

- EX. A One piece of cloth in a sealed folded sheet of wax paper labelled drivers side seat cover.
- EX. B One piece of cloth in a sealed folded sheet of wax paper labelled passenger side seat cover.
- EX. U6 One blood swatch labelled bloodstain of Buxton.

One lavender top tube of blood labelled Jeffrey Blair.

RESULTS:

DNA was extracted and a DNA banding pattern was obtained from the piece of cloth labelled drivers side seat cover (EX. A), the piece of cloth labelled passenger side seat cover (EX. B), the blood swatch labelled bloodstain of Buxton (EX. U6), and the blood labelled Jeffrey Blair using four single-locus probes (MS1, MS31, MS43, and G3) and the restriction enzyme Hinf 1.

The DNA banding pattern obtained from the piece of cloth labelled drivers side seat cover (EX. A) contained the DNA banding pattern obtained from the blood swatch labelled bloodstain of Buxton (EX. U6) and a second DNA banding pattern. This second DNA banding pattern matched the DNA banding pattern obtained from the blood labelled Jeffrey Blair.

The DNA banding pattern obtained from the piece of cloth labelled passenger side seat cover (EX. B) contained the DNA banding pattern obtained from the blood swatch labelled bloodstain of Buxton (EX. U6) and a second DNA banding pattern. This second DNA banding pattern is contained in the DNA banding pattern obtained from the blood labelled Jeffrey Blair.

Report for Case No. F891241
July 20, 1989
Page Two

CONCLUSION:

The frequency of the DNA banding pattern obtained from the blood labelled Jeffrey Blair and the piece of cloth labelled drivers side seat cover will be the subject of a subsequent report.

The DNA banding pattern obtained from the piece of cloth labelled passenger side seat cover (EX. B) contains DNA bands which matched the DNA bands from the bloodstain of Buxton and additional bands which are consistent with the DNA pattern obtained from the blood of Jeffrey Blair.

George Herrin, Jr.
George Herrin, Jr., Ph.D.

Robin W. Cotton
Robin W. Cotton, Ph.D.
R&D Laboratory Manager

DE. CARVER