

IN THE SUPREME COURT OF OHIO

QUIAN R. BRITFORD	:	On Appeal from the
Defendant-Appellant,	:	Franklin County Court
	:	Of Appeals, Tenth
V.	:	Appellate District
	:	
STATE OF OHIO	:	20-1352
	:	
Plaintiff-Appellees	:	Court of Appeals
	:	Case No. 19AP-631

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MEMORANDUM IN SUPPORT OF JURISDICTION  
OF APPELLANT QUIAN R. BRITFORD

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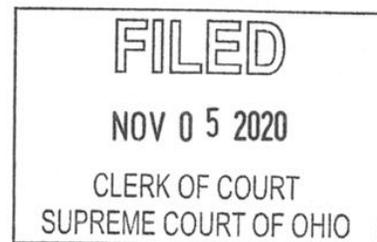
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## MEMORANDUM IN SUPPORT OF JURISDICTION

### A. EXPLANATION OF WHY THIS CASE IS A CASES OF PUBLIC OR GREAT GENERAL INTREST, INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTIONS, AND WHY LEAVE TO APPEAL SHOULD BE GRANTED

The Jurisdiction of Supreme Court of Ohio is established by Article IV, Section 1, of the Ohio Constitution, which provides that “the judicial power of the state is vested in a Supreme Court, Courts of Appeals, Courts of Common Pleas and divisions thereof, and such other courts inferior to the Supreme Court as may from time to time be established by law. Therefore, the Supreme Court of Ohio has original jurisdiction over this appeal as a matter of Law and the Appellant is invoking that inherited Right.

This case at bar presents this Honorable Court with the opportunity to decide (2)critical issue as to whether the government can - under the Laws of the State of Ohio and the United States Constitution – (1)categorically invoke jurisdiction over a criminal offence without affording a person accused of a crime with a valid Criminal Complaint that correlates with the third requirement of Crim. R. 3, in order to initiate process; and (2) as to whether a 10<sup>th</sup> District Court of Appeals Court can deny the Appellant Appeal and recast it to reflect the denial of the Appellants Motion to Vacate Sentence and Void Conviction, by treating it as a Post-Conviction Petition when the Defendant-Appellant Appeal and Motion both raises a valid argument based on the Lack of Subject Matter Jurisdiction.

Thus, the Defendant-Appellant contends that a valid Criminal Complaint under Criminal R. 3, is envisioned to invoke Subject Matter Jurisdiction over a Criminal offense and without a valid Criminal Complaint that complies with the third requirement of Criminal R. 3, there exist a jurisdictional defect based on the Lack of Subject Matter Jurisdiction that cannot be waived or omitted and can be raised at any time.

Therefore, to deny the Appellant, Appeal on September 29<sup>th</sup>, 2020, and base such denial to reflect the denial of the decision rendered on September 3rd, 2019, for the Franklin County Court of

Common Pleas on the Appellant Motion to Vacate Sentence and Void Conviction, would be prejudicial to the Appellant, without reasoning and acknowledging that the Municipal Court Lacked Subject Matter Jurisdiction due to the Criminal Complaint in Case No. 2019-CRA-4441, is invalid for failing to adhere to the third requirement of Crim. R. 3, considering that it wasn't Notarized. As well as, such ruling would prohibit the appellant, ability to properly assert a defense based on the Lack of Subject Matter Jurisdiction.

To which accounts for why this case is (1) a case of public or general public interest considering it affects the Appellant, as well as, several other similar situated U.S. Citizens whom have or will be arrested and accused of a crime from without first having a valid formal acquisition filed against them to initiate process; and(2) involves a Substantial Constitutional Question considering that the Ohio and U.S. Constitution considering that a Criminal Complaint that doesn't correlate with the third requirement of Criminal R. 3, causes a jurisdiction defect based on the Lack of Subject Matter Jurisdiction.

Thus, the defendant-Appellant asserts that the decision rendered by the Tenth District Court of Appeals rendered on September 29<sup>th</sup>, 2020, sets a precedent that would exclude an entire Subject Matter-Jurisdiction issue in reference to how the Criminal Complaint in Case No. 2019-CRA-4441, did not comply with the third requirement of Crim. R. 3, which mandates that all Criminal Complaints be Notarized. Therefore, seeing how the 10<sup>th</sup> District Court of Appeals reasoning is contrary to its own ruling in **State v. Bess, 2012-CR-3333**, such decision by the Tenth District Court of Appeals, is prejudicial and threatens the structure in which Criminal R. 3, was designed for and threatens the integrity of the Courts by insisting that its adopting its decision rendered on September 29<sup>th</sup>, 2020, by denying the Appellant, sole assignment of error in its Appeal as overruled and to reflect that in which the Trial Courts had rendered on September 3<sup>rd</sup>, 2019.

However, the Tenth District Court of Appeals, lost its way in its reasoning and instead of denying the Appellants Appeal on September 29<sup>th</sup>, 2020, without close consideration to the novel of case that

supports the Appellants argument pursuant to Crim.R. 3., should've taken notice that in Ohio the procedure to constitute a valid complaint, is the filing of a Criminal Complaint that complies with Crim.R. 3, in order to initiate process. Failure to acknowledge what the above stated rule mandates is an abuse of discretion and is prejudicial to the Appellant when it infringes upon his Constitutional Right to have a valid formal charge launched against him to initiate process.

Therefore, this Honorable Court should review this issue not only because the appellant's constitutional rights are being infringed upon by the Tenth District Court ruling, but also because Ohio's courts need guidance regarding the morale behind initiating the process and the procedure needed to be followed in order to have a valid Criminal Complaint filed. Without close consideration of the underlying issue, such ruling infringes on the Appellants Constitutional Rights and leaves him compelled to languish on the barring of a defective complaint in Case No. 2019-CRA-4441, from the inception at the time in which it was delivered to the clerk, which has not been claimed, therefore Tenth District Court of Appeals on September 29<sup>th</sup>, 2020, erred in failing to find that the complaint in Case No. 2019-CRA-4441, is invalid considering that it wasn't Notarized in order to comply with the third requirement of Criminal 3., and should of vacated the sentence and Void Conviction based on the Lack of Subject Matter Jurisdiction.

To which is an explanation as to why this Case is a case of public general interest, and involves a Substantial Constitutional question, and the reason why this Honorable Court should grant this Appeal to hear this case and review the erroneous and dangerous decision rendered by the 10<sup>th</sup> District Court of Appeals.

**STATEMENT OF CASE AND FACTS:**

On August 15<sup>th</sup>, 2008, the Appellant was arrested without probable cause by several different agents of the Columbus Police Department and a Criminal Complaint was launched against the Appellant, in Case No. **2008-CRA-020266**, for charges of Felonious Assault pursuant to **2903.11(A2)**,

by the Complainant, James Niggermeyer, Badge Number 1416, whom stated that as the complainant, he being duly sworn, states that the above named defendant, at Franklin County/Columbus, Ohio, on or about the 14th, day of August, 2008, did knowingly cause physical harm to another, to wit George Shropshire III, by means of a Deadly Weapon, to wit: A Gun. However, such criminal complaint is invalid considering that it was not notarized. Therefore, didn't comply with the third requirement of Criminal R. 3., and as a result created a Jurisdictional defect that cannot be waived or omitted and can be raised at any time.

On August 22<sup>nd</sup>, 2008, the Defendant Appellant was subsequently indicted by the grand jury in Case No. 08-CR-6158, utilizing that same invalid information arising from out of the Criminal Complaint in Case No. 2008-CRA-020266, which was not Notarized. Such charges in Indictment consist of Count 1 of the Indictment; to wit Attempted Murder in violation of 2923.02(R.C.) (F-1) (1 Count) and Count two to wit; Felonious Assault in violation of **2903.11(F-2)** (1Count) and to Count three of the Indictment to wit: Count three having Weapons while under Disability in violation of 2923.13.

On October 5<sup>th</sup>, 2009, the Defendant Appellant was allegedly convicted to the second Count of the indictment to wit: Felonious Assault with Firearm Specification, in violation of Section 290.11, which is a statute contrary to form and Statute. Upon application of the Assistant Prosecuting Attorney, a Nolle Prosequi was entered for Counts one and three of the Indictment.

On March 8<sup>th</sup>, 2019, the Defendant was arrested by two Officers of the Columbus Police Department and such Officer Dover and Officer Davis, filed an invalid Criminal Complaint and Affidavit of Probable Cause against the Appellant, Quian R. Britford, pursuant to **2923.13 (A-3)**, in Case No. 2019-CRA-4441. However, the Columbus Police Department/ Gun Crimes Unit Officer Vaughn J. Spencer, stated that as the complainant in that complaint, he being duly sworn, states that the above named defendant, at Franklin County/Columbus, Ohio, on or about the 8<sup>th</sup> day of March, 2019, did knowingly carry a firearm to wit: a Glock model 34 9 mm pistol in his waistband, while not having been relieved

from disability under operation of law of legal process and being convicted of a felony offense involving the illegal possession of any drug abuse to wit: Possession of Drugs O.R.C. **2925.11** on 10-6-2009, by the Franklin County Common Pleas Court, Case 09CR-1195. However, the criminal complaint for Case No. 2019-CRA-4441, was not notarized. Therefore, the Criminal complaint in this case is invalid and created a jurisdictional defect in the complaint that can't be waived or omitted and raised at any time.

The Appellant, contends that such Criminal charges in Case No. 2019-CRA-4441, were dismissed at the request of the Prosecutor on March 18<sup>th</sup>, 2019, and the defendant was compelled to languish in the (FCCC2) Franklin County Correctional Center, the Workhouse" after such dismissal. However, the Appellant attended a hearing in front of the Honorable Judge Hawkins, in which Judge Hawkins, informs both agents of the Franklin County Prosecutor Office and the Adult Parole Authority to have the Appellant release from confinement upon such dismissal. Without just cause, the Prosecutor and the Adult Parole Authority Officer comingled together to keep the Appellant, in jail on a parole violation in Case No. 08CR-6158, which is an act of violence that is contrary to the offence in which was launched in the Criminal Complaint in Case No. 2019-CRA-4441, to bring forth an arrest warrant for a violation on a drug related offence in Case No. 09-CR-1195.

On April 11<sup>th</sup>, 2019, the Appellant, Quian R. Britford, was conveyed to attend a Parole Hearing at the (C.R.C.) Correctional Reception Center, before the Adult Parole Authority for an alleged violation in Case No. 08-CR-6158, which is a case for an act of violence and is contrary to the charged in which was launched in the Criminal Complaint in Case No. 2019-CRA-4441, to bring forth an arrest warrant for a violation on a drug related offence in Case No. 09-CR-1195.

On May 15<sup>th</sup>, 2019, the Defendant-Appellant, underwent a Parole Hearing at (.C.R.C.) Correctional Reception Center, for an alleged violation in Case No. 08-CR-6158, but was rescheduled to attend such hearing until May 29<sup>th</sup>, 2019. In which the Defendant-Appellant, on May 29<sup>th</sup>, 2019,

attended a Parole Hearing before the Adult Parole Authority, and was sanctioned to spend 200 Days in the orbit of D.R.C. for an alleged violation in Case No. 08CR6158. To which is an offence for an act of violence, and is contrary to the offence in which was launched in the Criminal Complaint in Case No. 2019-CRA-4441, to bring forth an arrest warrant for a violation on a drug related offence in Case No. 09-CR-1195.

On July 11<sup>th</sup>, 2019, the Appellant Quian R. Britford, filed a Motion to Vacate Sentence and Void Conviction back to the Trial Court alleging that the Municipal Court Lacked Subject Matter Jurisdiction, due to the Criminal Complaint in Case No. 2019-CRA-4441, failing to comply with the third requirement of **Crim. R. 3**, considering that it wasn't Notarized. Therefore, such Criminal Complaint is invalid. However, such Motion to Vacate Sentence and Void Conviction wasn't docketed until August 26<sup>th</sup>, 2019.

On August 28<sup>th</sup>, 2019, the Plaintiff-Appellee, Steven Taylor, filed an untimely response that wasn't time stamped, nor was there any objection raised in the Plaintiff rebuttal to the Defendant Motion to Vacate Sentence and Void Conviction, regarding the Criminal Complaint, in Case No. 2019-CRA-4441, being invalid considering that it wasn't notarized. However, the State with all of his resources still centered his rebuttal based on the Criminal Complaint in Case No. 2008-CRA-020266, without acknowledging that the Appellants argument was centered on the criminal complaint in case No. 2019-CRA-4441, and that both Criminal Complaint in Case No. 2008-CRA-020266 and or 2019-CRA-4441, are invalid and didn't meet the third requirements of **Crim. R. 3**, considering that they both were not Notarized. However, the State with all of his resources still based his rebuttal on insisting that the Appellant Motion to Vacate Sentence and Void Conviction should be denied based on;(1) be untimely;(2) should be treated as a Post-Conviction petition pursuant to **2953;.21**and (3) should be barred by the Doctrine of Res Judicata. However, such reply brief was neither time stamped and or in compliance with the time requirement of **Civ. R. 6(C)**. Therefore, such response should of never been considered as timely filed and or have any validity on the issue at hand considering that it wasn't based

on rebutting the issues in which was raised in the Appellants Motion to Vacate Sentence and Void Conviction, which was in reference to the Criminal Complaint, in Case No. 2019-CRA-4441, being invalid considering that it wasn't Notarized.

On September 3rd, 2019, The Judge filed a Decision and entry on the Appellants Motion to Vacate Sentence and Void Conviction, without affording the Appellant a chance to respond to the States Memorandum of the Plaintiff opposing "Motion to Vacate Sentence and Void Conviction," that was filed on July 11<sup>th</sup>, 2019. But was somehow docketed on August 23<sup>rd</sup>, 2019, without complying with the Franklin County Ohio Rules of Court and **Civ. R. (6) (c)**.

On September 11<sup>th</sup>, 2019, the Appellant filed a timely Notice of Appeal back to the trial Court. Such Notice of Appeal was docketed on September 20, 2019, and a notice of filing the record was filed on September 24<sup>th</sup>, 2019, and accepted to the Accelerated Calendar by the Tenth District Court of Appeals

On October 11<sup>th</sup>, 2019, the Defendant-Appellant, Quian R. Britford, filed a timely Appellant Brief, raising one assignment of error for the Court to review based on the grounds that the Trial Court Lacked Subject Matter Jurisdiction due to the Criminal Complaint in Case No. 2019-CRA-4441, didn't comply with the third requirement of Criminal R. 3, considering that it wasn't Notarized.

On October 18, 2019, the Appellee crossed appealed, reversing its position by alleging that the Criminal Complaint in Case No. 2008-CRA-020266, was valid without making any assertion to rebut the Appellants argument that the Criminal Complaint in Case No. 2019-CRA-4441, being invalid due to not being notarized. As well as, went on to state that the defendant appeal should be denied based on the premises of (1)untimely filed ; (2) considered to be a Post-Conviction-Petition pursuant to **2953.21**; and (3) should be barred by the Doctrine of Res Judicata. Such argument is without merit considering that the prosecutor failed to acknowledge that the Motion to Vacate Sentence and Void Conviction was

based on the premises of the Criminal Complaint in Case No. 2019-CRA-4441, being invalid due to the fact it was not notarized. Therefore, raised a jurisdictional defect in the complaint that would entail that the Municipal Court Lacked Subject Matter Jurisdiction due to the Criminal Complaint didn't comply with the third requirement of Crim.R.3, considering that it wasn't notarized. Therefore, such argument can never be waived or omitted and can be raised at any time. Let along denied on the grounds of being (1) untimely (2) treated as a Post-Conviction Petition pursuant to **2953.21**; and or (3) barred by the Doctrine of Res Judicata. Especially, since such Motion raises a Jurisdictional issue based on the Lack of Subject Matter Jurisdiction. Therefore, the Appellants Motion is the appropriate vehicle to challenge an issue based on the Lack Subject Matter Jurisdiction.

On September 29<sup>th</sup>, 2020, the 10<sup>th</sup> District Court of Appeals erred in ruling that its denying the Appellant Appeal in Case No. 19-AP-361, by overruling the Appellant sole assignment of error by adopting and recast its decision to reflect the decision on the Appellants Motion to Vacate Sentence and Void Conviction rendered on September 13<sup>th</sup>, 2019, by treating it as a Post-Conviction Petition pursuant to **2953.21**. Such ruling is an error and would erode the confidence of what **Crim R. 3**, is envisioned to adhere to when the Appellant Appeal and Motion to Vacate Sentence and Void Conviction both raises a valid argument based on the Lack of Subject Matter Jurisdiction that could not be waived or omitted considering that the criminal complaint in Case No. 2019-CRA-4441, is invalid due to the fact it wasn't notarized in order to comply with the third requirement of **Crim R. 3**. To which is the reason why this case is case that raises both an explanation that is of Great General Public Interest, and involves a Substantial Constitutional Question, as well as, is the reason why this Honorable Court should grant this Appeal for all of the foregoing reasons. To include but not limited to.

In support of its position on these issues, the Appellant presents the following (2) proposition of Law in support of his argument for this court to consider.

## ARGUMENT IN SUPPORT OF PROPOSITION OF LAW

**Proposition of Law No. 1:** It is contrary to the purposes and principles of the rules of Court to invoke jurisdiction over a criminal offence, without complying with the mandates of the third requirement of Criminal R. 3, which is vested in having a criminal complaint Notarized. Therefore, invalidates the Criminal Complaint and cause a jurisdictional defect based on the Lack of Subject Matter Jurisdiction which cannot be waived, or omitted, and can be raised anytime.

In Ohio It is precedent that an arrest, by itself, doesn't begin formal criminal proceedings. Rather, the filing of a document in court is required. In most instances in state court, the document is a criminal "complaint." Some Criminal complaints, are almost always filed by the government. (Some states allow citizens to file criminal complaints or applications for them.)

A state prosecution usually begins after a police officer arrests someone and presents the case to the prosecution. The latter then files a complaint, which charges the defendant with the relevant crime(s). So begins the legal process in Ohio in order to comply with Crim. R. 3. In which a criminal complaint typically lists the following:

- the defendant
- the date of the alleged offenses
- the alleged offenses (including the relevant statutes, and whether the violations are misdemeanors or felonies),
- some kind of description of the alleged facts underlying those offenses, and must be made while under oath by a person authorized to administer oaths.

There is a novel of case that outlines the procedure to invoke the subject-matter jurisdiction over a criminal charge and recognizes that procedure in Ohio is the filing of a criminal complaint that meets the requirements of **Crim.R. 3**. See **Crim.R. 7(A)**; **State v. Mbodji, 129 Ohio St.3d 325, 2011-Ohio-2880, 951 N.E.2d 1025**, paragraph one of the syllabus; **State v. Miller, 47 Ohio App.3d 113, 114, 547 N.E.2d 399 (1st Dist.1988)**. However, the Tenth District Court of Appeals, on September 29<sup>th</sup>, 2020, failed to take notice that the procedure to initiate the process in Ohio to constitute a valid complaint, is the filing of a Criminal Complaint that complies with Crim. R. 3, and [I]f the state files an

invalid complaint, there exists a jurisdictional defect which cannot be waived or omitted by the criminal defendant.” (Citation omitted). See, also **State v. Davies, 11th Dist. Ashtabula No. 2012-A-0034, 2013-Ohio-436, ¶ 12; Ashtabula v. Jones, 11th Dist. Ashtabula No. 2016-A-0053, 2017-Ohio-1103, ¶ 45; State v. Bret, 11th Dist. Portage No. 92-P-0008, 1993 WL 334249, \*1 (Aug. 27, 1993).**

Jurisdiction in definition is defined as the Courts ability to adjudicate the merits of the case. It can never be waived or omitted. As well as, can be raised at any time.

In the Case Sub juice, the Appellant Appeal pertains to how the Trial Court abused its discretion and erred in the prejudice of the Appellant by failing to acknowledge that there exist a jurisdictional defect in the Criminal Complaint in Case No. 2019-CRA-4441, considering that such complaint doesn't comply with the third requirement of Crim. R. 3, when it wasn't notarized. Thus, the Appellant's contention is that the complaint did not comport with the third requirement of Crim.R. 3, and is supported by the record. Consequently, considering that the complaint was not valid in the absence of a valid charging instrument, the Municipal Court Lacked Subject-Matter Jurisdiction. See, **State v. Bess, 2012-Ohio-3333; citing State v. Green, 48 Ohio App.3d 121, 121-122, 548 N.E.2d 334 (11th Dist.1988). See also Miller, 47 Ohio App.3d at 114, 547 N.E.2d 399; State v. Brown, 2 Ohio App.3d 400, 402, 442 N.E.2d 475 (1st Dist.1981).**

More importantly, the substance of the Appellants argument in the text of his Motion to Vacate Sentence and Void Conviction showed how the appellant was raising a jurisdictional question; i.e. based on an invalid Criminal Complaint in Case No. 2019-CRA-4441, not comply with the third requirement of Crim. R. 3, considering that it wasn't Notarized, and citing **State v. Bess, 2012-Ohio-3333**, as the primary case law in support of the Appellants argument. In which the trial court abused its discretion by failing to dismiss appellant's case with prejudice, based upon the fact that the complaint failed to comply with the third requirement of Crim.R. 3. Considering that it wasn't notarized.

Therefore, the assertion of the 10<sup>th</sup> District Court of appeals is in opposition to the decisions of this Court and the other appellate courts that have rendered over more than 150 years. In which the 10<sup>th</sup> District Court of Appeals in **State v. Bess, 2012-Ohio 3333**, noted that a Criminal Complaint that doesn't comply with the third requirement of **Crim. R. 3**, is invalid and "in the absence of a sufficient formal accusation, a court acquires no jurisdiction whatsoever, and if it assumes jurisdiction, a trial and conviction are a nullity. **See, " Bess, supra at ¶6."**

However, the state in its rebuttal to the Appellant Brief centered their argument on the Criminal Complaint in Case No. 2008-CRA-020266, reversing its position by alleging that the criminal complaint in Case No. 2008-CRA-020266, was valid without making any assertion to rebut the Appellants argument that the Criminal Complaint in Case No. 2019-CRA-4441, being invalid due to not being notarized. Such assertion by the State was prejudicial to the Appellant considering that Appellant made no reference in his Appeal, or Motion to Vacate Sentence and Void Conviction, to the Criminal Complaint in Case No. 2008-CRA-020266, validity. The State however, with all its resources failed to acknowledge that both Criminal Complaints in Case No. 2008-CRA-020266 and 2019-CRA-4441, are in fact invalid considering that they weren't both notarized. Therefore, failed to comply with the third requirement of **Crim. R. 3**, and created a jurisdiction defect in the criminal complaint that amounts to a Lack of Subject Matter Jurisdiction. **Sharp, supra at ¶ 14.**

It has been held that the filing of a valid complaint is therefore a necessary requisite of a court acquiring jurisdiction and in the absence of a sufficient formal accusation, a court acquires no jurisdiction whatsoever, and if it assumes jurisdiction, a trial and conviction are a nullity. **State v. Miller (1988), 47 Ohio App.3d 113, 114, citing State v. Brown (1981) 2 Ohio App.3d 400.** The complaint is the jurisdictional instrument of the municipal court. Id. A court's subject matter jurisdiction is invoked by the filing of a complaint. **In the Matter of: C.W., Butler App. No. CA2004-12-312, 2005-Ohio-3905, ¶11.**

The 10th District Court of Appeals, after reviewing the States erroneous disposition still rendered a decision that misplaced its reasoning by disregarding its own ruling in **State v. Bess 2012-Ohio-3333**, and several other cases in support of the proposition that a valid complaint must be filed in order for the court to exercise subject matter jurisdiction. As well as, what the rule implements, entails, and mandates. Therefore, such error is not only prejudicial to the Appellant when the issue involves the Lack of Subject-Matter jurisdiction due to the Criminal Complaint being invalid considering that it wasn't Notarized it cannot be waived or forfeited and an issue that can be raised at any time. **See, Mbodji, 129 Ohio St.3d 325, 2011-Ohio2880, 951 N.E.2d 1025, at ¶ 10.** {¶10} Because the municipal court lacked subject-matter jurisdiction, any resulting conviction arising from an invalid complaint is a legal nullity. **Green at 121-122; Miller at 114.**

Therefore, the 10th District Court of Appeals on September 29<sup>th</sup>, 2020, denied the Appellant Appeal in Case No. 2019-AP-361, without acknowledging the sole purpose of what **Crim. R. 3**, was designed for and how without a valid Criminal Complaint there exist a jurisdictional defect in the complaint that can't be waived and or omitted. . **See, also State v. Davies, 11th Dist. Ashtabula No. 2012-A-0034, 2013-Ohio-436, ¶ 12; Ashtabula v. Jones, 11th Dist. Ashtabula No. 2016-A-0053, 2017-Ohio-1103, ¶ 45; State v. Bretz, 11th Dist. Portage No. 92-P-0008, 1993 WL 334249, \*1 (Aug. 27, 1993).**

The Appellant, asserts that there has always been some tension between law and equity, and this case presents a novel, but important issue for this Court to decide. Which is an issue of such magnitude that it raises both a question of law, that is of both public or great general interests, and involves a Substantial Constitutional Question for this Court to review, and reason why leave to Appeal should be granted considering the prosecutor with all its resource is misguided by not adhering to the Ohio Rules of Court and continues to enforce its authority over subject matter in which it never retained jurisdiction over without first having a valid criminal complaint filed that comply with the third requirement of Criminal 3.

**Proposition of Law No. 2: A Motion to Vacate Sentence and Void Conviction cannot be denied and has (1) untimely; (2) held to the provision of Post-Conviction Petition;(3) and barred by the Doctrine of Res Judicata when it raises an issue based on the Lack of Subject Matter Jurisdiction.**

The Appellant assertion in this proposition is that the 10<sup>th</sup> District Court of Appeals decision rendered on September 29<sup>th</sup>, 2020, is misplaced and is prejudicial to the Appellant considering that after the state was afforded with an opportunity to respond to the Appellants Appeal, the Tenth District Court of Appeals rendered its decision overruling the request to Vacate the underlying sentence and void conviction. As the basis for the Courts decision, the Appellate Court adopted its ruling and based it to reflect that of the Trial Courts denial of the Defendant's-Appellate Motion to Vacate Sentence and Void Conviction rendered on September 3rd, 2019, by concluding that the Appellants Motion to Vacate Sentence and Void Conviction was actually a Petition for Post-Conviction relief under **R.C. 2953.21**. Based upon this, the 10<sup>th</sup> District Court of Appeals also held that Appellant's request for relief had not been filed in a timely manner. In addition, the 10<sup>th</sup> District Court of Appeals and Trial Court expressly held that the Appellant Motion should be barred by the Doctrine of Res Judicata, in which such ruling is not based on logic, nor is it supported by relevant case law when it raises an issue based on the Lack of Subject Matter Jurisdiction.

The Appellant asserts that such ruling isn't based on supporting case law when the Courts in **State v. Davies, 2013-Ohio-436**, clearly stated given the nature of the specific arguments appellant raised in his motion to vacate, the statutory time requirements for a post-conviction petition were inapplicable. That is, since his motion raised an issue of subject matter jurisdiction, it could be asserted at any time. Therefore, considering that the appellant's motion to vacate sentence and Void Conviction is based on the premises of Lack of Subject matter Jurisdiction it could not of been denied solely on the basis of allegedly being (1) untimely (2) and or held to be construed as a Post-Conviction Petition constraints set forth in **R.C. 2953.21**; and (3) barred by the Doctrine of Res Judicata.

For it is clear that the Appellant argument in this matter gives rise to an issue based on the Lack of Subject Matter Jurisdiction, considering that the Criminal Complaint in Case No. 2019-CRA-4441, wasn't Notarized in order to comply with the third requirement of Crim. R. 3. As well as, is striking similar to that which was raised in in **State v. Davies 2013-Ohio-436**. Therefore, such assertion by the Tenth District Court of Appeals, is unfounded by the State argument and is prejudicial to the Appellant when it amounts to a complete denial of the Appellants Constitutional right to have valid formal criminal charge launched against him in order to initiate process. **See, New Albany v. Dalton, 104 Ohio App. 3d. 307, 311, 661 N.E. 2d. 1132 (10<sup>th</sup> Dist. 1995)**. In other words, the issue of subject matter jurisdiction cannot be waived or forfeited and can be raised at any time considering that it renders the Judgment of Conviction Void. **State v. Bess, 5<sup>th</sup> Dist. No. C-110700, 2012 Ohio 3333 ¶ 9.**

As a general proposition of Law in this case is that if a Judgment of Conviction is void for Lack of Subject Matter Jurisdiction then the Doctrine of Res judicata is in applicable to the Appellants legal situation. **See, State v. Perry, 226 N.E. 2d 104**, in which the Supreme Court of Ohio clearly stated that the application of Res Judicata doesn't apply to a case in which the Judgment of Conviction is "void," for Lack of Subject Matter Jurisdiction and may be challenged at any time in collateral proceedings. Thus, because the Appellants Criminal Complaint in Case No. 2019-CRA-4441, is invalid due to the failure to comply with the third requirement of Crim. R. 3, considering that it wasn't notarized, any judgment of Conviction given rise to such complaint is void for Lack of Subject Matter Jurisdiction and remains a legal nullity.

With this in mindset, such ruling rendered by the 10<sup>th</sup> district Court of Appeals on September 29<sup>th</sup>, 2020, is prejudicial to the Appellant and constitute as a complete denial of the courts inherited power to set aside a judgement of conviction that is void for the Lack of Subject Matter Jurisdiction. It is also dangerous, wrong in its reasoning and does not follow the long-established law in Ohio. It misstates the law and misplaces the responsibility for initiating actions in Ohio as required by Crim.R. 3.

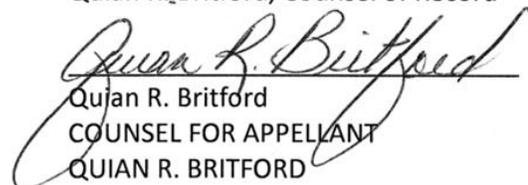
Therefore, is a justified reason as to why the Appellant is requesting for this Honorable Court to review these (2) proposition of law considering that there exists a jurisdictional defect in the Criminal Complaint in Case No. 2019-CRA-4441, when it wasn't Notarized. As well as, once a defendant asserts a defense based on the Lack of Subject Matter Jurisdiction by way of a Motion to Vacate Sentence and Void conviction. Such motion can never be (1) considered as untimely, (2) misconstrued as a Post-Conviction Petition and (3) barred by the Doctrine of Res Judicata, considering that the motion is premised on the Lack of Subject Matter Jurisdiction.

In summation, the Appellant asks this Court to consider totality of events, circumstances, and case law submitted to determine if whether The Tenth District Court of Appeals decision rendered on September 29<sup>th</sup>, 2020, was mistaken in this regards for (1) failing to adhere to the procedure of having a valid Criminal Complaint in Case No. 2019-CRA-44441, considering that it wasn't Notarized; and (2) denying the Appellants appeal and then recast it to reflect the decision of Trial Courts decision rendered on September 3rd, 2019, to deny the Appellants a Motion to Vacate Sentence and Void Conviction on the premises of being untimely filed when such Motion raises an issue dealing with Lack of Subject Matter Jurisdiction.

#### CONCLUSION:

For these reasons discussed above, this case involves matters of public and great interest and a substantial constitutional question. The appellant request that this court accept jurisdiction in this case so that the important issues presented will be reviewed on the merits.

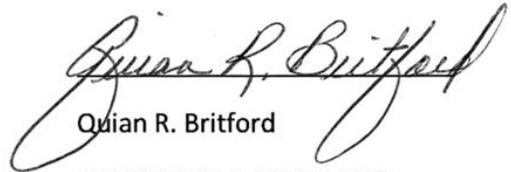
Respectfully submitted,  
Quian R. Britford, Counsel of Record



Quian R. Britford  
COUNSEL FOR APPELLANT  
QUIAN R. BRITFORD

CERTIFICATE OF SERVICE

I certify that a true and complete copy of the foregoing Memorandum in Support of Jurisdiction, was sent by regular mail to the Supreme Court of Ohio, 65 S. Front Street, Columbus, Ohio 43215 and to the counsel for Appellees, Franklin County Prosecutor, Steven I. Taylor, at 373 S. High St., Columbus, Ohio 43215, on this 5th Day of November 2020.



Quian R. Britford

COUNSEL FOR APPELLANT,  
QUIAN R. BRITFORD



Tenth District Court of Appeals

**Date:** 10-01-2020  
**Case Title:** STATE OF OHIO -VS- QUIAN R BRITFORD  
**Case Number:** 19AP000631  
**Type:** JEJ - JUDGMENT ENTRY

So Ordered


/s/ Judge Jennifer Brunner

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

State of Ohio,	:	
	:	
Plaintiff,	:	
	:	Case No. 08CR6158
v.	:	
	:	Judge Hawkins
Quian R. Britford,	:	
	:	
Defendant.	:	

**DECISION & ENTRY ON DEFENDANT'S MOTION  
TO VACATE SENTENCE AND VOID CONVICTION**

This case is before the Court upon Defendant's Motion to Vacate Sentence and Void Conviction filed on **August 23, 2019**. The State of Ohio filed Memorandum of Plaintiff Opposing Motion to Vacate Sentence and Void Conviction on August **28, 2019**. Said motion is **DENIED**.

Copies to:  
All counsel of record, electronically

Quian R. Britford  
R.C.I.  
P.O. Box 7010  
Chillicothe, Ohio 45601  
Defendant, Pro Se

Franklin County Court of Common Pleas

**Date:** 09-03-2019  
**Case Title:** STATE OF OHIO -VS- QUIAN R BRITFORD  
**Case Number:** 08CR006158  
**Type:** ENTRY/ORDER

It is So Ordered.

A handwritten signature in black ink, appearing to read 'D. Hawkins', is written over a faint circular official seal.

/s/ Judge Daniel R. Hawkins