

IN THE OHIO SUPREME COURT

State of Ohio ex relator,
Anthony Cochran, relator pro se,
Inmate number a767207
Belmont Correctional Institution
P.O. Box 540,
St. Clairsville, Ohio 43950

21-0466

Vs.

Petition for Writ of Mandamus

Ohio Department of Rehabilitations and Corrections,

Bureau of sentence computation,
4545 Fisher Road Suite D,
Columbus Ohio 43215
Respondent,

RECEIVED

APR 16 2021

CLERK OF COURT
SUPREME COURT OF OHIO

FILED

APR 16 2021

CLERK OF COURT
SUPREME COURT OF OHIO

IN THE OHIO SUPREME COURT

State of Ohio ex relator,

Anthony Cochran, relator pro se,

Vs.

Petition for Writ of Mandamus

Ohio Department of Rehabilitations and Corrections,

Bureau of sentence computation,

Respondent,

The relator Anthony Cochran Pro se, does hereby petition for a writ of Mandamus compelling the respondent, Ohio department of rehabilitations and corrections, Bureau of sentence computation, to apply the sentence of "four years at the Ohio Department of corrections", as Ordered, by the trial court see last line of page one of exhibit "A". (judgment entry of sentencing case # 19cr512, Franklin County Common Pleas Court) In compliance with Ohio law and this courts earlier direction in: State ex rel. Fraley v. Ohio Department of Rehabilitation and Corrections., 161 Ohio St. 3d 209HN6 "a court speaks through its journal entries" and HN7 The Ohio Department of

corrections role is not to correct sentencing errors and impose the sentence it believes the court should have imposed"

1. The relator Anthony Cochran, has no adequate remedy at law.
2. The Ohio Department of Rehabilitations and Corrections has a clear legal duty to perform the action being requested in the writ.
3. The relator has a constitutional right to have the writ granted in his favor.
4. In absence of the writ the relator's constitutional and statutory rights will continue to be violated by the respondent.
5. Exhibit "A", is the sentencing entry which is the order that is detaining Anthony Cochran, please see that the last line of page one and the first line of page two of, (exhibit "A"), the sentencing entry for case 19cr512, reads as follows: "The court hereby imposes the following sentence: The Defendant shall serve Four (4) years at the **Ohio Department of Rehabilitations and Corrections**.
6. Exhibit "B", is the printout from the Ohio Department of Rehabilitations and Corrections, Bureau of sentence computation, which is also verifiable at <https://www.ODRC.gov> , which provides that the Ohio Department of Rehabilitations and Corrections, Bureau of

sentence computation, has decided that instead of a four year term, Mr. Anthony Cochran is serving a 4.00 year A/I mandatory term. Please review the highlighted section of Exhibit "B", "A/I mandatory" on exhibit "B", "A/I Mandatory" is the term used in reference to a mandatory sentence imposed under 2929.19, and 2925.11. However, a four (4) year mandatory sentence, is not the type of sentence that is imposed upon Mr. Anthony Cochran, by the trial court. see: exhibit "A". Only the trial court is authorized to sentence an offender to a mandatory term pursuant to §2929.19(A)(B)(2)(a).

7. State ex rel. Fraley v. Ohio Department of Rehabilitation and Corrections., 161 Ohio St. 3d 209HN6 "a court speaks through its journal entries" and HN7 The Ohio Department of corrections role is not to correct sentencing errors and impose the sentence it believes the court should have imposed"
8. The relator, petitions for a writ of mandamus that directs the Ohio Department of Rehabilitations and Corrections, Bureau of sentence computation, to correctly apply his sentence as ordered, by the trial court, is an appropriate remedy and is the only available remedy as the O.D.R.C. is plainly aware that the trial court, as verified by exhibit "A", did not order, the relator to a mandatory term of four years, rather the trial court, ordered, "The Defendant shall serve Four (4) years at the **Ohio Department of Rehabilitations and Corrections.**" Since the trial court did not order a mandatory prison term pursuant to 2929.19, and Criminal pursuant to criminal rule 32, the Ohio Department of Rehabilitations and Corrections, is not authorized to transform the words "4-year term" into the words "four-year mandatory term"

Affidavit and Declaration of Anthony Cochran

9. Affidavit of personal knowledge of Anthony Cochran, inmate number a767-207, within the complaint, I, Anthony Cochran, Inmate number a767207, hereby swears and declares the following, on the day of sentencing for case 19cr512, franklin county common pleas court ordered the defendant to serve a Four (4) year term of imprisonment, just like the Entry states, Mr. Anthony Cochran tried unsuccessfully to have the Order re-issued in the trial court so he could get the O.D.R.C, to remove the mandatory portion of the sentence, after much back and forth, I finally received an actual copy of my sentencing entry, exhibit "A". I now know why the court did not reissue the order as requested. Because the court never ordered me to mandatory prison term, because the court did not issue an order stating I was serving a mandatory prison term. It is at this juncture that I come before this court as the trial court issued an order that accurately reflected what was said, it is the O.D.R.C that is not following that order and I ask this court to order the Ohio Department of Rehabilitations and corrections to follow that Order(exhibit "A"). I have no other remedy at law, this is my personal knowledge of the events that bring me before this court humbly asking for a writ of mandamus.

Memorandum and argument of law in support

The relator, is asking the court to issue a writ of mandamus, that directs the respondent to abide by the order of the Franklin County Common Pleas Court, case no.19cr512, (exhibit "A"), that nothing is added and that nothing is taken away. That sentence "The Defendant shall serve **four (4) years** at the **Ohio Dept. of Rehabilitations and Corrections**, be applied as is written.

In this court's decision in Henderson, a case where an unlawful sentence was ordered imposed, the court stated.

"Here, the trial court stated that it was sentencing Henderson to "15 years" during the sentencing hearing. It did not say that it was sentencing him to an indefinite sentence that included a life tail. Likewise, in its sentencing entry, the court indicated only that it sentenced Henderson to a 15-year sentence. *HNI*6 A trial court speaks through its journal [****29] entry. *State v. Hampton*, 134 Ohio St.3d 447, 2012-Ohio-5688, 983 N.E.2d 324, ¶ 15. And here, that entry indicated that Henderson was sentenced to a definite 15-year term.

[**P40] There is no dispute that the trial court's sentence was unlawful. Former R.C. 2929.02(B), Am.Sub.S.B. No. 107, 157 Ohio Laws, Part IV, 7435, required that Henderson receive an indefinite sentence of 15 years to life, and the court failed to impose that sentence. The state had a full and fair opportunity to object to or challenge the trial court's sentence. It did not. In fact, it did not seek to correct the error for almost 12 years, and it then waited 6 more years before filing the motion at issue in this appeal. Because the sentencing error rendered the sentence voidable, the state's attempt to correct the error in a post conviction motion for resentencing was improper. *State v. Henderson*, 161 Ohio St. 3d 285, 298, 2020-Ohio-4784, P39-P40, 162 N.E.3d 776, 789, 2020 Ohio LEXIS 2219, *28-29, 2020 WL 5919686 (Ohio October 7, 2020)

Similarly, Anthony Cochran's sentence is unlawful, yet the duty to order the sentence is that of the trial court, Ohio revised code, 2929.19, provides direction for the trial court, it directs the court to, (a) **Impose a stated prison term and, if the court imposes a mandatory prison term, notify the offender that the prison term is a mandatory prison term;** ORC Ann. 2929.19, (b) In addition to any other information, include in the sentencing entry the name

and section reference to the offense or offenses, the sentence or sentences imposed and whether the sentence or sentences contain mandatory prison terms. The Trial court has the authority to impose a sentence, the issue of whether it is a lawful sentence is subject to appeal. The O.D.R.C's role is to apply the sentence as written, the trial court was to order the defendant to a mandatory prison term, it did not, as such the only term that can be imposed is a four year term, not a four year mandatory prison term.

Ohio law directs the trial court, §2925.11, (d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term. ORC Ann. 2925.03, The law directs the trial court to impose the sentence, not the Ohio Department of Rehabilitations and corrections. This is why in *Fraley*, this court determined that, The Ohio Department of Rehabilitation and Correction's role is not to correct a sentencing court's errors and impose the sentence it believes the court should have imposed. More like this Headnote, State ex rel. Fraley v. Ohio Dep't of Rehab. & Corr., 161 Ohio St. 3d 209, 209, 2020-Ohio-4410, P1, 161 N.E.3d 646, 647, 2020 Ohio LEXIS 2025, *1 (Ohio September 15, 2020) Similarly, in Anthony Cochran's case the court imposed a four year term, not a four year mandatory term.

When the Ohio Supreme Court, reviews the order issued by the trial Court, in Case#19cr512, (exhibit "A"), the language that is not present in the entry is the term "Mandatory prison term", the court will see although the Trial Court should have issued a mandatory term of imprisonment, pursuant to 2929.19, and 2925.11, the trial court did

not. The Court will see the trial courts Order states the Defendant shall serve **Four (4) years** at the **Ohio Department of Rehabilitations and Corrections**".

The court will please note (exhibit B) shows the respondent has applied the sentence as mandatory, because it feels Ohio law requires a four-year mandatory prison term pursuant to 2925.11. However, in *Fraley*, the Court made it clear that "The Ohio Department of Rehabilitation and Correction's role is not to correct a sentencing court's errors and impose the sentence it believes the court should have imposed." Similarly, in the case of *Henderson*, "in its sentencing entry, the court indicated only that it sentenced Henderson to a 15-year sentence. *HNI*6 A trial court speaks through its journal [****29] entry. *State v. Hampton*, 134 Ohio St.3d 447, 2012-Ohio-5688, 983 N.E.2d 324, ¶ 15. And here, that entry indicated that Henderson was sentenced to a definite 15-year term." Here Anthony Cochran was sentenced to a four (4) year term in the O.D.R.C, he was not sentenced to a four (4) year mandatory term as Ohio law required, ad as the respondent O.D.R.C, is applying.

The O.D.R.C. has continued to disregard the sentence imposed and has chosen to impose the sentence it feels should have been imposed, the relator has no adequate remedy at law. It is the power of the trial court to issue and order sentences of imprisonment, not the Ohio department of rehabilitations and corrections. The relator is asking the respondent is ordered to comply with the Order of imprisonment, (exhibit" A"). The legal precedent is clear, it is the duty of the Trial Court to impose sentence, pursuant to 2925.11 and 2929.19, and issue a sentencing Order, it is the duty of the **Ohio Department of Rehabilitations and Corrections**, to apply the written Order. The written Order is a four-year term, not a four-year mandatory term.

Conclusion

The Ohio Const. Art I, section 10 and 16, and the United States Constitution, amendments 5, 6, and 14, provide for the equal protection and due process of law. Ohio Revised code 2929.19 and 2925.11 directs who is to order a term of imprisonment and the relator requests the court issue a writ that orders the sentence imposed by the trial court of four years be imposed, a writ should issue ordering the Ohio Department of Rehabilitations and Corrections, to apply the sentence as ordered pursuant to, and 2929., as well as Ohio admin code, previous case precedent. That sentence is "A four-year term", the sentence that the respondent is currently imposing is a four-year mandatory term.

Prayer for relief

The relator prays the court issue the writ and compel the respondent to only impose the four (4) year term as written and ordered by the trial court in exhibit "A".

Anthony Cochran Date 4-5-2021

Anthony Cochran, relator pro se,

Inmate number a767207

Belmont Correctional Institution

P.O. Box 540,

St. Clairsville, Ohio 43950

Sworn to and attested in my presence on the 5 day of Apr. 1, 2021



MICHELLE LYNN THEIL
Notary Public, State of Ohio
My Commission Expires

Apr. 17 2022

Mydheo

Notary

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

State Of Ohio,

Plaintiff,

vs.

Anthony W. Cochran

Defendant.

: Relator's
Exhibit "A"

: TERMINATION NO. 13

: Case No. 19CR 512

: Judge Page, Jaiza

:

JUDGMENT ENTRY
(Prison Imposed)

On September 11, 2019, the State of Ohio was represented by Assistant Prosecuting Attorney **Jamie Z. Sacksteder** and the Defendant was represented by Attorney **Adam Chaudry**. The Defendant, after being advised of his rights pursuant to Crim. R. 11, entered a plea of guilty to the Count One of the Indictment, to wit: **Trafficking in Heroin without Specification**, in violation of R.C. 2925.11, a **Felony** of the **Second Degree**.

Upon application of the Prosecuting Attorney and for good cause shown, it is ORDERED that a **NOLLE PROSEQUI** be entered for **Counts Two, Three and the Specification to Count One** of the Indictment. **Counts Four and Five** of the Indictment do not pertain to Anthony Cochran.

The Court found the Defendant guilty of the charge to which the plea was entered.

The Assistant Prosecuting Attorney and the Defendant's Attorney **did not recommend a sentence.**

The Court ordered and received a pre-sentence investigation.

On **October 24, 2019**, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Assistant Prosecuting Attorney **Jamie Sacksteder** and the Defendant was represented by Attorney **Adam Chaudry**.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement on his own behalf in the form of mitigation.

The Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the factors set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is mandatory.

The Court hereby imposes the following sentence: The Defendant shall serve **Four (4) years** at

the Ohio Department of Rehabilitation and Corrections.

Exhibit "A"

It is further ordered that the weapon be confiscated and destroyed.

Furthermore, the Court **MAKES NO RECOMMENDATION** of the offender's placement in an Intensive Prison Program, Transitional Control, or Risk Reduction Sentence.

The Court has considered the Defendant's present and future ability to pay a fine and financial sanction and does, pursuant to R.C. 2929.18, hereby render judgment for the following fine and/or financial sanctions: **The Defendant shall pay a mandatory fine in the amount of \$7,500.00. Said fine shall be deferred while the Defendant is incarcerated. Defendant's court costs are waived.**

The Court, pursuant to this entry, notified the Defendant that the Defendant will receive a period of **mandatory** post-release control of up to 3 years. To the extent that the imposition of post release control is to be determined by the Adult Parole Authority as it relates to R.C. 2967.28. The Defendant was informed, orally and in writing, that if the Defendant violates post-release control the Adult Parole Authority may, in the discretion of the Adult Parole Authority, extend the amount of time that the Defendant spends on post release control; or that it may add additional conditions to the existing post release control, or that the Defendant's sentence will be extended administratively, should the Adult Parole Authority so determine, in accordance with State law, for a period not to exceed one-half of the sentence imposed by this Court.

The Court finds, and counsel stipulated, that the Defendant has 118 days of jail credit and hereby certifies the time to the Ohio Department of Corrections. The Defendant is to receive jail time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.



Page, Jaiza, JUDGE

Copies to:

Prosecuting Attorney: Jamie Sacksteder
Counsel for Defendant: Adam Chaudry
Case No. 19CR 512

Exhibit "A"

Court Disposition

Case Number: 19CR000512

Case Style: STATE OF OHIO -VS- ANTHONY W COCHRAN

Case Terminated: 13 - Guilty or No Contest Plea to Reduced Charge

Final Appealable Order: No

Exhibit "B"

Thursday, October 31, 2019 11:00 AM

THE FOLLOWING CRIMES INFORMATION IS COMPUTER GENERATED AT THE TIME OF ADMISSION AND MAY NEED TO BE VERIFIED WITH THE RECORD OFFICE.

Please examine this IMMEDIATELY, paying particular attention to the following:

1. **ALL INMATES-** Look under the heading of "JTC" (jail time credit) and check for accuracy. Consult legal packet for further information on "JAIL CREDIT".
2. **CRIMES PRIOR TO JULY 1, 1996-** Heading "FEL" indicates degree of felony. Aggravated felonies have an "A" before the degree number. Consult legal packet as to importance of an aggravated felony in terms of "SHOCK/ SUPER-SHOCK" eligibility.

CRIMES AFTER JULY 1, 1996- Heading "FEL" indicates degree of felony, which determines time frame for "JUDICIAL RELEASE" eligibility. See Legal Packet under "JUDICIAL RELEASE" for further explanation.

3. **CRIMES PRIOR TO JULY 1, 1996-** Headings "GN" and "AIT" indicates you are serving a "gun spec" (GN) or a period of "actual incarceration time" (AIT). See packet under "SHOCK/SUPER-SHOCK" for importance of these terms.

CRIMES AFTER JULY 1, 1996- Heading "AIT/MAND" refers to any MANDATORY INCARCERATION that you must serve. See Legal packet under "JUDICIAL RELEASE" for further information of effect of mandatory sentences.

4. **ALL INMATES-** Consult Legal Packet under "APPEAL" or "APPEAL OF RIGHT" for information on filing an appeal.
5. Heading "CS" designates whether your sentences are conSecutive "S" or conCurrent "C" to each other.

SHOCK PAROLE ELIGIBLE: NO

OFFENSE DATA

* OFFENSE	START mmddyy	COUNTS	CL	JAIL TIME CREDIT	GUN YEARS	DEF/ TERM	MIN/ FULL	MAX SENTENCE	A/I MANDATORY	LIFE DEATH	COUNTY	DOCKET NUMBER	C N	DEG FEL
DRUG TRAFFICKING	10/30/19	1	C	123					4.00		FRAN	19CR512	C	2
FIREARMS IN MOTOR VEH	10/30/19	1	C	122		1.50					FRAN	19CR539	C	4

41
34
75

Exhibit 'B'

Thursday, October 31, 2019 11:00 AM

age 1 of 2

YOUR SENTENCE

Inmate Name: COCHRAN, ANTHONY W

Date of Birth: 08/25/1975

New Number: A767207

Old Number:

Aggregate Sentence: * 4.00 Mand

THE FOLLOWING CRIMES AND SENTENCE INFORMATION I COMPUTER
GENERATED AT TIME OF ADMISSION AND MAY NEED TO BE VERIFIED WITH
THE RECORD OFFICE

O.R.C. 2929.41

The following is the order in which sentences are to be served. If one of the following
paragraphs does NOT apply, it will be left blank.

1. Actual Incarceration (Gun) - AI(G) - Time is served first. Time begins on the day you arrive at THIS INSTITUTION. You have _____ years gun specification. Your actual incarceration for the weapon is up _____.
2. You have 4.00 years of actual incarceration/mandatory time.
3. Definite or stated term sentences are served next. You have a definite/stated term sentence total of 4.00 years. The end of your definite/stated term sentence is 06/27/2023.
4. Indefinite sentences are served last. You have an indefinite sentence total of _____ - _____ years. Your first hearing date is approximately _____.

The following is the most current address of the FRANKLIN

County Court(s) available. Also included is the County Prosecutor's address. Please
DOUBLE CHECK these addresses before filing, as these addresses are subject to change.

FRANKLIN Co. Court[s]
345 S. HIGH ST., 1ST FL.
COLUMBUS, OHIO 43215

FRANKLIN Co. Prosecutor
373 S. HIGH ST., 14TH FL.
COLUMBUS, OHIO 43215