



10-19-1995

Petition for Declaration of Innocence as a Wrongfully Imprisoned Individual (with supporting materials)

Terry H. Gilbert
Attorney for Sheppard Estate

How does access to this work benefit you? Let us know!

Follow this and additional works at: https://engagedscholarship.csuohio.edu/sheppard_court_filings_2000

Recommended Citation

Gilbert, Terry H., "Petition for Declaration of Innocence as a Wrongfully Imprisoned Individual (with supporting materials)" (1995). *1995-2002 Court Filings*. 8.
https://engagedscholarship.csuohio.edu/sheppard_court_filings_2000/8

This State v. Sheppard, Cuyahoga County Common Pleas Case No. 64571 is brought to you for free and open access by the 2000 Trial at EngagedScholarship@CSU. It has been accepted for inclusion in 1995-2002 Court Filings by an authorized administrator of EngagedScholarship@CSU. For more information, please contact library.es@csuohio.edu.

10/19/95

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO

CASE NO. CR 64571

Plaintiff

JUDGE

RECEIVED

-vs-

OCT 19 1995

PETITION FOR DECLARATION OF
INNOCENCE AS A WRONGFULLY
IMPRISONED INDIVIDUAL

SAMUEL H. SHEPPARD

PROSECUTING ATTORNEY
CUYAHOGA COUNTY
CLEVELAND, OHIO

Defendant

Now comes Alan J. Davis, Special Administrator of the Estate of Samuel H. Sheppard, through undersigned counsel, and hereby petitions this Honorable Court for an order, pursuant to Ohio Revised Code Section 2743.48, to declare Samuel H. Sheppard a wrongfully imprisoned person, for the reason that said Samuel H. Sheppard was convicted of second degree murder of his wife, Marilyn Sheppard, in 1954, spent nearly ten years in prison as a result of this conviction, and, as the evidence will show by clear and convincing proof, was actually innocent of this crime.

This Court, pursuant to Ohio Revised Code Section 2305.02:

". . . has exclusive, original jurisdiction to hear and determine an action or proceeding that is commenced by an individual who satisfies divisions (A)(1) to (3) of section 2743.48 of the Revised Code and that seeks a determination by the court that the offense of which he was found guilty, including all lesser included offenses, either was not committed by him or was not committed by any person."

The basis for this Petition is as follows:

1. Dr. Sheppard was indicted for murder in the first degree on August 17, 1954 in connection with the death of his wife, Marilyn Sheppard.

2. His trial ended with a verdict of guilty of murder in the second degree on December 21, 1954, and on January 3, 1955, he was sentenced to life imprisonment.

3. After a lengthy appeals process, the United States Supreme Court in 1964, reversed the conviction and ordered a new trial based on the unfairness of the trial and the prejudicial role of the media.

4. On November 16, 1966, Dr. Sheppard was subject to a re-trial and found not guilty of the murder.

5. Dr. Sheppard was incarcerated for nearly ten years in Ohio prisons.

6. At the time of his arrest, Dr. Sheppard was a practicing physician, with a successful career, the father of a young son, age seven, and a prominent member of the community. The conviction and incarceration essentially ruined his life and caused irreparable suffering for his son and other members of his family. Dr. Sheppard, a once healthy and athletic man, died on April 6, 1970 at the age of 46, due in large part to the years of physical neglect, abuse and mental anguish arising from this prosecution, imprisonment, separation from family, society and career.

7. Despite his acquittal in 1966, the State of Ohio, through the various law enforcement agencies involved in this case, never seriously entertained the notion of finding the actual killer of Marilyn Sheppard. While the case was technically open and unsolved, these agencies did little more than filing reports of new information that would come to their attention, yet take no serious investigative action.

8. Between 1990 and 1995, Samuel Reese Sheppard, son of Dr. Sheppard; Cynthia Cooper, a journalist-author; investigators from AMSEC, a professional investigative firm; and undersigned counsel conducted a comprehensive and massive review of every aspect of this case. Witnesses, many of whom were never contacted by law enforcement, were interviewed. Police reports, forensic reports, and witness statements never provided the defense at trial, nor disclosed since, were obtained through Public Records Act requests and litigation. Contemporary forensic experts were consulted to review scientific evidence in the case, measuring the significance in light of modern forensic science.

9. The result of this investigation leads to the conclusion that Dr. Sheppard is innocent of the murder of his wife, Marilyn, and that an individual named Richard Eberling, currently incarcerated for the murder of another woman, is the likely murderer.

10. The critical evidence in support of Dr. Sheppard's innocence will be presented in the course of these proceedings; however a few major disclosures should be mentioned at this juncture:

(A) The killer of Marilyn Sheppard left a trail of blood from the murder room throughout the house, blood that could only have come from the oozing wound of the murderer. A newly disclosed police report reveals the existence and even collection of samples from this blood trail, but no testing was ever done for blood type. Dr. Sheppard was immediately examined, and although he had serious neck and back internal injuries (as a result of his being assaulted by the killer), no open wounds were found

on his body. Marilyn Sheppard's teeth were pulled out in a way that indicated she bit the person who was attacking her. Blood from a third person was found in the murder room after testing by renowned criminalist Dr. Paul Leland Kirk, who conducted an exhaustive search of the crime scene in 1955. Richard Eberling, when arrested for a series of burglaries and thefts in 1959 (including the theft of Marilyn Sheppard's ring from the home of Dr. Sheppard's brother), disclosed that he had cut his hand washing windows at the Sheppard home, but gave conflicting times and dates as to when that supposedly occurred. In 1990, investigators tracked down a co-worker of Eberling who insisted that he, not Eberling washed the windows at the Sheppard home in the days before the murder. Incidentally, Eberling was not interrogated by police at the time of the murder, and in 1959, when Eberling was in custody, police were told to drop the matter by Coroner Gerber, Dr. Sheppard's principal accuser, as well as John T. Corrigan, the County Prosecutor.

(B) A Scientific Investigation Unit report, also never disclosed by the prosecution, reveals that there was fresh evidence of forcible entry through the cellar door. The finding was significant enough to require a plasticine impression of the damaged doorway. Yet, the prosecution's most powerful argument against Dr. Sheppard was that there was no evidence of a break-in, and that Dr. Sheppard was the only one in the house at the time of the murder. That theory can now be debunked because the killer

entered through the basement, an entry only known to a small number of people, including Eberling.

11. The re-investigation focused on Richard Eberling as a suspect, who is now serving a life imprisonment for the murder of Ethel Durkin. Eberling has a long and documented history of psychosis and psychopathic symptoms, beginning with neurological impairment as a child. His medical, psychological, and behavioral patterns are consistent with those of disturbed, and even serial killers. The investigation reveals other unsolved killings of women, including the sisters of Ms. Durkin and others, with striking similarities to the Sheppard murder. Eberling was obsessed with Marilyn Sheppard, as indicated by his focus on owning her ring. He was a jewel thief and burglar, and on the night of the murder, jewelry and cash were taken from the home. He was jealous of the Sheppards and their success in life, and the family he never had. He hated Dr. Sheppard for his athletic accomplishments, and two athletic trophies were smashed to the floor on the night of the murder, evidence of hostility and hatred. Eberling had a remarkable knowledge of the description of the property and the furnishings, and as of 1992, was able to draw an architecturally accurate drawing of the property. He cannot truthfully account for his whereabouts at the time of the murder. He fits all the available descriptions of the killer, including the build, the height, the large head, and the use of wigs. The police drawings derived from eyewitnesses who saw a man near the Sheppard home that evening, reveal a similarity to Eberling. Finally, Eberling, who granted a number of interviews and corresponded with Cynthia Cooper since 1992, has been obsessed with the Sheppard murder case and Marilyn Sheppard herself, and has made statements such as "why do

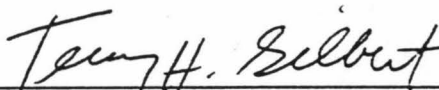
women fight back when they are raped?" or "I'm looking at her now and she doesn't look pregnant." There is evidence that Marilyn Sheppard was sexually assaulted, as inferred by her nightgown pushed above her abdomen, yet this aspect was never pursued by the police.

12. The evidence will show that Eberling had motive, opportunity, identity, and access to kill Marilyn Sheppard.

13. A review of all the evidence demonstrates that Dr. Samuel H. Sheppard could not have murdered his wife, had no reason to murder his wife, and was a victim of a misdirected, overreaching prosecution.

WHEREFORE, it is urged that this Court undue this momentous injustice, declare Dr. Sheppard innocent, and enter a determination that he is a wrongfully imprisoned individual.

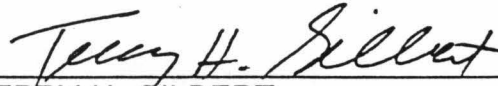
Respectfully submitted,



TERRY H. GILBERT (0021948)
Attorney for Petitioner, Special Administrator
of the Estate of Samuel H. Sheppard
1700 Standard Building
1370 Ontario Street
Cleveland, OH 44113
(216) 241-1430

CERTIFICATE OF SERVICE

A copy of the foregoing has been hand-delivered, this 19 day of October, 1995,
to Stephanie Tubbs Jones, Cuyahoga County Prosecutor, at her office, Justice Center,
1200 Ontario Street, Cleveland, Ohio 44113.



TERRY H. GILBERT

Attorney for Petitioner, Special Administrator
of the Estate of Samuel H. Sheppard

brought in either the court of claims or the court of common pleas: *Beatley v. Bd. of Trustees*, 4 OApp3d 1, 4 OBR 20, 446 NE2d 182.

3. (1984) Courts of common pleas are without jurisdiction to proceed in actions for declaratory or injunctive relief involving controversies under the environmental protection provisions of RC Chapter 3745.: *State ex rel. Maynard v. Whitfield*, 12 OS3d 49, 12 OBR 42, 465 NE2d 406.

4. (1984) After an action has been fully litigated in the domestic relations division of common pleas court and a judgment entry has been filed granting a divorce and providing for the division of property, the exclusive jurisdiction is terminated. At that point, there exists concurrent jurisdiction with the general division of common pleas court: *Price v. Price*, 16 OApp3d 93, 16 OBR 95, 474 NE2d 662.

5. (1984) Although sovereign immunity is no longer a viable defense, a court of common pleas has no jurisdiction over a suit against the state involving a claim which previously would have been barred by the doctrine of sovereign immunity since RC § 2743.03 vests in the Court of Claims exclusive, original jurisdiction over all such suits against the state: *Buerger v. Office of Public Defender*, 17 OApp3d 29, 17 OBR 82, 477 NE2d 1170.

6. (1985) An action against the state for negligence, where such a cause of action exists, may only be brought in the Court of Claims, not in a court of common pleas. RC § 2743.02(A): *Von Hoene v. State*, 20 OApp3d 363, 20 OBR 467, 486 NE2d 868.

7. (1985) An allegation that state officers or employees acted to cause plaintiff's injury "with malicious purpose, in bad faith or in a wanton or reckless manner" is sufficient to give the common pleas court jurisdiction over the named defendants and to state a claim upon which relief can be granted, and the complaint will survive a motion to dismiss filed under CivR 12(B)(2) and (B)(6). RC § 2743.02(A)(1) and (2): *Von Hoene v. State*, 20 OApp3d 363, 20 OBR 467, 486 NE2d 868.

8. (1986) Generally, Ohio's courts of common pleas have original jurisdiction over civil actions commenced against counties and their agencies. (Section 4, Article IV of the Ohio Constitution; RC § 2305.01.): *Burr v. Stark Cty. Bd. of Commrs.*, 23 OS3d 69, 23 OBR 200, 491 NE2d 1101.

9. (1985) In the context of RC § 2743.02(A)(1), "the court" means the Court of Claims. Thus, where a plaintiff has simultaneous actions pending in a court of common pleas and the Court of Claims against a state defendant and several state employees, the court of common pleas must defer to a ruling by the Court of Claims as to whether the employees acted "with malicious purpose, in bad faith, or in a wanton or reckless manner." *McIntosh v. Univ. of Cincinnati*, 24 OApp3d 116, 24 OBR 187, 493 NE2d 321.

10. (1987) A court of common pleas does not lack jurisdiction over an action against state officers or employees merely because the Court of Claims has not first determined that the act or omission, which is the subject of the action, was manifestly outside the scope of the officer's or employee's office or employment, or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner, unless the aggrieved party has filed a suit in the Court of Claims based on the same act or omission: *Cooperman v. Univ. Surgical Assoc.*, 32 OS3d 191, 513 NE2d 288.

11. (1987) Pursuant to RC §§ 3335.03 and 2743.02(A)(1), an action in contract may be brought against the Board of Trustees of the Ohio State University in the court of common pleas: *Schwarz v. Bd. of Trustees of Ohio State Univ.*, 31 OS3d 267, 31 OBR 493, 510 NE2d 808.

12. (1987) The courts of common pleas possess jurisdiction to entertain federal claims seeking prospective injunctive relief brought under Section 1983, Title 42, U.S. Code, against individual state officers in their official capacities, in order to redress alleged deprivations of rights, privileges or immunities guaranteed by the United States Constitution: *Schwarz v. Bd. of Trustees of Ohio State Univ.*, 31 OS3d 267, 31 OBR 493, 510 NE2d 808.

13. (1986) A court of common pleas has no jurisdiction to consider a post-judgment motion requesting a court order directing the payment of attorney fees, where such motion is filed by a non-party and where the complaint contains no cause of action for attorney fees. Since such jurisdiction does not exist, it may not be "reserved" by the court in its final judgment: *Seven Hills v. Cleveland*, 47 OApp3d 159, ___ NE2d ___.

§ 2305.02 Determination of wrongful imprisonment claim.

A court of common pleas has exclusive, original jurisdiction to hear and determine an action or proceeding that is commenced by an individual who satisfies divisions (A)(1) to (4) of section 2743.48 of the Revised Code and that seeks a determination by the court that the offense of which he was found guilty, including all lesser-included offenses, either was not committed by him or was not committed by any person. If the court enters the requested determination, it shall comply with division (B) of that section.

HISTORY: 141 v H 609 (Eff 9-24-86); 142 v H 623, Eff 3-17-89.

Not analogous to former RC § 2305.02 (RS § 467-1; 90 v 301; CC § 11216; Bureau of Code Revision, 10-1-53), repealed 133 v H 1201, § 1, eff 7-1-71.

CASE NOTES AND OAG

1. (1989) In a proceeding under RC § 2305.02, the claimant bears the burden of proving his innocence by a preponderance of the evidence: *Walden v. State*, 47 OApp3d 47, ___ NE2d ___.

2. (1989) A person who is acquitted by reason of self-defense may seek compensation for wrongful imprisonment under RC §§ 2305.02 and 2743.48: *Walden v. State*, 47 OApp3d 47, ___ NE2d ___.

3. (1989) Where a person claiming compensation for wrongful imprisonment has presented an affirmative defense of self-defense at his criminal trial, and has obtained a judgment of acquittal, that judgment is not to be given preclusive effect in a proceeding under RC § 2305.02: *Walden v. State*, 47 OApp3d 47, ___ NE2d ___.

§ 2305.03 Lapse of time a bar.

ALR

Limitation of actions: invasion of right of privacy, 33 ALR4th 479.

FILED
1 JUN 19 1995
COURT OF CLAIMS OF OHIO

IN THE COURT OF CLAIMS OF OHIO

BRIAN PISZCZEK, :
Plaintiff, :
v. : Case No. 94-13055WI
STATE OF OHIO, :
Defendant. :

JOURNAL ENTRY

Judgment is hereby entered in favor of Plaintiff, Brian Piszczek and against Defendant, State of Ohio in the amount of \$105,000.00.

FINDINGS OF FACT

1. On June 26, 1991, Plaintiff, Brian Piszczek was convicted of rape, felonious assault and aggravated burglary in the Court of Common Pleas of Cuyahoga County.

2. The court sentenced him as follows:

It is ordered by the Court the Defendant, Brian J. Piszczek, is sentenced Lorain Correctional Institution 15-25 years Count 3, minimum term to be served as actual incarceration; Court further finds cts 1 and 3 merge for sentencing, sentenced 12-15 years on ct 2, minimum term to be served as term of actual incarceration, concurrent and consecutive to probation in violation of CR 244753.

3. On September 13, 1994, Plaintiff filed a motion for a new trial with the trial court based upon the results of DNA forensic testing which excluded him as a donor of the fluids obtained from the alleged victim, thereby excluding him as the offender with respect to these convictions.

RECORDED

JUN 19 1995

Julie Wagner-Rucker

CIVIL ACTIONS
JOURNAL

Case No. 94-13055WI

4. The court granted the motion for a new trial, without objection, and on October 6, 1994, the court entered a nolle prosequi as to all charges in the indictment.

5. Further, the Cuyahoga County Court of Common Pleas found Plaintiff to have been a wrongfully imprisoned individual pursuant to R.C. 2305.02 and 2743.48. (A copy of the entry is attached hereto and marked as Exhibit A.)

6. Plaintiff was imprisoned for three years and 183 days.

7. He suffered economic loss in the amount of \$8,591.33.

8. Plaintiff incurred costs of defending the criminal charges in the amount of \$3,875.00.

9. Plaintiff incurred attorney fee costs for his defense and his wrongful imprisonment determination in the amount of \$5,000.00.

CONCLUSIONS OF LAW

1. R.C. 2743.48(A)(1)-(5) sets forth the test for determination of "wrongful imprisoned". Piszczek meets each criteria. Piszczek was charged with a felony, was found guilty, and sentenced for such charges, was released from imprisonment on basis (nolle prosequi) which makes the criminal proceedings against him final, and has obtained a de novo determination by a court of common pleas that the charges upon which his original convictions were based and all lesser included offenses were "not committed by

JUN 19 1995
Julie Wagner-Rucker

IN THE COURT OF CLAIMS OF OHIO

FILED
1 JUN 19 1995
COURT OF CLAIMS OF OHIO

BRIAN PISZCZEK, :
Plaintiff, :
v. : Case No. 94-13055WI
STATE OF OHIO, :
Defendant. :

STIPULATION

The parties hereby stipulate to the following:

1. In 1994, the Cuyahoga County Court of Common Pleas found Plaintiff to have been a wrongfully imprisoned individual pursuant to R.C. 2743.48 and 2305.02. Said judgment is final;
2. Plaintiff was imprisoned for three years and 183 days;
3. Plaintiff suffered economic loss in the amount of \$8,591.33;
4. Plaintiff incurred attorney fee costs for his defense and his wrongful imprisonment determination in the amount of \$5,000.00;
5. Plaintiff incurred costs of defending the criminal charges against him in the amount of \$3,875.00;
6. Based upon this Stipulation, Plaintiff is owed \$105,000.00 as a result of the declaration of wrongful imprisonment; and
7. Neither party will appeal a judgment in such amount and each party waives any right of appeal, allowing immediate certification of a judgment, pursuant to R.C. 2743.48(G).

JOURNALLED JUN 19 1995
BY Julie Wagner-Ricketts

EXHIBIT B

CIVIL ACTIONS
JOURNAL

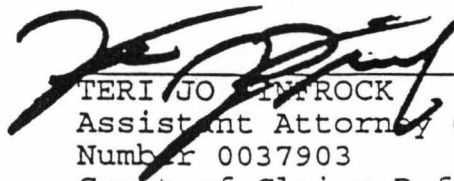
Case No. 94-13055-WI

Respectfully submitted,

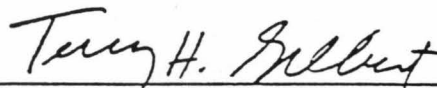
1 JUN 19 1995

BETTY D. MONTGOMERY
Attorney General of Ohio

COURT OF CLAIMS OF OHIO



TERI JO INFROCK
Assistant Attorney General
Number 0037903
Court of Claims Defense
65 East State Street
Suite 1630
Columbus, Ohio 43215-4220
(614) 466-7447
COUNSEL FOR DEFENDANT



TERRY H. GILBERT, ESQ.
1700 Standard Bldg.
1370 Ontario Street
Cleveland, OH 44113
COUNSEL FOR PLAINTIFF

JOURNALIZED JUN 19 1995

BY Julie Nagau-Rucka

CIVIL ACTIONS
JOURNAL

Case No. 94-13055WI

Journal Entry

him". Pursuant to R.C. 2743.48(E)(1), when a person has obtained a determination by a common pleas court, the person may commence an action in the Court of Claims, in which "[N]o other evidence shall be required of the complainant to establish that he is a wrongfully imprisoned individual, and he shall irrebuttably presumed to be a wrongfully imprisoned individual." This court accepts the common pleas court's judgment and declares Piszczek to be a wrongfully imprisoned individual.

2. Pursuant to R.C. 2743.48(E)(2)(a)-(c), and 2743.48(F)(2), Plaintiff is entitled to \$25,000.00 per year for imprisonment, plus a pro rata share of any year; fines, court costs, costs and reasonable attorney's fees incurred in defense of the criminal charges against him and in obtaining his release, loss of wages, salary or other earned income that directly resulted from his arrest, prosecution, conviction, and wrongful imprisonment, and reasonable attorney's fees for obtaining of the declaration of wrongful imprisonment by this Court.

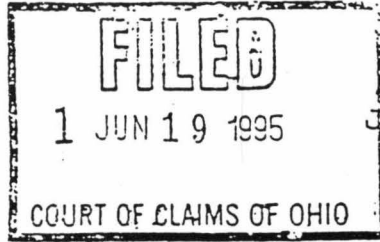
3. Based upon the findings of fact, the Court enters the following judgment:

- a. \$87,533.67 for imprisonment of three years and 183 days;
- b. Costs of \$3,875.00;
- c. Economic loss of \$8,591.33; and
- d. Reasonable attorney's fees of \$5,000.00.

RECORDED
JUN 19 1995
BY Julie Wagner-Ruckel

Case No. 94-13055WI

4



Journal Entry

4. R.C. 2743.48(G) provides:

The Clerk of the Court of Claims shall forward a certified copy of a judgment under division of F of R.C. 2743.48 to the president of the Controlling Board. The Board shall take all actions necessary to cause the payment of the judgment out of the emergency purposes special purposes account of the Board.

5. The Clerk is hereby ordered to certify a copy of this judgment in the total amount of \$105,000.00 to the president of the Controlling Board. Interest on the judgment shall be allowed per R.C. 2743.19.

6. The warrant of payment of judgment shall be sent to Plaintiff, Brian Piszczek through the office of his attorney, Terry H. Gilbert, 1700 Standard Building, 1370 Ontario Street, Cleveland, OH 44113.

7. The Court will absorb costs of this action.

6-19-95.
DATE

[Signature]
JUDGE

cc:

Terry H. Gilbert, Esq.
1700 Standard Bldg.
1370 Ontario Street
Cleveland, OH 44113
Counsel for Plaintiff

Teri Jo Finfrock
Assistant Attorney General
Court of Claims Defense
65 East State Street
Suite 1630
Columbus, OH 43215-4220
Counsel for Defendant

JOURNALIZED JUN 19 1995
BY *Almie Wagner-Rucke*

CIVIL ACTIONS
JOURNAL

FILED
1 JUN 19 1995
COURT OF CLAIMS OF OHIO

STATE OF OHIO,
CUYAHOGA COUNTY, SS.

IN THE COURT OF COMMON PLEAS

STATE OF OHIO
BRIAN J PISZCZEK

PLAINTIFF

DEFENDANT

JOURNAL ENTRY

TO-WIT: JULIE 26 MAY TERM. 19 91
NO. CR-257813 19 91

INDICTMENT RAPE W/SPECS, FEL. ASSLT
W/SPECS, AGGR BURGLARY W/SPECS

RECEIVED FOR FILING

JUL 3 1991

GERALD E. FUERST, CLERK
BY *[Signature]* DEP.

THIS DAY AGAIN COMES THE PROSECUTING ATTORNEY AND DEFENDANT, BRIAN J. PISZCZEK, IN OPEN COURT, WITH COUNSEL, WHEREUPON, JURY HAVING HEARD ALL TESTIMONY ADDUCED, ARGUMENTS OF COUNSEL; CHARGE OF COURT RETIRED TO THEIR ROOM IN CHARGE OF BAILIFF TO DELIBERATE, NOW COMES THE JURY, CONDUCTED INTO COURT BY BAILIFF AND RETURNED FOLLOWING VERDICT IN WRITING, TO-WIT: "WE, THE JURY BEING DULY IMPANELED AND SWORN, FIND THE DEFENDANT, BRIAN J. PISZCZEK, GUILTY OF RAPE RC 2907.02 W/SPECIFICATIONS COUNT ONE", "WE THE JURY FIND THE DEFENDANT GUILTY OF FELONIOUS ASSAULT RC 2903.11 W/SPECS AS CHARGED COUNT TWO" AND "WE THE JURY FIND THE DEFENDANT GUILTY OF AGGRAVATED BURGLARY W/SPECS RC 2911.11 AS CHARGED IN COUNT THREE", DEFENDANT STIPULATES TO PRIOR AGGRAVATED FELONY CONVICTION IN CASE GR 244753.

DEFENDANT INFORMED OF THE JURY'S VERDICT AND INQUIRED OF IF HE HAD ANYTHING TO SAY AND HE HAVING NOTHING BUT WHAT HE HAD ALREADY SAID AND SHOWING NO GOOD AND SUFFICIENT CAUSE WHY JUDGMENT SHOULD NOT BE PRONOUNCED: IT IS ORDERED BY THE COURT THAT DEFENDANT, BRIAN J. PISZCZEK, IS SENTENCED LORAIN CORRECTIONAL INSTITUTION 15 TO 25 YEARS COUNT 3, MINIMUM TERM TO BE SERVED AS ACTUAL INCARCERATION; COURT FURTHER FINDS CTS 1 AND 3 MERGE FOR SENTENCING, SENTENCED 12 TO 15 YEARS ON CT. 2, MINIMUM TERM TO BE SERVED AS TERM OF ACTUAL INCARCERATION, CONCURRENT BUT CONSECUTIVE TO PROBATION VIOLATION IN CR 244753. ADVISED OF RIGHTS CR 32 A 2, TRANSCRIPT ORDERED, COUNSEL TO BE ASSIGNED.

JUDGE

[Signature]
ROBERT E FEIGHAN

MB 06/27/91 16:09

VOL 1030 PG 583

EXHIBIT A

CIVIL ACTIONS
JOURNAL

VOL. 443 PAGE 140

JUN 19 1995

[Signature]
BY Julie Wagner-Rueker

Case No. 94-13055-WI

STATE OF OHIO,
CUYAHOGA COUNTY

SS.

IN THE COURT OF COMMON PLEAS

STATE OF OHIO
vs.

PLAINTIFF

BRIAN J PISZCZEK

DEFENDANT

TO-WIT: OCTOBER 06 SEPTEMBER TERM, 19 94
NO. CR-257813 , 19 94

INDICTMENT RAPE W/SPECS. FEL. ASSLT
W/SPECS. AGGR BURGLARY W/SPECS

JOURNAL ENTRY

THIS DAY CAME THE PROSECUTING ATTORNEY ON BEHALF OF THE STATE OF OHIO, AND WITH LEAVE OF COURT, AND ON GOOD CAUSE SHOWN, ENTERED A NOLLE PROSEQUI ON THE ABOVE INDICTMENT; DEFENDANT'S MOTION FOR DETERMINATION THAT BRIAN PISZCZEK IS A WRONGFULLY IMPRISONED INDIVIDUAL PURSUANT TO SECTIONS 2305.02 AND 2743.48 OF ORC IS GRANTED.

FILED
OCT 12 1994
GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY, OHIO

VOL 1340 PGO 164

JUDGE

Stuart A. Saferin
STUART A SAFERIN

LRT 10/11/94 11:39

COPIES SENT TO:

Sheriff _____ Out _____
 Defenda _____

FILED
1 JUN 19 1995
COURT OF CLAIMS OF OHIO

CIVIL ACTIONS
JOURNAL

VOL. 443 PAGE 141

JOURNAL

JUN 19 1995

BY

Julie Nague-Rucker

THE STATE OF OHIO } I, GERALD E. FUERST, CLERK OF
Cuyahoga County } SS. THE COURT OF COMMON PLEAS
WITHIN AND FOR SAID COUNTY.

HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY
TAKEN AND COPIED FROM THE ORIGINAL Journal CR-257813

NOW ON FILE IN MY OFFICE
WITNESS BY HAND AND SEAL OF SAID COURT THIS 28
DAY OF Oct A.D. 1994

GERALD E. FUERST, Clerk

By *[Signature]* Deputy