

ORIGINAL

IN THE OHIO COURT OF CLAIMS

FILED
COURT OF CLAIMS
OF OHIO
2015 MAR 10 AM 10:52

ALBERT GRAVES)

Plaintiff)

-vs-)

STATE OF OHIO)

Defendant)

CASE NO. 2014-00989-WI

JUDGE PATRICK M. McGRATH
MAGISTRATE HOLLY TRUE SHAVER

**NOTICE OF FILING OF
JUDGMENT ENTRIES**

Now comes the Plaintiff, Albert Graves, through counsel, and hereby gives notice of the filing of the following certified copies, included herein, of judgment entries required by this Court under R.C. 2743.48:

1. Judgment entry of the Lorain County Court of Common Pleas declaring Albert Graves a wrongfully imprisoned individual.
2. Judgment entry of conviction and sentencing of the Lorain County Court of Common Pleas regarding Albert Graves' criminal case.
3. Judgment entry with jury verdict forms.

Respectfully submitted,

FRIEDMAN & GILBERT

TERRY H. GILBERT (0021948)
Attorney for Plaintiff
55 Public Square, Suite 1055
Cleveland, OH 44113-1901
Telephone: (216) 241-1430
Facsimile: (216) 621-0427
E-Mail: tgilbert@f-glaw.com

ON COMPUTER

CERTIFICATE OF SERVICE

A copy of the foregoing Notice of Filing of Judgment Entries has been sent by regular U.S. Mail, postage prepaid, this 6 day of March, 2015, to the following:

Amy S. Brown, Esq.
Lindsey M. Grant, Esq.
Assistant Attorneys General
Court of Claims Defense Section
150 East Gay Street, 18th Floor
Columbus, OH 43215-3130



TERRY H. GILBERT
Attorney for Plaintiff

ENTERED
SK

FILED
LORAIN COUNTY

2014 DEC -9 P 2:29

CLERK OF COMMON PLEAS
RON HABAKOWSKI

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

ALBERT GRAVES)

CASE NO. 12CV176687

Plaintiff)

JUDGE RAYMOND J. EWERS

vs)

JOURNAL ENTRY

STATE OF OHIO, et al.,)

Defendants)

This case came before this Court on a Brief on Remand. Pursuant to the decision of the Ninth District Court of Appeals, this Court's decision dated September 27, 2013 is vacated.

Briefs were submitted on the application of 2743.48(A)(5) only.

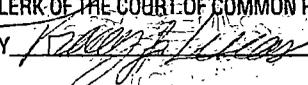
This Court finds that the Plaintiff, Albert Graves, has met his burden and that he satisfies the requirements of O.R.C. 2743.48(A)(5) and is thus a "wrongfully imprisoned person."

IT IS SO ORDERED.

VOL 1187 PAGE 724

cc:
Terry H. Gilbert
Daniel F. Petticord


Judge Raymond J. Ewers

I HEREBY CERTIFY THIS TO BE A TRUE COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE
TOM ORLANDO LORAIN COUNTY
CLERK OF THE COURT OF COMMON PLEAS
BY  DEPUTY



FILED
LORAIN COUNTY

2014 SEP -3 P 1:49

LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

RON NABAKOWSKI, Clerk
JOURNAL ENTRY
Raymond J Ewers, Judge

Date 9/3/14

Case No 12CV176687

ALBERT GRAVES
Plaintiff

TERRY H GILBERT
Plaintiff's Attorney (216) 241-1430

VS

STATE OF OHIO
Defendant

DANIEL F PETTICORD
Defendant's Attorney (440) 329-5455

Pursuant to the Ninth District Court of Appeals decision, this Court's decision dated September 27, 2013 decision is vacated. Further, pursuant to that decision, this Court finds that there are no genuine issues of material fact that all the elements of R.C. 2743.48(A)(1),(2), (3) and (4) have been met. Counsel shall brief the issue of whether the final requirement under R.C. 2743.48(A)(5) has been met. All Briefs shall be filed on or before September 25, 2014, and Briefs in Opposition shall be filed on or before October 16, 2014 and any Reply Briefs shall be filed on or before October 30, 2014. Court to rule thereafter

VOL _____ PAGE _____

I HEREBY CERTIFY THIS TO BE A TRUE COPY
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TOM ORLANDO LORAIN COUNTY
CLERK OF THE COURT OF COMMON PLEAS
BY Raymond J Ewers DEPUTY

RAYMOND J EWERS, JUDGE

COUNSEL SHALL PROVIDE A COURTESY COPY DIRECTLY TO JUDGE EWERS' CHAMBERS BY FACSIMILE AT (440) 329-5731 OR BY E-MAIL AT KMACKINTOSH@LORAINCOUNTY.US OF ALL NOTICES OF DISMISSAL, MOTIONS OR ANY OTHER PLEADING THAT REQUIRES THE COURT'S ATTENTION. COUNSEL SHALL NOT RELY UPON THE FILING WITH THE CLERK OF COURTS THAT THE COURT HAS BEEN NOTIFIED OF SUCH FILING.

cc: Atty Gilbert
APA Petticord





FILED
LORAIN COUNTY

2008 APR 11 P 12:00
LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

CLERK OF COMMON PLEAS
RON NABAKOWSKI

RON NABAKOWSKI, Clerk
JOURNAL ENTRY
Edward M. Zaleski, Judge

Date 04/10/08

Case No. 04CR065187

STATE OF OHIO
Plaintiff

LORAIN COUNTY PROSECUTOR
Plaintiff's Attorney

VS

ALBERT JAMES GRAVES
Defendant

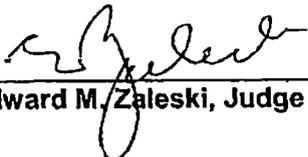
JOHN KILROY
Defendant's Attorney (440) 930-7280

This action came for a two day trial before the Court and a jury. All testimony presented. Closing arguments had. The Jury returned a guilty verdict to Possession of Drugs as charged in Count I of the indictment; guilty verdict to Possession of Drugs, with Major Drug Offender specification as charged in Count II of the indictment; guilty verdict to Trafficking in Drugs, with Major Drug Offender specification as charged in Count III of the indictment; guilty verdict to Possession of Drugs as charged in Count IV of the indictment; and guilty verdict to Trafficking in Drugs as charged in Count V of the indictment. See verdicts.

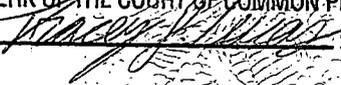
Defendant was advised in open Court of his appellate rights.

Attorney Kenneth Ortner is hereby appointed as counsel for the Defendant.

VOL _____ PAGE _____



Edward M. Zaleski, Judge

I HEREBY CERTIFY THIS TO BE A TRUE COPY
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TOM ORLANDO, LORAIN COUNTY
CLERK OF THE COURT OF COMMON PLEAS
BY  DEPUTY



IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

2008 APR 11 P 12:20

State of Ohio,

Plaintiff,

vs.

Albert James Graves,

Defendant.

CLERK OF COMMON PLEAS
RON NABAKOWSKI

Case No. 04CR065187

JUDGE EDWARD M. ZALESKI

Verdict, Count No. 1

We, the jury, find the defendant *Guilty of Possession of Drugs
(marihuana) as charged in count No. 1 of the indictment.

Dated: April 9, 2008

- | | |
|-------------------------------|----------------------------|
| 1. <u>Marcy Eggensch</u> | 7. <u>[Signature]</u> |
| 2. <u>Anita Opal</u> | 8. <u>Wayne L. Schmidt</u> |
| 3. <u>[Signature]</u> | 9. <u>Jim Blevins</u> |
| 4. <u>Ludovaz Keflar</u> | 10. <u>[Signature]</u> |
| 5. <u>Brenda Gillespie</u> | 11. <u>Kim Mualdi</u> |
| 6. <u>Caroline Richardson</u> | 12. <u>Elmer Bork</u> |

*Insert in ink, either: "Guilty" or "Not Guilty"

IN THE COURT OF COMMON PLEAS
FLORAIN COUNTY, OHIO
FLORAIN COUNTY

2008 APR 11 P 12:20

State of Ohio,

Plaintiff,

vs.

Albert James Graves,

Defendant.

CLERK OF COMMON PLEAS
RON NABAKOWSKI

Case No. 04CR065187

JUDGE EDWARD M. ZALESKI

Verdict, Count No. 2

We, the jury, find the defendant *Guilty of Possession of Drugs
(crack cocaine) as charged in count No. 2 of the indictment.

Dated: April 9, 2008

1. <u>Mary S. [Signature]</u>	7. <u>Jim Blum</u>
2. <u>Arleta Opal</u>	8. <u>[Signature]</u>
3. <u>[Signature]</u>	9. <u>Wayne L. Schmidt</u>
4. <u>Lynette K. [Signature]</u>	10. <u>[Signature]</u>
5. <u>Brenda Gillespie</u>	11. <u>Kim Mulder</u>
6. <u>Caroline Richardson</u>	12. <u>Elmer Bakk</u>

*Insert in ink, either: "Guilty" or "Not Guilty"

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

2008 APR 11 P 12:20

State of Ohio,

Plaintiff,

vs.

Albert James Graves,

Defendant.

CLERK OF COMMON PLEAS
RON NABAKOWSKI

Case No. 04CR065187

JUDGE EDWARD M. ZALESKI

Specification to Count No. 2

We, the jury, further find the defendant possessed 1160.6 grams of
Cocaine that was Crack Cocaine as charged in the Specification to Count
No. 2.

Dated: April 9, 2008

1. <u>Mary Szeged</u>	7. <u>Kim Blum</u>
2. <u>Anta Opal</u>	8. <u>[Signature]</u>
3. <u>[Signature]</u>	9. <u>Wayne L. Schmitt</u>
4. <u>Luanay Hoppe</u>	10. <u>[Signature]</u>
5. <u>Brenda Gillespie</u>	11. <u>Kim Murtdu</u>
6. <u>Caroline Richardson</u>	12. <u>Elmer Bokk</u>

*Insert in ink, the amount

IN THE COURT OF COMMON PLEAS
CORAIN COUNTY, OHIO

2008 APR 11 P 12:20

State of Ohio,

CLERK OF COMMON PLEAS
RON NARAKOWSKI

Case No. 04CR065187

Plaintiff,

JUDGE EDWARD M. ZALESKI

vs.

Albert James Graves,

Verdict, Count No. 3

Defendant.

We, the jury, find the defendant * Guilty of Trafficking in Drugs
(crack cocaine) as charged in count No. 3 of the indictment.

Dated: April 9, 2008

1. <u>Mary Szegedi</u>	7. <u>Jim Blum</u>
2. <u>Anita Opal</u>	8. <u>[Signature]</u>
3. <u>[Signature]</u>	9. <u>Wayne L. Schmidt</u>
4. <u>Luanay Kapes</u>	10. <u>[Signature]</u>
5. <u>Brenda Helgesie</u>	11. <u>Kim Mualdi</u>
6. <u>Caroline Richardson</u>	12. <u>Elmer Bork</u>

*Insert in ink, either: "Guilty" or "Not Guilty"

IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

2008 APR 11 P 12: 20

State of Ohio,	CLERK OF COMMON PLEAS } RON NABAKOWSKI }	Case No. 04CR065187
Plaintiff,	}	JUDGE EDWARD M. ZALESKI
vs.	}	
Albert James Graves,	}	Specification to Count No. 3
Defendant.	}	

We, the jury, further find the defendant possessed 1160.6 grams of Cocaine that was Crack Cocaine as charged in the Specification to Count No. 3.

Dated: April 9, 2008

1. <u>Mary Eggars</u>	7. <u>Wayne L. Schmeel</u>
2. <u>Arita Goal</u>	8. <u>[Signature]</u>
3. <u>[Signature]</u>	9. <u>Tim Blum</u>
4. <u>Lucretia Koppe</u>	10. <u>[Signature]</u>
5. <u>Brenda Bellisio</u>	11. <u>Kia Muld</u>
6. <u>Caroline Richardson</u>	12. <u>Elmer Bakk</u>

*Insert in ink, the amount

IN THE COURT OF COMMON PLEAS
FILED LORAIN COUNTY, OHIO
LORAIN COUNTY

2008 APR 11 P 12:20

State of Ohio }
COURT OF COMMON PLEAS }
RON NARAKOWSKI }

Plaintiff,

vs.

Albert James Graves,

Defendant. }

Case No. 04CR065187

JUDGE EDWARD M. ZALESKI

Verdict, Count No. 4

We, the jury, find the defendant *Guilty of Possession of Drugs
(cocaine) as charged in count No. 4 of the indictment.

Dated: April 9, 2008

1. <u>May Szybarbi</u>	7. <u>Kim Blum</u>
2. <u>Amita Patel</u>	8. <u>[Signature]</u>
3. <u>[Signature]</u>	9. <u>James Bork</u>
4. <u>Juanay Kapel</u>	10. <u>Wayne L. Schneider</u>
5. <u>Brenda Gillespie</u>	11. <u>Kimberly A. Mualdi</u>
6. <u>Caroline Richardson</u>	12. <u>[Signature]</u>

*Insert in ink, either: "Guilty" or "Not Guilty"

FILED IN THE COURT OF COMMON PLEAS
LORAIN COUNTY LORAIN COUNTY, OHIO

2008 APR 11 P 12: 20

State of Ohio, COMMON PLEAS
RON NABAKOWSKI

Plaintiff,

vs.

Albert James Graves,

Defendant.

Case No. 04CR065187

JUDGE EDWARD M. ZALESKI

Verdict, Count No. 5

We, the jury, find the defendant * Guilty of Trafficking in Drugs
(marihuana) as charged in count No. 5 of the indictment.

Dated: April 9, 2008

1. Mary Szgardi 7. Alayne L. Skeneid
2. Anita Opal 8. [Signature]
3. [Signature] 9. [Signature]
4. Juanita Kessler 10. [Signature]
5. Brenda Gillespie 11. Kim Maldi
6. Caroline Richardson 12. Elmer Bork

*Insert in ink, either: "Guilty" or "Not Guilty"

JOURNAL ENTRY
COURT OF COMMON PLEAS
Lorain County, Ohio

FILED
LORAIN COUNTY

Ronald Nabakowski, Clerk

Case No. 04CR065187

STATE OF OHIO
2008 APR 11 P 12:20
Plaintiff

Peter Gauthier

Asst. Pros.

ALBERT GRAVES
CLERK OF COMMON PLEAS
NABAKOWSKI
Defendant

-vs-
JACK KILROY

Atty for Defendant

Date 4/9/08

J.E. Vol. _____ Page _____

DEFENDANT IN COURT WITH COUNSEL FOR SENTENCING: DEFENDANT SENTENCED TO
PRISON/COMMUNITY CONTROL SANCTIONS; SEE SENTENCING JUDGMENT ENTRY.

[Signature]
Judge Edward Zaleski

I HEREBY CERTIFY THIS TO BE A TRUE COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE
TOM ORLANDO, LORAIN COUNTY
CLERK OF THE COURT OF COMMON PLEAS
BY [Signature] DEPUTY

VI

COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO
Ronald Nabakowski, Clerk

FILED
LORAIN COUNTY

STATE OF OHIO, APR 11 P 12:20

CASE NO: 04CR065187

Plaintiff
COMMON PLEAS
RON NABAKOWSKI

PETER GAUTHIER
Assistant Prosecuting Attorney

v.

ALBERT GRAVES
Defendant

JACK KILROY
Counsel for Defense

JUDGMENT ENTRY OF CONVICTION AND SENTENCE

1. Defendant initially entered a plea of not guilty. The defendant maintained his plea of not guilty and proceeded to trial by jury/~~the court~~. At trial, the defendant was found guilty by the jury/~~court~~ of the following charges for which he now appears in court for sentencing:

1. POSSESSION OF MARIJUANA

a violation of O.R.C. 2925.11(A) a 5th degree ~~felony~~/misdemeanor.

2. POSSESSION OF COCAINE WITH MDO SPECIFICATION

a violation of O.R.C. 2925.11(A) a 1st degree ~~felony~~/misdemeanor.

3. TRAFFICKING IN COCAINE WITH MDO SPECIFICATION

a violation of O.R.C. 2925.03(A)(2) a 1st degree ~~felony~~/misdemeanor.

4. POSSESSION OF COCAINE

a violation of O.R.C. 2925.11(A) a 5th degree ~~felony~~/misdemeanor.

5. TRAFFICKING IN MARIJUANA

a violation of O.R.C. 2925.03(A)(2) a 4th degree ~~felony~~/misdemeanor.

6. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

7. _____

a violation of O.R.C. _____ a _____ degree felony/misdemeanor.

() IF CHECKED, see additional charges on attached page.

2. IF CHECKED, a pre-sentence report and investigation were ordered and completed. A copy was/was not made available to defense.
3. Defendant was present with counsel in open court for sentencing 4/9, 2008. A stenographer was present. Defendant's counsel and defendant were afforded an opportunity to speak and present any information in mitigation of punishment, pursuant to Criminal Rule 32(A)(1).
4. The court has considered the factors under Ohio Rev. Code §2929.13(B) and §2929.12 and determines that a community control sanction is inconsistent with the purposes and principles of sentencing in Ohio Rev. Code §2929.11.
5. The court further notified the defendant that post release control is mandatory ~~optional~~ in this case up to a maximum of 5 years, as well as the consequences for violating conditions of post release control imposed by the Parole Board under Ohio Rev. Code §2967.28. The defendant is ordered to serve as part of this sentence any term of post release control imposed by the Parole Board, and any prison term for violation of that post release control.
6. Upon consideration of all matters set forth by law it is the judgement of law and sentence of the Court that defendant be sentenced to:

- Count 1: 1 months/years in LCI and pay a fine of \$ _____;
- Count 2: 10 months/years in LCI and pay a fine of \$ _____;
- Count 3: 10 months/years in LCI and pay a fine of \$ _____;
- Count 4: 1 months/years in LCI and pay a fine of \$ _____;
- Count 5: 1 months/years in LCI and pay a fine of \$ _____;
- Count 6: _____ months/years in _____ and pay a fine of \$ _____;
- Count 7: _____ months/years in _____ and pay a fine of \$ _____;

IF CHECKED, see additional sentences on attached page.
AN ADDITIONAL 1 year AT LCI IS IMPOSED ON THE MDO SPECIFICATIONS. MDO SPECIFICATIONS ARE CONCURRENT BUT CONSECUTIVE TO THE SENTENCES IN CTS 2+3 FOR AN AGGREGATE SENTENCE OF 11 years. CTS 1, 4, +5 are concurrent with CTS 2+3. COUNTS 2+3 ARE CONCURRENT WITH EACH OTHER. SENTENCES IN CTS 2+3 ARE MANDATORY.

7. FIREARM SPECIFICATION:

An additional term of (1, 3, 5, or 6) years is imposed as a mandatory and consecutive term pursuant to Ohio Rev. Code §2929.14(D)(1), to be served before any other time is served.

8. FINES:

(a) Pay a mandatory fine pursuant to O.R.C. 2925.03(H) of \$ _____ on Ct 1; \$ _____ on Ct 2; \$ _____ on Ct 3; \$ _____ on Ct 4.

(b) The mandatory fine listed shall be paid to the Clerk of Courts, who in turn shall pay the same to _____ and 25% to the Lorain County Prosecutor.

(c) Mandatory drug fines under any section of O.R.C. 2925 (other than R.C. 2925.03) shall be disbursed by the Clerk of Courts as follows:
50% in care of the Ohio Board of Pharmacy, ___% to _____, and 25% to the Lorain County Prosecutor.

(d) (If checked) Mandatory fines are ~~HELD IN ABEYANCE pending hearing~~ **SUSPENDED** pursuant to the affidavit of indigency.
Pursuant to Ohio Rev. Code §2929.18(B), a mandatory fine of \$ _____ is imposed.

9. The defendant is therefore ~~ordered~~ conveyed to the custody of the Ohio Department of Rehabilitation and Correction. Credit for all days is granted as of this date along with future custody days while the defendant awaits transportation to the appropriate state institution. The defendant is ordered to pay restitution of \$ _____, all costs of prosecution, Court appointed counsel costs and any fees permitted pursuant to Ohio Rev. Code §2929.18(A)(4).

10. () IF CHECKED, upon consideration of the affidavit of indigency filed by the Defendant, the Court finds that the Defendant is indigent and payment of the mandatory fine(s) previously imposed is suspended.

11. All contraband and/or drugs are hereby ordered destroyed by the law enforcement agency in possession of same.

12. Seized money or property in the custody of a law enforcement agency is ordered forfeited pursuant to defendant's plea agreement. Said money or property may be used or sold by the law enforcement agency. Said money or proceeds of sale shall be distributed according to law.

13. () IF CHECKED, the sentence imposed herein was jointly recommended by the prosecutor and defense counsel.

14. IF CHECKED, Defendant's driver's license is suspended on Count(s) all for 1 year, ~~concurrent~~ consecutive to any other suspension.

15. Defendant advised of appellate rights

Dated: _____



JUDGE EDWARD ZALESKI

I HEREBY CERTIFY THIS TO BE A TRUE COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE
TOM ORLANDO, LORAIN COUNTY
CLERK OF THE COURT OF COMMON PLEAS
BY Tracey Williams DEPUTY

2781

FRIEDMAN & GILBERT
ATTORNEYS AT LAW

FILED
COURT OF CLAIMS
OF OHIO

2015 MAR 10 AM 10:52

GORDON S. FRIEDMAN
TERRY H. GILBERT
JACQUELINE GREENE

March 6, 2015

Clerk of Court
Court of Claims of Ohio
The Ohio Judicial Center
65 South Front Street, 3rd Floor
Columbus, OH 43215

Re: Albert Graves v. State of Ohio
Case No. 2014-00989-WI

Dear Clerk:

Enclosed please find the original and one (1) copy of a Notice of Filing of Judgment Entries for filing with the Court relative to the above-captioned matter.

Please return a time-stamped copy of the Notice to me in the enclosed self-addressed, stamped envelope. 

Thank you for your attention.

Very truly yours,

FRIEDMAN & GILBERT



Terry H. Gilbert
tgilbert@f-glaw.com

THG/mm

Enclosures

cc: Amy S. Brown, Esq.
Lindsey M. Grant, Esq.
Assistant Attorneys General