



The Sizzler

Official Newsletter of the Universal Support Network

JANUARY 2022

COURT VIOLATES MODIFICATION LAW



Norman V. Whiteside
USN President/CEO

Ohio judges have consistently denied motions for the modification of sentences at the felony level. However, the September 2021 case of Karla Hopkins in Cuyahoga County proves that judges can do what they want to do *if* they want to.

Let's say for example that a prisoner filed to have his or her sentence modified, a judge would generally respond by stating that *State v. Addison* 40 Ohio App. 3d 7 does not allow modifications of sentence in Ohio.

In the Hopkins' case, Hopkins, a Black woman, was convicted of stealing \$40,000 while in office and sentenced to prison. Leaders in the Black community were furious because a White woman who was convicted of stealing \$250,000 was given probation.

Hopkins' lawyer Bret Jordan filed a one-page motion for judicial release. This is probably the skimpiest judicial release motion I have ever read. However, because of the pressure on Judge Richard A. Bell from the Black community, the judge wrote, "The court accepts the defendant's judicial release motion as a motion to modify sentence without objection from the state and sentences the defendant to a blended sentence of 43 days local incarceration and 5 years community control sanctions (with conditions)." Please See Page 4

The reason that the judge was able to violate *State v. Addison* is that **the state did not object**. The reason the state did not object is that the prosecutor did not want any pressure from those Black community leaders. What this means is that as long as the state does not object to a motion for sentence modification, the court is able to violate *State v. Addison*.

I recently assisted a lawyer in drafting a motion for modification of sentence that was captioned "Motion for Modification of Sentence Per the Karla Hopkins' Standard." We're waiting on the judge to cite the *State v. Addison* case so the lawyer can come back and ask, "Well then how did Karla Hopkins get a modification of sentence?" We'll let you know how that worked out. 😊

In the meantime, if you are a prisoner and want to file for modification of sentence, be sure to ask the judge and the prosecutor to apply the "Karla Hopkins' Standard." 😊

USN Disclaimer: The Universal Support Network presents the information in this newsletter as a service to its prisoner readers and members of the public. While the information in this newsletter contains information about legal issues, it is not intended as legal advice or as a substitute for the particularized advice of an attorney.



King Wins Against NLPA

You may recall in a previous issue that Deny King filed a lawsuit against Hugh Robinson and the National Legal Professional Association. That lawsuit resulted in King getting a refund.

Before the lawsuit, King had contacted USN President and asked about the NLPA. Minister Norm Whiteside told him that he has never seen NLPA assist in any victory at the **state** level because Ohio's procedure's are time-sensitive.

King's fiancée, Cleopatra Jenkins joined forces with the USN and covered the groundwork for investigation and on to assisting in getting the lawsuit filed.

Robinson thought he was going to be able to defeat King and began filing various documents in the court, including a contract that he said King had signed. It turns out that since no one from NLPA ever signed the contract, it could not lawfully be deemed a contract.

It turns out that after NLPA saw how badly it was getting beaten in the case, it offered to settle the case. ▲

INMATE TRIES TO TRICK USN PRESIDENT INTO SENDING DRUGS INTO THE PRISON

An inmate at the Marion Correctional Institution contacted USN president for assistance with the inmate's legal efforts. Minister Whiteside told the inmate that he is not a lawyer but works with lawyers to assist people in need of legal representation.

Whiteside accepted the inmate's calls to listen to the inmate vent about his case. After about six weeks of phone calls, the inmate tells Whiteside that the prison won't let him get his legal papers unless they come through an attorney. Whiteside contacted an attorney who was sympathetic to the inmate's situation and agreed to have the papers sent

See *INMATE* next page

INMATE Continued

to the inmate.

An envelope arrived at the USN P.O. Box with instructions to send the enclosed papers to the inmate. Instead of sending the papers that came in the envelope, Whiteside copied the papers and sent the copies to the inmate.

After receiving the copies that Whiteside sent, the inmate phoned Whiteside and asked where the originals are. Whiteside explained that since they were just forms, it should not make a difference if they were copies.

Whoever sent the papers to the P.O. Box made threats to Whiteside stating that Whiteside "better return the paperwork."

It turns out that the paperwork was soaked in some type of cannabis solution that would have been sold once it got in the hands of the inmate.

The inmate was put in the hole for this whole ordeal. The reason his name is not being published is that the USN learned he was an informant for the institution investigator and even though Whiteside does not appreciate what the inmate did, Whiteside does not want to subject the inmate to physical harm.

However, because of this event, the USN will no longer send any documents to anyone unless they are actual clients of the attorneys who are requesting papers to be sent. ▲

WHY DO LAWYERS COST SO MUCH?

USN President Norman V. Whiteside

Since my release in 2016, I have worked with a half dozen lawyers in various areas of the law. One firm has two partners while the other lawyers work solo. In any case, in order to have the best possible outcome, a lawyer needs an investigator, a legal assistant/paralegal, a secretary, and a file organizer. Periodically, the lawyer may need to hire experts.

Let's say you pay a lawyer \$2500. He doesn't have time to do everything on your case himself if he has other clients he must also represent. So, he has got to pay everyone working with him out of that \$2500. Unless he is doing everything himself, he may end up with \$750 or less out of that \$2500.

To a lot of prisoners, \$2500 is a **WHOLE LOT OF MONEY!** It all comes down to what type of case is involved, how complicated the issues are, and the amount of time that will be spent.

When a lawyer charges \$300 an hour, the client gets billed for **EVERYTHING!** That means, when the client (usually a prisoner) calls the lawyer from the prison phone, the clock starts running. Therefore, a 15-minute call is billed at \$75. If the prisoner's mother calls the lawyer, the lawyer may say, "I need an authorization to talk to you." If the prisoner authorizes the lawyer to talk to his mother, then the clock starts running when Mom either calls or visits the lawyer's office. So, if Mom talks to the lawyer for a half hour, the prisoner is billed \$150.

When the lawyer is paid a **flat rate**, he generally will not accept the prisoner's phone calls because the rate doesn't include calls. Instead, he'll write the prisoner and give an update or status.

The average rate for a judicial release motion is \$2500. For a post-conviction petition between \$3500-\$7500 depending on who the lawyer is. For a direct appeal without an Ohio Supreme Court follow up, the fees start at \$5,000 up, and *with* the Supreme Court follow up, it can start at \$8,000.

Most criminal lawyers do not like messing with federal habeas corpus cases, and that's why the lawyers who handle habeas

cases have fees that start around \$20,000. **WHY?** Because there is so much reading involved. It may take many lawyers around 40 or more hours to read an entire court file from the time the case was filed in municipal court.

For parole preparation packages and a clemency memorandum, the standard fee is \$7500.

If you can get away with paying a lawyer \$500-\$1,000 to handle your case, you will usually get the bare minimum unless the lawyer is married to one of your relatives.

No decent, honorable lawyer will **promise** you a certain outcome because the law itself is uncertain.

Some clients hire out-of-town lawyers. That typically isn't a good idea because judges don't like outsiders coming in their house with the custom, tailored suits, and designer shoes.

I still get about 40-50 calls a week from prisoners and I try to listen as much as I can. If I stay on the phone, it's almost impossible for me to assist those that I may be able to help. And just think – if I was able to charge lawyer rates for the times I answer the phone, that would come to about 50x\$75 a week for a grand total of \$3750 a week which comes to \$195,000 a year!

Most lawyers I've met don't care whether you're innocent or not. It's all about how much money you're spending.

Some lawyers who have a good name are not as good as some may think they are. In fact, with a lot of lawyers, **THEIR NAME** is all you are paying for.

There are **some** really good public defenders and sometimes you're better off using public defenders because they get paid the same whether they win or lose.

I've received calls from some prisoners where I have to tell them, "You don't have enough evidence or information for anyone to help you on your case, and I am not going to let you throw away your money!" Many of them end up hiring a thirsty lawyer, and then when they come back my way calling the lawyer all kinds of names, I just shake my head and say, "We have to live with our choices."

Nobody knows everything about the law or how it works, but the best legal representation will usually cost you. ▲

WISHING YOU A GREAT 2022 ANYWAY

Being in prison is hard, and only a few out here have an idea what you're going through. The girlfriends and boyfriends leave you after the first few months, family members die, and divorce papers start coming in the mail. You must still find the strength to keep going.

Some of you will eventually go home and some will never leave prison alive, but you must try to find the strength to keep going.

At times you will receive news that your mother has become too ill to travel to see you. You must still find the strength to keep going.

Months and years of disappointments will smack you in your face and cause you to feel like giving up, but still, you must find the strength to keep going.

It's only when you keep going that hope and faith may work to change your circumstances.

The Universal Support Network is an unincorporated non-profit association per Ohio Revised Code Section 1745.05(M) and is funded via donations by many people who believe in causes in need of assistance. The USN is designed to advocate for prisoners and their loved ones, in addition to supporting other positive, legitimate causes that need the type of assistance the USN is willing to provide. To contact us, write USN, P.O. Box 9351, Columbus, Ohio 43209, or email us at candtruth30@gmail.com. For letters directly to USN President, write Minister Norman V. Whiteside, 5354 North High Street – Lower Level, Columbus, Ohio 43214.

Body Cams Coming to Ohio Prisons

Due to prisoners being beaten in blind spots of the prisons, thousands of Ohio prison guards will begin wearing body cameras for the first time this year, bringing more transparency inside prison walls at a time when the coronavirus pandemic and guard shortages are making many prisons more dangerous.

Ohio Department of Rehabilitation and Corrections Director Annette Chambers-Smith said the state was buying 5,100 body-worn cameras that will be used by guards and parole officers in all of the state's prisons. Not every guard will always wear a camera, but the program is still ambitious: Axon, the company that is supplying the cameras, said the state was adopting the largest body camera program of any prison agency in the world.

There are already thousands of surveillance cameras across Ohio's 28 state prisons, but the addition of body cameras could make it easier to review the actions of guards and prisoners, capturing incidents that are not visible through existing cameras or are blocked from view by other people.

The plan to roll out body cameras follows the death in January of last year of Michael A. McDaniel, a 55-year-old prisoner who collapsed and died after guards pushed him to the ground several times following a fight outside of his cell. A coroner ruled that his death was a homicide, and the prison system fired seven guards and a nurse; two more employees resigned. No criminal charges were filed. ▲

Former Prisoner to receive \$17.5 million

The state of Ohio has agreed to pay \$17.5 million to a 21-year-old man who was paralyzed after he was tackled by correctional officers, his attorney announced Monday.

Seth Fletcher was two months away from his release from the Chillicothe Correctional Institution when two prison guards tackled and struck him with "sadistic and malicious force" in April 2020, resulting in critical injuries, including quadriplegia, according to the lawsuit. ▲



New Efforts to Release Patricia Wernert

Ms. Patricia Wernert has been locked up since November 26, 1976. Her record says she is in for aggravated murder. In reality, her only crime was being married to a man who committed aggravated murder.

Ms. Wernert came to USN's attention by Karen Thimmes who is perhaps the longest running advocate for prisoner rights and parole reform in the state of Ohio.

David Singleton, Executive Director of the Ohio Justice & Policy Center in Cincinnati teamed up with the American Civil Liberties Union to file a lawsuit on her behalf this past summer.

The lawsuit has alleges that the state's parole board has an unwritten policy of denying parole to inmates who were formerly on death row.

The U.S. Supreme Court struck down Ohio's death penalty legislation in 1978 and the prisoners on death row at the time were subsequently re-sentenced to life with the possibility of parole. However, the lawsuit alleges that the Ohio Parole Board has a practice of denying parole to these inmates, which has been in place since at least 2016.

According to the lawsuit, the parole denials are issued "regardless of any other factors or individual circumstances, including but not limited to demonstrated rehabilitative progress, lack of threat to the community, reentry plan, time served, age, or prosecutor recommendations."

Prosecutors said Wernert and her husband had hired a man, Richard Arterberry, to kill her mother-in-law and grandmother-in-law. All three were convicted. But the lawsuit cites a 2015 affidavit from Arterberry, which states that he believed Wernert was not aware of the murder plot.

The lawsuit also points out that she has maintained an "exemplary" record throughout her years behind bars and "has a viable reentry plan," yet was denied parole at a hearing in March of last year.

"I drew a lot of strength and encouragement from Ms. Pat," said USN President Norman Whiteside. "Her letters were always positive and uplifting."

Whiteside credits his affiliation with Wernert for meeting Singleton the first time in 2016 when Singleton agreed to represent him before the parole board on Whiteside's birthday that same year.

"I wish David and the ACLU all the success in the world with this case," said Whiteside. ▲

USN Pushing for More Judicial Releases

The Universal Support Network is sending letters to the administrative judges in Ohio's 88 counties inquiring why more judicial releases are not being granted.

USN President Norm Whiteside and Vice President Dessalines Weaver have expressed concerns about the unfairness of Ohio's judicial release process, saying that it's a lame duck law that is designed to trick unwitting defendants into accepting unfavorable plea agreements.

"Filing a judicial release motion is like buying a lottery ticket," said Whiteside. "Most prisoners have a better chance of winning the Super Lotto than getting a judicial release. That's got to change," he said.

Letters are also being sent to legislators to see how much they actually know about Ohio Revised Code 2929.20 and how it is not being applied.

Whiteside says he believes that legislators are unaware that judicial releases are scarcely granted.

Although prisoners are permitted to file the motions without an attorney, most prisoners who file their motions without an attorney will be denied before the motion is even fully read.

Weaver says that the judicial system is set up like a "Legal Illuminati." "It's like when a judge grants judicial release to a man who tried to drown his child and denies a judicial release to a low-level drug dealer whose mother is dying of cancer," he said. He said the first man got the judicial release because his lawyer and the judge were in the same law class together.

Almost no one has been granted judicial release under the recent provision that was enacted for old-law offenders. Whiteside says, "That statute is on the books only to make the public think legislators really give a damn." ▲

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO) CASE NO.: 650491
Plaintiff,)
) JUDGE R. BELL
vs.)
)
KARLA HOPKINS) MOTION FOR JUDICIAL
) RELEASE
Defendant.)

Now comes Defendant, by and through counsel, and pursuant to O.R.C. 2929.20 does hereby respectfully request that this Honorable Court grant her judicial release. Defendant was sentenced in Case No. 650491 to eighteen months at the Ohio Correctional Institution for Women for a conviction of Theft. At the time of the sentence, this Honorable Court indicated that it would consider granting a Motion for Judicial Release.

The Defendant respectfully requests judicial release pursuant to Ohio Revised Code §2929.20(B). Defendant respectfully submits that a sanction other than a prison term would adequately punish and protect the public from future criminal violations by Defendant because the applicable factors indicating a lesser likelihood of recidivism outweigh the applicable factors indicating greater likelihood of recidivism and that a sanction other than a prison term would not demean the seriousness of the offense. O.R.C. §2929.20(J)(1).

Defendant has completed mental health counseling, continued personal counseling and has gone through a job program. Once employed, Defendant will be able to pay restitution on a monthly basis and would consent to having the restitution reduced to a civil judgment.

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For the foregoing reasons, Defendant hereby respectfully requests: 1. that this

Court order a hearing be held on this motion, pursuant to O.R.C. §2929.20(D); and 2. that this Court issue an order compelling Defendant's attendance at the hearing; pursuant to O.R.C. §2929.20(H); and, 3. that Judicial Release be granted, subject to appropriate community control sanctions.

Respectfully submitted,

/s/ Bret Jordan
BRET JORDAN, 0059939
BRET JORDAN CO., LPA
Terminal Tower
30 Public Square, #1900
Cleveland, OH 44113
(216) 640-8888
(216) 357-3305 fax
Bret@jordancriminaldefense.com
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that the following Notice has been forwarded to the following on this 10th day of August, 2021.

Michael O' Malley
Prosecuting Attorney
Courts Tower - Justice Center
1200 Ontario Ave.
Cleveland, Ohio 44113

/s/ Bret Jordan
Bret Jordan, 0059939
BRET JORDAN CO LPA
Attorney for Defendant

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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO
Plaintiff

KARLA HOPKINS
Defendant

Case No: CR-20-650491-A

Judge: RICHARD A BELL

INDICT. 2921-41 THEFT IN OFFICE #0RS

JOURNAL ENTRY

DEFENDANT IN COURT. COUNSEL BRET JORDAN PRESENT.
PROSECUTOR(S) JAMES GUTIERREZ PRESENT.
COURT REPORTER CARYN L. LOTT PRESENT.

THE COURT ACCEPTS THE DEFENDANT'S JUDICIAL RELEASE MOTION AS A MOTION TO MODIFY SENTENCE WITHOUT OBJECTION FROM THE STATE AND SENTENCES THE DEFENDANT TO A BLENDED SENTENCE OF 43 DAYS LOCAL INCARCERATION AND 5 YEARS OF COMMUNITY CONTROL SANCTIONS WITH THE FOLLOWING CONDITIONS:

1. RESTITUTION TO BE PAID THROUGH THE PROBATION DEPARTMENT IN THE TOTAL AMOUNT OF \$42,673.72 TO MAPLE HEIGHTS HIGH SCHOOL FOR THE FOLLOWING FUNDS:
- THE SENIOR CLASS FUND
- THE AUTO TECH FUND
- FLAG CORPS FUND
- STUDENT COUNCIL FUND
2. DEFENDANT TO COMPLETE THE PASSAGES PROGRAM
3. DEFENDANT TO OBTAIN AND MAINTAIN EMPLOYMENT
4. DEFENDANT TO BE AVAILABLE FOR THE COURT'S FUTURE MENTORS PROGRAM
5. DEFENDANT TO MAINTAIN 100% ABSTINENCE FROM ANY GAMBLING ACTIVITY
6. DEFENDANT TO COMPLETE 1 DAY PER WEEK GAMBLER'S ANONYMOUS PROGRAM
7. DEFENDANT TO BE PROVIDED 8 COUNSELING SESSIONS THROUGH THE PROBATION DEPARTMENT
8. DEFENDANT ORDERED TO PAY THE COST OF THE STATE AUDITOR'S INVESTIGATION ONCE THE RESTITUTION TO THE STUDENT FUNDS IS COMPLETED
9. COURT RESERVES 18 MONTHS PRISON
10. DEFENDANT TO BE GIVEN CREDIT FOR 43 DAYS INCARCERATION.

DEFENDANT ORDERED RELEASED.

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Richard A. Bell
Judge Signature

09/13/2021

HEAR
09/13/2021

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