

In the Supreme Court of Ohio

State of Ohio, Ex Relator,

Derek R. Lichtenwalter,

A768 383, Derek Lichtenwalter

P.O Box 540

St Clairsville Ohio 43950

20-0401

Vs.

Writ of Mandamus

Or alternative writ of habeas corpus

The Governor of Ohio,

Mike DeWine,

Vern Riffe Center, 77 S. High Street, 30<sup>th</sup> Floor

Columbus Ohio, 43215

and

The Director of the Ohio department

Of Rehabilitation and Correction.

Annette Chambers- Smith

4545 Fisher Road, ste G-

Columbus Ohio, 43228

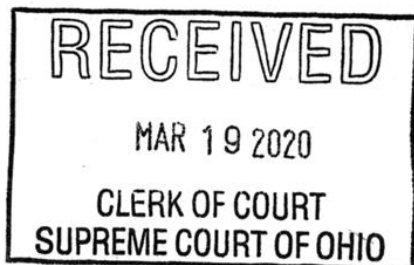
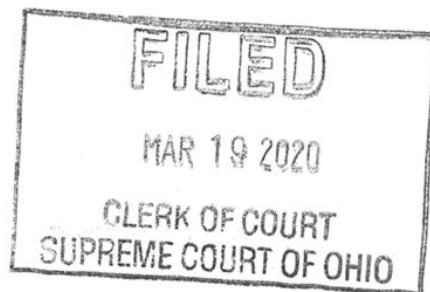
And

The warden of Belmont Correctional Institution

David Gray,

P.O. Box 540

St Clairsville Ohio 43950



The State of Ohio Ex relator Derek r. Lichtenwalter, I Derek Lichtenwalter Does hereby swear to the following and does for the reasons stated, I do request a writ of mandamus, or alternatively a writ of habeas corpus.

Due to the imminent pandemic and the lack of any speedy remedy I am asking for the court to allow this to proceed to a decision knowing that certain normally required documents are not accompanied yet with the state of technology today the court can verify with the odrc online at ODRC.gov, that I am incarcerated that I am indigent and that I am serving a sentence with no holders in the Ohio Prison system.

The Respondents have a clear legal duty to act. There are several available statutory provisions that grant them full authority to act. Both Statutory and Moral Obligations require they should act.

This is a clear legal duty to act, The Governor is sworn to uphold the Constitutions of the State of Ohio. Article I Bill of Rights, 9. Bail cruel and unusual Punishments. Where a person is charged with any offense for which the person may be incarcerated.....; Nor Cruel and unusual Punishments imposed.

Article III, Executive, Section 11.may rant Reprieves commutations and pardons. The Governor Shall have power after convictions to grant reprieves.... Upon Such condition as the Governor may think Proper.

Reprieve is defined as, a delay before something bad happens. The term reprieve is derived from reprimand which means to keep back and signifies the withdrawing of a sentence for a period of time.

The Director of the Ohio Department of corrections is Charged with the care of Prisoners in his care. Chapter 2967 allows him to authorize releases for medical reasons. He also is to follow the Constitution and not allow cruel and unusual punishments.

I Derek Lichtenwalter Does hereby swear and affirm the following, it is well known today that the Corona virus is an epidemic, that deaths will occur as a result of the infection, according to the Surgeon General of the United States, who on 3-8-2020 on the CNN TV Show said the death rate is between 1-5 Percent of healthy adults. That High risk for death is those who are immune compromised, those with Chronic health conditions, He advised all Americans to follow the CDC that is the Center for disease control recommendations to stay Six feet away from people and to avoid crowded areas. To wash hands regularly and avoid close contact with other people's saliva hand shaking etc.

There is no way we can follow that directive the bed areas are so crowded that I am within three feet of at least twelve people and those twelve are in the same position this means that there are 126 people in my "dorm" that are within 3-4 feet of each other. The Common areas are overcrowded and what this means is once it gets to the prison it will be spread quickly through the population.

The death rate of 1-5 percent is high enough, yet I am with chronic health problems and the Kirkland center in Washington state showed that death rate is 20-50 percent.

Please grant the writ for a reprieve or a release there are many statutory provision that are authorized in 5120, and 2967, as well as the Constitutional law and the bill of rights, that allows for and indeed requires by moral and statutory language the conditional temporary release while the corona virus pandemic is resolved.

Within a year there will be a vaccine, must 1-5 Percent of us die simply because no one will release, us, and more specifically me, the prisoners in Ohio should be afforded the rights of survival. The reduction of the total prison population will provide this both for the ones who must stay due to the type of crimes they committed and the ones released will have better options to protect themselves or to at least not die in prison.

The Legal duty that is required for a writ of mandamus is, to uphold the Constitution and the right to survive is granted by the same is granted by the same, the United States Constitution and the Bill of Rights as well as the Constitution of the State of Ohio and the Bill of Rights I have right to stay alive and request the court to issue an order Compelling the Governor or the Director of Prisons or the Warden of Belmont Correctional institution to effectuate my release.

Please understand that there is no way that once the corona virus, covid-19 gets to prison it will be able to be contained, and once it spreads many will die who need not and who otherwise would be home within a few months to a few years.

The surgeon general of the United States, JEROME ADAMS, is an authority and he stated so directly on the CNN News Broad Cast at 9:21 AM on Sunday the 8<sup>th</sup> of March. He Stated Failure to follow his guidelines and the CDC by people will cause unnecessary death and that he came on the air to give people time to prepare, the Ohio Department of corrections is risking more deaths, Deaths that are avoidable, and deaths that they have the statutory authority and duty to prevent , this is therefore cruel and unusual punishment, and clearly violates the Constitution, when they have been pre warned and by design are refusing to grant the reprieves authorized by law, as a death rate of 20-50 percent is worse odds than if the sentence was Russian roulette.

I am not a violent offender I am serving non mandatory time and should not need to die alone in prison.

Not when I can return to finish the time debt owed if I am still alive once a vaccine or treatment is made as long as I Survive the epidemic

The fact is I am HIV positive, the Surgeon General of the united states Jerome adams on Sunday the 9<sup>th</sup> of march, said that he came on the program as an authority as a health authority to allow people to prepare. That the corona virus is imminent that deaths will occur and that the general population will

have 1-5 percent death rate that those who are at high risk as seen in the Kirkland nursing home of Washington state had a 20-50 percent death rate.

I am that Population. That is a higher rate than if I played Russian roulette.

I have no adequate remedy at law as I have an unknown amount of short time before the virus is in this prison. I cannot get a copy of my actual commitment papers, the wait of one to three weeks may be too long. The virus has traveled from china to the United states in less than 2 months. There are confirmed cases within 100 miles of this prison.

I will ask to file without the commitment papers and seek to be allowed to introduce them at a later time if necessary.

I will send a printout from the ODRC that shows Why I am in prison.

State of Ohio Ex Relator, Derek R. Lichtenwalter.

*[Signature]* Date 3-11-2020

Sworn to in my presence *[Signature]*

On the 11th Day of March, 2020



MICHAEL KOLVEK  
Notary Public  
State of Ohio  
My Comm. Expires  
February 12, 2025

## Affidavit of previous actions

I Derek Lichtenwalter does hereby certify I as a prisoner have filed within the past five years, the following civil actions against a state official.

In the fifth district court of appeals,

Writ of procedendo and writ of mandamus Derek Lichtenwalter vs frank forcione Judge, of stark county common pleas court. Both dismissed by request of both parties.

In relation to the same request a writ of mandamus in the Ohio supreme Court Derek Lichtenwalter Vs the ODRC. Writ dismissed as the respondent complied with the request, and I filed to dismiss it.

State of Ohio Ex Relator, Derek R. Lichtenwalter.

[Signature] Date 3<sup>rd</sup> 2020

Sworn to in my presence

[Signature]

On the

11<sup>th</sup>

Day of

March

2020



MICHAEL KOLVEK  
Notary Public  
State of Ohio  
My Comm. Expires  
February 12, 2025

## Affidavit of Indigence, request to proceed in forma paupers and request for service on the respondent's

I Derek Lichtenwalter does hereby swear I am indigent I am requesting the institutional cashier to send me a copy of my deposit history for the Ohio prison for the last six months it will be sent in a separate envelope.

I am indigent own nothing of value, I request the waver of the filing fees and request the court to allow me to have service done by the clerk by way of certified mail.

State of Ohio Ex Relator, Derek R. Lichtenwalter.

[Signature] Date 3-11-2020

Sworn to in my presence [Signature]

On the 11th Day of March, 2020



MICHAEL KOLVEK  
Notary Public  
State of Ohio  
My Comm. Expires  
February 12, 2025

**YOUR SENTENCE****Inmate Name:** LICHTENWALTER, DEREK R**Date of Birth:** 08/21/1975**New Number:** A768383**Old Number:** A404908, A564988, A585316, A593957, A620827, A633755, A671507, A693342**Aggregate Sentence:** \* 2.50 HB86-5

**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 \_\_\_\_\_ years of actual incarceration/mandatory time.
3. Definite or stated term sentences are served next. You have a definite/stated term sentence total of 2.50 years. The end of your definite/stated term sentence is 04/07/2022.
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 GUERNSEY

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.

GUERNSEY Co. Court[s]  
801 E. WHEELING AVE  
CAMBRIDGE, OHIO 43725-0000

GUERNSEY Co. Prosecutor  
GUERNSEY CO. PROSECUTOR 145 N. SEVENTH STREET  
CAMBRIDGE, OHIO 43725-0000



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
FAIL TO COMPLY	12/20/19	1	C	72		2.50					GUER	19CR94	C	3