



WRIT OF PROHIBITION PRO SE PACKET

Summary

What is a writ?

A writ is an order from a court, directing someone to either do something or abstain from doing something. A writ is an extraordinary remedy, only applicable when there are no other avenues for relief.

Which pro se writ packet do I need?

OPD has three pro se writ packets: (1) habeas, (2) procedendo and mandamus, and (3) prohibition. Below is a quick summary of each packet's use. Read each packet for more information.

| If you . . . | | then you should use the . . . |
|---|---|--|
| think your pre-trial bail is too high | → | Habeas Petition Pro Se Packet (Excessive Bail) |
| think you should be immediately released from custody | → | Habeas Petition Pro Se Packet (General Habeas Petition) |
| want to make someone do something they are legally bound to do in your case | → | Writ of Mandamus and Writ of Procedendo Pro Se Packet (Writ of Mandamus) |
| want to make a court issue a decision in your case | → | Writ of Mandamus and Writ of Procedendo Pro Se Packet (Writ of Procedendo) |
| want to stop a court from doing something in your case | → | Writ of Prohibition Pro Se Packet |



Writ of Prohibition

What should I do if I need an order from a higher court telling a lower court not to do something?

What is a writ of prohibition?

A writ of prohibition is an order from either an appellate court or the Supreme Court of Ohio telling a lower court not to do something. It is “an extraordinary judicial writ issuing out of a court of superior jurisdiction and directed to an inferior tribunal commanding it to cease abusing or usurping judicial functions.” *State ex rel. Jones v. Suster*, 84 Ohio St.3d 70, 73, 701 N.E.2d 1002 (1998), citing *State ex rel. Burtzloff v. Vickery*, 121 Ohio St. 49, 50, 166 N.E. 894 (1929). “[T]he purpose of a writ of prohibition is to restrain inferior courts and tribunals from exceeding their jurisdiction.” *Id.* citing *State ex rel. Barton v. Butler Cty. Bd. of Elections*, 39 Ohio St.3d 291, 530 N.E.2d 871 (1988). Such an extraordinary remedy “is customarily granted with caution and restraint, and is issued only in cases of necessity arising from the inadequacy of other remedies.” *Id.* (internal citation and quotation omitted). That means that writs of prohibition are rarely granted and only when there is no other legal option.

Where should I file my writ?

If you want to prohibit action in a court of common pleas, municipal court, or lower court or tribunal (i.e., county court, mayor’s court, etc.), you must file the writ of prohibition in the court of appeals for the county in which the lower court is found. Article IV, § 3(B)(1)(d), Ohio Constitution. If you want to prohibit action in a court of appeals, you must file the writ of prohibition in the Supreme Court of Ohio. Article IV, § 2(B)(1)(d), Ohio Constitution.

A template for both the court of appeals and the Supreme Court of Ohio are provided on the following pages.

What do I need to include in my writ?

To be entitled to a writ of prohibition, you must prove that (1) the inferior court or tribunal is about to exercise or has exercised judicial power, (2) that exercise of judicial power was unauthorized by law, and (3) “denying the writ would result in injury for which no other adequate remedy exists in the ordinary course of law.” *State ex rel. R.W. v. Williams*, 146 Ohio St.3d 91, 2016-Ohio-562, 52 N.E.3d 1176, ¶ 13. However, if the inferior court or tribunal patently and unambiguously lacked jurisdiction, one need not establish that he or she lacks an adequate remedy at law. *State ex rel. Ford v. Ruehlman*, 149 Ohio St.3d 34, 2016-Ohio-3529, 73 N.E.3d 396, ¶ 62, citing *State ex rel. Sapp v. Franklin Cty. Court of Appeals*, 118 Ohio St.3d 368, 2008-Ohio-2637, 889 N.E.2d 500, ¶ 15. If the inferior court or tribunal did not patently and unambiguously lack jurisdiction, an appeal is generally “considered an adequate remedy that will preclude a writ of prohibition.” *State ex rel. Smith v. Hall*, 145 Ohio St.3d 473, 2016-Ohio-1052, 50 N.E.3d 524, ¶ 8.

INSTRUCTIONS

Following this page are blank forms for you to complete and file.

Please note: this packet includes forms for filing in both the Court of Appeals and the Supreme Court of Ohio. As explained above, you should only file in one court.

1. To prepare the cover page of your application, you need certain information. This includes the name and address of the entity you are seeking to stop from taking action.
2. Your complete petition includes ALL OF THE FOLLOWING:
 - (1) WRIT OF PROHIBITION; and
 - (2) AFFIDAVIT OF INDIGENCY; and
 - (3) AFFIDAVIT OF VERITY; and
 - (4) AFFIDAVIT OF CIVIL FILINGS (with accompanying exhibit(s) for each civil filing);
and
 - (5) FINANCIAL CERTIFICATE.
3. **When you are finished preparing the petition, sign the petition at the end and again after the certificate of service.**
4. See your unit staff for notary service. You will need to sign each affidavit and have them notarized. Do not sign the affidavits until you see the notary; they must be signed in the notary's presence.
5. You will need to get the Financial Certificate completed by your institution's cashier, NOT YOU!
6. Make three (3) copies of the petition/affidavits/certificate. Some courts require additional copies, so make sure to check the court's local rules to verify how many copies you need to send.

Mail the forms as follows (if the local rules are different than these instructions, follow the local rules):

TO THE CLERK OF COURTS:

- Mail the original application, plus two (2) copies to the clerk of courts for the court where you are filing your writ.
- Mark one copy of each document "time-stamp and return." **Do not** mark the original form.
- If you do not know the mailing address of the clerk of courts, you can find it in your prison orientation packet.

TO THE OPPOSING PARTY AND COUNSEL:

Mail one (1) copy of the application to whomever you are filing the writ against and their counsel if they have it.

IN THE COURT OF APPEALS

_____ APPELLATE DISTRICT

_____ COUNTY, OHIO

_____,

(YOUR NAME)

_____,

(INMATE NUMBER)

_____,

(INSTITUTION NAME)

_____,

(INSTITUTION ADDRESS)

_____,

(INSTITUTION ADDRESS [CONT'D])

_____,

(INSTITUTION CITY, STATE, ZIP)

Relator,

VS.

_____,

(NAME OF COURT)

_____,

(NAME OF JUDGE)

_____,

(COURT/JUDGE ADDRESS)

_____,

(COURT/JUDGE ADDRESS [CONT'D])

_____,

(CITY, STATE, ZIP)

Respondent.

Case No. _____

ORIGINAL ACTION - WRIT OF PROHIBITION

COMPLAINT FOR WRIT OF PROHIBITION

I. Preliminary Statement.

II. Parties.

Relator:

Respondent(s):

III. Jurisdiction and the Standard for Issuing a Writ of Prohibition.

This court has original jurisdiction over this matter under Article IV, § 3(B)(1)(d) of the Ohio Constitution. To be entitled to a writ of prohibition, Relator must establish that (1) Respondent(s) is/are about to exercise or has exercised judicial power, (2) that exercise of judicial power was unauthorized by law, and (3) “denying the writ would result in injury for which no other adequate remedy exists in the ordinary course of law.” *State ex rel. R.W. v. Williams*, 146 Ohio St.3d 91, 2016-Ohio-562, 52 N.E.3d 1176, ¶ 13. If Respondent(s) patently and unambiguously lack(s) jurisdiction, Relator need not establish that he or she lacks an adequate remedy at law. *State ex rel. Ford v. Ruehlman*, 149 Ohio St.3d 34, 2016-Ohio-3529, 73 N.E.3d 396, ¶ 62, citing *State ex rel. Sapp v. Franklin Cty. Court of Appeals*, 118 Ohio St.3d 368, 2008-Ohio-2637, 889 N.E.2d 500, ¶ 15.

IV. Facts and Legal Analysis.

Facts:

[illegible]

Legal Reasons for Writ of Prohibition:

[illegible]

[illegible]

[illegible]

V. Prayer for Relief.

Respectfully submitted,

RELATOR, PRO SE

Inmate Number/Institution

Address

City, State, and Zip Code

CERTIFICATE OF SERVICE

I certify a copy of the foregoing **COMPLAINT FOR WRIT OF PROHIBITION** has been sent by regular U.S. mail to Respondent this ____ day of _____, 20____.

Mailed to:

Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

RELATOR, PRO SE

COUNTY, OHIO

SS:

_____, Relator, being duly sworn says:

1. I am inmate #_____ incarcerated in the _____
Correctional Institution, _____, Ohio.

2. I earn \$_____ per month, and currently have \$_____ in my prison
commissary account. A statement setting forth the balance of my inmate account for each of the
preceding six months, as certified by the institutional cashier, is attached.

3. I am indigent, unable to pay the Court's full filing fees and security deposit and
seek a waiver of the payment of the fees and deposit.

Affiant further sayeth naught.

RELATOR, PRO SE

Sworn to and subscribed before me this ____ day of _____, 20____.

NOTARY PUBLIC

APPELLATE DISTRICT

COUNTY, OHIO

State of Ohio)
)
County of _____)

_____, Relator, being duly sworn states that the
allegations contained in the foregoing complaint are true and accurate as they verily believe.

RELATOR, PRO SE

Sworn to and subscribed before me this ____ day of _____, 20____.

NOTARY PUBLIC

COUNTY, OHIO

SS:

_____, after first being duly sworn and upon personal knowledge and belief, state the following:

1. I am the relator and have prepared this Complaint for Writ of Prohibition.
2. The facts referred to herein, and the records incorporated herein by reference, are true and accurate as known to me.
3. The materials that are included in the attached Appendix are true and correct copies of orders or other materials generated and issued in connection with the litigation that led to this Complaint for Writ of Prohibition.

Affiant further sayeth naught.

RELATOR, PRO SE

Sworn to and subscribed before me this ____ day of _____, 20____.

NOTARY PUBLIC

Civil Filing Information

Case Caption: _____

Case Number: _____

Court Where this Case was Filed: _____

Names of all Parties to the Case: _____

Brief Description of the Civil Action or Appeal: _____

Brief Description of Case Outcome/Result: _____

Yes No

___ ___ Was the case you listed above dismissed as frivolous or malicious?

___ ___ Did the Court fine or otherwise reprimand you for frivolous conduct?

___ ___ Did the Court fine or otherwise reprimand your attorney (if you had one) for
frivolous conduct?

___ ___ Have you ever been labeled a vexatious litigator?

(Copy this form and complete a separate copy for each civil filing in the last five years.)

EXHIBIT A

FINANCIAL CERTIFICATE

(To be completed by the institution of incarceration)

State of Ohio)
)
County of _____)

SS:

_____, Cashier for _____,
(Name of Institutional Cashier) (Name of Institution)

being duly sworn states as follows:

I certify that _____ has the sum of
(Inmate Name and Number)

\$ _____ on account to their credit at _____.
(Account Balance) (Name of Institution)

I further certify that _____ has the following
(Inmate Name)

securities to their credit: _____

(List of Inmate Securities)

Further, I certify the balance in _____'s account for each of
(Inmate Name)
of the previous six months was as follows:

| | | | |
|------------------------|-------------------------------|------------------------|-------------------------------|
| _____ (Month, Year) | \$ _____ (Account Balance) | _____ (Month, Year) | \$ _____ (Account Balance) |
| _____ | \$ _____ | _____ | \$ _____ |
| _____ | \$ _____ | _____ | \$ _____ |

Date

Signature of Authorized Officer

Printed Name of Authorized Officer

Sworn to and subscribed before me this _____ day of _____
_____, 20__.

NOTARY PUBLIC

_____,

(YOUR NAME)

(INMATE NUMBER)

(INSTITUTION NAME)

(INSTITUTION ADDRESS)

(INSTITUTION ADDRESS [CONT'D])

(INSTITUTION CITY, STATE, ZIP)

VS.

(NAME OF COURT)

(NAME OF JUDGE)

(COURT/JUDGE ADDRESS)

(COURT/JUDGE ADDRESS [CONT'D])

(CITY, STATE, ZIP)

Case No. _____

COMPLAINT FOR WRIT OF PROHIBITION

COUNSEL FOR RESPONDENT

COMPLAINT FOR WRIT OF PROHIBITION

I. Preliminary Statement.

II. Parties.

Relator:

Respondent(s):

III. Jurisdiction and the Standard for Issuing a Writ of Prohibition.

This court has original jurisdiction over this matter under Article IV, § 3(B)(1)(d) of the Ohio Constitution. To be entitled to a writ of prohibition, Relator must establish that (1) Respondent(s) is/are about to exercise or has exercised judicial power, (2) that exercise of judicial power was unauthorized by law, and (3) “denying the writ would result in injury for which no other adequate remedy exists in the ordinary course of law.” *State ex rel. R.W. v. Williams*, 146

Ohio St.3d 91, 2016-Ohio-562, 52 N.E.3d 1176, ¶ 13. If Respondent(s) patently and unambiguously lack(s) jurisdiction, Relator need not establish that he or she lacks an adequate remedy at law. *State ex rel. Ford v. Ruehlman*, 149 Ohio St.3d 34, 2016-Ohio-3529, 73 N.E.3d 396, ¶ 62, citing *State ex rel. Sapp v. Franklin Cty. Court of Appeals*, 118 Ohio St.3d 368, 2008-Ohio-2637, 889 N.E.2d 500, ¶ 15.

IV. Facts and Legal Analysis.

Facts:

[illegible]

Legal Reasons for Writ of Prohibition:

[illegible]

[illegible]

V. Prayer for Relief.

Respectfully submitted,

RELATOR, PRO SE

Inmate Number/Institution

Address

City, State, and Zip Code

CERTIFICATE OF SERVICE

I certify a copy of the foregoing **COMPLAINT FOR WRIT OF PROHIBITION** has been sent by regular U.S. mail to Respondent this ____ day of _____, 20__.

Mailed to:

Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

RELATOR, PRO SE

_____,

(YOUR NAME)

(INMATE NUMBER)

(INSTITUTION NAME)

(INSTITUTION ADDRESS)

(INSTITUTION ADDRESS [CONT'D])

(INSTITUTION CITY, STATE, ZIP)

VS.

ORIGINAL ACTION - WRIT OF PROHIBITION

(NAME OF COURT)

(NAME OF JUDGE)

(COURT/JUDGE ADDRESS)

(COURT/JUDGE ADDRESS [CONT'D])

(CITY, STATE, ZIP)

Respondent.

State of Ohio)
)
County of _____)

_____, Relator, being duly sworn says:

1. I am inmate #_____ incarcerated in the _____
Correctional Institution, _____, Ohio.

2. I earn \$_____per month, and currently have \$_____ in my prison
commissary account. A statement setting forth the balance of my inmate account for each of the
preceding six months, as certified by the institutional cashier, is attached.

3. I am indigent, unable to pay the Court's full filing fees and security deposit and
seek a waiver of the payment of the fees and deposit.

Affiant further sayeth naught.

RELATOR, PRO SE

Sworn to and subscribed before me this ____ day of _____, 20____.

NOTARY PUBLIC

(YOUR NAME)

(INMATE NUMBER)

(INSTITUTION NAME)

(INSTITUTION ADDRESS)

(INSTITUTION ADDRESS [CONT'D])

(INSTITUTION CITY, STATE, ZIP)

Relator,

VS.

(NAME OF COURT)

(NAME OF JUDGE)

(COURT/JUDGE ADDRESS)

(COURT/JUDGE ADDRESS [CONT'D])

(CITY, STATE, ZIP)

Respondent.

.....

Case No. _____

ORIGINAL ACTION - WRIT OF PROHIBITION

AFFIDAVIT OF VERITY

State of Ohio)
)
County of _____)

SS:

_____, Relator, being duly sworn states that the
allegations contained in the foregoing complaint are true and accurate as they verily believe.

RELATOR, PRO SE

Sworn to and subscribed before me this ____ day of _____, 20____.

NOTARY PUBLIC

_____,

(YOUR NAME)

(INMATE NUMBER)

(INSTITUTION NAME)

(INSTITUTION ADDRESS)

(INSTITUTION ADDRESS [CONT'D])

(INSTITUTION CITY, STATE, ZIP)

Relator,

VS.

(NAME OF COURT)

(NAME OF JUDGE)

(COURT/JUDGE ADDRESS)

(COURT/JUDGE ADDRESS [CONT'D])

(CITY, STATE, ZIP)

Respondent.

.....

Case No. _____

ORIGINAL ACTION - WRIT OF PROHIBITION

AFFIDAVIT OF CIVIL FILINGS

State of Ohio)
)
County of _____)

SS:

_____, after first being duly sworn and upon personal knowledge and belief, state the following:

1. I am the relator and have prepared this Complaint for Writ of Prohibition.
2. The facts referred to herein, and the records incorporated herein by reference, are true and accurate as known to me.
3. The materials that are included in the attached Appendix are true and correct copies of orders or other materials generated and issued in connection with the litigation that led to this Complaint for Writ of Prohibition.

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)
County of _____) SS:

_____, Cashier for _____,
(Name of Institutional Cashier) (Name of Institution)

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\$_____ on account to their credit at _____.
(Account Balance) (Name of Institution)

I further certify that _____ has the following
(Inmate Name)

securities to their credit: _____

(List of Inmate Securities)

Further, I certify the balance in _____'s account for each of
(Inmate Name)
of the previous six months was as follows:

| | | | |
|---------------|-------------------|---------------|-------------------|
| _____ | \$ _____ | _____ | \$ _____ |
| (Month, Year) | (Account Balance) | (Month, Year) | (Account Balance) |
| _____ | \$ _____ | _____ | \$ _____ |
| _____ | \$ _____ | _____ | \$ _____ |

Date

Signature of Authorized Officer

Printed Name of Authorized Officer

Sworn to and subscribed before me this _____ day of _____
_____, 20__.

NOTARY PUBLIC