

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 13-3968

PERCY HUTTON,
Petitioner - Appellant,

v.

BETTY MITCHELL, Warden,
Respondent - Appellee.

Before: MERRITT, ROGERS, and DONALD, Circuit Judges.

JUDGMENTOn Appeal from the United States District Court
for the Northern District of Ohio at Cleveland.

THIS CAUSE was heard on the record from the district court and was argued by counsel.

IN CONSIDERATION WHEREOF, it is ORDERED that the judgment of the district court is REVERSED, and the petition for a writ of habeas corpus is CONDITIONALLY GRANTED only on the first assignment of error. IT IS FURTHER ORDERED that the case is REMANDED to the district court with instructions to order Hutton's release from custody unless the state grants a new sentencing hearing within 180 days from the date that the mandate issues from this court.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk**FILED**
Oct 12, 2016
DEBORAH S. HUNT, Clerk