

found in the case of *Boone vs. State of Ohio*, 109 O. S., p. 1, a criminal case, the prosecuting attorney of Cuyahoga county in the case at bar may at any time, before a retrial in the Common Pleas Court, prosecute error to the Supreme Court to reverse the judgment of the Court of Appeals in the case, I am of the opinion that the provisions of Sections 13760 and 13762, General Code, should be complied with by the warden and the prisoner conveyed to the jail of the county and into the custody of the sheriff thereof, unless the prosecutor, before the prisoner be thus returned to the county, files a motion for leave to file a petition in error in the Supreme Court in conformity with the provisions of Rule VII of the Supreme Court, and obtains a suspension of the judgment.

I desire to say that inquiry was made of the clerk of the Supreme Court to ascertain if the case was pending and if so, if there was any suspension of the judgment of the Court of Appeals by the Supreme Court, and learned that the case had not been filed and is not now pending in the Supreme Court.

I am of the opinion, therefore, that it is the duty of the warden to forthwith cause the prisoner, John Kosienski, to be conveyed to the jail of Cuyahoga county and committed to the custody of the sheriff.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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APPROVAL, BOND FOR FAITHFUL PERFORMANCE OF DUTIES—F. A. DAUM.

COLUMBUS, OHIO, April 6, 1927.

HON. GEORGE F. SCHLESINGER, *Director of Highways & Public Works, Columbus, Ohio*

DEAR SIR:—You have submitted for my examination the official bond of F. A. Daum, given in accordance with the requirements of Section 1182 of the General Code to the state of Ohio in the amount of five thousand dollars (\$5,000) with the Aetna Casualty & Surety Company as surety to cover the faithful performance of his duties as Resident Deputy State Highway Commissioner.

To this bond is attached a certificate of the surety company to the effect that the person signing said bond in behalf of said company is its attorney in fact, and is authorized to sign an official bond of this nature binding said company.

It has been ascertained by this department that the said surety company is authorized to transact its business of fidelity and surety insurance in this state.

Finding said bond in proper legal form and properly executed, I have noted my approval thereon and am returning the same herewith to you.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*