

1928 O. A. G. 2657, Vol. III, page 2237:

SYLLABUS:

"Where a person has been convicted of a felony and sentenced to imprisonment in one of the penal institutions of this state, and such sentence has been executed in part, the trial court is without jurisdiction, either after or during term, to vacate the judgment imposing the sentence and cause the prisoner to be discharged. In such a case, where the prisoner is confined in the Ohio State Reformatory, the superintendent of such institution is justified in refusing to honor the order of the court discharging the prisoner."

Section 13451-8a, 115 O. L. 543, reads:

Sec. 2.—

"Any court sentencing a person for misdemeanor forbidden by statute or ordinance, may at the time of sentence remit the same or suspend such sentence in whole or in part, upon such terms as he may impose."

Section 13452-1 provides that under certain circumstances the judge or magistrate "may *suspend the imposition* of the sentence and place the defendant on probation."

It seems clear that the authority of a court or magistrate to "suspend" a sentence and place a defendant "on probation" must be such as is contained in the laws of Ohio and is limited thereby.

Section 1666 G. C. *supra*, is definite in providing that, "such judge may *suspend sentence* upon such terms as he imposes." The language of the statute cannot be made to include taking some action, as attempting to parole or place on probation, after sentence is given or imposed, but only gives the judge the right, upon such terms as he imposes, to suspend the sentence where imprisonment is imposed as a part of the penalty.

Bouvier defines "sentence" as, "A judgment or judicial declaration made by a judge in a cause. The term 'judgment' is more usually applied to civil, and 'sentence' to criminal, proceedings."

In specific answer to your inquiry, my opinion is that the Judge of a juvenile court is not authorized to suspend the execution of a sentence after a person has been imprisoned for violation of either Section 1654 of the General Code or Section 1655 of the General Code and is not given authority to place such a person so imprisoned, on parole or probation.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2518.

APPROVAL, NOTES OF AUBURN RURAL SCHOOL DISTRICT, TUSCARAWAS COUNTY, OHIO—\$1,196.00.

COLUMBUS, OHIO, April 17, 1934.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.