

# APPENDIX

Case No. 16-4205

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

**ORDER**

CHARLES M. STEELE

Plaintiff - Appellant

JEROME ROYSTER

Plaintiff

v.

CHARLOTTE JENKINS; [UNKNOWN] PARKS, Sherman School Principal; CATHY PUMMILL; COLEEN BETHEL

Defendants - Appellees.

Appellant having previously been advised that failure to satisfy certain specified obligations would result in dismissal of the case for want of prosecution and it appearing that the appellant has failed to satisfy the following obligation(s):

The proper fee was not paid by **May 01, 2018**.

It is therefore **ORDERED** that this cause be, and it hereby is, dismissed for want of prosecution.

**ENTERED PURSUANT TO RULE 45(a),  
RULES OF THE SIXTH CIRCUIT**  
Deborah S. Hunt, Clerk

*Deborah S. Hunt*

Issued: May 15, 2018

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

CHARLES M. STEELE, et al.,

Plaintiff,

v.

Civil Action 2:16-cv-727  
Judge George C. Smith  
Magistrate Judge Jolson

WARDEN CHARLOTTE  
JENKINS, et al.,

Defendants.

**ORDER AND REPORT AND RECOMMENDATION**

Plaintiffs, two prisoners currently incarcerated at Chillicothe Correctional Institution ("Institution"), have filed the instant lawsuit alleging violations of their constitutional rights. (Doc. 1-2). They have also filed Motions for Leave to Proceed *In Forma Pauperis* (Docs. 1, 4, 5), and a Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 2). This matter is now before the Court to screen the case pursuant to 28 U.S.C. § 1915A. For the following reasons, the Court **GRANTS** Plaintiffs' Motions for Leave to Proceed *In Forma Pauperis* (Docs. 1, 4, 5); **RECOMMENDS DISMISSING** the complaint (Doc. 1-2); and **RECOMMENDS DENYING** the Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 2).

**I. STANDARD**

Because Plaintiffs are prisoners who seek redress from the government, this Court must conduct an initial screen of the complaint. 28 U.S.C. § 1915A(a). The Court must dismiss the complaint if it determines that the claims are frivolous or malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. §§ 1915(e)(2), 1915A(b); *see Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir.

1991) (“[T]he allegations of a complaint drafted by a *pro se* litigant are held to less stringent standards than formal pleadings drafted by lawyers . . .”); *Thompson v. Kentucky*, 812 F.2d 1408, No. 86-5765, 1987 WL 36634, at \*1 (6th Cir. Jan. 28, 1987) (“Although *pro se* complaints are to be construed liberally, they still must set forth a cognizable federal claim.” (citation omitted)). In order to survive dismissal for failure to state a claim, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 554, 570 (2007)).

## II. DISCUSSION

### A. *In Forma Pauperis* Motions (Docs. 1, 4, 5)

Pursuant to 28 U.S.C. § 1915(a), the Court has reviewed Plaintiffs’ Motions for Leave to Proceed *In Forma Pauperis*. (Docs. 1, 4, 5). The motions are **GRANTED**. All judicial officers who render services in this action shall do so as if the costs had been prepaid. However, as explained below, the Court concludes that this action cannot proceed.

### B. Complaint (Doc. 1-2) and Motion for Injunctive Relief (Doc. 2)

Plaintiffs allege that Mr. Steele has served as Mr. Royce’s jailhouse lawyer for various state and federal lawsuits. (See Doc. 1-2 ¶¶ 1–9). They claim that officials at the Institution have enforced a policy called 59-Leg-01 (“Policy”) to deny Mr. Steele from assisting other inmates with their court filings. (See *id.* ¶¶ 9–12). Plaintiffs allege that such enforcement led the Ohio Supreme Court to dismiss one of Mr. Royster’s cases for want of prosecution. (*Id.* ¶ 23). Based upon these allegations, Plaintiffs allege that the Institution infringed on their right to access the courts (*id.* ¶¶ 21, 25–26), Mr. Royster’s rights under the First Amendment (*id.* ¶ 27),

and Mr. Steele's right to be free from retaliation for his assistance of other inmates (*id.* ¶ 28). Plaintiffs also move to enjoin the enforcement of the Policy. (Doc. 2).

Plaintiffs fail to state a claim for relief. Mr. Steele claims that Defendants infringed upon his right to access the courts as Mr. Royster's jailhouse lawyer, but Mr. Steele has no such right. "It is clear in this circuit that an inmate does not have an independent right to help other prisoners with their legal claims." *Thaddeus-X v. Blatter*, 175 F.3d 378, 395 (6th Cir. 1999). As for Mr. Royster's claims, "prison officials may not prevent" jailhouse lawyers from assisting other inmates or "retaliate for providing such assistance where no reasonable alternatives are available." *Gibbs v. Hopkins*, 10 F.3d 373, 378 (6th Cir. 1993). In order to proceed on such a claim, a plaintiff must plead or present evidence that he is "unable to file his own complaint or grievance," *Evans v. Vinson*, 427 F. App'x 437, 445 (6th Cir. 2011), and that he "has no other sources of help," *Nelson v. Joosten*, 100 F.3d 957, No. 95-1800, 1996 WL 637487, at \*1 (6th Cir. Nov. 4, 1996). Plaintiffs do not allege that Mr. Royster is unable to file his own pleadings. Further, the attachments to their complaint indicate that the Institution has a procedure for inmates to receive legal assistance beyond that of Mr. Steele. (*See, e.g.*, Doc. 1-2 at 14, 25). Mr. Steele's retaliation claim, which is derivative of Mr. Royster's claims, lacks merit for the same reason. *Ziegler v. McGinnis*, 32 F. App'x 697, 699 (6th Cir. 2002).

### III. CONCLUSION

As set forth above, the Court **GRANTS** Plaintiffs' Motions for Leave to Proceed *In Forma Pauperis* (Docs. 1, 4, 5); **RECOMMENDS DISMISSING** the complaint (Doc. 1-2); and **RECOMMENDS DENYING** the Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 2).

**Procedure on Objections to Report and Recommendation**

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

**Procedure on Objections to Order**

Any party may, within fourteen days after this Order is filed, file and serve on the opposing party a motion for reconsideration by a District Judge. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. Rule 72(a); Eastern Division Order No. 91-3, pt. I., F., 5. The motion must specifically designate the order or part in question and the basis for any objection. Responses to objections are due fourteen days after objections are filed and replies by the objecting party are due seven days thereafter. The District Judge, upon consideration of the motion, shall set aside any part of this Order found to be clearly erroneous or contrary to law. This Order is in full force

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**CHARLES M. STEELE, *et al.*,**

**Plaintiffs,**

**vs.**

**Case No.: 2:16-cv-727  
JUDGE GEORGE C. SMITH  
Magistrate Judge Jolson**

**WARDEN CHARLOTTE JENKINS, *et al.*,**

**Defendants.**

**ORDER**

On September 1, 2016, the United States Magistrate Judge issued an *Order and Report and Recommendation* recommending that Plaintiffs Charles Steele and Jerome Royster's Motions for Leave to Proceed *In Forma Pauperis* be granted; that Plaintiffs' Complaint be dismissed; and that Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction be denied. (*See Order and Report and Recommendation*, Doc. 6). The parties were advised of their right to object to the *Order and Report and Recommendation*. This matter is now before the Court on Plaintiff Steele's Objections to the *Order and Report and Recommendation*. (*See Doc. 7*). The Court will consider the matter *de novo*. *See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).*

The objections present the same issues presented to and considered by the Magistrate Judge in the *Order and Report and Recommendation*. Plaintiff objects to the Magistrate Judge's conclusion that he has failed to state a claim for relief based on his allegation that Defendants infringed upon his right to access the courts. Further, Plaintiff objects to the dismissal of his claims on the Magistrate Judge's initial screen rather than Defendants seeking dismissal. The

Magistrate Judge carefully set forth the basis for conducting the initial screen of a prisoner complaint. *See 28 U.S.C. § 1915A(a).* And, the Magistrate Judge carefully considered Plaintiffs arguments regarding access to the Court. The Court agrees that there is no allegation that Mr. Royster is unable to file his own pleadings with the Court. Therefore, for the reasons stated in detail in the *Order and Report and Recommendation*, this Court finds that Plaintiff Steele's objections are without merit and are hereby **OVERRULED**.

The *Order and Report and Recommendation*, Document 6, is **ADOPTED** and **AFFIRMED**. Plaintiffs Charles Steele and Jerome Royster's Motions for Leave to Proceed *In Forma Pauperis* is **GRANTED**; Plaintiffs' Complaint is hereby **DISMISSED**; and Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction is **DENIED**.

The Clerk shall remove Documents 2, 6, and 7 from the Court's pending motions list. The Clerk shall terminate this case.

**IT IS SO ORDERED.**

/s/ George C. Smith  
**GEORGE C. SMITH, JUDGE**  
**UNITED STATES DISTRICT COURT**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**CHARLES M. STEELE, *et al.*,**

**Plaintiffs,**

**vs.**

**Case No.: 2:16-cv-727  
JUDGE GEORGE C. SMITH  
Magistrate Judge Jolson**

**WARDEN CHARLOTTE JENKINS, *et al.*,**

**Defendants.**

**ORDER**

This matter is before the Court on Plaintiff's Motion to Disqualify Judge (Doc. 11) and Motions to Void Court Order and Order on Motions to Recuse and to Take Judicial Notice (Doc. 12). This Court previously dismissed this case and final judgment was entered on October 6, 2016. Then, the aforementioned motions were filed by Plaintiff on October 13, 2016. There has been no response to the motions.

Plaintiff is essentially seeking reconsideration of this Court's Order dismissing this case. And also arguing that the undersigned should be disqualified from this case for showing prejudice and bias in the rulings.

Plaintiff is seeking reconsideration of this Court's Order based on the same arguments already presented to both the Magistrate Judge and this Court in previous briefs. And further argues that the Magistrate did not have the authority to make recommendations on this matter. However, Plaintiff has not provided any basis for the Court to reconsider its prior Order. Accordingly, there is no basis for reconsideration of this Court's prior Order. Further, the undersigned does not find that Plaintiff has provided any basis for recusal from this case. This

matter is closed and the undersigned will remain as the judicial officer of record. Plaintiff's Motions are therefore **DENIED**.

The Clerk shall remove Documents 11 and 12 from the Court's pending motions list.  
This matter shall remain closed.

**IT IS SO ORDERED.**

/s/ George C. Smith  
GEORGE C. SMITH, JUDGE  
UNITED STATES DISTRICT COURT

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

CHARLES M. STEELE; JEROME ROYSTER, )  
Plaintiffs-Appellants, )  
v. )  
CHARLOTTE JENKINS, et al., )  
Defendants-Appellees. )

**FILED**  
Nov 30, 2017  
DEBORAH S. HUNT, Clerk

O R D E R

Charles M. Steele, an Ohio state prisoner, moves for in forma pauperis status on appeal from a district court judgment dismissing his civil rights action.

Steele and another inmate filed a complaint against prison officials claiming that defendants were preventing Steele from helping his co-plaintiff with his legal work. More specifically, the Plaintiffs allege that prison officials infringed on (1) their right to access the courts, (2) Mr. Royster's rights under the First Amendment, and (3) Mr. Steele's right to be free from retaliation for his assistance of other inmates. A magistrate judge recommended that the complaint be dismissed pursuant to 28 U.S.C. § 1915A for failure to state a claim. The district court adopted this recommendation over Steele's objections. The court also denied Steele's motion for reconsideration and his motion to proceed in forma pauperis on appeal. Only Steele signed the notice of appeal, and the appeal was therefore dismissed as to the other prisoner.

Upon consideration, it appears that an appeal would be frivolous. Steele has no independent right to help other prisoners with their legal claims. *See Thaddeus-X v. Blatter*, 175 F.3d 378, 395 (6th Cir. 1999) (en banc). Prison officials may limit the activities of jailhouse lawyers unless the limitations interfere with other inmates' ability to present their grievances to a

court. *Ibid.* The attachments to Steele's complaint showed that the prison had a system for providing legal assistance. Steele's derivative claim of retaliation for his activities therefore also fails. *Ibid.* ("[O]nly if [the plaintiff's] assistance is necessary to vindicate [another prisoner's] right of access to the courts can [the plaintiff], too, state a claim of retaliation.").

It therefore appears that in forma pauperis status is not warranted. *See Callihan v. Schneider*, 178 F.3d 800, 804 (6th Cir. 1999). Accordingly, unless Steele pays the \$505 filing fee to the district court within thirty days of the entry of this order, this appeal will be dismissed for want of prosecution.

ENTERED BY ORDER OF THE COURT



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Deborah S. Hunt, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**CHARLES M. STEELE, *et al.*,**

**Plaintiffs,**

**v.**

**Civil Action 2:16-cv-727  
Judge George C. Smith  
Magistrate Judge Jolson**

**WARDEN CHARLOTTE  
JENKINS, *et al.*,**

**Defendants.**

**ORDER**

This matter is before the Court for consideration of Plaintiffs Charles M. Steele and Jerome Royster's Motions to Proceed Without Prepayment of Fees. (Docs. 15, 16). The Court permitted Plaintiffs, two *pro se* prisoners, to proceed *in forma pauperis* in the instant action. (See Doc. 6). By these Motions, Plaintiffs seek to proceed *in forma pauperis* on appeal. Federal Rule of Appellate Procedure 24(a)(3)(A) provides in relevant part that:

A party who was permitted to proceed *in forma pauperis* in the district-court action . . . may proceed on appeal *in forma pauperis* without further authorization, unless:

(A) the district court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed *in forma pauperis* and states in writing its reasons for the certification or finding[.]

Fed. R. App. P. 24(a)(3)(A).

The Court agrees that Plaintiffs qualify to proceed *in forma pauperis* on appeal from a financial standpoint. Nevertheless, the Court **DENIES** Plaintiffs' Motions because Plaintiffs' appeal is not taken in good faith. On September 1, 2016, the Magistrate Judge issued a Report

and Recommendation recommending that Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction be denied, and Plaintiffs' Complaint be dismissed for failure to state a claim upon which relief may be granted. (*See* Doc. 6). Specifically, the Magistrate Judge's Recommendation pointed out that although Mr. Steele claimed that Defendants infringed upon his right to access the courts as Mr. Royster's jailhouse lawyer, Mr. Steele had no such right. (*Id.* at 3); *see also Thaddeus-X v. Blatter*, 175 F.3d 378, 395 (6th Cir. 1999) ("It is clear in this circuit that an inmate does not have an independent right to help other prisoners with their legal claims."). As for Mr. Royster's claims, the Magistrate Judge recognized that "'prison officials may not prevent' jailhouse lawyers from assisting other inmates or 'retaliate for providing such assistance where no reasonable alternatives are available.'" (*Id.* at 3) (citing *Gibbs v. Hopkins*, 10 F.3d 373, 378 (6th Cir. 1993)). However, to proceed on such a claim, a plaintiff must plead or present evidence that he is "unable to file his complaint or grievance" and he "has no other sources of help," which Plaintiffs did not allege. (*Id.*) (citing *Nelson v. Joosten*, 100 F.3d 957, No. 95-1800, 1996 WL 637487, at \*1 (6th Cir. Nov. 4, 1996)). Further, the attachments to Plaintiffs' complaint indicated that the Institution had a procedure for inmates to receive legal assistance beyond that of Mr. Steele. (*Id.*).

On September 14, 2016, Mr. Steele filed an Objection to the Report and Recommendation, alleging the same issues that were presented in the Complaint.<sup>1</sup> (Doc. 7). Reviewing the matter *de novo*, this Court found that Mr. Steele's Objection to the Report and Recommendation was without merit, finding that there was "no allegation that Mr. Royster [was] unable to file his own pleadings with the Court." (Doc. 8 at 2). Accordingly, the Court adopted and affirmed the Order and Report and Recommendation (*id.*), and final judgment was entered (Doc. 10). Thereafter, Mr. Steele filed a Motion to Disqualify the undersigned (Doc. 11), and "Motions to

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<sup>1</sup> Mr. Royster did not file his own objection to the Magistrate Judge's Report and Recommendation.

Void Court Order and Order on Motions to Recuse and to Take Judicial Notice" (Doc. 12). On December 6, 2016, this Court denied those Motions, finding that Plaintiff had not provided any basis for the Court to reconsider its prior Order, nor was there any basis for recusal of the undersigned from this case. (Doc. 17).

Under these circumstances, pursuant to Appellate Rule 24(a)(3)(A), the Court **CERTIFIES** that Plaintiffs' appeal is not taken in good faith.

**IT IS SO ORDERED.**

*/s/ George C. Smith*  
**GEORGE C. SMITH, JUDGE**  
**UNITED STATES DISTRICT COURT**

No. 16-4205

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

CHARLES M. STEELE; JEROME ROYSTER, )  
Plaintiffs-Appellants, )  
v. )  
CHARLOTTE JENKINS, et al., )  
Defendants-Appellees. )

**FILED**  
Apr 18, 2017  
DEBORAH S. HUNT, Clerk

O R D E R

Before: BOGGS, WHITE, and STRANCH, Circuit Judges.

A notice of appeal was filed on October 20, 2016, from the district court's decision entered on October 6, 2016. However, the notice of appeal was not signed by pro se appellant Jerome Royster, as required by Federal Rule of Civil Procedure 11(a). Although pro se appellant Charles M. Steele signed the notice of appeal, he does not have authority to represent Royster on appeal. *See 28 U.S.C. § 1654.* By order entered on November 4, 2016, this court gave Royster twenty-one days to correct the omission by signing a copy of the October 20, 2016 notice of appeal and returning it to this court. No signed notice of appeal or response of any kind was received from Royster within the allotted time set forth in the show-cause order.

Accordingly, it is ordered that the appeal is **DISMISSED** insofar as it applies to Jerome Royster. Federal Rule of Civil Procedure 11(a) requires that the notice of appeal be signed by a party personally if the party is unrepresented, and Royster has failed to comply with that requirement. *See Becker v. Montgomery*, 532 U.S. 757, 768 (2001).

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

Deborah S. Hunt  
Clerk

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Filed: April 17, 2018

Charles M. Steele  
Chillicothe Correctional Institution  
P.O. Box 5500  
Chillicothe, OH 45601

Re: Case No. 16-4205, *Charles Steele, et al v. Charlotte Jenkins, et al*  
Originating Case No. : 2:16-cv-00727

Dear Mr. Steele:

In view of this court's 04/17/18 order, the 505.00 filing fee must be paid to the district court no later than **April 01, 2018**.

Failure to pay the fee will result in dismissal of your appeal.

Sincerely yours,

s/Bryant L. Crutcher  
Case Manager  
Direct Dial No. 513-564-7013

Enclosure

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

CHARLES M. STEELE,

Plaintiff-Appellant,

JEROME ROYSTER,

Plaintiff,

v.

CHARLOTTE JENKINS, et al.,

Defendants-Appellees.

**FILED**

Apr 17, 2018

DEBORAH S. HUNT, Clerk

O R D E R

Before: SUHRHEINRICH, GILMAN, and SUTTON, Circuit Judges.

Charles M. Steele, an Ohio state prisoner, has filed a motion to reconsider this court's order denying his motion for in forma pauperis status.

Upon consideration, the court concludes that it did not misapprehend or overlook any point of law or fact when it issued its order denying the motion for in forma pauperis status. *See* Fed. R. App. P. 40(a)(2). We therefore **DENY** the motion.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk