

Petition for an Extraordinary Writ

No. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

In re: Antuan Burress-El — PETITIONER  
(Your Name)

VS.

John Born, Department of Public Safety;  
Donald Petit, Bureau of Motor Vehicle — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Sixth Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Antuan Burress-El  
(Your Name)

5607 Ebersole Avenue  
(Address)

Cincinnati, Ohio 45227  
(City, State, Zip Code)

513-885-7064  
(Phone Number)

## **QUESTION(S) PRESENTED**

(1) Now comes Antuan Burress-El a free National American Citizen of The United States of North America. I am requesting a motion to be heard for compensation and redress by the Respondents for unconstitutional codes and policies being enforced as laws against the Petitioner. I'm also requiring free access to all public, private streets, roads, highways, byways, bridges, interstates, intrastate's, etc. Petitioner is requesting to be honored to fashion a State and Federal number and plate for my private vehicles/ cars/ transportation for safety against policy enforcers. As I exercise my constitutional right to international land and sea travel between United States, Canada, Mexico, the Caribbean and Bermuda Islands. Reasons being that liberties can not be licensed or for sale. The respondents in this case have no Delegation of Authority orders against the Petitioner nor do they have any constitutional jurisdiction. Unless they can provide the required burden of proof that they have eleventh amendment immunity, I require to be removed from the DMV/ BMV corporate database.

(2) I am requesting a motion to be heard to have my name cleared of all false allegations, debts, perjuries, and victimless crimes held against me. Under Constitutional Jurisdiction of Ohio Supreme Court laws titled: Ohio Traffic Laws. Traffic Rule 13, section (B) The following traffic offenses shall not be

processed by a traffic violations bureau: (1) Indictable offenses; (4) Driving while under suspension or revocation of a driver's or commercial driver's license when jail is a possible penalty; (5) Driving without being licensed to drive when jail is a possible penalty; (9) Drag racing/ speeding.

(3) I am requesting a motion to be heard on the award for private claims against the corporate surety bonds and/or commercial insurances from the respondents for its corporate malfeasance crimes. Each of the non-elected officials of the Ohio Department of Public Safety, Ohio Bureau of Motor Vehicle, and Hamilton County Jobs and Family Service are not arms of the State (and thus not immune). They have conspired against the Petitioner with no constitutional jurisdiction and therefore I have suffered deprivation of due process. According to the "Code of Federal Rules for Motor Vehicle Departments – Motor Carrier – CFR/ US Code Summary" 49 USC 14501(a)(1)(A), 49 USC 13505 (a)(1)(2), Also The case of Uneek Lowe vs. Hamilton County Jobs and Family Service Decided: July 01, 2010. The DMV and BMV were cognitively committing fraud under Surety Bond # 601077096, a Deputy Registrar- Mr. Brain G. Adams was provided a BMV casualty insurance #, but Registrar- Mr. Donald Petit was giving the same exact number but was never officially authorized any casualty insurance # during his employment with Ohio BMV representing a corporate malfeasance crime.

## **LIST OF PARTIES**

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## **RELATED CASES**

Antuan Burress-El v. John Born, et al., No. 20-3016, U. S. Court of Appeals for the Sixth Circuit. Originating Case No. : 2:18-cv-0098. Judgment entered February. 24, 2020.

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• <b>Judy v. Ohio Bur. Of Motor Vehicle (2001)</b>	<b>Pg. 1 Document# 7</b>
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- **U.S. v. Rhodes (C.C.) 30 Fed.** Pg. 2 Document# 11
- **Siliman v. Eddy, 8 How. Prac. (N.Y.)** Pg. 2 Document# 11
- **Lawerence v. Miller, 2 N.Y. 245, 254.** Pg. 2 Document# 11
- **Light, Heat & Power Co. v. state, 65 Misc.**
- **Rep. 263, 121 N.Y.C. 536** Pg. 2 doc 2 Document# 1
- **Cereghino v. State By and Through State Highway Commission** Pg. 2 doc 2 Document# 1
  
- **Hale v. Henkel, 201 U.S. 43 at 47 (1905)** Pg. 2 doc 19 Document# 1
- **Brady v. U.S., 379 U.S. 742 at 748 (1970)** Pg. 2 doc 19 Document# 1
- **Slaughter House Cases United States v. Cruikshank,** Pg. 2 doc 19 Document# 1
- **92, U.S. 542 (1875)**
- **Caha v. United States, 152 U. S., at 125** Pg. 2 doc 19 Document# 1
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## **STATUTES AND RULES**

Ohio Supreme Court -Traffic Rule 13 Sec. (B)(1 - 9); (Pg. 3 of Document# 2)

Rule 72 – Magistrate Judges: Pretrial Order; (Pg. 1 of Document# 13)

Notes of the Advisory Committee on Rules — 1983 Subdivision (a)(b) (Pg. 1 of Document# 13)

## **OTHER**

Federal Courts, is a Court of Record – (25 C.J. Vol. Federal Courts 344, pg. 974). (Pg.1 of Document 7)

[Http:www.ohsd.uscourts.gov](http://www.ohsd.uscourts.gov) “...If you wish to start a civil action in federal court, but do not have an attorney to represent you, you may bring your case on your own...” (Pg. 1, 2 of Document# 11)

U.S. Department of state Vol. 3 Foreign Affairs Manual 3845 (Pg. 2 doc 5 Document# 1)

Motion for request of Trial by jury was denied (Pg. 3 Document 1)(Pg. 1 Document 1)

Motion for request of investigation for Forgery done by Department of Public Safety and Bureau of Motor Vehicle was denied (Pg. 3 Document 1)

Motion for request of Delegation of Authority Order was denied (Pg. 1 Document 17)

Motion for request of Tampering with Evidence and Modification of Court Records was denied (Pg. 3 Document 1) (Pg. 6 Document 1) (Pg. 3 Document 1) (Pg. 3 Document 1)

Motion for request of Freedom of Speech and Secured Human Rights was denied (Pg. 1, 2 Document 17)

Motion for request of Speedy and Fair Trail, Inalienable Rights, and Due Process was denied (Pg. 1, doc 1, 5 Document 1) (Pg. 2 doc 12 Document 1) (Pg. 1 Document 17)

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

**[✓] For cases from **federal courts**:**

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

**[ ] For cases from **state courts**:**

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case  
Was \_\_\_\_\_.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

**U.S.A. Constitution — Article I, Sec. 8 clause 2, 17 (Pg. 2 Document# 19)**

**U.S.A. Constitution — Article IV Sec. 3 (Document# 19)**

**U.S.A. Constitution — Article VI (Document# 17)**

**U.S.A. Constitution — Fifth Amendment (Pg. 2 Document# 17)**

**U.S.A. Constitution — Seventh Amendment (Document# 7)**

**Ohio Constitution — Section 11 (Pg. 2 Document# 17)**

**Title 18 U.S.C. Sec. 7 (Document# 6)**

**Title 42 U.S.C. Sec. 1983 (Document# 6)**

**Title 49 U.S.C. Sec. 13505(a)(1)(2) (Document# 6)**

**Title 49 U.S.C. Sec. 14501(a)(1) (Document# 6)**

**Title 42 U.S.C. Sec. 7602(e)(f) (Pg.2 Document# 11)**

## **STATEMENT OF THE CASE**

September 8, 2015 Mr. Burress-El was found not guilty by Common Pleas Division of Hamilton County Juvenile Courts for state owed arrears after 15 yrs of abuses, and immoral acts towards petitioner. Jobs & Family Services "JFS" and the conspiring agency. The Department of Public Safety "DPS" and Bureau of Motor Vehicle "BMV" work with JFS to apply pressure on delinquent parents by taking away citizens rights to travel by land or sea, garnishing bank accounts and stock accounts, etc. Case No. P96-3052z CSEA # 7008792553. Now it is incumbent that an entity such as JFS that is not an arm of the state but they abrogate citizens constitutional liberties from them. United States Court of Appeals, Sixth Circuit. Uneek Lowe, Plaintiff-Appellee, v. HAMILTON COUNTY DEPARTMENT OF JOB & FAMILY SERVICES, et al., Defendants-Appellants. No. 09-3432. Decided: July 01, 2010

On January 30, 2018 Mr. Burress-El filed a civil lawsuit against the offenders John Born, of the Ohio Dept. of Public Safety, and Donald Petit, of the Ohio Bureau of Motor Vehicle. Petitioner experienced lose of constitutional rights and suffered deprivation of due process for 15 years from the offenders and their counterparts, departments and agencies. Petitioner filed an Original: JS-44 form; Personal Injury Claim; 360; DIVERSITY; Right [Private Right of Action]; Forgery [Deprivation of Inalienable Rights]; \$1.5 million in compensation; Jury Demand. Under the Jurisdiction of Title 49 U.S.C. Sec. 13505(a)(1)(2), 49 U.S.C. Sec. 14501(a)(1), 18

U.S.C. Sec. 7. Under statement of claim #11 Ohio Supreme Court Traffic Rule13.

Sec. (B)(1-9)

Petitioner verified claim filed by providing U.S. Postal marked letters of correspondence between both parties. Petitioner made multiple attempts to resolve our issues privately before filing a civil lawsuit. Three Letters were justifiable received by the offenders and two letters were responded to by the offenders. The letters consisted of Petitioner describing his constitutional rights, Land or Sea Traveling rights, Supreme Court cases to support my claims, Uniform Commercial Codes, unconstitutional debts, and United State Codes. The Offenders responses were that they don't follow U.S.A. or Ohio Constitution, Supreme Court rules, or Federal rules of Law. They're responses was their jurisdiction is under OHIO REVISED CODES not the constitution of Ohio or The United States of America.

Petitioner filed his case based upon the jurisdiction of the constitution. The offenders have judicial admission that they are performing unconstitutional codes against the Petitioner and the citizens of Ohio. The original filing of this case was illegally modified by the Ohio district courts southern division clerks office between being transferred to the Ohio district courts eastern division. Verification of the modification was addressed on court records under (document# 6 Addendum) petitioner made clear that his federally filed documents were manipulated. Resulting in threats from courts and mockery made of petitioners filings. Petitioner

responded to the magistrates findings, petitioner did not use the word objection in my motions. Petitioner followed court rules and properly responded. Although the district courts never acknowledged request presented from by the petitioner. The alterations in the original filing made the case awkward and caused interference with my rights, and confusion to all reading my claims. I was relying upon law and the facts and conclusions of law.

Petitioner was unprepared for perjury and a lack of judicial conduct by the district courts clerks and magistrate. In which petitioner requested to be heard openly on the courts floor in front of the judge. Right to a fair and speedy trail was abolished in the original filing. Petitioner wrote a letter addressing the clerk of courts and the judge. Verified as (document# 17) this letter being a parcel in the courts records acknowledges petitioners constitutional liberties that were abrogated by public servants of the courts. The denial of rights guaranteed by the constitution, affected the confidence that the public should have in law. Petitioners access to the courts and documents filed were ignored for months. Before petitioner filed a motion for default judgment April 27, 2018 which was filed in a timely manner. The magistrate responded 6 months later October 23, 2018, but the federal courts rules do not explicitly describe a time frame where it takes 6 months for any response from the magistrate or judge.

## REASONS FOR GRANTING THE PETITION

Now comes Antuan Burress-El requesting a motion to be heard by the U. S. Supreme Court to grant a certiorari request adopting Rule 10(a), Rule 20. Procedure on a Petition for an Extraordinary Writ

1. Petitioner is requesting the U. S. Supreme Court to exercise it's discretionary jurisdiction.

Based upon the decision of the the U.S. District Court magistrate and judge in the lower court erroneous factoring of timeframe argument. A Default judgement can be filed at anytime of a case but never before you give another party or magistrates/judge time to respond. Perjury Rule 54. Judgment; Costs (B)(i); Rule 60. Relief from a Judgment or Order (c)(1)

Magistrates and Judge decision:

- "In response to the Report and Recommendation, Plaintiff filed four notices within the 14-day statutory timeframe allowed by the Court to file objections. (ECF Nos. 7-10). Plaintiff also filed an amended notice, Motion for Default Judgment and/or Objection, and amended Motion after the statutory timeframe allowed by the Court to file objections. (ECF Nos. 11-13). For the reasons set forth below, the Court ADOPTS the Magistrate Judge's Report and Recommendation, OVERRULES Plaintiff's Objections (ECF Nos. 7-10), DENIES AS MOOT Plaintiff's amended Notice, Motion for Default Judgment

and/or Objection and amended Motion (ECF Nos. 11-13), and declares Plaintiff a vexatious litigator".

Cases in support of petitioner's response to the magistrate and judge's vexatious litigator claims and decision:

- "Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question. Earle v McVeigh, 91 US 503, 23 L Ed 398.
- A judgment of a court without hearing the party or giving him an opportunity to be heard is not a judicial determination of his rights. Sabariego v Maverick, 124 US 261, 31 L Ed 430, 8 S Ct 461, and is not entitled to respect in any other tribunal.
- "A judge ceases to sit as a judicial officer because the governing principle of administrative law provides that courts are prohibited from substituting their evidence, testimony, record, arguments, and rationale for that of the agency. Additionally, courts are prohibited from substituting their judgment for that of the agency. Courts in administrative issues are prohibited from even listening to or hearing arguments, presentation, or rational." ASIS v. US, 568 F2d 284".

2. Petitioner request U.S. Supreme Court to exercise it's discretionary jurisdiction over the judicial conduct of magistrate erroneous modification in my case made to confuse all who view my case. Also, the magistrates claim that Forgery is not a federal crime is erroneous.

Magistrates and Judge decision:

- First, the Amended Complaint provided insufficient factual content or context to allow a Court reasonably to infer that Defendants violated Plaintiff's rights, failing to satisfy the pleading requirements in Federal Rule of Civil Procedure 8(a) (ECF No. 4 at 5).
- Second, the allegations in the Amended Complaint were "so nonsensical as to render [the] Amended Complaint frivolous." (Id.).
- Finally, the Court does not have jurisdiction because forgery is a state law claim and the parties do not meet the requirements for diversity jurisdiction. (Id.).

Cases and laws in support of petitioner's response to the magistrate and judge's erroneous claims and decisions: Rule 60. Relief from a Judgment or Order  
(1)(2)(3)(4)(5)(6)

- In *Puckett v. Cox*, it was held that a pro-se pleading requires less stringent reading than one drafted by a lawyer (456 F2d 233 (1972 Sixth Circuit USCA). Justice Black in *Conley v. Gibson*, 355 U.S. 41 at 48 (1957) "The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." According to Rule 8(f) FRCP and the State Court rule which holds that all pleadings shall be construed to do substantial justice." *Hoxha v. LaSalle National Bank*, 365 Ill. App. 3d 80, 85 (2006); see also 735 ILCS 5/1-109 (West 2010). Reference to Complaint;
- "Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury and shall be fined no more than \$2,000.00 or imprisoned not more than five years or both." 18 U.S.C. §1621
- Title 18 U.S.C., Chapter 101 § 2071(b) states the following:
  - "Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes,

mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and shall be disqualified from holding any office under the United States."

- Title 18 U.S.C., Chapter 101 § 2071(b) requires all clerks to record documents for the public. Refusal to record public documents is concealment and is a felony with up to a three (3) year prison sentence. Failure to record my documents will be met with a verified affidavit of criminal complaint. Failure to record my documents is fraud, collusion, Dishonor in commerce, abuse of power, failure to uphold your oath of office, conspiracy, racketeering, etc.
- The elementary doctrine that the constitutionality of a legislative act is open to attack only by persons whose rights are affected thereby, applies to statute relating to administrative agencies, the validity of which may not be called into question in the absence of a showing of substantial harm, actual or impending, to a legally protected interest directly resulting from the enforcement of the statute." Board of Trade v. Olson, 262 US 1; 29 ALR 2d 105.

Magistrate and judge decision:

On February 26, 2018, Mr. Buress-El filed four objections to the Magistrate Judge's Report and Recommendation. They are styled as "notice: jurisdiction" (ECF No. 7), "notice: venue" (ECF No. 8), "notice: signature" (ECF No. 9), and "notice: 'right to pursue a claim.'" (ECF No. 10)

Cases and laws in support of petitioner's response to the magistrate and judge's inadvertent decision and judgment.

- Blacks Law Definition 2<sup>nd</sup> ed. OBJECT, V. In legal proceedings, to object (e. ff., to the admission of evidence) is to interpose a declaration to the effect that the particular matter or thing under consideration is not done or admitted with the consent of the party objecting, but is by him considered improper or illegal, and referring the question of its propriety or legality to the court.
- OBJECT, n. This term "includes whatever is presented to the mind, as well as what may be presented to the senses; whatever, also, is acted upon, or operated upon, affirmatively, or intentionally influenced by anything done, moved, or applied thereto." Woodruff, J., *Wells v. Shook*, S Blatclif. 257, Fed. Cas. No. 17,400.

Magistrate and judge decision:

- For the Report and Recommendation, the Magistrate Judge screened Plaintiff's Complaint to identify cognizable claims and to recommend dismissal of Plaintiff's Amended Complaint, or any portion of it, if it is frivolous, malicious, fails to state a claim upon which relief may be granted,

or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). If a party objects within the timeframe allotted in the Magistrate Judge's Report and Recommendation, the Court "shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made." 28 U.S.C. § 636(b)(1). After such determination, the Court "may accept, reject, modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). See also Federal Rule of Civil Procedure 72(b).

Cases and laws in support of petitioner's response to the magistrate and judge's null and void immunity claims on behalf of the defendants..

- Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law." Owen v. Independence, 100 S.C.T. 1398, 445 US 622.
- The Court has previously recognized that the characterization of a public employee as a State agent or officer should not be determinative of an issue concerning the allocation of financial responsibility for the employee's alleged wrongdoing. In Godfrey v. McGann, 37 N.J. 28 (1962), the question was whether the State or Essex County was responsible for the payment of claims arising out of the embezzlement of money by the cashier of the Essex County

Probation Department. The trial court held that the Probation Department is "an arm of the state judiciary" and consequently its officials are State "servants, agents and employees." *Godfrey v. Board of Freeholders of County of Essex*, 65 N.J. Super. 213, 214-15 (Law Div. 1961). On that basis, the trial court concluded that the State should bear responsibility for reimbursement of the money embezzled by the cashier.

- **FINANCIAL RESPONSIBILITY BOND AND LIEN OHIO DEPARTMENT OF PUBLIC SAFETY, BUREAU OF MOTOR VEHICLES – R.C. 4509.59**

The undersigned Sureties are obligated to the State of Ohio, Bureau of Motor Vehicles, in the amount of Thirty Thousand Dollars (\$30,000) for payment of which we bind ourselves and our successors, heirs, executors, and administrators, jointly and severally. This Bond is given in accordance with R.C. 4509.59.

Upon acceptance by the Registrar of Motor Vehicles and recording by the County Recorder, this Bond shall constitute a lien in favor of the State of Ohio upon the real estate and the lien shall exist in favor of any holder of a final judgment against any person who filed the Bond, for damages arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services because of bodily injury to or death of any person, or for damages because of injury to or destruction of

property, including the loss of use thereof, or upon a cause of action on an agreement or settlement for such damages. The real property subject to this Bond and Lien is:

- "[i]n 1975, the Court of Claims Act, R.C. Chapter 2743, was passed which waived the state's immunity from suit and created a court of claims to have exclusive, original jurisdiction over suits permitted by the act. R.C. 2743.03(A). Any actions against the state which the courts had entertained prior to the act, however, can still be maintained outside of the court of claims. R.C. 2743.02(A)(1); *Racing Guild of Ohio, Local 304 v. State Racing Comm.* (1986), 28 Ohio St.3d 317, 503 N.E.2d 1025. It is well-settled that prior to the passage of the Court of Claims Act, declaratory judgment actions were permitted against the state. *Friedman v. Johnson* }The judgment of the Lucas County Court of Common Pleas is affirmed, in part, and reversed, in part, and remanded to the trial court for proceedings consistent with this decision. Court costs of this appeal are assessed equally between the parties.

[Cite as *Judy v. Ohio Bur. of Motor Vehicles*, 2001-Ohio-2909

- "An action by Department of Motor Vehicles, whether directly or through a court sitting administratively as the hearing officer, must be clearly defined in the statute before it has subject matter jurisdiction, without such jurisdiction of the licensee, all acts of the agency, by its employees, agents,

hearing officers, are null and void."Doolan v. Carr, 125 US 618; City v Pearson, 181 Cal. 640.

Magistrate and judge decision:

- A pro se party's pleadings must be construed liberally and are held to less stringent standards than formal pleadings drafted by attorneys. Haines v. Kerner, 404 U.S. 519, 520-21 (1972). Mr. Burress-El's filings (ECF Nos. 7-10) therefore will be construed as objections to the Magistrate Judge's Report and Recommendation. Even so, none of the filings responds to the deficiencies the Magistrate Judge correctly identified in Mr. Burress-El's complaint. In short: Mr. Burress-El does not state a claim, but to the extent he did, it is frivolous, and to the extent it could be construed as non-frivolous, this Court lacks jurisdiction to adjudicate the matter. His complaint must be DISMISSED.

Cases and laws in support of petitioner's response to the magistrate and judge's misappropriation of law.

- Non-Lawyer pro se litigants not to be held to same standards as a practicing lawyer Many pro se litigants will use this in their pleadings; "Pleadings in this case are being filed by Plaintiff In Propria Persona, wherein pleadings are to be considered without regard to technicalities. Propria, pleadings are not to be held to the same high standards of perfection as practicing lawyers. See Haines v. Kerner 92 Sct 594, also See Power 914 F2d 1459 (11<sup>th</sup> Cir1990),

also See Hulsey v. Ownes 63 F3d 354 (5th Cir 1995). also See In Re: HALL v. BELLMON 935 F.2d 1106 (10th Cir. 1991)

- In Puckett v. Cox, it was held that a pro-se pleading requires less stringent reading than one drafted by a lawyer (456 F2d 233 (1972 Sixth Circuit USCA). Justice Black in Conley v. Gibson, 355 U.S. 41 at 48 (1957) "The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." According to Rule 8(f) FRCP and the State Court rule which holds that all pleadings shall be construed to do substantial justice."

Magistrate and judge decision:

- On April 12, 2018, a United States Magistrate Judge wrote a Report and Recommendation recommending that Plaintiff's complaint in a separate lawsuit be dismissed with prejudice. Burress-El v. Kelley, 2018 WL 2716315 at \*3 (S.D. OH Apr. 12, 2018). Citing four prior lawsuits filed in this Court and two additional lawsuits under the name "Antuan L. Burress", the Magistrate Judge noted that virtually all of the lawsuits were dismissed at the screening level. Id. at \*1 n.1. In addition, the Magistrate Judge found that Plaintiff presented similar claims in several of his prior lawsuits. Id. at \*2 n.3.

- The Magistrate Judge's Report and Recommendation warned Mr. Burress-El that additional attempts to file similar lawsuits will not only be summarily dismissed at the screening level but may invite sanctions from this Court if deemed to be vexatious. Id. at \*3. The United States District Judge reviewing the Report and Recommendation adopted the Magistrate Judge's recommendations, including the warning to Plaintiff. *Burress-El v. Kelley*, 2018 WL 2688437 at \*1 (S.D. OH June 5, 2018).
- This Court will first determine whether Mr. Burress-El's conduct is vexatious. A party's right of access to the Court is not absolute or unconditional. *In re Moncier*, 488 Fed.Appx. 57 (6th Cir. 2012). Litigants who continually file frivolous lawsuits pertaining to the same matter can be deemed a vexatious litigator and can be subject to "pre-filing restrictions" for future lawsuits. *Feathers v. Chevron U.S.A., Inc.*, 141 F.3d 264, 269 (6th Cir. 1998). Courts have the discretion to "prevent a pro se litigant from filing an in forma pauperis complaint where such a litigant has a long track record of filing frivolous suits." *Gibson v. R.G. Smith Co.*, 915 F.2d 260, 262 (6th Cir. 1990).

Cases and laws in support of petitioner's response to the magistrate and judge's discretionary review \**Cannon v. Commission on Judicial Qualifications*, (1975) 14 Cal. 3d 678, 694

- “Clearly your demand for a “Competency Examination” is used as an instrument to deny due process of Law and my right to free access to the Courts. I introduced an Affidavit of Fact, marked as Evidence. Someone in the Courts tampered with that Evidence, and misrepresented it as a Motion. A Motion is discretionary and an assumption that permission must be requested to exercise a Constitutionally Secured Right. An exercise of a Right is not a Request, and your office knows this to be “Stare Decisis”, and the Law of the Land. Tampering with Evidence is a Federal Violation, and a clear corruption of the fiduciary duties of all Court Officers. Furthermore, there is no Law prescribed in the United States Constitution stating, or requiring a “Competency Examination “Article 1 sec.11”, or a “Motion” to exercise a Constitutional Secured Right. Your demand is a violation of Amendment IX of the United States Constitution and a violation of my Secured Right to Due Process (5-16-2013). **“State of Ohio v. Antuan L. Burress NO. B 1300183”** Not guilty as charged in the Indictment. (5-29-2013)

- The United States Supreme Court: State courts, like federal courts, have a “constitutional” obligation to safeguard personal liberties and to uphold federal law. *Stone v. Powell* 428 US 465, 96 S. Ct. 3037, 49 L. Ed. 2d 1067.
- The United States Supreme Court: The obligation of state courts to give full effect to federal law is the same as that of federal courts. *New York v. Eno*. 155 US 89, 15 S. Ct. 30, 39 L. Ed. 80.

- The United States Supreme Court: An administrative agency may not finally decide the limits of its statutory powers; this is a judicial function. *Social Security Board v. Nierotko*. 327 US 358, 66 S. Ct. 637, 162 ALR 1445, 90 L. Ed. 719. 18 USC § 241. Conspiracy against rights.
- Constitution of Ohio, Article 1 section 16:  
“All courts shall be open, and every person, for an injury done to him in his person property or reputation shall have remedy by due course of Law, and right and justice administered without sale, denial or delay.

Magistrate and judge decision:

- Although the ability to file in forma pauperis is an important tool to ensure equal access to justice, it must also be noted that “litigant[s] whose filing fees and court costs are assumed by the public, lack an economic incentive to refrain from filing frivolous, malicious, or repetitive lawsuits.” *Neitzke v. Williams*, 490 U.S. 319, 324 (1989). In considering the above litany of actions, it is evident that not only has Mr. Burress-El depleted judicial resources, but he has also repeatedly forced the public to bear the costs of his unavailing efforts to litigate. The Court thus finds that Plaintiff is a vexatious litigator. The Court declines to assess any monetary sanctions at this juncture, but finds that pre-filing restrictions are appropriate. See, e.g., *Feathers v. Chevron U.S.A., Inc.*, 141 F.3d 264, 269 (6th Cir. 1998) (noting that pre-filing

restrictions are common in “matters with a history of repetitive or vexatious litigation).

- It is therefore hereby ORDERED that Mr. Burress-El is barred from filing any further actions in this Court without submitting a certification from an attorney that his claims are not frivolous, malicious, or repetitive.

Cases and laws in support of petitioner's response to the magistrate and judge's determination. Petitioner request a “Delegation Of Authority Order” as burden of proof from the U.S. District Courts to determine, “Want of Jurisdiction”.

- Defense against dismissal of complaint under Rule 12-B: There is legal sufficiency to show Plaintiff is entitled to relief under his Complaint. A Complaint should not be dismissed for failure to state a claim unless it appears beyond a doubt that the Plaintiff can prove no set of facts in support of his claim which would entitle him to relief. See Conley v. Gibson, 355 U.S. 41, 45-46 (1957) also Neitzke v. Williams, 109 S. Ct. 1827, 1832 (1989). Rule 12(b)(6) does not countenance dismissals based on a judge's disbelief of a complaint's factual allegations. In applying the Conley standard, the Court will "accept the truth of the well-pleaded factual allegations of the Complaint."

- "...jurisdiction of the Courts of the United States means a law providing in terms of revenue; that is to say, a law which is directly traceable to the power granted to Congress by 8, Article I, of the Constitution, 'to lay and collect taxes, duties, imposts, and excises.'" US v Hill, 123 US 681, 686 (1887).
- "Jurisdiction is essentially the authority conferred by Congress to decide a given type of case one way or the other. The Fair v. Kohler Die Co., 228 U.S. 22, 25 (1913). Here, 1343 (3) and 1983 unquestionably authorized federal courts to entertain suits to redress the deprivation, under color of state law, of constitutional rights. It is also plain that the complaint formally alleged such a deprivation." Hagen v. Lavine, 415 US 528, 39 L.ed. 577, 94 S Ct, 1372 (N.Y. March 28, 1974).
- "It is true that the constitutional claim would warrant convening a three-judge court and that if a single judge rejects the statutory claim, a three-judge court must be called to consider the constitutional issue." Hagen v. Lavine, 415 US 528 at 545, 39 L.ed. 577, 94 S Ct, 1372 (N.Y. March 28, 1974).
- "The question of Jurisdiction in the court either over the person, the subject matter or the place where the crime was committed can be raised at any stage of a criminal proceedings; it is never presumed but must be proved; and

it is never waived by the defendant." United States v. Roger, 23 F. 658 (W.D. Ark. 1885).

Magistrate and judge decision:

- The Court ADOPTS the Magistrate Judge's Report and Recommendation and DISMISSES the case with prejudice. Because the matter is dismissed, all other pending motions are MOOT. (ECF Nos. 11-13). Further, Mr. Burress-El is declared a VEXATIOUS LITIGATOR and may not submit further filings with this Court without attorney certification. The Clerk's Office is hereby DIRECTED to reject any filings that Mr. Burress-El attempts to submit that lack such certification, with the exception of any filings Mr. Burress-El is otherwise entitled to submit in the cases still pending before the Southern District of Ohio (Burress-El v. Shabazz, et al., 1:17-cv-866 and Burress-El v. Hamilton County Juvenile Courts, et al., 1:18-cv- 40). IT IS SO ORDERED.  
DATED: October 23, 2018 s/ Algenon L. Marbley ALGENON L. MARBLEY  
UNITED STATES DISTRICT JUDGE

Cases and laws in support of petitioner's response to the magistrate and judge's decision and judgment.

- A judgment may not be rendered in violation of constitutional protections. The validity of a judgment may be affected by a failure to give the

constitutionally required due process notice and an opportunity to be heard. Earle v. McVeigh, 91 US 503, 23 L Ed 398. See also Restatements, Judgments ' 4(b). Prather vLoyd, 86 Idaho 45, 382 P2d 910.

- The limitations inherent in the requirements of due process and equal protection of the law extend to judicial as well as political branches of government, so that a judgment may not be rendered in violation of those constitutional limitations and guarantees. Hanson v Denckla, 357 US 235, 2 L Ed 2d 1283, 78 S Ct 1228.
- A void judgment is not entitled to the respect accorded a valid adjudication, but may be entirely disregarded, or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose or at any place. ... It is not entitled to enforcement ... All proceedings founded on the void judgment are themselves regarded as invalid. 30A Am Jur Judgments " 44, 45.
- It is a fundamental doctrine of law that a party to be affected by a personal judgment must have his day in court, and an opportunity to be heard. Renaud v. Abbott, 116 US 277, 29 L Ed 629, 6 S Ct 1194.

- Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question. Earle v McVeigh, 91 US 503, 23 L Ed 398
- The Tort Claims Act does not contain any expression of such a legislative intent. To the contrary, the provisions of the Act governing the State's defense and indemnification obligations and the Attorney General's commentary on the proposed Act clearly reflect a legislative intent to limit these obligations to traditional state employees. Furthermore, in the nearly thirty years since enactment of the Tort Claims Act, the State and counties have followed this view of the legislative intent, and the State has never been required to provide defense and indemnification or been held vicariously liable for the tortious conduct of an employee of a prosecutor's office. The Court has not demonstrated any basis for departing from this long-standing administrative practice. Isaac Wright v. State of New Jersey et als. (A-54/55/56/57/58/59-2000)
- Black's Law Dictionary 4th Ed. Rev. 6-1971 INTERNAL. Relating to the interior; comprised within boundary lines; of interior concern or interest; domestic, as opposed to foreign. Pg. 952

DETERMINATION. The decision of a court of justice. It implies an ending or finality, the ending of a controversy or suit. *People v. Jackson*, 181 N.Y.S. 226, 191 App.Div. 269. The ending or expiration of an estate or interest in property, or of a right, power, or authority. The coming to an end in any way whatever. *Hanchett Bond Co. v. Glore*, 208 Mo.App. 169, 232 S.W. 159, 160. Also, an estimate. *Unton v. Liverpool, London & Globe Ins. Co.*, 166 Minn. 273, 207 N.W. 625, 626. As respects an assessment, the term implies judgment and decision after weighing the facts; *Appeal of Hoskins Mfg. Co.*, 270 Mich. 592, 259 N.W. 334, not mere arithmetical computation. *Hanlon v. Rollins*, 286 Mass. 404, 190 N.E. 606, 60. Pg. 536

## CONCLUSION

In the interest of justice the petitioner respectfully submits to the well of Jurisprudence Of Law and stands upright squarely upon Constitutional Jurisdiction and has come to the mercy of the United States Supreme Court for its Discretionary Jurisdiction. The U.S. District Court has erred, the Public Servants as Officer(s) of the Court, assigns are bound, and have taken a solemn Oath to uphold and Support the Constitution for the United States Republic (See Article VI). Fraud was committed to protect the defendants in this case. The defendants in the case have Sureties and are principals of a Public Bond/ Commercial Insurance. They have no immunities of the Constitution. The Refusal of my 'Objections and unlawfully finding me guilty of incompetency as being a "vexatious litigator" in one case.

Demanding a in full of life human to give up power of attorney and consent to a foreigner to speak on my behalf is construed to deny me 'Due Process' and is a 'Colorable Act'. This act constitutes "Perjury of Oath." Which should Result in "Denouncement of Oath Of Office" These violations result in additional lawful remedies or actions filed against those violating Officers of the Court, Under United States Code of Law, Title 18 and Title 42. The Offenders in this case may be sued in their Official and private capacities. The Law always gives a remedy. I pray that the U.S. Supreme Courts adopts this case, where as to restore the petitioners

dignity and trust in our judicial system and governmental policies under Constitutional Provisions and Common Law.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Antuan Burress-El

Date: May 08, 2020