

## **APPENDIX**

**APPENDIX****TABLE OF CONTENTS**

|            |  |         |
|------------|--|---------|
| Appendix A | Opinion in the United States Court of Appeals for the Sixth Circuit<br>(June 16, 2022) . . . . .                               | App. 1  |
| Appendix B | Memorandum Opinion in the United States District Court Western District of Kentucky at Louisville<br>(July 22, 2021) . . . . . | App. 13 |
| Appendix C | Order in the United States District Court Western District of Kentucky at Louisville<br>(July 22, 2021) . . . . .              | App. 26 |
| Appendix D | Order Denying Rehearing in the United States Court of Appeals for the Sixth Circuit<br>(July 21, 2022) . . . . .               | App. 28 |
| Appendix E | Executive Order, Pardon, from Matthew G. Bevin, Governor<br>(December 9, 2019) . . . . .                                       | App. 30 |
| Appendix F | Office of the Governor Application for Gubernatorial Pardon and/or Commutation of Sentence<br>(December 6, 2019) . . . . .     | App. 32 |

---

**APPENDIX A**

---

RECOMMENDED FOR PUBLICATION  
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 22a0130p.06

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

**No. 21-5736**

**[Filed: June 16, 2022]**

---

|  |   |
|--|---|
| JOHNETTA CARR,                             | ) |
| <i>Plaintiff-Appellant,</i>                | ) |
|  | ) |
| <i>v.</i>                                  | ) |
|  | ) |
| LOUISVILLE-JEFFERSON COUNTY, KENTUCKY      | ) |
| METRO GOVERNMENT; TONY FINCH, GARY         | ) |
| HUFFMAN, TERRY JONES, JIM LAWSON, and      | ) |
| SHAWN SEABOLT, Police Detectives, in their | ) |
| individual capacities; TROY PITCOCK and    | ) |
| JAMES HELLINGER, Louisville Police         | ) |
| Sergeants, in their individual capacities, | ) |
| <i>Defendants-Appellees.</i>               | ) |
|  | ) |

---

Appeal from the United States District Court for the  
Western District of Kentucky at Louisville.  
No. 3:20-cv-00818—Charles R. Simpson III,  
District Judge.

App. 2

Argued: May 5, 2022

Decided and Filed: June 16, 2022

Before: SILER, GIBBONS, and STRANCH, Circuit  
Judges.

---

### COUNSEL

**ARGUED:** Elliot Slosar, LOEVY & LOEVY, Chicago, Illinois, for Appellant. Peter F. Ervin, JEFFERSON COUNTY ATTORNEY'S OFFICE, Louisville, Kentucky, for Appellees. **ON BRIEF:** Elliot Slosar, Amy Robinson Staples, Margaret Campbell, LOEVY & LOEVY, Chicago, Illinois, for Appellant. Peter F. Ervin, Susan K. Rivera, JEFFERSON COUNTY ATTORNEY'S OFFICE, Louisville, Kentucky, for Appellees.

---

### OPINION

JULIA SMITH GIBBONS, Circuit Judge. In 2008, Johnetta Carr entered an *Alford* plea to second degree manslaughter, pleading guilty but maintaining her innocence. Over a decade later, she was pardoned. Carr then sued Louisville-Jefferson County, the City of Louisville, and several police officers under 42 U.S.C. § 1983, alleging her conviction was the result of constitutional violations. The district court granted defendants' motion to dismiss, finding Carr's § 1983 claims were not cognizable under the Supreme Court's precedent in *Heck v. Humphrey*, 512 U.S. 477 (1994). As Carr's pardon satisfies the requirements of *Heck*, we

## App. 3

reverse the district court and remand for Carr to pursue her claims.

### I

In 2005, Planes Michael Adolphe was found murdered in front of his apartment building. Adolphe and Carr had been dating at the time. Carr, who was sixteen, was arrested for Adolphe's murder. She was indicted and entered an *Alford* plea<sup>1</sup> in 2008 to second degree manslaughter, conspiracy to commit robbery, conspiracy to commit burglary, and tampering with physical evidence. She was sentenced to twenty years of imprisonment. She was paroled in 2009 and discharged in 2018.

On December 6, 2019, Carr applied for a pardon, asserting her innocence. The Kentucky Innocence Project filed letters in support of her application. Three days later, Kentucky Governor Matthew Bevin pardoned Carr. In the pardon, he notes "Johnetta Carr is a strong and highly motivated woman with a very bright future." DE 20-2, Pardon, Page ID 113. He expressed his confidence "that she will contribute in powerful ways to society as a whole and to those in her community specifically." *Id.* He granted "her the full and unconditional pardon she has requested." *Id.* The pardon ends,

---

<sup>1</sup> "[A]n 'Alford plea' refers to a defendant who pleaded guilty but maintained that [she] is innocent." *United States v. Tunning*, 69 F.3d 107, 110 (6th Cir. 1995); *see North Carolina v. Alford*, 400 U.S. 25 (1970).

## App. 4

**NOW, THEREFORE,** I Matthew G. Bevin, Governor of the Commonwealth of Kentucky, in consideration of the foregoing, and by the virtue of the authority vested in me by Sections 77, 145, and 150 of the Constitution of the Commonwealth of Kentucky, do hereby unconditionally pardon Johnetta Carr and return to her all rights and privileges of a citizen of this Commonwealth.

*Id.*

A year later, Carr sued under § 1983, alleging that defendants violated her constitutional rights by investigating and prosecuting her for Adolphe's murder. Specifically, she alleges they fabricated evidence, coerced false statements, and withheld exculpatory evidence. Defendants moved to dismiss Carr's complaint, arguing her § 1983 claims were not cognizable under *Heck*. The district court agreed and dismissed Carr's § 1983 claims. With dismissal of the federal claims, the court declined to exercise supplemental jurisdiction over Carr's state law claims.

## II

We review the grant of a motion to dismiss de novo. *Wilmington Tr. Co. v. AEP Generating Co.*, 859 F.3d 365, 370 (6th Cir. 2017). We take "as true all well-pleaded material allegations in the . . . pleadings, and affirm the district court's grant of the motion only if the moving party is entitled to judgment as a matter of law." *Id.* We may "consider materials in addition to the complaint if such materials are public records or otherwise appropriate for the taking of judicial notice."

## App. 5

*New England Health Care Emps. Pension Fund v. Ernst & Young, LLP*, 336 F.3d 495, 501 (6th Cir. 2003).

### III

We begin with a discussion of *Heck v. Humphrey*, 512 U.S. 477 (1994), in which the Supreme Court addressed when an individual may sue under § 1983 and allege constitutional violations relating to a criminal conviction. Heck was convicted of voluntary manslaughter and was serving a fifteen-year sentence when he filed a § 1983 suit alleging such constitutional violations. *Heck*, 512 U.S. at 478–79. The Court held he could not proceed on his § 1983 claims. *Id.* at 490.

First, the Court noted that habeas is the exclusive means to seek release from custody. *Id.* at 481. However, Heck was seeking damages. *Id.* To determine whether Heck’s claims were cognizable under § 1983, the Court began by comparing § 1983 to malicious prosecution because “§ 1983 creates a species of tort liability.” *Id.* at 483 (citation omitted). To prove malicious prosecution, a plaintiff must show “termination of the prior criminal proceeding in favor of the accused.” *Id.* at 484. The Court noted this element avoids parallel litigation and collateral attacks on a conviction. *Id.* Expanding to § 1983, the Court explained “the hoary principle that civil tort actions are not appropriate vehicles for challenging the validity of outstanding criminal judgments applies to § 1983 damages actions that necessarily require the plaintiff to prove the unlawfulness of his conviction or confinement . . . .” *Id.* at 486. Therefore,

## App. 6

[I]n order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus, 28 U.S.C. § 2254.

*Id.* at 486–87 (footnote omitted). A court must first “consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence.” *Id.* at 487. If the answer is yes, then “the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.” *Id.*

## A

Carr does not contest that her § 1983 claims implicate *Heck*. However, she argues her conviction has already been invalidated through her pardon. In *Heck*, the Court listed four ways a conviction could be invalidated: (1) reversal on direct appeal; (2) executive expungement; (3) declared invalid by a state tribunal; or (4) called into question by a writ of habeas corpus. 512 U.S. at 486–87. Carr argues her pardon falls under executive expungement.

## 1

We have never previously considered whether a pardoned individual can pursue a § 1983 claim relating

to her conviction. Courts that have considered the issue unanimously agree that pardons in some way fall under *Heck*'s reach. *See Savory v. Cannon*, 947 F.3d 409, 428–30 (7th Cir. 2020) (en banc); *Wilson v. Lawrence Cnty.*, 154 F.3d 757, 760–61 (8th Cir. 1998); *Walden v. City of Chicago*, 391 F. Supp. 2d 660, 671–72 (N.D. Ill. 2005); *Snyder v. City of Alexandria*, 870 F. Supp. 672, 686–87 (E.D. Va. 1994). *Heck* holds a plaintiff can show her conviction was invalidated by showing it was “expunged by executive order.” 512 U.S. at 487. In considering whether a pardon falls under this category, the Eighth Circuit noted “expunge” has two different connotations.” *Wilson*, 154 F.3d at 760. Expunge can mean physically destroying information, or a “more common meaning” of destroying or obliterating figuratively. *Id.* To choose a definition, the court looked to the other methods of invalidating a conviction under *Heck*—“direct appeal, state collateral proceedings, and federal habeas review.” *Id.* at 761. These methods do not require “literal destruction,” so the court adopted the figurative meaning of expunge. *Id.* A full pardon, the court found, obliterates a conviction and therefore qualifies as expungement by executive order. *Id.* The Seventh Circuit, similarly, has “often used ‘pardon’ or ‘executive pardon’ as synonyms for ‘expunged by executive order.’” *Savory*, 947 F.3d at 429.

A figurative meaning of expunge is supported by the fact that many states do not have literal expungement by executive order.<sup>2</sup> In Kentucky, the governor has

---

<sup>2</sup> *See, e.g.*, Tenn. Code Ann. § 40-32-101 (Tennessee); *Howard v. State*, 231 So. 3d 198, 199–200 (Miss. Ct. App. 2017) (Mississippi);

## App. 8

pardon power. Ky. Const. § 77. However, a pardon does not automatically entitle the pardoned individual to expungement of her criminal record. *Harscher v. Commonwealth*, 327 S.W.3d 519, 522 (Ky. Ct. App. 2010). The pardoned individual can petition a court to have her conviction expunged. Ky. Rev. Stat. Ann § 431.073(1)(c); *Bedford v. Commonwealth*, No. 2017-CA-001907-MR, 2018 WL 4261782, at \*1 (Ky. Ct. App. Sept. 7, 2018). Therefore, Kentucky has executive pardons and *judicial* expungement. “There is no reason in principle or policy for the Supreme Court, for these purposes, to distinguish between prisoners in states where executive expungement orders are available, and prisoners in states . . . that do not recognize such a remedy.” *Snyder*, 870 F. Supp. at 686. Although “executive pardons and judicial expungement orders are not specifically listed [in *Heck*], they certainly seem to be within the reach of the Court’s language.” *Id.*

We join our sister circuits in holding that a pardoned individual has had her conviction expunged by executive order under *Heck*.

## 2

Defendants argue that Carr’s pardon does not invalidate her conviction under *Heck* because the pardon did not contain language indicating Carr was innocent.

---

*Olson v. State*, 286 P.3d 296, 298 (Okla. Civ. App. 2012) (Oklahoma); *Walden*, 391 F. Supp. 2d at 671 n.5 (Illinois); *Snyder*, 870 F. Supp. at 686 (Virginia).

In *Savory v. Cannon*, the en banc Seventh Circuit found no support in *Heck* for requiring that a pardon be based on innocence to meet the invalidation requirement. 947 F.3d at 429. Savory was convicted of first-degree murder. *Id.* at 412. After thirty years in prison, he was paroled and his sentence was later commuted. *Id.* Then, he received a general pardon from Illinois Governor Pat Quinn. *Id.* at 412, 428. He sued the City of Peoria and several officers under § 1983. *Id.* at 412. Addressing the difference between a general pardon and a pardon of innocence, the Seventh Circuit wrote, “The contention that a pardon must be based on innocence in order to serve as a favorable termination finds no support in *Heck*, and we see no reason to impose that additional limitation on *Heck*’s holding.” *Id.* at 429. The en banc court emphasized that none of the other methods of invalidation under *Heck* “require an affirmative finding of innocence.” *Id.* Therefore, Savory’s general pardon satisfied *Heck*’s invalidation requirement. *Id.* at 429–30.<sup>3</sup> We agree with the Seventh Circuit.

A full pardon, even one that does not indicate an individual is innocent, fulfills the purposes of *Heck*’s invalidation requirement. *Heck* sought to avoid parallel litigation and to prevent collateral attacks on a conviction through a civil suit. *Heck*, 512 U.S. at 484–85. A full pardon removes all legal consequences of the individual’s conviction, avoiding the concern of parallel litigation with an outstanding criminal

---

<sup>3</sup> The only other circuit to consider the issue, the Eighth Circuit, did not directly state whether an implication of innocence is required. See *Wilson*, 154 F.3d at 759–61.

proceeding. *See United States v. Barrett*, 504 F.2d 629, 634 (6th Cir. 1974) (“A pardon is full when it freely and unconditionally absolves the person from all the legal consequences of his crime and of his conviction, direct and collateral, including punishment, whether . . . imprisonment, pecuniary penalty, or whatever else the law has provided . . . .”). As for collateral attacks, the Eighth Circuit addressed this concern:

The gist of *Heck* is that section 1983 is not an appropriate vehicle for attacking the validity of a state conviction. [The plaintiff] does not seek to put it to this improper use. He used the executive clemency process, which the Supreme Court has expressly approved, as the forum in which to challenge his criminal conviction.

*See Wilson*, 154 F.3d at 761.<sup>4</sup>

---

<sup>4</sup> The Supreme Court recently addressed the lack of an innocence requirement in a Fourth Amendment claim under § 1983. *Thompson v. Clark*, 142 S. Ct. 1332 (2022). Thompson was charged in state court proceedings, but “the charges were dismissed before trial without any explanation by the prosecutor or judge.” *Id.* at 1335. He sued the police officers who initiated the criminal proceedings under § 1983, alleging they maliciously prosecuted him in violation of the Fourth Amendment. *Id.* The Court compared Thompson’s Fourth Amendment claim to malicious prosecution, noting that a favorable termination of the underlying criminal proceedings is required to succeed in a malicious prosecution claim. *Id.* at 1337–39. Emphasizing the purposes of the favorable termination requirement—to avoid parallel litigation, preclude inconsistent judgments, and prevent improper collateral attacks—the Court held an affirmative showing of innocence is not required. *Id.* at 1338–41. *Thompson* is distinguishable because the plaintiff was never convicted, but the case highlights the purposes of the favorable termination requirement and that an affirmative

While a full pardon does not always indicate that the individual is innocent, *Heck* does not require a finding of innocence. *Heck* did not impose a prerequisite of innocence to seek relief under § 1983. Instead, it gave examples of state procedures amounting to invalidation of a conviction. It did not mention innocence as a requirement, and there is “no reason to impose that additional limitation [of innocence] on *Heck*’s holding.” *Savory*, 947 F.3d at 429.

## B

Defendants argue that under Kentucky law a pardon does not invalidate a conviction. Because § 1983 is a federal statute, federal law governs its interpretation. *See Wilson*, 154 F.3d at 760; *see also Maine v. Thiboutot*, 448 U.S. 1, 4–8 (1980) (using federal law to interpret § 1983); *Armstrong v. Mich. Bureau of Servs. for Blind Persons*, 969 F.3d 337, 341–42 (6th Cir. 2020) (same). State law, however, does play a role.

We look to state law for the limited purpose of determining whether a particular pardon is full and unconditional, such that it falls within the meaning of *Heck*. A pardon in Kentucky “is the act or an instance of officially nullifying punishment or other legal consequences of a crime.” *Harscher*, 327 S.W.3d at 522 (cleaned up). “A full and complete pardon also restores all civil rights to the pardoned felon.” *Id.* While a pardon removes all legal consequences, it does not eliminate collateral consequences. *Id.* A pardon “does

---

showing of innocence is not required to satisfy those purposes. *See id.*

not wipe out either guilt or the fact of the conviction.” *Id.* As discussed above, none of the examples in *Heck* require innocence or complete elimination of the fact of conviction. Rather, *Heck* requires only that the conviction has been sufficiently invalidated to avoid parallel litigation and an inappropriate collateral attack on a conviction. A full pardon in Kentucky removes all legal consequences, so that a plaintiff can proceed with her § 1983 claims without implicating the concerns in *Heck*. Therefore, a full pardon in Kentucky satisfies *Heck*’s requirements.

#### IV

We hold that a full pardon, regardless of its implications for the question of innocence, meets the requirements of *Heck*. Under this standard, Carr’s pardon satisfies the requirement because it is a “full and unconditional pardon.” DE 20-2, Pardon, Page ID 113. We reverse the district court’s dismissal of Carr’s § 1983 claims. After the district court dismissed Carr’s § 1983 claims, it declined to exercise supplemental jurisdiction over her state law claims. We also reverse dismissal of the state law claims and remand for the district court to consider whether to exercise supplemental jurisdiction.

---

**APPENDIX B**

---

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE**

**CIVIL ACTION NO. 3:20-CV-818-CRS**

**[Filed: July 22, 2021]**

---

|  |   |
|--|---|
| <b>JOHNETTA CARR</b>                   | ) |
| <b>PLAINTIFF</b>                       | ) |
| <b>vs.</b>                             | ) |
|  | ) |
| <b>LOUISVILLE-JEFFERSON COUNTY</b>     | ) |
| <b>METROPOLITAN GOVERNMENT, et al.</b> | ) |
| <b>DEFENDANTS</b>                      | ) |
|  | ) |

---

**MEMORANDUM OPINION**

This matter is before the Court on the motion of Defendants, Louisville-Jefferson County Metro Government, City of Louisville, Tony Finch, Gary Huffman, Jim Lawson, Shawn Seabolt, Troy Pitcock, and James Hellinger, to dismiss. DN 20, 20-1. Plaintiff, Johnetta Carr (“Carr”), responded in opposition to the motion. DN 21. Defendants then filed a reply. DN 22. The matter is now ripe for review.

For the reasons stated herein, Defendants’ motion to dismiss will be granted.

## **I. BACKGROUND**

Carr was arrested for the murder of Planes Adolphe in January 2006 and subsequently indicted for murder, burglary, robbery, and tampering with physical evidence. DN 1 at 2, 22-23. She eventually took an *Alford* plea<sup>1</sup> to second degree manslaughter, conspiracy to commit robbery, conspiracy to commit burglary, and tampering with physical evidence because “the false and fabricated evidence against her seemed insurmountable.” DN 1 at 2, 23.

---

<sup>1</sup> “The so-called ‘*Alford* plea’ is . . . a guilty plea entered by a defendant who either: 1) maintains that he is innocent; or 2) without maintaining his innocence, ‘is unwilling or unable to admit’ that he committed ‘acts constituting the crime.’” *United States v. Tunning*, 69 F.3d 107, 110 (6th Cir. 1995) (quoting *North Carolina v. Alford*, 400 U.S. 25, 37 (1970)). “Although such a plea is not an admission of involvement in criminal behavior, it is nevertheless a guilty plea that results from the defendant’s recognition that ‘the record before the judge contains strong evidence of actual guilt.’” *United Specialty Ins. Co. v. Cole’s Place, Inc.*, 936 F.3d 386, 406 (6th Cir. 2019) (quoting *North Carolina v. Alford*, 400 U.S. 25, 37 (1970)).

On December 6, 2019, Carr applied for a gubernatorial pardon.<sup>2</sup> DN 1 at 34, 22-2 at 2-9. Her application explains, in part, that:

I took a plea bargain in this case because I was facing the death penalty and I was scared. However, I took an “Alford” plea because I still maintained my innocence. I was just willing to take 20 years in prison rather than risk being executed for a crime I didn’t do.

I was paroled in 2009 and I have been successful ever since. I was released from parole on June 14, 2018. Still, my record makes life difficult for me, and I hate having to explain to people that I was convicted of this crime that I didn’t do. It’s awful for people to think that you killed your boyfriend when you did not.

The Kentucky Innocence Project has uncovered some new evidence in their investigation, but I don’t know if it will be enough to overturn my

---

<sup>2</sup> Although Carr’s application for a gubernatorial pardon and official pardon are not attached to her Complaint, the Court may properly consider such documents because they are public records and are otherwise appropriate for taking judicial notice. *New England Health Care Emps. Pension Fund v. Ernst & Young, LLP*, 336 F.3d 495, 501 (6th Cir. 2003). Further, the Court need not convert Defendants’ motion to dismiss into one for summary judgment considering that the aforementioned documents are fundamental to Carr’s Complaint. See *Commercial Money Ctr., Inc. v. Ill. Union Ins. Co.*, 508 F.3d 327, 335–36 (6th Cir. 2007) (“when a document is referred to in the pleadings and is integral to the claims, it may be considered without converting a motion to dismiss into one for summary judgment”).

conviction. The jailhouse snitch has now recanted and said that the police put her up to lying and saying that I confessed. My co-defendant Carla has also contacted me and said that she only said I was involved because she was interrogated by the police for thirteen hours.

I humbly ask that you give me some justice in my case by granting me a full pardon.

DN 20-2 at 6. Carr also offered several letters from the Kentucky Innocence Project and the Department of Public Advocacy in support of her request. DN 20-2 at 7-9. Each letter addresses the lack of physical evidence in her case, her exemplary behavior and work ethic since she was granted parole, the societal difficulties she encounters because of her conviction, and the belief that she is innocent. DN 20-2 at 7-9.

Former Kentucky Governor Matthew Bevin pardoned Carr three days after her application was filed. DN 1 at 34, 20-2 at 1. The pardon states that:

WHEREAS, Johnetta Carr . . . was convicted in Jefferson County Circuit Court in 2008 of manslaughter, conspiracy to robbery, conspiracy to burglary and tampering with physical evidence; and

WHEREAS, Johnetta Carr is a strong and highly motivated woman with a very bright future. I am confident that she will contribute in powerful ways to society as a whole and to those in her community specifically. God clearly has His hand on her; and

WHEREAS, it is my privilege to grant her the full and unconditional pardon she has requested;

NOW, THEREFORE, I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, in consideration of the foregoing, . . . do hereby unconditionally pardon Johnetta Carr and return to her all rights and privileges of a citizen of this Commonwealth.

DN 20-2 at 1.

Carr filed this lawsuit on December 8, 2020, alleging that Defendants are liable for various claims arising under federal and state law because she “spent more than 12 years imprisoned and on parole for a crime she did not commit.”<sup>3</sup> DN 1 at 3. Defendants contend that Carr’s allegations are untenable in light of the United States Supreme Court’s decision in *Heck v. Humphrey*, 512 U.S. 477 (1994).

## **II. LEGAL STANDARD**

To survive a Rule 12(b)(6) motion to dismiss, “a complaint must contain sufficient factual matter, accepted as true, [that] ‘states 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. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the

---

<sup>3</sup> Carr voluntarily dismissed her state law intentional infliction of emotional distress claim and her state law *respondeat superior* claim in footnote one of her Response. DN 21 at 2.

defendant is liable for the misconduct alleged.” *Id.* The pleading standard outlined in Rule 8 does not require a complaint to contain “detailed factual allegations, but it demands more than an unadorned, the-defendant unlawfully harmed me accusation.” *Id.* As such, “a pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.’ Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.*

In undertaking this inquiry, the Court “must (1) view the complaint in the light most favorable to the plaintiff and (2) take all well-pleaded factual allegations as true.” *Tackett v. M & G Polymers, USA, LLC*, 561 F.3d 478, 488 (6th Cir. 2009). The Court may grant a motion to dismiss “only if, after drawing all reasonable inferences from the allegations in the complaint in favor of the plaintiff, the complaint still fails to allege a plausible theory of relief.” *Garceau v. City of Flint*, 572 F. App’x 369, 371 (6th Cir. 2014) (citing *Iqbal*, 556 U.S. at 677–79).

### **III. ANALYSIS**

#### **A. Federal Law Claims**

42 U.S.C. § 1983 establishes tort liability for the deprivation of federal rights by persons acting under color of state law. However, § 1983 claims are not cognizable where a judgment in favor of the plaintiff would necessarily imply invalidity of the plaintiff’s state conviction or sentence. *See Harper v. Jackson*, 293 F. App’x 389, 391 (6th Cir. 2008) (quoting *Heck*, 512 U.S. at 486) (“The *Heck* bar exists because the Court’s

respect for ‘finality and consistency’ precludes a prisoner’s use of § 1983 to collaterally attack an outstanding conviction”). Therefore, a plaintiff “must prove that [their] conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus” to avoid dismissal. *Heck*, 512 U.S. at 486–87; *see also Reid v. Osborn*, No. 2:11-CV-283, 2012 WL 3611907, at \*9 (E.D. Tenn. Aug. 21, 2012) (“the law is settled that, if a judgment in favor of a plaintiff would necessarily imply the invalidity of his state court conviction or sentence, his § 1983 complaint must be dismissed, unless he can demonstrate that the conviction or sentence has already been invalidated”).

Carr asserts that her conviction was expunged by executive order by virtue of her gubernatorial pardon. DN 1 at 34, 21 at 7-13. The Defendants disagree. DN 20-1 3-6, 22 at 1-6. To resolve this conundrum, we must look to federal law to determine whether Carr’s pardon invalidated her conviction within the meaning of *Heck*. *See Wilson v. Lawrence Cty., Mo.*, 154 F.3d 757, 760 (8th Cir. 1998).

Neither *Heck* nor subsequent cases decided by the United States Supreme Court concerning *Heck*’s holding explicitly list a pardon among the ways that a state conviction can be invalidated. Similarly, courts within the Sixth Circuit have yet to speak on whether a pardon invalidates a plaintiff’s conviction or sentence. Given the absence of controlling authority, Carr contends that this Court should rely upon three

non-binding federal court decisions, which addressed similar issues to the ones presented here, to find that her pardon invalidated her conviction by some means independent of the instant proceeding. DN 21 at 7-13.

In the early 1990s, former Virginia Governor L. Douglas Wilder granted Walter Snyder an absolute pardon, “explaining that, while he found no fault with the prosecution or the jury’s verdict as rendered on the evidence available at the time, the DNA test results place a cloud upon the verdict and raise a doubt concerning the ultimate issue of whether [] Snyder is guilty of the crime for which he was convicted.” *Snyder v. City of Alexandria*, 870 F. Supp. 672, 677 (E.D. Va. 1994). Snyder subsequently filed an action against the City of Alexandria and several police officers alleging constitutional tort claims and state common law claims. *Id.* at 678. The defendants moved for dismissal, arguing that Snyder’s claims were barred by the statute of limitations. *Id.* After finding that Snyder’s state law malicious prosecution claim was properly asserted because the pardon’s terms and circumstances “substantially impugns or discredits [his] conviction,” the court determined that Snyder’s § 1983 claims were also timely considering that his federal claims did not accrue until his conviction was invalidated by the issuance of a pardon that discredited a finding of judicial guilt. *Id.* at 680-81, 685. In support of this conclusion, the court pronounced, without any additional substantive explanation, that “[j]ust as certain pardons or expungement orders can favorably terminate a criminal prosecution, so, too, can they invalidate a conviction for § 1983 purposes, as *Heck* requires.” *Id.* at 686.

A few years after *Snyder* was decided, the Eighth Circuit examined a Missouri district court's ruling that a gubernatorial pardon did not qualify as an "expungement by executive order" or otherwise satisfy *Heck*'s invalidation requirement. *Wilson v. Lawrence Cty., Mo.*, 154 F.3d 757 (8th Cir. 1998). In evaluating the district court's decision, the Eighth Circuit examined the meaning of the word "expunge" and determined that the United States Supreme Court intended to convey a figurative connotation based on the word's "more common meaning . . . : '[t]o destroy; blot out; obliterate; erase; efface designedly; strike out wholly.'" *Id.* at 760 (quoting Black's Law Dictionary 582 (6th ed. 1990)). Based on this interpretation, the court concluded that:

Wilson's pardon did "expunge" his conviction "by executive order." Governor Carnahan, acting within his authority under the Missouri Constitution, [] issued Wilson a full pardon, stating, "it is clear [Wilson] did not commit the crime for which he has been incarcerated." The pardon states on its face that it "obliterates said conviction." Wilson's pardon is therefore an "executive order" that "expunged," "obliterated," and "invalidated" his conviction. *Heck* requires nothing more.

*Id.* at 761.

Here, Carr's pardon does not contain similar language that has been found by the United States District Court for the Eastern District of Virginia or the United States Court of Appeals for the Eighth Circuit to satisfy *Heck*. Unlike *Snyder* and *Wilson*,

which relied upon gubernatorial pardons that addressed a plaintiff's actual innocence in varying terms to explain its holding, Carr's pardon simply returns "all rights and privileges of a citizen of [the Commonwealth of Kentucky]." DN 20-2 at 1. Although Carr's pardon application and the letters attached thereto assert that she is innocent, the pardon issued by former Governor Bevin is devoid of any explicit or implicit references to her innocence and Kentucky law does not suggest that the pardon's language indicates a finding of innocence, the expungement of her criminal record, or an intent to obliterate her conviction. *See e.g., Harscher v. Com.*, 327 S.W.3d 519, 520-22 (Ky. Ct. App. 2010) (finding that a pardon issued by former Kentucky Governor Ernie Fletcher, which stated "I . . . do hereby unconditionally pardon Frank Harscher III and return to him all rights and privileges of a citizen of this Commonwealth," did not "wipe out either guilt or the fact of the conviction" and did "not entitle an individual to the expungement of his criminal record"); *Fletcher v. Graham*, 192 S.W.3d 350, 362-63 (Ky. 2006) (internal citation and quotation marks omitted) ("A pardon does not prevent any and all consequences of the pardoned offense: collateral consequences of the offense may still follow. For example, an attorney who has been pardoned for the offense of forgery may not be punished for that crime, but may be disbarred as a result of that offense. Our predecessor court also recognized that a gubernatorial pardon does not restore the character of the witness/pardonee, so that he or she could still be impeached as a felon. Thus, while a pardon will foreclose punishment of the offense itself, it does not erase the fact that the offense occurred, and

that fact may later be used to the pardonee's detriment").

Further, Carr's reliance on *Savory v. Cannon*, 947 F.3d 409 (7th Cir.), cert. denied, 141 S. Ct. 251, 208 L. Ed. 2d 24 (2020) is inapposite. Johnnie Savory was convicted of murder and eventually pardoned by former Illinois Governor Pat Quinn. *Id.* at 412. Savory's pardon (1) "declared that [he] was acquitted and discharged of and from all further imprisonment, (2) "restored [] all the rights of citizenship which [were] forfeited by [his] conviction," and (3) included "an Order Permitting Expungement Under The Provisions Of 20 ILCS 2630/5.2(e)." *Id.* Less than two years after being pardoned, Savory asserted several claims under § 1983 against various defendants. *Id.* at 412-13. The United States District Court for the Northern District of Illinois dismissed the action after finding that Snyder failed to file his cause of action within the applicable statute of limitations. *Id.* at 413. On appeal, the Seventh Circuit reversed. *Id.* at 413-19. The court, sitting en banc, concluded that Savory's lawsuit was timely based on the accrual principles articulated by the United States Supreme Court in *Heck* and *McDonough v. Smith*, 139 S. Ct. 2149 (2019), as well as Seventh Circuit precedent that explicitly permits plaintiffs to pursue civil claims under § 1983 following the issuance of a gubernatorial pardon. *Id.*

Here, the parties do not dispute the accrual date for Carr's claims. Instead, the issue before this Court concerns whether Carr's pardon invalidated her conviction in such a manner that permits her to presently assert claims under § 1983 against

Defendants. Unlike the Seventh Circuit, which has routinely determined that a pardon or executive pardon are synonyms with the phrase “expunged by executive order,” the Sixth Circuit has not announced such a rule and we decline to find that the mere issuance of a pardon, without language that questions or discredits a judicial finding of guilt, appropriately invalidates a criminal conviction for purposes of *Heck*. Accordingly, Carr may not assert any of her federal claims because they are dependent upon an ability to assert a cognizable cause of action.

### **B. State Law Claims**

What remains against Defendants after dismissal of Carr’s § 1983 claims, are two state law tort actions: Count VIII - malicious prosecution and Count IX - negligent supervision. DN 1 at 43-45. A district court has supplemental jurisdiction “over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1337(a). Nevertheless, a court may decline to exercise supplemental jurisdiction over a claim if it has “dismissed all claims over which it has original jurisdiction.” 28 U.S.C. § 1337(c)(3).

Considering that Carr’s federal law claims have been dismissed at this early stage of the litigation, the Court declines to exercise supplemental jurisdiction over her remaining state law claims. *See Musson Theatrical, Inc. v. Fed. Exp. Corp.*, 89 F.3d 1244, 1254–55 (6th Cir. 1996), amended on denial of reh’g, No. 95-5120, 1998 WL 117980 (6th Cir. Jan. 15, 1998)

App. 25

(“When all federal claims are dismissed before trial, the balance of considerations usually will point to dismissing the state law claims, or remanding them to state court if the action was removed”). Accordingly, Carr’s state law claims will be dismissed.

#### **IV. CONCLUSION**

For the reasons discussed herein, Defendants’ motion to dismiss will be granted by separate order.

July 22, 2021

/s/ Charles R. Simpson  
Charles R. Simpson III, Senior Judge  
United States District Court

---

**APPENDIX C**

---

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE**

**CIVIL ACTION NO. 3:20-CV-818-CRS**

**[Filed: July 22, 2021]**

---

|  |   |
|--|---|
| <b>JOHNETTA CARR</b>                   | ) |
| <b>PLAINTIFF</b>                       | ) |
|  | ) |
| <b>vs.</b>                             | ) |
|  | ) |
| <b>LOUISVILLE-JEFFERSON COUNTY</b>     | ) |
| <b>METROPOLITAN GOVERNMENT, et al.</b> | ) |
| <b>DEFENDANTS</b>                      | ) |
|  | ) |

---

**ORDER**

Motions having been made and for the reasons set forth in the Memorandum Opinion entered herein this date and the Court being otherwise sufficiently advised, **IT IS HEREBY ORDERED AND ADJUDGED** that

1. The motion of Defendants, Louisville-Jefferson County Metro Government, City of Louisville, Tony Finch, Gary Huffman, Jim Lawson, Shawn Seabolt, Troy Pitcock, and James Hellinger, to dismiss (DN 20) is **GRANTED**.

App. 27

2. Counts I – VII of Plaintiff's Complaint are **DISMISSED WITH PREJUDICE**. Counts VIII and IX of Plaintiff's Complaint are **DISMISSED WITHOUT PREJUDICE**.
3. There being no just reason for delay in its entry, this constitutes a final and appealable judgment.

**IT IS SO ORDERED.**

July 22, 2021

/s/ Charles R. Simpson  
Charles R. Simpson III, Senior Judge  
United States District Court

---

## APPENDIX D

---

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

**No. 21-5736**

**[Filed: July 21, 2022]**

---

|                                   |   |
|-----------------------------------|---|
| JOHNETTA CARR,                    | ) |
|                                   | ) |
| Plaintiff-Appellant,              | ) |
|                                   | ) |
| v.                                | ) |
|                                   | ) |
| LOUISVILLE-JEFFERSON COUNTY,      | ) |
| KENTUCKY METRO GOVERNMENT;        | ) |
| TONY FINCH, GARY HUFFMAN,         | ) |
| TERRY JONES, JIM LAWSON, AND      | ) |
| SHAWN SEABOLT, POLICE DETECTIVES, | ) |
| IN THEIR INDIVIDUAL CAPACITIES;   | ) |
| TROY PITCOCK AND JAMES HELLINGER, | ) |
| LOUISVILLE POLICE SERGEANTS,      | ) |
| IN THEIR INDIVIDUAL CAPACITIES,   | ) |
|                                   | ) |
| Defendants-Appellees.             | ) |
|                                   | ) |

---

### O R D E R

**BEFORE:** SILER, GIBBONS, and STRANCH,  
Circuit Judges.

App. 29

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

**ENTERED BY ORDER OF THE  
COURT**

/s/ Deborah S. Hunt  
**Deborah S. Hunt, Clerk**

---

**APPENDIX E**

---

**[SEAL]**

**MATTHEW G. BEVIN  
GOVERNOR**

**EXECUTIVE ORDER**

**2019-1283**

**December 9, 2019**

**Secretary of State  
Frankfort  
Kentucky**

**PARDON**

**TO WHOM IT MAY CONCERN**

**WHEREAS**, Johnetta Carr of Louisville, Kentucky was convicted in Jefferson County Circuit Court in 2008 of manslaughter, conspiracy to robbery, conspiracy to burglary and tampering with physical evidence; and

**WHEREAS**, Johnetta Carr is a strong and highly motivated woman with a very bright future. I am confident that she will contribute in powerful ways to society as a whole and to those in her community specifically. God clearly has His hand on her; and

**WHEREAS**, it is my privilege to grant her the full and unconditional pardon she has requested:

**NOW, THEREFORE,** I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, in consideration of the foregoing, and by the virtue of the authority vested in me by Sections 77, 145, and 150 of the Constitution of the Commonwealth of Kentucky, do hereby unconditionally pardon Johnetta Carr and return to her all rights and privileges of a citizen of this Commonwealth.

Done at the Capitol, in the City of Frankfort, this 9<sup>th</sup> day of December, in the year of our Lord Two Thousand and Nineteen and in the year of the Commonwealth the Two Hundred Twenty Eighth.

/s/ Matthew G. Bevin  
MATTHEW G. BEVIN, Governor  
Commonwealth of Kentucky

/s/ Alison Lundergan Grimes  
ALISON LUNDERGAN GRIMES  
Secretary of State

---

## APPENDIX F

---

**OFFICE OF THE GOVERNOR**  
**APPLICATION FOR GUBERNATORIAL PARDON**  
**AND/OR COMMUTATION OF SENTENCE**

The applicant **MUST** complete this Application in full—use extra paper where necessary.

Answer every question that applies to you:

**CONSIDERATION OF AN APPLICATION FOR  
GUBERNATORIAL PARDON AND/OR  
COMMUTATION OF SENTENCE WILL NOT  
NECESSARILY RESULT IN THE REQUEST  
BEING GRANTED. ADDITIONAL RESPONSES  
MAY BE REQUIRED.**

1. Name of Applicant: Carr Johnetta  
Last First Middle
2. Name used at Time of Conviction:  
Carr Johnetta  
Last First Middle
3. Aliases Used: \_\_\_\_\_
4. Social Security No.: [REDACTED]
5. Date of Birth: [REDACTED]
6. Address: [REDACTED]  
City/State: Louisville, KY Zip: 40215
7. Phone: [REDACTED]

8. Marital Status: Single

Spouse's Name & Address: \_\_\_\_\_

9. Names and Ages of Dependent Children:  
[REDACTED] Carr, age 3

10. Criminal Charges or Convictions. **BEGINNING WITH MOST RECENT**, list ALL past and pending charges, felony or misdemeanor, regardless of conviction, excluding traffic violations – **use extra paper if necessary**.

i. Charge Manslaughter 2nd, Conspiracy to Robbery 1st, Conspiracy to Burglary 2nd, Tampering with Physical Evidence  
Court of Conviction Jefferson Circuit Court  
City, County & State Louisville, Jefferson, KY  
Conviction Received guilty (plea)  
Date Convicted 5/28/2008  
Judge James Shake  
Prosecutor Scott Davis  
Defense Attorney: Greg Bailey  
Length of Sentence 20 years  
Probated for \_\_\_\_\_ years  
Federal Sentence  Yes  No  
Federal Number \_\_\_\_\_  
Period of Incarceration \_\_\_\_\_  
Place of Incarceration KY Corr. Inst. for Women  
Institution Number 220632  
Date entered institution of jail \_\_\_\_\_  
Conditional Release Date \_\_\_\_\_

App. 34

Date Paroled 12/9/2009

Date of Final Discharge 6/14/2018

Date Probated \_\_\_\_\_

Date Probation Expired \_\_\_\_\_

Probation Number \_\_\_\_\_

Probation/Supervising Officer's Name and  
County \_\_\_\_\_

ii. Charge \_\_\_\_\_

Court of Conviction \_\_\_\_\_

City, County & State \_\_\_\_\_

Conviction Received \_\_\_\_\_

Date Convicted \_\_\_\_\_

Judge \_\_\_\_\_

Prosecutor \_\_\_\_\_

Defense Attorney: \_\_\_\_\_

Length of Sentence \_\_\_\_\_

Probated for \_\_\_\_\_ years

Federal Sentence  Yes  No

Federal Number \_\_\_\_\_

Period of Incarceration \_\_\_\_\_

Place of Incarceration \_\_\_\_\_

Institution Number \_\_\_\_\_

Date entered institution of jail \_\_\_\_\_

Conditional Release Date \_\_\_\_\_

Date Paroled \_\_\_\_\_

Date of Final Discharge \_\_\_\_\_

Date Probated \_\_\_\_\_

Date Probation Expired \_\_\_\_\_

Probation Number \_\_\_\_\_

Probation/Supervising Officer's Name and  
County \_\_\_\_\_

iii. Charge \_\_\_\_\_  
Court of Conviction \_\_\_\_\_  
City, County & State \_\_\_\_\_  
Conviction Received \_\_\_\_\_  
Date Convicted \_\_\_\_\_  
Judge \_\_\_\_\_  
Prosecutor \_\_\_\_\_  
Defense Attorney: \_\_\_\_\_  
Length of Sentence \_\_\_\_\_  
Probated for \_\_\_\_\_ years  
Federal Sentence  Yes  No  
Federal Number \_\_\_\_\_  
Period of Incarceration \_\_\_\_\_  
Place of Incarceration \_\_\_\_\_  
Institution Number \_\_\_\_\_  
Date entered institution of jail \_\_\_\_\_  
Conditional Release Date \_\_\_\_\_  
Date Paroled \_\_\_\_\_  
Date of Final Discharge \_\_\_\_\_  
Date Probated \_\_\_\_\_  
Date Probation Expired \_\_\_\_\_  
Probation Number \_\_\_\_\_  
Probation/Supervising Officer's Name and  
County \_\_\_\_\_

11. Has the Applicant ever been found in violation of any terms or conditions of parole?  Yes  No. If yes, explain on extra paper.
12. Has the Applicant ever been found in violation of any terms or conditions of probation?  Yes  No. If yes, explain on extra paper.
13. Are you under Indictment?  Yes  No Explain:  
\_\_\_\_\_

App. 36

14. Do you have any Outstanding Fines? no Explain: \_\_\_\_\_

15. Do you have any Unpaid Restitution?  Yes  
 No Explain: \_\_\_\_\_

16. If ever incarcerated, state each instance the Applicant was incarcerated. (Include the basis for the action and discipline received) only incarcerated for this conviction

Conviction(s) for which relief is sought:  
Manslaughter 2nd, Conspiracy to Robbery 1st,  
Conspiracy to Burglary 1st, Tampering with  
Physical Evidence

17. Education – Complete for the highest grade or year completed at all levels of school below.

- i. High School  
Name and Address of School \_\_\_\_\_  
Dates Attended \_\_\_\_ to \_\_\_\_  
Date of Graduation \_\_\_\_  
Diploma  Yes  No
- ii. Under Graduate College or University  
Name and Address of School \_\_\_\_\_  
Dates Attended \_\_\_\_ to \_\_\_\_  
Date of Graduation \_\_\_\_  
Degree \_\_\_\_\_
- iii. Graduate College or University  
Name and Address of School \_\_\_\_\_  
Dates Attended \_\_\_\_ to \_\_\_\_  
Date of Graduation \_\_\_\_  
Degree \_\_\_\_\_

iv. Vocational, Business or Technical School  
Name and Address of School \_\_\_\_\_  
Dates Attended \_\_\_\_ to \_\_\_\_  
Date of Graduation \_\_\_\_  
Degree \_\_\_\_

v. GED  Yes  No Date 2005

18. Applicant's five most recent employers (begin with most recent)

a. Employer's Name The Celtic Pig  
Employer's Address 217 East Main St,  
Louisville KY  
Supervisor's Name Melissa Ingram  
Period of Employment 7 months  
Reasons for Leaving current job

b. Employer's Name 211 Clover Lane  
(restaurant)  
Employer's Address 211 Clover Lane,  
Louisville KY  
Supervisor's Name \_\_\_\_\_  
Period of Employment 7 months  
Reasons for Leaving current job

c. Employer's Name Butchertown Grocery  
Employer's Address 1076 G. Washington St,  
Louisville KY  
Supervisor's Name \_\_\_\_\_  
Period of Employment 2 years  
Reasons for Leaving got job at Celtic Pig

d. Employer's Name Smoothie King  
Employer's Address 1504 Bardstown Rd,  
Louisville KY

Supervisor's Name \_\_\_\_\_

Period of Employment 3 years

Reasons for Leaving got job at Butchertown

e. Employer's Name Subway  
Employer's Address 291 N. Hubbards Lane,  
Louisville KY  
Supervisor's Name \_\_\_\_\_  
Period of Employment 5 years  
Reasons for Leaving got job at Smoothie King

19. Military record (include branch of military, date of service, and type of discharge): none
20. Names, addresses and relationship of three non-family references:
  - 1) James "Jimmer" Dudley, [REDACTED]  
Frankfort, KY, investigator
  - 2) Aaron Baker, 315 Logan St, Frankfort, KY,  
attorney
  - 3) Whitney Wallace, 5 Mill Creek Park,  
Frankfort, KY, attorney
21. Has the Applicant ever previously applied for a pardon/commutation?  Yes  No  
If yes, in what year was application made? \_\_\_\_  
(Provide copy)
22. Has the Applicant ever received a pardon/commutation?  Yes  No
23. **In a separate letter, which must accompany the Application,** please describe in your own words the reason(s) you are seeking

relief and state the extenuating circumstances supporting the basis for the request.

24. **A minimum of three (3) letters of recommendation in support of the request for relief must accompany the Application.** Additional letters are recommended and may be submitted from all sources, including but not limited to the following: neighbors, employers, co-workers, pastors, church members, elected officials, judges, prosecutors, family members, etc.
25. Name, address and phone number of person(s) to contact if we need to contact you on an emergency basis.

Whitney Wallace  
5 Mill Creek Park, Frankfort, KY 40601  
606-492-9071

App. 40

I hereby authorize the Office of the Governor and any of its representatives to make all necessary investigations of my work, character, personal history, and financial, credit, and other records through investigative or credit agencies, or through communication with persons including, but not limited to, the following: (a) anyone connected with my current employer, (b) any former supervisor, official, or co-worker at my prior employers, (c) my neighbors, friends, or others with whom I am acquainted, or (d) individual references, schools, or other organizations, including law enforcement agencies, named in this application. I hereby authorize all parties referenced in the preceding sentence to release in any manner any and all information which may be pertinent to my application, whether such information is public record or not. I also hereby release all persons, employers, agencies, schools, companies, or other parties from any damages resulting from furnishing such information.

I swear or affirm that the information reported in this application and any accompanying material is complete and accurate.

Dec. 6, 2019  
Date

/s/ Johnetta Carr  
Signature

**Additional responses may be required of an applicant.**

**COMPLETION OF THE APPLICATION FOR  
GUBERNATORIAL PARDON AND/OR  
COMMUTATION OF SENTENCE, WHICH MUST  
BE IN FULL, MEANS ONLY THAT THE**

**APPLICANT MAY BE CONSIDERED FOR A  
PARDON AND/OR COMMUTATION, NOT THAT  
ONE WILL BE GRANTED.**

Promptly notify us concerning any change of address or change in telephone listing.

Return completed Application for Gubernatorial Pardon and/or Commutation of Sentence **with required attachments** to:

Office of the Governor  
700 Capitol Avenue  
Frankfort, Kentucky 40601  
ATTN: Office of the General Counsel

**[REDACTED]**  
Louisville, KY 40215

December 6, 2019

Honorable Matt Bevin  
Governor of the Commonwealth of Kentucky  
The Capitol  
700 Capitol Place  
Frankfort, KY 40601

Dear Governor Bevin:

My name is Johnetta Carr. I spent over 12 years combined in prison and on parole for a crime that I did not do.

I am grateful to the Kentucky Innocence Project, who continue to investigate my case and try to clear my name. If you could grant me a pardon, I would feel free to move on with my life. I am a productive member of society and want to put this horrible part of my life behind me.

I was convicted of 2<sup>nd</sup> Degree Manslaughter, Conspiracy to Robbery, Conspiracy to Burglary, and Tampering with Physical Evidence after my boyfriend, Michael Adophes Planes, was found dead in October 2005. Carla Sowers and Shawndric Williams were my co-defendants and implicated me in the crime. I was never there. There was also a jailhouse snitch who claimed that I confessed to her, but I did not.

I took a plea bargain in this case because I was facing the death penalty and I was scared. However, I took an “Alford” plea because I still maintained my innocence.

App. 43

I was just willing to take 20 years in prison rather than risk being executed for a crime I didn't do.

I was paroled in 2009 and I have been successful ever since. I was released from parole on June 14, 2018. Still, my record makes life difficult for me, and I hate having to explain to people that I was convicted of this crime that I didn't do. It's awful for people to think that you killed your boyfriend when you did not.

The Kentucky Innocence Project has uncovered some new evidence in their investigation, but I don't know if it will be enough to overturn my conviction. The jailhouse snitch has now recanted and said that the police put her up to lying and saying that I confessed. My co-defendant Carla has also contacted me and said that she only said I was involved because she was interrogated by the police for thirteen hours.

I humbly ask that you give me some justice in my case by granting me a full pardon.

Respectfully,

Johnetta Carr  
/s/ Johnetta Carr

[SEAL]

COMMONWEALTH OF KENTUCKY  
KENTUCKY INNOCENCE PROJECT

---

DEPARTMENT OF PUBLIC ADVOCACY • 5 MILL CREEK  
PARK, FRANKFORT, KENTUCKY 40601  
502-564-8006 • 502-695-6768 (fax) • Securus 165 •  
[www.facebook.com/KentuckyInnocenceProject](http://www.facebook.com/KentuckyInnocenceProject)

December 6, 2019

Gov. Matt Bevin  
Office of the Governor  
700 Capital Avenue  
Frankfort, KY 40601

RE: Request for Pardon

Dear Governor Bevin:

I am writing on behalf of our client, Johnetta Carr. Ms. Carr has been a client of the Kentucky Innocence Project since 2016 and her case is still being actively investigated.

In 2006, at the age of sixteen (16), Ms. Carr was arrested and charged with the murder of her boyfriend, Michael Adophes Planes as well as Conspiracy to Robbery 1<sup>st</sup> degree, Conspiracy to Burglary 1<sup>st</sup> degree, and Tampering with Physical Evidence. Ms. Carr took an Alford Plea to reduced charges to avoid the death penalty.

There was no physical evidence, witnesses or DNA connecting Ms. Carr to this terrible crime, only an

individual who placed the blame on Ms. Carr, and who later recanted her statement. That woman said she was threatened by Detective [REDACTED] to implicate Ms. Carr.

In 2008, Ms. Carr accepted a plea deal and took an Alford plea to reduced charges and was sentenced to a total of twenty (20) years. She served a total of twelve (12) years, four (4) months and twenty-five (25) days between being incarcerated and on parole. While on parole, Ms. Carr maintained clear conduct.

On June 12, 2018, Ms. Carr was released from parole. She continues to work two jobs to support her young son, has had no infractions and has been a productive member of society since granted parole and thereafter. Ms. Carr has always maintained her innocence and every law student, attorney, and investigator that has worked her case is 100% convinced she is truly an innocent woman who was wrongfully convicted.

On behalf of the Kentucky Innocence Project, I am humbly requesting that you grant Ms. Carr a pardon.

Sincerely,

/s/ Whitney Wallace

Whitney Wallace  
Staff Attorney  
Kentucky Innocence Project

[SEAL]

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF PUBLIC ADVOCACY

---

5 Mill Creek Park, Section 100 · Frankfort, Kentucky  
40601 · 502-564-8006 · Fax: 502-695-6768

December 6, 2019

Honorable Matt Bevin  
Governor of the Commonwealth of Kentucky  
The Capitol  
700 Capitol Place  
Frankfort, KY 40601

Dear Governor Bevin:

I am writing you in support of a pardon for Johnetta Carr.

I am the administrative specialist assigned to the Kentucky Innocence Project. In that role, I have become familiar with Johnetta and her case. I believe that she is innocent.

Although Johnetta has been out of prison and on parole for many years, her conviction has made her life difficult. She is faced with constantly having to explain to people that she was convicted of a felony for a killing that she did not do. Even worse, she was accused of killing a loved one—her boyfriend.

Although I know that the attorneys have been working on investigating her case with the Kentucky Innocence

App. 47

Project students, you may be her best chance for justice.

I ask that you grant Johnetta a pardon.

Respectfully,

/s/ Jackie Knarr

Jackie Knarr  
Administrative Specialist

**[SEAL]**

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF PUBLIC ADVOCACY

---

5 Mill Creek Park, Section 100 · Frankfort, Kentucky  
40601 · 502-564-8006 · Fax: 502-695-6768

December 6, 2019

Honorable Matt Bevin  
Governor of the Commonwealth of Kentucky  
The Capitol  
700 Capitol Place  
Frankfort, KY 40601

Dear Governor Beyin:

I am writing you in support of a pardon for Johnetta Carr. In the time that I worked with the Kentucky Innocence Project, I supervised students who worked on investigating her case. I became familiar with the facts, and I believe that Johnetta is innocent.

Johnetta has been free now from prison for many years, but only recently was finally discharged from parole. Her conviction for a crime that she didn't commit makes her life very difficult. It is hard to live as a convicted felon, and especially hard when you did not do the crime for which you were convicted.

As an attorney, I have the unfortunate experience that our courts do not trust "recantations" of testimony. The courts are more likely to believe the first statement a person made, even if it is not true. In Johnetta's case, multiple people, including a jailhouse snitch and one of

App. 49

her co-defendants, have now admitted that the statements that they gave to police were false.

You are Johnetta's best chance at justice and at having the ability to truly move on from this horrible chapter in her life and live the life that the Lord wants her to live.

I ask that you grant Johnetta a pardon.

Respectfully,

/s/ AB

Aaron Baker  
Staff Attorney