

AUG 04 2022

OFFICE OF THE CLERK

No. 22-5685

IN THE
SUPREME COURT OF THE UNITED STATES

TYRICE HILL — PETITIONER
(Your Name)

vs.

The State of Ohio — 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

Tyrice Hill
(Your Name)

R.C.I., P.O. Box 7010
(Address)

Chillicothe, Ohio, 45601
(City, State, Zip Code)

(Phone Number)

RECEIVED

AUG 12 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

QUESTIONS PRESENTED

1. Is the Sixth Circuit Courts narrow interpretation of this Courts holding in Bounds wrong and denies Hill meaningful access to the Courts?
2. Is The Ohio Department of Rehabilitations and Corrections policy in place to give Hill access to the courts, unconstitutional and denial of meaningful access to the courts, as the plan in place only provides Hill who has educational and comprehension issues his whole life with adequate libraries staffed by untrained and inadequately supervised inmate clerks to help him use it?
3. Does the Due Process Clause of the Fourteenth Amendment allow the burden of meeting Court deadlines to be place on Hill, when Hill is unschooled in the most basic techniques of legal research or does not have the intellectual ability to utilize the law libraries in The Ohio Department of Rehabilitations and Corrections institutions, and has had to depend on the advice and assistance of the untrained and inadequately supervised inmate clerks for his meaningful access to the courts?

LIST OF PARTIES

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

RELATED CASES

1. State v. Hill, Ohio Sixth District Court of Appeals, L-05-1080
2. State v. Hill, Ohio Sixth District Court of Appeals, L-07-1195
3. State v. Hill, Ohio Sixth District Court of Appeals, L-08-1020
4. State v. Hill, Ohio Sixth District Court of Appeals, L-16-1047
5. Hill v. Henderson, 2017 U.S. Dist. LEXIS 154256
6. State v. Hill, Ohio Sixth District Court of Appeals, L-18-1058
7. State v. Hill, Lucas County Court of Common Pleas case number CR-04-2741 of July 22, 2019 motion, October 17, 2019 Judgment
8. State v. Hill, Ohio Sixth District Court of Appeals, L-20-1038
9. Hill v. Annette Chambers-Smith, et al., Ohio United States District Court case number 3:22-CV-195JGC

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1. The Sixth Circuit decision on Hill's motion for C.O.A, exhibit (A).
2. The Sixth Circuit decision on Hill's motion for rehearing, exhibit (B).
3. The opinion of the United States district court exhibit CC2 and exhibit (D)

TABLE OF AUTHORITIES CITED

CASES

1. Bounds v. Smith, 430 U.S. 817, 52 L.Ed.2d 72, 97 S.Ct. 1491 (1977)
2. Lewis v. Casey, 518 U.S. 343
3. Cuz v. Hauck 627 F.2d at 720
4. Glover v. Johnson, 478 F. Supp. 1075 (E.D. Mich. 1979)
5. Canterino v. Wilson, 562 F. Supp. 106, 108-12, (W.D. KY. 1983)
6. Wade v. Kane 448 F. Supp. 678, 684 (E.D. Pa. 1978), aff'd them., 591 F.2d 1338 (3rd Cir. 1979)

OTHER

Comment, An Overview of Prisoners' Rights: Part I, Access to the Courts under Section 1983

St. Mary's L.J. 937, 956, 971-74 & n. 97 (1983)

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 I don't know, are how to find out if it was; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished. Even with the help I receive filling this packet out

The opinion of the United States district court appears at Appendix C Add D 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 May 17, 2022.

☐ 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: July 12, 2022, and a copy of the order denying rehearing appears at Appendix B.

☐ 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

28 U.S.C. § 1254(1) states:

"Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

- (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;
- (2) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy."

STATEMENT OF CASE

4. On August 30, 2004 Ohio's Lucas County grand jury in case number CR-04-2741 indicted Petitioner, Tyrice Hill, (hereinafter "Hill"), for six counts of aggravated robberies with attached firearm specifications.
5. On January 10, 2005 upon advice of his counsel Hill entered guilty pleas to three of the six aggravated robberies, in which the plea agreement that Hill entered in to only states: that he had a right to appeal his sentence within 30-days of his conviction, and did not state that Hill had a right to counsel on appeal, or right to have counsel file a notice of appeal on his behalf, and upon verbal advisement of his appellate rights the judge stated:

"And for all practical purposes you're waiving your right to appeal because the only area for appeal now is the plea proceedings and sentencing proceedings. And if you wish to appeal the matter, you must file your notice within 30-days of the date of the sentence...."

Hill was not advised that he had a right to counsel on appeal, or the right to have counsel file a notice of appeal on his behalf pursuant to Ohio Criminal Rule 32(B).

6. On February 3, 2005 Hill was sentence to 30 years and five months, and after sentencing Hill upon verbal advisement the judge stated:

"We further again, remind the defendant of his limited right to appeal the plea and right to appeal the sentencing under certain circumstances as provided under 2953.08."

Hill again was not advised that he had a right to counsel on appeal, or the right to have counsel file a notice of appeal on his behalf pursuant to Ohio Criminal Rule 32(B).

7. In contrary to what Hill was verbally advised of his February 7, 2005 judgment entry states that he was made aware of all of Ohio Criminal Rule 32 rights.
8. Not long after Hill was transferred to the Ohio Department of Rehabilitations and Corrections, (hereinafter "ODRC"), where the policy set in place to provide inmates with

meaningful access to the courts requires giving inmates adequate law libraries ran by un-trained, and inadequately supervised inmate clerks. As inmate clerks are supervised by librarians who have no regular or structured access to lawyers, and the clerks learn primarily from on-the-job experience, as ODRC offers no paralegal training in any of its institutions.

9. In all of the institutions Hill has been place in during his incarceration but maybe one he has only received two to four hours of law library time a week before he was given a tablet with Lexis Nexis on it in 2018, but even then no one was place in his unit to show him how to use it.
10. In all of the institutions Hill has been place in during his incarceration but maybe one there has been over 1200 inmates, and only one or two inmate clerks working the law libraries. No one but the individual inmate clerks review the legal advice or legal decisions they give, and each inmate clerk may handle as many as 100 active cases or more.
11. Also during Hill's incarceration every time Hill has been place in segregation he has had no physical access to a law library or his tablet, the inmate clerks cannot visit the segregation unites, and the librarian does so once or twice a week, but when one does Hill has had to rely exclusively through the librarian upon the untrained inmate clerks for his meaningful access to the courts.
12. The lack of ODRC to provide Hill with more time in the law libraries a week, and a proper number of Para legally trained inmate clerks under a lawyers' supervision has prejudice Hill, because as a child Hill attended facilities for special education and severely behaviorally handicapped student's classes offered through Toledo Ohio public schools, qualified for Social Security Disability payments, and possessed an I.Q. of 83. While Hill's issues have gotten better over the years Hill still has comprehension issues when learning new things, and has been unable to protect or assert the whole panoply of rights to which he is entitled to, as Hill does not have the legal sophistication, much less the basic literacy skills to conduct through legal research, and his legal efforts have been thwarted by illiteracy and inexperience.

13. The reason this has cause Hill harm is because while a notice of appeal was filed by his trial court counsel and through appointed counsel Hill appealed his conviction and sentence to the Sixth District Court of Appeals. The Sixth District Court of appeals affirmed Hill's conviction and sentence in State v. Hill, (February 24, 2006), 2006-Ohio-859. Hill received help from the inmate clerk appealing the ruling to the Ohio Supreme Court, who told him just to copy what his appellant counsel put in her brief in the notice of appeal, but luckily the court accepted jurisdiction to proposition of law three, which addressed the sentencing proceedings pursuant to State v. Foster, (Ohio 2006), 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 462, and Hill's case was remanded back to the Lucas County trial court for a De Novo Sentencing hearing, which place Hill in the position as if he was never sentence.
14. On November 9, 2006 Hill was resentenced and after his sentence was imposed, while Hill knew that he could appeal, he was unaware of how to, and unaware that he had a right to counsel, or right to have counsel file a notice of appeal on his behalf, as Hill again was not advised of the above rights pursuant to Ohio Criminal Rule 32 by the Judge or his trial court counsel, and again contrary to Hill not being verbal advised of those rights his November 16, 2006 judgement entry states that Hill was informed of Ohio Criminal Rule 32 rights.
15. Not long after Hill was transferred back to the Southern Ohio Correctional Institution, and since he did not understand how to fill out the notice of appeal packet he received from the librarian, he asks the inmate clerk who had been helping him to assist him with filling out the packet, who incorrectly advised Hill to place his old appeal number on the packet. So Hill did and mail the packet out on December 6, 2006, and the clerk file it on December 20, 2006.
16. In case number L-05-1080 on January 8, 2007 the Sixth District Court of appeals denied Hill's motion for counsel and transcripts, and on January 11, 2007 ordered his notice of appeal stricken because of the inmate clerks incorrect advice to place his old appeal number on the documents.

17. On January 30, 2007 Donna L. Kiroff of the Sixth District Court of Appeals sent Hill a letter about not being able to file his notice of appeal with his old appeal case number on it.
18. Not knowing what case number to use and only being aware of having his old appeal case number Hill took the letters and judgments he received to the librarian and ask her to help him do what the Sixth District Court of Appeals told him to, who also incorrectly advised him to place his old appeal number on the motion for delayed appeal and motion for counsel and transcripts, and told Hill that if it was the wrong one the court would appoint him counsel like it should have the first time. So again in case number L-05-1080 on March 19, 2007 Hill filed a motion for delayed appeal and motion for appointment of counsel with his old appeal number on them, and on April 10, 2007 the Sixth District Court of Appeals denied Hill's motions because of the incorrect advice he received.
19. Unable to get the correct advice about what case number he should have put on his legal documents from the inmate clerks or the librarian, Hill took the letter and judgments he received from the Appeal court and the clerk of court to his case manager who showed him on the clerk's letter to him what case number he should have been using.
20. Hill received help from the second inmate clerk that work the law library with filling out his second motion for delayed appeal and motion for appointment of counsel, who incorrectly advised Hill to ask the court to appeal the two motions that were denied at his resentencing hearing in the motion. So in case number L-07-1195 on June 12, 2007 Hill filed a motion for appointment of counsel and the motion for delayed appeal with the advice from the inmate clerk in it, and on July 11, 2007 the Court denied the motion without appointing him counsel because he use the inmate clerk's advice and did not ask to appeal his resentencing judgment.
21. Because of the lack of adequate assistance in the library Hill received help from an inmate that did not work the law library with filing his third motion for delayed appeal and motion for appointment of counsel, but in case number L-08-1020 on February 20,

2008 the Sixth District Court of Appeals denied Hill's motions without appointing counsel because his original and resentencing judgment entries state that he was advised of Ohio Criminal Rule 32.

22. Hill did not appeal the ruling to the Ohio Supreme Court because when he sought help from the inmate clerks and librarian that he was force to receive help from do to ODRC policy, the advice he received from both inmate clerks and the librarian was that any appeal from the judgment would be frivolous without his resentencing hearing transcripts to support the fact that he was not advised of Ohio Criminal Rule 32, and Hill did not know how to do proper research on his own to find out if the advised he received from them was correct.
23. Therefore, due to the advice Hill received from the inmate clerks and the librarian Hill believed he need his resentencing hearing transcripts to move forward with any claims he had dealing with his resentencing, and since the courts denied him every time he requested them Hill ask his granddad to help him get them, but once they were located the cost told to him was more than his granddad could afford.
24. From 2008 until 2010 upon incorrect advice of the inmate clerks Hill filed frivolous things in the Ohio Lucas County Court of Common Pleas.
25. After being transferred to the Toledo Correctional Institution in 2010, Hill still received less than 10 hours per week of law library time, was still force to work with unfamiliar books and a computer with Lexis Nexis or Westlaw on them whose content was hard for Hill to understand at times, and still force to receive advice and assistance from untrained and inadequately supervised inmate clerks. Which cause Hill to continue to go up and down the State and Federal Courts filing unartful and frivolous things, and miss critical deadlines.
26. After getting nowhere with his filings in 2015, but still believing that he needed his resentencing hearing transcripts to move forward with any kind of appeal from his resentencing, Hill ask his friend Colleen Rich to help him get his resentencing hearing transcripts, and without any problems on March 27, 2015 she received them for free from Chris Riley by E-Mail, but could not send them to Hill because she did not have the

money for copies or postage. Hill lost contact with her for over two years, but once he was back in touch with her he had her e-mail them to his sister Keyana Braddy, who could not send them to Hill because of a lack of money or just not taking the time out to do so.

27. So in 2016 and 2018 Hill tried again to file motions for delayed appeals and motions for counsel and transcripts in the Sixth District Court of Appeals in cases numbers L-16-1047 and L-18-1058, but the court denied Hill's motions because his original and resentencing judgment entries state that Hill was advised of Ohio Criminal Rule 32 rights.
28. With the help of an untrained inmate clerk doing research Hill came across some cases which made him aware that he was being denied meaningful access to the courts by being denied proper time in the law library and trained assistance, and with help from a fellow inmate went Hill through the institutional complaint proceedings to raise the claim, and was retaliated against for raising the issue and all of his claims were denied.
29. After Hill's Institutional Procedures were denied Hill filed a 1983 Civil Action Complaint and Motion for a Temporary Restraining Order and/or Preliminary Injunction in the United States District Court for Toledo Ohio, making claims of being denied meaningful access to the courts in Hill v. Henderson, 2017 U.S. Dist. LEXIS 154256.
30. While the Complaint was pending in December of 2017 Hill was transferred to the Northeast Ohio Correctional Center, where the issue of being denied trained assistance was worst than the last two institutions Hill was at, because not only did the same issues exist, but the inmate clerks knew less about court filings or legal research.
31. On September 21, 2018 this court dismissed Hill's denial of access to the court claim because he did not provide facts plausibly suggesting inadequate access to the courts which caused him concrete harm, but allowed him to proceed with his retaliation claim against Rose Shaddy, and ordered the Toledo Correctional Institution to provide the complete record of his grievances from the relevant time period so it could be determined whether Hill properly exhausted his administrative remedies before filing the lawsuit.

32. While Hill did exhaust his administrative remedies he could not prove that he did because the Toledo Correctional Institution did not give him a copy of his complaint and grievance back from his retaliation claim and did not rule on his appeal from him being told verbally that his claims were denied, and Hill did not appeal this court's ruling because he lack assistance to help him file a notice of appeal or do research on how to appeal this court's Judgment.
33. After being in the Northeast Ohio Correctional Center, (hereinafter "N.E.O.C.C"), over a year Hill was able to get a legal clerk job without going through any kind of training, and took the job in order to have the time given to do his best to learn how to raise the claims of his constitutional rights being violated.
34. Even with the extra time in the law library Hill still did not come to an understand that the inmate clerks and librarian's advice about needing his resentencing hearing transcripts to appeal was incorrect, but was able to get his sister to send him his resentencing hearing transcripts, and on July 22, 2019 Hill filed a motion for resentencing seeking specific performance of his plea agreement in the Ohio Lucas County Court of Common Pleas.
35. The Lucas County Prosecutor Office argued against relief, and the Lucas County Court of Common Pleas Judge Lindsay D. Navarre on October 17, 2019 denied Hill's motion stating in part:

"...a review of the docket in this matter demonstrates a defendant very aware of his appellate rights. To date, the Defendant has file 18 matters in the Sixth District Court of appeals, including two motions for delayed appeal after his resentencing in 2006.

This Court refuses to hold the door open for the Defendants endless, meritless appeals, which lack substance and authority. The Defendants motion for resentencing is found not well-taken and denied."

36. Hill did not appeal the ruling to the Sixth District Court of appeals because without anyone who was trained in the law to receive advice from the understanding Hill came to of the ruling was he needed to show the Judge that if he was allowed to take an appeal that his claims had merit, and on January 16, 2020 Hill filed a Petition to vacate or set aside judgment of conviction or sentence in the Ohio Lucas County Court of

Common Pleas in case number CR-04-2741. The Prosecutor office argued against relief and the Judge denied Hill's request again for specific performance.

37. Not know what next step to take on February 11, 2020 Hill filed a motion for delayed appeal in case number L-20-1038, and attached his resentencing hearing transcripts. The Lucas County Prosecutor argued against relief, and on March 13, 2020 denied Hill's motion for delayed appeal, stating that a court speaks through its judgment entry despite Hill attaching his resentencing hearing transcripts to the motion which shows he was not advised.
38. The Ohio Supreme Court decline to accept jurisdiction of Hill's appeal from the denial of his motion for delayed appeal, in case number 2020-0435 on May 26, 2020.
39. On May 7, 2020 Hill filed a Writ of Habeas Corpus in the United States District Court case number 4:20-CV-997, and within the Petition Hill made the claims that he was not advised of his appellant rights and that he received ineffective assistance of counsel which both cause his plea of guilty to be unconstitutional, and ask for appointment of counsel to help litigate his issues.
40. Because Petitioner are not entitled to appointed counsel in a Habeas Corpus proceeding the Magistrate denied Hill's request for counsel, and due to the incorrect legal advice of the inmate clerks and librarian in the Southern Ohio Correctional Institution, that Hill needed his resentencing hearing transcripts to move forward with his claims on March 15, 2021, United States Magistrate Judge William H. Baugh recommended that Hill's Habeas Corpus be dismissed because it was untimely.
41. The Magistrate's recommendation made Hill aware that the advice he received from the inmate clerks and librarian was incorrect, and on March 31, 2021 Hill filed objections to the Magistrate report and recommendation, and without trained assistance or counsel did his best to make a Bounds violation claim which prejudice him showing the extraordinary circumstance beyond his control that stood in his way of him filing his Habeas Petition on time.
42. On September 28, 2021 Judge Jeffrey J. Helmick of the United States District Court failed to find that Hill having to depend on untrained and inadequately supervised inmate

clerks for his meaning access to the courts was an extraordinary circumstance that stood in the way of Hill filing his Habeas Corpus Petition on time, and denied Hill's Writ of Habeas Corpus.

43. Hill did the best he could to file a Certificate of Appealability, (hereinafter "C.O.A"), to the Sixth Circuit Court of Appeal from the denial without the assistance need, and had to file an amended motion for C.O.A once he was transferred to Ross Correctional Institution in case number 21-4035 of the Sixth Circuit Court of Appeals.
44. While Hill's C.O.A was pending Hill did the best he could to file another 1983 civil complaint on being denied meaningful access to the courts State v. Annette Chambers-Smith, et al., case number 3:22-cv-195-JGC.
45. On May 17, 2022 the Sixth Circuit Court of Appeals denied Hill's Application for Certificate of Appealability. The reasons given why the court denied Hill's Bounds violation claim given at page 4 of the order states:

"..., as noted by the district court, neither ignorance of the law nor a prisoners' pro se status is an extraordinary circumstance that tolls the limitations period. See Hall v. Warden, Labanon Corr. Inst., 662 F.3d 745, 751-51 (6th Cir. 2011). The absence of trained legal assistance is also not sufficient to toll the limitations period. Taylor v. McKee, 649 F.3d 446, 452-53, (6th Cir. 2011) ('[P]risoners are not necessarily entitled to legal writers,' but instead must only be given 'meaningful access to the court,' which could be provided through such means as adequate assistance from persons trained in the law or access to adequate libraries." (quoting Bounds v. Smith, 430 U.S. 817, 832 (1977)))."

{See appendix (A) the Sixth Circuit decision attached to petition}.

46. On May 27, 2022 the United States District Court for Toledo Ohio denied Hill's complaint because he did not provide facts plausibly suggesting inadequate access to the courts which caused him concrete harm.

47. On June 23, 2022 Hill filed a notice of appeal from the denial of his complaint for being denied meaningful access to the courts in case number 22-3557 of the Sixth Circuit court of appeals, which is still pending.

48. Hill filed a Petition for rehearing and pointed out that the Sixth Circuit Courts narrow interpretation of this Courts holding in Bounds was wrong, and how a few of its' sister courts in interpreting this courts holding in Bounds found that an adequate library cannot provide meaningful aid to a prisoner unschooled in the most basic techniques of legal research or does not have the intellectual ability to utilize the facility, but on July 12, 2022 in case number 21-4035 the Sixth Circuit denied Hill's Petition stating:

"We have reviewed the petition and conclude that this court did not overlook or misapprehend any point of law or fact in denying Hill's motion for a Certificate of Appealability. See Fed. R. App. P. 40 (a)(2)."

[See appendix (B) the Sixth Circuit decision attached to petition].

49. This Supreme Court is being ask to grant this Petition and answer the following certified questions: **(1) Is the Sixth Circuit Courts narrow interpretation of this Courts holding in Bounds wrong and denies Hill meaningful access to the Courts? (2) Is The Ohio Department of Rehabilitations and Corrections policy in place to give Hill access to the courts, unconstitutional and a denial of meaningful access to the courts, as the plan in place only provides Hill who has had educational and comprehension issues his whole life with adequate libraries staffed by untrained and inadequately supervised inmate clerks to help him use it? And (3) Does the Due Process Clause of the Fourteenth Amendment allow the burden of meeting Court deadlines to be place on Hill, when Hill is unschooled in the most basic techniques of legal research or does not have the intellectual ability to utilize the law libraries in The Ohio Department of Rehabilitations and Corrections institutions, and has had to depend on the advice and**

assistance of the untrained and inadequately supervised inmate clerks for his meaningful access to the courts?

REASONS FOR GRANTING THE WRIT

50. This Court in *Bounds v. Smith*, 430 U.S. 817, 52 L.Ed. 2d 72, 97 S.Ct. 1491 (1977), established beyond doubt that prisoners have a constitutional right to access to the courts. *Id.* At 821. While this Court held that the fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law.” *Id.* At 828. This Court further explained:

“While adequate law libraries are one constitutionally acceptable method to assure meaningful access to the courts, our decision...does not foreclose alternative means to achieve that goal. Nearly half the States and the District of Columbia provide some degree of professional or quasi-professional legal assistance to prisoners. Such programs take many imaginative forms and may have a number of advantages over libraries alone. Among the alternatives are the training of inmates as paralegal assistants to work under lawyers’ supervision, the use of paraprofessionals and law students, either as volunteers or informal clinical programs, the organization of volunteer attorneys through bar associations or other groups, the hiring of lawyers on part-time consultant basis, and the use of full-time staff attorneys, working either in new prison legal assistance organizations or as part of public defender or legal services offices...Independent legal advisors can mediate or resolve administratively many prisoners complaints that would otherwise burden the courts, and can convince inmates that other grievances against the prison or legal system are ill-founded, thereby facilitating rehabilitation by assuring the inmate that he has not been treated unfairly...A legal access program need not include any particular element we have discussed, and we encourage local experimentation. Any plan, however, must be evaluated as a whole to ascertain its compliance with constitutional standards.”

Id. At 830-32.

51. In *Lewis v. Casey*, 518 U.S. 343, at 355 this Court held that a prisoners’ First Amendment right of access to the courts is limited to a direct criminal appeal, habeas corpus application, or civil rights actions challenging conditions of confinement, and that an inmate must show that the alleged inadequacies of a prisons library facilities or legal assistance program caused him “actual injury” – that is, “actual prejudice with respect

to contemplated or existing litigation, such as the inability to meet a filing deadline or to present a claim.

52. The Ohio Department of Rehabilitations and Corrections policy in place to give Hill meaningful access to the courts by providing him with adequate libraries ran by untrained and inadequately supervised inmate clerks is violating Hill's First Amendment right to the United States Constitution, because Hill has had to depend on the inmate clerks advice and assistance to use the libraries, which has caused Hill to miss the deadline for filing his direct criminal appeal and Federal habeas corpus application, or properly challenge the policy in a 1983 civil rights action, and properly present the claim of not being advised of his appellant rights to the state courts.

53. Hill cannot get relief for the violation because while in *Cuz v. Hauck*, the Fifth Circuit held:

"It is not enough simply to say the books are there when the plaintiffs contend that they do not have the assistance necessary to use the books properly. All of the circumstances must be evaluated in determining the adequacy of a library, and the district court erred by holding that a prison library without any assistance in its use sufficed to provide access to the courts for all the prisoners detained."

627 F.2d at 720. Similarly, in *Glover v. Johnson*, 478 F.Supp. 1075 (E.D. Mich. 1979), the Court concluded:

"Defendants position that they are obligated only to provide either an adequate law library or qualified legal assistance is to narrow a reading of *Bounds*. An adequate library cannot provide meaningful aid to a prisoner unschooled in the most basic techniques of legal research. As a result, courts have recognized the need for the assistance of others who possess these skills in order to render the inmate's right to access effective."

Id. 478 F. Supp. At 1096. Also see *Canterino v. Wilson*, 562 F. Supp. 106, 108-12, (W.D. KY. 1983) (unlimited physical access to sufficiently stocked law library is unavailing inmates lacking sufficient opportunity or intellectual ability to utilize the facility: adequate library under *Bounds* includes assistance by law-trained advisors so that all inmates have actual access; *Wade v. Kane*, 448 F. Supp. 678, 684 (E.D. Pa. 1978) (prison

required under Bounds to provide assistance to inmates who are unable to perform effective legal research -- even though prison maintained sufficiently stocked law library), aff'd Them., 591 F.2d 1338 (3d Cir. 1979); see also Comment, An Overview of Prisoners' Rights: Part I, Access to the Courts Under Section 1983, 14 St. Mary's L.J. 937, 956, 971-74 & n.97 (1983) (discussion of what constitutes adequate law library under Bounds).

54. The Sixth Circuit Court of appeals has chosen to interrupted this court's ruling in Bounds as meaning that inmates are only entitled to either adequate law libraries or adequate assistance from persons trained in the law regardless of the fact of whether they know how to use the law libraries or not.

CONCLUSION

55. This case is one of first impression being presented to this Supreme Court. This Supreme Court is being ask to accept this case and answer the certified questions being submitted for the reasons stated above, and Petitioner, Tyrice Hill, prays that this case notes probable jurisdiction in this case and set this matter for briefing and oral argument.

RESPECTFULLY SUBMITTED,

Tyrice Hill

ROSS CORRECTIONAL INSTITUTION

P.O. BOX 7010

CHILLICOTHE, OHIO, 45601