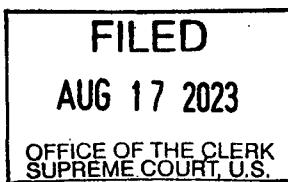


No. 23 - 5662



IN THE
SUPREME COURT OF THE UNITED STATES

CHARLES KEITH WAMPLER,

Petitioner,

v.

ALICIA HANDWERK, LANCE PRESSLEY, KATHLEEN KOVACH, MARC HOUK,
SCOTT WIDMER, STEVEN HERRON, AND LISA HOYING

Respondents,

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

Charles Keith Wampler #169-755
London Correctional Institution
P.O. Box 69
London, Ohio 43140

Petitioner, Pro Se

QUESTION PRESENTED

It is an established fact that some laws, whether they be statutory laws or case laws, can be written in a way that is confusing to the lay person. When that occurs it falls to the Court to help interpret those laws. One thing that cannot be disputed is that, whether it is a legislator drafting a bill or a Justice of this Honorable Court drafting a ruling, the words used in their writings are chosen because of the definition of those words and the impact they will have on the issue at hand.

The Question being presented is:

Can an individual, in any capacity, be allowed to alter the definition of a word, or words, within a law so that the law better suits the argument they are presenting?

PARTIES TO THE PROCEEDING

Petitioner (plaintiff - appellant) is Charles Keith Wampler

Respondents (defendants - appellees below) are Alicia Handwerk, Lance Pressley, Kathleen Kovach, Marc Houk, Scott Widmer, Steven Herron, and Lisa Hoying. All members of the Ohio Parole Board.

CORPORATE DISCLOSURE STATEMENT

Petitioner, Charles Keith Wampler, is an individual.

STATEMENT OF RELATED PROCEEDINGS

The following proceedings are directly related to this case within the meaning of Rule 14.1 (b)(iii):

•Charles Keith Wampler v. Alicia Handwerk, et al., No. 23-3010 (6th. Cir.), judgement entered on June 23, 2023;

•Charles Keith Wampler v. Alicia Handwerk, et al., No. 2:21-cv-5852 (Southern District of Ohio, Eastern Division), judgement entered on December 15, 2022.

•Charles Keith Wampler v. Alicia Handwerk, et al., No. 2:21-cv-5852 (Southern District of Ohio, Eastern Division), judgement entered on July 11, 2022.

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APPENDIX

Appendix A 1

Opinion United States Court of Appeals for the Sixth Circuit, Charles Keith Wampler v. Alicia Handwerk, et al., No. 23-3010 (June 23, 2023)

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Opinions United States District Court for the Southern District of Ohio, Eastern Division. No. 2:21-cv-5852 (December 15, 2022) and (July 11, 2022).

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Relevant Constitutional Provisions

U.S. Const. Amend. V

U.S. Const. Amend. VIII

U.S. Const. Amend. XIV

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Minutes from Petitioner's Parole Board Hearing

Parole Reconsideration Request

Parole Board's Reply to Reconsideration Request

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Constitutional Provisions

U.S. Const. Amend. V	5, 6, 7, 11, 15, 16, 17, 18
U.S. Const. Amend. VIII	5, 6, 7, 15, 16, 17, 18
U.S. Const. Amend. XIV	11, 16, 17, 18

Other Authorities

Black's Law Dictionary	3, 5, 6, 10
The Oxford Dictionary	3, 5, 6, 10
Webster's Collegiate Dictionary	3, 5, 6, 10

PETITION FOR WRIT OF CERTIORARI

United States v. Fisher, 6 U.S. 358 (1805)

HN 2 - It is a well established principle in the exposition of statutes, that every part is to be considered, and the intention of the legislature to be extracted from the whole. It is also true that where a great inconvenience will result from a particular construction, that construction is to be avoided, unless the meaning of the legislature be plain; in which case it must be obeyed.

(Emphasis added)

Ali v. Fed. Bureau of Prisons, 552 U.S. 214 (2008)

HN 14 - The court is not at liberty to rewrite a statute to reflect a meaning it deems more desirable. Instead, we must give effect to the text Congress enacted:

(Emphasis added)

Murphy v. Smith, 138 S. Ct. 784 (2018)

HN 4 - Respect for Congress's prerogatives as policy maker means carefully attending to the words it chose rather than replacing them with others of the court's own.

(Emphasis added)

Nielsen v. Preap, 139 S. Ct. 954 (2019)

HN 11 - Because words are to be given the meaning that proper grammar and usage would assign them, the rules of grammar govern statutory interpretation unless they contradict legislative intent or purpose.

(Emphasis added)

Many similar cases have been decided by this Honorable Court, throughout the years. Petitioner has chosen the four listed above simply to show that for well over two hundred years the United States Supreme Court has ruled that the words of Congress must be respected and obeyed. This Honorable Court has also made it clear that words that have a clear definition cannot be changed to suit the individual, or the court.

In spite of this long standing directive, it has become a common and accepted practice for the definitions of unambiguous words to be altered so that the law fits a particular argument.

All courts and all citizens of the United States are governed, and protected, by the United States Constitution. In return it is the duty of the courts to protect the United States Constitution and the rights therein guaranteed to the citizens of the United States of America.

If an individual, in any capacity, is permitted to alter the definition of a word, or words, within the Constitution so that an Article or Amendment conforms to their argument then the Constitution has become corrupted. It becomes something that is only applied when, and where, it is convenient to do so. When this is allowed to happen the Judicial Branch of government has failed in it's duty to protect the Constitution and, therefore, the United States Constitution can no longer provide the rights and protections it was created to provide. The decision below is part of a pattern that sets a dangerous precedent and begs for review by this Honorable Court.

OPINIONS BELOW

The Sixth Circuit's opinion is unpublished but is reproduced at App. 1 - 8. The District Court's opinion is unpublished but is reproduced at App. 9 - 27.

JURISDICTION

The sixth Circuit issued it's opinion on June 23, 2023. This Court has jurisdiction under 28 U.S.C. §1254(1)

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment, the Eighth Amendment, and the Fourteenth are reproduced at App. 28.

STATEMENT OF CASE

A. Legal & Historical Background

In the case at hand, petitioner will show four words, with very clear meanings, that have been manipulated to fit a number of arguments over the years.

To clearly show the lack of ambiguity in these words, petitioner will list the definitions from Black's Law Dictionary (The most commonly used legal dictionary), The Oxford Dictionary, and Webster's Collegiate Dictionary (Two of the most commonly used standard dictionaries).

1). Deprive

Black's Law Dictionary: 1)..: An act of taking away.
2)..: A withholding of something that one needs.

The Oxford Dictionary: 1). Strip, dispossess, debar from enjoying.

Webster's Collegiate Dictionary: 2). to take something away from. 4). to withhold something from.

Clearly there are two ways to deprive a person of something. One is to take it away. The other is to withhold it.

Petitioner begs this Honorable Court's indulgence in allowing him to provide an example simply to illustrate a point:

(A mother sets a meal before her starving children. Before they get a chance to eat any of it she takes the food away. The mother then hands the food to the father. The father refuses to give the food back to the children. The mother has deprived the children of food by taking it away. The father has deprived the children of food by withholding it. Is either parent less guilty of depriving those children of food?)

Ohio courts and the Ohio parole board operate under the same basic principle. If a person is charged with a crime and they are given a fair trial and, at the end of that trial they are found guilty and sentenced to prison then the court has deprived that person of their liberty through due process of law. However, if a judge sentences that person to an indefinite sentence (Say 15 years to Life) at the end of the 15 years the court does not reconvene to determine whether or not the inmate is suitable for release. The inmate's minimum obligation to the court is over.

In Ohio, the power now shifts to a board appointed by the Executive Branch. At this point the Ohio parole board is given the power to deprive an American Citizen of their liberty (by withholding it). However, contrary to the protections guaranteed by the United States Constitution, they are permitted to deprive an American Citizen of their liberty without due process of law.

The Ohio parole board has been given guidelines regarding things that should be considered prior to making a decision. These guideline have no real meaning because the Ohio parole board has been given "Full discretion" which means that regardless of the protections guaranteed by the Constitution they can deprive an American Citizen of their liberty for any reason they choose, including the offense for which the court has already punished that American Citizen.

2). Liberty

Black's Law Dictionary: 1).: Freedom from arbitrary or undue external restraint, esp. by a government.

The Oxford Dictionary: 1).: Freedom from captivity, slavery, etc.

Webster's Collegiate Dictionary: 1). the quality or state of being free (c). freedom from arbitrary or despotic control.

Few reasonable people would question the intent behind the word liberty in both the **Fifth** and **Fourteenth Amendments** to the Constitution.

The Sixth Circuit Court of Appeals states that, because Ohio has given full discretion to the Ohio parole board, inmates in Ohio do not have a protected liberty interest in parole. Petitioner submits that the United States Constitution disagrees.

The Thirteenth Amendment to the Constitution reads, in part,... "except as a punishment for crime whereof the party shall have been duly convicted"...

Neither the **Fifth** nor the **Fourteenth Amendment** has any such disclaimer. Neither amendment says "any person, but." both simply say "**Any person**".

Unless the court presumes the power to strip an inmate of their humanity and declare that they are no longer to be considered a person then, an inmate must be afforded the full protection guaranteed by the **Fifth** and **Fourteenth Amendments**.

Saying that a person has a limited interest in liberty brings to mind the old saying "You can't be a little pregnant". A person either has a liberty interest or they do not. Anyone who is deprived of their liberty, by any means, has a vested interest in regaining that liberty. If the time ever comes when a person loses interest in their liberty then that person has become institutionalized and will find it difficult, if not impossible, to return to normal society as a productive member of their community. No reasonable person, within the Criminal Justice system, wants to take away all hope before releasing an inmate into an unsuspecting society.

Questions may arise as to what Liberties (actions) are protected by the Constitution but no one can be allowed to question the fact that Liberty itself is fully protected by the Constitution and no one can be deprived of that liberty, in any way, without due process of law.

Liberty is a major part of the bedrock upon which this

nation was founded. This is made clear by the fact that it is protected by one of the first eight amendments and again by the **Fourteenth Amendment**. Even our Pledge of Allegiance says "With Liberty and Justice for All". No one can be allowed to undermine that bedrock

An inmate is still a person and, as such, must be given the full protection guaranteed by the **Fifth** and **Fourteenth Amendments**. They must not be deprived of their liberty, in any way, without due process of law.

Not only is there no ambiguity in the words used to draft the **Fifth** and **Fourteenth Amendments**, there is no ambiguity in the purpose of the amendments themselves.

3). Rehabilitation

Black's Law Dictionary: 1).: (criminal law) The process of seeking to improve a criminal's character and outlook so that he or she can function in society without committing other crimes.

The Oxford Dictionary: 1).: Restore to effectiveness or normal life by training etc., especially after imprisonment or illness. 2).: restore to former privileges, proper conditions, etc.

Webster's Collegiate Dictionary: 1).: to restore to a former capacity (b): to restore to good repute: reestablish the good name of.

Ohio is one of only three states, in the United States, that attaches the word Rehabilitation to their Department of Corrections. That word, alone, indicates the promise of parole.

A Department of Corrections has one meaning. A Department of Rehabilitation and Corrections has a very different meaning,

Tapia v. United States, 564 U.S. 319

A unanimous Court agreed:

..."At that point, parole officials could determin[e] that [the] prisoner had become rehabilitated and should be released from confinement".

(Emphasis added)

"But this model of indeterminate sentencing eventually fell into disfavor. One concern was that it produced "[s]erious disparities in [the] sentences" imposed on similarly situated defendants. Mistretta, 488 U.S., at 365, 109 S. Ct. 647, 102 L. Ed. 2d 714. Another was that the system's attempt to "achieve rehabilitation of offenders had failed." Id at 366, 109 S. Ct. 647, 102, L. Ed. 2d 714. Lawmakers and others increasingly doubted that prison programs could "rehabilitate individual on a routine basis". - or that parole officers could [*325] "determine accurately whether or when a particular prisoner had been rehabilitated."

(Emphasis added)

These opinions make it pretty clear how this Honorable Court, and others, define rehabilitation. It very nearly mirrors the definitions from the above listed dictionaries.

Whether or not a person believes in the concept of rehabilitation, any reasonable person must agree that the prison system has two equally important functions. First, is to punish the offender in the hope of correcting their errant ways. Second, is to do everything possible to prepare the offender for their eventual return to society, barring a sentence of life without parole or death, so that they have a chance at becoming a contributing member of society and not a repeat offender.

When Ohio attached the word rehabilitation to their Department of Corrections, they mad a promise to do both. The

Ohio Parole Board is a department within, and is answerable to, the Ohio Department of Rehabilitation and Corrections and is therefore bound by those same promises.

If an inmate has maintained a good conduct record for several years and has shown growth through programs and educational pursuits then they have shown that they have done all that should be required. Yet, the Ohio parole board has been given full discretion. This means that they can ignore all accomplishments and continue the inmate based upon their conviction and aspects of the crime. The same things the court has already punished them for and things that obviously will never change.

The opinions of this Honorable Court and the Federal Legislature show the belief that parole is a component of rehabilitation. Therefore, if the Ohio parole board is permitted to continue it's current practices and ignore all rehabilitative efforts, punishing an inmate over and over for something the court already punished them for, then the Ohio Department of Rehabilitation and Corrections has not only lied to the inmates. It has defrauded the American taxpayers since the Ohio Department of Rehabilitation and Corrections regularly asks the taxpayers for money to fund these programs that, even they, clearly don't view as an important factor when it comes to preparing an inmate for a return to society.

4). Parole

Black's Law Dictionary: 1)..: The conditional release of a prisoner from imprisonment before the full sentence has been served. Although not available under some sentences, parole is usu. granted for good behavior.

The Oxford Dictionary: 1)..: release of a prisoner temporarily for a special purpose or completely before the fulfillment of a sentence, on the promise of good behavior.

Webster's Collegiate Dictionary: 1)..: a promise made with or confirmed by a pledge of one's honor. 3)..: a conditional release of a prisoner serving an indeterminate or unexpired sentence.

Parole was initially meant as something akin to "Time off for good behavior". It was meant to be granted upon the determination that the inmate had adhered to the rules while incarcerated and on the inmate's word that he would not engage in further criminal activity.

Morrissey v. Brewer, 408 U.S. 471

LEDHN[4] LEDHN[5] During the past 60 years, the practice of releasing prisoners on parole before the end of their sentence has become an integral part of the penological system. Note, Parole Revocation in the Federal System, 56 Geo. L. J. 705 (1968). Rather than being an ad hoc exercise in clemency, parole is an established variation on imprisonment of convicted criminals. Its purpose is to help individuals reintegrate into society as constructive individuals as soon as they are able, without being confined for the full term of the sentence imposed. It also serves to alleviate the cost to society of keeping an individual in prison...

(Emphasis added)

(Even in his partial dissent, Justice Douglas stated the following):

[*495] Under modern concepts of penology, paroling prisoners is part of the rehabilitative aim of the correctional philosophy. The objective [****44] is to return a prisoner to a full family and community life.

What these statements show is that parole was meant to be a part of the rehabilitative process. The goal being to allow inmates to earn early release, not to continually re-litigate issues already decided by the sentencing court.

These statements also show why when Ohio attached the word Rehabilitation to their Department of Corrections, Ohio made a promise to the taxpayers to rehabilitate the inmates in their Department of Rehabilitation and Corrections. This was also a promise to the inmates that parole would be the reward for genuine rehabilitative efforts. Ohio has failed to keep either promise. The use of the word Rehabilitation makes it plain that the Ohio parole board should be focused on an inmate's actions post incarceration. Their actions and rehabilitative efforts are all that should be considered at a parole hearing. Not the crimes for which the court has already punished them.

Petitioner filed a Fifth Amendment claim asserting that the parole board punished him for refusing to incriminate himself. Petitioner also filed an Eighth Amendment claim of Cruel and Unusual Punishment because he was forced to choose between falsely incriminating himself, in the hopes of release, or declaring his innocence knowing it would result in the extension of his time in prison.

The Sixth Circuit Court of Appeals stated "The Self-Incrimination Clause does not prohibit all self-incrimination but only compelled self-incrimination."

The Sixth Circuit Court of Appeals also stated "Wampler instead alleged that the defendants denied him parole based not only on his refusal to accept responsibility but also the nature of the crimes and community opposition to his release."

The fact that petitioner's refusal to falsely incriminate himself was even part of the reason for his punishment clearly shows that he was being compelled to incriminate himself. By the reasoning of the Sixth Circuit Court of Appeals, if a person is sentenced for several crimes then all of the sentences should be void because the defendant is being punished for more than one reason. Therefore none of the reasons should be relevant.

The Sixth Circuit Court of Appeals went on to note "The District Court concluded that Wampler lacked standing to assert this claim unless he is, in fact, innocent of the crimes for which he has been convicted and that the court could not presume his innocence unless and until his convictions are overturned."

Such a statement is a declaration that the Judicial System never makes mistakes and there are no innocent people in prison. Nowhere in the entire United States Constitution does it say that a person must prove their innocence before they have the right to be protected against self-incrimination. (An American

Citizen should always be permitted to proclaim their innocence. The Court does not have to simply accept that they are innocent but the Court should defend their right to proclaim their innocence).

Both the District Court and the Sixth Circuit Court of Appeals imply that petitioner is seeking a guarantee of parole. Petitioner has not asked for an immediate parole, an expedited parole, or even an expedited parole hearing. Nor has petitioner asked for monetary damages. Petitioner has only asked that the Ohio parole board be required to abide by the United States Constitution and follow through on the promise that was made to both the inmates and the taxpayers by the name "Department of Rehabilitation and Corrections".

B. FACTS AND PROCEDURAL HISTORY

September 20, 2021: Petitioner appeared before the Ohio Parole Board for the third time. For the third time he was given the maximum possible continuance. The board acknowledged petitioner's excellent conduct, for well over a decade, as well as his release plan to his wife. During the hearing the board acknowledged petitioner's programming and educational pursuits. In spite of all of this, the parole board stated that petitioner's rehabilitative efforts were outweighed by the following factors:

- 1). The brutality of the crime (Petitioner had been incarcerated for nearly four decades. The factors of the crime will never change. Those factors are what the sentencing court based petitioner's sentence on, yet the board uses this as an excuse to punish him over and over).
- 2). Community opposition (This opposition was not mentioned in petitioner's two prior parole hearings. Petitioner was not told the details of this opposition so he was not afforded the opportunity to defend himself against it).
- 3). Petitioner's lack of remorse or guilt (Petitioner is genuinely sorry that the crime took place but he cannot show guilt for something he is not guilty of. By their own words, they punished petitioner for not incriminating himself. This is clearly a case of petitioner being compelled to incriminate himself).

Petitioner filed a "Parole Reconsideration Request" in which he plainly stated that he believed he was being punished for declaring his innocence.

December 20, 2021: Petitioner filed a §1983 action against members of the Ohio Parole Board, in the United States District Court for the Southern District of Ohio, Eastern Division (Case No. 2:21-cv-05852 Magistrate Judge: Chelsea M. Vascura - District Judge: Michael H. Watson)

December 23, 2021: The Ohio Parole Board responded to petitioner's reconsideration request. In their response they denied only that a decision had already been made prior to the actual hearing. That issue is not relevant to the case at hand so petitioner will not argue that point here. However, petitioner will point out that the parole board made no attempt to deny that petitioner was punished for declaring his innocence.

July 11, 2022: District Court dismissed petitioner's Separation of Powers claim and his Due Process claim. (Petitioner realized that the District Court is not the proper venue for challenging issues with state separation of powers. Therefore petitioner willingly withdrew that claim).

On the Due Process claim the District Court stated "the due process requirements of the federal Constitution do not apply to Plaintiff's parole decision-making process because Plaintiff lacks a liberty interest in parole". (As Petitioner illustrated in his earlier definitions, any person who is deprived of their liberty has a vested interest in regaining that liberty and that interest is protected by the Fifth and Fourteenth Amendments to the United States Constitution. Allowing any other definition of those Amendments makes a mockery of the Constitution and disregards the obvious intent of the highest law in the United States. Higher, even, than any of the three individual branches of government).

Petitioner's Fifth Amendment, Eighth Amendment, and Fourteenth Amendment equal protection claims had not been addressed and were resubmitted to the Magistrate Judge for further review.

December 15, 2022: Petitioner's case was dismissed, in it's entirety by the District Court. In their ruling, the District Court stated the following:

- 1). "The Fifth Amendment does not protect against all self-incrimination; it protects against only compelled self-incrimination." (The fact that the parole board acknowledges that even part of the reason petitioner was punished was because he failed to express guilt or remorse makes it abundantly clear that petitioner was being compelled to incriminate himself).
- 2). "he alleges only that his refusal to accept responsibility was one of the reasons parole was denied." (The District Court implies that the fact that one of the reasons petitioner was punished was for refusal to incriminate himself doesn't matter because there were other reasons given. Following the District Court's logic, petitioner's aggregate 20 years to life sentence should be void because the court punished him based on more than one reason, so the individual reasons should no longer matter).

June 23, 2023: Petitioner's appeal was denied by the Sixth Circuit Court of Appeals. In that denial the Court stated the following:

- 1). "Due process rights therefore do not attach to parole procedures unless state law creates a liberty interest in parole." (As petitioner showed earlier, attaching the word Rehabilitation to their Department of Corrections was enough for Ohio to create a liberty interest in parole. The **Fifth** and **Fourteenth Amendments** also convey a protected interest in liberty).
- 2). The use of the word "rehabilitation" in the department's name does not give rise to an entitlement of parole." (The word "rehabilitation" should give rise to the guarantee of parole when an inmate has maintained a good conduct record and has shown real rehabilitative efforts. That is rehabilitation).
- 3). "But the right to assert one's innocence does not translate to a right to parole". (It does translate into the right not to be punished, by being given more time, for asserting one's innocence. Being punished for declaring innocence is a clear violation of the **Fifth Amendment's** guarantee against self-incrimination and the **Eighth Amendment's** guarantee of protection from cruel and unusual punishment).

REASONS FOR GRANTING PETITION

I. The 6th. Circuit's Conclusion That Petitioner is Not Entitled To Due Process Protection Defies The Fifth and Fourteenth Amendments And This Court's Precedents.

A). The 6th. Circuit's Conclusion That Petitioner Does Not Have A Protected Liberty Interest Defies The Fifth And Fourteenth Amendments And This Court's Precedents.

B). The 6th. Circuit's Conclusion That Petitioner Was Not Compelled To Incriminate Himself Defies the Fifth And Eighth Amendments and This Court's Precedents.

II. The Question Presented Is Exceptionally Important

The lower courts have allowed more than two hundred years of rulings by this Court to be defied. They do this not by changing the words of a law but by changing the definitions of words within the law. Words that already have clear definitions.

The result of this practice is unjust and unconstitutional rulings, which then leads to congestion within the Judicial System caused by unnecessary appeals brought on by these rulings. It also causes unnecessary congestion caused by the numerous cases where higher courts are required to untangle laws that lower courts have allowed to be misinterpreted and/or manipulated.

Unnecessary congestion within the Judicial System is just a small part of the problem that allowing this practice to continue promotes. It also serves to usurp the powers of all three branches of government. Where is the power in a ruling by this Court, a statute drafted by the Legislature, or an executive order issued by the President, if an individual can simply change the definition of a word, or words, within that ruling, statute, or order and receive a ruling in their favor from a lower court, even if that ruling is contrary to the original intent of the ruling by this court, the statute, or the order?

Most importantly, this practice allows the United States Constitution to be corrupted to the point where it is only applied where convenient. This chips away at the very foundation upon which this country and it's government are built.

The powers granted to all three branches of government are granted by the United States Constitution. If the Constitution is allowed to become something that is only applied when it is convenient to do so, how long will it be before the Constitution can no longer be enforced at all?

CONCLUSION

A ruling, by this Honorable Court, in favor of Petitioner would impact far more than just the case at hand.

The case presented here contains four words that have clear definitions that have been deliberately manipulated. If this one case presents so many examples, it should be evident just how prevalent this practice has become.

Petitioner thanks this Honorable Court for their time and consideration and begs the Court to grant his Writ of Certiorari.

Respectfully Submitted,

Charles Keith Wampler Pro Se
Charles Keith Wampler #169-755
London Correctional Institution
P.O. Box 69
London, Ohio 43140

Petitioner, Pro Se