

23-5871

No. 23 A-5

FILED

AUG 17 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**ORIGINAL**

IN THE

SUPREME COURT OF THE UNITED STATES

DARRYL SMITH

(Your Name)

PETITIONER

U.S. DISTRICT COURT (N.D. OHIO)  
vs.  
U.S. JUDGE JAMES GWIN  
U.S. MAGISTRATE THOMAS PARKER  
RESPONDENT(S)  
ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS ( SIXTH CIRCUIT) CASE NO. 22-3665  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DARRYL SMITH (PRISON NO. 760166)

(Your Name)

MANSFIELD CORRECTIONAL

1150 N. MAIN ST. (P.O. BOX 788)

(Address)

MANSFIELD, OHIO 44901

(City, State, Zip Code)

MAN.C.I PRISON AT -

# 419 526-2000

(Phone Number)

RECEIVED

AUG 22 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

STATE OF OHIO

ss; AFFIDAVIT OF INDIGENCE

RICHLAND COUNTY )

I THE AFFIANT DARRYL SMITH BEING DULY SWEORN DO HEREBY DEPOSE; -  
MY DATE OF BIRTH IS; AUGUST 2, 1951. THE LAST 4 DIGITS OF MY SOCIAL  
SECURITY NUMBER IS - 2329

I AM IMPRISONED IN MANSFIELD CORRECTIONAL (MAN.C.I.). MY  
PRISON NUMBER IS - 760166. I HAVE BEEN IMPRISONED SINCE 2017 - 2018.

I AM 71 YEARS OLD. I HAVE NUMEROUS DIAGNOSED DISABILITIES THAT  
RENDER ME UNEMPLOYABLE SINCE 2017. I HAVE A FAILING HEART CONDITION,  
IMPAIRED VISION AND HEARING IMPAIRED AND WALK WITH A CANE.

I HAVE NO MONEY, NO INCOME, NO ASSETS WITH WHICH TO PAY ANY  
COURT COSTS, COURT FILING FEES NOR TO RETAIN ANY ATTORNEY.

WHEREFORE BY AFFIXING MY SIGNATURE HERETO I CERTIFY THAT  
ALL STATEMENTS HEREIN ARE TRUE UNDER CAUTION OF PENALTIES FOR  
PERJURY.

FURTHER AFFIANT SAYETH NAUGHT

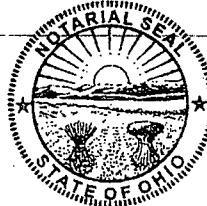
SWORN TO BY:

SI Darryl Smith  
DARRYL SMITH

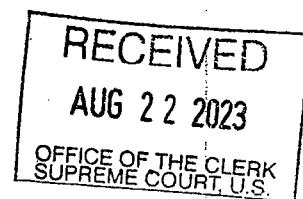
NOTARY

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS 31 DAY OF  
Scrp  
2023.

SI McKalee Weidner  
NOTARY PUBLIC;



MCKALEE WEIDNER  
Notary Public, State of Ohio  
My Commission Expires:  
2/8/2026



ISSUES PRESENTED

- 1) IN A 28 USC 2254 HABEAS CORPUS (APPEALING A CRIMINAL CONVICTION) CAN JUDGES AND MAGISTRATES OF A U.S. DIST. COURT COLLECTIVELY CRAFT ORDERS TO IMPOSE A VEXATIOUS LITIGATOR BAN ON A PRO SE PRISONER AND BAN HIS FILINGS TO APPEAL HIS CRIMINAL CONVICTIONS AND IMPRISONMENT.
- 2) IN A 28 USC 2254 HABEAS CORPUS CASE, CAN JUDGES AND MAGISTRATES USE THE VEXATIOUS LITIGATOR LAW TO BAN AND SHUT DOWN A PRO SE PRISONER'S PLEADINGS WHO IS APPEALING HIS CRIMINAL CONVICTIONS AND IMPRISONMENT.
- 3) IN A 28 USC 2254 HABEAS CORPUS CASE, CAN JUDGES USE, RELY ON AND "BORROW" A VEXATIOUS LITIGATOR BAN ORDERS BY ANOTHER JUDGE (NOT ASSIGNED TO THE HABEAS CORPUS CASE) TO SHUT DOWN AND BAN A PRO SE PRISONER'S PLEADINGS WHO IS APPEALING HIS CRIMINAL CONVICTIONS AND IMPRISONMENT.
- 4) IN A 28 USC 2254 HABEAS CORPUS CASE, CAN JUDGES ARBITRARILY IMPOSE A "BORROWED" VEXATIOUS LITIGATOR BAN ON A PRO SE PRISONER (WHO IS APPEALING HIS CRIMINAL CONVICTION) WITHOUT ANY DUE PROCESS PROCEDURAL HEARING TO ALLOW THE PRISONER TO CONTEST THE SANCTION AND BE HEARD.
- 5) IN A 28 USC 2254 HABEAS CORPUS CASE CAN JUDGES IMPOSE A "BORROWED" VEXATIOUS LITIGATOR BAN ON A PRO SE PRISONER CONTESTING HIS CONVICTIONS AND SILENCE HIS ACTUAL INNOCENCE CLAIMS THAT IS SUPPORTED BY INNOCENCE EVIDENCE.

## LIST OF PARTIES

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

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

U.S. DISTRICT COURT (N.D. OHIO)  
U.S. MAGISTRATE; THOMAS PARKER  
U.S. JUDGE JAMES GWIN

## RELATED CASES

DARRYL SMITH V. DOUGLAS FENDER; CASE NO. 21 CV-00934 (N.D. OHIO)  
(U.S. DISTRICT COURT)

STATE OF OHIO V. DARRYL SMITH; CASE NO. 2020-0689  
(OHIO SUPREME COURT; 2020 OHIO-4388)

STATE OF OHIO V. DARRYL SMITH; APPEAL CASE NO. CA.19-108121  
(OHIO COURT OF APPEALS; EIGHTH DISTRICT)

STATE OF OHIO V. DARRYL SMITH; CASE NO. 17 CR-620144  
(CUYAHOGA COUNTY, OHIO COMMON PLEAS COURT)

STATE OF OHIO V. DARRYL SMITH; CASE NO. 18 CR-630341  
(CUYAHOGA COUNTY, OHIO COMMON PLEAS COURT)

AND SEE / COMPARE WITH -

IN RE; DARRYL SMITH; CASE NO. 21-3015 (SIXTH CIRCUIT APPEALS COURT)

IN RE; DARRYL SMITH; CASE NO. 22-3698 (SIXTH CIRCUIT APPEALS COURT)

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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 **EXHIBIT; 5 IN**  
the petition and is **2022 U.S. APP. LEXIS 27866**

reported at **2023 U.S. APP. LEXIS 7211**; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the United States district court appears at **EXHIBITS; 14, 21, 7, IN**  
the petition and is **UNREPORTED AT EXHIBITS; 14 AND 1.E.**

reported at **2023 U.S. DIST. LEXIS 11340**; 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  
**EXHIBIT; 42, 40** to the petition and is

reported at **2020 OHIO - 4388**; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the **OHIO COURT OF APPEALS (EIGHTH DIST.)** court  
appears at **EXHIBIT; 35** to the petition and is **(CASE NO. CA.19 - 108121)**

reported at **2020 OHIO - 1492**; 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 OCTOBER 5, 2022 (EXHIBIT - 5)  
CASE NO. 22-3665

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: MARCH 24, 2023, and a copy of the order denying rehearing appears at Appendix EXHIBIT 4.

An extension of time to file the petition for a writ of certiorari was granted to and including AUGUST 21, 2023 (date) on JULY 5, 2023 (date) in Application No. 23 A 5.

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

### For cases from state courts: N.A.

The date on which the highest state court decided my case was SEPTEMBER 15, 2020.  
A copy of that decision appears at EXHIBIT: 42, 40 2020 OHIO - 4388  
35,

A timely petition for rehearing was thereafter denied on the following date: N.A., and a copy of the order denying rehearing appears at Appendix —. N.A. - NONE

An extension of time to file the petition for a writ of certiorari was granted to and including JULY 15, 2020 (date) on JUNE 15, 2020 (date) in Application No. — A —. OHIO SUPREME COURT CASE NO. 2020 - 0689  
EXHIBITS: 40, 42, 35,

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

PRO SE SELF REPRESENTED  
PRISONER PLEADINGS AND APPEALS

THE U.S. SUPREME COURT, THE U.S. SIXTH CIRCUIT APPEALS COURT AND ALL COURTS MANDATORILY REQUIRE THAT A PRISONER'S SELF REPRESENTED PRO SE PLEADINGS CAN NOT BE HELD TO THE SAME STRICT STANDARDS AS IS APPLIED TO LICENSED ATTORNEYS AND MUST BE INTERPRETED LIBERALLY.

HAINES V. KERNER; 404 U.S. 519, 520 (1972) U.S. V. HUNT; 940 F.2d, 130, 131, (1991) U.S. V. GARTH; 188 F.3d, 99, 108 (1999) U.S. V. TORRES; 163 F.3d, 909, 910 (1999)

IN; GREEN V. UNITED STATES; 260 F.3d, 78 (2001) THE COURT HELD; -  
"PRO SE LITIGANTS ARE ENTITLED TO LIBERAL CONSTRUCTION OF THEIR PLEADINGS AND MUST BE READ TO RAISE THE STRONGEST ARGUMENTS THEY SUGGEST....."

ALSO SEE; - CAVER V. STRAUB; 349 F.3d, 340, 347 (6th CIRCUIT 2003)

IN; DUTIL V. MURPHY; 550 F.3d, 154 AT 158 - 59 (2006) THE COURT LIBERALLY CONSTRUED A PRO SE STATE HABEAS CORPUS PETITION BECAUSE THE PETITION WAS "EXPLICIT IN ITS INVOCATION OF DUE PROCESS" AND BROAD ENOUGH TO ENCOMPASS A CHALLENGE TO A STATUTE AND IT SUFFICIENTLY STATED THE RELEVANT LEGAL THEORY UPON WHICH THE PRISONER PROCEEDED.

AND SEE; ANDRADE V. GONZALES; 459 F.3d, 538, AT 543 (2006)

THE PETITIONER / APPELLANT

THE PETITIONER / APPELLANT IS DARRYL SMITH, 72 YEARS old (DATE OF BIRTH: AUGUST 2, 1951 - LAST 4 DIGITS OF SOCIAL SECURITY NO. - 2329). He HAS BEEN IMPRISONED IN OHIO'S PRISONS (ONGOING) SINCE 2017. He IS CURRENTLY INCARCERATED IN MANSFIELD CORRECTIONAL INSTITUTION (KNOWN AS MAN.C.I.) IN RICHLAND COUNTY, OHIO.

PETITIONER IS IMPRISONED UNDER A SENTENCE OF 8 1/2 YEARS SINCE 2017 FOR CRIMINAL STATE COURT CONVICTIONS OCCURRING IN THE CUYAHOGA COUNTY COMMON PLEAS COURTS IN CLEVELAND, OHIO. He IS IMPRISONED FOR CONVICTIONS OF; - 1) FAILURE TO COMPLY (R.C. 2921.331) A FELONY-3) - AND FOR; - REVOKED PROBATION (WITHOUT ANY HEARING) IN RE; TO A SUSPENDED SENTENCE FOR ATTEMPTED ARSON (R.C. 2909.02 / R.C. 2923.02). (EXHIBITS; 82,75,71,72,73,74

PETITIONER IS MEDICALLY DIAGNOSED WITH SEVERAL SERIOUS PERMANENT PHYSICAL DISABILITIES THAT INCLUDE; - A FAILING HEART DISORDER - SEMI DEAF HEARING IMPAIRED - FAILING DEGENERATING IMPAIRED VISION - He REQUIRES A WALKING CANE TO BE SEMI-MOBILE - AND ENDURES A CONCUSSION DISORDER. (EXHIBITS; 101, 102, 103, 104, 105, 83,

CLEVELAND POLICE AND ARSON INVESTIGATOR FINDINGS AND EVIDENCE VERIFIED (IN THEIR REPORTS) THAT SMITH DID NOT COMMIT THE ARSON FIRES HE IS IMPRISONED FOR. (EXHIBITS; 45-66,

VIDEOS OF THE COMMISSION OF THE ARSON FIRES SHOW SMITH DID NOT COMMIT THE ARSON FIRES. (EXHIBITS; 47,50,54,55,56,60,62,

THESE ARE ALL ESTABLISHED UNCONTESTABLE FACTS.

A) CONFLICT OF PRECEDANT LAW

A) THE IMPOSITION OF A "BORROWED" VEXATIOUS LITIGATOR TAG AND BAN ON A PRO SE PRISONER IN A 28 USC 2254 HABEAS CORPUS THAT IS APPEALING A CRIMINAL CONVICTION IS CONTRARY TO AND IN TOTAL CONFLICT WITH ESTABLISHED PRECEDANT AUTHORITIES OF LAW IN: -

- 1) SULTAANA V. JERMAN; 2019 U.S. DIST. LEXIS 206088
- 2) DELONG V. HENNESSEY; 912 F.2d. 1144 (1990, NINTH CIRCUIT)
- 3) KINCADE V. SPARKMAN; 117 F.3d. 949 AT 952 (6TH CIR, 1997)
- 4) MONTGOMERY V. DAVIS; 362 F.3d. 956, 2004 U.S. APP. LEXIS 5835
- 5) MARTIN V. UNITED STATES; 96 F.3d. 853 (7TH CIR. 1996)

THE U.S. DISTRICT COURT JUDGES VEXATIOUS LITIGATOR DECISIONS BANNING A PRO SE INMATE'S PLEADINGS IN A HABEAS CORPUS ACTION (SHOWN IN EXHIBITS; 2, 14, 15, 16, 21,) IS IN TOTAL CONFLICT WITH THE ESTABLISHED PRECEDANT LAWS ABOVE IN THE NINTH, SEVENTH AND SIXTH CIRCUITS ET. AL. APPELLATE COURTS.

THE DECISIONS BY THE SIXTH CIRCUIT U.S. APPEALS COURT TO CONDONE, PERMIT AND UPHOLD ORDERS TO IMPOSE A VEXATIOUS LITIGATOR COURT ACCESS BAN AGAINST A PRO SE PRISONER IN A HABEAS CORPUS CRIMINAL APPEAL IS IN TOTAL CONFLICT WITH THEIR OWN ESTABLISHED PRECEDANT LAWS ABOVE AND ABOVE ESTABLISHED LAWS IN THE SEVENTH AND NINTH CIRCUITS U.S. APPEALS COURT. (APPLY EXHIBITS; 4, 5, 20, 25, 26.)

THE DECISIONS AFORESAID BY THE SIXTH CIRCUIT AND JUDGES IN OHIO U.S. DISTRICT COURT TO UPHOLD CREATING A NEVER USED BEFORE TACTIC TO "BORROW" AND employ A VEXATIOUS LITIGATOR ORDER FROM A JUDGE NOT ASSIGNED TO THE CASE TO SHUT DOWN A PRO SE PRISONER'S HABEAS CORPUS HAS NO PRIOR PRECEDANT IN ANY FEDERAL COURT IN THE COUNTRY AND IT CREATES MORE NEW PENALTIES THAT DOES NOT STATUTORILY EXIST IN 28 USC 1915 NOR IN 28 USC 2254.

B) CONFFLICT OF PRECEDANT LAW

B) THE ARBITRARY IMPOSITION OF A VEXATIOUS LITIGATOR TAG AGAINST A PRO SE PRISONER TO SILENCE PRESENTING A CLEAR DEMONSTRATED ACTUAL INNOCENCE CLAIM AND INNOCENCE EVIDENCE IN A 28 USC 2254 HABEAS CORPUS CASE APPEALING A CRIMINAL CONVICTION IS IN TOTAL CONFLICT WITH ESTABLISHED PRECEDANT AUTHORITIES OF LAW IN ; -

- 1) HOUSE V. BELL; 547 U.S. 518, 536 - 37 (2006)
- 2) GONZALEZ V. ABBOTT; 967 F.2d. 1499, 1504 (1992)
- 3) JACKSON V. VIRGINIA; 443 U.S. 307, 319 (1979)
- 4) WIGGINS V. SMITH; 539 U.S. 510, 523 - 28 (2003)
- 5) DRETKE V. HALEY; 124 S. CT. 1847, 1856 (2004)
- 6) MURRAY V. CARRIER; 477 U.S. 478, 485 (1986)
- 7) BROWN V. PALMER; 441 F.3d. 347, 351 (6<sup>th</sup> CIR. 2006)

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SUMMARY OF CLAIMS

DARRYL SMITH (A 72 YEAR OLD PRO SE PRISONER) FILED A 28 USC 2254 HABEAS CORPUS CHALLENGING HIS STATE COURT CONVICTIONS AND ON-GOING IMPRISONMENT. (FILED IN MAY 2021). (EXHIBITS; 44, 43.)

IN APRIL 2022 A MAGISTRATE TAGGED SMITH ARBITRARILY UNDER THE "VEXATIOUS LITIGATOR" LAW AND SHUT DOWN SMITH FROM FILING ANY CONTRA PLEADINGS, MOTIONS AND CONTESTING HIS CONVICTIONS. (EXHIBITS; 2, 16) THIS REMAINS IN FULL ENFORCED EFFECT TO DATE.

THERE WAS NO HEARING AND NO MISCONDUCT OR REASONS CITED. SMITH WAS GIVEN NO OPPORTUNITY TO CONTEST THE ORDER.

THIS 2021 HABEAS CORPUS CASE AT ISSUE IS THEE SOLE AND ONLY 28 USC 2254 HABEAS CORPUS ACTION SMITH HAS FILED CHALLENGING HIS CURRENT IMPRISONMENT AND CONVICTIONS.

THE VEXATIOUS LITIGATOR TAG AND COURT ACCESS BAN SILENCING SMITH'S HABEAS CORPUS CASE HAS BEEN REPEATEDLY UPHELD AND CONDONED WITH TWISTED INVENTED TACTICS BY THE SIXTH CIRCUIT U.S. COURT OF APPEALS. (EXHIBITS; 4, 5, 20, 25, 26)

AS VERIFIED BY DETECTIVES OF THE CLEVELAND OHIO POLICE DEPT., THE ARSON CRIME VIDEOS AND ATTACHED MATERIAL EVIDENCE, SMITH IS CLEARLY INNOCENT OF THE CRIMES HE IS IMPRISONED ON. (EXHIBITS; 45-66, 83 AND I.E. 71-75). THIS IS HIS PRIMARY CLAIM IN HABEAS CORPUS CASE. (EXHIBIT; 44)

THE DISTRICT COURT JUDGES AND MAGISTRATES USING THEIR VEXATIOUS LITIGATOR MANIPULATED TOOLS KNOWINGLY BANNED SMITH'S ACTUAL INNOCENCE CLAIMS AND ALSO BANNED THE ARSON CRIME VIDEOS THAT SHOW OTHER PEOPLE SET THE FIRES. (EXHIBITS; 16, 17, 18, 19, 21, 22, 23, 24, 67, 68, 69, 84, 85, 86)

SMITH IS ALSO BANNED, BLOCKED AND DENIED ALL RIGHTS AND COURT ACCESS TO HAVE ANY APPEAL FILED OR HEARD BY USE OF THE VEXATIOUS LITIGATOR BAN IMPOSED AGAINST HIM. (EXHIBITS; 6, 7, 8, 9, 10, 20, 21, )

## HISTORY AND BACKGROUND

### I) CRIMINAL CONVICTIONS

#### (THE ARSON CASES, - FAILURE TO COMPLY CASE)

TWO ARSON CRIMES WERE COMMITTED IN CLEVELAND, OHIO (2 RESIDENTIAL HOUSES) IN 2016 AND 2017, (EXHIBITS; 46, 47, 59, 60, 62).

PETITIONER DARRYL SMITH (AGE 72 W/DISABILITIES) WAS ACCUSED BY THE OWNERS AND A LANDLORD.

IT MUST BE NOTED THAT NEVER IN HIS LIFETIME HAS SMITH EVER BEEN ACCUSED, ARRESTED FOR NOR CONVICTED FOR ANY ARSON OFFENSE.

IT MUST ALSO BE NOTED THAT SMITH IS/WAS AT THAT TIME A FORMER STATE PRISON INMATE WHO SERVED 22 YEARS IN OHIO PRISONS (1983 - 2004). AFTER HIS RELEASE IN 2004 HE REMAINED FREE FOR OVER 14 YEARS.

UPON HIS ARREST IN AUGUST 2017 HE WAS REPEATEDLY SEVERELY BEATEN BY DEPUTY SHERIFFS AND JAIL GUARDS DEMANDING SMITH TO SIGN PHONY CONFESSIONS RE; THE ARSONS AND PLEAD GUILTY. (CONFIRMED FACTS IN EXHIBIT; 83)

THE TRIAL JUDGE "ORDERED" SMITH TO PLEAD GUILTY AND DICTATED HIS GUILTY PLEAS. (SEE ATTACHED TRANSCRIPT AT PAGE #14, EXHIBIT; 83)

SMITH WAS SENTENCED TO A SUSPENDED 6 YEARS AND RELEASED ON PROBATION IN MAY 2018. (EXHIBIT; 75)

A FEW MONTHS THEREAFTER ON JUNE 30, 2018 SMITH ARRESTED FOR A FELONY 3 CHARGE OF "FAILURE TO COMPLY" (R.C. 2921.331) TO-WIT; "FLEEING POLICE". (EXHIBITS; 76 - 82).

BASED ON THE NEW CHARGE, HE WAS ADDITIONALLY JAILED AS AN ACCUSED "PROBATION VIOLATOR". THERE WAS NO PROBATION REVOCATION HEARING, NO ATTORNEY WAS APPOINTED, NO REVOCATION CHARGES WERE SERVED ON SMITH, AND THE TRIAL JUDGE INTENTIONALLY FALSIFIED THE JOURNAL ENTRY TO JUSTIFY SENDING SMITH TO PRISON. (EXHIBITS; 71 - 75)

2) THE APPEALS (STATE APPELLATE COURTS)

PETITIONER SMITH TIMELY AND PROMPTLY APPEALED HIS CONVICTIONS AND SENTENCES TO THE EIGHTH DISTRICT OHIO COURT OF APPEALS (APPEAL NO. CA. 108121 (EXHIBIT; 35)

THE APPEAL CITED ERRORS AND CLAIMS OF INCLUDING BUT NOT LIMITED TO;

- ACTUAL INNOCENCE
- CONCEALED "BRADY" EVIDENCE (I.E. ARSON VIDEOS)
- GUILTY PLEAS OBTAINED IN VIOLATION OF CRIMINAL RULE 11-C
- INVALID PROBATION REVOCATION BASED ON FALSIFIED JOURNAL ENTRIES

ON APRIL 16, 2020 THE STATE DISTRICT APPEALS COURT DENIED SMITH'S APPEAL. (EXHIBIT; 35)

THEREAFTER SMITH PROMPTLY FILED A PRO SE APPEAL TO THE STATE OHIO SUPREME COURT DURING THE COVID EMERGENCY PERIOD. HE APPEALED ALL OF THE SAME CLAIMS AGAIN. THE OHIO SUPREME COURT ALLOWED, ACCEPTED AND FILED THE APPEAL. (EXHIBITS; 40, 42). THE STATE DID NOT CONTEST THE APPEAL. (EXHIBIT; 41)

ON SEPTEMBER 15, 2020 THE OHIO SUPREME COURT RULED DENYING THE APPEAL. (CASE NO. 2020-0689, CITATION AT; 2020 OHIO-4388).

ALL OF SMITH'S CLAIMS AND STATE APPEALS WERE TIMELY EXHAUSTED.

AT NO TIME DID ANY STATE COURT DEEM ANY OF SMITH'S CLAIMS AS FRIVILOUS.

AT NO TIME DID ANY STATE COURTS DEEM NOR TAG SMITH AS ANY TYPE OF VEXATIOUS LITIGATOR UNDER AVAILABLE STATE STATUTORY LAWS.

3) THE "BORROWED" INITIAL VEXATIOUS LITIGATOR ORDERS

( ISSUED BY U.S. DISTRICT JUDGE J. GWIN - OCTOBER 3, 2018)

( U.S. DISTRICT COURT CASE NO. 18 CV-00163, - EXHIBIT; 21)

THE FIRST INITIAL IMPOSED VEXATIOUS LITIGATOR ORDERS TO BAN, SILENCE, OBSTRUCT AND SHUT DOWN ALL OF SMITH'S COURT ACCESS (INCLUDING BANNING 28 USC 2254 HABEAS CORPUS CRIMINAL CASE APPEALS) WAS FIRST IMPOSED ON OCTOBER 3, 2018 IN A 42 USC 1983 LAWSUIT (FILED IN JANUARY 2018) IN EXTREME ORDERS ISSUED BY U.S. DISTRICT JUDGE JAMES GWIN IN CASE NO. 18 CV-00163 (EXHIBITS; 21, 106)

IT IS THIS EXTREME ORDERS TO BAN SMITH'S COURT ACCESS THAT JUDGES "BORROWED" TO "KILL" AND SHUT DOWN SMITH'S FEDERAL HABEAS CORPUS IN CASE NO. 21 CV-00934. (EXHIBITS; 2, 14, 15, 16, 19, 21, 22, 23, 24, 25, 17, 18,)

GWIN BANNED SMITH FROM BEING ALLOWED TO APPEAL THAT INITIAL 2018 ORDER. (EXHIBIT; 113 AND ORDERS OF OCTOBER 3, 2018)

SMITH'S CRIMINAL CASES, CONVICTIONS AND WHAT OCCURRED WHEN HE WAS ARRESTED WAS WHAT SPARKED THE 42 USC 1983 LAWSUIT IN GWIN'S CASE NO. 18 CV-00163.

UPON HIS ARREST IN THE ARSON CASES IN AUGUST 2017 (CASE NO. 17 CR-620144) IT HAS ALREADY BEEN CONCEDED BY THE STATE AND PROVEN THAT 2 DEPUTY SHERIFFS AND JAIL GUARDS REPEATEDLY BEAT AND TORTURED SMITH DEMANDING THAT HE SIGN PHONY CONFESSIONS RE; THE ARSON CASES AND PLEAD GUILTY. (SEE EVIDENCE IN EXHIBIT; 83 I.D. AT PAGES #90, 89, 8, 9)

SMITH SPENT A TOTAL OF 475 DAYS IN THAT CLEVELAND, OHIO JAIL IN 2017 - 2019.

THE ARREST BEATINGS RESULTED IN SMITH FILING A 42 USC 1983 LAWSUIT (CASE NO. 18 CV-00163, EXHIBITS; 106 - FILED; JANUARY 2018) OVER 9 MONTHS LONG BEFORE GWIN IMPOSED HIS VEXATIOUS

LITIGATOR RULING ORDERS SMITH FILED THE AFORESAID LAWSUIT IN JANUARY 2018. (EXHIBIT; 106)

EXHIBIT; 106 SHOWS THAT FOR 9 MONTHS GWIN INTENTIONALLY IGNORED ALL OF SMITH'S PLEADINGS. SMITH WAS REFUSED ALL DISCOVERY. HUNDREDS OF JAIL DETAINees ALL THROUGHOUT 2018 WROTE LETTERS AND SUBMITTED MOTIONS BEGGING JUDGE GWIN TO ACT AND INTERVENE TO STOP THE MURDERS, GUARD BEATINGS AND SLAUGHTER ONGOING. (SOME WOULD BE KILLED AND BEATEN SHORTLY AFTER. - EXHIBITS; 83, 107, 108, 110, 111, 112), (SEE DOCKET ATTACHED EXHIBIT; 106 AT DOC. #55). GWIN DISREGARDED THEIR PLEAS AND APPROVED THE SLAUGHTER TO CONTINUE FOR MONTHS.

GWIN HAS PUBLICLY MADE IT VERY CLEAR he IS VERY CLOSE FRIENDS FOR YEARS WITH THE CUYAHOGA COUNTY JAIL DIRECTOR KEN MILLS AND WARDEN IVEY (INCLUDING MANY GUARDS COMMITTING THE MURDERS AND BEATINGS OF DETAINees.) PRIOR TO HIS APPOINTMENT TO THE CLEVELAND FEDERAL COURT, GWIN WAS AN OHIO STATE JUDGE IN NORTHERN OHIO

IT WAS SMITH'S FILED LAWSUIT PLUS he CONTACTED F.B.I. AND U.S. MARSHAL SERVICE (SUMMER OF 2018) THAT RESULTED IN A F.B.I / MARSHAL JOINT TASK FORCE TO COME IN THE JAIL AND ARREST MILLS AND IVEY AND DOZENS OF GUARDS. DURING A PERIOD OF JULY - SEPTEMBER 2018 THE TASK FORCE DISCOVERED SIX MURDERED DETAINees AND HUNDREDS OF INCIDENTS OF GUARDS BEATING DETAINees (I.E. DARRYL SMITH) (SEE; EXHIBITS; 83, 107, 108, 109, 110, 111, 112).

CLEVELAND COURT JUDGES (I.E. - U.S. JUDGE GWIN) AND THEIR ATTORNEY SPOUSES PUBLICLY LABELED SMITH (AN HIS CO-WHISTLEBLOWERS) AS "SNITCHES" AND DEEMED THEIR CLAIMS AS "EXAGGERATIONS" AND "LIES". (EXHIBIT; 109, 110 AND SEE # 83 I.D. AT PAGES # 94, 89)

IN SPITE OF ALL THAT OVERWHELMING PROOF, VIDEOS, DEAD AND BUTCHERED DETAINees, ON OCTOBER 3, 2018 U.S. JUDGE GWIN ANGRILY WROTE A SHORT ORDER DISMISSING SMITH'S LAWSUIT, DEEMING SMITH BEING BEATEN AS A NOTHING

"ONE TIME MINOR INCIDENT" AND HIS LAWSUIT CLAIMS "TOO FANTASTIC" TO be believed. GWIN deemed SMITH'S CLAIMS AGAINST MILLS, IVEY, THE GUARDS AND JAIL AS "FRIVILOUS" AND dismissed THE LAWSUIT. (see; DOC. 100 RE; CASE NO. 18 CV-00163 N.D. OHIO)

IT WAS IN THAT EGREGIOUS DISMISSAL THAT GWIN Abusively designated SMITH AS A VEXATIOUS LITIGATOR AND USED IT TO ABUSIVELY BAN ALL OF SMITH'S COURT ACCESS. HE SPECIFICALLY EVEN INCLUDED BANNING SMITH FILING ANY FEDERAL HABEAS CORPUS (CRIMINAL CASE APPEALS) IN 28 USC 2254. (EXHIBITS; 21, 20,) GWIN EVEN ORDERED COURT CLERKS TO DISCARD, REFUSE AND BAN ANY AND ALL NOTICE OF APPEALS SMITH MAILED IN. (EXHIBIT; 113 AND DOC. # 100 IN CASE # 18 CV-00163, N.D. OHIO)

SMITH WAS NEVER SERVED THE OCTOBER 3, 2018 DISMISSAL ORDER AND KNEW NOTHING ABOUT IT FOR NEARLY ONE YEAR. THERE IS NO SIGNED PRISON LEGAL MAIL RECEIPT SHOWING HE EVER RECEIVED IT. (EXHIBITS; 114)

SMITH REPEATEDLY ATTEMPTED TO FILE APPEALS ON THAT ORDER, HOWEVER GWIN AND COURT CLERKS DISCARDED AND BANNED EVERY ONE. (EXHIBIT; 114)

SMITH EVEN FILED A CIVIL RULE 60-B (MOTION FOR RELIEF FROM JUDGMENT). GWIN INSTANTLY DENIED IT. (EXHIBIT; 115, 116)

SMITH FILED A NOTICE OF APPEAL ON THE RULE 60-B MOTION DENIAL TO THE SIXTH CIRCUIT U.S. COURT OF APPEALS, THE SIXTH CIRCUIT APPELLATE JUDGES ABUSIVELY BANNED THE APPEAL BY RELYING ON GWIN'S INFLUENCE AND ORDERS. (EXHIBITS; 7, 8, 9, 10)

GWIN'S OCTOBER 3, 2018 DISMISSAL ORDER (DOC. 100,) HE WROTE THAT NO COURT IN THE U.S. AND NO OTHER JUDGE IN THE COUNTRY IS PERMITTED TO FILE ANYTHING SUBMITTED BY DARRYL SMITH. EVERYTHING SMITH SUBMITS CAN ONLY GO THROUGH GWIN. HE SPECIFICALLY INCLUDED PROHIBITING SMITH FILING ANY 28 USC 2254 HABEAS CORPUS (28 USC 2254). THE VEXATIOUS LITIGATOR STATUTORY LAW DOES NOT CONTAIN NO LANGUAGE TO PERMIT ALL THIS. (EXHIBIT; 21, 20)

4) THE FEDERAL HABEAS CORPUS CASE (28 USC 2254)

DARRYL SMITH V. DOUGLAS FENDER (CASE NO. 21 CV-00934)

AFTER EXHAUSTING HIS AFORESAID STATE COURT CRIMINAL CASES APPEALS (IN EXHIBITS; 35, 40, 42) IT WAS IN THE LAST WEEK OF SEPTEMBER 2020 THAT SMITH MAILED IN HIS 2254 HABEAS CORPUS PETITION (WITH ATTACHED EVIDENCE OF ACTUAL INNOCENCE) TO THE CLEVELAND OHIO U.S. DISTRICT COURT.

NOTE: EACH TIME SMITH MAILED IN A 2254 HABEAS CORPUS PETITION, IT IS AND WAS IDENTICAL TO THE ONE SHOWN IN EXHIBIT; 44 AND I.E. DOC. #1 IN EXHIBIT #43

IMMEDIATELY GWIN AND COURT CLERKS DISCARDED IT WITHOUT ANY NOTICE TO SMITH.

A FEW WEEKS THEREAFTER SMITH MAILED IN THE SAME HABEAS CORPUS PETITION AGAIN IN MID-OCTOBER 2020 AGAIN FOR THE 2d. TIME, GWIN AND COURT CLERKS INSTANTLY DESTROYED THAT ONE TOO.

SMITH PERSISTED. IN MID-NOVEMBER 2020 SMITH MAILED IT IN AGAIN. THIS TIME A POSTAL TRACE WAS DONE ON IT SO GWIN AND THE CLERKS COULD NOT LIE ABOUT IT AND KEEP CLAIMING THE PETITION WAS NEVER SENT. THIS TIME GWIN WAS TRAPPED. IT IS NOW CONCEDED THAT THIS TIME THE PETITION REACHED THE COURT ON NOVEMBER 12, 2020. (EXHIBIT; 21, 20)

NONETHELESS GWIN AND THE CLERKS WERE FORCED TO CONFESS IN THE SIXTH CIRCUIT U.S. APPEALS COURT THAT AGAIN (A 3d. TIME) GWIN AND THE CLERKS DESTROYED AND DISCARDED THAT 3d. PETITION TOO. (EXHIBITS; 12, 24) AND APPLY; EXHIBITS; 25, 21, 20. THOSE EXHIBITS SHOW THAT SMITH EVEN PAID THE FULL FILING FEE WHICH GWIN AND THE CLERKS KEPT.

BEGINING IN JANUARY 2021 SMITH FILED MANDAMUS AFTER MANDAMUS TO THE SIXTH CIRCUIT U.S. APPEALS COURT TO ENFORCE HIS RIGHT TO FILE HIS HABEAS CORPUS TO APPEAL HIS CRIMINAL CONVICTIONS. (EXHIBITS; 20, 25, 13).

AGAIN AND AGAIN THE SIXTH CIRCUIT COURT CONDONED AND APPROVED GWIN'S ORDERS AND WISHES TO CUT OFF SMITH'S HABEAS CORPUS FROM BEING FILED. (EXHIBITS; 20, 25)

THE SIXTH CIRCUIT AND GWIN CONCOCTED A NEW REQUIREMENT THAT TO BE "ALLOWED" TO FILE A HABEAS CORPUS, SMITH MUST FILE A "MOTION FOR LEAVE", GET SPECIAL PERMISSION, AND PROVE HE IS IN "IMMINENT DANGER" OF BEING KILLED TO BE ALLOWED TO FILE IT. (EXHIBIT; 20, 25, 7, 8, 9, 10,)

NO HEARINGS WERE EVER CONDUCTED BY GWIN NOR ANY COURT TO ALLOW SMITH TO BE HEARD TO OPPOSE THE ARBITRARY BAN OF HIS COURT ACCESS. HE WAS NOT ALLOWED TO FILE ANYTHING TO OPPOSE THE BAN. GWIN BANNED ALL APPEALS. (EXHIBIT; 113 AND DOC. #100 CASE NO. 18 CV - 00163). THE SIXTH CIRCUIT LIKEWISE ALSO BANNED SMITH FROM ANY APPEAL OF THE BAN. (EXHIBIT; 7, 8, 9, 10)

SMITH PERSISTED, TWICE MORE IN APRIL 2021 SMITH MAILED IN THE SAME HABEAS CORPUS PETITION (IN EXHIBIT; 44) TO THE CLEVELAND FEDERAL COURT. TWICE MORE AGAIN THE COURT CLERKS REFUSED TO FILE IT. (EXHIBITS; 22, 23,).

THIS TOTALLED TO FIVE - "FIVE" REJECTIONS IN A SPAN OF NEARLY 8 MONTHS!! NO PRISONER IN U.S. HISTORY HAS EVER ENDURED THIS!

FINALLY IN MAY 2021, ONLY DUE TO SMITH'S RELENTLESS PERSISTANCE THE SIXTH CIRCUIT JUDGES MADE "OFF THE RECORD" CALLS TO TELL GWIN AND THE CLEVELAND COURT CLERKS TO FILE SMITH'S HABEAS PETITION. UNWILLINGLY GWIN AND HIS COURT CLERKS COMPLIED. (EXHIBITS; 26, 27, 43, 44). HOWEVER GWIN'S OBSESSION TO KEEP SMITH'S COURT ACCESS SHUT DOWN (OR AT LEAST OBSTRUCTED) WAS FAR FROM OVER.

FOR THE NEXT 2 YEARS (STILL ONGOING) GWIN WOULD OBSESSIVELY DAILY CONTINUE TO INFLUENCE AND TELL THE ASSIGNED MAGISTRATES AND JUDGES TO SLOW-WALK SMITH'S CASE, DISREGARD HIS PLEADINGS AND OR IGNORE THEM FOR PERIODS OF 4-8-10-12 MONTHS, ISSUE EX PARTE RULINGS AGAINST SMITH, AND FINALLY IMPPOSE HIS 2018 COURT ACCESS BAN AND END IT. (EXHIBIT; 14-18)

5) 2021-2023, THE OBSTRUCTED DELAYS AND IMPOSING  
GWIN'S 2018 COURT ACCESS BAN ORDERS IN RE;  
HABEAS CORPUS CASE NO. 21 CV - 00934

THE U.S. CLERK OF COURTS FILED AND TIME STAMPED SMITH'S PRO SE  
HABEAS CORPUS PETITION ON MAY 4, 2021. (EXHIBITS; 44, 43)

ATTACHED TO THE PETITION ON DAY ONE, SMITH INCLUDED IRREFUTABLE  
EVIDENCE (POLICE ISSUED) OF ACTUAL INNOCENCE (THE SAME AS NOW ATTACHED  
EXHIBITS; 45-66, AND 71-75). (SEE; DOC.1, IN EXHIBIT; 43).

ADDITIONALLY SMITH SUBMITTED A SUPPORTING DETAILED BRIEF (WITH  
EVIDENCE ON JUNE 4, 2021. (SEE ATTACHED DOCKET IN EXHIBIT; 43). THAT BRIEF  
HAS BEEN IGNORED FOR 2 YEARS (STILL ONGOING).

FOR NEARLY 4 MONTHS (MAY 4 - AUGUST 23, 2021) SMITH'S CASE WAS  
INTENTIONALLY IGNORED AS WAS SMITH'S MOTIONS. (SEE; EXHIBIT; 43). NO  
SERVICE WAS ORDERED NOR MADE ON RESPONDENT.

AT NO POINT WAS SMITH'S HABEAS CORPUS CASE EVER OFFICIALLY  
ASSIGNED BY ANYONE TO U.S. JUDGE GWIN. HOWEVER, GWIN SELF APPOINTED  
HIMSELF AS THE SOLE "CHIEF JUDGE" OVER SMITH'S HABEAS CORPUS (EXHIBIT;  
21, 20) AND OVER "DARRYL SMITH" AND EVERYTHING SMITH FILES OR ATTEMPTS  
TO FILE IN ANY COURT IN THE ENTIRE COUNTRY. (EXHIBITS; 21, 15, 14, 22, 23, 24, 25)  
THERE IS NO LAW AND NO STATUTE TO AUTHORIZE THIS AND 28 USC 1915 HAS NO  
LANGUAGE TO AUTHORIZE THIS.

THEREAFTER THE MAGISTRATE AND JUDGE HANDED OUT REPEATED EX  
PARTE EXTENSIONS TO THE RESPONDENT (AND THEIR COUNSEL; THE OHIO ATTORNEY  
GENERAL) BASED ON PROVEN FALSE EXCUSES (LIES) (EXHIBITS; 96, 97, 98, 99.)  
SMITH WAS BANNED TOTALLY FROM BEING GIVEN ANY OPPORTUNITY TO CONTEST  
ANYTHING THE ATTORNEY GENERAL FILED. (EXHIBITS; 86, 95, 94). THE MAGISTRATE  
APPROVED (EX PARTE) A DELAY BY THE A.G. OF OVER 160 DAYS TOTAL.

WHEN THE A.G. FINALLY SUBMITTED THEIR "RETURN OF WRIT" THEY INTENTIONALLY OMITTED PRODUCING A WEALTH OF EXISTING INNOCENCE EVIDENCE (I.E. THE ARSON VIDEOS PROVING SMITH WAS NEVER PRESENT, (EXHIBITS; 47, 50, 54, 55, 56, 60, 62) IN THEIR "RESPONDENT RETURN OF WRIT" (A CLEAR "SHAM" PLEADING) THE A.G. SUBMITTED EGREGIOUS INTENTIONAL BLACKED OUT TAMPERED WITH CRIME SCENE PHOTOS OF THE ARSON CRIMES. (SEE ACTUAL PHOTOS SUBMITTED BY THE A.G. IN EXHIBITS; 88-93), THEY DID NOT COMPLY WITH APRIL 2022 COURT ORDERS TO PRODUCE THE PHOTOS AND EVIDENCE RECORDS WITHOUT BEING BLACKED OUT AND ALTERED, (EXHIBIT; 86) THEREAFTER THE MAGISTRATE "LET IT GO" AND DID NOT ENFORCE ITS ORDERS ONE BIT, (EXHIBITS; 86, 94)

ABOUT THE SAME TIME IN MARCH - APRIL 2022 IN THE MANSFIELD PRISON (MAN.C.I.) PRISON OFFICIALS ALLOWED AND ARRANGED FOR ANOTHER INMATE TO STAB AND ASSAULT SMITH NEARLY KILLING HIM. (EXHIBITS; 87, 86), (AND SEE OHIO COURT OF CLAIMS CASE # 2023 - 00029 JD) (NOTE; EVIDENCE SHOWS IN THE CASE RECORDS THAT MAN.C.I. OFFICIALS OPENLY ADMIT THAT THEY ALLOWED THE STABBING - THEY DID NOT CHARGE THE ASSAULTANT - THEY GAVE THE ASSAULTANT IMMUNITY - THEY REWARDED THE ASSAULTANT - IN MAY 2023 THEY GAVE THE ASSAULTANT HIS RELEASE FROM PRISON. WHEN THE STABBING OCCURRED, CORRUPT MAN.C.I. PRISON OFFICIALS USED THAT INCIDENT TO SWOOP IN AND SIEZE, STEAL AND DESTROY VAST QUANTITIES OF SMITH'S COURT CASE LEGAL MATERIALS, HIS HABEAS CORPUS CASE MATERIALS AND ADDITIONAL ACQUIRED ACTUAL INNOCENCE EVIDENCE FOR THIS CASE. (EXHIBITS; 28, 29, 30, 31)

SMITH REPEATEDLY NOTIFIED THE COURT OF ALL OF THIS (I.E. THE STABBING). BOTH THE MAGISTRATE AND THE JUDGE CONDONED THIS, BLOW IT OFF AND TOLD SMITH THAT HIS ONLY REMEDY IS TO "FILE A 42 USC 1983" SEPARATE CIVIL ACTION (WHICH GWIN TOTALLY FORBIDS). (EXHIBITS; 86, 17, 18, AND ALSO SEE; DOC. 18, 22 OF CASE NO. 21 CV - 00934)

WHEN SMITH DID SUBMIT A 42 USC 1983 LAWSUIT ON THOSE INCIDENTS

TO THE MAGISTRATE AND JUDGE OF THIS HABEAS CORPUS CASE, THEY REFUSED TO FILE IT PER "ORDER" OF JUDGE GWIN CALLING ALL THE SHOTS. (EXHIBIT, 15)

ADDITIONALLY IN APRIL 2022 SMITH SUBMITTED THE SAME 42 USC 1983 LAWSUIT TO GWIN (UNDER A "MOTION FOR LEAVE") IN APRIL - JUNE 2022.

AGAIN AND AGAIN GWIN BLOCKED IT, REJECTED IT AND REFUSED TO ALLOW IT TO BE FILED. IN DOING SO TO CONCOCT EXCUSES TO JUSTIFY IT, GWIN REMOVED AND DISCARDED THE EVIDENCE ATTACHED TO THE LAWSUIT WHICH INCLUDED EXHAUSTED GRIEVANCES AND REQUIRED MAIL RECEIPTS PROVING THAT SMITH SERVED ALL DEFENDANTS. (SEE / APPLY; DOC. # 123, 125 ET AL, IN; SMITH V. PINKNEY; CASE NO. 18 CV - 00163, AND; 2023 U.S. DIST. LEXIS 67114, - 2022 U.S. DIST. LEXIS 139179)

SMITH REPEATEDLY FILED NOTICES IN HIS HABEAS CORPUS CASE THAT HIS CASE IS NOW PREJUDICED SEVERELY. (EXHIBITS; 32, 33, 34, 17, 18, 19, 85, 86)

SMITH FILED MOTIONS AND PLEADINGS FOR A CHANGE OF VENUE AND TO RECUSE MAGISTRATE PARKER AND U.S. JUDGE CARR. (EXHIBITS; 95)

ON APRIL 21, 2022 PARKER WROTE AN ANGRY 10 PAGE RULING BLASTING SMITH FOR THAT PLEADING.

ON APRIL 21, 2022 (THE SAME DAY) PARKER ANGRILY TURNED TO JUDGE GWIN TO "BORROW" AND USE GWIN'S OCTOBER 3, 2018 VEXATIOUS LITIGATOR ORDER TO IMPOSE IT ON SMITH'S HABEAS CORPUS CASE. (EXHIBITS; 2, 14)

NO MISCONDUCT WAS CITED. NO CAUSE OR REASONS WERE GIVEN. THERE WAS NO HEARING. SMITH WAS GIVEN NO OPPORTUNITY TO CONTEST THE ORDER.

SMITH FILED IMMEDIATE OBJECTIONS TO U.S. JUDGE CARR. AS ALWAYS ONCE AGAIN SMITH'S PLEADINGS ON THIS WAS INTENTIONALLY IGNORED FOR 10 - 12 MONTHS! NEARLY ONE WHOLE YEAR! (EXHIBITS; 84, 85) FINALLY CARR RULED UPHOLDING PARKER'S VEXATIOUS LITIGATOR ORDERS THAT HAS EFFECTIVELY SHUT DOWN SMITH CONTESTING HIS CRIMINAL CONVICTIONS.

6) REPEATED MANDAMUS: FILED TO COMPEL  
FILING OF HABEAS CORPUS AND RIGHT TO BE HEARD

SMITH HAS BEEN FORCED TO REPEATEDLY FILE MANDAMUS PETITIONS  
TWICE TO THE SIXTH CIRCUIT U.S. COURT OF APPEALS TO HAVE HIS 28 USC 2254  
HABEAS CORPUS SIMPLY FILED - AND TO HAVE HIS CLAIMS SIMPLY HEARD TO  
CONTEST HIS CRIMINAL CASE CONVICTIONS.

THIS HAS BEEN A NEVER ENDING FIGHT FOR 2 YEARS JUST TO HAVE  
SIMPLE COURT ACCESS RIGHTS SOLELY DUE TO ONE CORRUPT OBSESSED U.S.  
DISTRICT JUDGE DEEMING SMITH AS A "SNITCH" FOR EXPOSING HIS COUNTY JAIL  
"FRIENDS" FOR BEATING AND MURDERING UNCONVICTED DETAINES.  
(EXHIBITS: 83, AND: 107-112).

THE FOLLOWING MANDAMUS CASES WERE FILED BY SMITH AGAINST  
GWIN'S ORDERS AND INFLUENCES TO SILENCE THE HABEAS CORPUS CASE AT BAR:

1) CASE NO. 21-3015 (FILED; JANUARY 2021 - SIXTH CIRCUIT)  
(EXHIBITS: 20, 21, 25, 26)

2) CASE NO. 22-3665 (FILED; AUGUST 2022 - SIXTH CIRCUIT)  
(EXHIBITS: 4, 5, 11, 12, 13)

SMITH MADE REPEATED ATTEMPTS TO FILE APPEALS OF GWIN'S ORDERS  
TO BAN SMITH'S COURT ACCESS. HOWEVER GWIN, CLEVELAND JUDGES AND THE  
SIXTH CIRCUIT BANNED ALL APPEALS WITH CONSTANT CONCOCTING IMPOSSIBLE  
REQUIREMENTS TO ENSURE ALL OF SMITH'S COURT ACCESS IS WIPE OUT.  
(SEE EXHIBITS: 6, 7, 8, 9, 10, 113, 114, 115, 116, 84, 85, 17, 18)

THE EVIDENCE, FACTS AND CHRONOLOGY OF EVENTS AND MOTIVES SHOW  
INTENTIONAL ORGANIZED OBSESSION TO WIPE OUT SMITH'S COURT ACCESS TO SHUT  
DOWN HIS APPEALS OF THE CRIMINAL CONVICTIONS.

PRESENTATION OF CONTROLLING LAWS

I) BANNING COURT ACCESS TO A PRO SE PRISONER IN A  
28 USC 2254 HABEAS CORPUS ACTION THAT IS CONTEST-  
-ING A CRIMINAL CONVICTION BY ARBITRARY IMPOSING  
THE VEXATIOUS LITIGATOR BAN IS CONTRARY TO CONTROL-  
-LING LAW AND 28 USC 1915

SMITH'S CASE PRESENTS CLEAR COMPELLING FIRST AMENDMENT ISSUES  
OF PROVEN INTENTIONAL DENIAL OF COURT ACCESS TO BAN A HABEAS CORPUS  
INNOCENCE CLAIM BEING HEARD.

THIS U.S. SUPREME COURT HAS NEVER ONCE YET ADDRESSED OR deci-  
-ded ANY HABEAS CORPUS INNOCENCE CASE BEING BANNED BY MULTIPLE U.S.  
JUDGES COLLECTIVELY IMPOSING AN ARBITRARY VEXATIOUS LITIGATOR BAN THAT  
EVEN THEIR OWN PRIOR RULINGS DO NOT ALLOW.

NO HABEAS CORPUS PRISONER CASE IN U.S. HISTORY HAS EVER ENDURED  
WHAT HAS BEEN DONE TO SMITH IN THIS CASE. THIS IS QUITE UNIQUE.

THE SIXTH CIRCUIT AND CLEVELAND FEDERAL JUDGES HAVE ALL COLLECTIVELY  
VIOLATED EVERY SINGLE ONE OF ALL OF THEIR OWN CURRENT PRECEDENTS.

IN; ORTMAN V. THOMAS; 99 F.3d 807, 811 (6<sup>th</sup> CIR. 1996) THE COURT WROTE;  
"THE ABSOLUTE BAR TO FURTHER LITIGATION CONTAINED IN  
THE INJUNCTIVE ORDER IS TOO BROAD. HOWEVER WE DO  
NOT BELIEVE A PERSON CAN BE ABSOLUTELY FORECLOSED  
FROM INITIATING AN ACTION IN A COURT OF THE UNITED  
STATES. ...." (AT 811)

WHEN CONGRESS WROTE AND ENACTED THE LANGUAGE IN 28 USC 1915  
AND VEXATIOUS LITIGATOR LAWS, IT ONLY IS TO BE APPLIED TO ACTIONS FILED

UNDER 42 USC 1983, CRIMINAL CASES AND PETITIONS CHALLENGING THE FACT OR DURATION OF CONFINEMENT ARE EXPLICITLY EXEMPTED FROM ANY FILING BAR.

MONTGOMERY V. DAVIS; 362 F.3d. 956, 2004 U.S. APP. LEXIS 5835

IN; STEWART V. MARTINEZ - VILLAREAL; 523 U.S. 637, 641, 118 S. CT. 1618

AND IN; BUOSCIO V. STORMER; 2013 U.S. DIST. LEXIS 16116 (S.D. OHIO) THE COURT STATED; - "28 USC 2254 ESTABLISHED A GATEKEEPING MECHANISM FOR CONSIDERATION OF .... HABEAS CORPUS PETITIONS."

IN THE SIXTH CIRCUIT'S OWN HYPOCRITE RULING IN; KINCADE V. SPARKMAN; 117 F.3d. 949, 1997 U.S. APP. LEXIS 15345 THE COURT WROTE; -

".... COURTS HAVE OFTEN SEPARATED HABEAS CORPUS PETITIONS FROM CRIMINAL ACTIONS BY CHARACTERIZING HABEAS PROCEEDINGS AS CIVIL IN NATURE. .... POST CONVICTION RELIEF AND PRISONER CIVIL RIGHTS RELIEF ARE ANALYTICALLY VERY DIFFERENT. (CITING; MARTIN V. UNITED STATES; 96 F.3d. 853, 855 (1996))

READING THE TERM "CIVIL" TO INCLUDE HABEAS PETITIONS AND MOTIONS TO VACATE PRODUCES ABSURD RESULTS" (I.D. AT 3) "THE TEXT OF THE PRISON LITIGATION REFORM ACT ITSELF REFLECTS THAT THE DRAFTERS PRIMARY OBJECTIVE WAS TO CURB PRISON CONDITION LITIGATION."

THE BIGGEST TOTAL HYPOCRACY YET IS BY CLEVELAND MAGISTRATE THOMAS PARKER HIMSELF WHO ISSUED THE ARBITRARY "BORROWED" VEXATIOUS LITIGATOR ORDER BANNING SMITH'S PLEADINGS IN HIS HABEAS CORPUS CASE (EXHIBITS; 2, 14). IN; SULTAANA V. JERMAN; 2019 U.S. DIST. LEXIS 206088 (N.D. OHIO) CASE NO. 15 CV-382 (A HABEAS CORPUS CASE) (THE STATE FILED A MOTION TO DECLARE THE INMATE AS A VEXATIOUS LITIGATOR) PARKER WROTE; - "FINALLY, THE FACT THAT SULTAANA HAD LOST BEFORE IN

"FEDERAL COURT does NOT ON ITS OWN JUSTIFY SUCH A SEVERE SANCTION AS REVOKING I.F.P. STATUS ..... SULTAANA HAS FILED 6 HABEAS CORPUS PETITIONS ALONG WITH RELATED APPEALS AND MANDAMUS PETITIONS ..... NEVERTHELESS PREVIOUS DECLARATIONS AND RESTRICTIONS TO SULTAANA'S FILING STATUS IN OTHER CASES do NOT ALONE PROVIDE A GOOD REASON FOR DECLARING SULTAANA A VEXATIOUS LITIGATOR IN THIS CASE OR ANY FUTURE CASE. THE DEFENDANTS MUST POINT TO SOME JUSTIFICATION WITHIN THIS CASE ..... SURELY THE DEFENDANTS CAN NOT MEAN THAT EVERY INDIGENT LITIGANT WHO REPRESENTS HIMSELF should be DECLARED A VEXATIOUS LITIGATOR, AND ALTHOUGH SULTAANA HAS MADE A STUNNING NUMBER OF FILINGS AFTER A REMAND FROM THE COURT OF APPEALS, THE COURT IS AND MUST be MORE TOLERANT THAN WHAT DEFENDANTS PROPOSE. AT THIS TIME THE DEFENDANTS HAVE NOT PRESENTED A COMPELLING REASON WHY THE COURT SHOULD EXERCISE ITS DISCRETION TO IMPOSE SUCH AN EXTREME SANCTION. DEFENDANTS MOTION TO declare SULTAANA A VEXATIOUS LITIGATOR IS DENIED."

BY MAGISTRATE PARKER AND JUDGE CARR TAGGING SMITH AND HIS HABEAS CORPUS CASE UNDER VEXATIOUS LITIGATOR AND BANNING HIS PLEADINGS - IS IN TOTAL CONFLICT WITH NOT ONLY THEIR OWN ESTABLISHED PRECEDANT LAW, BUT ALSO PRECEDANT LAW IN THE NINTH, SEVENTH AND ELEVENTH CIRCUITS.

IN THE COMPELLING NINTH CIRCUIT DECISION OF; DELONG V. HENNESSEY; 912 F.2d. 1144 (1990) A HABEAS CORPUS CASE; THE COURT WROTE;

"STEVEN DELONG, AN IN FORMA PAUPERIS LITIGANT APPEALS FROM THE SUA SPONTE ORDER OF THE DISTRICT COURT WHICH ENJOINED DELONG FROM FILING ANY FURTHER ACTIONS OR PAPERS WITH THE FEDERAL DISTRICT COURT WITHOUT FIRST OBTAINING LEAVE OF COURT FROM THE COURT'S DUTY JUDGE.

"... WE VACATE THE ORDER ENJOINING FURTHER FILINGS AND REMAND ... because; 1) THE RECORD DOES NOT SHOW THAT DELONG WAS PROVIDED AN OPPORTUNITY TO OPPOSE THE ORDER BEFORE IT WAS ENTERED ... THE DISTRICT COURT'S ORDER WAS OVERLY BROAD".

"THE DISTRICT COURT MADE NO FINDINGS THAT DELONG'S CLAIMS WERE HARRASSING NOR FRIVOLOUS."

"HN4) DUE PROCESS REQUIRES NOTICE AND OPPORTUNITY TO BE HEARD. (IN RE: POWELL; 851 F.2d. 427 AT 431). HERE THE RECORD DOES NOT INDICATE THAT DELONG WAS PROVIDED ADEQUATE NOTICE AND A CHANCE TO BE HEARD BEFORE THE ORDER WAS FILED."

"NONETHELESS, ORDERS RESTRICTING A PERSON'S ACCESS TO COURTS MUST BE BASED ON ADEQUATE JUSTIFICATION SUPPORTED IN THE RECORD AND NARROWLY TAILORED TO ADDRESS THE ABUSE PERCEIVED. WE FIND SUCH CARE IS DEMANDED IN ORDER TO PROTECT ACCESS TO COURTS WHICH SERVES AS A FINAL SAFEGUARD FOR CONSTITUTIONAL RIGHTS."

IN THE ELEVENTH CIRCUIT DECISION OF; ANDERSON V. SINGLETON; III

F.3d. 801 (1997) THE COURT STATED; -

"WE CONCLUDE THAT CONGRESS DID NOT INTEND THE P.L.R.A. TO APPLY TO PETITIONS FOR A WRIT OF HABEAS CORPUS."

THE RECORDS AND DOCKETS IN SMITH'S HABEAS CORPUS CASE (NO. 21 CV-00934 AND I.E. IN GWIN'S COURT IN CASE NO. 18-CV-00163 ARE SILENT AS THEY DO NOT SHOW ANY ADVANCE NOTICE WAS EVER SENT TO SMITH THAT EITHER OF THE COURTS WAS PLANNING TO deem him A VEXATIOUS LITIGATOR AND SHUT DOWN ALL OF HIS COURT ACCESS. THE DOCKETS DO NOT SHOW ANY NOTICE GIVEN TO SMITH TO ALLOW HIM TO FILE ANY CONTRA PLEADING TO CONTEST THE BAN. THE 2 SILENT DOCKETS DO NOT SHOW ANY HEARINGS WERE HELD. THEY SIMPLY ARBITRARILY IMPOSED THE VEXATIOUS LITIGATOR BANS WITHOUT ANY DUE PROCESS.

ESTABLISHED PRECEDANT LAW STATES; - "A COURT SPEAKS ONLY THROUGH ITS JOURNAL ENTRIES AND NOT BY ORAL PRONOUNCEMENT NOR BY WRITTEN MINUTES OR MEMORANDUM." STATE V. BEDFORD; 184 OHIO APP.3d.588, 592 (2009) AND SEE; SCHENLEY V. KAUTH; 160 OHIO ST. 109, 113 NE. 2d. 625 (1953)

THE SIXTH CIRCUIT AND DISTRICT JUDGES (WHO WERE ALL AIDING GWIN) KEPT CONCOCTING A MAZE OF IMPOSSIBLE CIRCUS HOOPS TO DIRECT SMITH TO SPEND 2-4 YEARS ATTEMPTING TO APPEAL MULTIPLE VEXATIOUS LITIGATOR IMPOSED ORDERS (IN EXHIBITS; 2, 14, 21). THEY TELL SMITH HE CAN ONLY OPPOSE THIS BY A REGULAR APPEAL. (EXHIBIT; 5). THAT IS PURE HYPOCRACY. WHEN HE DID ATTEMPT TO APPEAL GWIN'S ORDER (IN EXHIBIT; 21) THE SIXTH CIRCUIT USED GWIN'S ORDER TO BAN THE APPEAL. ADDITIONALLY THEY ADDED ON REQUIREMENTS THAT WERE IMPOSSIBLE TO EVER MEET. THEY REQUIRED SMITH (WHO IS PENNYLESS) TO PAY A \$100,000.00 FEE PLUS "PROVE" HE IS IN CURRENT "IMMEDIATE IMMINENT DANGER" OF BEING KILLED TO FILE THAT APPEAL. (COMPARE EXHIBITS; 5 W/7)

TO FURTHER BAN AND "BLOCK" SMITH APPEALING, THE SIXTH CIRCUIT deemed PARKER'S 2022 VEXATIOUS LITIGATOR UNAPPEALABLE AND UNTOUCHABLE

BECAUSE PARKER AND CARR "BORROWED" IT FROM GWIN. (EXHIBITS; 2,5,21)  
NOWHERE IN 28 USC 1915 DOES IT CONTAIN LANGUAGE ALLOWING A HABEAS CASE  
COURT TO "BORROW" VEXATIOUS LITIGATOR ORDERS FROM A JUDGE WHO IS NOT  
EVEN ASSIGNED TO THE CASE. NOWHERE IS THERE LANGUAGE BANNING ALL  
HABEAS CASE APPEALS AND ANointing GWIN AS KING AND DICTATOR OVER  
EVERYTHING.

ALL OF THESE MADE UP CIRCUS HOOPS IS PARKER, CARR, GWIN AND THE  
SIXTH CIRCUIT JUDGES CIRCLING THEIR WAGONS TO BAN ALL COURT ACCESS AS  
THEY COLLECTIVELY "LEGISLATE FROM THE BENCH" by "AMENDING" AND SUP-  
-PLEMENTING 28 USC 1915 TO COMPORT TO GWIN'S WISHES.

GWIN ISSUED ORDERS REPEATEDLY BANNING ALL APPEALS BY SMITH  
SINCE 2018 (EXHIBITS; 113-116)

NOW THE SIXTH CIRCUIT EVEN BANS EVERY MANDAMUS SMITH FILES TO  
CONTEST ALL OF THIS. (EXHIBITS; COMPARE #5,20,25). THE DOORS TO THE COURT  
ARE NAILED SHUT - PERMANENTLY.

IN; BOZIK V. BRADSHAW; 2010 U.S. DIST. LEXIS 143879 AND I.E. ROSE V.  
WARDEN OF CHILlicothe CORR. INST.; 2018 U.S. DIST. LEXIS 46940 THE COURTS RULED;  
"AN ORIGINAL ACTION IN MANDAMUS IS AN APPROPRIATE  
MEANS BY WHICH A VEXATIOUS LITIGATOR COULD EFFECT-  
-IVELY CHALLENGE ARBITRARY DENIAL OF LEAVE" (TO FILE  
PLEADINGS)

II). 28 USC 1915 CONTAINS NO LANGUAGE TO  
AUTHORIZE A GROUP OF JUDGES TO COLLECTIVELY USE AND IMPOSE A VEXATIOUS LITIGATION BAN TO BAN CLEAR ACTUAL INNOCENCE CLAIMS IN A 28 USC 2254 HABEAS CORPUS

THE DOCKET ENTRIES IN THIS HABEAS CORPUS CASE AT ISSUE SHOW THAT ON DAY ONE OF THE CASE, SMITH SUBMITTED A WEALTH OF VERY COMPELLING POLICE ISSUED IRREFUTABLE ACTUAL INNOCENCE EVIDENCE THAT HE CLEARLY DID NOT COMMIT THE ARSON CRIMES ET AL (NOR THE PROBATION VIOLATION) HE IS IMPRISONED ON. (SEE DOCKET IN EXHIBIT; 43 AT - DOC. #1,5)

A LOT OF THAT SAME INNOCENCE POLICE EVIDENCE IS ATTACHED HEREWITH IN EXHIBITS; 45-66.

SMITH IS / WAS ACCUSED AND CONVICTED OF BURNING DOWN A HOUSE GARAGE BELONGING TO CHARLES ARNDT ON APRIL 14, 2017 (IN CLEVELAND, OHIO). (EXHIBITS; 46-51 AND; SEE - CASE # 17 CR-620144 (CUYAHOGA COUNTY))

HOWEVER IRREFUTABLE POLICE EVIDENCE SHOWS DARRYL SMITH WAS ALREADY IN A LOCAL JAIL ON A MISDEMEANOR ON APRIL 14, 2017 WHERE HE WAS HELD FOR 6 DAYS. (EXHIBIT; 52). IT IS IMPOSSIBLE FOR SMITH TO SET ARNDT'S GARAGE ON FIRE FROM A JAIL CELL!

IN THEIR REPORTS POLICE DETAIL THAT "THEY" TOOK AND IMPOUNDED NUMEROUS BUILDING VIDEO CAMERA RECORDINGS THAT SHOWS A "PERSON" SETTING THE FIRES. IT WAS NOT "DARRYL SMITH"!! (EXHIBITS; 47, 50, 54, 55, 56, 57, 58, 60.)

EVIDENCE PHOTOS FROM POLICE RECORDS CONTAINED A PHOTO OF PRISTINE UNTAINTED LATEX GLOVES LAID OUT ON A MINT BROWN BAG ON CLEAN CONCRETE A FEW FEET FROM A BURNED DOWN BUILDING. (EXHIBIT; 49)

POLICE REPORTS SHOW CHARLES ARNDT STAGED AND PLANTED THE GLOVES THE DAY AFTER THE FIRE. (EXHIBITS; 48, 50, 51, 56, 57)

ANOTHER HOUSE NEXT ARNDT'S HOUSE WAS ALSO BURNED DOWN THAT SMITH WAS ALSO BLAMED FOR. HOWEVER CONCEALED EMAILS AND PHONE TEXTS GIVEN TO POLICE (CONCEALED SINCE 2017) SHOW THE OWNER; LISA DAVIS - PLOTTING THE ARSONS WITH CHELAHANEE COLLINS (AND ARNDT) TO CARRY OUT INSURANCE SCAMS AND FRAUDS. (EXHIBITS; 59-66)

THE BOTTOMS OF THE PAGES OF ALL POLICE ATTACHED EVIDENCE SHOWS THE CUYAHOGA COUNTY PROSECUTOR POSSESSED ALL OF THIS EVIDENCE SINCE 2017 AND THEY INTENTIONALLY CONCEALED IT TO COERCE AND OBTAIN CONVICTIONS OF AN INNOCENT DEFENDANT.

CUYAHOGA COUNTY COURTS AND THEIR PROSECUTORS HAVE RACKED UP OVER 100 TAINTED CONVICTIONS - ALL RECENT, BY CRIMINALLY CONCEALING, DESTROYING AND TAMPERING WITH EXONERATORY INNOCENCE EVIDENCE, DNA, CRIME SCENE PHOTOS AND VIDEOS (THE SAME AS DONE IN SMITH'S CASE ALSO). SEE; -

STATE V. ANTHONY LEMONS; 2020 OHIO - 5619 (EXHIBIT; 117.)

STATE V. JOHN TIEDJEN; 2019 OHIO - 2430 (EXHIBIT; 118.)

STATE V. ISAIAH ANDREWS; 2019 OHIO - 1771

STATE V. BUEHNER; 2018 OHIO - 3668

STATE V. RONNIE LARKINS; 2003 OHIO - 4875

STATE V. SUTTON; 2021 OHIO - 854

STATE V. MARCUS BLALOCK; 2014 OHIO - 934

D'AMBROSIO V. BAGLEY; 656 F.3d. 379 (6th CIR. 2011)

STATE V. DWAYNE BROOKS; 2023

STATE V. RICKY JACKSON; 1977 OHIO APP. LEXIS 9608 (EXHIBIT; 119, 120)

I.E. WILEY BRIDGEMAN

RONNIE BRIDGEMAN

STATE OF OHIO V. WALDEN; 19 OHIO APP. 3d, 141 (1984)

IN SMITH'S HABEAS CORPUS CASE AT BAR, THE ARSON VIDEOS ARE CLEAR AND OBVIOUS EXONERATORY INNOCENCE EVIDENCE CONCEALED SINCE 2017.

THE VIDEOS OF THE ARSON CRIMES BEING COMMITTED CLEARLY EXIST IN EXHIBITS; 47, 50, 51, 54, 55, 56. THE BOTTOMS OF THE PAGES ALL SHOW THEY ARE AND WERE POSSESSED AND CONCEALED SINCE 2017 (ONGOING) BY THE CUYAHOGA COUNTY PROSECUTOR.

AFTER 3 LONG YEARS (SINCE SEPTEMBER 2020) OF GWIN, PARKER AND CARR INTENTIONALLY DISREGARDING THOSE VIDEOS AND ATTACHED INNOCENCE EVIDENCE (EXHIBITS; 84, 85), ANOTHER MAGISTRATE (CLOSE FRIEND OF GWIN) OUT OF THE BLUE SNATCHES SMITH'S CASE AND ISSUES BIASED SWIFT ARBITRARY ORDERS PROHIBITING THE ARSON VIDEOS AND ALL INNOCENCE EVIDENCE AS BEING MEANINGLESS (WITHOUT SEEING THE VIDEOS) AND DECLARED SMITH GUILTY. (EXHIBITS; 67 - AND SEE; I.E. 68, 69, 70). THERE WAS NO EVIDENTIARY HEARINGS.

WHEN THE OHIO ATTORNEY GENERAL WAS ORDERED TO "PRODUCE THE TRIAL COURT RECORDS (THAT INCLUDES PREVIOUS FILED EVIDENCE) (SEE DOCKET EXHIBIT; 43 AT DOC. 11 ORDER), THEY INTENTIONALLY OMIT OVER 100 EXISTING ARSON CRIME SCENE PHOTOS THAT CLEARLY EXIST IN EXHIBITS; 46, 51, 54, 58, 59. INSTEAD THE ATTORNEY GENERAL (A.G.) ONLY PRODUCED 8 CHERRY PICKED OUT PHOTOS AND BLACKED THEM OUT IN CLEAR EVIDENCE TAMPERING. (R.C. 2921.12) (EXHIBITS; 89-93, 88, AND SEE; 86, 94) BEAVEN V. U.S. DEPT. OF JUSTICE; 622 F.3d. 650, 651 (6th Cir. 2009) TO INSURE SMITH'S CASE SILENCED FURTHER, PARKER, CARR AND GWIN APPROVED AND CONDONED MAN.C.I. PRISON OFFICIALS AND GUARDS SIEZING DESTROYING SMITH'S LEGAL MAIL (EXHIBIT; 34) AND ALL OF HIS HABEAS CORPUS CASE MATERIALS, PLEADINGS AND INNOCENCE EVIDENCE. (EXHIBITS; 28-33, 86) AND SEE 2022 ORDERS BY GWIN IN; SMITH V. PINKNEY; CASE NO. 18 CV-00163 AT; DOC. 123, 125, 127)

PURSUANT TO ARBITRARY IMPOSED VEXATIOUS LITIGATOR ORDERS COLLECTIVELY IMPOSED AND ENFORCED BY GWIN, PARKER AND CARR - AND; THE BANNING OF INNOCENCE EVIDENCE AND ARSON VIDEOS, SMITH'S RIGHT TO CONTEST HIS INVALID CONVICTIONS IS WIPE OUT. (EXHIBITS; 17, 18, 15, 16)

28 USC 1915 AND VEXATIOUS LITIGATOR "LAWS" DO NOT CONTAIN ANY LANGUAGE TO ALLOW NOR AUTHORIZE ANY JUDGE TO USE VEXATIOUS LITIGATOR LAWS TO BAN A CLEAR DEMONSTRATED ACTUAL INNOCENCE CLAIM IN A 28 USC 2254 HABEAS CORPUS ACTION. THIS VERY COURT'S OWN CONTROLLING LAWS FORBID IT.

IN; DRETKE V. HALEY; 124 S.CT. 1847 AT 1856 (2004) THIS COURT WROTE -  
"THE LAW MUST SERVE THE CAUSE OF JUSTICE .....  
SOME WOULD SAY THAT HALEY'S INNOCENCE IS A MERE  
TECHNICALITY, BUT THAT WOULD MISS THE POINT. IN A  
SOCIETY devoted TO THE RULE OF LAW THE DIFFERENCE  
BETWEEN VIOLATING AND NOT VIOLATING A CRIMINAL  
STATUTE CAN NOT be shrugged aside AS A MINOR de-  
-TAIL .... THE CAUSE AND PREJUDICE STANDARD IS NOT  
A PERFECT SAFEGUARD AGAINST FUNDAMENTAL MISCAR-  
-RAIGES OF JUSTICE." (I.D. AT 1852)

AND SEE; GONZALEZ V. ABBOTT; 967 F.2d. 1499, 1504 (1992)  
AMENDED AT - 986 F.3d. 461 (1993) AND SEE; -  
BROWN V. PALMER; 441 F.3d. 347, 351 (6th CIR. 2006)

IN; MURRAY V. CARRIER; 477 U.S. 478 (1986) THIS COURT HELD -  
"WE RECOGNIZE A NARROW EXCEPTION .... WHERE CON-  
-STITUTIONAL VIOLATIONS PROBABLY RESULTED IN THE CON-  
-VICTION OF SOMEONE WHO IS ACTUALLY INNOCENT."

SEE; HOUSE V. BELL; 547 U.S. 518, 536-37 (2006)

IN SMITH'S CASE AT BAR, THE ATTORNEY GENERAL (A.G) AND EVEN THE MAGISTRATE do NOT dispute THAT SMITH'S PRESENTED EVIDENCE IN EXHIBITS; 45-66 (AND ARSON VIDEOS) IS NEW EVIDENCE CONCEALED SINCE 2017.  
(SEE; EXHIBITS; 67, 70)

IN; SISTRUNK V. ARMENAKIS; 292 F.3d. 669, 673 (2002) THE COURT RULED -  
"NEW EVIDENCE TO SUPPORT A CLAIM OF ACTUAL INNOCENCE  
ENCOMPASSES NOT ONLY "NEWLY AVAILABLE" EVIDENCE,  
BUT ALSO "NEWLY PRESENTED" EVIDENCE."

IN; BANKS V. DRETKE; 124 S.CT. 1256 (2004) THIS COURT RULED; -  
"WHEN PROSECUTORS AND POLICE CONCEAL SIGNIFICANT  
EXONERATORY AND IMPEACHING MATERIAL EVIDENCE ....  
IT IS INCUMBENT ON THE STATE TO SET THE RECORD  
STRAIGHT. .... LITIGANTS AND JURIES ANTICIPATE OBLI-  
GATIONS TO REFRAIN FROM IMPROPER METHODS TO SE-  
-CURE CONVICTIONS."

ALSO SEE; BENN V. LAMBERT; 283 F.3d. 1040, CERT. DENIED 537 U.S. 942  
MONROE V. ANGELONE; 323 F.3d. 286 (2003), SLUTZKER V. JOHNSON; 393  
F.3d. 373, 388 (2004) U.S. V. PELLULLO; 105 F.3d. 117, 123 (1997) U.S. V.  
AVELLINO; 136 F.3d. 249, 255-58 (1998) JAMISON V. COLLINS; 291 F.3d.  
380, 384-91 (6th CIR. 2002) D'AMBROSIO V. BAGLEY; 656 F.3d. 379 (6th CIR.)  
HAD A JURY EVER SEEN THE ARSON VIDEOS AND THE EXONERATORY  
EVIDENCE IN EXHIBITS; 46-66, NO JURY EVEN IN CHINA WOULD HAVE CONVICTED  
SMITH.

IN; WIGGINS V. SMITH; 539 U.S. 510, 523-28 (2003) THIS COURT WROTE -  
"PREJUDICE TO THE DEFENDANT REQUIREMENT IS SATISFIED  
IF THERE IS A REASONABLE PROBABILITY THAT AT LEAST ONE  
JUROR WOULD HAVE STRUCK A DIFFERENT VERDICT."

IN; SCHLUPIK V. DELO; 513 U.S. 298, 327 (1995) THIS COURT held; -  
"THE PETITIONER CAN DEMONSTRATE AN ACTUAL INNOCENCE  
CLAIM BY SHOWING THAT NO REASONABLE JUROR WOULD CON-  
-VICT HIM BASED ON NEW EVIDENCE"

## REASONS FOR GRANTING THE PETITION

THE FILING OF THIS PETITION SEEKS ENFORCEMENT OF THE BASIC RIGHT OF ACCESS TO COURTS UNDER THE FIRST AMENDMENT DEFINED IN THE U.S. CONSTITUTION. IT ALSO PRESENTS A PROVEN CLAIM OF ACTUAL INNOCENCE SUPPORTED BY IRREFUTABLE POLICE ISSUED EVIDENCE ATTACHED HEREWITH THAT IS A VALID FOURTEENTH AMENDMENT ISSUE DEFINED IN THE U.S. CONSTITUTION.

THIS IS A CLEAR CASE OF GREAT INTEREST TO THE GENERAL PUBLIC BECAUSE BIASED OHIO FEDERAL JUDGES HAVE ARBITRARY IMPOSED ORDERS AND SYSTEMATIC ORDERS TO BAN, CUT OFF AND PROHIBIT AN INDIGENT PROSE PRISONER FROM APPEALING AND CONTESTING HIS STATE CRIMINAL CONVICTION AND IMPRISONMENT BY MISUSE ACTIVATING USE OF THE VEXATIOUS LITIGATOR STATUTORY LAWS IN 28 USC 1915. PETITIONER WAS ARBITRARILY BANNED FROM COURT ACCESS WITHOUT ANY DUE PROCESS AND NO PROCEDURAL HEARING.

IF THIS COURT DENIES THIS WRIT, IT WILL FIRMLY ESTABLISH A FIRST TIME PRECEDENT CASE LAW TO ALLOW ABUSIVE JUDGES WHO ARE BIASED AGAINST A PETITIONER TO MISUSE 28 USC 1915 TO SYSTEMATICALLY BAN COURT ACCESS TO A PETITIONER APPEALING HIS CRIMINAL CONVICTION UNDER 28 USC 2254.

IF THIS WRIT IS DENIED IT WILL INSTALL NEW ADDED AMENDED LEGISLATION INTO THE VEXATIOUS LITIGATOR STATUTE THAT WILL NOW ALLOW BIASED JUDGES TO BAN PRISONERS PRO SE HABEAS CORPUS CRIMINAL APPEALS. IT WILL CANCEL OUT HANDPICKED DEFENDANT PETITIONERS FROM APPEALING THEIR CRIMINAL CASE CONVICTIONS.

THIS IS A PUNISHMENT BY BANNING A CRIMINAL APPEAL. IT IS IMPOSED SYSTEMATICALLY BY "BORROWING A VEXATIOUS LITIGATOR" PUNISHMENT FROM ANOTHER JUDGE, SHUT DOWN A HABEAS CORPUS WITHOUT CITING ANY MISCONDUCT NOR REASON, AND BAN THE PETITIONER FROM CONTESTING THE

CRIMINAL COURT CONVICTION. IT IS AN ARBITRARY DRACONIAN PUNISHMENT WITH NO DUE PROCESS WHATSOEVER.

THE GENERAL PUBLIC HAS A VERY GREAT INTREST IN THE ISSUES IN THIS CASE TO PROTECT A PERSON'S FIRST AMENDMENT FUNDAMENTAL RIGHT TO HABEAS CORPUS RELIEF WHO IS ACTUALLY INNOCENT. NO JUDGE AND CLIQUE OF JUDGES SHOULD MISUSE A VEXATIOUS LITIGATOR STATUTE TO EMPOWER THEMSELVES TO SHUT OFF HABEAS CORPUS RIGHT TO BE HEARD AGAINST ANY PERSON WITH NO DUE PROCESS AND NO REASON CITED.

THERE IS NO EXISTING PRECEDANT CASE TO ALLOW DOING THIS. THERE IS NO STATUTORY LAW THAT ALLOWS THIS. NOTHING IN THE U.S. CONSTITUTION ALLOWS THIS. IF THIS COURT does NOT GRANT THIS WRIT AND ALLOWS THIS BAN OF COURT ACCESS TO HABEAS CORPUS TO STAND, IT WILL ESTABLISH FOR THOSE ABUSIVE OHIO JUDGES AND NATIONWIDE A GROUNDBREAKING SCARY NEVER BEFORE SEEN PRECEDANT TOTALLY IN CONFLICT WITH FUNDAMENTAL MOST BASIC CONSTITUTIONAL RIGHTS. IT WILL CREATE DANGEROUS NEW LAW THAT EVEN CONGRESS did NOT ENACT IN ANY LEGISLATION. IT WILL CANCEL OUT CLEAR ESTABLISHED PRECEDANT LAWS AND BE IN CONFLICT WITH SEVERAL CIRCUITS CASE LAWS IN; -

MONTGOMERY V. DAVIS; 362 F.3d. 956 (7<sup>th</sup> CIR. 2004)

DELONG V. HENNESSEY; 912 F.2d. 1144 (9<sup>th</sup> CIR. 1990)

MARTIN V. UNITED STATES; 96 F.3d. 853 (7<sup>th</sup> CIR. 1996)

IF THIS WRIT IS DENIED, IT WILL OVERTURN AND CANCEL OUT THE SIXTH CIRCUIT'S OWN HYPOCRACY PRECEDANT LAWS IN OHIO IN; -

SULTAANA V. JERMAN; 2019 U.S. DIST. LEXIS 206088 (N.D. OHIO)

KINCADE V. SPARKMAN; 117 F.3d. 949, 952 (1997)

ORTMAN V. THOMAS; 99 F.3d. 807, 811 (1996)

ADDITIONALLY IF THIS COURT does NOT GRANT THIS WRIT, OHIO FEDERAL JUDGES WILL HAVE ESTABLISHED NEW DRACONIAN PRECEDANT LAW THAT WILL ELIMINATE ALL OF THIS COURT'S PRECEDANT CASE LAW OF ALL "ACTUAL INNOCENCE"

EXCEPTIONS BY SIMPLY ARBITRARILY IMPOSING A PUNITIVE VEXATIOUS LITIGATOR  
TAG TO SHUT DOWN HABEAS CORPUS CRIMINAL CONVICTION APPEALS. SUCH A NEW  
PRECEDANT WILL ELIMINATE AND BE IN TOTAL CONFLICT WITH CURRENT LAWS IN:-

MURRAY V. CARRIER; 477 U.S. 478, 485 (1986)

HOUSE V. BELL; 547 U.S. 518, 536-37 (2006)

GONZALEZ V. ABBOTT; 967 F.2d. 1499, 1504 (1992)

JACKSON V. VIRGINIA; 443 U.S. 307, 319 (1979)

DRETKE V. HALEY; 124 S.C.T. 1847, 1856 (2004)

ACCORDINGLY PETITIONER MOVES THIS COURT TO ORDER ORAL  
ARGUEMENTS AND I.E. GRANT THE WRIT OF CERTIORARI IN FULL.

SUBMITTED BY:

SI Darryl Smith

DARRYL SMITH

### CONCLUSION

BOTH IMPOSED VEXATIOUS LITIGATOR ORDERS IN EXHIBITS 14, 21, 20

ARE IN CONFLICT WITH OTHER CIRCUIT COURT LAWS ESTABLISHED IN THE NINTH,  
ELEVENTH AND SEVENTH CIRCUIT U.S. COURT OF APPEALS.

BOTH IMPOSED VEXATIOUS LITIGATOR ORDERS UPHELD BY THE SIXTH CIRCUIT  
COURT IS IN TOTAL CONFLICT WITH THEIR OWN ESTABLISHED PRECEDANTS AND  
MAGISTRATE PARKER'S VERY OWN DECISION PRECEDANT IN SULTAANA V. JERMAN.

THERE IS NO LANGUAGE OR DEFINED SPECIFIC PROVISIONS IN 28 USC 1915  
NOR IN 28 USC 2254 PERMITTING ARBITRARY IMPOSING VEXATIOUS LITIGATOR  
BANS TO SHUT DOWN A HABEAS CORPUS CASE THAT IS APPEALING A CRIMINAL  
CONVICTION. THERE IS NO STATUTORY LANGUAGE THAT ALLOWS JUDGE GWIN TO  
ANNOUNCE HIMSELF AS THE SOLE DICTATOR OVER ALL ATTEMPTED FILINGS, MOTIONS,  
AND APPEALS NATIONWIDE BY DARRYL SMITH. THERE IS NO STATUTORY LANG-  
-UAGE ALLOWING A COURT TO "BORROW" VEXATIOUS LITIGATOR" BANS BY ANOTHER  
COURT TO SHUT DOWN A HABEAS CORPUS CRIMINAL APPEAL.

BOTH IMPOSED VEXATIOUS LITIGATOR ORDERS WERE IMPOSED ARBITRARILY  
WITHOUT ANY PROCEDURAL DUE PROCESS. SMITH WAS BANNED FROM CONTESTING  
BOTH ORDERS. NO APPEALS WERE ALLOWED. NO CLAIMED MISCONDUCT COMMITTED  
WAS CITED AS OCCURRING IN EITHER CASE.

THE IMPOSED VEXATIOUS LITIGATOR ORDERS WERE ISSUED TO SILENCE AND  
BAN CLEAR DEMONSTRATED ACTUAL INNOCENCE HABEAS CORPUS CLAIMS AND  
USED TO BAN COMPELLING ACTUAL INNOCENCE EVIDENCE WHICH IS IN CONFLICT  
WITH THIS COURT'S ESTABLISHED PRECEDANTS OF LAW.

SMITH'S COURT ACCESS IS SYSTEMATICALLY AND EFFECTIVELY CUT OFF.  
NO CLAIM AND NO CASE HE HAS CAN BE NOR EVER WILL BE TIMELY NOR FAIRLY  
ADJUDICATED IN THE CLEVELAND OHIO FEDERAL COURT DUE TO THE OBSESSED  
OBSTRUCTIONS DICTATOR ACTS OF JUDGE GWIN ET. AL.

SI Darryl Smith

DARRYL SMITH

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Darryl Smith  
DARRYL SMITH Darryl Smith

Date: AUGUST 18, 2023

Re-submitted Amended; September 21, 2023