

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

ANTHONY J. DENOMA, Petitioner pro se

vs.

JOHN R. KASICH, ET AL, RESPONDENTS

JUSTICE ELENA KAGAN

On Rule 23. APPLICATION FOR STAY

of judgments in the

United States Court of Appeals for the Sixth Circuit No's. 16-3120 and 16-3839
United States District Court Southwestern Ohio No. 1:15-cv-594

APPLICATION FOR STAY

and restoration of all individual capacity claims of
cohesive Civil Rights Complaint Petition for Writ of Habeas Corpus pending de novo appellate review of
Ex Post Facto, Cruel and Unusual Punishment, Due Process of Law, Equal Protection claims
and federal questions of Respondent's Qualified immunity status

Anthony J. DeNoma # A 308-836 pro se

Counsel of Record

Department of Rehabilitation and Correction (DRC)

Madison Correctional Institution (MaCI)

P.O. Box 740, 1851 State Rt. 56, London, Ohio 43140

telephone (740) 852-9777; General e-mail: drc.maci @ odrc.state.oh.us

Heather L. Buchanan for Respondents

Counsel of Record

30 East Broad Street, 16th Floor, Columbus, Ohio 43215

telephone (614) 466-2872; e-mail: heather.buchanan @ ohioattorneygeneral.gov


Anthony J. DeNoma

TABLE OF CONTENTS

	<u>Page</u>
Statement of the Case and Facts	1,
Judgment Sought to be Reviewed	2,
Specific Reasons Why a Stay is Justified in this Case	2-4,
Conclusion	4,
Proof of Service and Filing	

INDEX OF APPENDIX

	<u>Exhibit</u>
Statement of Prior Actions	A.
<u>Judgment of the United States District Court Southwestern Ohio No. 1:15-cv-594</u>	
January 22, 2016 Order of Dismissal of Habeas Corpus and Civil Rights Claims	B.1
November 2, 2015 Adopted opinion	B. 2-35,
<u>Judgment of the United States Sixth Circuit Court of Appeals</u>	
April 5, 2016 Order and opinion dismissing interlocutory appeal No. 16-3120	C. 1-2,
October 16, 2017 Order and opinion in Appeal No. 16-3839	C. 3-7,
Declaration of Mail Filing of Petition for Writ of Certiorari	D. 1-6,
Petition for Writ of Certiorari Amended Cover Page and Proof of Service	E. 1-2,

STATEMENT OF THE CASE AND FACTS

Relief sought is not available from any other court or judge, since from January 2008, DeNoma has diligently sought relief and redress from irreparable Ex Post Facto unconstitutional State custody injuries which are no longer remedial and has exhausted his State remedies, after being repeatedly denied redress, deprived of Due Process of Law Equal Protection, as set forth in Anthony J. DeNoma v. John R. Kasich et al, United States Southwestern Ohio Federal District Court Case No. 1:15-cv-594.

Furthermore the United States District Court in Anthony J. DeNoma v. John R. Kasich Case No. 1:15-cv-594 inappropriately disregarded the applicable law of the case dismissing with prejudice DeNoma's civil rights claims of continuing irreparable injury from among other things: Ex Post Facto, Cruel and Unusual Punishment, Due Process of Law and Equal Protection violations of the United States Constitution Article I, § 10, Fifth, Sixth, Eighth, and Fourteenth Amendments, denying due process consideration of the federal questions relative to the applicable substantive issues of the final judgment law of DeNoma's case, inappropriately granting absolute immunity to individual defendants. Which was inappropriately affirmed in the United States Sixth Circuit Court of Appeals Case No's. 16-3120 and 16-3839 by the perfunctory inappropriate dismissal of DeNoma's interlocutory appeal, and denial of a due process de novo appellate review of the involved substantive federal questions of the substantive issues of the applicable law defining DeNoma's legal status and civil rights, and Defendant's qualified immunity status.

And on January 4, 2018 the United States Sixth Circuit Court of Appeals denied DeNoma's Petition for Rehearing en banc, and on February 15, 2018 DeNoma mailed a copy of his Petition for Writ of Certiorari to Defendants attorneys: Assistant Ohio Attorney General Heather Buchanan, Steven Voigt, and Zachary Huffman, at 30 East Broad Street, 16th Floor; Columbus, Ohio 43215, but was denied United States Postage for the actual filing of his Petition by mail in the United States Supreme Court, *by Defendant's vicarious continuing conspiracy against rights. See Appendix evidence Exhibit E.1-5.*

JUDGMENT SOUGHT TO BE REVIEWED

This instant application for Stay seeks review of the United States District Court dismissal of DeNoma's hybrid comprehensive cohesive Civil Rights Complaint Petition for Writ of Habeas Corpus Anthony J. DeNoma v. John R. Kasich, Southwestern Ohio Case No. 1:15-cv-594, dismissing with prejudice DeNoma Civil Rights claims. See Order and Opinion Appendix Exhibit and dismissal of the Sixth Circuit Court of Appeals No. 16-3839. See Order and opinion Appendix Exhibit

Specific Reasons why a Stay is Justified in this Case

"No State shall ... pass any Bill of Attainder, ex post facto Law, or Law impairing the obligation of Contracts." United States Constitution Article I. Section 10, Clause 1.

"The general assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts." Ohio State Constitution Article II. Section 28.

DeNoma's April 6, 1995 negotiated Sixth Amendment plea agreement contract and final judgments instituted the terms which define DeNoma's rehabilitation legal status civil rights, establishing DeNoma's exemption from sex offender registration as a first time offender entitled to a substantive statutory one-third diminution of sentence that shall not be forfeited for any reason under then existing laws, Ohio Revised Code Chapter 2950, Sections 2967.19(A)(E) and 2967.19.3(A)(C)

DeNoma is an indigent unrepresented prisoner without assistance of counsel or attorney agent, and without a college degree unable to make artful legal arguments. DeNoma old law sentence is effectively expired and he already suffers irreparable harm from deprivation of his rights under color of law, unconstitutional State custody and false imprisonment by Defendants continuing conspiracy against his rights, his grievance is no longer remedial, and the State has denied redress. DeNoma is an Ohio old law prisoner whose case identifies with several significant classes of Ohio citizens convicted of violations of prior old law and deprived of their United States Constitution Fourteenth Amendment

substantive and procedural Due Process of Law Equal Protection civil rights.

Defendants effectively conduct subversive organized Constitutional Separation of Powers violations in conspiracy against rights causing deprivation of rights under color of law in violation of United States Code Title 18 Sections 241, 242, 1962; Title 42 Sections 1981, 1983, 1985 and 1997d., With deliberate indifference and manifest disregard for the clearly established law and final judgments. Acting without Due Process of Law Defendants arbitrarily abrogated the operation of DeNoma's case-law rehabilitation legal status civil rights, implementing instead different, unreasonable, arbitrary, ambiguous and punitive new statutory interpretations and new sex offender sentencing law policies. Subjecting DeNoma to Cruel and Unusual Punishment, further disadvantaging, excessively punishing and endangering DeNoma by unconstitutional State custody and false imprisonment. Making more onerous and burdensome the punishment for DeNoma's past conduct. Depriving DeNoma of his fundamental substantive and procedural Due Process of Law Equal Protection civil rights in violation of the United States Constitution Article I, § 10, Fifth, Sixth, Eighth, Thirteenth and Fourteenth Amendment Ex Post Facto, Cruel and Unusual Punishment, Due Process of Law and Equal Protection Clauses.

“Since 1874, the habeas corpus statute has directed the courts to determine the facts and dispose of the case summarily, as law and justice require ... once a state prisoner arrives in federal court with his petition for habeas corpus, the federal habeas corpus statute provides for a swift, flexible, and summary determination of his claim. 28 U.S.C. § 2243 ... while preserving for the state prisoner an expeditious federal forum for the vindication of his federally protected rights, if the State has denied redress ... that holding in no way precludes him from simultaneously litigating in federal court, under §1983.” Preiser v. Rodriguez (1973), 411 U.S. 475, 487, 495-496, 498, 499; 93 S.Ct. 1827, 1835, 1839, 1840, 1841.

“Damages and declaratory and other relief for improper revocation of good-time credits are cognizable under § 1983 ... Preiser expressly contemplated that claims properly brought under § 1983 could go forward while actual restoration of good-time credits is sought ... damages claims was therefore properly before the District Court and required determination of the validity of procedures employed for imposing sanctions, including loss of good-time ... Such a declaratory judgment as a predicate to damages award would not be barred by Preiser ... neither would it preclude a litigant with standing from obtaining by way of ancillary relief an otherwise proper

injunction enjoining the prospective enforcement of invalid prison regulations ... The State having created the right to good-time ... the prisoner's interest has real substance and is sufficiently embraced within Fourteenth Amendment 'liberty' to entitle him to those minimum procedures appropriate under the circumstances and required by the Due Process Clause to ensure that the state-created right is not arbitrarily abrogated." Wolff v. McDonnell (1974), 418 U.S. 539, 554-555, 557; 94 S.Ct. 2963, 2974, 2975.

CONCLUSION

Wherefore DeNoma hereby respectfully prays this Honorable Court to:

- a.) Restore and Stay all Constitutional and Civil Rights claims of DeNoma's initial cohesive hybrid Civil Rights Complaint Petition for Writ of Habeas Corpus; and
- b.) Issue a Writ for Certiorari for DeNoma's 42 U.S.C. § 1983 and 28 U.S.C. § 2254 hybrid comprehensive cohesive Civil Rights Complaint Petition for Writ of Habeas Corpus, Anthony J. DeNoma v. John R. Kasich, Southwestern Ohio Case No. 1:15-cv-594, and subsequent appeal in the Sixth Circuit Court of Appeals No. 16-3839, and provide a due process de novo appellate review, declaratory judgment, providing injunctive relief enjoining Defendants from prospective enforcement of invalid prison regulation policies, and a swift, flexible and summary determination restoring DeNoma's statutory good-time and earned-credit diminution of sentence, and issue a Writ of Habeas Corpus ordering DeNoma's immediate and final release from all forms of unconstitutional State custody, while preserving for DeNoma his expeditious federal forum for damages sought for the vindication of his federally protected rights.

Anthony J. DeNoma April 29, 2018

Anthony J. DeNoma,

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

ANTHONY J DENOMA, Petitioner pro se

vs.

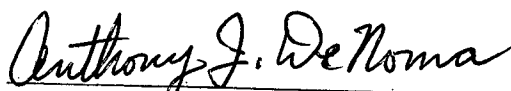
JOHN R. KASICH, ET AL, Respondents

PROOF OF SERVICE AND FILING

As required by Supreme Court Rule 29, as an indigent State prisoner, I, Anthony j. DeNoma do hereby swear or declare that on this 3rd day of May 2018, I have filed the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and APPLICATION FOR STAY in the United States Supreme Court by depositing envelopes containing the above said documents with the designated prison mail clerk together with an authorized Account Cash Withdrawal Slip for the prepayment of required United States First Class Postage addressed to the Court, and for service on counsel of Respondents Gary C. Mohr and Michael DeWine addressed to:

Assistant Ohio Attorney General
Zachary R. Huffman, telephone (614) 728-3338
Heather L. Buchanan and Steven T. Voigt, telephone (614) 466-2872
30 East Broad Street, 16th Floor, Columbus, Ohio 43215

Executed on this day 3rd day of May 2018



Anthony J. DeNoma # A 308-836
P.O. Box 740, Madison Correctional Institution
1851 State Rt. 56, London, Ohio 43140
telephone (740) 852-9777; Fax (740) 852-3666

APPENDIX

Exhibit

Statement of Prior Actions A.

Judgment of the United States District Court Southwestern Ohio No. 1:15-cv-594

January 22, 2016 Order of Dismissal of Habeas Corpus and Civil Rights Claims ... B.1

November 2, 2015 Adopted opinion B. 2-35,

Judgment of the United States Sixth Circuit Court of Appeals

April 5, 2016 Order and opinion dismissing interlocutory appeal No. 16-3120 C. 1-2,

October 16, 2017 Order and opinion in Appeal No. 16-3839 C. 3-7,

Declaration of Mail Filing of Petition for Writ of Certiorari D. 1-**6**,

Petition for Writ of Certiorari Amended Cover Page and Proof of Service E. 1-2,

IN THE STATE OF OHIO:

THE COUNTY OF MADISON: SS: AFFIDAVIT STATEMENT OF PRIOR ACTIONS

I Anthony J. DeNoma affiant herein (hereafter DeNoma), being duly cautioned of the penalty of perjury, do hereby solemnly declare the following list of prior actions to be true, complete and accurate. So Help me GOD!

1. Motion for Immediate relief from effects of Ex post Facto reclassification, resulting in two conjunctive ENTRIES in State v. DeNoma, Hamilton County Common Pleas Case No. B9502232 / SP0800368 (October 29, 2008), constituting double jeopardy use of sham legal process malicious prosecution;
 - a.) Statutory right appeal First District Court of Appeals No. C-081178, dismissed January 29, 2009 for improper jurisdiction;
 - b.) Discretionary Appeal Ohio Supreme Court No. 2009-0475, denied June 3, 2009;
 - c.) Petition for Writ of Certiorari U.S. Supreme Court No. 09-7468, dismissed January 11, 2010.
2. Petition Contesting Ex Post Facto reclassification State v. DeNoma Ross County Common Pleas No. 08CI831, dismissed as untimely;
 - a.) Direct appeal of right Fourth District Court of Appeals No. 09CA3089, Dismissal affirmed December 8, 2009;
 - b.) Discretionary Appeal Ohio Supreme Court No. GEN-2010-0093, denied March 10, 2010.
3. Libel / malicious prosecution action alleging corrupt activity, DeNoma v. Deters, Hamilton County Common Pleas No. A1001030, dismissed September 6, 2011;
 - a.) Direct appeal First District Court of Appeals No. C110616, dismissed May 16, 2012;
 - b.) Discretionary Appeal Ohio Supreme Court No. 2012-1073, denied September 26, 2012.
4. Petition for Writ of Habeas Corpus, DeNoma v. Governor John R. Kasich, Fourth District Court of Appeals No. 13AP0006, dismissed May 9, 2013;
 - a.) Petition for Writ of Habeas Corpus, DeNoma v. Governor John R. Kasich, Ohio Supreme Court No. 14-0240 dismissed July 25, 2014.
5. Action to withdraw guilty plea to correct manifest injustice, State v. DeNoma, Hamilton County No. B951322 / B9502232, overruled and dismissed without a hearing July 3rd and 8th respectively;
 - a.) Consolidated application for reopening and delayed appeals with Motion for Facts and Conclusions of Law, First District Court of Appeals No's. C-081178 and C1400590, overruled October 29, 2014;
 - b.) Discretionary Appeal Ohio Supreme Court No. GEN-2014-2004, denied January 28, 2015;
 - c.) Petition for Writ of Certiorari U.S. Supreme Court No. 14-9814, dismissed October 5, 2015.
7. Petition for Writ of Habeas Corpus consolidated with actions under 18 U.S.C. 1964 and 42 U.S.C. §§ 1983 and 1985, DeNoma v. Governor John R. Kasich, United States District Court No. 1: 15-cv-594, dismissed January 22, 2016.

Anthony J. DeNoma February 4, 2016

Anthony J. DeNoma # A 308-836 Plaintiff pro se
P.O. Box 740, Madison Correctional Institution
1851 State Rt. 56; London, Ohio 43140

Taken, sworn and subscribed this 4 day of February 2016.



Jennifer L. Matyas
Notary Public - Ohio
My Commission Expires
09/15/2020

Jennifer Matyas
Notary Public, State of Ohio, County of Madison

Anthony J. DeNoma, Plaintiff(s), vs. Governor John R. Kasich, et al., Defendant(s).

Case Number: 1:15cv594 Docket No. 36

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO, WESTERN
DIVISION

2016 U.S. Dist. LEXIS 7684

January 22, 2016, Filed

SUBSEQUENT HISTORY: Magistrate's recommendation at Denoma v. Kasich, 2016 U.S. Dist. LEXIS 77995 (S.D. Ohio, May 5, 2016)

PRIOR HISTORY: Denoma v. Kasich, 2015 U.S. Dist. LEXIS 175164 (S.D. Ohio, Nov. 2, 2015)

COUNSEL: [*1] Anthony DeNoma, Plaintiff, Pro se, London, OH.

For Director Gary Mohr, Ohio Department of Rehabilitation and Correction (ODRC), Defendant: Judith B Goldstein, LEAD ATTORNEY, Ohio Attorney General, Columbus, OH; Zachary R. Huffman, Office of the Ohio Attorney General, Columbus, OH.

For Mike DeWine, Ohio Attorney General, Defendant: Jeffery William Clark, Judith B Goldstein, LEAD ATTORNEYS, Ohio Attorney General, Columbus, OH; Jordan S. Berman, Ohio Attorney Generals Office, Columbus, OH.

JUDGES: Susan J. Dlott, United States District Judge.

OPINION BY: Susan J. Dlott

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on November 2, 2015 a Report and Recommendation (Doc. 8). Subsequently, the plaintiff filed objections to such Report and Recommendation (Doc. 23) and defendant Gary Mohr filed objections to the Report and Recommendation (Doc. 30).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all [*2] of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendation should be adopted.

Accordingly, except for the limited official-capacity claim alleged in Count 3 against the Ohio Attorney General and the Ohio Department of Rehabilitation and Correction (ODRC) Director, the complaint portion of plaintiff's pleading (Doc. 1, at Page ID #29-36) is DISMISSED with prejudice pursuant to 28 U.S.C. §§1915(e)(2)(B) and 1915A(b)(1). The habeas petition portion of plaintiff's pleading (Doc. 1 at Page ID # 37-67) is DISMISSED without prejudice to filing a petition or petitions in accordance with requirements set forth in Rule 2 of the Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. §2254. The Clerk of Court is DIRECTED to provide the plaintiff with a form petition for federal habeas corpus relief.

IT IS SO ORDERED.

/s/ Susan J. Dlott

Judge Susan J. Dlott

United States District Court

Exhibit B.1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ANTHONY J. DENOMA,
Plaintiff,

vs.

GOVERNOR JOHN R. KASICH,
et al.,
Defendants.

Case No. 1:15-cv-594

Black, J.
Bowman, M.J.

**ORDER AND REPORT
AND RECOMMENDATION**

Plaintiff, an inmate in state custody at the Lebanon Correctional Institution (LeCI) in Lebanon, Ohio, brings this civil action against numerous current and former state officials and correctional personnel. (*See* Doc. 1). By separate Order, plaintiff has been granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. This matter is before the Court for a *sua sponte* review of the complaint to determine whether the complaint, or any portion of it, should be dismissed because it is frivolous, malicious, fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief. *See* Prison Litigation Reform Act of 1995 § 804, 28 U.S.C. § 1915(e)(2)(B); § 805, 28 U.S.C. § 1915A(b).

In enacting the original *in forma pauperis* statute, Congress recognized that a “litigant whose filing fees and court costs are assumed by the public, unlike a paying litigant, lacks an economic incentive to refrain from filing frivolous, malicious, or repetitive lawsuits.” *Denton v. Hernandez*, 504 U.S. 25, 31 (1992) (quoting *Neitzke v. Williams*, 490 U.S. 319, 324 (1989)). To prevent such abusive litigation, Congress has authorized federal courts to dismiss an *in forma pauperis* complaint if they are satisfied that the action is frivolous or malicious. *Id.*; *see also* 28 U.S.C. §§ 1915(e)(2)(B)(i) and 1915A(b)(1). A complaint may be dismissed as

frivolous when the plaintiff cannot make any claim with a rational or arguable basis in fact or law. *Neitzke v. Williams*, 490 U.S. 319, 328-29 (1989); *see also Lawler v. Marshall*, 898 F.2d 1196, 1198 (6th Cir. 1990). An action has no arguable legal basis when the defendant is immune from suit or when plaintiff claims a violation of a legal interest which clearly does not exist. *Neitzke*, 490 U.S. at 327. An action has no arguable factual basis when the allegations are delusional or rise to the level of the irrational or “wholly incredible.” *Denton*, 504 U.S. at 32; *Lawler*, 898 F.2d at 1199. The Court need not accept as true factual allegations that are “fantastic or delusional” in reviewing a complaint for frivolousness. *Hill v. Lappin*, 630 F.3d 468, 471 (6th Cir. 2010) (quoting *Neitzke*, 490 U.S. at 328).

Congress has also authorized the *sua sponte* dismissal of complaints that fail to state a claim upon which relief may be granted. 28 U.S.C. §§ 1915 (e)(2)(B)(ii) and 1915A(b)(1). A complaint filed by a *pro se* plaintiff must be “liberally construed” and “held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)). By the same token, however, the complaint “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)); *see also Hill*, 630 F.3d at 470-71 (“dismissal standard articulated in *Iqbal* and *Twombly* governs dismissals for failure to state a claim” under §§ 1915A(b)(1) and 1915(e)(2)(B)(ii)).

“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 556). The Court must accept all well-

pleaded factual allegations as true, but need not “accept as true a legal conclusion couched as a factual allegation.” *Twombly*, 550 U.S. at 555 (quoting *Papasan v. Allain*, 478 U.S. 265, 286 (1986)). Although a complaint need not contain “detailed factual allegations,” it must provide “more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 555). A pleading that offers “labels and conclusions” or “a formulaic recitation of the elements of a cause of action will not do.” *Twombly*, 550 U.S. at 555. Nor does a complaint suffice if it tenders “naked assertion[s]” devoid of “further factual enhancement.” *Id.* at 557. The complaint must “give the defendant fair notice of what the claim is and the grounds upon which it rests.” *Erickson*, 551 U.S. at 93 (citations omitted).

Plaintiff, who is proceeding *pro se*, brings this action against the following defendants: Ohio Governor John R. Kasich and former Ohio Governor Ted Strickland; Ohio Attorney General Mike DeWine, two former Ohio Attorney Generals and Assistant Ohio Attorney General Stephanie Watson; sixteen Ohio Supreme Court justices; Ohio Department of Rehabilitation and Correction (ODRC) Director Gary Mohr, three former ODRC Directors, ODRC Deputy Director Doug Forbes, ODRC Bureau of Sentence Computation (BOSC) Chief Melissa Adams and eight ODRC “Records Supervisors” (hereinafter the “ODRC defendants”); sixteen Ohio Adult Parole Authority (OAPA) Board members (hereinafter the “OAPA defendants”); six former Wardens of Chillicothe Correctional Institution (CCI) and seventeen CCI staff members (hereinafter the “CCI defendants”); the Warden of Southeastern Correctional Complex (SCC), Sherri Duffey, and five SCC staff members (hereinafter the “SCC defendants”); two school principals and Superintendent Denise L. Justice of the Ohio Central School System in London, Ohio; four judges on the “Fourth District Court of Appeals” in Chillicothe, Ohio; the Warden of LeCI, Ernie

Moore, and five LeCI staff members (hereinafter the "LeCI defendants"); Hamilton County; Hamilton County Commissioners Greg Hartmann, Chris Monzel, Todd Portune "and predecessors"; Hamilton County Prosecuting Attorneys Joseph T. Deters, Mark E. Piepmeier, Patrick X. Dressing and Paula E. Adams; Hamilton County Public Defender Daniel E. Burke, Jr.; former Hamilton County Sheriff Simon Leis; two Hamilton County Common Pleas Court judges; and eight "Hamilton County First District Court of Appeals" judges. (Doc. 1, at PAGEID#: 14-15).

Plaintiff's pleading is rambling and often difficult to follow. Upon close review of the pleading with attachments, however, the undersigned was able to piece together the following factual background. Plaintiff is in state custody based on his 1995 convictions in two Hamilton County, Ohio, Court of Common Pleas cases (Case Nos. B951322 and B9502232) following his entry of guilty pleas to criminal charges of gross sexual imposition, rape and felonious sexual penetration. (*See id.*, at PAGEID#: 28, 72-73). Plaintiff was sentenced in April 1995 to concurrent indefinite terms of imprisonment of ten (10) to twenty-five (25) years for the rape and felonious sexual penetration offenses in Case No. B9502232, to be served concurrently with a two-year prison sentence for the gross sexual imposition offense in Case No. B951322. (*See id.*, at PAGEID#: 72-73). On August 12, 1997, the trial judge entered an order deferring the scheduling of plaintiff's "sexual predator hearing" pursuant to Ohio's sex offender classification, registration and notification statute, Ohio Rev. Code Chapter 2950.¹ (*See id.*, at PAGEID#: 74).

¹ Ohio has had sex offender registration statutes since 1963. *See State v. Hayden*, 773 N.E.2d 502, 504 (Ohio 2002). As the Ohio Supreme Court explained in *Hayden*, 773 N.E.2d at 504, "the law became more complex in 1996 due in large part to New Jersey's 1994 passage of 'Megan's Law.'" Ohio Rev. Code Chapter 2950 was repealed and reenacted in 1997 to incorporate the Megan's Law registration and notification requirements for sex offenders upon their release from prison. *See id.* Since 1997, the Ohio legislature has enacted amendments to Chapter 2950 by way of Senate Bill 5 in 2003 and Senate Bill 10 in 2007. *See State v. Ferguson*, 896 N.E.2d 110, 112 & n.1 (Ohio 2008). The Ohio Supreme Court has held that changes made to the statute prior to Senate Bill 10

Thereafter, on October 5, 2001, the trial judge entered an order finding that plaintiff “is not a sexual predator” under Ohio Rev. Code § 2950.09. (*Id.*, at PAGEID#: 28, 75). On October 29, 2008, a Hamilton County Common Pleas Court judge issued two entries in a matter numbered SP0800368, which had been brought “for review of a previous sexual predator determination . . . on October 5, 2001 by entry only.” (*See id.*, at PAGEID#: 28, 111-12). In the entries issued in 2008, it was determined that plaintiff “is a Sexually Oriented Offender” under Ohio Rev. Code § 2950.09; that “the registration requirements, as set out in R.C. 2950.04, R.C. 2950.05, and R.C. 2950.06 as applicable to a **Tier III offender** apply” to plaintiff; and that plaintiff “is not subject to the community notification provisions under R.C. 2950.11.” (*Id.*, at PAGEID#: 111-12) (emphasis is original). Since his incarceration in 1995, plaintiff has been denied parole on at least two occasions. (*See id.*, at PAGEID#: 100-01, 115). In a decision issued by the Ohio Parole Board in October 2013, it was recommended that the matter be “continued to max.”² which is February 4, 2020 according to a memorandum issued on August 2, 2011 by a BOSC record supervisor. (*Id.*, at PAGEID#: 115).

Construing plaintiff’s pleading liberally, it appears that plaintiff is bringing a hybrid

may be applied retroactively to convicted sex offenders. *See Ferguson*, 896 N.E.2d at 119-20; *State v. Cook*, 700 N.E.2d 570 (Ohio 1998). However, the Ohio Supreme Court has held that unlike prior amendments, Senate Bill 10, which became effective January 1, 2008, imposes requirements based on the federal Adam Walsh Act (AWA) that are punitive and cannot be applied retroactively to a person whose crime was committed before the bill’s enactment. *See State v. Williams*, 952 N.E.2d 1108, 1110 (Ohio 2011); *see also State v. Howard*, 983 N.E.2d 341, 345 (Ohio 2012) (pointing out that in light of its decision in *Williams*, “Ohio has, in effect, separate statutory schemes governing sex offenders depending on when they committed their underlying offense. Those who committed their offense before the effective date of the AWA are subject to the provisions of Megan’s Law; those who committed their offense after the effective date of the AWA are subject to the AWA.”). The Ohio Supreme Court has also severed the reclassification procedures contained in the AWA from Ohio’s statute on the ground that the application of those provisions to sex offenders previously adjudicated in accordance with the classification, registration, and community-notification provisions contained in Megan’s Law violates the separation-of-powers doctrine. *See Howard*, 983 N.E.2d at 345 (discussing *State v. Bodyke*, 933 N.E.2d 753 (Ohio 2010)).

² According to a memorandum issued on August 2, 2011 by a BOSC record supervisor, plaintiff’s maximum sentence date is February 4, 2020. (*See Doc. 1*, at PAGEID#: 184).

action in the form of a civil complaint for damages and injunctive relief against the defendants and a habeas corpus petition to the extent he seeks immediate or speedier release from his prison sentences in Case Nos. B951322 and B9502232. (*See id.*, at PAGEID#: 29, 37). The undersigned will address the two types of actions separately.

A. Habeas Petition

The portion of plaintiff's pleading entitled "Petition For Writ Of Habeas Corpus" is 30 pages long and contains so many rambling complaints covering a range of issues that it is difficult to ascertain whether plaintiff is seeking to challenge his convictions and sentences in Case Nos. B951322 and B9502232, the execution of his sentences by state correctional or parole authorities, and/or his current confinement in prison on the basis of a variety of other reasons. (*See* Doc. 1, at PAGEID#: 37-67). Rule 2(e) of the Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254, provides that "[a] petitioner who seeks relief from judgments of more than one state court must file a separate petition covering the judgment or judgments of each court." In addition, Habeas Rule 2(c) provides that the petition must "specify all the grounds for relief available to the petitioner" and "state the facts supporting each ground." *See also Flood v. Phillips*, 90 F. App'x 108, 113 (6th Cir. 2004). Habeas Rule 2(c) is even "more demanding" than Fed. R. Civ. P. 8(a), which requires in "ordinary civil proceedings" that the complaint "provide 'fair notice of what the plaintiff's claim is and the grounds upon which it rests.'" *Mayle v. Felix*, 545 U.S. 644, 655-56 (2005) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)); *see also McFarland v. Scott*, 512 U.S. 849, 860 (1994) (O'Connor, J., concurring in part) ("the habeas petition, unlike a complaint, must allege the factual underpinnings of the petitioner's claims"). "'Notice' pleading is insufficient in the

habeas context, as the petitioner is expected to state facts that point to a real possibility of constitutional error.” *Johnson v. Sheldon*, No. 3:14cv1675, 2015 WL 3650695, at *2 (N.D. Ohio June 11, 2015) (citing *Blackledge v. Allison*, 431 U.S. 63, 75 n.7 (1977); *Lloyd v. Van Natta*, 296 F.3d 630, 633 (7th Cir. 2002)); *see also* Advisory Committee Note to Rule 4, Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254 (citing *Aubut v. Maine*, 431 F.2d 688, 689 (1st Cir. 1970)).

Dismissal under Habeas Rule 2(c) is appropriate in cases such as this where the petition and accompanying documents contain “so many unintelligible and conclusory allegations and statements” that it is impossible for the Court to determine “the exact errors of fact or law” that have been raised for adjudication or, for that matter, the particular state-court judgment to which they pertain. *Cf. Bakalov v. Utah*, 4 F. App’x 654, 657 (10th Cir. 2001) (affirming dismissal of “clearly deficient” *pro se* habeas petition which, despite its volume, failed “to provide the information necessary to inform the district court whether relief [was] available, or to allow the respondent to file a meaningful and responsive pleading,” and which contained “so many unintelligible and conclusory allegations and statements” that it was “impossible to ascertain the exact errors of fact or law raised for the court’s disposition”); *Tinsley v. Beasley*, No. 5:11cv13289, 2011 WL 3497306, at *2 (E.D. Mich. Aug. 10, 2011) (summarily dismissing a habeas petition containing “so many unintelligible and conclusory allegations and statements” that it was “impossible for the Court to determine the exact errors of fact or law raised for the Court’s disposition”); *see also Jackson v. Albany Appeal Bureau Unit*, 442 F.3d 51, 54 (2nd Cir. 2006) (affirming dismissal under Habeas Rule 2(c) of an amended petition “found to be unintelligible”); *Edwards v. Johns*, 450 F.Supp.2d 755, 756 (E.D. Mich. 2006) (dismissing

habeas petition where “much, if not all, of the . . . petition [was] illegible and unintelligible”); *Dunlap v. Superior Court of San Bernardino*, No. 1:15cv837, 2015 WL 3542827, at *1 (D.D.C. June 5, 2015) (dismissing habeas petition “comprised of incoherent statements” that came “nowhere near satisfying the . . . pleading standard” set forth in Habeas Rule 2(c)); *Smith v. Suzuki*, No. CV 15-2360-RGK (AS), 2015 WL 1756839, at *2-3 (C.D. Cal. Apr. 15, 2015) (dismissing for lack of jurisdiction a habeas petition that was “unintelligible and vague and [did] not contain any allegation that petitioner [was] in state custody pursuant to an adjudication that was contrary to, or involved an unreasonable application of, clearly established federal law or [was] in custody in violation of the laws of the Constitution or laws or treaties of the United States”); *Creech v. Taylor*, Civ. Act. No. 13-165-HRW, 2013 WL 6044359, at *3 (E.D. Ky. Nov. 14, 2013) (dismissing habeas petition containing only “[c]onclusory allegations with no accompanying evidentiary support”); *Edwards v. Oklahoma*, No. CIV-08-995-R, 2009 WL 73873, at *1 & n.8 (W.D. Okla. Jan. 8, 2009) (dismissing habeas petition naming the wrong respondent because the petition, which consisted of “an unintelligible collection of papers referring to unrelated subjects,” was subject to “dismissal even if the proper respondent had been named”), *appeal dismissed*, 327 F. App’x 75 (10th Cir. 2009).

Accordingly, in sum, it is **RECOMMENDED** that the habeas petition portion of plaintiff’s pleading be **DISMISSED** without prejudice to filing a petition or petitions in accordance with requirements set forth in Rule 2 of the Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254.³

³ It is noted that habeas petitions are not subject to the Prison Litigation Reform Act (PLRA), and are instead subject to requirements set forth in the Antiterrorism and Effective Death Penalty Act (AEDPA), which governs collateral attacks on confinement. The PLRA and AEDPA contain different requirements for incarcerated litigants. For example, the filing fee for an action seeking a writ of habeas corpus is \$5, whereas the filing fee for a

B. Complaint

In the complaint portion of the pleading, plaintiff alleges ten causes of action. (*See* Doc. 1, at PAGEID#: 29-36). In Count 1, plaintiff claims that on September 26, 2001, various ODRC, OAPA and CCI defendants conspired to “conduct ex post facto deprivation of [his] case law civil rights”; “falsely imprison[ed]” him “beyond his earned acquired October 1, 2001 release date”; and tampered with his records, misrepresenting him “as dangerous, and the worst of the worst.” (*Id.*, at PAGEID#: 29-30). It also appears that plaintiff is bringing claims generally challenging prison conditions, the validity of his guilty pleas in Case Nos. B951322 and B9502232, the destruction of his “reformed reputation,” and invasion of his privacy. (*See id.*, at PAGEID#: 30).

In Count 2, plaintiff seeks to hold various Ohio Supreme Court justices liable for the majority decision in *State v. Hayden*, 773 N.E.2d 502 (Ohio 2002).⁴ Plaintiff contends the justices conspired “to deprive old law sex offenders of their civil rights.” (*Id.*). He also alleges that the decision caused the former Ohio Attorney Generals, certain ODRC and CCI defendants, and the former Hamilton County Sheriff to “unlawfully post[]” his and his parents’ “personal information” on the “Sex Offender Registration Notification (ESORN)” website. (*Id.*).

civil complaint is \$350. *See* 28 U.S.C. § 1914(a). Under the PLRA, if a prisoner is granted pauper status, he is required to eventually pay the full \$350 filing fee in installment payments collected over time from his prison account. *See* 28 U.S.C. § 1915(b). In contrast, a prisoner granted pauper status in a habeas proceeding is not required to eventually pay the full filing fee. However, unlike civil complaints, habeas petitions are subject to procedural bars to review, as well as a deferential standard of review, under the AEDPA. In addition, damages are not available as a remedy in a habeas action.

⁴ In *Hayden*, the defendant was convicted in 1984 for a sexual offense and was classified in 1997 without a hearing as a “sexually oriented offender” in accordance with Ohio’s sex offender classification, registration and notification statute, Ohio Rev. Code Chapter 2950, as reenacted in 1997 to incorporate provisions known as “Megan’s Law.” *See Hayden*, 773 N.E.2d at 503. The defendant appealed the classification order, arguing that his constitutional rights of confrontation and due process had been violated. *See id.* However, the Ohio Supreme Court concluded in the majority decision issued on August 28, 2002 that (1) the order did not violate any constitutional right of confrontation because Ohio Rev. Code Chapter 2950 “is civil, not punitive, in nature”; and (2) the trial court was not required as a matter of due process to conduct a hearing for a “sexually oriented offender” designation. *Id.* at 503, 506.

In Count 3, plaintiff brings a claim against the former Ohio Attorney Generals, certain ODRC, OAPA and CCI defendants, a Hamilton County Common Pleas Court judge, the former Hamilton County Sheriff, the defendant Hamilton County prosecuting attorneys, and the defendant Hamilton County public defender. (*See id.*, at PAGEID#: 31). The claim stems from “Sexual Predator Sentencing Risk Assessment Proceedings” held in Case No. SP008368, which resulted in the issuance of entries by the Hamilton County Common Pleas Court judge on October 29, 2008 classifying plaintiff as a “sexually oriented offender” and ordering that plaintiff was subject to “the registration requirements, as set out in R.C. 2950.04, R.C. 2950.05, and R.C. 2950.06” but not “the community notification provisions under R.C. 2950.11.” (*Id.*, at PAGEID#: 31, 111-12). Plaintiff alleges the entries “[r]etroactively” subjected him to “unwarranted punitive onerous burdens, duties obligations and liabilities of ex post fact new law post-release in-person-reporting (every day if homeless) on the . . . ESORN registry.” (*Id.*, at PAGEID#: 31). He also alleges that he was “unlawfully” moved from CCI, a medium security prison, to the “maximum security” Hamilton County Justice Center (HCJC), where he was confined for 72 days. (*Id.*). Plaintiff claims that the move caused him to miss a filing deadline for his motion contesting reclassification, which was dismissed as untimely by the Ross County Common Pleas Court on December 12, 2008. (*Id.*, at PAGEID#: 31-32). The dismissal was affirmed on December 8, 2009 by the Ohio Court of Appeals, Fourth Appellate District, and plaintiff’s discretionary appeal to the Ohio Supreme Court was denied on March 10, 2010. (*Id.*, at PAGEID#: 32).

In Count 4, plaintiff asserts a claim against the Ohio Supreme Court justices and judges on the “Hamilton County First District Court of Appeals.” (*Id.*). Plaintiff alleges the defendants

conspired to deprive him of “his case law civil rights remedy.” (*Id.*). The claim stems from the First District Court of Appeals’ dismissal of his direct appeal on January 29, 2009 and the Ohio Supreme Court’s denial of a discretionary appeal on June 3, 2009. (*Id.*).

In Count 5, plaintiff brings a claim against Governor Kasich and former Governor Strickland, certain ODRC, OAPA and CCI defendants, and the defendant school principals and superintendent. (*Id.*). Plaintiff alleges the defendants conspired against him by “[c]ompletely abandoning the management of DeNoma’s old law case, refusing to acknowledge DeNoma’s accomplished case law rehabilitation, denying DeNoma’s eligibility for . . . Certificate of Achievement and Employability,⁵ unreasonably denying DeNoma reint[e]gration[,] [p]unishing DeNoma for reporting being assaulted, writing false conduct reports, confining DeNoma in segregation, subjecting DeNoma to progressive punishments[,] [d]enying resolutions for DeNoma’s many grievances, conducting retaliation for DeNoma’s use of the grievance procedure and denying DeNoma use of the grievance procedure, [d]enying DeNoma timely access to the court, unreasonably delaying DeNoma’s incoming and outgoing legal mail, and administratively transferring DeNoma farther away from his ailing elderly parents.” (*Id.*, at PAGEID#: 32-33).

In Count 6, plaintiff alleges a Hamilton County Common Pleas Court judge, the “Hamilton County First District Court of Appeals” and the Ohio Supreme Court conspired to subject him “to unconstitutional ex post facto attainer,” to deprive him of “his civil rights” and to deny him “any remedy of law.” (*Id.*, at PAGEID#: 33). The claim stems from the Common Pleas Court judge’s September 6, 2011 dismissal of his “Malicious Prosecution/Libel civil suit

⁵ It appears from exhibits attached to the complaint that plaintiff was notified on October 11, 2013 of the denial of his application for the achievement and employability certificate. (*See* Doc. 1, at PAGEID#: 113).

alleging corrupt activity,” as well as the Ohio Court of Appeals’ May 16, 2012 dismissal of his direct appeal and the Ohio Supreme Court’s September 26, 2012 dismissal of his discretionary appeal in that matter. (*See id.*, at PAGEID#: 28, 33).

In Count 7, plaintiff brings a claim against the defendant school principals and various ODRC, OAPA and SCC defendants based on the allegation that they “colluded in continuing a vendetta of extortion, harassment and intimidation against [him].” (*Id.*, at PAGEID#: 33-34).

Plaintiff states that the defendants denied him “continuing vocational reentry and reintegration programs,” deleted “significant accomplished rehabilitation programs from [his] Institutional Reentry Accountability Plan,” abandoned “the management of [his] old law case,” endangered and misrepresented him “as a snitch and vexatious grievance filer,” subjected him “to progressive punishment for reporting being assaulted,” confined him in segregation “without cause,” denied him “resolutions for his grievances,” and interfered with and delayed his legal mail in retaliation for his use of the grievance procedure. (*Id.*, at PAGEID#: 34).

In Count 8, plaintiff alleges that various ODRC defendants, SCC’s Warden, the “Fourth District Court of Appeals,” and the Ohio Attorney General and Assistant Ohio Attorney General conspired to deprive him of his civil rights, deny him “any remedy of law,” subject him “to ex post facto attainder” and continue his “false imprisonment.” (*Id.*). The allegation stems from the dismissal on May 9, 2013 of a state habeas petition without a hearing. (*See id.*).

In Count 9, plaintiff claims various ODRC, OAPA and LeCI defendants conspired to continue “an arbitrary vindictive vendetta of cruel and unusual punishment” against him. (*Id.*, at PAGEID#: 34-35). Plaintiff alleges the defendants refused “to administer DeNoma’s case law diminution of sentence”; denied “DeNoma reintegration”; abandoned “the management of

DeNoma's old law case"; unreasonably denied "DeNoma's eligibility for . . . Certificate of Achievement and Employability"; punished "DeNoma for reporting being assaulted"; conducted "extortion, harassment and intimidation against DeNoma" through "threats, false conduct reports;" misrepresented "DeNoma as a snitch and vexatious grievance writer"; denied "DeNoma resolution for his grievance complaints"; and interfered with and delayed "DeNoma's outgoing legal mail, in retaliation for DeNoma's use of the grievance procedure." (*Id.*, at PAGEID#: 35).

Finally, in Count 10, plaintiff alleges that a Hamilton County Common Pleas Court judge, three Hamilton County prosecuting attorneys, the "Hamilton County First District Court of Appeals" and the Ohio Supreme Court conspired to subject him to "cruel and unusual punishment" and "continued false imprisonment and ex post facto attainer." (*Id.*). The claim stems from the Common Pleas Court judge's July 2014 dismissal of his Ohio R. Crim. P. 32.1 post-conviction motion "to correct manifest injustice" without a hearing, the First District Court of Appeals' October 29, 2014 denial of his applications for reopening and delayed appeals, and the Ohio Supreme Court's January 28, 2015 denial of his discretionary appeal in that matter. (*See id.*, at PAGEID#: 35-36).

Plaintiff's complaint is, for the most part, subject to dismissal at the screening stage. As a threshold matter, although listed as defendants, neither Hamilton County nor the Hamilton County Commissioners are mentioned in the substance of plaintiff's complaint. In the absence of any allegations against those named defendants, they should be dismissed as parties to the complaint. Furthermore, as discussed below, although plaintiff mentions the remaining defendants in the substance of the complaint, except for one limited claim alleged in Count 3, his allegations in each of the ten counts are insufficient to state a cognizable federal claim for this

Court's jurisdiction to lie under 28 U.S.C. § 1331.

Count 1:

Count 1 is subject to dismissal for a variety of reasons. First, to the extent the cause of action is based on conduct by certain defendants that occurred fourteen years ago, in September 2001, plaintiff's claim is time-barred. *See, e.g., Browning v. Pendleton*, 869 F.2d 989, 992 (6th Cir. 1989) (holding that the "appropriate statute of limitations for 42 U.S.C. § 1983 civil rights actions arising in Ohio is contained in Ohio Rev. Code § 2305.10, which requires that actions for bodily injury be filed within two years after their accrual"); *see also Wallace v. Kato*, 549 U.S. 384, 387 (2007) (and Supreme Court cases cited therein) (holding that the statute of limitations governing § 1983 actions "is that which the State provides for personal-injury torts"). Although the statute-of-limitations is an affirmative defense, when it appears clear on initial screening of the complaint that the action is time-barred, the complaint may be dismissed for failure to state a claim upon which relief may be granted. *See Jones v. Bock*, 549 U.S. 199, 215 (2007). *Cf. Fraley v. Ohio Gallia Cnty.*, No. 97-3564, 1998 WL 789385, at *1-2 (6th Cir. Oct. 30, 1998) (holding that the district court "properly dismissed" the *pro se* plaintiff's § 1983 civil rights claims under 28 U.S.C. § 1915(e)(2)(B) because the complaint was filed years after Ohio's two-year statute of limitations had expired); *Anson v. Corr. Corp. of America*, No. 4:12cv357, 2012 WL 2862882, at *2-3 (N.D. Ohio July 11, 2012) (in *sua sponte* dismissing complaint under 28 U.S.C. § 1915(e), the court reasoned in part that the plaintiff's *Bivens* claims asserted "six years after the events upon which they are based occurred" were time-barred under Ohio's two-year statute of limitations for bodily injury), *aff'd*, 529 F. App'x 558 (6th Cir. 2013) (per curiam).

Second, to the extent plaintiff is claiming that he was improperly denied parole in 2001

from the 10-to-25 year prison sentence imposed in April 1995, he fails to state a claim upon which relief may be granted. As the Sixth Circuit has stated, “[b]ecause the granting of parole under the Ohio penal statutes is ‘purely discretionary,’ a convicted person has no legitimate claim of entitlement to parole before the expiration of a valid sentence of imprisonment—and thus no liberty interest in being paroled—even if the parole board has approved the prisoner’s release on parole on or after a specified date.” See *Bell v. Anderson*, 301 F. App’x 459, 461 (6th Cir. 2008) (per curiam) (quoting *Inmates of Orient Corr. Inst. v. Ohio State Adult Parole Auth.*, 929 F.2d 233, 235-36 (6th Cir. 1991) (internal citation omitted)).

Courts have disagreed as to whether “totally arbitrary parole decisions . . . in the absence of an identifiable liberty interest in parole release” can amount to a substantive due-process violation. Compare *id.* at 461-62 (pointing out that the Sixth Circuit has not adopted the reasoning of Third and Eighth Circuit decisions suggesting or holding that due process concerns are implicated in that circumstance; and citing conflicting decisions by the D.C., Fifth and Tenth Circuits); *Pettigrew v. Zavaras*, 574 F. App’x 801, 812-13 (10th Cir. 2014) (and cases cited therein) (reasoning that “[i]n light of the prevailing unfavorable view of [the Third Circuit’s ruling in *Block v. Potter*, 631 F.2d 233, 236 (3rd Cir. 1980), that the denial of parole may give rise to a substantive due-process claim even in the absence of a liberty interest in parole], and in the absence of any cogent arguments from [the plaintiff], we are disinclined to adopt *Block*’s substantive due-process reasoning”) with *Jergens v. Ohio Dep’t of Rehab. & Corr. Adult Parole Auth.*, 492 F. App’x 567, 571 n.5 (6th Cir. 2012) (noting that neither the Sixth Circuit’s decision in *Bell* “nor any binding circuit precedent . . . forecloses the possibility that, in an appropriate case, a parole board’s reliance on unconstitutional factors—or even on false information in the

parole file—could constitute a due-process violation”); *Kinney v. Mohr*, No. 2:13cv1229, 2015 WL 1197812, at *4 (S.D. Ohio Mar. 16, 2015) (Marbley, J.) (denying the defendants’ motion to dismiss an Ohio prisoner’s civil rights complaint, which alleged that the Ohio correctional officials “knowingly sent false and biased information to the [state] legislature in a report explaining why [the prisoner] was not suitable for parole review”). However, even assuming, without deciding, that plaintiff can bring a due process claim based on allegations of a wholly arbitrary decision by state authorities regarding parole eligibility, the September 26, 2001 parole board decision attached to and included as part of the complaint merely reflects a decision by the board, in the exercise of its discretionary authority, that parole outside the sentence range would be inappropriate given that there were “two victims in this case, both under the age of 16.” (*See* Doc. 1, at PAGEID#: 101). In the absence of specific allegations of “egregiously arbitrary actions” by any of the defendants named in Count 1, plaintiff has not met the “exceptionally high” standard required to state a substantive due process claim. *Cf. Bell*, 301 F. App’x at 462-63 (holding that the denial of parole “premised on the parole board’s concern that a contrary decision would ‘demean the seriousness of the offense’ ..., an altogether routine call by a parole board exercising discretionary authority,” did not qualify as an “arbitrary and capricious” decision that satisfies the “shock the conscience” standard for a due process violation).

Third, to the extent plaintiff has alleged that the defendants named in Count 1 were involved in a conspiracy against him, he fails to state a plausible claim for relief under 42 U.S.C. § 1983 or § 1985 in the absence of specific factual allegations to support that conclusory assertion. *See Fieger v. Cox*, 524 F.3d 770, 776 (6th Cir. 2008) (quoting *Gutierrez v. Lynch*, 826 F.2d 1534, 1538 (6th Cir. 1987)) (“It is ‘well-settled that conspiracy claims must be pled with

some degree of specificity and that vague and conclusory allegations unsupported by material facts will not be sufficient to state such a claim.”); *see also Anderson v. Cnty. of Hamilton*, 780 F. Supp.2d 635, 643-44, 652 (S.D. Ohio 2011) (Barrett, J.; Hogan, M.J.) (and cases cited therein) (dismissing conspiracy claims in the absence of factual allegations to support the inference that a single plan existed, that the alleged co-conspirators shared in the general conspiratorial objective, and that an overt act was committed in furtherance of the conspiracy).

Fourth, to the extent that plaintiff seeks to challenge the validity of his guilty pleas in the Hamilton County Court of Common Pleas cases that resulted in his 10-to-25 year prison sentence, the complaint count is barred from review by *Heck v. Humphrey*, 512 U.S. 477, 487 (1994). *See also Cummings v. City of Akron*, 418 F.3d 676, 682-83 (6th Cir. 2005); *Schilling v. White*, 58 F.3d 1081, 1085-86 (6th Cir. 1995); *cf. Edwards v. Balisok*, 520 U.S. 641, 643 (1997).⁶

In *Heck*, the Supreme Court held that a § 1983 civil rights action seeking monetary relief on the basis of an allegedly unconstitutional conviction or sentence will not lie unless the plaintiff has already succeeded in having the conviction or sentence invalidated. *Heck*, 512 U.S. at 486-87. Under *Heck*, when a successful § 1983 civil rights action for damages would necessarily imply the invalidity of a plaintiff's conviction or sentence, the complaint must be dismissed unless the plaintiff demonstrates that the decision resulting in his confinement has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such a determination, or called into question by a federal court's issuance of

⁶ It is noted that because plaintiff's convictions have not been invalidated, plaintiff is also unable to argue that his allegations give rise to a claim of malicious prosecution under 42 U.S.C. § 1983. As the Supreme Court pointed out in *Heck*, 512 U.S. at 484, “[o]ne element that must be alleged and proved in a malicious prosecution action is termination of the prior criminal proceeding in favor of the accused.” *See also Sykes v. Anderson*, 625 F.3d 294, 308-09 (6th Cir. 2010) (“To succeed on a malicious-prosecution claim under § 1983 when the claim is premised on a violation of the Fourth Amendment, a plaintiff must prove [that] . . . the criminal proceeding [was] resolved in the plaintiff's favor.”); *Fisher v. Secoy*, No. 2:12cv734, 2013 WL 5297216, at *3 (S.D. Ohio Sept. 19, 2013) (quoting same language in *Sykes*, 625 F.3d at 308-09).

a writ of habeas corpus under 28 U.S.C. § 2254. *Heck*, 512 U.S. at 486-87; *see also Edwards*, 520 U.S. at 643. The same principle enunciated in *Heck* with respect to § 1983 claims also applies to conspiracy claims brought under 42 U.S.C. § 1985. *See Lanier v. Bryant*, 332 F.3d 999, 1005-06 (6th Cir. 2003); *Sexton v. Lee*, No. 1:14cv98, 2014 WL 1267001, at *1, *5 (S.D. Ohio Mar. 26, 2014) (Black, J.; Bowman, M.J.) (citing *Mason v. Stacey*, No. 4:07cv43, 2009 WL 803107, at *7 (E.D. Tenn. Mar. 25, 2009) (and cases cited therein)). Here, it is clear from the face of the complaint and attached exhibits that plaintiff's convictions and sentences still stand and have not been overturned or invalidated in accordance with *Heck*. Therefore, the claim is subject to dismissal at the screening stage. *Cf. Henry v. Allen*, No. 1:13cv701, 2013 WL 9839229, at *6 (S.D. Ohio Dec. 20, 2013) (Bowman, M.J.) (Report & Recommendation) (recommending screening dismissal of § 1983 civil rights action seeking money damages on the basis of an allegedly unconstitutional conviction or sentence), *adopted*, 2014 WL 5475275 (S.D. Ohio Oct. 29, 2014) (Spiegel, J.).

Finally, to the extent that plaintiff seeks to bring other general claims without any supporting factual allegations against the defendants named in Count 1, his allegations are simply too conclusory to give rise to a cognizable claim of federal constitutional dimension. *See Iqbal*, 556 U.S. at 678; *Twombly*, 550 U.S. at 555, 557; *see also Erickson*, 551 U.S. at 93.

Count 2:

Plaintiff has failed to state a claim for relief in Count 2 to the extent he seeks to hold certain Ohio Supreme Court justices and state officials liable under 42 U.S.C. § 1983 for the Ohio Supreme Court's 2002 majority decision in *Hayden*. (*See Doc. 1*, at PAGEID#: 30). First, similarly to Count 1, the cause of action challenging a decision rendered thirteen years ago, in

2002, is time-barred. *See, e.g., Browning*, 869 F.2d at 992.

Second, the state judges are entitled to absolute immunity for acts committed in the performance of their judicial duties. *See Pierson v. Ray*, 386 U.S. 547 (1967); *Barrett v. Harrington*, 130 F.3d 246, 254-55 (6th Cir. 1997). The Supreme Court has made it clear that the immunity offered judicial officers in the performance of judicial duties is not overcome by allegations that they acted in “bad faith,” maliciously, corruptly or even “in excess of . . . authority.” *See Mireles v. Waco*, 502 U.S. 9, 11, 13 (1991) (per curiam) (and Supreme Court cases cited therein). Judges retain absolute immunity from liability as long as they are performing judicial acts and have jurisdiction over the subject matter giving rise to the suit against them. *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978); *see also Stern v. Mascio*, 262 F.3d 600, 607 (6th Cir. 2001); *Barrett*, 130 F.3d at 255 (quoting *Mireles*, 502 U.S. at 11-12). Judicial immunity “extends to requests for injunctive or other forms of equitable relief as well as to claims for damages.” *Ward v. United States Dist. Court for the Western Dist. of Tenn.*, No. 14-2707-T-DKV, 2015 WL 137204, at *1 (W.D. Tenn. Jan. 8, 2015) (citing *Kipen v. Lawson*, 57 F. App’x 691, 691 (6th Cir. 2003); *Newsome v. Merz*, 17 F. App’x 343, 345 (6th Cir. 2001)); *see also Mireles*, 502 U.S. at 11 (“judicial immunity is an immunity from suit, not just from the ultimate assessment of damages”); *Easterling v. Rudduck*, No. 1:14cv876, 2015 WL 1567844, at *5 (S.D. Ohio Apr. 6, 2015) (Litkovitz, M.J.) (Report & Recommendation) (“That plaintiff seeks only equitable or injunctive relief has no bearing on the” dismissal of a complaint against a state judge entitled to absolute immunity from suit), *adopted*, 2015 WL 2452437 (S.D. Ohio May 21, 2015) (Dlott, J.).

Here, it is clear from the face of plaintiff’s pleadings that his allegations relate entirely to

the Ohio Supreme Court justices' performance of their judicial duties in deciding the *Hayden* case, a matter over which the state's highest court had jurisdiction to adjudicate. *Cf. Barrett*, 130 F.3d at 255 (quoting *Forrester v. White*, 484 U.S. 219, 227 (1988)) ("The application of judicial immunity is simple and non-controversial when applied to 'paradigmatic judicial acts,' or acts of actual adjudication, i.e., acts involved in resolving disputes between parties who have invoked the jurisdiction of the court."); *Easterling, supra*, 2015 WL 1567844, at *4-5 (holding that complaint was subject to dismissal for failure to state a claim because the plaintiff's allegations against the Ohio common pleas court judge were based entirely on actions taken in the judge's judicial capacity in deciding that the plaintiff was a "vexatious litigator" under Ohio law). Therefore, they are entitled to absolute immunity from suit.

Furthermore, to the extent that plaintiff has generally alleged that the justices were involved in a conspiracy "to deprive old law sex offenders of their civil rights," it is well-settled in the Sixth Circuit that conspiracy claims must be pleaded with "with some degree of specificity, and vague and conclusory allegations unsupported by material facts are not sufficient to state a claim." *Hamilton v. City of Romulus*, 409 F. App'x 826, 835 (6th Cir. 2010); *see also Moldowan v. City of Warren*, 578 F.3d 351, 395 (6th Cir. 2009). Here, like the conspiracy claim alleged in Count 1, plaintiff's vague, unsubstantiated and conclusory allegation of conspiracy lacks the requisite specificity to state a cognizable claim under 42 U.S.C. § 1983 or §1985.

Finally, plaintiff has not alleged any facts in Count 2 to support his conclusory claim of impropriety by the various other state officials who purportedly posted "personal information" about him and his parents on ESORN because of the Ohio Supreme Court's *Hayden* decision. In any event, plaintiff's general assertions fail to give rise to concerns that those defendants acted

other than in their official capacity in following the Ohio Supreme Court's mandate. Therefore, the Eleventh Amendment bars plaintiff's damages claim against those defendants. *See, e.g., Smith-El v. Steward*, 33 F. App'x 714, 716 (6th Cir. 2002) (citing *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 70-71 (1989); *Wells v. Brown*, 891 F.2d 591, 592 (6th Cir. 1989)) (holding that a prisoner's § 1983 complaint for damages against a prison official in his official capacity was barred by the Eleventh Amendment); *Bennington v. DeWine*, No. 1:14cv688, 2015 WL 1914318, at *3 (S.D. Ohio Apr. 27, 2015) (Litkovitz, M.J.) (Report & Recommendation) (and cases cited therein) (granting the defendants' motion to dismiss a § 1983 "official capacity" complaint against Ohio's Attorney General), *adopted*, 2015 WL 2452623 (S.D. Ohio May 21, 2015) (Dlott, J.); *Henry v. Allen*, No. 1:13cv701, 2013 WL 9839229, at *4 (S.D. Ohio Dec. 20, 2013) (Bowman, M.J.) (Report & Recommendation) (citing *Will*, 491 U.S. at 70-71; *Looker v. Ohio*, No. 97-3490, 1998 WL 808369, at *1 (6th Cir. Nov. 9, 1998); *Harmon v. Hamilton Cnty. Court of Common Pleas*, 83 F. App'x 766, 768 (6th Cir. 2003)) (dismissing a § 1983 complaint for damages against the State of Ohio at the screening stage because the State "is not a 'person' within the meaning of § 1983 and, in any event, the Eleventh Amendment precludes plaintiff from recovering damages from the State in a § 1983 action"), *adopted*, 2014 WL 5475275 (S.D. Ohio Oct. 29, 2014) (Spiegel, J.). *Cf. Hurst v. Ohio Gen. Assembly*, No. 2:14cv2594, 2015 WL 401250, at *3 (S.D. Ohio Jan. 28, 2015) (Kemp, M.J.) (Report & Recommendation) (and cases cited therein), *adopted*, 2015 WL 1291152 (S.D. Ohio Mar. 20, 2015) (Sargus, J.).

Count 3:

Count 3 of the complaint is subject to dismissal ~~except to the extent that plaintiff is~~
~~allowed to proceed at this juncture only with a limited claim against the Ohio Attorney General~~
~~and ODRC Director in their official capacity based on the allegation that plaintiff's constitutional~~

rights have been and continue to be violated by the enforcement of certain registration provisions contained in the 2007 amendment of Ohio's sex offender registration statute as applied retroactively to him in accordance with the trial court's rulings on October 29, 2008 in Case No. SP008368. *Cf. Doe v. DeWine*, __ F. Supp.3d __, No. 1:12cv846, 2015 WL 1719068 (S.D. Ohio Apr. 15, 2015) (Dlott, J.) (denying motion to dismiss official-capacity claim against state officials stemming from the retroactive enforcement of amended provisions in Ohio's sex offender registration and notification statute against the plaintiff previously adjudicated to be a "sexual predator"); *see also supra* pp. 4-5 n.1; *State v. Howard*, 983 N.E.2d 341, 345 (Ohio 2012) (citing *State v. Williams*, 952 N.E.2d 1108, 1110 (Ohio 2011); *State v. Bodyke*, 933 N.E.2d 753 (Ohio 2010)).⁷ However, all other allegations in Count 3 fail to state a claim upon which relief may be granted by this Court.

First, this Court lacks subject matter jurisdiction to consider plaintiff's claim challenging the state-court proceedings that resulted in the trial judge's rulings in 2008 reclassifying plaintiff as a "sexually oriented offender" subject to certain registration requirements. Under the *Rooker-Feldman* doctrine established by the Supreme Court in two cases, federal district courts are prevented "from exercising jurisdiction over a claim alleging error in a state court decision."

Hall v. Callahan, 727 F.3d 450, 453 (6th Cir. 2013) (citing *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *Dist. of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983)) (quoting

⁷ Although plaintiff was reclassified under the 2007 amendment seven years ago, in October 2008, an argument can be made that an exception to the statute-of-limitations bar to review exists to the extent that plaintiff can claim his reclassification as a "sexually oriented offender" remains in effect as an alleged "continuing" violation of his constitutional rights. *Cf. Walker v. O'Brien*, No. 2:08cv523, 2009 WL 2780158, at *2-3 (S.D. Ohio Aug. 26, 2009) (Report & Recommendation) (rejecting the plaintiff's argument that his claim challenging his 1998 sex offender classification was not time-barred under "the theory that the alleged constitutional violation is continuing" or resurrected by his reclassification in 2007 because the reclassification "served to supersede the earlier classification, thereby rendering moot the claim sought to be asserted" by the plaintiff), *adopted*, 2009 WL 3063374 (S.D. Ohio Sept. 18, 2009).

Luber v. Sprague, 90 F. App'x 908, 910 (6th Cir. 2004)); *see also Buoscio v. Oborn*, No. 5:10cv533, 2010 WL 1463447, at *1 (N.D. Ohio Apr. 12, 2010) ("This Court does not have jurisdiction over challenges to state court decisions even if those challenges allege that the state court's action was unconstitutional."). The *Rooker-Feldman* doctrine applies to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Coleman v. Governor of Michigan*, 413 F. App'x 866, 870 (6th Cir. 2011) (per curiam) (quoting *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005)). The district court is barred by the *Rooker-Feldman* doctrine "from exercising jurisdiction where the claim is a specific grievance that the law was invalidly or unconstitutionally applied in plaintiff's particular case, rather than a general constitutional challenge to the governing state law." *Buoscio, supra*, 2010 WL 1463447, at *1 (citing *Coles v. Granville*, 448 F.3d 853, 857-59 (6th Cir. 2006); *Tropf v. Fidelity Nat. Title Ins. Co.*, 289 F.3d 929, 937 (6th Cir. 2002)). Here, plaintiff's claim is based on the specific grievance that the law was invalidly or unconstitutionally applied in his particular case. As such, this Court lacks jurisdiction over the claim, which would require a finding that the state trial court erred in reclassifying him as a "sexually oriented offender" in 2008. *Cf. Carter v. Burns*, 524 F.3d 796, 798-99 (6th Cir. 2008) (holding that the *Rooker-Feldman* doctrine barred the plaintiff's claim because the alleged injury was "an injury from . . . prior state-court determinations"); *Howard v. Whitbeck*, 382 F.3d 633, 641 (6th Cir. 2004) (holding that the *Rooker-Feldman* doctrine applied to bar review of a claim that would undermine an existing state-court judgment regarding waiver of fee payments); *Rowls v. Weaver*, 24 F. App'x 453, 455-56 (6th Cir. 2001) (holding that dismissal of a complaint was

proper under the *Rooker-Feldman* doctrine where the plaintiff raised claims that were “inextricably intertwined” with a criminal case previously litigated and decided in state court).

In any event, to the extent that plaintiff has presented claims that are not barred by the *Rooker-Feldman* doctrine, as discussed above with respect to Count 2, the Hamilton County Common Pleas Court judge is entitled to absolute immunity from suit for his performance of judicial duties in the challenged court proceedings. *Cf. Hurst v. Ohio Gen. Assembly*, No. 2:14cv2594, 2015 WL 401250, at *4 (S.D. Ohio Jan. 28, 2015) (Kemp, M.J.) (Report & Recommendation) (holding that judges responsible for rulings in sex offender classification proceedings were “entitled to absolute immunity from civil liability regardless of the consequences which follow from their judicial acts”), *adopted*, 2014 WL 1291152 (S.D. Ohio Mar. 20, 2015) (Sargus, J.). Similarly, plaintiff’s claim against the prosecuting attorneys for their role in the proceedings is barred because “prosecutors have immunity for acts taken in their capacity as prosecutors.” *See id.* (and cases cited therein). *Cf. Henry v. Allen*, No. 1:13cv701, 2013 WL 9839229, at *3 (S.D. Ohio Dec. 20, 2013) (Bowman, M.J.) (Report & Recommendation) (citing *Van de Kamp v. Goldstein*, 555 U.S. 335, 340-43 (2009), *Imbler v. Pachtman*, 424 U.S. 409, 430 (1976), and *Mireles v. Waco*, 502 U.S. 9, 9-13 (1991) (per curiam), as support for holding that “[b]oth the [Hamilton County] prosecuting attorney and [Hamilton County] Judge . . . should . . . be dismissed because they are absolutely immune from liability in this § 1983 action”), *adopted*, 2014 WL 5475275 (S.D. Ohio Oct. 29, 2014) (Spiegel, J.).

Plaintiff also fails to state a cognizable claim to the extent he seeks to hold the Hamilton County public defender liable for failing to adequately represent him in the 2008 judicial proceedings that resulted in his designation as a “sexually oriented offender.” In order to state a

viable claim under 42 U.S.C. § 1983, plaintiff must allege facts showing that he was deprived of “a right secured by the United States Constitution or a federal statute by a person who was acting under color of state law.” *Spadafore v. Gardner*, 330 F.3d 849, 852 (6th Cir. 2003). It is well-settled that “a public defender does not qualify as a state actor when engaged in his general representation of a criminal defendant.” *See Georgia v. McCollum*, 505 U.S. 42, 53 (1992) (citing *Polk Cnty. v. Dodson*, 454 U.S. 312, 318-19 (1981)); *see also Pearson v. Horenstein*, 43 F. App’x 777, 778 (6th Cir. 2002) (affirming screening dismissal of complaint against public defender); *Brown v. McCandless*, No. 1:15cv381, 2015 WL 4476955, at *3 (N.D. Ohio July 22, 2015) (and cases cited therein) (“[i]t is firmly established that a defense attorney, regardless of whether he is a public defender or private attorney, is not a state actor for purposes of § 1983”); *Foster v. Ohio*, No. 1:14cv668, 2014 WL 5589016, at *1, *4 (S.D. Ohio Nov. 3, 2014) (Beckwith, J.; Litkovitz, M.J.) (and cases cited therein) (holding that plaintiff’s complaint against his attorney was subject to dismissal at screening stage for failure to state a claim under § 1983).

In addition, plaintiff has not stated a viable claim in Count 3 against the OAPA and CCI defendants in the absence of any factual allegations that those defendants have had any involvement in the enforcement of the registration requirements contained in the 2007 amendments to Ohio Rev. Code Chapter 2950 against plaintiff. Plaintiff has also failed to state a viable claim to the extent that he seeks to hold the former Ohio Attorney Generals and certain ODRC defendants liable in their individual capacity. Plaintiff has not alleged any facts to suggest that those defendants acted outside their official capacity to the extent that any of them may have been involved in enforcing the state court’s rulings in Case No. SP008368.⁸

⁸ As discussed above, however, plaintiff may proceed with an official-capacity claim against the current Ohio Attorney General and ODRC Director, who have also been named as defendants in this lawsuit.

Furthermore, as discussed above with respect to Counts 1 and 2, plaintiff's general assertion that the defendants named in Count 3 all conspired to deprive him of his civil rights and to continue his "false imprisonment" is simply too conclusory and lacks the requisite specificity to state a cognizable claim under 42 U.S.C. § 1983 or § 1985. *See Hamilton v. City of Romulus*, 409 F. App'x 826, 835 (6th Cir. 2010); *see also Moldowan v. City of Warren*, 578 F.3d 351, 395 (6th Cir. 2009).

Finally, to the extent that plaintiff alleges the ODRC and CCI defendants named in Count 3 should be held liable for moving him from CCI to HCJC for a 72-day period, he fails to state a claim that implicates federal constitutional concerns. The Supreme Court has held that the Constitution does not give rise to a liberty interest in avoiding transfer from a "low- to maximum-security prison because '[c]onfinement in any of the State's institutions is within the normal limits or range of custody which the conviction has authorized the State to impose.'" *Wilkinson v. Austin*, 545 U.S. 209, 221-22 (2005) (quoting *Meachum v. Fano*, 427 U.S. 215, 225 (1976)). A liberty interest may be implicated when a transfer or change in classification imposes an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." *Id.* at 223 (quoting *Sandin v. Connor*, 515 U.S. 472, 484 (1995)). However, the mere fact that an inmate is transferred to another prison or receives an increase in security classification does not amount to an atypical and significant hardship because prisoners have "no constitutional right to remain incarcerated in a particular prison or to be held in a specific security classification." *Harbin-Bey v. Rutter*, 420 F.3d 571, 577 (2005); *see also Johnson v. Mohr*, No. 2:15cv86, 2015 WL 1526804, at *2 (S.D. Ohio Apr. 3, 2015) (Graham, J.); *Lawson v. Haddon*,

No. 1:09cv551, 2009 WL 2242692, at *4 (W.D. Mich. July 16, 2009) (and cases cited therein).⁹

Counts 4, 6, 8 and 10:

In Count 4, plaintiff brings claims against judges on the Ohio Supreme Court and “Hamilton County First District Court of Appeals” based on the dismissals of his appeals by those courts in 2009. In Count 6, he presents a claim against a Hamilton County Common Pleas Court judge and judges on the “Hamilton County First District Court of Appeals” and Ohio Supreme Court stemming from the September 6, 2011 dismissal of his “Malicious Prosecution/Libel civil suit alleging corrupt activity,” as well as the Ohio Court of Appeals’ May 16, 2012 dismissal of his direct appeal and the Ohio Supreme Court’s September 26, 2012 dismissal of his discretionary appeal in that matter. In Count 8, plaintiff asserts a claim against various ODRC defendants, SCC’s Warden, the “Fourth District Court of Appeals” and the Ohio Attorney General and Assistant Ohio Attorney General based on the May 9, 2013 dismissal of his state habeas petition. In Count 10, he seeks to hold a Hamilton County Common Pleas Court judge, three Hamilton County prosecuting attorneys, and judges on the “Hamilton County First District Court of Appeals” and the Ohio Supreme Court liable for the July 2014 dismissal of his Ohio R. Crim. P. 32.1 post-conviction motion “to correct manifest injustice” without a hearing, the First District Court of Appeals’ October 29, 2014 denial of his applications for reopening and delayed appeals, and the Ohio Supreme Court’s January 28, 2015 denial of his discretionary appeal in that matter.

⁹ The undersigned notes that plaintiff may have stated a claim of denial of access to the courts during the 72-day period he was confined at HCJC to the extent that he has alleged that he was prevented from meeting a filing deadline that resulted in the December 2008 dismissal of his motion contesting his reclassification as a “sexually oriented offender” subject to registration requirements set forth in Ohio Rev. Code Chapter 2950. However, as discussed above with respect to Counts 1 and 2, that claim, which accrued several years before the filing of the instant action, is time-barred under the two-year statute of limitations governing § 1983 complaints. *See, e.g., Browning v. Pendleton*, 869 F.2d 989, 992 (6th Cir. 1989).

The claims alleged in Counts 4, 6, 8 and 10 are subject to dismissal on screening for many of the same reasons discussed above at length in addressing the claims alleged in Counts 1, 2 and 3. First, plaintiff's claims in Counts 4, 6 and 8 accrued over two years before the filing of the instant action and, therefore, are time-barred. Second, this Court is barred by the *Roquer-Feldman* doctrine from exercising jurisdiction to consider the claims alleged in Counts 4, 6, 8 and 10 essentially challenging state-court decisions that have been issued against plaintiff over the years. Third, the state judges named as defendants in Counts 4, 6, 8 and 10, as well as the Hamilton County prosecuting attorneys named as defendants in Count 10, are all entitled to absolute immunity from suit pertaining to the performance of their duties in the challenged state-court proceedings. Fourth, plaintiff has not alleged any facts in Counts 8 and 10 to support his conclusory claims of impropriety by the various other state officials named as defendants in those counts. In any event, because plaintiff's general assertions against those individuals fail to give rise to concerns that they acted other than in their official capacity in following decisions made by the state courts, the Eleventh Amendment bars plaintiff's damages claim against those defendants. Finally, plaintiff's vague, unsubstantiated and conclusory allegations of conspiracy in Counts 4, 6, 8 and 10 lack the requisite specificity to state a cognizable claim under 42 U.S.C. § 1983 or §1985.

Count 5, 7 and 9:

Plaintiff's remaining causes of action alleged in Counts 5, 7 and 9 do not state a claim upon which relief may be granted by this Court. As a threshold matter, in the absence of any supporting factual allegations, the general claims asserted in those counts are subject to dismissal because they constitute nothing "more than . . . unadorned, the-defendant[s]-

unlawfully-harmed-me accusation[s]” and do not provide any of the defendants named in those counts with “fair notice” of plaintiff’s claims against them and “the grounds upon which [they] rest.” *See Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 555); *Erickson*, 551 U.S. at 93.

In any event, because “prisoners have no constitutionally protected interest in prison vocational, rehabilitation, and educational programs,” plaintiff has failed to state a cognizable claim to the extent that he has generally asserted in Counts 5, 7 and 9 that he has been denied opportunities to participate in those types of programs while incarcerated in Ohio prisons. *See Colston v. Mickel*, No. 11-14050, 2012 WL 2995473, at *3 (E.D. Mich. June 4, 2012) (Report & Recommendation) (and numerous cases cited therein), *adopted*, 2012 WL 2995472 (E.D. Mich. July 23, 2012); *see also Sykes v. Carl Perkins Rehab. Ctr.*, No. 96-5837, 1997 WL 572893, at *1 (6th Cir. Sept. 1, 1997) (affirming screening dismissal of complaint). Moreover, as discussed above with respect to Count 1, plaintiff fails to state a claim upon which relief may be granted to the extent he challenges decisions by the OAPA defendants denying him release on parole and, most recently, continuing the matter until plaintiff’s completion of the maximum prison term in the sentence range of ten (10) to twenty-five (25) years (*see* Doc. 1, at PAGEID#: 115). *Cf. Bell v. Anderson*, 301 F. App’x 459, 461 (6th Cir. 2008) (*per curiam*).

In addition, the mere fact that plaintiff may have been confined in segregation and subjected to disciplinary proceedings at various times during his confinement at CCI, SCC and LeCI is not sufficient to state a cognizable claim for relief under 42 U.S.C. § 1983 in the absence of any factual allegations showing that he has suffered an atypical and significant hardship under *Sandin v. Connor*, 515 U.S. 472, (1995), or that any of the individuals named as defendants in Counts 5, 7 and 9 were specifically involved in retaliatory conduct against him. *Cf. Harden-Bey*

v. Rutter, 524 F.3d 789, 795-76 (6th Cir. 2008); *Joseph v. Curtin*, 410 F. App'x 865, 868 (6th Cir. 2010). Similarly, plaintiff's complaint in Count 5 regarding his transfer to another prison located farther from his parents' residence does not implicate constitutional concerns under *Sandin*. See *Wilkinson v. Austin*, 545 U.S. 209, 221-23 (2005); *Harbin-Bey v. Rutter*, 420 F.3d 571, 577 (2005); see also *Johnson v. Mohr*, No. 2:15cv86, 2015 WL 1526804, at *2 (S.D. Ohio Apr. 3, 2015) (Graham, J.); *Lawson v. Haddon*, No. 1:09cv551, 2009 WL 2242692, at *4 (W.D. Mich. July 16, 2009) (and cases cited therein).

Finally, plaintiff's general complaints in Counts 5, 7 and 9 regarding the alleged denial of the prison grievance process and the handling of his grievances fail to implicate federal constitutional concerns because plaintiff has no right under the Constitution to an effective prison grievance procedure. See, e.g., *Hill v. Warden, Southern Ohio Corr. Facility*, No. 1:12cv63, 2012 WL 1639991, at *2 (S.D. Ohio Mar. 13, 2012) (Litkovitz, M.J.) (Report & Recommendation) (recommending dismissal of portion of complaint complaining about "the failure of prison staff to provide [plaintiff] with inmate grievance forms and other deficiencies in the inmate grievance procedure" because "plaintiff has no federal constitutional right to an effective prison grievance procedure"), *adopted*, 2012 WL 1623565 (S.D. Ohio May 9, 2012) (Weber, J.); *Dearing v. Mahalma*, No. 1:11cv204, 2011 WL 3739029, at *7 (S.D. Ohio Aug. 24, 2011) (Barrett, J.) (holding that the plaintiff's allegations referring to "his dissatisfaction with the . . . investigation of [an] allegedly mishandled letter" through the prison grievance process did not state an actionable claim under 42 U.S.C. § 1983); *Williams v. Harris*, No. 1:11cv362, 2011 WL 3667438, at *3 (S.D. Ohio June 15, 2011) (Litkovitz, M.J.) (Report & Recommendation) (recommending dismissal of complaint against prison official responsible for responding to

institutional grievances because the plaintiff had “no constitutional right to an effective grievance procedure”), *adopted*, 2011 WL 3667389 (S.D. Ohio Aug. 22, 2011) (Dlott, J.); *see also Walker v. Michigan Dep’t of Corr.*, 128 F. App’x 441, 445 (6th Cir. 2005) (per curiam) (and cases cited therein); *Argue v. Hofmeyer*, 80 F. App’x 427, 430 (6th Cir. 2003) (and cases cited therein); *Overholt v. Unibase Data Entry, Inc.*, No. 98-3302, 2000 WL 799760, at *3 (6th Cir. June 14, 2000).

Accordingly, in sum, upon review of the ten counts alleged in the complaint portion of plaintiff’s pleading, the undersigned concludes that the complaint should be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1) because plaintiff has failed to state a claim upon which relief may be granted against any of the named defendants, ~~except as follows:~~ out of an abundance of caution and in the absence of briefing by the parties, plaintiff is allowed to proceed at this juncture with a limited claim against the Ohio Attorney General and ODRC Director in their official capacity based on the allegation in Count 3 that plaintiff’s constitutional rights have been and continue to be violated by the enforcement of certain registration provisions contained in the 2007 amendment of Ohio’s sex offender registration statute as applied retroactively to him.

IT IS THEREFORE RECOMMENDED THAT:

Except for the limited official-capacity claim alleged in Count 3 against the Ohio Attorney General and ODRC Director, the complaint portion of plaintiff’s pleading (Doc. 1, at PAGEID#: 29-36) be **DISMISSED** with prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1). The habeas petition portion of plaintiff’s pleading (Doc. 1, at PAGEID#: 37-67) be **DISMISSED** without prejudice to filing a petition or petitions in accordance with requirements set forth in Rule 2 of the Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254. The Clerk of Court is **DIRECTED** to provide the plaintiff with a

form petition for federal habeas corpus relief.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff may proceed with a cause of action against defendants Ohio Attorney General Mike DeWine and ODRC Director Gary Mohr in their official capacity based on the allegation in Count 3 that his constitutional rights have been and continue to be violated by the enforcement of certain registration provisions contained in the 2007 amendment of Ohio's sex offender registration statute, as applied retroactively to plaintiff in accordance with the Hamilton County Common Pleas Court's rulings on October 29, 2008 in Case No. SP008368.

The United States Marshal shall serve a copy of the plaintiff's initial pleading screened herein, plaintiff's subsequent motions for judicial notice (Docs. 2-3), summons, the separate Order issued this date granting the plaintiff *in forma pauperis* status, and this Order and Report and Recommendation upon the following defendants as directed by plaintiff, with costs of service to be advanced by the United States: Ohio Attorney General Mike DeWine and ODRC Director Gary Mohr.

2. Plaintiff shall serve upon defendants or, if appearance has been entered by counsel, upon defendants' attorney(s), a copy of every further pleading or other document submitted for consideration by the Court. Plaintiff shall include with the original paper to be filed with the Clerk of Court a certificate stating the date a true and correct copy of any document was mailed to defendants or their counsel. Any paper received by a district judge or magistrate judge which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court.

3. Plaintiff shall inform the Court promptly of any changes in his address which may

occur during the pendency of this lawsuit.

s/Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ANTHONY J. DENOMA,
Plaintiff,

vs.

Case No. 1:15-cv-594

Dlott, J.
Bowman, M.J.

GOVERNOR JOHN R. KASICH, et al.,
Defendants.

NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation ("R&R") within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent's objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

cbc

F.3d 424, 426-28 (6th Cir. 2009). The order appealed from disposed of fewer than all of the claims or parties involved in this action and did not direct entry of a final, appealable judgment under Federal Rule of Civil Procedure 54(b). See *Liberty Mut. Ins. Co. v. Wetzel*, 424 U.S. 737, 742-45 (1976); *Solomon v. Aetna Life Ins. Co.*, 782 F.2d 58, 59-62 (6th Cir. 1986). Nor was the partial dismissal an immediately appealable "collateral order" under the doctrine announced in *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541, 546-47 (1949). Finally, the district court has not entered its final decision during the pendency of this appeal. See *Gillis v. U.S. Dep't of Health & Human Servs.*, 759 F.2d 565, 569 (6th Cir. 1985).

It is ordered that the appeal is **DISMISSED**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

Exhibit C.2

Exhibit

ANTHONY DENOMA, Plaintiff-Appellant, v. JOHN R. KASICH, et al., Defendants-Appellees.

No. 16-3839

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

2017 U.S. App. LEXIS 20297

October 16, 2017, Filed

PRIOR HISTORY: [*1] ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO.

Denoma v. Kasich, 2016 U.S. Dist. LEXIS 77996 (S.D. Ohio, June 15, 2016)

COUNSEL: ANTHONY DENOMA, Plaintiff - Appellant, Pro se, London, OH.

For GARY C. MOHR, Ohio Department of Rehabilitation and Correction (ODRC), Defendant - Appellee: Zachary Ryan Huffman, Office of the Attorney General of Ohio, Columbus, OH.

For MIKE DEWINE, Ohio Attorney General, Defendant - Appellee: Heather L. Buchanan, Office of the Attorney General, Columbus, OH, Steven T. Voigt, Office of the Attorney General of Ohio, Columbus, OH.

JUDGES: Before: COLE, Chief Judge; DAUGHTREY and DONALD, Circuit Judges.

ORDER

Anthony **DeNoma**, an Ohio prisoner proceeding pro se, appeals the district court's judgment dismissing his complaint, which the district court construed as a hybrid habeas corpus petition filed pursuant to 28 U.S.C. § 2254, and civil rights complaint filed pursuant to 42 U.S.C. § 1983. The parties have waived oral argument, and this panel unanimously agrees that oral argument is not needed. *See Fed. R. App. P. 34(a)*.

In 2015, **DeNoma** filed a "petition for writ of habeas corpus, immediate relief and damages for continuing violation of rights and false imprisonment" against 112 defendants, including Ohio Governor John R. Kasich, Ohio Attorney General Mike DeWine, numerous [*2] employees of the Ohio Department of Rehabilitation and Correction ("ODRC"), several Ohio Supreme Court Justices, and other public officials and state employees. The first portion of **DeNoma's** pleading, labeled "Complaint," set forth ten "counts," which alleged violations of his civil rights and Ohio criminal statutes. Among other things, he alleged that various defendants falsely imprisoned him, subjected him to double jeopardy and cruel and unusual punishment, interfered with his legal mail, retaliated against him for filing grievances, and improperly subjected him to the retroactive application of various amended provisions of Ohio's sex-offender-registration statute.

A magistrate judge construed **DeNoma's** complaint as "a hybrid action in the form of a civil complaint for damages and injunctive relief against the defendants and a habeas corpus petition to the extent he seeks immediate or speedier release from his prison sentences." She recommended dismissing **DeNoma's** request for habeas relief without prejudice. To the extent that **DeNoma's** complaint could be construed as a civil rights complaint seeking damages, the magistrate judge recommended dismissing most of his claims. She found [*3] that several of **DeNoma's** claims were time-barred, while others were barred by *Heck v. Humphrey*, 512 U.S. 477, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994), or the *Rooker-Feldman* doctrine (*see D.C. Court of Appeals v. Feldman*, 460 U.S. 462, 482 n.16, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 415-16, 44 S. Ct. 149, 68 L. Ed. 362 (1923)), and that the complaint failed to set forth sufficient factual allegations or failed to state a claim

Exhibit C.3

because the named defendants were immune from suit. The magistrate judge recommended allowing **DeNoma** to proceed on Count 3 only to the extent that it alleged that DeWine and current ODRC Director Gary Mohr, while acting in their official capacities, violated his constitutional rights by enforcing "certain registration provisions contained in the 2007 amendment of Ohio's sex offender registration statute as applied retroactively."

On January 22, 2016, over **DeNoma's** objections, the district court adopted the magistrate judge's report and recommendation. To the extent that **DeNoma** sought habeas relief, the district court dismissed his habeas petition without prejudice to the filing of a petition that complied with Rule 2 of the Rules Governing Section 2254 Cases. It dismissed with prejudice the civil complaint portion of **DeNoma's** pleading, with the exception of the official-capacity claim alleged in Count 3 against DeWine and Mohr.

DeWine and Mohr then filed motions to dismiss. On May 5, 2016, a magistrate judge recommended [*4] granting the motions. She noted that **DeNoma's** claim had been permitted to proceed against DeWine and Mohr in their official capacities only and that his claim "amount[ed] to a suit against the State of Ohio," which had not waived its sovereign immunity. Because **DeNoma's** complaint sought only monetary damages for Count 3, she concluded that DeWine and Mohr were entitled to immunity under the Eleventh Amendment. The magistrate judge found that, even if **DeNoma** had sought prospective injunctive relief, his claim would be subject to dismissal because he had already received the relief that he sought—reinstatement of his pre-2008 status as a "sexually oriented offender," rather than a Tier III offender under more-recent amendments to Ohio's sex offender registration laws. On June 15, 2016, after having received no objections from **DeNoma**, the district court adopted the magistrate judge's report and recommendation and dismissed **DeNoma's** remaining claim with prejudice. On July 6, 2016, the district court received **DeNoma's** objections to the magistrate judge's report and recommendation. **DeNoma** certified under penalty of perjury that he submitted his objections to prison officials for mailing on May 16, 2016.

The district [*5] court denied leave to proceed in forma pauperis on appeal and declined to issue a certificate of appealability. This court also declined to issue a certificate of appealability but granted **DeNoma** leave to proceed in forma pauperis on appeal. *DeNoma v. Kasich*, No. 16-3839, at 3 (6th Cir. Mar. 17, 2017) (order).

On appeal, **DeNoma** argues that: (1) the district court erred in finding that the defendants were entitled to qualified immunity, (2) various statutes are unconstitutional, (3) several of his underlying claims had merit, and (4) the district court deprived him of due process. **DeNoma** has also filed a motion to take judicial notice.

I. Qualified Immunity

DeNoma's argument that the district court "incorrectly decided the facts of Defendants['] qualified immunity status and **DeNoma's** final judgment immunity legal status" appears to challenge the merits of the district court's June 15, 2016, dismissal of the claims raised in Count 3 against DeWine and Mohr. The district court initially dismissed Count 3 in its January 22, 2016, order, except to the extent that it could be construed to allege that current Ohio Attorney General DeWine and current ODRC Director Mohr, in their official capacities, [*6] violated **DeNoma's** constitutional rights by retroactively subjecting him to requirements set forth in 2007 amendments to Ohio's sex-offender-registration statute. On June 15, 2016, the district court found that DeWine and Mohr were entitled to Eleventh Amendment immunity, because **DeNoma** had been permitted to proceed against these defendants in their official capacities only and he sought only monetary relief with respect to Count 3.

Exhibit C.4

Sixth, the magistrate judge clearly stated her findings and explained her reasons for recommending dismissal. Moreover, **DeNoma** was given an opportunity to respond before the district court adopted those conclusions. Because **DeNoma's** complaint was properly dismissed under § 1915, § 1915A, and Rule 12(b)(6), he was not entitled to judgment as a matter of law. Finally, **DeNoma** fails to explain why his civil rights claims should have been stayed pending resolution of his habeas petition.

VI. Motion to Take Judicial [*12] Notice

DeNoma has filed a motion to take judicial notice of an appellate brief that he filed in October 2016 and several other motions that he filed in our court. **DeNoma's** October 2016 appellate brief was prematurely filed before we granted his request for in forma pauperis status, and **DeNoma** has since filed an amended appellate brief. The other motions that **DeNoma** mentions were denied previously. See *DeNoma v. Kasich*, No. 16-3839 (6th Cir. Dec. 8, 2016) (order); *DeNoma v. Kasich*, No. 16-3839, at 3 (6th Cir. Mar. 17, 2017) (order).

Accordingly, we **DENY** **DeNoma's** motion to take judicial notice and **AFFIRM** the district court's judgment.

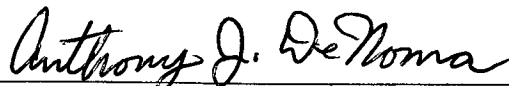
**DECLARATION OF MAIL FILING OF
PETITION FOR WRIT OF CERTIORARI**

Being duly cautioned of the penalty of perjury, pursuant to United States Code Title 28, Section 1746 and Supreme Court Rule 29.2, I, Anthony J. DeNoma do hereby solemnly declare that on January 4th, 2018 the United States Sixth Circuit Court of Appeals in Case No. 16-3839 denied DeNoma's Petition for Rehearing en banc, and on February 15, 2018 DeNoma mailed a copy of his Petition for Writ of Certiorari in the United States Supreme Court to Defendants Gary C. Mohr's counsel Assistant Ohio Attorney General Zachary R. Huffman telephone (614) 728-338 and Michael DeWine's counsel Assistant Ohio Attorney General Heather L. Buchanan and Steven T. Voigt telephone (614) 466-2872, at 30 East Broad Street, 16th Floor, Columbus, Ohio 43215, but prison officials denied United States Postage for DeNoma's Petition for Writ of Certiorari to the United States Supreme Court. See attached exhibits A, B, C, D.

And on March 9th, 2018, DeNoma deposited above said Petition for Writ of Certiorari in a sealed envelope addressed to the United States Supreme Court, with designated institutional mail clerk, together with an approved account withdrawal slip for prepayment of required First Class U.S. Postage. Yet, prison officials tampered with and further delayed DeNoma's out-going legal mail filing. See attached exhibit E.

On July 6th, 2016, DeNoma was previously denied consideration of his May 16, 2016 Objections in the United States District Court due to prison officials tampering with and delaying DeNoma's out-going legal mail filing, see finding in October 16, 2017 Order and opinion [*4], of the United States Sixth Circuit Court of Appeals No. 16-3839. Defendant's vicariously conduct a continuing conspiracy to deny DeNoma access to the courts by tampering with and delaying DeNoma's in-coming and out-going legal mail. See the evidence in DeNoma's filings in the United States District Court No. 1:15-cv-594 Docket No's. 25, 33, 49, 52, 56, 67 and 68, and DeNoma's filings of March 16th, 20th, May 1, and June 7th, 2017 in the U.S. Sixth Circuit Court of Appeals No. 16-3839.

Executed this 29th day of April 2018.



Anthony J. DeNoma # A 308-836
P.O. Box 740, Madison Correctional Institutional
1851 State Rt. 56, London, Ohio 43140
Telephone (740) 852-9777; Fax (740) 852-3666

Exhibit D.1

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Anthony J. DeNoma — PETITIONER *pro se*
(Your Name)

VS.

Governor John R. Kasich — RESPONDENT(S) *et al.*,

PROOF OF SERVICE

I, Anthony J. DeNoma, do swear or declare that on this date, February 15, 2018, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Ohio Attorney General.
Heather Buchanan, Steven Voigt, and Zachary Huffman
30 East Broad Street, 16th Floor, Columbus, Ohio 43215

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 15, 2018

Anthony J. DeNoma
(Signature)

February 15, 2018

Madison Correctional Institution
Business Administrator
Supervisor of the Cashiers Office

RECEIVED

FEB 20 2018

MaCI BUSINESS OFFICE

Mr. John Eardley,

Since I do not have the needed \$8.75 in my personal account, on Thursday February 15, 2018 the institution mail room clerks refused to mail my Habeas Corpus Judicial Release Petition packet to the United States Supreme Court, denying me access to the court by denying application of the needed \$8.75 First Class U.S. postage.

The Ohio Department of Rehabilitation and Correction Cashier's Manual Section III. Inmate Account, K. Postage 7, states:

"in the instant when an inmate is not indigent, is filing for Judicial Release and does not have enough funds to cover the postage for the two fast and speedy envelopes, the Cashier's Office may extend credit for the postage for those two envelopes."

Therefore instruct the Cashier's Office to immediately implement this policy by extending to me the necessary credit and instruct the mail room supervisor to apply the needed First Class U.S. postage and to mail my fast and speedy judicial release legal envelope as soon as possible to the United States Supreme Court.

Thank you

Anthony J. DeNoma

Anthony J. DeNoma
A 308-836
Jefferson Unit
J-A, 196 (U)

Mark Baker

In order to comply with Citizens manual
you need to be filing for Judicial Release -
Cashier office may extend credit -
You did have funds to mail out your letter
on 2/14/2018 -

Exhibit D.3

February 22, 2018
Madison Correctional Institution
Warden Jeff Noble,

Contrary to Ohio Administrative Code Rule 5120-5-3 (A)(D)(E) Court ordered payment of funds from inmates account; Revised Code Sections 2329.66 Exempted interests and rights; 2969.25(C) Cashier's certified statement of inmate account balance required to access courts; and 2921.45 Interfering with civil rights, with arbitrary manifest disregard and deliberate indifference Business Administrator Mr. John Eardley, Cashier Supervisors Ms. Johnson, Mr. Louck, J.E., Case Manager Ms. D. Eaken, and Mail Room Clerk Ms. Wiedenhaft colluded and conspired to deny me access to the Court, vexatiously causing me significant hardship and suffering, subjecting me to needless additional costs and undue delay by inappropriately: a.) garnishing my personal account funds below \$25.00 to \$16.10; b.) denying my request for a certified cashiers statement of my account balances; and c.) refusing to extend credit to me for application of the First Class U.S. Postage required to mail my Petition for Writ of Certiorary of my cohesive hybrid federal Habeas Corpus / Civil Rights Action for judicial release to the United States Supreme Court, in violation of my fundamental United States Constitution First and Fourteenth Amendment rights of due process of law equal protection, and to petition the government for redress of my grievances.

Being your prisoner, I now hereby demand that you immediately:

- 1.) stop garnishing my personal funds below \$25.00;
- 2.) without delay or cost of any kind provide me with a certified cashier's statement of my account balance including every transaction on my account for the past six months;
- 3.) immediately facilitate my access to the court by extending me credit and application of required U.S. Postage for my fast and speedy judicial release package to the United States Supreme Court; and
- 4.) refund all monies garnished from my personal account below \$25.00.

Anthony J. DeNoma

Anthony J. DeNoma
A 308-836
Jefferson Unit, J-A, 196(U)

You aren't indigent as identified by ORC policy 59-LE6-01. You must pay for account statement as do all other inmates. Your account will not be put in the red for postage. Please read 59-2LE6-01, which explains in detail.

J. Noble
2/28/18
RECEIVED
FEB 26 2018

MACI WARDEN'S OFFICE
Exhibit D. 4

Ohio Department of Rehabilitation and Correction (O.D.R.C.)
Director Gary Mohr,

In violation of my fundamental United States Constitution First and Fourteenth Amendment rights of due process of law equal protection and to petition the government for redress of my grievances, with arbitrary manifest disregard and vindictive deliberate indifference Operation Support Center Michelle Matherson OoA-BITS, Warden Jeff Noble, Business Administrator John Eardley, Cashiers Ms. Carol Johnson, Mr. J.E. Louck, Case Manager Ms. D. Eaken and Mail Room Clerk Ms. Wiedenhaft colluded and conspired to deny me access to the Court vexatiously causing me significant hardship and suffering subjecting me to needless additional costs and undue delay by inappropriately;

a.) garnishing my monthly personal funds below \$25.00 to \$16, and below contrary to Ohio Administrative Rule 5120-5-03 (A), (D), (E) Court ordered payments from inmate's account, and Revised Code Sections 2329.66 Exempted interests and rights; and 2921.45 Interfering with civil rights; b.) forcing me, on February 13, 2018, to purchase four separate \$2.14 taxed pre-paid copier cards from the commissary for needed legal copies costing me \$8.56, denying me the ability to reload my previously purchased cards and to pay only for legal copies needed; c.) denying my requested free six month statement and cashier's certificate of my six month account balance; d.) refusing application of First Class U.S. Postage required to mail my Petition for Certiorary for my federal hybrid Civil Rights Habeas Corpus Action for judicial release to the United States Supreme Court refusing to extend me credit for the same.

I hereby demand, that as the Director of O.D.R.C. you immediately:

- 1.) facilitate my access to the Court by mail by applying the required U.S. Postage to my said legal mail, extending me credit for the same;
- 2.) stop the unlawful garnishment of my personal monthly funds below \$25.; and return to me all funds garnished from my account below \$25.;
- 3.) provide me with a certified cashier's statement of my account balance including every transaction conducted on my account during the past six months. Or deal with the Court over these matters.

Anthony J. DeNoma March 1, 2018

Anthony J. DeNoma #A 308-836
Madison Correctional Institution

CHIEF INFORMATION OFFICER
2018 MAR - 7 PM 12:56

Exhibit D.5

March 12, 2018

Ohio Department of Rehabilitation and Correction (O.D.R.C.)
Director Gary C. Mohr,

DIRECTOR'S OFFICE

2018 MAR 15 PM 11:11

On Friday March 9th, 2018, despite the fact that I had sufficient funds in my personal prison financial account and presented the required authorized signed Personal Withdrawal Cash Slip for payment of \$8.75 postage pre-approved by Unit Staff Case Manager Ms. D. Eaken, with deliberate indifference Warden Jeff Noble, Business Administrator Mr. John Eardley, Cashiers Ms. Carol Johnson, Mr. J.E. Louck and Mail Clerk Ms. Wiedenhaft arbitrarily conspired to tamper with and indefinitely delay my outgoing legal mail to deny me access to the Court in violation of Administrative Rules 5120-9-20 Inmate Access to Legal Services, 5120-9-18 Outgoing Mail, Policy 75-MAL-01 Inmate Mail, and Ohio Revised Code 2921.45 Interfering with civil rights, causing me significant hardship and suffering by unreasonably failing to apply the needed First Class U.S. Postage to my Petition for Writ of Certiorary to the United States Supreme Court for my hybrid Civil Rights Habeas Corpus Action for my immediate release from prison, risking loss of the same.

I hereby demand to be provided evidence of the disposition of my said outgoing legal mail package, and the change of policy, to allow me to procure same day U.S. Postage and mail service for my out going legal mail to the courts, since without a cash withdrawal slip pre-approved by Unit Staff, within 30 minutes, by the swipe of my I.d. card at the Commissary, I am able to procure and eat a chocolate candy bar.

Anthony J. DeNoma

Anthony J. DeNoma

A 308-836

Madison Correctional Institution

Your Cash Slip was processed on Monday March 12th. According to the date on your Cash Slip it says March 9th. The Staff in the Cashier Office do not work on the weekends and therefore your Cash Slip was processed the first day upon their return on Monday. It does not appear that your mail was purposefully withheld according to ODRC policy 15-Mal-01

Ms. White

3/21/2018 Exhibit D.6

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

ANTHONY J. DENOMA, Petitioner pro se

vs.

JOHN R. KASICH, ET AL, RESPONDENTS

JUSTICE ELENA KAGAN

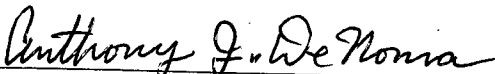
On PETITION FOR WRIT OF CERTIORARI TO THE
United States Court of Appeals for the Sixth Circuit No's. 16-3120 and 16-3839
United States District Court Southwestern Ohio No. 1:15-cv-594

AMENDED

PETITION FOR WRIT OF CERTIORARI
of cohesive Civil Rights Complaint Petition for Writ of Habeas Corpus
Ex Post Facto, Cruel and Unusual Punishment, Due Process of Law, Equal Protection,
and federal questions of Respondent's Qualified immunity status

Anthony J. DeNoma # A 308-836 pro se
Counsel of Record
Department of Rehabilitation and Correction (DRC)
Madison Correctional Institution (MaCI)
P.O. Box 740, 1851 State Rt. 56, London, Ohio 43140
telephone (740) 852-9777; General e-mail: drc.maci @ odrc.state.oh.us

Heather L. Buchanan for Respondents
Counsel of Record
30 East Broad Street, 16th Floor, Columbus, Ohio 43215
telephone (614) 466-2872; e-mail: heather.buchanan @ ohioattorneygeneral.gov



Anthony J. DeNoma

Exhibit E.1

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Anthony J. DeNoma — PETITIONER *pro se*
(Your Name)

VS.

Governor John R. Kasich — RESPONDENT(S) *et al.*,

AMENDED

PROOF OF SERVICE

I, Anthony J. DeNoma, do swear or declare that on this date, February 15, 2018, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days, to Michael DeWine and Gary C. Mohr.

The names and addresses of those served are as follows:

Ohio Attorney General Telephone (614) 728-3338/466-2872
Heather Buchanan, Steven Voigt, and Zachary Huffman
30 East Broad Street, 16th Floor, Columbus, Ohio 43215

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 15, 2018

Anthony J. DeNoma
(Signature)

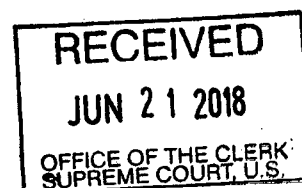
No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

ANTHONY J. DENOMA, Petition pro se

vs.

JOHN R. KASICH, ET AL, Respondents



JUSTICE ELENA KAGAN

SUPPLEMENTED APPLICATION FOR STAY

with MOTION FOR EXTENSION OF TIME for

**PETITION FOR WRIT OF CERTIORARI
mailed February 15th and March 9th 2018**

Anthony J. DeNoma #A 308-836 pro se
Counsel of Record
Department of Rehabilitation and Correction (DRC)
Madison Correctional Institution (MaCI)
P.O. Box 740, 1851 State Rt. 56, London, Ohio 43140
Telephone (740) 852-9777; General e-mail: drc.maci@odrc.state.oh.us

Heather L. Buchanan
30 East Broad Street, 16th Floor, Columbus, Ohio 43215
Telephone (614) 466-2872; e-mail: heather.buchanan@ohioattorneygeneral.gov
Counsel of Record for Respondents



Anthony J. DeNoma

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF SUPPLEMENT TO APPLICATION FOR STAY**

Duly cautioned of the penalty of perjury, I, Anthony J. DeNoma Petitioner herein, hereby supplements his accompanying Application for Stay, demonstrating his compliance with Supreme Court Rule 23, and solemnly declares all included statements and information to be true, factual and accurate so help me God!

1.) The grounds of Petitioner's claims is his reasonable expectation of his civil rights of substantive and procedural Due Process of Law Equal Protection of his April 6, 1995 final judgments under certain existing statutory terms (operating prior to July 1, 1996) former Ohio Revised Code Chapter 2950; and Sections 2967.19(A)(E) and 2967.193(A)(C) constituting the terms of Petitioner's negotiated Sixth Amendment plea agreement contract and the law of his case, defining his civil rights, and establishing Petitioner's substantive rehabilitation legal status as a first-time offender exempt from burdens, duties, obligations, disabilities and liabilities of sex offender registration requirements, and Petitioner's statutorily entitled statutory rehabilitation one-third diminution of sentence that by law shall not be forfeited for any reason;

2.) Petitioner's grievances are no longer remedial, he is already endangered suffering continuing irreparable harm from false imprisonment under new ex post facto sex offender sentencing policies, unconstitutionally deprived of Due Process of Law Equal Protection of his final judgment civil rights case-law rehabilitation legal status, subjected to excessive and Cruel and Unusual Punishments, threatened with continuing imprisonment day for day of the non-mandatory indefinite 10 to 25 year maximum sentence, and with subjection to ex post facto post release sex offender registration duties, obligations and liabilities under threat of felony prosecution and imprisonment for noncompliance;

3.) The District Court's judgment further deprived Petitioner of his civil rights and substantive and procedural Due Process of Law Equal Protection, denying Petitioner's motions for a Certificate of Appealability and motion for leave to appeal in forma pauperis;

4.) Without counsel or assistance of attorney assistance, as a disadvantaged unrepresented indigent prisoner, already suffering from continuing irreparable injury and denied redress in the State courts, under 28 U.S.C. § 2254 and 42 U.S.C. §§1983, 1985, and 18 U.S.C. § 1964(c), in the interest of judicial economy, Petitioner filed his hybrid comprehensive cohesive Habeas Corpus Civil Rights action in the United States District Court Southwestern Ohio Case No. 1: 15-cv-594. Petitioner was granted leave of the court to proceed In Forma Pauperis and required to pay the full costs of the courts services by the Court Ordered garnishment of 20 percent of Petitioner's \$20. monthly income, effectively entitling Petitioner to the Court's owed services and same remedies as are provided for by law in other cases pursuant to 28 U.S.C. § 1915(a)(d), including rights of service, the right to amend and supplement his pleading, stay of all Petitioner's civil rights claims pending judicial findings conclusions and Declaratory judgment of the substantive matters and issues of the law of Petitioner's case and the final disposition of his Petition for Writ of Habeas Corpus;

5.) The Stay sought is not available from any other court or judge since United States District Magistrate Stephanie K. Bowman and Chief Judge Susan J. Dlott conspired acting in bad faith with judicial bias, without cause or reason to prejudice and deprive Petitioner of his civil rights of substantive and procedural Due Process of Law Equal Protection: a.) denying service of Petitioner's Complaint; b.) acting with manifest disregard, denying Petitioner's repeated requests for Stay and judicial findings conclusions and Declaratory judgment of the substantive issues and matters of the actual law of Petitioner's case; c.) acting with deliberate indifference dismissing with prejudice Petitioner's Ex Post Facto and Cruel and Unusual Punishment Claims, not allowing Petitioner any opportunity to amend or supplement his pleading; c.) denying Petitioner's motions for Certificate of Appealability and motion for leave to appeal in forma pauperis; and d.) subjecting Petitioner to significant hardship and suffering from undue delay and unnecessary additional costs;

6.) In compliance with Federal Appellate Procedure Rule 8, pursuant to Civil Rule 62(b) Petitioner effectively moved the District Court for Stay of his 42 U.S.C. §§ 1983 and 1985 civil rights claims of

United States Constitution Article I, § 10, and Fifth, Sixth, Eighth, and Fourteenth Amendments, Due Process, Ex Post Facto, Double Jeopardy, Cruel and Unusual Punishment, Attainder and Separation of Powers violations pending findings, conclusions and Declaratory Judgment of law of Petitioner's case and final disposition of his Petition for Writ of Habeas Corpus, by his filings including:

- a.) Objection to Magistrate's Order, Report and Recommendation Docket No. 23, page 22 Conclusion A & B, denied by the Court's January 22, 2016 Order Docket No. 36 adopting the Magistrate's Report and Recommendation. See Exhibits B.1-35 in Appendix of accompanying Application for Stay;
- b.) Motion for Reconsideration Docket No. 39, page 10 Conclusion A & D, denied by the Court's February 11, 2016 Order Docket No. 44, attached hereto as Exhibit A.1-2;
- c.) May 16, 2016 timely yet unconsidered Objections Docket No. 71, page 11 Conclusion A. through C. and Motion for Reconsideration Docket No. 68, denied by the Court's Order Docket No. 77, attached hereto as Exhibits B.1-2.
- d.) Motion for New Trial Docket No. 63, page 14 Conclusion C.), denied by June 16, 2016 Entry of the Court Docket No. 65, attached hereto as Exhibit C.;
- e.) Two Motions for Findings, Conclusions and Judgment As A Matter of Law Docket No's. 60 and 76, denied by August 25, 2016 Entry of the Court Docket No. 79, attached hereto as Exhibit D.;

Also in compliance with the United States Supreme Court Rule 23, Petitioner sought Stay in the Sixth Circuit Court of Appeals No. 16-3120 by:

- f.) Interlocutory appeal for stay of the District Court's judgment denying Plaintiff / Petitioner's Motion for Summary Judgment granting absolute immunity to individual Defendant / Respondent's, pending de novo appellate review of Petitioner's case-law civil rights and Ex Post Facto claims and final disposition of Petitioner's Petition for Writ of Habeas Corpus, dismissed by the Court's April 5, 2016 Order for lack of jurisdiction not having a final appealable order. See Exhibits C.1-2 in Appendix of accompanying Application for Stay;

- g.) April 12, 2016 Motion for Reconsideration page 3, and April 19, 2016 Motion for Stay, denied by June 2, 2016 Order of the Court, attached hereto as Exhibit E.;
- h.) By August 22, 2016 Motion for Reopening of Stay, denied by October 27, 2016 Order of the Court, attached hereto as Exhibit F.;
- i.) March 21, 2017 Petition for Rehearing and Hearing En Banc, denied by March 21, 2017 letter of the Clerk, attached hereto as Exhibit G.;
- j.) Appeal No. 16-3839 October 13, 2016 Appellant Brief, page 30 Conclusion 1.), November 28, 2016 Motion for Swift Summary Judgment, denied by December 6th, 2016 and January 13, 2017 letters of the Clerk and March 17, 2017 Order of the Court, attached hereto as Exhibits H.1-5;
- k.) October 28, 2016 Motion for Suspension of Rules, denied by December 8, 2016 Order, attached hereto as Exhibit I.;
- l.) March 29, 2017 Amended Petition for En Banc Hearing Rehearing, denied by April 5, 2017 Order of the Court, attached hereto as Exhibit J.;
- m.) May 1, 2017 Motion for Suspension of Rules, denied by May 30, 2017 Order of the Court, attached hereto as Exhibit K.;
- n.) May 25, 2017 Appellant Brief page 10-11(5. A-E) and Conclusion page 28-29, denied by October 16, 2017 Order of the Court. See Exhibits C.3-7 in Appendix of accompanying Application for Stay;
- o.) October 23, 2017 Petition for Rehearing with Petition for Rehearing En Banc, page 3 Question of Exceptional Importance 21 and page 14 Conclusion a.), denied by January 4, 2018 Order of the Court, attached hereto as Exhibit L.; and
- p.) February 15, 2018 and March 9, 2018 Petitioner mailed for filing in the United States Supreme Court his Petition for Writ of Certiorari. See Exhibits D.1-6 and E.1-2 in Appendix of accompanying Application for Stay.
- q.) May 3rd, 2018 Petitioner mailed for filing in the United States Supreme Court his Application for Stay

which on May 18, 2018 was returned to Petitioner by the Clerk for failing to comply with Rule 23.3 which requires the relief requested to be first sought in the appropriate lower courts and the attachment of Orders denying sought relief; and

r.) With manifest disregard and deliberate indifference Respondent Gary C. Mohr, Director of the Ohio Department of Rehabilitation and Correction and its Madison Correctional Institution Warden Jeffrey Noble conspire to vicariously deprive Petitioner of his civil rights, interfering with Petitioner's ability to access the Court and facilitating and promoting retaliation against Petitioner for his use of the grievance procedure and Federal Civil Rights action challenging his sentence and the conditions of his confinement: 1.) denying Petitioner credit for the required First Class United States Postage needed to access the Court for the mailing of his Petition for Writ of Certiorari in the United States Supreme Court; 2.) vexatiously tampering with, delaying and causing loss of Petitioner's Petition for Writ of Certiorari out-going legal mail package; 3.) causing Petitioner significant hardship and suffering from undue delay and unnecessary additional costs. (See Exhibits M.1-7 attached hereto); and 4.) vindictively conducting, facilitating and promoting continuing staff harassment and intimidation to deprive Petitioner of the reasonable access to legal services, causing Petitioner loss of confiscated property, and subjecting Petitioner to progressive and collateral punishments by inappropriate supervision false Conduct Reports. See Exhibits N.1-3 attached hereto.

CONCLUSION

Wherefore, Petitioner hereby moves this honorable Court to: a.) grant an extension of time for his prison mail filings, including this instant Supplemented Application for Stay, and the above said Petition for Writ of Certiorari; b.) grant requested Application for Stay, and initiate an investigation by the United States Department of Justice into the arbitrary policies implemented by the Ohio Department of Rehabilitation and Correction and its Madison Correctional Institution that promote delay and loss of prisoner's legal mail and deny prisoners access to the courts; c.) issue an order

requiring Respondent Gary C. Mohr and his accomplice Warden Jeffrey Noble at their own cost to immediately produce and deliver to this Court Petitioner's above said Petition for Writ of Certiorari for filing, by U.S. Postal Service same day delivery Certified mail.

Petitioner hereby solemnly declares all the preceding statements and information to be true, factual and accurate, so help me God!

Respectfully submitted this 12 day of June, 2018.

Anthony J. DeNoma

Anthony J. DeNoma, Petitioner pro se # A 308-836
P.O. Box 740, Madison Correctional Institution
1851 State Rt. 56, London, Ohio 43140
Telephone (740) 852-9777; Fax (740) 852-3666

PROOF OF SERVICE

As required by Supreme Court Rule 29, as an indigent State prisoner, I Anthony J. DeNoma do hereby swear or declare that on this 13 day of June, 2018, I filed this Supplemented Application for Stay by depositing envelopes containing the said documents with the designated prison mail clerk together with an authorized Account Cash Withdrawal Slip for the prepayment of required United States First Class Postage addressed to this United States Supreme Court and also for service on counsel of Respondents Gary C. Mohr and Michael DeWine addressed to:

Assistant Ohio Attorney General
Zachary R. Huffman, telephone (614) 728-3338
Heather L. Buchanan and Steven T. Voigt, telephone (614) 466-2872
30 East Broad Street, 16th Floor, Columbus, Ohio 43215

Executed this 13 day of June, 2018.

Anthony J. DeNoma

Anthony J. DeNoma, Petitioner pro se # A 308-836

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Anthony J. DeNoma,

Plaintiff(s),

vs.

Governor John R. Kasich, et al.,

Defendant(s).

Case Number: 1:15cv594

Judge Susan J. Dlott

ORDER

Plaintiff filed a motion for an extension of time to file his Motion for Reconsideration of the Court's Order adopting the Report and Recommendation. The Court has received the Motion for Reconsideration, therefore plaintiff's Motion for Extension of Time (Doc. 40) is DENIED as MOOT.

This matter is before the Court for consideration of the plaintiff's Motion for Reconsideration filed February 8, 2016 (Doc. 39). Plaintiff seeks a reconsideration of the conclusions reached by this Court in its Opinion and Order of January 22, 2016 which adopted the Report and Recommendation issued by the Magistrate Judge.

The Court has carefully reviewed the plaintiff's motion and the authorities cited therein. As noted in *Virgin Atlantic Airways, Ltd. V. National Mediation Bd.*, 956 F.2d 1245, 1255 (2d Cir. 1992) quoting 18 C. Wright, A. Miller, E. Cooper, Federal Practice and Procedure Sec 4478 at 790, "[t]he major grounds for justifying reconsideration are 'an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice.'" In this case, there is no intervening change of controlling law. The plaintiff

has submitted no new evidence. The Court is not aware of any need to correct a clear error or to prevent manifest injustice. Instead, the plaintiff has simply reargued the issues upon which he was not successful before this Court. The proper forum for such additional argument is in the Court of Appeals.

For these reasons, plaintiff's Motion for Reconsideration (Doc. 39) is DENIED.

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Anthony DeNoma,

Plaintiff(s),

vs.

Governor John R. Kasich, et al.,

Defendant(s).

:
:
:
: Case Number: 1:15cv594
:
: Judge Susan J. Dlott
:
:
:

ORDER

This matter is before the Court for consideration of the plaintiff's Motion for Reconsideration filed June 27, 2016 (Doc. 68). Plaintiff seeks a reconsideration of the conclusions reached by this Court in its Opinion and Order of June 15, 2016 which adopted the Magistrate Judge's Report and Recommendation (Doc. 61).

The Court has carefully reviewed the plaintiff's motion and the authorities cited therein. As noted in *Virgin Atlantic Airways, Ltd. V. National Mediation Bd.*, 956 F.2d 1245, 1255 (2d Cir. 1992) quoting 18 C. Wright, A. Miller, E. Cooper, Federal Practice and Procedure Sec 4478 at 790, "[t]he major grounds for justifying reconsideration are 'an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice.'" In this case, there is no intervening change of controlling law. The plaintiff has submitted no new evidence. The Court is not aware of any need to correct a clear error or to prevent manifest injustice. Instead, the plaintiff has simply reargued the issues upon which he was not successful before this Court. The proper forum for such additional argument is in the Court of Appeals.

For these reasons, plaintiff's Motion for Reconsideration (Doc. 68) is DENIED.

Plaintiff also filed a motion for extension of time to file objections to the Report and recommendation (Doc. 70). This motion was filed untimely, therefore this motion is DENIED.

Plaintiff's motions for certificate of appealability and motion for leave to appeal *in forma pauperis* are DENIED. The Clerk will send a copy of the docket sheet to the plaintiff.

Plaintiff's motions (Docs. 66 and 67) are DENIED as moot.

IT IS SO ORDERED.

S/Susan J. Dlott

Susan J. Dlott

United States District Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION

FILED
RICHARD W. NAGEL
CLERK OF COURT

ANTHONY J. DENOMA,
Plaintiff,

vs.

GOVERNOR JOHN R. KASICH, et al.,
Defendants.

Case No. 1: 15-cv-594
Judge Dlott
Bowman, M.J.

2016 JUN 15 PM 2:02

*Denied
Swamy J. White
6/16/16*

et

MOTION FOR NEW TRIAL
pursuant to Federal Civil Procedure Rule 59

Anthony J. DeNoma pro se Habeas Petitioner/Civil Rights Plaintiff herein (hereafter DeNoma), states Defendants have failed to present any constitutional or statutory material fact of jurisdictional authority for their continued imprisonment of DeNoma beyond the October 5, 2001 expiration of the term of imprisonment of his non-mandatory indefinite 10 year minimum sentence, failing to establish the presence of any genuine dispute of DeNoma's Habeas Petition claims of United States Constitution Article I, § 10, Fifth, Sixth, Eighth, and Fourteenth Amendment violations. All DeNoma's civil rights claims are directly related and dependent on the Ex Post Facto Separation of Powers, Attainder, Due Process of Law, Double Jeopardy, Cruel and Unusual Punishment claim/grounds of DeNoma's Habeas Petition. Wherefore, DeNoma is entitled by law to a meaningful de novo new trial/hearing pursuant to Civil Procedure Rule 59, for findings of facts, and conclusions of foreseeability of the substantive operation of the law of his case, with summary judgment as a matter of law on DeNoma's Habeas Petition forthwith awarding the writ, pursuant to 28 U.S.C. § 2243, with restoration and Stay of DeNoma's entire 42 U.S.C. § 1983 Action, preserving DeNoma's federal forum for expeditious vindication of his federally protected rights. See included Memorandum of Law and Evidence Affidavit

Federal Civil Procedure Rule 59 provides: (a)(2) "after a nonjury trial, the court may, on motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment . . . (b) A motion for a new trial must be filed no later than 28 days after the entry of judgment."

Anthony J. DeNoma June 9, 2016
Anthony J. DeNoma #A 308836, Plaintiff pro se
P.O. Box 740, Madison Correctional Institute
1851 State Rt. 56; London, Ohio 43140-00740
Phone (740) 852-9777; Fax 852-3666

Exhibit C.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION

ANTHONY J. DENOMA,
Plaintiff,

vs.

GOVERNOR JOHN R. KASICH, et al.,
Defendants.

Case No. 1: 15-cv-594
Judge Susan Dlott
Bowman, M.J.

*Denise
Susan J. Dlott
8/25/16*

MOTION for Findings, Conclusions, and Judgment as a Matter of Law
pursuant to Motions for New Trial (Doc. #60), Extension of Time (Doc. #67),
and Federal Rules of Civil Procedure, Rules 50, 52, and 59

Anthony J. DeNoma, pro se Plaintiff herein, (hereafter DeNoma), hereby asserts that the Rooker-Feldman doctrine does not operate to deny this Court's jurisdiction over any of DeNoma's Civil Rights/Habeas Petition claims Pleading (Doc. #1). Neither could DeNoma's Pleading fairly nor reasonably be judged as noncompliant with Rule 2 of Rules Governing Section 2254 cases in United States District Courts, nor dismissed with prejudice under 28 U.S.C. § 1915 as failing to state a claim, since DeNoma has not challenged any State Court judgment of competent jurisdiction. But DeNoma claims continuing irreparable injury and harm from conspiracy in corrupt organizational unconstitutional policies, customs, and practices of false imprisonment and deprivation of DeNoma's civil rights stare decisis Case Law legal status immunities, and statutorily entitled diminution of sentence rehabilitation remedy property, liberty, and business interest rights instituted under prior Laws by final judgments in State of Ohio v. Anthony J. DeNoma (1995), Hamilton County Case No. B951322/B9502232. See also attached Affidavit of evidence.

Wherefore, pursuant to Motions for New Trial (Doc. #60), Extension of Time (Doc. #67), and Federal Rules of Civil Procedure, Rules 50, 52, and 59, DeNoma hereby moves this honorable Court for New Trial for findings, conclusions and judgment as a Matter of Law.

Anthony J. DeNoma July 26, 2016
Anthony J. DeNoma #A 308-836, pro se Plaintiff's
P.O. Box 740, Madison Correctional Institution
1851 State Rt. 56, London, Ohio 43140-00740

Exhibit D.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

GOVERNOR JOHN R. KASICH, et al.,
Defendants-Appellees.

FILED
Jun 02, 2016
DEBORAH S. HUNT, Clerk

ORDER

The motion to reconsider is **DENIED**.

ENTERED BY ORDER OF THE COURT

Wm. L. Hunt

Deborah S. Hunt, Clerk

Exhibit E.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Defendants-Appellees.

FILED
Oct 27, 2016
DEBORAH S. HUNT, Clerk

ORDER

The motion to reopen and to stay is **DENIED**. In case 16-3839, in view of the district court's order of August 17, 2016 denying leave to appeal *in forma pauperis*, the plaintiff may, if he chooses, submit a motion to proceed *in forma pauperis* to this court 28 days from the entry of this order using the forms provided. The plaintiff is advised that failure to pay the filing fee or to submit such a motion may be grounds for dismissal of the appeal.

ENTERED PURSUANT TO RULE 45(a)
RULES OF THE SIXTH CIRCUIT

Wm. L. Hunt

Deborah S. Hunt, Clerk

Exhibit F.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Deborah S. Hunt
Clerk

100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: March 21, 2017

Anthony DeNoma
Madison Correctional Institution
P.O. Box 740
London, OH 43140

Re: Case No. 16-3120, *Anthony DeNoma v. John Kasich, et al*
Originating Case No. : 1:15-cv-00594

Dear Mr. DeNoma,

The enclosed motion for extension of time to file a petition for rehearing en banc and petition for rehearing en banc are being returned to you unfiled.

Neither the Federal Rules of Appellate Procedure nor the Rules of the Sixth Circuit make any provision for filing successive petitions for rehearing. Your motion for reconsideration was denied by order of June 2, 2016. Therefore, the motion and petition are not accepted for filing. This case is closed.

However, the petition was filed in your case number 16-3839 as a petition for initial en banc hearing. You will receive written notification when the court issues a decision on the petition.

Sincerely yours,

s/Beverly L. Harris
En Banc Coordinator
Direct Dial No. 513-564-7077

cc: Mr. Jordan S. Berman
Mr. Jeffery W. Clark
Mr. Zachary Ryan Huffman

Exhibit G.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

DEBORAH S. HUNT
CLERK

TELEPHONE
(513) 564-7000

December 6, 2016

Anthony J. DeNoma
#308836
Madison Correctional Institution
P.O. Box 740
London, OH 43140

Re: Case Nos. 16-3839, *Anthony DeNoma v. John Kasich, et al.*;
Tendered "Motion for Swift Summary Judgment"

Dear Mr. DeNoma:

This court received your tendered "Motion for Swift Summary Judgment." Due to the nature of an appeal, motions for summary judgment are not processed in the same manner as they are in a district court proceeding. As such, we have construed your motion as one to expedite and as a motion in support of your appeal.

Your motion for leave to proceed *in forma pauperis* is currently pending before the court. While this motion remains pending, you do not need to make any further filings. This office will notify you when the court makes a decision on your pauper motion and what, if any, action is required of you at that time.

Sincerely,

/s/Laura Jones
Case Manager

Exhibit H.1

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

DEBORAH S. HUNT
CLERK

TELEPHONE
(513) 564-7000

January 13, 2017

Anthony J. DeNoma
#308836
Madison Correctional Institution
1851 State Rt. 56
P.O. Box 740
London, OH 43140

Re: Case No. 16-3839, *DeNoma v. Kasich, et al.*;
Motion Received

Dear Mr. DeNoma:

This court has received from you a motion that appears to seek monetary damages and release from prison. As indicated in this office's letter of December 6, 2016, your motion for leave to proceed *in forma pauperis* is currently pending before the court. While that motion remains pending, you do not need to make any further filings, and you should generally expect that the court will not consider other motions/requests. This office will notify you when the court makes a decision on your pauper motion and what, if any, action is required of you at that time. Your motion will remain on the docket.

Sincerely,
/s/Susan Rogers
Chief Deputy Clerk

Exhibit H.2

JOHN R. KASICH, et al.,
Defendants-Appellees.

ORDER

A magistrate judge construed DeNoma's complaint as "a hybrid action in the form of a civil complaint for damages and injunctive relief against the defendants and a habeas corpus petition to the extent he seeks immediate or speedier release from his prison sentences." She recommended dismissing the habeas corpus portion of DeNoma's pleading. To the extent that

Exhibit H.3

DeNoma's complaint could be construed as a civil rights complaint, the magistrate judge recommended dismissing all of the claims with the exception of a portion of "Count 3" alleging that Ohio Attorney General Mike DeWine and Ohio Department of Rehabilitation and Correction ("ODRC") Director Gary Mohr, while acting in their official capacities, violated his constitutional rights by enforcing "certain registration provisions contained in the 2007 amendment of Ohio's sex offender registration statute." Over DeNoma's objections, the district court adopted the magistrate judge's report and recommendation. To the extent that DeNoma sought habeas relief, the district court dismissed his habeas petition without prejudice to the filing of a petition that complied with Rule 2 of the Rules Governing Section 2254 Cases. It dismissed with prejudice the civil complaint portion of DeNoma's pleading, with the exception of the official-capacity claim alleged in Count 3 against DeWine and Mohr.

DeWine and Mohr then filed motions to dismiss. A magistrate judge recommended granting the motions, and the district court adopted the magistrate judge's report and recommendation and dismissed DeNoma's remaining claim with prejudice. The district court denied leave to proceed in forma pauperis on appeal and declined to issue a COA.

I. January 22, 2016 Dismissal of Habeas Petition

As discussed above, the district court construed DeNoma's pleading as a hybrid civil complaint and habeas petition. It dismissed his habeas petition without prejudice for failure to comply with Rule 2 of the Rules Governing Section 2254 Cases. To appeal that ruling, DeNoma must obtain a COA, which may issue only if the petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). If the petition was denied on procedural grounds, the petitioner must show, "at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Reasonable jurists could not debate the district court's conclusion that DeNoma's habeas corpus petition failed to comply with Rule 2 of the Rules Governing Section 2254 Proceedings.

That rule requires that a habeas petition “specify all the grounds for relief” and “state the facts supporting each ground.” Rules Governing § 2254 Cases, Rule 2(c). DeNoma’s lengthy and rambling habeas petition did not clearly specify which state court judgment he was challenging, did not clearly delineate the constitutional claims that he was asserting, and did not set forth specific facts to support his conclusory legal claims. *See Jackson v. Albany Appeal Bureau Unit*, 442 F.3d 51, 54 (2d Cir. 2006) (“unintelligible” petition subject to dismissal under Rule 2(c)); *Provenzano v. Singletary*, 148 F.3d 1327, 1328 n.1 (11th Cir. 1996) (“[P]rolonged filing . . . is not consistent with the requirements of Rule 2(c).”). Because Rule 4 of the Rules Governing § 2254 Cases states that dismissal is appropriate “[i]f it plainly appears from the petition . . . that the petitioner is not entitled to relief in the district court,” any challenge to the district court’s dismissal of DeNoma’s habeas petition without prejudice does not deserve encouragement to proceed further.

II. Motion to Proceed IFP With Respect to the Dismissal of DeNoma’s § 1983 Complaint

An indigent litigant may proceed IFP on appeal if the appeal is taken in good faith. Fed. R. App. P. 24(a)(5); *Owens v. Keeling*, 461 F.3d 763, 774-76 (6th Cir. 2006). DeNoma meets the criteria to proceed in forma pauperis, in that he has made the requisite showing of poverty, *see* 28 U.S.C. § 1915(a)(1), and his appeal presents a non-frivolous issue for review, namely, whether the district court properly dismissed his remaining claim against DeWine and Mohr on June 15, 2016. *See Coppedge v. United States*, 369 U.S. 438, 445 (1962).

For the foregoing reasons, this court **DENIES** DeNoma’s application for a COA, **GRANTS** his motion for leave to proceed IFP, and **DENIES** all other pending motions.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

Case No. 16-3839

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

ORDER

ANTHONY DENOMA

Plaintiff - Appellant

v.

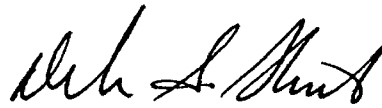
JOHN R. KASICH, et al.

Defendants - Appellees

The appellant moves for suspension of the rules and for this appeal to be heard upon the original record. The motion is DENIED as unnecessary in that the court's practice is to review the record as established in the district court, and suspension of the rules is unnecessary.

**ENTERED PURSUANT TO RULE 45(a),
RULES OF THE SIXTH CIRCUIT**

Deborah S. Hunt, Clerk



Issued: December 08, 2016

Exhibit I.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

JOHN R. KASICH, et al.,
Defendants-Appellees.

FILED
May 30, 2017
DEBORAH S. HUNT, Clerk

O R D E R

ENTERED PURSUANT TO RULE 45(a)
RULES OF THE SIXTH CIRCUIT


Deborah S. Hunt, Clerk

Exhibit K.

February 15, 2018

Madison Correctional Institution
Business Administrator
Supervisor of the Cashiers Office

RECEIVED

FEB 20 2018

MaCI BUSINESS OFFICE

Mr. John Eardley,

Since I do not have the needed \$8.75 in my personal account, on Thursday February 15, 2018 the institution mail room clerks refused to mail my Habeas Corpus Judicial Release Petition packet to the United States Supreme Court, denying me access to the court by denying application of the needed \$8.75 First Class U.S. postage.

The Ohio Department of Rehabilitation and Correction Cashier's Manual Section III. Inmate Account, K. Postage 7, states:

"in the instant when an inmate is not indigent, is filing for Judicial Release and does not have enough funds to cover the postage for the two fast and speedy envelopes, the Cashier's Office may extend credit for the postage for those two envelopes."

Therefore instruct the Cashier's Office to immediately implement this policy by extending to me the necessary credit and instruct the mail room supervisor to apply the needed First Class U.S. postage and to mail my fast and speedy judicial release legal envelope as soon as possible to the United States Supreme Court.

Thank you

Anthony J. DeNoma

Anthony J. DeNoma
A 308-836
Jefferson Unit
J-A, 196 (U)

Mark Brown

In order to comply with Cashier's Manual
you need to be fully on Judicial Release -
Cashier's Office may extend credit -
You did have funds to mail out your letter
on 2/14/2018 -
Exhibit M.1

February 22, 2018
Madison Correctional Institution
Warden Jeff Noble,

Contrary to Ohio Administrative Code Rule 5120-5-3 (A)(D)(E) Court ordered payment of funds from inmate's account; Revised Code Sections 2329.66 Exempted interests and rights; 2969.25(C) Cashier's certified statement of inmate account balance required to access courts; and 2921.45 Interfering with civil rights, with arbitrary manifest disregard and deliberate indifference Business Administrator Mr. John Eardley, Cashier Supervisors Ms. Johnson, Mr. Louck, J.E., Case Manager Ms. D. Eaken, and Mail Room Clerk Ms. Wiedenhaft colluded and conspired to deny me access to the Court, vexatiously causing me significant hardship and suffering, subjecting me to needless additional costs and undue delay by inappropriately: a.) garnishing my personal account funds below \$25.00 to \$16.10; b.) denying my request for a certified cashier's statement of my account balances; and c.) refusing to extend credit to me for application of the First Class U.S. Postage required to mail my Petition for Writ of Certiorary of my cohesive hybrid federal Habeas Corpus / Civil Rights Action for judicial release to the United States Supreme Court, in violation of my fundamental United States Constitution First and Fourteenth Amendment rights of due process of law equal protection, and to petition the government for redress of my grievances.

Being your prisoner, I now hereby demand that you immediately:

- 1.) stop garnishing my personal funds below \$25.00;
- 2.) without delay or cost of any kind provide me with a certified cashier's statement of my account balance including every transaction on my account for the past six months;
- 3.) immediately facilitate my access to the court by extending me credit and application of required U.S. Postage for my fast and speedy judicial release package to the United States Supreme Court; and
- 4.) refund all monies garnished from my personal account below \$25.00.

Anthony J. DeNoma

Anthony J. DeNoma
A 308-836
Jefferson Unit, J-A, 196(U)

you aren't indigent
as identified by IRC
policy 59-LE6-01. You
must pay for account
statement as do all other
inmates. Your account will
not be put in the red for
postage. Please read 59-LE6-01,
which explains in detail.

J. Noble
2/28/18
RECEIVED
FEB 26 2018

MACI WARDEN'S OFFICE

Exhibit M.2

Ohio Department of Rehabilitation and Correction (O.D.R.C.)
Director Gary Mohr,

In violation of my fundamental United States Constitution First and Fourteenth Amendment rights of due process of law equal protection and to petition the government for redress of my grievances, with arbitrary manifest disregard and vindictive deliberate indifference Operation Support Center Michelle Matherson OoA-BITS, Warden Jeff Noble, Business Administrator John Eardley, Cashiers Ms. Carol Johnson, Mr. J. E. Louck, Case Manager Ms. D. Eaken and Mail Room Clerk Ms. Wiedenhaft colluded and conspired to deny me access to the Court vexatiously causing me significant hardship and suffering subjecting me to needless additional costs and undue delay by inappropriately:

a.) garnishing my monthly personal funds below \$25.00 to \$16, and below contrary to Ohio Administrative Rule 5120-5-03 (A), (D), (E) Court ordered payments from inmate's account, and Revised Code Sections 2329.66 Exempted interests and rights; and 2921.45 Interfering with civil rights; b.) forcing me, on February 13, 2018, to purchase four separate \$2.14 taxed pre-paid copier cards from the commissary for needed legal copies costing me \$8.56, denying me the ability to reload my previously purchased cards and to pay only for legal copies needed; c.) denying my requested free six month statement and cashier's certificate of my six month account balance; d.) refusing application of First Class U.S. Postage required to mail my Petition for Certiorary for my federal hybrid Civil Rights Habeas Corpus Action for judicial release to the United States Supreme Court refusing to extend me credit for the same.

I hereby demand, that as the Director of O.D.R.C. you immediately:

- 1.) facilitate my access to the Court by mail by applying the required U.S. Postage to my said legal mail, extending me credit for the same;
- 2.) stop the unlawful garnishment of my personal monthly funds below \$25.; and return to me all funds garnished from my account below \$25.;
- 3.) provide me with a certified cashier's statement of my account balance including every transaction conducted on my account during the past six months. Or deal with the Court over these matters.

Anthony J. DeNoma March 1, 2018

Anthony J. DeNoma #A 308-836
Madison Correctional Institution

2018 MAR - 1 PM 12:56

March 12, 2018

Ohio Department of Rehabilitation and Correction (O.D.R.C.)

Director Gary C. Mohr,

DIRECTOR'S OFFICE

2018 MAR 15 PM 11:11

On Friday March 9th, 2018, despite the fact that I had sufficient funds in my personal prison financial account and presented the required authorized signed Personal Withdrawal Cash Slip for payment of \$8.75 postage pre-approved by Unit Staff Case Manager Ms. D. Eaken, with deliberate indifference Warden Jeff Noble, Business Administrator Mr. John Eardley, Cashiers Ms. Carol Johnson, Mr. J.E. Louck and Mail Clerk Ms. Wiedenhaft arbitrarily conspired to tamper with and indefinitely delay my outgoing legal mail to deny me access to the Court in violation of Administrative Rules 5120-9-20 Inmate Access to Legal Services, 5120-9-18 Outgoing Mail, Policy 75-MAL-01 Inmate Mail, and Ohio Revised Code 2921.45 Interfering with civil rights, causing me significant hardship and suffering by unreasonably failing to apply the needed First Class U.S. Postage to my Petition for Writ of Certiorary to the United States Supreme Court for my hybrid Civil Rights Habeas Corpus Action for my immediate release from prison, risking loss of the same.

I hereby demand to be provided evidence of the disposition of my said outgoing legal mail package, and the change of policy, to allow me to procure same day U.S. Postage and mail service for my out going legal mail to the courts, since without a cash withdrawal slip pre-approved by Unit Staff, within 30 minutes, by the swipe of my I.d. card at the Commissary, I am able to procure and eat a chocolate candy bar.

Anthony J. DeNoma

Anthony J. DeNoma

A 308-836

Madison Correctional Institution

Your Cash Slip was processed on Monday March 12th. According to the date on your Cash Slip it says March 9th. The Staff in the Cashier Office do not work on the weekends and therefore your Cash Slip was processed the first day upon their return on Monday. It does not appear that your mail was purposefully withheld according to ODR policy 75-Mal-01

Ms. White

3/21/2018

Exhibit M.4

Ohio Department of Rehabilitation and Correction
Operations Support Center
770 West Broad Street, Columbus, Ohio 43222

Director Gary C. Mohr,

Contrary to Ohio Department of Rehabilitation and Correction Administrative Rules 5120-9-18 and 5120-9-20 Policy and Procedures 59-LEG-01 and 75-MAL-01 in violation of Ohio Law Revised Code Section 2921.45, on May 3, 2018, without accountability and with deliberate indifference, Warden Jeffery Noble, Deputy Warden of Operations Malcolm A. Heard, Mail Room Supervisor Lieutenant Smith and Mail Clerk Ms. Wiedenhalft tamper with my out-going legal mail, failing to process the same in an efficient timely manner. Continuing a conspiracy to interfere with my civil rights, invidiously discriminate and retaliate against me for my use of the grievance procedure and deny me access to the courts implementing policies that cause delay and loss of my out-going legal mail:

a.) denying me credit for needed United States First Class Postage required to access the Court;
b.) forcing me to get prior approval from rarely accessible Unit Staff for my authorized Personal Account Withdrawal Slip for procurement of U.S. Postage, when inmates are permitted just to present their prison Identification Card to be swiped at the Commissary for immediate purchase and consumption of ice cream; c.) despite sufficient funds in my account, denying postage the same day for my out-going legal mail; d.) holding my out-going legal mail for more than forty-eight (48) hours.

As an Ohio prisoner my substantive Constitutional and civil rights to access to the courts is defined by A.R. 5120-9-18 and 5120-9-20; 59-LEG-01 V. POLICY... "Inmates shall have access to courts so that they may challenge their convictions, sentences, or the conditions of their confinement." and VI. PROCEDURE G. 75-MAL-01 V. POLICY "It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) to process inmate mail in an efficient, timely manner." VI. PROCEDURE A. 7. "Legal mail shall be logged on the Legal Mail Log (DRC 2632)" ... C. "outgoing letters shall be held for no more than forty-eight (48) hours."

Anthony J. DeNoma May 4, 2018

Anthony J. DeNoma #A 308-836
P.O. Box 740, Madison Correctional Institution
Zone B, Jefferson Unit, J-A, 196 (u)
London, Ohio 43140-0740

Exhibit M.5

Ohio Department of Rehabilitation and Correction
Madison Correctional Institution (MaCI)
P.O. Box 740, 1851 State Rt. 56, London, Ohio 43140-0740

Warden Jeffrey Noble,

Business Administrator 3, John Eardley and Supervisor of the Cashier's Office and Commissary Business Administrator 1, Carolyn Johnson conspire to vexatiously cause me significant hardship and suffering subjecting me to undue delay and unnecessary costs to deny me access to the courts. Denying me credit for procurement of legal copies and postage needed to access the courts and denying me the use of a Personal Account Withdrawal Slip to purchase only the legal copies I need for filings to access the courts. Taxing me forcing me to pay \$2.14 (each time) for a 40 copy debit card even just to obtain only one .05 legal copy, denying me the ability to retain my personal funds on my account needed for procurement of the United States First Class Postage required to access the courts. Refusing to recharge my personal debit cards for only the number of copies needed, Always forcing me to prepay for 40 copies at a time and re-taxing me .14 each time, forcing me to pay \$2.14 each time for a recycled recharged debit card from the commissary, and otherwise denying me the procurement of any legal copies needed to access the courts.

- A) I should be permitted the use of my prison Identification Card as a debit card for purchase only the number of legal copies needed, as it is used by the commissary, allowing me to retain personal funds needed for postage, health and hygiene needs; or
- B) I should be able to dictate the amount of funds from my account to be put on my personal debit card for procurement of only the number of copies needed, and I should be permitted to recharge my debit card without being re-taxed for it again and again; or
- C) I should be permitted to use a Personal Account Withdrawal Slip to purchase only the number of copies actually procured, as I am permitted to do for procurement of postage.

denied, we are required
to provide you access
to copy services. We are
currently providing you
access. J. Noble 5/15/2018

Anthony J. DeNoma May 12, 2018
Anthony J. DeNoma #A 308-836
Zone B, J-A, 196 (v)

RECEIVED

MAY 15 2018

MaCI WARDEN'S OFFICE

Exhibit M. 6

RECEIVED

MAY 29 2018

Ohio Department of Rehabilitation and Correction
Madison Correctional Institution (MaCI)
P.O. Box 740, 1851 State Rt. 56; London, Ohio 43140-0740

MaCI WARDEN'S OFFICE

Warden Jeffrey Noble,

Despite my having sufficient funds on my personal inmate financial account, and my April 27, 2018 Kite request to retain personal funds on my account to procure required United States Postage needed to access the courts, with manifest disregard and deliberate indifference, in retaliation for my previous complaints, Business Administrator 3 John Eardley, Cashier's Office and Commissary Supervisor Carolyn Johnson, Commissary Managers Ms. Harmon and Mr. Hays have conspired to deny me the ability to retain personal funds on my account needed to procure postage, hygiene and health products, and the ability to procure the printing and photocopying of my legal documents needed to access the courts: **a.)** refusing to recharge \$1.70 on my personal plastic copier debit card contrary to the prior Business Administrator Tonya Briggs October 29, 2015 Memo establishing that these debit cards may be recycled; **b.)** failing to provide copier debit cards for sale at the commissary during two weeks after application of the inmate April State pay until May 17, 2018; **c.)** lying to Institution Unit Staff, telling Case Manager ^{Ms. D. Eaken} that the debit copier cards were available for sale at the commissary on Tuesday May 15, 2018, and vexatiously conducting a misappropriation unauthorized \$1.70 withdrawal of my personal funds for legal copies not received and no longer needed; **d.)** lying to Unit Manager Ms. K. Blakeman telling her Friday May 18, 2018 that they returned my \$1.70 to my account while they actually continued to deprive me of my money, and access to my personal funds needed for my health, hygiene and legal needs, causing me significant hardship and suffering.

- 1.) John Eardley, Carolyn Johnson, Ms. Harmon and Mr. Hays should be given written reprimands;
- 2.) My \$1.70 must be immediately returned to my personal account;
- 3.) Inmates should be able to recharge the plastic copier debit cards sold at the commissary without being re-taxed .14cents each time.

you must follow the process made available by the institution. Copy cards are offered at the commissary for your purchase if needed. It is your choice to utilize this service. We are required to provide access which is what is provided by department policy.

Anthony J. DeNoma May 24, 2018
Anthony J. DeNoma, # A 308-836
Zone B, J-A 196(u)

Jeff Noble
Exhibit M.7

Correctional Institution Inspection Committee (C.I.I.C.)
77 South High Street, Riffe Center 8th Floor
Columbus, Ohio 43215

From Saturday May 12 through Saturday June 2, 2018, for three consecutive weeks Madison Correctional Institution Zone B, Law Library was open less than the minimum required 24 hours each seven day period, opened only 17 ½ hours from May 12-19, only 22 hours from May 20-26, and only 15 hours from May 27-June 2, 2018. And from the moment I entered the Main Library 8:05am Wednesday morning May 30, 2018, Security Officer Ms. Green and Librarian Zariwala Tanvir stalked me, and at 8:13am: a.) kicked me out of the law library at the beginning of my one hour typing session before I could finish typing the first line of my first sentence, shouting false accusations against me; b.) had me stormed by a force of five Security Officers including Ms. Green, Mr Wright, Mr. Pelfrey, Mr. Boyers and Sergeant Chuck Kruger, and lying to them and Lieutenant Sprague telling them that Deputy Warden Heard ordered that I be taken directly lock up in Zone A Level 3 Security prison to see the Captain; and c.) wrote false statements falsely accusing me in a harassing inappropriate supervision Conduct Report to have me denied access to the law library legal services, having me immediately arrested, and Officers Pelfrey and Boyers confiscated my legal documents and five copier debit cards and locked me up in the Shift Supervisor's Office holding cell until 8:45, and Lt. Sprague lost and failed to return to me one of my debit copier cards containing \$1.70 for procuring legal copies needed to access the Court, and ordered me not to return to the Library or the school the rest of the day.

Contrary to Ohio Administrative Code Rules 5120-9-04(B), 5120-9-31(H), 5120-9-20(B)(1)(3) (6) Policy Procedures 59-LEG-01 V.VI.A.2.4. and 58-LIB-01 V.VI.B.2.a.i, and in violation of Article I, Sections 1 and 2 of the Ohio Constitution and Ohio Criminal Laws Revised Code Sections 2917.01, 2921.03, 2921.04, 2921.05, 2921.44 and 2921.45, despite my Grievance No's. MACI-06-17-000212; CI-08-17-000032, and MACI-10-17-0000353, with manifest disregard and deliberate indifference Inspector of Institutional Services Zachary D. Gould, Warden Jeffrey Noble, Deputy Warden Emma Collins, School Principal Kim Chapman, Library Supervisor Doris Anyadoh close the law library every Saturday, Thursday evening and every other Sunday, providing only one evening session per week and absolutely no weekend hours and less than the required 24 hours access every other week without any make-up hours of alternative delivery system. (See also April 27, and May 10, 2018 letters to Warden Noble and Director Mohr attached hereto). Depriving me of the defined reasonable required access to the law library legal materials, typing equipment and reasonable opportunity to prepare my legal documents needed to access the courts. Conducting a continuing conspiracy to deprive inmates of the required daily access to the Law Library legal services, including weekends and two evening sessions per week for the minimum 24 hours every seven day period, and implementing an arbitrary vindictive policy restricting every inmate to only one hour access per day when open, and telling them that I am to blame, creating a hazardous hostile environment inciting inmate violence against me to intimidate and endanger me. Subjecting me to reprisals, staff harassment, and collateral punishment by a continuing pattern of inappropriate supervision Conduct Reports of February 26, 2018 and May 30, 2018 in retaliation for my use of the grievance procedure and for pursuing challenges to my old-law sentence and conditions of my confinement in my Federal Civil Rights action.

Please help me by initiating an investigation and a complaint by your Office and through the Ohio Highway Patrol.

Anthony J. DeNoma June 4, 2018

Anthony J. DeNoma # A 308-836
P.O. Box 740, Madison Correctional Institutional
London, Ohio 43140-0740

Exhibit N. 1

Ohio Department of Rehabilitation and Correctional
Madison Correctional Institute
Warden Jeffrey Noble,

Deputy Warden of Special Services Ms. Collins and School / Library Supervisor Assistant Principal Doris Anyadoh fail to provide the required reasonable access to Comprehensive Law Library Legal Services.

During the eight day period from Saturday April 14 through Saturday April 21, 2018 the Zone B institution Law Library was only open three (3) days for a total of only about 9 ½ hours, without any weekend or evening hours, failing to provide any form of alternative delivery for my access to the required legal materials and typewriting machines. And with complete knowledge of my continuing court litigation needs, Librarian Mr. Zariwala Tanvir continued a method of vindictive retaliation and harassment against me during that same above said eight day period, by restricting me to only 3 hours access to needed legal materials and typewriting equipment, implementing a vindictive policy of one hour of inmate access to law-library services per day.

Contrary to Ohio Department of Rehabilitation and Correction Administrative Rule 5120-9-20 (B)(1)(3)(6), 59-LEG-01 V. Policy, VI. Procedure A. 2. 4. and 58-LIB-01 VI. Procedure B. 2. a. i., the Law Library is regularly closed every Saturday, every other Sunday, and every Thursday evening, providing absolutely no evening or weekend hours every other seven-day period, rarely providing the required minimum 24 hours of inmate access, and failing to provide any alternative delivery system.

As an Ohio prisoner my substantive Constitutional civil right of access to court and legal services is defined by: Ohio Department of Rehabilitation and Correction Administrative Code Rule 5120-9-20 (B) Inmate Access to Legal Services which provides: "(1) It is the policy of the department of rehabilitation and correction to permit inmates reasonable access to legal materials and reasonable opportunity to prepare legal documents ... (3) Each institution shall establish a schedule of library hours when legal materials can be used ... (6) Inmates shall be permitted reasonable access to typewriters ... for the typing preparation of legal documents."

59-LEG-01 Inmate Access to Court and Counsel VI. Procedures A. Law Library "2. ... the institution law library shall provide access to the printed materials listed in Appendix 1. ... 4. Each law library shall establish a schedule of reasonable hours that provide inmates with adequate access to legal materials ... these hours ... shall include weekend and evening hours."

58-LIB-01 Comprehensive Library Services VI. Procedures B.2. a. "Library services shall be available to the inmate population daily to include evenings and weekends ... the library shall be open and accessible to inmates no less than twenty-four total hours during a seven-day period under the supervision of library / education or security staff in order to provide the most number of hours of service available to the inmate population ... i. ... a seven (7) day period shall include hours on the weekend and two (2) evening sessions."

Anthony J. DeNoma April 27, 2018
Anthony J. DeNoma # A 308-836

Exhibit N. 2

Ohio Department of Rehabilitation and Correction
Operation Support Center
770 West Broad Street, Columbus, Ohio 43222

Director Gary C. Mohr,

Contrary to Ohio Department of Rehabilitation and Correction Administrative Code Rule (A.R.) 5120-9-20(B)(1)(3)(6), 59-LEG-01 V. Policy VI. Procedures A.2.4, 58-LIB-01 VI. Procedures B.2.a.i,b,d; and 31-SEM-02 Standards of Employee Conduct IV. Policy and Disciplinary Grid No's. 21, 38, 41, 44, 50, with arbitrary vindictive deliberate indifference Madison Correctional Institution Warden Jeffrey Noble, Deputy Warden of Special Services Emma Collins, Library Supervisors School Principal Ms. Chapman and Assistant Principal Doris Anyadoh conspire in organized misfeasance, nonfeasance, and malfeasance interfering with my civil rights in violation of Ohio Law Revised Code Section 2921.45, endangering me by:

- a.) failing to provide the Law Library with current editions of the required printed legal materials, and deny me access to current listings of names and addresses of practicing attorneys, and elected and appointed Federal, State and County government officials by failing to provide a current edition of the Ohio Legal Directory since 2013;
- b.) implementing an unreasonable vindictive policy restricting inmates to only one hour per day access to the Law Library legal services, and closing the law library every Saturday, Thursday evening and every other Sunday, providing only one evening session per week, and absolutely no weekend hours and less than the required minimum 24 hours access every other week, without any make-up hours or alternative delivery system;
- c.) for three days only opened the law library (for a total of only about 9 and 1/2 hours), during the eight-day period of April 14-21, 2018, without any weekend or evening hours;
- d.) for three consecutive weeks, from Saturday April 14 thru Saturday May 5, 2018, failed to provide inmate access to the law library legal services for the required minimum 24 hours every seven-day period, attempting to deny me access to the courts, causing me significant hardship and suffering from delaying the preparation of my legal documents needed for my on-going litigation in my Federal Habeas Corpus Civil Rights action;
- e.) subjecting me to collateral punishments from Librarian Zariwala Tanvir's continuing pattern inappropriate supervision harassment false conduct reports against me without cause or reason, demoralizing me by regularly stalking me and shouting vulgarities and threats of retaliation against me, often kicking me out of the library, denying the printing of my typed legal documents and deleting my typed work from the law library word processing machine, in retaliation for my use of the grievance procedure, which is facilitated and promoted by the Inspector of Institutional Services Zachary D. Gould's actual breach of confidentiality, supportive approval and encouragement, in violation of A.R. 5120-9-04(B), 5120-9-31(H)(I).

Anthony J. DeNoma May 19, 2018

Anthony J. DeNoma # A 308-836
P.O. Box 740, Madison Correctional Institution
Zone B, Jefferson Unit, J-A, 196(u)
London, Ohio 43140-0740

Exhibit N.3

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Anthony J. DeNoma — PETITIONER *pro se*
(Your Name)

VS.

Governor John R. Kasich — RESPONDENT(S) *et al.*

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

U.S. District Court Southwest Ohio No. 1:15-cv-594 Docket No. 6 ORDER
U.S. 6th Circuit Court of Appeals No. 16-3839 March 17, 2017 ORDER, Appendix A.3-5

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____, or

☐ a copy of the order of appointment is appended.

Anthony J. DeNoma
(Signature)

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Anthony J. De Noma, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>20.—</u>	\$ <u>N/A</u>	\$ <u>20.—</u>	\$ <u>N/A</u>
Self-employment	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Gifts	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Alimony	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Child Support	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>-0-</u>	\$ <u>N/A</u>	\$ <u>-0-</u>	\$ <u>N/A</u>
Total monthly income:	\$ <u>20.—</u>	\$ <u>N/A</u>	\$ <u>20.—</u>	\$ <u>N/A</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
Prison Slavery	1851 St. Rt. 56	April 6, 1995 -	\$ 20.00
Ohio Dept of Rehab.	London, Ohio 43140	present	\$
and Corr.	Madison Corr. Inst.	February 6, 2018	\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	N/A	N/A	\$ N/A
			\$
			\$

4. How much cash do you and your spouse have? \$ —.10

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
Prison Account	Inmate Account	\$ —.10	\$ N/A
		\$	\$
		\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home None
Value _____

☐ Other real estate None
Value _____

☐ Motor Vehicle #1 None
Year, make & model _____
Value _____

☐ Motor Vehicle #2 None
Year, make & model _____
Value _____

☐ Other assets None
Description _____
Value _____

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money

Amount owed to you

Amount owed to your spouse

None

\$ None
\$ _____
\$ _____

\$ N/A
\$ ↓
\$ _____

7. State the persons who rely on you or your spouse for support.

Name
None

Relationship

Age

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

Rent or home-mortgage payment
(include lot rented for mobile home)

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

Utilities (electricity, heating fuel,
water, sewer, and telephone)

Home maintenance (repairs and upkeep)

Food

Clothing

Laundry and dry-cleaning

Medical and dental expenses

You

Your spouse

\$ N/A

\$ N/A

\$ N/A

\$ N/A

\$ N/A

\$ N/A

\$ 3.00

\$ N/A

\$ N/A

\$ N/A

\$ 1.00

\$ N/A

\$ 2.00

\$ N/A

co-pay/medicine

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>Ø</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>Ø</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>Ø</u>	\$ <u>N/A</u>
Life	\$ <u>Ø</u>	\$ <u>N/A</u>
Health <i>Co-pay plus medicines</i>	\$ <u>Ø</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>Ø</u>	\$ <u>N/A</u>
Other: _____	\$ <u>Ø</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>Ø</u>	\$ <u>N/A</u>
Installment payments		
Motor Vehicle	\$ <u>Ø</u>	\$ <u>N/A</u>
Credit card(s)	\$ <u>Ø</u>	\$ <u>N/A</u>
Department store(s)	\$ <u>Ø</u>	\$ <u>N/A</u>
Other: _____	\$ <u>Ø</u>	\$ <u>N/A</u>
Alimony, maintenance, and support paid to others	\$ <u>Ø</u>	\$ <u>N/A</u>
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>Ø</u>	\$ <u>N/A</u>
Other (specify): <i>legal stationery/postage/court costs</i>	\$ <u>8.00</u>	\$ <u>N/A</u>
Total monthly expenses:	\$ <u>14.00</u>	\$ <u>N/A</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? Yes ☒ No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I am a truly indigent prisoner deprived of my case-law legal status by unconstitutional state custody, enslaved day for day more than 23 years deprived of my statutory civil rights and Equal Protection of substantive and procedural Due Process of Law, yet forced to pay court costs in the U.S. District Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 12, _____, 2018

Anthony J. DeNoma
(Signature)

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS**

I, Anthony J. DeNoma, being duly cautioned of the penalty of perjury, do hereby solemnly declare that I believe I am entitled to redress, and because of my poverty I am unable to pay the costs of this case or to give security therefore, and that the following statements are true, factual and accurate. So help me GOD!

- 1.) DeNoma has been falsely imprisoned by unconstitutional State Custody now more than 15 years beyond his non-mandatory indefinite 10 year minimum sentence term of imprisonment, and that now having completed more than 92% of the indefinite 10-25 year maximum sentence DeNoma's case-law sentence is effectively expired;
- 2.) For expeditious judicial economy DeNoma has consolidated his actions in one comprehensive cohesive hybrid action under United States Code 18 U.S.C. § 1964(c), 28 U.S.C. § 2254, and 42 U.S.C. § 1983;
- 3.) DeNoma receives only \$ 20. a month, which contrary to Ohio Revised Code Section 2329.66 Rule 5120-5-03(A),(D),(E), is immediately garnished below \$ 25. by 20% to pay federal court costs leaving DeNoma with only \$ 16. per month, rendering DeNoma unable to purchase health and hygiene needs, legal stationary, writing supplies, legal photocopies and United States Postage needed to timely access the courts;
- 4.) Defendant's vicariously deprive DeNoma of his fundamental civil rights of substantive and procedural Due Process of Law Equal Protection by denying credit for legal photocopies and United States Postage needed to expeditiously access the courts, and force DeNoma to purchase in advance taxed debit copier cards at \$ 2.14 each, denying DeNoma the ability to purchase only legal copies as needed, forcing DeNoma to pay for copies he does not need, and further continue to deny DeNoma a Six Month Certified Cashiers Statement of his account balance, attempting to deny DeNoma access to the courts, and causing DeNoma significant hardship and suffering from undue delay and additional costs. See evidence set forth in DeNoma's Declaration of Mail Filing of Petition for Writ of Certiorari at Appendix to this instant document, Exhibit E;
- 5.) DeNoma has obtained and attached a statement of all transactions on his personal account for the past six months.

Executed this 19 day of April, 2018



Jennifer L. Matyas
Notary Public
My Commission Expires

09/15/2020

Jennifer Matyas

Anthony J. DeNoma

Anthony J. DeNoma # A 308-836
P.O. Box 740, Madison Correctional Institutional
1851 State Rt. 56, London, Ohio 43140
Telephone (740) 852-9777; Fax 852-3666

03/14/2018

Madison Correctional Institution

Inmate Demand Statement

Inmate Name: DENOMA, ANTHONY J

Number: A308836

Lock Location: MaCI,J,A,,,196U

Date Range: 09/14/2017 Through 03/15/2018

Beginning Account Balances:

Ending Account Balances:

	Saving	Debt	Payable		Saving	Debt	Payable
Federal Filing Fee	\$0.00	(\$267.92)	\$0.00	Federal Filing Fee R	\$0.00	(\$243.92)	\$0.00
Pos Exemption	\$10.00	\$0.00	\$0.00	Pos Exemption	\$0.00	\$0.00	\$0.00
Inmate's Personal Account	\$14.80	\$0.00	\$0.00	Inmate's Personal Account	\$5.95	\$0.00	\$0.00
Begin Totals	\$24.80	(\$267.92)	\$0.00	End Totals	\$5.95	(\$243.92)	\$0.00

Transaction Date / Inst.	Transaction Amount	Description	Comment	Saving Balance	Debt Balance	Payable Balance
09/15/2017 MaCI	(\$0.15)	Copy Charges	COPIES	\$24.65	(\$267.92)	\$0.00
09/19/2017 MaCI	(\$7.67)	Commissary Sale	Ticket Number 453259	\$16.98	(\$267.92)	\$0.00
10/01/2017 MaCI	\$5.00	Reservation to SFF-FFF Hold	Odrc Pos Exemption	\$16.98	(\$267.92)	\$0.00
10/01/2017 MaCI	(\$7.67)	Inmate's Personal Account	POS Exemption Transfer	\$9.31	(\$267.92)	\$0.00
10/01/2017 MaCI	\$7.67	Pos Exemption	POS Exemption Transfer	\$16.98	(\$267.92)	\$0.00
10/02/2017 MaCI	(\$0.15)	Copy Charges	Copies	\$16.83	(\$267.92)	\$0.00
10/03/2017 MaCI	(\$6.77)	Commissary Sale	Ticket Number 454868	\$10.06	(\$267.92)	\$0.00
10/06/2017 MaCI	\$20.00	State Pay	State Pay	\$30.06	(\$267.92)	\$0.00
10/06/2017 MaCI	(\$4.00)	SFF-FFF Hold	#1 - Automated FFF-RB Transfer	\$26.06	(\$267.92)	\$0.00
10/06/2017 MaCI	\$4.00	Federal Filing Fee Remaining Balance	#1 - Automated FFF-RB Transfer	\$26.06	(\$263.92)	\$4.00
10/10/2017 MaCI	(\$1.00)	Donations	UVA WALK-A-THON	\$25.06	(\$263.92)	\$4.00
10/11/2017 MaCI	(\$13.36)	Commissary Sale	Ticket Number 455946	\$11.70	(\$263.92)	\$4.00

10/11/2017	(\$4.00) Payment to U.S. District Clerk of Court	September 2017 Court Case	\$11.70	(\$263.92)	\$0.00
MaCl					
10/17/2017	(\$0.87) Commissary Sale	Ticket Number 456963	\$10.83	(\$263.92)	\$0.00
MaCl					
10/19/2017	(\$2.24) Postage Charges (USPS)	POSTAGE	\$8.59	(\$263.92)	\$0.00
MaCl					
10/19/2017	(\$1.61) Postage Charges (USPS)	POSTAGE	\$6.98	(\$263.92)	\$0.00
MaCl					
10/24/2017	(\$2.49) Commissary Sale	Ticket Number 457744	\$4.49	(\$263.92)	\$0.00
MaCl					
10/31/2017	(\$3.06) Commissary Sale	Ticket Number 458442	\$1.43	(\$263.92)	\$0.00
MaCl					
11/01/2017	\$5.00 Reservation to SFF-FFF Hold	OdrC Pos Exemption	\$1.43	(\$263.92)	\$0.00
MaCl					
11/01/2017	\$0.00 \$10.00 Reservation to Pos Exemption	OdrC Pos Exemption	\$1.43	(\$263.92)	\$0.00
MaCl					
11/03/2017	\$20.00 State Pay	State Pay	\$21.43	(\$263.92)	\$0.00
MaCl					
11/03/2017	(\$4.00) SFF-FFF Hold	#1 - Automated FFF-RB Transfer	\$17.43	(\$263.92)	\$0.00
MaCl					
11/03/2017	\$4.00 Federal Filing Fee Remaining Balance	#1 - Automated FFF-RB Transfer	\$17.43	(\$259.92)	\$4.00
MaCl					
11/03/2017	(\$4.00) Payment to U.S. District Clerk of Court	10/17 fff-rb	\$17.43	(\$259.92)	\$0.00
MaCl					
11/06/2017	(\$0.35) Copy Charges	Copies	\$17.08	(\$259.92)	\$0.00
MaCl					
11/06/2017	(\$10.07) Commissary Sale	Ticket Number 459509	\$7.01	(\$259.92)	\$0.00
MaCl					
11/20/2017	(\$4.66) Commissary Sale	Ticket Number 461415	\$2.35	(\$259.92)	\$0.00
MaCl					
11/28/2017	(\$1.98) Commissary Sale	Ticket Number 461971	\$0.37	(\$259.92)	\$0.00
MaCl					
12/01/2017	\$5.00 Reservation to SFF-FFF Hold	OdrC Pos Exemption	\$0.37	(\$259.92)	\$0.00
MaCl					
12/01/2017	\$0.00 \$10.00 Reservation to Pos Exemption	OdrC Pos Exemption	\$0.37	(\$259.92)	\$0.00

MaCl					
12/08/2017	\$20.00 State Pay	State Pay	\$20.37	(\$259.92)	\$0.00
MaCl					
12/08/2017	(\$4.00) SFF-FFF Hold	#1 - Automated FFF-RB Transfer	\$16.37	(\$259.92)	\$0.00
MaCl					
12/08/2017	\$4.00 Federal Filing Fee Remaining Balance	#1 - Automated FFF-RB Transfer	\$16.37	(\$255.92)	\$4.00
MaCl					
12/11/2017	(\$4.00) Payment to U.S. District Clerk of Court	Novmeber 2017 Court Costs	\$16.37	(\$255.92)	\$0.00
MaCl					
12/12/2017	(\$8.48) Commissary Sale	Ticket Number 463439	\$7.89	(\$255.92)	\$0.00
MaCl					
12/19/2017	(\$5.34) Commissary Sale	Ticket Number 464847	\$2.55	(\$255.92)	\$0.00
MaCl					
12/26/2017	(\$1.17) Commissary Sale	Ticket Number 465664	\$1.38	(\$255.92)	\$0.00
MaCl					
01/01/2018	\$5.00 Reservation to SFF-FFF Hold	Odrcl Pos Exemption	\$1.38	(\$255.92)	\$0.00
MaCl					
01/01/2018	\$0.00 \$10.00 Reservation to Pos Exemption	Odrcl Pos Exemption	\$1.38	(\$255.92)	\$0.00
MaCl					
01/02/2018	(\$1.32) Commissary Sale	Ticket Number 466320	\$0.06	(\$255.92)	\$0.00
MaCl					
01/05/2018	\$20.00 State Pay	State Pay	\$20.06	(\$255.92)	\$0.00
MaCl					
01/05/2018	(\$4.00) SFF-FFF Hold	#1 - Automated FFF-RB Transfer	\$16.06	(\$255.92)	\$0.00
MaCl					
01/05/2018	\$4.00 Federal Filing Fee Remaining Balance	#1 - Automated FFF-RB Transfer	\$16.06	(\$251.92)	\$4.00
MaCl					
01/08/2018	(\$4.00) Payment to U.S. District Clerk of Court	December 2017 Court Costs	\$16.06	(\$251.92)	\$0.00
MaCl					
01/09/2018	(\$13.19) Commissary Sale	Ticket Number 467140	\$2.87	(\$251.92)	\$0.00
MaCl					
01/16/2018	(\$2.56) Commissary Sale	Ticket Number 468269	\$0.31	(\$251.92)	\$0.00
MaCl					
01/25/2018	(\$0.21) Postage Charges (USPS)	POSTAGE	\$0.10	(\$251.92)	\$0.00
MaCl					

02/01/2018	\$5.00 Reservation to SFF-FFF Hold	OdrC Pos Exemption	\$0.10	(\$251.92)	\$0.00
MaCI					
02/01/2018	\$0.00 \$10.00 Reservation to Pos Exemption	OdrC Pos Exemption	\$0.10	(\$251.92)	\$0.00
MaCI					
02/09/2018	\$20.00 State Pay	State Pay	\$20.10	(\$251.92)	\$0.00
MaCI					
02/09/2018	(\$4.00) SFF-FFF Hold	#1 - Automated FFF-RB Transfer	\$16.10	(\$251.92)	\$0.00
MaCI					
02/09/2018	\$4.00 Federal Filing Fee Remaining Balance	#1 - Automated FFF-RB Transfer	\$16.10	(\$247.92)	\$4.00
MaCI					
02/13/2018	(\$4.00) Payment to U.S. District Clerk of Court	February 2018 Court Costs	\$16.10	(\$247.92)	\$0.00
MaCI					
02/13/2018	(\$8.56) Commissary Sale	Ticket Number 471196	\$7.54	(\$247.92)	\$0.00
MaCI					
02/16/2018	(\$6.00) Postage Charges (USPS)	postage	\$1.54	(\$247.92)	\$0.00
MaCI					
02/16/2018	(\$0.70) Postage Charges (USPS)	postage	\$0.84	(\$247.92)	\$0.00
MaCI					
03/01/2018	\$5.00 Reservation to SFF-FFF Hold	OdrC Pos Exemption	\$0.84	(\$247.92)	\$0.00
MaCI					
03/01/2018	\$0.00 \$9.26 Reservation to Pos Exemption	OdrC Pos Exemption	\$0.84	(\$247.92)	\$0.00
MaCI					
03/09/2018	\$20.00 State Pay	State Pay	\$20.84	(\$247.92)	\$0.00
MaCI					
03/09/2018	(\$4.00) SFF-FFF Hold	#1 - Automated FFF-RB Transfer	\$16.84	(\$247.92)	\$0.00
MaCI					
03/09/2018	\$4.00 Federal Filing Fee Remaining Balance	#1 - Automated FFF-RB Transfer	\$16.84	(\$243.92)	\$4.00
MaCI					
03/09/2018	(\$4.00) Payment to U.S. District Clerk of Court	March 2018 Court Costs	\$16.84	(\$243.92)	\$0.00
MaCI					
03/12/2018	(\$8.75) Postage Charges (USPS)	POSTAGE	\$8.09	(\$243.92)	\$0.00
MaCI					
03/13/2018	(\$2.14) Commissary Sale	Ticket Number 474656	\$5.95	(\$243.92)	\$0.00
MaCI					

Outstanding Debts:

Start Date	Description	Case	Agency	County	Total Debt	Paid to Date	Balance Owed
11/04/2015	Federal Filing Fee	1:15CV0059	U.S. District Clerk of		(\$345.56)	\$101.64	(\$243.92)
	Remaining Balance	4	Court				
11/04/2015	Federal Filing Fee Initial	1:15CV0059	U.S. District Clerk of		(\$4.44)	\$4.44	\$0.00
	Partial	4	Court				
Total Outstanding Case Balances					(\$243.92)		

Outstanding Holds:

Start Date	Description	Case	Agency	County	Total Debt	Paid to Date	Balance Owed
Total Outstanding Case Holds					\$0.00		

Outstanding Investments / EPC:

Investment Type	Investment Type Description	Invest Company	Company Description	Balance
-----------------	-----------------------------	----------------	---------------------	---------

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

ANTHONY J. DENOMA, Petition pro se

vs.

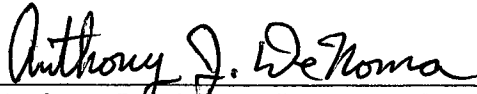
JOHN R. KASICH, ET AL, Respondents

JUSTICE ELENA KAGAN

PROOF OF SERVICE DECLARATION

As an indigent State prisoner required by Supreme Court Rule 29, I Anthony J. DeNoma cautioned of the penalty of perjury, do hereby solemnly declare that on this 13 day of June, 2018, I enclosed the accompanying SUPPLEMENTED APPLICATION FOR STAY with MOTION FOR EXTENSION OF TIME for PETITION FOR WRIT OF CERTIORARI in envelopes depositing the same with the designated prison mail clerk together with authorized Personal Account Withdrawal Slips required for payment of the required United States First Class Postage, addressed both to the United States Supreme Court, and for Service on Counsel of Respondents Gary C. Mohr and Michael DeWine at:

Assistant Ohio Attorney General
Zachary R. Huffman, telephone (614) 728-3338
Heather L. Buchanan and Steven T. Voigt, telephone (614) 466-2872
30 East Broad Street, 16th Floor, Columbus, Ohio 43215



Anthony J. DeNoma, # A 308-836
Madison Correctional Institution (MaCI)
P.O. Box 740, 1851 State Rt. 56, London, Ohio 43140

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

ANTHONY J DENOMA, Petitioner pro se

vs.

JOHN R. KASICH, ET AL, Respondents

PROOF OF SERVICE AND FILING

As required by Supreme Court Rule 29, as an indigent State prisoner, I, Anthony j. DeNoma do hereby swear or declare that on this 3rd day of May 2018, I have filed the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and APPLICATION FOR STAY in the United States Supreme Court by depositing envelopes containing the above said documents with the designated prison mail clerk together with an authorized Account Cash Withdrawal Slip for the prepayment of required United States First Class Postage addressed to the Court, and for service on counsel of Respondents Gary C. Mohr and Michael DeWine addressed to:

Assistant Ohio Attorney General
Zachary R. Huffman, telephone (614) 728-3338
Heather L. Buchanan and Steven T. Voigt, telephone (614) 466-2872
30 East Broad Street, 16th Floor, Columbus, Ohio 43215

Executed on this day 3rd day of May 2018

Anthony J. DeNoma

Anthony J. DeNoma # A 308-836
P.O. Box 740, Madison Correctional Institution
1851 State Rt. 56, London, Ohio 43140
telephone (740) 852-9777; Fax (740) 852-3666

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

ANTHONY J. DENOMA, Petitioner pro se

vs.

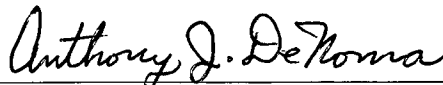
JOHN R. KASICH, ET AL., Respondents

PROOF OF SERVICE AND FILING

As an indigent State prisoner required by Supreme Court Rule 29, I, Anthony J. DeNoma, do hereby swear or declare that I enclosed two complete copies of my MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI in the United States Supreme Court, in two separate envelopes, depositing the same with the designated prison mail clerk together with an authorized Personal Account Cash Withdrawal Slip for the prepayment of the required United States First Class Postage, one addressed to this Court on March 9th, 2018, and the other previously on February 15th, 2018, for service on counsel representing Respondents Gary C. Mohr and Michael DeWine addressed to:

Ohio Assistant Attorney General
Zachary R. Huffman, telephone (614) 728-3338
Heather L. Buchanan and Steven T. Voigt, telephone (614) 466-2872
30 East Broad Street, 16th Floor, Columbus, Ohio 43215

Executed on this 27 day of April 2018.



Anthony J. DeNoma # A 308-836
P.O. Box 740, Madison Correctional Institution
1851 State Rt. 56, London, Ohio 43140
telephone (740) 852-9777; Fax (740) 852-3666