

IN THE  
SUPREME COURT OF THE UNITED STATES  
NOVEMBER TERM 2025

Mark Anthony Gooding,

PETITIONER,

-AGAINST-

Parole Board, et al.,

RESPONDENTS.

NO. \_\_\_\_\_

APPENDIX

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May 13, 2025

KELLY L. STEPHENS, Clerk

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

MARK ANTHONY GOODING,

Petitioner-Appellant,

v.

## ORDER

PAROLE BOARD, et al.,

Respondents-Appellees.

Before: MATHIS, Circuit Judge.

Mark Anthony Gooding, a pro se Michigan prisoner, appeals a district court order dismissing his petition for a writ of habeas corpus filed under 28 U.S.C. § 2254. The court construes the notice of appeal as a request for a certificate of appealability. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b)(2). Gooding moves to proceed in forma pauperis.

In 2008, a jury found Gooding guilty of first-degree home invasion. He was sentenced as a fourth-offense habitual offender to serve six to 20 years in prison. The Michigan Court of Appeals affirmed Gooding's conviction. *People v. Gooding*, No. 290456, 2010 WL 1925124, at \*1-5 (Mich. Ct. App. May 13, 2010) (per curiam). The Michigan Supreme Court denied leave to appeal. *People v. Gooding*, 789 N.W.2d 456, 456-57 (Mich. 2010) (mem.).

Gooding was paroled but was returned to prison after his parole was revoked. *Gooding v. Parole Bd.*, No. 333911, 2017 WL 6542550, at \*1 (Mich. Ct. App. Dec. 21, 2017) (per curiam). Gooding timely appealed the revocation of his parole to the Michigan Court of Claims, but his appeal was dismissed for lack of jurisdiction because that was not the proper court to hear his appeal. *Id.* Gooding re-filed his appeal in the applicable circuit court—the proper court to hear his appeal—but his appeal was dismissed as untimely because, by then, the time to appeal had

expired. *Id.* The Michigan Court of Appeals reversed and remanded Gooding's case to the circuit court to adjudicate his parole-revocation appeal. *Id.*

On remand, the circuit court denied Gooding's appeal from his parole revocation. Gooding applied to appeal to the Michigan Court of Appeals. That court denied Gooding's motion to waive the filing fees and later dismissed his application for leave to appeal because he owed fees and costs for his prior appeal in *Gooding*, No. 333911. The state appellate court relied on Michigan Compiled Laws (MCL) § 600.2963(8), which prohibits prisoners from filing new civil actions or appeals if they owe fees and costs from prior court cases. Gooding attempted to move for reconsideration, but his motion was returned to him by letter because it was untimely. He did not receive the letter from the appellate court because he again had been arrested for violating his parole. Gooding's application for leave to appeal to the Michigan Supreme Court was rejected as untimely. The state supreme court relied on Michigan Court Rule (MCR) 7.305(C)(2), which establishes a 42-day deadline for filing an appeal to the supreme court in a civil case, and MCR 7.316(B), which does not allow motions to file late applications for leave to appeal.

In this habeas corpus petition, Gooding challenged (1) the Michigan Court of Appeals's dismissal of his application for leave to appeal for failure to pay the outstanding fees and costs owed in *Gooding*, No. 333911, and (2) the Michigan Supreme Court's rejection of his application for leave to appeal as untimely. The district court summarily dismissed Gooding's petition and denied a certificate of appealability. Gooding's Federal Rule of Civil Procedure 60(b) motion for relief from judgment and Federal Rule of Civil Procedure 15(a)(2) motion for leave to amend were denied, and his Federal Rule of Civil Procedure 59(e) motion to alter or amend the judgment was denied as moot.

A certificate of appealability may issue only if a petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

Gooding's first claim challenged the state appellate court's dismissal of leave to appeal under MCL § 600.2963(8) because he owed fees and costs in a prior appeal. His second claim challenged the state supreme court's rejection of his application for leave to appeal as untimely under MCR 7.305(C)(2) and 7.316(B).

Gooding's claims are not cognizable on federal habeas review. A federal court may grant habeas relief to a state prisoner who "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). Immediate or speedier release from prison is "the heart of habeas corpus." *Preiser v. Rodriguez*, 411 U.S. 475, 498 (1973); *see Kirby v. Dutton*, 794 F.2d 245, 247-48 (6th Cir. 1986). Gooding did not challenge his confinement or seek release from prison. Instead, he challenged certain procedural rulings by the state appellate courts following the denial of his parole-revocation appeal. Because Gooding's claims did not challenge the fact or length of his confinement, they are not cognizable in a § 2254 proceeding. *See Preiser*, 411 U.S. at 500; *Kirby*, 794 F.2d at 247-48. Thus, reasonable jurists would not debate the district court's rejection of Gooding's claims.

In his motion to proceed in forma pauperis, Gooding lists twelve issues that he intends to present on appeal. But he did not present these issues to the district court. And neither claim presented in Gooding's habeas corpus petition may be construed as raising the issues listed in his motion to proceed in forma pauperis. Although Gooding is proceeding pro se, he has not identified any extraordinary circumstances that would allow him to present these new issues for the first time in an application for a certificate of appealability. *See Landers v. Romanowski*, 678 F. App'x 295, 300 (6th Cir. 2017) (order); *United States v. Ellison*, 462 F.3d 557, 560-61 (6th Cir. 2006); *Dillard v. Burt*, 194 F. App'x 365, 369 (6th Cir. 2006).

Therefore, Gooding's application for a certificate of appealability is **DENIED** and his motion to proceed in forma pauperis is **DENIED** as moot.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens  
Kelly L. Stephens, Clerk

No. 24-1438

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

FILED

Aug 7, 2025

KELLY L. STEPHENS, Clerk

MARK ANTHONY GOODING, )  
Petitioner-Appellant, )  
v. )  
PAROLE BOARD, et al., )  
Respondents-Appellees. )

ORDER

Before: SUTTON, Chief Judge; COLE and CLAY, Circuit Judges.

Mark Anthony Gooding, a pro se Michigan prisoner, petitions for rehearing of this court's May 13, 2025, order denying his motion for a certificate of appealability. We have reviewed the petition and conclude that this court did not overlook or misapprehend any point of law or fact in denying Gooding's motion for a certificate of appealability. *See* Fed. R. App. P. 40(b)(1)(A).

Accordingly, the petition for rehearing is **DENIED**.

ENTERED BY ORDER OF THE COURT

  
\_\_\_\_\_  
Kelly L. Stephens, Clerk

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARK ANTHONY GOODING,

Petitioner,

Civil No. 2:23-cv-10949  
Hon. George Caram Steeh

v.

PAROLE BOARD and  
HEIDI WASHINGTON,

Respondents.

/

**ORDER DENYING MOTIONS TO ALTER OR AMEND  
THE JUDGMENT (ECF No. 21) AND TO DISPENSE WITH  
MULTIPLE COPY REQUIREMENT (ECF No. 20) AS MOOT**

Petitioner Mark Anthony Gooding, a Michigan prisoner confined at the Cooper Street Correctional Facility in Jackson, Michigan, filed a pro se petition for a writ of habeas corpus seeking relief under 28 U.S.C. § 2254. Petitioner challenged the Michigan Court of Appeals' decision to dismiss his parole-revocation appeal pursuant to Mich. Comp. Laws § 600.2963(8) for failing to pay an outstanding filing fee in a prior appeal. He also challenged the Michigan Supreme Court's decision to dismiss his application for leave to appeal as untimely.

The Court dismissed the habeas petition on the basis that it lacked the authority to review such claims under the *Rooker-Feldman* doctrine. See *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of Columbia Ct. of App. v. Feldman*, 460 U.S. 462 (1983). Within 30 days of the entry of the Court's dismissal order, Petitioner moved to extend the time to file an appeal, which the Court granted on February 16, 2024. Petitioner then filed a motion to reissue the time limits to appeal, which the Court granted on April 29, 2024. (ECF No. 19.)

The matter is now before the Court on Petitioner's motions to alter or amend the judgment (ECF No. 21) and to dispense with the multiple copy requirement (ECF No. 20). Petitioner appears to explain that his delay in filing a timely notice of appeal was due to excusable neglect. (ECF No. 21, PageID.114.) Because this Court already issued an order reopening the time to appeal, the Court **DENIES** Petitioner's motions as moot. Petitioner has timely filed his notice of appeal in accordance with the Court's April 29th order.

**IT IS SO ORDERED.**

Dated: November 4, 2024

s/George Caram Steeh  
HON. GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARK ANTHONY GOODING,

Petitioner,

Civil No. 2:23-cv-10949

Hon. George Caram Steeh

v.

PAROLE BOARD and  
HEIDI WASHINGTON,

Respondents.

---

**ORDER GRANTING MOTIONS TO DISPENSE WITH  
MULTIPLE COPY REQUIREMENT (ECF No. 17) AND  
TO REOPEN TIME TO FILE AN APPEAL (ECF No. 18)**

Petitioner Mark Anthony Gooding, a Michigan prisoner confined at the Cooper Street Correctional Facility in Jackson, Michigan, filed a *pro se* petition for a writ of habeas corpus seeking relief under 28 U.S.C. § 2254. Petitioner challenged the Michigan Court of Appeals' decision to dismiss his parole-revocation appeal pursuant to Mich. Comp. Laws § 600.2963(8) for failing to pay an outstanding filing fee in a prior appeal. He also challenged the Michigan Supreme Court's decision to dismiss his application for leave to appeal as untimely. The Court dismissed the habeas petition on the basis that it lacked the authority to review such

claims under the *Rooker-Feldman* doctrine. See *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of Columbia Ct. of App. v. Feldman*, 460 U.S. 462 (1983). Within 30 days of the entry of the Court's dismissal order, Petitioner moved to extend the time to file an appeal, which the Court granted on February 16, 2024.

The matter is now before the Court on Petitioner's motions to re-open the time to file an appeal and to dispense with the multiple copy requirement. For the reasons explained below, the Court will GRANT Petitioner's motions.

Rule 4(a)(1) of the Federal Rules of Appellate Procedure provides that a notice of appeal "must be filed with the district clerk within 30 days after entry of the judgment or order appealed from." This time limit is mandatory and jurisdictional. *Browder v. Dir., Dep't of Corr. Ill.*, 434 U.S. 257, 264 (1978). The failure of an appellant to timely file a notice of appeal deprives an appellate court of jurisdiction. *Rhoden v. Campbell*, 153 F. 3d 773, 774 (6th Cir. 1998).

Federal Rule of Appellate Procedure 4(a)(6), however, provides that where a party does not receive notice of a judgment in accordance with Federal Rule of Civil Procedure 77(d), the district court may reopen the time to file an appeal if the motion to reopen is filed within 180 days after

the judgment is entered, or within 14 days after the party receives notice, whichever is earlier.

Rule 4(a)(6) is the exclusive remedy for reopening the time to file an appeal. *Bowles v. Russell*, 432 F.3d 668, 672–73 (6th Cir. 2005), aff'd, 551 U.S. 205 (2007). District court rulings on Rule 60(b)(6) motions are reviewed for abuse of discretion. *Browder*, 434 U.S. at 263 n.7; *Kuhn v. Sulzer Orthopedics, Inc.*, 498 F.3d 365, 370 (6th Cir. 2007).

Here, the Court will exercise its discretion to grant the motion for reopening the time for filing the notice of appeal. Petitioner claims he did not receive actual notice of the February 16, 2024 Order until March 28, 2024. Petitioner asserts that he was being transferred from the Central Correctional Facility to the Cooper Street Correctional Facility in early March. The docket reflects that the Court's Order was returned as undeliverable. ECF No. 15. Petitioner filed his motion to reopen within 14 days of receiving actual notice, as required by Federal Rule of Appellate Procedure 4(a)(6).

Because Petitioner meets the requirements of Federal Rule of Appellate Procedure 4(a)(6), the Court GRANTS the motion to reopen. Petitioner has 14 days after the date of the entry of this Order to file an appeal. See Fed. R. App. P. 4(a)(6).

The Court further GRANTS Petitioner's motion to dispense with the copy requirements under Local Rule 5.1(b) for the reasons stated in the motion.

**IT IS SO ORDERED.**

Dated: April 29, 2024

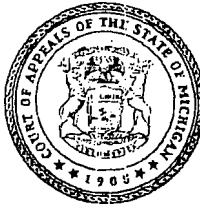
s/George Caram Steeh  
HON. GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on April 29, 2024, by electronic and/or ordinary mail and also on Mark Anthony Gooding #180621, Cooper Street Correctional Facility, 3100 Cooper Street, Jackson, MI 49201.

s/Lashawn Saulsberry  
Deputy Clerk

CHRISTOPHER M. MURRAY  
CHIEF JUDGE  
JANE M. BECKERING  
CHIEF JUDGE PRO TEM  
DAVID H. SAWYER  
MARK J. CAVANAGH  
ATHLEEN JANSEN  
JANE E. MARKEY  
ATRICK M. METER  
IRSTEN FRANK KELLY  
AREN FORT HOOD  
STEPHEN L. BORRELLO  
EBORAH A. SERVITTO  
LIZABETH L. GLEICHER  
YNTHIA DIANE STEPHENS



State of Michigan  
**Court of Appeals**  
**Lansing Office**

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JONATHAN TUKEL  
ANICA LETICA  
JAMES ROBERT REDFORD  
JUDGES  
JEROME W. ZIMMER JR.  
CHIEF CLERK

November 3, 2020

Mark Anthony Gooding #180621  
St. Louis Correctional Facility  
8585 N. Croswell Rd.  
St. Louis MI 48830

Re: **Mark Anthony Gooding v Parole Board**  
Court of Appeals No. **333911**  
Lower Court No. **16-000404-AA**

Dear Mr. Gooding:

This is in reply to your letter dated October 23, 2020. First, per the January 24, 2018 letter from this office, the costs taxed in your favor for this appeal were in the amount of \$436.40, not \$462.00 as indicated in your letter. Also, taxed costs are not collected by this office on behalf of a prevailing party. Rather, in general, the party against whom costs are taxed directly pays the costs to the prevailing party.

You indicate that the costs taxed in your favor in this matter were credited to other debts rather than being paid directly to you or credited to the remaining balance you owe this Court for the filing fee in this appeal. This office cannot provide legal advice as to whether this was proper or any remedy you might seek in this regard if you believe it was not.

Very truly yours,

Gary L. Chambon Jr.  
District Clerk

cc: Scott R. Rothermel

DETROIT OFFICE  
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LANSING, MICHIGAN 48909-7522  
(517) 373-0786

**Court of Appeals, State of Michigan**

**ORDER**

**Mark Anthony Gooding v Department of Corrections**

Docket No. **347686**

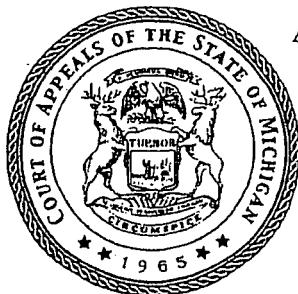
LC No. **16-000404-AA**

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Christopher M. Murray, Chief Judge, acting under MCR 7.203(F)(1), orders:

On the Court's own motion, the delayed application for leave to appeal is DISMISSED because appellant, while a prisoner of the Department of Corrections, filed the subject delayed application even though he owes an outstanding balance to this Court in *Mark Anthony Gooding v Parole Board*, Docket Number 333911. A prisoner who is under the Department's jurisdiction cannot file another civil appeal or original action until the prisoner pays the outstanding balance owed in an earlier civil appeal or original action filed while under the Department's jurisdiction. MCL 600.2963(8).

The motions to waive fees and to dispense with multiple copy requirements are also DISMISSED as moot.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

**NOV - 6 2019**

Date

A handwritten signature of Jerome W. Zimmer Jr. in black ink.

Chief Clerk



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**Mark Anthony Gooding  
v.  
Parole Board**

**No. 361020**

**Court of Appeals of Michigan**

**May 6, 2022**

LC No. 16-000404-AA

**ORDER**

Michael F. Gadola, Chief Judge Pro Tem, acting under MCR 7.211(E)(2), orders:

The motion to waive fees is DENIED because MCL 600.2963 mandates that a prisoner pursuing a civil action be liable for the filing fees. Appellant is not required to pay an initial partial fee. However, for this appeal to be filed, *appellant shall submit a copy of this order and refile the pleadings within 21 days after the date of this order*. By doing this, appellant becomes responsible for paying the \$375 filing fee and generally may not file another new civil appeal or original action in this Court until such time that either the Department of Corrections remits or appellant pays the entire outstanding balance due. MCL 600.2963(8). Failure to comply with this order shall result in the appeal not being filed in this Court and appellant not being responsible for paying the filing fee.

If appellant timely refiles the pleadings, monthly payments shall be made to the Department of Corrections in an amount of 50 percent of the deposits made to appellant's account until the payments equal the balance due of \$375. This amount shall then be remitted to this Court. Again, appellant generally may not file either a new civil appeal or an original action until appellant pays the entire outstanding balance due. MCL 600.2963(8).

The Clerk of this Court shall furnish two copies of this order to appellant and return appellant's pleadings with this order.

1

Appendix A, pg. 3



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**Mark Anthony Gooding  
v.  
Parole Board**

**No. 361020**

**Court of Appeals of Michigan**

**August 2, 2022**

LC No. 16-000404-AA

**ORDER**

Elizabeth L. Gleicher, Chief Judge, acting under MCR 7.203(F)(1), orders:

On the Court's own motion, the application for leave to appeal is DISMISSED because appellant, while a prisoner of the Department of Corrections, filed the subject application even though he owes an outstanding balance to this Court in *Mark Anthony Gooding v Parole Board*, Docket Number 333911. A prisoner who is under the Department's jurisdiction cannot file another civil appeal or original action until the prisoner pays the outstanding balance owed in an earlier civil appeal or original action filed while under the Department's jurisdiction. MCL 600.2963(8).

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STATE OF MICHIGA  
6th JUDICIAL CIRCUIT  
COUNTY OF OAKLAND

ORDER OF  
DISMISSAL

CASE NO.  
2022-282393-FH

ORI: MI-630015J Court Address: 1200 N. Telegraph Rd. Pontiac, MI 48341  
Police Report No.

Court telephone no:

248-858-0358

THE PEOPLE OF THE STATE OF  
MICHIGAN

V

Defendant's name, address, and telephone no.

GOODING, MARK, ANTHONY,  
534 FRANKLIN  
PONTIAC

MI 48341

CTN/TCN 63-22-096866-01	SID 1331890P	DOB 12/05/1962
----------------------------	-----------------	-------------------

Prosecuting Attorney Name  
KAREN D. MCDONALD

Bar No.  
P59083

Defendant Attorney Name  
MICHAEL J. MCCARTHY

Bar No.  
P30169

Count	Crime	CHARGE CODE(S) MCL citation/PACC Code	
1	POSS/CS U/25 GRAMS	333.74032A5	DISMISSED
2	HAB OFF/4TH OFF NTC	769.12	ENHANCED

IT IS ORDERED:

1. The Case is dismissed on the motion of the Court  with  without prejudice.

2. Defendant's/Juvenile's motion for dismissal is granted  with  without prejudice and the case is dismissed.

3. Defendant's/Juvenile's motion for dismissal is granted in part  with  without prejudice and the following charge(s) is/are dismissed:  
\_\_\_\_\_

4. Defendant/Juvenile is acquitted on all charge(s) in this case after trial by  judge  jury.

5. Defendant/Juvenile is acquitted after trial by  judge  jury only on the following charge(s):  
\_\_\_\_\_

6. Defendant/Juvenile shall be immediately discharged from confinement in this case.

7. Bond is canceled and shall be returned after costs are deducted.

8. Bond/bail is continued on the remaining charge(s).

9. The case is remanded to the district court for further proceedings for the following reasons:  
\_\_\_\_\_

10. If item 1, 2, or 4 is checked, the arresting agency shall destroy the fingerprints and arrest card according to law.

Other:

DATED: 08/15/2023

/s/NANCI J. GRANT

HON. NANCI J. GRANT

P42865

If item 1, 2, or 4 is checked, the clerk of the court shall advise the Michigan State Police Criminal Justice Information Center of the disposition as required under MCL 769.16a.

TO THE DEFENDANT: By law, your fingerprints and arrest card will be destroyed by the Michigan State Police within 60 days of the date of this order.

MCL 769.16a, MCR 6.419, MCR 7.101(M)

MC 262 (3/06) ORDER OF ACQUITTAL/DISMISSAL OR REMAND

Page 1  
DEFENDANT

5

Name: Gooding, Mark	Number: C180621	Location: RGC	Mailed: 07/24/2015
------------------------	--------------------	------------------	-----------------------

**The Michigan Parole Board**, having attained jurisdiction over the sentence of the above prisoner, having considered the facts and circumstances involved in this case and having exercised the discretion granted by the legislature, says as follows:

PRISONER COPY

The Parole Board lacks reasonable assurance that the prisoner will not become a menace to society or to the public safety and revocation of parole is warranted with action as follows:

DECISION DATE:	ACTION:	TERM OF DENIAL:	RECONSIDERATION DATE:
07/20/2015	Continue with Interview	18 Months	10/13/2016

19

**Parole Violations:**

- 1 On or about 4/14/15 you were involved in behavior which constitutes a violation of state law by assaulting Charlese Greer. Dismissed by OFP for Cause
- 2 On or about 4/14/15 you engaged in behavior that was assaultive, abusive, Guilty by Hearing threatening and/or intimidating by assaulting Charlese Greer.

Name:	Number:	Location:	Mailed:
Gooding, Mark	C180621	RGC	07/24/2015

### PAROLE VIOLATION ARRAIGNMENT SUMMARY AND PAROLE BOARD ACTION

#### Parolee Comments:

#### Conclusions:

#### Formal Hearing:

#### Procedural Matters:

5/21/15 - Zeller (Recording DM620143)

PV Specialist Risley notes that DEF Attorney Scherer requested several people from Labor Ready as witnesses to testify at this hearing. Charlene Greer did appear. Ms. Semos is attending a mandatory training session and cannot be here today. Talisha Reid the only person left to staff the Labor Ready office today and cannot be here for that reason. A fourth person, who worked at Labor Ready temporarily has refused to appear. OFP has no objection to an adjournment, should Parolee wish to request it so that his proposed witnesses may appear.

Regarding the request for video evidence, Ms. Risley acknowledges that DEF included it in their initial discovery request. She conveyed the request to the field agent who failed to request it from Labor Ready. The agent has since attempted to get it but has not received it or been able to confirm that the incident was captured on video.

Mr. Scherer has been informed of the above by Ms. Risley. He initially met with Parolee Gooding on 5/11/15. Among other things, they discussed the nature of the PV hearing. Mr. Scherer explained that it is an administrative hearing and that there are no subpoena powers. Parolee provided him with the names Talisha Reid and Erma Bledsoe. Mr. Scherer called Labor Ready and tried to reach Talisha Reid. He left a message with a staff member named Perie. Mr. Scherer then sent letters to Ms. Reid, Charlene Greer, Erma Bledsoe, and Antoine in care of Labor Ready. None of these people have replied to his correspondence. Mr. Scherer explained this to Parolee Gooding who expressed doubt regarding his efforts. Mr. Scherer also provided Parolee with information he had received relative to his pending misdemeanor charge, the OCSD Report, and ARU Arrest reports. He has shared all of the discovery he has received with Parolee Gooding. Despite this, Parolee disparaged his efforts in this case, called him a shister, and told Mr. Scherer that his services were 'waived.' The ALE notes that Parolee repeated this several times as he stormed out of the PV Unit and that custodial staff had to be called to assist.

Mr. Scherer moves to withdraw as Parolee Gooding's attorney citing a complete breakdown in the attorney-client relationship.

Parolee Gooding asked to speak. He apologized to Mr. Scherer and asked that he stay on as counsel. He claims to have misunderstood Mr. Scherer.

Mr. Scherer renewed his request to withdraw.

The Motion to Withdraw is GRANTED.

Parolee was given the option of adjourning his hearing so that the individuals he requested, apart from Ms. Greer, may be called to testify. After a brief recess in which Mr. Scherer agreed to discuss the pros and cons of adjourning, Parolee Gooding agreed to adjourn for the aforementioned purpose.

Parolee is requesting the video and sign in sheets from Labor Ready for the date of the incident (4/14/15). He is reminded that, while we will attempt to reschedule the hearing on or before 5/30/15, this cannot be guaranteed. Parolee acknowledged understanding of this.

6/9/15

Defense Attorney Theodore Johnson has been appointed to represent Parolee Gooding. He has received several letters from Parolee Gooding during the past week, including a request to adjourn today's hearing to obtain video evidence from Labor Ready. Mr. Johnson contacted the Legal Department of Labor Ready and was advised him that they will not release the sign-in sheets or video evidence Parolee is requesting without a subpoena.

The request to adjourn today's hearing is DENIED. The ALE notes that there are no subpoena powers in the administrative hearing process and Labor Ready will not release the material that Parolee is requesting without a subpoena. In view of the above, it would be pointless to adjourn today's hearing for the reason Parolee requests.

Second, Mr. Johnson received a letter from Parolee Gooding when he arrived at DRC today. In it, Parolee asked him to contact the Labor Ready Legal Department which he has already done. Parolee maintains that he spoke to Talisha Reid who works for Labor Ready after he was granted telephone privileges on 5/28/15. She advised him that she would appear at this hearing after he spoke to the Legal Department. DEF Attorney Johnson spoke to Parolee after that date as well. He provided a list of people that he wanted as witnesses for today's proceeding. They include: Ethel Gooding (mother), Kelvin Gooding (brother), Lisa Gooding (sister), LaTonya Gooding (sister), Mark Gooding (son), Willie Hollerman (housing), and Erma Bledsoe (Labor Ready). Parolee contends that Mr. Johnson has not contacted his proposed witnesses while Mr. Johnson indicates that he has. It is noted that Ethel and Alissa Goodin have appeared today. Parolee maintains that it is because he called them and told them to be here and not because of Mr. Johnson's efforts. He questions why Mr. Johnson did not contact the witnesses he included in the kite he sent which Mr. Johnson reportedly received this morning. Parolee maintains that he could not provide the information to Mr. Johnson sooner because he did not have

Name:	Number:	Location:	Mailed:
Gooding, Mark	C180621	RGC	07/24/2015

telephone privileges and could not contact his family to obtain the telephone numbers (from his phone) sooner. When questioned by the ALE, Parolee acknowledged that he knows his mother and sister's telephone numbers and provided same to Mr. Johnson. The ALE questions why Parolee did not provide the names of these witnesses to Mr. Johnson at their initial meeting and request that he obtain the telephone numbers from Parolee's mother; or why he did not do this when Mr. Scherer represented him. This hearing was originally scheduled to occur on 5/21/15 and was adjourned on that date. Parolee easily could have advised his attorney of the names of these witnesses and asked him to convey the request for their telephone numbers to his mother or sister. Instead, he decided to wait until he could talk to his mother personally and then submitted a note to his attorney at that last minute. Parolee has had ample opportunity to provide the necessary information to both of the attorneys he has had in this case and did not do so in a timely manner. His request to adjourn today's hearing is denied. The ALE notes that this is the second time Ms. Greer has appeared. OFP is prepared to proceed today.

Finally, Parolee alleges that his due process rights were violated at the Preliminary Parole Violation Hearing because he was not afforded an opportunity to contact witnesses and have them testify on his behalf. Parolee argues that he was locked in 700C from 4/15/15 to 5/20/15. He could not make telephone calls or have visits. He provided a list of adverse witnesses to Sherry Underwood and asked that they be present for the Preliminary Parole Violation Hearing. They were not present and the Hearing Examiner told him that it was his responsibility to contact his witnesses. He could not do this because he did not have telephone or visiting privileges. The ALE advised Parolee that she will note this issue for the record as she is not involved in the preliminary parole violation hearing process and has no jurisdiction over it.

Plea Agreement:

Not Applicable

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**Summary of Testimony/Evidence:**

CHARLESE GREER testified that she works for Labor Ready. She worked on 4/14/15 and had contact with Mark Gooding. She was assaulted by him during a verbal confrontation where she asked him to leave the premises. This occurred during morning dispatch which entails giving out available jobs. Parolee was offered an overnight position which he declined. He asked for another position and she did not have one for him. He accused her of having an issue with him due to an experience involving a past assignment. He became loud and aggressive. She asked him to leave. He repeatedly told her 'No' he would not leave. She told him police would be called if he did not leave. She stepped around the counter and attempted to block him from using a microwave in the lobby area. Parolee said, "Don't touch me." He then struck her in the face and head with a closed fist a couple of times. It was directed at the side of her head as opposed to her face. She was able to stay on her feet but was knocked against a wall by the initial blow. A co-worker called police. Ms. Greer was offered medical attention by the responding officers but declined. She had no cuts or bruises and suffered no injuries. She left work after the police took her statement. She does not know how long the company retains video or does not know whether or not they have video of the incident at issue. She identified Parolee Gooding at counsel table as being as the person who assaulted her on 4/14/15.

On CROSS, Ms. Greer testified that Parolee regularly came to Labor Ready looking for jobs. They were able to find assignments for him. Parolee came to Labor Ready looking for work on 4/14/15. They had an overnight position for him. He did not qualify for the day assignment because the customer required a clear criminal record. She told Parolee they had nothing else available that he was qualified for. A confrontation ensued and 5-7 minutes passed before he attempted to use the microwave. She repeatedly asked him to leave and he refused. Temporary Associates generally leave when first asked to avoid confrontation. She was trying to avoid having to terminate him for insubordination. People can be terminated from a specific branch as opposed to the entire company. Ms. Greer tried to block the microwave with her hands while asking Parolee to leave. She did not touch Parolee who tried to reach around her hand. He initiated physical contact and said, "Bitch, don't touch me." Parolee struck her approximately 5-7 times. She is unsure of the exact number of times she was struck. Another Temporary Associate saw the incident and pulled Parolee off of her. Parolee then ran from the building and she did not see him again. Parolee was gone when police arrived. She gave them a statement afterward. She declined medical treatment. She notified her branch manager, Talisha Reed, of the incident because it occurred on company property. She also informed Javonda Smith who is the Market Manager. They did not tell her how she should testify. They sent her to Concentra for an examination per company policy. They made sure charges were pressed. She testified at the Preliminary Hearing that she pushed Parolee in an effort to get him off of her and probably punched him a few times in an effort to defend herself. This was after Parolee attacked her. She did not mention it on direct examination today because she did not think of it. It was not intentional. Parolee continued to swing at her as he was being pulled off. She did not push or strike him before he struck her. She did not testify to that at the preliminary examination. She did not initiate physical contact with him. She came from behind the counter to escort Parolee off the premises. She came through two main office doors. Parolee did not make an attempt to swing at her before she came from behind the counter but he was leaning across the counter aggressively. The other people present in the lobby area included Temporary Worker Antonio Owens (who pulled Parolee off of Greer) her co-worker Cheryl Semos, and Frederick Hooper who was outside at the time of the incident. Antonio Owens was outside but ran back inside to pull Parolee off.

MICHELLE CSERNITS testified that she is Parolee Gooding's Parole Agent. She was present at his preliminary examination. Parolee indicated that he struck the victim in the head/eye area approximately three times with an open hand. He did not discuss self-defense. He said that his placement or lack of it was the reason for the assault.

On CROSS, Agent Csernits testified that Parolee informed her that Greer closed the microwave and, in doing so, pushed him out of the way or words to that effect. Agent Csernits was not present when Ms. Greer testified today. Ms. Greer did not state that she struck Parolee at the microwave. She did receive e-mails from Labor Ready regarding witness testimony at this hearing. She attempted to get video evidence. She was given the contact information for the Legal Counsel Jenni Ellis. She left a message and did not get a return call. She also spoke to Talisha Reed who forwarded the request for video evidence and sign in sheets and has received no response. Greer testified at the preliminary hearing that she was struck 5-6 times by Parolee. Agent Csernits does not remember Parolee asking if it was closer to 1-3 times or Greer responding to such a question. She had no communication with Parolee prior to the preliminary parole violation hearing. She did not receive a witness list from Sherry Underwood. Parolee made several objections at his preliminary hearing.

DFP RESTS

CHERYL SEMOS testified that she works for Labor Ready. She worked on 4/14/15. She witnessed an incident between Charlese Greer and Mark Gooding. Parolee Gooding was asked to leave and did not want to leave. He was asked to leave a couple different times. Parolee wanted to heat up some food. Greer got between Parolee and the microwave. Parolee then brought his arm back and hit her. When Semos could not see Greer, she called police. She did not see Greer hit Parolee. Semos saw Parolee hit Greer one time in the face. She fell against a picture on the wall and out of Semos' view. Semos did not see Greer after that. She turned away and called the police. Semos testified, "for lack of a

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better word, I hid in the corner." This is the extent of what she observed and she did not witness the entire incident. She saw Parolee raise his arm and knock Greer across the face. That is all she saw. She continues to work at Labor Ready. Two people came in to try to help Greer as Semos was on the phone talking to police. They were there waiting outside for a job but she does not know who they were. They send Antonio Evans out on jobs. She does not know if he is one of the two males who came in. She did not see Greer strike Parolee in the back of the head as he was leaving or at any point in time. She no conversations with Erma Bledsoe or anybody after this incident. She knows Erma Bledsoe as somebody Labor Ready sends out on a regular basis. She never told Erma Bledsoe that she considered the incident to be Greer's fault. Charlene Greer was insistent that Parolee leave and the more she insisted the angrier Parolee became. After this incident, Semos learned that staff are supposed to stay behind the counter, press the panic button, and try to keep the person there as long as possible. She did not even know that they had a panic button at the time of the incident.

#### OFP declines CROSS EXAMINATION

Parolee MARK ANTHONY GOODING testified that he went to Labor Ready on 4/14/15 as he did everyday. He worked for them. Ms. Greer offered him a 9:00 p.m. job as she had done in the past. Parolee was looking for a day job. Greer stated that she did not have a job for which he was qualified. Parolee had been sitting there since about 6:30 a.m. People came in after him and were called first. This was a common occurrence since an incident involving the Waste Management contract. Parolee snatched Ms. Greer out to Talisha Reed. Parolee felt that Greer continuously discriminated against him on jobs. He confronted her about it. She told him he could get a job if he didn't have all his felonies. Parolee sat down but got up and saw that his name was no longer on the sign-in sheet. He signed the new sheet. Greer continued to call guy who came in after him. She said she was not going to be able to find any work for him. Parolee went outside to get his food and came back in to put it in the microwave. She came from behind the corner, and told him to leave. She pushed him and struck him in the face. She struck him with upper cuts three or four times. Parolee swung in self-defense and struck her twice. She fell into a wall and a picture fell down on her head. Antonio came in and stood between them. As Parolee turned to leave, she swung over Antonio, striking Parolee in the back of the head. Parolee left and that was the end of it. Erma Bledsoe was coming in as he was leaving. She subsequently relayed to Parolee a conversation she had with Cheryl Semos later that day.

#### OFP declines CROSS.

ALE: Parolee testified that he only heard Greer ask him to leave one time. She did not ask him to leave multiple times. Parolee was ignoring her. Parolee did not leave because he was hoping to find a job later that day.

#### DEF RESTS

OFP asks for a guilty finding on the assault based on the testimony offered.

DEF notes two competing versions of what occurred. Parolee went to Labor Ready looking for a job. He was trying to microwave his food. Greer got between Parolee and the microwave. Greer punched Parolee and he struck her in self-defense.

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**Finding of Fact/Conclusion of Law:**

The testimony of Charlese Greer and Cheryl Semos provides a sufficient factual basis for the ALE to find, by a preponderance of evidence, that Parolee Gooding is IN VIOLATION of Count 2.

Parolee Gooding is charged with violating Standard Condition 04 of his parole order which prohibits him from engaging in assaultive, abusive, threatening, and/or intimidating behavior by physically assaulting Charlese Greer on 4/14/15.

The following facts are not in dispute: Charlese Greer is employed by the Labor Ready company, a temporary agency where Parolee Gooding sometimes worked. Parolee went to Labor Ready looking for a work assignment on 4/14/15 and was not given one. While here, he and Charlese Greer had a verbal dispute which escalated to a physical confrontation in which each admits that they struck the other and each claims that the other struck first.

Charlese Greer testified that Parolee turned down the first assignment offered to him and then became irate when she did not offer an alternate assignment. Greer testified that Parolee became aggressive and accused her of purposely not giving him an assignment due to an issue he claimed she had over a previous assignment. Greer testified that she repeatedly told Parolee Gooding to leave. He refused and continued to argue with her as he proceeded to heat food in a microwave oven located in the lobby. Greer testified that she came from behind the counter where she worked and blocked Parolee's access to the microwave using her hand. Parolee said, "Bitch, don't touch me" and began to punch her in the face, striking her multiple times and knocking her into a wall before he was pulled off by another temporary associate. Greer denies initiating physical contact with Parolee up to that point but admits that she struck him after he was pulled off because he continued trying to strike her. He then left the business. Police were called to the scene and she made a report.

Parolee testified that Greer struck him first and that he acted in self-defense striking her one or two times. He claims that Greer did not tell him to leave repeatedly. She told him one time and he ignored her because he was waiting for a work assignment.

As between the two, the ALE finds the version of events advanced by Ms. Greer to be more credible than that of Parolee Gooding. Greer answered all questions posed to her by OFP and DEF in a straightforward and concise manner. She did not appear to be embellishing her story and she freely admitted that she struck Parolee Gooding, stating that this occurred after another temporary worker pulled him off of her. Unlike Parolee Gooding who fled the scene, Ms. Greer remained and provided a statement to police officers. Finally, her version of events is corroborated by Cheryl Semos. With respect to Ms. Semos, the ALE notes that she has no personal stake in the outcome of this hearing. She acknowledged that she did not see the entire exchange between Parolee and Greer. The ALE also formed the impression that Semos recognized fault on the part of both Parolee Gooding and Ms. Greer. Semos relayed that the more Greer insisted Parolee leave, the angrier he became. Semos also explained that since this incident, she has learned that staff are to stay behind the counter and press a panic button rather than confronting an upset individual in the way that Greer confronted Parolee Gooding. According to the testimony of Ms. Semos, Parolee raised his hand and struck Greer, knocking her against a nearby wall and out of Semos' line of sight. Semos testified that she did not see Greer initiate physical contact with or strike Parolee prior to being struck by him. This is crucial given Parolee's claim that he acted in self-defense as it places him in the position of being the initial aggressor. It also supports Greer's version of events that Parolee struck her first.

Given the totality of evidence presented at hearing, the ALE finds the most reasonable sequence of events to be that Parolee became angry when he did not receive a work assignment and became argumentative. This caused Ms. Greer to ask him to leave. He refused and the situation escalated with Greer coming from behind the counter and trying to block his access to the microwave oven that he wanted to use. That Parolee said, "don't touch me bitch" as Greer reached to block his access to the oven door, and the testimony that he tried to reach around her hand to access the oven, suggests that there may have been a bump or minimal physical contact at that point. Parolee then punched Greer multiple times about the head using his fist. This continued until another worker pulled him away. At this time, Greer struck Parolee in retaliation for what he had done to her. Even if Greer had bumped or pushed Parolee's hand away as they both reached for the microwave, it did not justify the amount of force Parolee used in repeatedly striking her in the face and knocking her into a wall. The fact that he fled the scene immediately thereafter, after going to great lengths up to that point to remain on site, is indicative of a guilty conscience on his part. The ALE rejects Parolee's claim that he acted in self defense and finds that he physically assaulted Charlese Greer by striking her repeatedly about the face and head. He is guilty of Count 2.

Count 1 is dismissed at the request of OFP.



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**Mitigation Summary:**

ETHEL GOODING and ALISSA GOODING were sworn in as DEF witnesses.

Alissa Gooding (Parolee's sister) testified that she is known as Lisa and Alissa. She spoke to Defense Attorney Johnson last week. He advised her as to the people Parolee requested as mitigation witnesses. She picked Parolee up from prison when he came home and took him to meet with his parole agent. She then gave him a ride to his housing assignment. Parolee hit the ground running. He hooked up with Labor Ready, applied for his driver's license, and received \$500 from their brother Calvin to get a vehicle for work. The family gave Parolee money for various things that he needed. She was impressed with how he was doing. He said that he was going to complete parole this time. He got a job in Rochester Hills and the people wanted him to come back because he did such a good job. Parolee should continue to do the same things if he is released back to parole. At Parolee's request, she retrieved telephone numbers from his cell phone and gave them to their mother who gave them to Parolee.

Ethel Gooding (Parolee's mother) thought he was doing very well. He was very motivated. He went to Labor Ready each morning. He was really making an effort to get his life back on the right track. He showed her more this time than the first time he was out. She did what she could to motivate him. He wants to get into welding. She encouraged him to return to school to get a trade. She will continue to encourage him to succeed on parole. She obtained telephone numbers from her daughter and gave them to Parolee when he called on Friday morning (6/5/15). Parolee asked her to try to contact Erma who did not answer her phone despite a couple of attempts to reach her. Mrs. Gooding gave Parolee \$1,000.00 since he has been home.

Agent Michelle Csernits testified that she did not receive specific e-mails from Labor Ready staff regarding work shift changes for Parolee Gooding. The parolee himself made several requests, on an almost daily basis, for schedule changes. The only thing she received from Labor Ready were work tickets which verified his employment and a few check stubs. She occasionally allowed Parolee to extend his work curfew. Most of his curfew change requests involved laundry and errand running. She would not authorize him to work 3-11 PM or 11PM to 7AM while he lived in commercial placement.

DEF notes that Parolee Gooding was released from prison on 2/24/15. He is 52-years-old. He worked through Labor Ready and lived at Turning Point. He applied for low income and Section 8 housing. He obtained Medicaid insurance, a State Identification Card, and his Driver's License. He obtained employment within 1.5 weeks of his release from prison. He received good reports from Labor Ready. There was one incident at Waste Management which led to an argument between him and Ms. Greer. Parolee purchased a car. He has two welding certificates and was looking for a welding job. His physical health is good. He reports that his back is messed up due to the incident at Labor Ready. He denies any mental health history and does not take psychotropic medication. Parolee disputes his agent's statement that he struggles with Paranoia. He will likely require community placement if reparaoled. Parolee has family support.

Mark Gooding paroled to a 24 month term on 2/24/15. This is his first parole on his 'C' Prefix and first formal violation of the term. Parolee was terminated from transitional housing on 4/7/15 due an adulterated urine sample and repeated curfew violations. Parolee worked at various temporary positions through Labor Ready before the current violation occurred. He was positive for cocaine on 3/9/15.

The field agent notes that Parolee showed a significant demonstration of entitlement, had issues with authority, and struggled with Paranoia. The ALE would concur with this assessment based on his behavior at the 5/21/15 status conference and during this hearing.

The current violation is the result of Parolee Gooding physically assaulting Charlese Greer, an employee of Labor Ready, on 4/14/15. Parolee takes absolutely no responsibility for his actions, arguing that he was justified and acting in self defense. Parolee presents as belligerent and rude. In the ALE's opinion, he has significant issues with impulse control. He is serving for Home Invasion and Armed Robbery. The current violation demonstrates an on-going propensity toward violent and assaultive behavior. Therefore, a continuance is recommended.

Parolee is eligible for reentry programming but expressed that he is not interested in programming.

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**REASONS IN SUPPORT OF PAROLE BOARD ACTION:**
**PLAN Changes:**

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**Parole Violation**

The violation(s) is illustrative of risk to the community

The violation(s) shows inappropriate judgment which in combination with the background of the offender supports return to prison

**RECOMMENDATIONS FOR CORRECTIVE ACTION WHICH MAY FACILITATE RELEASE:**

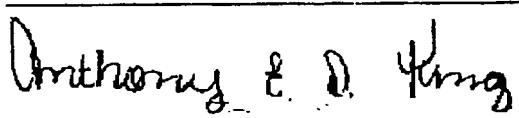
Demonstrate responsible behavior by earning positive reports in any programs you may be involved in

Demonstrate responsible behavior by avoiding situations which result in misconduct citations

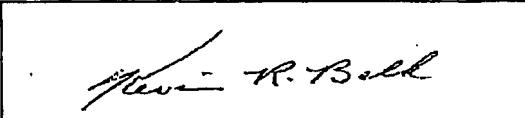
Demonstrate responsible behavior by earning good block or staff reports of conduct in the housing unit

Develop a positive work record

Provide additional demonstration of positive prison behavior during the period of the continuance

**COMPLETION DOES NOT GUARANTEE A POSITIVE ACTION**

KING, ANTHONY 7/14/2015



BELK, KEVIN R 7/20/2015



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ATT: ATTORNEY LAW EXAMINER  
M. ZELLER

6/15/15

RE: Gooding #180621  
Lock: Segregation #02

DEAR M. ZELLER, A.L.E

I AM REQUESTING A COPY OF THE RECORD  
OF THE FORMAL PAROLE REVOCATION HEARING  
HELD ON 6/19/15.

THANK YOU FOR YOUR TIME AND CONCERN  
IN THIS MATTER.

P.S. I WILL BE RIDING OUT SOON TO A  
FACILITY IN JACKSON, MICHIGAN. PLEASE  
CHECK THE COMPUTER BEFORE SENDING THE  
RECORD

Mr. Goding,  
I sent you what I have.  
If it's a transcript/recording, THANKS  
you want, you must have your  
attorney submit a FOIA request  
for it. The request should be submitted  
to Andrew Phelps in Control Office  
17-373-9926. M. ZELLER

