

IN THE OHIO SUPREME COURT COURT

12-1583

STATE ex rel. RICHARD FERNBACH,
LD.#508-012 Lebanon Correctional
Institution (Honor Camp)
P.O. Box 56
Lebanon, Ohio 45035,

S. Ct. Case No.

Relator,

(COMPLAINT)

v.

TWELFTH APPELLATE DISTRICT
COURT OF APPEALS FOR WARREN
COUNTY, OHIO, et al. c/o Judges
1001 Reinartz Blvd.
Middletown, Ohio 45042

(OTHER CIVIL)

Respondent.

MANDAMUS/PROCEDENDO

AFFIDAVIT OF VERITY OF RELATOR/INDIGENCY/WAIVER OF FILING FEE ASSESSED
BY THE COURT PURSUANT TO O.R.C.§2969.25(C)/AFFIDAVIT OF VERITY PURSUANT
TO O.R.C.§2969.25(A)

AFFIDAVIT OF VREITY OF RELATOR

STATE OF OHIO)
COUNTY OF WARREN)

SS:

S. Ct. Case No.

FILED
SEP 18 2012
CLERK OF COURT
SUPREME COURT OF OHIO

I, Richard Fernbach (hereinafter "Affiant"), a United States Citizen after being first duly cautioned and sworn on my oath do hereby depose and say that the following is true and accurate to the best of my knowledge and belief:

- 1. That I am the Affiant and Relator as well as the Defendant named in the Complaint for writ of mandamus/procedendo being sought in this Honorable Court in the above captioned case number and I have read the Complaint and the allegations contained therein that this Affidavit supports and I affirm that the allegations in it are true and accurate;

RECEIVED
SEP 18 2012
CLERK OF COURT
SUPREME COURT OF OHIO

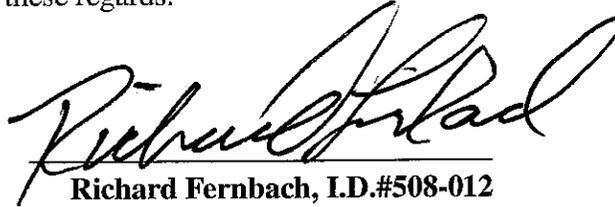
I am competent to testify before a court of justice in the State of Ohio as well as in the United

States;

3. That I am incarcerated in the Lebanon Correctional Institution Honor Camp without the necessary funds and/or monies to pay the costs of initiation and future costs in pursuit of the instant action in obtaining compliance of my constitutional rights that have been deprived by the Respondent in this case;
4. That I Affiant seek a WAIVER of the filing fee assessed by the Court pursuant to O.R.C.§2969.25(C);
5. That all money received from outside sources are “gifts” given to me by family and friends to provide for my “personal Hygiene” and “Educational” needs and pursuant to State ex rel. Turner v. Eberlin, 2007 WL 2781255 Ohio App. 7th Dist. (2007) & O.R.C.§2329.66, is non-detachable for the payment of court costs;
6. That pursuant to State v. White, 2004-Ohio-5989 (2004), my inmate account is not real or personal property and is non-detachable for the payment of court costs;
7. That pursuant to O.R.C.§2969.25(A) compliance is met with the following list of case names, case number(s), brief description of the nature of the case, and the court in which civil actions were brought by the Relator in the last five years:
 1. Richard Fernbach v. Lawrence Mack, Case No. 3:10-CV-040 filed in the United States District Court For the Southern District of Ohio Western Division at Dayton, (Plaintiff, Richard Fernbach filed for a writ of habeas corpus pursuant to 28 U.S.C. §2254 asserting that he was unlawfully detained in a state correctional facility), Claims were denied by the District Court Magistrate, Appeal was filed to the United States Sixth Circuit Court of Appeals from District Court and assigned Case No. 10-4036-C.O.A denied by the United States Court of Appeals, Motion To Vacate and Objections Pending.
 2. State ex rel. Richard Fernbach v. Ernie L. Moore, Case No. CA24351 filed in the Second Appellate District Court of Appeals (Mandamus Action for compliance of O.R.C.§2967.193), Claim was denied by the Second Appellate District Court of Appeals.
 3. State ex rel. Richard Fernbach v. Montgomery County Clerk of Courts Gregory A. Brush, Case No. CA24713, filed in the Second Appellate District Court of Appeals (Mandamus Action for compliance of O.R.C.§149.43), Claim was denied by the Second Appellate District Court of SCOTI
 4. Appeals, Direct Appeal filed to the Ohio Supreme Court, Case No. 12-0105, Pending.
 5. State ex rel. Richard Fernbach v. Butler County Municipal Court Area II c/o Judge Kevin C. McDonough, Case No. CV2011-11-3960, (Mandamus/Procedendo Action for compliance of procedural due process rights of the Relator), filed in the Common Pleas Court For Butler County, Ohio, action dismissed for alleged lack of jurisdiction by the trial court, Appeal Pending in the Twelfth Appellate District Court of Appeals Case No. CA12-02-0025.

6. State ex rel. Richard Fernbach v. Honorable Judge Neal B. Bronson, filed in the Twelfth Appellate District Court of Appeals For Warren County (Mandamus/Procedendo for compliance of O.R.C.§2930.17), Case No. CA2012-03-024, Pending.
7. State ex rel. Richard Fernbach v. Twelfth Appellate District Court of Appeals, et al. c/o Judges, Case No. 12-0970 filed in the Ohio Supreme Court (Mandamus/Procedendo), Relator moved to withdraw Complaint without prejudice, which was granted, due to the deprivation of his procedural due process rights with intent to re-file Complaint.
8. That there has not been any case, including cases cited herein, that were dismissed as frivolous;
9. That I firmly believe that I am entitled to the relief requested herein in the instant Complaint for which the Relator is Petitioning this Honorable Court for a writ of Mandamus/Procedendo to issue of which this Affidavit is in support thereof and that there is no other legal remedy/recourse available to the Relator in order to obtain the relief to which he is entitled and Respondent is under a clear legal duty to perform the requested acts;
10. That I, Affiant, am incarcerated in the Ohio Department of Rehabilitation and Correction and I am unable to meet the strict time constraints that are contained in this Honorable Courts Rules of Practice, specifically, Rules under Section 10 that govern Original Actions and Section 11.2 that governs Reconsideration. The Relator does not receive his "Legal Mail" of Decisions/Judgments of the Courts and/or Documents from opposing Parties and/or their Counsel in his current placement for approximately (7) Seven days after filing and/or being post-marked by the United States Postal Service. This delay has repeatedly prejudiced the Relator in several different respects as it did in a previous action in this Court under Case No. 12-0970 which required voluntary dismissal. Thus, Relator requests that adequate provision be made to provide for the Relator's procedural due process rights to be protected and preserved herein in the instant original action forthwith.
11. That I must proceed in pro-se on a reduced number of copies and the Relator hereby requests WAIVER of strict compliance of the Rules of Procedure in these regards.

FURTHER AFFIANT SAYETH NAUGHT


 Richard Fernbach, I.D.#508-012
 Affiant-Pro-Se.

Sworn to and subscribed in my presence, a Notary Public, this 30th day of August, 2012.
 My Commission Expires: 3-27-15


 Notary Public

SEAL:

08/28/2012

Lebanon Correctional Institution

Inmate Demand Statement

Inmate Name: FERNBACH, RICHARD
Lock Location: LeCI,CC,A,U,,118

Number: A508012

Date Range: 02/28/2012 Through 08/28/2012

Beginning Account Balances:

Ending Account Balances:

	Saving	Debt	Payable		Saving	Debt	Payable
Inmate's Person	\$12.14	\$0.00	\$0.00	Inmate's Personal A	\$4.30	\$0.00	\$0.00
Begin Totals	\$12.14	\$0.00	\$0.00	End Totals	\$4.30	\$0.00	\$0.00

Transaction Date / Inst.	Transaction Amount	Description	Comment	Saving Balance	Debt Balance	Payable Balance
03/01/2012	\$0.00	\$15.00 Reservation to Pos Exemption	OdrC Pos Exemption	\$12.14	\$0.00	\$0.00
		MaCI				
03/05/2012	\$20.00	OffConnect Kiosk Deposit	3877120425052365107/FE RNBACH, WILLIAM	\$32.14	\$0.00	\$0.00
		MaCI				
03/07/2012	(\$30.78)	Commissary Sale	Ticket Number 220686	\$1.36	\$0.00	\$0.00
		MaCI				
03/13/2012	\$3.00	State Pay	State Pay	\$4.36	\$0.00	\$0.00
		MaCI				
03/14/2012	(\$3.41)	Commissary Sale	Ticket Number 221657	\$0.95	\$0.00	\$0.00
		MaCI				
03/15/2012	\$40.00	OffConnect Kiosk Deposit	3877121281629905203/FE RNBACH, WILLIAM	\$40.95	\$0.00	\$0.00
		MaCI				
03/15/2012	(\$0.75)	Payment to Ohio Child Support Payment Central	March pymt	\$40.20	\$0.00	\$0.00
		MaCI				
03/15/2012	\$0.75	Reversed Payment to Ohio Child Support Payment Central	Reversed Task No. 28951273	\$40.95	\$0.00	\$0.00
		MaCI				
03/15/2012	(\$0.75)	Payment to CHILD SUPPORT PAYMENT CENTRAL	March pymt	\$40.20	\$0.00	\$0.00
		MaCI				
03/21/2012	(\$39.58)	Commissary Sale	Ticket Number 222638	\$0.62	\$0.00	\$0.00
		MaCI				
03/27/2012	\$30.00	OffConnect Kiosk Deposit	3907685623366443315/FE RNBACH, WILLIAM	\$30.62	\$0.00	\$0.00
		MaCI				

03/28/2012	(\$24.26) Commissary Sale	Ticket Number 223357	\$6.36	\$0.00	\$0.00
MaCl					
04/01/2012	\$0.00 \$15.00 Reservation to Pos Exemption	OdrC Pos Exemption	\$6.36	\$0.00	\$0.00
MaCl					
04/04/2012	(\$4.37) Commissary Sale	Ticket Number 224059	\$1.99	\$0.00	\$0.00
MaCl					
04/04/2012	(\$1.30) Postage Charges (USPS)		\$0.69	\$0.00	\$0.00
MaCl					
04/09/2012	\$30.00 OffConnect Kiosk Deposit	3916285987833536819/FE RNBACH, WILLIAM	\$30.69	\$0.00	\$0.00
MaCl					
04/10/2012	\$3.00 State Pay	State Pay	\$33.69	\$0.00	\$0.00
MaCl					
04/11/2012	(\$30.10) Commissary Sale	Ticket Number 224727	\$3.59	\$0.00	\$0.00
MaCl					
04/11/2012	(\$2.14) Commissary Sale	Ticket Number 224728	\$1.45	\$0.00	\$0.00
MaCl					
04/11/2012	(\$0.75) Payment to CHILD SUPPORT PAYMENT CENTRAL	April payment	\$0.70	\$0.00	\$0.00
MaCl					
04/30/2012	\$50.00 OffConnect Kiosk Deposit	3946550307733397810/FE RNBACH, WILLIAM	\$50.70	\$0.00	\$0.00
MaCl					
05/01/2012	(\$15.00) Inmate's Personal Account	POS Exemption Transfer	\$35.70	\$0.00	\$0.00
MaCl					
05/01/2012	\$15.00 Pos Exemption	POS Exemption Transfer	\$50.70	\$0.00	\$0.00
MaCl					
05/02/2012	(\$46.95) Commissary Sale	Ticket Number 227382	\$3.75	\$0.00	\$0.00
MaCl					
05/08/2012	\$3.00 State Pay	State Pay	\$6.75	\$0.00	\$0.00
MaCl					
05/09/2012	(\$5.71) Commissary Sale	Ticket Number 228401	\$1.04	\$0.00	\$0.00
MaCl					
05/10/2012	(\$0.75) Payment to CHILD SUPPORT PAYMENT CENTRAL	May pymt	\$0.29	\$0.00	\$0.00
MaCl					
05/11/2012	\$60.00 OffConnect Kiosk Deposit	3977044628718772530/FE RNBACH, WILLIAM	\$60.29	\$0.00	\$0.00
MaCl					
05/16/2012	(\$12.77) Commissary Sale	Ticket Number 286924	\$47.52	\$0.00	\$0.00

LeCl					
05/24/2012	(\$34.03) Commissary Sale	Ticket Number 288169	\$13.49	\$0.00	\$0.00
LeCl					
05/30/2012	(\$1.10) Postage Charges (USPS)		\$12.39	\$0.00	\$0.00
LeCl					
05/30/2012	(\$1.55) Copy Charges		\$10.84	\$0.00	\$0.00
LeCl					
06/01/2012	\$0.00 \$15.00 Reservation to Pos Exemption	OdrC Pos Exemption	\$10.84	\$0.00	\$0.00
LeCl					
06/01/2012	(\$1.00) Copy Charges	COPIES	\$9.84	\$0.00	\$0.00
LeCl					
06/04/2012	(\$2.90) Postage Charges (USPS)		\$6.94	\$0.00	\$0.00
LeCl					
06/08/2012	\$10.75 State Pay	State Pay	\$17.69	\$0.00	\$0.00
LeCl					
06/08/2012	(\$14.70) Commissary Sale	Ticket Number 289899	\$2.99	\$0.00	\$0.00
LeCl					
06/12/2012	(\$2.69) Payment to CHILD SUPPORT PAYMENT CENTRAL	JUNE 2012	\$0.30	\$0.00	\$0.00
LeCl					
06/23/2012	\$40.00 OffConnect Kiosk Deposit	3996053462011371827/FE RNBACH, WILLIAM	\$40.30	\$0.00	\$0.00
LeCl					
06/25/2012	(\$1.30) Postage Charges (USPS)		\$39.00	\$0.00	\$0.00
LeCl					
06/25/2012	(\$2.00) Copy Charges		\$37.00	\$0.00	\$0.00
LeCl					
06/29/2012	(\$1.25) Copy Charges		\$35.75	\$0.00	\$0.00
LeCl					
07/01/2012	(\$15.00) Inmate's Personal Account	POS Exemption Transfer	\$20.75	\$0.00	\$0.00
LeCl					
07/01/2012	\$15.00 Pos Exemption	POS Exemption Transfer	\$35.75	\$0.00	\$0.00
LeCl					
07/05/2012	(\$1.70) Postage Charges (USPS)		\$34.05	\$0.00	\$0.00
LeCl					
07/05/2012	(\$12.10) Commissary Sale	Ticket Number 293633	\$21.95	\$0.00	\$0.00
LeCl					
07/06/2012	\$20.00 State Pay	State Pay	\$41.95	\$0.00	\$0.00
LeCl					

07/06/2012	(\$5.00) Payment to CHILD SUPPORT PAYMENT CENTRAL	JULY 2012	\$36.95	\$0.00	\$0.00
LeCl					
07/16/2012	(\$1.70) Postage Charges (USPS)		\$35.25	\$0.00	\$0.00
LeCl					
07/16/2012	(\$5.04) Postage Charges (USPS)		\$30.21	\$0.00	\$0.00
LeCl					
07/16/2012	(\$0.15) Copy Charges		\$30.06	\$0.00	\$0.00
LeCl					
07/16/2012	(\$8.25) Copy Charges		\$21.81	\$0.00	\$0.00
LeCl					
07/20/2012	(\$16.86) Commissary Sale	Ticket Number 295804	\$4.95	\$0.00	\$0.00
LeCl					
07/23/2012	(\$1.50) Postage Charges (USPS)		\$3.45	\$0.00	\$0.00
LeCl					
07/25/2012	(\$1.50) Postage Charges (USPS)		\$1.95	\$0.00	\$0.00
LeCl					
07/29/2012	\$30.00 OffConnect Kiosk Deposit	4089237484178268466/FE RNBACH, WILLIAM	\$31.95	\$0.00	\$0.00
LeCl					
07/29/2012	\$20.00 OffConnect Kiosk Deposit	4089237483473625394/FE RNBACH, WILLIAM	\$51.95	\$0.00	\$0.00
LeCl					
08/01/2012	(\$15.00) Inmate's Personal Account	POS Exemption Transfer	\$36.95	\$0.00	\$0.00
LeCl					
08/01/2012	\$15.00 Pos Exemption	POS Exemption Transfer	\$51.95	\$0.00	\$0.00
LeCl					
08/03/2012	\$20.00 State Pay	State Pay	\$71.95	\$0.00	\$0.00
LeCl					
08/03/2012	(\$7.25) Fundraisers - No Specific Club	119730/CCC Chicken Dinner	\$64.70	\$0.00	\$0.00
LeCl					
08/03/2012	(\$38.15) Commissary Sale	Ticket Number 297628	\$26.55	\$0.00	\$0.00
LeCl					
08/14/2012	(\$2.50) Postage Charges (USPS)		\$24.05	\$0.00	\$0.00
LeCl					
08/16/2012	(\$14.75) Commissary Sale	Ticket Number 299750	\$9.30	\$0.00	\$0.00
LeCl					
08/20/2012	(\$5.00) Payment to CHILD SUPPORT PAYMENT CENTRAL	AUGUST 2012	\$4.30	\$0.00	\$0.00