

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX REL.	)	CASE NO.
LEWIS LEROY MCINTYRE, JR.	)	
	)	
Relator	)	
	)	ORIGINAL ACTION IN
v.	)	PROHIBITION, MANDAMUS,
	)	AND PROCEDENDO
SUMMIT COUNTY	)	
COURT OF COMMON PLEAS, et al	)	
	)	
Respondents	)	

---

**APPENDIX VOLUME 1 OF 7: AFFIDAVITS**

---

Stephen P. Hanudel (#0083486)  
124 Middle Avenue, Suite 900  
Elyria, Ohio 44035  
Phone: (440) 328-8973  
Fax: (440) 261-4040  
[sph812@gmail.com](mailto:sph812@gmail.com)

ATTORNEY FOR RELATOR  
LEWIS LEROY MCINTYRE, JR.

**TABLE OF CONTENTS**

Affidavit of Lewis Leroy McIntyre, Jr. dated January 9, 2015 (verity).....1

Affidavit of Lewis Leroy McIntyre, Jr. dated January 9, 2015 (ORC 2969.25 civil case list).....2

Affidavit of Stephen P. Hanudel dated January 13, 2015 (verity and document authentication)...7

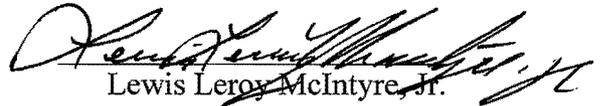
STATE OF OHIO )  
 ) ss:  
COUNTY OF MARION )

AFFIDAVIT

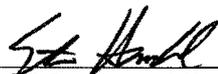
Lewis Leroy McIntyre, Jr., being first duly cautioned and sworn, deposes and states the following:

I have read the Complaint for Writs of Prohibition, Mandamus, and Procedendo and the accompanying Memorandum supporting the Complaint. I am very well acquainted with the facts stated in the Complaint and Memorandum. To my best personal belief and knowledge, all of the factual statements contained in the Complaint and Memorandum are true and accurate.

Further, affiant sayeth naught.

  
Lewis Leroy McIntyre, Jr.

Sworn and subscribed before me, a Notary Public in and for said County in said State, on this 9<sup>th</sup> day of January, 2015.

  
Notary Public



**STEPHEN P. HANUDEL**  
Attorney At Law  
NOTARY PUBLIC  
STATE OF OHIO  
My Commission Has  
No Expiration Date  
Section 147.03 O.R.C.

STATE OF OHIO

)

COUNTY OF MARION

) ss:

AFFIDAVIT

)

Lewis Leroy McIntyre, Jr., being first duly cautioned and sworn, deposes and states the following:

1. The following is a list, complete to the best of my knowledge, of all civil actions I have filed as an inmate against government officials in the last five years:

a. *State of Ohio ex. rel. Lewis Leroy McIntyre, Jr. v. Judge Alison McCarty*, Summit County Case No. CA-25897. I filed this pro se petition for writ of mandamus in the 9th District Court of Appeals on April 19, 2011. I argued that Judge McCarty needed to correct an error in the sentencing entry in Summit County Case No. CR-09-03-0647. The case was dismissed on August 17, 2011. The Court said I had a remedy within the underlying criminal case.

b. *State of Ohio ex. rel. Lewis Leroy McIntyre, Jr. v. Kimberly Clipper, Warden*, Lorain County Case No. 11CA010045. I filed this pro se habeas corpus action in the 9th District Court of Appeals on August 9, 2011. I filed a voluntary dismissal without prejudice on September 13, 2011.

c. *State of Ohio ex. rel. Lewis Leroy McIntyre, Jr. v. Kimberly Clipper, Warden*, Ohio Supreme Court Case No. 2012-0855. I filed this pro se habeas corpus action on May 15, 2012, shortly after my sentence in Summit County Case No. CR-09-03-0647 expired on May 8, 2012. The claim I raised was that I should have received a parole review right after the sentence's expiration. This action was dismissed *sua sponte* on July 5, 2012.

d. *State of Ohio ex. rel. Lewis Leroy McIntyre, Jr. v. Kimberly Clipper, Warden*, Lorain County Case No. 12CA010257. I filed this pro se habeas corpus action in the 9th District Court of Appeals on July 23, 2012. I argued that my due process rights under *Kellogg v. Shoemaker*, 927 F.Supp. 244 (S.D. Ohio 1996) and 46 F.3d 503 (6th Cir. 1995) were violated when I was taken into custody for parole violation. This action was dismissed because the Court said I failed to attach the proper commitment papers. I had attached a PVR/Kellogg Screening form. I motioned for reconsideration, but the Court rejected my motion stating the PVR/Kellogg Screening form is not the revocation order.

e. *State of Ohio ex. rel. Lewis Leroy McIntyre, Jr. v. Judge Thomas Teodosio*, Summit County Case No. CA-26619. I filed this pro se petition for writ of mandamus in the 9th District Court of Appeals on September 10, 2012. I asked the Court to order Judge Teodosio to set a trial date for the untried count of felonious assault in the second indictment in Summit County Case No. CR-91-01-0135 as well as other relief. The Court denied my petition on February 21, 2013, stating that Judge Teodosio did not lack jurisdiction to dismiss the untried count, but without any reference, discussion, or analysis of Crim. R. 48(A) requiring Judge Teodosio to dismiss the untried count in open court.

f. *State of Ohio ex. rel. Lewis Leroy McIntyre, Jr. v. Cynthia Mausser, Chairperson*, Franklin County Case No. 13-AP-000062. I filed this pro se petition for writ of mandamus in the 10th District Court of Appeals on January 23, 2013. I alleged the lack of a final parole revocation order. I asked the Court to direct Ohio Parole Board Chairwoman Mausser to produce a certified copy of the order revoking my parole. Further, I asked the Court to direct Chairwoman Mausser to release me from prison. The

Magistrate issued a decision on March 12, 2013 recommending that my petition be dismissed because I failed to file a statement of my inmate account. The Magistrate did not address the merits of my claims. This case was subsequently dismissed.

g. *State of Ohio ex. rel. Lewis Leroy McIntyre, Jr. v. Judge Alison McCarty*, Ohio Supreme Court Case No. 2013-0277. I filed this pro se petition for writ of prohibition on February 11, 2013 stating that Judge McCarty has no jurisdiction to resentence me under allied offenses concerning Summit County Case No. CR-09-03-0647 because I had already served my sentence. This case was dismissed.

h. *State of Ohio ex. rel. Lewis Leroy McIntyre, Jr. v. Bennie Kelly, Warden*, Lorain County Case No. 13CA010361. I filed this pro se habeas corpus action in the 9th District Court of Appeals on February 19, 2013. I alleged that because there is no final parole revocation order, my parole was never revoked. Thus, I am being illegally detained in prison. After I filed this action, with the help of my fiancé, I privately retained counsel. He recommended to pursue this claim in Lorain County Court of Common Pleas, so on March 5, 2013, I filed a voluntary dismissal without prejudice under Civ. R. 41(A).

i. *Lewis Leroy McIntyre, Jr. v. Judge Thomas Teodosio*, Lorain County Case No. 13CV179484. I filed this pro se complaint for declaratory judgment in Lorain County Court of Common Pleas on February 25, 2013. I asked the Court to recognize the many procedural and constitutional defects in Summit County Case No. CR-91-01-0135. All of my prior attempts to address these defects had fallen on deaf ears in Summit County. Thus, I tried to be creative in bringing attention to these issues. On March 20, 2013, Judge James M. Burge issued a *sua sponte* dismissal stating the Court had no jurisdiction to conduct a collateral review of another common pleas court order.

j. *State ex rel. Lewis Leroy McIntyre, Jr. v. Bennie Kelly, Warden, Lorain County* Case No. 13CV179768. Through counsel, I filed a habeas corpus action in Lorain County Court of Common Pleas on March 22, 2013. This was a refile of Lorain County Case No. 13CA010361, which dealt with the lack of proper procedures in the parole revocation process. The case was dismissed.

k. *Lewis Leroy McIntyre, Jr. v. Bennie Kelly, Warden, Ohio Northern District* Case No. 5:13-cv-00694. I filed a pro se habeas corpus action in United States District Court, Northern District of Ohio on March 29, 2013 regarding Summit County Case No. CR-09-03-0647. On the eve of my trial in that case, a supplemental indictment was issued, but I was not properly arraigned on the supplemental indictment. I was never given an opportunity for the indictment to be read out loud to me in open court and to enter a plea. Instead, Judge Alison McCarty proceeded directly to trial on all matters, including the supplemental indictment, in which I was found guilty. This matter was dismissed after Magistrate Judge Greg White found there was no due process violation.

l. *Lewis Leroy McIntyre, Jr. v. Bennie Kelly, et al, Ohio Northern District* Case No. 5:13-cv-1568. On July 19, 2013, I filed an action regarding how the Ohio Department of Rehabilitation and Corrections had a copy of the sentencing entry in my 1991 Summit County case that contained different signature than the one on file with the Summit County Clerk of Courts. The case was dismissed.

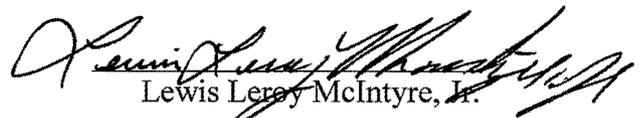
m. *Lewis Leroy McIntyre, Jr. v. Christopher LaRose, Warden, Trumbull County* Case No. 2013 TR 00081. On August 7, 2013, I filed a habeas corpus action in the 11th District Court of Appeals arguing that I was not advised of my rights as required by the

Kellogg Consent Decree before my parole was revoked and that the waiver document was not compliant with the Kellogg Consent Decree. The case was dismissed.

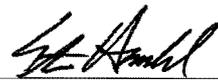
n. *Lewis Leroy McIntyre, Jr. v. Nate Turner, Warden*, Marion County Case No. 14CV0458. On September 12, 2014, I filed a habeas corpus action in Marion County Court of Common Pleas arguing that because it was recently recognized there was never a final appealable order in my 2009 criminal case, there never existed a conviction for the Adult Parole Authority to assert jurisdiction to revoke my parole under the terms of the Kellogg Consent Decree. The petition was dismissed on December 30, 2014. On January 9, 2015, I appealed this decision to the Third District Court of Appeals in Marion County Case No. 9-15-0002

2. I further state that none of the above actions have been dismissed as frivolous or maliciously filed by any State or Federal court. No award has ever been pronounced against me or my counsel.

Further, affiant sayeth naught.

  
Lewis Leroy McIntyre, Jr.

Sworn and subscribed before me, a Notary Public in and for said County in said State, on this 9<sup>th</sup> day of January, 2015.

  
Notary Public



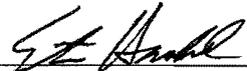
**STEPHEN P. HANUDEL**  
Attorney At Law  
NOTARY PUBLIC  
STATE OF OHIO  
My Commission Has  
No Expiration Date  
Section 147.03 O.R.C.



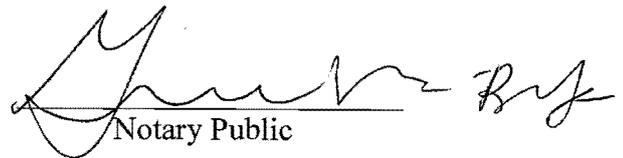
6. Regarding the decision in *State v. McIntyre*, Summit County App. No. CA-15348 filed May 27, 1992, I found it on Casemaker via the Ohio State Bar Association website. To make it easier to print, I copied the text, pasted it into Microsoft Word, and then printed it. I did not make any alterations to the content.

7. To the best of my knowledge and belief, based on my personal investigation, observations, and analysis concerning *State of Ohio v. Leroy L. McIntyre*, Summit County Case No. CR-91-01-0135 and the representations made to me by my client, Lewis Leroy McIntyre, Jr., all the factual statements made in Complaint for Writ of Prohibition, Mandamus, and Procedendo and the supporting Memorandum are true and accurate.

Further, affiant sayeth naught.

  
\_\_\_\_\_  
Stephen P. Hanudel

Sworn and subscribed before me, a Notary Public in and for said County in said State, on this 13<sup>th</sup> day of January, 2015.

  
\_\_\_\_\_  
Notary Public



Giovanna V. Scaletta, Attorney at Law  
Resident Cuyahoga County  
Notary Public, State of Ohio  
My Commission Has No Expiration Date  
Sec 147.03 RC