

In The Supreme Court of Ohio

State of Ohio ex rel.

Kimani Ware,
Relator,
v.

Case No.
2020-1498

original Action in Mandamus

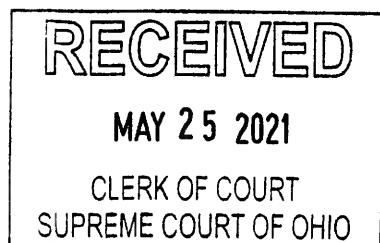
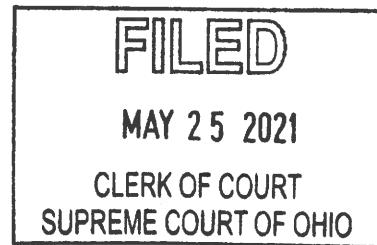
Donna Crawford, Inspector,
Respondent,

MOTION FOR JUDICIAL NOTICE
PURSUANT TO EVID. R 201
(D) $\frac{1}{2}$ (E)

Kimani Ware (A470743)
Trumbull Corr. Inst.
P.O. Box 901
Leavittsburg, Ohio, 44436
Relator, Pro. Se.

Tony H. Shang, Reg. no. (D100246)
150 E. Gay Street, 16th Floor
Columbus, Ohio, 43215

Counsel for Respondent



Statement of facts

on December 10, 2020, Relator filed an original Action in mandamus in this Court, on April 26, 2021, and on March 29, 2021, Marit Brief and Evidence, on April 19, 2021 Relator filed his motion for leave to file additional Evidence.

Now come, Relator, Kimani Ware to move this honorable court to take notice of the attached Evidence, which contradict ~~what~~ what Respondent states to this honorable and the evidence, this Evidence attached hereto will assure Relator receive from this court Justice, an writ of mandamus and relief that relator requested.

Relator request that this court take judicial notice of the facts in the attached Evidence, so that relator can receive the relief requested in this case. Relator prays that this courts take's notice, (see attached Affidavit and Evidence); and grants the relief requested.

Respectfully submitted,



Kimani Ware A470743

Relator, PRO. SE.

Certificate of Service

I hereby certify that I served a copy of this motion for judicial notice, and attachments upon TONY H. SHANG (0100246) at 150 East GAY Street, 16th Floor, Columbus, Ohio, 43215, by REGULAR U.S. MAIL on this 18th, day of MAY, 2021.

Kimberly Ware
Kimberly Ware A470743
Trumbull corr. Inst.
P.O. Box 901
Leavittsburg, Ohio, 44430
Relator, Pro. Se.

IN THE SUPREME COUT OF OHIO

CASE NO. 2020-1498

Affidavit of Kimani Ware

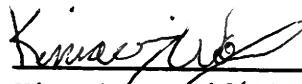
I, Kimani Ware, first being duly affirmed and cautioned do hereby state upon my personal knowledge, and i am competent to testify to the facts contained in this affidavit.

- 1). On april 29,2020, i completed a cash-slip for certified mail, the cost was \$6.40, for certified mail to Donna Crawford(a true and accurate copy is attached to this affidavit as Exhibit A).
- 2). I signed this cash slip, agreeing that my signature on this withdrawal request verifies that the information written thereon is correct, and staff member witnessed me sign this document(see exhibit A attached hereto).
- 3). Under no cirumstance is the institutional mailroom staff or clerk to complete a cash-slip or sign an inmate's name thereto.
- 4). The procedure in place at trumbull correctional institution for inmate to send certified mail as stated by mailroom clerk Frank Cimmento Jr. in his Affidavit at ¶ 4, is not a written policy nor procedure of Ohio Department of Rehabilitation and Correction(a true and accurate copy of ODRC mail policy is attached to this affidavit as Exhibit B).
- 5). On April 29,2020 i mailed by certified three public records request to Donna Crawford(a true and accurate copy of the Envelope that i placed my three public records requests in, is attached to this affidavit as Exhibit C) inspector, tracking no. 7017 2400 0000 1299 7526.
- 6). A true and accuarte copy of the certified mail receipt with tracking no.7017 2400 0000 1299 7526(a true and accurate copy is attached to this affidavit as Exhibit D).
- 7). Mailroom clerk Frank Cimmento Jr. claimed that he writes the certified mail tracking number on the cash-silp before he sends it to the cashier's office,(in his affidavit at ¶ 6) , this is not true, see Exhibit A attached hereto, where the

certified mail tracking no. 7017 2400 0000 1299 7526 is written at the bottom of the cash-slip in red ink. This is the carbon copy of the cash-slip.

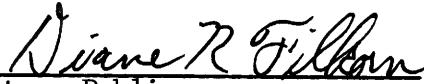
8). On April 14, 2021, i sent a kite by electronic submission to the cashier's office requesting a copy of the cash-slip that was made out on april 29,2020 for certified mail, to Donna Crawford the cashier's office provided me with a copy(a true and accurate copy is attached to this affidavit as Exhibit E).

FURTHER AFFIANT SAYETH NAUGHT.

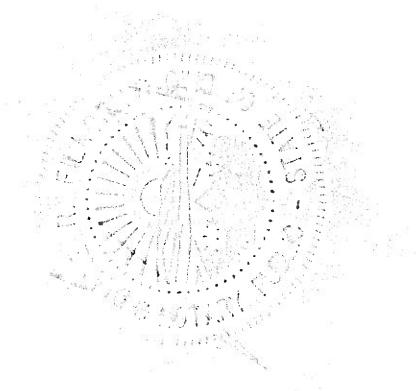

Kimani Ware A470743

COUNTY OF TRUMBULL
STATE OF OHIO

SUBSCRIBED and AFFIRMED before me this 18TH day of MAY 2021.


Notary Public

DIANE R. FILKORN
NOTARY PUBLIC • STATE OF OHIO
My commission expires Sept. 2, 2025



EXHIBIT

CASH SLIP FOR CERTIFIED MAIL
TO DONNA CRAWFORD
ON APRIL 29th, 2020

Certified Mail: → Return Receipt Requested

Personal A/C Withdrawal Check Out-Slip

Dollars: <u>6</u>	Cents: <u>40</u>
-------------------	------------------

Institution: <u>T.C.I</u>	Date: <u>4/29/20</u>	
Name: <u>Donna Crawford, inspector</u>	\$ <u>PAID</u>	
Address: <u>P.O. Box 901</u>		
City: <u>Leavittsburg</u>	State: <u>Ohio</u>	Zip Code: <u>44430</u>

Postage Copies ID Misc. Certified Mail Return Receipt Requested Check-out CK # _____

The inmate's signature on this withdrawal request verifies that the information listed above has been read to or by the inmate and is correct. In the event of an error in the address which results in the return of this package, the inmate shall assume financial responsibility.

Inmate's Signature: <u>King</u>	Number: <u>WARE</u>	Block & Cell Number: <u>14 East/122-T</u>
Approved By: <u>King</u>	Witnessed: <u>J. J. J.</u>	

Ship VIA:	Date Processed: <u>APR 30 REC'D</u>
DRC 1004 (Rev. 3/01) DISTRIBUTION: WHITE - Cashier CANARY- Inmate	Pink- 
ACA 4046	

70172400 0000 1299 7526

EXHIBIT B

ODRC MAIL POLICY: 75-MAL-01

SUBJECT: Inmate Mail	PAGE <u>1</u> OF <u>5</u>
NUMBER: 75-MAL-01	
RULE/CODE REFERENCE: 5120-9-17, 5120-9-18	SUPERSEDES: 75-MAL-01 dated 10/23/17
RELATED ACA STANDARDS: 4487, 4488, 44491 thru 4493, 4495, 4496;	EFFECTIVE DATE: September 3, 2019
	APPROVED: 

I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

II. PURPOSE

The purpose of this policy is to set forth policy and procedures which govern inmate mail services including mail inspections.

III. APPLICABILITY

This policy applies to all inmates and staff of the Ohio Department of Rehabilitation and Correction (ODRC) and specifically mail clerk/screeners who process inmate mail and other staff who are responsible for reviewing or screening printed material intended for inmates.

IV. DEFINITIONS

E-Mail (electronic mail) - Electronic correspondence through a kiosk or ODRC approved electronic communication devices. Electronic mail is offered to inmates as an additional means of communication and is a privilege that may be suspended indefinitely for violations of institutional rules. Electronic mail is not suitable for confidential legal communications.

Legal Mail - Mail addressed to an inmate clearly bearing the return address of an attorney-at-law, a public service law office, a law school legal clinic, court of law, or the Correctional Institution Inspection Committee (CIIC). It may be opened and inspected for contraband only in the presence of the inmate-addressee. Postcards from a court of law indicating fees and/or fines owed are not considered legal mail.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction (ODRC) to process inmate mail in an efficient, timely manner and to regulate inmate property in accordance with Administrative Regulations 5120-9-17, Incoming Mail, and 5120-9-18, Outgoing Mail.

VI. PROCEDURES**A. General Procedures:****Regular Mail:**

1. Universal precautions, including minimum risk level personal protection equipment (PPE) as defined in ODRC policy 10-SAF-19, Fentanyl Exposure – Prevention and Response should be used when opening and processing incoming mail. Each institution shall have a written plan to address the proper handling of suspicious packages or envelopes to include isolation of the package and notification of appropriate staff and, if necessary, outside agencies. The written plan shall include steps for processing inmate mail, inmate legal mail and mail addressed to staff.
2. All incoming mail, except legal mail, shall be processed in an area located outside of the facility or in an area of the facility designated by the managing officer and approved by the appropriate regional director to minimize possible exposure. Each item shall be opened and processed under a ventless hood system designed to prevent the exposure of staff to potentially hazardous substances and contamination of the area.
3. Envelopes and/or packages suspected of containing contraband items shall be placed in an isolated area until such time as they can be opened by an ODRC staff member who has been trained to handle potentially hazardous materials.
4. Once the mail has been processed, it will be delivered inside the facility for distribution to the inmate.
5. All inmate mail, including electronic mail, other than Legal Mail, shall be opened, and may be read or copied in the institution mail room and inspected for the presence of cash, checks, money orders and/or other contraband. Any contraband received through the mail shall be documented on a Notice of an Unauthorized Item Received form (DRC4225) and disposed of in accordance with AR 5120-9-55, Contraband. All mail shall be removed from the envelope. The front of the envelope shall be copied in such a way as to preserve the return address and attached to the contents. The remainder of the envelope shall be discarded. Colored envelopes and/or colored mail contents, not to include greeting cards (see VI.B of this policy) are not permitted inside the institution. The front of the colored envelope and/or the colored contents shall be photocopied, and the copies delivered to the inmate. The colored envelope/contents shall be discarded.

6. All inmate regular mail may be read or copied in the institution mail office. The written portion of the mail shall then be promptly delivered to the inmate unless it is a threat to security. Inmates shall be notified when incoming or outgoing letters are withheld in part or in full. Inmates and senders shall be notified using a Notice of Withholding (DRC4149). The inmate and sender shall receive notification using a Decision on Withholding/Correspondence (DRC4148) once a decision is made. If an e-mail is withheld and/or blocked due to content, an automatic notification is sent to the sender/receiver of the e-mail and a separate Notice of Withholding (DRC4149) is not required.
7. Incoming and outgoing letters shall be held for no more than 48 hours and packages shall be held for no more than 72 hours, excluding weekends and holidays or emergency situations.
8. When the inmate bears the mailing cost, there is no limit on the volume of letters the inmate can send or receive or on the length, language, content, or source of mail or publications except when there is reasonable belief that limitation is necessary to protect public safety or institutional order and security. All institutions shall provide certified mail services for inmates. Inmates may request certified mail service provided they bear the full cost of postage, the cost of certification and the cost of return receipts, if requested. When the receipt is returned, it shall be given to the inmate and not maintained in the mailroom.
9. Postage and embossed envelopes shall be available for sale in the institution commissary and through DRC approved vendors. Envelopes ordered through an approved vendor will not count towards an inmate's package limits. Envelopes may not be mailed to inmates by individuals. Inmates may send one letter each month for which DRC will pay current first-class postage rates as established by the United States Postal Service (USPS) for a standard letter to maintain community ties. Any additional postage costs shall be paid by the inmate. Inmates will also receive eight free electronic mail stamps for outbound email only, to include videograms and attachments, each month. Unused stamps will not be carried over to the next month.

Legal Mail:

10. Legal mail containing a disc(s) that had not been pre-approved per Administrative Rule 5120-9-19, Printed Material, shall be treated as contraband by the institution mailroom. The managing officer/designee shall determine the disposition pursuant to Administrative Rules 5120-9-17 and 5120-9-55.
11. Inmates are permitted to send sealed letters to, and receive sealed letters from, a specified class of persons and organizations including, but not limited to, the following: courts, counsel, officials of the confining authority, state and local chief executive officers, administrators of grievance systems, the Correctional Institution Inspection Committee (CIIC), and members of the paroling authority. If confidentiality is required, such mail must be clearly addressed reflecting one of the above addresses and be marked as "Legal Mail."

12. Legal mail shall be opened and inspected for contraband only in the presence of the inmate addressee and in accordance with Administrative Rule 5120-9-18, Outgoing Mail.
13. Section VI.A.1 of this policy as it relates to copying colored letters and envelopes does not apply to Legal Mail. Legal Mail envelopes shall only be copied if there is a legitimate security concern and only copied in front of the inmate, if possible. The contents of Legal Mail should never be copied. If there is reason to copy the envelope, the original envelope shall be retained and attached to an Incident Report (DRC1000) which shall clearly state the security concern.
14. Legal Mail shall be logged on the Legal Mail Log (DRC2632) and delivered to the inmate addressee within 48 hours, excluding weekends and holidays or emergency situations.

B. 1st Class Mail Enclosures

Inmates may receive the following in a first-class letter:

- Five pages written/typed correspondence on plain white paper (no larger than 8 ½" x 11). Correspondence must be in blue or black ink only (no crayon or colored markers);
- Five photographs (no larger than 8 ½" x 11"), no nudes, no Polaroid;
- Five newspaper clippings (no larger than 8 ½" x 11");
- Five pamphlets or brochures (simple, single page, no larger than 8 ½" x 11"); bi fold or tri fold;
- Five pages of blank stationary or copied material, no larger than 8 ½" x 11" (including materials copied from the internet);
- Color greeting cards are permitted if they are commercially manufactured and have not been tampered. Greeting cards must be single fold only (multi-fold, musical and/or "pop out" cards are prohibited);
- Postage stamps, laminated stickers, glue, glitter, lipstick or perfume, etc. are prohibited.

Such enclosures are subject to screening and possible exclusion from the institution under Administrative Rule 5120-9-19, Printed Material, and ODRC policy 75-MAL-02, Printed Material.

C. Letters which are incorrectly addressed may be returned to the sender after a reasonable effort to ascertain the addressee has failed.

D. First class letters, legal mail, and packages shall be forwarded in a timely manner to the inmate's new address, if it is known, following an inmate's transfer or release. The inmate forwarding address shall be recorded either in the cashier's office or DOTS Portal, based on the offender's date of release. Both areas should be consulted to verify the forwarding address. All forwarding items shall be logged on the Mail Forwarding Log (DRC2633). All packages shall be logged on the Inmate Package Log (DRC2631) on DOTS Portal. If this information is not available in either location, first class letters or packages shall be returned to sender as established in section VI.D of this policy.

- E. All other procedures for handling incoming and outgoing correspondence are contained in Administrative Regulations 5120-9-17, Incoming Mail, and 5120-9-18, Outgoing Mail.
- F. The mail department supervisor shall complete the Monthly Mail Report (DRC2316) and submit to the responsible deputy warden with a copy maintained at the institution.
- G. ODRC mailroom staff shall mail all inmates' outgoing mail only if it contains a completed federal tax return addressed to the Internal Revenue Service (IRS) to the following address: Internal Revenue Service, Blue Bag Program, Stop 975, 1040 Waverly Avenue, Holtsville, NY 11742. Mailroom staff shall also transmit the following data on the prison and on each prisoner associated with items mailed to the IRS: prison name and address; sending ODRC's staff name and telephone number; inmate's full name and inmate number; inmate's social security number; inmate's date of incarceration; and inmate's release date. The IRS will review the correspondence and take appropriate action. All other inmate's outgoing mail (excluding completed federal tax returns) addressed to the IRS should be mailed through the normal mailing process. Additional information on the Blue Bag Program is available via email: prisoner_file@irs.gov using "BBP" on the subject line or by calling the Blue Bag Hotline: 631-654-6191.

This procedure for the Blue Bag Program does not apply to incoming inmate mail from the IRS. The IRS requests ODRC to destroy IRS publications and blank IRS federal tax returns contained in incoming mail. ODRC policy 24-CAS-08, Inmate Refund Check, provides procedures for handling incoming mail from the IRS containing a federal refund check.

- H. A religious organization may send a religious medallion to an inmate subject to the possession limit, value limit, and certificate of ownership requirements of ODRC policy 61-PRP-01, Inmate Personal Property.

Related Department Forms:

Monthly Mail Report	DRC2316
Inmate Package Log	DRC2631
Legal Mail Log	DRC2632
Mail Forwarding Log	DRC2633
Decision of Withholding	DRC4148
Notice of Withholding	DRC4149
Notice of an Unauthorized Item Received	DRC4225

EXHIBIT C

ENVELOPE THAT RELATOR'S THREE
PUBLIC RECORDS REQUESTS WAS MAILED
IN BY CERTIFIED MAILED, TRACKING
NO. 7017 2400 0000 1299 7526

Kimani Ware #470743
Trumbull Corr. Inst
P.O. Box 901
Leavittsburg, Ohio, 44430

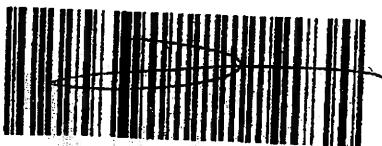
REOPOST
05/04/2020
JUSTICE \$0006.40
P.O. BOX 901
ZIP 44430
041M11453370



FOREVER
USA

Trumbull Correctional Institution
Donna Crawford, Inspector
P.O. Box 901
Leavittsburg, Ohio, 44430

7027 2400 0000 7252



CERTIFIED MAIL

444300501 BO50

7027 2400 0000 7252

Donna Crawford, Inspector
P.O. Box 901
Leavittsburg, Ohio, 44430

Date: April 29, 2020

I request a copy of the following informal complaints: #TCI 1119000458; TCI 03320000 416; TCI 0320001136; TCI 0420000107;

Public Records Request #II

I request a copy of the following Kites, * TCI 0420000467; TCI 0420000467; TCI 0420000 718; TCI 0420002098; TCI 0420002249; TCI 0420000717; TCI 0320002035; TCI 03200 1146; TCI 03200020592

* Public Records Requests
Under R.C. 149.43 *

~~Kimani Ware~~

Kimani Ware 470743
Trumbull corr. Inst.
P.O. Box 901
Leavittsburg, Ohio, 44430

Certified Mail: 701724000001299 7526

[PAGE 1 OF 2]

Donna Crawford, Inspector
P.O. Box 901
Leavittsburg, Ohio, 44430

Date: April 29, 2020

Public Records Request # III

I request a copy of the Email (dated April 9, 2019) that was send by Ms. Scott to your office pertaining to Legal Mail for Non-inmates) indigent inmates., a copy of the Email (all emails) between you and the Cashier's office at Trumbull Corr. Inst. (dated April 6, 2020 Thru April 29, 2020), and (March 21, 2020 Thru March 30, 2020).

Kimani Ware

Kimani Ware 470743
Trumbull Corr. Inst.
P.O. Box 901
Leavittsburg, Ohio, 44430

* Public Record Request
Under R.C. 149.43 *

certified Mail: 7017240000007526

EXHIBIT D

CERTIFIED MAIL RECEIPT

7017 2400 0000 1299 7526

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL MAIL

Certified Mail Fee
\$ 3.55

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$ 2.88

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage
\$.50¢

Total Postage and Fees
\$ 6.40

Postmark
PA 03/17/17

Sent To
Donna Crawford, Inspector
Street and Apt. No., or P.O. Box No.
123 Box 901

City, State, ZIP+4
Levittsburg OH 44430

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

USPS Tracking®

[FAQs >](#)[Track Another Package +](#)**Tracking Number:** 70172400000012997526[Remove X](#)

Your item has been delivered and is available at a PO Box at 9:18 am on May 6, 2020 in LEAVITTSBURG, OH 44430.

Delivered

May 6, 2020 at 9:18 am
Delivered, PO Box
LEAVITTSBURG, OH 44430

[Get Updates ▼](#)[Feedback](#)

Text & Email Updates 

Tracking History 

Product Information 

[See Less ^](#)

EXHIBIT E

CASH SLIP FROM CASHIER'S OFFICE

4/14/2021

<https://facility.jpay.com/GrievanceDetail.aspx?page=result&id=10039478>

jpay

Admin [./News.aspx](#) Money [./ViewBookingKioskFacility.aspx](#) Communications [./GrievanceInbox.aspx?page=assignedtome](#) Reports [./Commission.aspx](#) Sign Out

Welcome lbeeggs

Last Login: 04/14/2021 11:52AM EST

Communications
Assigned To Me
(GrievanceInbox.aspx?
page=assignedtome)
(0)
New (GrievanceInbox.aspx?
page=fresh)
(4)
Pending
(GrievanceInbox.aspx?
page=pending)
(2)
Awaiting Response
(GrievanceInbox.aspx?
page=waiting)
(0)
Closed
(GrievanceInbox.aspx?
page=closed)
(2644)
Search
(GrievanceSearch.aspx)
Reports
(CommunicationReport.aspx)
Create Communication
(GrievanceNewForm.aspx)
Print Communications
(GrievanceInbox.aspx?
page=print)

Ref# TCI0421001497

[◀ Back](#)

Inmate Name:	WARE, KIMANI	Form Type:	Kite
Inmate ID#:	a470743	Time Left:	7 Day(s) - 04/21/2021
Loc./Housing:	TCI B14E122T	Curr. Status:	Pending
Kiosk ID#:	K_OHTCI017	Assigned to:	-
Created On:	04/14/2021 10:20 AM	Last Modified:	04/14/2021 10:20:15 AM

[Case Details](#) [Perform Actions](#) [Attachments \(0\)](#) [Admin Notes \(0\)](#) [Case Logs](#) [Inmate History](#)

Case Details

Form Type: Kite
Subject: Cashlers Office
Description: Cashiers Office

Original Complaint:

i need a copy of the cash slip that was made out on april 29,2020 for certified mail, to donna crawford, inspector.

Thank you

Inmate Communications

[Inmate](#) [Staff](#) [Case Action](#)

(Kite) WARE KIMANI, #a470743 wrote: 4/14/2021 10:20 AM

i need a copy of the cash slip that was made out on april 29,2020 for certified mail, to donna crawford, inspector.

Certified Mail: → Return Receipt Requested

Personal A/C Withdrawal Check Out-Slip

Institution: T.C.I	Date: 4/29/20
Name: Donna Crawford, Inspector	
Address: P.O. Box 901	
City: Leavittsburg	State: Ohio
	Zip Code: 44430

Postage Copies ID Misc. Certified Mail Return Receipt Requested Check-out CK # _____

The inmate's signature on this withdrawal request verifies that the information listed above has been read to or by the inmate and is correct. In the event of an error in the address which results in the return of this package, the inmate shall assume financial responsibility.

W/ARE

Inmate's Signature: <u>Kimberly</u>	Number: A470743	Block & Cell Number: 14 East 122-T
Approved By: <u>J. Jones</u>	Witnessed: <u>J. Jones</u>	

Ship VIA:	Date Processed: APR 30 REC'D
DRC 1004 (Rev. 3/01) DISTRIBUTION: WHITE - Cashier CANARY- Inmate	Print: _____ ACA 4046