

IN THE SUPREME COURT OF OHIO

STATE OF OHIO ex rel
RONALD BLOODWORTH-#366-695
2001 East Central Avenue
Toledo, Ohio 43608

CASE NO.

Relator

ORIGINAL ACTION IN MANDAMUS

V.

MARYELLEN OSHAUGHNESSY,
Franklin County Clerk of Courts
345 South High Street, FlW1B
Columbus, Ohio 43215

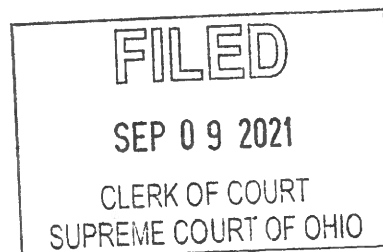
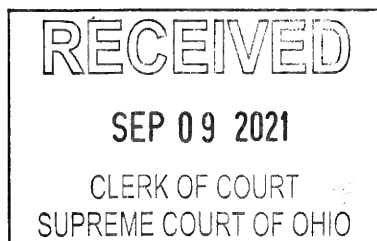
21-1131

Respondent

COMPLAINT FOR A WRIT OF MANDAMUS

G. GARY TYACK(0017524)
PROSECUTING ATTORNEY
Franklin County, Ohio
Franklin County Prosecutor's Office
373 South High Street, 13th Floor
Columbus, Ohio 43215

COUNSEL FOR RESPONDENT



IN THE SUPREME COURT OF OHIO

STATE OF OHIO ex rel.,
RONALD BLOODWORTH

Relator

CASE NO.

V.

ORIGINAL ACTION IN MANDAMUS

MARYELLEN OSHAUGHNESSY,
Franklin County Clerk of Courts

COMPLAINT FOR A WRIT OF
MANDAMUS

Respondent

1. RONALD BLOODWORTH, Relator, pro se (Bloodworth or Relator) pursuant to S.Ct.Prac. R. 12.01 asks this court for a peremptory writ of mandamus directing the Franklin County Clerk of Courts, namely MaryEllen Oshaughnessy, to file Relator's R.C. 2323.52 Motions' for leave To Proceed INSTANTER.
2. Relator is a citizen of the State of Ohio and of the United States. Relator is a party to : OHIO STATE ATTORNEY GENERAL V. RONALD BLOODWORTH, Franklin Common Pleas No. 11CVH01-265 ("underlying case") pursuant to R.C. 2323.52.
3. The franklin County Court of Common Pleas is a trial Court established pursuant to O.R.C. 2501:01(F) and with jurisdiction established pursuant to R.C. 2305.01.
4. This Court has original jurisdiction over petitions for writ of mandamus (R.C.2731.02) and (Art IV Sec (2)(B)(1)(b) O Const)

COMPLAINT

5|| On July 20, 2021, via certified mail, as a vexatious litigator, Bloodworth mailed two(2) MOTIONS FOR LEAVE TO PROCEED PURSUANT TO R.C. 2323.52 (Exhibits' B & C; and Affidavit of Ronald Bloodworth, Exhibit A, paragraph 2) to the Franklin County Court of Common Pleas for filing regarding the underlying case, as required by R.C. 2323.52(F)(1).

6. Upon information and belief, the respondent has received both July 20,

2021 R.C. 2323.52 Motions for Leave To Proceed by certified mail (Exhibits D,E), and, Bloodworth's Affidavit, Exhibit A, paragraph 3.

7. To date, respondent has not filed said motions. Id. ¶ 4.

8. Respondent should not have refused to file Bloodworth's two R.C. 2323.52 Motions for Leave To Proceed. As a matter of law, Bloodworth was entitled to have all of said motions' filed as presented to the clerk in accordance with R.C. 2303.09.

9. In 2011, Bloodworth was declared a vexatious litigator by the franklin county court of common pleas pursuant to R.C. 2323.52 in the underlying case.

10. Pursuant to R.C. 2323.52(D)(1)(a), the franklin county court of common pleas has entered an Order that prohibits Bloodworth from instituting legal proceeding's, in pertinent part, in the court of common pleas without first obtaining the leave of that court to proceed.

11. The respondent is charged by law to serve as the administrative conduit through which this statutory scheme is effectuated in the underlying case. Mayer V. Bristow, 91 OhioSt. 3d 1,14(2000).

12. The respondent has refused to file the aforementioned motions, identified at paragraph five herein.

13. The respondent has provided no reason for refusing to file the aforementioned motions' identified in the preceding paragraph. The respondent has no authority to refuse to file relator's two(2) R.C. 2323.52 Motions For Leave To Proceed as presented to the clerk and its action to do so was a legal nullity.

14. R.C. 2323.52 establishes a screening mechanism under which relator can ask the declaring court on a case-by-case basis permission to proceed in another court by filing an application for leave to proceed. Mayer, supra. Despite the relator having mailed the aforementioned R.C. 2323.52 motion(s')

to the Franklin County Court of Common Pleas via certified mail and the respondent receiving the motions' the respondent refused to file Bloodworth's R.C. 2323.52 motion(s').

15. At the time that respondent refused to file Bloodworth's R.C. 2323.52 motion(s') as presented to the clerk by Bloodworth--the vexatious litigator, R.C. 2303.08 only allowed the clerk to refuse to accept papers submitted for filing by a person who has been found to be a vexatious litigator under Section 2323.52 of the Ohio Revised Code for the following reasons: a person who has failed to obtain leave to proceed under R.C. 2323.52.

16. Although respondent may have had the authority to reject certain pleadings or papers submitted for filing by a vexatious litigator, pursuant to its powers under R.C. 2303.08, it did not do so as its action to refuse to file Bloodworth's two R.C. 2323.52 Motion for Leave To Proceed occurred after Bloodworth complied with the requirements under R.C. 2323.52(F)(1).

FIRST CAUSE OF ACTION
MANDAMUS
(Based on Self-Executing Statute)

17. Relator incorporates the allegations of paragraphs 1 through 16 as if restated herein.

18. Pursuant to R.C. 2303.09 relator had the clear legal right to have his two(2) Motions For Leave To Proceed Under R.C. 2323.52 filed as presented to the clerk.

19. Pursuant to R.C. 2303.09 respondent has a clear legal duty to file relator's two(2) Motions For Leave To Proceed Under R.C. 2323.52 as presented to the clerk.

20. Relator has no other legal means to file the said motions' as the Ohio Revised Code does not provide for an appeal from respondent's refusal!!

SECOND CAUSE OF ACTION
MANDAMUS

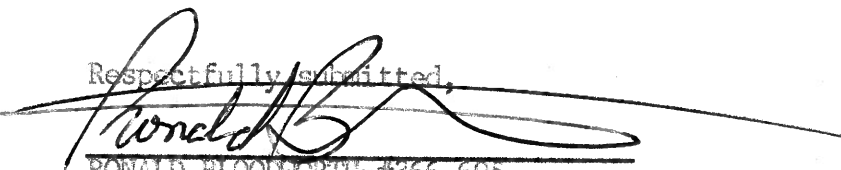
(Based on United States and Ohio Constitution)

21. Relator incorporates the allegations of paragraphs 1 through 20 as if fully recopied herein!
22. Relator has a right to have have his properly presented papers filed under the Fourteenth Amendment to the U.S. Constitution and the Ohio Constitution!! Art I Sec 16 respectively.
23. Respondent has a corresponding duty imposed by the Fourteenth Amendment to the United States Constitution and Ohio Constitution to accept and file Relator's two(2) R.C. 2323.52 Motions For Leave To Proceed as presented to the clerk.
24. Respondents refusal to file relator's motions' violates relator's constitutional right of access to the courts and breaches its constitutional duty to file said motion(s').

WHEREFORE, Relator Prays:

1. for a writ of mandamus against respondent clerk ordering the respondent to file his two(2) R.C. 2323.52 Motions For Leave To Proceed as presented to the clerk.
2. for such further relief as the court deems just; and,
3. for the costs of this action!

Respectfully submitted,


RONALD BLOODWORTH-#366-695
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

REL ATOR, pro se

AFFIDAVIT OF RONALD BLOODWORTH

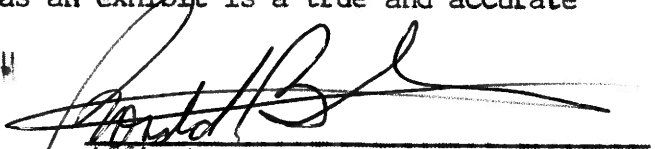
STATE OF OHIO

SS:

LUCAS COUNTY

I, RONALD BLOODWORTH, being duly cautioned and sworn, depose and state that I am competent to testify to the facts contained herein, that I have personal knowledge of the facts contained herein, and that the facts contained herein are true and accurate to the best of my knowledge.

1. I am a vexatious litigator and have been a vexatious litigator since 2011.
2. On July 20, 2021, I sent two(2) MOTIONS FOR LEAVE TO PROCEED PURSUANT TO R.C.2323.52 w/attached proposed Mandamus Complaint;and, Verified Complaint for a Writ of Mandamus and Alternatively for Civil Forfeiture Pursuant to R.C.149.351, by certified mail to the Franklin County Court of Common Pleas for filing regarding the underlying case. Exhibits B & C.
3. On July 29, 2021, the clerks office and respondent received my two(2) R.C. 2323.52 Motion(s') for Leave To Proceed w/attachments identified at paragraph five(5) above by certified mail. ~~Exhibits D & E.~~
4. However, the respondent did not file the two R.C. 2323.52 Motion(s') for leave to proceed.
5. Each document attached hereto as an exhibit is a true and accurate copy of what it is represented to be.



 Affiant

Sworn to and subscribed in my presence this 24 day of August,

20 21.



PATRICIA R. CEGLIO
 Notary Public
 State of Ohio
 My Comm. Expires
 August 10, 2026



 NOTARY PUBLIC

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RECEIPT Requested
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Institution: **TOCI** Date: **7/20/21**

Name: **Franklin County Court of Common Pleas**

Address: **345 South High Street, FL 1B**

City: **Col** State: **Oh** Zip Code: **43215**

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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: **Blood Bloodworth** Number: **366695** Block & Cell Number: **A2N03**

Approved By: **[Signature]** 7/22 Witnessed BY: **[Signature]**

Ship VIA: _____ Date Processed: _____

EXHIBIT
B

IN THE FRANKLIN COUNTY COURT OF COMMON PLEAS

OHIO STATE ATTORNEY GENERAL

Plaintiff

Franklin Common Pleas No.
11CVH01-265

Judge: Colleen McDonnell

V.

RONALD BLOODWORTH

MOTION FOR LEAVE TO PROCEED
UNDER R.C. 2323.52

Defendant

In 2011, Bloodworth was declared a vexatious litigator pursuant to R.C. 2323.52, by the franklin county court of common pleas. Accordingly, Bloodworth must seek leave from this court to file a civil action in the Lucas County Court of Common Pleas.

The proposed MANDAMUS COMPLAINT(attached hereto and incorporated herein by reference) seeks to correct abuses of discretion.

"Mandamus will lie only where a prisoner has no other adequate remedy available." C.J.S., Mandamus, Section 304, Prisons(2011). Where an administrative agency(like the DRC) issues an arbitrary or unreasonable final determination where no direct right of appeal is provided to correct an abuse of discretion an adequate remedy is not available, and accordingly, mandamus is the proper remedy. See, State ex rel. Glass, Molders, Pottery, Plastics and Allied Workers International Union, Local 333, AFL-CIO CLC V. State Employment Relations Board (1993), 66 Ohio St.3d 157,159; State ex rel. Serv. Empl. Internatl. Union Dist. 925 V. State Empl. Relations Bd.(1999)81 Ohio St.3d 173.

In Ponte V. Real, 471 U.S. 491 at 505-06(1985)(MARSHALL, J.; BRENNAN, J., dissenting), a case involving an inmates right to call witnesses at a prison disciplinary hearing, the U.S. Supreme Court expressly stated, as to the need for additional inquiry and relevance of objective observer evidence that under circumstances where prison officials version of the incident is

EXHIBIT

C

diametrically opposed to prisoners' version, the need for additional inquiry is presented and, evidence from "observers of the incident would seem highly relevant to", and perhaps even dispositive of, the question of [an inmates] responsibility for the misbehavior charged.

In this connection, several courts have decided that surveillance tapes that have captured the alleged incident on video are considered relevant evidence. See, e.g., MASSOP V. LaFIVRE, 127 Misc.2d 910, 912-13 (since the only proof available to substantiate the petitioner's defense is the videotape of the incident in the segregation unit on the day of the alleged incident, the hearing officers should have reviewed it as requested by the petitioner); ESPINOL V. COUGHLIN, 199 AD 2d 904 (Respondent concedes that petitioner would have been entitled to use the videotape recording of the incident, that he believes would exculpate him, at the hearing.)

In the same vein, multiple jurisdictions that have considered the issue have vigorously and uniformly held that disciplinary bodies must permit and view evidence at prison disciplinary proceedings, unless the evidence is irrelevant, redundant, unavailable or poses a security risk to the orderly operation of the prison. See, e.g., MALIK V. TANNER, 697 F.Supp. 1294, 1300 n.7 (S.D. N.Y. 1988) (noting "had plaintiff informed defendant prior to the hearing that plaintiff wanted to call witnesses or to present the video tape of the call block at the time of the incident, defendant's refusal to consider such evidence would violate state law and due process"); MASSOP, supra, at p. 925 (refusal to consider videotape as requested by inmate violated state regulations);

Videotape recordings made by surveillance cameras are also considered a witness. MASSOP, supra at 913 (hearing officer should have viewed ~~witness~~ inmates witness); ESPINOL V. COUGHLIN, 199 AD2d 904 ("a videotape recording made by a camera in the prison used ostensibly for surveillance purposes [was the only] witness to the incident...")

Should the proposed court determine that Bloodworth was arbitrarily denied an opportunity to present the surveillance camera videotape as his witness, the proposed court must then decide whether expungement is the appropriate remedy. Expungement has been deemed appropriate in similar cases such as those in which disciplinary boards improperly denied a prisoners request to present a surveillance camera videotape as a witness. See, e.g., MASSOP V. LEFVRE, 127 Misc.2d 910, 913 (expungement proper where videotape witness unavailable for consideration); MATTER OF ALLAN V. LEFVRE, 132 AD 2d 293, 295 (expungement required because penalty imposed has almost been served, over 16 month passage of time, exceedingly serious nature of charged offense, and unavailable witness, underscores the difficulty of ensuring a meaningful fair hearing that complies with DOC's own regulations.)

In COOK V. COUGHLIN, 97 AD 2d 663, the inmate was denied a fair hearing because irrefutably, prisoner admitted disarming and stabbing inmate-victim whom came at him with knife, pointed out victims extortion attempt and his earlier argument with victim and maintained self-defense, yet the hearing officer failed to make distinction between self-defense assertion and issue of culpability and failed to seriously consider insanity-justification defense relevant.

Where a prison disciplinary board convicts an inmate of a rule infraction after that board holds a hearing at which no shred of evidence (instead of some evidence) of the inmates guilt is presented to support the charge the courts will intervene. See, e.g., HARPER V. STATE, 463 N.W.2d 418, 420-21 (Iowa 1990) (holding the fact that an inmate broke a minor rule was no evidence that he disobeyed a lawful order); EDWARDS V. WHITE, 501 F.Supp. 8, 11 (M.D. Pa. 1979) (holding possession of a petition with no signatures was no evidence of a

"conspiracy to disrupt prison routine.") aff'd 633 F.3d 209(3d Cir.1980); FARRELL VII OREGON STATE PENITENTIARY CORRECTIONS DIVI, 51 Or. App. 465, 625 P.2d 1380, 1382(Or. App.1981)(holding anonymous note did not meet state regulations' requirement that evidence "be of such credibility as would be considered by reasonable persons in the conduct of their affairs.")

In COFFMAN V. ERICKEY, 884 F.2d 1057(C.A.118(Mo.)1989) cert. denied 494 U.S. 1056(1990), where an inmate was disciplined for violating a published institutional rule, but no institutional rule existed that prohibited what the inmate had done, the court held since the prisoner was punished for violating a rule which prohibits the violation of a published rule, it was incumbent on the prison staff to point to the precise published rule that was violated and that the inmate was improperly disciplined for a rule that did not exist.) See, also, GIBBS VI KING, 779 F.2d 1040(5th Cir.1986)(dismissal of claim reversed where prison rules required policies to be posted before prisoner could be charged with violating them and the petitioner was charged with violating an unposted rule.)

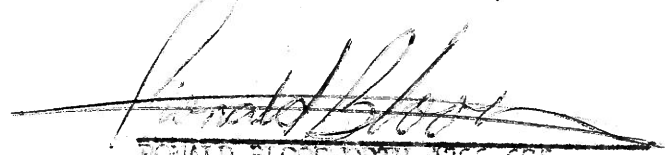
Prison officials imposition of discipline for inmates commission of an act that violates no prison rule cannot ^{be} some evidence of guilt supporting their decision to discipline the inmate. COFF V. BURTON, 91 F.3d 1168, 1191-92(8th Cir.1996). cf. COFFMAN, supra; GIBBS, supra.

Injunctive relief has been recognized as a legitimate source of relief through which inmates may seek to have conduct reports, disciplinary charges, dispositions, and findings annulled and expunged from their disciplinary record. See, e.g., PEOPLE V. KOENIGER, 183 AD 2d 472(1st Dept.1992); RICHARDSON VII

COUGHLIN(SUD.N.Y.1991), 763 F.Supp.1228,1233,1239. See, also, JOHNSON V. GOORD,
288 AD 2d 525.

WHEREFORE, for the foregoing reasons, Bloodworth requests that this court grant
him leave to file his viable civil action in the court in question.

Respectfully submitted,



RONALD BLOODWORTH-4366-695
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608


Defendant, pro se

CERTIFICATE OF SERVICE

I mailed a copy of this document JULY, 20, 2021, via ordi-
nary US mail to:

DAVE YOST
OHIO ATTORNEY GENERAL
Ohio Attorney General's Office
150 East Gay Street
Columbus, Ohio 43215

COUNSEL FOR PLAINTIFF



RONALD BLOODWORTH

IN THE LUCAS COUNTY COURT OF COMMON PLEAS

STATE OF OHIO ex rel.,
RONALD BLOODWORTH-#366-695
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

Case No.

ORIGINAL ACTION IN MANDAMUS

Relator

VII

TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

and

JOHN DOE(first name unknown)WAGNER
CORRECTIONS SERGEANT
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

Respondents

Complaint for a Writ of Mandamus
and Injunctive Relief Request

DAVE YOST
OHIO ATTORNEY GENERAL
Ohio Attorney General's Office
150 East Gay Street
Columbus, Ohio 43215

COUNSEL FOR RESPONDENTS

IN THE LUCAS COUNTY COURT OF COMMON PLEAS

STATE OF OHIO ex rel.,
RONALD BLOODWORTH

Relator

VI

TOLEDO CORRECTIONAL
INSTITUTION, et al.

Case No.

ORIGINAL ACTION IN MANDAMUS

COMPLAINT FOR A WRIT OF
MANDAMUS AND INJUNCTIVE
RELIEF REQUEST

Respondents

Relator, RONALD BLOODWORTH, pro se, invokes this courts jurisdiction pursuant to Art IV Sec 4, O Const; R.C. 2731.01 et seq.; R.C. 2305.01.

1. Relator, is an inmate incarcerated at Department of Rehabilitation and Correction(DRC)'s TOLEDO CORRECTIONAL INSTITUTION(ToCI)located in Toledo, Lucas County, Ohio and is a citizen of Ohio and the United States.
2. First respondent ToCI is a state office or agency as defined in R.C. 149.011(A) & (B) with public officials as defined in R.C. 149.011(D) and as discussed below being the actor and agent of said state agency who have acted to deprive relator of his right to a fair hearing conducted in accordance with the DRC's rules and regulations regarding disciplinary hearings conducted by hearing officers.
3. Second Respondent, JOHN DOE(First Name Unknown)WAGNER, Hearing Officer, is an agent of the first respondent and is a corrections sergeant for the DRC at ToCI, having powers by and through the DRC as set forth in O.R.C. 5120 et seq.
4. The respondents' have a duty to perform all duties conferred on the institution of the DRC by law or by order of the director under the rules and regulations that the director prescribes.
5. The rules referred to in the preceding paragraph is the Ohio Administrative Code(AR)'s. The regulations referred to in the preceding paragraph is the DRC's Policies.

6. Respondent, Sgt. Wagner, is a staff member designated by the warden to act as a hearing officer at ToCI and it is his official duty to conduct an informal hearing with an inmate who received a conduct report to determine violations of the inmate rules of conduct as described in rule 5120-9-06 of the Administrative Code and the documentation of actions.
7. Pursuant to AR5120-9-07B.1., and DRC Policy 56 DSC 01VI.D.1., any department employee who has reason to believe that an inmate has violated an inmate rule(or rules)of conduct may set forth such allegations on a conduct report which must include but is not limited to a description of the specific behavior constituting each rule violation, and cite the name and number of each applicable rule of conduct.
8. Pursuant to AR5120-9-06(A), the disciplinary violations defined by this rule shall address acts that constitute an immediate and direct threat to the security or orderly operations of the institution, or to the safety of its staff, visitors and inmates(including the inmate who has violated the rule)as well as other violations of institutional or departmental rules and regulations.
9. Pursuant to DRC Policy 56 DSC 01(VI)(2)(1) the managing officer may adopt a written policy containing local rules.
10. Also, pursuant to section (VI)(B)(2) of this policy any policy containing local rules must be published in the inmate handbook.
11. Pursuant to section (VI)(B)(3) of this policy a violation of a local rule must be charged as a violation of Rule 61 under Administrative Regulation 5120-9-06, Inmate Rules of Conduct.
12. According to page 76 of the ToCI's Inmate Handbook(eff. 10/3/2019), the institutional rule violated shall be included within the body of the conduct report.

13. As part of the initial screening and preliminary procedure, AR5120-9-07 (D) and DRC Policy 56 DSC 01(VI)(F) requires the hearing officer to initially evaluate the conduct report for formal content which includes but is not limited to the hearing officer determining whether the conduct report cites the correct rule and cites sufficient facts to support the charged violation. Preliminary, the hearing officer's authority includes his ability to accept or modify a conduct report or return it to the charging official for correction or revision.

14. According to AR 5120-9-07(F)(2), the hearing officer has the authority to conduct witness interviews.

15. AR 5120-9-07(F)(5) requires the hearing officer to determine whether a violation has occurred. DRC Policy 56 DSC 01(VI)(G)(5) and this section(F)(5) of the rule provides further that if the hearing officer finds that there are some facts to support the conclusion that the inmate violated a rule, the hearing officer may impose disposition.

16. Pursuant to AR5120-9-06(D)(1) & (2), no inmate shall be found guilty of a violation of a rule of conduct without some evidence of the commission of an act and the intent to commit the act. The act must be beyond mere preparation and be sufficiently performed to constitute a substantial risk of it being performed. Intent may be express, or inferred from the facts and circumstances of the case.

17

March 22, 2021 CONDUCT REPORT

17. On March 22, 2021, a corrections officer issued a conduct report against relator charging relator with violating the inmate rules of conduct as described in AR 5120-9-06(C)(35) alleging that relator was out of place when he entered into officer's break room and retrieved state soap. Exhibit A .

18. Upon information and belief, during its initial evaluation of the conduct report the hearing officer determined that the conduct report has been accurately completed, accepted it and continued the disciplinary procedure.
19. On or about March 26, 2021, Sgt. Wagner conducted a disciplinary hearing. During the hearing, relator made a statement. Relator admitted committing the acts alleged in the conduct report but denied committing any wrongdoing.
20. Relator stated that although this room is the "officer break room" inmates are routinely allowed to enter this room and retrieve state soap that is kept in this room. Relator stated further that this act does not constitute a violation of prison rules, as described in AR5120-9-06(A), since rule 35 is coupled to no institutional or departmental rules and regulations that proscribe relator's conduct, thus, the administrative rule as a whole does not authorize disciplinary action to be taken against the relator in the form of issuance of a conduct report.
21. Sgt. Wagner had no authority to proceed past the initial screening and preliminary stage on to meeting with relator and/or to determine whether the conduct reports "went into officer break room" allegations is the facts and evidence to support the conclusion that relator is guilty of going into the officers break room and taking state soap and its action to do so was a legal nullity.
22. In the March 22nd conduct report the allegations that describe the specific behavior constituting a rule 35 violation is confined solely to relator entering officers break room and taking state soap. Despite the conduct report's "went into the Officer break room and took...state soap" allegations being at variance with being beyond mere preparation and sufficient performance of an act that

culminated into relator's expressly or inferentially violating rule 35 by taking state soap from the officers break room preceding the hearing, Sgt. Wagner adopted the conduct report's "went into the Officer's breakroom and took...state soap" allegations as being accurate, not requiring charging official correction or revision, accepted them and continued the disciplinary hearing and during the hearing the hearing officer, Wagner adopted the "went into the officer break room and took...state soap" allegations as being an accurate citation of the facts and evidence from which to conclude that relator intentionally committed the violation of the inapplicable rule of conduct in the face of a nonexistent institutional or departmental rules and regulations coupled to the rule 35 proscribing said conduct.

23. In accordance with the March 22nd conduct report allegations Sgt. Wagner found relator guilty and imposed disposition.

24. At the time Sgt. Wagner found relator guilty of the rule 35 charged offense the hearing officer did not have statutory authority to find relator guilty of the charged offense. R.C. 5120.01 as implemented through AR 5120-9-07(D)(1), and DRC Policy 56 DSC 01(VI)(F)(1)(a),(c);(3) only allows for the hearing officer procedures to proceed past the initial screening and preliminary stage on to interviewing relator for the following reasons: inter alia, the conduct report cites the correct rule, and cites sufficient facts to support the rule 35 charge and then only if the conduct report does not require any minor revisions, modifications or withdrawal.

25. Likewise, R.C. 5120.01 as implemented through AR 5120-9-07(F)(5), only allowed for Sgt. Wagner to find guilt and impose disposition for the following reasons: if its determination leads to finding that there exists some facts to

support the conclusion that relator violated rule 35 as described in rule 5120-9-06(A)(C)(35) of the Ohio Administrative Code and then AR 5120-9-06(D)(1)(2) only allowed for Sgt. Wagner to find guilt for the following reasons: if there exists some evidence of the commission of an act and the intent to commit the act which must be beyond mere preparation and sufficiently performed to constitute a substantial risk of its being performed.

26. Although Sgt. Wagner may have had the authority to accept the conduct report, continue the disciplinary procedure and conduct a disciplinary hearing with relator, find relator guilty of a violation of a rule and discipline relator for a rule 35 violation in accordance with its powers under AR5120-9-07(D)(1),(E);(F)(1)-(5), DRC Policy 56 DSC 01(VI)(F)(1)(a),(c);(3);(G) and AR 5120-9-06(D)(1) & (2), it could not do so as its action to preliminarily determine that the conduct report has been accurately completed, accept it, and continue the disciplinary procedure to its conclusion and determine and find that the conduct report contained some facts and evidence to support the conclusion that relator intentionally committed the rule 35 violation occurred in the face of a conduct report to which there was no institutional or departmental rules and regulations coupled to the rule 35 violation that prohibits what relator did, cites no facts to support the rule 35 violation, thus, requires relator revision, modification, correction, or withdrawal of the rule 35 violation and, in the absence of some evidence of the relator's commission of a rule 35 violation and the intent to commit the acts either expressly or inferentially from the facts and circumstances of the case and are in the absence of some evidence that the acts were beyond mere preparation sufficiently performed to constitute a substantial risk of its being performed.

March 26, 2021 CONDUCT REPORT

27. On March 26, 2021, a corrections officer issued a conduct report against relator charging relator with violating the inmate rules of conduct as described in AR 5120-9-06(C)(35), alleging that relator was out of place when he entered the staff's closet in A1/2. Exhibit B .
28. Upon information and belief, during its initial evaluation of the conduct report, Sgt. Wagner determined that the conduct report has been accurately completed, accepted it and continued the disciplinary procedure.
29. On or about March 26, 2021, Sgt. Wagner conducted a disciplinary hearing. During the hearing, relator made a statement. Relator admitted to committing the act alleged in the conduct report but denied committing any wrongdoing.
30. Relator stated that "entering the staff closet" does not constitute a violation of prison rules, as described in AR 5120-9-06(A), since rule 35 is coupled to no institutional or departmental rules and regulations that proscribe relator's conduct, thus, the administrative rule as a whole does not authorize disciplinary action to be taken against the relator in the form of issuance of a conduct report.
31. Sgt. Wagner had no authority to proceed past the initial screening and preliminary stage on to meeting with relator and/or to determine whether the conduct report's "entered the staff closet" allegations is the facts and evidence to support the conclusion that relator is guilty of entering the staff closet and its action to do so was a legal nullity.
32. In the March 26th conduct report, the allegations that describe the specific behavior constituting a rule 35 violation is confined solely to relator's entering the staff closet. Despite the conduct report's "entering the staff closet" allegations being at variance with being beyond mere preparation and

sufficient performance of an act that culminated into relator's expressly or inferentially violating rule 35 by entering the staff closet preceding the hearing, Sgt. Wagner adopted the conduct report's "entering the staff closet" allegations as being accurate, not requiring charging official correction or revision, accepted them and continued the disciplinary hearing and during the hearing the hearing officer, Wagner, adopted the "entering staff closet" allegations as being an accurate citation of the facts and evidence from which to conclude that relator intentionally committed the violation of the inapplicable rule of conduct in the face of a nonexistent institutional or departmental rules and regulations coupled to the rule 35 proscribing said conduct.

33. In accordance with the March 26th conduct report allegations Sgt. Wagner found relator guilty and imposed disposition.

34. At the time Sgt. Wagner found relator guilty of the rule 35 charged offense Sgt. Wagner did not have statutory authority to find relator guilty of the charged offense. R.C. 5120.01 as implemented through AR 5120-9-07(D)(1), and DRC Policy 56 DSC 01(VI)(F)(1)(a),(c);(3), only allows for the hearing officer procedures to proceed past the initial screening and preliminary stage on to interviewing relator for the following reasons: inter alia, the conduct report cites the correct rule, and cites sufficient facts to support the rule 35 charge and then only if the conduct report does not require any minor revisions, modifications or withdrawal.

35. Likewise, R.C. 5120.01 as implemented through AR 5120-9-07(F)(5), only allowed for Sgt. Wagner to find guilt and impose disposition for the following reasons: if its determination leads to finding that there exists some facts to support the conclusion that relator violated rule 35 as described in rule 5120-9-006(A)(C)(35) of the Ohio Administrative Code and then AR 5120-9-06(D)(1),(2)

only allowed for Sgt. Wagner to find guilt for the following reasons: if there exists some evidence of the commission of an act and the intent to commit the act which must be beyond mere preparation and sufficiently performed to constitute a substantial risk of its being performed.

36. Although Sgt. Wagner may have had the authority to accept the conduct report, continue the disciplinary procedure and conduct a disciplinary hearing with relator, find relator guilty of a violation of a rule and discipline relator for a rule 35 violation in accordance with its powers under AR 5120-9-07(D)(1),(E);(F)(1)-(5), DRC Policy 56 DSC 01(VI)(F)(1)(a),(c);(3);(g) and AR 5120-9-06(D)(1) & (2), it could not do so as its action to preliminarily determine that the conduct report has been accurately completed, accept it, and continue the disciplinary procedure to its conclusion and determine and find that the conduct report contained some facts and evidence to support the conclusion that relator intentionally committed the rule 35 violation occurred in the face of a conduct report to which there was no institutional or departmental rules and regulations coupled to rule 35's violation that prohibits what relator did, cites no facts to support the rule 35 violation, thus, requires minor revision, modification, correction, or withdrawal of the rule 35 violation and, in the absence of some evidence of the relator's commission of a rule 35 violation and the intent to commit the acts either expressly or inferentially from the facts and circumstances of the case and are in the absence of some evidence that the acts were beyond mere preparation sufficiently performed to constitute a substantial risk of its being performed.

March 30, 2021 CONDUCT REPORT

37. On March 30, 2021, a corrections officer issued a conduct report against relator charging relator with violating the inmate rules of conduct as described

in AR 5120-9-06(C)(61), alleging that relator violated a published institutional rules, regulations or procedures when he had paper in his cell window. Exhibit C.

38. Upon information and belief, during its initial evaluation of the conduct report, Sgt. Wagner determined that the conduct report has been accurately completed, does not require charging official correction or revision or withdrawal and continued the disciplinary procedure.

39. On or about April 1, 2021, Sgt. Wagner conducted a disciplinary hearing. During the hearing, relator made a statement. Relator admitted committing the act alleged in the conduct report but denied committing any wrongdoing.

40. Relator stated that he as well as other inmates are routinely permitted to have paper in their cell window without consequence, and that additionally having paper in his cell window does not constitute a violation of prison rules, as described in AR 5120-9-06(A), since rule 61 is coupled to no institutional or departmental rules and regulations that proscribes relator's conduct, thus, the administrative rule as a whole does not authorize disciplinary action to be taken against relator in the form of issuance of a conduct report especially since the institutional rule violated is not included within the body of the conduct report.

41. Sgt. Wagner had no authority to proceed past the initial screening and preliminary stage on to meeting with relator and/or to determine whether the conduct report's "paper in his cell window" allegations is the facts and evidence to support the conclusion that relator is guilty of "ha[ving] paper in his cell window" and its action to do so was a legal nullity.

42. In the March 30th conduct report, the allegations that describe the specific behavior constituting a rule 61 violation is confined solely to relator's having paper in his cell window. Despite the conduct report's "had paper in his cell window" allegations being at variance with being beyond mere preparation

and sufficient performance of an act that culminated into relator's expressly or inferentially violating rule 61 by having paper in his cell window preceding the hearing, Sgt. Wagner adopted the conduct report's "paper in his cell window" allegations as being accurate, not requiring charging official correction or revision, or withdrawal, accepted them and continued the disciplinary hearing during the hearing Sgt. Wagner, adopted the "paper in the cell window" allegations as being an accurate citation of the facts and evidence from which to conclude that relator intentionally committed the violation of the inapplicable rule of conduct in the face of a nonexistent institutional or departmental rules and regulations coupled to the rule 61 proscribing said conduct.

63. In accordance with the March 30th conduct report allegations Sgt. Wagner found relator guilty and imposed disposition.

64. At the time Sgt. Wagner found relator guilty of the rule 61 charged offense Sgt. Wagner did not have statutory authority to find relator guilty of the charged offense. R.C. as implemented through AR 5120-9-07(D)(1), and DRG Policy 56 PSC 01(VI)(F)(1)(a),(c);(3), only allows for the hearing officer procedures to proceed past the initial screening and preliminary stage on to interviewing relator for the following reasons: inter alia, the conduct report cites the correct rule, and cites sufficient facts to support the rule 61 charge and then only if the conduct report does not require any minor revisions, modifications or withdrawal.

65. Likewise, R.C. 5120.01 as implemented through AR 5120-9-07(F)(5), only allowed for Sgt. Wagner to find guilt and impose disposition for the following reasons: if its determination leads to a finding that there exists some facts to support the conclusion that relator violated rule 61 as described in rule 5120-9-06(A),(C)(61) of the Ohio Administrative Code and then AR 5120-9-06(D)(1) (2) only allowed for Sgt. Wagner to find guilt for the following reasons:

if there exists some evidence of the commission of an act and the intent to commit the act which must be beyond mere preparation and sufficiently performed to constitute a substantial risk of its being performed.

46. Although Sgt. Wagner may have had the authority to accept the conduct report, continue the disciplinary procedure and conduct a disciplinary hearing with relator, find relator guilty of a violation of a rule and discipline relator for a rule 61 violation in accordance with its powers under AR 5120-9-07(D)(1), (E);(F)(1)-(5), DRC Policy 56 DSC 01(VI)(F)(1)(a),(c);(3);(g) and AR 5120-9-06 (D)(1) & (2), it could not do so as its action to preliminarily determine that the conduct report has been accurately completed, accept it, that it does not require charging official correction or revision or withdrawal and continue the disciplinary procedure to its conclusion and determine and find that the conduct report contained some facts and evidence to support the conclusion that relator intentionally committed the rule 61 violation occurred in the face of a conduct report to which there was no institutional or departmental rules and regulations coupled to rule 61's violation that prohibits what relator did, cites no facts to support the rule 61 violation, thus, requires minor revision, modification, correction, or withdrawal of the rule 61 violation and, in the absence of some evidence of the relator's commission of a rule 61 violation and the intent to commit the acts either expressly or inferentially from the facts and circumstances of the case and are in the absence of some evidence that the acts were beyond mere preparation sufficiently performed to constitute a substantial risk of its being performed.

April 7, 2021 CONDUCT REPORT

47. On April 7, 2021, a corrections officer issued a conduct report against relator charging relator with violating the inmate rules of conduct as described in AR 5120-9-06(C)(21),(35) & (61), alleging that relator was informed

that he missed chow movement and needed to go lock down in his cell, but relator instead said he was going to chow that the officer couldnt refuse him chow, if not then he refuses to lock down and to lock him up. Exhibit D,

48. On or about April 8, 2021, Sgt. Wagner met with relator and conducted a disciplinary hearing During the hearing relator pled not guilty. Relator made a statement. Relator said that he did repeatedly exporeess his desire to want to go to chow and also informed the officer that he could not deny relator chow especially when the rest of the inmates are standing just outside the floor in]the circlesarea but denied saying to the officer that he refuses to lock down and to lock him up.

49. Relator explained further that he was acting in accordance with his normal routine and exited his cell for chow while all other inmates was leaving the block for chow and arrived to the A1/2 dayroom slider not even thirty seconds after chow was called and that the other inmates leaving for chow was still standing in the A1/2 circle area as relator stood waiting at the closed slider for it to nopen so he could go to chow and that the A1/2 slider being closed so soon after chow was announced was alarming and suspicious because normally the dayroom slider is never closed so soon after chow is called and inmates are never denied chow.

50. Relator asked Sgt. Wagner to review the dayroom and A1/2 circle area surveillance cameras as his witness for the date and time in question where corroboration for relator's allegations can be found and to review the camera footage for the breakfast meal movement for the preceding week where Sgt. Wagner will see that relator exists the block in the same manner every morning during breakfast without incident.

51. Immediately Sgt. Wagner commented that CO "Minnick was working the control booth on" 4-7-21.
52. Relator responded stating that that explains these unusual and peculiar events occurrence, stating that he'd filed a complaint against CO Minnick in recent past and that closing the slider accusing relator of missing chow movement was an act of harassment.
53. Relator concluded his statement by stating that no prison rule prohibited his conduct especially since no institutional rules, regulations or procedures is cited in the conduct report specifying the amount of time inmates have to exit the block after chow is announced before meal movement is over and an inmate cannot go to eat.
54. Sgt. Wagner refused to review the surveillance video footage and found relator guilty as charged and imposed disposition.
55. Upon information and belief, it is common knowledge throughout the DRC and TopI that all ToCI dayroom and circle area activity is monitored by a network of high tech digital image surveillance cameras at the least, is recorded and is easily accessible on the computer assigned to the hearing officer by the DRC to conduct, inter alia, official hearing officer duties. Sgt. Wagner had no authority to reject relator's surveillance camera footage review request and his actions to do so was a legal nullity
56. Here, as asserted by relator, coloring this controversy is the existence of surveillance camera video that recorded the events re: whether relator refused to lock down although he missed chow because he missed movement or whether relator was ~~denied an opportunity~~ to go to chow during movement because the control booth officer obstructed his timely exit from the block forcing relator to miss chow during mass movement by closing the

slider while the inmate mass movement crowd simultaneously stood waiting in the circle area for mass movement to begin when the crash gate opened. Despite the circumstances of the April 7, 2021 verbal and physical exchange accusation and the officer's conduct being hotly contested, no effort was made on the part of Sgt. Wagner to follow-up or act on relator's request leaving relator with his word against the word of a corrections officer instead of having objective evidence that could corroborate either sides version of events.

57. At the time it elected not to review the surveillance camera video as relator's silent witness the hearing officer did not have statutory authority to decide not to review surveillance camera footage--an objective witness, R.C. 5120.01 as implemented through AR 5120-9-07(F)(2) and DRC Policy 56 DSC 01(V), only allowed for the refusal to follow-up on an inmates request for witnesses for the following reasons: during an inmate disciplinary process that is carried out promptly and fairly.

58.q Although Sgt. Wagner may have had the authority to act on an inmates request for witnesses during the disciplinary process, pursuant to its powers under R.C. 5120.01 as implemented through AR 5120-9-07(F)(2);(5), and AR 5120-9-06(D)(1) & (2), it could not do so as its action to deny relator's witness request occurred although the surveillance camera footage ^{1/} was purportedly an objective observer witness.

59. As for the rules 21, 35 & 61 charges themselves, Sgt. Wagner had no authority to proceed past the initial screening and preliminary stage on to meeting with relator and/or to determine whether the conduct report's "refused

1/ Upon information and belief, the surveillance camera recordings at ToCI are records as defined in R.C. 149.011(G) that is kept by the DRC at its various ~~various~~ locations FOREVER because the DRC's surveillance camera recordings are not covered by a records retention schedule. See DAVE YOST, ATTORNEY GENERAL, Ohio Sunshine Laws, An Open Government Resource Manual, 2020, page 67, (2020) (Also, available on-line at: [http://OhioAttorneyGeneral.gov/Sunshine.](http://OhioAttorneyGeneral.gov/Sunshine))

to lock down" and "missed movement" allegations is the facts and evidence to support the conclusion that relator is guilty of "refusing to lock down" after he "missed movement" and its action to do so was a legal nullity.

60. In the April 7th conduct report, the allegations that describe the specific behavior constituting a rule 21, 35 & 61 violation is confined solely to relator's "refusal to lock down" after "he missed chow movement". ~~Despite the conduct report's~~ "refusal to lock down" after "he missed chow movement" allegations being at variance with being beyond mere preparation and sufficient performance of an act that culminated into relator's expressly or inferentially violating rule(s) 21, 35 & 61 by "refusing to lock down" after "he missed chow movement" preceding the hearing, Sgt. Wagner adopted the conduct report's "refused to lock down" after "he missed chow movement" allegations as being accurate, not requiring changing official correction or revision, or withdrawal, accepted them and continued the disciplinary hearing and during the hearing Sgt. Wagner, adopted the "refused to lock down" after "he missed chow movement" allegations as being an accurate citation of the facts and evidence from which to conclude that relator intentionally committed the violation(s') of the inapplicable rule(s) of conduct in the face of non-existent institutional or departmental rules and regulations coupled to the rule 21, 35 & 61 proscribing said conduct.

61. In the time Sgt. Wagner found relator guilty of the rule(s') 21, 35 & 61 charged offenses' Sgt. Wagner did not have statutory authority to find relator guilty of the charged offense(s'). R.C. 5120.01 as implemented through AR 5120-9-07(D)(1) and DRC Policy 56 DSC 01(VI)(F)(1)(a),(c);(3), only allows for the hearing officer procedures to proceed past the initial screening and preliminary stage on to interviewing relator for the following reasons: inter alia, the conduct report cites the correct rules, and cites sufficient

facts to support the rule(s') 21, 35 & 61 charges' and then only if the conduct report does not require any minor revisions, modifications or withdrawal 62. Likewise, R.C. 5120.01 as implemented through AR 5120-9-07(F)(5), only allowed for Sgt. Wagner to find guilt and impose disposition for the following reasons: if its determination leads to a finding that there exists some facts to support the conclusion that relator violated rule(s') 21, 35 & 61 as described in rule 5120-9-06(A),(C)(21),(35) & (61) of the Ohio Administrative Code and then AR 5120-9-06(D)(1) & (2) only allowed for Sgt. Wagner to find guilt for the following reasons: if there exists some evidence of the commission of an act and the intent to commit the act which must be beyond mere preparation and sufficiently performed to constitute a substantial risk of its being performed.

63. Although Sgt. Wagner may have had the authority to accept the conduct report, continue the disciplinary procedure and conduct a disciplinary hearing with relator, find relator guilty of a violation of a rule and discipline relator for a Rule 21, 35 & 61 violation in accordance with its powers under AR 5120-9-07(D)(1),(E);(F)(1)-(5), DRC Policy 56 DSC 01(VI)(F)(1)(a),(c);(3); (g) and AR 5120-9-06(D)(1) & (2), it could not do so as its actions to preliminarily determine that the conduct report has been accurately completed, it accept it, that it does not require charging official correction or revision or withdrawal and continue the disciplinary procedure to its conclusion and determine and find that the conduct report contained some facts and evidence to support the conclusion that relator intentionally committed the rule(s') 21, 25 & 61 violations' occurred in the face of a conduct report to which there was no institutional or departmental rules or regulations coupled to rule(s') 21, 35 & 61 's violations that prohibit what relator did, cites no facts to support the rule 21, 35 & 61 -violations', thus, requires minor revision,

modification, correction, or withdrawal of the rule(s') 21, 35 & 61 violations', and, in the absence of some evidence of the relator's commission of a rule 21, 35 & 61 violation(s') and the intent to commit the acts either expressly or inferentially from the facts and circumstances of the case and are in the absence of some evidence that the acts were beyond mere preparation sufficiently performed to constitute a substantial risk of its being performed.

June 20, 2021 CONDUCT REPORT

64. On June 20, 2021, a corrections officer issued a conduct report against relator charging relator with violating the inmate rules of conduct as described in AR 5120-9-06(C)(21) & (26), alleging that relator repeatedly refused to uncover his window after being given multiple directives to do so. Exhibit E.

65. On or about June 22, 2021, Sgt. Wagner conducted a disciplinary hearing with relator. During the hearing relator made a statement; relator admitted the conduct report allegations but denied that ^{he} refused to take the blanket out of his window when first told to do so but also pointed out that his conduct does not constitute wrongdoing. Relator asserted that he still could not have violated rule 21 and 26 of the inmate rules of conduct since rule 21 and rule 26 is coupled to no institutional or departmental rules and regulations that proscribe his conduct. Relator pointed out that the administrative rule as a whole does not authorize disciplinary action to be taken against him in the form of issuance of a conduct report. See, AR 5120-9-06(A).

66. Sgt. Wagner proceeded to find relator guilty and imposed disposition.

67. Sgt. Wagner had no authority to proceed past the initial screening and preliminary stage on to meeting with relator and/or to determine whether

the conduct report's blanket in the window allegations is the facts and evidence to support the conclusion that relator is guilty of having his cell window covered and its action to do so was a legal nullity.

68. In the June 20, 2021 conduct report, the allegations that describe the specific behavior constituting a rule 21 and rule 26 violation is confined solely to relator's having his blanket in his window. Despite the conduct report's blanket in the window allegations being at variance with being beyond mere preparation and sufficient performance of an act ~~that~~ culminated into relator's expressly or inferentially violating rules 21 and 26 by having his window covered preceding the hearing, Sgt. Wagner adopted the conduct report's blanket in the cell window allegations as being accurate, not requiring charging official correction or revision, or withdrawal, accepted them and continued the disciplinary hearing and during the hearing Sgt. Wagner, adopted the blanket in the cell window allegations as being an accurate citation of the facts and evidence from which ~~they~~ conclude that relator intentionally committed the violations' of the inapplicable rules' of conduct in the face of a nonexistent institutional or departmental rules and regulations coupled to the rules 21 and 26 proscribing said conduct.

69. At the time Sgt. Wagner found relator guilty of the rules 21 and 26 charged offenses Sgt. Wagner did not have statutory authority to find relator guilty of the charged offenses.' R.C. 5120.01 as implemented through AR 5120-9-07(D)(1), and DRC Policy 56 DSC 01(VI)(F)(1)(a),(c);(3), only allows for the hearing officer procedures to proceed past the initial screening and preliminary stage on to interviewing relator for the following reasons: inter alia, the conduct report cites the correct rule, and cites sufficient facts to support the rules' 21 and 26 charges and then only if the conduct

report does not require any minor revisions, modifications or withdrawal.

70. Likewise, R.C. 5120.01 as implemented through AR 5120-9-07(F)(5), only allowed for Sgt. Wagner to find guilt and impose disposition for the following reasons: if its determination leads to a finding that there exists some facts to support the conclusion that relator violated rules 21 and 26 as described in rule 5120-9-06(A),(C)(21) & (26) of the Ohio Administrative Code and then AR 5120-9-06(D)(1) & (2) only allowed for Sgt. Wagner to find [guilt] for the following reasons: if there exists some evidence of the commission of an act and the intent to commit the act which must be beyond mere preparation and sufficiently performed to constitute a substantial risk of its being performed.

71. Although Sgt. Wagner may have had the authority to accept the conduct report, continued the disciplinary procedure and conduct a disciplinary hearing with relator, find relator guilty of a violation of a rule and discipline relator for a rule 21 and rule 26 violation in accordance with its powers under AR 5120-9-07(D)(1),(E);(F)(1)-(5), DRC Policy 56 DSC 01(VI)(F)(1)(a),(c);(3);(g) and AR 5120-9-06(D)(1) & (2), it could not do so as its action to preliminarily determine that the conduct report has been accurately completed, accept it, that it does not require charging official correction or revision or withdrawal and continue the disciplinary procedure to its conclusion and determine and find that the conduct report contained some facts and evidence to support the conclusion that relator intentionally committed the rule 21 and 26 violation occurred in the face of a conduct report to which there was no institutional or departmental rules and regulations coupled to the rules' 21 and 26 violations' that prohibits what relator did, cites no facts to support the rule 21 and rule 26 violations', thus, requires minor revision, modification, correction or withdrawal of the rules' 21 and 26 violations and, in the

absence of some evidence of the relator's commission of a rule 21 and rule 26 violations and the intent to commit the acts either expressly or inferentially from the facts and circumstances of the case and are in the absence of some evidence that the acts were beyond mere preparation sufficiently performed to constitute a substantial risk of its being performed.

FIRST CAUSE OF ACTION
MANDAMUS

72. Relator incorporates the allegations of paragraph 1 through 71 as if fully restated herein.

73. Pursuant to R.C. 5120.01 as implemented through AR 5120-9-07(D)(1) and DRC Policy 56 DSC 01(VI)(F)(1)(a)(c)(3)(4) the relator had the clear legal right to expect that the hearing officer would preliminarily determine that the conduct reports' rule violations' is incorrect, and that the facts cited to support the rule violations' is insufficient and that a minor revision, charging official correction or revision and/or withdrawal is necessary, modify it, return it to the charging official and/or withdraw the rule violations' and continue the disciplinary procedure regarding all of the above cited conduct report rule violations'.

74. Pursuant to R.C. 5120.01 as implemented through AR 5120-9-07(D)(1) and DRC Policy 56 DSC 01(VI)(F)(1)(a),(c),(3),(4), the respondents have a clear legal duty to preliminarily determine that the conduct reports' rule violations' is incorrect, and that the facts cited to support the rule violations' is insufficient and that a minor revision, charging official correction or revision and/or withdrawal is necessary, modify it, return it to the charging officials and/or withdraw the rule violations' and continue the disciplinary procedure regarding all of the above cited conduct report rule violations.'

75. Relator has no adequate remedy at law to determine his rights to expect that the hearing officer will preliminarily determine that the conduct reports' cited rule violations' is incorrect, that the facts cited to support the cited rule violations' is insufficient and that minor revision and/or withdrawal is necessary, modify it or withdraw the cited rule violations' and continue the disciplinary hearings.

SECOND CAUSE OF ACTION
MANDAMUS

76. Relator incorporates the allegations of paragraphs 1 through 75 as if restated herein.

77. Pursuant to R.C. 5120.01 as implemented through AR 5120-9-07(F)(2) and DRC Policy 56 DSC 01(V), the relator had the clear legal right to expect that the hearing officer would in all fairness promptly act on relator's request for witnesses regarding the April 7, 2021 conduct report's rule 21, 35 & 61 violations'.

78. Pursuant to R.C. 5120.01 as implemented through AR 5120-9-07(F)(2) and DRC Policy 56 DSC 01(V), the respondents have a clear legal duty to promptly and fairly act on relator's request for witnesses regarding the April 7, 2021 conduct report's rules' 21, 35 & 61 violations.'

79. Relator has no plain and adequate remedy at law, the disciplinary procedures set forth in the administrative rules and internal policies regarding discipline does not afford relator the opportunity for appeals from hearing officer's decisions. Moreover, AR 5120-9-31(B), does not provide a mechanism for use of the inmate grievance procedure regarding hearing officer dispositions.

THIRD CAUSE OF ACTION
MANDAMUS

80. Pursuant to R.C. 5120.01 as implemented through AR 5120-9-07(F)(2); (5) and DRC Policy 56 DSC 01(VI)(G)(4)(a), (5) and AR 5120-9-06(D)(1) & (2),

the relator had the clear legal right to expect that the respondents would review the existing, objective, highly relevant exonerating observer surveillance cameras (witness) in conjunction with the conduct report in determining whether there exists some facts and evidence to support the conclusion that relator committed a rule 21, rule 35 and rule 61 violation and that relator intended to commit the acts preceding its guilt finding and imposing disposition.

81. Pursuant to R.C. 5120.01 as implemented through AR 5120-9-07(F)(2); (5), DRC Policy 56 DSC 01(VI)(G)(4)(a)(5), and AR 5120-9-06(D)(1) & (2) the respondents have a clear legal duty to review the existing, objective, highly relevant, exonerating, observer surveillance camera (witness) in conjunction with the conduct report, in determining whether there exists some facts and evidence to support the conclusion that relator committed a rule 21, 35 and 61 violations' and that relator intended to commit the acts preceding the respondents guilt finding and imposing discipline.

82. Relator had no plain and adequate remedy at law, the AR 5120-9-07; AR 5120-9-06 and DRC Policy 56 DSC 01 does not afford relator an appeal mechanism. Moreover, AR 5120-9-31(B), does not provide a mechanism for use of the inmate grievance procedure regarding hearing officer disposition.

FOURTH CAUSE OF ACTION MANDAMUS

83. Relator incorporates the allegations of paragraphs 1 through 82 as if restated herein.

84. Pursuant to R.C. 5120.01 as implemented through AR 5120-9-07(F)(5) and AR 5120-9-06(D)(1) & (2), the relator has a clear legal right to expect that the hearing officer would determine that some facts and evidence does not exist to support the conclusion that a rule violation(s') has occurred regarding each of the above described conduct reports' preceding guilt findings

and imposing disposition(s').

85. Pursuant to R.C. 5120.01 as implemented through AR 5120-9-07(F)(5) and AR 5120-9-06(D)(1) & (2), the respondents had the clear legal duty to determine that some facts and evidence does not exist to support the conclusion that a rule violation(s') has occurred regarding each of the above described conduct report(s') preceding guilt findings' and imposing disposition(s').

86. Relator has no adequate remedy at law to determine his right to expect that the hearing officer will comply with AR 5120-9-07(F)(5) and AR 5120-9-06(D)(1) & (2).

FIFTH CAUSE OF ACTION
INJUNCTION

87. Relator incorporates the allegations at paragraphs 1 through 86 as if restated *herein*.

88. The respondents acted *contrarily* to their clear legal duty in not preliminarily determining that the conduct reports' cited rule violations is incorrect, that the facts cited to support the conduct reports cited rule violations is insufficient and that minor revisions is necessary, charging official correction or revision is necessary, and/or withdrawal is necessary, *modify* it, and continue the disciplinary procedure as described above,, also by not promptly acting on relator's request for relevant witness as described above, also not determining that some facts and evidence do not exist to support the conclusion that relator committed the rule violations as described above.

89. Relator ~~is~~ suffering and will continue to suffer irreparable harm as a result of the respondents unfair, arbitrary and unlawful conduct.

90. Relator has no adequate remedy at law.

91. The public interest will be served by the injunctive relief requested in that the integrity of the DRC and its disciplinary process and the trust

and confidence placed in it by the public will be protected.

92. Relator is entitled to an injunction requiring respondents to conduct a rehearing or modify its disposition and/or withdraw the conduct report(s).

93. Relator is further entitled to an order prohibiting and enjoining respondents from removing relator from his disciplinary history status preceding their date(s) listed above at paragraphs 17,19,27,29,37,39,47,48,64 and 65 in a manner contrary to the letter and the spirit of the law and the rules and regulations prescribed by the director.

94. The injunction will not produce any harm to the respondents because the respondents would merely be required to abide by the laws as enacted by the general assembly and as prescribed by the director of the Ohio DRC.

WHEREFORE, Relator prays for the following relief:

1. ISSUE a peremptory writ of mandamus ordering the respondents to withdraw the March 22, 2021 conduct report, the March 26, 2021 conduct report, the March 30, 2021 conduct report, the April 7, 2021 conduct report and June 20, 2021 conduct report and other relief the court deems necessary and appropriate.

2. Alternatively, relator requests that the court issue an alternative writ of mandamus that requires the respondents to withdraw the conduct reports identified in the preceding paragraph or show cause why such action is not, or should not, be performed.

3. ISSUE a peremptory writ of mandamus ordering the respondents to conduct a new hearing during which the disposition will not be imposed preceding respondents promptly acting on relator's request for witness as provided by law as described above at SECOND cause of action.

4. Alternatively, relator requests that the court issue an alternative writ of mandamus that requires respondents to conduct a new hearing during

which the disposition will not be imposed preceding respondents promptly acting on relator's request for witness as provided by law as described above at SECOND cause of action, or show cause why such action is not, or should not, be performed,

5. ISSUE a peremptory writ of mandamus ordering respondents to determine that some facts and evidence of record does not exist to support the conclusion that relator committed rule violation(s') as described above at FOURTH cause of action preceding the guilt finding and imposition of disposition.

6. Alternatively, relator requests that this court issue an alternative writ of mandamus that requires the respondents to determine that some facts and evidence of record does not exist to support the conclusion that relator committed rule violation(s') preceding the guilt finding and imposition of disposition as described above at FOURTH cause of action or show cause why such action is not, or should not, be performed.

7. ISSUE an injunction requiring respondents to conduct a rehearing, modify its disposition(s') or withdraw conduct report(s') as provided by law as described herein.

8. ISSUE an injunction prohibiting and enjoining respondents from removing relator from his pre-3/22/21, 3/26/21, 3/30/21, 4/7/21 and/or 6/20/21 disciplinary history status in a manner contravening the letter and the spirit of the law and the rules and regulations prescribed by the director relating to the inmate disciplinary process--hearing officer dispositions of conduct reports.

9. grant relator such other relief as may be fair, just and equitable.

Respectfully submitted,

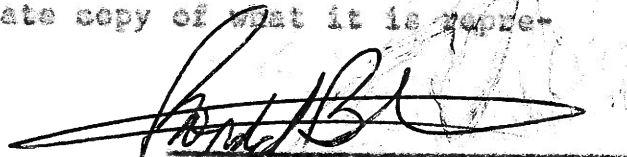


RONALD BLOODWORTH-7366-695
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

STATE OF OHIO :
: SS: AFFIDAVIT OF VERITY
LUCAS COUNTY :

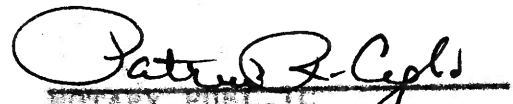
I, the undersigned, being first duly sworn according to law and competent to testify to the facts enumerated herein, do hereby swear and affirm that the following statements are true and correct:

1. I am the relator in this original action in mandamus;
2. Each document attached hereto as an Exhibit is a true and accurate copy of what it is represented to be.



Affiant

Sworn to and subscribed in my presence this 15 day of July, 2021.



NOTARY PUBLIC



PATRICIA R. CEGLIO
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES 08-10-2021

Conduct Report

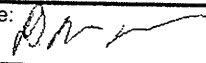
Name: BLOODWORTH, RONALD		Institution: TOCI	TOCI-21-001791
Date/Offense: 03/22/2021	Time/Offense: 07:36 AM	Number: A366695	Lock: A2/N/0003
Rule(s) Violated: 35 Being out of place		Location: A1 Circle Area	

Supporting Facts (Describe what occurred and how the inmate violated the rule[s]):

On the above date and time I/M Bloodworth (A366695) went into the Officer break room and took multiple bars of state soap. The inmate was not authorized to be in that area nor authorized to get the state soap from the desk in said break area. For this I/M Bloodworth is charged with a 35 for being out of place. EOR

(Use Conduct Report Supplement sheet, if needed)

As the Charging Official, do you wish to have input into the disciplinary proceedings? Yes No

Printed Name: Meyer	Signature: 	
Shift: 1st	Days Off: T,W	Date: 03/22/2021

A copy of this conduct report was served upon the above-named inmate on: _____ 20_____, at _____.

Staff Signature: _____

I acknowledge receipt of the conduct report on the above stated date and time:

Inmate Signature: _____	Number: A366695
-------------------------	-----------------

Exhibit A

Conduct Report


Institution: TOCI		TOCI-21-001919
Name: BLOODWORTH, RONALD		Number: A366695
Date/Offense: 03/26/2021		Lock: A2/N/0003
Time/Offense: 07:43 AM		Location: A1/2 Staff closet
Rule(s) Violated: 35		
Being out of place		

Supporting Facts (Describe what occurred and how the inmate violated the rule[s]):

On 03/26/2021 inmate Bloodworth 366695 was seen by this officer entering the staff closet in A1/2. This closet is meant for staff to keep their personal belongings, and inmate access is prohibited. Inmate Bloodworth was given a directive to exit the area at which point he returned to A1/2 North. End of Report

(Use Conduct Report Supplement sheet, if needed)

As the Charging Official, do you wish to have input into the disciplinary proceedings? Yes No

Printed Name: Green, Me	Signature: 	
Shift: First	Days Off: Mon/ Tues	Date: 03/26/2021

A copy of this conduct report was served upon the above-named inmate on: _____ 20____, at _____.

Staff Signature:

I acknowledge receipt of the conduct report on the above stated date and time:

Inmate Signature:	Number: A366695
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Exhibit B

Conduct Report

Name: BLOODWORTH, RONALD		Institution: TOCI	TOCI-21-002022
Date/Offense: 03/30/2021		Number: A366695	Lock: A2/N/0003
Time/Offense: 08:40 AM		Location:	
Rule(s) Violated: 61 Any violation of any published institutional rules, regulations or procedures			

Supporting Facts (Describe what occurred and how the inmate violated the rule[s]):

on march 30th 2021 inmate Bloodworth 366695 a2n3 had paper in his cell window preventing a clear view into ther cell

(Use Conduct Report Supplement sheet, if needed)

As the Charging Official, do you wish to have input into the disciplinary proceedings? Yes No

Printed Name: merrell	Signature: <i>D Merrell</i>	
Shift: 1st shift	Days Off: fri sat	Date: 03/30/2021

A copy of this conduct report was served upon the above-named inmate on: _____ 20 _____, at _____.

Staff Signature: _____

I acknowledge receipt of the conduct report on the above stated date and time:

Inmate Signature: _____	Number: A366695
-------------------------	-----------------

Exhibit C

Conduct Report

Institution: TOCI		TOCI-21-002260
Name: BLOODWORTH, RONALD		Number: A366695
Date/Offense: 04/07/2021		Lock: A2/N/0003
Time/Offense: 07:12 AM	Location:	
Rule(s) Violated: 21.35.61		
Disobedience of a direct order; Being out of place; Any violation of any published institutional rules, regulations or procedures		

Supporting Facts (Describe what occurred and how the inmate violated the rule[s]):

while working a 1/2 north on 4/7/21, I officer Merrell called stand by for chow at 0701 hours. roughly ten min later i called called chow in a 1/2 north doors where opened and inmates began to go to chow. After a few mins i i called last call for and began my round to secure doors on the bottom range. after secure all doors in the pod and i went to exit the pod. inmate Bloodworth 366695 was standing at the door. The booth operator told me chow movement was over. i told inmate Bloodworth that he missed movement he needed to go back to his cell and lock down. he stated he was going to chow that i couldn't refuse him chow. i told him he missed movement and that i would call a supervisor to see about getting him a chow tray sent down. Bloodworth said no he was not locking down that he was going to chow if not then he refuses to lock down and to lock him up. I then told inmate blood worth to place his hands on the wall and I then placed cuffs on him and called for a supervisor and 412 or available escort. Then walked the inmate out into the circle area of a 1/2 where we meet LT Griswold. She told inmate that he wasn't going to chow or tpu to go back to his cell and she would order him a tray down. the inmate followed her orders he was uncuffed and sent back to his cell with out issue.

(Use Conduct Report Supplement sheet, if needed)

As the Charging Official, do you wish to have input into the disciplinary proceedings? Yes No

Printed Name: merrell	Signature: <i>D Merrell</i>	
Shift: 1st shift	Days Off: fri sat	Date: 04/07/2021

A copy of this conduct report was served upon the above-named inmate on: _____ 20_____, at _____.

Staff Signature: _____

I acknowledge receipt of the conduct report on the above stated date and time:

Inmate Signature:	Number: A366695
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Exhibit D

Conduct Report

Institution: TOCI		TOCI-21-004134
Name: BLOODWORTH, RONALD		Number: A366695
Date/Offense: 06/20/2021		Lock: A2/N/0003
Time/Offense: 11:38 AM	Location: A2N3	
Rule(s) Violated: 21,26 Disobedience of a direct order; Disrespect to an officer, staff member, visitor or other inmate		

Supporting Facts (Describe what occurred and how the inmate violated the rule[s]):

On June 20th, 2021 I Officer Pelleteri was working A1/2 North. Inmate Bloodworth (A366695) has been told now three times to take the blankets out of his window. Inmate Bloodworth has completely ignored this writing officer every time and is refusing to let light into his cell. The 3rd time telling inmate Bloodworth to uncover his windows, he ignored this officer by not even turning around while laying in his bunk, and ignored my directive yet again. For this, inmate Bloodworth is in violation of rules 21 (Disregarding a direct order) and rule 26 (Disrespecting an officer). End of report.

(Use Conduct Report Supplement sheet, if needed)

As the Charging Official, do you wish to have input into the disciplinary proceedings? Yes No

Printed Name: Pelleteri	Signature: <i>M. Pelleteri</i>	
Shift: 1st	Days Off: M, T	Date: 06/20/2021

A copy of this conduct report was served upon the above-named inmate on: June, 22 20 21, at 09:49 AM.

Staff Signature: <i>Sgt M Wagner</i>

I acknowledge receipt of the conduct report on the above stated date and time:

Inmate Signature: <i>RB</i>	Number: A366695
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ORC Ann. 5120.01

Current with Legislation passed by the 132nd General Assembly and filed with the Secretary of State through file 42 (HB 44).

- [Page's Ohio Revised Code Annotated](#)
- [Title 51: Public Welfare](#)
- [Chapter 5120: Department of Rehabilitation and Correction](#)

§ 5120.01 Director of rehabilitation and correction.

- The director of rehabilitation and correction is the executive head of the department of rehabilitation and correction. All duties conferred on the various divisions and institutions of the department by law or by order of the director shall be performed under the rules and regulations that the director prescribes and shall be under the director's control. Inmates committed to the department of rehabilitation and correction shall be under the legal custody of the director or the director's designee, and the director or the director's designee shall have power to control transfers of inmates between the several state institutions included under [section 5120.05 of the Revised Code](#).

History

134 v H 494 (Eff 7-12-72); [149 v H 510](#). Eff 3-31-2003.

5120-9-06 Inmate rules of conduct.

(A) The disciplinary violations defined by this rule shall address acts that constitute an immediate and direct threat to the security or orderly operation of the institution, or to the safety of its staff, visitors and inmates, (including the inmate who has violated the rule,) as well as other violations of institutional or departmental rules and regulations.

(B) Dispositions for rule violations are defined in rules 5120-9-07 and 5120-9-08 of the Administrative Code.

(C) Rule violations: Assault and related acts, rules 1 through 7; threats, rules 8 through 10; sexual misconduct, rules 11 through 14; riot, disturbances and unauthorized group activity, rules 15 through 19; resistance to authority, rules 20 through 23; unauthorized relationships and disrespect, rules 24 through 26; lying and falsification, 27 and 28; escape and related conduct, rules 29 through 35; weapons, rules 36 through 38; drugs and other related matters, rules 39 through 43; gambling, dealing and other related offenses, rules 44 through 47; property and contraband, rules 48 through 51; fire violations, rules 52 through 53; telephone, mail and visiting, rules 54 through 56; tattooing and self-mutilation, rules 57 through 58; general provisions, rules 59 through 61 as follows:

- (1) Causing, or attempting to cause, the death of another.
- (2) Hostage taking, including any physical restraint of another.
- (3) Causing, or attempting to cause, serious physical harm to another.
- (4) Causing, or attempting to cause, physical harm to another.
- (5) Causing, or attempting to cause, physical harm to another with a weapon.
- (6) Throwing, expelling, or otherwise causing a bodily substance to come into contact with another.
- (7) Throwing any other liquid or material on or at another.
- (8) Threatening bodily harm to another (with or without a weapon.)
- (9) Threatening harm to the property of another, including state property.
- (10) Extortion by threat of violence or other means
- (11) Non-consensual sexual conduct with another, whether compelled:
 - (a) By force,
 - (b) By threat of force,
 - (c) By intimidation other than threat of force, or,
 - (d) By any other circumstances evidencing a lack of consent by the victim.
- (12) Non-consensual sexual contact with another, whether compelled:
 - (a) By force.
 - (b) By threat of force,
 - (c) By intimidation other than threat of force, or,
 - (d) By any other circumstances evidencing a lack of consent by the victim.
- (13) Consensual physical contact for the purpose of sexually arousing or gratifying either person.

- (14) Seductive or obscene acts, including indecent exposure or masturbation; including, but not limited, to any word, action, gesture or other behavior that is sexual in nature and would be offensive to a reasonable person.
- (15) Rioting or encouraging others to riot.
- (16) Engaging in or encouraging a group demonstration or work stoppage.
- (17) Engaging in unauthorized group activities as set forth in paragraph (B) of rule 5120-9-37 of the Administrative Code.
- (18) Encouraging or creating a disturbance.
- (19) Fighting - with or without weapons, including instigation of, or perpetuating fighting.
- (20) Physical resistance to a direct order.
- (21) Disobedience of a direct order.
- (22) Refusal to carry out work or other institutional assignments.
- (23) Refusal to accept an assignment or classification action.
- (24) Establishing or attempting to establish a personal relationship with an employee, without authorization from the managing officer, including but not limited to:
 - (a) Sending personal mail to an employee at his or her residence or another address not associated with the department of rehabilitation and correction,
 - (b) Making a telephone call to or receiving a telephone call from an employee at his or her residence or other location not associated with the department of rehabilitation and correction,
 - (c) Giving to, or receiving from an employee, any item, favor, or service,
 - (d) Engaging in any form of business with an employee; including buying, selling, or trading any item or service,
 - (e) Soliciting sexual conduct, sexual contact or any act of a sexual nature with an employee.
 - (f) For purposes of this rule "employee" includes any employee of the department and any contractor, employee of a contractor, or volunteer.
- (25) Intentionally grabbing, or touching a staff member or other person without the consent of such person in a way likely to harass, annoy or impede the movement of such person.
- (26) Disrespect to an officer, staff member, visitor or other inmate.
- (27) Giving false information or lying to departmental employees.
- (28) Forging, possessing, or presenting forged or counterfeit documents.
- (29) Escape from institution or outside custody (e.g. transport vehicle, department transport officer, other court officer or law enforcement officer, outside work crew, etc.) As used in this rule, escape means that the inmate has exited a building in which he was confined; crossed a secure institutional perimeter; or walked away from or broken away from custody while outside the facility.
- (30) Removing or escaping from physical restraints (handcuffs, leg irons, etc.) or any confined area within an institution (cell, recreation area, strip cell, vehicle, etc.)
- (31) Attempting or planning an escape.
- (32) Tampering with locks, or locking devices, window bars; tampering with walls floors or ceilings in an effort to penetrate them.

- (33) Possession of escape materials; including keys or lock picking devices (may include maps, tools, ropes, material for concealing identity or making dummies, etc.)
- (34) Forging, possessing, or obtaining forged, or falsified documents which purport to effect release or reduction in sentence.
- (35) Being out of place.
- (36) Possession or manufacture of a weapon, ammunition, explosive or incendiary device.
- (37) Procuring, or attempting to procure, a weapon, ammunition, explosive or incendiary device; aiding, soliciting or collaborating with another person to procure a weapon, ammunition, explosive or incendiary device or to introduce or convey a weapon, ammunition, explosive or incendiary device into a correctional facility.
- (38) Possession of plans, instructions, or formula for making weapons or any explosive or incendiary device.
- (39) Unauthorized possession, manufacture, or consumption of drugs or any intoxicating substance.
- (40) Procuring or attempting to procure, unauthorized drugs; aiding, soliciting, or collaborating with another to procure unauthorized drugs or to introduce unauthorized drugs into a correctional facility.
- (41) Unauthorized possession of drug paraphernalia.
- (42) Misuse of authorized medication.
- (43) Refusal to submit urine sample, or otherwise to cooperate with drug testing, or mandatory substance abuse sanctions.
- (44) Gambling or possession of gambling paraphernalia.
- (45) Dealing, conducting, facilitating, or participating in any transaction, occurring in whole or in part, within an institution, or involving an inmate, staff member or another for which payment of any kind is made, promised, or expected.
- (46) Conducting business operations with any person or entity outside the institution, whether or not for profit, without specific permission in writing from the managing officer.
- (47) Possession or use of money in the institution.
- (48) Stealing or embezzlement of property, obtaining property by fraud or receiving stolen, embezzled, or fraudulently obtained property.
- (49) Destruction, alteration, or misuse of property.
- (50) Possession of property of another.
- (51) Possession of contraband, including any article knowingly possessed which has been altered or for which permission has not been given.
- (52) Setting a fire; any unauthorized burning.
- (53) Tampering with fire alarms, sprinklers, or other fire suppression equipment.
- (54) Unauthorized use of telephone or violation of mail and visiting rules.
- (55) Use of telephone or mail to threaten, harass, intimidate, or annoy another.
- (56) Use of telephone or mail in furtherance of any criminal activity.
- (57) Self-mutilation, including tattooing.

- (58) Possession of devices or material used for tattooing.
- (59) Any act not otherwise set forth herein, knowingly done which constitutes a threat to the security of the institution, its staff, other inmates, or to the acting inmate.
- (60) Attempting to commit; aiding another in the commission of; soliciting another to commit; or entering into an agreement with another to commit any of the above acts.
- (61) Any violation of any published institutional rules, regulations or procedures.
- (D) No inmate shall be found guilty of a violation of a rule of conduct without some evidence of the commission of an act and the intent to commit the act.
- (1) The act must be beyond mere preparation and be sufficiently performed to constitute a substantial risk of its being performed.
- (2) "Intent" may be express, or inferred from the facts and circumstances of the case.
- (E) Definitions: The following definitions shall be used in the application of these rules.
- (1) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (2) "Serious physical harm to persons" means any of the following:
- (a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
- (b) Any physical harm that carries a substantial risk of death;
- (c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
- (d) Any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement;
- (e) Any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.
- (3) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- (4) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- (5) "Possession" means either actual or constructive possession and may be inferred from any facts or circumstances that indicate possession, control or ownership of the item, or of the container or area in which the item was found.
- (6) "Unauthorized drugs," for the purposes of this rule, refers to any drug not authorized by institutional or departmental policy including any controlled substance, any prescription drug possessed without a valid prescription, or any medications held in excess of possession limits.
- (7) "Extortion," as used in these rules, means acting with purpose to obtain any thing of benefit or value, or to compel, coerce, or induce another to violate a rule or commit any unlawful act.

Five Year Review (FYR) Dates: 7/3/2019 and 01/24/2024

Promulgated Under: 111.15

Statutory Authority: 5120.01

Rule Amplifies: 5120.05

Prior Effective Dates: 04/05/1976, 10/30/1978, 08/18/1979, 08/29/1983, 06/03/1985, 01/14/1993, 07/18/1997, 07/19/2004, 05/23/2014

Prior History: (Effective: 05/23/2014

R.C. 119.032 review dates: 01/10/2014 and 01/08/2019

Promulgated Under: 111.15

Statutory Authority: 5120.01

Rule Amplifies: 5120.05

Prior Effective Dates: 4-5-76; 10-30-78; 8-18-79; 8-29-83; 6-3-85; 1-14-93; 7-18-97; 7-19-04)

This document is current through the Ohio Register for the week of July 27, 2018

- Ohio Administrative Code
- 5120 Department of Rehabilitation and Corrections - Administration and Director
- Chapter 5120-9 Use of Force; Institutional Rules

5120-9-07. Conduct report and hearing officer procedures.

(A) Scope. This rule governs the procedures for the issuance of a conduct report and procedures to be employed by the hearing officer for determining violations of the inmate rules of conduct, as described in rule 5120-9-06 of the Administrative Code, referring conduct reports to the rules infraction board (RIB) or the serious misconduct panel (SMP) and the documentation of actions. Nothing in this rule shall preclude department staff from referring such inmate conduct to law enforcement for prosecution as a criminal offense, or the state from prosecuting such conduct as a criminal offense.

(B) Report. Any department employee or contractor, except those performing services under a personal services contract, who has reason to believe that an inmate has violated an inmate rule (or rules) of conduct may set forth such allegation on the form designated for that purpose.

(1) The conduct report shall contain a description of the specific behavior constituting each rule violation, cite the name and number of each applicable rule of conduct, and be signed by the person making the conduct report.

(2) The person issuing the conduct report shall indicate whether he or she wishes to appear before the RIB or the SMP when the conduct report is heard.

(3) If the inmate's behavior suggests serious mental illness, the person should refer the inmate to institutional mental health staff for a mental health assessment.

(C) Hearing officer designation and qualification. Each managing officer shall designate staff members as hearing officers. Persons selected to act as hearing officers must have completed training issued by the department's division of legal services. A staff member who issued the conduct report, witnessed or investigated the alleged violation cannot serve as hearing officer in relation to that violation.

(D) Initial screening and preliminary procedure. The hearing officer shall evaluate conduct reports for form and content.

(1) The hearing officer shall determine whether the conduct report cites the correct rule, identifies the charged inmate and cites sufficient facts to support the charged violation. The hearing officer is authorized to accept, modify, withdraw or return a conduct report to the person who wrote the conduct report for correction or revision.

(E) Hearing officer - inmate interview. The hearing officer shall meet with the inmate named on the conduct report as soon as practicable. The hearing officer shall note the date and time of the meeting on the conduct report and provide the inmate with a copy. If the inmate refuses to accept the conduct report, the hearing officer shall note that fact on the report. The hearing officer shall inform the inmate of the rule violation alleged, the behavior constituting the violation, and the right of the inmate to make a statement regarding the violation. The hearing officer may either decide and dispose of the violation or refer the violation to the RIB or SMP for hearing.

(F) Hearing officer - deciding and disposing of rule violations. The hearing officer may decide and dispose of violations where the alleged conduct is amenable to the dispositions listed in this rule. In such cases:

(1) The hearing officer shall ask the inmate to admit or deny the violation and ask for the inmate's statement regarding the violation.

(2) The hearing officer may interview staff, contractors or other inmates regarding the violation.

(3) If the person issuing the conduct report has indicated that he or she wishes to appear at the hearing of the conduct report, the hearing officer shall contact that person before making any determination in the case.

(4) If the inmate waives participation in the hearing or refuses to participate in the hearing, the hearing officer shall make a written record documenting the waiver or refusal. The hearing officer may then either proceed under this rule or refer the matter to the RIB or SMP.

(5) The hearing officer shall determine whether a violation has occurred. If the hearing officer finds that there are some facts to support the conclusion that the inmate violated a rule, the hearing officer may impose one or more of any of the following dispositions:

(a) The hearing officer may refer the inmate for treatment, counseling, or other programming.

(b) The hearing officer may recommend a change in housing or job assignment.

(c) The hearing officer may issue a warning or reprimand.

(d) The hearing officer may recommend to the managing officer that the inmate be required to make restitution.

(e) The hearing officer may recommend to the managing officer that contraband be disposed of in a manner consistent with rule 5120-9-55 of the Administrative Code.

(f) The hearing officer may issue focused restrictions on privileges. Focused restrictions on privileges shall not exceed ninety days for a first offense committed during the inmate's annual security classification review period and shall not exceed one hundred and eighty days for subsequent offenses during the inmate's annual security classification review period.

(g) The hearing officer may place the inmate in a limited privilege housing assignment subject to the time frame and referral limitations set forth in rule 5120-9-09 of the Administrative Code.

(h) The hearing officer may assign a period of extra work duty for each rule violation.

(G) Recording the hearing officer's decision and disposition of a rule violation. When the hearing officer disposes of a rule violation, the hearing officer shall complete and sign the hearing officer disposition form indicating the name and number of the inmate, the nature of the rule violation or violations, the date and time of the interview, the hearing officer's findings, and any sanction(s) imposed.

(1) Such dispositions shall be recorded in the inmate's file and shall clearly note that the hearing officer made the disposition.

(2) Such dispositions shall not be considered for purposes of classification.

(3) These dispositions shall be submitted to the RIB chair or designee for an administrative review to determine substantial compliance with applicable policies, procedures, and to determine that the disposition was proportionate to the conduct charged.

(4) Upon review, the RIB chair or designee may approve the disposition, modify it, or return it to the hearing officer with instructions to refer the matter to the RIB or SMP for formal disposition.

(H) Referral to RIB or SMP. The hearing officer may refer a conduct report to the RIB or SMP for formal disposition. In such cases, the hearing officer shall ask the inmate to admit or deny the violation and ask for the inmate's statement regarding the violation. The hearing officer shall then determine whether to recommend staff assistance for the inmate. The hearing officer shall advise the inmate of his or her rights under this rule and the possible consequences of such hearing before the RIB or SMP.

(1) Staff assistance. Each institution shall maintain a list of staff members who are eligible to provide staff assistance to inmates. The hearing officer should recommend staff assistance from that list when:

(a) The inmate appears to be functionally illiterate, not fluent in English, or is otherwise unable to respond to the allegations before the RIB or SMP due to the inmate's limited mental or physical capacity, or;

(b) The complexity of the issues makes it likely that the inmate will be unable to collect and present the facts necessary to adequately respond to the allegations before the RIB or SMP.

(2) The hearing officer shall inform the inmate of the following procedural rights, which the inmate may waive in writing:

(a) **Time of hearing.** The inmate has the right to a period of time of no less than twenty-four hours after the service of the conduct report before his or her appearance at the RIB or SMP.

(b) **Presence of charging official.** The inmate has the right to have the person who wrote the conduct report present at the RIB or SMP hearing.

(c) **Witnesses.** The inmate may request a reasonable number of witnesses. The inmate's request for a witness shall be in writing on an appropriate witness request form. The request shall include the name of the inmate witness requested, and shall state the nature of the information expected to be provided by the witness. The chairperson of the RIB or SMP shall approve or deny any request for inmate witnesses in writing, explaining the basis for the decision on the designated form.

(3) The hearing officer shall inform the inmate that the rule violation might result in the loss of earned credit that otherwise could have been awarded or may have been previously earned as authorized by section 2967.193 of the Revised Code and paragraph (R) of rule 5120-2-06 of the Administrative Code and obtain a written acknowledgment from the inmate that he or she has been so informed.

Statutory Authority

Promulgated Under:

111.15.

Statutory Authority:

5120.01.

Rule Amplifies:

5120.05.

History

History:

Effective: 02/11/2017.

Five Year Review (FYR) Dates: 01/10/2019.

Prior Effective Dates:

4/5/76; 10/30/78; 3/24/80; 1/16/84; 7/18/97; 7/19/04, 4/1/09, 06/01/2012, 11/11/13.

Editor's Note:

This rule as effective 4-5-76, concerning rules of procedure, was repealed and replaced effective 7-19-04.

OHIO ADMINISTRATIVE CODE

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COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

OHIO STATE ATTORNEY GENERAL,
#

Plaintiff

Franklin Common Pleas No. 11CVH01-265

Judge: COLLEEN O'DONNELL

v.

RONALD BLOODWORTH

MOTION FOR LEAVE TO PROCEED
UNDER R.C. 2323.52

Defendant

In 2011, Bloodworth was declared a vexatious litigator by the Franklin county court of common pleas pursuant to R.C. 2323.52. Accordingly, Bloodworth must ask this court for leave to file a civil action in the Lucas county court of common pleas.

The proposed COMPLAINT (attached hereto and incorporated herein by reference) seeks to compel public records and a civil forfeiture.

It is well-settled that a mandamus action can be used to compel compliance with the Ohio Public Records Act. *State ex rel. Plain Dealer Publ. Co. v. City of Cleve.*, 75 Ohio St.3d 31.

Several courts, including the Sixth District Court of Appeals, have held that a vexatious litigator is entitled to proceed with a mandamus action seeking public records. *State ex rel. Bloodworth v. Toledo Corr. Inst.*, Lucas C.A.No. 1-21-1084 (vexatious litigator granted leave to file mandamus action seeking public records) *State ex rel. Bristow v. Chief of Police*, 2010 Ohio 2842, P.1, P5, 2014 Ohio App. LEXIS 152781 (Ohio Ct. Appeal, Erie Cty.; June 25, 2014) (same). In fact, Bristow prevailed in that case as there was ultimate compliance with Bristow's public records request. *State ex rel. Bristow v. Chief of Police*, 2014 Ohio 3442, 2014 Ohio App. LEXIS 3374 (Ohio Ct. App.; Erie Cty.; July 31, 2014.)

A public agency falls short of meeting its clear legal duty under R.C. 149.43 (B)(1) when it fails to promptly prepare all public records responsive to requesters public records request, and make all such records available to requester "within a reasonable period of time." *State ex rel. Miller v. Ohio Dept.*

of Blue., 2016 Ohio 8534, P.8 (writ granted); State ex rel. Bott Law Group, L.L.C. V. Ohio Dept. of Natural Res., 2013 Ohio 5219, P.19 (same).

Requested public records that are physically possessed by and within the jurisdiction of a public office are public records of that public office and must be released by the public office or public official appointed by the public office to serve as the person responsible for public records at one of the various institutions of the public office. cf. State ex rel. Cincinnati Enquirer V. Krings, 93 OhioSt. 3d 654, 660 (finding requested stadium cost overrun records were within jurisdiction of county board and were public records regardless of whether they were in the possession of the county or the construction company.)

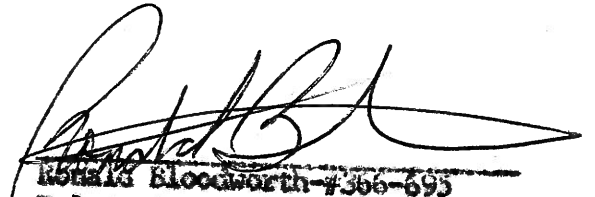
"The destruction of a public record in violation of R.C. 149.351(A), gives rise to a forfeiture action if the requester was 'aggrieved' by the destruction..." Rhodes V. New Philadelphia, 2011 Ohio 3279, P.28.

There are multiple cases that present a variety of situations where the parties against whom relief was sought failed to maintain, preserve and make available the peoples records as required by law. In each instance, the court held that the requester had a basis to commence an action seeking an award of statutory damages as set forth in R.C. 149.43 and R.C. 149.351(B). See, Swynar V. Jackson Twp. Bd. of Trs., 178 Ohio App.3d 345 (where records that were part of a particular police officers personnel file were public records pursuant to R.C. 149.43 and they were not produced pursuant to a records request, a violation occurred under R.C. 149.351 because they were not in the appropriate record holders possession.); State ex rel. A.F. Krainz Co. L.L.C. V. Jackson, 2010 Ohio 6029, P. 14-15 (record evidence demonstrating that records requested in public records

request never produced states a claim upon which relief can be granted under R.C. 149.43(C) and R.C. 149.351(B), therefore trial courts denial of motion to amend the complaint constitutes abuse of discretion); Wagner V. Huron County Bd. of County Comm'rs, 2013 Ohio 3961 (denial of summary judgment reversed where records requester demonstrated with record evidence that public records not provided under R.C. 149.43 but had been disposed of in contravention of retention schedule and R.C. 149.351.)

WHEREFORE, for the foregoing reasons, Bloodworth requests that this court find that the proposed action is not abusive or groundless under R.C. 2323.52 and permit Bloodworth leave to proceed to file and litigate his viable proposed action in the court on question.

Respectfully submitted,



Ronald Bloodworth-7366-695
Toledo Correctional Institution
2001 East Central Avenue
Toledo, Ohio 43608

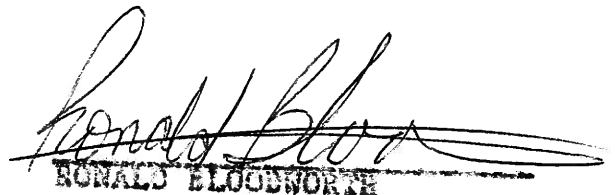
Defendant, pro se

CERTIFICATE OF SERVICE

I mailed a copy of this document July 10, 2021, via ordinary U.S. mail to:

DAVE YOST
OHIO ATTORNEY GENERAL
Ohio Attorney General's Office
150 East Gay Street
Columbus, Ohio 43215

COUNSEL FOR PLAINTIFF



RONALD BLOODWORTH

COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

STATE OF OHIO ex rel.,
RONALD BLOODWORTH-#366-695
2001 East Central Avenue
Toledo, Ohio 43608

Case No.

Relator

V.

TOLEDO CORRECTIONAL
INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

and

SORRISA SEHLMAYER,
Warden's Administrative Assistant and
Public Information Officer
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

Respondents

VERIFIED COMPLAINT FOR A WRIT OF MANDAMUS
and ALTERNATIVELY FOR CIVIL FORFEITURE PURSUANT TO
E.C. §149.351

DAVE YOST
OHIO ATTORNEY GENERAL
Ohio Attorney General's Office
150 East Gay Street
Columbus, Ohio 43215

COUNSEL FOR RESPONDENTS

COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

STATE OF OHIO ex rel.,
RONALD BLOODWORTH
Relator

CASE NO.

TOLEDO CORRECTIONAL
INSTITUTION, et al.,
Respondents

VERIFIED COMPLAINT FOR A
WRIT OF MANDAMUS AND
ALTERNATIVELY FOR CIVIL
FORFEITURE PURSUANT TO
R.C. §149.351

INTRODUCTION

1. This action involves alleged violations of the Public Records Act. RONALD BLOODWORTH, relator, pro se ("Bloodworth" or "Relator") brings this action for a writ of mandamus, and alternatively for civil forfeiture pursuant to R.C. 149.351. Bloodworth seeks a writ of mandamus to compel respondents--- as the public office or person responsible for certain public records---to comply with their obligations under the Ohio Public Records Act, R.C. 149.43(B). Alternatively, Bloodworth seeks civil forfeiture and costs pursuant to R.C. 149.351(B)(2) because upon information and belief Bloodworth believes that respondents failed to maintain the peoples records as required by law.
2. The Department of Rehabilitation and Correction(DRC) is a state office or agency as defined in R.C. 149.011(A) and (B) with public officials as defined in R.C. 149.011(D).
3. Lebanon Correctional Institution, located in Lebanon, Warren County, Ohio is a DRC institution and is a "public office" as defined in section 149.011(A) of the Ohio Revised Code.
4. Pursuant to R.C. 5120.01 as implemented through DRC Policy SOPAM02(E), the DRC has created a kite log(DRC2355)to provide the means to document the two way communications between staff and inmates of the department on a daily basis at its various institutions.

5. Pursuant to R.C. 5120.01 as implemented through DRC Policy 75MA101 VI.A.14, the DRC has created a Legal mail log(DRC 2632)to provide the means to log inmate legal mail at its various institutions.
6. The term "Record" as used in the Act is defined at R.C. 149.011(G) as including "any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1305.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serve to document the organizations, functions, policies, decisions, procedures, operations, or other activities of the office."
7. A violation under R.C. 149.351(B) means "any attempted or actual removal, mutilation, destruction, or TRANSFER of or damage to a public record that is not permitted by law." *Kish V. Akron*, 109 Ohio St. 3d 162, P27(2006).
8. Kites are only logged if the procedure outlined in R.C. 5120.01 as implemented through DRC Policy 50 PAM 02(F) are followed. See, R.C. 5120.01 and DRC Policy 50 PAM 02(F).
9. Every kite must be logged on the kite log(DRC2355)when utilized through the kite system at DRC's various institutions. See, R.C. 5120.01 and DRC Policy 50 PAM 02.
10. Without an express command from the DRC through the rules and regulations that it prescribes a state agency (and its employees through whom it acts) is not free to depart from this established inmate contacts policy and procedure. See, R.C. 5120.01, DRC Policy 50 PAM 02(E) and *State ex rel. City of Cincinnati v. Ohio Civil Rights Comm.* (1981), 2 Ohio App. 3d 787, 288.

11. The procedures outlined in R.C. 5120.01 as implemented through DRC Policy 50 FAM 02(E), requires the various institutions of the department to log kites on the kite log(DRC2355)when answering kites. See, R.C. 5120.01 as implemented through DRC Policy 50 FAM 02(E).
12. Legal mail is only logged if the procedured outlined in R.C. 5120.01 as implemented through DRC Policy 75 MAL 01(VI)(A)(14), are followed. See, R.C. 5120.01 and DRC Policy 75 MAL 01.
13. Every legal mail letter must be logged on the legal mail log(DRC2632) when handled and processed at DRC's various institutions. See, R.C. 5120.01 and DRC Policy 75 MAL 01.
14. Without an express command from the DRC through the rules and regulations that it prescribes a state agency(and its employees through whom it acts) is not free to depart from this established inmate legal mail service policy and procedure. See, R.C. 5120.01; DRC Policy 75 MAL 01; and, State ex rel. City of Cincinnati V. Ohio Civil Rights Comm. (1981)2 Ohio App.3d 287,288.
15. The procedures outlined in R.C. 5120.01 as implemented through DRC Policy 75 MAL 01(VI)(A)(14), requires the various institutions of the department to log loegal mail on the legal mail log(DRC2632)when handling and processing inmates legal mail. See, R.C. 5120.01 as implemented through ODRC Policy 75 MAL 01.
16. The right to access public records is a substantive right conferred by R.C. 149.43(B). See, State ex rel. BEACON Journal Publishing Co. V. Waters, 67 OhioSt. 3d 321,323(1993).
167. Any person who is denied the substantive right of access conferred by R.C. 149.43 is aggrieved for purposes of R.C. 149.351 and may commence an action for civil forfeiture. See, State ex rel. Hunter V. City of Alliance, 2002 Ohio 1130.

PUBLIC SUBSCRIPTION AND VENUE

PARTIES JURISDICTION and VENUE

17. Bloodworth, is an individual who is a citizen and resident of the State of Ohio and is currently at DRC's TOLEDO CORRECTIONAL INSTITUTION(ToCI)located in Toledo, Lucas County, Ohio pursuant to R.C. 5120.16.
18. Respondent, ToCI, is a DRC institution, located in Toledo, Lucas County, Ohio, is a "public office" as defined in section 149.011(A) of the Ohio Revised Code, and at all times relevant herein the records that are physically possessed by the DRC's LeCI is within the jurisdiction of this "public office" and/or TOCI has full custody and control of the public records at issue in this action, and at all times relevant herein employed Public Information Officer SCARRISA SEHLMAYER; and through its customs, practices, procedures, training, and policies and/or lack thereof is directly and/or indirectly responsible for the actions and/or omissions of its employees.
19. Respondent, SCARRISA SEHLMAYER("Ms. Sehlmeier")is the Administrative Assistant to the Warden and at all relevant times was acting within an administrative position as Administrative assistant and was therefore the person responsible for the public records at ToCI. This respondent is being sued in her official capacity only.
20. This court has personal and subject matter jurisdiction in this action, which is properly venue with this court because Lucas county is the county in which the respondents is located and it is where the vents of operative significance occurred.

BACKGROUND FACTS AND GENERAL ALLEGATIONS

21. Bloodworth incorporates by reference all of the averments put forth above as if fully rewritten herein.

22. Respondents are required by R.C. 5120.01 as implemented through DRC Policy 50 PAM 02(E) to log all kites answered in the kite log(DRC2355).

23. Respondents are required by R.C. 5120.01 as implemented through DRC Policy 75 MAL 01(VI)(A)(14), to log legal mail on the legal mail log(DRC2632).

VIOLATION OF THE PUBLIC RECORDS ACT
FIRST CAUSE OF ACTION
MANDAMUS FOR KITE LOGS(DRC2355)

24. Bloodworth incorporates by reference all of the averments set forth above as if fully recited herein.

25. According to R.C. 5120.01 and DRC Policy 50 PAM02(E) the respondents uses or at one time did use kite logs(DRC2355) to document the two-way communications between all levels of DRC staff and inmates. See, also, Exhibit B),

26. According to R.C. 5120.01 and DRC Policy 50 PAM 02(E), the said kite log(DRC2355) documents kite handling and processing receipt and response activity and upon information and belief were changed at least once daily.

27. Upon information and belief, the respondents uses two sets of kite logs that document separately during the daily kite receipt and response handling

and processing process--one log is paper and one is electronic.

28. Upon information and belief, by using two sets of kite logs one set could log kites received and answered in paper format while the other document kites received and answered electronically. This is done to ensure that "[a]ll kites(DRC2355)[will]be logged on the kite log(DRC2355)."50PAM02(E).

29. The daily sets of the said kite logs are "records" as that term is used in R.C. 149.011(G).

30. The daily sets of the said kite logs are "public records" as that term is used in R.C. 149.43.

31. On May 21, 2021, Bloodworth made a written public records request to respondent Ms., Sehlmeier, and at No. 2 of said request requested copies of LeCI's Mailroom Supervisor's Kite Log(DRC2355)regarding paper and/or electronic kite communications between this supervisor and Bloodworth; DATE RANGE: 7/31/19 to 8/5/19.(Exhibit A).
32. Bloodworth made his May 21, 2021 public records request by hand delivery. (Exhibit A).
33. On May 21, 2021, Ms. Sehlmeier received Bloodworth's said public records request via hand delivery. (Exhibit A).
34. On June 8, 2021, Ms. Sehlmeier responded to the public records request stating essentially regarding No. 2 of said request that the request is defective for not being properly directed to LeCI. (Exhibit B).
35. As of this date, respondents have not provided Bloodworth with access to or copies of the "kite logs" that he requested.
36. Bloodworth has no adequate alternative remedy in the ordinary course of the law.
37. Respondents have no legally valid excuse for refusing to give Bloodworth copies of the said kite logs.

VIOLATION OF THE PUBLIC RECORDS ACT
SECOND CAUSE OF ACTION
MANDAMUS FOR LEGAL MAIL LOGS(DRC2632)

38. Bloodworth incorporates by reference all of the averments set forth above as if fully rewritten herein.
39. According to R.C. 5120.01 and DRC Policy 75 MAL 01(VI)(A)(14), the respondents uses legal mail logs(DRC2632) to record legal mail.
40. According to R.C. 5120.01, Administrative rule(AR)5120-9-17, AR5120-9-18 and DRC Policy 75 MAL 01, the legal mail log records incoming legal mail and outgoing legal mail handling and processing activities and upon informa-

- tion and belief were changed at least once daily.
41. Upon information and belief, the respondents uses two sets of legal mail logs that record separately during the daily legal mail handling and processing process--one log is the incoming and one is the outgoing.
 42. Upon information and belief, by using two sets of legal mail logs one set could log legal mail received into the institution while the other logs legal mail leaving the institution. This is done to ensure that the "legal mail" is always recorded.
 43. The daily set of the said "outgoing" legal mail logs are "records" as that term is used in R.C. 149.011(G).
 44. The daily sets of the said "outgoing"; legal mail logs are "public records" as that term is used in R.C. 149.43.
 45. On May 21, 2021, Bloodworth gave Ms. Schlamyer a public records request via hand delivery and at Nos. 3 and 6, of said request, requested to inspect and/or copy ToCI's "outgoing" legal mail log(DRC2632); DATE RANGE: intermittently ranging from June 2018 to May 2021.(Exhibit A).
 46. On May 21, 2021, Ms. Schlamyer received Bloodworth's said public records request.(Exhibit A).
 47. Respondents responded to this request June 8, 2021 in a letter sent by Ms. Schlamyer, public information officer.(Exhibit B).
 48. Respondents have not provided Bloodworth with access to or copies of the "outgoing" legal mail logs that he requested. (Exhibits 'B, C, D).
 49. Upon information and belief, respondents do not maintain a legal mail log(DRC2632) that records legal mail leaving the institution.
 50. Bloodworth has no adequate alternative remedy in the ordinary course of the law.
 51. Respondents have no legally valid excuse for refusing to give Bloodworth

copies of the said logs.

VIOLATION OF THE PUBLIC RECORDS ACT
THIRD CAUSE OF ACTION
MANDAMUS FOR KITE LOGS(DRC2355)

52. Bloodworth incorporates by reference all of the averments set forth above as if fully rewritten herein.

53. On May 21, 2021, Bloodworth made a written public records request to respondent Sehmeyer and at No.5 , requested copies of ToCI's Warden's, Institutional Inspector's and Mailroom Supervisor's kite log(DRC2355)regarding paper kite communications between these prison staff members and Bloodworth: DATE RANGE: December 5, 2020 to December 10, 2020.(Exhibit A).

54. On May 21, 2021 Ms. Sehmeyer received this public records request via hand delivery.

55. On June 8, 2021 Ms. Sehmeyer responded to the said request.(Exhibit B).

56. As of this date, Ms. Sehmeyer have not provided Bloodworth with copies of the kite logs that he requested.

57. Bloodworth has no adequate alternative remedy in the ordinary course of the law.

58. Respondents have no legally valid excuse for refusing to give Bloodworth copies of the said kite logs.,,

FOURTH CAUSE OF ACTION
CIVIL FORFEITURE PURSUANT TO R.C. 149.351(B)(2)

59. Bloodworth incorporates by reference all of the averments set forth above as if fully rewritten herein.

60. Upon information and belief, respondents did at no time use the legal mail log(DRC2632)to record the handling and processing activities of legal mail leaving tyhe institution, on the relevAnt dates.

61. Respondents have removed, destroyed, mutilated, trransferred, or othewr- wise damaged or disposed of the legal mail log(s)(DRC2632)which document

legal mail or on which legal mail shall be logged and maintained that is leaving the institution on the relevant dates.

62. Upon information and belief, the actions of respondents in removing, destroying, mutilating, transferring or otherwise damaging or disposing of said legal mail logs(DRC2632)which documented "outgoing" legal mail or on which "outgoing" legal mail shall be logged did not comply with the procedure set forth in R.C. 5120.01 as implemented through DRC Policy 75 MAL 01 (VI)(A)(14), because respondents did not log "outgoing" legal mail on the legal mail log(DRC2632)on the relevant dates.

63. Relator has been aggrieved by respondents actions in removing, destroying, mutilating, transferring, or otherwise damaging or disposing of the legal mail log(s)(DRC2632)forms which documented daily "outgoing" legal mail handling activity or on which "outgoing" legal mail shall be logged, on all relevant dates, as among other things, such records are necessary to use as exhibits with a civil rights complaint that Bloodworth is preparing to file against ToCI prison officials regarding the mailing or nonmailing of his outgoing legal mail.

64. Relator has been aggrieved by respondents actions in removing, destroying, mutilating, transferring, or otherwise damaging or disposing of the legal mail logs(DRC2632) which documented "outgoing" legal mail or on which "outgoing" legal mail shall be logged, as amongst other things such records would reasonably lead to identifying other potential areas for discovery during the course of the civil rights litigation.

65. Upon information and belief, respondents by failing to follow the pro-

cedure outlined in R.C. 5120.01 as implemented through DRC Policy 75 MAL 01 (VI)(A)(14), before electing to not log outgoing legal mail on the legal mail log(DRC2632), respondents violated the public records act because their actions constitute an illegal or improper removal, destruction, mutilation, transfer, or other disposition of the records which shall contain or contains the data onto which respondents created daily records of their legal mail handling and processing activities of the legal mail leaving the institution on the relevant dates.

66. The failure of respondents to provide a full and complete copy to relator of a full and complete paper copy of that section of the legal mail logs(DRC 2632) which contains the data or which shall contain the data onto which respondents created or shall create daily records of their "outgoing" legal mail logging, handling, and processing activities constitutes an illegal or improper removal, destruction, mutilation, transfer, or other dispositions of the records which contains or shall contain outgoing legal mail data.

67. Respondents therefore, committed a separate violation of the public records act for each of the "outgoing" legal mail logs(DRC2632) that the respondents disposed of without following the procedures outlined in R.C. 5120.01 as implemented through DRC Policy 75 MAL 01(VI)(A)(14).

68. Pursuant to RC 149.351(B)(2), respondents ToCI must pay a civil forfeiture of one-thousand dollars(\$1,000) for each of the records which has been removed, destroyed, mutilated, transferred or otherwise damaged or disposed in violation of the public records act.

**FIFTH CAUSE OF ACTION
CIVIL FORFEITURE PURSUANT TO R.C. 149.351(B)(2)**

69. Bloodworth incorporates by reference all of the averments set forth above as if fully rewritten herein.

70. Upon information and belief, respondents did at no time use the Kite Log(DRC2355) to record the kite receipt and response activities of the paper kites received and answered on the relevant dates.
71. Respondents have removed, destroyed, mutilated, transferred or otherwise damaged or disposed of the kite logs(DRC2355) which document paper kite receipt and response data or on which paper kite receipt and response data shall be logged and maintained on the relevant dates.
72. Upon information and belief, the actions of respondents in removing, destroying, mutilating, transferring or otherwise damaging or disposing of said kite logs(DRC2355) which documented "paper" kites or on which "paper" kites shall be logged did not comply with the procedure set forth in R.F.C. 5120.01 as implemented through DRC Policy 50 PAM 02(E) because respondents did not log "paper" kites on the kite log(DRC2355) on the relevant dates.
73. Relator has been aggrieved by respondents actions in removing, destroying, mutilating, transferring, or otherwise damaging or disposing of the kite log(DRC2355) forms which documented daily "paper" kite receipt and response activity or on which "paper" kite receipt and response activity shall be logged, on all relevant dates, as among other things, such records are necessary to use as exhibits with a civil action that Bloodworth is preparing to file against TOCI regarding the delivery or nondelivery of his paper kites by the mailroom to respective areas of the institution.
74. Relator has been aggrieved by respondents actions in removing, destroying, mutilating, transferring, or otherwise damaging or disposing of the kite logs(DRC2355) which documented "paper" kites or on which "paper" kites shall be logged, as amongst other things such records would reasonably lead to identifying other potential areas for discovery during the course of the civil

litigation.

75. Upon information and belief, respondents by failing to follow the procedure outlined in R.C. 5120.01 as implemented through DRC Policy 50 PAM 02(E), before electing not to log "paper" kites on the kite log(DRC2355), respondents violated the public records act because their actions constitute an illegal or improper removal, destruction, mutilation, transfer, or other disposition of the records which shall contain or contains the data onto which respondents created daily records of their kite handling and processing activities of the paper kites received into these respective areas from Bloodworth on the relevant dates.

76. The failure of respondents to provide a full and complete copy to relator of a full and complete paper copy of that section of the kite logs(DRC2355) which contains the data or which shall contain the data onto which respondents created or shall create daily records of their "paper" kite logging, handling and processing activities constitutes an illegal or improper removal, destruction, mutilation, transfer, or other disposition of the records which contains or shall contain paper kite data.

77. Respondents therefore committed a separate violation of the public records act for each of the "paper" kite logs(DRC2355) that the respondents disposed of without following the procedure outlined in R.C. 5120.01 as implemented through DRC Policy 50 PAM 02(E).

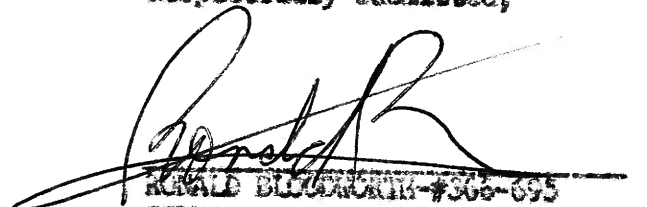
78. Pursuant to R.C. 149.351(B)(2), respondents TOCI must pay a civil forfeiture of one-thousand dollars(\$1,000) for each of the records which has been removed, destroyed, mutilated, transferred or otherwise damaged or disposed in violation of the public records act.

WHEREFORE, Bloodworth on his claims for relief demands the following:

1. A peremptory writ of mandamus directing respondents to make responsive public records available to Bloodworth promptly and without delay for inspection and/or copying.

2. If this court does not issue a peremptory of mandamus, then entry of an alternative writ, commanding respondents to show cause why a final writ in the above terms should not issue.
3. Statutory damages pursuant to R.C. 149.43(C)(1), of one-hundred dollars (\$100.00) for each business day during which the respondents failed to comply with R.C. 149.43(B), beginning with the day on which Bloodworth filed this mandamus action up to a maximum of one-thousand dollars (\$1,000) for each record wrongfully withheld.
4. A civil forfeiture pursuant to R.C. 149.351 in the amount of one-thousand dollars (\$1,000) for each of the "outgoing" legalmail logs (DRC2632) whose data was actually destroyed, mutilated, removed, transferred or otherwise damaged or disposed in violation of the public records act, R.C. 149.43 in a total amount up to \$10,000 to be determined at trial.
5. A civil forfeiture pursuant to R.C. 149.351 in the amount of one-thousand dollars (\$1,000) for each of the "paper" kite kite logs (DRC2355) whose data was actually destroyed, mutilated, removed, transferred or otherwise damaged or disposed in violation of the public records act, R.C. 149.43 in a total amount up to \$10,000 to be determined at trial.
6. Court costs incurred by Bloodworth in bringing this action.
7. Such other and further relief that this court may deem proper.

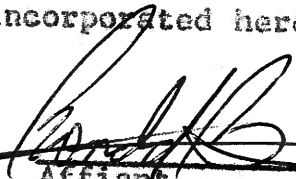
Respectfully submitted,


RONALD BLOODWORTH #366-695
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608


Relator, pro se

VERIFICATION

I, RONALD BLOODWORTH, STATE UNDER PENALTY for perjury, that I am the relator in this action, that I have personal knowledge and am competent to testify to the facts set forth in the above complaint, and the averments set forth herein are true and correct to the best of my information, belief and knowledge, and the exhibits attached hereto and incorporated herein by reference are true and correct.


Affiant

Sworn to and subscribed in my presence this 5 day of July, 2021.


NOTARY PUBLIC



PATRICIA R. CEGLIO
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES 08-10-2021

TO: Ms. Sehlmeier, Warden's Assistant and Public Information Officer

FROM: RONALD BLOODWORTH-#366-695

SUBJECT: PUBLIC RECORDS REQUEST

DATE: May 21, 2021

Dear Ms. Sehlmeier:

I respectfully request a copy of the following public records:

- ~~1. Lebanon Correctional Institutions KITE LOG (DRC 2355) maintained in the Mailroom Supervisor's respective area in accordance with the ODRC Record Retention Schedule, containing recorded Kite Log data regarding paper and/or electronic kites utilized as the means of two-way communication between this staff and Ronald Bloodworth #366-695, DATE RANGE: July 31, 2019 to August 5, 2019.~~
2. Lebanon Correctional Institutions KITE LOG (DRC 2355) maintained in the Mailroom Supervisor's respective area in accordance with the ODRC Record Retention Schedule, containing recorded Kite Log data regarding paper and/or electronic kites utilized as the means of two-way communication between this staff and Ronald Bloodworth #366-695, DATE RANGE: July 31, 2019 to August 5, 2019.
3. LEGAL MAIL LOG (DRC 2632) containing entries recording Toledo Correctional Institution's OUTGOING LEGAL MAIL, DATE RANGE: 3/2021, 4/2021, 5/2021.
4. MONTHLY MAIL REPORT (DRC 2316) for Toledo Correctional Institution submitted by mail dept supervisor to the responsible deputy warden, DATE RANGE: 3/2021, 4/2021, and 5/2021.
5. Toledo Correctional Institutions written KITE LOG (DRC 2355) maintained in the Warden's, Inspector's, and Mailroom Supervisor's respective area in accordance with the ODRC Record Retention Schedule, containing written recorded Kite log data regarding paper kites utilized as the means of two-way communication between these staff and Ronald Bloodworth #366-695, DATE RANGE: December 5, 2020 to December 10, 2020.
6. TOLEDO CORRECTIONAL INSTITUTIONS OUTGOING ~~LEGAL MAIL~~ LEGAL MAIL LOG (DRC 2632) regarding outgoing legal mail, DATE RANGE: June 2018 to June 2020. BE ADVISED! I'd first like to inspect these legal mail logs with the sole discretion to copy.

I look forward to receiving the records I requested.

Respectfully submitted,


RONALD BLOODWORTH

cc: files

Request hand delivered to S Sehlmeier at Toledo

Correctional Institution on May 21 2021

Exhibit A

Ohio

OHIO

Department of
Rehabilitation & Correction

Mike DeWine, Governor
Annette Chambers-Smith, Director

To: Mr Bloodworth A366-695

RE: Public Records Request

Date: 6.8.2021

Mr. Bloodworth,

Your public record request dated 5.21.2021 is currently being processed. The information that you requested in item number 2 is from Lebanon institution needs to be requested from them. I do not have access to their logs. The address for Lebanon is:

Lebanon Correctional Institution

PO Box 56

State Route 63

Lebanon Ohio 43140

Item number 3 is 3 pages at 5 cents per page, so 15 cents. If you could send me a cashslip for this amount I can provide the records.

Item number 4 is still in process

Item number 5 does not exist. There are no kite logs DRC 2355 maintained since going to the electronic record.

For your requested item number 6, the document does not exist. We do not keep records of outgoing legal mail.

Thank you,

S. Sehlmeier, CWA2



Toledo Correctional Institution

Toledo Correctional Institution
2001 East Central Avenue
Toledo, OH 43608
www.drc.ohio.gov

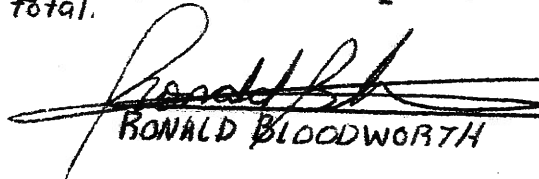
United States*
Census
2020 | **BE COUNTED**
 Ohio
It's easy, safe and important.
Census.Ohio.Gov

Exhibit B

TO: Ms. Sehlmeier, warden's Asst. and Public Information Officer
FROM: RONALD BLOODWORTH #366-695
SUBJECT: Payment for Public Record Copies
DATE: June 17, 2021

Dear Ms. Sehlmeier:

On June 16, 2021, I received your letter dated June 8, 2021 regarding my May 21, 2021 public records request. I am enclosing a completed cash slip in this kite in the amount of 15 cents to cover copy cost for the public records I requested at No. 3 of my public records request. I look forward to receiving the legal mail tags (DRC 2632) as requested in my public records request; three pages total.


RONALD BLOODWORTH

cc: files

Exhibit C

To: Mr Bloodworth A366-695

RE: Public Records Request

Date: 6.22.2021


Mr. Bloodworth,

Enclosed are items for number 3 in your record request. Per R.C. 5120.21(F) appropriate redactions have been made. The last 3 numbers of the offender ID have been shown for your reference to determine if you had legal mail delivered to you during this time.

Item number 4 is also 3 pages, and I have enclosed in this request. It is also 15 cents. Your cash slip will be adjusted to 30 cents for these records.

With this information enclosed this request is not considered complete.

Thank you,


S. Sehlmeyer, CWA2

Toledo Correctional Institution

Legal Mail Log

Institution:							
Date Received by Institution	Inmate Name	Inmate Number	Lock Assignment	Sender's Name & Address	Inmate's Signature of Receipt	Date of Receipt	
05/03/2021	[REDACTED]	[REDACTED] 127	D4N08	U.S COURT OF APPEALS CINCINNATI OH	[REDACTED]	5.4.21	
05/03/2021	[REDACTED]	[REDACTED] 853	D4W04	U.S DIST COURT CINCINNATI OH	[REDACTED]	5.4.21	
05/03/2021	[REDACTED]	[REDACTED] 853	D4W04	U.S DIST COURT CINCINNATI OH	[REDACTED]	5.4.21	
05/03/2021	[REDACTED]	[REDACTED] 853	D4W04	U.S DIST COURT CINCINNATI OH	[REDACTED]	5.4.21	
05/03/2021	[REDACTED]	[REDACTED] 054	D4E09	COMMON PLEAS COURT PORTSMOUTH OH	[REDACTED] G.V.-OSU	5-3-21	
05/03/2021	[REDACTED]	[REDACTED] 169	D4E03	U.S DIST COURT CINCINNATI OH	[REDACTED]	5-4-21	
05/03/2021	[REDACTED]	[REDACTED] 169	D4E03	SUPREME COURT COL OH	[REDACTED]	5-4-21	
05/03/2021	[REDACTED]	[REDACTED] 169	D4E03	SUPREME COURT COL OH	[REDACTED]	5-4-21	

Exhibit D-3

[Previous](#)[Next](#)

ORC Ann. 5120.01

Current with Legislation passed by the 132nd General Assembly and filed with the Secretary of State through file 42 (HB 44).

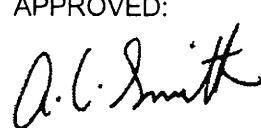
- [Page's Ohio Revised Code Annotated](#)
- [Title 51: Public Welfare](#)
- [Chapter 5120: Department of Rehabilitation and Correction](#)

§ 5120.01 Director of rehabilitation and correction.

- The director of rehabilitation and correction is the executive head of the department of rehabilitation and correction. All duties conferred on the various divisions and institutions of the department by law or by order of the director shall be performed under the rules and regulations that the director prescribes and shall be under the director's control. Inmates committed to the department of rehabilitation and correction shall be under the legal custody of the director or the director's designee, and the director or the director's designee shall have power to control transfers of inmates between the several state institutions included under [section 5120.05 of the Revised Code](#).

History

134 v H 494 (Eff 7-12-72); [149 v H 510](#). Eff 3-31-2003.

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

5120-9-17. Incoming mail.

(A) Mail in the form of first class letters or electronic mail addressed to an inmate shall not be withheld except as provided in this rule. There shall be no limitation on the number of first class letters that an inmate may receive nor the number of persons with whom an inmate may correspond.

(B) Inspection of incoming mail:

(1) All mail, including electronic mail, other than legal mail, shall be opened and may be read or copied in the institution mail office and inspected for the presence of contraband, unauthorized forms of funds, and other threats to the security and safety of the institution. The written portion of the mail shall then be promptly delivered to the inmate, unless withheld in accordance with paragraph (G) of this rule.

(2) "Legal mail" is 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. It may be opened and inspected for contraband only in the presence of the inmate-addressee. "Legal mail" does not include postcards from a court of law that indicates fees and/or fines owed by the inmate-addressee.

(3) Electronic mail is offered to inmates as an additional means of communication. Electronic mail received is not suitable for confidential legal communications or legal mail. Inmates shall be instructed not to use electronic mail for confidential legal communications. "Legal mail" shall be restricted to the traditional mail format. Electronic mail cannot be accepted while an inmate is in special management housing.

(C) The managing officer or his designee shall determine the disposition of contraband pursuant to rule 5120-9-55 of the Administrative Code. The contraband may be returned to the sender, confiscated as evidence, held for the benefit of the inmate-addressee, or otherwise disposed of in a manner consistent with the law.

(D) All funds mailed to inmates shall be processed in accordance with rule 5120-5-02 of the Administrative Code.

(E) A letter or electronic message that is incorrectly addressed may be returned to the sender after a reasonable effort to ascertain the identity of the addressee has failed.

(F) Telegrams and electronic mail may be reviewed prior to delivery.

(G) Mail, including electronic mail, that presents a threat to the security and safety of the institution, its staff or inmates, may be withheld from the inmate-addressee. No material or correspondence will be considered to present a such a threat solely on the basis of its appeal to a particular ethnic, political, racial or religious group. To constitute a such a threat, the correspondence must meet at least one of the following criteria:

(1) The correspondence incites, aids, or abets criminal activity or violations of departmental rules, such as, but not limited to, rioting, extortion, illegal drug use or conveyance of contraband;

(2) The correspondence incites, aids, or abets physical violence against others, such as, but not limited to, instructions in making, using, or converting weapons;

(3) The correspondence incites, aids, or abets escapes, such as, but not limited to, instructions on picking locks or digging tunnels;

(4) The correspondence is in code or cipher.

(H) Procedures for withholding correspondence are as follows:

(1) The initial decision to withhold the correspondence will be made by the officer charged with inspecting it, with the concurrence of the mail room supervisor.

(2) The inmate-addressee and the author of the correspondence will be notified, in writing, that the correspondence was withheld. The notification will:

(a) Identify the inmate-addressee by name and number;

(b) Identify the author by name and address;

(c) Include a description of the correspondence by date or otherwise;

(d) Include a brief statement of the reason the correspondence is being withheld;

(e) Inform the author of the procedure for appeal, including the time for appeal;

(f) Identify the person to whom the decision to withhold the correspondence is to be appealed;

(3) The notification will be sent to the author and the inmate-addressee within seven calendar days of the decision to withhold, unless the managing officer determines that the notification will interfere with the conduct of a pending investigation.

(4) Decisions to withhold mail, including electronic mail, may be appealed in writing by the author to the managing officer or his designee within fifteen calendar days of the date of the mailing of the notification. The appeal should explain why the correspondence does not present a threat to the security and safety of the institution, its staff or inmates.

(5) The written appeal and the correspondence will be considered by the managing officer or designee who shall determine whether the correspondence will be withheld or delivered to the inmate.

(6) Any correspondence withheld from an inmate-addressee will be retained during the pendency of the appeal or for the time in which an appeal may be filed.

(7) If it is determined on appeal that the correspondence does not present a threat to the safety and security of the institution, its staff or inmates, the correspondence will be immediately delivered to the inmate-addressee.

(8) If it is determined on appeal that the correspondence presents a threat to the safety and security of the institution, its staff or inmates, or, if no appeal is taken, the mail may be returned to the author, held as evidence for criminal prosecution or a disciplinary proceeding, or destroyed.

(I) Mail, including printed electronic mail, in the possession of an inmate may, when approved by the managing officer or his designee, be seized, read, and copied where a reasonable belief exists that it may contain evidence of a

violation of federal or state law or departmental rules. If a staff member reasonably believes there is a present risk of destruction of such mail, it may be seized and forwarded to the managing officer or his designee for review.

(J) Advertising mail, commonly known as "junk mail" and advertising in the form of electronic mail, commonly known as "spam", which include, but are not necessarily limited to promotional offers, drawings, sweepstakes, lotteries and other promotional campaigns, which proposes a commercial transaction and which taken as a whole, is not a personal communication uniquely composed for a specific individual, may be withheld from the addressee. Junk mail may be returned to the sender if return postage is guaranteed, or it may be destroyed at the institution if not. No notice or other process need be provided to the addressee or the addresser in such circumstances, any other provision in this or any other rule of the Administrative Code notwithstanding. The only exception to this paragraph shall be for catalogues for mail-order purchases, as approved by the office of prisons, provided that the contents of the catalogue are subject to the screening criteria for printed materials in rule 5120-9-19 of the Administrative Code.

Statutory Authority

Promulgated Under:

111.15.

Statutory Authority:

5120.01.

Rule Amplifies:

5120.05, 5120.36.

History

History:

Five Year Review (FYR) Dates: 7/3/2019 and 01/24/2024.

Prior Effective Dates:

01/20/1973, 01/13/1979, 01/04/1988, 04/21/1989, 01/08/1991, 11/20/1995, 05/15/2004, 07/15/2011, 05/23/2014.

OHIO ADMINISTRATIVE CODE

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This document is current through the Ohio Register for the week of December 14, 2018

- Ohio Administrative Code
- 5120 Department of Rehabilitation and Corrections - Administration and Director
- Chapter 5120-9 Use of Force; Institutional Rules

5120-9-18. Outgoing mail.

- (A) There shall be no limitation on the number of letters that an inmate may send, nor shall there be any restrictions as to persons with whom an inmate may correspond, except as provided in this rule.
- (B) Postage and embossed envelopes shall be available for sale in the institution commissary. Inmates may send one letter each month at state expense.
- (C) Legal mail is mail addressed to an attorney at-law, a public service law office, a law school legal clinic, a court of law, or the Correctional Institution Inspection Committee. Such mail must be clearly addressed reflecting one of the above addressees and be marked "legal mail" by the inmate.
- (D) Electronic mail is offered to inmates as an additional means of communication. This form of communication is not suitable for confidential legal communications or legal mail. Inmates shall be instructed not to use electronic mail for confidential legal communications. "Legal mail" shall be restricted to the traditional mail format. Electronic mail cannot be accessed while an inmate is in special management housing.
- (E) Inmates shall seal their own first class letters, except in instances where there is to be an enclosure of money or documents held by the institution.
- (F) All outgoing mail, including electronic mail, shall be clearly identified by the sender's name, institution number and return address. Any outgoing mail not so identified may be opened and read for the purpose of identifying the sender. All outgoing letters from inmates shall be stamped on the front or back of the envelope with a stamp identifying:
- (1) That the letter is inmate correspondence; and
 - (2) The sending institution's name and address.
- (G) Inmates are prohibited from sending any letter or electronic mail:
- (1) That is threatening;
 - (2) That incites, aids or abets or constitutes criminal activity or violations of departmental rules;
 - (3) That is, or contains evidence of criminal activity or violations of departmental rules;
 - (4) That is in code or cipher;
 - (5) That would present a threat to the safety and security of the institution, its staff or inmates;
 - (6) To any person who the inmate has been advised has notified the managing officer that he or she is being harassed by the inmate and does not want to receive correspondence from the inmate;
 - (7) To any person, firm, association, or other entity for the purpose of soliciting funds or property without the prior approval of the managing officer. This provision does not apply to lawful requests made by an inmate for funds from an individual approved to send money to the inmate.
 - (8) That contains funds being sent to any person not on the inmate's approved visiting list.
- (H) Any violation of the preceding procedures and prohibitions by the inmate shall be considered a violation of the inmate rules of conduct and may result in disciplinary action. Sanctions for such violations may include a restriction of the inmate's mail privileges for a specific period of time. Any mail restriction imposed must be only the minimum required to prevent future abuses of the mail privilege.
- (I) Except as provided in paragraph (E) of this rule, outgoing non-legal inmate letters may only be opened, read, copied, or withheld, and electronic mail may only be withheld when the managing officer or designee has a reasonable belief that the inmate's correspondence meets one of the criteria listed in paragraph (G) of this rule. In such cases the following procedures shall be followed:
- (1) The managing officer or designee shall make a request in writing to the Director or designee stating the name and number of the inmate, the reasons for believing that the mail meets the criteria listed in paragraph (G) of this rule, and the time period for which permission to open, read, copy or withhold the inmate's mail is sought.
 - (2) The director or designee shall review the request. The director or designee may order further investigation before granting or denying such request. If approved, the director or designee shall document such approval, the name and number of the inmate and the time period for which such approval is granted. Approval of the director or designee to open, read, copy or withhold such mail shall extend only to the managing officer or designee.
 - (3) The managing officer or designee shall then record on a log the following information for any outgoing non-legal mail that is approved to be opened: the sender's name and number, the dates of approval to open, read, copy or withhold, the name of the managing officer's designee, if applicable, the addressee, the date the mail is opened and reviewed, and any action taken as a result of the review.
 - (4) If, after reviewing such mail the managing officer or designee determines that it does not meet any of the criteria listed in paragraph (G) of this rule, the mail shall be promptly forwarded to the addressee. If the correspondence is determined to meet one of the criteria listed in paragraph (G) of this rule, it may be copied and/or read and forwarded to the addressee or retained as evidence pursuant to an investigation and/or subsequent criminal or administrative proceeding, or returned to the inmate, as deemed appropriate by the managing officer or designee.

(5) In any case where the correspondence is determined to meet the criteria in paragraph (G) of this rule, and it would not hinder any ongoing investigation, the inmate shall receive written notice of the withholding of mail and or an appropriately issued conduct report. The notice or conduct report shall identify the correspondence by addressee, date or other description, and include an explanation as to why it is being withheld and/or a conduct report being issued.

(J) Outgoing legal inmate mail may only be opened if there is a reasonable belief that the mail contains contraband. In such cases the following procedures shall be followed:

(1) Request in writing, as soon as practicable, to the director or designee approval to open said legal mail. The request shall include the name and number of the sender, the addressee's name and address as it appears on the envelope, and the reasons for believing the envelope contains contraband.

(2) The director or designee shall review the request and as soon as practicable, approve or disapprove the request. Such approval or disapproval shall be documented in writing and reflect the name of the director or designee approving or disapproving the request.

(3) If the request is denied, the mail shall be promptly delivered to the mail room and processed as outgoing mail without further delay. If the request is approved, the managing officer or designee shall immediately open the envelope in the presence of the sender. The contents may be inspected only to the extent necessary to determine if it contains contraband.

(4) If contraband is found, it shall be handled in accordance with rule 5120-9-55 of the Administrative Code. Any non-contraband contents shall immediately be returned to the inmate who shall be given the opportunity to reseal such contents in another stamped envelope provided by the managing officer or designee, to be taken to the mailroom to be processed as outgoing legal mail without further delay.

(5) The opening and inspecting of any outgoing legal mail shall be documented on an outgoing legal mail inspector log. The managing officer or his designee shall record the name of the person inspecting the mail, the date of the inspection, the addressee, the sender's name and number, a description of any contraband found, the disposition of the contraband, and the date any non-contraband contents were mailed.

Statutory Authority

Promulgated Under:

111.15.

Statutory Authority:

5120.01.

Rule Amplifies:

5120.05, 5120.36.

History

History:

Effective: 05/23/2014.

R.C. 119.032 review dates: 01/10/2014 and 01/08/2019.

Prior Effective Dates:

1/12/74, 3/24/80, 1/4/88, 4/1/89, 4/25/89 (Emer.), 7/17/89, 11/20/95, 5/15/04, 4/1/09, 7/15/11, 9/17/12, .

OHIO ADMINISTRATIVE CODE

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*You have received a **jp**ay letter, the fastest way to get mail*

From : Aaron Bloodworth, CustomerID: 19054214
To : RONALD BLOODWORTH, ID: A366695
Date : 8/8/2021 5:39:49 PM EST, Letter ID: 1240580407
Location : TOCI
Housing : A2N0003

70151520000358186705



Delivered

Thursday, 29 July, 12:28
OH COLUMBUS 43215

Parcel route on a map



EXHIBIT

D

jpay Tell your friends and family to visit www.jp.com to write letters and send money!

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Franklin Co. Court of
Common Pleas
345 South High St. A.13
Columbus, OH 43215



9590 9402 2130 6132 0024 57

7015 1520 0003 5818 6705

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) *L. Long*

C. Date of Delivery *7/29/21*

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Domestic Return Receipt

EXHIBIT
E