

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSEPH MARTIN DEVINE,

Petitioner,

Case No. 12-cv-13125

v.

Honorable Linda V. Parker

LLOYD RAPELJE,

Respondent.

**ORDER DIRECTING THE CLERK OF COURT TO AMEND THE
DOCKET AND TO SERVE THE PETITION ON THE STATE
AND DIRECTING THE STATE TO FILE A RESPONSIVE
PLEADING AND THE STATE COURT RECORD**

Petitioner Joseph Martin Devine commenced this case in 2012 by filing a habeas corpus petition and a motion to hold the petition in abeyance while he exhausted state remedies. (ECF Nos. 1, 2.) The case was assigned to United States District Judge Avern Cohn, and on July 19, 2012, Judge Cohn granted Petitioner's motion to hold his petition in abeyance and closed the case for administrative purposes. (ECF No. 3.)

On August 26, 2019, Petitioner returned to federal court and filed a *pro se* habeas corpus petition, which was treated as a new case and assigned to United States District Judge Matthew F. Leitman. *See Devine v. Chapman*, No. 19-12541 (E.D. Mich. Aug. 26, 2019). The 2019 case subsequently was reassigned to Judge

Cohn as a companion case to this case. Judge Cohn then dismissed the 2019 case as duplicative of, or successive to, the 2012 case and ordered the Clerk of Court to file the 2019 habeas petition in this case.

On December 2, 2019, Judge Cohn directed the Clerk of Court to re-open this case, to amend the docket to reflect Petitioner's current address and warden, and to serve the petition on the Michigan Attorney General and Petitioner's warden. Judge Cohn also ordered the State to file a responsive pleading and the state-court record within six months of his order. (ECF No. 7.)

A month later, the case was reassigned to this Court, and when the State failed to file an answer to the petition by June 2, 2020, it appeared to the Court that the 2019 petition and Judge Cohn's order from December 2, 2019, were never served on the Michigan Attorney General or on Petitioner's warden.

Accordingly,

IT IS ORDERED that the Clerk of Court shall amend the docket to show that Petitioner's current warden at the Thumb Correctional Facility is Willis Chapman. The new caption shall read: Joseph Martin Devine v. Willis Chapman.

IT IS FURTHER ORDERED that the Clerk shall serve the 2019 petition (ECF No. 6) and a copy of this Order on the Michigan Attorney General and on Warden Willis Chapman.

IT IS FURTHER ORDERED that the State shall file a response to the 2019 petition and the relevant portions of the state-court record within four (4) months of the date of this order.

IT IS FURTHER ORDERED that Petitioner shall have forty-five (45) days from the date of the State's responsive pleading to file a reply.

IT IS SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: July 9, 2020

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, July 9, 2020, by electronic and/or U.S. First Class mail.

s/ R. Loury
Case Manager