

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

GREGORY McKNIGHT

Petitioner,

-vs-

DAVID BOBBY, Warden,

Respondent.

:

Case No. 2:09-cv-059

:

Chief Judge Susan J. Dlott
Magistrate Judge Michael R. Merz

:

**ORDER TO RE-FILE AMENDED PETITION WITH RECORD
REFERENCES**

This capital habeas corpus case is before the Court *sua sponte* upon examination of Petitioner's 242-page Amended Petition (Doc. No. 101).

In the Preface to the Petition, McKnight states:

Petitioner Gregory McKnight uses the following abbreviations to reference the state-court proceedings:

Transcript of trial proceedings: (Tr. ____).

Post-conviction exhibits submitted with the state-court petition:
(PC Ex. ____).

Supplemental Hearing on Motion to Suppress: (Supp. Hrg. ____).

Trial court's sentencing decision: (Sent. Dec. ____).

Application to Reopen Direct Appeal pursuant to Supreme Court
Practice Rule XI(6): (App. to Reopen ____).

All state-court post-conviction exhibits are incorporated into this pleading by reference.

(Amended Petition, Doc. No. 101, PageID 2869).

In numerous places in the Amended Petition, however, McKnight quotes from the state court proceedings without citing any place in the state court record from which he is quoting,

thus making it very laborious for the Court to verify the quotations. See, for example, PageID 2871, purportedly quoting from the Indictment, but giving no record reference whatsoever; PageID 2872-2878, purporting to quote from the merit brief on direct appeal to the Ohio Supreme Court, but giving no record reference.

Upon commencing the Factual Background section of the Amended Petition (PageID 2885), McKnight begins citing pages of the trial transcript. During the course of that recitation, he lapses back into referencing things that happened in the state courts which are reflected in the record, but without giving any record reference. For example,

On August 8, 2002, the trial court granted McKnight's Motion to Dismiss Capital Components. The trial court reasoned in its entry [Reference?] that the financial considerations of Vinton County posed an unacceptable risk that could affect McKnight's due process rights. This decision by the trial court generated a substantial amount of local, and even national, publicity. On August 14, 2002, the State sought reconsideration of the trial court's entry dismissing the capital specifications. [Reference?} The trial court subsequently sustained the State's motion to reconsider [Reference?}.

(Amended Petition, Doc. No. 101, PageID 2889). On the same page, McKnight alleges prejudicial media coverage and cites "(Exhibit A-43-108)." There are no exhibits attached to the Amended Petition and the citation is of no use in finding the exhibits in the record.

At various other points in the Amended Petition, McKnight cites to, e.g., (Hrg., March 26, 2002, Tr. 1-7). This citation, and others like it, do not adequately assist the reader in finding the cited portion of the state court record.

Fortunately, electronic filing in this Court now makes it possible to give much more helpful citations to the record. As the Court noted in ordering an answer to the Amended Petition, "[w]hen the record is filed electronically, the Court's CM/ECF filing system will affix a

unique PageID number to each page of the record, displayed in the upper right-hand corner of the page.” (Order, Doc. No. 103, PageID 3107-3108). Having ordered the States to re-file the record to obtain PageID numbers, the Court went on to order that all papers filed in this case after the electronic record “shall include record references to the PageID number.” *Id.* at 3108. As counsel are aware, this requirement parallels to newly-adopted rules for record references to PageID numbers in filings in the Sixth Circuit.

To make use of the electronic state court record in the further adjudication of this case, it is hereby ORDERED that, not later than June 1, 2013, Petitioner re-file the Amended Petition with record references to each place where the state court record is referred to, identified with the PageID number for that record reference.

May 9, 2013.

s/ *Michael R. Merz*
United States Magistrate Judge