

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

ANTONIO SANCHEZ FRANKLIN,

Petitioner, :

Case No. 3:04-cv-187

- vs -

Magistrate Judge Michael R. Merz

NORMAN ROBINSON, Warden,

Respondent. :

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**DECISION AND ORDER STRIKING *PRO SE* MOTION TO  
WITHDRAW REFERENCE**

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This capital habeas corpus case is before the Court on Petitioner's *pro se* Motion to Withdraw the reference to the Magistrate Judge as Pursuant to 28 U.S.C. § [636](c)(4)'s Extraordinary Circumstances and/or Good Cause Shown (Doc. No. 163).

As Petitioner has been repeatedly advised, a party represented by counsel may not file papers *pro se*. 28 U.S.C. § 1654 provides that "parties may plead and conduct their own cases personally or by counsel." The disjunctive "or" in the statute means that a litigant must choose between proceeding *pro se* and proceeding with the assistance of counsel. *United States v. Jimenez-Zalapa*, 2007 WL 2815563 (W.D. Tenn. 2007)(Breen, J.); *see also United States v. Mosely*, 910 F.2d 93, 97-98 (6<sup>th</sup> Cir. 1987); *United States v. Vampire Nation*, 451 F.3d 189 (3<sup>rd</sup> Cir. 2006).

The Motion to Withdraw Reference is accordingly STRICKEN.

January 30, 2014.

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