

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

ROGER DEAN GILLISPIE,

Petitioner,

:

Case No. 3:09-cv-471

:

-vs-

Magistrate Judge Michael R. Merz

DEB TIMMERMAN-COOPER, Warden,

Respondent.

:

**DECISION AND ORDER ON PETITIONER'S MOTION TO STRIKE
SEX OFFENDER STATUS**

This habeas corpus case is before the Court on Petitioner's Notice of Sex Offender Registration Attempts and Motion to Strike Sex Offender Status (Doc. No. 76).

The document was filed and served on December 24, 2011, and the time within which Respondent could file a memorandum in opposition under S. D. Ohio Civ. R. 7.2 has not expired. This Decision is not intended to preclude any such memorandum or allowing the Montgomery County Prosecutor an opportunity to be heard, if such an opportunity is sought. Rather this Decision is intended to state the Court's present understanding of the situation, pending a final resolution.

This Court did not impose sex offender registration on Mr. Gillispie as a condition of release, nor was it asked to do so. Counsel did not attach a copy of the notice Mr. Gillispie was handed that is referred to in the Motion, so it does not know on what basis that document or the authorities who directed distribution of that document do Mr. Gillispie believed he was required to register as a sex offender. If that requirement were an incident imposed by Ohio law on the release (on whatever

basis) of a person convicted of the offenses of which Mr. Gillispie was convicted, this Court's bond order would not interfere with that requirement. Nor would the Court's Decision to grant the writ conditionally interfere with that requirement because issuance of the writ has been stayed pending appeal.

At this point in time this Court has no opinion on Mr. Gillispie's requirement to register as a sex offender, if such a requirement is asserted to exist, and no authority to "strike" a registration which has not occurred.

The foregoing observations are offered for whatever use they may be to the parties in seeking additional relief.

January 3, 2012.

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