

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

JAMES M. CLINE,

Petitioner,

-vs-

WARDEN, Southern Ohio
Correctional Facility,

Respondent.

:

Case No. 3:10-cv-232

:

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

:

**ORDER TO FILE AMENDED PETITION AND APPLICATION TO PROCEED *IN
FORMA PAUPERIS*; ORDER TO CLERK TO AMEND CAPTION**

This habeas corpus case is before the Court for initial review. Upon initial review, the Magistrate Judge finds several anomalies which require correction.

1. The Clerk has docketed this case in the name of "James McCline." Petitioner's true name is "James M. Cline." The Clerk is ordered to amend the docket accordingly.
2. The Petitioner is in the custody of the Warden of the Southern Ohio Correctional Facility at Lucasville, on a sentence from the Champaign County Common Pleas Court. However, he has filed his Petition on the form for a motion to vacate judgment under 28 U.S.C. § 2255 as if he were a person in federal custody. The Rules Governing § 2254 Cases require the use of the form for those cases because of the information needed for initial review. It is accordingly ordered that the Clerk furnish Petitioner with the proper form for filing under 28 U.S.C. § 2254 and that Petitioner file an Amended Petition on that form immediately.

3. Petitioner did not pay the filing fee of \$5.00 nor file an application to proceed *in forma pauperis*. He shall pay the fee or file such an application with his Amended Petition.

June 17, 2010.

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

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