

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

AARON SCOTT,

Petitioner,

:

Case No. 3:12-cv-146

:

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

-vs-

WARDEN, Mansfield Correctional
Institution,

:

Respondent.

SECOND AMENDED ORDER FOR ANSWER

Having discussed with other Magistrate Judges in the District the procedures adopted in the Amended Order for Answer (Doc. No. 6), the Court hereby VACATES the following two paragraphs of that Order:

Secondly, the answer should group all arguments directed to a particular claim for relief together. In the past, it has often been the practice of the Attorney General’s Office to argue affirmative defenses (e.g., procedural default, lack of exhaustion, statute of limitations) separately from merits arguments. This requires the reader to flip back and forth within the argument unnecessarily.

Finally, the parties are reminded that S.D. Ohio Civ. R. 7.2(a)(3) applies to pleadings in habeas case. If the pleading or motion paper is in excess of twenty pages, the filer must include “a combined table of contents and a succinct, clear and accurate summary, not to exceed five (5) pages, indicating the main sections of the memorandum, the principal arguments and citations to primary authority made in each section, as well as the pages on which each section and any sub-sections may be found.”

The requirement to file the state court record first so that it is serially paginated with

PageID numbers remains in place. The undersigned will monitor the use of this practice for a number of months to determine its utility and invites the Attorney General's Office to advise the Court of its actual experience with the practice.

In the Amended Order for Answer, the Court suggested the Attorney General's Office consider adopting this practice at other locations of court and was advised that that Office believes there is a requirement at Cincinnati that exhibits in the state court record be filed separately. The undersigned has consulted with Magistrate Judge Bowman who is unaware of the provenance of that requirement; Magistrate Judge Litkovitz was not available for consultation. It is respectfully suggested that the Attorney General's Office consult with both Magistrate Judges in Cincinnati to determine if this requirement is any longer applicable.

The Answer and Return in this case remain due October 19, 2012.

October 1, 2012.

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