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

MICHAEL HAZEL,

                Petitioner,   :   Case No. 3:13-cv-332

     - vs -   District Judge Timothy S. Black
                                      Magistrate Judge Michael R. Merz

WARDEN, Chillicothe
  Correctional Institution,

                                 :

                Respondent.

SUPPLEMENTAL ORDER

This habeas corpus case was filed September 27, 2013 (Petition, Doc. No. 1). On September 28, 2013, the Magistrate Judge conducted an initial review under Rule 4 of the Rules Governing § 2254 Cases and drafted the Order which was filed September 30, 2013 (Doc. No. 3). After that Order was filed, the Clerk received in the mail on September 30, 2013, the following documents:

1. Petitioner's $5.00 filing fee.

2. A blank form of Certificate, drafted to be completed by an authorized officer of the incarcerating institution to show funds on hand.

3. A habeas corpus petition stamped "original" in red ink.

4. A habeas corpus petition stamped "prosecutor's copy" in red ink.

5. A document entitled "Appellant's Principal Brief" stamped "original" in red ink.

1

In consideration of the tender of the filing fee, the Court's *sua sponte* order permitting *in forma pauperis* status is VACATED. The Clerk shall deposit the filing fee and credit it to this case.

The blank certificate form shall be returned by the Clerk to Petitioner as it is not material to the case.

The Petition labeled "original" shall be scanned and uploaded to the Court's filing system and docketed as "Amended Petition"; the original thereof shall be returned to Petitioner by the Clerk. The "prosecutor's copy" shall be discarded by the Clerk as surplusage.

The "Appellant's Principal Brief" shall be scanned and uploaded to the Court's filing system and docketed as it is labeled; the original thereof shall be returned to Petitioner by the Clerk.

Petitioner is again cautioned that the Court will not make copies for him except at $.50 per page; his incarcerated status does not affect this charge.

Order for Answer

Upon preliminary consideration pursuant to Rule 4 of the Rules Governing §2254 Cases, the Court finds that it does not plainly appear from the face of the Petition and any exhibits attached thereto that the Petitioner is not entitled to relief in this Court. Accordingly, it is hereby ORDERED that Respondent shall, not later than November 15, 2013, file an answer conforming to the requirements of Rule 5 of the Rules Governing §2254 Cases. Specifically, said answer shall respond to each allegation made in the Petition, raise any affirmative defense relied on by Respondent, and state whether, from Respondent's perspective, any claim in the Petition is barred by a failure to exhaust state remedies, a procedural bar, non-retroactivity, or a statute of

limitations.

Before filing the answer, the Respondent shall file those portions of the state court record needed to adjudicate this case, accompanied by an index of the documents in the record. When 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. All papers filed in the case thereafter, by either party, including the answer and the exhibit index, shall include record references to the PageID number. Prior to filing the state court record, the Warden's counsel shall ensure that any borders on parts of the record (typically, court reporter transcripts) do not obscure the PageID number when the page is filed.

As required by Fed. R. Civ. P. 5, a complete copy of the answer and state court record with the PageID numbers must be served on Petitioner at the time of filing.

Petitioner may, not later than twenty-one days after the answer is filed, file and serve a reply to the answer.

The Clerk is ordered to serve the Petition on Respondent and the Attorney General of Ohio, c/o Assistant Attorney General M. Scott Criss, Section Coordinator, 150 E. Gay Street, 16th Floor, Columbus, Ohio 43215.

October 1, 2013.

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

3