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Norma Crawford
Julie Rattliff

April 22, 2013

To: Beverly Grimshaw, Librarian
Scioto County Law Library

From: Danielle M. Parker
Assistant Prosecuting Attorney

Re: Pro Se Litigant Legal Assistance

You have requested from this office a legal opinion as to whether or not the law library is required to provide legal resources to persons incarcerated in the county jail, and, if so, whether the inmate is responsible for the copy charges. It is my understanding from our conversations that an inmate incarcerated in the Scioto County Jail has elected to proceed pro se in the criminal proceedings presently pending before the Scioto County Court of Common Pleas. This Defendant has now requested legal materials and access to the Scioto County Law Library in preparation of these criminal proceedings.

The Fourth District Court of Appeals held in *Smith v. Lawrence County Sheriff's Department, et al.*, 2002-Ohio-2151, that "[a] defendant who chooses to proceed pro se is not entitled to unlimited cost-free access to a law library simply because he is indigent and incarcerated. See *Id.* The Ohio Supreme Court wrote in *State ex rel., Green v. Enright* (1992), 63 Ohio St.3d 729 that "when a criminal defendant waives the assistance of trial counsel, he also relinquishes individual access to a law library to prepare his defense. See *Id.* citing *United States v. Smith* (C.A.6, 1990), 907 F.2d 42. See also, *State ex rel. Carter v. Schotten* (1994), 70 Ohio St. 3d 89.

The Sixth Circuit Court of Appeals reaffirmed this while addressing a similar situation in *United States v. Smith*, 907 F.2d 42 (6th Cir.1990), were they found "that by knowingly and intelligently waiving his right to counsel, the appellant also relinquished his access to a law library." *Id.* at 45. The Court's rationale behind that decision tracked that of the Seventh Circuit in *United States ex rel. George v. Lane*, 718 F.2d 226 (7th Cir.1983). Dealing with the appointment of counsel in a state criminal proceeding, the *Lane* court held: "The offer of court-appointed counsel to represent a defendant satisfied the constitutional obligation of a state to provide a defendant with legal assistance under the Sixth and Fourteenth Amendments." 718 F.2d at 231. See also *United States v. Chatman*, 584 F.2d 1358, 1359 (4th Cir.1978). The Sixth Circuit therefore held that "the state does not have to provide access to a law library to defendants in criminal trials who wish to represent themselves." *Smith*, 907 F.2d at 45.

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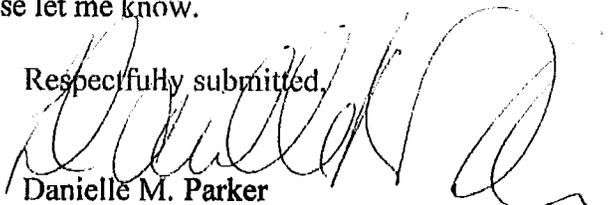
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Therefore, based upon the foregoing, I am of the opinion that you are not required to provide access to the law library facilities and materials of the law library in response to a request of an incarcerated inmate that has elected to proceed pro se. Likewise, you are not required to provide access to the law library resources free of charge.

If you should have any further questions or concerns, please let me know.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Danielle M. Parker', written in a cursive style.

Danielle M. Parker
Assistant Prosecuting Attorney

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