

Admin, Appeal, Cat05, Termed

U.S. District Court
Northern District of Ohio (Youngstown)
CIVIL DOCKET FOR CASE #: 4:04-cv-01837-JG

Cioffi v. Bobby
Assigned to: Hon. James S. Gwin
Cause: 28:2254 Petition for Writ of Habeas
Corpus (State)

Date Filed: 09/10/2004
Jury Demand: None
Nature of Suit: 530 Habeas
Corpus (General)
Jurisdiction: Federal Question

Petitioner**Anthony Cioffi, Jr.**

represented by **Jeffrey V. Goodman**
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V.

Respondent**David Bobby**
Warden

represented by **Gregory T. Hartke**
Office of the Attorney
General
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NOTICED

Date Filed	#	Docket Text
09/10/2004	● <u>1</u>	Petition under 28 USC 2254 for Writ of Habeas Corpus by a person in state custody. Filed by Anthony Cioffi Jr. Filing fee paid; receipt number 406651. (Attachments: # <u>1</u> Civil Cover Sheet)(A, J) (Entered: 09/10/2004)
09/10/2004	● <u>2</u>	Random Assignment of Magistrate Judge George J. Limbert. (A, J) (Entered: 09/10/2004)
09/10/2004	● <u>3</u>	Administrative Track DCM Initial Order. Chief Judge Paul R. Matia (A, J) (Entered: 09/10/2004)
09/15/2004	● <u>4</u>	Order signed by Judge James S. Gwin on 9/15/04 that this case is entered into the Court's electronic filing system. All further documents in this matter are to be filed electronically rather than on paper. (Attachments: # <u>1</u> ECF Policy and Procedures Manual)(M, G) (Entered: 09/15/2004)
09/15/2004	● <u>5</u>	Order signed by Judge James S. Gwin on 9/15/04 referring this case to Magistrate Judge George Limbert for a Report and Recommendation. (Related Docs. <u>1</u> . (M, G) (Entered: 09/15/2004)
09/15/2004	● <u>6</u>	Order: Respondent shall file an answer to the petition within 60 days from the date of this order; petitioner shall have 30 days from the filing of respondent's answer to respond; further, the Clerk of Court shall forward a copy of the petition and this order to respondent and to the Attorney General of the State of Ohio, by certified mail. Signed by Magistrate Judge

		George J. Limbert on 9/15/04. (S, A) Modified on 9/16/2004, copy of petition and this order sent by certified mail to the respondent and the Attorney General for the State of Ohio on 9/16/04 (R, N). Modified text on 9/16/2004 (P, G). (Entered: 09/15/2004)
09/22/2004	07	Certified mail receipt returned, addressed to Attorney General for the State of Ohio and delivered on 9/20/04. Related document(s) 6 . (A, J) Modified text on 9/23/2004 (P, G). Modified a typographical error on 9/24/2004 (R, N). (Entered: 09/22/2004)
09/22/2004	08	Certified mail receipt returned, addressed to the Warden of Trumbull Correctional Institution and delivered on 9/17/04. Related document(s) 6 . (A, J) Modified text on 9/23/2004 (P, G). (Entered: 09/22/2004)
11/15/2004	09	First Motion for extension of time until 12/15/2004 to answer petition filed by David Bobby. Related document(s) 6 . (Hartke, Gregory) (Entered: 11/15/2004)
11/16/2004	10	Marginal Order granting 9 respondent's Motion for Extension of Time through and including 12/15/04 in which to show cause why the petitioner's petition should not be granted. Signed by Magistrate Judge George J. Limbert on 11/16/04.(S, A) (Entered: 11/16/2004)
12/10/2004	11	Motion to dismiss case due to petition being time-barred, filed by David Bobby. Related document(s) 1 , 10 . (Attachments: # 1) Exhibit 1 appeal opinion 2003-Ohio-2374; # 2 Exhibit 2 Indictment 95CR696; # 3 Exhibit 3 Indictment 96CR599; # 4 Exhibit 4 Sentencing Entries; # 5 Exhibit 5 Motion to Withdraw Guilty Pleas; # 6 Exhibit 6 Docket 95CR696; # 7 Exhibit 7 Opposition to Plea Withdrawal; # 8 Exhibit 8 Supplement to Opposition to Plea Withdrawal; # 9

		<p>Exhibit 9 Plea Withdrawal Transcript pp. 1-48 (page 38 missing); # 10 Exhibit 9A Transcript pp. 50-74; # 11 Exhibit 9B Transcript pp. 75-119; # 12 Exhibit 9C Transcript pp. 120-169 End; # 13 Exhibit 10 State's Post-Hearing Brief; # 14 Exhibit 11 Judgment Entry Denying Plea Withdrawal; # 15 Exhibit 12 Notices of Appeal COA; # 16 Exhibit 13 Judgment Entry Consolidating COA Appeals; # 17 Exhibit 14 Appellant's Brief COA; # 18 Exhibit 15 Docket COA; # 19 Exhibit 16 Appellee's Brief; # 20 Exhibit 16A Appendix to Appellee's Brief COA; # 21 Exhibit 17 Journal Entry and Opinion COA; # 22 Exhibit 18 Notice of Appeal OSC; # 23 Exhibit 19 Jurisdiction Memo OSC; # 24 Exhibit 20 Jurisdiction Response OSC; # 25 Exhibit 21 Order OSC; # 26 Exhibit 22 Docket CCP 96CR599)(Hartke, Gregory) Modified text on 12/13/2004 (S, T). Modified text on 5/12/2005 (H, S P). (Entered: 12/10/2004)</p>
01/25/2005	● 12	<p>Report and Recommendation: It is recommended that the Court dismiss petitioner's Section 2254 federal habeas corpus petition with prejudice as time-barred, and find that it is not subject to equitable tolling (Related documents 11 and 1). Signed by Magistrate Judge George J. Limbert on 1/25/05. (S, A) (Entered: 01/25/2005)</p>
02/03/2005	● 13	<p>Objection to the Magistrate's proposed findings and recommendation filed by Anthony Cioffi, Jr. Related document(s) 12. (R, N) (Entered: 02/04/2005)</p>
02/10/2005	● 14	<p>Response in Opposition to Petitioner's Objections to the Magistrate Judge's Report and Recommendation filed by David Bobby. Related document(s) 11, 12, 13, 1. (Attachments: # 1 Appendix 56 Fed. Appx. 682) (Hartke, Gregory) (Entered: 02/10/2005)</p>
02/11/2005	● 15	<p>Supplemental memorandum in support of petitioner's objections to Magistrate's proposed findings and</p>

		recommendation filed by Anthony Cioffi, Jr. Related document(s) 12 . (J, Jo) (Entered: 02/14/2005)
03/03/2005	● 16	Opinion and Memorandum signed by Judge James S. Gwin on 3/3/05 adopting, in full, the Magistrate Judge's Report and Recommendation, granting respondent's motion to dismiss the habeas petition as time-barred, and denying petitioner's Section 2254 petition and request for evidentiary hearing; case dismissed; the Court certifies pursuant to 28 U.S.C. Section 1915(a)(3) that an appeal from this decision could not be taken in good faith and there is no basis upon which to issue a certificate of appealability. (L, T) (Entered: 03/03/2005)
03/03/2005	● 17	Order signed by Judge James S. Gwin on 3/3/05 adopting the Magistrate Judge's Report and Recommendation; petitioner's petition for writ of habeas corpus is denied and respondent's motion to dismiss is granted. Court certifies pursuant to 28 U.S.C. Section 1915(a)(3) that an appeal from this decision could not be taken in good faith and there is no basis upon which to issue a certificate of appealability. (Related Documents 1 11 12 16) (L, T) (Entered: 03/03/2005)
03/03/2005	● 18	Judgment signed by Judge James S. Gwin on 3/3/05 adopting the Magistrate Judge's Report and Recommendation; petitioner's petition for writ of habeas corpus is denied and respondent's motion to dismiss is granted. Court certifies pursuant to 28 U.S.C. Section 1915(a)(3) that an appeal from this decision could not be taken in good faith and there is no basis upon which to issue a certificate of appealability. Case terminated under Federal Rule of Civil Procedure 58. (Related Documents 16 17) (L, T) (Entered: 03/03/2005)
03/17/2005	● 19	Motion to alter/amend judgment or in the alternative

		Motion for Certification of Appealability filed by Anthony Cioffi, Jr. Related document(s) 17 , 18 . (J, Jo) (Entered: 03/17/2005)
03/18/2005	20	Response to Motion for certification of appealability and Motion to alter/amend judgment filed by David Bobby. Related document(s) 19 . (Hartke, Gregory) Modified text on 3/21/2005 (P, G). (Entered: 03/18/2005)
04/07/2005	21	Opinion and Memorandum signed by Judge James S. Gwin on 4/7/05 denying petitioner's motion to amend or alter the judgment, or in the alternative for a certificate of appealability. (Related Doc. 20 , 19 , 18 , 17 , 16) (M, G) (Entered: 04/07/2005)
04/07/2005	22	Order signed by Judge James S. Gwin on 4/7/05. For the reasons stated in the accompanying Opinion and Memorandum, petitioner's motion to amend or alter the judgment, or in the alternative for a certificate of appealability is denied. (Related Doc. 21 , 20 , 19 , 18 , 17 , 16) (M, G) (Entered: 04/07/2005)
05/09/2005	23	NOTICE OF APPEAL to the Sixth Circuit Court of Appeals as to 21 Opinion and Memorandum and 22 Order of 4/7/05, filed by Anthony Cioffi, Jr. Filing fee \$ 255.00, receipt number 407125. (Attachments: # 1 Exhibit A; # 2 Exhibit B) (R, N). Modified text on 5/12/2005 (H, S P). (Entered: 05/10/2005)

Admin, Cat05, PS, Referred

U.S. District Court
Northern District of Ohio (Youngstown)
CIVIL DOCKET FOR CASE #: 4:04-cv-01836-PCE

Cioffi v. Bobby

Assigned to: Hon. Peter C. Economus

Referred to: Magistrate Judge James S. Gallas

Case in other court: Trumbull County Court of Common Pleas, 95-CR-696

Date Filed: 09/10/2004

Jury Demand: None

Nature of Suit: 530 Habeas Corpus (General)

Jurisdiction: Federal Question

Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Petitioner

Anthony Cioffi, Jr.

represented by Jeffrey V. Goodman

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Respondent

David Bobby

Warden

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09/10/2004	2	Random Assignment of Magistrate Judge James S. Gallas. (A, J) (Entered: 09/10/2004)
09/10/2004	3	Administrative Track DCM Initial Order. Chief Judge Paul R. Matia (A, J) (Entered: 09/10/2004)
09/22/2004	4	Automatic Reference of Administrative Action to Magistrate Judge James S. Gallas for a Report and Recommendation. Signed by Judge Peter C. Economus on 9/22/04. (R, N) (Entered: 09/22/2004)
09/29/2004	5	Order: Respondent shall move or answer the petition within 40 days of this order. Signed by Magistrate Judge James S. Gallas on 9/29/2004. (Related document #1) (P, J) (Entered: 09/29/2004)

09/29/2004	3	Remark: Copy of petition and copy of order to respond mailed to Attorney General by certified mail on 9/29/2004. Related document(s)5. 1. (P, J) (Entered: 09/29/2004)
10/06/2004	6	Certified mail receipt returned, addressed to Office of the Attorney General and delivered on 10/4/04. (Related documents 5. 1) (L, T) (Entered: 10/06/2004)
03/29/2005	7	Motion for default judgment filed by Anthony Cioffi, Jr. (J, Jo) (Entered: 03/30/2005)
04/05/2005	8	Motion for leave to File Motion to Dismiss Petition; Motion to consolidate petition, Motion in opposition to default judgment, and motion for leave to plead instanter, filed by David Bobby. Related document(s)5, 7, 1, 5. (Attachments: # 1 Appendix Motion to dismiss petition, alternatively to consolidate petition with the petition in 4:04CV1837, alternatively opposition to default judgment, alternatively leave to plead instanter by a date certain)(Hartke, Gregory) Modified on 4/6/2005 (J, Jo). (Entered: 04/05/2005)
05/09/2005	9	Marginal Order granting respondent's motion for leave to file motion to dismiss petition. Attorney to electronically file motion to dismiss (Related Doc # 8). Signed by Magistrate Judge James S. Gallas on 5/9/2005 (P, J) (Entered: 05/09/2005)
05/10/2005	10	Interim Report and Recommendation that petitioner's motion for default judgment be denied (Related document #7). Objections to be filed within 10 days of mailing of this notice. Signed by Magistrate Judge James S. Gallas on 5/10/2005. (P, J) (Entered: 05/10/2005)
05/10/2005	11	Order to Show Cause: Petitioner is to respond on or before 5/27/2005 with appropriate evidentiary documentary support explaining why this is not a second or successive federal habeas corpus petition in light of the companion case in 4:04cv1837 (Related document #1). Signed by Magistrate Judge James S. Gallas on 5/10/2005. (P, J) (Entered: 05/10/2005)
05/11/2005	12	Motion to dismiss case filed by David Bobby. Related document(s)9. 1. (Hartke, Gregory) (Entered: 05/11/2005)
05/27/2005	13	Response to Show Cause Order filed by Anthony Cioffi, Jr. Related document(s)11. (R, N) (Entered: 05/31/2005)
06/03/2005	14	Petitioner's Memorandum Contra to Respondent's Motion to dismiss filed by Anthony Cioffi, Jr. Related document(s)12. (Attachments: # 1 Exhibit A)(R, N) (Entered: 06/03/2005)
06/08/2005	15	Reply to petitioner's response to respondent's Motion to Dismiss case filed by David Bobby. Related document(s)12. (Hartke, Gregory) Modified on 6/9/2005 to edit text (B, T). (Entered: 06/08/2005)