



3-11-1999

Amended Answer of the State of Ohio to the Petition for Declaration of Wrongful Incarceration

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Recommended Citation

Mason, William D. and Cassidy, Marilyn B., "Amended Answer of the State of Ohio to the Petition for Declaration of Wrongful Incarceration" (1999). *1995-2002 Court Filings*. Paper 24.
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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

FILED

1999 MAR 11 P 4: 30

RONALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY

ALAN DAVIS, Special Administrator
of the Estate of Samuel H. Sheppard,

Plaintiff,

vs.

STATE OF OHIO,

Defendant.

: CASE NO. 312332

: JUDGE RONALD SUSTER

: AMENDED ANSWER OF
: THE STATE OF OHIO TO THE
: PETITION FOR DECLARATION OF
: WRONGFUL INCARCERATION

: (Jury Demand Endorsed Hereon)

The State of Ohio, by and through counsel, William D. Mason, Prosecuting Attorney for Cuyahoga County, and Marilyn Barkley Cassidy, Assistant Prosecuting Attorney, for its amended answer to the petition herein states as follows:

1. State admits the allegations set forth in paragraphs one, two, three and four of the petition.
2. State admits that Dr. Sheppard was incarcerated in Ohio prison(s) but denies the period of time set forth in paragraph five.
3. The State denies the allegations set forth in paragraphs six and seven of the petition.
4. The State denies for lack of knowledge sufficient to form a belief as to the truth of the allegations contained in paragraphs eight, nine, ten, eleven and twelve.
5. The State specifically denies paragraph thirteen of the petition.

AFFIRMATIVE DEFENSES

6. Failure to state a claim upon which relief can be granted.
7. This Court lacks jurisdiction to render judgment.
8. The Estate of Samuel Sheppard lacks standing to assert a claim of wrongful incarceration.
9. This action is barred by the statute of limitations.
10. This action is barred by laches.
11. Any claim that Samuel Sheppard may have lawfully pursued has abated with his death, the passage of time, and through his failure to timely assert a claim at or near the time of his acquittal.
12. This claim is barred by the doctrine of *res judicata*.
13. This claim is barred by the doctrine of collateral estoppel.

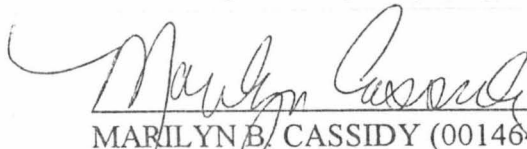
WHEREFORE, defendant respectfully requests a trial by jury on all issues so triable.

Respectfully submitted,

WILLIAM D. MASON, Prosecuting Attorney
of Cuyahoga County, Ohio



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