STATE OF MICHIGAN
IN THE SUPREME COURT

RECEIVED
SEP 21 2009
CORBIN R. DAVIS
CLERK SUPREME COURT

STATEMENT REGARDING MAILBOX RULE

NOW COMES DERRICK LEE SMITH INMATE #267009-3-107D-ST. LOUIS CORRECTIONAL FACILITY--8585 N. CROSWELL ROAD--ST. LOUIS CORRECTIONAL FACILITY 8585 N. CROSWELL ROAD--ST. LOUIS, MI 48880-- ALSO A LITIGANT AND DEFENDANT IN CRIMINAL APPEALS AND LEGAL WRITER IN THE MICHIGAN DEPARTMENT OF CORRECTIONS AND SOON TO BE APPELLANT IN A CRIMINAL APPEAL BEFORE THIS COURT.

I WAS VEWING THE LAWYERS WEEKLY AND SAW THAT THE COURT WAS GOING TO BE AMEDNING MICHIGAN COURT RULES 7.105--7.204--7.302 AND READ THAT THE COURT SAID IT WOULD TAKE COMMENTS ON THE AMENDING OF THE COURT RULES REGARDING MAIL BOX RULE.

THEREFORE, I WOULD LIKE TO TAKE COMMENT ON THE MAILBOX RULE IF THE COURT WILL ACCEPT THIS COMMENT WHICH I RESPECTFULLY PRAY THAT IT WILL ACCEPT THIS PRO PER DEFENDANT/LITIGANT COMMENTS AND CONSIDER IT DURING IT'S DECISION-MAKING ON THE MAILBOX RULE.

IF IT PLEASE THE COURT, LITIGANT DERRICK LEE SMITH MDOC #267009 STATES THE FOLLOWING:

1. THE MAIL BOX RULE BEING ADOPTED WOULD BENEFIT GREATLY AND FULLY ASSIST PRISONERS GREATLY WITH THE PROPER AND TIMELY FILING OF THE PLEADINGS AND OTHER POSTCONVICTION APPEALS BEING FILED BY PRO SE LITIGANT/DEFENDANTS.

2. WHEN A PRISONER COMES TO THE DEPARTMENT OF CORRECTIONS, HE IS ON HIS OWN AND RELIES UPON THE ASSISTANCE OF COURT APPOINTED COUNSEL ON HIS DIRECT APPEAL, AND THEN, AFTER THAT APPEAL IS DENIED, THE DEFENDANT HAS TO LEARN HOW TO CONDUCT HIS OWN RESEARCH AND FILE HIS OWN APPEALS IN THE COURT AND ALSO DEFENDANTS HAVE OTHER CLIAMS TO FILE IN THE MICHIGAN SUPREME COURT OR OTHER CIVIL AND CRIMINAL MATTERS ON APPEAL AND BEING BROUGHT BEFORE THE COURT.

3. THE LAW LIBRARY IS ONLY OPEN TO CERTAIN PRISONERS AT CERTAIN FACILITIES ON CERTAIN DAYS FOR CERTAIN LIMITED AMOUNT OF HOURS IN THE LAW LIBRARY AND THOSE HOURS ARE INVOLVED WITH A VERY STRESSFUL, LOUD AND UNCALM SETTING WITHIN WHICH TO CONDUCT PROPER RESEARCH TO DO THE ACTUAL APPEAL WHICH HAS TO BE PRESENTED TO THE COURT.

WHAT WITH MOST CRIMINAL LITIGANTS ARE ONLY ALLOWED TO USE NON-MEMORY-NON WORD PROCESSOR TYPEWRITERS WITH WHIC TO DO THE ACTUAL DRAFTING AND FORMATTING OF APPEALS AND OTHER DOCUMENTS THAT MUST BE FILED, AND ALLOT OF TIMES IT TAKES LONGER THEN 12 MONTHS TO GET AN ACTUAL APPEAL IN, BUT SOMEHOW THE DEFENDANTS WHO DO WORK ACTUALLY GET IT DONE BUT THERE ARE ALL SORTS OF THINGS THAT ARE BEING APPLIED TO CRIMINAL DEFENDANTS WHEN IT COMES TO DOING THE ACTUAL APPEAL THAT THE OTHER LITIGANTS IN SOCIETY DO NOT HAVE TO WORRY ABOUT, A PRISON SETTING-- THEREFORE, WHEN THINGS HAPPEN TO DEFENDANTS WHO ARE INCARCERATED AND WISH TO FILE THEIR APPEALS OR OTHER ACTIONS IN THE SUPREME COURT, DEFENDANTS HAVE TO DO AN EXTREME AMOUNT OF WORK ON ARCHAIC TYPEWRITERS THAT DO NOT EVEN ALLOW THE DEFENDANT THE OPPORTUNITY TO FULLY

AND EFFECTIVELY PREPARE THE PLEADINGS IN A CORRECT AMOUNT OF TIME, WHAT WOULD TAKE A SOCIETAL PARTY 1 DAY OR 1 HOUR TO COMPLETE, TAKES DEFENDANTS INCARCERATED 1 WEEK OR EVEN A MONTH TO DO THE SAME WORK, WHICH IS UNFORTUNATE BUT IT IS THE WAY THINGS ARE AND NO MATTER WHAT WE HAVE TO FILE OUR APPEALS, BUT THERE ARE SO MANY OTHER THINGS THAT AFFECT THE HUMAN NATURE FOR DEFENDANTS AND THOSE THINGS SIMPLY AFFECT THE DEFENDANTS, AND THEN WHEN WE TRY AND GET THEM TO THE COUNSELOR FOR MAILING OUT, IT TAKES THREE OR FOUR DAYS, AND THAT CAN BE VERY VERY AFFECTIVE TOWARDS THOSE OF US WITH GOOD CONSTITUTIONAL ISSUES WHICH SHOULD BE HEARD BY THE COURT, IF YOU CAN UNDERSTAND WHAT WE ARE SAYING.

ALSO YOUR HONORS, THE FACT THAT THERE ARE DEFENDANTS WHO ARE INNOCENT INCARCERATED AND ARE ON THEIR OWN WITH FILING THEIR APPEALS AND GETTING THEM TO THE COURT BY A CERTAIN DATE AND TIME AND SHOULD NOT BE ALLOWED TO HAVE HIS ENTIRE GROUNDS AND SUBSTANTIVE ISSUES FILED IN THE PLEADINGS ENTIRELY THROWN AWAY BECAUSE OF STAFF NOT SENDING THE LEGAL PLEADINGS TO THE COURT IN A PROPER TIME FRAME AS LONG AS THAT DEFENDANT HAS GIVEN IT TO THEM WITH ENOUGH TIME FOR DELIVERY TO THE COURT AND ALSO, THE COURT SHOULD ADOPT THE MAILBOX RULE BECAUSE TO KEEP AN INNOCENT MAN INCARCERATED AND DENIED JUSTICE SIMPLY BECAUSE IT DID NOT ARRIVE TO THE COURT BECAUSE OF A FEW DAYS, THAT IS UNFAIR TO THE INNOCENT PARTIES LOCKED UP FOR THINGS THAT ARE OUTSIDE OF HIS CONTROL ESPECIALLY IF A LEGAL DOCUMENT IS DUE TO THE SUPREME COURT ON A FRIDAY, AND THE DEFENDANT GIVES IT TO STAFF ON MONDAY MORNING BUT IT DOES NOT GET THERE ON TIME, IT IS NOT THE DEFENDANTS FAULT AND SHOULD NOT BE DENIED TO HIM ON HAVING HIS ENTIRE APPEAL HEARD THROUGH THE PROPER COURSE OF APPELLATE PROCEDURE.

SIMPLY PUT YOUR HONORS, THE INCARCERATED DEFENDANTS ARE WORKING UNDER EXTREME HARSH LIVING CONDITIONS TO GET HIS APPEAL AND OTHER LEGAL PLEADINGS DONE, WHICH OTHER NON-INCARCERATED PARTIES DO NOT WORK UNDER AND SHOULD NOT BE FORCED TO BE PUNISHED BY LOSING HIS ENTIRE APPEAL AT STATE AND FEDERAL LEVEL BECAUSE THE PRO PER INCARCERATED LITIGANT IS WORKING UNDER ENTIRELY DIFFERENT CONDITIONS THEN THE OTHER LEGAL PARTIES.

AS A DEFENDANT, I MUST SAY THAT THE CONDITIONS I AM WORKING UNDER ARE EXTREMELY HORRIBLE CONDITIONS THAT ARE NOT SUBJECT TO OTHER PARTIES, AND QUITE SIMPLY, IT WOULD JUST MAKE SENSE TO HAVE DOCUMENTS CONSIDERED FILED WHEN THEY ARE PLACED IN THE MAILBOX AS THAT THE LITIGANT FILING IT IS PLACING IT IN THE MAIL-BOX WITH THE INTENT OF HAVING IT FILED TO THE COURT.

PLEASE CONSIDER THESE ISSUES THAT I HAVE ADDRESSED WHEN CONSIDERING THE CHANGES TO THE MAILBOX COURT RULE.

THANK YOU AND MAY GOD BLESS YOUR COURTROOM.

RESPECTFULLY,

MR. DERRICK LEE SMITH
#267009-3-107D
ST. LOUIS CORRECTIONAL FACILITY
9585 N. CROSWELL ROAD
ST. LOUIS, MI 48880