

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT PANN #254048,
Petitioner,

v.

MILLICENT WARREN,
Respondent.

CASE NO. 5:08-CV-13806

HONORABLE JOHN C. O'MEARA
UNITED STATES DISTRICT JUDGE

HONORABLE MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

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MOTION AND NOTICE FOR RELIEF OR INTERVENTION

TO ALL PARTIES AND ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT crime victim, Julian E. Ulmer and victims' lawful representative, David J. Lennox will and do move this Court for injunctive and declaratory relief pursuant to 18 U.S.C. § 3771(b)(2)(B)(i). In the alternative, movants seek leave to intervene as of right, as respondents in this civil proceeding pursuant to Fed. R. Civ. P. 24(a)(2).

The grounds for this motion for relief are as follows:

1.) Movants seek to join the above entitled action in order to : (1) protect their legal rights and interests; (2) inform this Court of certain material facts which are presently being concealed from it by the existing parties; (3) challenge the constitutionality of a state court rule that operated to deprive the movants of their property and liberty interests; and (4) to make a record.

2.) The relief requested by the movants is warranted under 18 U.S.C. § 3771(b)(2)(B)(i), which provides that, in a federal habeas corpus proceeding arising from a State conviction, the court shall ensure that a crime victim is afforded the right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.

3.) Intervention as of right is warranted because: (1) this application is timely in comparison to the Petitioner's application for habeas relief; (2) the potential interveners hold a constitutionally protected property interest in the subject of this action; (3) without intervention, the disposition here can result in deprivation of said property interest; and (4) said property interest is not adequately represented by the current parties to the action.

This motion is based on this Notice of Motion and Motion, the accompanying Memorandums in Support of this Motion; the accompanying Proposed Order Granting Motion to Intervene; and the complete files and records of this action, and on such other argument or evidence as may be presented at or before the time of hearing.

Respectfully submitted

David J. Lennox, Attorney for Movants

CERTIFICATE OF SERVICE

I hereby certify that on December 24, 2009, I filed the foregoing papers with the Clerk of the Court who will send notification of such filing using the ECF system to the following people :

HONORABLE JOHN CORBETT O'MEARA
MAGISTRATE JUDGE MONA K. MAJZOUB
ATTORNEY JAMES S LAWRENCE
ATTORNEY BRAD H. BEAVER

/s/ David J. Lennox
Attorney for Movants