



2-28-1997

Answer of the State of Ohio

Stephanie Tubbs Jones
Cuyahoga County Prosecutor

Marilyn B. Cassidy
Cuyahoga County Assistant Prosecutor

Patrick J. Murphy
Cuyahoga County Assistant Prosecutor

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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

ALAN DAVIS, EXECUTOR, ET.AL. : CASE NO. 312322
Plaintiff :
 :
-V- : JUDGE RON SUSTER
 :
STATE OF OHIO : ANSWER OF THE STATE OF OHIO TO
 : THE PETITION FOR DECLARATION OF
Defendant : WRONGFUL INCARCERATION

The State of Ohio, by and through counsel, Stephanie Tubbs Jones, Prosecuting Attorney for Cuyahoga County, and Marilyn Barkley Cassidy and Patrick Murphy, Assistant Prosecuting Attorneys, for its 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, twelve.
5. The state specifically denies paragraph thirteen of the petition.

AFFIRMATIVE DEFENSES

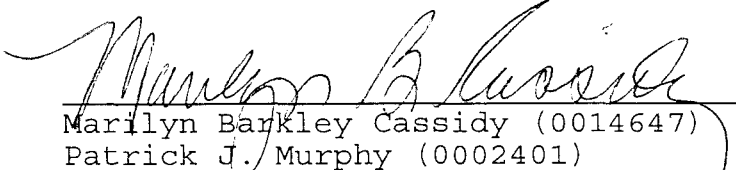
6. Failure to state a claim upon which relief can be granted.
7. This court lacks jurisdiction to render judgment.
8. The estate of Samuel Sheppard lacks standing to assert a claim of wrongful incarceration.
9. This action is barred by the statute of limitations.
10. This action is barred by laches.

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.

WHEREFORE, the State of Ohio, respectfully requests that this action be dismissed, at petitioner's costs, and that judgment be entered on behalf of the state of Ohio.

Respectfully Submitted,

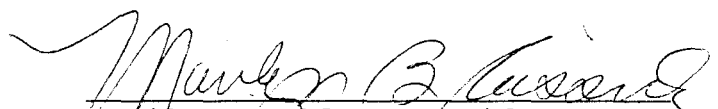
STEPHANIE TUBBS JONES, PROSECUTING
ATTORNEY FOR CUYAHOGA COUNTY


Marilyn Barkley Cassidy (0014647)
Patrick J. Murphy (0002401)
Assistant Prosecuting Attorneys
1200 Ontario Street - 8th Floor
Cleveland, Ohio 44113
(216) 443-7785

CERTIFICATE OF SERVICE

A copy of the foregoing Answer of the State of Ohio, was served upon Terry Gilbert, Attorney for Petitioner, Special Administrator for the Estate of Samuel H. Sheppard, 1700 Standard Building, 1370 Ontario Street, Cleveland, Ohio 44113, this 28th day of Februrary, 1997.

Respectfully Submitted,


Marilyn Barkley Cassidy
Assistant Prosecuting Attorney