

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION**

BRYAN S. BEHRENS,	)	
	)	
	)	
vs.	)	Case No. 2:13-cv-0417-JMS-DKL
	)	
L. LARVIA, WARDEN,	)	
	)	
	)	
Respondent.	)	

**ENTRY**

Final judgment was entered in this action for habeas corpus relief on December 27, 2013. The petitioner filed a notice of appeal, which has been processed.

Shortly after the notice of appeal was filed the petitioner filed a *motion under Fed. R. App. Procedure 3(d)(1) to forward the entire record*. Although it is not clear, the petitioner might be requesting that the record on appeal include materials which were not part of this Court’s record.

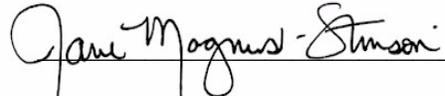
A record on appeal is typically limited to “the original papers and exhibits filed in the district court.” Fed. R. App. P. 10(a)(1). The Court of Appeals has “allowed a habeas petitioner to supplement the record on rare occasions, but only when the information included was important to an understanding of the prior proceedings in a plaintiff’s [sic] case.” *George v. Smith*, 586 F.3d 479, 486 n.1 (7th Cir. 2009). Nonetheless, Rule 10(e) prescribes a procedure whereby the record on appeal may be supplemented “[i]f anything material to either party is omitted from or misstated in the record by error or accident . . . .” *Id.* Rule 10(e) “is meant to ensure that the record reflects what really happened in the district court, but not to enable the

losing party to add new material to the record in order to collaterally attack the trial court's judgment." *United States v. Banks*, 405 F.3d 559, 567 (7th Cir. 2005) (internal quotation omitted).

The petitioner's motion to forward the entire record [dkt. 19] is **granted** to the extent that the entire record will be forwarded to the Court of Appeals at the appropriate time, but is **denied** to the extent that he requests that additional unspecified materials now be added to the record on appeal.

**IT IS SO ORDERED.**

Date: 01/31/2014

A handwritten signature in black ink that reads "Jane Magnus-Stinson". The signature is written in a cursive style with a horizontal line underneath the name.

Hon. Jane Magnus-Stinson, Judge  
United States District Court  
Southern District of Indiana

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