

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DONTAIE ANDERSON,

Petitioner,

v.

DISTRICT ATTORNEY OF LEHIGH
COUNTY, et al.

Respondents.

CIVIL ACTION
NO. 20-04170

ORDER

AND NOW, this 18th day of February 2021, upon consideration of Anderson's Petition for a Certificate of Appealability, (ECF No. 16), and his Notice of Appeal, (ECF No. 17), it is **ORDERED** that the Petition is **DENIED as moot**.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DONTAIE ANDERSON,

Petitioner,

v.

DISTRICT ATTORNEY OF LEHIGH
COUNTY, et al.

Respondents.

CIVIL ACTION
NO. 20-04170

Pappert, J.

January 4, 2021

Memorandum

Anderson, a pretrial detainee at Lehigh County Jail, petitions the Court for writ of habeas corpus under 28 U.S.C. § 2241. (ECF Nos. 1, 7.) He alleges that his confinement is cruel and unusual in violation of due process and the Eighth Amendment, that continued confinement will recklessly endanger him and cause irreparable harm, that monetary bail for the poor violates due process and the Equal Protection Clause and that Respondents have been deliberately indifferent in rejecting his claims for relief. (Amended Petition for Writ of Habeas Corpus 3–6, ECF No. 7.) Anderson also alleged in his first habeas petition that he had been denied a speedy trial and that the state court had ordered excessive bail. (Petition for Writ of Habeas Corpus 2–4, ECF No. 1.)

District courts have jurisdiction to grant the writ to state detainees “before a judgment is rendered in a state criminal proceeding.” *Moore v. DeYoung*, 515 F.2d 437, 442 (3d Cir. 1975). But, absent extraordinary circumstances, petitioners must exhaust state remedies before petitioning a federal court for relief. *Duran v. Thomas*, 393 F.

App'x 3, 4 (3d Cir. 2010) (citing *Moore*, 515 F.2d at 443). To exhaust, a petitioner must give the state courts an opportunity to review his allegations before seeking relief in the federal court. *Baldwin v. Reese*, 541 U.S. 27, 29 (2004) (citing *Duncan v. Henry*, 513 U.S. 364, 365 (1995)). Anderson alleges that he filed a state habeas petition on April 23, 2020 alleging that his confinement is cruel and unusual in violation of due process and the Eighth Amendment. (Amended Habeas Petition at 4.) He also sought reconsideration of his bail amount three times and filed a grievance regarding his confinement conditions on September 11, 2020. (*Id.*) The state courts denied each request or petition. (*Id.*) He further claims that he presented his claim that continued confinement will recklessly endanger him and cause irreparable harm to unspecified courts. (*Id.* at 5.) Finally, he contends that he presented his claim that monetary bail for the poor violates due process and the Equal Protection Clause to the Court of Common Pleas. (*Id.* at 6.)

Even if the Court assumes Anderson presented each claim in his habeas petition to the Court of Common Pleas, he fails to allege that he fully exhausted his state remedies before coming to federal court. If the Court of Common Pleas denied his claims, he had to present any appellate claims to the Superior Court to exhaust his state remedies. *Robertson v. Klem*, 580 F.3d 159, 164 n.3 (3d Cir. 2009). Once the Superior Court concludes its review, Anderson may choose to seek review in the Pennsylvania Supreme Court, or he may file his habeas petition in this court.

Anderson also fails to establish extraordinary circumstances justifying his failure to exhaust. Instead, like in *Moore*, Anderson "attempt[s] to litigate constitutional defenses prematurely in federal court." *Moore*, 515 F.2d at 445; see

Duran, 393 F. App'x at 4-5 (summarily affirming dismissal of habeas petition because petitioner had "not exhausted his state remedies and he alleged nothing in his petition to suggest that his warrantless arrest was unique").

Anderson's Motion for Emergency Bail, (ECF No. 10), suffers from the same shortcomings. Construed as part of his § 2241 petition, Anderson fails to show that he exhausted state remedies or that extraordinary circumstances justify an exception to that requirement. *See Moore*, 515 F.2d at 447 n.12 (no extraordinary circumstances where petitioner failed to show "delay, harassment, bad faith or other intentional activity" by the state). Before he can seek relief in federal court under § 2241, Anderson must exhaust all state remedies or establish extraordinary circumstances justifying an exception to the exhaustion requirement.

An appropriate Order follows.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DONTAIE ANDERSON,

Petitioner,

v.

DISTRICT ATTORNEY OF LEHIGH
COUNTY, et al.

Respondents.

CIVIL ACTION
NO. 20-04170

ORDER

AND NOW, this 4th day of January 2021, upon consideration of Petitioner's Petitions for Writ of Habeas Corpus, (ECF Nos. 1, 7), and Motion for Emergency Bail, (ECF No. 10), it is **ORDERED** that the Petitions and Motion are **DENIED**. The Order referring the case to Magistrate Judge Timothy Rice for a Report and Recommendation, (ECF No. 8), is **VACATED**. The Clerk of Court is directed to close this case.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

cc-08 A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DONTAIE ANDERSON,

Petitioner,

v.

DISTRICT ATTORNEY OF LEHIGH
COUNTY, et al.

Respondents.

CIVIL ACTION
NO. 20-04170

ORDER

AND NOW, this 4th day of January 2021, upon consideration of Petitioner's Petitions for Writ of Habeas Corpus, (ECF Nos. 1, 7), and Motion for Emergency Bail, (ECF No. 10), it is **ORDERED** that the Petitions and Motion are **DENIED**. The Order referring the case to Magistrate Judge Timothy Rice for a Report and Recommendation, (ECF No. 8), is **VACATED**. The Clerk of Court is directed to close this case.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DONTAIE ANDERSON,

Petitioner,

v.

DISTRICT ATTORNEY OF LEHIGH
COUNTY, et al.

Respondents.

CIVIL ACTION
NO. 20-04170

ORDER

AND NOW, this 21st day of January 2021, upon consideration of Anderson's Petition for a Temporary Restraining Order, (ECF No. 13), it is **ORDERED** that the Petition is **DENIED**.¹

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

¹ The Court's January 4, 2021 Order, (ECF No. 12), closed this case. Anderson's Petition for a Temporary Restraining Order may charitably be construed as a motion for reconsideration of that Order. Even if so construed, the Court denies the Petition because it provides no basis for reconsideration. The Court directs Anderson to its Order and Memorandum Opinion, (ECF Nos. 11, 12), which explain the requirements for seeking relief in state and federal court.

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DONTAIE ANDERSON,	:	
<i>Petitioner,</i>	:	
	:	
v.	:	CIVIL ACTION NO. 20-CV-4170
	:	
KYLE RUSSELL, <i>et al.</i> ,	:	
<i>Respondents.</i>	:	

ORDER

AND NOW this 7th day of December, 2020, having received Dontaie Anderson's Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 6) and his Petition for Writ of Habeas Corpus (ECF No. 7), **IT IS ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED**.
2. The above captioned case is **REFERRED** to the Honorable Timothy R. Rice, United States Magistrate Judge, for a Report and Recommendation.
3. Pursuant to Local Civil Rule 72.1.IV(c), all issues and evidence shall be presented to the United States Magistrate Judge, and that new issues and evidence shall not be raised after the filing of the Report and Recommendation if they could have been presented to the United States Magistrate Judge.
4. The Clerk of Court shall provide the Lehigh County District Attorney's Office and the Pennsylvania Office of Attorney General - Criminal Law Division with a copy of the petition.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

GCO-008

C.A. No. 21-1319

DONTAIE ANDERSON, Appellant

VS.

WARDEN LEHIGH COUNTRY PRISON, ET AL.

(E.D. Pa. Civ. No. 5-20-cv-04170)

Present: AMBRO, CHAGARES and RESTREPO, Circuit Judges

Submitted are:

- (1) Appellant's Brief, which may be construed as a motion for certificate of appealability;
- (2) Appellant's motion for emergency temporary restraining order;
- (3) Appellant's motion to expedite emergency temporary restraining order;
- (4) Appellee's opposition to certificate of appealability; and
- (5) Appellant's "notice to proceed pro se"

in the above-captioned case.

Respectfully,

Clerk

ORDER

Appellant's request for a certificate of appealability is denied. See 28 U.S.C. § 2253(c); Slack v. McDaniel, 529 U.S. 473, 484 (2000). Jurists of reason would agree, without debate, that the District Court correctly denied Appellant's 28 U.S.C. § 2241 petition because he failed to exhaust available state court remedies or demonstrate extraordinary circumstances warranting federal review in the absence of exhaustion. See Moore v. DeYoung, 515 F.2d 437, 443 (3d Cir. 1975); cf. United States v. Raia, 954 F.3d

594, 597 (3d Cir. 2020) (holding that Covid-19 does not alone justify compassionate release or exempt prisoner from exhausting administrative remedies). Appellant's motion for an emergency temporary restraining order and motion to expedite are also denied, as he has not shown that extraordinary circumstances justify his release or that an exceptional reason warrants expedition. See Landano v. Rafferty, 970 F.2d 1230, 1238-39 (3d Cir. 1992); Fed. R. App. P. 23(b); 3d Cir. L.A.R. 4.1.

By the Court,

s/Michael A. Chagares
Circuit Judge

Dated: May 7, 2021

CJG/cc: Dontaie Anderson
Heather F. Gallagher, Esq.
Ronald Eisenberg, Esq.



A True Copy:

Patricia S. Dodszeit

Patricia S. Dodszeit, Clerk
Certified Order Issued in Lieu of Mandate

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT

CLERK



UNITED STATES COURT OF APPEALS

21400 UNITED STATES COURTHOUSE
601 MARKET STREET

PHILADELPHIA, PA 19106-1790

Website: www.ca3.uscourts.gov

TELEPHONE

215-597-2995

May 7, 2021

Dontaie Anderson
Lehigh County Jail
38 North 4th Street
Allentown, PA 18102

Ronald Eisenberg
Office of Attorney General of Pennsylvania
1600 Arch Street, Suite 300
Philadelphia, PA 19103

Heather F. Gallagher
Lehigh County Office of District Attorney
455 West Hamilton Street
Allentown, PA 18101

RE: Dontaie Anderson v. Warden Lehigh County Prison, et al

Case Number: 21-1319

District Court Case Number: 5-20-cv-04170

ENTRY OF JUDGMENT

Today, **May 07, 2021** the Court issued a case dispositive order in the above-captioned matter which serves as this Court's judgment. Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App.

P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,
Patricia S. Dodszuweit, Clerk

By: s/ Caitlyn
Case Manager
267-299-4956

Cc: Ms. Kate Barkman

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 21-1319

DONTAIE ANDERSON,
Appellant

v.

WARDEN LEHIGH COUNTY PRISON, DISTRICT ATTORNEY LEHIGH COUNTY;
ATTORNEY GENERAL PENNSYLVANIA

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(E.D. Pa. No. 5-20-cv-04170)

SUR PETITION FOR REHEARING

Present: SMITH, Chief Judge, McKEE, AMBRO, CHAGARES, JORDAN,
HARDIMAN, GREENAWAY, JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS,
PORTER, MATEY, and PHIPPS, Circuit Judges

The petition for rehearing filed by Appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/Michael A. Chagares

Circuit Judge

Dated: October 7, 2021

CJG/cc: Dontaie Anderson
Ronald Eisenberg, Esq.
Heather F. Gallagher, Esq.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 21-1319

DONTAIE ANDERSON,
Appellant

v.

WARDEN LEHIGH COUNTY PRISON; DISTRICT ATTORNEY LEHIGH COUNTY;
ATTORNEY GENERAL PENNSYLVANIA

(E.D. Pa. No. 5-20-cv-04170)

Present: AMBRO, CHAGARES and RESTREPO, Circuit Judges

1. Motion filed by Appellant Dontaie Anderson Requesting Leave to Stay All Proceedings in this matter including State

Respectfully,
Clerk/CJG

ORDER

The foregoing motion is hereby denied.

By the Court,

s/Michael A. Chagares
Circuit Judge

Dated: October 7, 2021

CJG/cc: Dontaie Anderson
Ronald Eisenberg, Esq.
Heather F. Gallagher, Esq.

JAMES B. MARTIN
District Attorney



OFFICE OF THE DISTRICT ATTORNEY
LEHIGH COUNTY COURTHOUSE
455 WEST HAMILTON STREET
ALLENTOWN, PENNSYLVANIA 18101-1614
PHONE (610) 782-3100 FAX (610) 820-3323

April 13, 2021

Patricia S. Dodszeweit, Clerk
Office of the Clerk
U.S. Court of Appeals for the Third Circuit
21400 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1790

RE: DONTAIE ANDERSON
v.
WARDEN LEHIGH COUNTY PRISON, *et al.*
CIVIL ACTION NO. 21-1319
(E.D. Pa Civ No. 5:20-cv-04170)

Dear Madam:

Pursuant to Third Circuit Local Appellate Rules, please be advised that the Appellee/Commonwealth will not be filing a Memorandum of Law in Opposition to the Appellant's Brief construed as a motion for a Certificate of Appealability.

Although no memorandum is being filed, the Commonwealth opposes review of the District Court's Order and requests that this

Honorable Court read the District Court Opinion for an accurate recitation of the facts and issues presented on appeal.

Respectfully yours,

/s/ Heather F. Gallagher
Chief Deputy District Attorney

cc: Via Inter-Office Mail to:
Dontaie Anderson, Inmate
LCID # 184122
Lehigh County Jail
38 North 4th Street
Allentown, PA 18102
Pro se Appellant

DLD-019

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 21-2507

IN RE: DONTAIE ANDERSON,
Petitioner

On a Petition for Writ of Mandamus

Submitted Pursuant to Rule 21, Fed. R. App. P.
October 28, 2021

Before: KRAUSE, MATEY and PHIPPS, Circuit Judges

ORDER

PER CURIAM:

This cause came to be considered on a petition for writ of mandamus submitted on October 28, 2021. On consideration whereof, it is now hereby

ORDERED by this Court that the petition for writ of mandamus be, and the same is, denied. All of the above in accordance with the opinion of the Court.

For the Court,

s/ Patricia S. Dodszuweit
Clerk

Date: November 23, 2021

Cc: All counsel of record



A True Copy:

Patricia S. Dodszuweit

Patricia S. Dodszuweit, Clerk



The Superior Court of Pennsylvania
Office of the Prothonotary

530 WALNUT STREET
THIRD FLOOR, SUITE 315
PHILADELPHIA, PENNSYLVANIA 19106

JOSEPH D. SELETYN, ESQUIRE
PROTHONOTARY

BENJAMIN D. KOHLER, ESQUIRE
DEPUTY PROTHONOTARY

(215) 560-5800
WEBSITE: www.superior.pacourts.us

DATE: July 20, 2021
TO: Lehigh County Court of Common Pleas
Criminal Division
FROM: Superior Court of Pennsylvania
Eastern District
RE: Com. v. Dontaie Anderson
CP-39-CR-936-2019

FILED
2021 JUL 23 AM 8:10
CLERK OF JUDICIAL SERVICE
LEHIGH COUNTY, PA

Returned herein is the notice of appeal received in the Prothonotary's Office, Superior Court of Pennsylvania, for the above-captioned matter to be perfected in compliance with the Pennsylvania Rules of Appellate Procedure:

- ☒ The Notice of Appeal was incorrectly submitted by Appellant directly to this Court, rather than to the trial court for filing.
- ☐ Other -

Cc: File

3 of 18 D

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

vs.

No. 936/2019

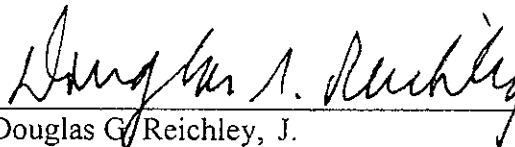
DONTAIE ANDERSON,
Defendant

ORDER

AND NOW, this 11th day of January, 2021, upon consideration of Defendant's
Omnibus Pretrial Motion, filed October 8, 2020, and after hearing held December 22, 2020,

IT IS ORDERED said motion is **DENIED** for the reasons set forth in the accompanying
Memorandum Opinion.

By the Court:



Douglas G. Reichley, J.

FILED
2021 JAN 11 AM 10:21
CLERK OF JUDICIAL BRANCH
LEHIGH COUNTY, PA
Petition

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

vs.

DONTAIE ANDERSON,
Defendant

No. 936/2019

FILED
2021 JAN 11 AM 10:21
CLERK OF COURT
LEHIGH COUNTY, PA

January 8, 2021

Appearances:

Jay Jenkins, Esq. for the Commonwealth

John F. Baurkot, Esq. for Defendant

Douglas G. Reichley, J.

Memorandum Opinion

Dontaie Anderson, Defendant, filed an Omnibus Pretrial Motion by and through counsel, John F. Baurkot, Esq., seeking suppression of a statement made by Defendant at the time of a stop by police. Defendant is also seeking dismissal of the charges based on his possession of a firearm, citing the Second Amendment to the United States Constitution. Lastly, Defendant is requesting recusal of the undersigned based on the Court's denial of bail petitions he filed during the pendency of the instant litigation and a Judicial Conduct Board complaint he appears to be pursuing against the undersigned as a result of those Orders. For the reasons set forth herein, Defendant's Omnibus Pretrial Motion is **DENIED**.

Factual Background

On February 22, 2019, at approximately 2:35 a.m., Defendant was driving a blue Honda Pilot on Brookside Road in Lower Macungie Township, Lehigh County, Pennsylvania. The driver's side headlight was out. Officers David Angstadt and Timothy McManus followed

Defendant's vehicle and observed it turn east onto Hamilton Boulevard. The dash cam footage from the police car also captured the incident.

Officer Angstadt activated the lights of the police car to initiate a traffic stop at approximately 2:38:45 a.m. Right after the lights were activated, Defendant threw something out of his vehicle and turned into the parking lot of the Target store located in the Hamilton Crossings shopping center. The dash cam depicts an object, later identified as a cup, being thrown from the vehicle's front driver's side window while navigating the turn into the parking lot. (Exhibit C-3.) Once in the parking lot, Defendant turned right and another object can be seen being thrown from the front driver's side window. (*Id.*) During the suppression hearing in the within matter, the Commonwealth admitted a slowed-down edit of the dash cam footage (Exhibit C-2) as well as a still screenshot showing that the item Defendant threw out of the vehicle. (Exhibit C-1.) Defendant concedes that "[a] gun was recovered in the [Target] parking lot." (*Id.* ¶ 11). The firearm was a loaded Harrington and Richardson .32-caliber revolver with four live rounds and one empty round in the cylinder. Defendant subsequently stopped and parked the Pilot in a parking space in the Target parking lot.

Officers Angstadt and McManus approached Defendant's vehicle with their weapons drawn and directed Defendant and his passenger, Robert Anthon Wilson, to put their hands out the windows of the vehicle. Both men were detained, handcuffed, and patted down.

Defendant was Mirandized and, when asked if he understands his rights, he visibly nods in response. Defendant was then asked if he wanted to speak with the officer and Defendant promptly began speaking, questioning the reason behind the stop. During subsequent questioning, Defendant admitted that the gun was his and that he threw it out the window. He also acknowledged that he did not have a concealed carry permit. The officers breathalyzed Defendant and determined that he was under the influence of alcohol with a blood alcohol level

of 0.18.¹ Defendant was arrested for Driving Under the Influence of Alcohol, 75 Pa.C.S.A. § 3802(c), and Possession of a Firearm Prohibited, 18 Pa.C.S.A. § 6105(a)(1).

Defendant entered a guilty plea on February 6, 2020 to one count of Firearms Not to Be Carried without a License. The Commonwealth withdrew all of the other charges. Defendant's plea agreement called for a cap on his minimum sentence at 42 months. His sentencing was scheduled for April 6, 2020, but due to the impact of COVID-19, his sentencing was postponed. During the pendency of the sentencing, on June 17, 2020, Defendant moved to withdraw his guilty plea. On July 13, 2020, the Court conducted a hearing on that motion and granted Defendant's motion at the close of the hearing.

Defendant was scheduled for trial during the Court's October 12, 2020 trial term. On October 8, 2020, Defendant filed the instant Omnibus Pretrial Motions along with a motion seeking to postpone the trial due to jury issues stemming from the COVID-19 pandemic. The jury array matter is currently pending before this Court alongside several identical motions being pursued in other cases.

On December 22, 2020, the Court conducted a hearing on the Omnibus Pretrial Motion and took the matter under advisement.

This Opinion follows.

¹ A blood test conducted after Defendant's arrest indicated that Defendant's blood alcohol level was 0.17, which is the rate for which he was charged.

Device and Cosmetic Act, 18 Pa.C.S.A. § 6105(c)(2), and those who possess a firearm without a valid license. *Id.* § 6106(a). Defendant allegedly has a prior felony conviction under the Controlled Substances Act, and does not have a license permitting him to carry a firearm. If the Commonwealth can establish these facts at trial and can demonstrate beyond a reasonable doubt that Defendant was in possession of a firearm, Defendant can be convicted under these sections. *Commonwealth v. McKown*, 79 A.3d 678, 690 (Pa. Super. 2013) (citing *District of Columbia v. Heller*, 554 U.S. 570, 626-27 (2008)) (“[T]he right to keep and bear arms is not absolute, and governmental restrictions on possession of firearms are permitted.”). Consequently, Defendant’s Motion to Dismiss is **DENIED**.

Defendant’s final issue asserts that the undersigned should recuse himself from this case. The reason Defendant cites for his request for recusal is that the Court “has acted with indifference to [Defendant’s] physical needs which require him to be released on bail.” (Omnibus Pre-Trial Motions ¶ 24.) Defendant goes on to explain that he “is being held in Lehigh County Jail where he is subject to being infected with the Covid virus with minimal safeguards in effect.” (*Id.* ¶ 25.)

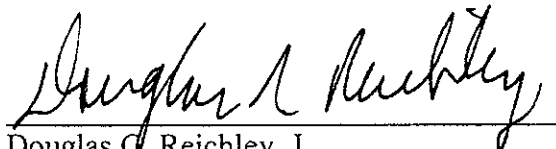
“The standards for recusal are well established. It is the burden of the party requesting recusal to produce evidence establishing bias, prejudice or unfairness which raises a substantial doubt as to the jurist’s ability to preside impartially.” *Commonwealth v. Abu-Jamal*, 553 Pa. 485, 720 A.2d 79, 89 (1998).

In considering a recusal request, the jurist must first make a conscientious determination of his or her ability to assess the case in an impartial manner, free of personal bias or interest in the outcome. The jurist must then consider whether his or her continued involvement in the case creates an appearance of impropriety and/or would tend to undermine public confidence in the judiciary. This is a personal and unreviewable decision that only the jurist can make. Where a jurist rules that he or she can hear and dispose of a case fairly and without prejudice, that decision will not be overruled on appeal but for an abuse of discretion. In reviewing a denial of a disqualification motion, we recognize that our judges are honorable, fair and competent.

Conclusion

For the reasons set forth herein, the Court finds that there is not any basis upon which to suppress Defendant's statements after he was issued his *Miranda* warnings. Additionally, Defendant's reliance on the Second Amendment with respect to any right to possess a firearm is legally misplaced because it is well-established that the right guaranteed by the Second Amendment to the United States Constitution is properly limited as applied to him. Finally, there is not any basis for the Court to recuse itself. Defendant's Omnibus Pre-Trial motions are **DENIED.**

By the Court:



Douglas C. Reichley, J.

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

Commonwealth of Pennsylvania

VS.

Dontaie Anderson

)
)
)
)
)

Case No. CR-936-2019

ORDER

AND NOW, this 21st day of September, 2020, in consideration of the Defendant's Motion to Reduce Bail, filed on August 13, 2020, and after a hearing held on September 17, 2020 at which time the Defendant appeared with John Baurkot, Esq. of the Lehigh County Public Defender's Office, and Jay Jenkins, Esq. of behalf of the Commonwealth,

IT IS ORDERED the Defendant's Motion to Reduce Bail is **DENIED**.¹ The within matter is attached for trial during the trial term beginning October 12, 2020.

BY THE COURT.


DOUGLAS G. REICHLEY

2020 SEP 22 AM 10:22
CLERK OF JUDICIAL RECORDS
LEHIGH COUNTY, PA

¹ One of the concerns expressed by the Defendant to justify release on bail of \$25,000 unsecured is that he is at risk of contracting the Coronavirus while he is incarcerated. The Court has forwarded emails received from the Director of Corrections of the Lehigh County Jail to counsel in the within matter which confirmed there has only been one case of a reported infection from Coronavirus among the inmate population, and the Defendant is not housed on a unit where the infected person was assigned.

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

vs.

No. 0936 / 2019

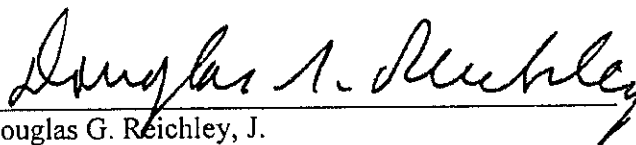
DONTAIE ANDERSON,
Defendant

ORDER

AND NOW, this 21st day of July, 2020, upon consideration of the Defendant's *pro se* Petition to Dismiss Indictment, filed July 15, 2020,

IT IS ORDERED said petition is **DISMISSED** without prejudice.¹

By the Court:


Douglas G. Reichley, J.

FILED
2020 JUL 22 A 11:34
CLERK OF COURTS
LEHIGH COUNTY, PA

¹ *Commonwealth v. Ellis*, 626 A.2d 1137 (Pa. 1993) (hybrid representation prohibited in the Commonwealth). A copy of Defendant's petition has been provided to his counsel for review.

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

vs.

No. 936/2019

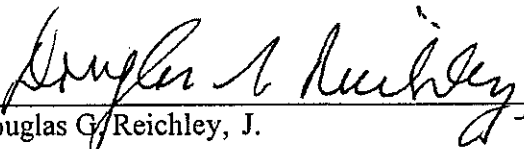
DANTAIE ANDERSON,
Defendant

ORDER

AND NOW, this 28th day of April, 2020, upon consideration of Defendant's *pro se*
Motion [for] Writ of Habeas Corpus, filed April 23, 2020,

IT IS ORDERED said motion is **DISMISSED** without prejudice.¹

By the Court:



Douglas G. Reichley, J.

FILED
2020 APR 28 PM 1:22
CLERK OF JUDICIAL RECORDS
LEHIGH COUNTY, PA

¹ *Commonwealth v. Ellis*, 626 A.2d 1137 (Pa. 1993) (hybrid representation prohibited in the Commonwealth). A copy of Defendant's motion has been provided to his counsel for review. Counsel may, after consultation with Defendant, elect to pursue similar relief in an appropriate motion.

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

vs.

No. CR-936-2019

DONTAIE ANDERSON,

Defendant

ORDER

AND NOW, this 28th day of April, 2020, upon consideration of Defendant's *pro se*
Notice of Motion [for] Bail Modification/Hardship, filed April 21, 2020,

IT IS ORDERED said motion is DENIED.

BY THE COURT:


DOUGLAS G. REICHLEY, J.

FILED

2020 APR 29 AM 11:51

CLERK OF JUDICIAL RECORDS
LEHIGH COUNTY, PA