

NO. 202

IN THE

SUPREME COURT OF THE UNITED STATES

CHARLES P. McCULLOUGH,
PETITIONER,

V.

COMMONWEALTH OF PENNSYLVANIA,
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF PENNSYLVANIA

MOTION TO DIRECT THE CLERK TO
FILE OUT-OF-TIME

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AND NOW, COMES PETITIONER, CHARLES P. McCULLOUGH, PRO SE, AND SUBMITS THIS MOTION TO DIRECT THE CLERK TO FILE OUT-OF-TIME.

1. PETITIONER, CHARLES P. McCULLOUGH, IS PRESENTLY AN INMATE AT SCI-QUEHANNA. HE HAS SERVED 10 MONTHS OF A 30-60 MONTH SENTENCE. HOWEVER, PETITIONER IS SCHEDULED TO BE RELEASED AFTER SERVING 22 1/2 MONTHS, I.E. ON FEBRUARY 19, 2023X

BECAUSE PETITIONER IS A FIRST TIME, NON-VIOLENT OFFENDER WITH A WHITE COLLAR, "PAPER" CRIME WITH NO LOSS. AS SUCH, PETITIONER WAS DESIGNATED "RRR-I" (REDUCED RISK OF RECIDIVISM) PURSUANT TO PENNSYLVANIA LAW AND QUALIFIED FOR THE COMMONWEALTH'S SHORT SENTENCE PAROLE ("SSP") PROGRAM.

2. PETITIONER COMMENCED SERVING THE SENTENCE ON APRIL 6, 2021 AT THE ALLEGHENY COUNTY JAIL ("ACJ") IN PITTSBURGH.

3. PRIOR TO THE COMMENCEMENT OF SENTENCE, PETITIONER HAD FILED AN APPLICATION FOR LEAVE TO FILE ORIGINAL PROCESS AND APPLICATION FOR EXTRAORDINARY RELIEF PURSUANT TO PA. R. A. P. §§ 3307 AND 3309, WITH THE PENNSYLVANIA SUPREME COURT, IN AN ATTEMPT TO INVOKE THAT COURT'S KING'S BENCH JURISDICTION TO OVERTURN THE CONVICTION AND SENTENCE.

4. PETITIONER HAD NOT RECEIVED NOTICE FROM THE PA SUPREME COURT THAT IT HAD DENIED HIS APPLICATION ON APRIL 5, 2021 WHEN HE COMMENCED SERVING HIS SENTENCE. DUE TO COVID RESTRICTIONS, PETITIONER WAS DENIED CONTACT VISITS WITH ANYONE AT ACJ, FAMILY AND LEGAL COUNSEL INCLUDED. HE WAS NOT PERMITTED TO MAKE PHONE CALLS UNTIL HE WAS CLEARED TO DO SO FROM THE ACJ.

5. CONSEQUENTLY, THERE WAS A PASSAGE OF SEVERAL DAYS BEFORE PETITIONER WAS CLEARED TO MAKE PHONE CALLS FROM THE ACT. HE RECALLS THAT CLEARANCE WAS RECEIVED ON OR ABOUT APRIL 9, 2021. ONCE PETITIONER WAS SO CLEARED, HE CALLED HIS FAMILY AND LEARNED THAT THE APRIL 5 ORDER WAS RECEIVED BY MAIL ON APRIL 8, 2021.

6. ONCE PETITIONER RECEIVED NOTICE OF THE PA SUPREME COURT'S APRIL 5, 2021 ORDER THAT DENIED HIS KING'S BENCH APPLICATION AFORESAID, PETITIONER IMMEDIATELY SET ABOUT TO DRAFT, BY HAND, A PETITION FOR WRIT OF CERTIORARI. WHILE PETITIONER PRESUMED THAT THIS WOULD BE A CHALLENGING AND TIME CONSUMING UNDERTAKING, HE HAD NO IDEA, NOR COULD HE EVER HAVE CONCEIVED OF, THE NIGHTMARE OF TOTALLY UNFORESEEN CIRCUMSTANCES AND DEPRIVATION OF CONSTITUTIONAL RIGHTS THAT AWAITED HIM.

7. PETITIONER NEVER COULD HAVE IMAGINED THAT WHAT AWAITED HIM WAS A MINEFIELD OF SURREAL EVENTS BY COMMONWEALTH OF PENNSYLVANIA ACTORS, ENTITIES AND AGENTS THAT CONVERTED AN ALREADY DIFFICULT UNDERTAKING INTO A TEST OF HIS WILL.

8. PETITIONER KNEW FROM THE OUTSET THAT THE LOGISTICS REGARDING ASSEMBLING AND TIMELY FILING THE REQUISITE 40 BOUND BOOKLETS CONTAINING THE CERT

PETITIONS, SPECIALLY FORMATTED AND BOUND, WOULD BE A LOGISTICAL BRIDGE TOO FAR FOR ANY INCARCERATED, PRO SE PETITIONER, LET ALONE ONE UNDER PETITIONER'S CIRCUMSTANCES OF CONFINEMENT. PURPORTEDLY UNDER THE GUISE OF COVID RESTRICTIONS, WHILE AT ACT, PETITIONER, AGE 66 AT THE TIME, WAS CONFINED TO HIS CELL 23/7. OCCASSIONALLY, CONFINEMENT WAS 24/7 FOR SEVERAL CONSECUTIVE DAYS. HE WAS DENIED LIBRARY ACCESS AND HAD TO HAND PRINT DRAFTS OF THE CERT PETITION, OFTEN IN HIS LAP. HE FREQUENTLY WORKED LATE INTO THE NIGHT AND SOMETIMES PULLED ALL NIGHTERS TO COMPLETE DRAFTS OF THE CERT PETITION.

9. ALSO COMPLICATING THE PROCESS WAS THE IMMENSE RECORD IN PETITIONER'S CASE AND THE MULTIPLICITY OF ISSUES TO CONSIDER IN PREPARING THE CERT PETITION. PETITIONER HAD TO DISTILL A TRIAL RECORD THAT COURSED INTERMITTENTLY FROM MID-APRIL, 2015 TO JULY 31, 2015. THE TRIAL WAS NON-JURY, WITH MANY WITNESS AND SCORES OF DOCUMENTARY EXHIBITS, INCLUDING ALL THE DOCUMENTS FILED OF RECORD AT, IT IS RECALLED, AT LEAST FIVE (5) ORPHANS' COURT DOCKETS.

10. ALSO, THE REPRODUCED RECORD IN PLAINTIFF'S CASE FOR PURPOSES OF APPEAL EXCEEDED 1,500 PAGES. THE CASE WENT ON APPEAL IN DECEMBER, 2015,

BUT THE APPEAL PROCESS LANGUISHED UNTIL THE SENTENCING JUDGE ISSUED HIS MORE THAN 60 PAGE OPINION ON MAY 1, 2017. THAT SET IN MOTION AN APPELLATE PROCESS THAT INCLUDED A 60+ PAGE REMAND OPINION FROM THE PA SUPERIOR COURT, AN EVIDENTIARY HEARING, A SECOND OPINION OF MORE THAN 60 PAGES FROM THE SENTENCING JUDGE, AS WELL AS ANOTHER OPINION OF A SIMILAR LENGTH BY THE SUPERIOR COURT. ALL IN ALL, QUITE A FORMIDABLE RECORD FOR EVEN THE MOST ACCOMPLISHED APPELLATE PRACTITIONER, LET ALONE A PRO SE INMATE

11. PETITIONER, HOWEVER, PROACTIVELY SOUGHT TO ADDRESS THE LOGISTICAL ISSUES THIS UNDERTAKING PRESENTED, SUPRA. THEREFORE, HE HIRED THE LAW FIRM OF POLLOCK, MORRIS, BELLETTI & SIMMS TO HANDLE THE REQUISITE LOGISTICAL MATTERS ATTENDANT TO THE FILING OF PETITIONERS' PETITION FOR WRIT OF CERTIORARI. THESE MATTERS INCLUDED TYPING PETITIONER'S DRAFTS OF THE CERT PETITION AND FORMATTING THE SAME IN ACCORDANCE WITH THE SUPREME COURT'S RULES; ASSEMBLING THE PHYSICAL DOCUMENTS THAT PETITIONER WOULD DESIGNATE FOR THE PETITION APPENDIX; HAVING THE CERT PETITION REPRODUCED AND BOUND; AND TIMELY FILING 40 BOOKLETS WITH THE CLERK.

12. PETITIONER HIRED POLLOCK, MORRIS BECAUSE HE

HAD ALREADY USED THE FIRM. ATTORNEY POLLOCK HAD REPRESENTED PETITIONER AT THE DECEMBER 17, 2015 SENTENCING HEARING. POLLOCK ALSO HAD APPEARED IN COURT WITH PETITIONER ON APRIL 6, 2021 WHEN PETITIONER COMMENCED SERVING THE SENTENCE. BASED UPON HIS PAST EXPERIENCES WITH THE FIRM AND WITH POLLOCK, PETITIONER BELIEVED THERE WOULD BE NO PROBLEMS WITH THEM HANDLING THESE ESSENTIALLY CLERICAL ISSUES. HOW DIFFICULT COULD THESE ISSUES BE, ESPECIALLY SINCE PETITIONER UNDERSTOOD THE SUPREME COURT HAD ON ITS WEBSITE THE RULES FOR FILING PETITIONS FOR WRITS OF HABEAS CORPUS AND THAT THE CLERK'S OFFICE COULD BE CONTACTED FOR ASSISTANCE?

13. HOWEVER, WORKING WITH POLLOCK ON THESE LOGISTICAL, CLERICAL TYPE MATTERS PROVED TO BE PROBLEMATIC.

14. WHEN PETITIONER APPEARED TO COMMENCE SENTENCE ON APRIL 6, HE REPORTED TO THE SENTENCING JUDGE, JUDGE DAVID CASHMAN. BY THAT TIME, JUDGE CASHMAN HAD ALREADY RECEIVED PETITIONER'S MOTION TO MODIFY SENTENCE, THE PURPOSE OF WHICH WAS TO MODIFY THE SENTENCE TO HOME CONFINEMENT FOR SEVERAL REASONS, INCLUDING TO HAVE SURGERY TO REPAIR A TORN ROTATOR CUFF THAT PETITIONER HAD SUFFERED AS A CONSEQUENCE OF A SLIP AND FALL ON AN ICY SIDEWALK SEVERAL MONTHS BEFORE AND TO HAVE AN EX-

PECTED SIX MONTHS OF POST SURGERY REHABILITATION.

15. THE JUDGE ANNOUNCED THAT HE WAS RETAINING JURISDICTION. AS PART OF THAT, HE SET JULY 6, 2021 AS THE HEARING FOR PETITIONER'S MOTION TO MODIFY SENTENCE. ADDITIONALLY, THE JUDGE ALSO CORRECTED THE SENTENCE BY ADDING THAT PETITIONER WOULD BE ELIGIBLE FOR RELEASE PURSUANT TO RRR-I AFTER 22 1/2 MONTHS INSTEAD THE 30 MONTH MINIMUM. LASTLY, AND FOR PURPOSES OF THIS MOTION, MOST IMPORTANTLY, PETITIONER COULD OPT TO SERVE HIS SENTENCE AT ACJ AND THUS AVOID BEING SENT FAR AWAY FROM HOME TO A STATE CORRECTIONAL INSTITUTION ("SCI") IF HE SERVED THE 30 MONTH MINIMUM.

16. HOWEVER, EVEN THOUGH THE JUDGE RETAINED JURISDICTION OVER PETITIONER AND HAD A PENDING JULY 6 HEARING TO DETERMINE IF PETITIONER'S SENTENCE SHOULD BE MODIFIED TO HOME CONFINEMENT, ON JUNE 23, 2021, PETITIONER WAS WRONGFULLY REMOVED FROM THE ACJ BY TWO ALLEGHENY COUNTY DEPUTY SHERIFFS, DRIVEN BY VAN TO SCI-GREENE AND TURNED OVER TO THE CUSTODY OF PA DEPARTMENT OF CORRECTIONS ("DOC") CORRECTIONS OFFICERS ("C.O.s"). FROM THERE, PETITIONER WAS SHACKLED, HANDS AND FEET AND BUSSED TO SCI-SMITHFIELD. WHEN HE WAS SHACKLED, A C.O. LACERATED PETITIONER'S RIGHT WRIST AND THE HANDCUFF WAS SO TIGHT THE CIRCULATION IN PETITIONER'S RIGHT HAND

WAS CUT OFF, CAUSING HIS HAND TO SWELL AND HIS FINGER TO TURN BLUE. PETITIONER WAS DENIED WATER DURING THE LENGTHY BUS TRIP THOUGH HE WAS DEHYDRATED AND WAS LOSING CONSCIOUSNESS UNTIL HE WAS ABLE TO MANIPULATE THE HANDCUFFS TO RELIEVE THE PRESSURE ON HIS RIGHT HAND. CALLS FOR ASSISTANCE WERE IGNORED BY THE C.O.s ON THE BUS.

17. PETITIONER'S REMOVAL FROM THE ACT AND DELIVERY INTO THE DOC'S CUSTODY VIOLATED HIS RIGHTS PURSUANT TO THE 5TH AND 14TH AMENDMENTS TO THE U.S. CONSTITUTION. THE REMOVAL OF PETITIONER FROM THE ACT BY THE DEPUTY SHERIFFS WAS PERPETRATED WHILE PETITIONER WAS UNDER JUDGE CASHMAN'S CUSTODY, YET THERE IS NO EVIDENCE THAT THE JUDGE RELINQUISHED CUSTODY OR EXECUTED THE CUSTOMARY TRANSFER ORDER TO SEND PETITIONER TO THE DOC. NO SUCH ENTRIES APPEAR ON THE DOCKET.

18. THE PROFOUNDLY ADVERSE IMPACT THE WRONGFUL REMOVAL OF PETITIONER FROM THE ACT AND HIS TRANSFER TO DOC CUSTODY AT SCI - SMITHFIELD HAD ON THE TIMELY FILING OF HIS CERT. PETITION IS DOCUMENTED IN REAL TIME PURSUANT TO THE TWO INMATE REQUESTS PETITIONER SENT TO HIS DESIGNATED COUNSELOR. AMONG OTHER POINTS, THESE REQUESTS FOR THE COUNSELOR'S ASSISTANCE IDENTIFY THE FOLLOWING:

(a) PETITIONER'S INABILITY, AND NEED, TO SPEAK WITH HIS WIFE AND LAWYER BECAUSE PETITIONER'S "CONTACT LIST" WAS NOT YET APPROVED.

(b) PETITIONER SHOULD NOT BE AT SMITHFIELD BECAUSE HIS SENTENCE WAS NOT FINAL AND THAT JUDGE CASHMAN HAD RETAINED JURISDICTION.

(c) THE JULY 6, 2021 HEARING DATE AND THE PURPOSE THEREOF.

(d) PETITIONER WAS EXERCISING HIS ELECTION TO SERVE THE SENTENCE AT ACT.

(e) PETITIONER NEEDED TO BE IN PITTSBURGH (ACT) TO FINALIZE HIS PETITION FOR WRIT OF CERTIORARI, HIS "LAST, BEST CHANCE" TO OVERTURN THE CONVICTION.

SEE EXHIBITS "A" AND "B." NOTE THAT PETITIONER'S NEED TO FINALIZE THE CERT PETITION WAS SO CRITICAL THAT HE ELECTED TO SERVE HIS SENTENCE IN PITTSBURGH. THIS WOULD HAVE ENABLED HIM TO CLOSELY MONITOR THE PROGRESS OF THE CERT PETITION, AND HE WAS ASKING TO SERVE 7 1/2 MORE MONTHS FOR THAT PURPOSE.

19. THE COUNSELOR CLEARLY STONEWALLED THESE REQUESTS, INCLUDING THE REQUEST TO SERVE THE SENTENCE IN PITTSBURGH. THE COUNSELOR DID NOT RESPOND UNTIL AFTER THE JULY 6 HEARING WAS TO HAVE OCCURRED. SHE FORECLOSED ANY ATTEMPT TO HELP.

HER CLAIM THAT SHE WAS NOT PERMITTED TO CONTACT ANYONE WAS A RED HERRING. SHE COULD HAVE, AS OTHER DOC/SCI COUNSELORS HAVE, CAUSED THE NEEDED PHONE NUMBERS BE DIALED SO PETITIONER COULD SPEAK DIRECTLY. THE COUNSELOR COULD ALSO HAVE DIRECTED EXHIBITS "A" AND "B" TO THE PERSONS WHO COULD HAVE PROVIDED ASSISTANCE, INCLUDING TRANSFERRING PETITIONER BACK TO ACT 10 TIMES FOR THE HEARING AND TO FINALIZE THE CERT PETITION.

20. WITH PETITIONER'S INMATE REQUESTS IGNORED, JUDGE CASHMAN CANCELLED THE JULY 6 HEARING. PETITIONER'S ELECTION TO SERVE THE SENTENCE AT ACT WAS IGNORED. CONSEQUENTLY, PETITIONER'S ABILITY TO MONITOR THE PROGRESS OF THE LOGISTICS OF THE CERT PETITION WAS CRITICALLY IMPAIRED BECAUSE OF THE CONDITIONS OF HIS CONFINEMENT AT SCI-SMITHFIELD AND SCI-CAMP HILL.

21. PETITIONER WAS NOT ABLE TO HAVE A TELEPHONE CONFERENCE WITH ATTORNEY FOLLOCK WHILE AT SMITHFIELD UNTIL JULY 14, 2021. PETITIONER WAS CONFINED TO HIS CELL FOR ALL BUT 25 MINUTES PER DAY - 10 MINUTES FOR A SHOWER. HE WAS REFUSED WRITING PAPER AND PENS, WHICH REQUIRED PETITIONER TO RESORT TO PIECES OF SCRAP PAPER AND UNSHARPENED BROKEN PENCILS TO MAKE CORRECTIONS AND RE-WRITES OF THE TYPED DRAFTS HE RECEIVED FROM POLLOCK.

PETITIONER HAD TO SCRATCH THE PENCIL PIECES AGAINST WALLS IN GENERALLY FUTILE ATTEMPTS TO SHARPEN THEM. THE ATTEMPTS TO MAKE AND COMMUNICATE CHANGES/ CORRECTIONS/ REVISIONS TO THE CERT PETITION TO POLLOCK, WERE FURTHER IMPAIRED BY SLOW MAIL DELIVERY - TYPICALLY 12-14 DAYS FOR MAIL SENT BY PETITIONER TO BE RECEIVED BY THE ADDRESSEE.

22. CONDITIONS WORSENERED FOR PETITIONER WHEN HE WAS MOVED TO "R" BLOCK AT SCI CAMP HILL FOR MORE COVID QUARANTINING. CONFINEMENT TO CELL WAS 23HR, 57MIN/DAY - ONLY A THREE MINUTE SHOWER WAS PERMITTED. SEVERAL DAYS THERE WERE TOTAL CONFINEMENT. ONLY A TOTAL OF TWO FIVE MINUTE PHONE CALLS WERE PERMITTED TO BE MADE DURING THE ELEVEN DAYS IN HELL PETITIONER SPENT AT R BLOCK.

23. PETITIONER WAS RELEASED FROM R BLOCK AND TRANSFERRED TO ANOTHER BLOCK AT CAMP HILL WHERE HE REMAINED UNTIL HE WAS TRANSFERRED TO QUEHANNA ON AUGUST 27, 2021.

24. THE PHYSICAL AND MENTAL TOLL THE WRONGFUL AND UNCONSTITUTIONAL IMPRISONMENT AT SPRINGFIELD AND CAMP HILL TOOK ON PETITIONER AND THE IMPAIRMENT ON HIS ABILITY TO MONITOR AND "BIRD DOG" POLLOCK TO MAKE SURE THE CERT PETITION WAS TIMELY AND PROPERLY FILED CANNOT BE OVERSTATED.

25. PETITIONER WAS A FIT 195 LBS WHEN HE REPORTED TO ACT ON APRIL 6, 2021. HE WAS DOWN TO 166 LBS BY THE TIME HE LEFT CAMP HILL'S R BLOCK ON AUGUST 4, 2021. DUE TO HIS CONFINEMENT, PETITIONER BECAME LAME IN HIS LEFT LEG. A C.O. AT SMITHFIELD CONFISCATED PETITIONER'S CONTACT LENSES WHEN HE WAS PROCESSED ON JULY 23, 2021. PETITIONER IS SEVERELY NEARSIGHTED IN HIS "GOOD," RIGHT EYE. A DOC OPTOMETRIST DIAGNOSED PETITIONER AS BLIND IN HIS LEFT EYE DUE TO A MATURE CATARACT. IT TOOK THE DOC MONTHS BEFORE IT ISSUED GLASSES TO PETITIONER.

26. FOOD PORTIONS WERE MEAGER, ESPECIALLY SO AT R. BLOCK, WHERE HIS CELL WAS FREEZING. PETITIONER WAS SLEEP DEPRIVED DUE TO THE LATE NIGHT AND SOMETIMES ALL NIGHT HOURS HE PUT INTO THE CERT PETITION.

27. THE FOREGOING GREATLY IMPACTED PETITIONER'S ABILITY TO STAY ON TOP OF THE SITUATION. WITH HIS COMPROMISED ENERGIES FOCUSED STRICTLY ON GETTING A FINAL DRAFT TO POLLOCK AS QUICKLY AS POSSIBLE, PETITIONER WAS COMPELLED TO RELY UPON POLLOCK TO KNOW OR ASCERTAIN THE FILING REQUIREMENTS FOR THE CERT PETITION, INCLUDING THE ACTUAL LAST DAY TO FILE THE CERT PETITION. TO THE CONTRARY, PETITIONER TOLD POLLOCK TO NOT ONLY CHECK THESE

AND OTHER LOGISTICAL ISSUES WITH THE SUPREME COURT'S RULES, BUT TO ALSO CONTACT THE CLERK DIRECTLY TO CONFIRM THE FILING DEADLINE FOR THE CERT PETITION, ITS PROPER FORM AS WELL AS THE PROPER FORM AND CONTENT OF THE CERT PETITION.

28. PETITIONER HAD NO CHOICE BUT TO RELY UPON POLLOCK TO CHECK THE SUPREME COURT'S RULES AND TO CALL THE CLERK FOR GUIDANCE AS TO THE AFORESAID LOGISTICAL MATTERS BECAUSE HE COULD NOT DO THOSE HIMSELF. PETITIONER, AS A DOC PRISONER, WAS NOT PERMITTED TO CALL THE CLERK. HE DID NOT HAVE ACCESS TO A LIBRARY AND DID NOT HAVE INTERNET ACCESS. IN ANY EVENT, SINCE THESE WERE LOGISTICAL MATTERS, THEY WERE PART OF POLLOCK'S RESPONSIBILITIES.

29. UNFORTUNATELY, DEALING WITH POLLOCK WAS A MISERABLE AND EXASPERATING EXPERIENCE AT A TIME AND FOR A PURPOSE THAT WERE ABSOLUTELY CRITICAL TO PETITIONER: AN OLD MAN, WRONGFULLY TRIED, CONVICTED AND IMPRISONED, UNDER EXTREME DURESS BATTLING CIRCUMSTANCES BEYOND HIS CONTROL TO PURSUE HIS ONLY SHOT WITH THE ULTIMATE COURT OF LAST RESORT TO BE FREE.

30. THE ISSUES WITH POLLOCK ARE ENCAPSULATED IN PETITIONER'S 9/11/21 LETTER TO POLLOCK. BY THAT LETTER, PETITIONER ALSO "FIRED" POLLOCK FOR HIS "CON-

TINUED HARASSMENT OF MY WIFE WITH OFFENSIVE EMAILS." PETITIONER'S WIFE ~~WAS TRYING TO HELP MOVE THE PROCESS ALONG DURING THE TIME(S) PETITIONER'S CONFINEMENT PRECLUDED HIM FROM WHAT LITTLE CONTACT HE OTHERWISE HAD WITH POLLOCK.~~ WAS TRYING TO HELP MOVE THE PROCESS ALONG DURING THE TIME(S) PETITIONER'S CONFINEMENT PRECLUDED HIM FROM WHAT LITTLE CONTACT HE OTHERWISE HAD WITH POLLOCK.

31. POLLOCK ALSO FAILED TO HEED ~~CAUTIONARY ADVICE TO FILE THE CERT PETITION AHEAD OF THE DEADLINE AND NOT WAIT UNTIL THE LAST MINUTE,~~ CAUTIONARY ADVICE TO FILE THE CERT PETITION AHEAD OF THE DEADLINE AND NOT WAIT UNTIL THE LAST MINUTE,

32. AS NOTED IN EXHIBIT "C" POLLOCK MANIFESTED A PROBLEMATIC INABILITY TO FOLLOW THROUGH ON MATTERS HE AND PETITIONER HAD AGREED TO. THIS WAS NOT CONFINED TO THE LOGISTICS OF FILING THE CERT PETITION. AT THE OUTSET OF PETITIONER'S INCARCERATION AT ACT, HE EXPRESSED HIS CONCERN TO POLLOCK THAT HE MAY BE MOVED FROM THE ACT AND SENT TO A DOC SCI OUTSIDE OF ALLEGHENY COUNTY AND THEREBY VOIDING THE JULY 6 HEARING ON SENTENCE MODIFICATION TO HOME CONFINEMENT.

33. PETITIONER ASKED POLLOCK DURING THE COURSE OF FOUR CONSECUTIVE WEEKS TO ATTEMPT TO ACCELERATE THE JULY 6 HEARING DATE. EACH TIME POLLOCK STATED HE WOULD BUT HE NEVER DID.

34. IT IS NOTED THAT IF POLLOCK HAD ATTEMPTED TO ACCELERATE THE JULY 6 HEARING AND HAD BEEN SUCCESSFUL, PETITIONER COULD HAVE HAD THE HEARING BEFORE HE WAS REMOVED TO DOC'S CUSTODY. HAD MODIFICATION OF THE SENTENCE BEEN GRANTED, PETITIONER WOULD HAVE BEEN RETURNED HOME TO SERVE THE SENTENCE. IN SUCH EVENT THE ISSUES WITH POLLOCK, THE WRONGFUL AND UNCONSTITUTIONAL TRANSFER OF PETITIONER TO THE DOC AND HIS SUBSEQUENT LOCKDOWN CONFINEMENT AND HIS INABILITY TO PROPERLY MONITOR THE PROGRESS OF FILING THE CERT PETITION WOULD HAVE BEEN AVOIDED.

35. HOWEVER, THE ISSUES WITH POLLOCK AND THE TARDY FILING OF THE CERT PETITION SIMPLY NEVER WOULD HAVE MATERIALIZED BUT FOR THE WRONGFUL, UNCONSTITUTIONAL REMOVAL OF PETITIONER FROM THE ACT BY THE ALLEGHENY COUNTY SHERIFF'S OFFICE IN THE PERSON OF TWO DEPUTY SHERIFFS AND PETITIONER'S WRONGFUL DELIVERY TO THE DOC AND HIS SUBSEQUENT FALSE, UNCONSTITUTIONAL AND WRONGFUL IMPRISONMENT BY THE DOC.

36. THE AFORESAID SHERIFF'S DEPUTIES, ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT WITH THE ALLEGHENY COUNTY SHERIFF'S OFFICE, AND UNDER COLOR OF STATE LAW BUT WITHOUT COURT APPROVAL TOOK PETITIONER FROM JUDGE CASHMAN'S JURISDICTION WHILE HE

WAS AWAITING A JULY 6 HEARING ON HIS MOTION TO MODIFY HIS SENTENCE TO HOME CONFINEMENT. IF THE MOTION HAD BEEN GRANTED, PETITIONER SERVES HIS SENTENCE AT HOME AND POLLOCK IS OUT OF THE PICTURE.

39. THE DEPUTIES VIOLATED PETITIONER'S DUE PROCESS RIGHTS PURSUANT TO THE 5TH AND 14TH AMENDMENTS TO THE U.S. CONSTITUTION. THEY REMOVED HIM FROM JUDGE CASHMAN'S JURISDICTION WITHOUT ANY BASIS OF PERMISSION TO DO SO FROM THE JUDGE. IN SO DOING, THESE DEPUTIES ALSO DEPRIVED PETITIONER OF HIS DUE PROCESS RIGHTS TO THE JULY 6 HEARING WHICH NEVER CAME OFF BECAUSE OF THEIR ACTIONS.

38. ADDITIONALLY, THESE DEPUTIES ALSO WRONGFULLY TRANSFERRED PETITIONER INTO THE CUSTODY OF THE DOC, WHEREUPON PETITIONER WAS SUBJECTED TO FURTHER DEPRIVATION OF HIS CIVIL RIGHTS, AS SET FORTH, SUPRA. PETITIONER'S EFFORTS TO SALVAGE THE JULY 6 HEARING AND TO EXERCISE HIS ELECTION TO SERVE THE SENTENCE BACK AT THE ACT WERE THWARTED.

INSTEAD HE WAS SUBJECTED TO THE CRUEL AND UNUSUAL PUNISHMENT OF SMITHFIELD AND CAMP HILL IN THE GUISE OF COVID QUARANTINING, THE EFFECT OF WHICH WAS TO PREVENT PETITIONER FROM EFFECTIVE OVERSIGHT OF POLLOCK, WITH THE LATE FILING OF THE CERT PETITION AS THE HARMFUL RESULT.

39. IT IS SUBMITTED THAT THE FOREGOING UNFORE-
SEEN, AND IN FACT SURREAL, CIRCUMSTANCES WHICH
CLEARLY WERE BEYOND PETITIONER'S CONTROL,
BEHOOVE THE CLERK TO FILE PETITIONER'S PETITION
FOR WRIT OF CERTIORARI OUT-OF-TIME AND BY THIS
MOTION PETITIONER HEREBY MOVES THAT THE CLERK
DO SO.

40. THERE IS AMPLE AUTHORITY FOR THE CLERK
TO FILE THIS CERT PETITION OUT-OF-TIME.

41. IN PIONEER INVESTMENT SERVICES CO. v BRUNS-
WICK ASSOCIATES LIMITED, 507 U.S. 380 (1983), THE
SUPREME COURT EXPOUNDED UPON THE ISSUE OF ACCEPT-
ING FOR FILING OUT-OF-TIME DOCUMENTS. PIONEER
INVESTMENTS DEALT WITH WHETHER AN OUT-OF-TIME BANK-
RUPTCY PROOF OF CLAIM SHOULD NONETHELESS BE ACCEPTED
FOR FILING. THE COURT DETERMINED THAT IT SHOULD, ON
THE BASIS OF "EXCUSABLE NEGLIGENCE."

42. THE COURT NOTED THAT THE CONCEPT OF
"EXCUSABLE NEGLIGENCE" HAD BEEN USED IN OTHER
FEDERAL PROCEDURAL CONTEXTS, SUCH AS F.R.C.P. 6(b),
13(b) AND 60(b)(1). SEE PIONEER INVESTMENT,
507 U.S. 391-394.

43. AT ITS ESSENCE, EXCUSABLE NEGLIGENCE IS AN
EQUITABLE CONCEPT THAT EXPANDS UPON "CIRCUM-

STANCES BEYOND THE CONTROL" OF THE MOVANT. Id. AT P.392. HENCE IF A SITUATION ARISES THAT IS BEYOND THE CONTROL OF ONE SEEKING TO FILE OUT-OF-TIME, IT NECESSARILY FOLLOWS THAT IS ALSO EXCUSABLE NEGLECT, SUBJECT TO AN EQUITABLE DETERMINATION OF THE RELEVANT CIRCUMSTANCES. Id. AT P.395.

44. CLEARLY THE SURREAL, UNFORESEEN CIRCUMSTANCES WHICH CAUSED PETITIONER'S CERT PETITION TO BE SUBMITTED FIVE DAYS LATE WERE WELL BEYOND HIS CONTROL. THE TARDINESS OF THE CERT PETITION IS ATTRIBUTABLE TO THREE SOURCES: (i) THE FACT OF PETITIONER'S INCARCERATION; (ii) ATTORNEY POLLOCK; AND (iii) "STATE ACTORS", INCLUDING INDIVIDUALS ACTING UNDER COLOR OF STATE LAW, THE ALLEGHENY COUNTY SHERIFF'S OFFICE, THE DOC, SCI SMITHFIELD AND SCI CAMP HILL.

45. PETITIONER'S INCARCERATION AT ACT WAS A GIVEN AND HENCE BEYOND HIS CONTROL. TO DO ANYTHING ABOUT, AND THUS OBTAIN HIS FREEDOM, HE NEEDED THE INTERVENTION OF OTHERS, E.G. JUDGE CASHMAN AND THE SUPREME COURT.

46. AS SET FORTH, SUPRA, PETITIONER TRIED MIGHTILY TO GAIN HIS RELEASE FROM THE ACT WHICH WOULD HAVE ENABLED HIM TO PURSUE THE CERT PETITION WITHOUT ANY LOGISTICAL SUPPORT AS HE WOULD HAVE

BEEN SERVING HIS SENTENCE AT HOME. HE WOULD HAVE HAD THAT OPPORTUNITY, VIA THE JULY 6, 2021 HEARING BEFORE JUDGE CASHMAN BUT HE WAS DEPRIVED OF THAT BY THE STATE ACTORS.

47. THE STATE ACTORS, I.E. THE DEPUTY SHERIFFS WHO WRONGLY AND UNCONSTITUTIONALLY REMOVED PETITIONER FROM THE ACT AND TURNED HIM OVER TO THE DOC; THE DOC COUNSELOR, HIMES, WHO STONEWALLED PETITIONER'S EFFORTS TO SALVAGE THE JULY 6 HEARING AND HIS ELECTION TO RETURN TO THE ACT TO SERVE HIS SENTENCE SO THAT HE COULD BE SURE THAT THE CERT PETITION WOULD BE TIMELY FILED, AS WELL AS THE DOC WHOSE OPPRESSIVE COVID QUARANTINING PREVENTED PETITIONER FROM EFFECTIVELY MONITORING THE LOGISTICS OF THE CERT PETITION, ALL WERE OBVIOUSLY BEYOND PETITIONER'S CONTROL. ALL OF THESE ACTORS, ON BEHALF OF THE "STATE" VIOLATED PETITIONER'S DUE PROCESS RIGHTS AS SET FORTH ABOVE, AND HENCE EACH, BY THEIR DENIAL OF DUE PROCESS, EITHER THWARTED PETITIONER'S EFFORTS TO: SALVAGE THE JULY 6 HEARING; SERVE THE SENTENCE AT ACT; AND/OR MONITOR THE LOGISTICAL PROGRESS OF THE CERT PETITION.

48. POLLOCK'S BEHAVIOR AND THE LATE FILING OF THE CERT PETITION WERE ALSO BEYOND PETI-

TIONER'S CONTROL. AS SET FORTH ABOVE, POLLOCK'S INVOLVEMENT WOULD HAVE BEEN UNNECESSARY HAD PETITIONER PREVAILED AT THE HEARING THE STATE ACTORS WRONGFULLY AND UNCONSTITUTIONALLY DEPRIVED HIM OF. EFFECTIVE MONITORING OF POLLOCK WAS ALSO WRONGFULLY AND UNCONSTITUTIONALLY TAKEN FROM PETITIONER. HE WAS NOT ABLE TO RETURN TO THE ACT TO SERVE HIS SENTENCE BECAUSE OF THE STATE ACTORS. HAD PETITIONER BEEN RETURNED TO THE ACT, OR NEVER REMOVED FROM IT IN THE FIRST INSTANCE, THE CERT PETITION WOULD HAVE BEEN TIMELY FILED.

49. BY TAKING PETITIONER AWAY FROM THE ACT, HOLDING HIM IN THE DOC'S CUSTODY AND QUARANTINING HIM, THE STATE ACTORS DESTROYED EFFECTIVE COMMUNICATIONS BETWEEN PETITIONER AND POLLOCK. MAIL FROM PETITIONER TO POLLOCK WAS PERMITTED TO BE PICKED UP IN PERSON AND MAIL FROM POLLOCK WAS HAND DELIVERED WHEN PETITIONER WAS AT ACT. TELEPHONE CALLS FROM PETITIONER TO POLLOCK WERE EASILY FACILITATED: PETITIONER COULD PLACE 45 MINUTES OF PHONE CALLS TO POLLOCK FROM THE COMMON AREA PHONES, PLUS PETITIONER COULD CALL POLLOCK FROM THE TELLINK TABLETS THAT EA. ACT PRISONER RECEIVED DAILY.

50. CONVERSELY, WHILE AT SMITHFIELD AND AT

CAMP HILL, PETITIONER NEVER RECEIVED CLEARANCE TO CALL POLLOCK

51. CONSEQUENTLY, WITHOUT PETITIONER'S ABILITY TO EFFECTIVELY MONITOR POLLOCK, POLLOCK WAS BEYOND PETITIONER'S CONTROL. POLLOCK "FORGOT" TO SEEK ACCELERATION OF THE JULY 6 HEARING DATE. HE FAILED TO ABIDE BY PETITIONER'S DIRECTIVE THAT HE CHECK HIS ACTIONS VIA THE SUPREME COURT'S RULES AND BY CONTACTING THE CLERK DIRECTLY FOR GUIDANCE.

52. PETITIONER'S WIFE, ~~XXXXXXXXXXXXXXXXXXXX~~ ~~XXXXXX~~, ALSO TRIED TO ASSIST IN ~~XXXXXXXXXXXXXXXXXXXX~~ TRACKING POLLOCK. SHE CAUTIONED POLLOCK NOT TO WAIT UNTIL THE LAST MINUTE TO FILE THE CERT PETITION. POLLOCK, HOWEVER, NOT ONLY REFUSED TO HEED THAT CAUTIONARY ADVICE, HE TURNED ON ~~HER~~ ~~XXXXXX~~ AND BEGAN SENDING HER HARASSING AND INSULTING EMAILS.

53. ACCORDINGLY THE CIRCUMSTANCES ATTENDANT TO THE TARDINESS OF THE FILING OF THE CERT PETITION WERE CLEARLY BEYOND PETITIONER'S CONTROL AND THE CLERK SHOULD NOW FILE IT OUT-OF-TIME. THE EQUITIES OF THIS CASE SUPPORT THAT.

54. IT IS NOTED THAT THE SUPREME COURT, AS PART

OF ITS APPLICATION OF EXCUSABLE NEGLIGENCE IN PIONEER INVESTMENT, DETERMINED THAT NOT ONLY MUST THE NEGLIGENCE OF THE LATE FILER BE EXCUSABLE, THE NEGLIGENCE OF THE FILER'S ATTORNEY MUST BE AS WELL, OTHERWISE THE OUT-OF-TIME FILING WILL NOT BE PERMITTED. Id., AT PP. 396-397. SUCH DUALITY OF EXCUSABLE NEGLIGENCE HOWEVER, IS NOT APPLICABLE IN THE INSTANT MATTER FOR THE FOLLOWING REASONS:

(a) PETITIONER'S BASIS FOR CLAIMING OUT-OF-TIME FILING STATUS IS NOT MERELY EXCUSABLE NEGLIGENCE, BUT RATHER HIS COMPELLING CASE OF CIRCUMSTANCES BEYOND HIS CONTROL. HENCE HIS SITUATION IS DISTINGUISHABLE FROM THAT OF PIONEER INVESTMENT.

(b) PETITIONER IS A PRO SE FILER. THE SUPREME COURT NOTED THAT THE LATE FILER IN PIONEER INVESTMENT SHOULD BE HELD ACCOUNTABLE FOR THE CONDUCT OF ITS COUNSEL, SUCH THAT IF SAID COUNSEL'S NEGLIGENCE WAS UNEXCUSED, THE LATE FILING WOULD NOT BE PERMITTED, RATIONALIZING THAT THE FILER "VOLUNTARILY CHOSE THIS ATTORNEY AS HIS REPRESENTATIVE IN THIS ACTION AND HE CANNOT NOW AVOID THE CONSEQUENCES..." Id., AT P. 397. THAT RATIONALE HAS NO APPLICATION HERE BECAUSE PETITIONER IS REPRESENTING HIMSELF, HENCE THERE IS NO DUALITY OF PERSONA. PETITIONER'S LATE FILING IS SOLELY ATTRIBUTABLE TO CIRCUMSTANCES BEYOND HIS CONTROL, REGARDLESS OF

THE FACT THAT HE IS HIS OWN COUNSEL.

(C) PETITIONER WISHES THAT HE WAS IN THE POSITION OF THE PIONEER INVESTMENT LATE FILER WHO HAD THE MEANS TO RETAIN AN EXPERIENCED, SOPHISTICATED PRACTITIONER TO HANDLE HIS CERT PETITION, BUT PETITIONER HAS NO CHOICE BUT TO REPRESENT HIMSELF. HIS LICENSE TO PRACTICE LAW WAS SUSPENDED SIX YEARS AGO. COME THIS APRIL, COUNTING THE ORPHANS' COURT PROCEEDINGS IN THIS CASE (IN WHICH PETITIONER PREVAILED), PETITIONER WILL HAVE FOUGHT THIS INJUSTICE FOR 15 YEARS. ON THE 19TH OF THIS MONTH, THE CRIMINAL ASPECT OF THIS CASE WILL COMMENCE ITS 14TH YEAR.

(D) PETITIONER'S PAID LEGAL FEES HAVE APPROACHED SEVEN FIGURES. HE AND HIS WIFE WERE COMPELLED TO SELL THEIR LONGTIME FAMILY HOME OVER 10 YEARS AGO. PETITIONER EXPENDED HIS RETIREMENT FUNDS AND NEARLY ALL OF THE FAMILY'S SAVINGS.

(E) ACCORDINGLY THE NOTION OF COUNSEL'S EXCUSABLE NEGLIGENCE HAS NO APPLICATION HERE

55. POLLOCK IS NOT PETITIONER'S COUNSEL AS TO THE CERT PETITION. POLLOCK HAS NO EXPERIENCE WITH RESPECT TO PETITIONS FOR WRITS OF CERTIORARI AND, TO PETITIONER'S KNOWLEDGE, POLLOCK HAS NEVER PRACTICED BEFORE THE U.S. SUPREME COURT. PETITIONER DID NOT RETAIN POLLOCK,

PETITIONER HIRED POLLOCK'S FIRM, BECAUSE PETITIONER HAD DEALT WITH THE FIRM PREVIOUSLY, AND BELIEVED THE FIRM HAD THE RESOURCES TO GET THE CERT PETITION TYPED, REPRODUCED AND TO THE CLERK IN TIME.

56. POLLOCK'S INVOLVEMENT WAS CLERICAL: HE DID ALL THE TYPING OF THE CERT PETITION, LOGGING NEARLY 27 HOURS FOR THAT TASK; AT A SECRETARIAL RATE OF \$50/HR. HE CHARGED \$25/HR FOR ANOTHER CLERICAL MATTER. PETITIONER NEVER USED POLLOCK'S PROFESSIONAL SERVICES; INDEED PETITIONER'S EXPRESS DIRECTION TO POLLOCK WAS THAT HE CONSULT THE SUPREME COURT'S RULES AND CONTACT THE CLERK'S OFFICE, NOT FOR LEGAL ISSUES BUT RATHER SIMPLE LOGISTICAL MATTERS SUCH AS WHEN TO FILE THE CERT PETITION, THE PROPER FORMAT AND THE LOGISTICS OF THE PETITION APPENDIX. THESE MATTERS COULD HAVE READILY BEEN HANDLED BY A SECRETARY, PARALEGAL OR LAW CLERK. TO THE EXTENT POLLOCK CHOSE TO INVOLVE HIMSELF, THAT WAS A MATTER OF HIS LAW FIRM'S DYNAMICS, NOT BECAUSE PETITIONER WAS USING POLLOCK'S PROFESSIONAL EXPERTISE.

57. POLLOCK DID FILE THE CERT PETITION LATE, BY FIVE DAYS. IT IS SUBMITTED THAT THIS TARDINESS IS DE MINIMUS. IT IS NOTED THAT THE DAY POLLOCK FILED THE CERT PETITION WAS TUESDAY, SEPTEMBER 7, 2021, THE DAY AFTER LABOR DAY. CLEARLY POLLOCK'S FILING WOULD HAVE BEEN CLOSER TO THE ACTUAL SEPTEMBER 2 DUE DATE BY AT LEAST ONE DAY AND QUITE POSSIBLY CLOSER BUT FOR THE LONG

LABOR DAY WEEKEND, WHICH PER THE SUPREME COURT'S RULES, ARE NOT COUNTED IF THE LAST DAY TO FILE FALLS ON A WEEKEND OR HOLIDAY. HENCE, THE ONLY REASON THE CERT PETITION WAS FILED ALL OF FIVE DAYS LATE IS BECAUSE OF THE LONG LABOR DAY WEEKEND.

58. TO THAT END, NOTE THAT SEPTEMBER 5, 2021, I.E. FIVE MONTHS AFTER THE APRIL 5, 2021 (ASSUMING FIVE THIRTY DAY MONTHS, A COMMON ERROR) ORDER, FELL ON A SUNDAY, THREE DAYS AFTER THE THE SEPTEMBER 2 FILING DEADLINE. SEPTEMBER 5, 2021 WAS ALSO THE 150TH DAY AFTER PETITIONER'S FAMILY RECEIVED SAID ORDER ON APRIL 8, 2021. THE FOREGOING DEMONSTRATE THAT CONSIDERING THE CERT PETITION TO HAVE BEEN FILED FIVE DAYS LATE, MISSES THE CONTEXT IN WHICH IT WAS FILED. THE TARDINESS IN FILING THE CERT PETITION, IN ITS PROPER CONTEXT, IS LESS THAN FIVE DAYS.

59. ADDITIONALLY, PETITIONER SHOULD NO MORE BE HELD ACCOUNTABLE FOR POLLOCK'S FAUX PAS, THAN HE SHOULD BE IF A SECRETARY OR PARALEGAL HAD MAILED, OR IF A COURIER HAD TAKEN SOME WRONG TURNS AND BECAME LOST, AND THE PETITION DID NOT REACH THE CLERK IN TIME. PETITIONER WAS NOT A GUARANTOR OF POLLOCK'S MAILING. MOREOVER, PETITIONER DIRECTED POLLOCK TO CHECK THE SUPREME COURT'S RULES AND TO CALL THE CLERK. POLLOCK DID NEITHER.

PETITIONER'S WIFE, ~~XXXXXXXXXXXXXXXXXXXX~~ CAUTIONED POLLOCK NOT TO WAIT UNTIL THE LAST MINUTE TO FILE. NOT ONLY DID POLLOCK IGNORE HER, HE BEGAN HARASSING

PETITIONER'S WIFE VIA EMAIL.

60. POLLOCK WAS FIVE DAYS LATE, BUT IN ITS PROPER CONTEXT, HIS FILING MAY HAVE BEEN NO MORE THAN THREE DAYS TARDY. THE SUPREME COURT EXCUSED THE TARDINESS OF 20 DAYS IN PIONEER INVESTMENTS. ID., AT P. 384. THE COURT EXCUSED THE TARDINESS NOT BECAUSE OF ANY COMPELLING ALIBI. RATHER, IT WAS BECAUSE THE LATE FILER'S LAWYER FAILED TO READ THE NOTICE OF THE BAR DATE BECAUSE IT WAS NOT WHERE SUCH NOTICES TYPICALLY ARE PLACED AND HIGHLIGHTED. ID., AT P. 398. INDEED, THE COURT NOTED THAT COUNSEL WAS "REMISS" BUT HELD THAT THE NEGLIGENCE WAS EXCUSABLE BECAUSE THERE WAS NO EVIDENCE OF PREJUDICE TO THE OTHER PARTY OR TO JUDICIAL ADMINISTRATION OR ANY INDICATION OF BAD FAITH. ID.

61. EVEN IF POLLOCK'S CONDUCT WAS ATTRIBUTABLE TO PETITIONER, IT MERITS EXCUSE MORE SO THAN THE NEGLIGENT, HIGH PRICED, EXPERIENCED BUT TARDY COUNSEL IN PIONEER INVESTMENT. SAID COUNSEL WAS "REMISS" BECAUSE HE DID NOT READ A BAR DATE NOTICE. POLLOCK WAS REMISS BECAUSE HE DID NOT READ A FILING DEADLINE IN THE SUPREME COURT'S RULES. PIONEER INVESTMENT'S TARDY COUNSEL WAS LATE BY 20 DAYS. POLLOCK, NO MORE THAN FIVE.

62. MOST SIGNIFICANTLY, THERE IS NO BAD FAITH AS TO THE LATE FILING OF PETITIONER'S CERT PETITION, NO PREJUDICE TO THE COMMONWEALTH OR TO JUDICIAL ADMINISTRATION. THE ONLY ONE HURT BY THIS IS PETITIONER.

63. IF THE CLERK DOES NOT FILE PETITIONER'S CERT PETITION OUT-OF-TIME, THE OPPOSING PARTY IN THIS CASE, THE COMMONWEALTH OF PENNSYLVANIA, WILL BE GREATLY REWARDED, NOT FOR MERE UNCLEAN HANDS, BUT FOR ITS FILTHY HANDS, STAINED AND INFESTED WITH THE POLLUTED STENCH OF ITS OUTRAGEOUSLY DESPICABLE AND UNCONSTITUTIONAL CONDUCT OF ITS DEPARTMENT OF CORRECTIONS; ITS SCI 8, I.E. SMITHFIELD AND CAMP HILL; ITS EMPLOYEES, E.G. THE C.O.S WHO BRUTALIZED PETITIONER ONCE HE WAS TURNED OVER TO THE DOC'S CUSTODY AT SCI-GREENE AND BUSSED HIM TO SMITHFIELD, HIMES - THE COUNSELOR - WHO SHUT DOWN PETITIONER'S EFFORTS TO SALVAGE THE JULY 6 HEARING AND HIS ELECTION TO RETURN TO THE ACT TO SERVE HIS SENTENCE AND PROPERLY MONITOR THE PROGRESS OF THE CERT. PETITION; AND THOSE WHO LOOKED PETITIONER UP NEARLY 24/7 DURING HIS TIME AT SMITHFIELD AND CAMP HILL; AND THE DOC'S AGENTS, THE ALLEGHENY COUNTY SHERIFF'S OFFICE AND ITS TWO DEPUTIES WHO STOLE PETITIONER OUT OF ALLEGHENY COUNTY AND BOUND HIM OVER TO THE DOC.

64. IT IS DIFFICULT TO BELIEVE THAT THE FOREGOING WAS JUST A MATTER OF HAPPENSTANCE AND NOT DELIBERATELY INTENDED TO SILENCE PETITIONER, ONCE A PROMINENT PITTSBURGH ATTORNEY, FORMER ALLEGHENY COUNTY SOLICITOR AND CRUSADING, CORRUPTION BUSTING COUNTY COUNCILMAN, FROM TAKING HIS CASE, WHICH IS ALL ABOUT THE ABUSE AND MISUSE OF THE COMMONWEALTH'S JUDICIAL AND PROSECUTORIAL POWERS TO FRAME, CONVICT AND SENTENCE PETITIONER,

A FIRST TIME OFFENDER, IN A NON VIOLENT, NO LOSS, VICTIMLESS CRIME, A WHITE COLLAR, "PAPER CRIME." PETITIONER HAS ENDURED AND LIVED THIS ACT SINCE HIS ARREST AND PERP WALK ON FEBRUARY 19, 2009.

65 INTENTIONALLY DESIGNED TO SILENCE PETITIONER'S EFFORTS TO FILE HIS CERT PETITION AND PRECLUDE THE SUPREME COURT OR NOT, THE COMMONWEALTH'S ACTORS HAVE, SO FAR HAVE ACCOMPLISHED THAT BY THEIR COLLECTIVE DEPRIVATION OF PETITIONER'S DUE PROCESS RIGHTS, SUPRA, WHICH STOPPED THE JULY 6 HEARING TO MODIFY PETITIONER'S SENTENCE TO HOME CONFINEMENT, WHICH WOULD HAVE ENABLED HIM TO HANDLE THE CERT PETITION'S LOGISTICAL ISSUES HIMSELF; AND WHICH STOPPED PETITIONER'S ELECTION TO SERVE THE SENTENCE AT ACT; AND WHICH KEPT PETITIONER BOTTLED UP IN TWO OUT OF THE WAY DOC GULAGS AND OUT OF EFFECTIVE CONTACT WITH POLLACK. THESE LAST TWO VIOLATIONS OF PETITIONER'S DUE PROCESS RIGHTS PRECLUDED THE MONITORING AND COMMUNICATION, INCLUDING PROMPT MAIL DELIVERY, THAT WOULD HAVE INSURED TIMELY FILING OF THE CERT PETITION.

66 IT SHOULD ALSO BE NOTED THAT THE COMMONWEALTH WAS WELL AWARE THAT PETITIONER WAS SEEKING CERTIORARI FROM THE SUPREME COURT. WHILE AT ACT, PETITIONER WAS NOT RECEIVING MAIL FROM POLLOCK (NOR FROM HIS FAMILY ALBERT MAIL FROM FRIENDS WAS GETTING THROUGH). PETITIONER THEREFORE FILED A MOTION WITH JUDGE CASHMAN TO AUTHORIZE HAND DELIVERY/PICK-UP OF MAIL BETWEEN POLLOCK AND PETI-

TIONER, EXPLAINING THE NEED FOR SUCH EXPEDITED DELIVERY AS BEING THE PREPARATION OF THE CERT PETITION. FURTHER, AFTER THE ACT MAILROOM RESPONDED TO PETITIONER FORMAL, WRITTEN REQUEST ABOUT THE PREVIOUSLY UNDELIVERED MAIL FROM POLLOCK STATING IT HAD NEVER BEEN RECEIVED, POLLOCK, THROUGH BACK CHANNELING HAD LEARNED THAT HIS MAIL HAD BEEN PULLED AND SET ASIDE FOR ABOUT TWO WEEKS. IT WAS THEN DELIVERED TO PETITIONER.

67. THE COMMONWEALTH SHOULD NOT PROFIT FROM ITS EGREGIOUS VIOLATION OF PETITIONER'S DUE PROCESS RIGHTS SIMPLY BECAUSE THE CERT PETITION WAS FILED A FEW DAYS LATE. THE UNDERLYING CASE IS TOO COMPELLING TO BE DISCARDED DUE TO A FILING FOOT FAULT. AS SET FORTH IN THE CERT PETITION, PETITIONER'S CASE CRIES OUT FOR REDRESS BY THE SUPREME COURT DUE TO THE UNIQUENESS AND PANOPLY OF CONSTITUTIONAL RIGHTS VIOLATIONS THE COMMONWEALTH COMMITTED AS PART OF ITS "CONSTITUTION BE DAMNED" APPROACH TO GET PETITIONER.

68. SAID VIOLATIONS INCLUDED: THE EXTRA-JUDICIAL, ULTRA VIRES OPINION OF THE POST-TRIAL JUDGE WHO SENTENCED PETITIONER WITHOUT READING A STITCH OF THE RECORD AND WHO SENTENCED PETITIONER ONLY BECAUSE THE NON-JURY TRIAL JUDGE RECUSED HIMSELF BECAUSE OF HIS PERSONAL "ANIMUS" TOWARD PETITIONER AFTER A CREDIBLE WITNESS CAME FORWARD WITH TESTIMONY THAT THE TRIAL JUDGE AGREED WITH HIS SECRETARY TO CONVICT PETITIONER BEFORE THE TRIAL ENDED; SAID OPINION CONTAINED OVER 100 FALSE AND ERRONEOUS STATEMENTS THAT

WERE SIMPLY MADE UP AS THEY WERE UNTETHERED TO THE TRIAL RECORD; SAID STATEMENTS WERE INCLUDED IN THE OPINION TO SUSTAIN THE CONVICTION THAT WAS UNSUSTAINABLE BY THE ACTUAL TRIAL RECORD; AN APPELLATE COURT THAT DENIED PETITIONER DUE PROCESS BY FAILING TO PROVIDE ANY MEANINGFUL REVIEW AND INSTEAD ADOPTED 68 OF THE ERRONEOUS STATEMENTS IN THE SENTENCING JUDGE'S OPINION WITHOUT A SINGLE CITATION TO THE RECORD; A PROSECUTION "LOWLIGHTED" BY ITS SELECTIVE PROSECUTION IT UNDERTOOK IN OPEN COURT IN THE MIST OF PETITIONER'S TRIAL AND THE FAILURE OF THE PA SUPREME COURT TO DO ANYTHING ABOUT ANY OF THE FORE GOING.

69. MOST CRITICALLY, THE COMMONWEALTH'S SOLE THEORY OF CULPABILITY IS A RED HERRING, A SHAM THAT WAS PREVIOUSLY RAISED IN RELATED ORPHANS' COURT THAT THE COMMONWEALTH WAS ACTIVELY ENGAGED IN, THOROUGHLY VETTED IN THOSE PROCEEDINGS AND REJECTED. THE COMMONWEALTH ASSERTED THAT A SPRINGING POWER OF ATTORNEY GRANTED TO PETITIONER BY A WEALTHY, ELDERLY WIDOW, WAS "VOID" BECAUSE IT HAD NOT SPRUNG. THE SPRINGING FEATURE WAS THE WIDOW'S INCAPACITY. HOWEVER, THE COMMONWEALTH WENT ON TO ASSERT THAT THIS VOID POA WAS USED BY PETITIONER TO COMPEL TWO CO-TRUSTEE BANKS WITH DISCRETIONARY POWERS UNDER SEPARATE TRUSTS. THE BANKS' RESPECTIVE DISCRETIONARY POWERS TO SPEND THE WIDOW'S TRUST FUNDS THEMSELVES WERE SPRINGING: IF THE WIDOW WAS NOT INCAPACITATED, THE ONLY DISBURSEMENTS OF TRUST FUNDS EITHER BANK COULD MAKE WERE THOSE THE WIDOW AUTHORIZED IN WRITING.

70. THE TRIAL JUDGE DETERMINED DURING THE FIRST DAY OF TRIAL THAT AS A MATTER OF LAW, PETITIONER COULD NOT HAVE USED HIS VOID POA TO DIRECT THE TRUSTEE BANKS TO MAKE THE FIVE \$10,000 DONATIONS (ONE CHARITABLE, FOUR POLITICAL) AT ISSUE, BECAUSE A VOID POA DOES NOT EXIST AND HENCE COULD NOT BE RELIED UPON BY THE TWO BANKS. MOREOVER, THE BANKS HAD NO AUTHORITY TO MAKE DISCRETIONARY EXPENDITURES SINCE THEIR DISCRETIONARY TRUSTEE POWERS DID NOT SPRING EITHER. THE COMMONWEALTH ADMITTED THE WIDOW HAD NOT GIVEN EITHER BANK WRITTEN PERMISSION TO ISSUE THE FIVE CHECKS.

71. THE TRIAL JUDGE ALSO FOUND THAT PETITIONER HAD NOT OBSCURED HIS POWERS WITH RESPECT TO THE POA. HE STRONGLY INTIMATED THAT THE TWO BANKS HAD COMMITTED THEFT OF TRUST FUNDS, NOT PETITIONER, AND PROMISED "A BRAND NEW BALLGAME." FOR WHATEVER REASON, THE JUDGE DID NOT FOLLOW THROUGH ON HIS VOW, WHICH WAS MADE BEFORE HE PURPORTEDLY AGREED TO FIX THE CASE WITH HIS SECRETARY TO CONVICT PETITIONER.

72. IT IS NOTED THAT IN ADDITION TO THE THEFT CONVICTION, PETITIONER WAS CONVICTED ON THE ALTERNATIVE THEORY THAT THE POA HAD SPRUNG, WAS VALID AND THAT THE WIDOW WAS, IN FACT, INCAPACITATED. THAT CONVICTION (WHICH ASSESSED NO ADDITIONAL SENTENCE) ALSO MUST FAIL AS A MATTER OF LAW BECAUSE IF THE WIDOW WAS INCAPACITATED, THE BANKS' DISCRETIONARY POWERS SPRANG INTO EFFECT. PENNSYLVANIA STATUTE 20 P.S.C.

S.A. § 5603 (g) PRECLUDES THE HOLDER OF A POA FROM DIRECTING A TRUSTEE WITH DISCRETIONARY SPENDING POWERS TO DO ANYTHING. NON-BINDING REQUESTS ARE THE LIMIT FOR THE POA HOLDER.

73. THE CONTEXT OF THE CRIMINAL PROSECUTION HAS THE SAME ODOR AS THE COMMONWEALTH'S BEAT DOWN OF PETITIONER AS TO HIS ATTEMPT TO FILE THE CERT. PETITION. PETITIONER WAS CLEARED OF ANY WRONGDOING WITH RESPECT TO THE FIVE DONATIONS AFTER A FULL VETTING IN ORPHANS' COURT, WHICH ALSO VALIDATED HIS POA. FINAL ORDERS, INCLUDING THE PAYMENT OF COUNSEL FEES TO PETITIONER'S LAWYERS IN THE AMOUNT OF \$62,500 WERE ISSUED IN AUGUST, 2008. THE ORDERS ALSO CONFIRMED PETITIONER'S ACCOUNTS OF HIS ACTIONS "ABSOLUTELY" AND DISMISSED ANY OBJECTIONS WITH "PREJUDICE". BY STATUTE, THERE WAS A FIVE YEAR WINDOW FOR THE COMMONWEALTH OR ANY INTERESTED PARTY, TO SEEK TO REOPEN THOSE ORDERS. NO SUCH CHALLENGES WERE EVER FILED.

74. SUBSEQUENT TO THOSE AUGUST, 2008 ORDERS, PETITIONER, AS A COUNTY COUNCILMEMBER ACTING PRO SE, SUED ALLEGHENY COUNTY AND WON AN INJUNCTION TO STOP THE COUNTY FROM ITS ATTEMPT TO USE "DRINK TAX" EXCESS REVENUES - MILLIONS OF DOLLARS, FOR ILLEGAL PURPOSES. THE INJUNCTION WAS ISSUED EARLY IN JANUARY, 2009.

75. IN MID JANUARY, 2009, PETITIONER FILED ANOTHER LAW-

SET, THIS TIME TO DISSOLVE AN \$80 MILLION SLUSH FUND SET UP BY THE ALLEGHENY COUNTY CHIEF EXECUTIVE AND THREE PROMINENT STATE SENATORS FROM ALLEGHENY COUNTY. ALL FOUR POLITICOS WERE DEMOCRATS. PETITIONER IS A REPUBLICAN. THE SLUSH FUND WAS BEING USED TO MAKE OUTRIGHT GRANTS OR LOW INTEREST LOANS PRIMARILY TO THE BUSINESSES OF POLITICAL SUPPORTERS OF THE FOUR POLITICIANS.

76. WHEN THE SLUSH FUND LAWSUIT WAS FILED, THE COUNTY CHIEF EXECUTIVE TOOK TO TELEVISION TO THREATEN PETITIONER WITH PROSECUTION. APPROXIMATELY A MONTH LATER, PETITIONER WAS INDICTED AND ARRESTED. THE CHIEF EXECUTIVE'S COMMENTS AND THREAT ARE MEMORIALIZED IN THE PETITION APPENDIX.

77. OBVIOUSLY THE FOREGOING PRESENTS A COMPELLING CASE OF MAJOR PUBLIC CONCERN THAT NEEDS TO BE BROUGHT TO THE SUPREME COURT'S ATTENTION. IT IS RESPECTFULLY REQUESTED THAT THIS CERT PETITION NOT BE INTERDICTED BECAUSE IT WAS FILED A FEW DAYS LATE.

78. IT IS NOTED THAT THIS MOTION IS BROUGHT SOME FIVE MONTHS AFTER THE CLERK REJECTED FILING THE PETITION LAST SEPTEMBER. THIS TOO IS A MATTER OF CIRCUMSTANCES BEYOND PETITIONER'S CONTROL.

78. ALTHOUGH THE CLERK REJECTED THE CERT PETITION

LAST SEPTEMBER, NO NOTICE OF THAT WAS GIVEN TO PETITIONER UNTIL A ^{RETURN} TELEPHONE CALL FROM THE CLERK'S OFFICE TO PETITIONER'S WIFE ON DECEMBER 16, 2021. PRIOR TO THAT, PETITIONER ~~XXXXXXXXXX~~ HAD MADE A NUMBER OF ATTEMPTS TO CONTACT THE CLERK'S OFFICE TO ASCERTAIN THE STATUS OF THE CERT PETITION, INCLUDING ASKING POLLOCK TO LOOK INTO IT. SEE EXHIBIT "D."

79. PETITIONER DID NOT RECEIVE A COPY OF THE REJECTION LETTER, DATED SEPTEMBER 13, 2021, UNTIL FEBRUARY 3, 2022, WHEN IT WAS MAILED ^{FORWARD} TO HIM BY HIS WIFE. PETITIONER ~~XXXXXXXXXX~~ HAD RECEIVED THE REJECTION LETTER VIA THE CLERK'S JANUARY 18, 2022 CORRESPONDENCE. THAT CORRESPONDENCE ALSO RETURNED THE CERT PETITION BOOKLETS AND ALSO THE NUNC PRO TUNC FILINGS PETITIONER MADE IN DECEMBER, 2021 AND IN JANUARY, 2022. SEE EXHIBIT "E".

80. THE DELAY IN PETITIONER NOT RECEIVING THE REJECTION LETTER UNTIL FEBRUARY 3, 2022 IS BECAUSE IT WAS ORIGINALLY MAILED TO HIM AT QUEHANNA INSTEAD OF TO HIS POST OFFICE BOX IN PITTSBURGH, EVEN THOUGH THE POST OFFICE BOX ADDRESS IS IDENTIFIED AS THE "C/O" ADDRESS ON THE CERT PETITION COVER PAGES.

81. ONCE THE SUPREME COURT'S CLERK MAILED ITS REJECTION LETTER AND CERT PETITION BOOKS TO QUEHANNA, ITS MAIL BUREAUCRACY TOOK OVER. THE SC REFUSED

TO ACCEPT THE CLERK'S MAIL BECAUSE IT DID NOT HAVE A DOC CONTROL NUMBER AND HENCE VIOLATED DOC POLICY.
SEE EXHIBITS "F," "G" AND "H"

82. ACCORDINGLY, TO AVOID ANY MORE BUREAUCRATIC MAIL ISSUES WITH QUEHANNA, PETITIONER REQUESTS THAT ALL MAIL FROM THE CLERK BE SENT TO HIS PITTSBURGH P.O. BOX.

83. THE CERT PETITION WAS FILED LATE DUE TO CIRCUMSTANCES BEYOND PETITIONER'S CONTROL. IN ANY EVENT IT WAS FILED NO MORE THAN FIVE DAYS LATE - A DEMERITUS DEPARTURE FROM THE DEADLINE TO FILE THE CERT PETITION. THE TARDINESS WAS NOT DUE TO ANY BAD FAITH AND TO REFUSE TO FILE THE CERT PETITION OUT-OF-TIME WOULD BE TO REWARD THE DIRTY HAND, UNCONSTITUTIONAL CONDUCT OF THOSE ACTING ON BEHALF OF THE COMMONWEALTH OF PENNSYLVANIA TO STOP THE CERT PETITION FROM BEING FILED AND KEEPING THIS CASE OF MAJOR PUBLIC CONCERN, ONE THAT IS REPLETE WITH JUDICIAL AND PROSECUTORIAL ABUSES OF POWER, FROM REACHING THE SUPREME COURT.

THEREFORE, PETITIONER MOVES TO DIRECT THE CLERK TO FILE HIS PETITION FOR WRIT OF CERTIORARI OUT-OF-TIME

RESPECTFULLY SUBMITTED,

Charles McCullough, PETITIONER

HA 20

Form DC-135A		Commonwealth of Pennsylvania Department of Corrections	
INMATE'S REQUEST TO STAFF MEMBER		INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.	
1. To: (Name and Title of Officer) <u>MR. HIMES</u>		2. Date:	
3. By: (Print Inmate Name and Number) <u>CPT 7525</u> <u>CHARLES McCULLOUGH</u> <u>Charles McCullough</u> Inmate Signature		4. Counselor's Name:	
6. Work Assignment:		5. Unit Manager's Name:	
7. Housing Assignment: <u>Block</u>		8. Subject: State your request completely but briefly. Give details. <u>MR. HIMES, I AM REQUESTING YOU CAN HELP ME WITH WHAT I THINK IS A BUREAUCRATIC MESS. I HORN TO GO OUT BECAUSE I CAN NOT CONTACT MY WIFE OR LAWYER AS MY CONTACT LIST IS NOT YET APPROVED AND I NEED TO SPEAK TO THEM ASR. LIST IS ON REVERSE SIDE. ALSO, I SHOULD NOT BE HERE AS I DO NOT HAVE A FINAL SENTENCE. ON 4/6/21, ALLEGHENY COUNTY JUDGE DAVID CHAMMAN RETAINED JURISDICTION TO MODIFY MY SENTENCE TO POSSIBLE HOME CONFINEMENT FOR MEDICAL PURPOSES - ESPECIALLY NECESSARY SURGERY FOR TORN RIGHT SHOULDER ROTATOR CUFF. HE HAD TO RE-OPEN SENTENCE BECAUSE HE PREVIOUSLY FAILED TO ADVISE ME OF MY TRIPLE R-I RIGHTS. THERE IS A HEARING ON THIS. I HAVE A SUPPLEMENTAL MOTION TO PRESENT, THESE ARE MY MOTION BECAUSE I FILED THEM PRO SE. ALSO, I WAS INFORMED BY THE JUDGE THAT AS PART OF MY SENTENCING RIGHTS, I CAN ELECT TO SERVE IT AT ACS, THOUGH W/O TRIPLE R II. I AM INFORMING YOU THAT I HAVE ELECTED TO SERVE THE SENTENCE AT ACS - 7</u>	
9. Response: (This Section for Staff Response Only)			
<u>I am not permitted to contact anyone on your behalf.</u>			
To DC-14 CAR only ☐		To DC-14 CAR and DC-15 IRS ☐	

STAFF MEMBER NAME

A. Himes
Print

A. Himes
Signature

DATE 7/7/21

INMATE'S REQUEST TO STAFF MEMBER

INSTRUCTIONS

Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)

MS. HAMES, COUNSELOR

2. Date:

6/25/21

3. By: (Print Inmate Name and Number)

CHARLES MC CULLOUGH 3J 7525

4. Counselor's Name:

MS. HAMES

5. Unit Manager's Name:

?

Inmate Signature

6. Work Assignment:

N/A -
QUARANTINE

7. Housing Assignment:

H A 20

8. Subject: State your request completely but briefly. Give details.

I NEEDED TO GET A MESSAGE TO JUDGE DAVID CASTMAN OF ALLEGHENY COUNTY, THE DA'S OFFICE & MY LAWYER DAVID POLLOCK (724-998-3124) AND MY WIFE - PATRICIA MC CULLOUGH, THAT I AM HERE & UNDER QUARANTINE FOR 3 WEEKS & WILL HAVE ANOTHER 2 WEEKS AFTER THAT. I THINK THIS IS THE LEFT HAND NOT KNOWING WHAT THE RIGHT HAND IS DOING AS I WAS SUPPOSED TO BE AT ACJ SERVING AN ERAM BY COUNTY DOCTORS AND A JULY 6 HEARING TO MODIFY SENTENCE TO HOME INCARCERATION. ALSO MY LAWYER AND I WERE TRYING TO FINALLY FILING A WRIT OF HABEAS CORPUS TO THE U.S. SUPREME COURT TO TRY TO OVERTURN MY CONVICTION. I NEEDED TO BE IN PEN TO WORK ON FINISHING THIS OR MY LAST BEST CHANCE TO OVERTURN WILL BE DESTROYED. I AM ALSO VERY DEHYDRATED, THIRSTY (I DRINK LOTS OF WATER) & HUNGRY. I HAVE LOST 25 LBS SINCE (OVER)

9. Response: (This Section for Staff Response Only)

If you need envelopes, write to Unit Manager Morningstar.

If you are having medical issues, you need to submit a sick call slip.

To DC-14 CAR only ☐To DC-14 CAR and DC-15 IRS ☐

STAFF MEMBER NAME

A. Dimes

Print

A. Dimes

Signature

DATE 7/7/21

9/11/21

VIA,

YOU ARE FIRED FOR YOUR CONTINUED HARASSMENT OF MY WIFE WITH OFFENSIVE EMAILS. IT IS UNDERSTOOD YOU HAVE TAKEN UNDISPUTED BELIEFS MY WIFE ASKED WHAT THE SUPREME COURT FILING FEE FOR THE CERT PETITION WAS, CLAIMING THAT YOU EMAILED THE AMOUNT A WEEK THREE MONTHS AGO. LEAVING ASIDE THE IDIOTRY OF SOMEONE WHO HAS REPEATEDLY FAILED (BLOWN OFF OUR DISCUSSIONS AND MY LETTERS CONCERNING THE CERT PETITION) AND FAULTING MY WIFE FOR NOT RECALLING YOUR PURPORTED IDENTIFICATION OF THE FILING FEE, THE EMAIL TO WHICH YOU REFER IN FACT GROUNDBATHS AS TO THE AMOUNT OF THE FEE AND PLACES THE ONUS ON YOU TO CONFIRM THE AMOUNT.

WITHOUT GOING INTO DETAIL, YOUR BEHAVIOR HAS BECOME INCREASINGLY TROUBLESOME AND PROBLEMATIC. AS TO THE CERT PETITION, YOU HAVE REPEATEDLY FAILED TO FOLLOW-UP ON MATTERS WE HAD SPECIFICALLY AGREED TO. REFLECTING ON OUR TELEPHONE CONVERSATION OF THIS PAST THURSDAY, I AGAIN AM LEFT WITH THE CONCERN THAT SOMETHING IS AMISS WITH THE PETITION. IT HAS BEEN TWO WEEKS SINCE YOUR OFFICE DID NOT PROPERLY MAIL THE LAST DRAFT TO ME, BUT I HAVE YET TO RECEIVE IT. YOU PUT ME IN A POSITION THAT I SHOULD NOT HAVE BEEN PUT IN - NOT SEEING THE PETITION BEFORE IT WAS FILED. I WAS LEFT WITH A PHONE CALL DISCUSSION OF IT WITH YOU, HARDLY THE IDEAL THROUGH THAT A DOCUMENT THAT IS SO CRITICAL TO MY FREEDOM WARRANTS. WHAT I DO KNOW IS THAT YET AGAIN YOU DID NOT FOLLOW THROUGH WITH OUR AGREEMENT THAT MY REVISIONS WOULD

EXHIBIT "C"

BE INCLUDED VERBATIM SO I COULD MAKE ANY NECESSARY REDUCTION IN THE LENGTH OF THE PETIT

ALSO, I REMAINED CONCERNED THAT THE APPENDIX DOCUMENTS ARE NOT PART OF THE FILING WITH THE SUPREME COURT, THAT THE CITATIONS TO THE APPENDIX IN THE PETITION REMAIN BLANK AND THAT MY CASE WILL BE IMPERILED AS A RESULT. AFTER TALKING ME THAT YOU CALLED ADAM COHEN OF ALL PEOPLE ABOUT THE APPENDIX ISSUE, YOU FOLLOW HIS ADVICE AS TO SUPREME COURT PROCEDURES. WHY DID YOU NOT SIMPLY ASK THE SUPREME COURT CLERK ABOUT THIS, ESPECIALLY WHEN YOU SUBSEQUENTLY TOLD ME HOW PROMPT AND HELPFUL THAT OFFICE IS? I ALSO RECALL SUGGESTING THAT YOU CONTACT THE CLERK'S OFFICE FOR GUIDANCE AT THE OUTSET OF THIS MATTER; THAT I PROVIDED A COPY OF THE CERT PETITION FILED IN THE PER KELLY PRESIDENTIAL ELECTION CHALLENGE. THAT PETITION PROVIDED A TEMPLATE FOR THE PETITION'S FORMAT AND I BELIEVE IT HAD SPECIFIC CITATIONS TO THE APPENDIX.

DURING THIS PAST THURSDAY'S PHONE CALL, YOU ADVISED THAT THE POSTAGE FOR MAILING 40 VOLUMES OF THE CERT PETITION TO THE SUPREME COURT WAS ONLY \$20, OR 50¢ PER VOLUME, WHICH IS LESS THAN THE COST OF A SINGLE STAMP FOR EACH VOLUME. THIS SUGGESTS THE FILING WAS DONE VIA BULK MAIL. IT IS HOPE YOU CONFIRMED THIS AS AN APPROPRIATE MEANS OF FILING.

IT IS ALSO HOPED THAT YOU FOLLOWED THROUGH WITH WHAT WE AGREED TO DURING THIS PAST THURSDAY'S PHONE CALL - THAT YOU WOULD CONTACT THE SUPERIOR COURT CLERK'S OFFICE TO CONFIRM THAT YOU PROPERLY HANDLED THE PETITION APPENDIX ISSUE NOTED ABOVE - THAT THE WAY YOU HANDLED IT IS THE WAY THE ISSUE IS TO BE HANDLED. ALTHOUGH YOUR SERVICES ARE TERMINATED, YOU REMAIN RESPONSIBLE FOR THAT ISSUE AND ANY ERRORS IN THE FORMAT OR FILING OF THE CUST PETITION. IF THERE ARE ANY SUCH ERRORS THAT YOU BECOME AWARE OF, CONTACT ME DIRECTLY.

IT IS REGRETTABLE THAT IT WAS NECESSARY FOR ME TO TAKE THIS ACTION. I AM GRATEFUL FOR YOU STEPPING IN & HANDLING THE SCHEDULING HEARING, THE SECOND SET OF CHARGES & BEING THERE FOR ME WHEN I HAD TO REPORT FOR SENTENCING. HOWEVER, I CAN NO LONGER TOLERATE YOUR HARASSMENT OF MY WIFE. DO NOT CONTACT HER AGAIN.

Chuck McCullough

Nov 30, 2021

DAVE,

I HAVE HEARD NOTHING FROM THE SUPREME COURT REGARDING THIS CASE PETITION. IT IS VERY DIFFICULT TO GET A CALL OUT OF HERE AND A PHONE CALL RECENTLY ON MY BEHALF BY A CONTACT HERE TO THE CLERK OF THE SUPREME COURT WAS NOT RETURNED. MY LETTERS HAVE NOT BEEN RESPONDED TO.

IT IS ALMOST FIVE MONTHS SINCE YOU MAILED THIS PETITION TO THE SUPREME COURT. I WOULD HAVE THOUGHT BY NOW THERE WOULD HAVE BEEN SOME ACKNOWLEDGMENT OF ITS RECEIPT.

I THINK YOU SHOULD LOOK INTO THIS AND ADVISE ME ACCORDINGLY.

Chuck McCulloch

EXHIBIT  "D"

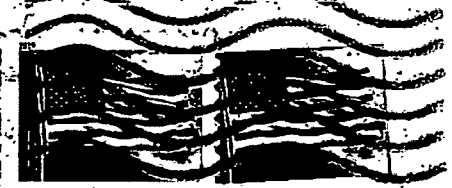
AA

FEB 02 2022

J. McCullough
P.O. Box 12971
P64. PA 15244

PITTSBURGH PA 150

24 JAN 2022 PM 1 L



FOREVER / USA FOREVER / USA

EXHIBIT "E"
CAME WITH
LINES

SMART COMMUNICATIONS/PA DOC
SCI - QUEHANNA
CHARLES P. MCCULLOUGH
Q7525
P.O. Box 33028
St. Petersburg, FL
33733

33733-802828



RECEIVED 2-3-2022

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

January 18, 2022

Charles P. McCullough
PO Box 12971
Pittsburgh, PA 15241

RE: McCullough v. Pennsylvania
PASCWD# 14 WM 2021

Dear Mr. McCullough:

The above-entitled petition for a writ of certiorari was originally postmarked December 21, 2021 and received again on January 4, 2022. The papers are returned for the following reason(s) stated in prior correspondence. A copy of the letter is enclosed.

You may resubmit your petition along with a motion to direct the Clerk to file out-of-time.

Please be advised that there is no provision in this Court's rules that allow for the filing of a petition for a writ of certiorari nunc pro tunc.

Sincerely,
Scott S. Harris, Clerk
By:


Redmond K. Barnes
(202) 479-3022

Enclosures

3 pages included
c/

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

September 13, 2021

Charles P. McCullough
#QJ7525
4395 Quehanna Hwy.
Karthaus, PA 16845

RE: McCullough v. Pennsylvania
PASCWD# 14 WM 2021

Dear Mr. McCullough:

The above-entitled petition for a writ of certiorari was postmarked September 7, 2021 and received September 10, 2021. The papers are returned for the following reason(s):

The petition is out-of-time. The date of the lower court judgment or order denying a timely petition for rehearing was April 5, 2021. On March 19, 2020, the Court issued an order extending the deadline to file any petition for a writ of certiorari due on or after March 19, 2020 to 150 days from the lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing. Therefore, the petition was due on or before September 2, 2021. Rules 13.1, 29.2 and 30.1. When the time to file a petition for a writ of certiorari in a civil case (habeas action included) has expired, the Court no longer has the power to review the petition.

Your petitions and check number 5046 in the amount of \$300.00 are herewith returned.

Sincerely,
Scott S. Harris, Clerk
By:

Redmond K. Barnes
(202) 479-3022

Enclosures

Form DC-135A		Commonwealth of Pennsylvania Department of Corrections	
INMATE'S REQUEST TO STAFF MEMBER		INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.	
1. To: (Name and Title of Officer) MAIL DEPT.		2. Date: 12-18-21	
3. By: (Print Inmate Name and Number) C. McCULLOUGH, 057825 <i>C. McCullough</i> Inmate Signature		4. Counselor's Name: REITZ	
		5. Unit Manager's Name: YOUNGBLEISH	
6. Work Assignment: —		7. Housing Assignment: AA	
8. Subject: State your request completely but briefly. Give details. ON 12-16-21, I WAS INFORMED BY THE SUPREME COURT OF THE UNITED STATES THAT IT MAILED A PACKAGE TO ME CONSISTING OF 40 BOUND COPIES OF A WRIT OF HABEAS CORPUS PETITION RECEIVED IN MID-SEPTEMBER, 2021. THE ENVELOPE WAS ADDRESSED TO RECEIVED ME, WITH MY INMATE NUMBER AT QUAKERTOWN BOOT CAMP, 4305 QUAKERTOWN HWY, KARTHAUS, PA 16845. I NEVER RECEIVED THIS. KINDLY LOOK INTO THIS & LET ME KNOW WHAT HAPPENED.			
9. Response: (This Section for Staff Response Only)			
was this legal mail? was it mailed using an attorney / court control number?			
To DC-14 CAR only ☐		To DC-14 CAR and DC-15 IRS ☐	

STAFF MEMBER NAME

Print

B. Moore

Signature

DATE

DEC 21 2021

EXHIBIT "E"

Form DC-135A		Commonwealth of Pennsylvania Department of Corrections	
INMATE'S REQUEST TO STAFF MEMBER		INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.	
1. To: (Name and Title of Officer) <u>B. MOORE - MAIL ROOM</u>		2. Date: <u>12-28-21</u>	
3. By: (Print Inmate Name and Number) <u>C. McELLOUGH - Q17525</u> <u>(Charles) McEllough</u> Inmate Signature		4. Counselor's Name: <u>FLAIR</u>	
6. Work Assignment:		5. Unit Manager's Name: <u>PAUL HESLER</u>	
7. Housing Assignment: <u>ASH</u>			
8. Subject: State your request completely but briefly. Give details. <u>DEAR B. MOORE:</u> <u>I RECEIVED YOUR RESPONSE TO MY INQUIRY ABOUT WHAT</u> <u>HAPPENED TO THE PACKAGE THE U.S. SUPREME CT SAID IT</u> <u>SENT TO ME MID-SEPTEMBER (OVER 3 MOS AGO). HERE IS MY RESPONSE</u> <u>TO THE QUESTIONS YOU POSSED:</u> <u>1. SERIOUSLY, YOU HAVE A QUESTION AS TO WHETHER MAIL FROM</u> <u>THE HIGHEST COURT IN THE LAND IS LEGAL MAIL? OF COURSE IT IS!</u> <u>2. YOUR QUESTION ABOUT A CERTIFICATION NO. FOR THE U.S.</u> <u>SUPREME CT BOGGLES THE MIND FOR SEVERAL REASONS (1) - WHAT</u> <u>DIFFERENCE DOES THAT MAKE? THIS IS THE NATION'S SUPREME COURT.</u> <u>I CANNOT CONCEIVE HOW ANY ENTITY COULD THINK IT COULD UNILATERALLY</u> <u>IMPOSE SUCH A PRE-CONDITION ON DELIVERY OF MAIL FROM IT. (2) HOW</u> <u>WOULD I KNOW IF IT HAS SUCH A NUMBER? I AM AN INMATE. (3) I WAS CALLED</u> <u>TO PICK UP LAST SATURDAY - "LEGAL MAIL". IT WAS JUNK MAIL FROM A LAWYER</u> <u>WITH NO CERTIFICATION, RECEIVED (OVER)</u>			
9. Response: (This Section for Staff Response Only) <u>Incoming privileged correspondence delivered through</u> <u>the postal or mail delivery system must</u> <u>possess a Department-issued ACN/CCN/mcn.</u> <u>per DC-ADM 803</u> <u>I understand this was the "supreme court"</u> <u>but if it did not possess the above criteria</u> <u>according to policy it would have been</u> <u>rejected. If rejected, the sender would receive</u> <u>notification as to why.</u>			
To DC-14 CAR only ☐		To DC-14 CAR and DC-15 IRS ☐	

STAFF MEMBER NAME

Print

B. Moore

Signature

DATE

DEC 23 2021

EXHIBIT "G"

INMATE'S REQUEST TO STAFF MEMBER

Commonwealth of Pennsylvania
Department of Corrections

INSTRUCTIONS

Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)

Ms. Morris - Admin Dept.

2. Date:

12-25-21

3. By: (Print Inmate Name and Number)

C.R. McILWORTH, 057535

4. Counselor's Name:

KELZ

5. Unit Manager's Name:

GONZALES

6. Work Assignment:

7. Housing Assignment:

AA

8. Subject: State your request completely but briefly. Give details.

Dear Ms. Morris,

A follow-up. When mail comes in that violates the DOC policy & does not have a cancel stamp, what happens to the mail itself? Is it returned or the return notice? Is it held or destroyed? Is there a log of returned mail maintained? If there is any chance of getting the back documents, I would like to review it.

9. Response: (This Section for Staff Response Only)

Returned to sender
yes.

You will need to reach out to the sender and have the items mailed correctly.

To DC-14 CAR only ☐To DC-14 CAR and DC-15 IRS ☐

STAFF MEMBER NAME

Print

Signature

B. MOORE

DEC 29 2021
DATE

EXHIBIT "H"