

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Nos. 18-9002 & 18-9003

ROBERT GENE REGA,  
Appellant

v.

SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS;  
SUPERINTENDENT OF THE STATE CORRECTIONAL INSTITUTION AT  
GREENE; SUPERINTENDENT OF THE STATE CORRECTIONAL INSTITUTION  
AT ROCKVIEW

(W.D. Pa. No. 2-13-cv-01781)

Present: CHAGARES, Chief Judge, MCKEE, and KRAUSE, Circuit Judges

Pro Se Motion by Appellant/Cross Appellee Robert Gene Rega to resolve his Pro Se Motion to Reverse District Court's Order at 2:13-cv-01781, Rega v. Wetzel granting a resentencing hearing or in the Alternative Motion for Appointment of New Counsel or in the Alternative Motion for Leave to Proceed Pro Se.

Respectfully,  
Clerk/dwb

ORDER

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The foregoing motion is hereby denied as moot.

By the Court,

s/Michael A. Chagares  
Chief Circuit Judge

Dated: March 30, 2022

cc: Hunter S. Labovitz, Esq.  
Jeffrey D. Burkett, Esq.

Robert Gene Rega/FA-4771  
1200 Mokychic Drive  
Collegeville, PA 19426

September 25, 2023

U.S. Court of Appeals  
for the Third Circuit  
21400 U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106

Re: Rega v. Pa Dept. Of Corrections  
18-9002/18-9003

Members of the Panel:

I am respectfully writing this letter to request that an Order be issued in my appeal as it has now been in excess of five years since this case had been filed, and over a year since the briefing had been completed.

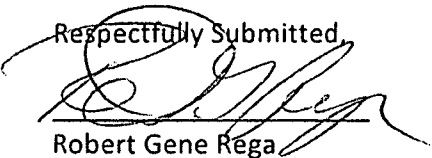
It is indisputable that the above delay constitutes inordinate delay, and that the delay may very well constitute a violation of my right to due process. As a result, I am respectfully requesting that this court issue an Order resolving the appeal before this court so that I may have resolution to this long over due matter.

Although I am sure it will not be necessary, I note my right to seek resolution to this matter by way of mandamus in the United States Supreme Court.

Please excuse me for appearing as if I am rushing the court, however, I feel as if my right to resolution is being stymied for reasons not specific to the merits of the arguments.

Thank you, and I hope to receive the Court's Order revolving this matter in the very near future.

Respectfully Submitted,

  
Robert Gene Rega

CC: Attny Labovitz; DA Burkett

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Nos. 18-9002 & 18-9003

Rega v. Secretary Pennsylvania Department of Corrections

To: Clerk

1) Motion by Appellant/Cross-Appellee to Expedite Disposition on Appeals

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No action will be taken on the foregoing motion as Appellant/Cross-Appellee is represented by counsel on the appeals. Pro se motions and pro se briefs are prohibited. See 3d Cir. LAR 27.8, 3d Cir. LAR 31.3. In accordance with the Court's rules, the motion will be forwarded to counsel for whatever action counsel deems appropriate.

For the Court,

s/ Patricia S. Dodszuweit  
Clerk

Dated: September 29, 2023  
cc: Hunter S. Labovitz, Esq.  
Jeffrey D. Burkett, Esq.  
Robert Gene Rega

PACER fee: Exempt

General Docket  
Third Circuit Court of Appeals

|   |             |                             |
|---|-------------|-----------------------------|
| <b>Court of Appeals Docket #: 18-9002</b>   |             | <b>Docketed: 05/31/2018</b> |
| <b>Nature of Suit:</b> 3535 Habeas Corpus: Death Penalty<br><b>Robert Rega v. Secretary Pennsylvania Departm, et al</b><br><b>Appeal From:</b> United States District Court for the Western District of Pennsylvania<br><b>Fee Status:</b> FPD appointed  |             |                             |
| <b>Case Type Information:</b><br>1) civil<br>2) private<br>3) Habeas Corpus-prisoner  |             |                             |
| <b>Originating Court Information:</b><br><b>District:</b> 0315-2 : <u>2-13-cv-01781</u><br><b>Trial Judge:</b> Joy Flowers Conti, Senior District Judge<br><b>Date Filed:</b> 12/12/2013<br><b>Date Order/Judgment:</b> 02/15/2018<br><b>Date Order/Judgment EOD:</b> 02/15/2018<br><b>Date NOA Filed:</b> 05/29/2018 |             |                             |
| <b>Prior Cases:</b><br>None   |             |                             |
| <b>Current Cases:</b>   |             |                             |
|   | <b>Lead</b> | <b>Member</b>               |
| <b>Cross-appeal</b>   | 18-9002     | <u>18-9003</u>              |
|   |             | <b>Start</b>                |
|   |             | 05/31/2018                  |
|   |             | <b>End</b>                  |

|   |   |
|---|---|
| <b>ROBERT GENE REGA (#FA-4771)</b><br>Plaintiff - Appellant                     | Hunter S. Labovitz, Esq.<br>Direct: 215-928-0520<br>Email: hunter_labovitz@fd.org<br>Fax: 215-928-0826<br>[COR NTC Fed Public Defender]<br>Federal Community Defender Office for the Eastern District of Pennsylvania<br>Suite 545 West<br>601 Walnut Street<br>The Curtis Center, Suite 540 West<br>Philadelphia, PA 19106 |
| v.  |   |
| <b>SECRETARY PENNSYLVANIA DEPARTMENT OF CORRECTIONS</b><br>Defendant - Appellee | Jeffrey D. Burkett, Esq.<br>Email: jburkett@jeffersoncountypa.com<br>[COR NTC city/county gov]<br>Jefferson County Office of District Attorney<br>200 Main Street<br>Brookville, PA 15825   |
| <b>SUPERINTENDENT GREENE SCI</b><br>Defendant - Appellee                        | Jeffrey D. Burkett, Esq.<br>[COR NTC city/county gov]<br>(see above)  |
| <b>SUPERINTENDENT ROCKVIEW SCI</b><br>Defendant - Appellee                      | Jeffrey D. Burkett, Esq.<br>[COR NTC city/county gov]<br>(see above)  |

Exhibit-A












ROBERT GENE REGA,

Appellant


v.

SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS; SUPERINTENDENT OF THE STATE CORRECTIONAL  
INSTITUTION AT GREENE; SUPERINTENDENT OF THE STATE CORRECTIONAL INSTITUTION AT ROCKVIEW

|            |                          |  |
|------------|--------------------------|--|
| 05/31/2018 | <input type="checkbox"/> | CIVIL CASE DOCKETED. Notice filed by Appellant Robert Gene Rega in District Court No. 2-13-cv-01781. (DW) [Entered: 05/31/2018 08:39 AM]   |
| 05/31/2018 | <input type="checkbox"/> | RECORD available on District Court CM/ECF. (DW) [Entered: 05/31/2018 09:02 AM]   |
| 05/31/2018 | <input type="checkbox"/> | ORDER appointing FPD to represent Appellant Robert Gene Rega., filed. (DW) [Entered: 05/31/2018 09:05 AM]  |
| 06/01/2018 | <input type="checkbox"/> | LEGAL DIVISION LETTER SENT advising that the case will be submitted to a panel of this Court for a decision on the issuance of certificate of appealability. (MW) [Entered: 06/01/2018 02:00 PM]   |
| 06/05/2018 | <input type="checkbox"/> | Calendared at the Convenience of the Court. Calendar Clerk: TLG. [18-9002, 18-9003] (TLG) [Entered: 06/05/2018 01:38 PM]   |
| 06/08/2018 | <input type="checkbox"/> | ECF FILER: ARGUMENT ACKNOWLEDGMENT filed by Attorney Hunter S. Labovitz, Esq. for Appellant Robert Gene Rega in 18-9002, Attorney Hunter S. Labovitz, Esq. for Appellee Robert Gene Rega in 18-9003. Certificate of Service dated 06/08/2018. Service made by ECF. [18-9002, 18-9003] (HSL) [Entered: 06/08/2018 03:45 PM]   |
| 06/12/2018 | <input type="checkbox"/> | ECF FILER: CIVIL INFORMATION STATEMENT on behalf of Appellant Robert Gene Rega in 18-9002. (HSL) [Entered: 06/12/2018 01:50 PM]  |
| 06/12/2018 | <input type="checkbox"/> | ECF FILER: ENTRY OF APPEARANCE from Hunter Labovitz on behalf of Appellant/Cross-Appellee Robert Rega. [18-9002, 18-9003] (HSL) [Entered: 06/12/2018 01:53 PM]   |
| 06/12/2018 | <input type="checkbox"/> | ECF FILER: Transcript Purchase Order Form (Part 1) filed by Appellant/Cross-Appellee Robert Gene Rega advising this court that transcripts are already on file in the District Court. (HSL) [Entered: 06/12/2018 01:56 PM]   |
| 06/13/2018 | <input type="checkbox"/> | ECF FILER: ARGUMENT ACKNOWLEDGMENT filed by Attorney Jeffrey D. Burkett, Esq. for Appellees Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9002, Attorney Jeffrey D. Burkett, Esq. for Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9003. Certificate of Service dated 06/13/2018. Service made by ECF. [18-9002, 18-9003] (JDB) [Entered: 06/13/2018 03:15 PM] |
| 06/13/2018 | <input type="checkbox"/> | ECF FILER: ENTRY OF APPEARANCE from Jeffrey D. Burkett on behalf of Appellee(s) John E. Wetzel, Louis Folino and Marirosa Lamas. [18-9002] (JDB) [Entered: 06/13/2018 03:22 PM]  |
| 06/14/2018 | <input type="checkbox"/> | ECF FILER: UNOPPOSED Motion filed by Appellant/Cross-Appellee Robert Gene Rega for Extension of Time to File Application for a Certificate of Appealability until/for 60 days. Certificate of Service dated 06/14/2018. Service made by ECF. (HSL) [Entered: 06/14/2018 01:08 PM]  |
| 07/11/2018 | <input type="checkbox"/> | ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) granting Unopposed Motion for a Sixty (60) Day Extension of Time to File Application for Certificate of Appealability filed by Appellant Robert Gene Rega., filed. MCKEE, Authoring Judge. (DW) [Entered: 07/11/2018 04:23 PM]  |
| 08/20/2018 | <input type="checkbox"/> | ECF FILER: UNOPPOSED Motion filed by Appellant/Cross-Appellee Robert Gene Rega for Extension of Time to file Application for a Certificate of Appealability until/for 30 days. Certificate of Service dated 08/20/2018. Service made by ECF. [18-9002, 18-9003] (HSL) [Entered: 08/20/2018 01:20 PM]   |
| 09/13/2018 | <input type="checkbox"/> | ECF FILER: UNOPPOSED Motion filed by Appellant/Cross-Appellee Robert Gene Rega for Extension of Time to file Application for a Certificate of Appealability until/for 10/5/18. Certificate of Service dated 09/13/2018. Service made by ECF. [18-9002, 18-9003] (HSL) [Entered: 09/13/2018 01:30 PM]   |
| 09/25/2018 | <input type="checkbox"/> | ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) granting unopposed motion by Appellant/Cross-Appellee Robert Gene Rega for additional extension of time to file application for certificate of appealability until October 5, 2018, filed. McKee, Authoring Judge. [18-9002, 18-9003] (NMB) [Entered: 09/25/2018 06:58 AM]  |
| 10/04/2018 | <input type="checkbox"/> | ECF FILER: Motion filed by Appellant/Cross-Appellee Robert Gene Rega for Extension of Time to file Application for a Certificate of Appealability until/for 7 days. Certificate of Service dated 10/04/2018. Service made by ECF. [18-9002, 18-9003] (HSL) [Entered: 10/04/2018 04:27 PM]  |
| 10/09/2018 | <input type="checkbox"/> | TEXT ONLY ORDER (Clerk) At the direction of the Court, granting Motion for Extension of Time to File Application for Certificate of Appealability filed by Appellant Robert Gene Rega. Appellant's application for a certificate of appealability must be filed within seven (7) days of the date of this order. [18-9002, 18-9003] (DW) [Entered: 10/09/2018 04:54 PM]  |
| 10/16/2018 | <input type="checkbox"/> | ECF FILER: Motion filed by Appellant/Cross-Appellee Robert Gene Rega to accept Application for a Certificate of Appealability that is in excess of page limit. Certificate of Service dated 10/16/2018. Service made by ECF. [18-9002, 18-9003] (HSL) [Entered: 10/16/2018 02:47 PM]   |

|   |   |
|---|---|
| <p>10/16/2018 <input type="checkbox"/>  82 pg, 357.34 KB</p> <p>11/06/2018 <input type="checkbox"/>  1 pg, 36.42 KB</p> <p>05/30/2019 <input type="checkbox"/></p> <p>06/05/2019 <input type="checkbox"/>  113 pg, 7.05 MB</p> <p>07/11/2019 <input type="checkbox"/>  2 pg, 135.32 KB</p> <p>07/11/2019 <input type="checkbox"/>  3 pg, 138.56 KB</p> <p>08/15/2019 <input type="checkbox"/>  4 pg, 22.92 KB</p> <p>10/18/2019 <input type="checkbox"/>  4 pg, 21.8 KB</p> <p>10/24/2019 <input type="checkbox"/>  1 pg, 9.9 KB</p> <p>12/20/2019 <input type="checkbox"/>  93 pg, 424.06 KB</p> <p>12/20/2019 <input type="checkbox"/>  139 pg, 1.37 MB</p> <p>12/20/2019 <input type="checkbox"/>  4558 pg, 165.18 MB</p> | <p>ECF FILER: Motion filed by Appellant/Cross-Appellee Robert Gene Rega for issuance of certificate of appealability. Certificate of Service dated 10/16/2018. Service made by ECF. [18-9002, 18-9003] (HSL) [Entered: 10/16/2018 02:49 PM]</p> <p>ECF FILER: RESPONSE from Attorney Jeffrey D. Burkett, Esq. for Appellees Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI Letter in Opposition to Appellant Robert Gene Rega's Motion for Issuance of Certificate of Appealability. Certificate of Service dated 11/06/2018. Service made by Email. [18-9002]--[Edited 11/06/2018 by DW]-(JDB) [Entered: 11/06/2018 02:56 PM]</p> <p>TEXT ONLY ORDER (Clerk) Appellant Robert Rega argues that the prosecutor violated Brady v. Maryland, 373 U.S. 83 (1963), by failing to disclose (1) that Shawn Bair, Raymond Fishel, Susan Jones, and Michael Sharp sought lenient treatment in exchange for their testimony against Appellant and that the prosecutor told them that he would or "probably" would consider their cooperation when considering possible pleas, and (2) evidence that Susan Jones suffered from memory problems. At the direction of the Court, counsel for appellant is directed to send a letter providing specific record support for these contentions no later than 10 days from this order. Letter due 06/10/2019. (PD) [Entered: 05/30/2019 11:18 AM]</p> <p>ECF FILER: LETTER from Attorney Hunter S. Labovitz, Esq. for Appellant Robert Gene Rega Response to Court's May 30, 2019 Order directing Appellant to provide specific record support for contentions.. Certificate of Service dated 06/05/2019. Service made by ECF. [18-9002] (HSL) [Entered: 06/05/2019 03:06 PM]</p> <p>ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) Appellant's motion to extend the page limitations applicable to his motion for a certificate of appealability ("COA") is granted. Appellant's motion for a COA is granted in part and denied in part. Appellant seeks a COA on what he enumerates as five claims. A COA is granted in part on the first three of those claims as follows. First, a COA is granted on appellant's claim that his prosecutor violated Brady v. Maryland, 373 U.S. 83 (1963), by failing to disclose (1) that Shawn Bair, Raymond Fishel, Susan Jones and Michael Sharp sought lenient treatment in exchange for their testimony against appellant and that the prosecutor told them that he would or "probably" would consider their cooperation when considering possible pleas, and (2) evidence that Susan Jones suffered from memory problems. Second, a COA is granted on appellant's claim that the prosecutor violated Giglio v. United States, 405 U.S. 150 (1972), and Napue v. Illinois, 360 U.S. 264 (1959), by failing to correct: (1) the testimony of Bair, Fishel and Susan Jones that the prosecutor had not made any "promises" to them; the (2) the testimony of Fishel (but not Bair) that he did not "hope" for, "anticipate" or have an "expectation" of favorable treatment; and (3) the testimony of Fishel that he did not discuss the possibility of leniency with counsel. Third, a COA is granted on appellant's claim that these alleged errors under Brady and Giglio/Napue cumulatively prejudiced him. A COA is granted to this extent because jurists of reason could debate the District Court's denial of these claims. See 28 U.S.C. Section: 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). A COA is otherwise denied because jurists of reason could not debate the denial of appellant's remaining claims. We reach that conclusion largely for the reasons explained by the District Court. The Clerk will issue a briefing schedule. , filed. Panel No.: ELD-004. KRAUSE, Authoring Judge. [18-9002, 18-9003] (DW) [Entered: 07/11/2019 12:13 PM]</p> <p>BRIEFING NOTICE ISSUED. 1st Brief on behalf of Appellant Robert Gene Rega due on or before 08/20/2019. Appendix due on or before 08/20/2019. [18-9002, 18-9003] (DW) [Entered: 07/11/2019 12:26 PM]</p> <p>ECF FILER: Motion filed by Appellant/Cross-Appellee Robert Gene Rega for Extension of Time to file Step-One Brief until/for 60 days. Certificate of Service dated 08/15/2019. Service made by ECF. [18-9002, 18-9003] (HSL) [Entered: 08/15/2019 03:41 PM]</p> <p>ECF FILER: UNOPPOSED Motion filed by Appellant/Cross-Appellee Robert Gene Rega for Extension of Time to file Step-One Brief until/for 60 days. Certificate of Service dated 10/18/2019. Service made by ECF. [18-9002, 18-9003] (HSL) [Entered: 10/18/2019 11:19 AM]</p> <p>ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) The motions for extension of time to file brief and appendix until December 20, 2019 are granted. No further extensions will be granted. MCKEE, Authoring Judge. [18-9002, 18-9003] (DW) [Entered: 10/24/2019 09:19 AM]</p> <p>ECF FILER: ELECTRONIC BRIEF on behalf of Appellant Robert Gene Rega in 18-9002, Appellee Robert Gene Rega in 18-9003. Certificate of Service dated 12/20/2019 by ECF. [18-9002, 18-9003] (HSL) [Entered: 12/20/2019 02:51 PM]</p> <p>ECF FILER: ELECTRONIC VOLUME I of JOINT APPENDIX on behalf of Appellant Robert Gene Rega in 18-9002, Appellee Robert Gene Rega in 18-9003. Certificate of Service dated 12/20/2019 by ECF. [18-9002, 18-9003] (HSL) [Entered: 12/20/2019 03:04 PM]</p> <p>ECF FILER: ELECTRONIC JOINT APPENDIX VOLUMES II - XI on behalf of Appellant Robert Gene Rega in 18-9002, Appellee Robert Gene Rega in 18-9003. Certificate of Service dated 12/20/2019 by</p> |
|---|---|

ECF. --[Edited 12/27/2019 by EAF - Text edited to specify volumes] [18-9002, 18-9003] (HSL) [Entered: 12/20/2019 03:14 PM]

12/20/2019 ☐   
9 pg, 22.24 KB

ECF FILER: UNOPPOSED Motion filed by Appellant/Cross-Appellee Robert Gene Rega for Leave to File a Brief in Excess of Word Limitations. Certificate of Service dated 12/20/2019. Service made by ECF. [18-9002, 18-9003] (HSL) [Entered: 12/20/2019 03:22 PM]

12/23/2019 ☐

HARD COPY RECEIVED from Appellant Robert Gene Rega in 18-9002, Appellee Robert Gene Rega in 18-9003 - Brief. Copies: 7. [18-9002, 18-9003] (AMR) [Entered: 12/23/2019 12:10 PM]

12/23/2019 ☐

HARD COPY RECEIVED from Appellant Robert Gene Rega in 18-9002, Appellee Robert Gene Rega in 18-9003 - Appendix. Copies: 4. Volumes: 11 [18-9002, 18-9003] (MS) [Entered: 12/26/2019 10:02 AM]

12/26/2019 ☐

TEXT ONLY ORDER (Clerk) [18-9003, 18-9002] In light of the motion filed on December 20, 2019 for leave to file a brief in excess of word limitations, the briefing and scheduling order is stayed pending disposition of the motion. The Clerk will restart the briefing schedule at the appropriate time. (MB) [Entered: 12/26/2019 09:46 AM]

05/18/2020 ☐ 87  
1 pg, 9.64 KB

ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) granting Uncontested Motion by Appellant /Cross-Appellee Robert Gene Rega for Leave to File Brief in Excess of Word Limitations Containing 18,126 Words. KRAUSE, Authoring Judge. [18-9002, 18-9003] (DW) [Entered: 05/18/2020 04:56 PM]

05/18/2020 ☐ 88

TEXT ONLY ORDER (Clerk) With granting by Court of Appellant/Cross-Appellee's motion for leave to file a brief in excess of word limitations containing 18,126 words, the stay of the briefing schedule is hereby lifted. Appellee/ Cross-Appellants' brief must be filed and served within thirty (30) days of the date of this order. [18-9002, 18-9003] (DW) [Entered: 05/18/2020 05:07 PM]

06/11/2020 ☐ 89  
5 pg, 130.99 KB

ECF FILER: UNOPPOSED Motion filed by Appellees Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI for Extension of Time to file Appellee to file Step-One Brief until/for 60 days. Certificate of Service dated 06/11/2020. Service made by ECF. [18-9002] (JDB) [Entered: 06/11/2020 03:20 PM]

06/15/2020 ☐ 90  
1 pg, 8.7 KB

ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) granting Unopposed Motion for Extension of Time to File Brief until August 17, 2020 filed by Appellees Superintendent Rockview SCI, Superintendent Greene SCI and Secretary Pennsylvania Department of Corrections. MCKEE, Authoring Judge. [18-9002, 18-9003] (DW) [Entered: 06/15/2020 04:32 PM]

08/12/2020 ☐ 91  
5 pg, 133.31 KB

ECF FILER: UNOPPOSED Motion filed by Appellees/Cross-Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI for Extension of Time to file Appellee to File Brief until/for 60 days or until October 16, 2020. Certificate of Service dated 08/12/2020. Service made by ECF. [18-9002]--[Edited 08/12/2020 by ARR] (JDB) [Entered: 08/12/2020 03:52 PM]

08/18/2020 ☐ 92  
2 pg, 10.91 KB

ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) granting Unopposed Motion by Appellees/Cross-Appellants for Extension of Time to File Brief until October 16, 2020 filed by Appellees Superintendent Rockview SCI, Superintendent Greene SCI and Secretary Pennsylvania Department of Corrections. MCKEE, Authoring Judge. [18-9002, 18-9003] (DW) [Entered: 08/18/2020 05:23 PM]

10/05/2020 ☐ 93  
6 pg, 400.8 KB

PRO SE MOTION filed by Appellant/Cross-Appellee Robert Gene Rega in Appeal Nos. 18-9002 and 18-9003 to Reverse District Court's Order at 2:13-cv-01781, Rega v. Wetzel granting a resentencing hearing or in the Alternative Motion for Appointment of New Counsel or in the Alternative Motion for Leave to Proceed Pro Se. Response due on 10/16/2020. Certificate of Service dated 10/01/2020. Service made by US mail. [18-9002, 18-9003] (DW) [Entered: 10/07/2020 06:25 PM]

10/16/2020 ☐ 94  
6 pg, 249.19 KB

ECF FILER: UNOPPOSED Motion filed by Appellees Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI for Extension of Time to file Step-One Brief until/for 30 days. Certificate of Service dated 10/16/2020. Service made by ECF. [18-9002] (JDB) [Entered: 10/16/2020 11:28 AM]

10/16/2020 ☐ 95  
17 pg, 58.16 KB

ECF FILER: Response in Opposition to Pro Se Motion to Reverse the District Court's Order granting Capital Sentencing Relief or in the Alternative, for Appointment of New Counsel or for Self-Representation. Certificate of Service dated 10/16/2020. [18-9002, 18-9003]--[Edited 10/19/2020 by DW] (HSL) [Entered: 10/16/2020 03:07 PM]

10/22/2020 ☐ 96  
2 pg, 11.52 KB

ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) granting Unopposed Motion for Extension of Time to File Brief until November 16, 2020 filed by Appellees Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI. MCKEE, Authoring Judge. [18-9002, 18-9003] (DW) [Entered: 10/22/2020 01:55 PM]

11/04/2020 ☐ 97

TEXT ONLY ORDER (Clerk): Except for the second-step brief, further briefing in these cross-appeals is stayed pending a decision on the appellant's pro-se motion. The appellees' second-step brief remains due on November 16, 2020. Unless the Court orders otherwise, the appellant's third-step brief must be filed within thirty days of the second-step brief or the Court's order on the pro-se motion, whichever is later. [18-9003, 18-9002] (RFH) [Entered: 11/04/2020 02:47 PM]



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| 11/13/2020 <input type="checkbox"/> <u>98</u><br>5 pg, 150.12 KB   | ECF FILER: UNOPPOSED Motion filed by Appellees/Cross-Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI for Extension of Time to file Appellee/Respondents Step-One Brief until for 11/23/2020. Certificate of Service dated 11/13/2020. Service made by ECF. [18-9002]--[Edited 11/17/2020 by AWI] (JDB) [Entered: 11/13/2020 03:07 PM]   |
| 11/17/2020 <input type="checkbox"/> <u>99</u><br>1 pg, 9.03 KB     | ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) granting Fourth Unopposed Motion for Extension of Time to File Brief filed by Appellees/Cross Appellants Superintendent Rockview SCI, Superintendent Greene SCI and Secretary Pennsylvania Department of Corrections. Appellees/Cross Appellants' brief must be filed and served on or before November 23, 2020. MCKEE, Authoring Judge. [18-9002, 18-9003] (DW) [Entered: 11/17/2020 03:14 PM]                       |
| 11/23/2020 <input type="checkbox"/> <u>100</u><br>94 pg, 4.85 MB   | ECF FILER: ELECTRONIC BRIEF on behalf of Appellees/Cross-Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9002 & 18-9003. Certificate of Service dated 11/23/2020 by ECF. [18-9002, 18-9003] - [Entry edited by the Clerk to reflect filing in 18-9003]--[Edited 11/24/2020 by MS] (JDB) [Entered: 11/23/2020 04:05 PM]  |
| 11/23/2020 <input type="checkbox"/> <u>101</u><br>3 pg, 105.41 KB  | ECF FILER: UNOPPOSED Motion filed by Appellees/Cross-Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9002 & 18-9003 to accept Appellees' Brief that is In Excess of Page Limit. Certificate of Service dated 11/23/2020. Service made by ECF. [18-9002, 18-9003] - [Entry edited by the Clerk to reflect filing in 18-9003]--[Edited 11/24/2020 by MS] (JDB) [Entered: 11/23/2020 04:12 PM] |
| 11/23/2020 <input type="checkbox"/> <u>102</u><br>193 pg, 7.26 MB  | ECF FILER: ELECTRONIC SUPPLEMENTAL APPENDIX on behalf of Appellees/Cross-Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9002 & 18-9003. Certificate of service dated 11/23/2020 by ECF. [18-9002, 18-9003] - [Entry edited by the Clerk to reflect filing in 18-9003]--[Edited 11/24/2020 by MS] (JDB) [Entered: 11/23/2020 04:14 PM]  |
| 11/23/2020 <input type="checkbox"/> <u>103</u><br>274 pg, 10.48 MB | ECF FILER: ELECTRONIC SUPPLEMENTAL APPENDIX on behalf of Appellees/Cross-Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9002 & 18-9003. Certificate of service dated 11/23/2020 by ECF. [18-9002, 18-9003] - [Entry edited by the Clerk to reflect filing in 18-9003]--[Edited 11/24/2020 by MS] (JDB) [Entered: 11/23/2020 04:15 PM]  |
| 11/23/2020 <input type="checkbox"/> <u>104</u><br>972 pg, 38.24 MB | ECF FILER: ELECTRONIC SUPPLEMENTAL APPENDIX on behalf of Appellees/Cross-Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI on 18-9002 & 18-9003. Certificate of service dated 11/23/2020 by ECF. [18-9002, 18-9003] - [Entry edited by the Clerk to reflect filing in 18-9003]--[Edited 11/24/2020 by MS] (JDB) [Entered: 11/23/2020 04:18 PM]  |
| 11/25/2020 <input type="checkbox"/> <u>105</u><br>1 pg, 9.05 KB    | ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) granting Uncontested Motion by Appellees/Cross-Appellants for Leave to File a Brief in Excess of Word Limitation. Michael A. Chagares, Authoring Judge. [18-9002, 18-9003] (MS) [Entered: 11/25/2020 01:59 PM]  |
| 12/01/2020 <input type="checkbox"/> <u>106</u>                     | HARD COPY RECEIVED from Appellees Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9002, Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9003 - Brief. Copies: 7. [18-9002, 18-9003] (KEL) [Entered: 12/01/2020 10:26 AM]  |
| 12/01/2020 <input type="checkbox"/> <u>107</u>                     | HARD COPY RECEIVED from Appellees Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9002, Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9003 - Supplemental Appendix. Copies: 4. Volumes: 6. [18-9002, 18-9003] (GPK) [Entered: 12/02/2020 08:52 AM]  |
| 12/02/2020 <input type="checkbox"/> <u>108</u>                     | TEXT ONLY ORDER (Clerk) directing Attorney Jeffrey D. Burkett, Esq. for Appellees/Cross-Appellants Superintendent Rockview SCI, Superintendent Greene SCI and Secretary Pennsylvania Department of Corrections in 18-9002 & 18-9003 to file a motion for leave to file supplemental appendix. Due on or before 12/07/2020. [18-9002, 18-9003] (MS) [Entered: 12/02/2020 08:58 AM]  |
| 12/02/2020 <input type="checkbox"/> <u>109</u><br>2 pg, 77.49 KB   | ECF FILER: UNOPPOSED Motion filed by Appellees/Cross-Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9002 & 18-9003 to supplement the appendix. Certificate of Service dated 12/02/2020. Service made by ECF. [18-9002, 18-9003] - [Entry spread to 18-9003 by the Clerk]--[Edited 12/02/2020 by MS] (JDB) [Entered: 12/02/2020 09:19 AM]   |
| 12/02/2020 <input type="checkbox"/> <u>110</u>                     | COMPLIANCE RECEIVED. Motion for leave to file supplemental appendix received from Appellees/Cross-Appellants Secretary Pennsylvania Department of Corrections, Superintendent Greene SCI and Superintendent Rockview SCI in 18-9002 & 18-9003. [18-9002, 18-9003] (MS) [Entered: 12/02/2020 10:28 AM]  |
| 12/03/2020 <input type="checkbox"/> <u>111</u><br>1 pg, 9.03 KB    | ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) granting Motion by Appellees/Cross-Appellants for Leave to File Supplemental Appendix. Theodore A. McKee, Authoring Judge. [18-9002,  |

18-9003] (MS) [Entered: 12/03/2020 11:28 AM]

01/21/2021 ☐ 112  
2 pg, 73.36 KB

ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) We understand Rega's motion to be directed solely to C.A. No. 18-9003, in which the appellants (to whom we refer collectively as the "Commonwealth") appealed from the same portion of the District Court's order. After Rega filed his motion, however, the Commonwealth filed its second-step brief in which it informed the Court that it no longer is pursuing C.A. No. 18-9003. Thus, to the extent that Rega's pro se motion seeks to concur in the Commonwealth's anticipated opposition to the District Court's order vacating Rega's death sentence, Rega's motion now appears to be moot because the Commonwealth no longer is challenging that order. In light of this development, Rega and his counsel are directed to confer and to file supplemental responses within 45 days of the date of this order advising the Court whether Rega's motion is moot and whether Rega otherwise still wishes to pursue it. If Rega still wishes to pursue his motion, then Rega and his counsel are directed to address in their same responses whether, as a matter of appellate jurisdiction or otherwise, Rega can challenge the portion of the District Court's order vacating his death sentence given the facts that: (1) Rega's counseled notice of appeal in C.A. No. 18-9002 challenges only the denial of his guilt-phase claims; (2) Rega does not appear to have joined in the Commonwealth's notice of appeal in C.A. No. 18-9003, which the Commonwealth itself no longer is pursuing; (3) there is no other notice of appeal docketed in this matter; and (4) Rega, although he expressed an intent to appeal in his pro se motion under Fed. R. Civ. P. 59(e), does not appear to have filed any further challenge with the District Court or this Court after the District Court struck that motion. See, e.g., *United States v. Tabor Court Realty Corp.*, 943 F.2d 335, 342 (3d Cir. 1991) ("As a general rule, a party aggrieved by a decision of the district court must file an appeal in order to receive relief from the decision."). If Rega wishes to withdraw his motion, then he may do so through counsel and need not file a separate response pro se. If Rega wishes to pursue his motion, however, then he must so advise the Court in a separate pro se response and, in that response, must address the issue referenced above. Rega is advised that, if he fails either to confer with counsel or to advise the Court within 45 days of the date of this order that he wishes to pursue his motion, we may deem his motion abandoned and deny it without further notice. Response to be filed on or before 03/08/2021. KRAUSE, Authoring Judge. [18-9002, 18-9003] (DW) [Entered: 01/21/2021 12:34 PM]

02/24/2021 ☐ 113  
7 pg, 454.49 KB

MOTION filed by Appellant/Cross-Appellee Robert Gene Rega for a Sixty (60) Day Extension of Time to File Response to the Court's Order dated January 21, 2021. Response due on 03/11/2021. Certificate of Service dated 02/26/2021. Service made by US mail. [18-9002, 18-9003] (DW) [Entered: 03/03/2021 02:57 PM]

03/05/2021 ☐ 114  
5 pg, 147.86 KB

ECF FILER: Motion filed by Appellant/Cross-Appellee Robert Gene Rega for Extension of Time to file Response to the Court's January 21, 2021 Order until/for 60 days. Certificate of Service dated 03/05/2021. Service made by ECF, US mail. [18-9002, 18-9003] (HSL) [Entered: 03/05/2021 11:16 AM]

03/10/2021 ☐ 115  
1 pg, 64.88 KB

ORDER (MCKEE, CHAGARES and KRAUSE, Circuit Judges) granting the foregoing Pro Se Motion filed by Appellant for Extension of Time to File Response to the Court's January 21, 2021 Order and Counsel's Motion for Extension of Time to File Response to the Court's January 21, 2021 Order. The responses must be filed on or before May 7, 2021. McKee, Authoring Judge. [18-9002, 18-9003] (ARR) [Entered: 03/10/2021 07:15 PM]

04/22/2021 ☐ 116  
14 pg, 407.85 KB

RESPONSE on behalf of Appellant/Cross-Appellee Robert Gene Rega to the Court's Order January 21, 2021. Certificate of Service dated 04/28/2021. Service made by US mail. [18-9002, 18-9003] (DW) [Entered: 04/28/2021 11:46 AM]

05/07/2021 ☐ 117  
12 pg, 153 KB

ECF FILER: Response filed by Appellant/Cross-Appellee Robert Gene Rega to court order. Certificate of Service dated 05/07/2021. [18-9002, 18-9003] (HSL) [Entered: 05/07/2021 12:32 PM]

12/01/2021 ☐ 118  
7 pg, 1003.45 KB

MOTION filed by Appellant/Cross-Appellee Robert Gene Rega for Issuance of orders to Resolve Case. Response due on 12/13/2021. Certificate of Service dated 11/29/2021. Service made by US mail. [18-9002, 18-9003] (DW) [Entered: 12/02/2021 12:39 PM]

03/30/2022 ☐ 119  
3 pg, 75.75 KB

ORDER (CHAGARES, Chief Judge, MCKEE, and KRAUSE, Circuit Judges) Robert Rega's pro se motion is denied. Rega requests (1) an order reversing the portion of the District Court's order in which it vacated his death sentence or, alternatively, (2) appointment of new counsel or leave to proceed pro se in order to seek that result. We deny the first of these requests because Rega remains represented by counsel and we do not permit hybrid representation under the circumstances presented here. See 3d Cir. L.A.R. 27.8 (2011); *United States v. Turner*, 677 F.3d 570, 578-79 (3d Cir. 2012). We deny the second of these requests as well. We assume for purposes of Rega's motion that there would be no jurisdictional or prudential limitation on his ability to withdraw the penalty-phase claim on which the District Court granted relief if he did so through counsel or with leave to proceed pro se. Cf. *Arave v. Hoffman*, 552 U.S. 117, 117-19 (2008) (per curiam). We conclude, however, that appointment of new counsel would not be in the interests of justice. See *Martel v. Clair*, 565 U.S. 648, 663-64 (2012). We also decline to exercise our discretion to allow Rega to proceed pro se. We base these rulings on the totality of the circumstances presented by this case. Those circumstances include Rega's withdrawal of his nearly identical pro se motion before the District Court (by which he could have resolved the same issue regarding representation that he now presents to us), the fact that Rega has not alleged that any relevant circumstance has changed since then, and the timing of Rega's pro se motion in this Court, which he filed two and a half years after these appeals were docketed and 10 months after his present counsel

already had filed a first-step brief on his behalf. See Turner, 677 F.3d at 576 n.3 ("We caution that a motion to discharge appellate counsel after counsel has filed a brief is likely to be denied."). Those circumstances also include the facts that (1) Rega has raised no issue regarding his counsel's representation in connection with the guilt-phase claims on which he continues to seek relief, and (2) the Commonwealth has stated in its brief that it is not pursuing its appeal of the portion of the District Court's order vacating Rega's death sentence. We express no opinion on the merits of Rega's guilt-phase claims or on any other issue presented by these appeals. For these reasons, Rega's motion is denied. Our denial is without prejudice to Rega's ability to seek vacatur of the District Court's grant of relief from his death sentence under Fed. R. Civ. P. 60(b) in the District Court following the conclusion of these appeals. Cf. Arave, 552 U.S. at 117-19; Valero Terrestrial Corp. v. Paige, 211 F.3d 112, 116-18 & n.2 (4th Cir. 2000). We express no opinion on whether vacatur might be warranted. Rega will proceed in these appeals through his present counsel of record. The stay of the briefing schedule is lifted. Rega's third-step brief shall be filed and served within 30 days of the date of this order. CHAGARES, Authoring Judge. [18-9002, 18-9003] (DW) [Entered: 03/30/2022 05:15 PM]

03/30/2022 ☐ 120  
1 pg, 64.5 KB

ORDER (CHAGARES, Chief Judge, MCKEE, and KRAUSE, Circuit Judges) denying as moot Pro Se Motion by Appellant/Cross Appellee Robert Gene Rega to resolve his Pro Se Motion to Reverse District Court's Order at 2:13-cv-01781, Rega v. Wetzel granting a resentencing hearing or in the Alternative Motion for Appointment of New Counsel or in the Alternative Motion for Leave to Proceed Pro Se. CHAGARES, Authoring Judge. [18-9002, 18-9003] (DW) [Entered: 03/30/2022 05:34 PM]

04/25/2022 ☐ 121  
4 pg, 146.9 KB

ECF FILER: UNOPPOSED Motion filed by Appellant/Cross-Appellee Robert Gene Rega for Extension of Time to file Third-Step Brief until/for 30 days. Certificate of Service dated 04/25/2022. Service made by ECF. [18-9002, 18-9003] (HSL) [Entered: 04/25/2022 02:23 PM]

04/25/2022 ☐ 122

TEXT ONLY ORDER (Clerk) The foregoing unopposed motion is denied as it is presented. It is noted that May 30, 2022, is a holiday and this Court will be closed for business. Appellant/Cross-Appellee's reply brief must be filed and served on or before May 31, 2022. Pursuant to 3d Cir. L.A.R. 31.4, only one motion for extension of time to file a reply brief may be granted. Any further requests for extension of time will be presented to the Court and should be based on exceptional circumstances. [18-9002, 18-9003] (DW) [Entered: 04/25/2022 03:53 PM]

05/31/2022 ☐ 123  
40 pg, 362.67 KB

ECF FILER: ELECTRONIC REPLY BRIEF on behalf of Appellant/Cross-Appellee Robert Gene Rega in 18-9002 and 18-9003. Certificate of Service dated 05/31/2022 by ECF. --[Edited 06/01/2022 by EAF - Event and text edited] [18-9002, 18-9003] (HSL) [Entered: 05/31/2022 07:16 PM]

06/02/2022 ☐ 124

HARD COPY RECEIVED from Appellant Robert Gene Rega in 18-9002, Appellee Robert Gene Rega in 18-9003 - Reply Brief. Copies: 7. Received: 10. [18-9002, 18-9003] (KEL) [Entered: 06/02/2022 11:51 AM]

09/26/2023 ☐ 125  
1 pg, 6.24 KB

ORDER (Clerk) at the direction of the Chief Judge, the panel for these appeals is reconstituted as follows: Cheryl Ann Krause, Theodore A. McKee, D. Brooks Smith. [18-9002, 18-9003] (NMB) [Entered: 09/26/2023 03:00 PM]

09/27/2023 ☐ 126  
2 pg, 312.77 KB

PRO SE LETTER MOTION filed by Appellant Robert Gene Rega in 18-9002, Cross-Appellee Robert Gene Rega in 18-9003 to Expedite Disposition on Appeals. Response due on 10/10/2023. Certificate of Service dated 09/25/2023. Service made by US mail. [18-9002, 18-9003] (DW) [Entered: 09/27/2023 04:42 PM]

09/29/2023 ☐ 127  
1 pg, 10.23 KB

ORDER (Clerk) No action will be taken on the foregoing motion as Appellant/Cross-Appellee is represented by counsel on the appeals. Pro se motions and pro se briefs are prohibited. See 3d Cir. LAR 27.8, 3d Cir. LAR 31.3. In accordance with the Court's rules, the motion will be forwarded to counsel for whatever action counsel deems appropriate. [18-9002, 18-9003] (DW) [Entered: 09/29/2023 09:00 AM]