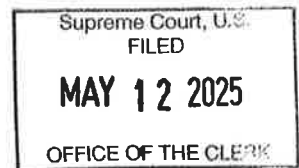


24A1135

IN THE SUPREME COURT OF THE UNITED STATES



Daryl Cook

v.

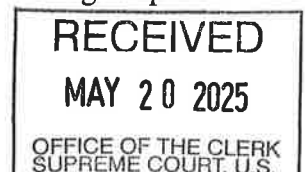
No. 24A584 (USAP3- No.21-3330)

Superintendent Coal Township,
SCI, ET, AL,
Respondent s

**APPLICATION TO JUSTICE ALITO FOR NOMINAL BAIL PENDING REVIEW OF
PETITIONER'S PETITION FOR A WRIT OF CERTIORARI TO USAP3-No.21-3330**

Petitioner, Daryl Cook, Pro se, pursuant to Supreme Court Rule 22, hereby respectfully request this Honorable Justice to grant him nominal bail pending review of Petitioner's petition for Writ of Certiorari which this Justice granted an extension of time to file on December 16, 2024, and extended the time to and including March 14, 2025, for the following reasons:

Petitioner mailed a document titled "Petitioner's Application to be Enlarged on Personal Recognizance" to the Clerk of this Court on April 13, 2025, and was told by the Clerk that it was returned back to him because there is no Supreme Court Rule providing for same to be filed. However, as of this date, Petitioner has not received it in the mail. In any event, the Clerk referred him to Rule 22, and therefore, Petitioner now incorporate his before-mentioned "Application to be Enlarged" herein, for reasons why he is requesting bail and believe in the interests of justice and public policy he should be granted nominal bail, yet he realized that he inadvertently failed to assert on page 5 of said Application that the Commonwealth failed to address, or show that the totality of the circumstances surrounding his alleged voluntary statement was Constitutional in light of the conditions of Petitioner's confinement during his pre-



confession detention and his arrest without probable cause. See Petitioner's Application to be Enlarged on Personal Recognizance at page 5, attached. See also Dissenting statement by Fitzgerald, J. attached. Moreover, Petitioner recently discover that his cancer is stage 4, has reached his left Liver and left Lung, and he have not been given any treatment for same yet, and fear being treated in prison, because of him being misdiagnosed for four (4) years with hemorrhoids instead of cancer, and therefore, hope and pray that due to same and the arguable merit(s) raised in his Petition for Writ of Certiorari, that he is granted nominal bail in hope to receive "adequate" medical treatment for his 4 stage cancer at a proper cancer facility to attempt to save his life. See Inmate Request to Staff Member (indicating that Petitioner must not receive treatment to be eligible for Compassionate Release). Petitioner wants to be treated as soon as possible, and the Commonwealth will not be prejudiced.

~~WHEREFORE~~

~~Whatever~~, for the foregoing reasons, Petitioner pray that he is granted nominal bail.¹

DATE: May 9, 2025

Respectfully Submitted,

Daryl Cook

Daryl Cook

Pro se Petitioner

¹ Petitioner was not provided with the "boost" yesterday evening or this morning that that a doctor ordered for him to help him when he begin "chemotherapy" for his 4 stage cancer, and he was informed this morning by Jake Becker, RNS, that the Doctor's order that Petitioner be provided with "Ensure Complete" instead of "Boost", was "denied", even though the Ensure Complete is significantly better for Petitioner "before" he received chemotherapy and radiation to treat his Cancer. Accordingly, in the event Petitioner's request for bail is granted, he would be in a position to receive "adequate", better treatment for his 4 stage Cancer. Also, because of the pain medication he is receiving, his need for appointment of counsel is imminent due to the medication/pain affecting his mental ability.

P.S. It is significant to note that Petitioner was transported to a cancer center yesterday and was told that he could possibly live for 2 more years or more if he accept treatment for his cancer or 2 years or less if don't accept treatment, and he elected to accept treatment.

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DARYL COOK,

Petitioner

V.

SUPERINTENDENT COAL TOWNSHIP

SCI, DISTRICT ATTORNEY PHILA-

DELPHIA, ATTORNEY GENERAL PENN-

SYLVANIA

: PETITION FOR A
: WRIT OF CERTIORARI
: No. 24A584
:
:
:
:
:
:

PETITIONER'S APPLICATION TO BE ENLARGED
ON PERSONAL RECOGNIZANCE

Petitioner, pro se, pursuant to Rule 36 (Custody of Prisoners in Habeas Corpus Proceedings), 3(a), hereby respectfully and urgently request this Honorable Court or Justice thereof to order that he be enlarged on personal recognizance pending review of the United States District Court decision and the Court of Appeals decision failing or refusing to grant his petition for a writ of habeas corpus and order his release from custody, for the following reasons:

1. There was a "dying declaration" made by the

decedent, indicating that someone other than Petitioner (i.e. Petitioner's nephew, Andre Williams) stabbed him.

2. At the time of Andre Williams' arrest, he purportedly stated to police "YOU GOT ME I'M TIRED OF RUNNING I DID IT." However, after he was taken into custody, he was transported to Homicide Division and turned over to Det. Cummings for interview, who he purportedly stated to Det. Cummings that "... he was present when the decedent was stabbed and that he was stabbed by his uncle; he heard some commotion on the second floor and went to investigate. As he entered the decedent's room he observed the decedent and his uncle engaged in a fight; ... that as he broke up the fight he observed his uncle stab the decedent several times. Despite the foregoing, Petitioner's nephew had made a 911 call and told the ~~dispatcher~~ police that two people was stabbed. See Petition for Writ of Certiorari at Appendix A-1, and Appendix B-4, and Appendix B-5.

3. Petitioner had two trials. His first trial resulted in a hung jury and although the jury was also hung at

his second trial and the judge sent them back to deliberate again, yet still, when they came back out and the jury foreperson was asked did the jury reach a verdict, or how about third degree, according to the trial transcript of July 13, 2010 at page 14, the foreperson responded, "with innocence", not guilty, but actually said "not guilty of all charges", and the judge responded you can't do that, you must be confused, you need to go back and think some more, and although the jury sent a note out asking about the PIC charge, the judge allowed the Commonwealth to withdraw that charge and told the jury not to worry about that charge it will be explained to them "after" they reach a verdict on the other charge, thus, the jury changed their verdict to guilty of third degree murder when they came back out from deliberation again, and at the sentencing, the judge denied that the foreperson said Petitioner was not guilty of all charges, and the prosecutor and defense counsel did not speak up and advise

the judge that the foreperson did say Petitioner was not guilty of all charges and the judge still sent the jury back and stated "you can't do that, you must be confused," "you need to go back and think some." See Trial Transcript of July 13, 2010 at Page⁶⁻ 14; Sentencing Transcript of August 26, 2010.

4. Moreover, despite the fact that Petitioner was arrested without probable cause and held in the Homicide Unit of the Philadelphia Police Department for over 50 hours after he denied involvement in the alleged crime and asked for a lawyer after refusing to speak to detectives on the date of his arrest, i.e. June 6, 2008, and on June 8, 2010, the date he allegedly "voluntarily" gave a self-incriminating statement to Detective Gregory Rodden but refused to consent to his alleged voluntary statement being videotaped/audiotaped, the Commonwealth failed to ~~and~~ produce the videotape/audiotape of the interview/interrogation and evidence that show ~~is~~

4

Petitioner's pre-^{confession detention} ~~confession detention~~ was constitutional, i.e. protected his 5th amendment protection against compelled self-incrimination even though Petitioner testified at his preliminary hearing and suppression hearing that he ~~was~~ was forced to sign, and, i.e. to give the statement that Det. Rodden said he gave voluntarily "as a result of the Detective ~~and~~ physically assaulting him and threatening him even though Petitioner's coerced statement should be on film because there was a video camera facing the one-way mirror in the room that Petitioner was assaulted in. See Preliminary Hearing and Suppression Hearing Transcripts. See also Commonwealth's Response Regarding Petitioner's Request for A COA; Court of Appeals Order of June 2, 2022 (Directing the Commonwealth to "address Cook's claim regarding the voluntariness of his June 8, 2008 statement to police," and that: "In addressing the totality of the circumstances surrounding that statement, the Commonwealth should also address the conditions of Cook's confinement during his pre-confession detention). There was no eyewitness

testimony presented at trial against Petitioner and, Petitioner did not testify at trial or raise a self-defense claim at trial. He raised that he is innocent and that based on the "dying declaration" and his nephew admitting that he did the stabbing, the jury was ~~not~~ presented with a "classic case" of reasonable doubt because they could not reasonably "exclude" the dying declaration and find Petitioner's alleged self-incriminating statement voluntary. See Petitioner's defense counsel's opening and closing arguments in his Trial Transcripts.

5. In light of all the above, Jackson v. Virginia and Miranda v. Arizona, Petitioner believes that the "Statement of the Case" and "Reasons for Granting the Petition" in his Petition for A writ of Certiorari show that the evidence presented at trial by the Commonwealth was insufficient for a rational jury to find Petitioner guilty of third degree murder beyond "a reasonable doubt," thus, the Commonwealth will not be prejudiced if Petitioner be enlarged on personal

recognizance by this Court or a justice of the Court because he further believes that as a matter of law this Court or a Justice of this Court will agree that Petitioner was/is entitled to the granting of the writ of Habeas Corpus filed in the District Court, and therefore grant his instant Petition for A writ of Certiorari.

6. Notwithstanding the above, Petitioner urgently request that he is granted the relief requested in this instant application because he discovered on or about April 1, 2025, that his "biopsy" result from a growth the size of a finger that was found when he had a colonoscopy done on March 19, 2025 came back indicating that he have "colon cancer," thus, he also discovered thereby that he was "misdiagnosed" for approximately four (4) years with ~~hemorrhoids~~ having hemorrhoid instead of colon cancer, by medical personnel at his current place of confinement due him receiving "inadequate" medical care for the bleeding that he have been experiencing coming from his rectum since 2021 and complaining about and also requesting a colonoscopy and/or MRI to no avail until he was finally given a colonoscopy on March 19, 2025.

7. Despite the cancer being found ~~on~~ and Petitioner being made aware of same on or about April 1, 2025, as of this date,

he have not been given any treatment or further tests regarding his cancer, and thus have not been told what stage cancer he have, and therefore, and because he was "misdiagnosed" with having hemorrhoids for four (4) years and feel worst from losing blood every day and became "anemic," every day he is compelled to live in a state of fear that he may drop dead or die soon from the cancer from not being "adequately" treated for it or because of the delay in having ^{the} colonoscopy it is too late to treat the cancer or because of the delay in being treated for the cancer as a result of his imprisonment. Consequently, Petitioner also believes that he should be enlarged on personal recognizance pending disposition of review of the District Court and Court of Appeals decisions because he have been subjected to cruel and unusual punishment for the past four (4) years due to inhumane ^{treatment} ~~treat~~ / inadequate medical care, i.e. not being given a colonoscopy or MRI even though he was bleeding from his rectum and was over the age of 60 years when he was first bleeding and never had a colonoscopy done even though he asked for it and/or a MRI to see if he had cancer or what was causing the bleeding everytime he had to defecate, in violation of his 8th amendment protection against cruel and ^{unusual} ~~unusual~~ punishment, and he may continue to be subjected to cruel and unusual punishment

and die in prison from the cancer before there is a decision entered by this Court or a Justice of this Court on Petitioner's Petition for A Writ of Certiorari, in the absence of an order that he be enlarged on personal recognizance which may afford him the opportunity to receive "adequate" medical care at a cancer clinic on the outside. See Petition for Writ of Certiorari.

WHEREFORE, for the foregoing reasons, and in the interests of justice and public policy, Petitioner respectfully request that an order is entered granting his instant request that he be enlarged on personal recognizance due to his Petition for A Writ of Certiorari having arguable merit and him disclosing that he have colon cancer but do not know what stage it is and he have almost already served 17 years of his 20 to 40 years sentence despite his innocence.

Date: April 6, 2025

Respectfully submitted,
Daryl Cook
DARYL COOK
Pro Se Petitioner

1. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct based on my personal information, belief, and knowledge. Daryl Cook

No. _____

Petition for A Writ of Certiorari No. 24A584

IN THE
SUPREME COURT OF THE UNITED STATES

Daryl Cook, Petitioner

VS.

Superintendent Coal Township SCI; District Attorney
Philadelphia; Attorney General Pennsylvania, Respondents

PROOF OF SERVICE

I, Daryl Cook, declare that on this date, April 9, 2025, as required by Supreme Court Rule 29 I have served the enclosed PETITIONER'S APPLICATION TO BE ENLARGED ON PERSONAL RECOGNIZANCE on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above document in the State Correctional Institution [SCI] internal mail system properly addressed to each of them and with first-class postage prepaid.

The names and addresses of those served are as follows:

District Attorney's Office, Three South Penn Square, Philadelphia, PA 19107;
Attorney General's Office, Strawberry Square, 15th Floor, Harrisburg, PA 17120.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on April ¹³~~9~~, 2025.

By: Daryl Cook
Pro Se Incarcerated Petitioner

J. S38002-13

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
DARYL COOK,	:	
	:	
Appellant	:	No. 2712 EDA 2010

Appeal from the Judgment of Sentence Entered August 26, 2010,
In the Court of Common Pleas of Philadelphia County,
Criminal Division, at No. CP-51-CR-0010093-2008.

BEFORE: SHOGAN, ALLEN, and FITZGERALD,* JJ.

DISSENTING STATEMENT BY FITZGERALD, J.: **FILED MARCH 21, 2014**

I respectfully dissent because I believe that the record did not support the trial court's findings of fact regarding the totality of the circumstances surrounding Appellant's confession.¹

As noted by the majority, "[t]he Commonwealth bears the burden of establishing that the defendant knowingly and voluntarily waived his

* Former Justice specially assigned to the Superior Court.

¹ At the outset, it merits mention that Appellant's specific challenge based on his preconfession detention was arguably waived for failure to identify it in his pretrial motion to suppress. **See Commonwealth v. Dixon**, 977 A.2d 368, 374 (Pa. Super. 2010) (discussing requirement that motion to suppress state with particularity facts and events in support of suppression request). However, I would further note that the Commonwealth was on notice that it bore the burden of proving that Appellant's confession was voluntary and did not object to a lack of notice of Appellant's specific arguments at the suppression hearing. Lastly, the Commonwealth, despite receiving several extensions, failed to file an appellate brief in this case.

J. S38002-13

Miranda^[2] rights" at the suppression hearing, and it is the responsibility of the trial court to "consider and evaluate the totality of the circumstances attending the confession and the waiver of the rights." Majority's Mem. at 11 (citations omitted). Factors relevant to the court's inquiry include "1) the voluntariness of the confession, including whether **Miranda** warnings were given; 2) the temporal proximity of arrest and confession; 3) the presence of intervening circumstances; and 4) the purpose and flagrancy of the official misconduct." *Id.* (citing **Commonwealth v. Gwynn**, 943 A.2d 940, 946 (Pa. 2008)).

Instantly, the trial court acknowledged that Appellant had been held in an interrogation room in the Homicide Unit for two days, from Friday, June 6 to Sunday, June 8, 2008. Trial Court Op., 2/24/12, at 9. Nevertheless, the court concluded that Appellant's waiver of his **Miranda** rights and his confession were voluntary because he appeared to be alert when Detective Rodden began his interrogation of Appellant on June 8th and was able to discuss the matter with the detective freely and voluntarily. N.T., 8/10/09, at 51. The court found that the detective gave Appellant food and drink prior to the interrogation. *Id.* at 47; Trial Court Op. at 9. The trial court

² **Miranda v. Arizona**, 384 U.S. 436 (1966). It is well settled that the **Miranda** warnings were originally implemented as a "safeguard in the case of 'incommunicado interrogations of individuals in a police dominated atmosphere, resulting in self-incriminating statements without full warnings of constitutional rights.'" **Commonwealth v. Ellis**, 549 A.2d 1323, 1329 (Pa. 1988) (citation omitted).

J. S38002-13

also noted that Appellant "remained calm throughout the entire statement, he did not ask the detectives to stop the interview, and was freely permitted to decline to have his statement videotaped or audiotaped." Trial Court Op. at 9.

With respect to the two-day detention before the interrogation, the trial court determined that "[t]hose held, including [Appellant], are free to knock on the door to ask for an opportunity to eat or drink, place a phone call, or use the bathroom." *Id.* The court also suggested that "being held for an extended period of time in the interview room is not uncommon."³ *Id.*

A review of the suppression hearing record establishes that Appellant was taken into custody on Friday, June 6, 2008, at 11:45 a.m., on an outstanding bench warrant. N.T. at 4-5. He was transported to the Homicide Unit based on reports that he was involved in the killing of the decedent in the underlying matter. *Id.* at 4-5, 18. According to an activity sheet for June 6th, Appellant told another detective that "he had no information regarding this incident and also stated that he was not present

³ The trial court, on February 24, 2012, prepared its Pa.R.A.P. 1925(a) opinion and apparently relied on the trial testimony in support of its determinations on Appellant's motion to suppress. However, more than one year later, on October 30, 2013, the Pennsylvania Supreme Court issued its opinion in *In re L.J.*, 79 A.3d 1073 (Pa. 2013). In that case, the Court concluded that "it is inappropriate to consider trial evidence as a matter of course, because it is simply not part of the suppression record, absent a finding that such evidence was unavailable during the suppression hearing." *In re L.J.*, 79 A.3d at 1085.

J. S38002-13

when the incident occurred."⁴ *Id.* at 20. Additionally, that detective prepared and executed a search warrant to take a blood sample from Appellant on June 6th. *Id.* at 20-21.

Detective Rodden testified that he began speaking with Appellant at 2:30 p.m. on June 8th about the killing of decedent and Appellant agreed to talk to the detective. *Id.* He also asked Appellant if he was hungry and gave Appellant a cheese hoagie, a soda, and a cup of coffee. *Id.* at 7, 14. One hour later, at 3:21 p.m., Appellant waived his *Miranda* rights, and at 3:25 p.m., the detective took a statement from Appellant. *Id.* at 7-8. The interrogation concluded at 4:30 p.m. *Id.* at 13. Appellant refused to have his confession recorded and, at 4:39 p.m., signed a non-consent form confirming his refusal. *Id.* at 14. The detective testified that Appellant appeared alert and able to understand him throughout their interaction. *Id.* at 15.

Significant to this appeal, Detective Rodden testified that he was aware that Appellant had been held in the interrogation room since June 6th and, on cross-examination, asserted that Appellant "would have been fed" and given drinks prior to his interaction with Appellant on June 8th. *Id.* at

⁴ The evidence regarding the events of June 6th was introduced on cross-examination of Detective Rodden. Appellant's counsel conducted this cross-examination using an activity sheet prepared by Detective McNamee. Although counsel had the activity sheet marked as an exhibit, the sheet itself was not entered into evidence. The Commonwealth did not present any evidence to show that *Miranda* warnings were given on June 6th.

J. S38002-13

4-5, 24. However, the detective conceded that there was no documentation of Appellant's treatment during the detention from the afternoon of June 6th until 2:30 p.m. on June 8th. **Id.** The Commonwealth presented no additional evidence explaining why Appellant was detained in the Homicide Unit's interrogation room for two days or describing his treatment while in custody.

In my view, this record reveals a gap in the evidence regarding the fifty-two and one-half hours Appellant was held in the Homicide Unit's interrogation room prior to Detective Rodden's interrogation on June 8th. Despite the trial court's finding that the practice of detaining individuals in the Homicide Unit was "common,"⁵ the suppression record contains no evidence regarding that practice or the specific treatment Appellant received during his detention. Lastly, there was no discussion regarding the adequacy of the **Miranda** warnings given at 3:21 p.m. on June 8th in light of the interview and searches that occurred on June 6th, and the detention that followed. In light of these gaps, I would conclude that our ordinary deference to the trial court's factual findings and credibility determinations does not apply.

⁵ I would further note that the Philadelphia Police Department has announced new interrogation policies, which have been reported to include requirements that a supervisor approve a detention of a suspect for more than twelve hours and limits detentions of a suspect to thirty-six hours. **See** Aubrey Whelan & Craig R. McCoy, *Ramsey Orders Changes on Interrogations, Holding Suspects*, Philadelphia Inquirer, Dec. 20, 2013, at A1.

J. S38002-13

Therefore, I am constrained to conclude the evidentiary record evinces an incomplete assessment of the the totality of the circumstances leading to Appellant's waiver of his **Miranda** rights and his confession. The length of Appellant's detention, the reasons for the detention, the treatment of Appellant while in detention, and the apparent failure of the detectives to apprise Appellant of his **Miranda** rights until 3:21 p.m. on June 8th, are all relevant factors that require further review. **See Gwynn**, 943 A.2d at 946. Accordingly, I would remand this case for further proceedings to consider the above factors and whether Appellant's waiver of his **Miranda** rights and his confession were voluntary in light of the totality of the circumstances.

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)

Thomas S. McGinley, Superintendent

2. Date:

5/3/2025

3. By: (Print Inmate Name and Number)

Daryl Cook, JR 8635

Daryl Cook

Inmate Signature

4. Counselor's Name:

Mr. Shirk

5. Unit Manager's Name:

Ms. Santelli

6. Work Assignment:

Block Worker

7. Housing Assignment:

DB 2050

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

Dear Superintendent:

Please advise me how to apply for compassionate ~~release~~ release from my sentence, because I have been ~~diagnose~~ diagnose with having 4 stage cancer, and my counselor told me that he can not help me. I would like to be around my family and able to receive treatment every day at an outside cancer facility as soon as possible without having to go back and forth to a hospital for treatment every day because I am in prison. I am 65 years of age and don't know if my cancer is treatable due to the stage that I am in, and I only have three (3) more years on my ~~minimum~~ minimum sentence (20-40 years) that I may be eligible for parole, but may not live that long to make parole. Thank you. Sincerely!

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

Sorry to hear you are sick -

In order to receive consideration for

Compassionate Release -

① You must have a medical doctor state you have less than a year to live

② You must not receive treatment.

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

STAFF MEMBER NAME

T. McGinley

Print

Signature

DATE 5-6-25

PROOF OF SERVICE

I Certify that I caused a true and correct copy of the foregoing document to be served on this *11th day of May*, 2025, by first class mail, to:

District Attorney's Office
3 South Penn Square
Philadelphia, PA 19107

Attorney General Office
Strawberry Square 15th Floor
Harrisburg PA, 17120

BY: *Daryl Cook*
Daryl Cook #JR-8635
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866