

**IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT**

No. 34 WAP 2023

**COMMONWEALTH OF PENNSYLVANIA,
Appellee,
v.
KEITH LAMAR FOSTER,
Appellant.**

***Brief of Amicus Curiae* Pennsylvania Association of
Criminal Defense Lawyers in Support of Appellant**

Appeal From June 22, 2023 Decision of the Superior Court,
Docketed at 519 WDA 2022, Reversing the Order
of the Court of Common Pleas of Allegheny County
Granting Suppression, Docketed at CP-02-CR-6450-2021

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STATEMENT OF INTEREST OF AMICUS CURIAE

The Pennsylvania Association of Criminal Defense Lawyers (“PACDL”) is a professional association of attorneys admitted to practice before the courts of Pennsylvania who are actively engaged in providing criminal defense representation. Founded in 1988, PACDL is the recognized Pennsylvania affiliate of the National Association of Criminal Defense Lawyers. As *amicus curiae*, PACDL presents the perspective of experienced criminal defense attorneys who seek to protect and ensure by rule of law those individual rights guaranteed by the Pennsylvania and United States Constitutions and who work to achieve justice and dignity for defendants in criminal cases. PACDL membership currently includes more than 950 private criminal defense practitioners and public defenders throughout the Commonwealth.

The issues presented to this Court, and on which PACDL advocates, concern the danger of false confessions by criminal defendants resulting from police deception. PACDL and its members have a direct interest in the outcome of this case, as PACDL’s mission includes ensuring the fairness of the criminal justice system in Pennsylvania and advocating

for the rights of persons charged with, convicted of, and imprisoned for crimes.

In light of the fundamental nature of the rights at stake, as well as the potentially far-reaching implications of this Court's resolution of these issues, PACDL has a strong interest in advocating in this case on behalf of its members and the clients they serve.

Pursuant to Pa. R.A.P. 531(b)(2), PACDL states that no person or entity other than PACDL and its counsel paid for or authored this *amicus* brief in whole or in part.

SUMMARY OF ARGUMENT

Due to the scientifically proven link between police deception and false confessions, it is clear that such deception is at the core of a significant number of wrongful convictions. Though deception is often excused through reliance on cases decided before the connection between deception and wrongful convictions was clearly established, these cases should be repudiated in favor of a zero-tolerance policy now that the science and risk are clear.

Amicus traces the history of the law permitting deception to show that it emerged well before the risk of false confessions became known. We show that false confessions are indeed a proven phenomenon traceable to police deceit. We then show that beginning in 2021, legislation targeting police deception has been passed in several states, focused primarily on juveniles as the risk of false confessions from those under 18 was already well documented.

PACDL respectfully urges this Court to reverse the decision of the Superior Court, revisit its prior cases approving confessions obtained through deception, and take this opportunity to hold that police deception in interrogation is unacceptable and will not be tolerated in

Pennsylvania. Doing so will not reduce the number of correct confessions, but a no-deceit rule will reduce the risk of wrongful convictions.

ARGUMENT OF *AMICUS CURIAE*

I. Deception in Interrogation Is a Form of Coercion That Has Been Scientifically Proven To Impede the Search for Truth.

It has long been recognized that coercion in law enforcement interrogation can be mental as well as physical and that the use of certain interrogation techniques can undermine the will to resist and may give rise to false confessions. *Miranda v. Arizona*, 384 U.S. 436, 448, 455 & n.24 (1966). More recent social science studies demonstrate that the use of deception in interrogation increases the risk of eliciting false confessions.

The “Reid Technique” is a widespread method of interrogation aimed at extracting confessions through “false evidence ploys and other forms of deceit.” *See Dassey v. Dittmann*, 877 F.3d 297, 320-21 (7th Cir. 2017) (*en banc*) (Wood, C.J., joined by Rovner and Williams, JJ., dissenting). The foundations of the technique are maximization—“[t]he guilt of the subject is to be posited as a fact”—and minimization—“perhaps the subject has had a bad family life, had an unhappy childhood, had too much to drink, had an unrequited desire for women.” *Miranda*, 384 U.S. at 450. And even for those not trained in the Reid Technique *per se*, the same methods are ubiquitous in police interrogations. *See*

People v. Powell, 182 N.E.3d 1028, 1035 (N.Y. 2021) (noting expert testimony that “even if [New York police officers] were not specifically trained in the Reid technique, ‘all interrogations . . . pretty much follow the same model’ ”). As seen in the instant case, deception is viewed as a feature as opposed to a bug in the interrogation process. The use of false information to secure a confession is a routine part of police training. Richard A. Leo, *Inside the Interrogation Room*, 86 J. of Crim. L. and Criminology 266, 294 (1996) (finding in an observational study that police utilization of false evidence had 83% success rate in acquiring confession).¹

It is easy to see why. Confessions are powerful evidence with “profound” effects on a jury, “so much so that we may justifiably doubt its ability to put them out of mind even if told to do so.” *Arizona v.*

¹ There exists a scholarly debate regarding the validity of these observational studies and the link between deceptive interrogation, false interrogation, and the continued focus on *Miranda* procedural compliance. Compare Steven Drizin & Richard Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. Rev. 891 (2004) with Paul G. Cassell, *The Guilty and the “Innocent”: An Examination of Alleged Cases of Wrongful Conviction from False Confessions*, 22 Harvard J. L. & Pub. Policy 523 (1999); but see Albert Alschuler, *Miranda’s Fourfold Failure*, 97 Boston Univ. L. Rev. 849 (2017) (analyzing why Cassell’s empirical conclusions fail to accurately show *Miranda’s* harm).

Fulminante, 499 U.S. 279, 296 (1991) (quoting *Bruton v. United States*, 391 U.S. 123, 139-40 (1968) (White, J., dissenting, joined by Harlan, J.)). Their extraction is thus understandably the primary goal of an interrogation.

The forms of deception include using general claims of strong evidence when there is no such evidence, representing that a codefendant has already cooperated, and use of false medical or scientific evidence in an effort to extract a confession. Richard Ofshe & Richard Leo, *The Decision to Confess Falsely: Rational Choice and Irrational Action*, 74 *Denver L. Rev.* 979, 1011-14, 1020-21, 1023-24 (1997); *see also* Richard A. Leo, *The Decision to Confess Falsely Twenty Five Years Later: Windows and Walls in Empirical Psychology and Legal Scholarship*, 100 *Denver Univ. L. Rev.* 541 (2023).

In truth, deceit, minimization, and trickery are forms of coercion no different than use of physical force. Empirical evidence demonstrates that individuals are far more psychologically malleable than previously understood. Particularly over the past three decades, social science researchers have proven through empirical studies that interrogation processes influence a suspect's perceptions, overcome denials and elicit

decisions to falsely confess. Richard A. Leo, *Interrogation and False Confessions in Rape Cases*, at 2 (2024) (forthcoming in Ann Burgess, Ed., *Practical Aspects of Rape Investigation: A Multidisciplinary Approach* (6th ed. 2024)).

During a deceptive interrogation, the interrogator will often minimize the charge by suggesting the offense was somehow excusable, or underplay the charge, or, alternatively, maximize the severity of the charge. Saul Kassin & Katherine Kickel, *The Social Psychology of False Confessions: Compliance, Internalization and Confabulation*, 7 *Psych. Sci.* 125 (1996). This process of maximization and minimization influences the subject to begin adopting the view of the interrogator, which ultimately influences the subject's own beliefs. *Id.* at 234-35. This can lead to coerced-compliant confessions, in which a suspect confesses to escape an aversive interrogation, secure a promised benefit, or avoid a threatened harm, and coerced-internalized confessions, in which a suspect actually comes to believe that he or she is guilty of the crime. *Id.* While the coerced-internalized confession may seem improbable, such internalized belief in a lie is remarkably easy to impel through psychological prompting.

Misleading information can force an individual to either yield to the interrogator's version of events or change his or answers. Gisli Gudjonsson, *Interrogative Suggestibility: Factor Analysis of the Gudjonsson Suggestibility Scale*, 13 *Personality & Individual Differences* 479, 481 (1991). Psychological research has shown that the use of false evidence is effective at eliciting compliance, confusing suspects, and causing suspects to doubt themselves or develop false beliefs and memories. Leo (*Interrogation and False Confessions in Rape Cases*), *supra*, at 8.

Everyone thinks they would never confess to something they did not do: “Several of the exonerated ‘Central Park Five’ defendants recently explained: ‘It’s hard to imagine why anyone would confess to a crime they didn’t commit.’” *State v. Griffin*, 262 A.3d 44, 106 (Conn. 2021) (Ecker, J., concurring in part and dissenting in part) (quoting Y. Salaam, et al., *Act Against Coerced Confessions*, N.Y. Times (Jan. 5, 2021)). They added, however, that “when you’re in that interrogation room, everything changes. During the hours of relentless questioning that we each endured, detectives lied to us repeatedly It felt like the truth didn’t matter. Instead, it seemed as though they locked onto one theory

and were hellbent on securing incriminating statements to corroborate it. A conviction rather than justice felt like the goal.” *Id.*

Eliminating deception in interrogation does not reduce the number of confessions, but rather reduces the risk of false confessions. This has been demonstrated convincingly in England with the adoption of the PEACE interrogation method, which avoids use of deception in interrogation. As reported by one scholar:

Early studies of the ability of the PEACE method to elicit information leading to the arrest and/or conviction of the guilty and not the innocent show promising results. Researchers to date have not uncovered any real life “false confession involving the PEACE model.” Although it is still too early to conclude that the PEACE model in fact yields fewer false confessions, they hypothesize that because “unlike the Reid technique, the PEACE model is neither guilt presumptive nor overtly confrontational it is less likely to elicit false confessions.” Laboratory studies support this intuition. In two studies, researchers found that information-gathering methods reduced the odds of a false confession by 74% and increased the odds of a true confession by 85% as compared with accusatorial approaches, such as the Reid technique. Another study showed that the PEACE method increased “admissions from guilty suspects and . . . the number of critical details elicited.”

Julia Simon-Kerr, *Public Trust and Police Deception*, 11 Ne. Univ. L. Rev 625, 661 (2019).

False confessions have been identified as a contributing factor in nearly 30% of DNA exonerations in the United States. Kyle Scherr, Allison Redlich, Saul Kassin, *Cumulative Disadvantage: A Psychological Framework for Understanding How Innocence Can Lead to Confession, Wrongful Conviction, and Beyond*, Perspectives on Psych. Sci. (2020) (citing the Innocence Project). The National Registry of Exonerations at the University of Michigan has logged 3,475 post-conviction DNA and non-DNA exonerations since 1989 and approximately 13% of these wrongful convictions were due to false confessions. Leo (*Interrogation and False Confessions in Rape Cases*), *supra*, at 1; *see also* Hugo Bedau, Michael Radelet, *Miscarriages of Justice in Potentially Capital Cases*, 40 Stanford L. Rev. 21, 57 (1987) (finding of 350 applicable capital cases, 14% involved coerced or other false confessions). According to social science research, false evidence ploys are nearly always present in interrogations leading to false confessions and are substantially likely to increase the risk of eliciting false confessions. Leo (*Interrogation and False Confessions in Rape Cases*), *supra*, at 7. False confessions continue

to occur with troubling frequency and most that are documented are by individuals without cognitive or intellectual impairment. Leo (*Interrogation and False Confessions in Rape Cases*), *supra*, at 2, 12.

In addition to risking wrongful convictions, the use of deception in interrogation also threatens police legitimacy. Margareth Etienne, Richard McAdams, *Police Deception in Interrogation as a Problem of Procedural Legitimacy*, 54 Texas Tech L. Rev. 21, 24 (2021). When courts sanction the use of deceptive tactics, it feeds not just distrust for law enforcement, but also fosters distrust in the criminal justice system and its outcomes. *Id.* at 33-34.

When an interrogator uses false evidence or accusations against a suspect, the notion that an innocent subject will hold fast to their commitment to the truth is empirically flawed. With minimal goading, the subject is willing to adopt the interrogator's version of events in order to end the interaction. In many cases, subjects begin to believe the lie, despite their earlier belief in the truth. Because of the psychological weaknesses inherent in suspects (innocent and guilty alike), a stronger, due-process focused model that limits the use of deception should be imposed to ensure both suspect dignity and institutional legitimacy. *See*

Marcin Zalman, *A Brief Reply to Professor Cassell*, 48 Seton Hall L. Rev. 1493, 1497 (2018).

II. Police Deception, Now Recognized as a Leading Cause of False Confessions and Thus Wrongful Convictions, Is Routinely Excused Through Reliance on Cases Decided Before the Link Between Deception, False Confessions, and Wrongful Convictions Was Clear.

In light of the scientifically proven link between police deception and false confessions, it is hardly surprising that such deception is at the core of a large class of wrongful convictions. And though deception is often excused through reliance on cases decided before the connection between deception and wrongful convictions was clearly established, this link can no longer be ignored, and these cases should be reexamined.

Seminal cases like *Frazier v. Cupp*, 394 U.S. 731, 739 (1969) gave short shrift to the effects of police deception, finding a statement voluntary even though the police falsely told the defendant his co-defendant had implicated him. Similarly, in *Commonwealth v. Jones*, 322 A.2d 119, 125-27 (Pa. 1974), this Court deemed voluntary the confession of a 17-year-old, who may have been intoxicated, even though a detective “contradict[ed] his exculpatory statements with a statement allegedly received from another suspect.” And in *Commonwealth v.*

Williams, 640 A.2d 1251, 1259 (Pa. 1994), this Court dismissed the significance of “the alleged false statements” of interrogating officers that they had recovered a gun of the caliber used in a shooting.

Police deception was not viewed as a significant contributor to the defendants’ confessions in any of these cases. The giving of *Miranda* warnings, the absence of *physical* coercion, and the perceived truth of the confessions were of greater importance. *Frazier*, 394 U.S. at 739; *Jones*, 322 A.2d at 126-27; *Williams*, 640 A.2d at 1259.

A similar justification for turning a blind eye to deception was that, even if a suspect made a false confession, its falsity would be discovered before it could do any damage. In fact, this Court at one time was sure of it: “If a man confesses to a crime *which he did not commit*, his confession, as soon as it is checked (as all confessions are), will always be found to be worthless because a lie never fits a fact.” *Commonwealth v. Agoston*, 72 A.2d 575, 582 (Pa. 1950) (emphasis in original).

There is thus no shortage of cases finding that, even in the face of police deception, a false confession is unlikely and is sure to be harmless in any event. But critically, “at the time those cases were decided, it was assumed that deceptive interrogations would not lead to false

confessions.” Miriam S. Gohara, *A Lie for a Lie: False Confessions and the Case for Reconsidering the Legality of Deceptive Interrogation Techniques*, 33 Fordham Urb. L. J. 791, 794 (Spring 2006). Now we know better. Indeed, “interrogation practices in which police misrepresent evidence against suspects can and do lead to false confessions and wrongful convictions.” *Id.*

Moreover, while the statistics are disturbing, dry numbers sometimes fail to capture the reality that people have served long stretches in prison for crimes they did not commit but confessed to so doing. This includes those who were tried, convicted, and incarcerated in Pennsylvania. Especially noteworthy is Anthony Wright, who, thanks to this Court’s reversal of a Superior Court decision denying him DNA testing because he had confessed, went on to be exonerated after serving 25 years in prison for rape and murder. *See Commonwealth v. Wright*, 14 A.3d 798, 815-18 (Pa. 2011); *Cases: Anthony Wright*, available at: <https://innocenceproject.org/cases/anthony-wright-exonerated/> (last visited March 1, 2024). Also in *Wright*, 14 A.3d at 809 n.9, this Court discussed the cases of Bruce Godschalk, Nicholas Yarris, and Barry Laughman, all of whom confessed to crimes but were later proven not to

have committed them. They served 15, 22, and 17 years in prison, respectively.

Here, the tactics and mentality that help pave the way for false confessions were on full display. As Foster argues, the police lied to him as to whether he was a suspect, thus fundamentally altering his understanding of the nature of the interaction. This is an especially pernicious form of the minimization component of the Reid Technique, falsely telling Foster the stakes were low and he had no reason to worry about talking to police.

In shrugging off this deception, the Superior Court relied heavily on *Commonwealth v. Roberts*, 969 A.2d 594 (Pa. Super. 2009). *Commonwealth v. Foster*, No. 519 WDA 2022, slip op. at 7-12 (Pa. Super. June 22, 2023). But even if it qualifies as relatively recent itself, *Roberts*, 969 A.2d at 600-01, was built on decades-old cases like *Commonwealth v. Hughes*, 555 A.3d 1264 (Pa. 1989) and *Jones*, 322 A.2d 119, decided in 1974. And in light of the increasingly undeniable link between deception, false confessions, and wrongful convictions, these cases have not aged well.

In *Hughes*, 555 A.3d at 1273-75, this Court deemed voluntary the statement of a 17-year-old with a “low IQ,” despite the fact that he was told incorrectly that he had failed a polygraph test. And in *Jones*, 322 A.2d at 125-27, a 17-year-old’s confession was approved, even though he may have been intoxicated and the interrogating detective contradicted his protestations of innocence with fabricated statements from a co-defendant.

Even if these decisions were in line with the available scientific information at the time they were decided, the ground has since shifted dramatically. These cases have lost credibility in light of the growing “empirical data demonstrating the correlation between deceptive interrogation practices and false confessions” that is discussed above. Gohara, *supra*, at 794.

Notably, 40 years after deciding *Frazier*, the United States Supreme Court recognized “mounting empirical evidence” that the pressures of custodial interrogation “can induce a frighteningly high percentage of people to confess to crimes they never committed[.]” *Corley v. United States*, 556 U.S. 303, 321 (2009) (citing Steven Drizin & Richard Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C.

L. Rev. 891, 906-907 (2004)). Although *Corley* did not directly concern police deception, it suggests *Frazier*, were it decided today, would not have brushed such deception aside so easily. And the same can be said of *Jones*, *Hughes*, and similar decisions.

Due to the growing scientific understanding of a strong link between police deception, false confessions, and wrongful convictions, it no longer makes sense to excuse deception based on cases decided decades ago. Where those decisions were made without the benefit of the knowledge we now possess—suspects *do* confess to crimes they did not commit and are then convicted of those crimes—they should no longer dictate the outcome of cases like Foster’s.

This Court has recognized the need for jurisprudence to take heed of scientific developments in cases like *Commonwealth v. Walker*, 92 A.3d 766 (Pa. 2014). In *Walker*, 92 A.3d at 779, this Court reexamined the permissibility of expert testimony because “[t]he recent advent of DNA testing” had exposed “erroneous eyewitness identifications,” overturned several convictions on this ground, and thus “made the concern over the accuracy of eyewitness identification manifest.” Instead of clinging to decisions from the mid-1990s that “repeatedly barred, without exception,

the admission of expert testimony regarding eyewitness identification,” this Court cited scholarly articles demonstrating “the fallibility of eyewitness identification testimony” and turned its back on those prior decisions. *Id.* at 780-82, 792-93. Along the way this Court remarked that “it is beyond serious contention that the statistical evidence on eyewitness inaccuracy is substantial, and scientific research in the field of eyewitness identification has advanced significantly since our law establishing an absolute ban on expert testimony in this regard 20 years ago.” *Id.* at 782.

As was the case with the scientific evidence on eyewitness identifications, the understanding of the effects of police deception has changed since cases like *Hughes* and *Jones* were decided. Things everyone *knew* were true turned out to be inaccurate. These misconceptions led to wrongful convictions. As in *Walker*, decisions made with an incomplete appreciation for the effects of police deception should not continue to dictate the outcome of cases like Foster’s. This Court should no longer tolerate police deception of any kind, and should reverse the Superior Court’s decision in this case.

III. Recognizing the Connection Between Police Deception, False Confessions, and Wrongful Convictions, Several State Legislatures Have Barred Certain Uses of Deception in Interrogation.

Beginning with Illinois in 2021, several states have now enacted statutes protecting against deception in interrogation due to growing acceptance of the realities discussed above. This includes the following measures:

- Illinois—Any confession given by a minor through a custodial interrogation where the officer involved “knowingly engage[d] in deception” is now presumptively inadmissible. 705 ILCS § 405/5-401.6(b).
- Oregon—Statements by those under 18 in a custodial interrogation are presumptively inadmissible where “the peace officer intentionally used information known by the officer to be false to elicit the statement.” ORS § 133.403(1).
- Utah—For custodial interrogations of juveniles, officers “may not knowingly: (a) provide false information about evidence that is reasonably likely to elicit an incriminating response from the child; or (b) make an

unauthorized statement about leniency for the offense.”

Utah Code § 80-6-206(8).

- Delaware—A statement from someone under 18 “is inadmissible in any criminal or delinquency court proceeding if it was made during a custodial interrogation in which deceptive tactics were used.” 11 Del. C. § 2022(b)(1).
- Indiana—Statements obtained from juveniles through “materially false information regarding evidence relating to the act” or “materially false statement[s]” as to the penalty for the act or possible leniency are inadmissible. IC § 31-30.5-1-6(a).
- Connecticut—Statements of any defendants are presumptively inadmissible where obtained through certain forms of “deception or coercive tactics,” with additional forms applying only to juveniles. C.G.S.A. P.A. 23-27, § 1.
- California—Effective July 1, 2024, “a law enforcement officer shall not employ threats, physical harm,

deception or psychologically manipulative interrogation tactics” when interrogating those 17 and under. WIC § 625.7(a).

These statutes are positive developments insofar as they reflect a greater understanding of the problem police interrogation presents. That they are focused on juveniles is no surprise, as those under eighteen years of age are deemed even more vulnerable to confessing falsely after the use of deception. It is true that the false confession rate is particularly alarming when it comes to juveniles: 34% as opposed to 10% for adults. *See Age and Mental Status of Exonerated Defendants Who Confessed*, National Registry of Exonerations (April 10, 2022). Available at: <https://www.law.umich.edu/special/exoneration/Documents/Age%20and%20Mental%20Status%20FINAL%20CHART.pdf> (last visited March 1, 2024). But many adults confessed to crimes they were later proven not to have committed. *Id.* The effects of police deception thus are not limited to juveniles, and the solution to the problem should not be so limited, either. *See also A Year of Legislative Achievements in Criminal Legal Reform – Innocence Project* (“The Innocence Project believes this

protection [from police deception] should also extend to adults[.]”²

Available at: <https://innocenceproject.org/a-year-of-legislative-achievements-in-criminal-legal-reform/> (last visited March 1, 2024).

IV. This Court Should End Police Deception in Interrogation.

In deciding the appropriate action in the context of the instant case, *Walker* provides guidance once again. Expert testimony on eyewitness identification had been consistently barred under several of this Court’s decisions. *Walker*, 92 A.3d at 780. But instead of hewing to those decisions despite the emerging consensus on the fallibility of eyewitness identifications, this Court took the opportunity to conform the law to realities that could no longer be ignored. Just as *Walker* changed the law because mistaken identifications were leading to wrongful convictions, this Court should change the law in response to police deception and the wrongful convictions they produce.

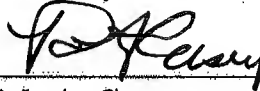
² Legislative bans on deception in interrogation have been proposed in Pennsylvania, but none have passed. In the most recent legislative session, they have died in committee. See H.B. 934 (2023-24) (deception in interrogating “individual[s] with intellectual disability or autism,” last action: referred to judiciary committee April 2023); H.B. 1156 (2023-24) (confession presumptively inadmissible if knowingly obtained through deception, last action: referred to judiciary committee May 2023). Several such bills from the previous session met with the same fate. See H.B. 1999 (2021-22); H.B. 1669 (2021-22); H.B. 1860 (2021-22).

To this end, the instant case presents the opportunity to repudiate cases like *Hughes*, *Jones*, and *Agoston*, and to make use of the knowledge that police deception leads to false confessions and thus wrongful convictions. *Amicus curiae* accordingly urges this Court to reverse the decision of the Superior Court and hold that police deception in interrogation will not be tolerated in Pennsylvania.

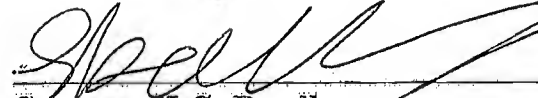
CONCLUSION

For the foregoing reasons, *Amicus Curiae* respectfully requests that this Court reverse the decision of the Superior Court.

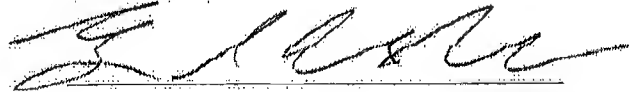
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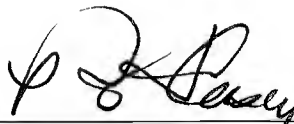
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**CERTIFICATION OF COMPLIANCE WITH THE PUBLIC
ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF
PENNSYLVANIA**

I certify that, pursuant to Pa. R.A.P. 127, this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: March 6, 2024

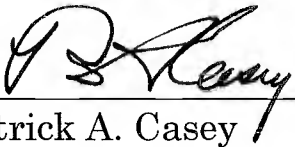


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CERTIFICATE OF COMPLIANCE
WITH PA.R.A.P. 531

I, Patrick A. Casey, hereby certify, pursuant to Pa. R.A.P. 531, that the foregoing *Amicus Curiae* Brief was prepared using Microsoft Word, Century Schoolbook font style and 14-point typeface. Exclusive of the title page, tables of content and authorities and the various attached certificates, the brief contains ____ works.

Date: March 6, 2024




Patrick A. Casey

CERTIFICATE OF SERVICE

I, Patrick A. Casey, hereby certify that I am this day serving the foregoing *Amicus Curiae* Brief upon all counsel of record via the Court's PACFile eService which service satisfies the requirement of Pa. R.A.P. 12.

Date: March 6, 2024



Patrick A. Casey