

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

IN RE: CONFLICT OF INTEREST

No. 125 EM 2019

OF THE OFFICE OF THE PHILADELPHIA
DISTRICT ATTORNEY

PETITION OF: MAUREEN FAULKNER,
WIDOW OF DECEASED POLICE OFFICER
DANIEL FAULKNER

ORDER

AND NOW, April 7, 2020, after consideration of the Petitioner's Motion for Leave to Compel Limited Pre-Hearing Discovery filed on April 6, 2020 and argument on the motion conducted by telephonic conference call:

It is not disputed that to date the District Attorney's Office ("DAO") has defended the defendant's conviction in the pending PCRA proceeding. It appears, therefore, that the relevant issue and appropriate scope of the inquiry I have been directed to undertake by the Supreme Court is whether the DAO intends to continue to defend the conviction.

Accordingly, the inquiry will be limited to whether two specific actions questioned by the Petitioner in the King's Bench petition were appropriate strategic or legal decisions made after due consideration of the law and the facts bearing on issues before the Court in the pending PCRA hearing. The two actions called into question are: (1) Not opposing a defense requested remand to the trial court for consideration of three categories of documents discovered by the DAO while the trial court's decision was on appeal to the Superior Court; and (2) Not interviewing Joseph McGill.

Therefore, it is ordered as follows:

1. That the DAO shall identify within 5 days those people employed by the DAO who made the two specific decisions in question.
2. That counsel for the Petitioner may then engage in discovery, under oath, of those people so identified by the DAO; and of the District Attorney, Paul George and Jody Dodd since they were identified in the King's Bench Petition.
3. That such discovery is limited to an inquiry addressing the following questions: (a) Whether it is the intention of the DAO to defend the conviction in the pending PCRA proceeding; (b) Whether the DAO has any evidence to support or justify a decision by the DAO not to defend the conviction; (c) What the strategic or legal basis was for consenting to a remand to the PCRA court; (c) What the strategic or legal basis is for not interviewing Joseph McGill or otherwise preserving his testimony.
4. That all such discovery shall be completed and any request for disqualification shall be filed on or before April 29, 2020.

5. That upon motion the Court will consider whether any discovery permitted under this Order should be submitted under seal, *in camera*, or provided some other protection from public disclosure.
6. That all other relief requested in the Petitioner's Motion to Compel Limited Pre-Hearing Discovery is denied.

BY THE COURT:



John M. Cleland, Senior Judge
Special Master