



DISTRICT ATTORNEY'S OFFICE
THREE SOUTH PENN SQUARE
PHILADELPHIA, PENNSYLVANIA 19107-3499
(215) 686-8000

R. SETH WILLIAMS
DISTRICT ATTORNEY

March 20, 2013

Karen Reid Bramblett, Esquire
Prothonotary, Superior Court of Pennsylvania
530 Walnut Street, Suite 315
Philadelphia, Pa. 19106



Re: LETTER BRIEF-PCRA APPEAL
Commonwealth v. Mumia Abu-Jamal a/k/a Wesley Cook
No. 3059 EDA 2012

Dear Ms. Bramblett:

Pursuant to the final order of a federal court, the Court of Common Pleas formally entered on the docket a term of life imprisonment for defendant's 1982 first degree murder conviction. Defendant purports to appeal from this purely ministerial act, protesting that he supposedly had no meaningful opportunity to be heard in opposition thereto. This post-conviction claim is barred as untimely under the PCRA, it is without merit, and no relief is due.

In the early morning hours of December 9, 1981, Philadelphia Police Officer Daniel Faulkner stopped a Volkswagen driven by William Cook – defendant's brother – near the corner of 13th and Locust Streets in Philadelphia. Shortly thereafter, at 3:58 a.m., the officer sent a radio message requesting the assistance of a police van. The officer was standing behind Cook and was apparently

about to frisk him when Cook turned and punched him in the face. As Officer Faulkner attempted to subdue and handcuff Cook, defendant, a taxicab driver who had been parked nearby, ran out of a parking lot on the opposite side of Locust Street. He ran over to the officer, whose back was turned, and shot him in the upper back with a five-shot revolver. The officer turned, grabbed for his own sidearm, and managed to fire one shot that hit defendant in the upper chest. Officer Faulkner fell to one knee, and then fell to the ground and lay face-up. Defendant stood over his victim and methodically emptied his revolver at the officer's upturned face. One of his high-velocity "plus P" bullets struck the officer between the eyes and entered his brain, killing him (N.T. 6/19/82, 106, 209-216, 276-277; 6/21/82, 4.79-4.106, 5.179; 6/23/82, 6.97; 6/25/82, 8.4-8.34, 8.181; 6/28/82, 28.65).

As the shots were fired Officer Robert Shoemaker and his partner, Officer James Forbes, were already on their way to 13th and Locust Streets in response to Officer Faulkner's radio message. A cab driver flagged them down and exclaimed that an officer had been shot. Officer Shoemaker approached the shooting scene with his gun drawn, and saw defendant sitting on the curb. Defendant tried to pick up his gun and shoot Officer Shoemaker, who instead kicked the gun out of defendant's hand. Officer Forbes covered defendant's brother, Cook, who was frisked and proved to be unarmed. Cook's only remark was, "I ain't got nothing to do with this" (N.T. 6/19/82, 112-119, 127, 150-152, 155).

Officer Faulkner was put in a police van and taken to Jefferson University Hospital. When the police attempted to handcuff defendant, he violently resisted, swinging his arms with closed fists, striking and kicking the officers as they tried to handcuff him and place him in a police wagon to be transported to the same hospital in which doctors were attempting to save Officer Faulkner's life. He continued to struggle against the officers as they brought him inside the hospital, shouting "I shot

the mother fu**er and I hope the mother fu**er dies” (N.T. 6/19/82, 176-199, 263-264; 6/21/82, 4.109, 4.194-4.199; 6/24/82, 27-30, 34, 56-61, 67-68, 74, 112-116, 123, 126, 133-136). Shortly thereafter, Officer Faulkner was pronounced dead.

At defendant's June 1982 jury trial four eyewitnesses testified to watching him attack Officer Faulkner from behind and then fire into his victim's face as he lay on the ground. The police found two handguns at the scene. The police gun, registered as issued to Officer Faulkner, contained six Remington .38 special cartridges, one of which had been fired. Defendant's five-shot Charter Arms .38 handgun contained five fired cartridges, all of the "plus P" high-velocity type (four Federal .38 caliber +P and one Smith and Wesson .38 caliber +P), a bullet that "almost explodes" on impact (N.T. 6/19/82, 152-154, 163-164, 176; 6/21/82, 4.32-4.66; 6/23/82, 6.22-6.23, 6.90-6.99). The police bullet that struck defendant entered his right chest and was surgically removed from his right back. Ballistic testing confirmed that it had been fired from Officer Faulkner's gun (N.T. 6/23/82, 6.102-103, 166, 181). A bullet removed from Officer Faulkner's head was too deformed to be ballistically matched to a particular gun, but was caliber .38/.357 (.38 and .357 calibers are interchangeable), consistent with defendant's .38 caliber handgun. It also had a hollow base, which was a manufacturing characteristic of four out of the five spent cartridges in defendant's gun. An additional, flattened bullet specimen also had this characteristic hollow base, and the bullet taken from Officer Faulkner's head had been fired from a barrel with eight lands, eight grooves and a right-hand twist, consistent with defendant's gun (N.T. 6/19/82, 152-155; 6/23/82, 6.2-6.5, 6.101-6.114, 6.163-6.168). Both the officer's and defendant's clothing tested positive for primer lead residue, showing that the officer had been shot at a range of less than twelve inches (N.T. 6/26/82, 10-17, 32).

On July 2, 1982, a jury convicted defendant of murder of the first degree and possession of

an instrument of crime (Information Nos. 1357-1358, January Term 1982). Following a penalty hearing the jury sentenced defendant to death on July 3, 1982. On May 25, 1983, the trial court formally imposed the sentence of death for murder (no. 1358), and a consecutive sentence of two and one-half to five years for possession of an instrument of crime.

Defendant appealed to the Pennsylvania Supreme Court, which affirmed the judgments of sentence on March 6, 1989. *Commonwealth v. Abu-Jamal*, 555 A.2d 846 (Pa. 1989). He then filed a petition for certiorari in the Supreme Court of the United States on May 2, 1990. The petition was denied on October 1, 1990. He filed a petition for rehearing on October 29, 1990, which was denied on November 26, 1990. Six months later, on May 15, 1991, defendant filed a second request for rehearing, which was denied on June 10, 1991.

On July 5, 1999, defendant filed his first PCRA petition. The initial hearings on his PCRA claims lasted from July 26, 1995, through September 12, 1995. The court denied relief on September 15, 1995, issuing over 500 specific findings of fact and conclusions of law.

Defendant again appealed to the Pennsylvania Supreme Court, which remanded for two supplemental evidentiary hearings, the last of which concluded on June 27, 1997. On October 29, 1998, the Pennsylvania Supreme Court affirmed the denial of PCRA relief. *Commonwealth v. Abu-Jamal*, 720 A.2d 79 (Pa. 1998). Defendant filed another petition for certiorari in the United States Supreme Court on April 26, 1999, which was denied on October 4, 1999.

On October 14, 1999 defendant sought a writ of habeas corpus in the United States District Court for the Eastern District of Pennsylvania, seeking either a new trial or a new penalty hearing. While the federal petition was pending, on July 3, 2001, he filed a second, untimely PCRA petition. The PCRA court dismissed the second petition on December 11, 2001. The Pennsylvania Supreme

Court affirmed on October 8, 2003. *Commonwealth v. Abu-Jamal*, 833 A.2d 719, 728 (Pa. 2003). On December 8, 2003, defendant filed a third untimely PCRA petition, which the court dismissed on June 17, 2005. On February 19, 2008, the Pennsylvania Supreme Court affirmed the denial of that untimely third PCRA petition. *Commonwealth v. Abu-Jamal*, 941 A.2d 1263 (Pa. 2008).

Meanwhile, on December 18, 2001, the federal district court granted defendant's habeas petition in part by ordering the state to either afford defendant a new penalty hearing or impose a sentence of life imprisonment.¹

The decision of the federal district court was appealed by both parties to the United States Court of Appeals for the Third Circuit, which affirmed on March 27, 2008. On April 6, 2009, the United States Supreme Court denied defendant's petition for certiorari, but reserved decision on that

¹ The order expressly directed that defendant must be sentenced to life imprisonment if a new sentencing hearing was not conducted:

[I]t is hereby ORDERED AND DECREED that: 1. Petitioner's Petition for Habeas Corpus Relief is DENIED except as to claim 25, as to which the petition is GRANTED;

2. The execution of the writ of habeas corpus is STAYED for 180 days from the date of this order, during which period the Commonwealth of Pennsylvania may conduct a new sentencing hearing in a manner consistent with this opinion;

3. After 180 days, should the Commonwealth of Pennsylvania not have conducted a new sentencing hearing, the writ shall issue and the Commonwealth shall sentence petitioner to life imprisonment; and

4. A certificate of appealability is GRANTED to petitioner as to claim 16.

If either petitioner or respondents file an appeal to the United States Court of Appeals for the Third Circuit, the entry of this order will be stayed pursuant to E.D. Pa. Local R. 9.4(12) pending the disposition of that appeal.

Abu-Jamal v. Horn, 2001 U.S. Dist. LEXIS 20812 (E.D. Pa. Dec. 18, 2001).

of the Commonwealth. Defendant meanwhile filed an untimely fourth PCRA petition on April 20, 2009. The PCRA court denied it on November 5, 2009, and he appealed to the Pennsylvania Supreme Court.

On January 19, 2010, the United States Supreme Court granted the Commonwealth's petition for certiorari and remanded to the Third Circuit for further consideration. On March 26, 2012, the Pennsylvania Supreme Court issued a per curiam order affirming the denial of defendant's untimely fourth PCRA petition. *Commonwealth v. Abu-Jamal*, 40 A.3d 1230 (Pa. 2012). On April 26, 2011, the Third Circuit again affirmed the decision of the district court. *Abu-Jamal v. Sec'y, Pa. Dep't of Corr.*, 643 F.3d 370 (3d Cir.2011). The United States Supreme Court denied the Commonwealth's further petition for certiorari on October 11, 2011.

On March 7, 2012, defendant filed in the Pennsylvania Supreme Court an "Application for Leave to File Post Submission Communication to Secure The Final Order of Sentence." That application and the attached motion, entitled "Unopposed motion for final order of sentence," were filed and signed by defendant's current counsel in this appeal. It stated that the Commonwealth on December 7, 2011, had publicly announced it would not convene a new penalty hearing, and concluded by asking the Supreme Court to "issue a Final Order sentencing him to life imprisonment without possibility of parole." On April 30, 2012, the Commonwealth filed an answer confirming its agreement with defendant's request. On April 5, 2012, the Supreme Court entered an order explaining that it was without jurisdiction to grant the relief requested, but that this determination was without prejudice to defendant obtaining such an order from the Court of Common Pleas. On July 11, 2012, the Supreme Court remanded the record to the Court of Common Pleas (docket

entries, 602 CAP).²

On August 13, 2012, the Court of Common Pleas formally entered the life sentence required by the federal district court's order of December 18, 2001, which had been rendered final by the order denying certiorari of October 11, 2011.

On or about August 23, 2012, defendant filed in the Common Pleas Court a document entitled "defendant's pro se motion for post sentence relief and/or motion to reconsider sentence." In it, he claimed that: (1) his life sentence violates unspecified "fundamental requirements" of the state and federal constitutions that supposedly render it "illegal ... null and void"; (2) his life sentence amounted to "cruel and unusual punishment"; (3) his life sentence was "inhumane" and violative of "provisions of international law as promulgated in the Convention Against Torture (CAT)"; (4) the "practice and policy of the Commonwealth [of] isolating those under death sentences in solitary confinement" is cruel and unusual punishment and violative of international torture prohibitions (although he himself is not sentenced to death or in solitary confinement); (5) solitary confinement for death sentenced prisoners (though again, defendant is not) violates an "official opinion of the Attorney General [of] Pennsylvania."

The Commonwealth filed an answer contending that defendant's application, in addition to perversely objecting to the exact relief he himself requested, amounted to an untimely serial PCRA petition. On October 1, 2012, the Common Pleas Court denied relief. Addressing defendant's claim that his application was not governed by the PCRA but was instead a post-sentence motion under Pa.R.Crim.P. 720, the court concluded that in this procedural context Rule 720 did not apply, and

² These documents and orders, which are a matter of public record, are attached. The motions filed by defendant are also available in pdf format in the Supreme Court online docket when viewed with the "PACFILE" dashboard.

that the claims defendant sought to raise were not cognizable.

Defendant has appealed to this Court and attempts to raise two claims (that the court failed to afford rights guaranteed by Rule 720, and denied him due process by not affording notice and a hearing before correcting the docket to reflect the life sentence), that are barred, waived, and without merit. No relief is due.

Counter-statement of questions presented

1. Did the Court of Common Pleas deny defendant's due process rights by entering on the docket the life sentence required by a federal court order obtained at his request?

(Answered in the negative by the court below).

2. Are defendant's claims barred?

(Answered in the affirmative by the court below).

ARGUMENT

I. DEFENDANT WAS NOT DENIED DUE PROCESS BY COMPLIANCE WITH A FEDERAL COURT ORDER REQUIRING ENTRY OF THE MANDATORY LIFE SENTENCE, AS HE REQUESTED.

Though bolstered by citation to numerous constitutional provisions (including the Fifth, Sixth, and Fourteenth Amendments of the federal constitution and Article I, § 9 of the state constitution), defendant's claim on appeal raises due process. The premise of his argument is that the Common Pleas Court decided his punishment without allowing him to be heard. Were this true, his argument might make sense.

But it is not true, and the premise is nonsense. There was no new sentencing proceeding, none was required, and due process was not implicated. Having been convicted of murder of the first degree and sentenced to death in July 1982, defendant filed a federal habeas corpus petition, and in

2001 obtained a federal court order that became final in October 2011, requiring the Commonwealth to either conduct a second capital sentencing proceeding *or* impose life imprisonment. Since the Commonwealth elected not to convene a new sentencing proceeding, entry of a life sentence was mandated by the federal court order. The Court of Common Pleas properly did so in August 2012.

While defendant now objects to this supposedly “*sua sponte*” and “without notice” development (defendant’s brief, 2, 3), on March 6, 2012, he himself, represented by the same lawyers who represent him in this appeal, asked the Pennsylvania Supreme Court to enter a life sentence, exactly as the Common Pleas Court subsequently did here. On April 5, 2012, the Supreme Court issued an order explaining that jurisdiction to do this was in the Court of Common Pleas. Soon after the record was remanded on July 11, 2012, that court proceeded to do exactly what defendant had requested.

To argue that this denied due process is ludicrous. Due process is not a matter of pointless gestures. The first question in any due process analysis is whether any process is due at all. “Whether any procedural protections are due depends on the extent to which an individual will be condemned to suffer grievous loss ... due process is flexible and calls for such procedural protections as the particular situation demands[.]” *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) (citations and internal quotation marks omitted). “When protected interests are implicated, the right to some kind of prior hearing is paramount. But the range of interests protected by procedural due process is not infinite. ... to determine whether due process requirements apply in the first place, we must look not to the weight but to the nature of the interest at stake.” *Board of Regents v. Roth*, 408 U.S. 564, 569-571 (1972) (footnote and internal quotation marks omitted). Thus, in *Board of Regents v. Roth* the court determined that no process at all was due for a university to not rehire an untenured professor

whose contract had expired. Likewise, for a municipal official to perform the purely ministerial act of entering a judgment of guilty on a plea of no contest does not deny due process. *Bailey v. City of Broadview Heights*, 674 F.3d 499, 500-501 (6th Cir. 2012).

As defendant acknowledged in his own petition to the Supreme Court, since the Commonwealth elected not to conduct resentencing, life imprisonment followed automatically, *see* 18 Pa.C.S. § 1102 (sentence for first degree murder is death or life imprisonment), and entry of that sentence was additionally mandated by the federal court's order. Entry of that life term caused him no loss of any kind. He was not entitled to a hearing for the empty purpose of watching the judge correct the docket to make the record conform to the truth. The court's action did not deprive him of liberty; that was fully accomplished by his first degree murder conviction in 1982, which required, at a minimum, a sentence of life imprisonment. *Lassiter v. Dep't of Social Services*, 452 U.S. 18, 26-27 (1981) ("an indigent litigant has a [due process] right to appointed counsel only when, if he loses, he may be deprived of his physical liberty"); *Meachum v. Fano*, 427 U.S. 215, 223-224 (1976) (transfer of sentenced prisoner to a less desirable prison "not subject to audit under the Due Process Clause ... The conviction has sufficiently extinguished the defendant's liberty interest to empower the State to confine him in any of its prisons"); *Snyder v. Massachusetts*, 291 U.S. 97, 107-108 (1934) (due process did not pointlessly require presence of the accused when the jury was viewing the scene of the crime; "the presence of a defendant is a condition of due process to the extent that a fair and just hearing would be thwarted by his absence, and to that extent only"); *State v. Lane*, 957 P.2d 9 (Mont. 1998) (*ex parte* correction of the record by the trial judge to conform to the sentence pronounced in court did not deny due process); *State v. Taylor*, 752 P.2d 781, 786 (N.M. 1988) ("It appears that defendant is arguing that the transferring judge believed that the district court could use

its discretion in fashioning a sentence for defendant. This belief might have been correct if defendant had not been found guilty of a first degree capital felony which mandates a life sentence. ... defendant's due process rights were not denied”).

Thus, the claim defendant seeks to raise on appeal is frivolous. Although he purports to assert rights under the Rules of Criminal Procedure, procedural rules do not apply where no process is due, and defendant has no due process right to challenge a life sentence required by federal court order, the sole term permitted by law, that he himself requested. Whether characterized as a right to counsel, or a right to notice, or a right to be present, and whether raised in the guise of any number of constitutional provisions, defendant is asserting a due process right that he does not possess and that does not exist.

The cases defendant cites do not support his position. In *Commonwealth v. Williams*, 900 A.2d 906 (Pa. Super. 2006), this Court explained that trial counsel was not ineffective in a first degree murder case for not seeking allocution; even though Pa.R.Crim.P. 704(C)(1) requires it, that rule is not applicable where a life term is the only possible sentence. 900 A.2d at 911 (“the trial court had no authority to impose any sentence less severe than life imprisonment. ... even if the trial court had granted Appellant the right of allocution, the court would have imposed the same life sentence that it already imposed”). *Williams* thus undermines, rather than supports, defendant’s argument. In each of the other cases he cites, the court – unlike here and in *Williams* – had discretion to define the length of the corrected sentence. *E.g., United States v. Faulks*, 201 F.3d 208, 212 (3d Cir. Pa. 2000) (offender’s presence required because “The District Court ... had discretion on remand in imposing a sentence. This case, therefore, is distinguishable from those in which courts have ruled that procedural protections are less important when resentencing decisions on remand are not

discretionary”). Here there was no discretion.³

Defendant argues that his presence would have allowed him to dispute whether his sentence for possession of an instrument of crime (PIC) should be consecutive or concurrent, and complains that he “at least has the right to raise and preserve claims regarding the constitutionality of a mandatory life without parole sentence” (defendant’s brief, 11). But unlike defendant’s sentence for murder, his sentence for PIC was never disturbed, and by its terms was from its inception consecutive to the sentence on the separate bill of information for murder (N.T. 5/25/1983, 165). Thus, the consecutive nature of the sentence for PIC was absolutely final, and there was no discretion in the Common Pleas Court to alter it. As for his putative challenges to the constitutionality of a life sentence, defendant was obliged (and had every opportunity) to raise such claims on direct review, because a life sentence would automatically result should he not be sentenced to death. If he wished to claim (however absurdly) that the only constitutional sentence for his murder conviction was no sentence at all, it was his burden to raise that contention during the direct appeal process, not for the first time after the life term he successfully sought on federal collateral review was entered on the

³ In *Commonwealth v. Mullen*, 467 A.2d 871, 873 (Pa. Super. 1983), Mullen’s presence was required because the sentencing court had granted reconsideration and so was in effect sentencing him for incest, which is subject to a variable term, for the first time. The other cases defendant cites are of the same nature – all are cases in which, at the relevant time, the sentence had yet to be finally decided and was open to dispute. *Commonwealth v. Hobson*, 452 A.2d 22, 23 (Pa. Super. 1982) (revised sentence for “escape and implements for escape”); *Commonwealth v. Parker*, 419 A.2d 748 (Pa. Super. 1980) (resentencing for burglary and theft); *Commonwealth v. Reed*, 368 A.2d 41 (Pa. Super. 1978) (resentencing for drug offense); see also *Commonwealth v. Horsman*, 361 A.2d 433, 434 (Pa. Super. 1976) (reduction of minimum term for theft would increase time served in another state). *Commonwealth v. Thomas*, 537 A.2d 9 (Pa. Super. 1988), is simply inapposite, as it merely requires a court that has sentencing discretion in the first place to state reasons for the sentence. Here there was no discretion. Likewise inapposite is 42 Pa.C.S. 9721(b), which once again concerns variable discretionary sentencing, and in any event applies only upon either sentencing or on remand for resentencing.

docket. *See Commonwealth v. Fahy*, 737 A.2d 214, 223 (Pa. 1999) (even though unwaivable, challenge to the legality of even a capital sentence is barred when raised in an untimely PCRA petition). Moreover, the point is moot – while defendant mentioned such claims in his petition before the court below, he has abandoned them by not attempting to raise them in this appeal. As such, they cannot be considered even if they otherwise might have been cognizable.⁴

II. DEFENDANT’S CLAIMS ARE BARRED.

Defendant complains for its own sake. He sought and obtained an order from a federal court requiring the Commonwealth to sentence him to life imprisonment if it did not elect to seek a new capital sentencing hearing, and on the basis of that order he petitioned the Supreme Court to recognize that he “must be resentenced to life” and to “issue the necessary sentencing order.” He did not ask for a futile ceremony, but instead specifically requested that a life sentence be entered by the Court. Defendant should be estopped from now protesting to this Court that he received from the Court of Common Pleas exactly what he requested from the Supreme Court. *See In re Adoption of S.A.J.*, 838 A.2d 616, 621 (Pa. 2003) (judicial estoppel applies “to uphold the integrity of the courts

⁴ Defendant also did not plead in his petition to the court below that the alteration of his sentence from death to life imprisonment was a new “fact” that amounted to an exception to the PCRA timeliness requirement. *Cf. Johnson v. United States*, 544 U.S. 295 (2005) (order vacating state sentence that had enhanced federal sentence allowed collateral attack on federal sentence under federal timeliness rule that runs from “the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence”). (The Commonwealth does not concede that such a claim would have been valid under the PCRA but notes only that it was not attempted). Obviously, to the extent defendant could have raised various claims but either failed to do so or abandoned them, he cannot now argue that he was denied due process. *District Attorney’s Office For The Third Judicial District v. Osborne*, 557 U.S. 52, 71 (2009) (offender asserting denial of due process has the “burden to demonstrate the inadequacy of the state-law procedures available to him in state postconviction relief” and so is in “a very awkward position” where he did not follow those procedures: “without trying them, [he] can hardly complain that they do not work in practice”).

by ‘preventing parties from abusing the judicial process by changing positions as the moment requires’”); *Trowbridge v. Scranton Artificial Limb Co.*, 747 A.2d 862, 865 (Pa. 2000) (estoppel applies “where litigants ‘play fast and loose’ with the courts by switching legal positions”) (collecting cases); *see also Commonwealth v. Abu-Jamal*, 720 A.2d 79, 114 (Pa. 1998) (where Abu-Jamal raised one rationale for relief in PCRA court but then raised a different one on appeal claiming that lower court had “misconstrued his argument,” Supreme Court would “not entertain” new claim).

Defendant’s claims are also barred for the simple reason that they were not raised below. While he protests that he was not present when the court corrected the record, he filed, and the court below considered, a petition (which he styled a post-sentence motion under Pa.R.Crim.P. 720) in which he raised five specific claims – each challenged the lawfulness of either a life sentence or solitary confinement of death sentenced prisoners – none of which are now raised in this appeal. To the extent defendant was entitled to raise claims at all (though he was not), such a motion would have been adequate to do so. *Moore v. Moore*, 634 A.2d 163, 167 n.1 (Pa. 1993) (“there is no requirement that grounds for a petition for reconsideration be raised during the trial or during the pre-trial period”); *Commonwealth v. Santiago*, 822 A.2d 716, 723 (Pa. Super. 2003) (new claim adequately raised in reconsideration petition). But as already noted, defendant has abandoned those claims and argues different ones on appeal. These claims are waived. Pa.R.A.P. 302(a).

Finally, defendant’s claims are barred by 42 Pa.C.S. § 9545 of the PCRA. His petition below, regardless of how he characterized it, was an untimely PCRA petition (direct review ended in 1990) that pleaded no timeliness exception. *Commonwealth v. Soto*, 983 A.2d 212, 213 (Pa. Super. 2009) (claims purportedly raised under Pa.R.Crim.P. 720 but filed “after completion of the direct appeal process” were governed by the PCRA); *Commonwealth v. Wrecks*, 934 A.2d 1287 (Pa. Super. 2007)

(Wrecks II) (where post-sentence motion filed years after direct appeal ended did not amount to a timely PCRA petition, no jurisdiction for review and appeal quashed); *Commonwealth v. Wrecks*, 931 A.2d 717, 720 (Pa. Super. 2007) (*Wrecks I*) (necessary to treat supposed post sentence motion filed after direct appeal period has expired as a PCRA petition); see 42 Pa.C.S. § 9542 (PCRA is the “sole means of obtaining collateral relief”); *Commonwealth v. Hall*, 771 A.2d 1232, 1234-1236 (Pa. 2001) (no jurisdiction for post-conviction collateral relief outside the PCRA); *Commonwealth v. Chester*, 557 Pa. 358, 733 A.2d 1242, 1250-51 (Pa. 1999) (same); *Commonwealth v. Ahlborn*, 699 A.2d 718, 721 (Pa.1997) (same). The instant appeal should therefore be quashed.

Table of citations

FEDERAL CASES

<i>Abu-Jamal v. Horn</i> , 2001 U.S. Dist. LEXIS 20812 (E.D. Pa. Dec. 18, 2001)	5
<i>Abu-Jamal v. Sec’y, Pa. Department of Correction</i> , 643 F.3d 370 (3d Cir.2011)	6
<i>Bailey v. City of Broadview Heights</i> , 674 F.3d 499 (6th Cir. 2012)	10
<i>Board of Regents v. Roth</i> , 408 U.S. 564 (1972)	9
<i>District Attorney’s Office For The Third Judicial District v. Osborne</i> , 557 U.S. 52 (2009)	13
<i>Johnson v. United States</i> , 544 U.S. 295 (2005)	13
<i>Lassiter v. Department of Social Services</i> , 452 U.S. 18 (1981)	10
<i>Meachum v. Fano</i> , 427 U.S. 215 (1976)	10
<i>Morrissey v. Brewer</i> , 408 U.S. 471 (1972)	9
<i>Snyder v. Massachusetts</i> , 291 U.S. 97 (1934)	10
<i>United States v. Faulks</i> , 201 F.3d 208 (3d Cir. Pa. 2000)	11

STATE CASES

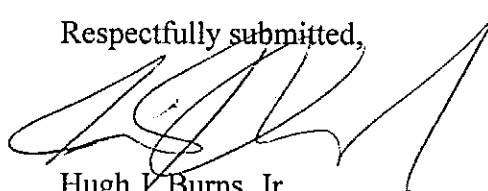
<i>Commonwealth v. Abu-Jamal</i> , 40 A.3d, 1230 (Pa. 2012)	6
<i>Commonwealth v. Abu-Jamal</i> , 941 A.2d 1263 (Pa. 2008)	5
<i>Commonwealth v. Abu-Jamal</i> , 833 A.2d 719 (Pa. 2003)	5
<i>Commonwealth v. Abu-Jamal</i> , 720 A.2d 79 (Pa. 1998)	4, 14
<i>Commonwealth v. Abu-Jamal</i> , 555 A.2d 846 (Pa. 1989)	4
<i>Commonwealth v. Ahlborn</i> , 699 A.2d 718 (Pa.1997)	15
<i>Commonwealth v. Chester</i> , 557 Pa. 358, 733 A.2d 1242 (Pa. 1999)	15
<i>Commonwealth v. Fahy</i> , 737 A.2d 214 (Pa. 1999)	13
<i>Commonwealth v. Hall</i> , 771 A.2d 1232 (Pa. 2001)	15
<i>Commonwealth v. Hobson</i> , 452 A.2d 22 (Pa. Super. 1982)	12
<i>Commonwealth v. Horsman</i> , 361 A.2d 433 (Pa. Super. 1976)	12
<i>Commonwealth v. Mullen</i> , 467 A.2d 871 (Pa. Super. 1983)	12
<i>Commonwealth v. Parker</i> , 419 A.2d 748 (Pa. Super. 1980)	12
<i>Commonwealth v. Reed</i> , 368 A.2d 41 (Pa. Super. 1978)	12
<i>Commonwealth v. Santiago</i> , 822 A.2d 716 (Pa. Super. 2003)	14
<i>Commonwealth v. Soto</i> , 983 A.2d 212 (Pa. Super. 2009)	14
<i>Commonwealth v. Thomas</i> , 537 A.2d 9 (Pa. Super. 1988)	12
<i>Commonwealth v. Williams</i> , 900 A.2d 906 (Pa. Super. 2006)	11
<i>Commonwealth v. Wrecks</i> , 931 A.2d 717 (Pa. Super. 2007)	15
<i>Commonwealth v. Wrecks</i> , 934 A.2d 1287 (Pa. Super. 2007)	14
<i>In re Adoption of S.A.J.</i> , 838 A.2d 616 (Pa. 2003)	13

<i>Moore v. Moore</i> , 634 A.2d 163 (Pa. 1993)	14
<i>State v. Lane</i> , 957 P.2d 9 (Mont. 1998)	10
<i>State v. Taylor</i> , 752 P.2d 781 (N.M. 1988)	10
<i>Trowbridge v. Scranton Artificial Limb Co.</i> , 747 A.2d 862 (Pa. 2000)	14

CONCLUSION

For the foregoing reasons, the Commonwealth respectfully requests this Court to quash this appeal.

Respectfully submitted,



Hugh J. Burns, Jr.
Chief, Appeals Unit

cc: Honorable Pamela Dembe
Judith L. Ritter Esq.
Christina Swarns, Esq.

Appendix:

1. Supreme Court docket entries (partial), *Commonwealth v. Abu-Jamal*, 602 CAP
2. Defendant's application for leave to file post-submission communication and attached exhibits, filed March 7, 2012 (602 CAP)
3. Order of April 5, 2012 (602 CAP)
4. Cover page, N.T. 5/25/83
5. N.T. 5/25/83, 165 (imposition of consecutive sentence for PIC)



DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
January 25, 2010	Trial Court Record Received		Philadelphia County Court of Common Pleas
March 8, 2010	Appellant's Brief Filed	Appellant	Abu-Jamal, Mumia
March 8, 2010	Praecepte for Appearance Abu-Jamal, Mumia	Appellant	Bowe, William L.
April 6, 2010	Appellee's Brief Filed	Appellee	Commonwealth of Pennsylvania
April 7, 2010	Submitted on Brief		Office of the Prothonotary
March 7, 2012	Praecepte for Appearance Abu-Jamal, Mumia	Appellant	Swarns, Christina Allison
March 7, 2012	Application for Leave to File Post Submission Communication to Secure The Final Order of Sentence	Appellant	Abu-Jamal, Mumia
March 20, 2012	Answer to Application for Post-Submission Communication Commonwealth of Pennsylvania	Appellee	Burns, Hugh J., Jr.
March 26, 2012	Affirmed		Per Curiam
Comments: AND NOW, this 26th day of March, 2012, the order of the Court of Common Pleas is hereby AFFIRMED. Mr. Justice McCaffery did not participate in the consideration or decision of this case .			
March 26, 2012	Judgment Entered		Office of the Prothonotary
April 5, 2012	Order Regarding Application for Post Submission Communication		Per Curiam
Comments: AND NOW, this 5th day of April, 2012, upon consideration of Appellant's Application for Leave to File Post Submission Communication to Secure Final Order of Sentence Required by Federal Court Order, and the response thereto of the District Attorney of Philadelphia County, Appellant's Application is hereby DISMISSED for lack of jurisdiction, but without prejudice to Appellant's right to seek relief in the Court of Common Pleas of Philadelphia County. Mr. Justice McCaffery did not participate in the consideration or decision of this case .			
April 5, 2012	Order Exited		Office of the Prothonotary
July 11, 2012	Reproduced Trial Court Record Exited to Governor		Supreme Court of Pennsylvania
July 11, 2012	Original record remitted to the Court of Common Pleas, Criminal Division of Philadelphia County		Office of the Prothonotary

RECEIVED

MAR - 7 2012

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

FILED IN
SUPREME COURT

MAR 07 2012

EASTERN
DISTRICT

SUPREME COURT
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,

Appellee,

No. 602 CAP

v.

MUMIA ABU-JAMAL,

Appellant.

**APPLICATION FOR LEAVE TO FILE A POST-SUBMISSION
COMMUNICATION TO SECURE THE FINAL ORDER OF SENTENCE
REQUIRED BY FEDERAL COURT ORDER**

Appellant, Mumia Abu-Jamal, by and through undersigned counsel, hereby seeks leave to file a Post-Submission Communication pursuant to Rule 2501 of the Pennsylvania Rules of Appellate Procedure to secure a Final Order of Sentence and comply with the December 6, 2011 Order of the United States District Court for the Eastern District of Pennsylvania. In support thereof, Appellant avers as follows:

1. On March 10, 2010, Appellant filed an Initial Brief with this Court, appealing the November 5, 2009 decision of the Philadelphia County Court of Common Pleas denying his Petition under the Post-Conviction Relief Act. On April 6, 2010, the Commonwealth of Pennsylvania filed its *Brief for Appellee*. On April 7, 2010, the matter was fully submitted to this Court.

2. As detailed in Appellant's *Unopposed Motion for Final Order of Sentence*, Appellant's 1982 death sentence was definitively vacated by the December 6, 2011 Order of the United States District Court for the Eastern District of Pennsylvania. In that Order, the District Court directed the Commonwealth to resentence Appellant to

life without parole or death within 180 days. On December 7, 2011, the Commonwealth announced that it will not seek a new death sentence for Appellant. Because he was convicted of first-degree murder, Appellant must therefore be resentenced to life imprisonment without possibility of parole. On February 24, 2012, Appellee, through its counsel, Hugh Burns, Esq., informed undersigned counsel that it did not oppose Appellant's filing a *Motion for a Final Order of Sentence* with this Court.

3. Due to the pendency of the instant appeal (which challenges the constitutionality of Appellant's first degree murder conviction), this Court retains jurisdiction over Appellant's case and has the sole authority to issue the Final Order of Sentence necessary to comply with the District Court's Order. *See Commonwealth v. Bryant*, 566 Pa. 307 (2001) (holding that this Court retains jurisdiction over PCRA appeals even where the death sentence has been vacated). Thus, pursuant Rule 2501 of the Pennsylvania Rules of Appellate Procedure, Appellant respectfully requests leave to file a post-submission *Unopposed Motion for Final Order of Sentence*, hereto attached as Exhibit 1.

WHEREFORE, Appellant respectfully asks this Court to accept his post-submission *Unopposed Motion for Final Order of Sentence*.

Respectfully submitted,



CHRISTINA SWARNS
Pa. Bar No. 83616
NAACP Legal Defense & Educational
Fund, Inc.
99 Hudson Street, 16th Floor
New York, NY 10013
212-965-2267

JUDITH L. RITTER
Pa. Bar No. 73429
P.O. Box 7474
Wilmington, DE 19801
Widener Law School
302-477-2121

Counsel for Appellant Mumia Abu-Jamal

Dated: March 6, 2012

EXHIBIT 1

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

COMMONWEALTH OF PENNSYLVANIA,	:	
Appellee,	:	No. 602 CAP
v.	:	
MUMIA ABU-JAMAL,	:	
Appellant.	:	

APPELLANT’S UNOPPOSED MOTION FOR FINAL ORDER OF SENTENCE

Appellant, Mumia Abu-Jamal, by and through undersigned counsel, hereby requests a Final Order of Sentence. In support thereof, Mr. Abu-Jamal avers as follows:

1. Mr. Abu-Jamal was convicted of first degree murder and sentenced to death in 1982 by a jury in Philadelphia, Pennsylvania. *See Commonwealth v. Abu-Jamal*, 521 Pa. 188 (1989). Before this Court is Mr. Abu-Jamal’s appeal of the PCRA Court’s November 5, 2009 denial of his Petition for Post-Conviction Relief. During the pendency of this appeal, however, Mr. Abu-Jamal’s death sentence was officially vacated. As detailed below, Mr. Abu-Jamal is no longer in jeopardy of capital punishment and must be resentenced to life imprisonment without parole. Mr. Abu-Jamal therefore moves this Court for a Final Order of Sentence.

2. On December 18, 2001, the United States District Court for the Eastern District of Pennsylvania granted Mr. Abu-Jamal’s Petition for a Writ of Habeas Corpus and vacated his death sentence after concluding that the jury instructions and verdict slip used during the penalty phase of his 1982 capital trial violated *Mills v. Maryland*, 486 U.S. 367 (1988), and *Boyde v.*

California, 494 U.S. 370 (1990). See *Abu-Jamal v. Horn*, No. CIV. A. 99-5089, 2001 WL 1609690 (E.D. Pa. Dec. 18, 2001).

3. Between 2001 and 2011, the Commonwealth unsuccessfully appealed this grant of sentencing relief: in 2008, the United States Court of Appeals for the Third Circuit affirmed the District Court's grant of sentencing relief in *Abu-Jamal v. Horn*, 520 F.3d 272 (2008); in 2010, the United States Supreme Court, in *Beard v. Abu-Jamal*, 130 S. Ct. 1134 (2010), granted the Commonwealth's petition for a writ of certiorari, vacated the appellate court's decision, and remanded Mr. Abu-Jamal's case to the Third Circuit for reconsideration in light of *Smith v. Spisak*, 130 S. Ct. 676 (2010), an intervening decision of the United States Supreme Court that rejected a claim of *Mills* error; in 2011, the Third Circuit concluded in *Abu-Jamal v. Secretary*, 643 F.3d 370 (2011), that, notwithstanding *Spisak*, Mr. Abu-Jamal's death sentence violated *Mills*; and later that same year, the United States Supreme Court denied the Commonwealth's request for review of the Third Circuit's 2011 decision in *Wetzel v. Abu-Jamal*, 132 S. Ct. 400 (2011).

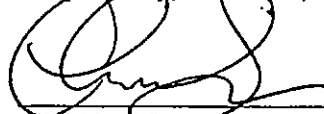
4. On December 6, 2011, the United States District Court for the Eastern District of Pennsylvania issued an Order granting Mr. Abu-Jamal's Petition for a Writ of Habeas Corpus with respect to his death sentence and asserting that "the Commonwealth of Pennsylvania may conduct a new sentencing hearing within 180 days of the date of this order, during which period the execution of the writ of habeas corpus will be stayed, or shall sentence the petitioner to life imprisonment." See Order, *Abu-Jamal v. Horn*, No. 99-CV-05089 (E.D. Pa. Dec. 6, 2011), attached as Exhibit A. On December 7, 2011, the Philadelphia County District Attorney's Office announced that it would not seek another death sentence for Mr. Abu-Jamal. See District Attorney's Office Press Release, attached as Exhibit B.

6. In light of the District Attorney's decision, the District Court's Order, and Mr. Abu-Jamal's first-degree murder conviction, Mr. Abu-Jamal must be resentenced to life imprisonment without parole. Due to the pendency of Mr. Abu-Jamal's appeal – which does not involve a challenge to his sentence – jurisdiction to issue the necessary sentencing order lies solely with this Court. *See Commonwealth v. Bryant*, 566 Pa. 307 (2001) (holding that this Court retains jurisdiction over PCRA appeals even where the death sentence has been vacated). Thus, Mr. Abu-Jamal respectfully requests that this Court issue a Final Order of Sentence.

7. On February 24, 2012, Appellee, through its counsel Hugh Burns, Esq., informed undersigned counsel that it did not oppose the instant request.

WHEREFORE, Appellant respectfully requests that this Court issue a Final Order sentencing him to life imprisonment without possibility of parole.

Respectfully submitted,



CHRISTINA SWARNS

Pa. Bar No. 83616

NAACP Legal Defense & Educational Fund, Inc.

99 Hudson Street, 16th Floor

New York, NY 10013

212-965-2267

JUDITH L. RITTER

Pa. Bar No. 73429

P.O. Box 7474

Wilmington, DE 19801

Widener Law School

302-477-2121

Counsel for Appellant Mumia Abu-Jamal

Dated: March 6, 2012

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MUMIA ABU-JAMAL,	:	
Petitioner	:	CIVIL ACTION
	:	
v.	:	NO. 99-CV-05089
	:	
MARTIN HORN, et al.,	:	
Respondents	:	

ORDER

AND NOW THIS 6th day of December 2011, in accordance with this Court's Memorandum Opinion and Order of December 18, 2001 which granted petitioner's petition for writ of habeas corpus only as to claim 25 relating to the sentencing phase of the trial; and the opinion of the U.S. Court of Appeals for Third Circuit filed April 26, 2011 affirming that order; and the petitioner's petition for certiorari, docketed at Supreme Court #11-49 having been denied by the United States Supreme Court; and the order and mandate of the U.S. Court of Appeals for the Third Circuit filed October 19, 2011; **IT IS HEREBY ORDERED** that the Commonwealth of Pennsylvania may conduct a new sentencing hearing within 180 days of the date of this order, during which period the execution of the writ of habeas corpus will be stayed, or shall sentence the petitioner to life imprisonment.

s/William H. Yohn, Jr.
William H. Yohn, Jr., Judge

EXHIBIT B



R. SETH WILLIAMS
District Attorney

**DISTRICT ATTORNEY'S OFFICE
THREE SOUTH PENN SQUARE
CORNER OF JUNIPER AND
SOUTH PENN SQUARE
PHILADELPHIA, PA 19107**

Press Release

For Immediate Release

Date: December 7, 2011

**Contact: Tasha Jamerson
Director of Communications
W: 215-686-8711
C: 215-680-7383**

Decision on Mumia Abu-Jamal Sentence

Philadelphia-- District Attorney Seth Williams has decided after long and careful consideration, as well as consultation with the family of Officer Daniel Faulkner, that the District Attorney's Office will not proceed with a new sentencing hearing for Officer Faulkner's killer.

"The decision to end this fight was not an easy one to make," says District Attorney Seth Williams. "There has never been a doubt in my mind that Mumia Abu-Jamal shot and killed Officer Faulkner, and I believe the appropriate sentence was handed down in 1982. While Abu-Jamal will no longer be facing the death penalty, he will remain behind bars for the rest of his life, and that is exactly where he belongs."

"My family and I have endured a three-decade ordeal at the hands of Mumia Abu-Jamal, his attorneys and his supporters," says Maureen Faulkner, "who in many cases never even took the time to educate themselves about the case before lending their names, giving their support and advocating for his freedom. All of this has taken an unimaginable

physical, emotional and financial toll on each of us. Over the past few months, we have anguished over the two terrible options we are presented with. After 30 years of waiting, the time remaining before Abu-Jamal stands before his ultimate judge doesn't seem quite so far off as it once did when I was younger. I look forward to that day, so I can finally close the book on this chapter of my life and live with the gratification and assurance that Mumia Abu-Jamal has finally received the punishment he deserves for all eternity."

"I agree with Maureen and the District Attorney's decision," says Governor Edward Rendell, "it is time for this struggle to end. I want to take this opportunity to salute Maureen. Danny Faulkner could not have had a better partner in life, nor could he ever have had a better advocate than Maureen. The courage, grace and dignity with which she has displayed during this long, hard fight was truly remarkable."

Philadelphia Police Officer Daniel Faulkner was shot and killed during a routine traffic stop at the intersection of 13th and Locust streets on December 9, 1981. He was 25 years old at the time of his murder. Officer Faulkner's convicted killer Mumia Abu-Jamal was sentenced to death by a jury of his peers in 1982. Since that time the courts have heard numerous appeals in this case, and a death warrant was even signed for Abu-Jamal in 1995 by then Governor Tom Ridge. The final order overturning the jury's 1982 death sentence was issued in October 2011. That order resulted from a federal habeas corpus proceeding filed in October 1999. Given that the United States Supreme Court recently chose not to review the decision of the Third Circuit court of appeals, litigation of this disputed issue has reached its end.

The District Attorney believes that it is time to put this case to rest, for the good of the City of Philadelphia and most importantly the family of Daniel Faulkner. Nearly three decades have passed since the trial, and eyewitnesses have died or become otherwise unavailable. In addition to subjecting the family members of Officer Faulkner to the renewed anguish of reliving the horror of so many years ago, another penalty proceeding would open the case to repetition of the state appeals process, followed by an unknowable number of years of review in federal court again.

The enforcement of the death sentence imposed by the jury would have been the most just result in this tragic case. The federal courts have

prevented that, though every reviewing court has ruled that the trial was fair and the verdict of guilt sound. The survivors of Officer Faulkner have suffered enough, and the best remaining option is to allow his murderer to die in prison.

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing *Application for Leave to File a Post-Submission Communication to Secure the Final Order of Sentence Required by Federal Court Order* to be served on the following person at the location and in the manner indicated below, which service satisfies the requirements of Pa. R. App. P. 121:

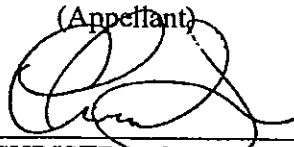
BY FIRST CLASS MAIL, POSTAGE PRE-PAID

Hugh Burns, (215) 686-8000
Office of the Philadelphia County District Attorney
3 South Penn Square
Philadelphia, PA 19107
(Counsel for Appellee)

Robert R. Bryan, (415) 292-2400
Law Offices of Robert R. Bryan
2088 Union Street, Suite 4
San Francisco, CA 94123-4124
(Counsel for Appellant, Mumia Abu-Jamal)

William Bowe, (856) 478-2306
1420 Walnut Street, Suite 1400
Philadelphia, PA 19102
(Counsel for Appellant, Mumia Abu-Jamal)

Mumia Abu-Jamal, #AM-8335
SCI Mahanoy
301 Morea Road
Frackville, PA 17932
(Appellant)



CHRISTINA SWARNS
Pa. Bar No. 83616
NAACP Legal Defense & Educational Fund, Inc.
99 Hudson Street, 16th Floor
New York, NY 10013
212-965-2267

Dated: March 6, 2012

[J-44-2010]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA, :	No. 602 CAP
	:
Appellee	:
	:
v.	: Application for Leave to File Post
	: Submission Communication to Secure
	: The Final Order of Sentence Required by
	: Federal Court Order
	:
MUMIA ABU-JAMAL, A/K/A WESLEY	:
COOK,	:
	:
Appellant	:

ORDER

PER CURIAM

AND NOW, this 5th day of April, 2012, upon consideration of Appellant's Application for Leave to File Post Submission Communication to Secure Final Order of Sentence Required by Federal Court Order, and the response thereto of the District Attorney of Philadelphia County, Appellant's Application is hereby **DISMISSED** for lack of jurisdiction, but without prejudice to Appellant's right to seek relief in the Court of Common Pleas of Philadelphia County.

Mr. Justice McCaffery did not participate in the consideration or decision of this case.

IN THE COMMON PLEAS COURT OF PHILADELPHIA

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

CRIMINAL TRIAL DIVISION

- - -

COMMONWEALTH : JANUARY TERM, 1982
: BILL NUMBER 1357 - POSS
INSTRU CRIME GENLY, POSS
INSTRU CRIME WEAPON
V. : BILL NUMBER 1358 - MURDER-
1ST DEGREE, VOLUNTARY
MANSLAUGHTER
WESLEY COOK : BILL NUMBER 1358 -
: INVOLUNTARY MANSLAUGHTER

- - -

Wednesday, May 25, 1983
Courtroom 253, City Hall
Philadelphia, Pennsylvania

- - -

POST-TRIAL MOTIONS
SENTENCING
(DEATH PENALTY)

BEFORE: HONORABLE ALBERT F. SABO, J.

- - -

APPEARANCES:

JOSEPH MCGILL, ESQUIRE
Assistant District Attorney
For the Commonwealth of Pennsylvania

ANTHONY E. JACKSON, ESQUIRE
Court-Appointed Counsel
Attorney for the Defendant

- - -

THE DEFENDANT: Long live John Africa.

I am going to tell you one thing: You have sentenced yourself, just like Judge Malmed, just like Malcolm, just like Merna Marshall, and every Judge who dares to sit up there and act like you got some justice. You are wrong. You have just been sentenced to death. You have just been convicted.

THE COURT: Under Bill #1357, January Term, 1982, you have been found guilty of possession of an instrument of crime generally.

The Court sentences you to the State Correctional Institution at Graterford for a period of no less than two and a half and no more than five years, to run consecutive to Bill #1358.

In addition, the Court assesses a fine in the sum of \$10.00 for the Victims Compensation Fund.

The Court wishes to advise you that your death sentence will automatically be appealed to the Pennsylvania Supreme Court. In due course, you will be notified of the procedure to follow in order to have the

IN THE
SUPERIOR COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA : NO. 3059 EDA 2012

V.

MUMIA ABU-JAMAL
a/k/a WESLEY COOK
Appellant



PROOF OF SERVICE

I hereby certify that I am on this day serving the attached document upon the person(s) and in the manner indicated below which service satisfies the requirements of Pa.R.A.P. 121:

SERVICE BY FIRST CLASS MAIL ADDRESSED AS FOLLOWS:

JUDITH RITTER, ESQUIRE
WIDNER UNIVERSITY SCHOOL OF LAW
PO BOX 7474
4601 CONCORD PIKE
WILMINGTON, DE 19801
(302) 477-2121

CHRISTINA SWARNS, ESQUIRE
NAACP LEGAL DEFENSE AND EDUCATION FUND, INC.
99 HUDSON STREET, 16TH FLOOR
NEW YORK, NY 10013

Date: 3/20/13

A handwritten signature in black ink, appearing to read "HJB".

HUGH J. BURNS, JR., ESQUIRE
Attorney Identification No. 41367
3 South Penn Square
Philadelphia, Pa. 19107
Counsel for District Attorney
of Philadelphia County
(215) 686-5730