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IN THE SUPREME COURT OF PENNSYLVANIA  
HARRISBURG DISTRICT

Filed in Supreme Court

JAN 9 2015

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IN RE:

THE THIRTY-FIVE STATEWIDE  
INVESTIGATING GRAND JURY

SUPREME COURT OF  
PENNSYLVANIA NO. 176 M.D.  
MISC. DKT. 2012

MONTGOMERY COUNTY  
COMMON PLEAS  
M.D. 2644-2012

EMERGENCY APPLICATION FOR STAY OF PRESENTMENT

AND NOW, this 7<sup>th</sup> day of January 2015, comes Attorney General Kathleen G. Kane, by counsel Amil M. Minora, Esq., and *Pro Hac Vice* counsel Gerald L. Shargel, and presents the following:

1. This Emergency Application for Stay of Presentment is filed pursuant to Pa.R.A.P. 3309, 42 Pa.C.S. § 726 and Kings Bench Power.
2. A Stay is necessary to prevent immediate and irreparable harm to Attorney General Kane. The issues presented in this case are of public importance, and a Stay would be in the interest of justice, for the reasons set forth below.
3. A Presentment was issued by the Thirty-Fifth Statewide Investigating Grand Jury on December 18, 2014, finding that there were reasonable grounds to believe that Attorney General Kane was involved in violations criminal law. The Presentment was accepted by Hon. William R. Carpenter, Supervising Judge of the Thirty-Fifth

Received in Supreme Court

JAN 9 2015

Middle

Statewide Investigating Grand Jury, on December 19, 2014, and referred to the District Attorney of Montgomery County for any prosecution.

4. **The Grand Jury had no legal power or authority to issue this Presentment.**

5. Attorney General Kane's *quo warranto* action challenging the appointment and authority of a Special Prosecutor to the Grand Jury, and thereby the authority of that Grand Jury to issue a Presentment, was filed in this Court on December 18, 2014.

The action raises substantial and we believe meritorious points of law, based in part on precedent established by this Court. See Smith v. Gallagher, 185 A.2d 135 (1962) (overruled on other grounds). The Court has not yet ruled on Attorney General Kane's *quo warranto* action.

6. **If the District Attorney of Montgomery County elects to prosecute based on the findings of the Thirty-Fifth Statewide Investigating Grand Jury, Attorney General Kane will suffer immediate and irreparable harm, both personal and professional.**

7. Therefore, a Stay of Presentment is Warranted until such time as this Court rules on Attorney General Kane's *quo warranto* action, in the interest of justice and to prevent immediate and irreparable harm.

#### Statement of Facts

8. On May 29, 2014, Hon. William R. Carpenter, Supervising Judge of the Thirty-Fifth Statewide Investigating Grand Jury, issued an Order appointing Thomas E. Carluccio, Esq. as "Special Prosecutor with full power, independent authority and jurisdiction to investigate and prosecute to the maximum extent authorized by law any offenses

related to any alleged disclosure of information protected by the law and/or intentional and/or negligent violations and rules of Grand Jury secrecy as to a former Statewide Investigating Grand Jury[.]” (Exhibit A, Order dated May 29, 2014, at 1-2.)

9. On December 18, 2014, Attorney General Kane filed a *quo warranto* action in this Court to quash the appointment of Thomas E. Carluccio, Esq. as Special Prosecutor for the Thirty-Fifth Statewide Investigating Grand Jury.
10. In an Opinion dated December 30, 2014 (received by counsel for Attorney General Kane on January 5, 2014), Judge Carpenter wrote that “[t]he appointment of a special prosecutor was warranted,” and that Attorney General Kane’s *quo warranto* action “is now moot.” (Exhibit B, Order dated December 30, 2014, at 2, 4.)
11. Judge Carpenter wrote that the *quo warranto* action was moot because “On December 18, 2014, the Thirty-Fifth Statewide Investigating Grand Jury issued Presentment No. #60, finding that there were reasonable grounds [to believe] that Attorney General Kane was involved in violations criminal law our Commonwealth,” and “[s]ubsequently, on December 19, 2014, I entered an Order Accepting Presentment No. #60.” (*Id.* at 5.) Judge Carpenter wrote that he “referred the entire matter to the District Attorney of Montgomery County for any prosecution.” (*Id.*)

#### Argument

12. Judge Carpenter was wrong in opining that he had authority to appoint a Special Prosecutor in this case. (See Exhibit B at 2.) In his Order, Judge Carpenter relied singularly on case law where the power of the judiciary to appoint a Special

Prosecutor was *not* directly at issue – and therefore was not directly addressed or resolved as a point of law. In doing so, Judge Carpenter failed to respond to our arguments he had no legal authority, based in any statute, to appoint a Special Prosecutor; that the position of Special Prosecutor itself has no basis in the statutory law of this Commonwealth; that the appointment of a Special Prosecutor by the judiciary was a constitutional separation of powers violation; and that the appointment infringed on the exclusive power of the Attorney General and the executive branch to investigate and prosecute alleged Grand Jury violations. Judge Carpenter also failed to address our citation to Smith v. Gallagher, 185 A.2d 135 (1962) (overruled on other grounds), where this Court explicitly held that a Judge had no legal authority to appoint a Special Prosecutor to conduct a grand jury investigation.

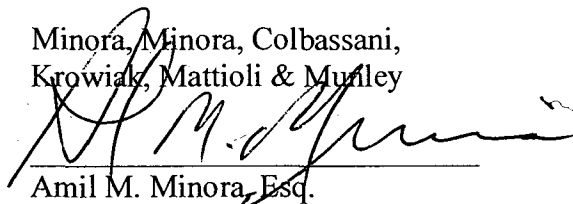
13. Judge Carpenter was also wrong in opining that Attorney General Kane's *quo warranto* action was moot because a Presentment was issued. (See Exhibit B at 2.) Clearly, if Judge Carpenter had no legal authority to appoint a special prosecutor, and his action in doing so was unsupported by the statutory law of this Commonwealth and was a constitutional separation of powers violation, those core issues do not simply disappear because a Presentment was issued. If anything, the fact that a Grand Jury conducted without lawful authority ultimately issued a Presentment only *compounds* the violation of Attorney General Kane's statutory and constitutional rights.
14. A Stay of the Presentment is now warranted in order to prevent further violation of Attorney General Kane's rights. Criminal prosecution would cause Attorney General

Kane to suffer immediate and irreparable harm, both personal and professional. We respectfully submit that such harm can and should be avoided by issuance of a Stay. The District Attorney of Montgomery County should be stayed from prosecuting Attorney General Kane until this Court can rule on the *quo warranto* action – raising substantial and we believe meritorious points of law – that remains pending.

WHEREFORE, it is requested that the Supreme Court issue a Stay of Presentment for the reasons set forth herein, and in Attorney General Kathleen G. Kane's *quo warranto* action filed December 18, 2014.

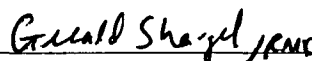
Respectfully submitted,

Minora, Minora, Colbassani,  
Krowiak, Mattioli & Mufley



Amil M. Minora, Esq.  
Attorney for Attorney General Kathleen G. Kane  
Attorney ID: 22703  
700 Vine Street  
Scranton, PA 18510  
(570) 961-1616

Winston & Strawn, LLP



Gerald L. Shargel, Esq.  
Attorney *Pro Hac Vice* for Attorney General  
Kathleen G. Kane  
200 Park Avenue  
New York, NY 10166  
(212) 294-2637

Dated: January 7, 2015

Received in Supreme Court

JAN 09 2015

Exhibit

A

IN THE COURT OF COMMON PLEAS  
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE:

: MD 1424-2014

THE STATEWIDE

: MONTGOMERY COUNTY COMMON PLEAS

INVESTIGATING GRAND JURIES

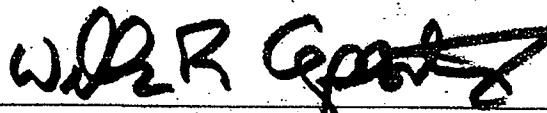
:  
: In Re: Powers and Responsibilities of  
: Special Prosecutor Exercising  
: Extraordinary Jurisdiction; on Allegations that  
: Secret Grand Jury or Related Information was  
: Unlawfully and/or Negligently  
: Accessed/Released/Compromised

SEALING ORDER

AND NOW, this 29th day of May, 2014, it is hereby ORDERED, that the attached Order of May 29, 2014 be filed under seal with the Clerk of Courts of Montgomery County until further Order of this Court.

CLERK OF COURTS  
OFFICE  
MONTGOMERY COUNTY  
PENNA.  
2014 MAY 29 AM 8:53

BY THE COURT:



WILLIAM R. CARPENTER, J.  
Supervising Judge

True and correct Copy  
Certified from the record

This 29 Day of MAY A.D. 2014

Ana Thornburg Weiss  
Clerk of Courts  
*plu*

IN THE COURT OF COMMON PLEAS  
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE:

THE STATEWIDE

INVESTIGATING GRAND JURIES

:  
:  
:  
: MONTGOMERY COUNTY COMMON PLEAS  
:  
:  
:  
: In Re: Powers and Responsibilities of  
: Special Prosecutor Exercising  
: Extraordinary Jurisdiction; on Allegations that  
: Secret Grand Jury or Related Information was  
: Unlawfully and/or Negligently  
: Accessed/Released/Compromised

ORDER

AND NOW, this 29th day of May, 2014, after "preliminary investigation"; this court in its capacity as Supervising Judge of the 35<sup>th</sup> Statewide Investigating Grand Jury, finds there are reasonable grounds to believe a further more substantive investigation is warranted into allegations that statewide Grand Jury secrecy may have been compromised: It is therefore ORDERED and DIRECTED by this Court in accordance with the authority vested in it by the 1078 Pennsylvania Investigating Grand Jury Act of 1978, 42 Pa. C.S. § 4541, *et seq.* and the procedural rules that followed (Pa.R.Crim.P 220, *et seq.*) as well as relevant case law; that **THOMAS E. CARLUCCIO, ESQUIRE**, be and is hereby appointed Special Prosecutor with full power, independent authority and jurisdiction to investigate and prosecute to the maximum extent authorized by law any offenses related to any alleged illegal disclosure of information protected by the law and/or intentional and/or



negligent violations and rules of Grand Jury secrecy as to a former Statewide Investigating Grand Jury, such as;

1. 42 Pa. C.S. § 4549(b) Disclosure of proceedings by participants other than witnesses... "all such persons shall be sworn to secrecy, and shall be in contempt of court if they disclose/reveal any information which they are sworn to keep secret."
2. 18 Pa. C.S. § 5101 Obstructing administration of law or other governmental function – "a person commits a misdemeanor of the second degree if he intentionally obstructs, impairs or perverts the administration of law or other governmental function by force, violence, physical interference or obstacle, breach of official duty.
3. Any other applicable offense.

It is FURTHER ORDERED by the Court that the Special Prosecutor:

1. Shall use any appropriate currently empaneled Grand Jury to investigate any alleged or suspected violations of secrecy or concomitant crimes related to such.
2. Shall have the right to request an application for an immunity order from the Attorney General.
3. Shall have the right to employ all appropriate resources including a minimum of one investigator and if necessary, one support staff.

4. Shall have day-to-day independence and will be free to structure the investigation as he wishes and to exercise independent prosecutorial discretion whether, which and when any potential witness should be brought before the Grand Jury and/or whether, which and when charges should be brought, including contempt of court.
5. Shall be permitted, while serving as Special Prosecutor, to consult with past and present members of the Office of Attorney General and take such action as is necessary to ensure that matters he is investigating and/or prosecuting in his role as Special Prosecutor are brought to a successful conclusion, so long as such consultation/action does not present a conflict of interest with his duties as Special Prosecutor and/or violate the secrecy oath.
6. Shall be empowered to respond to interference with his investigation by also having authority to investigate and prosecute crimes committed in the course of, and with the intent to interfere with the Special Prosecution's investigation such as Perjury, Intimidation of witnesses and other applicable and relevant violations of the law.
7. Shall comply with all relevant statutory and case law as well as all applicable canons of ethics.
8. Shall be removed from the position of Special Prosecutor only by the personal action of the Grand Jury Judge and/or the Pa Supreme Court.

9. Shall be appointed for a period not to exceed six months from today, unless the Special Prosecutor makes a written request to the Court for an extension setting forth the reasons for the extension.
10. The Special Prosecutor shall be compensated at the rate of \$65.00 an hour to be paid by the Commonwealth of Pennsylvania. The investigator/support staff chosen by the Special Prosecutor shall be compensated at the rate of \$20.00 an hour. All those seeking compensation shall keep detailed records of time and services rendered. All shall provide the Supervising Grand Jury Judge with a monthly accounting of time/services rendered.
11. Shall provide the Supervising Grand Jury Judge with periodic summaries of any progress.
12. Submit a report addressed to the Pennsylvania Supreme Court, and the Supervising Grand Jury Judge, setting forth any findings and recommendations on any proposed statutory, rulemaking or recommended practices that would preserve the critical requirement of secrecy in Grand Jury proceedings as well as insuring the rights of defendants to a fair trial and maintaining the integrity of our Grand Juries.

BY THE COURT:

A handwritten signature in black ink, appearing to read "W.R. Carpenter", written over a horizontal line.

WILLIAM R. CARPENTER, J.  
Supervising Judge

Copies sent on May 29, 2014

By First Class Mail to:

Chief Justice Ronald D. Castille

Pennsylvania Attorney General Kathleen G. Kane

Thomas E. Carluccio, Esquire

Exhibit

B

IN THE COURT OF COMMON PLEAS  
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: : SUPREME COURT OF PENNSYLVANIA  
THE THIRTY-FIVE STATEWIDE : NO. 197 MM 2014  
INVESTIGATING GRAND JURY : MONTGOMERY COUNTY COMMON PLEAS  
: M.D. 2644-2012  
: NOTICE NO. 123

SEALING ORDER

AND NOW, this 30th day of December, 2014, it is hereby ORDERED, that the attached Opinion of December 30, 2014 be filed under seal with the Supreme Court of Pennsylvania until further Order of this Court.

BY THE COURT:

  
\_\_\_\_\_  
WILLIAM R. CARPENTER, J.  
Supervising Judge

FILED UNDER SEAL

IN THE SUPREME COURT OF PENNSYLVANIA  
MIDDLE DISTRICT

IN RE: :  
 :  
THE THIRTY-FIFTH STATEWIDE : SUPREME COURT DOCKET  
INVESTIGATING GRAND JURY : NO. 197 MM 2014  
 :  
 : MONTGOMERY COUNTY  
 : COMMON PLEAS  
 : NO. 2644-2012

OPINION

CARPENTER J.

DECEMBER 30, 2014

FACTUAL AND PROCEDURAL HISTORY

On May 29, 2014, this Court in its capacity as Supervising Judge of the Thirty-Fifth Statewide Investigating Grand Jury, found that there were "reasonable grounds to believe a further more substantive investigation" into allegations that statewide Grand Jury secrecy may have been compromised was warranted, and on that date this Court appointed Thomas E. Carluccio, Esquire as Special Prosecutor.

Specifically, the May 29, 2014 Order followed an *in camera* proceeding which established that there was a leak of secret Grand Jury information and that the leak most likely came from the Office of the Attorney General. Accordingly, I determined that the appointment of a Special Prosecutor was necessary and appropriate.

ISSUES

- I. Whether the appointment of a Special Prosecutor was proper.
- II. Whether the Quo Warranto Action is now moot.

## DISCUSSION

I. The appointment of a Special Prosecutor was proper.

Attorney General Kathleen Kane has filed a *Quo Warranto* Action, challenging my action as the Supervising Judge of the Thirty-Fifth Statewide Grand Jury, to appoint a Special Prosecutor by way of an Order dated May 29, 2014. On that date, Special Prosecutor Thomas E. Carluccio was appointed to conduct an investigation into allegations that statewide Grand Jury secrecy might have been compromised, after a preliminary investigation. My action in appointing Special Prosecutor Carluccio was proper. It did not exceed my authority.

My authority for the appointment of a special prosecutor is based upon the case of In re Dauphin County Fourth Investigating Grand Jury, 610 Pa. 296, 19 A.3d 491 (2014). This case dealt with the appointment of an special prosecutor in connection with alleged grand jury leaks, and the Court stated that, “[w]hen there are colorable allegations or indications that the sanctity of the grand jury process has been breached and those allegations warrant investigation, the appointment of a special prosecutor to conduct such an investigation is appropriate. And, even where the investigations of special prosecutors do not lead to prosecutable breaches of secrecy, they may provide insight into the often-competing values at stake, as well as guidance and context so that prosecutors and supervising judges conducting future proceedings may learn from the examples.” Id. at 504.

The Court explained the vital role a supervising judge in regard to the grand jury process and emphasized the “[t]he very power of the grand jury, and the secrecy in which it operates, call for a strong judicial hand in supervising the proceedings” Id. at 503. The Court further explained as follows:



We are cognizant that the substantial powers exercised by investigating grand juries, as well as the secrecy in which the proceedings are conducted, yield[ ] the potential for abuses. The safeguards against such abuses are reflected in the statutory scheme of regulation, which recognizes the essential role of the judiciary in supervising grand jury functions.

Id. at 503 – 504 (citing from In re Twenty-Fourth Statewide Investigating Grand Jury, 589 Pa. 89, 907 A.2d 505, 512 (2006)).

Thus, Pennsylvania's grand jury process is 'strictly regulated,' and the supervising judge has the singular role in maintaining the confidentiality of grand jury proceedings. The supervising judge has the continuing responsibility to oversee grand jury proceedings, a responsibility which includes insuring the solemn oath of secrecy is observed by all participants.

Id. at 504 (citations and internal quotation marks omitted).

The In re Dauphin County Court cited two cases that involved the appointment of a special prosecutor when there were allegations of grand jury leaks. The Court first cited to a Lackawanna Common Pleas Court case, In re County Investigating Grand Jury VIII (Lack. Com. Pl. 2005).

In the Lackawanna Common Pleas Court case there were allegations made, including, that e-mail communications had been exchanged between the Lackawanna District Attorney's Office and a newspaper reporter that divulged grand jury information, that a grand jury witness had been contacted by the reporter a short time after the witness appeared before the grand jury and was questioned about private matters that had been disclosed only to the grand jury. In re Dauphin County, 19 A.3d at 504. A preliminary review by the common pleas court judge verified only the existence of the emails that were exchanged between the reporter and a member of the District Attorney's office during the time the grand jury was conducting the relevant investigation. It was based upon this review that the common pleas court judge appointed a special prosecutor to investigate the allegations of a grand jury leak. Id.

The Pennsylvania Supreme Court in In re Dauphin County cited an additional example involving a special prosecutor in connection with alleged grand jury leaks and the complex interest and values implicated in an appointment of a special prosecutor. The Court cited to Castellani v. Scranton Times, 598 Pa. 283, 956 A.2d 937 (2008). In Castellani, the supervising judge appointed a special prosecutor to investigate allegations of grand jury leaks in connection with a statewide investigating grand jury tasked with investigating allegations of abuse of the county prisoners by the prison guards. In re Dauphin County, 19 A.3d at 506.

Not only is there strong precedent that permits a supervising judge to appoint a special prosecutor when there are allegations of grand jury leaks; but also, at the time I appointed the Special Prosecutor on May 29, 2014, by way of a court order, which was delivered to Chief Justice Ronald D. Castille, I wrote a letter to Chief Justice Castille. In that letter, I explained what I had done and I ended the letter with the following language, "Please advise if you feel that I am in error or have exceeded my authority as the Supervising Grand Jury Judge." See, Exhibit "A", Letter dated May 29, 2014 to Chief Justice Castille. All of my letters to Chief Justice Castille have concluded with similar language. I have never been informed that I erred or exceeded my authority.

The Supervising Judge of a Statewide Investigating Grand Jury must have inherent authority to investigate a grand jury leak, when there is a conflict of interest as there is here. Clearly, Attorney General Kane could not investigate herself. Otherwise potentially serious violations of grand jury secrecy could go unaddressed.

Accordingly, Attorney General Kane's *Quo Warranto* Action lacks merit, and should be denied.

II. The Quo Warranto Action is now moot.

Further, I believe that this *Quo Warranto* Action is now moot. On December 18, 2014, the Thirty-Fifth Statewide Investigating Grand Jury issued Presentment No. #60, finding

that there were reasonable grounds that Attorney General Kane was involved in violations of criminal law of our Commonwealth. See, Exhibit "B", Presentment No. #60, dated December 18, 2014; specifically, Perjury, 18 Pa.C.S.A. §4902, False Swearing, 18 Pa.C.S.A. §4903, Official Oppression, 18 Pa.C.S.A. §5301 and Obstruction Administration of Law or Other Governmental Function, 18 Pa.C.S.A. §5101. Subsequently, on December 19, 2014, I entered an Order Accepting Presentment No. #60. See, Exhibit "C", Order Accepting Presentment No. #60, dated December 19, 2014. Furthermore, I referred the entire matter to the District Attorney of Montgomery County for any prosecution. Therefore, this Quo Warranto Action has been rendered moot.

Finally, the Attorney General has requested to "unseal this filing" See, Attorney General Kane's Memorandum of Law in Support of *Quo Warranto* Action, December 17, 2014, p. 2, n. 1. If her filing is unsealed then, in fairness to the public, the members of the Grand Jury, and members of The Office of Attorney General, my Opinion and Exhibits should also be unsealed.

#### CONCLUSION

I respectfully submit that Attorney General Kane's *Quo Warranto* Action lacks merit and should be denied. In addition, it has been rendered moot.

BY THE COURT:



WILLIAM R. CARPENTER J.  
SUPERVISING JUDGE OF THE THIRTY-  
FIFTH STATEWIDE INVESTIGATING  
GRAND JURY

**EXHIBIT "A"**

COURT OF COMMON PLEAS



MONTGOMERY COUNTY  
THIRTY-EIGHTH JUDICIAL DISTRICT  
NORRISTOWN, PENNSYLVANIA  
19404

PRESIDENT JUDGE  
WILLIAM J. FURBER, JR.  
ASSOCIATE JUDGES  
JOSEPH A. SMYTH  
STANLEY R. OTT  
BERNARD A. MOORE  
WILLIAM R. CARPENTER  
RHONDA LEE DANIELE  
EMANUEL A. BERTIN  
THOMAS M. DELRICCI  
R. STEPHEN BARRETT  
THOMAS C. BRANCA  
STEVEN T. O'NEILL  
THOMAS P. ROGERS  
GARRETT D. PAGE  
KELLY C. WALL  
CAROLYN TORNETTA CARLUCCIO  
WENDY DEMCHICK-ALLOY  
PATRICIA E. COONAHAN  
LOIS EISNER MURPHY  
GARY S. SILOW  
RICHARD P. HAAZ  
CHERYL L. AUSTIN  
GAIL A. WEILHEIMER  
STEVEN C. TOLLIVER, SR.

SENIOR JUDGES  
WILLIAM T. NICHOLAS  
S. GERALD CORSO  
CALVIN S. DRAYER, JR.  
KENT H. ALBRIGHT  
ARTHUR R. TILSON

May 29, 2014

The Honorable Ronald D. Castille  
Chief Justice of Pennsylvania  
Supreme Court of Pennsylvania  
1818 Market Street, Suite 3730  
Philadelphia, PA 19103

Re: Statewide Investigating Grand Juries

Dear Chief Justice:

Enclosed you will find an Order appointing a Special Prosecutor to investigate an allegation that secret Grand Jury information from a prior Grand Jury was released by someone in the Attorney General's Office.

As the current supervising Grand Jury Judge, this matter was brought to my attention. My preliminary review included in camera sealed testimony from two individuals with knowledge.

I have decided that the matter is important enough to appoint a Special Prosecutor, Thomas E. Carluccio, Esquire. He is a former prosecutor, served in the Department of the Attorney General in Delaware for fourteen years and a Special Assistant United States Attorney. In addition Tom has done Grand Jury work, and is honest, capable and reliable.

Please call me if you would like to discuss this matter further.

Please advise if you feel that I am in error or have exceeded my authority as the Supervising Grand Jury Judge.

Sincerely,

A handwritten signature in black ink that reads "William R. Carpenter, J." with a stylized flourish at the end.

William R. Carpenter, J.  
Supervising Judge

WRC/cns

Cc. Thomas E. Carluccio, Esquire

EXHIBIT A

**EXHIBIT "B"**

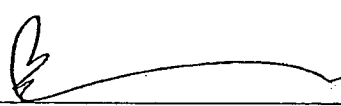
IN THE COURT OF COMMON PLEAS  
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: : SUPREME COURT OF PENNSYLVANIA  
: NO. 171 M.D.D MISC. KT 2012  
THE THIRTY-FIFTH STATEWIDE :  
: MONTGOMERY COUNTY COMMON PLEAS  
INVESTIGATING GRAND JURY : M.D. 2644-2012  
: NOTICE No # 123  
:

TO THE HONORABLE WILLIAM R. CARPENTER, SUPERVISING JUDGE:

PRESENTMENT No. # 600

We, the Thirty-Fifth Statewide Investigating Grand Jury, duly charged to inquire into offenses against the criminal laws of the Commonwealth, have obtained knowledge of such matters from witnesses sworn by the Court and testifying before us. We find reasonable grounds to believe that various violations of the criminal laws have occurred. So finding with no fewer than twelve concurring, we do hereby make this Presentment to the Court.

  
Foreperson – The Thirty-Fifth Statewide  
Investigating Grand Jury

DATED: The 18 day of December, 2014

**EXHIBIT "C"**



IN THE COURT OF COMMON PLEAS  
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: : SUPREME COURT OF PENNSYLVANIA  
THE THIRTY-FIVE STATEWIDE : NO. 171 M.D. MISC DKT. 2012  
INVESTIGATING GRAND JURY : MONTGOMERY COUNTY COMMON PLEAS  
: M.D. 2644-2012  
: NOTICE NO. 123

ORDER ACCEPTING PRESENTMENT NO #60

A. The Court finds Presentment No #60 of the Thirty-Fifth Statewide Investigating Grand Jury is within the authority of said Grand Jury and is in accordance with the provisions of this Investigating Grand Jury Act, 42 Pa.C.S. §4541, *et seq.* Further I find that the determination of the Thirty-Fifth Statewide Investigating Grand Jury is supported by Probable Cause and establishes a Prima Facie case against Attorney General Kathleen Kane. Accordingly, this Presentment is accepted by the Court.

B. The County conducting the trial of all charges pursuant to this Presentment shall be Montgomery County.

C. The District Attorney for Montgomery County, or her designee, is hereby authorized to prosecute as recommended in the Presentment by instituting appropriate criminal proceedings in the aforesaid County.

SO ORDERED this 19<sup>th</sup> day of December, 2014.

BY THE COURT:



WILLIAM R. CARPENTER, J.  
Supervising Judge

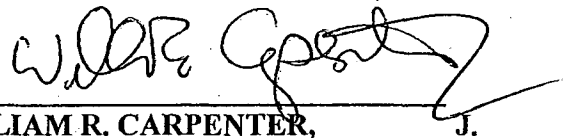
EXHIBIT C

IN THE COURT OF COMMON PLEAS  
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: : SUPREME COURT OF PENNSYLVANIA  
THE THIRTY-FIVE STATEWIDE : NO. 197 MM 2014  
INVESTIGATING GRAND JURY :  
: MONTGOMERY COUNTY COMMON PLEAS  
: M.D. 2644-2012  
: NOTICE NO. 123

CERTIFICATE OF SERVICE

I, William R. Carpenter, Supervising Judge of the 35<sup>th</sup> Statewide Investigating Grand Jury, certify that a true and correct copy of the attached Opinion was forwarded to the persons set forth below via First Class Mail on December 30, 2014.



WILLIAM R. CARPENTER, J.  
Supervising Judge  
Montgomery County Court of Common Pleas  
P.O. Box 311  
Norristown, PA 19404

Prothonotary Irene Bizzoso  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue  
Suite 4500  
P.O. Box 62575  
Harrisburg, PA 17106

Chief Justice Ronald D. Castille  
Supreme Court of Pennsylvania  
1818 Market Street  
Suite 3730  
Philadelphia, PA 19103

Attorney General Kathleen G. Kane  
Pennsylvania Office of the Attorney General  
16<sup>th</sup> Floor, Strawberry Square  
Harrisburg, PA 17120

Amil M. Minora, Esquire  
Attorney for Attorney General Kathleen G. Kane  
700 Vine Street  
Scranton, PA 18510

Gerald L. Shargel, Esquire  
Attorney Pro Hac Vice for  
Attorney General Kathleen G. Kane  
200 Park Avenue  
New York, NY 10166

Thomas E. Carluccio, Esquire  
Special Prosecutor  
1000 Germantown Pike  
Suite D3  
Plymouth Meeting, PA 19462

IN THE SUPREME COURT OF PENNSYLVANIA  
HARRISBURG DISTRICT

IN RE:

THE THIRTY-FIVE STATEWIDE  
INVESTIGATING GRAND JURY

SUPREME COURT OF  
PENNSYLVANIA NO. 176 M.D.  
MISC. DKT. 2012

MONTGOMERY COUNTY  
COMMON PLEAS  
M.D. 2644-2012

EMERGENCY APPLICATION FOR STAY OF  
PRESENTMENT

PROOF OF SERVICE

I hereby certify that I am this day causing the service of the foregoing Emergency Application for Stay of Presentment upon the persons and in the manner indicated below, which satisfies the requirements of Pa. R.A.P. 121:

Service by Federal Express addressed as follows:

Thomas E. Carluccio  
Special Prosecutor  
(484) 674-2899  
Law Office of Thomas E. Carluccio  
1000 Germantown Pike, Suite D-3  
Plymouth Meeting, PA 19462

Hon. William H. Carpenter  
Court of Common Pleas  
Montgomery County Court House  
2 East Airy Street  
P.O. Box 311  
Norristown, PA 19404

Date: January 7, 2015

Minora, Minora, Colbassani,  
Krowiak, Mattioli & Munley



Amil M. Minora, Esq.  
Attorney for Attorney General Kathleen G. Kane  
Attorney ID 22703

Received in Supreme Court

JAN 9 2015

Middle

700 Vine Street  
Scranton, PA 18510  
(570) 961-1616

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

**IN RE:**

**THE THIRTY-FIVE STATEWIDE  
INVESTIGATING GRAND JURY**

**SUPREME COURT OF  
PENNSYLVANIA NO. 176 M.D.  
MISC. DKT. 2012**

**MONTGOMERY COUNTY  
COMMON PLEAS  
M.D. 2644-2012**

**EMERGENCY APPLICATION FOR STAY OF  
PRESENTMENT**

**ATTORNEY VERIFICATION**

I, Amil M. Minora, Esq., hereby verify the following:

1. I am an attorney duly admitted to practice in Pennsylvania and before this Court.
2. My office, Minora, Minora, Colbassani, Krowiak, Mattioli & Munley is located at 700 Vine Street Scranton, PA 18510.
3. I represent Attorney General Kathleen G. Kane in this matter; and as such, am fully familiar with the facts and circumstances of this case.
4. This Verification is respectfully submitted in support of Attorney General Kane's Emergency Application for Stay of Presentment.
5. I hereby state that the facts set forth in this motion are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904.

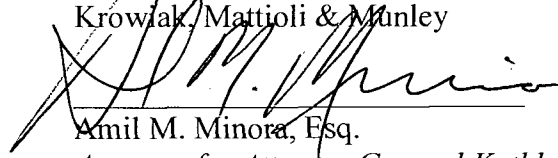
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**Middle**

Dated: January 7, 2015

Minora, Minora, Colbassani,  
Krowiak, Mattioli & Munley

A handwritten signature in black ink, appearing to read "Amil M. Minora", written over a horizontal line.

Amil M. Minora, Esq.

*Attorney for Attorney General Kathleen G. Kane*

Attorney ID: 22703

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Scranton, PA 18510

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