[J-74-2023]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

TODD, C.J., DONOHUE, DOUGHERTY, WECHT, MUNDY, BROBSON, McCAFFERY, JJ.

COMMONWEALTH OF PENNSYLVANIA,	:	No. 11 MM 2023
Petitioner	:	
	:	SUBMITTED: October 11, 2023
v.	:	
MICHAEL NOEL YARD,	:	
Respondent	:	

OPINION

JUSTICE MUNDY **DECIDED: September 26, 2024**

We exercised plenary jurisdiction to address the evidentiary requirements for the denial of bail under the Pennsylvania Constitution's asserted right-to-bail exception relating to charges for which the maximum sentence is life imprisonment.

This matter arises from the August 2021 death of Respondent Michael Yard's infant son, who is alleged to have died from blunt-force trauma to the head. From the evidence adduced at the preliminary hearing, it appeared the decedent was the victim of homicide, and that his injuries occurred at a time when Respondent was the sole person caring for him. It also appeared the decedent had suffered broken ribs two or three weeks before his death, but the cause and circumstances of those injuries were unclear.

In April 2022, Respondent was charged with several offenses including first-degree murder and was detained in the Monroe County jail. At that juncture the Magisterial District Judge denied bail on the grounds that Respondent was charged with first-degree

murder. A preliminary hearing was held on May 9, 2022. At the hearing, the autopsy report and a recording of the 911 call made by Respondent were admitted into evidence. The Commonwealth presented the testimony of several witnesses, including two forensic pathologists, agents of the Monroe County Coroner's Office, and a Pennsylvania State Police Trooper. After the hearing, all charges were bound over to the Monroe County Court of Common Pleas. These included an open count of criminal homicide to include first-degree murder, endangering the welfare of children, and aggravated assault – victim less than six years of age. *See* 18 Pa.C.S. §§ 2501(a), 4303(a)(1), 2702(a)(8).

The following day Respondent petitioned the county court to set bail, citing *Commonwealth v. Talley*, 265 A.3d 485 (Pa. 2021), which held that under the right-to-bail clause of the state Constitution, *see* PA. CONST. art. I, § 14, the phrase "proof is evident or presumption great" constitutes a unique standard of proof between probable-cause and beyond-a-reasonable-doubt. Section 14 states, in relevant part:

> All prisoners shall be bailable by sufficient sureties, unless for capital offenses or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great[.]

PA. CONST. art. I, § 14.[1] In his bail motion, Respondent conceded that the Commonwealth established a *prima facie* case for involuntary manslaughter, but not for murder.[2]

A bail hearing was held on May 24, 2022, before Judge Sibum. At that time the parties orally agreed upon such facts as were reflected in the testimony and exhibits presented by the Commonwealth at the preliminary hearing. The Commonwealth argued

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[1] Section 14 originally contained only the capital-offense exception to the bail right. The life-offense and the dangerousness exceptions were added in 1998. This development is discussed below.

[2] Murder is distinguished from manslaughter in that murder is a killing with malice. *See Commonwealth v. Ludwig*, 874 A.2d 623, 630-31 (Pa. 2005); *see also infra* note 4.

Talley was inapposite given that the defendant in that matter had been held under Section 14's dangerousness exception, whereas here, Respondent was charged with first-degree murder and was being held per Section 14's life-imprisonment exception. In support of that position, the Commonwealth relied on the sole-caretaker presumption, *see Commonwealth v. Meredith*, 416 A.2d 481 (Pa. 1980),[3] as well as evidence that deadly force was applied to a vital area of the body. *See* N.T. May 24, 2022, at 22, *reprinted in* RR. 55a. Respondent allowed that the evidence suggested involuntary manslaughter, or even malice for purposes of third-degree murder, *see id*. at 20-23, RR. 53a-56a, but he denied that it supported a specific intent to kill as needed for first-degree murder and, thus, a life sentence.[4] He characterized such conclusion as speculative, as he viewed the preliminary hearing testimony as failing to indicate how the injury occurred or to reveal any external injury to the victim's head. *See id*. at 5, 28, *reprinted in* RR. 38a, 61a.

The court took the matter under advisement and scheduled a hearing for three days later to announce its decision. At the May 27 hearing, the court highlighted that

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[3] "In this jurisdiction we have held that where an adult is given sole custody of a child of tender years for a period of time, and, during that time the child sustains injuries which may have been caused by a criminal agency, the finder of fact may examine any explanation offered and, if they find that explanation to be wanting, they may reject it and find the person having custody of the child responsible for the wounds." *Id*. at 482-83. (citing *Commonwealth v. Paquette*, 301 A.2d 837 (Pa. 1973)).

[4] First-degree murder is an intentional killing. Third-degree murder is a killing with malice that is not intentional and does not qualify as second-degree murder (a criminal homicide committed while engaged as a principal or accomplice in the commission of a felony). 18 Pa.C.S. § 2502. With third-degree murder, malice is inferred from the recklessness of the defendant's conduct. *See Commonwealth v. Santos*, 876 A.2d 360, 363 (Pa. 2005).

Where, as here, the Commonwealth does not seek the death penalty, a first-degree murder conviction carries a mandatory sentence of life imprisonment. *See* 18 Pa.C.S. § 1102(a). Third degree murder is not punishable by life imprisonment, *see id*. § 1102(d), unless the defendant had previously been convicted of murder or voluntary manslaughter. *See* 42 Pa.C.S. § 9715(a); *Commonwealth v. Coleman*, 285 A.3d 599 (Pa. 2022). There is no suggestion in the present case that Respondent had such a criminal record.

Respondent had no prior criminal record, and it set bail at $200,000 secured with non-monetary conditions, including that Respondent was prohibited from living in the marital home, *i.e.*, his wife's grandmother's house. The court denied the Commonwealth's request to stay its order pending an appeal to the Superior Court.

The Commonwealth filed an emergency motion for a stay and a petition for review in the Superior Court. The stay was immediately granted, and the Superior Court directed the bail court to file a statement of its reasons for granting bail. Complying with that directive, on June 23, 2022, the bail court filed its statement of reasons, characterizing the parties' agreement concerning facts derived from the preliminary hearing evidence as a stipulation, but expressing that it had erred by basing its decision on that stipulation, as it now construed this Court's *Talley* decision to prohibit courts from denying bail based on a "cold record." The court also stated that if the stipulation were to be supplemented by live testimony, it might find the *Talley* standard to be satisfied for first-degree murder. The court therefore requested that its order be vacated and the matter remanded for a new bail hearing. The Superior Court responded with an order vacating the bail court's order granting bail and remanding for further proceedings. However, the Superior Court did not issue an opinion or otherwise provide guidance to the bail court. The bail court ultimately scheduled a new bail hearing for October 25, 2022.

Sometime before that hearing, Respondent filed a motion for nominal bail pursuant to Rule 600, *see* Pa.R.Crim.P 600(B)(1) (providing, except in cases where the defendant is not entitled to release on bail, that no defendant may be held in pretrial incarceration more than 180 days from the date the criminal complaint is filed), as interpreted in *Commonwealth v. Dixon*, 907 A.2d 468 (Pa. 2006), which held that Rule 600 does not allow an extension of pretrial detention in excess of 180 days attributable to interlocutory appeals taken by the Commonwealth. *See id*. at 477; *see also* Pa.R.Crim.P. 600(D)(2)

(governing release on nominal bail when the defendant has been held in pretrial detention beyond the period allowed by paragraph (B)). The court scheduled a hearing for October 31, 2022, on the motion for nominal bail.

Thereafter, the previously-scheduled bail hearing was held on October 25, 2022, at which time the Commonwealth did not present live testimony but sought to supplement the record from the May 2022 bail hearing with exhibits, which included an audio recording and transcript of the preliminary hearing, the affidavit of probable cause, and a copy of the victim's autopsy report. The Commonwealth also drew the court's attention to the prior factual stipulation received by the court. *See* N.T., Oct. 25, 2022, at 5, *reprinted in* RR. 312a. For his part, Respondent appeared to accept that the parties had stipulated to certain facts back in May, *see id*. at 7, *reprinted in* RR. 314a, but he opposed the court's consideration of the Commonwealth's exhibits as hearsay. *See id*. at 4-5, *reprinted in* RR. 311a-312a. The court interpreted that opposition to additionally encompass a withdrawal of Respondent's earlier factual stipulation. *See id*. at 11, *reprinted in* 318a.[5]

The matter was then taken under advisement and over the next few months, pretrial conferences were scheduled and the matter proceeded despite the unresolved bail issue. In the interim, on October 31, 2022, the court held a hearing on Respondent's motion for nominal bail. At the hearing, the parties advised the court such motion could only be resolved after the court determined whether the first-degree-murder charge was substantiated. Thereafter, on January 25, 2023, the bail court issued an order granting Respondent's motion for nominal bail and setting bail at $1.00 with non-monetary conditions. These included, again, that Respondent was prohibited from living in the marital home, or any other home where minors resided.

[5] The court allowed the Commonwealth's exhibits to be placed in the record while reserving judgment on whether it could consider them. *See id*. at 18, 22, *reprinted in* RR. 325a, 329a.

The following day, the Commonwealth filed an emergency motion for a stay and a petition for review in the Superior Court. That court granted the stay and directed Judge Sibum to submit a statement of reasons for granting bail. The judge filed an opinion indicating her basis was the prosecution's failure to present live testimony at the October 25 bail hearing. She again asserted that this Court's decision in *Talley* precluded her from denying bail on a "cold record" – a term she used to encompass the transcript and audio recording of the preliminary hearing, the victim's autopsy report, and the criminal complaint. Thus, she repeated her view as expressed in her June 23, 2022, statement that she could not deny bail absent the ability to view and listen to live witness testimony. *See Commonwealth v. Yard*, No. CP-45-CR-1222-2022, Opinion at 5-6 (C.P. Monroe Jan. 25, 2023), *reprinted in* RR. 335a-336a.[6] Thereafter, the Superior Court denied the Commonwealth's petition for review and lifted the temporary stay, although again, it did not issue an opinion explaining its reasoning.

The Commonwealth immediately applied for an emergency stay in this Court, indicating it would shortly be filing a petition for review or for allowance of appeal, requesting full merits review of the issues raised therein. This Court granted a temporary stay by single-Justice order pending referral to the full Court.

Instead of filing a petition for review or a petition for allocatur, the Commonwealth filed papers styled as an Application for Relief, alleging the bail court erred in several material respects by granting release on bail; positing that the issues involved here are likely to be repeated in other cases; and requesting that this Court resolve them on the merits. Respondent subsequently filed papers styled as an Application to Expedite

[6] The Opinion is dated January 25, 2023, even though the Superior Court filed its order two days after that date. The Commonwealth explains this apparent discrepancy by observing that the bail court issued an opinion in conjunction with its January 25 order and then supplied the same opinion on January 30 in response to the Superior Court's directive. *See* Brief for Commonwealth at xxiii.

Review and Lift Temporary Stay, asking this Court to expedite our review, deny the Commonwealth's Application for Relief, and lift the temporary stay.

By order of the full Court, we granted Respondent's request to expedite review but denied his request to lift the temporary stay. We also granted the Commonwealth's application for relief in part. Specifically, we assumed jurisdiction pursuant to 42 Pa.C.S. § 726 (relating to extraordinary jurisdiction),[7] directed the parties to brief the following issues, and denied the Application for Relief in all other respects:

> 1. To what extent do the holdings in *Commonwealth v. Talley*, 265 A.3d 485 (Pa. 2021), apply where the Commonwealth opposes bail on the basis that the defendant has been accused of a crime for which the maximum sentence is life imprisonment?
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> 2. What types of evidence may a bail court consider in resolving whether the Commonwealth has met its burden under Article I, Section 14 of the Pennsylvania Constitution? A subsidiary issue is whether a stipulation of facts may be so considered, and whether Respondent's alleged withdrawal of the stipulation in this matter precluded such consideration.

Commonwealth v. Yard, No. 11 MM 2023, Order at 1-2 (Pa. July 24, 2023) (*per curiam*).

The parties have now filed their briefs. Additionally, the Attorney General of Pennsylvania and the Pennsylvania District Attorneys Association have filed a joint amicus brief supporting the Commonwealth, while the Defender Association of Philadelphia and the Public Defenders Association of Pennsylvania have filed a joint amicus brief supporting Respondent. The matter is now ready for disposition.

In *Talley* we acknowledged that Article I, Section 14 of our organic law, quoted above, establishes a right to bail except in relation to (1) a defendant accused of

[7] "Notwithstanding any other provision of law, the Supreme Court may, on its own motion or upon petition of any party, in any matter pending before any court or magisterial district judge of this Commonwealth involving an issue of immediate public importance, assume plenary jurisdiction of such matter at any stage thereof and enter a final order or otherwise cause right and justice to be done." *Id*.

committing a capital offense (the capital-offense exception), (2) a defendant accused of committing an offense that carries a maximum sentence of life imprisonment (the life-offense exception), and (3) a defendant who presents a danger to any person and the community that cannot be abated with available bail conditions (the dangerousness exception). *See Talley*, 265 A.3d at 513. *Talley* dealt only with the dangerousness exception. We held that the phrase "proof is evident or presumption great" – an evidentiary limitation that clearly applies to the dangerousness exception as it is the last exception in the list – requires courts to undertake a qualitative and quantitative assessment of the evidence at the bail hearing, and that the Commonwealth bears a burden of production and persuasion that falls somewhere between a *prima facie* case and proof beyond a reasonable doubt. *See id*. at 520, 522.

Some of *Talley*'s language reflects that this Court assumed the proof/presumption limitation applies to all three exceptions. *See id*. at 513. Other passages limit the actual holding of that decision to the dangerousness exception. *See id*. at 525 ("Accordingly, we hold that when the Commonwealth seeks to deny bail due to the alleged safety risk the accused poses," the Commonwealth must demonstrate "that it is substantially more likely than not that (1) the accused will harm someone if he is released and that (2) there is no condition of bail within the court's power that reasonably can prevent the defendant from inflicting that harm.") (emphasis omitted). In any event, and as noted, only the dangerousness exception was before the Court in *Talley*. The issue of whether the proof/presumption limitation also applies to the first two exceptions was not before us and, as such, we did not conduct an analysis of that aspect of the constitutional text. In light of the issues we accepted for review, we must do so now.

As quoted above, the language qualifying the constitutional right to bail consists of disjunctive language containing three elements, followed by an evidentiary limitation:

> unless for capital offenses or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community *when the proof is evident or presumption great*[.]

PA. CONST. art. I, § 14 (emphasis added). The question is whether the evidentiary limitation reflected in the emphasized text above applies only to the last element of the disjunctive list, *i.e.*, the dangerousness exception, or to all three exceptions.

The "polestar" of this Court's constitutional interpretation is the language of the provision at issue. *In re Bruno*, 101 A.3d 635, 659 (Pa. 2014). The general rules governing the interpretation and construction of statutes also apply to the interpretation of constitutional provisions. *See Smith v. City of Phila.*, 516 A.2d 306, 309 n.3 (Pa. 1986) (citing *Montgomery v. Martin*, 143 A. 505, 507 (Pa. 1928)); *Perry Cty. Tel. & Tel. v. Pub. Svc. Comm'n*, 108 A. 659, 660 (Pa. 1919). Under those rules, when the constitutional text is unambiguous, its plain meaning is given effect. *See Walsh v. Tate*, 282 A.2d 284, 288 (Pa. 1971). Where the text is ambiguous, however, its meaning may be ascertained by reference to principles of statutory construction as well as evidence probative of the connotation intended by those who drafted the provision and by the voters who approved it. *See Bruno*, 101 A.3d at 659-60.

It is often true, when the text under review consists of a list of items followed by a qualifier, that the text is ambiguous. This is because it is reasonably possible for the qualifier to apply to all members of the list, or only to the last one. To take a simple example, consider the phrase, "judges and law clerks who play chess." It is not readily apparent from the text alone whether the restrictive clause, "who play chess," is meant to apply only to law clerks, or to judges and law clerks. The qualified list is therefore ambiguous. *See generally Trizechahn Gateway LLC v. Titus*, 976 A.2d 474, 483 (Pa. 2009) (explaining an ambiguity exists when there are at least two reasonable interpretations of the text).

The text in this matter, however, is not of that character. The disjunctive list consisting of the capital-offense exception, the life-offense exception, and the dangerousness exception is different from a list of the form "*unless a or b or c where some condition holds true*." There is another "unless" interposed between 'b' and 'c'. Thus, to re-quote Section 14's text with a different emphasis, it reads:

> All prisoners shall be bailable by sufficient sureties *unless* for capital offenses or for offenses for which the maximum sentence is life imprisonment ***or unless*** no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great[.]

PA. CONST. art. I, § 14 (emphasis added). The second "unless," bolded above, breaks the disjunction into two parts: the first two items, which are separated only by the word "or," followed by the third item which is preceded by "or unless." *See generally* Brief for *Amici* Pennsylvania Attorney General and Pennsylvania District Attorneys Association, at 5-6 (highlighting this feature of the text). Under the ordinary rules of English grammar,[8] the presence of this second "unless" clarifies that the evidentiary limitation appearing at the end ("when the proof is evident or presumption great") only modifies the immediately preceding phrase. It does not reach back to modify other phrases that appear before the words, "or unless." If that were the intended meaning, it would be difficult to explain why the first two items in the list are separated only by the word "or," whereas the second and third items are separated by "or unless."[9]

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[8] "[A] widely accepted method of statutory construction is to read and examine the text of the statute and draw inferences concerning its meaning from its composition and structure." *State v. Flynn*, 464 A.2d 268, 271 (N.H. 1983) (citing 2A Sutherland, STATUTES & STATUTORY CONSTRUCTION § 47.01 (Sands ed. 1973)).

[9] To put this in technical terms, "unless" is a subordinating conjunction, the purpose of which is to clarify, limit, or otherwise modify the independent clause to which it is attached, *see* Morton S. Freeman, THE GRAMMATICAL LAWYER, 303 (ALI-ABA Committee on Continuing Prof'l Educ. 1979), which in this matter states that all prisoners shall be (continued…)

There was, perhaps, one other way the General Assembly could have signaled that the proof/presumption constraint was intended to apply to all three exceptions: if it had placed a comma before the constraint as in: "unless a or b, or unless c**,** where the condition holds true." While this phrasing would have been a bit awkward, it at least could have suggested the conditional limitation applied to all three preceding items. As the Supreme Court has explained, a "qualifying phrase separated from antecedents by a comma is evidence that the qualifier is supposed to apply to all the antecedents instead of only to the immediately preceding one." *Facebook, Inc., v. Duguid*, 592 U.S. 395, 403-04 (2021) (quoting William N. Eskridge, Jr., Interpreting Law: A Primer on How to Read Statutes and the Constitution 67-68 (2016)). The Second Circuit recently highlighted this principle when interpreting a federal bail statute with a structure analogous to Section 14. *See United States v. Dai*, 99 F.4th 136 (2d Cir. 2024). The enactment at issue in *Dai* permitted the Government to seek pretrial detention of a defendant charged with

> a crime of violence, a violation of [18 U.S.C. §] 1591, or an offense listed in [18 U.S.C. §] 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed.

18 U.S.C. § 3142(f)(1)(A). Dai had allegedly threatened violence against Jewish students at Cornell University, and he was charged under 18 U.S.C. § 875(c) (relating to interstate communications), which the Government argued was a "crime of violence" for Section 3142(f)(1)(A) purposes. The Government accordingly sought to detain Dai pretrial. Dai did not dispute he had been charged with a crime of violence. His argument was that he could not be detained because the crime did not carry a prescribed maximum term of at least 10 years. The sole issue before the court was whether the maximum-sentence

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bailable. The crucial point is that this portion of Section 14 in fact contains two separate dependent clauses. The second dependent clause, which is preceded by "or unless," is the only one containing an evidentiary limitation. As such, that limitation only applies to the subject of that dependent clause – the dangerousness exception.

limitation appearing in the statute applied only to the last element in the list, or to all three. The court determined it only applied to the last element, *i.e.*, offenses listed in 18 U.S.C. § 2332b(g)(5)(B). The court explained:

> Reading "10 years or more" to apply only to the phrase to which it is attached is consistent with the statute's punctuation. No comma separates the phrase from the third category of offenses, which suggests that the two are directly connected.

Id. at 139 (citing *Facebook*, 592 U.S. at 403-04).

We must assume that in drafting the constitutional amendment, the Legislature carefully considered the precise wording and its meaning under standard English usage. If that body had intended a meaning whereby the evidentiary limitation would apply to all three exceptions, it would not have used the specific wording reflected above; instead, it would have separated each pair of items in the list by the exact same disjunction. In this respect, the reading favored by Respondent would require us to delete the second "unless," which we are not permitted to do. The Legislature could alternatively have added a comma between the list and the limiting clause, but it chose not to.[10]

Still, Respondent argues that the plain English statement drafted by the Attorney General in connection with the ballot question for the 1998 amendment, *see* 25 P.S. § 2621.1, reflected that the proof/presumption constraint would apply to all three exceptions to the bail right. *See* Brief for Respondent at 9-10. He contends the statement

[10] We also observe that 11 years after Section 14 was amended, the General Assembly construed the text in accordance with our present interpretation. *See* Act of Aug. 27, 2009, P.L. 376, No. 39. Act 2009-376 amended the statutory right-to-bail provision to read as follows: "All prisoners shall be bailable by sufficient sureties, unless: (1) for capital offenses or for offenses for which the maximum sentence is life imprisonment; or (2) no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great." 42 Pa.C.S. § 5701. We do not suggest we are bound by such interpretation; we only note that the same branch of our government that drafted the constitutional amendment ultimately interpreted its own work in the same way we do today.

should take precedence over a strict grammatical construction of the provision because "the emphasis in constitutional construction is upon the intent of the ratifying citizenry." *Id*. at 8 (quoting *Bruno*, 101 A.3d at 660). *Amici* Defender Association of Philadelphia and the Defender Association of Pennsylvania also highlight the plain English statement, and they add that in *Grimaud v. Commonwealth*, 865 A.2d 835 (Pa. 2005), this Court rejected a challenge to the sufficiency of the statement's explanation of the amendment's purposes. *See* Brief at 9 (citing *Grimaud*, 865 A.2d at 843-44).

While a review of the Attorney General's plain English statement does give us pause,[11] the passage in *Bruno* on which Respondent relies does not indicate the unambiguous text of a constitutional provision should be subordinated to the statement drafted by the Attorney General. It suggests, rather, that there are limits on the value of the debates and other legislative history leading up to the final wording of the amendment. *See Bruno*, 101 A.3d at 660 (explaining that "reliance upon legislative history, especially those statements memorializing the intent of individual framers, is particularly suspect in a constitutional context because the emphasis in constitutional construction is upon the

[11] That statement indicated: "The proposed amendment would have two effects. First, it would require a court to deny bail when the proof is evident or presumption great that the accused committed a crime punishable by death or life imprisonment. Second, it would require a court deciding whether or not to allow bail in a case in which the accused is charged with a crime not punishable by death or life imprisonment to consider not only the risk that the accused will fail to appear for trial, but also the danger that release of the accused would pose to any person and the community." Statement of the Attorney General Regarding Joint Resolution 1998-1, *reprinted in* 28 Pa. Bull. No. 33, at 3925 (Aug. 15, 1998).

The Ballot Question drafted by the Secretary of the Commonwealth (with the Attorney General's approval), *see* 25 P.S. § 2755, was similar. It asked: "Shall the Pennsylvania Constitution be amended to disallow bail when the proof is evident or presumption great that the accused committed an offense for which the maximum penalty is life imprisonment or that no condition or combination of conditions other than imprisonment of the accused will reasonably assure the safety of any person and the community?" Ballot Question Regarding Joint Resolution 1998-1, *reprinted in* 28 Pa. Bull. No. 33, at 3925 (Aug. 15, 1998).

intent of the ratifying citizenry"); *cf. Commonwealth v. Lynn*, 114 A.3d 796, 827 (Pa. 2015) (acknowledging that when the words of a statute are explicit, legislative history is of no moment).

As for Amici's reliance on *Grimaud*, the analysis in that matter dealing with the Attorney General's statement centered on whether it was sufficient to explain the purpose and effect of the amendment. The challengers in *Grimaud* claimed it left out information concerning potential impacts upon other aspects of the state Charter, and additionally, that the electorate should have been told that flight risk constitutes the most important reason for preventative detention. This Court rejected those arguments, noting the statement need not provide an in-depth or comprehensive treatment of how a proposed amendment would affect the public. *See Grimaud*, 865 A.2d at 843 ("The Attorney General is to present a 'statement,' not a treatise."). Because the specific interpretive question presently before this Court was not raised in *Grimaud*, that decision's description concerning the statement's sufficiency has no impact on the instant controversy. In all events, it bears noting that in 1998, after both houses of the legislative branch had agreed to the amending language during two consecutive Assemblies as required by the amendment process, *see* PA. CONST. art. XI, § 1, the Secretary of the Commonwealth published that language in at least two newspapers in every county, as also required by that process. *See* 28 Pa. Bull. No. 33, at 3925 (Aug. 15, 1998) (reflecting such publication). These notices clearly informed the voters what the final wording of Section 14 would be should they approve the amendment.

Ultimately, then, we are left with a state of affairs in which the text of the amendment, the ballot question, and the plain English statement were all publicized to the voting public, and the matter proceeded to a public vote notwithstanding that some tension subsisted between the amendment's actual text as approved by the Legislature

and the descriptions formulated by Executive branch officials. A majority of the voters approved the amendment and there is simply no way to know what materials each of them had read or what exactly was in their minds when they made their decision. But none of that detracts from the fact that the text of the amendment unambiguously limits the proof/presumption qualifier to the dangerousness exception, as developed above. Under these circumstances, we are not at liberty to contradict the evident meaning of the constitutional text on the grounds that some (but not all) of the information put before the voters suggested a different meaning. Ultimately, when the text of the constitutional provision under review is unambiguous, as it is here, it is the plain language itself which functions as our "polestar." *Zauflik v. Pennsbury Sch. Dist.*, 104 A.3d 1096, 1124 (Pa. 2014) (quoting *Bruno*, 101 A.3d at 659).

Accordingly, we hold that the proof/presumption limitation does not apply to the life-offense exception to the right to bail as reflected in Article I, Section 14 of the Pennsylvania Constitution. As a consequence, in the wake of the 1998 amendment, when a defendant is charged with an offense for which the maximum sentence is life imprisonment the Constitution categorically precludes release on bail.[12] The common pleas court's January 25, 2023, order granting Respondent's motion for release on nominal bail is vacated and the matter is remanded to that court for further proceedings consistent with this opinion.[13]

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[12] This holding moots out the second question framed for our consideration.

We add, as well, that nothing herein speaks to any means a defendant might have to challenge the validity of the charge – for example, via a petition for a writ of *habeas corpus*. *See Commonwealth v. Hock*, 728 A.2d 943, 945 n.2 (Pa. 1999); *accord* Brief for Amici Office of Attorney General of Pennsylvania and Pennsylvania District Attorneys Ass'n, at 9. The only task we have undertaken is a textual analysis of Article I, Section 14 of the Pennsylvania Constitution, as that provision was amended in 1998.

[13] Respondent's Application to Expedite Review and Lift Temporary Stay is dismissed as moot.

Justices Dougherty, Wecht, Brobson and McCaffery join the opinion.

Justice Wecht files a concurring opinion.

Chief Justice Todd files a dissenting opinion in which Justice Donohue joins.

Justice Donohue files a dissenting opinion in which Chief Justice Todd joins.