

**IN THE COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY, PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	
Respondent,	:	
	:	
v.	:	Nos. 1357-1359 (1981)
	:	Honorable Leon W. Tucker
	:	
	:	
MUMIA ABU-JAMAL,	:	
	:	
Petitioner.	:	

**PETITIONER, MUMIA ABU-JAMAL’S REPLY
TO THE COMMONWEALTH’S SUPPLEMENTAL RESPONSE TO HIS AMENDED
PETITION FOR HABEAS CORPUS RELIEF PURSUANT TO ARTICLE I, SECTION
14 OF THE PENNSYLVANIA CONSTITUTION AND STATUTORY POST-
CONVICTION RELIEF UNDER 42 Pa.C.S. § 9542 et seq.**

Petitioner respectfully submits the following in reply to the Commonwealth’s Supplemental Response [CSR] to his Amended Petition for post-conviction relief.

In his Amended Petition, Mr. Abu-Jamal demonstrated that federal and Pennsylvania law required Justice Castille to recuse himself from his prior PCRA appeals, and that Justice Castille’s failure to do so requires the reinstatement of those appeal rights. The Commonwealth’s contrary arguments are premised on its failure to acknowledge: (a) the legal principles established by *Williams v. Pennsylvania*, 136 S. Ct. 1899 (2016), and other controlling precedent, and (b) the key facts uncovered for the first time in these proceedings. In addition, the Commonwealth’s acknowledgment that there were “approximately additional 193 boxes” it overlooked in its prior search—9 of which it still cannot find—underscores the need for this

Court to draw an adverse inference from its failure to comply with this Court's order to produce the missing memo from Mr. Castille to Gaelle Barthold.

I. Significant Personal Involvement in a Critical Decision Is Not Limited to the Decision to Seek Death.

The Commonwealth places undue emphasis on the fact that Ronald Castille was not the elected District Attorney when that Office authorized seeking the death penalty against Mr. Abu-Jamal, suggesting that absent such involvement *Williams v. Pennsylvania* is inapplicable. See CSR at 6-7, 11, 18. In arguing that the missing memo from Mr. Castille to Gaelle Barthold is unlikely to reveal his personal involvement in a critical decision in Petitioner's case, the Commonwealth goes so far as to assert: "Nor, in fact could Castille possibly have had such significant, personal involvement in such a critical decision since the decision to authorize seeking the death penalty was Rendell's and *there was no other critical decision that was or could have been made while Castille was DA.*" CSR at 17-18 (emphasis supplied). This is not the law of *Williams*, however, which in no way limited its holding to its facts. On the contrary, the Court expressly stated: "A prosecutor may bear responsibility for any number of critical decisions, including what charges to bring, whether to extend a plea bargain, and which witnesses to call." *Williams*, 136 S. Ct. 1899, 1907 (2016). The Court elaborated:

Even if decades intervene before the former prosecutor revisits the matter as a jurist, the case may implicate the effects and continuing force of his or her original decision. In these circumstances, there remains a serious risk that a judge would be influenced by an improper, if inadvertent, motive to validate and preserve the result obtained through the adversary process. The involvement of multiple actors and the passage of time do not relieve the former prosecutor of the duty to withdraw in order to ensure the neutrality of the judicial process in determining the consequences that his or her own earlier, critical decision may have set in motion. *Id.*

The reality for Mr. Abu-Jamal was that D.A. Ronald Castille wrote to the Governor urging him to sign death warrants in order to send a message to police killers

and to motivate them to conduct post-conviction litigation earlier in order to accelerate the process leading up to execution. Then, just a few years later, Mr. Abu-Jamal was forced to litigate his post-conviction claims for relief before Justice Ronald Castille. As a Supreme Court Justice, voting in favor of Mr. Abu-Jamal's claims would have led to a re-trial or a new penalty phase or both, with significant delay to the State's ability to carry out an execution of a convicted police killer. The conflict of interest is glaring and fulfills the *Williams* Court's definition of a due process violation.

II. The Commonwealth Has Mischaracterized the Nature of Mr. Castille's June 15, 1990 Letter to Governor Casey.

In its Response, the Commonwealth describes Castille's June 15, 1990 letter to the Governor as, "Castille's request as the DA that Governor Casey sign death warrants in seventeen cases where the appeal had concluded and the defendant had not yet filed for collateral review, not just cases where the defendant killed a police officer." CSR at 13. This characterization is repeated as part of the Commonwealth's argument that Justice Castille did not have a disqualifying bias against litigants in police killing cases. *See* CSR at 20. But, the letter to Governor Casey has two distinct purposes, and the request for death warrants in sixteen cases not involving police killings was the second of two distinct points made in the letter.

The first point on page one of the letter and the point most relevant here is Mr. Castille's urging the Governor to "send a clear and dramatic message to all police killers that the death penalty in Pennsylvania actually means something." Ex. 6 to Amended PCRA Petition, 7/9/18. He asked Governor Casey to send this particular message to "all police killers" by immediately signing a death warrant for convicted "police killer" Leslie Beasley. On page two of the letter, Mr. Castille reveals the second purpose of his writing by saying, "My additional purpose in now contacting you is to identify for you the Philadelphia County death row inmates who have

completed the direct appeal process and had their death sentences affirmed, but who have not initiated collateral review proceedings.” *Id.*

Thus, this is not a letter in which the idea of sending a message to police killers is merely incidental to asking for seventeen death warrants to be signed in a variety of death cases. Rather the leading point Mr. Castille communicated was that police killer Leslie Beasley’s case was ripe for a death warrant and the Governor should sign a warrant to send a message to “all police killers.” *Id.* At the time, Mr. Beasley and Mr. Abu-Jamal were two of only three defendants sentenced to death for killing a police officer. *See* Amended PCRA Petition ¶ 30 & n.10. Contrary to the Commonwealth’s characterization, this was not a one subject letter about seventeen cases. Instead it was about sending a message to “all police killers” through Mr. Beasley’s case, with the additional request about sixteen other cases needing signed death warrants.

III. The Commonwealth Is Wrong in Asserting that Mr. Abu-Jamal’s Case Was Nothing More than One Case Among Many Going Through a Routine Direct Appeal Process.

In its Response, the Commonwealth claims that during Mr. Castille’s tenure as D.A. when Mr. Abu-Jamal’s case was “winding its way through the routine direct appeal process,”¹ CSR at 7, “the defendant’s case was merely one of seventy-two cases on a list of capital cases pending in the office.” CSR at 17. This echoes Justice Castille’s claim in his 1998 opinion denying recusal that Mr. Abu-Jamal’s case was “but one of the hundreds of thousands” his office handled, and that it was, “virtually impossible for any duly-elected District Attorney administering such a caseload to be personally familiar with the details of each and every

¹ It is safe to say that in Pennsylvania, no capital case goes through a merely routine direct appeals process. Pursuant to statute, every capital conviction must be automatically reviewed by the Supreme Court of Pennsylvania. 42 Pa.C.S. § 9711(h)(1).

criminal case and appellate proceeding prosecuted by the over 225 Assistant District Attorneys, Chiefs, or Deputy District Attorneys employed in that office.” *Commonwealth v. Abu-Jamal*, 553 Pa. 569, 573-74 (1998). Similarly, the Commonwealth argues that even though a former Philadelphia A.D.A. stated that Mr. Castille was directly involved in high profile death penalty cases, since he did not mention Mr. Jamal’s case by name, his case may not have been one of them. *See* CSR at 11 n. 4. Just as the Supreme Court discounted Mr. Castille’s efforts to distance himself from Terry Williams’s case in *Williams*, 136 S. Ct. at 1907, the evidence makes clear that this Court should discount such efforts here.

The extraordinary high profile this case has commanded for decades in Philadelphia, the United States and in many other parts of the world, is undeniable. *See* Amended PCRA Petition ¶¶ 14, 28, 37; *see also Commonwealth v. Weinglass*, 455 Pa. Super. 680, Memorandum Opinion at 1 (1996). That must not be left out of the assessment of Mr. Castille’s personal involvement. It supports an inference that to Mr. Castille the case against Mumia Abu-Jamal was not just one of many routine cases the office was litigating, and that he would have taken a greater interest in it as part of the direct appeal process. The need for this Court to draw inferences is especially crucial here where despite the Court’s broad Discovery Orders, documents that the parties agree existed have not been located, inter-office communications regarding important cases were either not documented or if documented, improperly filed. In fact, the Commonwealth candidly acknowledged that there had been, “poor record keeping in the District Attorney’s Office.” Commonwealth’s Third Supplemental Verification, 8/15/18 ¶ 4.

This inference is also confirmed by what the Commonwealth has disclosed for the first time in these proceedings. We know now that Mr. Castille took a particular interest in cases involving “police killers.” In 1998, this case was one of just three involving a Philadelphia

defendant on death row for the killing of a police officer. *See* Amended PCRA Petition ¶ 30 n.10. The Commonwealth’s characterization of Mr. Abu-Jamal’s case as “routine” and its suggestion that the case would have been of no particular interest to Mr. Castille are not credible.

IV. The Commonwealth’s Adverse Inference Argument Is Untenable.

As explained in Mr. Abu-Jamal’s petition, the Commonwealth’s inability to comply with this Court’s order to produce the missing memo from Mr. Castille to Ms. Barthold supports an adverse inference that the contents of that memo would be unfavorable to the Commonwealth’s position in these proceedings. *See* Am. Pet. ¶ 26(f), pp. 20-24. Although the Commonwealth had previously argued that no such inference could be drawn absent a finding of bad faith, *see id.* at 21, it correctly abandons that argument in its Response.

Indeed, the Commonwealth appears to acknowledge that, under Pennsylvania law, this Court is permitted to draw an adverse inference from its failure to comply with this Court’s order and produce the missing memo. *See* SCR at 16 (recognizing that the remedy for spoliation is that “an adverse inference may be drawn”).² It contends, however, that the Court should not draw such an inference because “the most likely scenario is that in the memo referenced in Barthold’s response, Castille had simply requested a status update of all captive capital cases in light of the Blystone decision – not that he had inquired into any specific case.” SCR at 17.

² To the degree the Commonwealth suggests it was not on notice that the memo could be relevant to litigation, *see* SCR at 16, it is wrong. Mr. Abu-Jamal and the Commonwealth have been engaged in litigation for most of the last thirty years, and the memo is clearly relevant to Mr. Abu-Jamal’s motion to recuse Justice Castille—which he first raised in 1996. Indeed, the Commonwealth appears to have understood its duty to preserve the memo as it preserved the document to which the missing memorandum was attached.

The Commonwealth is not able to cite a single case in support of this assertion, because it is not how the law of adverse inferences works. “The doctrine of spoliation attempts to compensate those whose legal rights are impaired by the destruction of evidence.” *Duquesne Light Co. v. Woodland Hills School Dist.*, 700 A.2d 1038, 1050 (Commonwealth Ct. 1997). Here, as explained in his Amended Petition, Mr. Abu-Jamal has been prejudiced by the Commonwealth’s failure to produce this memorandum. An adverse inference is in fact a mild sanction given the prejudice to Mr. Abu-Jamal and the lack of other evidence regarding its contents. *See* Amended PCRA Petition at pp. 23-24. Nothing in the law of spoliation suggests that the Commonwealth may avoid this sanction by speculating about what the missing evidence would show.

In any event, there is nothing obvious about the “scenario” the Commonwealth posits as the “most likely.” SCR at 17. The missing memorandum appears to have been a first step toward the June 15, 1990 letter Mr. Castille wrote the Governor. As discussed *supra*, in that letter, Mr. Castille specifically urged the Governor to “send a clear and dramatic message to all police killers that the death penalty in Pennsylvania actually means something.” Ex. 6 to Amended PCRA Petition. It is therefore perfectly reasonable to infer that Mr. Castille wrote specifically about “police killer” cases in the missing memorandum he sent to Ms. Barthold. Mr. Abu-Jamal’s was one of only three such cases, and the most high-profile among them.

Indeed, the Commonwealth’s current argument about the insignificance of the missing memorandum is refuted by its own approach to this litigation. In January, the Commonwealth recognized that the missing memorandum could be “dispositive” as to its position on *Williams* relief, and it obtained a two-month continuance while it assigned a paralegal to search full-time for the memo. *See* Amended PCRA Petition at pp. 23-24. With no new information about the

memo's contents, the Commonwealth cannot now say that the Court should not draw an adverse inference because the memo is irrelevant to Mr. Castille's role in this case.

Finally, the Commonwealth's response strengthens the force of the adverse inference because it raises serious concerns about what other documents may be missing. On April 27, 1990, the Commonwealth informed Mr. Abu-Jamal and this Court that it had completed its "exhaustive search" of the case files for the cases identified in Ms. Barthold's March 27, 1990 memo to Mr. Castille but that it could not find the missing memo. The Commonwealth did produce an earlier draft of the June 15, 1990 letter Mr. Castille sent the Governor, but it did not produce any other letters from Mr. Castille to the Governor. Undersigned counsel, however, subsequently found a newspaper article referring to a letter Mr. Castille sent to Governor Casey about the case of Gary Heidnik, and brought this to the Commonwealth's attention. Counsel for the Commonwealth responded by stating that this email led the Commonwealth to "discover that 3 of the [Heidnik] boxes had been stored in a different location and were mistakenly not part of our initial review," and that "[o]ur oversight on this has resulted in" a further search for relevant files. Ex. 1 attached hereto (7/24/18 e-mail from Kavanaugh to Spital). Counsel for the Commonwealth wrote a follow-up email on August 1 stating that two paralegals in their office "determined that 168 additional boxes were likely missed in the initial search," and that all but 10 had since been located. Ex. 2 attached hereto (8/1/18 e-mail from Kavanaugh to Spital). Then, in its response filed with this Court, the Commonwealth acknowledged that "the initial search missed 193 boxes," of which 13 had still not been located. CSR 5 n.1. The Commonwealth then filed a verification stating that "approximately 193 additional boxes were overlooked in the initial search," 9

of which still have not been found. Third Supplemental Verification ¶ 4. In light of the “poor record keeping in the District Attorney’s Office,” *id.*, there is simply no way to know what else, beyond the missing memo from Mr. Castille to Ms. Barthold, may still be missing.

V. A Significant Minority of the Lay Community Would Reasonably Question Justice Castille’s Impartiality.

As the Commonwealth appears to recognize, Mr. Abu-Jamal’s PCRA appeal rights must be reinstated under Pennsylvania law if, in light of the evidence disclosed in these proceedings, “a significant minority of the lay community [would] reasonably question [Justice Castille’s] impartiality.” SCR at 19 (quoting *Commonwealth v. Darush*, 459 A.2d 727, 732 (1983)). Similarly, under the “stringent” federal constitutional standard, Mr. Abu-Jamal’s PCRA appeal rights must be reinstated if, based on a “realistic appraisal of psychological tendencies and human weakness,” there was an “unconstitutional potential for bias.” *Echavarria v. Filson*, 896 F.3d 1118, 1131 (9th Cir. 2018) (quoting *Caperton v. Massey Coal Co.*, 556 U.S. 868, 881, 883 (2009), and *In re Murchison*, 349 U.S. 133, 136 (1955)) (additional citations omitted).

For the reasons stated in Mr. Abu-Jamal’s amended petition, these standards are satisfied. In his June 15, 1990 letter to the Governor, Mr. Castille singled out one—and only one—category of cases that he was particularly interested in, *viz.*, cases involving “police killers.” As discussed, Mr. Castille specifically asked Governor Casey to “send a clear and dramatic message to all police killers that the death penalty in Pennsylvania actually means something,” at a time when Mr. Abu-Jamal was one of only three convicted “police killers” from Philadelphia on death row. A reasonable observer would question Mr. Castille’s ability to judge “police killer” cases impartially when he had previously singled out that narrow “class of cases” for disfavor. *Commonwealth v. Bryant*, 328 Pa. Super. 1, 5 n.1 (1984); accord *Commonwealth v. Rhodes*, 990 A.2d 732, 748 (Pa. Super. 2009); *Commonwealth v. Lemanski*, 365 Pa. Super. 332, 338 (1987).

The Commonwealth makes no effort to address this legal standard or explain why it is not satisfied. It contends that *Rhodes* and *Lemanski* are factually distinguishable because the bias in those cases arose from comments the judge made as a judge, rather than prior to assuming the bench. *See* SCR 21-22. But that cuts in Mr. Abu-Jamal’s favor, not the Commonwealth’s. As explained in the amended petition, courts are more reluctant to find disqualifying bias based on opinions formed by a judge in the course of judicial proceedings. *See* Am. Pet. ¶ 40 (citing *Liteky v. United States*, 510 U.S. 540, 555 (1994)); *Commonwealth v. Druce*, 848 A.2d 104, 109 n.3 (Pa. 2004); *see also Commonwealth v. Darush*, 459 A.2d 727, 731-32 (1983) (recognizing that a “significant minority of the lay community could reasonably question the judge’s impartiality” based on statements he made prior to becoming a judge); *Case of Snyder*, 301 Pa. 276, 289 (1930) (statements by judge prior to ascending the bench supported recusal).

The Commonwealth also cites then-Justice Rehnquist’s single-Justice opinion in *Laird v. Taitum*, 409 U.S. 824, 831 (1972), but that opinion is not to the contrary. In *Laird*, Justice Rehnquist declined to disqualify himself simply because a case involved a “point of law” on which he had previously expressed an opinion. *Id.* Here, the issue is not whether Mr. Castille had formed a view about some “point of law” prior to ascending the bench. It is his having singled out a narrow class of criminal defendants to whom he wanted to “send a clear and dramatic message” when he was District Attorney.

And, to be clear, there is no doubt Mr. Castille would have been subject to recusal under then-Justice Rehnquist’s opinion in *Laird*, as Justice Rehnquist recognized that a former “Justice Department official is disqualified [from later serving as a judge in the same case] if he either signs a pleading or brief or ‘if he actively participated in any case even though he did not sign a pleading or brief.’” *Id.* at 829 (citation omitted). Here, by

Mr. Castille’s own account, he was involved with Mr. Abu-Jamal’s case on direct appeal. *See* Amended PCRA ¶ 26(a) (quoting Mr. Castille’s recent statement that “I didn’t have anything to do with [the case] until it went up on appeal”) (emphasis added). In its response, the Commonwealth seeks to recharacterize Mr. Castille’s statement as actually meaning that he “did not become DA until defendant’s case already pending on direct appeal.” SCR at 8. But that is not what Mr. Castille said, and the Commonwealth offers no evidence to support its gloss on his statement. It is also undisputed that Mr. Castille signed briefs in Mr. Abu-Jamal’s case, which in and of itself would require recusal under Justice Rehnquist’s opinion in *Laird*. *See* 409 U.S. at 831.

In the end, the Commonwealth can only reject Mr. Abu-Jamal’s judicial bias claim by failing to apply the governing legal standard. It asserts that the June 15, 1990 letter from Mr. Castille is to Governor Casey “is not proof that Castille would have a . . . bias against defendants convicted of killing a police officer years later when he sat as a justice.” SCR at 22. But that is not the question. As the Commonwealth itself recognizes earlier in its brief, the question instead is whether a “significant minority of the lay community” would reasonably question Justice Castille’s impartiality in “police killer” cases, when, as District Attorney, he singled out those cases—and only those cases—as ones in which the Governor should send a “clear and dramatic message . . . that the death penalty in Pennsylvania actually means something.” Ex. 6 to Amended PCRA Petition.

Far from “being but one of the hundreds of thousands” of cases Justice Castille said it was in 1998, 720 A.2d at 123, we now know that Mr. Abu-Jamal’s case was one of only a handful of cases that Justice Castille had singled out as wanting to send a message to about the “death penalty actually mean[ing] something” when he was District Attorney. Taking into

account a “realistic appraisal of psychological tendencies and human weakness,” *Caperton*, 556 U.S. at 883, a reasonable observer would question whether Justice Castille would be predisposed to ensure that the death penalty did in fact mean something by voting to deny relief on Mr. Abu-Jamal’s PCRA claims.

VI. Conclusion

For the foregoing reasons, and those stated in his amended petition, Mr. Abu-Jamal respectfully requests that this Court restore Mr. Abu-Jamal’s appellate rights. In the alternative, Mr. Abu-Jamal requests that this Court provide an opportunity to conduct additional discovery and schedule an evidentiary hearing.

Respectfully Submitted,

/s/ Judith L. Ritter

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Counsel for Mumia Abu-Jamal

VERIFICATION

I, JUDITH L. RITTER, verify that the statements made in this document are true and correct to the best of my knowledge. I understand that false statements herein are made subject to penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

DATE: August 23, 2018

/s/ Judith L. Ritter

**JUDITH L. RITTER, ESQUIRE
WIDENER UNIVERSITY-DELAWARE LAW SCHOOL
PENNSYLVANIA CRIMINAL DEFENSE CLINIC
4601 Concord Pike, P.O. Box 7474
Wilmington, DE 19803
(302) 477-2121
Attorney for Petitioner**

CERTIFICATE OF SERVICE

I, JUDITH L. RITTER, ESQ, certify that on August 23, 2018, I served a copy of this Reply upon the Office of the District Attorney, Philadelphia County by electronically filing said Petition with the Philadelphia Courts E-Filing System.

DATE: August 23, 2018

/s/ Judith L. Ritter

**JUDITH L. RITTER, ESQUIRE
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4601 Concord Pike, P.O. Box 7474
Wilmington, DE 19803
(302) 477-2121
Attorney for Petitioner**

Exhibit 1

Samuel Spital

From: Tracey Kavanagh <Tracey.Kavanagh@phila.gov>
Sent: Friday, July 20, 2018 11:35 AM
To: Samuel Spital
Cc: jritter@widener.edu
Subject: Re: additional letter to Governor Casey
Attachments: Mumia.Heidnikletters.pdf

Dear Sam,

Thank you for your email. As you know, I have been out of the country and so I apologize for my delay in responding.

Your email prompted us to re-visit the Gary Heidnik file, which consists of 22 boxes. That, in turn, caused us to discover that 3 of the boxes had been stored in a different location and were mistakenly not part of our initial review. We have now reviewed those 3 boxes and found the attached correspondence, which includes the letter you refer to in your June 28 note, the Office of General Counsel's response to that letter, and related correspondence.

Our oversight on this has resulted in our again attempting to locate any correspondence that then DA-Castille wrote Governor Casey concerning death warrants or Philadelphia capital cases. We are re-checking the most pertinent files, including the files of those individuals whose convictions became final between the time DA-Castille wrote the June 15, 1990 letter and when he left office (March 12, 1991). We anticipate that this review will be completed within the next week and will update you at that time.

Tracey

From: Tracey Kavanagh
Sent: Friday, June 29, 2018 11:31:19 AM
To: Samuel Spital
Subject: Re: additional letter to Governor Casey

Hi Sam-

Just returned from court and am rushing out for a two week vacation out of the country. I will respond as soon as I return.

Tracey

From: Samuel Spital <SSpital@naacpldf.org>
Sent: Thursday, June 28, 2018 10:37:13 AM
To: Tracey Kavanagh
Cc: Judith Ritter
Subject: additional letter to Governor Casey

Hi Tracey,

As you know, the Commonwealth has now produced two letters then-DA Castille wrote Governor Casey asking him to issue death warrants, dated June 15, 1990 and June 21, 1990. Paragraph 6 of the attached filing in Gary Heidnik's case indicates that Mr. Castille wrote another such letter in March 1991. Please confirm that you have not located a copy of that letter, or of any additional letters that then-DA Castille wrote to Governor Casey concerning death warrants or Philadelphia capital cases besides the letters dated June 15, 1990 and June 21, 1990.

Thank you,
Sam

Exhibit 2

Samuel Spital

From: Tracey Kavanagh <Tracey.Kavanagh@phila.gov>
Sent: Wednesday, August 1, 2018 2:14 PM
To: Samuel Spital
Cc: jlritter@widener.edu
Subject: Commonwealth v. Mumia Abu-Jamal

Dear Sam,

I am writing in response to the questions in your July 24th email. We share your concern and are doing our best to ensure that all relevant materials are located and reviewed, which is in both our interests.

Paralegal Ryden Nelson is conducting the extended search. In order to be as certain as we can be that we now have the universe of relevant boxes, a senior paralegal in the PCRA Unit of the DA's Office, Heather Croul, has been assisting him in determining how many other boxes our initial search missed and in locating the missing boxes.

Mr. Nelson and Ms. Croul determined that 168 additional boxes were likely missed in the initial search. To date, all but 10 have been located. Mr. Nelson and Ms. Croul will continue to search for the 10 missing boxes. Mr. Nelson is also currently searching the 158 boxes that were missing from the initial search and have been located.

The boxes in Commonwealth v. Mumia Abu-Jamal have all been accounted for and were part of the initial search.

Mr. Nelson has identified three defendants whose convictions became final between June 15, 1990 and March 12, 1991: Commonwealth v. Simon Pirela, aka Salvador Morales, Commonwealth v. William Basemore, and Commonwealth v. Saharris Rollins. Mr. Nelson reviewed their boxes, which have all been accounted for except for one box in Commonwealth v. Saharris Rollins, and found no letters from DA Castille to Governor Casey asking him to sign their death warrants or otherwise.

Finally, Mr. Nelson contacted the Governor's Office of General Counsel for copies of the letters from DA Castille dated June 15, 1990, June 21, 1990 and March 8, 1991, as well as any correspondence from DA Castille to Governor Casey referencing your client. The Office of General Counsel conducted a search and found the March 8, 1991 Heidnik letter, but did not find any letters from DA Castille to Governor Casey referencing your client. Nor did it find the 6/15/1990 and 6/21/1990 letters.

The Office of General Counsel suggested that we contact the Pennsylvania Historical & Museum Commission where Governor Casey's personal files were submitted for retention. Mr. Nelson is planning to do that and, of course, you are free to do the same.

We will update you on our extended search as soon as we can.

Tracey

Samuel Spital

From: Samuel Spital
Sent: Tuesday, July 24, 2018 9:34 AM
To: 'Tracey Kavanagh'
Cc: jlritter@widener.edu
Subject: RE: additional letter to Governor Casey

Dear Tracey,

Thank you for finding the letter we asked about and for doubling back to see what else might have been missed. We are concerned just as you apparently are that there may be additional letters and drafts of letters to Governor Casey that have not thus far been located. Would you please advise us regarding :

1. who is conducting this extended search
2. what efforts are being made to learn whether there are additional files, like those just found in Heidnik case, for other capital case defendants?
3. might there be files containing correspondence from Mr. Castille in locations aside from individual case files?

Thank you for anticipated responses.

Sam

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