

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

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**21 EM 2019**

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**THE PHILADELPHIA COMMUNITY BAIL FUND, *et al.*,  
*Petitioners,***

**v.**

**ARRAIGNMENT COURT MAGISTRATES OF THE FIRST  
JUDICIAL DISTRICT OF THE COMMONWEALTH  
OF PENNSYLVANIA,  
*Respondents.***

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**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, upon consideration of the Application of Members of the Criminal Defense Bar Who Practice in Montgomery County for Leave to File an *Amicus Curiae* Brief *Nunc Pro Tunc* in Support of Petitioners, it is hereby ORDERED that the Application is GRANTED. The Prothonotary is directed to accept the *amicus curiae* brief attached to the Application for filing.

By the Court:

\_\_\_\_\_  
J.

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**APPLICATION OF MEMBERS OF THE CRIMINAL DEFENSE BAR  
WHO PRACTICE IN MONTGOMERY COUNTY FOR LEAVE TO FILE  
AN *AMICUS CURIAE* BRIEF *NUNC PRO TUNC* IN SUPPORT OF  
PETITIONERS**

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Pursuant to Pa. R.A.P. 531(b)(1)(iii), Applicants, members of the criminal defense bar who practice in Montgomery County, respectfully request relief in the form of leave to file *nunc pro tunc* the attached *amicus curiae* brief. In support of this Application, Applicants aver as follows:

1. The Amended Petition for Extraordinary Relief Under the King's Bench Jurisdiction and resulting Report of the Special

Master involve the important question of the operation of cash-bail practices in the First Judicial District.

2. The issues presented in this case, however, are prevalent in counties throughout the state, including Montgomery County.
3. This Court's enforcement of existing rules that govern cash-bail practices, and clarification of the applicable evidentiary standards and other due process requirements, will directly affect persons accused of crimes in Montgomery County. The standards and procedures applied by the First Judicial District that result from this Petition will also operate as a model for practices in other counties, such as Montgomery County.
4. The Applicants represent individuals at all stages of their criminal proceedings and have a substantial interest in this matter. The law governing bail practices directly affects our clients, their families, and the communities we serve.

5. The Applicants have, collectively, over 300 years of experience representing criminal defendants in Montgomery County.
6. The Montgomery Office of the Public Defender filed its own *amicus curiae* brief in this matter on February 3, 2020, and this Court granted leave and deemed its brief timely filed on February 11, 2020.
7. On February 11, 2020, the Montgomery County Office of the Public Defender filed to withdraw its brief. Then, on February 26, 2020, the Chief and Deputy Chief of the Montgomery County Office of the Public Defender were abruptly fired by the Montgomery County Board of Commissioners, apparently in response to the *amicus* brief in this matter.
8. Applicants have reviewed the Public Defender's *amicus* brief, and, based on the above-referenced experience, believe it to be an accurate representation of the bail practices in Montgomery County.

9. Due to the accuracy of the Public Defender's brief, the retaliation against the Public Defender for filing an accurate brief,<sup>1</sup> the illegal and unconstitutional bail practices in Montgomery County, and the importance of bringing the situation in Montgomery County to the Court's attention, Applicants felt it necessary to submit the attached *amicus* brief.
10. The *amicus* brief submitted by Applicants is substantially the same as the one filed on February 3, 2020, by the Montgomery County Office of the Public Defender.
11. Applicants would not be filing their *amicus* brief this late but for the unique circumstances presented by the Public Defender's withdrawal of its brief and subsequent retaliatory firings.

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<sup>1</sup> "The circumstances surrounding these events raise serious questions about whether public defense in Pennsylvania, especially Montgomery County, is independent and free to advocate openly for the people it is supposed to serve." Norman L. Reimer & Miriam Aroni Krinsky, *Fear of Reprisals Threatens Independence of Public Defenders and Erodes Right to Counsel*, The Legal Intelligencer, posted 4 March 2020 at 1:55 p.m., available at <https://www.law.com/thelegalintelligencer/2020/03/04/fear-of-reprisals-threatens-independence-of-public-defenders-and-erodes-right-to-counsel/>

12. The parties will not be prejudiced by the Court's acceptance of the Applicant's brief *nunc pro tunc* because it is substantially the same as the Public Defender's brief, which was filed over a month ago.

WHEREFORE, members of the criminal defense bar who practice in Montgomery County respectfully request that the Court grant leave to file the attached *amicus curiae* brief *nunc pro tunc* in support of Petitioners.

Respectfully submitted,

/s/ Jason E. Parris

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Date: March 4, 2020

## CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non- confidential information and documents.

*/s/ Jason E. Parris*

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Date: March 4, 2020