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EBONI EL, ANDREW HASKELL, SUNG  
JOO LEE, AKEEM WILLS, CHARLES  
GAMBER, DAVID KRAH on behalf of  
themselves and all persons similarly situated,

*Petitioners,*

V.

38<sup>TH</sup> JUDICIAL DISTRICT, Hon. CAROLYN CARLUCCIO, President Judge (in her official capacity), KATHLEEN SUBBIO, Chief Adult Probation and Parole Officer (in her official capacity), MICHAEL R. KEHS, Court Administrator (in his official capacity), and LORI SCHREIBER, Clerk of Courts (in her official capacity),

*Respondents.*

COMMONWEALTH COURT  
OF PENNSYLVANIA

ORIGINAL JURISDICTION  
No. 376 MD2021

## **PETITIONERS' APPLICATION FOR CLASS CERTIFICATION**

Petitioners Eboni El, Andrew Haskell, Sung Joo Lee, Akeem Wills, Charles Gamber, and David Krah, individually and as representatives of a class of current and future people on probation

or parole in Montgomery County, hereby move pursuant to Pa. R. Civ. P. 1701, *et seq.*, for certification of the following class:

All individuals under the authority of Montgomery County Adult Probation and Parole Department who are now, or will in the future be, accused of committing a “Technical violation” or “Conviction violation” as defined in 204 Pa. Code §307.1(b) (2021) and who did not receive a prompt *Gagnon* I hearing, or any assessment to determine release pending final revocation proceedings that comports with minimum requirements of due process.

In support of this Application, Petitioners rely on their Petition and the Answers thereto, and all accompanying exhibits, as well as the exhibits accompanying this Application, and all other evidence Petitioners will introduce at the hearing to be convened by the Court pursuant to Pa. R. Civ. P. 1707. They seek Class Certification from the Court for all the reasons set forth in the attached Memorandum of Law.

Respectfully submitted,

Date: May 4, 2022

/s/ Lori A. Martin

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### **CERTIFICATION OF COMPLIANCE**

I, Lori A. Martin, certify that his 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.

Date: May 4, 2022

/s/ Lori A. Martin  
Lori A. Martin (PA 55786)



### **CERTIFICATE OF SERVICE**

I, Lori A. Martin, hereby certify that on May 4, 2022, a true and correct copy of the foregoing document entitled Petitioners' Application for Class Certification, together with all supporting materials thereto, was served upon all counsel of record by and through this Court's electronic filing system.

Date: May 4, 2022

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themselves and all persons similarly situated, :

*Petitioners,*

v.

38<sup>TH</sup> JUDICIAL DISTRICT, Hon. THOMAS :  
M. DEL RICCI, President Judge (in his :  
official capacity), MICHAEL GORDON, :  
Chief Adult Probation and Parole Officer (in :  
his official capacity), MICHAEL R. KEHS, :  
Court Administrator (in his official capacity), :  
and LORI SCHREIBER, Clerk of Courts (in :  
her official capacity), :

*Respondents.*

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COMMONWEALTH COURT  
OF PENNSYLVANIA

ORIGINAL JURISDICTION  
No. 376 MD 2021

**[PROPOSED] ORDER GRANTING APPLICATION FOR CLASS CERTIFICATION**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_ 2022, upon consideration of Petitioners' Application for Class Certification, it is hereby **ORDERED** that said Application is **GRANTED**.

**IT IS FURTHER ORDERED** that the following class is certified:

All individuals under the authority of Montgomery County Adult Probation and Parole Department who are now, or will in the future be, accused of committing a "Technical violation" or "Conviction violation" as defined in 204 Pa. Code §307.1(b) (2021) and who did not receive a prompt *Gagnon* I hearing, or any assessment to determine release pending final revocation proceedings that comports with minimum requirements of due process.

BY THE COURT:

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EBONI EL, ANDREW HASKELL, SUNG :  
JOO LEE, AKEEM WILLS, CHARLES :  
GAMBER, DAVID KRAH, on behalf of :  
themselves and all persons similarly situated, :

*Petitioners,* :

v. :

38<sup>TH</sup> JUDICIAL DISTRICT, Hon. :  
CAROLYN CARLUCCIO, President Judge :  
(in her official capacity), KATHLEEN :  
SUBBIO, Chief Adult Probation and Parole :  
Officer (in her official capacity), MICHAEL :  
R. KEHS, Court Administrator (in his official :  
capacity), and LORI SCHREIBER, Clerk of :  
Courts (in her official capacity), :

*Respondents.* :

No. 376 MD 2021  
Class Action  
Original Jurisdiction

**PETITIONERS' MEMORANDUM IN SUPPORT**  
**OF APPLICATION FOR CLASS CERTIFICATION**

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Petitioners Eboni El, Andrew Haskell, Sung Joo Lee, Akeem Wills, Charles Gamber, and David Krah submit this brief in support of their application for class certification under Pennsylvania Rule of Civil Procedure 1701, *et seq.*

## INTRODUCTION

This action seeks class-wide declaratory and injunctive relief to prevent Respondents—the 38th Judicial District and several of its employees, sued in their official capacities—from incarcerating people accused of violating their supervision conditions without the due process guaranteed by Article I §§ 1, 9, and 11 of the Pennsylvania Constitution and the Fourteenth Amendment to the United States Constitution.

Respondents have a policy or practice of indiscriminately incarcerating nearly everyone subjected to revocation proceedings and holding them without prompt hearings to determine (1) whether there is probable cause to believe they violated the terms of their supervision (a “probable cause hearing”) or (2) whether incarceration pending a final hearing is necessary because the person is dangerous or a risk of flight (a “preliminary detention assessment”). Respondents routinely incarcerate nearly everyone subjected to revocation proceedings—more than 3,300 individuals between January 1, 2019, and May 18, 2021, alone—regardless of the nature of the violation. This includes people accused of mere “technical violations,” such as failing to notify their probation officer before using over-the-counter medication, and people accused of new criminal offenses (a “conviction violation” or “direct violation”) even when the judges handling the new criminal charges find them releasable on bail or non-monetary conditions. Respondents then confine these individuals for weeks or months without providing hearings to assess probable cause or whether incarceration pending a final hearing is necessary.

This policy or practice violates both the United States and Pennsylvania Constitutions. *See generally Morrissey v. Brewer*, 408 U.S. 471, 479, 485, 488–89 (1972); *Gagnon v. Scarpelli*, 411



U.S. 778, 785–86 (1973); *Commw. v. Davis*, 336 A.2d 616, 619–22 (Pa. Super. 1975); *Commw. ex rel. Rambeau v. Rundle*, 314 A.2d 842, 844–47 (Pa. 1973). It violates incarcerated persons’ procedural due process rights by infringing their core liberty interests with few, if any, checks against erroneous incarceration. It violates their substantive due process rights because it is an irrationally excessive and punitive means of preventing flight and keeping the community safe. And it is based on an untrue yet irrebuttable presumption that every person facing revocation proceedings is dangerous or a flight risk. Respondents seek (1) a declaration that this practice violates the law and (2) a class-wide injunction preventing Respondents from detaining individuals facing revocation proceedings without promptly providing the constitutionally required hearings.

Pennsylvania’s class action procedures exist for precisely this type of case. This case involves a single set of factual questions, common to each of the numerous current and future members of the class: whether Respondents in fact indiscriminately incarcerate people subjected to supervision revocation proceedings and fail to provide prompt probable cause hearings and preliminary detention assessments. This case likewise involves a single set of legal questions, common to every member of the class: whether Respondents’ policy or practice violates procedural or substantive due process or imposes an unconstitutional presumption of dangerousness. And this case involves a single request for identical declaratory and injunctive relief to address the identical injuries of every member of the class: prohibiting Respondents from indiscriminately incarcerating individuals subjected to revocation proceedings and keeping them detained pending their final revocation hearing without providing prompt probable cause hearings and preliminary detention assessments.

Class adjudication is also the most practical path forward. The due process right to a prompt probable cause hearing and preliminary detention assessment helps ensure that individuals

are not erroneously and unnecessarily incarcerated for weeks or months pending a final supervision revocation hearing. Thousands of individual after-the-fact lawsuits are not only inefficient, but also insufficient to protect that right as a practical matter. By the time an incarcerated person obtains a lawyer and sues to force Respondents to provide a probable cause hearing or preliminary detention assessment, their right to a hearing “as promptly as convenient after arrest,” *Morrissey*, 408 U.S. at 485, already will have been violated. Many will have lost their jobs, fallen behind on bills, missed treatment for health conditions, and otherwise been unnecessarily subjected to the traumas of incarceration. Class treatment is the most efficient and the only practical way forward.

The record confirms that the proposed class satisfies Pa. R. Civ. P. 1702’s requirements of numerosity, commonality, typicality, adequacy of representation, and fairness and efficiency of the method of adjudication. Petitioners respectfully request that the Court certify the following class pursuant to Pennsylvania Rule of Civil Procedure 1701, *et seq.*:

All individuals under the authority of Montgomery County Adult Probation and Parole Department who are now, or will in the future be, accused of committing a “Technical violation” or “Conviction violation” as defined in 204 Pa. Code §307.1(b) (2021), and who did not receive a prompt *Gagnon I* hearing, or any assessment to determine release pending final revocation proceedings that comports with minimum requirements of due process.

### **ARGUMENT**

“It is the policy of this Commonwealth that decisions in favor of maintaining a class action should be liberally made.” *Foust v. Se. Pa. Transp. Auth.*, 756 A.2d 112, 118 (Pa. Cmwlth. 2000) (citation omitted); *see also Samuel-Bassett v. Kia Motors Am., Inc.*, 34 A.3d 1, 16 (Pa. 2011). Petitioners’ “initial burden is not heavy.” *Cambanis v. Nationwide Ins. Co.*, 501 A.2d 635, 637 (Pa. Super. 1985). “The proponent of class certification ‘must only present sufficient evidence to make out a prima facie case’ that the five requirements for class certification are met.” *Muscarella v. Commonwealth*, 39 A.3d 459, 467 (Pa. Cmwlth. 2012) (citation omitted). Close cases should

be resolved “in favor of allowing the class action.” *Janicik v. Prudential Ins. Co. of Am.*, 451 A.2d 451, 455 (Pa. Super. 1982) (citation and internal quotation marks omitted).

Petitioners satisfy the requirements set forth in Pennsylvania Rule of Civil Procedure 1702. *First*, thousands of individuals accused of supervision violations are and will be indiscriminately detained and held without a timely probable cause hearing or preliminary detention assessment, rendering the class so numerous that joinder would be impractical. *Second*, this case presents common factual and legal questions, as Petitioners and putative class members have suffered or will suffer the same harm wrought by the same policies. *Third*, Petitioners’ claims are typical of the class claims for the same reason. *Fourth*, Petitioners will adequately represent the class members because they have no conflicts of interest, are committed to vigorous representation, and have engaged competent, experienced counsel. *Finally*, a class action is a fair and efficient method for adjudication, as common questions predominate, resolution of the common factual and legal issues avoids the risk of inconsistent judgments and is far more practicable than thousands of individual suits, and Respondents have acted on grounds generally applicable to the class.

**I. Respondents’ Challenged Policy Or Practice Applies To Thousands Of Proposed Class Members, Making Joinder Impractical**

The proposed class includes thousands of people who are or will be incarcerated pending supervision revocation proceedings—more than 3,300 people between January 1, 2019, and May 18, 2021, alone—and satisfies Pennsylvania’s numerosity requirement. *See* Pa. R. Civ. P. 1702(1). “The class representative need not plead or prove the number of class members so long as she is able to define the class with some precision and affords the court with sufficient indicia that more members exist than it would be practicable to join.” *Janicik*, 451 A.2d at 456 (citation omitted). To make this determination, the Court should examine “whether the number of potential individual plaintiffs would pose a grave imposition on the resources of the court and an unnecessary drain on

the energies and resources of the litigants.” *Id.* (quoting *Temple Univ. v. Pa. Dep’t of Pub. Welfare*, 374 A.2d 991, 996 (Pa. Cmwlth. 1977)). “When a class is narrowly and precisely drawn and there are still so many potential class members that joinder is impracticable or impossible, the class is sufficiently delineated to meet the numerosity requirement.” *Foust*, 756 A.2d at 118 (citation omitted).

The proposed class meets this standard. Respondents’ data shows that approximately 3,384 individuals were detained and sentenced for supervision violations in Montgomery County between January 1, 2019, and May 18, 2021. Decl. of Nori Reid Mehta, dated Dec. 9, 2021 (“Mehta Decl.”) ¶ 24. For at least some of that time, 42 percent of people in the Montgomery County jail for supervision violations were being held for alleged technical violations. *See* Human Rights Watch & ACLU, *Revoked: How Probation & Parole Feed Mass Incarceration in the United States* 141 (July 2020). Approximately 92 percent of these 3,384 detained individuals were not provided separate *Gagnon* I and *Gagnon* II hearings. Mehta Decl. ¶ 37. On just May 6, 2020, 604 individuals were detained “pending *Gagnon* hearings.” *See* Affidavit of Michael Kehs, dated Feb. 3, 2022 (“Kehs Aff.”), Ex. 1, at 1 (PDF 70).<sup>1</sup>

Joinder and individual litigation of this many claims would be wholly impractical. Such suits would not only drain the court and the litigants’ resources, but they would also be administratively impossible. The membership of the class is constantly changing as Respondents indiscriminately jail new individuals for alleged supervision violations. Until Respondents’

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<sup>1</sup> The Kehs Affidavit and associated exhibits are included in Respondents’ Brief in Opposition to Petitioners’ Application for a Preliminary Injunction, filed on February 4, 2022 (“P.I. Opp.”). For the Court’s convenience, Petitioners have included parenthetical citations to the PDF version of the full filing.

unconstitutional practices cease, every new arrest for an alleged violation would require another motion for joinder. Such administrative burdens would be entirely unjustified.

Courts have found numerosity satisfied with far fewer potential class members than are involved in this action. *See, e.g., Sommers v. UPMC*, 185 A.3d 1065, 1069 (Pa. Super. 2018) (337 class members); *ABC Sewer Cleaning Co. v. Bell of Pa.*, 438 A.2d 616, 618 (Pa. Super. 1981) (250 members); *Ablin, Inc. v. Bell Tel. Co. of Pa.*, 435 A.2d 208, 214 n.5 (Pa. Super. 1981) (204 members); *Temple Univ.*, 374 A.2d at 996 (123 members). Numerosity is evidently present here.

## **II. There Are Common Questions of Law And Fact For All Class Members Because Their Claims Arise From The Same Unconstitutional Conduct**

The second factor requires “questions of law or fact common to the class.” Pa. R. Civ. P. 1702(2). “The common question of fact means precisely that the facts must be substantially the same so that proof as to one claimant would be proof as to all.” *Baldassari v. Suburban Cable TV Co.*, 808 A.2d 184, 191 (Pa. Super. 2002) (citation and internal quotation marks omitted). “Common questions will generally exist if the class members’ legal grievances arise out of the ‘same practice or course of conduct’ on the part of the class opponent.” *Janicik*, 451 A.2d at 457 (Pa. Super. 1982) (quoting *Ablin*, 435 A.2d at 213).

The core questions of fact in this case are whether Respondents have a policy or practice of indiscriminately detaining nearly all individuals facing supervision revocation proceedings and denying prompt probable cause hearings and preliminary detention assessments to those whom they incarcerate. “The defendant may dispute the existence of that policy or the uniformity of its application, but that dispute by necessity relates to the entire class, and not just to the plaintiff.” *Staley v. Wilson Cnty*, No. 3:04-1127, 2006 WL 2401083, at \*7 (M.D. Tenn. Aug. 18, 2006) (finding commonality in class challenge to bail policies). The discovery to date makes clear that these factual questions are common to the class and can be answered by common evidence.

First, common evidence shows that Respondents indiscriminately jail virtually everyone subjected to supervision revocation proceedings. Respondents' data shows that they incarcerated at least 89 percent of people facing revocation proceedings between January 1, 2019, and May 18, 2021. Mehta Decl. ¶ 33. As Respondents concede, on May 6, 2020, alone, there were 604 people awaiting "Gagnon hearings," and only 49 of those 604 people were no longer incarcerated. Kehs Aff., Ex. 1, at 1 (PDF 70). Those 49 people were free only "as a result of Emergency Judge lifting Detainer"—meaning Montgomery County initially incarcerated them and a judge later released them. *Id.*; *see also* Decl. of Dean Beer, dated Dec. 10, 2021 ("Beer Decl.") ¶ 4 ("I do not recall a case in the years that I was in the Public Defender's Office [from 2013 until 2020] where a client remained in the community for a supervision violation. ... Montgomery County detains individuals charged with supervision violations, regardless of the nature or circumstances of the alleged violation."). Respondents' policy or practice persists even though people accused of violations "are not necessarily dangerous or flight risks," and needless incarceration harms individuals, their families, and their communities. Decl. of David Muhammad, dated Dec. 13, 2021 ¶¶ 20, 22–24.

Second, common evidence confirms Respondents fail to provide prompt probable cause hearings and preliminary detention assessments. Respondents conceded that they *never* provide probable cause or preliminary detention hearings to individuals "detained based on new criminal charges," instead relying solely on the preliminary hearing in the related criminal proceeding. *See* Affidavit of Kathleen Subbio, dated February 4, 2022 ("Subbio Aff.") ¶ 21 (PDF 44). That is the case even when courts in the separate criminal proceeding order release on bail. *See, e.g.,* Beer Decl. ¶ 8. As for those accused of technical violations, Respondents' written policies allow up to thirteen days in jail (nine workdays and two weekends) before even *requesting* a *Gagnon* I hearing, and more for those who are arrested out of state. *See* Subbio Aff., Ex. 1, at 9–10 (PDF 57–58).

Last, common evidence confirms that Respondents do not actually provide these hearings for months, if ever. Respondents provided separate *Gagnon* I and then *Gagnon* II hearings to only eight percent of those detained and sentenced for supervision violations between January 1, 2019, and May 18, 2021. Mehta Decl. ¶ 38; *see also* Beer Decl. ¶ 5 (“Montgomery County does not conduct *Gagnon* I hearings before a judge or other appropriate neutral authority at or near the time of arrest,” but rather provides “only one hearing in front of a judge that combine[s] both [*Gagnon* I and *Gagnon* II] proceedings.”). Respondents jailed people for an average of 70 days before providing any hearing at all. Mehta Decl. ¶ 35. And Respondents never conduct preliminary detention assessments. *See* Beer Decl. ¶ 7 (“During my tenure at the Public Defender’s Office, I do not recall Montgomery County ever providing my clients facing revocation proceedings with any opportunity to challenge their detention and advocate for release.”). This common policy-and-practice evidence establishes that the factual questions presented here are common to the class.

The central legal question is likewise common to the class: whether Respondents’ generally applicable policies or practices of indiscriminately incarcerating class members and failing to provide prompt probable cause hearings and preliminary detention assessments violate due process. Critically, this suit does not challenge any individual detention or revocation decisions, and it seeks no individual relief. Thus, “neither the events that precipitated a parolee’s revocation charge nor the ultimate disposition of the underlying charges or the parole revocation are necessary to determining whether a parolee’s due process rights were violated during the revocation.” *King v. Walker*, No. 06 C 204, 2006 WL 8456959, at \*7 (N.D. Ill. May 8, 2006) (certifying similar class of individuals challenging systemic denial of *Gagnon* I hearings); *see also Staley*, 2006 WL 2401083, at \*7 (finding commonality even though “bail was set individually for each proposed member” because “the alleged policy would have applied to them all”).

Indeed, Respondents’ opposition papers effectively concede that the legal issues are common to the class. As to direct violations, Respondents contend that preliminary hearings in separate criminal proceedings provide sufficient process. *See, e.g.*, P.I. Opp. at 3–4, 27–28; Subbio Aff. ¶ 21 (PDF 44). Whether those separate proceedings validly substitute for probable cause hearings and preliminary detention assessments as to the supervision violation—even when Respondents automatically detain the individual regardless of the criminal court’s release determination—is a common question of law. As to technical violations, Respondents argue that their written policies provide sufficient process, further demonstrating that resolution of this legal question will be common to the entire class. *See* P.I. Opp. at 25–26 (relying on “Judicial Respondents’ Affidavits and policies”).

The core legal questions presented here thus “arise out of the same practice or course of conduct,” *Janicik*, 451 A.2d at 457 (citation and internal quotation marks omitted), and there are no atypical or unique issues that would inhibit class-wide treatment. Accordingly, the commonality requirement is clearly met.

### **III. Petitioners’ Claims Are Typical Of The Claims Of The Class Since All Claims Arise Out Of The Same Unconstitutional Policy or Practice**

The typicality factor requires that the claims of the class representatives be typical of those of the entire class. Pa. R. Civ. P. 1702(3). “Typicality exists if the class representative’s claims arise out of the same course of conduct and involve the same legal theories as those of other members of the putative class.” *Samuel-Bassett*, 34 A.3d at 31 (citation omitted). “The requirement ensures that the legal theories of the representative and the class do not conflict, and that the interests of the absentee class members will be fairly represented.” *Id.* (citation omitted).

Petitioners’ claims are typical of putative class members’ claims because they “arise out of the same course of conduct, involve the same legal theories, and do not raise divergent goals or



interests.” *Muscarella*, 39 A.3d at 470; *see also Staley*, 2006 WL 2401083, at \*8 (finding typicality where the plaintiff’s claim and the class claims arose “from the same course of conduct—the defendants’ practices in setting bail” and were “based on the same legal theory—that the practice violates the [U.S. Constitution], as well as Tennessee law”).

Petitioners’ claims arise from Respondents’ policies or practices of indiscriminate incarceration and prolonged detention without prompt probable cause hearings or preliminary detention assessments as described above. Respondents incarcerated each Petitioner regardless of the nature of the alleged violation, any safety or flight risks, or whether they were released on related criminal charges. *See* Decl. of Eboni El, dated Oct. 6, 2021 (“El Decl.”) ¶¶ 1, 11; Decl. of David Krah, dated Oct. 21, 2021 (“Krah Decl.”) ¶¶ 2, 6; Decl. of Akeem Wills, dated Oct. 21, 2021 (“Wills Decl.”) ¶¶ 2, 6; Decl. of Andrew Haskell, dated Oct. 21, 2021 (“Haskell Decl.”) ¶¶ 2, 5; Decl. of Sung Joo Lee, dated Oct. 1, 2021 (“Lee Decl.”) ¶¶ 2, 4, 6; Decl. of Charles Gamber, dated Oct. 15, 2021 (“Gamber Decl.”) ¶¶ 2, 10. Respondents then confined each Petitioner in the Montgomery County Correctional Facility (“MCCF”) for weeks or months without a probable cause hearing or a preliminary detention assessment to determine if that prolonged incarceration was necessary. *See* El Decl. ¶¶ 12-13; Haskell Decl. ¶¶ 4, 7, 8; Lee Decl. ¶¶ 2, 6, 16; Wills Decl. ¶¶ 7-8, 10; Gamber Del. ¶¶ 2, 5, 8; Krah Decl. ¶¶ 2, 7.<sup>2</sup>

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<sup>2</sup> Petitioner El’s “Admission Date” to the MCCF was September 14, 2021, Decl. of Lori Martin, dated May 3, 2022 (“Martin Decl.”) Ex. A1 at 4, and the only hearing she received was a *Gagnon II* hearing on October 28, 2021, *id.* Ex. A2 at 1. Petitioner Haskell was arrested for an alleged parole violation on April 20, 2021, *see id.* Ex. B1 at 2, and his one and only hearing was held on October 18, 2021, *id.* Ex. B2 at 1. Petitioner Lee was detained for an alleged supervision violation on August 25, 2021, *id.* Ex. C1 at 4, and received his one and only hearing on Sept. 28, 2021, *id.* Ex. C2 at 1. Petitioner Wills was detained in MCCF on April 14, 2021, *id.* Ex. D at 3, and he had not received a hearing as of December 2021, *id.* at 1-3. Petitioner Krah was detained on a supervision detainer on September 15, 2021, *id.* Ex. F1 at 2, and he was released on December 1, 2021, after his criminal charges were withdrawn, *id.* at 1.

Petitioners do not contest their individual revocations or raise any unique claims regarding their individual detention. They challenge only Respondents' policy or practice of indiscriminate incarceration and prolonged detention without constitutionally required hearings—a policy or practice to which they were all unconstitutionally subjected. The “determinative issue” in this case thus does not turn on “each individual suspect’s facts and circumstances, but rather whether or not [Montgomery] County failed, as a matter of policy, ever to consider those individual facts and circumstances.” *Staley*, 2006 WL 2401083, at \*8 (internal quotations omitted).

Besides suffering the same injury, Petitioners and class members all seek the same declaratory and injunctive relief, which will apply equally to all members of the class: stopping Respondents from indiscriminately incarcerating people and detaining them without prompt probable cause hearings and preliminary detention assessments. That relief does not give rise to any intra-class conflicts, as Petitioners do not seek an injunction that would require hearings over the incarcerated individual’s objection. Class members who wish to delay or waive their hearings may do so. Each named Petitioner’s position is thus fully aligned with the class members’ position.

Any factual differences in the circumstances of Petitioners’ detention do not “render a claim atypical under the ‘typicality’ prerequisite so long as the claim arises from the same events that give rise to the claims of the class members.” *Delaware Cnty. v. Mellon Fin. Corp.*, 914 A.2d 469, 475 (Pa. Cmwlth. 2007). Rather, “[t]he atypicality or conflict must be clear and must be such that the interests of the class are placed in significant jeopardy.” *Klusman v. Bucks Cnty. Court of Common Pleas*, 564 A.2d 526, 531 (Pa. Cmwlth. 1989) (internal quotations and citations omitted). Petitioners’ claims and the class’s claims turn on the same injuries, and all seek precisely the same relief. There is no conflict at all, much less a conflict placing the interests of the class in any jeopardy. The typicality requirement is satisfied.

#### **IV. Petitioners' Counsel, Interests, And Financial Resources Ensure The Fair And Adequate Representation of Class Members**

Petitioners will fairly and adequately protect the class members' interests. Under Rule 1709, the Court considers on this point whether the representative parties have (1) attorneys who will provide adequate representation, (2) any conflicts of interest with the absent class, and (3) adequate financial resources to assure protection of absent class members. Pa. R. Civ. P. 1709.

“With regard to the first factor, generally, until the contrary is demonstrated, courts will assume that members of the bar are skilled in their profession.” *Dunn v. Allegheny Cnty. Prop. Assessment Appeals & Rev.*, 794 A.2d 416, 425 (Pa. Cmwlth. 2002) (citations and internal quotation marks omitted). That presumption is justified here, as Petitioners' counsel are experienced in the litigation of complex constitutional matters and class actions. Attorney Lori Martin was admitted to practice in the Commonwealth of Pennsylvania in 1989 and has been a member in good standing of the Pennsylvania bar since. Ms. Martin has zealously litigated many complex class actions. *See* Martin Decl. ¶¶ 1, 6. Attorney Witold Walczak has been with the ACLU of Pennsylvania for over 30 years, vigorously advocating for individuals' civil rights, including in many class actions. Mr. Walczak is a member in good standing of the Pennsylvania bar. *See* Declaration of Witold Walczak, dated May 3, 2022 (“Walczak Decl.”) ¶¶ 1, 3, 6.

Courts also “have generally presumed that there is no conflict of interest on the part of the representative parties unless the contrary is established and have relied upon the adversary system and the court's supervisory powers to expose and mitigate any conflict.” *Dunn*, 794 A.2d at 425–26 (citation and internal quotation marks omitted). That presumption holds here, as the named Petitioners have no conflict of interest in the maintenance of the class action. None have any interest in relief distinct from that requested for all class members, and relief for named Petitioners would remedy the common harms suffered by all.

Last, “courts have accepted affidavits of counsel that they will advance the necessary costs as sufficient evidence to support a finding that adequate financial resources exist and also have accepted the lack of a challenge to the ability to finance the litigation as sufficient to establish adequate financial resources.” *Muscarella*, 39 A.3d at 471 (citation omitted). Petitioners’ counsel are working *pro bono*, have agreed to advance the costs of litigation to maintain this action, and have the financial capacity to do so. *See* Martin Decl. ¶ 8; Walczak Decl. ¶ 8.

**V. A Class Action Provides A Fair And Efficient Method For Adjudication Of The Constitutionality Of Respondents’ Detention Policies and Practices**

“In determining fairness and efficiency, [the Court] must balance the interests of both the present and absent litigants and the interests of the court system.” *Muscarella*, 39 A.3d at 472 (citing *Dunn*, 794 A.2d at 427). Rules 1708(a) and (b)(2) guide the Court’s consideration of this issue in cases seeking solely equitable and declaratory relief by providing five key factors. Each factor is met in this case.

**Predominance.** Rule 1708(a)(1) asks “whether common questions of law or fact predominate over any question affecting only individual members.” Pa. R. Civ. P. 1708(a)(1). This prong is generally met where the class claims turn on “a common source of liability,” such as the existence of a design defect, *Samuel-Bassett*, 34 A.3d at 23–24, or the meaning of an identical contractual provision, *Janicik*, 451 A.2d at 461–62. Thus, common questions predominate where, as here, the key issue for every individual claim is the legality of a single course of conduct by the party opposing certification. For example, one court found predominance in a case where the issue was whether “the procedure by which a subscriber’s hospital bills are either covered or denied ... is impermissible, *not* whether the decision ... was medically correct.” *D’Amelio v. Blue Cross of Lehigh Valley*, 500 A.2d 1137, 1145 (Pa. Super. 1985). Another court similarly found predominance where the central issue was whether a challenged, generally

applicable “late fee [was] a reasonable pre-estimate of actual costs” and reasonableness did not have to be “determined subscriber by subscriber.” *Baldassari*, 808 A.2d at 194.

Common issues clearly predominate here. Petitioners challenge the constitutionality of Respondents’ generally applicable detention policies or practices. All class members are or will be detained by the 38th Judicial District, and Respondents have a policy or practice of holding those individuals without constitutionally required prompt probable cause hearings or preliminary detention assessments. *See supra* at 9-12 (outlining common evidence of these policies and practices). This singular course of conduct violates the state and federal constitutions. *See D’Amelio*, 500 A.2d at 1144 (“[C]lass certification was appropriate because there was only an *ultra vires* policy that was being challenged, and not an individual, factualized determination.”) (citation omitted). Thus, the common factual and legal questions at the heart of this case predominate over any individualized issues, rendering the proposed class “sufficiently cohesive to warrant adjudication by representation.” *Samuel-Bassett*, 34 A.3d at 23 (citation omitted).

**Manageability.** Rule 1708(a)(2) asks the Court to consider “the size of the class” and any “difficulties likely to be encountered in the management of the action as a class action.” Pa. R. Civ. P. 1708(a)(2). Petitioners’ suit does not implicate any administration issues, as their claims involve straightforward factual and legal questions that equally apply to all class members. In fact, the alternative—separate actions for each of the thousands of current and future unlawfully detained individuals—would pose immense administrative burdens. While the class is large, the evidence supporting the class claims is largely statistical and should be readily available from Respondents. *See Janicik*, 451 A.2d at 462 (management problems not unduly burdensome where respondent has centrally stored the relevant information). Indeed, Petitioners have already used such data to determine that Respondents provided separate *Gagnon* I and then *Gagnon* II hearings

to only eight percent of those detained and sentenced for supervision violations, and jailed people held for alleged supervision violations for an average of 70 days before providing any hearing at all. *See* Mehta Decl. ¶¶ 35, 38. Last, the declaratory and injunctive relief sought is readily manageable regardless of the size of the class.

**Risk of inconsistent adjudications.** Rule 1708(a)(3)(i) requires the Court to consider whether separate actions would “confront the party opposing the class with incompatible standards of conduct.” Pa. R. Civ. P. 1708(a)(3)(i). Such risks are “forceful arguments in support of the approval of the class action,” as “even a small risk of inconsistent adjudications is unnecessary.” *Janicik*, 451 A.2d at 462 (citation omitted). Petitioners seek a declaration that detention without prompt probable cause hearings and preliminary detention assessments is unconstitutional and an injunction prohibiting that unconstitutional incarceration. Individual suits outside this litigation would risk disparate determinations as to the legality of the practice writ large or the length of detention without a hearing that due process will tolerate. Class adjudication will eliminate this risk and ensure uniform treatment of class members and their legal rights, to the benefit of both Respondents and the class.

**Impairment of individual interests.** Rule 1708(a)(3)(ii) requires the Court to consider whether separate actions would, “as a practical matter ... substantially impair or impede” absent class members’ “ability to protect their interests.” Pa. R. Civ. P. 1708(a)(3)(ii). This consideration cuts decisively in favor of certification. Class-wide declaratory and injunctive relief is the only mechanism to protect individuals’ right to *prompt* probable cause hearings and preliminary detention assessments. By the time an incarcerated person obtains legal representation and sues, their right to a prompt hearing will have already been violated. Even more so by the time a ruling in that individual suit is issued. The passage of time could also prevent a ruling on the merits, as

individuals who bring their own suits eventually receive a revocation hearing, which, although constitutionally insufficient, might moot the individual injunctive suits.

“[T]he liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a ‘grievous loss’ on the parolee and often on others.” *Morrissey*, 408 U.S. at 482. Forcing class members to bring separate actions would, “as a practical matter,” Pa. R. Civ. P. 1708(a)(3)(ii), vitiate the very right Petitioners now seek to preemptively protect. Class adjudication avoids these risks and provides a “speedier and more comprehensive ... determination of the claim.” *Janicik*, 451 A.2d at 462.

**Other litigation.** Petitioners are not aware of any other litigation challenging Respondents’ policy or practice of indiscriminate incarceration without providing prompt probable cause hearings and preliminary detention assessments. *See* Pa. R. Civ. P. 1708(a)(4).

**Appropriate forum.** This Court is the appropriate forum for this action. *See* Pa. R. Civ. P. 1708(a)(5). As Petitioners explained in their reply brief in support of their application for a preliminary injunction (at 10-12, which Petitioners incorporate here), this Court has original jurisdiction over “all civil actions or proceedings ... [a]gainst the Commonwealth government, including any officer thereof, acting in his official capacity,” except in a few situations not relevant here. 42 Pa. Cons. Stat. § 761(a)(1). Respondents are part of the “Commonwealth government,” which includes “the courts and other officers or agencies of the unified judicial system,” *id.* § 102, so this Court is the appropriate forum, *see McFalls v. 38th Jud. Dist.*, No. 4 M.D. 2021, 2021 WL 3700604, at \*7 (Pa. Cmwlth. Aug. 6, 2021) (finding similar claims “fall within the original jurisdiction of our Commonwealth’s lower courts”).

**Grounds Generally Applicable To The Class.** Rule 1708(b)(2) is satisfied because Respondents acted “on grounds generally applicable to the class, thereby making final equitable

or declaratory relief appropriate with respect to the class.” Pa. R. Civ. P. 1708(b)(2). Respondents’ practice of indiscriminate incarceration and failure to provide prompt probable cause hearings and detention assessments has uniformly deprived all class members of their constitutional rights, and the relief requested is similarly universal in scope.

## CONCLUSION

For these reasons, Petitioners respectfully request that the Court certify the proposed class of all individuals under the authority of Montgomery County Adult Probation and Parole Department who are now, or will in the future be, accused of committing a “technical violation” or “conviction violation” as defined in 204 Pa. Code § 307.1(b), and who did not receive a prompt *Gagnon* I hearing, or any assessment to determine release pending final revocation proceedings that comports with minimum requirements of due process.

Respectfully submitted,

Date: May 4, 2022

/s/ Lori A. Martin

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Gamber, and David Krah*

### **CERTIFICATION**

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.

Date: May 4, 2022

/s/ Lori A. Martin

Lori A. Martin (Pa. 55786)

### **CERTIFICATE OF SERVICE**

I, Lori A. Martin, hereby certify that on May 4, 2022, a true and correct copy of the foregoing document entitled Petitioners' Memorandum in Support of Application for Class Certification, together with all supporting materials thereto, was served upon all counsel of record by and through this Court's electronic filing system.

Date: May 4, 2022

/s/ Lori A. Martin

Lori A. Martin (Pa. 55786)

EBONI EL, ANDREW HASKELL, SUNG	:	
JOO LEE, AKEEM WILLS, CHARLES	:	
GAMBER, DAVID KRAH, on behalf of	:	
themselves and all persons similarly situated,	:	
	:	
<i>Petitioners,</i>	:	
v.	:	
	:	
38 <sup>TH</sup> JUDICIAL DISTRICT, Hon.	:	No. 376 MD 2021
CAROLYN CARLUCCIO, President Judge	:	Class Action
(in her official capacity), KATHLEEN	:	Original Jurisdiction
SUBBIO, Chief Adult Probation and Parole	:	
Officer (in her official capacity), MICHAEL	:	
R. KEHS, Court Administrator (in his official	:	
capacity), and LORI SCHREIBER, Clerk of	:	
Courts (in her official capacity),	:	
	:	
<i>Respondents.</i>	:	

**DECLARATION OF LORI A. MARTIN IN SUPPORT OF PLAINTIFF’S MOTION FOR  
CLASS CERTIFICATION**

I, Lori Martin, declare as follows:

1. I am an attorney duly licensed to practice before the courts of the State of Pennsylvania, and I am a partner with the law firm of Wilmer, Cutler, Pickering, Hale & Dorr LLP (“WilmerHale”).

2. WilmerHale has been committed to pro bono representation since the early twentieth century, when partner Reginald Heber Smith authored the seminal book *Justice and the Poor* and galvanized the organized bar nationally to secure equal justice for those unable to afford counsel. Since then, the firm’s lawyers have remained involved in influential pro bono cases and other volunteer legal projects. In 1954, Joseph P. Welch, assisted by James F. St. Clair and John Kimball, Jr., represented the U.S. Army on a pro bono basis in the nationally televised Army-McCarthy hearings. In 1963, Lloyd Cutler and others served as the leading force in creating the

Lawyers' Committee for Civil Rights Under Law at the request of President John F. Kennedy. In 1992, John Pickering led the effort to establish the Pro Bono Institute's Law Firm Pro Bono Challenge and ensured that the firm was its first charter signatory. The firm helped establish Lawyers for Children America, a nonprofit organization dedicated to providing services and advancing pro bono advocacy for abused and neglected children in the child welfare system. In addition, the firm co-founded and continues to support the WilmerHale Legal Services Center of Harvard Law School, a major clinical teaching facility that has assisted more than 20,000 low-income persons in the past ten years.

3. WilmerHale's pro bono and philanthropy work has garnered numerous awards and honors, including the following:

- 2018 – WilmerHale was recognized by the Immigrant Defense Project for its work in the area of immigrant rights, including cases in the Second Circuit, Ninth Circuit, Supreme Court and elsewhere.
- 2017 – WilmerHale was recognized as the Advocacy Firm of the Year from the Human Trafficking Pro Bono Legal Center for our extensive work in the human trafficking field.
- 2016 – WilmerHale received the Pro Bono Law Firm Award from PAIR (Political Asylum / Immigration Representation Project) for excellence in and dedication to asylum pro bono service.
- 2015 – The firm was honored at DC Appleseed Center for Law and Justice's awards reception for its pro bono contributions.
- 2014 – WilmerHale was honored for outstanding pro bono dedication and efforts at the Healing & Hope reception, an annual awards ceremony and fundraiser for the Campaign for the Fair Sentencing of Youth.
- 2012-2015 – Law360 selected WilmerHale to its "Pro Bono Firms of the Year" list for notable successes ranging from issues affecting the nation to life-altering representations of individual clients.

- 2003-2018 – The firm is recognized in the annual American Lawyer “A-List,” a compilation that lists the leading US firms and honors overall excellence, including financial success, commitment to pro bono work, workforce diversity and the training and development of younger lawyers.

4. WilmerHale has often handled high-profile, large-scale public interest litigation. These pro bono cases have covered various issues, including several death penalty representations, campaign finance reform legislation, detainees’ rights at Guantanamo Bay, and defending the Massachusetts Interest on Lawyer Trust Account (IOLTA) programs funding legal services for the poor. The collective knowledge and experience of the firm will contribute significantly to the success of the class in this case.

5. WilmerHale is also a leading law firm with decades of complex class action experience, including several class actions taken on a pro bono basis. For example, in *Rosie D. v. Patrick*, the firm earned high praise for its vigorous representation of Medicaid recipients seeking to enforce their rights to state benefits. *See* 593 F. Supp. 2d 325, 327 (D. Mass. 2009) (“[T]he level of professionalism exhibited by Plaintiffs’ counsel at every stage has been unsurpassed by any the court has seen,” and “the result achieved by Plaintiffs’ counsel has been profound and, for their clients, one hopes, transformational.”).

6. I have extensive experience in complex class action litigation. *See, e.g., Fishman Haygood Phelps Walmsley Willis & Swanson LLP v. State St. Corp.*, No. 1:09-10533-PBS, 2010 U.S. Dist. LEXIS 28496 (D. Mass. March 25, 2010); *DeBenedictis v. Merrill Lynch & Co., Inc.*, 492 F.3d 209 (3d Cir. 2007); *Carfora v. TIAA*, Case 1:21-cv-08384-KPF, (S.D.N.Y.). I was twice selected as the “Mutual Funds Law Lawyer of the Year” in the New York area by the *Best Lawyers in America* and have been recognized by Chambers & Partners for my securities litigation practice. I am an elected member of the Council of the American Law Institute, the

leading independent organization in the United States producing scholarly work to clarify and modernize the law.

7. To date, WilmerHale has served a pivotal role in preparing this case for litigation, including, but not limited to: the Petition for Review, the request for preliminary injunction, attending conferences related to this matter with the Court, and advancing discovery in the action.

8. WilmerHale is committed to dedicating the necessary resources and working together with American Civil Liberties Union of Pennsylvania as Co-Counsel for the benefit of the class.

9. Attached are true and correct copies of the following documents produced by Respondents on February 9 or 15, 2022, in response to Petitioners' First Set of Requests For Production of Documents, with confidential information redacted consistent with the Public Access Policy:

Exhibits A1 and A2: Documents related to Petitioner Eboni El

Exhibits B1 and B2: Documents related to Petitioner Andrew Haskell

Exhibits C1 and C2: Documents related to Petitioner Sung Joo Lee

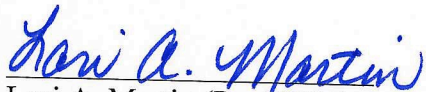
Exhibit D1: Documents related to Petitioner Akeem Wills

Exhibits E1 and E2: Documents related to Petitioner Charles Gamber

Exhibits F1 and F2: Documents related to Petitioner David Krah

I declare under penalty of perjury under the law of the Commonwealth of Pennsylvania that the foregoing is true and correct.

Signed on the 3<sup>rd</sup> day of May, 2022 at Princeton, New Jersey,



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*Attorney for Petitioners Eboni El, Andrew Haskell,  
Sung Joo Lee, Akeem Wills, Charles Gamber, and  
David Krah*



# **EXHIBIT A1**

EL, EBONI

MCAPO - SupportStaff - SWietecha

AP138113

Transfer - Team4 - Transferred

Event Type(s) ALL

	Type	With	Result	Author	Event Title
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11-01-2021	8:26a	TERM	VioArrest	BScipione	ADMIN DISPO HELD
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ADMIN DISPO HEARING HELD, DEFENDANT STIPULATED TO HER VIOLATIONS. IDENTICAL SENTENCES GIVEN ON ALL COUNTS:

DOCKET #'S : 2463-17 (CT. 1), 2629-17 (CT'S 1 & 5), 4104-17(CT. 1):

DEF REMANDED TO SERVE BALANCE OF BACKTIME, 15 MONTHS AND 19 DAYS, COMMITMENT TO DATE FROM 8/30/21. ELIGIBLE FOR RE-PAROLE AFTER SERVING 2 MONTHS BACKTIME.

TWO YEAR CONSECUTIVE PROBATION ON ALL COUNTS REMAINS AS IMPOSED ON 8/31/17.

PO TO MONITOR FOR RELEASE AND CONTINUE TO SUPERVISE.

10-28-2021	3:21p	General	Comment	BScipione	ADMIN DISPO SUBMITTED
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ADMIN DISPO PAPERWORK REVIEWED BY SUP HAMILTON AND SUBMITTED TO THE BIN ON 2ND FLOOR NORRISTOWN OFFICE.

10-14-2021	9:07a	General	Comment	BScipione	SPOKE W. ATTRNY / ADMIN DISPO
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SPOKE WITH THE DEFENDANTS ATTORNEY PETE MCHUE (REDACTED) WHO STATED HE JUST WANTED TO TOUCH BASE WITH THIS PO TO HAVE A LINE OF CONTACT REGARDING HER VIOLATION. PO INFORMED PETE OF THE REC OF 15M 19D BACKTIME + 1YEAR CONSECUTIVE PROBATION ON ALL 4 COUNTS. PETE ALSO INFORMED PO OF THE DEFENDANTS DECLINING HEALTH CONDITION. PO INFORMED HIM THAT I HAVE ALREADY SPOKE WITH THE DEFENDANT WHO TOLD ME FIRST HAND OF HER CURRENT HEALTH STATE. INFORMED ATTORNEY THAT I WILL SPEAK TO MY SUPERVISOR ABOUT A POSSIBLE ADMIN DISPO FOR 2MONTHS BACKTIME DUE TO HER HEALTH.

PER SUP HAMILTON, ADMIN DISPO FOR 2M BACKTIME IS GOOD.

10-11-2021	2:42p	Meeting	Client	Contact	BScipione	DEF CALLED FROM MCCF
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DEFENDANT CALLED THIS PO FROM MCCF ASKING WHAT HER SENTENCE RECOMMENDATION IS. PO INFORMED HER OF SENTENCE REC AND SHE ASKED IF THIS PO COULD MAKE CONTACT WITH HER ATTORNEY, PETER MCCUE TO TALK ABOUT HOW TO HANDLE HER VOP.

DEF STATES SHE HAS A KIDNEY DISEASE THAT REQUIRES DIALIS EVERY OTHER DAY. STATES THAT IS NOT MUCH OF A BURDEN ON HER AS SHE IS USED TO DOING DIALIS WHILE SHE WAS OUT OF CUSTODY, HER PROBLEM RIGHT NOW IS WITH THE JAIL'S DIETARY OPTIONS. STATES SHE HAS ALWAYS NEEDED A KIDNEY TRANSPLATE, BUT HER DIET WHILE INCARCERATED IS REALLY SPEEDING UP THE PROCESS, SAYS SHE DOES NOT GET ALL THE NUTRIENTS SHE NEEDS.

DEFENDANT DID NOT ASK FOR LESS TIME OR ANY OTHER OPTION, SAID SHE WAS OKAY WITH REC, JUST WANTED AN IDEA OF HOW MUCH LONGER SO SHE CAN PREPARE HERSELF.

PO INFORMED HER THAT I WILL REACH OUT TO ATTORNEY PETER MCCUE AND SPEAK WITH HER ABOUT HER OPTIONS.

9-16-2021	2:43p	General	Comment	BScipione	VL SIGNED
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NOTICED OF VIOLATION LETTER SERVED AND SIGNED BY THE DEFENDANT AT MCCF ON 9/16/21

EL, EBONI

MCAPO - SupportStaff - SWietecha

AP138113

Transfer - Team4 - Transferred

Event Type(s) ALL

		Type	With	Result	Author	Event Title
9-15-2021	9:26a	General		Comment	BScipione	VL TO SUPPORT
NOTICE OF VIOLATION LETTER SUBMITTED TO SUPPORT STAFF TO BE SERVED AT MCCF.						
9-15-2021	9:00a	General		Comment	BScipione	DEF MOVED TO MCCF

Event Type:

County Inmate Admission

Name:

EL, EBONI

Suffix:

DOB:

06/17/1980

SSN:

SSN 1

Prisoner ID:

17-00820

SID:

### County Inmate Admission Information

Admission Date:

09/14/2021

Time:

12:00:00 AM

### Reporting Facility Information

Location:

Montgomery County Prison

EL, EBONI  
AP138113  
Event Type(s) ALL

MCAPO - SupportStaff - SWietecha  
Transfer - Team4 - Transferred

		Type	With	Result	Author	Event Title
9-10-2021	2:23p	Collateral	ATTORNEY	Contact	BScipione	ATTORNEY CALLED
ATTORNEY 'PETER MCCUE' CALLED THIS PO THIS DATE TO SPEAK ABOUT DEFENDANT. PER MR. MCCUE, THE DEFENDANT'S DETAINER FROM PHILADELPHIA HAS BEEN DROPPED AND NOW THE ONLY THING HOLDING THE DEF IS THE MONTGOMERY COUNTY DETAINER. MR. MCCUE REQUESTED INFORMATION HOW THAT DETAINER COULD BE LIFTED. PO INFORMED MR. MCCUE THAT THE DEFENDANT WILL NEED TO WAIT FOR A GAGNON HEARING TO BE SCHEDULED IN OUR COUNTY AND I CANNOT SHARE ANY FURTHER INFORMATION UNTIL HIS FIRM OFFICIALLY ENTERS THEIR APPEARANCE ON THE DOCKETS. MR. MCCUE UNDERSTOOD AND INFORMED PO THAT HE WILL BE INTOUCH.						
9-03-2021	1:21p	General		Comment	BScipione	GAGNON PREPARED
REQUEST FROM GAGNON HEARING SUBMITTED THIS DATE AND PLACED IN SUP BIN FOR REVIEW.						
9-03-2021	8:42a	Mail		Sent	BScipione	VL MAILED
NOTICE OF VIOLATION LETTER MAILED TO THE DEFENDANT AT THE DETENTION CENTER THIS DATE.						
8-30-2021	3:40p	General		Comment	BScipione	VL PREPARED
RAP SHEET RAN, NO NEW ARRESTS. NOTICE OF VIOLATION LETTER PREPARED AND SUBMITTED TO SUP BIN FOR REVIEW.						
8-30-2021	3:31p	General		Comment	BScipione	DEF IN CUSTODY AT DC
DEFENDANT PICKED UP ON ACTIVE WARRANTS IN PHILADELPHIA. CURRENTLY IN CUSTODY AT THE DETENTION CENTER UNDER THE ALIAS "LISA EL" PP#: 835093						
8-30-2021	3:07p	General		Comment	AHamilton	CASE ASSIGNED TO PO SCIPIONE
IN PDC AS "LISA EL". TO INVESTIGATE AND PURSUE POSSIBLE VOP. ALH						
8-30-2021	12:09p	General		Comment	CSabo1	PER JNET; ARREST
SUBJECT NOT IN CUSTODY. SENT TO SUP HAMILTON						

Event Type:  
Arrest

Name:  
EL,EBONI

DOB:  
06/17/1980

Alias:

SSN:  
SSN 1

Date:

Event Type(s) ALL

Type	With	Result	Author	Event Title
------	------	--------	--------	-------------

08/30/2021

SID:

SID 1

FBI:

Race:

B

Sex:

F

Height:

508

Weight:

180

Hair:

BRO

Skin:

B

Eyes:

BRO

#### Arrest Information

Arrest Date:

08/29/2021

Date of Offense:

08/29/2021

Date Printed:

08/29/2021

Live Scan ID:

PHIB

Police Prosecution:

Y

Event Type(s) ALL

Type	With	Result	Author	Event Title
------	------	--------	--------	-------------

Arresting Agency:  
PAPEP0000

Magistrate Dist Number:  
00051

District Court Number:  
2119048664

Event Number:  
182898905

County of Offense:  
Philadelphia

OTN:  
U237125-0

Description of Charges

Charge

Charge Description

185121A ESCAPE

Contact Information

Originator:  
PHILADELPHIA PD - PAPEP0000

Originator Address:  
PHILADELPHIA PA 19106

Originator Phone Number:  
[REDACTED]

Originator Case Number:

EL, EBONI

MCAPO - SupportStaff - SWietecha

AP138113

Transfer - Team4 - Transferred

Event Type(s) ALL

Type

With

Result

Author

Event Title

Co835093

Jurisdiction:

PDEA

## **EXHIBIT A2**



# PROBATION/PAROLE/INTERMEDIATE PUNISHMENT VIOLATIONS

**Commonwealth of Pennsylvania**

**Charge(s) and Counts:**

**VS**

CR-4104-17 CT.1-FORGERY (F2)

**EBONI LISA EL**

**Date of Original Sentence** 8/31/17

**Date of Plea Trial** 8/31/17

	<b>GAGNON I</b>	<b>GAGNON II</b>	<b>SENTENCE</b>
<b>DATE</b>	← 10-29-2021 →		
<b>JUDGE</b>			
<b>COURTROOM</b>	<b>GARRETT D. PAGE</b>	<b>GARRETT D. PAGE</b>	<b>GARRETT D. PAGE</b>
<b>COMMONWEALTH'S ATTY</b>			
<b>DEFENDANT'S ATTY</b>	<b>PETE MCHUGH</b>	<b>PETE MCHUGH</b>	<b>PETE MCHUGH</b>
<b>COURT REPORTER</b>			
<b>COURT CLERK</b>	<u>(See Attached)</u>	<u>Stipulation</u>	<u>Colloquy</u>

**AND NOW,** 29<sup>th</sup> day of OCTOBER 2021 **GAGNON I**

- ☒ Defendant waives Gagnon I Hearing.
- ☒ Court grants defendant's request to proceed immediately to Gagnon II Hearing.
- ☐ After hearing, Court finds that there is probable cause to believe defendant has committed a violation of probation/parole/intermediate punishment.
- ☐ After hearing, violation is dismissed.
- ☐ Defendant remanded to M.C.C.F., without bail, pending Gagnon II Hearing/pending posting of bail in the amount of \$\_\_\_\_\_.
- ☐ **Special Conditions:**

**BY THE COURT:** Virgil B. Walk

**For Judge:** Garrett D. Page

**AND NOW,** 29<sup>th</sup> day of OCTOBER 2021 **GAGNON II**

- ☒ The Court fines that the defendant has knowingly, intelligently and voluntarily stipulated that he/she is in violation of probation/parole/intermediate punishment.
- ☐ After Hearing, the Court finds that the defendant (is)/(is not) in violation of probation/parole/intermediate punishment.
- ☒ The Court finds that the violation of probation/parole/intermediate punishment is serious enough to revoke probation/parole/intermediate punishment as the conduct of the defendant indicates that the probation/parole/intermediate punishment has not been effective to accomplish rehabilitation nor a sufficient deterrent against future antisocial conduct. Probation/parole/intermediate punishment is revoked.
- ☐ Probation/parole/intermediate punishment is not revoked. Defendant to complete probation/parole/intermediate punishment, and continue to pay fines, costs and restitution. Defendant is released.
- ☐ The Court directs that the defendant forthwith register with the Adult Probation Department for:
- ☐ Pre-sentence Investigation      ☐ PPI      ☐ House Arrest Suitability Assessment
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. without bail, pending sentencing.
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. pending posting of bail in the amount of \$\_\_\_\_\_, pending sentencing.
- ☐ 90 Day Rule is waived on the record.
- ☒

**Special Conditions:** 2 YEAR CONSECUTIVE PROBATION ON CT. 1 REMAINS AS IMPOSED ON 8/31/17

**BY THE COURT:** Virgil B. Walk

**For Judge:** Garrett D. Page

Case No. CR-4104-17

AND NOW, 10/29/2021, Defendant having violated probation/parole/intermediate punishment, the sentence imposed on 8/31/17 is hereby revoked, and the following sentence imposed.

- ☐ Defendant is sentenced to undergo **Imprisonment** for not less than \_\_\_\_ years no more than \_\_\_\_ years in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at **SCI Phoenix/Muncy** for this purpose. Commitment to date from \_\_\_\_  
☐ **Consecutive** ☐ **Concurrent** to all previously imposed sentences. ☐ Costs on the County  
☐ Credit for time served from \_\_\_\_ to \_\_\_\_  
The defendant is not eligible for: ☐ RRRI ☐ Short Sentence Parole ☐ State Drug Treatment Program ☐ Boot Camp ☐ PA Department of Corrections to calculate RRRI minimum.
- ☐ Defendant is sentenced to undergo **Imprisonment** for not less than \_\_\_\_ months nor more than \_\_\_\_ months in the Montgomery County Correctional Facility. Commitment to date from \_\_\_\_  
☐ **Consecutive** ☐ **Concurrent** to all previously imposed sentences. ☐ Costs on the County  
☐ Credit for time served from \_\_\_\_ to \_\_\_\_  
☐ Ineligible for good-time credit ☐ Eligible for Work Release
- ☐ Defendant is sentenced to: ☐ **Probation**, ☐ **Restrictive DUI probation** 42 Pa.C.S.A. § 9763(c) for \_\_\_\_ months/years in the custody of ☐ Montgomery County Adult Probation/Parole Department ☐ PA Board of Probation and Parole  
☐ **Consecutive** ☐ **Concurrent** to ☐ To date from: \_\_\_\_
- ☐ Defendant is placed on house arrest with electronic monitoring for the first \_\_\_\_ days/months/years.
- ☐ Defendant is directed: ☐ to participate in drug and alcohol treatment under 75 Pa.C.S.A. § 3815(c).
- 4104-17 ☒ Defendant having violated his/her Parole: ☐ Parole reinstated ☐ Eligible for work release  
☒ Defendant is remanded to serve balance of his/her sentence with no credit for time on parole.  
Commitment to date from **AUGUST 30, 2021** Back-time: **15 MONTHS 19 DAYS**
- CT.1 ☒ Defendant is eligible for re-parole after serving 2 months back time.  
☐ Defendant (is) (is not) eligible for good time credit. ☐ No further action on parole violation.

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. \_\_\_\_\_ Sentence is \_\_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_\_

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRI ☐ Ineligible for SSP

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. \_\_\_\_\_ Sentence is \_\_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_\_

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRI ☐ Ineligible for SSP

**SPECIAL CONDITION(S) OF SENTENCE(S)**

- ☐ Outpatient Treatment ☐ Inpatient Treatment ☐ PPI Evaluation and recommended treatment  
☒ Pay balance of cost, fine and restitution within the first \_\_\_\_ months of supervision/release in monthly installments as directed. ☐ Complete balance of previously ordered community service  
☐ Community Service: \_\_\_\_ hours/months/years at site to be determined.  
☒ Defendant shall comply with all rules, regulations, and any special conditions of **probation/parole**/intermediate punishment; incorporated and attached.  
☐ Defendant shall pay the monthly offender supervision fee. ☒ Offender supervision fee is waived.  
☐ Mandatory Sentence ☐ Recall from collections ☐ Complete DUI/DAI Requirement(s)  
☐ Eligible for early termination of supervision upon full payment of fines, costs and restitutions and completion of all special conditions.  
☒ Other: 2 YEAR CONSECUTIVE PROBATION ON CT. 1 REMAINS AS IMPOSED ON 8/31/17

BY THE COURT:

Vincent B. Wall

For Judge: Garrett D. Page

# PROBATION/PAROLE/INTERMEDIATE PUNISHMENT VIOLATIONS

**Commonwealth of Pennsylvania**

**Charge(s) and Counts:**

**VS**

CR-2463-17 Ct. 1 Forgery (F3)

EBONI LISA EL

**Date of Original Sentence** 8/31/17

**Date of Plea Trial** 8/31/17

	GAGNON I	GAGNON II	SENTENCE
<b>DATE</b>	←	<u>10-29-2021</u>	→
<b>JUDGE</b>	GARRETT D. PAGE	GARRETT D. PAGE	GARRETT D. PAGE
<b>COURTROOM</b>			
<b>COMMONWEALTH'S ATTY</b>			
<b>DEFENDANT'S ATTY</b>	PETE MCHUGH	PETE MCHUGH	PETE MCHUGH
<b>COURT REPORTER</b>			
<b>COURT CLERK</b>	(See Attached)	Stipulation	Colloquy

**GAGNON I**

AND NOW, 29<sup>th</sup> day of OCTOBER 2021

- ☒ Defendant waives Gagnon I Hearing.
- ☒ Court grants defendant's request to proceed immediately to Gagnon II Hearing.
- ☐ After hearing, Court finds that there is probable cause to believe defendant has committed a violation of probation/parole/intermediate punishment.
- ☐ After hearing, violation is dismissed.
- ☐ Defendant remanded to M.C.C.F., without bail, pending Gagnon II Hearing/pending posting of bail in the amount of \$\_\_\_\_\_.
- ☐ **Special Conditions:**

**BY THE COURT:**

*Virgil B. Wall*

**For Judge:** *Garrett D. Page*

**GAGNON II**

AND NOW, 29<sup>th</sup> day of OCTOBER 2021

- ☒ The Court fines that the defendant has knowingly, intelligently and voluntarily stipulated that he/she is in violation of probation/parole/intermediate punishment.
- ☐ After Hearing, the Court finds that the defendant (is)(is not) in violation of probation/parole/intermediate punishment.
- ☒ The Court finds that the violation of probation/parole/intermediate punishment is serious enough to revoke probation/parole/intermediate punishment as the conduct of the defendant indicates that the probation/parole/intermediate punishment has not been effective to accomplish rehabilitation nor a sufficient deterrent against future antisocial conduct. Probation/parole/intermediate punishment is revoked.
- ☐ Probation/parole/intermediate punishment is not revoked. Defendant to complete probation/parole/intermediate punishment, and continue to pay fines, costs and restitution. Defendant is released.
- ☐ The Court directs that the defendant forthwith register with the Adult Probation Department for:
- ☐ Pre-sentence Investigation      ☐ PPI      ☐ House Arrest Suitability Assessment
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. without bail, pending sentencing.
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. pending posting of bail in the amount of \$\_\_\_\_\_, pending sentencing.
- ☐ 90 Day Rule is waived on the record.

**Special Conditions:** 2 YEAR CONSECUTIVE PROBATION ON CT. 1 REMAINS AS IMPOSED ON 8/31/17

**BY THE COURT:**

*Virgil B. Wall*

**For Judge:** *Garrett D. Page*

**Case No. CR-2463-17**

AND NOW, 1/4/2021, Defendant having violated probation/parole/intermediate punishment, the sentence imposed on \_\_\_\_\_ is hereby revoked, and the following sentence imposed.

☐ Defendant is sentenced to undergo **Imprisonment** for not less than \_\_\_\_\_ years no more than \_\_\_\_\_ years in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at **SCI Phoenix/Muncy** for this purpose. Commitment to date from \_\_\_\_\_

☐ **Consecutive** ☐ **Concurrent** to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

The defendant is not eligible for: ☐ RRRI ☐ Short Sentence Parole ☐ State Drug Treatment Program ☐ Boot Camp ☐ PA Department of Corrections to calculate RRRI minimum.

☐ Defendant is sentenced to undergo **Imprisonment** for not less than \_\_\_\_\_ months nor more than \_\_\_\_\_ months in the Montgomery County Correctional Facility. Commitment to date from \_\_\_\_\_

☐ **Consecutive** ☐ **Concurrent** to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

☐ Ineligible for good-time credit ☐ Eligible for Work Release

☐ Defendant is sentenced to: ☐ **Probation**, ☐ **Restrictive DUI probation** 42 Pa.C.S.A. § 9763(c) for \_\_\_\_\_ months/years in the custody of ☐ Montgomery County Adult Probation/Parole Department

☐ PA Board of Probation and Parole

☒ **Consecutive** ☐ **Concurrent** to **PAROLE** ☐ To date from: \_\_\_\_\_

☐ Defendant is placed on house arrest with electronic monitoring for the first \_\_\_\_\_ days/months/years.

☐ Defendant is directed: ☐ to participate in drug and alcohol treatment under 75 Pa.C.S.A. § 3815(c).

2463-17 CT. 1 ☒ Defendant having violated his/her Parole: ☐ Parole reinstated ☐ Eligible for work release

☒ Defendant is remanded to serve balance of his/her sentence with no credit for time on parole.

Commitment to date from **AUGUST 30, 2021**

Back-time: **15 MONTHS 19 DAYS**

☒ Defendant is eligible for re-parole parole after serving 2 months back time.

☐ Defendant (is) (is not) eligible for good time credit. ☐ No further action on parole violation.

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. \_\_\_\_\_ Sentence is \_\_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_\_

☐ Ineligible for SDTP

☐ Ineligible for BC

☐ Ineligible for RRRI

☐ Ineligible for SSP

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. \_\_\_\_\_ Sentence is \_\_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_\_

☐ Ineligible for SDTP

☐ Ineligible for BC

☐ Ineligible for RRRI

☐ Ineligible for SSP

**SPECIAL CONDITION(S) OF SENTENCE(S)**

☐ Outpatient Treatment ☐ Inpatient Treatment ☐ PPI Evaluation and recommended treatment

☒ Pay balance of cost, fine and restitution within the first \_\_\_\_\_ months of supervision/release in monthly installments as directed. ☐ Complete balance of previously ordered community service

☐ Community Service: \_\_\_\_\_ hours/months/years at site to be determined.

☒ Defendant shall comply with all rules, regulations, and any special conditions of probation/**parole**/intermediate punishment; incorporated and attached.

☐ Defendant shall pay the monthly offender supervision fee.

☒ Offender supervision fee is waived.

☐ Mandatory Sentence

☐ Recall from collections

☐ Complete DUI/DAI Requirement(s)

☐ Eligible for early termination of supervision upon full payment of fines, costs and restitutions and completion of all special conditions.

☒ Other: 2 YEAR CONSECUTIVE PROBATION ON CT. 1 REMAINS AS IMPOSED ON 8/31/17

BY THE COURT:

Nigel B. War

For Judge:

Garrett D. Page

# PROBATION/PAROLE/INTERMEDIATE PUNISHMENT VIOLATIONS

**Commonwealth of Pennsylvania**

**Charge(s) and Counts:**

**VS**

CR-2629-17 CT. 1 Forgery (F2)

**EBONI LISA EL**

CT. 5- Criminal Conspiracy/ Forgery (F2)

**Date of Original Sentence** 8/31/17

**Date of Plea Trial** 8/31/17

	<b>GAGNON I</b>	<b>GAGNON II</b>	<b>SENTENCE</b>
<b>DATE</b>	<u>5-16-29-2021</u>		
<b>JUDGE</b>	<b>GARRETT D. PAGE</b>	<b>GARRETT D. PAGE</b>	<b>GARRETT D. PAGE</b>
<b>COURTROOM</b>			
<b>COMMONWEALTH'S ATTY</b>			
<b>DEFENDANT'S ATTY</b>	<b>PETE MCHUGH</b>	<b>PETE MCHUGH</b>	<b>PETE MCHUGH</b>
<b>COURT REPORTER</b>			
<b>COURT CLERK</b>	<u>(Set Attached)</u>	<u>Stipulation</u>	<u>Colloquy</u>

**AND NOW,** 29<sup>th</sup> day of OCTOBER **GAGNON I** 2021

- ☒ Defendant waives Gagnon I Hearing.
- ☒ Court grants defendant's request to proceed immediately to Gagnon II Hearing.
- ☐ After hearing, Court finds that there is probable cause to believe defendant has committed a violation of probation/parole/intermediate punishment.
- ☐ After hearing, violation is dismissed.
- ☐ Defendant remanded to M.C.C.F., without bail, pending Gagnon II Hearing/pending posting of bail in the amount of \$\_\_\_\_\_.
- ☐ **Special Conditions:**

**BY THE COURT:**

**For Judge:** Garrett D. Page

**AND NOW,** 29<sup>th</sup> day of OCTOBER **GAGNON II** 2021

- ☒ The Court finds that the defendant has knowingly, intelligently and voluntarily stipulated that he/she is in violation of probation/parole/intermediate punishment.
- ☐ After Hearing, the Court finds that the defendant (is)(is not) in violation of probation/parole/intermediate punishment.
- ☒ The Court finds that the violation of probation/parole/intermediate punishment is serious enough to revoke probation/parole/intermediate punishment as the conduct of the defendant indicates that the probation/parole/intermediate punishment has not been effective to accomplish rehabilitation nor a sufficient deterrent against future antisocial conduct. Probation/parole/intermediate punishment is revoked.
- ☐ Probation/parole/intermediate punishment is not revoked. Defendant to complete probation/parole/intermediate punishment, and continue to pay fines, costs and restitution. Defendant is released.
- ☐ The Court directs that the defendant forthwith register with the Adult Probation Department for:
- ☐ Pre-sentence Investigation      ☐ PPI      ☐ House Arrest Suitability Assessment
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. without bail, pending sentencing.
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. pending posting of bail in the amount of \$\_\_\_\_\_, pending sentencing.
- ☐ 90 Day Rule is waived on the record.
- ☒ **Special Conditions:** 2 YEAR CONSECUTIVE PROBATION ON COUNTS 1 & 5 REMAIN AS IMPOSED ON 8/31/17

**BY THE COURT:**

**For Judge:** Garrett D. Page

AND NOW, 10/29/2021, Defendant having violated probation/parole/intermediate punishment, the sentence imposed on 8/31/17 is hereby revoked, and the following sentence imposed.

☐ Defendant is sentenced to undergo **Imprisonment** for not less than \_\_\_\_ years no more than \_\_\_\_ years in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at **SCI Phoenix/Muncy** for this purpose. Commitment to date from \_\_\_\_

☐ **Consecutive** ☐ **Concurrent** to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_ to \_\_\_\_

The defendant is not eligible for: ☐ RRRI ☐ Short Sentence Parole ☐ State Drug Treatment Program ☐ Boot Camp ☐ PA Department of Corrections to calculate RRRI minimum.

☐ Defendant is sentenced to undergo **Imprisonment** for not less than \_\_\_\_ months nor more than \_\_\_\_ months in the Montgomery County Correctional Facility. Commitment to date from \_\_\_\_

☐ **Consecutive** ☐ **Concurrent** to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_ to \_\_\_\_

☐ Ineligible for good-time credit ☐ Eligible for Work Release

☐ Defendant is sentenced to: ☐ **Probation**, ☐ **Restrictive DUI probation** 42 Pa.C.S.A. § 9763(c) for \_\_\_\_ months/years in the custody of ☐ Montgomery County Adult Probation/Parole Department

☐ PA Board of Probation and Parole

**Consecutive** ☐ **Concurrent** to \_\_\_\_ ☐ To date from: \_\_\_\_

☐ Defendant is placed on house arrest with electronic monitoring for the first \_\_\_\_ days/months/years.

☐ Defendant is directed: ☐ to participate in drug and alcohol treatment under 75 Pa.C.S.A. § 3815(c).

2629-17 ☒ Defendant having violated his/her Parole: ☐ Parole reinstated ☐ Eligible for work release

CT. 1 & 5 ☒ Defendant is remanded to serve balance of his/her sentence with no credit for time on parole.

Commitment to date from AUGUST 30, 2021

Back-time: 15 MONTHS 19 DAYS

CONCUR ☒ Defendant is eligible for re-parole after serving 2 months back time.

☐ Defendant (is) (is not) eligible for good time credit. ☐ No further action on parole violation.

#### CONCURRENT/CONSECUTIVE SENTENCE

Count No. \_\_\_\_ Sentence is \_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_

☐ Ineligible for SDTP

☐ Ineligible for BC

☐ Ineligible for RRRI

☐ Ineligible for SSP

#### CONCURRENT/CONSECUTIVE SENTENCE

Count No. \_\_\_\_ Sentence is \_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_

☐ Ineligible for SDTP

☐ Ineligible for BC

☐ Ineligible for RRRI

☐ Ineligible for SSP

#### SPECIAL CONDITION(S) OF SENTENCE(S)

☐ Outpatient Treatment ☐ Inpatient Treatment ☐ PPI Evaluation and recommended treatment

☒ Pay balance of cost, fine and restitution within the first \_\_\_\_ months of supervision/release in monthly installments as directed. ☐ Complete balance of previously ordered community service

☐ Community Service: \_\_\_\_ hours/months/years at site to be determined.

☒ Defendant shall comply with all rules, regulations, and any special conditions of **probation/parole**/intermediate punishment; incorporated and attached.

☐ Defendant shall pay the monthly offender supervision fee.

☒ Offender supervision fee is waived.

☐ Mandatory Sentence

☐ Recall from collections

☐ Complete DUI/DAI Requirement(s)

☐ Eligible for early termination of supervision upon full payment of fines, costs and restitutions and completion of all special conditions.

☒ Other: 2 YEAR CONSECUTIVE PROBATION ON COUNTS 1 & 5 REMAIN AS IMPOSED ON 8/31/17

BY THE COURT:

Vincent B. Walk

For Judge:

Garrett D. Page

## **EXHIBIT B1**

GeneralSup - Team1 - High

Event Title

[REDACTED]

11-05-2021	2:04p	General	Comment	MAversa	PAROLE PAPERS RECEIVED
RECEIVED PAROLE PAPERS FOR BILL NOS. 8455-15 & 2629-19. PAPERWORK TO M. AVERY.					

10-26-2021	10:15a	ParolePlan	Complete	WAnastacio
PAROLE SIGNED				

[REDACTED]  
[REDACTED]  
[REDACTED] - GIRLFRIEND

10-18-2021 12:18p TERM VioArrTech MAvery Gagnon II Hearing  
Gagnon II hearing held in front of Judge Austin on three current bill number and new DUI case. MA



HASKELL, ANDREW

MCAPO - Team1 - JBrodie

AP21420

GeneralSup - Team1 - High

Event Type(s) ALL

		Type	With	Result	Author	Event Title
10-01-2021	9:31a	Note		NA	MAvery	Gagnon 10/18/21 at 1030am
Gagnon Scheduled for October 18, 2021 at 1030am						
8-30-2021	6:53a	Note		NA	MAvery	Gagnon Continued
Gagnon Hearing scheduled for 8/31/21, continued by defense. MA						
5-11-2021	11:12a	General		Comment	JMaga	GAGNON UPLOADED SHARED DRI
5-10-2021	1:22p	Note		NA	MAvery	Preliminary Hearing for New Charg
Preliminary Hearing for new charges is on July 19 at 10:45am.						
MJ-38124-CR-0000120-2021						
4-22-2021	9:23a	Note		NA	MAvery	Violation Letter signed
Violation letter served via video. Offender signed violation letter. MA						
4-20-2021	7:39a	Phone	Client	Converse	MAvery	Sue Kline Center of Excellence
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
4-20-2021	7:38a	Note		NA	MAvery	Offender detained on BW
Offender was detained by Bridgeport Police Department on BW. MA						
4-13-2021	11:39a	Collateral		Contact	MAvery	Sue Kline Center of Excellence
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
4-06-2021	11:46a	Note		NA	MAvery	BW ACTIVE
BW ACTIVE on all three bill numbers. MA						

HASKELL, ANDREW

MCAPO - Team1 - JBrodie

AP21420

GeneralSup - Team1 - High

Event Type(s) ALL

		Type	With	Result	Author	Event Title
4-06-2021	10:33a	Meeting	Client	Contact	MAvery	

PO spoke with the offender on the phone.

The offender was crying and said he knows why PO was calling. He said that he offered to take a friend somewhere because he is a nice guy and he got pulled over. He said that they took his blood. PO asked if he would be clean and he said yes. PO questioned him again as he hesitated and he said no, there would be Xanax. The offender said he cant go to jail, he has to rehab. He said he cant detox off the Xanax in jail. PO told the offender that PO submitted a BW and he needs to turn himself into the jail. The offender continued to bed PO to let him go to rehab. PO explained that he got the opportunity in December when he was found passed out in the car at Wawa with Xanax. The offender said his kids and family need him. PO explained that if he continued down this path he is no good to his family. The offender said he will call Sue Kline at the clinic and see if they can get him into rehab. The offender asked about drug court again and PO told him that is something she did not know if he would be allowed to do again. The offender needs intensive supervision and to be drug screened on a regular basis. He needs accountability and currently he does not have that due to COVID. The offender said he would let PO know what Sue says. MA

4-05-2021	1:23p	Note		NA	MAvery	NEW ARREST
-----------	-------	------	--	----	--------	------------

PO received a JNET notification for a new arrest by Pennsylvania State Police on April 4, 2020 for Driving Under the Influence and Possession of a Controlled Substance Person Not Registered.

PO called State police and offender was released.

BW will be filed. MA

## **EXHIBIT B2**

AND NOW, October 18, 2021

☐ Defendant is sentenced to undergo **Imprisonment** for not less than \_\_\_\_\_ years no more than \_\_\_\_\_ years in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at **SCI Phoenix/Muncy** for this purpose. Commitment to date from \_\_\_\_\_

☐ **Consecutive** ☐ **Concurrent** to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

The defendant is not eligible for: ☐ RRRI ☐ Short Sentence Parole ☐ State Drug Treatment Program ☐ Boot Camp ☐ PA Department of Corrections to calculate RRRI minimum.

☐ Defendant is sentenced to undergo **Imprisonment** for not less than \_\_\_\_\_ months nor more than \_\_\_\_\_ months in the Montgomery County Correctional Facility.

Commitment to date from \_\_\_\_\_

☐ **Consecutive** ☐ **Concurrent** to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

☐ Ineligible for good-time credit

☐ Eligible for Work Release

CT 3 ☒ Defendant is sentenced to: ☐ **Probation**, ☒ **Restrictive DUI probation** 42 Pa.C.S.A. § 9763(c) for 6 months/years in the custody of ☒ Montgomery County Adult Probation/Parole Department ☐ PA Board of Probation and Parole.

☐ **Consecutive** ☐ **Concurrent** to \_\_\_\_\_ ☒ To date from: 10/18/21

CT 3 ☒ Defendant is placed on house arrest with electronic monitoring for the first 72 hrs days/months/years.

☐ Defendant is **directed**: ☐ to participate in drug and alcohol treatment under 75 Pa.C.S.A. § 3815(c).

CT 3 ☒ Defendant is sentenced to pay the costs of prosecution and a fine of \$ 1,088 and restitution of \$ \_\_\_\_\_ to \_\_\_\_\_ within the first \_\_\_\_\_ days/months/years.

☐ Determination of guilt without further penalty ☐ Counts merge for sentencing purposes

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. 6 Sentence is 1 year probation, costs and is to run concurrently/consecutively with/to sentence imposed on Count # 3

☒ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRI ☐ Ineligible for SSP

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. \_\_\_\_\_ Sentence is \_\_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_\_

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRI ☐ Ineligible for SSP

**SPECIAL CONDITION(S) OF SENTENCE(S)**

☐ Comply with Restrictive Conditions of Probation

☐ Comply with Level of Care Assessment

☐ PPI Evaluation and recommended treatment

☒ Comply with PENNDOT requirements.

☐ Community Service: \_\_\_\_\_ hours at site to be determined, within \_\_\_\_\_ months/years

☐ Comply with 42 PA C.S. 9799.15 sex offender registration requirements Tier: \_\_\_\_\_

☒ Defendant shall comply with all rules, regulations and special conditions of supervision.

☐ Defendant shall pay the monthly offender supervision fee.

☒ Offender supervision fee is waived.

☐ Mandatory Sentence

☐ Do not send to collection agency

☐ To be evaluated for:

☐ Sex Offender

☐ Substance Abuse Disorder

☐ Anger Management

☐ D/V Counseling

☐ Parenting Classes

☐ No contact with \_\_\_\_\_

☐ Parole authority retained pursuant to 75 P.S. 3804D & 3815 ☐ DA waives objection to any time credit issues

☒ Other: Rules and Regulations of Probation gone over on the Record

Cheryl L. Austin

# TRIAL/PLEA/SENTENCE

1 of \_\_\_\_\_

Commonwealth of Pennsylvania

Charge(s) and Counts

vs

CR 4632-21 CT 1 DUI/Gen Imp/Unsafe Driving  
CT 2 DUI/Unsafe Driving - Ctl Subs CT 3 DUI: Ctl Subs -  
Schedule I CT 4 TXU Ctl Subs Schedule II or III  
CT 5 DUI/Ctl Subs Schedule I CT 6 Drug Para  
CT 7 No Rear Lights

Andrew Thomas Haskell

	TRIAL	OPEN GUILTY PLEA	SENTENCE
DATE		10/18/21	Same
JUDGE		Cheryl L Austin	
COURTROOM		8	
COMMONWEALTH'S ATTY		L. George	
DEFENDANT'S ATTY		M. Hagarty	
COURT REPORTER		L. Piersig	
COURT CLERK		J. Pergine	

AND NOW, this 18th day of October, 2021

☒ The Court finds that the defendant has knowingly, intelligently and voluntarily entered a (negotiated) (open) plea of guilty with reference to the following count(s) and the Court accepts the guilty plea:

CT 3 DUI: Ctl Subs - Schedule I (UM)  
CT 6 Drug Para (UM)

☒ The Court accepts the terms of the plea agreement and sentence will be imposed in accordance with it.

☒ The motion of the District Attorney to nol pros the following Count(s) with costs on the county is granted: \_\_\_\_\_

All Remaining Counts

☐ The Court sustains a motion for judgment of acquittal as to Count(s): \_\_\_\_\_

☐ The Court overrules a motion for judgement of acquittal as to Count(s): \_\_\_\_\_

☐ After trial, the Jury/Court finds the defendant:

Guilty of the following Count(s): \_\_\_\_\_

Not guilty of the following Count(s): \_\_\_\_\_

Jury sworn: \_\_\_\_\_ Jury Returns: \_\_\_\_\_ Trial Days: \_\_\_\_\_

☐ The Court directs that the defendant forthwith register with the Adult Probation Department for:

☐ PPI Evaluation ☐ House Arrest Suitability Assessment ☐ Sexually Violent Predator Assessment

☐ Pre-Sentence Investigation Report with Risk Assessment Instrument and Sentencing Guidelines

☐ Commencing Supervision

☐ Sentence deferred: Defendant remanded without bail/released on same bail/remanded pending posting of bail in the increased amount of \_\_\_\_\_ ☐ 90 Day Rule is waived

☐ Other: \_\_\_\_\_

☐ Defendant is advised that PA driver's license will be suspended by PENNDOT.

☐ Blood Alcohol Content \_\_\_\_\_ ☒ 1st Offense ☐ Refusal

BY THE COURT: Cheryl L. Austin

Case No. CR 2629-19

AND NOW, 10/18/21, Defendant having violated probation/parole/intermediate punishment, the sentence imposed on 3/12/21 is hereby revoked, and the following sentence imposed.

☐ Defendant is sentenced to undergo Imprisonment for not less than \_\_\_ years no more than \_\_\_ years in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at SCI Phoenix/Muncy for this purpose. Commitment to date from \_\_\_\_\_

☐ Consecutive ☐ Concurrent to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

The defendant is not eligible for: ☐ RRRI ☐ Short Sentence Parole ☐ State Drug Treatment Program ☐ Boot Camp ☐ PA Department of Corrections to calculate RRRI minimum.

☐ Defendant is sentenced to undergo Imprisonment for not less than \_\_\_ months nor more than \_\_\_ months in the Montgomery County Correctional Facility. Commitment to date from \_\_\_\_\_

☐ Consecutive ☐ Concurrent to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

☐ Ineligible for good-time credit ☐ Eligible for Work Release

☐ Defendant is sentenced to: ☐ Probation, ☐ Restrictive DUI probation 42 Pa.C.S.A. § 9763(c) for \_\_\_ months/years in the custody of ☐ Montgomery County Adult Probation/Parole Department

☐ PA Board of Probation and Parole

☐ Consecutive ☐ Concurrent to \_\_\_\_\_ ☐ To date from: \_\_\_\_\_

☐ Defendant is placed on house arrest with electronic monitoring for the first \_\_\_ days/months/years.

☐ Defendant is directed: ☐ to participate in drug and alcohol treatment under 75 Pa.C.S.A. § 3815(c).

71 ☒ Defendant having violated his/her Parole: ☐ Parole reinstated ☐ Eligible for work release

☒ Defendant is remanded to serve balance of his/her sentence with no credit for time on parole.

Commitment to date from 4/20/21

Back-time: 19 months 29 days

☒ Defendant is eligible for re-parole parole after serving 8 months back time.

☒ Defendant (13) (is not) eligible for good time credit. ☐ No further action on parole violation.

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. \_\_\_\_\_ Sentence is \_\_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_\_

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRI ☐ Ineligible for SSP

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. \_\_\_\_\_ Sentence is \_\_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_\_

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRI ☐ Ineligible for SSP

**SPECIAL CONDITION(S) OF SENTENCE(S)**

☐ Outpatient Treatment ☐ Inpatient Treatment ☐ PPI Evaluation and recommended treatment  
☒ Pay balance of cost, fine and restitution within the first \_\_\_\_\_ months of supervision/release in monthly installments as directed. ☐ Complete balance of previously ordered community service - -

☐ Community Service: \_\_\_\_\_ hours/months/years at site to be determined.

☒ Defendant shall comply with all rules, regulations, and any special conditions of probation/parole.

☒ Defendant shall pay the monthly offender supervision fee. ☐ Offender supervision fee is waived.

☐ Mandatory Sentence ☐ Recall from collections. ☐ Complete DUI/DAI Requirement(s)

☐ Eligible for early termination of supervision upon full payment of fines, costs and restitution and completion of all special conditions.

☒ Other: Rules and Regulations of Probation gone over on the Record

BY THE COURT:

Cheryl L. Austin For Judge: Carpenter

# PROBATION/PAROLE/INTERMEDIATE PUNISHMENT VIOLATIONS

Commonwealth of Pennsylvania  
vs

Charge(s) and Counts:

CR 2629-19  
CT1 Retail Theft (F3)

Andrew Haskell

Date of Original Sentence 3/12/21

Date of Plea Trial 3/12/21

	GAGNON I	GAGNON II	SENTENCE
DATE		10/18/21	Same
JUDGE		Cheryl L Austin	
COURTROOM		8	
COMMONWEALTH'S ATTY		L. George	
DEFENDANT'S ATTY		M. Haggerty	
COURT REPORTER		L. Piersig	
COURT CLERK		J. Pagine	

## GAGNON I

AND NOW, \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

- ☐ Defendant waives Gagnon I Hearing.
- ☐ Court grants defendant's request to proceed immediately to Gagnon II Hearing.
- ☐ After hearing, Court finds that there is probable cause to believe defendant has committed a violation of probation/parole/intermediate punishment.
- ☐ After hearing, violation is dismissed.
- ☐ Defendant remanded to M.C.C.F., without bail, pending Gagnon II Hearing/pending posting of bail in the amount of \$ \_\_\_\_\_.
- ☐ Special Conditions: \_\_\_\_\_

BY THE COURT: \_\_\_\_\_

For Judge: \_\_\_\_\_

## GAGNON II

AND NOW, this 18<sup>th</sup> day of October, 2021

- ☒ The Court finds that the defendant has knowingly, intelligently and voluntarily stipulated that he/she is in violation of ~~probation/parole/intermediate punishment~~.
- ☐ After Hearing, the Court finds that the defendant (is)(is not) in violation of probation/parole/intermediate punishment.
- ☒ The Court finds that the violation of ~~probation/parole/intermediate punishment~~ is serious enough to revoke ~~probation/parole/intermediate punishment~~ as the conduct of the defendant indicates that the probation/parole/intermediate punishment has not been effective to accomplish rehabilitation nor a sufficient deterrent against future antisocial conduct. ~~Probation/parole/intermediate punishment~~ is revoked.
- ☐ Probation/parole/intermediate punishment is not revoked. Defendant to complete probation/parole/intermediate punishment, and continue to pay fines, costs and restitution. Defendant is released.
- ☐ The Court directs that the defendant forthwith register with the Adult Probation Department for:
- ☐ Pre-Sentence Investigation Report ☐ PPI Evaluation ☐ House Arrest Suitability Assessment
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. without bail, pending sentencing.
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. pending posting of bail in the amount of \$ \_\_\_\_\_, pending sentencing.
- ☐ 90 Day Rule is waived on the record.

- ☒ Special Conditions: The 1 year consecutive probation imposed on 3/12/21 remains in effect

BY THE COURT: \_\_\_\_\_

Cheryl L Austin

For Judge: \_\_\_\_\_

Carper



AND NOW, 3/12/2021

☐ Defendant is sentenced to undergo **Imprisonment** for not less than        years no more than        years in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at **SCI Phoenix/Muncy** for this purpose. Commitment to date from       

☐ **Consecutive** ☐ **Concurrent** to all previously imposed sentences. ☐ Costs on the County ☐ Credit for time served from        to       

The defendant is not eligible for: ☐ RRRI ☐ Short Sentence Parole ☐ State Drug Treatment Program ☐ Boot Camp ☐ PA Department of Corrections to calculate RRRI minimum.

ct. 1

☒ Defendant is sentenced to undergo **Imprisonment** for not less than T.S. months nor more than 23 months in the Montgomery County Correctional Facility.

Commitment to date from 3/12/21

☐ **Consecutive** ☐ **Concurrent** to all previously imposed sentences. ☐ Costs on the County

☒ Credit for time served from 1/31/2020 to 4/30/2020

ct. 1

☐ Ineligible for good-time credit ☐ Eligible for Work Release

☒ Defendant is sentenced to: ☒ **Probation**, ☐ **Restrictive DUI probation** 42 Pa.C.S.A. § 9763(c) for ONE months/years in the custody of ☒ Montgomery County Adult Probation/Parole Department ☐ PA Board of Probation and Parole.

☒ **Consecutive** ☐ **Concurrent** to EXP of Parole ☐ To date from:       

☐ Defendant is placed on house arrest with electronic monitoring for the first        days/months/years.

☐ Defendant is **directed**: ☐ to participate in drug and alcohol treatment under 75 Pa.C.S.A. § 3815(c).

ct. 1

☒ Defendant is sentenced to pay the costs of prosecution, and a fine of \$ 57.00 and restitution of \$ 57.00 to GRANT-KING OF PRUSSIA within the first 24 days/months/years.

☐ Determination of guilt without further penalty ☐ Counts merge for sentencing purposes

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No.        Sentence is        concurrently/consecutively with/to sentence imposed on Count #       

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRI ☐ Ineligible for SSP

**Any and all monies paid by defendant shall be applied to restitution first, until paid in full, and is to run prior to being applied to any fines and/or costs.**

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No.        Sentence is        and is to run concurrently/consecutively with/to sentence imposed on Count #       

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRI ☐ Ineligible for SSP

**SPECIAL CONDITION(S) OF SENTENCE(S)**

- ☐ Comply with Restrictive Conditions of Probation
- ☐ PPI Evaluation and recommended treatment
- ☐ Community Service:        hours at site to be determined, within        months/years
- ☐ Comply with 42 PA C.S. 9799.15 sex offender registration requirements Tier:
- ☒ Defendant shall comply with all rules, regulations and special conditions of supervision.
- ☒ Defendant shall pay the monthly offender supervision fee. ☐ Offender supervision fee is waived.
- ☐ Mandatory Sentence ☐ Do not send to collection agency
- ☐ To be evaluated for: ☐ Sex Offender ☐ Substance Abuse Disorder ☐ Anger Management
- ☐ D/V Counseling ☐ Parenting Classes ☐ No contact with
- ☐ Parole authority retained pursuant to 75 P.S. 3804D & 3815 ☐ DA waives objection to any time credit issues
- ☐ Other:

*[Handwritten signature]*



# TRIAL/PLEA/SENTENCE

1 of \_\_\_\_\_

Commonwealth of Pennsylvania

vs

Charge(s) and Counts

CR 2629-19

CT. 1 RT

CT. 2 RSP

Andrew T. Haskell

	TRIAL	OPEN GUILTY PLEA	SENTENCE
DATE		3/12/2021	SAME
JUDGE		WM. R. CARPENTER	
COURTROOM		C	
COMMONWEALTH'S ATTY		J. Grobstein	
DEFENDANT'S ATTY		G. Griffith	
COURT REPORTER		M. Dineen	
COURT CLERK		J. Leister	

AND NOW, this 12<sup>th</sup> day of MARCH, 2021

☒ The Court finds that the defendant has knowingly, intelligently and voluntarily entered a (negotiated) (open) plea of guilty with reference to the following count(s) and the Court accepts the guilty plea:

CR 2629-19 CT. 1 R.T. (F3)

☒ The Court accepts the terms of the plea agreement and sentence will be imposed in accordance with it.

☒ The motion of the District Attorney for nol pros the following Count(s) with costs on the county is granted:

☐ The Court sustains a motion for judgment of acquittal as to Count(s):

☐ The Court overrules a motion for judgment of acquittal as to Count(s):

☐ After trial, the Jury/Court finds the defendant:

Guilty of the following Count(s):

Not guilty of the following Count(s):

Jury sworn: \_\_\_\_\_ Jury Returns: \_\_\_\_\_ Trial Days: \_\_\_\_\_

☒ The Court directs that the defendant forthwith register with the Adult Probation Department for:

☐ PPI Evaluation ☐ House Arrest Suitability Assessment

☐ Sexually Violent Predator Assessment

☐ Pre-Sentence Investigation Report with Risk Assessment Instrument and Sentencing Guidelines

☒ Commencing Supervision

☐ Sentence deferred: Defendant remanded without bail/released on same bail/remanded pending posting of bail in the increased amount of \_\_\_\_\_ ☐ 90 Day Rule is waived

☐ Other: \_\_\_\_\_

☐ Defendant is advised that PA driver's license will be suspended by PENNDOT.

☐ Blood Alcohol Content \_\_\_\_\_

☐ \_\_\_\_\_ Offense

☐ Refusal

W. R. Carpenter

Case No. CR 8456-15

AND NOW, 10/18/21, Defendant having violated probation/parole/intermediate punishment, the sentence imposed on 6/7/18 is hereby revoked, and the following sentence imposed.

☐ Defendant is sentenced to undergo Imprisonment for not less than \_\_\_ years no more than \_\_\_ years in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at **SCI Phoenix/Muncy** for this purpose. Commitment to date from \_\_\_\_\_

☐ Consecutive ☐ Concurrent to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

The defendant is not eligible for: ☐ RRRI ☐ Short Sentence Parole ☐ State Drug Treatment Program ☐ Boot Camp ☐ PA Department of Corrections to calculate RRRI minimum.

☐ Defendant is sentenced to undergo Imprisonment for not less than \_\_\_\_\_ months nor more than \_\_\_\_\_ months in the Montgomery County Correctional Facility. Commitment to date from \_\_\_\_\_

☐ Consecutive ☐ Concurrent to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

☐ Ineligible for good-time credit ☐ Eligible for Work Release

☐ Defendant is sentenced to: ☐ Probation, ☐ Restrictive DUI probation 42 Pa.C.S.A. § 9763(c) for \_\_\_\_\_ months/years in the custody of ☐ Montgomery County Adult Probation/Parole Department

☐ PA Board of Probation and Parole

☐ Consecutive ☐ Concurrent to \_\_\_\_\_ ☐ To date from: \_\_\_\_\_

☐ Defendant is placed on house arrest with electronic monitoring for the first \_\_\_\_\_ days/months/years.

☐ Defendant is directed: ☐ to participate in drug and alcohol treatment under 75 Pa.C.S.A. § 3815(c).

CT 8 ☒ Defendant having violated his/her Parole: ☐ Parole reinstated ☐ Eligible for work release

☒ Defendant is remanded to serve balance of his/her sentence with no credit for time on parole.

Commitment to date from 4/20/21

Back-time: 14 months 9 days

☒ Defendant is eligible for re-parole parole after serving 8 months back time.

☒ Defendant ~~(is)~~ ~~(is not)~~ eligible for good time credit. ☐ No further action on parole violation.

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. \_\_\_\_\_ Sentence is \_\_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_\_

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRI ☐ Ineligible for SSP

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. \_\_\_\_\_ Sentence is \_\_\_\_\_ and is to run concurrently/consecutively with/to sentence imposed on Count # \_\_\_\_\_

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRI ☐ Ineligible for SSP

**SPECIAL CONDITION(S) OF SENTENCE(S)**

- ☐ Outpatient Treatment ☐ Inpatient Treatment ☐ PPI Evaluation and recommended treatment
- ☒ Pay balance of cost, fine and restitution within the first \_\_\_\_\_ months of supervision/release in monthly installments as directed. ☐ Complete balance of previously ordered community service
- ☐ Community Service: \_\_\_\_\_ hours/months/years at site to be determined.
- ☒ Defendant shall comply with all rules, regulations, and any special conditions of probation/parole.
- ☐ Defendant shall pay the monthly offender supervision fee. ☒ Offender supervision fee is waived.
- ☐ Mandatory Sentence ☐ Recall from collections. ☐ Complete DUI/DAI Requirement(s)
- ☐ Eligible for early termination of supervision upon full payment of fines, costs and restitution and completion of all special conditions.

☒ Other: Rules and Regulations of Probation gone over on the Record

BY THE COURT: Cheryl L. Austin For Judge: O'Neill

# PROBATION/PAROLE/INTERMEDIATE PUNISHMENT VIOLATIONS

Commonwealth of Pennsylvania  
vs

Charge(s) and Counts:

CR 8456-15

CT & Retail Theft (F3)

Andrew Haskell

Date of Original Sentence

6/14/16

Date of Plea Trial

6/14/16

	GAGNON I	GAGNON II	SENTENCE
DATE		<u>10/18/21</u>	<u>Same</u>
JUDGE		<u>Cheryl L Austin</u>	
COURTROOM		<u>8</u>	
COMMONWEALTH'S ATTY		<u>L George</u>	
DEFENDANT'S ATTY		<u>M Hagarty</u>	
COURT REPORTER		<u>L Piersig</u>	
COURT CLERK		<u>J Perrine</u>	

## GAGNON I

AND NOW, \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

- ☐ Defendant waives Gagnon I Hearing.
- ☐ Court grants defendant's request to proceed immediately to Gagnon II Hearing.
- ☐ After hearing, Court finds that there is probable cause to believe defendant has committed a violation of probation/parole/intermediate punishment.
- ☐ After hearing, violation is dismissed.
- ☐ Defendant remanded to M.C.C.F., without bail, pending Gagnon II Hearing/pending posting of bail in the amount of \$ \_\_\_\_\_.
- ☐ Special Conditions: \_\_\_\_\_

BY THE COURT: \_\_\_\_\_

For Judge: \_\_\_\_\_

## GAGNON II

AND NOW, this 18th day of October, 2021

- ☒ The Court finds that the defendant has knowingly, intelligently and voluntarily stipulated that he/she is in violation of ~~probation/parole/intermediate punishment~~.
- ☐ After Hearing, the Court finds that the defendant (is)(is not) in violation of probation/parole/intermediate punishment.
- ☒ The Court finds that the violation of ~~probation/parole/intermediate punishment~~ is serious enough to revoke ~~probation/parole/intermediate punishment~~ as the conduct of the defendant indicates that the ~~probation/parole/intermediate punishment~~ has not been effective to accomplish rehabilitation nor a sufficient deterrent against future antisocial conduct. ~~Probation/parole/intermediate punishment~~ is revoked.
- ☐ Probation/parole/intermediate punishment is not revoked. Defendant to complete probation/parole/intermediate punishment, and continue to pay fines, costs and restitution. Defendant is released.
- ☐ The Court directs that the defendant forthwith register with the Adult Probation Department for:
  - ☐ Pre-Sentence Investigation Report
  - ☐ PPI Evaluation
  - ☐ House Arrest Suitability Assessment
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. without bail, pending sentencing.
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. pending posting of bail in the amount of \$ \_\_\_\_\_, pending sentencing
- ☐ 90 Day Rule is waived on the record.

☒ Special Conditions: 3 year consecutive probation imposed on 6/14/16  
remains in effect

BY THE COURT: \_\_\_\_\_

Cheryl L. Austin

For Judge: \_\_\_\_\_

O'Neill

# **EXHIBIT C1**

LEE, SUNG JOO

MCAPO - SupportStaff - MDollinger

AP39028

Transfer - Team4 - Transferred

Event Type(s) ALL

		Type	With	Result	Author	Event Title
11-18-2021	12:41p	General		Comment	LCusack	NOTICE OF ARRIVAL
TENNESSEE PROVIDED NOTICE OF ARRIVAL THROUGH ICOTS ON THIS DATE. LBC.						
10-06-2021	3:20p	ParolePlan		Complete	KHoffman	
INTERSTATE PAROLE COMPLETED.....ADDRESS VERIFIED WITH WIFE [REDACTED]						
9-29-2021	8:52a	TERM		VioArrTech	LCusack	SENTENCE IMPOSED
GAGNON HEARING HELD 9/28/21 - SENTENCE IMPOSED:						
3-23M TO DATE FROM 8/25/21 + 1 YEAR CONSECUTIVE PROBATION. DEF MADE ELIGIBLE FOR GOOD-TIME CREDIT.						
ALL WARRANTS/DETAINDER TABS UPDATED AND CLEARED. DEF WILL BE PAROLED BACK TO TENNESSEE. SUP MURRAY AND M.DOLLINGER ADVISED OF THIS FOR ICOTS' TRANSFER PURPOSES. LBC.						
9-28-2021	1:00p	Meeting	Client	Contact	LCusack	GAGNON II HEARING
GAGNON HELD - SENTENCE IMPOSED. LBC.						
9-23-2021	4:06p	Collateral		Contact	LCusack	DEF'S WIFE
DEF'S WIFE CONTACTED THIS OFFICER TO INQUIRE ABOUT TRANSERRING HIS SUPERVISION BACK TO TENNESSEE.						
APO ADVISED DEF'S WIFE THE HE WOULD BE ELIGIBLE FOR REPORTING INSTRUCTIONS AS HIS PERMANENT RESIDENCE IS IN TENNESSEE AND REMAINS THAT ADDRESS AT THE TIME OF SENTENCING. STATED THERE SHOULD NOT BE AN ISSUES W/ TRANSFERRING HIS SUPERVISION BACK TO TN FOLLOWING HIS PAROLE. LBC.						
9-13-2021	2:34p	General		Comment	LCusack	MCAPPD SHARED DRIVE
GAGNON REQUEST AND VIOLATION LETTER IMPORTED INTO MCAPPD'S SHARED DRIVE - GAGNON FOLDER ON THIS DATE. LBC.						



LEE, SUNG JOO

MCAPO - SupportStaff - MDollinger

AP39028

Transfer - Team4 - Transferred

Event Type(s) ALL

Type	With	Result	Author	Event Title
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9-13-2021	2:32p	Collateral	Contact	LCusack	GAGNON SUBMITTED
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GAGNON REQUEST AND VIOLATION LETTER E-MAILED TO DEF'S ATTORNEY AND ADA EMILY HOFF ON THIS DATE IN PREPARATION FOR DETAINER LIFT HEARING.

From: Cusack, Lauren

Sent: Monday, September 13, 2021 2:31 PM

To: alevin@difiorelevin.com; Hoff, Emily <V-EHoff@montcopa.org>

Cc: Murray, Tara <TMurray2@montcopa.org>; Arjona, Lindsey <larjona@montcopa.org>

Subject: Sung Joo Lee - Bill No. 1472-15

Good afternoon,

Please see the Violation Letter and Gagnon Request attached in regards to the above-named defendant.

Thank you,

Lauren Cusack

Adult Probation Officer

Montgomery County Adult Probation and Parole Department

LBC.

9-13-2021	1:49p	General	Comment	LCusack	GAGNON REQUEST
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GAGNON REQUEST E-MAILED TO SUP MURRAY ON THIS DATE FOR REVIEW. LBC.

9-13-2021	9:27a	Collateral	Contact	LCusack	MONT CO DA'S OFFICE
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MONT CO DA'S REQUESTING GAGNON REQUEST AND VL ON THIS DATE.

From: Cusack, Lauren

Sent: Monday, September 13, 2021 9:28 AM

To: Hoff, Emily <V-EHoff@montcopa.org>

Cc: Arjona, Lindsey <larjona@montcopa.org>; Murray, Tara <TMurray2@montcopa.org>

Subject: RE: Recommendation Request: Sun Lee [1472-2015]

Hi Emily,

Mr. Lee will be served notice of his Violations today via video conference. I will also be working on the Gagnon Request today, and will forward both documents along once approved by my Supervisor.

Thanks,

Lauren Cusack

Adult Probation Officer

Montgomery County Adult Probation and Parole Department

408 Cherry Street

PO Box 311

Norristown, PA 19404

Office: (610) 992-7738

Cell: [REDACTED]

Fax: (610) 992-7778

LEE, SUNG JOO

MCAPO - SupportStaff - MDollinger

AP39028

Transfer - Team4 - Transferred

Event Type(s) ALL

Type

With

Result

Author

Event Title

---

From: Bergman, Todd <TBERGMAN@montcopa.org>

Sent: Monday, September 13, 2021 9:20 AM

To: Cusack, Lauren <LCusack@montcopa.org>

Cc: Arjona, Lindsey <larjona@montcopa.org>; Hoff, Emily <V-EHoff@montcopa.org>; Murray, Tara <TMurray2@montcopa.org>

Subject: RE: Recommendation Request: Sun Lee [1472-2015]

Lauren,

When you have the rec ready, please send it to Emily and Lindsey.

Thanks,

Todd

---

From: Hoff, Emily <V-EHoff@montcopa.org>

Sent: Monday, September 13, 2021 9:12 AM

To: Bergman, Todd <TBERGMAN@montcopa.org>

Cc: Arjona, Lindsey <larjona@montcopa.org>

Subject: Recommendation Request: Sun Lee [1472-2015]

Good morning,

I hope you are well!

Could you please send me the recommendation request and notice for Sun Lee [1472-2015]?

Thank you!

Best,

Emily

Emily M. Hoff

Special Assistant District Attorney

Diversion and Pretrial Division

Montgomery County District Attorney's Office

v-ehoff@montcopa.org

610-278-3155 (desk)

LBC.

---

LEE, SUNG JOO

MCAPO - SupportStaff - MDollinger

AP39028

Transfer - Team4 - Transferred

Event Type(s) ALL

	Type	With	Result	Author	Event Title
9-10-2021	9:10a	General	Comment	LCusack	VIOLATION LETTER

VIOLATION LETTER SUBMITTED TO L.SERAFINE ON THIS DATE.

From: Cusack, Lauren  
 Sent: Friday, September 10, 2021 9:10 AM  
 To: Serafine, Louis <lserafine@montcopa.org>  
 Cc: Murray, Tara <TMurray2@montcopa.org>  
 Subject: SUNG JOO LEE - Violation Letter

Good morning Lou!

Attached is a Violation Letter for the above-named inmate. He's currently being housed in Q-Pod.

Thanks!

Lauren Cusack  
 Adult Probation Officer  
 Montgomery County Adult Probation and Parole Department

LBC.

9-10-2021	7:40a	General	Comment	LCusack	COUNTY INMATE ADMISSION
JNET NOTIFICATION - COUNTY INMATE ADMISSION.					

DEF TRANSPORTED TO MCCF. ADDRESS UPDATED IN LORYX AT THIS TIME. LBC.

8-27-2021	12:40p	Collateral	Contact	LCusack	MONT CO SHERIFF'S DEPT
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From: Pokorny, Matthew <MPokorny@montcopa.org>  
 Sent: Friday, August 27, 2021 12:31 PM  
 To: Cole, Ronald <RCOLE2@montcopa.org>; Colonna, Victor <VColonna@montcopa.org>; Huzzard, Mark <MHuzzard@montcopa.org>; Landes, Stephanie <SLandes@montcopa.org>; Lavenberg, Douglas <dlavenbe@montcopa.org>; Lawlor, Joanne <JLawlor@montcopa.org>; Metz, Tim <tmetz@montcopa.org>; Platkowski, Tracy <TPlatkowski@montcopa.org>; Subbio, James <JSubbio@montcopa.org>; Subbio, Kathleen <KSubbio@montcopa.org>  
 Subject: Sun Joo Lee 1472-15

We will be extraditing this defendant from Nashville, TN.

LBC.

8-25-2021	12:48p	General	Comment	LCusack	BW SERVED
PER ICOTS - DEF DETAINED AND ADMITTED TO COUNTY FACILITY. BW SERVED IN NASHVILLE, TN ON THIS DATE. UPDATED LORYX AT THIS TIME AND WARRANTS/VIOLATION SCREENS AND TABS.					

M.DOLLINGER FORWARDED EXTRADITION E-MAIL. LBC.

8-20-2021	12:31p	General	Comment	MDollinger	copy of bw sent to tn
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LEE, SUNG JOO

MCAPO - SupportStaff - MDollinger

AP39028

Transfer - Team4 - Transferred

Event Type(s) ALL

		Type	With	Result	Author	Event Title
7-08-2021	9:19a	General		Comment	LCusack	BENCH WARRANT
BENCH WARRANT ACTIVE.						
ICOTS OUT-OF-STATE WARRANT. LBC.						
7-07-2021	10:28a	General		Comment	LCusack	BW SUBMITTED
BENCH WARRANT SUBMITTED TO DUTY SUP FOR JUDGE'S SIGNATURE ON THIS DATE. LBC.						
7-06-2021	3:57p	General		Comment	LCusack	CAPIAS/BENCH WARRANT
CAPIAS AND BENCH WARRANT E-MAILED TO SUP MURRAY ON THIS DATE FOR REVIEW.						
ICOTS APPLICATION AND MCAPPD R/R ATTACHED FOR SUBMISSION IN ICOTS. LBC.						
7-06-2021	3:30p	General		Comment	TaMurray	BW
BW TO BE REQUESTED PER DC SUBBIO						
7-06-2021	10:07a	Meeting	Client	Contact	BKoch	COURT
REPLY FROM TN/ DEF SENTENCED TO 11M, 20 D IN JAIL, SUSPENDED, EXCEPT 48 HR (FOR CHARGE OF DUI)(M). TAR						
5-26-2021	10:14a	General		Comment	BKoch	CASE REASSIGNED TO SUP MURR
5-12-2021	8:36a	General		Comment	BKoch	CAR TO TN
Good Morning. PA is reaching out for the status of the charges 12-26-2019. At the time of last speaking, you advised the defendant was scheduled for Court for this matter on 5/11/2021 at 9:00AM at the Davidson County Criminal Court in Nashville, TN. The case numbers are GS908343, GS908344, AND GS908345. What was the outcome of the Hearing yesterday and are there any relevant other updates? Thank you!						
1-07-2021	11:31a	General		Comment	BKoch	COURT UPDATE
The offenders court date was reset to 5/11/2021 at 9:00AM at the Davidson County Criminal Court in Nashville, TN. I have also inserted a link to the case for your review and concerns. The case numbers are GS908343, GS908344, AND GS908345 all under offender name SUNG LEE. You can also review the case by going to the criminal court clerks website and entering above information under "CASE INFORMATION". I will also keep you updated on the outcome once I get further information. LINK: <a href="https://sci.ccc.nashville.gov/Search/CaseSearchDetails/2206790%5E5310882%5ECJIS/SUNG%5ELEE%5E07181991%5E565736/">https://sci.ccc.nashville.gov/Search/CaseSearchDetails/2206790%5E5310882%5ECJIS/SUNG%5ELEE%5E07181991%5E565736/</a>						
1-06-2021	8:45a	General		Comment	BKoch	CAR TO TN
TN-PLEASE PROVIDE UPDATE ON THE STATUS OF THE ARREST FROM 2019-12-26. IS THERE A NEW COURT DATE OR HAS A DISPOSITION BEEN REACHED?						
10-28-2020	8:48a	General		Comment	BKoch	CAR TO TN FOR COURT UPDATE
9-24-2020	9:53a	General		Comment	BKoch	CAR TO TN FOR COURT UPDATE

LEE, SUNG JOO

MCAPO - SupportStaff - MDollinger

AP39028

Transfer - Team4 - Transferred

Event Type(s) ALL

		Type	With	Result	Author	Event Title
6-04-2020	2:36p	General		Comment	BKoch	CAR TO TN FOR COURT UPDATE
-----						
4-01-2020	3:15p	General		Comment	BKoch	CAR RESPONSE
Good Afternoon, Offenders court date has been moved to June 1, 2020. If I get anymore updates I will let you know, thanks.						
-----						
4-01-2020	10:43a	General		Comment	BKoch	CAR TO TN FOR COURT UPDATE
-----						
2-24-2020	2:16p	General		Comment	TaMurray	
FILE TO ASST SUP KOCH. TAM						
-----						
2-21-2020	12:50p	General		Comment	MDollinger	NEW ARREST IN TN PROGRESS RP
SUP MURRAY. MCD						
-----						

## **EXHIBIT C2**

# PROBATION/PAROLE/INTERMEDIATE PUNISHMENT VIOLATIONS

Commonwealth of Pennsylvania

VS

Charge(s) and Counts:

CR 1472-15

CT 1 Ctr1 Subs/PWID (UF)

CT 2 Ctr1 Subs/PWID (UF)

CT 3 Ctr1 Subs/PWID (UF)

Sung Joo Lee

Date of Original Sentence 12/30/15

Date of Plea Trial 10/8/15

	GAGNON I	GAGNON II	SENTENCE
DATE		<u>9/28/21</u>	<u>Same</u>
JUDGE		<u>Cheryl L Austin</u>	
COURTROOM		<u>8</u>	
COMMONWEALTH'S ATTY		<u>J. Grabstein</u>	
DEFENDANT'S ATTY		<u>A. Levin</u>	
COURT REPORTER		<u>M. Dineen</u>	
COURT CLERK		<u>J. Pergine</u>	

## GAGNON I

AND NOW, \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

- ☐ Defendant waives Gagnon I Hearing.
- ☐ Court grants defendant's request to proceed immediately to Gagnon II Hearing.
- ☐ After hearing, Court finds that there is probable cause to believe defendant has committed a violation of probation/parole/intermediate punishment.
- ☐ After hearing, violation is dismissed.
- ☐ Defendant remanded to M.C.C.F., without bail, pending Gagnon II Hearing/pending posting of bail in the amount of \$\_\_\_\_\_.
- ☐ Special Conditions: \_\_\_\_\_

BY THE COURT: \_\_\_\_\_

For Judge: \_\_\_\_\_

## GAGNON II

AND NOW, this 28th day of September, 2021

- ☒ The Court finds that the defendant has knowingly, intelligently and voluntarily stipulated that he/she is in violation of probation/parole/intermediate punishment.
- ☐ After Hearing, the Court finds that the defendant (is)(is not) in violation of probation/parole/intermediate punishment.
- ☒ The Court finds that the violation of probation/parole/intermediate punishment is serious enough to revoke probation/parole/intermediate punishment as the conduct of the defendant indicates that the probation/parole/intermediate punishment has not been effective to accomplish rehabilitation nor a sufficient deterrent against future antisocial conduct. Probation/parole/intermediate punishment is revoked.
- ☐ Probation/parole/intermediate punishment is not revoked. Defendant to complete probation/parole/intermediate punishment, and continue to pay fines, costs and restitution. Defendant is released.
- ☐ The Court directs that the defendant forthwith register with the Adult Probation Department for:
  - ☐ Pre-Sentence Investigation Report
  - ☐ PPI Evaluation
  - ☐ House Arrest Suitability Assessment
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. without bail, pending sentencing.
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. pending posting of bail in the amount of \$\_\_\_\_\_, pending sentencing
- ☐ 90 Day Rule is waived on the record.
- ☐ Special Conditions: \_\_\_\_\_

BY THE COURT: \_\_\_\_\_

For Judge: \_\_\_\_\_

Cheryl L. Austin

Demchide-Alloy

Case No. CR 1472-15

AND NOW, 9/28/21, Defendant having violated probation/~~parole/intermediate punishment~~, the sentence imposed on 12/30/15 is hereby revoked, and the following sentence imposed.

☐ Defendant is sentenced to undergo Imprisonment for not less than \_\_\_ years no more than \_\_\_ years in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at SCI Phoenix/Muncy for this purpose. Commitment to date from \_\_\_\_\_

☐ Consecutive ☐ Concurrent to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

The defendant is not eligible for: ☐ RRRJ ☐ Short Sentence Parole ☐ State Drug Treatment Program ☐ Boot Camp ☐ PA Department of Corrections to calculate RRRJ minimum.

CT1 ☒ Defendant is sentenced to undergo Imprisonment for not less than 3 months nor more than 23 months in the Montgomery County Correctional Facility. Commitment to date from 8/25/21

☐ Consecutive ☐ Concurrent to all previously imposed sentences. ☐ Costs on the County

☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

☒ Ineligible for good-time credit ☐ Eligible for Work Release

CT1 ☒ Defendant is sentenced to: ☒ Probation, ☐ Restrictive DUI probation 42 Pa.C.S.A. § 9763(c) for 1 month/years in the custody of ☒ Montgomery County Adult Probation/Parole Department

☐ PA Board of Probation and Parole

☒ Consecutive ☐ Concurrent to parole ☐ To date from: \_\_\_\_\_

☐ Defendant is placed on house arrest with electronic monitoring for the first \_\_\_ days/months/years.

☐ Defendant is directed: ☐ to participate in drug and alcohol treatment under 75 Pa.C.S.A. § 3815(c).

☐ Defendant having violated his/her Parole: ☐ Parole reinstated ☐ Eligible for work release

☐ Defendant is remanded to serve balance of his/her sentence with no credit for time on parole.

Commitment to date from \_\_\_\_\_ Back-time: \_\_\_\_\_

☐ Defendant is eligible for re-parole parole after serving \_\_\_\_\_ months back time.

☐ Defendant (is) (is not) eligible for good time credit. ☐ No further action on parole violation.

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. 2 Sentence is 3-23 months to date from 8/25/21, 1yr c/s probation and is to run concurrently with/to sentence imposed on Count # 1 Eligible for good time credit

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRJ ☐ Ineligible for SSP

**CONCURRENT/CONSECUTIVE SENTENCE**

Count No. 3 Sentence is 3-23 months to date from 8/25/21, 1yr c/s probation and is to run concurrently with/to sentence imposed on Count # 1 Eligible for good time credit

☐ Ineligible for SDTP ☐ Ineligible for BC ☐ Ineligible for RRRJ ☐ Ineligible for SSP

**SPECIAL CONDITION(S) OF SENTENCE(S)**

☐ Outpatient Treatment ☐ Inpatient Treatment ☐ PPI Evaluation and recommended treatment  
☒ Pay balance of cost, fine and restitution within the first \_\_\_\_\_ months of supervision/release in monthly installments as directed. ☐ Complete balance of previously ordered community service - -

☐ Community Service: \_\_\_\_\_ hours/months/years at site to be determined.

☒ Defendant shall comply with all rules, regulations, and any special conditions of probation/parole.

☒ Defendant shall pay the monthly offender supervision fee. ☐ Offender supervision fee is waived.

☐ Mandatory Sentence ☐ Recall from collections. ☐ Complete DUI/DAI Requirement(s)

☐ Eligible for early termination of supervision upon full payment of fines, costs and restitution and completion of all special conditions.

☒ Other: Rules and Regulations of Probation gone over on Record

BY THE COURT: Cheryl L. Austin For Judge: Demetrius-Alloy

## **EXHIBIT D1**

WILLS, AKEEM

MCAPO - Team4 - BLacey

AP122021

Transfer - Team4 - High

Event Type(s) ALL

	Type	With	Result	Author	Event Title
12-29-2021 9:36a	General		Comment	BLacey	UPDATE ON PENDING CHARGES IN REGARDS TO DOCKET # CP-51-CR-0006419-2021: WAIVER TRIAL IN PHILLY SCHEDULED FOR 2/11/22.  IN REGARDS TO DOCKET # MC-51-CR-0004817-2021: TRIAL IN PHILLY SCHEDULED FOR 3/9/22
11-03-2021 3:18p	General		Comment	BLacey	GAGNON CONT. PD HINDI KRANZEL ARGUED THAT THE DETAINER BE LIFTED AND THE DEF HAVE THE OPPORTUNITY TO HAVE THE VOP FROM THE STREET. JUDGE AUSTIN DENIED THAT MOTION AND CONTINUED THE MATTER TO BE SCHEDULED FOR A CONTESTED GAGNON. BJL
10-15-2021 1:49p	General		Comment	BLacey	GAGNON ORDER RCVD GAGNON ORDER RCVD TO BE HELD ON 11/3/21 AT 2PM



WILLS, AKEEM

MCAPO - Team4 - BLacey

AP122021

Transfer - Team4 - High

Event Type(s) ALL

	Type	With	Result	Author	Event Title
9-09-2021 8:30a	General		Comment	BLacey	GAGNON CONT.
GAGNON SCHEDULED FOR 9/7/21 WAS CONTINUED.					

We are continuing for 60 days

Thank you,

Jennifer Pergine

Judicial Court Clerk to The Honorable Cheryl L. Austin Montgomery County Court of Common Pleas

P.O. Box 311

Norristown, PA 19404-0311

Chambers (610) 278-3696

jpergine@montcopa.org

From: Lacey, Bryanna

Sent: Tuesday, September 07, 2021 2:40 PM

To: Pergine, Jennifer

Subject: Akeem Wills

Hi Jen,

Has this matter been held yet?

Bryanna Lacey

Adult Probation Officer

Montgomery County Adult Probation & Parole

408 Cherry Street

PO Box 311

Norristown, PA 19404

Office: 610-992-1342

Cell: [REDACTED]

Fax: 610-992-7778

CONFIDENTIALITY NOTICE: THIS EMAIL IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE DO NOT DISTRIBUTE AND IMMEDIATELY DELETE THE ORIGINAL MESSAGE AND ANY ATTACHMENT. PLEASE NOTIFY SENDER BY EMAIL AT THE ADDRESS SHOWN. THANK YOU FOR YOUR COMPLIANCE.

6-22-2021 3:34p	General		Comment	BLacey	GAGNON CONT.
GAGNON CONT. ON THIS DATE. BJL					



WILLS, AKEEM

MCAPO - Team4 - BLacey

AP122021

Transfer - Team4 - High

Event Type(s) ALL

	Type	With	Result	Author	Event Title
5-26-2021 1:55p	General		Comment	BLacey	GAGNON ORDER RCVD GAGNON ORDER RCVD TO BE HELD ON 6/22/21 AT 9:30AM
5-04-2021 12:02p	General		Comment	BLacey	DRUG COURT APP DENIED DRUG COURT APPLICATION HAS BEEN DENIED DUE TO THE DEF HAVING OUT OF COUNTY MATTERS. BJL
4-28-2021 10:19a	General		Comment	BLacey	REQUESTED PPI PPI REQUESTED ON THIS DATE. BJL
4-28-2021 10:07a	General		Comment	BLacey	GAGNON TO SHARED FOLDER GAGNON REVIEWED BY ASST SUP KOCH AND IMPORTED INTO THE SHARED FOLDER. BJL
4-23-2021 2:26p	General		Comment	BLacey	GAGNON FOR REVIEW GAGNON EMAIL TO SUP MURRAY FOR REVIEW. BJL
4-15-2021 9:47a	General		Comment	BLacey	VL TYPED VL TYPED AND SENT TO DUTY SUP TO BE SERVED ON 4/16/21
4-15-2021 9:05a	General		Comment	BLacey	JNET ADDRESS CHANGE

City:

State:  
PA

ZIP Code:

4-14-2021 3:04p	General		Comment	BLacey	DEF IN MCCF DEF IS NOW IN MCCF. BJL
4-02-2021 9:47a	General		Comment	BLacey	DEF IN CUSTODY DEF IS IN CUSTODY AT CFCF. IT APPEARS DEF WAS ARRESTS ON HIS PHILADELPHIA WARRANT. APO REQUESTED PARS REPORT TO VERIFY. APO ALSO EMAILED PHILLY PRISON TO CONFIRM THAT OUR WARRANT WAS LODGED.  UPDATE 4/2 12:34: ACCORDING TO JNET WARRANT WAS LODGED. BJL
3-23-2021 10:23a	General		Comment	BLacey	BW ACTIVE BW SIGNED AND ACTIVE ON THIS DATE. COPY IMPORTED INTO DOCUMENTS UNDER MIGRATION TAB. BJL

WILLS, AKEEM

MCAPO - Team4 - BLacey

AP122021

Transfer - Team4 - High

Event Type(s) ALL

		Type	With	Result	Author	Event Title
3-22-2021	3:38p	General		Comment	BLacey	REQUEST BW
PER DCAPO SUBBIO - OKAY TO REQUEST BW AT THIS TIME. BJL						

3-22-2021	9:00a	General		Comment	BLacey	REQUESTED PARS REPORT
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3-22-2021	8:51a	General		Comment	BLacey	JNET ARREST/ NOT IN CUSTODY
-----------	-------	---------	--	---------	--------	-----------------------------

Hit criteria:

Match on Name/Date of Birth. Montgomery County Data Follows...Last Name: WILLS...First Name: AKEEM...Date of Birth: Jan 7 1995...State ID: [REDACTED]..Social Security Number: [REDACTED]..Probation Officer: Bryanna Lacey....End of Montgomery County Data

Event Type:

Arrest

Name:

WILLS, AKEEM

DOB:

01/07/1995

Alias:

SSN:

SSN 2

Date:

03/21/2021

SID:

SID 2

FBI:

Race:

B

Sex:

M

Height:

507

Weight:

Event Type(s) ALL

Type

With

Result

Author

Event Title

150

Hair:

BLK

Skin:

B

Eyes:

BRO

## Arrest Information

Arrest Date:

03/20/2021

Date of Offense:

03/20/2021

Date Printed:

03/21/2021

Live Scan ID:

PHIE

Police Prosecution:

Y

Arresting Agency:

PAPEP0000

Magistrate Dist Number:

00051

District Court Number:

2119012800

Event Number:

162232223

County of Offense:

Philadelphia

OTN:

WILLS, AKEEM

MCAPO - Team4 - BLacey

AP122021

Transfer - Team4 - High

Event Type(s) ALL

Type	With	Result	Author	Event Title
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U225616-6

## Description of Charges

## Charge

## Charge Description

183921A THEFT BY UNLAW TAKING-MOVABLE  
 183925A RECEIVING STOLEN PROPERTY  
 183928A UNAUTH USE MOTOR/OTHER VEHICLE

## Originator:

PHILADELPHIA PD - PAPEP0000

## Originator Address:

PHILADELPHIA PA 19106

## Originator Phone Number:

[REDACTED]

## Originator Case Number:

C1008533

## Jurisdiction:

PDEA

3-19-2021	12:15p	Meeting	Client	Missed	BLacey	NO CONTACT
APO ATTEMPTED TO MAKE CONTACT WITH DEF ON THIS DATE. PHONE IS OUT OF SERVICE. DURING THE WEEKEND APO RECEIVED A PICTURE AND VIDEO FROM DEF'S SISTER [REDACTED] OF THE DEF SLUMPED OVER IN A CHAIR WITH WHAT APPEARS TO BE A BAG OF MARIJUANA. IN THE VIDEO IT SHOWS THE DEF STANDING UP SWAYING BACK IN FORTH WITH HIS PANTS UNBUCKLED. ON 3/18/21 I ASKED DEF'S SISTER IF SHE WOULD BE AROUND DEF SO I COULD MAKE CONTACT WITH DEF AND SAID THAT SHE WILL TRY AND GET IN TOUCH WITH HIM AND LET HIM KNOW TO CALL ME. AS OF THIS DATE APO HAS NOT RECEIVED A CALL FROM DEF. BJL						
3-12-2021	12:16p	General		Comment	BLacey	MARGINAL FILE
PER DCAPO SUBBIO - NO BW TO BE ISSUED AT THIS TIME. BJL						
3-12-2021	8:35a	General		Comment	BLacey	REQUESTED PARS REPORT
DOCKET SHEET NOW LISTED. DEF WAS RELEASED ROR. APO REQUESTED PAR REPORT. BJL						

WILLS, AKEEM

MCAPO - Team4 - BLacey

AP122021

Transfer - Team4 - High

Event Type(s) ALL

		Type	With	Result	Author	Event Title
3-11-2021	2:02p	General		Comment	BLacey	NO DOCKET/NOT IN CUSTODY
NO DOCKET LISTED ON UJS PORTAL AND DEF NOT LISTED IN PHILLY INMATE LOCATER OR VINELINK. BJL						
3-11-2021	2:00p	General		Comment	BLacey	JNET ARREST

Event Type:  
Arrest

Name:  
WILLS, AKEEM

DOB:  
01/07/1995

Alias:

SSN:

Date:  
03/11/2021

SID:  
SID 2

FBI:

Race:  
B

Sex:  
M

Height:  
506

Weight:  
170

Hair:  
BRO

Skin:  
B

Event Type(s) ALL

Type

With

Result

Author

Event Title

Eyes:  
BRO

## Arrest Information

Arrest Date:  
03/10/2021

Date of Offense:  
03/10/2021

Date Printed:  
03/11/2021

Live Scan ID:  
PHIE

Police Prosecution:  
Y

Arresting Agency:

Event Type(s) ALL

Type

With

Result

Author

Event Title

PAPEP0000

Magistrate Dist Number:

00051

District Court Number:

2118013045

Event Number:

162231491

County of Offense:

Philadelphia

OTN:

U224867-6

Description of Charges

Charge

Charge Description

35780-113A16 INT POSS CONTR SUBST BY PER NO

35780-113A30 MANUFACTURE

DELIVERY

OR POSS

Contact Information

Originator:

PHILADELPHIA PD - PAPEP0000

Originator Address:

PHILADELPHIA PA 19106

Originator Phone Number:

[REDACTED]

WILLS, AKEEM

MCAPO - Team4 - BLacey

AP122021

Transfer - Team4 - High

Event Type(s) ALL

Type

With

Result

Author

Event Title

Originator Case Number:

C1008533

Jurisdiction:

PDEA



# **EXHIBIT E1**



GAMBER, CHARLES

MCAPO - Team8 - DMartinez

AP38407

TreatCourt - BHC-MHIP - MHealth1

Event Type(s) ALL

	Type	With	Result	Author	Event Title
11-16-2021	12:22p	Collateral	Contact	DMartinez	

From: Chesney, Gary <GChesney@montcopa.org>

Sent: Tuesday, November 16, 2021 12:22 PM

To: Martinez, Donato <DMartine@montcopa.org>

Cc: Morrison, Megan <MMorrison@montcopa.org>; Armstrong, Karen <karmstro@montcopa.org>; Szpila, Laura <LSzpila@montcopa.org>; Veronica tisdale (vtisdale@accessservices.org) <vtisdale@accessservices.org>; Savannah Grant <SKGrant@accessservices.org>

Subject: RE: Charles Gamber

Just an FYI... we have secured a bed for Charles at Eagleville for Friday 11/19/21.

We will be using Eagleville as the paroling address...

Let me know if anything changed

From: Martinez, Donato <DMartine@montcopa.org>

Sent: Thursday, November 4, 2021 1:45 PM

To: Chesney, Gary <GChesney@montcopa.org>

Cc: Morrison, Megan <MMorrison@montcopa.org>; Armstrong, Karen <karmstro@montcopa.org>

Subject: Charles Gamber

Good afternoon Gary,

Probation is OK with using the in-patient facility as the paroling address for Charles Gamber. I've attached the psych eval for continuity of care. Please advise when a bed is secured.

I also talked to Veronica and they are moving him up on the JRS list. They will plan to meet with Charles early next week.

Respectfully,

Donato C. Martinez

Supervisor

Behavioral Health Court

Veterans Treatment Court

Montgomery County Adult Probation & Parole

408 Cherry Street

P.O. Box 311

Norristown, PA 19401

Office: 610-992-7758

Cell Phone: [REDACTED]

Fax: 610-992-7778

dmartine@montcopa.org

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GAMBER, CHARLES

MCAPO - Team8 - DMartinez

AP38407

TreatCourt - BHC-MHIP - MHealth1

Event Type(s) ALL

	Type	With	Result	Author	Event Title
10-05-2021	8:57a	Event	Court	MViti	GAGNON HEARING HELD
GAGNON HEARING HELD ON THIS DATE AND SUBJECT STIPULATED TO BEING IN VIOLATION. HE WAS ORDERED TO BE RELEASED IN ORDER WITH PSYCH EVAL AND COMPLY. EVAL REQUESTED THAT HE BE PAROLED DIRECTLY IN TO A DUAL DIAGNOSIS INPATIENT FACILITY AND IS TO COMPLY WITH A MENTAL HEALTH SUPERVISION EVALUATION. IN ADDITION, HE IS TO UNDERGO WEEKLY URINES TO PROBATION IN ORDER TO MONITOR MEDICATIONS AND LEVELS OF ADDERALL IN CASE THERE IS THE ISSUE OF ABUSING THEM AS HE HAS DONER SO IN THE PAST. SUP MARTINEZ AND ASSIST SUP ARMSTRONG WERE NOTIFIED OF THE CASE. APO WILL PREPARE FILE FOR MENTAL HEALTH SUPERVISION. MNV					

8-16-2021	8:06a	General	Comment	MViti	VL SERVED AT MCCF
SERVED AND ACCEPTED. MNV					
7-29-2021	12:32p	General	Comment	MDollinger	sheriffs office looking for presigne
no ICOTS application, he needs copy of signed rules. Advised him to speak with VITI or Sup Ficzkko. mcd					

5-14-2021	8:36a	Collateral	MONTCO SHERIF	Contact	MViti	REFUSING EXTRADITION
<p>From: Subbio, Kathleen &lt;KSubbio@montcopa.org&gt;            Sent: Friday, May 14, 2021 7:57:37 AM            To: Viti, Mark &lt;MViti@montcopa.org&gt;            Cc: Ficzkko, Renee &lt;RFiczkko@montcopa.org&gt;; Bergman, Todd &lt;TBERGMAN@montcopa.org&gt;            Subject: FW: T697625 GAMBER, CHARLES</p>						

Good Morning Mark,

The above-named offender is refusing to waive his right to extradition. The Sheriff's Office is in need of the signed rules and regs from the file. Do you have it with you? If not, when will you be able to retrieve it?

Thanks,

--Kathy

From: Huzzard, Mark <MHuzzard@montcopa.org>  
 Sent: Friday, May 14, 2021 6:36 AM  
 To: Lavenberg, Douglas <dlavenbe@montcopa.org>; Subbio, Kathleen <KSubbio@montcopa.org>  
 Subject: FW: T697625 GAMBER, CHARLES

Good morning wondering if we have an interstate compact before I cancel PTS?

From: Pokorny, Matthew  
 Sent: Friday, May 14, 2021 5:37 AM  
 To: Noto, Andrew; Huzzard, Mark  
 Subject: FW: T697625 GAMBER, CHARLES

I'm forwarding this to Sgt. Huzzard as well, I've never done one of these before so I assume the DA's office will have to get involved.

Sgt-this is the one I set up with PTS for transport. I'm assuming we have to cancel that? I'll forward you my email fro

GAMBER, CHARLES

MCAPO - Team8 - DMartinez

AP38407

TreatCourt - BHC-MHIP - MHealth1

Event Type(s) ALL

	Type	With	Result	Author	Event Title
5-04-2021 10:49a	Collateral	MONTCO SHERIF	Contact	MViti	BENCH WARRANT LODGED 5/3/21
SUBJECT APPEARS TO BE IN CUSTODY WITH BUCKEYE PD IN ARIZONA. APO CALLED BUT SUBJECT HAS ALREADY BEEN MOVED TO JAIL IN PHOENIX, ARIZONA ITR (INTAKE, TRANSFER, RELEASE. APO ATTEMPTED TO CALL JAIL BUT WAS ON HOLD FOR OVER 1/2 HOUR TO CONFIRM. APO ALSO LEFT VM WITH BUCKEYE PD RECORDS DEPT TO OBTAIN INCIDENT REPORT OR CRIM COMPLAINT FROM 5/1/21. MNV					
4-15-2021 10:50a	General		Comment	MViti	BW ACTIVE
BW ACTIVE. MNV					
4-07-2021 12:12p	Collateral	PENN FOUNDATI	Contact	MViti	DISCHARGE FROM TX (PENN FOU
[REDACTED]					
[REDACTED]					
[REDACTED]					
[REDACTED]					

On Apr 7, 2021, at 9:45 AM, Viti, Mark <MViti@montcopa.org> wrote:

Good Morning Elizabeth,

Will you be discharging Mr. Gamber for lack of communication/ attendance?

Thanks,

Mark N. Viti  
 Assistant Supervisor  
 Montgomery County Adult Probation  
 421 West Main Street  
 Lansdale, PA 19446  
 Office: 215-784-5435  
 Fax: 610-992-7778  
 mviti@montcopa.org

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[REDACTED]

GAMBER, CHARLES

MCAPO - Team8 - DMartinez

AP38407

TreatCourt - BHC-MHIP - MHealth1

Event Type(s) ALL

Type

With

Result

Author

[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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[REDACTED]



CAMBER, CHARLES

MCAPO - Team8 - DMartinez

AP38407

TreatCourt - BHC-MHIP - MHealth1

Event Type(s) ALL

		Type	With	Result	Author	Event Title
4-01-2021	9:42a	Collateral	JRS	Contact	MViti	DISCHARGE NOTICE (JRS)

Hello,

I am writing you to inform you that as of today 4/1 Charles G. will be discharged from JRS due to being out of county for over 30 days. He can always be rereferred back to our program should he want our services in the future.

Sam Gilmore

JRS Case Manager

Access Services

C: [REDACTED]

F: 610-397-0142

Hotline: 610-500-2111 opt 4.

## **EXHIBIT E2**



# PROBATION/PAROLE/INTERMEDIATE PUNISHMENT VIOLATIONS

Commonwealth of Pennsylvania  
VS

Charge(s) and Counts:

CR 8516-12

Charles Gamber

CT 1 Duw/Gen Imp(mi)

Date of Original Sentence 4/10/13

Date of Plea Trial 4/10/13

	GAGNON I	GAGNON II	SENTENCE
DATE		10/5/21	Same
JUDGE		Cheryl L Austin	
COURTROOM		8	
COMMONWEALTH'S ATTY		L George	
DEFENDANT'S ATTY		R Simon	
COURT REPORTER		L Pielisig	
COURT CLERK		J Perrine	

## GAGNON I

AND NOW, \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

- ☐ Defendant waives Gagnon I Hearing.
- ☐ Court grants defendant's request to proceed immediately to Gagnon II Hearing.
- ☐ After hearing, Court finds that there is probable cause to believe defendant has committed a violation of probation/parole/intermediate punishment.
- ☐ After hearing, violation is dismissed.
- ☐ Defendant remanded to M.C.C.F., without bail, pending Gagnon II Hearing/pending posting of bail in the amount of \$\_\_\_\_\_.

☐ Special Conditions: \_\_\_\_\_

BY THE COURT: \_\_\_\_\_

For Judge: \_\_\_\_\_

## GAGNON II

AND NOW, this 5<sup>th</sup> day of October, 2021

- ☒ The Court finds that the defendant has knowingly, intelligently and voluntarily stipulated that he/she is in violation of probation/parole/intermediate punishment.
- ☐ After Hearing, the Court finds that the defendant (is)(is not) in violation of probation/parole/intermediate punishment.
- ☒ The Court finds that the violation of probation/parole/intermediate punishment is serious enough to revoke probation/parole/intermediate punishment as the conduct of the defendant indicates that the probation/parole/intermediate punishment has not been effective to accomplish rehabilitation for a sufficient deterrent against future antisocial conduct. Probation/parole/intermediate punishment is revoked.
- ☐ Probation/parole/intermediate punishment is not revoked. Defendant to complete probation/parole/intermediate punishment, and continue to pay fines, costs and restitution. Defendant is released.
- ☐ The Court directs that the defendant forthwith register with the Adult Probation Department for:
  - ☐ Pre-Sentence Investigation Report
  - ☐ PPI Evaluation
  - ☐ House Arrest Suitability Assessment
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. without bail, pending sentencing.
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. pending posting of bail in the amount of \$\_\_\_\_\_, pending sentencing.
- ☐ 90 Day Rule is waived on the record.

☐ Special Conditions: \_\_\_\_\_

BY THE COURT:

Cheryl L. Austin

For Judge:

Carpenter

Case No. CR 4344-19

AND NOW, 10/5/21, Defendant having violated probation/parole/intermediate punishment, the sentence imposed on 4/6/20 is hereby revoked, and the following sentence imposed.

☐ Defendant is sentenced to undergo Imprisonment for not less than \_\_\_ years no more than \_\_\_ years in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at SCI Phoenix/Muncy for this purpose. Commitment to date from \_\_\_\_\_

☐ Consecutive ☐ Concurrent to all previously imposed sentences. ☐ Costs on the County  
☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

The defendant is not eligible for: ☐ RRRI ☐ Short Sentence Parole ☐ State Drug Treatment Program ☐ Boot Camp ☐ PA Department of Corrections to calculate RRRI minimum.

☐ Defendant is sentenced to undergo Imprisonment for not less than \_\_\_ months nor more than \_\_\_ months in the Montgomery County Correctional Facility. Commitment to date from \_\_\_\_\_

☐ Consecutive ☐ Concurrent to all previously imposed sentences. ☐ Costs on the County  
☐ Credit for time served from \_\_\_\_\_ to \_\_\_\_\_

☐ Ineligible for good-time credit ☐ Eligible for Work Release

Defendant is sentenced to: Probation, ☒ Restrictive DUI probation 42 Pa.C.S.A. § 9763(c) for \_\_\_ months/years in the custody of ☐ Montgomery County Adult Probation/Parole Department

☐ PA Board of Probation and Parole

☐ Consecutive ☐ Concurrent to \_\_\_\_\_ to date from: \_\_\_\_\_

☐ Defendant is placed on house arrest with electronic monitoring for the first \_\_\_ days/months/years.

☐ Defendant is directed: ☐ to participate in drug and alcohol treatment under 75 Pa.C.S.A. § 3815(c).

CT1 ☒ Defendant having violated his/her Parole: ☐ Parole reinstated ☐ Eligible for work release

☐ Defendant is remanded to serve balance of his/her sentence with no credit for time on parole.  
Commitment to date from 5/3/21 Back-time: 13 months 7 days

☒ Defendant is eligible for re-parole parole after serving 7 months back time.

☒ Defendant (is) (~~was~~) eligible for good time credit. ☐ No further action on parole violation.

<b>CONCURRENT/CONSECUTIVE SENTENCE</b>			
Count No. _____	Sentence is _____	and is to _____	
run concurrently/consecutively with/to sentence imposed on Count # _____			
<input type="checkbox"/> Ineligible for SDTP	<input type="checkbox"/> Ineligible for EC	<input type="checkbox"/> Ineligible for RRRI	<input type="checkbox"/> Ineligible for SSP
<b>CONCURRENT/CONSECUTIVE SENTENCE</b>			
Count No. _____	Sentence is _____	and is to _____	
run concurrently/consecutively with/to sentence imposed on Count # _____			
<input type="checkbox"/> Ineligible for SDTP	<input type="checkbox"/> Ineligible for EC	<input type="checkbox"/> Ineligible for RRRI	<input type="checkbox"/> Ineligible for SSP

**SPECIAL CONDITION(S) OF SENTENCE(S)**

- ☐ Outpatient Treatment ☐ Inpatient Treatment ☐ PPI Evaluation and recommended treatment
- ☒ Pay balance of cost, fine and restitution within the first \_\_\_ months of supervision/release in monthly installments as directed. ☐ Complete balance of previously ordered community service
- ☐ Community Service: \_\_\_\_\_ hours/months/years at site to be determined. *Rules and Regs of Probation gave over*
- ☒ Defendant shall comply with all rules, regulations, and any special conditions of probation/parole.
- ☒ Defendant shall pay the monthly offender supervision fee. ☐ Offender supervision fee is waived, on Record
- ☐ Mandatory Sentence ☐ Recall from collections. ☐ Complete DUI/DAI Requirement(s)
- ☐ Eligible for early termination of supervision upon full payment of fines, costs and restitution and completion of all special conditions.
- ☒ Other: PROBATION SHALL CONDUCT WEEKLY URINE TESTS TO MONITOR MEDS. Parole directly into co-occurring Inpatient Treatment in Accordance with Psychological Evaluation. No Narcotic Medication. Defendant to be Evaluated for Mental Health Supervision and comply with recommendations

BY THE COURT: Cheryl L. Acosta For Judge: Rothstein

# PROBATION/PAROLE/INTERMEDIATE PUNISHMENT VIOLATIONS

Commonwealth of Pennsylvania

VS

Charge(s) and Counts:

CR 4344-19

Ct 1 Resisting Arrest (m2)

Ct 2 Disorderly Conduct (m3)

Charles Gamber

Date of Original Sentence 4/6/20

Date of Plea Trial 4/6/20

	GAGNON I	GAGNON II	SENTENCE
DATE		10/5/21	Same
JUDGE		Cheryl L Austin	
COURTROOM		8	
COMMONWEALTH'S ATTY		L George	
DEFENDANT'S ATTY		R. Simon	
COURT REPORTER		L. Piening	
COURT CLERK		J. Pergine	

## GAGNON I

AND NOW, \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

- ☐ Defendant waives Gagnon I Hearing.
- ☐ Court grants defendant's request to proceed immediately to Gagnon II Hearing.
- ☐ After hearing, Court finds that there is probable cause to believe defendant has committed a violation of probation/parole/intermediate punishment.
- ☐ After hearing, violation is dismissed.
- ☐ Defendant remanded to M.C.C.F., without bail, pending Gagnon II Hearing/pending posting of bail in the amount of \$\_\_\_\_\_.
- ☐ Special Conditions: \_\_\_\_\_

BY THE COURT: \_\_\_\_\_

For Judge: \_\_\_\_\_

## GAGNON II

AND NOW, this 5<sup>th</sup> day of October, 2021

- ☒ The Court finds that the defendant has knowingly, intelligently and voluntarily stipulated that he/she is in violation of probation/parole/intermediate punishment.
- ☐ After Hearing, the Court finds that the defendant (is/is not) in violation of probation/parole/intermediate punishment.
- ☒ The Court finds that the violation of probation/parole/intermediate punishment is serious enough to revoke probation/parole/intermediate punishment as the conduct of the defendant indicates that the probation/parole/intermediate punishment has not been effective to accomplish rehabilitation nor a sufficient deterrent against future antisocial conduct. Probation/parole/intermediate punishment is revoked.
- ☐ Probation/parole/intermediate punishment is not revoked. Defendant to complete probation/parole/intermediate punishment, and continue to pay fines, costs and restitution. Defendant is released.
- ☐ The Court directs that the defendant forthwith register with the Adult Probation Department for:
  - ☐ Pre-Sentence Investigation Report
  - ☐ PPI Evaluation
  - ☐ House Arrest Suitability Assessment
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. without bail, pending sentencing.
- ☐ Sentence deferred: Defendant remanded to M.C.C.F. pending posting of bail in the amount of \$\_\_\_\_\_, pending sentencing
- ☐ 90 Day Rule is waived on the record.

☒ Special Conditions: 1 year probation on Ct 2 to Remain Consecutive to Court 1 as previously imposed on 4/6/20.

BY THE COURT: \_\_\_\_\_

Cheryl L Austin

For Judge: \_\_\_\_\_

Rothstein



AND NOW, 4/16/2020

☐ Defendant is sentenced to undergo Imprisonment for not less than \_\_\_\_\_ years nor more than \_\_\_\_\_ years in such State Correctional Institution as shall be designated by the Deputy Commissioner for Programs, Department of Corrections, and sent to the State Correctional Institution at SCI Phoenix/Muncy for this purpose. Commitment to date from \_\_\_\_\_

☐ R.R.R.I. Minimum \_\_\_\_\_ months ☐ Not R.R.R.I. Eligible  
☐ DA Waives R.R.R.I. Objection ☐ DA waives objection to any duplicate time credit issues  
☐ Consecutive/concurrent to all previously imposed sentences ☐ Costs on the County  
☐ Eligible for boot camp ☐ Credit for time served from \_\_\_\_\_

CT 1 ☒ Defendant is sentenced to undergo Imprisonment for not less than 15 months nor more than 33 months in the Montgomery County Correctional Facility. Commitment to date from 4/16/2020 ☒ Credit for time served from 1/15/19-4/16/2020  
☐ Consecutive/concurrent to all previously imposed sentences ☐ Costs on the County  
☐ Eligible for Work Release ☐ Is not eligible for good-time credit

☐ Defendant is sentenced to Intermediate Punishment for a period of \_\_\_\_\_ months; the first \_\_\_\_\_ months of which is to be served in the following Restrictive Intermediate Punishment Program from: \_\_\_\_\_ ☐ House Arrest

☐ Defendant is sentenced to Restrictive Intermediate Punishment (RIP) Program for a period of \_\_\_\_\_ months. All treatment and supervision pursuant to 42 P.S. §§763, §9804, et seq.

☐ Defendant is sentenced to State Intermediate Punishment (SIP) Program for a period of twenty-four (24) months pursuant to 61 P.S. §4104, et seq.

CT 2 ☒ Defendant is sentenced to Restorative Sanctions - Probation and/or \_\_\_\_\_ for a period of \_\_\_\_\_ months/years in the custody of:  
☐ Montgomery County Adult Probation/Parole Department ☐ PA Board of Probation and Parole

CT 1 ☒ Consecutive/concurrent to CT 1 ☐ To date from: \_\_\_\_\_  
☒ Defendant is sentenced to pay the costs of prosecution, and a fine of \$ \_\_\_\_\_ and restitution of \$ \_\_\_\_\_ to \_\_\_\_\_ within the first \_\_\_\_\_ months of supervision/release from custody in monthly installments as directed, and as authorized by law.

☐ Determination of guilt without further penalty \_\_\_\_\_ ☐ Bills merge for sentencing purposes

CONCURRENT/CONSECUTIVE SENTENCE	CONCURRENT/CONSECUTIVE SENTENCE
Information No. _____ sentence is _____	Information No. _____ sentence is _____
<input type="checkbox"/> R.R.R.I. Min. _____ <input type="checkbox"/> Not R.R.R.I. Eligible and is to run concurrently/consecutively with/to sentence imposed on Info. # _____	<input type="checkbox"/> R.R.R.I. Min. _____ <input type="checkbox"/> Not R.R.R.I. Eligible and is to run concurrently/consecutively with/to sentence imposed on Info. # _____

## SPECIAL CONDITION(S) OF SENTENCE(S)

- ☐ Outpatient Treatment ☐ Inpatient Treatment ☐ PPI Evaluation and recommended treatment  
☐ CRN Evaluation and Treatment ☐ Alcohol Highway Safety School or Safe Driving School  
☐ Community Service: \_\_\_\_\_ hours at site to be determined, within \_\_\_\_\_ months/years. ☐ Comply with Megan's Law 42 P.A.C.S. §799.15 registration requirements  
☒ Defendant shall comply with any special conditions of probation/parole/state intermediate punishment imposed by the Montgomery County Adult Probation/Parole Dept. or the PA Board of Probation and Parole.  
☒ Defendant shall pay the monthly offender supervision fee. ☐ Offender supervision fee is waived  
☐ Eligible to Participate in a Reentry Plan ☐ Do not send to collection agency  
☐ To be evaluated for ☐ Sex Offender, ☐ Addiction, ☐ Mental Health, Supervision  
☐ Anger Management ☐ D/V Counseling ☐ Parenting Classes ☐ No contact with \_\_\_\_\_  
☐ Parole authority retained pursuant to 75 P.S. §§804D and 3815  
☒ Other: Mental Health evaluation and comply with treatment recommendations. Prohibited from consuming alcohol or narcotics while under supervision. Furthermore, no narcotic medication except in cases of medical emergency.

# **EXHIBIT F1**

KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

		Type	With	Result	Author	Event Title
12-01-2021	10:55a	EVENT	CLIENT		AHolz	Closed event
Event 156991 closed by AHolz on 12-01-2021 at 10:55a						

---

12-01-2021	10:51a	General		Comment	AHolz	FILE TO THE CLOSED FILE ROOM
DEF'S OPEN PHILA MATTER WAS WITHDRAWN. NO OTHER VIOLATIONS TO PURSUE. ADMIN DISPO WAS PULLED. BW WAS REVOKED. FILE WAS CLEANED AND FORWARDED TO THE CLOSED FILE ROOM THIS DATE.						

From: Vereen, Josette <JVereen@montcopa.org>  
Sent: Wednesday, December 1, 2021 10:07 AM  
To: MCCFCommits <MCCFCommits@montcopa.org>  
Cc: Holz, Andrea <AHolz@montcopa.org>; Hamilton, Angela <AHAMILTO@montcopa.org>; Gibson, Patricia <PGibson@montcopa.org>  
Subject: David Krah BWR #425-2011

Josette A. Vereen  
Montgomery County Adult Probation / Parole, and DUI Services  
Montgomery County Courthouse  
PO Box 311  
Norristown, PA 19404  
Office: (610) 278-3801  
Email: jvereen@montcopa.org

KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

	Type	With	Result	Author	Event Title
11-29-2021 9:50a	General		Comment	AHolz	CASE REVIEW WITH SUP HAMILTO

-----Original Message-----

From: Holz, Andrea

Sent: Monday, November 29, 2021 9:50 AM

To: Hamilton, Angela &lt;AHAMILTO@montcopa.org&gt;

Subject: Case Review for David Krah

Good Morning Ang,

In March 2019, we issued a BW for def failing to report. The def was apprehended on the BW in September 2021, after incurring a new arrest on drug charges. This was his first VOP and the arrest was the only violation on the VL letter. On 11/24/2021, the case was withdrawn in Philadelphia. I included the docket details below. Def's underlying case only has 1 year exposure and def has been in since 9/15/2021. Since the open case was withdrawn, is it okay to revoke our BW and close the file (would have expired naturally on 8/13/2019). Let me know, thanks!

11/24/2021 Conroy, David H.-Withdrawn

Trial 11/24/2021 12:00 pm 706 Judge David H. Conroy Trial 11/04/2021 10:00 am 506 Preliminary Arraignment 09/15/2021 12:13 pm B08

Scheduled Preliminary Hearing 09/30/2021 8:00 am 603 Judge Matthew S. Wolf

MC-51-CR-0017194-2021

OTN: U 238155-1

Set 09/15/2021 ROR \$0.00

Incident date: 09/14/2021

charges:

Manufacture, Delivery, or Possession With Intent to Manufacture or Deliver Int Poss Contr Subst By Per Not Reg

Sincerely,

Andrea Holz

Adult Probation and Parole Officer

Phone: 610-247-8756

Fax: 610-992-7778

Email: aholz@montcopa.org

Address: 102 York Road- Suite 203

Willow Grove PA 19090

KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

		Type	With	Result	Author	Event Title
11-25-2021	8:48a	General		Comment	AHolz	MC-51-CR-0017194-2021-WITHDRA
11/24/2021 Conroy, David H.-Withdrawn						
Trial 11/24/2021 12:00 pm 706 Judge David H. Conroy						
Trial 11/04/2021 10:00 am 506						
Preliminary Arraignment 09/15/2021 12:13 pm Bo8 Scheduled						
Preliminary Hearing 09/30/2021 8:00 am 603 Judge Matthew S. Wolf						
MC-51-CR-0017194-2021						
OTN: U 238155-1						
Set 09/15/2021 ROR \$0.00						
Incident date: 09/14/2021						
charges:						
Manufacture, Delivery, or Possession With Intent to Manufacture or Deliver						
Int Poss Contr Subst By Per Not Reg						
11-12-2021	1:20p	General		Comment	AHolz	PO CHECKED MC-51-CR-0017194-20



KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

	Type	With	Result	Author	Event Title
10-28-2021 5:16p	Collateral		Contact	TBergman	APD H. KRANZEL

Todd,

These are the admin dispo that I have(not including the ones you delivered today)

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

David Krah

Trial in Philadelphia 11/4/21

Will follow up after the trial date

[REDACTED]  
[REDACTED]  
[REDACTED]

Thanks

Hindi

Hindi S. Kranzel, Esquire  
Chief of ARD and Violation Units  
Office of the Public Defender  
Montgomery County Courthouse  
P.O. Box 311  
Norristown, PA 19404-0311  
Direct:610-278-3325  
Office:610-278-3295  
Fax:610-278-5941  
hkranzel@montcopa.org

10-11-2021 12:57p	General	Comment	AHolz	ADMIN DISPO TO S. WIETCHA
ASUP POUST REVIEWED AND CHECKED ADMIN DISPO. PO MADE CORRECTIONS AND ADMIN DISPO PACKET TO S. WIETCHA FOR PROCESSING.				

KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

	Type	With	Result	Author	Event Title
10-08-2021 7:49a	General		Comment	AHolz	PO PREPPED ADMIN DISPO
PO PREPPED ADMIN DISPO AND WILL GIVE TO SUP HAMILTON ON THE NEXT OFFICE DAY.					

From: Kranzel, Hindi <HKranzel@montcopa.org>

Sent: Thursday, October 7, 2021 3:43 PM

To: Holz, Andrea <AHolz@montcopa.org>

Subject: RE: RE: David Krah

David is agreeable to resolving as an admin dispo

Hindi S. Kranzel, Esquire  
Chief of ARD and Violation Units  
Office of the Public Defender  
Montgomery County Courthouse  
P.O. Box 311  
Norristown, PA 19404-0311  
Direct:610-278-3325  
Office:610-278-3295  
Fax:610-278-5941  
hkranzel@montcopa.org

KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

	Type	With	Result	Author	Event Title
10-06-2021 12:02p	General		Comment	AHolz	PO EMAILED KRANZEL RE: ADMIN

From: Kranzel, Hindi <HKranzel@montcopa.org>  
 Sent: Wednesday, October 6, 2021 12:10 PM  
 To: Holz, Andrea <AHolz@montcopa.org>  
 Subject: RE: RE: David Krah

Thanks- I will follow up

Hindi S. Kranzel, Esquire  
 Chief of ARD and Violation Units  
 Office of the Public Defender  
 Montgomery County Courthouse  
 P.O. Box 311  
 Norristown, PA 19404-0311  
 Direct:610-278-3325  
 Office:610-278-3295  
 Fax:610-278-5941  
 hkranzel@montcopa.org

From: Holz, Andrea  
 Sent: Wednesday, October 6, 2021 12:02 PM  
 To: Kranzel, Hindi <HKranzel@montcopa.org>  
 Subject: RE: David Krah

Good Afternoon,

David Krah is currently in MCCF pending his first (1st) violation. I have attached his Violation Letter and Gagnon. Our current recommendation is:

On Bill No. 425-11 (Count 3): The defendant's probation should be revoked and the defendant should be sentenced to undergo imprisonment for not less than three (3) months nor more than twelve (12) months in the Montgomery County Correctional Facility, commitment to date from September 15, 2021. I am not opposed to good time credit.

Please let me know if you would be in agreement to handle this through an Administrative Disposition. Thank you.

Sincerely,

Andrea Holz  
 Adult Probation and Parole Officer  
 Phone: 610-247-8756  
 Fax: 610-992-7778  
 Email: aholz@montcopa.org  
 Address: 102 York Road- Suite 203  
 Willow Grove PA 19090

10-01-2021 12:57p	General		Comment	AHolz	PO CHECKED MC-51-CR-0017194-20
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KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

	Type	With	Result	Author	Event Title	
9-29-2021	8:52a	Phone	Client	Converse	AHolz	PO SPOKE TO DEF THROUGH HIS

PO SPOKE TO DEF THROUGH HIS MCCF SW. HE STATED THAT HE HAD COURT THIS MORNING AND WAS NEVER NOTIFIED AND MISSED IT. HE WANTED PO TO REACH OUT TO PILLY TO LET THEM KNOW. PO LOOKED UP THE CASE (MC-51-CR-0017194-2021) AND THE HEARING IS SCHEDULED FOR TOMORROW WHICH PO LET DEF KNOW. HE STATED THAT PO NEEDS TO LIFT HIS DETAINER SINCE HE HAS BEEN SITTING IN THERE FOR ALMOST 2 MONTHS. PO EXPLAINED THAT HES BEEN THERE FOR A LITTLE MORE THAN 2 WEEKS. HE STATED THAT THE NEW MONTH IS BEGINNING AND ITS CRAZY THAT WE HAVE HIM SITTING THERE FOR NO REASON. PO EXPLAINED THAT ALL THE PAPERWORK IS DONE ON OUR END AND ENCOURAGED DEF TO REACH OUT TO HIS PUBLIC DEFENDER IF HE HAD FURTHER QUESTIONS.

From: Kelly, Shannon <SKelly1@montcopa.org>

Sent: Wednesday, September 29, 2021 8:42 AM

To: Holz, Andrea <AHolz@montcopa.org>

Subject: RE: Krah

Are you available now? I'm sorry, it's been so busy in here. If you are free, what's a good number

KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

		Type	With	Result	Author	Event Title
9-20-2021	3:03p	Phone	Client	Converse	AHolz	PO SPOKE TO DEF THROUGH HIS
PO SPOKE TO DEF THROUGH HIS MCCF SOCIAL WORKER. HE STATED THAT HE RECEIVED ROR ON THE OPEN CASE AND ITS NOT A CASE SINCE HE GOT ROR. PO EXPLAINED THAT IT IS AN ACTIVE NEW ARREST AND OPEN CASE AND WE ARE CURRENTLY PURSUING A VIOLATION. IF DEF IS FOUND NOT GUILTY OR THE CASE IS WITHDRAWN, PO WILL REVIEW WITH SUP HAMILTON AT THAT TIME. PO AGAIN EXPLAINED THAT AT THIS TIME WE ARE GOING FORTH WITH THE VIOLATION.						

From: Holz, Andrea

Sent: Monday, September 20, 2021 9:22 AM

To: Kelly, Shannon &lt;SKelly1@montcopa.org&gt;

Subject: RE: Krah

Hey, what time works for you today?

Sincerely,

Andrea Holz

Adult Probation and Parole Officer

Phone: 610-247-8756

Fax: 610-992-7778

Email: aholz@montcopa.org

Address: 102 York Road- Suite 203

Willow Grove PA 19090

From: Kelly, Shannon &lt;SKelly1@montcopa.org&gt;

Sent: Friday, September 17, 2021 12:09 PM

To: Holz, Andrea &lt;AHolz@montcopa.org&gt;

Subject: Krah

Hello,

David would like to speak to you. If you have something you can set up next week, just let me know and thanks!

Shannon Q Kelly

Q Caseworker

Montgomery County Correctional Facility

60 Eagleville Road

Eagleville, PA 19403

Phone: 610-635-7228 Fax: 610-631-0133

9-20-2021	1:31p	General	Comment	AHolz	GAGNON CORRECTIONS SAVED TO
9-20-2021	8:49a	General	Comment	AHolz	GAGNON TO SUP HAMILTON FOR



KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

		Type	With	Result	Author	Event Title
9-17-2021	10:00a	General		Comment	AHolz	VIOLATION LETTER SERVED-DEF R

From: Serafine, Louis &lt;lserafine@montcopa.org&gt;

Sent: Friday, September 17, 2021 10:26 AM

To: Robinson, Regie &lt;RRobinson2@montcopa.org&gt;; Mogel, Daniel &lt;DMOGEL@montcopa.org&gt;; Holz, Andrea &lt;AHolz@montcopa.org&gt;

Subject: Completed letters from Today's video conferences! :)

Good morning! Here are the completed letters from Today's video conferences! ☺  
Thanks!

Louis Serafine  
Adult Probation Support  
Montgomery County Adult Probation & Parole  
408 Cherry St, P.O. Box 311  
Norristown, PA 19404  
610-992-7777 Work  
610-992-7778 Fax

9-16-2021	1:15p	General		Comment	MPoust	VIOLATION LETTER DROPPED IN 3
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9-16-2021	1:06p	General		Comment	AHolz	VL TO ASUP Poust FOR REVIEW
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KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

Type	With	Result	Author	Event Title
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-----Original Message-----

From: Holz, Andrea

Sent: Thursday, September 16, 2021 1:05 PM

To: Poust, Michael &lt;mpoust@montcopa.org&gt;

Subject: RE: KRAH

Sincerely,

Andrea Holz

Adult Probation and Parole Officer

Phone: 610-247-8756

Fax: 610-992-7778

Email: aholz@montcopa.org

Address: 102 York Road- Suite 203

Willow Grove PA 19090

-----Original Message-----

From: Poust, Michael &lt;mpoust@montcopa.org&gt;

Sent: Thursday, September 16, 2021 12:42 PM

To: Holz, Andrea &lt;AHolz@montcopa.org&gt;

Subject: Re: KRAH

Per Kathy, proceed with the VOP. Thanks!

&gt; On Sep 16, 2021, at 10:59 AM, Holz, Andrea &lt;AHolz@montcopa.org&gt; wrote:

&gt;

&gt; Hey Mike,

&gt;

&gt; Here is the PARS for David Krah. He was selling thc and then got into a car at which time the drive of the car was found to be in possession of a gun. Would you like me to proceed with the violation or revoke warrant? Docket Details are below.

&gt;

&gt; Preliminary Arraignment 09/15/2021 12:13 pm Bo8 Scheduled Preliminary

&gt; Hearing 09/30/2021 8:00 am 603

&gt;

&gt; MC-51-CR-0017194-2021

&gt; OTN: U 238155-1

&gt; Bail: Set 09/15/2021 ROR \$0.00

&gt; Incident date: 09/14/2021

&gt; Charges:

&gt; Manufacture, Delivery, or Possession With Intent to Manufacture or

&gt; Deliver Int Poss Contr Subst By Per Not Reg

&gt;

&gt; Sincerely,

&gt;

&gt; Andrea Holz

&gt; Adult Probation and Parole Officer

&gt; Phone: 610-247-8756

&gt; Fax: 610-992-7778

&gt; Email: aholz@montcopa.org

&gt; Address: 102 York Road- Suite 203

&gt; Willow Grove PA 19090

KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

	Type	With	Result	Author	Event Title
9-16-2021 8:43a	General		Comment	AHolz	PO REQUESTED PARS
DEF IS IN MCCCCF AS OF 9/15/2021. PO UPDATED LORYX ADDRESS SCREENS AND VIOLATION SCREENS.					

From: Holz, Andrea

Sent: Thursday, September 16, 2021 8:43 AM

To: Michele Moore &lt;Michele.Moore@phila.gov&gt;

Subject: PARS for David Krah (DOB: 9/12/1992; PP# 1071978)

Good morning,

When possible, can you please send the PARS for David Krah (DOB: 9/12/1992; PP# 1071978), for docket: MC-51-CR-0017194-2021?  
Thank you.

Preliminary Arraignment 09/15/2021 12:13 pm Bo8 Scheduled

Preliminary Hearing 09/30/2021 8:00 am 603

MC-51-CR-0017194-2021

OTN: U 238155-1

Bail: Set 09/15/2021 ROR \$0.00

Incident date: 09/14/2021

Charges:

Manufacture, Delivery, or Possession With Intent to Manufacture or Deliver

Int Poss Contr Subst By Per Not Reg

Sincerely,

Andrea Holz

Adult Probation and Parole Officer

Phone: 610-247-8756

Fax: 610-992-7778

Email: aholz@montcopa.org

Address: 102 York Road- Suite 203

Willow Grove PA 19090

---

9-16-2021 8:19a	General		Comment	MPoust	MCCF FILE ASSIGNED TO P/O HOLZ
TO INVESTIGATE AND PURSUE POSSIBLE VOP					

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KRAH, DAVID

MCAPO - Team4A - AHolz

AP146035

Transfer - Team4 - High

Event Type(s) ALL

	Type	With	Result	Author	Event Title
9-16-2021 8:09a	General		Comment	SDorman	PER JNET, NEW ARREST IN PHILA ACTIVE BW. SUBJECT IN MCCF. INFO SENT TO ASST SUP POUST.
Arrest Date:09/15/2021 Date of Offense:09/15/2021 Date Printed:09/15/2021 Live Scan ID:PHIE Police Prosecution:Y Arresting Agency:PAPEP0000 Magistrate Dist Number:00051 District Court Number:2112060246 Event Number:162248064 County of Offense:Philadelphia OTN:U238155-1 Description of Charges Charge Charge Description 35780-113A16 INT POSS CONTR SUBST BY PER NO 35780-113A30 MANUFACTURE DELIVERY OR POSS Contact Information Originator:PHILADELPHIA PD - PAPEP0000 Originator Address:PHILADELPHIA PA 19106 Originator Phone Number:215-686-3174 Originator Case Number:C1071978 Jurisdiction:PDEA					
3-03-2020 11:08a	Event	Client	NA	BPatel	Assigned a new client ASSIGNED A NEW CLIENT, NAME: DAVID KRAH , ID NUMBER: AP146035
8-01-2019 8:34a	Event	Client	NA	BPatel	Assigned a new client ASSIGNED A NEW CLIENT, NAME: DAVID KRAH , ID NUMBER: AP146035
7-19-2019 9:44a	Event	Client	NA	TBergman	Assigned a new client ASSIGNED A NEW CLIENT, NAME: DAVID KRAH , ID NUMBER: AP146035
7-18-2019 10:23a	Event	Client	NA	TBergman	Assigned a new client ASSIGNED A NEW CLIENT, NAME: DAVID KRAH , ID NUMBER: AP146035
4-04-2019 11:41a	General		Comment	SCastellano	FILE TO TEAM 4 FILE ROOM BW ACTIVE
3-20-2019 7:24a	General		Comment	SCastellano	BW TO CHIEF FOR SIGNATURE
3-19-2019 12:56p	General		Comment	SCastellano	BW TO BE ISSUED DEFT PHONE NUMBER NO LONGER IN SERVICE, DEFT NS/NC ON 3/18. BW TO BE ISSUED. SCC

## **EXHIBIT F2**

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

: NO.

:

vs.

:

:

RETURN OF SERVICE

**RETURN WHERE DEFENDANT IS FOUND:**

By authority of this Warrant, I took into custody \_\_\_\_\_  
on \_\_\_\_\_, 20\_\_\_\_\_, and he (she) is in the \_\_\_\_\_  
jail or before you for disposition.

Title

**RETURN WHERE DEFENDANT IS NOT FOUND:**

After careful search, I cannot find the within named defendant.

Title

**Sheriff's Bench Warrant Costs:**

Copy of Return of Service must be delivered to District Attorney when request for Bench Warrant is initiated by the District Attorney.

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

Commonwealth of Pennsylvania : NO. CP-46-CR-0000425-2011

vs.

David Krah

ORDER SUR BENCH WARRANT, BAIL FORFEITURE AND COSTS

AND NOW, November 29, 2021, David Krah

having appeared before the Court of Common Pleas as a result of a Bench Warrant being issued, the following order is entered:

**I. BENCH WARRANT (check one)**

- ☐ Bench Warrant revoked. (Guilty plea entered) or (At request of Probation Dept.)
- ☐ Bench Warrant revoked, bail is reset at \$ \_\_\_\_\_, and in default thereof, the defendant is committed to Montgomery County Correctional Facility. The defendant (is) (is not) eligible for the 10% Bail Program.
- ☐ Bench Warrant revoked, defendant is committed to Montgomery County Correctional Facility without bail until further order of Court.
- ☐ The defendant having been located in custody of another jurisdiction, the Bench Warrant is ordered lodged as a detainer.
- ☐ Bench Warrant revoked. The defendant is ordered to \_\_\_\_\_
- ☐ Bench Warrant revoked, fine remitted, restitution exonerated. Defendant discharged from Bench Warrant.
- ☐ Bench Warrant revoked. The defendant is remanded to Montgomery County Correctional Facility pending Gagnon Hearing.
- ☐ Bench Warrant revoked. The defendant is directed to pay arrearages and balance due on fines and costs/restitution within Probation/Parole period.
- ☐ Bench Warrant revoked. The defendant is directed to pay arrearages and balance due on fine and costs/restitution in accordance with a revised schedule of monthly payments established by Clerk of Courts. The period of probation is extended to \_\_\_\_\_
- ☐ Bench Warrant revoked. The defendant is directed to pay weekly the sum of \$ \_\_\_\_\_ plus \$ \_\_\_\_\_ on arrearages. Total weekly payments shall be \$ \_\_\_\_\_. ( ) Wage attachment ordered.
- ☒ (Other) Bench Warrant Revoked - All matters resolved with APO.

See email - Holz

**II. BAIL FORFEITURE ORDER (check one)**

- ☐ The Order of Bail Forfeiture is rescinded and any money forfeited is ordered (returned to surety) or (reinstated as bail).
- ☐ The Order of Bail Forfeiture is not rescinded, all bail forfeited to County of Montgomery.
- ☒ The Order of Bail Forfeiture is amended as follows: \$ \_\_\_\_\_ returned to surety, remainder forfeited to County of Montgomery.
- ☐ No previous Order of Bail Forfeiture issued.

**III. COSTS (check one)**

All costs incurred in the execution of this Bench Warrant are hereby placed on ( ) Defendant ( ) the person taken into custody ( ) applicant in civil case ☒ County of Montgomery.

Vijl B. War

J.

EBONI EL, ANDREW HASKELL, SUNG	:	
JOO LEE, AKEEM WILLS, CHARLES	:	
GAMBER, DAVID KRAH, on behalf of	:	
themselves and all persons similarly situated,	:	
	:	
<i>Petitioners,</i>	:	
v.	:	
	:	
38 <sup>TH</sup> JUDICIAL DISTRICT, Hon.	:	No. 376 MD 2021
CAROLYN CARLUCCIO, President Judge	:	Class Action
(in her official capacity), KATHLEEN	:	Original Jurisdiction
SUBBIO, Chief Adult Probation and Parole	:	
Officer (in her official capacity), MICHAEL	:	
R. KEHS, Court Administrator (in his official	:	
capacity), and LORI SCHREIBER, Clerk of	:	
Courts (in her official capacity),	:	
	:	
<i>Respondents.</i>	:	

**DECLARATION OF WITOLD J. WALCZAK IN SUPPORT OF PLAINTIFF’S**  
**MOTION FOR CLASS CERTIFICATION**

I, Witold J. Walczak, declare as follows:

1. I am an attorney duly licensed to practice before the courts of the State of Pennsylvania, and the legal director of the American Civil Liberties Union of Pennsylvania (“ACLU-PA”).

2. My experience handling civil rights and class action litigation goes back more than thirty years. My first job after graduating from Boston College Law School in 1986 was with the Prisoner Assistance Project (“PAP”), an office within the Maryland Legal Aid Bureau. The PAP had a contract with the state of Maryland to provide civil rights and habeas corpus legal services to all state prisoners. I was assigned to and responsible for all of the civil rights legal needs of thousands of prisoners housed at Maryland state prisons. In late 1990, I was named Acting Chief Attorney of the PAP, a position I held until moving to Pittsburgh, Pennsylvania, in May 1991.

3. I have been with the ACLU-PA since August 1991, and I have served as the Legal Director since 2004, overseeing the organization's statewide litigation program.

4. The ACLU-PA defends and promotes the fundamental principles and values protected by the constitutions of the United States and of the Commonwealth of Pennsylvania, as well as by national, state, and local civil rights laws. For more than 100 years, the ACLU has sought to protect and expand the freedoms of expression, belief and association; voting rights; the separation of church and state; the right to privacy, including reproductive freedom, due process of law, including the rights of the accused of immigrants; limitations on the power of police; and the right to equal protection for all. I have held various positions inside the organization during that time, but all of them involved litigation.

5. During my time as ACLU's Legal Director, I have handled many nationally significant civil rights cases. *See, e.g., Kitzmiller v. Dover Area Sch. Dist.*, 400 F. Supp. 2d 707 (M.D. Pa. 2005) (challenging teaching "intelligent design" creationism in public schools); *Lozano v. City of Hazleton*, 724 F. 3d 297 (3d Cir. 2013) (challenging a municipality's attempt to exclude undocumented immigrants); *Applewhite v. Commonwealth*, 54 A.3d 1 (Pa. 2012) (overturning Pennsylvania's restrictive Voter ID law); *Whitewood v. Wolf*, 992 F. Supp. 2d 410 (M.D. Pa. 2014) (reversing Pennsylvania's ban on same-sex marriages).

6. I also have extensive experience in complex class action litigation. *See, e.g., J.H. v. Dallas*, 15-cv-02057-SHR (M.D. Pa., Jan. 27, 2016); *Doyle v. Allegheny County Salary Board*, GD-96-13606 (Ct. Comm. Pl., Allegheny County 1998); *Anderson v. Commonwealth of Pennsylvania*, CV-00-4148 (E.D. Pa. 2005); *Sager v. City of Pittsburgh*, CA-03-0635 (W.D. Pa. 2003); *El-Amin v. Robinson*, PN-85-3790 (D. Md. 1990); *Faruq v. Herndon*, K-88-2951 (D. Md. 1988); *Savko v. Rollins*, 749 F. Supp. 1403 (D. Md. 1990).

7. To date, the ACLU-PA has served a pivotal role in preparing this case for litigation, including, but not limited to, conducting legal research regarding potential claims; drafting the Petition for Review, the request for preliminary injunction, and related documents; attending conferences related to this matter with the Court; serving discovery requests; and participating in strategy sessions with co-counsel.

8. ACLU-PA is committed to dedicating the necessary resources and working together with WilmerHale as Co-Counsel for the benefit of the class.

I declare under penalty of perjury under the law of the Commonwealth of Pennsylvania that the foregoing is true and correct.

Signed on the 3<sup>rd</sup> day of May, 2022 at Pittsburgh, Pennsylvania,

/s/ Witold J. Walczak

Witold J. Walczak (Pa. 62976)

AMERICAN CIVIL LIBERTIES

UNION OF PENNSYLVANIA

P.O. Box 60173

Philadelphia, PA 19102

Tel: (215) 592-1513

Fax: (215) 592-1343

[vwalczak@aclupa.org](mailto:vwalczak@aclupa.org)

*Attorney for Petitioners Eboni El, Andrew Haskell,  
Sung Joo Lee, Akeem Wills, Charles Gamber, and  
David Krah*

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Eboni El, Andrew Haskell, Sung Joo : 376 MD 2021  
Lee, Akeem Wills, Charles Gamber, :  
David Krah on behalf of themselves and :  
all persons similarly situated,  
Petitioners

v.

38th Judicial District, Hon. Caryolyn  
T. Carluccio, President Judge (in her  
official capacity), Kathleen Subbio,  
Chief Adult Probation and Parole Officer  
(in her official capacity), Michael R. Kehs,  
Court Administrator (in his official capacity),  
and Lori Schreiber, Clerk of Courts (in her  
official capacity),  
Respondents

**PROOF OF SERVICE**

I hereby certify that this 4th day of May, 2022, I have served the attached document(s) to the persons on the date(s) and  
in the manner(s) stated below, which service satisfies the requirements of Pa.R.A.P. 121:

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**PROOF OF SERVICE**

(Continued)

**Service**

Served: Gregory R. Heleniak  
Service Method: eService  
Email: gheleniak@rudolphclarke.com  
Service Date: 5/4/2022  
Address: 7 Neshaminy Interplex  
Suite 200  
Trevose, PA 19053  
Phone: 215--63-3-1890  
Representing: Respondent Lori Schreiber

Served: Lauren Anne Gallagher  
Service Method: eService  
Email: lgallagher@rudolphclarke.com  
Service Date: 5/4/2022  
Address: Rudolph Clarke, LLC  
7 Neshaminy Interplex, Suite 200  
Trevose, PA 19053  
Phone: 215--63-3-1890  
Representing: Respondent Lori Schreiber

Served: Michael Daley  
Service Method: eService  
Email: michael.daley@pacourts.us  
Service Date: 5/4/2022  
Address: 1515 Market St  
Suite 1414  
Philadelphia, PA 19102  
Phone: 215-560-6300  
Representing: Respondent 38th Judicial District  
Respondent Carolyn T. Carluccio  
Respondent Kathleen Subbio  
Respondent Michael R. Kehs



IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**PROOF OF SERVICE**

*(Continued)*

Served: Michael Louis Barbiero  
Service Method: eService  
Email: mbarbiero@rudolphclarke.com  
Service Date: 5/4/2022  
Address: Seven Neshaminy Interplex  
Suite 200  
Trevose, PA 19053  
Phone: 215--63-3-1890  
Representing: Respondent Lori Schreiber

Served: Nicole Aileen Feigenbaum  
Service Method: eService  
Email: nicole.feigenbaum@pacourts.us  
Service Date: 5/4/2022  
Address: 1515 Market Street  
Suite 1414  
Philadelphia, PA 19102  
Phone: 215-560-6300  
Representing: Respondent 38th Judicial District  
Respondent Carolyn T. Carluccio  
Respondent Kathleen Subbio  
Respondent Michael R. Kehs

/s/ Lori A. Martin

---

*(Signature of Person Serving)*

Person Serving: Martin, Lori A.  
Attorney Registration No: 055786  
Law Firm: Wilmer Cutler Pickering Hale and Dorr LLP  
Address: Wilmer Cutler Et Al  
250 Greenwich St  
New York, NY 100072140  
Representing: Petitioner El, Eboni  
Petitioner Gamber, Charles  
Petitioner Haskell, Andrew  
Petitioner Krah, David  
Petitioner Lee, Sung Joo  
Petitioner Wills, Akeem

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**