

**IN THE PHILADELPHIA COUNTY COURT OF COMMON PLEAS  
CRIMINAL DIVISION**

<b>Commonwealth of Pennsylvania,</b>	:	
	:	
<b>Respondent,</b>	:	
	:	<b>CP-51-CR-0532781-1992</b>
v.	:	
	:	
<b>Walter Ogrod,</b>	:	
	:	
<b>Petitioner.</b>	:	

---

**EMERGENCY MOTION OF WALTER OGROD FOR  
OUTSIDE MEDICAL TESTING AND TREATMENT**

---

Petitioner Walter J. Ogrod, through counsel, respectfully moves for an emergency order requiring the Pennsylvania Department of Corrections (DOC) to take him to a hospital outside of the prison for COVID-19 testing and appropriate treatment forthwith. In support of this motion Mr. Ogrod avers:

1. Mr. Ogrod is a death-sentenced prisoner who is presently incarcerated at State Correctional Institution Phoenix, 1200 Mokychie Road, Collegeville, PA 19426. The Commonwealth of Pennsylvania conceded in a filing on February 28, 2020, that he is likely innocent and has been unjustly incarcerated since his arrest in 1992.<sup>1</sup>

2. Mr. Ogrod files his motion as a “health and medical emergenc[y]” pursuant to the First Judicial District’s March 17, 2020, Order setting forth plans for court operations during the

---

<sup>1</sup> Mr. Ogrod simultaneously with this motion has filed a separate motion with the Court seeking the Court’s expedited ruling on his and the Commonwealth’s filings through which the Commonwealth concedes his likely innocence and concedes relief on two of Mr. Ogrod’s PCRA claims through which he is entitled to vacation of his conviction and sentence.

COVID-19 civil emergency.<sup>2</sup> Mr. Ogrod has exhibited symptoms consistent with COVID-19, has not been tested for COVID-19, is vulnerable to it because of his age and medical conditions, and has not been given appropriate medical treatment.

3. Last Wednesday, March 11, 2020, Mr. Ogrod was taken to the prison infirmary with a fever, cough and difficulty breathing, all symptoms of COVID-19 according to the Centers for Disease Control.<sup>3</sup> He was immediately placed in isolation. While he was in isolation, his fever spiked to 106 degrees and his breathing difficulties continued. On Monday March 16, 2020, with his fever seemingly under control, he was returned to his cell. However, he is still coughing and having difficulty breathing, which Mr. Ogrod reports leaves him feeling like he is breathing through a wet sponge.

4. Yesterday, March 17, 2020, nearly a week after he first reported symptoms, a doctor finally gave Mr. Ogrod clearance to receive a decongestant for his respiratory issues. As of the filing of this motion, it is counsel's understanding that Mr. Ogrod remains confined to his cell. Despite his symptoms, undersigned counsel is informed and believes that Mr. Ogrod has not been tested for COVID-19.

---

<sup>2</sup> <https://www.courts.phila.gov/pdf/regs/2020/10-of-2020-PJ-ORDER.pdf>. (accessed March 18, 2020).

<sup>3</sup> <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (accessed March 18, 2020).

WHEREFORE, Mr. Ogrod respectfully requests that the Court enter an order requiring the Pennsylvania Department of Corrections to transport Mr. Ogrod to an outside hospital for testing and treatment forthwith.

**RESPECTFULLY SUBMITTED:**

Dated: March 18, 2020

/s/ Andrew Gallo  
Robert E. McDonnell, *pro hac vice*  
Andrew J. Gallo, *pro hac vice*  
MORGAN, LEWIS & BOCKIUS, LLP  
One Federal Street  
Boston, MA 02110  
617) 951-8000

/s/ James Rollins  
James S. Rollins, *pro hac vice*  
NELSON MULLINS RILEY &  
SCARBOROUGH LLP  
One Post Office Square  
Boston, MA 02109  
(617) 217-4722

/s/ Tracy Ulstad  
Tracy Ulstad (Pa. Bar 87377)  
Samuel J.B. Angell (Pa. Bar 61239)  
Loren Stewart (Pa. Bar 311928)  
Federal Community Defender Office  
for Eastern District of Pennsylvania  
Capital Habeas Corpus Unit  
601 Walnut Street, Suite 545 West  
Philadelphia, PA 19106  
(215) 928-0520

***Counsel for Petitioner, Walter J. Ogrod***

## CERTIFICATE OF COMPLIANCE

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

/s/ Tracy Ulstad  
Tracy Ulstad, Esq.

**CERTIFICATE OF SERVICE**

I, Tracy Ulstad, hereby certify that on this 18th of March, 2020, I caused the foregoing to be filed through the Court's electronic filing system and thereby served the following individuals:

Patricia Cummings, Esq.  
Supervisor, Conviction Integrity and Special Investigations Unit  
Philadelphia District Attorney's Office  
Three South Penn Square  
Philadelphia, PA 19107  
[patricia.cummings@phila.gov](mailto:patricia.cummings@phila.gov)

Carrie Wood, Esq.  
Assistant District Attorney  
Conviction Integrity Unit  
Philadelphia District Attorney's Office  
Three South Penn Square  
Philadelphia, PA 19107  
[carrie.wood@phila.gov](mailto:carrie.wood@phila.gov)

Joseph Fulginiti, Esq.  
Pennsylvania Department of Corrections  
1920 Technology Parkway  
Mechanicsburg, PA 17050-8507  
(717) 728-7761  
[jofulgini@pa.gov](mailto:jofulgini@pa.gov)

*/s/ Tracy Ulstad*  
\_\_\_\_\_  
Tracy Ulstad, Esq.