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COMMONWEALTH OF PENNSYLVANIA	:	IN THE COURT OF COMMON PLEAS
	:	DAUPHIN COUNTY, PENNSYLVANIA
	:	
vs.	:	NO. CP-22-CR-0001220-2002
	:	NO. CP-22-CR-0001374-2002
	:	NO. CP-22-CR-0001746-2002
	:	
SAMUEL B. RANDOLPH, IV	:	CRIMINAL ACTION

COMMONWEALTH'S APPLICATION
FOR PERMISSION TO ENTER A NOLLE PROSEQUI

TO THE HONORABLE JUDGES OF SAID COURT:

The Petition of Francis T. Chardo, District Attorney of Dauphin County, respectfully represents:

1. The Commonwealth charged the defendant with the offenses at CP-22-CR-0001220-2002 by criminal complaint on February 15, 2002.

2 The Commonwealth charged the defendant with the offenses at CP-22-CR-0001374-2002 by criminal complaint on February 18, 2002.

3. The Commonwealth charged the defendant with the offenses at CP-22-CR-0001746-2002 by criminal complaint on April 25, 2002.

4. Following his arrest as a fugitive from justice in Virginia on November 30, 2001, the defendant has been continuously incarcerated in connection with one or more of the above dockets.

5. Following a joint trial on the above three dockets, on May 14, 2003, a jury convicted the defendant of two counts of first-degree murder, multiple counts of attempted murder and other serious offenses. On the murder counts, the jury fixed the sentence at death. This Honorable Court imposed sentences of imprisonment on the other counts. (See Trial Court Opinion attached at Exhibit "A")

6. The Pennsylvania Supreme Court affirmed the judgments of sentence on May 16, 2005. (See Supreme Court Opinion attached as Exhibit "B")

7. On October 6, 2006, the defendant filed a PCRA petition in this Honorable Court.

8. On February 8, 2007, while the PCRA was pending, the defendant filed a federal habeas corpus petition in the U.S. District Court for the Middle District of Pennsylvania. The District Court stayed the habeas proceedings pending disposition of the PCRA action.

9. On February 13, 2013, this Honorable Court granted the defendant's motion to withdraw his PCRA petition so that he could pursue his federal habeas petition. There was no appeal from this order.

10. On July 29, 2019, the District Court held a hearing on the federal habeas petition.

11. On May 27, 2020, the District Court granted habeas relief and ordered that the defendant be released from custody if he were not retried within thirty days following disposition of any appeal from the habeas order. (See U.S. District Court Order and Opinion are attached as Exhibit "C")

12. The District Court ruled that the trial court violated the defendant's Sixth Amendment right to counsel of choice by denying a request for a continuance.

13. The Commonwealth appealed the grant of habeas relief. The Commonwealth asserted that this Honorable Court acted reasonably in denying the continuance as the defendant did not alert the court that he might be retaining new counsel until the eve of trial. The Commonwealth asserted that the case had been continued several times previously at the defendant's request and a special jury panel had been summoned for the case.

13. The U.S. Court of Appeals for the Third Circuit affirmed the grant of habeas relief on July 20, 2021.

14. The Commonwealth petitioned the Supreme Court of the United States for a writ of certiorari.

15. On April 4, 2022, the Supreme Court of the United States denied the petition for writ of certiorari.

16. By virtue of the federal habeas order, this Honorable Court has jurisdiction to act on these cases.

17. Nearly 19 years have passed since the trial testimony.

18. The police affiant and the police detective who handled the evidence collection in this case have both died.

19. Other witnesses have become unavailable for other reasons.

20. For example, one of the most important witnesses at trial was Amahl Scott. He was just outside Todd and Pat's Bar when the shooter left after the shooting. While in the bar, the shooter wore a mask. As he stepped out of the bar, Scott saw the shooter remove his mask and positively identified the defendant as the shooter. Scott had known Randolph prior to the murders.

21. In March 2022, Amahl Scott indicated to Detective John O'Connor that he would not testify at any retrial. He further indicated that, if compelled to testify, he would commit perjury and would not implicate Randolph.

22. The defendant has served over 20 years and 4 months of imprisonment for these offenses.

23. The defendant is now 50 years old and asserts that he is paralyzed below the waist. The Sheriff had to transport him from SCI-Phoenix to the Dauphin County Prison by ambulance.

24. The attorney for the Commonwealth has consulted with the families of the murder victims in accordance with the Crime Victims Act, 18 P.S. §11.101 *et seq*.

25. Notwithstanding the firm belief that the defendant is responsible for the offenses of which he was convicted, based upon the circumstances outlined above, retrial is not in the public interest at this time.

26. As there is no statute of limitations on murder, the Commonwealth reserves the right to refile these charges in the future.

WHEREFORE, in view of the above circumstances, Your Petitioner prays Your Honorable Court that he may permitted to enter a Nolle Prosequi in the above-entitled action.

Respectfully submitted,

Francis T. Chardo
District Attorney
Supreme Court ID No. 69415