

***'DEATH – MAKING
INSTITUTIONS':***

***HOW POLICE, PROBATION,
AND THE JUDICIARY CAUSED
GERALD THOMAS TO DIE IN JAIL***

by Dolly Prabhu, Esq.



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by Dolly Prabhu, Esq.

Staff Attorney at the Abolitionist Law Center

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GERALD THOMAS

11/25/1995 – 05/06/2022

This report is dedicated to the friends and family of Gerald Thomas, and all those who were unduly robbed of their time with a loved one by Allegheny County's violently racist criminal justice system.



Gerald meant the world to me. He meant the world to a lot of people. He was loved out here and he was loved inside the jail. He was very helpful. He would go to his grandma's house and take the garbage out. He was funny too, and a very hard worker. He would do anything for his children. He took care of his kids – he changed diapers, he made bottles, he woke up with them. He was a product of his environment, but even with that he still didn't lose sight of what he wanted in life. He had plans. He got the biggest smile on his face when he saw his daughter on facetime. He just wanted to get home and hold his new daughter. That's all he kept saying: 'All I want is to hold my daughter.' He would reach out and let me know he was okay. He acted like he wasn't in jail. He never forgot to say I love you mama. He would solve issues for me out here from in there. No one else would listen to any problems I had out here but him. He was my protector. He was my reasoning. He was a good man, a good father, a good brother, and a really good son. And I miss him. But he knows that I love him, and I know he loves me. I'm still finding peace, but I will speak up and they will hear my voice and they will hear my name and they will hear my son's name. They're all going to remember my son's name. They did this to him. They did this to him for no reason at all. They have a horrible man in a position to do horrible things. He's a slavemaster in a black coat and he needs to be fired."

*Juana Saunders
Mother of Gerald Thomas
June 14, 2022*

INTRODUCTION

On March 30, 2021, 26-year-old Gerald Thomas was stopped by Pittsburgh Police Officer Joshua R. Anderson for allegedly rolling through a stop sign. After conducting an illegal search of his vehicle, Officer Anderson arrested Mr. Thomas for illegal possession of a firearm. At the time of his arrest, Mr. Thomas was on probation with Judge Anthony Mariani, who lodged a probation detainer¹ against him when he was arrested. The probation detainer ensured that Mr. Thomas would remain detained pending his probation violation hearing, despite having had bail set at \$2,000—an amount that could have easily been paid by a local bail fund. The District Attorney's Office (DAO) brought several charges against him, the most serious of which was prohibited possession of a firearm. All of these charges were *nolle prossed* (i.e. the prosecution decided not to pursue these charges) on January 27, 2022, due to Pittsburgh Police Officer Anderson's illegal search of Mr. Thomas's vehicle.

Mr. Thomas's probation violation hearing was scheduled for February 17, 2022. At this point, his family and his attorney expected that Judge Mariani would lift his probation detainer and Mr. Thomas could thus be released from jail, which was the outcome recommended by the Allegheny County Adult Probation Department. Despite his charges being *nolle prossed*, Judge Mariani believed it was still possible to violate Mr. Thomas for his probation and threatened to send him to state prison.² He asserted that the lesser standard of proof required at probation violation hearings permitted him to consider the illegally obtained evidence,³ in spite of a 2016 ruling from the Pennsylvania Supreme Court holding that evidence obtained via an illegal search is

¹ A probation detainer is an order issued by a Judge mandating that an individual is detained pending their probation violation hearing, which is usually months or sometimes even years later. Probation detainers trump bail decisions, such that someone who is deemed bailable and even pays bail may not be released regardless if there is a probation detainer lodged against them.

² *Com. v. Gerald Thomas*, No. CC 2018-04773, (Feb. 17, 2022), at 8:22–9:1 (Gagnon II Hearing Transcript), available at <https://abolitionistlawcenter.org/wp-content/uploads/2020/11/Thomas-Gerald-Gagnon-II-Hearing-021722-2-1-1.pdf> (hereinafter *Thomas Transcript*).

³ *Id.* at 16:17–17:14.

The tragic death of Gerald Thomas at Allegheny County Jail was not random – it was the predictable result of overlapping, systematic patterns of state violence that have become commonplace in this county.

inadmissible in probation proceedings.⁴ Judge Mariani postponed the hearing 30 days so that Mr. Thomas's attorney could prepare a defense to Judge Mariani's legally erroneous hypothesis.

At the February 17th hearing, Judge Mariani defended his decision to continue detaining Mr. Thomas, stating, "I'm tired of making ticky-tacky technical decisions and young men walking out the door and getting shot down in the street two months, three months later because they won't quit. I would rather make a technical decision the other way, and at least he's alive."⁵ Seventeen days later, Mr. Thomas collapsed at Allegheny County Jail and was transferred to Mercy Hospital, where he was declared deceased.⁶

The tragic death of Gerald Thomas at Allegheny County Jail was not random—it was the predictable result of overlapping, systematic patterns of state violence that have become commonplace in this county. City Police, County Probation, County Courts, and the County Jail all contributed to the manner of Mr. Thomas's death. At each phase, racism likely played a role in Mr. Thomas's arrest and continued detention. And, at each phase, common sense reforms could have prevented his needless incarceration and perhaps even his death.

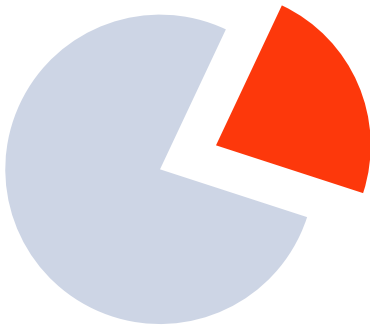
⁴ In this case, the evidence which Judge Mariani wanted to rely on was Mr. Thomas's alleged acknowledgement to the police officer that there was a gun in the glove compartment of his vehicle, and also the police's own acknowledgement that they observed such. *Id.* at 12:11–15. Judge Mariani asserted that this could somehow be separated from evidence of the gun itself, which was discovered in the illegal search and thus inadmissible. *Id.* at 13:10–25. However, the fruit of the poisonous tree doctrine does not permit the introduction of such evidence. *Wong Sun v. United States*, 371 U.S. 471, 484–487 (1963); *Nardone v. United States*, 308 U.S. 338, 341 (1939) (stating that the connection between illegally obtained evidence and related admissible evidence must be "so attenuated as to dissipate the taint"). It is unclear why Judge Mariani believed the lesser standard of proof required at probation violation hearings would have any bearing on the applicability of the exclusionary rule in probation revocation proceedings, which is clearly established by the Pennsylvania Supreme Court. *Com. v. Arter*, 151 A.3d 149 (2016) (holding that the exclusionary rule derived from the Pennsylvania Constitution applies in probation revocation proceedings).

⁵ *Thomas Transcript*, at 18:2–9.

⁶ Paula Reed Ward, *Man dies after collapsing at Allegheny County Jail*, TRIBLive (Mar. 7, 2022), <https://triblive.com/local/man-dies-after-collapsing-at-allegheny-county-jail-on-sunday/>.

RACIST POLICING

In 2019, Black people made up 23.2% of the Pittsburgh population,



Racism in policing, both implicit and explicit, leads to vast racial disparities in arrests. This is true at both a national level⁷ and at a local level.⁸ Analysis of the data provided in the 2019 annual report⁹ by the Pittsburgh Bureau of Police shows that Black people made up 43.6% of all individuals involved in traffic stops, despite the fact that Black people made up 23.2% of the Pittsburgh population.¹⁰ This disparity is even more shocking considering that only 61% of Black residents in Pittsburgh own a motor vehicle, compared to 89% of white residents.¹¹ Black people also made up 69% of all warrantless searches and seizures and 63% of all arrests conducted by the Pittsburgh Police.¹²

and 63% of all arrests conducted by the Pittsburgh Police.

⁷ Cydney Schleiden et al., *Racial Disparities in Arrests: A Race Specific Model Explaining Arrest Rates Across Black and White Young Adults*, CHILD & ADOLESCENT SOCIAL WORK J. (May 3, 2020), available at <https://link.springer.com/article/10.1007/s10560-019-00618-7>.

⁸ *Apartheid Policing in Pittsburgh: Why Defunding the Police Can't Wait*, Abolitionist Law Center (Dec. 2020), at 5, <https://abolitionistlawcenter.org/wp-content/plugins/pdf-poster/pdfjs/web/viewer.php?file=https://abolitionistlawcenter.org/wp-content/uploads/2020/11/ALC-APARTHEID-POLICING-IN-PGH.pdf&download=true&print=true&openfile=false>.

⁹ *2019 Statistical Report*, City of Pittsburgh, Dep't of Public Safety, Bureau of Police (2019), https://apps.pittsburghpa.gov/redtail/images/9640_2019_Annual_Report_Final.pdf.

¹⁰ *Apartheid Policing in Pittsburgh: Why Defunding the Police Can't Wait*, supra note 8.

¹¹ *Id.*

¹² *Id.*

Pretextual traffic stops have been given legal sanction by the U.S. Supreme Court¹³ and routinely form the basis for deadly police interactions.¹⁴ Mr. Thomas's most recent incarceration led up to his death and was initiated by Pittsburgh Police Officer Joshua Anderson,¹⁵ who pulled over Mr. Thomas in the Hill District for rolling through a stop sign.¹⁶ Rolling through a stop sign is a classic pretextual reason for a racially motivated traffic stop. It's a highly subjective determination and generally a victimless "crime."

Mr. Thomas was a young Black male driving in a predominantly Black neighborhood.¹⁷ Had he been a white woman driving through Shadyside, would Officer Anderson have pulled over the driver? Would he then have conducted an illegal search of the vehicle? The statistics provided by the Pittsburgh Police themselves, along with a common sense understanding of the role that policing plays in enforcing structural racism in this country, suggest that the answer to both questions is no.

The vast potential for harm and violence created by police involvement in traffic stops has led to calls for prohibiting cops from pulling over individuals for traffic related violations. In December, Pittsburgh City Council passed legislation sponsored by Councilman Ricky Burgess to prohibit police from stopping drivers for burned out brake lights or headlights, along with other low level traffic infractions.¹⁸ The legislation was specifically intended to reduce racially motivated traffic stops.¹⁹ However, many advocates believe the legislation doesn't go far enough, and should have encompassed more prohibitions.²⁰ As is, this legislation would *not* have prohibited Officer Anderson's stop.

¹³ *Whren v. United States*, 517 U.S. 806 (1996) (holding in part that the motivations of police officers' does not impact the constitutional reasonableness of a traffic stop).

¹⁴ David D. Kirkpatrick et al., Why Many Police Traffic Stops Turn Deadly, N.Y. Times (Oct. 31, 2021), <https://www.nytimes.com/2021/10/31/us/police-traffic-stops-killings.html>.

¹⁵ The arresting officer's name was obtained from a publicly accessible court docket, no. CP-02-CR-0003136-2021.

¹⁶ Ward, *supra* note 6.

¹⁷ Emily Klein, *The Hill District, a community holding on through displacement and development*, PublicSource (Dec. 27, 2017), <https://www.publicsource.org/hill-district-displacement-development/>.

¹⁸ Julia Felton, *Pittsburgh bans traffic stops for minor violations*, TRIBLive (Dec. 28, 2021), <https://triblive.com/local/pittsburgh-bans-traffic-stops-for-minor-violations/>.

¹⁹ *Id.*

²⁰ *Id.*

Probation sets people up to fail, and traps people into a harmful and destabilizing cycle of reincarceration and supervision.

While probation was initially instituted as a reform, today's probation system has become a carceral tool in its own right. Rather than functioning as an alternative to incarceration, probation is now an alternative to freedom. While many judges insist to defendants that probation is a "privilege," in reality it is increasingly a default sentence that results in repeated terms of incarceration triggered by alleged probation violations.²¹ Even when judges impose sentences of incarceration, they frequently tack on consecutive sentences of probation without much thought.²²

Probation has never been the rehabilitative program it claims to be. Probation sets people up to fail, and traps people into a harmful and destabilizing cycle of reincarceration and supervision.²³ In 2016, Mr. Thomas was sentenced to a three year probation sentence by Judge Mariani for charges relating to drug possession.²⁴ In 2018, he spent over 8 months in jail before he was violated and resentenced to an 11.5-23 month period of incarceration followed by another 3 years of probation, again by Judge Mariani for similar charges.²⁵ His recent arrest in 2021 compounded by Judge Mariani's probation detainer resulted in nearly 12 additional months of incarceration, leading to his

²¹ Fiona Doherty, *Obey All Laws and Be Good: Probation and the Meaning of Recidivism*, 104 GEO. L. J. 291, 338 (2016) (citing Andrew Horwitz, *The Costs of Abusing Probationary Sentences: Overincarceration and the Erosion of Due Process*, 75 BROOK. L. REV. 753, 754 (2010) (stating that probation is now "the default sentence imposed upon a majority of defendants with little to no regard for whether probation makes sense for that defendant").

²² *Id.* at 340 ("In Pennsylvania, for example, judges regularly sentence defendants to a term of incarceration followed by a 'tail' of probation") (citing *Commonwealth v. Basinger*, 982 A.2d 121, 127 (Pa. Super. Ct. 2009)).

²³ Marianne Stein & Alex Domingos, *Probation in Pennsylvania, Explained*, ACLU-PA (Oct. 21, 2021), at Slide 9, https://www.aclupa.org/sites/default/files/field_documents/aclu-pa_probation_in_pa_explained_2021-10-21.pdf.

²⁴ This information was obtained from a publicly accessible court docket, no. CP-02-CR-0014526-2015.

²⁵ This information was obtained from a publicly accessible court docket, nos. CP-02-CR-0014526-2015 & CP-02-CR-0004773-2018.

death.²⁶ As a consequence of this cycle of incarceration and probation, Mr. Thomas spent nearly his entire adult life on probation or in jail.

The onerous and unrealistic conditions of probation set people up to fail. In Pennsylvania, judges have virtually unlimited discretion to create conditions of probation. Common conditions include paying fines or restitution; attending expensive programming; having a stable housing situation, which cannot include a shelter; submitting to (and passing) random drug tests; following a curfew; finding employment; prohibiting contact with specific individuals or categories of individuals; complying with mental health or substance abuse programming; performing community service; and a host of other paternalistic and unreasonable requirements.

Many of these requirements are contradictory; for example, finding employment, paying off fines, and having a place of residence is infinitely harder if you must find work that allows you to schedule around mandated programming and treatment, if you are not permitted to interact with certain individuals who you live or work with, or if you need to find time for hundreds of hours of community service on top of all of this. People commonly violate probation due to circumstances stemming from poverty, or for behavior that resulted from their attempts to comply with other conditions of probation. In Mr. Thomas' case, by the time of his probation violation hearing his only alleged violations were the following: owing \$2,839²⁷ in court costs, owing \$375 in restitution, not having found employment, driving without a license, and alleged gun possession based on a nearby firearm belonging to a family member.²⁸ Most of these violations are not crimes, and none would not be grounds for arrest and incarceration for anyone not on probation.

...Finding employment, paying off fines, and having a place of residence is infinitely harder if you must find work that allows you to schedule around mandated programming and treatment, if you are not permitted to interact with certain individuals who you live or work with, or if you need to find time for hundreds of hours of community service on top of all of this.

²⁶ This information was obtained from a publicly accessible court docket, no. CP-02-CR-0003136-2021.

²⁷ This amount owed in court costs was obtained from a publicly accessible court docket, no. CP-02-CR-0004773-2018.

²⁸ *Thomas Transcript*, at 4:1-6.

GAGNON I'S

These preliminary hearings happen shortly after arrest following the alleged violation of probation. Whether or not the probationer should be detained is determined here.

GAGNON II'S

In these hearings, findings related to the alleged probation violation and recommendations, such as lifting the probation detainer or sentencing the accused probationer for new charges, are determined.

There are two types of hearings probationers are entitled to when accused of violating the terms of their probation. These are referred to in Allegheny County as “Gagnon I” and “Gagnon II” hearings, after a U.S. Supreme Court case which held that probationers were entitled to such hearings prior to being revoked for violating the terms of their probation.²⁹ Gagnon I hearings are preliminary hearings shortly after one's arrest wherein a finding of probable cause that one has committed a probation violation must be made prior to their Gagnon II hearing.³⁰ Gagnon II hearings are where findings of violation and decisions regarding probation revocation occur.³¹

Today, community supervision is the primary driver of mass incarceration, both in jails and prisons.³² Probation detainers are the main reason for probation's impact on the pretrial population. Probation detainers are orders issued by judges mandating that individuals on probation who are accused of probation violations remain detained pending their Gagnon II hearings. Gagnon II hearings take months and sometimes even years to be scheduled, as they are frequently not scheduled until after the resolution of any new charges. Currently, 38% of the Allegheny County Jail population has a county probation detainer lodged against them.³³

²⁹ *Gagnon v. Scarpelli*, 411 U.S. 778 (1973).

³⁰ *Id.* at 786; *Morrissey v. Brewer*, 408 U.S. 471, 487-88 (1972).

³¹ *Id.*

³² Human Rights Watch & ACLU, *REVOKED How Probation and Parole Feed Mass Incarceration in the United States* (2020), https://www.hrw.org/sites/default/files/media_2020/07/us_supervision0720_web_1.pdf.

³³ *Population of the Allegheny County Jail: Interactive Dashboard*, ALLEGHENY CTY. DEP'T HUMAN SERV., <https://www.alleghenycountyanalytics.us/index.php/2021/03/04/allegheny-county-jail-population-management-dashboards-2/> (last accessed May 12, 2022).

Probationers in Allegheny County generally have their Gagnon I hearing within 14 days of being detained for an alleged violation. In theory, this should be their first (and often is their only) opportunity to challenge their pretrial detention on the basis that there is no probable cause that they have committed a violation. But, in Allegheny County, Gagnon I proceedings are perfunctory. Present at these hearings is the probationer, the probationer's supervising probation officer, and a hearing officer. The hearing officer functions the same way a judge would: by listening to the facts presented, making findings, deciding whether or not to schedule a Gagnon II hearing, and issuing recommendations to lift or transfer detainers if they choose. But hearing officers are not wholly neutral arbitrators: they are all supervisors within Adult Probation and were themselves former probation officers.³⁴ They know many of the probation officers well, and are often friendly with them during hearings. While probationers must be given an opportunity to speak and present evidence at Gagnon I hearings,³⁵ they are often told to "be quiet"³⁶ or to "stop talking."³⁷

Currently, 38% of the Allegheny County Jail population has a county probation detainer lodged against them.³³



Due process requires that probable cause be established at Gagnon I hearings that the arrested probationer violated their probation conditions.³⁸ This finding is to be made by the hearing officer based on the information presented

³⁴ The hearing officers who preside over Gagnon I hearings are currently Robert O'Brien, Charlene Christmas, and Stephen Esswein.

³⁵ *Morrissey*, supra note 30, at 485-87. The standards set in *Morrissey* for preliminary hearings for parolees have been deemed applicable to probationers accused of violating probation conditions as well. *Gagnon*, supra note 29, at 782.

³⁶ ALC court watchers recorded hearing officers telling defendants to "be quiet" during Gagnon I hearings on April 30, 2021; Sep. 23, 2021; Sep. 24, 2021; Oct. 19, 2021; Nov. 4, 2021; Jan. 27, 2022. On Sep. 23, 2022, a Gagnon I hearing officer said "shut your mouth, be quiet." Volunteers are unable to attend all Gagnon I hearings and coverage changes throughout the year.

³⁷ Volunteer court watchers recorded hearing officers telling defendants to "stop talking" during Gagnon I hearings on Nov. 4, 2021; Jan. 10, 2022; Jan. 31, 2022; Feb. 2, 2022; Feb. 14, 2022; Feb. 24, 2022; Mar. 16, 2022. Volunteers are unable to attend all Gagnon I hearings and coverage changes throughout the year.

³⁸ *Morrissey*, supra note 30, at 485-87. The standards set in *Morrissey* for preliminary hearings for parolees have been deemed applicable to probationers accused of violating probation conditions as well. *Gagnon*, supra note 29, at 782.

at the Gagnon I hearing.³⁹ Such a finding is necessary to warrant continued detention.⁴⁰ Out of hundreds of observations by ALC Court Watchers, the phrase “probable cause” was not uttered a single time in Gagnon I hearings. Often, the hearing officers claim to have “no discretion”⁴¹ to make decisions to lift probation detainers at this stage, apparently having no regard whatsoever for their Constitutionally mandated duties.

Technical violations, which by definition are non-criminal, rarely justify prolonged pretrial detention. Thus, probation detainers serve virtually no justifiable public safety purpose.

The immense impact of these practices on pretrial incarceration cannot be understated, which calls into question the necessity for probation detainers to exist at all. When an individual is accused of a direct violation (i.e. has new criminal charges against them), a determination is made at a bail hearing of whether an individual poses a potential risk to public safety and may be denied bond for that reason. Therefore a probation detainer would be redundant in the event of new charges if bond is revoked based on such concerns. Technical violations, which by definition are non-criminal, rarely justify prolonged pretrial detention. Thus, probation detainers serve virtually no justifiable public safety purpose. Instead, the courts’ overuse of this tool keeps the Allegheny County Jail full, and ensures that a large proportion of those on probation will be trapped in destabilizing and traumatic cycles of incarceration and supervision.

Gerald Thomas had his bail set at \$2,000, a relatively low amount that could easily have been paid by a local bail fund like Bukit.⁴² In other words, a judge made a determination that he wasailable and therefore could be released pending the resolution of his charges, which ultimately ended up being dismissed. However, because of the probation detainer, Gerald Thomas could not have been released even if he did post his bail. Judge Mariani’s probation detainer kept Mr. Thomas incarcerated at the

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ ALC court watchers recorded hearing officers stating they have “no discretion” to lift a detainer during Gagnon I hearings on Sep. 23, 2021; June 17, 2021; Mar. 3, 2022. They have stated that they are “not allowed” to lift detainers on June 17, 2021; May 20, 2021; Jan. 7, 2022. Other similar comments are often made.

⁴² Bukit Bail Fund of Pittsburgh, <https://www.bukitbailfund.org>.

Allegheny County Jail for nearly a year prior to his death on the basis of charges that were the product of illegal police conduct.

The total abolition of probation detainers would substantially decarcerate Allegheny County Jail...

Unfortunately, Mr. Thomas was not alone in that experience: as noted above, well over a third of the Allegheny County Jail population is being held on probation detainers.⁴³ It is the single most common reason for pretrial incarceration in this region, dwarfing the population of individuals detained on cash bail.⁴⁴ Many of the individuals detained are not even charged with new crimes, they are merely accused of non-criminal technical violations. The average length of stay at Allegheny County Jail for people with probation detainers is 231 days.⁴⁵ The total abolition of probation detainers would substantially decarcerate Allegheny County Jail with no concomitant risk to public safety. Indeed, only 6% of all individuals held at the Allegheny County Jail are serving a sentence for having committed a crime; the rest are awaiting trial or some other proceeding.⁴⁶

⁴³ *Population of the Allegheny County Jail: Interactive Dashboard*, supra note 33.

⁴⁴ Press Release, Fifth Judicial District of Pennsylvania, Partners Provide Update on Allegheny County Jail Population Summary (Apr. 22, 2020), https://npr-brightspot.s3.amazonaws.com/legacy/sites/wesa/files/jail_statistics_042020.pdf.

⁴⁵ This figure is not made available to the public. This particular number was verbally communicated to the Author by the Chief Public Defender on March 1, 2021.

⁴⁶ *Population of the Allegheny County Jail: Interactive Dashboard*, supra note 33.

ALLEGHENY COUNTY JAIL

14

people have
died at ACJ
since March
2020.

While incarceration is immensely harmful in any institution,⁴⁷ Allegheny County Jail (ACJ) stands out as one of the worst jails in the country. It has one of the nation's highest suicide rates,⁴⁸ and a death rate higher than Riker's Island. Since the start of the COVID-19 pandemic, fourteen people incarcerated at the Allegheny County Jail have died.⁴⁹

ACJ is also chronically understaffed,⁵⁰ and especially struggles in retaining medical and mental health staff. One experienced mental health specialist who resigned after less than three weeks described ACJ as a "toxic and highly countertherapeutic environment" with "nonexistent" mental health care.⁵¹ ACJ is also routinely in the news for dangerous⁵² and unsanitary⁵³ conditions.

⁴⁷ Katie Rose Quandt & Alexi Jones, Research Roundup: Incarceration can cause lasting damage to mental health, Prison Pol. Init. (May 13, 2021), <https://www.prisonpolicy.org/blog/2021/05/13/mentalhealthimpacts/>.

⁴⁸ *Allegheny County Jail's Suicide Rate Among Nation's Highest*, WPXI (July 5, 2011), <https://www.wpxi.com/news/allegheny-county-jails-suicide-rate-among-nations-/201418869/>.

⁴⁹ Brittany Hailer, *An incarcerated man died in the Allegheny County Jail Thursday, marking third death this year*, PINJ (Apr. 29, 2022), <https://pinjnews.org/an-incarcerated-man-died-in-the-allegheny-county-jail-thursday-marking-third-death-this-year/>.

⁵⁰ Theresa Clift, *Vacancies remain high among Allegheny County Jail medical staff*, TRIBLive (May 12, 2022), <https://archive.triblive.com/local/pittsburgh-allegheny/vacancies-remain-high-among-allegheny-county-jail-medical-staff/>.

⁵¹ Juliette Rihl, *Impossible workloads, 'hostile' management and unsafe medical practices: former ACJ medical employees speak out*, PublicSource (Dec. 11, 2020), <https://www.publicsource.org/former-allegheny-county-jail-medical-mental-health-employees-speak-out/>.

⁵² Juliette Rihl, *'No heat in cells': Incarcerated people, advocates complain of cold temperatures at Allegheny County Jail*, PublicSource (Mar. 3, 2021), <https://www.publicsource.org/allegheny-county-jail-cold-temperature-complaints/>.

⁵³ Brittany Hailer, *COVID-19, Rodents, Unpaid Labor: A Year In The Allegheny County Jail Kitchen*, Prison Legal News (May 2, 2021), <https://www.prisonlegalnews.org/in-the-news/2021/covid-19-rodents-unpaid-labor-year-allegheny-county-jail-kitchen/>.

ACJ has been subject to numerous lawsuits in recent years, including suits alleging excessive force,⁵⁴ failure to treat medical⁵⁵ or mental health issues,⁵⁶ and dangerous conditions that increased the likelihood of COVID-19 transmission.⁵⁷ Since the start of the pandemic, the jail has been on repeated lockdown, forcing everyone held at the jail to experience indefinite solitary confinement.⁵⁸

So egregious were the stories routinely coming out of the jail that in 2021, Allegheny County citizens voted to pass a referendum by nearly 70% to end the use of solitary confinement and to prohibit the use of chemical agents and the restraint chair at the facility.⁵⁹

To date, the jail has failed to comply with the requirements of the referendum.⁶⁰

⁵⁴ Claudia Lauer, *Female Ex-Inmates Allege Excessive Force At Allegheny County Jail*, 90.5 WESA (Dec. 2, 2020), <https://www.wesa.fm/identity-justice/2020-12-02/female-ex-inmates-allege-excessive-force-at-allegheny-county-jail>.

⁵⁵ Paula Reed Ward, *Lawsuit says lack of treatment at Allegheny County Jail led to leg amputation*, TRIBLive (Mar. 28, 2022), <https://triblive.com/local/lawsuit-says-lack-of-treatment-at-allegheny-county-jail-led-to-leg-amputation/>.

⁵⁶ An-Li Herring, *Class-Action Lawsuit Alleges Abuse Of Allegheny County Jail Inmates With Psychiatric Disabilities*, 90.5 WESA (Sep. 15, 2020), <https://www.wesa.fm/identity-justice/2020-09-15/class-action-lawsuit-alleges-abuse-of-allegheny-county-jail-inmates-with-psychiatric-disabilities>.

⁵⁷ Matthew Fischer, *Settlement reached in Allegheny County jail COVID-19 lawsuit*, JURIST (May 29, 2020), <https://www.jurist.org/news/2020/05/settlement-reached-in-allegheny-county-jail-covid-19-lawsuit/>.

⁵⁸ Kiley Koscinski, *Allegheny County Jail remains on lockdown as COVID-19 outbreak subsides*, 90.5 WESA (Feb. 6, 2022), <https://www.wesa.fm/courts-justice/2022-02-06/alleggheny-county-jail-remains-on-lockdown-as-covid-19-outbreak-subsides>.

⁵⁹ Paula Reed Ward, *Activists praise vote that bans solitary at Allegheny County Jail*, TRIBLive (May 19, 2021), <https://triblive.com/local/activists-praise-vote-that-bans-solitary-at-allegheny-county-jail/>.

⁶⁰ Julia Zenkevich, *Critics worry Allegheny County Jail lockdown may have violated ban on solitary confinement*, 90.5 WESA (Apr. 8, 2022), <https://www.wesa.fm/courts-justice/2022-04-08/critics-worry-alleggheny-county-jail-lockdown-may-have-violated-ban-on-solitary-confinement>.

While it is impossible to say whether or not Mr. Thomas would have died had he not been incarcerated at ACJ, it is certainly less likely. At the very least, he would have had another year of life outside of the jail, surrounded by his friends and family...

The Allegheny County Office of the Medical Examiner reported that Mr. Thomas's death was a result of "natural causes": he had a bilateral pulmonary embolism.⁶¹ Further investigation is necessary to determine whether medical care failures at the jail caused or contributed to his death. Such an investigation should consider the fact that Mr. Thomas died after spending nearly a year incarcerated within this dangerous facility as a factor. Pulmonary embolisms have causes: they are more likely to occur during periods of prolonged immobility⁶²—thus physical activity can help prevent their occurrence.⁶³ Individuals are also at increased risk of pulmonary embolism if they have contracted COVID-19.⁶⁴

Mr. Thomas was held in nearly perpetual solitary confinement for almost a year in a grossly understaffed facility in the midst of a pandemic. While it is impossible to say whether or not Mr. Thomas would have died had he not been incarcerated at ACJ, it is certainly less likely. At the very least, he would have had another year of life outside of the jail, surrounded by his friends and family, who would not have had to learn about his death through another incarcerated person⁶⁵ and experience the additional trauma of being denied access to see Mr. Thomas's body.⁶⁶

⁶¹ Jesse Bunch, *Cause of death for man who collapsed in Allegheny County Jail released* (Mar. 22, 2022), <https://www.post-gazette.com/news/crime-courts/2022/03/22/cause-of-death-gerald-thomas-collapsed-in-allegheny-county-jail/stories/202203220106>.

⁶² Mary Cushman, *Epidemiology and Risk Factors for Venous Thrombosis*, Nat'l Lib. Med. (Apr. 1, 2008), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2020806/>.

⁶³ *Your Guide to Preventing and Treating Blood Clots*, Agency Healthcare Res. & Qual. (Sep. 2012), <https://www.ahrq.gov/patients-consumers/prevention/disease/bloodclots.html#causes>.

⁶⁴ Ioannis Katsoularis, *Risks of deep vein thrombosis, pulmonary embolism, and bleeding after covid-19: nationwide self-controlled cases series and matched cohort study*, BMJ (Apr. 6, 2022), <https://www.bmj.com/content/377/bmj-2021-069590>.

⁶⁵ @BrittanyHailer, Twitter (Mar. 7, 2022, 12:13 PM), <https://mobile.twitter.com/BrittanyHailer/status/1500882337126572039>.

⁶⁶ Brittany Hailer, *Medical emergency in the Allegheny County Jail results in the thirteenth death since April 2020*, PINJ (Mar. 7, 2022), <https://pinjnews.org/medical-emergency-in-the-allegheny-county-jail-results-in-the-thirteenth-death-since-april-2020/>.

JUDGE MARIANI

Judge Mariani, who has held judicial office since 2005, is routinely unprofessional, undignified, and discourteous in violation of the Pennsylvania Rules of Judicial Conduct.

While many institutions of state violence contributed to Mr. Thomas's incarceration, one individual in particular played a large role: his supervising judge, Anthony Mariani. While Judge Mariani is not the only Common Pleas Court judge engaging in harmful practices, he stands out as a judge whose regular disparaging and belittling of defendants, witnesses, and attorneys alike has routinely appalled observers in his courtroom. ALC Court Watch volunteers have observed nearly every Common Pleas Judge's courtroom since the program formed in January 2020. Judge Mariani quickly stood out to volunteers as particularly abusive in his courtroom conduct and treatment of defendants. I myself have observed dozens of cases in his courtroom. Judge Mariani, who has held judicial office since 2005, is routinely unprofessional, undignified, and discourteous in violation of the Pennsylvania Rules of Judicial Conduct.⁶⁷

UNCONSTITUTIONAL DETAINER PRACTICES

Judge Mariani is one of the two Common Pleas Court judges, the other being Judge Bigley, who explicitly instructs hearing officers that they may not lift his probation detainers at Gagnon I hearings. Hearing officers often state at Gagnon I hearings that "Judge Mariani does not allow me to lift his detainers."⁶⁸ In one hearing where the public defender, the defendant's probation officer, and the hearing officer all believed that the defendant should be released, the

⁶⁷ Rule 2.8(b), Pa. Code of Judicial Conduct (2014). www.judicialconductboardofpa.org/code-of-judicial-conduct.

⁶⁸ Recorded quote from Gagnon I hearing on Sep. 20, 2021.

hearing officer stated: "There's nothing we can do here. Even if all three of us want you out, Mariani won't let it happen."⁶⁹

For defendants on probation with Judge Mariani or Judge Bigley, this policy renders all Gagnon I hearings defunct and their intended due process protections nonexistent. Judge Mariani also frequently imposes zero tolerance policies as a condition of probation: consumption of any drugs or alcohol is a violation, and individuals accused of doing so are detained. In one case, an individual was violated and detained for months because he was caught drinking a Coors Light. Judge Mariani took the opportunity to joke about how the defendant should be in a Coors Light commercial: "Coors, the beer worth going to jail for."⁷⁰

Countless individuals in the jail are thus being unconstitutionally detained by Judge Mariani and Judge Bigley.

When a decision to not lift a detainer is made based on only the charges alleged or the Judge overseeing the case, defendants are being deprived of constitutionally adequate Gagnon I hearings. Gagnon I hearing's are required "to ensure against detention on allegations of violations that have no foundation of probable cause."⁷¹ The hearing officers attempt no such determination where their fact finding is limited to determining the judge overseeing probation or the charges filed on paper. Countless individuals in the jail are thus being unconstitutionally detained by Judge Mariani and Judge Bigley.

On one occasion,⁷² I observed a Gagnon II hearing where it came out that probation did not execute a detainer issued by Judge Mariani upon the realization that the defendant who they believed had absconded had checked themselves into treatment. Assuming that the goal of the criminal justice system is at least in part rehabilitation, this decision makes sense. But Judge Mariani was more concerned about the disregard for his authority. He demanded the presence of Frank Scherer, the Director of Allegheny County Adult Probation and Parole, to personally come into court and explain this. After being scolded in open court by Judge Mariani, Mr. Scherer apologized and assured him it would not happen again. This telling occurrence in which Judge Mariani

⁶⁹ Recorded quote from Gagnon II hearing on Sep. 9, 2021.

⁷⁰ Recorded quote from Gagnon II hearing on May 20, 2021.

⁷¹ *Comm. v. Perry*, 385 A.2d 518, 520 (Pa. Super. 1978).

⁷² Jan. 20, 2022.

publicly chastised the head of Allegheny County Adult Probation and Parole for not needlessly caging a person who was seeking treatment highlights how Judge Mariani's practices contribute to arbitrary pretrial incarceration at the Allegheny County Jail, and the total disregard Judge Mariani appears to have for defendants' wellbeing and rehabilitation.

BERATED FOR PUTTING ON A DEFENSE

One observation that other Court Watch volunteers and I have observed and which transcript records poorly reflect: rarely does Judge Mariani go more than a few minutes without yelling. This is especially true when defendants are speaking up in their own defense. I've observed him interrupting defendants and yelling things like, "quit giving me excuses,"⁷³ or "when you answer like a defense lawyer, you make me very suspicious,"⁷⁴ and other similar statements. When defendants state that incarceration has changed them for the better, Judge Mariani likes to make a variation of this joke: "Are you trying to tell us that your time in jail has made you smarter? What if I double your time? Then you'll be doubly smart! If you get 5-10 [years], you'll be Albert Einstein when you get out!"⁷⁵

"Are you trying to tell us that your time in jail has made you smarter? What if I double your time? Then you'll be doubly smart!"

When defense attorneys attempt to do their jobs, Judge Mariani often interrupts them as well. On one such occasion, a defense attorney was explaining that his client was unable to pay his restitution costs—which was the basis of his violation—because he had recently lost his job and declared bankruptcy. In other words, the defendant was only guilty of being poor. Judge Mariani interrupted the defense attorney before he could finish explaining the defendant's financial situation and yelled, "I'm not interested in the violin music! ... He can't come back and say 'Oh I fell on hard times.'"⁷⁶ It is a violation of the Fourteenth Amendment of the U.S. Constitution to violate a defendant for

⁷³ Recorded quote from Gagnon II hearing on May 20, 2021.

⁷⁴ *Id.* (different hearing)

⁷⁵ Recorded quote from Gagnon II hearing on May 6, 2021.

⁷⁶ Recorded quote from Gagnon II hearing on Dec. 2, 2021.

unpaid fines, costs, or restitution without a finding of *willful* nonpayment⁷⁷—a finding that Judge Mariani regularly fails to establish prior to revoking defendants' probation.

In a similar case, a defendant was explaining that he couldn't afford to pay his court costs because of his child support. He was immediately interrupted by Judge Mariani who screamed, "I don't want to hear the details of your woe! We all have problems."⁷⁸ In yet another case, he interrupted a defense attorney who was explaining why his client hadn't paid his restitution and programming costs and Judge Mariani cut him off again, stating, "I'm not sympathetic to the fact he lost his job due to Covid."⁷⁹ All of these facts that Judge Mariani appears uninterested in and unsympathetic towards are in fact crucial to determining whether or not nonpayment was willful and, by extension, whether or not a probation violation has actually occurred.

Furthermore, there is seemingly nothing that a defendant or their attorney can say that Judge Mariani won't throw back in their faces. Even the most sincere defendants are berated: in one instance a particularly earnest and apologetic defendant was told by Judge Mariani that he could not be sure "whether you're the well-spoken Mr. [Jones] or a monster."⁸⁰ This individual was having a hearing for a single technical violation. His defense attorney asserted that he was a good person, to which Judge Mariani sarcastically responded, "They're all nice guys... Did you leave your halo in your cells?"⁸¹

This attitude reflects a belief that appears to inform the way Judge Mariani interacts with defendants: they are all bad people deserving of bad treatment. His mind is apparently often made up before hearings even begin, and defendants are not given much room to defend their conduct or character. This prejudicial treatment of criminal defendants violates multiple rules of judicial ethics.⁸²

⁷⁷ *ACLU-PA FAQs | Probation: Payment of Fines, Costs & Restitution*, ACLU-PA (Oct. 2021), https://www.aclupa.org/sites/default/files/field_documents/aclu-pa_faqs_probation_payment_of_fines_costs_and_restitution.pdf.

⁷⁸ Recorded quote from Gagnon II hearing on Mar. 11, 2021.

⁷⁹ *Id.* (different hearing)

⁸⁰ Recorded quote from Gagnon II hearing on May 20, 2021.

⁸¹ *Id.*

⁸² This behavior violates Rule 2.2 of the PA Code of Judicial Conduct because it demonstrates impartial and prejudicial behavior against criminal defendants. It also violates Rule 1.2 of the Code of Judicial Conduct because this behavior reflects impropriety, or at least the appearance of impropriety.

COMMENTS ABOUT THE ALLEGHENY COUNTY JAIL

Judge Mariani is also demonstrably aware of the abysmal state of Allegheny County Jail. While that awareness should lead him to avoid unnecessary detention, he instead uses the institution's horrendous conditions as a threat, or even a joke. He once joked to a defendant, "We ought to make a poster of you with the caption, 'I survived nine months in the Allegheny County Jail.'"⁸³ He often asks defendants how the food is at Allegheny County Jail, or what their worst meal there was, prior to threatening to put them back there. He routinely references ACJ's "slimy green bologna sandwiches on moldy bread"⁸⁴ and has stated that "Allegheny is usually the worst everywhere"⁸⁵ in regard to the quality of food.

COMMENTS ABOUT BLACK DEFENDANTS' PHYSIQUES

Judge Mariani also makes many inappropriate comments about Black defendants' physiques, and then posits that individuals who look a certain way are more dangerous. In one case he stated to a Black defendant: "Look at this guy, look how big he is... How tall are you?... What do you weigh?... Looks like 32 or 34 in the waist—what does that tell you? HE'S BUILT WELL, STRONG and putting his hands on women."⁸⁶ At this point, this defendant's only alleged violation was a technical violation for failing to complete a mandated program. Yet Judge Mariani felt the need to make assumptions about the defendant's character based on his appearance, and continued: "I'm not gonna wait until you kill her... I'm not taking that chance with a big strong 200lb 6ft guy."⁸⁷

"You look pretty meaty, how many pushups can you do without stopping?"

In another instance he said to a Black defendant: "You look pretty meaty, how many pushups can you do without stopping?"⁸⁸ To another he has asked: "How old are you? How much do you weigh? How many pushups can you do without stopping?... You must be doing some

⁸³ Recorded quote from Gagnon II hearing on May 20, 2021.

⁸⁴ Recorded quote from Gagnon II hearing on May 6, 2021.

⁸⁵ *Id.* (different hearing)

⁸⁶ Recorded quote from Gagnon II hearing on Aug. 26, 2021

⁸⁷ *Id.*

⁸⁸ Recorded quote from Gagnon II hearing on Sep. 16, 2021

Judge Mariani engages in racist stereotyping with a shameful pedigree dating back centuries in this country every time he describes what he sees when he looks at a Black man: a big, strong, violent danger to society.

exercises in jail to be that fit.”⁸⁹ In another case, he said of a Black defendant that nothing was stopping a “six foot tall 180 lb lean and mean man from using that weapon—his body—on other people.”⁹⁰

In one case, a Black man explained that the reason he left a treatment program, which was the basis for his probation violation, was because he was receiving unwanted sexual advances from someone in the facility. Judge Mariani interrupted him and stated, “I don’t believe it... When I look at you, I see a well built guy. No one’s going

to touch you if you don’t want them to... I wouldn’t fight you if I had a club in my hand. You’re built strong, stocky.”⁹¹

And that is only a fraction of the observations of this kind noted. In fifteen observed and recorded instances,⁹² Judge Mariani made inappropriate comments about a Black man’s physical appearance. In only two observed instances did he do the same to a white defendant, and in those instances his comments were comparatively tepid.⁹³ Based on my personal observations, the Black defendants Judge Mariani directs these inappropriate comments to are often of average-looking physique. Judge Mariani engages in racist stereotyping with a shameful pedigree dating back centuries in this country every time he describes what he sees when he looks at a Black man: a big, strong, violent danger to society.

⁸⁹ Recorded quote from Gagnon II hearing on Mar. 3, 2022.

⁹⁰ Recorded quote from Gagnon II hearing on Jan. 20, 2022.

⁹¹ Recorded quote from Gagnon II hearing on Mar. 31, 2022.

⁹² Court Watchers recorded Judge Mariani making inappropriate comments about Black defendants’ bodies on Mar. 10, 2021; Mar. 16, 2021; Mar. 31, 2021; Apr. 12, 2021; Aug. 26, 2021; Sep. 19, 2021; Nov. 2, 2021; Jan. 20, 2022; Feb. 10, 2022; Feb. 17, 2022; Mar. 3, 2022; Mar. 7, 2022; Mar. 31, 2022 (two different hearings); Apr. 11, 2022.

⁹³ At a Gagnon II hearing on Jan. 20, 2022, Judge Mariani called a white defendant a “big strong guy.” At a Gagnon II hearing on March 15, 2022, Judge Mariani noted the difference in size between a white female defendant and the alleged female victim.

GERALD THOMAS

Defendants on supervision with Judge Mariani are punished for mere allegations: they are detained for months at minimum and ultimately must endure verbal abuse in open court before there is any hope for release. It appears, however, that Judge Mariani has made up his mind about the defendant before any hearing occurs.

This was certainly Gerald Thomas's experience. After being detained for months for charges that ended up being dropped, he was scolded and demeaned by Judge Mariani and sent back to ACJ. At Mr. Thomas's Gagnon II hearing, Judge Mariani described him as a "young man who won't quit embracing the guns and drugs street life"⁹⁴ and someone who wanted to be "street tough."⁹⁵ Once again revealing his anti-Black racism, Judge Mariani stated, "I'm not going to keep letting him do what he's doing until he gets killed or kills somebody else over drugs...I'm surprised he wasn't driving something with 22s on it."⁹⁶ (Here, Judge Mariani is referring to 22 inch wheel rims, a stereotype associated with drug dealers.)

"I have to put you in the cage, lasso you, corral you, stuff you because you won't quit."

One of the last comments Judge Mariani made during this hearing is particularly chilling in light of Mr. Thomas's subsequent death in ACJ, evoking vivid racist imagery from this country's past and present: "I don't want to see you dead in the street on Friday or any other day of the week, but you won't quit. I have to put you in the cage, lasso you, corral you, stuff you because you won't quit."⁹⁷

⁹⁴ *Thomas Transcript*, at 8:23-24.

⁹⁵ *Id.* at 18:25.

⁹⁶ *Id.* at 14:10-18

⁹⁷ *Id.* at 21:11-15.

Throughout this hearing, Judge Mariani was trying to find a way to introduce illegally obtained evidence of a gun in the glove compartment of the vehicle Mr. Thomas was driving. The mere presence of a gun in his vicinity would constitute a probation violation. But the transcript makes clear what is really going on here: Judge Mariani had already decided that Gerald Thomas was a violent drug dealer, and was simply looking for a way to keep him incarcerated. His quotes from Gerald Thomas's hearing are filled with wildly inappropriate comments and racist dog whistles—a consistent pattern with Judge Mariani.

I happened to be present at Mr. Thomas's Gagnon II hearing that day. While the transcript speaks for itself, I can add that the abusiveness and cruelty of Judge Mariani's conduct cannot be overstated. Mr. Thomas's family was sitting beside me and sobbing throughout.

At the bottom of my notes for Mr. Thomas's hearing, I wrote that Mariani had "terrorized the family."

This was the last time they saw Mr. Thomas.

PROGRAM FOR CHANGE: INTERVENTIONS AGAINST DEATH-MAKING INSTITUTIONS⁹⁸

While Judge Mariani is a particularly egregious actor, many other systems contributed to Mr. Thomas dying at the Allegheny County Jail. Mr. Thomas's story is immeasurably tragic, but it is not unique. The racism and injustice he faced is replicated every single day in Allegheny County's policing, court, and carceral apparatus. While nothing short of abolition can fully prevent systemic racism in the criminal punishment system, even small steps towards decarceration can save countless lives. The path to abolition is constructed by organized interventions to limit and eventually eliminate institutions of racist state violence. By coalescing around campaigns in support of the following long advocated-for reforms, we have the opportunity to ensure that other beloved members of our community do not suffer the same tragic and unjust fate of Mr. Thomas:

PROHIBITING SPLIT SENTENCES

Split sentences refer to sentences of incarceration followed by consecutive sentences of probation—an increasingly common practice of judges. These “probation tails” are largely responsible for why probation is nowadays an alternative to freedom rather than an alternative to incarceration. The prohibition of split sentences would save countless individuals from years- or even decades-long oscillation between supervision and incarceration.

In 2018, Mr. Thomas was sentenced to a split sentence: 11.5 to 23 months in jail followed by 3 years of probation. If this practice was prohibited, he may not have been on probation during his 2021 arrest, and therefore a probation detainer would not have been lodged. He would have been able to get out on bail shortly after his arrest rather than languishing in jail until his charges were

⁹⁸ This phrase was lifted from a quote by abolitionist activist Mariame Kaba: “I am looking to abolish what I consider to be death-making institutions, which are policing, imprisonment, sentencing, and surveillance.” Keeanga-Yamahtta Taylor, *The Emerging Movement for Police and Prison Abolition*, New Yorker (May 7, 2021), <https://www.newyorker.com/news/our-columnists/the-emerging-movement-for-police-and-prison-abolition>.

dropped and his probation detainer lifted—the latter of which he never lived to see.

REMOVING POLICE FROM TRAFFIC ENFORCEMENT

The advent of technology has made police officers' involvement in traffic enforcement superfluous. Warnings and fines for broken tail lights, speeding, and minor traffic infractions can all be sent via mail. Pretextual traffic stops are routinely used by police to racially profile and harass Black and Brown drivers, evidenced by the statistics released by police departments themselves. Such interactions are often the precursor to police shootings. Removing police from enforcement of minor traffic infractions can only serve to improve public safety. It would also allow police to focus on major crimes, which they currently solve at a paltry rate of two percent.⁹⁹

Had Mr. Thomas not been pulled over for the pretextual reason of rolling through a stop sign and subsequently subjected to an illegal search of his vehicle by Officer Joshua Anderson, he would not have been incarcerated for almost a year leading up to his death.

PROHIBITING THE LODGING OF PROBATION DETAINERS IN CASES WHERE AN INDIVIDUAL IS ONLY ACCUSED OF TECHNICAL VIOLATIONS

There is no justification to detain someone for months or even years based on allegations of non-criminal activity. At present, there are zero local or state level rules addressing probation detainers.

Because all of Mr. Thomas's criminal charges had been dismissed, the only violations which remained were technical. At the very least, his detainer should have been lifted after the charges were dismissed.

PROHIBITING THE LODGING OF PROBATION DETAINERS IN CASES WHERE AN INDIVIDUAL HAS BEEN DEEMED BAILABLE

As mentioned, probation detainers are redundant in instances where an individual has bond denied on a new charge. The purpose of bail hearings is to assess whether someone is a flight risk or poses a public safety risk. If an individual is deemed bailable by a judge, there is no justifiable reason for their continued detention.

⁹⁹ Shima Baughman, *Police solve just 2% of all major crimes*, Chicago Reporter (Aug. 20, 2020), <https://www.chicagoreporter.com/police-solve-just-2-of-all-major-crimes/>.

A judge made an assessment of Mr. Thomas's potential risk to public safety and determined that he was bailable. He even set bail at a relatively low amount. Mr. Thomas should have been able to post his bail and be released pending the resolution of his charges and his alleged violations.

EXPLICIT PROHIBITION OF CONSIDERING RISK OF SELF-HARM WHEN MAKING BAIL OR DETENTION DECISIONS

Judges routinely decide to detain individuals “for their own good.” They are woefully uninformed when it comes to the risks and impact of pretrial incarceration, and thus put people in far worse situations than if they had just left them alone. The Rules Committee of the Pennsylvania Supreme Court has proposed new rule changes that explicitly permit judges to consider risk of self-harm during detention decisions.¹⁰⁰ This is a change that would have disastrous consequences, as judges who already act based on this consideration prove time and time again. Instead, the Rules Committee should be explicitly prohibiting such a consideration, and limiting the factors to be considered to public safety and flight risk.

Judge Mariani told Mr. Thomas that he was keeping him incarcerated in part because he didn't want to see him “dead in the street.” Judge Mariani's misplaced, alleged concern demonstrates an immense failure to appreciate the dangerousness of jails, especially Allegheny County Jail.

DECARCERATING THE ALLEGHENY COUNTY JAIL

Chronic understaffing at the jail will inevitably harm all individuals within the jail, including staff. While the solution might appear to be increasing funding for staff positions, the focus should instead be on decarcerating the jail. Only 6% of individuals in the jail are serving a sentence—the rest are awaiting trial or some other proceeding. Over a third are held on probation detainers. The vast majority of those detained at ACJ could be released pretrial without risking public safety. Reducing the jail population will alleviate staffing issues while keeping more people safe from the harmful consequences of pretrial incarceration.

¹⁰⁰ *HRW Comments on Proposed Changes to the PA Rules of Criminal Procedure*, Hum. Rights Watch (Mar. 8, 2022), <https://www.hrw.org/news/2022/03/08/hrw-comments-proposed-changes-pa-rules-criminal-procedure>.

INVESTIGATION AND SANCTIONING OF JUDGE MARIANI BY JUDICIAL CONDUCT BOARD

Judge Mariani's behavior demands a rigorous inquiry into his fitness to serve as a judge. He is routinely rude, discourteous, and unprofessional. He regularly yells at defendants and attorneys during hearings and often jokes about the horrific conditions at the Allegheny County Jail. He makes inappropriate comments about Black men's physiques, and portrays them as inherently dangerous. His attitude about mental health and substance use is outdated, paternalistic, and demonstrably ineffective—a fact he blames on individuals' lack of self-control instead of his own harmful carceral practices.

A table of observations made by court watchers is attached at the end of this report. It specifically lists all of the recorded observations in which Judge Mariani violated provisions of the Pennsylvania Code of Judicial Conduct. All of these observations were recently shared with the Judicial Conduct Board via formal complaint filings. The fact that Judge Mariani has held judicial office for 17 years while routinely violating numerous judicial ethics rules is profoundly concerning and requires a corrective measure.

Even assuming that Gerald Thomas's death was not preventable, which at present should not be assumed, at the very least it is indisputable that Gerald Thomas could have spent his last year of life in the company of his friends, his siblings, his mother, and his four children—the youngest of which he was never able to hold. He would not have spent his final year in near-total solitary confinement in Allegheny County's most infamous and egregious institution.

The blame for his fate lies with Joshua Anderson, Frank Scherer, Anthony Mariani, Orlando Harper, and Rich Fitzgerald. All of these individuals would describe their work as promoting “public safety,” but their actions tell a different story altogether. They have perpetuated harm, trauma, instability, and inflicted heavy financial and social burdens on the most vulnerable in our society. Gerald Thomas is one in a long list of names of those who have been harmed or killed, directly or indirectly, by the racialized violence embedded in all of this County's institutions. His incarceration was unnecessary and his death may have been preventable. It is well past time to implement the changes that could have prevented Gerald Thomas's death to save countless others.

Dolly Prabhu, Esq.

APPENDIX A: SUMMARY OF JUDICIAL MISCONDUCT COMPLAINTS FILED AGAINST JUDGE MARIANI

Date	Description of Events	Violations of PA Judicial Code of Conduct
3/10/2021	This observation was made during a non-jury trial which Judge Mariani presided over. During this hearing, Judge Mariani made numerous comments about the defendant's physique, including asking about the defendant's height, weight, and how much he could bench press. The Judge referred to the defendant as a "big hefty man" and said he should be using his "big strong body" to benefit society.	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
3/11/2021	This observation was made during a Gagnon II hearing which Judge Mariani presided over. Judge Mariani was upset by his representation, screaming: "HOW DOES THE [PUBLIC DEFENDER'S] OFFICE COME TO REPRESENT A GUY MAKING \$16 AN HOUR?" The Judge keeps repeating the question and yells that the defendant is "MAKING ALL THIS MONEY BUT DOESN'T PAY ANY COSTS AND IS GETTING A FREE LAWYER." The defendant starts to explain that he has to pay for child support, but is cut off by Judge Mariani, who says, "I don't want to hear the details of your woe! We all have problems!"	Rule 2.5 (incompetent due to demonstrated lack of relevant legal knowledge); Rule 2.6 (not ensuring defendant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
3/16/2021	This observation was made during a court proceeding which Judge Mariani presided over. During the hearing, Judge Mariani made several disparaging comments towards the defendant, including teasing the defendant about his mother paying for his commissary since he refused to eat the jail's food. The defendant also seemed to get less present and more subdued the more Judge Mariani hassled him. Judge Mariani told the defendant that he "looked like he played football, linebacker" and made many other comments about the defendant's size and weight.	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
3/31/2021	This observation was made during a non-jury trial which Judge Mariani presided over. Judge Mariani was condescending throughout the hearing. He mocked the defense attorney, stating that she must have gone to acting school because she could "get all of her clients to mouth 'I take responsibility for my actions'" The Judge also seemed upset that the defendant wasn't also charged with possession of marijuana. He said mockingly to the prosecution: "Why didn't they charge her with marijuana? What, did they hire Santa Claus over there?"	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
3/31/2021	This observation was made during a non-jury trial which Judge Mariani presided over. Throughout the hearing, Judge Mariani made numerous comments about the defendant's body size.	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
4/12/2021	This observation was made during a non-jury trial which Judge Mariani presided over. During the trial, Judge Mariani noted that although there was no history of violence, the defendant was a "strong" and "very thick guy." The defendant was a Black man. Judge Mariani assumed that allowing any contact would permit violent contact due to the defendant's perceived size; he stated: "I have a concern that too light of a touch is going to lead to violence. I think that contact will lead to violent contact. I'm rejecting the plea with the no violent contact." He went on to add: "Look at the build on that guy! He's bigger than football players I've seen. He could kill her by accident." Judge Mariani repeated similar comments about his concern that the defendant could accidentally kill the alleged victim by accident throughout the hearing.	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)

Date	Description of Events	Violations of PA Judicial Code of Conduct
4/15/2021	<p>This observation was made during a status hearing which Judge Mariani presided over. Judge Mariani acted condescendingly and unprofessionally towards the defendant, the defense attorney, and the prosecution. He was also yelling throughout the hearing. When Judge Mariani heard that the defendant was taking a plea to reduced charges, he exclaimed mockingly, "What a deal! Christmas was months ago! And we already had Easter!" He then read portions of a letter that the defendant had written him in the past and mocked it. The defendant had written that he had "a vibrant future ahead," which Judge Mariani read aloud to the court. The Judge joked that the defendant "should be writing speeches for the President." Judge Mariani also stated that he did not believe the defendant, the Justice Related Services (JRS) representative, nor the defense attorney that the defendant had substance abuse problems.</p>	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
5/6/2021	<p>This observation was made during a sentencing hearing which Judge Mariani presided over. When the defense attorney mentioned the defendant's mental health and drug use problems, Judge Mariani interrupted: "Isn't that his issue? Not our issue." The Judge was also screaming throughout the hearing. At one point, he yelled, "ISN'T PART OF WHAT WE DO HERE TO CONVINCING PEOPLE TO STOP COMMITTING CRIMES IN OUR COMMUNITY?"</p> <p>At one point, the defendant expressed that his time in jail had changed him. Judge Mariani rudely interrupted the defendant and mocked, "Are you trying to tell us that your time in jail has made you smarter? What if I double your time, then you'll be doubly smart! If I give you 5-10 [years], you'll be Albert Einstein when you get out!"</p> <p>When the defendant stated that he wanted to take responsibility for his actions, Judge Mariani interrupted again, saying, "If you want to take full responsibility, let's sentence you to the max, one and a half to three [years] in state prison. Wouldn't that be taking full responsibility?" There simply was nothing the defendant could say that Judge Mariani wouldn't throw back in his face.</p> <p>Judge Mariani said that the defendant had "one more chance" before state prison, and told the defendant that if he didn't stick to his promises, he would "have no choice but to put [the defendant] in a cage for a long time."</p>	Rule 2.2 (not impartial and/or fair); Rule 2.6 (not ensuring defendant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior); Rule 2.10 (pledges/promises inconsistent with impartiality)
5/6/2021	<p>This observation was made during a sentencing hearing which Judge Mariani presided over. At one point, Judge Mariani asked the defendant: "Where is the food better, Summit County jail or ACJ?" When the defendant replied that ACJ (Allegheny County Jail) had better food, Judge Mariani responded: "Allegheny is better than summit? Wow, Allegheny is usually the worst everywhere."</p> <p>Towards the end of the proceeding, Judge Mariani stated: "If you don't accomplish what you're supposed to, you're gonna come back to PA and serve some serious jailtime. If you have a second criminal violation, you're almost guaranteed state prison."</p>	Rule 2.8 (impatient, undignified, and/or discourteous behavior); Rule 2.10 (pledges/promises inconsistent with impartiality)

Date	Description of Events	Violations of PA Judicial Code of Conduct
5/6/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. Judge Mariani yelled at the defense attorney: "We've been through this with your client before! She makes promises she doesn't keep! The only time she does anything positive for any period of time is when we put her in jail!"</p> <p>The defendant had previously asked for this hearing to be postponed so she could continue receiving treatment in jail. Judge Mariani yelled at the defense attorney: "Let's honor her request and keep her in jail! Why are you trying to get her out?"</p> <p>After several minutes of being yelled at by Judge Mariani, the defendant began sobbing. Judge Mariani began yelling at her: "You're crying and talking through a mask, please slow down and get a hold of yourself!" Judge Mariani berated her again: "If you did all those good things, why are you crying?" The defendant responded that she was scared.</p> <p>At one point, Judge Mariani stated: "If you mess up on this probation, you're gonna get stuck in the jail for a long time." He also told the defendant: "If you do this again, you're telling me that you don't have the regard for your son that I do."</p> <p>The Judge also mockingly asked the defendant at one point: "How's the food at the county jail? Think about those slimy green bologna sandwiches on stale green bread. Do they still serve cat food and mystery meat?"</p>	<p>Rule 2.8 (impatient, undignified, and/or discourteous behavior); Rule 2.10 (pledges/promises inconsistent with impartiality)</p>
5/6/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. During this hearing, Judge Mariani said of the defendant: "He's 45 years old! You don't comply with anything, you don't come to court. I'm not about to let you out of jail today. We have a 45 year old man here."</p> <p>The judge went on to describe the defendant as "not a young guy who doesn't know what he's gotten into," but an "older guy, old enough to be a grandfather, who won't play by the rules." Judge Mariani went on: "We try to impress 20 year olds that they have obligations to the community. Now I have to do it to a 45 year old? That's not reasonable." Judge Mariani was also screaming throughout these proceedings.</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
5/17/2021	<p>This observation was made during a nonjury trial which Judge Mariani presided over. Mariani was surly throughout, and mocked the prosecution multiple times for not being prepared and not speaking clearly. At one point, Mariani asked the prosecution why they hadn't pulled arrest info for William's court as well. Prosecution said it wouldn't have been relevant to sentencing guidelines, but Mariani believed it would be relevant to the sentencing itself. It appeared like Judge Mariani wanted to impose a more severe sentence than the prosecution.</p>	<p>Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
5/20/2021	<p>This observation was made during a non-jury trial which Judge Mariani presided over. Judge Mariani commented that he has seen the defendant often. At one point, Judge Mariani stated, "If we don't get [the defendant] out of jail, they're gonna rename the ACJ [after him]." Judge Mariani remarked that he should hang a poster in the jail with the defendant's face on it that said, 'I survived nine months in the Allegheny County Jail.' Judge Mariani also said of the defendant: "He speaks well but he just won't do what he's supposed to do." Judge Mariani was yelling throughout the proceedings, and told the defendant that if he didn't comply, the defendant should "pack [his] bags for state prison."</p>	<p>Rule 2.2 (not impartial and/or fair); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>

Date	Description of Events	Violations of PA Judicial Code of Conduct
5/20/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. When the defendant was trying to explain his behavior, Judge Mariani cut him off, stating: "When you answer like a defense lawyer, you make me very suspicious! I highly doubt you got caught the one time you slipped up. PLEASE DON'T TRY TO SELL ME A BUNCH OF BOLOGNA, BECAUSE I'LL SELL YOU SOME GREEN BOLOGNA AT THE ALLEGHENY COUNTY JAIL—CUT IT OUT!"</p> <p>Again, when the defendant is trying to explain himself, the Judge cuts him off and says: "You're arguing, which makes me suspicious." He goes on to say: "I don't believe in doing what doesn't work for someone old enough to be a President of the United States. YOU'RE NOT EIGHTEEN!"</p> <p>The Judge went on: "The fact that you have the gall to stand there and sell me something as a convicted violator tells me that we haven't gotten to you yet and you're likely to reoffend."</p> <p>At one point, Judge Mariani told the defendant: "Get serious about what you're supposed to do or pack your bags for state prison."</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.6 (not ensuring defedant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior); Rule 2.10 (pledges/promises inconsistent with impartiality)</p>
5/20/2021	<p>This observation was made during a sentencing hearing which Judge Mariani presided over. The defense attorney stated at one point that the defendant was a nice guy, to which the Judge sarcastically responded: "They're all nice guys. Did you leave your halo in your cell?"</p> <p>Judge Mariani was yelling throughout the hearing and constantly interrupting the defense attorney. The Judge said the defense attorney was "an expert at talking judges out of giving clients the consequences they deserve."</p> <p>Judge Mariani jokingly asked the defendant: "Where's the food better, Allegheny County Jail or Westmoreland Jail?"</p> <p>The Judge ended the hearing by warning the defendant: "If you mess up, or violate in any way, pack your bags for state prison. I can send you to state prison for 7 years on this case."</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.6 (not ensuring defedant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
5/20/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. The defendant was accused of violating his probation due to unpaid restitution. During the hearing, Judge Mariani said that the defendant "must not be trying very hard" to pay restitution based on the relatively small payments made. The defendant began explaining that he was in treatment programs, but Judge Mariani interrupted and told him to "stop making excuses!" Later on, the defendant attempts to respond to the judge but is again interrupted and told to "quit giving [the judge] excuses!"</p> <p>This defendant had another alleged violation of probation as well: he was accused of violating the judge's zero tolerance policy for drugs and alcohol because he was seen drinking a Coors Light. The defendant had been incarcerated pending this hearing for several weeks. Judge Mariani joked that the defendant should be in a commercial for Coors Light since he thinks the beer is worth going to jail for.</p> <p>Judge Mariani also said to the defendant: "You're old, you're not a young kid! You're 59... you're way too old for this." The Judge also said to the defendant: "You're out of excuses, if you don't get it done you're going to state." The judge joked: "2.5 to 5 years in state prison! Going once! Going twice!"</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.5 (incompetent due to demonstrated lack of relevant legal knowledge); Rule 2.6 (not ensuring defedant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior); Rule 2.10 (pledges/promises inconsistent with impartiality)</p>

Date	Description of Events	Violations of PA Judicial Code of Conduct
6/1/2021	<p>This observation was made during a non-jury trial which Judge Mariani presided over. During this proceeding, Judge Mariani mocked the defendant as a "drug-dealing" mom who was getting a plea deal on the public's tab because she was being represented by the public defender's office. The defendant works in healthcare and lost her job to COVID-19 (at which point she was given a public defender) and Judge Mariani made a big deal out of the fact that she was now working again and could have afforded to hire an attorney to represent her. Judge Mariani asked her several pointed questions, but then made fun of her answers, including telling her that he didn't want to hear any "sad sob stories" about what had led her to being arrested when she began to answer about losing her job in the pandemic and being a caregiver to her ailing mother.</p> <p>Judge Mariani also criticized the DA's office, saying the office would rather "cop a plea than try a case," and that the DA's office isn't interested in doing its job and prosecuting criminal behavior. Judge Mariani also said that her prior record score of zero was not in her favor, and that at her age she could be someone's grandma.</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.6 (not ensuring defendant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
6/1/2021	<p>This observation was made during a non-jury trial which Judge Mariani presided over. The defendant was a 45-year-old medicated epileptic with a seventh grade education. Judge Mariani asked him numerous rhetorical questions: "How's the food in [Allegheny County Jail]?"; "How many times have you been in trouble?"; "If you were me and you had a defendant in front of you who kept breaking the law, what would you do?"; and so on.</p> <p>Judge Mariani then chastised the defendant for wasting the court's time (he did not appear at his preliminary arraignment) and threatened him with time in the state prison if he did not stay out of trouble. The defendant was unable to articulate his thoughts well enough or respond quickly enough for Judge Mariani, and it was clear that the defendant was feeling frustrated, distressed, and disrespected.</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.8 (impatient, undignified, and/or discourteous behavior) Rule 2.10 (pledges/promises inconsistent with impartiality)</p>
6/1/2021	<p>This observation was made during a court proceeding which Judge Mariani presided over. The Judge joked that it was the defendant's "lucky day" because the alleged victim did not appear. The judge also yelled that the defendant was "ON PAROLE FOR MURDER," and stated that he would be going to jail if his new charges weren't pled down to a summary.</p>	<p>Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
6/10/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. Judge Mariani was yelling throughout the hearing, and at one point screamed that the defendant "IS THIRTY-SEVEN YEARS OLD!" The defense attorney was trying to explain that his client had relapsed to using drugs. Judge Mariani interrupted and said, "That's one heck of a relapse! You use the word relapse like it was a momentary event." Judge Mariani went on to add: "I'm thinking of keeping your client in jail for 11-23 [months] because we've been through this again. It's clear your client doesn't seem to have gotten any long-term benefits from these programs. Maybe he should sit in jail."</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>

Date	Description of Events	Violations of PA Judicial Code of Conduct
8/26/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. Judge Mariani interrupted the defendant and defense attorney several times. Once, the defendant mentioned that he had kids to care for, and Judge Mariani responded, "One of the things that strikes me about comments like yours is that you tell them when you committed the crime. Why didn't you consider them then? Why am I supposed to worry about them when his conduct shows he doesn't care much."</p> <p>Judge Mariani was also screaming through the hearing. Judge Mariani yelled that the defendant "made a DEAL with a CRIMINAL... four bricks, that's the kind of weight people get SHOT OVER." Judge Mariani also screamed that the defendant was "A YOUNG MAN WHO BETTER CHANGE HIS THINKING."</p>	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
8/26/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. The defendant was a Black man. Judge Mariani said of the defendant: "Look at this guy, look how big he is." He then asked the defendant what his height and weight was, and said that the defendant "looks like 32 or 34 in the waist--what does that tell you? HE'S BUILT WELL, STRONG and putting his hands on women." The defendant had all of his criminal charges withdrawn, but Judge Mariani still assumed that he had committed the alleged crime and that he would repeat it. He stated, "I'm not gonna wait until you kill her... I'm not taking that chance with a big, strong, 200lb, 6ft guy." Judge Mariani was also yelling throughout this hearing. He postponed the hearing for 60 days, "SO A 31 YEAR OLD MAN CAN MATURE A LITTLE MORE."</p>	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
8/26/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. The probation liaison prosecuting the case said that the defendant had nine months credit already, and recommended he be sentenced time served, close out his probation, and transfer the case to drug court. The Judge apparently believed this was too lenient and mockingly asked, "Do you work for the commonwealth?" Judge Mariani was yelling through the hearing. At one point he screamed to defendant, "YOU'RE 58 YEARS OLD... YOU'RE OLD ENOUGH TO KNOW BETTER."</p>	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)

Date	Description of Events	Violations of PA Judicial Code of Conduct
8/26/2021	<p>This observation was made during a status hearing which Judge Mariani presided over. This was a case in which the defendant was charged with aggravated assault for lighting a christmas tree that was on his sister's porch on fire. The defendant is disabled and has had severe mental health issues for decades. He has a diagnosis of schizoaffective disorder. At one point, Judge Marianni said of the defendant, "He's a forty-seven year old man. He presumably could have tended to his mental health needs before this happened."</p> <p>His entire family wants to see him get treatment. Even the firefighter who had to come on scene supports mental health treatment, and apparently so do some of the police officers who responded. The defense and prosecution in this case came to an agreement to reduce the chargers to misdemeanors. Judge Mariani was very, very angry about this because there was "no accountability to the community or any deterrent to him doing it again" and "everyone in Fox Chapel is lining up behind him to defend him." Judge Mariani was yelling at the prosecutor as well and saying that the prosecutor is not considering the victims or the community at all, and speculated at length about the trauma the defendant's niece must be going through—she was in the house at the time of the fire, but when interviewed she stated that she was completely fine and that she loved her uncle.</p> <p>Judge Mariani had previously postponed this hearing to see if he had authority to decline the plea agreement. Judge Mariani said he doesn't think he has the authority to do so, but ended up declining the plea anyway because he didn't want him to be transferred to Massachusetts, which is where he lives and where he has an entire psychiatric practice team helping him. Judge Mariani was screaming throughout the hearing and clearly very frustrated with the outcome. He ended up cutting off the defense attorney and told him to "have a seat" and come to a new agreement that would please the court. The hearing ended at this point.</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.6 (not ensuring defedant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
8/26/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. At one point, Judge Mariani asked a question he apparently meant for the probation representative, but the defendant answered it, apparently believing it was directed at him. Judge Mariani screamed, "I DIDN'T ASK YOU, I ASKED MS. WEAVER [the probation representative]." Judge Mariani then asked the defendant's attorney, "Does your client always demonstrate these bad manners? He's 50 years old!" Judge Mariani went on: "It's hard to accept a fifty year old man making that kind of excuse," referring to how the defendant had not noticed that probation had listed an incorrect address for him. Judge Mariani admitted: "I'm harder on old people than younger people."</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.6 (not ensuring defedant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
8/26/2021	<p>This observation was made during a court proceeding which Judge Mariani presided over. Judge Mariani joked to the defendant: "Here you are again eating bologna sandwiches at the jail... What's the food like at the jail?... What's the worst food you've had there?" The defendant replied green bologna. Judge Maraini responded, "Do they serve that with slime too?... If he likes those slimy green bologna sandwiches on moldy bread, he'll be back."</p> <p>Judge Mariani also warned the defendant: "If you mess up, you're getting 22 months and 29 days."</p>	<p>Rule 2.8 (impatient, undignified, and/or discourteous behavior); Rule 2.10 (pledges/promises inconsistent with impartiality)</p>

Date	Description of Events	Violations of PA Judicial Code of Conduct
8/26/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. During the hearing, Judge Mariani said of the defendant: "He's 35 years old and just doesn't get it... he's a 35 year old man, not a 20 year old kid."</p> <p>The defendant was violated on new criminal charges that had since been withdrawn, which was apparently not enough for Judge Mariani, who said: "The problem with that is were the charges withdrawn because [the alleged victim] made them up or for some other reason?"</p> <p>The defendant's 11-year-old son was also present in the courtroom. Judge Mariani had him swear in and answer pointless, silly questions, even though the kid was clearly nervous. Judge Mariani jokingly deputized the defendant's son as a probation officer so he could "keep an eye" on his dad.</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
8/26/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. When the public defender was explaining that the defendant had been going through a lot of personal issues, Judge Mariani interrupted and asked, "What if I had some personal issues and put her in jail for a couple months? We all have personal issues!"</p> <p>The judge made a point to note that the defendant is "in her 40s--she's not a child!"</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.6 (not ensuring defedant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
9/16/2021	<p>This observation was made during a sentencing hearing which Judge Mariani presided over. Judge Mariani called the defendant, who was a Black man, a "big strong guy" and said he looked "pretty meaty." Judge Mariani then asked the defendant how many push ups the defendant could do without stopping. He stated to the defendant: "I gave you your freedom, and now you're back. Maybe I should do you a favor and keep you in jail." When it was noted that the defendant had already spent 6.5 months in jail prior to this hearing, Judge Mariani said to the defendant: "How about if I send you back for 10 days to make a point?"</p> <p>Judge Mariani also said to defendant: "The last dozen murder cases I presided over, eleven of them involved drugs, nine of them involved marijuana." The defendant had a new charge for possessing marijuana, so this appeared to be the Judge implying that the defendant would be involved in a murder case in the future. Judge Mariani also asked the defendant, "How's the jail food?" and "What's the worst meal you've had [at the Allegheny County Jail]?" He added that he heard that the bologna that is served in the jail is "green and slimy."</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
9/23/2021	<p>This observation was made during a court proceeding which Judge Mariani presided over. The defendant had been incarcerated for not showing up to court for a first offense DUI. Judge Mariani at one point was screaming: "A FORTY-SOMETHING YEAR OLD PERSON CAN'T EVEN SHOW UP TO COURT."</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>

Date	Description of Events	Violations of PA Judicial Code of Conduct
10/16/21	<p>This observation was made during a court proceeding which Judge Mariani presided over. The defendant's attorney explained that the defendant was diagnosed with explosive anger disorder, to which Judge Mariani responded, "That it's!?" Later, when the defense attorney tried to advocate that his client has become stable thanks to medication, and that he had realized the error of his ways in jail, to which Judge Mariani mockingly responded: "If I keep him twice as long, maybe he'll appreciate it more." Defense counsel reiterated that the defendant had learned in jail that medication could help him. Judge Mariani replied, "I think he can't learn if we set him free. I think we keep him in. We gave him EVERY opportunity to act like a MAN and he COULDN'T so we had to throw him in a CAGE."</p> <p>Judge Mariani also commented on the defendant's height and weight, using it as a justification that "if he snaps, he's a danger to society." Later, when the defendant appealed to Judge Mariani, saying he has children and a business as a handyman, Mariani questioned his qualifications for being a handyman. Judge Mariani also lectured Davis about his children: "If your CHILDREN were your PRIORITY, they wouldn't be relying on their MOTHERS to get welfare and get by." Judge Mariani then threatened that he could send the defendant to SCI Frackville, which he described as "way out in the woods, nothing there but the jail and miles and miles of woods, far away from your family."</p>	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
10/16/21	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. At the start of this hearing, Judge Mariani laughed at the defendant because he had been brought in wearing DHU clothing (indicating he was in solitary confinement.) Judge Mariani laughed again when the defendant said he didn't know why he was in solitary for the past 16 days. When the public defender suggested that COVID quarantine was likely the reason for miscommunication and that right now is the worst time in history to be incarcerated, Judge Mariani joked: "What about before the 8th amendment?"</p> <p>Judge Mariani also laughed when he found out the defendant was brought in for a probation violation after his parole officer found him with his car broken down at the side of the road. The judge mocked the defendant, calling him "the worst escape guy ever" and that "he doesn't know anything that's going on."</p> <p>The defendant's work supervisor came in as a witness and said that the defendant was a good guy. Judge Mariani interrupted, saying "A good guy? Who does drugs?!"</p>	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
11/2/2021	This observation was made during a non-jury trial which Judge Mariani presided over. It was noted that the defendant tried to speak but was shushed by Judge Mariani.	Rule 2.6 (not ensuring defedant's right to be heard) Rule 2.8 (impatient, undignified, and/or discourteous behavior)
11/2/2021	This observation was made during a non-jury trial which Judge Mariani presided over. Judge Mariani asked the defendant mockingly if he liked being in jail, and which jail has the worst food. The defendant replied that every facility he has been to has bad food, to which Judge Mariani responded that the defendant looks husky and must be eating okay. The Judge then asked the defendant if he does push ups in jail.	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)

Date	Description of Events	Violations of PA Judicial Code of Conduct
12/2/2021	This observation was made during a Gagnon II hearing which Judge Mariani presided over. Judge Mariani stated during the hearing: "Some people claim to have mental health illnesses they don't have [...] 41 years ago no one mentioned bipolar etc., all of a sudden, everyone's bipolar [...] they watered down the meaning of it." Judge Mariani also stated that "Everyone claims to have PTSD now."	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice)
12/2/2021	This observation was made during a Gagnon II hearing which Judge Mariani presided over. During this hearing, the defendant explained that she was 17 weeks pregnant. Judge Mariani yelled at the defendant and said he did not believe her. The judge then ordered a presentence report and postponed the hearing for three months.	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
12/2/2021	This observation was made during a Gagnon II hearing which Judge Mariani presided over. During the hearing, Judge Mariani mockingly asked the defendant, who had been incarcerated at the Allegheny County Jail, "What did you have for breakfast today?" The defendant responded that he had oatmeal. Judge Mariani joked, "Was it hot? Was it a good consistency?"	Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
12/2/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. The defendant had his probation violated due to unpaid restitution. When the public defender was explaining his client's situation, Judge Mariani interrupted: "If you tell me he has no money, I'm gonna have trouble believing that." Judge Mariani went on to say that the defendant "had an income of \$10k last quarter of 2020 yet made no restitution payments" and that this situation "calls into question [the defendant's] veracity because he made no effort to pay."</p> <p>The public defender was attempting to explain that the defendant had recently lost his job and declared bankruptcy, Judge Mariani screamed: "I'm not interested in the violin music... He can't come back and say 'Oh I fell on hard times.'"</p> <p>Judge Mariani also screamed about how the defendant was a "fifty year old man!" and also yelled at an individual in the courtroom who stood up at what he perceived to be an inappropriate time.</p>	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.5 (incompetent due to demonstrated lack of relevant legal knowledge); Rule 2.6 (not ensuring defendant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
12/2/2021	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. During this hearing, Judge Mariani stated: "Thirteen different young men who I released are dead because they went back to it." The Judge also said of the defendant: "Say he shoots up somebody. [They're going to ask] who let him out?"</p> <p>Judge Mariani also said of the defendant: "If he were an older person it'd be easier to warehouse him because they're older and won't change their ways."</p>	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
1/4/2022	This observation was made during a non-jury trial which Judge Mariani presided over. The defendant asked Judge Mariani if he could hire his own attorney instead of using the public defender. Judge Mariani replied that he believed the defendant was only making this request to stall the case, and that he would only comply with the request if the defendant could name the attorneys he has spoken with. The defendant stated the name of a private attorney, but admitted that he had not yet spoken to him. Based on this response, Judge Mariani decided that this was an attempt to stall the case and said they would proceed that day with the public defender.	Rule 2.8 (impatient, undignified, and/or discourteous behavior)

Date	Description of Events	Violations of PA Judicial Code of Conduct
1/4/2022	This observation was made during a non-jury trial which Judge Mariani presided over. Judge Mariani stated during this hearing that he did not believe the sentence suggested by the prosecution was harsh enough. At one point, the Judge yelled, "How many years do I have to put people in cages until they understand?"	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
1/20/2022	This observation was made during a Gagnon II hearing which Judge Mariani presided over. Judge Mariani was screaming throughout these hearings. He yelled that the defendant has "BEEN TO MANY PROGRAMS" and that "HE MIGHT BE MY LONGEST TERM DEFENDANT!"	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
1/20/2022	This observation was made during a Gagnon II hearing which Judge Mariani presided over. Judge Mariani was yelling throughout this proceeding. When mental health treatment for the defendant was brought up, Judge Mariani stated: "I think the pendulum has swung too far in the direction of [mental health] treatment sentences instead of incarceration." The defendant was residing at Allegheny County Treatment Alternative (ACTA) at the time of this hearing, rather than at the Allegheny County Jail. However, Judge Mariani sentenced him to a period of jail time at this hearing. The judge noted that this was the first time he put someone in ACTA in jail, stating "this sentence is meant to be punitive."	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
1/20/2022	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. During this hearing, it was revealed that the probation officer chose not to execute an arrest warrant issued by Judge Mariani after the probation officer found out that the defendant had checked himself into a treatment center. Judge Mariani appeared uninterested in the circumstances of the alleged violation (absconding), and was more concerned about the apparent disregard for his authority. Judge Mariani postponed the hearing until Frank Scherer, the Director of Adult Probation, could appear in person to explain the situation. After one of his staff member's called Mr. Scherer's office to request his presence, Judge Mariani joked, "you just ruined Mr. Scherer's day."</p> <p>A few hours later, Mr. Scherer arrived in person and apologized, stating that probation had "dropped the ball" and that "it won't happen again." There was no consideration whatsoever of whether or not executing the warrant would have caused unnecessary harm considering the circumstances. At some point, Judge Mariani also yelled about how the defendant was a "big strong guy."</p>	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
1/20/2022	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. The defendant explained (unprompted) that he hasn't been able to pay off his restitution because he's been incarcerated for the past fifty days in Butler County and he recently had to declare bankruptcy. Judge Mariani screamed in response: "Didn't you agree to pay restitution? A 50 year old man makes a promise then offers excuses... You're not 22!"</p> <p>The defendant pleaded that he would lose his job and house if he's incarcerated for 40 days. Judge Mariani yelled in response: "That's the way it goes!" Judge Mariani then asked mockingly, "How's life in county jail?... How's the food? Nasty?" When the defendant responded that the food was better in Allegheny County Jail than in Butler County Jail, Judge Mariani laughed and said: "It's worse in Butler? Usually Allegheny County wins worst food contests."</p> <p>At one point, Judge Mariani said: "What do I tell the young guys if I let this grandpa get away with it? [...] I'm rougher on older guys. If you were 22 instead of 52 I'd be listening to you more."</p>	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.5 (incompetent due to demonstrated lack of relevant legal knowledge); Rule 2.6 (not ensuring defendant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)

Date	Description of Events	Violations of PA Judicial Code of Conduct
1/20/2022	This observation was made during a Gagnon II hearing which Judge Mariani presided over. During this hearing, Judge Mariani made numerous comments about the defendant's body. The Judge asked the defendant: "How many pushups can you do without stopping?" Judge Mariani then asked what's to stop a "six foot tall 180 lb, lean and mean man from using that weapon—his body—on other people?" The Judge also screamed that the defendant "could have killed" because of his size.	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
2/10/2022	This observation was made during a Gagnon II hearing which Judge Mariani presided over. The defendant was a Black man. At one point, Judge Mariani asked, "What are you, 63, now? You look damn healthy for 63."	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
2/17/2022	This observation was made during a Gagnon II hearing which Judge Mariani presided over. The defense attorney argued that probation had expired at the time defendant got his new charges, to which Judge Mariani responded: "I can put him in jail sixty days while you file a brief." Judge Mariani also went on to jokingly describe the food in the Allegheny County Jail: "delicious slimy green bologna sandwiches on stale bread and expired mayo—if any at all [...] they're still serving that nasty stuff." Judge Mariani also screamed that the defendant was "35 years old" and said, "Take a look at that guy, look at how he's built!"	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
2/17/2022	This observation was made during a Gagnon II hearing which Judge Mariani presided over. The probation violation at issue during this hearing was incomplete community service hours. During the hearing, the Judge cut off the defendant as he was trying to speak, yelling: "Don't give me that nonsense!" At one point, Judge Mariani mocked that he would jail the defendant for two weeks "to make a point." The hearing was postponed for 30 days, at which point they would come back to check on the defendant's progress with his community service. Judge Mariani threatened: "If you don't do any, you're going to jail!"	Rule 2.6 (not ensuring defendant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior); Rule 2.10 (pledges/promises inconsistent with impartiality)
3/3/2022	This observation was made during a court proceeding which Judge Mariani presided over. Judge Mariani was screaming throughout the proceeding. The judge asked the defendant: "How's the food [at the jail]? Wicked bad isn't it?" Judge Mariani went on: "What's the worst meal you had at [Allegheny County Jail]?... I heard they put ketchup on noodles and call it spaghetti." Later, the judge yelled that the defendant might need "six months in jail."	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
3/3/2022	This observation was made during a Gagnon II hearing which Judge Mariani presided over. Judge Mariani asked the defendant how old the defendant was and how much the defendant weighed. The judge also asked the defendant, "How many push ups can you do without stopping?" Judge Mariani also told the defendant "You must be doing some exercises in jail to be that fit."	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior);

Date	Description of Events	Violations of PA Judicial Code of Conduct
3/3/2022	This observation was made during a court proceeding which Judge Mariani presided over. Judge Mariani was yelling throughout the hearing and disparaging the defendant's age, screaming "he's 50!"	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
3/7/2022	This observation was made during a sentencing hearing which Judge Mariani presided over. Judge Mariani made multiple comments about the defendant's weight and height. The judge also told the defendant to be careful since he was a "strong person."	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)
3/15/22	This observation was made during a sentencing hearing which Judge Mariani presided over. At one point, Judge Mariani commented that the size difference between the defendant and her smaller friend potentially justified a harsher sentence. Judge Mariani also asked the defendant about how the food in jail was. The defendant replied that she didn't eat it.	Rule 2.8 (impatient, undignified, and/or discourteous behavior)
3/31/2022	<p>This observation was made during a sentencing hearing which Judge Mariani presided over. The defendant had been convicted of "escape," as he left a treatment program. Judge Mariani joked, "How about we send him to Alcatraz?" He also referred to the Allegheny County Jail as a "hellhole." The defense attorney stated that the defendant had a job waiting for him, and presented a witness to confirm that was the case. Mariani mocked that suddenly everyone has a job waiting when they're in jail. He then began yelling at the defendant: "He's not a guy who's 20 years old. He's a man who's been around the track. It's not reasonable to give him a county sentence."</p> <p>The defendant, a Black man, began explaining that he he left the treatment program because he was receiving unwanted sexual advances from someone in the facility. Judge Mariani interrupted: "I don't believe it... When I look at you, I see a well built guy. No one's going to touch you if you don't want them to... I wouldn't fight you if I had a club in my hand. You're built strong, stocky."</p>	Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.6 (not ensuring defedant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)

Date	Description of Events	Violations of PA Judicial Code of Conduct
3/31/2022	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. The defendant was violated on his probation due to new charges of simple assault, harassment, and strangulation. All the charges were withdrawn, but the defendant also had a technical violation too for giving his probation officer the wrong address--although he disputes that and said he told his PO where he was staying.</p> <p>Probation issued a detainer lift request on February 11, 2022, after the charges were withdrawn. Judge Mariani denied it because he wanted the alleged victim of the withdrawn charges to testify. The alleged victim showed up at this Gagnon II hearing and explained that the charges were a misunderstanding. She said that the her father, who was not present at the time, called the cops after they had a verbal fight. She stated that the defendant was never violent, and that she wants him to come back home to live with her like he was before. She added that things have been difficult for her without his financial contributions to the household.</p> <p>Judge Mariani said he didn't believe her. He stated, "I'm not willing to let her take physical abuse. We won't know until she's dead. He assaulted someone, she can minimize it all she wants. He's not going home today... He put his hands on [the witness]." Judge Mariani then began yelling at the defendant: "I'm not releasing you! You put your hands on her!" Judge Mariani said they're going to postpone the hearing until they can get the PO to see if he was telling the truth about telling the PO his address. The witness tried to speak at the end and he yelled at her: "You don't get to speak now! Out the door!" and pointed to the door. This defendant is still incarcerated on Judge Mariani's probation detainer for this technical violation.</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>

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3/31/2022	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. Judge Mariani demanded to know how the defendant has a public defender if he's working. The public defender explained that the defendant did sound coordination work for events but that he had reduced income due to Covid. Judge Mariani said that the defendant was "taking and taking without giving back."</p> <p>When the public defender said his client was trying his best to pay off restitution, Judge Mariani interrupted, yelling, "TRYING DOESN'T GET IT! HAVE YOU EVER SEEN A TROPHY FOR BEST ATTEMPT?" The Judge added: "I hate when people say 'I made a mistake.'"</p> <p>Judge Mariani continued to interrupt the public defender, threatening: "How about I give him a year in jail to show him I'm serious?" When the public defender was explaining that the defendant was getting treatment, Judge Mariani interrupted again: "YOU DON'T GET A GOLD STAR FOR DOING WHAT HE SHOULD HAVE DONE ANYWAY!"</p> <p>Judge Mariani then asked the defendant what his monthly income was, to which the defendant responded that it changes from year to year. Judge Mariani screamed in response, "I think you're evading me! You're about to go to jail because you're not being sincere!" Judge Mariani then told the public defender, "If he continues to answer the way he is, he's gonna have breakfast at the Allegheny County Jail tomorrow morning!"</p> <p>The public defender explained that the large restitution amount the defendant owed stemmed from a manic episode defendant had wherein he took vitamins from the store he worked at into his car. The business closed for two days and defendant's restitution amount included the estimated loss of business for those two days. In the middle of this explanation, the Judge cut off the defense attorney yet again, stating, "Mental illness is not a defense to paying restitution!" The judge then continued the hearing for one month to obtain proof of income "to measure his sincerity."</p>	<p>Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.6 (not ensuring defedant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
3/31/2022	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. During this hearing, the defense attorney explained that his client's new charge was for stealing \$8 worth of food, and explained that his client was just "hungry and poor." Judge Mariani interrupted and said, "Oh please, don't play that card."</p> <p>At one point, the defendant raised his hand to speak, and Mariani yelled, "Put your hand down! This isn't a classroom!" Later on in the hearing, the defendant tried to answer a question posed by the Judge, but Judge Mariani cut him off again, saying, "Don't answer! You can try to justify it but you can't!"</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.6 (not ensuring defedant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>

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3/31/2022	<p>This observation was made during a Gagnon II hearing which Judge Mariani presided over. During this hearing, Judge Mariani jokingly asked: "Is it legal to order a pre-sentence report on a six month case? [laughs] It'll take 3 months." The apparent "joke" was that such an order would keep the defendant incarcerated for a disproportionate amount of time compared to his maximum sentence.</p> <p>The Judge also told the defendant: "You turned a 3 day sentence into a 3 week sentence"--apparently putting the blame on the defendant for Mariani's decision to issue a probation detainer. The Judge also mockingly asked, "How's the food [at the Allegheny County Jail]?"</p> <p>At one point, the Judge commented to the defendant, "You look strong and healthy." The Judge ended the hearing by threatening: "If you do something else, I'll send you to state [prison]"</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior); Rule 2.10 (pledges/promises inconsistent with impartiality)</p>
3/31/2022	<p>This observation was made during a sentencing hearing which Judge Mariani presided over. During this hearing, Judge Mariani said to the defendant: "If you've been through these [substance abuse treatment] programs before, that tells me it didn't work for you. Maybe state prison would work."</p> <p>Judge Mariani also said to the defendant: "This is your last swing [...] if you strike out, you're going to state prison. If you walk away from JRS--I don't care what the reason is--pack your bags for [SCI] Camp Hill."</p>	<p>Rule 2.10 (pledges/promises inconsistent with impartiality)</p>
3/31/2022	<p>This observation was made during a court proceeding which Judge Mariani presided over. While the public defender was explaining the defendant's personal circumstances, Judge Mariani interrupted and said "We all go through emotional problems!" Judge Mariani also repeated something the public defender stated in a mocking, sarcastic voice.</p>	<p>Rule 2.6 (not ensuring defedant's right to be heard); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>
4/11/22	<p>This observation was made during a non-jury trial which Judge Mariani presided over. The defendant was a Black man. Judge Mariani commented on the defendant's body, saying the defendant could cause damage because he was tall. Judge Mariani also complained about the witness not showing up, which effectively terminated the case. The court watcher observed that Judge Mariani was treating the defendant as though he was guilty and thus getting off easy by the witness failing to appear.</p>	<p>Rule 1.2 (impropriety or appearance of impropriety); Rule 2.2 (not impartial and/or fair); Rule 2.3 (words or conduct manifested bias or prejudice); Rule 2.8 (impatient, undignified, and/or discourteous behavior)</p>



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