PETITION TO:

UNITED NATIONS
WORKING GROUP ON ARBITRARY DETENTION

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HUMAN RIGHTS COUNCIL
UNITED NATIONS GENERAL ASSEMBLY

In the Matter of
Mumia Abu-Jamal,
Citizen of the United States of America
v.
Commonwealth of Pennsylvania, United States of America

Petition for Relief Pursuant to Resolutions
1991/42, 1997/50, 6/4, 15/18, 20/16, 24/7, 33/30, 42/22, 51/8, and 60/8

Submitted by

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I. IDENTITY

1. **Legal surname**: Abu-Jamal **Family name (at birth):** Cook
2. **Legal first name**: Mumia **Given name (at birth):** Wesley
3. **Sex**: Male
4. **Birth date**: April 24, 1954
5. **Nationality(ies)**: United States of America
6. **(a) Identity document number and issuing authority**: Social Security Number [redacted] issued by the United States Social Security Administration

   (b) Identity document number and issuing authority: Inmate Number #AM8335, issued by the Pennsylvania Department of Corrections
7. **Profession and/or activity**: Broadcast journalist; PhD Candidate in History of Consciousness at University of California, Santa Cruz; former member of the Black Panther Party, Philadelphia Chapter.

II. ARREST

1. **Date of arrest**: December 9, 1981
2. **Place of arrest**: Corner of 13th and Locust streets in Philadelphia, Pennsylvania, USA
3. **Forces who carried out the arrest**: Philadelphia Police Department
4. **Warrant or decision by public authority**: Mr. Abu-Jamal was arrested by the Philadelphia Police Department. He was convicted of first-degree murder and possessing an instrument of crime in a jury trial presided by Judge Albert Sabo of the Philadelphia Court of Common Pleas on July 2, 1982.

III. DETENTION

1. **Date of detention**: December 9, 1981
2. **Duration of detention**: 44 years, 7 months, and 19 days.
3. **Forces holding the detainee under custody**: The courts of Philadelphia County, Pennsylvania and the Pennsylvania Department of Corrections. Mr. Abu-Jamal was convicted of a criminal offense defined by, and remains detained under authority of, the law of the Commonwealth Pennsylvania.[1]
4. **Places of detention**: From 2012 to the present, Mr. Abu-Jamal has been detained at State Correctional Institution (SCI) Mahanoy, a state prison operated by the Commonwealth of Pennsylvania located at 301 Grey Line Drive, Frackville, PA, 17931. He was initially detained pretrial at the Detention Center and Holmesburg Prison, both operated by Philadelphia County, from December of 1981 through May of 1983. He was held in continuous solitary confinement on death row at SCIs Greene and Huntingdon for 28 years from 1983-2011.
5. **Authorities that ordered the detention**: The courts of Philadelphia County, Pennsylvania.
6. **Reasons for the detention imputed by the authorities**: Mr. Abu-Jamal was detained on suspicion of the murder of Philadelphia Police Officer Daniel Faulkner.
7. **Relevant legislation applied (if known)**: Mr. Abu-Jamal was convicted of criminal charges of first-degree murder, 18 Pa. C.S. § 2502(a), and possessing instruments of crime, 18 Pa. C.S. § 907. He was sentenced to death. As of 2011, he has been resentenced to a prison term of life without parole, also known as Death By Incarceration (DBI). Life sentences are a mandatory minimum sentence for convictions of first-degree murder in the Commonwealth of Pennsylvania under 18 Pa. C.S. § 1102(a); individuals serving life sentences are excluded from parole consideration by 18 Pa. C.S. § 7137(a).

[1] The United States ratified both the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination with the understanding that each Covenant would be implemented by state and local governments as well as the Federal Government. U.S. reservations, declarations, and understandings, International Covenant on Civil and Political Rights, 138 Cong. Rec. S4781-01 (April 2, 1992), available here; U.S. reservations, declarations, and understandings, International Convention on the Elimination of All Forms of Racial Discrimination, 140 Cong. Rec. S7634-02 (June 24, 1994), available here.

IV. THE CIRCUMSTANCES OF THE ARREST AND DETENTION AND PRECISE REASONS WHY WE CONSIDER THE ARREST OR DETENTION TO BE ARBITRARY

Mumia Abu-Jamal is a grandfather, award-winning broadcast journalist, prolific author, and former Lieutenant of Information for the Philadelphia Chapter of the Black Panther Party. He has devoted his reporting career to supporting Black liberation and exposing brutality and corruption within the police and prison system. On December 9, 1981, he was arrested on suspicion of the murder of a police officer after being shot himself. He has remained detained for over 44 years.

Mr. Abu-Jamal's prosecution, appeals, and post-conviction review processes violated numerous international norms relating to the right to a fair trial, rendering his continued detention arbitrary under the Working Group's Category III.

Mr. Abu-Jamal's mandatory sentence of life without parole (LWOP), also known as Death by Incarceration (DBI), is inherently arbitrary because it is indefinite and contains no meaningful periodic review of necessity or reasonableness; it is also unreasonable as applied to Mr. Abu-Jamal in light of his advanced age, declining health, and the lack of any risk he poses to the public, rendering his continued detention arbitrary under the Working Group's Category I.

Mr. Abu-Jamal has been continuously targeted for his political expression and associations, prior to his arrest, at trial, and over the course of his incarceration and appeals, raising questions as to violations of this Working Group's Category II; his judicial processes and the decades-long repression of his political speech have also been influenced by discrimination on the basis of race, raising questions as to violations of this Working Group's Category V.

A. Mr. Abu-Jamal's Political Activism and Career in Journalism

Mr. Abu-Jamal came of age in a Philadelphia dominated by a notoriously brutal and racist police department.[2] At a protest of presidential candidate George Wallace in 1968, at the age of fourteen, Mr. Abu-Jamal was kicked in the face by a Philadelphia policeman.[3]

Mr. Abu-Jamal went on to co-found the Philadelphia chapter of the Black Panther Party in 1969 at the age of fifteen, where he served as Lieutenant of Information and wrote numerous articles for the Party's newspaper. He was transferred from his high school in 1970 in retaliation for organizing a student government campaign and distributing material advocating Black revolutionary student power.[4] Mr. Abu-Jamal was subjected to intensive surveillance by both the Philadelphia police's Civil Disobedience Unit and the Federal Bureau of Investigation, pursuant to the FBI's Counterintelligence Program (COINTELPRO) initiative to "discredit, disrupt, and destroy" radical Black political organizations.[5]

Throughout the 1970s and early 1980s, Mr. Abu-Jamal pursued a successful career in broadcast journalism. He reported for over a dozen radio and television news stations in Philadelphia, including National Public Radio affiliates. At the time of his arrest, he was serving as president of the Philadelphia Association of Black Journalists. Mr. Abu-Jamal was recognized as a "brilliantly creative news reporter"[6]

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[2] Multiple federal lawsuits throughout the 1970s documented the Philadelphia Police Department's systemic bias against Black Philadelphians and patterns of brutality and excessive force. For one summary, see *Council of Organizations on Phila. Police A. & R. v. Rizzo*, 357 F. Supp. 1289 (E.D. Pa. 1973), available here. In 1979, the United States Department of Justice filed suit against the Philadelphia Police Department for, inter alia, "widespread, arbitrary and unreasonable physical abuse" and "inflicting disproportionate abuse upon black persons and persons of Hispanic origin." *Nation: Cops on Trial*, TIME (Aug. 27, 1979), available here (quoting Department of Justice complaint).

[3] Mumia Abu-Jamal, *Live from Death Row* (Avon Books, 1995), 149-151.

[4] See *Lee v. School District of Philadelphia*, 51 Pa. D. & C.2d 503 (Pa. Comm. Pl. 1971), on file with undersigned counsel.

[5] The full underlying FBI files are in the possession of his undersigned attorneys. For an illustrative sample, see Annex II, attached.

[6] Chuck Stone, *A Disappearing Tape & Free Speech*, Philadelphia Daily News (June 20, 1975), 10, available here.

for his in-depth coverage of marginalized communities, including back-to-nature Black radical organization MOVE.[7]

B. The Circumstances of Mr. Abu-Jamal's Arrest on December 9, 1981

On December 9, 1981, at approximately 3:55 AM, Philadelphia Police Officer Daniel Faulkner pulled over Mr. Abu-Jamal's brother William Cook in a traffic stop on the corner of 13th and Locust streets. Several clubs in the area were in the process of closing and sending their patrons out onto the street. Officer Faulkner placed a call on his radio for assistance and a police wagon.[8] Cook exited his vehicle. Witnesses later testified that William Cook punched Officer Faulkner, and/or that Officer Faulkner beat William Cook with a blackjack or flashlight.[9]

Mr. Abu-Jamal was in his cab across the street on the northwest corner of 13th and Locust.[10] Witnessing the confrontation, he ran across the street toward Cook and Faulkner. Within minutes, when police backup arrived, Officer Faulkner was lying on the street with gunshot wounds to the back right shoulder and face. Mr. Abu-Jamal was slumped on the curb with a gunshot wound to the chest. Officer Faulkner passed away from his injuries within hours. Mr. Abu-Jamal was accused of shooting Officer Faulkner and later charged with murder.

One of the first responding officers later testified to kicking Mr. Abu-Jamal in the throat and face.[11] Several other officers testified to picking Mr. Abu-Jamal up, running his head into a pole, and dropping him such that his face hit the ground.[12] Police transported Mr. Abu-Jamal to a hospital. Mr. Abu-Jamal's treating physician later testified that he arrived in critical condition, having lost one-fifth or more of his blood volume.[13] He had a gunshot to the right chest that had passed through his diaphragm and liver; a four-centimeter laceration on his forehead; a laceration of the left lower lip; and swelling over the left eye, his right-side neck, and his chin.[14] Mr. Abu-Jamal filed a complaint with the Police Department in early 1982 alleging that police had beaten him. The District Attorney's office dismissed the complaint.[15]

C. Violation of International Norms during Mr. Abu-Jamal's Trial

Mr. Abu-Jamal's criminal trial violated multiple international norms protecting the right to a fair trial, rendering his detention arbitrary under Category III. For a comprehensive account of Mr. Abu-Jamal's trial and appellate process through 2000 concluding that "the proceedings used to convict and sentence Mumia Abu-Jamal to death were in violation of minimum international standards," *see* Amnesty

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[7] In 1978, police constructed barricades around the MOVE group's home, launching a 56-day siege; on the final day, police surrounded the home with tear gas and machine guns, caved in portions of the home with heavy machinery, and flooded the basement with 250,000 gallons of water. Shooting broke out, one police officer was fatally wounded, and nine MOVE members were sentenced to 30 to 100 years in state prison apiece. Ryan Keating, *Remembering the 1978 Powelton Village MOVE Shootout* (May 16, 2025), available here. In 1985, the Philadelphia Police Department dropped a bomb on the MOVE home, killing six adults and five children and destroying over sixty homes. Ali Rogin et al., *The Largely Forgotten History of Philadelphia's Police Bombing of Black Organization MOVE,* PBS (May 17, 2025), available here.

[8] Testimony of Reginald Thompson (police dispatcher), 6/19/82 at 3.105-106.

[9] See, e.g. testimony of Michael Scanlan, 6/25/82 at 8.10-11. William Cook was subsequently prosecuted for assault, but never for murder. He had blood on his hand and a cut behind his left ear when other police arrived on Dec. 9, 1981. See testimony of Officer Forbes, 6/19/82 at 3.167; Officer McGurk, 6/30/82 at 12.54; Detective Thomas, 6/26/82 at 9.118.

[10] Police impounded Mr. Abu-Jamal's taxicab and seized its contents, which included press credentials for the years 1976-1981; six reporter notebooks; six cannisters of 35-millimeter color film; thirteen audio cassettes; a tape recorder; and a microphone at the time of his arrest. N.T. 1/20/82 at 2-8.

[11] Testimony of Officer Shoemaker, 6/19/82 at 3.116.

[12] Testimony of Officer Soboloski, 6/19/82 at 3.179-180 ("during the course of taking him to the wagon we accidentally ran into a pole;" "Q: His head made contact with that pole; is that correct? A: Yes. As a result of that he came down and hit his face on the ground."); see also testimony of Officer McGurk, 6/3/82 at 12 ("Q: Did you run my head into a pole, you and Officer Soboloski? A: Yes.").

[13] Testimony of Dr. Coletta, 6/28/82 at 10.68, 77.

[14] Testimony of Dr. Coletta, 6/28/82 at 10.53-77.

[15] Statement of prosecuting District Attorney McGill, 6/24/82 at 7.170-172.

International, "USA: A Life in the Balance: The Case of Mumia Abu-Jamal" AMR 51/01/00 (2000), available here.

i. Lack of an Independent and Impartial Tribunal

Mr. Abu-Jamal did not receive the fair and public hearing by an independent and impartial tribunal required under ICCPR Art. 14(a), UDHR Art. 10, and ICERD Art. 5(a). His trial was overseen by a notoriously biased judge. His case was ultimately decided by a jury from which Black members had been almost completely excluded by the prosecution, with two members who had openly expressed that they could not be fair or impartial.

Judge Albert Sabo of the Philadelphia Court of Common Pleas presided over Mr. Abu-Jamal's criminal trial in 1982. In 1983, over a third of lawyers polled by the Philadelphia Bar Association considered Judge Sabo unqualified to serve as judge.[16] By 1992, Judge Sabo had presided over 31 cases in which the defendant was sentenced to death – more than any other judge in Philadelphia, and possibly the country.[17] All but two of these 31 individuals were members of racial or ethnic minorities.[18] A Philadelphia court stenographer later signed an affidavit that she overheard Judge Sabo, while discussing the case of Mumia Abu-Jamal in mid-1982, state that "I'm going to help them fry the nigger."[19]

Mr. Abu-Jamal's trial was one of the most explosive news events of late 1981 and early 1982.[20] News that Mr. Abu-Jamal had been charged with murder was a front-page story in Philadelphia's major periodicals within twenty-four hours of the shootings.[21] Police made several claims to the papers that were never substantiated at trial, including that Mr. Abu-Jamal's legally-owned weapon was a conclusive match to the bullets that killed Officer Faulkner and that four eyewitnesses "told police they saw Jamal fire repeatedly at the officer."[22] Multiple newspapers referenced Mr. Abu-Jamal's history with the Black Panther Party, with several republishing an instance in 1970 in which he had criticized police murders of BPP members by incorporating a quote from Mao Zedong ("Black people are facing the reality that the Black Panther Party has been facing: political power grows out of the barrel of a gun").[23] Within days of

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[16] Fredric N. Tulsky, *Phila. Bar may change how judges are evaluated*, Philadelphia Inquirer (Oct. 5, 1983), 6-B, available here.

[17] Fredric N. Tulsky, *What Price Justice?*, Philadelphia Inquirer (Sep. 13, 1992), A19, available here; AMR 51/01/00 at 7.

[18] AMR 51/01/00 at 7.

[19] Declaration of Terri Maurer-Carter (Aug. 21, 2001); *Com. v. Abu-Jamal*, 574 Pa. 724, 735 (Pa. 2003). *Compare* Committee on the Elimination of Racial Discrimination (CERD), *General recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system*, 60 U.N. GAOR Supp. (No. 18) at 98, A/60/18, (2005), ¶ 460, available here.

[20] *Contra* Hum. Rts. Comm., General Comment No. 32, U.N. Doc CCPR/C/GC/32 (2007), ¶ 25, available here ("A hearing is not fair if, for instance, the defendant in criminal proceedings is faced with the expression of a hostile attitude from the public.")

[21] Robert J. Terry, Michael A. Hobbs and Marc Schogol, *Policeman shot to death; radio newsman charged*, Philadelphia Inquirer (Dec. 10, 1981), 1, available here; *Newsman Charged In Officer's Slaying*, Philadelphia Daily News (Dec. 9, 1981), 1, available here.

[22] Terry et al., *Policeman shot to death*, *supra n*. 21 ("Jamal had a .38-caliber revolver … Police said it was that revolver that was used to shoot Faulkner") and *Witnesses Identify Suspect*, Philadelphia Daily News (Dec. 10, 1981), 3, available here. At trial, the prosecutor's ballistician was unable to reach a conclusion as to a match between the bullets and Mr. Abu-Jamal's gun. *Bail Cut for Brother of Suspect in Cop-Killing*, Philadelphia Daily News (Dec. 11, 1981), 30, available here. At trial, only two witnesses identified Mr. Abu-Jamal and claimed to have seen the shooting; both had powerful reasons to manufacture testimony and curry favor with police and prosecutors. *Compare* U.N. Working Group on Arbitrary Detention (hereafter "WGAD"), *Opinion No. 89/2018 concerning Alexey Pichugin (Russian Federation)* (adopted Nov. 23, 2018), A/HRC/WGAD/2018/89, ¶ 79, available here (government failed to respect presumption of innocence under UDHR Art. 11(1) and ICCPR Art. 14(2) where a public official made a public statement "claiming irrefutable evidence of [the detained person's] guilt").

[23] As described below, prosecutor Joseph McGill was aware of both the politicized media landscape and this particular published statement, and he would introduce it to the jury to assist in sentencing Mr. Abu-Jamal to death. Terry E. Johnson and Michael A. Hobbs, *The suspect: One who raised his voice*, Philadelphia Inquirer (Dec. 10, 1981), 1-A, 22, available here; *The Accused*, Philadelphia Daily News (Dec. 10, 1981), 4, available here; for the full original quotation, see Acel Moore, *Protest Killings by Police: Headquarters Cold, But Issues Are Hot For Black Panthers*, Philadelphia Inquirer (Jan. 4, 1970), available here.

the shootings, local radio talk shows were fielding callers who "want to lynch the man who calls himself Mumia Abu-Jamal."[24]

In the United States, criminal defendants are entitled to a trial by jury. A panel of twelve jurors decides questions of fact and ultimately reach a verdict as to guilt or innocence. In death penalty cases, jurors also decide whether to sentence a defendant to death.

All but one of the individuals who eventually served on Mr. Abu-Jamal's jury had been exposed to news media about the case.[25] One juror answered "no" to a question as to whether he could "objectively determine the facts in this case," then directly stated "I don't think I could be fair to both sides" after his exposure to the media coverage.[26] Judge Sabo denied the defense's challenge to this juror. Another juror answered "yes" to questions as to whether he "could not give [this defendant] a fair and impartial trial" or "could not be a fair juror because of your feelings," because his close friend was a police officer who had been shot in the line of duty.[27]

ii. Racial Discrimination at Trial

In Philadelphia murder trials, the prosecution and the defense are permitted twenty "peremptory" challenges to dismiss a juror without a stated reason. Both sides are allowed unlimited challenges "for cause." The prosecutor in a capital case is permitted to dismiss jurors "for cause" if they express a fixed opposition to the death penalty. By the time of Mr. Abu-Jamal's trial, it was well known that for-cause challenges based on opposition to death penalty excluded a disproportionate number of Black jurors.[28] Both the Pennsylvania Supreme Court and the federal court of the Eastern District of Pennsylvania noted this systemic disproportionality in their review of Mr. Abu-Jamal's case.[29] However, state action that produces an effect of systemic racial discrimination without individual, invidious intent is permissible under American law, even as it is prohibited under the ICERD.[30]

Prosecuting attorney Joseph McGill dismissed two dozen jurors based on their opposition to the death penalty. The actual number of Black jurors excluded for this reason is not ascertainable from the trial record. Mr. Abu-Jamal and his trial attorney had attempted to distribute a questionnaire to jurors that would have created a complete record of each juror's self-identified race. Pre-trial municipal judge Paul Ribner denied this request, stating he was "not going to let you turn this into a political or racial thing."[31]

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[24] Dorothy Storck, *A killing put in perspective*, Philadelphia Inquirer (Dec. 13, 1981), 1, available here.

[25] 6/9/82 at 191-197; 6/10/82 at 80-91, 137-145, 153-167, 207-218; 6/11/82 at 94-101, 115-124; 6/15/82 at 123-132, 234-247; 6/16/82 at 298-313, 381-413.

[26] 6/16/82 at 384-395.

[27] 6/15/82 at 15, 236. Mr. Abu-Jamal had been removed from self-representation at this point in the trial. His attorney did not attempt to object to this juror for cause, and did not exercise a peremptory strike.

[28] See 6/15/82 at 65 (Attorney Jackson stating "blacks by and large will exclude themselves, because of their views on capital punishment."); *see also Fatal Flaws: Revealing the Racial and Religious Gerrymandering of the Capital Jury*, American Civil Liberties Union (June 24, 2025), available here.

[29] Questions about fixed opposition to the death penalty leading to a prosecutor's challenge for cause are known as the "*Witherspoon* inquiry" after the case *Witherspoon v. Illinois*, 391 U.S. 510 (1968). *See Com. v. Abu-Jamal*, 521 Pa. 188, 198 (1989), available here ("The ultimate composition of the jury is affected … by challenges for cause (more acute in capital cases because of the *Witherspoon* inquiry)"); *Abu-Jamal v. Horn*, No. 99-5089, 2001 WL 1609690 at *105 n. 71 (E.D. Pa. Dec. 18, 2001), available here ("Even petitioner's counsel conceded at trial that more black venirepersons than white venirepersons would be excused for cause because of their responses to the *Witherspoon* question.")

[30] UDHR Art. 2, 7; ICCPR Art. 26. The ICERD recognizes both direct and indirect discrimination, and obliges states to "amend, rescind, or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists." Art. 2(1)(c). For commentary on jury trials, *see* CERD General Recommendation No. XXXI, ¶ 31; Report of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement (EMLER), *Systemic racism against Africans and people of African descent in the criminal justice system*, A/HRC/60/75 (Sep. 9, 2025), ¶ 35, available here; *Narrainen v. Norway*, CERD Comm. No. 3/1991, U.N. Doc. A/49/18 at 128 (1994), ¶ 9.2, available here.

[31] 3/18/82 at 11-15. Judge Sabo again denied the request to distribute a questionnaire. 6/4/82 at 4.123-137. The contents of the proposed questionnaire, including question "what is your race," is discussed on 6/7/82 at 15-50, 17.

Prosecutor McGill objected to allowing Mr. Abu-Jamal to ask jurors their race for the record, arguing that it was "unnecessary," "irrelevant," and "kind of ridiculous."[32] His own notes from jury selection, only turned over to defense counsel in 2019, showed that he had been marking Black jurors' names with a "B" corresponding to their race.[33] McGill exercised at least 10 peremptory strikes to remove Black jurors acceptable to the defense.[34]

McGill's strikes were part of a systematic pattern of racial discrimination in jury selection by Philadelphia prosecutors. Between 1981 and 1997, Philadelphia prosecutors struck 51% of prospective Black jurors but only 26% of prospective non-Black jurors from capital juries.[35] After the United States Supreme Court ruled in 1986 that racial discrimination in jury selection could be proven through evidence from an individual trial, the Philadelphia District Attorney's Office held a training on how to keep African Americans off of juries while avoiding legal scrutiny.[36]

The jury in Mr. Abu-Jamal's trial was "sequestered," meaning that they were housed in a hotel in order to prevent them from speaking with family or consuming media coverage during the trial. On the second day of trial, Judge Sabo dismissed the only Black juror personally selected by Mr. Abu-Jamal because she had gone home to take her sick cat to the veterinarian, in violation of the sequestration order. Judge Sabo had denied her the opportunity to leave with an escort, despite offering other jurors court staff escort for personal conflicts.[37] Having been removed as counsel the day before, Mr. Abu-Jamal was absent for this decision. Judge Sabo replaced this juror with the white alternate who had stated he did not think he could be fair to both sides.[38] The result was a final panel in which only two of 12 jurors were Black,[39] in a county comprised of approximately 37.8% Black people.[40]

iii. Deprivation of Right to Self-Representation

[32] 6/7/82 at 17-19.

[33] Mr. Abu-Jamal's attorneys were not provided access to these notes until 2018. For further detail on discovery of these notes and Mr. Abu-Jamal's unsuccessful attempt to seek a new trial on the basis of these notes, see the Annex to this Petition, *infra.*

[34] The race of eight of these struck Black jurors was recorded in the trial record. 6/7/82 at 121-163; 6/8/82 at 78-86; 6/10/82 at 72-80, 237; 6/11/82 at 115; 6/15/82 at 56, 179-180, 233. In post-conviction proceedings, Mr. Abu-Jamal's attorneys established that two more jurors peremptorily struck by McGill were Black. *See Com. v. Cook a/k/a Abu-Jamal*, 30 Phila Co. Rptr. 1, 1995 WL 1315980 (Pa. Com. Pl. 1995), *103, ¶¶ 141-142, available here.

[35] Baldus, Woodworth, Zuckerman, Weiner, & Broffitt, The Use of Peremptory Challenges in Capital Murder Trials: A Legal and Empirical Analysis, 3 U. Pa. J. Const. L. 3, 52–53, 73 (2001), available here (cited in *Miller-El v. Dretke*, 545 U.S. 231, 268 (2005) (Breyer, J., concurring), available here).

[36] In the tape-recording training session, Philadelphia prosecutor Jack McMahon stated that the stated purpose of voir dire "to get a competent, fair, and impartial jury" was "ridiculous;" that "it may appear as if you're being racist or whatnot, but, again, you are just being realistic;" and that "in my experience, black women, young black women are very bad." *Abu-Jamal v. Horn*, 520 F.3d 272, 309 n.37 (3d. Cir. 2008) (Ambro, J., dissenting in part), available here. The Third Circuit had previously found that "McMahon leaves no doubt that he had developed the techniques he advocates over the course of his career." *Wilson v. Beard*, 426 F.3d 653, 669 (3d Cir. 2005), available here. McMahon had worked at the Philadelphia DA office since 1978. *Id.*

[37] 6/18/82 at 2.35-47 (dismissal, in which Judge Sabo also describes the juror as a "mental case"); 6/17/82 at 1.5 (discussing court escort for other juror's settlement); 6/22/82 at 5.245 (discussing court escort for other juror's civil service examination).

[38] 6/16/82 at 413; 6/18/82 at 2.87.

[39] *See Com. v. Abu-Jamal*, 521 Pa. 188, 195, 555 A.2d 846, 849 (Pa. 1989), available here.

[40] *1980 Census of Population and Housing: Census Tracts – Philadelphia, PA.-N.J.*, U.S. Department of Commerce: Bureau of the Census (1983), available here: P-172, Table P-7 ("Race and Spanish Origin: 1980") (638,878 of 1,688,210 in Philadelphia County, excluding those of Spanish origin).

Attorney Anthony Jackson was appointed to represent Mr. Abu-Jamal on December 15, 1981. Mr. Abu-Jamal sought to represent himself in court, a right protected by the Sixth Amendment to the United States Constitution and ICCPR Art. 14(3)(d).[41]

When his trial officially began, Mr. Abu-Jamal was granted self-representation ("pro se") status by Judge Sabo.[42] Judge Sabo instructed Attorney Jackson to serve as "back-up counsel." Jackson strenuously objected, as he had never served in "back-up" capacity, was uncertain of what was required of him, and requested to be removed. This request was denied.

Mr. Abu-Jamal represented himself over two days of jury selection. He questioned 23 jurors, dismissed four, successfully defeated the prosecutor's improper challenge to one juror, and selected one juror to serve at his trial.[43] Judge Sabo then stripped Mr. Abu-Jamal of his right to represent himself, on the basis that he was "inexperienced" and "slow" and "these venire [the panel of prospective jurors] people have been rather unnerved or upset."[44] Amnesty International's independent review of the record "found no justifiable reason" for this decision.[45] Mr. Abu-Jamal instructed Attorney Jackson not to participate in the jury selection proceedings. Judge Sabo threatened to hold Jackson in criminal contempt of court and sentence him to State prison for six months, then personally took over the questioning process until Mr. Abu-Jamal agreed to have Attorney Jackson participate.[46]

On the first day of the trial proper, Mr. Abu-Jamal was reinstated as his own counsel. Mr. Abu-Jamal requested that John Africa, the spiritual leader of MOVE, be permitted to serve as his lawyer or advisor seated at counsel table. Judge Sabo denied these requests.[47] Attorney Jackson again requested to withdraw, noting that he would seek an opinion from the Supreme Court of Pennsylvania. Judge Sabo stated "well, if you're asking me to remove him, I'll remove him. I'll make it easy for you."[48] Jackson clarified that he was not asking the court to remove Mr. Abu-Jamal. Judge Sabo entered an order that Mr. Abu-Jamal had "deliberately disrupted the orderly progression of this trial," removed him as counsel, and re-appointed Jackson.[49]

The following day, Mr. Abu-Jamal continued to protest the court's orders. Judge Sabo ordered him removed from the courtroom. Two of Mr. Abu-Jamal's brothers protested the judge's orders from the audience. Judge Sabo summarily convicted both brothers of contempt and sentenced them to 60 days in prison.[50] Mr. Abu-Jamal continued to protest, demand his right of self-representation, request John Africa as counsel, or question particular witnesses at various points throughout his trial. When he did so, Judge Sabo removed Mr. Abu-Jamal from the courtroom. He was thus tried *in absentia* for several critical portions of trial.

iv. Deprivation of Adequate Time and Facilities for Defense and the Right to Obtain the Attendance and Examination of Witnesses

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[41] CCPR/C/GC/32, ¶ 37 (under ICCPR 14(3)(d), "any restriction of the wish of accused persons to defend themselves must have an objective and sufficiently serious purpose and not go beyond what is necessarily to uphold the interests of justice;") *Faretta v. California*, 422 U.S. 806 (1975), available here.
[42] 6/1/82 at 36-37.
[43] 6/7/82 at 121-189; 6/8/82.
[44] 6/9/82 at 17.
[45] AMR 51/01/00, 12.
[46] 6/9/82 at 21, 106.
[47] 6/17/82 at 1.49-1.52. While Pennsylvania law does restrict the role of formal legal counsel to licensed attorneys, which John Africa was not, there was no legal prohibition to a non-lawyer being seated at the table with a self-represented person or providing lay assistance. Attorney McGill himself had a non-lawyer police officer seated at his counsel table for much of the jury selection process. 6/11/82 at 212.
[48] 6/17/82 at 1.117-118.
[49] An immediate appeal was taken to a single member of the Supreme Court of Pennsylvania, who ruled that John Africa could not serve as counsel and that Jackson could be appointed against Mr. Abu-Jamal's wishes.
[50] N.T. 6/18/82 at 2.90-91.

Mr. Abu-Jamal's right "to have adequate time and facilities for the preparation of his defence" protected by ICCPR 14(3)(b) was severely impacted by systemic deficiencies in Philadelphia's system of capital defense.

Philadelphia policy at the time of Mr. Abu-Jamal's trial afforded capital defendants a base amount of $150 dollars to retain expert witness assistance. Mr. Jackson sought to retain a forensic pathologist, a ballistics expert, a professional photographer, and a private investigator. While he was authorized to receive the base $150 fee, neither the forensic pathologist nor the ballistician would agree to complete a full investigation or testify at trial without complete advance payment. Mr. Jackson repeatedly sought advance payments for these experts from the court, but his requests were denied.[51] The trial proceeded without defense testimony on forensic pathology or ballistics.

Mr. Abu-Jamal's right to "examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him" was repeatedly violated at his trial, violating ICCPR Art. 14(3)(e).

Under the policy of the Philadelphia District Attorney's office at the time, witness statements were turned over to defense counsel in homicide cases with contact information redacted. Neither Mr. Abu-Jamal nor his counsel were able to contact witnesses interviewed by police without the assistance of the District Attorney.[52]

The prosecution's case against Mr. Abu-Jamal rested primarily on two eyewitnesses.[53] The first, Robert Chobert, claimed to have been driving a taxi in the area, pulled his car up behind Officer Faulkner's car, and witnessed Mr. Abu-Jamal run across the street and shoot Officer Faulkner. None of the other witnesses at trial remembered seeing a vehicle behind Officer Faulkner's.[54] Chobert's first statement to police claimed the shooter was about 225 pounds, and that he saw the shooter run thirty feet.[55] Mr. Abu-Jamal weighed closer to 180 pounds, and was found slumped on the ground less than ten feet from Officer Faulkner. At the time of the shootings Mr. Chobert was on probation for arson, having thrown a Molotov cocktail into an elementary school for pay, and his drivers' license had been suspended.[56] Despite his apparent bias to curry favor with police, Judge Sabo did not permit cross-examination into his criminal

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[51] *See* N.T. 1/20/82 at 40-41; 3/18/82 at 6-10; 4/1/82 at 9-12; 4/29/82 at 10-13. This claim was litigated in Mr. Abu-Jamal's first post-conviction proceedings, when the Commonwealth elicited testimony from Mr. Jackson that these experts eventually received additional payment for their limited investigative efforts after the conclusion of trial. The systematic deficiency of this low basic rate of pay and refusal to provide standard advance payment was not considered by the courts. *See* Death Penalty Information Center, *Justice on the Cheap: The Philadelphia Story* (May 1, 1992), available here ("So little money is available for expert witnesses … that many of the most qualified and respected in those professions refuse to provide their services under those conditions"); *Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System* (March 4, 2003) at 184-185, available here (concluding that "indigent defense receives inadequate resources to provide adequate representation" and "the lack of resources also prevents defense counsel from hiring experts").

[52] See 6/2/1982 at 132; 6/30/82 at 12.10.

[53] While there were two additional eyewitnesses who testified at Mr. Abu-Jamal's trial, neither testified that they had seen Mr. Abu-Jamal shooting the police officer. Albert Magilton testified that he saw Mr. Abu-Jamal running across the street, lost sight of him, and then heard shots. 6/25/82 at 8.75-112. Michael Scanlan testified that he saw a man running across the street, and then saw a man shooting the police officer, but was unable to identify Mr. Abu-Jamal. 6/25/82 at 8.4-75. Mr. Abu-Jamal's legally owned and registered firearm, which he purchased for self-protection as a part-time cab driver, was recovered from the scene of the shootings. The prosecution's ballistics expert was unable to conclude that the bullet that killed Officer Faulkner came from Mr. Abu-Jamal's gun. The prosecution's ballistics expert did conclude that Officer Faulkner's gun had fired the bullet lodged in Mr. Abu-Jamal. 6/23/82 at 6.75-115.

[54] Images captured taken by local photographer Pedro P. Polakoff III shortly after the shooting on December 9, 1981, available here, also show that there is no taxicab located behind Officer Faulkner's car.

[55] 6/18/82 at 3.234-237; see also 6/1/82 at 70 (pretrial testimony of a police inspector claiming to have spoken to a white cab driver [Chobert] who "stated that the man that shot the policeman ran away" but that he was a MOVE member because of the "funny hair" [dreadlocks.] The police inspector then took Mr. Chobert to a police wagon containing Mr. Abu-Jamal, who had dreadlocks, and Mr. Chobert identified Mr. Abu-Jamal.)

[56] 6/18/82 at 3.216-222; 8/15/95 at 5.

record. With this testimony barred, prosecuting attorney McGill argued in closing to the jury that Chobert had no motivation to lie.[57]

Shortly after trial, Mr. Chobert wrote a letter to prosecuting attorney DA McGill stating "Mr. McGill, I have been calling you to find out about the money own to me. So here is a letter, finding out about money. Do you need me to sign anything. How long will it take to get it. How was your week off good I hope."[58] Mr. Abu-Jamal's attorneys were not given access to this letter until 2018. The jury at Mr. Abu-Jamal's trial was never made aware of any suggestion that Mr. Chobert expected to be paid.

The second eyewitness, Cynthia White, claimed to have been standing on the corner and to have seen Mr. Abu-Jamal shoot Officer Faulkner. Ms. White had been arrested over 30 times for prostitution, and had three open cases at the time of her testimony in Mr. Abu-Jamal's case. Attorney McGill asked her before the jury whether she had received "any kind of arrangement or deal by the District Attorney's office in connection with those particular cases that are outstanding," and her answer was "no."[59]

Mr. Abu-Jamal's counsel called a witness named Veronica Jones to rebut the ostensible eyewitness Cynthia White. Ms. Jones was also a sex worker and knew Ms. White. Ms. Jones's initial statement to police provided that she was on the scene and saw two men jogging away. While the police had interviewed Ms. Jones multiple times prior to trial, Mr. Abu-Jamal's counsel had never spoken to her before the day of her testimony in court. Ms. Jones first testified, in direct contradiction to her prior statement to police, that she had not seen anyone running away. On further questioning, she revealed that she, and perhaps Cynthia White, had been pressured by police and offered leniency to lie: police were "getting on me telling me I was in the area and I seen Mumia, you know, do it, intentionally. They were trying to get me to say something that the other girl said … It more so came about when we had brought up Cynthia's name and they told us we can work the area if we tell them."[60]

Judge Sabo called for a sidebar and instructed Mr. Abu-Jamal's counsel to limit his questioning to "one purpose and that is what she saw that night." Mr. Jackson interviewed Ms. Jones during a recess, then relayed the substance of Ms. Jones' account to the Court out of the presence of the jury – that she had been "picked up by uniformed officers who took her … aside and said 'Look, we will let you work the street and we will do you just like we have done Lucky.' Lucky is Cynthia White's name." Judge Sabo disallowed any further questioning into the police's offer of leniency to either Ms. Jones or Ms. White, holding that "it is not relevant to this case."[61]

The prosecution also called two witnesses who claimed to have heard Mr. Abu-Jamal confess to the shooting. Neither of these witnesses came forward until several months after December 9, 1981, and only after Mr. Abu-Jamal filed his complaint against the police department alleging that he was beaten by police the night of his arrest. Hospital security guard Priscilla Durham claimed that Mr. Abu-Jamal had stated "I shot the mother fucker and I hope the mother fucker dies." Her allegation was not lodged with the police department until February 9, 1982. She claimed at trial to have told her hospital supervisor about this confession in December of 1981 and recorded it in a handwritten note. The prosecution

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[57] 7/1/82 at 13.181.

[58] For further detail on the discovery of this letter and Mr. Abu-Jamal's unsuccessful attempt to seek a new trial on the basis of the letter, see the Annex to this Petition, *infra.*

[59] 6/21/82 at 2. Shortly after Mr. Abu-Jamal's trial, a Philadelphia district attorney supervising Cynthia White's prostitution cases wrote a memorandum to the attorney prosecuting her. The supervisor noted that "There is no objection to a plea being agreed upon for these three cases," reminded the prosecutor that "this defendant was the witness in the recent police shooting case tried by Joe McGill," and instructed the prosecutor to "please see him [Joseph McGill] and discuss this case" before reaching a plea agreement. For further detail on discovery of this memorandum in Mr. Abu-Jamal's case files and Mr. Abu-Jamal's unsuccessful attempt to seek a new trial on the basis of the memorandum, see the Annex to this Petition, *infra.*

[60] 6/29/82 at 11.129, 135-136.

[61] 6/29/82 at 11.138-141; *compare* WGAD *Opinion No. 3/2024 concerning Aleksandr Bialiatski (Belarus)* (adopted March 18, 2024), U.N. Doc. A/HRC/WGAD/2024/3, ¶ 105, available here (inability to cross-examine witnesses a denial of equality of arms in violation of ICCPR Art. 14(3)(e)).

attempted to introduce a *type*written note documenting the alleged confession; when Mr. Jamal's counsel objected that this was inconsistent with her testimony, Judge Sabo allowed this typewritten statement into evidence, speculating that "she gave a handwritten statement and they took the handwritten statement and typed this … You can't assume that they didn't."[62] Officer Gary Bell, Officer Faulkner's partner, claimed to have heard Mr. Jamal make the same comment; he did not come forward with this claim until February 25, 1982.[63]

Mr. Abu-Jamal's counsel attempted to call an additional police officer to rebut this "confession" testimony. This officer, Gary Wakshul, had been with Mr. Jamal from the scene of the shootings through his time at the hospital, and wrote a contemporaneous police investigation note relaying that "the negro male made no comments."[64] The prosecution claimed that Officer Wakshul was on vacation, despite a note on his investigation report instructing him to take "no vac." Judge Sabo refused to issue a subpoena for Wakshul to appear, telling Mr. Abu-Jamal that "your attorney and you goofed."[65] The trial proceeded without Wakshul's testimony.

v. Prosecution's Reliance on Political Thought, Expression, and Association

The prosecution at Mr. Abu-Jamal's trial relied heavily on the political thought, expression, and association of both Mr. Abu-Jamal and his character witnesses to ensure conviction and a death sentence.[66]

Prosecutor McGill was fully aware of the extent of the highly politicized press coverage around the case, including multiple reports that Mr. Abu-Jamal was a former Black Panther and a supporter of MOVE.[67] McGill cross-examined multiple character witnesses testifying to Mr. Abu-Jamal's positive reputation as to whether "the sources of your information [was] newspapers," "newspaper articles, or authors, or … newspaper reporters in various news media," or "any kind of published statement he made about anything at all about his beliefs."[68] He cross-examined several more character witnesses about their awareness of "organizations [Mr. Abu-Jamal] has been associated with" and "associations he has been involved in."[69] Mr. Abu-Jamal's first character witness was university professor Sonia Sanchez, who had written a foreword to the memoir of political prisoner Assata Shakur, formerly known as Joanne Chesimard. The prosecution questioned Sanchez extensively about her writings that "deal with convicted police killer Judy Chesmar [sic]" and whether Sanchez was "in sympathy with her position."[70]

At Mr. Abu-Jamal's sentencing phase, he gave a statement protesting mistreatment over the course of his trial and asserting his innocence. Prosecutor McGill was permitted to directly cross-examine him about his former membership in the Black Panther Party and his direct quotation of Mao Zedong that

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[62] 6/24/82 at 7.27-133, at 7.108.
[63] 6/24/82 at 7.133-176.
[64] 7/1/82 at 13.32-38.
[65] 7/1/82 at 13.48; *compare* CCPR/C/GC/32, ¶ 39; WGAD *Opinion No. 77/2022 concerning Saidnuriddin Shamsiddinov (Tajikistan)* (adopted Nov. 19, 2022), U.N. Doc. A/HRC/WGAD/2022/77, ¶ 73, available here (inability to call defense witness who might be capable of proving the accused's innocence, leading to his acquittal, or otherwise influencing outcome of trial compromises the fairness of criminal proceedings); WGAD *Opinion No. 7/2024, concerning José Rubén Zamora Marroquín (Guatemala)* (adopted March 19, 2024), A/HRC/WGAD/2024/7, ¶ 109-111, available here.
[66] *Contra* WGAD *Opinion No. 79/2022 concerning Mohamed Baba Nadjar (Algeria)* (adopted Nov. 17, 2022), U.N. Doc. A/HRC/WGAD/2022/79, ¶¶ 75-77, available here (direct download link) (finding violation of articles 2 and 7 UDHR, articles 2(1) and 26 of ICCPR based in part on extensive, irrelevant questioning about ethnic origin and political beliefs at murder trial).
[67] ADA McGill attempted to cross-examine character witnesses directly about the statement "political power grows out of the barrel of a gun", but Judge Sabo considered himself constrained by recent precedent not to allow him to introduce the statement until the sentencing phase. 7/1/82 at 13.36-46.
[68] 7/1/82 at 13.5 (Mark Brakeman); 13.11 (Viola Young); 13.19-20 (Jerome Hunter). See also 13.21 (Akil Chionesu) ("Any of your sources of his reputation would they include statements that he made in the news media during the course of his life?").
[69] 7/1/82 at 13.19-20 (Akil Chionesu), 13.25 (Harold Baranoff), 13.27 (Robert Sanders).
[70] 6/30/82 at 12.17-29.

"political power grows out of the barrel of a gun" (referencing police killing of Black Panthers).[71] Mr. Abu-Jamal was then sentenced to death.[72]

D. Ineffective Domestic Remedies: Violation of International Norms during Mr. Abu-Jamal's Appellate and Postconviction Proceedings

i. Political Interference and Censorship Over the Course of Appellate Proceedings

Mr. Abu-Jamal published his first book, *Live From Death Row*, in 1995. In 1994, the Pennsylvania Department of Corrections initiated a "mail watch" on Mr. Abu-Jamal's correspondence with his attorneys, in violation of UDHR Art. 12 and ICCPR Art. 17's prohibitions on "arbitrary interference with … correspondence."[73] As described by the Third Circuit Court of Appeals, the "mail watch" consisted of opening Mr. Abu-Jamal's legal mail, copying it, and forwarding letters pertinent to his criminal appeals, including sensitive information regarding the defense strategy, to the office responsible for advising the Governor of Pennsylvania on death warrants.[74] The Third Circuit Court affirmed that the DOC's mail watch violated the United States Constitution in 1998.[75]

Mr. Abu-Jamal's journalistic work has been repeatedly censored by both state actors and private entities. Mr. Abu-Jamal had worked for National Public Radio (NPR) prior to his incarceration in 1981. NPR re-hired Mr. Abu-Jamal as a commentator for the radio program All Things Considered in 1994, with plans to air reporting from Mr. Abu-Jamal on prison life.[76] The Fraternal Order of Police ("FOP") launched a massive press campaign to pressure NPR not to air Mr. Abu-Jamal.[77] United States Senator Bob Dole quoted from an FOP representative on the Senate floor, arguing to his colleagues that the proposed hiring of Mr. Abu-Jamal required "closer oversight by Congress" of public broadcasting.[78] NPR dropped Mr. Abu-Jamal as a commentator within weeks of their initial announcement, without airing a single commentary.[79]

In 1997, Mr. Abu-Jamal was hired as a commentator by news outlet *Democracy Now!* His commentaries were scheduled to be aired in Pennsylvania by Temple University's radio station WRTI-FM. After learning that Mr. Abu-Jamal's commentaries would be included, Temple University's leadership canceled its contract with the syndicator for *Democracy Now!*, preventing Mr. Abu-Jamal's commentaries from being aired throughout the state.[80]

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[71] 7/3/82 at 15.21-22.
[72] 7/3/82 at 15.99.
[73] *See also United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court*, U.N. Doc. A/HRC/30/37 (Jul. 6, 2015), Guideline 8, ¶ 69, available here; WGAD *Opinion No. 14/2016 concerning Alexandr Klykov (Russian Federation)* (adopted Apr. 21, 2016), U.N. Doc. A/HRC/WGAD/2016/14, ¶ 78, available here ("Authorities shall respect the privacy and confidentiality of legal counsel-detainee communications"); Comm. No. 74/1980, *M. A. Estrella v. Uruguay* (adopted March 29, 1983), U.N. Doc. CCPR/C/18/D/74/1980 at 158, 159, ¶¶ 9.2, 10, available here (reading ICCPR Art. 17 in conjunction with Art. 10(1) as applicable to prisoners); United Nations Standard Minimum Rules for the Treatment of Prisoners, G.A. Res. 70/175 (Dec. 17, 2015) (Mandela Rules), Rule 61(1).
[74] *Abu-Jamal v. Price*, 154 F.3d 128, 131-132 (3d Cir. 1998), available here.
[75] *Id.*
[76] *See, e.g., NPR to feature death-row inmate*, The Tennessean, 3 (May 6, 1994), available here; *Names and Faces*, Courier-Post, 44 (Camden, NJ, May 7, 1994), available here.
[77] *See, e.g.,* Elizabeth Kolbert, *Public Radio Won't Use Commentary by Inmate*, New York Times (May 17, 1994), available here; Kelly P. Kissel, *Philly police angry at plan to make inmate commentator*, Evening News (Harrisburg, PA, May 13, 1994), 15, available here; *Inmate's show creates controversy*, The Sentinel (Carlisle, PA, May 13, 1994), 2, available here; *Condemned Cop Killer Gets National Public Radio Show*, Latrobe Bulletin (May 13, 1994), 2, available here.
[78] 103 Cong. Record 10404 (Senate, May 17, 1994), available here.
[79] Kolbert, *Public Radio Won't Use Commentary*, *supra* n.78; Demetria Martinez, *How NPR Keeps Inmate Abu-Jamal Off the Air*, National Catholic Reporter (May 23, 1997), available here.
[80] Minutes: Board of Trustees, Temple University (March 11, 1997), available here; *Censorship Issues Raised In Silencing of Radio Show*, New York Times (March 3, 1997), available here.

Mr. Abu-Jamal continued to publish books and edited collections. In 2014, the Pennsylvania legislature passed a law formally entitled the "Revictimization Relief Act," and colloquially known as the "Mumia Silencing Act," establishing a private right of action to enjoin individuals convicted of crimes from expressive "conduct which perpetuates the continuing effect of the crime on the victim."[81] This law was introduced three days after Goddard College, Mr. Abu-Jamal's alma mater, announced its selection of Mr. Abu-Jamal as a commencement speaker.[82] A co-sponsoring memorandum for the law "admonished an unidentified 'convicted killer' for 'traumatizing the victim's family;'" The Governor of Pennsylvania, Tom Corbett, signed the Act into law with a statement noting that it was "inspired by the excesses and hypocrisy of one particular killer."[83] The Middle District of Pennsylvania found this law facially unconstitutional in 2015.[84]

ii. The Ineffectiveness of Internal Remedies Available to Mr. Abu-Jamal

In the context of this overt censorship and political pressure, Mr. Abu-Jamal's pursuit of internal remedies to overturn his conviction and obtain release or a new trial have been consistently denied by both state and federal courts. A fuller account of Mr. Abu-Jamal's attempts to secure a new trial is detailed in the Annex to this Petition, *infra*. Mr. Abu-Jamal sought a new trial through multiple domestic avenues for relief: a direct appeal, six state-level petitions for post-conviction relief on the basis of new evidence and/or constitutional violations, and a habeas corpus petition in federal court. Despite raising the violations of his right to a fair trial detailed above, and despite the uncovering of significant new evidence subsequent to his trial, Mr. Abu-Jamal's conviction has not been overturned.

Mr. Abu-Jamal's death sentence, however, has been reversed. In 2001, the federal District Court for the Eastern District of Pennsylvania found that the phraseology of Mr. Abu-Jamal's death-sentencing verdict form and jury instructions were unconstitutionally misleading. It vacated his death sentence on the basis that jurors might have been led to believe that they were required to agree unanimously upon any mitigating circumstances, contrary to Supreme Court precedent that unanimity on mitigation was not required.[85] The Commonwealth of Pennsylvania appealed this decision, and the overturning of his death penalty was not finalized until 2011.[86]

E. Mr. Abu-Jamal's Arbitrary Sentence to Death by Incarceration

After the overturning of his death sentence, Mr. Abu-Jamal was resentenced to a mandatory minimum term of life without parole (LWOP), also known as Death by Incarceration (DBI).[87] He was released from solitary confinement on death row into the prison system's general population on January 27, 2012.[88] Given the violations of international law inherent to Death by Incarceration, this Working Group could find that it is clearly impossible to invoke a legitimate legal basis for the imposition of this sentence onto Mr. Abu-Jamal under Category I.

The inherent arbitrariness of Death by Incarceration, in combination with Mr. Abu-Jamal's many years served to date, advanced age, declining health, and lack of risk to the public, violates multiple provisions of the UDHR, ICCPR, and other international instruments. In the absence of periodic re-evaluation of his sentence or any effective mechanism for reviewing its reasonableness, Mr. Abu-Jamal's condemnation to death by incarceration is arbitrary as applied.

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[81] 18 Pa. Const. Stat. § 11.1304.
[82] *Abu-Jamal v. Kane*, Memorandum, No. 1:14-CV-2148 (M.D. Pa. Apr. 28, 2015) at 3, available here.
[83] *Id.* at 3-4.
[84] *Id.* at 1.
[85] *Abu-Jamal v. Horn*, 2001 WL 1609690 (E.D. Pa. 2001), at *115-126, available here.
[86] *Abu-Jamal v. Sec'y, Pa. Dep't of Corr.s*, 643 F.3d 370 (3d Cir. 2011).
[87] For a description of the term "Death by Incarceration" and an articulation of the right to redemption, see Terrell Carter, Rachel López, and Kempis Songster, *Redeeming Justice*, 116 Nw. U. L. Rev. 315, 328 (2021), available here.
[88] *Com. v. Abu-Jamal*, 2013 WL 11257188, at *1 (Pa. Super. Ct. 2013), available here.

i. Death by Incarceration is Inherently Arbitrary

Sentences to Death by Incarceration are inherently arbitrary and violative of UDHR Art. 9 and ICCPR Art. 9(1), as they are indefinite and unreviewable by design. They expressly preclude "periodic re-evaluation of the justification of continuing the detention;" the mandatory nature of Pennsylvania's sentencing scheme eviscerates the need to find that indefinite detention is "reasonable and necessary in all the circumstances."[89]

Mr. Abu-Jamal is one of a staggering number of individuals in the United States condemned to die in prison. As of 2020, 203,865 people in the United States were serving life or virtual life sentences, of whom 8,252 were in Pennsylvania;[90] 56,245 people in the United States are serving formal sentences of life without parole, of whom over 5,000 are in Pennsylvania.[91] While Black people represent only 10.9% of the total Pennsylvania population, they constitute 62% of all those serving life sentences in the state prison system.[92] A growing consensus of international authorities have condemned Death by Incarceration sentencing in the United States as violative of international prohibitions on racial discrimination.[93]

Numerous empirical studies have demonstrated a clear and consistent relationship between incarceration and adverse health outcomes, including premature death.[94] Beyond systematic impacts on rights to health and life, the inherently cruel nature of condemnation to death in prison after decades of social isolation deprives individuals of their dignity, the ability to develop or maintain family relationships, and a chance for redemption and reintegration into society. The physical and psychological impacts of

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[89] Hum. Rts. Comm., General Comment No. 35, ¶ 12, U.N. Doc. CCPR/C/GC/35 (Dec. 16, 2014), available here; *see also* Case No.305/1988 (*Van Alphen v. The Netherlands*) U.N. Doc. CCPR/C/39/D/305/1988, ¶ 5.8 (1990), available here; Case No. 1324/2004 (*Danyal Shafiq v. Australia*), U.N. Doc. CCPR/C/88/D/1324/2004, ¶ 7.2 (2006), available here; WGAD *Opinion No. 54/2015 concerning Julian Assange (Sweden and the United Kingdom of Great Britain and Northern Ireland)* (adopted Nov. 30-Dec. 4, 2015), U.N. Doc. A/HRC/WGAD/2015/54, ¶¶ 84-85 (2015), available here. Mandatory sentencing divests the state of their burden to establish the "reasonableness, necessity, and proportionality" of detention until death. A/HRC/30/37 , Principle 13, Guideline 14.

[90] Ashley Nellis, *No End in Sight: America's Enduring Reliance on Life Imprisonment,* The Sent'g Project, 10 (2021), available here.

[91] Ashley Nellis and Celeste Barry, *A Matter of Life: The Scope and Impact of Life and Long Term Imprisonment in the United States*, The Sent'g Project (2025), available here.

[92] *Id.* at 19; *Race and Ethnicity in the United States: 2010 and 2020 Census*, US Census Bureau (Aug. 12, 2021), available here. Nationwide, people of African descent make up 46% of the prison population serving life sentences, and comprise 12% of the general population. *See Communication to the Government of the United States of America*, U.N. Doc. USA 12/2023 (June 19, 2023), available here, at 4.

[93] UDHR Art. 2, 7; ICCPR Art. 26; ICERD Art. 2(1)(c); Hum. Rts. Comm., Concluding Observations on the Fifth Periodic Report of the United States, CCPR/C/USA/CO/5 (Dec. 7, 2023) ¶¶ 46-47, available here (recommending prohibition and abolition of life imprisonment without parole for juveniles, as well as mandatory and non-homicide-related sentences of life imprisonment without parole, in light of disproportionate sentencing of persons of African descent and ICCPR Arts. 2, 7, 10, and 26); Communication USA 12/2023 (expressing grave concern over death by incarceration sentencing and its disproportionate impact on racial minorities, and warning of potential violations of ICERD Arts. 2, 5, and 6, ICCPR Arts. 1, 2, 6, 7, 10(3), 16, 24, and 26; Mandela Rules 2(2), 24, and 27(1)); Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance: *End of visit statement: United States of America*, Oct 31-Nov 14, 2023, available here (expressing deep concern over the disproportionate use of 'death by incarceration' sentences amongst Black and Latino individuals, noting that "[w]ithout the chance of parole, the rehabilitative function of the prison system is negated, reducing it to a tool of segregation and exploitation"); CERD, *Concluding observations on the combined tenth to twelfth reports of the United States of America*, U.N. Doc. CERD/C/USA/CO/10-12 (Sep. 21, 2022), ¶¶ 26-28, available here; EMLER, *Visit to the United States of America*, A/HRC/54/CRP.7 (Sep. 26, 2023), ¶¶ 93-97; Hum. Rts. Comm., Concluding Observations on the Fourth Periodic Report of the United States of America, CCPR/C/USA/CO/4 (Apr. 23, 2014), ¶ 23, available here.

[94] See, e.g., Kathryn M. Nowotny et al, *Racial Disparities in Health Conditions among Prisoners Compared with the General Population*, 3 Population Health 487, 493 (2017), available here; Christopher Wildeman & Emily A. Wang, *Mass Incarceration, Public Health, and Widening Inequality in the USA*, 389 Lancet 1464, 1467–68 (2017) available here, and Michael Massoglia & William Alex Pridemore, *Incarceration and Health*, 41 Ann. Rev. Socio., 291, 291, 295–96 (2015), available here.; Michael Massoglia et al., *The Relationship Between Incarceration and Premature Adult Mortality: Gender Specific Evidence*, Soc. Sci. Res. 46 (2018), available here.

death by incarceration, as well as the cruelty inherent in denying an individual the chance to regain freedom, renders it inherently violative of prohibitions on torture or cruel, inhuman or degrading punishment in UDHR Art. 5, ICCPR Art. 7 and 10, and the Convention against Torture.[95]

ii. Death by Incarceration is Arbitrary as Applied to Mr. Abu-Jamal in Light of His Advancing Age and Declining Health

Mr. Abu-Jamal is now 72 years old and has spent over 44 years in detention. He was held in solitary confinement for nearly 29 continuous years while on death row from May of 1983 to January of 2012.[96] Since his death penalty was overturned, Mr. Abu-Jamal has endured numerous near-death medical crises.

Mr. Abu-Jamal was diagnosed with hepatitis C in 2012. From August of 2014 through March of 2015, Mr. Abu-Jamal developed a painful, severe rash covering most of his body, potentially caused or exacerbated by his hepatitis C. On March 30, 2015, he was hospitalized after losing consciousness and going into diabetic shock, due to untreated hyperglycemia caused by steroid treatment for his skin condition. The Pennsylvania Department of Corrections opposed providing the only known effective treatment for Mr. Abu-Jamal's hepatitis C until forced by court order in January of 2017.[97] After receiving a complaint related to his deficient medical care during this crisis, the Special Rapporteur on Torture concluded that the United States had "violated the right of Mr. Abu-Jamal to be free from torture or cruel, inhuman, or degrading treatment" by "failing to protect [his] physical and psychological integrity."[98]

In early 2021, Mr. Abu-Jamal was diagnosed with congestive heart failure and total occlusion of his coronary artery. He was hospitalized twice and underwent double bypass surgery. UN experts noted

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[95] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 39 U.N, GAOR Supp. (No. 51) at 197, A/39/51 (1984), 1465 U.N.T.S. 85, entered into force June 26, 1987, for the United States November 20, 1994. The Committee against Torture has repeatedly recommended that states should abolish irreducible life sentences, including LWOP sentences, and the Human Rights Commission urged the United States to consider a moratorium on LWOP sentences in its Fifth Periodic Report of the United States. CCPR/C/USA/CO/5, ¶46-47; CAT, Concluding Observations on the seventh periodic report of Poland, ¶¶ 13-14, U.N. Doc. CAT/C/POL/CO/7 (Aug. 29, 2019), available here (sentences without parole availability may "hinder respect for the principle of human dignity"); CAT, Concluding Observations on the second periodic report of South Africa, ¶¶ 18-19 , U.N. Doc. CAT/C/ZAF/CO/2 (2019), available here; CAT, Concluding Observations on the Third Periodic Report of Lithuania, ¶ 12, U.N. Doc. CAT/C/LTU/CO/3 (2014) (there should be "no blanket prohibition for life-sentenced prisoners to apply for release on parole for good reasons"), available here; CAT, Concluding Observations on the seventh periodic report of Greece, ¶ 37(d), U.N. Doc. CAT/C/GRC/CO/7 (2019) (states should "guarantee the periodic review of life sentences with a view to their commutation"), available here; *see also* EMLER, A/HRC/54/CRP.7, ¶97 (emphasizing that "disproportionate, excessive and discriminatory sentencing beyond life expectancy is a cruel, inhuman and degrading treatment, in violation of international human rights standards protecting life, liberty and against torture" and recommending that all prison sentences should include parole eligibility); For an extended argument that death by incarceration amount to torture or cruel, inhuman or degrading treatment and a violation of the right to life, see Submission on Death by Incarceration in the United States (Apr. 2025), available here, and Civil Society Joint Submission 44 to the 2025 Periodic Review of the United States here; Submission to U.N. Independent Experts Regarding Death By Incarceration (Sep. 15, 2022), available here; *see also* Communication USA 12/2023 at 11.

[96] For Mr. Abu-Jamal's description of the 22-hour solitary conditions of death row, see *Live from Death Row* at 5-6. Prolonged solitary confinement of more than 15 days is prohibited by Mandela Rules 43(1)(b), 44, and 45. *See also* WGAD *Opinion No. 71/2024 concerning Abdullah al-Derazi et al.(Saudi Arabia)* (adopted Dec. 18, 2024), U.N. Doc. A/HRC/WGAD/2024/71, ¶¶ 64, 114, available here; WGAD *Opinion No. 74/2023 concerning Hasan Mushaima et al. (Bahrain)* (adopted Nov. 16, 2023), U.N. Doc. A/HRC/WGAD/2023/74, ¶ 138, available here; WGAD *Opinion No. 36/2024 concerning Paul Maillot (Madagascar)* (adopted Aug. 30, 2024), U.N. Doc. A/HRC/WGAD/2024/36, ¶ 67, available here; Interim Report by Special Rapporteur of the Human Rights Council on Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, U.N. Doc. A/66/268 (Aug. 5, 2011), available here; Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, U.N. Doc. A/68/295 (Oct. 7, 2013), ¶¶ 60-61, available here.

[97] For a concise summation of this medical crisis and the litigation that resulted in his treatment for hepatitis C, see *Abu-Jamal v. Kerestes*, 779 Fed. App'x 893 (3d Cir. 2019), available here.

[98] Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Addendum: Observations on communications transmitted to Governments and replies received (Feb. 24, 2016), A/HRC/31/57/Add.1, ¶¶ 648-652, available here; *see also Communication to the Government of the United States of America*, U.N. Doc. USA 10/2015 (Apr. 30, 2015), available here.

that he was shackled to his bed for multiple days at a time in this hospital, and described his treatment during this crisis as "deplorable."[99]

In January of 2025, Mr. Abu-Jamal began experiencing a common and easily treated complication of cataract surgery known as posterior capsular opacification. The clouding of his vision became so severe that he was diagnosed as legally blind by an independent ophthalmologist retained by his attorneys as of June 2025. Despite multiple requests, he did not receive any treatment for this condition until September of 2025. He continues to suffer from multiple complex ophthalmological conditions, including proliferative diabetic retinopathy and glaucoma, that pose a significant risk of permanent blindness.[100]

Mr. Abu-Jamal has no access to a reviewing body that can consider whether his change in circumstances, including changes in health, justify continued detention.[101] This Working Group has held on several occasions that detention can become arbitrary over time due to changes in circumstances,[102] especially when individuals become so elderly or unwell that they pose no threat to others.[103] While Mr. Abu-Jamal poses no threat to the public, his own health is continuously threatened by systematic deficiencies in the care available to him in prison.

Continued detention of Mr. Abu-Jamal is not reasonable or necessary. In combination with the manifest unfairness of his trial and appellate processes, targeting by the state for his political expression, and the systemic and individual racism inflecting his treatment over the past 44 years, Mr. Abu-Jamal's continued detention is arbitrary under international law.

V. CONSENT OF THE ALLEGED VICTIM AND DETAILS OF THE PERSON(S) SUBMITTING THIS REQUEST

We have the consent of Mr. Mumia Abu-Jamal to submit this request. The filled consent form is attached.

Communications concerning this submission can be directed to:

Bret Grote, Esq.; Abolitionist Law Center, 990 Spring Garden St., Ste. 306, Philadelphia, PA 19123; bretgrote@alcenter.org (email); +1 412-654-9070 (telephone).

[99] "USA: Shackling of aged inmate, Mumia Abu-Jamal, is deplorable – UN experts," United Nations Human Rights Office of the High Commissioner (Apr. 20, 2021), available here; *see also Communication to the Government of the United States of America,* U.N. Doc. USA 17/2021 (Apr. 9, 2021), available here.

[100] See Annex III, attached.

[101] *Contra.* A/HRC/30/37, Guideline 15; WGAD *Opinion No. 7/2022 concerning Leonard Peltier (United States of America)* (adopted Mar. 30, 2022), U.N. Doc. A/HRC/WGAD/2022/7, ¶ 46-47, available here.

[102] WGAD *Opinion No. 90/2018 concerning Mohd Redzuan Bin Saibon (Malaysia)* (adopted Nov. 23, 2018), U.N. Doc. A/HRC/WGAD/2018/90, ¶ 33 n. 7, available here; A/HRC/30/37, ¶ 12.

[103] A/HRC/WGAD/2022/7, ¶ 46-47; WGAD *Opinion No. 7/2017 concerning Kamal Foroughi (Islamic Republic of Iran)* (adopted Apr. 19, 2017), U.N. Doc. A/HRC/WGAD/2017/7, ¶ 44-45, available here; for conclusion that denial of medical care can constitute a form of torture, *see* WGAD *Opinion No. 65/2022 concerning Naji Fateel (Bahrain)* (adopted March 15, 2023), U.N. Doc. A/HRC/WGAD/2022/65, ¶ 116, available here; Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health (Apr. 10, 2018), U.N. Doc. A/HRC/38/36, ¶ 18, available here.

ANNEX I: Mr. Abu-Jamal's Pursuit of Internal Remedies and Their Ineffectiveness

Mr. Abu-Jamal has diligently pursued internal remedies through appellate and post-conviction proceedings in both state and federal court. He has sought a new trial through a direct appeal, six petitions for post-conviction review in state court, and a federal habeas corpus proceeding. While his death sentence was successfully overturned, each attempt to secure Mr. Abu-Jamal a new and fair trial has been rejected.

These ostensible remedies consisted of a direct appeal with a cursory and non-substantive review of the facts, without the benefit of suppressed evidence uncovered years later; a post-conviction hearing with fact-finding conducted by the original trial judge, whose partiality was noted by independent observers at the time; appeals presided over by a former supervising District Attorney who advocated for sending a "strong message" to "police killers" during the pendency of Mr. Abu-Jamal's direct appeal; and a final petition dismissed without a hearing despite the judge's acknowledgement of open questions of fact. Within the context of the political pressure and censorship described above in Section D.i, Mr. Abu-Jamal's appellate and post-conviction review processes have been marked by striking legal irregularities and manifest unfairness, depriving him of the genuine review required by ICCPR Art. 9 and 14(5).[104]

Mr. Abu-Jamal's direct appeal was decided by the Supreme Court of Pennsylvania in 1989. The Court dismissed a claim of error based on the prosecutor's closing argument in his trial by minutely parsing differences between Mr. Abu-Jamal's case and prior, nearly identical comments found unconstitutional.[105] Less than a year after Mr. Abu-Jamal's direct appeal, the Court adopted a "per se rule precluding all remarks about the appellate process in all future trials."[106] The Court dismissed legal claims of racial discrimination in jury selection, prosecutorial misconduct in the questioning of character witness Sonia Sanchez, and denial of his right of self-representation, and summarily concluded it had "no doubt as to the sufficiency of the evidence to support the verdict of first degree murder."[107]

Mr. Abu-Jamal filed a petition for post-conviction relief (PCRA) on June 5, 1995, four days after the Governor of Pennsylvania signed a warrant for his execution.[108] Unlike direct appeals, post-conviction proceedings provide individuals an opportunity to introduce new evidence. In Pennsylvania, post-conviction judges conduct evidentiary hearings and decide all questions of both law and fact. The factual determinations are then reviewed with extraordinary deference on appeal.[109]

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[104] WGAD *Opinion No. 18/2018 concerning Mateusz Piskorski (Poland)* (adopted Apr. 20, 2018), U.N. Doc. A/HRC/WGAD/2018/18, ¶ 56, available here ("if a State provides such an appeal or further instances of review, it must meet the standard of impartial and independent review required under article 9 (3) and (4) of the Covenant"); CCPR/C/GC/32, ¶¶ 45, 48; WGAD *Opinion No. 55/2024 concerning Juan Carlos Tovar Moreno (Mexico)* (adopted Mar. 6, 2025), U.N. Doc. No. A/HRC/WGAD/2024/55, ¶ 89, available here (Art. 14(5) "establishes the duty substantially to review a conviction as to the sufficiency of the evidence and the law").

[105] Prosecutor McGill had argued to the jurors that "If you find the Defendant guilty of course there would be appeal after appeal and perhaps there could be a reversal of the case, or whatever, so that may not be final." 7/1/82 at 13.145. *Com v. Abu-Jamal*, 521 Pa. 188, 206 (Pa. 1989), available here (distinguishing *Com. v. Baker,* 511 A.2d 777 (Pa. 1986) (finding argument "You get an appeal after appeal after appeal after appeal, if you think the Supreme Court is going to let anybody get executed until they're absolutely sure that that man has a fair trial, make no mistake about that" unconstitutional) and *Caldwell v. Mississippi*, 472 U.S. 320, 328–29 (1985) (holding it is "constitutionally impermissible to rest a death sentence on a determination made by a sentencer who has been led to believe that the responsibility for determining the appropriateness of the defendant's death rests elsewhere" on review of prosecutorial argument "Now, they would have you believe that you're going to kill this man and they know—they know that your decision is not the final decision.")).

[106] *Com. v. Beasley*, 568 A.2d 1235, 1238 n.4 (Pa. 1990), available here.

[107] *Abu-Jamal*, 521 Pa. at 193, 197-98, 215. The Supreme Court had decided only three years earlier that racial discrimination could be proven through facts from an individual trial in *Batson v. Kentucky*, 476 U.S. 79 (1986), available here.

[108] *Execution Warrant is Signed for a Prison Celebrity*, New York Times (June 3, 1995), available here.

[109] Pennsylvania state appellate courts will reverse a post-conviction trial court's findings of fact only if it has no support in the record. *See, e.g., Com. v. Diaz*, 183 A.3d 417, 421 (Pa. Super 2018), *aff'd*, 226 A.3d 995 (Pa. 2020) ("We grant great deference to the PCRA court's findings that are supported in the record and will not disturb them unless they have no support in the certified record"). After the passage of the Anti-terrorism and Effective Death Penalty Act of 1996 (AEDPA), federal courts reviewing state convictions under a writ of habeas corpus can only disturb state-court proceedings if they "resulted in a decision

Mr. Abu-Jamal's PCRA proceedings were presided over by the same Judge Albert Sabo who had initially heard his case.[110] Mr. Abu-Jamal's counsel filed a petition seeking Judge Sabo's recusal, raising numerous specific instances from his initial trial that raised the appearance of bias. Judge Sabo refused to recuse himself.[111]

Judge Sabo conducted an exceptionally tense and expedited hearing. Numerous journalists commented on Judge Sabo's open hostility toward the defense throughout post-conviction proceedings.[112] Sabo held Mr. Abu-Jamal's two attorneys in contempt of court, ordering one removed from the courtroom and fining another $1,000.[113]

Among numerous claims and witnesses presented by Mr. Abu-Jamal at the PCRA evidentiary hearing, Robert Chobert, one of the eyewitnesses who had testified in the original trial, testified that he had sought assistance from the prosecutor in having his driver's license reinstated, raising additional questions about Chobert's bias.[114] Officer Gary Wakshul, who had authored the note "the negro male made no comments," testified at the PCRA evidentiary hearing that he had been on vacation but present in the City of Philadelphia until he received word that the trial had concluded.[115] Officer Wakshul then testified that he had heard Mr. Abu-Jamal state "I shot him and I hope the mother-fucker dies," but failed to include it in his initial statements to investigators.[116] Just weeks before his testimony, Officer Wakshul had been beaten in open court by two Philadelphia police officers, whom he later sued for assault and battery.[117]

Judge Sabo denied each of Mr. Abu-Jamal's claims that his conviction should be vacated.[118] The Supreme Court of Pennsylvania granted two remands for additional evidence after this order. The defense had newly located Veronica Jones, who came forward to testify directly that she had been pressured by police to recant her initial statement describing two men running away from the shooting.[119] Judge Sabo ruled that her testimony was not properly presented under Pennsylvania's post-conviction statute, and that her testimony was not credible and could provide no relief to Mr. Abu-Jamal. The defense then put forth Pamela Jenkins, another sex worker who claimed to have been subjected to police pressure to testify falsely against Mr. Abu-Jamal, similar to Veronica Jones and Cynthia White.[120] Judge Sabo also found as a fact that Pamela Jenkins' testimony was not credible. After Mr. Abu-Jamal's defense team requested

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that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding," 28 U.S.C. § 2254(d)(2); "a determination of a factual issue made by a State court shall be presumed to be correct" and a habeas petitioner has "the burden of rebutting the presumption of correctness by clear and convincing evidence." § 2254(e)(1).

[110] A/HRC/30/37 Guideline 4, ¶ 51 ("the court reviewing the arbitrariness and lawfulness of the detention must be a different body from the one that ordered the detention"); WGAD *Opinion No. 46/2022 concerning Arash Ganji et al. (Islamic Republic of Iran)* (adopted Dec. 7, 2022), U.N. Doc. No. A/HRC/WGAD/2022/46, ¶ 77, available here.

[111] 7/12/95 at 107-108, 136-138.

[112] *Compare Editorial: Mumia, Again*, 58 (Philadelphia Inquirer July 16, 1995), available here (Sabo "did not give the impression to those in the courtroom of fair-mindedness. Instead, he gave the impression, damaging in the extreme, of undue haste and hostility toward the defense's case"), Valerie M. Russ, *Sabo stalls Mumia's appeal* (Philadelphia Daily News Jul. 15, 1995), 3, available here; *In Our Opinion: Mumia defense secret weapon: Sabo*, Philadelphia Daily News (Aug. 8, 1995), 17, available here; Don Terry, *A Fight for Life Is Waged in an Angry Courtroom*, New York Times (July 30, 1995), available here (describing Sabo as "openly contemptuous of the defense") *with* CCPR/C/GC/32, ¶ 21 ("…the tribunal must also appear to a reasonable observer to be impartial.")

[113] 8/2/95 at 7-8 (contempt and removal); 8/11/95 at 191-93, 311-16 (contempt and fine).

[114] 8/15/95 at 3-4.

[115] 8/1/1995 at 92-103.

[116] 8/1/1995 at 25.

[117] *Wakshul v. City of Philadelphia et al.*, 998 F. Supp. 585 (E.D. Pa. 1998), available here.

[118] *Com. v. Wesley Cook a/k/a Mumia Abu-Jamal*, 30 Phila. Co. Rptr. 1, 1995 1315980 (Sep. 15, 1995), available here.

[119] 9/28/1996, 10/1/1996.

[120] 6/26/1997. Pamela Jenkins had previously reported a scheme of extortion of witnesses and perjury in the Philadelphia Police Department, eventually resulting in the criminal prosecution of seven police officers and dozens of overturned convictions. Mark Fazlollah, *Corruption May Reopen Murder Cases* (Philadelphia Inquirer, Aug. 27, 1995) A1, A12, available here; Mark Fazlollah, *39th Scandal Taints its 1st Murder Case* (Philadelphia Inquirer, Sep. 7, 1996) A1, available here; Mark Fazlollah, *From Prison, Ex-Cops Call Offenses Routine*, Philadelphia Inquirer (May 12, 1996) A1, A10, available here.

assistance in locating Cynthia White, the District Attorney's office entered as evidence a death certificate for a "Cynthia Williams a/k/a Mildred Saunders" with the same Social Security Number as Cynthia White, claiming that she was dead.[121]

On appeal to the Pennsylvania Supreme Court, Mr. Abu-Jamal requested recusal of Supreme Court Justice Ronald Castille. Justice Castille had served as a supervising prosecutor in the Philadelphia District Attorney's office during Mr. Abu-Jamal's trial; he had been endorsed by the Philadelphia chapter of the Fraternal Order of Police; and he was the elected District Attorney of Philadelphia during Mr. Abu-Jamal's first round of appeals, with his name appearing on all prosecution briefs in opposition to Mr. Abu-Jamal's appeal. Justice Castille refused to recuse himself, contending that he had limited personal involvement in Mr. Abu-Jamal's case and pointing out that four other justices of the Pennsylvania Supreme Court had been endorsed by the FOP.[122] The Pennsylvania Supreme Court affirmed Judge Sabo's dismissal of Mr. Abu-Jamal's petition on all counts.[123]

In 2001, Mr. Abu-Jamal filed a second PCRA raising an affidavit from the court stenographer who had overheard Judge Sabo state "I'm going to help them fry the nigger" during his trial. This claim was rejected on procedural grounds as previously litigated, on the basis that Judge Sabo's rulings had already been reviewed by the Pennsylvania Supreme Court and found to be fair.[124]

In 2003, Mr. Abu-Jamal filed a third PCRA petition raising evidence from a woman named Yvette Williams who claimed Cynthia White had told her she had not seen the shooting and testified due to police threats. The petition also raised evidence from a man who claimed Priscilla Durham, the hospital security guard who testified that Mr. Abu-Jamal had stated "I shot the mother fucker and I hope the mother fucker dies," had told him she manufactured her testimony. This petition was also dismissed on procedural grounds.[125] A fourth PCRA petition in 2009 was also dismissed on procedural grounds.

In 1999, Mr. Abu-Jamal filed a petition for habeas corpus to review his conviction in federal court.[126] Affording Judge Sabo's factual findings a "presumption of correctness," the District Court for the Eastern District of Pennsylvania rejected all of Mr. Abu-Jamal's substantive claims of error save one. The Court found that the sentencing verdict form and instructions created a reasonable likelihood that the jury believed that it was precluded from considering a mitigating circumstance that had not been found unanimously, and vacated Mr. Abu-Jamal's death sentence.[127]

On appeal, the Court for the Third Circuit upheld the District Court's judgment. Despite the U.S. Supreme Court opinion establishing the standard for relief based on racially discriminatory peremptory challenges to jurors four years after Mr. Abu-Jamal's trial, the Third Circuit deemed the claim waived

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[121] 6/26/1997 at 145-146.

[122] *Com v. Abu-Jamal*, 553 Pa. 569 (Pa. 1998), available here.

[123] *Com. v. Abu-Jamal*, 553 Pa. 485 (Pa. 1998), available here.

[124] *See* Memorandum and Opinion, *Com. v. Abu-Jamal* (Phila. Ct. Comm. Pls, Nov. 21, 2001) (Dembe, J.); *Com v. Abu-Jamal*, 574 Pa. 724 (Pa. 2003), available here.

[125] *Com v. Abu-Jamal*, 596 Pa. 219 (Pa. 2008), available here. The claims were dismissed in part under Pennsylvania's post-conviction statutory requirement that individuals raising newly-discovered facts demonstrate that the facts "could not have been ascertained by the exercise of due diligence," before a court will exercise jurisdiction over the merits of any post-conviction claims. 18 Pa. C.S. § 9545(b)(1)(ii). The due diligence inquiry is notoriously flexible and inconsistently applied, one of several complex procedural barriers that plagues Pennsylvania PCRAs and state post-conviction review generally. *See* Lee Kovarsky, *Structural Change in State Postconviction Review*, 93 Notre Dame L. Rev. 443 (2018), available here.

[126] "Habeas corpus" review permits federal courts to evaluate states' custody of individuals for whether such custody is in violation of the United States Constitution or the laws or treaties of the United States. Federal habeas corpus review was historically the principal forum in which individuals serving state criminal sentences could raise claims of federal constitutional violations in their trials. The 1996 passage of AEDPA, described *supra* in n. 106, limited federal courts' ability to review state convictions and imposed various threshold requirements, including the exhaustion of available state procedures for raising claims of error. 28 U.S.C. § 2254(b)-(c). State-level post-conviction review, such as Pennsylvania's PCRA, is now the most used procedure for individuals seeking to introduce new evidence not available at trial or to raise claims of constitutional error.

[127] *Abu-Jamal v. Horn*, 2001 WL 1609690 (E.D. Pa. 2001) , at *126, available here.

because his trial counsel had failed to raise a contemporaneous objection in the 1982 trial on the basis of the not-yet-established 1987 Supreme Court decision in *Batson*. This analysis garnered an extensive dissent from a Third Circuit judge, who noted that "Our Court has previously reached the merits of *Batson* claims on *habeas* review in cases where the petitioner did not make a timely objection … and I see no reason why we should not afford Abu-Jamal the courtesy of our precedents."[128] The Third Circuit did uphold the overturning of Mr. Abu-Jamal's death sentence based on the verdict form and instructions. After an appeal from the Commonwealth, the Supreme Court of the United States vacated this decision for reconsideration in 2010.[129] The Third Circuit again overturned his death sentence in 2011.[130]

In 2016, the Supreme Court of the United States ruled that Justice Castille's failure to recuse himself from an appeal after he had served as District Attorney and authorized seeking the death penalty for the appellant at trial violated the Constitution.[131] Mr. Abu-Jamal filed a fifth PCRA seeking review of his prior appeals presided over by Justice Castille in light of this new precedent, as well as a newly-discovered letter authored in 1990 by then-District Attorney Castille urging the Governor of Pennsylvania to "send a clear and dramatic message to all police killers that the death penalty in Pennsylvania actually means something."[132] In 2018, a PCRA trial court reinstated Mr. Abu-Jamal's right to appeal previously-dismissed post-conviction petitions that had been reviewed by then-Justice Castille.[133] Shortly after this decision, newly-elected District Attorney Larry Krasner discovered six previously unreviewed boxes pertaining to Mr. Abu-Jamal's case in the District Attorney's office, and made them available to his defense for review pursuant to a discovery order from his open postconviction petition.[134]

Officer Daniel Faulkner's widow Maureen Faulkner filed a petition for the Pennsylvania Supreme Court to exercise "extraordinary jurisdiction" and prevent the District Attorney's office from participating in Mr. Abu-Jamal's case.[135] The Pennsylvania Supreme Court granted review and appointed a special master to investigate the District Attorney's potential for bias *in favor of* Mr. Abu-Jamal. While the Court eventually dismissed the King's Bench petition and allowed Krasner's office to continue opposing Mr. Abu-Jamal's claims, this unprecedented intervention generated an opinion in which the District Attorney's deposition testimony asserting his confidence in Mr. Abu-Jamal's guilt was placed in the public record.[136] Several Justices wrote separate opinions underscoring the potential for further intervention if Krasner's office did not vigorously oppose Mr. Abu-Jamal's appeals.[137]

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[128] *Abu-Jamal v. Horn*, 520 F.3d 272, 305-309 (3d. Cir. 2008) (Ambro, J., dissenting), available here. The majority had analyzed Mr. Abu-Jamal's claim in the alternative and rejected it on the merits. Judge Ambro also dissented from this merits analysis, noting Supreme Court precedent in which a "strike rate" of 10 of 14 had been found to raise a *prima facie* case of intentional discrimination.

[129] *Beard v. Abu-Jamal*, 558 U.S. 1143 (2010).

[130] *Abu-Jamal v. Sec'y, Pa. Dep't of Corr.s*, 643 F.3d 370 (3d Cir. 2011).

[131] *Williams v. Pennsylvania*, 579 U.S. 113 (2016).

[132] *Com. v. Cook*, 256 A.3d 44, 290 EDA 2019 (Pa. Super. Ct. May 20, 2021).

[133] *Id.*

[134] *In re Office of Philadelphia District Attorney*, 664 Pa. 280, 283 (Pa. 2020) (Dougherty, J., concurring), available here.

[135] Rather than standard practice by which the Supreme Court hears appeals of lower court decisions, "King's Bench" petitions vest the Supreme Court of Pennsylvania with a broadly defined "power of extraordinary jurisdiction" to address issues of "immediate public importance." *King's Bench Power and Power of Extraordinary Jurisdiction*, Administrative Office of Pennsylvania Courts (Oct. 2013), available here.

[136] *In re Office of Philadelphia District Attorney*, 664 Pa. 280 (Pa. 2020) (Dougherty, J., concurring and citing Krasner Deposition, 4/22/2020 ("the information that I have reviewed suggests to me that Mumia Abu[-]Jamal is guilty of this crime, that he committed a homicide"), available here).

[137] Justice Dougherty concurred in the result but noted that petitioner Faulkner's "troubling claims … may require closer judicial scrutiny," *In re Office of Philadelphia District Attorney*, 664 Pa. at 281 (Dougherty, J., concurring), available here. Justice Wecht wrote that it "is not unreasonable to characterize this as one of the most famous criminal cases in Pennsylvania history," agreed that petitioner Faulkner's allegations of bias in favor of Mr. Abu-Jamal may be "grave and alarming," but found them to be unproven. *Id.* at 302, 319 (Wecht, J., concurring), available here.

The Superior Court of Pennsylvania reversed the reinstatement of Mr. Abu-Jamal's appellate rights based on the involvement of District Attorney/Justice Castille in 2021. The Superior Court found that then-DA Castille's letter urging a "clear and dramatic message to all police killers that the death penalty in Pennsylvania actually means something" was "not equivalent to the evidence our jurisprudence has recognized as sufficient to require disqualification of a judge due to the appearance of impropriety."[138]

Mr. Abu-Jamal subsequently filed a sixth petition for post-conviction review on the basis of material found within the six previously undiscovered boxes in the District Attorney's office. The boxes had contained Prosecutor McGill's notes from jury selection, which contained a handwritten indication of "B" and "W" over certain jurors' names corresponding to their race as "Black" and "White." The boxes contained a note from Robert Chobert, one of the eyewitnesses, to Prosecutor McGill, postmarked August 6, 1982, about a month after the close of trial: "Mr. McGill, I have been calling you to find out about the money own to me. So here is a letter, finding out about money. Do you need me to sign anything. How long will it take to get it. How was your week off good I hope." Finally, the boxes for Mr. Abu-Jamal's case contained a memorandum from an attorney supervising Cynthia White's prostitution cases, informing the prosecuting attorney that "this defendant was the witness in the recent police shooting case tried by Joe McGill" and instructing the prosecutor "There is no objection to a plea being agreed upon for these three cases … Before proceeding to trial please see him [Joseph McGill] and discuss this case."

The trial court overseeing this petition dismissed it without holding an evidentiary hearing.[139] The court found that the claim of racial discrimination in jury selection was barred as previously litigated in other post-conviction petitions despite it being based on new evidence that had been suppressed for approximately 40 years; it was also waived for failure to raise a contemporaneous objection at trial. The court found that Chobert's note about "money own to [him]" and instructions to consult with a prosecuting homicide attorney before reaching a deal on Cynthia White's prostitution cases did not raise a reasonable probability of a different outcome at trial. The court found that any inference that Chobert had been induced to testify for pay "required additional support," but reasoned that an evidentiary hearing was unnecessary because Prosecutor McGill signed an affidavit stating he did not pay Chobert, and Chobert refused to speak with Mr. Abu-Jamal's private investigator. The court found that Mr. Abu-Jamal "supplies no extrinsic evidence supporting his claim" about Cynthia White, but denied an evidentiary hearing to further develop the record. The Superior Court of Pennsylvania affirmed the trial court's decision, and the Supreme Court of Pennsylvania declined review.[140]

Mr. Abu-Jamal now has no legal avenue for relief. Pennsylvania has no legal mechanism for periodic re-evaluation of the reasonableness or necessity of detention for individuals serving life without parole sentences. He has pursued a direct appeal, state-level post-conviction remedies, and review of his trial in a federal *habeas corpus* proceeding. None of these remedies have proved effective in securing Mr. Abu-Jamal a new and fair trial or release from detention.

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[138] *Com v. Cook*, 266 A.3d 656, 290 EDA 2019 (Pa. Super. Ct. Oct. 26, 2021), available here.

[139] Post-conviction petitions can only be dismissed without an evidentiary hearing when the judge is satisfied that "there are no genuine issues concerning any material fact and that the defendant is not entitled to post-conviction collateral relief, and no purpose would be served by any further proceedings." Pa. R. Crim. Pro. 907.

[140] *Com. v. Cook*, 328 A.3d 487 (Pa. Super. Ct. Sep. 10, 2024), available here; *Com v. Abu-Jamal a/k/a Cook*, 2025 WL 912473, No. 357 EAL 2024 (Pa. 2025).