

## Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 70 MM 2020

Page 1 of 13

April 12, 2021

## CAPTION

In re: the Petition of the Pennsylvania Prison Society, Brian McHale, Jeremy Hunsicker, Christopher Aubry, Michael Foundos, and Frederick Leonard, on behalf of all similarly situated individuals, Petitioners

## CASE INFORMATION

Initiating Document: Application for Extraordinary Relief

Case Status: Closed

Journal Number:

Case Category: Civil Case Type(s): Other

## CONSOLIDATED CASES

## RELATED CASES

## COUNSEL INFORMATION

Attorney: Deiderick, Brian L.  
Lebanon County Public Defender's Office

Address: Lebanon Co Pd's Office  
400 S 8TH St  
Lebanon, PA 17042-6794

Phone No: (717) 228-4421

Receive Mail: Yes

Receive EMail: Yes Email:

Representing: Public Defender Association of Pennsylvania, Petitioner

Pro Se: No

IFP Status:

Attorney: Nelson-Major, Hayden Reid  
American Civil Liberties Union

Address: Po Box 60173  
Philadelphia, PA 19102

Phone No: (215) 592-1513

Representing: Aubry, Christopher, Petitioner

Pro Se: No

IFP Status:

Representing: Foundos, Michael, Petitioner

Pro Se: No

IFP Status:

Representing: Hunsicker, Jeremy, Petitioner

Pro Se: No

IFP Status:

Representing: Leonard, Frederick, Petitioner

Pro Se: No

IFP Status:

Representing: McHale, Brian, Petitioner

Pro Se: No

IFP Status:



## COUNSEL INFORMATION

Representing: Pennsylvania Prison Society, Petitioner  
Pro Se: No  
IFP Status:

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Attorney: Feinberg, Jonathan Howard  
Kairys, Rudovsky, Messing, Feinberg & Lin, LLP  
Address: Kairys Rudovsky Et Al  
718 Arch St Ste 501 S  
Philadelphia, PA 19106

Phone No: (215) 925-4400  
Representing: Aubry, Christopher, Petitioner  
Pro Se: No  
IFP Status:

Representing: Foundos, Michael, Petitioner  
Pro Se: No  
IFP Status:

Representing: Hunsicker, Jeremy, Petitioner  
Pro Se: No  
IFP Status:

Representing: Leonard, Frederick, Petitioner  
Pro Se: No  
IFP Status:

Representing: McHale, Brian, Petitioner  
Pro Se: No  
IFP Status:

Representing: Pennsylvania Prison Society, Petitioner  
Pro Se: No  
IFP Status:

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**COUNSEL INFORMATION**


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 Address: 718 Arch St  
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 Representing: Aubry, Christopher, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Foundos, Michael, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Hunsicker, Jeremy, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Leonard, Frederick, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: McHale, Brian, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Pennsylvania Prison Society, Petitioner  
 Pro Se: No  
 IFP Status:

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Attorney: Messing, Paul M.  
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 Address: Kairys Rudovsky Et Al  
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 Representing: Aubry, Christopher, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Foundos, Michael, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Hunsicker, Jeremy, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Leonard, Frederick, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: McHale, Brian, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Pennsylvania Prison Society, Petitioner  
 Pro Se: No  
 IFP Status:

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**COUNSEL INFORMATION**


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 Pro Se: No  
 IFP Status:  
 Representing: Foundos, Michael, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Hunsicker, Jeremy, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Leonard, Frederick, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: McHale, Brian, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Pennsylvania Prison Society, Petitioner  
 Pro Se: No  
 IFP Status:

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Attorney: Szemanski, Ali Nicole  
 Address: ACLU of Pennsylvania, et al  
 247 Fort Pitt Blvd  
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 Phone No: (412) 681-7736  
 Representing: Aubry, Christopher, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Foundos, Michael, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Hunsicker, Jeremy, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Leonard, Frederick, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: McHale, Brian, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Pennsylvania Prison Society, Petitioner  
 Pro Se: No  
 IFP Status:

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**COUNSEL INFORMATION**


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Attorney: Taylor, Nyssa E.  
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 Address: Aclu-Pa  
 P.o. Box 60173  
 Philadelphia, PA 19102  
 Phone No: (215) 592-1513  
 Representing: Aubry, Christopher, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Foundos, Michael, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Hunsicker, Jeremy, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Leonard, Frederick, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: McHale, Brian, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Pennsylvania Prison Society, Petitioner  
 Pro Se: No  
 IFP Status:

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Attorney: Walczak, Witold J.  
 American Civil Liberties Union of Pennsylvania  
 Address: P.O. Box 60173  
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 Phone No: (215) 592-1513 x:138  
 Representing: Aubry, Christopher, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Foundos, Michael, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Hunsicker, Jeremy, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Leonard, Frederick, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: McHale, Brian, Petitioner  
 Pro Se: No  
 IFP Status:  
 Representing: Pennsylvania Prison Society, Petitioner  
 Pro Se: No  
 IFP Status:

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**COUNSEL INFORMATION**


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Attorney: Daley, Michael  
 Administrative Office of Pennsylvania Courts  
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 1515 Market St Ste 1414  
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 Phone No: (215) 560-6300  
 Receive Mail: Yes  
 Representing: Administrative Office of Pennsylvania Courts, Respondent  
 Pro Se: No  
 IFP Status:

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Attorney: Graziano, Jill Marie  
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 Phone No: (717) 231-5416  
 Receive Mail: Yes  
 Representing: Pennsylvania District Attorney's Association, Respondent  
 Pro Se: No  
 IFP Status:

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Attorney: Perez, Theron Richard  
 Pennsylvania Department of Corrections  
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 1920 Technology Pkwy  
 Mechanicsburg, PA 17050-8507  
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 Receive Mail: Yes  
 Representing: Department of Corrections, Respondent  
 Pro Se: No  
 IFP Status:

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Attorney: Schwab, Gregory George  
 Pennsylvania Office of General Counsel  
 Address: Governor's Office Of General Counsel  
 333 Market St 17th Fl  
 Harrisburg, PA 17126-0333  
 Phone No: (717) 787-9354  
 Receive Mail: Yes  
 Representing: Wolf, Tom, Respondent  
 Pro Se: No  
 IFP Status:

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**COUNSEL INFORMATION**


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Attorney: Shapiro, Joshua D.  
 Pennsylvania Office of Attorney General  
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 Harrisburg, PA 17120  
 Phone No: (717) 787-3391  
 Receive Mail: Yes  
 Representing: Commonwealth of Pennsylvania, Respondent  
 Pro Se: No  
 IFP Status:

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Attorney: Eisenberg, Ronald  
 Pennsylvania Office of Attorney General  
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 1600 Arch St  
 Philadelphia, PA 19103  
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 Receive Mail: Yes  
 Receive EMail: Yes Email:  
 Representing: Commonwealth of Pennsylvania, Respondent  
 Pro Se: No  
 IFP Status:

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Attorney: Holmes, Timothy Andres  
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 Phone No: (717) 728-7747  
 Receive Mail: Yes  
 Receive EMail: Yes Email:  
 Representing: Department of Corrections, Respondent  
 Pro Se: No  
 IFP Status:

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Attorney: Kiefer, Catherine Banner  
 Delaware County District Attorney's Office  
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 201 W Front St  
 Media, PA 19063  
 Phone No: (610) 891-4202  
 Receive Mail: Yes  
 Receive EMail: Yes Email:  
 Representing: Pennsylvania District Attorney's Association, Respondent  
 Pro Se: No  
 IFP Status:

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**COUNSEL INFORMATION**


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Attorney: Neary, Keli Marie  
 Pennsylvania Office of Attorney General  
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 Harrisburg, PA 17120-0001  
 Phone No: (717) 787-1180  
 Receive Mail: Yes  
 Representing: Commonwealth of Pennsylvania, Respondent  
 Pro Se: No  
 IFP Status:

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Pro Se: Center for Children's Justice  
 Address: C/O Mary Achilles, LPC, Board Chair  
 PO Box 396  
 Bernville, PA 19506  
 Receive Mail: Yes  
 Pro Se: Center for Children's Justice, Possible Intervenor  
 Pro Se: Yes  
 IFP Status:

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Attorney: Diggs, Khadija Tamu  
 Address: Pa Department Of Corrections  
 1920 Technology Pkwy 3rd Fl  
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 Receive Mail: Yes  
 Receive EMail: Yes Email:  
 Representing: PA Office of Victim Advocate, Possible Intervenor  
 Pro Se: No  
 IFP Status:

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Attorney: Withers, Scot Russel  
 Lamb McErlane, PC  
 Address: Lamb Mcerlane Pc  
 24 E Market St  
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 Receive Mail: Yes  
 Receive EMail: Yes Email:  
 Representing: Marsy's Law for Pennsylvania, LLC, Possible Intervenor  
 Pro Se: No  
 IFP Status:  
 Representing: Williams, Kelly, Possible Intervenor  
 Pro Se: No  
 IFP Status:

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#### COUNSEL INFORMATION

Attorney: Pittinsky, David  
 Ballard Spahr LLP  
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 Phone No: (215) 864-8117  
 Receive Mail: Yes  
 Receive EMail: Yes Email:  
 Representing: Marsy's Law for Pennsylvania, LLC, Possible Intervenor  
 Pro Se: No  
 IFP Status:  
 Representing: Williams, Kelly, Possible Intervenor  
 Pro Se: No  
 IFP Status:

#### FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
03/30/2020	Extraordinary / Plenary Jurisdiction	70.25	03/30/2020	2020-SUP-M-000397	70.25

#### AGENCY/TRIAL COURT INFORMATION

Court Below:  
 County: Division:  
 Date of Agency/Trial Court Order:  
 Docket Number:  
 Judge(s): OTN:  
 Order Type:

#### ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content/Description
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#### Record Remittal:

#### DISPOSITION INFORMATION

Related Journal No: Judgment Date:  
 Category: Decided Disposition Author: Per Curiam  
 Disposition: Order Denying Application for  
 Extraordinary Relief Disposition Date: April 3, 2020  
 Dispositional Filing: **Order** Author: Per Curiam  
 Filed Date: April 3, 2020



## DISPOSITION INFORMATION

Dispositional Filing: **Concurring Statement** Author: Saylor, Thomas G.  
 Filed Date: April 3, 2020

## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
<b>March 30, 2020</b>	<b>Application for Extraordinary Relief Under the Court's King's Bench Jurisdiction</b>	Petitioner Petitioner Petitioner Petitioner Petitioner Petitioner Petitioner	Pennsylvania Prison Society McHale, Brian Hunsicker, Jeremy Aubry, Christopher Foundos, Michael Leonard, Frederick Public Defender Association of Pennsylvania
<b>March 31, 2020</b>	<b>Praecipe for Appearance</b> Pennsylvania District Attorney's Association	Respondent	Kiefer, Catherine Banner
<b>April 1, 2020</b>	<b>Praecipe for Appearance</b> Commonwealth of Pennsylvania	Respondent	Eisenberg, Ronald
<b>April 1, 2020</b>	<b>No Answer Letter to Application</b>	Respondent	Administrative Office of Pennsylvania Courts
<b>April 1, 2020</b>	<b>Application for Leave to Intervene, or in the Alternative, Application for Leave to File Amicus ...</b>	Possible Intervenor Possible Intervenor	Marsy's Law for Pennsylvania, LLC Williams, Kelly
Comments: ... Curiae Answer in Opposition to Petitioners' Extraordinary Jurisdiction Application.			
<b>April 1, 2020</b>	<b>Praecipe for Appearance</b>	Possible Intervenor	PA Office of Victim Advocate
<b>April 1, 2020</b>	<b>Answer Letter</b>	Respondent	Wolf, Tom
<b>April 1, 2020</b>	<b>Answer Letter</b>	Possible Intervenor	PA Office of Victim Advocate
<b>April 1, 2020</b>	<b>Answer</b>	Respondent	Pennsylvania District Attorney's Association
<b>April 1, 2020</b>	<b>Answer to Application for Extraordinary Relief</b>	Respondent	Commonwealth of Pennsylvania



## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
April 1, 2020	<b>Praecipe for Appearance</b> Department of Corrections	Respondent	Holmes, Timothy Andres
April 1, 2020	<b>Answer Letter</b>	Respondent	Department of Corrections
April 1, 2020	<b>Answer Letter</b>	Possible Intervenor	Center for Children's Justice
April 1, 2020	<b>Petitioner's Reply</b>	Petitioner Petitioner Petitioner Petitioner Petitioner Petitioner	Pennsylvania Prison Society McHale, Brian Hunsicker, Jeremy Aubry, Christopher Foundos, Michael Leonard, Frederick



## DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
April 3, 2020	Order Denying Application for Extraordinary Relief		Per Curiam

## Comments:

AND NOW, this 3rd day of April, 2020, the "Application for Extraordinary Relief under the Court's King's Bench Jurisdiction," asking this Court to invoke King's Bench jurisdiction and direct the President Judges of the Commonwealth to order, inter alia, the immediate presumptive release of specified categories of incarcerated persons to prevent the spread of COVID-19 in the county correctional institutions, is DENIED; nevertheless, pursuant to Rule of Judicial Administration 1952(A) and the Pennsylvania Supreme Court's constitutionally conferred general supervisory and administrative authority over all courts and magisterial district judges, see PA. CONST. art V, § 10(a), this Court DIRECTS the President Judges of each judicial district, or their judicial designees, to engage with other county stakeholders to review immediately the current capabilities of the county correctional institutions in their district to address the spread of COVID-19.

The Court further explains and DIRECTS as follows:

The potential outbreak of COVID-19 in the county correctional institutions of this Commonwealth poses an undeniable threat to the health of the inmates, the correctional staff and their families, and the surrounding communities. Accordingly, action must be taken to mitigate the potential of a public health crisis. We acknowledge that in some of the Commonwealth's judicial districts, judges, district attorneys, the defense bar, corrections officials, and other stakeholders are currently engaged in a concerted, proactive effort to reduce the transmission of the disease in county correctional institutions and surrounding communities through careful reduction of the institutions' populations and other preventative measures. In light of Petitioners' allegations that not all judicial districts containing county correctional institutions have so responded, there remains the potential of unnecessary overcrowding in these facilities which must be addressed for the health and welfare of correctional staffs, inmates, medical professionals, as well as the general public.

We emphasize, however, that the immediate release of specified categories of incarcerated persons in every county correctional institution, as sought by Petitioners, fails to take into account the potential danger of inmates to victims and the general population, as well as the diversity of situations present within individual institutions and communities, which vary dramatically in size and population density. Nevertheless, we recognize that the public health authorities, including the Centers for Disease Control and Prevention and the Pennsylvania Department of Health, continue to issue guidance on best practices for correctional institutions specifically and congregate settings generally to employ preventative measures, including social distancing, to control the spread of the disease.

We DIRECT the President Judges of each judicial district to coordinate with relevant county stakeholders to ensure that the county correctional institutions in their districts address the threat of COVID-19, applying the recommendations of public health officials, including the CDC's Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities (Mar. 23, 2020). If utilization of public health best practices is not feasible due to the population of the county correctional institutions, President Judges should consult with relevant county stakeholders to identify individuals and/or classes of incarcerated persons for potential release or transfer to reduce the current and future populations of the institutions during this health crisis with careful regard for the safety of victims and their communities in general, with awareness of the statutory rights of victims, and with due consideration given to public health concerns related to inmates who may have contracted COVID-19. Moreover, consistent with these above considerations, President Judges are to undertake efforts to limit the introduction of new inmates into the county prison system.

Additionally, the Application for Leave to Intervene, or in the Alternative, Application for Leave to File Amicus Curiae Answer in Opposition to Petitioners' Extraordinary Jurisdiction Application filed by Marsy's Law for Pennsylvania, LLC and Kelly Williams is DENIED as to the request to intervene and GRANTED as to the application to file an amicus curiae answer in opposition.

Chief Justice Saylor files a Concurring Statement in which Justices Todd, Dougherty and Mundy join.

April 3, 2020	Order Exited	Office of the Prothonotary
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**DOCKET ENTRY**

Filed Date	Docket Entry / Representing	Participant Type	Filed By
May 12, 2020	Reconsideration Time Expired/Case Closed		Office of the Prothonotary