

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

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

ORDER

AND NOW, this ____ day of March, 2020, upon consideration of the Unopposed Amended Emergency Motion of Walter Ogrod for Outside Medical Testing and Treatment (the “Amended Emergency Motion”), it is hereby ORDERED that the Amended Emergency Motion is GRANTED.

The Court finds and concludes as follows:

1. The Amended Emergency Motion qualifies as a matter relating to a health and medical emergency entitled to be heard on an emergency basis pursuant to Paragraph 8(C) of the Emergency Judicial Order (No. 10 of 2020) issued by the Administrative Governing Board of the First Judicial District of Pennsylvania on March 17, 2020 in response to the public health emergency pertaining to the risk presented by the COVID-19 pandemic.

2. On March 19, 2020, an Emergency Motion was filed indicating that Walter Ogrod (DC-4162), an inmate on death row at SCI-Phoenix, was exhibiting symptoms of COVID-19. The motion requested an order from this Court for testing and treatment of Mr. Ogrod at an outside hospital. The Commonwealth filed a response indicating it did not oppose Mr. Ogrod’s

request. This Court denied the motion, but indicated it could be re-filed Ograd's when medical condition could be verified. This Court also ordered production of Mr. Ograd's medical records.

3. On March 20, 2020, an Amended Emergency Motion was filed, again requesting an order from this Court for testing and treatment at an outside hospital. Attached to this motion is a letter from Dr. Michael Stephen of the Division of Pulmonary, Allergy and Critical Care Medicine, Jane & Leonard Korman Respiratory Institute at Jefferson Hospital in Philadelphia. Dr. Stephen indicated he reviewed Mr. Ograd's medical records and concluded that Mr. Ograd exhibited the symptoms of COVID-19 and that the testing performed (by the correctional institution) was inadequate to test for or rule out COVID-19 or pneumonia.

4. Dr. Stephen recommended that Mr. Ograd be immediately tested for COVID-19, and placed in isolation until this test returns. Dr. Stephen stated Mr. Ograd is a risk to others in the population, and may need further care if his test is positive. Dr. Stephen wrote a prescription for Mr. Ograd to have a COVID-19 panel and a copy of that prescription is also attached to the Amended Emergency Motion.

5. The failure to test and treat Mr. Ograd for COVID-19 constitutes deliberate indifference to Mr. Ograd's serious medical needs and a failure to provide Mr. Ograd with healthcare services of a quality acceptable within prudent professional standards in violation of Mr Ograd's Eighth Amendment right to be free from cruel and unusual punishment and Pennsylvania Constitutional right to be free from cruel punishments, Pa. Constitution Art. I, Section 13.

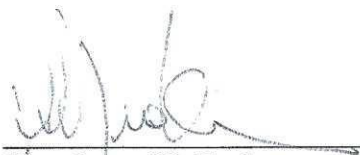
6. The Pennsylvania Department of Corrections shall comply with its Federal and State constitutional obligations to provide Mr. Ograd with healthcare services of a quality acceptable within prudent professional standards.

7. Furthermore, if the Pennsylvania Department of Corrections fails to comply with its constitutional obligations in regard to Mr. Ograd, Mr. Ograd's continued presence at SCI-Phoenix poses an immediate medical threat to other inmates, guards and prison staff.

8. The Conviction Integrity Unit ("CIU") in the DAO has conceded in separate PCRA filings in Mr. Ograd's pending case that Mr. Ograd is "likely innocent" and has joined Mr. Ograd in his request to vacate his conviction and sentence and grant him a new trial.

For the foregoing reasons, IT IS FURTHER ORDERED THAT the Pennsylvania Department of Corrections shall immediately transfer Walter Ograd, DC-4162, to an outside hospital that is equipped to provide him with proper testing, care and treatment, including but not limited to testing for COVID-19, either through the Pennsylvania Department of Health or a commercial lab, treatment for his COVID-19 symptoms, and isolation/quarantine until the hospital determines Mr. Ograd is no longer at risk for transfer of COVID-19. Mr. Ograd shall be returned to the custody of the Pennsylvania Department of Corrections upon release from the medical facility.

BY THE COURT:



Hon. Leon W. Tucker

I CERTIFY THE WITHIN TO BE A TRUE
AND CORRECT COPY OF THE ORIGINAL
FILED IN THIS CASE



DEPUTY DIRECTOR, OJR

