

PETITION UNDER POST CONVICTION HEARING ACT

COMMONWEALTH OF PENNSYLVANIA

VS

CLARENCE MILLER

(Name of Petitioner)

COURT AND DOCKET NUMBERS

To be filled in by Clerk of Court

NOTE: List below those informations or indictments & offenses for which you have not completed your sentence:

INFORMATION OR INDICTMENT NUMBERS:

CC 7601268

I WAS CHARGED WITH THE FOLLOWING CRIMES:

MURDER

VOLUNTARY MANSLAUGHTER

INVOLUNTARY MANSLAUGHTER

1. MY NAME IS:

CLARENCE MILLER

2. I AM NOW

(A) On Parole (B) On Probation (C) Confined in STATE CORRECTIONAL INSTITUTION
PRISON AT PITTSBURGH

3. I WAS SENTENCED ON February 15, 19 79 TO A TOTAL TERM OF Life, COMMENCING ON February 10, 19 76, FOLLOWING A

- Trial by jury
- Trial by a judge without a jury
- Plea of guilty
- Plea of nolo contendere

4. I AM ELIGIBLE FOR RELIEF BECAUSE OF:

- | | |
|---|--|
| <input type="checkbox"/> The introduction of evidence obtained pursuant to an unlawful arrest | <input type="checkbox"/> The unconstitutional suppression of evidence by the state |
| <input type="checkbox"/> The introduction of evidence obtained by an unconstitutional search and seizure | <input type="checkbox"/> The unconstitutional use by the state of perjured testimony |
| <input type="checkbox"/> The introduction of a coerced confession into evidence | <input type="checkbox"/> The obstruction by state officials of petitioner's right of appeal |
| <input type="checkbox"/> The introduction into evidence of a statement obtained in the absence of a lawyer at a time when representation is constitutionally required | <input type="checkbox"/> Being twice placed in jeopardy |
| <input type="checkbox"/> The infringement of my privilege against self-incrimination under either federal or state law | <input type="checkbox"/> The abridgement of a right guaranteed by the constitution or laws of this state or the constitution or laws of the United States, including a right that was not recognized as existing at the time of trial if the constitution requires retrospective application of that right |
| <input checked="" type="checkbox"/> The denial of my constitutional right to representation by a competent lawyer | <input type="checkbox"/> The unavailability at the time of trial of exculpatory evidence that has subsequently become available and that would have affected the outcome of the trial if it had been introduced |
| <input type="checkbox"/> A plea of guilty unlawfully induced | <input type="checkbox"/> The denial of my right to appeal through failure to inform me of this right |

5. THE FACTS IN SUPPORT OF THE ALLEGED ERROR(S) UPON WHICH THIS PETITION IS BASED ARE AS FOLLOWS: (State facts clearly and fully; argument, citations, or discussions of authorities shall not be included.)

(A) I know the following facts to be true of my own personal knowledge:

(A-1) That on the date of February 10, 1978, I was at my home feeling physically ill, when two policemen from the Pittsburgh Police Department came to my house, claiming that they had a search warrant to search my home for some type of clothing with alleged blood particles embedded thereon, Petitioner was never shown a warrant by any of the police officers, that would give them the right to search my home. While they were in my home going from room to room my physical condition was getting worse and I was quite ill. I was then placed under arrest and taken to the police station by car. On the way to the police station I believe I had a blackout because I do not remember making the car ride from my home to the police station and further when I realized I was at the police station, I had a terrible pounding headache. My mind could not clearly function rationally from this point in time until I was later that day taken to the hospital.

(See Supplement Sheet Continued)

(B) The following facts were made known to me by means other than my own personal knowledge (Explain how and by whom you are informed):

Institution Law Library and Inmate Para-Legal

(C) In the event my appeal is allowed as requested under #4, the following are the matters which I intend to assert on that appeal (Specify the matters to be asserted if appeal is allowed)

All issues raised under ineffective and incompetent counsel listed under No. 5 (a) of this Petition.

SUPPLEMENT SHEET CONTINUED

(A-2) This above information was given to my attorney upon given to my attorney upon an interview with him as to my physical and mental condition at the time of the arrest.

(A-3) Attorney Harry Stump failed to institute a defense of not guilty by reason of temporary insanity, when at the time of the crime my mental state was such that I was not responsible for my acts or action during the commission of the crime.

(A-4) That my mental condition was not a normal state at the time I was interrogated by the police.

(A-5) That the statements that I gave the police were not true and not of my making or my free will, but instead a product of the police interrogator's own design and personal conviction.

(A-6) That the statements that I gave to the police and signed that I saw Charles Zeke Goldblum stab George Wilhelm are not true because at that point I blacked out and remember nothing. I wasn't even aware of my own existence let alone anything that happened about George Wilhelm.

(A-7) Petitioner states that the statements the police gave him to sign were a product of their minds and not Petitioner's and further that the statement was signed under the threat of personal physical injury by the police and put Petitioner in a mental state of extreme fear that he blacked out at least twice during the police's intimidating interrogation and had to be hospitalized for with for mental psychological stress.

6. SUPPORTING EXHIBITS

(A) In support of this petition, have attached as exhibits:

- Affidavits [Exhibit(s) No. _____]
- Records [Exhibit(s) No. _____]
- Other Supporting Evidence [Exhibit(s) No. _____]

(B) I have not attached any affidavits, records or other supporting evidence because

A PCHA Hearing must be given in order to establish the merits of my alleged errors.

7. I HAVE TAKEN THE FOLLOWING ACTION(S) TO SECURE RELIEF FROM MY CONVICTION(S) OR SENTENCE(S):

(A) Direct Appeal (If "YES," name the court(s) to which appeal(s) was/were taken, date, term and number, and result.)

YES NO

Pa. Supreme Court

(B) Previous proceedings in the courts of the Commonwealth of Pennsylvania

YES NO (If "YES," name the type of proceedings (such as habeas corpus, etc.)—including former proceedings under the Post Conviction Hearing Act the Court(s) in which petition(s) was/were filed, date, term and number, and result, including all appeals.)

(C) Habeas Corpus or other petitions in Federal Courts

YES NO (If "YES," name the district in which petition(s) was/were filed, date(s), Court Number—civil action or miscellaneous, and result, including all appeals.)

(D) Other legal proceedings

YES NO (If "YES," give complete details—type of action, court in which filed, date, term and number, and result, including all appeals.)

9. FOLLOWING MY ARREST, I WAS REPRESENTED BY THE FOLLOWING LAWYER(S): (Give the lawyer's name and the proceeding at which he represented you.)

Attorney Harry H. Stump II

Pretrial Motions, Trial, Post Trial Proceedings and on Direct Appeal

10. THE ISSUES WHICH I HAVE RAISED IN THIS PETITION HAVE NOT BEEN FINALLY LITIGATED OR WAIVED BECAUSE: (State facts.)

I did not knowingly know that I had a right under the law to plea not guilty by reason of temporary insanity and further my trial attorney did not explain this defense to me so I did not know it was available to me had I knew this I would have plead not guilty by reason of temporary insanity.

10. BECAUSE OF THE FOREGOING REASONS, THE RELIEF WHICH I DESIRE IS:

(A) Release from custody and discharge

(B) A new trial

(C) Correction of sentence

(D) Other relief (specify):

11. (A) I am ABLE NOT ABLE to pay the costs of this proceeding.

I have \$ \$4.00 in my prison account.

(B) My other financial resources are: None

(A) I do not have a lawyer and I _____ without financial resources or otherwise unable to obtain a lawyer.

(1) I request the court to appoint a lawyer to represent me.

(2) I do not want a lawyer to represent me.

(B) I am represented by a lawyer. (Give name and address of your lawyer.)


(Signature of Petitioner)

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA :

SS

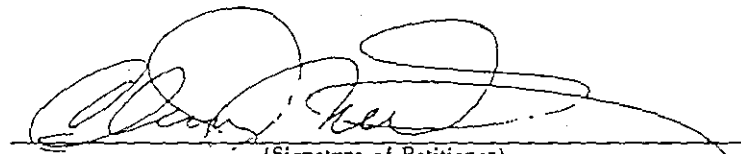
COUNTY OF ALLEGHENY :

Personally appeared before me a notary public in and for said County and Commonwealth

CLARENCE MILLER
(Name of Petitioner)

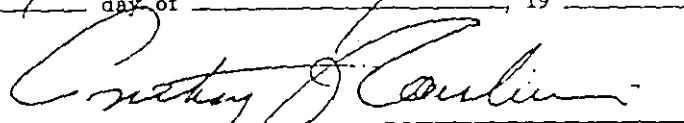
who, being duly sworn [or affirmed] according to law, deposes and says:

That he is the petitioner herein and the facts as set forth in
this petition are true and correct to the best of his know-
ledge, information and belief.


(Signature of Petitioner)

Sworn to and subscribed before me this

9 day of May, 19 80


(Notary Public)

ANTHONY J. CARLUCCI, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES JULY 11, 1991
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA

VS

CLARENCE MILLER

(Name of Petitioner)

IN THE CRIMINAL COURTS OF THE COUNTY OF

Criminal

Action No. _____ of _____ 19 _____

ORDER

AND NOW this _____ day of _____, 19 _____ Upon consideration of the foregoing petition

1. Petition is returned to petitioner for amendment as follows, such amendment to be made on or before _____, 19 _____.

2. A rule is granted upon the Commonwealth of Pennsylvania to show cause why a hearing should not be granted. The rule is returnable on or before _____ 19 _____

3. The request to proceed as a poor person, without the payment of costs, is granted denied.

4. Upon finding that petitioner is unable to obtain a lawyer _____ Esq. is appointed to represent him.

5. The Clerk of this Court is ordered and directed to do the following forthwith:

(a) To serve a copy of this petition and this order upon the District Attorney of _____ County.

(b) To send a copy of this petition and this order to _____ Esq., the lawyer for the petitioner.

(c) To send a copy of this order to the petitioner.

6.

_____ J.