

.IN THE UNITED STATES COURT OF APPEAL
FOR THE THIRD CIRCUIT

MUMIA ABU-JAMAL,)	No. 02-9001
)	
Appellee/Cross-Appellant,)	
)	
vs.)	
)	
MARTIN HORN, Director, Pennsylvania)	No. 01-9014
Department of Corrections; CONNER)	
BLAINE, Superintendent, SCI Greene,)	
)	
Appellant/Cross-Appellee.)	<i>Death Penalty Case</i>
_____)	

**MOTION FOR 7-DAY EXTENSION OF TIME TO FILE 4th-STEP
BRIEF OF APPELLEE/CROSS-APPELLANT, MUMIA ABU-JAMAL**

COMES MUMIA ABU-JAMAL, Appellee/Cross-Appellant in the above-referenced matter who, through counsel, respectfully moves for a 7-day extension of time within which to file the 4th-Step Brief, to and including October 23, 2006. The brief is currently due October 16, 2006. Order, Oct. 4, 2006.

In support of this motion, the following is submitted:

1. Mr. Abu-Jamal is under a death judgment in this matter and on Pennsylvania's death row.
2. The Commonwealth's 97-page Third Step Brief for Appellants has raised many procedural defenses that must be addressed. Even though counsel has been working diligently on the 4th-Step Reply Brief, he has reached the embarrassing

conclusion that it cannot be completed and filed as presently scheduled due to the complexity of the issues involved. He is a sole practitioner.

3. Also, counsel must leave on a 3 1/2-day trip to England on the evening of October 16, 2006. It relate to both a family and business matter.

4. The Brief of Appellee and Cross-Appellant, Mumia Abu-Jamal, with 260-page Supplemental Appendix, was timely filed July 20, 2006. Thereafter on July 27, two *amici* briefs were filed. Brief of *Amicus Curiae* the NAACP Legal Defense and Educational Fund, Inc., July 27, 2006; Brief of *Amici Curiae* National Lawyers Guild, National Conference of Black Lawyers, International Association of Democratic Lawyers, Charles Hamilton Institute for Race & Justice of Harvard Law School, National Jury Project, July 26, 2006.

5. On motion of Appellants/Cross-Appellees to file individual briefs in response to the *amici* briefs, the Court granted an additional seven days until August 30 for the responsive briefs to be filed. Order, Aug. 23, 2006. The two responsive briefs were filed on August 30, 2006.

6. Due to the complexity of the case, counsel needs an 7 more days to complete and file the 4th-Step Brief. In additional to the arguments presented by the Commonwealth, this case involves voluminous material, e.g. the district court opinion was 272 pages and unusually complex. Memorandum and Order, 2001 WL 1609690 (E.D. Pa. 2001.), Dec. 18, 2001.

7. The Commonwealth's brief concerns complicated issues regarding Claim 25 in the habeas corpus petition which the district court reversed as to penalty pursuant to *Mill v. Maryland*, 486 U.S. 367 (1988). Memorandum and Order, 84-96, *supra*. It also deals with complicated issues relating to the guilt phase:

- Claim 14 Whether appellant was denied his constitutional rights due to the prosecution's trial summation.
- Claim 16 Whether the Commonwealth's use of peremptory challenges at trial violated appellant's constitutional rights under *Batson v. Kentucky*, 476 U.S. 79 (1986).
- Claim 29 Whether appellant was denied due process during post-conviction proceedings as a result of alleged judicial bias.

Order, Dec. 6, 2005.

8. This request is made in good. Additional time is needed in order for counsel to fulfill his ethical obligation to provide professionally appropriate representation. With this being a capital case, Mr. Abu-Jamal should not be penalized because of circumstances beyond his control.

- 9. The additional time sought will not prejudice the Commonwealth.
- 10. No further extensions of time will be sought.

WHEREFORE, Appellee/Cross-Appellant respectfully requests that the Court grant a 7-day enlargement of the time, to and including October 16, 2006, for the filing of his 4th-Step Brief.

Dated: October 15, 2006

Respectfully submitted,



ROBERT R. BRYAN

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CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing MOTION FOR 7-DAY EXTENSION OF TIME TO FILE 4th-STEP BRIEF OF APPELLEE/CROSS-APPELLANT, MUMIA ABU-JAMAL to be served via e-mail, and by United States Mail, first class postage prepaid, upon the following person:


Hugh J. Burns, Jr., Esquire
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I declare under penalty of perjury that the foregoing is true and correct.

Executed on this the 15th day of October, 2006, at San Francisco, California.


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