

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Nos. 01-9014 and 02-9001

MUMIA ABU-JAMAL,

Appellant at No. 02-9001

v.

MARTIN HORN, PENNSYLVANIA DIRECTOR OF CORRECTIONS, et al.

Appellants at No. 01-9014

(E.D. Pa. Civ. No. 99-cv-05089)

ORDER

At the direction of the Court, appellant's motion to expand the certificate of appealability is granted with respect to Claims 14 and 29. Additionally, the Court agrees with the District Court that a certificate of appealability should issue with regard to Claim 16. These three claims encompass the following issues:

- (1) Claim 14: Whether appellant was denied his constitutional rights due to the prosecution's trial summation.
- (2) 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).
- (3) Claim 29: Whether appellant was denied due process during post-conviction proceedings as a result of alleged judicial bias.

With regard to Claim 29, the parties are directed to address whether denial of due process resulting from alleged judicial bias during post-conviction proceedings can be grounds for federal habeas corpus relief.

Appellant's supplemental motion for certification of additional issues for appeal is denied. As such, the grant of a certificate of appealability on Claim 29 is limited to appellant's claim of bias in his post-conviction proceedings, and does not extend to alleged bias at his trial. Because the Court concludes the appellant has not made a substantial showing of the denial of a constitutional right with regard to any of the claims in the supplemental motion, the Court need not reach the Commonwealth's contention that the motion should be denied as untimely.

The Court will also hear the Commonwealth's appeal of the District Court's order granting the petition as to Claim 25.

For the Court,

/s/ Marcia M. Waldron
Clerk

Date: December 6, 2005

ghb/cc: Robert R. Bryan, Esq.

(Hugh J. Burns, Jr., Esq.

Ronald Eisenberg, Esq.