
First Judicial District of Pennsylvania

51CR06056111980

William Franklin

*Motion Volume 1
February 28, 2024*



*First Judicial District of Pennsylvania
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[1] IN THE COURT OF COMMON PLEAS
[2] FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
[3] CRIMINAL TRIAL DIVISION

[4] -----
[5] COMMONWEALTH : CP-51-CR-0605611-1980
[6]

[7] VS :
[8] WILLIAM FRANKLIN :

[9] -----
[10] February 28, 2024

[11] Courtroom 908
[12] Stout Center for Criminal Justice
[13] Philadelphia, PA

[14] -----
[15] **BEFORE:** THE HONORABLE TRACY BRANDEIS-ROMAN, J.

[16] **APPEARANCES:**
[17] JOSEPH DUFFY, ESQUIRE
[18] Assistant District Attorney
[19] Counsel for the Commonwealth

[20] ROBERT MOZENTER
[21] BY: Steven J. Carroll, Esquire
[22] And
[23] JOSEPH M. MARRONE, ESQUIRE
[24] Counsel for Petitioner/Defendant

[25] And
[26] MICHAEL POMERANTZ, ESQUIRE
[27] Counsel for Defendant

[28] **Court Reporter:** Janice Ciarrocchi, RPR

[1] **COURT CRIER:** Number 30, William
[2] Franklin. Case number 30, William Franklin, PCRA
[3] held under advisement.

[4] **THE COURT:** Good afternoon everyone.

[5] **MR. DUFFY:** Good afternoon, Your Honor,
[6] Joseph Duffy for the Commonwealth.

[7] **MR. CARROLL:** Good afternoon, Your
[8] Honor, Steven Carroll on behalf of the Marrone
[9] Law Firm representing William Franklin.

[10] **MR. POMERANTZ:** Good afternoon, Your
[11] Honor, Michael Pomerantz, Marrone Law Firm on
[12] behalf of the petitioner William Franklin.

[13] **MR. MARRONE:** Good afternoon, judge,
[14] Joseph Marrone, on behalf of Mr. William
[15] Franklin, the defendant.

[16] **THE COURT:** Good afternoon to everyone.

[17] **COURT CRIER:** William Franklin
[18] F-R-A-N-K-L-I-N, duly sworn.

[19] **THE COURT:** Good afternoon. As indicated
[20] to you, I think before back in conferences, our
[21] conferences I reviewed this case, I don't know,
[22] dozens, a couple of dozens of times, so I'm happy
[23] to give you my findings now. This is the matter
[24] of William Franklin, CP-51-CR-605611-1980.

[25] **Findings of fact:** 1) On April 3, 2016,

[1] Rachel Wolkenstein W-O-L-K-E-N-S-T-E-I-N came
[2] into contact with Emanuel Claitt as part of an
[3] investigation into the cases of Major Tillery,
[4] and Emmanuel Claitt.

[5] 2) After acquiring information that
[6] would assist Major Tillery in this PCRA matter,
[7] Rachel Wolkenstein sent the information to
[8] William Franklin to notify him about the
[9] after-discovered evidence regarding Emanuel
[10] Claitt.

[11] 3) After initially filing a PCRA
[12] petition regarding the information, in the video
[13] where Emanuel Claitt recants his trial testimony,
[14] this petition was initially denied, and on
[15] appeal, the case was remanded to this Court by
[16] the Superior Court of Pennsylvania for a hearing
[17] regarding the issue of timeliness of the instant
[18] petition.

[19] 4) This Court held multiple hearings
[20] regarding this issue, including on July 2, 2019,
[21] June 15, 2023, October 23, 2023, and December 5,
[22] 2023. At these hearings there was testimony
[23] presented from Rachel Wolkenstein about her
[24] interactions with Emanuel Claitt, including the
[25] process by which he obtained his video taped

[1] recantation, and testimony from Robert Mickens
[2] who testified that he was involved in "Sex for
[3] Lies" as part of Major Tillery's trial and that
[4] Emanuel Claitt told him that he had also been
[5] involved in "Sex for Lies" as part of William
[6] Franklin's trial.

[7] 5) This Court having lingering
[8] questions, asked both parties to brief whether or
[9] not a felony perpetrated in connection with a
[10] murder, that being perjury, needed to be
[11] committed by the same actor who committed the
[12] murder, or whether or not the felony connected to
[13] the underlying murder needed to be committed in
[14] furtherance of that murder or merely be connected
[15] to it.

[16] Conclusions of law. 1) It is clear
[17] that Claitt's video recorded statement faced two
[18] significant concerns. First, in his recantation
[19] which courts have held repeatedly throughout the
[20] Commonwealth to be inherently unreliable.

[21] Second, testimony this Court received
[22] regarding this video recantation was hearsay
[23] testimony about a recantation.

[24] However, this Court noted that the
[25] video of Claitt's recantation involves Claitt's

[1] stating that he had lied during Mr. Franklin's
[2] trial due to being involved with the, quote, "Sex
[3] for Lies," end quote, scandal that effected a
[4] number of other cases.

[5] 3) Regardless of the underlying reason,
[6] it is clear that if Claitt is to be believed in
[7] what he said on video, that he perjured himself
[8] at trial.

[9] 4) There was debate regarding whether
[10] or not Claitt faced criminal liability for this
[11] perjury based on its potential connection to the
[12] underlying murder in this matter. Both parties
[13] made argument regarding this issue, and this
[14] Court believes based on these arguments that
[15] Claitt did expose himself to criminal liability
[16] for perjury based on this recantation.

[17] 5) Taking Claitt's video statements to
[18] be true, it is concerning that Claitt was offered
[19] sexual favors in exchange for false testimony at
[20] Franklin's trial. Although it is true that
[21] evidence proffered in support of this claim shows
[22] a visit from 1983 in support of this "Sex for
[23] Lies" claim, to the Police Administration
[24] Building, this does not preclude the possibility
[25] that Claitt was afforded such sexual encounters

[1] 8) This Court wants to clarify that I
[2] do not necessarily believe everything said in
[3] Claitt's recantation, there was some things said
[4] that could not be confirmed to either be true or
[5] false, however, there was enough in Claitt's
[6] recantation that this Court believed to warrant
[7] relief. Consequently, I hereby grant relief in
[8] the form of a new trial for William Franklin. All
[9] right. That is my ruling.

[10] **MR. MARRONE:** Judge, can I address bail,
[11] please? May I proceed?

[12] **THE COURT:** You can address bail.

[13] **MR. MARRONE:** Judge, just so the Court
[14] knows, he spent 44 years incarcerated. He has
[15] extensive family and family ties he would live
[16] with Rasheda Franklin his daughter, that is in
[17] Ridge Park, PA. Judge, the court has to consider
[18] not only the 44 years that if he's given bail is
[19] he a risk of flight? He has no car, no driver's
[20] license, no passport. He has no place to go but
[21] to his daughter's house. So he has no where to
[22] go. Is he a threat to any other witnesses, or
[23] anyone possibly? There's no witnesses in the
[24] case. The biggest issue, judge, is, what is the
[25] condition of the Commonwealth's case? They have

[1] in a manner that went undocumented.

[2] 6) Further, the Commonwealth's argument
[3] regarding the statute of limitations was although
[4] zealous, I found it unconvincing because as both
[5] parties in this matter cite to Commonwealth
[6] versus Russell, 938 A.2d 1082 at 1089, it is
[7] important to point out that the court in Russell
[8] stated, quote, "Indeed our review of 42 PA CSA,
[9] section 5552, limitations on other criminal
[10] offenses, indicates that the language of
[11] limitation for non-murder offenses speaks in
[12] terms of commencement of prosecution, not
[13] adjudication at trial." End quote.

[14] 7) This Court is not fond of the notion
[15] that in taking Claitt's recantation to be true,
[16] due to facing criminal liability that the
[17] Commonwealth offered Claitt sexual favors for
[18] false testimony making them aware of his perjury,
[19] at Mr. Franklin's trial and that the Commonwealth
[20] now relies on the statute of limitations to
[21] allege that Claitt would never have faced
[22] criminal liability, this would permit the
[23] Commonwealth to act in an unacceptable manner and
[24] rely on such acts to essentially 'rig the game'
[25] against the defendant who later brings a claim.

[1] no case, judge. You know and I know that this
[2] case wouldn't even survive a preliminary hearing
[3] let alone a possible arrest at this point. That
[4] being said, judge, based on the fact that he's
[5] been in jail for 44 years, we're asking Your
[6] Honor to please allow him to go home to his
[7] family today. At the very least a home
[8] confinement, if not to give him straight bail,
[9] please.

[10] **THE COURT:** Commonwealth.

[11] **MS. DUFFY:** Your Honor, bail would be
[12] inappropriate at this time. If the Commonwealth
[13] does elect to pursue with a new trial he would be
[14] facing first degree murder charges. Also, the
[15] Commonwealth still has to make a determination
[16] about whether or not we are going to object or
[17] launch an appeal against this ruling which could
[18] take time. In my experience, when we have had
[19] appeals, if a defendant is released from prison,
[20] if the appeal, the Superior Court or the Supreme
[21] Court rules in favor of the Commonwealth, we're
[22] going to have a defendant who then would then
[23] have to be returned back to prison, which is
[24] something that we just want to avoid, Your Honor.

[25] **THE COURT:** You mean after the second

[1] trial or during --
[2] **MS. DUFFY:** At the conclusion of the
[3] appeal, Your Honor.
[4] **MR. MARRONE:** Judge, as we sit here
[5] today, he is an innocent man.
[6] **THE COURT:** He's an innocent man charged
[7] with first degree.
[8] **MR. MARRONE:** First degree murder. Who
[9] has served 44 years. And the court, Your Honor
[10] has dug deep into this case and knows the case,
[11] the Commonwealth has no case. They have to
[12] consider the evidence that the Commonwealth has
[13] as of today. Okay, again, this case would not
[14] survive a preliminary hearing. I don't even
[15] believe he could be arrested even though he's
[16] technically still in the same state with the
[17] evidence they have.
[18] That being said, judge, we would ask
[19] given the fact that he has no flight risk.
[20] There's no issue of flight risk. There's no
[21] issue that he's a harm to any witnesses. There's
[22] no witnesses to be a harm to. There is extensive
[23] family ties. This is as Philadelphia as you can
[24] get. His daughter is waiting. She has a home.
[25] She's prepared to have him at the very least home

[1] confinement while the Commonwealth makes there
[2] decision, how they would proceed. We respect it,
[3] but he's entitled to come today. He served 44
[4] years in prison, judge.
[5] **THE COURT:** I know, but I wasn't really
[6] prepared to release him today. I didn't think I
[7] was going to, because I had to take one step at a
[8] time.
[9] **MR. CARROLL:** Your Honor, if I may, this
[10] is now 2024, and the Commonwealth versus Tally
[11] case, if you took the Commonwealth's evidence
[12] with whatever preliminary hearing with Claitt in
[13] it, you still would be entitled to bail on this
[14] matter because prima facie standard is not the
[15] standard for bail, and the Supreme Court
[16] clarified that only two years ago. And the
[17] standard for bail is proof evident, and
[18] presumption great. That is the legal standard
[19] that these courts go by now. You cannot look at
[20] the persuasiveness of the evidence you can only
[21] look at the substance of the evidence. The
[22] evidence is none.
[23] In addition to that, you have no other
[24] sureties that show that the proof is evident or
[25] the presumption is great that he has committed a

[1] capital offense. That's the law. We don't have
[2] that. Even if you pretended Claitt was still
[3] alive today, you don't have that. Legally, he is
[4] absolutely entitled to bail under this law that
[5] we follow today.
[6] **THE COURT:** For murder 1.
[7] **MR. CARROLL:** For murder 1. I have
[8] clients who have been released under this law in
[9] front of Judge McDermott on murder 1 months after
[10] that decision came down.
[11] **MR. MARRONE:** And they haven't served 44
[12] years, judge.
[13] **THE COURT:** Right. Can I see you at
[14] sidebar. For a second.
[15]
[16] (Sidebar.)
[17] (Back on the record.)
[18]
[19] **THE COURT:** All right. I'm going to
[20] allow there to be a release on house arrest
[21] pending either -- it will take some time to set
[22] up house pending either a new trial or the
[23] appeal, whichever happens, strict house arrest.
[24] So that is my ruling.
[25] **MR. MARRONE:** Is he allowed to go to his

[1] attorney's office and the doctor. They're the two
[2] places we need him to go.
[3] **THE COURT:** Yes, he can go to his
[4] attorney and to his doctor as verified by house
[5] arrest.
[6] **MR. DUFFY:** And that is pending new
[7] trial and/or decision of appeal. Can we get a
[8] date next week just to status this with Your
[9] Honor.
[10] **THE COURT:** Yes.
[11] **COURT CRIER:** March 7th.
[12] **THE COURT:** Thank you.
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[1] CERTIFICATION.

[2]
[3] I, Janice M. Ciarrocchi, certify
[4] that the testimony and proceedings in the
[5] foregoing matter are contained fully and
[6] accurately in the stenographic notes taken by me
[7] on the trial of the above cause, and the
[8] testimony is a true and correct transcript of the
[9] same.

[10]
[11] Janice M. Ciarrocchi
[12] Certified Registered Reporter
[13] Official Court Reporter
[14]

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[19] The foregoing certification of this
[20] transcript does not apply to any reproduction of the
[21] same by any means unless under the direct control
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[23] reporter.

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