

- 19 Although we ultimately see no abuse of discretion, the questions about *Montgomery*, the federal prosecution in which Dr. Gur's testimony was excluded, pushed the bounds of relevancy given the obvious complications involving factual distinctions, different evidentiary standards, and the dubious relevance of another court's discretionary rulings. To the extent the questioning here could be said to cross the line, we credit the trial court's alternative finding of harmless error, given the strength of the aggravating factors in this case involving a brutal quadruple murder. *See infra*.
- 20 42 Pa.C.S. § 9711 *et seq*.
- 21 Moreover, appellant does not devote more than a sentence in his brief to make a claim regarding the letter. *See* Appellant's Brief at 97.
- 22 Appellant grounds his claim in both the right to due process and his right to be free from cruel and unusual punishment, but fails to develop a specific argument under either provision, nor does he claim that the federal and state provisions are other than coterminous in their scope and contour.
- 23 *See* 42 Pa.C.S. § 9711(d) ("Aggravating circumstances shall be limited to the following: [18 circumstances]").
- 24 The trial court also submitted that it complied with 42 Pa.C.S. § 9711(c)(2) ("The court shall instruct the jury that if it finds at least one aggravating circumstance and at least one mitigating circumstance, it shall consider, in weighing the aggravating and mitigating circumstances, any evidence presented about the victim and about the impact of the murder on the victim's family.").
- 25 Regarding Mr. Stettler's statement, appellant's quoted language comes from the written version; in front of the jury, Stettler revised the language of his statement and said "... will forever remember the last moments of my family and neighbor, Steven Zernhelt ..."; likewise, Ms. Dorwart did not call the murders "brutal." N.T., 5/10/11, at 213, 259.
- 26 The underlying issue in *Travaglia* had nothing to do with instructing the jury, and the Court did not elaborate on what a "presumption of life" entailed. In *Travaglia*, the court concluded that a presumption of innocence did not protect appellant in the sentencing phase of trial, and remarked that the only available presumption, "if it can be called such," is a "presumption of life." 467 A.2d at 300-01 (concluding that presumption of life did not support appellant's argument to exclude prosecutor's comment regarding appellant's lack of remorse).
- 27 "Appellant's Proposed Jury Instructions Death Penalty Hearing Supplementing the Standard Pattern Jury Instructions," at ¶ 11.
- 28 In light of appellant's arguments, *infra*, that blur the distinction between mitigating circumstances enumerated in Section 9711(e), and "other evidence of mitigation" mentioned under the catchall mitigating circumstance, at subsection 9711(e)(8), we clarify here that were a jury to find a mitigating circumstance as the result of a mercy instruction, it would fall under the statutory catchall circumstance.
- 29 In his brief, appellant lists two separately numbered issues regarding PPA review. *See* Appellant's Brief at 10 (Issues 7 & 8). In Issue 7, appellant claims that he proved, but the jury failed to consider, brain damage as a mitigating factor. In Issue 8, appellant makes the same argument with respect to fifteen other mitigating factors, of which brain damage is one. Therefore, we have consolidated these issues.
- 30 The other two cases are *Commonwealth v. May*, 587 Pa. 184, 898 A.2d 559, 573-74 (2006) (noting importance of juries being made aware of defendant's childhood when deciding whether to impose death penalty) and *Commonwealth v. Dick*, 602 Pa. 180, 978 A.2d 956 (2009) (quoting Section 9711(h) regarding PPA review). Neither case is helpful here.
- 31 42 Pa.C.S. § 9711(h)(3)(ii).
- 32 To support his argument, appellant states that he "incorporated by reference" the facts set forth in his other claim involving PPA review, and concluded that the jury's decision was against the weight of the evidence. We decline to independently develop appellant's argument. *See Walter*, 966 A.2d at 567 (failure to develop argument on appeal is fatal to claim).
- 33 Appellant mistakenly references Pa.R.Crim.P. 807(b). *See* Appellant's Brief at 90.
- 34 The Prothonotary of the Supreme Court is directed to transmit a complete record of this case to the Governor in accordance with 42 Pa.C.S. § 9711(i).



Pennsylvania man facing death penalty trial says he doesn't want to die

The Associated Press By The Associated Press

on April 17, 2011 at 6:23 PM, updated April 18, 2011 at 12:25 AM

ALLENTOWN -- An eastern Pennsylvania man facing a death penalty trial next month in the murders of his ex-girlfriend and three other people last year is casting himself as a man wronged by many, but says "I don't want to die."

Authorities in Northampton County have charged 37-year-old Michael Eric Ballard with stabbing 39-year-old Denise Merhi to death along with her father and grandfather and a neighbor who came to their aid June 26 in Northampton. Ballard was on parole at the time from a 15- to 30-year sentence in a 1991 murder in Allentown. Jury selection is scheduled to begin May 2 in Wayne County, where the case was moved due to pretrial publicity.

In an April 8 interview at the state prison in Frackville, Ballard told The (Allentown) Morning Call that he hopes jurors will give him life in prison without parole rather than the death penalty, saying life would be the "best" sentence he could hope for.

Ballard, who was not accompanied by his two public defenders, said he could not discuss the murders before his trial. Defense attorneys have raised the possibility of a mental-health defense.

Asked whether he felt remorse, he said the events are "not even a year removed" and "there's still a lot of raw emotion in me."

Northampton County District Attorney John Morganelli has called the crime a "revenge killing" that was committed after Ballard found out that Merhi was involved with another man.

Ballard said he understands "popular opinion isn't necessarily in my favor" but accused the prosecutor of trying to "dehumanize" him.

"He's wanted to portray me as some vicious animal and that's not the case," Ballard said. "I'm flesh and blood. I'm human. I have emotions."

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Ballard's death sentence appeal in hands of state Supreme Court

Challenge to death penalty against man who killed four people in Northampton home is automatic under state law.

February 28, 2013 | By Riley Yates, Of The Morning Call

The first of what could be many appeals by Lehigh Valley mass murderer Michael Eric Ballard is in the hands of the Pennsylvania Supreme Court.

Sentenced to die in 2011 for massacring four people in a Northampton home while on parole for a prior killing, Ballard is challenging the verdict on a host of grounds — from whether autopsy and crime scene photos of his victims should have been shown the jury, to whether the prosecutor improperly cross-examined defense experts who concluded he was brain damaged.

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The Supreme Court was scheduled to hear oral arguments in the case next week, but both sides agreed at the request of Ballard lawyer Michael Corriere to rest on their written legal briefs alone.

The filings are voluminous: Corriere, Northampton County's chief public defender, was given permission by the court to exceed the usual 70-page limit for his brief. District Attorney John Morganelli submitted 55 pages. The trial judge, Edward Smith, wrote 110 pages in defense of his rulings and the trial's fairness.

Ballard stabbed to death his former girlfriend Denise Merhi, 39; her father, Dennis Marsh, 62; her grandfather, Alvin Marsh Jr., 87; and Steven Zernhelt, 53, a neighbor who heard screams at their 1917 Lincoln Ave. home and tried to help.

At the death-penalty trial, Morganelli called the June 26, 2010, murders a "slaughter," a "rampage" and a "massacre." He told jurors that if the case against Ballard, who had killed before, didn't warrant the ultimate punishment then none did.

Corriere argued to the panel that Ballard's rough childhood, brain damage and overbearing jealousy helped cause him to "snap." Because Ballard pleaded guilty before trial to the four killings, the jury only had to decide whether he deserved to be executed or spend the rest of his life in prison.

At the time of the slayings, Ballard had recently been paroled on a 15- to 30-year sentence for stabbing and slitting the throat of an Allentown man in 1991.

The capital verdict was the county's first in nearly 25 years. Ballard, 39, is now an inmate at Greene State Prison, which holds Pennsylvania's largest death row.

Under Pennsylvania law, a death sentence is automatically appealed to the state's highest court, the start of a lengthy legal challenges that have led to no inmates being executed against their will since John F. Kennedy was president.

If prisoners are unsuccessful in their direct appeals, they next turn to post-conviction relief proceedings in which they can question whether their attorneys effectively represented them. If those challenges fail, they can go to the federal courts and argue constitutional violations.

The time frame in which the Supreme Court decides the direct appeal can vary greatly, though it can be lengthy, said Marc Bookman, a former public defender who runs the Atlantic Center for Capital Representation in Philadelphia, which advises capital defense teams.

ICLES

for Michael Eric Ballard

or Michael Eric Ballard

for Michael Eric...

victims talk of loss, nightmares

family to 'punish' girlfriend

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"It's very hard to know. Sometimes the Supreme Court takes years, and sometimes they do it rather quickly," Bookman said Thursday.

In an interview in prison with The Morning Call after his death sentence, Ballard said he intended to fight it. He said he won't be a volunteer who waives his appeals and requests his own execution — as was done by three inmates who were executed in the 1990s.

"I don't have a death wish. That still stands," Ballard said in June 2011. "I don't view myself as so worthless that I need to check out."

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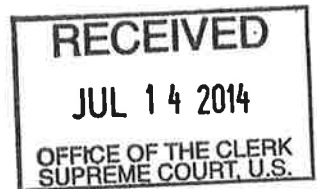
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July 14, 2014



Scott S. Harris, Clerk of
Supreme Court of the United States
Office of the Clerk
1 First Street NE
Washington DC 20543-0001

Christopher W. Vasil
Chief Deputy Clerk
United States Supreme Court
Office of the Clerk
1 First Street NE
Washington DC 20543-0001

Re: Michael Eric Ballard v. Pennsylvania
No.: 13-9364

Dear Mr. Harris and Mr. Vasil:

As you know, Attorney Bookman of the Atlantic Center for Capital Representation was directed by the United States Supreme Court to file a Response to the June 2, 2014 letter filed by Michael Ballard in the above matter. In Mr. Ballard's correspondence directed to the Honorable Justices of the United State Supreme Court, Mr. Ballard stated that he had no knowledge that a Petition for a Writ of Certiorari was being filed in the United States Supreme Court on his behalf. He further indicated that he never authorized anyone to file such a petition on his behalf. He alleged that the attorneys were acting without authorization and without his knowledge. Permission was granted to this office to file a response to Mr. Bookman's letter. Please be advised that I have reviewed Mr. Bookman's Response to the Supreme Court's Order and I find that it raises more questions than it answers.

1. Mr. Bookman indicates that he was approached by an attorney in the Federal Office of the Defender Association of Philadelphia who told him that

“...Mr. Ballard had asked him to find an attorney to file a Petition for a Writ of Certiorari.” Mr. Bookman failed to disclose the name of said attorney.

2. Mr. Bookman further indicates that “under the circumstances”, he had good reason to believe that Mr. Ballard had authorized him to file a Petition for a Writ of Certiorari in his behalf. He relies again on the unnamed member of the Federal Defender Office who he states asked him to do so “after meeting with Mr. Ballard and receiving authority to seek counsel to represent Mr. Ballard .” Mr. Bookman also asserts that he undertook the representation of Mr. Ballard because he was “authorized to act as counsel in filing a Writ of Certiorari”. Unfortunately Mr. Bookman produces no supporting evidence that establishes these assertions.

To the contrary, the evidence I have discovered establishes that Mr. Ballard never authorized anyone to act on his behalf. After reading Mr. Bookman’s explanation set forth in his July 8, 2014 correspondence, I contacted the attorneys who represented Mr. Ballard in the state proceedings in Pennsylvania. I asked them to review Mr. Bookman’s letter. In the state proceedings, Mr. Ballard was represented by Michael F. Corriere, then Chief Public Defender for Northampton County. I have attached hereto Mr. Corriere’s letter of July 11, 2014 to me. Although Mr. Corriere confirms the fact that Mr. Bookman acted as a consultant to the Ballard case in April of 2011, and confirms Mr. Bookman’s assertion that a lawyer from the Federal Defender’s Office in Philadelphia may have contacted Mr. Bookman on behalf of Ballard after the Pennsylvania Supreme Court rejected the Ballard appeal, Mr. Corriere’s letter also confirms that at no time did Mr. Ballard give authority to either Mr. Corriere or any other attorney to file a Petition for a Writ of Certiorari to the United State Supreme Court. As noted above, Mr. Bookman failed to disclose the name of the attorney from the Federal Defender Association who contacted him. From the contents of Mr. Corriere’s letter, it is likely that that attorney was Attorney Eric Montroy who had contact with Mr. Corriere in December of 2013. However, according to Mr. Corriere, on February 6, 2014, Mr. Corriere specifically informed Mr. Montroy that Mr. Ballard did not want to file a Writ of Certiorari and further advised him that he was not authorized by Mr. Ballard to provide any file information to him. Mr. Montroy advised Mr. Corriere that he would take it from there and speak directly with Ballard about the appeal. (See Paragraph 6 of the letter of Michael F. Corriere dated July 11, 2014). I have learned that Mr. Ballard did meet with Mr. Montroy and specifically directed him not to have any petitions filed on his behalf.

Paragraph 7 of Mr. Corriere's letter indicates that after the Petition for a Writ of Certiorari to the United State Supreme Court had been filed by Mr. Bookman, Mr. Ballard called Mr. Corriere to inquire as to who Mr. Bookman was. At that time Mr. Ballard advised Mr. Corriere that the Federal Defender Office had attempted to speak with him and he advised that he did not wish to appeal. Subsequently, Mr. Ballard then wrote his correspondence dated June 2, 2014 directly to the Justices of the United State Supreme Court.

All of this is very troubling. The Federal Community Defender Office of Philadelphia has a history of attempting to intervene in capital litigation without authorization of capital defendants and has been chastised and reprimanded by both the Federal and State Courts for unethical conduct. See: Commonwealth of Pennsylvania v. Mark Spotz, 610 Pa. 17, 18 A.3d 244 (2011); Commonwealth of Pennsylvania v. Gary Heidnik, 112 F.3d 105 (1997), 720 A.2d 1015, 554 Pa. 174 (1997) See also 554 Pa. 177, 720 A.2d 1016 and Commonwealth of Pennsylvania v. White, 557 Pa. 408, 734 A.2d 374 (1999); Commonwealth of Pennsylvania v. Keith Zettlemyer, 53 F.3d 24, 27 (3d Circuit 1995); Commonwealth of Pennsylvania v. Leon Moser; and Shannon Johnson v. State of Delaware, the United State Supreme Court.

In this particular case, there is no question as to Mr. Ballard's competency to decide his own fate. At the time of Mr. Ballard's arrest, two experienced criminal defense attorneys were appointed to represent him – Michael F. Corriere, who was then the Chief Public Defender for Northampton County and James M. Connell, a former Assistant District Attorney and then a current Assistant Public Defender with over 30 years criminal law experience. Attorney Corriere and Attorney Connell acted as the defendant's counsel in both the guilt phase and penalty phases of the state court proceedings.

Prior to trial, defense counsel arranged for the defendant to be examined by Gerald Cooke, Ph.D., a clinical forensic psychologist, Frank M. Dattilio, Ph.D., a clinical and forensic psychologist, and Susan E. Rushing, MD, JD, a psychiatrist at the University of Pennsylvania School of Medicine.

Based upon the psychological and psychiatric examinations done on the defendant which included MRI's and PET scans, it was determined that the defendant was not insane at the time of the crimes, did not have a "diminished capacity" at the time of the crimes, and had no legal mental health defense on the issue of guilt. The

defendant was also determined to be mentally competent to proceed to trial and to assist his attorneys.

Dr. Susan E. Rushing, a psychiatrist retained by the defendant's trial counsel met with the Defendant on February 4, 2011, February 18, 2011 and was in attendance at the PET and MRI scans at the Hospital of the University of Pennsylvania on February 21, 2011 spending a total of seven plus hours interviewing and observing Mr. Ballard. In her report dated April 27, 2011, Dr. Rushing wrote, in part as follows:

“Insanity Assessment. I evaluated Mr. Ballard’s mental state at the time of the crime using the McNaughten Standard, which asked whether the defendant understood the nature and quality of his act and whether he knew that his action was wrong. Mr. Ballard realized that repeatedly stabbing a person would result in death. As such, he formed the specific intent to kill. While Mr. Ballard believed that his action was morally justified, he recognized that killing was illegal. He stated that he knew that he would be jailed for his actions. Therefore, it is my opinion to a reasonable degree of medical certainty that Mr. Ballard understood the nature and quality of his crime and, the fact that his actions were illegal.

Competency Assessment. During my examination, Mr. Ballard understood that he was charged with four homicides. He understood that this is a capital offense and that the State of Pennsylvania is seeking the death penalty as punishment for his actions. Mr. Ballard possessed an understanding of the legal system and the role of his attorney and the defense team. Mr. Ballard appeared able to work with his attorney in most respects. It is my opinion to a reasonable degree of medical certainty that Mr. Ballard is mentally competent to proceed to trial at this time.”

Dr. Gerald Cooke testified at the defendant's penalty hearing on May 13, 2011. Dr. Cooke was asked to test Mr. Ballard and find out if he had any deficiencies that affected his mental ability to formulate a plan to kill somebody, to carry it out specifically and intend to do so. Dr. Cooke determined Mr. Ballard was not insane at the time of his crime. Dr. Cooke specifically testified that Mr. Ballard knew what he was doing and he knew what he was doing was wrong and further that Mr. Ballard also understood the nature and quality of his acts. (N.T. at 258-260) Dr. Cooke also

testified that he found no diminished capacity of the defendant at the time of the crimes in a legal sense. (N.T. at 260-261)

Dr. Frank M. Dattilio, Ph.D. a clinical and forensic psychologist, stated in his report dated April 27, 2011 the following:

“Competency. As a result of a request for a competency assessment, Mr. Ballard was administered the Competency Questionnaire to Stand Trial. During the evaluation, Mr. Ballard demonstrated that he understood that he is charged with four counts of criminal homicide and that a trial could result in the death penalty. Moreover, he manifested a basic understanding of the process of a trial and the roles of trial participants, such as a judge, jury, witnesses, prosecuting and defense attorneys, and defendant. He was able to provide a coherent description of his version of the relevant events in the instant offense, except for some blackout periods afterwards. Moreover, he seemed motivated to give proper attention to matters of his defense and to be capable of contributing factual information to the process. He was able to demonstrate a recognition and appreciation of the importance of legal counsel in presenting a defense and clearly understands the trial process.

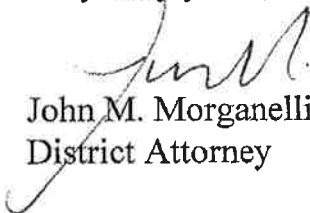
As a result, it is very clear that Mr. Ballard is competent to assist his attorney in developing a viable defense and is competent to stand trial.”

On April 20, 2011, the defendant entered a plea of guilty to four counts of Murder in the First Degree after the Honorable Edward Smith, Judge of the Court of Common Pleas of Northampton County, found the defendant competent to enter a knowing, intelligent and voluntary guilty plea to the charges. Judge Smith was sworn in as a Federal Judge in the Eastern District of Pennsylvania in June 2014.

On May 17, 2011, after a penalty phase hearing, a jury returned a sentence of death on each of the four counts of Murder in the First Degree. The jury found no mitigating factors with respect to three of the murders and found only one mitigating factor (extreme mental or emotional disturbance) with respect to the murder of victim Denise Merhi, the defendant’s girlfriend thereby rejecting all of the defendant’s mental health mitigation evidence.

Please be advised that the filing of unauthorized pleadings causes substantial work for prosecutor's offices. In my opinion, there exists absolutely no evidence whatsoever that Mr. Bookman was authorized by Mr. Ballard to file a Petition of Writ of Certiorari to the United State Supreme Court. In fact, the evidence is to the contrary. If Mr. Bookman was misled, he was misled by another attorney which should also result in an inquiry by the Supreme Court. Lawyers represent clients not causes. Intervention by lawyers who are acting without authorization from their clients is unethical conduct. I believe some sanction or reprimand should be considered. Thank you for considering this response.

Very truly yours,



John M. Morganelli
District Attorney

JMM/st

cc: Marc Bookman, Esq.

Enclosure

From: Michael F. Corriere, Esq <mfcesq@ptd.net>
To: bd3301 <bd3301@aol.com>
Cc: 'Jim Connell' <connellpalaw@verizon.net>
Subject: Commonwealth v. Michael E. Ballard
Date: Fri, Jul 11, 2014 1:54 pm

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VIA ELECTRONIC MAIL ONLY

John M. Morganelli, Esquire
Office of the District Attorney
669 Washington Street
Easton, PA 18045

Re: Commonwealth v. Michael Ballard
Supreme Court No.: 636 CAP
Northampton County No.: 3058-2010

Dear John:

Per your email dated July 10, 2014, I provide the below information as requested:

1. The Atlantic Center for Capital Presentation provides advice and information to

defense counsel in capital cases. Mr. Bookman offered to meet with Mr. Connell and I to discuss the Ballard case. Mr. Connell and I met with Mr. Bookman in approximately April 2011. Mr. Bookman provided some suggestions about jury selection, mitigation strategy and arguments to make at the sentencing hearing. I believe he may have also provided some case law regarding mitigation evidence. I believe he did provide some consulting services.

2. On December 5, 2013, I received a call from Attorney Eric Montroy of the Federal Defender from Philadelphia. He advised he reviewed the Pa. Supreme Court decision and thought Mr. Ballard might have an issue or two to appeal to the United States Supreme Court. He advised he knew someone who is experienced in federal litigation and might be willing to file a Writ of Certiorari. He asked about reviewing Mr. Ballard's brief and other documentation regarding the case. I advised I would ask Mr. Ballard if he was interested.

3. On December 16, 2013, I wrote to Mr. Ballard. I advised him of his right to appeal to the United States Supreme Court and his right to file a PCRA. I also inquired whether or not he wanted us to provide information to a third-party to see if a United States Supreme Court appeal was warranted.

4. On January 3, 2014, Mr. Ballard wrote back and advised he wanted no further appeals. He advised that the public defenders office was not permitted to provide any information to any third-party.

5. On January 15, 2014, I wrote to Mr. Ballard and advised him of his right to file a PCRA. I advised no further action would be taken and we would not provide any of his information to any third party.

6. On February 6, 2014, Mr. Montroy called me. He inquired about the U. S. Supreme Court appeal. I informed Mr. Montroy that Mr. Ballard did not want to file a Writ of Certiorari. I also advised I was not authorized to provide any file information to him. Mr. Montroy advised his office will take it from here and speak directly with Mr. Ballard about the appeal.

7. After the Writ had been filed Mr. Ballard subsequently called me and inquired who Mr. Bookman was. He advised that the Federal defenders office had attempted to speak with him. He advised that he told them he did not wish to appeal. He also advised he wanted to try to prevent the appeal from going forward. He asked me to speak to you about this matter. Prior to me doing so Mr. Ballard sent a letter the Supreme Court requesting the appeal be withdrawn. I believe a copy was submitted to you and to me.

Should you have any questions, please call.

Very Truly Yours,
Michael F. Corriere
Michael F. Corriere.

MFC|an

Cc: James M. Connell, Esquire



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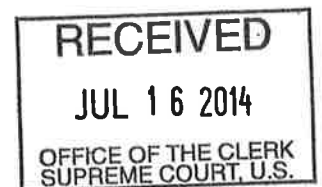
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Scott S. Harris
Christopher W. Vasil
Supreme Court of the United States
Office of the Clerk
Washington, D.C. 20543-0001

July 16, 2014



RE: Michael Eric Ballard v. Pennsylvania, No. 13-9364

Dear Mr. Harris and Mr. Vasil:

I write to briefly respond to Mr. Morganelli's letter dated July 14, 2014.

Although I did not write this in my initial letter, I have never faced an allegation of a disciplinary breach in more than thirty years of practice. Mr. Morganelli now asks the Court to conduct an "investigation" of me based on the allegations of Mr. Ballard.

First, in an apparent effort to buttress Mr. Ballard's credibility, Mr. Morganelli cites to mental health assessments of Mr. Ballard to demonstrate that he is competent to waive counsel. While I did not think it appropriate to address this issue in my first letter to the Court, Mr. Morganelli fails to mention that evidence was presented at Mr. Ballard's sentencing hearing indicating that he had suffered from multiple traumatic brain injuries, memory deficits, and brain damage. *Commonwealth v. Ballard*, 80 A.3d. 380 (Pa. 2013).

Second, Mr. Morganelli bases his request for an investigation on the claims of Michael Ballard himself, a man he has previously described

as “deceitful,” “manipulative,” and “calculating.” (NT, 5/17/11, p. 109). *Before trial*, Mr. Morganelli described Mr. Ballard as a “diseased dog” and as a “mad dog” who should be “put down.” (Express-Times, 7/20/10; Allentown Morning Call, 9/7/10). Thus, Mr. Morganelli asks this Court to conduct an “investigation” that will hinge on the contradictory statements of a man with serious mental health disorders whose credibility has been challenged, repeatedly, by Mr. Morganelli.

Finally, Mr. Morganelli cites a number of cases where he claims the Federal Community Defender Office intervened in capital litigation without authorization. However, none of those cases address the issue they are purportedly cited for, i.e. representation without authorization. Indeed, one of the cited cases (*Shannon Johnson vs. State of Delaware*) was not even handled by that office.

Mr. Ballard sent a letter to this Court claiming that I was not authorized to file the Petition for Writ of Certiorari. I was directed to respond and did so. Mr. Morganelli’s effort to subject me to further “investigation” should be rejected.

Sincerely,

A handwritten signature in black ink that reads "Marc Bookman". The signature is written in a cursive, flowing style.

Marc Bookman, Esquire
Pennsylvania Bar No. 37320

cc John M. Morganelli, Esquire

Evidence seized in Northampton murder searches includes a piece of killing suspect Michael Eric Ballard's finger, 4 knives

[Print \(http://blog.lehighvalleylive.com/breaking-news_impact/print.html?entry=/2010/07/evidence_seized_in_search_of_m.html\)](http://blog.lehighvalleylive.com/breaking-news_impact/print.html?entry=/2010/07/evidence_seized_in_search_of_m.html)

ET <http://connect.lehighvalleylive.com/user/jmalone/index.html> By **JD Malone** | The Express-Times <http://connect.lehighvalleylive.com/user/jmalone/posts.html>
on July 20, 2010 at 4:57 PM, updated July 20, 2010 at 7:03 PM

Police found four knives, a parole notice and a piece of what they believe is Michael E. Ballard's left ring finger in their searches following [a quadruple murder in Northampton last month](http://www.lehighvalleylive.com/breaking-news/index.ssf/2010/06/northampton-last-month) ([http://www.lehighvalleylive.com/breaking-news/index.ssf/2010/06](http://www.lehighvalleylive.com/breaking-news/index.ssf/2010/06/northampton-last-month)



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Express-Times Photo | MATT SMITH

This is the home on Lincoln Avenue in Northampton where police allege Michael Eric Ballard killed four people June 26. Inside, police found a piece of a finger they believe is Ballard's.

[/michael e ballard its obvious.html](http://www.lehighvalleylive.com/breaking-news/index.ssf/2010/06/michael-e-ballard-its-obvious.html)). They searched the home in Northampton where Ballard is accused of stabbing four adults, the car he allegedly stole and used to flee, and Ballard himself.

Police allege Ballard, 39, of the 600 block of Hamilton Street in Allentown, killed Denise Mehri, 39; Alvin Marsh, 87; Dennis Marsh, 62; and Steven Zernhelt, 53, the morning of June 26 inside Mehri's 1917 Lincoln Ave. home.

Search warrants were issued for the car Ballard allegedly stole -- it was registered to Mehri -- and wrecked in Lehigh Township minutes after he allegedly bolted from the home, Mehri's home, Ballard's person and anything taken off his body at St. Luke's Hospital where he was treated for a broken leg, a stab wound and other injuries.

According to the search warrants:

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Weigh in on today's news poll

Police seized two knives, a purple purse, fabric samples and 14 other items from the car. They included Ballard's wallet, which contained three Department of Corrections identification cards, a bus pass, various membership cards and an Allentown Library card.

Police took Ballard's pants, underwear, the hospital bed sheet and the swabs doctors used to clean him from the hospital. They also seized a knife sheath, photos, boots and socks from his room at St. Luke's.

At 1917 Lincoln Ave., police collected dozens of carpet and blood samples, a ceiling tile, switch plates, part of a wall, a bag belonging to Ballard, four computers, three cell phones, a pair of sympathy cards and a soap dish.

Police also took photographs of injuries police say Ballard may have sustained while committing the murders: cuts on both hands as well as unknown injuries to his left armpit and the left side of his face. Police said a state trooper noticed that Ballard was missing a part of his left ring finger and that a matching piece of human tissue was found at the murder site. Police did not mention how Ballard lost a portion of one of his digits.

Ballard was charged with four counts of homicide and sent to prison without bail. He was moved from county to state prison earlier this month.

Ballard was out on parole when he allegedly committed the murders. **He killed an Allentown man in 1991 by stabbing him 13 times** (http://www.lehighvalleylive.com/breaking-news/index.ssf/2010/06/northampton_quadruple_homicide.html) inside the man's apartment after the man allegedly made sexual advances at Ballard. Ballard stole the man's car and drove to Arkansas, where he was later apprehended.

Ballard served 15 years of a 15- to 30-year sentence. He was paroled in 2007, re-incarcerated in 2008 and paroled again in April.

Northampton County District Attorney John Morganelli referred to Ballard as a diseased dog and is seeking the death penalty. (http://videos.lehighvalleylive.com/express-times/2010/06/news_conference_on_northampton.html)

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Man claims he was looking for girlfriend when he breaks into Allentown home, police say (http://www.lehighvalleylive.com/allentown/index.ssf/2014/07/man_claims_he_was_looking_for.html#incart_f)

Photo of the Day



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Morganelli: Ballard should get death

Man accused of four slayings bought knife hours earlier, prosecutor says.

September 07, 2010 | By Riley Yates, OF THE MORNING CALL.

Michael Eric Ballard should be put to death if convicted of killing four people this summer in Northampton, District Attorney John Morganelli said at a news conference Tuesday.

The reasons are the multiple victims and Ballard's prior conviction for a 1991 murder, factors that the law says could justify capital punishment, Morganelli said.

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Morganelli's announcement came as he filed a notice informing Ballard officially that he faces the death penalty. The filing was expected because Morganelli has called Ballard, 37, a "mad dog" who should be "put down."

On June 26, authorities arrived at 1917 Lincoln Ave. to find neighbors wailing outside and four people dead inside from knife wounds. They were Ballard's former girlfriend, Denise Merhi, 39; her father, Dennis Marsh, 62; her grandfather, Alvin Marsh Jr., 87; and Steve Zernhelt, 53, a neighbor who rushed to the house to try to help, police said.

On Tuesday, Morganelli said there is "compelling and overwhelming" evidence that the slayings were premeditated. Just hours before, Ballard purchased a knife and made plans to leave the area, said Morganelli, who wouldn't provide further details.

The deaths were a "revenge killing" by Ballard because he had learned Merhi was involved with another man, Morganelli said.

Ballard was arrested after he was found in a wrecked car two miles away with a broken leg, knife wounds to his lower body and an empty sheath attached to his belt, police said. When a state police trooper asked him what happened, Ballard told him, "It's obvious, I just killed everyone," according to court records.

When the slayings occurred, Ballard was free on parole for a December 1991 murder in Allentown in which he stabbed and slit the throat of a city man, then fled with the man's wallet and car to Arkansas. Ballard received a 15-to-30-year sentence after admitting third-degree murder and other charges.

Under Pennsylvania's death penalty law, capital punishment can only be imposed in cases of premeditated murder in which at least one of 18 aggravating circumstances is present. All 12 jurors must agree it is appropriate.

It is rare for juries to impose it in Northampton County cases and it is rarely carried out in Pennsylvania.

In January, a county jury deadlocked on whether it was appropriate for Ali E. Davis, convicted of murdering three people in Easton's West Ward in 2007, which resulted in him receiving life in prison without parole.

The last death penalty verdict in Northampton County was in 1987 for Joseph Henry, who raped and strangled a Lehigh University student during a burglary. A U.S. District Court judge later vacated the sentence, and Henry is now serving a life term.

The last person actually executed from the county was John Kurutz of Lower Saucon Township, who was given the electric chair on June 26, 1933, for killing his 16-year-old stepson because the boy wouldn't do his chores.

Statewide, just three convicts have been put to death since a U.S. Supreme Court moratorium on capital punishment was lifted in 1976. All occurred in the 1990s by lethal injection, and all of the men were "volunteers" who abandoned their appeals, thus hastening their fates.

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Ballard is being held without bail, primarily in the maximum security state prison in Frackville, Schuylkill County. He is scheduled to be arraigned in Northampton County Court on Sept. 16 on four homicide charges.

His lead defense attorney, Michael Corriere, did not return a call seeking comment.

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