



PENNSYLVANIA LEGISLATURE TO ACT WITHIN 120-DAY WINDOW FOLLOWING SUPREME COURT'S LANDMARK SENTENCING RULING

Urges Lawmakers to Extend Reform Beyond Second-Degree Murder to Address First-Degree Murder Accomplices Serving LWOP on Vicarious Liability Theories

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PHILADELPHIA LEGAL ORGANIZATION CALLS ON PENNSYLVANIA LEGISLATURE TO ACT WITHIN 120-DAY WINDOW FOLLOWING SUPREME COURT'S LANDMARK SENTENCING RULING
Urges Lawmakers to Extend Reform Beyond Second-Degree Murder to Address First-Degree Murder Accomplices Serving LWOP on Vicarious Liability Theories

Paralex Group, LLC, a Philadelphia-based legal research and paralegal services organization, today issued a formal letter to the Pennsylvania General Assembly urging comprehensive legislative action within the 120-day window created by the Pennsylvania Supreme Court's decision in *Commonwealth v. Lee*, No. 3 WAP 2024 (Pa. March 26, 2026).

In *Lee*, Chief Justice Todd, writing for a five-justice majority, struck down Pennsylvania's mandatory life-without-parole (LWOP) sentencing scheme for all second-degree (felony) murder convictions as cruel punishment under Article I, Section 13 of the Pennsylvania Constitution. The Court found that imposing the Commonwealth's harshest imprisonment sanction on all offenders — including those who neither killed nor intended to kill — without any individualized culpability assessment is constitutionally intolerable. The Court stayed its mandate for 120 days to allow the General Assembly to enact a remedial sentencing framework.

"The Court has handed the legislature a constitutional mandate and a 120-day clock," said Paralex Group. "This window must not produce a minimal fix. It must confront the full scope of

Pennsylvania's sentencing crisis — including hundreds of individuals serving LWOP for first-degree murder under vicarious liability theories that never required proof of their own intent to kill."

The Unaddressed Crisis: First-Degree Murder Accomplices and Vicarious LWOP

Pennsylvania holds hundreds of individuals serving LWOP for first-degree murder under accomplice liability theories where the Commonwealth never proved — and juries never found — that the accomplice harbored the specific intent to kill that first-degree murder demands. In *Commonwealth v. Huffman*, 638 A.2d 961 (Pa. 1994), and *Commonwealth v. Wayne*, 720 A.2d 456 (Pa. 1998), Pennsylvania's own Supreme Court held that specific intent to kill is an essential element of first-degree murder that must be proven independently as to each defendant — and that vicarious liability theories cannot eliminate that requirement. The United States Supreme Court reinforced this in *Scales v. United States*, 367 U.S. 203, 224-25 (1961): criminal liability based on mere association, without proof of specific intent, violates due process.

Judicial Invention Without Statutory Authority

Beginning in 1973, when Pennsylvania's Crimes Code took effect, courts applied 'Pinkerton-type' theories that automatically attributed a co-defendant's intent to kill to all participants — without independent proof. As Professor Bruce A. Antkowiak documented in *The Pinkerton Problem*, 115 Penn St. L. Rev. 1 (2011), this was purely judge-made doctrine. Section 107(b) of the 1972 Crimes Code states: "No conduct constitutes a crime unless it is a crime under this title or another statute of the Commonwealth." Automatic attribution of intent to kill was never legislatively authorized. That unconstitutional tension between judicial invention and statutory mandate remains uncorrected today.

The Human Dimension

Approximately 70% of Pennsylvania's more than 5,000 LWOP prisoners are Black, despite Black Pennsylvanians comprising roughly 12% of the Commonwealth's population. In concrete terms: a Paralex client was convicted in 1973 with no conspiracy finding, was not present at the homicide, and has served over 50 years — while the actual shooter received 10 to 20 years. His case is not an outlier. It is the rule.

Four Legislative Actions Requested

Paralex Group urges the General Assembly to: (1) enact an individualized sentencing framework for second-degree murder consistent with Lee; (2) create a resentencing petition mechanism for current second-degree murder LWOP prisoners; (3) enact a statutory petition right for first-degree murder accomplice LWOP prisoners whose convictions rested on vicarious intent theories without independent jury findings of specific intent to kill; and (4) apply all reforms retroactively.

"The 120-day window is a mandate by the PA Supreme Court.

About Paralex Group, LLC

Paralex Group, LLC is a Philadelphia-based legal research and paralegal services organization serving clients across Pennsylvania and the Third Circuit in criminal defense, post-conviction relief, civil rights litigation, and federal appellate practice, with a concentration in PCRA procedure, accomplice liability doctrine, and constitutional sentencing law.

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