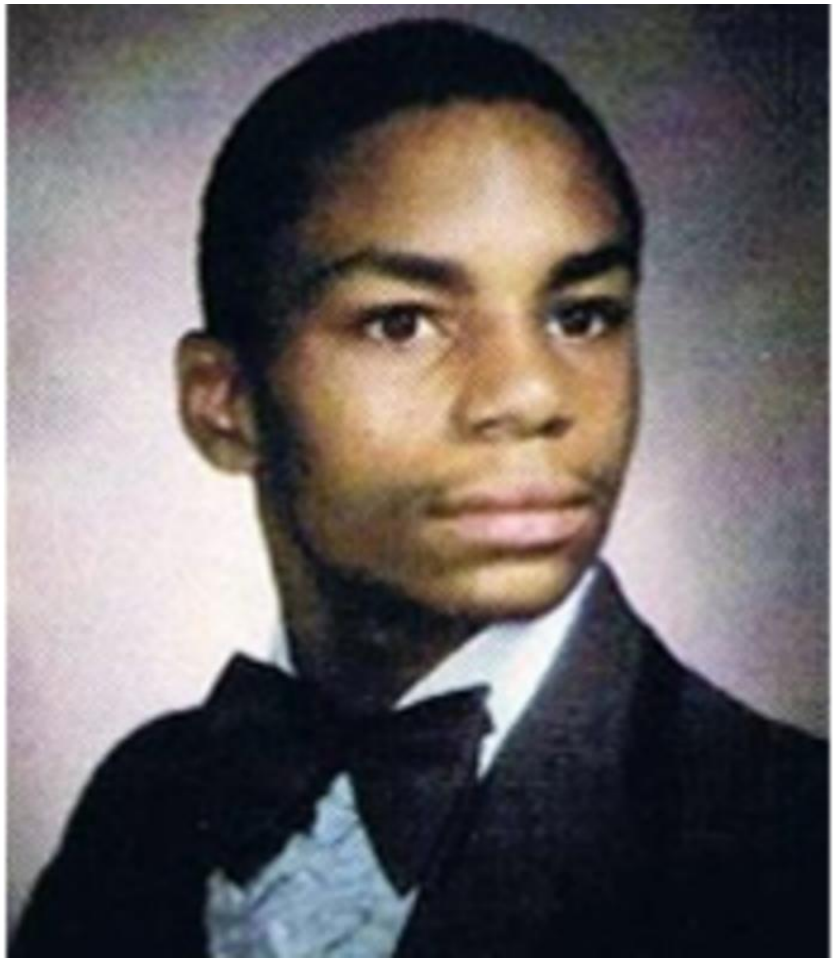
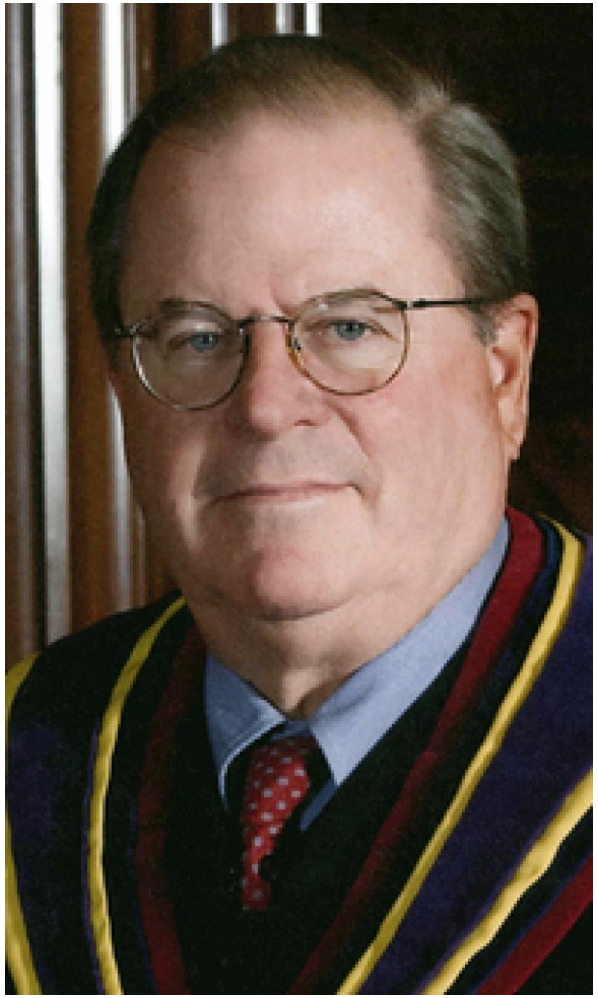
136 S.Ct. 1899
Supreme Court of the United States
Terrance WILLIAMS, Petitioner
v.
PENNSYLVANIA.

Terry Williams, 1983



Ronald J. Castille



United States Supreme Court

- This Court's precedents set forth an objective standard that requires recusal when the likelihood of bias on the part of the judge " 'is too high to be constitutionally tolerable.' " *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 872, 129 S.Ct. 2252, 173 L.Ed.2d 1208 (2009) (quoting *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S.Ct. 1456, 43 L.Ed.2d 712 (1975)).

- The Court now holds that under the Due Process Clause there is an impermissible risk of actual bias when a judge earlier had significant, personal involvement as a prosecutor in a critical decision regarding the defendant's case.

Ron Castille’s Campaign for the Pennsylvania Supreme Court

"Castille [ran] a law-and-order campaign, touting his 45 death-penalty convictions and saying [his opponent] was soft on crime.... 'My campaign was basically that I've spent 20 years in law enforcement as a prosecutor, and the citizens want somebody who's tough on crime. My record's been just that,' Castille said early this morning.“

Tim Reeves, "Castille Leads GOP Sweep of Courts," PITTSBURGH POST-GAZETTE (Nov. 3, 1993)

590 Pa. 256
Supreme Court of Pennsylvania.
COMMONWEALTH of Pennsylvania, Appellee,
v.
Michael RAINEY, Appellant.
July 7, 2006.

The Commonwealth concludes this point by noting that, aside from concurring in the judgment of my assistants concerning the facial applicability of the death penalty statute, and serving in a formal role (such that my name appeared upon pleadings, *etc.*), there is no showing, or claim, that I actually directed, oversaw, or participated in the prosecution of this matter,

My formal approval of such recommendations from my assistants, recommendations approved at all levels in the chain of command, simply represented a concurrence in their judgment that the death penalty statute applied, *i.e.*, that one or more of the statutory aggravating circumstances set forth in the Sentencing Code, *see* 42 Pa.C.S. § 9711(d), existed, and nothing more.

590 Pa. 256
Supreme Court of Pennsylvania.
COMMONWEALTH of Pennsylvania, Appellee,
v.
Michael RAINEY, Appellant.
July 7, 2006.

My concurrence in the judgment of my assistants that notice should be provided to a murder defendant of potential aggravating circumstances is not, in my considered view, a level of involvement in the matter in controversy which recommends or warrants recusal.

In short, it was never a policy of the District Attorney's Office during my watch to violate Batson, to engage in discriminatory practices of any kind, or to violate any other governing precept of law. Mr. Nolas's allegations are as bereft of factual support as they are distressingly unmindful of his own sworn duties as a lawyer and officer of this Court. See R.P.C. 3.3(a)(1), RPC 8.2(a), RPC 8.4(c).

613 Pa. 510
Supreme Court of Pennsylvania.
COMMONWEALTH of Pennsylvania, Appellee
v.
Ernest PORTER, Appellant.
Submitted March 8, 2010.Decided Jan. 19, 2012.

FCDO's global strategy of delaying capital cases by forcing prosecutors and the Court to respond to “an endless series of frivolous claims.”

Because Nolas's recusal argument in this case is premised upon an abject mischaracterization of my concurrence in Spotz, it is yet another example of the FCDO's determination to tie up Pennsylvania courts with frivolous pleadings.

Attorney Nolas, on behalf of the FCDO, undertook a course of conduct in this case that ensured substantial delay in both state and federal court, without ever uttering a syllable of either admission or complaint concerning that consequence. That is a record fact. No further response will be made here; Nolas and the FCDO have wasted enough of this Court's time with their frivolous posturings.

Marc Draper

- Marc Draper testified against Petitioner in the capital case and is serving life for his role in the killing of Amos Norwood. In his recent declaration, Mr. Draper states that on the night of his arrest, police threatened to charge him with another homicide, the murder of a pregnant woman named Friedman, and that their accusations were not true. Because of the detectives' threats to charge Draper capitally with the Friedman case, he broke down after a few hours and gave them a statement about the Norwood case. When the police were preparing him to testify against Petitioner in this case, he told police that Norwood was a homosexual, Petitioner and the victim were involved in a sexual relationship, and that the incident was really about that relationship. The police, however, told him to testify that the motive was robbery.

- Draper also states that he was told that in exchange for his testimony he would be eligible for parole after 15 years, and that at the appropriate time, law enforcement would write a letter to the parole board supporting him.

Opinion of the Honorable M. Teresa Sarmina. November 27, 2002

This Court was constrained to find that Ms. Foulkes intentionally rooted out information which strengthened the inference of a homosexual connection between appellee and Amos Norwood from being presented to the jury by the defense ... Ms. Foulkes chose not to disclose that evidence in an attempt to cure the "issues" that had led to a compromise verdict in the Hamilton case, and to keep as much as possible regarding those "issues" out of the trial of the Norwood case. *And after having failed to disclose this evidence, Ms. Foulkes then made a closing argument that contradicted her own belief about the true nature of appellee's relationship with Amos Norwood.*

"Not only did Ms. Foulkes keep these 'issues' from being presented to the empaneled jury, but she also chose the jury with an eye towards weeding out jurors who might have been sympathetic to victims of sexual impropriety."

Opinion of the Honorable M. Teresa Sarmina. November 27, 2002

Instead of having the trial prosecutor rebut her own penalty-phase closing argument more than 26 years after delivering it [i.e., at the September 2012 hearing], had she disclosed the suppressed evidence, a reasonable defense attorney would have been able to directly contradict or prevent her argument that day. Not only would reasonable defense counsel have directly rebutted the centerpiece of the Commonwealth's penalty-phase closing argument - that appellee killed Amos Norwood "for no other reason but that a kind man offered him a ride home" - but that attorney would have then explained how the sexual pressure imposed on appellee by Norwood was a "circumstance of his offense," as it clouded his judgment.

***

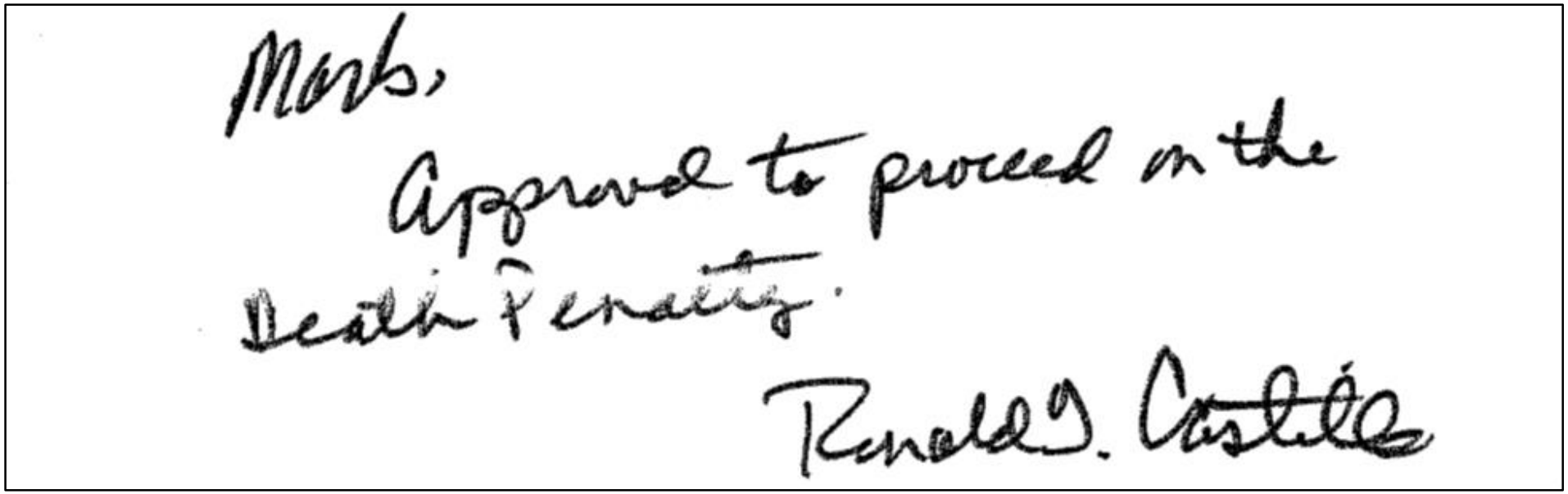
Viewed cumulatively, the non-disclosed evidence would have enabled appellee's attorney to argue credibly ... that Amos Norwood was a homosexual ephebophile who had taken advantage of a number of boys, including appellee. (TCO 48-49, 51).

Mark Gottlieb, Chief, Homicide Unit

Page 2

January 21, 1986

Re: Commonwealth v. Terrance Williams



and a socket wrench" with which the defendants beat the decedent to death; that Mr. Williams "returned with gasoline and burned the body"; and that Mr. Williams was awaiting trial on unrelated robbery charges. JA 424a-26a. The memorandum went on to discuss mitigating information, including Petitioner's youth, education, athletic achievements, and his description "by persons who know him as a Jeckyl-Hyde [sic] personality." JA 426a. The memorandum omitted mention of the victim's sexual misconduct. *See* JA 424a-26a.

The memorandum requested that the office "actively seek the death penalty," and concluded, "Please advise." JA 424a, 426a. At the bottom of the memorandum, Mr. Gottlieb placed a handwritten note: "Ron, I recommend seeking Death. M. Gottlieb 1/22/86." JA 426a.

District Attorney Castille had taken office earlier in the month, on January 6, 1986. After receiving the memorandum with Mr. Gottlieb's handwritten note, District Attorney Castille placed his own handwritten note at the end of the memorandum as follows:

Marks,
Approved to proceed on the
Death Penalty.
Ronald D. Castille

Lessons Learned

- It is not just another record based appeal - Investigation is the key to good post-conviction practice
- Keep pulling at strings. You never know what may get untangled or where it may lead.
- Don’t be afraid to take on the judge or the prosecutor. Sometimes you just have to.
- Never stop trying. Never give up.