

In The  
**United States Court of Appeals**  
for the Third Circuit

**18-1816**

JACOB CORMAN IN HIS OFFICIAL CAPACITY AS MAJORITY LEADER OF THE PENNSYLVANIA SENATE; MIKE FOLMER; IN HIS OFFICIAL CAPACITY AS CHAIRMAN OF THE PENNSYLVANIA STATE SENATE GOVERNMENT COMMITTEE; LOU BARLETTA; RYAN COSTELLO; MIKE KELLY; TOM MARINO ; SCOTT PERRY; KEITH ROTHFUS; LLOYD SMUCKER; GLEN THOMPSON; JEFFREY CUTLER

v.

SECRETARY COMMONWEALTH OF PENNSYLVANIA; COMMISSIONER BUREAU OF COMMISSIONS, ELECTIONS & LEGISLATION

CARMEN FEBO SAN MIGUEL; JAMES SOLOMON; JAMES GREINER; JOHN CAPCOWSKI; GRETCHEN BRANDT; THOMAS RENTSCJLER; MARY ELIZABETH LAWN; LISA ISAACS; DON LANCASTER; JORDI COMMAS; ROBERT SMITH; WILLIAM MARX; RICHARD MANTELL; PRISCILLA MCNULTY; THOMAS ULRICH; ROBERT MCKINSTRY; MARK LICHTY; LORAIN PETROSKY

*(Intervenors in District Court)*

JEFFREY CUTLER,  
Appellant

*Appeal from the Order/Judgment entered April 10, 2018 in the United States District Court for the Middle District of Pennsylvania at No. 1-18-cv-00443*

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**BRIEF AND APPENDIX FOR  
APPELLANT/INTERVENOR-PLAINTIFF  
Volumes I of II (pgs. 1a-33a)**

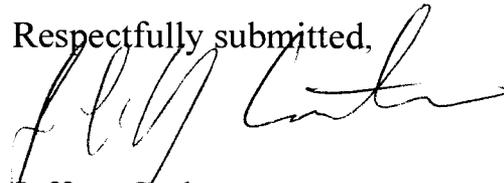
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**NOTICE OF ERRATA**

The Appellant hereby informs the court that the attached pages should replace the equivalent pages submitted on July 16, 2018 for minor omissions, and format. The caption of the case was incorrectly altered by the Appellant service.

Respectfully submitted,



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**Dated: July 23, 2018**

**Date** July 23, 2018

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**STATEMENT OF SUBJECT MATTER  
AND APPELLATE JURISDICTION**

The United States District Court had subject matter jurisdiction pursuant to 18

U.S.C. § 3231, which confers upon the district courts original

jurisdiction over all offenses against the laws of the United States.

Appellate jurisdiction is conferred upon the Court of Appeals for the

Third Circuit by 28 U.S.C. § 1291 and U.S.C. 18 U.S.C. § 3742(a).

The District Court imposed a decision on March 19, 2018, with the judgment officially entered that same day. (AA5-28; DDE ## 136, 137).<sup>1</sup> Appellant Jeffrey Cutler complied with Rule 4(b)(1) of the Federal Rules of Appellate Procedure by filing a timely Motion to Reconsider and Intervene on April 3, 2018, however the court omitted page 3 during scanning (AA396-397). The court corrected the document on April 9, 2018 (AA561-570), and rendered a decision on April 10, 2018. Notice of Appeal was filed on April 12, 2018 (AA1-2; DDE # 141) and a corrected appeal on April 17, 2018. (AA3-4; DDE # 143).

**STATEMENT OF RELATED CASES**

Appellant believes USCA case #17-2709 currently pending before this Court is directly related to this appeal, and case #5:17-cv-05025 in the eastern district of

<sup>1</sup> “AA” refers to the Appellant’s Appendix filed with this brief. “DDE #” refers to the district docket entry and corresponding entry number.

Pennsylvania are both related to this case. Case # CI-17-01626 Lancaster County court of Common Pleas, was also aimed at setting a precedent in altering the Pennsylvania Constitution by Judicial Decree. Case # 3:17-cv-02692 from the Northern District of Texas, and case # 1:16-cr-10233-RGS Massachussetes, both involve FBI misconduct. Case # 3:12-cr-00034-CWR-FKB involves the KLU KLUX KLAN or copycat behavior.

### STATEMENT OF THE ISSUE ON APPEAL

1. Whether the remedy imposed by the Supreme Court of Pennsylvania, which clearly violates the Pennsylvania Constitution and creates a precedent that allows any part of the constitution be circumvented in 10 days without any notice being afforded to voters or the public, and was substantively unreasonable because it exceeded the necessary to satisfy the goals set forth in 18 U.S.C. §3553(a) and violates the United States Constitution Amendment 1. The Public Interest Law Center claims this case is based solely on state constitutional grounds and not perjured testimony.

**Standard of Review:** Appellate courts review sentencing challenges under the abuse of discretion standard. *Gall v. United States*, 552 U.S. 38 (2007).

**Preservation of Issue:** Mr. Cutler opposed the government's request for a remedy that allows the court to Ammend the Pennsylvania Constitution in effectively 10 days based on perjured testimony.

The courts have affirmed, it must "afford a liberal reading to a complaint filed by a pro se plaintiff," particularly when the plaintiff has no formal legal training or education. *Klayman v. Zuckerberg*, 753 F.3d 1354, 1357 (D.C. Cir. 2014); see also *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) ("A document filed pro se is to be liberally construed, and a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by

lawyers.”

## **STATEMENT OF THE CASE**

Jeffrey Cutler appeals the remedy imposed by the Pennsylvania Supreme court which allows a process that minimally is described by the Pennsylvania constitution at a minimum of 90 days, during 2 separate sessions. Mr. Cutler respectfully submits that under the facts and circumstances specific to this case, the final remedy was significantly greater more intrusive than necessary to achieve the statutory purposes of case, and was therefore substantively unreasonable.

Furthermore, the remedy created an unwarranted disparity in law in contravention of 18 U.S.C. § 3553(a), and violates the United States Constitution Amendment 1.

### **A. The Offense**

Mr. Cutler was elected to public office in November 2013. He was subsequently removed from office based on a single-count Complaint in Mandamus with violating the local tax collector law, and was removed from office based on a two hour hearing based on perjured testimony. The incident took place on March 17, 2017 in the court of common pleas by Judge Margaret Miller, ordering his mail be redirected and bank accounts seized in violation of federal law.

Prior to this incident, Mr. Cutler after taking his required oath office to defend the constitution of the United States and Commonwealth of Pennsylvania, had tried to overturn the affordable care act because he felt it violated the establishment clause of the United States constitution Amendment 1. He had hired the American Freedom Law Center to assist him in the appeal of this effort. Mr. Cutler had filed an original lawsuit in Washington, DC on December 31, 2013 Pro Se (1:13-cv-2066). Mr. Cutler had gotten into a verbal altercation with a township about being elected, and was urged to resign, the position he was legally elected in November of 2013. By January 9, 2014, East Lampeter Township solicitor had sent a threat of legal action for getting legally elected. Mr. Cutler contracted the Fulton Bank to accept payments at any of the over 80 state branches, just like the Conestoga Valley School system. Mr. Cutler deputized the Conestoga Valley School system to collect the school system taxes for East Lampeter Township, since they had an employee in place to perform this activity and the other two townships that use the Conestoga Valley School system were not part of East Lampeter Township. Mr. Cutler continued to perform the duties required of the position and was continually

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<sup>2</sup> Mr. Cutler was never convicted of any crime and attempted to clear his name and recover assets seized by court order, and found not a single lawyer would assist him. Mr. Cutler had reported crimes to the FBI and had been directed to cease and desist reporting crime, by email of the FBI (AA118).

harrased by East Lampeter Township and they filed action in Mandamus on June 9, 2015 (case # CI-15-05424) on three counts, but 2 of the counts were removed by stipulation. The action in Common Pleas court, caused Mr. Cutler to try and defend his reputation. The solicitor of East Lampeter Townsip supported perjured verification of Ralph Hutchinson and Mail Fraud. Mr. Cutler believes his lawyer Drew Deyo was bribed or coerced into throwing the case, and committed legal malpractice. Mr. Deyo complained about the FBI harrasing him. Evidence of East Lampeter Township using bribes or payments to coerce false testimony had been discoveed previously during discovery and trials involving Lisa Michelle Lambert. The malicious prosecution of a crime that did not happen, via Mandamus action violates the very foundations of the justice system. The fact that they felt compelled to not only ruin Mr. Cutler's reputation and life, but had to make sure he knew it was because he was born Jewish by keying a SWASTIKA on his minivan. Mr. Cutler was aware that KLU KLUX KLAN existed in Lancaster County, but since he chose to not openly display signs of being Jewish he felt reasonably safe. There were stories in the Lancaster newspaper that Jewish families were being threatened and harrassed and fled Lancaster county. Mr. Cutler had an incident at a McDonald's where Lancaster city police were called to evict him for criminal tresspass from the site and inform him he was not allowed at any McDonald's owned by the same franchise, in perpetuity. His alledged infraction was he

allegedly said something that was heard by an employee. Mr. Cutler purchased 10 shares of McDonald's stock and wrote a priority mail letter to the corporate headquarters and CEO. He informed the CEO he would file an action in Federal court. The corporation informed the franchise, and Mr. Cutler and the franchise resolved the problem and no action was required in court, and no compensation was paid.

Mr. Cutler sent out tax bills using the same printer as used by the Conestoga Valley School system, but was not paid for the postage and printing as required by law. The data for the tax bills was supplied by the office of the Lancaster County Treasurer (Craig Ebersole at the time). Mr. Cutler was never fully compensated for the postage and printing, but after a 1 year delay based on emails and letters from the solicitor of East Lampeter Township, was paid half the amount spent for the service. Mr. Cutler accepted a contract engineering support position for Harley Davidson in York, Pennsylvania at night to supplement his revenue. His lawsuit challenging the affordable care act progressed in court at the same time he was doing both collecting taxes and supporting the Harley Davidson plant in York, PA. The data provided by the office of the treasurer contained approximately 175 exempt properties (such as churches), which required a significant amount of time to correct. Mr. Culer's interface to the funds collected was reports provided by Fulton Bank, via internet access. He also was required to enter the tax data on the Lancaster county program know as "MrETC", via the

internet. During this time Mr. Cutler experienced at least one period where his internet "IP" address was blocked from access to the Lancaster county system "MrETC". After a verbal altercation with the treasurer (Craig Ebersole), the IP access was restored. At the same time Mr. Cutler's case in district court progressed and Kimberly Herr of the United States justice department of Justice contacted him about an extension of time to respond to case 1:13-cv-02066. Mr. Cutler prepared a response opposing the motion for extended time, and travelled to Washington, DC to deliver the response (Mr. Cutler does not have CM/ECF access to the federal courts). Mr. Cutler discovered during his trip to Washington, DC that judge (Colleen Kollar-Kotelly) had granted the extension without even seeing Mr. Cutler's response. This was Mr. Cutler's first hard example of unequal justice. Case 1:13-cv-02066 was dismissed for lack of standing and Mr. Cutler filed an appeal in the United States Court of appeals in Washington, DC (case # 14-5183), and paid cash at the time of the appeal. Despite paying cash for the appeal, the United States Court sent Mr. Cutler a notice requesting payment or declaration of paupris. Mr. Cutler went to Washington, DC and filed a motion to continue with a copy of the receipt. Mr. Cutler believing the court system was essentially rigged against pro se litigants sought assistance from any competent lawyer. Mr Cutler was able to induce the American Freedom Law Center to assist him, by making a large donation (over \$ 75,000). His goal was very similar to their objective, based on cases they had in federal court. They performed very

well and took the appeal all the way to the Supreme Court (15-632) (AA130). On May 12, 2015 oral arguments were held in Washington, DC in front of a three judge panel. Mr. Cutler had purchased a roundtrip ticket at an Amtrak terminal that morning with an American Express card in Baltimore Penn Station. On the return trip home Mr. Cutler recieved a phone call from his brother about a Amtrak crash and wanted to know if he was safe. Amtrak 188 had gone off the tracks in Philadelphia, and killed 8 people. NBC sought out and interviewed a Jeffrey Cutler about the crash. That Jeffrey Cutler was not the same Jeffrey Cutler, but that Jeffrey Cutler had purchased a reserved seat on that Amtrak 188. One of the people killed was a midshipman of the United States Naval Acadamy (Justin Zemser), and thus his murder would be subject to the laws of the United States government. Mr. Cutler became aware the locomotive involved in the accident had a feature that allowed some control via the internet, yet this has not been examined or noted in public.

On June 10, 2015 East Lampeter Township filed an action in Mandamus against Mr. Cutler in Common Pleas Court (CI-15-05424). On June 30, 2015 Mr. Cutler filed a civil action against East Lampeter Township, pro se for violations of the sunshine law and to force them to pay expenses of the Tax Collector (CI-15-05682) and other remedies.

On August 14, 2015 (AA80,98) the United States Court of appeals for the DC circuit granted Mr. Cutler standing to challenge the affordable care act based on

the establishment clause of the United States constitution. On December 10, 2015 East Lampeter Township filed a petition for an injunction to remove Mr. Cutler from office, based on perjured testimony and mail fraud in the court of common pleas. Judge Jeffrey Wright did not allow Mr. Cutler to be present in the hearing, and issued an order which Mr. Cutler complied, even though one part of the complaint was not relevant. On November 11, 2015 an 89 page petition was filed in the Supreme Court case 15-632 by the American Freedom Law Center on behalf of Mr. Cutler. On January 11, 2016 the Supreme Court announced it will decline to hear the case, even though the United States Government declined to respond to the petition. Also on January 11, 2016 two state police officers were waiting for Mr. Cutler near the entrance to his apartment complex. They claimed they followed Mr. Cutler the 1.1 miles he drove after leaving a restaurant where Mr. Cutler consumed less than ten dollars worth of beer. They administered a field sobriety test, and Mr. Cutler registered a .05 blood alcohol level. Despite being under the legal limit they handcuffed Mr. Cutler, and transported him to Lancaster General Hospital. At the hospital they drew blood and Mr. Cutler requested they take an extra vial for his testing, but they refused. Lancaster General Hospital sent Mr. Cutler a bill for drawing blood of two hundred dollars. They also confiscated Mr. Cutler's driver's license. This required Mr. Cutler to get a duplicate driver's license. At the Pennsylvania DMV, they had no record that any possible DUI was in progress, or had occurred. On January 20, 2016

Judge Wright issued an order to assign the case to Judge Margaret Miller, violating the rules of the court. They elected a new treasurer, and she (Amber Green) took office in January 2016. The Lancaster County Treasurer also changed the software to record tax payments. The software had numerous problems. On March 17, 2016 there was hearing with Judge Miller in common pleas court for case # CI-15-05682. Judge Miller had been assigned to the case # CI-15-05682, despite a request for Judge Wright for continuity. Judge Brown was assigned to the case # CI-15-05682 by random assignment, and then Judge Miller was assigned to the case, because of alleged conflict. Judge Miller dismissed case # CI-15-05682. within minutes of the hearing termination. Mr. Cutler stopped by the office of the FBI in Newtown Square in May of 2016 with documentation of misconduct by East Lampeter Township/Lancaster County identifying approximately 35 items. Mr. Cutler talked to an FBI agent for approximately 2 hours, and offered a hard copy of the documents but the FBI agent declined to take the hard copy of the documents. Mr. Cutler had also notified the treasurer's office of these problems. Some of the entries he had made in the payment of tax payments had been erased or not calculated correctly. In June of 2016 Mr. Cutler was notified of a hearing in common pleas court for case # CI-15-05424. Mr. Cutler requested that his lawyer Drew Deyo subpoena people to the hearing, Mr. Deyo refused. Mr. Cutler advised Mr. Deyo he is not authorized to represent him unless the action is approved in writing. Mr. Cutler started acting pro se in case #

CI-15-05424. He requested several motions and they were all denied by Judge Miller. He filed a move to Federal court middle district of Pennsylvania as case # 1:16-cv-1159 for Lancaster county court case CI-15-05424. Mr. Cutler had inserted the entire 89 page petition for the Supreme court in the case. It was dismissed and remanded back to Common pleas court, however Mr. Cutler filed a STOP order in court of Common pleas, which was ignored by Judge Miller. Judge Miller held a hearing on June 17, 2016 (AA186, 188) even though the STOP order was in place. During the hearing they acknowledged that they never notified Mr. Cutler of the hearing, and violated due process. Mr. Cutler filed an appeal in federal court United States Court of Appeals for the third circuit for case # 1:16-cv-1159 as case # 16-3164. Mr. Cutler was notified by text message supposedly by his mother's land line (which is impossible), that Seth Rich had been murdered in the hospital. Mr. Cutler called the Rabbi that gave the eulogy at Seth Rich's funeral. Mr. Cutler also mentioned Seth Rich in a filing in case 16-3164 (On August 16, 2016 Seth Rich is mentioned in the filing in Philadelphia United States Court of Appeals for the Third Circuit case 16-3164). The owner of the Best Cake bakery on Haverford Avenue in Philadelphia was shot during a robbery. This bakery is near Mr. Cutler's mother's house and Mr. Cutler would stop there to purchase bread for his mother when visiting her. Seth Williams (the elected district attorney of Philadelphia at the time) held a rally to try and find the individuals that shot the baker in front of the store. Several police and other

representatives of the Philadelphia District Attorney's office were present. Mr. Cutler met Seth Williams for the first time, and Jan McDermott an assistant district attorney. Mr. Cutler offered both Mr. Williams and ADA McDermott a T-SHIRT he had created in memory of his case in Federal Court. ADA McDermott accepted the TSHIRT. On August 9, 2016 Mr. Cutler attended a rally for Mr. Trump for president that Mike Pence attended at the Host Farm in Lancaster, PA. Mr. Cutler was one of four people to speak, and gave one of his T-SHIRTS to Mike Pence, who is now the Vice President of the United States. Another speaker talked about the "Right To Try" for experimental drugs and that has since become law. (<https://www.youtube.com/watch?v=BdlZktlXlhs>) Case 16-3164 was denied and Mr. Cutler filed for an En Banc review that was also denied on Nov 10, 2016. Mr. Cutler sought a way to keep the case alive without filing a new petition to the Supreme Court. He filed motions to join cases, including a case involving the recount in Pennsylvania, by Jill Stein in the Eastern District of Pennsylvania (2:16-cv-06287). Mr. Cutler also filed motions in case 5:16-cv-04108 on December 23, 2016. This case involves another victim of Judge Miller and massive civil rights violations. He was held over 41 months at the time without trial, had zero representation in federal court, and used verbage to deny his release that asserts he failed to use his state appeals, even though he never even had a trial. Mr Cutler believes these are all related cases. Mr. Cutler discovered during this process and by the rules of the court he probaly prevented Jill Stein from mounting

any appeal, because Mr. Cutler's case had been through the entire En Banc process, and only an emergency appeal to the Supreme Court would have any merit. Mr. Cutler also discovered during this process that other cases for incorrect jurisdiction were routinely transferred to the Eastern District of Pennsylvania. Mr. Cutler has no formal legal training. Mr. Cutler started sending hard copies and emails to ADA McDermott of misconduct in Lancaster county, just in case he became dead unexpectedly. He did this based on Mr. Williams prosecution of Kermit Gosnel, and his willingness to take on the cases of officials taking bribes on camera. On January 30, 2017 Jeffrey Cutler got an email reply from FBI agent Joseph A. Milligan that stated "Cease and desist adding myself and ADA McDermott to any more of your emails regarding this matter." (AA118) Note: Spelling error of McDermott which should be McDermott. This email was based on an email from Jeffrey Cutler the same day with a title "CONSPIRACY TO COMMIT BANK AND INSURANCE FRAUD"(AA118). Less than 60 days later Seth Williams was indicted on corruption charges March 21, 2017. Mr. Cutler attended some of the trial and the FBI was presenting evidence trivial evidence that Mr. Williams would withdraw money from the ATM, and not care about a two dollar charge. Mr. Cutler also tried to intervene in the case, and filed motions for the case and show prejudice by the FBI including the cease and desist email (2:17-cr-00137). Mr. Cutler became aware that Seth Williams may be starting a grand jury to investigate the Murder of Jonathan Luna on November 4, 2003. On February 23,

2017 the East Lampeter Solicitor had a meeting to appoint the Lancaster County Treasurer (Amber Green - even though it has now been published she failed to have a surety bond and was collecting taxes illegally) to collect real estate taxes in 2017, and this was aproved by the same day at a 7:00 AM meeting. Mr. Cutler attended the meeting but it ended when he started speaking. On March 3, 2017 Jeffrey Cutler filed a new federal lawsuit (2:17-cv-00984) against Amber Green et al., which is the basis of USCA case #17-2709. On March 7, 2017 Brian Hurter signed a verification which essentially claimed Mr. Cutler failed to turn in \$ 90,000.00 (AA122). Yet on March 17, 2017, he testified under oath that neither he or anyone that worked for him ever audited a single record of the Lancaster County Treasurer. Based on court records Judge Miller filed an order on March 7, 2017 that allowed Mr.Cutler's lawyer to withdraw effective March 10, 2017. Mr. Hurter did nothing to stop wasted postage of sending out tax bills via first class mail instead of pre-sorted mail, which cost Lancaster county taxpayers over \$250,000.00 over the period of his term. Mr. Hurter had allowed over three million dollars of checks to remain un-cashed at the office of the Lancaster County Treasurer for over 30 days. On March 10, 2017 Amber Green married Scott Martin. They both got divorces in the fall of 2016. Scott Martin was one of the 2 State Senators that initiated actions against Mark Reese (also without a aid of legal advice) to also set a precedent to allow a judge to alter the Pennsylvania Constitution by decree (Case # CI-17-01626 Lancaster County court of Common

Pleas). Mr. Cutler filed a motion to intervene in that case also. Based on tax records Jeffrey Martin has one of the the smallest tax bills in East Lampeter Township, of less than \$ 2.00 per year. On March 17, 2017 after a two hour hearing Judge Miller ruled Mr. Cutler was essentially no longer the tax collector, and issued an that order that siezed his mail and bank accounts opened at Fulton Bank for this purpose. Mr. Cutler had filed a motion with the Supreme Court of Pennsylvania complaining about his treatment and violations of whistleblowerAct of Dec. 12, 1986, P.L. 1559, No. 169. On May 4, 2017 the funeral for Mr. Robert Needle, was held. He died unexpectedly and was a retired employee of the Commonwealth of Pennsylvania's auditor general's office and Mr. Cutler's cousin. On May 25, 2017 Beranton Whisenant was found murdered on Hollywood beach in Florida, he may have been the federal employee Mr. Needle was confering about the activities in Pennsylvania. Case # 2:17-cv-00984 was dismissed just after notice of default judgement was filed against the NBC affiliate. Despite over ninety thousand dollars being declared stolen by the verification of Brian Hurter of March 7, 2017, no criminal complaint was ever filed as of this date. Mr. Cutler contacted the attorney general of Pennsylvania, and made a complaint of insurance fraud. Mr. Cutler found not a single lawyer would represent him. Lawyers that at first showed interest would cancel after a day or two, as if intimidated or threatened. The email from the FBI shows Mr. Cutler was not only being monitored, but the people he contacted were also being

monitored. On April 23, 2018 Mr. Cutler filed an Injunction Pending Appeal. On April 25, 2018 (AA219, 220) the court filed an Order dictating the proper format of all responses by CM/ECF filers in the USCA case 18-1816. All of Mr. Cutler's Appeals in state court have been exhausted. On April 25, 2018 Mr. Geffen on behalf of the Public Interest Law Center filed an Entry of appearance that failed to notify Mr. Cutler and violated Rule 65 of the Federal Rules of Civil Procedure (AA552, 554). All documents filed on behalf of Acting Secretary Robert Torres and Commisioner Marks fail to comply with the order of April 25, 2018 (AA219, 220) (AA557, 559) and therefore all their claims should be dismissed.

### **B. The History and Characteristics of Jeffrey Cutler**

Prior to this incident, the record shows that Mr. Cutler was a hardworking, man, who had successfully supported himself and never had any prior criminal convictions. Mr. Cutler was living in East Lampeter Township, Pennsylvanina for several years. He had worked for various companies and had got elected to public office as Tax Collector by simply writing his name on he ballot and having the good fortune to get marble #2 in a lottery draw to break the tie. His first day on the job was January 6, 2014 as a East Lampeter Township Tax Collector. He also had a solid work history before being elected, including jobs as an engineer and helping start up complicated pharmaceutical, manufacturing opertions, food plants, and paper manufacturing projects.

Mr. Cutler not only worked as an engineer, but as an electrician for a ship yard,

and other companies. Mr. Cutler does not have an any criminal record, and has tried to preserve his reputation throughout his life. Mr. Cutler term in office of 27 months, was short of the elected term of 48 months. It does bear mentioning that he was relatively young at the time (62) of the illegal removal from public office based on prejudice of the township and Lancaster County. The township supervisor has been employed for over 21 years, and the township now has a debt of over 25 million dollars. Mr. Cutler has been exceptionally proactive about trying to clear his name and had to investigate misconduct of East Lampeter Township, Lancaster County and FBI (AA118). However on June 27, 2017 Mr. Cutler visited the Central Penn college in East Lampeter Township and inquired about some of the summer courses. That evening Mr. Cutler got a call from an officer of the East Lampeter Township Police department and was told Mr. Cutler will be arrested for criminal trespass if he enters the college again. Essentially there was no complaint and Ralph Hutchinson tried to turn East Lampeter Township into a concentration camp for Mr. Cutler just like NAZI Germany (AA126). Except for the brief detention by State Police on January 11, 2016, Mr. Cutler has never been in custody. He lived a law-abiding, productive life, characterized by a solid work-ethic.

### **C. The Guilty Plea**

Jeffrey Cutler has only entered into a plea agreement to open an office in East Lampeter Township, and post hours on the tax bills. This agreement was negotiated

by Drew Deyo without Mr. Cutler's approval or Mr. Cutler allowed to be in attendance on Dec 30, 2015.

#### **D. The Sentence**

On March 7, 2017 based on time stamp on the prothontary web site Judge Miller entered an order that is dated March 10, 2017 which froze the assets of the bank accounts of Jeffrey Cutler at Fulton Bank. The petition to intervene was filed on On March 8, 2017 based on time stamp prothontary web site, by Christina Hausner. On March 17, 2017 Judge Miller issued an order which made final the theft of Mr. Cutler's assets. On October 2, 2017 six police officers of East Lampeter Township and 1 one constable threatened Mr.Cutler with death if he failed to leave his apartment at 67 Cambridge Village, based on fraudulent paperwork of eviction (a legal stop order was in effect based on case filed in federal court which is now 5:17-cv-05025). All of Mr. Cutler' assests have been destroyed or stolen, despite 2 insurance policies.

#### **SUMMARY OF THE ARGUMENT**

The sole issues on appeal are the reasonableness of Jeffrey Cutler's sentence that included a very rare documented fraud by public officials, and if a judge can blatantly ignore the constitution. Mr. Cutler submits that the above-the-range sentence is substantively unreasonable based on the totality of the circumstances.

The sentence is a result of criminal activity and discrimination by the state. The state Court's unsustainable finding that Mr. Cutler demonstrated, through this

alleged offense, a disregard for being the wrong religion. The record simply does not support the court's conclusion. Instead, the facts show that despite Mr. Cutler's demonstrated efforts at rehabilitation of his name, censorship of his activities by NBC, the LNP Media Group and every other media outlet in the United States, showed a disregaed for Human Life and support of Fake News. Worse, data from the Sentencing Commission conclusively shows that upward variances are extraordinarily rare, but not in Lancaster County Pennsylvania. The sentence facially created a disparity, one that was not warranted under the facts specific to Mr. Cutler and this case. A previous case in East Lampeter Township of Lisa Michelle Lambert was significantly tainted based on the federal judge Stewart Dalzell. In short, the final sentence was far greater than necessary to address the statutory goals of sentencing, since it was based on perjured testimony in both cases.

## **LEGAL ARGUMENT**

### **I. THE SENTENCE IMPOSED BY THE COURT, WHICH INCLUDED AN EXTREMELY RARE SIEZURE AND UPWARD VARIANCE, WAS FAR GREATER THAN NECESSARY TO SATISFY THE RELEVANT SENTENCING GOALS SET FORTH IN 18 U.S.C. § 3553(a) AND WAS THEREFORE UNREASONABLE.**

#### **A. Standard of Review**

Mr. Cutler challenges the substantive un-reasonableness of his asset siezure and being made homeless by police misconduct including the destruction of evidence of the

murder of Jonathan Luna. Final sentences are reviewed for reasonableness under the abuse-of-discretion standard. *Gall v. United States*, 552 U.S. 38, 46 (2007). Mr. Cutler preserved this issue by objecting to the government’s request for an upward variance, while simultaneously advocating for vacating the sentence below the guideline range.

**B. Argument**

Mr. Cutler respectfully challenges the reasonableness of his above-the-range sentence. The substantive reasonableness review focuses on whether it was reasonable for the state court to conclude, in light of all of the relevant sentencing factors, that the sentence imposed was minimally sufficient to comply the sentencing goals set forth in 18 U.S.C. 3553(a). As the Court explained in *United States v. Doe*, “[s]ubstantive reasonableness inquires into ‘whether the final sentence, wherever it may lie within the permissible statutory range, was premised upon appropriate and judicious consideration of the relevant factors.’” 617 F.3d 766, 769 (3d Cir. 2010), *cert. denied*, 564 U.S. 1005 (2011), (citing *United States v. Schweitzer*, 454 F.3d 197, 204 (3d Cir. 2006)). Mr. Cutler maintains that in light of the facts and circumstances particular to his case, that his sentence, which included an upward variance, was plainly unreasonable and did not comply with the “overarching instruction to courts that they must ‘impose a sentence sufficient, but not greater than necessary,’ to achieve the goals of sentencing,” *Kimbrough v. United States*, 552 U.S. 85, 101 (2007).

When imposing a final sentence, a court must consider all of the goals and factors set forth in 18 U.S.C. § 3553(a)(2), which are:

- (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
- (B) to afford adequate deterrence to criminal conduct;
- (C) to protect the public from future crime of the defendant; and
- (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

Additionally, the court must consider the nature and circumstances of the offense, the history and characteristics of the defendant, the kinds of sentences available, the guideline range, and the need to avoid unwarranted disparities in sentencing. *See* 18 U.S.C. § 3553(a)(1)-(7). On appeal, as he did at sentencing, Mr. Cutler submits that these factors not only weighed against an upward variance, they actually supported his request for completely vacating a verdict based on perjured testimony.

**1. The guideline range remains a strong starting point for any sentence. Sentences outside the range must be justified by the record.**

A correctly calculated guideline range remains the “starting point for the entirety of the §3553(a) analysis.” *United States v. Langford*, 516 F.3d 205, 211 (3d Cir. 2008). While the guideline range is not entitled to any presumption of reasonableness, the Supreme Court considers it “the starting point and the initial benchmark.” *Gall*, 552 U.S. at 50.

The extent of the variance is important because the sentencing court must explain a variance and “ensure that the justification is sufficiently compelling to support the

degree of the variance.” *Id.* at 50. As the First Circuit explained, in reviewing the reasonableness of a sentence, an appellate court “focuses on the duration of the sentence in light of the totality of the circumstances.” *United States v. Del Valle-Rodriguez*, 761 F.3d 171, 176 (1st Cir. 2014). Moreover, in *Gall*, the Supreme Court noted that it was “uncontroversial that a major departure should be supported by a more significant justification than a minor one.” *Gall*, 552 U.S at 50.

For the reasons more fully addressed below, Mr. Cutler maintains that the record, as a whole, did not support any verdict by Judge Miller. Furthermore, the reasoning given by the court for the variance did not justify an upward variance, and violation of law.

**2. The nature and circumstances of the offense did not justify an upward variance.**

Mr. Cutler respectfully submits that a careful review of the record and a balanced analysis of all the facts surrounding this offense do not support any penalty imposed by the court or the reasoning offered by the court for the final sentence. The nature and circumstances of the offense is an important factor within the §3353(a) analysis, but that analysis requires the court to look at the totality of the circumstances. To the contrary, Mr. Cutler did not and does not have a disregard for human life. There is no question that the nature of the underlying offense was extremely not serious or dangerous. Mr. Cutler does not acknowledge his behavior was wrong, but he simply maintains that his conduct must be put in the correct context. There was no crime,

except the 190,000 counts of mail fraud committed by Brian Hurter and Amber Green Martin (even though it has now been published she failed to have a surety bond and was collecting taxes illegally) defrauding almost every taxpayer in Lancaster County, except High Inc and their partner LNP Media Group.

His actions were driven by the natural desire for self-preservation, rather than an indifference towards others.

Moreover, characterizing his behavior as reflecting a disregard for human life would place Mr. Cutler among the worst and most violent offenders. However, it must be emphasized that Mr. Cutler has no criminal history points and was convicted of no crime. A 2017 report by the United States Sentencing Commission (“Commission”) entitled *“The Past Predicts the Future Criminal History,”* explains, “the Commission’s present study found that recidivism rates are closely correlated with total criminal history points and resulting CHC classification, as offenders with lower criminal history scores have lower recidivism rates than offenders with higher criminal scores.”

Mr. Cutler did not commit any criminal offense but the action in Mandamus was aimed at incarcerating Mr. Cutler like Lisa Michelle Lambert. Data from the Commission does not support placing Mr. Cutler in the company of the worst, most dangerous offenders who demonstrate a disregard for the safety of others.

**3. Mr. Cutler’s and Lisa Michelle Lambert’s history and characteristics strongly supported his request for vacating the verdicts. A downward variance was both available and appropriate in both cases.**

An equally important sentencing factor is the history and characteristics of the

individual defendant. Lisa Michelle Lambert's tremendous efforts to improve herself while incarcerated and then striving to lead an honest, law abiding life, are proof of good name. There is no question she successfully established herself as a hardworking, person. Moreover, the court's disregard for human life should warrant a full dismissal of all charges against Lisa Michelle Lambert, Mr. Cutler and Jammal Harris.

Because a defendant disagrees with the manner in which a court weighs the sentencing factors. *United States v. Bunker*, 478 F.3d 540, 546 (3d Cir. 2007) ("Nor do we find that a district court's failure to give mitigating factors the weight a defendant contends they deserve renders the sentence unreasonable.") However, post-offense rehabilitation, and how it relates to the history and circumstances of the defendant, is arguably a unique factor and an exception to that policy.

First, the Supreme Court has affirmatively stated the rehabilitation merits "great weight" and provides strong support for more lenient sentences. *Gall v. United States*, 552 U.S. 38, 59 (2007) ("The District Court quite reasonably attached great weight to Gall's self-motivated rehabilitation, which was undertaken not at the direction of, or under supervision by, any court, but on his own initiative. This also lends strong support to the conclusion that imprisonment was not necessary to deter Gall from engaging in future criminal conduct or to protect the public from his future criminal act.") In fact, a defendant's demonstrable efforts at rehabilitation are among the most important considerations in the whole sentencing analysis. Persuasively, as the Supreme Court observed in *Pepper v. United States*,

There is no question that the evidence of Pepper's conduct since his initial sentencing constitutes a critical part of the 'history and characteristics' of a defendant that Congress intended sentencing courts to consider.

Pepper's postsentencing conduct also sheds light on the likelihood that he will engage in future criminal conduct, a central factor district courts must assess when imposing sentence. As recognized by Pepper's probation officer, Pepper's steady employment, as well as his successful completion of a 500-hour drug treatment program and his drug-free condition, also suggest a diminished need for 'education or 'vocational training . . . or other treatment.' Finally, Pepper's exemplary postsentencing conduct may be taken *as the most accurate indicator* of his 'present purposes and tendencies and significantly to suggest the period of restraint and the kind of discipline that ought to be imposed upon him. Accordingly, evidence of Pepper's postsentencing rehabilitation bears directly on the District Court's overarching duty to 'impose a sentence sufficient, but no greater than necessary' to serve the purposes of sentencing.'

562 U.S. 476, 492-3 (2011) (emphasis added). Lisa Michelle Lambert's case is remarkably similar to Pepper's case in the sense that both defendants made extensive efforts at rehabilitating themselves. In sum, the Supreme Court explicitly holds rehabilitative efforts are among the most important factors in the overall sentencing analysis, and corruption of public officials and religion should not weigh into these guidelines.

There is a real threat here, that instead of sending a message to other individuals about the risks of reoffending, the upward variance in this case serves as a deterrent against running for public office, as those efforts were grossly undervalued by the sentencing court.

The record simply does not support a finding that Mr. Cutler deserved any penalty and that sentence.

**4. The final sentence resulted in an unfair and unwarranted sentencing disparity.**

Furthermore, this sentence must be vacated and this matter remanded because the final sentence in this case created a major sentencing disparity. Statistics and data released by the Commission show that upward variances pursuant to §3553(a) are extremely rare. In reality, they are so rare that they are virtually a statistical anomaly.

Based on the data, to justify this sentence, Mr. Cutler and Lisa Michelle Lambert have to be among the very worst offenders, and have committed one of the most egregious offenses. However, for the reasons discussed above, Mr. Cutler does not belong among the category of worst offenders. In fact, he stands apart from other persons never convicted. Mr. Cutler and Lisa Michelle Lambert are inexplicably placed among the top three or four worst defendants, committing the worst offenses, in the fiscal year. The record simply does not justify such a conclusion. Therefore, the upward variance led to an unjustifiable disparity.

- *United States v. Rogers*, 598 Fed. Appx. 114 (3d Cir. 2015), *cert. denied* 135 S.Ct. 1570. Third Circuit upheld the upward variance based in large part on the defendant's personal characteristics which included a lack of employment, and a lengthy juvenile and adult criminal record.
- *United States v. Ramirez*, 460 Fed. Appx. 119 (3d Cir. 2012), *cert. denied* 568 U.S. 1016. The district court did not abuse its discretion in imposing an upward variance after finding the defendant had a lengthy and "disturbing" record. *Id.* at 120. Also, the firearm was used in connection with drug distribution.
- *United States v. Cabbagestalk*, 246 Fed. Appx. 109 (3d Cir. 2007), *cert. denied* 552 U.S. 1126 (2008). Third Circuit ruled the district court's explanation that defendant's lengthy criminal history, which included convictions for robbery, aggravated assault, making terroristic threats, and reckless endangerment of another person, justified the upward variance. This case also involved the use

of a weapon in connection with another felony.

- *United States v. Perez-Carrera*, 686 Fed. Appx. 15 (3d Cir. 2017), *cert. denied* 138 S.Ct. 281. Third Circuit noted that defendant not only had prior drug and firearm convictions, but there were very short time gaps in between offenses.
- *United States v. Carson*, 377 Fed. Appx. 257 (3d Cir. 2010). Upward variance affirmed for defendant with “deplorable” criminal record that spanned “a little over 30 years” and included multiple convictions for firearm offenses and other crimes of violence.

Mr. Cutler or Lisa Michelle Lambert are not comparable to any of these defendants; they were not “similarly situated” to these defendants. Mr. Cutler had a solid employment record, and no prior conviction, did not offend or use a firearm in connection with another offense.

In sum, these cases highlight that the final sentence created an unfair and unwarranted sentencing disparity. Instead of being sentenced with a no fine like a defendant never convicted (or John Corsine), of with no prior conviction, and who presented a number of verifiable mitigating factors, Mr. Cutler and Lisa Michelle Lambert were sentenced like an individual with a lengthy criminal history and no history of post-offense rehabilitation.

The disparity was not only unwarranted, it was also inherently unfair.

**5. The sentence was substantively unreasonable.**

As established above, the upward variance was not justified in this case. The record does not support a finding that Mr. Cutler showed a disregard for human life. Due to the application of the variance, the sentence created an unwarranted disparity placing Mr. Cutler and Lisa Michelle Lambert among the top worst offenders before the court.

The final result was an above- the-range sentence that cannot be justified by the record, and is unduly punitive based on the totality of circumstances. Because the final sentence does not represent the statutorily mandated minimally sufficient sentence, it is substantively unreasonable. Because of the number of documents that appear to be altered (AA339)(AA587) or late, even in federal court. In previous appeals (16-3164) parts of Rand Paul's book "Government Bullies" which was photocopied as part of the appeal it was obscured and made unreadable. Robert Mueller was the director of the FBI on November 4, 2003 when Jonathan Luna, (POSSIBLY BY MEMBERS OF THE KLU KLUX KLAN) was found MURDERED in Lancaster county, Pennsylvania. Five days after the death James Comey may have been given the number 2 position at the DOJ, to help cover-up the murder. At the time of the MURDER Andrew McCabe was in charge of the criminal division of the FBI. The FBI tried to get the coroner of Lancaster, county to call the MURDER a SUICIDE. Mr. McCabe was fired from the FBI for lies he made on March 16, 2018.

April Brooks made the FALSE statement "There's no evidence to show that he met his death at the hands of any other individual," Brooks said. "Or that he had seen or been with any other individual that night. You have naysayers and you have a divergence of (law enforcement) opinion," she said. "But again, we turned over every rock. We are confident that there is nothing hanging out there to find."

<ref>[http://articles.chicagotribune.com/2012-08-29/news/sns-rt-us-usa-security-fbibre87s0u5-20120829\\_1\\_white-collar-crime-drug-gangs-gang-cases](http://articles.chicagotribune.com/2012-08-29/news/sns-rt-us-usa-security-fbibre87s0u5-20120829_1_white-collar-crime-drug-gangs-gang-cases)</ref>., even

though this contradicts the report of the Lancaster county coroner. Flora Posteraro was fired <https://www.ydr.com/story/news/2018/03/13/abc-27-anchor-leaves-station-says-not-my-choice/421175002/> the same day Jeffrey Cutler emailed a reminder that on the 10 year anniversary of Luna's death WHTM had done a story that mentioned the FBI cover-up <https://www.youtube.com/watch?v=LOXQSptqGKQ>. The Baltimore Sun reported of the FBI cover-up on the 5 year anniversary of Luna's death <http://www.baltimoresun.com/news/maryland/bal-md.luna30nov30-story.html>

Based on United States v. Williams, 341 U.S. 58 (1951) and Gill v. Whitford, (Supreme Court 2018) and Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission, and that that Susan Peipher and Christina Hausner were involved in suborning perjury, destroying or concealing evidence, witness tampering, and concealing income or assets, Mr. Cutler requests the following conclusion.

### **CONCLUSION**

For the foregoing reasons, Appellant Jeffrey Cutler respectfully submits that hereby requests that the court grant his Permanent Injunction and enjoin the enforcement of the revised voting map, a new election date set using the previously approved voting districts, bar all Pennsylvania judges from submitting remedies which knowingly violate the Pennsylvania constitution, bar any further enforcement of "Obamacare", remove all penalties from plaintiffs, declare executive ORDER 9066 UNCONSTITUTIONAL, and bar the

review, and distribution, of documents siezed of Mr. Cutler/Mr. Cohen and the suspension of further action in NY cases known as 1:18-cv-03501 and 1:18-mj-03161KMW., and other remedies that court deems appropriate, and vacate the sentence for Jeffrey Cutler, Lisa Michelle Lambert, and Jammal Harris and all persons similarly situated. Also stop retrial of case 1:16-cr-10233-RGS so these people are not treated differently than Senator Menendez, or John Corsine in the MF Global fraud case.

Respectfully submitted,



Jeffrey Cutler

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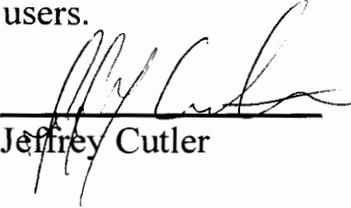
*Appellant*

**Originally Dated: July 16, 2018**

Date July 23, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that on July 23, 2018, I filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Third Circuit. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. I further certify that all of the other participants in this case are registered CM/ECF users.



\_\_\_\_\_  
Jeffrey Cutler

**Date** 23 Jul 2018