

**IN THE COURT OF COMMON PLEAS OF MERCER COUNTY, PENNSYLVANIA  
CIVIL ACTION**

TRENTON JOHN TOMPKINS,  
Plaintiff,  
v.

NO.

MERCER COUNTY of the  
COMMONWEALTH OF PENNSYLVANIA,  
DANA FLICK, in his official capacity, and  
LAUREN HACKETT,  
Defendants.

**NOTICE TO DEFEND**

**YOU HAVE BEEN SUED IN COURT.** If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be ordered against you by the court without further notice for any money claimed in the complaint or for any other relief requested by the plaintiff. You may lose money or property that is important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

Mercer County Lawyers Referral Service  
c/o Mercer County Bar Association  
P.O. BOX 1302  
Hermitage, PA 16148  
Telephone: (724) 342-3111

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**COMPLAINT**

**Introduction**

1. Plaintiff files this action against Mercer County (“the County”) and its public defenders Dana Flick and Lauren Hackett (collectively “Defendants”) because Defendants have failed to provide constitutionally adequate representation. As detailed in this complaint, Lauren Hackett and Dana Flick have refused to aid plaintiff in his PCRA efforts and are withholding information necessary to overturn the plaintiff’s criminal conviction.

2. Plaintiff seeks a Writ of Mandamus ordering the Office of the Public Defender to require Lauren Hackett to cooperate with his efforts to obtain post conviction relief.

3. Plaintiff also brings this complaint under the Civil Rights Acts, 42 U.S.C. § 1983 and 42 U.S.C. § 1986, and Article I, § 9 of the Pennsylvania Constitution. Plaintiff claims that the County's intentional failure to provide him with proper representation violates the U.S. and Pennsylvania Constitutions.

## **Parties**

4. The plaintiff, Trenton John Tompkins, is an adult individual who resides at 510 Main Street, Prospect, PA 16052.

5. Upon information and belief, defendant Dana Flick is the Chief Public Defender of Mercer County since taking over for Raymond Bogaty after he retired on January 3, 2020. As Chief Public Defender, Dana Flick is responsible for managing the Office of the Public Defender (“OPD”), which includes overseeing its lawyers and employees, establishing its policies, managing its budget, and ensuring its compliance with constitutional, statutory, and professional/ethical guidelines.

6. Defendant Lauren Leigh Hackett, is plaintiff’s former public defender, who was assigned by the Mercer County Public Defenders’ Office which is located at 120 South Diamond Street, Mercer, PA 16137.

## **Facts of the Case**

7. Before being arrested, plaintiff refused to talk to the police without an attorney regarding allegations of rape and related charges. On 9/1/17, he was arrested, and on 9/5/17, he was transferred to Mercer County Prison, Mercer County's jail. (Mercer County Criminal Docket: CP-43-CR-0001578-2017)

8. The Public Defender Act ("the Act") requires that every county in Pennsylvania (except Philadelphia) appoint a public defender to provide representation for indigent criminal defendants prosecuted in its county. 16 P.S. § 9960.3.

9. On 9/14/17, Mercer County court issued an "Order appointing PD". Defendant Lauren Hackett met with the plaintiff to discuss his case.

10. Plaintiff, then represented by Ms. Hackett, told her that he had been unaware of the crime of “corruption of the morals of a minor”. He explained that he had went on ageofconsent.com and looked up Pennsylvania’s age of consent, which is sixteen, and that he did not know a separate law applied to him. He also told attorney Hackett that the other allegations against him were false, and that he was being falsely accused of numerous charges, including the most serious allegations of rape.

The Public Defender's Office Has Refused To Comply With  
Ethical Rules and Professional Standards

11. Lauren Hackett has an ethical obligation to provide the plaintiff with the terms of any deal she made with the prosecution in his criminal case (*see* ABA Standard for Criminal Justice, Defense Function Standards and Commentary ("The resounding message is that defense attorneys, because of their intimate knowledge of the trial proceedings and their possession of unique information regarding possible post-conviction claims, have an obligation to co-operate with their client's attempt to challenge their convictions." *In United States v. Dorman*, 58 M.J. 295 (C.A.A.F 2003))).

12. Pennsylvania Rule of Professional Conduct 1.1 states that "[a] lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation".

13. Pennsylvania Rule of Professional Conduct 5.1 states that "[ a] lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct”.

**Causes of Action**

**Count I — Special Relief. Perpetuation of Testimony. 231 Pa. Code § 1532**

***(by Plaintiff against Lauren Hackett)***

14. The allegations contained in the above paragraphs of this Complaint hereby incorporated by reference as if fully set forth herein.

15. Pa.R.C.P. 1000(b) states that there shall be a “civil action” in which shall be brought all claims for relief heretofore asserted in [...] (3) the action in equity. The separate action in equity has been abolished and the rules governing the civil action have been amended to include equitable relief.

16. Pa.R.C.P. 1532 governs the type of equitable relief “Perpetuation of Testimony”.

17. The testimony of Lauren Hackett, and the terms of a deal she supposedly made with the District Attorney’s Office and/or ADA Stephanie Lauderbaugh, is needed by the plaintiff for his PCRA efforts and the appeal of his criminal conviction (Mercer County Criminal Docket: CP-43-CR-0001578-2017).

18. This deal is believed by the plaintiff to be enforceable through the Post Conviction Relief Act (42 Pa.C.S. §§ 9541 et seq.) or other appeal proceedings, as it would have required the District Attorney to not prosecute and drop charges against the plaintiff, under the standards provided by the Pennsylvania Supreme Court in *Commonwealth v. Cosby*, 252 A.3d 1092.

**Count II — Mandamus**

***(by Plaintiff against Dana Flick)***

19. The allegations contained in the above paragraphs of this Complaint hereby incorporated by reference as if fully set forth herein.

20. This Court has jurisdiction to hear this petition for writ of mandamus pursuant to Rule 1092(c)(1) and (2) of the Pennsylvania Rules of Civil Procedure.

21. "Mandamus is an extraordinary remedy designed to compel official performance of a ministerial act or mandatory duty .... " *County of Allegheny v. Commonwealth*, 490 A.2d 402,408 (Pa. 1985). In order to justify the use of this remedy, Plaintiff must demonstrate "a clear legal right to relief, a corresponding duty to act in the defendant, and the lack of any other adequate remedy." *Medico v. Makowski*, 793 A.2d 167, 16 9 (Pa. Commw. Ct. 2002).

22. Plaintiff has a clear right to relief. Defendant Dana Flick has a statutory and constitutional obligation as the Chief Public Defender to provide adequate counsel and ensure that the actions of the lawyers of his office conform to the Pennsylvania Rules of Professional Conduct. (*see In re Meeker*, 76 N.M. 354, 357, 414 P.2d 862, 864 (1966), "The canons of professional ethics must be enforced by the Courts and must be respected by members of the Bar if we are to maintain confidence in the integrity and impartiality of the administration of justice.")

23. Plaintiff lacks any other adequate remedy (*see Hiatt v. Clark*, 194 S.W.3d 324 (Ky. 2006), holding that a writ of mandamus was the appropriate vehicle for relief where a defendant sought access to his case file for purposes of appeal, holding that "If Appellant were forced to make these arguments in a direct appeal, he will not have the benefit of being able to present the information contained in the "work product" to the Court of Appeals as the trial court will be unable to preserve this in the record for appellate review").

**Count III — United States Constitution, Sixth and Fourteenth Amendments,  
42 U.S.C. § 1983 and 42 U.S.C. § 1986**

***(by Plaintiff against all Defendants)***

24. The allegations contained in the above paragraphs of this Complaint hereby incorporated by reference as if fully set forth herein.

25. Refusing to communicate with the plaintiff ongoingly violates his rights under the Sixth and Fourteenth amendments to United States Constitution.

**Count IV — Conspiracy to Deprive Constitutional Rights under the United States  
Constitution, Sixth and Fourteenth Amendments, and 42 U.S.C. § 1983, 42 U.S.C. § 1986**

***(by Plaintiff against Lauren Hackett)***

26. The allegations contained in the above paragraphs of this Complaint hereby incorporated by reference as if fully set forth herein.

27. Mercer County appears to commonly use polygraph examinations to secure convictions. Attorney Jack Cline describes one account of the practice from 2009:

“Mr. Zimburger [publication alias, see Commonwealth v S.J.Z., (No. 458 Crim. 2009 Mercer County)] was represented by the Public Defender and waived his Preliminary Hearing (first mistake) with the understanding he would take a polygraph (second mistake). An additional felony one charge was added. After I became convinced of Mr. Zimburger’s innocence, I discussed a polygraph with the District Attorney. Although I totally distrust the polygraph procedure, it can be a win-win for the accused. If he passes the polygraph the charges are dismissed. If he fails, the fact that a polygraph was even administered is not admissible in court, so no member of the jury would even know about it. One condition I requested pursuant to the polygraph was that no statements made by Mr. Zimburger could be used in evidence at trial. I required this condition because Mr. Zimburger had already given a statement to the police denying the charges. But there is no way for him to duplicate this denial word for word and thus his statements in the polygraph examination would be 'inconsistent' or 'contradictory'. The District Attorney would not agree to this, so I refused the polygraph offer. This made it clear that the government's motive was not to exonerate a potentially innocent man but to gather evidence against him.” — Jack W. Cline, esq., "Yardbird USA", pgs. 98-99 (2012).

28. Lauren Hackett ought to explain why she arranged for the plaintiff to perform a video-taped interrogation when he had a fifth amendment right against self-incrimination.

29. If her intention was to aid or expedite plaintiff's conviction, she would have violated plaintiff's Fifth, Sixth and Fourteenth amendment rights through conspiracy with both the District Attorney's Office and the polygraph examiner (who may be deemed to have acted under "color of" state law).

30. Plaintiff passed the polygraph examination, as confirmed by the examiner.

31. No charges were withdrawn following the polygraph, and its effect was to create evidence for the prosecution to use to ultimately compel a plea. In fact, the first plea offer following the polygraph was for a "single count of rape", an allegation the plaintiff successfully refuted.

32. The failure to honor its agreement after Plaintiff had waived his fifth amendment right against self-incrimination in good faith violated plaintiff's right to fairly plea bargain. Plaintiff had the right to counsel and due process, which extends to the right to fairly plea bargain, even if guilty ("Defendants have a Sixth Amendment right to counsel, a right that extends to the plea bargaining process.", *Lafler v. Cooper*, 566 U.S. 156 (2012)). ("In the United States, we have plea bargaining aplenty... It presents grave risks of prosecutorial overcharging that effectively compels an innocent defendant to avoid massive risk by pleading guilty" (Justice Scalia), *Lafler v. Cooper*, *supra*).

33. Plaintiff wrote Lauren Hackett and Stephanie Lauderbaugh regarding "the agreement", and did not receive a response from either party.

34. Meanwhile, plaintiff's family hired private attorney Ross Smith, who on 10/26/17, requested "Discovery and Bill of Particulars". Ross Smith later told the plaintiff he was unaware that a polygraph would be performed, and would have stopped it had he have known. Ross Smith

told the plaintiff that he should not have been questioned, and scheduled an omnibus hearing to have the interrogation “thrown out”.

35. The omnibus hearing never occurred. It was postponed on 3/8/18, 6/6/18, 6/21/18, 8/8/18, 9/13/18, 10/7/18, 11/8/18, 12/5/18, 1/9/19 and 2/16/19.

36. 26. On 2/16/19, plaintiff found out Ross Smith accepted a plea offer made by Stephanie Lauderbaugh on his smartphone by either text or email. The need to have an omnibus added over a year to plaintiff’s imprisonment; the total time spent in the county jail was 29 months, 10 days — 5 months and 10 days past his minimum sentence.

37. Acceptance of this plea obfuscated the facts of this case, making it unduly hard for Plaintiff to be freed from sex offender requirements in the future. Specifically, the plea failed to address the fact that Plaintiff’s “victim” made factually and materially false statements to law enforcement which were never corrected despite contradicting the polygraph results.

38. On 1/24/20, plaintiff submitted a motion for post-conviction collateral relief, and on 2/5/20, Michael T. Muha was appointed as PCRA counsel.

39. But prior to that, for over a year, plaintiff had attempted to get the “polygraph deal” terms from Lauren Hackett. Plaintiff wrote her on (and before) 11/15/19, 12/8/19, 2/14/20 and 5/11/20. And, on 6/21/20, plaintiff mailed a certified letter, which again requested the terms of the “polygraph deal”, and threatened to contact the Pennsylvania Disciplinary Board.

40. In response, in a letter dated June 26th, 2020, Dana R. Flick, another Mercer County Public Defender, told the plaintiff that Lauren Hackett would only communicate with his court appointed PCRA counsel. The letter did not address the fact that all correspondence prior to PCRA counsel’s appointment had been ignored.

41. Ernest Snyder, also represented by Lauren Hackett, was also polygraphed and repeatedly questioned without counsel.

42. Ernest Snyder was deemed incompetent to stand trial and is believed by plaintiff to suffer from schizophrenia. He told the plaintiff that after he passed a polygraph, Lauren Hackett claimed that she did not know that one would be performed, and that none of the charges against him were withdrawn. Mr. Snyder also reported being repeatedly questioned about his pending criminal charges during psychiatric “competency evaluations”, while represented by attorney Hackett.

**Count V — Pennsylvania Constitution, Art. I § 9**

***(by Plaintiff against all Defendants)***

43. The allegations contained in the above paragraphs of this Complaint hereby incorporated by reference as if fully set forth herein.

44. Defendants' failure to provide adequate representation violates Plaintiff's rights under Article I, § 9 of the Pennsylvania Constitution to counsel in criminal prosecutions.

45. The right to counsel under the Pennsylvania Constitution attaches at the same time as the right to counsel provided by the Sixth and Fourteenth Amendments to the U.S. Constitution.

46. Defendants are directly responsible for the violation of Plaintiff's right to counsel under the Pennsylvania Constitution.

47. Defendants have a duty under the Public Defender Act to provide adequate representation, which includes meeting statutory and ethical obligations. 16 P.S §§ 9960.3, 9960.S(a), 9960.7, 9960.9.

48. Therefore, defendants have caused the violation of Plaintiff's right to counsel under the Pennsylvania Constitution.

**Prayer for Relief**

WHEREFORE, plaintiff requests the following relief:

1. An order requiring Lauren Hackett to submit to deposition by the plaintiff in accordance with the Pennsylvania Rules of Civil Procedure, or such similar order directed to the Office of the Public Defender.
2. Punitive damages and costs.
3. Any other such relief as deemed appropriate by the court.

**VERIFICATION**

I, Trenton John Tompkins, verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information and belief. I understand that the statements contained herein are subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

\_\_\_\_\_  
Trenton J. Tompkins