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2010 Decisions

Opinions of the United  
States Court of Appeals  
for the Third Circuit

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11-23-2010

## Lambert v. Beard

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 07-9005

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JAMES LAMBERT,  
Appellant

v.

JEFFREY BEARD, COMMISSIONER, PENNSYLVANIA  
DEPARTMENT OF CORRECTIONS; WILLIAM STRICKMAN, III,  
SUPERINTENDENT OF THE STATE CORRECTIONAL INSTITUTION  
AT GREENE; THE DISTRICT ATTORNEY OF THE COUNTY OF  
PHILADELPHIA; THE ATTORNEY GENERAL OF THE  
STATE OF PENNSYLVANIA

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
(D.C. Civil No. 02-cv-09034)  
District Judge: Honorable Michael M. Baylson

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ORDER

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Appellant James Lambert has been under sentence of death since 1984, during which time the case has wended its way through the state and federal courts. On September 30, 2010, this Court heard argument on Lambert's appeal from the District Court's denial of his petition for habeas corpus pursuant to 28 U.S.C. § 2254, an appeal that challenges the District Court's disposition of the various contentions Lambert raised as to both his conviction for first degree murder and the sentence of death imposed thereon.

Unless there is a prior disposition of this case, an Opinion of this Court will issue in due course addressing the contentions raised to the conviction itself and whether the judgment of the District Court as to the conviction should be affirmed. This Court, however, having concluded that, whether reviewed de novo or under AEDPA's deferential standard of review, the District Court erred in finding that there had not been a violation of the rule of Mills v. Maryland, 486 U.S. 367 (1988).

IT is, therefore, on this 23rd day of November 2010

ORDERED that the sentence of death be and hereby is VACATED and, pending further order of this Court, any conditions and/or disabilities to which petitioner is being subjected because of the sentence of death, including but not limited to, being housed other than in the general population, be lifted.

/s/ Marianne Trump Barry  
Circuit Judge



A True Copy

*Marcia M. Waldron*

Marcia M. Waldron, Clerk

Dated: November 23, 2010

nmr/cc: Thomas W. Dolgenos, Esq.  
Joshua S. Goldwert, Esq.  
Stuart B. Lev, Esq.  
Daniel Silverman, Esq.