IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| SAMUEL HARRINGTON | : | CIVIL ACTION |
| v. | : | |
| FRANK D. GILLIS, et al. | : | NO. 01-03617-JF |

MEMORANDUM AND ORDER

Fullam, Sr. J. August 3, 2006

The Third Circuit Court of Appeals remanded this case for the purpose of having the District Court determine whether petitioner would have appealed his conviction and sentence if he had had the opportunity to do so. At a status hearing held this date, petitioner testified, without contradiction, that he did indeed wish to appeal, and that he still wishes to appeal. Counsel for the respondent acknowledges that the appropriate disposition is to enable the state courts to permit an appeal *nunc pro tunc*. Counsel for the respondent has further agreed that he will promptly furnish the appropriate court of common pleas with a copy of the order now being entered, together with a request that counsel be promptly appointed to represent petitioner in connection with such appeal *nunc pro tunc*.

An Order follows.

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ORDER

AND NOW, this 3rd day of August 2006, upon consideration of the petition of Samuel Harrington for a writ of habeas corpus, after remand from the Third Circuit Court of Appeals, and after hearing held this date, IT IS ORDERED:

1. The petition of Samuel Harrington for a writ of habeas corpus is GRANTED, as hereinafter set forth.

2. Unless, within 10 days, the appropriate state authorities permit and enable petitioner to appeal *nunc pro tunc* from his conviction and sentence, and thereafter proceed in due course to dispose of such appeal on its merits, petitioner shall be released from custody.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.