

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

ROBERT LINCOLN	:	CIVIL ACTION
	:	
v.	:	
	:	
JOHN A. PALAKOVICH, et al., THE DISTRICT ATTORNEY OF THE COUNTY OF PHILADELPHIA, and THE ATTORNEY GENERAL OF THE STATE OF PENNSYLVANIA	:	NO. 07-1373

MEMORANDUM

NORMA L. SHAPIRO, J.

MARCH 23, 2015

On December 12, 2014, the United States Court of Appeals for the Third Circuit issued its opinion affirming this court’s judgment releasing petitioner Lincoln unless his right to a direct appeal on the merits was reinstated within 90 days of April 2, 2014. The Court of Appeals had stayed this court’s order of April 2, 2014 pending appeal (77 days after the entry of the district court order) and lifted its stay on December 12, 2014 when it affirmed the district court order of April 2, 2014. The Court of Appeals provided that if the respondents needed more than 13 days to comply with the conditional writ, the respondents should move the district court to modify its order.

Respondents chose not to comply with the direction of the Court of Appeals to move the district court to modify its order because they assumed the court would have ignored a well-reasoned recommendation of the Court of Appeals. Instead, on December 15, 2014, respondents notified the Superior Court of Pennsylvania of the decision of the Court of Appeals and subsequently went before a Judge of the Court of Common Pleas, who had no prior knowledge of the case, for an order reinstating the appeal on the merits. The Superior Court not having acted, on December 22, 2014, a Judge of the Court of Common Pleas ordered petitioner’s direct appeal rights to be reinstated. On January 5, 2015, the Superior Court untimely reinstated petitioner’s right to a direct appeal on the merits and lifted its

stay previously issued.

Because respondents failed to comply with the order of the Court of Appeals, this court has issued a writ of execution in compliance with the mandate of the Court of Appeals, dated January 20, 2015, but has issued a stay pending the Court of Appeals' decision whether or not its mandate supercedes the stay of the Superior Court of Pennsylvania.

/s/ Norma L. Shapiro

J.

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ORDER

AND NOW, this 23rd day of March, 2015, the court having issued a Writ of Execution for Robert Lincoln in accordance with the mandate of the United States Court of Appeals for the Third Circuit, dated January 20, 2015, it is **ORDERED** that the writ is indefinitely stayed until the Court of Appeals decides whether its mandate supercedes the stay of the Superior Court of Pennsylvania.

/s/ Norma L. Shapiro

J.