



**For Immediate Release**  
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## **LDF, PARTNERS FILE AMICUS BRIEF ARGUING PENNSYLVANIA'S FELONY MURDER LAW VIOLATES STATE CONSTITUTION**

**(New York, NY – Monday, April 29, 2024)** The Legal Defense Fund, The Antiracism and Community Lawyering Practicum at Boston University School of Law, and the Fred T. Korematsu Center for Law and Equality, filed an [amicus brief](#) with the Pennsylvania Supreme Court in support of a Black man named Derek Lee, who is serving a mandatory life without parole (LWOP) sentence for felony murder even though he did not kill or intend to kill anyone. The amicus brief demonstrates that racial discrimination infects Pennsylvania's felony murder law, explains that the law disproportionately targets Black people—especially young Black teenagers—, and argues that the law's application to people like Mr. Lee violates the state constitutional protection against “cruel punishments.”

According to a recent [state-backed audit](#) that was undertaken because of serious concerns about the cruelty and lack of fairness in the application of Pennsylvania's felony murder law, Black people in Pennsylvania have been convicted of felony murder at a rate that is more than 21 times higher than for white people in the state. As the amicus brief explains, the racial bias and disparities for felony murder in Pennsylvania stand out even within a state prison population where Black people are significantly overrepresented because of racial bias in other aspects of society and the criminal legal system .

“In a state where Black people are already overrepresented at 47% of the prison population and 48% of those awaiting execution, Black people constitute 70% of those serving mandatory LWOP sentences for felony murder,” said **Professor Robert Chang, Executive Director of the Fred T. Korematsu Center for Law and Equality**. “The particularly extreme racial bias and disparities for felony murder suggests strongly that something is deeply wrong with how the felony murder statute is operating in Pennsylvania.”

These racial disparities are particularly concerning because there is strong evidence that Black people serving mandatory LWOP sentences for felony murder are on the whole less culpable than white people convicted under the same law. Compared to Black people convicted of felony murder, white people are 4.5 times as likely to be involved in kidnapping, 4.9 times as likely to be involved in sexual assault, and 6.0 times as likely to be involved in arson. Additionally, as the amicus brief explains, white people are more likely to be principals who acted alone, rather than accomplices, which strongly suggests, as the auditors found, that the “statute's broad application to both principals and accomplices to a felony related to someone's death has a greater net-widening effect on Black people overall.”

Pennsylvania’s felony murder statute also disproportionately targets Black youth, whose age and capacity for rehabilitation can never be considered under a mandatory scheme, adding to the cruel and excessive nature of mandatory LWOP sentences for people who did not kill or intend to kill anyone. Black 19-year-olds are the single most common group to be serving mandatory LWOP sentences for felony murder in Pennsylvania, and will spend a greater proportion of their lives in prison than older people who commit the same or more serious crimes. An 18 or 19 year old and a “75-year-old each sentenced to life without parole receive the same punishment in name only.” *Graham v. Florida*, 560 U.S. 48, 70 (2010).

“Pennsylvania has one of the most punitive felony murder laws in the country and applies this law in a manner that disproportionately condemns young Black people to die in prison,” said **Professor Caitlin Glass, Director of the Antiracism and Community Lawyering Practicum at the Boston University School of Law**. “Given disturbing evidence suggesting that racial bias influences felony murder prosecutions, Pennsylvania’s permanent incarceration of people convicted of felony murder—many of whom neither killed nor intended to kill anyone—cannot withstand constitutional scrutiny.”

“There are scores of people in Pennsylvania, a disproportionate percentage of whom are Black, who rehabilitated decades ago but remain condemned to die in prison even though they did not kill anyone nor intend to kill anyone. They have taken extraordinary steps to redeem themselves and want to be role models and youth counselors in their communities. Under the cruel mandatory sentencing scheme currently in place, they will never get that opportunity, and we all lose as a result.” **Adam Murphy, Assistant Counsel, Legal Defense Fund**.

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*Founded in 1940, the Legal Defense Fund (LDF) is the nation’s first civil rights law organization. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the Legal Defense Fund or LDF. Please note that LDF has been separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights.*