

# CARBON COUNTY LAW JOURNAL

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Containing Decisions Rendered, Legal Notices, Advertisements  
in the 56th Judicial District

ROGER N. NANOVIC, President Judge

STEVEN R. SERFASS, Judge

JOSEPH J. MATIKA, Judge

Vol. XXII

Jim Thorpe, PA, Friday, August 3, 2018

No. 31

In the INTEREST of A.M..... 56

*Criminal Law—Juvenile Delinquency—Aggravated Assault—  
Self-Defense—Delinquency Determination*

## CARBON COUNTY LAWYER SELLING PRACTICE

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Aug. 3

## COURT CALENDAR

Week of August 6

Court Calendar Submitted: July 25, 2018

For updates and revisions check courthouse webpage:

[www.carboncourts.com](http://www.carboncourts.com)

### Criminal

Judge Matika, Joseph J., Hon.

Monday, August 6

10:00 AM

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Sheri A. Ryan, Managing Editor

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**Judge Nanovic, Roger N., II, Hon.**

**Monday, August 6**

10:00 AM

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223	Jury Tr.	Com. v. Yons, W.J., III	(Miller, Rapa)	17-1132
224	Jury Tr.	Com. v. Wentz, M.G.	(Gazo, Rapa)	17-0670
225	Jury Tr.	Com. v. Wentz, M.G.	(Gazo, Rapa)	17-0731
226	Jury Tr.	Com. v. Wentz, M.G.	(Gazo, Rapa)	17-0743
227	Jury Tr.	Com. v. Frohnheiser, B.K., Jr.	(Hatton, Levy)	17-0772
228	Jury Tr.	Com. v. Kubin, K.	(Hatton, Wiltrout)	18-0455
229	Jury Tr.	Com. v. Mooney, E.M.	(Hatton, Wiltrout)	18-0241
230	Jury Tr.	Com. v. Lewis, C.	(Gazo, Mousseau)	17-1324
231	Jury Tr.	Com. v. Furry, D.E., II	(Gazo, Levy)	16-0330
232	Jury Tr.	Com. v. Furry, D.E., II	(Gazo, Levy)	17-0403
233	Jury Tr.	Com. v. Furry, D.E., II	(Gazo, Levy)	17-0442
234	Jury Tr.	Com. v. Furry, D.	(Gazo, Levy)	17-1022
235	Jury Tr.	Com. v. Schlier, E.M.	(Hatton, Levy)	16-0786
236	Jury Tr.	Com. v. Ensel, J.K.	(Greek, Levy)	13-1231
237	Jury Tr.	Com. v. Snyder, J.	(Hatton, Levy)	16-0067
238	Jury Tr.	Com. v. Snyder, J.F.	(Hatton, Levy)	16-0063

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239	Jury Tr.	Com. v. Snyder, J.F.	(Hatton, Levy)	16-0064
240	Jury Tr.	Com. v. Snyder, J.F.	(Hatton, Levy)	16-0065
241	Jury Tr.	Com. v. Snyder, J.F.	(Hatton, Levy)	16-0066
242	Jury Tr.	Com. v. Matheson, G.E.	(Greek, Schnell)	17-1290
243	Jury Tr.	Com. v. Ockenhause, J.P., Jr.	(Miller, Mottola)	18-0138
244	Jury Tr.	Com. v. Johnston, E.W.	(Hatton, Levy)	16-0076
245	Jury Tr.	Com. v. Thorpe, D.J.	(Gazo, Pro Se)	16-0914

**Friday, August 10**

9:00 AM

246	Bench Tr.	Com. v. Huntington, B.L.	(Perilli, Levy)	15-1523
247	Bench Tr.	Com. v. Morrissey, E.T.	(Hatton, Rapa)	18-0435
248	Bench Tr.	Com. v. Costa, W.	(Hatton, Wilttrout)	18-0237

**Probation Officer Wall, Tammy**

**Monday, August 6**

9:00 AM

249	Hrg.	Com. v. Remes, R.J., Jr.	(Perilli, Unassigned)	15-1030
250	Hrg.	Com. v. Orsini, S.R.	(Miller, Unassigned)	16-1445
251	Hrg.	Com. v. Vernon, J.H.	(Hatton, Pro Se)	17-0817
252	Hrg.	Com. v. Freeman, R.H.	(Hatton, Schnell)	16-0985
253	Hrg.	Com. v. Hunsicker, T.S.	(Perilli, Unassigned)	16-1652
254	Hrg.	Com. v. Hunsicker, T.S.	(Greek, Unassigned)	17-0683
255	Hrg.	Com. v. Hunsicker, T.S.	(Greek, Unassigned)	17-0682
256	Hrg.	Com. v. Hunsicker, T.S.	(Greek, Unassigned)	17-0681
257	Hrg.	Com. v. Hunsicker, T.S.	(Greek, Unassigned)	17-0680
258	Hrg.	Com. v. Hunsicker, T.S.	(Greek, Unassigned)	17-0684

**Civil**

**Friday, August 10**

**Judge Serfass, Steven R., Hon.**

9:00 AM

1	PFA Hrg.	Frisch, J. (Pro Se) v. Williams, T. (Pro Se)		18-1444
2	PFA Hrg.	McLaughlin, E. (Pro Se) v. Gulla, L. (Pro Se)		18-1853

**ESTATE AND TRUST NOTICES**

Notice is hereby given that, in the estates of the decedents set forth below, the Register of Wills has granted letters testamentary or of administration to the persons named. Notice is also hereby given of the existence of the trusts of the deceased settlors set forth below for whom no personal representatives have been appointed within 90 days of death. All persons having claims or demands against said estates or trusts are requested to make known the same, and all persons indebted to said estates or trusts are requested to make payment, without delay, to the executors or administrators or trustees or to their attorneys named below.

**FIRST PUBLICATION  
DOLINSKY, MARGARET a/k/a  
MARGARET MARY DO-  
LINSKY, Dec'd.**

Late of Weatherly.  
Executrix: Anita Bachman.  
Attorneys: Richard J. Marusak, Esquire, Ustynoski & Marusak, LLC, 101 West Broad St., Suite 205, Hazleton, PA 18201.

**DUSICK, ELIZABETH K. a/k/a  
ELIZABETH (BETTY) DU-  
SICK a/k/a ELIZABETH DU-  
SICK, Dec'd.**

Late of Beaver Meadows.  
Executrix: Dolores Ruggiero c/o John C. Gormley, Esquire, Ettinger & Associates, LLC, Peachtree Office Plaza, 1815 Schadt Avenue, Whitehall, PA 18052.

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Attorneys: John C. Gormley, Esquire, Ettinger & Associates, LLC, Peachtree Office Plaza, 1815 Schadt Avenue, Whitehall, PA 18052.

**HUNSICKER, MABEL M. a/k/a MABEL MAE HUNSICKER,** Dec'd.

Late of Lehighton.

Executrix: Mary E. Maricle c/o Victor F. Cavacini, Esquire, Gross McGinley, LLP, 33 South 7th Street, P.O. Box 4060, Allentown, PA 18105-4060.

Attorneys: Victor F. Cavacini, Esquire, Gross McGinley, LLP, 33 South 7th Street, P.O. Box 4060, Allentown, PA 18105-4060.

**TAYLOR, BEATRICE S.,** Dec'd.

Late of the Borough of Nesquehoning.

Executor: Bruce S. McHale, 1671 West Penn Pike, New Ringgold, PA 17960.

Attorneys: Jeffrey P. Bowe, Esquire, Bowe & Odorizzi Law, LLC, 109 West Broad Street, Tamaqua, PA 18252.

**SECOND PUBLICATION**

**CINICOLA, ANNA M. a/k/a ANNA CINICOLA,** Dec'd.

Late of the Borough of Summit Hill.

Executrix: Anita Hiles, 320 East Ludlow Street, Summit Hill, PA 18250.

Attorney: Joseph J. Velitsky, Esquire, 49 East Ludlow Street, Summit Hill, PA 18250.

**DAVIS, JAMES D.,** Dec'd.

Late of the Borough of Nesquehoning.

Executor: Derrick W. Rubin, 1518 Fairyland Road, Lehighton, PA 18235.

Attorneys: Jason M. Rapa, Esquire, Rapa Law Office, P.C., 141 South First Street, Lehighton, PA 18235.

**HOBBS, KATHERINE A.,** Dec'd.

Late of Jim Thorpe.

Administratrix: Jean Freiling O'Meara, 3700 Niner Road, Finksburg, MD 21048.

Attorney: Holly A. Heintzelman, Esquire, 192 South First Street, Lehighton, PA 18235, (610) 377-3331.

**KORUTZ, MICHAEL, III,** Dec'd.

Late of Palmerton.

Administratrix: Jennifer M. Korutz c/o Eric R. Strauss, Esquire, Worth, Magee & Fisher, P.C., 2610 Walbert Avenue, Allentown, PA 18104.

Attorneys: Eric R. Strauss, Esquire, Worth, Magee & Fisher, P.C., 2610 Walbert Avenue, Allentown, PA 18104.

**MANHART, LARUE EVA a/k/a LARUE E. MANHART a/k/a LARUE MANHART,** Dec'd.

Late of Franklin Township.

Executor: Christopher James Gaumer, 258 Spruce Street, Lehighton, PA 18235.

Attorneys: Thomas S. Nanovic, Esquire, Nanovic Law Offices, 57 Broadway, P.O. Box 359, Jim Thorpe, PA 18229-0359.

**McHUGH, JAMES F., Dec'd.**

Late of the Borough of Summit Hill.

Executrix: Judy Moon, 40 Coal Street, Nesquehoning, PA 18240.

Attorney: Joseph J. Velitsky, Esquire, 49 East Ludlow Street, Summit Hill, PA 18250.

**SCHULTY, JAMES L. a/k/a JAMES LYLE SCHULTY, Dec'd.**

Late of Lehighton.

Administratrix: Karen Lusch, 708 Mahoning Drive East, Lehighton, PA 18235.

Attorney: Holly A. Heintzelman, Esquire, 192 South First Street, Lehighton, PA 18235, (610) 377-3331.

**SLAW, JEANETTE B. a/k/a JEANETTE SLAW, Dec'd.**

Late of 455 North Fourth Street, Lehighton.

Personal Representative: Timothy A. Slaw a/k/a Timothy Slaw a/k/a Timothy Jay Slaw c/o Michael A. Henry, Esquire, Gross McGinley, LLP, 33 South 7th Street, P.O. Box 4060, Allentown, PA 18105-4060.

Attorneys: Michael A. Henry, Esquire, Gross McGinley, LLP, 33 South 7th Street, P.O. Box 4060, Allentown, PA 18105-4060.

**THIRD PUBLICATION**

**BALENT, BRIAN a/k/a BRIAN S. BALENT, Dec'd.**

Late of Towamensing Township.

Executrix: Amber Kistler, 34 Second Street, Apartment 1, Slatington, PA 18080.

Attorneys: Thomas S. Nanovic, Esquire, Nanovic Law Offices, 57 Broadway, P.O. Box 359, Jim Thorpe, PA 18229-0359.

**CARRIGAN, RICHARD MARTIN a/k/a RICHARD M. CARRIGAN a/k/a RICHARD CARRIGAN, Dec'd.**

Late of Penn Forest Township.

Administrator: Thomas E. Carrigan, 3732 Dartmouth Road, Allentown, PA 18104.

Attorneys: Thomas S. Nanovic, Esquire, Nanovic Law Offices, 57 Broadway, P.O. Box 359, Jim Thorpe, PA 18229-0359.

**KRAVETZ, OLGA, Dec'd.**

Late of the Borough of Palmerton.

Executrices: Melanie K. Wentz, 870 North Fireline Road, Palmerton, PA 18071 and Debra Ann Fishman, 1420 Castec Drive, Sacramento, CA 95864. Attorneys: Thomas S. Nanovic, Esquire, Nanovic Law Offices, 57 Broadway, P.O. Box 359, Jim Thorpe, PA 18229-0359.

**LOWRY, CHARLES L. a/k/a CHARLES LOWRY, Dec'd.**

Late of Lower Towamensing Township.

Executrix: Bonita Lee Muslin, 1623 Morton Court, Lansdale, PA 19446.

Attorneys: Thomas S. Nanovic, Esquire, Nanovic Law Offices, 57 Broadway, P.O. Box 359, Jim Thorpe, PA 18229-0359.

**RAYNOCK, MARTHA E.,**  
Dec'd.

Late of Lehigh Township.

Executors: Peggy J. Raynock and Matthew D. Karotko c/o Nanovic Law Offices, 57 Broadway, P.O. Box 359, Jim Thorpe, PA 18229.

Attorneys: Nanovic Law Offices, 57 Broadway, P.O. Box 359, Jim Thorpe, PA 18229.

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**REGISTER OF WILLS**

**CINICOLA, ANNA M.** a/k/a ANNA CINICOLA; Summit Hill, PA; Will; Joseph J. Velitsky, Esquire.

**CROASDALE, JAMES P.;** Jim Thorpe, PA; Will; John F. Hartzel, Esquire (Bucks County).

**RONEMUS, MARTHA J.;** Lehighton, PA; Will; Jason M. Rapa, Esquire.

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**SUITS BEGUN**

The plaintiff's name appears first, followed by the name of the defendant, the case number, the nature of the suit, the name of the plaintiff's attorney, and the date the suit was filed.

**ALLEN, ROBERT;** Patricia Allen; 18-1999; Divorce; Jennifer Lynn Rapa, Esquire; 07/20/18.

**BJORKMAN, RICKY & NICOLE;** Christina Kahlon & Richard Schaffer; 18-1994; Custody; Abele A. Iacobelli, Esquire; 07/20/18.

**BJORKMAN, RICKY** obo TB (MINOR); Christina Kahlon; 18-1995; Protect/Abuse; Pro Se; 07/20/18.

**BOLTERS DORF, MELODY, MIKAELA BOLTERS DORF & NATASHA BOLTERS DORF;** Stephen Boltersdorf, II; 18-2003; Protect/Abuse; Pro Se; 7/23/18.

**BOLTERS DORF, MELODY, MIKAELA BOLTERS DORF & NATASHA BOLTERS DORF;** Gloria Irvin; 18-2004; Protect/Abuse; Pro Se; 07/23/18.

**BOLTERS DORF, MELODY, MIKAELA BOLTERS DORF & NATASHA BOLTERS DORF;** Terry Irvin; 18-2005; Protect/Abuse; Pro Se; 07/23/18.

**BOROUGH OF LANSFORD;** Georgia Roldan; 18-2087; Civil Action; Michael S. Greek, Esquire; 07/25/18.

**BRAYERTON, ERIN;** Andrew J. Manno; 18-2086; Custody; Michael S. Greek, Esquire; 07/25/18.

**BROWN, ANDREA;** Stacy Long; 18-2000; Divorce; Jennifer Lynn Rapa, Esquire; 07/20/18.

**CARRINGTON MORTGAGE SERVICES LLC;** George W. Wolfinger a/k/a George W. Wolfinger, IV, Melanie A. Nelson et al.; 18-2088; Ejectment; Richard M. Squire, Esquire; 07/25/18.

- COLL, JENNIFER; Scott Coll; 18-1998; Divorce; Jennifer Lynn Rapa, Esquire; 07/20/18.
- DEMELFI, RENEE; David James Demelfi; 18-2068; Protect/Abuse; Pro Se; 07/25/18.
- FATZIE, GINA CHRISTINE; Anthony John Fatzie; 18-1993; Divorce; Pro Se; 07/20/18.
- FISHER, DAVID; Melissa Branz; 18-2001; Custody; Pro Se; 07/20/18.
- GRANT, MELISSA; Stabilis Split Rock JV LLC d/b/a Split Rock Resort & Golf Club; 18-2044; Civil Action; Frank Procyk, Esquire; 07/24/18.
- LAIRD, CATHY J.; Alfred B. Tindula, Rebecca H. Tindula; 18-1992; Quiet Title; Anthony Roberti, Esquire; 07/19/18.
- LEINTHELL, CAITLIN; Charles Leinthell; 18-2062; Protect/Abuse; Pro Se; 07/24/18.
- MARYASZ, SARAH; Robert Pilla; 18-2061; Protect/Abuse; Pro Se; 07/24/18.
- PARUCKER FAMILY PREMISES TRUST; Klaus Parucker; 18-1997; DJ Appeal; Pro Se; 07/20/18.
- PILLA, ROBERT; Sarah Maryasz; 18-2002; Protect/Abuse; Pro Se; 07/23/18.
- PRIBILA, ERICA; David J. Pribila; 18-2063; Protect/Abuse; Pro Se; 07/27/18.
- SANDER, LOUISE H.; Gregory A. Sander; 18-2040; Protect/Abuse; Pro Se; 07/24/18.
- SORIANO, BRITTANY LYNNE; Commonwealth of Pennsylvania Department of Transportation; 18-2085; License Appeal; Pro Se; 07/25/18.
- U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE FOR STRUCTURED ASSET SECURITIES CORPORATION MORTGAGE LOAN 2006 RF3; Robert F. Allen; 18-2007; Mortgage Foreclosure; Robert J. Crawley, Esquire; 07/23/18.
- WALZ, TERRY S. & SHERRY M. WALZ; Makenzie L. Lashefsky; 18-2038; Protect/Abuse; Pro Se; 07/24/18.

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#### JUDGMENT INDEX REPORT

The information contained herein is listed in the following order: (1) party against whom judgment was entered; (2) party for whom judgment was entered; (3) docket number; (4) date of entry; and (5) amount. Subsequent entries and filings, including appeals and satisfactions, may not be reported herein and may affect the lien status of any entry.

ACHEY, GARY L.; Panther Valley School District; 18-2134; 07/26/18; \$1,820.42

ACKER, ROSS; Deer View Land Owners Association; 18-2123; 07/26/18; \$399.07

ACM VISION V LLC; Panther Valley School District; 18-2059; 07/24/18; \$1,397.26

ANDERSON, ROBERT H., JEAN M. ANDERSON; Leighton

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- Area School District; 18-2043; 07/24/18; \$3,709.17
- ANDREW-KROMER, JAMIE L. & SCOTT M. KROMER; Discover Bank; 18-2008; 07/23/18; \$6,909.16
- BAJRAMSPANIC, ADNAN, ELDINA BAJRAMSPANIC; Commonwealth of Pennsylvania Department of Revenue; 18-2092; 07/24/18; \$3,564.41
- BALCH, MICHAEL D.; Commonwealth of Pennsylvania Department of Revenue; 18-2091; 07/24/18; \$3,221.08
- BEVICH, DIANE; Panther Valley School District; 18-2141; 07/26/18; \$2,428.71
- BEVICH, DIANE; Panther Valley School District; 18-2166; 07/26/18; \$2,433.93
- BITTNER, CHRISTINE; Panther Valley School District; 18-2031; 07/23/18; \$1,045.28
- BLUE MOUNTAIN CANDLE COMPANY; Commonwealth of Pennsylvania Department of Revenue; 18-2089; 07/24/18; \$1,910.24
- BOSWELL, BRADLEY D. & ANDREA L. BOSWELL; Commonwealth of Pennsylvania Department of Revenue; 18-2112; 07/26/18; \$602.90
- BRAY, JOHN F.; Panther Valley School District; 18-2045; 07/24/18; \$1,202.60
- BROWN, SHELDON; Midland Funding LLC; 18-2009; 07/23/18; \$1,330.00
- BYRD, ERIK V. & MORGAN L. WALSH; Panther Valley School District; 18-2143; 07/26/18; \$995.19
- BYRD, ERIK V. & MORGAN L. WALSH; Panther Valley School District; 18-2144; 07/26/18; \$985.93
- CARBON JUDICIAL 2014 TRUST; Panther Valley School District; 18-2138; 07/26/18; \$1,790.04
- CARBON JUDICIAL 2014 TRUST; Panther Valley School District; 18-2139; 07/26/18; \$1,790.04
- CARBON JUDICIAL 2014 TRUST; Panther Valley School District; 18-2140; 07/26/18; \$1,685.77
- CARBON JUDICIAL 2014 TRUST; Panther Valley School District; 18-2167; 07/26/18; \$1,192.17
- CASTRO, DAVID A. & ANNE M. CASTRO; Panther Valley School District; 18-2030; 07/23/18; \$1,646.63
- CHRISTMAN, DENNIS & LAURA CHRISTMAN; Panther Valley School District; 18-2029; 07/23/18; \$556.08
- CHRISTMAN, DENNIS P., LAURA L. CHRISTMAN; Panther Valley School District; 18-2028; 07/23/18; \$1,310.36
- CLEMENS, SHANNON J., KACIE L. CLEMENS; Panther Valley School District; 18-2027; 07/23/18; \$1,893.50
- CLEVELAND, WILLIAM J.; Panther Valley School District; 18-2133; 07/26/18; \$1,799.56

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- CONNER, RACHEL A.; Panther Valley School District; 18-2026; 07/23/18; \$1,824.80
- CORMIER, RAEANNE C.; Panther Valley School District; 18-2025; 07/23/18; \$1,528.43
- DAILEY, DANIEL O.; Lehighton Area School District; 18-2070; 07/25/18; \$512.83
- DeFELICE, RYAN E., SR.; Commonwealth of Pennsylvania Department of Revenue; 18-2103; 07/26/18; \$3,353.40
- DeVALLE, JHOAN M. MARTE; Commonwealth of Pennsylvania Department of Revenue; 18-2107; 07/26/18; \$1,091.82
- DITSKY, MARTIN S., III; Panther Valley School District; 18-2024; 07/23/18; \$965.33
- DSV SPV2 LLC; Panther Valley School District; 18-2020; 07/23/18; \$2,007.84
- DSV SPV2 LLC; Panther Valley School District; 18-2021; 07/23/18; \$1,659.27
- ECKHART, RUSSELL; Lehighton Area School District; 18-2060; 07/24/18; \$584.73
- ECKHART, RUSSELL; Lehighton Area School District; 18-2064; 07/24/18; \$615.14
- EDGAR, MARK; Panther Valley School District; 18-2136; 07/26/18; \$1,828.27
- ELLIS, RICHARD K., AMY ELLIS; Panther Valley School District; 18-2165; 07/26/18; \$1,743.95
- EMMERT, RICHARD; Panther Valley School District; 18-2023; 07/23/18; \$1,174.80
- EVANS, DALE; Panther Valley School District; 18-2076; 07/25/18; \$1,021.85
- FEHNEL, KATHIE; Midland Funding LLC; 18-2010; 07/23/18; \$1,843.91
- GALLAGHER, EDWARD JAMES; Lehighton Area School District; 18-2041; 07/27/18; \$1,640.99
- HAAS, DOUGLAS R., DENISE I. HAAS; Commonwealth of Pennsylvania Department of Revenue; 18-2105; 07/26/18; \$2,205.20
- HARLESTON, MICHAEL; Commonwealth of Pennsylvania Department of Revenue; 18-2097; 07/24/18; \$1,008.40
- HEIMERS BREWHOUSE INC.; Commonwealth of Pennsylvania Department of Revenue; 18-2120; 07/26/18; \$664.24
- HOLLAND, MIRANDA M.; Panther Valley School District; 18-2164; 07/26/18; \$1,637.10
- HORSFORD, GLORIA L.; Panther Valley School District; 18-2163; 07/26/18; \$1,292.98
- HUNSICKER, JAMES E.; Panther Valley School District; 18-2162; 07/26/18; \$1,340.74
- HUNSICKER, NATHAN, ARTHUR GOTTHARDT; Panther Valley School District; 18-2067; 07/24/18; \$1,675.33
- J SYSTEMS FRANCHISING CORP.; Commonwealth of Pennsylvania Department of Labor & Industry; 18-2006; 07/23/18; \$6,155.84

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- JASINSKY, CHESTER JOSEPH; Panther Valley School District; 18-2161; 07/26/18; \$1,413.73
- JIMENEZ, CESAR E. & CARMEN R.; United States Internal Revenue Service; 18-2011; 07/23/18; \$28,858.17
- JOSAPHAT, LIONEL A., JR.; Panther Valley School District; 18-2160; 07/26/18; \$1,501.54
- KAJA HOLDINGS 2 LLC; Panther Valley School District; 18-2022; 07/23/18; \$928.00
- KELLER, GLENN J.; Commonwealth of Pennsylvania Department of Revenue; 18-2100; 07/24/18; \$7,446.05
- KEPPEL, ROSE A.; Panther Valley School District; 18-2066; 07/24/18; \$1,165.41
- KERN, JUSTIN; Panther Valley School District; 18-2135; 07/26/18; \$1,628.97
- KING, FREDERICK D. & TARA A. KING; Panther Valley School District; 18-2125; 07/26/18; \$2,078.41
- KOCELA, JENNIFER; Panther Valley School District; 18-2083; 07/25/18; \$631.39
- KOCELA, JENNIFER; Panther Valley School District; 18-2084; 07/25/18; \$633.70
- KOCH, JENNIFER L., SMALL WORLD DAY CARE CENTER; United States Internal Revenue Service; 18-2012; 07/23/18; \$3,042.86
- KRUM, ALLEN D., FANINA G. KRUM; Commonwealth of Pennsylvania Department of Revenue; 18-2122; 07/26/18; \$1,112.77
- KUEHNER, DANIEL E., MARIA C. KUEHNER; Commonwealth of Pennsylvania Department of Revenue; 18-2093; 07/24/18; \$880.50
- LANSFORD AMVETS HOME ASSOCIATION INC.; Panther Valley School District; 18-2077; 07/25/18; \$496.98
- LANSFORD AMVETS HOME ASSOCIATION INC.; Panther Valley School District; 18-2078; 07/25/18; \$528.27
- LANSFORD AMVETS HOME ASSOCIATION INC.; Panther Valley School District; 18-2079; 07/25/18; \$524.79
- LAUER, MARY J.; Lehighton Area School District; 18-2039; 07/24/18; \$1,731.01
- LESLIE, TODD M., MELISSA A. LESLIE; Panther Valley School District; 18-2036; 07/24/18; \$1,563.20
- LESLIE, TODD M., MELISSA A. LESLIE; Panther Valley School District; 18-2037; 07/24/18; \$1,240.84
- LIGHTING, RONALD E.; Commonwealth of Pennsylvania Department of Revenue; 18-2096; 07/24/18; \$913.77
- MACALUSO, JAMES L., JR.; Panther Valley School District; 18-2082; 07/25/18; \$545.64
- MACALUSO, JAMES L., JR.; Panther Valley School District; 18-2150; 07/26/18; \$1,428.55
- MACALUSO, JAMES L., JR.; Panther Valley School District; 18-2151; 07/26/18; \$1,525.87

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- MARCAVAGE, BETH K.; Panther Valley School District; 18-2035; 07/24/18; \$3,805.21
- MARCAVAGE, BETH K.; Panther Valley School District; 18-2075; 07/25/18; \$1,056.61
- MAROUCHOC, JENNIFER A.; Panther Valley School District; 18-2149; 07/26/18; \$1,194.74
- MAROUCHOC, MARK E.; Panther Valley School District; 18-2159; 07/26/18; \$1,236.47
- MAROUCHOC, MICHELLE; Panther Valley School District; 18-2148; 07/26/18; \$1,491.11
- MARTINEZ, ORTELIO & DALNY SANCHEZ; Panther Valley School District; 18-2058; 07/24/18; \$1,310.36
- MATSON, STEVEN, ANGELA MATSON; Panther Valley School District; 18-2132; 07/26/18; \$3,431.46
- MAUCH CHUNK MUSEUM & CULTURAL CENTER; Commonwealth of Pennsylvania Department of Revenue; 18-2090; 07/24/18; \$2,719.68
- MEADOW LANDSCAPING INC.; Commonwealth of Pennsylvania Department of Revenue; 18-2116; 07/26/18; \$1,585.21
- MILLER, BRUCE A.; Commonwealth of Pennsylvania Department of Revenue; 18-2114; 07/26/18; \$1,442.93
- MILLER, DOREEN F.; Panther Valley School District; 18-2147; 07/26/18; \$1,508.49
- MILLER, FRANK N.; Panther Valley School District; 18-2056; 07/24/18; \$2,095.93
- MONTANYE, WILLIAM J., JR., TRACY MONTANYE; Panther Valley School District; 18-2131; 07/26/18; \$1,654.35
- MONTELIUS, CAITLYN; Midland Funding LLC; 18-2013; 07/23/18; \$1,910.80
- MONTELIUS, CAITLYN; Midland Funding LLC; 18-2014; 07/23/18; \$1,636.01
- MOTOLA, JOHN R., III & NADINE MOTOLA; Commonwealth of Pennsylvania Department of Revenue; 18-2108; 07/26/18; \$4,391.39
- NANSTEEL, JEREMY, SARAH J. NANSTEEL; Panther Valley School District; 18-2055; 07/24/18; \$1,522.40
- NHEM, SAMAN K., JESSICA M. NHEM; Panther Valley School District; 18-2142; 07/26/18; \$1,591.92
- OCHNER, ELIZABETH; Commonwealth of Pennsylvania Department of Revenue; 18-2106; 07/26/18; \$1,380.49
- OCKER, JEAN A.; Panther Valley School District; 18-2130; 07/26/18; \$2,295.24
- OLAH, DONALD, JANICE OLAH; Lehigh Area School District; 18-2071; 07/25/18; \$844.64
- ORACH, MATTHEW J., MELANIE M. ORACH; Panther Valley School District; 18-2081; 07/25/18; \$556.08
- PANELL, SONIA I.; Panther Valley School District; 18-2054; 07/24/18; \$1,289.51

CARBON COUNTY LAW JOURNAL

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- PEAKE, MICHAEL R., ROBIN E. PEAKE; Panther Valley School District; 18-2052; 07/24/18; \$1,303.41
- PEAKE, MICHAEL R., ROBIN E. PEAKE; Panther Valley School District; 18-2053; 07/24/18; \$1,164.37
- PEREZ, JOANNA; Commonwealth of Pennsylvania Department of Revenue; 18-2118; 07/26/18; \$1,901.07
- PIAZZA, VITO; Commonwealth of Pennsylvania Department of Revenue; 18-2113; 07/26/18; \$589.83
- POOLE, TY D.; Commonwealth of Pennsylvania Department of Revenue; 18-2094; 07/24/18; \$1,276.52
- PORTER, DANIEL S.; Commonwealth of Pennsylvania Department of Revenue; 18-2117; 07/26/18; \$1,070.32
- RADOCHA, MICHAEL J., JR.; Panther Valley School District; 18-2146; 07/26/18; \$1,563.20
- RICHARDSON, MICHAEL, THERESA RICHARDSON; Panther Valley School District; 18-2034; 07/24/18; \$1,566.69
- RIGHTER, JOYCE A.; Panther Valley School District; 18-2050; 07/24/18; \$1,717.05
- RIGHTER, JOYCE A.; Panther Valley School District; 18-2051; 07/24/18; \$1,720.53
- RINGLER, DENNIS A., KELLY S. RINGLER; Commonwealth of Pennsylvania Department of Revenue; 18-2102; 07/26/18; \$1,668.30
- ROLDAN, RONALD R., IVETTE C. POSADA ARROYO; Commonwealth of Pennsylvania Department of Revenue; 18-2095; 07/24/18; \$2,702.10
- ROUTE 443 FLOWERS LLC; Commonwealth of Pennsylvania Department of Revenue; 18-2115; 07/26/18; \$13,943.11
- RVFM 13 SERIES LLC; Panther Valley School District; 18-2019; 07/23/18; \$1,313.83
- SANATA, MARTIN RODRIGUEZ & CLAUDIA L. TRUJILLO; Panther Valley School District; 18-2057; 07/24/18; \$1,294.23
- SANTEE, TIMOTHY, STACY SANTEE; Commonwealth of Pennsylvania Department of Revenue; 18-2101; 07/26/18; \$2,299.32
- SCHLEICHER, DUANE A.; Lehigh Area School District; 18-2042; 07/24/18; \$1,074.14
- SCHLEICHER, DUANE A.; Lehigh Area School District; 18-2072; 07/25/18; \$709.15
- SELL, ROBERT H., ANN LOUISE SELL; Panther Valley School District; 18-2065; 07/24/18; \$3,203.86
- SNG SERVICE CENTER INC.; Commonwealth of Pennsylvania Department of Revenue; 18-2111; 07/26/18; \$1,643.14
- SNYDER, CHRISTOPHER M.; Commonwealth of Pennsylvania Department of Revenue; 18-2098; 07/24/18; \$1,045.74
- SNYDER, TERRANCE L.; Panther Valley School District; 18-2158; 07/26/18; \$1,543.25

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- SOLT, ANGELA; Panther Valley School District; 18-2080; 07/25/18; \$528.27
- SOLT, LORETTA JOYCE, EXECUTRIX, ESTATE OF LORA J. TOKOSH; Panther Valley School District; 18-2048; 07/24/18; \$1,432.02
- SOTOMAYOR, CARMEN L.; Panther Valley School District; 18-2049; 07/24/18; \$1,490.20
- STAEHLE, DANIEL V., SR., SHARON N. STAEHLE; Panther Valley School District; 18-2157; 07/26/18; \$1,146.99
- STARRY, DENNIS J.; Panther Valley School District; 18-2129; 07/26/18; \$1,949.95
- STERLING, DAVID; Midland Funding LLC; 18-2015; 07/23/18; \$770.28
- STEVENS, WAYNE; Panther Valley School District; 18-2074; 07/25/18; \$625.60
- STRAUBINGER, KEITH, ANITA STRAUBINGER; Panther Valley School District; 18-2156; 07/26/18; \$1,333.78
- STROUSE, KATHY J.; Panther Valley School District; 18-2155; 07/26/18; \$1,114.80
- SULLIVAN, MARY A.; Panther Valley School District; 18-2154; 07/26/18; \$1,557.15
- TABER-MILLER, DIANE D.; Commonwealth of Pennsylvania Department of Revenue; 18-2119; 07/26/18; \$5,156.13
- TERRY, KAREN E.; Panther Valley School District; 18-2073; 07/25/18; \$812.40
- THOMAS, ROBERT SAMUEL; Panther Valley School District; 18-2128; 07/26/18; \$1,616.25
- THORPE, NICHOLAS; Panther Valley School District; 18-2145; 07/26/18; \$1,511.97
- TOBIA, FRANK; Panther Valley School District; 18-2153; 07/26/18; \$1,073.99
- TURNBACH, ROBERT J. & LORI A. TURNBACH; Panther Valley School District; 18-2127; 07/26/18; \$2,880.59
- VADYAK, TOMMY J., ALBERTA J. VADYAK; Panther Valley School District; 18-2033; 07/24/18; \$1,236.47
- VanORDEN, GLENN & SHEILA VanORDEN; Panther Valley School District; 18-2047; 07/24/18; \$1,195.65
- VASILIOU, ANTHONY M., JR., BONNIE LEE VASILIOU; Panther Valley School District; 18-2126; 07/26/18; \$2,490.80
- WALAS, MARGARET; Panther Valley School District; 18-2152; 07/26/18; \$1,320.80
- WEB WEB LLC; Panther Valley School District; 18-2137; 07/26/18; \$1,710.09
- WEIGHKNECHT, SARAH; Midland Funding LLC; 18-2016; 07/23/18; \$1,075.80
- WELLS FARGO BANK N.A.; Panther Valley School District; 18-2018; 07/23/18; \$1,757.86
- WELSH, CRAIG S.; Panther Valley School District; 18-2046; 07/24/18; \$1,261.69
- YOST, ERIC; Midland Funding LLC; 18-2017; 07/23/18; \$1,074.22

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YOSTYS AUTO SERVICE, INC.;  
Commonwealth of Pennsylvania  
Department of Revenue;  
18-2109; 07/26/18; \$17,707.95

YOSTYS AUTO SERVICE, INC.;  
Commonwealth of Pennsylvania  
Department of Revenue;  
18-2110; 07/26/18; \$2,855.91

YOSTYS AUTO SERVICE INC.;  
Commonwealth of Pennsylvania  
Department of Revenue;  
18-2121; 07/26/18; \$2,058.51

ZELLNER, JEFFREY D.; Panther  
Valley School District; 18-2032;  
07/24/18; \$1,557.15

ZEMLAN, NATALIE A.; Com-  
monwealth of Pennsylvania  
Department of Revenue; 18-  
2099; 07/24/18; \$1,030.10

ZLOMSOWITCH, WALTER;  
Commonwealth of Pennsylvania  
Department of Revenue;  
18-2104; 07/26/18; \$3,984.50

Aug. 3

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**NOTICE OF SHERIFF'S SALE**

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IN THE COURT OF COMMON  
PLEAS OF CARBON  
COUNTY, PENNSYLVANIA

---

NO. 17-2300

---

SPECIALIZED LOAN  
SERVICING LLC

vs.

BETTY MAE V. PLANER

---

NOTICE OF SHERIFF'S SALE  
OF REAL PROPERTY

NOTICE TO: BETTY MAE V.  
PLANER

Being Premises: 606 K-2 SYC-  
AMORE CIRCLE a/k/a 104  
SYCAMORE CIRCLE, AL-  
BRIGHTSVILLE, PA 18210.

Being in PENN FOREST  
TOWNSHIP, County of CAR-  
BON, Commonwealth of Penn-  
sylvania, 2A-51-KII606.

Improvements consist of resi-  
dential property.

Sold as the property of BETTY  
MAE V. PLANER.

Your house (real estate) at 606  
K-2 SYCAMORE CIRCLE a/k/a  
104 SYCAMORE CIRCLE, AL-  
BRIGHTSVILLE, PA 18210 is  
scheduled to be sold at the Sher-  
iff's Sale on September 14, 2018  
at 11:00 A.M., at the CARBON  
County Courthouse, P.O. Box  
147, Jim Thorpe, PA 18229, to  
enforce the Court Judgment of  
\$60,399.61 obtained by, SPE-  
CIALIZED LOAN SERVICING  
LLC (the mortgagee), against the  
above premises.

PHELAN HALLINAN  
DIAMOND & JONES, LLP  
Attorneys for Plaintiff

Aug. 3

CARBON COUNTY LAW JOURNAL

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COMMON PLEAS OF CARBON COUNTY  
SHERIFF'S SALE OF VALUABLE REAL ESTATE  
Sheriff's Office, Courthouse Building, Jim Thorpe, PA

SHERIFF'S NOTICE: The Sheriff shall not be liable for loss or damage to the premises sold resulting from any cause whatsoever and makes no representation or warranty regarding the condition of the premises.

Notice is hereby given and directed to all parties in interest and claimants that a Schedule of Distribution will be filed by the Sheriff on August 20, 2018 and that distribution will be made in accordance with that Schedule unless exceptions are filed thereto within ten (10) days thereafter.

ANTHONY C. HARVILLA  
Sheriff, County of Carbon  
www.carboncountysheriff.com  
July 20, 27; Aug. 3

**Sale of the real estate described below shall be held on Friday, August 10, 2018 at 11:00 a.m. at the Carbon County Courthouse.**

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**SALE #1**

Writ of Execution No.: 16-0633.

Property Address: 15 Slalom, Blakeslee, PA 18610 f/k/a 70 Snowridge Drive, White Haven PA 18661.

Location: Township of Kidder.

Improvements: RT2L; Townhouse.

Defendants: Mark F. Deon and Denise L. Deon.

**SALE #2**

Writ of Execution No.: 18-1019.

Property Address: 16 Birch Street f/k/a 207 Birch Street, Lake Harmony, PA 18624.

Location: Kidder Township.

Improvements: Unknown.

Defendants: Reuven Dulitzki and Yochi Shmueli.

**SALE #3**

Writ of Execution No.: 18-0311.

Property Address: 175 Parker Trail, Albrightsville, PA 18210.

Location: Penn Forest Township.

Improvements: Unknown.

Defendant: Casey Ryan Girardi As Administratrix of the Estate of Richard S. Coburn, Deceased.

**SALE #4**

Writ of Execution No.: 17-0135.

Property Address: 254 Knoll Drive, Lehighton, PA 18235.

Location: Township of Franklin.

Improvements: Residential dwelling.

Defendant: David A. Kalmar.

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**SALE #5**

Writ of Execution No.: 18-0979.

Property Address: 264 Columbia Avenue, Palmerton, PA 18071-1503.

Location: Palmerton Borough.

Improvements: Residential dwelling.

Defendant: Laura Konze.

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**SALE #6**

Writ of Execution No.: 18-0576.

Property Address: V1112 Penn Forest Trail a/k/a 28 Penn Forest Trail, Albrightsville, PA 18210.

Location: Penn Forest Township.

Improvements: Residential dwelling.

Defendants: Ralph J. Masi and Frances E. Masi.

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**SALE #7**

Writ of Execution No.: 18-0985.

Property Address: 737 Lehigh Street, Palmerton, PA 18071.

Location: Borough of Bowmanstown.

Improvements: Residential dwelling.

Defendants: Monica R. Newhard a/k/a Monica Newhard and Gary E. Newhard.

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**SALE #8**

Writ of Execution No.: 17-2829.

Property Address: 458 Plane Street, Weatherly, PA 18255.

Location: Borough of Weatherly.

Improvements: Unknown.

Defendant: Billy J. Spence a/k/a Billy Spence.

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**SALE #9**

Writ of Execution No.: 18-1008.

Property Address: 450 Lafayette Avenue, Palmerton, PA.

Location: Borough of Palmerton.

Improvements: Unknown.

Defendants: Ronald L. Strohl and Elizabeth V. Manner.

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**DEEDS**

The name of the grantor appears first, followed by name of grantee, location of premises, amount of consideration, and date of recording.

PNC BK. NTL. ASSN., Borough of East Side, E. Side, \$6,500.00, 03/13/18

BOWMAN, TAMMY L., Hans, Elizabeth L., Lehigh, \$104,000.00, 03/13/18

TARARACHE, SULTANA, Vysovsky, Peter, Penn For., \$85,000.00, 03/13/18

JONES, EILEEN E., Caldwell University, Penn For., \$1.00, 03/13/18

WANAMAKER, CHRISTINA, Quinn, Brian, Nesq., \$1.00, 03/13/18

was stopped), **appeal denied**, 541 Pa. 650, 664 A.2d 540 (1995); **Commonwealth v. Segida**, 604 Pa. 103, 116 n.6, 985 A.2d 871, 879 n.6 (2009) (holding that the Commonwealth had no burden to prove defendant drank no alcohol after a one-car motor vehicle accident, where defendant, who was convicted of driving under the influence of alcohol, claimed this was a possibility).

### CONCLUSION

For the foregoing reasons, we find no merit to the issues Defendant intends to raise on appeal.

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#### In the INTEREST of A.M.

##### *Criminal Law—Juvenile Delinquency—Aggravated Assault— Self-Defense—Delinquency Determination*

1. A claim of self-defense involves both a subjective and an objective element. Subjectively, the defendant in fact must have acted out of an honest, bona fide belief that he was in imminent danger. Objectively, the belief must be reasonable in light of the facts as they appeared to him.
2. The defendant has no burden to prove self-defense, however, before the defense is properly in issue, there must be some evidence, from whatever source, to justify such a finding.
3. If the evidence is sufficient to sustain a claim of self-defense, the burden is on the Commonwealth to prove beyond a reasonable doubt that the defendant's use of non-deadly force was not justifiable self-defense. To sustain its burden, the Commonwealth must prove either (1) that the defendant did not actually believe he was in danger of becoming the victim of unlawful force such that it was immediately necessary for him to use force to protect himself; or (2) that while the defendant actually believed such force was necessary, his belief was unreasonable in light of all the circumstances known to him.
4. A person is guilty of aggravated assault if he attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to human life.
5. Where the victim of an assault does not sustain serious bodily injury, to be guilty of aggravated assault, the Commonwealth must prove the defendant acted with the specific intent of causing such injury.
6. Where the victim of an assault sustains serious bodily injury, to be guilty of aggravated assault, the Commonwealth must prove the defendant caused such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to human life. To meet the requisite standard of recklessness for aggravated assault, a heightened degree of recklessness is required: the defendant's reckless actions must have occurred under circumstances manifesting an extreme indifference to the value of human life such that defendant was able to reasonably anticipate that serious bodily injury or death would be the likely and logical consequence of his actions.
7. For a minor to be adjudicated delinquent, it must be determined not only that he committed a criminal offense but that he is in need of treatment, supervision or rehabilitation.

## NO. JV-92-2016

BRIAN B. GAZO, Esquire—Counsel for the Commonwealth.

MATTHEW J. MOTTOLA, Esquire—Counsel for the Defendant.

**MEMORANDUM OPINION**

NANOVIC, P.J.—April 5, 2018

The facts of this case are disturbing, not only because they involve a seventeen-year-old juvenile attacking and seriously injuring a sixty-four-year-old man who was walking along a public road with his girlfriend and two granddaughters, but because the conduct which triggered the attack was the man shouting for the juvenile to slow down as he drove past and the juvenile being unwilling to accept responsibility for what he did.

**FACTUAL AND PROCEDURAL BACKGROUND<sup>1</sup>**

On August 14, 2016, Roy Stenger (the “victim”) was sixty-four years of age. At around 9:00 p.m. on that date, he was walking with his girlfriend, Bernice Moser, and his two granddaughters, ten and thirteen years of age, in a westerly direction along East Patterson Street (a/k/a S.R. 209) in the Borough of Lansford to purchase ice cream at a nearby Turkey Hill. They had walked approximately a block from Stenger’s home at 711 East Patterson Street when overgrown shrubbery obstructing the sidewalk caused them to step onto the street. (N.T., 8/28/17, pp. 8-10, 59-61; Commonwealth Exhibit Nos. 1-4.) As they did so, A.M. drove past at a high rate of speed, whereupon Stenger yelled for him to slow down, that there were children and pedestrians in the area. (N.T., 8/28/17, pp. 10-11, 117.)

A.M., then seventeen years old, was furious for being yelled at and decided to confront Stenger. (N.T., 11/3/17, pp. 91, 108.) With this in mind, he drove to the end of the following block, turned around, and drove back to a point where Stenger and his group were located in the 500 block of East Patterson Street, still walking

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<sup>1</sup>Four separate hearings were held in this case: on August 28, 2017; November 3, 2017; January 16, 2018; and February 13, 2018. Unfortunately, the delays between these hearings contributed to several errors in findings or reasons we expressed on the record. In preparing this Opinion, we have had the benefit of the transcripts of the August 28, 2017, November 3, 2017, and January 16, 2018 hearings to review in depth and, therefore, to more accurately and fully explain the reasoning behind our decision to find A.M. committed the offense of aggravated assault.

westward. A.M. stopped his car, rolled down the window, and asked Stenger in a raised voice what his problem was. (N.T., 11/3/17, p. 92.) Stenger responded, also in a loud voice, that A.M. was driving too fast and needed to slow down for the safety of his grandchildren and other pedestrians. (N.T., 8/28/17, p. 105; N.T., 11/3/17, pp. 93, 98, 108-11.) A.M. said he was only seventeen and Stenger asked what difference that made. (N.T., 8/28/17, p. 13; N.T., 11/3/17, pp. 22-23.) Not willing to accept this response, A.M. opened the front door of his vehicle and swung both his feet to the ground with the intent of getting out and confronting Stenger face-to-face. (N.T., 8/28/17, pp. 11-13; N.T., 11/3/17, pp. 93, 112.) Stenger told A.M. he was going to report him to the police and walked to the rear of A.M.'s vehicle to take a photograph of the vehicle's license plate with his cell phone. (N.T., 8/28/17, pp. 13-14, 47.) Before Stenger could get a picture, A.M. drove off to prevent this from occurring. (N.T., 8/28/17, pp. 13-15.) During this first encounter, A.M. was the driver and sole occupant of his car. (N.T., 8/28/17, p. 15.)

Following this first encounter, A.M. drove directly to his home at 643 East Patterson Street, which was approximately a block from where Stenger had attempted to photograph his license plate. Still angry with being admonished by Stenger, A.M. parked his car at his home and began running after Stenger to confront him a second time for being yelled at and told to slow down. (N.T., 11/3/17, pp. 96-97, 116, 118.) By the time A.M. caught up with Stenger, Stenger and the others he was with had reached the 400 block of East Patterson Street and had their backs to A.M. as they continued walking toward Turkey Hill. (N.T., 8/28/17, pp. 68, 124; N.T., 11/3/17, p. 96.) A.M. ran up from behind Stenger, brushed Ms. Moser to the side, and pushed Stenger in the back without warning, causing him to lurch forward. (N.T., 8/28/17, pp. 16-17, 49, 67-68; N.T., 11/3/17, p. 10.) As Stenger turned around, A.M. shoved him again in the chest and then, without notice, swung at Stenger punching him in the face with a closed fist and knocking him backwards. (N.T., 8/28/17, pp. 18-20, 50, 70-71, 113, 120-21; N.T., 11/3/17, pp. 27-28.)

As Stenger struggled to regain his balance, he raised his hands in self-defense and attempted to protect himself from being hit a second time. (N.T., 8/28/17, pp. 18-19, 48-51, 113; N.T., 11/3/17, p. 12.) A.M. swung at Stenger at least two more times, hitting

Stenger each time with a closed fist in the face. (N.T., 8/28/17, pp. 19-20, 52.)<sup>2</sup> With these additional blows, Stenger lost his balance and was knocked into and over the hood of a car parked on the north side of East Patterson Street. Stenger landed on the ground with the top of his head hitting the macadam roadway. (N.T., 8/28/17, pp. 50-52, 70-72, 115.) During this attack, Stenger never swung back at A.M. (N.T., 8/28/17, pp. 52, 114, 135; N.T. 11/3/17, pp. 12, 35.)<sup>3</sup>

At first, Stenger laid motionless and unconscious on the ground. When his head hit the ground, the top of his head was cut open. (N.T., 8/28/17, p. 82; N.T., 11/3/17, p. 42; Commonwealth Exhibit Nos. 7(b), 7(c), 17.) He was bleeding from the top of his head and left ear, and had scrapes on his left arm, left knee and back. (N.T., 8/28/17, pp. 72-73, 80, 83, 115; Commonwealth Exhibit Nos. 8, 10, 11(a-c).) Stenger also sustained a broken tooth and swollen lip. (N.T., 8/28/17, p. 22.)

While Stenger was lying on the ground, a neighbor stood between Stenger and A.M. to prevent A.M. from attacking Stenger further. (N.T., 8/28/17, pp. 116, 143.) Ms. Moser knelt beside Stenger and tried to provide assistance. (N.T., 8/28/17, pp. 114-15.) After several minutes he regained consciousness but was unsteady, had slurred speech, and could not recall what had happened. (N.T., 8/28/17, pp. 88, 115; N.T., 11/3/17, p. 38.) After Stenger fell to the ground and was knocked unconscious, A.M. made no attempt to assist Stenger, left the scene, and was not present when the police later arrived to investigate. (N.T., 8/28/17, p. 74; N.T., 11/3/17, p. 13.)

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<sup>2</sup>Stenger could not recall the exact number of times he was punched in the head, other than that it was clearly more than twice. (N.T., 8/28/17, pp. 19-20, 48, 51.) Stenger's granddaughter testified Stenger was continuously hit and punched in his face until he was unconscious on the ground. (N.T., 11/3/17, pp. 11-12, 28.) A.M. admitted to punching Stenger three separate times in the face with a closed fist during this second encounter. (N.T., 11/3/17, pp. 100-103, 114.) After the third punch, A.M.'s brother Besim grabbed A.M. and pulled him away from the scene. (N.T., 11/3/17, pp. 102-104.)

<sup>3</sup>When A.M. ran after Stenger to confront him a second time, A.M. was followed by his brother Besim, age thirty-seven. (N.T., 8/28/17, pp. 106-107; N.T., 11/3/17, pp. 26, 32, 96.) Besim stood behind A.M. as he attacked Stenger. (N.T., 8/28/17, pp. 16-17, 48, 69, 119-20.) During this attack, Besim told Stenger not to strike back or he would have to do something about it. (N.T., 8/28/17, p. 108; N.T., 11/3/17, pp. 13-14, 33.) After Stenger was unconscious, Besim and A.M. left the scene together before the police arrived. (N.T., 8/28/17, pp. 116-17.)

Another neighbor who had witnessed what had happened called 911. (N.T., 8/28/17, p. 134.) Both the police and ambulance arrived, and Stenger was taken to St. Luke's Hospital in Coaldale for medical treatment. Because of the risk of a life-threatening brain injury, later that same evening Stenger was transported to St. Luke's Trauma Center in Bethlehem, Pennsylvania. (N.T., 11/3/17, pp. 63-64.)

CAT scans taken of Stenger's head area revealed bleeding in the lining of his brain, later diagnosed as a subdural hematoma. (N.T., 11/3/17, pp. 63-64, 74.) Dr. James Cipolla, who is board certified in general surgery and surgical critical care and has extensive training and experience in trauma, treated Stenger at St. Luke's in Bethlehem. Dr. Cipolla testified that Stenger sustained a traumatic brain injury and that an intracranial hemorrhage is by definition medically a serious bodily injury and potentially life threatening. (N.T., 11/3/17, pp. 59, 64, 68, 72-73.) Ultimately and fortunately for Stenger, he did not suffer from life-threatening sequela. Additionally, Stenger's neurological exam was positive for concussion symptoms, including headaches, dizziness, and some nausea, and he was diagnosed with a concussion. (N.T., 11/3/17, p. 69; Commonwealth Exhibit No. 21 (Medical Records).) Dr. Cipolla also testified that although a concussion is not in itself a life-threatening injury, it can have long-term aftereffects. (N.T., 11/3/17, pp. 69-70.)

After Stenger's injuries were determined to be non-life threatening, he was discharged from the hospital on August 15, 2016, approximately thirty-six hours after he had first been taken to St. Luke's in Coaldale. (N.T., 11/3/17, p. 70.) Following his discharge, Stenger was homebound for one to two months and was restricted in his activities for six months. For the first two to three months after his discharge, Stenger experienced headaches two to three times a month. As of the present time, more than a year after the incident, he continues to suffer from memory loss and to have difficulty with balance. (N.T., 8/28/17, pp. 29-32, 34, 89, 91; N.T., 1/16/18, p. 40.)

On January 9, 2017, A.M. was charged as a juvenile with aggravated assault<sup>4</sup> simple assault,<sup>5</sup> reckless endangerment of another

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<sup>4</sup>18 Pa. C.S.A. §2702(a)(1).

<sup>5</sup>18 Pa. C.S.A. §2701(a)(1).

person,<sup>6</sup> harassment<sup>7</sup> and disorderly conduct.<sup>8</sup> Following hearings held on August 28, 2017 and November 3, 2017, we found A.M. to have committed the criminal offenses of aggravated assault, simple assault, reckless endangerment of another person, and harassment. The charge of disorderly conduct was dismissed.

On January 16, 2018, A.M. was adjudicated delinquent, with disposition deferred on the basis that restitution was sought from A.M.'s mother, as well as A.M., and A.M.'s mother requested an opportunity to obtain counsel to represent her on this issue. A disposition hearing was held on February 13, 2018, at which time A.M. was placed on formal probation and ordered to receive outpatient counseling.

On February 23, 2018, A.M. filed a timely post-disposition motion raising three issues which we address below: (1) that A.M. acted in self-defense and the court's failure to accept this claim was against the weight of the evidence; (2) that because of the court's determination that Stenger did not sustain a serious bodily injury, for A.M. to be "guilty" of aggravated assault it was necessary for the Commonwealth to prove A.M. assaulted Stenger with the specific intent to cause serious bodily injury and any such finding in this regard would be against the weight of the evidence; and (3) that the court erred in adjudicating A.M. delinquent in that the court's determination that A.M. was in need of treatment, supervision or rehabilitation was against the weight of the evidence.

## DISCUSSION

### (1) Self-Defense

A.M. claims first that he acted in self-defense and that the Commonwealth failed to disprove that claim. Whether a defendant's use of non-deadly force is justified for self-protection is governed by Section 505 of the Crimes Code which provides, in relevant part:

**(a) Use of force justifiable for protection of the person.**—The use of force upon or toward another person is justifiable when the actor believes that such force is immediately

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<sup>6</sup>18 Pa. C.S.A. §2705.

<sup>7</sup>18 Pa. C.S.A. §2709(a)(1).

<sup>8</sup>18 Pa. C.S.A. §5503(a)(1).

necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion. 18 Pa. C.S.A. §505(a).<sup>9</sup> The term “believes” is further defined in the Crimes Code to mean “reasonably believes.” 18 Pa. C.S.A. §501 (Definitions).

In **Commonwealth v. Light**, 458 Pa. 328, 326 A.2d 288 (1974), the Pennsylvania Supreme Court stated:

[T]he requirement that the defendant be operating under the reasonable belief that he is in imminent danger of death, great bodily harm or some felony, involves two elements. First, the defendant in fact must have acted out of an honest, bona fide belief that he was in imminent danger. Second, the belief must be reasonable in light of the facts as they appeared to him. ... The first element is entirely subjective; the second, clearly objective.<sup>11</sup>

**Id.** at 334, 326 A.2d at 292 (citation and footnote omitted); **see Commonwealth v. Mouzon**, 617 Pa. 527, 551, 53 A.3d 738, 752 (2012).<sup>10</sup> “Whether a defendant acts out of an honest, bona fide belief and whether such a belief was reasonable, are issues properly resolved by the trier of fact.” **Commonwealth v. Perez**, 698 A.2d 640, 646 (Pa. Super. 1997) (citation omitted).

“If the defendant properly raises self-defense under Section 505 of the Pennsylvania Crimes Code, the burden is on the Commonwealth to prove beyond a reasonable doubt that the defendant’s act was not justifiable self-defense.” **Commonwealth v. Smith**, 97 A.3d 782, 787 (Pa. Super. 2014) (citation and quotation marks omitted). The defendant has no burden to prove self-defense, however, “before the defense is properly in issue, there must be some evidence, from whatever source, to justify such a finding.” **Commonwealth v. Mouzon, supra** at 532, 53 A.3d at 740 (citation and

<sup>9</sup>Section 505(a) of the Crimes Code pertains to “self-defense” generally. **Commonwealth v. Childs**, 636 Pa. 322, 331, 142 A.3d 823, 829 (2016). Section 505(b)(2) deals specifically with the use of deadly force in self-defense. **Id.**

<sup>10</sup>While both **Commonwealth v. Light**, 458 Pa. 328, 326 A.2d 288 (1974) and **Commonwealth v. Mouzon**, 617 Pa. 527, 53 A.3d 738 (2012) addressed the use of deadly force for self-protection, the above-quoted language is easily adapted to apply to the use of non-deadly force to protect against the unlawful or unauthorized use of force against an actor.

quotation marks omitted). When the defendant's own testimony is the only evidence of self-defense, the Commonwealth's burden of disproving such claim requires more than the fact-finder's disbelief of the defendant's testimony:

The disbelief of a denial does not, taken alone, afford affirmative proof that the denied fact existed so as to satisfy a proponent's burden of proving that fact. The trial court's statement that it did not believe [defendant's] testimony is no substitute for the proof the Commonwealth was required to provide to disprove the self-defense claim.

**Commonwealth v. Smith**, *supra* at 788 (citation and quotation marks omitted.)<sup>11</sup>

In considering the evidence in this case, we found credible Stenger's testimony, as corroborated by the live witnesses presented by the Commonwealth, as to who was the aggressor and disbelieved that of A.M. A.M. was infuriated that Stenger yelled at him to slow down and intended to report him to the police. Not only did A.M. deliberately turn his vehicle around and return to where Stenger was standing on East Patterson Street to heatedly argue with Stenger about being told to slow down, after learning that Stenger intended to report him to the police, A.M. drove to his home approximately one block away, parked his vehicle, and then chased down Stenger to again confront him.

Whereas the earlier confrontation on East Patterson Street did not involve threatening or assaultive behavior, A.M. clearly escalated the confrontation when he chased Stenger down, pushed him from behind, pushed him a second time as Stenger turned around, and then punched Stenger at least twice in the facial area causing Stenger to fall to the ground and lose consciousness. That A.M. was the aggressor was confirmed by the testimony of Bernice Moser (N.T., 8/28/17, p. 113), Neil Terry (N.T., 8/28/17,

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<sup>11</sup>Here, other than Defendant's testimony, the only other evidence in support of Defendant's claim of self-defense was that presented by the Commonwealth which, as part of its case-in-chief, read into the record a portion of Defendant's brother Besim's statement given to the police. (N.T., 11/3/17, pp. 46-47; Commonwealth Exhibit No. 20.) Understandably, the defense did not object to this evidence which was naked hearsay. Further, Defendant's brother never testified in person at the juvenile proceedings.

pp. 128, 135), Ashley McLaughlan (N.T., 8/28/17, pp. 150-51) and Stenger's thirteen-year-old granddaughter. (N.T., 11/3/17, p. 35.) The nature and extent of the injuries Stenger sustained as appear in the photographs placed in evidence and through Dr. Cipolla's testimony further supports this conclusion. While Stenger raised his hands in self-defense, he never struck A.M. and no evidence was presented of any physical injuries to A.M.

The Commonwealth can negate a self-defense claim if it proves beyond a reasonable doubt either (1) that the defendant did not actually believe he was in danger of becoming the victim of unlawful force such that it was immediately necessary for him to use force to protect himself; or (2) that while the defendant actually believed such force was necessary, his belief was unreasonable in light of all the circumstances known to him. As to both elements, the Commonwealth met its burden.

## (2) **Aggravated Assault**

Section 2702(a)(1) of the Crimes Code provides that a person is guilty of aggravated assault if he "attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to human life." 18 Pa. C.S.A. §2702(a)(1). "Serious bodily injury" is "[b]odily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ." 18 Pa. C.S.A. §2301 (Definitions).

Under this statute, where the victim of an assault does not sustain serious bodily injury, to be guilty of aggravated assault, the Commonwealth must prove the defendant acted with the specific intent of causing such injury. **Commonwealth v. Alexander**, 477 Pa. 190, 193, 383 A.2d 887, 889 (1978). In contrast, where the victim actually sustains serious bodily injury, the Commonwealth can, but does not necessarily have to, establish the specific intent to cause such harm. Rather, the statute's **mens rea** requirement can also be met if the Commonwealth proves the defendant knowingly or recklessly caused such injury under circumstances manifesting an extreme indifference to human life. **Commonwealth v. Patrick**, 933 A.2d 1043, 1046 (Pa. Super. 2007) (**en banc**); **Commonwealth v. Roche**, 783 A.2d 766, 771 (Pa. Super. 2001). Consequently, to

determine whether the Commonwealth presented sufficient evidence to warrant a conviction of aggravated assault, we consider not only whether the evidence supports an attempt to inflict serious bodily injury, but also whether Stenger in fact sustained serious bodily injury.

**(a) Aggravated Assault—Attempt**

In **Commonwealth v. Matthew**, 589 Pa. 487, 909 A.2d 1254 (2006), the Pennsylvania Supreme Court stated:

‘A person commits an attempt when, with intent to commit a specific crime, he does any act which constitutes a substantial step toward the commission of that crime.’ ... An attempt under § 2702(a)(1) requires a showing of some act, albeit not one causing serious bodily injury, accompanied by an intent to inflict serious bodily injury. ...

‘A person acts intentionally with respect to a material element of an offense when ... it is his conscious object to engage in conduct of that nature or to cause such a result ... .’ ... ‘As intent is a subjective frame of mind, it is of necessity difficult of direct proof.’ ... The intent to cause serious bodily injury may be proven by direct or circumstantial evidence. ...

**Id.** at 491, 909 A.2d at 1257 (internal citations omitted).

Here, we believe A.M. intended to hurt Stenger, and to make him pay for telling A.M. to slow down and threatening to report him to the police. Not once, but at least three times, A.M. hit Stenger with the full force of his fist in the head, a vital and extremely vulnerable part of the human anatomy. The first time Stenger was caught by surprise; the second and third times he was virtually defenseless.

A.M. was forty-seven years younger than Stenger, approximately four inches taller, and clearly in better physical condition. (N.T., 11/3/17, pp. 113-14; Commonwealth Exhibit No. 21 (Medical Record).) A.M. ran down Stenger to confront him, he yelled obscenities at Stenger immediately before attacking him (N.T., 8/28/17, pp. 127-28, 135-38), a neighbor needed to intervene and stand between A.M. and Stenger to prevent the attack from continuing, and A.M.’s brother grabbed him and pulled him away from the scene. **Cf. Commonwealth v. Alexander**, *supra* at 194, 383 A.2d at 889 (holding that a single blow to the head, without more, was insufficient to prove an accused’s intent to cause serious

bodily injury when such injury was not in fact sustained, but noting that evidence of the accused's intent may be gleaned from other circumstances such as where the accused is disproportionately larger or stronger than the victim; where the accused was restrained from escalating his attack upon the victim; where the accused had a weapon or other implement to aid his attack; and where the accused made statements before, during, or after the attack indicative of an intent to inflict injury upon the victim).

“[S]tate of mind may be inferred from conduct, recklessness of consequences, or the cruelty of the crime.” **Commonwealth v. Payne**, 868 A.2d 1257, 1261 (Pa. Super. 2005) (citation and quotation marks omitted), **appeal denied**, 583 Pa. 681, 877 A.2d 461 (2005). Moreover, not only is conduct a harbinger of intent, it is entirely proper to conclude that “the accused intended the natural and probable consequences of his actions to result therefrom.” **Commonwealth v. Faulk**, 928 A.2d 1061, 1070 (Pa. Super. 2007), **appeal denied**, 596 Pa. 715, 944 A.2d 756 (2008). The circumstances of A.M.'s attack on Stenger, as well as the conceit and contempt which A.M. demonstrated toward Stenger on August 14, 2016, demonstrate unmistakably an intent to inflict serious bodily injury on another.

### **(b) Aggravated Assault—Serious Bodily Injury**

Alternatively, even if the evidence is found wanting to establish the specific intent to cause serious bodily injury, we further concluded that Stenger sustained a serious bodily injury the cause of which was A.M.'s reckless actions under circumstances manifesting an extreme indifference to the value of human life. As testified to by Dr. Cipolla, Stenger suffered from a subdural hematoma as a result of the blunt trauma he experienced when hit by A.M. and also sustained a concussion. Although Stenger was fortunate in that the injury to his brain was ultimately determined not to be life-threatening, there can be, and in this case has been, long-term aftereffects. More than one year after the assault by A.M., Stenger was still experiencing memory loss, difficulty with balance and headaches. Given this protracted and prolonged loss or impairment of bodily functions, this injury is a serious bodily injury within the meaning of the Crimes Code.

To meet the requisite standard of recklessness for aggravated assault, a heightened degree of recklessness is required, one

where the defendant “consciously disregarded an unjustified and extremely high risk that his actions might cause death or serious bodily harm.” **Commonwealth v. Payne, supra** at 1261. Further, since the reckless conduct at issue must exist “under circumstances manifesting an extreme indifference to the value of human life,” the level of recklessness required by the aggravated assault statute must exceed that of “mere recklessness,” and “requires a higher degree of culpability, *i.e.*, that which considers and then disregards the threat **necessarily** posed to human life by the offending conduct.” **Commonwealth v. O’Hanlon**, 539 Pa. 478, 482, 653 A.2d 616, 618 (1995) (emphasis in original).<sup>12</sup> Under this standard, the defendant must be able to “reasonably anticipate that serious bodily injury or death would be the likely and logical consequence of his actions.” **Id.** at 483, 653 A.2d at 618. As relevant here, a fact-finder can infer extreme indifference to the value of human life simply by the fact that a punch was to the victim’s face. **Commonwealth v. Davis**, 267 Pa. Super. 370, 375, 406 A.2d 1087, 1089 (1979).

Here, an angry, impulsive A.M. twice aggressively approached Stenger with the intent of confronting him and letting him know in no uncertain terms that he did not appreciate being yelled at. On the second occasion, he literally chased Stenger down and without warning and provocation, struck Stenger in the face with the full force of a clenched fist as he was turning around, catching Stenger off guard and knocking him off balance. While Stenger was seeking to regain his balance and was defenseless, A.M. punched Stenger at least two more times in the face, knocking him unconscious and making it impossible for him to prevent his head from striking the macadam roadway. (N.T., 11/3/17, p. 29.) This senseless and violent conduct by A.M. was the direct cause of the internal bleeding in Stenger’s brain and the consequent traumatic brain injury he sustained with loss or impairment of bodily functions.

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<sup>12</sup>The statutory definition of recklessness states that,

A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor’s conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor’s situation.

18 Pa. C.S.A. §302(b)(3).

In **Commonwealth v. Patrick**, the victim was walking on the sidewalk “with his hands in his pockets” when “without warning,” the defendant “approached the victim from the side and punched the victim on the side of his head in the temple,” which “knocked the victim entirely off of his feet,” causing the victim to fall and hit the sidewalk headfirst and sustain serious bodily injury. In that case, the Superior Court ruled that “defendant’s reckless indifference was substantiated by the ‘surprise attack’ on an ‘unsuspecting victim’ since the punch to the head, which is a vital body part, caused the man to fall ‘without reflexive protection.’” **Commonwealth v. Burton**, 2 A.3d 598, 602 (Pa. Super. 2010) (**en banc**) (overruling **Commonwealth v. Roche**, 783 A.2d 766 (Pa. Super. 2001), which held that one punch thrown without provocation as the unsuspecting victim was turning around to face his assailant, and which resulted in serious bodily injury, did not establish the degree of recklessness necessary for an aggravated assault conviction), **appeal denied**, 613 Pa. 641, 32 A.3d 1275 (2011).

The circumstances of the assault in this case likewise demonstrate a degree of recklessness from which it could virtually be assured that Stenger would be seriously injured. Even more so than in **Patrick**, here, Stenger was hit repeatedly in the head by an assailant forty-seven years his junior. Continuing to punch a defenseless sixty-four-year-old man repeatedly in the head manifested a clear “indifference to the value of human life” from which serious bodily injury, or even death, was a very real and likely possibility. For A.M. to ignore the likely and logical consequences of his actions on a targeted victim, demonstrated the requisite **mens rea**—a heightened degree of recklessness—necessary to sustain a conviction for aggravated assault.

### (3) Adjudication of Delinquency

Under the Juvenile Act for a minor to be adjudicated delinquent it must be determined not only that he committed a criminal offense but that he is in need of treatment, supervision or rehabilitation. 42 Pa. C.S.A. §6302 (definition of “delinquent child”). **See also, Commonwealth v. M.W.**, 614 Pa. 633, 39 A.3d 958, 959 (2012). Additionally, the Act specifically provides:

... In the absence of evidence to the contrary, evidence of the commission of acts, which constitute a felony shall be suf-

ficient to sustain a finding that the child is in need of treatment, supervision or rehabilitation.

42 Pa. C.S.A. Section 6341(b).

At the disposition hearing held on January 16, 2018, Joseph Greco, a juvenile probation officer with the Carbon County Juvenile Probation Department, testified that because of the seriousness of the offense, the findings in the predisposition investigation and Youth Level Service (YLS),<sup>13</sup> and the results of the psychological evaluation, it was his opinion that A.M. be adjudicated delinquent. (N.T., 1/16/18, pp. 8, 27-28.) As part of the predisposition investigation, the local police reported that when A.M. got in trouble with the law he was combative and noncooperative and displayed the attitude that he was “above the law.” (N.T., 1/16/18, pp. 11-12; Commonwealth Exhibit No. 1 (Predisposition Investigation, p. 1).)

With respect to the August 14, 2016 incident, Dr. Seasock testified that the manner in which A.M. responded, the seriousness of the injuries to the victim, and A.M.’s lack of remorse needed to be addressed and was the reason counselling was recommended. (N.T., 1/16/18, p. 85.) On this point, Doctors John P. Seasock and John A. Reinhardt opined that A.M. “would benefit from short-term therapy to assist him in identifying how specifically he was not able to control his behavior in the conflict with his neighbor, and develop better conflict resolution skills to assure that such aggressive physical behavior may never occur again in the future.” (N.T., 1/16/18, Defendant’s Exhibit No. 1 (Psychological Evaluation dated 12/21/17, p. 4).)

In adjudicating A.M. delinquent, we believe we were well within our discretion on the basis of the evidence received at the hearings in this matter to conclude that A.M. was in need of further treatment, supervision or rehabilitation. **See In the Interest of C.A.G.**, 89 A.3d 704 (Pa. Super. 2014.)<sup>14</sup> This conclusion is amply reinforced

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<sup>13</sup>YLS is a risks/needs assessment tool to assess the risk of reoffending and the treatment needs of a minor. (N.T., 1/16/18, p. 25.) Using this tool, the main area of concern identified for A.M. was the issue of personality/behavior. (N.T., 1/16/18, Commonwealth Exhibit No. 1 (Summary and Recommendation Confidential to the Court, p.1)).

<sup>14</sup>In **In the Interest of C.A.G.**, the Pennsylvania Superior Court stated:

The Juvenile Act grants juvenile courts broad discretion when determining an appropriate disposition. ... We will disturb a juvenile court’s disposition only upon a showing of a manifest abuse of discretion.

**In the Interest of C.A.G.**, 89 A.3d 704, 709 (Pa. Super. 2014) (citations omitted).

by the facts of this case, the impulsive and vindictive conduct of A.M., and the total lack of remorse A.M. displayed for the effects of his conduct. (N.T., 1/16/18, pp. 10-11.)

### **CONCLUSION**

Based on our findings as set forth in this Opinion, the criminal offenses A.M. was found to have committed and our decision to adjudicate him delinquent of these offenses is neither against the weight or sufficiency of the evidence presented.

CARBON COUNTY LAW JOURNAL

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NOTES



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