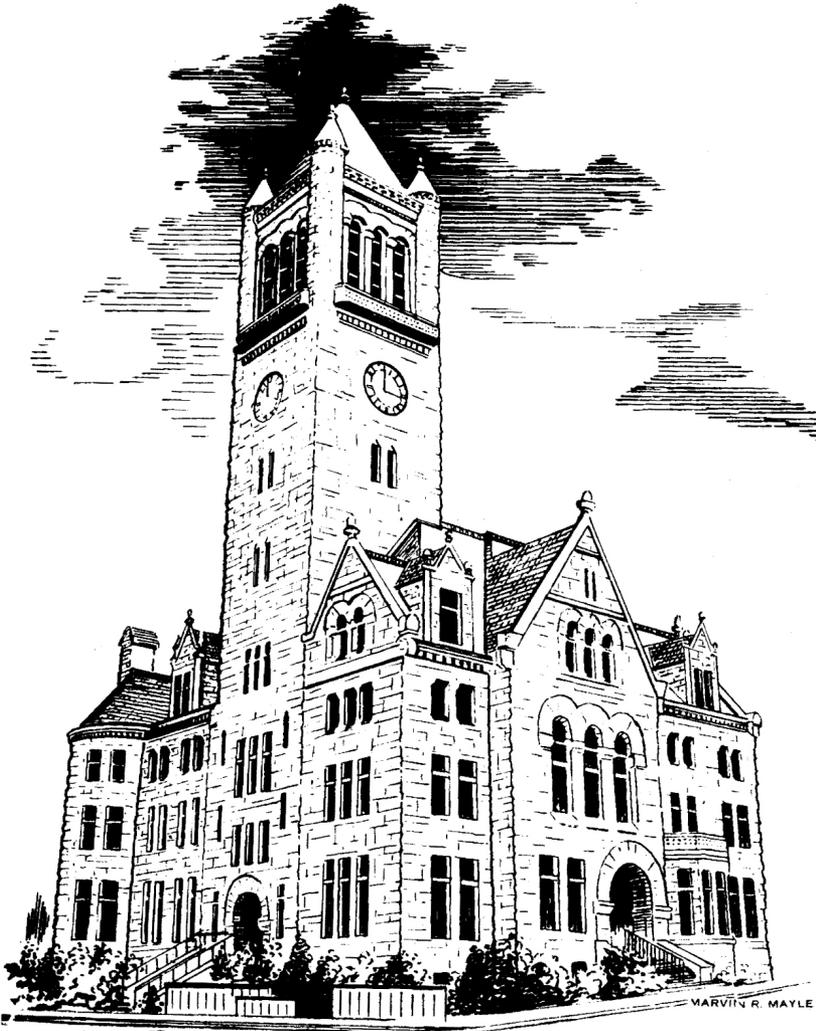


FAYETTE LEGAL JOURNAL

VOL. 80

DECEMBER 9, 2017

NO. 49



FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 2 West Main Street, Suite 711, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at www.fcbar.org no later than 12:00 noon on Friday for publication the following Saturday. No date of publication is promised, however. Legal notices are published exactly as submitted by the advertiser. Copyright 2001 Fayette County Bar Association. All rights reserved.

Co-Editors: Garnet L. Crossland and Melinda Deal Dellarose

Cover Design by Marvin R. Mayle, 207 Lick Hollow Road, Hopwood, PA

FAYETTE COUNTY BAR ASSOCIATION Board of Directors

President: John M. Purcell

President Elect: Gary N. Altman

Vice-President: James Higinbotham, Jr.

Secretary: Gerious T. George

Treasurer: Vincent J. Roskovensky, II

Past President: Anne N. John

Executive Director: Garnet L. Crossland

Directors

Carolyn W. Maricondi

William M. Martin

Wendy L. O'Brien

Robert A. Gordon

Douglas S. Sholtis

Sheryl R. Heid

ETHICS HOTLINE

The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding, the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

LAWYERS CONCERNED FOR LAWYERS

Our assistance is confidential,
non-judgmental, safe, and effective

To talk to a lawyer today, call:

1-888-999-1941

717-541-4360

Call (800) 932-0311, ext. 2214.

ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

MARGARET M. AVERY, a/k/a MARGARET MAE AVERY, late of Fairchance, Fayette County, PA (3)

Executrix: Dale Jean Weslowsky
168 Edenborn Road
Masontown, Pa 15461
c/o Newcomer Law Office
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney Ewing D. Newcomer

STEVE A. BRICKER, a/k/a STEVE BRICKER, a/k/a STEVE ANDREW BRICKER, late of Georges Township, Fayette County, PA (3)

Administrator: Steve A. Bricker, II
c/o John & John
96 East Main Street
Uniontown, PA 15401
Attorney: Simon B. John

RUTH NICKLOW, late of Bullskin Township, Fayette County, PA (3)

Co-Executors: Donald E. Nicklow and Dawn E. Miller
c/o Molinaro Law Offices
P.O. Box 799
Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

KATHRYN VANNOSDEIN, late of Stewart Township, Fayette County, PA (3)

Personal Representatives:
David VanNosdein and Daniel VanNosdein
c/o Higinbotham Law Office
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

Second Publication

ELLEN HAMER, late of Washington Township, Fayette County, PA (2)

Co-Executors: Diane L. Diehl and Kathleen Hamer
605 Lookout Avenue
Belle Vernon, PA 15012
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

MARY E. LIMA, a/k/a MARY E. HERBERT, late of Vanderbilt Borough, Fayette County, PA (2)

Personal Representative: Pamela A. Wilttrout
c/o Watson Mundorff Brooks & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Charles W. Watson

JOHN R. MADDAS, a/k/a JOHN R. MADDAS, SR., late of Dunbar, Fayette County, PA (2)

Personal Representative:
John Robert Maddas, Jr.
c/o Watson Mundorff Brooks & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Charles W. Watson

ANDREW M. SHAFFER, a/k/a ANDY MIKE SHAFFER, a/k/a, ANDY M. SHAFFER, late of North Union Township, Fayette County, PA (2)

Executrix: Barbara DeCarlo
c/o Adams & Adams
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason F. Adams

FRANCES VAUGHNS, a/k/a FRANCES R. VAUGHNS, a/k/a FRANCES RUBY VAUGHNS, late of Uniontown, Fayette County, PA (2)

Administratrix: Lisa G. Vaughns
c/o John & John
96 East Main Street
Uniontown, PA 15401
Attorney: Simon B. John

First Publication

JOSEPH M. AMBROSE, late of Vanderbilt, Fayette County, PA (1)

Personal Representative:
Joseph M. Ambrose, Jr.
c/o Riverfront Professional Center
208 Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

DAISY MAE BARTONI, a/k/a DAISY BARTONI, a/k/a DAISY M. BARTONI, late of Nicholson Township, Fayette County, PA (1)

Administratrix: Irene Ryczek
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

HELEN DEVAULT, late of Franklin Township, Fayette County, PA (1)

Executor: Charles Thomas DeVault
1085 Marguerite Lake Road
Greensburg, PA 15601
c/o 140 South Main Street, Suite 301
Greensburg, PA 15601
Attorney: John M. Ranker

MICHAEL DESANTO, late of North Union Township, Fayette County, PA (1)

Personal Representative: Doris J. DeSanto
c/o 45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

TIMOTHY S. HANN, a/k/a TIMOTHY SCOTT HANN, late of Bullskin Township, Fayette County, PA (1)

Personal Representative: Jack A. Hann
c/o Watson Mundorff Brooks & Sepic, LLP
720 Vanderbilt Road
Connellsville, Pa 15425
Attorney: Charles W. Watson

SARA M. MILLER, late of Bullskin Township, Fayette County, PA (1)

Executor: Edward H. Huffman, III
c/o 17 North Diamond Street
Mount Pleasant, PA 15666
Attorney: Marvin D. Snyder

CHARLOTTE SANTORE, a/k/a CHARLOTTE E. SANTORE, a/k/a CHARLOTTE ELIZABETH SANTORE, late of Masontown, Fayette County, PA (1)

Personal Representative: Nancy Jean Morris
c/o George Port & George
92 East Main Street
Uniontown, PA 15401
Attorney: Joseph M. George

CONNIE M. SWALIN, a/k/a CONSTANCE M. SWALIN, late of Washington Township, Fayette County, PA (1)

Executrix: Adele Dzadyk
1315 Leeds Avenue
Monessen, PA 15062
c/o 33 Colonial Drive
Monessen, PA 15062
Attorney: Jack L. Bergstein

LEGAL NOTICES

NOTICE

Notice is hereby given that Articles of Incorporation - For Profit have been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on November 29, 2017, for a corporation known as Kish-Fabry Funeral Home Inc.

Said corporation has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania. The purpose or purposes of the corporation is/ are: funeral services and related activities and any other lawful purpose related thereto for which the corporation may be organized under the Business Corporation Law.

DAVIS & DAVIS

Gary J. Frankhouser, Esquire
107 East Main Street
Uniontown, PA 15401

NOTICE OF SHERIFF'S SALE
IN THE COURT OF COMMON PLEAS
OF FAYETTE COUNTY, PENNSYLVANIA
NO. 896 OF 2017 GD

**DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR
SOUNDVIEW HOME LOAN TRUST 2006-
WF2, ASSET-BACKED CERTIFICATES,
SERIES 2006-WF2**

Vs.

**CAROL A. SHOOP, RONALD FETSCO and
CONNIE FETSCO**

NOTICE TO: CAROL A. SHOOP

NOTICE OF SHERIFF'S SALE OF REAL
PROPERTY

Being Premises: 136 BREAKNECK
ROAD, A/K/A 136 BREAKNECK AVENUE,
CONNELLSVILLE, PA 15425-2259

Being in CONNELLSVILLE TOWNSHIP,
County of FAYETTE, Commonwealth of
Pennsylvania, 06-05-0072

Improvements consist of residential

property.

Sold as the property of CAROL A.
SHOOP, RONALD FETSCO and CONNIE
FETSCO

Your house (real estate) at 136
BREAKNECK ROAD, A/K/A 136
BREAKNECK AVENUE, CONNELLSVILLE,
PA 15425-2259 is scheduled to be sold at the
Sheriff's Sale on 01/11/2018 at 02:00 PM, at the
FAYETTE County Courthouse, 61 E. Main
Street, Uniontown, PA 15401, to enforce the
Court Judgment of \$72,281.19 obtained by,
DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR
SOUNDVIEW HOME LOAN TRUST 2006-
WF2, ASSET-BACKED CERTIFICATES,
SERIES 2006-WF2 (the mortgagee), against the
above premises.

PHELAN HALLINAN DIAMOND & JONES, LLP
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
No. 2328 of 2017, G.D.
Judge Joseph M. George, Jr.

**HARRIET E. MICHNIAK and
JAMES R. YOCUM, Co-Personal
Representatives of Estate of MARTHA G.
YOCUM, deceased;
EWING D. NEWCOMER, an adult
individual**

Plaintiffs

vs.

**CHARLES L. NOBLE
THOMAS M. SHOCK
PITTSBURGH COAL COMPANY f/k/a
PENNSYLVANIA MINING COMPANY
their heirs, successors and assigns, generally,
Defendants**

TO: CHARLES L. NOBLE, THOMAS M.
SHOCK AND PITTSBURGH COAL
COMPANY F/K/A PENNSYLVANIA
MINING COMPANY, their heirs, successors
and/or assigns, generally.

You are hereby notified that Harriet E.
Michniak and James R. Yocum, Co-Personal
Representatives of the Estate of Martha G.
Yocum, deceased, Ewing D. Newcomer, an
adult individual, have filed a Complaint at the

above number and term in the above-mentioned Court in an Action of Quiet Title wherein it is alleged that they are the owners of several tracts of land situate in the Redstone Township and Jefferson Township, Fayette County, Pennsylvania, being more fully described as follows: 1) 3.973 acres described in deeds of record in the Office of the Recorder of Deeds of Fayette County, Pennsylvania, in Deed Book Volume 1062, page 738 and Record Book Volume 3203, page 528; having Fayette County Tax Map Identification Numbers of 17-10-0095 and 30-02-0012; 2) 0.563 and 2.93 acres respectively described in deed of record in the Office of the Recorder of Deeds of Fayette County, Pennsylvania in Deed Book Volume 1041 page 203 and Record Book 3355, Page 259; and being part of Fayette County Tax Map Identification Number 30-02-0012; and, 3) 115 acres described in deed of record in the Office of the Recorder of Deeds of Fayette County, Pennsylvania in Deed Book Volume 1029, page 53; and having Fayette County Tax Map Identification Number 30-02-0012

Said Complaint sets forth that the Plaintiffs are owners in fee simple of the above- described premises. A Complaint was filed for the purpose of barring all of your right; title and interest or claim in and to all or a portion of said premises.

NOTICE

You are hereby notified that you have been sued in court. If you wish to defend against the claim set forth in the Complaint and in the within advertisement, you must take action within twenty (20) days after the last advertisement of this Notice by entering a written appearance personally or by attorney and filing if writing with the Court your defenses or objections to the claim set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint, or for any other claim or relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PENNSYLVANIA BAR ASSOCIATION

PENNSYLVANIA LAWYER REFERRAL 100
SOUTH STREET, P.O. BOX 186
HARRISBURG, PA 17108
TELEPHONE: 1-800-932-0311

James E. Higinbotham, Jr., Esquire 45 East
Main Street, Suite 500
Uniontown, PA 15401
Date: November 27, 2017

SHERIFF'S SALE

Date of Sale: February 15, 2018

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday, February 15, 2018, at 2:00 p.m. in Courtroom Number Five at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (1 of 3)

James Custer
Sheriff Of Fayette County

No. 357 of 2017 GD
No. 320 of 2017 ED

PENNSYLVANIA HOUSING FINANCE AGENCY,

PLAINTIFF,

vs.

**JENNIFER J. ANDERSON,
DEFENDANT.**

ALL THAT CERTAIN lot of land situate in Washington Township, Fayette County, Pennsylvania, being 0.118 acre, together with the dwelling house erected thereon, with attached garage and known as: 163 GILLIESPIE HOLLOW ROAD, FAYETTE CITY, PA 15438.

Tax Parcel # 41-21-0002

Fayette County Record Book 2838 Page 1535.

TO BE SOLD as the property of Jennifer J. Anderson under Judgment No. 357 OF 2017 GD.

KML Law Group, P.C.
Suite 5000 - BNY Independence Center
701 Market Street
Philadelphia, PA 19106
215-627-1322

No. 1735 of 2017 GD
No. 326 of 2017 ED

BAYVIEW LOAN SERVICING, LLC, A DELAWARE LIMITED LIABILITY COMPANY

**4425 Ponce de Leon Blvd
Coral Gables, FL 33146,**

Plaintiff,

vs.

**SUSIE CORCORAN as Executrix of the
Estate of Alicia K. Vicinelly, Deceased
Mortgagor(s) and Record Owner(s)
105 Dorothea Avenue
McClellandtown, PA 15458,
Defendant(s).**

ALL those certain lots of land situate in McClellandtown, German Township, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #15-23-0031

PROPERTY ADDRESS: 105 Dorothea Avenue McClellandtown, PA 15458

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: SUSIE CORCORAN as Executrix of the Estate of Alicia K. Vicinelly, Deceased

No. 174 of 2017 GD
No. 322 of 2017 ED

**JPMorgan Chase Bank, National Association,
successor by merger to Chase Home Finance,
LLC successor by merger to Chase
Manhattan Mortgage Corporation,
PLAINTIFF,
VS.
Wade A. Friend and Jamey L. Friend,
DEFENDANTS.**

ALL that certain lot of land in the City of Uniontown, Fayette County, Pennsylvania, fronting on the west side of Oakland Avenue in said City and being a part of Lot No. 14 in Plan of Lots laid out by Andrew J. Gilmore, Esquire, September 28, 1881, a plot whereof is duly recorded in the Recorder's Office of Payette County at Uniontown, in Plan Book No. 1, page 169.

BEGINNING at the southwestern corner of Lot No. 16 on the western side of Oakland Avenue; thence by said Lot No. 16, North 61 1/2 degrees West, 150 feet to a ten foot alley; thence along said alley, South 28 1/2 degrees West 40 feet to a point; by other land formerly a part of Lot No. 14, South 61 1/2 degrees East 150 feet to the western side of Oakland Avenue; thence by the western side of Oakland Avenue North 28 1/2 degrees East 40 feet to the place of beginning, being the northern 40 feet of Lot No. 16 as laid out in said Plan.

EXCEPTING AND RESERVING thereout and therefrom all the coal from the nine foot vein or seam of coal within and underlying the above described lot of land, together with the mining rights, as the same has been heretofore conveyed away.

SUBJECT to any exceptions, reservations, easements, rights of way, etc., contained in prior deeds or instruments of record.

COMMONLY KNOWN AS: 41 Oakland Avenue, Uniontown, PA 15401 TAX PARCEL NO. 38-06-0129

Phelan Hallinan Diamond & Jones, LLP

No. 2478 of 2016 GD
No. 316 of 2017 ED

**Suntrust Mortgage, Inc.,
Plaintiff,
V.
Aaron D. Jerome,
Defendant(s).**

By virtue of a Writ of Execution No. 2478-OF-2016-GD, Suntrust Mortgage, Inc. V. Aaron D. Jerome, owner(s) of property situate in the GEORGES TOWNSHIP, Fayette County, Pennsylvania, being 143 Pine View Drive, Smithfield, PA 15478-1273

Parcel No.: 14-11-0065
Improvements thereon: RESIDENTIAL DWELLING

No. 2015 of 2017 GD
No. 319 of 2017 ED

**Specialized Loan Servicing LLC,
PLAINTIFF,
vs.
Brian S. Reedy,
DEFENDANT.**

ALL THOSE CERTAIN lots of land situate in North Union Township, Fayette County, Pennsylvania, known as Lots Nos. 46 and 47 in the Laurel Terrace Plan of Lots as laid out by Areford Brothers and recorded in the Recorder's Office of Fayette County in Plan Book 5, Page 3, said lots being more particularly bounded and described as follows:

LOT NO. 46: Facing on the Southeasterly side of Brown Street 40 feet and running back an even width in a Southeasterly direction 105 feet to a 15 foot alley in rear of lot, with Lot No. 45 adjoining on the Northeast and Lot No. 47 adjoining on the Southwest.

THIS CONVEYANCE of Lot No. 46 is made and accepted subject to the express condition and agreement that said parties of the second part, their heirs and assigns, shall not erect or cause to be erected or permit to be erected on said Lot No. 46 any main residence or building costing less than \$3,000.00 or within 20 feet of the cement walk, boundary line of Brown Street.

LOT NO. 47: Facing on the Southeasterly side of Brown Street 45 feet running back in a Southeasterly direction a distance of 105 feet to a 15 foot alley in rear of lot, with Lot No. 46 adjoining on the Northeast and Lot No. 48 adjoining on the Southwest upon which is erected a 2- story, 6 room frame dwelling and integral garage.

THIS CONVEYANCE of Lot NO. 47 is made and accepted subject to the express condition and agreement that said parties of the second part, their heirs and assigns, shall not erect or cause to be erected or permit to be erected on said Lot NO. 47 any main residence or building costing less than \$4,500.00 or within 20 feet of the cement walk, boundary line of Brown Street.

EXCEPTING AND RESERVING, thereout and therefrom, Lots Nos. 46 and 47, all coal, minerals and mining rights as have been heretofore sold and conveyed.

BEING Parcel ID 25-43-0029

BEING known for informational purposes as 84 Brown Street, Uniontown, PA COMMONLY KNOWN AS: 84 Brown Street, Uniontown, PA 15401

TAX PARCEL NO. 25-43-0029

Phelan Hallinan Diamond & Jones, LLP

No. of 2017 GD

No. of 2017 ED

JPMorgan Chase Bank, N.A.

Plaintiff

v.

Ashley J. Sloan

Debra Marie Bittner

Defendant(s)

By virtue of a Writ of Execution No. 1657 OF 2017 GD, JPMorgan Chase Bank, N.A. V. Ashley J. Sloan Debra Marie Bittner, owner(s) of property situate in the REDSTONE TOWNSHIP, Fayette County, Pennsylvania, being 1613 Grindstone Road, Grindstone, PA 15442-2030

Parcel No.: 30-06-0071

Improvements thereon: RESIDENTIAL DWELLING

No. 331 of 2017 GD

No. 327 of 2017 ED

WELLS FARGO BANK, N.A.

vs.

AMY E. ROSS

ALL THAT CERTAIN LOT OR PIECE OF GROUND SITUATE IN THE FIFTH WARD OF THE CITY OF CONNELLSVILLE, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.

BEING THE SAME PREMISES which Michael S. McClain and Lori McClain, husband and wife, by Deed dated May 24, 2013 and recorded May 30, 2013 in the Office of the Recorder of Deeds in and for Fayette County in Deed Book Volume 3220, Page 2356, granted and conveyed unto AMY E. ROSS, unmarried.

BEING KNOWN AS: 403 EAST WASHINGTON AVENUE, CONNELLSVILLE, PA 15425

PARCEL #05120015

JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
 CRIMINAL DIVISION

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
	:	
vs.	:	
	:	
LORI TRESSLER,	:	No. 11 of 2016
Defendant.	:	Honorable Linda R. Cordaro

OPINION AND ORDER

Cordaro, J.

Before this Court is a Motion in Limine filed on behalf of the Defendant (hereinafter "Tressler"). After full consideration of the record, arguments of counsel and pertinent case law, it is hereby ORDERED and DIRECTED that said motion is GRANTED in part and DENIED in part. The Commonwealth is precluded from introducing evidence to the jury regarding prior incidents when Tressler allegedly assaulted the same victim with a knife. The Commonwealth may introduce evidence of an alleged suicide attempt by Tressler.

BACKGROUND

The Defendant has been charged with criminal homicide in connection with the death of Robert Lee Engle (hereinafter "Engle") on August 22, 2015. The Commonwealth has presented notice of its intention to present testimony related to prior bad acts of Tressler. Counsel for the Defendant presented a Motion in Limine requesting that the Commonwealth be precluded from offering evidence in connection with an incident from September 9, 2009, involving Engle, when Tressler was charged with aggravated assault, simple assault, and harassment. These charges were subsequently dismissed at the preliminary hearing on February 11, 2010.

In addition, Tressler has been listed as either the accused or victim in several other types of domestic violence incidents, which the defense argues as inadmissible.

Finally, the Commonwealth may present evidence to show that Tressler attempted to injure herself on August 22, 2015, as a result of her culpability, which the defense argues should be inadmissible.

DISCUSSION

Evidence of the defendant's prior crimes or bad acts is governed by Pa.RE. Rule 404. The rule provides that : "Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." At Pa.RE. 404(b)(2), the permitted use of any

such evidence is limited. "This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. In a criminal case this evidence is admissible only if the probative value of the evidence outweighs its potential for unfair prejudice." Evidence of prior bad acts committed by a defendant is not admissible solely to show the defendant's bad character or his propensity for committing bad acts. *Commonwealth v. Billa*, 521 Pa. 168, 555 A.2d 835, 840 (1989). However, evidence of prior bad acts is admissible where there is a legitimate reason for the evidence, such as to establish: 1) motive; 2) intent; 3) absence of mistake or accident; 4) a common scheme or plan; and 5) identity. *Commonwealth v. Ross*, 57 A.3d 85.

The Commonwealth alleges that the prior bad acts of the defendant in this case are relevant to show motive. This Court, however, cannot find the specific "logical connection" between the prior acts and the current crime. "The mere identification of similarities between the prior bad acts and the crime at issue, however, does not establish motive. Instead, as indicated above, there must be a firm basis for concluding that the crime currently on trial 'grew out of or was in any way caused by the prior set of facts and circumstances.'" *Ross*, citing *Commonwealth v. Martin*, 479 Pa.63, 68-69, 387 A.2d 835, 838.

The Commonwealth also argues that the prior bad acts are relevant to show Tressler's intent to kill Engle and should be admissible to prove the identity of Tressler as Engle's killer. Intent is a mental state that can be inferred from conduct. *Commonwealth v. Martinez*, 301 Pa.Super. 121, 447 A.2d 272, 274 (1982). The fact that Tressler may have retrieved a kitchen or steak knife on many prior occasions when there were domestic disputes with Engle does not necessarily tend to prove that her intent on this particular occasion was in fact to kill him. Evidence of these prior acts would simply show that Tressler responded to domestic disputes by grabbing a kitchen or steak knife. Additionally, this Court fails to find that the similarities between the defendant's prior acts and the present offense satisfy the standard set forth by the Pennsylvania Supreme Court in *Commonwealth v. Shively*, 492 Pa. 411, 424 A.2d 1257 (1981). The standard requires that the similarities are so "unusual and distinctive as to be like a signature." Again, the prior bad acts show that Tressler went for a kitchen or steak knife when she had domestic disputes with Engle.

Finally, the Commonwealth argues that the prior bad acts testimony should be admissible to prove a "common scheme, plan or design." Under Pennsylvania law, evidence of prior bad acts is admissible to prove "a common scheme, plan or design where the crimes are so related that proof of one tends to prove the others." *Commonwealth v. Elliott*, 549 Pa. 132, 145, 700 A.2d 1243, 1249 (1997). In this case, the Commonwealth seeks to show a distinct pattern of conduct of Tressler. That is, Tressler, on at least one occasion and perhaps many other times, grabbed a steak or kitchen knife to stab Engle when they were having a domestic dispute.

The Court has carefully considered that even if the Commonwealth could show any of the exceptions set forth in Pa.R.E. 404(b), the probative value of the evidence does not outweigh the potential for unfair prejudice. It would be difficult, if not impossible,

for a jury not to simply conclude that Tressler stabbed and killed Engle on this occasion since she stabbed or tried to stab him on one or twenty previous occasions. The purpose of Rule 404(b) is to prohibit the admission of prior bad acts to prove "the character of a person in order to show action in conformity therewith." The prior bad acts testimony offered in this case would certainly cause the jury to conclude that if Tressler stabbed Engle previously, then she must have stabbed him on this occasion.

With respect to the Commonwealth's evidence to show that Tressler attempted to harm herself on the day she was charged, this Court finds this to be admissible. The Pennsylvania Supreme Court has held that a suicide attempt by a defendant is admissible to show consciousness of guilt. *Commonwealth v. Homeyer*, 373 Pa.15 0, 94 A.2d 743 (1953).

ORDER

AND NOW, this 22nd day of June, 2017, after full consideration of the briefs, arguments of counsel and pertinent case law, it is hereby ORDERED and DIRECTED that Defendant's Motion in Limine is GRANTED in part and DENIED in part. The Commonwealth, during its case in chief, is precluded from introducing evidence of Defendant's prior bad acts related to the 2009 incident for which the Defendant was charged and charges were dismissed. In addition, the Commonwealth, during its case in chief, is precluded from introducing evidence of prior attempted stabbings or occasions when the Defendant retrieved a knife while arguing with the victim in this case. It is further ORDERED and DIRECTED that the Motion in Limine to preclude evidence of the Defendant's attempted suicide is hereby DENIED.

Notwithstanding this Order, this Court reserves judgment on the admissibility of prior bad acts evidence once the defense rests, should the Commonwealth present any rebuttal witnesses.

BY THE COURT:
LINDA R. CORDARO, Judge

Attest:
Janice Snyder
Clerk of Courts

WINTER SOCIAL

Fayette County
Bar Association's

Winter Social

Thursday, December 14th
Marilyn's on Main
4:30 pm – 6:30 pm

In memory of our colleague, *Mary Campbell Spegar*,
please bring new, unwrapped toys for donation to
Fayette County Children & Youth Services.
Monetary donations payable to "CYS Advisory Board"

RSVP by 12/7

Cindy at 724-437-7994 or cindy@fcbar.org

*Quality... Experience... Results...
It's what your clients deserve.*

Medical Malpractice • Auto Accidents • Personal Injury



GISMONDI

& ASSOCIATES

412-281-2200

www.gislaw.com

700 Grant Bldg., 310 Grant St., Pgh., PA 15219