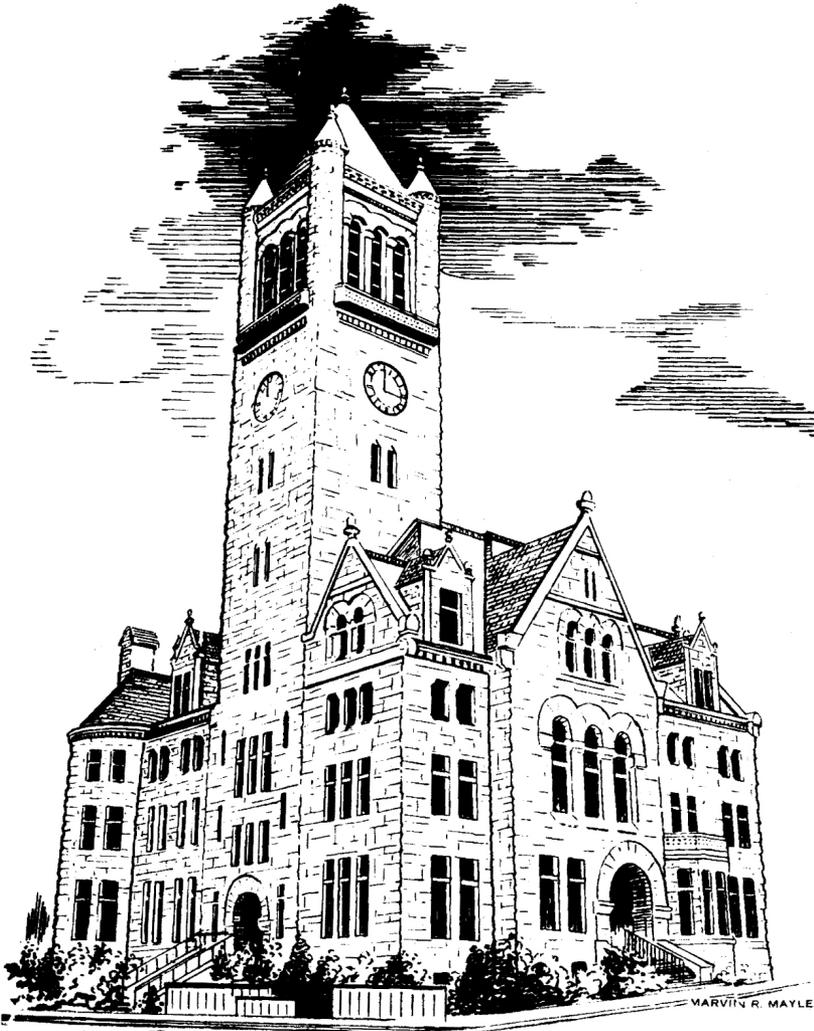


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ESTATE NOTICES

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

KENNETH LEE BELL, a/k/a KENNETH L. BELL, late of Washington Township, Fayette County, PA (3)

Executrix: Jennifer Lee Metikosh
254 Chickee Lane
Belle Vernon, PA 15012
c/o Shire Law Firm
1711 Grand Boulevard
Park Centre
Monessen, PA 15062
Attorney: Bernard S. Shire

LORA A. HAUGER, a/k/a LORI A. HAUGER, late of South Union Township, Fayette County, PA (3)

Administrator: James Gregory Hauger
c/o Nakles and Nakles
1714 Lincoln Avenue
Latrobe, PA 15650
Attorney: Ned J. Nakles, Jr.

JAMES M. HODDO, late of Redstone Township, Fayette County, PA (3)

Executor: Anthony Dominick
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Anthony S. Dedola, Jr.

ROBERT MARKUTSA, a/k/a ROBERT EUGENE MARKUTSA, late of Fairchance, Fayette County, PA (3)

Executor: Francis Markutsa
4 Jeffrey Lane
Fairchance, PA 15436
c/o Bootay, Bevington & Nichols, LLC
6 Clairton Boulevard
Pittsburgh, PA 15236
Attorney: Travis J. Dunn

KATHRYN A. MENNI, late of Uniontown, Fayette County, PA (3)

Personal Representative: Barbara M. Juriga
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

MARY CATHERINE CAMPBELL SPEGAR, a/k/a MARY C. CAMPBELL SPEGAR, late of Chalk Hill, Fayette County, PA (3)

Administrator: Michael J. Spegar, III
465 Mountain Road
Uniontown, PA 15401
c/o Bassi, Vreeland & Associates, P.C.
62 East Wheeling Street
Washington, PA 15301-4804
Attorney: Thomas O. Vreeland

Second Publication

PAUL RICHARD CHESS, a/k/a PAUL R. CHESS, late of Georges Township, Fayette County, PA (2)

Administrator: Craig S. Chess
c/o PO Box 622
Smithfield, PA 15478
Attorney: Charity Grimm Krupa

JOHN J. HRUTKAY, late of Brownsville, Fayette County, PA (2)

Personal Representative: Carol L. Baniak
220 Raymond Avenue
Brownsville, PA 15417
c/o P.O. Box 488
California, PA 15419
Attorney: Lisa J. Buday

STEPHEN RAYMOND, late of North Union Township, Fayette County, PA (2)
Executrix: Deborah Raymond
 c/o Adams & Adams
 55 East Church Street, Suite 101
 Uniontown, PA 15401
Attorney: Jason F. Adams

EMILY JEAN LINCOLN, late of South Union Township, Fayette County, PA (2)
Co-Executors: Sara Dell Metz and Ronald Mark Metz
 c/o P.O. Box 622
 Smithfield, PA 15478
Attorney: Charity Grimm Krupa

MILLIE (NMI) ROBINSON, late of Connellsville, Fayette County, PA (2)
Personal Representative: Henry Robinson
 c/o 815A Memorial Boulevard
 Connellsville, Pa 15425
Attorney: Margaret Zylka House

BARBARA H. SHOEMAKER, late of Brookville, Jefferson County, PA (2)
Executrix: Mary Ann Brown
 c/o Fitzsimmons & Barclay
 55 East Church Street, Suite 102
 Uniontown, PA 15401
Attorney: James N. Fitzsimmons, Jr.

First Publication

DAVID KEISTER, a/k/a DAVID ALLEN KEISTER, late of Georges Township, Fayette County, PA (1)
Administratrix: Kim Keister
 c/o Fitzsimmons & Barclay
 55 East Church Street, Suite 102
 Uniontown, PA 15401

ERMINIA LASCALA, late of Newell Borough, Fayette County, PA (1)
Executor: Jason F. Adams
 c/o Adams & Adams
 55 East Church Street, Suite 101
 Uniontown, PA 15401
Attorney: Jason F. Adams

CHARLES R. MADORE, late of Dunbar Township, Fayette County, PA (1)
Personal Representative: Barbara A. Madore
 c/o Watson Mundorff Brooks & Sepic, LLP
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Charles W. Watson

PATRICK J. RUCK, late of Bullskin Township, Fayette County, PA (1)
Personal Representative: Susan A. Ruck
 c/o Watson Mundorff Brooks & Sepic, LLP
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Charles W. Watson

LEGAL NOTICES

NOTICE OF SHERIFF'S SALE
IN THE COURT OF COMMON PLEAS
OF FAYETTE COUNTY, PENNSYLVANIA
NO. 1406 OF 2017

BAYVIEW LOAN SERVICING, LLC
Vs.
CECIL BARNHART, SR, KIMBERLY
BARNHART, UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS, AND ALL
PERSONS, FIRMS, OR ASSOCIATIONS
CLAIMING RIGHT, TITLE OR INTEREST
FROM OR UNDER LYDIA N. BARNHART
A/K/A LYDIA BARNHART A/K/A LYDIA
M. BARNHART, DECEASED

NOTICE TO: UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS, AND ALL
PERSONS, FIRMS, OR ASSOCIATIONS
CLAIMING RIGHT, TITLE OR INTEREST
FROM OR UNDER LYDIA N. BARNHART
A/K/A LYDIA BARNHART A/K/A LYDIA M.
BARNHART, DECEASED
NOTICE OF SHERIFF'S SALE OF REAL
PROPERTY

Being Premises: 111 WEST BLAKE
AVENUE, CONNELLSVILLE, PA 15425-1607
Being in CONNELLSVILLE TOWNSHIP,
County of FAYETTE, Commonwealth of
Pennsylvania, 06040022

Improvements consist of residential
property.

Sold as the property of CECIL
BARNHART, SR, KIMBERLY BARNHART,
UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS, AND ALL PERSONS, FIRMS, OR
ASSOCIATIONS CLAIMING RIGHT, TITLE
OR INTEREST FROM OR UNDER LYDIA N.
BARNHART A/K/A LYDIA BARNHART A/
K/A LYDIA M. BARNHART, DECEASED,
LYDIA MARKLE, RANDY BARNHART and
ROY BARNHART

Your house (real estate) at 111 WEST
BLAKE AVENUE, CONNELLSVILLE, PA
15425-1607 is scheduled to be sold at the
Sheriff's Sale on 05/03/2018 at 02:00 PM, at the
FAYETTE County Courthouse, 61 E. Main
Street, Uniontown, PA 15401, to enforce the

Court Judgment of \$32,961.94 obtained by,
BAYVIEW LOAN SERVICING, LLC (the
mortgagee), against the above premises.

PHELAN HALLINAN DIAMOND & JONES, LLP
Attorney for Plaintiff

JUDICIAL OPINION

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

COMMONWEALTH OF PENNSYLVANIA :
 :
 v. :
 :
 KENNETH JOHN NICHOLS, :
 Defendant. : No. 483 of 2017

OPINION IN SUPPORT OF ORDER

Wagner, P.J.

Before the Court is an Omnibus Pretrial Motion seeking habeas corpus relief and suppression of incriminating statements. Defendant is now charged with Possession with Intent to Deliver marijuana, Possession of a Small Amount of Marijuana, Possession of Drug Paraphernalia, and, in violation of the Motor Vehicle Code, Turning Movements and Required Signals. A hearing on this matter was held on September 15, 2017, at which time the evidence established:

On September 15, 2016, Pennsylvania State Troopers Reaghard and Zoller, acting on an anonymous tip, visited Defendant's residence to conduct an interview with him. After knocking on the front door, but receiving no answer, the police officers walked around to the back door and knocked again to see if anyone would answer that door. After walking to the back of the house, Trooper Zoller noticed a security camera attached to the residence and pointed toward a windowless work trailer parked on Defendant's property. When the troopers approached the trailer, they noticed a strong odor of marijuana. Neither officer entered the trailer, but they walked all around it. They then moved away from it so Trooper Reaghard could use his telephone. After the trooper finished his phone call, the officers then left Defendant's property and drove into the neighborhood.

At some later time, the officers saw Defendant driving in that vicinity, whereupon they drove behind him. When Defendant violated the Motor Vehicle code by failing to use a turn signal, Trooper Reaghard effectuated a traffic stop. Upon approaching the vehicle during the stop, he detected an odor of marijuana which led him to question Defendant about the odor they smelled at the work trailer. As the traffic stop was concluding, Defendant consented to a search of the work trailer by the troopers which in turn led to the discovery of a large, nine-pound bag of marijuana inside. A later consensual search of Defendant's bedroom in his residence revealed a small amount of marijuana, and when Trooper Reaghard subsequently searched Defendant's vehicle, he found a

scale with suspected marijuana residue thereon.

Defendant now seeks suppression of all evidence obtained by the police officers following the traffic stop of his vehicle because probable cause for a search warrant and/or his arrest did not exist prior to the time when they allegedly trespassed into his curtilage while they visited his residence only for investigatory purposes after the receipt of an anonymous tip.

The Court has carefully considered the applicable law, as well as the memoranda provided by both the Defendant and the Commonwealth. "It is axiomatic that the 'physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.'" *Commonwealth v. Berkheimer*, 57 A.3d 171, 177 (Pa.Super.2012) quoting *Welsh v. Wisconsin*, 466 U.S. 740, 748, 104 S.Ct. 2091, 80 L.Ed.2d 732(1984). The Fourth Amendment and Article I, Section 8 of the Pennsylvania Constitution protect not only the inside of a home, but also the curtilage surrounding it. *Commonwealth v. Gibbs*, 981 A.2d 274 (Pa.Super.2009). Thus for constitutional purposes, entering the curtilage is indistinguishable from entering the home. See *Commonwealth v. Cihylic*, 486 A.2d 987 (Pa.Super.1985). The curtilage has been defined by the United States Supreme Court as an area which extends intimate activities of the type associated with the "sanctity of a man's home and privacies of life." *Oliver v. United States*, 466 U.S. 170, 104 S.Ct. 1735, 80 L.Ed.2d 214 (1984). To determine whether an area is within the curtilage, a court must analyze factors that indicate whether an individual reasonably may expect that the area immediately adjacent to his home will remain private. *Commonwealth v. Simmen*, 58 A.3d 811 (Pa.Super. 2012). An area next to the house but exposed to public view and used by the public to access the house is not considered to be within the curtilage. *Id.* However, the troopers' entry into the back yard so as to view and access the back door, and their walking around the house and through the back yard to the work trailer constitutes trespassing in the curtilage and offends the constitutional protection against unreasonable searches and seizures. See *Commonwealth v. Lee*, 972 A.2d 1, 4 n. 2 (Pa.Super. 2009). Such entrance into the curtilage by the officers required probable cause and the existence of an exception to the warrant requirement. *Id.* It is beyond dispute that the troopers lacked probable cause relative to their trespassing, and even if probable cause had existed, a warrant would still be required since no exigent circumstances existed.

However, this matter does not end here. When the troopers later, from a lawful vantage point, observed Defendant commit a traffic violation by failing to use his turn signal several times when he was required to do so, they effectuated a valid traffic stop based thereon. A forcible traffic stop constitutes an "investigative detention" and triggers Fourth Amendment constitutional protections. *Commonwealth v. Clinton*, 905 A.2d 1026 (Pa.Super. 2006). However, a police officer's question, posed during the stop, is not coercive simply by being asked. Trooper Reaghard's question to Defendant herein, asking about the smell of marijuana and whether they could search his trailer and home, did not constitute custodial interrogation that would have necessitated Miranda warnings. At the time the

trooper made his inquiry of Defendant, the traffic stop had only begun, Defendant had not even produced his registration papers and insurance information, the stop was made along a public roadway, no one threatened Defendant nor had he been transported or physically restrained, and the question was direct and to the point, it was not likely to lead to an incriminating answer, but rather could have been answered with a simple "no." See Clinton. Defendant instead answered the trooper's question affirmatively, thus voluntarily and knowingly consenting to the search that followed, which in turn led to the discovery of the alleged marijuana and paraphernalia giving rise to the instant criminal charges.

In summary, although the troopers' entry into the curtilage of Defendant's residence was a constitutionally infirm trespass, such action does not invalidate a later lawful traffic stop based on the troopers' personal observation of an alleged violation of the Motor Vehicle Code. Defendant's consent to the subsequent search of his work trailer and residence was voluntarily given during the said lawful traffic stop, and it is the consensual search, not the earlier unconstitutional warrantless entry into Defendant's backyard, which led to the discovery of the incriminating evidence. Therefore, there is now no need to suppress any of the physical evidence seized during the search.

Accordingly, the Court enters the following:

ORDER

AND NOW, November 6, 2017, in light of the discussion in the foregoing Opinion, the within Omnibus Pretrial Motion seeking the suppression of evidence is hereby DENIED.

BY THE COURT,
WAGNER, P.J.

ATTEST:
Clerk of Courts

CLE**The Importance of the ALTA/NSPS Land Title Survey**

Tuesday, March 20, 2018

9:00 AM - 12:00 PM

Penn State Fayette, The Eberly Campus

Room: CTC Eberly 116

This workshop was designed to provide insight into why these surveys are needed and would be beneficial to the legal community, bankers, surveyors, engineers, and developers.

Presenter:

Gary Kent, PS

Cost:

Attendance only - Free

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