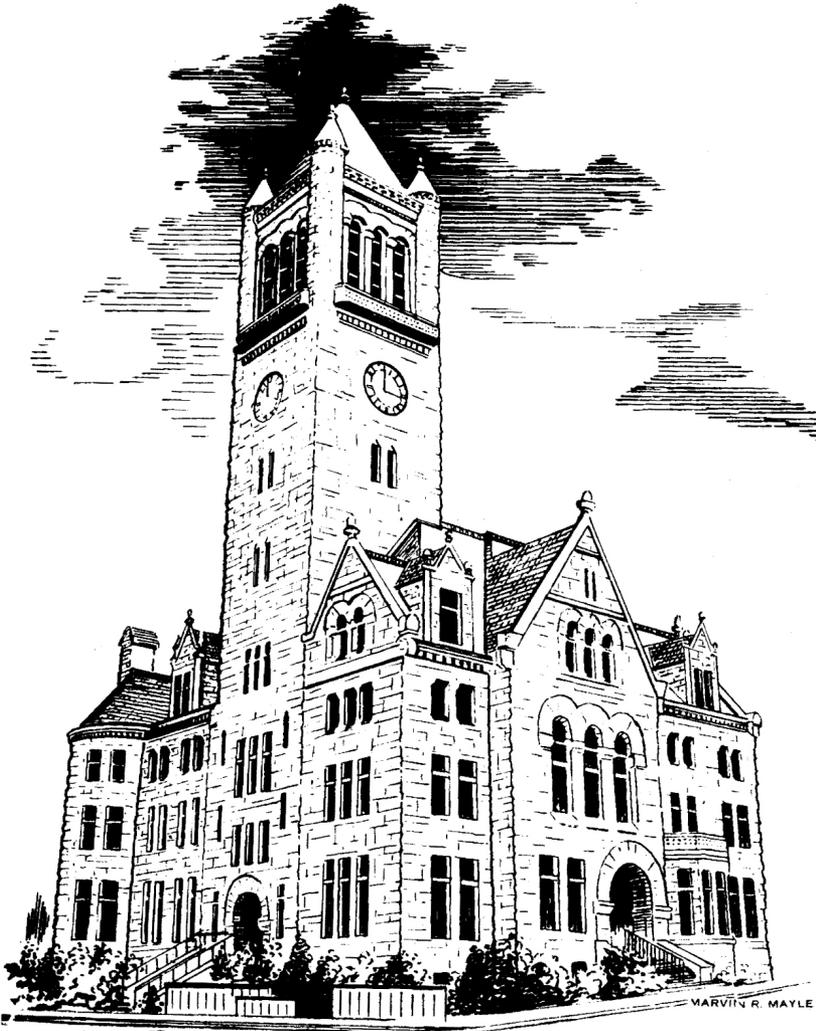


# FAYETTE LEGAL JOURNAL

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NO. 14



## FAYETTE LEGAL JOURNAL

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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

**RUTH COUGHENOUR, a/k/a RUTH L. COUGHENOUR**, late of Bullskin Township, Fayette County, PA (3)

*Executrix:* Cheryl Kelly  
c/o Donald McCue Law Firm, P.C.  
Colonial Law Building  
813 Blackstone Road  
Connellsville, PA 15425  
*Attorney:* Donald J. McCue

**MARILYN DWYER**, late of Perryopolis Borough, Fayette County, PA (3)

*Executor:* Allen David Householder  
c/o 1103 East Carson Street  
Pittsburgh, PA 15203  
*Attorney:* Amy R. Schrempf

**ANN ELIAS, a/k/a ANN L. ELIAS, a/k/a ANN LOUISE ELIAS**, late of North Union Township, Fayette County, PA (3)

*Administrator:* Richard J. Silvestro  
c/o 556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John A. Kopas, III

**ANNA MAE HARRIS**, late of Perryopolis, Fayette County, PA (3)

*Executrix:* Audrey Harris  
205 Blue Top Road  
Perryopolis, PA 15473  
c/o France, Lint & Associates, P.C.  
308 Fallowfield Avenue  
Charleroi, PA 15022  
*Attorney:* David N. Lint

**ANN LOUISE NATALE, a/k/a ANNA LOUISE NATALE**, late of Connellsville, Fayette County, PA (3)

*Executor:* S. Fred Natale  
c/o P.O. Box 760  
Connellsville, PA 15425  
*Attorney:* Carolyn W. Maricondi

**WILLIAM G. RUSKO**, late of Uniontown, Fayette County, PA (3)

*Administrator:* Susan Swartz  
c/o 11 Pittsburgh Street  
Uniontown, PA 15401  
*Attorney:* Thomas W. Shaffer

### Second Publication

**JEFFREY L. COZART**, late of German Township, Fayette County, PA (2)

*Administrator:* Jason Cozart  
c/o Stepp Law Offices  
64 North Richhill Street, Suite 101  
Waynesburg, PA 15370  
*Attorney:* Kelly A. Stepp

**VIOLET KOBAL**, late of Washington Township, Fayette County, PA (2)

*Administrator:* Patricia Anderson  
c/o 35 West Pittsburgh Street  
Greensburg, PA 15601  
*Attorney:* Christopher W. Huffman

**LOIS ANN ROSNECK**, late of Redstone Township, Fayette County, PA (2)

*Executrix:* Susan L. Danley  
c/o Radcliffe Law, LLC  
648 Morgantown Road, Suite B  
Uniontown, PA 15401  
*Attorney:* William M. Radcliffe

**SANDRA LEE STEWART**, late of Point Marion, Fayette County, PA (2)

*Executor:* Delbert Lee Stewart  
c/o Fieschko & Associates, Inc.  
436 7th Avenue, Suite 2230  
Pittsburgh, PA 15219  
*Attorney:* Joseph E. Fieschko, Jr.

**SYLVIA R. SAVO, a/k/a SALLY SAVO**, late of Uniontown, Fayette County, PA (2)

*Personal Representative:* Sylvia A. Prosser  
c/o Higinbotham Law Offices  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James E. Higinbotham, Jr.

### First Publication

**DONALD G. KERFOOT**, late of Connellsville, Fayette County, PA (1)

*Personal Representative:* Gloria Eileen Rohal  
c/o 815A Memorial Boulevard  
Connellsville, PA 15425  
*Attorney:* Margaret Zylka House

**RICHARD H. MILLER**, late of North Union Township, Fayette County, PA (1)

*Co-Executors:* Jason R. Miller and Michael Miller  
c/o Fitzsimmons and Barclay  
55 East Church Street, Suite 102  
Uniontown, PA 15401  
*Attorney:* James N. Fitzsimmons, Jr.

**DORIS JEAN REID, a/k/a DORIS J. REID**, late of Fairchance, Fayette County, PA (1)

*Personal Representative:* Sharon D. Brewer  
c/o 50 East Main Street  
Blackstone Building  
Uniontown, PA 15401  
*Attorney:* Patrick C. McDaniel

**MAUREEN C. SMITHBERGER**, late of South Union Township, Fayette County, PA (1)

*Administrator:* David Smithberger  
c/o Adams and Adams  
55 East Church Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Jason F. Adams

**SHIRLEY ANNE THURBY**, late of North Union Township, Fayette County, PA (1)

*Executor:* Joseph E. Thurby, Jr.  
c/o Adams and Adams  
55 East Church Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Jason F. Adams

**ERNEST W. WATSON, Jr.**, late of Lower Tyrone Township, Fayette County, PA (1)

*Personal Representative:* Laurie A. Watson  
129 Watson Road  
East Millsboro, PA 15433  
c/o 120 South Third Street  
Connellsville, PA 15425  
*Attorney:* John K. Greiner

## LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION  
NO. 16 ADOPT 2018

IN RE: ADOPTION OF  
BRAXTON RHODES

### NOTICE

TO: Unknown Unknown (Father)

A petition has been filed asking the Court to put an end to all rights you have to your child, Braxton Rhodes. The court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. 4 of the Fayette County Courthouse, Uniontown, Fayette County, Pennsylvania, on Thursday, May 31, 2018 at 01:30 p.m. You are warned that even if you fail to appear at the scheduled hearing the hearing will go on without you and your rights to your child may be ended by the court without your being there.

YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER 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. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PENNSYLVANIA BAR ASSOCIATION 100  
SOUTH STREET  
PO BOX 186  
HARRISBURG, PA 17108  
(800) 932-0313

### FICTITIOUS NAME NOTICE

NOTICE is hereby given that an Application for Registration of Fictitious Name was filed with the Department of State, Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on March 9, 2018, for the purpose of obtaining a fictitious name for a corporation, Bashada, Inc., which was organized under the Business Corporation Law of the Commonwealth of Pennsylvania approved December 21, 1988, Act 177.

The fictitious name is Foster II with its principal place of business being located at 415 Mutich Street, Belle Vernon, Pennsylvania 15012.

Todd M. Pappasergi, Esquire  
BASSI, VREELAND & ASSOCIATES, P.C.  
Attorneys at Law  
P.O. Box 144  
111 Fallowfield Avenue  
Charleroi, PA 15022

## SHERIFF'S SALE

Date of Sale: June 14, 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, June 14, 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. 1989 of 2014 GD  
No. 78 of 2018 ED

**AMERIKOHL MINING INC.,**  
**Plaintiff,**  
**vs.**  
**WAYNE K. BAKER,**  
**Defendant.**

Property Address: 294 Hope Hollow Road,  
Springhill Township, PA 15451  
Parcel ID: 36-14-0132

Being the same premises which Doris M. Cobb, widow, granted and conveyed unto Wayne K. Baker, single, by Deed dated November 28, 1980, and recorded in the Fayette County Recorder of Deeds Office on December 4, 1980 in Deed Book 1281 page 778.

Judgment Amount: \$ 50,779.26 together with interest at the rate of six percent (6 %) from June 25, 2014, plus costs of suit.

---

UDREN LAW OFFICES, P.C.  
WOODCREST CORPORATE CENTER  
111 WOODCREST ROAD, SUITE 200  
CHERRY HILL, NJ 08003-3620  
856-669-5400

No. 67 of 2018 GD  
No. 76 of 2018 ED

**Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage Loan Asset-Backed Trust Series INABS 2006-D, Home Equity Mortgage Loan Asset-Backed Certificates Series INABS 2006-D,**  
**Plaintiff,**  
**V.**  
**HARRY BRAXTON A/K/A HARRY M. BRAXTON**  
**JOYCE L. DUGAN A/K/A JOYCE L. BRAXTON**  
**Defendant(s).**

ALL THAT CERTAIN LOT OF LAND SITUATE IN TOWNSHIP OF SOUTH UNION, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS 17 Feathers Avenue,  
(South Union Township), Uniontown, PA 15401  
PARCEL NUMBER: 34-17-0010  
IMPROVEMENTS: Residential Property

---

ANNE N. JOHN Esq.  
ATTORNEY AT LAW

No. 2628 of 2017 GD  
No. 94 of 2018 ED

**FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF GREENE COUNTY, a corporation,**  
**Plaintiff,**  
**vs.**  
**DONALD L. CUNNINGHAM and ELIZABETH A. CUNNINGHAM,**  
**Defendants.**

ALL that certain tract of land situate in the Village of Messmore, German Township, Fayette County, Pennsylvania, containing 1.6136 acres.

Upon which is erected a single-family dwelling known locally as 269 Messmore Road, McClellandtown, PA 15458 and a Mobile Home with land known locally as 259 Messmore Road, McClellandtown, PA 15458.

For prior title see Record Book 2802-2483. Fayette County Assessment Map Nos.: 15-28-0241 and 15-28-0242.

No. 1045 of 2016 GD  
No. 84 of 2018 ED

**U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY,**  
**PLAINTIFF,**  
**VS.**  
**TERRI DARNELL,**  
**DEFENDANT.**

ALL that certain lot of ground in the Township of South Union, County of Fayette, Pennsylvania, being known as Lot No. 6 and the easterly portion of Lot No. 5 in the George Mikluscak Plan of Lots, Fayette County, Pennsylvania Deed Book Volume 824, page 579, HAVING THEREON ERECTED DWELLING KNOWN AS 1220 BROWNFIELD ROAD UNIONTOWN, PA 15401.

TAX PARCEL ID# 34-27-0390.  
Fayette County Book 3113, Page 1196.  
TO BE SOLD AS THE PROPERTY OF TERRI DARNELL ON JUDGMENT NO. 2016 -1045.

No. 2657 of 2017 GD  
No. 67 of 2018 ED

**The Huntington National Bank,**  
**Plaintiff,**  
**vs.**  
**Samuel J. DelSignore; Arleen B. DelSignore, AKA Arlene B. DelSignore,**  
**Defendants.**

ALL that certain parcel of land lying and being situate in the Township of Redstone, County of Fayette, and Commonwealth of Pennsylvania, known as 803 Fairbank Hurber, AKA, 803 Fairbank Herbert Road, AKA Herbert -Fairbank Road, New Salem, PA 15468 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 30-36-003801

BEING the same premises which Samuel J. DelSignore, Sr. and Arlene B. DelSignore, his wife, by Deed dated August 30, 2011 and recorded in and for Fayette County, Pennsylvania in Deed Book 3163, Page 1638, granted and conveyed unto Arlene B. DelSignore.

UDREN LAW OFFICES, P.C.  
WOODCREST CORPORATE CENTER  
111 WOODCREST ROAD, SUITE 200  
CHERRY HILL, NJ 08003-3620  
856-669-5400

No. 2667 of 2017 GD  
No. 64 of 2018 ED

**KeyBank, N.A. successor by merger to First Niagara Bank,**  
**Plaintiff**  
**V.**  
**SHIRLEY A HALFHILL**  
**Defendant(s).**

ALL THAT CERTAIN LOT OF LAND SITUATE IN NORTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS 155 Piper hollow Rd, North Union, PA 15465

PARCEL NUMBER: 25160173

IMPROVEMENTS: Residential Property

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

No. 2408 of 2017 GD  
No. 73 of 2018 ED

**BAYVIEW LOAN SERVICING, LLC, A  
DELAWARE LIMITED LIABILITY  
COMPANY**  
4425 Ponce de Leon Blvd Coral Gables, FL  
33146

**Plaintiff,**  
**V.**

**NIKKI D. HARDIN**  
**Mortgagor(s) and Record Owner(s)**  
465 Maple Summit Road a/k/a 469 Maple  
Summit Road Mill Run, PA 15464  
**Defendant(s).**

ALL THOSE TWO CERTAIN contiguous  
pieces or parcels of land situate in the  
TOWNSHIP OF STEWART, County of Fayette  
and Commonwealth of Pennsylvania.

TAX PARCEL #37-08-0031

PROPERTY ADDRESS: 465 Maple  
Summit Road a/k/a 469 Maple Summit Road  
Mill Run, PA 15464

IMPROVEMENTS: A residential  
dwelling.

SOLD AS THE PROPERTY OF: NIKKI  
D. HARDIN

No. 1574 of 2017 GD  
No. 72 of 2018 ED

**PENNSYLVANIA HOUSING FINANCE  
AGENCY,**

**PLAINTIFF,**  
**Vs.**

**SHEENA R. HUSAR A/K/A SHEENA R.  
HUSER,**  
**DEFENDANT.**

ALL those parcels of land in Masontown  
Borough, Fayette County, Pennsylvania, as  
shown in the John Karpineca, Jr. Plan of Lots,  
Plan Book 8, page 30; as follows:

- 1. Lot No. 15, containing 9,925 square feet;  
and
- 2. Eastern one-half of Lot 16; and

3. Western one-half of Lot No. 16.

HAYING THEREON ERECTED A  
DWELLING KNOWN AND NUMBERED AS:  
372 WEST CHURCH AVENUE  
MASONTOWN, PA 15461.

Tax Parcel Nos. 21-06-0260; 21-06-0261;  
and 21-06-0262

Fayette Deed Book 3039, page 772

TO BE SOLD AS THE PROPERTY OF  
SHEENA R. HUSAR AKA SHEENA R.  
HUSER UNDER JUDGMENT NO. 2017-  
01574.

Phelan Hallinan Diamond & Jones, LLP

No. 1518 of 2017 GD  
No. 62 of 2018 ED

**U.S. Bank National Association, as Trustee  
for Structured Asset Securities Corporation,  
mortgage Pass-Through Certificates, Series  
2006-EQ1,**

**Plaintiff,**  
**V.**

**Gerald F. Jacobson,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 1518-  
OF-2017-GD, U.S. Bank National Association,  
as Trustee for Structured Asset Securities  
Corporation, mortgage Pass-Through  
Certificates, Series 2006-EQ1 v. Gerald F.  
Jacobson, owner(s) of property situate in the  
GERMAN TOWNSHIP, Fayette County,  
Pennsylvania, being 540 Sixth Street, Hibbs, PA  
15443

Parcel No.: 15-04-0055

Improvements thereon: RESIDENTIAL  
DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 2198 of 2017 GD  
No. 81 of 2018 ED

**Pennymac Loan Services, LLC,**  
**Plaintiff**  
**V.**  
**Francis W. Lee, III,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 2198-OF-2017-GD, Pennymac Loan Services, LLC v. Francis W. Lee, III, owner(s) of property situate in the GEORGES TOWNSHIP, Fayette County, Pennsylvania, being 108 Victory Drive, Smithfield, PA 15478-1268  
Parcel No.: 1425005741  
Improvements thereon: RESIDENTIAL DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 2254 of 2017 GD  
No. 77 of 2018 ED

**Bank of America, N.A.,**  
**Plaintiff,**  
**V.**  
**James V. Malone, in His Capacity as Heir of Edith L. Moore, Deceased**  
**Kenneth J Malone, in His Capacity as Heir of Edith L. Moore, Deceased**  
**Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right, Title or Interest From or Under Edith L. Moore, Deceased,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 2254-OF-2017-GD Bank of America, N.A. v. James V. Malone, in His Capacity as Heir of Edith L. Moore, Deceased Kenneth J. Malone, in His Capacity as Heir of Edith L. Moore, Deceased, Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right, Title or Interest From or Under Edith L. Moore, Deceased, owner(s) of property situate in the DUNBAR BOROUGH, Fayette County, Pennsylvania, being 6 Ranch Road, Dunbar, PA 15431-1530  
Parcel No.: 08-03-0283  
Improvements thereon: RESIDENTIAL DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 264 of 2017 GD  
No. 83 of 2018 ED

**Branch Banking & Trust Company,**  
**Plaintiff,**  
**V.**  
**Mark A. Proctor a/k/a Mark Proctor**  
**Deborah R. Proctor,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 2017-00264 Branch Banking & Trust Company v. Mark A. Proctor a/k/a Mark Proctor Deborah R. Proctor, owner(s) of property situate in the NEWELL BOROUGH, Fayette County, Pennsylvania, being 405 Water Street, Newell, PA 15466  
Parcel No.: 23-04-0010  
Improvements thereon: RESIDENTIAL DWELLING

No. 1100 of 2014 DSB  
No. 82 of 2018 ED

**SOMERSET TRUST COMPANY,**  
**Plaintiff,**  
**Vs.**  
**DANIEL D. SZYMANSKI AND**  
**KIMBERLY S. SZYMANSKI,**  
**Husband and wife,**  
**Defendant.**

ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF: DANIEL D. SZYMANSKI AND KIMBERLY S. SYZMANSKI, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THOSE CERTAIN TWO (2) PARCELS OR TRACTS OF GROUND SITUATE IN SALTICK TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 1512 PAGE 97.

BEING KNOWN AS 251 MILLERTOWN ROAD, INDIAN HEAD, PA 15446  
PARCEL ID. 31190157  
MAP NO. 31-19-0157

**SHERIFF'S SALE**

Date of Sale: May 3, 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, May 3, 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. 1644 of 2017 GD  
No. 56 of 2018 ED

**BANK OF AMERICA, N.A.,**  
**vs.**  
**DONALD YAUGER**  
**LAURA YAUGER**

ALL THAT CERTAIN LOT OR PIECE OF GROUND SITUATE AS A PARCEL OR LOT OF GROUND LOCATED NEAR THE VILLAGE OF COOLSPRING, NORTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA.

BEING THE SAME PREMISES which Earnest E. Yauger and Patricia S. Yauger, by Deed dated January 29, 2008 and recorded January 29, 2008 in the Office of the Recorder of Deeds in and for Fayette County in Deed Book Volume 3051, Page 2237, granted and conveyed unto DONALD YAUGER, their son.

BEING KNOWN AS: 129 PINE RIDGE ROAD, LEMONT FURNACE, PA 15456  
PARCEL #25-27-0253

Phelan Hallinan Diamond & Jones, LLP

No. 2323 of 2017 GD  
No. 4 of 2018 ED

**JPMorgan Chase Bank, National Association,**  
**Plaintiff,**  
**V.**  
**John Yurkovich**  
**Teri Yurkovich,**  
**Defendant(s).**

By virtue of a Writ of Execution No. 2323 OF 2017 GD, JPMorgan Chase Bank, National Association v. John Yurkovich Teri Yurkovich, owner(s) of property situate in the SOUTH CONNELLSVILLE BOROUGH, Fayette County, Pennsylvania, being 1167 West Gibson Avenue, Connellsville, PA 15425-4859

Parcel No.: 33-04-0044, 33-04-004401  
Improvements thereon: RESIDENTIAL DWELLING

## JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
vs.	:	Nos. 832 of 2017
KELI MARIE BRUMLEY,	:	833 of 2017
Defendant.	:	Judge Nancy D. Vernon

### OPINION AND ORDER

VERNON, J.

March 28, 2018

Before the Court is the Omnibus Pretrial Motion of Defendant, Keli Marie Brumley, in the nature of a Writ of Habeas Corpus, Motion to Quash, and Motion to Suppress Statement. Defendant is charged with Criminal Homicide; Criminal Conspiracy; Recklessly Endangering Another Person; Manufacture, Delivery, or Possession with Intent to Manufacture or Deliver; and Criminal Conspiracy. At the time set for hearing on the Motion, the Commonwealth presented two witnesses and incorporated the transcript of the preliminary hearing for the Court's decision.

#### FACTS

On the evening of February 26, 2017, Trisa Stickles text messaged Defendant Brumley to buy Xanax for her boyfriend, Jordan Mapstone. Preliminary Hearing N.T., 4/19/2017, at 6-8. Defendant told Stickles that she had Xanax and she should call when she was on her way to Uniontown. *Id.* at 9. Stickles drove to the city with Mapstone and called Defendant. *Id.* at 10. Defendant answered the telephone and told Stickles to come to 68 Dunlap Avenue. *Id.* at 10-11. Stickles and Mapstone arrived at the address, which was the first parking lot in the housing development of Pershing Court, and backed in to a parking spot. *Id.* at 12. Stickles text messaged Defendant again and she responded that "they were counting the pills and to give Arsuan the money." *Id.* at 12. Stickles did not know who Arsuan was but a black male came to her window. *Id.* at 12-13. The man said he had "lean" and Mapstone bought it from him, and then he stated that he "had to go inside to get the pills from [Defendant]." *Id.* at 13. While Arsuan was standing at her car, Stickles received a text message from Defendant that said "just give him the money" or "I'm counting the pills. Give my boyfriend the money." *Id.* at 13, 19. Mapstone told Arsuan that he was not going to give him the money for Xanax until he brought the pills out and Arsuan left the window of Sickles' car. *Id.* at 14-15. Sickles had a bad feeling and started her car after Arsuan left. *Id.* at 16. About three to five minutes later, Arsuan returned to Sickles' car, pointed a gun in the window and said, "Give me all your money." *Id.* at 15. Mapstone told Stickles to "go" and she "took off" driving. *Id.* at 15-16. Stickles testified Arsuan shot right in front of her, that there was a "big thing of white smoke," and her ears were ringing. *Id.* at 16. Mapstone told Stickles, "Babe, I got hit. I got hit." *Id.* at 16. Stickles drove Mapstone to the hospital where he died of his injuries from the gunshot wound. *Id.* at 16.

Autumn Saluga testified for the Commonwealth that she was Arsuan Patterson's girlfriend and that she was with him, Defendant Brumley, and Shawn Vaughn in Vaughn's car on the night of February 26, 2017. *Id.* at 25-26. Saluga testified that Defendant received a text message from a girl who was asking for Xanax and "lean" and that Defendant told the girl to meet her on Dunlap Street in Uniontown. *Id.* at 27. Defendant told the people in Vaughn's car that she told the girl she was going to send her boyfriend out to make the transaction, which was actually Saluga's boyfriend – Arsuan Patterson. *Id.* at 28. Defendant stated, "She didn't really like the girl, or she had – she was going to rob her." *Id.* at 28.

Saluga indicated that the car she was riding in with Arsuan Patterson and Defendant parked on Hickle Street, the next street over from Dunlap Street. *Id.* at 27-28, 34. Saluga testified that Vaughn's firearm was on the console between Vaughn in the driver's seat and Defendant in the front passenger seat while the foursome was driving around. *Id.* at 30, 35.

Saluga testified, "[Defendant] had sent Arsuan out of the car to make the transaction. When Arsuan got out of the car, he went over to them and he had made the transaction with the lean. He came back to the car for a second time, and [Defendant] was basically mad because he didn't have the money for everything." *Id.* at 28. Defendant "was yelling at [Arsuan] because he didn't have [...] all the money that she'd expected him to have." *Id.* at 31.

Defendant said out loud in the car that the girl had text messaged her phone that "she wasn't going to do it because she didn't see it" referring to not giving the money until she was shown the Xanax. *Id.* at 30. Defendant then again "asked [Arsuan Patterson] to also get the money for the Xanax." *Id.* at 29. Saluga testified Arsuan Patterson took the firearm and left the car to return five minutes later "scared and shaking" stating that he "shot him." *Id.* at 31. Arsuan Patterson said he "got scared" because he saw "the guy reach into his pocket." *Id.* at 32.

Officer Jamie Holland of the Uniontown City Police Department testified that through an interview of Trisa Sickles that Defendant Brumley was identified as being alleged to have been involved in the incident. Omnibus Pretrial Motion Proceedings N.T., 11/21/2017, at 4-7. Officer Holland located Defendant at a home in Uniontown by tracking her cell phone and asked Defendant to return to the police station with him. *Id.* at 8. Defendant was provided a Uniontown Police Department Rights Form; she signed it and willingly spoke with the officers. *Id.* at 9-10. In her first written statement, Defendant stated that Sickles text messaged her looking for Xanax and Defendant asked Arsuan Patterson if he could get them for her and he said yes. *Id.* at 11. Defendant contended that Arsuan Patterson was using her phone to talk to Sickles through text message. Defendant relayed that Arsuan Patterson "asked to use [her] phone while he goes to meet her. He did not want her to know his number so [she] said, yeah. When he came back he was fine like nothing was wrong and gave [her back her] phone." *Id.* at 11-12. Defendant then wrote how she later learned of a shooting in Uniontown and Arsuan Patterson throwing a "fit" for her to change her phone number. *Id.* at 12. Defendant initially stated that she went to sleep until the police showed up to pick her up. *Id.* at 12.

Officer Holland testified that after the first statement, Defendant was taken into custody and provided a second Rights Warning Waiver Form and another Voluntary Statement Form. *Id.* at 13. In the second statement, Defendant recites that when Arsu-an Patterson came home that he asked Defendant and Autumn Saluga to walk to the store for him, that Arsu-an Patterson gave Defendant his hooded sweatshirt and that she took it off and left it at the house on Cleveland Avenue. *Id.* at 15.

Captain David Rutter of the Uniontown City Police Department testified that De-fendant was placed in a holding cell at the Fayette County Booking Center and she sum-moned him and asked that she be permitted to make a third statement. *Id.* at 23, 34. Captain Rutter testified that no officer questioned or interviewed Defendant between the second statement and the time she requested to make a third statement. Captain Rutter provided a third Rights Warning Waiver Form and a “Continuing Voluntary Statement” Forms to which Defendant handwrote four pages, including this relevant portion:

“Shawn, Autumn, Arsu-an and myself were on our way to Brownsville to my moms house when I first answered Trisa. She called or texted me asking for zans. I cannot remember whether it was a call or text first. I then replied telling her I could get them. She also stated she wanted lean to buy to. So I told her once I got back Uniontown I would call her and she could meet me. I gave her a fake ad-dress on Dunlap Street that Arsaun said to use. On our way back from Browns-ville headed towards town I called her and told her I was close. We drove to Arsauns house first he went in the house for just a minute and came back out. He said he was just grabbing the lean to sell her.

We headed to Hickle Street, one block away from Dunlap Street where I told her to meet us. The plan was sell her the lean and take her money for the zans even though no one had zans to actually sell. When she texted me saying she was here I told her leave the lights on I was sending my BF out to her. Arsu-an got out the car walked through grass to her car. We couldn’t see so we left the window down to listen for them. Arsu-an came back about 4 or 5 minutes later. When he came back he said she only bought the lean she wouldn’t give up the money for the zans. He asked all three of us what should he do go back and get the money or just get in the car and leave. We all were unsure on what to do so he decided to go back. That’s when I texted Trisa to give Arsu-an the money first before she got the zans. About 3-5 minutes later Arsu-an came back running. He jumped in the car saying “I hit him”. I asked him what did he hit him with and he said a bullet. We didn’t know he had a gun so we didn’t believe him. We also didn’t hear any gun shots go off se we thought he was lying. [...]”

#### DISCUSSION

Defendant stands charged with Criminal Homicide; Criminal Conspiracy; Reck-lessly Endangering Another Person; Manufacture, Delivery, or Possession with Intent to Manufacture or Deliver; and Criminal Conspiracy for her alleged actions in the shooting death of Jordan Mapstone.

Defendant filed a Writ of Habeas Corpus as to all charges, a Motion to Quash the

charges of Criminal Homicide, Criminal Conspiracy to Commit Robbery, and Recklessly Endangering Another Person, and a Motion to Suppress her Statements. At the time set for hearing, the Commonwealth clarified that Count 1 at Case Number 832 of 2017, Criminal Homicide, would be prosecuted as Felony Murder and not First Degree Murder.

Second-degree murder, commonly known as felony murder in Pennsylvania, requires a homicide committed while the “defendant was engaged as a principal or an accomplice in the perpetration of a felony.” 18 Pa.C.S. § 2502(b). The Crimes Code further defines the perpetration of a felony, relevant herein, as, “[t]he act of the defendant in engaging in or being an accomplice in the commission of, or an attempt to commit, or flight after committing, or attempting to commit robbery[.]” 18 Pa.C.S. § 2502 (d). The General Assembly has further provided that,

A person is an accomplice of another person in the commission of an offense if:

- (1) with the intent of promoting or facilitating the commission of the offense, he:
  - (i) solicits such other person to commit it; or
  - (ii) aids or agrees or attempts to aid such other person in planning or committing it; or
- (2) his conduct is expressly declared by law to establish his complicity.

(d) Culpability of accomplice.—

When causing a particular result is an element of an offense, an accomplice in the conduct causing such result is an accomplice in the commission of that offense, if he acts with the kind of culpability, if any, with respect to that result that is sufficient for the commission of the offense.

18 Pa.C.S. § 306(c)–(d). Accomplice liability “may be established wholly by circumstantial evidence. Only ‘the least degree of concert or collusion in the commission of the offense is sufficient to sustain a finding of responsibility as an accomplice.’ No agreement is required, only aid.” *Commonwealth v. Knox*, 50 A.3d 732, 739 (Pa.Super.2012).

Defendant also stands charged with conspiracy to commit robbery. A person is a conspirator if “the defendant: 1) entered into an agreement to commit or aid in an unlawful act with another person or persons; 2) with a shared criminal intent; and 3) an overt act was done in furtherance of the conspiracy.” *Commonwealth v. Devine*, 26 A.3d 1139, 1147 (Pa.Super.2011). A person is guilty of robbery, “if, in the course of committing a theft, he: (i) inflicts serious bodily injury upon another; (ii) threatens another with or intentionally puts him in fear of immediate serious bodily injury[.]” 18 Pa.C.S. § 3701(a)(1)(i)–(ii).

In *Commonwealth v. Lambert*, 795 A.2d 1010 (Pa.Super.2002), the Superior Court set forth four factors to consider in deciding if a conspiracy existed. Those factors were: “(1) an association between alleged conspirators; (2) knowledge of the commission of the crime; (3) presence at the scene of the crime; and (4) in some situations, participation in the object of the conspiracy.” *Id.* at 1016. A “conspiratorial agreement can be

inferred from a variety of circumstances including, but not limited to, the relation between the parties, knowledge of and participation in the crime, and the circumstances and conduct of the parties surrounding the criminal episode.” *Commonwealth v. Feliciano*, 67 A.3d 19, 26 (Pa.Super.2013). “The conduct of the parties and the circumstances surrounding such conduct may create a web of evidence linking the accused to the alleged conspiracy beyond a reasonable doubt.” *Id.*

Here, Defendant arranged, by telephone conversation and text messages, to sell Xanax and “lean” to Trisa Sickles. Defendant did not have Xanax to sell to Sickles. In her third statement, Defendant wrote, “The plan was sell her the lean and take her money for the zans even though no one had zans to actually sell.” Saluga testified that Defendant did not like Sickles and was going to “rob” her.

At the time set for the drug deal, Defendant text messaged Sickles that Arsuan Patterson would bring the drugs out and she should pay him. Patterson went to Sickles’ car and exchanged only the drug “lean” for cash. Unable to get the money for Xanax from Sickles or Mapstone without first showing the pills, Patterson returned one street over to the car with Defendant, Autumn Saluga, and Shawn Vaughn. According to the testimony of Saluga, when Patterson returned to the car, Defendant was angry and yelled at him because he did not collect the amount of money that “she’d expected him to have.” While inside the car, Defendant again “asked [Arsuan Patterson] to also get the money for the Xanax.” According to Saluga, Patterson then took the gun that was on the console between Vaughn and Defendant and left towards Sickles’ car.

The Commonwealth could establish the charge of Criminal Conspiracy to Commit Robbery in that Defendant agreed with Patterson to take the money from Sickles and Mapstone intended for the purchase of Xanax without exchanging the pills; that after his first failed attempt to get the money, Defendant asked Patterson to return to Sickles’ car and get the money; and that Defendant knew Patterson took a firearm with him.

On this same evidence, the Commonwealth may establish the charge of Criminal Homicide against Defendant. Defendant acted as an accomplice to the murder of Jordan Mapstone, specifically with the intent of promoting or facilitating the commission of the offense, robbery, she solicited Patterson to commit or she aided or agreed or attempted to aid Patterson in planning or committing it. Patterson, the triggerman, returned to Sickles’ car with prompting by the Defendant and with knowledge of the Defendant that he had a firearm.

We find the decision of the Superior Court in *Commonwealth v. Lambert*, 795 A.2d 1010 (Pa.Super. 2002) to be instructive.

Murder of the second degree is a criminal homicide committed while a defendant was engaged as a principal or an accomplice in the perpetration of a felony. 18 Pa.C.S.A § 2502(b). 18 Pa.C.S.A § 2502(d) defines perpetration of a felony as:

[t]he act of the defendant in engaging in or being an accomplice in the commission of, or an attempt to commit, or flight after committing, or attempting to commit robbery, rape, or deviate sexual intercourse by force or threat of force, arson, burglary or kidnapping.

18 Pa.C.S.A § 2502(d) (emphasis added). *Commonwealth v. Gladden*, 445 Pa.Super. 434, 665 A.2d 1201, 1209 (1995) (en banc ), appeal denied, 544 Pa. 624, 675 A.2d 1243 (1996). The malice or intent to commit the underlying crime is imputed to the killing to make it second-degree murder, regardless of whether the defendant actually intended to physically harm the victim. *Commonwealth v. Mikell*, 556 Pa. 509, 729 A.2d 566, 569 (1999); *Commonwealth v. Holcomb*, 508 Pa. 425, 498 A.2d 833, 855 (1985), cert. denied, 475 U.S. 1150, 106 S.Ct. 1804, 90 L.Ed.2d 349 (1986).

The elements of accomplice liability for felony murder were addressed in *Commonwealth v. Middleton*, 320 Pa.Super. 533, 467 A.2d 841, 848 (1983):

In *Commonwealth v. Waters*, 491 Pa. 85, 95, 418 A.2d 312, 317 (1980), the court discussed the elements to be proved in order to establish accomplice liability for felony murder, saying that:

... [t]he responsibility of persons, other than the slayer, for a homicide committed in the perpetration of a felony require[s] proof of a conspiratorial design by the slayer and the others to commit the underlying felony and of an act by the slayer causing death which was in furtherance of the felony. See e.g. *Commonwealth v. Allen* [475 Pa. 165, 379 A.2d 1335], [ ]; *Commonwealth v. Banks*, 454 Pa. 401, 311 A.2d 576 (1973); *Commonwealth v. Williams*, 443 Pa. 85, 277 A.2d 781 (1971); *Commonwealth v. Redline*, 391 Pa. 486, 137 A.2d 472 (1958). Cf. *Commonwealth v. Schwartz*, 445 Pa. 515, 285 A.2d 154 (1971). (footnote omitted) (emphasis in original).

Moreover, it was stated by the court in *Commonwealth v. Legg*, 491 Pa. at 82, 417 A.2d at 1154:

When an actor engages in one of the statutorily enumerated felonies and a killing occurs, the law, via the felony-murder rule, allows the finder of fact to infer the killing was malicious from the fact the actor was engaged in a felony of such a dangerous nature to human life because the actor, as held to the standard of a reasonable man, knew or should have known that death might result from the felony. (footnote omitted)

*Middleton*, 467 A.2d at 848. See also, *Commonwealth v. Johnson*, 336 Pa.Super. 1, 485 A.2d 397, 401 (1984). In *Commonwealth v. Melton*, 406 Pa. 343, 178 A.2d 728, 731 (1962), cert. denied, 371 U.S. 851, 83 S.Ct. 93, 9 L.Ed.2d 87 (1962), our Supreme Court explained that not only the killer, but all participants in a felony, including the getaway driver, are equally guilty of felony murder when a killing by a felon occurs.

The statute defining second degree murder does not require that a homicide be foreseeable; rather, it is only necessary that the accused engaged in conduct as a principal or an accomplice in the perpetration of a felony. Whether evidence sufficiently indicates that a killing was in furtherance of a predicate felony can be a difficult question. *Commonwealth v. Laudenberger*, 715 A.2d 1156, 1160 (Pa.Super.1998). The question of whether the killing was in furtherance of the conspiracy is a question of proof for the jury to resolve. *Middleton*, 467 A.2d at 848; *Johnson*, 485 A.2d at 401. It does not mat-

ter whether the appellant anticipated that the victim would be killed in furtherance of the conspiracy. *Id.* Rather, the fact finder determines whether the appellant knew or should have known that the possibility of death accompanied a dangerous undertaking. *Middleton*, 467 A.2d at 848.

Upon this precedent to guide us, and upon the evidence and testimony presented by the Commonwealth, we will DENY the Writ of Habeas Corpus and Motion to Quash as to the charges of Criminal Homicide; Criminal Conspiracy; Recklessly Endangering Another Person.

However, we will GRANT the Writ of Habeas Corpus as to the charges of Manufacture, Delivery, or Possession with Intent to Manufacture or Deliver; and Criminal Conspiracy filed at Case Number 833 of 2017. The Commonwealth alleged that Defendant possessed Xanax with the intent to deliver and conspired with Arsuan Patterson to sell Xanax. The Commonwealth presented no evidence that Defendant possessed Xanax.

Lastly, Defendant argues her statements should be suppressed as she did not knowingly, intelligently, or voluntarily waive her rights. The evidence presented by the Commonwealth belies this assertion. Officer Holland and Captain Rutter both testified that all three of Defendant's statements were given voluntarily, after being provided her Miranda warnings, and that the statements were not the product of threat or coercion. Accordingly, this Motion is DENIED.

WHEREFORE, we will enter the following Order.

#### ORDER

AND NOW, this 28th day of March, 2018, upon consideration of the Omnibus Pretrial Motion of Defendant, Keli Marie Brumley, in the nature of a Writ of Habeas Corpus, Motion to Quash, and Motion to Suppress Statement, it is hereby ORDERED and DECREED that the Motion is GRANTED in part and DENIED in part in accordance with the foregoing opinion.

It is hereby ORDERED and DECREED that the Writ of Habeas Corpus and Motion to Quash as to the charges of Criminal Homicide, Criminal Conspiracy, and Recklessly Endangering Another Person, and the Motion to Suppress Statements are DENIED.

It is further ORDERED and DECREED that the Writ of Habeas Corpus as to the charge of Manufacture, Delivery, or Possession with Intent to Manufacture or Deliver; and Criminal Conspiracy at Case Number 833 of 2017 is GRANTED.

BY THE COURT,  
NANCY D. VERNON, JUDGE

ATTEST:  
CLERK OF COURTS



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The Board of Directors of the Fayette County  
Bar Association cordially invites you to the  
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Dinner @ 6:30 p.m.

Music by TK the DJ from 5:30 to 10:30 p.m.

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Location

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