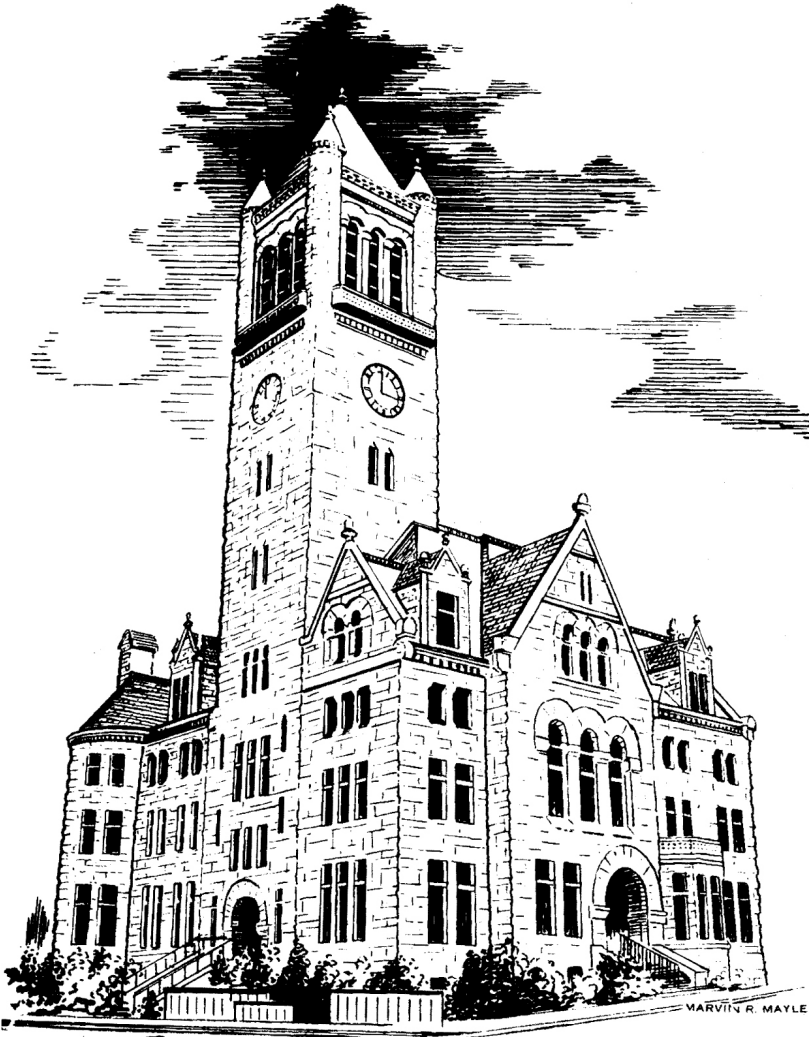


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ESTATE NOTICES

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

CHERYL L. DECARLO, A/K/A CHERYL LEAH DECARLO, A/K/A CHERYL CHILDRESS DECARLO, late of Dunbar

Township, Fayette County, PA (3)
 Administrator: Regis DeCarlo
 c/o Casini & Geibig, LLC
 615 West Crawford Avenue
 Connellsville, PA 15425
 Attorney: Jennifer M. Casini

GLEN FISHER, A/K/A GLEN F. STRICKLER, JR., A/K/A GLEN STRICKLER, JR., late of Vanderbilt, Fayette

County, PA (3)
 Executrix: Judith Strickler
 546 Greenfield Road
 Vanderbilt, PA 15486
 c/o 120 South Third Street
 Connellsville, PA 15425
 Attorney: Nicole M. LaPresta

THOMAS E. MARTRAY, late of Dunbar Township, Fayette County, PA (3)

Administrator: Carol Martray
 207 Wood Street
 Connellsville, PA 15425
 c/o 815A Memorial Boulevard
 Connellsville, PA 15425
 Attorney: Margaret Zylka House

AGNES D. MOLNAR, late of Washington Township, Fayette County, PA (3)
 Co-Administrators: Loraine A. Leeper, William J. Molnar, Jr. and Ronald J. Molnar
 235 Wineberry Drive
 Cheswick, PA 15024
 c/o PO Box 718
 Belle Vernon, PA 15012
 Attorney: Brian G. Pirilla

RICHARD E. PLETCHER, JR., late of Hopwood, Fayette County, PA (3)
 Administrator: Jennifer S. Pletcher
 c/o Casini & Geibig, LLC
 615 West Crawford Avenue
 Connellsville, PA 15425
 Attorney: Jennifer M. Casini

ABIGAIL L. RUANE, A/K/A ABIGAIL LOUISE RUANE, late of South Union Township, Fayette County, PA (3)
 Administrators: Allen S. Ruane and Paul Ruane
 c/o 96 East Main Street
 Uniontown, PA 15401
 Attorney: Anne N. John

WALLACE SMILEY, A/K/A WALLACE LINDSEY SMILEY, late of Dunbar Township, Fayette County, PA (3)
 Executrix: Deborah L. Flight
 372 Ferguson Road
 Dunbar, PA 15431
 c/o Radcliffe & DeHaas
 2 West Main Street, Suite 700
 Uniontown, PA 15401
 Attorney: Ernest P. DeHaas, III

WILLIAM WALTER ZINCK, A/K/A WILLIAM W. ZINCK, late of North Union Township, Fayette County, PA (3)
 Executrix: Drane Zinck Martin
 c/o Warman Terry Law Offices
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 Uniontown, PA 15401
 Attorney: Mary Warman Terry

Second Publication

JOSEPH M. BRACHNA, A/K/A JOSEPH BRACHNA, late of Luzerne Township, Fayette County, PA (2)

Co-Executors: Dennis J. Brachna and Von M. Brachna
c/o 92 East Main Street, Suite 20
Uniontown, PA 15401
Attorney: Benjamin F. Goodwin

NICHOLAS A. DZIYAK, A/K/A NICK DZIYAK, late of Belle Vernon, Fayette County, PA (2)

Executrix: Evelyn Sepitko
210 Cook Road
Belle Vernon, PA 15012
c/o Bassi, Vreeland & Associates, P.C.
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P.O. Box 144
Charleroi, PA 15022-0144
Attorney: Bradley M. Bassi

PRISCILLA K. MITTS, late of Henry Clay Township, Fayette County, PA (2)

Administratrix: Mary V. Halbasch
404 Agate Court
Antioch, CA 94509
c/o Jessica L. Wilson, Skarlatos Zonarich LLC
17 South 2nd. Street, 6th. Floor
Harrisburg, PA 17101-2039
Attorney: Jessica L. Wilson

RALPH C. RICHTER, late of Dunbar Township, Fayette County, PA (2)

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1614 Penn Avenue
Jeannette, PA 15644
c/o 8981 Norwin Avenue, Suite 203
Norwin Hills Office Park
North Huntingdon, PA 15642
Attorney: Maureen Kroll

CHARLES B. SNIDER, A/K/A CHARLES BENNETT SNIDER, A/K/A CHARLES SNIDER, late of Luzerne Township, Fayette County, PA (2)

Executor: Scott C. Philcous
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Washington, PA 15301
c/o Peacock Keller & Ecker LLP
70 East Beau Street
Washington, PA 15301
Attorney: Richard J. Amrhein

FLORENCE J. WYDA, late of Redstone Township, Fayette County, PA (2)

Executrix: Joanne Bogorae
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

HILBERT D. YOUNKIN, late of Connellsville, Fayette County, PA (2)

Executor: Donald Younklin
1117 Valley View Road
Scottdale, PA 15683
c/o George Port & George
92 East Main Street
Uniontown, PA 15401
Attorney: Wayne H. Port

First Publication

VIRGINIA MAE FOWLER, A/K/A VIRGINIA M. FOWLER, late of Smithfield, Fayette County, PA (1)

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

GERTRUDE JACKSON, late of Uniontown, Fayette County, PA (1)

Administratrix: April J. Jackson
107 Jefferson Street
Uniontown, PA 15401
c/o Radcliffe & DeHaas
2 West Main Street, Suite 70
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

BARBARA A. PALYA, A/K/A BARBARA PALYA, late of Uniontown, Fayette County, PA
Executor: Andrew W. Palya, III (1)
 c/o John & John
 96 East Main Street
 Uniontown, PA 15401
Attorney: Anne N. John

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Personal Representative: Caren Sue Kulchock
 c/o Higinbotham Law Office
 45 East Main Street, Suite 500
 Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

CHESTER H. WARD, late of South Connellsville, Fayette County, PA (1)
Representative: Gregory C. Ward
 c/o 17 North Diamond Street
 Mt. Pleasant, PA 15666
Attorney: Marvin D. Snyder

DONALD RAY WILHELM, SR., late of Bullskin Township, Fayette County, PA (1)
Administrator: Donald R. Wilhelm, Jr.
 9 Ellis Hill Road
 Towanda, PA 18848
 c/o 815A Memorial Boulevard
 Connellsville, PA 15425
Attorney: Margaret Zylka House

LEGAL NOTICES

MARSHAL'S SALE: By virtue of a Writ of Execution issued out of the United States District Court for the Western District of Pennsylvania and to me directed, I shall expose to public sale the real property located at 7449 National Pike Road, Uniontown, Pennsylvania 15401, more specifically described in Fayette County Record Book 2946, Page 1005.

SAID SALE to be held at the Fayette Courthouse, 61 East Main Street, Uniontown, PA 15401 at 10:00 a.m. prevailing, standard

time, on July 12, 2017.

All that certain tract of land, together with the buildings, and improvements erected thereon described as Tax Map No. 22170023 recorded in Fayette County, Pennsylvania. Seized and taken in execution as the property of Raquel R. Smith and Matthew W. Smith, at the suit of the United States of America, acting through the Under Secretary of Rural Development, on behalf of Rural Housing Service, United States Department of Agriculture, to be sold on Writ of Execution as Civil Action No. 16-1523.

TERMS OF SALE: Successful bidder will pay ten percent (10%) by certified check or money order upon the property being struck down to such bidder, and the remainder of the bid within thirty (30) days from the date of the sale and in the event the bidder cannot pay the remainder, the property will be resold and all monies paid in at the original sale will be applied to any deficiency in the price at which the property is resold. The successful bidder must send payment of the balance of the bid directly to the U.S. Marshal's Office c/o Sheila Blessing, 700 Grant Street, Suite 2360, Pittsburgh, PA 15219. Bidder must have deposit funds immediately available and on his person in order to bid, bidder will not be permitted to leave the sale and return with deposit funds. Notice is hereby given that a Schedule of Distribution will be filed by me on the thirtieth day after the date of sale, and that distribution will be made in accordance with the Schedule unless exemptions are filed thereto within ten (10) days thereafter. Purchaser must furnish State Realty Transfer Tax Stamps, and stamps required by the local taxing authority. Marshal's costs, fees and commissions are to be borne by seller. Steve Frank, United States Marshal. For additional information, please contact Cathy Diederich at 314-457-5514 or the USDA foreclosure website at www.resales.usda.gov.

(4 of 4)

Registers' Notice

Notice by JEFFREY L. REDMAN, Register of Wills and
Ex-Officio Clerk of the Orphans' Court Division of the Court of Common Pleas

Notice is hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, July 3, 2017
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0776	MARY KATHERINE MILLER	Janice E. Bailey and Joni Bailey Snyder, Executrixes

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Monday, July 17, 2017 at 9:30 A.M.

in Court Room No. 1 of the Honorable STEVE P. LESKINEN, or his chambers, 2nd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

Notice is also hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, July 3, 2017
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2613-0251	MARY DeBORD	Chris DeBord, Executor
2613-0081	MARTHA M. MULLOOLY	Lawrence Peters, Executor

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Monday, July 17, 2017 at 9:30 A.M.

in Court Room No. 2 of the Honorable JOHN F. WAGNER or his chambers, 2nd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

JEFFREY L. REDMAN
Register of Wills and Ex-Officio Clerk of the Orphans' Court Division (1 of 2)

JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY,
PENNSYLVANIA

CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	
vs.	:	
	:	
TERRENCE EDWIN PRATT,	:	No. 937 of 2016, G.D.
Appellant.	:	JUDGE LINDA R. CORDARO

OPINION

CORDARO, J.

June 13, 2017

Following a trial by jury, Terrence Pratt (Appellant) was found guilty of several offenses, to wit: Possession with Intent to Deliver and Intentional Possession of Controlled Substance by Person not Registered. The Appellant was sentenced on April 18, 2017, to a period of not less than one year nor more than three years for his conviction for Possession with Intent to Deliver. (No further penalty was imposed for Defendant's Intentional Possession of Controlled Substance by Person not Registered conviction). On April 27, 2017, Appellant filed a Notice of Appeal to the Superior Court of Pennsylvania.

The complaints contained in Appellant's Concise Issues are as follow:

1. Did the Court err in failing to grant Appellant's Omnibus Pretrial Motion due to the invalid search warrant and suppression as it was not based on complete information as provided at the time of the hearing on the motion.
2. Did the trial Court err in denying Appellant's Motion for Judgment of Acquittal as the Commonwealth failed to prove beyond a reasonable doubt that the Appellant possessed the firearm or controlled substances.

I. DID THE COURT ERR IN FAILING TO GRANT APPELLANT'S OMNIBUS PRETRIAL MOTION DUE TO THE INVALID SEARCH WARRANT AND SUPPRESSION AS IT WAS NOT BASED ON COMPLETE INFORMATION AS PROVIDED AT THE TIME OF THE HEARING ON THE MOTION?

It appears to this Court that at his Omnibus Pretrial Motion ("OPT") Hearing, Defendant presented two challenges to the search warrant, which was the basis for his arrest and subsequent conviction. The first challenge deals with the sufficiency of the search warrant. The second challenge deals with the scope of the search warrant. Appellant contends that because the search warrant was not properly issued, and its execution

exceeded its scope, the contraband found were fruits of the poisonous tree and should have been suppressed.

A. Sufficiency of the Warrant

This Court will address two issues dealing with the sufficiency of the evidence. The first technical error deals with one signature missing in one of the appropriate places of the warrant. The second technical error deals with the judicial seal (the "jurat") not being affixed to the warrant. We now address these technical errors.

1. The Search Warrant not Properly Issued

The first technical error deals with a missing signature in one of the appropriate places on the search warrant. Although it is not clear to this Court whether the Defendant intended to raise this issue during his OPT, the record shows that there was a very brief conversation about the missing signature between the suppression court judge and the Defendant. (OPT Proc., p.33 - 34). Unfortunately, Appellant's Statement of Concise Issue does not shed light on the issue either. Notwithstanding, this Court will address the issue.

Pennsylvania Courts have addressed the constitutionality of unsigned warrants. In *Com. v. Chandler* , 477 A.2d 851 (Pa. 1984), the magisterial district judge affixed the jurat to the warrant but did not sign the warrant. The Court reasoned that affixing the jurat to the warrant, without signing the warrant, amounted to the judge only witnessing the recitation of the facts presented under oath. *Id.*, at 853. However, simply listening to the recitation of the facts in support of probable cause is not enough to authorize a warrant because in addition to finding probable cause, the judge must enter a written order authorizing the search warrant (place to be searched and items to be seized). *Id.*, at 856. When a judge does not sign the warrant a written order is not entered, and the warrant is never issued. *Id.*, ("The magistrate must actually make a finding of probable cause to validate the warrant before he issues it. Moreover, he must do it by written order.").

In another case, *Com v. Vaughan*, the judge filled-in (completed) the warrant, which the Court interpreted as an "unquestionabl[e]" determination of probable cause, but the judge did not sign the warrant. *Com. v. Vaughan* , 789 A.2d 261, 263 (Pa. Super. 2001.) In *Vaughan*, supra, the Superior Court was left to decide whether failure to sign the warrant is fatal when the judge otherwise completes the warrant. The Court held that when a judge does not sign the warrant, despite completing the warrant in determination of probable cause, there is "no 'record determination' that probable cause existed and no 'written order' to that effect." *Id.*, at 265. *Vaughan's* holding reinforces *Chandler's* holding that an unsigned warrant does not constitute a written order, and is thus invalid. The *Vaughan* Court added that when the warrant is never issued, the evidence seized must be suppressed. *Id.*, ("[W]e must conclude that the warrant was never issued, necessitating the suppression of the evidence seized pursuant thereto.").

The case sub judice is distinguishable from *Chandler* and *Vaughan*. In these two cases, the issuing judges did not sign the warrant issuance order at all. Thus, the judges failed to record a finding of probable cause, and no order was ever issued. In the instant case, the judge signed the warrant in six different places, including signing the

affidavit of probable cause. For this reason, this case is analogous to *Com. v. McLean*, 869 A.2d 537 (Pa. Super. 2005).

In *McLean*, *supra*, the judge signed the warrant on the "Title of Issuing Authority" line instead of the "Signature of Issuing Authority" line. *McLean*, 869 A.2d at 540. The Court reasoned that because the warrant made it sufficiently clear as to who the affiant was, that the affiant appeared before an authorized issuing authority and swore to the contents of the affidavit, and that the affiant subscribed the affidavit of probable cause to the judge, and the judge signed it, albeit on the wrong line, it was clear that the judge intended to issue the warrant. *Id.*, at 542. The Court held that signing the warrant in the wrong line was just a technical error which did not prejudice the Defendant. *Id.* Such technical error, added the Court, does not entitle defendants to a "windfall of suppression." *Id.*

In the case at bar, the warrant clearly indicated who the affiant was and that he swore the facts of the affidavit before the Judge. It also clearly showed that the affiant subscribed the affidavit of probable cause and the Judge signed it. In fact, the Judge signed the warrant in six different places. From these actions, it is clear that the Judge determined that probable cause existed and she recorded such determination by signing the warrant in six different places. Thus, the Judge issued a written order. Furthermore, according to Chandler, "An omission or error in the warrant is fatal only if it deprives the suppression court the ability to review the propriety of the issuance and execution of the warrant." 477 A.2d at 856. In the instant case, the suppression court was not deprived of the ability to review the propriety of the issuance of the warrant. Indeed, after reviewing the warrant it became apparent to the suppression court that the Judge who issued the warrant intended to do so. (OPT Order, Oct. 24, 2016, p.3). {1} Additionally, the suppression court found this defect to be "technical in nature," and "not a fatal one that rendered the warrant invalid." *Id.* Consequently, finding that the Defendant's constitutional rights were not violated, the suppression court properly denied the Defendant's OPT Motion.

2. Jurat not Affixed

As discussed by the OPT Court, *Com. v. Peticca*, 585 A.2d 1065 (Pa. Super. 1991), provides on point legal authority of how to deal with search warrants which are missing the jurat. In *Peticca*, the Court found that although the statutory requirements were not met, not affixing the jurat to the warrant did not result in a fatal defect to the warrant. See *Peticca*, 585 A.2d at 1066 ("There is no disputing the fact that Pa.R.Crim.P. 2005 requires that '[e]ach search warrant shall be signed and sealed by the issuing authority' before it may be issued and executed by the authorities. However, we find the noncompliance with the 'seal' aspect of Rule 2005 to be ministerial in nature so that its dispensation is not fatal to an otherwise properly prepared (in form and substance) search warrant."). The Court added that when there is evidence that the judge intended to issue the warrant, despite not affixing the jurat, the warrant is properly issued and "contentions to

{1} "The Judge's 'unintentional oversight cannot negate the fact that she signed and dated the Affidavit of Probable Cause in or der to issue the warrant. . . ." (OPT Order, Oct. 24, 2016 , p.3).

the contrary are meritless." *Id.*, at 1069. In the case at bar, it is clear that the judge intended to issue the warrant. She completed the affidavit of probable cause and signed the warrant in six different places. The fact that the jurat was not affixed to the warrant is not fatal. Therefore, the search warrant was lawfully issued.

B. Scope of the Search Warrant

Appellant's other challenge to the search warrant deals with the scope of the warrant. Appellant contends that the items recovered during the execution of the search warrant were not items that were endorsed by the search warrant, and they should have been suppressed. Citizens are protected by both federal and state constitutional provisions from unreasonable searches and seizures, with the Pennsylvania Constitution providing broader protection than its federal counterpart. *Com. v. Anderson*, 40 A.3d 1245, 1248 (Pa. Super. 2012) (citations omitted). Generally, a warrant based upon the affirmation of probable cause is required in order to subject a citizen to searches and seizures. *Id.*; see also *Com v. Casuccio*, 454 A.2d 621,629 (Pa. Super. 1982) (citing *Aguilar v. Texas*, 378 U.S. 108 (1964)). According to Pa.R.Crim.P. §205, the search warrant shall specifically identify the property to be seized. However, while executing a search warrant, the officer executing the warrant has the "duty and right" to seize property not listed in the affidavit of probable cause which is being used, or may be used, in the commission of a crime, so long as the officer is there lawfully. *Com. v. Fiorini*, 195 A.2d 119, 122 (Pa. Super. 1963), see also *Com. v. Anderson*, 40 A.3d 1245 (Pa. Super. 2012) (under the plain view doctrine, an item may be lawfully seized, without a warrant, when the item can be seen in plain view by the police from a place where the police have a lawful right to be and they immediately recognize the incriminating nature of the item).

In this case, Defendant contends that the issuing judge authorized the search warrant for "crack cocaine" and "heroin," not for the pills {2} that were actually recovered. Although accurate, this argument fails. Although the search warrant authorized the search of Defendant's dwelling for crack cocaine and heroin, it also authorized the search for controlled substances. {3}

Pennsylvania's legislature has criminalized the unauthorized possession of controlled substances. See 35 Pa. C.S. § 780 - 113 A16 , see also *Com. v. Sojourner*, 408 A.2d 1108, 1111 (Pa. Super. 1979). In doing so, the Pennsylvania legislature classified Alprazolam and Diazepam as controlled substances. See 35 Pa. C.S.A. § 780-104. In this case, the warrant was not authorized solely for crack cocaine and heroin. The warrant specifically included substances, and Alprazolam and Diazepam are controlled substances.

{2} Alprazolam and Diazepam were recovered in the stairway leading to the Defendant's room.

{3} "Identify Items to be Searched for and Seized (be as specific as possible): Controlled substances, any and all items used in manufacture, sale or consumption of controlled substances, any fruits of the crime, any other item criminally possessed and any person located within. In particular, heroin and related contraband." (Search Warr. para. 1).

Furthermore, even arguing that the term "controlled substance" is a general term, not meeting the specific requirements of Pa.R.Crim.P §205, the argument is inconsequential to our analysis because the seizure of the controlled substances was lawful under the plain view doctrine. The items were discovered in plain sight from a vantage point where the troopers had a lawful right to be, and the troopers immediately recognized the incriminating nature of the items found. Consequently, the troopers had a duty and right to seize them even though they were not specifically listed in the warrant.

II. DID THE TRIAL COURT ERR IN DENYING APPELLANT'S MOTION FOR JUDGMENT OF ACQUITTAL AS THE COMMONWEALTH FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT THE APPELLANT POSSESSED THE FIREARM OR CONTROLLED SUBSTANCES?

A. Sufficiency of the Evidence

Lastly, Appellant challenges the sufficiency of the evidence by contending that the Court erred in denying his Motion for Judgment of Acquittal. Appellant claims that the Commonwealth failed to prove beyond a reasonable doubt that the Defendant possessed a firearm or controlled substances.

The standard of review for a challenge to the sufficiency of the evidence is to determine:

whether, when viewed in the light most favorable to the verdict winner, the evidence at trial and all reasonable inferences therefrom is sufficient for the trier of fact to find that each element of the crimes charged is established beyond a reasonable doubt. Any doubt raised as to the accused's guilt is to be resolved by the fact-finder. [In this context, appellate courts] do not assess credibility nor assign weight to any of the testimony of record. Therefore, [the verdict will not be disturbed] unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances.

Commonwealth v. Vogelsang, 90 A.3d 717, 719 (Pa.Super. 2014).

Although Appellant contends that the Commonwealth did not provide sufficient evidence to support the charge of Possession of Firearm Prohibited, this Court will not address this issue because Appellant was acquitted of that charge. Thus, the only issue left for this Court to analyze is the sufficiency of the controlled substance convictions. With regard to this challenge, the Appellant was charged with Possession with Intent to Deliver (PWID) and Intentional Possession of Controlled Substance by Person not Registered.

In the Commonwealth of Pennsylvania, the relevant statutes prohibit:

Knowingly or intentionally possessing a controlled or counterfeit substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, unless the substance was obtained directly from, or pursuant to, a valid prescription order or order of a practitioner, or except as otherwise authorized by this act.

35 § 780-113 A16. And,

Except as authorized by this act, the manufacture, delivery, or possession with intent to manufacture or deliver, a controlled substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, or knowingly creating, delivering or possessing with intent to deliver, a counterfeit controlled substance.

35 § 780-113 A30.

Pennsylvania State Trooper Tihey testified that he obtained a search warrant for the Defendant's residence. In the early morning of April 20, 2016, the trooper, accompanied by other law enforcement agents, went to the Defendant's residence to execute the search warrant. (T.T., p. 13). Trooper Tihey entered the home and located the Defendant's father and a "young lady" (later identified as Defendant's niece) in the first floor of the residence. (T.T., p.16). After clearing the first floor, Trooper Tihey then cleared the second floor of the residence without finding anyone on the second floor. (T.T., p. 18). He also discovered that one of the rooms on the second floor had a stairway that led to the attic on the third floor. (T.T., p. 18). As Trooper Tihey went around the corner of the stairway, he saw someone moving on the third floor. (T.T., p. 18). As Trooper Tihey proceeded to the third floor, he saw two unlabeled pill bottles on the stairway, as well as pills {4} scattered about the stairway. (T.T., p. 19). These pills were subsequently recovered and sent to the lab for analysis.

Upon entering the attic, Trooper Tihey saw the Defendant in the room. (T.T., p. 20). While conducting a search of the room, troopers also found a cellphone, a "wad" of cash between the mattresses, {5} ammunition, {6} a handgun, {7} male clothing scattered throughout the room, paperwork and mail bearing the Defendant's name and address, as well as his photo I.D. (T.T., p. 21 - 22). Trooper Tihey collected these items and processed them as evidence (T.T., p. 24, 35). Forensic Scientist Harkleroad testified that the pills found were Alprazolam (most commonly known as Xanax) and Diazepam (most commonly known as Valium). (T.T., p. 72).

Here, the jury had the opportunity to listen to the testimony and see the exhibits that were properly introduced and admitted by the Commonwealth. Based on the evidence presented, this Court determined that the evidence presented was sufficient to allow the jury to make a determination of guilt or innocence. The jury found that the evidence was sufficient to convict the Defendant, and their verdict should not be disturbed.

{4} Trooper recovered one blue pill, one "yellowish-greenish" pill, and 33 orange pills from the stairway. (T.T., p. 26).

{5} \$645.

{6} Troopers found 5 - 6 "bullets."

{7} Hidden in a cubbyhole.

{8} Trooper sent the handgun and the pills to the Pennsylvania State Police Forensic Laboratory, Greensburg, for forensic analysis.

For the reasons set forth herein, the Judgment of Sentence should be affirmed.

BY THE COURT:
LINDA R. CORDARO, JUDGE

Attest:
Clerk of Court

LUNCH AND LEARN

**CUSTODY -
NEUTRALIZING A HOSTILE STATE**

Thursday, July 13, 2017
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