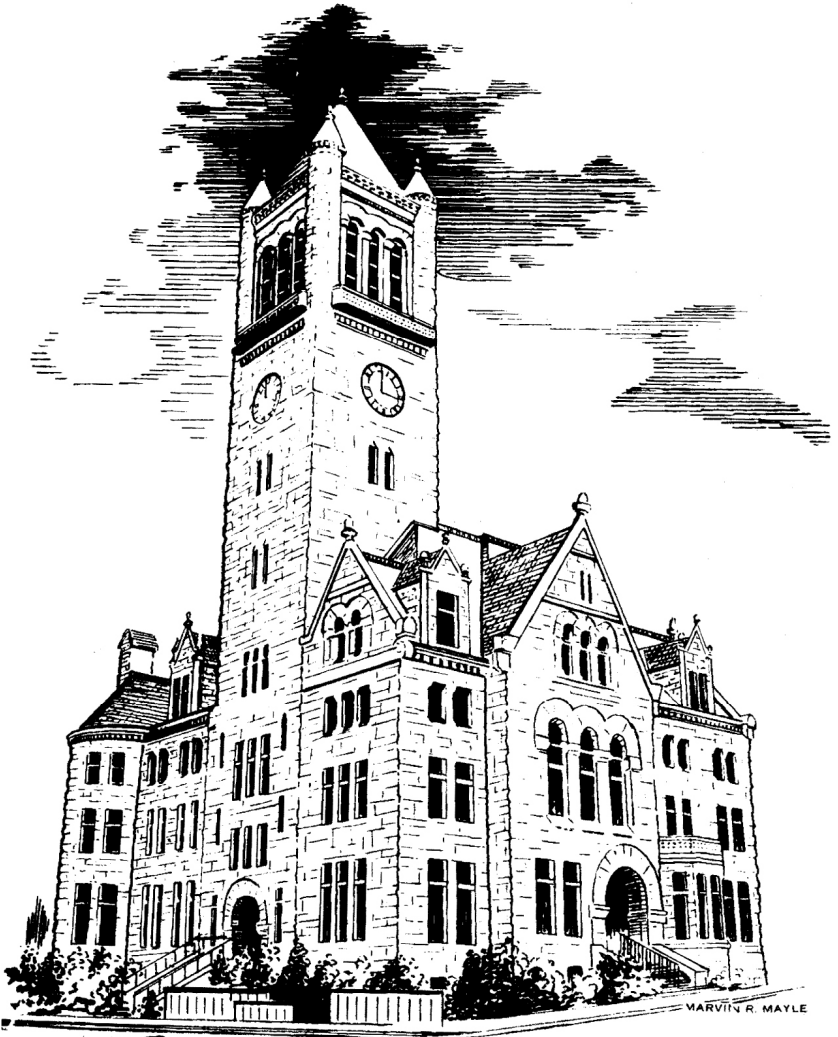


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ESTATE NOTICES

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

MARY BENNER, late of Wharton Township, Fayette County, PA ⁽³⁾

Personal Representative: Marylou B. Rohlf
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

BRADLEY SPADE, late of Uniontown, Fayette County, PA ⁽³⁾

Executor: Anna Spade
209 Whyte Avenue
Uniontown, PA 15401

DEBORAH ANN CRAGO, a/k/a DEBORAH A. CRAGO, late of Uniontown, Fayette County, PA ⁽³⁾

Personal Representative: Charles Crago, Sr.
c/o George & George, LLP
92 East Main Street
Uniontown, PA 15401
Attorney: Joseph M. George

ANITA BELLE KENNEDY, late of Dickerson Run, Fayette County, PA ⁽³⁾

Personal Representative: Misty Zebley
3002 Valley Drive
Connellsville, PA 15425
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

LANCE KRISTAN, a/k/a LANCE J. KRISTAN, late of Saltlick Township, Fayette County, PA ⁽³⁾

Executor: Thomas Kristan
c/o 124 Vanneer Avenue
Greensburg, PA 15601
Attorney: Matthew A. Curiale

PATRICIA A. LONG, a/k/a PATRICIA ANNE LONG, late of Stewart Township, Fayette County, PA ⁽³⁾

Personal Representative:
Anna Marie Collins
c/o Watson Mundorff & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

AUDREY J. METZGER, a/k/a AUDREY JUNE METZGER, late of Connellsville, Fayette County, PA ⁽³⁾

Co-Executors: Kenneth Ray Metzger and
Kenneth Charles Metzger
c/o P.O. Box 760
Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

PATRICIA ANN SHUBA, a/k/a PATRICIA A. SHUBA, late of Menallen Township, Fayette County, PA ⁽³⁾

Executor: Kimberly Ann Peck
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

WILLIAM DANIEL SHUPE, late of Dunbar Township, Fayette County, PA ⁽³⁾

Personal Representative: William David Shupe
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

MARTHA TOTH, a/k/a MARTHA M. TOTH, late of North Union Township, Fayette County, PA ⁽³⁾

Personal Representative: Marianne Toth,
a/k/a Marianne Slavensky
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

ANGELINA M. YODER, late of Luzerne Township, Fayette County, PA (3)
Co-Executrix: Wanda Y. Broadwater
Co-Executrix: Christina Y. Becker
 c/o Webster & Webster
 51 East South Street
 Uniontown, PA 15401
Attorney: Webster & Webster

Second Publication

EMMETT BRUCE BAKER, JR., a/k/a BRUCE BAKER, late of Hopwood, Fayette County, PA (2)
Executor: James Scott Baker
 c/o P.O. Box 727
 Uniontown, PA 15401
Attorney: Bernadette K. Tummons

BETTY LINCOLN, a/k/a BETTY LOUISE LINCOLN, late of Springhill Township, Fayette County, PA (2)
Personal Representative: Susan Frazee
 c/o P.O. Box 622
 Smithfield, PA 15478
Attorney: Charity Grimm Krupa

CLARENCE E. NICHOLSON, late of Perryopolis, Fayette County, PA (2)
Executrix: Lois E. Nicholson
 c/o P.O. Box 727
 Uniontown, PA 15401
Attorney: Bernadette K. Tummons

AUDREY SNYDER, late of Belle Vernon, Fayette County, PA (2)
Executor: Rebecca Smith
 403 Harmony Church Road
 Belle Vernon, PA 15012

MARY JEAN YANNACCI, late of Fayette City, Fayette County, PA (2)
Administrator: Stanley J. Welsh
 110 Watson Drive
 Monongahela, PA 15063
 c/o Bassi, Vreeland & Associates, P.C.
 P.O. Box 144
 111 Fallowfield Avenue
 Charleroi, PA 15022
Attorney: Bradley M. Bassi

First Publication

FLOYD G. CRAGGETTE, a/k/a FLOYD GILBERT CRAGGETTE, late of Connellsville, Fayette County, PA (1)
Executrix: Helen Bailey
 c/o Proden & O'Brien
 99 East Main Street
 Uniontown, PA 15401
Attorney: Wendy L. O'Brien

NANCY DOMINA, a/k/a NUNZIA DOMINA, late of Connellsville, Fayette County, PA (1)
Executrix: Mary Grace Rulli
 c/o Molinaro Law Offices
 P.O. Box 799
 Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

BERTON PAUL KRUMANACKER, a/k/a BERTON P. KRUMANACKER, a/k/a PAUL KRUMANACKER, late of Connellsville, Fayette County, PA (1)
Executor: Donald Lee Krumanacker
 c/o Molinaro Law Offices
 P.O. Box 799
 Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

ROY W. TAYLOR, late of Connellsville, Fayette County, PA (1)
Co-Executors: Eric D. Taylor and Heather L. Taylor
 c/o Molinaro Law Offices
 P.O. Box 799
 Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

LEGAL NOTICES

NOTICE

Notice is hereby given that a Certificate of Organization was filed with the Pennsylvania Department of State, on December 24th, 2019, for a Limited Liability Company, organized under the Limited Liability Company Law of 1994, as from time to time amended. The name of the Company is Brian Lake Auto Body LLC, having an address of 506 Miller Farm Lane, Uniontown, PA 15401. The purpose of the Limited Liability Company is auto body repair and refinishing and related activities thereto of all types and any other lawful purpose for which a corporation may be organized.

John A. Kopas III, Esquire
556 Morgantown Road
Uniontown, PA 15401
Telephone: 724-437-1111

IMPORTANT NOTICE

To: Matthew Tyler Morse

A petition has been filed asking the Court to terminate any and all rights you have to your child, B.J.G.M. The Court has set a hearing to consider ending your rights. That hearing will be held in the Washington County Court of Common Pleas on the 24th day of February, 2020 at 11:30 a.m. in Court Room 2. 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 present. 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.

SW PA LEGAL AID SOCIETY
10 WEST CHERRY AVENUE
WASHINGTON, PA 15301
724.225.6170

LAWYER REFERRAL SERVICE
119 SOUTH COLLEGE STREET
WASHINGTON, PA 15301
724.225.6710

IN THE UNITED STATES
DISTRICT COURT
FOR THE WESTERN DISTRICT OF
PENNSYLVANIA
CIVIL ACTION NO. 2:19-cv-00102-MJH

UNITED STATES OF AMERICA,
Plaintiff
vs.
DEBORAH S. LEE,
Defendant

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 and being more fully described at Fayette County Instrument No. 200400010638, Book 2909, Page 1640.

SAID SALE to be held at the Fayette County Courthouse, in the hallway outside of the Sheriff's Office, 61 E. Main Street, Uniontown, PA 15401 at **10:00 a.m.** prevailing standard time, on **February 12, 2020.**

ALL that certain tract of land, together with the buildings, and improvements erected thereon described as Tax Parcel No. 21-11-0185 recorded in Fayette County, Pennsylvania, commonly known as: **216 Smithfield Road, Masontown, PA 15461.**

IDENTIFIED as Tax/Parcel #: 21-11-0185 in the Deed Registry Office of Fayette County, Pennsylvania. HAVING erected a dwelling thereon known as 216 SMITHFIELD ROAD, MASONTOWN, PA 15461. BEING the same premises conveyed to Deborah S. Lee, dated June 17, 2004, and recorded on June 25, 2004 in the office of the Recorder of Deeds in and for Fayette County, Pennsylvania. Seized and taken in execution as the property of Deborah S. Lee 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. 2:19-cv-00102.

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 (30th) 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. Michael Baughman, Acting 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)

SHERIFF'S SALE

Date of Sale: March 19, 2020

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, March 19, 2020, at 2:00 p.m. in Courtroom Number One 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. (3 of 3)

James Custer
Sheriff Of Fayette County

Andrew J. Marley, Esquire
Stern & Eisenberg, PC
1581 Main Street, Suite 200
The Shops at Valley Square
Warrington, PA 18976
Phone: (215) 572-8111

No. 2389 of 2013 GD
No. 355 of 2019 ED

Deutsche Bank Trust Company Americas, as Trustee for Residential Accredit Loans, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2005-QS14

v.

Randy Canose and Kelly Canose

By virtue of Writ of Execution No. 2389 of 2013 GD, Deutsche Bank Trust Company Americas, as Trustee for Residential Accredit Loans, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2005-QS14 v. Randy Canose and Kelly Canose, 772 Virgin Run Road, Franklin Township, Vanderbilt, PA 15486, Tax Parcel No. 13-06-0058. Improvements thereon consisting of a Residential Dwelling, sold to satisfy judgment in the amount of \$214,086.28.

KML LAW GROUP, P.C.
Suite 5000
701 Market Street
Philadelphia, PA 19106-1532
(215) 627-1322

No. 1664 of 2019 GD
No. 352 of 2019 ED

QUICKEN LOANS INC.
635 Woodward Avenue
Detroit, MI 48226

Plaintiff

vs.

JACOB CLIFTON
Mortgagor(s) and Record Owner(s)
341 Virginia Circle
Uniontown, PA 15401
Defendant

ALL THAT CERTAIN LOT OF LAND
SITUATE IN TOWNSHIP OF SOUTH
UNION, COUNTY OF FAYETTE AND
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 341 VIRGINIA
CIRCLE, UNIONTOWN, PA 15401
TAX PARCEL #34-05-0077-25
IMPROVEMENTS: A RESIDENTIAL

DWELLING
SOLD AS THE PROPERTY OF: JACOB
CLIFTON

No. 2189 of 2019 GD
No. 378 of 2019 ED

**Broker Solutions, Inc. dba New American
Funding
PLAINTIFF
vs.
Dale E. Davis, III
DEFENDANT**

ALL THAT CERTAIN piece or parcel of land situate in South Union Township, Fayette County, Pennsylvania, more particularly bounded and described as follows:

COMMONLY KNOWN AS: 139 Pine Knob Road, Hopwood, PA 15445
TAX PARCEL NO. 34-38-0099

No. 2172 of 2019 GD
No. 380 of 2019 ED

**PENNSYLVANIA HOUSING FINANCE
AGENCY,
PLAINTIFF
vs.
TABITHA DEBERRY AND
CARL JOSEPH DEBERRY JR.,
DEFENDANTS**

ALL those certain pieces or parcels of land situate in Washington Township, Fayette County, Pennsylvania, bounded and described as follows:

FIRST: being approximately 13.1 x 20.2 x 18 x 10.32 perches; and

SECOND: being approximately 13.1 x 1.1 x 13 x 1.2 perches.

HAVING THEREON ERECTED DWELLING KNOWN AND NUMBERED AS: 255 GILLESPIE HOLLOW ROAD FAYETTE CITY, PA 15438.

Tax Parcel # 41-22-0003

Fayette Deed Book 3171, page 855

TO BE SOLD AS THE PROPERTY OF CARL JOSEPH DEBERRY, JR. AND TABITHA DEBERRY, FAYETTE COUNTY JUDGMENT NO. 2172-2019.

Phelan Hallinan Diamond & Jones, LLP

No. 1782 of 2019 GD
No. 383 of 2019 ED

**The Bank of New York Mellon fka The Bank of New York as Indenture Trustee for The Noteholders of The Cwabs, Inc., Asset Backed Notes, Series 2005-SD1
Plaintiff
v.
Virginia Dolfi
Defendant(s)**

By virtue of a Writ of Execution No. 2019-01782, The Bank of New York Mellon fka The Bank of New York as Indenture Trustee for The Noteholders of The Cwabs, Inc., Asset Backed Notes, Series 2005-SD1 v. Virginia Dolfi, owner (s) of property situate in the REDSTONE TOWNSHIP, Fayette County, Pennsylvania, being 474 Braznell Concrete Road, Grindstone, PA 15442-1026

Parcel No.: 30-02-0016

Improvements thereon: RESIDENTIAL DWELLING

No. 446 of 2019 GD
No. 359 of 2019 ED

**Plaza Home Mortgage Inc.
PLAINTIFF
vs.
Matthew R. Geyer
DEFENDANT**

ALL those certain pieces or parcels of land situate in Upper Tyrone Township, Fayette County, Pennsylvania, bounded and described as follows:

COMMONLY KNOWN AS: 127 Robaugh Road, Connellsville, PA 15425

TAX PARCEL NO. 39130008

No. 2570 of 2018 GD
No. 372 of 2019 ED

**U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY,
PLAINTIFF,
VS.
BRANDON J. HARRIS,
DEFENDANT**

ALL that piece of ground in the City of Uniontown, Fayette County, Pennsylvania,

being Lot No. 34, Patterson Heirs Plan of Lots, Fayette Plan Book 2, page 62. HAVING THEREON ERECTED DWELLING KNOWN AND NUMBERED AS: 252 BRADDOCK AVENUE UNIONTOWN, PA 15401.

Tax Parcel # 38-11-0017

Fayette Deed Book 3027, page 1436

TO BE SOLD AS THE PROPERTY OF BRANDON J. HARRIS UNDER JUDGMENT NO. 2018- 02570.

No. 2012 of 2019 GD

No. 362 of 2019 ED

Bayview Loan Servicing, LLC, a Delaware Limited Liability Company

PLAINTIFF

vs.

Robert F. Hixon

DEFENDANT

ALL that certain piece, parcel or lot of land situate in Nicholson Township, Fayette County, Pennsylvania, being designated as Parcel No. 1 in the Kenneth Amrick Plan, the plot whereof being recorded in the Recorder's Office of Fayette County, Pennsylvania, in Plan Book 17, page 7, and being fully bounded and described as follows:

COMMONLY KNOWN AS: 128

Rockwell Road, Masontown, PA 15461

TAX PARCEL NO. 2404003902

KML LAW GROUP, P.C.

Suite 5000

701 Market Street

Philadelphia, PA 19106-1532

(215) 627-1322

No. 2013 of 2019 GD

No. 347 of 2019 ED

PNC BANK, NATIONAL ASSOCIATION, SUCCESSOR

BY MERGER TO NATIONAL CITY BANK

3217 S. Decker Lake Drive

Salt Lake City, UT 84119

Plaintiff

VS.

ARNA JOHNSTON

SKY KOMALAHIRANYA

Mortgagor(s) and Record Owner(s)

410 Market Street

Belle Vernon, PA 15012

Defendant(s)

ALL THAT CERTAIN LOT OF LAND

SITUATE IN BOROUGH OF BELLE VERNON, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 410 MARKET STREET, BELLE VERNON, PA 15012

TAX PARCEL #01-04-0048

IMPROVEMENTS: A RESIDENTIAL DWELLING

SOLD AS THE PROPERTY OF: AHNA JOHNSTON AND SKY KOMALAHIRANYA

Stephen M. Hladik, Esquire

Hladik, Onorato & Federman, LLP

298 Wissahickon Avenue

North Wales, PA 19454

No. 1790 of 2019 GD

No. 385 of 2019 ED

U.S. Bank National Association, not in its Individual Capacity but Solely as Trustee for the RMAC Trust, Series 2016-CTT

(Plaintiff)

vs.

Brian P. Keffer,

(Defendant)

By virtue of Writ of Execution No. 2019-01790

U.S. Bank National Association, not in its Individual Capacity but Solely as Trustee for the RMAC Trust, Series 2016-CTT (Plaintiff) vs.

Brian P. Keffer, (Defendant)

Property Address 200 Union Street a/k/a 200 Main Street, Dickerson Run, PA 15430

Parcel I.D. No. 09-04-0024

Improvements thereon consist of a residential dwelling.

Improvements thereon consist of a residential dwelling.

Judgment Amount: \$80,467.32

No. 2012 of 2010 GD

or

No. 1083 of 2019 GD

No. 384 of 2019 ED

FAIRPORT ASSET MANAGEMENT, LLC

Plaintiff,

vs.

CHRISTY KING a/k/a CHRISTY A. KING,

Defendant.

ALL that tract of land situate Perry Township, Fayette County, Pennsylvania, known as 133 Cemetery Road, Vanderbilt, Pennsylvania 15486 having erected thereon a dwelling house.

PARCEL BEING KNOWN AND DESIGNATED AS TAX MAP 27-16-0085-010 BEING the same premises which CMF Industries, Inc., by their Deed Dated December 31, 1987 and recorded in the Recorder's Office of Fayette County on January 25, 1988 in Deed Book Volume 381, Page 114, granted and conveyed unto Christy A. King, the grantor herein.

No. 769 of 2019 GD
No. 371 of 2019 ED

Plaza Home Mortgage, Inc.
PLAINTIFF

vs.

Jeffrey Myers, Jr. a/k/a Jeffrey Myers and Alyssa Freed
DEFENDANTS

ALL THAT CERTAIN lot or ground situate in Bullskin Township, County of Fayette and Commonwealth of Pennsylvania, bounded and described as follows:

COMMONLY KNOWN AS: 212 McConnell Road assessed as 212 Mcconnell Drive, Mount Pleasant, PA 15666
TAX PARCEL NO. 04010042

Mark J. Shire
Pa. I.D. No. 44843
SHIRE LAW FIRM
1711 Grand Boulevard
Park Centre
Monessen, PA 15062
(724) 684-8881

No. 671 of 2015 GD
No. 175 of 2015 ED

MON VALLEY COMMUNITY FEDERAL CREDIT UNION,

Plaintiff,

v.

JOANN NELSON, TERRE-TENANT,
Defendant.

PROPERTY OF: Joann Nelson
EXECUTION NO. 200 of 2015 GD
JUDGMENT AMOUNT: \$24,255.58
which is the Principal balance of indebtedness, delinquent interest, late charges and attorney's fees computed to October 15, 2019, additional interest on \$24,255.58 at 7.25% per annum per day from October 16, 2019, and additional interest and late charges and additional

reasonable attorney's fees and record costs to the date of payment or Sheriff Sale will be claimed, along with all record court costs in the above-captioned case.

ALL the right, title, interest and claim of: Joann Nelson, Terre-Tenant, of, in and to: Township of Washington, Fayette County, Pennsylvania, which has an address of 1175 Main Street, Fayette City, Pennsylvania 15438.
Parcel I.D. No. 41 16 0093

RAS Citron, LLC
David Neeren, Esq. ID No. 204252
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
855-225-6906
rcrawley@rasnj.com

No. 1780 of 2019 GD
No. 353 of 2019 ED

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR ARGENT SECURITIES INC., ASSET-BACKED PASS -THROUGH CERTIFICATES SERIES 2004 -W6

Plaintiff

v.

DONNA NEWMAYER A/K/A DONNA J. FLIGGER NEWMAYER

Defendant(s)

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN PERRY TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 10 NEWMAYER AVENUE VANDERBILT A/K/A PERRY, PA 15486

BEING PARCEL NUMBER: 27160092
IMPROVEMENTS: RESIDENTIAL PROPERTY

Phelan Hallinan Diamond & Jones, LLP

No. 2188 of 2019 GD
No. 377 of 2019 ED

Wells Fargo Bank, N.A.

Plaintiff

v.

John E. Pegg
Defendant(s)

By virtue of a Writ of Execution No. 2019-02188

Wells Fargo Bank, N.A.
 v.
 John E. Pegg
 owner(s) of property situate in the
 UNIONTOWN CITY, Fayette County,
 Pennsylvania, being
 47 Emerson Street, Uniontown, PA 15401-
 4867
 Parcel No.: 38-17-0028
 Improvements thereon: RESIDENTIAL
 DWELLING

KML LAW GROUP, P.C.
 Suite 5000
 701 Market Street
 Philadelphia, PA 19106-1532
 (215) 627-1322

No. 2255 of 2018 GD
 No. 360 of 2019 ED

**THE BANK OF NEW YORK MELLON, F/
 K/A THE BANK OF NEW YORK AS
 TRUSTEE FOR REGISTERED HOLDERS
 OF CWABS, INC., ASSET-BACKED
 CERTIFICATES, SERIES 2006-19
 C/O Carrington Mortgage Services, LLC
 1600 S. Douglass Road, Suite 200-A
 Anaheim, CA 92806
 Plaintiff
 vs.
 JANET REID AKA JANET M. REID
 Mortgagor(s) and Record Owner(s)
 59 Charles Street
 Uniontown, PA 15401
 Defendant(s)**

ALL THAT CERTAIN LOT OF LAND
 SITUATE IN CITY OF UNIONTOWN,
 COUNTY OF FAYETTE AND
 COMMONWEALTH OF PENNSYLVANIA.
 BEING KNOWN AS: 59 CHARLES
 STREET, UNIONTOWN, PA 15401
 TAX PARCEL #38-12-0199
 IMPROVEMENTS: A RESIDENTIAL
 DWELLING
 SOLD AS THE PROPERTY OF: JANET
 REID AKA JANET M. REID

Phelan Hallinan Diamond & Jones, LLP
 No. 1213 of 2019 GD
 No. 348 of 2019 ED

**Wells Fargo Bank, N.A.
 Plaintiff
 V.
 Ernest Ruggieri, in His Capacity as Heir of
 Mary Kay Ruggieri, Deceased
 Unknown Heirs, Successors, Assigns, and All
 Persons, Firm s, or Associations Claiming
 Right, Title or Interest From or Under Mary
 Kay Ruggieri, Deceased
 Defendant(s)**

By virtue of a Writ of Execution No. 2019-
 01213

Wells Fargo Bank, N.A.
 v.
 Ernest Ruggieri, in His Capacity as Heir of
 Mary Kay Ruggieri, Deceased
 Unknown Heirs, Successors, Assigns, and All
 Persons, Firms, or Associations Claiming Right,
 Title or Interest From or Under Mary Kay
 Ruggieri, Deceased
 owner(s) of property situate in the
 CONNELLSVILLE CITY, Fayette County,
 Pennsylvania, being
 411 North Pittsburgh Street, Connellsville,
 PA 15425-3217
 Parcel No.: 05-06-0176
 Improvements thereon: RESIDENTIAL
 DWELLING

No. 2588 of 2018 GD
 No. 354 of 2019 ED

**PNC Bank, National Association
 Plaintiff,
 vs.
 Elmer E. Smith, individually and as believed
 Heir to the Estate of Sharon L. Smith;
 Unknown Heirs and/or Administrators of the
 Estate of Sharon L. Smith
 Defendants.**

ALL that certain parcel of land lying and
 being situate in the Township of Perry, County
 of Fayette, and Commonwealth of Pennsylvania,
 known as 322 Cemetery Road, Perryopolis, PA
 15473 having erected thereon a dwelling house.

Being known and designated as Tax ID
 No.: 27160031

BEING the same premises which Estate of
 Elsie M. Chalfant, deceased, by Deed dated
 December 20, 1993 and recorded in and for
 Fayette County, Pennsylvania in Deed Book

1302, Page 181, granted and conveyed unto Sharon L. Smith.

No. 2014 of 2019 GD
No. 382 of 2019 ED

Gary W. Darr, Esquire
McGrath McCall, P.C.
Four Gateway Center, Suite 1040
444 Liberty Avenue, Pittsburgh, PA 15222

MidFirst Bank
Plaintiff,
vs.
Megan L. Williams;
Ryan D. Williams
Defendants.

No. 2566 of 2018 GD
No. 373 of 2019 ED

WASHINGTON FINANCIAL BANK,
Plaintiff,
vs.
KARA J. TURTZER and JONATHAN ERIC
TURTZER,
Defendants.

ALL that certain parcel of land lying and being situate in the Township of Springfield, County of Fayette, and Commonwealth of Pennsylvania, known as 640 Mill Run Road, Mill Run, PA 15464 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 35-15-0074

All that certain piece, parcel or tract of land situate in the Township of Nicholson, Fayette County, Pennsylvania, Being 667 Old Frame Road, Smithfield, PA 15748, Tax Parcel ID No. 24-19-0039.

BEING the same premises which Larry A. Schroyer and Mary J. Schroyer, f/k/a Mary J. Bowers, husband and wife, by Deed dated September 6, 2012 and recorded in and for Fayette County, Pennsylvania in Deed Book 3199, Page 837, granted and conveyed unto Megan L. Williams, married and Ryan D. Williams, unmarried.

BARLEY SNYDER
Shawn M. Long, Esquire
Court I.D. No. 83774
126 East King Street
Lancaster, PA 17602
717.299.5201

*** END SHERIFF'S SALE ***

No. 2771 of 2018 GD
No. 364 of 2019 ED

BRANCH BANKING AND TRUST
COMPANY,
Plaintiff
V.
WAGLE LLC,
Defendant.

Property Address: 7615 National Pike,
Uniontown, Menallen Township, Fayette
County, Pennsylvania

Parcel ID Number: 22-17-0053
Judgment Amount: \$474,172.64

BEING the same premises which Edward J. Shipek and Mark A. Shipek by deed dated April 13, 2006 and recorded April 17, 2006 in the Office of the Recorder of Deeds in and for Fayette County Pennsylvania in Record Book 2983, Page 1663, granted and conveyed unto Wagle, LLC.

JUDICIAL OPINION

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

COMMONWEALTH OF :
PENNSYLVANIA :
 :
vs. :
 :
TONEY ROBERT JONES, :
Defendant. : No. 2025 of 2018

OPINION PURSUANT TO Pa.R.A.P. 1925

SOLOMON, S.J.

January 24, 2020

STATEMENT OF THE CASE

On the 6th day of November, 2019, the Defendant, Toney Robert Jones, after trial, was found guilty by a jury of his peers of the crime of Murder in the First Degree, 18 Pa.C.S.A. §2501(A). Following sentencing, the Defendant filed a Notice of Appeal from the Judgment of Sentence with the Superior Court of Pennsylvania.

In accordance with this Court’s Order pursuant to Pa.R.A.P. 1925(b), Defendant filed his Concise Issues, raising the following issues:

- 1. Whether the Trial Court committed an abuse of discretion by denying defense counsel’s request for a voluntary manslaughter instruction.
- 2. Whether the Trial Court committed an abuse of discretion by denying defense counsel’s request for a voluntary intoxication jury instruction.
- 3. Whether the Trial Court committed an abuse of discretion by denying defense counsel’s request for a justification: use of deadly force in self-defense jury instruction.
- 4. Whether the Trial Court committed an abuse of discretion by not allowing defense counsel to argue in regard to voluntary manslaughter during closing arguments.

DISCUSSION

In his first issue, Defendant contends that the trial court committed an abuse of discretion by denying defense counsel’s request for a voluntary manslaughter jury instruction.

In order for a person to reduce the degree of murder to voluntary manslaughter “heat of passion” the defendant must show that, at the time of the killing, he reacted under a sudden and intense passion resulting from serious provocation by the victim.”

Commonwealth v. Miller, 987 A.2d 638, 649-50 (Pa. 2009) quoting Commonwealth v. Ragan, 743 A.2d 390, 396 (Pa. 1999). “[E]motions such as anger, rage, sudden resentment or terror which renders the mind incapable of reason” are the type of emotions applicable to heat of passion. Commonwealth v. Mason, 741 A.2d 708, 713 (Pa. 1999) In order to determine whether the provocation was sufficient to support the defense of ‘heat of passion’ voluntary manslaughter, an objective standard is applied: “The ultimate test for adequate provocation remains whether a reasonable man, confronted with this series of events, became impassioned to the extent that his mind was incapable of cool reflection.” Commonwealth v. Miller, *supra*, quoting Commonwealth v. Thornton, 431 A.2d 248, 252 (Pa. 1981).

The law is clear that a trial court should not instruct a jury on legal principles which bear no relationship to the evidence that was presented at trial. Commonwealth v. Taylor, 876 A.2d 916, 925 (Pa. 2005). Only where an instruction is requested by a defendant, and only if the evidence supports “heat of passion” voluntary manslaughter, is an instruction thereon required. Commonwealth v. Browdie, 671 A.2d 668, at 674 (Pa. 1996).

At trial, in his direct testimony, Defendant testified that he went to Tyler Stickle’s car and saw that a window had been broken. N.T., 11/6/19 at 57. He then called Stickle’s cousin to let him know and Stickle came to the car. *Id.* The police were called and arrived; later leaving. *Id.* at 58. Jarred Ashburn, the victim in this matter, next arrived and words were exchanged, with Ashburn challenging him to a fight. *Id.* Defendant testified he was nervous and scared. *Id.* He then went back to his apartment and got his gun, went back outside and aimed at Ashburn’s shoulder because he did not want “to kill him or hurt him too bad.” *Id.* at 59. He pulled the trigger, but nothing happened. *Id.* He then messed with the cylinder and pulled the trigger again. *Id.* at 59-60. Defendant further testified that he wanted to get Ashburn off of the property, so he shot him and then went back inside to hide the gun, later lying to the police. *Id.* at 60-61. This testimony clearly shows that the acts of Defendant were intentional and premeditated.

On cross-examination, Defendant testified that he did not see Ashburn with a gun that day. *Id.* at 62. He further admitted that he walked 130 feet from the vehicle to the front of his building, walked up two flights of stairs to his apartment to get his gun, intending to shoot Ashburn. *Id.* at 64-65. Outside, when he pulled the trigger, the gun misfired. *Id.* at 66. Defendant then intentionally made sure there was a bullet in the chamber pointed into the barrel, then turned around and pulled the trigger shooting Ashburn. *Id.* at 67. He then went back inside, changed his clothes and hid his gun. *Id.* at 68. When questioned by the police, he lied about everything, including killing Ashburn, and gave the police a false description of a person who he said shot Ashburn. *Id.* at 70-73. He believed the cameras on the building did not work so he could lie to the police. *Id.* at 75.

This record is void of any evidence establishing that a serious provocation, one that would have led a reasonable person to becoming so impassioned that his mind would be incapable of cool reflection, or that rage, anger or other emotion would have rendered his mind incapable of reason. See Commonwealth v. Kim, 888 A.2d 847, 853 (Pa. Super. 2005); Commonwealth v. Ragan, *supra*, at 396.

A jury instruction on voluntary manslaughter must be given only “where the offense has been made an issue in the case and where the evidence would reasonably support such a verdict.” *Commonwealth v. Thomas*, 717 A.2d 468, 478 (Pa. 1998). Thus, a “heat of passion” voluntary manslaughter charge must be given only if the evidence could rationally support the conclusion that, at the time of the killing, the defendant was acting under a sudden and intense passion resulting from serious provocation by the individual killed. The test for serious provocation is whether a reasonable person confronted by the same series of events would become impassioned to the extent that his mind would be incapable of cool reflection. *Commonwealth v. Kim*, supra.

Instantly, the record shows that the initial dispute between defendant and the victim had ended, after which Defendant walked 130 feet to his building and transcended two flights of stairs to his apartment. Once inside, instead of staying there, Defendant retrieved his gun, returned outside, and attempted to shoot Ashburn by pulling the trigger. The gun did not fire on the first attempt. Defendant then fixed the cylinder of his revolver so that a bullet was pointed at the barrel of the gun, turned back to Ashburn, and shot him. The events and killing were recorded on security cameras. We would also note that at the time of the murder, Ashburn had done nothing to cause or provoke Defendant to shoot him. Thus, Defendant was not entitled to a jury instruction on voluntary manslaughter and this issue is without merit.

The second issue raised by Defendant is that the trial court committed an abuse of discretion by denying defense counsel’s request for a voluntary intoxication jury instruction. As to this issue, we note that a jury instruction regarding diminished capacity due to voluntary intoxication is justified only when the record contains evidence that the accused was intoxicated to the point of losing his faculties or sensibilities. *Commonwealth v. Reiff*, 413 A.2d 672, 674 (Pa. 1980). Evidence that the accused ingested alcohol or other intoxicating drug—without more—does not warrant a voluntary intoxication instruction. *Id.* In *Reiff*, the evidence showed that the defendant had consumed approximately two and one-half quarts of beer during the several hours before he fatally shot a man, but there was no evidence that he exhibited any signs of intoxication or unusual behavior. *Id.* at 673. Accordingly, it was held that the trial court did not err in refusing to give a jury instruction as to diminished capacity due to voluntary intoxication. *Id.* at 674; see also *Commonwealth v. Marinelli*, 690 A.2d 203, 220–21 (Pa. 1997) (holding that the trial court did not err by refusing to give a voluntary intoxication charge because, even though there was testimony that the appellant had consumed some alcohol prior to the killing, there was no evidence that the appellant had been overwhelmed or overpowered by alcohol).

On the morning of the shooting, according to the testimony of Defendant, when he awoke, he smoked a blunt of K-2, a synthetic weed, which made him feel, paranoid, nervous, and scared. *Id.* at 56. Defendant drank some juice then went outside around ten o’clock or 10:30 a.m. *Id.* According to Defendant, the effects of K-2 last ten to fifteen minutes. *Id.* at 56-57. Defendant estimated that he went outside five minutes after having his juice and had to walk across the driveway to the vehicle. *Id.* at 77. Once at the vehicle, the events concerning Tyler Stickle’s vehicle, set forth supra, occurred. These events included Defendant calling Jonathon Core, Core and Stickle coming to the car, the three of them trying to piece together who could have done it and, finally, calling the police who later arrived and thereafter departed. *Id.* at 57-58. Defendant estimated that

some five to ten minutes passed before the police arrived. *Id.* at 78. After the police left, the differences with Ashburn occurred and lasted five to ten minutes. *Id.* Defendant then walked back to his apartment, which took about two minutes, and came back outside when shooting occurred. *Id.* at 79.

All the times and events set forth were testified to by Defendant. As to his recollection of times, we note that, according to defendant, he went outside between 10:00 a.m. and 10:30 a.m., at which point all the events took place. However, contrary to the testimony of Defendant, Trooper Rahm Bohn, who was called to the scene regarding the damage to the vehicle, testified that he arrived at 10:02 a.m. It is also important to note that other than Defendant's self-serving statement that he smoked a K-2 blunt, there was no evidence that he exhibited any signs of intoxication or unusual behavior. See *Commonwealth v. Reiff*, *supra*. Further, there was no evidence that Defendant had been overwhelmed or overpowered by any substance. see *Commonwealth v. Marinelli*, *supra*. Hence, Defendant was not entitled to a voluntary intoxication jury instruction and this issue is also without merit.

In his third issue, Defendant argues that the trial court committed an abuse of discretion by denying defense counsel's request for a justification: use of deadly force in self-defense jury instruction.

A claim of self-defense "requires evidence establishing three elements: '(a) [that the defendant] reasonably believed that he was in imminent danger of death or serious bodily injury and that it was necessary to use deadly force against the victim to prevent such harm; (b) that the defendant was free from fault in provoking the difficulty which culminated in the slaying; and (c) that the [defendant] did not violate any duty to retreat.'" *Commonwealth v. Mouzon*, 53 A.3d 738, 740 (Pa. 2012) quoting *Commonwealth v. Samuel*, 590 A.2d 1245, 1247-48 (Pa. 1991) (alterations in original).

"While there is no burden on the defendant to prove a claim of self-defense, it is nevertheless required that before such a defense is properly an issue at trial, there must be some evidence, from whatever source, to justify such a finding." *Commonwealth v. Brown*, 421 A.2d 660, 662 (Pa. 1980) quoting *Commonwealth v. Black*, 376 A.2d 627, 630 (Pa. 1977). Accord, *Commonwealth v. Mouzon*, 53 A.3d 738, 740 (Pa. 2012) ("Although the defendant has no burden to prove self-defense, [...] before the defense is properly an issue 'there must be some evidence from whatever source, to justify such a finding.'" quoting *Black*, *supra*). Indeed, a justifiable use of deadly force instruction is not warranted unless there is "a possible basis," *Commonwealth v. Butler*, 533 A.2d 992, 993 (Pa. 1987), or "some evidence," *Commonwealth v. La*, 640 A.2d 1336, 1346 (Pa. Super. 1994), for the jury to find such a self-defense. "Before the issue of self-defense may be submitted to a jury for consideration, a valid claim of self-defense must be made out as a matter of law, and this determination must be made by the trial judge." *Commonwealth v. Chine*, 40 A.3d 1239, 1244 (Pa. Super. 2012) quoting *Commonwealth v. Mayfield*, 585 A.2d 1069, 1070 (Pa. Super. 1991); *Commonwealth v. Hansley*, 24 A.3d 410, 420 (Pa. Super. 2011).

For the justifiable use of deadly force defense under 18 Pa.C.S.A. § 505(b)(2) to apply, there must be some evidence to support the elements of that justification defense, including the requirement in Section 505(b)(2)(iii) that the shooter did not violate the

duty to retreat if there is a known avenue of safe retreat. Here, it is uncontroverted that following the initial encounter between Defendant and the Decedent at the vehicle, while the Decedent was unarmed, Defendant walked 130 feet to his building, walked up two flights of stairs, and entered his apartment. Instead of staying in his apartment, Defendant retrieved his firearm and went back outside looking for Ashburn. Seeing Ashburn, he pointed the firearm at him and pulled the trigger and a misfire occurred. Defendant then turned the cylinder, made sure there was a bullet pointed at the barrel, pointed the weapon at Ashburn, and fired, mortally wounding him.

Since Defendant had a known avenue of safe retreat by remaining in his apartment, rather than pursuing the decedent, there is no evidence to sustain a finding that Defendant complied with his duty to retreat, and as such, the justification defense under 18 Pa.C.S.A. § 505(b)(2) is inapplicable to Defendant as a matter of law.

The final issue raised by Defendant is that the trial court committed an abuse of discretion by not allowing defense counsel to argue in regard to voluntary manslaughter during closing arguments. For the reasons set forth more fully in the first issue raised by Defendant, *supra*, this issue also lacks merit.

WHEREFORE, it is respectfully submitted that the appeal of Defendant lacks merit and should be denied.

BY THE COURT:
GERALD R. SOLOMON
SENIOR JUDGE

ATTEST:
CLERK



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Upcoming live simulcast and video replay continuing legal education courses at the Fayette County Bar Association Office, 45 East Main Street, Suite 100, Uniontown.

Registration: <http://www.pbi.org/fayette-county>

- February 5 **Estate and Elder Law Symposium**
9:00 a.m. to 4:10 p.m.
5 substantive/1 ethics
- February 11 **A View From the Workers' Comp Bench**
9:00 a.m. to 11:00 a.m.
2 substantive
- March 4 **Civil Litigation Update**
9:00 a.m. to 4:15 p.m.
5 substantive/1 ethics
- March 24 **Handling the Workers' Comp Case**
9:00 a.m. to 4:15 p.m.
5 substantive/1 ethics



CRIMINAL JUSTICE TRAINING



A training for County Criminal Justice Leaders and Practitioners has been scheduled for **Friday, February 21, 2020, at 1:00 PM**, in the conference room of the Public Safety Building, 22 East Main Street, Uniontown, to address the important issues listed below. Attendance is free.

2.0 Substantive CLE credits

RSVP is required to District Court Administrator Karen Kuhn at 724-430-1230.

The training will include a 2 hour CJE/CLE presentation on recent changes to statutes and guidelines, and a less formal discussion of local practices and procedures, including the use of the Commission's JNET-based SGS Web application, as well as an opportunity to comment on proposals being considered by the Commission.

Earlier this year, in response to legislative mandates, the Pennsylvania Commission on Sentencing adopted and submitted to the General Assembly three proposals:

Sentencing Guidelines (7th Edition, Amendment 5)

Resentencing Guidelines (pursuant to Act 81 of 2008)

Sentence Risk Assessment Instrument (pursuant to Act 95 of 2010)

The sentencing and resentencing guidelines will take effect January 1, 2020 and apply to all offenses committed on or after that date. The Sentence Risk Assessment Instrument will take effect July 1, 2020 and apply to all offenses committed on or after that date. However, beginning on January 1, 2020, the Commission will conduct a six-month training and orientation for judges and practitioners related to the use of the Sentence Risk Assessment Instrument, the purpose of the recommendation, and the type of information recommended.

In addition, the General Assembly recently enacted and the Governor signed Act 114 of 2019 (SB 500) and Act 115 of 2019 (SB 501), commonly known as the Justice Reinvestment Initiative (JRI-II). This legislation amends substantial portions of Title 42 (Judiciary and Judicial Procedure) and Title 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes, including changes to sentencing alternatives available to Courts, modification of sentencing guidelines to address probation duration and the use of restrictive conditions, a certification process linked to additional state funding for county adult probation and parole, and numerous changes that impact state sentences.

Other issues to be discussed include work underway on a Domestic Violence Pretrial Risk Assessment, a comprehensive revision of the Sentencing Guidelines (8th Edition), and Parole Guidelines and Recommitment Ranges for use by the (renamed) Pennsylvania Parole Board.

LUNCH & LEARN SERIES

FCBA LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, February 19th** from 12:00 p.m. to 1:30 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topic: **Issues in Landlord/Tenant Litigation**
- Presenters: Magisterial District Judge Mike Defino, Jr. and Attorneys Rachel Ann Clark and Jeremy Davis

CLE Credit

1.5 hours of Substantive CLE credit for the program. The fees are as follows:

Members of the FCBA

- No charge for attendance without CLE Credit
- \$10 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2012

- No charge for attendance with CLE Credit

Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**** All fees to be paid at the door ****

A light lunch will be provided.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or by email to cindy@fcbar.org on or before Monday, February 17th.

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