

# FAYETTE LEGAL JOURNAL

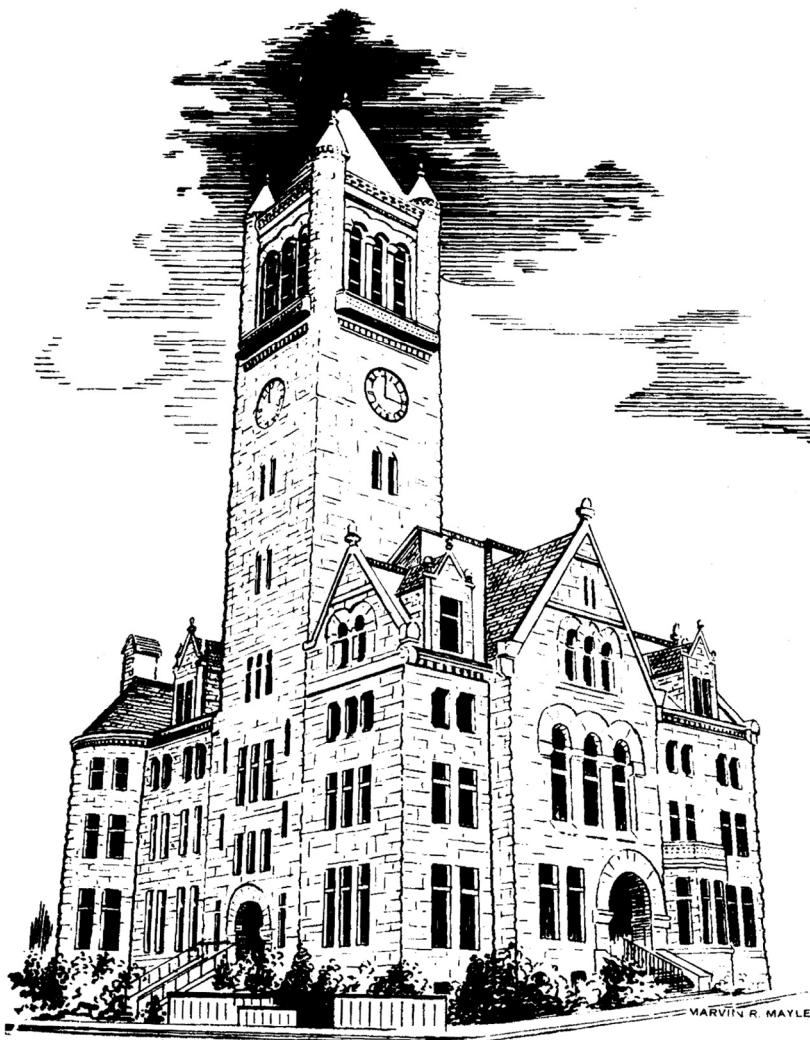
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## FAYETTE LEGAL JOURNAL

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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

**EVELYN M. CANISTRA**, late of Bradenton, Manatee County, Florida (3)

*Personal Representative:* Toni Cicchetti  
c/o Davis and Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**RUTH ROSLYN DUNHAM**, late of Springhill, Fayette County, PA (3)

*Personal Representative:* Debra Dunham  
c/o P.O. Box 622  
Smithfield, PA 15478  
*Attorney:* Charity Grimm Krupa

**MARGARET KURCINA HYNEK, a/k/a MARGARET HYNEK, a/k/a MARGARET KURCINA**, late of South Union Township, Fayette County, PA (3)

*Administrator:* Brett M. Gibson  
c/o Zebley Mehalov & White, P.C.  
18 Mill Street Square  
P.O. Box 2123  
Uniontown, PA 15401  
*Attorney:* Mark M. Mehalov

**AMERIGO G. SABATINI**, late of Redstone Township, Fayette County, PA (3)

*Administrator:* Joyce Epley  
c/o P.O. Box 622  
Smithfield, PA 15478  
*Attorney:* Charity Grimm Krupa

**JOHN W. STROHM a/k/a John WILLIAM STROHM**, late of Wharton Township, Fayette County, PA (3)

*Personal Representative:* James R. Strohm  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

### Second Publication

**BERTHA DANKO**, late of Washington Township, Fayette County, PA (2)

*Administratrix:* Tanya R. Danko  
415 Victoria Street  
Belle Vernon, PA 15012  
c/o 300 Fallowfield Avenue  
Charleroi, PA 15022  
*Attorney:* Richard C. Mudrick

**DOROTHY L. GESSO**, late of North Union Township, Fayette County, PA (2)

*Executor:* Darryl J. Gesso  
c/o Zebley Mehalov & White, P.C.  
18 Mill Street Square  
P.O. Box 2123  
Uniontown, PA 15401  
*Attorney:* Mark M. Mehalov

**DOROTHY J. MCFARLAND**, late of Uniontown, Fayette County, PA (2)

*Administratrix:* Shannon Shaffer  
c/o Fitzsimmons and Barclay  
55 East Church Street, Suite 102  
Uniontown, PA 15401  
*Attorney:* Ralph K. Barclay, Jr.

**RAUL BERNAL MORALES**, late of Uniontown, Fayette County, PA (2)

*Administratrix:* Kristen L. Behrens  
c/o Kristen L. Behrens, Dilworth Paxson, LLP  
457 Haddonfield Road, Ste. 700  
Cherry Hill, NJ 08002  
*Attorney:* Kristen L. Behrens

**First Publication**

**FRANCIS D. BAER, a/k/a FRANCIS DONALD BAER**, late of German Township, Fayette County, PA <sup>(1)</sup>

*Executor:* Francis D. Baer, Jr.  
314 Denney Road  
Uniontown, PA 15401  
c/o Newcomer Law Offices  
4 North Beeson Boulevard  
Uniontown, PA 15401  
*Attorney:* Ewing D. Newcomer

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**STEPHANIE A. BALIK, a/k/a STEPHANIE BALIK**, late of Nicholson Township, Fayette County, PA <sup>(1)</sup>

*Executor:* Joseph C. Takacs  
c/o John and John  
96 East Main Street  
Uniontown, PA 15401  
*Attorney:* Simon B. John

---

**DOLORES A. CHMIEL**, late of North Union Township, Fayette County, PA <sup>(1)</sup>

*Personal Representative:* Walter F. Chmiel  
c/o Higinbotham Law Offices  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James Higinbotham

---

**DONNA J. COCALIS**, late of Point Marion, Fayette County, PA <sup>(1)</sup>

*Executor:* Joseph C. Cocalis  
119 Wright Street  
Point Marion, PA 15474  
c/o 76 East Main Street  
Uniontown, PA 15401  
*Attorney:* Douglas S. Sholtis

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**CHERRY LEE GOSSETT, a/k/a CHERRY L. GOSSETT, a/k/a CHERRY GOSSETT**, late of Brownsville, Fayette County, PA <sup>(1)</sup>

*Personal Representative:* Edgar A. Gossett  
c/o Dellarose Law Office, PLLC  
99 East Main Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Melinda Deal Dellarose

---

**GERALD L. MORGAN**, late of Perryopolis Borough, Fayette County, PA <sup>(1)</sup>

*Administratrix:* Deborah Morgan  
740 Cemetery Road  
P.O. Box 429  
Perryopolis, PA 15473  
c/o 823 Broad Avenue  
Belle Vernon, PA 15012  
*Attorney:* Mark E. Ramsier

---

**THERESA PUJIA, a/k/a THERESA MARIE PUJIA**, late of Connellsville, Fayette County, PA <sup>(1)</sup>

*Personal Representative:* Roseanne Jones  
512 Greenleaf Drive  
Monroeville, PA 15146  
c/o 208 South Arch Street, Suite 2  
Connellsville, PA 15425  
*Attorney:* Richard Husband

---

**NORMAN SPAW**, late of Fayette County, PA

*Administrator:* Justin M. Spaw <sup>(1)</sup>  
163 Elizabeth Street  
Hopwood, PA 15445  
c/o 201 Liberty Street  
McDonald, PA 15057  
*Attorney:* Herbert Terrell

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## LEGAL NOTICES

### NOTICE

NOTICE is hereby given that Articles of Amendment were filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about July 6, 2021, under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

The Articles of Incorporation of Mt. Joy Church of the Brethren have been amended (i) changing the corporate name to Mt. Joy Covenant Brethren Church; (ii) updating and modifying the primary religious and charitable purpose of the Church; and (iii) authorizing changes to the bylaws of the Church.

WATSON MUNDORFF, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
Phone: (724) 626-8882

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IN THE COURT OF COMMON PLEAS OF  
WESTMORELAND COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW  
No. 1378 of 2021

LAURA BORNE and MICHAEL BORNE,  
Plaintiffs  
v.  
DAVID MATTHEWS and  
TAMMY AUGUSTINE,  
Defendants

TO: DAVID MATTHEWS and  
TAMMY AUGUSTINE

You have been named as Defendants in a civil action instituted by Plaintiffs Laura Borne and Michael Borne. This law suit has been instituted by Laura Borne as a result of injuries she sustained in a motor vehicle accident that occurred on April 25, 2019 in Washington Township, Fayette County, Pennsylvania.

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the

Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. 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.

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Fayette County Bar Association  
45 East Main Street, Suite 100  
Uniontown, PA 15401  
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Ned J. Nakles, Jr., Esquire  
Nakles and Nakles  
1714 Lincoln Avenue  
Latrobe, PA 15650

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IN THE COURT OF COMMON PLEAS  
Fayette COUNTY  
CIVIL ACTION - LAW  
ACTION OF MORTGAGE FORECLOSURE  
Term No. 737 of 2021  
NOTICE OF ACTION IN MORTGAGE  
FORECLOSURE  
QUICKEN LOANS, LLC  
Plaintiff

vs.  
The Unknown Heirs of SHARON SEMENTA-  
BUNYAN Deceased  
Mortgagor and Real Owner  
Defendant

The Unknown Heirs of SHARON SEMENTA-  
BUNYAN Deceased, MORTGAGOR AND  
REAL OWNER, DEFENDANT whose last  
known address is 58 Mullen Street Uniontown,  
PA 15401.

THIS FIRM IS A DEBT COLLECTOR AND  
WE ARE ATTEMPTING TO COLLECT A  
DEBT OWED TO OUR CLIENT. ANY  
INFORMATION OBTAINED FROM YOU  
WILL BE USED FOR THE PURPOSE OF  
COLLECTING THE DEBT.

You are hereby notified that Plaintiff QUICKEN LOANS, LLC, has filed a Mortgage Foreclosure Complaint endorsed with a notice to defend against you in the Court of Common Pleas of Fayette County, Pennsylvania, docketed to No. 737 of 2021 wherein Plaintiff seeks to foreclose on the mortgage secured on your property located, 58 Mullen Street Uniontown, PA 15401 whereupon your property will be sold by the Sheriff of Fayette.

### **NOTICE**

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

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. 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.

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Michael T. McKeever  
Attorney for Plaintiff  
KML Law Group, P.C., PC  
Suite 5000, BNY Independence Center  
701 Market Street  
Philadelphia, PA 19106-1532  
215-627-1322

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## **SHERIFF'S SALE**

Date of Sale: September 23, 2021

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, September 23, 2021, 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. (2 of 3)

James Custer  
Sheriff Of Fayette County

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STERN AND EISENBERG, PC  
ANDREW J. MARLEY, ESQ.

No. 2307 of 2018 GD  
No. 93 of 2021 ED

**HSBC Bank USA, N.A., as Trustee for the registered holders of First NLC Trust 2007-1 Mortgage-Backed Certificates, Series 2007-1 Plaintiff**  
v.

**Any and All Known and Unknown Heirs, Executors, Administrators and Devisees of the Estate of Patricia A. Triplett a/k/a Patricia Ann Triplett a/k/a Patricia Triplett, deceased and Kenneth E. Triplett, solely in his capacity as heir to the Estate of Patricia A. Triplett a/k/a Patricia Ann Triplett a/k/a Patricia Triplett, deceased**

**Defendant(s)**

SITUATE IN THE THIRD WARD OF THE BOROUGH OF MASONTOWN, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 3 Virginia Avenue, Masontown, PA 15461

PARCEL NO. 21020078

IMPROVEMENTS - RESIDENTIAL REAL ESTATE

SOLD AS THE PROPERTY OF - Any and All Known and Unknown Heirs, Executors, Administrators and Devisees of the Estate of Patricia A. Triplett a/k/a Patricia Ann Triplett a/k/a Patricia Triplett, deceased and Kenneth E. Triplett, solely in his capacity as heir to the Estate of Patricia A. Triplett a/k/a Patricia Ann Triplett a/k/a Patricia Triplett, deceased

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

No. 2073 of 2019 GD  
No. 91 of 2021 ED

**WINTRUST MORTGAGE, A DIVISION OF BARRINGTON BANK & TRUST CO., N.A. 9700 W. Higgins Road., Suite 300 Rosemont, IL 60018 Plaintiff**

vs.

**NANCY ENGLE Solely in Her Capacity as Heir of Woodrow Allen Shaffer Deceased J.D. GRUBB Solely in His Capacity as Heir of Woodrow Allen Shaffer Deceased SHIRLEY MILLER Solely in Her Capacity as Heir of Woodrow Allen Shaffer Deceased DAVID SHAFFER Solely in His Capacity as Heir of Woodrow Allen Shaffer Deceased HARRY SHAFFER Solely in His Capacity as Heir of Woodrow Allen Shaffer Deceased ROBERT SHAFFER Solely in His Capacity as Heir of Woodrow Allen Shaffer Deceased RUSSELL SHAFFER Solely in His Capacity as Heir of Woodrow Allen Shaffer Deceased 18 Cramer Avenue 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: 18 CRAMER AVENUE, UNIONTOWN, PA 15401

TAX PARCEL #38-15-0221

IMPROVEMENTS: A RESIDENTIAL DWELLING

SOLD AS THE PROPERTY OF: NANCY ENGLE Solely in Her Capacity as Heir of Woodrow Allen Shaffer Deceased, J.D. GRUBB Solely in His Capacity as Heir of Woodrow Allen Shaffer Deceased, SHIRLEY MILLER Solely in Her Capacity as Heir of Woodrow Allen Shaffer Deceased, DAVID SHAFFER Solely in His Capacity as Heir of Woodrow Allen Shaffer Deceased, HARRY SHAFFER Solely in His Capacity as Heir of Woodrow Allen Shaffer Deceased, ROBERT SHAFFER Solely in His Capacity as Heir of Woodrow Allen Shaffer Deceased AND RUSSELL SHAFFER Solely in His Capacity as Heir of Woodrow Allen Shaffer Deceased

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

No. 1037 of 2020 GD  
No. 97 of 2021 ED

**U.S. BANK NATIONAL ASSOCIATION, AS  
INDENTURE TRUSTEE, FOR THE CIM  
TRUST 2016-3, MORTGAGE- BACKED  
NOTES, SERIES 2016-3  
3217 S. Decker Lake Drive  
Salt Lake City, UT 84119  
Plaintiff**

**vs.**

**SCOTT NEWELL Solely in His Capacity as  
Heir of Connie E. Newell Deceased  
VALERIE NEWELL AKA VALERIE  
GUALAZZI Solely in Her Capacity as Heir of  
Connie E. Newell Deceased  
ROBIN NICKLOW Solely in Her Capacity as  
Heir of Connie E. Newell Deceased  
1147 South Pittsburgh Street  
Connellsville, PA 15425  
Defendant(s)**

ALL THAT CERTAIN LOT OF LAND  
SITUATE IN CITY OF CONNELLSVILLE,  
COUNTY OF FAYETTE AND  
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 1147 SOUTH  
PITTSBURGH STREET, CONNELLSVILLE,  
PA 15425

TAX PARCEL #05-15-0259

IMPROVEMENTS: A RESIDENTIAL  
DWELLING

SOLD AS THE PROPERTY OF: SCOTT  
NEWELL Solely in His Capacity as Heir of  
Connie E. Newell Deceased, VALERIE  
NEWELL AKA VALERIE GUALAZZI Solely  
in Her Capacity as Heir of Connie E. Newell  
Deceased AND ROBIN NICKLOW Solely in  
Her Capacity as Heir of Connie E. Newell  
Deceased

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

No. 2186 of 2019 GD  
No. 104 of 2021 ED

**PNC BANK, NATIONAL ASSOCIATION  
3232 Newmark Drive  
Miamisburg, OH 45342  
Plaintiff  
vs.  
JOSEPH A. SHAY  
Mortgagor(s) and Record Owner(s)  
170 Easy Street0  
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: 170 EASY  
STREET, UNIONTOWN, PA 15401

TAX PARCEL #38-10-0066

IMPROVEMENTS: A RESIDENTIAL  
DWELLING

SOLD AS THE PROPERTY OF: JOSEPH  
A. SHAY

McCABE, WEISBERG & CONWAY, LLC  
123 South Broad Street, Suite 1400  
Philadelphia, PA 19109  
(215) 790-1010

No. 1870 of 2019 GD  
No. 81 of 2021 ED

**SunTrust Bank s/b/a Suntrust Mortgage, Inc.  
Plaintiff  
v.  
Candie Tringes  
Defendant**

ALL that certain lot of land situate in  
Redstone Township, Fayette County,  
Commonwealth of Pennsylvania, being a portion  
of Lot No. 110 and a portion of Lot No. 111 in  
the Vankirk Addition to Republic, Pennsylvania,  
a plan of which is recorded in the Recorder of  
Deeds Office of Fayette County, Pennsylvania,  
in Plan Book Volume 4, pages 8 and 9. Said lot  
is more particularly Bounded and described as  
follows:

BEGINNING at a point in the center of the



New Salem and Merrittstown public road at corner or in line of the westerly side of North Street; thence along the westerly line of said North Street from the center of said road, North 29 degrees 54 minutes East 150 feet to the southerly side of Oak Alley; thence along the southerly side of Oak Alley, North 60 degrees 13 minutes West 90 feet to a point at the dividing line between the eastern half of Lot No. 111 and the western half of Lot No. 111; thence along said dividing line, South 29 degrees 54 minutes West 60.57 feet to a mark on wall; thence by land now or formerly of Martin Lebak and wife, South 60 degrees 13 minutes East 16.68 feet to a post; thence by same, South 22 degrees 48 minutes East 8.05 feet to a post; thence by same, South 2 degrees 59 minutes East 13.80 feet to a post; thence by same, South 25 degrees 31 minutes West 8.82 feet to a post; thence by same, South 30 degrees 6 minutes West 64.15 feet to a point in the center if the above mentioned public road; thence along the center line of the above mentioned public road, South 60 degrees 13 minutes East 58.96 feet to the place of beginning.

All that certain piece or parcel or Tract of land situate in Redstone Township, Fayette County, Pennsylvania, and being known as 1032 Main Street, Republic, Pennsylvania 15475.

Being known as: 1032 Main Street, Republic, Pennsylvania 15475

Title vesting in Candie Tringes by deed from James Frinzi dated June 26, 2015 and recorded July 2, 2015 in Deed Book 3281, Page 1396 Instrument Number 201500006919.

Tax Parcel Number: 30-24-0199

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\*\*\* END SHERIFF'S SALES \*\*\*

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## **WARMAN ABSTRACT & RESEARCH LLC**

**JOHN F. WARMAN**

**518 Madison Drive**

**Smithfield, PA 15478**

**724-322-6529**

**johnfranciswarman@gmail.com**

**COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE**

**A DECADE OF EXPERIENCE**

**E&O INSURED**

**WILL TRAVEL**

**ACCEPTING NEW CLIENTS**

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

COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
v.	:	
BRITTANY A. KRASMAN,	:	Honorable Steve P. Leskinen
Defendant.	:	No. 1287 of 2020

**OPINION AND ORDER**

Leskinen, J.

June 11, 2021

Before the Court is the Defendant's Omnibus Pretrial Motion. After careful review of the evidence and applicable law, the Court hereby grants the Motion.

**Factual Background**

The Affidavit of Probable Cause and the testimony given at the Omnibus Pretrial Hearing on June 3rd, 2021 establish the following facts: On January 15th, 2020, at approximately 11:44 am, Troopers Jarzynka and Smolleck were on patrol in a fully marked patrol unit on West Penn Avenue driving north toward North Gallatin Avenue outside of Uniontown. Troopers Jarzynka and Smolleck arrived at the intersection with North Gallatin Avenue, (a "T" intersection), stopped at the stop sign, and waited for traffic to pass in order to turn right onto North Gallatin Avenue. (In this area, North Gallatin Avenue is a paved, two lane road in a rural area). Troopers Jarzynka and Smolleck pulled out onto North Gallatin Avenue immediately behind the Defendant's vehicle: a pickup truck. The Defendant then slowed down and pulled off the road into the gravel parking lot of Jimmie's Lunch & Restaurant, a closed business. Troopers Jarzynka and Smolleck passed Jimmie's Lunch & Restaurant, turned around, drove back down North Gallatin Avenue, and observed the Defendant standing in the parking lot, adjusting items in the bed of her pickup truck. Troopers Jarzynka and Smolleck turned into the parking lot of Jimmie's Lunch & Restaurant, pulled their patrol unit immediately behind the Defendant's vehicle, approached the Defendant's vehicle on foot, questioned the Defendant, and asked the Defendant to conduct standardized field sobriety tests. According to the Affidavit of Probable Cause, Trooper Jarzynka observed that the Defendant appeared, "nervous, disoriented[,] and had a hard time concentrating." The Mobile Video Recording of the field sobriety tests was presented at the Omnibus Pre-Trial Hearing and the Defendant appeared to the Court to be completely sober. The Court also notes that the Defendant can be heard in the video complaining to Trooper Jarzynka that, because of where Trooper Jarzynka is standing, she was looking directly into the sun. Trooper Jarzynka placed the Defendant under arrest. The Defendant was charged with Driving Under the Influence of Alcohol or Controlled Substance and Careless Driving.

## Legal Standard, Motion to Suppress

The Fourth Amendment protects citizens against unreasonable searches and seizures; a mere encounter need not be supported by any level of suspicion, an investigative detention must be supported by reasonable suspicion, and an arrest must be supported by probable cause. *Com. v. Hicks*, 208 A.3d 916, 926 (2019). The Pennsylvania Supreme Court summarily articulated the mechanism which distinguishes a mere encounter from an investigative detention in *Com. v. Mathis*:

In fixing the moment at which a detention has occurred, "the pivotal inquiry is whether, considering all the facts and circumstances evidencing the exercise of force, a reasonable [person] would have thought he was being restrained." *Com. v. Mendenhall*, 715A.2d 1117, 1120 (1998) (citing *Com. v. Jones*, 378 A.2d 835, 840 (1977)); see also *United States v. Mendenhall*, 446 U.S. 544 (1980) ("[A] person has been 'seized'... only if, in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave"). In *Com. v. Strickler*, 757 A.2d 884 (2000), the Court set forth a non-exhaustive list of factors deemed relevant in assessing whether a seizure has occurred: the presence of police excesses; physical contact with the suspect; police direction of the subject's movements; the demeanor of the officer; the location of the confrontation; the manner of expression directed to the citizen; and the content of statements or interrogatories. See *id.* at 72-73, 757 A.2d at 897-98 (citations omitted). *Strickler* cautioned, though, that no single factor dictates the ultimate conclusion as to whether a detention occurred, see *id.* at 59, 757 A.2d at 890, and this Court has recognized that the line between a mere encounter, which requires no suspicion, and an investigative detention, "cannot be precisely defined 'because of the myriad of daily situations in which police[] and citizens confront each other on the street.'" *Mendenhall*, 715 A.2d at 1120 (quoting *Jones*, 474 Pa. at 371, 378 A.2d at 839). Ultimately, it is the "nature of the confrontation" that informs the assessment of the totality of the circumstances. *Com. v. Lewis*, 636 A.2d 619, 623 (1994).

*Com. v. Mathis*, 173 A.3d 699, 712 (2017).

Investigative detentions must be supported by reasonable suspicion. *Com. v. Hicks*, 208 A.3d 916, 926 (2019). Reasonable suspicion exists only where the officer is able to articulate specific observations which, in conjunction with reasonable inferences derived from those observations, led him reasonably to conclude, in light of his experience, that criminal activity was afoot and that the person he stopped was involved in that activity. *Com. v. Chambers*, 55 A.3d 1208, 1215 (Pa.Super.2012). The reasonable suspicion standard is less demanding than probable cause, as "reasonable suspicion can be established with information that is different in quantity or content than that required to establish probable cause" and "can arise from information that is less reliable than that required to show probable cause." *Com. v. Moore*, 805 A.2d 616, 620 (Pa.Super.2002) (quoting *Alabama v. White*, 496 U.S. 325, 330, (1990)).

In *Com. v. Barnes*, 91 EDA 2013, 2014 WL 10987424, at \*1 (Pa.Super.2014), the Pennsylvania Superior Court ruled that police officers lacked reasonable suspicion in a fact pattern remarkably similar to this case. In *Com. v. Barnes*, police officers were traveling on State Route 447 in Monroe County, (a paved, two lane road in a rural area),

when they came upon another vehicle traveling on the same road. As they approached the other vehicle, its driver pulled off the road and legally parked in an area "between two car dealerships." The car dealerships were closed at that time. The police officers turned around, pulled into the parking lot, parked their patrol unit behind the other vehicle, approached the driver, questioned her, and conducted standardized field sobriety tests on her. The Pennsylvania Superior Court ruled:

[We] emphasize Trooper Rogowski's testimony lacked any specific observations which led him reasonably to conclude, in light of his experience, that criminal activity was afoot. See *Jones*, supra. See also *Com. v. Hill*, 874 A.2d 1214 (Pa.Super.2005) (holding defendant's interaction with trooper constituted seizure and not mere encounter; trooper followed defendant's vehicle, which pulled to the right and stopped abruptly when trooper was approximately nine car lengths away; trooper pulled over behind defendant's vehicle, activated overhead lights, and approached defendant's vehicle to ascertain whether defendant needed assistance; trooper did not observe defendant commit traffic violations; trooper conceded defendant was not free to leave after trooper activated overhead lights). Accordingly, we affirm the order granting the suppression motion.

*Id.* at 5.

Moreover, the detention in *Com. v. Barnes* took place at 3:00 am, and the defendant failed the standardized field sobriety tests.

#### Conclusions of Law, Motion to Suppress

The Court finds that Troopers Jarzynka and Smolleck's actions constituted an investigative detention. The relevant factors in this fact pattern are police direction of the subject's movements and the manner of expression directed to the citizen. Troopers Jarzynka and Smolleck directed the Defendant's movements by parking their patrol unit directly behind the Defendant's vehicle and approaching the Defendant's vehicle on foot from both sides. The manner of expression exhibited by Troopers Jarzynka and Smolleck, based on the video, was assertive, at best; it could not reasonably be described as 'helpful' or 'concerned.' The Court finds that, considering all the facts and circumstances evidencing the exercise of force in this case, a reasonable person would have thought that they were being restrained; the Troopers actions therefore constituted an investigative detention.

The Court further finds that Troopers Jarzynka and Smolleck did not possess the requisite reasonable suspicion to initiate an investigative detention on the Defendant: Troopers Jarzynka and Smolleck did not articulate specific observations which, in conjunction with reasonable inferences derived from those observations, led them reasonably to conclude, in light of their experience, that criminal activity was afoot and that the Defendant was involved in that activity. Troopers Jarzynka and Smolleck observed no vehicle code violation. Troopers Jarzynka and Smolleck testified that they merely observed the Defendant:

- pull her vehicle over,
- adjust items in her vehicle's pickup bed,
- appear nervous,

- appear disoriented,
- and have a hard time concentrating.

The last three observations are subjective, and were not evident on the MVR admitted at the hearing. The Court finds that this fact pattern is analogous to *Com. v. Barnes*. The Court finds that since reasonable suspicion was not present, the investigative detention of the Defendant was unreasonable under the Fourth Amendment, that all evidence derived thereafter must be suppressed, and that all charges must be dismissed.

WHEREFORE, the Court issues the following Order:

ORDER

AND NOW, this 11th day of June, 2021, upon consideration of the Defendant's Omnibus Pretrial Motion, it is hereby ORDERED and DIRECTED that it is GRANTED. All evidence derived from the unlawful investigative detention of the Defendant is suppressed and all charges are DISMISSED.

BY THE COURT:  
LESKINEN, JUDGE

ATTEST:  
Clerk of Courts



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