

# FAYETTE LEGAL JOURNAL

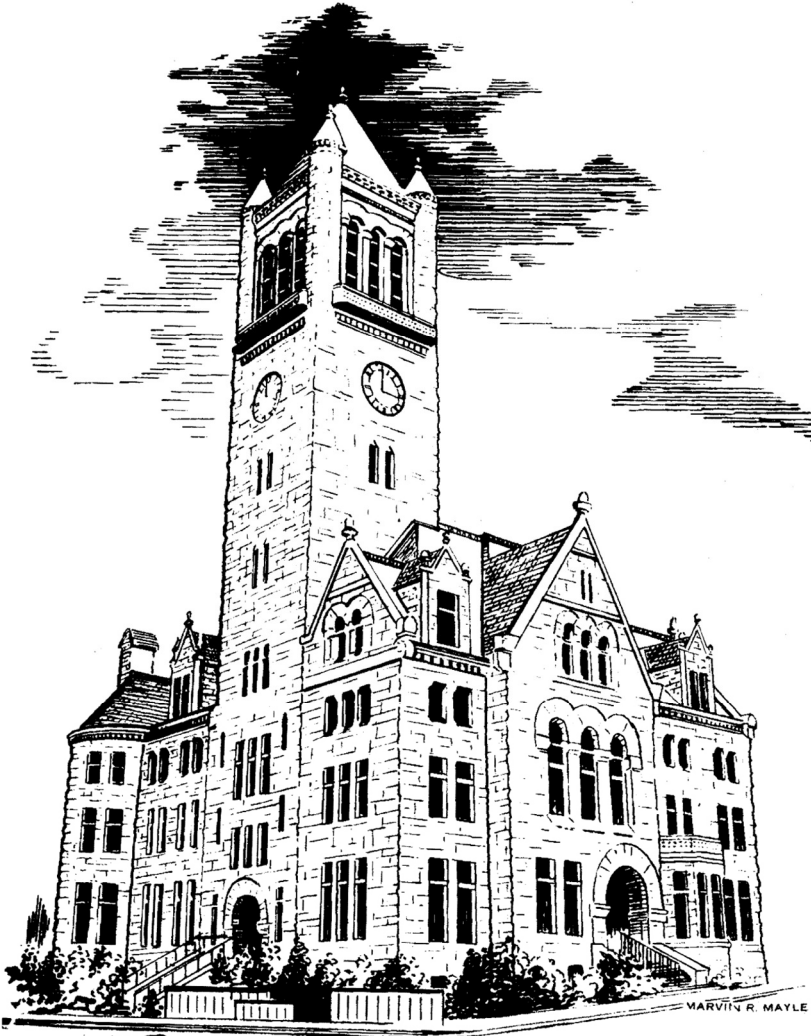
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## FAYETTE LEGAL JOURNAL

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**Co-Editors:** Garnet L. Gordon and Melinda Deal Dellarose

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The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

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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

**DANA DECECCO**, late of Uniontown, Fayette County, PA (3)

*Executrix:* Doreen DeCecco  
641 Butterfield Drive  
North Huntingdon, PA 15642  
c/o Berger and Green  
800 Waterfront Drive  
Pittsburgh, PA 15222  
*Attorney:* Mark Milsop

**DOROTHY J. HILEMAN, a/k/a DOROTHY JEAN HILEMAN**, late of South Union Township, Fayette County, PA (3)

*Executrix:* Beverly Hurley  
c/o Casini & Geibig, LLC  
815B Memorial Boulevard  
Connellsville, PA 15425  
*Attorney:* Jennifer M. Casini

**EMILIO J. SETTIMI, a/k/a MILLIO JOHN SETTIMI**, late of North Union Township, Fayette County, PA (3)

*Executrix:* Donella Lucostic  
c/o 51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

**YVONNE LOUISE VAN VERTH**, late of Springhill Township, Fayette County, PA (3)

*Personal Representative:*  
Danielle Van Verth  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Jeremy J. Davis

**GERALDINE P. WARD, a/k/a GERALDINE P. PACIGA**, late of Jefferson Township, Fayette County, PA (3)

*Executrix:* Tracy L. Glista  
c/o 51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

### Second Publication

**DONALD BEREITER, a/k/a DONALD J. BEREITER, JR.**, late of North Union Township, Fayette County, PA (2)

*Administratrix:* Haley F. Bereiter  
c/o Goodwin Como, P.C.  
108 North Beeson Boulevard, Suite 400  
Uniontown, PA 15401  
*Attorney:* Benjamin Goodwin

**STELLA J. BROADWATER**, late of Brownsville, Fayette County, PA (2)

*Personal Representative:*  
Jodi Lynn Delgado  
c/o Dellarose Law Office, PLLC  
99 East Main Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Melinda D. Dellarose

**PATRICIA M. FRANKS, a/k/a PATRICIA FRANKS**, late of Masontown, Fayette County, PA (2)

*Personal Representatives:*  
Gerald R. Solomon and Eugene Franks, III  
c/o Davis and Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Samuel J. Davis

**TAYLOR GALL, a/k/a TAYLOR WALLACE GALL**, late of South Union Township, Fayette County, PA (2)

*Executrix:* Vicki J. Gall  
c/o Higinbotham Law Offices  
68 South Beeson Boulevard  
Uniontown, PA 15401  
*Attorney:* James Higinbotham

**KENNETH R. LYNN**, late of Belle Vernon, Fayette County, PA (2)

*Executrix:* Pamela J. Ambrose  
616 Henry Street  
Belle Vernon, PA 15012

c/o 1202 West Main Street  
 Monongahela, PA 15063  
*Attorney:* James W. Haines, Jr.

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**JOHN A. MOLINARO**, late of Springfield Township, Fayette County, PA (2)  
*Personal Representative:* Francis Molinaro  
 c/o Watson Mundorff, LLP  
 720 Vanderbilt Road  
 Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

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**FANNIE MARGARET WATT**, late of North Union Township, Fayette County, PA (2)  
*Executor:* Walter Leonard Dillinger  
 c/o Higinbotham Law Offices  
 68 South Beeson Boulevard  
 Uniontown, PA 15401  
*Attorney:* James Higinbotham

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**GARNET J. WINEMILLER**, late of Bullskin Township, Fayette County, PA (2)  
*Personal Representatives:*  
 Robert K. Winemiller and  
 Randy R. Winemiller  
 c/o 208 South Arch Street, Suite 2  
 Connellsville, PA 15425  
*Attorney:* Richard A. Husband

## First Publication

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**GEORGE W. CHRISTNER, a/k/a GEORGE CHRISTNER**, late of Grindstone, Redstone Township, Fayette County, PA (1)  
*Personal Representative:* Ray Christner  
 c/o Dellarose Law Office, PLLC  
 99 East Main Street, Suite 101  
 Uniontown, PA 15401  
*Attorney:* Melinda Deal Dellarose

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**ANN Y. COMADENA**, late of Washington Township, Fayette County, PA (1)  
*Executor:* Mark E. Comadena  
 208 South Bone Drive  
 Normal, Illinois 61761  
 c/o 823 Broad Avenue  
 Belle Vernon, PA 15012  
*Attorney:* Mark E. Ramsier

**JANE GARY, a/k/a JANE A. GARY**, late of Fayette County, PA (1)  
*Co-Executors:*  
 Kimberly F. Martz  
 P.O. Box 120  
 Donegal, PA 15628  
 Kelly J. Miller  
 371 Albright's Lake Road  
 Greensburg, PA 15601  
 c/o 533 Rugh Street, Suite 3  
 Greensburg, PA 15601-5635  
*Attorney:* L. Christian DeDiana

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**ROBERT J. HOLLIS, SR.**, late of Georges Township, Fayette County, PA (1)  
*Administratrix:* Roberta Haines  
 c/o 84 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Vincent M. Tiberi

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**KATHRINE L. LUDWIG, a/k/a KATHRINE LEE LUDWIG, a/k/a KATHRINE LUDWIG**, late of Dunbar Township, Fayette County, PA (1)  
*Co-Executors:*  
 Donald G. Ludwig, III  
 129 Morrell Road  
 Dunbar, PA 15431  
 Yvonne Ludwig  
 733 Boyce Road  
 Bridgeville, PA 15017  
 c/o 329 West Otterman Street  
 Greensburg, PA 15601  
*Attorney:* Judith K. Ciszek

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**MARY ALICE NICKELSON, a/k/a MARY A NICKELSON**, late of Bullskin Township, Fayette County, PA (1)  
*Personal Representative:* David Nickelson  
 c/o 208 South Arch Street, Suite 2  
 Connellsville, PA 15425  
*Attorney:* Richard A. Husband

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**ALICE FAYE NIDA**, late of Wharton Township, Fayette County, PA (1)  
*Administratrix:* Melissa Turner  
 c/o P.O. Box 727  
 Uniontown, PA 15401  
*Attorney:* Melissa Turner

## LEGAL NOTICES

### NOTICE

NOTICE IS HEREBY GIVEN that a Petition has been filed in the Court of Common Pleas of Fayette County, Pennsylvania, seeking to change the name of Alisa Marie Taylor Yauger, to Alisa Marie Taylor Lovelace. A hearing on the Petition will be held on **Thursday January 27, 2022 at 11:00 o'clock a.m. in Courtroom No. 5 at the Fayette County Courthouse, Uniontown, Pennsylvania**, at which time any persons interested may attend and show cause, if any, why the Petition should not be granted.

Ashley T. Lovelace for Alisa Marie Taylor Yauger  
% Dellarose Law Office, PLLC  
Melinda Deal Dellarose  
99 East Main Street  
Suite 101  
Uniontown, PA 15401  
(724) 437-3200

### NOTICE

NOTICE IS HEREBY GIVEN that a Petition has been filed in the Court of Common Pleas of Fayette County, Pennsylvania, seeking to change the name of Natalie Zuchelkowski to Natalie Anne Zuchelkowski. A hearing on the Petition will be held on **Tuesday, February 1, 2022 at 2:00 o'clock p.m. in Courtroom No. 4, at the Fayette County Courthouse, Uniontown, Pennsylvania**, at which time any persons interested may attend and show cause, if any, why the Petition should not be granted.

Natalie Zuchelkowski  
% Dellarose Law Office, PLLC  
Melinda Deal Dellarose  
99 East Main Street  
Suite 101  
Uniontown, PA 15401  
(724) 437-3200

### NOTICE UPPER TYRONE TOWNSHIP

NOTICE IS HEREBY GIVEN that Articles of Dissolution were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg on or about the 19th day of November, 2021, for the purpose of dissolving the Upper Tyrone Township Sewage Authority, a Pennsylvania Domestic Nonprofit Corporation which was incorporated on or about November 16, 2009, under the Municipality Authorities Act of May, 1945, P.L. 382, as amended.

Ricardo J. Cicconi, Esquire  
Township Solicitor  
P.O. Box 953  
Uniontown, PA 15401

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IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
NO. 31 of 2022 G.D.  
EMINENT DOMAIN PROCEEDING  
IN REM

IN RE: CONDEMNATION BY THE COUNTY  
OF FAYETTE, OF THE RIGHT-OF-WAY  
FOR TOWNSHIP ROUTE T-907 SECTION  
F73 R/W IN CONNELLSVILLE TOWNSHIP  
AND TOWNSHIP ROUTE T-906 SECTION  
F73 R/W IN BULLSKIN TOWNSHIP

### NOTICE OF CONDEMNATION AND DEPOSIT OF ESTIMATED JUST COMPENSATION

Notice is hereby given that the County of Fayette, by its Board of Commissioners, whose address is 61 East Main Street, Uniontown, PA 15401, pursuant to the provisions of County Code (16 P.S. § 2401-A, et seq., as amended, including, without limitation, 16 P.S. §§ 2601-2603) authorizing counties to condemn real property for bridge projects; and as approved by the Fayette County Commissioners at its regular meeting held on January 6, 2022 as Ordinance No. 2022-1, has filed on January 6, 2022, a Declaration of Taking to the above term and number, condemning the property shown on the plans of the parcels listed on the Schedule of Property Condemned which have been recorded in the Recorder's Office of the above county at the places indicated on the said schedule. The name(s) of the owner(s) of the property interest (s) condemned is (are) also shown on the aforesaid Schedule. The County of Fayette and the Fayette County Commissioners have

approved the within condemnation by signing on 10/21/2021 a plan entitled DRAWINGS AUTHORIZING ACQUISITION OF RIGHT-OF-WAY FOR TOWNSHIP ROUTE T-907 SECTION F73 R/W IN FAYETTE COUNTY AND TOWNSHIP ROUTE T-906 SECTION F73 R/W IN FAYETTE COUNTY, a copy of which plan was recorded in the Recorder's Office of the aforesaid county on 10/29/2021, in HW BOOK 16 PAGE 36.

The purpose of the condemnation is to acquire property for transportation use.

Plans showing the property condemned from the parcels listed on the Schedule of Property Condemned have been recorded in the aforesaid Recorder's Office at the places indicated on the Schedule, where they are available for inspection. The Property Interest thereby condemned is designated on the Declaration of Taking heretofore filed. The County of Fayette is not required to post security, in as much as it has the power of taxation.

Because the identity or the whereabouts of the condemnee(s) listed below is (are) unknown or for other reasons he (they) cannot be served, this notice is hereby published in accordance with Section 305(b) of the Eminent Domain Code (26 Pa.C.S. §305(b)).

- Parcel No. 11
- Name Estate of N. Maude Wishart and her heirs, successors and assigns
- Address Tax ID No. 04-34-0031; DBV 472 Page 385
- Name Estate of John Wishart and his heirs, successors and assigns
- Address C/o Rick Herron 1479 Greenwood Lane, Rock Hill, SC 29730

The power or right of the County of Fayette to appropriate the property condemned, the procedure followed by the County of Fayette or the Declaration of Taking may be challenged by filing preliminary objections within thirty (30) days of the date of this notice.

FURTHERMORE, NOTICE IS GIVEN THAT the County of Fayette, pursuant to Section 522 of the Eminent Domain Code (26 Pa.C.S. §522), will, at the end of the above-referenced thirty (30) day time period within which to file preliminary objections to the Declaration of

Taking, present a petition to the Court of Common Pleas of the above county to deposit into court the just compensation estimated by the County of Fayette to be due all parties in interest for damages sustained as the result of the condemnation of the property herein involved.

The petition to deposit estimated just compensation may not be presented to the court if the owner(s) of the property herein involved inform the County of Fayette noted below of their existence and/or whereabouts prior to the expiration of the noted period. After estimated just compensation has been deposited into court, the said monies may be withdrawn by the persons entitled thereto only upon petition to the court. If no petition is presented within a period of six years of the date of payment into court, the court shall order the fund or any balance remaining to be paid to the Commonwealth without escheat.

Timothy J. Witt, Esquire  
Assistant Solicitor for Fayette County

## SHERIFF'S SALE

Date of Sale: March 17, 2022

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 17, 2022, at 2:00 p.m. in Courtroom Number Five at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (1 of 3)

James Custer  
Sheriff Of Fayette County

Hladik, Onorato & Federman, LLP  
of Counsel to Greenspoon Marder LLP  
298 Wissahickon Avenue  
North Wales, PA 19454

No. 1656 of 2020 GD  
No. 193 of 2021 ED

**Wilmington Savings Fund Society FSB, as Trustee of Stanwich Motigage Loan Trust A, (Plaintiff)**

vs.

**David T. Budinsky aka David Theodore Budinsky and Mary Budinsky aka Mary Irene Budinsky, (Defendant)**

By virtue of Writ of Execution No. 2020-1656

Wilmington Savings Fund Society FSB, as Trustee of Stanwich Motigage Loan Trust A, (Plaintiff) vs. David T. Budinsky aka David Theodore Budinsky and Mary Budinsky aka Mary Irene Budinsky, (Defendant)

Property Address 224 Mountain View Road, Uniontown, PA 15401161 Lucky Lane, Dawson,

Parcel I.D. No. 3427018701

Improvements thereon consist of a residential dwelling.

Judgment Amount: \$111,662.69

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Brock & Scott, PLLC

No. 1733 of 2020 GD  
No. 213 of 2021 ED

**U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR BNC MORTGAGE LOAN TRUST 2007-2 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-2**

v.

**JOHN ALBERT CLAY; JILLIAN N. CLAY**

By virtue of a Writ of Execution No. 1733 of 2020

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR BNC MORTGAGE LOAN TRUST 2007-2 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-2 V. JOHN ALBERT CLAY; JILLIAN N. CLAY owner(s) of property situate in the PERRY TOWNSHIP, FAYETTE County, Pennsylvania, being 46 MEMORIAL DR. PERRYOPOLIS. PA 15473

Tax ID No. 27-10-0071

Improvements thereon: RESIDENTIAL

DWELLING

Judgment Amount: \$104,041.06

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

No. 2711 of 2019 GD  
No. 195 of 2021 ED

**NATIONSTAR MORTGAGE LLC D/B/A  
CHAMPION MORTGAGE COMPANY  
8950 Cypress Waters Boulevard Coppell, TX  
75019**

**Plaintiff**

**vs.**

**FRANK FAUST Solely in His Capacity as  
Heir of John G. Faust Deceased  
JOHN FAUST Solely in His Capacity as Heir  
of John G. Faust Deceased  
NANCY I. FAUST Solely in Her Capacity as  
Heir of John G. Faust Deceased  
The Unknown Heirs of John G. Faust  
Deceased  
VICKI ROSENSTEEL Solely in Her  
Capacity as Heir of John G. Faust Deceased  
Mortgagor(s) and Record Owner(s)  
1320 Hawthorne Street  
Connellsville, PA 15425  
Defendant(s)**

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

BEING KNOWN AS: 1320  
HAWTHORNE STREET, CONNELLSVILLE,  
PA 15425

TAX PARCEL #06-03-0030  
IMPROVEMENTS: A RESIDENTIAL  
DWELLING

SOLD AS THE PROPERTY OF: FRANK  
FAUST Solely in His Capacity as Heir of John  
G. Faust Deceased, JOHN FAUST Solely in His  
Capacity as Heir of John G. Faust Deceased,  
NANCY I. FAUST Solely in Her Capacity as  
Heir of John G. Faust Deceased, The Unknown  
Heirs of John G. Faust Deceased AND VICKI  
ROSENSTEEL Solely in Her Capacity as Heir  
of John G. Faust Deceased

No. 336 of 2020 GD

No. 209 of 2021 ED

**PNC Bank, National Association  
Plaintiff,**

**vs.**

**Aaron B. Hollis, AKA Aaron Hollis; Bobby L.  
Hollis, AKA Bobby Hollis  
Defendants.**

ALL that certain parcel of land lying and  
being situate in the Borough of Fayette City,  
County of Fayette, and Commonwealth of  
Pennsylvania, known as 179 Connellsville  
Street, Fayette City, PA 15438 having erected  
thereon a dwelling house.

Being known and designated as Tax ID  
No.: 12030011

BEING the same premises which Joyce  
Moody and Enoch James Eley, Jr., Co-Executors  
of the Estate of Wilma Eley, deceased, Gerald L.  
Eley, Craig Moody, Laura Moody, Wesley  
Moody, Leonard Eley, Jr., Linnie Druciak,  
Deborah Parshall, James M. Eley and Janet  
Maher, by Deed dated November 16, 2006 and  
recorded in and for Fayette County,  
Pennsylvania in Deed Book 3008, Page 1026,  
granted and conveyed unto Aaron B. Hollis and  
Bobby L. Hollis, husband and wife.

No. 1831 of 2021 GD

No. 232 of 2021 ED

**MID PENN BANK, successor in interest to  
SCOTSDALE BANK & TRUST  
COMPANY,**

**Plaintiff**

**v.**

**ROBBY KIMMEL  
Defendant**

**PARCEL A:**

All that certain parcel of land lying and  
being situate in the Borough of South  
Connellsville, Fayette County, Pennsylvania,  
known as 108 Park Avenue, South  
Connellsville, PA, 15425.

Being known and designated as Tax ID  
No.: 33-07-0033

Being the same premises which Robby  
Kimmel a/k/a Robbie Kimmel, Executor of the  
Estate of Dale Kimmel, Deceased, by Deed  
dated March 5, 2013 and recorded March 8,  
2013 in the Office of the Recorder of Deeds in  
and for the County of Fayette in Record Book  
3213, Page 1351, granted and conveyed unto  
Robbie Kimmel a/k/a Robby Lee Kimmel.



**PARCEL B:**

All that certain parcel of land lying and being situate in the City of South Connellsville, formerly Connellsville Township, Fayette County, Pennsylvania, known as 1927-1929 First Street, Connellsville, PA 15425.

Being known and designated as Tax ID No.: 33-07-0032

Being the same premises which Robby Kimmel a/k/a Robbie Kimmel, Executor of the Estate of Dale Kimmel, Deceased, by Deed dated September 24, 2012 and recorded September 24, 2012 in the Office of the Recorder of Deeds in and for the County of Fayette in Record Book 3199, Page 763, granted and conveyed unto Robbie Kimmel a/k/a Robby Lee Kimmel.

No. 1107 of 2021 GD  
No. 194 of 2021 ED

**Deutsche Bank National Trust Company, as Trustee for Popular ABS, Inc., Series 2007-A, Plaintiff,**

**v. Benjamin Knox, Defendant(s).**

SITUATE IN THE THIRD WARD OF THE GERMAN TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 643 Stevenson Street, Ronco, PA 15476

PARCEL NO. 15-31-0010 and 15-31-0002 IMPROVEMENTS- RESIDENTIAL REAL ESTATE SOLD AS THE PROPERTY OF Benjamin Knox

No. 1789 of 2021 GD  
No. 214 of 2021 ED

**The Huntington National Bank Plaintiff,**

**vs. Clayton W. Miller Defendant.**

ALL that certain parcel of land lying and being situate in the Borough of South Connellsville, County of Fayette, and Commonwealth of Pennsylvania, known as 1819 2nd Street, Connellsville, PA 15425 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 33080058

BEING the same premises which John R. Lohr and Myrna L. Lohr, husband and wife, by Deed dated July 29, 2008 and recorded in and for Fayette County, Pennsylvania in Deed Book 3068, Page 2254, granted and conveyed unto Clayton W. Miller, married.

DWALDMANLAW, P.C.  
BY: JENNIE C. SHNAYDER, ESQUIRE  
ID #315213  
4900 CARLISLE PIKE, #182  
MECHANICSBURG, PA 17050  
TELEPHONE: (844) 899-4162  
FACSIMILE: (844) 882-4703

No. 617 of 2020 GD  
No. 224 of 2021 ED

**AMERICAN CAPITAL GROUP, LLC**

**vs. Charles L. Murphy, Sr. Maureen Murphy**

All that certain two (2) pieces, parcels or lots of land situate in the City of Connellsville, County of Fayette and Commonwealth of Pennsylvania

TAX PARCEL# 05-11-0045 and 05-11-0046

PROPERTY ADDRESS: 250 E. Fairview Avenue, Connellsville, PA 15425

Hladik, Onorato & Federman, LLP  
298 Wissahickon Avenue  
North Wales, PA 19454

No. 192 of 2021 GD  
No. 920 of 2021 ED

**The Bank of New York Mellon As Trustee for CWABS, Inc. Asset-Backed Certificates, Series 2005-17**

**(Plaintiff) vs. Becky Ridgely, (Defendant)**

By virtue of Writ of Execution No. 2021-00920

The Bank of New York Mellon As Trustee for CWABS, Inc. Asset-Backed Certificates, Series 2005-17 (Plaintiff) vs. Becky Ridgely, (Defendant)

Property Address 161 Lucky Lane, Dawson, PA 15428

Parcel I.D. No. 1804006301

Improvements thereon consist of a residential dwelling.

Judgment Amount: \$81,623.59

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No. 988 of 2019 GD  
No. 225 of 2021 ED

**PNC Bank, National Association**  
**Plaintiff,**  
**vs.**  
**Seven Point Five, LLC**  
**Defendant.**

ALL that certain parcel of land lying and being situate in the Borough of Perryopolis, County of Fayette, and Commonwealth of Pennsylvania, known as 97 Knox, AKA 97 Knox Street, Perryopolis, PA 15473 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 28070054

BEING the same premises which The Fayette County Tax Claim Bureau, by Deed dated November 19, 2018 and recorded in and for Fayette County, Pennsylvania in Deed Book 3389, Page 688, granted and conveyed unto Seven Point Five, LLC.

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\*\*\* END SHERIFF'S SALE \*\*\*

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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.	:	
	:	
DONALD BRADON SMITH,	:	No. 1771 of 2016
Defendant/Petitioner.	:	Honorable Nancy D. Vernon

OPINION AND ORDER

VERNON, J.

January 7, 2021

Before the Court is the Amended Post-Conviction Relief Act Petition filed by Petitioner, Donald Bradon Smith, alleging two counts of ineffective assistance of counsel in that trial counsel failed to confront the minor victim at trial with the transcript of her inconsistent testimony at the preliminary hearing and that counsel failed to present the testimony at trial of Petitioner’s wife that she and Petitioner were residing somewhere other than with the victim.

The trial testimony was summarized by prior Opinion of this Court, dated April 18, 2018. Petitioner was represented at trial by Douglas Sepic, Esquire and was convicted of Involuntary Deviate Sexual Intercourse, Statutory Sexual Assault 11 Years Older, two counts Sexual Assault, two counts Aggravated Indecent Assault complainant less than 16, three counts Corruption of Minors, and two counts of Indecent Assault Person Less than 16 years age.

In his first claim of ineffectiveness, Petitioner alleges that trial counsel failed to confront the victim at trial with a transcript of her preliminary hearing testimony which he alleges to be inconsistent with her trial testimony. The relevant alleged inconsistencies involve her testimony regarding times and dates and allegations of penetration occurring. See, Amended Post-Conviction Relief Act Petition.

At the time set for hearing on the within Petition, Attorney Sepic testified credibly that his trial strategy was not want to rehash other versions of the events that the victim had testified to previously. Specifically, he did not want the jury to hear of other allegations of penetration. Attorney Sepic explained that confronting the minor child’s nuances of testimony would appear to revictimize her in front of the jury. Rather, Attorney Sepic brought forth the inconsistent victim testimony through the prosecuting office. At trial, Attorney Sepic directed Trooper Craig Spisak of the Pennsylvania State Police to the testimony of the minor child at the preliminary hearing. N.T., 5/3-4/2017, at 114. Through the trooper’s cross-examination, Attorney Sepic rehashed that the victim testified inconsistently at the preliminary hearing regarding whether the incident occurred three days in a row and details regarding ejaculation and penetration that were discrepant from her trial testimony. Id. at 114-119.

To establish ineffective assistance of counsel, Petitioner must show: 1) that there is merit to the underlying claim; 2) that counsel had no reasonable basis for his course of conduct; and 3) that there is a reasonable probability that, but for the act or omission in question, the outcome of the proceeding would have been different. *Commonwealth v. Jones*, 683 A.2d 1181, 1188 (Pa. 1996). This standard is the same for PCRA relief based on a claim of ineffective assistance of counsel. *Commonwealth v. Kimball*, 724 A.2d 326, 332 (Pa. 1999). When evaluating ineffective assistance of counsel claims, judicial scrutiny of a counsel's performance must be highly deferential. *Commonwealth v. Perry*, 128 A.3d 1285 (Pa.Super. 2015).

The assistance of counsel is deemed constitutionally effective if the particular course chosen by counsel had some reasonable basis. *Commonwealth v. Chmiel*, 30 A.3d 1111 (Pa. 2011). The "reasonable basis" prong of an ineffective assistance claim does not question whether there were other more logical courses of action or superior courses of action which counsel could have pursued but, rather, examines whether counsel's decisions had any reasonable basis. *Commonwealth v. Williams*, 141 A.3d 440 (Pa. 2016). Generally, where matters of strategy and tactics are concerned, counsel's assistance is deemed constitutionally effective if he or she chose a particular course that had some reasonable basis designed to effectuate his or her client's interests. *Perry*, supra.

Here, Attorney Sepic testified that his strategy was not to directly question a minor victim with prior inconsistent testimony because his interrogation could be perceived by the jury as revictimizing the child. He further testified that the same inconsistent testimony was presented to the jury by way of cross-examination of the prosecuting officer. The record supports Attorney Sepic's trial strategy and for such, his representation was not ineffective.

In his second claim of ineffective assistance of counsel, Petitioner alleges that Attorney Sepic failed question Spring Smith, Petitioner's wife, when she testified that she and Petitioner "were staying with Tiffany and Andrew Rider at the time the alleged sexual assaults occurred." At trial, Attorney Sepic questioned Spring Smith about her living situation as follows:

Q: And somewhere before Thanksgiving of 2014 did they move into your residence?

A: Yes.

Q: Sometime around Thanksgiving?

A: Yes.

Q: Who all was living at your residence at the time that [the victim's mother and the victim] moved in?

A: It was me, my husband Donald, another couple, Scott and Casey, and then [the victim's mother] and her boyfriend at the time, Bill, and then [the victim] had moved in.

Petitioner's allegation that Attorney Sepic was ineffective because he failed to question Spring Smith that she and Petitioner were living with Tiffany and Andrew Rider is belied by the record. Contrary to this new claim of his living arrangement, Spring Smith testified at trial that the living arrangements included the minor victim living in her house with her and Petitioner around Thanksgiving 2014.

Petitioner has failed to meet his burden of proving his trial counsel's ineffective assistance, and no relief is due. WHEREFORE, we will enter the following Order denying the Amended Post-Conviction Relief Act Petition filed by Petitioner, Donald Bradon Smith.

ORDER

AND NOW, this 7th day of January, 2021, upon consideration of the Amended Post-Conviction Relief Act Petition filed by Donald Bradon Smith and the record, it is hereby ORDERED and DECREED that the Petition is DENIED in accordance with the foregoing Opinion.

BY THE COURT:  
NANCY D. VERNON, JUDGE

ATTEST:  
Clerk of Courts





**NOTICE OF PROPOSED TERMINATION****Notice of Proposed Termination of Court Case**

Pursuant to Rule 1901 of the Rules of Judicial Administration, the court intends to terminate the following cases without further notice because the docket shows no activity in the case for at least two years. You may stop the court from terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to proceed should be filed along with a \$25 filing fee to the Prothonotary of the Court at the Fayette County Courthouse, 61 E Main Street, Uniontown, Pennsylvania 15401 on or before March 17, 2022.

**IF YOU FAIL TO FILE THE REQUIRED STATEMENT OF INTENTION TO PROCEED, THE CASE WILL BE TERMINATED.**

<b>File Number</b>	<b>Type</b>	<b>Plaintiff</b>	<b>Defendant</b>
2019-2274	GD	Amanda Grayson	Gregory Grayson Jr.
2018-2103	GD	Kenneth Mickens	Renee L Mickens
2019-1397	GD	Louis King	Brenna King



**NOTICE****IN RE: REESTABLISHMENT OF THE MAGISTERIAL DISTRICTS  
WITHIN THE 14TH JUDICIAL DISTRICT**

## NOTICE

The Judicial Code requires the Supreme Court to reestablish the magisterial districts decennially. The Court shall establish the number, boundaries, and classes of the magisterial districts within each judicial district. Copies of the President Judge's reestablishment proposal may be reviewed in each magisterial district judge's office, public library branches, and the Administrative Office of the Fayette County Courts.

Written comments or suggestions may be forwarded to the:

Administrative Office of the Fayette County Courts  
Fayette County Courthouse  
61 East Main Street  
Uniontown, PA 15401

Or by fax to 724-430-1001 or by email at [llambie@faycopa.org](mailto:llambie@faycopa.org)

Please respond by February 14, 2022

John F. Wagner, Jr.  
President Judge

## Magisterial District Courts Addresses:

14-1-01—88 North Gallatin Ave. Uniontown, PA 15401  
14-1-02—404 South Pittsburgh Street, Connellsville, PA 15425  
14-2-01—362 S. Mt. Vernon Ave., Uniontown, PA 15401  
14-2-02—27 Nickman's Plaza, Lemont Furnace, PA 15456  
14-2-03—113C Thorton Road., RT 166, Brownsville, PA 15417  
14-3-02—1 East Church Ave., Masontown, PA 15461  
14-3-04—3177 Pittsburgh Street, PO Box 409, Star Junction, PA 15482

## Libraries:

Uniontown Public Library—24 Jefferson Street, Uniontown, PA 15401  
Carnegie Free Library—299 South Pittsburgh Street, Connellsville, PA 15425

Administrative Office of the Fayette County Courts  
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