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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

FRANKLIN D. COLE, late of South Union Township, Fayette County, PA ⁽³⁾

Executor: Thomas J. Conn, Sr.
c/o Fitzsimmons and Barclay
55 East Church Street, Suite 102
Uniontown, Pa 15401
Attorney: James N. Fitzsimmons, Jr.

ALICIA L. GLASSBURN, a/k/a ALICIA D. GLASSBURN, late of Connellsville, Fayette County, PA ⁽³⁾

Executrix: Carolyn W. Maricondi
P.O. Box S
Dawson, PA 15428
c/o P.O. Box 760 Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

MARGARET L. LANE, late of Dickerson Run, Dunbar Township, Fayette County, PA ⁽³⁾

Personal Representative: Donna L. Bryner
207 Water Street
Dickerson Run, PA 15430
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

LOIS MCELHANEY, late of South Connellsville, Fayette County, PA ⁽³⁾

Co-Executors: Melanie S. Joy
10571 East 28th Place
Denver, Colorado 80238
Julius A. Fuchs
225 Elm Drive
Lansdale, PA 15446
c/o Lezzi Law
140 South Main Street, Suite 201
Greensburg, PA 15601
Attorney: Patsy A. Lezzi, Jr.

SPENCER PROVANCE, a/k/a SPENCER T. PROVANCE, a/k/a SPENCER THERON PROVANCE, late of Hopwood, Fayette County, PA ⁽³⁾

Personal Representative:
David Scott Provance
c/o George & George
92 East Main Street
Uniontown, PA 15401
Attorney: Joseph M. George, Sr.

ROBERT PUCHYR, late of Dawson Borough, Fayette County, PA ⁽³⁾

Personal Representative: Robyn Brady
514 Walnut Street
Vanderbilt, PA 15486
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

GERALDINE D. RODKEY, late of Uniontown, Fayette County, PA ⁽³⁾

Personal Representative: Debra Sickles,
a/k/a Debra Rodkey Michael
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

VIRGINIA GRACE ROHLF, a/k/a

VIRGINIA G. ROHLF, late of Wharton Township, Fayette County, PA ⁽³⁾

Executor: Jeffrey C. Rohlf
174 Nelson Road
Ohiopyle, PA 15470
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Ewing D. Newcomer

PHILIP REX SAHADY, SR., a/k/a PHILIP R. SAHADY, late of Redstone Township, Fayette County, PA ⁽³⁾

Personal Representative:
Nancy Louise Sahady
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

ROBERTA E. SCHULTZ, a/k/a ROBERTA ELIZABETH SCHULTZ, late of North Union

Township, Fayette County, PA (3)

Executor: Gary A. Schultz, Jr.

c/o Zebley Mehalov & White, P.C.

18 Mill Street Square

P.O. Box 2123

Uniontown, PA 15401

Attorney: Mark M. Mehalov

c/o Kopas Law Office

556 Morgantown Road

Uniontown, PA 15401

Attorney: John Kopas**Second Publication****CHARLOTTE M. BROWN**, late of Fayette

City, Fayette County, PA (2)

Executrix: Joni L. Powell

P.O. Box 599

Perryopolis, PA 15473

c/o 300 Fallowfield Avenue

Charleroi, Pa 15022

Attorney: Richard C. Mudrick**GEORGE W. COOPER**, late of Uniontown,
Fayette County, PA (2)*Administratrix:* Kathy Austin

c/o 51 East South Street

Uniontown, PA 15401

Attorney: Anthony S. Dedola, Jr.**MERRIE JANE DAVID**, late of North Union
Township, Fayette County, PA (2)*Executrix:* Amy Lynch

c/o 815A Memorial Boulevard

Connellsville, Pa 15425

Attorney: Margaret Zylka House**ROSS GIRARD, JR.**, late of North Union
Township, Fayette County, PA (2)*Personal Representative:*

Angela Marie Yowler

9218 Randal Park Boulevard

Orlando, FL 32832

c/o Newcomer Law Offices

4 North Beeson Boulevard

Uniontown, PA 15401

Attorney: Ewing D. Newcomer**RONALD EUGENE HARDING**, late of New
Salem, Fayette County, PA (2)*Personal Representative:*

Gloria Jean Robinson

c/o Davis and Davis

107 East Main Street

Uniontown, PA 15401

Attorney: Gary J. Frankhouser**LAIRD MAY, a/k/a LAIRD N. MAY**, late of
Springfield Township, Fayette County, PA (2)*Executrix:* Audrey M. Cain

234 Imel Road

Normalville, PA 15469

c/o Law Office of Mackenzie A. Kline, LLC

188 Skinner Road

P.O. Box 55

Mill Run, PA 15464

Attorney: Mackenzie Kline**First Publication****CARL E. CIARAMELLA**, late of Nicholson
Township, Fayette County, PA (1)*Executrix:* Katherine Irene Ciaramella

c/o Proden & O'Brien

99 East Main Street

Uniontown, PA 15401

Attorney: Jeffrey S. Proden**JOSEPH D. ELWELL**, late of Perry Township,
Fayette County, PA (1)*Administratrix:* Deborah Ann Elwell

1519 Banning Road

Dawson, PA 15428

c/o Lederach Law

201 North Chestnut Street

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Scottdale, PA 15683

Attorney: James Lederach**RILEY HARBARGER, a/k/a RILEY D.
HARBARGER**, late of Georges Township,
Fayette County, PA (2)*Administratrix:* Ida M. Harbarger

101 High Street

Fairchance, PA 15436

SHIRLEY ENLOW, late of German Township,
Fayette County, PA (1)*Executrix:* Jeanne Bartholomai

c/o 55 East Church, Suite 1

Uniontown, PA 15401

Attorney: Jason Adams

**PHYLLIS MARLEEN GESHINSKY, a/k/a
PHYLLIS M. GESHINSKY, a/k/a PHYLLIS
GESHINSKY**, late of Bullskin Township,
Fayette County, PA (1)

Executrix: Diane V. Walter
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

LUAN F. HUCIK, late of Uniontown, Fayette
County, PA (1)

Administratrix: Lisa H. Kranker
4441 Ivory Jade Avenue
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c/o 111 East Main Street
Uniontown, PA 15401
Attorney: Robert R. Harper

GEORGIA A. KERR, late of Uniontown,
Fayette County, PA (1)

Executor: Jonathan D. Kerr
150 Mountain Village
Morgantown, WV 26508
c/o Ciao, Torisky & O'Connor, LLC
7240 McKnight Road
Pittsburgh, PA 15237
Attorney: Craig S. O'Connor

**CHARLES LININGER, a/k/a CHARLES
WILLIAM LININGER**, late of Georges
Township, Fayette County, PA (1)

Executrix: Renee Lynn Lininger
185 Shadyside Road
Uniontown, PA 15401
c/o Kopas Law Office
556 Morgantown Road
Uniontown, PA 15401
Attorney: John Kopas

**MAE PAULINE LUCKEY, a/k/a MAE P.
LUCKEY, a/k/a PAULINE LUCKEY**, late of
North Union Township, Fayette County, PA (1)

Executrix: Susan Lynn Wallace
c/o John and John
96 East Main Street
Uniontown, PA 15401
Attorney: Simon B. John

**HELEN MARMOL, a/k/a HELEN L.
MARMOL**, late of South Union Township,
Fayette County, PA (1)

Executrix: Donna Marmol Smith
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham

DONALD E. MURPHY, JR., late of Dunbar
Township, Fayette County, PA (1)

Personal Representative: Dawn M. A. Siple
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

EMMA L. PETERS, late of Bullskin
Township, Fayette County, PA (1)

Personal Representative: Mark S. Peters
412 Rankin Road
Ruff's Dale, PA 15679
c/o 208 South Arch Street
Connellsville, PA 15425
Attorney: Richard A. Husband

**SHIRLEY S. RUTHERFORD, a/k/a
SHIRLEY M. RUTHERFORD**, late of
Vanderbilt, Fayette County, PA (1)

Executrix: Mark Alan Rutherford
5129 Plantation Grove Lane
Roanoke, VA 24012
c/o 111 East Main Street
Uniontown, PA 15401
Attorney: Robert R. Harper, Jr.

DOROTHY M. SKUFCA, late of Perry
Township, Fayette County, PA (1)

Personal Representative: Nancy Petrosky
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY,
PENNSYLVANIA -- CIVIL DIVISION
No. 2181 of 2020, G.D.

HARRY YOUNG COCHRAN,
Plaintiff
Vs.

JOHN DOE and JANE DOE, their heirs
successors, beneficiaries and assigns, generally,
and the unknown predecessors in title to PHILIP
T. KACHMAREK.
Defendants

LEGAL NOTICE AND ORDER OF COURT

TO THE DEFENDANTS, take notice that the named Plaintiff filed an Action to Quiet Title at No. 2181 of 2020, G.D. in the Court of Common Pleas of Fayette County, Pennsylvania, averring that he is the owner n fee and in possession of real estate located in Jefferson Township, Fayette County, Pennsylvania, identified as Tax Map No. 17-06- 0002, located along TR 419 - NR Newell, containing approximately 22 acres. Plaintiff is asking the Court to enter a decree terminating any and all rights which Defendants may have in the said premises and decreeing at Plaintiff has the full and free use and occupation of the said premises, and is asking the Court to release and forever discharge of any right, lien, title or interest of any Defendants herein.

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objection in writing with the Court or commence an action in ejectment. 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 Plaintiff. You may lose money, 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 BELWO. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

PENNSYLVANIA LAWYER
REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 South St.
P.O. Box 186
Harrisburg, PA 17108
Phone: 1-800-692-7375

Sepic Law
892 Vanderbilt Rd.
Connellsville, PA 15425
724-628-4625

NOTICE

Notice is hereby given that Fayette County Community Health Improvement Partnership, Inc., 65 W. Main Street, Suite 107, Uniontown, PA 15401, has filed a Registration of the Fictitious Name Fayette Living Well Coalition with the Corporation Bureau of the Department of State of the Commonwealth of Pennsylvania.

Ernest P. DeHaas, III, Esquire
DEHAAS LAW, LLC
51 East South Street
Uniontown, Pennsylvania 15401
epd@dehaaslaw.com
(724) 438-3510

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
NO. 25 ADOPT 2021

IN RE: ADOPTION OF
AVA SPOLJARICK

NOTICE

TO: Mandy Spoljarick and William Carter

A petition has been filed asking the Court to put an end to all rights you have to your child, Ava Spoljarick. The court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. 4 of the Fayette County Courthouse, Uniontown , Fayette County, Pennsylvania, on Monday, July

26, 2021 at 1:30 p.m. You are warned that even if you fail to appear at the scheduled hearing the hearing will go on without you and your rights to your child may be ended by the court without your being there.

YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

PENNSYLVANIA LAWYER
REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
PO BOX 186
HARRISBURG, PA 17108
(800) 692-7375

Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated June 4, 2021, John William Eddy is Suspended from the Bar of the Commonwealth for a period of three years, retroactive to the order of the temporary suspension entered on September 6, 2019.

Marcee Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

**THE DENNIS ALLAN ONDREJKO
REVOCABLE TRUST AGREEMENT
DENNIS ALLAN ONDREJKO,
DECEASED APRIL 24, 2015**

DENNIS ALLAN ONDREJKO, late of the Township of Washington, Fayette County, Pennsylvania, now deceased, created the DENNIS ALLAN ONDREJKO REVOCABLE TRUST, as Settlor and Trustee appointed his surviving spouse, Darlene Helen Ondrejko, as Successor Trustee. Notice is hereby given to all persons indebted to said Trust to make immediate payment. To those having claims against the Trust are hereby notified to present them, duly authenticated for settlement to:

Successor Trustee:

Darlene Helen Ondrejko
921 McClintock Avenue
Belle Vernon, PA 15012

Counsel:

Mark J. Shire, Esquire
SHIRE LAW FIRM
1711 Grand Boulevard
Park Centre
Monessen, PA 15062

(3 of 3)

FAYETTE COUNTY TAX CLAIM BUREAU
61 East Main Street
Uniontown, PA 15401
Telephone 724-430-1208

TO THE OWNERS OF PROPERTIES
DESCRIBED IN THE SALE LIST AND TO
ALL HAVING TAX AND MUNICIPAL
CLAIMS, MORTGAGES, LIENS, AND
JUDGEMENTS, AGAINST SUCH
PROPERTIES:

Notice is hereby given that the properties described on the sale list will be sold Freed and Cleared of their respective tax and municipal claims, Liens, mortgages, and/or ground rents, by the Fayette County Tax Claim Bureau for non-payment of delinquent taxes under the Provisions of the Act of July 1947, P. L. 351, its amendments and supplements on June 28th, 2021 at 10:00 AM at the Fayette County Fairgrounds. Bidder Registration will start at 8:30 am.

These properties were exposed to the upset sale on September, 2018 advertised in the Daily Courier and Herald Standard in August, 2018 and Fayette Legal Journal in, August 2017. **THE TERMS OF THE SALE** are cash and no sale shall be made except to the County, unless a bid equal to the costs as indicated by the approximate upset price (MINIMUM PRICE) set forth for each property.

****NO ONE OWING DELIQUENT TAXES CAN BID ON PROPERTIES IN THE TAX SALE.**

THE FEES FOR THE TRANSFER TAX AND RECORDING MUST BE PAID (BY CASH OR CERTIFIED CHECK) AFTER THE EXCEPTION PERIOD GRANTED BY THE JUDGE AND BEFORE A DEED CAN BE ISSUED.

**** IT IS STRONGLY URGED THAT THE PROSPECTIVE PURCHASER HAVE AN EXAMINATION MADE OF THE TITLE TO ANY PROPERTY IN WHICH THEY MAY BE INTERESTED.** Every reasonable effort has been made to keep the proceeding free from error. However, in every case the Tax Claim Bureau is selling the TAXABLE INTEREST and the property is offered for sale without guarantee of warranty, either as to the structure or lack of structure upon the land. Lien holders have attempted to be notified, however there are instances where the notice was not successful.

Fayette County Tax Claim Bureau
Sarah E. Minnick, Director

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.	:	
	:	
PETER J. JANDURA,	:	No. 1365 of 2020
Defendant.	:	Honorable Steve P. Leskinen

OPINION AND ORDER

Leskinen, J.

May 7, 2021

Before the Court is the Defendant's Omnibus Pre-Trial Motion in the nature of a Petition for a Writ of Habeas Corpus and the Commonwealth's Motion to Rescind/ Revoke the Defendant's Bond. After careful review of the evidence and applicable law, the Court finds that the Commonwealth has established a prima facie case for both Harassment and Terroristic Threats and therefore must DENY the Defendant's Omnibus Pre-Trial Motion. The Court will also DENY the Commonwealth's Motion to Rescind/ Revoke the Defendant's Bond unless another violation occurs after this date.

Factual Background

An Omnibus Pre-Trial Hearing was held in this matter on April 19th, 2021 at which the Commonwealth submitted evidence of the following: that on May 25th, 2020, the Defendant, Peter J. Jandura, called the Office of the Mayor of Connellsville, (Greg Lincoln), and left a voicemail. The Commonwealth submitted a recording of the voicemail. In the voicemail, the Defendant says:

Yeah old Mr. Lincoln, it's Mr. Jandura, YOUR WORST NIGHTMARE!, m'kay. And Mark my words, I will prove that someday if you push me enough, m'kay. This is my LAST OFFER TO YOU! I don't know what's painted on the back wall. It's not my shit. Don't insult me by saying I did it because I can SPELL AND READ unlike most of the constituents in your TOWN!, m'kay. LAST CHANCE! LAST CHANCE! We kiss and make up, shake hands and we build a future for this community or I will do everything in my POWER to make sure you are NEVER in a political office ever again, m'kay. Now, THAT'S A, that's not a threat. I mean, that's politics, m'kay. But um, it is what it is, Greg. Alright. And, you are going to stop singing Christmas jingles wearin' a hat. You got to stop doing stupid stuff. And by the way, I am the only person in the world who won't ever let you live down THE DUCK! Alright. Um, you got a chance. Let's scrape that CRAP off of the BACK WALL and put some real artwork up, m'kay. Let's change the future of our city, m'kay, and, by MATURING. There are a lot of people under your wing that

haven't left high school. It is time to grow up, Greg, m'kay. And time to really make some differences. You know, I extend my hand to you. You know, I wish you no harm, I wish no harm to your KIDS. I hope that your kids grow up to be wonderful exceptional people, but they got to learn from example, alright. And, what better example would be for you to put this aside and make the city a better place. YOU KNOW MY NUMBER!, m'kay. Oh, and by the way, you know what, I GOT A BY THE WAY FOR YOU, but you got to grow a pair and you got to let me say it to your FACE. Okay. Stop hiding behind the CHIEF. I don't think he appreciates it. BYE!

[Capitalized words-indicate elevated hostility.]

The Commonwealth also submitted evidence that the Defendant called the Office of the Mayor of Connellsville again on July 14th, 2020 and, again left a voicemail. The Commonwealth submitted a recording of the voicemail. In the voicemail, the Defendant says:

Yeah, my name's Peter Jandura, and you KNOW who I am, Okay. Listen, you got one last chance to MAKE THIS RIGHT. Otherwise, I am TAKIN' YOU OUT ... , politically. I got the means, I got the information, and I got the evidence. STEP UP, GREG! Be a man, call me. IF YOU NEED 17 COPS STANDING BEHIND YOU BECAUSE YOU'RE A PUSSY, m'kay, TO TALK TO ME, SO BE IT! OKAY! But, I expect you to be a man and meet me, one on one. We need to stop this and we need to change the direction of where the city is GOING! Otherwise, I am going to WIPE YOU OFF OF THE FACE OF THE EARTH ... , politically, and you won't have a chance TO OPEN YOUR OWN MAIL! So, the bottom line is, okay, call me. Alright. Grow some balls and CALL ME!. Alright. Meet me in my parking lot behind my house, okay. Bring the entire FUCKIN' police force with you if you feel comfortable with that and answer my questions, m'kay. Real simple. Be a man, Greg, m'kay, Please be a man. Please represent the city that I - that I respect and love. BE! A! MAN! Call me. You know the number. Thank you, sir. Bye.

[Capitalized words indicate elevated hostility.]

Mayor Lincoln testified at the preliminary hearing on August 20th, 2020 that he now fears that the Defendant could attack him when he is in the grocery store or on the street. Mayor Lincoln also testified that he interprets the phrase, "you won't have a chance TO OPEN YOUR OWN MAIL!" as a death threat. Stating that: "you got to grow a pair and you got to let me say it to your FACE" is the clearest type of threat of physical violence, reminiscent of a barroom brawl, as the prospect of physical force is the only reason Defendant would need to communicate in person.

The Defendant was charged with one count of Harassment - Communicates Lewd, Threatening, Etc. Language for the May 25th, 2020 voicemail, one count of Terroristic Threats - Cause Serious Public Inconvenience for the May 25th, 2020 voicemail, one count of Harassment- Communicates Lewd, Threatening, Etc. Language for the July 14th, 2020 voicemail, and one count of Terroristic Threats - Cause Serious Public Inconvenience for the July 14th, 2020 voicemail. {1}

Legal Standard, Habeas Corpus

To grant a petition for a Writ of Habeas Corpus, the Court must find that the Commonwealth did not establish a prima facie case. *Com. v. James*, 863 A.2d 1179, 1182 (Pa.Super.2004). To establish a prima facie case, the Commonwealth must show sufficient probable cause that the Defendant committed the offense. *Id.* The evidence should be such that, if presented at trial and accepted as true, the Court would be warranted in allowing the case to go to the jury. *Id.* Evidence is viewed in the light most favorable to the Commonwealth, and all reasonable inferences based on that evidence which could support a guilty verdict are considered. *Com. v. Packard*, 767 A.2d 1068, 1071 (Pa.Super.2001). The Commonwealth is not required to prove guilt beyond a reasonable doubt. *Id.* A prima facie case merely requires evidence of the existence of each element of the crime charged. *Com. v. Patrick*, 933 A.2d 1043 (Pa.Super.2007). The weight and credibility of the evidence is not a factor at this stage. *Com. v. Landis*, 48 A.3d 432, 444 (Pa.Super.2012).

Harassment

18 Pa.C.S.A. § 2709(a)(4) states:

- (a) A person commits the crime of harassment when, with intent to harass, annoy or alarm another, the person:
- (4) communicates to or about such other person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures.

An intent to harass may be inferred from the totality of the circumstances. *Com. v. Lutes*, 793 A.2d 949, 961 (Pa.Super.2002). In *Com. v. Donahue*, under a similar fact pattern {2}, the Superior Court stated the following, specifically with respect to § 2709 (a)(4):

While Appellant is free to express his disagreement with the Commonwealth employees concerning his dissatisfaction with state policies, he is not empowered to threaten the employees with reference to guns, ammunition, and militia, veiled though they may be.

Com. v. Donahue, 1469 MDA 2016, 2017 WL 2418390, at *2 (Pa.Super.2017).

{1} The Court notes that the Defendant could have been charged with Stalking. 18 Pa.C.S.A. § 2709.1(a)(2) states: "A person commits the crime of stalking when the person...engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person." Pa. R. Crim. P. Rule 564 "Amendment of Information" provides as follows:

The court may allow an information to be amended, provided that the information as amended does not charge offenses arising from a different set of events and that the amended charges are not so materially different from the original charge that the defendant would be unfairly prejudiced. Upon amendment, the court may grant such postponement of trial or other relief as is necessary in the interests of justice.

{2} In *Com. v. Donahue*, the defendant sent multiple emails to Commonwealth employees in which he wrote such things as, "I will pursue punishment of you"; "[t]hat is a threat"; "You won't have to explain to a judge how you rectify me having spent so much money on civil court actions instead of just buying a \$200 gun and \$20 box of ammunition and killing your employees, like they accuse me of having...a propensity towards"; and "I hope all of you suffer terrible tragedies."

Terroristic Threats

18 Pa.C.S.A. § 2706(a)(3) states:

(a) A person commits the crime of terroristic threats if the person communicates, either directly or indirectly, a threat to:

(3) otherwise cause serious public inconvenience, or cause terror or serious public inconvenience with reckless disregard of the risk of causing such terror or inconvenience. {3}

The defendant must consciously disregard a substantial and unjustifiable risk that his actions will cause terror or serious public inconvenience. *Com. v. Walker*, 836 A.2d 999, 1001 (Pa.Super.2003). In addition, to qualify as recklessness, the behavior must also exhibit a gross deviation from the standard of conduct a reasonable person would observe in the defendant's situation. *Id.*

Discussion

The Defendant argues that criminalization of speech is necessarily limited by the protections of the First Amendment {4}, and that the Supreme Court has distinguished between "true threats" and "political hyperbole," citing *Watts v. United States*, 394 U.S. 705, 708 (1969). The Defendant argues that in deciding whether speech constitutes a "true threat," a Court should consider the totality of the circumstances, not just the words in isolation, whether the threat is "conditional", and the reaction of the listeners. *Id.* (noting that the defendant's words {5}, taken in context, were merely a "crude and offensive" method of making a political statement and did not constitute a true threat.)

The Defendant argues that his statements were directed to an elected public official, and that he made "specific" references to a "political" disagreement between himself and Mayor Lincoln. The Defendant argues that "none of the statements directly threaten Mayor Lincoln with violence, and, to the extent that violence is referenced or implied, it is in the conditional construction. The Court is unpersuaded.

{3} The Court was unable to find a criminal information in the Clerk's file, but the original criminal complaint specifically cites subsection (a)(3). Subsection (a)(1), which requires only the intent to terrorize one other person, would seem to be a more appropriate charge. See Pa.R.Crim.P. 564, set forth in footnote 1, above.

{4} Article 1, §20 of the Pennsylvania Constitution provides: "The citizens have a right in a peaceable manner ... to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address or remonstrance." "Remonstrance" is defined as: "an earnest presentation of the reasons for opposition."

{5} In *Watts v. United States*, the petitioner made the statement: "They always holler at us to get an education. And now I have already received my draft classification as 1-A and I have got to report for my physical this Monday coming. I am not going. If they ever make me carry a rifle the first man I want to get in my sights is L.B.J. They are not going to make me kill my black brothers."

The Pennsylvania Superior Court has ruled:

Only "true threats" fall within that group of expressions, such as fighting words, which are not constitutionally protected "pure speech." *U.S. v. Maxton*, 940 F.2d 103, 105 (4th Cir.1991). A true threat is one which "on its face and in the circumstances in which it is made is so unequivocal, unconditionally immediate and specific as to the person threatened, as to convey a gravity of purpose and imminent prospect of execution."

Com. v. Baker, 722 A.2d 718, 722 (Pa.Super.1998), *aff'd*, 766 A.2d 328 (2001) citing *United States v. Ketner*, 534 F.2d 1020, 1027 (2d Cir.1976).

The Court has listened carefully to both recordings. Contrary to the averments made in the Defendant's Brief, the Defendant's voicemails do not make specific references to a political disagreement. On the contrary, the basis for his very personal attack on Mayor Lincoln is bewilderingly unclear. While there is an oblique reference to something painted on a wall, the voicemails are not the submission of a political grievance. They are personally insulting and threatening, they are not delivered in a "peaceable manner," and they do not constitute "an earnest presentation of the reasons for opposition" to any specific official act or inaction. Stating that the Mayor will need the entire police force of the city in order to confront the Defendant is something that would clearly create substantial public inconvenience and alarm.

Viewing the evidence in the light most favorable to the Commonwealth, and considering all reasonable inferences that could support a guilty verdict, the Court finds that the Commonwealth has established a *prima facie* case for both counts of Harassment and both counts of Terroristic Threats. In both voicemails, it is clear that the Defendant enjoys antagonizing the Mayor. He is not attempting to persuade, he is attempting to extort. The transcripts alone do not convey the toxicity of the Defendant's tone of voice. He is putting violence on the table. The Defendant attempts (transparently) to qualify his threats with the adjective "politically." If there is a threshold length of time between the making of a threat, and the qualification of that threat with the word "politically" that is short enough to negate the original threat's effect, the Defendant has not met that threshold.

The Defendant also threatens the Mayor's children: ("I wish no harm to your KIDS. I hope that your kids grow up to be wonderful exceptional people.") This is a threat as well: by bringing up the Mayor's children at all, the Defendant is deliberately putting the Mayor in contemplation of violence against his children. The Defendant's attempts to side-step the consequences of his actions are ineffective. Each voicemail, on its face and in the circumstances in which it was made, is unequivocal, immediate, and specific as to Mayor Lincoln and his children. Each voicemail conveys a grave purpose and the imminent prospect of execution. Each voicemail, therefore, could be found to be a "true threat."

The Court finds that the Commonwealth has presented evidence that the Defendant twice communicated threatening and insulting words to Mayor Lincoln with the intent to harass, annoy, and alarm him. The Court also finds that the Commonwealth has presented evidence that the Defendant twice communicated a threat to cause terror to

Mayor Lincoln with reckless disregard of the risk of causing such terror. The Commonwealth has met its burden of submitting evidence that the Defendant's behavior is a gross deviation from the standard of conduct a reasonable person would observe in leaving a voicemail for anyone, let alone a part-time small-town city official.

With respect to the Commonwealth's Motions to revoke the Defendant's Bond, the Court finds that the Defendant did violate the conditions of his Bond by contacting Connellsville City Officials on two occasions. The Court admonishes the Defendant against any further violations. However, the violations do not constitute new crimes, and were not directed at the original victims. Therefore, the Court will not revoke the Defendant's Bond unless he commits another violation of the Conditions he agreed to {6}.

WHEREFORE, the Court issues the following Order:

ORDER

AND NOW, this 7th day of May, 2021, upon consideration of the Defendant's Omnibus Pre-Trial Motion, it is hereby ORDERED and DIRECTED that it is DENIED.

It is further ORDERED and DIRECTED that the Commonwealth's Motion to Re-scind/Revoke the Defendant's Bond is likewise DENIED.

BY THE COURT:
STEVE. P. LESKINEN, JUDGE

ATTEST:
Clerk of Courts

{6} The "Release Conditions" that appear immediately above the Defendant's signature provide: "No Contact-No contact by any means with any Connellsville City Officials." If Defendant questions the validity or continued necessity of that condition, he should file a Petition to Modify the Conditions of Bond, instead of simply ignoring the conditions he agreed to follow. Any additional violation will likely result in the Defendant's incarceration without bond until all charges are finally resolved.

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