

# 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

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452 Coolspring Street  
Uniontown, PA 15401  
c/o Higinbotham Law Offices  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James Higinbotham

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*Executor:* Paul I. Phillips  
c/o 300 North Market Street  
Ligonier, PA 15658  
*Attorney:* J. Dustin Barr

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*Executrix:* Cindy McMahon  
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45 East Main Street, Suite 500  
Uniontown, Pa 15401  
*Attorney:* James Higinbotham

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*Administratrix:* Miranda Jane DeJarnat  
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Garland, UT 84312  
c/o Stewart McArdle Sorice Whalen Farrell  
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229 South Maple Avenue  
Greensburg, PA 15601  
*Attorney:* J. Douglas Farrell

**MARY ANN TOTH**, late of Washington  
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*Administratrix:* Monica Brannon  
1263 Pinkerton Drive  
Jefferson Hills, PA 15025  
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Monongahela, PA 15063  
*Attorney:* James W. Haines, Jr.

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County, PA (3)

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45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James Higinbotham

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c/o Monaghan & Monaghan  
57 East Main Street  
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### Second Publication

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*Personal Representative:* John E. Hodge  
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 720 Vanderbilt Road  
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*Attorney:* Timothy J. Witt

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*Personal Representative:* Michele Nevlud  
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*Attorney:* James Higinbotham

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*Personal Representative:*  
 Donald W. Pazicni  
 c/o George & George, LLP  
 92 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Joseph M. George

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*Executrix:* Carol Risha  
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 556 Morgantown Road  
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*Executrix:* Cynthia M. Swaney  
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*Attorney:* Webster & Webster

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*Attorney:* Jack R. Heneks, Jr.

**WALTER L. WILLIAMS, SR., a/k/a WALTER LEE WILLIAMS, SR.**, late of Lemont Furnace, Fayette County, PA (2)  
*Personal Representative:* Mark Williams  
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 107 East Main Street  
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*Attorney:* Gary J. Frankhouser

## First Publication

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*Personal Representative:* Patricia J. Huffine  
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*Attorney:* Joseph M. George

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*Co-Executors:*  
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 8057 South Newport Court  
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 Garner David Helmick  
 1424 Foote Street  
 Conway, PA 15027  
 c/o Fike, Cascio & Boose  
 Scull Building  
 124 North Center Avenue  
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 Somerset, PA 15501-0431  
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**ROBERT E. HOLSING, SR.**, late of Dunbar Township, Fayette County, PA (1)  
*Administrator:* Thomas A. Holsing  
 66 Woodvale Street  
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 Connellsville, PA 15425  
*Attorney:* Richard A. Husband

**LARRY P. SWETZ**, late of Hopwood, Fayette County, PA (1)

*Executrix:* Bonnie C. Swetz  
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 P.O. Box 245  
 Chalk Hill, PA 15421  
*Attorney:* Charles C. Gentile

**LEGAL NOTICES**

NOTICE IS HEREBY GIVEN that the **Hometown Staffing, LLC**, a Pennsylvania limited liability company, 135 Pine Ridge Road, Lemont Furnace, PA 15456, has filed with the Pennsylvania Corporation Bureau a Certificate of Dissolution and is now engaged in winding up and settling the affairs of the company.

Thomas W. Shaffer, Esquire  
 11 Pittsburgh Street  
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NOTICE IS HEREBY GIVEN that the **Hometown Staffing Services, LLC**, a Pennsylvania limited liability company, 618 Commonwealth Avenue, West Mifflin, PA 15122, has filed with the Pennsylvania Corporation Bureau a Certificate of Dissolution and is now engaged in winding up and settling the affairs of the company.

Thomas W. Shaffer, Esquire  
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**NOTICE OF TRUST ADMINISTRATION**

Notice is hereby given of the administration of The Marshall D. Livingston and Clara B. Livingston Living Trust dated February 19, 2003 pursuant to 20 Pa.C.S. § 7755c. Clara B. Livingston, Grantor/Settlor of the Trust died on April 9, 2020, late of Fayette County, and Commonwealth of Pennsylvania. All persons indebted to said Trust are requested to make payment, and those having claims or demands against the same will make them known without delay to:

Richard C. Livingston, Trustee, c/o John A. D'Onofrio, Esq. of D'Onofrio Law Office, P.C. located at 651 Holiday Drive, Ste. 400, Pittsburgh, PA 15220 having a phone number of 412-928-2068. (2 of 3)

The Frank S. Pizzurro Revocable Trust dated August 10, 2007  
 Frank S. Pizzurro, Sr., Deceased

**TRUSTEE NOTICE**

Frank S. Pizzurro, Sr., late of 179 Junior Street, Hopwood, Fayette County, Pennsylvania, having died on March 8, 2020 has been identified as the Grantor of the Frank S. Pizzurro, Sr. Revocable Trust dated August 10, 2007. Paulmena M. Pizzurro, the appointed Successor Trustee of said Trust requests all persons having claims against the estate or trust of the decedent make known the same in writing to her attorney, and all persons indebted to the decedent to make payment without delay.

Said claims shall be duly authenticated for settlement prior to the termination and distribution of the trust pursuant to the trust requirements.

Paulmena M. Pizzurro, Successor Trustee  
 C/o Rosalie P. Wisotzki, Esquire  
 310 Grant Street, Suite 1109  
 Pittsburgh, PA 15219  
 412-697-4499

(2 of 3)

IN THE COURT OF COMMON PLEAS OF  
 FAYETTE COUNTY, PENNSYLVANIA  
 ORPHANS' COURT DIVISION  
 NO. 29 ADOPT 2020

IN RE: ADOPTION OF  
 AUTUMN WILSON

NOTICE

TO: Unknown Father

A petition has been filed asking the Court to put an end to all rights you have to your child, Autumn Wilson. 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 Thursday, July 30, 2020 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.

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**LEGAL NOTICE**

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
NO. 980 OF 2020, G.D.

SEVEN POINT FIVE, LLC,  
PLAINTIFF,

vs.  
MICHAEL J. KRACHEY and JUDITH  
KRACHEY, his wife, their heirs and assigns,  
DEFENDANTS.

**NOTICE TO DEFEND**

TO: MICHAEL J. KRACHEY and JUDITH  
KRACHEY, his wife, their heirs and assigns,  
generally:

You have been named as Defendants in an action to Quiet Title filed by the above Plaintiff against you wherein the Plaintiff alleges that they have acquired all of the interest in and to the surface, coal, oil and gas, mining, drilling and appurtenant rights of the following parcel of property unless otherwise of record in previous deeds:

ALL that certain tract of land situate in Perry Township, Fayette County, Pennsylvania, being referred to as Tract No. One in the prior Deed of Conveyance to the Grantors herein, date May 30, 1972 and of record in Deed Book Volume 1127, Page 847, being more particularly

bounded and described as follows:

BEGINNING at a spike common to the northeasterly comer of property of Kenneth R. and Linda K. Ansell and being within the right of way of L.R. 26015, pursuant to a Plan of Survey of Michael J. Kanalis, dated July 24, 1991; thence from said Point of Beginning and running within the right-of-way of L.R. 26015, South 60 degrees 41 minutes East, a distance 180.72 feet to a spike; thence still within the right-of-way of L.R. 26015 South 68 degrees 37 minutes East, a distance of 228.00 feet to a point marked by a spike; thence from said point and running along property now of formerly of Edward and Connie Knight, South 21 degrees 23 minutes West, a distance of 856.84 feet to a point marked by an iron pin; thence from said point and running along property now or formerly of D. Pivernik North 73 degrees 23 minutes 48 seconds West, a distance of 540.25 feet to a point marked by an iron pin; thence North 81 degrees 45 minutes 06 seconds West, a distance of 217.49 feet to appoint marked by an iron pin; thence running along property now or formerly of Kenneth R. Ansell North 29 degrees 19 minutes East, a distance of 719.09 feet to a point marked by an iron pin; thence South 60 degrees 41 minutes East, a distance of 205.16 feet to a point marked by an iron pin; thence North 29 degrees 19 minutes East, a distance of 295.16 feet to the point at the Place of beginning.

CONTAINING an area of 12.773 acres, pursuant to Plan of Survey conducted by Michael J. Kanalis, Surveyor No. 19343-E, as dated July 24, 1991.

FAYETTE COUNTY TAX  
ASSESSMENT MAP NO. 27-09-0006.

You are hereby notified to plead to the complaint in this case, of which the above is a brief summary, within twenty (20) days from this date. If you wish to defend, you must enter a written appearance personally or by an 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 PAPER 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 OR NO FEE.**

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**JUDICIAL OPINION**

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

COMMONWEALTH OF PENNSYLVANIA	:
	:
v.	:
	:
QUYDEEM HAWKINS,	: No. 215 of 2019
Appellant.	: Honorable Linda R. Cordaro

**OPINION**

Linda R. Cordaro, J.

June 1, 2020

**SUMMARY**

As a result of an incident where Defendant struck a corrections officer with a prison shank, Defendant was charged with Assault by a Life Prisoner along with other related offenses. After a criminal jury trial, Defendant was found guilty of Assault by a Life Prisoner and other offenses. Defendant was sentenced to a second sentence of life incarceration in prison. Defendant now appeals his judgment and sentence.

**BACKGROUND**

Defendant, Quydeem Hawkins, was an inmate serving a life sentence at SCI Fayette. (N.T. Trial at 51-52.) According to the trial testimony of Sergeant David Zebrowski-a corrections officer at SCI Fayette-on August 20, 2018, Mr. Hawkins was in Dining Hall Three. (Id. at 55.) At that time, the officers in Dining Hall Three called a 10-99, which is the code for an inmate fight. (Id.) Sergeant Zebrowski responded to the Dining Hall and saw Officer Pletcher with Mr. Hawkins up against the windows. (Id.) Mr. Hawkins had an object in his right hand. (Id.)

Sergeant Zebrowski tried to assist Officer Pletcher in subduing Mr. Hawkins, at which time Mr. Hawkins struck Sergeant Zebrowski in the head with the object Mr. Hawkins was holding. (Id. at 55-56.) The object was later identified as a prison shank, which was a six-and-a-half inch melted dining hall cup, sharpened to a point and having a cloth handle. (Id. at 82-84, 77-79.) Sergeant Zebrowski could feel blood running down his head after the blow. (Id. at 56.)

As a result of the blow, Sergeant Zebrowski had to get five sutures in his head. (Id. at 58-59.) Sergeant Zebrowski also has a scar from the injury. (Id. at 59.)



On October 9-10, 2019, a criminal jury trial was held on the matter. {1} In addition to the testimony of several law enforcement and corrections officers, a video of the incident was shown to the jury. At the conclusion of the trial, Mr. Hawkins was found guilty of Assault by a Life Prisoner (18 Pa.C.S.A. § 2704); Assault by a Prisoner (18 Pa.C.S.A. § 2703); Aggravated Assault (18 Pa.C.S.A. § 2702); Simple Assault (18 Pa.C.S.A. § 2701); Recklessly Endangering Another Person (18 Pa.C.S.A. § 2705); and Disorderly Conduct (18 Pa.C.S.A. § 5503). This Court also found Mr. Hawkins guilty of Harassment, a summary offense (18 Pa.C.S.A. § 2709).

On December 11, 2019, Mr. Hawkins was sentenced to a term of life imprisonment. This was in accordance with the provision in 18 Pa.C.S.A. § 2704 that states that "the penalty for [the crime of Assault by a Life Prisoner] shall be the same as the penalty for murder of the second degree." As per 18 Pa.C.S.A. § 1102(b), the penalty for second-degree murder is life imprisonment. {2}

On March 31, 2020, Defendant filed a Notice of Appeal nunc pro tunc. In accordance with Pa.R.A.P. 1925(b), this Court ordered Defendant to file a Statement of Issues on Appeal. On April 30, 2020, this Court received Defendant's Statement of Issues on Appeal.

### ISSUES ON APPEAL

Defendant's Statement of Issues on Appeal raises six issues:

- 1) Whether the evidence was legally and factually sufficient to prove that Defendant had the requisite intent to commit the crime of Assault by Life Prisoner.
- 2) Whether the evidence was legally and factually sufficient to prove that Defendant had the requisite intent to commit the crime of Assault by Prisoner.
- 3) Whether the evidence was legally and factually sufficient to prove that Defendant had the requisite intent to commit the crime of Aggravated Assault.

---

{1} As is evident in the trial transcripts, Mr. Hawkins became disruptive as soon as the case was called. This Court had the jury panel leave the Courtroom in order to address Mr. Hawkins's exclamations. Mr. Hawkins informed the Court that he wanted a "Grazier Hearing," and that he wanted to fire Attorney Nicholas Clark of the Fayette County Public Defender's Office, who was appointed to represent Mr. Hawkins.

This Court questioned Mr. Hawkins about whether he understood the rights he was waiving by representing himself at trial. However, Mr. Hawkins repeatedly stated that he did not understand. (N.T. Trial at 39-43.) As a result, this Court determined that Mr. Hawkins was not knowingly or intelligently waiving his right to counsel. (Id.) Mr. Hawkins then elected to leave the Courtroom for the remainder of the trial and was taken back to the Fayette County Prison. (Id. at 45-46.)

{2} This Court originally sentenced Mr. Hawkins on October 28, 2019 to a term of 10-20 years of incarceration. After sentencing Mr. Hawkins, this Court determined that the statute for Assault by a Life Prisoner requires a sentence of life imprisonment, and that this Court's original sentence was therefore invalid. This Court then scheduled a second sentence date for Mr. Hawkins for December 11, 2019, at which time Mr. Hawkins was sentenced to life in prison in compliance with the statutory mandate.

- 4) Whether the evidence was legally and factually sufficient to prove that Defendant had the requisite intent to commit the crime of Simple Assault.
- 5) Whether the evidence was legally and factually sufficient to prove that Defendant had the requisite intent to commit the crime of Recklessly Endangering Another Person.
- 6) Whether the evidence was legally and factually sufficient to prove that Defendant had the requisite intent to commit the crime of Disorderly Conduct.

Defendant's Concise Issues (unnecessary capitalization omitted).

### DISCUSSION

On Appeal, Defendant claims the evidence did not establish the requisite mens rea for six of the charges of which he was found guilty.

In *Commonwealth v. Widmer*, the Pennsylvania Supreme Court held that "[e]vidence will be deemed sufficient to support the verdict when it establishes each material element of the crime charged and the commission thereof by the accused [] beyond a reasonable doubt." *Widmer*, 744 A.2d 745,751 (Pa. 2000). Evidence is insufficient as a matter of law when the evidence offered to support the verdict is in contradiction to physical facts, or in contravention to human experience and the laws of nature. *Widmer* at 751 (citing *Commonwealth v. Santana*, 333 A.2d 876,878 (Pa. 1975)). The fact-finder may resolve any doubts regarding a defendant's guilt "unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances." *Commonwealth v. Fortson*, 165 A.3d 10, 14 (Pa. Super. Ct. 2017) (citing *Commonwealth v. Hansley*, 24 A.3d 410,416 (Pa. Super. Ct. 2011)). The Commonwealth may use wholly circumstantial evidence to sustain its burden of proving every element of the crime beyond a reasonable doubt. *Fortson* at 14-15.

Defendant's first issue on appeal is whether the evidence was sufficient to prove that Defendant had the requisite intent to commit the crime of Assault by a Life Prisoner. The relevant portion of the statute defining that crime states:

Every person who has been sentenced to death or life imprisonment in any penal institution located in this Commonwealth, and whose sentence has not been commuted, who commits an aggravated assault with a deadly weapon or instrument upon another, or by any means of force likely to produce serious bodily injury, is guilty of a crime, the penalty for which shall be the same as the penalty for murder of the second degree.

18 Pa.C.S.A. § 2704.

The parties stipulated at trial that Mr. Hawkins was "an inmate incarcerated for a life sentence that has not been commuted and was so incarcerated on August 20th, 2018." N.T. Trial at 51-52. This satisfied the first element of the crime of Assault by a Life Prisoner.

The second element may be satisfied by establishing that the prisoner committed

aggravated assault with a deadly weapon or instrument upon another. A person is guilty of Aggravated Assault if that person "attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly[,] or recklessly under the circumstances manifesting extreme indifference to the value of human life." 18 Pa.C.S. § 2702(a)(1). "Serious bodily injury" is "[b]odily injury [that] creates a substantial risk of death or [that] causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ." 18 Pa.C.S.A. § 2301.

Specifically here, Defendant challenges that the evidence presented by the Commonwealth at trial was insufficient to establish that Mr. Hawkins had the mens rea required to commit Aggravated Assault. "[I]t is well settled [that] the use of a deadly weapon on a vital part of the body is sufficient to establish a specific intent to kill." *Commonwealth v. Nichols*, 692 A.2d 181, 184-85 (Pa. Super. Ct. 1997) (citing *Commonwealth v. Carbone*, 574 A.2d 584,590 (Pa. 1990)). Further, "a specific intent to cause serious bodily injury can be inferred from the same circumstances." *Nichols* at 185 (referring to *Commonwealth v. Pandolfo*, 446 A.2d 939, 941 (Pa. Super. Ct. 1982) where "blows to a portion of the body as vital as the head exhibited intent to inflict serious bodily injury."). A "deadly weapon" is "any device designed as a weapon and capable of producing death or serious bodily injury, or any other device or instrumentality [that], in the manner in which it is used or intended to be used, is calculated or likely to produce death or serious bodily injury." 18 Pa.C.S.A. § 2301.

Here, the prison shank that Mr. Hawkins used to strike Sergeant Zebrowski was clearly a deadly weapon. The way in which the shank was made-formed by melting a dining hall cup to a sharp point and then adding cloth around the handle-also shows that Mr. Hawkins premeditated an assault with such instrument. Bringing the shank with him into the dining hall is further evidence that Mr. Hawkins planned an assault. Mr. Hawkins then in fact used that weapon to strike Sergeant Zebrowski in the head after being involved in a fight with another inmate. Although Sergeant Zebrowski's injury did not itself constitute a serious bodily injury, an Aggravated Assault only requires that an attempt was made to cause such an injury. Because Mr. Hawkins used a deadly weapon on a vital part of Sergeant Zebrowski's body, it was proper for the jury to conclude that Mr. Hawkins intended to commit the Aggravated Assault-and therefore Assault by a Life Prisoner-on Sergeant Zebrowski. Defendant's first issue on appeal is therefore without merit.

Defendant's second through fourth issues on appeal involve charges that have the same elements as Assault by a Life Prisoner, which by its nature includes the crimes of both Assault by a Prisoner and Aggravated Assault. Also, see *Commonwealth v. Ferrari*, 593 A.2d 846, 849 (Pa. Super. Ct. 1991) ("Numerous cases state that simple assault is a lesser included offense of aggravated assault... [some] without specifying which subsections are being compared... "); and *Commonwealth v. McCalman*, 795 A.2d 412, 417 (Pa. Super. Ct. 2002) ("It is well settled that [the crime of recklessly endangering another person] is a lesser included offense of aggravated assault."). As a result of the foregoing analysis, the evidence at trial was sufficient to show that Mr. Hawkins possessed the requisite mens rea to commit Assault by a Life Prisoner as well as Assault by a Prisoner, Aggravated Assault, Simple Assault, and Recklessly Endangering Another Person.

Defendant's sixth and final issue on appeal is that Mr. Hawkins lacked the mens rea

to commit Disorderly Conduct. Under the Criminal Code:

A person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance[,], or alarm, or recklessly creating a risk thereof, [that person]:

- (1) engages in fighting or threatening, or in violent or tumultuous behavior;
- (2) makes unreasonable noise;
- (3) uses obscene language, or makes an obscene gesture; or
- (4) creates a hazardous or physically offensive condition by any act [that] serves no legitimate purpose of the actor.

18 Pa.C.S.A. § 5503(a). Mr. Hawkins's acts of fighting with other inmates and then striking Sergeant Zebrowski in the head with a prison shank satisfies both the first and fourth elements of this offense. Mr. Hawkins engaged in fighting and in violent and tumultuous behavior and created a hazardous condition by acts that served no legitimate purpose to himself. The trial testimony of Sergeant Zebrowski and the other officers as well as the video of the incident provided sufficient evidence for the jury to determine whether Mr. Hawkins intended to cause public inconvenience, annoyance, or alarm by his actions.

Further, even if Mr. Hawkins did not intend to cause public inconvenience, annoyance, or alarm by his actions, it would be sufficient under the statute that he "recklessly creat[ed] a risk thereof." By first being involved in an inmate fight, and then striking Sergeant Zebrowski in the head with a shank, Mr. Hawkins's actions not only created a risk of, but actually caused public inconvenience and alarm. Multiple officers had to respond to the incident in the dining hall. Mr. Hawkins had to be taken away and escorted to the triage room of the facility. Sergeant Zebrowski had to leave work to receive sutures for his wound. The evidence at trial clearly established that Mr. Hawkins at the very least recklessly created the type of chaos contemplated under the statute for Disorderly Conduct.

CONCLUSION

The evidence presented by the Commonwealth at trial established the mens rea element for each of the crimes of which Mr. Hawkins was found guilty. Defendant's issues on appeal are therefore without merit. For the foregoing reasons, this Court respectfully requests that the judgment and sentence of Quaydeem Hawkins be AFFIRMED.

BY THE COURT:  
Linda R. Cordaro, Judge

ATTEST:  
Clerk of Courts





## **WARMAN ABSTRACT & RESEARCH LLC**

**JOHN F. WARMAN**

**518 Madison Drive**

**Smithfield, PA 15478**

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