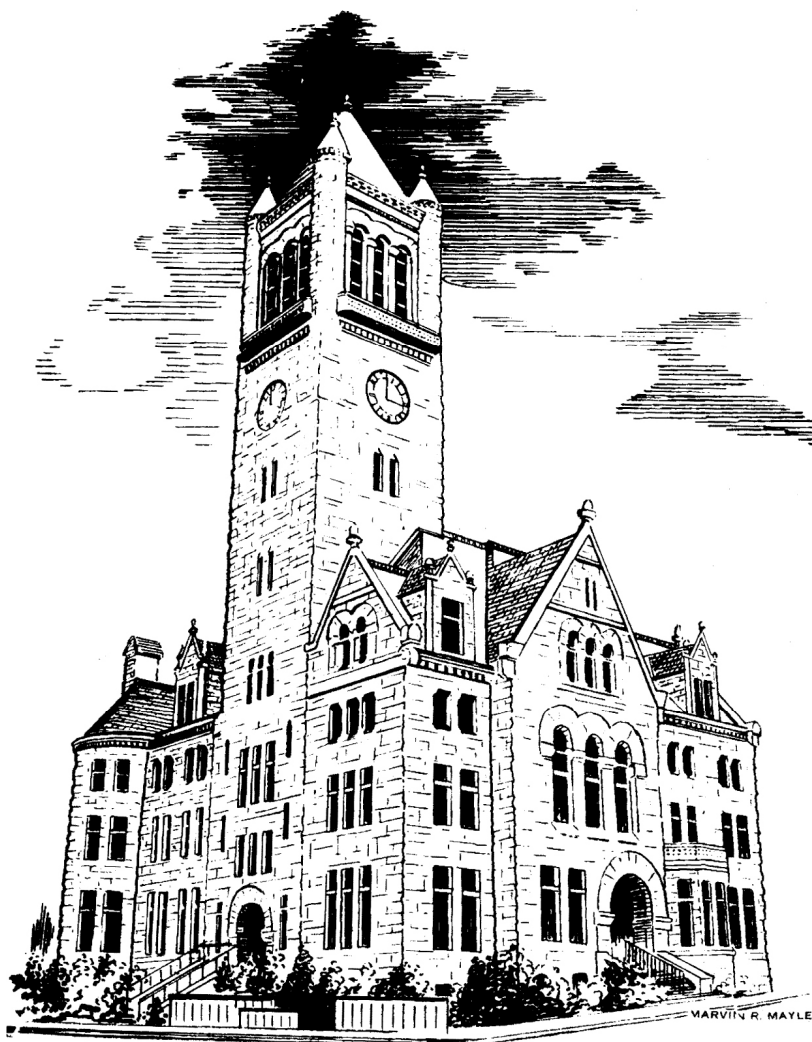


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Third Publication

DONALD E. SHROYER a/k/a DONALD EUGENE SHROYER, late of Springfield Township, Fayette County, PA (3)

Personal Representative: LouAnn Horner
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

CYNTHIA A. BIRCKBICHLER a/k/a CYNTHIA A. CRAIG, late of Connellsville, Fayette County, PA (3)

Executrix: Tiffany A. Groh
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815B Memorial Blvd.
Connellsville, PA 15425
Attorney: Jennifer M. Casini

Second Publication

MARY ELLEN ANDERSON, late of Uniontown, Fayette County, PA (2)

Executor: Scott Raw McKowen
c/o P. O. Box 727
Uniontown, PA 15401
Attorney: Bernadette K. Tummons

FRANCES COLLINS a/k/a FRANCES L. COLLINS, late of Stewart Township, Fayette County, PA (2)

Executrix: Debra S. Kooser
304 Kooser Road
Mill Run, PA 15464
c/o Law Office of Mackenzie A. Kline, LLC
P.O. Box 55
Mill Run, PA 15464
Attorney: Mackenzie Kline

JOSEPH M. GOBERNI, late of Dunbar Township, Fayette County, PA (2)

Personal Representative: Carol J. Sinatra
c/o 208 S. Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

VELMA J. GMUTZA a/k/a VELMA JEAN GMUTZA, late of New Salem, Fayette County, PA (2)

Executrix: Christine A. Ferranti
c/o Proden & O'Brien
99 E Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

JAMES J. KERESZTENYI a/k/a JAMES JOSEPH KERESZTENYI, late of Saltlick Township, Fayette County, PA (2)

Personal Representative: Elaine S. Poinsett
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

VIOLA MARIE MARTINKO, late of Nicholson Township, Fayette County, PA (2)

Executrix: Julie Ann Cappellini
c/o Dellarose Law Office, PLLC
99 East Main Street, Suite 101
Uniontown, PA 15401
Attorney: Melinda Deal Dellarose

MILDRED M. PEARSON a/k/a MILDRED PEARSON a/k/a MILDRED MATHILDA PEARSON, late of Georges Township, Fayette County, PA (2)

Co-Executrices: Kathy L. Flowers and Jo Ann Nuzzo
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

NANCY ROWAN a/k/a NANCY JO ROWAN, late of Dunbar Township, Fayette County, PA (2)

Personal Representative: Laurie Roadman
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Robert A. Gordon

JOSEPH M. GOBERNI, late of Dunbar Township, Fayette County, PA ⁽²⁾
Personal Representative: Carol J. Sinatra
c/o 208 S. Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

First Publication

JOSEPHINE ROSE CAROLLA, late of North Union Township, Fayette County, PA ⁽¹⁾
Executrix: Kathleen M. Bota
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

ELAINE K. CONWAY, late of Uniontown, Fayette County, PA ⁽¹⁾
Executrix: Jennifer Rae Conway
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

FRED JOHN DAVID, SR., a/k/a FRED J. DAVID, SR., late of North Union Township, Fayette County, PA ⁽¹⁾
Executor: Brian David
120 Buttermilk Lane
Hopwood, PA 15445
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Ewing D. Newcomer

MARIE CARMELLA DECARLO, late of Uniontown, Fayette County, PA ⁽¹⁾
Executrix: Cynthia Lynn Lowe
c/o Monaghan & Monaghan, L.L.P.
57 East Main Street
Uniontown, PA 15401

NANCY FENIELLO, late of Bullskin Township, Fayette County, PA ⁽¹⁾
Executor: James Feniello
P.O. Box 1341
Wexford, PA 15090
Attorney: James Feniello

RICHARD S. HOMISTEK, late of South Union Township, Fayette County, PA ⁽¹⁾
Administratrix C.T.A.: Lesley H. Wilson
c/o Radcliffe Martin Law, L.L.C.
648 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: William M. Radcliffe

DOROTHY L. KING, late of South Connellsville Borough, Fayette County, PA ⁽¹⁾
Personal Representative: Darlene L. Borza
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

JOHN KLAY, a/k/a JOHN WHITAKER KLAY, late of Wharton Township, Fayette County, PA ⁽¹⁾
Personal Representative: Christian W. Klay
c/o Mitchell Law Office
902 First Street
P.O. Box 122
Hiller, PA 15444
Attorney: Herbert G. Mitchell, III

FORD W. LOWRY, a/k/a FORD W. LOWRY, JR., a/k/a FORD W. LOWRY, SR., late of Dunbar Township, Fayette County, PA
Administratrix: Kimberly Gail Ritenour ⁽¹⁾
55 E. Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason Adams

JANET Y. MAUST, late of South Union Township, Fayette County, PA ⁽¹⁾
Executor: Garry L. Friend
c/o Ernest P. DeHaas, III, Esquire
DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

JEAN POLANDO, late of Menallen Township, Fayette County, PA ⁽¹⁾
Executor: Kenneth Polando
25209 Bald Eagle Terrace
South Riding, VA 20152

MELANIE LYNN ROSSINI, late of
 Masontown Borough, Fayette County, PA (1)
Administrator: Anthony P. Rossini
 73 Francis Street
 Uniontown, PA 15401
 c/o 100 Center Street
 Masontown, PA 15461
Attorney: Joseph Standish

ALAN D. WINGROVE, a/k/a ALAN D. WINGROVE, SR., late of Bullskin Township, Fayette County, PA (1)
Personal Representative:
 Toni Renee Wingrove
 c/o Richard A. Husband Esquire LLC
 208 South Arch Street, Suite 2
 Connellsville, PA 15425
Attorney: Richard A. Husband

LEGAL NOTICES

Notice of Condemnation

**In the County of Common Pleas of Fayette County, Pennsylvania
 Civil Division
 In REM Proceeding
 Civil Action No. GD -2260 of 2025 GD**

Columbia Gas of Pennsylvania, Inc., 121
 Champion Way, Suite 100, Canonsburg,
 Pennsylvania 15317, Condemnor,
 v.

Any Unknown Heirs of Charles Hospodavis, and

REAL PROPERTY SITUATE IN THE TOWNSHIP OF NICOLSON, FAYETTE COUNTY, PENNSYLVANIA, as vested by that Decree dated September 17, 1991 of record at Deed Book Volume 889 and Page 53 in the Recorder's Office of Fayette County, Pennsylvania being, respectively, Fayette County Tax Parcel Number 24-05-0058,

Notice of Condemnation For Pipeline Right- Of-Way

Notice is given to the unknown heirs, successors, or assigns of Charles Hospodavis, if any, and/or any unknown owners of real property situate in Nicholson Township, Fayette County, Pennsylvania, as vested by that Certain Decree dated September 17, 1991 of record at Deed Book Volume 889 and Page 53 in the Recorder's Office of Fayette County, Pennsylvania being, respectively, Fayette County Tax Parcel Number 24-05-0058,, that Columbia Gas of Pennsylvania, Inc. has filed a Verified Application for Taking of a Natural Gas Right- of-Way pursuant to 15 Pa. Cons. Stat. § 1511 and Rule 1007 of the Pennsylvania Rules of Civil Procedure to acquire title to, and right of possession of, the Right-of-Way for the construction and maintenance of a natural gas pipeline. The Right-of-Way is described in the Verified Application for Taking of a Natural Gas Right-of-Way and depicted on the map attached to it. The action was filed on September 23, 2025. Just compensation has been secured by the posting of a bond in the amount of \$918.00.

(1 of 2)

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JUDICIAL OPINION

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

COMMONWEALTH OF
PENNSYLVANIA,
v.
BRANDI LEANELL HILL-WOYTOVICH,
Defendant.

:
:
:
: No. 1520 of 2024
: President Judge Steve P. Leskinen

OPINION AND ORDER

LESKINEN, P.J.

July 21, 2025

Before the Court is a Motion for Issuance of Subpoena Duces Tecum filed by Defendant, Brandi Hill-Woytovich. The Motion asks the Court to direct the Fayette County Clerk of Courts to issue a Subpoena Duces Tecum on the Fayette County Prison for "Any and all video footage depicting C POD, CELL 7, from 06:00 Hours on July 15th, 2024, to 08:00 Hours on July 16, 2024." Defendant previously filed a similar Motion for Issuance of Subpoena Duces Tecum on June 23rd, 2025, which was denied by this Court by Order dated June 26th, 2025, for a lack of pertinent authority to support the request. The Motion currently before the Court was filed on July 11th, 2025, and presented in Motions Court on Thursday, July 17th, 2025.

Defendant is charged with Possession of Controlled Substances, Contraband by Inmate, 18 Pa. C.S.A. §5123(a)(2); Possession of Controlled Substances, 35 Pa. C.S.A. §780-113(a)(16); and Possession of Drug Paraphernalia, 35 Pa. C.S.A. §780- 113(a) (32), for an incident that allegedly happened at Fayette County Jail on the morning of July 16th, 2024. Defendant was brought into the Fayette County Jail either late in the day on July 15th, 2024, or in the early hours of July 16th, 2024. {1} At the time of intake, Defendant indicated that she may be pregnant, and, as a result, officers delayed conducting a body scan for contraband until a pregnancy test could be conducted. After the results of a pregnancy test confirmed that Defendant was not pregnant, officers went to Defendant's cell to take her for a body scan. Upon entering the cell, Corrections Officer Theresa Martelli observed Defendant standing at the combined sink and toilet. Defendant appeared to have something in her hand and immediately sat down to use the toilet. Defendant was taken to have the body scan and other officers searched her cell, where they found a small glassine bag of a type generally used for the sale of drugs and a white powder on the sink ledge. The glassine bag later tested positive for xylazine and the powder tested positive for fentanyl and xylazine. {2}

{1} The factual history is summarized from the transcript of the Preliminary Hearing held before Magisterial District Judge Jason Cox on August 27th, 2024.

{2} Supplemental Answer to Request for Discovery, p. 6.

Defendant's Motion seeks all video footage from the Fayette County Jail of Cell 7 in the C Pod from 6 AM. on July 15th, 2024, through 8:00 AM. on July 16th, 2024, pursuant to Pa. R.Crim.P. 573, upon the belief that such video evidence would aid in her defense. Defendant cites *Com. v. Alston*, 233 A3d 795 (Pa. Super. 2020), as authority for the issuance of a subpoena duces tecum for these records. In *Alston*, the Allegheny County Public Defender's Office served a subpoena duces tecum on the Record Custodian of the Allegheny County Medical Examiner's Office ("MEO") seeking, inter alia, an autopsy report for the alleged homicide victim, toxicology reports, and all reports, documents, and photographs associated with the investigation. The subpoena requested the documents be provided by the date of an upcoming preliminary hearing. The Allegheny County District Attorney filed a Motion to Quash, and the court entered an order without hearing, quashing the subpoena and prohibiting the Public Defender's Office from issuing subpoenas duces tecum to the MEO for evidence in all active criminal cases prior to the time prescribed by Rule 573(A), pursuant to the remedy provisions of Rule 573(E). *Id.*, at 798.

The Superior Court, noting the "paucity of case law dealing with subpoenas duces tecum in the criminal context," held that the District Attorney in *Alston* had standing to challenge the subpoena, that the order precluding any individual represented by the Public Defender from issuing a subpoena duces tecum to the MEO was overly broad and an abuse of discretion, and remanded the matter to the trial court for a hearing. *Id.*, at 804, 806. As the *Alston* court notes, some of the items requested, such as the autopsy report, fell within the mandatory disclosure provisions of Rule 573(8)(1), some were discretionary under Rule 573(8)(2), requiring the defense to demonstrate the reasonableness of the request, and some were not subject to Rule 573 at all. *Id.*

Rule 573(A) requires counsel for the parties to engage in a good faith effort to discuss the material requested and resolve any discovery issues as a predicate to filing a motion under the rule. The Motion before this Court does not address this requirement at all, nor does it establish that the videotapes requested are in the possession or control of the District Attorney's Office. This distinction is critical, as Rule 573 gives the trial court discretion to order the Commonwealth to provide discovery and does not address a criminal defendant's attempt to seek discovery from a third party. *Com. v. Berger*, 96 A.3d 1049, 1051 (Pa. Super. 2014).

The Judicial Code establishes the authority of a trial court to issue subpoenas in §5905:

Every court of record shall have power in any civil or criminal matter to issue subpoenas to testify, with or without a clause of duces tecum, into any county of this Commonwealth to witnesses to appear before the court or any appointive judicial officer. Subpoenas shall be in the form prescribed by general rules.

For criminal matters, R.Crim.P. 107 (formerly 9016) sets forth the content of a subpoena: (Irrelevant sections omitted.)

A subpoena in a criminal case shall order the witness named to appear before the court at the date, time, and place specified, and to bring any items identified or described. The subpoena shall also state on whose behalf the witness is being ordered to testify and the identity, address, and phone number of the attorney, if any, who applied for the subpoena.

Comment: It is intended that the subpoena shall be used not only for trial but also for any other stage of the proceedings when a subpoena is issuable, including preliminary hearings, hearings in connection with pretrial and post-trial motions, etc.

When the subpoena is for the production of documents, records, or things, these should be specified.

When evidence, such as the surveillance video at issue here, is not discoverable pursuant to Rule 573, a Defendant may obtain the evidence through the service of subpoena duces tecum on the legal custodian responsible for the evidence. *Com. v. McElroy*, 665 A.2d 813, 820-21 (Pa. Super. 1995)(distinguished on other grounds). However, §5905 and Rule 107 both specifically require a witness (with or without a duces tecum) to appear before the court. A subpoena can only compel production of records at a hearing or other judicial proceeding and may not be used to compel a person to appear or produce documents or things ex parte before an attorney or a party. *Com. v. Williams*, 176 A.3d 298, 319 (Pa. Super. 2017). The subpoena duces tecum at issue here impermissibly directs the Fayette County Jail to produce the records to the Public Defender's Office. Furthermore, the case is currently on the trial list for the August trial term. Even if the matter is continued, there is no hearing or judicial proceeding other than the trial currently scheduled to which the subpoena could direct the custodian of records to appear.

The enforcement of a subpoena is at the discretion of the court. *Com. v. McFalls*, 251 A.3d 1286, 1291 (Pa. Super. 2021). A defendant is not permitted to engage in a "fishing expedition" and the right to exculpatory material does not mean that a defendant has unfettered access to files not in her possession. *Id.*, at 1291-92. A defendant must also articulate a reasonable basis for the request which is likely to produce admissible evidence. *Id.*, at 1292. Here, Defendant's only basis for the request is stated in ¶4 of the Motion, "Defendant has reason to believe that the Custodian of Records of the Fayette County Prison would have video evidence which would aid in her defense." This statement fails to establish a reasonable basis. The request for all video of the Defendant's cell for the 26-hour period is also insufficiently specific, as there is no reason that such request is likely to produce admissible evidence.³ For these reasons, the Court will deny the Motion.

{3} The Court notes that, as a member of the Prison Board, there are no cameras in the Fayette County Jail that view the interior of the type of cell the defendant was held in. Cameras view the common areas of each pod, but do not observe the interior of the cells.

ORDER

AND NOW, this 21st day of July, 2025, upon consideration of the Motion for Issuance of Subpoena Duces Tecum and the Motion for Continuance filed by Defendant, Brandi Hill-Woytovich, the Court Orders and Directs that the Motion for Issuance of Subpoena Duces Tecum is DENIED as procedurally improper, for the reasons set forth in the accompanying Opinion.

The Motion for Continuance is GRANTED, there having been no objection from the Commonwealth, for ninety (90) days, to the November trial term of Criminal Court ending on the 7th day of November, 2025. The delay is attributable to the Defense and is excluded from time computation for the purposes of Rule 600.

BY THE COURT:
STEVE. P. LESKINEN, PRESIDENT JUDGE

ATTEST:
CLERK OF COURTS

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Anne N. John, Esquire

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Kathleen Wilkinson, Esquire

12:30 - Lunch Buffet

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cindy@fcbar.org or 724-437-7994

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