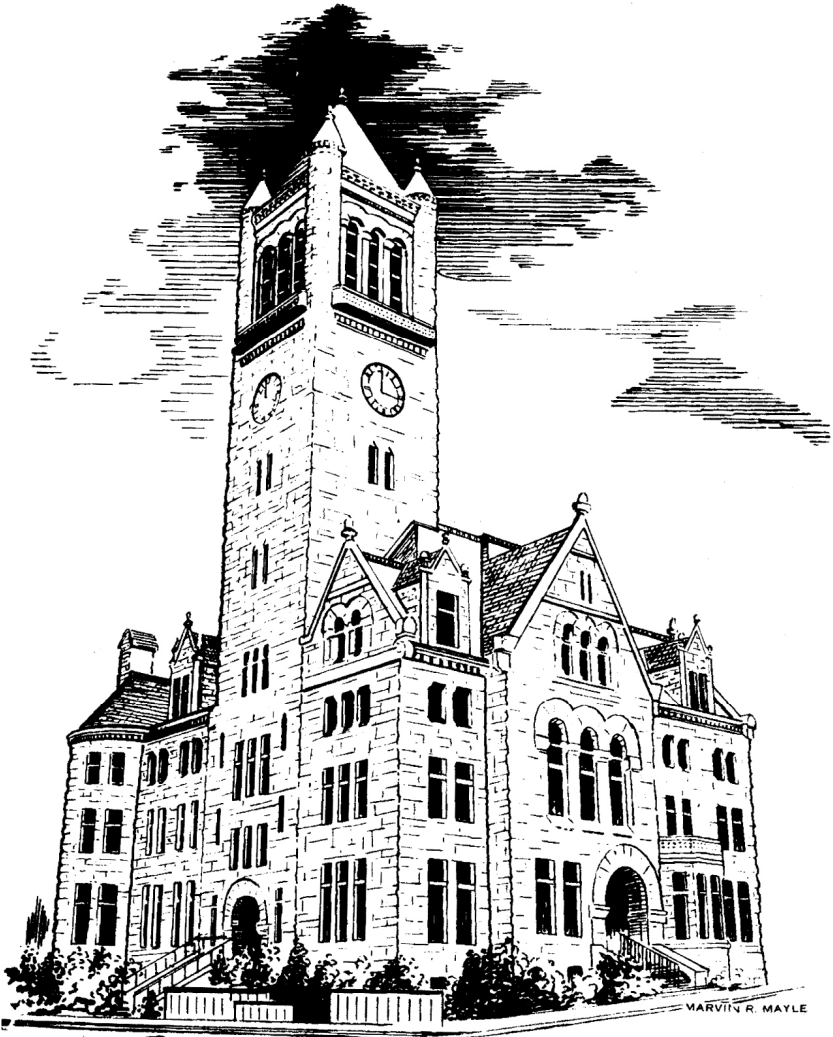


FAYETTE LEGAL JOURNAL

VOL. 82

MAY 25, 2019

NO. 21



FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 45 East Main Street, Suite 100, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at www.fcbar.org no later than 12:00 noon on Friday for publication the following Saturday. No date of publication is promised, however. Legal notices are published exactly as submitted by the advertiser. Copyright 2001 Fayette County Bar Association. All rights reserved.

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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

ROY F. DAYTON, a/k/a ROY FRANKLIN DAYTON, late of South Union Township, Fayette County, PA (3)

Executor: Bryan H. Dayton
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

HELEN J. DUDGEON, late of 927 McClintock Avenue, Fayette County, PA (3)

Executor: Cary E. Dudgeon
1107 Fayette Avenue
Belle Vernon, PA 15012
c/o France, Lint & Associates, P.C.
308 Fallowfield Avenue
Charleroi, PA 15022
Attorney: David N. Lint

PATRICIA LAYMON, late of Upper Tyrone Township, Fayette County, PA (3)

Administrator: Willard Laymon, Sr.
121 Woods Road
Scottdale, PA 15683
c/o Ainsman Levine, LLC
310 Grant Street, 15th. Floor
Pittsburgh, PA 15219
Attorney: Charles P. Sapienza, III

MARY KATHRYN PETKO, a/k/a MARY K. PETKO, late of German Township, Fayette County, PA (3)

Executor: Mary Ann Luick
c/o P.O. Box 622
Smithfield, PA 15478
Attorney: Charity Grimm Krupa

GLORIA ANN SUTTON, late of Georges Township, Fayette County, PA (3)

Administrator: Glenn Sutton
c/o P.O. Box 622
Smithfield, PA 15478
Attorney: Charity Grimm Krupa

ORVILLE UMBEL, a/k/a ORVILLE FRANKLIN UMBLE, late of North Union Township, Fayette County, PA (3)

Executor: Sharon Joann Lawson
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham, Jr.

Second Publication

HARRY DURBIN, a/k/a HARRY LOUIS DURBIN, a/k/a HARRY L. DURBIN, late of Dunbar Township, Fayette County, PA (2)

Executor: Brian L. Durbin
102 Carriage Drive
Cranberry Township, Pa
c/o Thomson, Rhodes & Cowie, P.C.
1010 Two Chatham Center
Pittsburgh, PA 15219
Attorney: Glenn Gillette

DONALD ROCK, late of Masontown, Fayette County, PA (2)

Personal Representative: Belita D. Rock
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

ROBERT E. ROWE, late of Lower Tyrone Township, Fayette County, PA (2)

Co-Executors: Amy Swantek and Aaron Rowe
c/o 4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Sheryl Heid

JULES ALAN SCANGO, SR., late of
Masonstown, Fayette County, PA (2)
Administrator: Jules Alan Scango, Jr.
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

First Publication

JUDITH M. BAIRD, late of North Union
Township, Fayette County, PA (1)
Executrix: Jamie L. Supensky
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

**JOHN A. CANADA, a/k/a JOHN ANTHONY
CANADA**, late of Dunbar Township, Fayette
County, PA (1)
Personal Representative: Sharon A. Canada
c/o Watson Mundorff & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

MARY R. FIKE, late of Uniontown, Fayette
County, PA (1)
Personal Representatives:
Bradley T. Fike
28 Oak Hill Drive
Uniontown, PA 15401
Kristin L. Fike
17 Jordan Street
Fairchance, PA 15436
c/o DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

**STELLA M. HARTZEL, a/k/a TAMMY
LYNN HARTZEL**, late of North Union
Township, Fayette County, PA (1)
Administratrix: Ronda L. Hartzel
314 Chestnut Hill Street
Gaithersburg, MD 20878
c/o 111 East Main Street
Uniontown, PA 15401
Attorney: Robert R. Harper, Jr.

**HELEN VEGHTS, a/k/a HELEN ARLENE
VEGHTS**, late of Connellsville, Fayette
County, PA (1)
Executor: Dayna A. Veghts
615 Snyder Street
Connellsville, PA 15425
c/o Zacharia Brown, P. C.
515 Willow Drive
McMurray, PA 15317
Attorney: Benjamin Urso

LEGAL NOTICES

NOTICE

NOTICE is hereby given pursuant to the provisions of Act 295 of December 16, 1982, P.L. 1309, that a Certificate was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about March 6, 2019, to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of Deck Stars with the principal place of business at: 200 Marchand Ave., PO Box 132, Newell, PA 15466. The name or names and addresses of persons owning and interested are: Kristopher M. Miller 200 Marchand Ave., PO Box 132 Newell, PA 15466.

MARSHAL'S SALE: By virtue of a Writ of Execution issued out of the United States District Court for the Western District of Pennsylvania and to me directed, I shall expose to public sale the real property located at 100 High Street, Brownsville, PA 15417 being more fully described at Fayette County deed Book Volume 110, Page 154. **SAID SALE** to be held at the Fayette County Courthouse, 61 E. Main Street, Uniontown, PA 15401 at 10:00 a.m. prevailing, standard time, on June 26, 2019. All that certain tract of land, together with the buildings, and improvements erected thereon described as Tax Identification No. 02060008 recorded in Fayette County, Pennsylvania. Seized and taken in execution as the property of Sage Partners, LP successor by merger to Sage Associates at the suit of the United States of America, acting through the Secretary of Housing and Urban Development, to be sold on Writ of Execution as Civil Action No. 2:18-CV-01622. **TERMS OF SALE:** Successful bidder will pay ten percent (10%) by certified check or money order upon the property being struck down to such bidder, and the remainder of the bid within thirty (30) days from the date of the sale and in the event bidder cannot pay the remainder, the property will be resold and all monies paid in at the original sale will be applied to any deficiency in the price at which the property is resold. The successful bidder must send payment of the balance of the bid directly to the U.S. Marshal's Office c/o Sheila Blessing, 700 Grant Street, Suite 2360, Pittsburgh, PA 15219. Bidder must have deposit funds immediately available and on his person in order to bid, bidder will not be permitted to leave the sale and return with deposit funds. Notice is hereby given that a Schedule of Distribution will be filed by me on the thirtieth day after the date of sale, and that distribution will be made in accordance with the Schedule unless exemptions are filed thereto within ten (10) days thereafter. Purchaser must furnish State Realty Transfer Tax Stamps, and stamps required by the local taxing authority. Marshal's costs, fees and commissions are to be borne by seller. Michael Baughman, Acting United States Marshal. For additional information, please contact Holly Maloy at 817-978-5556. (1 of 4)

Registers' Notice

Notice by JEFFREY L. REDMAN, Register of Wills and
Ex-Officio Clerk of the Orphans' Court Division of the Court of Common Pleas

Notice is hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, June 3, 2019, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2617-0110	HELEN M. GRESH a/k/a HELEN GRESH	Gary F. Gresh, Administrator
2618-0478	BRENT ALEX BLAKE	Nancy L. Blake, Administrator
2617-0885	CHARLOTTE SANTORE a/k/a CHARLOTTE E. SANTORE a/k/a CHARLOTTE ELIZABETH SANTORE	Nancy Jean Morris, Executrix

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

Monday, June 17, 2019, at 9:30 A.M.

in Courtroom No. 1 of the **Honorable STEVE P. LESKINEN**, or his chambers, 2nd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

JEFFREY L. REDMAN
Register of Wills and Ex-Officio Clerk of the Orphans' Court Division (2 of 2)

JUDICIAL OPINION

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

COMMONWEALTH OF PENNSYLVANIA :
v. :
RONALD CROSSLAND, : No. 354 of 2018, G.D.
Defendant. : Honorable Steve P. Leskinen

OPINION AND ORDER

LESKINEN, J.

October 24, 2018

AND NOW, this 24th day of October 2018, upon review the Writ of Habeas Corpus, Motion to Suppress Statements and Motion to Suppress Evidence prepared on behalf of Ronald Crossland (hereinafter Defendant), the Court HEREBY DENIES the Motion in its entirety.

BACKGROUND

On November 6, 2016 officers responded to 31 Farragut Street Uniontown, Fayette County, Pennsylvania for a report of shots fired. Once officers arrived they discovered Jacqueline Carey (hereinafter Victim) unconscious on the kitchen floor. The Victim was transported to the Uniontown Hospital and pronounced dead a short time later. The Victim had a single gunshot wound to her left chest area that entered her heart, which was the cause of death.

Ariel Carey testified at the preliminary hearing that 31 Farragut Street was her residence and on the night in question, she was having a party there. Prelim. Hr'g. Tr., 7:21-23. The Defendant and Michael Hall were present at the residence that night. Prelim. Hr'g. Tr., 8:21-24. Ms. Carey testified that the Defendant and Mr. Hall asked her for a "blunt wrap". Prelim. Hr'g. Tr., 9:21-25. Ms. Carey indicated that she did not smoke and did not have any "blunt wraps". Id. Ms. Carey testified that eventually an argument ensued between "pretty much everyone that was (at the party) but (the Victim) wasn't present in the room while all that stuff was going on". Prelim. Hr'g. Tr., 10:9-12. Cairae Fitzgerald testified that at some point during the argument, in the kitchen of the residence, the Defendant pulled a firearm from his drawstring bag. Prelim. Hr'g. Tr., 56:1-7.

Ms. Carey had everyone move outside of the residence. Prelim. Hr'g. Tr., 10:12-14. At some point, a struggle ensued between Ms. Carey, the Defendant, and Mr. Hall over possession of a drawstring bag that was brought to the party by the Defendant and Mr. Hall. Prelim. Hr'g. Tr., 10:13-17. Ms. Carey and the other party guests re-entered the residence and Ms. Carey locked the door behind her. Prelim. Hr'g. Tr., 11:13-16. The

Defendant and Mr. Hall were still outside of the residence. Prelim. Hr'g. Tr., 11:17-19. As Ms. Carey is closing the door of her residence, she viewed the Defendant get into the bag but could not see what he was attempting to retrieve. Prelim. Hr'g. Tr., 11:23-25. Ms. Carey then heard what she described as multiple "tapping sounds" coming from the direction of the Defendant and Mr. Hall. Prelim. Hr'g. Tr., 12:17-25.

Ms. Carey heard the Victim scream in the kitchen and then heard a loud bang. Prelim. Hr'g. Tr., 13:2-3. When Ms. Carey entered the kitchen, she saw the Victim laying with her face flat on the ground with a bruise on her head. Prelim. Hr'g. Tr., 13:3-6. Ms. Carey did not know the "tapping sounds" were gunshots and she assumed that the Victim had just "passed out". Prelim. Hr'g. Tr., 13:6-7.

Lieutenant Kolencik, from the Uniontown Police Department, was dispatched to the scene on the night in question. Prelim. Hr'g. Tr., 22:17-18. He accompanied the Victim to Uniontown Hospital and learned her cause of death was due to a gunshot wound. Prelim. Hr'g. Tr., 26:3-7. Lt. Kolencik then returned to the scene to collect evidence and recovered seven (7) nine-millimeter (9 mm) shell casings from a grassy area directly in front of 31 Farragut Street. Prelim. Hr'g. Tr., 27:5-25.

Lt. Kolencik received information at the scene that the Defendant and Mr. Hall were present at the residence at the time of the shooting. Prelim. Hr'g. Tr., 30:1-9. Lt. Kolencik had previous knowledge that Mr. Hall resided on Searight Avenue in Uniontown. Id. Lt. Kolencik arrived at the Searight Avenue address and found Mr. Hall on the front porch. Prelim. Hr'g. Tr., 30:9-10.

Lt. Kolencik was granted permission to enter the residence by the lessee of the property and once inside he identified the Defendant asleep on the couch with a drawstring bag on his back. Prelim. Hr'g. Tr., 30:10-12. Lt. Kolencik informed the Defendant that he was being taken into custody for questioning in regard to the homicide. OPT Hr'g. Tr., 20. Lt. Kolencik then detected a strong odor of marijuana emanating from the drawstring bag. Prelim. Hr'g. Tr., 31:13-14. The drawstring bag was searched. Id. The contents of the bag included ten point six (10.6) grams of marijuana, a plastic bag with "rolling papers", and a digital scale. Prelim. Hr'g. Tr., 31:17-19. Lt. Kolencik applied for and received a valid search warrant for the Defendant's phone. OPT Hr'g. Tr., 22.

A nine-millimeter hand gun was located, in plain view, outside of the Searight Avenue residence in a grassy area off the side of the front porch. Prelim. Hr'g. Tr., 32:19-25. A test to determine if gunshot residue particles were present on the Defendant and Mr. Hall's hands was performed. Prelim. Hr'g. Tr., 33:19-21. The Defendant and Mr. Hall both had characteristic and indicative particles of gunshot residue on their hands. Prelim. Hr'g. Tr., 35:14-15.

On January 9, 2018, the Defendant was scheduled to be taken to a preliminary hearing but was instead taken to the Fayette County District Attorney's Office to be questioned about the Victim's murder. OPT Hr'g. Tr., 32. The Defendant's preliminary hear-

ing on January 9, 2018 was for drug charges he obtained on the night of November 4, 2016. OPT Hr'g. Tr., 31. Attorney Vince Tiberi entered his appearance to represent the Defendant for the preliminary hearing on the drug charges. OPT Hr'g. Tr., 32.

The Defendant was questioned in connection to his possible involvement in the death of the Victim. OPT Hr'g. Tr., 8. The Defendant was read his Miranda rights and signed the rights waiver before he was questioned about the murder. OPT Hr'g. Tr., 9. The Defendant did not advise the officers present at the interview that he was currently represented on the drug charges by Attorney Tiberi. OPT Hr'g. Tr., 13. During the interview, the Defendant confessed to brandishing firearm and shooting at the residence located at 31 Farragut Street. OPT Hr'g. Tr., 13.

DISCUSSION

The Sixth Amendment right to counsel is offense-specific. *McNeil v. Wisconsin*, 501 U.S. 171, 175 (1991). "The Sixth Amendment cannot be invoked once for all future prosecutions, and it only attaches at the commencement of prosecution, i.e., when criminal proceedings are initiated by charge, preliminary hearing, indictment, information, or arraignment." *Id.* Once the right has attached at the initiation of proceedings for a specific offense, the defendant may not be questioned further regarding that offense without counsel present. *Id.* at 177-78. The right's purpose is to "'protect the unaided layman at critical confrontations' with his 'expert adversary,' the government, after 'the adverse positions of government and defendant have solidified' with respect to a particular alleged crime." *Id.* However, a defendant whose Sixth Amendment right to counsel has attached regarding one offense may be questioned about other offenses for which prosecution has not commenced, and statements made regarding other offenses are admissible in a trial for them. *Id.* at 176.

The Pennsylvania Supreme Court has held that the right to counsel under Art. I, § 9 "is coterminous with the Sixth Amendment right to counsel for purposes of determining when the right attaches." *Commonwealth v. Arroyo*, 723 A.2d 162, 170 (Pa. 1999).

The threshold issue in this phase of the inquiry is whether the Sixth Amendment right to counsel attached under the facts of the case. *Commonwealth v. Karash*, 518 A.2d 537 (Pa. 1986). At the outset it must be noted that the fact that appellant was in custody throughout the period in question is not in and of itself determinative of this question. *Id.* The triggering event for Sixth Amendment rights to attach is the commencement of adversary judicial proceedings against the defendant. *Id.*

The Sixth Amendment right to counsel is easily invoked for a charged offense, but that invocation cannot extend to future uncharged crimes, unless they stem from the same incident. *Commonwealth v. Laney*, 729 A.2d 598 (PA.Super 1999). The Sixth Amendment right to counsel, which is offense specific, [applies) to all the offenses arising from the same incident for which a defendant is charged." *Id.* "To hold otherwise, would allow the Commonwealth to circumvent the Sixth Amendment right to counsel

merely by charging a defendant with additional related crimes." *Id.* In Pennsylvania, this right attaches at the moment of arrest. *Commonwealth v. Rishel*, 582 A.2d 662, 665 (Pa.Super. 1990). One cannot invoke the Sixth Amendment before arrest, as it does not apply until then. *Commonwealth v. Karash*, 518 A.2d 537, 541 (Pa. 1986).

In *Laney*, the defendant was charged with a disorderly conduct that resulted from things he said at the scene of a shooting of fire policemen and unrelated drug charges. *Laney*, 729 A.2d at 601. The defendant was unable to post bail on these charges. *Id.* The defendant was the individual who had shot the fire policemen and told his cell-mate details of his crime. *Id.* at 600. His cell-mate volunteered the information of the defendant's crime to police. *Id.* The cell-mate agreed to wear a hidden tape recorder and re-engage the defendant. *Id.* The defendant gave a detailed account of the events that transpired during the shooting. *Id.* Police then obtained a warrant for the arrest of the defendant in relation to the shooting and thereafter he waived his Miranda rights to give a full confession. *Id.*

The defendant suggested that his disorderly conduct was so closely tied to the uncharged offense of shooting the fire policeman that it was really a single incident. *Id.* The *Laney* Court found that the disorderly conduct charge is not sufficiently related to the shooting to allow such an extension. *Id.*

Such indivisible offenses may be within the scope of a single Sixth Amendment assertion, but such an assertion does not, and cannot, preclude questioning about matters which are not legally intertwined in the charges already brought. Unless we graft onto the Sixth Amendment an analysis based simply on time and location, rather than common elements or common sense, this shooting was not part of the same incident as the harangue that followed it.

Id. at 602.

In this case, even though the Defendant was represented by counsel on the drug charges that stemmed from the night of the shooting, the police were not precluded from asking the Defendant questions about the unrelated, uncharged shooting. The drug possession with intent to deliver charge shared no similarities and was not intertwined with the murder of the Victim. Further, there was no evidence presented at the preliminary hearing or at the suppression hearing that the Defendant was delivering drugs to 31 Faragut Street. His presence at the residence was unrelated to his possession of drugs.

The police received valid permission to enter the residence on Searight Avenue and encountered the Defendant. Lt. Kolencik smelled a strong odor of marijuana emanating from the Defendant's drawstring bag on his person. After a search of the bag, marijuana, baggies, and a scale was found. Even though the police were at the residence to follow-up on witness statements they received at the scene of the crime, the underlying facts of the drug charges are wholly apart from the rest of the crimes to which the Defendant is charged.

The Defendant was not charged with the crimes of Murder of the Third Degree, Discharge of a Firearm into an Occupied Structure, or Possession of Firearm Prohibited at the time of the interview. The charges mentioned supra do not depend on any of the same facts as the drug charges. Even though both sets of charges arise from the same night, the facts of each are in no way intertwined. There was no violation of the Defendant's Sixth Amendment rights and his confession will not be suppressed.

The Defendant signed a valid Miranda Rights waiver and confessed to discharging the firearm into the residence located 31 Farragut Street. The Defendant testified in the suppression hearing that he knew he was represented by counsel on the drug charges. However, the Defendant did not inform the officers conducting the questioning of this nor did he attempt to ask for a lawyer. Since the Defendant signed a valid Miranda waiver, there is no violation of the Defendant's Fifth Amendment rights and his confession will not be suppressed.

An arrest or "custodial detention" must be supported by probable cause. *Commonwealth v. Ellis*, 662 A.2d 1043, 1047-48 (Pa. 1995). The search incident to arrest exception to warrantless searches permits police to search an arrestee's person as a matter of course, without a case-by-case adjudication of whether such search is likely to protect officer safety or evidence. *Commonwealth v. Simonson*, 148 A.3d 792, 799 {Pa.Super. 2016). The Supreme Court of the United States and the Pennsylvania Supreme Court has held that the scope of a search incident to arrest extends not only to the arrestee's person, but also into the area within the arrestee's "immediate control." *Chimel v. California*, 395 U.S. 752, 763 (1969); *Commonwealth v. Shiflet*, 670 A.2d 128, 130 (Pa. 1995).

In this case, Lt. Kolencik had reports from individuals present on the scene of the shooting that the Defendant and Mr. Hall were present on the night in question. When Lt. Kolencik approached Mr. Hall's residence he observed a handgun, in plain view, near the front porch of the residence. Lt. Kolencik had probable cause to bring the Defendant into custody for questioning. Since Lt. Kolencik had probable cause, the search of the Defendant's drawstring bag was justified because it was on his person and under his immediate control when he was taken into custody. Therefore, the items recovered from the Defendant's drawstring bag will not be suppressed. Further, any evidence obtained from the Defendant's cellular phone will not be suppressed because it was obtained pursuant to a valid search warrant.

The statutory definition of third-degree murder is simply, "All other kinds of murder [other than first-or second-degree murder] shall be murder of the third degree. Murder of the third degree is a felony of the first degree." 18 Pa.C.S.A. § 2502(c).

Importantly, § 2502(c) does not set forth the requisite mens rea for third degree murder. *Id.* However, § 302(c) of the Crimes Code provides, "When the culpability sufficient to establish a material element of an offense is not prescribed by law, such element is established if a person acts intentionally, knowingly or recklessly with respect

thereto." *Commonwealth v. Fisher*, 80 A.3d 1186 (Pa. 2013).

In order to convict a defendant of the offense of third degree murder, the Commonwealth need only prove that the defendant killed another person with malice. *Commonwealth v. Santos*, A.2d 360, 363 (Pa. 2005). "The jury need not consider whether the defendant had a specific intent to kill, nor make any finding with respect thereto." *Fisher*, 80 A.3d at 1191. "This Court has long held that malice comprehends not only a particular ill-will, but... [also a] wickedness of disposition, hardness of heart, recklessness of consequences, and a mind regardless of social duty, although a particular person may not be intended to be injured." *Id.*

A person commits an offense if he knowingly, intentionally or recklessly discharges a firearm from any location into an occupied structure. 18 Pa.C.S. 2707.1(a). A person who has been convicted of an offense enumerated in subsection (b), within or without this Commonwealth, regardless of the length of sentence or whose conduct meets the criteria in subsection (c) shall not possess, use, control, sell, transfer or manufacture or obtain a license to possess, use, control, sell, transfer or manufacture a firearm in this Commonwealth. 18 Pa.C.S. §6105(a)(1).

In this case the Commonwealth has established a prima facie case that the Defendant committed the crime of Murder in the Third Degree. The Defendant was present at the scene of the shooting on the night in question and admitted to discharging the firearm into 31 Farragut Street. The Victim passed away from the injuries she sustained due to the gunshot wound. A gunshot residue test showed that the Defendant had characteristic particles on his hands, consistent with recently discharging a firearm. The casings test fired from the firearm recovered from Searight Avenue matched the casings that were recovered from 31 Farragut Street on the night in question.

The Commonwealth has established a prima facie case for Discharge of a Firearm into an Occupied Structure. The Defendant admitted to discharging a firearm into 31 Farragut Street while he was outside of the residence. The Defendant knew or should have known the structure was occupied because he was familiar with the individuals present in the house that night.

The Defendant plead guilty to a robbery in 2012, coupled with the facts discussed supra, the Commonwealth has presented a prima facie case for the Defendant being a Person Not to Possess a Firearm.

Except as authorized by this act, the manufacture, delivery, or possession with intent to manufacture or deliver, a controlled substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, or knowingly creating, delivering or possessing with intent to deliver, a counterfeit controlled substance. 35 P.S. § 780-113(a)(30). Intent to deliver controlled substances may be inferred from possession of large quantity of controlled substances. *Commonwealth v. Smagala*, 557 A.2d 347, 383 (Pa.Super. 1989). Intent to deliver, within context of

offense of possession of controlled substance, may be inferred from an examination of the facts and circumstances surrounding the case. *Commonwealth v. Griffin*, 804 A.2d 1 (Pa.Super.2002).

Knowingly or intentionally possessing a controlled or counterfeit substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, unless the substance was obtained directly from, or pursuant to, a valid prescription order or order of a practitioner, or except as otherwise authorized by this act. 35 P.S. § 780-113(a)(16). The use of, or possession with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act. 35 P.S. § 780-113(a)(32).

In this case, the Commonwealth has established a prima facie case for all of the drug related charges against the Defendant. Lt. Kolencik recovered a larger amount of marijuana from within the Defendant's possession. It was Lt. Kolencik's testimony, as a recognized expert, that this quantity of marijuana was possessed with the intent to distribute. The amount of marijuana coupled with the presence of a digital scale and multiple baggies create the inference that the Defendant intended to deliver said marijuana to third parties.

Further, the Defendant did possess marijuana and said marijuana was contained in a "baggie". Therefore, the Commonwealth has made a prima facie case for a violation of 35 P.S. § 780-113(a)(16) and 35 P.S. § 780-113(a)(32).

Therefore the Court enters the following:

OPINION AND ORDER

AND NOW, this 24th day of October 2018, upon review the Writ of Habeas Corpus, Motion to Suppress Statements and Motion to Suppress Evidence prepared on behalf of Ronald Crossland, the Court HEREBY DENIES the Motion in its entirety.

BY THE COURT:
STEVE P. LESKINEN, JUDGE

ATTEST:
Clerk of Courts

LUNCH & LEARN SERIES

FCBA LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, June 12th** from 12:00 p.m. to 1:30 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topic: **Everything you Ever Wanted to Know About Impaired Lawyers...**
- Presenter: Brian S. Quinn, Esq., Education and Outreach Coordinator, Lawyers Concerned for Lawyers of Pennsylvania, Inc.

CLE Credit

1.5 hours of Ethics CLE credit for the program. The fees are as follows:

Members of the FCBA

- No charge for attendance without CLE Credit
- \$10 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2012

- No charge for attendance with CLE Credit

Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$20 fee for attendance with CLE Credit

**** All fees to be paid at the door ****

A light lunch will be provided.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or by email tocindy@fcbar.org on or before Monday, June 10th

-Professional Ethics/CLE Committee

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