

# FAYETTE LEGAL JOURNAL

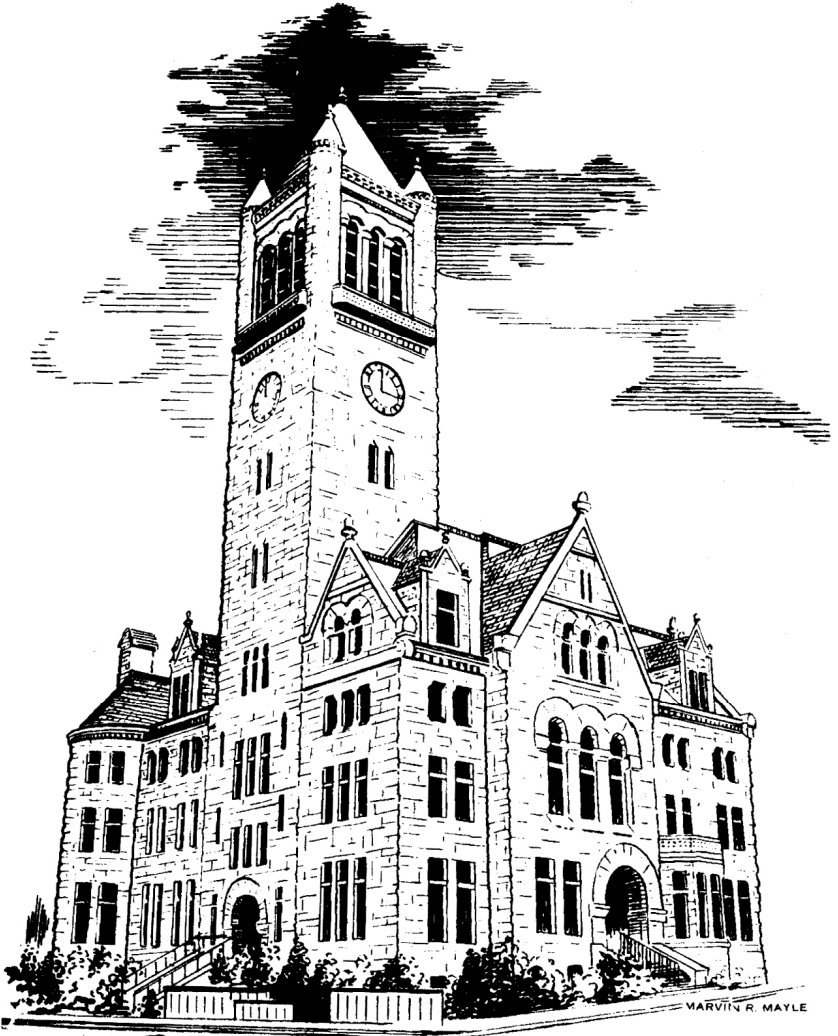
---

VOL. 83

NOVEMBER 14, 2020

NO. 46

---



## 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](http://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.

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

*Cover Design by Marvin R. Mayle, 207 Lick Hollow Road, Hopwood, PA*

## FAYETTE COUNTY BAR ASSOCIATION Board of Directors

**President:** Louise D. Monaghan  
**President Elect:** Gretchen A. Mundorff  
**Vice-President:** Charles O. Zebley, Jr.  
**Secretary:** Anne N. John  
**Treasurer:** Vincent J. Roskovensky, II  
**Past President:** James E. Higinbotham, Jr.

**Executive Director:** Garnet L. Gordon

**Directors**  
 Jennifer M. Casini  
 Rachel A. Clark  
 Jeremy J. Davis  
 Benjamin F. Goodwin  
 Robert A. Gordon  
 Sheryl R. Heid  
 Margaret Zylka House  
 Wendy L. O'Brien  
 Douglas S. Sholtis

### ETHICS HOTLINE

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

Call (800) 932-0311, ext. 2214.

### LAWYERS CONCERNED FOR LAWYERS

Our assistance is confidential,  
non-judgmental, safe, and effective

To talk to a lawyer today, call:  
 1-888-999-1941  
 717-541-4360

## 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

**MARY E. BROOKS, a/k/a MARY ELLEN BROOKS**, late of Waltersburg, Fayette County, PA (3)

*Personal Representatives:* Robert Rowan and Laura L. Moore  
c/o Davis and Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**MARTIN DENNIS YURCHISON**, late of Saltlick Township, Fayette County, PA (3)

*Executor:* Matthew J. Yurchison  
c/o Casini and Geibig, LLC  
815B Memorial Boulevard  
Connellsville, PA 15425  
*Attorney:* Jennifer M. Casini

### Second Publication

**CHERYLE J. ANSELL**, late of Dunbar Township, Fayette County, PA (2)

*Executor:* George J. Harvey  
505 Vanderbilt Road  
Connellsville, PA 15425  
Co John M. Ranker & Associates, P.C.  
140 South Main Street, Suite 301  
Greensburg, PA 15601  
*Attorney:* John M. Ranker

**ANGELINE BLACKBURN**, late of Upper Tyrone Township, Fayette County, PA (2)

*Co-Executors:*  
Gerald Kiliany  
725 Locust Street  
Greensburg PA 15601

Lisa Robbins  
757 Narrows Road  
Connellsville, PA 15425  
*Attorney:* James Lederach  
201 North Chestnut Street  
P.O. Box 342  
Scottdale PA 15683

**DONALD E. MURPHY, SR., a/k/a DONALD E. MURPHY**, late of Dunbar Township, Fayette County, PA (2)

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

**RONALD SECHRIST**, late of Connellsville Township, Fayette County, PA (2)

*Co-Executors:* Robert Leiberger and Shirley Leiberger  
c/o Rowan Law Offices  
890 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Mark Rowan

**JOSEPH TERRETA**, late of Luzerne Township, Fayette County PA (2)

*Administratrix:* Judy L. Terreta  
c/o 51 E South Street  
Uniontown, PA 15401  
*Attorney:* Anthony Dedola

### First Publication

**PATRICK T. BALLON**, late of Luzerne Township, Fayette County, PA (1)

*Executrix:* Bertha Ann Ballon  
c/o 51 East South Street  
Uniontown, PA 15401  
*Attorney:* Anthony Dedola

**DONALD R. JONES, a/k/a DONALD R. JONES, SR.**, late of Washington Township, Fayette County, PA (1)

*Executrix:* Lily Farquhar  
c/o 300 Fallowfield Avenue  
Charleroi, PA 15022  
*Attorney:* Richard C. Mudrick

**HAROLD RAY KING, SR.**, late of Bullskin Township, Fayette County, PA (1)  
*Executrix:* Ashley Dawn Ghrist  
 c/o Molinaro Law Offices  
 141 West Peach Street  
 P.O. Box 799  
 Connellsville, PA 15425  
*Attorney:* Carmine V. Molinaro, Jr.

---

**MARGARET REGINA SIMON, a/k/a MARGARET R. SIMON**, late of Luzerne Township, Fayette County, PA (1)  
*Executor:* David M. Simon  
 c/o Zebley Mehalov & White, P.C.  
 18 Mill Street Square  
 P.O. Bo 2123  
 Uniontown, PA 15401  
*Attorney:* Mark M. Mehalov

---

**THOMAS E. STEPHENS, a/k/a THOMAS EDWARD STEPHENS**, late of Perry Township, Fayette County, PA (1)  
*Executrix:* Cynthia Howser  
 P.O. Box 299  
 Perryopolis, PA 15473  
 c/o 300 Fallowfield Avenue  
 Charleroi, PA 15022  
*Attorney:* Richard C. Mudrick

---

**LEGAL NOTICES**

In the Court of Common Pleas of Fayette County, Pennsylvania  
 No. 543 of 2020, G.D.

In re: Petition of Karen Redick for change of name to Caryn Redick.

To all persons interested: Notice is hereby given that an Order of said Court authorized the filing of said Petition and fixed the 7th day of December, 2011, at 1:00 o'clock p.m., as the time and the Fayette County Courthouse, Courtroom No. 5, Uniontown, Pennsylvania, as the place for a hearing, when and where all persons may show cause, if any they have, why said name should not be changed as prayed for.

James E. Higinbotham, Esquire  
 HIGINBOTHAM LAW OFFICES  
 45 East Main Street, Suite 500  
 Uniontown, Pennsylvania 15401  
 724-437-2800

---

**NOTICE**

Notice is hereby given that A Certificate of Organization has been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on October 21, 2020, for a limited liability company known as Linden Tree Properties, LLC.

Said limited liability company has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the limited liability company is/are: purchasing and selling of real estate and any other lawful purpose related thereto for which the COMPANY may be organized under the Business Corporation Law.

GEORGE & GEORGE  
 By: Joseph M. George, Esquire  
 92 East Main Street  
 Uniontown, PA 15401

---

**NOTICE**

IN THE COURT OF COMMON PLEAS OF  
 FAYETTE COUNTY, PENNSYLVANIA  
 CIVIL ACTION – LAW  
**ACTION IN QUIET TITLE**  
 NO. 1828 OF 2020 G.D.  
 PRESIDENT JUDGE JOHN F. WAGNER, JR.

VICKIE M. STRIMEL and,  
 RANDY S. STRIMEL, her husband  
 Plaintiffs,

vs.

CHARLES A. HUNT and GRACE J. HUNT,  
 his wife, both deceased; and their heirs;  
 LOUISE A. FOSTER, deceased;  
 LIDA H. BROWN, deceased;  
 VERA H. BUTTERMORE and  
 CHARLES H. BUTTERMORE, her husband,  
 deceased;  
 EDNA H. TITTERINGTON, deceased; and her  
 heirs,  
 CAROL TITTERINGTON, deceased; and  
 JEANNE T. TITTERINGTON, deceased,  
 Defendants.

**TO: THE SAID DEFENDANTS**, their heirs,  
 successors and assigns, generally,

You are hereby notified that the Plaintiffs alleged that they acquired the 5/9% interest of Grace F. Cavalier by Quit Claim Deed in the following property, to wit, property located in the City of Uniontown, more particularly described in a deed dated September 8, 2017 and of record in the Office of the Recorder of Deeds of Fayette County, Pennsylvania in Record Book Volume 3350, Page 1378.

It is alleged in the said Complaint that the Defendants' have no claim or interest in the aforesaid property.

**NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the complaint and in the within advertisement, you must take action within twenty (20) days after the last advertisement of this notice by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claim set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice or any money claimed in the complaint, or for any other claim or relief requested by the plaintiffs. You may lose

money or property or other rights important to you.

**YOU SHOULD TAKE THIS NOTICE 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.**

**PENNSYLVANIA LAWYER  
 REFERRAL SERVICE  
 PENNSYLVANIA BAR ASSOCIATION  
 100 SOUTH STREET, P.O. BOX 186  
 HARRISBURG, PA 17108  
 PHONE: (800) 932-0311**

By: Charles C. Gentile, Esquire  
 2944 National Pike Road, P.O. Box 245  
 Chalk Hill PA 15421  
 (724) 438-3120



**JUDICIAL OPINION**

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

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
	:	
v.	:	
	:	
PAUL BANNASCH,	:	No. 1337 of 2013
DEFENDANT.	:	Honorable President Judge John F. Wagner, Jr.

**OPINION**

Wagner, P.J.

Before the Court is the Defendant's Concise Statement of Issues related to the denial of his Motion for Post Conviction Collateral Relief. The Defendant was initially charged with Criminal Homicide and a Notice of Aggravating Circumstances was filed. He was also charged with Unlawful Restraint/ Serious Bodily Injury, Kidnap to Facilitate a Felony, Abuse of Corpse, and three (3) counts of Conspiracy. Upon the acceptance of the plea bargain, the Commonwealth withdrew the Aggravated Circumstances and reduced the general charge of Criminal Homicide to Murder of the Third Degree. On January 30, 2018, the Defendant accepted the plea bargain and entered a general plea to Murder of the Third Degree and to all the other charges.

At the charge of Murder in the Third Degree, the Defendant was sentenced to twenty (20) to forty (40) years. At the charge of Unlawful Restraint/Serious Bodily Injury, he was sentenced to two (2) years and six (6) months to five (5) years. At the charge of Abuse of Corpse, he received a sentence of one (1) to two (2) years. At the charge of Kidnap to Facilitate a Felony, he was sentenced to six (6) to twenty (20) years and no further penalty at the Conspiracy charges. The sentences imposed run consecutive to each other.

An appeal to the Superior Court was filed and denied. Defendant's Motion for Allowance of Appeal to the Pennsylvania Supreme Court was denied on April 29, 2019. Thereafter, on July 27, 2019, the Defendant filed a Motion for Post Conviction Collateral Relief (hereinafter "PCRA"). After reviewing the issues raised, counsel for the Defendant filed a No-Merit Letter and his PCRA was dismissed. This pro se appeal is a result of the denial of his PCRA.

**CONCISE ISSUE**

The Defendant asserts that his appellate counsel was ineffective for changing his argument from that raised in his post sentence motion that his sentence of twenty-nine and one half (29 ½) years to sixty-seven (67) years was cruel and harsh. In his appeal,

counsel argued that his sentence was a virtual life sentence and did not argue that it was harsh and cruel.

### DISCUSSION

On June 22, 2013, the Defendant and his co-conspirator while in the City of Conellsville, met the female victim in a bar and left with her. After the victim was twice punched in the face, she was rendered unconscious by the assault. The men then forcefully dragged her across a parking lot, over some railroad tracks to an embankment where they kicked her over the hillside. The Defendant and his co-conspirator unlawfully restrained the victim in an isolated, desolate location along the river bank where they stomped on her and continued to beat her with the intent of killing her by means of strangulation and blows to her head and body causing her to die of asphyxiation. The men continued to abuse her body by inserting sticks and rocks in her vagina and anus. Eventually, they striped off her clothing and threw her naked body into the Youghiogheny River. (N.T. of 1/30/18, pp 9-10). The victim's body was located in the river by a group of boys on a canoeing trip. The men were subsequently located, statements were made by the co-conspirator, and each was charged.

On January 30, 2018, with the offer of a general plea to Murder in the Third Degree, the Defendant voluntarily and knowingly entered a general plea of no contest to the charges. After sentencing, Counsel filed a post sentence motion and it was denied. A direct appeal was filed and a Motion for Allowance of Appeal with each denied.

In his direct appeal to the Superior Court at No. 229 WDA 2018, the Defendant asserted that his counsel was ineffective for failing to argue that his sentence was harsh and cruel, However, one of the two issues raised on appeal by his counsel was that:

The Sentencing Court Abused its Discretion by Imposing a Harsh, Severe, and Manifestly Unreasonable and Excessive Sentence By Sentencing the Appellant to At the Height of the Aggravated Range or The Maximum Sentence Allowable by Law and By Running Each Offense in a Consecutive Order.

When a Defendant raises a claim of ineffectiveness of his counsel at the trial or appellate level, the claim is evaluated according to the three-prong performance and prejudice test established by *Commonwealth v. Pierce*, 527 A.2d 397 (Pa. 1987). To establish the ineffectiveness of counsel, the defendant must establish that the issue underlying the claim has arguable merit and that counsel's acts or omissions were not reasonably designed to advance the interests of the defendant. Prejudice, the third prong, must be met by demonstrating that there is a reasonable probability that, but for counsel's errors or omissions, the result of the proceeding would have been different *Strickland v. Washington*, 466 U.S. 668 (1984). To be entitled to relief, the defendant must meet and discuss each of these three prongs. *Commonwealth v. Fears*, 86 A.2d 795 (Pa, 2014). Counsel is presumed to be effective and is accorded broad discretion to determine tactics and strategy. *Commonwealth v. Thomas*, 744 A.2d 713 (Pa. 2000). It is the defendant's burden to establish the ineffective assistance of his counsel. *Commonwealth v. Speight*, 677 A.2d 317 (Pa. 1996).



A defendant is not eligible for post-conviction relief if his allegation of error has been previously litigated. 42 Pa. C.S. §9544(a). The purpose of the PCRA is not to provide the defendant with a means to relitigate the merits of an issue he has previously raised and has received a determination on the merits of that issue. *Commonwealth v. Buehl*, 658 A.2d 771, 775 (Pa. 1995). By asserting the same argument that was previously raised on direct appeal, by only asserting that now his counsel was ineffective in his argument to the appellate court, after that issue has been denied, the mere general allegation of ineffectiveness does not result in a second review of his issue previously decided. *Commonwealth v. McCall*, 786 A.2d 191 (Pa. 2001).

While appellate counsel did argue in his appeal that the sentence amounted to a virtual life sentence. He then continued his argument that the sentence was disproportionate to the crimes and consideration was not given to the protection of the public, the gravity of the offense to the victim or the rehabilitative needs of the Appellant.

The Court did not err in rejecting the Defendant's claim of ineffectiveness of counsel. An issue is considered litigated if it is substantially similar to the issue raised and decided on direct appeal. The Defendant asserts that his counsel failed to raise the very issue that he did raise. The Defendant has failed to demonstrate how his PCRA claim of ineffectiveness is substantially different from the claim litigated on his direct appeal. The highest appellate court in which he could have his issue reviewed as a matter of right has ruled on the merits of the Defendant's issue. Nor has he raised the ineffectiveness of his PCRA counsel. The Superior Court ruled on the specific allegation raised in his direct appeal that the sentence imposed was harsh and severe and the appellate court denied Defendant's assertion. His attempt to relitigate the sentence imposed is without merit and his allegation that his appellate counsel was ineffective in his appeal for the Defendant should be denied.

BY THE COURT,  
WAGNER, P.J.

ATTEST:  
Clerk of Courts

# **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**





LETS TALK  
ABOUT MENTAL  
HEALTH

**Does the Public  
Health Crisis Have  
You Feeling  
Anxious, Stressed or  
Depressed ?**

**Call Now**

to learn more about our free services.

**LAWYERS CONCERNED FOR LAWYERS**  
— PENNSYLVANIA —

**100% Confidential Helpline**  
**1-888-999-1941**

[www.lclpa.org](http://www.lclpa.org)

Peer & staff support, assessment by a qualified healthcare provider, literature, intervention assistance and resources

---

**ANNUAL MEMBERSHIP MEETING**

The Annual General Membership meeting of the Fayette County Bar Association shall be held on Wednesday, December 9, 2020, at 1:30 pm in the Fayette County Courthouse, 61 East Main Street, Uniontown, PA 15401. Members are invited to present topics of concern or interest to the Association.

## LUNCH & LEARN SERIES

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

- Date: **Wednesday, December 9th** from 12:00 p.m. to 1:30 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: **A Primer on Personal Injury**
- Presenters: James T. Davis, Esquire  
Honorable Senior Judge Gerald R. Solomon

### CLE Credit

1.5 hours of Substantive 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
- \$40 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 to [cindy@fcb.org](mailto:cindy@fcb.org) on or before Monday, December 7th.



Please join your colleagues of the  
Fayette County Bar Association  
for a

# Christmas PARTY

December 3 at 5:00pm

UNIONTOWN COUNTRY CLUB

RSVP by Friday, November 27th  
724-437-7994 or [cindy@fcb.org](mailto:cindy@fcb.org)

In support of the holiday season, please bring new, unwrapped toys  
for donation to Fayette County Children & Youth Services.  
Monetary donations payable to "CYS Advisory Board."



*Quality... Experience... Results...  
It's what your clients deserve.*

*Medical Malpractice • Auto Accidents • Personal Injury*



# GISMONDI

& ASSOCIATES

412-281-2200

[www.gislaw.com](http://www.gislaw.com)

700 Grant Bldg., 310 Grant St., Pgh., PA 15219