

# FAYETTE LEGAL JOURNAL

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## FAYETTE LEGAL JOURNAL

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

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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

**CHARLES MARVIN HYDE, JR., a/k/a CHARLES MARVIN HYDE**, late of Springhill Township, Fayette County, PA (3)

*Executrix:* Michelle L. Hyde, a/k/a Michelle Louise Hyde  
c/o DeHaas Law, LLC  
51 East South Street  
Uniontown, PA 15401  
*Attorney:* Ernest P. DeHaas, III

### Second Publication

**CHARLEEN L. DERA, a/k/a CHARLEEN LUCILLE DERA**, late of Washington Township, Fayette County, PA (2)

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

**HAROLD LEHMAN, a/k/a HAROLD R. LEHMAN, A/K/A HAROLD RAY LEHMAN**, late of Georges Township, Fayette County, PA (2)

*Co-Executrix:* Paula Brnich and Lori Smith  
c/o Kopas Law Office  
556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John Kopas

**JOSEPH WILLIAM NIEDOJADLO, JR., a/k/a JOSEPH W. NIEDOJADLO, JR., a/k/a JOSEPH W. NIEDOJADLO**, late of Redstone Township, Fayette County, PA (2)

*Administratrix:* Diane Lynn Niedojadlo  
c/o 9 Court Street  
Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

**EUGENE RICHTER, a/k/a EUGENE L. RICHTER**, late of Normalville, Fayette County, PA (2)

*Executrix:* Karen E. Richter  
614 Clinton Road  
Normalville, PA 15469  
c/o Snyder and Snyder  
17 North Diamond Street  
Mount Pleasant, PA 15666  
*Attorney:* Marvin Snyder

**KENNETH TAYLOR, a/k/a KENNETH HAYES TAYLOR**, late of Redstone Township, Fayette County, PA (2)

*Personal Representative:* Patricia Ann Taylor, a/k/a Patricia A. Nicely  
c/o Davis and Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

### First Publication

**GEORGE R. DILLOW, JR.**, late of Georges Township, Fayette County, PA (1)

*Administrator:* Randall Thomas  
142 Ondrejko Road  
Smithfield, PA 15478  
c/o 2698 Morgantown Road  
P.O. Box 622  
Smithfield, Pa 15478  
*Attorney:* Charity Grimm Krupa

**EDWARD P. GRENA**, late of Brownsville Township, Fayette County, PA (1)

*Administrator:* Frederick E. Grena  
c/o Adams and Adams  
55 East Church Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Jason Adams

**MARY ELIZABAETH HOLLER, a/k/a MARY E. HOLLER**, late of Jefferson Township, Fayette County, PA (1)

*Executrix:* Tracy Perrucci, a/k/a Tracy L. Perrucci  
c/o Monaghan and Monaghan, LLP  
57 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary D. Monaghan

**ROBERT E. KEEFER**, late of Connellsville,  
Fayette County, PA (1)

*Administratrix:* Sharon R. Keefer  
1827 Third Street  
Connellsville, PA 15425  
c/o 208 South Arch Street, Suite 2  
Connellsville, PA 15425  
*Attorney:* Richard A. Husband

**MARY ELLEN KUNKEL**, late of South  
Union Township, Fayette County, PA (1)

*Executor:* Gregory T. Kunkel  
P.O. Box 342  
Uniontown, PA 15401  
c/o Newcomer Law Offices  
4 North Beeson Boulevard  
Uniontown, PA 15401  
*Attorney:* Ewing D. Newcomer

**IRENE HELEN LOGORDA, a/k/a IRENE  
LOGORDA**, late of Menallen Township,  
Fayette County, PA (1)

*Personal Representative:* Richard Logorda  
c/o Davis and Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**MICHAEL R. MACKO**, late of Connellsville,  
Fayette County, PA (1)

*Executrix:* Mary Ann Gmutza  
630 Jason Court  
Mount Pleasant, PA 15666  
c/o Zacharia Brown, P.C.  
111 West McMurray Road  
McMurray, PA 15317  
*Attorney:* Carl B. Zacharia

**DREW RAINEY, a/k/a DREW ALAND  
RAINEY, a/k/a DREW A. RAINEY**, late of  
Washington Township, Fayette County, PA (1)

*Personal Representative:* Donna L. Rainey,  
a/k/a Donna Lee Rainey  
500 Spruce Alley  
Belle Vernon, PA 15012  
c/o 1202 West Main Street  
Monongahela, PA 15063  
*Attorney:* James W. Haines, Jr.

**NANCY SPROUL, a/k/a NANCY  
CATHERINE SPROUL**, late of Ohiopyle,  
Fayette County, PA (1)

*Administrator:* James L. Sproul  
c/o 2944 National Pike Road  
P.O. Box 245  
Chalk Hill, PA 15421  
*Attorney:* Charles C. Gentile

## LEGAL NOTICES

### NOTICE

Notice is hereby given that a Certificate of Organization was filed with the Pennsylvania Department of State, on June 16, 2020, for a Limited Liability Company, organized under the Limited Liability Company Law of 1994, as from time to time amended. The name of the Company is SMALLEY HERITAGE PROPERTIES, LLC having an address of 835 Kentuck Road, Ohiopyle, Pennsylvania 15470

James E. Higinbotham, Jr., Esq.  
HIGINBOTHAM LAW OFFICES  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
Telephone: 724-437-2800

### NOTICE

Notice is hereby given that the Certificate of Organization has been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on September 4, 2020, for a limited liability company known as GearHead Automotive by MS Ferris 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: used auto sales, graphics and any other lawful purpose related thereto for which the corporation may be organized under the Business Corporation Law.

DAVIS & DAVIS  
BY: Gary J. Frankhouser, Esquire  
107 East Main Street  
Uniontown, PA 15401

PNC BANK, NATIONAL ASSOCIATION  
 Vs.  
 UNKNOWN HEIRS, SUCCESSORS,  
 ASSIGNS, AND ALL PERSONS, FIRMS, OR  
 ASSOCIATIONS CLAIMING RIGHT, TITLE  
 OR INTEREST FROM OR UNDER JOSEPH  
 M. MISSELLI A/K/A JOSEPH M. MISSELLI,  
 JR, DECEASED, AMY DELARA, BETH  
 MISSELLI and JAMES MISSELLI, JR

IN THE COURT OF COMMON PLEAS OF  
 FAYETTE COUNTY, PENNSYLVANIA  
 CIVIL DIVISION  
 No. 1391 of 2020  
 JUDGE LINDA CORDARO

IN RE: 2000 BUICK LLF SEDAN  
 VIN 1G4HR54K8YU277769  
 PENNSYLVANIA

NOTICE TO: UNKNOWN HEIRS,  
 SUCCESSORS, ASSIGNS, AND ALL  
 PERSONS, FIRMS, OR ASSOCIATIONS  
 CLAIMING RIGHT, TITLE OR INTEREST  
 FROM OR UNDER JOSEPH M. MISSELLI A/  
 K/A JOSEPH M. MISSELLI, JR, DECEASED  
 NOTICE OF SHERIFF'S SALE OF REAL  
 PROPERTY

**TO: MILDRED DEAN**  
**her heirs, successors and assigns, generally,**

You are hereby notified that Ronald Opel,  
 the Petitioner has filed a Petition at the above  
 number and term in the above-mentioned court  
 in an action to involuntary transfer a vehicle title  
 wherein it is alleged that he is the owner in  
 possession of a 2008 Buick LLF Sedan having a  
 VIN No: 1G4HR54K8YU277769.

Being Premises: 174 BETHANN ROAD,  
 ACME, PA 15610-1244

Being in BULLSKIN TOWNSHIP, County  
 of FAYETTE, Commonwealth of Pennsylvania,  
 04-20-0109

Improvements consist of residential  
 property.

Title to the above described vehicle lists  
 Mildred Dean as the record owner on said  
 vehicle.

Sold as the property of UNKNOWN  
 HEIRS, SUCCESSORS, ASSIGNS, AND ALL  
 PERSONS, FIRMS, OR ASSOCIATIONS  
 CLAIMING RIGHT, TITLE OR INTEREST  
 FROM OR UNDER JOSEPH M. MISSELLI A/  
 K/A JOSEPH M. MISSELLI, JR, DECEASED,  
 AMY DELARA, BETH MISSELLI and JAMES  
 MISSELLI, JR

Said Petition sets forth that the Petitioner is  
 the owner of the above-described vehicle. The  
 Petition was filed for the purpose of barring all  
 of your right, title, and interest, or claim in and  
 to all or a portion of said vehicle and to transfer  
 the title to Petitioner.

NOTICE

Your house (real estate) at 174 BETHANN  
 ROAD, ACME, PA 15610-1244 is scheduled to  
 be sold at the Sheriff's Sale on 10/15/2020 at  
 02:00 PM, at the FAYETTE County  
 Courthouse, Fayette County Courthouse, 61 East  
 Main Street, Uniontown, PA 15401, to enforce  
 the Court Judgment of \$102,551.03 obtained by,  
 PNC BANK, NATIONAL ASSOCIATION (the  
 mortgagee), against the above premises.

You are hereby notified that you have been  
 sued in court. If you wish to defend against the  
 claim 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 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 plaintiff. You  
 may lose money or property or other rights  
 important to you.

PHELAN HALLINAN DIAMOND & JONES, LLP  
 Attorney for Plaintiff

**YOU SHOULD TAKE THIS NOTICE TO  
 YOUR LAWYER AT ONCE. IF YOU DO  
 NOT HAVE A LAWYER OR CANNOT  
 AFFORD ONE, GOT TO OR TELEPHONE  
 THE OFFICE SET FORTH BELOW TO  
 FIND OUT WHERE YOU CAN GET**

**LEGAL HELP.**

**PENNSYLVANIA BAR ASSOCIATION  
PENNSYLVANIA LAWYER REFERRAL  
100 SOUTH STREET  
P.O. BOX 186  
HARRISBURG, PA 17108  
1-800-932-0311**

By Jason F. Adams, Esq.  
Adams & Adams  
55 E. Church Street  
Uniontown, PA 15401

**IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION  
NO. 20 ADOPT 2020**

**IN RE: ADOPTION OF  
NIANI REYES**

**NOTICE**

**TO: Unknown Father**

A petition has been filed asking the Court to put an end to all rights you have to your child, Niani Reyes. The court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. 3 of the Fayette County Courthouse, Uniontown, Fayette County, Pennsylvania, on Friday, October 23 at 10:30 a.m.

**YOU ARE WARNED THAT EVEN IF YOU FAIL TO APPEAR AT THE SCHEDULED HEARING THE HEARIN WILL GO ON WITHOUT YOU AND YOUR RIGHTS TO YOUR CHILD MAY BE ENDED BY THE COURT WITHOUT YOUR BEING THERE.**

**YOU ARE ALSO NOTIFIED OF THE ACT 101 OF 2010 WHICH ALLOWS FOR AN ENFORCEABLE VOLUNTARY AGREEMENT FOR CONTINUING CONTACT OR COMMUNICATION FOLLOWING AND ADOPTION BETWEEN AN ADOPTIVE PARENT, A CHILD, A BIRTH PARENT, AND/OR A BIRTH RELATIVE OF THE CHILD, IF ALL PARTIES AGREE AND THE WRITTEN VOLUNTARY AGREEMENT IS APPROVED BY THE COURT**

**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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100 SOUTH STREET  
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**PUBLIC NOTICE**

**IN THE COURT OF COMMON  
PLEAS OF WASHINGTON COUNTY,  
PENNSYLVANIA  
ORPHANS' COURT DIVISION**

**IN RE: CLAYTON CHRISTOPHER,  
BIRTHDATE 5/11/2011  
CHILD OF LISA MARIE CROW, aka LISA  
MARIE TEETS AND RICHARD  
CHRISTOPHER  
NO. 63-20-0748**

**SUNCERAE BAKER, BIRTHDATE  
11/20/2012  
CHILD OF LISA MARIE CROW, aka LISA  
MARIE TEETS AND THOMAS BAKER  
NO. 63-20-0749**

Take notice that a Petition for Involuntary Termination of

Parental Rights of Lisa Marie Crow aka Lisa Marie Teets and Richard Christopher, Father to Clayton Christopher; Lisa Marie Crow aka Lisa Marie Teets and Thomas Baker, Father to Suncerae Baker will be presented to the Orphans' Court of Washington County, Pennsylvania. Any person wishing to assert his parental right should appear in Courtroom No. 7 of the Washington County Courthouse, Washington, Pennsylvania, for a hearing as to the same on October 15, 2020 at 10:00 a.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

present.

You have the right to be represented at the hearing by an attorney. You should take this notice to your attorney at once. If you do not have an attorney or can not afford representation, contact the Southwestern Pennsylvania Legal Aid Society, 10 West Cherry Avenue, Washington, Pennsylvania, 15301, (724) 225-6170, to find out where you can obtain legal help.

Tenisha Brown, Caseworker  
Washington County Children & Youth  
Social Service Agency  
100 West Beau Street, Suite 502  
Washington, PA 15301  
Telephone: (724) 228-6884

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# SHERIFF'S SALE

Date of Sale: November 19, 2020

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday, November 19, 2020, at 2:00 p.m. in Courtroom Number One at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (3 of 3)

James Custer  
Sheriff Of Fayette County

KML LAW GROUP, P.C.  
Suite 5000  
701 Market Street  
Philadelphia, PA 19106-1532  
(215) 627-1322

No. 2386 of 2019 GD  
No. 138 of 2020 ED

**WELLS FARGO BANK, N.A., AS TRUSTEE FOR CARRINGTON MORTGAGE LOAN TRUST, SERIES 2007-RFC1, ASSET-BACKED PASS-THROUGH CERTIFICATES**  
c/o CARRINGTON MORTGAGE SERVICES, LLC  
1600 S. Douglass Road, Suite 200-A  
Anaheim, CA 92806

**Plaintiff**

vs.

**MARGARET A. BREAKIRON aka MARGARET BREAKIRON KENNETH D. BREAKIRON aka KENNETH BREAKIRON**  
Mortgagor(s) and Record Owner(s)  
25 Vernon Street  
Uniontown, PA 15401

ALL THAT CERTAIN LOT OF LAND SJTUATE IN SOUTH UNION TOWNSHIP. COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 25 VERNON STREET, UNIONTOWN, PA 15401

TAX PARCEL #34-16-0246

IMPROVEMENTS: A RESIDENTIAL DWELLING

SOLD AS THE PROPERTY OF:  
MARGARET A. BREAKIRON aka MARGARET BREAKIRON AND KENNETH D. BREAKIRON aka KENNETH BREAKIRON



Andrew J. Marley, Esquire  
 Stern & Eisenberg, PC  
 1581 Main Street, Suite 200  
 The Shops at Valley Square  
 Warrington, PA 18976  
 Phone: (215) 572-8111

No. 644 of 2020 GD  
 No. 142 of 2020 ED

**Deutsche Bank National Trust Company, as Trustee for Equifirst Mortgage Loan Trust 2003-2, Asset- Backed Certificates, Series 2003-2**

v.

**Emma J. Marucci, 1046 Main Street, Redstone Township, Republic, PA 15475**

By virtue of Writ of Execution No. 2020-00644

Deutsche Bank National Trust Company, as Trustee for Equifirst Mortgage Loan Trust 2003-2, Asset- Backed Certificates , Series 2003 -2 v. Emma J. Marucci, 1046 Main Street, Redstone Township, Republic, PA 15475, Tax Parcel No. 30-24-0206. Improvements thereon consisting of a Residential Dwelling, sold to satisfy judgment in the amount of \$51,243.70.

No. 1004 of 2020 GD  
 No. 141 of 2020 ED  
 No. 1 of 2020 ML

**TOWNSHIP OF SPRINGFIELD,**

**Plaintiff,**

vs.

**GERALD PRINKEY,**  
**Defendant.**

ALL that certain tract located in Springfield Township, Fayette County, Pennsylvania, described as Tax Parcel No. 35-09 -0087 and more particularly described in a deed recorded in the Office of the Recorder of Deeds for Fayette County in Record Book 2779, page 323.

The street address of the property is 352 Hawkins Hollow Road, Connellsville, Springfield Township, Fayette County, Pennsylvania 15425.

Seized and taken in execution as the property of Gerald Prinkey, defendant, in the action on the municipal claim of the Township of Springfield in the Court of Common Pleas of Fayette County, Pennsylvania at No. 1004 of 2020, G.D.

ANNE N. JOHN  
 ATTORNEY AT LAW

No. 612 of 2020 GD  
 No. 145 of 2020 ED

**FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF GREENE COUNTY, a corporation,**

**Plaintiff**

vs.

**JOSHUA C. SUMEY,**  
**Defendant**

ALL that certain piece or parcel of property situated in South Union Township, Fayette County, PA.

FOR prior title see Record Book 3241, page 630

Tax Parcel No.: 34-28-0048

UPON which is erected a residential brick dwelling known locally as 715 Morgantown Road, Uniontown, PA 15401.

RAS Citron, LLC  
 Robert Flacco, Esquire  
 133 Gaither Drive, Suite F  
 Mt. Laurel, NJ 08054  
 (855)225-6906

No. 2472 of 2018 GD  
 No. 139 of 2020 ED

**FINANCE OF AMERICA REVERSE LLC**

**Plaintiff**

v.

**TINA UNDERWOOD, IN HER CAPACITY AS HEIR OF NANCY L. ROBERTS; LINDA MCMAHAN, IN HER CAPACITY AS HEIR OF NANCY L. ROBERTS; UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER NANCY L. ROBERTS**

**Defendant(s)**

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN THE TOWNSHIP OF UPPER TYRONE, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 801 BROADFORD ROAD CONNELLSVILLE, PA 15425

PARCEL NUMBER: 39-07-0175

IMPROVEMENTS: RESIDENTIAL PROPERTY

**JUDICIAL OPINION**

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

|                               |   |                             |
|-------------------------------|---|-----------------------------|
| COMMONWEALTH OF PENNSYLVANIA, | : |                             |
|                               | : |                             |
| v.                            | : |                             |
| DONALD K. NICKLO,             | : | No. 294 of 2020             |
| Defendant.                    | : | Honorable Steve P. Leskinen |

OPINION AND ORDER

LESKINEN, J.

September 11, 2020

Before the Court is the Defendant’s Omnibus Pretrial Motion in the nature of a Motion to Suppress. After careful review of the evidence and applicable law, the Court hereby denies the Motion.

STATEMENT OF FACTS

At the Preliminary Hearing, the Commonwealth submitted evidence of the following: At 2:22 am on January 4th, 2020, Pennsylvania State Police Troopers Wiskeman and Vittone conducted a traffic stop on a vehicle, during which the vehicle’s operator informed them that he had just come from the Defendant’s motel room at the Blue Mountain Motel where the Defendant was selling drugs and where he had been trying to help his friend buy drugs from the Defendant. During the traffic stop, the vehicle’s operator received a phone call from the Defendant on his cell phone. The vehicle’s operator placed his cell phone on speaker phone and Trooper Wiskeman heard the Defendant say that he was in his motel room selling crack cocaine to another individual and that he was about to leave his motel room with that individual as a passenger in her car. Troopers Wiskeman and Vittone got back in their patrol unit and began driving to the Blue Mountain Motel. On the way, they observed the Defendant riding in the passenger seat of a vehicle coming from the direction of the Blue Mountain Motel and stopped the vehicle. Following the stop, the Defendant consented to a search of his motel room. The Defendant properly completed and signed a Waiver of Rights and Consent to Search Form. The motel room contained crack cocaine, scales, and smoking devices. The Defendant was charged with Manufacture, Delivery, or Possession With Intent to Manufacture or Deliver {1}, Int Poss Contr Subst By Per Not Reg {2}, and Use/Poss Of Drug Paraph {3}.

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{1} 35 P.S. § 780-113(a)(30)  
 {2} 35 P.S. § 780-113(a)(16)  
 {3} 35 P.S. § 780-113(a)(32)

## CONCLUSIONS AT LAW

The Defendant argues in his Motion to Suppress that there existed no reasonable suspicion to stop the vehicle in which the Defendant was riding, that any consent given by the Defendant to search his motel room is “fruit of the poisonous tree,” and that the Defendant was never read his Miranda Warnings.

Reasonable Suspicion

The Fourth Amendment of the U.S. Constitution and Article I, Section 8 of the Pennsylvania State Constitution protect individuals from unreasonable searches and seizures. *Commonwealth v. McAdoo*, 46 A.3d 781, 784 (Pa. Super. 2012). The police can stop and briefly detain an individual for investigative purposes if they have a reasonable suspicion supported by articulable facts that criminal activity “may be afoot.” *Com. v. Fell*, 901 A.2d 542, 545 (Pa.Super.2006) (citing *Terry v. Ohio*, 392 U.S. 1, 30 (1968)). This assessment requires an evaluation of the totality of the circumstances. *Com. v. Zahir*, 751 A.2d 1153, 1156 (Pa.2000). Among the factors to be considered in establishing a basis for reasonable suspicion are tips, the reliability of the informants, time, location, and suspicious activity. *Com. v. Freeman*, 757 A.2d 903, 908 (Pa.2000). The credibility of an informant may be established where the informant is personally involved in an illegal transaction so as to outweigh a lack of previous tips. *Com. v. Neidig*, 489 A.2d 921 (Pa.1985).

In this Case, Troopers Wiskeman and Vittone spotted the Defendant moments after having been informed by the operator of the vehicle involved in their previous traffic stop that he had just come from the Defendant’s motel room where the Defendant was selling drugs and where he had been trying to help his friend buy drugs from the Defendant. The operator of the vehicle had never acted as an informant before, but his admission to being personally involved in an illegal transaction supports his reliability.

The vehicle’s operator received a cell phone call from the Defendant, placed his cell phone on speaker phone, and allowed Trooper Wiskeman to listen. Trooper Wiskeman heard the Defendant say that he was in his motel room selling crack cocaine to another individual and that he was about to leave his motel room with that individual as a passenger in her car. The Pennsylvania Supreme Court has recently made it clear that circumstances such as these are no grounds for suppression. In *Com. v. Spence*, a first-time informant, (who had been picked up during a traffic stop) used his cell phone to set up a controlled buy wherein he placed his cell phone on speaker phone and allowed a State Trooper to listen. *Com. v. Spence*, 91 A.3d 44 (Pa.2014).

The time and location of the stop in this case also suggest that reasonable suspicion was present. The Defendant was spotted only minutes after the information was received, and in the vicinity of the Blue Mountain Motel. In *Com. v. Jones*, the Pennsylvania Supreme Court ruled that a tip from an informant who had personally been in a drug dealer’s apartment and had seen him sell drugs was not stale, even after twenty four hours. *Com. v. Jones*, 668 A.2d 114, 116 (Pa.1995). In *Com. v. Osborne*, the Pennsylvania Superior Court found that an informant’s tip in the early evening that a drug dealer was in the possession of drugs was enough to establish reasonable suspicion to stop the drug dealer’s vehicle when it was spotted at 11:20 pm. *Com. v. Osborne*, 599

A.2d 656, 658 (Pa.Super.1991).

This Court finds that the totality of the circumstances in this case indicate that when Troopers Wiskeman and Vittone stopped the vehicle in which the Defendant was riding, they had reasonable suspicion supported by articulable facts that criminal activity was afoot.

Voluntariness of Consent

The voluntariness of a consent is determined by evaluating the totality of the circumstances. *Com. v. Merbah*, 411 A.2d 244, 247 (Pa.Super.1979). Consent is not voluntary if it is procured through force or coercion. *Com. v. Hartford*, 459 A.2d 815 (Pa.Super.1983).

The Defendant consented to a search of his motel room by properly completing and signing the Waiver of Rights and Consent to Search Form. The MVR shows that the Defendant talked to Troopers Wiskeman and Vittone for approximately twenty seven minutes before signing the Waiver of Rights and Consent to Search Form. The conversation took place outdoors between 2:56 am and 3.23 am. However, the MVR also shows that Troopers Wiskeman and Vittone treated the Defendant with courtesy, did not use force, and made it clear to the Defendant that not consenting to a search was an option. This Court finds that the totality of the circumstances indicate that the Defendant consented to the search of his motel room voluntarily.

Miranda

A defendant’s inculpatory statement cannot be used unless the defendant knowingly, intelligently, and voluntarily waived the right to remain silent and be represented by counsel. *Miranda v. Arizona*, 384 U.S. 436 (1966). Although the Defendant raises *Miranda* in his Motion to Suppress, the Defendant made no inculpatory statements giving rise to these charges. This Court finds, therefore, that the Defendant’s right to remain silent and be represented by counsel were not implicated in this case.

WHEREFORE, the Court issues the following Order:

**ORDER**

AND NOW, this 11th day of September, 2020, upon consideration of the Defendant’s Omnibus Pretrial Motion in the nature of a Motion to Suppress, it is hereby ORDERED and DIRECTED that it is DENIED. The District Attorney’s Office is hereby ORDERED to list this matter for trial.

BY THE COURT:  
STEVE. P. LESKINEN, JUDGE

ATTEST:  
CLERK OF COURTS





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