

# FAYETTE LEGAL JOURNAL

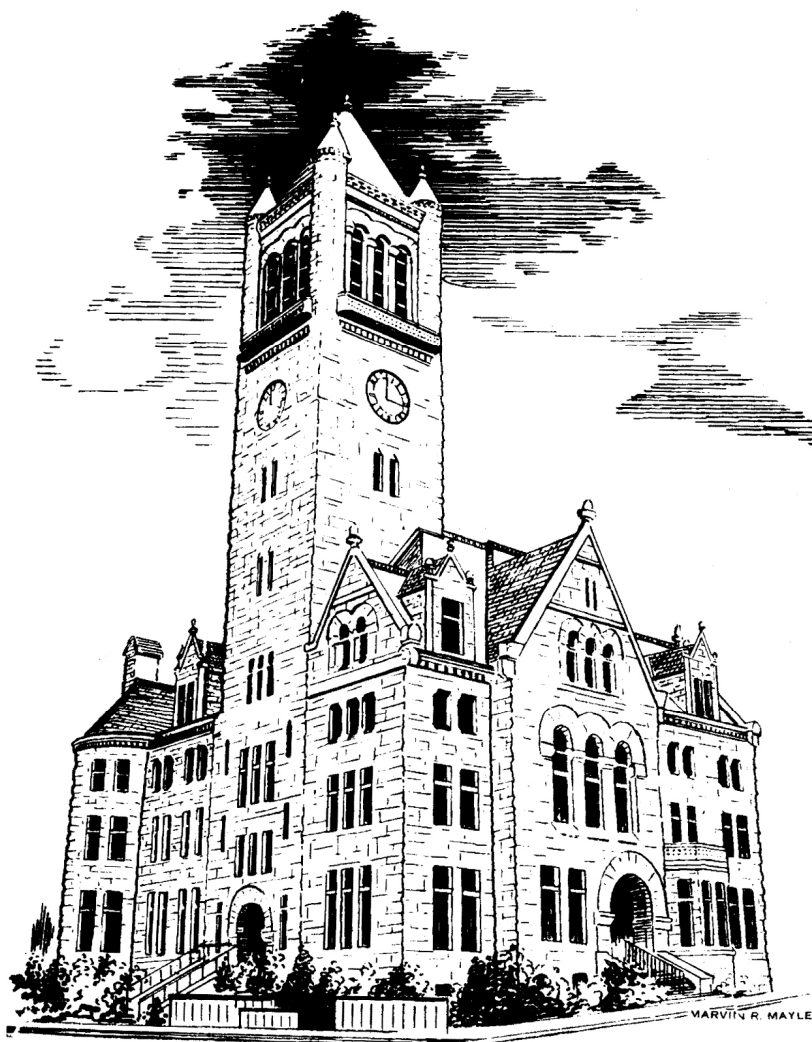
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## FAYETTE LEGAL JOURNAL

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

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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.

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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

**JOYCELYNN M. ANDROSIK**, late of German Township, Fayette County, PA (3)

*Executrix:* Jane K. Murrell a/k/a  
Jane Katherine Murrell  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**BEULAH E. BONAR**, late of Georges Township, Fayette County, PA (3)

*Executor:* Hubert E. Ross  
c/o 51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

**LYDIA M. COCKFIELD, a/k/a LYDIA MARIA COCKFIELD**, late of Uniontown, Fayette County, PA (3)

*Co-Executors:* Mark C. Cockfield and  
Renee L. Cockfield  
c/o 51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

**RICHARD EVANS**, late of Dunbar Township, Fayette County, PA (3)

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

**JOHN FOSBRINK, a/k/a JOHN F. FOSBRINK**, late of Bullsken Township, Fayette County, PA (3)

*Executor:* Harold Fosbrink  
135 Pleasant Acres Way Apt 27  
Mt. Pleasant, PA 15666  
c/o 749 North Church Street  
Mt. Pleasant, PA 15666  
*Attorney:* Paul Toohey

**PAMELA KAY HOWARTH**, late of Dunbar Township, Fayette County, PA (3)

*Administratrix:* Diana G. Mickey  
c/o 208 South Arch Street, Suite 2  
Connellsville, PA 15425  
*Attorney:* Richard A. Husband

**JOHN MASTERBRAY, SR.**, late of Dunbar Township, Fayette County, PA (3)

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

**DOLORES MAZUR**, late of Washington Township, Fayette County, PA (3)

*Executor:* David Mazur  
c/o Fitzsimmons & Barclay  
55 East Church Street, Suite 102  
Uniontown, PA 15401  
*Attorney:* Ralph K. Barclay, Jr.

**DARWIN MILLER, a/k/a DARWIN L. MILLER, a/k/a DARWIN LEE MILLER**, late of Georges Township, Fayette County, PA

*Executor:* Jeff Miller (3)  
2888 Morgantown Road  
Smithfield, PA 15478  
c/o 556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John A. Kopas, III

**EDITH MAY MILLER, a/k/a EDITH M. MILLER**, late of Saltlick Township, Fayette County, PA (3)

*Personal Representatives:* Mary E. Snyder and Nancy R. Prinkey  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

**RICHARD A. SPICOLA**, late of Connellsville,  
Fayette County, PA (3)

*Personal Representatives:*

Linda Marie Keffer and  
James Edward Spicola  
c/o Watson Mundorff, LLP

720 Vanderbilt Road  
Connellsville, PA 15425

*Attorney:* Timothy J. Witt

## Second Publication

**RODNEY RYAN BOLEN, a/k/a RODNEY  
BOLEN, a/k/a RODNEY R. BOLEN**, late of  
Luzerne Township, Fayette County, PA (2)

*Administrator:* Jeffrey A. Bolen

c/o 9 Court Street  
Uniontown, PA 15401

*Attorney:* Vincent J. Roskovensky, II

**ROY BOWSER, a/k/a ROY D. BOWSER**,  
late of Mill Run, Fayette County, PA (2)

*Executrix:* Pamela S. Hughes

c/o Casini & Geibig, LLC  
815B Memorial Boulevard

Connellsville, PA 15425  
*Attorney:* Jennifer Casini

**LARRY W. FOSBRINK**, late of North Union  
Township, Fayette County, PA (2)

*Administratrix DNBCTA:*

Loretta A. Ferrell  
14013 Line Road

New Freedom, PA 17349  
c/o 183 Market Street, #100

Kingston, PA 18704-5444  
*Attorney:* David E. Schwager

**CHRISTINE LOUISE HYDAK, a/k/a  
CHRISTINE L. HYDAK**, late of Perryopolis  
Borough, Fayette County, PA (2)

*Personal Representative:* Steven G. Hydak

c/o Watson Mundorff, LLP  
720 Vanderbilt Road

Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

**DEBORAH JOSEPH, a/k/a DEBORAH A.  
JOSEPH**, late of Uniontown, Fayette County,  
PA (2)

*Administratrix:* Heather Joseph  
606 Hopwood Coolspring Road

Hopwood, PA 15445

c/o Tremba Kinney Greiner & Kerr  
1310 Morrell Avenue, Suite C

Connellsville, PA 15425

*Attorney:* John Greiner

**KATHRYN A. PLUTO**, late of North Union  
Township, Fayette County, PA (2)

*Administratrix:* Shirley M. Krevinko

c/o 50 East Main Street

Uniontown, PA 15401

*Attorney:* Patrick C. McDaniel

**MARTIN E. PLUTO**, late of North Union  
Township, Fayette County, PA (2)

*Administratrix:* Shirley M. Krevinko

c/o 50 East Main Street

Uniontown, PA 15401

*Attorney:* Patrick C. McDaniel

**THOMAS LEE ROMAN**, late of German  
Township, Fayette County, PA (2)

*Executrix:* Gina Marie Jones

c/o 9 Court Street

Uniontown, PA 15401

*Attorney:* Vincent J. Roskovensky, II

**DONNA RUSSELL**, late of Springhill, Fayette  
County, PA (2)

*Administrator:* Eva Marie Russell

245 Fallen Timber Road

Point Marion, PA 15474

c/o Zihmer Law Firm

3244 Washington Road, Suite 210

McMurray, PA 15317

*Attorney:* Tracy Zihmer

**ELLEN G. SMILEY**, late of Everson Borough,  
Fayette County, PA (2)

*Administratrix:* Robin R. Mills

3510 Kings Hill Road

Connellsville, PA 15425

c/o 183 Market Street, #100

Kingston, PA 18704-5444

*Attorney:* David E. Schwager

**DEBRAH ANN SMODIC, a/k/a DEBRAH LEE**, late of North Union Township, Fayette County, PA (2)

*Personal Representative:*

Anna Grace Milliron  
c/o 68 South Beeson Boulevard  
Uniontown, PA 15401

*Attorney:* James E. Higinbotham, Jr.

**ROBERT L. STALEY, a/k/a ROBERT L. STALEY, JR.**, late of Newell Borough, Fayette County, PA (2)

*Co-Executors:* Robert Staley and  
Rochelle N. Staley Acklin  
c/o 51 East South Street  
Uniontown, PA 15401

*Attorney:* Anthony S. Dedola, Jr.

**MARGARET I. STOLARIK**, late of Menallen Township, Fayette County, PA (2)

*Executrix:* Patricia M. Smith  
c/o 51 East South Street  
Uniontown, PA 15401

*Attorney:* Anthony S. Dedola, Jr.

**HERBERT FRANKLIN SUMEY, SR., a/k/a HERBERT F. SUMEY**, late of German Township, Fayette County, PA (2)

*Co-Executrices:* Janice Elaine Maruniak  
and Rebecca Eileen Bailey  
c/o DeHaas Law, LLC  
51 East South Street  
Uniontown, PA 15401

*Attorney:* Ernest P. DeHaas, III

**THOMAS R. THARP**, late of Menallen Township, Fayette County, PA (2)

*Executrix:* Jennifer Black  
c/o Riverfront Professional Center  
208 South Arch Street, Suite 2  
Connellsville, PA 15425

*Attorney:* Richard A. Husband

**PHILIP TRUXEL, a/k/a PHILIP M. TRUXEL**, late of Connellsville, Fayette County, PA (2)

*Executrix:* Malinda Angel  
c/o Casini & Geibig, LLC  
815B Memorial Boulevard  
Connellsville, PA 15425

*Attorney:* Jennifer Casini

## First Publication

**CHARLOTTE M. BUCKLEY, a/k/a CHARLOTTE MIRIAM BUCKLEY**, late of Fairchance Borough, Fayette County, PA (1)

*Executrix:* Judith S. McCourt

P.O. Box 184  
Fairchance, PA 15436

c/o 556 Morgantown Road  
Uniontown, PA 15401

*Attorney:* John A. Kopas, III

**MARLENE CUPP, a/k/a MARLENE M. CUPP**, late of Farmington, Fayette County, PA

*Executrix:* Erica Upp (1)

c/o Radcliffe Martin Law, LLC  
648 Morgantown Road, Suite B  
Uniontown, PA 15401

*Attorney:* William Martin

**FRED ALFRED RANKIN, a/k/a FRED RANKIN, a/k/a FRED A. RANKIN**, late of North Union Township, Fayette County, PA (1)

*Administrator:* Robert E. Rankin

c/o 9 Court Street  
Uniontown, PA 15401

*Attorney:* Vincent J. Roskovensky, II

**DONNA G. REPPERT**, late of Washington Township, Fayette County, PA (1)

*Personal Representative:* Daniel P. Reppert  
c/o Watson Mundorff, LLP

720 Vanderbilt Road  
Connellsville, PA 15425

*Attorney:* David Tamasy

**KUBINA GEORGE SAMUEL**, late of Perry Township, Fayette County, PA (1)

*Administratrix:* Amber Leigh Kubina

c/o Goodwin Como, P.C.  
108 North Beeson Boulevard, Suite 400

*Attorney:* Benjamin F. Goodwin

**GENEVIEVE F. SPROUL**, late of Stewart Township, Fayette County, PA (1)

*Personal Representative:* Richard Hayden  
c/o Watson Mundorff, LLP

720 Vanderbilt Road  
Connellsville, PA 15425

*Attorney:* Timothy J. Witt

**FRANCIS M. SQUIRES**, late of Uniontown,  
Fayette County, PA (1)  
*Executor:* Philip Squires  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Samuel J. Davis

**ROSEMARY SUMEY**, late of Smock, Fayette  
County, PA (1)  
*Executrix:* Domoneque Guerrieri-Sebeck  
56 Braddock Street  
Uniontown, PA 15401  
c/o Tremba Kinney Greiner & Kerr  
1310 Morrell Avenue, Suite C  
Connellsville, PA 15425  
*Attorney:* John Greiner

LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
No. 802 Civil 2025,

TONI PHILLIPS, Plaintiff, vs.  
SOPHIA LUX, her heirs, successors, and/or  
assigns generally, Defendants

TAKE NOTICE that Plaintiff filed a  
Complaint in an Action to Quiet Title in the  
Court of Common Pleas of Fayette County,  
Pennsylvania, averring that they are the owner in  
fee and in possession of, all rights title and  
interest, in and to:

A tract of land situated in South Union  
Township, Fayette County, Pennsylvania, and  
which premises are identified as TAX PARCEL  
NO. 34-37-0014.

Plaintiff acquired said land by deed from  
Donna Phillips, Widow, dated May 29th, 2009,  
and recorded in the Recorder of Deeds Office of  
Fayette County, Pennsylvania, recorded at  
Official Record Book Volume 3095 at Page 7.

The service of this Complaint by  
publication is made pursuant to an Order of  
Court dated April 15, 2025, and filed at the  
above number and term.

You are hereby notified to plead to the  
complaint in this case, of which the above is a  
brief summary, within twenty (20) days from  
this date. If you wish to defend, you must enter a  
written appearance personally or by attorney and  
file your defenses or objections in writing with  
the Court. You are warned that if you fail to do

so, the case may proceed without you and a  
judgment may be entered against you without  
further notice for the relief requested by the  
plaintiff. You may lose money or property or  
other rights important to you.

YOU SHOULD TAKE THIS PAPER TO  
YOUR LAWYER AT ONCE. IF YOU DO  
NOT HAVE A LAWYER, GO TO OR  
TELEPHONE THE OFFICE SET FORTH  
BELOW. THIS OFFICE CAN PROVIDE YOU  
WITH INFORMATION ABOUT HIRING A  
LAWYER.

IF YOU CANNOT AFFORD TO HIRE A  
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LEGAL NOTICE

In the Common Pleas Court of Fayette County,  
PA, Case No. 2778 of 2024

BULLSKIN STONE & LIME, LLC, Plaintiff,  
v.

HARRY J. STOUFFER; RANDY MILLER;  
ROBERT MILLER; CHRIS OWEN MILLER;  
MICHAEL MILLIERN; BRANDON MILLER;  
ALEX MILLER a/k/a ALEX WATSON;  
ALYSSA MILLER a/k/a ALYSSA WATSON;  
STACEY MILLER; BETHANY MILLER; and  
JENNIFER HALL, Defendants.

To: MICHAEL MILLIERN, heir of Floyd  
Eugene Miller, Jr., and child of Kimberly  
Milliern (now deceased), whose last known  
address was 228 Brownsville Road, Apt. 1,  
Pittsburgh, Allegheny County, PA 15210.

You are hereby notified that on December  
31, 2024, Plaintiff filed a COMPLAINT IN  
PARTITION against you and other parties in the  
Court of Common Pleas of Fayette County, PA  
at Case No. 2778 of 2024, to force the sale or  
division of certain jointly owned undeveloped

property of 53.5 acres located in Bullskin Township, Fayette County, in which you hold an interest.

### NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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LAWYER REFERRAL SERVICE  
724-437-7994

Maureen E. Sweeney, Attorney  
Steptoe & Johnson PLLC  
One PPG Place, Suite 3300  
Pittsburgh, PA 15222  
412-504-8045  
Maureen.Sweeney@Steptoe-Johnson.com

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
No. 305 of 2025 GD

IN RE: CHANGE OF NAME OF BRAXTON  
JOEL FLINT, By and Through their Parent and  
Natural Guardian, Jacquelyn Staycer

### ORDER

AND NOW, April 9, 2025, it is hereby ORDERED and DECREED that a hearing for Name Change shall be held on the 12th day of June, 2025, at 10:00 o'clock a.m. in Courtroom No. 1 ANNEX, Fayette County Courthouse, Uniontown, Pennsylvania.

Further, it is Ordered that a notice of the filing of the within Petition and of the aforesaid date of hearing be published in the Official Legal Journal of Fayette County and the Herald Standard Newspaper at least thirty (30) days before the hearing. Proof of publication shall be submitted at the hearing.

It is further Ordered that an official search be conducted by the County office where the minor child resided within the past five (5) years. Proper certification from the Prothonotary's Office verifying that there are no judgments, decrees of record, or any other of the like character against the minor child and proper certification from the Recorder of Deeds regarding mortgages shall be submitted to the Court at the hearing.

It is further Ordered that the petitioning parent is directed to mail a copy of the Petition and this Orde by regular and certified mail, return receipt requested to the non-petitioning parent.

BY THE COURT:  
MEHALOV, J.

ATTEST:  
Prothonotary

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
No. 304 of 2025 GD

IN RE: CHANGE OF NAME OF AUBREY  
ELLA FLINT, By and Through their Parent and  
Natural Guardian, Jacquelyn Stayer

ORDER

AND NOW, April 9, 2025, it is hereby  
ORDERED and DECREED that a hearing for  
Name Change shall be held on the 12th day of  
June, 2025, at 10:00 o'clock a.m. in Courtroom  
No. 1 ANNEX, Fayette County Courthouse,  
Uniontown, Pennsylvania.

Further, it is Ordered that a notice of the  
filing of the within Petition and of the aforesaid  
date of hearing be published in the Official  
Legal Journal of Fayette County and the Herald  
Standard Newspaper at least thirty (30) days  
before the hearing. Proof of publication shall be  
submitted at the hearing.

It is further Ordered that an official search  
be conducted by the County office where the  
minor child resided within the past five (5)  
years. Proper certification from the  
Prothonotary's Office verifying that there are no  
judgments, decrees of record, or any other of the  
like character against the minor child and proper  
certification from the Recorder of Deeds  
regarding mortgages shall be submitted to the  
Court at the hearing.

It is further Ordered that the petitioning  
parent is directed to mail a copy of the Petition  
and this Orde by regular and certified mail,  
return receipt requested to the non-petitioning  
parent.

BY THE COURT:  
MEHALOV, J.

ATTEST:  
Prothonotary

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LEGAL NOTICE

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION  
NO. 1 ADOPT 2025  
JUDGE JOSEPH M. GEORGE, JR.

IN RE: ADOPTION OF  
ALEXIS MARIE HEBB-SHAFFER

NOTICE

Notice is her by given that a Petition for  
Adoption of an adult seeking a name change for  
Alexis Marie Hebb-Shaffer was filed in the  
Fayette County Court of Common Pleas  
Orphans' Court Division at No. 1 ADOPT 2025,  
seeking to change the name of the Petitioner to  
Alexis Marie Angelo. The Court has fixed June  
20, 2025, at 1:30pm in Courtroom No. 5 of the  
Fayette County Courthouse, 61 E. Main Street,  
Uniontown, PA as the date for the hearing of the  
Petition. All persons interested in the proposed  
change of name may appear and show cause, if  
any they have, why the prayer of the Petitioner  
should not be granted.

Douglas S. Sholtis, Esquire

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WATSON MUNDORFF, LLP

Notice of Revocable Trust  
Pursuant to 20 Pa. C.S. § 7755(c)

The Shirley Bonita Banks Revocable Living  
Trust under agreement dated 7/25/2004

Notice is hereby given of the administration of  
THE SHIRLEY BONITA BANKES  
REVOCABLE LIVING TRUST, DATED  
JULY 25, 2004. Shirley Bonita Banks, settlor  
of the trust, of Upper Tyrone Township, County  
of Fayette and Commonwealth of Pennsylvania,  
died on February 22, 2025. All persons indebted  
to the said decedent are requested to make  
payment to the undersigned without delay, and  
all persons having claims or demands against  
said trust are requested to make known the same.

William P. Banks, II., Successor Trustee  
c/o WATSON MUNDORFF, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425-6218  
Phone: 724-626-8882



## 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, May 5, 2025, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2605-0602	PATTIE W. GEISEL	Tracy Connors, Administratrix

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

**Monday, May 19, 2025, at 9:30 A.M.**

in Courtroom No. 1 of the **Honorable President Judge Steve P. Leskinen** or his chambers, Second 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.

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, May 5, 2025, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2619-0203	AUDREY E. ROBERTSON	Dana Baccino, Executrix

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

**Monday, May 19, 2025, at 9:30 A.M.**

in Courtroom No. 5 of the **Honorable Judge Joseph M. George, Jr.** or his chambers, Third 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.

## WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

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Holly Whalen ♦ Amy Coco ♦ Bethann Lloyd

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JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
v.	:	
JOSEPH THOMAS, JR.,	:	NO. 1396 of 2021
Appellant.	:	JUDGE MARK M. MEHALOV

ATTORNEYS

Mr. Michael A. Aubele, Esquire, District Attorney, For the Commonwealth  
Mr. Brent E. Peck, Esquire, Court Appointed Counsel, For the Appellant

OPINION AND ORDER

MEHALOV, J.

March 24, 2025

Following a trial by jury on December 2nd through December 5th, 2024, Appellant, Joseph Thomas, was convicted of Murder in the First Degree {1}, On December 13th, 2024, Appellant was sentenced on his conviction for Murder in the First Degree to a term of imprisonment for Life. Appellant filed his own pro se Post- Sentence Motion. As Appellant is represented by Court-Appointed Counsel, and has no right to hybrid representation, this Motion was forwarded to the attention of Counsel. Subsequently Appellant, by and through Counsel, filed an appeal with the Pennsylvania Superior Court. This Opinion is in support of the verdict of the jury and the sentencing order

CONCISE ISSUES

Appellant filed the following Statement of Errors Complained of on Appeal:

1. Whether the Trial Court committed an error of law and/or abused its discretion by way of admitting a certain exhibit marked as the "Commonwealth's Exhibit 'XX'", in the nature of a photograph depicting the deceased victim's corpse laying in a pool of blood and wearing a bloody sweatshirt, as the said Exhibit's prejudicial and inflammatory effect on the jury outweighed its probative value?
2. Whether the Trail Court committed an error of law and/or abused its discretion by way of admitting a certain exhibit marked as "Commonwealth's Exhibit 'XXII'", in the nature of a photograph taken at the autopsy of the deceased victim, and depicting the victim's corpse as well as a close view of entry and exit wounds thereon, as the said Exhibit's prejudicial and inflammatory effect on the jury outweighed its probative value?

{1} 18 Pa. C.S.A. § 2502 §§ A

3. Whether the Commonwealth failed to present sufficient evidence to prove the elements of the offense of Criminal Homicide beyond a reasonable doubt?
4. Whether the Jury's verdict was against the weight of the evidence?

## FACTS

On November 21st, 2020, Lieutenant Mike Irwin, then a Sergeant, was involved in a homicide investigation. Lieutenant Irwin was the supervising officer at the crime scene. The Victim at this crime scene was identified as Megan Massey. (T.T. pgs. 134-135). Appellant, Joseph Michael Thomas, Jr. was identified as a potential suspect and was interrogated by the Pennsylvania State Police. (T.T. pg. 135). This interview was played on the record and marked as Commonwealth's Exhibit 28. (T.T. pgs. 145-150). The recording of the interview was not transcribed. Subsequently, Appellant was arrested and charged with the Homicide of Megan Massey and related offenses. The additional charges were withdrawn prior to trial, leaving only the charge of Murder in the First Degree to stand.

## DISCUSSION

The first two issues raised by Appellant go to the admissibility of evidence at trial. As such, we will discuss both collectively. It is long established law that the admissibility of evidence at trial is in the sound discretion of the trial court. This question of admissibility will be given great deference on appeal unless it is shown that the trial court manifestly abused its discretion by an error of law. *Commonwealth v. Carter*, 443 Pa. Super. 231, 238, 661 A.2d 390, 393 (1995). Pursuant to *Commonwealth v. McGowan*, 525 Pa. 292, 295, 635, A.2d 113, 115 (1993), evidence must be relevant to the case at hand to be admissible. Relevant evidence is that which tends to make a material fact more or less probable. *Commonwealth v. Simmons*, 541 Pa. 211, 243, 662 A.2d 621, 637 (1995). Appellant alleges that certain evidence admitted containing pictures of the corpse of the victim and photographs of the autopsy of the victim were more prejudicial than probative. However, due to the nature of the charge of Murder in the First Degree, the production of a dead body is an essential element of the crime. As such, the admission of such evidence is substantially probative of the issue at hand. The witness(es) by which said evidence was admitted were present in Court to authenticate the same. These witness(es) were also subject to cross examination by counsel for Appellant. Thus, this evidence was properly admitted within the discretion of the trial court.

Next, Appellant asserts that the Commonwealth failed to present sufficient evidence to prove the elements of the offense of Criminal Homicide beyond a reasonable doubt. When Sufficiency of the Evidence presented at trial is raised as an issue on appeal, the applicable standard is as follows:

The standard of review for a challenge to the sufficiency of the evidence is to determine whether, when viewed in a light most favorable to the verdict winner, the evidence at trial and all reasonable inferences therefrom is sufficient for the trier of fact to find that each element of the crimes charged is established beyond a reasona-

ble doubt. The Commonwealth may sustain its burden of proving every element beyond a reasonable doubt by means of wholly circumstantial evidence.

The facts and circumstances established by the Commonwealth need not preclude every possibility of innocence. Any doubt raised as to the accused's guilt is to be resolved by the fact-finder. [In this context, appellate courts] do not assess credibility nor ... assign weight to any of the testimony of record. Therefore, [the verdict will not be disturbed] unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances.

*Commonwealth v. Vogelsang*, 90 A.3d 717, 719 (Pa. Super. 2014). In the case at bar, the Jury heard all testimony and evidence presented at the time of trial. It is well established in the Commonwealth of Pennsylvania that "the weight of the evidence is exclusively for the finder of fact, who is free to believe all, none, or some of the evidence and to determine the credibility of witnesses." *Commonwealth v. Johnson*, 668 A. 2d 97, 101 (Pa. 1995). Thus, the verdict of the jury should not be disturbed in the absence of evidence so weak and inconclusive that there is no probable way the conclusion could be drawn. In this case, the evidence produced at trial far exceeded this minimum standard. Additionally, in *Commonwealth v. Heckler*, 153 A.3d 1005, 1008 (Pa. Super. 2016), the Superior Court advances the proposition that "[n]evertheless, the Commonwealth need not establish guilt to a mathematically certainty. Any doubt about the defendant's guilt is to be resolved by the fact finder unless the evidence is so weak and inconclusive that, as a matter of law, no probability of fact can be drawn from the combined circumstances." *Id.* (citation omitted).

The guidance from *Heckler*, *supra*, also reminds this Court that the Commonwealth may sustain its burden by means of wholly circumstantial evidence. *Id.* Moreover, the Superior Court further held, "significantly, we may not substitute our judgment for that of the fact finder; so long as the evidence adduced, accepted in the light most favorable to the Commonwealth, demonstrates the respective elements of a defendant's crimes beyond a reasonable doubt, the appellant's conviction [] will be upheld." *Id.* (emphasis added) (citation omitted).

The final issue presented by Appellant avers that the verdict of the Jury is against the weight of the evidence. Under the Pennsylvania Rules of Criminal Procedure, we are given clear and concise guidance to the issue of weight of the evidence. Pa. R. Crim. P. 607 (A)(1)-(3) states that "...{A} claim that the verdict was against the weight of the evidence shall be raised with the trial judge in a Motion for a New Trial:

- 1) Orally, on the record, at any time prior to sentencing;
- 2) By written Motion at any time prior to sentencing;
- 3) Or in a Post-Sentence Motion.

However, Pursuant to *Commonwealth v. Weir*, 201 A.3d 163, 167 (Pa. Super. 2018), "... {An} Appellant's failure to avail himself of any of the prescribed methods for presenting a weight of the evidence issue to the trial court constitutes a waiver of that claim". *Id.* Because Appellant waited until the time of Appeal to raise the issue of ver-

dict against the weight of the evidence, Appellant has effectively waived this issue. However, even if the issue were deemed not to be waived, the issue would fail on its merits. "...{A} new trial should only be granted if the verdict is so contrary to the evidence so as to the shock the conscience and sense of justice". Commonwealth v. Widmer, 744 A.2d 745 (Pa. 2000). As outlined above, it is reasonable that a finder of fact could reach this verdict based upon the evidence presented at trial.

Accordingly, this appeal lacks merit.

BY THE COURT:  
MEHALOV, JUDGE

ATTEST:  
Clerk of Courts



# 130th Annual

FAYETTE COUNTY BAR ASSOCIATION

## BAR BANQUET

SUNDAY, MAY 18TH

FIRST FLIGHT ISLAND RESTAURANT  
301 WHITEHEAD STREET

*Key West, Florida*

6:00 COCKTAILS & HORS D'OEUVRES  
7:00 DINNER

*RSVP* TO THE ASSOCIATION BY APRIL 14TH  
724-437-7994 *or* GARNET@FCBAR.ORG

FCBA MEMBERS COMPLIMENTARY  
GUESTS WELCOME! GUEST FEE \$100

## LUNCH & LEARN SERIES

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

- Date: **Wednesday, April 30th** from **12:00 p.m. to 1:30 p.m.**
- Location: **Fayette County Courthouse - Courtroom Four**
- Discussion topics: **Non-Compete Law - Updates and Status in 2025**
- Presenter: **Rachel L. McElroy, Esquire**

### CLE Credit

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

#### Members of the FCBA

- \$5 fee for attendance without CLE Credit
- \$15 fee for attendance with CLE Credit

#### Attorneys admitted to practice in Pennsylvania after January 1, 2020

- \$5 fee for attendance with CLE Credit

#### Non-members of the FCBA

- \$15 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**\*\* All fees to be paid at the door \*\***  
Lunch will be provided.

### RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or email to [cindy@fcbar.org](mailto:cindy@fcbar.org) on or before Monday, April 28th.