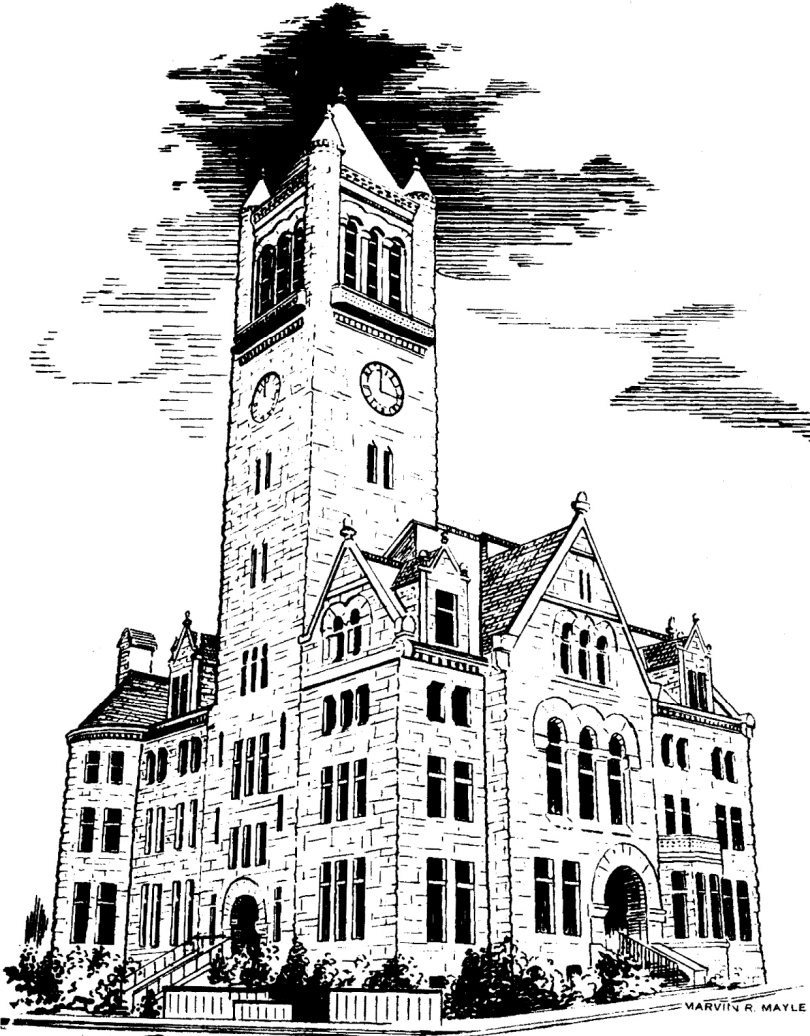


# FAYETTE LEGAL JOURNAL

VOL. 81

JULY 21, 2018

NO. 29



## FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 2 West Main Street, Suite 711, 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. Crossland and Melinda Deal Dellarose

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

## FAYETTE COUNTY BAR ASSOCIATION Board of Directors

**President:** Gary N. Altman  
**President Elect:** James Higinbotham, Jr.  
**Vice-President:** Louise D. Monaghan  
**Secretary:** Gerious T. George  
**Treasurer:** Vincent J. Roskovensky, II  
**Past President:** John M. Purcell

**Executive Director:** Garnet L. Crossland

**Directors**  
 Benjamin F. Goodwin  
 Robert A. Gordon  
 Robert R. Harper, Jr.  
 Sheryl R. Heid  
 Margaret Zylka House  
 William M. Martin  
 Gretchen A. Mundorff  
 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

**OLIVE PATRICIA REESE MURRAY HUMBERSON HARFORD, a/k/a PATRICIA O. HARFORD**, late of South Union Township, Fayette County, PA (3)

*Executor:* Joseph H. Humberson  
1077 Township Drive  
Uniontown, PA 15401  
c/o 437 Grant Street, Suite 915  
Pittsburgh, PA 15219  
*Attorney:* Robert A. Crisanti

**GARRETT HOOSE**, late of Perryopolis, Fayette County, PA (3)

*Administrator:* Maria Hoose  
206 Constitution Street  
Perryopolis, PA 15473  
c/o Mansmann & Moore, LLP  
304 Ross Street, Suite 600  
Pittsburgh, PA 15219  
*Attorney:* Francis M. Moore

**ROBERT HUGHES**, late of Brownsville, Fayette County, PA (3)

*Executor:* William Hughes  
2937 Moorings Parkway  
Snellville, GA 30030  
c/o 411 Washington Avenue  
Charleroi, PA 15022  
*Attorney:* Thomas P. Agrafiotis

**MARY LOU KOPACKO**, late of Menallen Township, Fayette County, PA (3)

*Executrix:* Lu Ann Prah  
c/o John & John  
96 East Main Street  
Uniontown, PA 15401  
*Attorney:* Simon B. John

**TERRY L. WILLIAMS, a/k/a TERRY LYNN WILLIAMS**, late of Uniontown, Fayette County, PA (3)

*Co-Administrators:* Cory Williams and James Williams  
c/o PO Box 622  
Smithfield, PA 15478  
*Attorney:* Charity Grimm Krupa

### Second Publication

**ESTHER EDITH CORRADO, a/k/a ESTHER E. CORRADO**, late of Uniontown, Fayette County, PA (2)

*Personal Representative:*  
William L. Dorotinsky  
c/o 2 West Main Street, Suite 110  
Uniontown, PA 15401  
*Attorney:* Ricardo J. Cicconi

**WILLIAM KOLLAR, a/k/a WILLIAM J. KOLLAR**, late of South Union Township, Fayette County, PA (2)

*Administrator:* Katherine Kollar  
59 7th. Street  
Uniontown, PA 15401  
c/o Houston Harbaugh, P.C.  
Three Gateway Center  
401 Liberty Avenue, 22nd Floor  
Pittsburgh, PA 15222-1005  
*Attorney:* Heidi Rai Stewart

**EILEEN O'TOOLE, a/k/a EILEEN H. O'TOOLE**, late of Fayette City, Fayette County, PA (2)

*Co-Executors:* Daniel L. O'Toole and Maureen A. O'Toole  
1087 Creek Road  
Smithton, PA 15479 and  
100 Virginia Drive  
New Stanton, PA 15672

c/o 123 South Second Street  
West Newton, PA 15089  
*Attorney:* Zachary I. Mesher

---

**MICHAEL J. POPSON, a/k/a MICHAEL JEFFERY POPSON**, late of German Township, Fayette County, PA (2)  
*Administrator:* Steven R. Popson  
c/o Higinbotham Law Offices  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James E. Higinbotham, Jr.

---

**JEANNE M. RYAN**, late of Wharton Township, Fayette County, PA (2)  
*Personal Representative:*  
Gwendolyn Renae Friend  
c/o George & George, LLP  
92 East Main Street  
Uniontown, PA 15401  
*Attorney:* Joseph M. George

## First Publication

---

**ANGELINE B. AUGUSTINE, a/k/a ANGELA B. COLATCH**, late of Connellsville, Fayette County, PA (1)  
*Executor:* Joseph J. Augustine  
1008 Broad Street  
Connellsville, PA 15425  
c/o 120 South Third Street  
Connellsville, PA 15425  
*Attorney:* David B. Reiss

---

**NICOLINA BAKER**, late of North Union Township, Fayette County, PA (1)  
*Personal Representative:* Robert T. Baker  
c/o 2 West Main Street, Suite 110  
Uniontown, PA 15401  
*Attorney:* Ricardo J. Cicconi

**EDWIN P. HAINES, a/k/a EDWIN PAUL HAINES**, late of Wharton Township, Fayette County, PA (1)  
*Executor:* Linda Tissue  
c/o Radcliffe Law, LLC  
648 Morgantown Road, Suite B  
Uniontown, PA 15401  
*Attorney:* William M. Martin

---

**EVELYN A. LANZI**, late of Luzerne Township, Fayette County, PA (1)  
*Executrix:* Marlene Sawayda  
c/o Andrew H. Dohan, Lentz, Cantor & Massey, Ltd.  
460 East King Road  
Malvern, PA 193555  
*Attorney:* Andrew H. Dohan

---

**NANCY L. STEWART**, late of Bullskin Township, Fayette County, PA (1)  
*Executor:* James George  
107 Cottonwood Court  
Moon Township, PA 15108  
c/o 944 Beaver Grade Road  
Moon Township, PA 15108  
*Attorney:* Mark V. Aletto

---

**VIOLA MAY WIGGINS**, late of Uniontown, Fayette County, PA (1)  
*Executor:* James L. DeSellems  
c/o Adams & Adams  
55 East Church Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Jason F. Adams

---

**ANNIE RUTH WOODBERRY**, late of Belle Vernon, Fayette County, PA (1)  
*Administratrix:* Sylvia J. McCollum  
14 Fiddler Drive  
Beaufort, SC 29907  
c/o Robert Freedenberg, Skarlatos Zonarich, LLC  
17 South 2nd. Street, 6th. Floor  
Harrisburg, PA 17101-2039  
*Attorney:* Robert Freedenberg

---

## LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW  
ACTION TO QUIET TITLE  
No. 327 of 2018 G.D.  
JUDGE LINDA R. CORDARO

**JOSEPH A. CHOLOCK,**  
**Plaintiff,**  
**v.**  
**ALEXANDER GOLDSMITH, his successors,**  
**heirs, personal representatives,**  
**and assigns, generally,**  
**Defendant.**

**TO: ALEXANDER GOLDSMITH, his heirs, successors and assigns, generally,**

You are hereby notified that Joseph A. Cholock, has filed a complaint at the above number and term in the above-mentioned court in an action to quiet title wherein it is alleged that he is the owner in possession of that certain lot of land situate in North Union Township, Fayette County, Pennsylvania having a mailing address of 441 Coolspring Jumonville Road, Hopwood, Pennsylvania, 15445.

Title to the above described property was conveyed to Alexander Goldsmith by a deed from Eleanor L. Grigsby, a widow, being recorded at the Recorder of Deeds Office at Record Book 3263, Page 2132.

Said complaint sets forth that the plaintiff is the owner in fee simple of the above-described premises. The complaint 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 premises.

### NOTICE

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.

**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  
(724) 437-2711

**FAYETTE COUNTY TAX CLAIM  
BUREAU**

61 East Main Street  
Uniontown, PA 15401  
Telephone 724-430-1208

**TO THE OWNERS OF PROPERTIES  
AND TO ALL HAVING TAX AND  
MUNICIPAL CLAIMS, MORTGAGES,  
LIENS, CHARGES AND ESTATES OF  
WHATEVER KIND, EXCEPT GROUND  
RENTS, SEPARATELY TAXED, AGAINST  
SUCH PROPERTIES:**

Notice is hereby given that the properties will be sold Freed and cleared of their respective tax and municipal claims, Liens, mortgages, and/or ground rents, by the Fayette County Tax Claim Bureau for non-payment of delinquent taxes under the Provisions of the Act of July 1947, P.L. 351, its amendments And supplements on July 30th at 10:00 AM in Courtroom #1 located in the courthouse at 61 East Main Street Uniontown, PA 15401 on the 2nd floor.

These properties were exposed to the upset sale on September, 2016 advertised in the Daily Courier and Herald Standard in August, 2016 and Fayette Legal Journal in, August 2012. THE TERMS OF THE SALE are cash and no sale shall be made except to the County, unless a bid equal to the costs as indicated by the approximate upset price (MINIMUM PRICE) set forth for each property.

**\*\*NO ONE OWING DELINQUENT TAXES CAN BID ON PROPERTIES IN THE TAX SALE.**

**THE TRANSFER STAMPS WILL BE COLLECTED AFTER THE EXCEPTION PERIOD GRANTED BY THE JUDGE IS OVER. THEN A DEED WILL BE ISSUED.**

Fayette County Tax Claim Bureau  
Sarah E. Minnick, Director

---

## JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
V.	:	
MICHAEL LAJUWAN MURDOCK,	:	No. 40 of 2018
DEFENDANT.	:	Honorable President Judge John F. Wagner, Jr.

### OPINION AND ORDER

Wagner, P.J.

June 25, 2018

Before the Court is Defendant's Omnibus Pretrial Motion, filed on March 15, 2018, seeking suppression of evidence, to wit: controlled substances found on his person subsequent to a warrantless search of a parked vehicle wherein Defendant was found sleeping in the front passenger seat at 5:40 A.M. on January 17, 2018. In support of his motion, Defendant asserts that the seizure of the controlled substances from his person was unlawful because the police officers were without probable cause to search his person.

Hearing on the Omnibus Pretrial Motion was held before this Court on May 24, 2018. At that time, the Commonwealth presented the unsworn testimony of Trooper Robert Schmid of the Pennsylvania State Police who stated that, on January 17, 2018, he and other police officers responded to a call about someone banging on the door of a residence in the Village of Searights, Menallen Township, Fayette County, Pennsylvania, and uttering threats. The occupant of the residence told the officers that the person who had banged and made the threats arrived in a white SUV and was a "tall black male" whom the occupant knew as "Dominique." The white SUV was parked across the street from the residence, and the several troopers made their way to it, where Trooper Schmid observed Defendant reclined in the passenger seat, sleeping. From Trooper Schmid's observation of Defendant, Trooper Schmid was able to tell that Defendant is a tall black male.

As soon as the troopers awakened Defendant, he was removed from the vehicle and placed in handcuffs before he was asked for his name or any form of identification. Immediately upon being handcuffed, Trooper Schmid searched Defendant's person. During said warrantless search, the officer discovered controlled substances, and thereafter filed the instant criminal charges based thereon. Contemporaneously with the search of Defendant's person or very shortly afterward, the troopers ascertained that Defendant was not "Dominique," and they then instituted a search of the physical area in an effort to find Dominique.

Defendant now seeks to suppress the evidence of the controlled substances found on his person, claiming that the seizure and warrantless search of his person was without probable cause and thus the seizure of the said evidence was invalid.

Traditionally, courts have recognized three categories of encounters between citizens and police officers: a mere encounter, which generally involves a request for information made by the police, does not need to be supported by any level of suspicion and does not compel the citizen to engage with the officers; an investigative detention, which must be supported by reasonable suspicion and subjects the citizen to a stop and a short period of detention, but does not involve the coercive conditions which constitute the functional equivalent of an arrest; and a custodial detention, also known as an arrest, which must be supported by probable cause. *Commonwealth v. Collins*, 950 A.2d 1041 (Pa.Super. 2008).

There can be no doubt that under the circumstances herein that the troopers would have been justified in conducting a short, non-coercive investigative detention of Defendant since they had been told by the apartment resident that a black male who had exited a white SUV had made threats after banging on the residence door in the wee hours of the morning. An investigative detention is justified when a police officer has a reasonable suspicion that criminal activity is afoot. *Commonwealth v. Williams*, 980 A.2d 667 (Pa.Super.2009). An investigative detention would have allowed the trooper to conduct a pat-down and frisk of Defendant's person so the officer could continue investigating without fear for his safety, but its purpose is not to discover evidence. The "plain feel exception" to the search warrant requirement in conjunction with a Terry frisk allows a police officer to confiscate a non-threatening object if it is immediately apparent during the pat-down that the object is contraband; that is, the officer readily perceives, without further search, that what he is feeling is contraband. *Minnesota v. Dickerson*, 508 U.S. 366, 113 S.Ct. 2130, 124 L.Ed.2d 334 (1993).

Instantly, however, it is very apparent that the interaction between Defendant and these several state troopers was not an investigative detention, but rather an actual arrest complete with handcuffs and a full search of Defendant's person, not merely a safety based pat-down. Probable cause is made out when "the facts and circumstances which are within the knowledge of the officer at the time of the arrest, and of which he has reasonably trustworthy information, are sufficient to warrant a man of reasonable caution in the belief that the suspect has committed or is committing a crime." *Commonwealth v. Rodriguez*, 526 Pa. 268, 585 A.2d 988, 990 (1991). The facts and circumstances within knowledge of the troopers when Defendant was arrested and searched were not sufficient to warrant a police officer of reasonable caution in the belief that Defendant had committed a crime. The troopers did not personally observe any suspicious behavior by Defendant; they knew only that he is a black male who was sitting in a white SUV. See *Com. v. Dixon*, 2010 PA Super 109, 997 A.2d 368 (2010).

The facts and circumstances of this case are closely akin to those set forth in the case of *Com. v. McIntosh*, 2014 WL 10881425 (Pa. Super. Ct. Aug. 26, 2014)



(Memorandum). Therein, a police officer received a report from another citizen that four black males had committed a crime and left the scene in a vehicle. A short time later, the officer arrested the appellant and his companions even though the description of the culprits lacked any specificity and failed to describe the facial features, clothing, age, or any other identifying characteristic of the men the citizen had initially observed. The only identifying characteristics of note were the fact that the men were black and that there were four of them. The men stopped by Officer Carbaugh, including Appellant, only fit the racial aspect of Dunn's description, which is, in and of itself, not a particularly individualized description in the context of this case. When the police officer stopped Appellant and his companions, he did not observe any suspicious behavior on their part. The only identifying characteristics of note were the fact that the men were black and that there were four of them. As the Pennsylvania Superior Court stated, "Given the totality of these circumstances, it is clear that [the officer] lacked probable cause to arrest Appellant. Specifically, he lacked reasonably trustworthy information that Appellant and his companions were the same individuals observed by [the citizen witness]. Id. at 5.

Given the paucity of any identifying information in this case, and the arrest of Defendant as soon as the troopers observed him and awakened him, the arrest was clearly not based on probable cause, and thus is invalid. The arrest being unlawful, it follows that the warrantless search of Defendant's person cannot be upheld. The Court finds that suppression of the physical evidence obtained during the search of Defendant's person is required as fruit of the poisonous tree. See *Commonwealth v. Stevenson*, 560 Pa. 345, 744 A.2d 1261 (Pa. 2000); *Commonwealth v. Graham*, 554 Pa. 472, 721 A.2d 1075 (Pa. 1998).

Accordingly, the Court enters the following:

#### ORDER

AND NOW, June 25, 2018, the within Omnibus Pre-trial Motion is GRANTED. The physical evidence of the controlled substances seized from the person of the Defendant on January 17, 2018, is hereby SUPPRESSED.

BY THE COURT:  
Wagner, P.J.

ATTEST:  
Clerk of Courts

**D'Andrea Collision Investigation and Reconstruction LLC****D'Andrea Collision Investigation and  
Reconstruction LLC**

Pennsylvania State Police Lieutenant Joseph D'Andrea with over 30 years of experience and former collision Analysis and Reconstruction Specialist recently retired and is now conducting investigations. Investigations range from: obtain/review police crash report through collision reconstruction primarily for civil litigation. Criminal defense work done on case by case basis.

**Contacts:**

Phone (724) 438-2161

Cell (724) 984-3908

Email [dandreajp@yahoo.com](mailto:dandreajp@yahoo.com)

Joseph D'Andrea  
144 Regency Drive  
Uniontown PA 15401

## SUMMER PICNIC



The Fayette County Bar Association invites you and a guest to a Summer Picnic hosted by Judge Steve and Shanon Leskinen.

Saturday, August 4, 2018, at 6:00 p.m.

Entertainment by the Cellar Dwellers

Catering by Stone House BBQ

RSVP to Cindy for address  
cindy@fcbbar.org or 724-437-7994



*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