Court of Common Pleas of Lancaster County Criminal

Commonwealth v. Jesus Rosario Prosecutorial Misconduct

A prosecutor does not commit prosecutorial misconduct when adversarial comments made during closing arguments reasonably relate to the facts of the case and did not prejudice the jury.

Opinion. Commonwealth of Pennsylvania v. Jesus Rosario. No. CP-36-CR-6728-2018; 434 MDA 2022.

OPINION BY SPONAUGLE, J., May 31, 2022. In the matter before the Superior Court of Pennsylvania, Appellant Jesus Rosario appeals the Sentencing Order of February 2, 2022. Appellant filed Notice of Appeal on March 10, 2022¹, and his Concise Statement Complained on Appeal on April 11, 2022. Thorough review of the record and applicable law demonstrates that Appellant's claims lack merit and for the reasons stated herein, the appeal should be denied.

I. RELEVANT PROCEDURAL & FACTUAL HISTORY

On September 15, 2021, following trial, a jury found Appellant guilty of the following charges: Count II: Sexual Assault; and Count VI: Indecent Assault—Without Consent of Other. Sentencing Order ("SO"), 2/2/2022. Appellant was found not guilty of Count I: Rape Forcible Compulsion; and Count III: Indecent Assault-Without Consent of Other. SO 2/2/2022. On January 13, 2022, Appellant filed a Motion for a New Trial, which was held by this Court until after sentencing on February 2, 2022. Mot. New Trial, 1/13/2022; SO 2/2/2022. In his Motion for New Trial, Appellant alleged prosecutorial misconduct stemming from comments made in the Commonwealth's closing argument, specifically, "I submit even Mr. McMahon doesn't believe that bogus story. He cannot come up here and ask questions about it because even he can't stand behind it." Notes of Testimony ("NT") at 308. After the Commonwealth's closing argument, Defense Counsel addressed several objections and moved for a mistrial due to the comment above. which was denied. NT at 229-230. However, as a precaution, the Court issued a curative instruction. NT at 333-334.

On February 2, 2022, Appellant was sentenced to five to ten years' incarceration. SO 2/2/2022. On February 4, 2022, the Commonwealth responded to Appellant's Motion denying any prosecutorial misconduct, and on February 25, 2022, Appellant's Motion for New Trial was denied. SO 2/2/2022; Order, 2/25/2022. On April 11, 2022, Appellant filed this appeal with the Superior Court alleging prosecutorial misconduct due to the Commonwealth's comment above, and a second comment, also made during closing arguments, "[Defense Counsel] wants

¹ Per Pa. R.C.P. 903, a defendant must file a notice of appeal within 30 days after the entry of the order from which the appeal is taken, in the instant matter, the sentencing order. Appellant filed notice of appeal on March 10, 2022, thirty-six days after his sentence was finalized. On March 28, 2022, The Superior Court issued a rule to show cause why the appeal should not be quashed, to which Appellant replied on March 29, 2022. No further action has been taken.

you to believe you can't believe this one person, which sounds to me like he was trying to say even if you're drunk and get raped, sorry, you're out of luck. The Commonwealth shouldn't prosecute it." NT at 321; Concise Statement of Matters Complained on Appeal, 4/11/2022, at 1. Appellant then raises a second issue alleging the evidence presented by the Commonwealth was insufficient to support a conviction of sexual assault. Concise Statement of Matters Complained on Appeal at 2. This opinion is written pursuant to Rule 1925(a) of the Pennsylvania Rules of Appellate Procedure.

II. DISCUSSION

a. Prosecutorial Misconduct During Closing Argument

"In order to obtain relief for alleged prosecutorial 'misconduct,' a petitioner must first demonstrate that the prosecutor's action violated some statutorily or constitutionally protected right." *Commonwealth v. Cox.*, 983 A.2d 666, 685 603 Pa. 223 (2007) (citing *Commonwealth v. Carson*, 913 A.2d 220, 236, 590 Pa. 501 (2006)). "The phrase 'prosecutorial misconduct' has been so abused as to lose any particular meaning. The claim either sounds in a specific constitutional provision that the prosecutor allegedly violated or, more frequently, like most trial issues, it implicates the narrow review available under Fourteenth Amendment due process." *Id.*

The two-part analysis provides a practical framework for evaluating prosecutorial remarks in which a fair balance may be struck between the prosecutor's duties as an officer of the court and his rights as an advocate.

The substance prong requires a court to examine the challenged remark in the context of the issues presented at trial. The court first must determine whether the remark reasonably relates to the facts of the case. A statement is impermissible where the language and inferences of the summation no longer relate back to the evidence on the record.'

Upon finding that the statement at issue has a reasonable evidentiary foundation, the court next must determine whether the statement facilitates "the trier's duty to decide the case on the evidence." The remark not only must be based upon the evidence; it also must bear relevance to the crimes at issue.

Merely derogatory, *ad hominem* characterizations of the defendant or defense counsel are beyond the bounds of permissible advocacy; the prosecutor's comments must be tethered to the elements of the charged offenses and the evidence offered to prove those elements, and also should be tailored to a fair and reasonable rebuttal of the arguments advanced by the defense.

However, "there is no per se rule which requires the grant of a

new trial whenever the district attorney acts improperly." If the court determines that the statement was improper, it must then evaluate the effect of the remark pursuant to the unavoidable prejudice test:

Where the language of the district attorney is intemperate, uncalled for and improper, a new trial is not necessarily required. The language must be such that its unavoidable effect would be to prejudice the jury, forming in their minds fixed bias and hostility toward the defendant, so that they could not weigh the evidence and render a true verdict. The effect of such remarks depends upon the atmosphere of the trial, and the proper action to be taken is within the discretion of the trial court.

Commonwealth v. Clancy, 192 A.3d 44, 62-63, 648 Pa. 179, 210-211 (2018) (citations omitted). "Moreover, a prosecutor has an absolute right to comment on the evidence." Cox, 983 A.2d at 685. "A prosecutor does not engage in misconduct when his statements are based on the evidence or made with oratorical flair." Commonwealth v. Carson, 913 A.2d 220, 236, 590 Pa. 501 (2006) (citing Commonwealth v. Marshall, 534 Pa. 488, 633 A.2d 1100, 1110 (1993)).

The trial court is in the best position to assess the effect of an allegedly prejudicial statement on the jury, and as such, the grant or denial of a mistrial **will not be overturned absent an abuse of discretion**. A mistrial may be granted only where the incident upon which the motion is based is of such a nature that its unavoidable effect is to deprive the defendant of a fair trial by preventing the jury from weighing and rendering a true verdict. Likewise, a mistrial is not necessary where cautionary instructions are adequate to overcome any possible prejudice.

Commonwealth v. Parker, 597 A.2d 311, 319 (Pa. Super. 2008) (emphasis added) (quoting Commonwealth v. Rega, 933 A.2d 997, 1016, 593 Pa. 659 (2007))."

In the instant matter, Appellant contends that the comments made by the Commonwealth during closing argument were prosecutorial misconduct such that the Appellant was deprived of a fair trial. First, we examine the context of the first disputed comment, "I submit even Mr. McMahon doesn't believe that bogus story. He cannot come up here and ask questions about it because even he can't stand behind it." NT 308. The court must determine whether the remark reasonably relates to the facts of the case. The following excerpt from the Commonwealth's closing argument gives context to the first comment disputed by Appellant:

What else didn't [Defense Counsel] ask [Victim] about? Remember the defendant's entire story about how [Victim] became this crazed sex maniac, I'm mad horny. She said she was mad

horny. She said go get condoms. Over and over again the defendant said that throughout his interview. [Defense Counsel] didn't even mention that when [Victim] was on the stand. Not once. Also didn't mention it to Detective Jones. Not once. Why, ladies and gentlemen? I submit even Mr. McMahon doesn't believe that bogus story. He cannot come up here and ask questions about it because even he can't stand behind it."

NT at 307-308. The Defense's theory of the instant matter was that the Victim was drunk, had consensual sex with the Appellant, and then the next morning the Victim regretted her actions, and claimed she was raped to save face, "[s]he used that excuse because she can't give the answer because this isn't about force. This isn't about rape. This is about a consensual sexual act that she now regrets." NT at 54. The record shows that Defense Counsel did not ask the Victim or Detective Jones about Appellant's comments from his interview at any point during the course of trial, though the defense seemingly relied on these comments in their case in chief. Moreover, the comment was made in reference to Appellant's interview with police was played for the jury, and was admitted by this court as evidence. There is no question that this comment by the Commonwealth, taken in context of the facts of this case, reasonably relates to the facts of the case and has foundation in the evidence of record.

The following excerpt, also from the Commonwealth's closing argument, gives context to the second comment disputed by Appellant, "[Defense Counsel] wants you to believe you can't believe this one person, which sounds to me like he was trying to say even if you're drunk and get raped, sorry, you're out of luck. The Commonwealth shouldn't prosecute it." NT at 321.

Indecent assault is the sexual touching of some type. It doesn't have to be a particular body part. Just touching. We know she didn't consent to it. Simply because she didn't scream at him or kick him down the stairs doesn't mean he had consent. Again, you will hear that [Victim]'s word alone is sufficient to find the defendant guilty. [Defense Counsel] wants you to believe you can't believe this one person, which sounds to me like he was trying to say even if you're drunk and get raped, sorry, you're out of luck. The Commonwealth shouldn't prosecute it.

NT 321. At this point in closing arguments, the Commonwealth was explaining the elements of each offense of which Appellant was charged, and laid out how the evidence presented supported the Commonwealth's assertion that the Victim was sexually assaulted. The Commonwealth's remarks did not occur in a vacuum. They were made in response to Defense Counsel's numerous assertions during trial that while the Victim was drunk, she was not so drunk that she could not remember the events of the night in question. See NT at 54, 279. The defense pos-

its multiple times that her memory loss was not alcohol induced, but embarrassment induced; she was embarrassed by her participation in consensual sex acts with the Appellant, and to cover her embarrassment she claimed she was raped. *Id.*

But you will hear what she testifies, however. Every time it comes to a crucial point about force, about removing underwear, how she got in this position, I don't remember. I was drunk. I don't remember. But you're going to see that she wasn't that kind of drunk. She used that excuse because she can't give the answer because this isn't about force.

NT 54. And also,

So [Victim] in her alcohol state, which she admitted and talked about, certainly what I suggest was a convenient memory. Things that were said that seemed illogical and didn't seem to make any sense to her, her statement was simply, I don't remember. Anything that was controversial, anything that seemed to be a problem anything that wasn't making any kind of human experience sense, she would say I don't remember. I don't remember because of alcohol.

NT at 279. There is no question that this comment by the Commonwealth, taken in context of the facts of this case, reasonably relates to the facts and admitted evidence of the case.

The second step in analyzing the Commonwealth's comments for prosecutorial misconduct is to determine if the comments were so prejudicial that they formed in their minds fixed bias and hostility toward the defendant, so much so that they could not weigh the evidence and render a true verdict. The Appellant was not prejudiced by the comments by the Commonwealth. However, assuming, arguendo, that they did prejudice the jury, it was not to the extent that they could not reach a verdict based on the evidence presented at trial. Firstly, the jury acquitted the Appellant of the most serious crime he was charged with, rape. If the jury had been so filled with bias and hostility toward the Appellant, reason would dictate that they would be most inclined to convict Appellant of all the crimes charged, that did not happen. More importantly, Defense Counsel properly objected to the comments at trial, and moved for a mistrial. While this court denied the defense's motion for new trial, a detailed curative instruction, which was also provided immediately prior to closing arguments, was given to the jury in an overabundance of caution:

As I have instructed you more than once in this trial, the speeches of the lawyers are not part of the evidence, and you should not consider them as such. However, in deciding the case, you should carefully consider the evidence in light of the

various reasons and arguments each side presented. It is the right and duty of each lawyer to discuss the evidence in a manner that is most favorable to the side he or she represents. You should be guided by each side's arguments to the extent they are supported by the evidence and insofar as they aid you in applying your own reason and common sense. However, you are not required to accept the arguments of either side. It is for you and you alone to decide the case based on the evidence as it was presented from the witness stand and in accordance with the instructions I am now giving you.

NT at 269-270; NT at 333-334. "When the trial court provides cautionary instructions to the jury in the event the defense raises a motion for mistrial, '[t]he law presumes that the jury will follow the instructions of the court." Commonwealth v. Parker, 597 A.2d 311, 319 (Pa. Super. 2008) (quoting Commonwealth v. Brown, 567 Pa. 272, 289, 786 A.2d 961, 971 (2001)). This court does not endorse the comments made by the Commonwealth in the instant matter, as the comments were improper and unnecessary to prove the Commonwealth's case. Nonetheless, the comments were oratorical flair, a device permitted for use by either party during closing argument. As a result of Appellant's motion, a cautionary instruction was issued by this court to the jury, thus preventing any need for a mistrial.

b. Abuse of Discretion for Failure to Grant a Mistrial

"An abuse of discretion is not merely an error of judgment, but is rather the overriding or misapplication of the law, or the exercise of judgment that is manifestly unreasonable, or the result of bias, prejudice, ill-will or partiality, as shown by the evidence of record." Commonwealth v. Dula, 262 A.3d 609 (Pa. Super. 2021) (citing Commonwealth v. Radecki, 180 A.3d 441, 451 (Pa. Super. 2018)). For abuse of discretion, the record must also show that the statement's ". . . effect is to prejudice the jury, forming in their minds a fixed bias and hostility toward the defendant such that they could not weigh the evidence objectively and render a fair verdict." Commonwealth v. Tedford, 960 A.2d 1, 34, 298 Pa. 639 (2008) (citing Commonwealth v. Miller, 746 A.2d 592, 601, 560 Pa. 500 (2000)).

As stated, this court holds that the comments made by the Commonwealth during closing argument were improper. Nevertheless, they were harmless and did not prejudice the jury. There is no evidence of record to suggest that this court abused its discretion in denying Appellant's motion for mistrial. The record does not reflect that the use of discretion in denying Appellant's motion for mistrial was unreasonable or that there was a misapplication of law. The record shows definitively that the law was applied as required when the court issued the curative instruction to the jury. There is also no evidence of record to suggest that the jury did not follow the curative instruction of the court, or that the comment prejudiced the jury in any way, especially not to the level that the jury ". . . could not weigh the evidence objectively and render

a fair verdict." *Id.* As such, Appellant was not deprived of a fair trial. Appellant's assertion that this court abused its discretion in denying Appellant's motion for mistrial, is without merit.

c. Insufficient Evidence to Prove Sexual Assault

For his second issue, Appellant simply states, "[t]he evidence presented by the Commonwealth was insufficient to support a conviction for sexual assault." Concise Statement of Matters Complained on Appeal at 2. This Court is forced to conclude that Appellant's sufficiency claim is waived, as Appellant failed to specifically identify the element(s) of the charge that the evidence was insufficient in proving. Commonwealth v. Tyack, 128 A.3d 254, 260 (Pa. Super. 2015) (quoting Commonwealth v. Williams, 959 A.2d 1252, 1257 (Pa. Super. 2008)).

If Appellant wants to preserve a claim that the evidence was insufficient, then the 1925(b) statement needs to specify the element or elements upon which the evidence was insufficient. This Court can then analyze the element or elements on appeal. Where a 1925(b) statement does not specify the allegedly unproven elements. . . the sufficiency issue is waived on appeal.

Id. "Such specificity is of particular importance in cases where the appellant was convicted of multiple crimes, each of which contains numerous elements that the Commonwealth must prove beyond a reasonable doubt." Commonwealth v. Rivera, 238 A.3d 482 (Pa. Super. 2020) (cleaned up) (quoting Commonwealth v. Brown, 186 A.3d 985, 990 (Pa. Super. 2018)). In Commonwealth v. Hoffman, the Appellant claimed in her appeal, inter alia, ". . . that the Commonwealth presented insufficient evidence to support a conviction for recklessly endangering another person." 198 A.3d 1112, 1118-1119 (Pa. Super. 2018). The trial court had previously determined her claim was waived because the Appellant's 1925(b) statement lacked specificity. Id. The Superior Court affirmed on appeal. Id.

However, assuming, *arguendo*, that the insufficiency claim has not been waived, Appellant's claim fails on the merits. The record reflects overwhelming evidence supporting Appellant's conviction for sexual assault. First, there is video of Appellant's interaction with the Victim from the camera that was recording in Appellant's cab. The video shows that the Victim was highly intoxicated; she was wearing a robe and nothing else and was telling Appellant how she and her boyfriend had been arguing when he locked her out of the house without her clothes. NT at 185-186. Next, Appellant admitted that he had ejaculated on Victim's living room carpet, which was corroborated by a DNA match of genetic material found where Appellant directed the police. NT at 176. Third, Appellant admitted to police that he placed his exposed penis on top of Victim's vagina during the course of his interaction with the Victim in her living room. NT at 201. Finally, a SAFE exam performed on the Victim following her sexual assault showed the Victim's cervix was

bloody, which is indicative of unwilling sexual intercourse. NT at 145.

Here, Appellant's concise statement merely stated that the evidence was insufficient to support his conviction, and did not identify which element or elements were not met by the evidence. Further, the evidence admitted at trial was more than sufficient to establish Appellant committed sexual assault. As, such Appellant's claim of insufficient evidence of sexual assault is without merit and waived.

III. CONCLUSION

Based on a thorough review of the record and corresponding law, the errors Appellant complains on appeal are without merit. Accordingly, the court's sentence should be upheld.

BY THE COURT:

THOMAS B. SPONAUGLE, JUDGE

ESTATE AND TRUST NOTICES

Notice is hereby given that, in the estates of the decedents set forth below, the Register of Wills has granted letters testamentary or of administration to the persons named. Notice is also hereby given of the existence of the trusts of the deceased settlors set forth below for whom no personal representatives have been appointed within 90 days of death. All persons having claims or demands against said estates or trusts are requested to make known the same, and all persons indebted to said estates or trusts are requested to make payment, without delay, to the executors or administrators or trustees or to their attorneys named below.

FIRST PUBLICATION

Beveridge, Gary D., dec'd.

Late of Manheim Township. Executrix: Sauni L. Hulse c/o E. Richard Young, Jr., Esq., 1248 W. Main St., Ephrata, PA 17522. Attorney: E. Richard Young, Jr., Esq.

Buckwalter, Grace Miller a/k/a Grace M. Buckwalter, dec'd.

Late of Warwick Township. Executor: John E. Buckwalter, 319 East Fulton St., Suite 400, Lancaster, PA 17602. Attorney: None.

Butch, Jeffrey G., dec'd.

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Co-Adminstrators: Matthew J. Butch, Stephanie S. Butch c/o Matthew C. Samley, Esq., 33 North Duke Street, Lancaster, PA 17602.

Attorneys: Appel, Yost & Zee

LLP.

Collins, Harriett H., dec'd.

Late of West Lampeter Township.

Executrix: Janet Collins Larson c/o Samuel M. Mecum, Esquire, 33 North Duke Street, Lancaster, PA 17602.

Attorneys: Appel, Yost & Zee LLP.

Elliott, Sandra A., dec'd.

Late of Warwick Township.

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Eshelman, Rosa Owings, dec'd.

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Googins, Shirley P., dec'd.

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Landis, Alma R., dec'd.

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Martin, Anna G., dec'd.

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SECOND PUBLICATION

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Andrews, Dennis L., dec'd.

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Castleman, Sandra G., dec'd.

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Coleman, Christopher Duke, dec'd.

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17552.

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Latshaw, Miriam A., dec'd.

17552.

Trust: Miriam A. Latshaw Life Insurance Trust dtd. 11/05/2018. Late of Manheim Township. Trustee: Carol A. Peacock c/o J. Elvin Kraybill, Attorney, P.O. Box 5349, Lancaster, PA 17606. Attorney: Gibbel Kraybill & Hess LLP.

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Long, Judith Ann, dec'd.

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Attorney: Young and Young.

Lyons, Aileen B., dec'd.

Late of Lancaster County. The Lyons Family Trust Agreement dated May 24, 2002.

Trustee: Beth Bova, 2010 Eagle ridge Drive, Valencia, PA 16059. Attorney: Peter D. Lyle, Morascyzk & Polochak, 81 Dutilh Road Ste. 200, Cranberry Twp., PA 16066.

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Meisenhelter, Janet H., dec'd. Late of Elizabethtown.

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Mellinger, Fannie D., dec'd.

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Late of Columbia Borough.

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Attorney: May, Herr & Grosh, LLP.

Overly, David C., dec'd.

Late of Stevens.

Executrix: Serena Sanchez c/o Law Office of Elizabeth A. Bartlow, 8 N. Queen Street, Suite 700-H, Lancaster, PA 17603. Attorney: Elizabeth A. Bartlow, Esquire.

Patriarca, Rachel, dec'd.

Late of Warwick Township. Executrix: Patricia Deck c/o Appel, Yost & Zee LLP, 33 N. Duke St., Lancaster, PA 17602. Attorney: Michael J. Rostolsky.

Petrosky, Joseph P. a/k/a Joseph Paul Petrosky, Sr. a/k/a Joseph Paul Petrosky, dec'd.

Late of Mount Joy Township. Executrix: Sara Lynn Petrosky c/o Jeffrey R. Bellomo, Esq., Bellomo & Associates, LLC, 3198 East Market Street, York, PA 17402.

Attorney: Jeffrey R. Bellomo, Esq.

Schload, Walter H., dec'd.

Late of Warwick Township. Executor: Pamela K. Eckert c/o John R. Gibbel, Attorney, P.O. Box 5394, Lancaster, PA 17606. Attorney: Gibbel Kraybill & Hess, LLP.

Schneider, Rebecca A., dec'd.

Late of Clay Township.

Administrator: McKenna M. Thompson, 12441 Burnside Ln., Richmond, VA 23233.

Attorney: None.

Shirk, Betty H., dec'd.

Late of West Hempfield.

Executrix: Maureen C. Beiler c/o Russell, Krafft & Gruber, LLP, 101 North Pointe Blvd., Suite 202, Lancaster, PA 17601. Attorney: Holly S. Filius, Esquire.

Smith, Pauline S., dec'd.

Late of the Township of Manheim.

Administrator CTA: Gregory Smith c/o Angelo J. Fiorentino, Attorney, P.O. Box 5349, Lancaster, PA 17606.

Attorney: Gibbel Kraybill & Hess LLP.

Stambaugh, George Raymond, dec'd

Late of East Hempfield Town-ship.

Executrix: Gini L. Weaver c/o Jeffrey C. Goss, Esquire, 480 New Holland Avenue, Suite 6205, Lancaster, PA 17602.

Attorneys: Brubaker Connaugh-

ton Goss & Lucarelli LLC.

Stearn, Jean T., dec'd.

Late of West Donegal Township. Executrix: Laurie A. Stearn c/o Gardner and Stevens, P.C., 109 West Main Street, Ephrata, PA 17522.

Attorney: Connie J. Stevens.

Weatherbie, Paul W., dec'd.

Late of the Township of Manheim.

Executor: Robert w. Weatherbie c/o Richard J. Gromen, Jr., 3121C Mount Joy Road, Mount Joy, PA 17552.

Attorney: Richard J. Gromen, Jr.

Witmer, R. Naomi, dec'd.

The Witmer Family Irrevocable Trust.

Late of Manheim Township.

Trustee: Ruth Ann Kulp c/o Marci S. Miller, Attorney, P.O. Box 5349, Lancaster, PA 17606. Attorney: Gibbel Kraybill & Hess LLP.

THIRD PUBLICATION

Amaro, Angel, dec'd.

Late of Lancaster.

Executrix: Bertha Wilson, 53 S. Marshall St., Lancaster, PA 17602.

Attorney: None.

Axe, Barbara Kay, dec'd.

Late of Lancaster County.

Executors: Jennifer Nicole Axe, Tyler Ian Axe c/o James D. Wolman, Esquire, 53 North Duke Street, Suite 309, Lancaster, PA 17602.

Attorney: James D. Wolman, Esquire.

Belt, Shirley Jean, dec'd.

Late of Lampeter Township. Administratrix: Kerry Lee Blundin c/o Russell, Krafft & Gruber, LLP, 101 North Pointe Blvd, Suite 202, Lancaster, PA 17601. Attorney: Lindsay M. Schoeneberger, Esquire.

Chami, Mounir K., dec'd.

Late of West Lampeter Township.

Executrix: Susan H. Chami c/o Randy R. Moyer, Esquire, Barley Snyder LLP, 126 East King Street, Lancaster, PA 17602. Attorneys: Barley Snyder LLP.

Diem, Michael Scott, dec'd.

Late of East Earl Township. Adminstrator: Rebekah L. Diem c/o George H. Eager, Esquire, 1347 Fruitville Pike, Lancaster, PA 17601.

Attorneys: Eager, Stengel, Quinn, Sofilka & Babic.

Esbenshade, Ruby Y. a/k/a Ruby Esbenshade, dec'd.

Late of Manheim Township. Co-Executors: Theodore L. Esbenshade, Denise E. Wenger c/o Randy R. Moyer, Esquire, Barley Snyder LLP, 126 East King Street, Lancaster, PA 17602. Attorneys: Barley Snyder LLP.

Fry, Robert John, dec'd.

Late of Lancaster Township. Administratrix: Susan Fry, 35 Burr Oak Rd., Millersville, PA 17551.

Attorney: Jason J. Schibinger, Esquire, Buzgon Davis Law Offices, P.O. Box 49, 525 South Eighth Street, Lebanon, PA 17042.

Greineder, Stanley P., dec'd.

Late of Paradise Township.

Executor: Louise Johnson c/o Kling, Deibler & Glick, LLP, 131 W. Main Street, New Holland, PA 17557.

Attorney: Linda Kling, Esq., Kling, Deibler & Glick, LLP.

Haines, John S., dec'd.

Late of Marietta Borough.

Personal Representative: Terry Lynn Haines c/o John H. May, Esquire, 49 North Duke Street, Lancaster, PA 17602.

Attorney: May, Herr & Grosh, LLP.

Headland, John M. a/k/a John Mark Headland, dec'd.

Late of Warwick Township. Executor: Phillip A. Headland c/o Jeffrey C. Goss, Esquire, 480 New Holland Avenue, Suite 6205, Lancaster, PA 17602.

Attorneys: Brubaker Connaughton Goss & Lucarelli LLC.

Howe, Fern M. a/k/a Fern Margeurite Howe, dec'd.

Late of New Holland Borough. Executor: Sheri L. Hostetter c/o Kling, Deibler & Glick, LLP, 131 W. Main Street, New Holland, PA 17557.

Attorney: Linda Kling, Esq., Kling, Deibler & Glick, LLP.

Karr, James R., Jr., dec'd.

Late of West Hempfield Township.

Executor: Karl Kreiser c/o Karl Kreiser, Esquire, 553 Locust Street, Columbia, PA 17512.

Attorney: Mountz & Kreiser, 553 Locust Street, Columbia, PA 17512.

Keller, Mary Anne, dec'd.

Late of Manheim Township. Executor: Dean H. Keller c/o May Herr & Grosh, LLP, 234 North Duke Street, Lancaster, PA 17602.

Attorney: Matthew A. Grosh.

Lavadera, Palmerino Lubrano, dec'd.

Late of Lancaster County.

Administratrix: Fulvia Schiano di Cola c/o Turp, Coates, Driggers & White, P.C. 170 South Main Street, Hightstown, NJ 08520.

Attorney: Niki A. Waters, Esq.

Lever, Johanna J. a/k/a Johanna Julia Lever, dec'd.

Late of Manheim Township. Co Executrices: Adrienne Friedman, Sonia Holbrook, Gabrielle Lawrence c/o Brian R. Ott, Esquire, Barley Snyder LLP, 126 East King Street, Lancaster, PA 17602.

Attorneys: Barley Snyder LLP.

Martin, Katie Z., dec'd.

Late of Denver Borough.

Executor: Henry M. Burkholder c/o Appel Yost & Zee LLP, 33 North Duke Street, Lancaster, PA 17602.

Attorney: Jeffrey P. Ouellet, Esquire.

Martin, Tressie M., dec'd.

Late of Ephrata Borough. Executor: Kerry Martin c/o Jennifer L. Mejia, Mejia Law Group, LLC, 1390 W. Main Street, Ephrata, PA 17522.

Attorney: Mejia Law Group, LLC.

Meisenhelter, Janet H., dec'd.

Late of Elizabethtown.

Co-Executors: Holly R. Hoover, Karla E. Sarver c/o 110 S. Northern Way, York, PA 17402. Attorney: Donald L. Reihart,

Esquire.

Murphy, Matthew J. a/k/a Matthew James Murphy, dec'd.

Late of East Drumore Township.

Executor: Steven W. Wilhelm c/o Paterson Law LLC, 2703 Willow Street Pike N, Willow Street, PA 17584.

Attorney: Kim Carter Paterson.

Pelley, George F., dec'd.

Late of Ouarryville.

Administratrix: Celeste M. Esposito, 1173 Holtwood Road, Holtwood, PA 17532.

Attorney: None.

Quino, Kenneth P., dec'd.

Late of Leola.

Executor: James M. Quino c/o Scott G. Hoh, Esquire, Law Office of Scott G. Hoh, 606 North 5th Street Reading, PA 19601.

Rambler, Tina M. a/k/a Tina Marie Rambler, dec'd.

Late of Lancaster City.

Administrator: Christina M. Schaeffer c/o Young and Young, 44 S. Main Street, P.O. Box 126, Manheim, PA 17545.

Attorney: Young and Young.

Rodriguez-Zamora, Fernando Felix, dec'd.

Late of Pequea Township.

Administratrix: Aracely Gonzalez-Fuentes c/o Angela M. Ward, Esq., 140 E. King St., Lancaster, PA 17602.

Attorney: Angela M. Ward, Esq.

Rohrer, Donald G., dec'd.

Late of the Township of Manheim.

Executrices: Bonita K. Martin, Jodi Beisker c/o Gibble Law Offices, P.C., 126 East Main Street, Lititz, PA 17543.

Attorney: Stephen R. Gibble.

Ruggieri, Peter J. a/k/a Peter James Ruggieri, dec'd.

Late of Manheim Township. Executrix: Stephanie D. Horst c/o Ann L. Martin, Attorney, P.O. Box 5349, Lancaster, PA 17606.

Attorneys: Gibbel Kraybill & Hess LLP.

Sellers, Burton a/k/a Burton Chance Sellers, dec'd.

Late of West Lampeter Township.

Executrix: Alexandra F. West, 616 Reservoir Road, West Chester, PA 19380.

Attorney: Frank W. Hayes, Esquire, Hayes & Romero, 31 South High Street, West Chester, PA 19382.

Shelly, Betty J., dec'd.

Late of Manheim Township. Executor: T. Michael Shelly c/o Ann L. Martin, Attorney, P.O. Box 5349, Lancaster, PA 17606. Attorneys: Gibbel Kraybill & Hess LLP.

Shuman, James R. a/k/a James Richard Shuman, Sr., dec'd.

Late of Earl Township.

Executor: Annette L. Liew c/o Good & Harris, LLP, 132 West Main Street, New Holland, PA 17557.

Attorneys: Good & Harris, LLP.

Sloat, Gordon G., dec'd.

Late of Manheim Township.

Executor: Sondra M. Sloat c/o Law Office of Shawn Pierson, 105 East Oregon Road, Lititz, PA 17543.

Attorney: Shawn M. Pierson, Esq.

Smith, Debora S., dec'd.

Late of Manheim Township.

Executor: Derek Harple c/o May Herr & Grosh, LLP, 234 North Duke Street, Lancaster, PA 17602.

Attorney: Bradley A. Zuke.

Smith, Ronald L., dec'd.

Late of Manheim Borough. Administrator: Rick E. Smith c/o Young and Young, 44 S. Main Street, P.O. Box 126, Manheim, PA 17545.

Attorney: Young and Young.

Torrise, Carmen a/k/a Carmen J. Torrise, dec'd.

Late of Quarryville Borough. Executrix: Kelly Torrise c/o Richard R. Reilly, Esquire, 54 N. Duke Street, York, PA 17401-

1210. Attorney: Richard R. Reilly, Esquire.

Trout, Rebecca L., dec'd.

Late of Warwick Township. Administrator: Trista R. Trout c/o Barbara Reist Dillon, Esquire, 212 North Queen Street, Lancaster, PA 17603.

Attorney: Nikolaus & Hohenadel, LLP.

Vihroski, Mary, dec'd.

Late of New Holland Borough. Executor: Barbara J. Vitch c/o Kling, Deibler & Glick, LLP, 131 W. Main Street, New Holland, PA 17557.

Attorney: Patrick A. Deibler, Esq., Kling, Deibler & Glick, LLP.

Warfel, Lou Sindy, dec'd.

Late of Lititz Borough.

Executor: Elois J. Warfel c/o Nevin D. Beiler, Esq., 105 S. Hoover Ave., New Holland, PA 17557.

Attorney: Nevin D. Beiler, Esq.

Wilson, Herbert W., II, dec'd.

Late of Manheim Township. Administratrix: Mary E. Novak c/o Jeffrey R. Bellomo, Esq., Bellomo & Associates, LLC, 3198 East Market Street, York, PA 17402.

Attorney: Jeffrey R. Bellomo, Esq.

ARTICLES OF DISSOLUTION

NOTICE IS HEREBY GIVEN THAT the shareholders and directors of J. Rollman & Son, Inc., a Pennsylvania corporation, with a registered address at 217 South Broad Street, P.O. Box 147, Lititz, PA 17543, and a mailing address at 126 East Main Street, Lititz, PA 17543, have approved a proposal that the corporation voluntarily dissolve, and that the Board of Directors is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

GIBBEL, KRAYBILL & HESS LLP Attorneys

A-21

NOTICE IS HEREBY GIVEN THAT the Shareholders and Directors of **Realty 1 New Home Communities, Inc.**, a Pennsylvania corporation, with an address at 500 Delp Road, Lancaster, PA 17601, have approved a proposal that the corporation voluntarily dissolve, and that the Board of Directors is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

LEGACY LAW PLLC Attorneys

A-21

NOTICE IS HEREBY GIVEN THAT the shareholders and directors of Rollman Brokerage, Inc., a Pennsylvania corporation, with a registered address at 748 Rothsville Road, Lititz, PA 17543, and a mailing address at 126 East Main Street, Lititz, PA 17543, have approved a proposal that the corporation voluntarily dissolve, and that the Board of Directors is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

GIBBEL, KRAYBILL & HESS LLP Attorneys

A-21

ARTICLES OF INCORPORATION

Blue Ball Community Church has been incorporated under the provisions of Article B of the Nonprofit Corporation Law of

1988.

GIBBEL, KRAYBILL & HESS LLP Attorneys

A-21

Notice is hereby given that **Hope Served, Inc.**, 201 W. High Street, Manheim, PA 17545, has been incorporated under the provisions of the Nonprofit Corporation Law of 1988 by filing of Articles of Incorporation with the Pennsylvania Department of State on September 02, 2021.

A-21

Articles of Incorporation for **Love** with **Shoes On**, a nonprofit corporation, were filed April 11, 2023, with the Department of State of the Commonwealth of Pennsylvania under the provisions of the Nonprofit Corporation Law of 1988.

The corporation is incorporated for the purpose of providing Christian based counseling services.
BLAKINGER THOMAS, PC
Attorneys

A-21

CHANGE OF NAME NOTICES

A hearing will be held on May 30th, 2023, at 2:45 p.m. in Courtroom No. 4, of the Lancaster County Court house, 50 N. Duke St., Lancaster, PA, regarding the request of **Tori Mae Broadway** to change her name from Tori Mae Broadway to Tobi Mae Broadway. Any person with objections may attend and show cause why the request should not be granted.

A-21

CORPORATE NOTICES

NOTICE IS HEREBY GIVEN that

a Certificate of Organization was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on March 1, 2023 for:

INDIAN RUN FARMS, LLC

The said entity has been organized under the provisions of the Pennsylvania Limited Liability Company Law of 1994 of the Commonwealth of Pennsylvania, as amended.

A - 2.1

GSC Ventures, Inc. has been incorporated under the provisions of the Business Corporation Law of 1988.

BLAKINGER THOMAS, PC Attorneys

A-21

NOTICE IS HEREBY GIVEN that a corporation is to be or has been incorporated under the Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, effective October 1,1989, as amended. The name of the proposed corporation is:

KSM Wealth Inc.

And has been delivered to the Secretary of State for filing. The initial registered office of the corporation is located at: 26 Pajill Dr., Lancaster Co., Marietta, PA 17547 by:

Karyn Louise Koenig

A-21

FICTITIOUS NAME NOTICE

Notice is hereby given that Sarah Lynn Allgyer, 1233 Scalpy Hollow Road, Drumore, PA 17518, did file in the Office of the Secretary of the Commonwealth of Pennsylvania on March 6, 2023, registration of the name:

"MACRAME SPECIALTIES"

under which it intends to do business at 123 3 Scalpy Hollow Road, Drumore, PA 17 518, pursuant to the provisions of the Act of Assembly of December 16, 1982, Chapter 3, known as the "Fictitious Name Act"

NICHOLAS T. GARD, ESQUIRE SMOKER GARD ASSOCIATES LLP A-21

ORPHANS' COURT NOTICE

Orphans' Court Division Auditing Notices

To All Claimants, Beneficiaries, Heirs and Next of Kin, and other persons interested: NOTICE IS GIVEN that the following accounts in decedents', incapacitated persons, minors', and trust estates have been filed in the office of the Clerk of the Orphans' Court division of the Court of Common Pleas of Lancaster County and will be presented to said Orphans' Court Division for Audit and confirmation therein to the parties legally entitled thereto on

May 2, 2023

at 9 o'clock a.m. in Courtroom No. 11 on the fourth floor of the Courthouse, 50 North Duke Street, Lancaster, PA

- 1. CIANCI, ELIZABETH MEL-VILLE, decd., 2022-00663. Acct., Jean M. Sollenberger, Exec., Adam C. Kish, atty.
- 2. GITONGA, SELINA N., decd., 2022-00117. First & Fi-

- nal Acct., Patrick G. Mureria, Admin., Lucy F. Dowd, atty.
- 3. THE DAVID INMAN REVO-CABLE TRUST, 2023-00929. First & Final Acct., Mark C. Burgin, Trustee, Scott Alan Mitchell, atty.

Anne L. Cooper
Clerk of the Orphans' Court
Division
of the Court of Common Pleas.

SUITS ENTERED

Defendant's name appears first in capitals, followed by plaintiff's name, number and plaintiff's or appellant's attorney.

> April 6, 2023 to April 12, 2023

BART TOWNSHIP ZONING HEARING BOARD; Jonas M. Stoltzfus; 02340; Elliker

COMMONWEALTH OF PENN-SYLVANIA DEPARTMENT OF TRANSPORTATION; Mathew Thomas Mitchell; 02445

COMMONWEALTH OF PENN-SYLVANIA DEPARTMENT OF TRANSPORTATION; Olivia Sharon Cook; 02350; Jones

FALCON, MICHAEL L.; Flagship Credit Acceptance LLC; 02450; Bonner

GASS, EVEN, EAN HOLDING LLC, PENRAC LLC, ENTERPRISE HOLDINGS LLC; Michael Freeman; 02342; Brown, III

HOUSER, SHANE; NCB Management Services Inc.; 02381; Ratchford

KERCHOFF JR., SHIRLEY; LI-

HTC Umbrella Works Apartments; 02329

KISSELL, RICHARD; Rama Investment Properties, LLC; 02458; Sarno

MCLANE III, ROBERT, MCLANE, MARY; Sharon Payne; 02440; Rankin

OBER, JONAH C.; Pennsylvania State Employees Credit Union; 02386; Urban

RODRIGUEZ-CEDENO, CHRIS-TIAN; State Farm Mutual Automobile Insurance Co.; 02385; Allen

ROWE, RICHARD, ROWE, ROB-ERT; Realty Professional Group LLC; 02438

TODD, LEANN; DC Eager Emergency Services LLC; 02425; Sklar ZONING HEARING BOARD OF MOUNT JOY TOWNSHIP; Pennmark Management Company., Inc; 02335; Tucker

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