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NOTICE BY THE ADAMS COUNTY
CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statements of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphan's Court, Gettysburg, Pennsylvania, for confirmation of accounts entering decrees of distribution on Friday, December 7, 2012 at 8:30 a.m.

HESS—Orphan's Court Action Number OC-124-2012. The First and Final Account of Stonesifer and Kelley, P.C., by Scott L. Kelley, Esq., Executor of the Estate of Esther Hess a/k/a Esther A. Hess, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

SIPLING—Orphan's Court Action Number OC-55-2012. The First and Final Account of Gerald Smith and Peggy Smith, Co-Executors of the Estate of Judith E. Sipling a/k/a Judith Elaine Sipling, deceased, late of Conewago Township, Adams County, Pennsylvania.

Kelly A. Lawver
Clerk of Courts

11/21 & 30

COMMONWEALTH VS. JOHNSON

1. The Pennsylvania Supreme Court determined that a prior conviction for attempted burglary is not a disqualifying offense under the Uniform Firearms Act, 18 Pa. C.S.A. § 6105, which identifies those who are not legally permitted to possess a firearm.

2. In determining whether or not prior bad acts are admissible at trial, this Court is required to balance the probative value of the evidence against its prejudicial effect.

3. The critical consideration in evaluating motive is Defendant's belief that he had any prior disqualifying convictions rather than the actual number of disqualifying convictions. Thus, the attempted burglary conviction has little relevance to Defendant's alleged motivation in avoiding recommitment to prison.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CP-01-CR-1180-2010, COMMONWEALTH OF PENNSYLVANIA VS. CHRISTOPHER LYNN JOHNSON.

Shawn C. Wagner, Esq., District Attorney, for Commonwealth
Kristin L. Rice, Public Defender, for Defendant
George, J., June 8, 2012

OPINION

Before the Court for disposition is the Commonwealth's Motion in Limine seeking the admission at trial of evidence of the Defendant's prior bad acts. Concurrently, the Defendant has filed a Motion to Sever seeking severance of the count related to persons not to possess firearms, 18 Pa. C.S.A. § 6105, from the remaining counts which include the charge of first degree murder. For the reasons set forth hereinbelow, the Commonwealth's Motion is granted in part and denied in part. The Defendant's Motion to Sever is denied.

The Defendant is charged with killing Pennsylvania Game Commission Officer David L. Grove on the night of November 11, 2010. The Commonwealth believes that the alleged homicide was motivated by the Defendant's desire to avoid returning to prison. The theory suggests that in 2002, the Defendant was convicted and sentenced to prison for two burglaries and an attempted burglary. Although he successfully completed his sentences, the convictions prohibit Defendant from legally possessing firearms. On the evening of the incident, it is alleged that Officer Grove caught the Defendant poaching deer. The Commonwealth theorizes that the alleged murder was motivated by Defendant's fear that he would be arrested on a firearms violation and ultimately returned to prison. The Commonwealth cites statements made by the Defendant that he shot

Officer Grove to avoid returning to jail. The Commonwealth currently seeks to introduce at trial the Defendant's convictions as well as the underlying factual basis for those convictions.

The Defendant opposes introduction of this evidence and seeks to sever the charge of persons not to possess or use firearms from the remaining charges in order to avoid any prejudice which may inure to him as a result of evidence of unrelated criminal conduct being introduced to the fact finder. Defendant argues that in light of the Commonwealth's claim that he acknowledged his motives to the Commonwealth, evidence of the prior convictions is cumulative and unnecessarily prejudicial.

In *Commonwealth v. Mollett*, 5 A.3d 291 (Pa. Super. 2010), *appeal denied* 14 A.3d 826 (Pa. 2011), the Pennsylvania Superior Court addressed a substantially similar issue. In *Mollett*, the defendant challenged the trial court's refusal to sever the charge of a former convict not to carry firearms from the charge of first degree murder as well as the trial court's admission at trial of testimony concerning the appellant's state parole status. *Id.* at 305-07. The Commonwealth argued, and the trial court concluded, that the Defendant was motivated to commit the homicide by his desire to avoid parole revocation. The Superior Court affirmed the trial court's decision concluding that the evidence of the appellant's state parole status provided probative evidence of appellant's motive and outweighed the evidence's prejudicial impact. *Id.* at 307. As such, severance was inappropriate as the evidence of possession of a firearm was admissible to prove motive in the homicide charge. *Id.* Since there is no reason to currently distinguish *Mollett*, the Defendant's Motion to Sever the charges will be denied.

Similarly, the *Mollett* reasoning controls the issue as it relates to admission of the prior burglary convictions of the Defendant. However, further analysis is necessary concerning introduction of evidence of the attempted burglary conviction. Very recently, in *Commonwealth v. Clegg*, 27 A.3d 1266 (Pa. 2011), the Pennsylvania Supreme Court determined that a prior conviction for attempted burglary is not a disqualifying offense under the Uniform Firearms Act, 18 Pa. C.S.A. § 6105, which identifies those who are not legally permitted to possess a firearm. Thus, evidence of Defendant's attempted burglary conviction is not relevant to the disposition of the charge of persons not to possess or use firearms.

Since the attempted burglary conviction, in and of itself, could not result in a criminal conviction for a firearms violation, it could not be a basis for the Defendant to be returned to prison. Nevertheless, this Court recognizes that the admissibility of the requested evidence involves Defendant's motive rather than his knowledge of the actual status of the law. Under the former, it is arguable that if the Defendant believed he could be returning to prison because of his prior convictions, including the attempted burglary conviction, then the conviction is relevant to motive and thus admissible. Although this position may have arguable merit, in determining whether or not prior bad acts are admissible at trial, this Court is required to balance the probative value of the evidence against its prejudicial effect. *Commonwealth v. McKellick*, 24 A.3d 982, 987 (Pa. Super. 2011). Under such an evaluation, it is clear that the prejudice of admitting the prior conviction for attempted burglary outweighs its limited relevance. The critical consideration in evaluating motive is Defendant's belief that he had any prior disqualifying convictions rather than the actual number of disqualifying convictions. Thus, the attempted burglary conviction has little relevance to Defendant's alleged motivation in avoiding recommitment to prison. As such, evidence of the conviction for attempted burglary is precluded at trial.

Similarly, the underlying factual circumstances behind the Defendant's convictions for burglary are irrelevant to any guilt phase determination. For purposes of proving a violation under 18 Pa. C.S.A. § 6105, the conviction for a disqualifying offense is sufficient in and of itself to establish this element of the crime. The conduct which caused the conviction has no relevance to this determination. Similarly, as motive can be circumstantially established by the existence of prior convictions which resulted in the Defendant's previous incarceration, the relevance of the factual background which resulted in those convictions is of little import. Indeed, the Commonwealth fails to cite the existence of any factual connection between the background of the prior convictions and their theory of motive which makes the latter more probable than it would be without admission of the former. Moreover, any limited relevance that the underlying factual basis for the convictions might have is greatly outweighed by the obvious prejudice that would result to the Defendant through potential juror confusion. Accordingly, the Commonwealth will be

precluded during guilt phase proceedings from discussing the factual background underlying the convictions.

Finally, I am not persuaded by Defendant's argument that the prior burglary convictions are cumulative. In this regard, Defendant argues that since the Commonwealth will be seeking to introduce an alleged confession of the Defendant that he shot Officer Grove in order to avoid returning to prison, the probative value of the evidence of the burglary convictions is greatly reduced and consequently outweighed by its potential prejudice. In disposing of this argument, one need only consider the Defendant's prior omnibus motion seeking to suppress Defendant's statements as coerced and unreliable. In his motion, the Defendant argued that evidence of the Defendant's statements was unreliable as Defendant suffered from physical disabilities and the effects of painkilling medication. Although the Defendant may ultimately decide not to exercise this tactic at trial, Defendant's trial tactics do not preclude the Commonwealth's right to attempt to insulate itself from the argument highlighted by Defendant's pretrial motion through the introduction of corroborative evidence. The probative value of evidence of Defendant's actual convictions as corroboration for the accuracy and reliability of the Defendant's statement to police is obvious.

For the foregoing reasons, the attached Order is entered.

ORDER

AND NOW, this 8th day of June 2012, the Commonwealth's Motion in Limine for Admission of 404(b) Evidence is granted in part and denied in part. It is granted to the extent that the Commonwealth may introduce evidence of Defendant's prior convictions for burglary as well as his incarceration resulting from those convictions. Evidence of the conviction for attempted burglary as well as the underlying factual basis for the burglary convictions is precluded at the guilt phase of trial.

It is further Ordered that Defendant's Motion to Sever is denied.

ESTATE 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. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION**ESTATE OF LOUISE T. BRADY, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Co-Executors: David J. Brady and Lois B. Zinn, c/o Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

ESTATE OF MARGARET B. BRANDT, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: PNC Bank, N.A., Attn: Linda J. Lundberg, P.O. Box 308, Camp Hill, PA 17001-0308

Attorney: Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George Street, York, PA 17401

ESTATE OF DORIS W. KING a/k/a DORIS WAREHIME KING, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executrices: Kathy K. Stebbins and Debra L. Hahn, c/o Genevieve E. Barr, Esq., 141 Broadway, Suite 310, Hanover, PA 17331

Attorney: Genevieve E. Barr, Esq., 141 Broadway, Suite 310, Hanover, PA 17331

ESTATE OF ANNA V. LAW, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Hazel M. Stonesifer, 2000 Keysville Road South, Keymar, MD 21757

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF THEODORE LESKANICH, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Lisa L. Ard, c/o Robert R. Church, Esq., Keefer Wood Allen & Rahal, LLP, P.O. Box 11963, Harrisburg, PA 17108-1963

Attorney: Robert R. Church, Esq., Keefer Wood Allen & Rahal, LLP, P.O. Box 11963, Harrisburg, PA 17108-1963

ESTATE OF LUTHER H. MARTIN a/k/a LUTHER HOWARD MARTIN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator: Scott Ernest Martin, 1424 Fairmount Road, Hampstead, MD 21074

Attorney: Katrina M. Luedtke, Esq., Mooney & Associates, 115 Carlisle Street, New Oxford, PA 17350

ESTATE OF CONNIE M. PEARSON a/k/a CONNIE M. HAYES, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Co-Executors: John A. Durange Jr., 185 St. Johns Road West, Littlestown, PA 17340; Michelle A. Durange, 185 St. Johns Road West, Littlestown, PA 17340

Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

ESTATE OF MAYBELLE H. RUPP, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Co-Executors: Beverly S. Frazier, 22 Carly Drive, New Oxford, PA 17350; David R. Rupp Sr., 240 Rupp Road, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

SECOND PUBLICATION**ESTATE OF LAURA DONWINA AUBOL a/k/a LAURA DONWINA SUSANNE AUBOL, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Administrator: Todd A. King, Esq., Campbell and White, P.C., 112 Baltimore Street, Suite 1, Gettysburg, PA 17325

Attorney: Todd A. King, Esq., Campbell and White, P.C., 112 Baltimore Street, Suite 1, Gettysburg, PA 17325

ESTATE OF MARY E. BAKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

William R. Baker, 630 Harmony Drive, New Oxford, PA 17350

Attorney: John L. Senft, Esq., Senft Law Firm, LLC, 105 Leader Heights Road, York, PA 17403

ESTATE OF HELEN L. CHRONISTER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Patricia A. Botterbusch, 600 East Canal Road, York, PA 17404

ESTATE OF HAROLD A. DUNKELBERGER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Harold R. Dunkelberger, 307 Susquehanna Avenue, Selinsgrove, PA 17870

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF STEPHEN E. MURREN, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Co-Executors: Robert A. Murren, 6 Hooker Drive, East Berlin, PA 17316; John M. Murren, 125 Lynx Drive, Hanover, PA 17331; Darlene L. Bankert, 41 Hillside Road, Hanover, PA 17331

Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

ESTATE OF ROBERT J. SHRADER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Stephen J. Shrader, 328 Kohler Mill Road, New Oxford, PA 17350; Roberta A. Poist, 334 Hanover Street, New Oxford, PA 17350

Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION**ESTATE OF PATRICIA A. NEUGARTH BLACK, DEC'D**

Late of Germany Township, Adams County, Pennsylvania

Administrator: Eileen N. Banaszewski, 1148 Gypsum Drive, Hampstead, MD 21074

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

(continued on page 4)

THIRD PUBLICATION (CONTINUED)

ESTATE OF HELEN M. CARBAUGH,
DEC'D

Late of Conewago Township, Adams
County, Pennsylvania

Executor: Anthony Laughman, 1210
Westminster Avenue, Hanover, PA
17331

Attorney: Donald W. Dorr, Esq., 846
Broadway, Hanover, PA 17331

ESTATE OF MIRIAM L. MILLER, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Executor: John E. Miller, c/o Matthew
L. Guthrie, Esq., Guthrie, Nonemaker,
Yingst & Hart, LLP, 40 York Street,
Hanover, PA 17331

Attorney: Matthew L. Guthrie, Esq.,
Guthrie, Nonemaker, Yingst & Hart,
LLP, 40 York Street, Hanover, PA
17331

ESTATE OF CHARLES STOCKHAM
a/k/a CHARLES EDWARD STOCKHAM,
DEC'D

Late of Reading Township, Adams
County, Pennsylvania

Executor: Todd C. Racey, 2636
Victorian Drive, Dover, PA 17315

Attorney: Stonesifer and Kelley, P.C.,
209 Broadway, Hanover, PA 17331