

# FAYETTE LEGAL JOURNAL

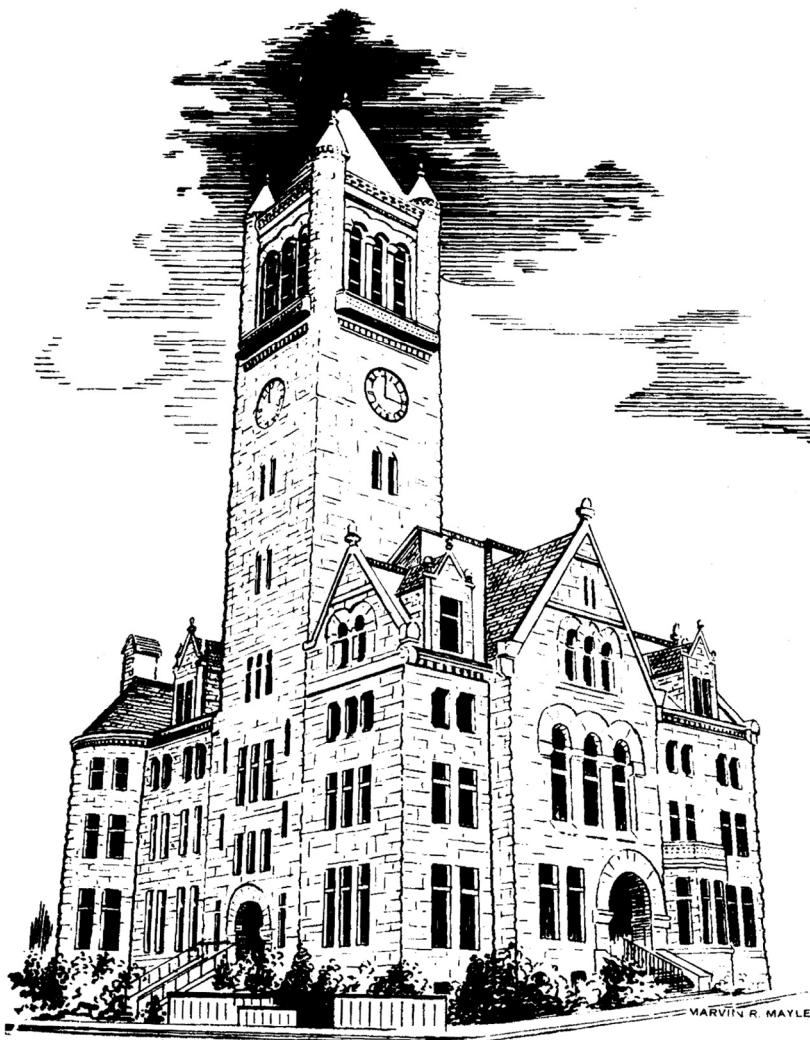
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## FAYETTE LEGAL JOURNAL

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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

**ARTHUR E. BENSON**, late of Connellsville, Fayette County, PA (3)

*Executor:* Arthur David Benson  
213 North 12th. Street  
Connellsville, PA 15425  
c/o Rowan Law Office  
890 Vanderbilt Road  
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*Attorney:* Mark Rowan

**JAMES HAYDEN, a/k/a JAMES E. HAYDEN, JR.**, late of North Union Township, Fayette County, PA (3)

*Administratrix:* Zoe Claire Hayden  
1690 Newtown Langhorne Road PMB 4663  
Newtown, PA 18940  
c/o Newcomer Law Offices  
4 North Beeson Boulevard  
Uniontown, PA 15401  
*Attorney:* Ewing Newcomer

**JAMES NICOLETTE, a/k/a JAMES E. NICOLETTE II**, late of Bullskin Township, Fayette County, PA (3)

*Executrix:* Eva Joy Nicolette  
773 Kreinbrook Hill Road  
Mt. Pleasant, PA 15666  
c/o 749 North Church Street  
Mt. Pleasant, PA 15666  
*Attorney:* Paul Toohey

**THOMAS E. PAVLOVICH, a/k/a THOMAS EUGENE PAVLOVICH**, late of Masontown, Fayette County, PA (3)

*Executor:* Ralph Cavalcante  
c/o 9 Court Street  
Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

**MELVIN THOMAS SHULTZ, a/k/a MELVIN T. SHULTZ, a/k/a TOM SHULTZ**, late of Springfield Township, Fayette County, PA (3)

*Co-Executrices:* Stacie L. Keefer and Anna K. Upton  
c/o Molinaro Law Offices  
P.O. Box 799  
Connellsville, PA 15425  
*Attorney:* Carmine V. Molinaro, Jr.

### Second Publication

**DONNA M. BEATTY**, late of Connellsville, Fayette County, PA (2)

*Administrator:* Ivana Beatty  
c/o Casini & Geibig, LLC  
815B Memorial Boulevard  
Connellsville, PA 15425  
*Attorney:* Jennifer M. Casini

**JOSEPH HETZ, a/k/a JOSEPH PAUL HETZ**, "Paully", late of Georges Township, Fayette County, PA (2)

*Executrix:* Melissa A. Shawl  
143 Poundstone Road  
Uniontown, PA 15401-6807  
c/o Lynch Law Group  
375 Southpoint Boulevard, Suite 100  
Canonsburg, PA 15317  
*Attorney:* Frank Gustine

**PAUL A. LAWS**, late of Springfield Township, Fayette County, PA (2)

*Executor:* John R. Laws  
c/o Casini & Geibig, LLC  
815B Memorial Boulevard  
Connellsville, PA 15425  
*Attorney:* Jennifer M. Casini

**ELIZABETH MARUCCI**, late of Redstone Township, Fayette County, PA (2)

*Executor:* Vincent P. Marucci  
127 Motorcycle Road  
Grindstone, PA 15442  
c/o Davis and Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**KENNETH C. SMITHLEY**, late of Georges Township, Fayette County, PA (2)  
*Executrix:* Robin Calhoun  
 c/o Goodwin Como. P.C.  
 108 North Beeson Boulevard, Suite 400  
 Uniontown, PA 15401  
*Attorney:* Benjamin Goodwin

---

**MARC TINSTMAN**, late of Brownsville, Fayette County, PA (2)  
*Administrator:* Nathan Tinstman  
 130 Armour Street  
 Richeyville, PA 15301  
 c/o Neighborhood Attorneys, LLC  
 8 East Pine Avenue  
 Washington, PA 15301  
*Attorney:* Jessica Roberts

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**TERRI TINSTMAN**, late of Brownsville, Fayette County, PA (2)  
*Administrator:* Nathan Tinstman  
 130 Armour Street  
 Richeyville, PA 15358  
 c/o Neighborhood Attorneys, LLC  
 8 East Pine Avenue  
 Washington, PA 15301  
*Attorney:* Jessica Roberts

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## First Publication

**GLORIA F. BREAKIRON, a/k/a GLORIA BREAKIRON**, late of Hopwood, Fayette County, PA (1)  
*Personal Representative:*  
 Melanie Breakiron Ramage  
 c/o George & George  
 92 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Joseph M. George

---

**ALICE M. GALTERIO, a/k/a ALICE GALTERIO**, late of Uniontown, Fayette County, PA (1)  
*Administratrix:* Samantha Galterio  
 902 Fourth Street  
 Buffington, Pa 15468  
 c/o Davis and Davis  
 107 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

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**KENNETH A. HAINES, a/k/a KENNETH HAINES**, late of Henry Clay Township, Fayette County, PA (1)  
*Executrix:* Debby Louise Haines  
 c/o Daniella A. Horn, Klenk Law, LLC  
 2202 Delancey Place  
 Philadelphia, PA 19103  
*Attorney:* Daniella A. Horn

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**IGNATIUS JAMES HRUBECZ**, late of Jefferson Township, Fayette County, PA (1)  
*Executor:* Michael Kovach  
 c/o 39 Francis Street  
 Uniontown, PA 15401  
*Attorney:* Jack R. Heneks, Jr.

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**ANNA KATHRYN KOVACH**, late of Jefferson Township, Fayette County, PA (1)  
*Executor:* Michael Kovach  
 c/o 39 Francis Street  
 Uniontown, PA 15401  
*Attorney:* Jack R. Heneks, Jr.

---

**JAMES W. MITCHELL, JR.**, late of German Township, Fayette County, PA (1)  
*Executor:* James W. Mitchell, III  
 51 Nell Street  
 Hopwood, PA 15445  
 c/o Davis and Davis  
 107 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

---

**GEORGE H. RUE, JR.**, late of Washington Township, Fayette County, PA (1)  
*Executrix:* Amanda Rue  
 1116 Third Street  
 Fayette City, PA 15438  
 c/o 401 Sixth Street at Washington Avenue  
 P.O. Box 1  
 Charleroi, PA 15022  
*Attorney:* Alan Benyak

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**FLOYD A. STANGROOM**, late of Luzerne Township, Fayette County, PA (1)  
*Executor:* Floyd A. Stangroom, Jr.  
 15 Kirchner Drive  
 South Park, PA 15129  
 c/o Davis and Davis  
 107 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Samuel J. Davis

---

**DAYNA A. VEGHTS**, late of Connellsville,  
Fayette County, PA (1)

*Personal Representative:* Gary D. Veghts  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, Pa 15425  
*Attorney:* Timothy J. Witt

## LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL ACTION – LAW  
No. 239 of 2022, G.D.  
The Honorable Judge Nancy D. Vernon

**IN RE: CHANGE OF NAME OF  
RANANI LEE PIRL**

### NOTICE

Notice is hereby given that on February 15, 2022 the petition of Ranani Lee Pirl was filed in the above named Court, requesting an Order to change the name of Ranani Lee Pirl to Ramani Lee Pirl.

The Court has fixed July 20, 2022 at 10:30 A.M. in Courtroom Number 4, Fayette County Courthouse, 61 East Main Street, Uniontown, Pennsylvania as the time and place for a hearing on the merits of said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of said Petition should not be granted. This date replaces the prior hearing date of June 16, 2022 at 9:45 A.M.

Sheryl R. Heid, Esquire  
4 N. Beeson Blvd.  
Uniontown, PA 15401  
(724)437-4700

### **NOTICE OF TRUST LILLIAN M. HYNES TRUST DATED JUNE 22, 1994**

The Successor Trustees named below give notice of the death of Lillian M. Hynes on December 9, 2021, late of Washington Township, Fayette County, Pennsylvania, having created the Lillian M. Hynes Trust dated June 22, 1994, and having appointed William J. Hynes and Robert S. Hynes as Successor Trustees, notice is hereby given to all persons indebted to said trust and/or decedent to make immediate payment and to those having claims against said trust and/or decedent to present them, duly authenticated for settlement, to the following:

William J. Hynes  
120 Hynes Lane  
Fayette City, PA 15438

Robert S. Hynes  
1131 Linn Drive  
Belle Vernon, PA 15012

(1 of 3)

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW  
**ACTION TO QUIET TITLE**  
No. 921 of 2022 G.D.  
JUDGE LINDA CORDARO

LAWRENCE HARTMAN, JR. and CAROL  
HARTMAN, his wife,  
Plaintiff,  
vs

SAMUEL D. WARMAN and FRED A H.  
WARMAN, his wife, their successors, heirs,  
personal representatives, and assigns, generally,  
and DCRS HOLDINGS, INC.  
Defendants.

**TO: SAMUEL D. WARMAN and FRED A H.  
WARMAN, his wife their heirs, successors  
and assigns, generally,**

You are hereby notified that Lawrence Hartman, Jr. and Carol Hartman, his wife, have 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 they are the owners in possession of that certain lot of land situate in Henry Clay Township, Fayette County, Pennsylvania having a mailing address of 162 Clover Top Road, Markleysburg, Pennsylvania, 15459.

Title to the above-described property was conveyed to Samuel D. Warman and Freda H. Warman, his wife, by a deed from James L. Warman and Jacqueline Warman, his wife, being recorded at the Recorder of Deeds Office at Deed Book 1302, Page 91.

Said complaint sets forth that the plaintiffs are the owners 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.

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1-800-932-0311**

By Jason F. Adams, Esq.  
Adams Law Offices, PC  
55 E. Church Street  
Uniontown, PA 15401  
(724) 437-2711

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## 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

**Tuesday, July 5, 2022, at 9:30 A.M.**

Account filed in the office of the Clerk of the Orphans' Court  
of Common Pleas of Fayette County Pennsylvania:

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
11-OC-2020	NORMA M. SCOTT	Eric O'Connor - Vice President of River Communities Fiduciary Services, Inc.

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

**Monday, July 18, 2022, at 9:30 A.M.**

in Courtroom No. 5 of the **Honorable 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.

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

**Tuesday, July 5, 2022, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2619-0270	WESTLEY T. DOMASKY A/K/A WESTLEY DOMASKY A/K/A WESLEY TIMOTHY DOMASKY	Christina M. Augustine, Administratrix
2620-0598	MARGARET REGINA SIMON A/K/A MARGARET R. SIMON	David M. Simon, Executor

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

**Monday, July 18, 2022, at 9:30 A.M.**

in Courtroom No. 1 of the **Honorable 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.

## **WARMAN ABSTRACT & RESEARCH LLC**

**JOHN F. WARMAN**

**518 Madison Drive**

**Smithfield, PA 15478**

**724-322-6529**

**johnfranciswarman@gmail.com**

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JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OFF AYETTE COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA, :  
V. :  
CASSANDRA RUBY, :  
Defendant. : No. 10 of 2022

OPINION

Linda R. Cordaro, J. June 1, 2022

SUMMARY

Currently before this Court is Defendant's Omnibus Pretrial Motion for habeas corpus on the charges of DUI, careless driving, and improper tires. After a hearing on May 18, 2022, and a review of the preliminary hearing transcript and motor vehicle recording (MVR) admitted into evidence, Defendant's Motion is granted for the following reasons.

BACKGROUND

On May 20, 2021, at approximately 12:16 AM, Troopers Zachary Jasper and Brad Kelly were on routine patrol in their vehicle. The troopers were at a stop sign when a white Toyota Camry traveled past, along New Salem Road. The troopers made a left turn and began traveling behind the Camry when Trooper Jasper observed that the Camry's right rear tire appeared to be flat. The driver of the vehicle, eventually identified as the Defendant, activated her turn signal and emergency flashers and pulled over. The troopers then activated their emergency lights and pulled over behind the Camry. They exited their vehicle and approached the Defendant's vehicle.{1}

Approximately a minute later, the Defendant exited her vehicle and walked back to stand with the troopers to examine the flat tire. {2} Trooper Jasper asked her how long she had been driving on the tire, and the Defendant replied that she was going to get an old tire. When the trooper asked where the old tire was, she said it should be at her house. Trooper Jasper then asked her where she was coming from, and she asked quietly, "What am I supposed to do?"

{1} The MVR is video-only from the start of the recording through the initial conversation between Defendant and the troopers.  
{2} Recorded audio begins here.

At some point while the Defendant and troopers were outside, dispatch informed them that the registered owner of the vehicle was a wanted person. {3} Trooper Jasper asked the Defendant for her identification, and she told him her name. She then turned and took a step toward the front of her vehicle, but Trooper Jasper put his hand on her shoulder to stop her. He then physically steered her to stand at the back of the Camry and face the troopers' vehicle. He asked if she had identification on her, and she confirmed that she did. She then asked if the troopers' emergency lights could be turned off because she suffered from seizures. Trooper Jasper refused, and the Defendant turned around so her back was toward the troopers' vehicle. Trooper Jasper immediately told her to stay where she was and to keep her hands out of her pockets. {4}

Trooper Jasper asked the Defendant where her identification was, and she told him it was in the front of the vehicle. He said, "Don't move," and left her to stand there with another trooper while he reached into her vehicle to retrieve her identification. He then returned to his own vehicle. {5}

Trooper Jasper then left his vehicle and approached the Camry again. {6} By this time, two more officers had arrived, for a total of four uniformed officers surrounding the Defendant on all available sides as she stood against her vehicle. The Defendant expressed irritation that the troopers' emergency lights still remained on, and Trooper Jasper remarked that she didn't have a problem with it until she started "getting a little funny."

He then directly asked her: "What are you on right now?" and "What drugs have you taken recently?" The Defendant said that she took prescribed medications: gabapentin, Elavil (amitriptyline), and Seroquel. Trooper Jasper then performed Standard Field Sobriety Tests (SFSTs), including the horizontal nystagmus and the walk-and-turn. The Defendant did not follow all the instructions given for the walk-and-turn, and gave up before completing the test, stating that she knew she failed. She also refused to perform the one leg stand test.

Trooper Jasper placed the Defendant under arrest for suspected DUI and read her the DL-26, asking for her consent to a blood test. The Defendant asked to take a breathalyzer, but was denied. The trooper again asked for her consent, and the Defendant did not give a clear yes or no response. Trooper Jasper deemed that she had refused consent and asked for her signature verifying refusal. When the Defendant did not answer, he also took this as a refusal.

The Defendant's vehicle was towed, and an inventory search was performed, during which a metal smoking device and ramrod were discovered.

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{3} It is not clear from the MVR when this occurred.

{4} At this, the Defendant informed the trooper that she had no pockets, and the trooper replied, "That's fine, I understand that. But if I don't see that you don't have pockets, how am I supposed to know that, okay?"

{5} Recorded audio stops here.

{6} Recorded audio restarts here.

## DISCUSSION

The Defendant is charged in the above matter with DUI: Controlled Substance - 75 Pa.C.S.A. § 3802(d)(2); Use/Possession of Drug Paraphernalia - 35 Pa.C.S.A. § 780-113(a)(32); Careless Driving - 75 Pa.C.S.A. § 3714(a); and Improper Tires - 75 Pa.C.S.A. § 4525(a).

Count 1 of the Motion is a petition for writ of habeas for the DUI charge. Count 2 of the Motion is a petition for writ of habeas for careless driving and improper tires. There is no dispute as to whether the Defendant had an active warrant at the time.

A petition for a writ of habeas corpus is the proper means for testing a pretrial finding that the Commonwealth has sufficient evidence to establish a prima facie case against a defendant. *Commonwealth v. Scott*, 578 A.2d 933, 936-37 (Pa. Super. Ct. 1990). The question of the sufficiency of evidence is one of law. *Commonwealth v. Huggins*, 836 A.2d 862, 865 (Pa. 2003)). In order to establish a prima facie case, the Commonwealth must present evidence as to each material element of the crimes charged and sufficient probable cause that the accused is the person who committed the offenses. *Commonwealth v. McBride*, 595 A.2d 589,591 (Pa. 1991) (citations omitted).

Here, the Defendant was charged with DUI under 75 Pa.C.S.A. § 3802(d)(2):

An individual may not drive, operate or be in actual physical control of the movement of a vehicle under any of the following circumstances ... (2) The individual is under the influence of a drug or combination of drugs to a degree which impairs the individual's ability to safely drive, operate or be in actual physical control of the movement of the vehicle.

In order to meet its prima facie burden, the Commonwealth must demonstrate that the Defendant violated each material element of DUI: that she drove a vehicle while under the influence of a drug such that she was unable to safely drive.

Here, the evidence that the Defendant violated the DUI statute includes Trooper Jasper's testimony about the behavior that led him to suspect the Defendant was under the influence. It also includes the Defendant's words and actions as captured by the MVR.

Trooper Jasper testified that his suspicions that the Defendant was impaired were based on her display of "erratic behavior and nervousness coupled with the physical observations of her disheveled appearance and dilated pupils." Tr. of Preliminary Hearing at 7. He testified that her behavior "seemed indicative of impairment to [him]" and that by "erratic" he meant the Defendant was "extremely nervous, very talkative ... about a lot of different things." Id. at 7-8. However, the facts do not support a reasonable suspicion that the Defendant was impaired prior to the trooper's direct question about what the Defendant was "on" and what drugs she had taken.

First, the troopers initially stopped because they observed the Defendant had a flat tire, not because they observed any signs of impaired driving. {7} Therefore, as of the initial stop, there was no evidence of DUI.

Second, Trooper Jasper testified that the Defendant's behavior was "erratic," but this is unsupported by the MVR. On the contrary, the Defendant was calm, she spoke coherently, her movements were not sudden or random, and she was cooperative, even offering to put up her vehicle's window to assuage troopers' concerns that her dog might jump out. {8} In fact, the Defendant remained calm, and she focused on the problem of the flat tire until Trooper Jasper's show of authority by making physical contact with her, steering her to the back of her vehicle, refusing to turn off the emergency lights, and ordering her to keep her hands out of her (non-existent) pockets.

Third, the description of the Defendant as "disheveled" is inaccurate and irrelevant. The Defendant was dressed in clothes that fit her and appeared reasonably clean and well-kept. Her hair was somewhat messily pulled up in a ponytail/bun, but even if this made her "disheveled," it is unclear how that contributed to a reasonable suspicion that she was impaired.

Finally, therefore, the sole remaining factor that might contribute to reasonable suspicion of a DUI is testimony that the Defendant had dilated pupils. {9} The Defendant's pupils are not observable on the MVR, but regardless, dilated pupils alone do not mean that a driver is unable to safely operate a vehicle, even if the driver has taken medication. {10}

There is insufficient evidence to support a *prima facie* case that the Defendant was driving under the influence. As the Commonwealth cannot adequately demonstrate that the Defendant was under the influence of a controlled substance, nor that she drove while impaired, Count 1 is granted and the DUI charge is dismissed.

As to Count 2, the crime of careless driving requires that a person drove in careless disregard for the safety of persons or property. 75 Pa.C.S.A. § 3714(a). The crime of operating a vehicle with improper tires includes that one or more tires are not in safe operating condition. 75 Pa.C.S.A. § 4525(a). There is no evidence that the Defendant drove carelessly; in fact, she demonstrated care when she used her turn signal and activated her emergency flashers as she pulled over. As to the improper tires charge, the allegation is that the Defendant drove while knowing the vehicle had a flat tire. The Defendant argues that she pulled over as soon as she reasonably could, and there is no evidence that when the tire became flat, nor that the Defendant drove any farther than she had to. Count 2 is therefore granted, and the careless driving and improper tires charges are dismissed.

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{7} Trooper Jasper "activated [his] emergency lights to check on the operator and see that everything was okay." Tr. of Preliminary Hearing at 5.

{8} The MVR recorded the Defendant's statement that she was going to get an old tire from home. Trooper Jasper testified that the Defendant told him she was going to get a new tire, but that it was also flat. Tr. of Preliminary Hearing at 8.

{9} The trooper alleged that he observed the Defendant had bloodshot, watery eyes, but this was not until he performed the horizontal nystagmus test. Tr. of Preliminary Hearing at 9.

{10} On cross-examination at the preliminary hearing, Trooper Jasper admitted he understood that prescription medication would not automatically impair someone's ability to drive. Tr. of Preliminary Hearing at 16.

## CONCLUSION

Counts 1 and 2 are granted. The sole remaining charge in this case is use/possession of paraphernalia.

## ORDER

AND NOW, this 1st day of June, 2022, in consideration of Defendant's Omnibus Pretrial Motion, after a hearing on the matter and a review of the preliminary hearing transcript and the motor vehicle recording (MVR) admitted into evidence, it is hereby ORDERED and DIRECTED that the Motion is GRANTED.

Counts 1, 3, and 4 are DISMISSED. Count 2 is the sole remaining charge on this case. The Commonwealth shall list this case for trial.

BY THE COURT:  
Linda R. Cordaro, Judge

ATTEST:  
Clerk of Courts



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