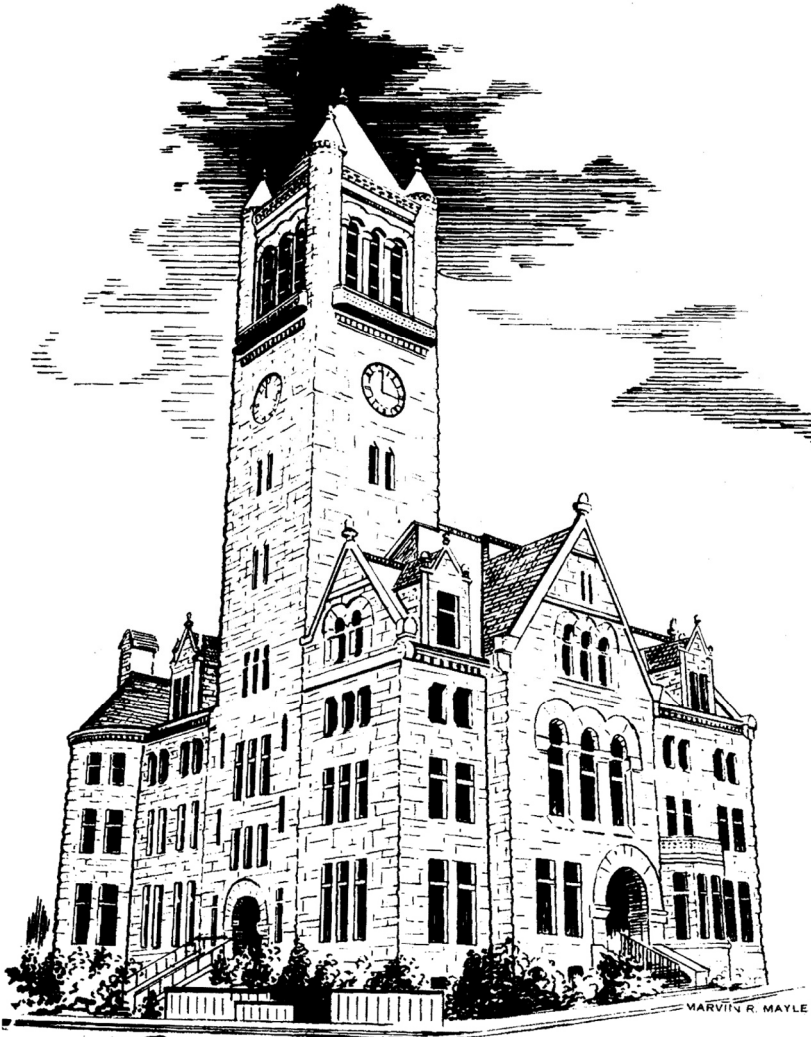


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ESTATE NOTICES

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

DORETTA F. BROWN, late of Saltlick Township, Fayette County, PA ⁽³⁾

Personal Representative:

Gregory Ray Brown
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

ROBERT J. DIBIASE, a/k/a ROBERT JAMES DIBIASE, late of Springfield Township, Fayette County, PA ⁽³⁾

Executor: James C. DiBiase
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

RONALD GALLO, a/k/a RONALD LEO GALLO, late of Connellsville, Fayette County, PA ⁽³⁾

Administratrix: Cindy Lou Gallo
102 Eighty Acres Road
Dunbar, PA 15431
c/o Earhart Law Office, PC
4312 Old William Penn Highway
Murrysville, PA 15668
Attorney: Thomas Earhart

ADRIENNE SUE ROBINSON, a/k/a ADRIENNE S. ROBINSON, late of Springhill Township, Fayette County, PA ⁽³⁾

Executor: William M. Uhler
590 Fallen Timbers Road
Point Marion, PA 15474
c/o 76 East Main Street
Uniontown, PA 15401
Attorney: Douglas S. Sholtis

Second Publication

JOSEPH ANTOON, late of North Union Township, Fayette County, PA ⁽²⁾

Executrix: Barbara Antoon
c/o John and John
96 East Main Street
Uniontown, PA 15401
Attorney: Simon B. John

EVELYN M. CLAYCOMB, late of Lower Tyrone Township, Fayette County, PA ⁽²⁾

Personal Representative:
Donald E. Claycomb
c/o Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

WILLIAM F. HOGAN, a/k/a WILLIAM F. HOGAN, JR., late of Bullskin Township, Fayette County, PA ⁽²⁾

Co-Executors: Amy Marie Booher Sage and Ronald A. Hogan
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

ROBIN E. LEE, a/k/a ROBIN ELLEN LEE, late of Smithfield, Fayette County, PA ⁽²⁾

Personal Representative: Joshua K. Shaffer
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

HARRY WILLIAM MCFERN, SR., a/k/a HARRY MCFERN, late of Upper Tyrone Township, Fayette County, PA ⁽²⁾

Personal Representative:
Harry William McFern, Jr.
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

NAOMI L. MYERS, late of North Union Township, Fayette County, PA ⁽²⁾

Personal Representative: Patti Jo Gorman
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham

MABEL BERTHA TURNER RIDLEY, late of Lemont Furnace, Fayette County, PA (2)

Executrix: Joyce Johnson Chapman
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

WALTER J. SCHELLER, JR., late of Connellsville, Fayette County, PA (2)

Executor: Walter J. Scheller, III
2083 Blairmont Drive
Pittsburgh, PA 15241
c/o Family Legal Center, LLC
4372 Old William Penn Highway
Monroeville, PA 15146
Attorney: Laura Cohen

JACKIE G. SHRUM, late of Perry Township, Fayette County, PA (2)

Administratrix: Robin A. Royer
164 Rock Pool Road
Acme, PA 15610
c/o Pribanic & Pribanic, LLC
1735 Lincoln Way
White Oak, PA 15131
Attorney: Matthew R. Doebler

CARL E. SLEASMAN, late of Saltlick Township, Fayette County, PA (2)

Personal Representative:
Brent C. Sleasman
311 East McPherson Avenue
Findlay, Ohio 45840
c/o Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

MARTHA LYNN THOMAS SMITH, a/k/a MARTHA T. SMITH, a/k/a MARTHA THOMAS SMITH, late of Perry Township, Fayette County, PA (2)

Administratrix: Merritt R. Stefancik
c/o Zebley Mehalov & White, P.C.
18 Mill Street Square
P.O. Box 2123
Uniontown, PA 15401
Attorney: Mark M. Mehalov

DIRK W. VANSICKLE, late of Uniontown, Fayette County, PA (2)

Co-Administrators: Logan VanSickle and Shelby VanSickle
c/o 39 Francis Street
Uniontown, PA 15401
Attorney: Jack R. Heneks, Jr.

NORMA R. WILLIAMS, a/k/a NORMA RUTH WILLIAMS, late of Springfield Township, Fayette County, PA (2)

Co-Administrators CTA: John W. Cole, Jr. and Emma D. Cole
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

ROBERTA B. WILSON, late of North Union Township, Fayette County, PA (2)

Executrix: Donna L. Wilson
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham

MICHAEL J. YATSKO, late of South Connellsville, Fayette County, PA (2)

Personal Representative: Jordan Yatsko
160 South Hanover Street, Apt. 2
Carlisle, PA 17013
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

First Publication

RONALD ALONZO, late of Jefferson Township, Fayette County, PA (1)

Administratrix: Gloria A. Alonzo
344 Lenity School Road
Rostraver Two, PA 15012
c/o 1747 Rostraver Road
Belle Vernon, PA 15012
Attorney: Megan Kerns

PATRICIA BELL, a/k/a PATRICIA L. BELL, late of Washington Township, Fayette County, PA (1)

Executrix: Jennifer Metikosh
254 Chickee Lane
Rostraver Township, PA 15012
c/o France, Lint & Associates, P.C.

308 Fallowfield Avenue
Charleroi, PA 15022
Attorney: David N. Lint

c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

LOLA M. CHESS, late of Uniontown, Fayette County, PA (1)

Personal Representative: Wayne E. Chess
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

MILDRED L. WOOD, a/k/a MILDRED LORRAINE WOOD, late of North Union Township, Fayette County, PA (1)

Personal Representative: Janet Paull and Ruth Bookshar
c/o George & George
92 East Main Street
Uniontown, PA 15401
Attorney: Joseph M. George

MARY LOUISE EZZI, a/k/a MARY EZZI, late of Uniontown, Fayette County, PA (1)

Administrator: Peter Ezzi
c/o 39 Francis Street
Uniontown, PA 15401
Attorney: Jack R. Heneks, Jr.

KATHLEEN J. ZAPOTOSKY, a/k/a KATHLEEN J. ZAPOTOSKY, late of Lemont Furnace, Fayette County, PA (1)

Executor: Lois R. Frazee
c/o P.O. Box 727
Uniontown, PA 15401
Attorney: Bernadette K. Tummons

GEORGE M. FINCIK, a/k/a GEORGE MICHAEL FINCIK, SR., late of Jefferson Township, Fayette County, PA (1)

Executrix: Linda D. Witouski
239 Fayette City Road
Perryopolis, PA 15473
c/o Bassi, Vreeland & Associates, P.C.
P.O. Box 144
111 Fallowfield Avenue
Charleroi, PA 15022
Attorney: Bradley M. Bassi

LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
No. 1295 OF 2021, G.D.

CYNTHIA D. LEECH, late of Springhill Township, Fayette County, PA (1)

Executor: W. Bradley Leech
c/o DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

ALLEN M. WOOTEN and REBECCA WOOTEN, his wife
Plaintiffs,
vs.

ELLIOTT CHRISTOPHER, his heirs and assigns, generally JEANNETTE CHRISTOPHER, A/K/A JEANNETTE BLANEY CHRISTOPHER, her heirs and assigns, generally, MAE THOMAS, her unknown spouse, heirs and assigns, generally, DORIS W. HELMICK, her heirs and assigns, generally, ROBERT E. HUHNS, his heirs and assigns, generally, SHARON SUGAMOSTO, her unknown spouse, and her heirs and assigns, generally, DONNA FRANZ, her unknown spouse, and her heirs and assigns, generally
Defendants.

FRANK PAVLOVICH, a/k/a FRANK E. PAVLOVICH, late of German Township, Fayette County, PA (1)

Personal Representative:
Herbert G. Mitchell, Jr.
c/o 902 First Street
P.O. Box 310
Hiller, PA 15444
Attorney: Herbert Mitchell, Jr.

TO: DORIS W. HELMICK, her heirs and assigns, generally, SHARON SUGAMOSTO, her unknown spouse, her heirs and assigns, generally, and DONNA FRANZ, her unknown spouse, her heirs and assigns, generally.

SCOTT MICHAEL SHALLENBERGER, late of Vanderbilt Borough, Fayette County, PA

Personal Representative: Sara K. Hillen (1)

You are hereby notified that ALLEN M. WOOTEN and REBECCA WOOTEN, his wife have filed a complaint at the above number and term in the above mentioned court in an action to quiet title where it is alleged that Allen M. Wooten and Rebecca Wooten, his wife are the owners in fee and in possession of all rights, title and interest in and to in that certain tract of land situate the Borough of Masontown, Fayette County, Pennsylvania, being part of Tax Map umber 21-02-0031 and further identified as the Western half of Lot 76 in the Elliot Christopher Plan of Lots, a plot of which is recorded in the Recorder of Deeds, Fayette County, Pennsylvania at Plan Book Volume 9 Page 14.

Said complaint sets forth that plaintiffs, Allen M. Wooten and Rebecca Wooten, his wife, 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 said premises.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PENNSYLVANIA LAWYER
REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 South Street
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

By G.T. George, Esquire
George & George
92 East Main Street
Uniontown, PA 15401
724-438-2544

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
NO. 41 ADOPT 2021

IN RE: ADOPTION OF
GAVIN ORTZ

NOTICE

TO: Unknown Father

A petition has been filed asking the Court to put an end to all rights you have to your child, Gavin Ortiz. The court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. 3 of the Fayette County Courthouse, Uniontown, Fayette County, Pennsylvania, on Tuesday, September 21, 2021 at 9:00 a.m. You are warned that even if you fail to appear at the scheduled hearing the hearing will go on without you and your rights to your child may be ended by the court without your being there.

YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PENNSYLVANIA LAWYER
REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
PO BOX 186
HARRISBURG, PA 17108
(800) 692-7375

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
NO. 42 ADOPT 2021

IN RE: ADOPTION OF
KYLE HUNT

NOTICE

TO: Unknown Father

A petition has been filed asking the Court to put an end to all rights you have to your child, Kyle Hunt. The court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. 4 of the Fayette County Courthouse, Uniontown, Fayette County, Pennsylvania, on Thursday, September 30, 2021 at 1:30 p.m.. You are warned that even if you fail to appear at the scheduled hearing the hearing will go on without you and your rights to your child may be ended by the court without your being there.

YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PENNSYLVANIA LAWYER
REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
PO BOX 186
HARRISBURG, PA 17108
(800) 692-7375

PUBLIC NOTICE

IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY,
PENNSYLVANIA

ORPHANS' COURT DIVISION

IN RE: SOFIA RUTH DAVIS a/k/a
SOFIA DAVIS

D.O.B. 10/04/2010

CHILD OF: LAUREN LINT A/K/A
LAUREN NICOLE LINT A/K/A LAUREN
N. LINT A/K/A LAURA R. LINT A/K/A
LAUREN LITN A/K/A LAURA N. LINT and
ANY UNKNOWN FATHER

NO: 63-21-0846

Take notice that a Petition for Involuntary Termination of Parental Rights of Lauren Lint a/k/a Lauren Nicole Lint a/k/a Lauren N. Lint a/k/a Laura R. Lint a/k/a Lauren Litn a/k/a Laura N. Lint and any Unknown Father, mother and father of Sofia Ruth Davis a/k/a Sofia Davis, will be presented to the Orphans' Court of Washington County, Pennsylvania. Any person wishing to assert his/her parental rights should appear in Courtroom No. 7 of the Washington County Courthouse, Washington, Pennsylvania, for a hearing as to the same on September 23, 2021 at 1:00 p.m.

You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present.

You have the right to be represented at the hearing by an attorney. You should take this notice to your attorney at once. If you do not have an attorney or cannot afford representation, contact the Southwestern Pennsylvania Legal Aid Society, 10 West Cherry Avenue, Washington, Pennsylvania, 15301, (724) 225-6170, to find out where you can obtain legal help.

Justin Faloshey, Caseworker
Washington County Children & Youth
Social Service Agency
100 West Beau Street
502 Courthouse Square
Washington, PA 15301
Telephone: (724) 228-6884

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, September 7, 2021, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2619-0376	JOSEPH EDWARD BOLLIBON SR. a/k/a JOSEPH E. BOLLIBON	Joseph E. Bollibon, Jr., ADMR
2619-0736	BENJAMIN J. HAILE	Robin R. O'Neil, Executrix
2620-0448	HAROLD R. KING, SR.	Ashley Dawn Ghrist, Executrix

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

Monday, September 20, 2021, at 9:30 A.M.

in Courtroom No. 1 of the **Honorable Steve P. Leskinen** or his chambers, 2nd 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 also 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, September 7, 2021, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2619-0823	THOMAS D. SCHOMER	Mary E. Shugarts, Executrix

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

Monday, September 20, 2021, at 9:30 A.M.

in Courtroom No. 5 of the **Honorable Joseph M. George, Jr.** or his chambers, 3rd 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.

JUDICIAL OPINION

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

Commonwealth of Pennsylvania, :
 :
 v. :
 :
 Dana M. Burk, :
 Defendant. : No. 1675 of 2020

OPINION AND ORDER

Cordaro, J.

June 15, 2021

SUMMARY

As a result of a stop of a vehicle in which Defendant was a passenger, Defendant was charged with Possession of a Controlled Substance with Intent to Deliver and other related crimes. Currently before the Court is Defendant's Omnibus Pretrial Motion, which challenges the legality of the stop and the subsequent interrogation of Defendant. This Court held a Hearing on the Motion on February 25, 2021. No testimony was presented at the Hearing; rather, the parties submitted video evidence of the stop and interrogation at the Hearing for this Court to review and were allowed time after the Hearing to submit memorandums in support of their respective arguments. After reviewing the evidence presented and the relevant caselaw on the matter, Defendant's Omnibus Pretrial Motion is granted.

BACKGROUND

The relevant facts of this case as set forth in the Affidavit of Probable Cause are as follows:

On 07/12/2019, at approximately 1417 hours, I [Trooper Kezmarsky] was in full uniform operating unmarked Pennsylvania State Police Unit Bo4-29. I was traveling south bound on 43 at mile marker 17.2 when I observed a white Mitsubishi four door PA registration KRP-8319 traveling at a high rate of speed. I paced the vehicle until mile marker 15-4. The vehicle was traveling 80 mph in a posted 70 mph zone. I activated my emergency equipment and conducted a traffic stop at the off ramp of 43 exit 15. As I approached on the driver side, I contacted [Driver], he indicated that his operating license was suspended (later it was confirmed [Driver's] operating license was suspended DUI related). I then identified the passenger, [Defendant]. Both parties displayed signs of nervousness throughout the traffic stop even after I told the driver I was going to give him a warning. I asked [Driver] to exit the vehicle and speak with me in front of my unit. I asked [Driver] if there was anything illegal in the vehicle and if the vehicle was his, he stated "No, its hers", then stated

both of theirs. I asked [Driver] if I could search the vehicle, he told me to ask [Defendant]. I asked [Defendant], if the car was hers, she stated "Both of ours". I asked if I could search the vehicle [Defendant] stated "Umm, I don't care". As she exited the vehicle, she had a handbag in her possession. I asked if it was okay if I search her bag and she stated "Yeah". Located inside of her handbag was a black zipper bag that had a lock on it. I asked [Defendant] what was inside she stated, "My Methadone". After I asked for her prescription, she changed her statement and stated that there was not any Methadone inside of the bag.

[Defendant] could not provide a prescription for the controlled substance. [Defendant] was not willing to open the bag. I told [Defendant] that the bag was containing heroin and a large amount of money later to be counted (\$1,040 USC), as I could feel it when I pulled it out of her handbag.

[Driver] and [Defendant] were taken back to PSP Uniontown and the vehicle was towed to PSP Uniontown. All evidence was transported back to PSP Uniontown.

...

(Affidavit of Probable Cause, 4/14/20, at 1-2). Driver and Defendant were taken back to PSP Uniontown where they were interrogated separately. As a result of the statements made by Driver and Defendant, as well as evidence found with Defendant, the Commonwealth subsequently charged the Driver of the vehicle with traffic and drug offenses, and Defendant with drug offenses.

Defendant filed an Omnibus Pretrial Motion on February 5, 2021. Driver, who retained separate counsel, also filed an Omnibus Pretrial Motion raising similar challenges. A Hearing on both Omnibus Pretrial Motions was held on February 25, 2021.

This Court reviewed the MVR of the traffic stop, which was submitted into evidence by agreement of all parties at the Hearing. The events in Trooper Kezmarsky's Affidavit of Probable Cause are accurate. However, this Court notes that Trooper Kezmarsky also told the Driver not once, not twice, but three times that the Trooper was only going to issue a warning and let him go before the Trooper asked the Driver whether he could search his vehicle. The arresting troopers in the MVR also made it clear that the continued detention of the Driver and Defendant after the initiation of the stop was because the Driver seemed excessively nervous. Additionally, Defendant was very apprehensive when the troopers asked to search the vehicle.

DISCUSSION

Defendant's Omnibus Pretrial Motion challenges the legality of aspects of the stop of the vehicle and the subsequent interrogation. This Court finds that aspects of the stop were unconstitutional and that any evidence produced thereafter shall be suppressed. As such, this Court declines to review any issues related to the interrogation of Defendant.

The Fourth Amendment to the United States Constitution as well as Article 1, Section 8 of the Pennsylvania Constitution guarantee the right of The People to be free from unreasonable searches and seizures, and that no warrant shall issue except upon

probable cause. The protection provided by Article 1, Section 8 of the Pennsylvania Constitution "extends to areas where an individual has a reasonable expectation of privacy." *Commonwealth v. Shaw*, 770 A.2d 295, 299 (Pa. 2001). A search conducted without a warrant is presumed to be unreasonable-and thus unconstitutional-unless an established exception applies. *Commonwealth v. Strickler*, 757 A.2d 884, 888 (Pa. 2000). Unreasonable searches and seizures include those "entailing only a brief detention." *Id.*

Law enforcement officers may stop a vehicle if they believe that a provision of the Motor Vehicle Code is being violated. *Commonwealth v. Pless*, 679 A.2d 232,233 (Pa. Super. Ct. 1996) (citing *Commonwealth v. DeWitt*, 608 A.2d 1030, 1032 (Pa. 1992)). Here, Trooper Kezmarsky pulled the Driver of the vehicle over for allegedly driving 80 mph in a 70-mph zone. Trooper Kezmarsky's stop of the vehicle was therefore constitutional.

Incident to a stop, officers "may check the vehicle's registration and the driver's license and issue a citation." *Pless* at 233 (citing *Commonwealth v. Talley*, 634 A.2d 640, 643 (Pa. Super. Ct. 1993)). However, "[a]fter producing a valid driver's license and vehicle registration, the driver must be allowed to proceed without further delay by the police, unless the police have 'reasonable grounds to suspect an illegal transaction in drugs or other serious crime[s].'" *Pless* at 233 (citing *Commonwealth v. Lopez*, 609 A.2d 177, 182 (Pa. Super. Ct. 1992)).

Beyond the initial traffic stop, a law enforcement officer may detain an individual in order to conduct an investigation if the officer reasonably suspects that the individual is engaging in criminal conduct. *Commonwealth v. Kemp*, 961 A.2d 1247, 1255 (Pa. Super. Ct. 2008) (citing *Commonwealth v. Rogers*, 849 A.2d 1185, 1189 (Pa. 2004) (internal citation omitted)). The reasonable suspicion standard is less stringent than probable cause. *Id.* In order to determine whether an officer had reasonable suspicion, the totality of the circumstances must be considered. *Id.* This is to determine whether the officer who initiated the stop had a "particularized and objective basis" for suspecting the individual stopped. *Commonwealth v. Reppert*, 814 A.2d 1196, 1203-04 (Pa. Super. Ct. 2002) (internal citations omitted). To establish grounds for reasonable suspicion, the officer must articulate specific observations that, in conjunction with reasonable inferences derived from those observations, led the officer to reasonably conclude, in light of the officer's experience, that criminal activity was afoot and the person stopped was involved in that activity. *Reppert* at 1204 (citing *Commonwealth v. Cook*, 735 A.2d 673, 677 (Pa. 1999)).

"[T]he fundamental inquiry of a reviewing court must be an objective one, namely, whether the facts available to the officer at the moment of the intrusion warrant a [person] of reasonable caution in the belief that the action taken was appropriate." *Reppert* at 1204 (internal citations, quotes, and brackets omitted). Another role of the suppression court is to determine at which point an officer's interaction with a driver become a seizure. See *Reppert* at 1204 ("We conclude, initially, that the [suppression] court failed to recognize the point at which [the officer's] interaction with [the driver] became a seizure...").

In *Reppert*, *supra*, an officer pulled a vehicle over for expired inspection and regis-

tration stickers. Reppert at 1199. The driver told the officer that he had been stopped for that same reason three days prior, and that the other officer had given him five days in which to have the car inspected. Id. The officer accepted the explanation without issuing a citation. Id. The officer then observed a passenger in the backseat who appeared nervous and who had been moving his head and shoulder prior to the stop. Id. Based on those reasons, he ordered the passenger out of the vehicle and eventually found drugs on his person. Id.

The Superior Court in Reppert held that the officer did not have reasonable suspicion to search the passenger based on furtive head and shoulder movements or based on his nervous appearance, stating that "[o]ur courts have determined, on several occasions, that... excessive nervousness [does not] provide a sufficient basis upon which to conduct an investigatory detention." Id. at 1205.

Similarly, in *Commonwealth v. Sierra*, the Pennsylvania Supreme Court held that excessive nervousness could not be used to demonstrate, or even suggest, illegal activity. *Commonwealth v. Sierra*, 723 A.2d 644,647 (Pa. 1999). Likewise, the Pennsylvania Superior Court recently affirmed that "absent more, a police officer's assessment that the occupants of a vehicle appear nervous does not provide reasonable suspicion for an investigatory detention." *Commonwealth v. Mattis*, --- A.3d ---, 2021 WL 1707124 at *3 (Pa. Super. Ct. Apr. 30, 2021).

There are several cases where the appellate courts have held that nervousness was a contributing factor to reasonable suspicion. See, i.e., *Commonwealth v. Kemp*, 961 A.2d 1247, 1254 (Pa. Super. Ct. 2008); *Commonwealth v. Rogers*, 849 A.2d 1185, 1190 (Pa. 2004). However, in those cases there were other factors besides just nervousness. In *Kemp*, when the trooper approached the vehicle, he was overpowered by the scent of air fresheners. *Kemp* at 1254. That trooper testified that based on his training and experience, air fresheners were being utilized as a masking agent to obscure the odor of drugs. Id. The trooper also testified that the driver was operating a third-party vehicle, and was unable to name the owner. Id. Additionally, the trooper detected an odor of raw marijuana. Id.

In *Rogers*, the driver was nervous and had a prior drug conviction, but also provided the officer with incomplete documents, had an opened box of laundry detergent on the backseat, and was unable to provide the officer with details of his travel plans. *Rogers* at 1187-88. In both *Kemp* and *Rogers*, nervousness was only one of several factors wherein the courts held that the officers had reasonable suspicion to continue their investigations.

Here, Trooper Kezmarsky stopped the vehicle for because the Driver was speeding. Incident to the stop, Trooper Kezmarsky asked the Driver to produce his driver's license and vehicle registration. Although the Driver's driver's license was suspended, Trooper Kezmarsky told the Driver three times that he was going to let him go with a warning. Rather than letting the Driver go, however, Trooper Kezmarsky continued the detention of the driver by asking him to get out of his car and questioning him about his travels. This eventually led to the troopers asking the Driver and Defendant whether they would consent to a search of the vehicle. Trooper Kezmarsky cited excessive nervousness as the reason for doing so.

At the point when Trooper Kezmarsky asked the Driver to step out of the vehicle, the purpose for the Trooper's initial stop-which was based on a speeding violation- had already ceased. Trooper Kezmarsky needed reasonable suspicion that the Driver was engaged in criminal activity to continue to detain the Driver and Defendant after that point. Trooper Kezmarsky only cited that the Driver was excessively nervous to explain his continued detention of the Driver. In accordance with the cases from the higher courts cited supra, excessive nervousness alone is insufficient to continue an investigatory detention of a driver. The subsequent investigation of the Driver and Defendant was therefore unconstitutional, and all evidence produced as a result of such investigation must be suppressed. {1}

CONCLUSION

For the foregoing reasons, this Court finds that the evidence obtained as a result of an unconstitutional detention of the Driver and Defendant during the traffic stop shall be suppressed. Further, Counts 1 through 4 shall be dismissed.

ORDER

AND NOW, this 15th day of June, 2021, in consideration of Defendant's Omnibus Pretrial Motion and after a Hearing on the matter, it is ORDERED and DIRECTED that the Motion is GRANTED. For further details, see this Court's accompanying Opinion. Any evidence collected as a result of the stop shall be suppressed, and Counts 1-4 shall be dismissed.

BY THE COURT:
Linda R. Cordaro, Judge

ATTEST:
Clerk of Courts

{1} This Court notes that Defendant has standing to challenge the constitutionality of the stop of the Driver, which subsequently led to the troopers discovering incriminating evidence on Defendant. See, *Commw. v. Shebazz*, 166 A.3d 278,287 (Pa. 2017) ("[With respect to passengers,] evidence derived from an illegal automobile search constitutes fruit of the poisonous tree as a result of the illegal seizure (unless the taint is removed), and [] no further demonstration of a privacy interest in the area from which the evidence was seized is required by the Fourth Amendment [to the United States Constitution].")

FCBA BENCH BAR CONFERENCE

Save the Date

FCBA Bench Bar Conference will be held on

Wednesday, October 13th from
8:30 a.m. to 1:00 p.m. at

The Historic Summit Inn

Agenda to follow

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