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NORTHUMBERLAND LEGAL JOURNAL
COMMONWEALTH OF PENNSYLVANIA V.
JOHN E. KURTZ

IN THE COURT OF COMMON PLEAS OF
NORTHUMBERLAND COUNTY,
PENNSYLVANIA
CRIMINAL DIVISION - LAW
NO. CP-49-CV-2018-45; 2018-1236; 2018-1479
COMMONWEALTH OF PENNSYLVANIA,
Plaintiff

V.

JOHN E. KURTZ,
Defendant

CRIMINAL LAW - Rape - Sexual Assault - Kidnapping - Search Warrant
Google and Facebook - Internet Provider Address - DNA Analysis - Post-Sentence Motion from Judgment of Sentence - Standard Range Sentence - Joinder of Cases - *Modus Operandi* - Probable Cause - Wiretap Act - Admission of Defendant's Statements

1. When the trial court imposes a sentence within the standard range that is proportional to the gravity of the offense after reviewing a pre-sentence investigation, it will be deemed a proper sentence.
2. When a defendant commits a series of acts that are related as to *Modus Operandi*, the court will find that joinder is proper and does not violate due process rights.
3. The court will find that probable cause existed to issue an internet search warrant when it is reasonably believed that an individual is using the internet to "facilitate the planning and commission of the crime."
4. When an individual uses Google to search, they waive certain privacy rights as the privacy policy for Google states they will share information with other "users or the public as required or permitted by law."
5. The court will find that cell tower records from a tower dump are not in violation of the Wiretap Act, because a tower dump does not focus on a single individual and when there is no tracking of an individual's movement.
6. When a defendant after being given Miranda warnings knowingly, voluntarily and intelligently waives those rights and speaks with the police, their statements may be properly admitted into the trial court.

Julia Skinner, ADA, Attorney For Commonwealth;

Michael Suders, Attorney for Defendant

Honorable Charles H. Saylor, President Judge, May 17, 2021.

IN THE COURT OF COMMON PLEAS OF
NORTHUMBERLAND COUNTY,
PENNSYLVANIA
CIVIL DIVISION

NO.CR-45-2018; CR-1479-2018; CR-1236-2018

COMMONWEALTH OF PENNSYLVANIA

V.

John E. Kurtz,
Defendant

OPINION

Saylor, P.J.

No one in the community would have suspected that a corrections officer at SCI-Coal Township, married with children, a veteran, and otherwise a respectable citizen, was actually living the heinous double life of a serial rapist.

K.M. in July 2016, bid goodbye to her husband, who went to work a late shift at SCICoal Township, fell asleep and then was woken up by their dogs barking for a second time. Suddenly, the defendant jumped out at her from an empty bedroom. He tied her hands behind her back, with zip ties, blindfolded her, placed a gag in her mouth, and punched her. She was placed in fear of her life. He dragged her outside, through her yard, and placed her in a vehicle. She was put in the back seat in her vehicle, covered over with a blanket. She could tell he was smoking with a window down, even though she remained bound, gagged and blindfolded the entire time.

The defendant took his victim to a camper. Once there, he raped her both vaginally and anally.

When the defendant was finished with sexually assaulting her, he drove her to a remote location; a corn field, and ordered her out of the vehicle and to not look back. She made her way to a residence where the owners found her, distraught, wrists cut and bloody, bruises on her back. She told them she was raped.

She was seen at Evangelical Hospital in Lewisburg. The nurse was trained to assist sexual assault victims. There were multiple injuries found connected with a brutal sexual assault. Sperm was detected in the anus, sent to the lab, and the DNA was entered into the state wide data base.

There was previously another victim. On November 19, 2012, D.S. was at her residence, when at 5:30 a.m., she was attacked, hands tied with zip-ties, blindfolded, and gagged with a ball. She was fortunate that the attacker, who she could not identify, decided not to sexually assault her. The ball and cord, and cuttings of the blindfold were swabbed for DNA evidence.

There was a subsequent victim. On April 23, 2017, H.S. was asleep when at 2:00 a.m., somebody jumped on her back, zip-tied her hands behind her,

blindfolded and gagged her, wrapped a sheet around her, and carried her out to a vehicle. She was placed in the back, and as they travelled she believes he smoked several cigarettes. She was carried inside some type of structure where he raped her.

H.S. was also examined at Evangelical Hospital at 8:30 a.m., with findings of a vaginal assault.

During the investigation of the crimes, it was believed that the rapist utilized the internet to plan his attacks. The troopers had a reasonable basis to believe that a search of IP addresses related to internet queries of the victim's name and her address would yield evidence. Troopers applied for a Google Warrant that focused on a specific time frame and specific terms to ensure only a small amount of evidence that was relevant to the incident would be recovered. A Google Warrant and Facebook Search Warrant were issued on September 14, 2016 to find the rapist. The Google Report of November 29, 2017 identified an IP address of 50.29.232.179 as having searched the address four hours before the assault of K.M. took place on July 20, 2016. Through the American Registry of Internet Numbers, PenTeledata identified the customer for the IP address as John E. Kurtz. The defendant was placed under surveillance on December 15, 2017, whereon the Pennsylvania State Police (PSP) collected the defendant's discarded cigarette butts. On December 16, 2017, the PSP submitted the collected cigarette butts for DNA analysis. On December 17, 2017, the DNA analysis of the cigarette butt of defendant matched the DNA profile for the male who assaulted K.M.

On December 18, 2018, the defendant was arrested and confessed to the attempted kidnapping of D.S., A.H. and T.S.; and the kidnapping and rape of K.M. and H.Z. That same day, the defendant led the PSP to the residences of D.S., A.H., and T.S.; and the campsite where K.M. was raped. On February 21, 2018, the DNA profile from the defendant matched the DNA profile for the D.S. investigation. On February 26, 2018, the DNA profile from the defendant matched the DNA profile for the H.S. investigation.

The defendant was charged in docket numbers CR-2018-45, CR-2018-1236, and CR-2018-14 79 for multiple offenses including kidnapping, attempted kidnapping, and rape.

On October 14, 2020, the defendant was found guilty on 43 counts including kidnapping, attempted kidnapping, and rape. On March 2, 2021, the defendant was sentenced to 59 to 280 years in prison. The defendant filed a Post-Sentence Motion from Judgment of Sentence on March 26, 2021 and the Commonwealth filed a Brief in Response to Defendant's Post-Sentence Motion thereafter.

The issues raised are addressed as follows:

1. The sentences imposed by the Court were proper; in particular, each was within the standard range for such offense. Further, this Court reviewed the pre-sentence investigation, considered the defendant's argument, and imposed sentences that were proportional for the gravity of the

defendant's offenses. Commonwealth v. Baker, 78 A.3d 1044 (Pa. 2013).

2. Joinder of the cases was proper and did not violate due process. See Commonwealth v. Robinson, 864 A.2d 460,481 (2004); Pa.R.Crim.P. 582. Clearly, there had been a series of acts that were related as far as modus operandi in that in each case the defendant bound the victims' hands with zip-ties, blind folded, and gagged them.
3. Probable cause existed to issue the warrant that was served on Google, the defendant did not have an expectation of privacy in the information provided by Google, and the Google results were properly admitted and destruction of the hash value was not done in bad faith:
 - a. Probable cause existed to issue the Google search warrant. The investigation revealed that the actor stalked the victim prior to the incident and the crime was planned. Due to the location of the residence, the drop off location, and the victim's schedule, it was believed that the actor used the internet to facilitate the planning and commission of the crime;
 - b. The defendant was on notice that data, such as search queries and IP addresses, shared with Google are not private. Further, the Google Privacy Policy States, "[w]e will share personal information ... if ... reasonably necessary to protect against harm to the rights, property or safety of Google, our users or the public as required or permitted by law." By using Google, the defendant agreed to have his information, specifically search queries and IP address, retained by the site. Once the defendant's search query was received by Google, he relinquished any expectation of privacy in the query as well as his IP address. The defendant was on notice that data shared with Google is not private. The IP address is readily transmitted whenever a website is visited and is even transmitted between websites;
 - c. None of the facts presented give rise to the notion that the .csv file was converted in bad faith by PSP. The PSP testimony was credible as to how the file was converted from a .csv file to an .xlxs file. The file was saved under the wrong format by a Trooper and subsequently converted as a result. Further, the .csv sought to be examined by defendant was only "potentially useful" rather than "materially exculpatory" evidence; thus, the file is only subject to suppression if the Commonwealth acted in bad faith; and here, it did not.
4. The cell tower records were properly admitted and were not in violation of the Wiretap Act. in that a tower dump greatly differs from cell site location information. A tower dump does not focus on a single target but all subscribers that utilized the tower in a specific time span. The defendant's reliance on Commonwealth v. Pacheco, 227 A.3d 358 (Pa. Super 2020) and United States v. Carpenter, 138 S.Ct. 2206 (2018), is misplaced. The Troopers obtained a com1 order for a tower dump near

the location of one of the incidents. Troopers were not attempting to track movement but to ascertain the identity individuals utilizing the tower near the location of the crime near the time of the crime.

5. The defendant's statements to police were properly admitted and were not coerced. After being provided Miranda warnings, the defendant knowingly, intelligently, and voluntarily waived those rights and agreed to speak with Troopers. After being taken into custody at the Milton Barracks of PSP, the defendant was placed in the interview room that was audio and visually recorded. The defendant was advised of his Miranda rights and agreed to speak with Troopers. During the interview, the defendant not only admitted to the rapes here, but voluntarily provided information about crimes that the Troopers were not aware of. Moreover, he took them to the locations of the various crime scenes.¹

¹ Further, the defendant attended college, was in the military, and was working as a prison guard. It is reasonable to conclude that the defendant had more knowledge about his rights and the legal system than the average individual.

ORDER

AND NOW, this 17th day of May, 2021, upon due consideration, the defendant's Post-Sentence Motion is hereby DENIED.

Pursuant to Pa.R.Crim.P. 702(4), defendant is hereby notified of his right to appeal within 30 days of the entry of this order this same date above. You will have the assistance of your attorney, Michael Suders, Esq., in the preparation of any appeal, and the right to proceed in *Jonna pauperis*. Bail status i:emains unchanged.

BY THE COURT:

Hon. Charles H. Saylor, President Judge

CASES
STATUTES

— : —

ALWAYS UP TO DATE
EXECUTORS' AND
ADMINISTRATORS' NOTICE

Notice is hereby given that letters testamentary or administration have been granted in the following estates in the County of Northumberland and Commonwealth of Pennsylvania. All persons indebted to said estates are requested to make immediate payment and those having claims or demands will present them without delay to the respective executors or administrators or to their attorneys.

ESTATE NOTICES

In Re: Estate of Rozella G. Follmer, late of the Borough of Milton, Northumberland County, Pennsylvania, deceased. Harvey C. Follmer, III, 697 Murray Run Road, Trout Run, Pennsylvania, 17771, Executor, or Preston L. Davis, Esq., DAVIS, DAVIS & KAAR, 37 Arch Street, P.O. Box 319, Milton, Pennsylvania, 17847, Attorney.#22-24

In Re: Estate of Sharon S. Bollinger, late of the 55 S. Tenth Street, Sunbury, Northumberland County, Pennsylvania, deceased. Carla A. Bachinger, Administratrix, c/o Alvin J. Luschas, Esq., LUSCHAS, NAPARSTECK & CRANE, LLP, 120 W. Main Street, Bloomsburg, Pennsylvania, 17815, Attorney.#22-24

In Re: Estate of Carl E. Chamberlain, a/k/a Carl Eugene Chamberlain, late of the Township of Point, Northumberland County, Pennsylvania, deceased. The Northumberland National Bank, Wealth Management & Trust Division, 245 Front Street, P.O. Box 271, Northumberland, Pennsylvania, 17857, Executor or Antonio D. Michetti, J.D., DIEHL, DLUGE, MICHETTI & MICHETTI, 1070 Market Street, Sunbury, Pennsylvania, 17801, Attorney. #22-24

In Re: Estate of John W. Shaffer, late of the Township of Lower Mahanoy, Northumberland County, Pennsylvania, deceased. Cindy L. Wetzel, 2506 Mountain Road, Dalmatia, Pennsylvania, 17017, Executrix. Robert J. Muoio, Esq., WIEST, MUOLO, NOON, SWINEHART & BATHGATE, 240-246 Market Street, P.O. Box 791, Sunbury, Pennsylvania, 17801, Attorney. #22-24

In Re: Estate of Frances Kerr, late of Danville, Northumberland County, Pennsylvania, deceased. Donna Devanney, 2400 Tower Road, Mifflinburg, Pennsylvania, 17844, Executrix. Richard G. Scheib, Esq., 11 Reitz Blvd., Suite 102, Lewisburg, Pennsylvania, 17837, Attorney.#22-24

In Re: Estate of Helen R. Baranoski, late of Shamokin, Northumberland County, Pennsylvania, deceased and Administrators' Notice of the Baranoski Irrevocable Residential and Income Trust, dated September 2, 2013. Gary E. Baranoski, 107 Fish Hatchery Road, Newville, Pennsylvania, 17241 and Jeffrey J. Baranoski, 308 Magnolia Street, Mount Carmel, Pennsylvania, 17851, Trustees. Richard G. Scheib, Esq., 11 Reitz Blvd., Suite 102, Lewisburg, Pennsylvania, 17837, Attorney.#22-24

In Re: Estate of Clara S. Jones, late of the Township of Coal, Northumberland County, Pennsylvania, deceased. Charles A. Jones, 3032 Upper Road, Shamokin, Pennsylvania, 17872, Executor or Schlesinger & Kerstetter, LLP, 545 North Second Street, Shamokin, Pennsylvania, 17872, Attorney. #22-24

In Re: Estate of Emily J. Green, late of Northumberland County, Pennsylvania, deceased. Colleen Carbine, 11309 SW 125th Place, Miami, Florida, 33186; Michelle Strausser, 201 Greco Lane, Wilburton, Pennsylvania, 17888; and Jason Strausser, 201 Greco Lane, Wilburton, Pennsylvania, 17888, Executors or Stephen S. Slaton, Esq., 100 East Seventh Street, Mount Carmel, Pennsylvania, Attorney. #22-24

In Re: Estate of Carol T. Rossi, a/k/a Carol Rossi, late of the Township of Mount Carmel, Northumberland County, Pennsylvania, deceased. Anthony R. Rossi, Administrator, c/o Nicholas T. Gard, Esq., SMOKER GARDASSOCIATESLLP, 121 E. Main Street, New Holland, Pennsylvania 17557, Attorney. #23-25

In Re: Estate of Robert A. Carr, late of Mount Carmel, Northumberland County, Pennsylvania, deceased. Craig Carr, Executor, c/o Garrigan & Targonski, 112 East Independence Street, Shamokin, Pennsylvania, 17872, Attorney. #23-25

In Re: Estate of Helen A. Long, late of Elysburg, Northumberland County, Pennsylvania, deceased. Michelle R. Seger, 17 Andrew Street, Elysburg, Pennsylvania, 17824 or Makowski, Konopka & Marateck, 1750 Clinton Avenue, Coal Township, Pennsylvania, 17866, Attorney. #23-25

In Re: Estate of David J. Shulski, late of the Borough of Marion Heights, Northumberland County, Pennsylvania, deceased. Christopher D. Shulski, 17 Medinah Drive, Reading, Pennsylvania, 19607, Executor or Antonio D. Michetti, Esq., DIEHL, DLUGE, MICHETTI & MICHETTI, 1070 Market Street, Sunbury, Pennsylvania, 17801, Attorney.#23-25

In Re: Estate of Ana Cecilia Cruzado, a/k/a Ana Cecilia Cruzado Mercado, late of the Borough of Milton, Northumberland County, Pennsylvania, deceased. Ileana Cruzado, 751 Mahoning Street, Apt. 16, Milton, Pennsylvania, 17847, Administratrix or Jennifer M. Merx, SKARLATOS ZONARICH LLC, 320 Market Street, Suite 600W, Harrisburg, Pennsylvania, 17101, Attorney. #24-26

In Re: Estate of Charles Douglas Beaver, late of the City of Sunbury, Northumberland County, Pennsylvania, deceased. Donna Durso, 9 North Second Street, Sunbury, Pennsylvania, 17801, Administratrix. Joel M. Wiest, Esq., WIEST, WIEST BENNER & RICE, LLC, 5 North Second Street, Sunbury, Pennsylvania, 17801, Attorney. #24-26

In Re: Estate of Anne Marie Kleman, late of the Township of Mount Carmel, Northumberland County, Pennsylvania, deceased. Robert R. Kleman, 950 Clover Court, Blue Bell, Pennsylvania, 19422; Thomas J. Kleman, 252 Main Street, Locust Gap, Pennsylvania 17840, Co-Executors. Joel M. Wiest, Esq., WIEST, WIEST BENNER & RICE, LLC, 5 North Second Street, Sunbury, Pennsylvania, 17801, Attorney. #24-26

In Re: Estate of Sandra E. Fornwalt, late of the Township of Lewis, Northumberland County, Pennsylvania, deceased. Steven J. Martin, Executor, c/o David F. Wilk, Esq., LEPLEY, ENGELMAN, YAW & SILK, LLC, 140 East Third Street, Williamsport, Pennsylvania, 17701, Attorney. #24-26

NOTICE OF NAME CHANGE

NOTICE IS HEREBY GIVEN that on the 14th day of April, 2021, the Petition for Change of Name, filed by Petitioner Kiera L. Goss was filed in the above named Court, requesting for a decree to change her name to Kiera L. Robbins.

The Court has scheduled a hearing for the 15th day of June, 2021 at 1:15 pm in Courtroom #TBD of the Northumberland County Courthouse, 201 Market Street, Sunbury, PA 17801, as the time and place for the hearing of said Petition, when and where all persons interested may appear and show cause, if any they have, why the request of said Petitioner should not be granted. #24

IN THE COURT OF
COMMON PLEAS OF
NORTHUMBERLAND
COUNTY, PA

CIVIL LAW ACTION
CIVIL DOCKET NO. CV-21-596
IN THE MATTER OF PETITION
FOR CHANGE OF NAME OF
Madison Jordan

NOTICE OF NAME CHANGE
NOTICE IS HEREBY GIVEN that

on the 4th day of June, 2021, the
Petition for Change of Name, filed
by Petitioner, Madison Jordan, was
filed in the above named Court,
requesting for a decree to change
her name to Madison Lahr.

The Court has scheduled a hearing
for the 15th day of June, 2021,
at 1:45 p.m. in Courtroom #TBD
of Northumberland County
Courthouse, 201 Market Street,
Sunbury, PA 17801, as the time
and place for the hearing of said
Petition, when and where all
persons interested may appear and
show cause, if any they have, why
the request of the said Petitioner
should not be granted.

Madison Jordan
Petitioner #24

IN THE COURT OF
COMMON PLEAS OF
NORTHUMBERLAND
COUNTY, PA
CIVIL LAW ACTION
CIVIL DOCKET NO. CV-21-853

IN THE MATTER OF PETITION
FOR CHANGE OF NAME OF
Myeiah Lynn Fite,
A minor child, by and through

Lottie Ann Reiprich,
Natural parent (s) or guardian (s)

NOTICE OF NAME CHANGE

NOTICE IS HEREBY GIVEN that
on the 2nd day of June 2021, the
Petition for Change of Name, filed
by Petitioner, Lottie Ann Reiprich,
was filed in the above named Court,
requesting for a decree to change
the minor's name to Myeiah Lynn
Reiprich.

The Court has scheduled a hearing
for the 11th day of August, 2021,
at 2:00 p.m. in Courtroom #TBD
of Northumberland County
Courthouse, 201 Market Street,
Sunbury, PA 17801, as the time
and place for the hearing of said
Petition, when and where all
persons interested may appear and
show cause, if any they have, why
the request of the said Petitioner
should not be granted.

Lottie Ann Reiprich
Petitioner #24

**SHERIFF'S SALE OF
REAL ESTATE**

By Virtue of Writs of Execution issued out of the Court of Common Pleas of Northumberland County, Civil Division, upon Judgments in Mortgage Foreclosure, to me directed, will be exposed at public sale, on June 17, 2021 at 1:00 P.M., in Courtroom No. 1, at the Northumberland County Court House, 201 Market Street, in the City of Sunbury, County of Northumberland, Commonwealth of Pennsylvania, the following described real estate to wit:

COVID-19 NOTICE: All attendees at the sale shall comply with all court directives regarding social distancing and public health precautions.

Property of Robin J. Marzella, Esquire, as Administratrix of the Estate of Kassie J. Straub, deceased, known as 521 Third Street, Northumberland, PA 17857, Improvements Thereon: a single frame dwelling house, Tax Parcel 037-01-002-406, upon a Judgment at CV-20-0405, Pennsylvania Housing Finance Agency vs. Robin J. Marzella, Esquire, as Administratrix of the Estate of Kassie J. Straub, deceased, in the amount of \$114,864.34, plus interest, costs and fees. Lois M. Vitti, Esquire.

Property of Linda M. Schainberg a/k/a Linda Margaret Schainberg, Executrix of the estate of Laura A. Haugdahl a/k/a Laura Ann Haugdahl, deceased, known as 22-24 South Grant Street, Shamokin, Pennsylvania 17872, Improvements Thereon: a double two story frame dwelling house, Tax Parcel 012-01-004-323, upon a Judgment at CV-18-0828, First Heritage Financial, LLC vs. Linda M. Schainberg a/k/a Linda Margaret Schainberg, Executrix of the estate of Laura A. Haugdahl a/k/a Laura Ann Haugdahl, deceased, in the amount of \$43,046.35, plus interest, costs and fees. LOGS Legal Group, LLP.

All parties in interest and claimants are hereby notified that schedules of distribution will be filed by the Sheriff, in his office, not later than thirty (30) days after sale and distribution will be made in accordance with the schedules, unless exceptions are filed thereto within ten (10) days after the filing of the schedules.

SO ANSWERS,
ROBERT J. WOLFE,
SHERIFF OF
NORTHUMBERLAND COUNTY
#22-24