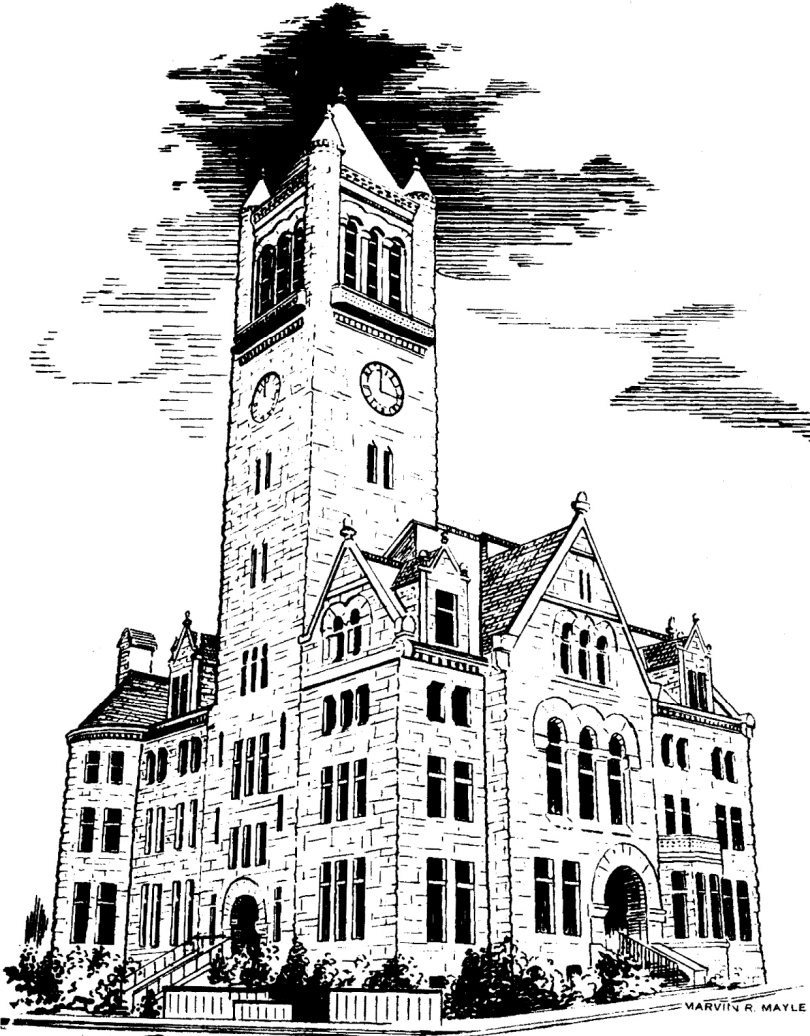


# FAYETTE LEGAL JOURNAL

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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

**RODNEY LYNN EBERHART**, late of Nicholson Township, Fayette County, PA (3)  
*Administrator:* Darek W. Eberhart  
 c/o Proden & O'Brien  
 99 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Jeffrey S. Proden

**DONNA V. HOLIDAY**, late of Uniontown, Fayette County, PA (3)  
*Personal Representative:*  
 Timothy D. Chesler  
 c/o Radcliffe Law, LLC  
 648 Morgantown Road, Suite B  
 Uniontown, PA 15401  
*Attorney:* William M. Radcliffe

**FLORENCE A. MOOD**, late of Jefferson Township, Fayette County, PA (3)  
*Executor:* Jack Mood  
 145 Mood Lane  
 Fayette City, PA 15438  
 c/o 300 Fallowfield Avenue  
 Charleroi, PA 15022  
*Attorney:* Richard C. Mudrick

**RONALD WYDICK, a/k/a RONALD JAMES WYDICK**, late of Point Marion, Fayette County, PA (3)  
*Administrator:* David Lee Wydick  
 c/o Kopas Law Office  
 556 Morgantown Road  
 Uniontown, PA 15401  
*Attorney:* John A. Kopas, III

## Second Publication

**DONNA L. CIARLO**, late of Washington Township, Fayette County, PA (2)  
*Personal Representative:*  
 Christopher Ciarlo  
 c/o 105 Kangaroo Hill Road  
 Irwin, PA 15642  
*Attorney:* Wayne McGrew

**ROBERT LEWIS MALLICK, a/k/a ROBERT MALLICK**, late of South Union Township, Fayette County, PA (2)  
*Executor:* Charlotte Stickle  
 c/o P.O. Box 727  
 Uniontown, PA 15401  
*Attorney:* Bernadette K. Tummons

## First Publication

**BETTY ANN DURATZ**, late of Redstone Township, Fayette County, PA (1)  
*Personal Representative:* Carla DellaPenna  
 321816 Skidmore Drive  
 Greensburg, PA 15601  
 c/o Davis & Davis  
 107 East Main Street  
 Uniontown, PA 15401  
*Attorney:* James T. Davis

**RONALD G. GALIDA**, late of South Union Township, Fayette County, PA (1)  
*Administratrix:* Cheri C. Sanzi  
 c/o DeHaas Law, LLC  
 51 East South Street  
 Uniontown, PA 15401  
*Attorney:* Ernest P. DeHaas, III

**ORVAL GLENN GALLENTE, III**, late of Bullskin Township, Fayette County, PA (1)  
*Administrator:* Orval Glenn Gallentine, Jr.  
 c/o 815A Memorial Boulevard  
 Connellsville, PA 15425  
*Attorney:* Margaret Zylka House

## LEGAL NOTICES

### NOTICE

Notice is hereby given that LPS Strength & Meditation, L.L.C., intends to dissolve and terminate. Pursuant to 15 Pa.C.S.A. §8875(b), you are hereby notified that should you want to make a claim against LPS Strength & Meditation, L.L.C., you must do so in writing, giving your name, address, and the basis for your claim including the time and date the alleged claim occurred. Such claim must be mailed to Radcliffe Law, L.L.C., 648 Morgantown Road, Suite B, Uniontown, Pennsylvania 15401.

Any claim against LPS Strength & Meditation, L.L.C., will be barred unless an action to enforce the claim is commenced within two (2) years after publication of this notice.

Submitted by:

RADCLIFFE LAW, L.L.C.  
648 Morgantown Road, Suite B  
Uniontown, PA 15401

**ANNE C. HELISEK**, late of Franklin Township, Fayette County, PA (1)  
*Personal Representative:* Peter M. Helisek  
c/o P.O. Box 953  
Uniontown, PA 15401  
*Attorney:* Ricardo J. Cicconi

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**EVELYN JANOS, a/k/a EVELYN M. JANOS, a/k/a EVELYN MARIE JANOS**, late of Luzerne Township, Fayette County, PA (1)  
*Administrator:* Victoria William  
c/o 22 Bierer Avenue  
Uniontown, PA 15401  
*Attorney:* Mary Lenora Hajduk

---

**LORETTA J. LAZARAN**, late of Uniontown, Fayette County, PA (1)  
*Personal Representative:*  
Rose Ann Franty Joseph  
c/o P.O. Box 952  
Uniontown, PA 15401  
*Attorney:* Ricardo J. Cicconi

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**ROBERT J. UMBLE**, late of Georges Township, Fayette County, PA (1)  
*Executor:* Robert J. Umblar, Jr.  
28 Blueberry Drive  
Morgantown, WV 26508  
c/o P.O. Box 430  
Smithfield, PA 15478  
*Attorney:* Robert Grimm

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**JUDICIAL OPINION**

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

COMMONWEALTH OF :  
 PENNSYLVANIA, :  
 VS. :  
 BRYON DAVID UMBEL, :  
 Petitioner. : No. 639 of 2015

**OPINION AND ORDER**

WAGNER, P.J.

January 22, 2019

Before the Court is the Defendant's timely filed Post Conviction Relief Act Petition. The Petitioner raised the issue of ineffectiveness of his counsel for the following reasons: failure to file a motion in limine to exclude the victim's journal, failure to file a motion in limine to exclude evidence of the assault that occurred outside the Commonwealth of Pennsylvania; failure to file a habeas corpus motion for the assault that occurred in another jurisdiction; failure to object to testimony or to request a mistrial regarding the out-of-state assault, the victim's journal, the hearsay testimony provided by the trooper; and failure to preserve claims for appeal.

The Petitioner was found guilty by a jury after trial on September 8-9, 2015 of Aggravated Indecent Assault Without Consent, 18 Pa. C.S. § 3125(A)(1); Aggravated Indecent Assault, Person Less than 13 Years Old, 18 Pa. C.S. § 3125(A)(7); Corruption of Minors, 18 Pa.C.S. § 6301(A)(1)(ii); Indecent Assault Person Less than 13 Years of Age, 18 Pa. C.S. § 3126(A)(7); Indecent Assault Without Consent, 18 Pa. C.S. § 3126(A)(1); and Indecent Assault by Forcible Compulsion, 18 Pa. C.S. § 3126(A)(2). The Petitioner was sentenced to sixty (60) to one hundred and twenty (120) months incarceration at the charge of Aggravated Indecent Assault Person Less than 13 Years Age and to a consecutive term of incarceration of thirty-six (36) to seventy-two months at the Indecent Assault Without consent. An appeal was filed to the Superior Court, counsel failed to brief the case and it was dismissed. Thereafter, the Fayette County Office of the Public Defender filed an appeal. The Judgment of Sentence was affirmed on July 11, 2017. On May 25, 2018, the Petitioner filed his Post Conviction Relief Act Petition. A hearing on the petition was held on 25 October 2018.

The issues raised in the petition filed under the Post-Conviction Relief Act, (hereinafter "PCRA"), 42 Pa. C.S. § 9545 et seq., all relate to counsel's ineffectiveness. A petitioner under the PCRA will be granted relief only when he proves by a preponderance of the evidence that his conviction resulted from ineffective assistance of counsel which, under the circumstances of his specific so undermined the truth-determining process that no reliable adjudication of the petitioner's guilt or innocence could have taken place. 42 Pa. C.S. § 9543(a)(2)(ii). Counsel is presumed to be effective unless the petitioner pleads and proves the following: his underlying claim has arguable merit, counsel's action or failure to act had no reasonable basis designed to effectuate the petitioner's interests, and the petitioner suffered prejudice in that, but for counsel's action or

failure, the outcome of the trial would likely have been different. *Commonwealth v. Walker*, 36 A.3d 1 (Pa. 2011). It is the petitioner's burden to prove counsel's ineffectiveness. *Commonwealth v. Natividad*, 595 Pa. 188, 938 A.2d 310 (2007).

The victim, Z.W., at the trial on September 8-9, 2015, testified that the Petitioner who was her uncle by marriage, first inserted his fingers in her vagina when she was eight (8) years of age. (N.T. at pgs. 14-15) This occurred at his residence in Maryland in 2009. (Id. at to.) When she was twelve (12) years of age, her uncle, who was then residing in Markleysburg, Pennsylvania, again inserted his fingers into her vagina. (Id. at 17-18.). In January 2015, she testified that she awakened to find that her uncle had placed her hand on his penis when she stayed overnight at his residence in Markleysburg. (id. at pp. 19-20). After eliciting that the first assault occurred in Maryland, the prosecutor continued to elicit testimony regarding that assault. No objection was made by defense counsel to that testimony being heard by the jurors and no mistrial was requested.

The assault that the victim testified to that occurred in Maryland was testimony of a crime that occurred in another jurisdiction, the state of Maryland where this Court has no authority to act. The jurisdiction of a criminal court extends only to offenses committed within the territorial jurisdiction of the county of that court. *Commonwealth v. Spruill*, 392 A.2d 2018 (Pa. 2001). A court has no jurisdiction over an offense unless it occurred within the county of trial or if there is a statute directing that the act need not occur within the county of trial. *Commonwealth v. McNeil*, 665 A.2d 1247 (Pa.Super. 1995). As the Court had no authority to enter a judgment for an act outside its territorial bounds, the charges related to that situation were dismissed by the Court.

The prosecutor elicited extensive testimony from the victim regarding the facts involving the out-of-state assault. The presumed effect of such evidence is to predispose the minds of the jurors to believe the accused guilty and to strip him of his presumption of innocence. *Sprill, supra*. The introduction of the lengthy testimony regarding this prior bad act presents a situation where the potential for unfair prejudice clearly outweighs the probative value of the evidence. Counsel's failure to object to the introduction of this evidence could have no reasonable strategic basis that would have benefited the Petitioner. His course of conduct worked to the Petitioner's prejudice. *Commonwealth v. Hickman*, 799 A.2d 136 (Pa.Super. 2002}. As a result, the Petitioner is entitled to a new trial free from error and free from the introduction of prejudicial testimony that, in this Court's view undermined the truth determining process of this trial. Based on the Court's ruling on this issue, the Court will not address the other issues raised in his petition.

For the reasons set forth herein, the PCRA Petition before the Court is hereby GRANTED.

AND NOW, this 22nd day of January, 2019, after full consideration of the Post Conviction Relief Act Petition filed by Petitioner, Bryon David Umbel, the said petition is hereby GRANTED. The Petitioner's case should be placed back on the Fayette County criminal trial list.

BY THE COURT:  
WAGNER, P.J.

Attest:  
Clerk of Courts

## ESSENTIALS OF ESTATE ADMINISTRATION

### The Essentials of Estate Administration Practice in Fayette County

The Fayette County Bar Association will present the Essentials of Estate Administration Practice in Fayette County:

- Date: **Wednesday, February 20th from 9:00 a.m. to 12:00 p.m.**  
Location: Commissioners Meeting Room  
Public Service Building  
22 East Main Street  
Uniontown, Pennsylvania  
Panelists: Charles W. Watson, Esquire,  
Honorable Judge Steve P. Leskinen,  
Honorable Judge Joseph M. George, Jr.,  
Jeffrey Redman, Register of Wills

**Topics** will include: Probate vs. Non-probate Assets, Notices, Deadlines/Critical Dates, Payment Priorities, Fiduciary Responsibilities, Control of Funds, Fees/Costs, Estate, Inheritance and Income Taxes, Closing an Estate and Post-death Planning Opportunities, etc.

All attendees will receive digital copies of some relevant forms including personal representative interview sheet, sample will, and accounting, etc.

**CLE Credit** - 3.0 hour of Substantive CLE credits.

The **costs** to attend are as follows:

- No charge – Attorneys admitted to practice in Pennsylvania after January 1, 2012
- \$30 – Members of the FCBA admitted to practice in Pennsylvania before January 1, 2012
- \$20 – Paralegals/legal assistants of FCBA members
- \$50 – Non-members admitted to practice in Pennsylvania before January 1, 2012

Registration from 8:30 to 9:00. A light breakfast will be provided.

**If interested in attending, please call Cindy at the Bar office at 724.437.7994 or by email to [cindy@fcbar.org](mailto:cindy@fcbar.org) on or before Monday, February 18th.**

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