

# FAYETTE LEGAL JOURNAL

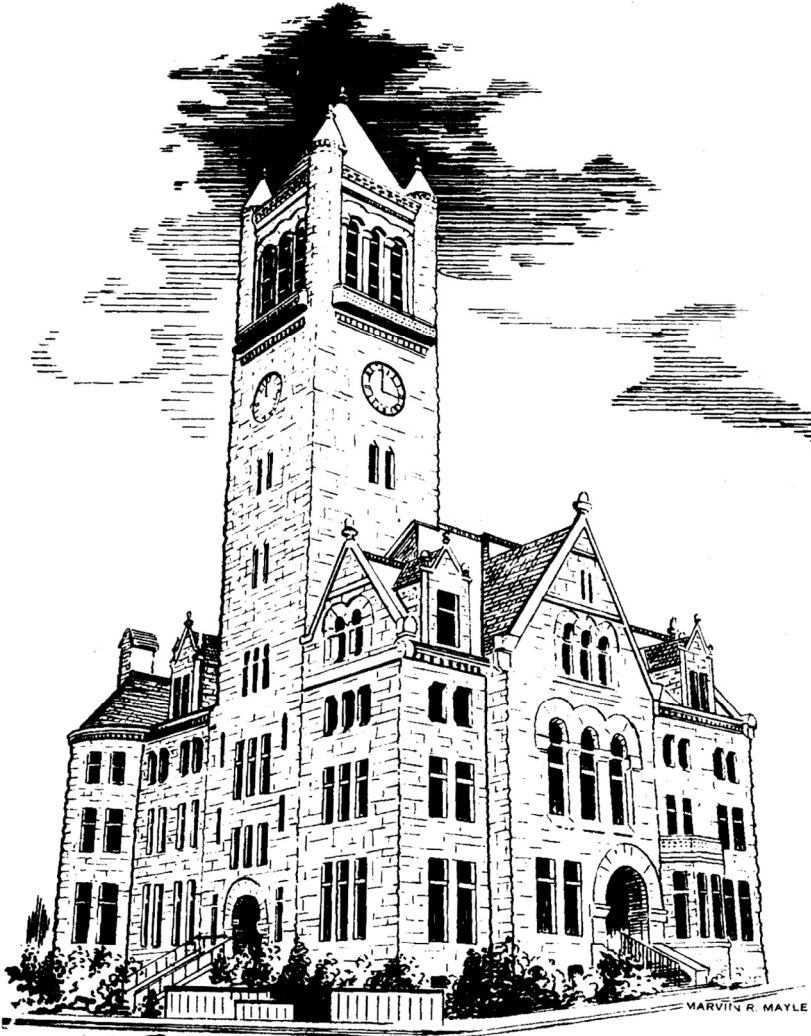
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## FAYETTE LEGAL JOURNAL

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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

**MARY ELIZABETH AINSLEY, a/k/a**

**MARY E. AINSLEY**, late of Dunbar Township, Fayette County, PA (3)

*Personal Representative:* Janet Ainsley Jenkins, a/k/a Dr. Janet Jenkins  
c/o Davis and Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**VICTORIA A. CLEGG, a/k/a VICTORIA ANN CLEGG**, late of South Union Township, Fayette County, PA (3)

*Executrix:* Gail Ashby  
c/o DeHaas Law, LLC  
51 East South Street  
Uniontown, PA 15401  
*Attorney:* Ernest P. DeHaas, III

**HAZEL R. GOODWIN**, late of Georges Township, Fayette County, PA (3)

*Executor:* Benjamin Franklin Goodwin  
108 North Beeson Boulevard, Suite 400  
Uniontown, PA 15401

**SHIRLEY A. KIMMEL**, late of West Leisenring, Fayette County, PA (3)

*Personal Representative:* Joseph H. Settle  
c/o Davis and Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**SANDRA L. PORTERFIELD**, late of Bullskin Township, Fayette County, PA (3)

*Administrator:* James Porterfield  
c/o 815 A Memorial Boulevard  
Connellsville, PA 15425  
*Attorney:* Margaret Z. House

**DOLORES E. SOFRANKO, a/k/a KOLORES SOFRANKO**, late of German Township, Fayette County, PA (3)

*Executrix:* Katherine A. Lacek  
c/o Zebley Mehalov & White, P.C.  
18 Mill Street Square  
P.O. Box 2123  
Uniontown, PA 15401  
*Attorney:* Mark M. Mehalov

**JOSEPH TRENKER**, late of Dunbar Borough, Fayette County, PA (3)

*Executrix:* Cheryl Clements  
c/o 815 A Memorial Boulevard  
Connellsville, PA 15425  
*Attorney:* Margaret Z. House

**JAMES C. VANCE, a/k/a JAMES CRAWFORD VANCE**, late of Luzerne Township, Fayette County, PA (3)

*Executrix:* Darcy L. Vance  
c/o Davis and Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**KENNETH YOKOBOSKY**, late of German Township, Fayette County, PA (3)

*Administrator:* John Yokobosky  
c/o 9 Court Street  
Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

### Second Publication

**PATRICIA LYNN ABEL**, late of Georges Township, Fayette County, PA (2)

*Personal Representative:* Arthur E. Metts  
c/o Dellarose Law Offices, PLLC  
99 East Main Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Melinda Deal Dellarose

**RHEBA M. HOWARD, a/k/a RHEBA HOWARD**, late of North Union Township, Fayette County, PA (2)

*Executor:* Charles Williams  
c/o Zebley Mehalov & White, P.C.  
18 Mill Street Square  
P.O. Box 2123  
Uniontown, PA 15401  
*Attorney:* Charles O. Zebley, Jr.

**EDWARD J. MARTINKO, a/k/a ED MARTINKO**, late of Markleysburg, Fayette County, PA (2)

*Administratrix:* Charlene Tomblin  
c/o Proden & O'Brien  
99 East Main Street  
Uniontown, PA 15401  
*Attorney:* Wendy L. O'Brien

**ROBERT MILLER**, late of Connellsville, Fayette County, PA (2)

*Administratrix:* Jennifer Miller  
904 Hillcrest Street  
Connellsville, PA 15425  
c/o David K. Lucas & Associates, PLLC  
140 South Main Street, Suite 301  
Greensburg, PA 15601  
*Attorney:* David Lucas

**CECELIA P. MLAKAR, a/k/a CECELIA MLAKAR**, late of South Union Township, Fayette County, PA (2)

*Executor:* Donald E. Mlakar  
438 Mildred Road  
Rostraver, PA 15012  
c/o 823 Broad Avenue  
Belle Vernon, PA 15012  
*Attorney:* Mark E. Ramsier

**THOMAS MICHAEL RILEY, a/k/a THOMAS M. RILEY**, late of Saltlick Township, Fayette County, PA (2)

*Personal Representatives:* David G. Riley and Robert L. Riley  
c/o 208 South Arch Street, Suite 2  
P.O. Box 13  
Connellsville, PA 15425  
*Attorney:* Richard A. Husband

**JAMES R. STERBUTZEL, a/k/a JAMES ROBERT STERBUTZEL, a/k/a JAMES STERBUTZEL**, late of German Township, Fayette County, PA (2)

*Administratrix:* Jennifer H. Sterbutzel  
c/o 9 Court Street  
Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

**ERICA DAWN TUFANO**, late of Dunbar Borough, Fayette County, PA (2)

*Administrator:* Barry Tufano  
c/o 815A Memorial Boulevard  
Connellsville, PA 15425  
*Attorney:* Margaret Zylka House

**RONALD A. WALKER**, late of North Union Township, Fayette County, PA (2)

*Executrix:* Rhonda A. Phillips  
c/o Adams Law Offices, PC  
55 East Church Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Jason Adams

**MARY D. WENICK, a/k/a MARY DALSON WENICK**, late of Washington Township, Fayette County, PA (2)

*Co-Executors:* Louis M. Wenick and George D. Wenick  
c/o 51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

## First Publication

**JOANNE L. COLETTI, a/k/a JOANNE LOUISE COLETTI**, late of Redstone Township, Fayette County, PA (1)

*Personal Representative:* Mark V. Coletti  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**CAROLYN F. DELARA**, late of Connellsville, Fayette County, PA (1)

*Personal Representatives:*  
Delicia F. Maiese, f/k/a Delicia F. Delara and Terry Lee Delara  
c/o 208 South Arch Street, Suite 2  
Connellsville, PA 15425  
*Attorney:* Richard A. Husband

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**MARY ALICE DOWNER**, late of Newell  
Borough, Fayette County, PA (1)  
*Personal Representative:* Carl E. Downer  
55 Woody Crest Drive  
Pittsburgh, PA 15234  
c/o Mitchell Law Office  
P.O. Box 310  
Hiller, PA 15444  
*Attorney:* Herbert G. Mitchell, Jr.

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**PAUL EDWARD GAFFEY**, late of Redstone  
Township, Fayette County, PA (1)  
*Personal Representative:* Samantha Gaffey  
543 Hilltop Avenue  
Grindstone, PA 15442  
c/o P.O. Box 488  
California, PA 15419  
*Attorney:* Lisa J. Buday

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**DONALD JAMES GLOVER**, late of Star  
Junction, Fayette County, PA (1)  
*Executor:* Charles K. Glover  
c/o Adams Law Offices, PC  
55 East Church Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Jason Adams

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**GREGORY GREEN**, late of South Union  
Township, Fayette County, PA (1)  
*Executrix:* Rebecca A. Hilton  
c/o 395 Redstone Furnace Road  
Uniontown, PA 15401  
*Attorney:* Mary Len Hajduk

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**LAUREEN R. MALACHIN**, late of Dunbar  
Borough, Fayette County, PA (1)  
*Personal Representative:*  
Lawrence Michael Raymond  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Robert A. Gordon

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**WILBUR W. MARTIN, a/k/a WILBUR  
WILLIAM MARTIN**, late of North Union  
Township, Fayette County, PA (1)  
*Executor:* William P. Martin  
c/o Goodwin Como, P.C.  
108 North Beeson Boulevard, Suite 400  
Uniontown, PA 15401  
*Attorney:* Amanda Como

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**JULIA PLUTO, a/k/a JUDY PLUTO**, late of  
South Union Township, Fayette County, PA (1)  
*Executrix:* Thomas G. Pluto  
1025 Kathryn Street  
Boalsburg, PA 16827  
c/o 76 East Main Street  
Uniontown, PA 15401  
*Attorney:* Douglas S. Sholtis

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## LEGAL NOTICES

### LEGAL NOTICE

Notice of Return of Tax Sale To Court:  
General Docket # 1917 of 2022

NOTICE: On October 6th, 2022, the  
Fayette County Court of Common Pleas  
confirmed Nisi the Upset Sale of properties for  
delinquent taxes, held September 26, 2022.

Affected parties may file objections or  
exceptions to the sale immediately but no later  
than thirty (30) days following the confirmation  
nisi of the return by court or the return will be  
confirmed absolutely.

If you have any questions please call your  
attorney, this Tax Claim Bureau at the following  
number 724-430-1208, or the Pennsylvania  
Lawyer Referral Service at 800-932-0311

Fayette County  
Tax Claim Bureau  
Sarah Minnick  
Director

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**NOTICE**

RE: Change of Name of PATRICIA RILEY, A/K/A MARY PATRICIA RILEY now known as MARY PATRICIA DUPEY A/K/A MARY P. DUPEY, an adult individual:

To Whom It May Concern:

Be advised that the Court of Common Pleas of Fayette County, Pennsylvania, will hear the Petition for the Change of Name of Patricia Riley, a/k/a Mary Patricia Riley now known as Mary Patricia Dupey a/k/a Mary P. Dupey, on November 30, 2022, at 2:00 p.m., in Courtroom No. 3. All interested individuals may attend at that date and time.

DAVIS & DAVIS  
BY: Gary J. Frankhouser, Esquire  
107 East Main Street  
Uniontown, PA 15401

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA, CIVIL DIVISION CASE NO. GD22-005821

TYLER VALENTINE and STEPHANIE VALENTINE,  
Plaintiffs,  
vs.

VICTOR VICARIO, individually, NATIONWIDE HOME IMPROVEMENT SERVICES, LLC, RICK VICARIO i/d/b/a NATIONWIDE HOME IMPROVEMENT SERVICES a/k/a NATIONWIDE HOME IMPROVEMENT SERVICES, LLC, and V.V. CONTRACTORS, LLC,  
Defendants,  
vs.

BENJAMIN BARNES, individually and d/b/a ROOFING SOLUTIONS; and JAMES LUCY, individually and d/b/a TWO MEN AND A WHEELBARROW, a/k/a TWO MEN AND A WHEELBARREL,  
Additional Defendants

TO: BENJAMIN BARNES, individually and d/b/a ROOFING SOLUTIONS

A Complaint to Join Additional Defendants has been filed against you in the Court of Common Pleas of Allegheny County, Pennsylvania at Civil Action No: GD22-005821 for property damage.

**NOTICE**

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. 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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. 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.

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## LEGAL NOTICE

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
NO. 1247 OF 2022, G.D.

MIKE'S AUTO REPAIR & SALES, INC.,  
PLAINTIFF,  
vs.  
CHRISTOPHER THOMAS  
DEFENDANT.

## NOTICE TO DEFEND

TO: CHRISTOPHER THOMAS, generally:

You have been named as Defendant in an action to Petition for Involuntary Transfer of Title filed by the above Plaintiff against you wherein the Plaintiff alleges that they have acquired all of the interest in and to the 2016 Jeep Patriot vehicle with a VIN# 1C4NJRBB9GD673748.

You are hereby notified to plead to the complaint in this case, of which the above is a brief summary, within twenty (20) days from this date. If you wish to defend, you must enter a written appearance personally or by an attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiffs. You may lose money or property or other rights important to you.

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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

**Monday, November 7, 2022, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2621-0277	CHARLOTTE A. KATKO	Terry Katko, Administrator

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

**Monday, November 21, 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

**Monday, November 7, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2621-0596	MERRIE JANE DAVID	Amy D. Lynch, Executrix
2616-0180	LAWRENCE H. MCQUADE, JR.	Bridget M. McQuade, Executrix

**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>
2697-0782	CLARISSA COCHRAN, Special Needs Trust	Casey J. Patton, Vice President Trustee

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

**Monday, November 21, 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 OF FAYETTE COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF :  
PENNSYLVANIA, :  
 :  
VS. :  
 :  
TYREK DESEAN LENDELL, : No. 468 -2022  
Defendant. : Honorable Steve P. Leskinen

OPINION AND ORDER

Leskinen, J. September 16, 2022

Before the Court is the Defendant's Omnibus Pre-Trial Motion. After a careful review of the record and applicable case law, the Court hereby issues the following Opinion and Order.

Factual Background

This matter arises out of a traffic stop which occurred on November 11th, 2021. An Omnibus Pre-Trial Hearing was held in this matter on September 8th, 2022. The Commonwealth submitted an MVR of the incident. The Defendant stipulated to the facts as articulated in the Affidavit Of Probable Cause.

The MVR shows Troopers Shutterly and Yarzab on routine patrol at 2:28 am in the Bierer Wood Acres area of Uniontown on November 11th, 2021. The Defendant's vehicle is visible ahead of the Troopers' patrol unit. The MVR shows the Defendant's right rear brake light fail to illuminate. The MVR shows Troopers Shutterly and Yarzab activate their patrol unit's lights. The MVR shows the Defendant turn on to Easy Street in the vicinity of the Dollar General on South Mount Vernon Avenue. However, the MVR shows that, instead of parking in the immediately adjacent and well-lit Dollar General parking lot, the Defendant parked on the left side of Easy Street facing oncoming traffic and with his front bumper obstructing a private driveway.

The MVR shows troopers Shutterly and Yarzab approach the vehicle and question the Defendant. The Defendant's voice is audible in the MVR. The Defendant's speech is slurred. The Affidavit Of Probable Cause states:

When the operator put down his window, I immediately detected a strong odor of marijuana emanating from the vehicle. Observed in plain view on the rear floorboard was a black digital scale with residue on it...His eyes were also glassy...After exiting the vehicle, I observed hundreds of dollars of loose money on the driver side floor board of the vehicle. I asked LENDELL if he had a medical marijuana card, to which he stated, "no, I do not."

Trooper Shutterly attempted to conduct Standardized Field Sobriety Tests on the Defendant. The Defendant's mother then arrived on the scene. The Defendant did not complete the Standardized Field Sobriety Tests successfully. Trooper Shutterly then told the Defendant that he was having the vehicle towed to the Uniontown State Police Barracks and that he would apply for a search warrant to search the vehicle. The Defendant left the scene with his mother in his mother's vehicle. The Affidavit Of Probable Cause states:

On 11/11/21 at approximately 0324 hrs, Professional Auto arrived at the scene of the traffic stop and towed the vehicle. The tow and transport were observed by Tpr. GEOGHEGAN and Tpr. RUFFING. The blue 2006 Saturn Vue (Vin: 5GZCZ33076S808652) was entered into the secure garage of PSP-Uniontown.

On 11/11/21 at 0651 hrs, a search warrant for the vehicle was obtained through on call MDJ Nathan HENNING, district court 14-2-02. I performed a search of the vehicle with Cpl. WEBB as a witness.

A search of the vehicle yielded the following:

1. Black Glock 45 9mm Pistol (SN: BPPZ498)
2. 31 round magazine from item #1
3. 9mm Luger Bullets from item #2 (25 total)
4. Suspected marijuana in a plastic bag
5. Bulk US currency
6. Camouflage Backwoods Bag
7. Bulk US currency folded in black hairband from item #6
8. Black digital scale (Quantity 2)
9. Plastic bag with white residue
10. White nylon bag with white residue inside
11. Partial plastic bag from item #10 (Quantity 2)
12. Black latex glove from item #10
13. Razor blade from item #10

It should be noted, all paraphernalia seized was indicative of selling narcotics and not consuming narcotics.

The firearm seized was found to belong to Stacy Sue DURITSKY and was previously reported as stolen.

The seized money was counted and found to be \$6,102.

It should be noted, LENDELL does not possess a concealed carry permit.

On 11/11/21, the suspected marijuana was tested on a NIK test Kit E and was presumptive for marijuana.

On 11/11/21, I queried records through the PA Dept. of Labor and Industry Employment for LENDELL. A query showed that LENDELL has not been employed since the third quarter of 2019 through Waterfront Staffing.

On 11/11/21, I queried records through the PA Dept. of Human Services. Results indicated that LENDELL does not receive income through them.

### Affidavit Of Probable Cause

The Defendant was charged with Dealing In Proceeds Of Unlawful Activities, Receiving Stolen Property, Firearm Not To Be Carried Without A License, Marijuana (Small Amount), Possession Of Drug Paraphernalia, and No Rear Lights.

### Legal Standard

Pennsylvania recognizes a limited automobile exception under Article I, Section 8 of the Pennsylvania State Constitution, pursuant to which warrantless vehicle searches require both probable cause and exigent circumstances. *Com. v. Alexander*, 243 A.3d 177 (2020) (overruling *Com. v. Gary*, 91 A.3d 102 (2014) and holding that warrantless vehicle searches in Pennsylvania require more than is required by the United States Constitution). The dual requirement of both probable cause and exigent circumstances is thus a newly reestablished part of Pennsylvania jurisprudence *Id.*

75 Pa.C.S.A. § 6308(b) states:

(b) Authority of police officer.--Whenever a police officer is engaged in a systematic program of checking vehicles or drivers or has reasonable suspicion that a violation of this title is occurring or has occurred, he may stop a vehicle, upon request or signal, for the purpose of checking the vehicle's registration, proof of financial responsibility, vehicle identification number or engine number or the driver's license, or to secure such other information as the officer may reasonably believe to be necessary to enforce the provisions of this title.

75 Pa.C.S.A. § 6309.2 states:

(a) General rule.--Subject to subsection (d), the following shall apply:

(1) If a person operates a motor vehicle or combination on a highway or trafficway of this Commonwealth while the person's operating privilege is suspended, revoked, canceled, recalled or disqualified or where the person is unlicensed, as verified by an appropriate law enforcement officer in cooperation with the department, the law enforcement officer shall immobilize the vehicle or combination or, in the interest of public safety, direct that the vehicle be towed and stored by the appropriate towing and storage agent pursuant to subsection (c), and the appropriate judicial authority shall be so notified.

The Pennsylvania Supreme Court ruled in *Com. v. Lagenella* that an inventory search is inappropriate if a law enforcement officer chooses to merely immobilize a vehicle; rather, the law enforcement officer must direct that a vehicle be towed and stored in the interest of public safety before an inventory search may be made. *Com. v. Lagenella*, 83 A.3d 94, 106 (2013). The Pennsylvania Superior Court recently addressed the question of which parking scenarios justify towing and storage in the interest of pub-

lic safety: in *Com. v. Peak*, the defendant challenged the legality of an inventory search of his vehicle in anticipation of his vehicle being towed away. The police had determined that the vehicle needed to be towed away in the interest of public safety because it was parked in front of a gas pump. The Superior Court articulated:

Although the MVC does not define the phrase "in the interest of public safety," we conclude that it encompasses the situation herein - where a vehicle is not in a designated parking spot, but rather, is stopped in front of a gas pump, obstructing the business therein. Indeed, it is clear that pursuant to *Lagenella*, the police could have towed Appellant's car if it was "impeding the flow of traffic" or parked illegally on the street. *Lagenella*, 83 A.3d at 102.

*Com. v. Peak*, 230 A.3d 1220, 1227 (Pa.Super.2020), appeal denied, 239 A.3d 1096 (Pa. 2020).

75 Pa.C.S.A. § 3354 states:

(a) Except as otherwise provided in this section, every vehicle standing or parked upon a two-way highway shall be positioned parallel to and with the right-hand wheels within 12 inches of the right-hand curb or, in the absence of a curb, as close as practicable to the right edge of the right-hand shoulder.

75 Pa.C.S.A. § 3353 states:

(a) Except when necessary to avoid conflict with other traffic or to protect the safety of any person or vehicle or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

(2) Stand or park a vehicle:

(i) In front of a public or private driveway.

#### Discussion

The Defendant argues that Pennsylvania's newly reestablished dual requirement of both probable cause and exigent circumstances applies to vehicle seizures as well as to vehicle searches. The Defendant argues that Trooper Shutterly seized the Defendant's vehicle - that the vehicle was seized once Trapper Shutterly told the Defendant that he was having the vehicle towed to the Uniontown State Police Barracks and that he would apply for a search warrant to search the vehicle. The Defendant argues that exigent circumstances were absent and that the seizure was therefore invalid under *Com. v. Alexander*.

#### Conclusions of Law

The Court finds that the Defendant's argument is analogous to the situation presented in *Com. v. Peak*, wherein the Superior Court addressed the question of which parking scenarios justified towing and storage in the interest of public safety. The Superior Court articulated:

Although the MVC does not define the phrase "in the interest of public safety" ...it is clear that pursuant to Lagenella, the police could have towed Appellant's car if it was "impeding the flow of traffic" or parked illegally on the street. Lagenella, 83 A.3d at 102.

Com. v. Peak, 230 A.3d 1220, 1227 (Pa.Super.2020), appeal denied, 239 A.3d 1096 (Pa. 2020).

In the present case, the MVR shows that the Defendant's vehicle Was parked with its left wheels against the curb and with its front bumper obstructing a private driveway in violation of both 75 Pa.C.S.A. § 3354(a) and 75 Pa.C.S.A. § 3353(a)(2)(i) and that Trooper Shutterly did not specifically direct the Defendant to park there. The Court therefore concludes that Trooper Shutterly was permitted to tow the Defendant's vehicle pursuant to 75 Pa.C.S.A. § 6309.2(a)(1): the Defendant's driver's license was temporarily disqualified due to the Defendant's failure to complete the Standardized Field Sobriety Tests and the Defendant's vehicle was jeopardizing public safety because it was parked illegally according to Com. v. Peak\*.

The Court further finds that additional exigent circumstances were present beyond the 75 Pa.C.S.A. § 3354(a) and 75 Pa.C.S.A. § 3353(a)(2)(i) violations:

- Trooper Shutterly smelled the odor of marijuana coming from the vehicle,
- Troopers Shutterly and Yarza observed a scale with residue in plain view on the back seat of the vehicle, and
- Trooper Shutterly observed hundreds of dollars of loose money on the floor of the vehicle.

Based on these circumstances, the Court concludes that, even if Pennsylvania's newly reestablished dual requirement of both probable cause and exigent circumstances applies to vehicle seizures as well as to vehicle searches, exigent circumstances were present in this case and Trooper Shutterly's seizure of the Defendant's vehicle was permitted under 75 Pa.C.S.A. § 6309.2(a)(1) and Com. v. Peak.

WHEREFORE, the Court issues the following Order:

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\*Com. v. Peak indicates that Trooper Shutterly did not require a search warrant at all. An inventory search would have been permitted under Com. v. Peak, without a search warrant, simply on the basis that the Defendant's driver's license had been temporarily disqualified and the vehicle had been towed away in the interest of public safety. 230 A.3d 1220, 1227 (Pa.Super.2020).

## ORDER

AND NOW, this 16th day of September, 2022, upon consideration of the Defendant's Omnibus Pre-Trial Motion, the Court finds that the seizure of the Defendant's vehicle was permitted under Article I, Section 8 of the Pennsylvania State Constitution. It is hereby ORDERED and DIRECTED that the Defendant's Omnibus Pre-Trial Motion is therefore DENIED.

BY THE COURT:  
STEVE. P. LESKINEN, JUDGE

ATTEST:  
Clerk of Courts

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