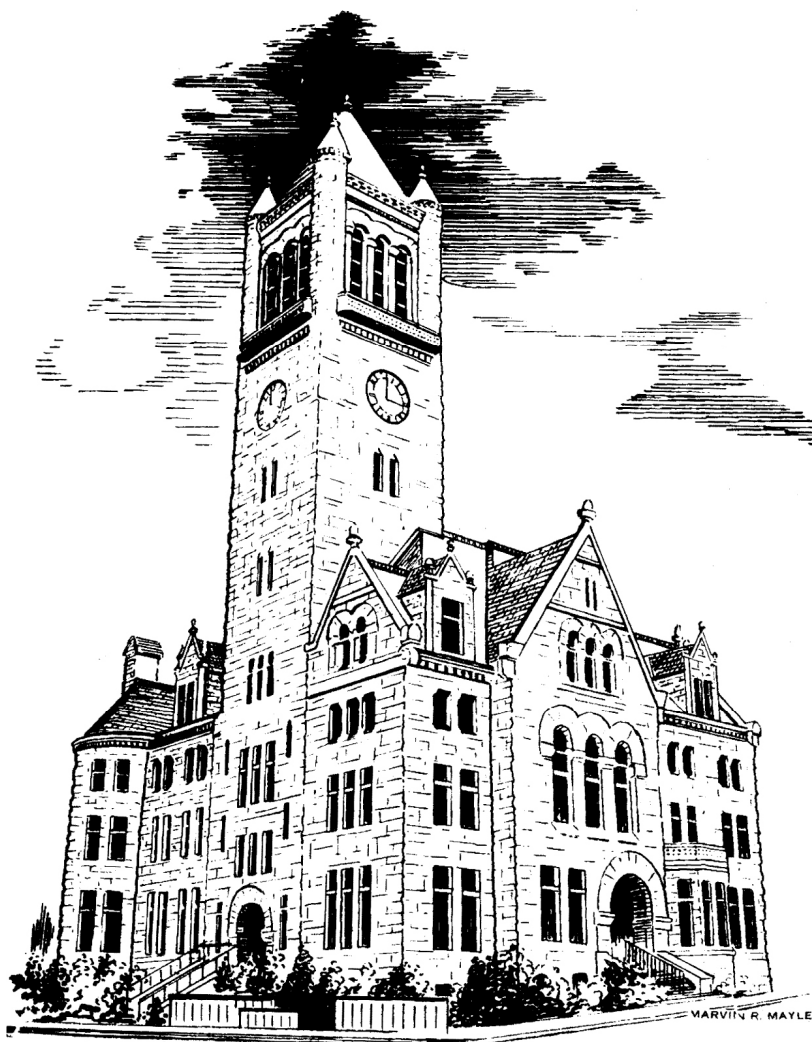


FAYETTE LEGAL JOURNAL

VOL. 88

JULY 12, 2025

NO. 28



FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 45 East Main Street, Suite 100, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at www.fcbar.org no later than 12:00 noon on Friday for publication the following Saturday. No date of publication is promised, however. Legal notices are published exactly as submitted by the advertiser. Copyright 2001 Fayette County Bar Association. All rights reserved.

Co-Editors: Garnet L. Gordon and Melinda Deal Dellarose

Cover Design by Marvin R. Mayle, 207 Lick Hollow Road, Hopwood, PA

FAYETTE COUNTY BAR ASSOCIATION Board of Directors

President: Sheryl R. Heid
President Elect: Michelle L. Kelley
Vice-President: Jeffrey S. Proden
Secretary: Anne N. John
Treasurer: Louise D. Monaghan
Past President: Gretchen A. Mundorff
Executive Director: Garnet L. Gordon

Directors
Michael A. Aubele
Rachel A. Clark
Sarah E. Connelly
James E. Higinbotham, Jr.
Sean M. Lementowski
Daniel D. Taylor

ETHICS HOTLINE

The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding, the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

Call (800) 932-0311, ext. 2214.

LAWYERS CONCERNED FOR LAWYERS

Our assistance is confidential,
non-judgmental, safe, and effective

To talk to a lawyer today, call:
1-888-999-1941
717-541-4360

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

PATRICK DOYLE, late of Mill Run, Fayette County, PA (3)

Administratrix: Alexis Doyle
c/o Bononi & Company PC
20 North Pennsylvania Avenue
Greensburg, PA 15601
Attorney: Eric Bononi

DENISE G. FLEMING, late of Jefferson Township, Fayette County, PA (3)

Executrix: Barbara Joyce DiNardo
c/o 4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Sheryl R. Heid

SYLVIA PEARL HILL, a/k/a SYLVIA P. HILL, late of Luzerne Township, Fayette County, PA (3)

Executrix: Sylvia A. Boyle
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

CONSTANCE SPALEK, a/k/a CONNIE SPALEK, a/k/a CONNIE E. SPALEK, late of Uniontown, Fayette County, PA (3)

Executrix: Nancy M. Oris
c/o DeHaas, Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

Second Publication

ELEANOR M. BABUSCAK, late of Uniontown, Fayette County, PA (2)

Administratrix: Rita Nichols, a/k/a Rita Nicole Nichols
580 Nemacolin Street
Carmichaels, PA 15320
c/o Mitchell Law Group, LLC
17 South College Street
Washington, PA 15301
Attorney: Clark A. Mitchell

REBECCA RENEE BALENTINE, a/k/a REBECCA R. BALENTINE, late of Connellsville, Fayette County, PA (2)

Administrator: Robert Balentine, Jr.
P.O. Box 244
Perryopolis, PA 15473
c/o 300 Fallowfield Avenue
Charleroi, PA 15022
Attorney: Richard C. Mudrick

HARRY FRANEY, late of Springfield Township, Fayette County, PA (2)

Executrix: Rebecca L. Page
482 Church Street
P.O. Box 323
Delmont, PA 15626
c/o Bumbaugh/George/Prather/DeDiana
10526 Old Trail Road
North Huntingdon, PA 15642
Attorney: John Bumbaugh, Jr.

KENNETH FRENCH, a/k/a KENNETH M. FRENCH, late of Connellsville, Fayette County, PA (2)

Personal Representative: Evelyn G. French
120 East Peach Street, Apt. 201
Connellsville, PA 15425
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James Higinbotham

LUKE KNAPP, a/k/a LUKE J. KNAPP, late of Dawson, Fayette County, PA (2)

Executrix: Kristy L. Krilosky
257 Lucky Lane
Dawson, PA 15428
c/o Tremba Kinney Greiner & Kerr
1310 Morrell Avenue, Suite C
Connellsville, PA 15425
Attorney: John Greiner

EDWARD SENIOR, late of Melcroft, Fayette County, PA ⁽²⁾

Executrix: Judith Edgell
545 Dogwood Drive
New Brighton, PA 15066
c/o Law Offices of
Michael J. Hummel, Jr., LLC
1140 3rd. Street
Beaver, PA 15009
Attorney: Michael Hummell, Jr.

JERRY R. VANSICKLE, a/k/a JERRY RAY VANSICKLE, late of Nicholson Township, Fayette County, PA ⁽²⁾

Executor: Jerry R. VanSickle, Jr.
617 Fourth Avenue
Masontown, PA 15461
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Ewing D. Newcomer

First Publication

MAXINE GIBBS, late of North Union Township, Fayette County, PA ⁽¹⁾

Personal Representative: Robert A. Gibbs
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

CARMEN JENKINS, a/k/a CARMEN LOUISE JENKINS, late of North Union Township, Fayette County, PA ⁽¹⁾

Executrix: Nicole L. Broome
16209 Penn Manor Lane
Bowie, Maryland 20716
c/o 84 East Main Street
Uniontown, PA 15401
Attorney: Vincent M. Tiberi

DAVID A. KASHURA, late of Perry Township, Fayette County, PA ⁽¹⁾

Personal Representative: James D. Kashura
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

SUSAN N. KAYLOR, late of Connellsville, Fayette County, PA ⁽¹⁾

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

DOROTHY J. KOSTELAC, late of Washinton Township, Fayette County, PA ⁽¹⁾

Executrix: Laura Maxwell Lees
706 Dunkirk Road
Baltimore, Maryland 21212
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

JUDITH ANN NESTOR, a/k/a JUDITH ANN SMITH, late of Georges Township, Fayette County, PA ⁽¹⁾

Administrator: Martin S. Nestor
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

WILLIAM RIFFLE, a/k/a WILLIAM H. RIFFLE, JR., late of German Township, Fayette County, PA ⁽¹⁾

Personal Representative: William Craig Riffle and Marisa D. Springer
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

LINDA MAE WEAVER, late of Uniontown, Fayette County, PA ⁽¹⁾

Executor: David Sullivan
1032 Olivia Way
Morgantown, WV 26508
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Ewing D. Newcomer

LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY PENNSYLVANIA
CIVIL DIVISION
No. 599 of 2025, G.D.

IN RE: CHANGE OF NAME OF
Marcy Jo Flecker,
an adult individual

PETITION FOR NAME CHANGE

The Petitioner's residence is 129 Mountain
Rd., Uniontown PA 15401.

TO ALL PERSONS INTERESTED:

Notice is hereby given that an Order of
Court authorized the filing of said Petition and
fixed the 30th day of July, 2025, at 8:30 o'clock,
a.m. as the time and Courtroom No. 4, Fayette
County Courthouse, Uniontown, Pennsylvania,
as the place for a hearing when and where all
persons may show cause, if any they have, why
said name should not be changed as prayed for.

DAVIS & DAVIS
By Samuel J. Davis, Esquire
Attorney for Petitioner

SHERIFF'S SALE

Date of Sale: September 18, 2025

By virtue of the below stated writs out of
the Court of Common Pleas of Fayette County,
Pennsylvania, the following described properties
will be exposed to sale by James Custer, Sheriff
of Fayette County, Pennsylvania on Thursday
September 18, 2025, at 2:00 pm at
<https://fayette.pa.realforeclose.com>.

The Conditions of sale are as follows:

All bidders must complete the Realauuction
on-line registration process at
<https://fayette.pa.realforeclose.com> to participate
in the auction.

All bidders must place a 10% deposit equal
to the successful bid for each property purchased
to Realauuction via wire transfer or ACH per
Realauuction requirements. Upon the auction's
close, buyer shall have 10 business days to pay
the remaining balance to the Fayette County
Sheriff's Office via cashier's check. No cash
will be accepted. Failure to comply with the
Conditions of Sale, shall result in a default and
the down payment shall be forfeited by the
successful bidder and applied to the costs and
judgments. The schedule of distribution will be
filed no later than 30 days after the sale of real
property. If no petition has been filed to set
aside the sale or objections to the distribution are
filed within 10 days of filing the distribution, the
Sheriff will prepare and record a deed
transferring the property to the successful
bidder.

(1 of 3)

James Custer
Sheriff of Fayette County

Orlans Law Group PLLC

No. 1036 of 2025 G.D.
No. 152 of 2025 E.D.

Freedom Mortgage Corporation
v.
Carl D. Chipps Jr. and Nicole L. Chipps

By virtue of a Writ of Execution No. 1036 of 2025 GD, Freedom Mortgage Corporation v. Carl D. Chipps Jr. and Nicole L. Chipps, owner (s) of property situate in the Borough of Fairchance, Fayette County, Pennsylvania, being 15 N Morgantown Street, Fairchance, PA 15436 Parcel No. 11060121
Improvements thereon: RESIDENTIAL DWELLING
Judgment Amount: \$131,801.24

Brock & Scott, PLLC

No. 1037 of 2025 G.D.
No. 151 of 2025 E.D.

FREEDOM MORTGAGE CORPORATION
v.
NICOLE N. CHUN

By virtue of a Writ of Execution No. 1037 OF 2025 GD, FREEDOM MORTGAGE CORPORATION v. NICOLE N. CHUN, owner (s) of property situate in the 8TH WARD OF CITY OF UNIONTOWN, FAYETTE County, Pennsylvania, being 196 MORGANTOWN ST, UNIONTOWN, PA 15401
Tax ID No. 38-10-0455 a/k/a 38100455
Improvements thereon: RESIDENTIAL DWELLING
Judgment Amount: \$191,102.06

ANNE N. JOHN, Esq.
ATTORNEY AT LAW

No. 2148 of 2022 G.D.
No. 42 of 2023 E.D.

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF GREENE COUNTY, a corporation,
vs.
MARK W. DECARLO, SR., a/k/a MARK W. DECARLO and MARY F. DECARLO, n/k/a MARY F. WILSON,
Defendants and Real Owners.

ALL that certain tract of land situate in Menallen Township, Fayette County, Pennsylvania, more particularly bounded and described as follows.

UPON WHICH is erected a ranch dwelling known and designated as 7401 National Pike, Uniontown, Fayette County, Pennsylvania.
FOR PRIOR title see Record Book 957 page 255.
Assessment Map No.: 22-17-0017.

Hladik, Onorato & Federman, LLP
298 Wissahickon Avenue
North Wales, PA 19454

No. 2385 of 2024 G.D.
No. 145 of 2025 E.D.

U.S. Bank National Association, not in its individual capacity but solely in its capacity as Indenture Trustee of CIM Trust 2021--NR4
(Plaintiff)
vs.

David Lee Finfrook, as Surviving Heir of Linda K. Metts, Deceased, Dianna Lynn Campbell-Newcomer, as Surviving Heir of Linda K. Metts, Deceased, Donald William Metts, as Surviving Heir of Linda K. Metts, Deceased, Dwayne Emerson Metts, as Surviving Heir of Linda K. Metts, Deceased and Unknown Surviving Heirs of Linda K. Metts, Deceased
(Defendants)

Property Address 176 Center Street, Uniontown, PA 15401
Parcel I.D. No. 25-08-0037
Improvements thereon consist of a residential dwelling.
Judgment Amount: \$12,421.23

ANNE N. JOHN, Esq.
ATTORNEY AT LAW

No. 2230 of 2024 G.D.
No. 153 of 2025 E.D.

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF GREENE COUNTY, a corporation,
Plaintiff
vs.
DAVID GREGOR and AMANDA GREGOR,
Defendants.

All that certain tract of land situate in

Wharton Township, Fayette County, Pennsylvania, containing an area of 1.9935 acres according to survey of Ramesh B. Shah dated June, 2004, upon which is erected a residential single-family dwelling known locally as 232 Wharton Furnace Road, Farmington, PA 15437.

FOR prior title see Record Book 3453 page 1664.

Upon which is erected a residential single-family dwelling known locally as 232 Wharton Furnace Road, Farmington, PA 15437.

Assessment Map No.: 42-05-0104.

No. 2728 of 2024 G.D.

No. 150 of 2025 E.D.

SOMERSET TRUST COMPANY

v.

**Edward D. Kostelnik and
Mariah L. Kostelnik**

Property of: Edward D. Kostelnik and Mariah L. Kostelnik

Located in: TOWNSHIP OF SOUTH UNION, FAYETTE COUNTY

Street Address: 4 HOOKTOWN AVENUE, UNIONTOWN, FAYETTE COUNTY, PENNSYLVANIA 15437.

Brief Description of Property: Residential, Single-Family home

Improvements thereon: RESIDENTIAL DWELLING

Record book Volume: 3397, Page 633

Tax Assessment Number(s):

MAP NO.: 34-13-0095

No. 1267 of 2023 G.D.

No. 117 of 2025 E.D.

PNC Bank, National Association

Plaintiff,

vs.

**Bruce A. Roberts; Highland Property, LLC
Defendants.**

ALL that certain parcel of land lying and being situate in the Borough of Belle Vernon, County of Fayette, and Commonwealth of Pennsylvania, known as 302 and 304 Market Street, Belle Vernon, PA 15012 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 01-02-0064

BEING the same premises which Bruce A. Roberts, unmarried, by Deed dated March 31, 2017 and recorded in and for Fayette County,

Pennsylvania in Deed Book 3337, Page 1028, granted and conveyed unto Highland Property, LLC.

KML LAW GROUP, P.C.
701 Market Street Suite 5000
Philadelphia, PA 19106-1532
(215) 627-1322

No. 184 of 2020 G.D.

No. 116 of 2023 E.D.

No. 125 of 2025 E.D.

PNC BANK, NATIONAL ASSOCIATION, SUCCESSOR BY MERGER TO NATIONAL CITY BANK

**3232 Newmark Drive
Miamisburg, OH 45342**

Plaintiff

vs.

EUGENE ROUSE

MELISSA ROUSE

Mortgagor(s) and Record Owner(s)

**213 Stone Church Road
Merrittstown, PA 15463**

Defendant(s)

ALL THAT CERTAIN LOT OF LAND SITUATE IN REDSTONE TOWNSHIP, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 213 STONE CHURCH ROAD, MERRITTSTOWN, PA 15463

TAX. PARCEL #30-17-0035

IMPROVEMENTS: A RESIDENTIAL DWELLING

SOLD AS THE PROPERTY OF:
EUGENE ROUSE AND MELISSA ROUSE

ROBERTSON, ANSCHUTZ, SCHNEID,
CRANE & PARTNERS, PLLC

A Florida professional limited liability company
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
(855)225-6906

No. 2502 of 2024 G.D.

No. 140 of 2025 E.D.

WELLS FARGO BANK, N.A.

Plaintiff

v.

**CARRIE TROUT, IN HER CAPACITY AS
HEIR OF ROBERT H. VAN
GROOTENBRUEL; CRAIG VAN
GROOTENBRUEL, IN HIS CAPACITY AS**

**HEIR OF ROBERT H. VAN
GROOTENBRUEL; CARYN WATSON, IN
HER CAPACITY AS HEIR OF ROBERT H.
VAN GROOTENBRUEL; UNKNOWN
HEIRS, SUCCESSORS, ASSIGNS, AND
ALL PERSONS, FIRMS, OR
ASSOCIATIONS CLAIMING RIGHT,
TITLE OR INTEREST FROM OR UNDER
ROBERT H. VAN GROOTENBRUEL**
Defendant(s)

ALL THOSE CERTAIN LOTS OR
PIECES OF GROUND SITUATE IN THE
TOWNSHIP OF BULLSKIN, FAYETTE
COUNTY, PENNSYLVANIA:
BEING KNOWN AS: 2059 ROCKY
RIDGE ROAD ACME, PA 15610-1213
BEING PARCEL NUMBER: 04-21-0028
IMPROVEMENTS: RESIDENTIAL
PROPERTY

Robert Flacco, Esq.
1325 Franklin Avenue, Suite 160
Garden City, NY 11530
(212) 471-5100

No. 279 of 2025 G.D.
No. 139 of 2025 E.D.

**Wilmington Savings Fund Society, FSB, as
Indenture Trustee with respect to CIM Trust
2023-RI**
v
Lon D. Welsh, Dawna C. Welsh

Docket Number: 279 of 2025 GD
Property to be sold is situated in the
borough/township of Dunbar, County of Fayette
and State of Pennsylvania.
Commonly known as: 14 Hancock Street,
Dunbar, PA 15431
Parcel Number: 08-03-0069 and 08-03-
0069-01
Improvements thereon of the residential
dwelling or lot (if applicable):
Judgment Amount: \$105,478.63 Attorneys
for the Plaintiff:

*** END SHERIFF’S SALE ***

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE

A DECADE OF EXPERIENCE E&O INSURED WILL TRAVEL ACCEPTING NEW CLIENTS


DiBella Weinheimer
Geer McAllister Best Coco Lloyd Whalen



Holly Whalen ♦ Amy Coco ♦ Bethann Lloyd

INSIST UPON OUR EXPERIENCED TEAM

LAWYERS DEFENDING LAWYERS

- Disciplinary Board
- Legal Malpractice
- Security Fund / IOLTA
- Ethics & Conflict Analysis
- Subpoena Assistance
- Licensure
- Conflict Resolution

WWW.DIBELLA-WEINHEIMER.COM 412 261-2900

JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
	:	
VS.	:	
	:	
JOSEPH GLENN HARDIN,	:	No. 464 of 2024
Defendant.	:	Honorable Nancy D. Vernon

OPINION AND ORDER

VERNON, J.	June 3, 2025
------------	--------------

Before the Court is the Omnibus Pretrial Motion filed by Defendant, Joseph Glenn Hardin, moving to suppress his statements made in a post-polygraph interview. Defendant argues that he informed officers that he could not read, was uncomfortable, and suffering from chest pain; that he was not further informed of his Miranda warnings prior to the polygraph examination or post-polygraph interview; that he did not complete a knowing, voluntary, and intelligent waiver of his Miranda rights; and that during the post-polygraph interview that Defendant indicated he wanted counsel yet the troopers continued to interrogate him.

At the time set for hearing, the Commonwealth presented the testimony of the officer who performed the polygraph examination, and submitted as exhibits the video with audio recordings of the pre-interview, polygraph examination, and post-interview. During testimony of the polygraph examiner, Defendant suffered chest pains in court and was taken by ambulance from the hearing. The Court has fully reviewed the same.

The pre-polygraph interview recording begins with the officer telling Defendant,

I will explain everything to you beforehand. [...] First thing we are going through is a consent form. This is completely voluntarily. You don't have to do this. Nobody can force you to do this. It can't be held against you if you don't do this. It has to be completely voluntary for you to do this exam.

The officer then presented Defendant with a consent form to which Defendant responded advising the officer that he was unable to read and was nervous. The trooper mitigated concerns regarding Defendant's illiteracy by reading the consent form aloud to him, which included his Miranda warnings. Upon hearing the Miranda warnings, Defendant stated, "Sounds like I'm being arrested." The officer responded,

You are not in custody. You are free to leave here any time you want to. This is a voluntary process. You can't be forced to take this thing. You can't be forced to answer any questions or anything like that. That's why it has to be completely vol-

untary on your part to take this examination.

Defendant responded in the affirmative indicating he understood. The officer then stated, "If you decide to answer any questions, you may stop at any time you wish. [...] Do you understand the things I read to you?" Defendant responded, "Yes, sir" then initialed the consent form. The pre-polygraph interview and polygraph examination occurred without incident.

In the post-polygraph interview, at 12:55 p.m., Defendant was questioned about the truthfulness of his polygraph examination.

First Officer: We asked you a pretty direct question about it and obviously you weren't telling the truth about it. So you gotta fill me in on how you can't tell the truth on that portion of it. That's the only reason we're here today. Remember, I don't work here. I'm unbiased. The only thing I get is the truth that

Defendant: So you're saying I can come back with a lawyer and talk to you guys?

First Officer: You can do whatever you like. I just like to know the truth in regards to this incident. Because I know at the beginning you were forthcoming with me. Okay?

Defendant: I'm thinking about picking the lawyer option.

Officer. Okay, are you requesting a lawyer?

Second Officer: We don't give advice on a lawyer. You saying you do want one or you're thinking [...]

Defendant: [interrupting] I know a lawyer sounds like I'm making the wrong decision.

Second Officer: You have the right to an attorney. We even told you that in the beginning. If you want to continue to talk about it... If I just understood you correctly, did you say you're thinking about an attorney, getting a lawyer?

Defendant: I know what I did and didn't do and this test [...]

Second Officer: You didn't say that you want an attorney. You said that you're thinking about an attorney.

Defendant: It's like making me nervous about it.

Second Officer: A person saying they're thinking about an attorney and the fact that you haven't made a decision yet to invoke your right to an attorney makes us think that maybe you do want to talk about it a little more. I'm going to have to guess what's holding you back from talking about it more is you keep bringing up one thing and that's your fear of the father and his nuttiness or whatever you want to call it. You said he's crazy or whatever. He's not here right now.

Defendant: I know.

Second Officer: I think what would be best at this point is to get it all out and to show that you're remorseful for what's gone on and that you've been truthful. And until we get all of the truth, you've been giving us bits and pieces. Cause the way we started off today you said there's no touching, no sexual [...]

Defendant: I did not stick my dick in her. That's the thing though.

Second officer: So you said that she cupped you. Can you tell us what that means?

Defendant: Like put her hands underneath my pants where my dick and balls are at.

Second officer: Inside your pants or over top?

Defendant: No, just pants. Over top pants.

Second officer: Okay and you touched her vagina.

Defendant: Over top the pants. That's it.

The officers' questioning then continued for approximately four more minutes with Defendant making incriminating statements during that time. At 1:00 p.m., Defendant asked, "Can I be done please?" The officer responded, "If you want to be done, absolutely. Like I said if you want an attorney, you have the right to invoke your right to an attorney." Defendant huddled over and began crying stating, "I'm done. I'm leaving."

Effective assertion of the Fifth Amendment right to counsel "requires, at a minimum, some statement that can reasonably be construed to be an expression of a desire for the assistance of an attorney in dealing with custodial interrogation by the police." *McNeil v. Wisconsin*, 501 U.S. 171 (1991). For the *Miranda* rule to apply, there must be an unequivocal invocation of the right to counsel. *Commonwealth v. Champney*, 65 A.3d 386, 387 (Pa. 2013). The suspect must "articulate his desire to have counsel present sufficiently clearly that a reasonable police officer in the circumstances would understand the statement to be a request for an attorney." *Davis v. United States*, 512 U.S. 452 (1994).

Here, Defendant stated, "So you're saying I can come back with a lawyer and talk to you guys?" and then, "I'm thinking about picking the lawyer option." Rather than getting clarification on whether Defendant was invoking his Fifth Amendment right to counsel, the officer encouraged Defendant to continue talking, "I think what would be best at this point is to get it all out and to show that you're remorseful for what's gone on and that you've been truthful." The officer continued his questioning without any definitive answer from Defendant on his request for an attorney.

The Supreme Court was equally divided on the question of whether the words "I think" prior to a request for counsel rendered that request unambiguous. *Commonwealth v. Champney*, 65 A.3d 386 (Pa. 2013). The Opinion in Support of Affirmance found

dispositive that the defendant did not provide a second statement contradicting his initial desire to speak with counsel and rejected the idea “that employment of the phrase ‘I think,’ in and of itself renders [Defendant’s] statement equivocal, as such term can be colloquially used to express one’s beliefs and not to suggest that one is pondering or contemplating an action.” *Id.* at 388. The Opinion in Support of Reversal found, “If our Court could examine and characterize the tone, demeanor, emphasis, or body language of the declarant, we might be allowed to find the sentiment expressed by [Defendant] was other than ambiguous — but we are not afforded that opportunity.” *Id.* at 404.

This Court was afforded the ability to observe Defendant’s tone, demeanor, emphasis, and body language and we find that Defendant was under duress when he began to break down during the questioning and by the time he requested to be “done” he was huddled over crying. Even if the officers viewed the Defendant’s first mention of a lawyer as ambiguous because it was phrased as a question and likewise deemed the second reference, which included the word “think,” to be equivocal, the officers never received clarification and instead continued questioning.

Upon review of the video, we hold that Defendant’s statement, “I’m thinking about picking the lawyer option” was unambiguous notwithstanding the fact it was prefaced by the phrase “thinking” as his tone and demeanor support his invocation of the Fifth Amendment. The Courts have long held “if an individual is given the Miranda warnings and responds that he wishes to exercise any of those rights, all interrogation must cease.” *Commonwealth v. Mercier*, 302 A.2d 337, 339 (Pa. 1973).

WHEREFORE, we will enter the following Order suppressing all statements made after Defendant’s invocation of the Fifth Amendment at 12:55 p.m. in his post-polygraph interview.

ORDER

AND NOW, this 3rd day of June, 2025, upon consideration of the Omnibus Pretrial Motion filed by Defendant, Joseph Glenn Hardin, and in accordance with the foregoing Opinion, it is hereby ORDERED and DECREED that the Motion is GRANTED in part and all statements made after Defendant’s invocation of the Fifth Amendment at 12:55 p.m. in his post-polygraph interview are SUPPRESSED.

It is further ORDERED and DECREED that the Motion to Suppress is DENIED in all other respects.

BY THE COURT:
NANCY D. VERNON, JUDGE

ATTEST:
CLERK OF COURTS

LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, July 23rd from 12:00 p.m. to 2:00 p.m.**
- Location: **Fayette County Courthouse - Courtroom Four**
- Discussion topics: **Avoiding Legal Malpractice Seminar**
- Presenters: **Bethann R. Lloyd, Esquire and James T. Davis, Esquire**

CLE Credit

2.0 hours of Ethics CLE credit for the program. The fees are as follows:

Members of the FCBA

- \$5 fee for attendance without CLE Credit
- \$15 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2020

- \$5 fee for attendance with CLE Credit

Non-members of the FCBA

- \$15 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**** All fees to be paid at the door ****
Lunch will be provided.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or email to cindy@fcbar.org on or before Monday, July 21st.

Attorneys who are insured through the Pennsylvania Bar Association Insurance Program, advised and administered by USI Affinity, have the ability to earn up to a 7.5% discount on their malpractice insurance based on one's attendance at this CLE. Questions regarding your LPL insurance should be directed to USI Affinity at 610-537-1368.

