

# Adams County Legal Journal

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## IN THIS ISSUE

COMMONWEALTH OF PENNSYLVANIA VS.  
WILLIE J. FELTON

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## ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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NOTICE BY THE ADAMS COUNTY  
CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees, and other persons concerned that the following accounts with statements of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County – Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts entering decrees of distribution on Friday, November 17, 2017 at 8:30 a.m.

**REAVER** – Orphans' Court Action Number OC-124-2017. The First and Final Account of ACNB Bank a/k/a Adams County National Bank, Executor of the Estate of James S. Reaver, late of Cumberland Township, Adams County, Pennsylvania.

Kelly A. Lawver  
Clerk of Courts

11/3 & 11/10

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CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on October 12, 2017, a Petition for Change of Name of an Adult was filed in the Court of Common Pleas of Adams County, Pennsylvania, requesting a Decree to change the name of Petitioner, Elisabeth Breen Henry, to Elisabeth Breen Sunderland Henry. The Court has affixed the 15th day of December, 2017 at 11 a.m. in courtroom No. 4, Third Floor of the Adams County Courthouse 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 Petitioner should not be granted.

11/10

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COURT OF COMMON PLEAS FOR  
THE COUNTY OF ADAMS, TERM,  
2017-SU-1080

NOTICE FOR PUBLICATION

NOTICE IS HEREBY GIVEN that the Petitioner, Biridiana Lua-Garcia filed on October 2, 2017, a petition praying for a decree to change her name to Biridiana Lopez Lua-Garcia. The Court has fixed December 15, 2017 at 10:00 a.m. in courtroom No. 4, third floor Adams County Courthouse, Gettysburg, Pennsylvania for hearing. All persons interested may appear and show cause, if any they have, why the prayer of the Petition should not be granted.

Archie V. Diveglia, Esq.  
Diveglia & Kaylor, P.C.  
Attorney I.D. #1714  
Two Lincoln Way St.  
New Oxford, PA 17350  
(717) 624-2500  
Attorney for Petitioner

11/10

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IN THE COURT OF COMMON PLEAS  
OF ADAMS COUNTY PENNSYLVANIA  
CIVIL ACTION – LAW  
NO. 2017-SU-1130

IN THE MATTER OF PETITION FOR  
CHANGE OF NAME OF AN ADULT  
FOR JENNIFER KRISTA SCOBIE

NOTICE

NOTICE IS HEREBY GIVEN that on the 17TH day of October, 2017, the Petition of Jennifer Krista Scobie was filed in the Adams County Court of Common Pleas at No. 2017-SU-1130, seeking to change the name of Petitioner from Jennifer Krista Scobie to Jennifer Krista Hilker-Scobie. The Court has fixed December 15, 2017 at 11:30 a.m. in Courtroom No. 4, in the Adams County Courthouse, 111-117 Baltimore St., Gettysburg, PA 17325 as the date for the hearing of the Petition. All persons interested in the proposed change of name may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

11/10

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COMMONWEALTH OF PENNSYLVANIA VS.  
WILLIE J. FELTON

1. The Pennsylvania Supreme Court has defined an arrest as an act that indicates an intention to take a person into custody or that subjects the person to the will and control of the person making the arrest.

2. To determine whether police seized an individual, courts must analyze the totality of circumstances to determine whether the police conduct would have communicated to a reasonable person that the person was not free to decline the officers' request or otherwise terminate the encounter.

3. Police detentions become custodial when, under the totality of the circumstances, the conditions and/or duration of the detention become so coercive as to constitute the functional equivalent of arrest.

4. Miranda Warnings are necessary only when the suspect is subjected to custodial interrogation. Interrogation is police conduct calculated to, expected to, or likely to evoke admission. When a defendant makes an unsolicited statement or confession, it is gratuitous and not subject to suppression for lack of Miranda Warnings.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,  
PENNSYLVANIA, CP-01-CR-666-2017, COMMONWEALTH OF  
PENNSYLVANIA VS. WILLIE J. FELTON.

Kelley L. Margetas, Esq., Attorney for Commonwealth

Sean A. Mott, Esq., Attorney for Defendant

Campbell, J., September 27, 2017

OPINION ON DEFENDANT'S MOTION FOR  
SUPPRESSION

Presently before the Court is Defendant's Omnibus Pre-Trial Motion filed August 17, 2017. Hearing for the Omnibus Pre-Trial Motion was held on September 26, 2017. For the reasons that follow, the Omnibus Pre-Trial Motion is Denied.

FINDINGS OF FACT

1. Officer Shannon Hilliard is employed full time as a police officer in Gettysburg, PA.
2. Officer Hilliard has approximately ten years of experience as a police officer and in that period of time has participated in approximately four hundred DUI related traffic stops.
3. On March 22, 2017, at approximately 1:44 A.M., Officer

Hilliard was on routine patrol in Gettysburg Borough, Adams County and stopped a yellow Chevrolet Cavalier.

4. The driver was Defendant and as Officer Hilliard approached Defendant's vehicle, Defendant exited the vehicle in a fast manner. Officer Hilliard did not ask Defendant to exit his vehicle.
5. At this time, Defendant, with his hands raised in front of him, made specific statements, including "This ain't no Ferguson. I don't have to get back in my vehicle."
6. Officer Hilliard instructed Defendant to get back into his vehicle.
7. Defendant went over to vehicle, locked the door, refused to comply with Officer Hilliard's command, and started walking away.
8. Officer Hilliard detained Defendant and handcuffed him because Defendant was not cooperative and refused to comply.
9. Defendant repeatedly asked Officer Hilliard if he was under arrest, and Officer Hilliard explained what was going on.
10. Officer Hilliard noticed a strong odor of alcohol emanating from Defendant. In addition, Defendant had red, glassy eyes; a white powdery substance on his lips; and a green and white coating on his tongue.
11. Officer Hilliard removed the handcuffs from Defendant and had Defendant perform Standard Field Sobriety tests.
12. Defendant repeatedly asked Officer Hilliard if he was going to take Defendant's blood. Defendant also stated that his attorney told him not to give his blood.
13. As the encounter progressed, Defendant became more and more agitated.
14. After Defendant showed signs of impairment, Officer Hilliard handcuffed Defendant, placed him in the back of the patrol vehicle, and transported him to Gettysburg Hospital for a blood draw.
15. Officer Hilliard read Defendant the revised DL-26 Form, and Defendant refused chemical testing.

16. Defendant then stated, “Come on why you wanna take my blood. I have been drinking. Only gonna find weed and that I’m drunk.”
17. Defendant’s statements were not in response to any questions asked by Officer Hilliard.
18. At no time did Officer Hilliard give Defendant Miranda Warnings.
19. Defendant was subsequently charged with Driving Under the Influence of Alcohol, as a misdemeanor of the second degree <sup>1</sup>; Driving Under Suspension, as a summary offense <sup>2</sup>; Driving on Right Side of Roadway, as a summary offense <sup>3</sup>; and Driving Vehicle at Safe Speed, as a summary offense. <sup>4</sup>
20. Defendant waived his preliminary hearing, which was scheduled for June 7, 2017.
21. An Omnibus Pre-trial hearing occurred on September 26, 2017.

### ISSUES

1. Whether Defendant was subjected to custodial interrogation and illegally interrogated without being given Miranda Warnings.

### CONCLUSIONS OF LAW

If a suspect is subjected to custodial interrogation, the police officer must read the suspect his or her Miranda Warnings. Although Defendant was in custody, Defendant was not interrogated. Therefore, Officer Hilliard was not required to give Defendant Miranda Warnings.

### DISCUSSION

Defendant argues that Officer Hilliard violated his Fifth Amendment rights by subjecting Defendant to custodial interrogation without reading him Miranda Warnings. In a suppression hearing, the Commonwealth has the burden to establish by a preponderance of the evidence the admissibility of those items the accused seeks to preclude. *Commonwealth v. Ruey*, 892 A.2d 802, 807 (Pa. 2006).

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<sup>1</sup> 75 Pa. C.S. § 3802(a)(1).

<sup>2</sup> 75 Pa. C.S. § 1543(b)(1).

<sup>3</sup> 75 Pa. C.S. § 3301(a).

<sup>4</sup> 75 Pa. C.S. § 3361.

The Fifth Amendment of the United States Constitution guarantees that a defendant shall not “be compelled in any criminal case to be a witness against himself.”<sup>5</sup> The Fifth Amendment is applicable to the states through the Fourteenth Amendment of the U.S. Constitution. *Commonwealth v. Kirwan*, 847 A.2d 61, 64 n. 5 (Pa. Super. 2004). Pennsylvania’s Constitution specifically guarantees that in all criminal prosecutions the defendant “cannot be compelled to give evidence against himself.”<sup>6</sup>

Defendant alleges that he was subjected to custodial interrogation without being read Miranda Warnings and therefore, any statements that he made to police should be suppressed. First, this Court considers whether Defendant was in custody. The Pennsylvania Supreme Court has defined an arrest as an “act that indicates an intention to take a person into custody or that subjects the person to the will and control of the person making the arrest.” *Commonwealth v. Gwynn*, 723 A.2d 143, 148 (Pa. 1998). See also *Commonwealth v. Lovette*, 450 A.2d 975, 978 (Pa. 1982). To determine whether police seize an individual, courts must analyze the totality of circumstances “to determine whether the police conduct would have communicated to a reasonable person that the person was not free to decline the officers’ request or otherwise terminate the encounter.” *Commonwealth v. Lewis*, 636 A.2d 619, 623 (Pa. 1994) (quoting *Florida v. Bostick*, 501 U.S. 429, 439 (1991)). “[P]olice detentions become custodial when, under the totality of the circumstances, the conditions and/or duration of the detention become so coercive as to constitute the functional equivalent of arrest.” *Commonwealth v. Mannion*, 725 A.2d 196, 200 (Pa. Super. 1996) (citing *Commonwealth v. Ellis*, 549 A.2d 1323, 1332 (Pa. Super.1988)). Courts consider the following factors when determining whether a detention is custodial or investigative:

[T]he basis for the detention (the crime suspected and the grounds for suspicion); the duration of the detention; the location of the detention (public or private); whether the suspect was transported against his will (how far, why); the method of detention; the show, threat, or use of force;

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<sup>5</sup> U.S. Const. amend. V.

<sup>6</sup> Pa. Const. art. I, § 9.

and, the investigative methods used to confirm or dispel suspicions.

*Commonwealth v. Douglass*, 539 A.2d 412, 421 (Pa. Super. 1988).

Instantly, it is undisputed that Defendant was in custody when he made the allegedly incriminating statements. Therefore, this Court must next consider whether Officer Hilliard interrogated Defendant.

The United States Supreme Court ruled that

...the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.

*Miranda v. Arizona*, 384 U.S. 436, 444 (1966). “Miranda warnings are necessary only when the suspect is subjected to custodial interrogation.” *Commonwealth v. Fisher*, 769 A.2d 1116, 1125 (Pa. 2001). “Interrogation is police conduct calculated to, expected to, or likely to evoke admission.” *Mannion*, 725 A.2d at 200 (internal quotation marks omitted). When a defendant makes an unsolicited statement or confession, it is gratuitous and not subject to suppression for lack of Miranda Warnings. *Id.* See also *Fisher*, 769 A.2d at 1125 (ruling that spontaneous, unsolicited statements are not subject to suppression).

As discussed supra, Defendant was in custody when he made the allegedly incriminating statements. However, it was undisputed that Officer Hilliard did not ask Defendant any questions when Defendant made the allegedly incriminating statements. This Court declines to consider the reading of the DL-26 Form an interrogation. Defendant made unsolicited, spontaneous statements to Officer Hilliard. Because Officer Hilliard did not ask any questions or do anything that was likely to evoke admission, Officer Hilliard did not interrogate Defendant. As such, Defendant was not subjected to custodial interrogation, and Officer Hilliard was not required to give Defendant Miranda Warnings.

Therefore, Defendant's motion to suppress the allegedly incriminating statements that he made to Officer Hilliard is denied.

ORDER

AND NOW, this 27th day of September, 2017, for the reasons set forth in the attached Opinion, Defendant's Motion for Suppression filed August 17, 2017, is denied.



## ESTATE NOTICES

**NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary or of administration to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.**

## FIRST PUBLICATION

## ESTATE OF MICHAEL L. ALDINGER, DEC'D

Late of Redding Township, Adams County, Pennsylvania

Executrix: Cynthia J. Aldinger, 28 Bragg Drive, East Berlin, PA 17316

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

## ESTATE OF JOSEPH H. DERSE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Claudia Derse-Anthony, 2644 Marston Road, New Windsor, MD 21776

## ESTATE OF DOROTHY B. ERNST, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Kay E. Hollabaugh, 481 Carlisle Road, Biglerville, PA 17307

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

## ESTATE OF JEWELL O. GOOD a/k/a JEWELL OUTLAW GOOD, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Janet A. Good, c/o Eveler & DeArment LLP, 2997 Cape Horn Rd., Suite A-6, Red Lion, PA 17356

Attorney: Eveler & DeArment LLP, 2997 Cape Horn Rd., Suite A-6, Red Lion, PA 17356

## ESTATE OF EDGAR S. KUHN, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Mark Joseph Kuhn, c/o Michael A. Scherer, Esq., Barie Scherer LLC, 19 West South Street, Carlisle, PA 17013

Attorney: Michael A. Scherer, Esq., Barie Scherer LLC, 19 West South Street, Carlisle, PA 17013

## SECOND PUBLICATION

## ESTATE OF DORIS M. DULL, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executor: Donald J. Smith, 970 Two Taverns Road, Gettysburg, PA 17325

Attorney: Amy E.W. Ehrhart, Esq., 118 Carlisle St., Suite 202, Hanover, PA 17331

## ESTATE OF NEVIN C. DULL, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executor: Donald J. Smith, 970 Two Taverns Road, Gettysburg, PA 17325

Attorney: Amy E.W. Ehrhart, Esq., 118 Carlisle St., Suite 202, Hanover, PA 17331

## ESTATE OF ROBERT P. LANGAN, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Kaylin Langan, 999 E. Brysonia-Wenksville Road, Biglerville, PA 17307

Attorney: Jeffery M. Cook, Esq., 234 Baltimore St., Gettysburg, PA 17325

## ESTATE OF DAVID ALLEN MUMMERT, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Douglas Charles Mummert, 14 N. Pine Street, Gettysburg, PA 17325

Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF IRMA B. OGBURN, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: Wayne B. Ogburn, 45 Sunnyside Road, York Springs, PA 17372

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

## ESTATE OF RICHARD A. TROSTLE, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executrix: Deborah L. Boehning, 5123 West Misty Willow Lane, Glendale, AZ 85310

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

## THIRD PUBLICATION

## ESTATE OF MARTHA K. SCHAEFFER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Personal Representative: Barbara S. Horneff, 8 Pond Ridge Lane, Hanover, PA 17331

Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

## ESTATE OF GUY C. SEIFERD, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Bonnie Jean Riley, c/o Barbara Entwistle, Esq., Entwistle & Roberts, 37 West Middle Street, Gettysburg, PA 17325

Attorney: Barbara Entwistle, Esq., Entwistle & Roberts, 37 West Middle Street, Gettysburg, PA 17325

## ESTATE OF LORI ANN SHOWER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Brandy Nicole Hamilton, 160 S. 31st Street, Camp Hill, PA 17011

## ESTATE OF RAYMOND C. ZARTMAN, JR. a/k/a RAYMOND CLAIR ZARTMAN, JR., DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Attorney: Thomas E. Miller, Esq., Law Office of Thomas E. Miller, Esquire, LLC, 249 York Street, Hanover, PA 17331

## NOTICE

NOTICE IS HEREBY GIVEN to all interested persons that the following matters shall be terminated after 30 days of this publication date unless a party to the proceeding requests a hearing from the appropriate Magisterial District Court, pursuant to the Adams County Rules of Judicial Administration 160.

Office of the Court Administrator  
Adams County Courthouse  
117 Baltimore Street  
Gettysburg, PA 17325  
(717) 337-9846

**District Court 51-3-01**

	<b>Affiant</b>	<b>Defendant</b>	<b>Docket #</b>	<b>Charge</b>	<b>Title, Section</b>
1.	YATB	Lionel Young	NT-34-14	Fail to File Tax	LO5 1393-11
2.	Chris Folster	Aigner Howard	NT-180-14	Dis. Conduct	18,5503A1
3.	Dennis Bevenour	C. S.	NT-243-14	Cr. Mischief	18,3304A5
4.	Tpr. Jones	Amanda Vigenser	NT-254-14	Retail Theft	18,3929A1
5.	Chris Folster	Griffin Hill	NT-316-14	Purchase,Poss	18,6308A
6.	Chris Folster	Nathan Novak	NT-319-14	Purchase,Poss	18,6308A
7.	Harald Pruy	Lyndell Kirkland	NT-377-14	Harassment	18,2709A1
8.	Wal-Mart	Taylor Hanna	NT-91-04	Bad Check	18,4105A1
9.	Wal-Mart	Jason Lamb	NT-256-05	Bad Check	18,4105A1
10.	Walter Powell	Pete Lundgren	NT-687-06	Hist.. Dist. Ord.	Chpt 104

**District Court 51-3-02**

	<b>Affiant</b>	<b>Defendant</b>	<b>Docket #</b>	<b>Charge</b>	<b>Title, Section</b>
1.	Westfall	Alma Cromwell	NT-27-14	Fail Rem Snow	LO 55
2.	Westfall	Alma Cromwell	NT-50-14	Fail Rem Snow	LO 55
3.	Westfall	Alma Cromwell	NT-61-14	Fail Rem Snow	LO 55
4.	Westfall	Alma Cromwell	NT-82-14	Fail Rem Snow	LO 55
5.	China House	Bruce Parrott	NT-111-14	Bad Checks	18,4105A1
6.	Wolfe	Michel McKeldin	NT-119-14	Harassment	18,2709
7.	Henry	Bruce Parrott	NT-137-14	Harassment	18,2709
8.	Thierwechter	Michael Stull	NT-170-14	Harassment	18,2709
9.	Westfall	Altisource	NT-255-14	Nuisance	LO 38
10.	Westfall	Altisource	NT-256-14	Nuisance	LO 38
11.	Westfall	Altisource	NT-265-14	Nuisance	LO 38
12.	Westfall	Altisource	NT-266-14	Nuisance	LO 38
13.	Westfall	Altisource	NT-267-14	Nuisance	LO 38
14.	Westfall	Altisource	NT-272-14	Nuisance	LO 38
15.	Westfall	Altisource	NT-274-14	Nuisance	LO 38
16.	Westfall	Altisource	NT-285-14	Nuisance	LO 38
17.	Gearhart	Robert Mullins	NT-287-14	Theft of Serv.	18,3926
18.	Westfall	Altisource	NT-301-14	Nuisance	LO 38
19.	Westfall	Altisource	NT-306-14	Nuisance	LO 38
20.	Westfall	Altisource	NT-316-14	Nuisance	LO 38
21.	Kile	Joseph Roberts	NT-454-14	Dog License	3,459-201
22.	Kile	Joseph Roberts	NT-455-14	Conf. of Dog	3,459-305
23.	Kile	Joseph Roberts	NT-456-14	Abandon Dog	3,459-601

**District Court 51-3-03**

	<b>Affiant</b>	<b>Defendant</b>	<b>Docket #</b>	<b>Charge</b>	<b>Title, Section</b>
1.	Michael Weigand	Randy Lee Spainhour	NT-1-14	Soliciting	LO 82.2
2.	Ralph Griffiths	Aaron Christopher Robertson	NT-76-14	Soliciting	LO 82.2
3.	James Brunner	Kirsten Piksbusch	NT-684-14	Pur. Alc. Minor	18, 6308

**District Court 51-3-04**

	<b>Affiant</b>	<b>Defendant</b>	<b>Docket #</b>	<b>Charge</b>	<b>Title, Section</b>
1.	Brand Briggs	Randy Hermann	NT-516-13	Pub.Drunken.	18, 5505
2.	Maeve Hoffman	Brian C. Pincin	NT-138-14	Harassment	18, 2709a1
3.	York Adams Tax Bureau	Amber D. Smoker	NT-397-14	Failure to File	LO, 901
4.	York Adams Tax Bureau	Danielle W. Urbina	NT-648-14	Failure to File	LO, 901