

# FAYETTE LEGAL JOURNAL

---

VOL. 84

SEPTEMBER 18, 2021

NO. 38

---



## 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](http://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:** Charles O. Zebley, Jr.  
**President Elect:** Gretchen A. Mundorff  
**Vice-President:** Mark D. Brooks  
**Secretary:** Anne N. John  
**Treasurer:** Louise D. Monaghan  
**Past President:** Louise D. Monaghan  
**Executive Director:** Garnet L. Gordon

**Directors**  
 Jennifer M. Casini  
 Rachel A. Clark  
 Jeremy J. Davis  
 Robert A. Gordon  
 Sheryl R. Heid  
 James E. Higinbotham, Jr.  
 Margaret Zylka House  
 John A. Kopas, III  
 Wendy L. O'Brien  
 Douglas S. Sholtis

### 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.

### 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

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

## 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

**SHARON BLAIR**, late of Redstone Township, Fayette County, PA (3)

*Administrator:* Jeffrey Scott Blair  
c/o 429 Fourth Avenue, Suite 602  
Pittsburgh, PA 15219  
*Attorney:* Esther Evans

**LINDA HAUGHT HIXON BROWN**, late of Uniontown, Fayette County, PA (3)

*Administrator:* George W. Brown  
c/o Monaghan & Monaghan, LLP  
57 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary Monaghan

**DOROTHY CLARK, a/k/a DOROTHY IRENE CLARK**, late of Springfield Township, Fayette County, PA (3)

*Personal Representative:* Harry F. Clark, Jr.  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, Pa 15425  
*Attorney:* Timothy J. Witt

**MARY LESSMAN, a/k/a MARY L. LESSMAN**, late of Bullskin Township, Fayette County, PA (3)

*Executrix:* Marsha L. Verhagen  
1592 Hidden Springs  
Salado, Texas 76571  
c/o 231 South Main, Suite 402  
Greensburg, PA 15601  
*Attorney:* Marilyn M. Gaut

**RICHARD V. MONGELL, a/k/a RICHARD VINCENT MONGELL**, late of Connellsville, Fayette County, PA (3)

*Personal Representative:* Francis Mongell  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

**RUTH ANN SHAFFER**, late of South Union Township, Fayette County, PA (3)

*Executrix:* Christina Smithburger-Orbash  
c/o Higinbotham Law Offices  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James Higinbotham

**THOMAS J. SMITH, a/k/a THOMAS SMITH**, late of Dunbar Township, Fayette County, PA (3)

*Personal Representative:* Brett Smith  
c/o Riverfront Professional Center  
208 South Arch Street, Suite 2  
Connellsville, PA 15425  
*Attorney:* Richard A. Husband

### Second Publication

**CECELIA BARANEK, a/k/a CECELIA AGNES BARANEK**, late of Georges Township, Fayette County, PA (2)

*Executor:* Michael S. Losurdo, Jr.  
c/o 556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John Kopas

**JOYCE L. DEEMS**, late of Uniontown, Fayette County, PA (2)

*Executrix:* Erika L. Butter  
c/o 2944 National Pike Road  
P.O. Box 245  
Chalk Hill, PA 15421  
*Attorney:* Charles C. Gentile

**DONNA M. FOREMAN**, late of Georges Township, Fayette County, PA (2)

*Administrator DBNCTA:* Troy B. Foreman  
c/o 9 Court Street  
Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

**AUDREY GANOE, a/k/a AUDREY D. GANOE, a/k/a AUDREY DARLENE GANOE**, late of Luzerne Township, Fayette, PA (2)

*Executor:* John W. Ritchey and  
Bernadine C. Ritchey  
c/o DeHaas Law, LLC  
51 East South Street  
Uniontown, PA 15401  
*Attorney:* Ernest P. DeHaas, III

**THOMAS J. GEORGE, a/k/a THOMAS GEORGE**, late of Uniontown, Fayette County, PA (2)

*Personal Representatives:*  
Thomas F. George and Michael P. George  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Samuel J. Davis

**PAUL JOSEPH HOMER, JR., a/k/a PAUL J. HOMER, JR.**, late of Dunbar Township, Fayette County, PA (2)

*Personal Representative:*  
Christopher A. Homer  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

**TAMMY J. MATTIE, a/k/a TAMMY JEAN MATTIE**, late of Grindstone, Fayette County, PA (2)

*Administrator:* Nevin P. Mattie  
c/o DeHaas Law, LLC  
51 East South Street  
Uniontown, PA 15401  
*Attorney:* Ernest P. DeHaas, III

**WILLIAM EARL PARNHAM**, late of Uniontown, Fayette County, PA (2)

*Administrators:*  
Ruth Ann Munden  
P.O. Box 315  
Wyano, PA 15695  
Darcy Nave  
10369 Washington Avenue  
North Huntingdon, PA 15642  
c/o 1714 Lincoln Way  
White Oak, PA 15131  
*Attorney:* Rebecca Shaw McHolme

**LOIS N. WHETSEL**, late of Bullskin Township, Fayette County, PA (2)

*Personal Representatives:*  
Kathleen J. Brown and Dan E. Whetsel  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

## First Publication

**GERALD BELL**, late of South Union Township, Fayette County, PA (1)

*Executrix:* Valerie A. Brown  
c/o Higinbotham Law Offices  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
*Attorney:* James Higinbotham

**ROBERT G. BOYE**, late of Brownsville, Fayette County, PA (1)

*Administratrix:* Jo Ann Sepsi  
c/o 51 East South Street  
Uniontown, PA 15401  
*Attorney:* Anthony S. Dedola, Jr.

**ROBERT E. JONES**, late of Uniontown, Fayette County, PA (1)

*Administration, C.T.A.:*  
Jeffrey Scott Jones  
c/o 11 Pittsburgh Street  
Uniontown, PA 15401  
*Attorney:* Thomas W. Shaffer

**CAROL ANN RAHM**, late of Georges, Fayette County, PA (1)

*Administratrix:* Cristina L. Rahm  
c/o 9 Court Street  
Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

**GEORGE H. ROBERTUCCI**, late of Upper Tyrone Township, Fayette County, PA (1)

*Administrator:* Christopher A. Robertucci  
618 Kingview Road  
Scottdale, PA 15683  
c/o 201 North Chestnut Street  
P.O. Box 342  
Scottdale, PA 15683  
*Attorney:* James Lederach

---

**NANNIE M. SAWCHENKO**, late of  
Masonstown, Fayette County, PA (1)

*Executrix:* Mary Collins  
c/o 2944 National Pike Road  
P.O. Box 245  
Chalk Hill, PA 15421  
*Attorney:* Charles C. Gentile

---

## LEGAL NOTICES

---

**\*\* NO LEGAL NOTICES\*\***

---

---

**JOHN WILLIAM SHARTZER, a/k/a JOHN  
W. SHARTZER, a/k/a JOHN SHARTZER**,  
late of Connellsville, Fayette County, PA (1)

*Administratrix:* Paulette S. Musser  
c/o John & John  
96 East Main Street  
Uniontown, PA 15401  
*Attorney:* Simon B. John

---

---

**ANNA ELEANOR VRABEC**, late of North  
Union Township, Fayette County, PA (1)

*Executrix:* Judith A. Radic  
5889 Waynegate Road  
Huber Heights, OH 45424  
c/o 617 McKean Avenue  
Donora, PA 15033  
*Attorney:* Thomas B. Kostolansky

---

## 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, October 4, 2021, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2618-0524	RONALD K. SABO	Ronald V. Sabo, Executor
2619-0462	NANCY ARLENE WELTZ also known as NANCY A. WELTZ	Jeffrey Weltz, Executor

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on  
**Monday, October 18, 2021, at 9:30 A.M.**

in Courtroom No. 1 of the **Honorable Steve P. Leskinen** or his chambers, 2nd 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 also 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, October 4, 2021, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2655-0321	ELSIE FLEMING	Troy Bungard, Administrator
2618-0149	CONNIE L. HARSHMAN a/k/a CONNIE HARSHMAN a/k/a CONNIE LOU HARSHMAN a/k/a CONNIE LOU MARSHALL	Jill Rowland, Executrix
2618-0205	CURTIS THARPE	Susan Baron, Executrix
2621-0221	GLORIA MAE EDWARDS a/k/a GLORIA M. EDWARDS	Carolyn W. Maricondi, Executrix

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on  
**Monday, October 18, 2021, at 9:30 A.M.**

in Courtroom No. 5 of the **Honorable Joseph M. George, Jr.** or his chambers, 3rd 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.

JEFFREY L. REDMAN  
Register of Wills and Ex-Officio Clerk of the Orphans' Court Division (1 of 2)

## SHERIFF'S SALE

Date of Sale: November 18, 2021

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, November 18, 2021, at 2:00 p.m. in Courtroom Number One at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (2 of 3)

James Custer  
Sheriff Of Fayette County

No. 224 of 2021 GD  
No. 107 of 2021 ED

**American Advisors Group**

**PLAINTIFF**

**vs.**

**Susan D. Collier, Administratrix of the Estate  
of John M. Collier a/k/a John Marshall Collier  
DEFENDANT**

ALL the following described tract of land, being more particularly bounded and described as follows, to-wit:

ALL certain piece of land situate in Masontown Borough, Fayette County, Pennsylvania, known and designated as Lot No. 54 in the plan of lots laid out by Hillman-Neff Coke Company, and recorded in the Office of Recorder of Deeds in and for Fayette County, Pennsylvania, in Plan Book 4, page 46, having erected thereon a frame dwelling house and out-building, being the same premises granted and conveyed to Robert Saunders by deed of William Finnie, et ux, dated October 9, 1964, and of record in the Recorder's Office of Fayette County, Pennsylvania, in Deed Book Vol 998, page 410, and subject to all the exceptions, reservations and easements contained in said deed.

PARCEL # 21-08-0225

FOR INFORMATIONAL PURPOSES  
ONLY: Being known as 14 Park Avenue,  
Masontown, Pennsylvania 15461

COMMONLY KNOWN AS: 14 Park  
Avenue, Masontown, PA 15461

TAX PARCEL NO. 21-08-0225

Robertson, Anschutz, Schneid, Crane & Partners, PLLC  
 A Florida Limited Liability Company  
 133 Gaither Drive, Suite F  
 Mt. Laurel, NJ 08054  
 Phone: (855) 225-6906  
 Fax: (866) 381-9549

No. 492 of 2021 GD  
 No. 130 of 2021 ED

**WELLS FARGO BANK, NATIONAL ASSOCIATION, SUCCESSOR BY MERGER TO WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION, AS TRUSTEE F/K/A NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION, AS TRUSTEE FOR AMRESCO RESIDENTIAL SECURITIES CORPORATION MORTGAGE LOAN TRUST 1998-3**

**Plaintiff**  
**V.**

**CHUCK O. COULSON; SONDRA L. COULSON A/K/A SANDRA L. COULSON**  
**Defendant(s)**

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN GERMAN TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 131 PALMER RD F/K/A ROAD #1 BOX 322 ADAH, PA 15410  
 BEING PARCEL NUMBER: 15190074  
 IMPROVEMENTS: RESIDENTIAL PROPERTY

No. 1148 of 2021 GD  
 No. 137 of 2021 ED

**Freedom Mortgage Corporation**  
**Plaintiff**

**vs.**

**Timothy L. Heater, as Administrator of the Estate of Harry L. Heater, Jr., Deceased**  
**Defendant(s)**

All those certain lots of land situate in the Borough of South Connellsville, Fayette County, Pennsylvania.

BEING THE SAME PREMISES which Gregory A. Vinoski, by Deed dated 11/30/2004 and recorded in the Office of the Recorder of Deeds of Fayette County on 11/30/2004 in Deed Book Volume 2928, Page 946, Instrument No. 200400020958 granted and conveyed unto Harry L. Heater, Jr. and Carolyn E. Heater, Husband and Wife.

Carolyn E. Heater departed this life on 4/14/2010.

Harry L. Heater departed this life on 7/26/2020.

BEING known as 1811 2nd Street, Connellsville, Pennsylvania 15425  
 PARCEL # 33-08-0061

STERN AND EISENBERG, PC  
 Andrew J. Marley, ESQ.

No. 482 of 2021 GD  
 No. 128 of 2021 ED

**Wells Fargo Bank, National Association as Trustee for Option One Mortgage Loan Trust 2005-5, Asset-Backed Certificates, Series 2005-5**

**Plaintiff**

**v.**

**Cheryl A. Lorkowski and Raymond P. Lorkowski, Sr.**

**Defendant(s)**

SITUATE IN THE THIRD WARD OF THE Washington Township, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 1540 Fayette Avenue, Fayette City, PA 15438

PARCEL NO. 41-13-0110 and 41-13-0112  
 IMPROVEMENTS - RESIDENTIAL REAL ESTATE

SOLD AS THE PROPERTY OF- Cheryl A. Lorkowski and Raymond P. Lorkowski, Sr.

Brock & Scott, PLLC

No. 851 of 2018 GD  
 No. 51 of 2021 ED

**WELLS FARGO BANK, N.A.**

**v.**

**ANTHONY L. MILAN; NUR H. MILAN**

By virtue of a Writ of Execution No. 851 of 2018 GD; 51 of 2021 ED WELLS FARGO BANK, N.A. v. ANTHONY L. MILAN; NUR H. MILAN owner(s) of property situate in the TOWNSHIP OF LUZERNE, FAYETTE County, Pennsylvania, being

811 GREEN ST, A/KIA 811 GREEN ST-HILLER, BROWNSVILLE, PA 15417

Tax ID No. 19-13-0080

Improvements thereon: RESIDENTIAL DWELLING

Judgment Amount: \$115,631.25



No. 1793 of 2017 GD  
No. 133 of 2021 ED

**Wilmington Savings Fund Society, FSB, As  
Trustee of Stanwich Mortgage Loan Trust I  
Plaintiff,  
vs.  
Matthew B. Nutt; Amanda Bernot, AKA  
Amanda R. Bernot  
Defendants.**

ALL that certain parcel of land lying and being situate in the Borough of Brownsville, County of Fayette, and Commonwealth of Pennsylvania, known as 121 Blaine Avenue, Brownsville, PA 15417 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 02110072, 0211007201

BEING the same property conveyed to Matthew B. Nutt who acquired title by virtue of a deed from Amanda Bernot, dated July 14, 2016, recorded June 18, 2018, at Instrument Number 201800006243, and recorded in Book 3375, Page 881, Office of the Recorder of Deeds, Fayette County, Pennsylvania.

No. 2221 of 2019 GD  
No. 134 of 2021 ED

**U.S. Bank National Association, as Trustee,  
successor in interest to Bank of America  
National Association, as Trustee, successor by  
merger to LaSalle Bank National Association  
as Trustee for Merrill Lynch First Franklin  
Mortgage Loan Trust 2007-5, Mortgage Pass-  
Through Certificates, Series 2007-5  
Plaintiff,  
vs.  
Ronald F. Ryan, AKA Ronald F. Ryan, Jr.,  
AKA Ronald Ryan; Danielle J. Ryan, AKA  
Danielle J. Howe  
Defendants.**

ALL that certain parcel of land lying and being situate in the City of Connellsville, County of Fayette, and Commonwealth of Pennsylvania, known as 401 North Jefferson, Connellsville, PA 15425 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 05-09-0039

BEING the same premises which Ronald F. Ryan and Danielle J. Howe, by Deed dated June 28, 2007 and recorded in and for Fayette County, Pennsylvania in Deed Book 3031, Page

1863, granted and conveyed unto Ronald Ryan and Danielle J. Ryan, husband and wife.

Brock & Scott, PLLC

No. 156 of 2020 GD  
No. 138 of 2021 ED

**WELLS FARGO BANK, N.A.  
v.  
JASON SOMMERFELDT**

By virtue of a Writ of Execution No. 156 of 2020 GD, WELLS FARGO BANK, N.A. v. JASON SOMMERFELDT owner(s) of property situate in the TOWNSHIP OF WASHINGTON, FAYETTE County, Pennsylvania, being 1118 CONNELLSVILLE RD, FAYETTE CITY, PA 15438

Tax ID No, 41-16-0026

Improvements thereon: RESIDENTIAL DWELLING

Judgment Amount: \$51,732.55

KML LAW GROUP, P.C.

Suite 5000

701 Market Street

Philadelphia, PA 19106-1532

(215) 627-1322

No. 1520 of 2018 GD  
No. 127 of 2021 ED

**U.S. BANK NATIONAL ASSOCIATION, AS  
INDENTURE TRUSTEE, FOR THE CIM  
TRUST 2016-2, MORTGAGE- BACKED  
NOTES, SERIES 2016-2  
3217 S. Decker Lake Drive  
Salt Lake City, UT 84119  
Plaintiff  
vs.  
DENISE A. WARNICK SHIRLEY A.  
WARNICK  
Mortgagor(s) and Record Owner(s)  
164 Casey Drive  
New Salem, PA 15468  
Defendant(s)**

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

BEING KNOWN AS: 164 CASEY DRNE, NEW SALEM, PA 15468

TAX PARCEL #15-05-0013

IMPROVEMENTS: A RESIDENTIAL DWELLING

SOLD AS THE PROPERTY OF: DENISE  
A.WARNICK AND SHIRLEY A.WARNICK

No. 2014 of 2019 GD  
No. 135 of 2021 ED

No. 1336 of 2017 GD  
No. 136 of 2021 ED

**PENNSYLVANIA HOUSING FINANCE  
AGENCY,  
PLAINTIFF  
VS.  
DAYID C. WHYEL,  
DEFENDANT**

**PARCEL ONE - TAX PARCEL #19-18-0008/191530:**

ALL that certain lot ground in the Township of Luzerne, County of Fayette, Pennsylvania, being Lot No. 5, Joseph Merino Plan of Lots, Fayette Plan Book 1, page 36 1/2. BEING A VACANT LOT OF residential land located on Rose Street, Allison, PA 15412.

TAX PARCEL #: 19-18-0008

Fayette County Deed Book 2082, page 323.

**PARCEL TWO - TAX PARCEL #19-18-0003/191531:**

ALL that certain lot of ground in the Township of Luzerne, County of Fayette, Pennsylvania, being Lots Nos. 9 and 10, Joseph Merino Plan of Lots, Fayette Plan Book Volume 1, page 36 1/2. HAVINO THEREON ERECTED outbuildings located on Rose Street, Allison, PA 1541 3.

TAX PARCEL #: 19-18-0003

Fayette County Deed Book 2082, page 323.

**PARCEL THREE - TAX PARCEL #19-18-0006/191532:**

ALL those two lots of ground in the Township of Luzerne, County of Fayette, Pennsylvania, being Lots Nos. 3 and 4, Joseph Merino Plan of Lots, Fayette Plan Book 1, page 36 1/2. HAVING THEREON ERECTED DWELLING KNOWN AS: 1 ROSE STREET ALLISON, PA 15413.

TAX PARCEL #: 19-18-0006

Fayette Deed Book 2082, page 323.

ALL PARCELS TO BE SOLD AS THE PROPERTY OF DAVID C. WHYEL UND ER FAYETTE COUNTY JUDGMENT NO. 2017-01336.

**MidFirst Bank  
Plaintiff,  
vs.  
Megan L. Williams; Ryan D. Williams  
Defendants.**

ALL that certain parcel of land lying and being situate in the Township of Springfield, County of Fayette, and Commonwealth of Pennsylvania, known as 640 Mill Run Road, Mill Run, PA 15464 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 35-15-0074

BEING the same premises which Larry A. Schroyer and Mary J. Schroyer, f/k/a Mary J. Bowers, husband and wife, by Deed dated September 6, 2012 and recorded in and for Fayette County, Pennsylvania in Deed Book 3199, Page 837, granted and conveyed unto Megan L. Williams, married and Ryan D. Williams, unmarried.

\*\*\* END SHERRIFF SALES\*\*\*

**JUDICIAL OPINION**

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

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
	:	
V.	:	
	:	
HARRY JAMES,	:	No. 2722 of 2019
DEFENDANT.	:	Honorable President Judge John F. Wagner, Jr.

**OPINION AND ORDER**

Wagner, P.J.

May 24, 2021

Before the Court is the Omnibus Pretrial Motion in the nature of a Petition for Writ of Habeas Corpus filed by the Defendant, Harry James.

**FATUAL BACKGROUND**

On January 14, 2018, Officers John Brant and Gregory Garlock responded to a call at the Dairy Queen in Brownsville, Fayette County, Pennsylvania, for a man acting strange in the store. Upon arrival, Officer Brant testified that he observed the Defendant sitting inside the restaurant portion of the Dairy Queen. The Defendant went to the window and yelled something at the officers about a spiritual war. When the officers entered the store, the Defendant had a cane in his hand and lifted it up in what Officer Brant described as a threatening manner. The Officer stated that he spoke to the Defendant, calling him by name while ordering him to put down the cane, in an attempt to calm the Defendant who he knew and was aware he had mental health issues. The Defendant backed away from the officers into the restaurant portion of the Dairy Queen. When he failed to put down the cane, Officer Brant testified that he tased him and the Defendant fell to the floor. After being tased and while lying on the floor, Officer Brant testified the Defendant struggled and did not immediately permit the officers to handcuff him. Officer Brant testified that he tased him again and then Officer Garlock sprayed him with pepper spray because the Defendant was still struggling. The Officers finally were able to handcuff him with the aid of another officer.

Officer Brant testified that he knew the Defendant had mental health issues and had caused disturbances in the past, but no charges were filed. He further testified that he had Crisis Intervention training and tried to talk the Defendant for two to three minutes to no effect. He also related that one officer had a scrape on his finger as a result of the struggle.

The Defendant was charged with two counts of Aggravated Assault, 18 Pa. C.S. § 2702(a)(3); two counts of Terroristic Threats, 18 Pa. C.S. § 2708(a)(1); two counts of Simple Assault; and three counts of Resisting Arrest, 18 Pa. C.S. § 5104; one count of Disorderly Conduct, 18 Pa. C.S. 5503(a)(1); and two counts of summary Harassment, 18 Pa. C.S. § 2709 (a)(1).

The video surveillance tape from the Dairy Queen was played for the court. It

showed the Defendant sitting alone in the restaurant portion of the store consuming a beverage. He stands up and appears to be talking while leaning against the window. A second video displays the officers outside the front door of the restaurant with no customers present in the counter area but workers behind the counter are visible. The Defendant comes out of the restaurant area of the store and stands several feet from the entrance door to the restaurant while the Officers are outside the doors of the restaurant. The Defendant has his walking cane in his hand but appears to be using it for balance, it is not being waived around or thrust at the officers. The Defendant is speaking to the officers while they are outside. As the Defendant appears to be speaking with the officers, he holds his walking cane in both hands at waist level. Then the Defendant backs up to the chair that he had been sitting in previously. There is no video of the Defendant raising his walking cane, shaking it at the officers, or holding it in a threatening manner. As the Defendant begins to sit down, Officer Brant rushes into the restaurant area and immediately shoots the Defendant with his Tazer. The Defendant falls to the floor with his walking cane in his hand, the officers begin to struggle with the Defendant as he squirms, shakes and attempts to move across the floor. The Defendant is finally able to sit up and the Officers stand as well. The Defendant puts his arms out to the side with his hands open and palms out. Officer Brant again shots the Defendant with his Tazer again. Then Officer Garlock sprays the Defendant with pepper spray. A third officer comes into the restaurant and one officer can be seen punching the Defendant at least twice. The Defendant is then handcuffed.

#### DISCUSSION

To grant a petition for a Writ of Habeas Corpus, the Court must decide that the Commonwealth did not establish a prima facie case. *Commonwealth v. James*, 836 A.2d 1179, 1182 (Pa. Super. 2004). To establish a prima facie case, the Commonwealth must show sufficient probable cause that the Defendant committed the offense. *Id.* A prima facie case exists when the Commonwealth produces evidence of each material element of the crimes charged and establishes sufficient probable cause to warrant the belief that the accused committed the offense. *Commonwealth v. McBride*, 595 A.2d 589 (Pa. 1991), The evidence should be such that, if presented at trial and accepted as true, the Court would be warranted in allowing the case to go to a jury. *Id.* Evidence is viewed in the light most favorable to the Commonwealth, and all reasonable inferences based on the evidence which could support a guilty verdict are to be considered. *Commonwealth v. Packard*, 767 A.2d 1068, 1071 (Pa. Super. 2001). The Commonwealth is not required to prove guilt beyond a reasonable doubt at the time of the omnibus pretrial motion.

The Defendant was charged with Aggravated Assault for attempting to cause or by intentionally or knowingly causing bodily injury to enumerated persons, Officers Brant and Officer Garlock. He was charged with Terroristic Threats when he communicated a threat to commit a crime of violence, namely homicide, in an attempt to terrorize the Officers. The Defendant was charged with Simple Assault for placing the Officers in fear of imminent serious bodily injury by physical menace. Further, the Defendant was charged with Resisting Arrest when he struggled and thus attempted to prevent a public servant, the two officers, from effecting a lawful arrest, the crime of Aggravated Assault which justified their use of substantial force to overcome the resistance. The charge of Disorderly Conduct was filed because he caused public inconvenience annoyance or alarm when he struggled with the officers. The last charge of Harassment is to have occurred when he grabbed parts of the officers bodies.

The testimony of Officer Brant did not correspond with or support the evidence presented on the video. With the presentation of the contradictory evidence, the Commonwealth failed to provide any explanation as to why the Officer's testimony flies in the face of the videotape evidence.

The Commonwealth failed to present credible evidence that the Defendant used his walking cane in a threatening manner, the Officer's statement that he did is in direct contravention to the videotape evidence of the incident. No evidence was shown that the Defendant raised the cane in a manner that could have been considered threatening. No testimony was presented by Officer Brant that explains the officers immediate aggressive reaction to the Defendant. On arrival, the only information he had was a report that the Defendant was acting strange and his statements about a spiritual war. The Defendant did not block the entrance to the restaurant entry as was stated. He was standing several feet from the entrance with the Officers outside the doors. When the Defendant backed up and began to sit in a chair, Officer Brant came into the room and without any effort to communicate with the Defendant, immediately tased him causing him to fall to the floor. No evidence was presented that the Officers informed the Defendant that he was under arrest or why they were confronting him.

The video shows the Defendant reacting to being tased and thrashing around on the floor. When there is a pause, the Defendant sits up but takes no aggressive action towards the officers, Again the Officers shoot him with the Tazer and then they pepper spray him. His reactions to being tased do not create a substantial risk of bodily injury to the officers by means justifying substantial force to subdue him and no bodily injury was incurred by the Officers. The brief scuffle with the Defendant did not include him hitting, kicking or any other action that rose to the level of creating a substantial risk of bodily injury. There is a struggle on the floor but the struggle appears to be more the result of the repeatedly being tased and pepper sprayed by the officers. His squirming, shaking and twisting are not sufficient to support the charges. Commonwealth v. Rainey, 426 A.2d 1148 (Pa. Super. 1981). There were no patrons in the either the counter area or the restaurant area of the Dairy Queen to be annoyed, or alarmed.

The encounter between the officers and the Defendant was escalated by the police without cause. The testimony of the officer is contradicted by the videotape and therefore lacks credibility. In viewing the evidence, there were no observable actions by the Defendant which would have escalated this encounter into an arrest. The video tape is devoid of any attempt by the officer to de-escalate the encounter as he testified he had learned in his Crisis Intervention classes. There was no action by the Defendant in his handling of his walking cane that would have caused a reasonable person to feel threatened. Therefore, the Commonwealth has failed to meet its burden in this case. Due to the contradictory evidence or lack of credible evidence presented by the Commonwealth, even viewed in a light favorable to the prosecution, the Court believes that the Commonwealth has not presented evidence sufficient to establish a prima facie case. Viewing the evidence as presented on the videotapes and the contradictory testimony of the Officer, the Commonwealth has failed to carry their burden. Therefore, the Omnibus Pretrial Motion is hereby GRANTED and the case is DISMISSED.

BY THE COURT:  
WAGNER, P.J.

ATTEST:  
Clerk of Courts

**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

-----

**BUSINESS OPPORTUNITY**

Are you thinking about opening a law office or CPA office, or expanding your firm into Westmoreland County? An established Attorney/CPA practice, conveniently located one block from the courthouse in Greensburg, PA is for sale. Email serious inquiries to:

LegalPosition21@gmail.com.

# FCBA BENCH BAR CONFERENCE

**Bench Bar Conference**  
**Wednesday, October 13, 2021**  
The Historic Summit Inn

## AGENDA

8:30 **Meet the Sponsors & Breakfast Buffet**

9:00 **Your Toughest Client – What Makes Them So Difficult! And Success – Working and Living in ‘The Zone’**

Presenter: Douglas Leonard, Esquire of Douglas Leonard Consulting  
1.5 Ethics credits

10:30 **Break**

10:45 **Trial Tactics and Panel Discussion with the Judges of the Fayette County Court of Common Pleas**

Trial Tactics led by Judge Nancy D. Vernon

Panel Discussion/Questions & Answers led by Judge Linda R. Cordaro

Panelists: President Judge John F. Wagner, Jr., Judge Steve P. Leskinen, and Judge Joseph M. George, Jr.

1.5 Substantive credits

12:30 **Lunch Buffet**

### Panel Discussion/Questions & Answers

The Judges of the Fayette Court of Common Pleas are accepting questions for the panel Q&A discussion. Questions may cover trial tactics, local practice and procedure, or general legal questions, but should not inquire about cases pending or adjudicated before the Court. Questions are due by Wednesday, October 6th. To submit a question for consideration, please follow the link in your email invitation or email to [cindy@fcbar.org](mailto:cindy@fcbar.org).

### **Fees to Attend**

FCBA members - \$75

Non-members of the FCBA - \$125

Attorneys admitted to practice in Pennsylvania after January 1, 2016 - \$50

**\*\*All fees to be paid at the door.\*\***

**RSVP due Thursday, October 7th to**  
Cindy 724-437-7994 or [cindy@fcbar.org](mailto:cindy@fcbar.org)



*Quality... Experience... Results...  
It's what your clients deserve.*

*Medical Malpractice • Auto Accidents • Personal Injury*



# GISMONDI

& ASSOCIATES

412-281-2200

[www.gislaw.com](http://www.gislaw.com)

700 Grant Bldg., 310 Grant St., Pgh., PA 15219