

Adams County Legal Journal


Vol. 59

July 14, 2017

No. 10, pp. 46 - 49

IN THIS ISSUE

COMMONWEALTH OF PENNSYLVANIA VS. LEON JEROME MILLER



Benefit from local, experienced advisors with only your goals in mind.

Christy Settle
Trust Officer

Karen Arthur
Senior Trust Officer

Mark Bernier, CFA
Investment Officer

Debra Little, ChFC®
Trust Officer

Contact a local Trust Officer today and start building a solid future.

Karen Arthur
Senior Trust Officer
717.339.5062
karthur@acnb.com

Christy Settle
Trust Officer
717.339.5058
csettle@acnb.com

Debra Little, ChFC®
Trust Officer
717.339.5218
dlittle@acnb.com



Not FDIC-Insured • May Lose Value • Not Bank Guaranteed • Not a Deposit • Not insured by any federal government entity

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published weekly by Adams County Bar Association, John W. Phillips, Esq., Editor and Business Manager.

Business Office – 117 BALTIMORE STREET, ROOM 305, GETTYSBURG, PA 17325-2313. Telephone: (717) 334-1553

Copyright© 1959 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325.

All rights reserved.

NOTICE

On the 25th day of July 2017, at 1:00 p.m., a hearing will be held in Courtroom No. 4 of the Adams County Courthouse, to determine whether the Gettysburg Area School District shall sell an unimproved lot with an area of approximately .21 acre located on Wall Alley in the Borough of Gettysburg, Pennsylvania, 17325, to the Gettysburg Presbyterian Church for the purchase price of \$15,700.00, upon terms and conditions set forth in an Agreement of Sale dated May 1, 2017. Any person who wishes to oppose the sale must attend the hearing and be heard.

Robert L. McQuaide, Solicitor
717-337-1360

7/7, 7/14, 7/21

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982 - 295 (54 Pa. c.s. 311), the undersigned entity (ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately 6-26-17, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of BUYERS EYES HOME INSPECTIONS, with its principal place of business at 10 Pinehurst Trail, Fairfield, PA 17320. The names and addresses of the persons owning or interested in said business are Brett M. Stouter, residing at 10 Pinehurst Trail, Fairfield, PA 17320. The character or nature of the business is Home Inspections for Home Buyers.

Brett Stouter
301-676-7097
10 Pinehurst Trail
Fairfield, PA 17320

7/14

COMMONWEALTH OF PENNSYLVANIA VS.
LEON JEROME MILLER

1. Sentencing is within the sound discretion of the trial court.
2. When imposing sentence for a felony or misdemeanor, the trial court shall make as a part of the record, and disclose in open court at the time of sentencing, a statement of the reason or reasons for the sentence imposed.
3. Generally, claims of ineffective assistance of counsel should be raised on collateral review. The exceptions to this general rule include cases in which a defendant was denied counsel and where the defendant has alleged that his/her counsel has breached his/her duty of loyalty.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, CP-01-CR-733-2016, COMMONWEALTH OF
PENNSYLVANIA VS. LEON JEROME MILLER

Roy A. Keefer, Esq., Attorney for Commonwealth
Kristin L. Rice, Esq., Attorney for Appellant
Campbell, J., June 21, 2017

OPINION PURSUANT TO Pa. R.A.P. 1925(a)

Appellant, Leon J. Miller, appeals from this Court's Judgment of Sentence Order dated April 17, 2017 and this Court's April 25, 2017 Order denying Appellant's Post-Sentence Motion for a Reduction of Sentence. For the reasons set forth below, it is respectfully requested that this Court's April 17, 2017 and April 25, 2017 Orders be affirmed.

On May 31, 2016, numerous Pennsylvania State Troopers were dispatched to 78 Barts Church Rd. in Adams County, Pennsylvania for a report of a suicidal individual who was in possession of a firearm. The subject was Appellant, who had barricaded himself in the residence. Appellant exited the residence, fired a shot directly in the air above one of the state troopers, and then retreated back into the residence. Forty minutes later, Appellant surrendered to state troopers. State troopers located three firearms in the residence from which Appellant had emerged.

Police interviewed Appellant's wife, Eileen Miller, who related that Appellant had been drinking heavily since the previous day, had threatened to kill her, and that all of the guns found at the residence belonged to Appellant. Police also interviewed Appellant's father, Carroll Miller, who related that Eileen Miller came to his residence for help because Appellant "was at it again" and that Appellant

showed up at his residence and barricaded himself within the residence. While at Carroll Miller's residence, Appellant threatened to kill Mr. Miller and told him that he would shoot and kill any police officer that came near the house. Appellant was subsequently charged with three counts of Person Not to Possess a Firearm, as felonies of the second degree (Counts 1-3)¹ and three counts of Terroristic Threats, as misdemeanors of the first degree (Counts 4-6)².

On January 17, 2017, Appellant entered nolo contendere pleas to Counts 1, 4, 5, and 6. A plea of nolo contendere to each count is open and without agreement. On April 17, 2017, Appellant appeared with counsel for sentencing. On Count 1 Person Not to Possess a Firearm, as a felony of the second degree, this Court sentenced Appellant to serve no more than forty-two (42) months nor more than eighty-four (84) months in a state correctional institution designated by the State Department of Corrections. On each of Counts 4, 5, and 6, this Court sentenced Appellant to twelve (12) months probation running concurrently with the sentence on Count 1. Appellant filed his Notice of Appeal and Concise Statement of the Matters Complained of on Appeal on May 15, 2017 and June 5, 2017 respectively.

In his Concise Statement of Errors Complained of on Appeal, Appellant argues that this Court erred in denying Appellant's Post-Sentence Motion for Reduction of Sentence. Appellant also argues that this Court abused its discretion when it sentenced Appellant to serve no more than forty-two (42) months nor more than eighty-four (84) months rather than in the mitigated range.

Sentencing is within the sound discretion of the trial court. *Commonwealth v. Dutter*, 617 A.2d 330, 331 (Pa. Super.1992).

The only constraints placed on the exercise of the trial court's discretion in sentencing matters is that the sentence imposed must be within statutory limits and the reasons for the sentence must be placed on the record. In addition, the statement of the reasons for sentence must demonstrate that the trial court has considered the sentencing guidelines and adhered to the general standard... that the sentence imposed should call for confinement

¹ 18 Pa. C.S. §6105

² 18 Pa. C.S. §2706(a)(1)

that is consistent with the protection of the public; the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the defendant.

Id. at 331 (quoting **Commonwealth v. Stalaker**, 545 A.2d 886, 889 (Pa. Super. 1988) (internal quotations omitted))). See also **42 Pa. C.S.A. § 9721**. When imposing sentence for a felony or misdemeanor, the trial court “shall make as a part of the record, and disclose in open court at the time of sentencing, a statement of the reason or reasons for the sentence imposed.”³

Instantly, sentencing and denial of Appellant’s Post-Sentence Motion for Reduction of Sentence was entirely within this Court’s discretion. This Court imposed a sentence that is within the standard range⁴ of the Standard Guidelines⁵ and had no obligation to sentence Appellant within the mitigated range of the Standard Guidelines. As statutorily required, this Court stated its reasons for the sentence it imposed on Appellant in open court as a part of the record and in its judgement of sentence Order attached hereto as “Exhibit A.”⁶ In addition, Appellant’s sentence is less than the statutory maximum, which is ten (10) years.⁷

Appellant further argues that this Court abused its discretion in regards to Appellant’s sentence because Appellant suffers from bipolar I disorder and did not know that he could not legally possess a firearm. As discussed supra, this Court considered all of the reports, letters, statements, and testimony presented before making a decision in regards to Appellant’s sentence. Whether or not Appellant knew

³ 204 Pa. Code § 303.1(d).

⁴ The standard range of the Standard Guidelines for Person Not to Possess a Firearm as a felony of the second degree is forty-two (42) months to fifty-four (54) months.

⁵ 204 Pa. Code § 303.16(a). This Court notes that at the time of sentencing Appellant had a Prior Record Score of 3 and six adult arrests with five convictions. Person Not to Possess a Firearm as a felony of the second degree has an offense gravity score of 10.

⁶ When determining Appellant’s sentence, this Court considered Appellant’s presentence investigation report, Appellant’s prior record score, the offense gravity score, the victim impact statement, defense letters in support of Appellant, and Appellant’s certificates of various classes that he has completed while at the Adams County Adult Correctional Complex.

⁷ 18 Pa. C.S.A. § 106(b)(3).

that he could not legally possess a firearm⁸ is not an element of Person Not to Possess a Firearm.⁹ Therefore, this Court did not abuse its discretion, and this issue is meritless.

Appellant next argues that he entered his nolo contendere plea unknowingly due to ineffective assistance of counsel. Generally, claims of ineffective assistance of counsel should be raised on collateral review. *Commonwealth v. Grant*, 813 A.2d 726, 738 (Pa. 2002). The exceptions to this general rule include cases in which a defendant was denied counsel and where the defendant has alleged that his/her counsel has breached his/her duty of loyalty. *Id.* at 738 n.14.

Instantly, Appellant has not alleged that he was denied counsel¹⁰ nor has he alleged that his attorney breached his duty of loyalty. Therefore, this Court will not address Appellant's ineffective assistance of counsel claims on direct review.

Therefore, for all of the reasons stated therein, it is respectfully requested that this Court's April 17, 2017 Judgment of Sentence Order and its April 25, 2017 Order denying Appellant's Post-Sentence Motion be affirmed.

⁸ On May 12, 1989, Appellant pled nolo contendere to Possession With Intent to Deliver a Controlled Substance, 35 P.S. 780-113(a)(30), which is an enumerated offense under Section 6105 Person Not to Possess a Firearm. See 18 Pa. C.S.A. § 6105(c)(2).

⁹ A person who has been convicted of an offense enumerated in section (b), within or without this Commonwealth, regardless of the length of sentence or whose conduct meets the criteria in subsection (c) shall not possess, use, control, sell, transfer, or manufacture a firearm in this Commonwealth." 18 Pa. C.S.A. § 6105(a)(1).

¹⁰ Attorney Warren Bladen represented Appellant during pre-trial proceedings.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary of or 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 BONNIE A. HOLLAND, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Co-Executors: Larry E. Holland, 2094 Chambersburg Road, P.O. Box 4661, Gettysburg, Pennsylvania 17325; Margaret E. Wetzel, P.O. Box 60, McKnightstown, PA 17343

Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, Pennsylvania 17325

ESTATE OF CLYDE JOSEPH KALTREIDER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Patricia Ann Palmer, 24 Lee Street, Hanover, Pennsylvania 17331

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, Pennsylvania 17331

ESTATE OF GAE A. OLMSTED, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Robbin N. Olmsted, 222 Laurel Lane, Washougal, Washington 98671

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, Pennsylvania 17331

ESTATE OF CLOYD E. WILLOW, JR., DEC'D

Late of Union Township, Adams County, Pennsylvania

Co-Executors: Terry L. Willow, 1995 Hanover Pike, Hanover, PA 17331; Donna L. Scheivert, 34 Delaware Avenue, Littlestown, PA 17340

Attorney: Robert E. Campbell, Esq., Campbell & White, P.C., 112 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION**ESTATE OF BETTY JANE ENSOR a/k/a BETTY J. ENSOR-SMITH, DEC'D**

Late of Huntington Township, Adams County, Pennsylvania

Executrix: Lorraine L. Ensor, 5346 Carlisle Pike, New Oxford, PA 17350

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

ESTATE OF DOROTHY A. SANDERS, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Cheryl D. Gochenauer a/k/a Cheryl D. Gocheauer, 2476 Chambersburg Road, Biglerville, PA 17307

Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC 47 West High Street, Gettysburg, PA 17325

ESTATE OF JEAN E. SPRANKLE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Susan J. Parr, c/o Jared S. Childers, Esq., R. Thomas Murphy & Associates, P.C., 237 East Queen Street, Chambersburg, PA 17201

Attorney: Jared S. Childers, Esq., R. Thomas Murphy & Associates, P.C., 237 East Queen Street, Chambersburg, PA 17201

THIRD PUBLICATION**ESTATE OF WILSON L. BREEDEN, DEC'D**

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executor: Patricia A. Breeden, 2160 Hanover Rd., #40, Gettysburg, PA 17325

Attorney: Gilbert G. Malone, Esq., 42 South Duke Street, York, PA 17401

ESTATE OF BEATRICE P. LEHR, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Ronald E. Lehr, 3 Curtis Drive, East Berlin, PA 17316

Attorney: Thomas R. Nell, Esq., 130 W. King Street, PO Box 1019, East Berlin, PA 17316

ESTATE OF REITA G. NAGLE, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Denise Kittinger, 11 Mummert Drive, Littlestown, PA 17340

Attorney: Judith Koper Morris, Esq., 369 Martin Drive, Hanover, PA 17331

ESTATE OF DAVID WAYNE RICE, DEC'D

Late of the Borough McSherrystown, Adams County, Pennsylvania

Administrator: Donald Eugene Rice, 212 Hall Drive, Hanover, PA 17331

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

ESTATE OF MARY R. SHRADER, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Co-Executors: Edward L. Shrader, Jr.; and Laura J. Pope, 8058 Gnatstown Road, Hanover, PA 17331

Attorney: Clayton A. Lingg, Esq., Mooney & Associates, 230 York Street Hanover, PA 17331

ESTATE OF GARY PAUL VISSER, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executrix: Bernadette Joy Visser, c/o Amy S. Loper, Esq., O'donnell & Barr Law Group, LLP, 11 Carlisle street, suite 301 Hanover, PA 17331

Attorney: Amy S. Loper, Esq., O'donnell & Barr Law Group, LLP, 11 Carlisle street, Suite 301, Hanover, PA 17331

