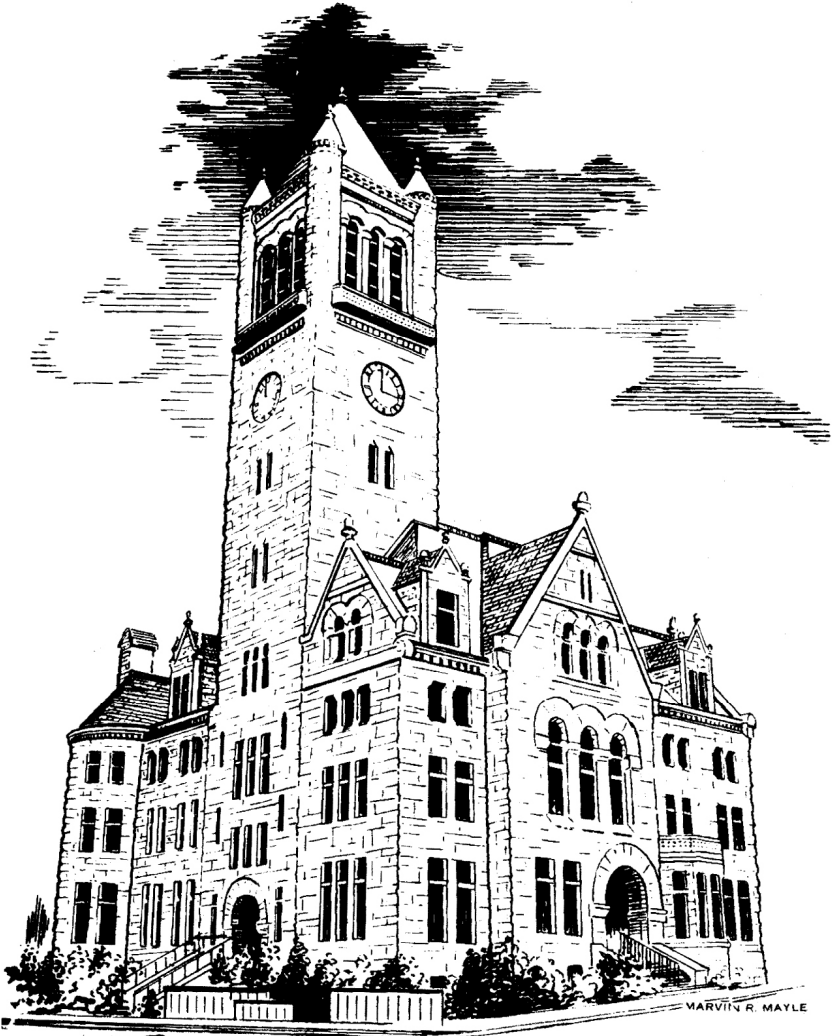


FAYETTE LEGAL JOURNAL

VOL. 84

FEBRUARY 13, 2021

NO. 7



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.

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ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

CAROLYN JOAN ANDREWS, late of Uniontown, Fayette County, PA (3)

Executrix: Linda Susan Cocciardo
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

RUTH ARLENE PLUME APPLEBY, late of Uniontown, Fayette County, PA (3)

Executor: Tracy Ann Appleby Hixon
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

JAMES PATRICK COBURN, III, late of Connellsville, Fayette County, PA (3)

Administratrix: Cynthia A. Dragosin
764 VanKirk Street
Clairton, PA 15025
c/o 400 Market Street
Elizabeth, PA 15037
Attorney: Daniel F. Bekavac, Sr.

EMMA DZIAK, a/k/a EMMA JEAN DZIAK, late of Georges Township, Fayette County, PA (3)

Executor: Jon Dziak, Sr.
110 Top Row Road
Uniontown, PA 15401
c/o 76 East Main Street
Uniontown, PA 15401
Attorney: Douglas S. Sholtis

ANN GEORGE, a/k/a ANN M. KOBALY, late of Washington Township, Fayette County, PA (3)

Executrix: Bonita A. Kline
1415 Willowbrook Road
Rostraver Township, PA 15012
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

JUSTIN HOOVER, a/k/a JUSTIN JAMES HOOVER, late of Wharton Township, Fayette County, PA (3)

Personal Representative: Jason C. Hoover
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham

GERALD B. KNOX, late of Redstone Township, Fayette County, PA (3)

Personal Representative: Randy Shea
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

SHIRLEY ANN LITTLE, late of Uniontown, Fayette County, PA (3)

Executors: Michael Wayne Little and David Allen Little
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

JOHN PHILLIP MOORMAN, JR., late of Uniontown, Fayette County, PA (3)

Executor: James Albert Thomas
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

JOHN A. SKILES, a/k/a JOHN ALLEN SKILES, late of German Township, Fayette County, PA (3)

Personal Representative:
Deborah Matthews
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

ALBERT TOKARCIC, a/k/a ALBERT A. TOKARCIC, late of Uniontown, Fayette County, PA (3)

Administrator: Heather Tokarcik
c/o Chambers & Pratt, P.C.
223 East High Street
Waynesburg, PA 15370
Attorney: Kimberly J. Simon-Pratt

EDWIN EUGENE WOLFE, late of Henry Clay Township, Fayette County, PA (3)

Administratrix: Renee Ruth
c/o Proden and O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Sean M. Lementowski

Second Publication

GIFFORD F. GRIMES, a/k/a GIFFORD GRIMES, late of North Union Township, Fayette County, PA (2)

Executrix: Pamela S. Conn
c/o John and John
96 East Main Street
Uniontown, PA 15401
Attorney: Simon B. John

CLARENCE F. HIBBARD, a/k/a CLARENCE F. HIBBARD, late of Georges Township, Fayette County, PA (2)

Co-Administrators: Traci L. Hibbard and Clarence E. Hibbard
c/o George & George
92 East Main Street
Uniontown, PA 15401
Attorney: G.T. George

ROSEMARIE LAURITA, late of Menallen Township, Fayette County, PA (2)

Executor: Anthony J. Laurita
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Anthony Dedola

FRANCES LOUISE LEON, late of Redstone Township, Fayette County, PA (2)

Personal Representative: Renee Donofrio
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

LENORA R. MEHAULIC, late of South Union Township, Fayette County, PA (2)

Executrix: Brenda Ann Lynn
c/o 4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Sheryl Heid

HARRY J. NEDLEY, SR., a/k/a HARRY J. NEDLEY, late of South Union Township, Fayette County, PA (2)

Personal Representative: Harry J. Nedley, Jr.
c/o George & George
92 East Main Street
Uniontown, PA 15401
Attorney: Joseph M. George

CHARLES A. YARRIS, a/k/a CHARLES A. YARRIS, SR., late of North Union Township, Fayette County, PA (2)

Executor: Charles A. Yarris, Jr.
c/o Fitzsimmons and Barclay
55 East Church Street, Suite 102
Uniontown, PA 15401
Attorney: James N. Fitzsimmons, Jr.

First Publication

BARBARA J. AMBROSINI, a/k/a BARBARA JANE AMBROSINI, late of Dunbar, Fayette County, PA (1)

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

VERA ANN BILONICK, late of Uniontown, Fayette County, PA (1)

Executrix: Lisa Ann Marcello
c/o Golvash & Epstein, LLC
9 Dewalt Avenue
Pittsburgh, PA 15227
Attorney: Jeffrey Golvash

ROBERT KRAYNAK, late of Fayette County, PA (1)

Administratrix: Cheryl Kraynak
121 Morgantown Street
Martin, PA 15460

c/o Fieschko & Associates, Inc.
Suite 2230, 436 7th. Avenue
Pittsburgh, PA 15219
Attorney: Joseph Fieschko

MARY ANN MARKUSIC, late of North Union Township, Fayette County, PA ⁽¹⁾
Administratrix: Kimberly A. Brown
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Anthony S. Dedola, Jr.

SARA O'BRIEN, late of South Union Township, Fayette County, PA ⁽¹⁾
Administrator: Roland J. O'Brien
138 Earl Lane
Hatboro, PA 19040
c/o 206 Derrick Avenue
Uniontown, PA 15401
Attorney: Gary N. Altman

JOSEPH RUFF, late of Connellsville, Fayette County, PA ⁽¹⁾
Personal Representative: Connie M. Ruff
670 Rich Hill Road
Connellsville, PA 15425
c/o Snyder and Snyder, PLLC
17 North Diamond Street
Mt. Pleasant, PA 15666
Attorney: Marvin Snyder

SAMUEL D. SNYDER, late of North Union Township, Fayette County, PA ⁽¹⁾
Administratrix: Shauna R. Smith
144 East Askren Street
Uniontown, PA 15401

THOMAS R. STEWART, III, late of Franklin Township, Fayette County, PA ⁽¹⁾
Executor: Gary N. Altman
c/o 206 Derrick Avenue
Uniontown, PA 15401
Attorney: Gary N. Altman

JOHN ZENTKOVICH, JR., late of Georges Township, Fayette County, PA ⁽¹⁾
Executrix: Deborah David
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

LEGAL NOTICES

Notice of Revocable Trust Pursuant to 20 Pa. C.S. § 7755(c)

The Roley Family Trust under agreement
dated 9/27/2001

Notice is hereby given of the administration of THE ROLEY FAMILY TRUST, DATED SEPTEMBER 27, 2001. JEANETTE F. ROLEY, settlor of the trust, of the City of Connellsville, County of Fayette and Commonwealth of Pennsylvania, died on December 22, 2020. All persons indebted to the said decedent are requested to make payment to the undersigned without delay, and all persons having claims or demands against said estate are requested to make known the same.

David Edward Roley, Successor Trustee

c/o WATSON MUNDORFF, LLP
720 Vanderbilt Road
Connellsville, PA 15425-6218
Phone: 724-626-8882

(2 of 3)

Fictitious Name Registration

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on December 23, 2020 for Fayette Property Services at 145 Hawk Road Normalville, PA 15469. The name and address of each individual interested in the business is Ryan Gallis at 145 Hawk Road Normalville, PA 15469. This was filed in accordance with 54 Pa.C.S. 311.

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, March 1, 2021, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2618-0614	PATRICIA LUBITS GUMP	Joseph M. Standish, Executor

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

Monday, March 15, 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, March 1, 2021, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2620-0435	GERALD RICHARD DOMONKOS	Courtney Roebuck, Administratrix
2619-0551	WILLIAM F. JOHNSON a/k/a WILLIAM FRANK JOHNSON a/k/a WILLIAM F. JOHNSON, JR.	William F. Johnson III, Executor

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

Monday, March 15, 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.

JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
	:	
v.	:	
	:	
NATHAN BALBOA ABLE,	:	No. 813 of 2019
Defendant.	:	Honorable Judge Steve P. Leskinen

OPINION AND ORDER

Leskinen, J. June 30, 2020

Before the Court is an Omnibus Pretrial Motion that includes a Motion to Suppress and a Motion to Dismiss. An evidentiary hearing was held on October 151, 2019. For the reasons stated herein, the Court must DENY Defendant's Motion in part and GRANT the Motion in part.

FACTUAL BACKGROUND

Defendant is charged with DUI: General Impairment {1}, DUI: High Rate of Alcohol {2}, DUI: Controlled Substance - Schedule 1 {3}, Controlled Substance - Schedule 2 or 3 {4}, Possession of Controlled Substance By Person Not Registered {5}, Marijuana- Small Amount Personal Use {6}, Drug Paraphernalia {7}, and Disregarding Traffic Lane {8}. The incident giving rise to these charges occurred at approximately 2:18 a.m. on October 26th, 2018 in Dunbar Township, Fayette County, Pennsylvania.

According to Trooper Tony Anthony, Defendant was traveling on West Crawford Avenue when he observed him cross the right fog line and just miss striking a telephone pole. The Trooper also observed the vehicle made sudden jerking movements to stay in the lane as it began to cross the fog line again. After the Trooper initiated his vehicle's emergency lights and siren the Defendant's vehicle slowed abruptly and crossed the center double yellow line on multiple occasions.

{1} 75 Pa.C.S. § 3802(a)(1) Count 1.
 {2} 75 Pa.C.S. § 3802(b) Count 2.
 {3} 75 Pa.C.S. § 3802(d)(1)(i) Count 3.
 {4} 75 Pa.C.S. § 3802(d)(1)(ii) Count 4.
 {5} 35 Pa.C.S. § 780-113 {a}{16} Count 5.
 {6} 35 Pa.C.S. § 780-113 (a)(31)(i) Count 6.
 {7} 35 Pa.C.S. § 780-113 (a)(32) Count 7.
 {8} 75 Pa.C.S. § 3309 1(s) Count 8.

When the Trooper spoke with Defendant he smelled the odor of an alcoholic beverage coming from Defendant as he spoke. He noticed that Defendant had red bloodshot/glassy eyes, slurred speech, and sluggish reactions to questions. He also noticed a clear plastic baggie containing a white powdery substance in the center console cup holder of the vehicle which resembled cocaine. Defendant was then asked to step out of the vehicle and to perform field sobriety tests. Based on his performance the Trooper found that Defendant was impaired. After being read both the O'Connell warnings and accurate Implied Consent laws, Defendant consented to a blood test at 2:42 a.m., which resulted in (1) a.163% BAC, (2) 6.7 ng/ml of Delta-9 THC, and (3) 34 ng/ml of cocaine. The Defendant specifically asked what would be the consequences if he refused a blood test, and the Trooper replied that, if Defendant was convicted he would be subjected to harsher punishment.

Defendant waived his preliminary hearing and filed this timely motion seeking to suppress the traffic stop, suppress the blood test results in light of the Supreme Court of the United States' holding in *Birchfield v. North Dakota*, 136 S.Ct. 2160 (2016), and to dismiss all of the charges.

DISCUSSION

75 Pa.C.S. § 1547 sets forth civil penalties for motorists who are arrested on suspicion of driving under the influence of alcohol (DUI) and refuse to submit to chemical testing. These penalties include suspending the motorist's license for at least one year, 75 Pa.C.S. § 1547(b)(1), and expressly allowing evidence of the motorist's refusal to be admitted at his subsequent criminal trial on DUI charges. 75 Pa.C.S. § 1547(e) provides that, in any summary proceeding or criminal proceeding in which the defendant is charged with a violation of 75 Pa.C.S. § 3802 or any other violation of this title arising out of the same action, the fact that the defendant refused to submit to chemical testing as required by subsection (a) may be introduced in evidence along with other testimony concerning the circumstances of the refusal. No presumptions shall arise from this evidence but it may be considered along with other factors concerning the charge. *Id.*

Birchfield held that motorists cannot be deemed to have consented to submit to a blood test if they are threatened with criminal penalties or enhanced punishment. A warrantless blood test, which is conducted when no exceptions to the warrant requirement apply, violates the Fourth Amendment rights of a motorist suspected of driving under the influence of alcohol (DUI).

The *Birchfield* Court rejected criminal prosecution or enhanced criminal penalties as a valid consequence for refusing a warrantless blood test. Motorists cannot be deemed to have consented to submit to a blood test on pain of committing a criminal offense. *Commonwealth v. Monarch*, 200 A.3d 51, (Pa. 2019). At the same time, the Court did not back away from its approval of other kinds of consequences for refusal, such as "evidentiary consequences." *Id.*

Implied consent laws authorize a police officer to request a motorist's submission to a chemical test, at which point the motorist must choose either: (a) to comply with the test; or (b) to refuse and accept the civil penalties that accompany refusal. The choice may well be a difficult one, but this alone does not invalidate the "implied consent" cre-

ated by the statute.

In the instant case, the observations the Trooper made that led him to believe Defendant was driving under the influence are readily visible on the MVR recording. The recording demonstrates Defendant did cross over the white fog line, crossed over the center double yellow line, and on at least one occasion made sudden jerking movements to stay in the lane. Thus, it is the conclusion of this Court that these instances give rise to both probable cause and reasonable suspicion that are a valid basis for the stop.

During the exchange the Defendant asked the Trooper what happened if he did not consent to the blood test. The Trooper replied that if the defendant was found guilty, he could receive a harsher punishment. The Trooper's statement was not correct since there are no longer any (criminal) punishments for a refusal. There are civil penalties, as noted above, and they apply independently of conviction. The Commonwealth argues that the Trooper's warning did not render the choice to submit involuntary because the Defendant would not have received "harsher punishment" after conviction, just harsher civil penalties whether or not he was convicted.

Unfortunately, the Trooper's answer in totality strongly implies enhanced criminal sentencing for a refusal. A refusal plus conviction equals "harsher punishment" than a conviction alone. A conviction, of course, would be a criminal conviction, so the harsher punishment that would follow would necessarily be an enhanced criminal penalty.

It is impossible for this Court to find that the Trooper's inaccurate statement did not induce the Defendant to consent to the blood draw. As a result, this Court must suppress the test results. *Commonwealth v. Ennels*, 167 A.3d 716, (Superior Court 2017)

However, since granting the Defendant's Motion to suppress the blood test essentially converts the Defendant's consent into a refusal, the civil penalties should apply. The Defendant cannot say he consented to the blood test because of the civil penalties and simultaneously assert that he would have refused the test if not for non-existent criminal penalties. The Trooper can supply a copy of this OPINION and ORDER to PennDoT as proof of the Defendant's "retroactive" refusal, and if the Defendant's license is thereafter suspended for such refusal, that issue can be litigated in that proper forum.

The video evidence and the Trooper's testimony is amply sufficient to convict the Defendant of impaired driving-but it will be impossible to prove beyond a reasonable doubt that he had any specific level of drugs or alcohol in his system so as to convict him of a second or third tier offense. Because those offenses require blood test results showing a specific level of drugs and/or alcohol, the two DUI charges that depend on such results must be DISMISSED.

WHEREFORE, the Court enters the following Order:

ORDER

AND NOW, this 30th day of June, 2020, after a hearing on Defendant's Omnibus Pretrial Motion, it is hereby ORDERED and DECREED that the Motion is DENIED in part and GRANTED in part.

This Court finds that: (1) Trooper Anthony was able to articulate valid probable cause and reasonable suspicion for the traffic stop, which was confirmed by video evidence, so the stop is NOT SUPPRESSED; (2) the consent to the blood draw could have been induced in part by the inaccurate and inherently coercive answer the Trooper gave wherein he told the Defendant that he could be subjected to harsher punishment after conviction if he refused the blood test, so the results of the blood test are HEREBY SUPPRESSED; and (3) since the Commonwealth will therefore be unable to prove Counts 2 and 3, said COUNT 2 and COUNT 3 are HEREBY DISMISSED.

In all other respects, the Omnibus Pretrial Motion of the Defendant is DENIED.

BY THE COURT:
LESKINEN, J.

ATTEST:
Clerk of Courts

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

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