

Adams County Legal Journal

Vol. 52

February 4, 2011

No. 38, pp. 240-249

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-SU-0924 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 08-SU-0924

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

vs.

JERRY LEE WILLIAMS

1532 SELL STATION RD.
LITTLETOWN, PA 17340
UNION TOWNSHIP

Parcel No.: 41-K16-0017---000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$125,957.63

Attorneys for Plaintiff
GOLDBECK MCCAFFERTY &
MCKEEVER

SEIZED and taken into execution as
the property of **Jerry Lee Williams** and
to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 18, 2011,
and distribution will be made in accor-
dance with said schedule, unless excep-
tions are filed thereto within 20 days after
the filing thereof. Purchaser must settle
for property on or before filing date.

ALL claims to property must be filed
with Sheriff before sale date.

As soon as the property is declared
sold to the highest bidder, 20% of the
purchase price or all of the cost, which-
ever may be the higher, shall be paid
forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-549 issu-
ing out of Court of Common Pleas
Adams County, and to me directed, will
be exposed to Public Sale on Friday, the
25th day of February, 2011, at 10:00
o'clock in the forenoon at the Sheriff's
Office located in the Courthouse,
Borough of Gettysburg, Adams County,
PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 10-S-549

BANK OF AMERICA NATIONAL
ASSOCIATION

vs.

RODNEY L. WINEKA

1465 HONDA RD., LOT 6
HANOVER, PA 17331
MOUNT PLEASANT TOWNSHIP

Parcel No.: 32-313-0130---000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$106,974.37

Attorneys for Plaintiff
PHELAN HALLINAN & SCHMIEG, LLP

SEIZED and taken into execution as
the property of **Rodney L. Wineka** and
to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 18, 2011,
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ever may be the higher, shall be paid
forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-1007
issuing out of Court of Common Pleas
Adams County, and to me directed, will
be exposed to Public Sale on Friday, the
25th day of February, 2011, at 10:00
o'clock in the forenoon at the Sheriff's
Office located in the Courthouse,
Borough of Gettysburg, Adams County,
PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 10-S-1007

CITIMORTGAGE, INC.

vs.

JENNIFER L. TYLER &
GARY W. TYLER

120 WAGNER ROAD
FAYETTEVILLE, PA 17222-8323
FRANKLIN TOWNSHIP

Parcel No.: 12-A10-0018---000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$130,225.97

Attorneys for Plaintiff
PHELAN HALLINAN & SCHMIEG, LLP

SEIZED and taken into execution as
the property of **Jennifer L. Tyler & Gary
W. Tyler** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 18, 2011,
and distribution will be made in accor-
dance with said schedule, unless excep-
tions are filed thereto within 20 days after
the filing thereof. Purchaser must settle
for property on or before filing date.

ALL claims to property must be filed
with Sheriff before sale date.

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purchase price or all of the cost, which-
ever may be the higher, shall be paid
forthwith to the Sheriff.

1/21, 28 & 2/4

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-1186 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 10-S-1186

ACNB BANK, FORMERLY KNOWN AS
ADAMS COUNTY NATIONAL BANK

vs.

EDWARD A. PITZER & LAURA PITZER
AND JAMES M. GARLACH & SHARON
L. GARLACH

4246 CHAMBERSBURG ROAD
GETTYSBURG, PA 17325
FRANKLIN TOWNSHIP

Parcel No.: 12-C10-0008A--000

IMPROVEMENTS THEREON:
Residential/Commercial Building
JUDGMENT AMOUNT: \$83,578.54

Attorneys for Plaintiff
PUHL, EASTMAN & THRASHER

SEIZED and taken into execution as
the property of **Edward A. Pitzer &
Laura J. Pitzer and James M. Garlach
& Sharon L. Garlach** and to be sold by
me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 18, 2011,
and distribution will be made in accordance
with said schedule, unless exceptions
are filed thereto within 20 days after
the filing thereof. Purchaser must settle
for property on or before filing date.

ALL claims to property must be filed
with Sheriff before sale date.

As soon as the property is declared
sold to the highest bidder, 20% of the
purchase price or all of the cost, which-
ever may be the higher, shall be paid
forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1911 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 09-S-1911

ADAMS COUNTY HABITAT FOR
HUMANITY, INC.

vs.

SHANNON WRIGHT & HOPE WRIGHT
10-A BONNIE FIELD CIRCLE, LOT 34B
GETTYSBURG, PA 17325
BONNEAUVILLE BOROUGH

Parcel No.: 06-009-0048B--000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING
JUDGMENT AMOUNT: \$52,802.00

Attorneys for Plaintiff
HARTMAN & YANNETTI

SEIZED and taken into execution as
the property of **Shannon Wright & Hope
Wright** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 18, 2011,
and distribution will be made in accordance
with said schedule, unless exceptions
are filed thereto within 20 days after
the filing thereof. Purchaser must settle
for property on or before filing date.

ALL claims to property must be filed
with Sheriff before sale date.

As soon as the property is declared
sold to the highest bidder, 20% of the
purchase price or all of the cost, which-
ever may be the higher, shall be paid
forthwith to the Sheriff.

1/28, 2/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1969 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 09-S-1969

WELLS FARGO BANK NA
vs.

BRUNO GRELA MPOKO
1210 BULLFROG ROAD
FAIRFIELD, PA 17320
FREEDOM TOWNSHIP

Parcel No.: 13-E17-0071---000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING
JUDGMENT AMOUNT: \$340,940.97

Attorneys for Plaintiff
SHAPIRO AND DENARDO, LLC

SEIZED and taken into execution as
the property of **Bruno Grela Mpoke** and
to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 18, 2011,
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1/21, 28 & 2/4

COMMONWEALTH VS. SAUL

1. When determining whether an identification violates the defendant's constitutionally protected due process rights, the central inquiry is whether, under the totality of the circumstances, the identification was reliable.

2. To determine if identification evidence is reliable, the court uses a totality of the circumstances test and examines the following five factors: the opportunity of the witness to view the criminal at the time of the crime, the witness' degree of attention, the accuracy of the witness' prior description of the criminal, the level of certainty demonstrated at the confrontation, and the time between the crime and the confrontation.

3. Suggestiveness is a factor to consider in determining the admissibility of identification evidence, but suggestiveness alone does not warrant the exclusion of identification evidence. The corrupting effect of the suggestive identification must be weighed against the above stated five factors in the totality of the circumstances test.

4. The most important factor in the totality of the circumstances is the opportunity of the witness to view the criminal at the time of the crime. This factor is particularly important when the witness is the victim.

5. General descriptions have been upheld as having sufficient accuracy.

6. Although cases establish a generally acceptable time period (a ten-minute to two-hour time period), they do not stand for the proposition that an identification occurring outside that timeframe is per se improper.

7. Although the identification occurred 19 hours after the alleged crime, the time period in which the identification occurred does not mandate suppression of the identification; rather it is merely a factor to balance in the totality of the circumstances test. An identification occurring less than one day after the alleged crime is reasonable.

8. Even if a stand-up identification is suggestive, suggestiveness alone is insufficient to constitute a violation of Due Process.

9. Absent some special element of unfairness, a prompt 'one on one' identification is not so suggestive as to give rise to an irreparable likelihood of misidentification.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CP-01-CR-721-2009, COMMONWEALTH OF PENNSYLVANIA VS. JEFFREY JAMES SAUL.

Robert Bain, II, Esq., Assistant District Attorney, for Commonwealth
Kristin L. Rice, Esq., Assistant Public Defender, for Defendant
Campbell, J., August 30, 2010

OPINION ON DEFENDANT'S OMNIBUS PRE-TRIAL MOTION

Presently before the Court is Defendant's Omnibus Pre-Trial Motion filed May 13, 2010. A hearing was held on May 24, 2010, and second hearing was held on June 21, 2010. For the reasons set forth herein, said Motion is denied.

FINDINGS OF FACT

1. On July 12, 2009, at approximately shortly after 1500 hours, Sergeant Langdon Ramsburg was dispatched to 77 Hampshire Drive, Oxford Township, Adams County, Pennsylvania, where the property's owner, Darryl Asper, informed Sergeant Ramsburg that an attempted theft had occurred.
2. Mr. Asper had been holding a yard sale, and while inside his house, he observed a white male walking through his backyard.
3. Mr. Asper proceeded outside to follow the male in his backyard, and Mr. Asper observed the male removing items from Mr. Asper's shed and placing them next to the shed in the bushes and weeds.
4. The items the male placed next to the shed included a portable DVD player, a Dell computer tower, and several DVDs.
5. When Mr. Asper confronted the male, he initially fled, but then the male stopped for a period of time to stare at Mr. Asper, and then continued fleeing.
6. Prior to the male fleeing the scene, Mr. Asper observed the individual from no more than fifteen feet away and was able to observe him for approximately 30 seconds to one minute during daylight hours.
7. Mr. Asper described the suspect to Sergeant Ramsburg as a white male, approximately 18 to 23 years of age, wearing a black shirt and blue jeans with blonde hair and blonde facial hair.
8. On July 13, 2009, at approximately 1030 hours, officers were dispatched to the Family Dollar, located at 360 Lincolnway East, for an active retail theft.
9. The Family Dollar store is approximately one block from Mr. Asper's residence.
10. Upon investigation, officers determined that one of the suspects in the retail theft at the Family Dollar, Jeffrey James Saul, generally matched the description of the suspect in the attempted theft that occurred at Mr. Asper's residence 19 hours earlier.
11. The officers contacted Mr. Asper to arrange for Mr. Asper to determine if Mr. Saul was the male who attempted to take

- items from Mr. Asper's storage shed the previous day by conducting a drive-by identification.
12. Officer Bevenour met Mr. Asper at a nearby 7-11 convenience store, located at 403 Lincolnway-West in New Oxford, Pennsylvania.
 13. Mr. Asper sat in the rear passenger seat of the police vehicle, and Officer Bevenour escorted him to the Family Dollar store where Sergeant Ramsburg and Chief Then had Mr. Saul in custody.
 14. Upon arriving at the Family Dollar store, Mr. Saul was located on the side of the police vehicle near the trunk.
 15. Mr. Saul was not handcuffed, and Sergeant Ramsburg and Chief Then were located to the left of Mr. Saul.
 16. Sergeant Ramsburg was in uniform, but Chief Then was in civilian clothes.
 17. Mr. Saul was carrying a black shirt, and before the drive-by identification, Mr. Saul was asked to put on the black shirt that he had been carrying.
 18. During the drive-by identification, Officer Bevenour was driving at approximately five miles per hour and was ten to fifteen feet away from where Mr. Saul was standing with Sergeant Ramsburg and Chief Then.
 19. During the drive-by identification, Mr. Asper informed Officer Bevenour that the individual who attempted to take his belongings from his shed the previous day was present. Specifically, Mr. Asper said, "That's him there," and Officer Bevenour asked him, "Which one?" In response, Mr. Asper identified the Defendant, Jeffrey James Saul, as the individual who was involved with the attempted theft at his shed.
 20. After Mr. Asper identified Mr. Saul, Mr. Saul was taken into custody and charged by the Eastern Adams Regional Police Department.
 21. On May 24, 2010, a suppression hearing was held before this Court, at which Sergeant Ramsburg and Officer Bevenour testified. Mr. Asper was unable to be present at the suppression hearing.
 22. Due to Mr. Asper's absence, this Court granted a continuance of the suppression hearing until June 21, 2010.

23. On June 21, 2010, this Court concluded the suppression hearing with the testimony of Mr. Asper and Mr. Saul.
24. At the June 21, 2010 suppression hearing, Mr. Asper described the suspect of the alleged theft to be “about [his] height, a little on the chubby side, [with] brown, dirty blondish hair [that] was a little longer on the side at that time wearing a black shirt, blue jeans.”

ISSUE

1. Whether the drive-by identification of Defendant by the victim was constitutional.

CONCLUSION OF LAW

1. The drive-by identification of Defendant by the victim was constitutional.

DISCUSSION

The Pennsylvania Constitution provides that in a criminal prosecution the accused cannot be deprived of “his life, liberty or property, unless by the judgment of his peers or the law of the land.” PA. CONST. art. I, § 9. It is well established under Pennsylvania law that when determining whether an identification violates the defendant’s constitutionally protected due process rights, “the central inquiry is whether, under the totality of the circumstances, the identification was reliable.” *Commonwealth v. Sample*, 468 A.2d 799, 801 (Pa. 1983) (citing *Manson v. Brathwaite*, 432 U.S. 98 (1977)). To determine if identification evidence is reliable, the court uses a totality of the circumstances test and examines the following five factors: “the opportunity of the witness to view the criminal at the time of the crime, the witness’ degree of attention, the accuracy of [the witness’] prior description of the criminal, the level of certainty demonstrated at the confrontation, and the time between the crime and the confrontation.” *Sample*, 468 A.2d at 801 (citing *Commonwealth v. Thompkins*, 457 A.2d 925, 928 (Pa. Super. 1983)). Suggestiveness is a factor to consider in determining the admissibility of identification evidence, but suggestiveness alone does not warrant the exclusion of identification evidence. *Commonwealth v. Moyer*, 836 A.2d 973, 976 (Pa. Super. 2003) (citing *McElrath v. Commonwealth*, 592 A.2d 740, 742 (Pa. Super. 2003)). The “corrupting effect of the suggestive identification” must be weighed against the above stated five factors in the totality of the circumstances test. *Sample*, 468 A.2d at 801.

Finally, “absent some special element of unfairness, an in-custody, on-the-scene identification does not violate a defendant’s due process rights.” *Commonwealth v. Donley*, 455 A.2d 159, 161 (Pa. Super. 1983) (citing *Commonwealth v. Ramsey*, 393 A.2d 806 (Pa. Super 1986)). An inquiry into each of the factors in the totality of the circumstances test and the suggestiveness of the identification is necessary to determine whether Mr. Asper’s identification of Defendant should be suppressed.

Opportunity of the Witness to View the Criminal at the Time of the Crime

The first factor under the totality of the circumstances test is the opportunity of the witness to view the criminal at the time of the crime. *Sample*, 468 A.2d at 801. The most important factor in the totality of the circumstances test is the opportunity of the witness to view the criminal at the time of the crime. *Commonwealth v. Spiegel*, 457 A.2d 531, 536 (Pa. Super. 1983) (citing *Commonwealth v. Davis*, 439 A.2d 195 (Pa. Super. 1981)). This factor is particularly important when the witness is the victim because “whenever a victim of a crime has an opportunity to observe the criminal, the impression of the face of the assailant is etched upon the prey by the terror of the occasion.” *Speigel*, 457 A.2d at 536 (quoting *Commonwealth v. Bradford*, 451 A.2d 1035, 1037 (Pa. Super. 1982)).

Here, the witness, Mr. Asper, was the victim of the crime, the attempted theft. Furthermore, Mr. Asper viewed the suspect during daylight hours at a distance of approximately 15 feet. Finally, Mr. Asper observed the suspect for approximately 30 seconds to one minute before the suspect fled from the scene. Although Defendant argued that Mr. Asper viewed Defendant while he was facing the shed, the testimony of Mr. Asper indicates that Defendant initially turned his back to Mr. Asper, but then turned and stared at Mr. Asper. Mr. Asper further testified that he viewed Defendant while Defendant was facing him for approximately 30 seconds. Therefore, this factor weighs in favor of the reliability of the identification.

Witness’ Degree of Attention

The second factor under the totality of the circumstances test is the witness’ degree of attention. *Sample*, 468 A.2d at 801. The Commonwealth argues that based upon the evidence, Mr. Asper was focused intently on the Defendant at the time of the alleged crime.

The Commonwealth asserts that Mr. Asper specifically went outside to confront the Defendant and that no one else was present to distract Mr. Asper's perception of the Defendant. The Defendant argues that at the June 21, 2010 suppression hearing, Mr. Asper was unable to recall what the Defendant was wearing during the drive-by identification.

Here, Mr. Asper confronted Defendant in his backyard, and there is nothing to indicate that Mr. Asper was distracted during the confrontation. The fact that Mr. Asper viewed the suspect for approximately 30 seconds to one minute, coupled with the fact that Mr. Asper confronted the suspect alone, with no distractions, demonstrates that Mr. Asper was very attentive during the confrontation with the suspect. The fact that Mr. Asper was unable to recall what Defendant was wearing during the subsequent drive-by identification is irrelevant to Mr. Asper's degree of attention during the initial encounter with the suspect. Therefore, this factor weighs in favor of the reliability of the identification.

Accuracy of the Witness' Prior Description of the Perpetrator Given to Police

The third factor under the totality of the circumstances test is the accuracy of the witness' prior description of the perpetrator given to the police. *Sample*, 468 A.2d at 801. The Commonwealth argues that Mr. Asper described the Defendant as a white male, between 18 to 23 years of age, with blonde hair and blonde facial hair, wearing a black shirt and blue jeans. The Commonwealth further asserts that Mr. Asper recalled that Defendant had on a black shirt that he still had with him the following day. The Defendant argues that Mr. Asper's description that the suspect was approximately 18 to 23 years of age and had blonde hair and blonde facial hair was vague and that many individuals could easily match such description.

Although Defendant's counsel asserts that Mr. Asper's description of the suspect was vague and many individuals could easily match such a description, general descriptions have been upheld as having sufficient accuracy. See *Commonwealth v. Moye*, 836 A.2d 973, 977 (Pa. Super. 2003) (two witnesses gave a general description of the suspect, describing him as "dark-skinned, [wearing] light colored pants, and shirtless"); *Commonwealth v. Meachum*, 711 A.2d 1029, 1035 (Pa. Super. 1998) (the victim of a robbery described the suspect

as being a “thirty-year-old African American male standing approximately six feet tall”). The Superior Court in *Meachum* characterized the victim’s description of the suspect as an accurate description even though it was a general description, and the court also noted that the description fit appellant’s description. *Id.* In sum, these cases demonstrate that general descriptions of a suspect can be upheld as accurate descriptions.

In this case, Mr. Asper described the suspect as a white male, between 18 to 23 years of age, with blonde hair and blonde facial hair, wearing a black shirt and blue jeans. Furthermore, this description matched defendant’s description. Although this is a general description, it does not render the description inaccurate or overly vague. Therefore, this factor weighs in favor of the reliability of the identification.

Level of Certainty that the Witness Demonstrated at the Time of the Confrontation

The fourth factor under the totality of the circumstances test is the level of certainty that the witness demonstrated at the time of the confrontation. *Sample*, 468 A.2d at 801. The Commonwealth argues that Mr. Asper’s testimony shows that he was very sure the Defendant was the individual who burglarized his shed. Furthermore, the Commonwealth argues that according to Officer Bevenour, Mr. Asper identified the Defendant and stated that he was sure Defendant was the perpetrator. The Defendant does not specifically challenge Mr. Asper’s level of certainty at the time of the confrontation; rather Defendant argues that at the June 21, 2010 suppression hearing, Mr. Asper was unable to recall what the Defendant was wearing during the drive-by identification.

In this case, the testimony indicates that during the drive-by identification, Mr. Asper said, “That’s him there,” and Officer Bevenour asked him, “Which one?” Mr. Asper then identified the Defendant, Jeffrey James Saul, as the individual who was involved with the attempted theft at his shed. Although the Defendant challenges Mr. Asper’s ability to remember what the Defendant was wearing during the drive-by identification at the suppression hearing, Mr. Asper had no hesitation in identifying the suspect during the drive-by identification. Therefore, this factor weighs in favor of the reliability of the identification.

Length of Time Between the Crime and the Confrontation

Finally, the fifth factor under the totality of the circumstances test is the length of time between the crime and the confrontation. *Sample*, 468 A.2d at 801. This is the main factor at issue in this case. The Commonwealth and Defendant do not dispute that a period of 19 hours elapsed between the crime and the confrontation. However, the Commonwealth argues that even though 19 hours is a longer period of time between the crime and a show-up in the typical case, it is not too long of a period of time because the Superior Court has characterized five days a proper brief period of time. On the other hand, the Defendant argues that case law indicates that a working time span for acceptable identification ranges from ten minutes to two hours, which is significantly less time than 19 hours.

Identifications generally occur within a ten-minute to two-hour time period. See, e.g., *Commonwealth v. Donley*, 455 A.2d 159, 162 (Pa. Super. 1983); *Commonwealth v. Allen*, 429 A.2d 1113, 1121 (Pa. Super. 1981); *Commonwealth v. Turner*, 314 A.2d 496, 499 (Pa. 1974). Although these cases establish a generally acceptable time period, they do not stand for the proposition that an identification occurring outside that timeframe is per se improper. To the contrary, identifications beyond these time constraints have been upheld as proper. See *Manson v. Brathwaite*, 432 U.S. 98, 101, 116 (1977) (a photographic identification of the defendant occurred two days after the witness had initially observed the suspect); *Commonwealth v. Bruce*, 717 A.2d 1033, 1037 (Pa. Super. 1998) (a show-up identification at a hospital occurred five days after the alleged crime). The United States Supreme Court, in finding that the photographic identification was reliable and not in violation of the defendant's rights under the Due Process Clause of the Fourteenth Amendment, observed, "[w]e do not have here the passage of weeks or months between the crime and the viewing of the photograph." *Manson*, 432 U.S. at 116. Thus, an identification does not necessarily need to occur within a few minutes or a few hours of the alleged crime to be reliable.

In this case, the drive-by identification of Defendant did not occur months, weeks, or even days after the alleged crime; it was within 24 hours. In light of the Superior Court characterizing five days as a brief period of time between the crime and the show up identification in *Bruce*, 19 hours also would constitute a brief period of time

between the crime and the drive-by identification. Therefore, although the identification occurred 19 hours after the alleged crime, the time period in which the identification occurred does not mandate suppression of the identification; rather it is merely a factor to balance in the totality of the circumstances test. An identification occurring less than one day after the alleged crime is reasonable.

Suggestiveness

Even if a stand-up identification is suggestive, suggestiveness alone is insufficient to constitute a violation of Due Process. *See Commonwealth v. Moye*, 836 A.2d 973, 976 (Pa. Super. 2003) (citing *McElrath v. Commonwealth*, 592 A.2d 740, 742 (Pa. Super. 2003)). Any suggestiveness must be balanced against the reliability of the identification as determined by the totality of the circumstances test. “Absent some special element of unfairness, a prompt ‘one on one’ identification is not so suggestive as to give rise to an irreparable likelihood of misidentification.” *Meachum*, 711 A.2d at 1034. (citing *Commonwealth v. Brown*, 611 A.2d 1318 (Pa. Super. 1992)).

The Commonwealth concedes that the stand-up identification procedure by which Mr. Asper identified Defendant was somewhat suggestive, but argues that there are no special elements of unfairness involved in the identification in question. Furthermore, the Commonwealth argues that far more suggestive procedures have been upheld by the appellate courts. The Defendant argues that the identification was unfairly suggestive because Defendant was required to put on a black t-shirt prior to the drive-by identification, was flanked between two uniformed police officers,¹ and positioned in front of a police car at the time of the identification.

Defendant’s argument fails as Pennsylvania appellate courts have not found unfairness even where police used more suggestive procedures than the procedure that existed in the case at hand. *See Moye*, 836 A.2d at 977 (no special element of unfairness when the suspect was shown to the witness while he was in the back of a police cruiser a short time after the alleged crime); *Commonwealth v. Brown*, 611 A.2d 1318, 1321 (Pa. Super. 1992) (an identification was not unduly suggestive even though the defendants were in handcuffs during the

¹ The testimony was conflicting as to the officers’ positioning relative to the Defendant and with respect to whether or not both officers were in uniform, but even under Defendant’s version this Court’s conclusion is the same.

identification, and after the victim initially was hesitant to identify the suspect, the police prompted the victim to make a more definite identification); *Commonwealth v. Allen*, 429 A.2d 1113, 1120-21 (Pa. Super. 1981) (no special element of unfairness when the identification of the defendants occurred approximately one hour after the alleged crime while the defendants were handcuffed and in the back of a police cruiser).

The identification procedures in each of those cases were more suggestive than the show-up identification in this case. Here, defendant testified that he was not handcuffed at the time of the identification. Furthermore, defendant was standing outside the police vehicle with two police officers – one uniformed officer, and one plain-clothed officer. Even if the Defendant was required to put on a black t-shirt prior to the drive-by identification that does not render the identification so suggestive as to unbalance the scales which have tipped strongly in favor of reliability. In this case, as discussed above, the totality of the circumstances test weighs in favor of the conclusion that Mr. Asper's identification is reliable.

Based on the above analysis, the drive-by identification of Defendant by Mr. Asper did not violate Defendant's constitutional right to Due Process. Accordingly, the Defendant's Motion to Suppress Identification Evidence is denied.

ORDER

AND NOW, this 30th day of August, 2010, for the reasons set forth in the attached Opinion, Defendant's Omnibus Pre-Trial Motion filed May 13, 2010, is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-1033 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 10-S-1033
BANK OF NEW YORK MELLON
TRUST COMPANY NA
vs.

JAMES E. RUDISILL &
KAREN A. RUDISILL
245 N. STRATTON STREET
GETTYSBURG, PA 17325
GETTYSBURG BOROUGH

Parcel No.: 16-007-0064---000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGEMENT AMOUNT: \$136,572.22

Attorneys for Plaintiff
PHELAN HALLINAN & SCHMIEG, LLP
SEIZED and taken into execution as
the property of **James E. Rudisill &
Karen A. Rudisill** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 18, 2011,
and distribution will be made in accor-
dance with said schedule, unless excep-
tions are filed thereto within 20 days after
the filing thereof. Purchaser must settle
for property on or before filing date.

ALL claims to property must be filed
with Sheriff before sale date.

As soon as the property is declared
sold to the highest bidder, 20% of the
purchase price or all of the cost, which-
ever may be the higher, shall be paid
forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-929 issu-
ing out of Court of Common Pleas
Adams County, and to me directed, will
be exposed to Public Sale on Friday, the
25th day of February, 2011, at 10:00
o'clock in the forenoon at the Sheriff's
Office located in the Courthouse,
Borough of Gettysburg, Adams County,
PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 10-S-0929
HSBC BANK USA NA
vs.

TONYA M. NAGLE &
JEREMY E. NAGLE
479 TILLIE TOWN ROAD
BIGLERVILLE, PA 17307
FRANKLIN TOWNSHIP

Parcel No.: 12-D11-0114---000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGEMENT AMOUNT: \$127,994.48

Attorneys for Plaintiff
PHELAN HALLINAN & SCHMIEG, LLP

SEIZED and taken into execution as
the property of **Tonya M. Nagle &
Jeremy E. Nagle** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 18, 2011,
and distribution will be made in accor-
dance with said schedule, unless excep-
tions are filed thereto within 20 days after
the filing thereof. Purchaser must settle
for property on or before filing date.

ALL claims to property must be filed
with Sheriff before sale date.

As soon as the property is declared
sold to the highest bidder, 20% of the
purchase price or all of the cost, which-
ever may be the higher, shall be paid
forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1308
issuing out of Court of Common Pleas
Adams County, and to me directed, will
be exposed to Public Sale on Friday, the
25th day of February, 2011, at 10:00
o'clock in the forenoon at the Sheriff's
Office located in the Courthouse,
Borough of Gettysburg, Adams County,
PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 09-S-1308
VARISH CONSTRUCTION, INC.
vs.

PANKAJ C. PATEL &
PRABHA P. PATEL
1650 YORK ROAD
GETTYSBURG, PA 17325
STRABAN TOWNSHIP

Parcel No.: 38-G12-0052--000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$181,000.00

Attorneys for Plaintiff
HARTMAN & YANNETTI

SEIZED and taken into execution as
the property of **Pankaj C. Patel &
Prabha P. Patel** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on March 18, 2011,
and distribution will be made in accor-
dance with said schedule, unless excep-
tions are filed thereto within 20 days after
the filing thereof. Purchaser must settle
for property on or before filing date.

ALL claims to property must be filed
with Sheriff before sale date.

As soon as the property is declared
sold to the highest bidder, 20% of the
purchase price or all of the cost, which-
ever may be the higher, shall be paid
forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-619 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution

No. 10-S-619

SCOTT GRAEVES

vs.

ROBERT L. STEPHAN a/k/a

ROBERT L. STEPHEN

967 BOLLINGER ROAD

LITTLESTOWN, PA 17340

UNION TOWNSHIP

Parcel No.: 41-K17-0036---000

IMPROVEMENTS THEREON:

RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$170,824.05
PLUS COSTS

Attorneys for Plaintiff

ROBERT L. MCQUAIDE

SEIZED and taken into execution as the property of **Robert L. Stephan a/k/a Robert L. Stephen** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 18, 2011, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale date.

As soon as the property is declared sold to the highest bidder, 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-1183 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution

No. 10-S-1183

WELLS FARGO BANK NA

vs.

CARL M. SEHESTEDT III &

MICHELE RENEE SEHESTEDT

592 CEDAR RIDGE ROAD

NEW OXFORD, PA 17350-9139

MOUNT PLEASANT TOWNSHIP

Parcel No.: 32-12-0011---000

IMPROVEMENTS THEREON:

RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$148,919.47

Attorneys for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP

SEIZED and taken into execution as the property of **Carl M. Sehestedt III & Michele Renee Sehestedt** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 18, 2011, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale date.

As soon as the property is declared sold to the highest bidder, 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-2004 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution

No. 09-S-2004

PHH MORTGAGE CORPORATION

vs.

GRAILING S. SCOTT

130 GURNSEY ROAD a/k/a

130 GUERNSEY ROAD

BIGLERVILLE, PA 17307

BUTLER TOWNSHIP

Parcel No.: 07-F07-0047---000

IMPROVEMENTS THEREON:

RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$91,243.25

Attorneys for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP

SEIZED and taken into execution as the property of **Grailing S. Scott** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 18, 2011, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale date.

As soon as the property is declared sold to the highest bidder, 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-210 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 10-S-210

SUSQUEHANNA BANK
vs.

HENRY L. TAYLOR, LLC

1240 NAWAKWA ROAD
BIGLERVILLE, PA 17307
HAMILTONBAN TOWNSHIP &
MENALLEN TOWNSHIP

TRACT #1

MENALLEN TOWNSHIP

PARCEL NO. 29-E06-0012
32 ACRES, 26 PERCHES

TRACT #2

HAMILTONBAN TOWNSHIP

PARCEL NO. 18-B16-0004
6 ACRES

TRACT #3

HAMILTONBAN TOWNSHIP

PARCEL NO. 18-D15-0015
16 ACRES, 120 PERCHES

IMPROVEMENTS THEREON: LAND

JUDGMENT AMOUNT: \$380,592.91
PLUS COSTS

Attorneys for Plaintiff

KEEFER, WOOD, ALLEN & RAHAL,
LLP

SEIZED and taken into execution as
the property of **Henry L. Taylor, LLC**
and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 18, 2011, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale date.

As soon as the property is declared sold to the highest bidder, 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-1471 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 10-S-1471

ACNB BANK, FORMERLY KNOWN AS
ADAMS COUNTY NATIONAL BANK

vs.

PARMINDER SINGH AND
PARAMJIT KAUR

2314 YORK ROAD
GETTYSBURG, PA 17325
STRABAN TOWNSHIP

Parcel No.: 38-H12-0027---000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$192,710.59

Attorneys for Plaintiff

RICHARD E. THRASHER, ESQ.

SEIZED and taken into execution as
the property of **Parminder Singh and**
Paramjit Kaur and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 18, 2011, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale date.

As soon as the property is declared sold to the highest bidder, 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-1292 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 10-S-1292

METLIFE HOME LOANS, A DIVISION
OF METLIFE BANK, N.A.

vs.

PATRICIA SYKES

159 COLORADO AVE., LOT 29
LITTLESTOWN, PA 17340-1141
LITTLESTOWN BOROUGH

Parcel No.: 27-007-0168---000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$195,740.47

Attorneys for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP

SEIZED and taken into execution as
the property of **Patricia Sykes** and to be
sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 18, 2011, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale date.

As soon as the property is declared sold to the highest bidder, 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-958 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 10-S-958
SUNTRUST MORTGAGE INC.
vs.

RYAN THOMPSON &
SCOTT P. THOMPSON &
KATHLEEN A. OLEARY EST.
119 EAST MAIN STREET
FAIRFIELD, PA 17320
FAIRFIELD TOWNSHIP

Parcel No.: 11-004-0007--000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$480,206.98

Attorneys for Plaintiff
PHELAN HALLINAN & SCHMIEG, LLP

SEIZED and taken into execution as the property of **Ryan Thompson & Scott P. Thompson & Kathleen A. Oleary Est.** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 18, 2011, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale date.

As soon as the property is declared sold to the highest bidder, 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1613 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 09-S-1613
AGCHOICE FARM CREDIT ACA
vs.

RANDALL L. TENNEY
2300 CHAMBERSBURG ROAD
BIGLERVILLE, PA, FORMERLY
KNOWN AS 555 SEVEN STARS
ROAD, GETTYSBURG, PA 17325
FRANKLIN TOWNSHIP

Parcel No.: 12-D12-0007--000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGEMENT AMOUNT: \$290,229.48

Attorneys for Plaintiff
BLAKINGER, BYLER & THOMAS, P.C.

SEIZED and taken into execution as the property of **Randall L. Tenney** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 18, 2011, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale date.

As soon as the property is declared sold to the highest bidder, 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

1/21, 28 & 2/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-1040 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 25th day of February, 2011, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

SHORT DESCRIPTION

By virtue of Writ of Execution
No. 10-S-1040
BANK OF NEW YORK MELLON
TRUST
vs.

RANDALL TRAVITZ
1230 BRAGGTOWN ROAD
DILLSBURG, PA 17019-9201
LATIMORE TOWNSHIP

Parcel No.: 23-K03-0016---000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$74,195.10

Attorneys for Plaintiff
PHELAN HALLINAN & SCHMIEG, LLP

SEIZED and taken into execution as the property of **Randall C. Travitz** and to be sold by me.

James W. Muller-Sheriff
Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 18, 2011, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 days after the filing thereof. Purchaser must settle for property on or before filing date.

ALL claims to property must be filed with Sheriff before sale date.

As soon as the property is declared sold to the highest bidder, 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

1/21, 28 & 2/4

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 ESTHER MAXINE HUNT a/k/a MAXINE C. HUNT, DEC'D**

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Daniel C. Hunt, P.O. Box 220, Corolla, NC 27927

ESTATE OF EMILY C. THOMAS, DEC'D

Late of the Borough of Greencastle, Franklin County, Pennsylvania

Executrix: Nancy E. Snyder, 33 N. Main Street, Mercersburg, PA 17236

Attorney: Steiger and Steiger, 120 North Main Street, Mercersburg, PA 17236

ESTATE OF HERMAN H. WHERLEY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

ACNB Bank, formerly Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325

Attorney: David K. James, III, Esq., 234 Baltimore St., Gettysburg, PA 17325

SECOND PUBLICATION**ESTATE OF LESTER E. CHRONISTER, DEC'D**

Late of the Borough of East Berlin, Adams County, Pennsylvania

Executor: Ronald E. Chronister, c/o Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George Street, York, PA 17401

ESTATE OF HAROLD E. HESS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administratrix: Cheryl D. Potter, 1355 Biglerville Rd., Gettysburg, PA 17325

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

ESTATE OF ANNA MAE HOKE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Maurice W. Hoke, 66 York Drive, New Oxford, PA 17350

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle St., Hanover, PA 17331

ESTATE OF GENEVIEVE ELIZABETH NOEL a/k/a GENEVIEVE E. NOEL, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Kathleen A. Noel, 28 Running Brook Drive, Baltimore, MD 21244; Susan M. Noel a/k/a Susan Clark Noel, 500 Ridge Avenue, McSherrystown, PA 17344; Michael J. Noel, 11 Patwill Drive, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF ROBERT M. RUPERT, DEC'D

Late of the Borough of East Berlin, Adams County, Pennsylvania

James A. Kline, 607 West King Street, East Berlin, PA 17316

Attorney: Thomas R. Nell, Esq., 340 Nell Road, East Berlin, PA 17316

ESTATE OF MELVIN JACOB SCHRUM, JR., DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: Mark Eugene Schrum, c/o Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George Street, York, PA 17401

ESTATE OF MADELYN E. SCOTT, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Robert Scott, 640 Stone Jug Road, Biglerville, PA 17307

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

ESTATE OF DORIS L. SMITH, DEC'D

Late of the Borough of Boonewauville, Adams County, Pennsylvania

Jeffrey R. Small, 1610 Table Rock Road, Gettysburg, PA 17325; Lorena D. Keeney, 901 Littlestown Road, Littlestown, PA 17340

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RICHARD W. STALEY, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Jean L. (Staley) Ferris, 91 Playground Avenue, Littlestown, PA 17340

Attorney: John R. White, Campbell & White, P.C., 112 Baltimore Street, Suite 1, Gettysburg, PA 17325

ESTATE OF MARGARET M. THOMAS, DEC'D

Late of Germany Township, Adams County, Pennsylvania

George W. Griffin, 5357 Klee Mill Road S, Sykesville, MD 21784; Faith L. Redmond, 110 Ulricktown Road, Littlestown, PA 17340

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ANGELO J. TOLLER, DEC'D

Late of the Borough of Boonewauville, Adams County, Pennsylvania

Executor: Troy A. Toller, 27 West Hanover Street, Gettysburg, PA 17325

THIRD PUBLICATION**ESTATE OF MICHAEL R. ABRAHAM, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: LeighAnn Abraham, 45 Skylark Trail, Fairfield, PA 17320

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

ESTATE OF DOROTHY M. CONNER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Mary Josephine Higgs, 105 Charles Street, P.O. Box 378, Hyndman, PA 15545

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle St., Hanover, PA 17331

ESTATE OF DAVID LYNN GROVE, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Administrator: Mr. Dana S. Grove, 5560 Iron Bridge Rd., Waynesboro, PA 17268

THIRD PUBLICATION (CONTINUED)

ESTATE OF ELIZABETH J. HUGH-BANKS, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Executors: Karen A. Lewis and Stephen L. Hughbanks, c/o D.J. Hart, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

Attorney: D.J. Hart, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

ESTATE OF STANLEY PAUL KOTT, SR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Stanley P. Kott, Jr., 131 Ardith Drive, Orinda, CA 94563

Attorney: John J. Murphy, III, Esq., Patrono & Associates, LLC, 28 West Middle Street, Gettysburg, PA 17325

ESTATE OF JEWELL A. RIDER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Clara Sanders, 460 Red Bridge Road, Gettysburg, PA 17325

Attorney: John J. Murphy, III, Esq., Patrono & Associates, LLC, 28 West Middle Street, Gettysburg, PA 17325

ESTATE OF RUFUS J. WAGNER a/k/a RUFUS JAMES WAGNER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Michael K. Wagner, 7 White Oak Trail, Gettysburg, PA 17325

Attorney: John J. Murphy, III, Esq., Patrono & Associates, LLC, 28 West Middle Street, Gettysburg, PA 17325

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
COURT OF COMMON PLEAS
CIVIL DIVISION
ADAMS COUNTY
NO. 10-S-1253

CITIMORTGAGE, INC. S/B/M TO ABN AMRO MORTGAGE GROUP, INC.

vs.
STEVEN J. RUCK, SR. and CHERYL A. RUCK

NOTICE

TO CHERYL A. RUCK:

You are hereby notified that on JULY 28, 2010, Plaintiff, CITIMORTGAGE, INC. S/B/M TO ABN AMRO MORTGAGE GROUP, INC., filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of ADAMS County Pennsylvania, docketed to No. 10-S-1253. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 51 WRIGHT ROAD, YORK SPRINGS, PA 17372-9761 whereupon your property would be sold by the Sheriff of ADAMS County.

You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES

THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

ADAMS COUNTY
COURT ADMINISTRATOR
ADAMS COUNTY COURTHOUSE
GETTYSBURG, PA 17325
(717) 334-6781, EXT. 213

LAWYER REFERRAL SERVICE
MIDPENN LEGAL SERVICES
128 BRECKENRIDGE STREET
GETTYSBURG, PA 17325
(717) 334-7624

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INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on or about January 13, 2011 for the incorporation of AMERICAN LEGION ALBERT LENTZ POST, INC., under the Pennsylvania Nonprofit Corporation Law of 1988. The initial registered office of the corporation is 528 E. Middle Street, Gettysburg, PA 17325.

Bernard A. Yannetti, Jr., Esq.
HARTMAN & YANNETTI
Solicitors

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