

Adams County Legal Journal

Vol. 51

April 30, 2010

No. 50, pp. 342-350

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-769 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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.:

By virtue of Writ of Execution
No. 09-S-769

THE BANK OF NEW YORK MELLON
FKA THE BANK OF NEW YORK AS
TRUSTEE FOR THE CERTIFICATE-
HOLDERS CWALT, INC. ALTERNATIVE
LOAN TRUST 2005-63 MORTGAGE
PASSTHROUGH CERTIFICATES,
SERIES 2005-63

VS.

JEVON E. DOLAN

109 HEMLOCK DRIVE
HANOVER PA 17331

Parcel No. (08) 021-0073---000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$197,112.63

Attorneys for Plaintiff
Goldbeck, McCafferty & McKeever

SEIZED and taken into execution as
the property of **Jevon E. Dolan** 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 June 11, 2010, 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.

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.

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1979 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1979

CHASE HOME FINANCE LLC

vs.

WILLIAM BEALL, SR a/k/a WILLIAM E.
BEALL, SR

JEAN M. BEALL

122 CONEWAGO DRIVE
HANOVER PA 17331-8775

Parcel No.: 08-K14-224
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$223,405.61

Attorneys for Plaintiff
Phelan Hallinan & Schmiegl, LLP

SEIZED and taken into execution as
the property of **William Beall, Sr. a/k/a
William E. Beall, Sr. & Jean M. Beall**
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 June 11, 2010, 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.

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.

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1974 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1974

BAC HOME LOANS SERVICING, L.P.

vs.

LINDA A. EDMONDS

190 MAPLE DRIVE
HANOVER, PA 17331-8941

Parcel No.: (08) 024-0028---000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$207,452.77

Attorneys for Plaintiff
Phelan Hallinan & Schmiegl, LLP

SEIZED and taken into execution as
the property of **Linda A. Edmonds** 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 June 11, 2010, 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.

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.

4/16, 23 & 30

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-924 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-S-924

THE BANK OF NEW YORK TRUST COMPANY

vs.

JERRY LEE WILLIAMS

1532 SELLS STATION ROAD
LITTLESTOWN, PA 17340

Parcel No: (4127) K16-0017---000

(Acreage or street address)

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 June 11, 2010, 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.

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.

4/30, 5/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-2039 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-2039

NATIONSTAR MORTGAGE LLC

vs.

LESLIE E. ABENDSCHOEEN

49 APPLE JACK LANE
LITTLESTOWN, PA 17340-1149

Parcel No.: 27-004-0012-011

(Acreage or street address)

IMPROVEMENTS THEREON:

RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$109,994.15

Attorneys for Plaintiff

Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Leslie E. Abendschoen** 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 June 11, 2010, 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.

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4/16, 23 & 30

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statements of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphan's Court, Gettysburg, Pennsylvania, for confirmation of accounts entering decrees of distribution on Friday, May 7, 2010 at 8:30 a.m.

FORNESS—Orphan's Court Action Number OC-36-2010. The First and Final Account of Adams County National Bank, Executor of the Estate of Norman O. Forness, late of the Borough of Gettysburg, Adams County, Pennsylvania, deceased.

Kelly A. Lawver
Clerk of Courts

4/23 & 30

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that a corporation by the name of IMMANUEL RANDOLPH GENERAL CONTRACTOR, INC., has filed its Articles of Incorporation with the Pennsylvania State Department and has been organized under the provisions of the Business Corporation Law of 1988, the Act of December 21, 1988, P.L. 1444, as amended.

Immanuel Randolph General
Contractor, Inc.
285 Bowers Road
Littlestown, PA 17340

Paul T. Schemel, Esq.
Dick, Stein, Schemel, Wine & Frey, LLP
119 East Baltimore Street
Greencastle, PA 17225

4/30

COMMONWEALTH VS. MUSE

Continued from last issue (4/23/2010)

Turning to the pill bottle, Count IV, there is no issue of someone else's consent or standing. The bottle was in a vehicle Defendant was operating and fell out while he was searching for his license. Charged with a possessory crime, Defendant obviously has standing. That does not mean that possession is automatically established. In a suppression proceeding, the Commonwealth bears the burden of establishing by a preponderance of the evidence the admissibility of those items the accused seeks to suppress. *Com. v. Ruey*, 892 A.2d 802, 807 (Pa. 2006).

Commonwealth appeared to concede at the hearing that Defendant was under arrest when handcuffed and placed in the rear of the police cruiser, but argues in a footnote in its brief that this was not so.¹¹ We commend Commonwealth's diligence in researching the issue but wonder about its concession at the hearing. Is there an implication that the Court's assertion that there was an arrest pressured the Commonwealth's attorney into agreeing. If so, what lesson could be applied to the female passenger's reaction to Officer Smith's statements concerning a search of her purse? Anyhow, either

¹¹ The Court acknowledges that situations may exist when handcuffing and even placing a suspect in a police car may not necessarily rise to the level of an arrest. Suspects have been placed in police cars for their own safety, and many scenes involve a need for investigation far more involved than the one present here. This judge's statement at the hearing that handcuffing constituted an arrest is supported by cases such as *Com. v. Carter*, 643 A.2d 61 (Pa. 1994). The case cited by the Commonwealth upheld handcuffing during an investigative detention. *Com. v. Rosas*, 875 A.2d 341, 348 (Pa. Super. 2005). However, the Court in *Rosas* further cites another case which states that an arrest is "[a]ny act that indicates an intention to take the person into custody and subjects him to the actual control and will of the person making the arrest...The test is an objective one, *i.e.*, viewed in the light of the reasonable impression conveyed to the person subjected to the seizure rather than the strictly subjective view of the officers or the persons being arrested." *Id.* In the matter sub judice, even though Officer Hilyard stated he was only detaining Defendant until he could determine his identity and the contents of the bottle and told Defendant he was not under arrest, a reasonable impression once the Defendant was placed into the police cruiser and unable to control his movements at all is that he was under arrest. In *Rosas*, not only were police detaining the defendant to determine his identity because he could not provide any, there was also information from a criminal database that defendant may be a fugitive alien and the officer intended to detain him until that information could be verified. *Id.* at 347-48. That was not the situation in this case. In fact, it appears that Defendant here was unable to continue searching for his identification in the trunk because Officer Hilyard began questioning him about the pill bottle before he was able to complete his search.

an arrest or custodial detention must be supported by probable cause. *Com. v. Chase*, 960 A.2d 108, 117 (Pa. 2008).¹²

The seizure of the money was only justified if the officer had probable cause to arrest Defendant for possession of a misbranded controlled substance or for the summary offense of disorderly conduct.¹³ If we accept the Commonwealth's assertion that there was no arrest, and merely a detention, the seizure of the money still would have been unlawful.¹⁴ The inspection and seizure of the pill bottle's contents also depend on probable cause.

There was clearly no probable cause to arrest Defendant for disorderly conduct. A person may be arrested without a warrant based on probable cause for disorderly conduct when "there is ongoing conduct that imperils the personal security of any person or endangers public or private property." **42 Pa.C.S.A. § 8902(a)**. There is absolutely no evidence to suggest that the loud music coming from Defendant's automobile was in any way a threat to the personal security of others or endangered public or private property. Furthermore, Defendant complied with the Officer Smith's request to turn down the volume.

In dealing with the warrantless search and seizure of both the pill bottle's contents and money, we note that suspicion is not a substitute for probable cause as grounds for an arrest or search and seizure. *Kelly*, 409 A.2d at 23. Police have probable cause where the facts and circumstances within the officer's knowledge are sufficient to warrant a person of reasonable caution and belief that an offense has

¹² Commonwealth cannot reasonably claim that this was a mere investigative detention, i.e. *Terry* stop. A *Terry* stop must be supported by reasonable suspicion; it subjects a person to a stop and a period of detention, but does not involve such coercive conditions as to constitute the functional equivalent of an arrest. *Chase*, 960 A.2d at 117.

¹³ "[A]n arresting officer may, without a warrant, search a person validly arrested, and the constitutionality of a search incident to a valid arrest does not depend upon whether there is any indication that the person arrested possesses weapons or evidence as the fact of a lawful arrest, standing alone, authorizes a search." *Com. v. Ventura*, 975 A.2d 1128, 1139 (Pa. Super. 2009).

¹⁴ "A police officer, conducting a lawful *Terry* stop, is entitled to seize non-threatening contraband, such as illegal narcotics, that is detected through the officer's sense of touch while the officer conducts a pat-down search of the suspect for weapons... However, the incriminating nature of the object must be apparent immediately from the officer's tactile impression..." *Com. v. Bryant*, 866 A.2d 1143, 1147 (Pa. Super. 2005).

been committed. *Com. v. Rogers*, 849 A.2d 1185, 1192 (Pa. 2004). Evidence required to establish probable cause for a warrantless search must be more than mere suspicion or good faith on the part of the officer. *Com. v. Lechner*, 685 A.2d 1014, 1016 (Pa. Super. 1996). The determination of whether there is probable cause is based on the totality of the circumstances. *Id.*

In *Kelly*, police officers were on routine patrol when they spotted an expired inspection sticker on a vehicle. *Kelly*, 409 A.2d at 22. The officers stopped the vehicle and one, using his flashlight, looked into the passenger compartment. *Id.* The light illuminated a small prescription drug vial. *Id.* The officer noticed that the bottle appeared to contain aluminum foil packets and he seized it. *Id.* The bottle was discovered to contain 9 aluminum packets and the Defendant was arrested for possession of a controlled substance. *Id.* A later chemical analysis revealed the packets to contain methamphetamine. *Id.* at 23.

Kelly argued that the officers lacked probable cause to seize the bottle and make an arrest. *Id.* The Supreme Court agreed, holding:

Suspicion is not a substitute for probable cause as grounds for an arrest or search and seizure...Reviewing the circumstances surrounding seizure of the controlled drugs from appellant's automobile, this Court finds probable cause to have been lacking at the moment preceding removal of the vial from the automobile. We reach the narrow holding that mere sight of the vial described above under the circumstances here present did not fulfill the probable cause requirement. The evidence contains nothing that might allow us to find that the nature of this vial was "immediately apparent": the officers had no information or observations of suspicious conduct or circumstances that would give rise to an inference of possession of controlled substances. An infinite number of commonly merchandised items could have been in the vial in appellant's automobile. We reject as preposterous the notion that anyone possesses expertise to render an opinion on the contents of the vial as seen in appellant's car. The physical evidence should have been suppressed.

Id. (citations omitted).

The *Kelly* holding suggests that the mere fact that our Defendant had a prescription bottle in his vehicle does not give rise to probable cause to arrest for possession.

Commonwealth argues Defendant abandoned any possessory interest in the pill bottle and, therefore, may not challenge its admissibility. A defendant has no standing to contest the search and seizure of items he has voluntarily abandoned. *Com. v. Bennett*, 604 A.2d 276, 278 (Pa. Super. 1992). The theory of abandonment adopted by Pennsylvania applies so long as improper police conduct did not induce defendant's abandonment of his personal property. *Com. v. Sodomskey*, 939 A.2d 363, 366 (Pa. Super. 2008). "Pursuant to this legal construct, when an individual evidences an intent to relinquish control over personal property, he or she has abandoned a privacy interest in property and cannot object to any ensuing search of the item by police." *Id.* Abandonment is predicated on intent, which is determined from "words, acts, and all relevant circumstances existing at the time the property is purportedly deserted." *Id.* "The issue is not abandonment in the strict property-right sense, but whether the person prejudiced by the search had voluntarily discarded, left behind, or otherwise relinquished his interest in the property in question so that he could no longer retain a reasonable expectation of privacy with regard to it at the time of the search." *Id.* at 366-67 (citation omitted). Abandonment may be found where, in response to police questioning, a defendant denies ownership of the property in question. *Bennett*, 604 A.2d at 279.

When Defendant denied ownership of the bottle he was only saying, as the label suggested, that the bottle belonged to a person who was not present. We have already discussed this evidence but need to emphasize that ownership is not the issue. Possession is. In any event, Officer Hilyard had already seized the container's contents when initial questions evoked Defendant's response. As stated in *Sodomskey*, the question is whether one has relinquished his interest in the property "so that he could no longer retain a reasonable expectation of privacy with regard to it *at the time of the search*." *Sodomskey*, 939 A.2d at 366-67 (emphasis added). Further, the court states in *Sodomskey* that one who abandons property may not object to any "*ensuing search*." *Id.* at 366 (emphasis added).

At the time the search occurred of the bottle (Officer Hilyard looking at the label and opening it) the alleged abandonment had not occurred. Defendant did not deny ownership until after Officer Hilyard had opened the bottle and informed him that there was a drug act violation. Defendant's failure to answer Officer Smith's questions did not evidence an attempt to abandon, because the most reasonable inference was that Defendant was preoccupied in searching for his license. When Officer Hilyard asked him about the bottle, Defendant merely asked him what bottle he was referring to, which does not evidence an intent to abandon. There is nothing inconsistent about denying ownership of a bottle with someone else's name on it and asserting an expectation of privacy arising from its presence, along with many other items, in the vehicle. We cannot find that Defendant's denial of ownership constituted abandonment. Even after denying ownership, Defendant stated he could call the owner of the bottle to come retrieve it. Defendant had not abandoned his interest in the bottle to the extent of waiving his right to challenge its admissibility.

Furthermore, the search and seizure of the bottle was not justified.¹⁵ At the time of seizure, Officer Hilyard was aware that Defendant had been playing his music loud, a woman was sleeping in the vehicle, a prescription drug bottle had fallen out of the vehicle, and Defendant had been unable to locate his identification (presumably a license). It may well have been in the trunk and Defendant's arrest thwarted his attempts to find it. When Officer Hilyard looked at the bottle, he noticed a female's name written on it. He took no steps to ascertain ownership or seek Defendant's connection with the vial prior to opening it. At that point, the officer had no reason to believe that any sort of illegal drug activity was occurring, and therefore had no valid basis to open the bottle.

Furthermore, Officer Hilyard did not have probable cause to arrest Defendant after the search of the bottle based on the Misbranding statute. The Misbranding statute provides, "A controlled substance, other drug or device or cosmetic shall be deemed to be misbranded: (1) If its labeling is false or misleading in any particular...(11) if it is

¹⁵The plain view exception to the warrant requirement is not applicable because the incriminating nature of the bottle was not apparent at the time it was viewed and seized. *Com. v. Arnold*, 932 A.2d 143, 154 n.2 (Pa. Super. 2007)(citations omitted).

a drug, device, or cosmetic and its container is so made, formed, or filled as to be misleading.” **35 P.S. § 780-108(1) & (11)**. The Court readily acknowledges that Officer Hilyard is a member of the drug task force and is trained in identifying various controlled substances. However, his examination of the bottle merely indicated that there were various pill-like items in the bottle. As the Court pointed out in *Kelly*, “an infinite number of commonly merchandised items could have been in the vial.” *Kelly*, 409 A.2d at 23. While this discovery may have given Officer Hilyard reasonable suspicion to conduct further investigation, it did not rise to a level of probable cause to arrest. This judge agrees with the *Kelly* decision: individuals use vials for a great number of purposes. Many people routinely combine pills into one bottle for travel or convenience purposes. Accordingly, Officer Hilyard’s understanding of the misbranding section, *supra*, does not establish probable cause to arrest based solely on the fact that there were various pills in one prescription drug vial. We know of no authority justifying extending practices relating to airport security to police encounters.

Accordingly, suppression is appropriate for both the money discovered in Defendant’s pants and the prescription vial’s contents.

Habeas Corpus

This Court agrees with defense arguments that the Commonwealth has not made out a *prima facie* case of possession, with or without an intent to deliver regarding the cocaine discovered in the passenger’s purse. We disagree, however, that the seizure was the fruit of the poisonous tree. This case did not involve a traffic stop and the purse search was an independent exercise with nothing to do with deficiencies in the manner of Defendant’s arrest. Thus, the Court’s approach involves only the establishment of a *prima facie* case.

The standard by which we determine Defendant’s motion is set forth in *Commonwealth v. Keller*, 823 A.2d 1004, 1010-1011 (Pa.Super. 2003), quoting *Commonwealth v. Fountain*, 811 A.2d 24, 25-26 (Pa.Super. 2002).

It is settled that a petition for writ of habeas corpus is the proper means for testing a pre-trial finding that the Commonwealth has sufficient evidence to establish a *prima facie* case. Although a habeas corpus hearing is similar to a preliminary hearing, in a habeas corpus

proceeding the Commonwealth has the opportunity to present additional evidence to establish that the defendant has committed the elements of the offense charged.

A *prima facie* case consists of evidence, read in the light most favorable to the Commonwealth, that sufficiently establishes both the commission of a crime and that the accused is probably the perpetrator of that crime. The Commonwealth need not prove the defendant's guilt beyond a reasonable doubt. Rather, the Commonwealth must show sufficient probable cause that the defendant committed the offense, and the evidence should be such that if presented at trial, and accepted as true, the judge would be warranted in allowing the case to go to the jury.

Reliance upon circumstantial evidence is acceptable. *Commonwealth v. Zelosko*, 686 A.2d 825 (Pa. Super. 1996). Inferences reasonably drawn from the record that would support a guilty verdict are to be given effect but suspicion and mere conjecture are not. *Com. v. Hendricks*, 927 A.2d 289, 291 (Pa. Super. 2007).

All four counts against Defendant are possessory crimes.¹⁶ Focusing first on the cocaine-related charges, Counts 1-3: “[I]llegal possession of narcotic drugs is a crime which ‘by its very nature is unique to the individual. By definition, the possessor is the only person who could commit the crime. Guilt by association...is unacceptable.’” *Com. v. Luddy*, 422 A.2d 601, 604 (Pa. Super. 1980) (citations omitted). If the Commonwealth is unable to prove Defendant’s actual possession of the drugs, it must prove constructive possession or joint constructive possession. *Id.*; *Com. v. Heidler*, 741 A.2d 213, 215 (Pa. Super. 1999). Manifestly, the cocaine found in the passenger’s purse was not in the actual possession of the Defendant.

“To prove constructive possession the Commonwealth must prove that the defendant had both the power to control the contraband and the intent to exercise that control.” *Id.* Constructive possession may be inferred from the totality of the circumstances. *Id.* at 605. Evidence that defendant was one of a group of persons on the scene

¹⁶ As an aside, this is the fact that gives Defendant standing to challenge the admissibility of the evidence seized at the alleged crime scene. *Com. v. Hawkins*, 718 A.2d 265, 267 (Pa. 1998).

where contraband is found is insufficient to support the inference of constructive possession. *Id.* The evidence must establish that defendant had conscious dominion over the contraband. To prove conscious dominion, the Commonwealth must present evidence to show that the defendant had both the power to control the contraband and intent to exercise control over it. *Heidler*, 741 A.2d at 216. When one is charged with illegal possession, mere presence at the scene, without a review of the totality of the circumstances, does not prove the crime. *Com. v. Chenet*, 373 A.2d 1107, 1109 (Pa. 1977).

The result in *Heidler* is dispositive on this case. In *Heidler*, appellant and his girlfriend left their home for his son's school. *Heidler*, 741 A.2d at 214. On the way, appellant gave his handgun to the girlfriend to put in her purse. *Id.* Both had valid licenses to carry a concealed weapon. *Id.* Appellant parked in the school parking lot and went inside the school while the girlfriend remained in the vehicle. *Id.* Police approached the vehicle to serve a copy of a PFA on appellant. *Id.* While speaking with the girlfriend, police discovered that she was holding appellant's handgun. Appellant was arrested and charged with possession of a weapon on school property. *Id.* Appellant was convicted.

On appeal, appellant argued there was insufficient evidence for the trial court to conclude he possessed the firearm. *Id.* Superior Court held:

Presently, the firearm at issue was found in the purse of a passenger in Appellant's vehicle. Appellant and his passenger did not have equal access to that purse. Under the facts before us, the only person that could be deemed to have access to the purse was its owner-the passenger in Appellant's vehicle. Following the rationale in our precedent, it is only logical that where Appellant did not have access to the area where the handgun was found, Appellant cannot be deemed to have the necessary power to control or intent to control the gun.

Even assuming Appellant had the power to access the firearm, we fail to see how the trial judge could have logically concluded, beyond a reasonable doubt, that Appellant intended to exercise control over his handgun upon arriving at the middle school. The record in this

case is devoid of evidence to support such an inference. On the contrary, it is clear that Appellant's intent was to *relinquish* such control. Indeed, Appellant handed over his handgun to his girlfriend *prior* to entering school property. If it was his intention to retain control, he could have either kept the gun or put it in a place not under the control of a third party. The record does not, therefore, support a finding that Appellant intended to exercise control over his handgun.

Id. at 216.

A similar situation is present in this case. The only evidence offered by the Commonwealth is that the cocaine was found in Ms. Jarockicave's purse. The purse was between her legs at the time it was found and the officer testified that it was in her possession. The Court cannot conclude that the mere fact that a passenger in a vehicle is carrying an illegal narcotic in her purse subjects the driver of the vehicle to the same criminal penalties. Nothing suggests that Defendant had any idea this narcotic was in Ms. Jarockicave's purse. The record is completely void of any evidence suggesting that Defendant had any control over his passenger's purse, or access to it.

For these reasons, Defendant's Writ of Habeas Corpus regarding Counts I-III, all dealing with his alleged cocaine possession, is granted and those counts are dismissed. With that said, it is also appropriate to dismiss Count IV, possession of a misbranded controlled substance.

ORDER

AND NOW, this 22nd day of September, 2009, in consideration of Defendant's Omnibus Pre-Trial Motions filed June 20, 2009, and amended July 13, 2009, the Court enters the following:

1. Defendant's Motion to Suppress is granted in part, denied in part. The money seized from Defendant's pocket and the contents seized from the pill bottle that rolled out of Defendant's vehicle shall be suppressed. Defendant is not entitled to suppression of the contents seized from the purse of the vehicle's passenger.
2. Defendant's Motion for Writ of Habeas Corpus is granted and all charges against Defendant are dismissed.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1862 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1862

ADAMS COUNT NATIONAL BANK
vs.

GETTYSBURG ECONOMIC
DEVELOPMENT CORPORATION

108 NORTH STRATTON STREET
GETTYSBURG PA 17325

Parcel No.: (16) 007-0125 &
(16) 007-0126

(Acreage or street address)

IMPROVEMENTS THEREON

JUDGMENT AMOUNT: \$2,075,800.67

Attorneys for Plaintiff
CGA LAW FIRM, P.C.

SEIZED and taken into execution as the property of **Gettysburg Economic Development Corporation** 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 June 11, 2010, 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.

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.

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-500 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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.:

By virtue of Writ of Execution
No. 08-S-500

US BANK NA
VS.

KEVIN M. GASPIN
SHARI ELLEN GASPIN

59 STEELMAN MARKER ROAD
FAIRFIELD PA 17320

Parcel No. (25) C18-0011A---000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$279,296.82

Attorneys for Plaintiff
Daniel Mancini & Associates

SEIZED and taken into execution as the property of **Kevin M. Gaspin & Shari Ellen Gaspin** 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 June 11, 2010, 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.

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.

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1145 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1145

WELLS FARGO BANK, NA
VS.

IVY D. GRIFFIE

345 OXFORD ROAD
NEW OXFORD. PA 17350-9701

Parcel No: (35) 001-0129---000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$184,526.77

Attorneys for Plaintiff
Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Ivy D. Griffie** 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 June 11, 2010, 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.

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.

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 10-S-77 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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. 010-S-77

SUSQUEHANNA BANK, formerly
Susquehanna Bank PA, Successor by
Merger to Community Banks
vs.

NICHOLAS T. MAVROS

and LONAA. MAVROS

6465 YORK ROAD, NEW OXFORD,
(BERWICK TOWNSHIP) PA 17350

Parcel No: (04) K11-0025--000

(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$ 822,470.45

Attorneys for Plaintiff

Barley Snyder, LLC

SEIZED and taken into execution as
the property of **Nicholas T. Mavros &
Lona A. Mavros** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1917 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1917

GMAC MORTGAGE, LLC

vs.

JAMES E. LYONS and AMY L. LYONS

9 MATHIAS ROAD
LITTELSTOWN, PA 17340-9106

Parcel No.: 15-J18-75

(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$204,141.69

Attorneys for Plaintiff

Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as
the property of **James E. Lyons & Amy
L. Lyons** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1823 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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.:

By virtue of Writ of Execution

No. 08-S-1823

HSBC BANK USA NA

VS.

ROBERT P. MASON

DONNA M. MASON

17 FAWN HILL ROAD
HANOVER, PA 17331

Parcel No. (04) I11-0239--0000

(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$718,169.71

Attorneys for Plaintiff

McCabe, Weisberg & Conway, P.C.

SEIZED and taken into execution as
the property of **Robert P. Mason &
Donna M. Mason** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-86 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-86

CHASE HOME FINANCE LLC
VS.

DAVID J. MCMASTER and CHERYL A. MCMASTER

415 BARTS CHURCH RD
HANOVER, PA 17331-7704

Parcel No.: 41_K17-0077E-000

(Acreage or street address)

IMPROVEMENTS THEREON:

RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$391,817.90

Attorneys for Plaintiff

Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **David J. McMaster & Cheryl A. McMaster** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-831 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-831

WELLS FARGO BANK, NA
VS.

CHRISTINA M. MCDANNELL

820 HONDA ROAD
HANOVER, PA 17331-8908

Parcel No: (32) J14-0080C-000

(Acreage or street address)

IMPROVEMENTS THEREON:

RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$89,805.10

Attorneys for Plaintiff

Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Christina M. McDannell** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1869 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1869

CHASE HOME FINANCE LLC
VS.

SEAN H. MYERS and JESSICA A. HILL

1459 HANOVER ROAD
GETTYSBURG, PA 17325-7714

Parcel No: (38) G13-0069-000

(Acreage or street address)

IMPROVEMENTS THEREON:

RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$ 102,558.37

Attorneys for Plaintiff

Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Sean H. Myers & Jessica A. Hill** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-355 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-S-355

U.S. BANK NATIONAL ASSOCIATION,
AS TRUSTEE FOR CREDIT SUISSE
FIRST BOSTON MBS HEAT 2004-4
vs.

MARK A. PEVARNIK
and SHANNON R. PEVARNIK

11 DAKOTA DRIVE
HANOVER, PA 17331-7727

Parcel No.: (08) 012-0072---000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$188,413.05

Attorneys for Plaintiff
Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Mark A. Pevarnik & Shannon R. Pevarnik** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1853 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1853

OCWEB KIAB SERVICING, LLC
VS.

MICHAEL E. NAZELROD
92 SAINT MICHAEL'S WAY
HANOVER PA 17331

PARCEL NO. (08) 014-0069-000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$242,670.63

Attorneys for Plaintiff
Udren Law Offices, P.C.

SEIZED and taken into execution as the property of **Michael E. Nazelrod** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1078 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1078

BAC HOME LOANS SERVICING, LP.
VS.

BARRY H. ORING
42 BONNIEFIELD CIRCLE
GETTYSBURG, PA 17325-7827

Parcel No.: 06_009-0087---000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$192,773.75

Attorneys for Plaintiff
Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Barry H. Oring** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-196 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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. 9-S-196

WELLS FARGO BANK, N.A.

vs.

IVAN RICHARDSON

and REBECCA M. RICHARDSON

315 PEACH GLEN-DAVILLE ROAD
GARDNERS, PA 17324

Parcel No.: 22-G03-0091---000

(Acreage or street address)

IMPROVEMENTS THEREON:

RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$48,535.84

Attorneys for Plaintiff

Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Ivan Richardson & Rebecca M. Richardson** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1487 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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.:

By virtue of Writ of Execution

No. 09-S-1487

BAC HOME LOANS SERVICING LP

VS.

CHUB N. RADABAUGH JR.

VALERIE S. RADABAUGH

29 BURNSIDE DRIVE
EAST BERLIN PA 17316

Parcel No. (24) 003-0008---000

(Acreage or street address)

IMPROVEMENTS THEREON:

RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$154,034.12

Attorneys for Plaintiff

McCabe, Weisberg & Conway, P.C.

SEIZED and taken into execution as the property of **Chub N. Radabaugh, Jr. & Valerie S. Radabaugh** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1256 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-S-1256

CITIMORTGAGE, INC.

VS.

PAUL C. PLANK

2280 BALTIMORE PIKE
GETTYSBURG PA 17325-7014

PARCEL NO. (30) G15-0010-000

IMPROVEMENTS THEREON:

RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$191,932.33

Attorneys for Plaintiff

Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Paul C. Plank** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1798 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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.:

All that lot of ground in Butler Township, Adams County, Pennsylvania, containing approximately 2.01 Acres and known as 155 Apple Way Road, Gettysburg, PA 17325, more particularly described in Adams County Record Book 2857, at page 198.

Parcel No. (07) E09-0016A-000

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

By virtue of Writ of Execution
No. 09-S-1798

ADAMS COUNTY NATIONAL BANK
VS.

ROGER L. SPRAGUE
MARY SPRAGUE
DEBBIE K. MORETON

JUDGMENT AMOUNT: \$355,364.59

Attorneys for Plaintiff
Puhl, Eastman & Thrasher

SEIZED and taken into execution as the property of **Roger L. Sprague & Mary Sprague & Debbie K. Moreton** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1982 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1982

CHASE HOME FINANCE LLC
vs.

VANDRINA ROGERS

46 STONYBROOK LANE
NEW OXFORD, PA 17350-8581

Parcel No.: 17.K09-126
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$298,173.28

Attorneys for Plaintiff
Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Vandrina Rogers** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1839 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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.:

By virtue of Writ of Execution
No. 09-S-1839

HOUSEHOLD FINANCE CONSUMER
DISCOUNT COMPANY
VS.

JILLIAN E. ROSEN

91 CURTIS DRIVE
EAST BERLIN PA 17316

Parcel No. (37) 002-0002---000
(Acreage or street address)

IMPROVMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$162,399.54

Attorneys for Plaintiff
McCabe, Weisberg & Conway, P.C.

SEIZED and taken into execution as the property of **Jullian E. Rosen** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-417 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-S-417

US BANK, NATIONAL ASSOCIATION
AS TRUSTEE FOR JPM ALT 2006-S3
vs.
JEREMY R. STAMBAUGH
and ELIZABETH A. GARTRELL

45 NORTH QUEEN STREET
LITTLESTOWN, PA 17340-0000

Parcel No.: 27-008-0096-000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$149,956.31

Attorneys for Plaintiff
Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Jeremy R. Stambaugh & Elizabeth A. Gartrell** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1871 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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.:

By virtue of Writ of Execution
No. 09-S-1871

DEUTSCHE BANK NATIONAL TRUST
COMPANY
VS.
CHARLES J. STEVENS
SANDRA A. STEVENS

320 BOLLINGER ROAD
LITTLESTOWN PA 17340

PARCEL NO. (15) J18-0116---000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING
JUDGMENT AMOUNT: \$267,987.65

Attorneys for Plaintiff
McCabe, Weisberg & Conway, P.C.

SEIZED and taken into execution as the property of **Charles J. Stevens & Sandra A. Stevens** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1403 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1403

WELLS FARGO BANK, N.A., S/B/M
TO WELLS FARGO HOME
MORTGAGE, INC.
vs.
WILLIAM R. WALB, III

512 MAIN STREET
MCSHERRYSTOWN, PA 17344-1809

Parcel No.: 28-005-0251---000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING
JUDGMENT AMOUNT: \$83,742.19

Attorneys for Plaintiff
Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **William R. Walb, III** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

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 CYRUS A. KARPEN, DEC'D**

Late of Butler Township, Adams County, Pennsylvania

Co-Executrices: Linda J. Karper, 10 South Hillside Drive, Biglerville, PA 17307; Blanche E. Brais, 553 Maidstone Lane, Clemmons, NC 27012

Attorney: John R. White, Esq., Campbell & White, P.C., 112 Baltimore St., Gettysburg, PA 17325

ESTATE OF MARTHA ELLEN OWINGS, DEC'D

Late of Union Township, Adams County, Pennsylvania

Personal Representative: Justin D. Robertson, 475 Barts Church Rd., Hanover, PA 17331

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

ESTATE OF HUIBERTINA J. PAINTER, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Personal Representative: G. Steven McKonly, Esq., 119 Baltimore St., Hanover, PA 17331

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

ESTATE OF DONALD L. TRIMMER, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

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

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

ESTATE OF DAVID M. WAGAMAN, DEC'D

Late of Tyrone Township, Adams County, Pennsylvania

Administratrix: Krysten L. Wagaman, c/o Lena Hayes, 212 Branch Circle, East Berlin, PA 17316

Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

SECOND PUBLICATION**ESTATE OF JUNE E. HALL a/k/a JUNE ELIZABETH HALL, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executors: Raymond W. Newman, 799 Bottom Road, Orrtanna, PA 17353; Brenda Hall, 2802 15th Street South, Unit G, Fargo, ND 58103-5958

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High St., Gettysburg, PA 17325

ESTATE OF JAMES MORGAN HUNT, DEC'D

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

Executrix: Marian L. Morgan, 31 Raven Trail, Carroll Valley, PA 17320

ESTATE OF JOHN D. PLANK a/k/a JOHN DAVID PLANK, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Kevin L. Arnsberger, 211 Shriver's Corner Road, Gettysburg, PA 17325

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High St., Gettysburg, PA 17325

ESTATE OF MARY A. STRICKLAND a/k/a MARY AVALENE STRICKLAND, DEC'D

Late of Straban Township, Adams County, Pennsylvania

David A. Strickland, 190 Longview Boulevard, Gettysburg, PA 17325

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

ESTATE OF CLYDE E. WILLIAMS, JR., DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: James E. Williams, 325 Belmont Road, Gettysburg, PA 17325; David C. Williams, 231-1/2 Poplar Street, Hanover, PA 17331

Attorney: Robert E. Campbell, Esq., Campbell & White, P.C., 112 Baltimore St., Suite 1, Gettysburg, PA 17325-2311

THIRD PUBLICATION**ESTATE OF ELIZABETH B. FEESER, DEC'D**

Late of Union Township, Adams County, Pennsylvania

Executor: Steven W. Hawks, 78 Rondout Harbor, Port Ewen, NY 12466

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

ESTATE OF DOROTHY K. HECKMAN, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Co-Executors: Donald C. Heckman, 14 Slate Hill Rd., Camp Hill, PA 17011; Nancy H. Costella, 3255 Biglerville Rd., Biglerville, PA 17307

Attorney: John R. White, Esq., Campbell & White, P.C., 112 Baltimore St., Gettysburg, PA 17325

ESTATE OF MARY CATHERINE MARSHALL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Sterling Douglas Leach, Jr., 511 Westview Road, Needmore, PA 17238

Attorney: John R. White, Esq., Campbell & White, P.C., 112 Baltimore St., Gettysburg, PA 17325

ESTATE OF ALLEN I. McDONNELL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: Nesa J. Mudd, 324 Victor Street, Gettysburg, PA 17325; Dennis A. McDonnell, 10 End Street, Savannah, GA 31419

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

ESTATE OF MARY KATHERINE McGLAUGHLIN, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Co-Executors: George C. Harbaugh, 20 Gin Trail, Fairfield, PA 17320; Steve E. McGlaughlin, 15 Mill Drive, Dillsburg, PA 17019

Attorney: Matthew R. Battersby, Esq., Battersby Law Office, P.O. Box 215, Fairfield, PA 17320

ESTATE OF DOLORES M. WOLF, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Trina M. Vain, 2061 Stoverstown Road, Spring Grove, PA 17362; Elaine M. Breighner, 23 Center Street, Hanover, PA 17331

Attorney: Larry W. Wolf, P.C., 215 Broadway, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1326 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1326

GMAC MORTGAGE, LLC
vs.

MARIE E. WASCO

14 COLONIAL COURT,
LITTLESTOWN, PA 17340-1528

Parcel No: (27) 011-0141---000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$149,693.54

Attorneys for Plaintiff

Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Marie E. Wasco** 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 June 11, 2010, 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.

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.

4/23, 30 & 5/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1904 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1904

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

vs.

BRUCE KIDWELL

2902 HANOVER PIKE
HANOVER, PA 17331-8843

Parcel No.: 08-K15-0028-000
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$202,354.97

Attorneys for Plaintiff

Phelan Hallinan & Schmieg, LLP

SEIZED and taken into execution as the property of **Bruce Kidwell** 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 June 11, 2010, 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.

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.

4/16, 23 & 30

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-1777 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of May, 2010, 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-1777

HSBC BANK USA NA
VS.

RANDY M. KNOX
JOYCE A. KNOX

361 B SHIPPENSBURG ROAD
BIGLERVILLE PA 17307

Parcel No: (29) C07-0004---000.01
(Acreage or street address)

IMPROVEMENTS THEREON:
RESIDENTIAL DWELLING

JUDGMENT AMOUNT: \$205,921.32

Attorneys for Plaintiff

Udren Law Offices, P.C.

SEIZED and taken into execution as the property of **Randy M. Knox & Joyce A. Knox** 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 June 11, 2010, 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.

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.

4/16, 23 & 30