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ALESHA K. MAGILL vs. COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION, BUREAU OF DRIVER LICENSING, CUMBERLAND CO., COMMON PLEAS, No. 2020-01467 CIVIL TERM.

Civil Action—Opinion Pursuant to Pa. R.A.P. 1925—Suspension of Driving Privileges Following Refusal to Submit to Chemical Testing for DUI—Implied Consent Law—**Factor v. Department of Transportation, Bureau of Driver Licensing**, 199 A.3d 492 (Pa. Commw. 2018)—Knowing and Conscious Refusal—DL-26B Warnings Given—**Dailey v. Department of Transportation, Bureau of Driver Licensing**, 722 A.3d 772 (Pa. Commw. 1999)—Medical Evidence—Willingness to Assent—Adequate Warning—**Coriano v. Commonwealth, Department of Transportation**, full syllabus found on page 77 of opinion)

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ALESHA K. MAGILL vs. COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION, BUREAU OF DRIVER LICENSING, CUMBERLAND CO., COMMON PLEAS, No. 2020-01467 CIVIL TERM.

Civil Action—Opinion Pursuant to Pa. R.A.P. 1925—Suspension of Driving Privileges Following Refusal to Submit to Chemical Testing for DUI—Implied Consent Law—**Factor v. Department of Transportation, Bureau of Driver Licensing**, 199 A.3d 492 (Pa. Commw. 2018)—Knowing and Conscious Refusal—DL-26B Warnings Given—**Dailey v. Department of Transportation, Bureau of Driver Licensing**, 722 A.3d 772 (Pa. Commw. 1999)—Medical Evidence—Willingness to Assent—Adequate Warning—**Coriano v. Commonwealth, Department of Transportation, Bureau of Driver Licensing**, 2019 WL 2619936 (Pa. Commw. June 27, 2019)—Officer Not Required to Coax Appellant to Revoke Refusal—Judgment Should Be Affirmed.

1. Under the Implied Consent Law, Department of Transportation must establish (a) licensee was arrested for drunken driving by a police officer having reasonable grounds to believe that the licensee was driving while under the influence; (b) licensee was requested to submit to a chemical test; (c) licensee refused to do so; and (d) licensee was warned that refusal would result in a license suspension and then licensee must establish that she either was not capable of making a knowing and conscious refusal or was physically unable to take the test.

2. Anything less than an unqualified, unequivocal assent to submit to chemical testing constitutes a refusal to consent thereto.

3. DL-26B warnings represent adequate warning of the consequences of refusal to submit to chemical testing.

4. Where officer credibly testified that he placed Appellant in the back of his police vehicle, asked her to submit to chemical testing, read the DL-26B form warning verbatim and asked her again to submit to chemical testing where she again refused, the Court did not err when it found that Appellant (a) refused chemical testing and (b) that officer warned her that her driving privileges would be suspended if she refused to submit to chemical testing.

5. Where licensee concedes to consuming alcohol prior to refusing to submit to chemical testing, she must prove with medical evidence that alcohol ingestion played no part in rendering her incapable of making a knowing and conscious refusal.

6. Where Appellant admitted to having two drinks prior to her refusal and where she claimed that she may have unknowingly ingested drugs and that she remembered nothing of her interaction with the officer and where she failed to provide any medical evidence to support her claim, Appellant lacked credibility and failed to meet her burden.

WILLIAM C. FELKER, ESQUIRE, for the Petitioner.

SHAWN J. JAYMAN, ESQUIRE, for the Respondent.

OPINION PURSUANT TO Pa. R.A.P. 1925

Before PECK, J.

PECK, J., December 2, 2020:—

A. FACTS AND PROCEDURAL HISTORY

On January 15, 2020, PennDOT mailed Appellant notice of suspension of her driving privilege following her refusal to submit to chemical

testing at the point of her arrest for driving under the influence.¹ Appellant filed an appeal with this Court on February 12, 2020.² We held a hearing thereon on September 21, 2020 and subsequently entered an Order dated September 22, 2020 dismissing her appeal and reinstating the license suspension.³ Appellant now timely appeals our September 22, 2020 Order.⁴ We made the following findings at the September 21, 2020 hearing, and offer same in support of our judgment.

At 4:25 a.m. on December 27, 2019, Officer Ethan Paulus of the Mechanicsburg Police Department was dispatched to a vehicular crash on East Main Street in Mechanicsburg, Cumberland County involving a moving vehicle and a parked vehicle.⁵ Officer Paulus had been an officer with the Mechanicsburg Police Department for five years at the time of the hearing and investigated 70 to 100 DUIs.⁶ When he arrived on the scene between 4 to 10 minutes after dispatch, he observed the striking vehicle in the middle of the street about 250 feet away from the struck, parked vehicle.⁷ Appellant was leaning up against the rear bumper of the striking vehicle and identified herself as the operator of that vehicle.⁸ Another person was present and determined to be the owner of the parked vehicle.⁹

Officer Paulus instructed both individuals to move to the sidewalk to avoid being struck by traffic.¹⁰ Appellant “simply stared” at Officer Paulus in response.¹¹ When he asked again, Appellant obliged and Officer Paulus observed her having trouble maintaining her balance before nearly tripping over the curb.¹² Officer Paulus observed alcohol on Appellant’s breath and bloodshot eyes and Appellant was swaying as she stood on the sidewalk.¹³ He asked Appellant if and where she had been drinking,

¹PennDOT’s Exhibit C-1, Sub-Exhibit No. 1; **see** In re: License Suspension Appeal, Transcript of Proceedings, September 21, 2020, at 27 (PECK, J.) (hereinafter “N.T. ___”).

²Appeal of Driver’s License/Auto Registration Suspension, filed February 12, 2020.

³Order, September 22, 2020 (PECK, J.).

⁴Notice of Appeal, filed October 5, 2020.

⁵N.T. 5-6. Officer Paulus corrected himself as to the time of dispatch at page 6 of the transcript. **Id.** at 6.

⁶**Id.** at 4-5.

⁷**Id.** at 5-6. Officer Paulus noted the oddity of how distant Appellant’s vehicle was from the parked vehicle she struck, as if she were trying to drive away but the vehicle was disabled. **Id.** at 8.

⁸**Id.** at 6.

⁹**Id.** at 7.

¹⁰**Id.**

¹¹**Id.**

¹²**Id.**

¹³**Id.** at 7-9.

to which Appellant responded “down the road” and, subsequently, “at a friend’s house.”¹⁴ Officer Paulus proceeded to conduct field sobriety tests, during which she repeatedly rolled her eyes and head indicating to Officer Paulus she was annoyed with how long he was taking to complete same.¹⁵ For the sake of brevity, we find it sufficient to summarize that Appellant performed poorly, lost her balance several times, failed to follow directions, and at times exhibited impatience at Officer Paulus during the tests.¹⁶

Officer Paulus concluded Appellant was too intoxicated to safely drive her vehicle and asked her a few times to submit to a preliminary breath test, which she refused.¹⁷ He placed Appellant in custody in the back of his police vehicle and asked Appellant if she would submit to a chemical blood test, which she refused.¹⁸ Officer Paulus read the DL-26B form warnings to her verbatim and she again refused.¹⁹ Officer Paulus described her refusal after being read the form: “She told me no, she refused. I mean, she—it wasn’t much of a conversation. She just didn’t want to do it.”²⁰ He transported Appellant to Cumberland County Prison for booking, where he asked her if she would sign the refusal form.²¹ Appellant requested to look at it and Officer Paulus handed it to her.²² Appellant looked at it and asked what it was, and Officer Paulus explained it was the “same thing” he had read to her, explained again what it was, and read it again.²³ Officer Paulus requested it back, telling her he “wasn’t reading it again.”²⁴ Officer Paulus felt she had already refused in the back of the vehicle.²⁵

Appellant testified that she could not remember much from the incident.²⁶ She said she worked that evening tending bar and was on her way home, but she said she could not remember leaving work, driving or striking a parked vehicle.²⁷ She noted that she did not tell Officer Paulus

¹⁴*Id.* at 8.

¹⁵*Id.* at 9.

¹⁶*Id.* at 9-11.

¹⁷*Id.* at 11.

¹⁸*Id.* at 11-12.

¹⁹*Id.*; see PennDOT’s Exhibit C-1, Sub-Exhibit No. 2.

²⁰N.T. 12.

²¹*Id.*

²²*Id.* at 19.

²³*Id.* at 19-20.

²⁴*Id.*

²⁵*Id.* at 20.

²⁶*Id.* at 21.

²⁷*Id.* at 22, 24.

she had been working because “they [were] trying to shut down [her] job and [she] didn’t want police officers going there.”²⁸ She said she vaguely recalled being placed in the police vehicle but did not remember being asked to submit to a chemical blood test.²⁹ She did “kind of remember at the booking or police station ... [being] handed that paper ... and not really being able to read it” because she was not wearing reading glasses and because she was “out of it.”³⁰ Appellant said she had been on medication for bronchitis which may have still been in her system and speculated that perhaps someone “put something” in her “shifties,” which she explained are the two free drinks she is permitted to have at the end of her shift and which she did drink prior to leaving work.³¹ Appellant did not offer any medical evidence of either possibility.³²

B. DISCUSSION

Appellant raises the following issues in her Concise Statement of Errors, which we address in turn:

1. Court erred in finding that licensee refused to submit to chemical testing.
2. Court erred in finding that licensee was warned by the officer that her license will be suspended if she refused to submit to chemical testing.
3. Court erred in finding that expert testimony was required to assess whether any perceived refusal, by licensee, was knowing and conscious.
4. Court erred in failing to find that any perceived refusal was not knowing and conscious.
5. Court erred in failing to find that licensee’s overall conduct demonstrated a willingness to assent to chemical testing.^[33]

We note the following governing legal principles:

To sustain a license suspension under [the Implied Consent Law], DOT has the burden of establishing that (1) the licensee was arrested for drunken driving by a police officer having reasonable grounds to believe that the licensee was driving while under the influence, (2) the licensee was requested to submit to a chemical test, (3) the licensee refused to do so and (4) the licensee was warned

²⁸*Id.* at 21.

²⁹*Id.* at 22.

³⁰*Id.*

³¹*Id.* at 23.

³²*Id.* at 23-24.

³³Concise Statement of Errors, filed October 28, 2020.

that refusal would result in a license suspension. Once DOT meets this burden, the burden shifts to the licensee to establish that he or she either was not capable of making a knowing and conscious refusal or was physically unable to take the test.

Factor v. Department of Transportation, Bureau of Driver Licensing, 199 A.3d 492, 496 (Pa. Commw. 2018) (quoting **Giannopoulos v. Dep’t of Transp., Bureau of Driver Licensing**, 82 A.3d 1092, 1094 (Pa. Commw. 2013)). The standard of review for an appellate court in a license suspension appeal “is to determine if the factual findings of the trial court are supported by competent evidence, and whether the trial court committed an error of law or an abuse of discretion,” though credibility determinations “are for the trial court.” **Commonwealth, Department of Transportation, Bureau of Driver Licensing v. Scott**, 546 Pa. 241, 247, 684 A.2d 539, 542 (1996).

1. Complained Error No. 1: Refusal

We discern no error in our finding that Appellant refused chemical testing. Officer Paulus credibly testified that he asked Appellant to consent to chemical testing, which she refused, then read the DL-26B form warnings verbatim to Appellant and she again refused.³⁴ Officer Paulus was resolute in his memory of her refusal: “She told me no, she refused. I mean, she—it wasn’t much of a conversation. She just didn’t want to do it.”³⁵ We found credible that Appellant explicitly said no. Further, “anything less than an unqualified, unequivocal assent to submit to chemical testing constitutes a refusal to consent thereto,” whether or not a licensee explicitly refuses. **Factor**, supra at 497. We did not find that Appellant’s testimony regarding her mental state at the time affected whether she was given meaningful opportunity to assent. See e.g., **Broadbelt v. Department of Transportation, Bureau of Driver Licensing**, 903 A.2d 636, 641 (Pa. Commw. 2006). As discussed infra, we did not find same credible and assigned little weight to same given the absence of medical testimony, or any evidence for that matter that corroborated Appellant’s supposition that someone must have put something in her drink.

2. Complained Error No. 2: Warning

We similarly discern no error in our finding that Officer Paulus warned Appellant that her license would be suspended if she refused to submit to chemical testing. Officer Paulus credibly testified that he placed Appellant in the back of his police vehicle, asked Appellant to submit to chemical testing, read the DL-26B form warnings verbatim,

³⁴N.T. 11-12.

³⁵*Id.* at 12.

and asked Appellant to submit to chemical testing again.³⁶ Appellant does not raise in her Concise Statement that the warnings in the DL-26B form were improper, nor do we so find, and thus his verbatim reading was sufficient.³⁷ **See e.g., Coriano v. Department of Transportation, Bureau of Driver Licensing**, 2019 WL 2619936, at *2 (Pa. Commw. June 27, 2019) (noting, “Pennsylvania’s courts have already determined that the DL-26B warnings represent adequate warnings of the current consequences of refusal to submit to chemical testing” when reviewing identical warnings); **see also, Park v. Department of Transportation, Bureau of Driver Licensing**, 178 A.3d 274, 281 (Pa. Commw. 2018) (“Once a police officer provides the implied consent warnings to a motorist, the officer has done all that is legally required to ensure the motorist is fully advised of the consequences of her failure to submit to chemical testing.”). Paragraph 3 in the DL-26B form that Officer Paulus read and which bears Appellant’s name and information and the signature of Officer Paulus, provides, in relevant part:

If you refuse to submit to the blood test, your operating privilege will be suspended for at least 12 months. If you previously refused a chemical test or were previously convicted of driving under the influence, your operating privilege will be suspended for up to 18 months.^[38]

We therefore found that Officer Paulus warned Appellant her driving privilege would be suspended if she refused to submit to chemical testing.

3. Complained Errors Nos. 3, 4: Knowing and Conscious Refusal; Medical Evidence

Appellant’s next two errors complained of on appeal are that we erred in finding that expert testimony was required to assess whether a refusal is knowing and conscious, and that we erred in failing to find that her refusal was knowing and conscious. We address these complained errors together. Appellant testified that she could not remember being asked to assent to chemical testing and otherwise remembered very little about the accident and her arrest.³⁹ On cross-examination, Appellant offered a possible explanation as to her apparent disorientation by saying that she had been on medication for bronchitis which may have still been in her system, and she could otherwise only surmise that someone may have “put

³⁶**Id.** at 11; **see** PennDOT’s Exhibit C-1, Sub-Exhibit No. 2.

³⁷**See** PennDOT’s Exhibit C-1, Sub-Exhibit No. 2.

³⁸**Id.**

³⁹N.T. 22-23.

something” in the two drinks she consumed prior to leaving work.⁴⁰ She acknowledged she did not have any medical evidence to support same.⁴¹ In closing argument, counsel for PennDOT noted that Appellant testified about a medical condition but offered no medical evidence, and argued that given the totality of circumstances, her refusal was knowing and conscious.⁴² We agreed, citing the lack of medical evidence with respect to an apparent blackout to which Appellant testified.⁴³

We discern no error on this point. Having found that Officer Paulus had reasonable grounds to believe Appellant was driving under the influence, that Appellant was asked to submit to a chemical test and refused, and that Appellant was warned that refusal would result in license suspension, it was Appellant’s burden to establish she was incapable of making a knowing and conscious refusal or that she was physically unable to take the test. **Factor v. Dep’t of Transp., Bureau of Driver Licensing**, supra at 496. A licensee’s testimony alone is generally insufficient to meet that burden. **See Kollar v. Commonwealth, Department of Transportation, Bureau of Driver Licensing**, 7 A.3d 336, 340 (Pa. Commw. 2010) (“A driver’s self-serving testimony that she was incapable of providing a knowing and conscious refusal of chemical testing is insufficient to meet the licensee’s burden of proof. ... Medical testimony is generally required in order to establish a licensee was unable to provide a knowing and conscious refusal to submit to chemical testing.”). This is particularly salient where a licensee concedes that she consumed alcohol prior to refusing chemical testing. **See Togba v. Department of Transportation, Bureau of Driver Licensing**, 239 A.3d 1149 (Pa. Commw. 2020). In such a case, a licensee must prove with medical evidence that “alcohol ingestion played no part in rendering [her] incapable of making a knowing and conscious refusal.” **Dailey v. Commonwealth, Department of Transportation, Bureau of Driver Licensing**, 722 A.2d 772, 774 (Pa. Commw. 1999). Indeed, “if a motorist’s inability to make a knowing and conscious refusal of testing is caused, in whole or **in part**, by the consumption of alcohol, the motorist’s affirmative defense fails.” **DiGiovanni v. Commonwealth, Department of Transportation, Bureau of Driver Licensing**, 717 A.2d 1125, 1127 (Pa. Commw. 1998) (emphasis in original) (quoting **Gombar v. Commonwealth**,

⁴⁰**Id.** at 23.

⁴¹**Id.**

⁴²**Id.** at 27.

⁴³**Id.** at 27-28.

Department of Transportation, Bureau of Driver Licensing, 678 A.2d 843, 847 (Pa. Commw. 1996)). We note that regardless of the lack of medical evidence, we did not find credible Appellant's testimony that she remembered little to nothing of her interaction with Officer Paulus, nor were we persuaded that she may have ingested drugs without her knowledge. We therefore found Appellant failed in meeting her burden.

4. Complained Error No. 5: Willingness to Assent

Appellant's final error complained of on appeal is that we erred in failing to find that her overall conduct demonstrated a willingness to assent to chemical testing. We addressed our reasons for finding that Appellant refused chemical testing *supra*. In summary, we found Officer Paulus credibly testified that Appellant flatly refused. We further found, as also discussed herein, that we did not credit Appellant's testimony about a possible medical condition or mental state that may have affected her ability to assent. Finally, to the extent Appellant is referencing the interaction she had with Officer Paulus at the booking center when Officer Paulus asked Appellant to sign the refusal form, we did not find that any of Appellant's words or conduct negated her refusal. Officer Paulus testified that at the booking center he asked Appellant to sign the refusal form, she requested to look at it, Officer Paulus handed it to her, Appellant looked at it and asked what it was, and Officer Paulus explained it was the "same thing" he read to her, explained what it was, read it to her again, and retrieved it back on the basis that he felt she had already refused prior to this point.⁴⁴

We agree. Any "willingness" Appellant may have attempted to display after transport to the booking center was long past the point of her refusal and did not vitiate same. **See Cunningham v. Commonwealth, Department of Transportation**, 105 Pa. Commonwealth Ct. 501, 501, 525 A.2d 9, 10 (Pa. Commw. 1987); **King v. Commonwealth, Department of Transportation, Bureau of Driver Licensing**, 828 A.2d 1, 4-5 (Pa. Commw. 2002). This finding is bolstered by the fact that neither Officer Paulus nor Appellant testified that Appellant **asked** to take the test or expressed any overt willingness to take the test upon arrival at the booking center, leaving Appellant's mere interest in reading the refusal form after refusal the sole evidence of Appellant's possible willingness to assent. Officer Paulus was not required to coax Appellant into revoking her refusal. It is well settled that "[o]fficers are not required to 'spend effort

⁴⁴*Id.* at 12-13, 19-20.

either cajoling the licensee or spend time waiting to see if the licensee will ultimately change [her] mind.’” **Walkden v. Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing**, 103 A.3d 432, 440 (Pa. Commw. 2014) (quoting **Broadbelt v. Department of Transportation, Bureau of Driver Licensing**, 903 A.2d 636, 641 n.7 (Pa. Commw. 2006)).

C. CONCLUSION

We discern no error in our judgment and respectfully request the Commonwealth Court affirm.

ESTATE AND TRUST 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. Notice is also hereby given of the existence of the trusts of the deceased settlors set forth below for whom no personal representatives have been appointed within 90 days of death. All persons having claims or demands against said estates or trusts are requested to make known the same, and all persons indebted to said estates or trusts are requested to make payment, without delay, to the executors or administrators or trustees or to their attorneys named below.

FIRST PUBLICATION**Carpenter, James R., Sr., dec'd.**

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Late of Hampden Township.

Executor: Eugene Shoop, Jr. c/o Stone, Wiley & Linsench, P.C., 3 N. Baltimore Street, Dillsburg, PA 17019.

Attorneys: Brian C. Linsench, Esquire, Stone, Wiley & Linsench, PC, 3 N. Baltimore Street, Dillsburg, PA 17019, (717) 432-2089.

Squire, Oscar E. a/k/a Oscar Earl Squire, dec'd.

Late of the Township of Upper Allen.

Executor: Michael E. Squire, 1639 S. York Street, Mechanicsburg, PA 17055.

Attorney: Gerald J. Shekletski, Esquire, P.O. Box E, New Cumberland, PA 17070.

Thomas, Scott J., dec'd.

Late of the Borough of Newburg.
Administratrix: Chanel N. Thomas.

Attorneys: Jerry A. Weigle, Esquire, Weigle & Associates, P.C., 126 East King Street, Shippensburg, PA 17257.

Thrush, Eleanor A., dec'd.

Late of Dickinson Township.
Administrator: Larry L. Killian.
Attorneys: Craig A. Diehl, Esquire, CPA, Law Offices of Craig A. Diehl, 3464 Trindle Road, Camp Hill, PA 17011.

Toniola, Elizabeth H., dec'd.

Late of Lower Allen Township.
Executrix: Cheryl T. Posavec.
Attorneys: Michael L. Bangs, Esquire, Bangs Law Office, LLC, 429 South 18th Street, Camp Hill, PA 17011.

Wickard, Raymond C. a/k/a Raymond C. Wickard, Jr., dec'd.

Late of South Middleton Township.
Co-Executrices: Karen Wickard and Kristin Wickard c/o Sean M. Shultz, Esquire, Saidis, Shultz & Fisher, 100 Sterling Parkway, Suite 300, Mechanicsburg, PA 17050.
Attorneys: Sean M. Shultz, Esquire, Saidis, Shultz & Fisher, 100 Sterling Parkway, Suite 300, Mechanicsburg, PA 17050, (717) 590-8529.

SECOND PUBLICATION

Bailey, Frederick H., dec'd.

Late of the Township of Hampden.
Executrix: Rae-Ann Lehman, 2102 Givenswood Drive, Fallston, MD 21047.
Attorney: David H. Stone, Esquire, P.O. Box E, New Cumberland, PA 17070.

Boyer, Mary J., dec'd.

Late of Lower Allen Township.
Mary J. Boyer Revocable Trust, effective September 14, 2004.
Trustees: Kathy Sharp and Robert Boyer.
Attorneys: Jessica F. Greene, Esquire, Walters & Galloway, PLLC, 39 West Main Street, Mechanicsburg, PA 17055, (717) 697-4700.

Cox, Kay E., dec'd.

Late of Carlisle Borough.
Executrix: Laurie M. Morton c/o Flower Law, LLC, 170 East High Street, Carlisle, PA 17013.
Attorneys: Flower Law, LLC.

Gogarty, Margaret Mary, dec'd.

Late of Lower Allen Township.
Executrix: Maureen Zimmerman, 6860 Chatham Drive, Harrisburg, PA 17111.
Attorneys: Brian J. Murren, Esquire, Tucker Arensberg, P.C., 2 Lemoyne Drive, Suite 200, Lemoyne, PA 17043.

Hamm, Thomas B. a/k/a Thomas Byron Hamm a/k/a Thomas B. Hamm, Jr., dec'd.

Late of Camp Hill Borough.
Executors: Bradford D. Hamm and Sandra L. Bogden.
Attorneys: Elizabeth P. Mullaugh, Esquire, McNees Wallace & Nurick LLC, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108-1166, (717) 232-8000.

Hatten, Robert W., dec'd.

Late of Cumberland County.
Executor: Bryan S. Hatten.
Attorneys: Mary A. Etter Dissinger, Esquire, Dissinger & Dissinger, 400 South State Road, Marysville, PA 17053, (717) 957-3474.

Holmes-Sanderson, MaryAnn E., dec'd.

Late of East Pennsboro Township.

Executor: Sean M. Sanderson c/o Hazen Law Group, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110.

Attorneys: Hazen Law Group, 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110.

Hose, Carol J., dec'd.

Late of New Cumberland Borough.
Executrix: Pamela Smith, 3476 Sullivan Street, Mechanicsburg, PA 17050.

Attorneys: Peter J. Russo, Esquire, Law Offices of Peter J. Russo, P.C., 245 Grandview Ave., Suite 102, Camp Hill, PA 17011.

Jessop, Frederick C., Jr., dec'd.

Late of South Middleton Township.
Executrix: Valerie L. Henline c/o Stock and Leader, 221 West Philadelphia Street, Suite 600, York, PA 17401.

Attorneys: MacGregor J. Brillhart, Esquire, Stock and Leader.

Katzman, Ronald M., dec'd.

Late of Camp Hill Borough.
Executor: Jay J. Bishop, 1141 Park Avenue, Dillsburg, PA 17019.
Attorney: None.

Kluck, Patricia H., dec'd.

Late of Cumberland County.
Executors: Linda K. Cook, 14 Stillmeadows Lane, Enola, PA 17025 and Brian W. Kluck, 30 Lincoln Avenue, Waynesboro, PA 17268.

Attorneys: John A. Feichtel, Esquire, Mette Evans & Woodside, 3401 N. Front Street, Harrisburg, PA 17110.

Kyle, Edward Lee, dec'd.

Late of the Borough of Mechanicsburg.
Administratrix: Kelly A. Reed, 6307 Salem Park Circle, Mechanicsburg, PA 17050.

Attorneys: Law Office of Keith O. Brenneman, P.C., 44 West Main Street, Mechanicsburg, PA 17055.

Lerew, Ray Francis, dec'd.

Late of North Middleton Township.
Co-Executors: Jo Lerew and Bryan Lerew.

Attorneys: Craig A. Diehl, Esquire, CPA, Law Offices of Craig A. Diehl, 3464 Trindle Road, Camp Hill, PA 17011.

Lott, Helen D. a/k/a Helen Doyle Lott a/k/a Helen Louise Lott a/k/a Helen Quesenberry Lott, dec'd.

Late of South Middleton Township.
Co-Executors: Gary L. Quesenberry and I. William Quesenberry c/o Charles E. Shields, III, Esquire, 6 Clouser Rd., Mechanicsburg, PA 17055.

Attorney: Charles E. Shields, III, Esquire, 6 Clouser Rd., Mechanicsburg, PA 17055.

Miceli, Theresa M., dec'd.

Late of Monroe Township.
Executrix: Gerianne Ensminger c/o Lauren E. Kays, Esquire, Bogar & Hipp Law Offices, LLC, One West Main Street, Shiremanstown, PA 17011.

Attorneys: Lauren E. Kays, Esquire, Bogar & Hipp Law Offices, LLC, One West Main Street, Shiremanstown, PA 17011.

Myers, Edward M., dec'd.

Late of East Pennsboro Township.
Executor: William J. Myers.
Attorneys: Craig A. Diehl, Esquire, CPA, Law Offices of Craig A. Diehl, 3464 Trindle Road, Camp Hill, PA 17011.

Rezich, John Joseph a/k/a John J. Rezich a/k/a John Rezich, dec'd.

Late of Lemoyne.
Administratrix: Barbara A. Spollen, 3519 King Arthur Rd., Annandale, VA 22003.

Attorney: John P. McGuire, Esquire, 552 Ridge Road, Telford, PA 18969.

Rhodes, John H. a/k/a John Harvey Rhodes, dec'd.

Late of Upper Allen Township.

Executrix: Bonnie F. Rhodes.

Attorneys: Elizabeth P. Mullaugh, Esquire, McNees Wallace & Nurick LLC, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108-1166, (717) 232-8000.

Stoneroad, Marion H., dec'd.

Late of the Township of East Pennsboro.

Co-Executors: Rodney S. Stoneroad, 251 Belle Vista Drive, Marysville, PA 17053 and LuAnn Fannasy, 1100 Hagy Lane, Dauphin, PA 17018.

Attorney: David H. Stone, Esquire, P.O. Box E, New Cumberland, PA 17070.

Walsh, Jeffrey K., dec'd.

Late of Dickinson Township.

Executor: Brian E. Walsh c/o Nathan C. Wolf, Esquire, Wolf & Wolf, Attorneys at Law, 10 West High Street, Carlisle, PA 17013.

Attorneys: Nathan C. Wolf, Esquire, Wolf & Wolf, Attorneys at Law, 10 West High Street, Carlisle, PA 17013, (717) 241-4436.

Willis, Eugene S., dec'd.

Late of Middlesex Township.

Executrix: Kimberly A. Kucker c/o George F. Douglas, III, Esquire, Salzmann Hughes PC, 354 Alexander Spring Road, Suite 1, Carlisle, PA 17013.

Attorneys: Salzmann Hughes, P.C.

Wolfe, John C., dec'd.

Late of the Township of Silver Spring.

Executrix: Barbara A. Gordy, 89 Beechcliff Drive, Carlisle, PA 17013.

Attorney: Dennis J. Shatto, Esquire, 828 Limekiln Road, New Cumberland, PA 17070.

Yi, Yong Hui, dec'd.

Late of the Borough of Mechanicsburg.

Executor: Un Kyu Kim.

Attorneys: Jessica Fisher Greene, Esquire, Walters & Galloway, PLLC, 54 East Main Street, Mechanicsburg, PA 17055.

THIRD PUBLICATION

Barmont, Lewis E., dec'd.

Late of Southampton Township.

Executor: Teddy E. Barmont.

Attorneys: Jerry A. Weigle, Esquire, Weigle & Associates, P.C., 126 East King Street, Shippensburg, PA 17257.

Cornman, Carol A., dec'd.

Late of Lemoyne Borough.

Executrix: Roseann C. Cornman.

Attorneys: David R. Galloway, Esquire, Walters & Galloway, PLLC, 54 East Main Street, Mechanicsburg, PA 17055.

Cunningham, Dennis Eugene a/k/a Dennis E. Cunningham, dec'd.

Late of North Middleton Township, Carlisle.

Executrix: Stephanie Nichole Rivera c/o Robert G. Frey, Esquire, 5 South Hanover Street, Carlisle, PA 17013.

Attorneys: Frey and Tiley.

Eads, James D., dec'd.

Late of South Middleton Township.

Executor: Jeffrey W. Eads c/o Martson Law Offices, 10 East High Street, Carlisle, PA 17013.

Attorneys: Hubert X. Gilroy, Esquire, Martson Law Offices.

Hippensteel, Nancy L., dec'd.

Late of Southampton Township.

Administrator c.t.a.: Mark L. Kugler, 123 Kline Road, Shippensburg, PA 17257.

Attorneys: Clayton A. Lingg, Esquire, Mooney Law, 230 York Street, Hanover, PA 17331.

Hopkins, John G., III, dec'd.

Late of Lower Allen Township.

Executor: John G. Hopkins, IV, 12 Cheltenham Circle, Camp Hill, PA 17011.

Attorney: None.

Houtz, Patricia Jean a/k/a Patricia J. Houtz, dec'd.

Late of South Middleton Township, Carlisle.

Executor: Dennis P. Houtz c/o Robert G. Frey, Esquire, 5 South Hanover Street, Carlisle, PA 17013.

Attorneys: Frey and Tiley.

Ivanoff, Michael, dec'd.

Late of Camp Hill.

Executrix: Christine I. Edwards, 1000 Hudson Street, Apt. 204, Hoboken, NJ 07030.

Attorney: None.

Knox, R. Douglas a/k/a Richard Douglas Knox, dec'd.

Late of Carlisle Borough.

Executor: Gregory D. Knox c/o Bradley L. Griffie, Esquire, Griffie & Associates, P.C., 396 Alexander Spring Road, Suite 1, Carlisle, PA 17015.

Attorneys: Bradley L. Griffie, Esquire, Griffie & Associates, P.C.

McCalister, Oliver B., dec'd.

Late of Dickinson Township.

Co-Executors: Lorraine I. Beecher and Mervin C. McCalister c/o Bradley L. Griffie, Esquire, Griffie & Associates, P.C., 396 Alexander Spring Road, Suite 1, Carlisle, PA 17015.

Attorney: Bradley L. Griffie, Esquire.

McGlynn, Mark W. a/k/a Mark William McGlynn, dec'd.

Late of Upper Allen Township.

Executrix: Lana Eubanks McGlynn c/o Robert C. Saidis, Esquire, Saidis, Shultz & Fisher, 100 Sterling Parkway, Suite 300, Mechanicsburg, PA 17050.

Attorneys: Robert C. Saidis, Esquire, Saidis, Shultz & Fisher, 100 Sterling Parkway, Suite 300, Mechanicsburg, PA 17050, (717) 590-8529.

Mowery, Florence S., dec'd.

Late of West Pennsboro Township.

Executrices: Jeree R. Vaughn and Beth E. Basehore c/o R. Thomas Murphy & Associates, P.C., 237 East Queen Street, Chambersburg, PA 17201.

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

Munchell, Nancy V., dec'd.

Late of Upper Allen Township.

Representatives: Deborah A. Hurley, 139 S. Locust Point Road, Mechanicsburg, PA 17055 and Kathleen A. Merrill, 2131 Arbor Court, Mechanicsburg, PA 17055. Attorney: Richard F. Maffett, Jr., Esquire, 2201 N. 2nd Street, Harrisburg, PA 17110.

Neidigh, Lonnie L., dec'd.

Late of Penn Township.

Executrix: Kathy J. Bloser c/o Martson Law Offices, 10 East High Street, Carlisle, PA 17013.

Attorneys: Colleen A. Baird, Esquire, Martson Law Offices.

Orner, Ila E., dec'd.

Late of Mechanicsburg, Upper Allen Township.

Executor: Garry R. Orner.

Attorneys: Law Office of Wm. D. Schrack, III, Benn Law Firm, 124 West Harrisburg Street, Dillsburg, PA 17019-1268.

Peters, Phillip W., dec'd.

Late of South Middleton Township.

Co-Administrators: Barbara Anne Darr and Earl David Peters c/o Todd A. King, Esquire, Salzmann Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325.

Attorneys: Salzmann Hughes, P.C.

Reese, Jessica L., dec'd.

Late of North Newton Township.
Executor: Donald L. Reese, 60 Independence Drive, Shippensburg, PA 17257.

Attorneys: Richard L. Webber, Jr., Esquire, Weigle & Associates, P.C., 126 East King Street, Shippensburg, PA 17257.

Roberto, Salvatore, Jr., dec'd.

Late of Hampden Township.

Administratrix: Rhonda Roberto, 4133 Mountainview Road, Mechanicsburg, PA 17050.

Attorney: James Gray Strupe, Jr., Esquire, 112 Market Street, Harrisburg, PA 17101, (717) 856-4648.

Swartz, Richard L., dec'd.

Late of Hampden Township.

Executrix: Trisha D. Swartz c/o Lisa Marie Coyne, Esquire, Coyne & Coyne, P.C., 3901 Market Street, Camp Hill, PA 17011-4227.

Attorneys: Lisa Marie Coyne, Esquire, Coyne & Coyne, P.C., 3901 Market Street, Camp Hill, PA 17011-4227.

Teter, William M., dec'd.

Late of Cumberland County.

Executrix: Cathy Chaplinski c/o Nicholas O. Schwartz, Esquire, Allied Attorneys of Central Pennsylvania, LLC, 61 West Louther St., Carlisle, PA 17013.

Attorneys: Nicholas O. Schwartz, Esquire, Allied Attorneys of Central Pennsylvania, LLC, 61 West Louther St., Carlisle, PA 17013.

Wagner, Joanne M., dec'd.

Late of Upper Allen Township.

Executrix: Patricia L. Schott.

Attorneys: Murrel R. Walters, III, Esquire, Walters & Galloway, PLLC, 54 East Main Street, Mechanicsburg, PA 17055.

Walp, Michael A., dec'd.

Late of Hampden Township.

Administratrix: Melanie R. Whipple c/o James D. Bogar, Esquire, Bogar & Hipp Law Offices, LLC, One West Main Street, Shiremans-town, PA 17011.

Attorneys: James D. Bogar, Esquire, Bogar & Hipp Law Offices, LLC, One West Main Street, Shiremanstown, PA 17011.

Zembower, Donna L., dec'd.

Late of Silver Spring Township.

Executor: Gregory A. Zembower.

Attorneys: Michael L. Bangs, Esquire, Bangs Law Office, LLC, 429 South 18th Street, Camp Hill, PA 17011.

NOTICE OF HEARING

Court of Common Pleas
Cumberland County, Pennsylvania
Civil Action

NO. 2020-04178

UMH PROPERTIES INC.
t/a PINE RIDGE

Plaintiff

v.

ALAN ADAMS

Defendant

To: Alan Adams, now or formerly of
131 Amy Drive, Carlisle, PA 17013

On March 3, 2021, Plaintiff filed a Motion for Determination of Abandonment of Mobile Home Pursuant to 68 P.S. §398.10.1. The Court has entered an Order scheduling a hearing on this Motion. The hearing

will take place on Wednesday, April 14, 2021 at 2:30 p.m. in Courtroom No. 3 of the Cumberland County Courthouse, 1 Courthouse Square, Carlisle, PA 17013. Copies of the Motion and Order can be found by going to this web address: <https://onbaseweb.ccpa.net/psi/v/detail/Case/219070>.

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 PAPER 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.

Cumberland County Bar
Association's Find a Lawyer
32 South Bedford Street
Carlisle, PA 17013
Phone: (717) 249-3166, Ext. 102

Mar. 19

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an application for registration of a fictitious name:

PNJ WOODWORKING
for the conduct of business in Cumberland County, Pennsylvania, with the principal place of business being: 113 Lancaster Blvd., Mechanicsburg,

PA 17055 was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on February 27, 2021 pursuant to the Act of Assembly of December 16, 1982, Act 295.

The names and address of the persons owning or interested in the said business are: Peter J. Salvatore and Jeanette D. Salvatore 113 Lancaster Blvd., Mechanicsburg, PA 17055-3548.

Mar. 19

NOTICE

To: WILLIAM PENN and HANNAH PENN, husband and wife; JOHN PENN, THOMAS PENN, their heirs, assigns, successors, devisees, administrators and executors

You are notified that Plaintiff, Franklin E. Boyer, has commenced an Action to Quiet Title against you docketed at 2021-01180 in the Court of Common Pleas of Cumberland County, Pennsylvania, which you are required to defend. This action concerns a parcel of land situate in Hampden Township, Cumberland County, containing 17.477 acres of land, more or less, as described in a deed recorded in the Office of the Recorder of Deeds in and for Cumberland County, Commonwealth of Pennsylvania, in Instrument Number 202104632; and identified as Tax Parcel 10-04-0363-005.

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 within twenty (20) days. 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 PAPER 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.

Lawyer Referral Service of the
Cumberland County Bar
Association
32 S. Bedford Street
Carlisle, PA 17013
(717) 249-3166
PAUL C. SIEGRIST, ESQUIRE
Attorney for Plaintiff
3 N. Baltimore St.
Dillsburg, PA 17019
(717) 432-2089

Mar. 19

NAME CHANGE NOTICE

In the Court of Common Pleas
of Cumberland County,
Pennsylvania

DOCKET NO.: 2021-00422

PETITION FOR CHANGE OF NAME

NOTICE IS HEREBY GIVEN that the Petition was filed in the above named court, requesting a decree to change name from Mackenzie Elizabeth Zimmerman to Malcolm Elijah Zimmerman.

The Court has fixed April 26, 2021 at 1:30 p.m. in Courtroom No. 6, Cumberland County Courthouse, 1 Courthouse Square, Carlisle, PA 17013 as the time and place for the hearing on said Petition, when and where all persons interested may appear and show cause if any they have, why the prayer of the said Petition should not be granted.

Mar. 19

NOTICE

NOTICE IS HEREBY GIVEN that a Registration of Fictitious Name:

LOWER SCORES GOLF
was filed in the Department of State of the Commonwealth of Pennsylvania on December 15, 2020 under the Fictitious Names Act, Act 1982, No. 295 (54 Pa. C.S. Sections 301-332). The address of the principal office of the business to be carried on through the fictitious name is: 50 Ashton Street, Carlisle, PA 17015. The name and address of the individual who is party to the registration are: Hugh C. Smith at 50 Ashton Street, Carlisle, PA 17015.

Mar. 19

NONPROFIT ARTICLES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Nonprofit Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on January 28, 2021, for the purpose of obtaining a Certificate of Incorporation under the provisions of the Nonprofit Corporation Law of 1988. The name of the proposed nonprofit corporation is:

CARLISLE FISH AND GAME
CONSERVATION AND SHOOTING
SPORTS FOUNDATION

It will be organized under Section 501(c)(3) of the Internal Revenue Code of 1986, as thereafter amended, for the charitable purpose of providing hunter education, safety and training in shooting sports and conservation.

McNEES WALLACE &
NURICK LLC
100 Pine Street
Harrisburg, PA 17101

Mar. 19

**NONPROFIT ARTICLES
OF INCORPORATION**

NOTICE IS HEREBY GIVEN that Nonprofit Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on January 28, 2021, for the purpose of obtaining a Certificate of Incorporation under the provisions of the Nonprofit Corporation Law of 1988. The name of the proposed nonprofit corporation is:

LOWER ALLEN CONDOMINIUM
ASSOCIATION, INC.

The purpose for which it will be organized is: To be a condominium unit owners' association which provides for the management, maintenance and care of the condominium project located in Lower Allen Township, Cumberland County, Pennsylvania, known as Lower Allen Condominium.

McNEES WALLACE &
NURICK LLC

100 Pine Street
Harrisburg, PA 17101

Mar. 19

NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on February 12, 2021, with respect to a nonprofit corporation:

GREENLIGHT OPERATION
which has been incorporated under the Nonprofit Corporation Law of 1988. The purposes for which it was organized are as follows: Religious, Charitable, Social, Literary and Educational purposes, including the operation of a Christian ministry.

DAVID A. YORK, ESQUIRE

P.O. Box 9036
Pittsburgh, PA 15224

Mar. 19



PERIODICAL PUBLICATION

*** Dated Material. Do Not Delay. Please Deliver Before Monday, March 22, 2021**