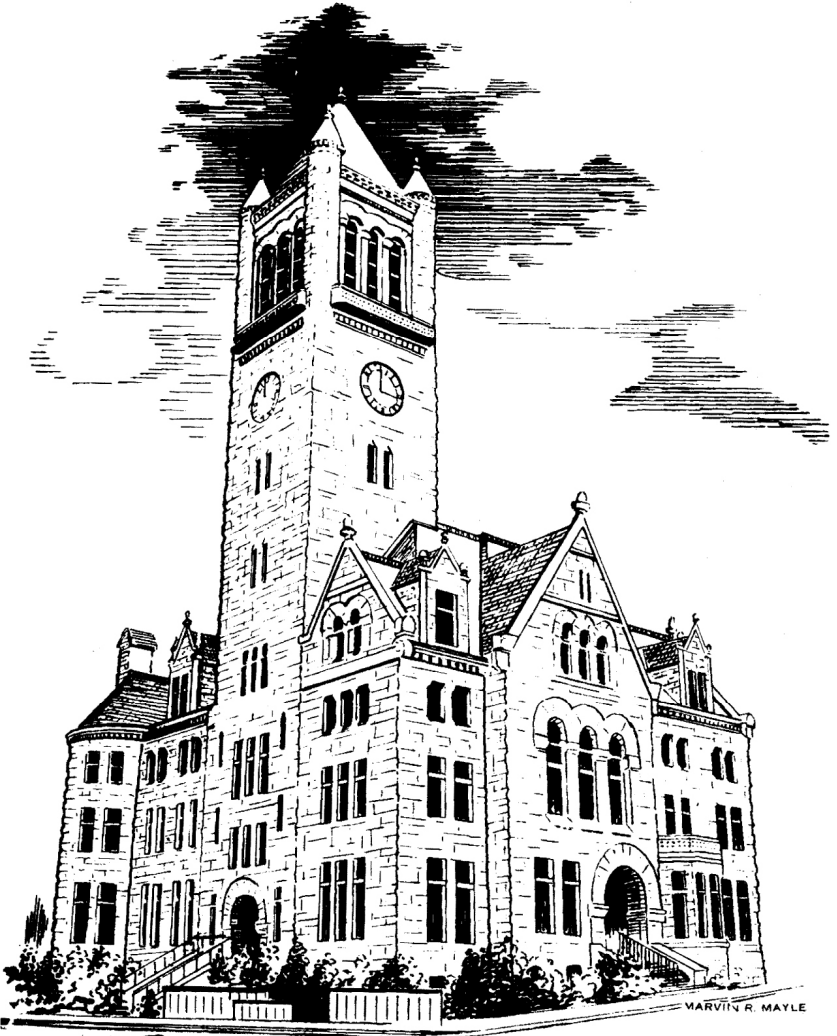


FAYETTE LEGAL JOURNAL

VOL. 82

JANUARY 12, 2019

NO. 2



FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 45 East Main Street, Suite 100, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at www.fcbar.org no later than 12:00 noon on Friday for publication the following Saturday. No date of publication is promised, however. Legal notices are published exactly as submitted by the advertiser. Copyright 2001 Fayette County Bar Association. All rights reserved.

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ESTATE NOTICES

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

Third Publication

NORMA RAE ALLISON, a/k/a NORMA S. ALLISON, late of Perryopolis Borough, Fayette County, PA ⁽³⁾

Executor: Douglas C. Allison
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

CHARLES ANSELL, JR., a/k/a CHARLES ANSELL, late of Lower Tyrone Township, Fayette County, PA ⁽³⁾

Administratrix: Kimberly Ansell
c/o P.O. Box 760
Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

JOSEPH P. ARNOLD, late of Connellsville Township, Fayette County, PA ⁽³⁾

Executor: Daniel P. Arnold
c/o Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard W. Husband

SHIRLEY R. DENNIS, late of North Union Township, PA ⁽³⁾

Co-Executrix: Tammy L. Gray
Co-Executrix: Marsha L. Widmer
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

VIRGINIA K. GUYNN, late of Dunbar Township, Fayette County, PA ⁽³⁾

Administrator: Alicia Guynn
c/o P.O. Box 760
Connellsville, PA 15401
Attorney: Carolyn W. Maricondi

MARY L. KARWATSKY, late of Connellsville, Fayette County, PA ⁽³⁾

Executor: David P. Karwatsky
c/o Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

NANCY L. REARICK, a/k/a NANCY REARICK, late of Dawson Borough, Fayette County, PA ⁽³⁾

Executor: James W. Rearick, Jr.
c/o P.O. Box 760
Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

PAUL ANDREW STERMOCK, SR., late of Redstone Township, Fayette County, PA ⁽³⁾

Administratrix: Karlee Stermcock
c/o Adams & Adams
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason Adams

Second Publication

JOSEPH J. CHERICHETTI, late of Bullskin Township, Fayette County, PA ⁽²⁾

Executor: Joseph J. Cherichetti, Jr.
402 Park Place
Pittsburgh, PA 15237-3615
c/o 120 South Third Street
Connellsville, PA 15425
Attorney: Stephanie A. Balest

JACKLYN L. GARBUTT, a/k/a JACKLYN GARBUTT, late of Saltlick Township, Fayette County, PA ⁽²⁾

Administrator: Oca Shirley
Donald J. McCue Law Firm, P.C.
Colonial Law Building

813 Blackstone Road
 Connellsville, PA 15425
Attorney: Donald J. McCue, J.D., P.E.

MARGARET SMORE, a/k/a MARGARET K. SMORE, a/k/a MARGARET R. SMORE, late of North Union Township, Fayette County, PA (2)

Executor: Thomas James Moore
 c/o John & John
 96 East Main Street
 Uniontown, PA 15401
Attorney: Simon B. John

DELLA LORRAINE VENO, late of South Union Township, Fayette County, PA (2)

Executor: Timothy C. Veno
 c/o John & John
 96 East Main Street
 Uniontown, PA 15401
Attorney: Anne N. John

DONALD J. VOGELSANG, a/k/a DONALD J. VOGELSANG, II, late of Uniontown, Fayette County, PA (2)

Executor: Stephen J. Vogelsang
 c/o DeHaas Law, LLC
 51 East South Street
 Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

ROSE ZABOROWSKI, a/k/a ROSE MARIE ZABOROWSKI, late of Perry Township, Fayette County, PA (2)

Co-Executors: William J. Zaborowski and
 Beth Ann Binnall
 2003 Middle Road
 Glenshaw, PA 15116
 c/o Reis Law Firm
 3439 Babcock Boulevard, Suite 300
 Pittsburgh, PA 15237
Attorney: Charles Reis

First Publication

HELEN F. KNUPSKY, late of Redstone Township, Fayette County, PA (1)
Administrator: Charles J. Knupsky, Jr.
 c/o Webster & Webster
 51 East South Street
 Uniontown, PA 15401
Attorney: Webster & Webster

MARK A. LAURITA, late of New Salem, Fayette County, PA (1)

Administrator: Rosemarie Laurita
 c/o Charles C. Gentile, Esquire
 42944 National Pike Road
 P.O. Box 245
 Chalk Hill, PA 15421
Attorney: Charles C. Gentile

MATILDA A. STANEC, late of North Union Township, Fayette County, PA (1)

Personal Representative:
 Rudolph G. Stanec, Jr.
 c/o George & George, LLP
 92 East Main Street
 Uniontown, PA 15401
Attorney: Joseph M. George

LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
No. 2488 of 2018, G.D.
PRESIDENT JUDGE JOHN WAGNER, JR.

IN RE: 1970 OLDSMOBILE CP
VIN NO: 344870M206080
PENNSYLVANIA

TO: BRIAN T. CASIDY
his heirs, successors and assigns, generally,

You are hereby notified that Scott Williams, the Petitioner has filed a Petition at the above number and term in the above-mentioned court in an action to involuntary transfer a vehicle title wherein it is alleged that he is the owner in possession of a 1970 Oldsmobile CP, having a VIN No: 344870M206080.

Title to the above described vehicle lists Brian T. Casidy as the record owner on said vehicle.

Said Petition sets forth that the Petitioner is the owner of the above-described vehicle. The Petition was filed for the purpose of barring all of your right, title, and interest, or claim in and to all or a portion of said vehicle and to transfer the title to Petitioner.

NOTICE

You are hereby notified that you have been sued in court. If you wish to defend against the claim set forth in the complaint and in the within advertisement, you must take action within twenty (20) days after the last advertisement of this notice by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claim set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may entered against you by the court without further notice or any money claimed in the complaint, or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GOT TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**PENNSYLVANIA BAR ASSOCIATION
PENNSYLVANIA LAWYER REFERRAL
100 SOUTH STREET
P.O. BOX 186
HARRISBURG, PA 17108
1-800-932-0311**

By Jason F. Adams, Esq.
Adams & Adams
55 E. Church Street
Uniontown, PA 15401

SHERIFF'S SALE

Date of Sale: March 14, 2019

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday, March 14, 2019, at 2:00 p.m. in Courtroom Number One at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (1 of 3)

James Custer
Sheriff Of Fayette County

No. 1691 of 2018 GD
No. 382 of 2018 ED

PENNSYLVANIA STATE EMPLOYEES CREDIT UNION,

Plaintiff,

v.

**NORMAN J. CIACCIA and CATHY A.
CIACCIA,**

Defendants.

ALL THE RIGHT, TITLE, INTEREST
AND CLAIM OF NORMAN J. CIACCIA AND
CATHY A. CIACCIA OF, IN AND TO:

ALL THE FOLLOWING DESCRIBED
REAL ESTATE SITUATED IN THE
TOWNSHIP OF WHARTON , COUNTY OF
FAYETTE, COMMONWEALTH OF
PENNSYLVANIA. HAVING ERECTED
THEREON A DWELLING KNOWN AND
NUMBERED AS 3665 NATIONAL PIKE,
FARMINGTON, PA 15437. DEED BOOK
VOLUME 87, PAGE 161, PARCEL NUMBER
4216008201.

No. 2173 of 2018 GD
No. 394 of 2018 ED

FIRST NATIONAL BANK OF PENNSYLVANIA,

Plaintiff,

vs.

SCOTT A. FERGUSON,
Defendant.

ALL THE RIGHT, TITLE, INTEREST
AND CLAIM OF SCOTT A. FERGUSON OF,
IN AND TO THE FOLLOWING DESCRIBED
PROPERTY:

ALL THE FOLLOWING DESCRIBED
REAL ESTATE SITUATED IN SOUTH
UNION TOWNSHIP, FAYETTE COUNTY,
PENNSYLVANIA. HAVING ERECTED
THEREON A DWELLING BEING KNOWN
AND NUMBERED AS 172 DIXON
BOULEVARD, UNIONTOWN, PA 15401.
DEED BOOK VOLUME 3075, PAGE 2159,
AND PARCEL NUMBER 34-13-0056.

PARKER McCAY P.A.
 By: Patrick J Wesner, Esquire
 Attorney ID# 203145
 9000 Midlantic Drive, Suite 300
 P.O. Box 5054
 Mount Laurel, NJ 08054-1539
 (856) 810-5815

No. 2392 of 2016 GD
 No. 393 of 2018 ED

**The Bank of New York Mellon FKA The
 Bank of New York, as Trustee for the
 certificateholders of the CWABS, Inc., Asset-
 Backed Certificates, Series 2007-8,
 Plaintiff,**

v.

**Teresa D. Jenkins aka Teresa D. Barnhart,
 Individually and Teresa D. Jenkins aka
 Teresa D. Barnhart, Known Heir to the
 Estate or Arnold E. Jenkins and Verna M.
 Jenkins Deceased Real Owners and
 Mortgagors;**

**Arnold Jenkins, Known Heir to the Estate of
 Arnold E. Jenkins and Verna M. Jenkins
 Deceased Real Owners and Mortgagors;**

**Michelle Jenkins, Known Heir to the Estate
 of Arnold E. Jenkins and Verna M. Jenkins
 Deceased Real Owners and Mortgagors;**

**The Unknown Heirs of the Estate of Arnold
 E. Jenkins and Verna M. Jenkins Deceased
 Real Owners and Mortgagors,
 Defendants.**

By virtue of a Writ of Execution, No. 2392 of 2016 The Bank of New York Mellon, et al vs. Teresa D. Jenkins aka Teresa D. Barnhart, Individually and Teresa D. Jenkins aka Teresa D. Barnhart, Known Heir to the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagors; Arnold Jenkins, Known Heir to the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagors; Michelle Jenkins, Known Heir to the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagors and The Unknown Heirs of the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagor, owner of property situate in the NORTH UNION TOWNSHIP, Fayette County, Pennsylvania

116 Whvel Avenue, Uniontown, PA 15401
 Parcel No. 25-22-161
 Improvements thereon: RESIDENTIAL
 SINGLE FAMILY

McCABE, WEISBERG & CONWAY, LLC
 123 South Broad Street, Suite 1400
 Philadelphia, PA 19109
 (215) 790-1010

No. 1774 of 2018 GD
 No. 383 of 2018 ED

**New Penn Financial LLC d/b/a Shellpoint
 Mortgage Servicing,
 Plaintiff,**

v.

**Chelsea C. Johnson,
 Defendant.**

ALL THAT CERTAIN LOT OR PARCEL OF LAND BEING KNOWN AND DESIGNATED AS LOT NO. 6 OF THE PLAN OF LOTS OF QUARZO AND MCDANIEL FOR SOUTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, KNOWN AS BLACKSTONE ACRES REVISED PLAN NO. 1 AND OF RECORD IN THE OFFICE FOR RECORDING DEEDS. FAYETTE COUNTY, PENNSYLVANIA, IN PLAN BOOK VOLUME 11, PAGE 168, AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT CORNER TO LOT NO. 5 IN THE AFORESAID PLAN AND ALONG THE RIGHT OF WAY OF A CERTAIN TOWNSHIP ROAD DESIGNATED AS LR. 26040, WHICH LEADS FROM DERRICK AVENUE TO THE VILLAGE OF HOPWOOD; THENCE FROM SAID POINT OF BEGINNING, NORTH 84 DEGREES 01 MINUTES 30 SECONDS EAST. 30.34 FEET TO AN IRON PIN; THENCE STILL ALONG SAID RIGHT OF WAY, NORTH 85 DEGREES 40 MINUTES 30 SECONDS EAST, 55.36 FEET TO AN IRON PIN CORNER TO A LANE; THENCE ALONG SAID LANE, SOUTH 8 DEGREES 23 MINUTES WEST, 158.35 FEET TO A CONCRETE MONUMENT AND CORNER TO LOT NO. 7 IN SAID PLAN; THENCE ALONG LOT NO. 7, SOUTH 86 DEGREES 25 MINUTES WEST, 62.50 FEET TO A POINT AND CORNER TO LOT

NO. 5 IN SAID PLAN; THENCE NORTH 3 DEGREES 25 MINUTES WEST, 45 FEET; THENCE NORTH 89 DEGREES 25 MINUTES EAST, 10.25 FEET; THENCE STILL ALONG LOT NO. 5. NORTH 3 DEGREES 25 MINUTES WEST, 110.67 FEET TO THE IRON PIN, PLACE OF BEGINNING.

Being known as: 483 Redstone Furnace Road, Uniontown, Pennsylvania 15401

Title vesting in Chelsea C. Johnson by deed from NICK CIACCIA AND LAUREN WHITLATCH, N/K/A LAUREN CIACCIA dated March 10, 2014 and recorded March 11, 2014 in Deed Book 3243, Page 2450

Tax Parcel Number: 34-21-0069

KML Law Group, P.C.
Suite 5000 - BNY Independence Center
701 Market Street
Philadelphia PA 19106
215-627-1322

No. 1816 of 2018 GD
No. 369 of 2018 ED

BAYVIEW LOAN SERVICE, LLC. A DELAWARE LIMITED LIABILITY COMPANY

**4425 Ponce de Leon Blvd
Coral Gables, FL 33146,
Plaintiff,**

vs.

**LOUIS A. KRUKOWSKY
Mortgagor(s) and Record Owner(s)
149 Navaho Hollow Road
Fayette City, PA 15438
Defendant(s).**

ALL THAT CERTAIN parcel of land lying and situate in Washington Township, Fayette County, Pennsylvania

TAX PARCEL # 41-17-0003

PROPERTY ADDRESS: 149 Navaho Hollow Road Fayette City, PA 15438

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: LOUIS A. KRUKOWSKY

KML Law Group, P.C.
Suite 5000 - BNY Independence Center
701 Market Street
Philadelphia PA 19106
215-627-1322

No. 1873 of 2018 GD
No. 371 of 2018 ED

NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER

**8950 Cypress Waters Boulevard
Coppell, TX 75019,
Plaintiff,**

vs.

**CHARLOTTE A. LEWIS
Mortgagor(s) and Record Owner(s)
7 Suncrest Lane
Uniontown, PA 15401,
Defendant(s).**

ALL THAT CERTAIN PIECE OR PARCEL OF LAND SITUATE IN SOUTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA

TAX PARCEL # 34-28-0023

PROPERTY ADDRESS: 7 Suncrest Lane Uniontown, PA 15401

IMPROVEMENTS: A residential dwelling
SOLD AS THE PROPERTY OF:
CHARLOTTE A. LEWIS

Phelan Hallinan Diamond & Jones, LLP

No. 1931 of 2013 GD
No. 374 of 2018 ED

**PNC Bank, National Association Successor by
Merger to National City Bank, Successor by
Merger to National City Bank of Pennsylvania,
Plaintiff,**

v.

**Lesa L. Major,
Defendant(s).**

By virtue of a Writ of Execution No. 1931-OF-2013-GD, PNC Bank, National Association Successor by Merger to National City Bank, Successor by Merger to National City Bank of Pennsylvania v. Lesa L. Major, owner(s) of property situate in the FAYETTE CITY BOROUGH, Fayette County, Pennsylvania, being 211 Market Street, Fayette City, PA 15438 -1092

Parcel No.: 12030267

Improvements thereon: RESIDENTIAL DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 1972 of 2018 GD
No. 362 of 2018 ED

**Wells Fargo Bank, NA,
Plaintiff,**

v.

**Robert T. Nelan,
Defendant(s)**

By virtue of a Writ of Execution No. 1972 OF 2018, Wells Fargo Bank, NA v. Robert T. Nelan, owner(s) of property situate in the SOUTH UNION TOWNSHIP, Fayette County, Pennsylvania, being 270 Krizner Road, Brownfield, PA 15416

Parcel No.: 34-27-0290

Improvements thereon: RESIDENTIAL DWELLING

No. 2197 of 2018 GD
No. 390 of 2018 ED

**JPMorgan Chase Bank, National Association,
PLAINTIFF,**

vs.

**Allen G. Patton,
DEFENDANT.**

All those certain parcels of land situate in Wharton Township, Fayette County, Commonwealth of Pennsylvania, being known as Lot Nos. 360 and 361 in the Deer Lake Plan of Lots No. 2, as the said plan of lots is recorded in the Office of the Recorder of Deeds of Fayette County, Pennsylvania, in Plan Book Volume 9, Page 116.

COMMONLY KNOWN AS: 360 Meadow Run Road, Ohiopyle, PA 15470

TAX PARCEL NO. 42-10-0085

No. 864 of 2018 GD
No. 392 of 2018 ED

Phelan Hallinan Diamond & Jones, LLP

No. 241 of 2017 GD
No. 400 of 2018 ED

**PENNSYLVANIA HOUSING FINANCE
AGENCY,**

**PLAINTIFF
Vs.**

**PAM PLESZ, HAROLD LARRY PRITTS,
JR. AND MELANIE SMITH, IN THEIR
CAPACITY AS KNOWN HEIRS OF
HAROLD L. PRITTS, DECEASED; AND
THE UNKNOWN HEIRS OF HAROLD L.
PRITTS, DECEASED,
DEFENDANTS**

**Deutsche Bank Trust Company Americas, as
Trustee, f/k/a Bankers Trust Company, as
Trustee of Ameresco Residential Securities
Corporation Mortgage Loan Trust 1998-1,
Under Pooling and Servicing Agreement
Dated as February 1, 1998,**

Plaintiff,

v.

**Steven Sandoval
Julie Sandoval n/k/a Julie Brown,
Defendant(s).**

ALL that tract of land in Upper Tyrone Township, Fayette County, Pennsylvania, being approximately 69.20 x 106.46 x 133.00 x 176.81 x 49.94 x 72.11. CONTAINING 0.5182 acres, survey by Thomas W. Lyons, Jr., November 1995, and being Parcel No. 2 therein. HAVING THEREON ERECTED DWELLING KNOWN AND NUMBERED AS: 542 DRY HILL ROAD CONNELLSVILLE, PA 15425.

Tax Parcel# 39-14-007201

Fayette Deed Book 2791, page 2180

TO BE SOLD AS THE PROPERTY OF PAM PLESZ, HAROLD LARRY PRITTS, JR. AND MELANIE SMITH, IN THEIR CAPACITY AS KNOWN HEIRS OF HAROLD L. PRITTS, DECEASED; AND THE UNKNOWN HEIRS OF HAROLD L. PRITTS, DECEASED UNDER JUDGMENT NO. 2018-00864

By virtue of a Writ of Execution No. 241-0F-2017-GD

Deutsche Bank Trust Company Americas, as Trustee, f/k/a Bankers Trust Company, as Trustee of Ameresco Residential Securities Corporation Mortgage Loan Trust 1998- 1, Under Pooling and Servicing Agreement Dated as February 1, 1998 v. Steven Sandoval Julie Sandoval n/k/a Julie Brown, owner(s) of property situate in the EVERSON BOROUGH, Fayette County, Pennsylvania, being 200 Jones Street, Everson, PA 15631-1144

Parcel No.: 10-03-0211-01

Improvements thereon: RESIDENTIAL DWELLING

*** END SHERIFF'S SALE ***

JUDICIAL OPINION

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

COMMONWEALTH OF PENNSYLVANIA	:	
v.	:	
JOHN RICHARD CAMPBELL,	:	No. 296 of 2018
Defendant.	:	Honorable Steve P. Leskinen

OPINION AND ORDER

Leskinen, J.

December 5, 2018

AND NOW, this 5th day of December, 2018, upon review of the Omnibus Pre-Trial Motion to Suppress all evidence that was obtained as a result of an alleged illegal traffic stop and arrest, prepared by John Richard Campbell [hereinafter "Defendant"], and upon consideration of the testimony presented, the Court HEREBY DENIES the Motion.

ISSUES PRESENTED

There are two issues which this court has been asked to address. They are as follows and will be discussed in order:

1: Was the initial traffic stop valid?

2: Whether the blood alcohol content (BAC) which was reported at 0.164% in Commonwealth's Exhibit 1 (a toxicology report) could be reduced under 0.160%?

Background

On August 4, 2017 at approximately 2:00 am State Trooper Prizzi was on routine patrol traveling North on Route 51 in Perry Township within Fayette County. Prizzi was in full police uniform and traveling in a marked police vehicle. Prizzi testified that he observed a 2009 silver Nissan Altima with PA registration JYN7705 driving ahead of him which crossed the fog line numerous times and stopped over the stop line at a red light located at the intersection of Route 51 and Tony Row Road before the Nissan turned into a McDonalds parking lot. The police vehicle's Network Video Recorder (NVR) is set to record 40 seconds before the emergency lights are activated and to continue recording through any encounter with the public. The recording shows approximately 32 seconds of the defendant's vehicle before it approaches the stop line previously mentioned without incident. The video shows that the vehicle driven by the Defendant stopping substantially over the stop line at the stop light. The Defendant had his turn signal on before starting the turn. As the Defendant started to turn Prizzi activated his emergency lights and initiated a traffic stop.

Prizzi testified that the smell of alcohol was coming from the Defendant. He further testified that Defendant was uncooperative and stated that he did not consume any alcoholic beverages. After refusing a breathalyzer and field sobriety tests Prizzi arrested the Defendant and transported him to Uniontown Hospital where blood was drawn by phlebotomist Mossberg at approximately 2:26 am in the presence of Prizzi. Two tubes of blood were drawn and sent to NMS labs for testing. The lab report from Dr. Isenschmid at NMS stated that the Defendant had a BAC of $0.164 \pm 0.01\%$.

DISCUSSION

Defendant argues that "there was no lawful basis for the stopping of his vehicle on the date in question" in a motion filed September 18, 2018.

The authority of a police officer to stop a vehicle is governed by 75 Pa.C.S.A § 6308(b), and provides the following:

Whenever a police officer is engaged in a systematic program of checking vehicles or drivers or has reasonable suspicion that a violation of this title is occurring or has occurred, he may stop a vehicle, upon request or signal, for the purpose of checking the vehicle's registration, proof of financial responsibility, vehicle identification number or engine number or the driver's license, or to secure such other information as the officer may reasonably believe to be necessary to enforce the provisions of this title.

75 Pa.C.S. § 6308(b).

A police officer must have probable cause to support a vehicle stop where the officer's investigation subsequent to the stop serves no "investigatory purpose relevant to the suspected [Vehicle Code] violation". *Commonwealth v. Feczko*, 10 A.3d 1285 (Pa. Super. 2010).

In *Feczko*, the police officer observed the defendant's vehicle cross over the double yellow median line two times, sway within the lane and cross the fog line two or three times. *Id.* at 1286. During the ensuing vehicle stop, the officer noticed the scent of alcohol on the defendant's breath. *Id.* The defendant was convicted of DUI and a motor vehicle code violation and argued on appeal that the vehicle stop was illegal. *Id.* at 1287. The Superior Court stated that traffic stops based on a reasonable suspicion, either of criminal activity or a violation of the Motor Vehicle Code, under the authority of Section 6308(b), must serve a stated investigatory purpose. *Id.* at 1291. Mere reasonable suspicion will not justify a vehicle stop when the driver's detention cannot serve an investigatory purpose relevant to the suspected violation. *Id.* The Superior Court ultimately held that the police officer's observation of the defendant swerving over the double yellow median line and the fog line created probable cause to suspect a violation of § 3309. *Id.*

When considering whether reasonable suspicion or probable cause is constitutionally required to make a vehicle stop, the nature of the violation has to be considered.

Commonwealth v. Salter, 121 A.3d 987, 992-93 (Pa. Super. 2015). If it is not necessary to stop the vehicle to establish that a violation of the Vehicle Code has occurred, an officer must possess probable cause to stop the vehicle. *Id.* Where a violation is suspected, but a stop is necessary to further investigate whether a violation has occurred, an officer need only possess reasonable suspicion to make the stop. *Id.*

If probable cause can be established, then all of the observations by the police officer upon stopping a motorist would be admissible to establish their guilt. Commonwealth v. Garcia, 859 A.2d 820,822 (Pa. Super. 2004). Conversely, if probable cause cannot be established, then all of the fruits of the unlawful stop should be suppressed. *Id.*

The court in Commonwealth v. Daly, No. 2029 EDA 2015, 2016 WL 6519019, (Pa. Super. Ct. Nov. 3, 2016) citing Mount Olivet Tabernacle v. Edwin L. Wiegand Div., Emerson Elec. Co., 781 A.2d 1263, 1269 (Pa. Super. 2001) stated:

"[t]he spoliation doctrine is broadly applicable to cases where "relevant evidence" has been lost or destroyed. ... Evidence that a party lost or destroyed permits an inference, the "spoliation inference," that the destroyed evidence would have been unfavorable to the offending party."

In the present case the court heard testimony from State Trooper Prizzi and reviewed footage taken from the police car's NVR which saves a recording of the last 40 seconds before the emergency lights of a police vehicle is turned on and records through the encounter.

Prizzi testified that he witnessed the defendant cross the fog lines on Route 51 numerous times, which were not recorded on the NVR. This would permit a jury to infer that the allegations concerning the fog line made by Prizzi did not occur.

Prizzi also testified that defendant crossed the stop line at a red light which is supported by the NVR approximately 8 seconds before Prizzi activated the emergency lights on the police vehicle. This is a violation of PA ST 75 Pa.C.S.A. § 3112(a)(i) which states "Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, or if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in subparagraph." This gives lawful justification for the traffic stop.

For this reason, the court finds that the traffic stop was permissible and rejects the Defendant's position that "there was no lawful basis for the stopping of his vehicle on the date in question."

In determining whether the (BAC) which could be reduced under 0.160% this court is guided by the rulings offered by the Superior Court in Commonwealth v. Sibley, 972 A.2d 1218 (PA.Super.2009), Commonwealth v. Landis, 89 A.3d 694 (Pa.Super.2014),

and Com. v. Lawhorn, 2015 PA Super WL 7299783.

The court in Sibley "considered the imperfection involved with the testing equipment in this case to be a matter of weight, not sufficiency. In so doing, the court rejected the argument that the coefficient of variation rendered impossible a finding of guilt beyond a reasonable doubt. It is thus plain in this case that the court, while recognizing a lack of 100% certainty in the evidence, took into account the coefficient of variation and was nonetheless assured beyond a reasonable doubt that Appellant's SAC had reached the proscribed limit." Sibley, at 1220. This position is affirmed in Lawhorn and distinguished from Landis. The court in Landis determined that the "evidence required the jury to speculate that Appellant's actual blood alcohol content was .16% or higher within two hours of driving." Landis, at 701. Because of this speculation it would have been impossible for the jury to convict the defendant beyond a reasonable doubt. Id.

Taken as a whole, the rule shows that the variation is a matter for trial because it goes to the weight of the evidence and must be determined by the trier of fact. Barring new evidence which is not present in Exhibit 1 the margin of error, which stands at 6% (0.164 ± 0.01 g per each ml of blood) is substantially higher than the 3% margin in Sibley. Sibley at 1219.

ORDER

AND NOW, this 5th day of December, 2018, it is hereby ORDERED and DECREED that the Omnibus Pre-Trial Motion prepared by Defendant John Campbell, is DENIED in the ENTIRETY

1. The initial stop was valid because the Defendant's car was over the stop line at the red stop-light shown in the NVR.
2. The uncertainty of measurement of the BAC reported on the toxicology report goes to the weight of the evidence and must be addressed at trial.
The District Attorney is directed to list this case for trial.

BY THE COURT:
STEVE P. LESKINEN, JUDGE

ATTEST:
Janice Snyder
Clerk of Courts

LUNCH & LEARN SERIES

FCBA LUNCH & LEARN SERIES

The Fayette County Bar Association's first presentation in its Lunch & Learn Series in 2019 will be:

- Date: Wednesday, January 16th from 12:00 p.m. to 1:30 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topic: **What the Non-Bankruptcy Attorney Needs to Know about Bankruptcy**
- Presenter: Charles Zebly, Esquire

CLE Credit

1.5 hours of Substantive CLE credit for the program. The fees are as follows:

Members of the FCBA

- No charge for attendance without CLE Credit
- \$10 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2012

- No charge for attendance with CLE Credit

Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$20 fee for attendance with CLE Credit

** All fees to be paid at the door **

A light lunch will be provided.

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or by email to cindy@fcbar.org on or before Monday, January 14th.

-Professional Ethics Committee of the Fayette Bar Association

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