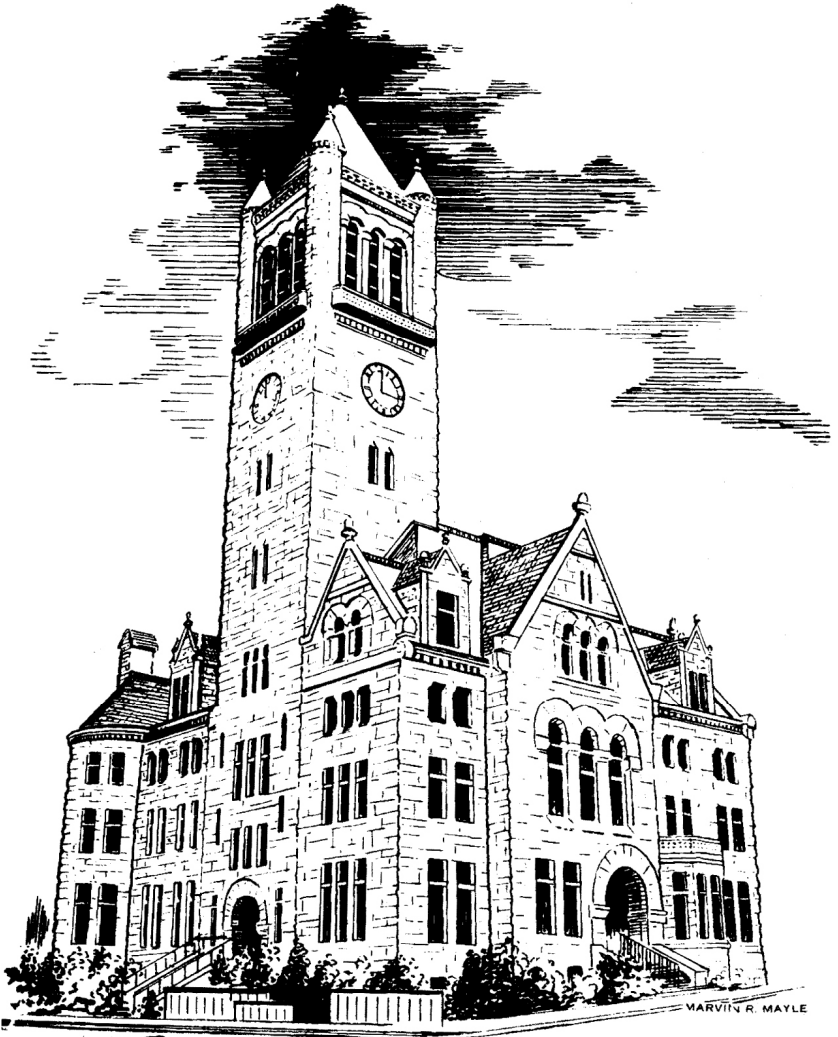


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ESTATE NOTICES

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

LEONA M. BURNSWORTH, late of Mill Run, Fayette County, PA (3)

Executrix: Cora Kilgore

Executor: Raymond Burnsworth

c/o Charles C. Gentile, Esquire
2944 National Pike Road, Box 245
Chalk Hill, PA 15421

Attorney: Charles C. Gentile

MARY ANN CARLSON, late of Fayette City Borough, Fayette County, PA (3)

Executrix: Denise Portman

c/o Alan Benyak, Esquire

Post Office Box 1

401 Sixth Street at Washington Avenue
Charleroi, PA 15022

Attorney: Alan Benyak

HARRY W. JELICK, late of Mt. Braddock, Fayette County, PA (3)

Executor: Jason Jellick

c/o Vincent M. Tiberi, Esquire

84 East Main Street

Uniontown Pennsylvania 15401

Attorney: Vincent M. Tiberi

BARBARA KOVACH a/k/a BARBARA A. KOVACH, late of North Union Township, Fayette County, PA (3)

Administratrix: Gina M. Pergalske

c/o Higinbotham Law Offices

45 East Main Street

Suite 500

Uniontown PA 15401

Attorney: James E. Higinbotham

PHYLLIS D. SPARROW a/k/a PHYLLIS DARLENE SPARROW, late of Franklin Township, Fayette County, PA (3)

Executor: David C. Sparrow

c/o Higinbotham Law Offices

45 East Main Street

Suite 500

Uniontown PA 15401

Attorney: James E. Higinbotham

Second Publication

LOUISE B. BOHNA, late of Luzerne Township, Fayette County, PA (2)

Personal Representative: Roberta L. Bohna

c/o Davis & Davis

107 East Main Street

Uniontown, PA 15401

Attorney: Jeremy J. Davis

MARY JANE BOZEK, late of Menallen Township, Fayette County, PA (2)

Personal Representative:

Sandra A. Szymanski

39175 Doonald Street

Livonia, MI 48154-4766

c/o Dellarose Law Office

99 East Main Street, Suite 101

Uniontown, PA 15401

Attorney: Melinda Dellarose

DOLORES A. BROOKS, late of Connellsville Township, Fayette County, PA (2)

Personal Representative: Pamela S. Harris

c/o Riverfront Professional Center

208 South Arch Street, Suite 2

Connellsville, PA 15425

Attorney: Richard A. Husband

DEBORAH BURWELL, late of South Union Township, Fayette County, PA (2)

Personal Representative: Gary Miller

486 Pleasant View Smock Road

Smock, Fayette County 15480

c/o Dellarose Law Office

99 East Main Street, Suite 101

Uniontown, PA 15401

Attorney: Melinda Dellarose

JEROD B. CHAPMAN, late of Menallen Township, Fayette County, PA (2)
Administratrix: Sandra L. Chipps
 c/o Radcliffe Law, L.L.C.
 648 Morgantown Road, Suite B
 Uniontown, PA 15401
Attorney: William M. Radcliffe

ROBERT W. HERMAN, late of Connellsville, Fayette County, PA (2)
Administratrix: Shelby D. Herman
 c/o Zebley Mehalov & White, P.C.
 18 Mill Street Square
 P.O. Box 2123
 Uniontown, PA 15401
Attorney: Daniel R. White

ALBERT HOZA, a/k/a ALBERT R. HOZA, late of Bullskin Township, Fayette County, PA
Executor: Robert Timothy Hoza (2)
 c/o 120 South Third Street
 Connellsville, PA 15425
Attorney: David B. Reiss

MARIE KATZ, a/k/a MARIE KATHERINE KATZ, late of North Union Township, Fayette County, PA (2)
Executor: Deborah Wilson
 126 Balaban Road
 Dunbar, PA 15431
 c/o Newcomer Law Offices
 4 North Beeson Boulevard
 Uniontown, PA 15401
Attorney: Ewing Newcomer

JESSE W. KELLER, late of Bullskin Township, Fayette County, PA (2)
Executor: Matthew J. Keller
 132 Woodchuck Lane
 Mount Pleasant, PA 15666
 c/o John M. Ranker & Associates, P.C.
 140 South Main Street, Suite 301
 Greensburg, PA 15601
Attorney: John M. Ranker

ROSALIE PAPINCAK, late of Dunbar, Fayette County, PA (2)
Administrators: Mark Papincak and Wayne Papincak
 c/o 80 East Main Street
 Uniontown, PA 15401
Attorney: J.W. Eddy

First Publication

WILLIAM A. COLANTONI, late of Ohiopyle, Fayette County, PA (1)
Administratrix: Maria Szakal
 c/o 11 Pittsburgh Street
 Uniontown, PA 15401
Attorney: Thomas W. Shaffer

MARJORY A. CONN, a/k/a MARJORY ANN CONN, late of Bullskin Township, Fayette County, PA (1)
Executor: Christopher K. Conn
 1327 Chestnut Street
 Connellsville, PA 15425

ALONZO KALP, JR., late of Saltlick Township, Fayette County, PA (1)
Executrix: Nancy Sue Green
 3027 State Route 31
 Acme, PA 15610
 c/o 101 North Church Street
 Mount Pleasant, PA 15666
Attorney: Randall G. Klimchok

YVONNE MORGAN, a/k/a YVONNE L. MORGAN, late of Vandergift, Fayette County, PA (1)
Executor: Michael R. Cossell
 600 Speers Avenue
 Charleroi, PA 15022
 c/o 314 C Porter Avenue
 Scottdale, PA 15683
Attorney: David G. Petonic

LEGAL NOTICES

IN THE COURT OF COMMON PLEAS
FAYETTE COUNTY, PENNSYLVANIA

**PNC Bank, National Association, successor
by merger to National City Bank**

Plaintiff,
vs.

**William G. and Betty J. Tokish Family Trust;
All Unknown Successor Trustees**

Defendants.

CIVIL DIVISION

Docket No.: 1732 of 2017 GD

NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY PURSUANT TO
PENNSYLVANIA RULE OF CIVIL
PROCEDURE 3129

TO: William G. and Betty J. Tokish Family
Trust
838 Main Street
McClellandtown, PA 15458
AND
1310 East 345 Street
Eastlake, OH 44095

All Unknown Successor Trustees
838 Main Street
McClellandtown, PA 15458
AND
1310 East 345 Street
Eastlake, OH 44095

TAKE NOTICE:

That the Sheriff's Sale of Real Property (Real Estate) will be held at the Fayette County Sheriff's Office, at the Fayette County Sheriff's Office, 61 East Main Street, Uniontown, PA 15401 on January 17, 2019 at 2:00PM prevailing local time.

THE PROPERTY TO BE SOLD is delineated in detail in a legal description consisting of a statement of the measured

boundaries of the property, together with a brief mention of the buildings and any other major improvements erected on the land.

The LOCATION of your property to be sold is:

838 Main Street, McClellandtown, PA 15458

The JUDGMENT under or pursuant to which your property is being sold is docketed to:

No. 1732 of 2017 GD

THE NAME(S) OF THE OWNER(S) OR REPUTED OWNER(S) OF THIS PROPERTY ARE:

William G. and Betty J. Tokish Family Trust;
All Unknown Successor Trustees

A SCHEDULE OF DISTRIBUTION, being a list of the persons and/or governmental or corporate entities or agencies being entitled to receive part of the proceeds of the sale received and to be disbursed by the Sheriff (for example to banks that hold mortgages and municipalities that are owed taxes), will be filed by the Sheriff thirty (30) days after the sale, and distribution of the proceeds of sale in accordance with this schedule will, in fact, be made unless someone objects by filing exceptions to it, within ten (10) days of the date it is filed. Information about the Schedule of Distribution may be obtained from the Sheriff of the Court of Common Pleas of Fayette County, at the Fayette County Sheriff's Office, 61 East Main Street, Uniontown, PA 15401.

THIS PAPER IS A NOTICE OF THE TIME AND PLACE OF THE SALE OF YOUR PROPERTY.

It has been issued because there is a Judgment against you. It may cause your property to be held, to be sold or taken to pay the Judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. GO TO OR

TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET FREE LEGAL ADVICE.

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 Pennsylvania Bar Association
 P.O. Box 186
 Harrisburg, PA 17108
 (800) 692-7375

THE LEGAL RIGHTS YOU MAY HAVE ARE:

1. You may file a petition with the Court of Common Pleas of Fayette County to open the Judgment if you have a meritorious defense against the person or company that has entered judgment against you. You may also file a petition with the same Court if you are aware of a legal defect in the obligation or the procedure used against you.
2. After the Sheriff's Sale, you may file a petition with the Court of Common Pleas of Fayette County to set aside the sale for a grossly inadequate price or for other proper cause. This petition must be filed before the Sheriff's Deed is delivered.
3. A petition or petitions raising the legal issues or rights mentioned in the preceding paragraphs must be presented to the Court of Common Pleas of Fayette County. The petition must be served on the attorney for the creditor or on the creditor before presentation to the Court and a proposed order or rule must be attached to the petition. If a specific return date is desired, such date must be obtained from the Court Administrator's Office, Fayette County Courthouse, 61 East Main Street, Uniontown, PA 15401, before presentation of the petition to the Court.

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.

Dated: 8/23/2018

Cristina L. Connor, Esquire (318389)
 Manley Deas Kochalski LLC
 P. O. Box 165028
 Columbus, OH 43216-5028
 Telephone: 614-222-4921
 Fax: 614-220-5613
 Email: kjhong@manleydeas.com
 Attorney for Plaintiff

Registers' Notice

Notice by JEFFREY L. REDMAN, Register of Wills and
Ex-Officio Clerk of the Orphans' Court Division of the Court of Common Pleas

Notice is hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, January 7, 2019, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2618-0090	REBECCA JANE COSTA	Judith D. Brown, Administratrix DBN
2605-0686	PETE CLAIM a/k/a PETER CLAIM a/k/a PETER H. CLAIM	Peter F. Davin, Administrator DBNCTA
2617-0756	RUTH NICKLOW	Donald E. Nicklow II and Dawn E. Miller, Executors

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

Tuesday, January 22, 2019, at 9:30 A.M.

in Courtroom No. 1 of the **Honorable STEVE P. LESKINEN**, or his chambers, 2nd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

Notice is also hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, January 7, 2019, at 9:30 A.M.

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

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2618-0507	RICHARD S. BROWN	Cheryl Detwiler, Administratrix
2600-1039	AGNES S. CLAIM and AGNES S. CLAIM REVOCABLE TRUST DATED 8/14/2000	Peter F. Davin, Administrator and Trustee

Tuesday, January 22, 2019, at 9:30 A.M.

in Courtroom No. 5 of the **Honorable JOSEPH M. GEORGE, JR.** or his chambers, 3rd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

JEFFREY L. REDMAN

Register of Wills and Ex-Officio Clerk of the Orphans' Court Division (1 of 2)

JUDICIAL OPINION

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

COMMONWEALTH OF PENNSYLVANIA :
v. :
DONALD RAY ROMESBURG, :
Defendant. : No. 1299 of 2018

COMMONWEALTH OF PENNSYLVANIA :
v. :
MELISSA L. WARGO, :
Defendant. : No. 1301 of 2018

COMMONWEALTH OF PENNSYLVANIA :
v. :
MARK ALAN CRISWELL, :
Defendant. : No. 1300 of 2018

OPINION AND ORDER

Wagner, P.J.

November 6, 2018

On October 22, 2018, a hearing on an Omnibus Pre-Trial Motion was held related to the incident which is the basis for each of these cases. The Defendants have each been charged as follows: Dealing in Proceeds of Unlawful Activities, 18 Pa. C.S. Section 5111(a)(1); Manufacture of a Controlled Substance, 35 Pa. C.S. Section 780-113(a)(30); Adult/ Muti/Dest Label, 35 Pa. C.S. Section 780-113 (a)(5); Possession of a Controlled Substance, 35 Pa. C.S. Section 780- 113(a)(16) three counts; and Possession of Paraphernalia, 35 Pa. C.S. Section 780-113(a)(32). These charges were the result of an incident that occurred on June 7, 2018, when the Pennsylvania State Police received information from a Preston, West Virginia Sheriff that an informant had informed him that there was a large marijuana manufacturing operation at a residence located at 20 Great Lakes Road in Fayette County and the Sheriff provided the names of these defendants as the individuals involved. As a result of this information, Pennsylvania State Troopers went to the location for what they characterized as a “Knock and Talk”. On arrival at the property, Melissa L. Wargo was observed operating driving a vehicle on the driveway. Following orders, the trooper approached the vehicle and detained it there. The trooper related that the operator had a strong odor of marijuana coming from her person. As other troopers approached the house, Donald Ray Romesburg and Mark Alan Criswell exited the residence which the troopers stated was emitting a strong, pungent odor of marijuana. The troopers made a warrantless entry into the house, concerned

that evidence was being destroyed. Two troopers performed a room by room search of the residence to determine if anyone else was inside but no person was located in the residence. During the search, the troopers observed marijuana drying on screens, plants, and grow equipment. The troopers then placed all three Defendants under arrest.

After the initial search, the troopers obtained a search warrant for the residence, property, and vehicles based in part upon items observed during their entry. After the warrant had been obtained, a subsequent search resulted in the troopers confiscating \$7,572.00, one hundred and eleven (111) marijuana plants, assorted grow equipment, and over one hundred and thirty (130) pounds of dried marijuana in individual pound bags.

Each Defendants' Omnibus Pre-Trial Motions raised a Habeas Corpus issue, a Motion to Suppress Evidence based on a lack of probable cause, the warrantless and illegal search of their home and obtaining statements without first informing the Defendants of their rights.

The information provided to the Pennsylvania State Police by the Preston County Sheriff was devoid of information as to the reliability of the informant and the Sheriff had no direct, personal information other than what he was provided by the informant. The information provided to the state police, without more, was insufficient to support a finding of probable cause due to its unsubstantiated sources.

The physical entry of the borne is the chief evil against which the wording of the Fourth Amendment is directed. *Commonwealth v. Waddell*, 61 A.3d 196 (Pa.Super. 2012) citing *Welsh v. Wisconsin*, 466 U.S. 740, 748, 104 S. Ct. 2091, 80 L. Ed. 2d 732 (1984). Searches and seizures inside a home without a warrant are presumptively unreasonable. *Id.* Absent probable cause and exigent circumstances, the entry of a home without a warrant is prohibited under the Fourth Amendment and Article I Section 8 of the Pennsylvania Constitution. *Id.* Both probable cause and exigent circumstances must be present for a warrantless search to be valid. Probable cause existed when the troopers smelled the pungent odor of marijuana coming from the residence and the vehicle. The factors establishing probable cause were not overwhelming. The troopers did not observe any illegal activity on the property, the Defendants did not attempt to evade contact with the troopers and nor did they avoid the troopers as they approached the residence.

At the residence, the troopers located the three named individuals and testimony was presented that they detected a strong, pungent odor of marijuana coming from the house. Once they detected the strong odor of marijuana, probable cause did exist. After hearing a noise in the residence, the troopers, allegedly for officers' safety and to prevent the possible destruction of the evidence proceeded to do a warrantless room by room search of the residence. No person was in the residence but they did observe drying marijuana, marijuana plants, grow equipment and numerous bags of packaged marijuana.

The information provided to the troopers was that this was a large scale marijuana manufacturing operation, considerable effort would have been necessary for the evidence to be destroyed. The troopers did not observe any person within the residence. The possibility that an occupant in the residence might attempt to destroy evidence would be a possibility these trained narcotic officers would anticipate and be prepared to deal with. However, the sound of movement, without more, was insufficient to excuse a warrantless search of this home. Large quantities of marijuana cannot easily be destroyed in the same manner as other forms of controlled substances. As the troopers believed this was a large marijuana manufacturing operation, the troopers could have secured the Defendants in front of the residence while a warrant was being obtained. If circumstances changed while they were awaiting the warrant, then other actions could have been taken. There simply was no serious risk that a substantial quantity of marijuana would have been destroyed while the officers secured the residence but did not enter it. The troopers lacked sufficient and valid exigent circumstances to permit a warrantless intrusion of the property. In this instance, the search was in contravention of the Fourth Amendment of the United States Constitution and Article 1, Section 8 of the Pennsylvania and was therefore illegal.

The Commonwealth asserted that the evidence would still have been admissible under the doctrine of inevitable discovery, but failed to present evidence to support this argument. When troopers engage in apparent misconduct by negating the warrant requirement, the Commonwealth can only avoid suppression of the evidence by presenting a source of information fully independent from both the tainted evidence and the police or investigative team which engaged in the misconduct. *Commonwealth v. Berkeimer*, 57 A.3d 171 (Pa.Super. 2012) (en banc). The record is devoid of any suggestion that there was an alternate justification that would have permitted a finding of inevitable discovery. The inevitable discovery doctrine is not a substitute for the warrant requirement. Law enforcement must demonstrate that the evidence would have been discovered absent the police misconduct and not simply that they somehow could have lawfully discovered it. To hold that the courts simply may make a post hoc determination that sufficient probable cause existed at the time of an otherwise illegal search would be at odds with the strong privacy protections provided by Article I, Section 8 of the Pennsylvania Constitution. *Id.*

No evidence was presented that any of the Defendants made any statement to the police nor was testimony presented describing the circumstances when the statements, if any, were taken. As a result, the Motion to Suppress Statements is denied.

As the evidence found in the residence was the result of an illegal search of the residence, there is no evidence that the Commonwealth can use to proceed on the violations under the Drug Device and Cosmetic Act. As to the charge of Dealing in Proceeds of Unlawful Activity, there was no evidence presented that the parties engaged in any financial transactions or sale of either marijuana or pills.

Accordingly, the Court enters the following:

ORDER

AND NOW, this 6th day of November, 2018, following a hearing on the Omnibus Pre-Trial Motions filed by the Defendants, it is hereby ORDERED and DECREED that the search of the residence at 20 Great Lakes Road, Smithfield, Fayette County, Pennsylvania contravened the Fourth Amendment of the United States Constitution and Article 1; Section 8 of the Pennsylvania Constitution and is therefore illegal. Therefore, the Post Sentence Motion to Suppress Evidence is hereby GRANTED and all evidence related to the search is SUPPRESSED. The Motion to Suppress Statements is hereby DENIED as no evidence was presented related to this issue. As to the Habeas Corpus Motion, the Commonwealth presented insufficient evidence to support the charge of Dealing in Proceeds of Unlawful Activities, therefore it is further ORDERED and DECREED that all charges are hereby DISMISSED.

BY THE COURT,
WAGNER, P.J.

ATTEST
Janice Snyder

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