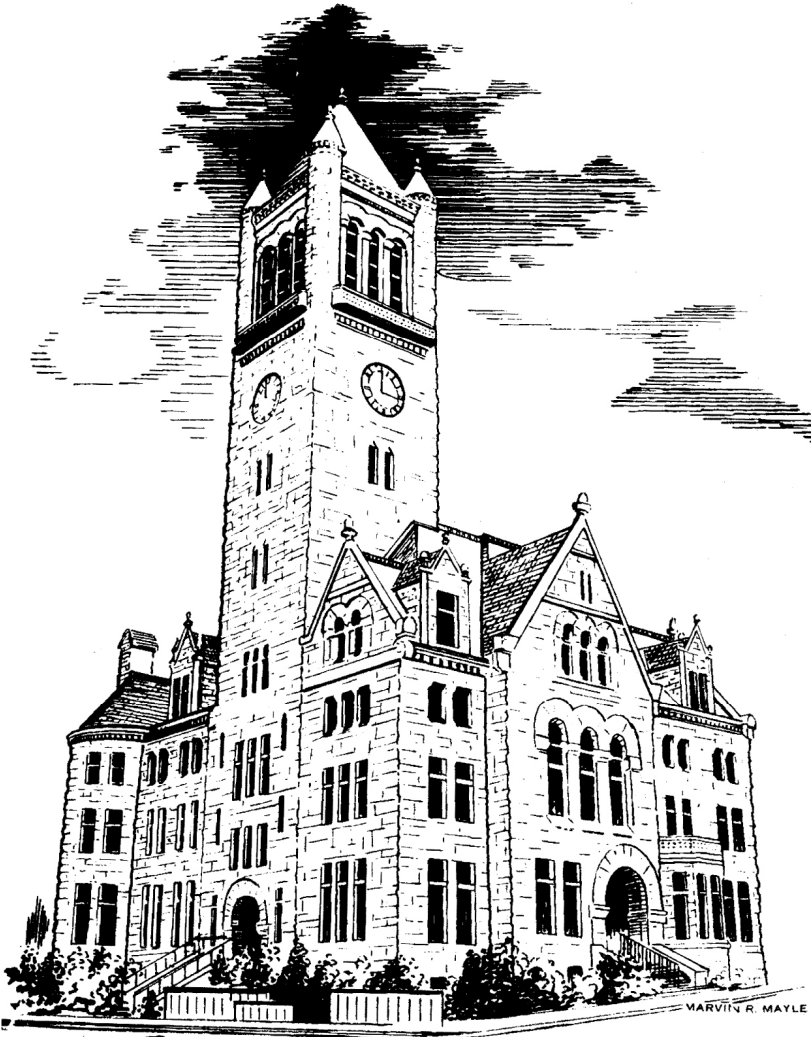


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ESTATE NOTICES

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

MARK A. KLINK, a/k/a MARK ALAN KLINK, SR., late of Dunbar Township, Fayette County, PA ⁽³⁾

Administratrix: Tracy L. Klink
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

LOUIS E. SAVINI, late of South Union Township, Fayette County, PA ⁽³⁾

Personal Representative: Philip J. Savini, Sr.
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

WILLIAM F. SHILLINGS, late of North Union Township, Fayette County, PA ⁽³⁾

Personal Representative:
Herbert G. Mitchell, Jr.
c/o 902 First Street
P.O. Box 310
Hiller, PA 15444
Attorney: Herbert G. Mitchell, Jr.

LOUIS N. USHER, JR., late of Jefferson Township, Fayette County, PA ⁽³⁾

Executor: Victoria Ann Usher
535 Fayette City
Perryopolis, PA 15473
c/o 111 East Main Street
Uniontown, PA 15401
Attorney: Robert Harper

Second Publication

LORRAINE BABICH, late of Uniontown, Fayette County, PA ⁽²⁾

Executor: Louis R. Geller, Jr.
232 Welsh Road
Washington, PA 15301
c/o Shire Law Firm
1711 Grand Boulevard
Park Centre
Monessen, PA 15062
Attorney: Mark J. Shire

HELEN DOLAN, late of Bullskin Township, Fayette County, PA ⁽²⁾

Executor: Dolly Baker
2402 Brownfield Drive
Greensburg, PA 15601
c/o Schimizzi Law, LLC
35 West Pittsburgh Street
Greensburg, PA 15601
Attorney: Richard Schimizzi

ALICE W. JEFFERYS, late of Uniontown, Fayette County, PA ⁽²⁾

Executor: Lisa A. Jefferys
7706 Cypress Walk
Fort Myers, FL 33966
c/o 51 East Main Street
Uniontown, PA 15401
Attorney: Anthony Dedola

PAUL J. MOSCOVITS, late of Luzerne Township, Fayette County, PA ⁽²⁾

Personal Representative: Joseph Moscovits
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Samuel J. Davis

ALEXANDER M. MOUNAYAR, SR., A/K/A ALEXANDER MITRI MOUNAYAR, SR., late of North Union Township, Fayette County, PA ⁽²⁾

Personal Representative: Karen M. Widmeyer
c/o George & George, LLP
92 East Main Street
Uniontown, PA 15401
Attorney: Joseph M. George

LEGAL NOTICES

NOTICE OF ACTION IN MORTGAGE FORECLOSURE IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA CIVIL ACTION – LAW

COURT OF COMMON PLEAS
CIVIL DIVISION
FAYETTE COUNTY
No. 2019-01213

WELLS FARGO BANK, N.A.
Plaintiff

vs.

ERNEST RUGGIERI, in his capacity as Heir of
MARY KAY RUGGIERI, Deceased
UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS, AND ALL PERSONS, FIRMS, OR
ASSOCIATIONS CLAIMING RIGHT, TITLE
OR INTEREST FROM OR UNDER MARY
KAY RUGGIERI, DECEASED
Defendants

NOTICE

To UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS, AND ALL PERSONS, FIRMS, OR
ASSOCIATIONS CLAIMING RIGHT, TITLE
OR INTEREST FROM OR UNDER MARY
KAY RUGGIERI, DECEASED

You are hereby notified that on June 10,
2019, Plaintiff, WELLS FARGO BANK, N.A.,
filed a Mortgage Foreclosure Complaint
endorsed with a Notice to Defend, against you in
the Court of Common Pleas of FAYETTE
County Pennsylvania, docketed to No. 2019-
01213. Wherein Plaintiff seeks to foreclose on
the mortgage secured on your property located at
411 NORTH PITTSBURGH STREET,
CONNELLSVILLE, PA 15425-3217
whereupon your property would be sold by the
Sheriff of FAYETTE County.

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

NOTICE

If you wish to defend, you must enter a
written appearance personally or by attorney and
file your defenses or objections in writing with

LINDA L. SMITH, late of Belle Vernon,
Fayette County, PA (2)

Executor: Vernon Eugene Smith
35 Locust Avenue
Charleroi, PA 15022
c/o Sinko Zimmerman, LLC
Suite 200 One Adam Place
310 Seven Fields Blvd.
Seven Fields, PA 16046
Attorney: Betsy A. Zimmerman

First Publication

**MARY F. DAUGHERTY, MARY FRANCES
DAUGHERTY**, late of North Union Township,
Fayette County, PA (1)

Executor: Carlyle J. Engel
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

JEROME L. GRIGLAK, late of Uniontown
Fayette County, PA (1)

Administrator: Michael J. Kosco
5 Burlington Avenue
Uniontown, PA 15401
c/o 111 East Main Street
Uniontown, PA 15401
Attorney: Robert Harper, Jr.

COURTNEY S. KNOPSNIDER, late of
Saltlick Township, Fayette County, PA (1)

Administratrix: Heidi Knopsnider
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

VIOLA G. MCDONOUGH, late of
Uniontown, Fayette County, PA (1)

Executrix: Katherine M. Ryan
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Katherine M. Ryan

the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

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Harrisburg, PA 17108
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SHERIFF'S SALE

Date of Sale: November 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, November 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. (2 of 3)

James Custer
Sheriff Of Fayette County

No. 2067 of 2018 GD
No. 237 of 2019 ED

**Bank of America, N.A.,
Plaintiff,
Vs.**

**Calvin J. Brooks a/k/a Calvin James Brooks
Susan Brooks
The United States of America c/o the U.S.
Attorney for the Western District of
Pennsylvania,
Defendants**

ALL THAT RIGHT, TITLE, INTEREST AND CLAIMS OF CALVIN J. BROOKS A/K/ A CALVIN JAMES BROOKS, SUSAN BROOKS AND THE UNITED STATES OF AMERICA C/O THE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF PENNSYLVANIA OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN BULLSKIN TOWNSHIP, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 1197 PAGE 727

BEING KNOWN AS 206 REAR DRY HILL ROAD A/K/A 206 DRY HILL ROAD, CONNELLSVILLE, PA 15425

TAX MAP NO. 04-36-0004

Phelan Hallinan Diamond & Jones, LLP

No. 1136 of 2019 GD
No. 251 of 2019 ED

**U.S. Bank National Association
Plaintiff
v.**

**Todd E. Conaway
Jennifer L. Conaway
Defendant(s)**

By virtue of a Writ of Execution No. 2019-01136, U.S. Bank National Association v. Todd E. Conaway, Jennifer L. Conaway, owner(s) of property situate in the SPRINGFIELD TOWNSHIP, Fayette County, Pennsylvania, being 460 Nilan Hill Road, Point Marion, PA 15474-1388

Parcel No.: 36-07-0199

Improvements thereon: RESIDENTIAL DWELLING

No. 1710 of 2018 GD
No. 250 of 2019 ED

**FIRST NATIONAL BANK OF
PENNSYLVANIA,**

Plaintiff,
vs.

ANNA MARIE COOPER,
Defendant.

ALL THE RIGHT, TITLE, INTEREST
AND CLAIM OF ANNA MARIE COOPER
OF, IN AND TO THE FOLLOWING
DESCRIBED PROPERTY:

ALL THE FOLLOWING DESCRIBED
REAL ESTATE SITUATED IN THE
TOWNSHIP OF NORTH UNION, FAYETTE
COUNTY, PENNSYLVANIA. HAVING
ERECTED THEREON A DWELLING BEING
KNOWN AND NUMBERED AS 270
STARLITE ROAD, LEMONT FURNACE, PA
15456. DEED BOOK VOLUME 3166, PAGE
678, AND PARCEL NUMBER 25-33-0003.

Lauren L. Schuler, Esquire
Hladik, Onorato & Federman, LLP
298 Wissahickon Avenue
North Wales, PA 19454

No. 128 of 2019 GD
No. 246 of 2019 ED

**U.S. Bank National Association, as indenture
trustee, for the CIM Trust 2016-2, Mortgage-
Backed Notes, Series 2016-2**

(Plaintiff)

vs.

**Heather Duttry in her capacity as surviving
heir of Beth Lisa Duttry a/k/a Beth Schaffer,
Deceased, et al.**

(Defendant)

By virtue of Writ of Execution No. 128
of 2019 GD

U.S. Bank National Association, as indenture
trustee, for the CIM Trust 2016-2, Mortgage-
Backed Notes, Series 2016-2 (Plaintiff) vs.
Heather Duttry in her capacity as surviving heir
of Beth Lisa Duttry a/k/a Beth Schaffer,
Deceased, et al.

Property Address 301 Delmont Avenue,

Belle Vernon, PA 15012

Parcel I.D. No. 41-05-0229

Improvements thereon consist of a
residential dwelling.

Judgment Amount: \$88,688.06

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

No. 1091 of 2019 GD
No. 259 of 2019 ED

American Advisors Group

Plaintiff

v.

**Christopher Fitzgerald, Administrator of the
Estate of Gail M. Fitzgerald**
Defendant

All that certain piece or parcel or Tract of
land situate in Bullskin Township, Fayette
County, Pennsylvania, and being known as 228
Rilla Drive, Connellsville, Pennsylvania 15425.

Being known as: 228 Rilla Drive,
Connellsville, Pennsylvania 15425

Title vesting in Michael J. Fitzgerald and
Gail M. Fitzgerald, husband and wife by deed
from Joseph James Sages and Cecilia A. Sages,
husband and wife, dated June 7, 1974 and
recorded June 7, 1974 in Deed Book 1164, Page
690. The said Michael J. Fitzgerald died on June
10, 2018 thereby vesting title in his surviving
spouse Gail M. Fitzgerald by operation of law.
The said Gail M. Fitzgerald died on September
25, 2018. On November 21, 2018, Letters of
Administration were granted to Christopher
Fitzgerald, nominating and appointing him as
the Administrator of the Estate of Gail M.
Fitzgerald.

Tax Parcel Number: 04 -37-0007

No. 1299 of 2019 GD
No. 249 of 2019 ED

No. 1341 of 2019 GD
No. 269 of 2019 ED

WEI Mortgage LLC
PLAINTIFF
vs.
Robert L. Hixson, Jr.
DEFENDANT

Bridgeway Capital, Inc.
Plaintiff,
vs.
David S. Lynn, Jr. and
Jessica M. Lynn
Defendant(s)

ALL THAT CERTAIN piece or parcel of land situate in Georges Township, Fayette County, Pennsylvania, bounded and described as follows:

COMMONLY KNOWN AS: 105 Dry Knob Road, Smithfield, PA 15478
TAX PARCEL NO. 14-25-0139

ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF DAVID S. LYNN AND JESSICA M. LYNN, OF, IN, AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE COMMONWEALTH OF PENNSYLVANIA, COUNTY OF FAYETTE AND BOROUGH OF SOUTH CONNELLSVILLE:

HAVING ERECTED THEREON A DWELLING BEING KNOWN AND NUMBERED AS 423 VINE STREET. DEED BOOK 3223, PAGE 2362. TAX PARCEL ID NUMBER: 33-06-0078

BARLEY SNYDER
Shawn M. Long, Esquire
Court I.D. No. 83774
126 E. King Street
Lancaster, PA 17602
717.299.5201

No. 2521 of 2018 GD
No. 268 of 2019 ED

**MID PENN BANK, SUCCESSOR BY
MERGER TO THE SCOTSDALE BANK
& TRUST COMPANY,**
Plaintiff
v.
JON A. LAPE and
SHANEA M. LAPE,
Defendants

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

No. 31 of 2017 GD
No. 258 of 2019 ED

Property Address: 386 Dawson Scottdale Road, Dawson, Fayette County, Pennsylvania
Parcel ID Number: 18-08-0038
Judgment Amount: \$43,301.66

BEING the same premises which The Estate of Ruth Z. Luxner, by executor, Joseph A. Lape by deed dated August 26, 2011, recorded August 26, 2011 in the Office of the Recorder of Deeds in and for Fayette County, Pennsylvania in Record Book 3163, Page 77, granted and conveyed unto Jon A Lape and Shanea M. Lape.

**U.S Bank National Association, as Trustee,
successor in interest to Wachovia Bank, N.A.,
as Trustee for J.P. Morgan Mortgage Trust
2005-A8**

Plaintiff,
v.
Mary Louise Mattei
Defendants.

By virtue of a Writ of Execution, No. 2017 -00031, U.S. Bank National Association, et al vs. Mary Louise Mattei, owner of property situate in the TOWNSHIP OF SALTICK, Fayette County, Pennsylvania
118 Third Street, Champion, PA 15622
Parcel No. 31-12-009001
Improvements thereon: SINGLE FAMILY

KML LAW GROUP, P.C.
 Suite 5000
 701 Market Street
 Philadelphia, PA 19 106-1532
 (215) 627-1322
 Attorney for Plaintiff

No. 317 of 2018 GD
 No. 252 of 2019 ED

M&T BANK
1 Fountain Plaza
Buffalo, NY 14203
Plaintiff,
vs.

HAROLD N. PENNINGTON III
JULIE A PENNINGTON A/K/A JULIA A.
PENNINGTON
Mortgagor(s) and Record Owner(s)
132 North 6th Street
Connellsville, PA 15425
Defendant(s)

ALL THAT CERTAIN LOT OF LAND
 SITUATE IN CITY OF CONNELLSVILLE,
 COUNTY OF FAYETTE AND
 COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 132 NORTH 6TH
 STREET, CONNELLSVILLE, PA 15425

TAX PARCEL #05-06-0562 & 05-06-0563
 IMPROVEMENTS: A RESIDENTIAL
 DWELLING

SOLD AS THE PROPERTY OF:
 HAROLD N. PENNINGTON III AND JULIE A
 PENNINGTON A/K/A JULIA A.
 PENNINGTON

No. 12 of 2019 GD
 No. 248 of 2019 ED

Wells Fargo Bank, N.A.
Plaintiff,
vs.
Barbara K. Phillabaum
Defendant.

ALL that certain parcel of land lying and
 being situate in the Borough of Brownsville,
 County of Fayette, and Commonwealth of
 Pennsylvania, known as 14 18th Street,
 Brownsville, PA 15417 having erected thereon a

dwelling house.

Being known and designated as Tax ID
 No.: 02020051

BEING the same premises which Anita E.
 Austin, Administratrix of the Estate of Matilda R.
 Davis, deceased, late of Brownsville, Fayette
 County, Pennsylvania, by her attorney-in-fact,
 Sanford S. Finder, Esquire, by Deed dated
 September 26, 1991 and recorded in and for
 Fayette County, Pennsylvania in Deed Book
 884, Page 360, granted and conveyed unto
 Marion E. Phillabaum and Barbara K.
 Phillabaum, his wife.

GEORGE & GEORGE, LLP
 ATTORNEYS AT LAW

No. 1297 of 2019 GD
 No. 271 of 2019 ED

JOHN R. OVER, JR. and MICHELE OVER,
Plaintiffs
vs.
Soom Realty, LLC, A Pennsylvania Limited
Liability,
Defendant

All that certain lot of land Located in the
 City of Uniontown Fayette County,
 Pennsylvania, being identified as Assessment
 Map No. 38-11-0116 known locally as 312
 Morgantown Street, Uniontown PA 15401
 See Record Book 2708, page 305.

Richard M. Squire & Associates, LLC
 One Jenkintown Station, Suite 104
 115 West Avenue
 Jenkintown. PA 19046
 Telephone: 215-886-8790
 Fax: 215-886-8791

No. 336 of 2019 GD
 No. 256 of 2019 ED

Carrington Mortgage Services. LLC
PLAINTIFF
v.
JOHN E. WILLIAMS;
DEFENDANT(S).

TAX PARCEL NO.: 04100018
 PROPERTY ADDRESS: 689 BEAR

ROCKS ROAD, ACME, PA 15610
IMPROVEMENTS: Single Family Dwelling

SEIZED AND TAKEN in execution as the property of JOHN E. WILLIAMS

ALL that certain tract of land situate in Bullskin Township, Fayette County, Pennsylvania, more particularly bounded and described as follows, to wit:

FIRST: BEGINNING at a point in the center of Pennsylvania State Route 1009 common to this land and land now or formerly of James R. Keslar; thence along the center line of said State roadway, South 20 degrees 38 minutes 04 seconds East, 280.65 feet to a point; thence along land now or formerly of Wendell Rupp, North 78 degrees 30 minutes West 322.21 feet to a point; thence along the dividing line between this tract and Parcel Second below, North 8 degrees 44 minutes 25 seconds East 297 feet to a point; thence along land now or formerly of James R. Keslar, South 61 degrees 35 minutes East, 196.30 feet to a point, the place of beginning.

CONTAINING an area of 1.51 acres according to survey or Cross Land Survey Co. dated June 26, 1996 and having thereon erected a two -story frame dwelling and a garage.

SECOND: BEGINNING at a concrete monument common to this tract, Parcel First, described above, and land now or formerly of Wendell Rupp and Ronald O. Morgan; thence along Parcel First, above described, and property now or formerly of James R. Keslar, North 8 degrees 44 minutes 25 seconds East 373.40 feet to a point; thence along land now or formerly of the said James R. Keslar and land now or formerly of Ronald D. Allen, North 60 degrees 51 minutes 25 seconds West, 241.63 feet to a point; thence along land now of fomlerly of Ronald O. Morgan, South 10 degrees 11 minutes 32 seconds West 446.32 feet to a point; thence along the same, South 78 degrees 30 seconds East, 238.05 feet to a point, the place of the beginning.

CONTAINING an area of 2.19 acres according to survey of Cross Land Survey Co. dated June 26, 1996 and having thereon erected three sheds.

BEING known as Tax Map# 04-10-0018

BEING the same premises which Kenneth W. Swink and Cheryl D. Swink, husband and wife, conveyed unto John E. Williams by deed dated July 24, 2015 and recorded with the

Fayette County Recorder on July 31, 2015 in Deed Book 3284, Page 155, Instrument No. 201500008095.

Lauren L. Schuler, Esquire
Hladik, Onorato & Federman, LLP
298 Wissahickon Avenue
North Wales, PA 19454

No. 1551 of 2018 GD
No. 247 of 2019 ED

U.S. Bank National Association, not in its individual capacity but solely as trustee for the RMAC Trust, Series 2016-CTT (Plaintiff)
vs.
Paul G. Wozniak and Laurie J. Wozniak (Defendants)

By virtue of Writ of Execution No. 1551 of 2018 GD
U.S. Bank National Association, not in its individual capacity but solely as trustee for the RMAC Trust, Series 2016-CTT (Plaintiff) vs. Paul G. Wozniak and Laurie J. Wozniak (Defendants)

Property Address 108 Bailey Avenue, Uniontown, PA 15401
Parcel I.D. No. 38-04-0586
Improvements thereon consist of a residential dwelling.
Judgment Amount: \$86,777.39

END SHERIFF SALES

JUDICIAL OPINION

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

COMMONWEALTH OF :
PENNSYLVANIA, :
 :
 :
 vs. :
 :
 :
 MICHAEL LYNN WRIGHT, JR., : No. 870 of 2016
 Appellant. : Honorable Linda R. Cordaro

OPINION

CORDARO, J. August 16, 2019

SUMMARY

Appellant was tried before a jury and found guilty of Third-Degree Murder, Endangering the Welfare of a Child, and Recklessly Endangering Another Person. Appellant was sentenced to a period of incarceration and now appeals his conviction.

BACKGROUND

Appellant, Michael Wright, was the father of Lydia Wright. On February 24, 2016, Lydia Wright was brought to Uniontown Hospital, where she was pronounced dead. Lydia was 23 months old at the time of her death.

As a result of Lydia's death, Mr. Wright was charged with Criminal Homicide (18 Pa.C.S.A. §2501(a)), Endangering the Welfare of a Child (18 Pa.C.S.A. §4304(a)(1)), and Recklessly Endangering Another Person (18 Pa.C.S.A. §2705).

A trial was held on May 6-May 9, 2019. The following testimony was presented at trial.

Appellant, Michael Wright, is the father of three children: Arayleeus, born in 2010; Eoiny, born in 2011; and Lydia, who was born on March 9, 2014. (Criminal Jury Trial Proceedings, Vol. 2 at 48.) The children's mother is Andrea Dusha, with whom Mr. Wright had a ten-year romantic relationship. (Proceedings, Vol. 2 at 48-49.) In 2016, Mr. Wright and Ms. Dusha, along with their three children, lived at 26 Collins Avenue in Uniontown. (Proceedings, Vol. 2 at 46-47.) Mr. Wright and Ms. Dusha were the only adults living in the house. (Proceedings, Vol. 2 at 56.) Mr. Wright was 32 years old in 2016. (Proceedings, Vol. 3 at 87.)

On the morning of February 24, 2016, 23-month-old Lydia Wright was taken to Uniontown Hospital by her mother, Andrea Dusha. (Proceedings, Vol. 2 at 78.) Resuscitation attempts were unsuccessful, and Lydia was pronounced dead. (Proceedings, Vol. 2 at 81-82.)

On February 25, 2016, Dr. Cyril Wecht performed an autopsy on Lydia. (Proceedings, Vol. 3 at 25-26.) Dr. Wecht was recognized as an expert in forensic pathology. (Proceedings, Vol. 3 at 25.) Through his testimony, Dr. Wecht explained his methodology; how he performed the autopsy, the reason for the tests that he performed, and the results he obtained.

At the time of her autopsy, Lydia weighed about 10 pounds. (Proceedings, Vol. 3 at 28.) Dr. Wecht testified that Lydia was "quite small" for a child of that age. (Proceedings, Vol. 3 at 29.) Dr. Wecht concluded that the cause of Lydia's death was malnutrition and dehydration. (Proceedings, Vol. 3 at 32.) Dr. Phillip Reilly, the Fayette County Coroner, determined the manner of death to be homicide. (Proceedings, Vol. 1 at 45.)

Several witnesses testified as to Lydia's condition prior to her death.

First, Andrea Dusha testified that she was 34 weeks pregnant when Lydia was born. (Proceedings, Vol. 2 at 50.) {1} This was less than a full-term pregnancy. (Id.) Lydia weighed 3 pounds, 14 ounces at birth. (Proceedings, Vol. 2 at 51.) Lydia spent about a month at Magee Hospital after she was born. (Id.) Ms. Dusha and Mr. Wright began taking Lydia to a pediatrician, Dr. Daniel Church, after Lydia was discharged. (Id.) However, the last time either parent took Lydia to a pediatrician was when Lydia was four months old. (Proceedings, Vol. 2 at 52, 55-56.)

Mr. Wright and Ms. Dusha received benefits in 2015, including WIC benefits, {2} cash assistance, food stamps, and Social Security Income for their younger son. (Proceedings, Vol. 2 at 49-50, 52-54.) Those benefits would occasionally have to be renewed. (Proceedings, Vol. 2 at 53.) The staff at the WIC Office would weigh Lydia when she was brought in. (Proceedings, Vol. 2 at 53-5,4) On March 2, 2015, Lydia's weight was 16 pounds. (Proceedings, Vol. 2 at 54.)

On February 23, 2016-the night before Lydia died-Ms. Dusha testified that Lydia was not feeling well. (Proceedings, Vol. 2 at 71.) Ms. Dusha testified that Lydia had a stomach virus. (Proceedings, Vol. 2 at 72.) Lydia was not taken to a doctor. (Id.) Ms. Dusha then put Lydia in a carseat about half an hour before Lydia went to sleep. (Id.) Ms. Dusha stated that the carseat would sometimes comfort Lydia, and that she liked to sleep in it. (Id.) Because Lydia was sick and sleeping, Ms. Dusha put her in the room with the toys in it, adjacent to the bedroom. (Proceedings, Vol. 2 at 72-73.)

Mr. Wright did not check on Lydia after she went to sleep at 9:30 PM. (Proceedings, Vol. 2 at 72-74.)

{1} Andrea Dusha testified pursuant to a plea agreement. (Proceedings, Vol. 2 at 50.) She pleaded guilty to third- degree murder and was sentenced to 9 1/2 to 19 years of incarceration. (Id.)

{2} "Special Supplemental Nutrition Program for Women, Infants, and Children."

Ms. Dusha also testified that in February, 2016 the household had internet Wifi, a laptop, an X-Box, and heat and electricity. (Proceedings, Vol. 2 at 70, 75.) They did not have sewage or running water, which had been turned off since November or December of 2015. (Proceedings, Vol. 2 at 74-75.) They also stopped receiving cash assistance in November of 2015. (Proceedings, Vol. 2 at 75.)

Ms. Dusha woke up at 7:30 AM on February 24, 2016. (Proceedings, Vol. 2 at 74.) She went out for some errands and returned home around 10 or 10:30 AM. (Proceedings, Vol. 2 at 75-77.) After she got home, she went and checked on Lydia. (Proceedings, Vol. 2 at 77.) Ms. Dusha testified that she changed Lydia's diaper, put her in a blanket, took her downstairs, and started giving her some Gatorade and Pedialyte because she was not drinking milk. (Id.)

While Ms. Dusha was feeding Lydia, Lydia's eyes rolled back into her head and her teeth clamped down on the bottle and she started foaming at the mouth. (Proceedings, Vol. 2 at 77-78.) It was at that time that Ms. Dusha took Lydia to Uniontown Hospital, where Lydia was later pronounced dead. (Proceedings, Vol. 2 at 78.)

Dr. Daniel Church also testified at the trial regarding Lydia's condition prior to her death. Dr. Church was Lydia's pediatrician after she was born, although the family stopped taking her there after Lydia was four months old. (Proceedings, Vol. 2 at 51.) Dr. Church testified as to his treatment of Lydia soon after she was born. Even though Lydia was born prematurely, in the weeks after her birth she had very good weight gain. (Proceedings, Vol. 2 at 15-16.)

Dr. Church was recognized as an expert witness in the field of pediatric medicine. (Proceedings, Vol. 2 at 12.) Appellant's trial counsel did not object to Dr. Church being recognized as an expert, nor did they inquire as to his qualifications. (Proceedings, Vol. 2 at 12.) Prior to Dr. Church taking the stand, the Commonwealth and Appellant stipulated to WIC records that show Lydia's weight as 16 pounds at her one-year visit. (Proceedings, Vol. 2 at 4-6.) This was admitted as Commonwealth Exhibit 9. The WIC records also contained a growth chart. (Proceedings, Vol. 2 at 5-6.)

During his testimony, the Commonwealth asked Mr. Church about the WIC records and the growth chart. Dr. Church was familiar with the documents. (Proceedings, Vol. 2 at 20-21.) Dr. Church testified that Lydia was in the 46th percentile for weight on March 2, 2015, which would have been excellent weight gain. (Proceedings, Vol. 2 at 21-22.) Dr. Church then testified that, if Lydia had stayed at the same percentile at 23 months, she should have weighed 20 pounds. (Proceedings, Vol. 2 at 26.) Dr. Church then stated that there was no way that a child could lose six pounds in a few days from dehydration. (Proceedings, Vol. 2 at 28.)

There was also testimony and photographs regarding the condition of the residence of Mr. Wright and Ms. Dusha during February of 2016. There were toys in the dining room that Mr. Wright had purchased. (Proceedings, Vol. 2 at 62-63.) There was trash in

the hallway. (Proceedings, Vol. 2 at 64-66.) There were 2-liter Mountain Dew bottles filled with urine in the hallway. (Proceedings, Vol. 2 at 64.) There was a highchair in the tub in the bathroom for Lydia. (Proceedings, Vol. 2 at 66.) When asked what was in the highchair, Ms. Dusha responded, "[Lydia] had had an accident in it. She had, when she had been sick had diarrhea." (Id.) This was just a couple of days prior to Lydia's passing. (Id.)

In the bedroom where all five of them slept, there were two big-screen televisions. (Proceedings, Vol. 2 at 68.) There were also kids toys, blankets, clothing, and food. (Proceedings, Vol. 2 at 67.) There were no beds, only mattresses. (Proceedings, Vol. 2 at 68.)

Finally, there was testimony at the trial regarding Mr. Wright's behavior in the year prior to Lydia's death. This included text and email messages he sent to Ms. Dusha over a period of several months where he demanded she bring him food and take care of errands as well as chiding her for leaving Lydia in his care. (Proceedings, Vol. 2 at 88-125.) One example of a message that Mr. Wright sent to Ms. Dusha reads:

You couldn't take Lydia, WTF. All three kids are up being jerks. You are doing who knows what. Didn't get the garbage out. You need to get this insurance taken care of. Go there, cry, make a scene, do something, get it on now. Call the insurance, see what the fucking problem is now, dammit. Also, oil needs changed and brakes have to get fixed. They're horrible. We paid almost \$600.00. They can make sure it's done right. Every person I've talked to about this says they put them on wrong. Too tight. Too high. Something. They need to take them off and realign them Andrea, I'm serious. Stop letting them walk on you there. They need to jack your car up, take the brakes off, go from there. There is obviously a problem either in the mechanic's end or the brake quality. \$600.00. I want my shit fixed. Make sure it is done today and not fucked around.

(Proceedings, Vol. 2 at 91-92.) That message was sent on September 25, 2015 (Proceedings, Vol. 2 at 96.) Another message Mr. Wright sent to Ms. Dusha reads:

Fed the fuck up with her ass.

(Proceedings, Vol. 2 at 112-13.) The "her" in that message refers to Lydia. (Id.) That message was sent to Ms. Dusha on February 1, 2016-just a few weeks before Lydia died of dehydration and malnutrition. (Id.)

At the hospital on the day of Lydia's death, Detective Donald Gmitter testified that he spoke to Mr. Wright. Detective Gmitter stated that at one point during the conversation, Mr. Wright asked about a life insurance policy on Lydia. (Proceedings, Vol. 3 at 45.) Mr. Wright also asked several times about leaving to go to the methadone clinic. (Proceedings, Vol. 3 at 46.)

Detective Gmitter was also in an exam room with Mr. Wright when Lydia was brought in, covered by a sheet. (Proceedings, Vol. 3 at 46-47.) When the sheet was pulled back and Mr. Wright saw Lydia laying on the table, Mr. Wright asked if that was supposed to bring him closure. (Proceedings, Vol. 3 at 47.) He then asked if it was supposed to make him feel better and asked if he could leave the room. (Id.) After he was told he didn't need to be there, Mr. Wright immediately left the room. (Id.) Mr. Wright showed no emotion at all at that time. (Id.)

At the conclusion of the trial, the jury found Mr. Wright guilty of Third-Degree Murder, Endangering the Welfare of a Child, and Recklessly Endangering Another Person.

On May 24, 2019, Mr. Wright was sentenced to 15 to 40 years of incarceration.

ISSUES ON APPEAL

Mr. Wright filed a timely Notice of Appeal on June 10, 2019. In accordance with Pa.R.A.P. 1925(b), this Court ordered Appellant to file a concise statement of errors complained of on appeal. Appellant raises six issues on appeal:

- 1) The Commonwealth presented insufficient evidence at trial to sustain Appellant's convictions beyond a reasonable doubt;
- 2) The verdict on all three counts was against the weight of the evidence;
- 3) The Court failed to suppress involuntary statements made by Appellant at the hospital;
- 4) The Court failed to suppress evidence that was discovered during an unlawful search of Appellant's residence;
- 5) The testimony of expert witness Dr. Daniel Church exceeded the scope of his treatment of the decedent; and
- 6) The above-errors cumulatively prejudiced Appellant.

Summarization of Appellant's Concise Statement of Errors Complained of on Appeal.

DISCUSSION

Appellant's First Issue on Appeal is that there was insufficient evidence to convict him on all three counts. Specifically, Appellant argues that there was insufficient evidence presented at trial: 1) to support the element of malice as it pertains to Third-Degree Murder, 2) to support the element that Appellant acted knowingly as it pertains to Endangering the Welfare of a Child, and 3) to support the element that Appellant acted recklessly as it pertains to Recklessly Endangering Another Person.

To sustain a challenge to the sufficiency of the evidence, an appellant must show that the Commonwealth failed to produce evidence that establishes each material ele-

ment of the crime charged and the commission thereof by the accused beyond a reasonable doubt. *Commonwealth v. Widmer*, 744 A.2d 745,751 (Pa. 2000); *Commonwealth v. Karkaria*, 625 A.2d 1167, 1170 (Pa. 1993).

In *Widmer*, the Pennsylvania Supreme Court held that "[e]vidence will be deemed sufficient to support the verdict when it establishes each material element of the crime charged and the commission thereof by the accused[] beyond a reasonable doubt." *Widmer* at 751. Evidence is insufficient as a matter of law when the evidence offered to support the verdict is in contradiction to physical facts, or in contravention to human experience and the laws of nature. *Widmer* at 751 (citing *Commonwealth v. Santana*, 333 A.2d 876, 878 (Pa. 1975)). The fact-finder may resolve any doubts regarding a defendant's guilt "unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances." *Commonwealth v. Fortson*, 165 A.3d 10, 14 (Pa. Super. Ct. 2017) (citing *Hansley* at 416). The Commonwealth may use wholly circumstantial evidence to sustain its burden of proving every element of the crime beyond a reasonable doubt. *Fortson* at 14-15.

Third-degree murder is defined in the Crimes Code as "[a]ll other kinds of murder" other than first-degree murder or second-degree murder. *Commonwealth v. Seibert*, 622 A.2d 361,364 (Pa. Super. Ct. 1993) (citing 18 Pa.C.S.A. § 250 2). As developed by case law, the elements of third-degree murder are "a killing done with legal malice but without the specific intent to kill required in first-degree murder." *Seibert* at 364.

Malice is one of the essential elements of third-degree murder, and is the distinguishing factor between murder and manslaughter. *Commonwealth v. Young*, 431 A.2d 230, 232 (Pa. 1981). Malice is not just a particular ill will, but it exists in "every case where there is wickedness of disposition, hardness of heart, cruelty, recklessness of consequences, and a mind regardless of social duty..." *Seibert* at 364 (citing *Commonwealth v. Drum*, 58 Pa. 9, 15 (1868) (emphasis omitted)). An unlawful killing with legal malice constitutes third-degree murder, even if there is no intent to injure or kill the decedent, and even if the death was unintentional or accidental. *Young* at 232 (internal citations omitted).

Malice may be inferred from attending circumstances. *Young* at 232. Acts of gross recklessness for which individuals must reasonably anticipate that death to another is likely to result satisfy the element of malice. *Seibert* at 364 (citing *Commonwealth v. Malone*, 47 A.2d 445, 447 (Pa. 1946)). Malice may also be found where individuals consciously disregard an unjustified and extremely high risk that their actions might cause death or serious bodily injury. *Id.* (citing *Young* at 232).

Pennsylvania courts have upheld third-degree murder convictions for failure of a parent to provide nourishment and care of a child. See, i.e., *Commonwealth v. Miller*, 627A.2d 741 (Pa. Super. Ct. 1993); *Commonwealth v. Smith*, 567 A.2d 1070 (Pa. Super. Ct. 1989). In *Miller*, the appellant was found guilty of third-degree murder when two of her children were found to have died in her home from malnutrition and dehydration.

Miller at 743. In determining whether there was sufficient evidence of malice, the Superior Court stated, "[the appellant's] negligence rose to such a level as to constitute wanton and reckless conduct that demonstrates an extreme indifference to the value of human life, i.e., malice." *Id.* at 745-46.

In *Smith*, the appellant-mother lived with her three-year-old daughter. *Smith* at 1071. The mother was a habitual user of cocaine, fed her daughter once a day, and became violent towards a former paramour whenever he would show affection towards or try to feed her daughter. *Id.* The mother would also curse and scream at her daughter. *Id.* Eventually, maintenance men found the decomposed and mummified corpse of the daughter in a room that was locked from the outside. *Id.* The medical examiner found that the cause of death was malnutrition. *Id.*

The Superior Court held that there was sufficient evidence presented to show that the mother caused her daughter's death. *Id.* at 1072. In finding so, the Superior Court noted, "[a] custodial parent has a duty to care for a three[-]year[-]old child, and failure to provide care can be the cause of death when a three[-] year child dies of malnutrition." *Id.* at 1072.

The case at hand is similar to both *Miller* and *Smith*. Mr. Wright clearly had a duty as a parent to provide nourishment and care for his 23-month-old daughter, Lydia. When Lydia died at 23 months, she weighed 10 pounds-even though almost a year earlier she had weighed 16 pounds. The cause of her death was determined to be malnutrition and dehydration.

The evidence presented at trial showed that Mr. Wright provided very little care for his daughter in the months leading up to her death. Lydia's mother, Ms. Dusha, testified that she was the one who frequently provided care for their daughter. Mr. Wright sent many text and email messages to Ms. Dusha where he chided her for leaving Lydia in his care. During his interview with police, Mr. Wright appeared hard-pressed to say when the last time he fed Lydia was and struggled to name foods that he fed to her.

Mr. Wright frequently complained in his messages to Ms. Dusha about Lydia, especially when she was crying. When Mr. Wright arrived at the hospital on the day of Lydia's death, he began asking about when he could go get methadone and about Lydia's life insurance policy rather than about his daughter's welfare. He also showed no emotion when Lydia's body was brought to him.

The cumulative evidence presented by the Commonwealth at trial portrayed Mr. Wright as a man-child who was more concerned with playing video games and buying toys than providing care for his children-especially for Lydia who eventually succumbed to not having adequate nourishment or healthcare. His behavior and his actions clearly showed a wickedness of disposition, hardness of heart, cruelty, recklessness of consequences, and a mind regardless of social duty, i.e., malice.

Those same facts presented at trial were also sufficient to show that Mr. Wright acted knowingly with regard to Endangering the Welfare of Children and recklessly with regard to Recklessly Endangering another Person. The crime of Endangering the Welfare of Children is defined as, "[a] parent, guardian[,] or other person supervising the welfare of a child under 18 years of age... commits an offense if [that person] knowingly endangers the welfare of the child by violating a duty of care, protection[,] or support." 18 Pa.C.S.A. §4304.

The crime of Endangering the Welfare of Children is a specific intent offense. *Commonwealth v. Cardwell*, 515 A.2d 311, 313 (Pa. Super. Ct. 1986). The intent element required by §4303 is a knowing violation of a duty of care. *Id.* In his Concise Statement of Errors Complained of on Appeal, Appellant argues that "[t]he evidentiary record is void of any basis for inferring that [Appellant] was consciously aware of the decedent's chronically poor health until after her death." However, the Superior Court held in *Cardwell* that, "[i]f a violation of a duty of care can include an omission, then, a person can act 'knowingly' in omitting to act with respect to that duty." *Cardwell* at 313. Here, Mr. Wright's omission to provide nourishment and care for Lydia over a period of months leading up to her death was a knowing violation of a duty of care of a parent.

The crime of Recklessly Endangering another Person is defined as recklessly engaging in conduct that "places or may place another person in danger of death or serious bodily injury." 18 Pa.C.S.A. §2705. The mens rea required for this crime is "a conscious disregard of a known risk of death or great bodily harm to another person." *Commonwealth v. Cottam*, 616 A.2d 988, 1004 (Pa. Super. Ct. 1992) (citing *Commonwealth v. Sanders*, 489 A.2d 207, 210 (Pa. Super. Ct.1985)). Further, "[a]cts of commission or omission by parents towards their children may create a substantial risk of death or great bodily injury." *Cottam* at 1004 (citing *Commonwealth v. Howard*, 402 A.2d 674, 676 (Pa. Super. Ct. 1979)). Mr. Wright's failure to feed Lydia or provide her with appropriate care not only created a substantial risk of death, but resulted in actual death.

For these reasons, this Court finds that Appellant's First Issue on Appeal is without merit.

Appellant's Second Issue on Appeal is that the verdict on all three counts was against the weight of the evidence. A jury's verdict is against the weight of the evidence when the verdict "is so contrary to the evidence as to shock one's sense of justice... " *Commonwealth v. Brown*, 648 A.2d 1177, 1189 (Pa. 1994) (citing *Thompson v. City of Philadelphia*, 493 A.2d 669, 672 (Pa. 1985)). Further, "[a]n allegation that the verdict is against the weight of the evidence is addressed to the discretion of the trial court." *Widmer* at 751-52 (citing *Brown* at 1189). A new trial should not be granted just because there was conflict in the testimony, or because the judge would have arrived at a different conclusion based on the same facts. *Widmer* at 752. "Rather, the role of the trial judge is to determine that notwithstanding all the facts, certain facts are so clearly of greater weight that to ignore them or to give them equal weight with all the facts is to deny justice." *Id.* (internal quotations and citations omitted).

This issue should be waived as Appellant raises it for the first time on Appeal. See, *In re J.B.*, 106 A.3d 76, 91 (Pa. 2014) ("... weight of the evidence claims in criminal proceedings are waived unless they are raised with the trial court in a motion for a new trial.") See also, Comment to Pa.R.Crim.P. 607 ("The purpose of this rule is to make it clear that a challenge to the weight of the evidence must be raised with the trial judge or it will be waived.").

Alternatively, even if the issue is not waived, a person being convicted of third-degree murder for failing to provide nourishment to his starving child does not "shock the sense of justice." This Court finds that Appellant's Second Issue on Appeal is without merit.

Appellant's Third Issue on Appeal is that the Court failed to suppress involuntary statements made by Appellant at the hospital. Specifically, Appellant argues that statements he made to police officers at the hospital were involuntary given the totality of the circumstances.

This issue was addressed in this Court's Opinion and Order filed on July 5, 2017. That Opinion was in response to Appellant's Omnibus Pretrial Motion, filed on July 13, 2016. This Court refers to its prior Opinion in addressing the voluntariness of Appellant's statements to police.

Appellant's Fourth Issue on Appeal is that the Court failed to suppress evidence that was discovered during an unlawful search of Appellant's residence. Specifically, Appellant states that "there was not yet any medical information available to law enforcement sufficient to assert a criminal nexus with the decedent's death," and that the search warrant executed on February 24, 2016 to search Appellant's house was defective. Appellant's Concise Issues at 3.

This issue was also addressed in this Court's July 5, 2017 Opinion. However, this Court concluded that the issue was waived as Appellant failed to request that this Court review the Affidavit of Probable Cause supporting the issuance of the search warrant at the time of the Omnibus Pretrial Motion or at the Hearing on the Motion. July 5, 2017 Opinion and Order at 8. Pennsylvania Rule of Criminal Procedure 581 states:

Unless the opportunity did not previously exist, or the interests of justice otherwise require, such motion [to suppress evidence] shall be made only after a case has been returned to court and shall be contained in the omnibus pretrial motion set forth in Rule 578. If timely motion is not made hereunder, the issue of suppression of such evidence shall be deemed to be waived.

Pa.R.Crim.P. (B). Pennsylvania Courts have held that the failure to raise a suppression issue prior to trial precludes its litigation for the first time at trial, in post-trial motions, or on appeal. See, *Commonwealth v. Collazo*, 654 A.2d 1174, 1176 (Pa. Super. Ct. 1995) (internal citations omitted). Further, the opportunity to raise this did previously exist, as Appellant filed an Omnibus Pretrial Motion challenging several aspects of the case. And the interest of justice would not be served by addressing this issue for the first time on appeal, as there was no evidentiary hearing on this matter.

Appellant's Fifth Issue on Appeal is that the testimony of expert witness Dr. Daniel Church exceeded the scope of his treatment of the decedent. Specifically, Appellant argues that he was "not given prior notice of the intended scope of Dr. Church's purported expertise;" that Dr. Church "offered testimony as to what the decedent 'should' weigh, hypothesized concerning reduction in weight cause by dehydration, and opined as to the symptoms of malnutrition;" and that the testimony "was given in the absence of the disclosure of any expert reports by Dr. Church other than his own records of providing pediatric care for the decedent as an infant." Appellant's Concise Issues at 3-4.

At trial, Dr. Church testified as to his background and education in pediatric medicine. He was admitted as an expert in the field of pediatric medicine without objection or examination by Appellant. Dr. Church testified that he was Lydia's pediatrician from soon after she was born until she was around four months old, after which time the family stopped taking Lydia to see him.

Prior to Dr. Church taking the stand, Commonwealth's Exhibit 9 was admitted into evidence by stipulation by the parties. Exhibit 9 included the WIC records that showed Lydia weighed 16 pounds and her height was 26 inches at her one-year appointment with the WIC Office on March 2, 2015. Exhibit 9 also included a growth chart, which corresponds height to weight for females.

During his testimony, Dr. Church was directed to Commonwealth's Exhibit 9. When asked what his assessment was of Lydia's weight of 16 pounds on March 2, 2015, Dr. Church replied, "That would have been excellent weight gain." (Proceedings, Vol. 2 at 21.) Dr. Church was then referred to the growth chart, where he stated that on the March 2015 visit, Lydia would have been in the 46th percentile for weight per length.

Dr. Church then testified that the growth charts are universally recognized in the medical community, including the pediatric medical community. Dr. Church testified that if Lydia had stayed at the same percentile as she was at the WIC visit, she would have weighed about 20 pounds at 23 months. Dr. Church then testified that he did not believe that a 23-month-old child could have died at 10 pounds solely as the result of dehydration.

Pennsylvania Rule of Evidence 702 states:

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) the expert's scientific, technical, or other specialized knowledge is beyond that possessed by the average layperson;
- (b) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; and
- (c) the expert's methodology is generally accepted in the relevant field.

Dr. Church's testimony regarding what Lydia would have weighed at 23 months if she had stayed at the same percentile was properly admitted into testimony as an expert opinion.

First, Dr. Church possesses knowledge in the field of pediatric medicine that is beyond that of an average layperson. Dr. Church was properly qualified as an expert witness, and Appellant did not object to his being recognized as an expert in the field of pediatric medicine.

Second, Dr. Church testified that the charts he interpreted in order to reach the conclusion that Lydia would have weighed about 20 pounds if she had stayed at the same percentile at 23 months as she was at one year are universally accepted in the field of pediatric medicine.

Third, Dr. Church's testimony helped the triers of fact to understand evidence and determine facts at issue. The ultimate issue in this case was whether Mr. Wright was responsible for the death of his 23-month-old daughter. Lydia's cause of death was determined to be malnutrition and dehydration. Dr. Church 's testimony regarding what Lydia should have weighed was relevant as to whether she was provided nourishment during the months leading up to her untimely death.

It is worth noting that after Lydia's one-year appointment at the WIC Office- when Lydia weighed 16 pounds and was in the 46th percentile for weight to length- there does not appear to be any records of Lydia's weight. Lydia's parents stopped taking her to a pediatrician, or, apparently, to the WIC Office. Because of that, there is no indication of when Lydia started to lose weight. That Lydia lost 6 pounds in the 11 months between her last WIC Office visit and her death is a significant factor in concluding that Mr. Wright failed to provide nourishment for his daughter.

Appellant's Sixth Issue on Appeal is that the above-errors cumulatively prejudiced Appellant. Because Appellant's other issues raised on appeal are without merit, there cannot be cumulative error against Mr. Wright.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the judgment and sentence of Michael Wright should be AFFIRMED.

BY THE COURT:
Linda R. Cordaro, Judge

ATTEST:
Clerk of Courts

LUNCH & LEARN SERIES

FCBA LUNCH & LEARN SERIES

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

- Date: **Wednesday, September 18th from 12:00 p.m. to 1:30 p.m.**
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topic: **Basics of Powers of Attorney and Living Wills**
Form POA and Living Will will be provided
- Presenter: Timothy J. Witt, 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.

RSVP

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, September 16th

BENCH BAR CONFERENCE**Fayette County Bar Association
Bench Bar Conference****Wednesday, October 16, 2019**

The Historic Summit Inn

Cost to attend - \$75 members and \$125 non-members

RSVP to Cindy 724-437-7994 or cindy@fcbar.org**Agenda**

- 8:30 Meet the Sponsors & Breakfast Buffet
- 9:00 **Avoiding Legal Malpractice** 1.0 ethics credit
Amy J. Coco, Esquire
Pennsylvania Bar Association
- 10:00 **A Call for Action - Impairment in the Legal Profession and What You Can do About it** 1.0 ethics credit
Brian S. Quinn, Esquire
Lawyers Concerned for Lawyers
- 11:00 Break
- 11:15 **Working with Social Service Providers:
What Attorneys Should Know** 1.0 substantive credit
Stacey Papa, Esquire - Moderator
- 12:30 Lunch

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