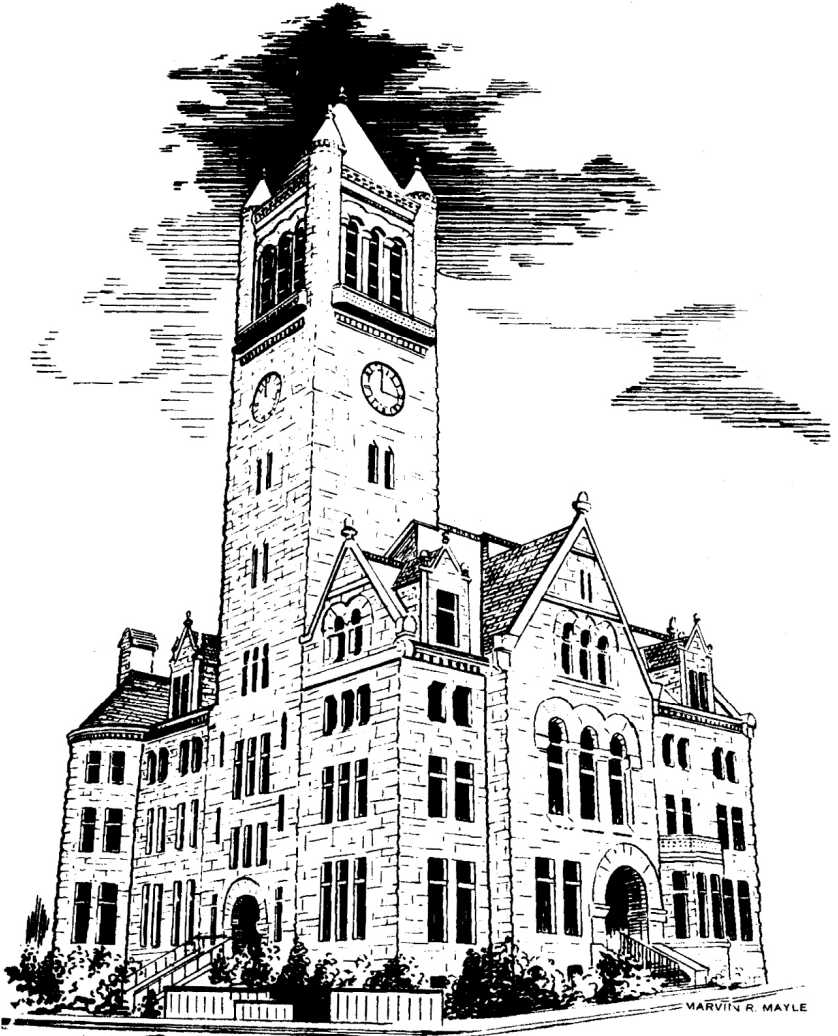


FAYETTE LEGAL JOURNAL

VOL. 84

JUNE 5, 2021

NO. 23



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.

Co-Editors: Garnet L. Gordon and Melinda Deal Dellarose

Cover Design by Marvin R. Mayle, 207 Lick Hollow Road, Hopwood, PA

FAYETTE COUNTY BAR ASSOCIATION Board of Directors

President: Charles O. Zebley, Jr.
President Elect: Gretchen A. Mundorff
Vice-President: Mark D. Brooks
Secretary: Anne N. John
Treasurer: Louise D. Monaghan
Past President: Louise D. Monaghan
Executive Director: Garnet L. Gordon

Directors
 Jennifer M. Casini
 Rachel A. Clark
 Jeremy J. Davis
 Robert A. Gordon
 Sheryl R. Heid
 James E. Higinbotham, Jr.
 Margaret Zylka House
 John A. Kopas, III
 Wendy L. O'Brien
 Douglas S. Sholtis

ETHICS HOTLINE

The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding, the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

Call (800) 932-0311, ext. 2214.

LAWYERS CONCERNED FOR LAWYERS

Our assistance is confidential,
non-judgmental, safe, and effective

To talk to a lawyer today, call:
 1-888-999-1941
 717-541-4360

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

EDWARD BUBASH, a/k/a EDWARD J. BUBASH, late of Masontown Borough, Fayette County, PA (3)

Executrix: Marcia B. Santini
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham

HARRY EUGENE JENKINS, late of Uniontown, Fayette County, PA (3)

Administratrix: Angela L. Beck
1822 W. Cobblestone Lane
St. Augustine, FL 32092
c/o 18 W. Cherry Avenue
Washington, PA 15301
Attorney: P. Chad Schneider

RICHARD B. KIETA, late of Franklin Township, Fayette County, PA (3)

Personal Representative:
Tammie L. Nelson
c/o P.O. Box 953
Uniontown, PA 15401
Attorney: Ricardo J. Cicconi

RODNEY CRAIG KING, SR., a/k/a RODNEY C. KING, late of Springfield Township, Fayette County, PA (3)

Administratrix: Vickie L. King
3350 Springfield Pike
Normalville, PA 15469
c/o King Legal Group, LLC
114 North Maple Avenue
Greensburg, PA 15601
Attorney: Robert W. King

JAMES L. KRAMER, late of Washington Township, Fayette County, PA (3)

Administratrix: Tracy Molnar
116 Elwell Street
Fayette City, PA 15438
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

ROBERT LENT, a/k/a ROBERT L. LENT, late of Luzerne Township, Fayette County, PA (3)

Executor: Gregory Ritsko, Jr.
c/o Goodwin Como, P.C.
108 North Beeson Boulevard, Suite 400
Uniontown, PA 15401
Attorney: Benjamin Goodwin

DIANE E. LINT, late of Dunbar Township, Fayette County, PA (3)

Personal Representative: Brain E. Soltis
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

LARRY PAVTIS, late of Washington Township, Fayette County, PA (3)

Administratrix: Samantha Pavtis
1550 21st. Street East, Apt. 51
Bradenton, FL 34208
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

CATHERINE POPOVICH, a/k/a CATHERINE M. POPOVICH, a/k/a KATHRYN M. POPOVICH, late of Masontown, Fayette County, PA (3)

Executrix: Sonya M. Cofone, formerly Sonya Popovich
111 River Avenue
Masontown, PA 15461
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham

SHIRLEY MAE RUEBSTECK, late of Smithfield, Fayette County, PA (3)

Administrator: Joseph Nastasi
c/o 2944 National Pike Road
P.O. Box 245
Chalk Hill, PA 15421
Attorney: Charles C. Gentile

DEBORAH ANN STEELE, late of South Union Township, Fayette County, PA (3)
Personal Representative: Mark C. Steele
 c/o Davis & Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: Gary J. Frankhouser

TIMOTHY SZEPESEI, late of Connellsville, Fayette County, PA (3)
Personal Representative:
 Matthew K. Miner
 c/o Watson Mundorff, LLP
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Timothy J. Witt

JOSEPH VALENTOVICH, a/k/a JOSEPH M. VALENTOVICH, late of North Union Township, Fayette County, PA (3)
Executor: Benjamin J. Pramuk
 c/o Higinbotham Law Offices
 45 East Main Street, Suite 500
 Uniontown, PA 15401
Attorney: James Higinbotham

ROGER LEE WILES, a/k/a ROGER L. WILES, a/k/a ROGER WILES, late of Springhill Township, Fayette County, PA (3)
Administrator: Terry J. Wiles
 c/o John & John
 96 East Main Street
 Uniontown, PA 15401
Attorney: Simon B. John

Second Publication

MARK ANKROM, a/k/a MARK J. ANKROM, late of Fayette City, Fayette County, PA (2)
Personal Representative: Monica Willson
 c/o George & George
 92 East Main Street
 Uniontown, PA 15401
Attorney: Joseph M. George

M. KATHLEEN BURNS, a/k/a MARY KATHLEEN BURNS, late of South Union Township, Fayette County, PA (2)
Executrix: Joni Richardson Basescu
 c/o John & John
 96 East Main Street
 Uniontown, PA 15401
Attorney: Anne N. John

JENNIE P. FIRESTONE, late of Melcroft, Fayette County, PA (2)
Administrator: Gertrude Larosa
 c/o Casini & Geibig, LLC
 815B Memorial Boulevard
 Connellsville, PA 15425
Attorney: Jennifer M. Casini

KEVIN L. HENSEL, late of Connellsville, Fayette County, PA (2)
Executrix: Betty L. Horner
 c/o 300 North Market Street
 Ligonier, PA 15658
Attorney: Del Nolfi, III

AUSTIN MORGAN, a/k/a AUSTIN E. MORGAN, late of Uniontown, Fayette County, PA (2)
Executor: Michael J. Sanders, Sr.
 186 Grange Road
 McClellandtown, PA 15458
 c/o P.O. Box 1007
 Hopwood, PA 15445
Attorney: Nicholas Clark

CHARLES W. RISER, SR., late of South Connellsville, Fayette County, PA (2)
Executor: Charles W. Riser, Jr.
 c/o 815A Memorial Boulevard
 Connellsville, PA 15425
Attorney: Margaret Z. House

GEORGE G. SMITH a/k/a GEORGE GLENN SMITH, late of Lower Tyrone Township, Fayette County, PA. (2)
Executrix: Lisa Stimmel
 P.O. Box 58
 Dawson, PA 15428.
Attorney: Jennifer M. Merx
 Skarlatos Zonarich LLC
 320 Market St., Ste. 600W
 Harrisburg, PA 17101

RUTH M. WILIUSZIS, a/k/a RUTH MARY WILIUSZIS, late of Perryopolis, Fayette County, PA (2)

Administratrix: Karen Barry
c/o 815A Memorial Boulevard
Connellsville, PA 15425
Attorney: Margaret Z. House

First Publication

FRANKLIN D. COLE, late of South Union Township, Fayette County, PA (1)

Executor: Thomas J. Conn, Sr.
c/o Fitzsimmons and Barclay
55 East Church Street, Suite 102
Uniontown, Pa 15401
Attorney: James N. Fitzsimmons, Jr.

ALICIA L. GLASSBURN, a/k/a ALICIA D. GLASSBURN, late of Connellsville, Fayette County, PA (1)

Executrix: Carolyn W. Maricondi
P.O. Box S
Dawson, PA 15428
c/o P.O. Box 760 Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

MARGARET L. LANE, late of Dickerson Run, Dunbar Township, Fayette County, PA (1)

Personal Representative: Donna L. Bryner
207 Water Street
Dickerson Run, PA 15430
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

LOIS MCELHANEY, late of South Connellsville, Fayette County, PA (1)

Co-Executor: Melanie S. Joy and Julius A. Fuchs
10571 East 28th Place
Denver, Colorado 80238
c/o Lezzi Law
140 South Main Street, Suite 201
Greensburg, PA 15601
Attorney: Patsy A. Lezzi, Jr.

SPENCER PROVANCE, a/k/a SPENCER T. PROVANCE, a/k/a SPENCER THERON PROVANCE, late of Hopwood, Fayette County, PA (1)

Personal Representative:
David Scott Provance
c/o George & George
92 East Main Street
Uniontown, PA 15401
Attorney: Joseph M. George, Sr.

ROBERT PUCHYR, late of Dawson Borough, Fayette County, PA (1)

Personal Representative: Robyn Brady
514 Walnut Street
Vanderbilt, PA 15486
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

GERALDINE D. RODKEY, late of Uniontown, Fayette County, PA (1)

Personal Representative: Debra Sickles,
a/k/a Debra Rodkey Michael
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

VIRGINIA GRACE ROHLF, a/k/a

VIRGINIA G. ROHLF, late of Wharton Township, Fayette County, PA (1)

Executor: Jeffrey C. Rohlf
174 Nelson Road
Ohiopyle, PA 15470
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Ewing D. Newcomer

PHILIP REX SAHADY, SR., a/k/a PHILIP R. SAHADY, late of Redstone Township, Fayette County, PA (1)

Personal Representative:
Nancy Louise Sahady
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

ROBERTA E. SCHULTZ, a/k/a ROBERTA ELIZABETH SCHULTZ, late of North Union Township, Fayette County, PA (1)
Executor: Gary A. Schultz, Jr.
 c/o Zebley Mehalov & White, P.C.
 18 Mill Street Square
 P.O. Box 2123
 Uniontown, PA 15401
Attorney: Mark M. Mehalov

FAYETTE COUNTY COURTHOUSE, 61 EAST MAIN STREET, UNIONTOWN, PA 15401, to enforce the Court Judgment of \$50,071.84 obtained by, WELLS FARGO BANK, N.A. (the mortgagee), against the above premises.

IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE LISTED BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

SOUTHWESTERN PA LEGAL SERVICES
 45 EAST MAIN STREET
 UNIONTOWN, PA 15401
 (724) 439-3591

BROCK & SCOTT, PLLC
 Attorney for Plaintiff
 (844) 856-6646

LEGAL NOTICES

IN THE COURT OF COMMON PLEAS
 OF FAYETTE COUNTY, PENNSYLVANIA
 CIVIL DIVISION
 No.: 1213 of 2019 GD
 Sale No.: 07/22/2021

WELLS FARGO BANK, N.A.
 Plaintiff

v.

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
 Defendant(s)

NOTICE TO:
 Unknown Heirs, Successors, Assigns, And All Persons, Firms, Or Associations Claiming Right, Title or Interest from or Under Mary Kay Ruggieri, Deceased

NOTICE OF SHERIFF’S SALE OF REAL PROPERTY

Being Premises: 411 N PITTSBURGH STREET, CONNELLSVILLE, PA 15425
 Being in CONNELLSVILLE, County of FAYETTE, Commonwealth of Pennsylvania, 05-06-0176
 Improvements consist of residential property.
 Sold as the property of Mary Kay Ruggieri

Your house (real estate) at 411 N PITTSBURGH STREET, CONNELLSVILLE, PA 15425 is scheduled to be sold at the Sheriff’s Sale on July 22, 2021 at 2:00pm at the

**THE DENNIS ALLAN ONDREJKO REVOCABLE TRUST AGREEMENT
 DENNIS ALLAN ONDREJKO,
 DECEASED APRIL 24, 2015**

DENNIS ALLAN ONDREJKO, late of the Township of Washington, Fayette County, Pennsylvania, now deceased, created the DENNIS ALLAN ONDREJKO REVOCABLE TRUST, as Settlor and Trustee appointed his surviving spouse, Darlene Helen Ondrejko, as Successor Trustee. Notice is hereby given to all persons indebted to said Trust to make immediate payment. To those having claims against the Trust are hereby notified to present them, duly authenticated for settlement to:

Successor Trustee:
 Darlene Helen Ondrejko
 921 McClintock Avenue
 Belle Vernon, PA 15012

Counsel:
 Mark J. Shire, Esquire
 SHIRE LAW FIRM
 1711 Grand Boulevard
 Park Centre
 Monessen, PA 15062

NOTICE

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA CML
ACTION - LAW
ACTION IN QUIET TITLE
NO. 864 OF 2021, G.D.
JUDGE NANCY D. VERNON

BERNADETTE REAGAN and RONALD A.
MARTINI,

Plaintiffs,

v.

REID M. SWIFT, SR., and SUZANNA C.
SWIFT, his wife; ROBERT J. SWIFT;
EARL S. SWIFT; DA YID SWIFT;
FRANCIS SWIFT; GEORGE W. SWIFT; and
REID M. SWIFT, JR., also known
as REID M. SWIFT, their heirs,
personal representatives and assigns,
generally,

Defendants.

TO THE SAID DEFENDANTS, their heirs,
successors and assigns, generally,

You are hereby notified that the Plaintiffs, Bernadette Reagan and Ronald A. Martini, have acquired by Executor's Deed dated October 9, 2015, all of the right, title and interest that they have in the parcel of property set for in their Complaint, situate in Redstone Township, Fayette County, Pennsylvania, as Parcel Number 03-08- 0017, from the Estate of Frances Martini. It is further alleged that the Plaintiffs, Bernadette Reagan and Ronald A. Martini, have been in exclusive, adverse, opened and notorious possession of the said parcel of property continuously for a period in time of excess of 21 years. It is therefore alleged in the said Complaint that the Defendants, their heirs, successors, administrators and assigns and any and all persons claiming under them have relinquished any and all interest that they have in the aforesaid parcel of property and that they be forever barred from asserting any rights or interest in the said property.

It is alleged in the said Complaint that the Defendants have no claim or interest in the aforesaid property.

The service of this Complaint by publication is made pursuant to an Order of Court dated May 24, 2021, and filed at the above number and term.

NOTICE

You have been sued in court. If you wish to

defend against the claims 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 be entered against you by the court without further notice for 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 PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. 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.

PENNSYLVANIA LAWYER
REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
PO BOX 186
HARRISBURG PA 17108
(800) 692-7375

By: Anthony S. Dedola, Jr., Esquire
51 East South Street
Uniontown PA 15401
(724) 438-1555

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN
518 Madison Drive
Smithfield, PA 15478
724-322-6529
johnfranciswarman@gmail.com

COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE

A DECADE OF EXPERIENCE E&O INSURED WILL TRAVEL ACCEPTING NEW CLIENTS

LUNCH & LEARN SERIES

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

- Date: **Wednesday, June 16th** from 12:00 p.m. to 1:30 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: **ODC Practice and Procedure and Rule 8.4(g)**
- Presenters: Thomas A. Farrell, Chief Disciplinary Counsel, Disciplinary Board of the Supreme Court of Pennsylvania, and Anne N. John, Esquire

CLE Credit

1.5 hours of Ethics 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, 2016

- No charge for attendance with CLE Credit

Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

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

A light lunch will be provided.

****While same day registrants are welcome, lunch will be served first to those who register in advance of the program day due to the difficulty in estimating the number of walk-ins.****

RSVP

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

JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
	:	
v.	:	
	:	
JANET MARIE SHAW,	:	No. 334 of 2020
Defendant.	:	Honorable Judge Steve P. Leskinen

OPINION AND ORDER

Leskinen, J.

December 9, 2020

Before the Court is the Defendant's Omnibus Pretrial Motion. After careful review of the evidence and applicable law, the Court hereby grants the Motion.

Factual Background

The Commonwealth avers that the Defendant sold crack cocaine out of her car during a controlled buy to a confidential informant and witnessed by an undercover Pennsylvania State Trooper. The Defendant argues that it is a case of mistaken identity.

The undercover State Trooper testified at the Omnibus Pretrial Hearing that on August 28th, 2019, he met with the confidential informant to arrange the purchase of crack cocaine from the Defendant; that he verified the Defendant's identity using a picture on a computer screen; that at approximately 9:00pm, he and his confidential informant drove to a parking lot in the vicinity of the intersection of W. Fayette St. and S. Mt. Vernon Ave; that they observed the Defendant sitting in the driver's seat of her vehicle; that they observed two other women in the vehicle; that the undercover State Trooper parked his vehicle next to the Defendant's vehicle; that the confidential informant exited the undercover State Trooper's vehicle and walked to the driver's side window of the Defendant's vehicle; that the confidential informant purchased crack cocaine from the Defendant; that the confidential informant then got back into the undercover State Trooper's vehicle; and that the undercover State Trooper and the confidential informant drove away. The undercover State Trooper testified that other State Troopers witnessed the controlled buy from further away.

The Defendant was taken into custody by a different State Trooper during an unrelated traffic stop approximately one hour later. The undercover State Trooper testified that he believed that disclosure of the confidential informant's identity would put the confidential informant in danger.

The Defendant argues that it is a case of mistaken identity and requests that this

Court direct the Commonwealth to reveal the identity of the confidential informant as "any such confidential informant is an eyewitness to the alleged criminal conduct and/or to your petitioner being involved in the same and, it is reasonably anticipated, will exonerate your petitioner as having been involved in the claimed offenses." The Defendant adds that "the alleged informant was the only person in physical contact with the person alleged to have conducted the drug transaction... "

Legal Standard

Pa.R.Crim.P. Rule 573(B) states:

(2) Discretionary With the Court.

(a) In all court cases, except as otherwise provided in Rules 230 (Disclosure of Testimony Before Investigating Grand Jury) and 556.10 (Secrecy; Disclosure), if the defendant files a motion for pretrial discovery, the court may order the Commonwealth to allow the defendant's attorney to inspect and copy or photograph any of the following requested items, upon a showing that they are material to the preparation of the defense, and that the request is reasonable:

(i) the names and addresses of eyewitnesses;

In *Com. v. Carter*, the Pennsylvania Supreme Court formally adopted the standard delineated in *Roviaro v. U.S.* concerning the circumstances under which the identity of a confidential informant should be disclosed to a criminal defendant:

Where the disclosure of an informer's identity, or of the contents of his communication, is relevant and helpful to the defense of an accused, or is essential to a fair determination of a cause, the privilege must give way. In these situations the trial court may require disclosure and, if the Government withholds the information, dismiss the action... We believe that no fixed rule with respect to disclosure is justifiable. The problem is one that calls for balancing the public interest in protecting the flow of information against the individuals right to prepare his defense. Whether a proper balance renders nondisclosure erroneous must depend on the particular circumstances of each case, taking into consideration the crime charged, the possible defenses, the possible significance of the informer's testimony, and other relevant factors.

Com. v. Carter, 233 A.2d 284,287 (1967) quoting *Roviaro v. United States*, 353 U.S. 53, 62 (1957).

The Pennsylvania Supreme Court recently provided greater clarity regarding the circumstances under which the identity of a confidential informant should be disclosed to a criminal defendant:

The Commonwealth enjoys a qualified privilege to withhold the identity of a confidential source. *Com. v. Bing*, supra at 58; *Com. v. Roebuck*, 545 Pa. 471, 681 A.2d 1279, 1283 n. 6 (1996). In order to overcome this qualified privilege and obtain disclosure of a confidential informant's identity, a defendant must -first establish, pursuant to Rule 573(8)(2)(a)(i), that the information sought is material to the preparation of the defense and that the request is reasonable. *Roebuck*, supra at

1283. Only after the defendant shows that the identity of the confidential informant is material to the defense is the trial court required to exercise its discretion to determine whether the information should be revealed by balancing relevant factors, which are initially weighted toward the Commonwealth. *Bing*, supra at 58; *Com v. Herron*, 475 Pa. 461, 380 A.2d 1228 (1977).

Com. v. Marsh, 997 A.2d 318, 321 (2010).

To prove the information sought is material, the defendant must lay an evidentiary basis or foundation that the confidential informant possesses relevant information that will materially aid the defendant in presenting his or her defense and that the information is not obtainable from another source. *Com. v. Hritz*, 663A.2d 775, 780 (1995). The balance is initially weighted toward the Commonwealth, which holds a qualified privilege to maintain an informant's confidentiality to preserve the public's interest in effective law enforcement. *Com. v. Bing*, 713 A.2d 56, 58 (1998). "However, the balance tips in favor of disclosure where guilt is found solely on police testimony from a single observation and testimony from a disinterested source, such as the informant, is available." *Id.* (citing *Carter* at 287). It is a reasonably specific type of danger which justifies keeping an informant's identity confidential. *Id.* at 60.

Conclusions of Law

The undercover State Trooper was cross-examined at the Omnibus Pretrial Hearing and testified that he did not leave his vehicle. He was, therefore, observing an individual who was sitting inside a parked car from the inside of another parked car, at night. The undercover State Trooper also testified under cross examination that the confidential informant was, indeed, the only person who physically approached and made contact with the driver of the vehicle. The undercover State Trooper further testified that although other State Troopers witnessed the controlled buy, they were even further away than he was. This Court finds that the Defendant has thus established an evidentiary basis that the confidential informant possesses relevant information that will materially aid the Defendant in presenting her defense and that the information is not obtainable from another source: the controlled buy took place at night; only the confidential informant made close, physical contact with the individual; the individual never left her vehicle; the undercover State Trooper never left his vehicle; the only other State Troopers who witnessed the buy were further away; the Defendant was arrested approximately one hour later in a different location; and the State Trooper who arrested the Defendant was not the undercover State Trooper who arranged the controlled buy. The Commonwealth can provide no eyewitness who can satisfactorily provide a positive identification of the individual, other than the confidential informant. The Court therefore finds that the Defendant has shown that the confidential informant's testimony concerning the identity of the individual is material to her defense.

The Court now turns to the question of whether the Defendant's request is reasonable. The Court finds that it is. The Defendant was charged with two counts of Manufacture, Delivery, or Possession With Intent to Manufacture or Deliver, one count of Int Poss Contr Subst By Per Not Reg, and one count of Use/Poss Of Drug Paraph. The Defendant argues that she was not the individual who sold the crack cocaine to the confidential informant on the night of August 28th, 2019. The confidential informant's testi-

mony would be abundantly relevant in this case, since the confidential informant is the only person who could satisfactorily provide a positive identification of the individual who sold the crack cocaine. Moreover, the arrest in this case did not take place during the controlled buy, as it did in *Com. v. Marsh*, but approximately one hour later, in a different location, by a different State Trooper. The undercover State Trooper testified to only one alleged transaction with the Defendant, stated that he verified the Defendant's identity using only a single picture appearing on a computer screen, and provided no other witness to corroborate the seller's identity. Furthermore, the Court finds that the Commonwealth has failed to meet its burden, as outlined by the Pennsylvania Supreme Court in *Com. v. Bing*, of establishing a reasonably specific type of danger which justifies keeping the informant's identity confidential. Under these circumstances, the above-cited case law requires that the confidential informant's identity be disclosed before the evidence in the case is closed. For the disclosure to be meaningful, it must be made in good faith and allow the Defendant adequate time to investigate the current whereabouts of the informant so that he or she can be subpoenaed or so that the prosecution can produce the informant at the time of trial for questioning. The Defendant must also have reasonable access to the informant's criminal history in order to allow for impeachment.

WHEREFORE, the Court issues the following Order:

ORDER

AND NOW, this 9th day of December, 2020, upon consideration of the Defendant's Omnibus Pretrial Motion, it is hereby ORDERED and DIRECTED that it is GRANTED. The Commonwealth is ORDERED to provide the name and address of the confidential informant to Defense Counsel forthwith, together with the informant's current criminal history and other required impeachment material or, in lieu thereof, to subpoena and produce the informant and the aforesaid impeachment material at the time of trial.

BY THE COURT:
STEVE. P. LESKINEN, JUDGE

ATTEST:
Clerk of Courts

*Quality... Experience... Results...
It's what your clients deserve.*

Medical Malpractice • Auto Accidents • Personal Injury



GISMONDI

& ASSOCIATES

412-281-2200

www.gislaw.com

700 Grant Bldg., 310 Grant St., Pgh., PA 15219