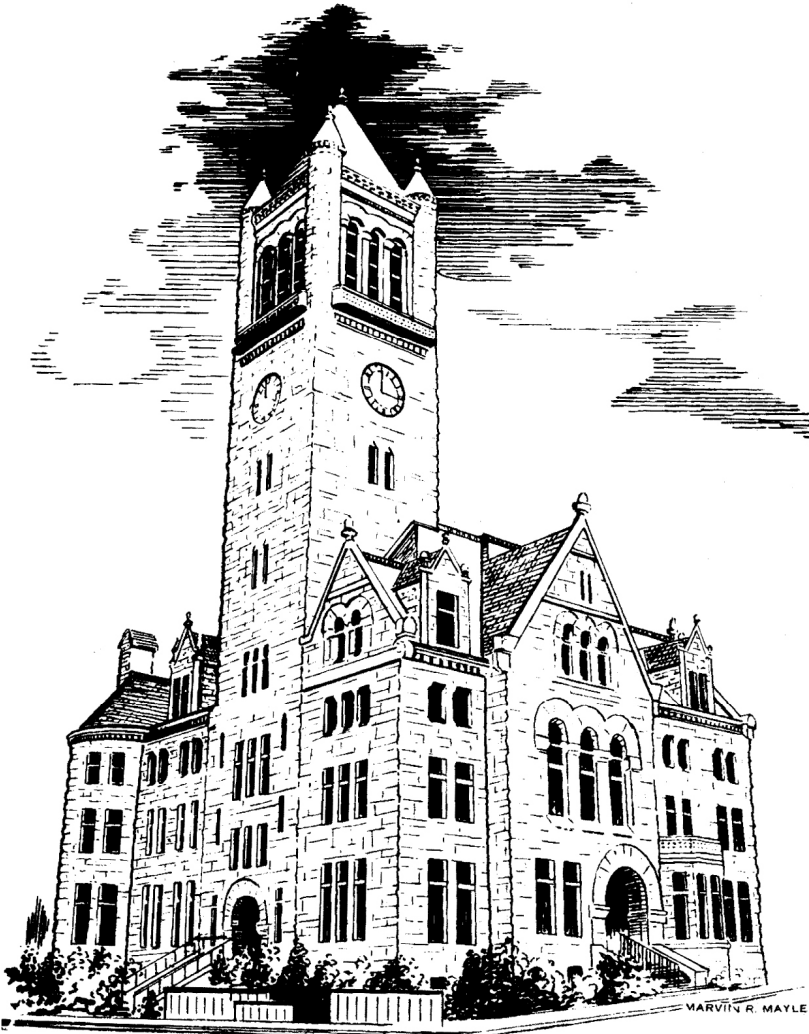


# FAYETTE LEGAL JOURNAL

VOL. 79

FEBRUARY 6, 2016

NO. 6



## FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 2 West Main Street, Suite 711, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at [www.fcbar.org](http://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. Crossland and Melinda Deal Dellarose

**Associate Editor:** Emilie J. Cupp

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

## FAYETTE COUNTY BAR ASSOCIATION Board of Directors

**President:** Anne N. John

**Vice-President:**

**President Elect:** John M. Purcell

**Secretary:** Bernard C. John

**Treasurer:** Vincent J. Roskovensky, II

**Past President:** Ewing D. Newcomer

**Executive Director:** Marianne Miele

### *Directors*

Gary N. Altman

Joseph I. Brodak

Davina D. Burd

Melinda D. Dellarose

Robert R. Harper, Jr.

James Higinbotham, Jr.

Carolyn W. Maricondi

William M. Martin

Wendy L. O'Brien

Ellen R. Terry

## 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

**LAWRENCE ANDREW DOWLING**, late of South Union Township, Fayette County, PA (3)

*Administrator:* Terry Dowling  
c/o Monaghan & Monaghan  
57 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary D. Monaghan

**BARBARA E. HANKINS, A/K/A BARBARA EDITH HANKINS**, late of Wharton Township, Fayette County, PA (3)

*Executor:* Alfred E. Dubois, Jr.  
c/o Webster & Webster  
51 East South Street  
Uniontown, PA 15401

**TERRY LEE HENRY, SR., A/K/A TERRY L. HENRY, SR, A/K/A TERRY HENRY**, late of Perry Township, Fayette County, PA (3)

*Personal Representative:* Merle Henry  
c/o Davis & Davis  
107 East Main Street  
*Attorney:* Gary J. Frankhouser

**ANDREW M. MESICH**, late of German Township, Fayette County, PA (3)

*Executrix:* Lisa Mesich  
c/o Monaghan & Monaghan  
57 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary D. Monaghan

**JOHN SCHROYER, A/K/A JOHN V. SCHROYER**, late of Dunbar Township, Fayette County, PA (3)

*Executor:* John A. Schroyer

c/o 213 Deerfield Drive  
Connellsville, PA 15425  
*Attorney:* John K. Greiner

### Second Publication

**IRENE COWAN**, late of Jefferson Township, Fayette County, PA (2)

*Co-Executors:* George R. Cowan and  
Patricia I. Pavtis  
85 Happy Valley Road  
Perryopolis, PA 15473  
*Attorney:* Mark E. Ramsier  
823 Broad Avenue  
Belle Vernon, PA 15012

**DAVID SCOTT DALESSIO**, late of Dunbar Township, Fayette County, PA (2)

*Personal Representative:* Louis E. DaLessio  
c/o Watson Mundorff Brooks & Sepic, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Charles W. Watson

**MAY MARLENE HARTMAN**, late of South Union Township, Fayette County, PA (2)

*Personal Representative:*  
Charles Edward Hartman, Jr.  
c/o John A. Kopas III  
556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John A. Kopas III

**ALEXANDER DAVID MERKOSKY**, late of Uniontown, Fayette County, PA (2)

*Executor:* Taylor Merkosky  
c/o Proden & O'Brien  
99 East Main Street  
Uniontown, PA 15401  
*Attorney:* Wendy L. O'Brien

**JOEL K. WHITE**, late of Saltlick Township, Fayette County, PA (2)

*Personal Representative:* Jill E. White  
c/o Watson Mundorff Brooks & Sepic, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Charles W. Watson

---

**JESSIE D. ZITNEY**, late of Connellsville Township, Fayette County, PA (2)  
*Executor:* Mark B. Zitney  
 c/o Shane M. Gannon  
 1251 University Drive  
 Dunbar, PA 15431  
*Attorney:* Shane M. Gannon

### First Publication

**MARGARET M. BROWN, A/K/A MARGARET BROWN**, late of Bullskin Township, Fayette County, PA (1)  
*Executrix:* Stephanie Emert  
 c/o 9 Court Street  
 Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

**MADELYN ANN CRICK, A/K/A MADELYN A. CRICK, A/K/A MADELYN CRICK**, late of German Township, Fayette County, PA (1)  
*Executor:* Nancy Ferranti  
 c/o 9 Court Street  
 Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

**PETER DONAVICH**, late of Franklin Township, Fayette County, PA (1)  
*Executor:* Richard A. Donavich  
 c/o 18 Mill Street Square  
 PO Box 2123  
 Uniontown, PA 15401  
*Attorney:* Daniel R. White

**LOIS JOHNSON**, late of Upper Tyrone Township, Fayette County, PA (1)  
*Executrix:* Lori Ann Sutor  
 505 South Chestnut Street  
 Scottdale, PA 15683  
*Attorney:* David G. Petonic  
 314 C Porter Avenue  
 Scottdale, PA 15683

**BRIDGET H. WOOTEN**, late of Uniontown, Fayette County, PA (1)  
*Personal Representative:* Patricia A. Snyder  
 c/o George, Port & George  
 92 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Joseph M. George, Sr.

**MARGARET C. ZAHRADNIK**, late of Uniontown, Fayette County, PA (1)  
*Executrix:* Elizabeth M. Zahradnik  
 933 Logan Road  
 Bethel Park, PA 15102  
 c/o 2700 South Park Road  
 Bethel Park, PA 15102  
*Attorney:* Carol L. Hanna

### LEGAL NOTICES

**MARSHAL'S SALE:** By virtue of a Writ of Execution issued out of the United States District Court for the Western District of Pennsylvania and to me directed, I shall expose to public sale the real property located at 577 Liberty Street, Perryopolis, PA 15473 being more fully described at Fayette County Record Book Volume 2626, Page 151.

SAID SALE to be held in the hallway outside of the Fayette County Sheriff's Office at the Fayette County Courthouse, Uniontown, PA 15401 at 10:00 a.m. prevailing, standard time, on February 19, 2016.

All that certain tract of land, together with the buildings, and improvements erected thereon described as Tax Map No. 28-08-0159 recorded in Fayette County, Pennsylvania. Seized and taken in execution as the property of Jennifer I. Balchick, at the suit of the United States of America, acting through the Rural Housing Service, on behalf of the United States Department of Agriculture, to be sold on Writ of Execution as Civil Action No. 2:14-cv-1656.

TERMS OF SALE: Successful bidder will pay ten percent (10%) by certified check or money order upon the property being struck down to such bidder, and the remainder of the bid within thirty (30) days from the date of the sale and in the event the bidder cannot pay the remainder, the property will be resold and all monies paid in at the original sale will be applied to any deficiency in the price at which

the property is resold. The successful bidder must send payment of the balance of the bid directly to the U.S. Marshal's Office c/o Sheila Blessing, 700 Grant Street, Suite 2360, Pittsburgh, PA 15219. Bidder must have deposit funds immediately available and on his person in order to bid, bidder will not be permitted to leave the sale and return with deposit funds. Notice is hereby given that a Schedule of Distribution will be filed by me on the thirtieth day after the date of sale, and that distribution will be made in accordance with the Schedule unless exemptions are filed thereto within ten (10) days thereafter. Purchaser must furnish State Realty Transfer Tax Stamps, and stamps required by the local taxing authority. Marshal's costs, fees and commissions are to be borne by seller. Steve Frank, United States Marshal. For additional information, please contact Cathy Diederich at 314-457-5514 or the USDA foreclosure website at [www.resales.usda.gov](http://www.resales.usda.gov). (3 of 4)

---

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
NO. 2191 of 2015 G.D.

**COMPLAINT IN MORTGAGE  
FORECLOSURE**

**First Federal Savings & Loan Association of  
Greene County, a corporation,  
Plaintiff,**

**v.**

**All Known and Unknown Heirs, Successors  
and Assigns, and all Persons, Firms Or  
Associations Claiming any Right, title or  
interest of, from or under, CORA LEE  
KEMP, Deceased; Gail Peterson, James  
Kemp, Joyce Kemp, Robin Kemp and  
Michael Kemp, in their capacity as heirs In  
the Estate of CORA LEE KEMP Deceased,  
and ESTATE OF CORA LEE KEMP,  
Deceased,**

**Defendants.**

TO: ALL KNOWN AND UNKNOWN  
HEIRS, SUCCESSORS AND ASSIGNS, and  
ALL PERSONS, FIRMS or ASSOCIATIONS  
CLAIMING ANY RIGHT, TITLE OR  
INTEREST FROM OR UNDER CORA LEE  
KEMP, DECEASED; GAIL PETERSON,

**JAMES KEMP, JOYCE KEMP, ROBIN KEMP  
AND MICHAEL KEMP IN THEIR  
CAPACITY AS HEIRS IN THE ESTATE OF  
CORA LEE KEMP, DECEASED, AND  
ESTATE OF CORA LEE KEMP, DECEASED**

You have been named as a Defendant in a civil action instituted by First Federal Savings & Loan Association of Greene County, a corporation, against you in this Court. This mortgage foreclosure action has been instituted to foreclose upon property located at 934 Third Street, New Salem, PA 15468, Tax Map No. 22-13-0165, and proceed to Sheriff's Sale for failure to make payments under the terms of a mortgage contract.

**NOTICE**

You have been sued in court. 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.**

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
100 South Street  
P.O. Box 186  
Harrisburg, PA 17108  
1-800-692-7375

Anne N. John, Esquire  
Attorney for Plaintiff  
PA ID Number 38961  
96 East Main Street  
Uniontown, PA 15401  
(724) 438-8560

---

**NOTICE**

NOTICE IS HEREBY GIVEN that all Bullskin Twp/Connellsville Twp Joint Sewer Authority Board Meetings will be held on the first Wednesday of each month at 6:30 pm during the 2016 year at 2801 Memorial Blvd., 2nd Floor, Connellsville, PA.

---

**NOTICE**

PECK LAW OFFICES PC has been incorporated under the provisions of Chapter 29 of the Business Corporation law of 1988 as a Professional Corporation.

Peck Law Offices PC  
111 East Main Street  
Peck Law Building  
Uniontown, PA 15401

---

IN THE COURT OF COMMON PLEAS  
FAYETTE COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

NO . 42 ADOPT 2015 and  
NO . 41 ADOPT 2015

**IN RE: ADOPTION OF FAITH PRINKEY  
and DANIEL OHLER**

**NOTICE**

**TO: Amanda Ohler**

Petitions have been filed asking the Court to put an end to all rights you have to your children, Faith Prinkey and Daniel Ohler. The court has set a hearing to consider ending your rights to your children. That hearing will be held in Courtroom No. 4 of the Fayette County Courthouse, Uniontown, Fayette County, Pennsylvania, on Monday, February 22, 2016, at 1:30 PM. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your children may be ended by the court without your being there.

YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. 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 BAR ASSOCIATION  
100 SOUTH STREET  
PO BOX 186  
HARRISBURG PA 17108  
(800) 932-0313

---



## JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY,  
PENNSYLVANIA  
CIVIL ACTION

|                               |   |                             |
|-------------------------------|---|-----------------------------|
| COMMONWEALTH OF PENNSYLVANIA, | : |                             |
| DEPARTMENT OF TRANSPORTATION  | : |                             |
| BUREAU OF DRIVER LICENSING,   | : |                             |
| Appellee,                     | : |                             |
| v.                            | : |                             |
| CANDIE JO EVANS,              | : | NO 1495 OF 2015, G.D.       |
| Appellant.                    | : | JUDGE JOSEPH M. GEORGE, JR. |

ATTORNEYS AND LAW FIRMS:

*Andrew M. Rapach, Esquire*, Assistant Counsel, For the Commonwealth

*Jack W. Connor, Esquire*, For the Appellant

OPINION AND ORDER

GEORGE, J.

January 4, 2016

This matter comes before the Court on an appeal of a license suspension of Appellant, Candie Jo Evans, by the Commonwealth of Pennsylvania, Department of Transportation (hereinafter “DOT”). A hearing was held on December 16, 2015. Upon review, we will DENY the appeal.

On June 20, 2015, Pennsylvania State Police Trooper Adam Dancho was dispatched to a disabled vehicle on a public highway on Dry Knob Road in Georges Township, Fayette County, Pennsylvania. Once he arrived on scene, Trooper Dancho approached the vehicle and observed Appellant in the driver’s seat holding a part of the key fob while the other part was broken off and stuck in the ignition. Appellant told Trooper Dancho that she was not driving. She appeared distraught and had a strong odor of alcohol, slurred speech, and bloodshot eyes. The vehicle was registered to the Appellant and she was the only occupant at the time.

On the directive of Trooper Dancho, Appellant stepped out of the vehicle. She was asked to perform several field sobriety tests; however, she refused. Appellant was also asked to take a portable breath test. Again Appellant refused. At that time, Appellant was placed under arrest for the suspicion of driving under the influence of alcohol.

Appellant was transported to Uniontown Hospital for chemical testing. Once they arrived at Uniontown Hospital, Trooper Dancho read verbatim to Appellant the



chemical testing warnings pursuant to the DL-26 form. Subsequent to reading the DL-26 form to Appellant, Trooper Dancho asked to draw her blood to which Appellant refused.

In order to sustain Appellant's suspension, DOT has the burden to prove the following elements: (1) Whether the officer had reasonable grounds to believe that Appellant was in operation or actual physical control of the movement of the motor vehicle while under the influence of alcohol or a controlled substance; (2) Whether Appellant was asked to submit to a chemical test; (3) Whether Appellant refused the chemical test; and (4) Whether Appellant was informed of the consequences of refusing a chemical test. *Duffy v. Com., Dept. of Transp., Bureau of Driver Licensing*, 694 A.2d 6 (Pa. Cmwlth. 1997). Sufficient credible evidence provided by DOT through Trooper Dancho's testimony and Commonwealth's Exhibit 1 establishes that Trooper Dancho requested Appellant submit to a blood test, Appellant was warned of the consequences of a refusal, and that Appellant in fact refused. Therefore, DOT met its burden of proof concerning elements two, three, and four.

The remaining issue is whether DOT sustained its burden with respect to the first element. "Reasonable grounds exist when a person in the position of the police officer, viewing the facts and circumstances as they appeared at the time, could have concluded that the motorist was operating the vehicle while under the influence of intoxicating liquor." *Riley v. Com., Dept. of Transp., Bureau of Driver Licensing*, 946 A.2d 1115, 1120 (Pa. Cmwlth. 2008). Under this standard, the court must look at the totality of the circumstances in determining whether the evidence indicates the motorist was driving the vehicle at some point prior to the arrival of police. *Id.* Finally, a license suspension case is a civil matter and the reasonable grounds standard is less rigorous than the probable cause standard required to substantiate an arrest in a criminal prosecution. *Banner v. Com., Dept. of Transp., Bureau of Driver Licensing*, 558 Pa. 439, 446 (1999).

In the instant case, Trooper Dancho had reasonable grounds to believe that the Appellant was operating a vehicle while under the influence of alcohol. The information available to Trooper Dancho prior to requesting a chemical test included:

1. A Jeep Grand Cherokee stopped on the roadway on Dry Knob Hill Road;
2. Appellant sitting in the driver's seat of the car;
3. The car was registered to Appellant;
4. Appellant had part of the car key in her hand and part was broken off in the ignition;
5. Appellant showed signs of intoxication, including a strong odor of alcohol, slurred speech, and bloodshot eyes; and
6. No other persons were present at the scene once Trooper Dancho arrived.

Appellant offered the testimony of a witness present at a bar earlier in the evening and her own testimony. Appellant stated that prior to the trooper's arrival there were two other persons with her, including her boyfriend who was driving the car. However, under the reasonable grounds standard, it is immaterial whether an alternative reasonable explanation exists and even further, it is not necessary for the officer to be correct in his belief. *Gammer v. Com., Dept. of Transp., Bureau of Driver Licensing*, 995 A.2d 380, 384 (Pa. Cmwlth. 2010). It is only required that the officer's belief be a reasonable one. Therefore, based on the foregoing, it was reasonable for Trooper Dancho to believe Appellant was operating the vehicle while under the influence of alcohol.

Wherefore, we will enter the following Order:

AND NOW, this 4th day of January, 2016, upon consideration of Appellant's License Suspension Appeal, after hearing thereon, and in accordance with the foregoing Opinion, it is hereby ORDERED that Appellant's License Suspension Appeal is DENIED and the action of the Department is REINSTATED.

BY THE COURT:  
JOSEPH M. GEORGE, JR., JUDGE

ATTEST:  
PROTHONOTARY



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

***Medical Malpractice • Auto Accidents • Personal Injury***



**GISMONDI**  
& ASSOCIATES

**412-281-2200**

**[www.gislaw.com](http://www.gislaw.com)**

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