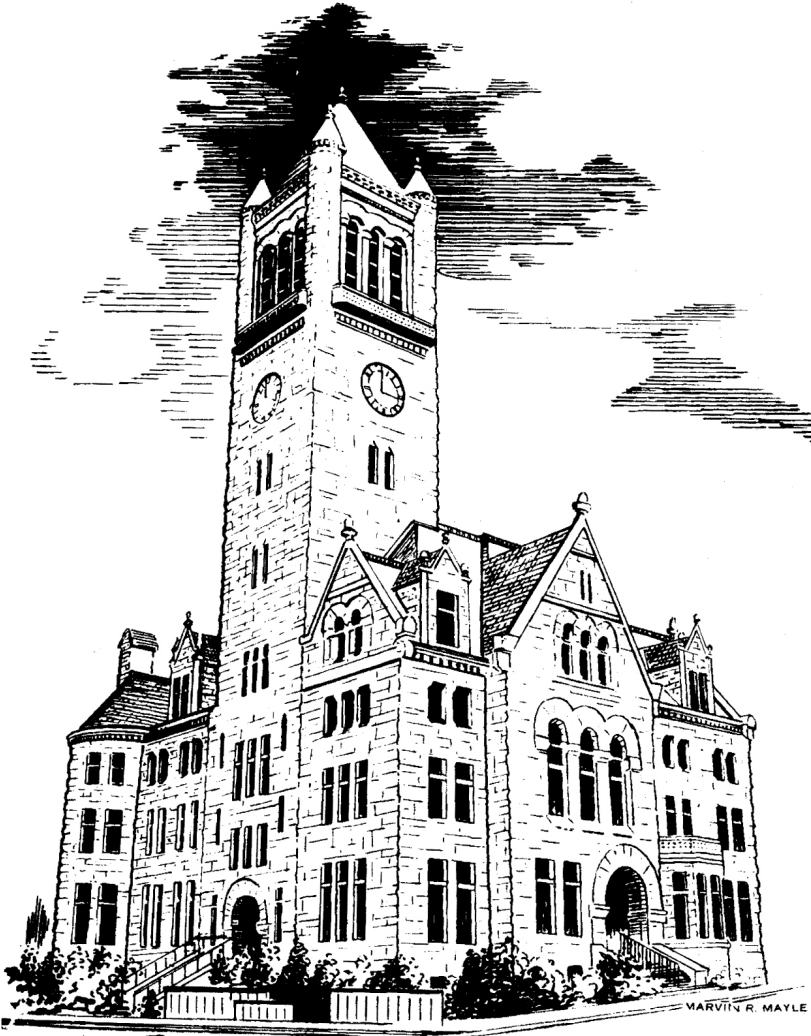


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ESTATE NOTICES

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

JEAN DUALL, A/K/A JEAN S. DUALL, late of Springfield Township, Fayette County, PA (3)

Personal Representative:

James E. Higinbotham, Jr.

45 East Main Street, Suite 500
Uniontown, PA 15401

Attorney: James E. Higinbotham, Jr.

DANIEL L. EVANS, A/K/A DANIEL EVANS, late of North Union Township, Fayette County, PA (3)

Personal Representative:

Kathryn A. Rabatin

c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401

Attorney: Gary J. Frankhouser

Second Publication

RANDY S. BURRELL, late of Bullskin Township, Fayette County, PA (2)

Executor: Paul D. Burrell

192 Lakeview Drive
Acme, PA 15610
c/o King & Guiddy, LLC
114 North Maple Avenue
Greensburg, PA 15601

Attorney: Robert W. King

EARL D. HALL, JR., late of Mount Pleasant, Fayette County, PA (2)

Administrator: Adam K. Hall

c/o Marvin D. Snyder, Esq.
17 North Diamond Street
Mt. Pleasant, PA 15666

Attorney: Marvin D. Snyder

ANN MARIE GRUESER, late of Uniontown, Fayette County, PA (2)

Personal Representative: St. Mary's Convent

17 Gilmore Street
Uniontown, PA 15401
c/o 815A Memorial Boulevard
Connellsville, PA 15425

Attorney: Margaret Z. House

JOHN ALLEN JEWELL, A/K/A JOHN A. JEWELL, late of South Union Township, Fayette County, PA (2)

Executrix: Mary Elizabeth Jewell Cruikshank

c/o 51 East South Street
Uniontown, PA 15401

Attorney: Webster & Webster

DANNY MITCHELL, A/K/A DANNY L. MITCHELL, late of North Union Township, Fayette County, PA (2)

Administratrix: Lois Frazee

c/o 55 East Church Street, Suite 101
Uniontown, PA 15401

Attorney: Jason F. Adams

DOLORES RHODES, A/K/A DOLORES J. RHODES, late of Uniontown, Fayette County, PA (2)

Executor: Leroy L. Sterling

c/o 45 East Main Street, Suite 500
Uniontown, PA 15401

Attorney: James E. Higinbotham, Jr.

BARBARA VARGO, late of Perryopolis, Fayette County, PA (2)

Administratrix: Lori Wherry

c/o 4 North Beeson Boulevard
Uniontown, PA 15401

Attorney: Sheryl A. Heid

First Publication

SCOTT CASTERWILER, A/K/A SCOTT WILLIAM CASTERWILER, late of Dunbar Township, Fayette County, PA (1)

Executrix: Kerri Ann Casterwiler
c/o 45 East Main Street, Suite 500
Uniontown, PA 15401

Attorney: James E. Higinbotham, Jr.

LEGAL NOTICES

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

NO. 2376 OF 2016 G.D.

JUDGE STEVE P. LESKINEN

TERRY L WATERS AND PATRICIA A. WATERS, HIS WIFE

Plaintiffs,
vs.

ELIZABETH A. WALTERS, Her Successors and/or Assigns Generally,
Defendant.

TO: ELIZABETH A. WALTERS, Her Successors and/or Assigns Generally,

Take notice that on November 30, 2016, the Plaintiffs, above mentioned, by and through their attorneys, Davis & Davis, filed their Complaint averring that they are the owner of the following described parcel of real estate. Said Complaint being filed in Quiet Title.

Situate on 223 Rices Landing Road, Fayette County, Pennsylvania. Fayette County Tax Assessment Map No. 19-24-0009.

5.14375 AC RI

Luzerne Township, Fayette County, Pennsylvania

Sold at Upset Sale on September 28, 2015

TOGETHER with such rights and SUBJECT to any exceptions, restrictions, reservations and conditions as exist by virtue of prior recorded instruments, deeds or conveyances.

BEING the same premises as contained in that deed from the Fayette County Tax Claim Bureau dated November 17, 2015, recorded in

the Office of the Recorder of Deeds of Fayette County, Pennsylvania in Record Book Volume 3293, page 2316.

The within named Defendant appeared to have an interest in said premises which creates a cloud upon Plaintiffs' title, whereupon the Plaintiffs have filed their Complaint as aforesaid asking the Court to enter a Decree terminating all rights that the Defendant may have in said premises and decree that they have the full and free use and occupancy of said premises, released and forever discharged on any right, lien title or interest of said Defendants herein.

The service of this Complaint by publication is made pursuant to an Order of Court dated December 12, 2016, 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 following pages. you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims 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.

THE FAYETTE COUNTY BAR ASSOCIATION OF LAWYER REFERRAL
84 East Main Street
Uniontown, PA 15401

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.	:
	:
MICHAEL JAKUBOVIC,	: NO. 1909 OF 2016, G.D.
Appellant.	: JUDGE JOSEPH M. GEORGE, JR.

ATTORNEYS AND LAW FIRMS
Tamara J. Mahady, Esquire, Assistant Counsel, For the Commonwealth
Andrew O. Stiffler, Esquire, For the Appellant

OPINION AND ORDER

GEORGE, J. December 13, 2016

Appellant, Michael Jakubovic, appeals the suspension of his license by the Commonwealth of Pennsylvania, Department of Transportation (hereinafter “DOT”). Appellant presents two issues: (1) Whether Appellant was properly informed of the consequences of refusing a chemical test; and (2) Whether Pennsylvania’s implied consent law violates Appellant’s constitutional rights. After carefully considering these issues, this Court will DENY Appellant’s appeal.

On August 13, 2016, Trooper Trey Parsley of the Pennsylvania State Police was on routine patrol when he observed a vehicle driven by Appellant swerve over the solid double yellow line, almost striking the trooper’s patrol car. Trooper Parsley initiated a traffic stop and made contact with Appellant through the open driver side window. Trooper Parsley detected a strong odor of alcohol emanating from the vehicle and noticed Appellant had glassy eyes. Appellant performed three field sobriety tests, in which Trooper Parsley concluded Appellant was driving impaired.

Subsequently, Appellant was placed under arrest and transported to Connellsville Hospital. Trooper Parsley requested Appellant submit to a chemical test of blood. Trooper Parsley testified that he read Appellant the DL-26 form verbatim, including the consequences of refusing a blood test, and that Appellant refused, although he signed on the wrong signature line on the form. See Commonwealth’s Exhibit 1. As a result of his refusal, DOT suspended Appellant’s operating privileges for a year. Appellant testi-

fied at the hearing that to the best of his recollection, Trooper Parsley did not plainly state that his driver's license would be suspended for one year.

In order to sustain Appellant's one year license suspension under Section 1547 of the Vehicle Code, DOT has the burden to prove the following elements: (1) the arresting 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) Appellant was asked to submit to a chemical test; (3) Appellant refused the chemical test; and (4) 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).

Appellant argues he was not properly informed of the consequences of refusing the chemical test, thereby effecting whether he actually refused a chemical test. Specifically, Appellant argues Trooper Parsley informed him that his driver's license could be suspended for refusing to submit to a chemical test, rather than informing Appellant his license would be suspended for a refusal. On the other hand, DOT argues that Trooper Parsley read the DL-26 form verbatim to Appellant and therefore properly informed him of the consequences of refusing a chemical test. We agree with DOT.

In order to meet the burden that an individual was informed of the consequences of refusing a chemical test, DOT must prove that the arresting officer explicitly warned the individual that his driver's license will be revoked upon a refusal. *Thoman v. Com., Dept. of Transp., Bureau of Driver Licensing*, 965 A.2d 385, 388 (Pa. Cmwlth. 2009). Thus, a warning that an individual's driver's license could be suspended rather than would be suspended for refusing a chemical test "is inadequate to convey the standard of certainty of the suspension that is mandated by the statute." *Graves v. Commonwealth of Pennsylvania*, 535 A.2d 707, 708 (Pa. Cmwlth. 1988).

Instantly, DOT has provided sufficient evidence that Appellant was informed of the consequences of refusing the blood test. Trooper Parsley stated multiple times that he read the DL-26 form to Appellant. The form states "[i]f you refuse to submit to the chemical test, your operating privilege will be suspended for at least 12 months." Commonwealth's Exhibit 1. The Pennsylvania Commonwealth Court has held that reading the DL-26 form to a licensee adequately apprises him that his driver's license will be suspended in the case of a refusal. *Yourick v. Com., Dept. of Transp., Bureau of Driver Licensing*, 965 A.2d 341, 345 (Pa. Cmwlth. 2009). Since we find Trooper Parsley's testimony credible, DOT has proven that the arresting officer warned Appellant of the consequences of refusing a chemical test and that Appellant refused to submit to the chemical test of blood.

Appellant next asserts that the implied consent law in Pennsylvania is unconstitutional. Any individual who operates a vehicle in the Commonwealth of Pennsylvania is deemed to have given consent to a chemical test to determine the alcoholic content of blood. 75 Pa. C.S. § 1547(a). Our appellate courts have previously held that an individ-

ual's implied consent pursuant to Section 1547 satisfies the consent exception to the Fourth Amendment warrant requirement. See *Commonwealth v. Riedel*, 539 Pa. 172, 651 A.2d 135 (1994); *Commonwealth v. Seibert*, 799 A.2d 54 (Pa. Super. 2002); *Commonwealth v. McCoy*, 601 Pa. 540, 975 A.2d 586 (2009). Additionally, the United States Supreme Court decision in *Birchfield v. North Dakota*, 579 U.S. ____, 136 S.Ct. 2160 (2016), which held that the Fourth Amendment does not permit warrantless blood tests incident to arrest for drunk driving and that a licensee who does not consent to warrantless blood tests cannot face criminal penalties for their refusal, does not apply to civil sanctions, such as a license suspension. Therefore, we find Appellant's argument without merit.

Wherefore, we will enter the following Order:

ORDER

AND NOW, this 13th day of December, 2016, upon consideration of Appellant's License Suspension Appeal and after hearing thereon, and in accordance with the foregoing Opinion, it is hereby ORDERED that Appellant's License Suspension Appeal is DISMISSED and the action of the Department is REINSTATED.

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

ATTEST:
PROTHONOTARY

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