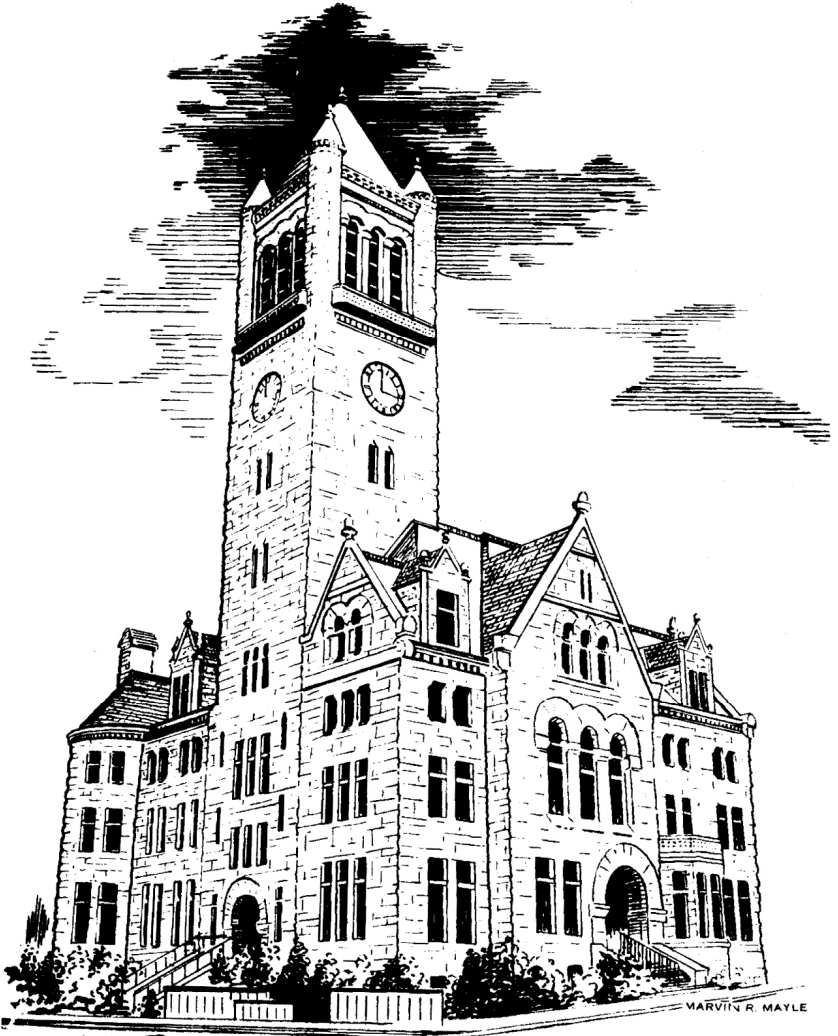


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ESTATE NOTICES

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

ANNA RUTH BERDYCH, late of Saltlick Township, Fayette County, PA ⁽³⁾

Personal Representative:

Carol Sullenberger
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425

Attorney: Richard Husband

MARY M. KLINK, late of North Union Township, Fayette County, PA ⁽³⁾

Executor: Eugene R. Klink, Jr.

c/o Webster & Webster
51 East South Street
Uniontown, PA 15401

Attorney: Webster & Webster

TIMOTHY A. MORRIS, late of Dunbar Township, Fayette County, PA ⁽³⁾

Personal Representative: Allen R. Morris

c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425

Attorney: Timothy J. Witt

ROGER LEE SMITH, a/k/a ROGER L. SMITH, a/k/a ROGER SMITH, late of Dunbar Township, Fayette County, PA ⁽³⁾

Executrix: Cynthia I. Smith

131 Franklin Drive
Greensburg, PA 15601
c/o 1004 Ligonier Street, 4th. Floor
Latrobe, PA 15650

Attorney: James J. Conte

MICHAEL SPEGAR, a/k/a MICHAEL J. SPEGAR, III, late of Uniontown, Fayette County, PA ⁽³⁾

Personal Representative:

Michael J. Spegar, IV
17 Duke Drive
Hopwood, PA 15445
c/o Julian Gray Associates
954 Greentree Road
Pittsburgh, PA 15220

Attorney: Matthew Kikta

Second Publication

KATHERINE D. ALEXANDER, a/k/a KATHERINE ALEXANDER, a/k/a KAY D. ALEXANDER, a/k/a KAY ALEXANDER, late of Hopwood, Fayette County, PA ⁽²⁾

Executrix: Mary Lou Resko

c/o John & John
96 East Main Street
Uniontown, PA 15401

Attorney: Anne N. John

CHARLES D. BIGAM, late of Springfield Township, Fayette County, PA ⁽²⁾

Personal Representative:

Christine Nicholson
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425

Attorney: Robert A. Gordon

ERIC J. FIKE, a/k/a ERIC JOHN FIKE, late of Connellsville, Fayette County, PA ⁽²⁾

Administratrix: Kristi M. Crocetti-Fike

c/o John & John
96 East Main Street
Uniontown, PA 15401

Attorney: Anne N. John

LAWRENCE M. DAVIS, SR., a/k/a LAWRENCE M. DAVIS, late of Perry Township, Fayette County, PA ⁽²⁾

Personal Representative: Lorraine Davis

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

Attorney: Jeremy J. Davis

PATRICIA L. MITCHELL, late of Franklin Township, Fayette County, PA (2)

Executrix: Eileen M. Radvansky
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

JAMES A. MOSER, a/k/a JAMES ARNOLD MOSER, late of Smithfield, Fayette County, PA

Administrator: Rod A. Moser (2)
c/o Radcliffe Law, LLC
628 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: Robert R. Harper, Jr.

CLARENCE F. ROBINSON, a/k/a CLARENCE FREDERICK ROBINSON, JR., late of Georges Township, Fayette County, PA (2)

Executor: Peter Robinson
c/o DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

PERRY G. SELLMAN, a/k/a PERRY GLENN SELLMAN, late of Perry Township, Fayette County, PA (2)

Personal Representatives:
Benjamin S. Moyer and Cheryl A. Moyer
77 Old Route 51 Road
Perryopolis, PA 15473
c/o 1202 West Main Street
Monongahela, PA 15063
Attorney: James W. Haines, Jr.

BONNIE K. SHIPLEY, late of Springfield Township, Fayette County, PA (2)

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

JANET ELLEN WALLACE, a/k/a JANET E. WALLACE, late of Dunbar Township, Fayette County, PA (2)

Executrix: Catherine Gwyer
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

First Publication

RONALD LEE BECK, a/k/a RONALD L. BECK, late of Brownsville, Fayette County, PA
Personal Representative: Marion Lucas (1)
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

JOHN W. CLARK, late of Connellsville, Fayette County, PA (1)

Executor: Simon B. John
c/o John & John
96 East Main Street
Uniontown, PA 15401
Attorney: Simon B. John

BONNIE R. CRAMER, late of Saltlick Township, Fayette County, PA (1)

Executrix: Cherie D. Cramer
c/o Molinaro Law Offices
P.O. Box 799
Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

MILDRED GIBSON, late of North Union Township, Fayette County, PA (1)

Administratrix: Ida Lynn Thomas and Pamela Jo Gibson
c/o 25 Birch Road
Uniontown, PA 15401

GEORGE L. HALLAL, late of Brownsville, Fayette County, PA (1)

Executor: F. Joseph Hallal
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

FRANCIS HARPER, a/k/a FRANCES MARIE HARPER, a/k/a FRANCES O. HARPER, a/k/a FRANCES M. OZANICH, a/k/a FRANCES OZANICH HARPER, late of Waltersburg, Fayette County, PA (1)

Administratrix: Lou Anne Demosky
c/o Meyer, Darragh, Buckler, Bebenek & Eck, PLLC
404 Sheffield Drive
Greensburg, PA 15601
Attorney: Lee Demosky

CHARLES MYERS, late of German Township, Fayette County, PA ⁽¹⁾
Executrix: Melinda J. Courie
 c/o 51 East South Street
 Uniontown, PA 15401
Attorney: Webster & Webster

MELVIN E. RAMAGE, a/k/a MELVIN E. RAMAGE, JR., late of Lemont Furnace, Fayette County, PA ⁽¹⁾
Personal Representative: Melanie Ramage
 c/o George & George
 92 East Main Street
 Uniontown, PA 15401
Attorney: Joseph M. George

LEGAL NOTICES

Longbridge Financial, LLC PLAINTIFF VS. Paul Zitney, known Heir of Paul Zitney, deceased and Michele Kenney, known Heir of Paul Zitney, deceased and Barbara Zitney, known Heir of Paul Zitney, deceased and Steve Zitney, known Heir of Paul Zitney, deceased and Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or under Paul Zitney, deceased DEFENDANTS COURT OF COMMON PLEAS CIVIL DIVISION FAYETTE COUNTY NO: 2022-01138 NOTICE OF SHERIFF'S SALE OF REAL PROPERTY TO: Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or under Paul Zitney, deceased 117 Zitney Road Vanderbilt, PA 15486 Your house (real estate) at: 117 Zitney Road, Vanderbilt, PA 15486 Parcel ID: 13140028 is scheduled to be sold at Sheriff's Sale at <https://fayette.pa.realforeclose.com> on March 16, 2023 at 2:00PM to enforce the court judgment of \$100,949.43 obtained by Longbridge Financial, LLC against you. NOTICE OF OWNER'S RIGHTS YOU MAY BE ABLE TO PREVENT THIS SHERIFF'S SALE To prevent this Sheriff's Sale you must take immediate action: The sale will be cancelled if you pay back to Longbridge Financial, LLC the amount of the judgment plus costs or the back payments, late charges, costs, and reasonable attorneys fees due. To find out how much you must pay, you may call: LOGS Legal Group, LLC. (610) 278-6800. PLEASE NOTE a Schedule of Distribution will be filed by the Sheriff on a date specified by the Sheriff not later than thirty (30) days after sale. Distribution will be made in accordance with the schedule unless exceptions are filed thereto within 20 days after the filing of the schedule.

NOTICE OF ACTION IN MORTGAGE FORECLOSURE IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA CIVIL ACTION – LAW NO.: 2022-01866 KEYBANK, NA, S/B/M FIRST NIAGARA BANK, NA, Plaintiff, vs. Antoinette Pilato Cichocki, as Believed Heir and/or Administrator of the Estate of Edward Cichocki; Unknown Heirs and/or Administrators of the Estate of Edward Cichocki (if any), Defendants TO: Antoinette Pilato Cichocki, as Believed Heir and/or Administrator of the Estate of Edward Cichocki and Unknown Heirs and/or Administrators of the Estate of Edward Cichocki (if any) You are hereby notified that Plaintiff, KeyBank, NA, s/b/m First Niagara Bank, NA, filed an Action in Mortgage Foreclosure endorsed with a Notice to Defend, in the Court of Common Pleas of Fayette County, Pennsylvania, docketed to No. 2022-01866, seeking to foreclose the mortgage secured by the real estate located at 230 Maple Street, Everson, AKA Scottdale, PA 15631. A copy of the Action in Mortgage Foreclosure will be sent to you upon request to the Attorney for the Plaintiff, Manley Deas Kochalski LLC, P. O. Box 165028, Columbus, OH 43216-5028. Phone 614-220-5611. You have been sued in court. If you wish to defend against the claims in this notice, you must take action within twenty (20) days after this publication, 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 NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. LAWYER REFERRAL SERVICE Pennsylvania Lawyer Referral Service Pennsylvania Bar Association P.O. Box 186 Harrisburg, PA 17108 (800) 692-7375 Pennsylvania Lawyer Referral Service Pennsylvania Bar Association P.O. Box 186 Harrisburg, PA 17108 (800) 692-7375

NOTICE OF ACTION IN MORTGAGE FORECLOSURE IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA CIVIL ACTION – LAW NO.: 2022-02045 WELLS FARGO BANK, N.A., Plaintiff, vs. Edward Peck, Jr., as Believed Heir and/or Administrator of the Estate of Mary M. Peck; Denise Kessler, as Believed Heir and/or Administrator of the Estate of Mary M. Peck; George Peck, as Believed Heir and/or Administrator of the Estate of Mary M. Peck; Unknown Heirs and/or Administrators of the Estate of Mary M. Peck (if any), Defendants TO: Unknown Heirs and/or Administrators of the Estate of Mary M. Peck (if any) You are hereby notified that Plaintiff, Wells Fargo Bank, N.A., filed an Action in Mortgage Foreclosure endorsed with a Notice to Defend, in the Court of Common Pleas of Fayette County, Pennsylvania, docketed to No. 2022-02045, seeking to foreclose the mortgage secured by the real estate located at 235 Shady Grove Road, Lemont Furnace, PA 15456. A copy of the Action in Mortgage Foreclosure will be sent to you upon request to the Attorney for the Plaintiff, Manley Deas Kochalski LLC, P. O. Box 165028, Columbus, OH 43216-5028. Phone 614-220-5611. You have been sued in court. If you wish to defend against the claims in this notice, you must take action within twenty (20) days after this publication, 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 NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. LAWYER REFERRAL SERVICE Pennsylvania Lawyer Referral Service Pennsylvania Bar Association P.O. Box 186 Harrisburg, PA 17108 (800) 692-7375 Pennsylvania Lawyer Referral Service Pennsylvania Bar Association P.O. Box 186 Harrisburg, PA 17108 (800) 692-7375

IN THE COURT OF COMMON PLEAS
FAYETTE COUNTY, PENNSYLVANIA
KeyBank, NA, s/b/m First Niagara Bank, NA
Plaintiff, vs. David Richard Clark, Jr., as
believed Heir and/or Administrator to the Estate
of Janice Clark, AKA Janice K. Clark; John
Michael Clark, as believed Heir and/or
Administrator to the Estate of Janice Clark,
AKA Janice K. Clark; Unknown Heirs and/or
Administrators to the Estate of Janice Clark,
AKA Janice K. Clark Defendants. CIVIL
DIVISION Docket No.: 2022-00079
AMENDED NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY PURSUANT TO
PENNSYLVANIA RULE OF CIVIL
PROCEDURE 3129 TO: Unknown Heirs and/or
Administrators to the Estate of David Richard
Clark Jr. TAKE NOTICE: 570 Coolspring Street
Uniontown, PA 15401 That the Sheriff's Sale of
Real Property (Real Estate) will be offered for
public auction online at [https://
fayette.pa.realforeclose.com](https://fayette.pa.realforeclose.com) on January 19,
2023 at 2:00PM prevailing local time. THE
PROPERTY TO BE SOLD is delineated in
detail in a legal description consisting of a
statement of the measured boundaries of the
property, together with a brief mention of the
buildings and any other major improvements
erected on the land. (SEE LEGAL
DESCRIPTION ATTACHED AS EXHIBIT
"A"). The LOCATION of your property to be
sold is: 570 Coolspring Street, Uniontown, PA
15401 The JUDGMENT under or pursuant to
which your property is being sold is docketed to:
No. 2022-00079 THE NAME(S) OF THE
OWNER(S) OR REPUTED OWNER(S) OF
THIS PROPERTY ARE: David Richard Clark,
Jr., as believed Heir and/or Administrator to the
Estate of Janice Clark, AKA Janice K. Clark;
John Michael Clark, as believed Heir and/or
Administrator to the Estate of Janice Clark,
AKA Janice K. Clark; Unknown Heirs and/or
Administrators to the Estate of Janice Clark,
AKA Janice K. Clark A SCHEDULE OF
DISTRIBUTION, being a list of the persons
and/or governmental or corporate entities or
agencies being entitled to receive part of the
proceeds of the sale received and to be disbursed
by the Sheriff (for example to banks that hold
mortgages and municipalities that are owed
taxes), will be filed by the Sheriff thirty (30)
days after the sale, and distribution of the
proceeds of sale in accordance with this
schedule will, in fact, be made unless someone
objects by filing exceptions to it, within ten (10)
days of the date it is filed. Information about the
Schedule of Distribution may be obtained from
the Sheriff of the Court of Common Pleas of

Fayette County, at the Fayette County Sheriff's
Office, 61 East Main Street, Uniontown, PA
15401. THIS PAPER IS A NOTICE OF THE
TIME AND PLACE OF THE SALE OF YOUR
PROPERTY. It has been issued because there is
a Judgment against you. It may cause your
property to be held, to be sold or taken to pay
the Judgment. You may have legal rights to
prevent your property from being taken. A
lawyer can advise you more specifically of these
rights. If you wish to exercise your rights, you
must act promptly. YOU SHOULD TAKE THIS
PAPER TO YOUR LAWYER AT ONCE. GO
TO OR TELEPHONE THE OFFICE SET
FORTH BELOW TO FIND OUT WHERE
YOU CAN GET FREE LEGAL ADVICE.
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Pennsylvania Bar Association P.O. Box 186
Harrisburg, PA 17108 (800) 692-7375 THE
LEGAL RIGHTS YOU MAY HAVE ARE: 1.
You may file a petition with the Court of
Common Pleas of Fayette County to open the
Judgment if you have a meritorious defense
against the person or company that has entered
judgment against you. You may also file a
petition with the same Court if you are aware of
a legal defect in the obligation or the procedure
used against you. 2. After the Sheriff's Sale, you
may file a petition with the Court of Common
Pleas of Fayette County to set aside the sale for
a grossly inadequate price or for other proper
cause. This petition must be filed before the
Sheriff's Deed is delivered. 3. A petition or
petitions raising the legal issues or rights
mentioned in the preceding paragraphs must be
presented to the Court of Common Pleas of
Fayette County. The petition must be served on
the attorney for the creditor or on the creditor
before presentation to the Court and a proposed
order or rule must be attached to the petition. If a
specific return date is desired, such date must be
obtained from the Court Administrator's Office,
Fayette County Courthouse, 61 East Main
Street, Uniontown, PA 15401, before
presentation of the petition to the Court. Dated:
12/7/22 Kimberly J. Hong, Esquire (74950)
Manley Deas Kochalski LLC P. O. Box 165028
Columbus, OH 43216-5028 Telephone: 614-220
-5611 Fax: 614-220-5613
Email: kjhong@manleydeas.com Attorney for
Plaintiff

D.B. – 3529 Page 2484-2486

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
NO. 2038 TERM, 2022

EMINENT DOMAIN PROCEEDING
IN REM

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION, OF THE
RIGHT-OF-WAY FOR STATE
ROUTE 2040, SECTION B10
IN THE OF UNIONTOWN

**NOTICE OF CONDEMNATION AND
DEPOSIT OF ESTIMATED JUST
COMPENSATION**

Notice is hereby given that the Commonwealth of Pennsylvania, by the Secretary of Transportation, whose address is the Commonwealth of Pennsylvania, Department of Transportation, Office of Chief Counsel, Real Property Division, Commonwealth Keystone Building, Harrisburg, Pennsylvania 17120, pursuant to the provisions of Section 2003(e) of the Administrative Code of 1929, P.L. 177, 71 P.S. 513(e), as amended, has filed on October 18, 2022 a Declaration of Taking to the above term and number, condemning the property shown on the plans of the parcels listed on the Schedule of Property Condemned which have been recorded in the Recorder's Office of the above county at the places indicated on the said schedule. The name(s) of the owner(s) of the property interest(s) condemned is (are) also shown on the aforesaid Schedule. The Secretary of Transportation, on behalf of himself/herself and the Governor has approved the within condemnation by signing on August 16, 2021 a plan entitled "Drawings Authorizing Acquisition of Right-of Way for State Route 2040 Section B10 R/W" , a copy of which plan was recorded in the Recorder's Office of the aforesaid county on August 26, 2022, in Fayette County.

The purpose of the condemnation is to acquire property for transportation purposes.

Plans showing the property condemned from the parcels listed on the Schedule of Property Condemned have been recorded in the aforesaid Recorder's Office at the places indicated on the Schedule, where they are available for

inspection. The Property Interest thereby condemned is designated on the Declaration of Taking heretofore filed. The Commonwealth of Pennsylvania is not required to post security, inasmuch as it has the power of taxation.

Because the identity or the whereabouts of the condemnee(s) listed below is (are) unknown or for other reasons he (they) cannot be served, this notice is hereby published in accordance with Section 305(b) of the Eminent Domain Code (26 Pa.C.S. §305(b)).

Claim No.
2600616000

Parcel No.
1

Name
William M. Morris and Angie L. Morris,
husband and wife

Address
Tax Parcel Numbers: 38-12-0333 and 38-12-0334

William M. Morris
297 Rankin Airshaft Road
Uniontown, PA 15401-2127

Angie L. Morris
6 Beaumont Drive
Lemont Furnace, PA 15456-1038

The power or right of the Secretary of Transportation of the Commonwealth of Pennsylvania to appropriate the property condemned, the procedure followed by the Secretary of Transportation or the Declaration of Taking may be challenged by filing preliminary objections within thirty (30) days of the date of this notice.

FURTHERMORE, NOTICE IS GIVEN THAT the Commonwealth of Pennsylvania, Department of Transportation, pursuant to Section 522 of the Eminent Domain Code (26 Pa.C.S. §522), will, at the end of the above-referenced thirty (30) day time period within which to file preliminary objections to the Declaration of Taking, present a petition to the Court of Common Pleas of the above county to deposit into court the just compensation estimated by the Commonwealth to be due all parties in interest for damages sustained as the result of the condemnation of the property herein involved.

The petition to deposit estimated just compensation may not be presented to the court if the owner(s) of the property herein involved inform the District Right-of-Way Administrator of the District noted below of their existence and/or whereabouts prior to the expiration of the noted period. After estimated just compensation has been deposited into court, the said monies may be withdrawn by the persons entitled thereto only upon petition to the court. If no petition is presented within a period of six years of the date of payment into court, the court shall order the fund or any balance remaining to be paid to the Commonwealth without escheat.

Vincent M. Komacko, Jr.
District Right-of-Way Administrator
Engineering District 12-0
Pennsylvania Department of Transportation

Registers' Notice

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

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

Tuesday, January 3, 2023, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2621-0984	RICHARD L. TRESSLER	Janis Daly, Executrix

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

Tuesday, January 17, 2023, at 9:30 A.M.

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

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

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

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- 400,000 individual and 160,000 household accounts



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WWW.DIBELLA-WEINHEIMER.COM 412 261-2900

JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
v.	:	
	:	
ANDREW WASSICK,	:	No. 2168 of 2021
Defendant.	:	Honorable Linda R. Cordaro

OPINION AND ORDER

Linda R. Cordaro, J.

November 7, 2022

SUMMARY

Currently before the Court is the Defendant's Omnibus Pretrial Motion for writ of habeas and for suppression of evidence. This Court heard argument on the motion on October 28, 2022 and reviewed the admitted exhibits, including a copy of the recorded police interview with the Defendant. For the following reasons, Defendant's Motion is denied.

BACKGROUND

The following facts were presented in testimony from Trooper Adam Kezmarsky and Trooper Sean Samsa given at the October 28, 2022 hearing on the Omnibus Pretrial Motion as well as in evidentiary exhibits admitted at that hearing, including: a video and audio recording of the interrogation of the Defendant, laboratory test results, and photographs of items that were seized when the Defendant was apprehended.

On October 14, 2021, Trooper Adam Kezmarsky participated in a controlled purchase operation orchestrated with a confidential informant at the Hampton Inn on West Main Street, Uniontown. The informant contacted an individual in West Virginia to arrange for delivery of one (1) pound of methamphetamine, with the transaction to take place in Room 331 of the hotel. The individual indicated that "Andy" would deliver the product. The confidential informant had contact information for "Andy" in his mobile phone and confirmed to officers that Andy's last name was Wassick. Drug task force officers in Morgantown, West Virginia also had conducted surveillance on the Defendant and forwarded a photograph of him to the Pennsylvania officers.

Around 6:45 p.m., the Defendant was seen arriving in a vehicle, alone. He spent some time pacing outside in the parking lot, then he was directed by text to go to Room 331 inside. As the Defendant exited the elevator at the 3rd floor, carrying a WVU bookbag, he was apprehended by the officers.

The Defendant was taken to Room 331, where Trooper Kezmarsky verbally administered his Miranda rights with Trooper Sean Samsa present. The Defendant showed no indication of impairment, he appeared to understand his rights, and he agreed to speak. He also verbally consented to a search of the bookbag and his vehicle. The bookbag held plastic bags containing substances that were later shown by laboratory report to be methamphetamine, cocaine, fentanyl, and tramadol, as follows: (1) 444.65 grams of methamphetamine; (2) 6.6 grams of cocaine, fentanyl, fluorofentanyl, and tramadol; (3) 72.94 grams of fentanyl, fluorofentanyl, and tramadol; and (4) 2.05 grams of cocaine, fentanyl, fluorofentanyl, and tramadol

The Defendant was transported to the Uniontown police barracks where the recorded interview shows Troopers Kezmarsky and Samsa brought the Defendant into the room and reminded him that he had been read his Miranda rights already. Trooper Kezmarsky asked if he needed to read the Defendant his rights again, and the Defendant shook his head in the negative. The trooper asked if he understood his rights, and the Defendant nodded his head in the affirmative. During the interview, the Defendant disclosed that the drugs in the bookbag belonged to an individual called "Sunny." The trooper asked if this individual's number was in the Defendant's phone, and the Defendant said that it was. The trooper then asked if the Defendant would let him look through the phone, and the Defendant said, "No." The Defendant then admitted that he was delivering the drugs for "Sunny" in exchange for a reduction in a \$1,000 debt the Defendant owed him.

The Defendant was charged with Possession with Intent to Deliver - 35 Pa.C.S.A. § 780-113(A)(30); Possession of a Controlled Substance - 35 Pa.C.S.A. § 780-113(A)(16); Use/Possession of Drug Paraphernalia - 35 Pa.C.S.A. § 780-113(A)(32).

DISCUSSION

Defendant argues there is insufficient evidence to support a prima facie case and that Defendant's statements should be suppressed because there is no signed Miranda waiver. The disposition of the suppression motion will determine the evidence in consideration for the habeas motion, and therefore the suppression motion will be addressed first.

Suppression

The Fifth Amendment to the United States Constitution, as well as Article 1, Section 9 of the Pennsylvania Constitution, provide that individuals shall not be compelled to testify against themselves in criminal cases. As the United States Supreme Court held in *Miranda v. Arizona*, an accused must be made aware of this right as well as of the consequences that may result if he waives it. 384 U.S. 436,469 (1966). When an individual has been physically denied his freedom of movement in a significant way (or he reasonably believes this to be the case), the Miranda warning is a procedural protection of his constitutional rights. *Commonwealth v. Yandamuri*, 159 A.3d 503, 519- 20 (Pa. 2017) (citing *Miranda*, 384 U.S. at 478-79). An individual may waive this right, but must do so by "free and unconstrained choice." *Commonwealth v. Lyons*, 79 A.3d 1053, 1066 (Pa. 2013). Furthermore, "[w]aiver can be clearly inferred from the actions and words of the person interrogated." *Commonwealth v. Bomar*, 826 A.2d 831,843 (Pa. 2003) (citation omitted).

Any evidence obtained by police conduct that violates an individual's constitutional rights may be subject to suppression. The purpose of this "exclusionary rule" is to discourage law enforcement officers from constitutionally violative conduct. *Commonwealth v. Santiago*, 160 A.3d 814, 827-28 (Pa. Super. Ct. 2017).

Here, Trooper Kezmarsky testified that he verbally administered Miranda rights to the Defendant at the hotel. Trooper Samsa confirmed this in his testimony and also confirmed that there was no indication the Defendant was impaired or that he did not understand his rights.

The video and audio recording of the interview at the police barracks also supports the officers' testimony that the Defendant had been read his rights and had consented to a search. {1} The Defendant nodded in the affirmative when Trooper Kezmarsky asked him if he remembered their exchange at the hotel, and shook his head in the negative when asked if he needed his rights to be explained to him again. Finally, when the trooper asked for consent to look through his phone, the Defendant explicitly refused. This demonstrates the Defendant was aware that he could refuse to cooperate. Therefore, when he did, his cooperation was voluntary.

Although troopers did not obtain a written and signed Miranda waiver, the Defendant's actions and words indicate that he did waive his Miranda rights and that he did so voluntarily. Therefore, there is no indication that evidence was obtained by unconstitutional means, and the evidence is not subject to suppression.

Habeas

A petition for a writ of habeas is "the proper means for testing a pre-trial finding that the Commonwealth has sufficient evidence to establish a prima facie case" against a defendant. *Commonwealth v. Scott*, 578 A.2d 933, 936-37 (Pa. Super. Ct. 1990). A pre-trial petition writ of habeas corpus is similar in its purpose to a preliminary hearing in that it seeks to prevent unlawful detention for a crime which was never committed, or for a crime for which there is no evidence of the accused's connection. *Id.* at 937.

Accordingly, to establish its prima facie case, the Commonwealth must present evidence as to each material element of the crimes charged and establish sufficient probable cause that the accused is the person who committed the offenses. *Commonwealth v. McBride*, 595 A.2d 589,591 (Pa. 1991) (citation omitted).

The crimes charged here include possession of a controlled substance, possession of a controlled substance with the intent to distribute, and possession of drug paraphernalia. In order to satisfy the elements of all charges, the Commonwealth must present evidence to show that Defendant did possess a controlled substance or substances, that he did so with the intent to deliver, and that he possessed items used for packing or containing a controlled substance or substances (paraphernalia).

{1} Under Pa.R.Crim.P. 581(D), a suppression motion must "state specifically and with particularity the evidence sought to be suppressed, the grounds for suppression, and the facts and events in support thereof." Defendant's Motion states that there was an "improper" search of the WVU bookbag but does not elaborate further. Therefore, this Court will not consider the issue of whether the search was improper.

The Defendant's Motion does not specify the grounds for habeas (e.g., the specific element or elements the Commonwealth has failed to support). However, there is sufficient evidence for a prima facie case for all charges here. "Andy" is a common nickname for "Andrew," the Defendant's first name, and the confidential informant was told that "Andy" would make the delivery. The informant also identified the Defendant to officers, who also received a photograph of the Defendant from West Virginia law enforcement. The substances in the bookbag the Defendant was carrying when he arrived at the third floor of the hotel were shown by laboratory testing to be controlled substances, and they were contained in plastic bags. In addition, the Defendant told officers that he was delivering drugs for another individual because he owed them money. There is sufficient evidence for at least a prima facie case here.

CONCLUSION

There is no indication that any evidence presented in this case was obtained via constitutional violation. Therefore, Defendant's suppression motion is denied. The Commonwealth also has presented evidence sufficient to support a prima facie case. Therefore, Defendant's motion for habeas is also denied.

ORDER

AND NOW, this 7th day of November 2022, inconsideration of Defendant's Omnibus Pretrial Motion, after a hearing on the Motion and a review of the admitted evidentiary exhibits, it is ORDERED and DIRECTED that both Counts of the Motion are DENIED. The Commonwealth shall list this case for trial.

BY THE COURT:
Linda R. Cordaro, Judge

ATTEST:
Clerk of Courts

Date: November 7, 2022

COURT ANNOUNCEMENT**MOTIONS COURT ASSIGNMENTS
AS OF
JANUARY 1, 2023**

In accordance with the Fayette County Motions Court Procedure Rules, the assigned judge for daily Motions Court, is as follows:

Monday	Judge Nancy D. Vernon	Courtroom No. 4	9:00 AM
Tuesday	Judge Joseph M. George, Jr.	Courtroom No. 5	9:00 AM
Wednesday	Judge Linda R. Cordaro	Courtroom No. 3	9:00 AM
Wednesday	Judge John F. Wagner, Jr.	Courtroom No. 2	9:30 AM
Thursday	Judge Steve P. Leskinen	Courtroom No. 1	9:00 AM
Friday	Emergency Motions Only	Courtroom No. 1	9:00 AM

Priority motions are to be presented to the assigned judge in accordance with F.C.R. 208.3 and F.C.R. Crim. P. 575(k).

The Administrative Office of Fayette County Courts will not, after 8:30 AM, accept any motions, emergency or otherwise, personally delivered or faxed for that day's Motions Court. You may, if you wish, proceed directly to Motions Court and attempt to personally present the Motions to the Motions Court Judge. He or she may or may not accept the same.

Judge Steve P. Leskinen

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The *Fayette Legal Journal* is now accepting classified and commercial advertising. A new issue of the *Fayette Legal Journal* is published every Saturday. The deadline for advertisements is Friday by noon of the week prior to publication, although holidays may alter this schedule. All advertisements are subject to approval by the Board of Directors of the Fayette County Bar Association without the necessity of giving a reason for declination. For more information, contact the Bar Association office at 724-437-7994 or Bar Association Secretary, Cindy McClain, at cindy@fcbar.org. Printed page is 5" wide by 7.5" high "portrait orientation." Please make checks payable to the Fayette Legal Journal.

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