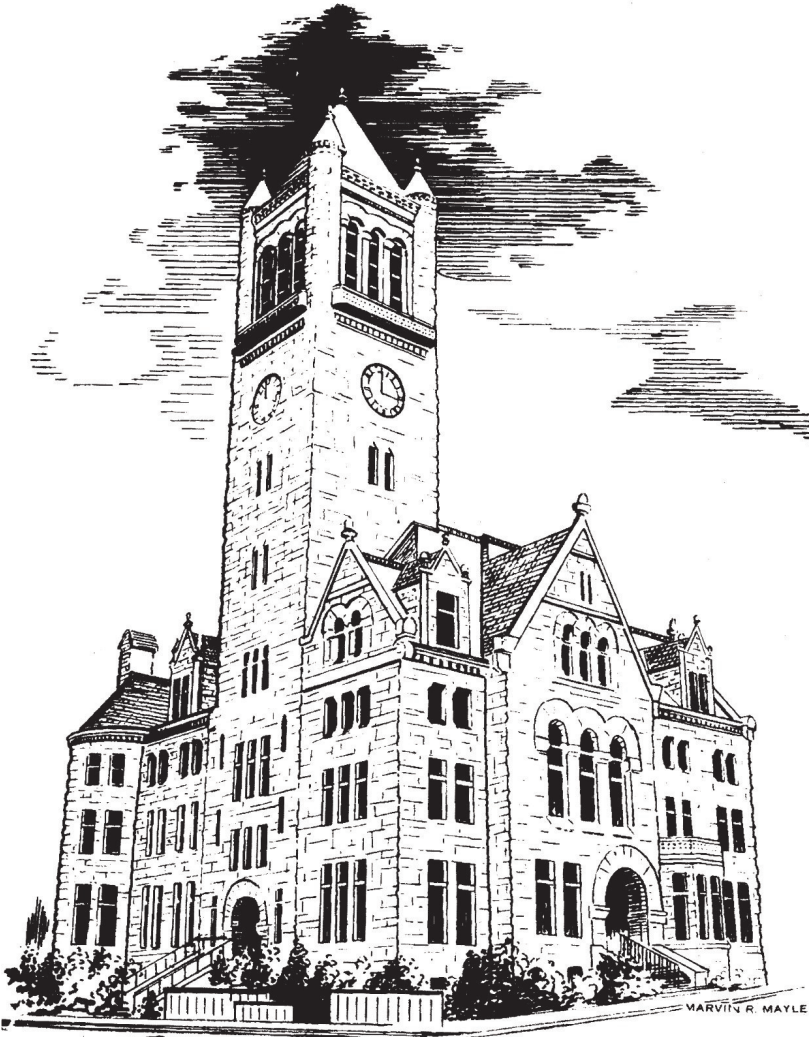


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FAYETTE LEGAL JOURNAL

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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

**MARGARET ANGELO, A/K/A
MARGARET PEGGY ANGELO**, late of
South Union Township, Fayette County, PA (3)

Executrix: Linda Livingston
c/o 45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

MARY B. CRAYTON, late of North Union
Township, Fayette County, PA (3)

Administrator: Michael W. Crayton
c/o 45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

THEODORE CRAYTON, late of North
Union Township, Fayette County, PA (3)

Administrator: Michael W. Crayton
c/o 45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

GILDA MARASCO, late of Belle Vernon,
Fayette County, PA (3)

Executrix: Marilyn V. Santini
403 Tern Terrace
Emerald Isle, NC 28594
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

KENNETH E. MCCOMBIE, late of North
Union Township, Fayette County, PA (3)

Personal Representative:
Geraldine R. Comfort
c/o Watson Mundorff Brooks & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Charles W. Watson

**OLIVE A. O'CONNOR, A/K/A OLIVE ANN
O'CONNOR**, late of South Union Township,
Fayette County, PA (3)

Personal Representative: Brenda Chipps
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

ROBERT B. TAXACHER, late of Everson
Borough, Fayette County, PA (3)

Executor: Robert Mark Taxacher
1123 Mt. Pleasant Road
Scottdale, PA 15683
c/o 231 South Main Street, Suite 402
Greensburg, PA 15601
Attorney: Marilyn M. Gaut

VINCENT WIRBICKI, late of South Union
Township, Fayette County, PA (3)

Executrix: Jackie L. Wirbicki
518 Thomas Drive
Uniontown, PA 15401
c/o 164 West Crawford Avenue
Connellsville, PA 15425
Attorney: David B. Reiss

Second Publication

CHE DUVALL, late of Jefferson Township,
Fayette County, PA (2)

Personal Representative: Karen DuVall
c/o Meyers Evans & Associates, LLC
Gulf Tower
707 Grant Street, Suite 3200
Pittsburgh, PA 15219
Attorney: Brendan B. Lupetin

JOSEPH JAMES EZZI, late of Uniontown,
Fayette County, PA (2)

Administratrix: Mia Ezzi
c/o 80 East Main Street
Uniontown, PA 15401
Attorney: J.W. Eddy

**LAVENIA HOSTETLER, A/K/A LAVENIA
E. HOSTETLER**, late of Georges Township,
Fayette County, PA (2)

Executor: Roy Thomas Hostetler
c/o ADAMS & ADAMS
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason F. Adams

MARY LOUISE SECHRIST, late of Dunbar
Township, Fayette County, PA (2)

Administratrix: Sandra Foreman
c/o Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

**ROBERT SMITH, A/K/A ROBERT L.
SMITH**, late of Uniontown, Fayette County, PA

Executrix: Carol Krzton (2)
c/o ADAMS & ADAMS
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason F. Adams

JOSEPH STILLWAGON, late of Masontown,
Fayette County, PA (2)

Executor: Amanda J. Gouff
111 Geiser Avenue
Waynesboro, PA 17268
c/o Rotz Law Offices, LLC
PO Box 4628
Hagerstown, MD 21742
Attorney: Ann Marie Rotz,

ELEANOR STOREY, late of Brownsville
Borough, Fayette County, PA (2)

Executrix: Bonnie G. Barry
c/o Monaghan & Monaghan, L.L.P.
57 East Main Street
Uniontown, PA 15401
Attorney: Gary D. Monaghan

First Publication

**SHELDON RAYMOND CRUTCHMAN,
JR.**, late of Uniontown, Fayette County, PA (1)

Administrator: Beth H. Crutchman
c/o 9 Court Street, 2nd Floor
Uniontown, PA 15401
Attorney: Kimberly D. Kovach, Esquire

MICHAEL KENES, late of Lemont Furnace,
Fayette County, PA (1)

Executor: Mark D. Kenes
c/o 80 East Main Street
Uniontown, PA 15401
Attorney: J.W. Eddy

ROBERT J. LOWDERMILK, late of Georges
Township, Fayette County, PA (1)

Administrator: David Cartwright
c/o Begley Law Group
509 South Lenola Road, Building 7
Moorestown, NJ 08057

PHILMORE C. MARIETTA, late of
Ohiopyle, Fayette County, PA (1)

Executrix: Vicki L. Marietta
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

ROCCO J. ROSS, late of Connellsville,
Fayette County, PA (1)

Executor: Richard A. Ross
c/o Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

RUTH M. WISE, late of Smithfield, Fayette
County, PA (1)

Executor: Thomas R. Wise
541 Gans Road
Lake Lynn, PA 15451
c/o 22 Highhouse Street
Smithfield, PA 15478
Attorney: J. Ronald Bruzda

LEGAL NOTICES

NOTICE OF HEARING

A Petition for Reinstatement to the active practice of law has been filed by CHARLES C. GENTILE and will be the subject of a hearing on April 7, 2016 before a hearing committee designated by the Board. Anyone wishing to be heard in reference to this matter should contact the District IV Office of the Disciplinary Board of the Supreme Court of Pennsylvania, Suite 1300, Frick Building, 437 Grant Street, Pittsburgh, PA 15219, phone: 412-565-3173, on or before **March 25, 2016**.

Elaine M. Bixler
Secretary of the Board
The Disciplinary Board of the
Supreme Court of Pennsylvania

IN THE COURT OF COMMON PLEAS
OF FAYETTE COUNTY, PENNSYLVANIA
Civil Action – Law
No. 2015-01105
Notice of Action in Mortgage Foreclosure

The Bank of New York Mellon f/k/a The Bank of New York, as Trustee, for The Benefit of The Certificateholders of CWALT, Inc., Alternative Loan Trust 2005-33CB Mortgage Pass-Through Certificates, Series 2005-33CB,
Plaintiff,
vs.

Unknown Heirs / Administrators of the Estate of Queen Esther Gordon, Betty L Lee, individually as owner and as believed heir of the Estate of Queen Esther Gordon, Barbara Lowe, as believed heir of the Estate of Queen Esther Gordon, Esther L. Peterson a/k/a Esther Lorraine Peterson individually as owner and as believed heir of the Estate of Queen Esther Gordon & Staples, Sandra, as believed heir of the Estate of Queen Esther Gordon, Mortgagor and Real Owner,
Defendants.

To: Unknown Heirs/Administrators of the Estate of Queen Esther Gordon and Esther L. Peterson a/k/a Esther Lorraine Peterson, individually as owner and as believed heir of the Estate of

Queen Esther Gordon, Mortgagor and Real Owner, Defendant(s), whose last known address is 142 Main Street a/k/a 818 Main Street, Vanderbilt, PA 15486. This firm is a debt collector and we are attempting to collect a debt owed to our client. Any information obtained from you will be used for the purpose of collecting the debt. You are hereby notified that Plaintiff, The Bank of New York Mellon f/k/a The Bank of New York, as Trustee, for The Benefit of The Certificateholders of CWALT, Inc., Alternative Loan Trust 2005-33CB Mortgage Pass-Through Certificates, Series 2005-33CB, has filed a Mortgage Foreclosure Complaint endorsed with a notice to defend against you in the Court of Common Pleas of Fayette County, Pennsylvania, docketed to No. 2015-01105, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located, 142 Main Street a/k/a 818 Main Street, Vanderbilt, PA 15486, whereupon your property will be sold by the Sheriff of Fayette County.

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 the 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 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. 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.

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

Michael T. McKeever
Atty. for Plaintiff, KML Law Group, P.C.,
Ste. 5000, Mellon Independence Center, 701
Market St., Phila., PA 19106-1532,
215.627.1322

IN THE COURT OF COMMON PLEAS
OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 31 of 2016
NOTICE OF ACTION IN MORTGAGE
FORECLOSURE

**Ditech Financial LLC f/k/a Green Tree
Servicing LLC,
Plaintiff,
vs.
Carolyn S. Kingman, Personal
Representative of the Estate of Eleanor R.
Greenawalt, Unknown Heirs, Successors,
Assigns and All Persons, Firms or
Associations Claiming Right, Title or Interest
from or Under Eleanor R. Greenawalt,
Deceased, Deborah Hawk, Known Heir of
Eleanor R. Greenawalt, Kevin Butler, Known
Heir of Eleanor R. Greenawalt, Neil Butler,
Known Heir of Eleanor R. Greenawalt,
Daniel Stillwagon, Known Heir of Eleanor R.
Greenawalt and Estate of Eleanor R.
Greenawalt, c/o Carolyn S. Kingman,
Personal Representative,
Defendants**

TO: Unknown Heirs, Successors, Assigns
and All Persons, Firms or Associations Claiming
Right, Title or Interest from or Under Eleanor R.
Greenawalt, Deceased, Defendant(s), whose last
known address is 1710 South Pittsburgh Street,
Connellsville, PA 15425.

COMPLAINT IN MORTGAGE
FORECLOSURE

You are hereby notified that Plaintiff, Ditech
Financial LLC f/k/a Green Tree Servicing LLC,
has filed a Mortgage Foreclosure Complaint
endorsed with a Notice to Defend, against you in
the Court of Common Pleas of Fayette County,
Pennsylvania, docketed to NO. 31 of 2016,
wherein Plaintiff seeks to foreclose on the
mortgage secured on your property located at
1710 South Pittsburgh Street, Connellsville, PA
15425, whereupon your property would be sold
by the Sheriff of Fayette County.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you
wish to defend against the claims set forth in the
notice above, 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 GO TO OR
TELEPHONE THE OFFICE SET FORTH
BELOW. THIS OFFICE CAN PROVIDE YOU
WITH THE 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.

Fayette County Lawyer Referral Service,
PA Bar Assn., 100 South St., P.O. Box 186,
Harrisburg, PA 17108
800.692.7375

Mark J. Udren, Lorraine Gazzara Doyle, Sherri
J. Braunstein, Elizabeth L. Wassall, John Eric
Kishbaugh, Nicole B. Labletta, David Neeren &
Morris Scott, Attys. For Plaintiff, Udren Law
Offices, P.C., 111 Woodcrest Rd., Ste. 200,
Cherry Hill, NJ 08003, 856.669.5400

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

Monday, April 4, 2016

at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2614-0936	DOROTHY ANN GRIMM	MARLENE A. HOUGH, Executrix
2611-0062	CLYDE TEWELL a/k/a CLYDE M. TEWELL	REGINA B. STENDER, Executrix

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

Monday, April 18, 2016

at 9:30 A.M.

in Court Room No. 1 of the Honorable STEVE P. LESKINEN, or his chambers, 2nd 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.

Notice is also 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

Monday, April 4, 2016

at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0505	JUDITH L. ALTOMONTE	DONNA L. MAHER, Administratrix

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

Monday, April 18, 2016

at 9:30 A.M.

in Court Room No. 2 of the Honorable JOHN F. WAGNER or his chambers, 2nd 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)

SHERIFF'S SALE

Date of Sale: May 12, 2016

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday, May 12, 2016, at 10:30 a.m. in the Hallway outside the Sheriff's Office at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (2 of 3)

James Custer
Sheriff Of Fayette County

No. 2335 of 2014 GD
No. 461 of 2015 ED

HSBC Bank USA, National Association as Trustee in trust for Citigroup Mortgage Loan Trust Inc., Asset Backed Pass Through Certificates Series 2003-HE3

Plaintiff,
vs.

Tyler D. Anderson; Melissa E. Anderson,
Defendants.

ALL that certain parcel of land lying and being situate in the Borough of Everson, County of Fayette, and Commonwealth of Pennsylvania, known as 108 Maple Street, Everson, PA 15631 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 10-03-0019

BEING the same premises which Tyler D. Anderson and Melissa Anderson, formerly husband and wife, by Deed dated March 24, 1998 and recorded in and for Fayette County, Pennsylvania in Deed Book 2065, Page 19, granted and conveyed unto Tyler Anderson, unmarried.

No. 2334 of 2015 GD
No. 40 of 2016 ED

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY,

Plaintiff,
vs.

ROBERT A. BERISH,
Defendant.

Parcel One:

ALL that certain lot of ground in Jefferson Township, Fayette County, Pennsylvania, being No. 268 of Colonial No. 4 Mining Village; and Parcel Two:

ALL that certain lot of ground in Jefferson Township, Fayette County, Pennsylvania, being No. 266 of Colonial No. 4 Mining Village, and having thereon erected a dwelling known as 108 & 110 East Second Street, Grindstone, PA 15442.

Fayette County Deed Book 3088, page 2002.

Tax Parcel Nos. 17-16-0022 and 17-16-0023.

TO BE SOLD AS THE PROPERTY OF
ROBERT A. BERISH ON JUDGMENT NO.
2334 OF 2015.

No. 311 of 2014 GD
No. 443 of 2015 ED

**U.S. Bank National Association, as Trustee
for Citigroup Mortgage Loan Trust 2007-
WFHE3, Asset-Backed Pass-Through
Certificates, Series 2007-WFHE3,
Plaintiff,
vs.
Robert E. Brinson; Rachel A. Brinson
Defendants.**

ALL that certain parcel of land lying and being situate in the Borough of Dunbar, County of Fayette, and Commonwealth of Pennsylvania, known as 14 First Street, Dunbar, PA 15431 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 08-08-0135

BEING the same premises which Erick Hughes and Malinda Hughes, husband and wife, by Deed dated March 2, 2007 and recorded in and for Fayette County, Pennsylvania in Deed Book 3018, Page 1382, granted and conveyed unto Robert E. Brinson.

No. 1199 of 2014 GD
No. 58 of 2016 ED

**21ST MORTGAGE CORPORATION,
assignee of Tammac Corporation,
Plaintiff,
vs.
MICHAEL P. BRYNER, as Mortgagor and
ERIN A. BRYNER, as Mortgagor and Real
Owner,
Defendants.**

ALL THAT CERTAIN tract of land situate in German Township, Fayette County, Pennsylvania, having an address of 324 Lambert Footdale Road, McClellandtown, Fayette County, Pennsylvania including a 26 x 44, 1989 Skyline mobile home serial number 53290583XAB.

PARCEL ID NUMBER: 15-14-0112

BEING the same property that Michael P. Bryner and Erin A. Bryner, Husband and Wife,

by deed dated March 27, 2007 and recorded on August 7, 2007, in the Office of the Recorder of Deeds of Fayette County, Pennsylvania in Deed Book Volume 3035, page 879, granted and conveyed unto Erin A. Bryner, her heirs and assigns.

No. 52 of 2015 GD
No. 10 of 2016 ED

**Bank of America, N.A.,
Plaintiff,
vs.
John M. Dukman, IV,
Defendant.**

ALL that certain lot of land situate in South Union Township, Fayette County, Pennsylvania, being numbered and designated as Lot No. 2 in the Oak Hollow Plan of Lots, Plat No. 1, dated May 4, 2010, a plot of which is of record in the Office of the Recorder of Deeds of Fayette County, Pennsylvania, in Plan Book Volume 88, page 20; said Lot being more particularly bounded and described as follows:

BEGINNING at point along Hutchinson Street, a 33 foot right-of-way, corner common with Lot 1 and Lot No. 2 in said plan; thence along the line of Hutchinson Street, South 48 degrees 13 minutes 03 seconds West, a distance of 100.06 feet to a point; thence along the curve of Hutchinson Street, having a radius of 88.35 feet, an arc length of 51.41 feet, a chord bearing of South 64 degrees 53 minutes 15 seconds East, a chord length of 50.69 feet, a delta angle of 33 degrees 20 minutes 25 seconds, and a tangent of 26.46 feet to a point, corner with Lot No. 2 and Lot No. 3; thence along the dividing line between Lot No. 2 and Lot No. 3 in said plan, North 08 degrees 26 minutes 32 seconds West, a distance of 140.00 feet to a point, corner common with Lot No. 3 and lands now or formerly of CHL Development Corporation; thence North 48 degrees 49 minutes 26 seconds East, a distance of 71.79 feet to a point, corner of Lot No. 2 and Lot No. 1 in said plan; thence along the dividing line between Lot No. 2 and Lot No. 1, South 41 degrees 45 minutes 57 seconds East, a distance of 130.74 feet to a point along Hutchinson Street, the place of beginning. Containing an area of 0.34 acre.

UNDER AND SUBJECT to all building setback lines and utility easements as more

particularly shown on the lot plan hereinbefore referred to.

THIS CONVEYANCE is also made and accepted by the Grantees, their heirs and assigns, under and subject to those certain building and use restrictions, easements, etc. as were established by Grantor in "Restrictive Covenants for Phase 1 of the Oak Hollow Plan of Lots", dated August 11, 2010, recorded in Record Book Volume 3130, page 1703, in the Recorder's Office of Fayette County, Pennsylvania, which said restrictions are by reference thereto incorporated herein as fully as if the same were contained herein.

EXCEPTING AND RESERVING thereout and therefrom, such coal, minerals, oil and gas and mining or other rights as have been previously conveyed or excepted or reserved by instruments of record.

FURTHER EXCEPTING AND RESERVING unto the Grantor all coal, mineral, oil and gas rights not previously excepted and reserved.

COMMONLY KNOWN AS: 141 Hutchinson Street, Uniontown, PA 15401
TAX PARCEL NO. 3427015802

No. 753 of 2015 GD
No. 38 of 2016 ED

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY,

Plaintiff,
vs.

TERRI L. ERJAVEC,
Defendant.

ALL THOSE CERTAIN pieces or parcels of land situate in Menallen Township, Fayette County, Pennsylvania, being Lots Nos. 73, 74 and 75 in the Newborn Plan of Lots of Newboro, Menallen Township, Fayette County, Pennsylvania, as recorded in Plan Book Volume 2, Page 53, and having thereon erected a residential dwelling house known as: 74 MOORE AVENUE, NEW SALEM, PA 15468.

Tax Parcel # 22-10-0018

Reference Fayette County Deed Book 2108, Page 234

No. 2323 of 2013 GD
No. 444 of 2015 ED

U.S. Bank National Association, as Trustee for Credit Suisse First Boston Mortgage Securities Corp., Home Equity Asset Trust 2005-4, Home Equity Pass-Through Certificates, Series 2005- 4,

Plaintiff,
vs.

Janetta Fartini
Defendant.

ALL that certain parcel of land lying and being situate in the Borough of Newell, County of Fayette, and Commonwealth of Pennsylvania, known as 406 Cassin Avenue, Newell, PA 15466 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 23-04-0162

BEING the same premises which Michael John Fartini and Robin Marie Fartini, husband and wife, by Deed dated May 25, 2005 and recorded in and for Fayette County, Pennsylvania in Deed Book 2949, Page 359, granted and conveyed unto Janetta Fartini, a single woman.

STERN & EISENBERG PC
Andrew J. Marley, Esquire

No. 2493 of 2015 GD
No. 14 of 2016 ED

HSBC Bank USA, National Association, as Trustee for Fremont Home Loan Trust 2006-D, Mortgage- Backed Certificates, Series 2006 -D, c/o Ocwen Loan Servicing LLC

Plaintiff,
vs.

Fabian Figueroa and Alison Figueroa,
Defendants.

SITUATE IN THE THIRD WARD OF THE TOWNSHIP OF WASHINGTON, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 327 GREEN STREET, BELLE VERNON, PA 15012.

PARCEL NO. 01-01-0022

IMPROVEMENTS - RESIDENTIAL REAL ESTATE

SOLD AS THE PROPERTY OF -
FABIAN FIGUEROA AND ALISON FIGUEROA

Phelan Hallinan Diamond & Jones, LLP

No. 1906 of 2015 GD
No. 2 of 2016 ED

Wells Fargo Bank, N.A.,
Plaintiff,
vs.

Patricia M. Firestone, in Her Capacity as
Executrix and Devisee of The Estate of David
E. Tremba,
Defendants.

By virtue of a Writ of Execution No.
1906-OF-15-GD

Wells Fargo Bank, N.A. v. Patricia M.
Firestone, in Her Capacity as Executrix and
Devisee of The Estate of David E. Tremba,
owner(s) of property situate in the Fayette
County, Pennsylvania, being 526 Wills Road,
Connellsville, PA 15425-4236

Parcel No.: 05-11-0187-02

Improvements thereon: RESIDENTIAL
DWELLING

RADCLIFFE &, DeHAAS, L.L.P.

No. 2384 of 2015 GD
No. 5 of 2015 ED

The United Federal Credit Union,
Plaintiff,
vs.

FP Properties, LLC,
Defendant.

FIRST: All that property situate in the City
of Uniontown, Fayette County, Pennsylvania,
being described as Tax Parcel No. 38-13-0174,
and Lot No. 14 in the Plan of Lots laid out by
the Uniontown Land Company, and being more
particularly described in a deed dated July 3,
2008 and recorded in Record Book 3066, page
476.

SECOND: All those two certain lots situate
in the City of Uniontown, Fayette County,
Pennsylvania, described as Tax Parcel No. 38-13
-0175 and Lots Nos. 1 5 and 16 in the Plan of
Lots laid out by the Uniontown Land
Company and being more particularly described
in a deed dated August 22, 2008 and recorded

in Record Book 3088, page 2167.

Together with such rights-of-way and
under and subject to the exceptions and
reservations as appear in prior deeds of record.

Seized and taken in execution as the
properties of FP Properties, LLC, owner or
reputed owner of the properties, at the suit of
The United Bank, Inc. in the Court of Common
Pleas of Fayette County, Pennsylvania at No.
2384 of 2015, G. D.

STERN & EISENBERG PC
M. Troy Freedman, Esquire

No. 2287 of 2015 GD
No. 463 of 2015 ED

Ocwen Loan Servicing, LLC,
Plaintiff,
vs.

Lynn Hall Administrator of the Estate of
Jeffrey A. Morris c/o Watson Mundorff
Brooks & Sepic LLP,
Defendant.

SITUATE IN THE THIRD WARD OF
THE CITY OF CONNELLSVILLE, FAYETTE
COUNTY, PENNSYLVANIA, BEING
KNOWN AS 509 EDNA STREET,
CONNELLSVILLE, PA 15425.

PARCEL NO. 05-09-0156

IMPROVEMENTS - RESIDENTIAL
REAL ESTATE

SOLD AS THE PROPERTY OF - LYNN
HALL ADMINISTRATOR OF THE ESTATE
OF JEFFREY A. MORRIS C/O WATSON
MUNDORFF BROOKS & SEPIC LLP.

No. 969 of 2015 GD
No. 42 of 2016 ED

U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR THE PENNSYLVANIA
HOUSING FINANCE AGENCY,

Plaintiff,
vs.

JASON E. HELA,
Defendant.

ALL THAT CERTAIN lot or piece of
ground situate in the Township of Washington,
County of Fayette and Commonwealth of

Pennsylvania, together with the dwelling house erected thereon known as: 917 FAYETTE CITY ROAD, FAYETTE CITY, PA 15438.
 Tax Parcel # 41-20-0023
 Fayette County Record Book 22916, Page 1525.

Phelan Hallinan Diamond & Jones, LLP

No. 1093 of 2015 GD
 No. 21 of 2016 ED

U.S. Bank National Association, as Trustee, Successor in Interest to Bank of America, National Association, as Trustee, Successor by Merger to Lasalle Bank National Association, as Trustee for Structured Asset Investment Loan Trust Mortgage Pass-Through Certificates, Series 2003-Bc5 Plaintiff,
 vs.
Bonnie S. Knopsnider, Defendant.

By virtue of a Writ of Execution No. 1093 OF 2015 GD
 U.S. Bank National Association, as Trustee, Successor in Interest to Bank of America, National Association, as Trustee, Successor by Merger to Lasalle Bank National Association, as Trustee for Structured Asset Investment Loan Trust Mortgage Pass-Through Certificates, Series 2003-Bc5 v. Bonnie S. Knopsnider, owner(s) of property situate in the CONNELLSVILLE CITY, Fayette County, Commonwealth of Pennsylvania, being 352 North Arch Street, a/k/a 352 Arch Street, Connellsville, PA 15425-2601
 Parcel No.: 05-06-0350
 Improvements thereon: RESIDENTIAL DWELLING

STERN & EISENBERG PC
 Andrew J. Marley, Esquire

No. 2414 of 2015 GD
 No. 31 of 2016 ED

The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, as

Trustee for Residential Asset Securities Corporation, Home Equity Mortgage Asset-Backed Pass Through Certificates Series 2003 -KS7 c/o Ocwen Loan Servicing, LLC, Plaintiff,
 vs.
The Unknown Heirs, Executors, and Devisees of the Estate of Darlene K. Kurnot, Defendants.

SITUATE IN THE TOWNSHIP OF GERMAN, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 626 PALMER ROAD, ADAH, PA 15410.
 PARCEL NO. 15-09-0052
 IMPROVEMENTS - RESIDENTIAL REAL ESTATE
 SOLD AS THE PROPERTY OF - THE UNKNOWN HEIRS, EXECUTORS, AND DEVISEES OF THE ESTATE OF DARLENE K. KURNOT

UDREN LAW OFFICES, P.C.
 WOODCREST CORPORATE CENTER
 111 WOODCREST ROAD, SUITE 200
 CHERRY HILL, NJ 08003-3620
 Elizabeth L. Wassall, Esquire

No. 2464 of 2015 GD
 No. 37 of 2016 ED

The Bank of New York Mellon Trust Company, National Association fle The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, N.A., as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates Series 2005-RZ4, Plaintiff,
 vs.
SUSAN C. LOHR Defendant.

ALL THAT CERTAIN LOT OF LAND SITUATE IN CITY OF CONNELLSVILLE, FAYETTE COUNTY, PENNSYLVANIA: BEING KNOWN AS 1011 Sycamore Street, Connellsville, PA 15425
 PARCEL NUMBER: 05-12-0090
 IMPROVEMENTS: Residential Property

Richard M. Squire & Associates, LLC
 One Jenkintown Station, Suite 104
 115 West Avenue
 Jenkintown, PA 19046

No. 692 of 2015 GD
 No. 33 of 2016 ED

**LSF8 Master Participation Trust,
 Plaintiff,**
 vs.

**Annette Malinsky, solely as Administratrix of
 the Estate of Melvin L. David , deceased
 Estate of Melvin L. David, deceased , and all
 known and unknown individuals, heirs,
 successors, assigns, business entities, non-
 profit entities, and/or charitable entities
 having and/or claiming any right, title, and/or
 interest therein, therefrom and/or
 thereunder,
 Defendants.**

TAX PARCEL NO. 24-5-53
 PROPERTY ADDRESS: 316 Blue Rock
 Road, Smithfield, PA 15478
 IMPROVEMENTS: Single Family
 Dwelling

SEIZED AND TAKEN in execution as the
 property of Annette Malinsky, solely as
 Administratrix of the Estate of Melvin L. David,
 deceased and Estate of Melvin L. David,
 deceased, and all known and unknown
 individuals, heirs, successors, assigns, business
 entities, non-profit entities, and/or charitable
 entities having and/or claiming any right, title,
 and/or interest therein, therefrom and/or
 thereunder.

ALL THAT CERTAIN Lot of land situate
 in Nicholson Township, Fayette County,
 Pennsylvania.

STERN & EISENBERG PC
 M. Troy Freedman, Esquire

No. 2436 of 2015 GD
 No. 12 of 2016 ED

**U.S. Bank National Association, not in its
 individual capacity but solely as Trustee of
 OWS REMIC Trust 2015-1,
 Plaintiff,**
 vs.

**Ernest Mayse,
 Defendant.**

SITUATE IN REDSTONE TOWNSHIP,
 FAYETTE COUNTY, PENNSYLVANIA,
 BEING KNOWN AS 6678 NATIONAL PIKE,
 NEW SALEM, PA 15468
 PARCEL NO. 30-19-0131
 IMPROVEMENTS - RESIDENTIAL
 REAL ESTATE
 SOLD AS THE PROPERTY OF -
 ERNEST MAYSE.

Phelan Hallinan Diamond & Jones, LLP

No. 1577 of 2014 GD
 No. 13 of 2016 ED

**Hsbc Bank USA, National Association as
 Trustee for Mortgageit Securities Corp.
 Mortgage Loan Trust, Series 2007-1,
 Mortgage Pass-Through Certificates
 Plaintiff,**
 vs.

**Edward R. Mirna a/k/a Edward Richard
 Mirna and Jodi L. Mirna a/k/a Jodi Lynn
 Mirna,
 Defendants.**

By virtue of a Writ of Execution No.
 1577-2014-GD, Hsbc Bank USA, National
 Association as Trustee for Mortgageit Securities
 Corp. Mortgage Loan Trust, Series 2007-1,
 Mortgage Pass-Through Certificates v. Edward
 R. Mirna a/k/a Edward Richard Mirna Jodi L.
 Mirna a/k/a Jodi Lynn Mirna, owner(s) of
 property situate in the WASHINGTON
 TOWNSHIP, Fayette County, Pennsylvania,
 being 107 Hamer Road, Fayette City, PA 15438-
 1222

Parcel No.: 41-10-0012
 Improvements thereon: RESIDENTIAL
 DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 862 of 2010 GD

No. 3 of 2016 ED

U.S. Bank National Association, as Trustee for The Structured Asset Investment Loan Trust, 2005-11,

Plaintiff,

vs.

John Pennington a/k/a John S. Pennington and Alice Pennington,

Defendants

By virtue of a Writ of Execution No. 2010-00862, U.S. Bank National Association, as Trustee for The Structured Asset Investment Loan Trust, 2005-11 v. John Pennington a/k/a John S. Pennington Alice Pennington, owner(s) of property situate in the GEORGES TOWNSHIP, Fayette County, Pennsylvania, being 189 Black Hill Road, Smithfield, PA 15478-9702

Parcel No.: 14-24-0048

Improvements thereon: RESIDENTIAL DWELLING

McCABE, WEISBERG & CONWAY, P.C.

123 South Broad Street, Suite 1400

Philadelphia, Pennsylvania 19109

No. 1443 of 2015 GD

No. 48 of 2016 ED

The Money Source, Inc.,

Plaintiff,

vs.

Thomas Pirl and Christina Pirl,

Defendants.

ALL THAT CERTAIN parcel of land situate in the City of Connellsville; Fayette County, Pennsylvania, known as Lot No. 122 and the Northern one-half (1/2) of Lot No. 123 in the Greenwood Addition to Connellsville, Plan of which is recorded in the Office of the Recorder of Deeds of Fayette County, Pennsylvania, in Plan Book Volume 2, Page 30, being more particularly bounded and described as follows:

FRONTING sixty (60) feet on the East side of Eight Street and extending back of equal width a distance of 120.00 feet to an alley.

HAVING erected thereon a structure(s) presently known as 319 South Eighth Street Connellsville, PA 15425

PARCEL NO. 05-08-0146

SUBJECT to all exceptions, reservations, restrictions and covenants, conditions, easements, rights of way, oil and gas leases, and coal and/or mining rights, all or any as set forth in any prior Instruments of record and on the recorded plan.

BEING the same premises which Deutsche Bank National Trust Company, as Custodian or Trustee, f/k/a Bankers Trust Company of California, N.A., by their agent Chase Home Finance LLC, successor by merger to Chase Manhattan Mortgage Corporation, by Deed dated 12/11/2006 and recorded 12/29/2006 in the Office of the Recorder of Deeds in and for the County of Fayette in Record Book 3012 Page 561, granted and conveyed unto Jason R. Miller.

All that certain piece or parcel or Tract of land situate City of Connellsville, Fayette County, Pennsylvania, and being known as 319 S 8th Street, Connellsville, Pennsylvania 15425.

Being known as: 319 S 8th Street, Connellsville, Pennsylvania 15425

Title vesting in Thomas Pirl and Christina Pirl, husband and wife, by deed from Jason R. Miller dated September 2, 2014 and recorded November 6, 2014 in Deed Book 3263, Page 810.

Tax Parcel Number : 05-08-0146

No. 2252 of 2011 GD

No. 1 of 2016 ED

U.S. BANK NATIONAL ASSOCIATION (TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY, PURSUANT TO A TRUST INDENTURE DATED AS OF APRIL 1, 1982),

Plaintiff,

vs.

MARCI S. PROTOS,

Defendant.

Twp of Jefferson, Cty of Fayette & Cmwrth of PA. HET a dwg k/a 248 Cope Road, Perryopolis, PA 15473.

Parcel No. 17-5-18.

No. 2193 of 2014 GD
 No. 41 of 2016 ED

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY,

Plaintiff,
vs.

BRIAN C. RAMER,
Defendant.

FIRST ALL THAT CERTAIN piece of ground in the Borough of Brownsville (formerly South Brownsville), County of Fayette, Commonwealth of Pennsylvania, being approximately 271.70 x 39.46 x 265.14 x 40.00 ; and SECOND Being approximately 264.00 x 40.00; and having thereon erected a dwelling known as 1203 Second Street, Brownsville, PA 15417.

Tax Parcel # 02-07-0217.

Fayette County Deed Book 3177, Page 2392.

TO BE SOLD AS THE PROPERTY OF BRIAN C. RAMER ON JUDGMENT NO. 2014-02193.

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: KRISTI L. RHODES and RONALD W. RHODES

Phelan Hallinan Diamond & Jones, LLP

No. 1988 of 2010 GD
 No. 22 of 2016 ED

Lsf9 Master Participation Trust,
Plaintiff,
vs.

Clinton L. Riggen, III,
Defendant.

By virtue of a Writ of Execution No. 1988-0F-2010-GD, Lsf9 Master Participation Trust v. Clinton L. Riggen, III. owner(s) of property situate in the NORTH UNION TOWNSHIP, Fayette County, Pennsylvania, being 95 Chaffee Street, Uniontown, PA 15401-4647

Parcel No.: 25-47-0179

Improvements thereon: RESIDENTIAL DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 2143 of 2015 GD
 No. 35 of 2016 ED

Wells Fargo Bank, N.A.,
Plaintiff,
vs.

Tammy L. Roberts,
Defendant.

By virtue of a Writ of Execution No. 2143 OF 2015 GD, Wells Fargo Bank, N.A. v. Tammy L. Roberts, owner of property situate in the SPRINGHILL TOWNSHIP, Fayette County, Pennsylvania, being 431 Nilan Hill Road, Point Marion, PA 15474-1389

Parcel No.: 36-14-0053

Improvements thereon: RESIDENTIAL DWELLING.

KML Law Group, P.C.
 Suite 5000 - BNY Independence Center
 701 Market Street
 Philadelphia, PA 19106

No. 2195 of 2014 GD
 No. 453 of 2015 ED

LAKEVIEW LOAN SERVICING, LLC
4425 Ponce DeLeon Blvd Mail Stop Ms5/251
Coral Gables, FL 33146,

Plaintiff,
vs.

KRISTI L. RHODES and RONALD W. RHODES,

Mortgagor(s) and Record Owner(s)
26 Ranch Road
Dunbar, PA 15431
Defendant.

ALL THAT CERTAIN lots or parcels of land situate in the Borough of Dunbar, County of Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #08-07-0005 & 08-07-0006

PROPERTY ADDRESS: 26 Ranch Road Dunbar, PA 15431

No. 1651 of 2015 GD
No. 457 of 2015 ED

STERN & EISENBERG PC
M. Troy Freedman, Esquire

U.S. Bank National Association, as Trustee for MASTR Asset Backed Securities Trust 2004-HEL, Mortgage Pass-Through Certificates, Series 2004-Hel, Plaintiff,
vs.
Russell A. Sanner and Melanie J. Sanner, Defendants.

No. 1609 of 2013 GD
No. 451 of 2016 ED

Deutsche Bank National Trust Company as Trustee for Long Beach Mortgage Loan Trust 2004-3, Asset-Backed Certificates, Series 2004-3, by its servicer, Ocwen Loan Servicing, LLC, Plaintiff,
vs.
Terry L. Veno, Defendant.

ALL THAT RIGHT, TITLE, INTEREST AND CLAIMS OF RUSSELL A. SANNER AND MELANIE J. SANNER OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN FAYETTE CITY, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 2811, PAGE 2184.

BEING KNOWN AS 105 CONNELLSVILLE STREET, FAYETTE CITY, PA 15438
TAX MAP NO. 12-3-73

SITUATE IN NORTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 504 JUMONVILLE ROAD, HOPWOOD, PA 15445

PARCEL NO. 25-55-0013
IMPROVEMENTS - RESIDENTIAL REAL ESTATE
SOLD AS THE PROPERTY OF - TERRY L. VENO

No. 1207 of 2012 GD
No. 4 of 2016 ED

No. 1275 of 2013 GD
No. 454 of 2015 ED

US Bank National Association, as Trustee for SASCO Mortgage Loan Trust 2006-WF3, Plaintiff,
vs.
Anna Marie Toth, AKA Anna M. Toth, Defendant.

PNC Bank, National Association, Plaintiff,
vs.
Marcella A. Yasechko, Defendant.

ALL that certain parcel of land lying and being situate in the Township of Washington, County of Fayette, and Commonwealth of Pennsylvania, known as 264 Gillespe Hollow Road, Fayette City, PA 15438 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 41-22-0059

BEING the same premises which David J. Serra and Sherry A. Serra, his wife, by Deed dated June 26, 2006 and recorded September 18, 2006 in and for Fayette County, Pennsylvania in Deed Book 3000, Page 1648, granted and conveyed unto Anna Marie Toth.

ALL that certain parcel of land lying and being situate in the City of Connellsville, County of Fayette, and Commonwealth of Pennsylvania, known as 344 East Crawford Avenue, Connellsville, PA 15425 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 05-09-0134

BEING the same premises which Richard L. Turtzter and Theresa C. Turtzter, his wife, by Deed dated December 26, 2007 and recorded in and for Fayette County, Pennsylvania in Deed Book 3049, Page 1318, granted and conveyed unto Marcella A. Yasechko.

No. 1734 of 2015 GD
No. 17 of 2016 ED

**DOLLAR BANK, FEDERAL SAVINGS
BANK,**

Plaintiff,

vs.

**CHAD A. YAUGER and SARA E. YAUGER,
a/k/a SARA YAUGER,
Defendants.**

ALL THE RIGHT, TITLE, INTEREST
AND CLAIM OF CHAD A. YAUGER AND
SARA E. YAUGER, N K/ A SARA YAUGER,
OF, IN AND TO THE FOLLOWING
DESCRIBED PROPERTY:

ALL THAT CERTAIN REAL ESTATE
SITUATED IN THE FAIRCHANCE
BOROUGH, FAYETTE COUNTY,
PENNSYLVANIA. HAVING ERECTED
THEREON A DWELLING KNOWN AS 40
DEFOREST AVENUE, FAIRCHANCE, PA
15436. DEED BOOK VOLUME 3207, PAGE
373 AND PARCEL NUMBER 11-07-0135.

No. 2452 of 2013 GD
No. 456 of 2015 ED

**PNC BANK, NATIONAL ASSOCIATION,
successor by merger to NATIONAL CITY
BANK, OF PENNSYLVANIA,**

Plaintiff,

vs.

**JOHN C. YETSCONISH AND NANCY A.
YETSCONISH,
Defendants.**

ALL THE RIGHT TITLE, INTEREST
AND CLAIMS OF JOHN C. YETSCONISH
AND NANCY A. YETSCONISH, OF, IN
AND TO THE FOLLOWING DESCRIBED
PROPERTY:

ALL THAT PARCEL OF LAND
SITUATE IN THE TOWNSHIP OF
WASHINGTON, FAYETTE COUNTY, PA,
BEING PARCEL 41-12-0057, MORE FULLY
DESCRIBED IN BOOK 1175, PAGE 0031.

BEING KNOWN AS 212 HOFFMAN
STREET, BELLE VERNON, PA 15012.

TAX PARCEL NO. 41-12-0057.

JUDICIAL OPINION

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

COMMONWEALTH OF :
PENNSYLVANIA, :
v. :
DAVID LEE WEAVER, :
Defendant. : NO. 1283 of 2015

ATTORNEYS:

John W. Eddy, Esq., Assistant District Attorney
Jeffrey W. Whiteko, Esq., for the Defendant

OPINION AND ORDER

LESKINEN, J.

January 20, 2016

The matter before the Court is an Omnibus Pre-Trial (“OPT”) Motion filed on October 22, 2015 by Defendant David Weaver (hereinafter “Defendant”). Defendant is charged with seven offenses, to include Attempted Criminal Homicide; Aggravated Assault; Aggravated Assault By Vehicle While DUI; Driving Under the Influence and DUI: Highest Rate of Alcohol (BAC .16+); Simple Assault; and Recklessly Endangering Another Person. In his Motion, the Defendant petitions for Writ of Habeas Corpus and/or Motion to Dismiss, specifically, that the Commonwealth did not establish that the Defendant had the specific intent to kill or cause serious bodily injury with the vehicle; suppression of statements, based on a failure to issue Miranda warnings; and suppression of evidence recovered during the search of the vehicle at issue, as well as a blood sample taken from the Defendant. Def. OPT Mot., Oct. 22, 2015. For the reasons discussed below, the Court denies Defendant’s suppression motions and Motion to Dismiss.

BACKGROUND

On the morning of August 1, 2015, at approximately 2:28 a.m., Trooper Jason Ashton of the Pennsylvania State Police was dispatched to Pechin Road and Country Road in Dunbar Township, Fayette County, in response to a male victim who had been struck by a vehicle. Upon arriving at the scene, numerous EMS and Fire Department personnel were already there; the victim, identified as Ryan Anthony Graft (hereinafter “Victim”), had sustained numerous injuries, and was transported from the scene via medical helicopter. Trooper Ashton interviewed the witnesses at the scene, including Katelyn Jo Oldham. According to Ms. Oldham, she and a group of people, including

the Victim, had a brief altercation at Al's Pub; they were subsequently told to leave by a bartender. She proceeded to leave the pub in her vehicle; according to Ms. Oldham, her occupants included the Victim, Robert Dean "Bubba" Hall, and Vuintus Denale Mitchell. Upon leaving the pub, Ms. Oldham was 'tailed' by a red pickup truck; she attempted to pull off to the side of the road to let the vehicle pass, but the truck instead stopped next to them. Ms. Oldham testified that the Defendant was a passenger in the truck, along with two others; all three individuals were said to be "carneys," carnival workers temporarily employed at the Fayette County Fair. A verbal and physical altercation ensued, with individuals from both groups pushing and yelling at each other. Ms. Oldham testified that, at one point, the Defendant said "let's end this," and got into the red pickup truck. According to Ms. Oldham, the Defendant then "gassed it," striking the Victim; the Victim was then dragged underneath the vehicle for approximately 50-100 feet. Ms. Oldham indicated that the Defendant stopped to let one of the persons from his group into the vehicle, and then left the scene.

Trooper Ashton testified that he and other Troopers working the case immediately attempted to locate the Defendant and the red pickup. Trooper Ashton testified that at approximately 5:00 a.m., the red pickup, identified as a red Ford F-250, was located in the parking lot of the Fayette County Fairgrounds; the Defendant was located in a nearby "outside bunk trailer." Trooper Ashton indicated in his Criminal Complaint that he located Kathy Sue Coates, the owner of the vehicle, who indicated that the Defendant and Chris Murphy had recently used the vehicle.^{1} Upon establishing contact with the Defendant, Trooper Ashton observed that the Defendant appeared to be highly intoxicated, with bloodshot and glassy eyes, and a strong odor of an alcoholic beverage was emanating from his person. Trooper Ashton transported the Defendant to Uniontown Hospital; a blood sample was taken after the Defendant was given his O'Connell warnings, which he affirmed by executing a PA Department of Transportation Form DL-26. The blood sample was tested, and a report from NMS Labs showed a 0.233 blood alcohol concentration (BAC), nearly three times the legal limit for driving under the influence. Comm. Ex. 2.

An OPT hearing was conducted on December 14, 2015, in which Ms. Oldham, Mr. Hall, and Trooper Ashton testified. At the conclusion of the hearing, defense counsel conceded most of the issues, and agreed that the remaining issues to be decided involve the Writ of Habeas Corpus/Motion to Dismiss, based on the Commonwealth's alleged failure to prove Attempted Criminal Homicide; and a Motion to Suppress Evidence, to include the Defendant's blood sample and evidence recovered from the red pickup truck.

^{1} Ms. Coates indicated that Mr. Murphy told her about the incident; Mr. Murphy also told Trooper Ashton that the group was involved in a verbal altercation, which ended with the Defendant "driving the truck over a white male." See Criminal Complaint, Aff. of Probable Cause, B04-2126492.

DISCUSSION

Writ of Habeas Corpus/Motion to Dismiss

First, the Defendant seeks dismissal of the charge of Attempted Homicide, alleging that the Commonwealth has failed to establish that the Defendant had a specific intent to kill or cause serious bodily injury to the victim with the vehicle. Def. OPT Mot. ¶¶ 8 -11, Oct. 22, 2015. Specifically, the Defendant alleges that the Commonwealth cannot prove that the Defendant intentionally, knowingly, recklessly, or negligently intended to cause the death of another human being. The standard of review for whether the Commonwealth has established a prima facie case is as follows:

[T]he Commonwealth must show sufficient probable cause that the defendant committed the offense, and the evidence should be such that if presented at trial, and accepted as true, the judge would be warranted in allowing the case to go to the jury. When deciding whether a prima facie case was established, we must view the evidence in the light most favorable to the Commonwealth, and we are to consider all reasonable inferences based on that evidence which could support a guilty verdict. The standard clearly does not require that the Commonwealth prove the accused's guilt beyond a reasonable doubt at this stage.

Commonwealth v. McCullough, 86 A.3d 901, 905 (Pa. Super. 2014) (citing Commonwealth v. Landis, 48 A.3d 432, 444 (Pa. Super. 2012)).

The Commonwealth is not required to prove that the Defendant was involved in criminal activity beyond a reasonable doubt in order to proceed to trial. However, to establish their prima facie case, the Commonwealth must show “evidence of the existence of each element of the crime charged.” Landis, 48 A.3d at 444.

In this case, Defendant is charged, inter alia, with Attempted Criminal Homicide. In Pennsylvania, a defendant is guilty of Criminal Homicide “if he intentionally, knowingly, recklessly or negligently causes the death of another human being.” {2} 18 Pa.C.S.A. § 2501(a). Furthermore, a defendant is guilty of an attempt to commit any offense “when, with intent to commit a specific crime, he does any act which constitutes a substantial step toward the commission of that crime.” 18 Pa.C.S.A. § 901 (a). Specific intent to kill can be inferred from a defendant’s “use of a deadly weapon on a vital part of the victim’s body.” Commonwealth v. Hobson, 604 A.2d 717 (Pa. Super. 1992). In addition to firearms, the Crimes Code defines “deadly weapons” to

{2} The Supreme Court of Pennsylvania has made it clear that attempted criminal homicide requires the specific intent to kill. See Commonwealth v. Anderson, 650 A.2d 20, 24 (Pa. 1994)(“the intent necessary to establish the offense of attempted murder-specific intent to kill-is greater than and necessarily includes the intentional, knowing, or reckless infliction of serious bodily injury”). Thus, “negligence,” as provided in § 2501(a), is not applicable in the present case.

include “any other device or instrumentality which, in the manner in which it is used or intended to be used, is calculated or likely to produce death or serious bodily injury.” 18 Pa.C.S.A. § 2301. The Superior Court has recognized automobiles to be deadly weapons, under certain circumstances. See *Commonwealth v. Scales*, 684 A.2d 1205, 1209 (Pa. Super. 1994) (“[m]otor vehicles still outdistance firearms as the most dangerous instrumentality in the hands of irresponsible persons in our society today”).

Two witnesses testified in the OPT hearing that there was some sort of altercation between two groups of people at Al’s Pub, with the Victim and Defendant being on opposite sides of the altercation. These witnesses also testified that the Defendant’s group followed the victim’s group to a second location, where the altercation continued. At one point in the altercation, the Defendant got into the pickup truck, revved the engine, and struck the Victim, who was standing in front of the truck. The Defendant allegedly did not immediately stop after hitting the Victim, dragging him for 50-100 feet under the vehicle before stopping to allow his acquaintance to get in and flee the scene. Based on these allegations, a fact finder can infer that the Defendant acted with the intent to bring about the death of the Victim.

The injuries suffered by the victim are consistent with the use of a deadly weapon, as well. According to the testimony of Trooper Ashton, the victim suffered severe head injuries and fractures to his body, resulting in the need for Life Flight. The Commonwealth submitted a letter from the victim’s doctor, attesting to a spinal cord injury that was suffered in the incident, as well as the victim’s continuing need for therapy and use of a wheelchair. Comm. Ex. 3. Based on the testimony offered in this case, and the evidence that can be presented at trial, the Commonwealth has demonstrated the existence of each element of the Attempted Criminal Homicide charged; particularly, that the Defendant attempted to kill the victim by striking him with a vehicle on vital parts of the victim’s body. Thus, the Motion to Dismiss is denied.

Motion to Suppress Evidence

The Court must examine motions to suppress evidence on a “four corners of the warrant” approach; in other words, “lack of particularity” in the search warrants will require the Court to suppress any items not mentioned therein. See *Commonwealth v. Friedman*, 602 A.2d 371, 378 (Pa. Super. 1992) (lack of particularity in [a] warrant requires suppression of all items not specifically mentioned within the four corners of the warrant.”) The Pennsylvania Supreme Court has outlined the particularity requirement for warrants in a “four corners” analysis as follows:

The language of the Pennsylvania Constitution requires that a warrant describe the items to be seized “as nearly as may be....” The clear meaning of the language is that a warrant must describe the items as specifically as is reasonably possible. This requirement is more stringent than that of the Fourth Amendment, which merely requires particularity in the description.

The Pennsylvania Constitution further requires the description to be as particular as is reasonably possible. It is settled Fourth Amendment jurisprudence that a warrant must specifically list the things to be seized. The requirement that warrants shall particularly describe the things to be seized makes general searches under them impossible and prevents the seizure of one thing under a warrant describing another. As to what is to be taken, nothing is left to the discretion of the officer executing the warrant. The more rigorous Pennsylvania constitutional provision requires no less.

Although some courts have treated overbreadth and ambiguity as distinct defects in warrants . . . both doctrines diagnose symptoms of the same disease: a warrant whose description does not describe as nearly as may be those items for which there is probable cause. Consequently, in any assessment of the validity of the description contained in a warrant, a court must initially determine for what items probable cause existed. The sufficiency of the description must then be measured against those items for which there was probable cause. Any unreasonable discrepancy between the items for which there was probable cause and the description in the warrant requires suppression. An unreasonable discrepancy reveals that the description was not as specific as was reasonably possible.

Commonwealth v. Grossman, 555 A.2d 896, 899-900 (Pa. 1989) (internal quotes and citations omitted).

Here, Trooper Ashton states in the Affidavit of Probable Cause that Kathy Sue Coates, the owner of the vehicle in question, informed him that she had loaned the vehicle to Chris Murphy and that the Defendant was with him. *Aff. Of Probable Cause*, Docket No. MD 41-15. She also stated that Mr. Murphy returned home, and immediately stated that “Dave just ran somebody over.” *Aff. Of Probable Cause*, Docket No. MD 41-15. The warrant clearly identifies the vehicle subject to the search as a 1999 Ford F-250 crew cab, red in color, and further identifies the vehicle by license plate and VIN, owned by Ms. Coates. See *App. For Search Warrant and Authorization*, Docket No. MD 41-15. The warrant adequately describes the items that are to be searched for and seized during the execution of the warrant, being “any hair, flesh, blood, bodily fluids or clothing/fibers belonging to the victim” *App. For Search Warrant and Authorization*, Docket No. MD 41-15. Furthermore, according to the inventory submitted by Trooper Ashton, the items seized included a fiber sample, blood sample, and (5) hair samples. *Receipt/Inventory of Seized Property*, Docket No. MD 41-15.

The OPT Motion alleges that no probable cause existed to request and obtain a blood sample from the Defendant. *Def. OPT Mot.* ¶¶ 17-24, Oct. 22, 2015. At the OPT hearing, Trooper Ashton testified that when he located the Defendant, he appeared to be intoxicated; according to Trooper Ashton, the Defendant’s eyes were bloodshot, and a strong odor of an alcoholic beverage was emanating from the Defendant’s person.

Shortly after making contact with the Defendant, Trooper Ashton transported him to Uniontown Hospital, and properly gave the Defendant his O'Connell warnings; see Comm., Dept. of Transp., Bureau of Traffic Safety v. O'Connell, 555 A.2d 873, 877 (Pa. 1989) (as a condition of maintaining a driver's license . . . all drivers are subject to the implied consent requirements of the Motor Vehicle Code and must submit to blood and breath tests under appropriate circumstances); 75 Pa.C.S.A. § 1547. The Defendant agreed to submit to a blood sample, and signed and dated PA Department of Transportation Form DL-26; according to testimony by Trooper Ashton, he believed this to be a knowing, intelligent, and voluntary affirmation of consent by the Defendant.

The Defendant further argues that the Defendant's blood was not drawn within two hours of the incident, as required by 75 Pa.C.S.A. § 3802(a)(2) and § 3802(c), and should therefore be excluded. However, the Court recognizes that the statute provides an exception to the two hour rule under certain circumstances. The relevant parts of the statute are as follows:

(a) General impairment.--

(1) An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the individual is rendered incapable of safely driving, operating or being in actual physical control of the movement of the vehicle.

(2) An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is at least 0.08% but less than 0.10% within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(c) Highest rate of alcohol.--An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is 0.16% or higher within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle.

(g) Exception to two-hour rule.-- Notwithstanding the provisions of subsection (a), (b), (c), (e) or (f), where alcohol or controlled substance concentration in an individual's blood or breath is an element of the offense, evidence of such alcohol or controlled substance concentration more than two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle is sufficient to establish that element of the offense under the following circumstances:

(1) where the Commonwealth shows good cause explaining why the chemical test sample could not be obtained within two hours; and

(2) where the Commonwealth establishes that the individual did not imbibe any alcohol or utilize a controlled substance between the time the individual was arrested and the time the sample was obtained.

75 Pa.C.S.A. § 3802.

The time between the incident and blood draw was approximately 3 hours and 17 minutes, {3} well beyond the 2 hour time limit established by § 3802(a)(2) and § 3802 (c). However, the Commonwealth clearly has sufficient evidence to prove good cause for the delay. Here, the Defendant is alleged to have fled the scene of the incident, thereby avoiding his immediate apprehension. Despite the best efforts, the police were unable to locate the Defendant and the vehicle until approximately 5:00 a.m. Upon first contact, Trooper Ashton immediately observed that the Defendant appeared to be “highly intoxicated,” and transported him to Uniontown Hospital; the Defendant’s blood was drawn at approximately 5:45 a.m. There is no indication that the Defendant was permitted to consume alcohol between the time he was arrested and the time the blood test was performed. {4} Although more than two hours elapsed between the time of the incident and the blood draw, this was not the fault of the Commonwealth; based on his decision to leave the scene of the incident, responsibility for the delay lies solely with the Defendant. Thus, the Commonwealth has shown sufficient evidence to establish good cause for the delay, and thus, the motion to suppress is denied.

WHEREFORE, the Court issues the following Order:

ORDER

AND NOW, this 20th day of January, 2016, upon consideration of Defendant’s Omnibus Pre-Trial Motion, it is hereby ORDERED and DECREED that said Motion is DENIED. In accordance with Administrative Order No. 808 of 2014, published at 44 Pa. Bull. 6628 (Oct. 4, 2014), the Fayette County Clerk of Courts is hereby ORDERED to file attached Commonwealth’s Exhibits 1 – 3 as part of the record. The District Attorney is directed to list this matter for trial.

BY THE COURT:

STEVE P. LESKINEN, JUDGE

ATTEST:

CLERK OF COURTS

{3} According to the criminal complaint, Trooper Ashton was dispatched to the scene at approximately 2:28 a.m.; according to Trooper Ashton’s testimony at the OPT hearing, the Defendant’s blood was drawn at approximately 5:45 a.m. at Uniontown Hospital.

{4} In addition to showing good cause for the delay, “the Commonwealth [must establish] that the individual did not imbibe any alcohol or utilize a controlled substance between the time the individual was arrested and the time the sample was obtained.” 75 Pa.C.S.A. § 3802(g)(2).

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