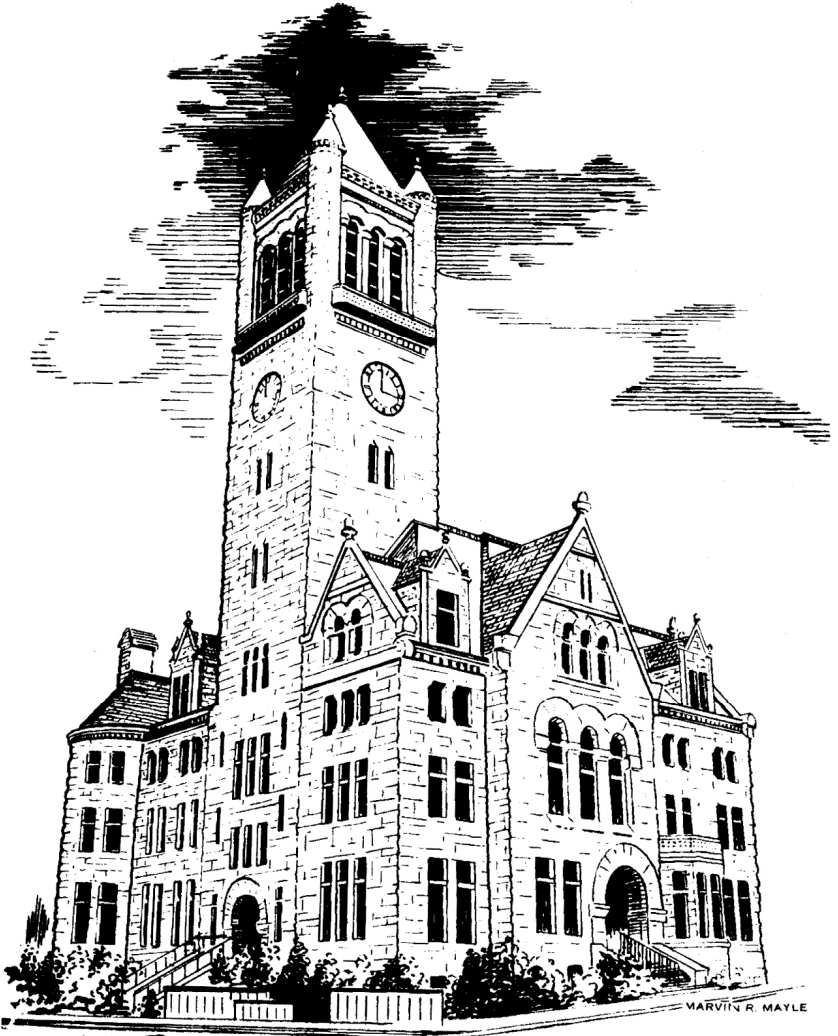


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ESTATE NOTICES

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 CONAWAY, a/k/a ANNA P. CONAWAY, late of Masontown, Fayette County, PA (3)

Personal Representative: Angelina M. Durso
c/o Dellarose Law Office, PLLC
99 East Main Street, Suite 101
Uniontown, PA 15401
Attorney: Melinda Dellarose

BRINLEY J. LOWHIGH, late of Springfield Township, Fayette County, PA (3)

Executrix: Leslie G. Ritenour
c/o 815A Memorial Boulevard
Connellsville, PA 15425
Attorney: Margaret Zylka House

ANDREW T. SEPSKI, a/k/a ANDREW SEPSKI, late of South Union Township, Fayette County, PA (3)

Executrix: Dorothy Amburn
c/o Zebley Mehalov & White, P.C.
18 Mill Street Square
P.O. Box 2123
Uniontown, PA 15401
Attorney: Daniel R. White

MARJORIE HELEN ZEBLEY, a/k/a MARJORIE H. ZEBLEY, late of North Union Township, Fayette County, PA (3)

Executor: Larry Zebley
c/o Zebley Mehalov & White, P.C.
18 Mill Street Square
P.O. Box 2123
Uniontown, PA 15401
Attorney: Daniel R. White

Second Publication

EUGENE W. MARTINOSKY, JR., late of Everson, Fayette County, PA (2)

Administratrix: Darlene Martinosky
c/o Nakles and Nakles
1714 Lincoln Avenue
Latrobe, PA 15650
Attorney: Ryan P. Cribbs

MICHAEL MOSKO, JR., late of South Union Township, Fayette County, PA (2)

Personal Representative: Linda Lee Darr
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

ANGELA PIKULSKI, late of Menallen Township, Fayette County, PA (2)

Personal Representative: Theresa Edenfield
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

JOHN C. SANSONE, late of North Union Township, Fayette County, PA (2)

Executor: Robert L. Webster, Jr.
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

MERLE SIPE, a/k/a PAUL MERLE SIPE, late of Springfield Township, Fayette County, PA (2)

Executor: James M. McKeel
226 Ben Sipe Road
Mill Run, PA 15464
c/o Yelovich & Flower
102 North Kimberly Avenue
Somerset, PA 15501
Attorney: David J. Flower

SYLVIA S. THOMAS, late of North Union Township, Fayette County, PA (2)

Executor: Nicholas J. Cook
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

First Publication

**CONSTANCE ROSS BERRY, a/k/a
CONSTANCE JEAN BERRY**, late of
Brownsville, Fayette County, PA (1)

Executor: David Edward Manion
c/o Thomas Murphy & Associates, P.C.
237 East Queen Street
Chambersburg, PA 17201
Attorney: Jared S. Childers

DARIUS EVANS, late of Masontown, Fayette
County, PA (1)

Administratrix: Gabriella Locke
c/o Colin Adair Morgan, Certified Elder
Law Attorney and Julian Gray Associates
954 Greentree Road
Pittsburgh, PA 15220
Attorney: Colin Adair Morgan

PONSELLA EWING, late of Uniontown,
Fayette County, PA (1)

Co-Executor: Elizabeth Ann McCabe and
Mark Decarlucci
c/o Fitzsimmons and Barclay
55 East Church Street, Suite 102
Uniontown, PA 15401
Attorney: James N. Fitzsimmons, Jr.

**GAY NICHELSON, a/k/a GAY W.
NICHELSON**, late of Bullskin Township,
Fayette County, PA (1)

Administratrix: Kathie Nicholson
146 Rice School Road
Mt. Pleasant, PA 15666
c/o 140 South Main Street #301
Greensburg, PA 15601
Attorney: John Cochran

**MAGDALEN A. WILLIAMS, a/k/a
MAGDALEN ANN WILLIAMS, a/k/a
MAGDALEN WILLIAMS**, late of Uniontown,
Fayette County, PA (1)

Personal Representative: Barbara Fetsko
c/o John and John
96 East Main Street
Uniontown, PA 15401
Attorney: Anne N. John

GEORGE YANKULIC, late of German
Township, Fayette County PA (1)

Personal Representative:
Mary Ann Vicinelly
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

LEGAL NOTICES

NOTICE

Notice is hereby given that a Certificate of Organization was filed with the Pennsylvania Department of State, on February 10, 2019, for a Limited Liability Company, organized under the Limited Liability Company Law of 1994, as from time to time amended. The name of the Company is SWH Select Properties, LLC having an address of 440 Smithfield Masontown Road, Smithfield, Pennsylvania, 15478.

James E. Higinbotham, Jr., Esq.
HIGINBOTHAM LAW OFFICES
45 East Main Street, Suite 500
Uniontown, PA 15401
Telephone: 724-437-2800

**NOTICE OF INTENTION TO FILE
ARTICLES OF AMENDMENT**

Notice is hereby given that the Albert Gallatin Municipal Authority intends to file articles of amendment with the Secretary of the Commonwealth in order to extend its corporate existence for an additional fifty (50) years pursuant to the provisions of the Municipality Authorities Act, as amended.

The registered office of the Authority is:
247 Cagey School Road
Point Marion, PA 15474

The Articles of Amendment will be filed with the Secretary no sooner than three days after the publication of this notice.

Carl J. Butcho, Chairman

Fictitious Name Registration

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on October 07, 2019 for **H&H LITTLE CLOTHING** for 808 First St. Keisterville, PA 15449. The name and address of each individual interested in the business is Danielle Carpeal at 808 First St. Keisterville, PA 15449. This was filed in accordance with 54 Pa.C.S. 311.

NOTICE OF ACTION IN MORTGAGE
FORECLOSURE
IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

COURT OF COMMON PLEAS
CIVIL DIVISION
FAYETTE COUNTY
No. 2019-02186

PNC BANK, NATIONAL ASSOCIATION
Plaintiff
vs.
JOSEPH A. SHAY
Defendant

NOTICE

To JOSEPH A. SHAY

You are hereby notified that on October 7, 2019, Plaintiff, PNC BANK, NATIONAL ASSOCIATION, 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. 2019-02186. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 170 EASY STREET, UNIONTOWN, PA 15401-3127 whereupon your property would be sold by the Sheriff of FAYETTE County.

You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with

the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
	:	
V.	:	
	:	
DOMINIQUE JONES,	:	No. 429 of 2019
Defendant.	:	Honorable Judge Linda R. Cordaro

OPINION

Cordaro, J.

September 9, 2019

SUMMARY

Defendant is charged with criminal homicide and three counts of endangering the welfare of a child. Before the Court is Defendant's Motion to set Bond and Motion to Suppress Evidence. For the following reasons, both Motions are denied.

BACKGROUND

Defendant, Dominique Jones, was charged with criminal homicide and three counts of endangering the welfare of a child as a result of an incident that took place on December 25, 2018. Ms. Jones has been incarcerated since that date.

The following background is from the testimony of Trooper Kristen Zelechowski at the Preliminary Hearing. On December 25, 2018, Trooper Zelechowski was called to investigate an incident at the Holiday Inn Express in Uniontown. The call was that a man was stabbed and was currently in the lobby of the hotel. One of the 911 callers was Ms. Jones, who stated that her and her boyfriend had gotten into an altercation and she stabbed him.

Trooper Zelechowski found the alleged victim, Tre McCargo, in the hotel lobby upon arrival. Other troopers were applying pressure to Mr. McCargo's neck, which was bleeding. The EMTs arrived and transported Mr. McCargo to the hospital, where he died about an hour later.

Through her investigation, Trooper Zelechowski discovered that the stabbing occurred in Room 110 of the Holiday Inn Express. The room was registered to Ms. Jones, who was found in the room with her three children, aged eight, four, and two. Ms. Jones did not have any apparent injuries from the altercation. Ms. Jones was taken into custody. A knife was recovered from the room after a search warrant was issued.

Trooper Zelechowski interviewed Ms. Jones after Ms. Jones was in custody. The Trooper read Ms. Jones her Miranda rights, and Ms. Jones gave a statement. The inter-

view was recorded. Ms. Jones was charged with criminal homicide and three counts of endangering the welfare of a child.

On June 25, 2019, Defendant filed a Motion to set Bond, citing Rule 600(B)(1). {1} On July 17, 2019, Defendant filed three separate Omnibus Pretrial Motions, including a Motion to Suppress Evidence. {2}

On August 21, 2019, a Hearing was held on the Motions to Set Bond and to Suppress Evidence relating to the video recording of the interrogation of Ms. Jones.

DISCUSSION

Defendant's First Motion raises the issue of pre-trial bail. Defendant cites Rule 600 (B)(1), which states that, "[e]xcept in cases in which the defendant is not entitled to release on bail as provided by law, no defendant shall be held in pretrial incarceration in excess of 180 days from the date on which the complaint is filed." Ms. Jones has been held in pretrial incarceration from December 25, 2018 to the present date, concededly in excess of 180 days. However, the major focus here is whether this is a case in which "the defendant is not entitled to bail as provided by law."

Article 1, Section 14 of the Pennsylvania Constitution states:

All prisoners shall be bailable by sufficient sureties, unless for capital offenses or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great ...

(Emphasis added.) Based on the language of the Constitution, which was amended in 1998, the Pennsylvania Legislature amended 42 Pa.C.S.A. §5701 to read:

All prisoners shall be bailable by sufficient sureties, unless:

- (1) for capital offenses or for offenses for which the maximum sentence is life imprisonment; or
- (2) no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great.

{1} A hearing on the Motion was originally scheduled by the Honorable Nancy Vernon for August 1, 2019. However, the Honorable Nancy Vernon entered an Order on July 30, 2019 canceling that hearing as the undersigned had been assigned to handle all matters in this case.

{2} The other Omnibus Pretrial Motions included a Motion to Bar the Prosecution from calling child witnesses to testify at trial, and a Motion to Exclude Evidence relating to a cell phone. A Hearing on all three Omnibus Pretrial Motions was originally scheduled by the undersigned for September 20, 2019. However, on August 5, 2019, Defendant's counsel filed a Motion to Accelerate the Hearings on all pretrial motions. On August 8, 2019, the undersigned entered an Order rescheduling a Hearing on the Pretrial Motions for August 21, 2019. At that time, the only Pretrial Motion under consideration was the Motion to Suppress Evidence. A Hearing on the remaining Pretrial Motions is scheduled for September 24, 2019.

Here, Ms. Jones is charged with criminal homicide, 18 Pa.C.S.A §2501. This offense carries a maximum sentence of life imprisonment. {3}

The Commonwealth bears the burden of proof at a bail hearing. *Commonwealth v. Heiser*, 478 A.2d 1355, 1356 (Pa. Super. Ct. 1984) (citing *Commonwealth v. Truesdale*, 296 A.2d 829, 836 (Pa. 1972)). The Commonwealth "can satisfy its burden to prove that a defendant is not entitled to bail by establishing a prima facie case of murder in the first degree." *Heiser* at 1356 (citing *Commonwealth v. Farris*, 278 A.2d 906, 907 (Pa. 1971); cf. *Commonwealth ex rel. Alberti v. Boyle*, 195 A.2d 97, 97 (Pa. 1963) (interpreting the phrase "when the proof is evident or presumption great" to mean that if the Commonwealth's evidence at the bail hearing, together with reasonable inferences, is sufficient to sustain a verdict of first-degree murder, bail should be denied)).

While those cases interpret the former provision of the Pennsylvania Constitution, which only disallowed bail for capital offenses, there has been no appellate caselaw on this issue since *Heiser* in 1984. The 1998 Amendment of Article 1, Section 14 of the Pennsylvania Constitution expands non-bailable offenses to include offenses for which the maximum sentence is life imprisonment. However, the language of Article 1, Section 14 is otherwise the same. Those cases are therefore controlling, and this Court is bound by those decisions.

The offense Ms. Jones is charged with in this case is one in which a defendant is not entitled to release on bail as provided by law, so long as the Commonwealth can establish a prima facie case. Here, the Commonwealth presented a prima facie case of first-degree murder at the preliminary hearing and at the bail hearing. Even though Ms. Jones presented evidence at the bail hearing of a justification defense or that could lead to a verdict of a lesser degree of homicide, the Pennsylvania Constitution, statutory law, and caselaw do not currently permit a defendant who is charged with first-degree murder to have bail set so long as the Commonwealth establishes a prima facie case. Therefore, Rule 600(B)(1) does not apply in this case, and Defendant's Motion to set Bond is denied.

The second issue before this Court is Defendant's Omnibus Pretrial Motion to Suppress Evidence. Specifically, Defendant asks this Court to suppress a video recording of the interrogation of Ms. Jones after the police brought her in for questioning following the stabbing of Mr. McCargo.

Defendant argues that her statements made during the interrogation were involuntary. She claims she did not understand the rights she was waiving when she waived her right to have an attorney present and her right to remain silent. Defendant also alleges that the Trooper used an unconstitutional interrogation tactic by not telling Ms. Jones that the victim died as a result of the stabbing until Ms. Jones stated that she stabbed him.

{3} 18 Pa.C.S.A. §1102(a)(1). Criminal homicide could also be a capital offense. However, there is no indication that the Commonwealth is seeking the death penalty in this case, and the Commonwealth failed to show any aggravating circumstances at the bail hearing. See *Commonwealth v. Heiser*, 478 A.2d 1355, 1356 n.3 (Pa. Super. Ct. 1984) ("the Commonwealth must also make a prima facie showing of the existence of [an] aggravating circumstance [] in order for bail to be denied on the basis of the crime charged being a capital offense").

When deciding whether to suppress confessions made during an interrogation, the "touchstone inquiry" is whether the statements were voluntary. See *Commonwealth v. Nester*, 709 A.2d 879, 882 (Pa. 1998). The standard for determining whether confessions are voluntary is based on the totality of the circumstances. *Id.* at 883. The question of voluntariness is whether an interrogation is so manipulative or coercive that it deprives the accused of their ability to make a free and unconstrained decision to confess. *Id.* at 882.

A court should look at the following factors when assessing voluntariness pursuant to the totality of the circumstances:

[T]he duration and means of the interrogation; the physical and psychological state of the accused; the conditions attendant to the detention; the attitude of the interrogator; and any and all other factors that could drain a person's ability to withstand suggestion and coercion.

Id. (citing *Commonwealth v. Jones*, 683 A.2d 1181, 1189 (Pa. 1996)).

The video recording of the interrogation of Ms. Jones was played during the August 21, 2019 Hearing. Applying the relevant factors to the interrogation at issue, this Court finds that the interrogation was neither manipulative nor coercive, and that the statements made by Ms. Jones to the Trooper during the interrogation were voluntary.

The interrogation lasted roughly 50 minutes. Ms. Jones was emotional during the interview; however, she appeared to understand Trooper Zelechowski's questions and gave direct answers. At one point, Ms. Jones became so emotional that she was on the floor for a few minutes. However, during that time, the Trooper did not ask Ms. Jones any questions and provided Ms. Jones with tissues. Further, Trooper Zelechowski was composed during the interrogation and did not express hostility or anger towards Ms. Jones. After viewing the interrogation, there is no evidence that the interrogation was performed in such a way as to drain Ms. Jones's ability to withstand suggestion or coercion.

Defendant's other argument is that Trooper Zelechowski did not reveal that Mr. McCargo had succumbed to his stab wounds until after Ms. Jones admitted to stabbing him. Ms. Jones did repeatedly ask during the interrogation as to Mr. McCargo's condition. However, Defendant does not cite any Pennsylvania caselaw to the effect that an officer must disclose the condition of a victim. Based on the totality of the circumstances, the fact that Trooper Zelechowski did not reveal Mr. McCargo's condition did not cause the interrogation to be so manipulative or coercive as to deprive Ms. Jones of her ability to make a free and unconstrained decision to confess to stabbing Mr. McCargo.

For these reasons, Defendant's Motion to Suppress Evidence is denied.

CONCLUSION

For the foregoing reasons, Defendant's Motion to Set Bond and Motion to Suppress Evidence are denied.

BY THE COURT:
Linda R. Cordaro, Judge

ATTEST:
Clerk of Courts

Date: September 9, 2019



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