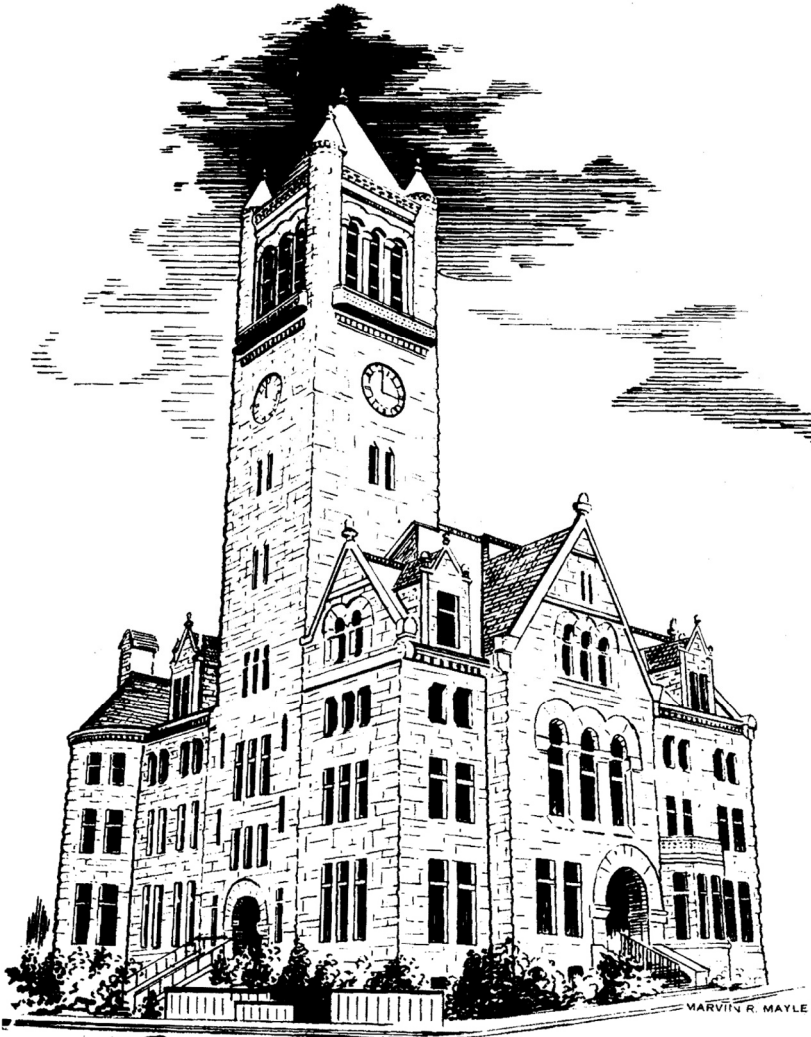


FAYETTE LEGAL JOURNAL

VOL. 86

MARCH 4, 2023

NO. 9



FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 45 East Main Street, Suite 100, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at www.fcbar.org no later than 12:00 noon on Friday for publication the following Saturday. No date of publication is promised, however. Legal notices are published exactly as submitted by the advertiser. Copyright 2001 Fayette County Bar Association. All rights reserved.

Co-Editors: Garnet L. Gordon and Melinda Deal Dellarose

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

FAYETTE COUNTY BAR ASSOCIATION Board of Directors

President: John A. Kopas, III
President Elect: Gretchen A. Mundorff
Vice-President: Sheryl R. Heid
Secretary: Anne N. John
Treasurer: Louise D. Monaghan
Past President: Mark D. Brooks
Executive Director: Garnet L. Gordon

Directors
 Jennifer M. Casini
 Rachel A. Clark
 Sarah E. Connelly
 Jeremy J. Davis
 James E. Higinbotham, Jr.
 Margaret Zylka House

ETHICS HOTLINE

The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

Call (800) 932-0311, ext. 2214.

LAWYERS CONCERNED FOR LAWYERS

Our assistance is confidential,
non-judgmental, safe, and effective

To talk to a lawyer today, call:
 1-888-999-1941
 717-541-4360

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

HAZEL C. BAKER, a/k/a HAZEL L. BAKER, a/k/a HAZEL BAKER, late of North Union Township, Fayette County, PA (3)

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

NEVILLE BREWER, a/k/a NEVILLE ERNEST BREWER, a/k/a NEVILLE E. BREWER, late of South Union Township, Fayette County, PA (3)

Executor: John Scott Brewer
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James Higinbotham

KRISTEN BROWN, a/k/a KRISTEN EKAS BROWN, late of Uniontown, Fayette County, PA (3)

Administratrix: Cindy Ekas-Brown
c/o 84 East Main Street
Uniontown, PA 15401
Attorney: Vincent Tiberi

RICHARD E. DAVIS, SR., late of Uniontown, Fayette County, PA (3)

Personal Representatives:
Margaret A. Davis, Co-PRs
3702 Clairton Drive
Bowie, Maryland 20721
Marilyn Bailey, Co-PR
9864 NW 15th. Street
Pembroke Pines, FL 33024
c/o 7843 Belle Point Drive
Greenbelt, Maryland 20770
Attorney: Archie L. Palmore, Esq.

FRANCES JOHNS, a/k/a FRANCES EDITH JOHNS, late of Smithfield, Fayette County, PA

Executor: Daniel A. Johns (3)
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

FERNE E. MORRIS, late of Vanderbilt, Fayette County, PA (3)

Executrix: Rhonda L. Lonce
1164 Nellie Road
Vanderbilt, PA 15486
c/o 4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Sheryl R. Heid

HELEN LUCILLE PUZAK, a/k/a HELEN L. PUZAK, late of North Union Township, Fayette County, PA (3)

Executrix: Kathleen M. Puzak
5252 Pittsburgh Road
Uniontown, PA 15401
c/o Puzak Law Offices, LLC
101 South Third Street
Youngwood, PA 15697
Attorney: David J. Puzak

PAULETTE RADOCK, late of Washington Township, Fayette County, PA (3)

Executor: James C. Radock
1969 Shady Oak Drive
Allison Park, PA 15101
c/o P.O. Box 718 1310 Cross Street
Rostraver, PA 15012
Attorney: Brian Pirilla

GERALDINE W. RAFFLE, late of Hopwood, North Union Township, Fayette County, PA (3)

Executor: Mark W. Raffle
c/o Radcliffe Law, LLC
648 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: William M. Radcliffe

MELVA P. ROLAND, a/k/a MELVA ROLAND, a/k/a MELVA PAULINE ROLAND, late of Dunbar Township, Fayette County, PA (3)

Executrix: Carolyn W. Maricondi
c/o P.O. Box M
Dawson, PA 15428

BETTY LOU TESKA, a/k/a BETTY TESKA,
late of Jefferson Township, Fayette County, PA
Personal Representative: Jeffery H. Teska
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

IRENE VENSKO-DEATON, late of North
Union Township, Fayette County, PA (3)
Executor: David Lynch
9207 North 103rd, East Avenue
Owasso, OK 74055

Second Publication

DARLA J. BELSICK, late of Washington
Township, Fayette County, PA (2)
Executor: Darrin B. Belsick
1219 Fayette Avenue
Belle Vernon, PA 15012
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

ALLEN GEORGE FERENS, late of Saltlick
Township, Fayette County, PA (2)
Administratrix: Beverly A. Braverman
c/o Ament Law Group, P.C.
3950 William Penn Highway, Suite 5
Murrysville, PA 15668
Attorney: John W. Ament

**LINDA MARIETTA, a/k/a LINDA CAROL
MARIETTA**, late of Masontown Borough,
Fayette County, PA (2)
Executrix: Karlyn Ramsay Dankle
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James Higinbotham

MARY CAROLYN NOVAK, late of Newell
Borough, Fayette County, PA (2)
Personal Representative:
William Ronald Novak
509 Brashear Street
Brownsville, PA 15417
c/o Mitchell Law Office
P.O. Box 310

902 First Street
Hiller, PA 15444
Attorney: Herbert G. Mitchell, Jr.

WILLIAM NOVAK, JR., late of Newell
Borough, Fayette County, PA (2)
Personal Representative:
William Ronald Novak
509 Brashear Street
Brownsville, PA 15417
c/o Mitchell Law Office
P.O. Box 310
902 First Street
Hiller, PA 15444
Attorney: Herbert G. Mitchell, Jr.

MARY J. PAOLI, a/k/a MARY PAOLI, late
of Springhill Township, Fayette County, PA (2)
Executor: Brad Paoli
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

**WILLIAM PAULL, III, a/k/a WILLIAM
PAULL**, late of North Union Township, Fayette
County, PA (1)
Personal Representative: Daniel Paull, Jr.
c/o George & George
92 East Main Street
Uniontown, PA 15401
Attorney: Joseph M. George, Sr.

**EDWARD POLITO, a/k/a EDWARD J.
POLITO, SR., a/k/a EDWARD JOHN
POLITO, SR.**, late of North Union Township,
Fayette County, PA (2)
Executrix: Deborah A. Allen
c/o Higinbotham Law Office
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James Higinbotham

ROBERT RAFTER, late of Uniontown,
Fayette County, PA (2)
Executrix: Frances Rafter
P.O. Box 209
Smock, PA 15480
c/o 92 East Main Street, Suite 24
Uniontown, PA 15401
Attorney: Michelle Kelley

First Publication

FREDERICK P. GNUS, late of Luzerne Township, Fayette County, PA (1)
Executor: Michael J. Garofalo, Esquire
 c/o Davis & Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: James T. Davis

HELEN PEARL HAINES, a/k/a HELEN R. HAINES, late of Bullskin Township, Fayette County, PA (1)
Co-Executors: Roger D. Haines and Amy R. Wingrove
 c/o 815A Memorial Boulevard
 Connellsville, PA 15425
Attorney: Margaret Z. House

DOLORES HOMINSKY, a/k/a DOLORES J. HOMINSKY, a/k/a DOLORES JEAN HOMINSKY, late of Connellsville Township, Fayette County, PA (1)
Executrix: Cheryl Cesario
 1104 Dogwood Drive
 Connellsville, PA 15425
 c/o Tremba, Kinney, Greiner & Kerr
 1310 Morrell Avenue, Suite C
 Connellsville, PA 15425
Attorney: John Greiner

LOUISE MCFADDEN, a/k/a CARRIE LOUISE MCFADDEN, late of South Union Township, Fayette County, PA (1)
Executrix: Julie E. Scarborough
 54 Cheswold Boulevard, Apt. 405
 Newark, Delaware 19713
 c/o John M. Ranker & Associates, P.C.
 140 South Main Street, Suite 301
 Greensburg, PA 15601
Attorney: John M. Ranker

EMMA REAGGLE, late of Uniontown, Fayette County, PA (1)
Administrator: Gregory H. Reaggle
 136 Vardell Street
 Uniontown, PA 15401
 c/o 22 Bierer Avenue
 Uniontown, PA 15401
Attorney: Mary Lenora Hajduk

SYLVIA MARIE VOLEK, late of German Township, Fayette County, PA (1)
Executor: David Ronald Fedor
 c/o Monaghan & Monaghan, L.L.P.
 57 East Main Street
 Uniontown, PA 15401
Attorney: Gary D. Monaghan

LEGAL NOTICES

NOTICE

Notice is hereby given that a Certificate of Organization was filed with the Pennsylvania Department of State, on December 1, 2022, 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 Lucky13sportscards LLC, having an address of 148 Stoney Point Road, Uniontown, Pennsylvania 15401.

James E. Higinbotham, Jr., Esq.
 HIGINBOTHAM LAW OFFICES
 68 South Beeson Boulevard
 Uniontown, PA 15401
 Telephone: 724-437-2800

NOTICE

NOTICE is hereby given pursuant to the provisions of Act 295 of December 16, 1982, P.L. 1309, that a Certificate was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about December 30, 2022, to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of Windy Heights Farm Vanderbilt with the principal place of business at: 197 Dickerson Run Road Vanderbilt, PA 15486-1184.

The name or names and addresses of persons owning and interested are: Eleanor R Cochran, 197 Dickerson Run Road, Vanderbilt, PA 15486-1184.

Richard Husband, Esquire
 208 S Arch St Ste 2
 Connellsville, Pennsylvania 15425

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
No. 236 of 2023, G.D.
COMPLAINT IN QUIET TITLE

ASHLEY GOODWIN

Plaintiff,

vs.

ELLIOTT CHRISTOPHER, his heirs and assigns, generally, JEANNETTE CHRISTOPHER, a/k/a JEANNETTE BLANEY CHRISTOPHER, her heirs and assigns, generally, MAE THOMAS, her heirs and assigns, generally, DORIS W. HELMICK, her heirs and assigns, generally, ROBERT E. HUHNS, his heirs and assigns, generally, SHARON SUGAMOSTO and her unknown spouse, her heirs and assigns, generally, DONNA FRANZ, her unknown spouse, her heirs and assigns, generally,
Defendants.

TO: ELLIOTT CHRISTOPHER, his heirs and assigns, generally, JEANNETTE CHRISTOPHER, a/k/a JEANNETTE BLANEY CHRISTOPHER, her heirs and assigns, generally, MAE THOMAS, her heirs and assigns, generally, DORIS W. HELMICK, her heirs and assigns, generally, ROBERT E. HUHNS, his heirs and assigns, generally, SHARON SUGAMOSTO and her unknown spouse, her heirs and assigns, generally, DONNA FRANZ, her unknown spouse, her heirs and assigns, generally,

You are hereby notified that ASHLEY GOODWIN has filed a complaint at the above number and term in the above mentioned court in an action to quiet title where it is alleged that the Plaintiff is the owner in fee and in possession of all rights, title and interest in and to that certain tract of land situate in the Borough of Masontown, Fayette County, Pennsylvania, being a portion of tax parcel number of 21-02-0031 and more particularly bounded and described as:

BEGINNING at a point along Harbison Avenue thence North 72° 54' 00" East, a distance of 126.06 feet to a point; thence South 09° 40' 00" East, a distance of 51.63 feet to a point; thence along land of Goodwin, South 80° 20' 00" West, a distance of 125 feet to a point; thence North 09° 40' 00" West, a distance of 35.32 feet, the place of BEGINNING. Containing an area of .1248 of an acre according to survey of Joseph O. Elwell, Jr.

Said complaint sets forth that plaintiff, ASHLEY GOODWIN, is the owner in fee simple of the above-described premises. The complaint was filed for the purpose of barring all of your right, title and interest, or claim in and to said premises.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PENNSYLVANIA LAWYER
REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 South Street
P. O. Box 186
Harrisburg, PA 17108
(800) 692-7375

By Benjamin F. Goodwin, Esquire
Goodwin Como, P.C.
108 N. Beeson Blvd.
Suite 400
Uniontown, PA 15401
724-438-1616

**Notice of Revocable Trust Pursuant
to 20 Pa. C.S. § 7755(c)
The Francis Family Trust U/A dated 5/4/2000**

Notice is hereby given of the administration of THE FRANCIS FAMILY TRUST, DATED MAY 4, 2000. Charles G. Francis, settlor of the trust, of Bullskin Township, County of Fayette and Commonwealth of Pennsylvania, died on November 8, 2022. All persons indebted to the said decedent are requested to make payment to the undersigned without delay, and all persons having claims or demands against said trust are requested to make known the same.

Daniel W. Francis & Philip L. Francis,
Successor Co-Trustees
c/o WATSONMUNDORFF, LLP
720 Vanderbilt Road
Connellsville, PA 15425-6218
Phone: 724-626-8882

WATSON MUNDORFF, LLP

IN RE: Rushton, James A. and Donna F.
Case No. 22-21357-GLT, Chapter 7

Real Estate Located at 124 Jackson Hill Road
Dawson, Fayette County, PA
Parcel No. 18-09-0049-05
Date of Sale 4/13/2023 at 10:00 a.m.
A Hearing will be held on
3/8/2022 at 10:00 a.m.
Courtroom A, 54th Floor, U.S. Steel Tower
600 Grant Street, Pittsburgh, PA 15219
Objections due by: 3/13/2023
Initial Offer \$ 175,000.00
Higher and better offers will be
considered at the hearing
Hand money required: \$5,000.00
(Cash or Certified Funds Only)
Contact: Robert H. Slone, Trustee
223 South Maple Avenue
Greensburg, PA 15601
Ph# (724) 834-2990
For more information:
www.pawb.uscourts.gov/easi.htm


DiBella Weinheimer
Geer McAllister Best Coco Lloyd Whalen



Holly Whalen ◊ Amy Coco ◊ Bethann Lloyd

**INSIST UPON OUR EXPERIENCED TEAM
LAWYERS DEFENDING LAWYERS**

- Disciplinary Board
- Legal Malpractice
- Security Fund / IOLTA
- Ethics & Conflict Analysis
- Subpoena Assistance
- Licensure
- Conflict Resolution

WWW.DIBELLA-WEINHEIMER.COM 412 261-2900

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

A DECADE OF EXPERIENCE E&O INSURED WILL TRAVEL ACCEPTING NEW CLIENTS



WE ARE PROUD TO ANNOUNCE OUR
RECOGNITION BY FORBES AS A
2023 BEST-IN-STATE WEALTH
MANAGEMENT TEAM

The Highest Standard of Success in Financial Relationships

Fayette Legacy Partners of Janney Montgomery Scott
43 S Beeson Boulevard, Uniontown, PA 15401
724.425.1018 | www.fayettelegacy-janney.com



© JANNEY MONTGOMERY SCOTT LLC • MEMBER: NYSE, FINRA, SIPC • REF. 884050-1222

JUDICIAL OPINION

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

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	
	:	
ARTHUR CRAMER,	:	No. 1924 of 2021
Defendant.	:	Honorable Linda R. Cordaro

OPINION

CORDARO, J.

December 9, 2022

AND NOW, this 8th day of December, 2022, in consideration of Defendant's Omnibus Pretrial Motion for writ of habeas and after a hearing on the Motion at which the parties presented argument and consented to disposition of the Motion based on the preliminary hearing transcript, it is ORDERED and DIRECTED that the Motion is GRANTED. All charges are DISMISSED for the reasons set forth below.

The Defendant is charged with one count each of theft by unlawful taking - 18 Pa.C.S.A. § 3921(a); intimidation of a witness/victim - 18 Pa.C.S.A. § 4952(a)(1); theft from a motor vehicle - 18 Pa.C.S.A. § 3934(a); and unauthorized use of a motor vehicle - 18 Pa.C.S.A. § 3928(a).

FACTUAL FINDINGS

Three Commonwealth witnesses testified at the Defendant's preliminary hearing, at which the Defendant was neither present nor represented by counsel. Based on the preliminary hearing transcript, the following facts were established: Shelby Tarr contacted police on June 22, 2021 after finding that her 2004 Chevy Trailblazer was missing from where she left it along Hopewell Road in Luzerne Township, Fayette County. The Trailblazer had been experiencing mechanical issues and had broken down while she was driving it. Either Ms. Tarr or her boyfriend had previously spoken to the Defendant about working on the vehicle. The Defendant had previously been in possession of the Trailblazer, but ultimately, Ms. Tarr decided that her father would perform the work. She took back the Trailblazer from the Defendant and gave him a ride to California, Pennsylvania so he could retrieve a yellow Ford pickup truck. She contacted the Defendant to ask for his help in towing the Trailblazer when she broke down on Hopewell Road, and she testified that her boyfriend told the Defendant where the vehicle was. However, the Defendant refused to help her and told her not to contact him again. Ms. Tarr left the disabled Trailblazer where it was.

According to testimony, around June 22, 2021 {1} at approximately 2:30 a.m., Joseph Nosky, who lived on Hopewell Road, did hear a vehicle having mechanical trouble. Around 5:30 a.m., he left his house to take his wife to work and saw a white Trailblazer parked in his neighbor's grass. When he returned home around 6:15 a.m., he saw two individuals, a man and a woman, with a yellow Ford Ranger pickup truck loading the Trailblazer into a wheel dolly. He believed they were the owners retrieving their vehicle and did not look closely at them.

When Ms. Tarr returned to retrieve her vehicle, it was gone, and she contacted police. Trooper Kevin Berkeybile was dispatched and spoke to both Ms. Tarr and Mr. Nosky. Mr. Nosky recounted what he had seen, including his observation of the individuals with a yellow pickup truck. When the trooper asked Ms. Tarr if she knew anyone with a yellow truck, she gave the Defendant's name.

During his investigation, the trooper first spoke to the Defendant's girlfriend, who denied that the Defendant had a yellow truck and denied she had ever seen him with one. He then spoke to the Defendant, who denied he had driven a yellow truck recently and denied that he had any truck at all.

On June 25, 2021, the Defendant was the subject of a traffic stop while driving with his girlfriend in a yellow Ford F150. The trooper conducting the stop discovered that the truck was registered to another individual: Ronnie Vono, Sr. The Defendant told the trooper it was the first time he was driving the truck.

The registered owner, Mr. Vono, gave a written statement to the police that on "Sunday night," the Defendant had his truck and was supposed to bring it back around 6 a.m. but did not do so until around 4 p.m. He also stated that the Defendant sometimes paid him to use the truck, and that Defendant had recently contacted him and told him it "wouldn't end well for him" if he spoke to police without the Defendant's approval or presence. Mr. Vono's statement also alleged that the Defendant disclosed that there was someone else there with him (the Defendant) holding a shotgun while he was speaking to Mr. Vono.

Ms. Tarr received the Trailblazer back from a towing company three days after the police located it. {2} She testified that several items were missing from the vehicle, including: a subwoofer, a welder, an exhaust pipe, and personal items belonging to her boyfriend and daughter.

It should be noted that the preliminary hearing transcript does not include clear and consistent testimony as to what happened when. {3} However, although not specifically stated in testimony, the logical inference from the testimony as presented is that Ms. Tarr broke down in the early morning of June 21, 2021 and returned June 22, 2021 to find her vehicle was gone, which is when she contacted police.

{1} This is the date Mr. Nosky testified to at the hearing. Footnote 3 details the inconsistencies in witness testimony as to days/dates.

{2} There is no testimony as to when or where the police recovered the Trailblazer.

{3} For example:

- (1) Ms. Tarr testified that she contacted police on June 22, 2021 (a Tuesday) after she returned to the scene and found her vehicle was gone. Prelim. Hr'g Tr., 9/14/21, at4.
- (2) The Commonwealth asked Mr. Nosky whether he recalled the night "around June 22, 2021," and he testified as to his observations. Id. at 9.
- (3) According to the transcript, the Commonwealth afterward asked if Mr. Nosky had seen the two individuals picking up the Trailblazer on June 23, 2021 (a Wednesday). Mr. Nosky did state this was the correct date, but then said that he had seen the individuals picking up the vehicle when he returned home on "Monday a.m., 2:30 a.m. to 3." Id. at 11. (Monday would have been June 21, 2021.)
- (4) Trooper Berkeybile corroborated that he was dispatched in response to Ms. Tarr's Tuesday, June 22, 2021 call. Id. at 12.
- (5) Trooper Berkeybile also testified that Ms. Tarr reported she had broken down "two nights before" and that she "came back the next day." Id.
- (6) Trooper Berkeybile also testified that Mr. Nosky recounted his observations from "the day before in the early morning." Id.

DISCUSSION

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 (Pa. Super. Ct. 1990). A pretrial petition for a 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 a 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. Montgomery*, 234 A.3d 523,533 (Pa. 2020); see also Pa.R.Crim.P. 542(D). The evidence presented need not establish guilt beyond a reasonable doubt, but only that "if presented at trial and accepted as true, a judge would be warranted in permitting the case to proceed to a jury." *Id.*

During the December 2, 2022 hearing on Defendant's Pretrial Motion, the Commonwealth acknowledged that the testimonial evidence for the witness intimidation charge consisted only of hearsay. In *Commonwealth v. McClelland*, the Supreme Court of Pennsylvania held that hearsay evidence alone is insufficient to establish a prima facie case at a preliminary hearing. 233 A.3d 717 (Pa. 2020). No additional evidence has been presented and therefore the Commonwealth has not established a prima facie case for Count 2 of the Information.

The Commonwealth also has not presented evidence to establish probable cause that the Defendant committed the other offenses as charged. There is testimonial evidence that the Defendant had access to a yellow Ford pickup truck and that the individuals that removed the Trailblazer also had a yellow Ford pickup with them. However, there is no testimony identifying or describing the Defendant as the male individual involved. There is no evidence that the Defendant drove or operated the Trailblazer after Ms. Tarr took it back from him, and no evidence that he removed, or was ever in possession of, any items from inside the vehicle.

The Commonwealth has not established a prima facie case for any of the charges, and therefore all counts of the Information are dismissed.

BY THE COURT:
Linda R. Cordaro, Judge

ATTEST:
Clerk of Courts

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

Medical Malpractice • Auto Accidents • Personal Injury



GISMONDI
& ASSOCIATES

412-281-2200

www.gislaw.com

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