

FAYETTE LEGAL JOURNAL

VOL. 86

DECEMBER 23, 2023

NO. 51



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.

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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

THERESA J. HOIST, a/k/a THERESA JOAN HOIST, late of German Township, Fayette County, PA ⁽³⁾

Administratrix: Jennifer Huseman
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

ETHEL IRENE SWANEY, a/k/a ETHEL I. SWANEY, late of Georges Township, Fayette County, PA ⁽³⁾

Executrix: Sarah Lynn Rider-Skoric
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

BARBARA WILBURN, a/k/a BARBARA GAYLE WILBURN, late of Henry Clay Township, Fayette County, PA ⁽³⁾

Administratrix: Michele Guthrie
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

Second Publication

EUGENE COWSERT, a/k/a EUGENE W. COWSERT, late of North Union Township, Fayette County, PA ⁽²⁾

Co-Executors: Kenneth E. Cowsert,
Donald L. Cowsert and Marlin T. Cowsert
c/o Zebley Mehalov & White, P.C.
18 Mill Street Square
P.O. Box 2123
Uniontown, PA 15401
Attorney: Charles O. Zebley, Jr.

JOAN DOHANICH, late of Washington Township, Fayette County, PA ⁽²⁾

Executrix: Cynthia Rollings
101 Morgan Street
Canonsburg, PA 15317
c/o E.J. Julian, Esquire
71 North Main Street
Washington, PA 15301
Attorney: E.J. Julian

RAY A. GRAY, SR., a/k/a RAY ALVIN GRAY, SR., late of Georges Township, Fayette County, PA ⁽²⁾

Executrix: Joy L. Williams
c/o 440 Ruble Mill Road
Smithfield, PA 15478
c/o P.O. Box 430
Smithfield, PA 15478
Attorney: Robert Grimm

MARTIN HOSPODAVIS, late of North Union Township, Fayette County, PA ⁽²⁾

Co-Executors: Ronald M. Hospodavis and
Jeffery N. Hospodavis
c/o Zebley Mehalov & White, P.C.
18 Mill Street Square
P.O. Box 2123
Uniontown, PA 15401
Attorney: Charles O. Zebley, Jr.

BERNADETTE M. KROLL, late of Footedale, Fayette County, PA ⁽²⁾

Executrix: Bernadette Tummons
c/o P.O. Box 727
Uniontown, PA 15401
Attorney: Bernadette Tummons

MAXINE MCCABE, a/k/a MAXINE M. MCCABE, late of South Union Township, Fayette County, PA (2)

Administrator: Scott Irwin Basescu
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

First Publication

DORIS MAY FOUCH, a/k/a DORIS W. FOUCH, late of North Union Township, Fayette County, PA (1)

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118 Foxchase Drive
Canonsburg, PA 15317
c/o Anthon Legal Services, LLC
165 McClelland Road
Canonsburg, PA 15317
Attorney: Emmanuel Anthon

THOMAS A. OSTROWSKI, late of Everson, Fayette County, PA (1)

Co-Executors: Thomas E. Ostrowski and
Michael J. Ostrowski
c/o Molinaro Law Offices
P.O. Box 799
Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

KATHRYN C. RISHEL, a/k/a KATHRYN COLETTE RISHEL, late of North Union Township, Fayette County, PA (1)

Executor: Thomas G. Rishel
97 Grant Avenue
Etna, PA 15223
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Ewing D. Newcomer

GREGORY A. RUSSIN, late of Upper Tyrone Township, Fayette County, PA (1)

Administratrix: Amber Pravlik
906 Kingview Road
Scottdale, PA 15683
c/o Lederach Law
201 North Chestnut Street
P.O. Box 342
Scottdale, PA 15683
Attorney: James S. Lederach

DIBRELL C. STEWART, a/k/a DIBRELL STEWART, a/k/a DIBRELL CARROLL STEWART, late of Masontown, Fayette County, PA (1)

Executor: Dennis C. Stewart
c/o John & John
96 East Main Street
Uniontown, PA 15401
Attorney: Anne N. John

SAMUEL TOM, a/k/a SAMUEL PETER TOM, SR., a/k/a SAMUEL P. TOM, a/k/a SAMUEL P. TOM, SR., late of Georges Township, Fayette County, PA (1)

Executor: Michael J. Tom
c/o Kopas Law Office
556 Morgantown Road
Uniontown, PA 15401
Attorney: John Kopas

LINDA WEAVER, a/k/a LINDA ANN WEAVER, late of Henry Clay Township, Fayette County, PA (1)

Administrator: Timothy Thompson
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

LEGAL NOTICES

NOTICE

Notice is hereby given that Articles of Incorporation were filed on November 21, 2023, with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania for the purpose of obtaining a Certificate of Incorporation of a domestic nonprofit corporation which was organized under the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania, (15 Pa. C. S. A. Section 5306, et. sec.) as from time to time amended. The name of the Corporation is Routed Ministries Inc.

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

WATSON MUNDORFF, LLP

Notice of Revocable Trust Pursuant to
20 Pa. C.S. § 7755(c)

The Janice M. Haggerty Revocable Trust
dated 9/9/2008

Notice is hereby given of the administration of THE JANICE M. HAGGERTY REVOCABLE TRUST, DATED SEPTEMBER 9, 2008. JANICE M. HAGGERTY, settlor of the trust, of Bullskin Township, County of Fayette and Commonwealth of Pennsylvania, died on October 7, 2023. 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 estate are requested to make known the same.

Paul R. Haggerty and Jane M. Crissinger,
Successor Trustees
c/o WATSON MUNDORFF, LLP
720 Vanderbilt Road
Connellsville, PA 15425-6218
Phone: 724-626-8882 (1/3)

NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation-Nonprofit were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on the **13th** day of **July, 2023** for a non-profit corporation which has been incorporated under the Business Corporation Law of 1988, as amended. The name of the non-profit corporation is **CALVARY ON THE MOUNTAIN**.

Carolann A. Young, Esq.
Carolann A. Young and Associates
530 North Center Avenue
P. O. Box 344
Somerset, Pennsylvania 15501

Registers' Notice

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

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

Tuesday, January 2, 2024, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2621-1050	NANCY L. SOLTIS, deceased	Jason M. Soltis, Administrator

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

Tuesday, January 16, 2024, at 9:30 A.M.

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

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

Tuesday, January 2, 2024, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2602-0631	BESSIE G. SEMBOWER, deceased	Karen L. Sembower and Lance R. Sembower, Administrators
2622-0357	FLOYD A. STANGROOM, deceased	Floyd A. Stangroom, Jr., Executor
2622-0281	BRENDA P. NICKELSON, deceased	C. Thomas Nickelson, Executor

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

Tuesday, January 16, 2024, at 9:30 A.M.

in Courtroom No. 5 of the **Honorable Judge Joseph M. George, Jr.** or his chambers, Third 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.

WARMAN ABSTRACT & RESEARCH LLC

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JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
v.	:	
SCOTT EDWARD DUYGO,	:	No. 818 of 2020
Appellant.	:	Honorable Linda R. Cordaro

OPINION

Linda R. Cordaro, J.

September 8, 2022

SUMMARY

Appellant, Scott Edward Duygo, was tried before this Court in a jury trial beginning January 3, 2022. On January 4, 2022, the jury found the Appellant guilty on one count each of: Rape - Forcible Compulsion - 18 Pa.C.S.A. § 3121(a)(1); Aggravated Indecent Assault without Consent - 18 Pa.C.S.A. § 3125(a)(1); Aggravated Indecent Assault - Forcible Compulsion - 18 Pa.C.S.A. § 3125(a)(2); Indecent Assault without Consent of Other - 18 Pa.C.S.A. § 3126(a)(1); and Indecent Assault - Forcible Compulsion - 18 Pa.C.S.A. § 3126(a)(2). Appellant was sentenced on March 4, 2022 on the rape charge to nine and one half (9 ½) to twenty (20) years of incarceration, followed by a term of probation of three (3) years. This Court accepted the verdict of guilt without further penalty on the remaining charges. He now appeals his judgment and sentence.

PROCEDURAL BACKGROUND

Appellant was convicted by a jury in his trial which began January 3, 2022 and ended with the verdict on January 4, 2022. He was represented at trial by Fayette County Public Defender Attorney Matthew Jaynes. Attorney Jaynes was present in the courtroom on January 3, 2022 during which all evidence was presented, with closing arguments to be held the following day. However, the next morning, January 4, 2022, Attorney Jaynes informed this Court that he was experiencing symptoms of COVID and had tested positive for the virus. Accordingly, Attorney Nicholas Clark of the public defender's office appeared in the courtroom in person with the Defendant, and arrangements were made for Attorney Jaynes to make his closing argument to the jury remotely via the Zoom application. Attorney Jaynes moved for a mistrial on the ground that his inability to make his argument in person prejudiced the Defendant. This Court denied the motion since the health risk to others was too great for Attorney Jaynes to appear in person and sufficient accommodation had been made to enable him to make his closing argument to the jury remotely.

Defendant was convicted by jury on January 4, 2022 and sentenced on March 4, 2022 to nine and one half (9 ½) to twenty (20) years of incarceration. On March 18, 2022, Attorney Jaynes filed a timely Notice of Appeal on Appellant's behalf. On March 25, 2022, this Court issued an order to file a Concise Statement pursuant to Pa.R.A.P. 1925(b)(2) within twenty-one (21) days. As of May 4, 2022, no Statement had been filed or served, and this Court issued a Statement in Lieu of Opinion. On May 5, 2022,

the record was transmitted to the Superior Court. {1}

According to the Superior Court docket, on July 21, 2022, the appeal was dismissed for failure to file a brief, but was then reinstated on the motion of counsel for the Appellant.

FACTUAL BACKGROUND

On January 19, 2019, Mercedes Price, then twenty-five years of age, and her childhood friend, Brandon Donnelly, went out for dinner and drinks in Uniontown, Pennsylvania to celebrate Mr. Donnelly's birthday. At that time, Ms. Price was staying with her father in Adah, Pennsylvania, and Mr. Donnelly picked her up there and drove them both to a Mexican restaurant in Uniontown. Ms. Price had a margarita with dinner and, as the two planned to go for drinks afterward, she asked her father and his girlfriend for a recommendation on a place to go in the area. On the recommendation of her father's girlfriend, the two went to Sunset Bar in Uniontown where Ms. Price had beer and shots of Tequila Rose. After that, Mr. Donnelly drove them both to the Blue Moon bar where she had more beer and shots.

According to Ms. Price, she and Mr. Donnelly had an argument, and he left her at the bar. Ms. Price then left the bar and tried to use the GPS on her mobile phone to determine the way back to her father's house. The intoxicated Ms. Price was having difficulty seeing her phone when she saw the Defendant walking down the sidewalk. She asked him for help in figuring out how to get back to her father's house, showing him her phone and the GPS information. The Defendant responded that he could help, and he knew where to go because he was familiar with the area.

Ms. Price followed the Defendant off the main road and behind nearby buildings. Ms. Price asked him where they were going, and the Defendant pushed her up against one of the buildings and attempted to kiss her. Ms. Price pulled away, and the Defendant physically turned her around to face the building. He worked to undo her jeans, and then pulled them down and inserted his penis into her vagina. Ms. Price tried more than once to escape, attempting to push away from the building or to bend down and crawl away, her efforts causing the Defendant's penis to slip out of her after which he reinserted it. Eventually, she was successful and ended up on the ground. She did not see the Defendant anymore, and she pulled up her pants. She looked around for her purse and her mobile phone but could not find either.

Ms. Price then made her way to a main road, where Pennsylvania State Trooper Matthew Rucinski and his partner, Trooper Duvall were approaching. The troopers saw Ms. Price waving her arms on the side of the road to signal them before approaching the front of the vehicle and putting up her hands to stop them. They encountered Ms. Price around 1:55 a.m. on January 20, 2019. Ms. Price told them what had happened, and Trooper Duvall searched the area but found no one. Ms. Price was taken to Uniontown Hospital where a rape kit was performed. Two DNA profiles recovered from the samples taken belonged to the Defendant and Ms. Price.

{1} On May 6, 2022, Attorney Jaynes served a copy of Appellant's Concise Statement on this Court, forty-two (42) days after the 1925(b)(2) Order was docketed and after the record already had been transmitted to the Superior Court.

ISSUES ON APPEAL

Appellant lists two issues in his Concise Statement of Errors:

1. Did the trial court abuse its discretion by requiring defense counsel to provide defendant's closing argument by the Zoom app instead of in-person, thereby prejudicing defendant?
2. Did the Commonwealth fail to present sufficient evidence to prove beyond a reasonable doubt that Appellant forcibly compelled the alleged victim to engage in sexual relations with him?

LEGAL STANDARD

The review of a trial court's denial of a motion for a mistrial "is limited to determining whether the trial court abused its discretion." *Commonwealth v. Cash*, 137 A.3d 1262, 1273 (Pa. 2016) (citation omitted). An abuse of discretion "is not merely an error of judgment, but is rather the overriding or misapplication of the law, or the exercise of judgment that is manifestly unreasonable, or the result of bias, prejudice, ill-will or partiality, as shown by the evidence of record." *Commonwealth v. Santos*, 176 A.3d 877, 882 (Pa. Super. Ct. 2017) (citation omitted).

In order to sustain a challenge to the sufficiency of the evidence, which is a question of law, an appellant must show that the Commonwealth failed to produce evidence that establishes each material element of the crime charged, and the commission thereof by the accused, beyond a reasonable doubt. *Commonwealth v. Widmer*, 744 A.2d 745, 751 (Pa. 2000); *Commonwealth v. Karkaria*, 625 A.2d 1167, 1170 (Pa. 1993). The question is "whether, viewing all the evidence in the light most favorable to the Commonwealth as verdict winner, a jury could find every element of the crime beyond a reasonable doubt." *Commonwealth v. Bryant*, 574 A.2d 590,592 (Pa. 1990).

DISCUSSION

Appellant's first issue challenges this Court's decision to proceed with closing arguments at trial despite defense counsel's symptoms of, and positive test results for, the COVID-19 virus. Appellant frames the challenge as this Court "requiring" him to give his closing argument remotely instead of in person.

The Defendant certainly has the right to have counsel present a summation of his case. See e.g., *Commonwealth v. Brown*, 676 A.2d 1178, 1185 (Pa. 1996). However, under the circumstances, this Court had limited options: postpone closing arguments (and therefore jury deliberation) until an unknown future date; permit Attorney Jaynes to give a closing argument in person and risk the spread of a contagious disease; require the closing argument be given in person by another public defender attorney instead of Attorney Jaynes; or allow Attorney Jaynes to give his closing argument remotely. The latter option was the least prejudicial to the Defendant.

Attorney Jaynes was offered the opportunity to request specific jury instructions, and the closing argument was broadcast via a 65- to 70-inch monitor on which only Attorney Jaynes was displayed, clearly observable by, and audible to, the entire jury, including the alternate jurors. N.T., January 4, 2022 at 14-15, 17-18. The Defendant was permitted to have Attorney Jaynes' co-counsel, Attorney Nicholas Clark, in person beside him in the courtroom. *Id.* at 17-18. In addition, this Court carefully explained to the jury why Attorney Jaynes was presenting his closing argument remotely and that Attor-

ney Clark was seated beside the Defendant. *Id.*

Under the circumstances, this Court made the most reasonable choice to have Attorney Jaynes give his closing argument via remote application and made every reasonable accommodation for it. This approach cannot be considered "manifestly unreasonable, or the result of any bias, prejudice, ill-will or partiality," and so did not constitute an abuse of discretion.

Appellant's second issue is specifically that there was insufficient evidence that the Appellant forcibly compelled Ms. Price to engage in sexual relations with him.

It is up to the finder of fact in a trial to make any credibility determinations and may believe, all, part, or none of a particular witness's testimony. *Commonwealth v. Thompson*, 934 A.2d 1281, 1285 (Pa. Super. Ct. 2007) (citation omitted). Ms. Price gave testimony that included several factors for consideration: that Appellant pushed her against the wall of a building and pinned her there, that he pulled her pants down and inserted himself into her more than once as she struggled to escape, and that she sustained scratches after the incident. N.T., January 3, 2022 at 39-40, 48, 49. She also consistently testified that she did not wish to have sexual intercourse with Appellant and never consented to do so. *Id.* at 46, 49.

Appellant's testimony included that he had encountered Ms. Price on a street near the Blue Moon bar around 1:00 a.m. on January 20, 2019. According to his account, an intoxicated Ms. Price stopped him and asked for a cigarette, which he gave her. The two then began conversing, and Ms. Price eventually offered to give Appellant oral sex. Appellant told Ms. Price that he was fifteen (15) years old, to which she had no response, but still agreed to have consensual sex with him. *Id.* at 82-85.

Here, the jury was free to believe all, any part, or none of the testimony of Ms. Price and Appellant. In addition, according to the standard jury instructions for the crime charged under 18 Pa.C.S.A. § 3121(a), "forcible compulsion" involves a threat that would have prevented a reasonable person from resisting. Pa. SSJI (Crim), §15.3121.A (2019). Factors to be considered in considering whether force was used include: the respective ages of the victim and accused, the respective mental and physical conditions of the victim and accused, the physical setting in which the incident was alleged to have taken place, and the extent to which the accused may have been in a position of domination over the victim. It is certainly not beyond the realm of reason that the jury believed Ms. Price's account and, in considering the circumstances, that they determined Appellant indeed did compel her to engage in sexual intercourse by force.

CONCLUSION

This Court did not abuse its discretion in permitting Attorney Jaynes to give his closing argument remotely, considering the circumstances and limited options. In addition, there was sufficient evidence for a jury to find that Appellant used forcible compulsion to engage in sexual intercourse with the victim. For the foregoing reasons, it is respectfully submitted that the judgment should be AFFIRMED.

BY THE COURT:
Linda R. Cordaro, Judge

ATTEST:
Clerk of Courts

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