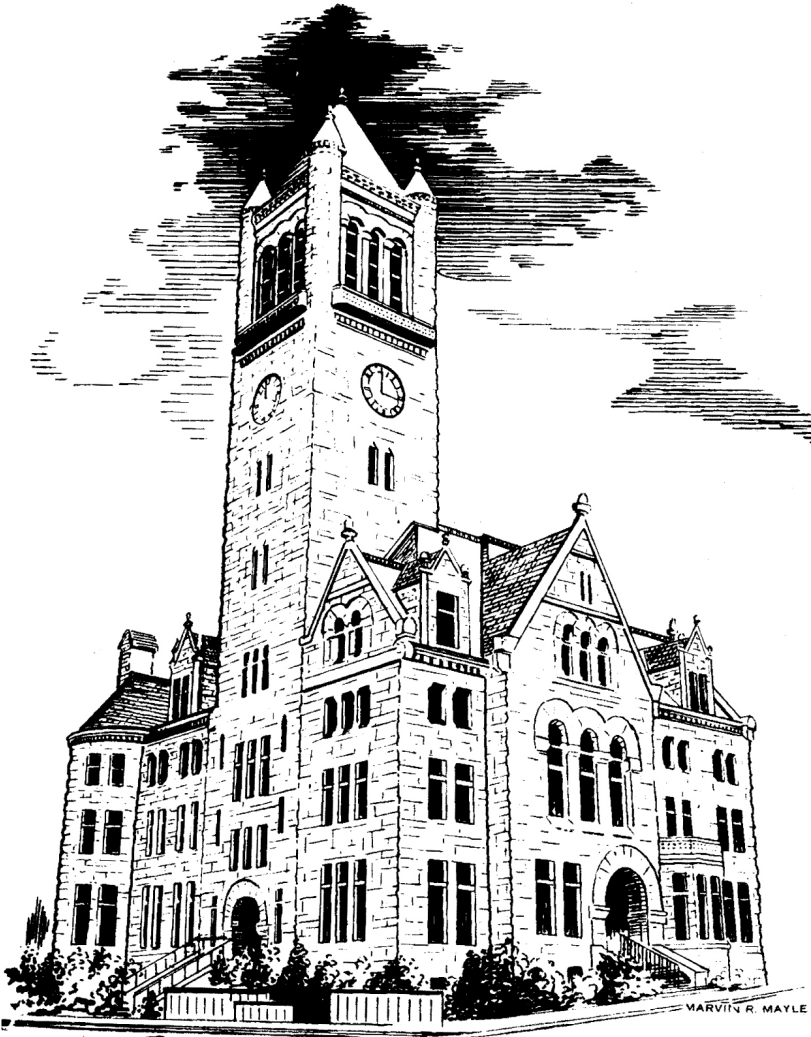


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ESTATE NOTICES

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

MYRNA ANN DOPPELHEUER, late of Connellsville, Fayette County, PA (3)

Executor: Mark Doppelheuer
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54 South Washington Street
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Attorney: David F. Pollock

DAVID ROSS GRIFFIN, late of Wharton Township, Fayette County, PA (3)

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107 East Main Street
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Attorney: Gary J. Frankhouser

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Executor: Michael Sandorf
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Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

Second Publication

RONALD B. BRYNER, late of Henry Clay Township, Fayette County, PA (2)

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107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

SANDRA S. DILLINGER, deceased, late of Everson Township, PA (2)

Administratrix: Georganne Nicholson
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First Publication

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Attorney: Charity Grimm Krupa

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PO Box 622 Smithfield, PA 15478
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Uniontown, PA 15401
Attorney: Webster & Webster

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Attorney: Vincent J. Roskovensky, II

**GREGORY P. WILLIAMS, A/K/A
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4083 W. Southrange Road
Columbus, Ohio 44408
c/o 92 East Main Street, Suite 3
Uniontown, PA 15401
Attorney: Susan Ritz Harper

LEGAL NOTICES

NOTICE

NOTICE is hereby given that Articles of Incorporation were filed on October 11, 2016 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.). The name of the corporation is "The 20 Club".

Watson Mundorff Brooks & Sepic, LLP
720 Vanderbilt Road
Connellsville, Pennsylvania 15425

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
No.: 2016-01108

**U.S. BANK TRUST NATIONAL
ASSOCIATION, AS TRUSTEE FOR CVI
LCF MORTGAGE LOAN TRUST I,**
Plaintiff,

vs.

**JOHN L. MCKIBBEN AND IRIS A.
MCKIBBEN,**
Defendants.

NOTICE

TO DEFENDANTS:

You are hereby notified U.S. Bank Trust National Association, as trustee for CVI LCF Mortgage Loan Trust I, has filed a Complaint in Mortgage Foreclosure with regard to 519 Redstone St, Republic, PA 15475, endorsed with a Notice to Defend, against you at No. 2016-01108 in the Civil Division of the Court of Common Pleas of Fayette County, Pennsylvania, wherein plaintiff seeks to foreclose on the mortgage encumbering said property, which foreclosure would lead to a public sale by the Fayette County Sheriff.

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 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 INFORMATION ABOUT HIRING A LAWYER.

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PLAINTIFF'S ATTORNEY:
STEPHEN M. HLADIK, ESQUIRE
298 WISSAHICKON AVENUE,
NORTH WALES, PA 19454
215-855-9521

LEGAL NOTICE

Notice is hereby given that pursuant to the Municipality Authorities Act, 53 PA. C.S.A. § 5601, et seq. the Township of Upper Tyrone has passed Resolution No. 09-01-2016 which expresses the Township of Upper Tyrone's desire to join the Westmoreland-Fayette Municipal Sewage Authority as a member and to have representation on the Westmoreland-Fayette Municipal Sewage Authority's Board of Directors. Upper Tyrone Township Resolution No. 09-01-2016 was passed following the entry into an Intermunicipality Service Agreement by and between the Borough of Scottdale, the Borough of Everson, the Township of East Huntingdon, the Township of Upper Tyrone, the Upper Tyrone Township Sewage Authority and the Westmoreland-Fayette Municipal Sewage Authority which such Agreement permits the Township of Upper Tyrone to become a member of the Westmoreland-Fayette Municipal Sewage Authority and to have representation on the Westmoreland-Fayette Municipal Sewage Authority Board. By Resolution adopted at a regular meeting held on September 13, 2016, and pursuant to 53 PA C.S.A. §5604 (c) the Westmoreland-Fayette Municipal Sewage Authority's Board of Directors consented to the Township of Upper Tyrone becoming a member and to have representation on the Board in accordance with the said December 2011 Intermunicipality Service Agreement. An application to become a member of the Westmoreland-Fayette Municipal Sewage Authority shall be filed with the Secretary of the Commonwealth of Pennsylvania on or before November 15, 2016, which is not less than three days following the publication of this Notice. This Notice is given to comply with the Municipality Authorities Act, 53 PA C.S.A. §5604 (c).

Ricardo J. Cicconi, Esquire-Solicitor
Upper Tyrone Township

JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
	:	
VS.	:	
	:	
JENNIFER ANN HAVRILESKO and	:	No. 2122 of 2015
EDWIN PAUL HAVRILESKO,	:	No. 2123 of 2015
	:	
Defendants.	:	Honorable Nancy D. Vernon

Attorneys:
Mark Mehalov, Esquire, for the Commonwealth
Jack Connor, Esquire, for the Defendants

OPINION AND ORDER

VERNON, J.

October 24, 2016

Before the Court are the Omnibus Pre-Trial Motions of Defendants, Jennifer Ann Havrilesko and Edwin Paul Havrilesko, in the nature of Petitions for Writ of Habeas Corpus. Defendants are alleged to have so restricted their daughter’s diet to a point near her death and were each charged with aggravated assault, endangering the welfare of children, and recklessly endangering another person. Defendants cases were consolidated and each now moves for the dismissal of charges arguing that the Commonwealth failed to produce sufficient evidence to establish a prima facie case of all charges and also contend in their defense that their actions were justified by taking their daughter to approximately many physicians in a two year period to determine the cause of her weight loss.

At the time set for hearing on the Motions, the parties admitted the transcript of the Preliminary Hearing for the Court’s consideration in deciding the within Motions and presented no supplemental witnesses.

STATEMENT OF FACTS

Dr. Adelaide Eichman of the Child Advocacy Center at Children’s Hospital of Pennsylvania testified as an expert witness in the field of pediatrics with a focus on child abuse. N.T., 12/15/2016, at 6-9. Dr. Eichman first met P.H., the adoptive daughter of Defendants, in July 2014, when P.H. was transferred as a patient to the Intensive Care Unit of Children’s Hospital. Id. at 9. P.H. presented as a thirteen year old female who was “gravely ill. She was very thin. She was having difficulty breathing. She was

not able to talk. She had oxygen on, and she had multiple sores on her body, on her wrists and ankles, and she had sores on her back. She was gravely, gravely ill.” Id. at 10. Subsequently, a breathing tube was placed to breathe for her until she was able to breathe on her own. Id.

On July 19, 2014, when P.H. was admitted as a patient at Uniontown Hospital, she weighed about fifty (50) pounds, the appropriate weight for a child the age of seven. Id. at 11. P.H.’s vital signs were consistent with malnourishment including a low heart rate, temperature, and blood pressure. Id. at 11. P.H.’s laboratory testing was consistent with starvation in that she had a high sodium level and CPK, which is a marker of muscle breakdown, while having low potassium and calcium levels. Id. at 12. Pressure points were found to have formed sores over P.H.’s body indicating a breakdown of her skin. Id. at 12-13. At Children’s Hospital, P.H. was classified as “critically ill” and without medical intervention, it was the opinion of Dr. Eichman that P.H. “likely would have died.” Id. at 13.

In speaking with Defendant, P.H.’s adoptive mother, Dr. Eichman was told by Defendant Jennifer Havrilesko that P.H. suffered from multiple food allergies that precluded her from eating. Id. at 13-14. Medical testing performed in February 2013 revealed that P.H. had all normal allergy testing levels. Id. at 14. In response to questioning regarding an eating disorder, Dr. Eichman testified the same was ruled out as a diagnosis because P.H. liked to eat, was able to eat, did gain weight from eating, and did not show any eating disorder behaviors while in a special unit for treatment of eating disorders in March 2014. Id. at 17.

With regard to the sores on P.H.’s body, Dr. Eichman testified the sores were found on her wrists, ankles, and the bony parts of her back. Id. at 18-19. From examination in March 2014 until hospital admittance in July 2014, the sores worsened and were described by Dr. Eichman as “traumatic ulcerations.” Id. X-ray examination revealed rib fractures. Id. at 21.

A review of P.H.’s pediatric records indicate that she weighed less in July 2014 as a thirteen year old child than she had weighed at a prior appointment at the age of seven. Id. at 20. The growth chart showed that when P.H. was admitted to the hospital over the two year period, she gained weight, but that while at home, she lost weight. Id. Jennifer Havrilesko told Dr. Eichman that P.H. was removed from school because she stole food or stole money to purchase food while at school and she was concerned that P.H. would eat food that she was potentially allergic to eating. Id. at 21.

Dr. Eichman summarized her examination of P.H. stating that P.H. was mal-treated by starvation, rib fractures, and severe ulcerations. Id. at 22. To recover, P.H. was placed on a breathing tube and given medication to stabilize her, and thereafter spent a prolonged period of time in the hospital and rehabilitation facility to regain strength and gain weight. Id. at 22.

Dr. Eichman opined that P.H. was not restricting her own food intake, but rather a caretaker was doing so. Id. at 22-23. Prior to her hospitalization, P.H. would regurgitate her food into her mouth, and then chew and swallow it again, a disorder

known as rumination, and which was described as Dr. Eichman as a self-soothing technique for P.H. to try to trick herself into believing that she was eating again. *Id.* at 24-25. Rumination is a symptom of starvation. *Id.* at 29. At a check-up on September 12, 2014, P.H. had gained twenty-six pounds in the six weeks since her hospital admission and was tolerating food very well with no allergic reactions to food. *Id.* at 31. Dr. Eichman's opinion, provided with a reasonable degree of medical certainty, was that P.H. suffered starvation by the restriction of her food intake. *Id.* at 33-34.

Trooper Craig Spisak of the Pennsylvania State Police was assigned to investigate the within case against Defendants and during the investigation, identified Defendants to be the primary caretakers and custodians of P.H. during the time frame at issue. *Id.* at 58-59.

Under cross-examination, Dr. Eichman testified that P.H. was seen in Children's Hospital and other medical facilities for a period of several years with complaints that she was not gaining sufficient weight for her age. *Id.* at 34-42. Dr. Eichman explained that the acts of starvation occurred over a long period of time and would not have been "obvious in the thick of it." *Id.* at 44. Dr. Eichman also denied that rumination disorder would cause weight loss because P.H. was consuming the same food twice with no calories lost. *Id.* at 47.

Defendants presented the report of Dr. Patel, dated December 19, 2012, which identified P.H. as suffering from allergies to eggs, peanuts, chocolate and oranges and letters written in support of Defendants' attempts to cyberschool P.H. authored by Barb Pec of Chestnut Ridge Counseling Services, Tom Scanga of PA Behavioral Health Resources, and Dr. Allison Forina which referenced P.H.'s significant food allergies. *Id.* at 48-50, 56. Defense counsel presented Dr. Eichman with approximately eighteen doctor visits spanning a two year period during which starvation was not diagnosed. *Id.* at 52-53.

Defendants also called P.H. to testify at the preliminary hearing and under questioning by their counsel, P.H. stated that she was hospitalized for an acid reflux problem because she was low weight and kept bringing her food up. *Id.* at 61-62. P.H. denied that her parents did not feed her and denied that they placed any restrictions on her food. *Id.* at 63, 66-67. P.H. attributed the scars on her wrist to a five-year old boy in Defendants' home who would attack her. *Id.* at 68. Under Commonwealth questioning, P.H. admitted to telling Troop Spisak that she was stealing food at school because she was hungry. *Id.* at 70.

DISCUSSION

At the pre-trial stage of a criminal prosecution, it is not necessary for the Commonwealth to prove the defendant's guilt beyond a reasonable doubt, but rather, its burden is merely to put forth a prima facie case of the defendant's guilt. *Commonwealth v. McBride*, 595 A.2d 589, 591 (Pa. 1991). A prima facie case exists when the Commonwealth produces evidence of each of the material elements of the crime charged and establishes sufficient probable cause to warrant the belief that the accused committed the offense. *Id.* The evidence need only be such that, if presented at trial

and accepted as true, the judge would be warranted in permitting the case to go to the jury. *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa.Super.2001). Moreover, “[i]nferences reasonably drawn from the evidence of record which would support a verdict of guilty are to be given effect, and the evidence must be read in the light most favorable to the Commonwealth’s case.” *Id.* at 1180.

The offense of aggravated assault, as charged here, statutorily requires the Commonwealth to prove that Defendants “attempt[ed] to cause serious bodily injury to [P.H.], or cause[d] such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life.” 18 Pa.C.S.A. § 2702(a)(1). Our law defines “serious bodily injury” as “bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.” 18 Pa.C.S.A § 2301; *Commonwealth v. Rochon*, 581 A.2d 239, 243 (Pa.Super. 1990).

The medical records presented at the preliminary hearing, and as testified to by Dr. Eichman, reveal P.H. weighed more at the age of seven than she did at the age of thirteen. The physical examination of P.H. at Children’s Hospital in July 2014 discovered that the child was being starved, such indications included vital signs consistent with malnourishment and lab work indicating with starvation. P.H. displayed rumination disorder, a symptom of starvation. In the opinion of Dr. Eichman, P.H. was “critically ill” and would have likely died without medical intervention. Once hospitalized in July 2014, P.H. physically flourished by gaining weight, enjoyed eating, suffered no food allergies, and continued to eat without issue. This evidence was ample to establish a prima facie case that Defendants attempted to cause, and did cause, serious bodily injury to P.H., nearly resulting in her death by starvation, and Defendants intentionally, knowingly, or recklessly did so, manifesting extreme indifference to the value of P.H.’s human life.

With regard to the remaining charges, in order to obtain a conviction for endangering the welfare of children, the Commonwealth must prove that:

A parent, guardian or other person supervising the welfare of a child under 18 years of age, or a person that employs or supervises such a person, commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support.

18 Pa.C.S.A. § 4304.

Section 2705 of the Crimes Code – recklessly endangering another person, provides that, “A person commits a misdemeanor of the second degree if he recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury.”

The Commonwealth, through the testimony of Dr. Eichman, presented evidence sufficient in kind and quantity to establish a prima facie case of endangering the welfare of children and recklessly endangering another person, namely in the expert testimony of Dr. Eichman that P.H. was suffering starvation while in the custody of Defendants. The physical symptoms as described as being suffered by P.H. were consistent with starvation. Without medical intervention, it was the opinion of the expert doctor that

P.H. would have likely died. The actions alleged against Defendants to have withheld food from P.H. to the point of near-death violated their solemn duty as adoptive parents to care, protect, and support her and placed her within danger of death.

In requesting this Court to dismiss the charges, Defendants argue that over a period of two years, P.H. was taken by them to many doctors, none of whom diagnosed starvation. The lack of diagnosis was explained by Dr. Eichman as being missed “in the thick of things” and that starvation is not immediately apparent within a patient and is an easily missed diagnosis to a medical professional. The Court gives no weight to the lengthy medical records where P.H. was not previously diagnosed as being a starved child, and instead, sympathizes for the child for suffering under the care of many prior doctors and the extended length for which the child suffered food restrictions until her admission at Children’s Hospital.

Adjudged by the above stated standard, the evidence adduced at the preliminary hearing and of record in this case, if believed by a jury, is more than sufficient to establish a prima facie case of the Defendants Jennifer Havrilesko and Edwin Havrilesko’s guilt on all charges. Wherefore, the Petitions for Writ of Habeas Corpus are DENIED.

WHEREFORE, we will enter the following Order.

ORDER

AND NOW, this 24th day of October, 2016, upon consideration of the Omnibus Pre-Trial Motions of Defendants, Jennifer Ann Havrilesko and Edwin Paul Havrilesko, in the nature of Petitions for Writ of Habeas Corpus, it is hereby ORDERED and DECREED that the same are DENIED.

BY THE COURT:
NANCY D. VERNON, JUDGE

ATTEST:
CLERK OF COURTS

*Due to printing error in Fayette Legal Journal Edition 44, the entirety of this Opinion has been included.

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