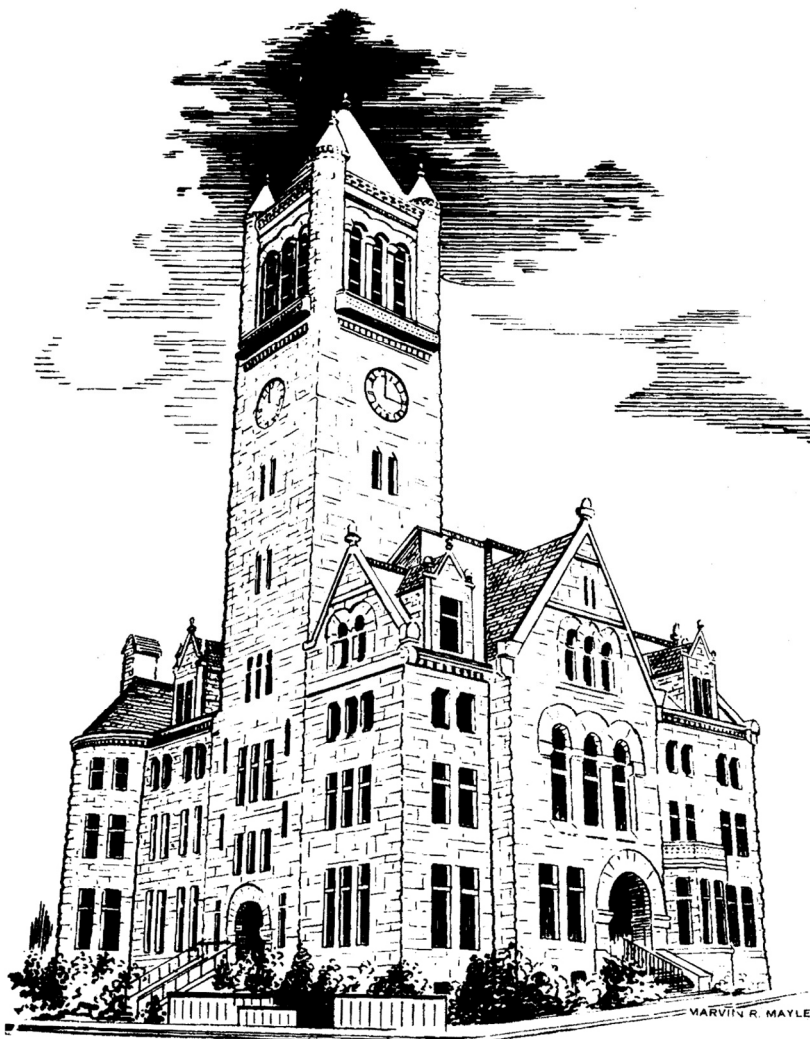


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FAYETTE LEGAL JOURNAL

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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.

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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

EARL FRANKLIN BAILY, a/k/a EARL F. BAILY, late of Uniontown, Fayette County, PA

Executor: Brandon Joe Bailey (3)
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Sean M. Lementowski

EVELYN MARLENE BROSKEY, a/k/a

EVERYLYN M. BROSKEY, late of Keisterville, Fayette County, PA (3)

Executor: William L. Broskey
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

Second Publication

GLENN F. GHRIST, JR., late of Dunbar Township, Fayette County, PA (2)

Administrator: William P. Ghrist
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

KEITH A. GREENAWALT, late of Connellsville, Fayette County, PA (2)

Executrix: Andrea G. Greenawalt McFadden
c/o Casini & Geibig, LLC
815B Memorial Boulevard
Connellsville, PA 15425
Attorney: Jennifer M. Casini

BRENDA LEE MINER, a/k/a BRENDA L. MINER, late of Fairchance Borough, Fayette County, PA (2)

Executrix: Kathryn L. Propes
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

JAMES SMITH, late of Fayette County, PA (2)

Administrator: James Brown
3905 Mewswood Lane
Baltimore, Maryland 21236
c/o Fieschko & Associates, Inc.
300 Cedar Boulevard, Suite 202
Pittsburgh, PA 15228
Attorney: Joseph Fieschko

MARY WILSON, a/k/a MARY C. WILSON, late of Fayette County, PA (2)

Executor: Douglas S. Sepic
c/o Sepic Law
892 Vanderbilt Road
Connellsville, PA 15425

First Publication

JACQUELINE BRASHEAR, a/k/a

JACQUELINE M. BRASHEAR, a/k/a

JACQUELINE MARIE BRASHEAR, late of Redstone Township, Fayette County, PA (1)

Executrix: Vikki Kovach
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

CINDY L. COOPER, late of Upper Tyrone Township, Fayette County, PA (1)

Personal Representative: Holly S. Najewicz
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

CORRINNE A. LUCKEY, a/k/a CORINNE ANN LUCKEY, a/k/a CORINNE A.

COMINSKY LUCKEY, late of Connellsville, Fayette County, PA (1)

Executor: John Francis Cominsky
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

JAMES E. SAMPSON, late of Uniontown,
Fayette County, PA (1)

Administratrix: Francine C. Sampson
c/o DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

SHAWN SIMPSON, late of Washington
Township, Fayette County, PA (1)

Administratrix: Alyson H. Trayah
8935 Telegraph Road
Lorton, Virginia 22079
c/o 1747 Rostraver Road
Belle Vernon, PA 15012
Attorney: Megan Kerns

LEGAL NOTICES

IN THE COURT OF COMMON PLEAS
FAYETTE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW
No. 2672 of 2024, G.D.
Judge Mark M. Mehalov
ACTION TO QUIET TITLE

JESSE HARWELL,
Plaintiff,

vs.

LOUIS J. YELENICK and ANNA E.
YELENICK, his wife, and their heirs, successors
and/or assigns,
Defendants.

NOTICE

TO: Louis J. Yelenick and Anna E. Yelenick, his wife, and their heirs, successors and/or assigns, generally, or any other person or persons having any right, interest or claim whatsoever in and to that certain real property situate in South Union Township, Fayette County, Pennsylvania, more particularly bounded and described as follows:

ALL that certain piece or parcel of land situate in South Union Township, Fayette County, Pennsylvania, being part of the Leith Mining Village, bounded and described as follows, to wit:

BEGINNING in First Street at the southeastern corner of the land hereby conveyed,

which point of beginning is located North 9 degrees 07 minutes 30 seconds East 28.56 feet from the iron pin at the southwestern corner of the land known as William Hopwood Tract; thence by land conveyed to Mark and Ada Sugarman to Joseph J. Banko North 79 degrees 42 minutes West 140.05 feet to the middle of an alley; thence along in the middle of said alley North 9 degrees 07 minutes East 72.5 feet to a point; thence by land conveyed by Mark and Ada Sugarman to Steve Kormuth South 70 degrees 18 minutes East 140.01 feet to a point in First Street; and thence along in First Street South 9 degrees 07 minutes 30 seconds West 71.5 feet to the place of beginning; **CONTAINING** an area of 0.231 of an acre and having thereon erected a frame double dwelling house known as Nos. 15-16 of Leith Mining Village.

EXCEPTING AND RESERVING the coal and mining rights and waivers heretofore conveyed or reserved, and under and subject to the right at any time hereafter to lay, maintain, repair, replace, renew and remove water pipe lines along in said street and alley, and under and subject to the right of the public to use said street and alley for passage thereover, and also excepting and reserving and under and subject to all existing easements and all conveyances and easements heretofore made or granted, excepted or reserved.

Tax Parcel Identification Number: 34-19-0110. The street address of the subject property is 15-16 Leith Street, Uniontown, Pennsylvania 15401.

For a more complete recital of the chain of title concerning the premises, refer to the Complaint filed in the within action.

That the Defendants above named appear to have interest in said premises which creates a cloud upon Plaintiff's title, whereupon the Plaintiff has filed his Complaint as aforesaid asking the Court to enter a decree terminating all rights which Defendants may have in said premises and decreeing that Plaintiff has the full and free use and occupation of said premises, released and forever discharged of any right, lien, title or interest of Defendants herein.

By Order entered January 7, 2025 at the above number, the Court granted Plaintiff leave to serve the Complaint on you by publication of this Notice once in the Herald Standard, a newspaper of general circulation, and in the

Fayette County Legal Journal.

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 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
100 South Street
P.O. Box 186
Harrisburg, PA 17108
800-692-7375

EWING D. NEWCOMER, ESQUIRE
 Attorney for Plaintiff

LOGS LEGAL GROUP LLP
 BY: CHRISTOPHER A. DeNARDO,
 PA I.D. NO. 78447
 SAMANTHA GABLE, PA I.D. NO. 320695
 STEVEN PALMER, PA I.D. NO. 334553
 LESLIE J. RASE, PA I.D. NO. 58365
 HEATHER RILOFF, PA I.D. NO. 309906
 KEVIN T. TONCZYCZYN,
 PA I.D. NO. 332616
 ELIZABETH L. WASSALL,
 PA I.D. NO. 77788
 JOSEPH L. LoCASTRO, IV,
 PA I.D. NO. 314973
 985 OLD EAGLE SCHOOL ROAD,
 SUITE 514
 WAYNE, PA 19087
 TELEPHONE: (610) 278-6800
 E-MAIL: PAHELP@LOGS.COM
 LLG FILE NO. 22-066726

COURT OF COMMON PLEAS
 CIVIL DIVISION
 FAYETTE COUNTY

NO: 2022-00585

Nationstar Mortgage LLC d/b/a Mr. Cooper
 PLAINTIFF

VS.

Sydney Summers, known Heir of Michelle K. Micholas, deceased and C.B., minor, known Heir of Michelle K. Micholas, deceased and E.B., minor, known Heir of Michelle K. Micholas, deceased and Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or under Michelle K. Micholas, deceased
 DEFENDANTS

**NOTICE OF SHERIFF'S SALE OF
 REAL PROPERTY**

TO: Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or under Michelle K. Micholas, deceased
 421 1st Street
 Chestnut Ridge, PA 15422

Your house (real estate) at:
421 1st Street, Chestnut Ridge, PA 15422
 30-20-0129

is scheduled to be sold at Sheriff's Sale at www.https://fayette.pa.realforeclose.com on March 20, 2025 at 2:00PM to enforce the court judgment of \$69,134.28 obtained by Nationstar Mortgage LLC d/b/a Mr. Cooper against you.

**NOTICE OF OWNER'S RIGHTS
 YOU MAY BE ABLE TO PREVENT THIS
 SHERIFF'S SALE**

To prevent this Sheriff's Sale you must take immediate action:

The sale will be cancelled if you pay back to Nationstar Mortgage LLC d/b/a Mr. Cooper the amount of the judgment plus costs or the back payments, late charges, costs, and reasonable attorneys fees due. To find out how much you must pay, you may call: (610) 278-6800.

PLEASE NOTE a Schedule of Distribution will be filed by the Sheriff on a date specified by the Sheriff not later than thirty (30) days after sale. Distribution will be made in accordance with the schedule unless exceptions are filed thereto within 20 days after the filing of the schedule.

SHERIFF'S SALE

Date of Sale: January 16, 2025

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 January 16, 2025, at 2:00 pm at <https://fayette.pa.realforeclose.com>.

The Conditions of sale are as follows:

All bidders must complete the Realauction on-line registration process at <https://fayette.pa.realforeclose.com> to participate in the auction.

All bidders must place a 10% deposit equal to the successful bid for each property purchased to Realauction via wire transfer or ACH per Realauction requirements. Upon the auction's close, buyer shall have 10 business days to pay the remaining balance to the Fayette County Sheriff's Office via cashier's check. No cash will be accepted. Failure to comply with the Conditions of Sale, shall result in a default and the down payment shall be forfeited by the successful bidder and applied to the costs and judgments. The schedule of distribution will be filed no later than 30 days after the sale of real property. If no petition has been filed to set aside the sale or objections to the distribution are filed within 10 days of filing the distribution, the Sheriff will prepare and record a deed transferring the property to the successful bidder. (2 of 3)

James Custer
Sheriff of Fayette County

No. 964 of 2024 G.D.
No. 344 of 2024 E.D.

PNC Bank, National Association
Plaintiff
vs.
Steven D. Boiaroff, Jr. a/k/a
Steve Boiaroff Jr.
Defendant

ALL the following pieces or parcels of land situate in Wharton Township, Fayette County, Pennsylvania,

FIRST: All that certain tract or piece of ground located in Wharton Township, Fayette County, Pennsylvania being part of Thomas G. Hager Tract No. 3 and Simon P. Hager Tract No. 2 as described in deed from Piedmont Coal Company to E. Zimmerli, dated September 9, 1936, and recorded in the Recorder's Office of Fayette County in Deed Book Volume 533 Page 242.

SECOND: ALL that certain tract of land located in Wharton Township, Fayette County, Pennsylvania, being part of the Thomas G. Hager Tract No. 3 and Simon R. Hager Tract No. 2 as described in Deed to E. Zimmerli, and recorded in the Recorder's Office of Fayette County in Deed Book Volume 533, page 242.

Tax ID: 42-20-0003

Property Address (for informational purposes only): 903 Wharton Furnace Rd. a/k/a 893 Wharton Furnace Rd., Farmington, PA 15437

ROBERTSON, ANSCHUTZ, SCHNEID,
CRANE & PARTNERS, PLLC
A Florida professional limited liability company
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
(855) 225-6906

No. 646 of 2024 G.D.
No. 316 of 2024 E.D.

SPECIALIZED LOAN SERVICING LLC
Plaintiff
v.
CHARLENE CAROCCI;
RONALD D. CAROCCI, SR.
Defendant(s)

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN PERRY TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 108 VINE STREET
 LAYTON, PA 15473
 BEING PARCEL NUMBER: 27-12-0003
 IMPROVEMENTS: RESIDENTIAL
 PROPERTY

STERN & EISENBERG PC - MATTHEW C.
 FALLINGS, ESQ.
 No. 539 of 2024 G.D.
 No. 314 of 2024 E.D.

Brock & Scott, PLLC

No. 2186 of 2024 G.D.
 No. 354 of 2024 E.D.

FREEDOM MORTGAGE CORPORATION
 v.
ROBERT KEITH CLARK III

By virtue of a Writ of Execution No. 2186 of 2024 FREEDOM MORTGAGE CORPORATION v. ROBERT KEITH CLARK III owner(s) of property situate in the CITY OF UNIONTOWN, FAYETTE County, Pennsylvania, being 71 NUTT AVE, UNIONTOWN, PA 15401
 Tax ID No. 38-10-0164
 Improvements thereon: RESIDENTIAL DWELLING
 Judgment Amount: \$99,466.87

Deutsche Bank National Trust Company, as Trustee for Morgan Stanley ABS Capital I Inc. Trust 2005- HE2 Mortgage Pass-Through Certificate, Series 2005-HE2
Plaintiff
 v.
Jerry Lee Glisan Sr A/K/A Jerry Lee Glisan and Michelle Glisan
Defendant(s)

SITUATE IN MARKLEYSBURG, FAYETTE COUNTY, PENNSYLVANIA, TOWNSHIP OF HENRY CLAY BEING KNOWN AS 316 CLOVER TOP RD, MARKLEYSBURG, PA 15459-1160
 PARCEL NO. 1615000102
 IMPROVEMENTS- RESIDENTIAL REAL ESTATE
 SOLD AS THE PROPERTY OF- Jerry Lee Glisan Sr and Betty Jo Glisan

STERN & EISENBERG, PC - MATTHEW C.
 FALLINGS, ESQ.
 No. 2116 of 2024 G.D.
 No. 358 of 2024 E.D.

Hladik, Onorato & Federman, LLP
 298 Wissahickon Avenue
 North Wales, PA 19454
 No. 906 of 2024 G.D.
 No. 361 of 2024 E.D.

Towd Point Mortgage Trust 2016-3, U.S. Bank National Association as Indenture Trustee
Plaintiff
 v.
Evelyn G. French and Kenneth M. French
Defendant(s)

SITUATE IN CONNELLSVILLE, FAYETTE COUNTY, PENNSYLVANIA, TOWNSHIP OF CONNELLSVILLE BEING KNOWN AS 124 NORTH 3RD ST, CONNELLSVILLE, PA 15425
 PARCEL NO. 05-06-0538
 IMPROVEMENTS- RESIDENTIAL REAL ESTATE
 SOLD AS THE PROPERTY OF- Evelyn G. French, Kenneth M. French, Wife and Husband

2024 GD Towne Mortgage Company (Plaintiff)
 vs.
Bandon M. Hull and Jessica M. Hull (Defendants)

By virtue of Writ of Execution No. 906 of 2024 GD Towne Mortgage Company (Plaintiff) vs. Bandon M. Hull and Jessica M. Hull (Defendants)
 Property Address 412 East Cedar Avenue, Conneltsville, PA 15425
 Parcel I.D. No. 05-12-0026
 Improvements thereon consist of a residential dwelling.
 Judgment Amount: \$138,111.02

KML LAW GROUP, P.C.
Suite 5000
701 Market Street
Philadelphia, PA 19106-1532
(215) 627-1322

No. 317 of 2018 G.D.
No. 262 of 2022 E.D.
No. 328 of 2024 E.D.

M&T BANK
1 Fountain Plaza
Buffalo, NY 14203
Plaintiff

vs.

HAROLD N. PENNINGTON III
JULIE A PENNINGTON A/K/A JULIA A.
PENNINGTON
Mortgagor(s) and Record Owner(s)
132 North 6th Street
Connellsville, PA 15425
Defendant(s)

ALL THAT CERTAIN LOT OF LAND
SITUATE IN CITY OF CONNELLSVILLE,
COUNTY OF FAYETTE AND
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 132 NORTH 6TH
STREET, CONNELLSVILLE, PA 1.5425 TAX
PARCEL #05-06-0562 & 05-06-0563

IMPROVEMENTS: A RESIDENTIAL
DWELLING

SOLD AS THE PROPERTY OF:
HAROLD N. PENNINGTON III AND JULIE A
PENNINGTON A/K/A JULIA A.
PENNINGTON

Brock & Scott, PLLC

No. 730 of 2023 G.D.
No. 329 of 2024 E.D.

WELLS FARGO BANK, N.A.
v.
MIRANDA R. PETRILLO

By virtue of a Writ of Execution No. 2023-
00730 WELLS FARGO BANK, N.A. v.
MIRANDA R. PETRILLO owner(s) of property
situate in the JEFFERSON TOWNSHIP,
FAYETTE County, Pennsylvania, being 130 E
1ST STREET, GRINDSTONE, PA 15442

Tax ID No. 17-16-0039

Improvements thereon: RESIDENTIAL
DWELLING

Judgment Amount: \$91,930.28

DAVIS & DAVIS
Michael L. Mays, Esquire

No. 1030 of 2024 G.D.
No. 315 of 2024 E.D.

GARRY E. SISSON, JR. and
JODIE C. SISSON, his wife,

vs.

PITTSBURGH ROAD PARTNERS,
LLC., a Pennsylvania Limited Liability
Company

GARRY E. SISSON, JR. and JODIE C.
SISSON, his wife, vs. PITTSBURGH ROAD
PARTNERS, LLC., a Pennsylvania Limited
Liability Company Owner(s) of property
situate in the TOWNSHIP OF NORTH UNION,
FAYETTE COUNTY, Pennsylvania, being
1310 PITTSBURGH ROAD, UNIONTOWN,
FAYETTE COUNTY, PA 15401 Tax ID No.
2501000501

ALL that certain piece or parcel of land
situate in North Union township, Fayette
County, Pennsylvania and being designated as
Lot 1 on the Holchin Subdivision as recorded in
the Recorder's Office of Fayette County,
Pennsylvania, in Plan Book 25, Page 43, being
and described as follows:

BEGINNING at a point marked by an iron
pin, being the westernmost point of said Lot No.
1, thence by land now or formerly of Eleanor J.
Jackson, South 87 degrees 15 minutes East
209.93 feet to an iron pin; thence by same, South
84 degrees 15 minutes East 700.44 feet to an
iron pin; thence by same, South 69 degrees 45
minutes East 166.71 feet to a point; thence South
15 degrees 15 minutes East 533.81 feet to a
point; thence South 82 degrees 14 minutes 40
seconds West 84.81 feet to a point; thence by a
curve, having a radius of 15.00 feet, an arc
length of 16.64 feet and a chord of North 65
degrees 58 minutes 54 seconds West 15.80 feet
to a point; thence by a curve, having a radius of
1,408.14 feet, an arc length of 1,077.67 feet and
a chord of North 56 degrees 07 minutes 56
seconds West, 1,051 feet to an iron pin; thence
North 78 degrees 03 minutes 24
seconds West 230.17 feet to the iron pin
marking the place of beginning. Containing
4.4195 acres as per the above-referenced Plan

Improvements thereon: COMMERCIAL
BUILDING

Judgment Amount: \$407,058.92

Bill M. Fein, Esquire Hill Wallack LLP
 1000 Floral Vale Blvd., Suite 300
 Yardley, PA 19067
 (215) 579-7700

No. 618 of 2019 G.D.
 No. 357 of 2024 E.D.

**Wilmington Trust, National Association, not
 in its individual capacity but solely as Trustee
 for MFRA Trust 2014-1**

Plaintiff

v.

**Charles Samuel Smith and Valerie Suzanne
 Smith**

Defendants

By virtue of a writ of execution case
 number: 2019-618 Plaintiff: Wilmington Trust,
 National Association, not in its individual
 capacity but solely as Trustee for MFRA Trust
 2014-1 v. Defendants: Charles Samuel Smith
 and Valerie Suzanne Smith owners of property
 situate in South Union Township, Fayette
 County, Pennsylvania, being pin number 36-05-
 0029

Property being known as: 126 Georges
 Creek Road, Smithfield, PA 15478
 Improvements thereon: Residential
 Property

No. 585 of 2022 G.D.
 No. 342 of 2024 E.D.

**Nationstar Mortgage LLC d/b/a Mr. Cooper
 PLAINTIFF**

vs.

**Sydney Summers, known Heir of Michelle K.
 Micholas, deceased**

**C.B., minor, known Heir of Michelle K.
 Micholas, deceased**

**E.B., minor, known Heir of Michelle K.
 Micholas, deceased**

**Unknown Heirs, Successors, Assigns and All
 Persons, Firms or Associations Claiming
 Right, Title or Interest from or under
 Michelle K. Micholas, deceased**

DEFENDANTS

Being known as House Numbers 17 and
 18, now a single-family dwelling, located at 421
 First Street, Republic, Pennsylvania.

Tax Parcel Identification Number: 30-20-
 0129

FOR INFORMATIONAL PURPOSES
 ONLY: Being known as 421 1st Street, Chestnut
 Ridge, PA 15422

BEING THE SAME PREMISES which

Marian Frances Leone, Executrix of the Estate
 of John Andrew Janco, A/KIA John Janco,
 deceased, by Deed dated July 14, 2017 and
 recorded July 24, 2017 in the Office of the
 Recorder of Deeds in and for the County of
 Fayette, Pennsylvania in Book 3346, Page 302,
 Instrument No. 201700007862 granted and
 conveyed unto Michelle K. Micholas in fee.

AND THE SAID Michelle K. Micholas
 departed this life on or about June 17, 2021
 thereby vesting title unto Sydney Summers,
 known heir of Michelle K. Micholas and any
 Unknown Heirs, Successors, Assigns, and All
 Persons, Firms, or Associations Claiming Right,
 Title or Interest from or under Michelle K.
 Micholas, deceased.

No. 1181 of 2023 G.D.
 No. 343 of 2024 E.D.

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

v.

**Thomas Lewis Wardman, as Believed Heir
 and/or Administrator of the Estate of James
 Williams Wardman; Unknown Heirs and/or
 Administrators of the Estate of James
 Williams Wardman (if any)**

Defendants.

ALL that certain parcel of land lying and
 being situate in the Borough of Brownsville,
 County of Fayette, and Commonwealth of
 Pennsylvania, known as 84 Union Street,
 Brownsville, PA 15417 having erected thereon a
 dwelling house.

Being known and designated as Tax ID
 No.: 02040055

BEING the same premises which John T.
 Wardman, a widower, by Deed dated June 2,
 1987 and recorded in and for Fayette County,
 Pennsylvania in Deed Book 293, Page 260,
 granted and conveyed unto John T. Wardman
 and James William Wardman.

*** END SHERIFF'S SALE ***

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, February 3, 2025, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2622-0549	PATRICIA LOU RUSSIN	Linda Jean Behling, Administratrix

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

Monday, February 18, 2025, 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.

JEFFREY L. REDMAN
Register of Wills and Ex-Officio Clerk of the Orphans' Court Division (1 of 2)

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



DiBella Weinheimer

Geer McAllister Best Coco Lloyd Whalen



Holly Whalen ◊ Amy Coco ◊ Bethann Lloyd

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WWW.DIBELLA-WEINHEIMER.COM 412 261-2900

JUDICIAL OPINION

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

COMMONWEALTH OF PENNSYLVANIA :
vs. :
NATHAN GEORGE JACOBS, : No. 516 of 2024
Defendant. : Honorable Linda R. Cordaro

OPINION AND ORDER

LINDA R. CORDARO, J.

December 5, 2024

This case comes before the Court on Defendant's Omnibus Pretrial Motion in the nature of a motion to suppress evidence and a motion to dismiss. After hearing on November 20, 2024 and for the reasons set forth below, said Motion to Suppress is hereby GRANTED, and said Motion to Dismiss is hereby GRANTED as to Counts 1, 2, 3, 5, 6, 7, 8 and 9.

BACKGROUND

The Defendant is charged in the instant case with the offenses of Driving Under the Influence of a Controlled Substance, First Offense, 75 Pa.C.S.A. §3802(d)(2); Possession of a Controlled Substance, 35 Pa.C.S.A. § 780-113(a)(16); Possession of Drug Paraphernalia, 35 Pa.C.S.A. § 780-113(a)(32); No Rear Lights, 75 Pa.C.S.A. §4303(b); Careless Driving, 75 Pa.C.S.A. §3714(a); Reckless Driving, 75 Pa.C.S.A. §3736(a); Driving Without a License, 75 Pa.C.S.A. §1501(a); Public Drunkenness, 18 Pa.C.S.A. §5505; and Driving on a Suspended License, 75 Pa.C.S.A. §1543(a). The Commonwealth bases the charges filed against the Defendant on facts alleged as follows.

On September 6, 2022, at approximately 12:56 P.M., Pennsylvania State Police Trooper James Tyler and Trooper Streeneey were on routine patrol in the City of Connellsville, Fayette County Pennsylvania, when they observed a 2002 Ford Focus being operated with an inoperable third brake light. Based upon this observation, the Troopers conducted a traffic stop of the said vehicle on East Crawford Avenue within the City of Connellsville, Pennsylvania.

Once the vehicle was stopped, Trooper Tyler approached the driver's side and made contact with the Defendant, who was the vehicle's operator. At the Omnibus Pre Trial hearing conducted on November 20, 2024, Trooper Tyler testified that when he asked the Defendant where he was going, the Defendant replied that he was on his way to purchase a sandwich. Trooper Tyler further testified that the Defendant subsequently handed him his operator's license and vehicle registration, and informed Trooper Tyler that he was aware that his third brake light was inoperable.

Trooper Tyler then testified that during his encounter with the Defendant, the Defendant was unable to follow along with the questions which he was being asked, that he was "rambling," that he was unable to stand still, that he was unable to coherently

relate his travel plans and that he was generally unable to answer Trooper Tyler's questions posed to him. Trooper Tyler also testified that during his encounter with the Defendant, he observed the Defendant's eyes to be red, or bloodshot and glassy.

Trooper Tyler testified that upon making the aforementioned observations, he asked the Defendant if there was anything illegal in the vehicle, to which the Defendant replied that there was not. At that point, Trooper Tyler requested the Defendant's consent to search the vehicle, which the Defendant gave. Trooper Tyler stated that at the time that he asked the Defendant for consent to search the vehicle, he had not yet returned the Defendant's operator's license or vehicle registration.

According to Trooper Tyler's testimony, once he had obtained the Defendant's permission to search the vehicle, he asked the Defendant's passenger to exit the vehicle, and upon a search of the passenger's person, he found "drugs." Trooper Tyler stated that upon conducting a search of the vehicle, he located both Suboxone strips and a burnt marijuana cigarette within the vehicle. Trooper Tyler further stated that after searching the Defendant's vehicle, he conducted field sobriety tests of the Defendant, which revealed signs of impairment. At that point, Trooper Tyler stated that the Defendant admitted to having smoked marijuana.

Immediately thereafter, the Defendant was placed under arrest. While conducting a search incident to arrest, Trooper Tyler located fifteen (15) "yellow pills" which he characterized as being "Xanax," or alprazolam during his testimony. However, Trooper Tyler conceded that there is no record that the said pills were ever sent to any laboratory for proper analysis and identification.

At the Omnibus Pretrial hearing conducted in the instant case, Trooper Streeney stipulated to the testimony given by Trooper Tyler, and in addition, testified that a period of approximately forty (40) minutes elapsed between the time of the traffic stop and the time which the Defendant's blood was drawn at Highlands Hospital.

The Defendant filed an Omnibus Pretrial Motion in the nature of a Motion to Suppress Evidence and Motion to Dismiss on September 6, 2024. The Defendant avers that the Troopers lacked probable cause or reasonable suspicion to extend the traffic stop, to request Defendant to exit the vehicle, to search the Defendant or his passenger or to search the Defendant's vehicle.

The Defendant further avers that the Motor Vehicle Recording demonstrates no evidence of either Careless Driving or Reckless Driving, and that the Defendant was properly licensed to operate a motor vehicle within the Commonwealth of Pennsylvania on the date in question.

DISCUSSION

Pennsylvania law recognizes situations where police may "seize" an individual or property without a warrant without violating the constitutional prohibitions against warrantless searches and seizures. *Commonwealth v. Melendez*, 544 Pa. 323, 676 A.2d 226 (Pa. 1996). One constitutionally permissible circumstance occurs when the police have probable cause to believe that a crime is being committed or is about to be committed.

The other circumstance is a more limited seizure, which is justified by a reasonable suspicion that criminal activity is occurring. *Id.*, (citing *Terry v. Ohio*, 392 U.S. 1 (1968)). The more limited seizures, implicating the "reasonable suspicion" standard, can be in the form of Terry stops, traffic stops, investigative detentions, and non-custodial detentions. *Commonwealth v. Ellis*, 549 A.2d 824 (Pa.Super. 1989).

The Pennsylvania Supreme Court has recognized that a traffic stop can become unlawful if it is prolonged beyond the time required to complete the mission of issuing a warning ticket. While a police officer may conduct certain unrelated checks during an otherwise lawful traffic stop, he may not do so in a way that prolongs the stop, absent the reasonable suspicion ordinarily demanded to justify detaining an individual. *Commonwealth v. Sloan*, 303 A.3d 155, 163-164 (Pa.Super 2023). Typically, the permissible inquiries to be made during a traffic stop without probable cause or reasonable suspicion involve checking the operator's driver's license, determining whether there are outstanding warrants for the driver, and inspecting the automobile's registration and proof of insurance. *Id.*, at 164.

In the instant case, it is clear from a review of the footage recorded by the Troopers' motor vehicle recording device that the stop of the Defendant's vehicle was unlawfully extended, in violation of the Defendant's rights under the Fourth Amendment to the United States Constitution, and Article 8 of the Pennsylvania Constitution. The recorded footage reveals that Trooper Tyler asked the Defendant for consent to search the vehicle almost immediately upon effecting the traffic stop, and that neither any conduct of the Defendant, nor any other occurrence gave rise to any probable cause or reasonable suspicion which would justify either the detention of the Defendant, or the search of his vehicle. It is also evident from the recorded footage that during his testimony, Trooper Tyler confused the conduct of the Defendant with that of his passenger. Throughout the encounter, the Defendant is shown to be lucid, coherent and responsive to the Trooper's questions, while his passenger appears to be visibly impaired throughout the encounter. The passenger, rather than the Defendant, is shown to have trouble standing, answering questions or even speaking in an audible, intelligible manner. Further, the recording of the encounter also reveals that the Suboxone strips were in fact located on the passenger's person rather than in the vehicle.

In consideration of the foregoing, the Defendant's motion to suppress must be GRANTED, as all of the evidence seized during the traffic stop is the fruit of the poisonous tree.

The Defendant also seeks the dismissal of all of the charges filed against the Defendant. "To demonstrate that a prima facie case exists, the Commonwealth must produce evidence of every material element of the charged offenses, as well as the defendant's complicity therein." *Commonwealth v. Dantzler*, 135 A.3d 1109, 1112 (Pa.Super 2016).

In the instant case, with the suppression of the evidence seized during the stop of the Defendant's vehicle, the Commonwealth has failed to produce evidence of every material element of the offenses of Driving Under the Influence of a Controlled Substance, First Offense, 75 Pa.C.S.A. §3802(d)(2), Possession of a Controlled Substance, 35 Pa.C.S.A. § 780-1 13(a)(16) and Possession of Drug Paraphernalia, 35 Pa.C.S.A. §

780-I 13(a)(32). In addition, the Commonwealth presented no credible evidence at the Omnibus Pretrial Hearing conducted in the instant case that the fifteen (15) pills seized from the Defendant's person were a controlled substance. As such, the Commonwealth has failed to establish a prima facie case for these offenses. Therefore, the Defendant's motion to dismiss must be GRANTED as to Counts 1-3.

Further, the motor vehicle recording reveals no evidence of any careless or reckless driving committed by the Defendant prior to the traffic stop.

Additionally, a review of the Defendant's certified driving record reveals that while the Defendant's license was suspended at the time that the charges were filed in the instant case, he was properly licensed on the date of the subject traffic stop. Finally, as noted herein supra, the motor vehicle recording of the subject encounter is demonstrative that throughout the encounter, the Defendant appears to be lucid, coherent and responsive to the Trooper's questions. It is clear from the said recording that during his testimony, Trooper Tyler confused the Defendant with his passenger, as nothing shown therein indicates that the Defendant was substantially intoxicated or impaired. Consequently, the Commonwealth has also failed to present evidence of every material element of the offenses of Careless Driving, 75 Pa.C.S.A. §3714(a), Reckless Driving, 75 Pa.C.S.A. §3736(a), Driving Without a License, 75 Pa.C.S.A. §1501(a), Public Drunkenness, 18 Pa.C.S.A. §5505 and Driving on a Suspended License, 75 Pa.C.S.A. §1543 (a). Therefore, the Defendant's motion to dismiss must be GRANTED as to Counts 5-9. In consideration of the foregoing, this Court enters the following order:

ORDER

AND NOW, this 5th day of December, 2024, upon consideration of the defendant's Omnibus Pretrial Motion in the nature of Motion to Suppress and Dismiss, and upon consideration of the evidence presented, it is hereby ORDERED and DIRECTED that Defendant's Motion to Suppress Evidence is hereby GRANTED; and Defendant's Motion to Dismiss is hereby GRANTED as to Counts 1, 2, 3, 5, 6, 7, 8 and 9.

ORDER

AND NOW, this J' day of December, 2024, upon consideration of the defendant's Omnibus Pretrial Motion in the nature of Motion to Suppress and Dismiss, and upon consideration of the evidence presented, it is hereby ORDERED and DIRECTED that Defendant's Motion to Suppress Evidence is hereby GRANTED; and Defendant's Motion to Dismiss is hereby GRANTED as to Counts 1, 2, 3, 5, 6, 7, 8 and 9.

BY THE COURT:
LINDA R. CORDARO

ATTEST:
Clerk of Courts

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