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Court of the Common Pleas of Lancaster County  
**Criminal Action - Post Conviction Collateral Relief**

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Commonwealth v. Matthew Lapoint

Trial counsel will not be deemed ineffective for failing to preserve meritless claims for appeal or PCRA review.

Opinion. Commonwealth of Pennsylvania v. Matthew Lapoint. No. CP-36-CR-630-2022.

OPINION BY SPONAUGLE, J., March 22, 2024 - PCRA.

**I. INTRODUCTION**

Before the Court is a Petition for Post-Conviction Collateral Relief under the Post-Conviction Relief Act (“PCRA”), 42 Pa.C.S.A. § 9541, *et seq.* from Matthew Allen Lapoint (“Petitioner”). This Court concludes the petition is without merit, and as such, intends to dismiss the petition without a hearing.

**II. RELEVANT PROCEDURAL AND FACTUAL HISTORY**

On December 14, 2021, police were called to 38 Conestoga Manor, Leola, PA 17540, following a domestic dispute between Appellant and his wife. Criminal Complaint – Affidavit of Probable Cause (“Aff.”). The couple’s fifteen-year-old daughter, K.L., called 911 because Appellant and his wife were engaged in a verbal and physical altercation, where Appellant’s wife allegedly struck him in the face. *Id.* Shortly thereafter, Appellant’s wife exited the residence, and the couple’s eleven-year-old daughter, G.L., witnessed Appellant with a shotgun in his hand as he left the home through the front door. *Id.* When police arrived, it was determined that Appellant had been convicted of a second-degree felony<sup>1</sup> in Florida, and as such, he was a person not to possess a firearm. *Id.* After a search, police recovered two shotguns and one shotgun shell. *Id.* Appellant was then arrested and subsequently charged with one count of possession of firearm prohibited. Criminal Complaint at 5.

Following trial, the jury found Appellant guilty of one count of possession of a firearm prohibited on August 23, 2022. Sentencing Order, 11/1/2022. On November 1, 2022, Appellant was sentenced to six to twelve years’ incarceration. *Id.* On December 1, 2022, Appellant filed [an] [] [] appeal alleging the court improperly admitted the 911 call placed by K.L. as it constituted double hearsay. Statement of Errors Complained of

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1. Defendant was convicted of Aggravated Battery in Florida, 44 FLA. STAT. §784-045 (1995), on May 11, 1995. *Aff.*

on Appeal (“Appeal”), 1/3/2023. Appellant assert[ed] K.L. did not witness him with a firearm but was only repeating what G.L. told her. *Id.* In response, the Commonwealth denied the court erred in admitting the call. Commonwealth’s Answer to Defendant’s Statement of Errors Complained of on Appeal, 1/3/2023.

Pa.R.A.P. § 1925(A) Opinion (“1925 Op.”), 1/20/2023, at 1-3. Thereafter, this Court denied Petitioner’s claims on appeal, which was affirmed by the Superior Court on October 23, 2023. Judgment Affirmed, 10/23/2023, at 1. Shortly before this Court’s 1925(A) Opinion was affirmed, Petitioner filed a timely, pro se PCRA Petition, and Christopher Lyden, Esquire was appointed as PCRA counsel. Pro Se Petition for Post Conviction Collateral Relief (“Petition”), 10/19/2023; Order, 10/2/2023. Petitioner outlines the following issues for review in his Petition:

1. Trial counsel failed to disclose discovery;
2. Trial counsel failed to disclose the entirety of video footage;
3. Trial counsel failed to object to the entry of the 911 call at trial;
4. Trial counsel failed to object to double hearsay;
5. Trial counsel failed to object to the Court’s sidebar comment that the jury probably did not know what suboxone is;
6. The Court erred in making a comment during a side bar that the jury probably did not know what suboxone is;
7. Trial counsel failed to object to a mistrial despite multiple opportunities to do so;
8. Trial counsel failed to petition the court to correct his offensive grading score;
9. The Court erred in allowing the Commonwealth to use an incorrect offensive grading score;
10. Trial counsel failed to request a plea bargain with an RRR1 eligible sentence which would have prevented Petitioner from going to trial;
11. Trial counsel never objected to Petitioner’s statements regarding hiding his gun in the shed as being misleading because counsel did not clarify whether the statements were referring to a shotgun or a BB gun;
12. Trial counsel did not object to juror 183’s answer “should be” when asked if they could be impartial;
13. The Court erred in allowing Petitioner’s wife to testify;
14. The Court erred by allowing the Commonwealth to make an improper statement that the Petitioner “just created the story of the BB gun today;” and
15. Appellate counsel only addressed one of his many issues on appeal and therefore gave ineffective assistance of counsel.

Petition at unpaginated 3, 6-8. On January 24, 2024, Attorney Lyden filed a motion to withdraw as counsel with a no-merit letter pursuant to Pa. R. Crim. P. 907. Motion to Withdraw as Counsel, 1/24/2024.

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For the reasons stated herein, the Court is in agreement with Attorney Lyden.

### III. LEGAL STANDARD

“To obtain relief [on an ineffective assistance of counsel claim], the defendant must demonstrate that counsel’s performance was constitutionally deficient and that the deficient performance prejudiced him.” *Commonwealth v. Daniels*, 104 A.3d 267, 281 (2014) (citing *Strickland v. Washington*, 466 U.S. 668, 687 (1984)). “It is well-settled that counsel is presumed to have been effective and that the petitioner bears the burden of proving counsel’s alleged ineffectiveness.” *Commonwealth v. Reid*, 259 A.3d 395, 405 (Pa. 2021).

To overcome this presumption, a petitioner must establish that: (1) the underlying substantive claim has arguable merit; (2) counsel did not have a reasonable basis for his or her act or omission; and (3) the petitioner suffered prejudice as a result of counsel’s deficient performance, that is, a reasonable probability that but for counsel’s act or omission, the outcome of the proceeding would have been different. A PCRA petitioner must address each of these prongs on appeal. A petitioner’s failure to satisfy any prong of this test is fatal to the claim.

*Id.* (citations and quotations omitted). “[W]hen it is clear that the party asserting a claim of ineffectiveness has failed to meet the prejudice prong, the claim may be dismissed on that basis alone without a determination of whether the first two prongs of the ineffectiveness standard have been met.” *Commonwealth v. Zook*, 887 A.2d 1218, 1227 (Pa. 2005) (citing *Commonwealth v. Travaglia*, 661 A.2d 352, 357 (Pa. 1995)).

### IV. DISCUSSION

#### a. Previously Litigated Issues

Issues three and four concern the admissibility of the 911 call played for the jury at trial. Petition at unpaginated 3. “For purposes of this subchapter, an issue has been previously litigated if the highest appellate court in which the petitioner could have had review as a matter of right has ruled on the merits of the issue.” 42 Pa.C.S.A. 9544(a)(2). Following sentencing and filing of timely notice of appeal, Petitioner filed a statement of errors complained of on appeal. Appeal. Therein, he averred the court improperly admitted the 911 call placed by K.L. as it constituted double hearsay. *Id.* at 1. The matter of the 911 call was addressed in an oral motion *in limine* prior to trial wherein this Court determined that the call would be permitted, but that “we’ll deal with this again when we get to the point where they’re going to play it.” Notes of Testimony (“NT”) at 11. In this Court’s 1925 Opinion, we explained that this was a preliminary judgment with a deferred ruling, meaning, Petitioner was required to renew the motion *in limine* or issue a contemporaneous objection when the Commonwealth attempted to admit the call, neither of which was done. 1925 Op. at 8 (citing *Blumer v. Ford*

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*Motor Co.*, 20 A.3d 1222, 1232 (Pa. Super. 2011). As such, the matter was not preserved for appeal.

Nonetheless, despite asserting that the issue was waived, this Court completed a full analysis determining that even if the issue were not waived, and assuming counsel had properly objected, the issue was still without merit as the 911 call was not inadmissible hearsay. *Id.* at 9. The Court correctly concluded that all statements made by K.L. and G.L. to the 911 dispatcher satisfied the requirements for the present sense impression exception, and as such were properly admitted as evidence. *Id.* at 11. Moreover, this conclusion was affirmed by the Superior Court in its October 23, 2023, opinion. Judgment Affirmed, 10/23/2023, at 1. The Superior Court not only stated that the issue had been waived for appeal, but also that the 911 call met the present sense impression exception to the rule against hearsay. *Id.* at 12-13. As such, Petitioner's claim has been previously litigated by the Superior Court on the merits and remains denied.

***b. Discovery Materials***

In issues one and two Petitioner asserts that trial counsel was ineffective for failing to provide him with discovery materials and failing to show him the entirety of the "video footage;" this court will treat them as one issue concerning the sharing of discovery with Petitioner. Petition at unpaginated 3. "[A]n issue is waived if the petitioner could have raised it but failed to do so before trial, at trial, during unitary review, on appeal or in a prior state postconviction proceeding." 42 Pa.C.S.A. § 9544(b). The record does not reflect the issue of discovery was addressed before trial, during trial, or on appeal and could have been challenged during any stage, therefore, this issue is waived for purposes of PCRA review.

Assuming, *arguendo*, that the issue is not waived, it is without merit. Petitioner does not state why the failure to disclose the materials is a meritorious claim, whether counsel had a reasonable basis for the omission, or how he was prejudiced by the omission, only that he *was* prejudiced. *See Reid*, 259 A.3d at 405. "Boilerplate allegations and bald assertions of no reasonable basis and/or ensuing prejudice cannot satisfy a petitioner's burden to prove that counsel was ineffective." *Commonwealth v. King*, 253 A.3d 511, 521 (Pa. Super. 2021). "Prejudice is established if there is a reasonable probability that, but for counsel's errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.* Petitioner has not suggested that had trial counsel shared all discovery with Petitioner the outcome of the proceeding would have been different as required to show prejudice. Moreover, Petitioner's issues three and four contradict each other by stating he did not review any discovery and then that he reviewed a video, or a partial video, with counsel before trial. As such, Petitioner has failed to allege sufficient facts to overcome the presumption of effectiveness of counsel's stewardship concerning issues three and four; the issues are meritless and denied.

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**c. Suboxone**

Issues five and six concern a statement made by the Court in a sidebar conversation after exhibit six was played for the jury. Petition at 3,6. Exhibit six was bodycam footage of Officer Blessing showing a conversation between himself and Petitioner, during which Petitioner mentions, *inter alia*, the use of the medication Suboxone. NT at 3, 131-132. “[A]n issue is waived if the petitioner could have raised it but failed to do so before trial, at trial, during unitary review, on appeal or in a prior state postconviction proceeding.” 42 Pa.C.S.A. § 9544(b). The record does not reflect the issue of the Court’s comment concerning suboxone was addressed at the first available opportunity, and therefore, it is waived for purposes of PCRA review. Assuming for arguments sake this issue is not waived, Petitioner has failed to show prejudice. Prior to playing portions of this video, the Commonwealth confirmed it had the consent of defense counsel to play the footage for the jury. NT at 131. After, the following conversation took place:

(Commonwealth’s Exhibit No. 6 was played for the jury.)

Defense Counsel: Your Honor, may we approach?

The Court: Yes.

Defense Counsel: In reference to the Suboxone, that might be prejudicial.

The Court: How is that prejudicial? And how come you didn’t raise this before it was played?

Defense Counsel: Well, I didn’t think this was gonna be played.

The Commonwealth: I just asked you whether it was okay to play portions of it where they’re talking.

Defense Counsel: But the Suboxone, I didn’t think that was actually coming in.

The Court: I don’t see where the prejudice is. The jurors probably don’t know what Suboxone means.

Defense Counsel: Okay.

The Court: Is there something you are asking for?

Defense Counsel: A curative instruction. I guess not.

The Court: I mean, --

The Commonwealth: I think you’re gonna draw more attention.

The Court: -- the fact that he’s on medication? Is anybody suggest-

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	ing he was on drugs this day?
The Commonwealth:	No.
Defense Counsel:	No.
The Court:	He said he hasn't taken it in years.
Defense Counsel:	I just didn't like the way I heard the testimony come out just now.
The Court:	Your objection is denied. Let's move forward. If something else comes up we'll deal with it.

NT 131-133. Petitioner asserts that trial counsel should have objected to the statement that “[t]he jurors probably don’t know what Suboxone means.” Petition at unpaginated 3. However, as this conversation was held at sidebar, meaning, not within the purview or hearing range of the jury, there would have been no reason for counsel to object, as the conversation could not have affected the jury’s perception of the Petitioner or understanding of the overall case. Petitioner presents no evidence that the jury heard the sidebar conversation or the comments in question or how he was prejudiced. Because the conversation was held at side bar, it is unlikely for Petitioner to have experienced any prejudice arising from this statement or trial counsel’s failure to object to the statement.

Even if Petitioner was able to establish prejudice, and he has not, the issue is waived on two fronts. Though Petitioner objected to the portion of the video mentioning suboxone, he failed to request a mistrial or curative instruction which would have preserved this issue for appeal and/or PCRA review. See *Commonwealth v. Sandusky*, 77 A.3d 663, 670 (Pa. Super. 2013) (“[e]ven where a defendant objects to specific conduct, the failure to request a remedy such as a mistrial or curative instruction is sufficient to constitute waiver.” (citation omitted)). Further, this issue could have been raised for the first time on appeal and as such is waived purposes of PCRA review. See 42 Pa.C.S.A. § 9544(b).

Next, Petitioner claims that this Court violated his sixth, eighth, and fourteenth amendment rights by not issuing a curative instruction “regarding the context of suboxone.” Petition at unpaginated 6. Petitioner does not explain what he means by the “context of suboxone” nor how his constitutional rights were violated. Petitioner did not request a curative instruction be given to the jury and this Court did not deny any such request. As shown above, when questioned if he was asking for anything, defense counsel said, “A curative instruction. I guess not.” NT at 133. “Failure to request a cautionary instruction upon the introduction of evidence constitutes a waiver of a claim of trial court error in failing to issue a cautionary instruction.” *Commonwealth v. Bryant*, 855 A.2d 726, 739 (Pa. 2004). Additionally, this Court is unaware of any case law requiring a trial court to issue a curative instruction, *sua sponte*, for the benefit of a defendant. See *Commonwealth v. Johnson*,

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42 A.3d 1017, 1026 n.5 (Pa.2012) (rejecting defendant's position that the trial court was required to provide curative instructive *sua sponte*). As this Court was not required to issue a curative instruction *sua sponte*, Petitioner's claims that the Court violated his constitutional rights is waived, without merit, and denied.

**d. Offensive Gravity Score & RRR Consideration**

**i. Offensive Gravity Score**

In issues eight and nine, Petitioner asserts that his offensive gravity score ("OGS") was calculated incorrectly; the OGS was calculated at 11, but he avers it should be at nine. Petition at unpaginated 3,8. Petitioner believes counsel was ineffective for failing to petition the court to correct the error and that the Court erred in allowing the Commonwealth to use the incorrect OGS resulting in a lengthier sentence. *Id.* This issue should have been raised at sentencing, post-sentence, or on appeal and Petitioner's failure to do so has resulted in waiver pursuant to 42 Pa.C.S.A. § 9544(b).

Assuming the issue is not waived, in the instant matter, Petitioner was convicted of 42 Pa.C.S.A. § 6105(a)(1)(a.1)(1), firearms, person not to possess, convicted of enumerated felony (loaded/ammo available) (possession/control of firearm or within reach), which has an OGS of 11. *See* 204 Pa. Code § 303.15; Verdict Slip, 8/23/2022; Guideline Sentence Form, 11/17/2022. Petitioner contends "the proper grading system stipulates that a shotgun/rifle is different than a firearm/handgun. Even though they are they are both under the charging matrix of: Pa C.S. 6105(A), there is a clear difference between the two." Petition at 8. This Court is unclear as to what Petition is referencing; when determining the OGS, the type of firearm resulting in the conviction is not considered. The difference between an OGS of 11 and an OGS of 9 for a conviction of firearms, person not to possess, convicted of enumerated felony, is whether the firearm was loaded/if ammunition was available. *See* 204 Pa. Code § 303.15. Prior to trial, Petitioner was offered a plea deal by the Commonwealth that would have allowed him to plead to the charge as if there was no ammunition available, with an OGS of 9, however, Petitioner rejected the offer. NT at 5. ("At this point the Commonwealth would allow him to plead open to the charge without the – with the offense gravity score that there was not ammo available or in the firearm."). Here, at trial evidence was admitted that the firearm Petitioner was convicted of possessing was in fact loaded with one round of ammunition and the jury convicted the Petitioner of such, therefore, the proper OGS is 11, not nine. NT at 146; Verdict Slip, 8/23/2022. Because the OGS of 11 is correct, trial counsel was not ineffective for failing to petition the court to correct the OGS and this Court did not err in allowing the Commonwealth to use the correct OGS of 11 in calculating Petitioner's sentence. Petitioner's claim is waived and without merit.

**ii. RRR Consideration**

Petitioner next contends that trial counsel was ineffective for failing to negotiate a plea bargain that included Recidivism Risk Reduction In-

centive Act (“RRRI”) eligibility; Petitioner states he would have forgone trial had counsel done so as he believes he is eligible for RRRI. Petition at unpaginated 3. This issue could have been raised pretrial, during trial, at sentencing, post-sentence, or on appeal and Petitioner’s failure to do so has resulted in waiver pursuant to 42 Pa.C.S.A. § 9544(b).

Assuming, *arguendo*, that the issue is not waived, it is without merit. To be eligible for RRRI, Petitioner must meet all of the following requirements:

- (1) Does not demonstrate a history of present or past violent behavior.
- (2) Has not been subject to a sentence the calculation of which includes an enhancement for the use of a deadly weapon as defined under law or the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing or the attorney for the Commonwealth has not demonstrated that the defendant has been found guilty of or was convicted of an offense involving a deadly weapon or offense under 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles) or the equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation or criminal attempt, criminal solicitation or criminal conspiracy to commit any of these offenses.
- (3) Has not been found guilty of or previously convicted of or adjudicated delinquent for or criminal attempt, criminal solicitation or criminal conspiracy to commit murder, a crime of violence as defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses) or a personal injury crime as defined under section 103 of the act of November 24, 1998 (P.L. 882, No. 111),<sup>1</sup> known as the Crime Victims Act, except for an offense under 18 Pa.C.S. § 2701 (relating to simple assault) when the offense is a misdemeanor of the third degree, or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.
- (4) Has not been found guilty or previously convicted or adjudicated delinquent for violating any of the following provisions or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation or criminal attempt, criminal so-



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licitation or criminal conspiracy to commit any of these offenses:

18 Pa.C.S. § 4302(a) (relating to incest).

18 Pa.C.S. § 5901 (relating to open lewdness).

18 Pa.C.S. Ch. 76 Subch. C (relating to Internet child pornography).

Received a criminal sentence pursuant to 42 Pa.C.S. § 9712.1 (relating to sentences for certain drug offenses committed with firearms).

Any offense listed under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders).

Drug trafficking as defined in section 4103 (relating to definitions).

- (5) Is not awaiting trial or sentencing for additional criminal charges, if a conviction or sentence on the additional charges would cause the defendant to become ineligible under this definition.

61 Pa.C.S.A. § 4503. The record reflects that Petitioner is disqualified from RRRI due to subsections one and three.

As for the phrase history of present or past violent behavior, we found that the use of the word history in Section 4503 evidences an intent to render ineligible individuals with an established record or pattern of violent behavior. We reasoned that such a definition of history engenders the most cogent and natural interpretation of the statute, since it permits a sentencing court to assess whether an offender has an established record or pattern of past or present violent behavior, consistent with the legislature's goal of providing greater reform opportunities for first-time offenders than for repeat offenders.

*Commonwealth v. Finnecy*, 249 A.3d 903, 915 (Pa. 2021) (citations and quotations omitted). Petitioner has a lengthy prior criminal record excluding his present conviction. Pre-Sentence Investigation, 10/14/2022, at 3-10. In that history are convictions based on violent behavior, including battery, aggravated battery, robbery, and simple assault. *Id.* at 3-4, excluding him from RRRI eligibility.

Petitioner is further and specifically excluded from RRRI by subsection three. This subsection disqualifies defendants from RRRI if they have been convicted of a crime of violence as outlined in 42 Pa.C.S. § 9714(g). 61 Pa.C.S.A. § 4503(3). One of the enumerated crimes of violence in § 9714(g) is aggravated assault. *Id.* For his conviction of aggravated battery in Florida, which Petitioner stipulated is the functional equivalent to aggravated assault in Pennsylvania, Petitioner is

disqualified from RRRI. NT at 72-73. As such, Petitioner’s contention that “whereas the defendant was eligible for RRR-1” is incorrect and without merit. Concerning trial counsel’s ineffectiveness for failure to motion or request a specific plea with RRRI eligibility, Petitioner does not plead facts showing that he requested trial counsel negotiate a plea with RRRI eligibility and counsel refused or did not do so. While Petitioner contends that he may have taken a plea deal if he was offered RRRI, he has again failed to show that the issue has merit or that counsel did not have a reasonable basis for his actions or inactions. This issue is waived and without merit.

***e. Remaining Issues***

***i. Failure to Motion for Mistrial***

In issue seven, Petitioner states trial counsel “never motioned for a mistrial, whereas multiple instances existed for him to do so.” Petition at 3. This issue is waived as Petitioner failed to raise it at trial or on appeal and could have done so. 42 Pa.C.S.A. § 9544(b). Moreover, the claim is underdeveloped and devoid of any facts that could assist this Court in analyzing whether moving for a mistrial was warranted and if trial counsel was ineffective for failing to do so. “Boilerplate allegations and bald assertions of no reasonable basis and/or ensuing prejudice cannot satisfy a petitioner’s burden to prove that counsel was ineffective.” *King*, 253 A.3d at 521. Petitioner’s seventh claim is waived and without merit.

***ii. Failure to Object to Petitioner’s Own Statements Concerning the Type of Firearm***

In Petitioner’s eleventh issue he alleges trial counsel was ineffective for failing to object to “the defendant’s statements being entered as misinterpreting, ‘I hid my gun is [sic] in the shed’ is inferred, that the defendant was referencing the shotgun, not the BB gun.” Petition at 3. Petitioner failed to raise the issue at trial, after trial, or on appeal, and as such the issue is waived for PCRA review. 42 Pa.C.S.A. § 9544(b). Assuming *arguendo*, the issue is not waived, it is without merit.

Petitioner does not point to where in the testimony he is referencing. It appears that Petitioner believes his counsel should have objected to the statements he made to Officer Johnson that he hid his gun in the shed before police arrived on the scene on December 14, 2021; the information was played in a video as exhibit six for the jury. NT at 131, 133. In the video, Petitioner states that he hid his gun in the shed and then a different officer used the information and immediately located a shotgun in the shed. NT at 137-38; 146. Petitioner does not explain how the information was misinterpreted, though he implies that he wanted the jury to believe the gun he was referring to was a BB gun and not a shotgun. While counsel did not object to Petitioner’s own statement, he did cross-examine Officer Blessing as to the BB gun.

Defense Counsel:                   Okay. And as far as this BB gun, did you ever see any BB gun or did anybody say, hey, we have another – we have

another gun here, it's a BB gun?  
 Officer Blessing: So, no, I was not one of the officers that went to retrieve the firearms. That was Detective Byrnes and Officer Johnson.

NT at 136-37. Defense counsel also thoroughly cross-examined Detective Byrnes concerning the existence of a BB gun:

Defense Counsel: So when he said he hid the gun, could that have been the BB gun and it was hidden out of your view?

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Detective Byrnes: I mean, there's a possibility, but we didn't know of a BB gun's existence when we arrived to the house.

Defense Counsel: All right. Well, you heard testimony from family members in the house, correct?

Detective Byrnes: That there might be one in the house, yeah.

Defense Counsel: Okay.

NT at 151-52.

What Petitioner does not seem to grasp is that it does not matter whether there was a BB gun present on the evening of December 14, 2021, before his daughters called 911. Petitioner was charged with one count of possession of firearm prohibited, which meant that, based on his conviction in Florida for aggravated battery, he was prohibited from possessing or controlling a firearm in any capacity in this Commonwealth, including constructive possession, and two shotguns were found on his property. "Illegal possession of a firearm may be established by constructive possession." *Commonwealth v. McClellan*, 178 A.3d 874, 878 (Pa. Super 2018) (citing *Commonwealth v. Parker*, 847 A.2d 745, 750 (Pa. Super. 2004)).

When contraband is not found on the defendant's person, the Commonwealth must establish constructive possession, that is, the power to control the contraband and the intent to exercise that control. The fact that another person may also have control and access does not eliminate the defendant's constructive possession. As with any other element of a crime, constructive possession may be proven by circumstantial evidence. The requisite knowledge and intent may be inferred from the totality of the circumstances. Constructive possession is an inference arising from a set of facts that possession of the contraband was more

likely than not.

*Id.* (citations omitted). Here, the jury was presented with evidence including the 911 call, from his daughters that he had a shotgun before leaving the residence, Petitioner's own statement to Officer Blessing that he hid his gun in the shed, and Detective Byrnes' immediate retrieval of that shotgun based on Petitioner's directive; it does not matter that the shotgun belonged to his wife or that he may have been referring to a BB gun. Petitioner knowingly lived in a residence with two shotguns as a person not to possess and as such, based on the totality of the circumstances, the jury found him guilty. Petitioner fails to state how this issue has arguable merit or how the act or omission by counsel was unreasonable as to render trial counsel's representation ineffective. Trial counsel effectively challenged the type of firearm Petitioner was referencing during his cross-examinations of Officer Blessing and Detective Byrnes and as such was not ineffective for failing to object to Petitioner's own statements; the issue is waived and without merit.

### iii. Juror 183

In Petitioner's issue twelve, he contends that trial counsel was ineffective for failure to object to juror 183's response of "should be" when asked if he could be impartial. Petition at unpaginated 3, 4-5. This issue is waived. 42 Pa.C.S.A. § 9544(b). This could have been raised during voir dire, pre-trial, during trial, or on appeal and Petitioner failed to do so. Assuming it is not waived, it is without merit. In response to whether he could be fair and impartial trial counsel and juror 183 had the following interaction:

Defense Counsel:	Okay. And 183. Yes, sir.
Juror 183:	Chief of police.
Defense Counsel:	Okay. You know the chief of police?
Juror 183:	Yeah, he's my neighbor. Yeah.
Defense Counsel:	The most recent chief of police here in the city?
Juror 183:	No, in Columbia.
Defense Counsel:	Oh, in Columbia, okay.
Juror 183:	Yeah.
Defense Counsel:	All right. So he's your neighbor?
Juror 183:	uh-huh.
Defense Counsel:	And are you close?
Juror 183:	Yeah.
Defense Counsel:	Okay. Do you talk about criminal cases at all?
Juror 183:	No.
Defense Counsel:	Okay. Could you be fair and impartial in this matter –
Juror 183:	Yeah.

Defense Counsel: -- involving a handgun or a  
shotgun?

Juror 183: Should be, yeah.

NT at 39-40. Petitioner has failed to plead any facts which would suggest why the answer “should be” is prejudicial, and why counsel should have objected to the statement. Petitioner only cites to case law that cannot be identified due to the unintelligible citation. Petition at unpaginated 4.

A prospective juror should be excused for cause in two situations:

The first is where the prospective juror indicates by his answers that he will not be an impartial juror. The second is where, irrespective of the answers given on voir dire, the court should presume the likelihood of prejudice on the part of the prospective juror because the potential juror has such a close relationship, be it familial, financial, or situational, with any of the parties, counsel, victims or witnesses.

*Commonwealth v. Johnson*, 445 A.2d 509, 511 (Pa. Super. 1982) (quoting *Commonwealth v. Stamm*, 429 A.2d 4, 7 (Pa. Super. 1981)). In the instant matter, Petitioner implies the first case, that the juror would not be impartial. However, “should be” is an affirmative response, he said “yeah” beforehand, and Petitioner has offered no facts or evidence showing even an inference of prejudice resulting from this response. As such, there was no reason to object and trial counsel was not ineffective for failing to do so. The issue is waived and without merit.

#### iv. Spousal Privilege

In his next issue, Petitioner asserts this Court erred in allowing his wife to testify at trial. Petition at unpaginated 6. Petitioner further asserts that “the mere appearance of the defendants [sic] wife on the stand, called by the Commonwealth, gave the ‘inference’ that the wife was testifying against the defendant, therefore the allegations must be true.” *Id.* At trial, Petitioner attempted to raise the issue the day after his wife testified. NT at 173-74. He believed that his wife was compelled to testify against him, which he asserted was against the law, and motioned for a dismissal; the Commonwealth and the Court agreed there were no legal grounds for a dismissal and the motion was denied. *Id.* at 174. As Petitioner failed to raise this issue on appeal, and could have done so, it is waived pursuant to 42 Pa.C.S.A. § 9544(b). Assuming, *arguendo*, the issue is not waived, it is without merit. Petitioner cites no authority, nor offers any explanation, to support his claim that the mere appearance of his wife testifying at trial implies that the allegations against him must be true. However, Petitioner does cite to Pa.C.S.A. § 5913 and Pa.C.S.A. § 5914. *Id.* at 6-7. Section 5913 states:

Except as otherwise provided in this subchapter, in a criminal proceeding a person shall have the privilege, which he or she may waive, not to testify

against his or her then lawful spouse except that there shall be no such privilege:

- 1) in proceedings for desertion and maintenance;
- 2) in any criminal proceeding against either for bodily injury or violence attempted, done or threatened upon the other, or upon the minor children of said husband and wife, or the minor children of either of them, or any minor child in their care or custody, or in the care or custody of either of them;
- 3) applicable to proof of the fact of marriage, in support of a criminal charge of bigamy alleged to have been committed by or with the other; or
- 4) in any criminal proceeding in which one of the charges pending against the defendant includes murder, involuntary deviate sexual intercourse or rape.

Pa.C.S.A. § 5913. While section 5914 states, “[e]xcept as otherwise provided in this subchapter, in a criminal proceeding neither husband nor wife shall be competent or permitted to testify to confidential communications made by one to the other, unless this privilege is waived upon the trial.” Pa.C.S.A. § 5914.

Petitioner is not asserting that his wife was not competent to testify at trial as she was divulging confidential communications made between them, which is prohibited under section 5914, but the fact that she testified at all, “[s]pousal testimony against the each other [sic] is not permissible, or forcible [sic] by the Court unless one of the following instances exist in order for allowance . . .” Petitioner then lists seven exceptions and states none apply to his case. Petition at 6-7. At trial, Petitioner’s wife had the privilege to not testify against Petitioner, but by testifying, waived such privilege under section 5913. Further, under section 5914, Petitioner’s wife was prohibited from testifying to any confidential communications made in the marriage between husband and wife. Petitioner has not detailed which statements he believes were confidential communications and therefore violative of section 5914. This Court is in agreement with Attorney Lyden who stated the only potentially confidential communication divulged by your wife during her testimony was the subject matter and details of your argument that evening. Motion to Withdraw at unpaginated 5.

However, “[o]ur Supreme Court has explained that where the challenged spousal communication was divulged by the declarant-defendant to third parties, the statement does not qualify as a confidential communication.” *Commonwealth v. Davis*, 121 A.3d 551, 556-57 (Pa. Super. 2015) (internal citations and quotations omitted). On the night of the incident, as shown in exhibit 6, Petitioner tells Officer Johnson his side of what happened that evening, including the contents of the argument between he and his wife. See exhibit 6. Moreover, the argument was held in the family home where the couple’s two daughters were present. “Generally, the presence of third parties negates the con-

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fidential nature of the communication.” *Commonwealth v. Small*, 980 A.2d 549, 562 (Pa. 2009). Because Petitioner offers no specific testimony he believes violated sections 5913 and/or 5914 and because neither section was violated based on the record before this Court, either because any confidential communication was divulged to the police or said in front of third parties. This Court did not err in allowing Petitioner’s wife to testify; the issue is waived and without merit.

v. Improper Statement by the Commonwealth

In Petitioner’s penultimate issue, he asserts he was prejudiced by this Court allowing improper statements by the Commonwealth during closing arguments. Petition at unpaginated 7. Petitioner believes the Commonwealth’s statement that the Petitioner “just created the story of the BB gun today” was “not only faulty, misleading, damaging, and lacks truthfulness [sic], but it is an Improper Statement to appeal to the Jurys [sic] emotions.” This issue was not addressed at trial or on appeal, and could have been, and therefore is waived for consideration on PCRA review pursuant to 42 Pa.C.S.A. § 9544(b). Assuming, *arguendo*, the issue is not waived, it is without merit.

“Comments by a prosecutor constitute reversible error only where their unavoidable effect is to prejudice the jury, forming in their minds a fixed bias and hostility toward the defendant such that they could not weigh the evidence objectively and render a fair verdict.” *Commonwealth v. Tedford*, 960 A.2d 1, 34, (Pa. 2008) (citing *Commonwealth v. Miller*, 746 A.2d 592, 601 (Pa. 2000)).

The two-part analysis provides a practical framework for evaluating prosecutorial remarks in which a fair balance may be struck between the prosecutor’s duties as an officer of the court and his rights as an advocate.

The substance prong requires a court to examine the challenged remark in the context of the issues presented at trial. The court first must determine whether the remark reasonably relates to the facts of the case. A statement is impermissible ‘where the language and inferences of the summation no longer relate back to the evidence on the record.’

Upon finding that the statement at issue has a reasonable evidentiary foundation, the court next must determine whether the statement facilitates “the trier’s duty to decide the case on the evidence.” The remark not only must be based upon the evidence; it also must bear relevance to the crimes at issue.

*Commonwealth v. Clancy*, 192 A.3d 44, 62-63 (Pa. 2018) (citations omitted). “Moreover, a prosecutor has an absolute right to comment on the evidence.” *Id.* “A prosecutor does not engage in misconduct when his statements are based on the evidence or made with oratorical flair.” *Commonwealth v. Carson*, 913 A.2d 220, 236 (Pa. 2006) (citing *Com-*

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*monwealth v. Marshall*, 633 A.2d 1100, 1110 (Pa. 1993)). In the instant matter, the Commonwealth made the following comments during closing arguments:

I want to talk a tiny bit about these couple of theories that the defense has brought up.

Like I said, this BB gun. Nobody's ever heard of it. Nobody ever heard of it before yesterday. The defendant didn't say, I have a BB gun. The wife didn't say, oh, there's also a BB gun.

They said, here are the two firearms. I hid one in the shed. The wife brought the officers to get the other one. Nobody mentioned a BB gun. The daughter didn't say it was a BB gun.

This is all to distract you. This was all made up, this was come up with, I submit, probably last week, maybe yesterday.

NT at 198. First, the court must determine whether the remarks relate to the facts of the case, and here it is clear they do. *Clancy*, 192 A.3d 44 at 62. It was the defense's theory at trial that the gun Petitioner was holding and referencing when speaking to police was in fact Petitioner's BB gun, not a shotgun owned by his wife. NT at 181. However, at no point when speaking with police did Petitioner clarify that the firearm he referenced was a BB gun; at no point did Petitioner state that in addition to the two shotguns, there was also a BB gun on the property; there was no evidence submitted at trial that a BB gun existed on the property on the night in question. All of the Commonwealth's statements concerning the BB gun were based on the evidence adduced at trial. Next, the court next must determine whether the statement has relevance to the crime. *Clancy*, 192 A.3d at 62. There is no argument that the Commonwealth's statements have relevance to the crime as an element of the crime is whether Petitioner exercised possession or control over a firearm and Petitioner's defense was that he did not possess or control a firearm, but a BB gun. As for the Commonwealth's statement that Petitioner invented the existence of the BB gun, the Commonwealth is allowed to comment on the evidence and is allowed to do so with oratorical flair, which is what was done here. The statements made by the Commonwealth were made in accordance with the evidence admitted at trial and were relevant to the crime in question. As such, in addition to the issue being waived, there was no error on the part of this Court for allowing the Commonwealth's comments statements during closing arguments.

#### iv. Ineffective Assistance of Appellate Counsel

In Petitioner's last issue he avers that appellate counsel was ineffective by only raising one issue on appeal, when appellate counsel confirmed in a letter that trial counsel was ineffective "on multiple occasions to object to erroneous evidence, procedural issues, and not



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effectuating the defendants [sic] best interest throughout the trial process.” Petition at unpaginated 6. Petitioner did not attach the letter from appellate counsel for analysis by this Court for this issue. Per Pa.R.Crim.P. Rule 902(D), “[t]he defendant shall attach to the petition any affidavits, records, documents, or other evidence which show the facts stated in support of the grounds for relief, or the petition shall state why they are not attached.” Further, the Petitioner does not explain why the letter is not attached nor does he give details on any of the alleged errors of appellate counsel, and this Court cannot guess; the claim is underdeveloped and devoid of sufficient facts to aid in this Court’s analysis. “Boilerplate allegations and bald assertions of no reasonable basis and/or ensuing prejudice cannot satisfy a petitioner’s burden to prove that counsel was ineffective.” *King*, 253 A.3d at 521. Petitioner’s final claim is waived and without merit.

#### **V. CONCLUSION**

Petitioner has failed to overcome the presumption that trial counsel was effective, and thus, all claims submitted for review are waived, denied for lack of merit, and/or previously litigated. For the reasons set forth above, the undersigned hereby provides notice of intent to dismiss the PCRA Petition without a hearing. Pursuant to Rule 907 of the Pennsylvania Rules of Criminal Procedure, Petitioner is allowed twenty days from the date of this Notice to file a response and show good cause why the PCRA motion petition should not be dismissed.

BY THE COURT:

THOMAS B. SPONAUGLE, JUDGE

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**ESTATE AND TRUST NOTICES**

Notice is hereby given that, in the estates of the decedents set forth below, the Register of Wills has granted letters testamentary or of administration to the persons named. Notice is also hereby given of the existence of the trusts of the deceased settlors set forth below for whom no personal representatives have been appointed within 90 days of death. All persons having claims or demands against said estates or trusts are requested to make known the same, and all persons indebted to said estates or trusts are requested to make payment, without delay, to the executors or administrators or trustees or to their attorneys named below.

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**FIRST PUBLICATION**

**Barnes, Robert E.**, dec'd.

Late of Warwick Township.  
Executor: David J. Barnes c/o RKG Law, 101 North Pointe Blvd, Suite 202, Lancaster, PA 17601.  
Attorney: Lindsay M. Schoeneberger, Esquire.

---

**Baumgartner, Don A.**, dec'd.

Late of Manheim Township.  
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**Bowen, Clara G.**, dec'd.

Late of West Hempfield Township.  
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Appel Yost & Zee LLP, 33 North Duke Street, Lancaster, PA 17602.

Attorney: Dana C. Panagopoulos.

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**DeWire, Edward C.**, dec'd.

Late of Mount Joy Township.  
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**Donley, Betty Lou a/k/a Betty L. Donley**, dec'd.

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**Gantz, Annie C.**, dec'd.

Late of Lancaster.  
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Attorney: Angela M. Ward, Esq.

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**Green, Kathleen B.**, dec'd.

Late of Strasburg Borough.  
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**Gregson, Virginia M. a/k/a Virginia Gregson**, dec'd.

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**Haines, R. Marlene a/k/a Rhoda Marlene Haines**, dec'd.

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---

**Harman, Larry S.**, dec'd.

Late of Manheim Township.  
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**Hollinger, Linda K.**, dec'd.

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**Johnson, Cameron C.**, dec'd.

Late of Lancaster.  
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Attorney: Katelyn M. Haldeman, Esq.

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**Kurtz, William C., II**, dec'd.

Late of Manheim Township.  
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Attorneys: Gibbel Kraybill & Hess, LLP.

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**Lueders, Frederick B.**, dec'd.

Late of Warwick Township.  
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**Michener, Thomas, Jr.**, dec'd.

Late of Columbia Borough.  
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**Nauman, Deborah A. a/k/a Deborah K. Nauman**, dec'd.

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**Pope, Patricia A.**, dec'd.

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**Rostolsky, Albert, III, a/k/a Albert Rostolsky, II a/k/a Albert Rostolsky Jr.**, dec'd.

Late of Lancaster Township.  
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Attorney: Lucy F. Dowd.

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**Woller, Jaris D.**, dec'd.

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**Zimmerman, James L.**, dec'd.

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man, Esq.

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**SECOND PUBLICATION**

**Blazic, Brenda J.**, dec'd.

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**Weaver, John M. a/k/a John  
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**Chapman, Patricia A.**, dec'd.

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**Cooper, Patricia A.**, dec'd.

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**Ingram, Barbara J. a/k/a Barba-**

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**Luciano, Ana H. Vera a/k/a Ana H. Vera**, dec'd.

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**McAteer, Elvira**, dec'd.

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---

**McClune, Fay A. a/k/a Fay A.**

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**Reinhart, Kay M. a/k/a Kay Ma-  
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**Riley, Maris Anne**, dec'd.

Late of Lancaster.

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17368.

Attorney: None.

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**Sanders, Charles E.**, dec'd.

Late of Marietta.

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17603.

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**Shissler, Allen B. a/k/a Allen B.  
Shissler III**, dec'd.

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Attorney: John M. Smith, Es-

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quire.

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**Snyder, J. Robert**, dec'd.

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---

**Violette, Uta**, dec'd.

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Co-Executors: Oliver C. Monroe, Janice Hollinger c/o John W. Metzger, Esquire, 901 Rohrerstown Road, Lancaster, PA 17601.  
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**Warner, Mary E.**, dec'd.

Late of Providence Township.  
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---

**Weaver, Chester E., Jr.**, dec'd.

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Attorney: Michael S. Grab, Esquire, Nikolaus & Hohenadel, LLP, 327 Locust Street, Columbia, PA 17512.

---

**Weller, Carl S.**, dec'd.

Late of Earl Township.  
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Attorney: James K. Noel, IV,

Esq.

---

**Zook, Mary Ruth**, dec'd.

Late of Caernarvon Township.  
Executor: Martha I. Zook c/o Good & Harris, LLP, 132 West Main Street, New Holland, PA 17557.  
Attorneys: Good & Harris, LLP.

**THIRD PUBLICATION**

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**Artale, Maria P.**, dec'd.

Late of Lititz Borough.  
Co-Executors: Paul M. Artale, Catherine Artale Mercer c/o Vance E. Antonacci, Esquire, McNees Wallace & Nurick LLC, 570 Lausch Lane, Suite 200, Lancaster, PA 17601.  
Attorney: McNees Wallace & Nurick LLC.

---

**Dewey, Nicholas R.**, dec'd.

Late of Christiana Borough.  
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Attorney: Job Stepanski.

---

**Fisher, Jacob J.**, dec'd.

Late of West Lampeter Township.  
Co-Executors: Jacob E. Fisher, Amos Stoltzfus c/o Nicholas T. Gard, Esquire, 121 E. Main Street, New Holland, PA 17557.  
Attorneys: Smoker Gard Associates LLP.

---

**Graver, Harry M.**, dec'd.

Late of East Hempfield Township.  
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**Grevin, Patricia**, dec'd.

Late of Cocalico Township.  
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c/o Luongo Bellwoar LLP, 126  
West Miner Street, West Ches-  
ter, PA 19382.  
Attorney: Stanley E. Luongo,  
Jr., Esq., Luongo Bellwoar LLP.

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**Henry, Barry R.**, dec'd.

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**Holmes, Nathaniel A.**, dec'd.

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---

**Huber, Mary N.**, dec'd.

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Sarah H. Welk c/o Randy R.  
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---

**Luciani, Joseph A.**, dec'd.

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Co-Executors: Alicia J. Luciani,  
James A. Luciani c/o George  
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Attorney: George W. Porter.

---

**Ludwig, William A. a/k/a Wil-  
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**Mills, Dorothy J. a/k/a Dorothy  
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Attorney: Kevin D. Dolan, Esq.

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**Nagel, Françoise Y. a/k/a Fran-  
çoise Yvette Nagel**, dec'd.

Late of East Hempfield Town-  
ship.  
Executor: George E. Nagel, Jr.  
c/o Andrew S. Rusniak, Es-  
quire, McNees Wallace & Nurick  
LLC, 570 Lausch Lane, Suite  
200, Lancaster, PA 17601.  
Attorney: McNees Wallace &  
Nurick LLC.

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**Pluta, Theodore Joseph, Jr.  
a/k/a Theodore Pluta**, dec'd.

Late of Lititz Borough.  
Executor: Sean Roberts c/o

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Law Office of Shawn Pierson,  
105 East Oregon Road, Lititz,  
PA 17543.

Attorney: Shawn M. Pierson,  
Esq.

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**Reitz, H. Weaver**, dec'd.

Late of West Lampeter Town-  
ship.

Co-Executors: Melvin N. Reitz,  
Lois N. Miller c/o James N. Cly-  
mer, Esq., 408 West Chestnut  
Street, Lancaster, PA 17603.

Attorneys: Clymer Musser &  
Sarno, PC.

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**Rubright, Susan L.**, dec'd.

Late of Mount Joy.

Executor: John F. Rubright  
c/o Ryan P. McDaniel, Esquire,  
Freeburn Law, P.O. Box 61680,  
Harrisburg, PA 17106.

Attorney: Ryan P. McDaniel.

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**Sanders, Marlene a/k/a Marlene  
Smith Sanders a/k/a Marlene S.  
Sanders.**, dec'd.

Late of Lancaster City.

Executor: Wardell Sanders c/o  
Theodore L. Brubaker, Esquire,  
480 New Holland Avenue, Suite  
6205, Lancaster, PA 17602.

Attorneys: Brubaker Con-  
naughton Goss & Lucarelli LLC.

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**Scheuing, Virginia R.**, dec'd.

Late of Quarryville Borough.

Executor: Keith C. Scheuing,  
1328 Woodcrest Ct., Mount  
Joy, PA 17552.

Attorney: None.

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**Segro, Jill L.**, dec'd.

Late of West Hempfield Town-  
ship.

Executor: Thomas W. Matroni  
c/o 327 Locust Street, Colum-  
bia, PA 17512.

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Attorney: Nathan E. Saxton, Es-  
quire, Nikolaus & Hohenadel,  
LLP, 327 Locust Street, Colum-  
bia, PA 17512.

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**Traynum, Joanne**, dec'd.

Late of Lancaster Township.

Executor: Robin R. Traynum  
c/o John H. May, Esquire, 49  
North Duke Street, Lancaster,  
PA 17602.

Attorneys: May, Herr & Grosh,  
LLP.

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**Wannemacher, Jean O.**, dec'd.

Late of West Lampeter Town-  
ship.

Executrix: Jennifer Ogle c/o  
Law Office of James Clark, 277  
Millwood Road, Lancaster, PA  
17603.

Attorney: James R. Clark.

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**Weaver, Kathleen M.**, dec'd.

Late of Brecknock Township.

Co-Executors: Josiah L. Kurtz,  
Heidi Beachy c/o James N. Cly-  
mer, Esq., 408 West Chestnut  
Street, Lancaster, PA 17603.

Attorneys: Clymer Musser &  
Sarno, PC.

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**Wenger, Noah W.**, dec'd.

Late of West Cocalico Township.

Executrices: Brenda Ann Ton-  
di, Nancy Marie White, Pamela  
Gail Shields c/o Elaine T. Yan-  
drisevits, Esq., 131 W. State St.,  
Doylestown, PA 18901.

Attorney: Elaine T. Yandrisevits,  
Esq.; Antheil, Maslow & Mac-  
Minn, LLP, 131 W. State St.,  
P.O. Box 50, Doylestown, PA  
18901.

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**Wirth, Patricia L. a/k/a Patricia  
Luona Wirth**, dec'd.

Late of Lancaster City.

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Executor: Richard L. Wirth, Jr.  
c/o Law Office of Shawn Pier-  
son, 105 East Oregon Road,  
Lititz, PA 17543.  
Attorney: Shawn M. Pierson,  
Esq.

**Witlin, John R.**, dec'd.

Late of Narvon.  
Co-Executors: Charles W.  
Bowden, IV, Robert A. Maro,  
Esquire c/o Robert A. Maro, Es-  
quire, 11 S. Trooper Road, Suite  
A, Norristown, PA 19403.  
Attorney: Robert A. Maro, Es-  
quire; Maro & Maro, P.C., 11 S.  
Trooper Road, Suite A, Norris-  
town, PA 19403.

**ARTICLES OF INCORPORATION**

NOTICE IS HEREBY GIVEN that Nonprofit Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on May 10, 2024, for the purpose of registering and obtaining a Certificate of Incorporation, as a 501(c)(3) Corporation, under the provisions of the Non-profit Corporation Law of 1988. The name of the nonprofit corporation is **STITCHING FOR HOPE PROJECT**.

The purpose for which it will be organized is: Through the creation and distribution of comforters or other essentials, to extend compassion and practical support to those displaced by armed conflict and catastrophic natural disasters.  
METZGER AND SPENCER, LLP  
901 Rohrerstown Road  
Lancaster, PA 17601

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**CORPORATE NOTICE**

**JAI GANESH BEVERAGE INC** has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.  
McCreesh, McCreesh, McCreesh & Cannon  
7053 Terminal Square  
Upper Darby, PA 19082

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**FICTITIOUS NAME NOTICES**

Notice is hereby given that a Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on March 28, 2024, for **Congruent Urban Apparel** with a principal place of business located at 1653 Lititz Pike #2157, Lancaster, PA 17543 in Lancaster County. The individual interested in this business is Yasser Sanchez, also located at 1653 Lititz Pike #2157, Lancaster, PA 17543. This is filed in compliance with 54 Pa.C.S. 311.

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Notice is hereby given that a Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on March 12, 2024, for **Zetty's Reptiles** with a principal place of business located at 303 Millersville Rd., Lancaster, PA 17603 in Lancaster County. The individual interested in this business is Seth Smith, also located at 303 Millersville Rd., Lancaster, PA 17603. This is filed in compliance with 54 Pa.C.S.311.

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## SUITS ENTERED

Defendant's name appears first in capitals, followed by plaintiff's name, number and plaintiff's or appellant's attorney.

**May 22, 2024  
to May 29, 2024**

BARAL, PREM K.; Autovest LLC of Pennsylvania; 03602; Ratchford

BOWER, MOLLY; Harmony Penn Holdings LLC; 03745; Williams

BROWNING, ASHLEY; Drexel University; 03685; Allard

CHASE, TAYLOR; Balabek Nabiyev; 03717; Fishman

CREASY, ROBERT J.; Elizon Master Participation Trust I US Bank Trust National Association; 03661; Dileva

DE LA ROSA, GIOVANNI, GIOVANNI PHOTOGRAPHY; American Express National Bank; 03729; Felzer

DEFREHN CORPORATION INC., DEFREHN ROOFING; Beacon Sales Acquisitions Inc.; 03743; Adams

ERIE INSURANCE EXCHANGE; William B. Bechtold; 03702; Cody Fischer Firm LLC; 03621; Sophocles

FOSTER, ROBERT J.; Dudley Smith; 03606; Swartz, Felzer

GEESY, VANESS; Northwest EMS Inc.; 03702; Bonner

HENDERSON, TYLER D.; Kazi Foods of New Jersey Inc.; 03623; Morgan

HILL, KIM; Forsythe Finance LLC; 03636; Tsarouhis

KOPF, JENNIFER L.; Taylor D. Thomas; 03747; O'Leary

MANDATO, Bryana; Richelle King; 03969; Rothermel

MCMANUS, JENICE K.; Westlake Services LLC; 03645; Lauer

ORENISH, RHONDA; American Express National Bank; 03676; Amstrong

ROSENBERGER NORTH AMERICA AKRON LLC; Combined Selection Group LTD; 03754; Barenbaum

UPRETTY, KISHOR K.; Janeen Findley; 03755; Sophocles

STUTMANN, LINDA; Ramona Ramos; 03746; Justice

SYNAPSE MARKETING SOLUTIONS, SYNAPSE PRINT MANAGEMENT LLC; Scripps Media Inc.; 03716; Keifer III

ZITO, CALOGERO, FARBER, LEN, LEN FARBER REAL ESTATE, Holly A. Stief; 03744; Puleo