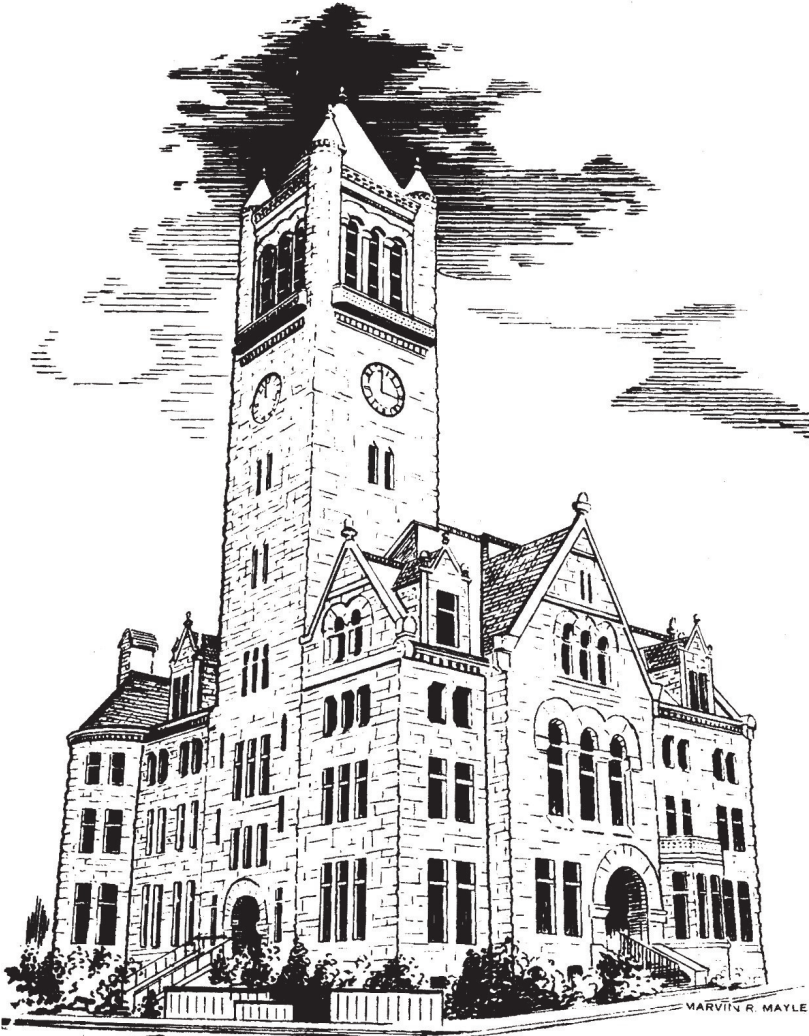


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ESTATE NOTICES

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

WILLIAM BIGAM, A/K/A WILLIAM T. BIGAM, late of Springfield Township, Fayette County, PA (3)

Executrix: Lynette Maddas
130 Crestview Drive
Acme, PA 15610
Attorney: John K. Greiner
Tremba, Kinney, Greiner & Kerr, LLC
120 South Third Street
Connellsville, PA 15425

GLENN C. BURNS, late of Menallen Township, Fayette County, PA (3)

Personal Representative: Mary Jo Zapotosky
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

AMANA V. HESS, A/K/A AMANA VIVIAN HESS (3)

Executor: John C. Hess, Jr.
c/o 310 Grant Street, Suite 1109
Pittsburgh, PA 15219
Attorney: Rosalie P. Wisotzki

RICHARD E. IRWIN, late of Connellsville Township, Fayette County, PA (3)

Personal Representative: Cynthia Ann Kubelick
50 Lexington Drive
Bluffton, SC 29910
Attorney: Richard A. Husband

JOSEPHINE B. MILLER, late of Vanderbilt, Fayette County, PA (3)

Personal Representative: Nancy Jo Baer
Attorney: Charles W. Watson
Watson Mundorff Brooks & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425

FRED TAYLOR, late of South Union Township, Fayette County, PA (3)

Executor: Fred Taylor II
c/o John A. Kopas III, Esquire
556 Morgantown Road
Uniontown, PA 15401
Attorney: John A. Kopas III

Second Publication

CATHERINE M. ADAMS, A/K/A CATHERINE ADAMS, late of Smithfield, Fayette County, PA (2)

Executrix: Lisa Gibson
c/o Warman Terry Law Offices
50 East Main Street
Uniontown, Pa 15401
Attorney: Mary Warman Terry

MONICA MAE BASSINGER, late of Brownsville, Fayette County, PA (2)

Administratrix: Vicki Fedor
419 Clover Street
Brownsville, PA 15417
Attorney: Lisa J. Buday
P.O. Box 488
California, PA 15419

LOUIS D. DOBISH, SR., A/K/A LOUIS DOBISH, late of German Township, Fayette County, PA (2)

Executor: Ronald Dobish
c/o Radcliffe & DeHaas, L.L.P.
2 West Main St., Suite 700
Uniontown, PA 15401
Attorney: William M. Radcliffe, Esq.

VERNICE C. HIGGINS, late of Upper Tyrone,
Fayette County, PA (2)

Personal Representatives: Ernest R.
Higgins and Mary Louise Hornick
Attorney: Charles W. Watson
Watson Mundorff Brooks & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425

Attorney: Robert W. King
114 North Maple Avenue
Greensburg, PA 15601

First Publication

CHARLES JOHN KORMANIK, A/K/A C.J. KORMANIK, late of German Township,
Fayette County, PA (2)

Executor: John David Kormanik
c/o Molinaro Law Offices
P.O. Box 799
Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

FRANCES GRIFFITH, A/K/A FRANCES D. GRIFFITH, late of Bullskin Township, Fayette
County, PA (1)

Executor: Richard D. Griffith
Attorney: David G. Petonic
314 C Porter Avenue
Scottsdale, PA 15683

CHESTER MILLER, late of Uniontown,
Fayette County, PA (2)

Co-Executor: Perry Miller
Co-Executor: Mark Allan Miller
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

GEORGE IGNOTZ, late of Luzerne
Township, Fayette County, PA (1)

Co-Executors: George G. Ignotz and
Ronald A. Ignotz
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Anthony S. Dedola, Jr.

VIOLET JEAN SMALLEY, A/K/A VIOLET J. SMALLEY, late of German Township,
Fayette County, PA (2)

Executrix: Patricia A. Lewis
c/o Radcliffe & DeHaas, L.L.P.
2 West Main St., Suite 700
Uniontown, PA 15401
Attorney: William M. Radcliffe

STELLA L. LAWSON, late of Luzerne
Township, Fayette County, PA (1)

Executor: Tracy L. Lawson
493 Hopewell Road
East Millsboro, PA 15433
Attorney: Robert Pendergast
4 Hawley Avenue
Pittsburgh, PA 15202

BEVERLY A. SMITLEY, late of Brownsville,
Fayette County, PA (2)

Administratrix: Vicki Fedor
419 Clover Street
Brownsville, PA 15417
Attorney: Lisa J. Buday
P.O. Box 488
California, PA 15419

PATRICK MARINELLI, A/K/A PATRICK D. MARINELLI, late of South Union
Township, Fayette County, PA (1)

Executrix: Cynthia Suchevids
c/o Radcliffe & DeHaas, L.L.P.
2 West Main Street, Suite 700
Uniontown, PA 15401
Attorney: William M. Martin

HEATHER E. WORK, late of Saltlick
Township, Fayette County, PA (2)

Executor: Robert M. Work
195 Mt. Nebo Road
Champion, PA 15622

GRACE H. MILLER, A/K/A GRACE H. NEHLS, late of South Union Township, Fayette
County, PA (1)

Administrator: Stanley Miller
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

LEGAL NOTICES

NOTICE OF RETURN OF TAX SALE

To Court:
General Docket Number: 2064 of 2015 GD

NOTICE: On October 15, 2015, the Fayette County Court of Common Pleas confirmed nisi the upset sale of properties for delinquent taxes, held on September 28, 2015.

Affected parties may file objections or exceptions to the sale immediately but no later than thirty (30) days following the confirmation nisi of the return by the court.

If you have any questions please call your attorney, this tax claim bureau at the following telephone number 724-430-1208, or the Pennsylvania Lawyer Referral Service at 800-932-0311.

FAYETTE COUNTY TAX CLAIM BUREAU
Sarah Minnick
Director

Fayette County Court of Common Pleas
Number: 1823 of 2015 GD
**NOTICE OF ACTION IN MORTGAGE
FORECLOSURE**

**Nationstar Mortgage LLC d/b/a
Champion Mortgage Company,
Plaintiff,**
v.

**Deborah Swiech, Known Surviving Heir
of Beatrice B. Tibbitt, Frank Tibbitt,
Known Surviving Heir of Beatrice B.
Tibbitt, William Tibbitt, Known Surviving
Heir of Beatrice B. Tibbitt and Unknown
Surviving Heir of Beatrice B. Tibbitt,
Defendants.**

TO: Unknown Surviving Heir of Beatrice B. Tibbitt, Premises subject to foreclosure: 2573 Lakeview Drive, Confluence, Pennsylvania 15424.

NOTICE: 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

CHARLES J. RHODES, late of South Union Township, Fayette County, PA (1)
Administrator: Shane J. Rhodes
239 Wharton Furnace Road
Farmington, PA 15437
Attorney: James E. Higinbotham, Jr.
45 East Main Street, Suite 500
Uniontown, PA 15401

LILLIAN SEDLOCK, A/K/A LILLIAN E. SEDLOCK, late of South Union Township, Fayette County, PA (1)
Executor: Elaine Kessler
c/o 556 Morgantown Road
Uniontown, PA 15401
Attorney: John A. Kopas III

BETTY GRACE SEESE, A/K/A BETTY G. SEESE, late of Connellsville Township, Fayette County, PA (1)
Personal Representative:
Cynthia Ann Seese Gilpin
Attorney: Charles W. Watson
Watson Mundorff Brooks & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425

MARY E. SPEELMAN, late of Dunbar Township, Fayette County, PA (1)
Personal Representative: Jamie L. Speelman
Attorney: Charles W. Watson
Watson Mundorff Brooks & Sepic, LLP
720 Vanderbilt Road
Connellsville, PA 15425

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, go to or telephone the office set forth below. This office can provide you with information about hiring a lawyer. If you cannot afford to hire a lawyer, this office may be able to provide you with information about agencies that may offer legal services to eligible persons at a reduced fee or no fee.

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

McCabe, Weisberg & Conway, P.C.
Attorneys for Plaintiff
123 S. Broad Street
Suite 1400
Philadelphia, Pennsylvania 19109
215-790-1010

NOTICE

NOTICE IS HEREBY GIVEN that a Certificate of Organization, Domestic Limited Liability Company has been approved and filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on September 28, 2015 for a Limited Liability Company known as JRMBDB, LLC.

Said Limited Liability Company has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the Limited Liability Company are Property Management and Development and any other lawful purpose related thereto for which Limited Liability Companies may be organized under the Business Corporation Law.

Jeremy J. Davis, Esquire
DAVIS & DAVIS
107 East Main Street
Uniontown, PA 15401

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW
ACTION TO QUIET TITLE
No. 1080 of 2015, G.D.
Judge Linda R. Cordaro

**ESTATE OF THERESA E.
VOITHOFER, ALSO KNOWN AS
THERESA EILEEN VOITHOFER,
DECEASED, BY FRED H.
VOITHOFER, JR., ADMINISTRATOR,
Plaintiff,
VS.
COMMUNITY HOME MORTGAGE
CORPORATION, AND ITS
SUCCESSORS AND/OR ASSIGNS,
Defendant.**

TO: Community Home Mortgage Corporation and its successors, and assignees, generally, or any other person or persons having any right, interest or claim whatsoever in and to that certain tract of land situate in the Nicholson Township, Fayette County, Pennsylvania, more particularly bounded and described as follows: ALL that certain tract or parcel of land situate and lying in Nicholson Township, Fayette County, Pennsylvania, and more particularly bounded and described as follows:

BEGINNING at a point on the southern side of State Highway No. 266, and being a corner with other lands of the Grantors from which this conveyance is taken; thence in a southeastern direction two hundred (200) feet along line of Grantors to a post and corner with Grantors; thence by line of Grantors in a southwestern direction parallel with said Highway No. 266, three hundred (300) feet to a post and corner with Grantors; thence in a northwestern direction along line of Grantors, two hundred (200) feet to a point along said public highway; thence along said highway in a northeastern direction three hundred (300) feet to the place of beginning, containing one (1) acre sixty and thirty-nine hundredths (60.39) perches, more or less.

BEING the same property as was conveyed to Fred Voithofer Sr. and Dolores Voithofer, his wife, by deed of Math

Voithofer and Victoria Voithofer, his wife, dated May 15, 1957, which is recorded in the Recorder of Deeds Office of Fayette County in Deed Book Volume 880, Page 224. The said Fred Voithofer, Sr. died September 21, 2010 leaving the said Dolores Voithofer, Grantor herein, as the surviving tenant by the entireties by operation of law.

Tax Parcel Identification Number: 24-13-0039. The street address of the subject property is 1039 Smithfield New Geneva Road, Smithfield, and Pennsylvania, 15478.

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 have 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 October 8, 2015 at the above number, the Court granted Plaintiff leave to serve the Complaint on you by publication of this Notice once in the Daily Courier, 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

IN THE COURT OF COMMON PLEAS OF
 FAYETTE COUNTY
 PENNSYLVANIA
 CIVIL ACTION – LAW
 NO. 1399 OF 2015 G.D.

**Mark Ghost and Cynthia Ghost, his wife,
 Plaintiffs,**
vs.

**Frank B. Stewart and Glodia L. Stewart, his
 wife, their executors, successors, and Assigns,
 Defendants.**

TO: Frank B. Stewart and Glodia L. Stewart, his wife, their executors, successors, and Assigns, Defendants.

TAKE NOTICE that Mark Ghost and Cynthia Ghost, his wife, filed a Complaint To Compel Satisfaction of Mortgage at Number 1399 of 2015 G.D. in the Court of Common Pleas of Fayette County, Pennsylvania, averring that they had paid off a mortgage held by you and recorded in the Office of the Recorder of Deeds, Fayette County, Pennsylvania, in Mortgage Book 305, page 24, concerning the property described as follows:

All that certain piece, parcel, or lot of land situate in the City of Connellsville, Fayette County, Pennsylvania, and known in the plan of the Borough (Now City) of Connellsville, Fayette County, Pennsylvania, as Lot No. 6, parcel I.D. Number 05-11-0001.

Since June 19, 1987, Plaintiffs are now have been the lawful owners and in possession of the premises described as follows: Plaintiff purchased the property from the defendants on May 26, 1987, in Record Book Volume 300, page 24, subject to a mortgage given to Defendants by Mortgage, dated June 19, 1987, and recorded in the office of the Recorder of Deeds of Fayette County, Pennsylvania, in Mortgage Book 305, Page 24. The amount of the mortgage was \$ 3,000.00 with interest at percent,

amortized over one (1) year. The Mortgage was paid off on May 15, 1988.

The Plaintiffs have requested that said mortgage be marked as satisfied.

The service of this complaint by publication is made pursuant to an Order of Court, dated August 4, 2015, and filed at the above number and term.

You are hereby notified to plead to the complaint in this case, of which the above is a brief summary, within twenty (20) days from this date. If you wish to defend, you must enter a written appearance personally or by an 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 plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU SHOULD 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. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED OR NO FEE.

PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET, P.O. BOX 186
HARRISBURG, PENNSYLVANIA 17108
TELEPHONE: 1-800-692-7375

RICHARD E. BOWER, ESQUIRE
615 West Crawford Avenue
Connellsville, PA 15425
Phone (724) 628-7799

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 1583 OF 2015 G.D.
JUDGE LINDA. R. CORDARO

**STEVEN BOWER AND
LEIGH ANN BOWER, His Wife,
Plaintiffs,
vs.
ALBINO L. GAUDIO AND ALBERT C.
GAUDIO, Their Successors and/or Assigns,
Generally,
Defendant.**

TO: ALBINO L. GAUDIO AND ALBERT C. GAUDIO, their Successors and/or Assigns Generally,

Take notice that on August 11, 2015, the Plaintiffs, above mentioned, by and through their attorneys, Davis & Davis, filed their Complaint averring that they are the owner of the following described parcel of real estate. Said Complaint being filed in Quiet Title.

ALL that certain tract of land situate in Jefferson Township, Fayette County, Pennsylvania, being Lot No. 12 in the Jefferson Estates Plan of Lots recorded at Plan Book Volume 11, page 34, more particularly bounded and described as follows:

BEGINNING in the Northerly line of Madison Drive and common to the Southwesterly corner of Lot No. 13 of the Jefferson Estates Plan of Lots as aforesaid; thence running along said Madison Drive, South 89 degrees 26 minutes 30 seconds West, a distance of 130.00 feet to a point; thence running along the lands now or formerly of Herman Uchelvich, North 0 degrees 33 minutes 30 seconds West, a distance of 250.0 feet to a point; thence running along the lands now or formerly of Herman Uchelvich, North 89 degrees 26 minutes 30 seconds East, a distance of 130.00 feet to a point at the Northwesterly corner of said Lot No. 13; thence along the line of said Lot No. 13, South 0 degrees 33 minutes 30 seconds East, a distance of 250.00 feet to the place of beginning.

UNDER AND SUBJECT to those restrictive covenants as contained in that deed recorded in the Recorder of Deeds Office of Fayette County, Pennsylvania, in Record Book Volume 1215, page 921.

TOGETHER with such rights and SUBJECT to any exceptions, restrictions, reserva-

tions and conditions as exist by virtue of prior recorded instruments, deeds or conveyances.

BEING the same premises as contained in that deed from the Fayette County Tax Claim Bureau dated June 19, 2012, recorded in the Office of the Recorder of Deeds of Fayette County, Pennsylvania in Record Book Volume 3190, page 1762.

Situate on Madison Drive, Jefferson Estates, Lot No. 12, Jefferson Township, Fayette County, Pennsylvania. Fayette County Tax Assessment Map No. 17-03-0029.

The within named Defendants appeared to have an interest in said premises which creates a cloud upon Plaintiffs' title, whereupon the Plaintiffs have filed their Complaint as aforesaid asking the Court to enter a Decree terminating all rights that the Defendants may have in said premises and decree that they have the full and free use and occupancy of said premises, released and forever discharged on any right, lien title or interest of said Defendants herein.

The service of this Complaint by publication is made pursuant to an Order of Court dated October 9, 2015, and filed at the above number and term.

NOTICE

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

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

THE FAYETTE COUNTY BAR
ASSOCIATION OF LAWYER REFERRAL
84 East Main Street
Uniontown, PA 15401

JUDICIAL OPINION

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

COMMONWEALTH OF PENNSYLVANIA, :
v. :
DANIEL JOSEPH STEWART, : NO 1886 OF 2013
Defendant/Appellant. : JUDGE JOSEPH M. GEORGE, JR.

ATTORNEYS AND LAW FIRMS

Mark D. Brooks, Esquire, Assistant District Attorney, For the Commonwealth
Robert R. Harper, Esquire, Assistant Public Defender, For the Appellant

OPINION

GEORGE, J.

October 08, 2015

On August 27, 2015, Appellant, Daniel Joseph Stewart, was resentenced to a term of imprisonment for a period of not less than three (3) years nor more than nine (9) years for convictions of possession with intent to deliver, {1} and possession of a controlled substance by a person not registered.{2} Appellant filed a timely post-sentence motion to modify the sentence, which was denied. He filed a direct appeal to the Superior Court of Pennsylvania. This Opinion is in support of the sentencing order.

CONCISE ISSUES

Appellant filed the following Statement of Errors Complained of on Appeal:

1. Did the Trial Court err in permitting Officer Metros testify to that she observed a white substance on the rear seat of her police cruiser after transporting the defendant to the Masontown Police Station, when the substance was never tested for any drug residue?
2. Did the Trial Court err in permitting Officer O’Barto to present hearsay statements made by Chad Workman, Sr. during his rebuttal testimony?
3. Did the Commonwealth establish, beyond a reasonable doubt that the defendant possessed the two baggies of cocaine and possessed each baggie with the intent to deliver?

{1} 35 Pa. C.S. § 780-113(a)(30).

{2} 35 Pa. C.S. § 780-113(a)(16).

4. Did the Suppression Court err in denying the defendant's Omnibus Pre-Trial Motion in the nature of a motion to suppress evidence and dismiss charges?

5. Did the Trial Court err in deviating from the sentencing guidelines and imposing a sentence in the aggravated range at the time of resentencing?

FACTS

A prior panel of the Superior Court summarized the facts of this case as follows:

On October 4, 2013, Masontown Police Officer Thomas O'Barto encountered a Jeep with no registration stickers and a missing fender. After Officer O'Barto pulled behind the vehicle with his emergency lights activated, the Jeep pulled into the lot for a gas station/convenience store. The front passenger door of the Jeep began to open before the Jeep came to a stop, and the front passenger leapt from the vehicle toward the entrance to the convenience store. Officer O'Barto yelled for him to get back into the car; after hesitating and bending over, the man complied.

Officer O'Barto called for backup after he determined that there were five people in the Jeep: Chad Workman, the front passenger who had jumped from the vehicle; Stephanie Workman, who was driving the car; Christopher Workman, who was in the back seat behind the driver; Jasmine Workman, the owner of the Jeep, who was in the middle back seat; and Appellant, who was in the back seat behind the front passenger. Backup from the Masontown and Brownsville police departments arrived, including Officer Alexis Metros. The officers removed the individuals from the Jeep one at a time, and Officer O'Barto obtained permission from Jasmine Workman to search the vehicle.

During the search, Officer O'Barto found a box of plastic baggies in a seat compartment directly in front of where Appellant had been sitting, and a digital scale in the area behind Appellant's head. Upon being questioned by Officer O'Barto about these items, Chad Workman indicated that they were headed to Masontown to sell the cocaine that Appellant had in his possession. Thereafter, all five occupants of the Jeep were arrested.

While Officer Metros was transporting Appellant to the police station, she noticed that "[h]e was fidgeting a lot with his hands towards his buttocks area. He kept like pushing up in the seat, moving around." *Id.* at 18. When she removed Appellant from the vehicle at the detention area, Officer Metros noticed "a white powdery substance" on the seat of the car where Appellant had been sitting. *Id.* at 16.

Inside the detention center, the three men were shackled to a bench, with Christopher Workman at one end, Chad Workman in the middle, and Appellant at the other end. Officers O'Barto and Metros informed the men that the room was being videoed; the two women were taken to an interrogation room. When Officer Metros returned, she saw two baggies containing white power located on the bench between Appellant and Chad Workman. The video showed that Chad Workman's hands had been in clear view and empty during the lapsed time, while Appellant had moved a lot and pulled something from behind his back. Officer Metros took the baggies to Officer O'Barto, who

performed a field test that indicated the presence of cocaine in each bag. Subsequent testing by the state crime lab revealed that the bags respectively contained 13.29 and 29.9 grams of cocaine.

Testifying in his defense, Appellant asserted that Christopher Workman had been the one sitting in the rear, passenger-side seat of the Jeep where the paraphernalia was found. Appellant also insisted that, upon learning of Chad Workman's claim that Appellant possessed cocaine, he denied it to Officer O'Barto. Finally, Appellant maintained that the baggies recovered in the detention area were not his; rather, while shackled to the bench in the detention area, Appellant heard a noise, noticed the baggies, and immediately stood up and called for the police.

1811 WDA 2014, unpublished memorandum (Pa. Super. July 15, 2015).

In its Opinion, the Superior Court affirmed Appellant's guilty verdicts. However, the Superior Court vacated Appellant's sentence and instructed Appellant to be resentenced without considering the now unconstitutional mandatory minimum sentencing provisions of 18 Pa. C.S. § 7508. {3}

This Court resentenced Appellant on August 27, 2015 pursuant to the Superior Court's instructions. Appellant was resentenced to a period of incarceration of not less than three (3) years nor more than nine (9) years.

DISCUSSION

Appellant's first four concise issues in his 1925(b) Statement for this direct appeal filed on September 16, 2015 were already decided by the Superior Court at No. 1811 WDA 2014, unpublished memorandum (Pa. Super. July 15, 2015). Since the Superior Court has already ruled on these issues, no further discussion is necessary. See *Commonwealth v. Starr*, 541 Pa. 564, 574 (1995) ("upon a second appeal, an appellate court may not alter the resolution of a legal question previously decided by the same appellate court..."); *Commonwealth v. James*, 771 A.2d 33, 35 (Pa. Super. 2001) ("Under the doctrine of the 'law of the case,' where an appellate court has considered and decided a question on appeal, the Court will not, in a subsequent appeal of another phase of the same case, reconsider its previous ruling." (citations omitted)); *Commonwealth v. Mitchell*, 438 WDA 2015, unpublished memorandum (Pa. Super. August 31, 2015) (Arguments made by Appellant, who merely reproduced verbatim the arguments presented in a prior appeal, will not be heard a second time).

This leaves Appellant's final concise issue. Appellant argues this Court erred by imposing a sentence in the aggravated range of the sentencing guidelines.

{3} Appellant was originally sentenced to a term of imprisonment of not less than five (5) years nor more than fifteen (15) years after considering 18 Pa. C.S. § 7508.

Imposition of a sentence is vested in the discretion of the sentencing court and will not be disturbed absent a manifest abuse of discretion. *Commonwealth v. Vasquez*, 560 Pa. 381, 384-85, 744 A.2d 1280, 1282 (2000). An abuse of discretion is not shown merely by an error in judgment; rather, the Appellant must establish, by reference to the record, that the sentencing court ignored or misapplied the law, exercised its judgment for reasons of partiality, prejudice, bias or ill will, or arrived at a manifestly unreasonable decision. *Commonwealth v. Mastromarino*, 2 A.3d 581, 589 (Pa. Super. 2010). A sentence imposed is not excessive if it does not exceed statutory limits and the sentencing colloquy clearly demonstrates that the sentencing court carefully considered all evidence relevant to the determination of a proper sentence. *Commonwealth v. Burtner*, 453 A.2d 10, 12 (Pa. Super. 1982).

While it is impermissible for a sentencing court to solely consider factors included in the sentencing guidelines to increase a sentence to the aggravated range, the court may use those factors to supplement other extraneous sentencing information. *Commonwealth v. Simpson*, 829 A.2d 334, 339 (Pa. Super. 2003). The colloquy at the time of resentencing shows this Court considered Appellant's number of guilty offenses, his prior record score, the presentence report, Appellant's rehabilitative needs, the gravity of his offense, and the seriousness of the crimes. (Re-sentencing Transcript, p. 5). As discussed in this Court's opinion in denying Appellant's post-sentence motion, "[t]he reference at the time of resentence that the defendant was convicted of similar offenses four times in the past was to emphasize the failure of prior rehabilitative efforts and was one of the reasons the Court sentenced the defendant within the aggravated range of the sentencing guidelines." (Post-Sentence Motion for Modification of Sentence Opinion and Order, 9/08/2015). Accordingly, Appellant's last issue is without merit.

Wherefore, it is respectfully submitted that this appeal is without merit and should be denied.

BY THE COURT:
JOSEPH M. GEORGE, JR., JUDGE

ATTEST:
CLERK OF COURTS

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Presented by:

Susan Swick, Esquire

Western Pennsylvania Manager, Associate Counsel and Vice President of the Pittsburgh office of Old Republic National Title Insurance Company

Eric J. Weinheimer, Esquire

Associate Underwriting Counsel with the Pittsburgh office of Old Republic National Title Insurance Company

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