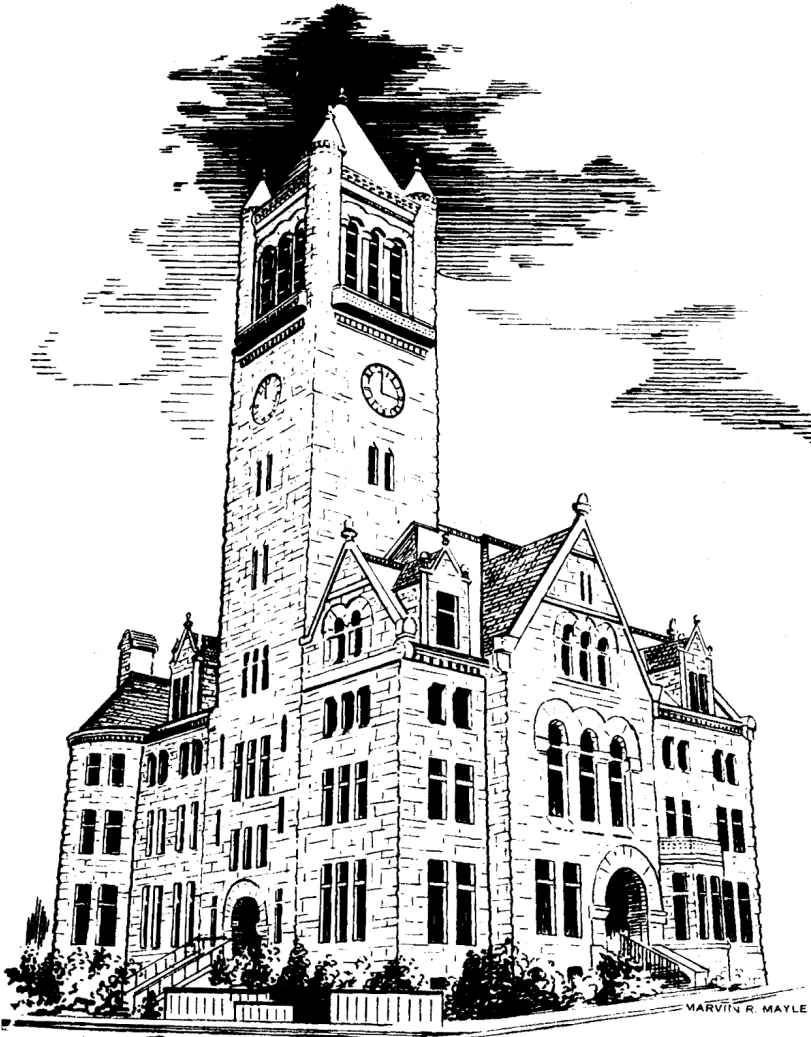


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FAYETTE LEGAL JOURNAL

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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

ROSE M. MISIAK, f/k/a ROSE M. FIKE, late McClellandtown of Fayette County, PA (3)
Personal Representative: Kenny W. Fike
 c/o George Port & George
 92 East Main Street
 Uniontown, PA 15401
Attorney: Joseph M. George

Second Publication

RONALD E. ADDIS, SR., late of Vanderbilt, Fayette County, PA (2)
Personal Representative: Ronald E. Addis, Jr.
 c/o Riverfront Professional Center
 208 South Arch Street, Suite 2
 Connellsville, PA 15425
Attorney: Richard A. Husband

ROBERT B. BAUER, JR., late of Dawson, Fayette County, PA (2)
Personal Representative: Richard A. Husband
 c/o Riverfront Professional Center
 208 Arch Street, Suite 2
 Connellsville, PA 15425
Attorney: Richard A Husband

TAMMER GABRIEL, late of South Union Township, Fayette County, PA (2)
Co-Executors:
 Ann M. Gabriel
 1020 Spruce Street, Apt. 2R
 Philadelphia, PA 19107
 Catherine Gabriel Cummings
 153 Regency Drive
 Uniontown, PA 15401

c/o Fox Rothschild LLP
 500 Grant Street, Suite2500
 Pittsburgh, PA 15219
Attorney: Edward J. Kabala

HELEN M. SHUDER, a/k/a HELEN SHUDER, late of Dunbar, Fayette County, PA
Personal Representative: Mark A. Shuder
 c/o Watson Mundorff Brooks & Sepic, LLP (2)
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Charles W. Watson

JULIUS SOBEK, a/k/a JULIUS STEPHEN SOBEK, a/k/a JULIUS A. SOBEK, late of Fayette City, Fayette County, PA (2)
Executrix: Janet M. Sobek
 509 Humphrey Road
 Greensburg, PA 15601
 c/o 617 McKean Avenue
 Donora, PA 15033
Attorney: Thomas B. Kostolansky

PAUL R. WICK, late of Wharton Township, Fayette County, PA (2)
Executor: John R. Wick
 c/o 206 Derrick Avenue
 Uniontown, PA 15401
Attorney: Gary N. Altman

First Publication

THOMAS D. FOREMAN, late of Ohiopyle, Fayette County, PA (1)
Executor: Donna M. Foreman
 c/o Fieschko & Associates, Inc.
 436 7th. Avenue, Suite 2230
 Pittsburgh, PA 15219
Attorney: Joseph E. Fieschko, Jr.

SHIRLEY A. GEARING, a/k/a SHIRLEY ANN GEARING, late of Uniontown, Fayette County, PA (1)
Personal Representative: Daniel Gearing
 c/o Watson Mundorff Brooks & Sepic
 720 Vanderbilt Road
 Connellsville, Pa 15425
Attorney: Charles W. Watson

JAMES BARRY GEORGE, late of Bullskin Township, Fayette County, PA (1)
Personal Representative: Dennis A. George
 c/o Watson Mundorff Brooks & Sepic
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Charles W. Watson

GEORGE LAZARCHECK, late of North Union Township, Fayette County, PA (1)
Executrix: Georgia VanSickle
 c/o Zebley Mehalov & White, P.C.
 18 Mill Street Square
 PO Box 2123
 Uniontown, PA 15401
Attorney: Daniel R. White

BRIDGET MAHER, A/K/A BRIDGET F. MAHER, late of South Union Township, Fayette County, PA (1)
Executor: Dennis P. Maher
 c/o John & John
 96 East Main Street
 Uniontown, PA 15401
Attorney: Anne N. John

WILLIAM A. ZACK, SR., late of Uniontown, Fayette County, PA (1)
Executor: William A. Zack, Jr.
 c/o Proden & O'Brien
 99 East Main Street
 Uniontown, PA 15401
Attorney: Wendy L. O'Brien

LEGAL NOTICES

NOTICE

The Council of the Borough of Ohio, Fayette County, Pennsylvania, have filed a PETITION TO DECREASE THE NUMBER OF MEMBERS OF COUNCIL OF THE BOROUGH OF OHIO, FAYETTE COUNTY, PENNSYLVANIA in the Court of Common Pleas of Fayette County, Pennsylvania at No. 1675 of 2017, G.D.

Hearing on said petition is scheduled before the Honorable Judge Linda R. Cordaro on Tuesday, September 12, 2017 at 9:30 o'clock A.M. in Court Room# 3, Fayette County Courthouse, 61 East Main Street, Uniontown, Pennsylvania.

Ricardo J. Cicconi,
 Solicitor for The Borough of Ohio

IN THE COURT OF COMMON PLEAS OF
 FAYETTE COUNTY, PENNSYLVANIA
 CIVIL ACTION - LAW

ACTION TO QUIET TITLE
 No. 1464 of 2017 G.D.
 JUDGE JOSEPH M. GEORGE JR.

LOIS FRAZEE, EXECUTRIX FOR THE ESTATE OF DANNY MITCHELL a/k/a DANNY L. MITCHELL

Plaintiff,
 v.

EILEEN M. INKS, her successors, heirs, personal representatives, and assigns, generally.
 Defendant.

TO: EILEEN M. INKS, her heirs, successors and assigns, generally,

You are hereby notified that Lois Frazee, Executrix for The Estate of Danny Mitchell, a/k/a a Danny L. Mitchell, has filed a complaint at the above number and term in the above-mentioned court in an action to quiet title wherein it is alleged that they are the owner in possession of that certain lot of land situate in North Union Township, Fayette County, Pennsylvania having a mailing address of 320 Coolspring Jumonville Road, Uniontown, Pennsylvania.

Title to the above described property was conveyed to Danny L. Mitchell, by a deed from Jack G. Legat, Administrator of the Estate of John Legat being recorded at the Recorder of Deeds Office at Record Book 576, Page 130.

Said complaint sets forth that the plaintiff is the owner in fee simple of the above-described premises. The complaint was filed for the purpose of barring all of your right, title, and interest, or claim in and to all or a portion of said premises.

NOTICE

You are hereby notified that you have been

sued in court. If you wish to defend against the claim set forth in the complaint and in the within advertisement, you must take action within twenty (20) days after the last advertisement of this notice by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claim set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may entered against you by the court without further notice or 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 NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GOT TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**PENNSYLVANIA BAR ASSOCIATION
PENNSYLVANIA LAWYER REFERRAL
100 SOUTH STREET
P.O. BOX 186
HARRISBURG, PA 17108
1-800-932-0311**

By Jason F. Adams, Esq.
Adams & Adams
55 E. Church Street
Uniontown, PA 15401
(724) 437-2711

**NOTICE OF SHERIFF’S SALE
IN THE COURT OF COMMON PLEAS
OF FAYETTE COUNTY, PENNSYLVANIA
NO. 2012-OF-2016-GD**

**HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE FOR PHH
ALTERNATIVE MORTGAGE TRUST,
SERIES 2007-1**

Vs.

**WALTER N. MCNAIR, SR, IN HIS
CAPACITY AS ADMINISTRATOR AND
HEIR OF THE ESTATE OF GLADYS E.
MCNAIR, LAWRENCE MCNAIR, IN HIS
CAPACITY AS HEIR OF THE ESTATE OF
GLADYS E. MCNAIR, WALTER N.
MCNAIR, JR, IN HIS CAPACITY AS HEIR
OF THE ESTATE OF GLADYS E. MCNAIR**

**and UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS, AND ALL PERSONS, FIRMS,
OR ASSOCIATIONS CLAIMING RIGHT,
TITLE OR INTEREST FROM OR UNDER
GLADYS E. MCNAIR, DECEASED**

NOTICE TO: WALTER N. MCNAIR, SR, IN HIS CAPACITY AS ADMINISTRATOR AND HEIR OF THE ESTATE OF GLADYS E. MCNAIR, LAWRENCE MCNAIR, IN HIS CAPACITY AS HEIR OF THE ESTATE OF GLADYS E. MCNAIR, WALTER N. MCNAIR, JR, IN HIS CAPACITY AS HEIR OF THE ESTATE OF GLADYS E. MCNAIR and UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER GLADYS E. MCNAIR, DECEASED

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

Being Premises: 375 OLD ROUTE 21, A/K/A 375 OLD ROUTE 21 ROAD, UNIONTOWN, PA 15401

Being in GERMAN TOWNSHIP, County of FAYETTE, Commonwealth of Pennsylvania, 15 -28-0162

Improvements consist of residential property.

Sold as the property of WALTER N. MCNAIR, SR, IN HIS CAPACITY AS ADMINISTRATOR AND HEIR OF THE ESTATE OF GLADYS E. MCNAIR, LAWRENCE MCNAIR, IN HIS CAPACITY AS HEIR OF THE ESTATE OF GLADYS E. MCNAIR, WALTER N. MCNAIR, JR, IN HIS CAPACITY AS HEIR OF THE ESTATE OF GLADYS E. MCNAIR and UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER GLADYS E. MCNAIR, DECEASED

Your house (real estate) at 375 OLD ROUTE 21, A/K/A 375 OLD ROUTE 21 ROAD, UNIONTOWN, PA 15401 is scheduled to be sold at the Sheriff’s Sale on 10/12/2017 at 02:00 PM, at the FAYETTE County Courthouse, 61 E. Main Street, Uniontown, PA 15401, to enforce the Court Judgment of \$63,377.75 obtained by, HSBC BANK USA, NATIONAL

ASSOCIATION AS TRUSTEE FOR PHH ALTERNATIVE MORTGAGE TRUST, SERIES 2007-1 (the mortgagee), against the above premises.

PHELAN HALLINAN DIAMOND & JONES, LLP
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 652 of 2017 GD
NOTICE OF ACTION IN MORTGAGE
FORECLOSURE

PNC Bank, National Association,
Plaintiff
vs.

Angalene Sims, Known Heir of Constance L. Sims and Possible Known Heir of Eddie Sims, Darlene Sims, Known Heir of Constance L. Sims and Possible Known Heir of Eddie Sims, Estate of Constance L. Sims, c/o Latricia B. Sims, Personal Representative, James D. Robinson, Known Heir of Constance L. Sims and Possible Known Heir of Eddie Sims, Kathleen Feist, Known Heir of Constance L. Sims and Possible Known Heir of Eddie Sims, Latricia B. Sims, Personal Representative of the Estate of Constance L. Sims and Possible Known Heir of Eddie Sims, Linda D. Sims a/k/a Linda Mills Sims, Individually and as A Known Heir of Eddie Sims, Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or Under Constance L. Sims and Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or Under Eddie Sims,
Defendants.

TO: Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or Under Constance L. Sims and Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or Under Eddie Sims, Defendant(s), whose last known address is 35 Pershing Avenue, Uniontown, PA 15401.

COMPLAINT IN MORTGAGE
FORECLOSURE

You are hereby notified that Plaintiff, PNC

Bank, National Association, has filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Fayette County, Pennsylvania, docketed to NO. 652 of 2017 GD, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 35 Pershing Avenue, Uniontown, PA 15401, whereupon your property would be sold by the Sheriff of Fayette County.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the notice above, 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 GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH THE 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. Fayette County Lawyer Referral Service, PA Bar Assn., 100 South St., P.O. Box 186, Harrisburg, PA 17108, 800.692.7375.

Mark J. Udren, Lorraine Gazzara Doyle, Sherri J. Braunstein, Elizabeth L. Wassall, John Eric Kishbaugh, Nicole B. Labletta, David Neeren & Morris Scott, Attys. For Plaintiff, Udren Law Offices, P.C., 111 Woodcrest Rd., Ste. 200, Cherry Hill, NJ 08003, 856.669.5400.

Registers' Notice

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

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

Tuesday, September 5, 2017
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0596	HELEN OLINZOCK	Michael A. Olinzock, Executor
2613-0674	BRENDA LEE BOGGS a/k/a BRENDA BOGGS	Donald Gene Boggs, Executor

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Monday, September 18, 2017 at 9:30 A.M.

in Court Room No. 1 of the Honorable STEVE P. LESKINEN, or his chambers, 2nd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

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

Tuesday, September 5, 2017
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0911	WILLIAM JOSEPH HUBBARD	Barbara Keefer, Executrix
2615-0655	MISSOURI ANN KINNEER	Gerald L. Kinneer, Jr., Executor

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Monday, September 18, 2017 at 9:30 A.M.

in Court Room No. 2 of the Honorable JOHN F. WAGNER or his chambers, 2nd 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.

SHERIFF'S SALE

Date of Sale: October 12, 2017

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, October 12, 2017, at 2:00 p.m. in Courtroom Number One at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (3 of 3)

James Custer
Sheriff Of Fayette County

Richard M. Squire & Associates, LLC
One Jenkintown Station, Suite 104
115 West Avenue
Jenkintown, PA 19046
Telephone: 215-886-8790
Fax: 215-886-8791

No. 726 of 2017 GD
No. 167 of 2017 ED

**MTGLQ Investors, LP,
PLAINTIFF,
vs.**

**Susan L. Allmon and Michael D. Allamon,
DEFENDANT(S).**

TAX PARCEL NO.: 15-17-0025
PROPERTY ADDRESS: 224 Water Street,
New Salem, PA 15468
IMPROVEMENTS: Single Family
Dwelling

SEIZED AND TAKEN in execution as the property of Susan L. Allamon and Michael D. Allamon

LEGAL DESCRIPTION:

ALL that certain piece or parcel of land situate in German Township, Fayette County, Pennsylvania, being part of the Footedale Mining Village, bounded and described as follows and as shown on Plan No. 15##-34 recorded with the deed from H. C. Frick Coke Company to Mark Sugarman and Ada Sugarman, his wife, in Deed Book Volume 567, page 1, hereinafter recited:

UDREN LAW OFFICES, P.C.
WOODCREST CORPORATE CENTER
111 WOODCREST ROAD, SUITE 200
CHERRY HILL, NJ 08003-3620
856-669-5400

No. 117 of 2017 GD
No. 146 of 2017 ED

**PNC Bank, National Association,
Plaintiff,
vs.**

**ANTHONY R BANTER,
Defendant(s).**

ALL THAT CERTAIN LOT OF LAND
SITUATE IN TOWNSHIP OF
WASHINGTON, FAYETTE COUNTY,

PENNSYLVANIA:
 BEING KNOWN AS 1235 Fayette
 Avenue, Belle Vernon, PA 15012
 PARCEL NUMBER: 41-07-0026
 IMPROVEMENTS: Residential Property

No. 278 of 2017 GD
 No. 192 of 2017 ED

**PNC BANK, NATIONAL ASSOCIATION,
 Plaintiff,
 VS.
 RUTH V. BARRON, a/k/a RUTH BARRON,
 Defendant.**

ALL THE RIGHT TITLE, INTEREST
 AND CLAIMS OF RUTH V. BARRON, NK/A
 RUTH BARRON, OF, IN AND TO THE
 FOLLOWING DESCRIBED PROPERTY:

ALL THAT PARCEL OF LAND
 SITUATE IN DUNBAR TOWNSHIP,
 FAYETTE COUNTY, PA, BEING PARCEL
 09-13-0027, MORE FULLY DESCRIBED IN
 RBV 614, PAGE 304.

BEING KNOWN AS 115 PATTON
 STREET, CONNELLSVILLE, PA. TAX
 PARCEL NO. 09-13-0027

Phelan Hallinan Diamond & Jones, LLP

No. 47 of 2017 GD
 No. 210 of 2017 ED

**Lakeview Loan Servicing, LLC,
 Plaintiff,
 V.
 Michael P. Boso
 Virginia H. Boso,
 Defendant(s).**

By virtue of a Writ of Execution No. 2017-
 00047, Lakeview Loan Servicing, LLC v.
 Michael P. Boso Virginia H. Boso, owner(s) of
 property situate in the BELLE VERNON
 BOROUGH, Fayette County, Pennsylvania,
 being 105 Wood Street, Belle Vernon, PA 15012
 -1134

Parcel No.: 01020019
 Improvements thereon: RESIDENTIAL
 DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 1818 of 2016 GD
 No. 197 of 2017 ED

**Wells Fargo Bank, N.A.,
 Plaintiff,
 V.
 Virginia Cherry,
 Defendant(s).**

By virtue of a Writ of Execution No. 1818-
 OF-2016-GD, Wells Fargo Bank, N.A. v.
 Virginia Cherry, owner(s) of property situate in
 the UNIONTOWN CITY, 2ND, Fayette County,
 Pennsylvania, being 68 Evans Street,
 Uniontown, PA 15401-3714

Parcel No.: 38-13-0114
 Improvements thereon: RESIDENTIAL
 DWELLING

No. 1018 of 2015 GD
 No. 205 of 2017 ED

**U.S. Bank National Association, as trustee for
 Structured Asset Investment Loan Trust
 Mortgage Pass-Through Certificates, Series
 2006-3,
 Plaintiff,
 vs.
 Sylvester K. Conaway, Jr. Sabrina Conaway,
 Defendants.**

ALL THAT RIGHT, TITLE, INTEREST
 AND CLAIMS OF SYLVESTER K.
 CONAWAY, JR. AND SABRINA CONAWAY
 OF, IN AND TO THE FOLLOWING
 DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL
 OF LAND SITUATE IN LUZERNE
 TOWNSHIP, COUNTY OF FAYETTE AND
 COMMONWEALTH OF PENNSYLVANIA,
 BEING MORE FULLY DESCRIBED AT DBV
 2974 PAGE 940

BEING KNOWN AS 237-238 Frick Street,
 Hiller, PA 15444 aka 237 Frick Row, Hiller, PA
 15444 aka 238 Frick Row, Hiller, PA 15444 aka
 237 Frick Street, Hiller, PA 15444 aka 238 Frick
 Street, Hiller, PA 15444

TAX MAP NO. 19-07-0020

No. 1028 of 2011 GD
No. 209 of 2017 ED

Improvements thereon: RESIDENTIAL
DWELLING

**THE BANK OF NEW YORK MELLON,
TRUSTEE FOR CIT MORTGAGE
LOAN TRUST 2007-1, BY VERICREST
FINANCIAL, INC. AS ATTORNEY-IN-
FACT,**

Phelan Hallinan Diamond & Jones, LLP

No. 48 of 2017 GD
No. 156 of 2017 ED

Plaintiff,

v.

**Rodney A. Basinger as Executor of the Estate
of Gerald H. Darrell**

**Ditech Financial LLC f/k/a Green Tree
Servicing LLC,**

Plaintiff

vs.

**Heather D. Basinger as Executrix of the
Estate of Gerald H. Darrell,**

Adam L. Fowler

Debra Jo Fowler,

Defendant(s).

Defendants.

ALL THAT CERTAIN tract of land situate
in German Township, Fayette County,
Pennsylvania, known as Lot No. 2 in a
Subdivision of property of James C. and Yvonne
Solomon as recorded in the Recorder of Deeds
Office of Fayette County, Pennsylvania, in Plan
Book 20, page 2.

By virtue of a Writ of Execution No. 48-
0F-2017-GD, Ditech Financial LLC f/k/a Green
Tree Servicing LLC v. Adam L. Fowler Debra
Jo Fowler, owner(s) of property situate in the
SPRINGHILL TOWNSHIP, Fayette County,
Pennsylvania, being 2555 Springhill Furnace
Road, a/k/a 2555 Springfield Furnace Road &
2557-2559 Springhill Furnace Road, Lake Lynn,
PA 15451

Parcel No.: 36-25-002769, 36-25-002799,
36-25-0027

Improvements thereon: RESIDENTIAL
DWELLING

BEING THE SAME PREMISES which
James C. Solomon and Yvonne Solomon, his
wife, by Deed dated September 23, 1986 and
recorded September 23, 1986 in the Office of the
Recorder of Deeds in and for Fayette County in
Deed Book Volume 203, Page 209 granted and
conveyed unto Gerald

H. Darrel and Joyce K. Darrel, his wife.

BEING KNOWN AS: 178 Mary Hall
Road, McClellandtown, PA 15458

PARCEL #15-11-0028-01

Phelan Hallinan Diamond & Jones, LLP

No. 1018 of 2017 GD
No. 195 of 2017 ED

Phelan Hallinan Diamond & Jones, LLP

No. 1055 of 2017 GD
No. 211 of 2017 ED

**U.S. Bank National Association, as Trustee
for Residential Asset Securities Corporation,
Home Equity Mortgage Asset-Backed Pass-
Through Certificates, Series 2005-KSIO,**

Plaintiff,

v.

**PHH Mortgage Corporation,
Plaintiff,**

vs.

**James E. Dean,
Defendant(s).**

Robert H. Herring

**Deborah L. Sesse a/k/a Deborah L. Herring,
Defendant(s).**

By virtue of a Writ of Execution No. 1055
OF 2017 GD PHH Mortgage Corporation v.
James E. Dean, owner(s) of property situate in
the CONNELLSVILLE CITY, Fayette County,
Pennsylvania, being 295 Wills Rd,
Connellsville, PA 15425

By virtue of a Writ of Execution No. 1018-
OF-2017-GD, U.S. Bank National Association,
as Trustee for Residential Asset Securities
Corporation, Home Equity Mortgage Asset-
Backed Pass-Through Certificates, Series 2005-
KSIO v. Robert H. Herring, Deborah L. Sesse a/
k/a Deborah L. Herring, owner(s) of property

Parcel No.: 05-11-0108

situate in the GEORGES TOWNSHIP, Fayette County, Pennsylvania, being 107 Rosedale Avenue, Uniontown, PA 15401-6344
 Parcel No.: 14180006
 Improvements thereon: RESIDENTIAL DWELLING

UDREN LAW OFFICES, P.C.
 WOODCREST CORPORATE CENTER
 111 WOODCREST ROAD, SUITE 200
 CHERRY HILL, NJ 08003-3620
 856-669-5400

No. 2466 of 2016 GD
 No. 155 of 2017 ED

PARKER McCAY P.A.
 By: Patrick J Wesner, Esquire
 Attorney ID# 203145
 9000 Midlantic Drive, Suite 300
 P.O. Box 5054
 Mount Laurel, NJ 08054-1539
 (856) 810-5815

PNC Bank, National Association,
Plaintiff,
vs.
DANIEL H. KAEFER, JR.
Defendant(s).

No. 2392 of 2016 GD
 No. 208 of 2017 ED

ALL THAT CERTAIN LOT OF LAND SITUATE IN MENALLEN TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:
 BEING KNOWN AS 147 Miller Farm Rd, Uniontown, PA 15401
 PARCEL NUMBER: 22-09-0040
 IMPROVEMENTS: Residential Property

The Bank of New York Mellon FKA The Bank of New York, as Trustee for the certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2007-8 55 Beattie Place, Suite 110 Greensville, SC 29601

No. 1712 of 2016 GD
 No. 213 of 2017 ED

Plaintiff,
vs.
Arnold E. Jenkins, deceased;
Verna M. Jenkins,
Teresa D. Jenkins
116 Whyel Avenue
Uniontown, PA 15401,
Defendants.

CARRINGTON MORTGAGE SERVICES, LLC,
Plaintiff,
vs.
JOSHUA J. LEADBEATER and JESSICA L.CUPPETT,
Defendant.

By virtue of a Writ of Execution, No. 2392 of 2016 GD The Bank of New York Mellon, et al vs. Arnold E. Jenkins, deceased, Verna M. Jenkins and Teresa D. Jenkins, owner of property situate in the TOWNSHIP OF NORTH UNION, Fayette County, Pennsylvania, 116 Whyel Avenue, Uniontown, PA 15401
 Parcel No. 25-22-0161
 Improvements thereon: RESIDENTIAL SINGLE FAMILY DWELLING

ALL THAT CERTAIN LOT OF LAND SITUATE IN SOUTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, BEING A PART OF LOT NO. 56 IN THAT CERTAIN PLAN OF LOTS KNOWN AS THE JAMISON PLAN LAID OUT BY SOUTH UNION COAL COMPANY AND RECORDED IN THE RECORDER'S OFFICE OF FAYETTE COUNTY, PENNSYLVANIA, IN PLAN BOOK VOL. 7, PAGE 213.

No. 645 of 2017 GD
No. 135 of 2017 ED

No. 646 of 2017 GD
No. 136 of 2017 ED

**PENNSYLVANIA HOUSING FINANCE
AGENCY,
PLAINTIFF,
vs.
MATHEW B. LITTLE,
DEFENDANT.**

**PENNSYLVANIA HOUSING FINANCE
AGENCY,
PLAINTIFF,
vs.
ALAN M. MAKRUSH,
DEFENDANT.**

PARCEL 1: ALL that certain lot in the Borough of Dawson, County of Fayette, Pennsylvania, being part of Lot No. 75, Plan of Lots by Martin Dixon, Esq., Fayette Plan Book 1, page 33, being approximately 150.15 x 35.35.

ALL that certain lot ground in South Union Township, Fayette County, Pennsylvania, being known as Lot No. 413, Joseph Wolfe's Plan of Lots in Uniontown, Fayette Plan Book Volume 1, page 90 ½.

PARCEL 2: ALL that certain lot in the Borough of Dawson, County of Fayette, Pennsylvania, being approximately 69.75 x 2.85 x 150.15 x 5.21 x 150.17.

HAYING THEREON ERECTED DWELLING KNOWN AS 91 ELMA AVENUE UNIONTOWN, PA 15401.

Containing 600 square feet, 0.0014 acres according to a survey made by H.B. Harper, R.S. and made a part of this deed. HAVING THEREON ERECTED DWELLING KNOWN AS 106 STAUFFER STREET DAWSON, PA 15428.

Tax Parcel# 34-15-0149
Fayette Deed Book 3281, page 1439.

Tax Parcel# 07-01-0043
Fayette Deed Book 3171, page 613.

Phelan Hallinan Diamond & Jones, LLP

No. 702 of 2017 GD
No. 159 of 2017 ED

No. 724 of 2017 GD
No. 204 of 2017 ED

**Lakeview Loan Servicing, LLC,
Plaintiff,
vs.
Brandi Meyers,
Defendant(s).**

**Plaza Home Mortgage, Inc.,
Plaintiff,
vs.**

**Jenna R. Lucas aka Jenna Renae Lucas,
Defendant.**

By virtue of a Writ of Execution No. 702-OF-2017-GD, Lakeview Loan Servicing, LLC v. Brandi Meyers, owner(s) of property situate in the SOUTH CONNELLSVILLE BOROUGH, Fayette County, Pennsylvania, being 1829 1ST Street a/k/a, 1829 First ST, Connellsville, PA 15425-5209

ALL THAT RIGHT, TITLE, INTEREST AND CLAIMS OF JENNA R. LUCAS AKA JENNA RENAE LUCAS OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

Parcel No.: 33-06-0167
Improvements thereon: RESIDENTIAL DWELLING

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN WHARTON TOWNSHIP, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 3296 PAGE 2220

BEING KNOWN AS 445 JEFFERSON TRAIL CHALK HILL, PA 15421, A/KIA 445 JEFFERSON TRAIL, OHIOPYLE, PA 15470
TAX MAP NO. 42-10-0029

No. 524 of 2017 GD
 No. 184 of 2017 ED

LAKE LYNN, PA 15451
 TAX MAP NO. 36-10-0036

FRICK TRI-COUNTY FEDERAL CREDIT UNION,

Plaintiff,

vs.

ROBERT J. MICHAEL JR.,
Defendant.

ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF ROBERT J. MICHAEL, JR. OF, IN AND TO:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE TOWNSHIP OF SPRINGHILL, COUNTY OF FAYETTE, COMMONWEALTH OF PENNSYLVANIA. HAYING ERECTED THEREON A DWELLING KNOWN AND NUMBERED AS 160 GRANDVIEW AVENUE, POINT MARION, PA 15474. DEED BOOK VOLUME 3280, PAGE 179, PARCEL NUMBER 36170079.

No. 1216 of 2016 GD
 No. 203 of 2017 ED

U.S. Bank National Association, as Indenture Trustee for Springleaf Mortgage Loan Trust 2013-2, Mortgage-Backed Notes, Series 2013-2,

Plaintiff,

vs.

Elmer L. Moreland, Jr.
Janet P. Piper aka Janet Piper fka Janet P. Moreland
John Piper,
Defendants.

ALL THAT RIGHT, TITLE, INTEREST AND CLAIMS OF ELMER L. MORELAND, JR., JANET P. PIPER AKA JANET PIPER FKA JANET P. MORELAND AND JOHN PIPER OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE IN SPRINGHILL TOWNSHIP, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED AT DBV 3212 PAGE 1689

BEING KNOWN AS 124 BLOSSER HILL A/KJ AI 124 BLOSSER HILL EXT,

Phelan Hallinan Diamond & Jones, LLP

No. 556 of 2016 GD

No. 185 of 2017 ED

Wells Fargo Bank, NA,

Plaintiff,

vs.

Holly M. Murray a/k/a Holly Murray,
Defendant(s).

By virtue of a Writ of Execution No. 556 OF 2016 GD Wells Fargo Bank, NA v. Holly M. Murray a/k/a Holly Murray, owner(s) of property situate in the POINT MARION BOROUGH, Fayette County, Pennsylvania, being 201 North Highland Avenue, A/K/A 201 Highland Avenue, Point Marion, PA 15474-1024

Parcel No.: 29-02-0184

Improvement thereon: RESIDENTIAL DWELLING

No. 136 of 2017 GD

No. 189 of 2017 ED

Bayview Loan Servicing, LLC, a Delaware Limited Liability Company,

Plaintiff,

vs.

Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right, Title or Interest from or under Yvonne Nicoletto, deceased, et al,
Defendants.

ALL THAT CERTAIN lot of land situate in North Union Township, Fayette County, Pennsylvania and being Lot No. 7 in Plan of Lots laid out by John A. Whyel dated March 1, 1902, which plan is of record in the Recorder's Office of Fayette County, Pennsylvania, in Plat Book 1, page 191 and bounded and described as follows, to wit:

BEGINNING at a point in the Southern line of Whyel Avenue and a corner of Lot No. 6; thence along said Avenue, South 66 degrees 37 minutes East 50 feet to a corner of Lot No. 8; thence along said Lot No. 8, South 23 degrees

23 minutes West, 130 feet to the North side of an alley; thence by said alley, North 66 degrees 37 minutes West 50 feet to a corner of Lot No. 6; thence along said Lot No. 6 North 23 degrees 23 minutes East 130 feet to the place of beginning.

CONTAINING 6500 square feet.

EXCEPTING AND RESERVING all the coal in and underlying said above described lot, together with the same mining rights and privileges that are contained in deeds heretofore of record.

COMMONLY KNOWN AS: 214 Whyel Avenue, Uniontown, PA 15401
TAX PARCEL NO. 25-23-0081

UDREN LAW OFFICES, P.C.
WOODCREST CORPORATE CENTER
111 WOODCREST ROAD, SUITE 200
CHERRY HILL, NJ 08003-3620
856-669-5400

No. 3071 of 2007 GD
No. 153 of 2017 ED

Deutsche Bank Trust Company Americas, as Trustee and Custodian for Meritage Mortgage Loan Trust 2005-1 by: Saxon Mortgage Services, Inc. as its attorney-in-fact,

Plaintiff,

vs.

**GARY J. OSWALD
JODY A. OSWALD,
Defendant(s).**

ALL THAT CERTAIN LOT OF LAND SITUATE IN BULLSKIN TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA: BEING KNOWN AS 619 Englishman Hill Road, Connellsville, PA 15425
PARCEL NUMBER: 4-29-252-1
IMPROVEMENTS: Residential Property

M. Troy Freedman, Esquire
Stern & Eisenberg, PC
1581 Main Street, Suite 200
The Shops at Valley Square
Warrington, PA 18976
Phone: (215) 572-8111

No. 2489 of 2016 GD
No. 147 of 2017 ED

**Lakeview Loan Servicing, LLC,
Plaintiff,
v.
David A. Palmer,
Defendant.**

By virtue of Writ of Execution No. 2489 of 2016 GD, Lakeview Loan Servicing, LLC v. David A. Palmer, 58 Springer Avenue, City of Uniontown (formerly Township of North Union), Parcel No. 38-05-00330. Improvements thereon consisting of a Residential Dwelling, sold to satisfy judgment in the amount of \$82,340.35.

STERN & EISENBERG PC
Andrew J. Marley, Esq.

No. 274 of 2017 GD
No. 161 of 2017 ED

HSBC Bank USA, N.A., as Trustee for the registered holders of Nomura Home Equity Loan, Inc., Asset-Backed Certificates, Series 2007-3 c/o Ocwen Loan Servicing, LLC,

Plaintiff,

vs.

**Paula K. Peterson,
Defendant(s).**

SITUATE IN City of Connellsville FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 333 North Jefferson Street, Connellsville, PA 15425 PARCEL NO. 05-09-0122

IMPROVEMENTS- RESIDENTIAL
REAL ESTATE

SOLD AS THE PROPERTY OF- PAULA
K. PETERSON

Vincent J. Roskovensky, II

No. 792 of 2017 GD
 No. 171 of 2017 ED

KATHERINE A. MARINELLI,
PLAINTIFF,
vs.
PLACES, LLC, and JAMES E.
STAMBAUGH, II,
DEFENDANTS.

ALL that certain lot of land situate in South Union Township, Fayette County, Pennsylvania, being Lot No. 225 in the South Uniontown Plan of Lots, laid out by Areford Brothers and of record in the Recorder's Office of said Fayette County in Plan Book Volume 4, page 140; said Lot No. 225 being more particularly bounded and described as follows:

FRONTING 45 feet on the South side of Dixon Boulevard and extending back therefrom in a southerly direction, by even width, 130 feet to a 20 foot alley, with Lot No. 226 adjoining on the West and Frank Hoover Street adjoining on the East.

See Record Book 3095, Page 1293.
 UPI NO. 34-13-077.

ANNE N. JOHN Esq.
 ATTORNEY AT LAW

No. 806 of 2013 GD
 No. 207 of 2017 ED

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF GREENE COUNTY, a corporation,
Plaintiff,
vs.
PATRICK K. SANTORE and BETH A. SANTORE,
Defendants.

ALL that certain tract or parcel of land situate in South Union Township, Fayette County, Pennsylvania, containing an area of 0.6045 acres, according to survey of Fayette Engineering Company, dated February, 1972, as referenced and attached to the prior deed of Grantors herein.

BEING the same premises which were conveyed to Patrick K. Santore and Beth A.

Santore, his wife, by Deed of Barry K. Litman and Mary Carol Litman, his wife, dated August 12, 2008 and recorded in the Recorder of Deeds Office of Fayette County, Pennsylvania, in Record Book 3069 at page 1792.

UPON which is erected a two-story single family dwelling known locally as 128 Wiggins Lane, Uniontown, PA 15401.

Assessment Map Nos.: 34-05-0307.

Phelan Hallinan Diamond & Jones, LLP

No. 896 of 2017 GD
 No. 212 of 2017 ED

Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-Wf2, Asset-Back ed Certificates, Series 2006-Wf2,
Plaintiff,
vs.
Carol A. Shoop,
Defendant(s).

By virtue of a Writ of Execution No. 896 OF 2017 GD, Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-Wf2, Asset-Back ed Certificates, Series 2006-Wf2 v. Carol A. Shoop, owner(s) of property situate in the CONNELLSVILLE TOWNSHIP, Fayette County, Pennsylvania, being 136 Breakneck Road, A/K/A 136 Breakneck Avenue, Connellsville, PA 15425-2259

Parcel No.: 06-05-0072

Improvements thereon: RESIDENTIAL DWELLING

Flaherty Fardo. LLC
 Jaclyn M. Gibson, Esq.
 812 Ivy Street Pittsburgh, PA 15232
 (412) 802-6666

No. 2324 of 2016 GD
 No. 178 of 2017 ED

PROPERTY OF: **DONALD GEORGE SPERKO**
 EXECUTION NUMBER: 2324 of 2016 GD
 JUDGMENT AMOUNT: \$65,445.68
 All the right, title, interest, and claim of

Donald George Sperko of, in, and to the following described property:

In the Commonwealth of Pennsylvania, County of Fayette, Township of Menallen:

Having erected thereon a dwelling known and numbered as 800 First Street, Keisterville, Pennsylvania, 15449.

Tax/Parcel ID#: 22-07-0016

STERN & EISENBERG PC
M. TROY FREEDMAN, ESQUIRE

No. 647 of 2017 GD
No. 180 of 2017 ED

**Plaza Home Mortgage Inc.,
Plaintiff,
vs.
Richard Vail,
Defendant(s).**

SITUATE IN THE CITY OF FAYETTE CITY, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 137 CONNELLSVILLE STREET, FAYETTE CITY, PA 15438.

PARCEL NO. 12030053
IMPROVEMENTS- RESIDENTIAL
REAL ESTATE SOLD AS THE PROPERTY OF- RICHARD VAIL

No. 637 of 2017 GD
No. 172 of 2017 ED

**Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing, LP,
PLAINTIFF,
vs.
David D. VanSickle, Jr.,
DEFENDANT.**

Land situated in the Borough of Markleysburg in the County of Fayette in the Commonwealth of PA

All those six (6) certain lots of land known as and being Lots Nos. 11, 12 and 13, row "A", and lots 11, 12 and 13, row "B", situate in the Sowers Addition to Markleysburg, a plan of which is recorded in the Recorder's Office of Fayette County in plan book volume 4, page 229, and which said lots are more particularly

bounded and described as follows:

Lots Nos. 11, 12 and 13 in row "A" of said plan each front 50 feet on Main Street and extend back in a northwesterly direction of uniform width a distance of 150 feet to an alley. Lots Nos. 11, 12 and 13 in row "B" of said plan each front 50 feet on Sowers Avenue and extend back in a southeasterly direction of uniform width a distance of 150 feet to an alley.

Parcel No. 20-01-0025
Commonly known as 126 Main Street, Markleysburg, PA (for informational purposes only).

COMMONLY KNOWN AS: 126 Main Street, Markleysburg, PA 15459
TAX PARCEL NO. 20-01-0025

No. 876 of 2017 GD
No. 188 of 2017 ED

**PENNSYLVANIA HOUSING FINANCE AGENCY,
PLAINTIFF,
vs.
TABE R. WORKMAN,
DEFENDANT.**

ALL THAT CERTAIN piece or parcel of land situate in Redstone Township, Fayette County, Pennsylvania, being part of the Colonial No. 3 Mining Village, and as shown by Plan Exhibit "D", recorded with the Deed from H.C. Brick Coke Company to Mark Sugarman and Ada Sugarman, his wife, containing an area of 0.185 of an acre and HAYING THEREON erected a frame single dwelling house known as No. 88 of Colonial No. 3, Mining Village, now Rows Run, Inc. and a/k/a 541 HILL TOP AVENUE, GRINDSTONE, PA 15442. Subject to exceptions and reservations of record.

Tax Parcel # 30-11-0025
Reference Fayette County Deed Book 3076, Page 128.

Phelan Hallinan Diamond & Jones, LLP

No. 2412 of 2015 GD
No. 177 of 2017 ED

Specialized Loan Servicing LLC,
Plaintiff,
vs.
Luther Deon Wormack a/k/a Luther D.
Wormack
Christa Wormack,
Defendant(s).

By virtue of a Writ of Execution No. 2412
-OF-2015-GD, Specialized Loan Servicing LLC
v. Luther Deon Wormack a/k/a Luther D.
Wormack Christa Wormack, owner(s) of
property situate in the SOUTH
CONNELLSVILLE BOROUGH, Fayette
County, Pennsylvania, being 1706 South
Pittsburgh Street, Connellsville, PA 15425-4846
Parcel No.: 33-06-0098
Improvements thereon: RESIDENTIAL
DWELLING

JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY,
PENNSYLVANIA

CRIMINAL DIVISION

COMMONWEALTH OF :
PENNSYLVANIA :
vs. :
MICHAEL WRIGHT, : No. 870 of 2016, G.D.
Defendant. : JUDGE LINDA R. CORDARO

OPINION AND ORDER

CORDARO, J.

Before the Court are two Pre-trial Motions of Defendant, Michael Wright: Defendant's Challenge to Capital Proceedings, and Defendant's Motions Challenging Pennsylvania's Capital Sentencing Scheme. An Omnibus Pre-trial (OPT) hearing was held on March 1, 2017, and after reviewing the evidence of record, the briefs filed by the parties, and the relevant case law, this Court ORDERS that the relief sought by both Motions is DENIED.

This Court will first address the issues raised In "Defendant's Challenge to Capital Proceedings".

Motion to Instruct the Jury as to the Definition of Life Imprisonment at all Levels of the Pending Proceeding.

Defendant seeks to have the trial court instruct the jury that "life imprisonment" means exactly that, with no possibility of parole, at all pending proceedings. In *Simmons v. South Carolina*, 512 U.S. 154, 114 S.Ct. 2187, 129 L.Ed.2d 133 (1994), the United States Supreme Court held that, where the state puts the future dangerousness of the defendant into issue, due process requires that the defendant be entitled to inform the jury that he or she is ineligible for parole. The *Simmons'* holding does not require that a jury be informed of parole ineligibility at all phases of the trial, just during the sentencing phase.

During the time since the decision of the Supreme Court in *Simmons*, precedent from the Pennsylvania Supreme Court has established that "[a] *Simmons* instruction, detailing what a life sentence means in Pennsylvania, is required only if the prosecution makes the defendant's future dangerousness an issue in the case and the defendant specifically requests such an instruction." *Spotz III*, 759 A.2d at 1291 (citing *Commonwealth v. Chandler*, 554 Pa. 401, 721 A.2d 1040, 1046 (1998), and *Commonwealth v. Smith*, 544 Pa. 219, 675 A.2d 1221, 1232 (1996)); see also *Aaron Jones II*, 811 A.2d at 1004 ("[T]he trial court's obligation to issue a *Simmons* charge is triggered only upon the existence of twin requirements, i.e., future dangerousness being placed at issue, and a defense request.") (emphasis and internal quotation marks omitted). *Commonwealth v. Spatz*, 587 Pa.1,896 A.2d 1191. In the instant case, the Commonwealth has not yet ad-

vanced an argument that the Defendant's future dangerousness is an issue; therefore, this Court denies this request and reserves the right to reconsider this motion, should the Commonwealth argue the issue of Defendant's future dangerousness.

**Motion to Preclude the Commonwealth from Seeking the Death Penalty
as Depriving the Defendant of an Impartial Jury.**

Defendant argues that the process by which a "death qualified jury" is empaneled violates his right to a fair and impartial trial. The Pennsylvania Supreme Court and the United States Supreme Court have consistently rejected the identical constitutional challenges to a death-qualified jury as set forth by Defendant. See *Lockhart v. McCree*, 476 U.S. 162, 106 S.Ct. 1758, 90 L.Ed.2d 137 (1986), (holding that the exclusion of a group of individuals, defined solely by their shared attitude that they could not follow the law and impose the death penalty under any circumstances, may be excluded from jury service without violating the "impartial jury" and "fair cross-section" clauses of the Sixth Amendments to the United States Constitution); *Commonwealth v. Wright*, 599 Pa. 270, 961A.2d 119, at 149 (holding that death-qualifying the jury is a proper and necessary procedure to ensure a fair trial and does not deprive the defendant of a fair and impartial jury from a representative cross-section of the community or result in a jury inclined to impose death in capital murder prosecution); *Commonwealth v. Marinelli*, 547 Pa. 294, 690 A.2d 203, 216 (1997) (acknowledging that "death qualification process is consistent with the guarantees of a fair trial"); *Commonwealth v. Morris*, 546 Pa. 296, 684 A.2d 1037, 1040 n. 2 (1996) (holding that "[t]his Court has repeatedly held that the death qualification process is consistent with the guarantees of a fair trial"); see also *Commonwealth v. Padilla*, 622 Pa. 449, Bo A.3d 1238, 1275 (2013) (rejecting the defendant's claim that the death qualification procedure creates juries predisposed to imposing the death sentence because the defendant failed to advance a specific claim that the jury in his case was predisposed toward the death penalty, and, instead, relied upon published studies of a group of social scientists). *Commonwealth v. Woodard*, 634 Pa. 162, 139 A.3d 480 (2015).

The Defendant in the instant case has failed to demonstrate why this Court should deviate from this well-settled law and has identified no particular circumstance distinguishing his case from those cited herein; therefore, this Court denies this motion.

Motion for Separate Guilt Phase and Penalty Phase Jurors.

The Defendant requests this Court to order the empanelling of separate juries for the guilt and penalty phases of his trial. The law on this issue clearly provides that the same jury adjudicate guilt and penalty. The Sentencing Code requires expressly that the same jury decide both guilt and penalty. See 42 Pa.C.S. § 9711(a)(1) (providing that "[a]fter a verdict of murder of the first degree is recorded and before the jury is discharged, the court shall conduct a separate sentencing hearing in which the jury shall determine whether the defendant shall be sentenced to death or life imprisonment"). It relies on case law from holding that Section 9711(a)(1) requires that the jury that rendered a verdict of murder in the first degree also determine whether the appropriate sentence is life imprisonment or death. *Commonwealth v. Woodard*, 634 Pa. 162, 139 A.3d 480 (2015). For these reasons, this motion is denied.

Challenge to Pennsylvania Jury Instructions.

The Defendant has failed to support this challenge in his brief and has not provided any specifics as to the particular jury instructions or portions thereof that he is challenging. This motion is denied at this time; however, the parties retain the right to propose jury instructions prior to trial.

Motion to Declare 42 Pa.C.S. §9711 et. Seq. Unconstitutional and to Bar Imposition of the Death Penalty.

Although the Defendant asserts constitutional claims in his motion, he has failed to develop these claims in any meaningful fashion. This Court notes:

A presumption exists "[t]hat the General Assembly does not intend to violate the Constitution of the United States or of this Commonwealth" when promulgating legislation. 1 Pa.C.S. § 1922(3). Duly enacted legislation is presumed valid, and unless it clearly, palpably and plainly violates the Constitution, it will not be declared unconstitutional. *Commonwealth v. Davidson*, 595 Pa. 1, 938 A.2d 198, 207 (2007). Accordingly, the party challenging the constitutionality of a statute bears a heavy burden of persuasion. *Commonwealth v. Baker*, 621 Pa. 401, 411, 78 A.3d 1044, 1050 (2013), *Commonwealth vs. Hitcho*, 633 Pa. 51, 123 A.3d 731 (2015).

Therefore, Defendant's motion to declare the death penalty unconstitutional is denied.

Motion to Preclude the Commonwealth from Seeking the Death Penalty as Cruel and Unusual Punishment.

Defendant's argument that the death penalty constitutes cruel and unusual punishment has been foreclosed by the United States Supreme Court. See *Gregg v. Georgia*, 428 U.S. at 169, 96 S.Ct. at 2923. In *Commonwealth v. Zettlemoyer*, 500 Pa.16, 454 A.2d 937 (1982), the Pennsylvania Supreme Court held that the death penalty is not "cruel punishment " within the proscription of Art. I, § 13 of the Pennsylvania Constitution, and, further, that the sentencing procedures adopted by the General Assembly and set forth at section 9711 of the Sentencing Code, 42 Pa.C.S.A. § 9711, are permissible under the Constitutions of this state and of the United States. Accordingly, Defendant's motion is denied.

The Court now addresses the relief requested in Defendant's Motions Challenging Pennsylvania's Capital Sentencing Scheme, noting that many issues set forth herein overlap the issues herein discussed above.

Pennsylvania's Capital Sentencing Scheme Creates Constitutionally Impermissible Barriers to Individualized Sentencing and Fails to Narrowly Tailor and Give Adequate Notice of the Circumstances Under Which a Sentence of Death Can Be Imposed.

Defendant argues that the Commonwealth's notice setting forth the aggravating circumstances include boiler plate recitals without sufficient specificity.

The Commonwealth's Notice of Aggravating Circumstances includes that the offense was committed by means of torture; the offense was committed by the defendant while in the perpetration of a felony; and the victim was a child under 12 years of age. At the pretrial stage, the Commonwealth's notice complies with Pa.R.Crim.P. 802, which is intended to give the defendant sufficient time and information to prepare for the penalty hearing. Pennsylvania law is clear that the prosecution has no pretrial burden to prove that aggravating factors exist. Although the Commonwealth has no pretrial burden to prove an aggravating factor, the trial court must be able to ensure that the Commonwealth is not seeking the death penalty for an improper reason. The nature of the court's inquiry is focused solely upon whether the case is properly designated as capital, not whether each aggravating circumstance alleged is supported by evidence. 16B West's Pa. Prac., Criminal Practice §31:28. In this case, the Commonwealth has filed a notice which includes not one, but three aggravating circumstances.

A defendant who claims that there is no evidence supporting the notice of aggravating circumstances must prove that contention. In this case, counsel for the Defendant failed to even raise any argument at the OPT hearing concerning his challenge to the Commonwealth's notice of aggravating circumstances.

Pennsylvania's Capital Sentencing Scheme Violates Article 1, §9, 10, 13 of the Pennsylvania Constitution and the Due Process and Cruel and Unusual Punishment Clauses of the United States Constitution.

For the reasons already set forth herein, this non-specific argument set forth by the Defendant is denied.

Pennsylvania's Capital Sentencing Scheme Providing for the Introduction of Victim Impact Evidence Violates the Fair Trial, Due Process, Equal Protection and Cruel and Unusual Punishment Clauses of the United States Constitution and Article 1, §6, 9, 13 of the Pennsylvania Constitution.

The Pennsylvania Supreme Court has addressed the constitutionality of victim impact evidence in *Commonwealth v. Means*, holding that victim impact evidence does not violate constitutional precepts. 565 Pa. 309, 773 A.2d 143 (2001).

Pennsylvania's Capital Sentencing Scheme Violates Procedural and Substantive Due Process.

For the reasons already set forth herein, this non-specific argument set forth by the Defendant is denied.

Pennsylvania's Capital Sentencing Scheme Impairs the Right to a Trial by Jury.

For the reasons already set forth herein, this non-specific argument set forth by the Defendant is denied.

Capital Punishment and Lethal Injection as a Form of Capital Punishment Constitutes Cruel and Unusual Punishment

The United States Supreme Court has upheld capital punishment, specifically lethal injection, as constitutional. *Baze v. Rees*, 553 U.S. 35, 128 S.Ct. 1520, 170 L.Ed2d 420

(2008). Therefore, the Defendant's claim lacks merit.

Based on the foregoing, this Court will enter an Order to deny the Defendant's Challenge to Capital Proceedings and Defendant's Motions Challenging Pennsylvania's Capital Sentencing Scheme.

BY THE COURT:
LINDA R. CORDARO, JUDGE

ATTEST:
Clerk of Courts

Dated: July 11, 2017

SAVE THE DATE

Fayette County Bar Association
Bench Bar Conference

The Historic Summit Inn
Wednesday, October 11, 2017
9:00 a.m.

FREE CLE & RECEPTION**FEDERAL COURTS 101**

Wednesday, September 20, 2017

Save the date to join your fellow Fayette County Bar colleagues at “Federal Courts 101”, presented by a distinguished panel of Judges from the Western District of Pennsylvania, including: Chief Judge Joy Flowers Conti; Judge Mark R. Hornak, Judge Cathy Bissoon, Magistrate Judge Cynthia Reed Eddy, and Chief Bankruptcy Judge Jeffery A. Deller.

Moderated by Fayette’s own Anne N. John, Esquire and Samuel J. Davis, Esquire, this event will introduce you to federal court procedures, and a reception following the CLE will provide you with an opportunity to introduce yourselves and chat with the Judges.

Please mark your calendars to join us on Wednesday, September 20, 2017 at 3:30 at Nemaquin Woodlands Resort for this unique and informative session. Attendees will receive one complimentary Substantive CLE credit.

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