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LANCASTER BAR ASSOCIATION

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CASE REPORTED

Commonwealth v. Jesus Cruz — No. 1555-2020 — Ashworth, P.J. — August 10, 2021 — *Opinion — Criminal — Motion to Suppress — Parolee — 5th Amendment — Custodial Detention — Reasonable Suspicion — Independent Source Doctrine — Routine, supervisory meeting becomes custodial detention when parolee, who was detained subsequent to a positive urine screen at parole office, was placed continually in handcuffs, and held in parole office holding cell for an hour to an hour and a half; 5th Amendment privilege against self-incrimination became self-executing from the time parolee was detained subsequent to a positive urine screen at parole office, placed continually in handcuffs, and held in parole office holding cell for an hour to an hour and a half; parolee was not required to invoke 5th Amendment rights explicitly and his failure to do so in no way amounted to a waiver of that right; Statements made by parolee after routine supervisory meeting became custodial detention must be suppressed where he was not advised of his Miranda and did not waive his privilege against self-incrimination; Sufficient evidence available to parole officers independent of tainted statements justified reasonable suspicion that contraband or other evidence of parole violation would be found in parolee’s vehicle and residence.*.....250

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LANCASTER LAW REVIEW

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Reporting the Decisions of the Courts of Lancaster County

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LANCASTER BAR ASSOCIATION

2021

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**LANCASTER BAR ASSOCIATION
CALENDAR OF EVENTS**

December Events

December 6-10, 2021

Membership Week

December 9, 2021

LBA Holiday Party

Yorgos Restaurant & Lounge

Mediation and ADR Solutions

provided by **The Honorable Thomas I. Vanaskie (Ret.)**



- 24 years on the Federal bench (Third Circuit Court of Appeals and Middle District of Pennsylvania)
- Unmatched credentials and experience makes him uniquely qualified to assist parties resolve disputes with guidance that is informed, impartial, fair and objective
- Available to resolve disputes in business and commercial, class action and mass tort, employment, ERISA, insurance, antitrust, securities, intellectual property, civil rights and personal injury cases
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Lancaster Law Review – 2021 Holiday Early Deadline Schedule

Submissions must be received by the dates and times below in order to publish in the follow issues:

November 26 Publication – must be received by Wednesday, November 17 at 12:00pm (noon)

December 24 Publication – must be received by Wednesday, December 15 at 4:00pm

There will **not** be an early deadline for the December 31 Publication.

LANCASTER BAR ASSOCIATION
CONTINUING LEGAL EDUCATION CALENDAR

November 30, 2021

Employment and Labor Law Summit

Time: 12:00pm-3:20pm

Speakers: Denise Elliott, Esq., Andrea Farney, Esq., Micah Saul, Esq., Jill Welch, Esq., and James Devine, Esq.

2.0 Substantive Credits, 1.0 Ethics Credit

Description: *Year in Review/SCOTUS Updates*

In this session, participants will be exposed to employment related (ADA, FMLA, ADEA, Title VII, Marijuana, COVID-19 etc.) case law highlights from 2020 and 2021. The focus will be on decisions from the U.S. Supreme Court, Third Circuit and Pennsylvania. While a Plaintiff's perspective will guide the overview, the defense perspective and impacts for employers will also be discussed.

Serving on a Non-Profit Board

As attorneys gain experience and become connected within the community, they are asked to serve on non-profit boards. Join Jill Welch for this session to introduce those new to board service -- and remind those of us who already serve -- of our obligations for serving on a board, including fiduciary obligations, understanding by-laws and insurance, managing conflicts of interest, a review of ethical obligations, and our favorite – how to handle the request to provide legal services for for free.

Employee Leave and Employers Rights During COVID-19

COVID-19 has made an everlasting impact on the workplace, keeping HR professionals on their toes. Medical and personal leave has become more prevalent than ever before. During this CLE Attorney Devine will provide an overview of employee and employer rights when it comes to medical and personal leave. The CLE will highlight President Biden's prolonged plan to address the COVID-19 crisis and how it may impact the workplace.

December 9, 2021

Municipal Bonds: Basics Plus Recent Developments

Time: 12:00pm-1:00pm

Location: In-person at the Lancaster Bar Association and Virtual on Zoom

Speakers: David Unkovic, Esq., and Erica Wible, Esq.

1.0 Substantive Credit

Description: This course will focus first on the nuts and bolts of the process for the issuance of municipal bonds by municipalities, authorities, and school districts. Then it will explore recent developments, including the effect of low interest rates, increased use of taxable bonds, new post-closing disclosure responsibilities, pending legislation, and the emergence of green and social bond designations. Throughout the presentation, attention will be paid to the role of the issuer's solicitor in the bond process.

LANCASTER BAR ASSOCIATION
JOB BOARD

AVAILABLE ATTORNEY POSITIONS—

Conflict Counsel - The Berks County Court of Common Pleas is accepting applications for an attorney to serve as Conflict Counsel in the Criminal Court. Applicants must have criminal law experience. Preference to Rule 801 qualified applicants. Send resume to: Judge M. Theresa Johnson, Berks County Courthouse, 8th Floor, 633 Court Street, Reading, PA 19601.

Associate Position - Casualty Litigation Department - 1-2 years' experience
Post & Schell's Casualty Litigation Department is currently seeking an attorney with 1-2 years' of litigation experience, preferably civil but criminal is also a plus, for the Firm's Lancaster Office. Top-notch academic background as well as excellent written and oral advocacy skills required. Must be licensed to practice in Pennsylvania. Competitive salary and full benefits.

To Apply: Resumes, with cover letter, should be sent by regular mail or electronically (preferred) to:

Hiring Partner
Post & Schell, P.C
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, PA 19103
jobs@postschell.com

Estates & Trusts Associate - Brubaker Connaughton Goss & Lucarelli LLC, a growing entrepreneurial law firm in Lancaster, Pennsylvania, has an immediate opening for an associate with 1 to 6 plus years' experience in its prominent estates and trusts practice. This partnership track position will involve complex estate planning, drafting, and estate and trust administration. Excellent verbal and written communication skills required. Ability to work collaboratively is necessary. Lancaster, Pennsylvania was recently rated No. 1 in the US News Best Places to Retire Rankings. Candidates must possess a desire to become integrated into a dynamic community and participate in the continued growth of this exceptional practice area. Strong academic record required. Compensation begins at \$100,000 for 1 to 3 years' experience, \$130,000 for 4 to 6 years' experience, and \$160,000 for 6 plus years' experience. Bonus opportunities available. Interested candidates should submit their resume, law school transcript, writing sample, and list of references at www.bit.ly/ETA-02

Transactional Associate - Brubaker Connaughton Goss & Lucarelli LLC, a growing entrepreneurial law firm in Lancaster, Pennsylvania, has an immediate opening for a transactional associate with 1 to 6 plus years' experience. Areas of practice for this partnership track position include: mergers

& acquisitions; complex financing transactions for lenders and borrowers; and commercial real estate transactions. Excellent verbal and written communication skills required. A strong desire to learn and the ability to work collaboratively is necessary as is the willingness to become integrated into a dynamic business community. Strong academic record required. Compensation begins at \$100,000 for 1 to 3 years' experience, \$130,000 for 4 to 6 years' experience and \$160,000 for 6 plus years' experience. Bonus opportunities available. Interested candidates submit their resume, law school transcript, writing sample, and list of references at www.bit.ly/TA-02

Civil Litigation Associate - Brubaker Connaughton Goss & Lucarelli LLC, a growing entrepreneurial law firm in Lancaster, Pennsylvania, has an immediate opening for a civil litigation associate with 1 to 6 plus years' experience. Areas of litigation practice include: commercial, premises liability, personal injury, employment, and other general litigation matters. Excellent verbal, written communication skills, and social intelligence required. Ability to work collaboratively and handle client work independently in a fast-paced environment is necessary. Strong academic record required. Compensation begins at \$100,000 for 1 to 3 years' experience, \$130,000 for 4 to 6 years' experience, and \$160,000 for 6 plus years' experience. Bonus opportunities available. Interested candidates should submit their resume, law school transcript, writing sample, and references at www.bit.ly/CLA-02

Municipal and Land Use Law Attorney - Growing Central Pennsylvania law firm is looking for a motivated attorney to join our Municipal and Land Use Law practice group. Experience and strong interest in land use, litigation and regulatory matters a plus. This position will support an existing municipal practice representing Boroughs, Townships, Authorities and Zoning Hearing Boards as well as a rapidly growing regional solar energy land use practice. The ideal candidate will ideally have 2-5 years' experience in any of these practice areas. This position requires strong academic credentials, excellent written and verbal communications skills, excellent organizational skills, the ability to work independently as well as be part of a team and a high level of integrity and professional accountability. Attendance at some evening meetings will be necessary. Salary: DOE. Benefits available: health insurance; dental insurance; retirement plan; and paid time off. Please submit resumes and references confidentially to: lawposition8735@gmail.com

Beacon Law is hiring! - We are looking for a qualified attorney to work in a family friendly environment in Northern York County. Preference for at least 3+ years of experience in family law, criminal law, or wills and estates. Will consider resumes with experience that fits well with a general practice firm. Salary negotiable based on experience. Please forward a resume and cover letter to Alina Dusharm: adusharm@thebeaconlaw.com

Estate Administration Paralegal Position - Gibbel Kraybill & Hess was founded on a shared commitment to provide excellent legal services to our clients. Our attorneys and experienced staff work collaboratively to assist clients in a wide variety of legal matters. We are committed to serving everyone in our community, regardless of social or economic status.

GKH is currently seeking an Estate Administration Paralegal to work with attorneys in our 2933 Lititz Pike office. The ideal candidate will have excellent self-management and inter-personal skills as well as the ability to work on an estate from start to finish. Experience with Lackner estate administration software is preferred but not required. We offer a comprehensive benefit package and a collegial work setting. Email cover letter with salary requirements and resume with references to gkhlaw@gkh.com.

Responsibilities:

- Data entry, answering phones, scheduling client appointments, scanning, copying, and filing
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- Maintain financial records for use in Accounting and preparation of tax returns
- Handle communications with beneficiaries and executors
- Track income tax deadlines

Skills:

- Strong communication and customer service skills
- Ability to work under deadlines
- Proficiency with MS Outlook, MS Word and MS Excel
- Strong work ethic and the ability to work independently and as part of a team
- Positive and professional demeanor

Education: Bachelor's degree or Paralegal certificate (Preferred but not required)

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Court of Common Pleas of Lancaster County

Criminal

Commonwealth v. Jesus Cruz

Motion to Suppress — Parolee — 5th Amendment — Custodial Detention — Reasonable Suspicion — Independent Source Doctrine

Routine, supervisory meeting becomes custodial detention when parolee, who was detained subsequent to a positive urine screen at parole office, was placed continually in handcuffs, and held in parole office holding cell for an hour to an hour and a half; 5th Amendment privilege against self-incrimination became self-executing from the time parolee was detained subsequent to a positive urine screen at parole office, placed continually in handcuffs, and held in parole office holding cell for an hour to an hour and a half; parolee was not required to invoke 5th Amendment rights explicitly and his failure to do so in no way amounted to a waiver of that right; Statements made by parolee after routine supervisory meeting became custodial detention must be suppressed where he was not advised of his Miranda and did not waive his privilege against self-incrimination; Sufficient evidence available to parole officers independent of tainted statements justified reasonable suspicion that contraband or other evidence of parole violation would be found in parolee's vehicle and residence.

Opinion. Commonwealth of Pennsylvania v. Jesus Manuel Cruz. No. 1555-2020.

Deborah L. Greathouse, Esquire for Commonwealth
Benjamin L. Vanasse, Esquire for Defendant

OPINION BY ASHWORTH, P.J., August 10, 2021. Before the Court is Defendant Jesus Manuel Cruz's Omnibus Pretrial Motion to suppress certain statements made to his parole agents as well as evidence seized pursuant to searches of the Defendant's person, car, and home.¹ Defendant is charged with: one count of possession with intent to deliver (cocaine); one count of possession of a controlled substance (heroin/fentanyl); one count of possession of a controlled substance (Buprenorphine Naloxone Sublingual File (Suboxone)); and possession of drug paraphernalia, all stemming from a positive urine test and the ensuing searches on February 21, 2020, which uncovered the contraband.² Having considered the Defendant's Omnibus Pretrial Motion,³ and having heard oral argument from both parties, the Motion to Suppress will be granted in part and denied in part.

I. BACKGROUND

At the time of the incidents in question, Defendant was a state parolee under the supervision of the Pennsylvania Parole Board (PPB), reporting to Agent Jose Kuilan (Agent Kuilan) at the PPB suboffice in Lancaster, Pennsylvania (PPB office). (Notes of Testimony (N.T.) at 7). As part of supervision, Defendant was required to see Agent Kuilan every three months. (*Id.* at 10-11). By Agent Kuilan's account, Defendant had been a successful and compliant parolee with no incidents in 2018 or 2019.

¹ Defendant filed his Omnibus Pre-trial Motion on June 24, 2020, at which time the Court was operating at a severely restricted and reduced capacity due to the judicial emergency declared in response to the COVID-19 pandemic. The continuing judicial emergency also necessitated delay in conducting the evidentiary hearing on said Motion.

² In violation of 35 Pa. C.S. §780-113(a)(30); 35 Pa. C.S.A. § 780-113(a)(16); 35 Pa. C.S.A. § 780-113(a)(16); and 35 Pa. C.S. §780-113 (a)(32), respectively

³ The Commonwealth did not file a written response.

(Id. at 13-14). In January of 2020, however, Agent Kuilan began to notice certain troubling behaviors from the Defendant that raised red flags to the experienced parole agent that Defendant might be experiencing problems.⁴ Consequently, Agent Kuilan asked the Defendant in February of 2020 to appear at the PPB office for a check-in; Defendant agreed to come in, but no specific appointment time was set. On February 21, 2020, the Defendant did visit the PPB office, however, Agent Kuilan was working in the field outside the office that day. Another parole agent, Agent Stella, called Agent Kuilan to alert him of Defendant's arrival.⁵ (Id. at 15-16). Agent Kuilan directed Agent Stella to conduct a urinalysis immediately. Upon notification that the urinalysis returned positive for four controlled substances,⁶ Agent Kuilan instructed Agent Stella to detain Defendant until he could get to the office, assess the Defendant for himself, and make informed decisions regarding appropriate next steps with regard to supervision.⁷

At this point, Agent Stella and the Defendant were standing in a PPB office hallway, where they engaged in a short verbal exchange. Agent Stella "asked him some general questions that we ask when people test positive, just about, like, how much they were using. To that he responded, about three bags a day. [Stella] asked him if he had anything on his person. He said no." (N.T. at 32, 39). Agent Stella testified that he asked these questions in order to gain some initial idea of how best to address Defendant's needs with regard to the apparent drug relapse and not to determine whether to arrest him.⁸ (Id. at 34, 39).

While still standing in the hallway, Agent Stella placed Defendant in handcuffs and per standard procedure, conducted a pat-down search. (N.T. at 17, 37). During the pat-down, Agent Stella discovered a Jeep key fob, a cell phone, and strips of Suboxone, a controlled substance for which Defendant did not have a prescription. (Id. at 17-18, 20, 37). After Defendant was handcuffed, but while still in the hallway, Agent Stella engaged in another brief verbal exchange with him, asking Defendant "if there would be anything in [the car]. He did respond saying that there might be some needles and that was all he had told [parole staff] about." (Id. at 38). Based on the positive urine and the discovery of the illegal drugs during the pat down, Agent Stella placed Defendant into the PPB office's holding cell, which is standard operating procedure at the PPB office "any time that we are detaining or arresting an offender." (Id. at 28). The holding cell is a small room approximately 10' x 12'. (Id. at 25). Agent Stella testified that "at this point in time we, as supervising staff . . . wanted to get him into treatment. And in order to keep him from leaving, I made the decision to place him in the cell." (Id. at 36). The Defendant was in the holding cell for approximately an hour to an hour and a half (Id. at 40).

⁴ Defendant had become less responsive to Agent Kuilan's telephone calls, and Agent Kuilan had observed Defendant on several occasions at different locations around town when he was supposed to be at work. (N.T. at 14).

⁵ Agent Kuilan testified it is a common practice in the PPB office for parole agents to communicate with each other in this manner regarding routine matters with parolees.

⁶ Defendant's urine tested positive for THC (marijuana), cocaine, Fentanyl, and heroin. (N.T. at 32-33).

⁷ Agent Kuilan testified his main concern at that point was discerning how best to help the Defendant, whether through enrollment in a detox program, rehab program, or a number of other options. (N.T. at 17).

⁸ Defendant does not challenge the statements he made to Agent Stella prior to the pat-down search.

Agent Stella next went to the parking lot to find and search the car.⁹ In the car, he recovered additional strips of Suboxone and a bag of suspected heroine. (Id. at 18-19, 37-38). After the vehicle search, Agent Stella told the Defendant what had been found in the car but did not ask any questions. (N.T. at 38-39, 41). By that time, Agent Kuilan had arrived at the PPB office and was talking to the Defendant, who was still handcuffed and in the holding cell. (Id. at 25, 41). In the holding cell, Agent Kuilan asked to look at Defendant's phone, and Defendant consented. (Id. at 26). "The phone contained numerous text messages allegedly indicating that Defendant was selling suboxone." Omnibus Pre-trial Motion at ¶ 21.

After the positive urine test, discovery of the drugs on Defendant's person, and the additional drugs in the car, Agent Kuilan informed the Defendant there would be an immediate search of his home. Defendant was still handcuffed and in the holding cell at this time. Agent Kuilan asked the Defendant generally what the parole agents might find during their search. Agent Kuilan explained he asked this question for two reasons: first, as a "last minute, hey, look, please let us know if there's anything . . . in your home" so the parole agents would be able to "work with [Defendant]"; and second, "for [parole agent's] safety." (Id. at 22-23). Defendant replied "that he had something in his room." (Id.). At no time did either agent advise Defendant of his rights under Miranda.¹⁰ During the search of Defendant's home, parole agents "seized a baggy contained [sic] suspected crack cocaine, a prescription pill bottle containing suspected heroin/fentanyl, a black duffel bag containing two digital scales, and multiple small baggies containing suspected crack cocaine." Omnibus Pre-trial Motion at ¶19. Defendant was subsequently arrested on the instant charges. On June 24, 2020, Defendant filed his Omnibus Pre-trial Motion to suppress his statements and any evidence seized by parole agents on February 21, 2020. A hearing was held on June 21, 2021.

II. DISCUSSION

Where a motion to suppress has been filed, the burden is on the Commonwealth to establish by a preponderance of the evidence that the challenged evidence was not obtained in violation of a defendant's rights. Pa. R.Crim.P. 581(H); *Commonwealth v. Wallace*, 42 A.3d 1040, 1047-48 (Pa. Super. 2012)(en banc).

In his motion, Defendant argues that he was in legal custody when Agent Stella handcuffed him, detained him, and placed him in the holding cell at the PPB office. Defendant maintains that once in custody, the parole agents should have advised him of his Miranda rights before asking any questions. Since they failed to so advise, Defendant asserts, his Fifth Amendment right against self-incrimination became self-executing, and his failure to explicitly invoke that right did not operate as a valid waiver. See *Commonwealth v. Cooley*, 632 Pa. 119, 129 (2015). Defendant contends that the parole agents violated his rights under the Fifth Amendment, and that any statements he made while in custody

⁹ Agent Stella located the car by observing which vehicle responded to activation of the key fob.

¹⁰ *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

were illegally compelled; therefore, no information obtained from his statements could provide a basis for reasonable suspicion to search his car and/or residence. Consequently, Defendant concludes, the Court should suppress his statements as well as any evidence seized from the resulting searches of the vehicle and his residence as “fruit of the poisonous tree”.

The Commonwealth counters that the totality of the circumstances demonstrates that Defendant was not in legal custody at the time parole agents asked him questions, despite the fact he was handcuffed and placed in a holding cell. Rather, the Commonwealth maintains Defendant was merely restrained and detained to allow parole officers to safely execute their supervisory duties in accordance with statutory mandates. As such, the parole agents’ questions were aimed only at determining how best to assist the Defendant under the circumstance, and not aimed at obtaining information about a new crime for which he was not already under supervision. See 61 Pa.C.S. §6153.

In this analysis, the Court must answer a series of questions: 1) whether the Defendant was in legal custody such that his failure to invoke his 5th Amendment right to silence was a valid waiver of that right; 2) whether the statements he made after being handcuffed and while detained should be suppressed; 4) whether the searches of the car and Defendant’s house were supported by reasonable suspicion; and 5) whether the evidence seized pursuant to those searches should be suppressed?

Beginning with the relevant Fifth Amendment privilege itself — that “no person ... shall be compelled in any criminal case to be a witness against himself” — the Court notes that in addition to protecting an individual from compulsory testimony against himself, the Fifth Amendment also “privileges him not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in further proceedings.” *Commonwealth v. Cooley*, 632 Pa. 119, 129, 118 A.3d 370, 375-76 (2015)(citations and quotations omitted). Depending on the circumstances, the Fifth Amendment may or may not be self-executing. In most matters,

[t]he Fifth Amendment privilege against self-incrimination is generally not self-executing, and ordinarily an individual must assert the privilege for subsequent statements to be considered ‘compelled’ within the meaning of the Fifth Amendment . . . However, the Fifth Amendment is self-executing where an individual is subject to custodial interrogation without being given Miranda warnings.

Id. (citing *Minnesota v. Murphy*, 465 U.S. 420, 427-30, 104 S.Ct. 1136; *Miranda*, at 467-69, 86 S.Ct. 1602 (1984)) (emphasis added). As a threshold matter, it is imperative to remain mindful that “[a] parolee does not lose the Fifth Amendment privilege against self-incrimination

merely because of conviction of a crime. Parolees, like any other individual, must be given Miranda warnings when subject to custodial interrogation.” *Id.* 632 Pa. at 130, 632 A.3d at 376 (citations omitted). Custodial interrogation occurs when there is “questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way[.]” *Id.* (citing *Miranda* at 444, 86 S.Ct. 1602). An individual is in custody for purposes of *Miranda* when he is “physically denied his freedom of action in any significant way or is placed in a situation in which he reasonably believes that his freedom of action or movement is restricted by the interrogation.” *Id.* (citing *Commonwealth v. Johnson*, 556 Pa. 216, 727 A.2d 1089, 1100 (1999)). Courts utilize a totality of the circumstances standard for determining whether an individual is legally in custody, “with due consideration given to the reasonable impression conveyed to the individual being questioned.” *Id.* (citing *Commonwealth v. Gwynn*, 555 Pa. 86, 723 A.2d 143, 148 (1998)).

Our Supreme Court has addressed a set of facts analogous to those before us here, in the matter of *Commonwealth v. Cooley*, *supra*. In *Cooley*, the defendant was a state parolee whose supervising parole agents received a credible tip that he was unlawfully in possession of a firearm and possibly selling illegal drugs out of his home. *Cooley*, 632 Pa. at 123, 118 A.3d at 372. When the defendant appeared for a meeting at the parole office, he was immediately placed in handcuffs and searched for weapons. Parole agents informed him they intended to search his home for weapons and drugs based on the reported course of conduct. *Id.* Two parole agents asked the defendant if they would find contraband or weapons in a search of his home, and the defendant responded with incriminating statements. Parole agents then transported the defendant, still restrained in handcuffs, to his residence where they proceeded to conduct a warrantless search, recovering various items of contraband. *Id.* at 123-124, 188 A.2d at 372. After this search took place, the parole agents asked the defendant if a search of his vehicle would reveal additional contraband. The defendant again responded with more incriminating statements, and the parole agents’ subsequent search of the vehicle did yield additional contraband. The defendant was handcuffed for the entire duration of the encounter and at no time did any parole agent advise him of his *Miranda* rights. *Id.*

Cooley filed a motion to suppress in the trial court, which was denied. The trial court had reasoned that

Miranda warnings were not required because [the defendant] was neither in custody nor interrogated. The [trial] court determined that [defendant] was detained at the parole office based on suspected parole violations, but was not subject to an arrest or its functional equivalent. The [trial] court primarily relied on 61 Pa.C.S. § 6153(d)(5), which allows a parole agent to detain a parolee who is present during

a property search. The [trial] court noted [defendant] ‘was detained for the agents’ safety before the subject of the informant’s tip has [sic] been broached . . . [t]his detention and questioning by parole agents pursuant to their statutory authority is not the functional equivalent of an arrest that would require the agents to administer Miranda warnings[.]’

Cooley, 632 Pa. at 124-25, 118 A.3d. at 373 (citing trial court §1925 opinion). On appeal, the Superior Court affirmed. See Commonwealth v. Cooley, No. 1588 MDA 2012, unpublished memorandum at 12, 83 A.3d 1060 (Pa. Super. filed August 7, 2013).

Our Supreme Court granted allocatur “to determine whether there was custodial interrogation, such that the failure to issue Miranda warnings violated [defendant]’s Fifth Amendment rights, requiring suppression of statements made.” Cooley, 632 Pa. at 126, 632 A.3d at 373.¹¹ Reversing both lower courts, the Supreme Court found under the totality of the circumstances, the defendant/parolee’s interactions with parole agents had in fact included non-Mirandized custodial interrogation.

The Cooley Court distinguished the facts of the matter before it from those at issue in Murphy, supra, where the United States Supreme Court held that a mere routine, scheduled meeting with a parole officer, and the attendant obligation to answer questions truthfully does not alone convert such a meeting into a custodial situation such that statements obtained therein could be considered compelled. Specifically, the U.S. Supreme Court held that

[a] state may require a probationer to appear and discuss matters that affect his probationary status; such a requirement, without more, does not give rise to a self-executing privilege. The result may be different if the questions put to the probationer, however relevant to his probationary status, call for answers that would incriminate him in a pending or later criminal prosecution.

Cooley, 632 Pa. at 130, 632 A.3d at 376 (citing Cooley)(emphasis in original Cooley opinion). Examining Murphy, our Supreme Court acknowledged the Commonwealth’s valid interest in administering its parole system, including its need to demand truthful answers from parolees to potentially incriminating questions. The Court cautioned, however, that the Commonwealth must appreciate that even though restraining a parolee at an interview “may be understandable and legal . . . that does not make it less custodial.” Cooley, 632 Pa. at 134, 632 A.3d at 379.

¹¹ In this case, the Supreme Court addressed an issue of first impression in Pennsylvania, namely whether a parolee must be issued *Miranda* warnings when he is in the custody of parole agents and questioned about new crimes. The Cooley defendant argued case law from “other jurisdictions that held *Miranda* warnings are required during custodial interrogation by a parole agent regarding new crimes.” Cooley, 632 Pa. at 126 n.6, 118 A.3d at 374 n.6.

The Cooley Court ultimately found the following factors relevant in determining that the defendant in that case was in legal custody and should have been advised of his Miranda rights: parole officers handcuffed the defendant immediately upon his arrival at the probation office; even though no weapon was found on the defendant, the restraints were not removed at any time during the encounter;¹² parole agents informed defendant he was being investigated for new crimes; and the questions posed regarding what officers might find in the ensuing searches, though relevant to the defendant's parole status, were also "unquestionably aimed at crimes for which [the defendant] was not on parole." Cooley, 632 Pa. at 134, 632 A.3d at 379. Based on the totality of the circumstances, the Cooley Court found the defendant/parolee was in legal custody when the parole officers questioned him, making his Fifth Amendment privilege self-executing, and the failure to administer Miranda warnings a violation of his Fifth Amendment rights. Cooley, 632 Pa. at 135-36, 632 A.3d at 379-80. Finally, our Supreme Court found the trial court's error was not harmless.¹³

Turning to the case sub judice, this Court is persuaded that the facts before it placed it squarely within the realm of Cooley, supra. It is without question in this case that the Defendant was not advised of his rights under Miranda during his encounter with parole agents on November 21, 2020, or at any time prior to the formal criminal complaint filed on February 25, 2020. Therefore, we must determine whether the Defendant was in "custody" during that time for purposes of the Fifth Amendment. In this case, the Court finds the Defendant was taken into legal custody at the time he was placed in handcuffs. Agent Kuilan had supervised Defendant since 2018 without incident, and there was no testimony that handcuffing was a regular practice during the routine, scheduled visits that occurred every three months. (N.T. at 13-14, 17, 28, 37). Although both parole agents testified that detaining a parolee after a positive urine screen is standard operating procedure, Agent Stella not only handcuffed the Defendant, but he also placed Defendant into the holding cell at the PPB office. (N.T. at 28, 36). Agent Stella specifically stated he did so "in order to keep him from leaving." (Id. at 36). Defendant was detained, continually in handcuffs, in the small, 10x12 foot holding cell for approximately an hour to an hour and a half, or the duration of the time it took parole agents to search the vehicle and residence. (Id. at 25, 40). Defendant was restrained in the handcuffs despite the fact parole agents had uncovered no weapons during either the pat-down search of Defendant or the search of his car. Under these circumstances, it strains the Court's imagination to see how the Defendant could have felt free to leave the PPB office on his free will. The Defendant was securely in "custody" and his privilege against self-incrimination under the Fifth Amendment in full force and effect.

With regard to whether the Defendant waived his privilege against

¹² The Cooley Court acknowledges that "[w]hile the use of handcuffs is not dispositive of a custody analysis, and we still must conduct a totality-of-the-circumstances analysis, the use of restraints is generally recognized as a hallmark of a formal arrest." Cooley, 632 Pa. at 134, 632 A.3d at 379 (citations and quotations omitted).

¹³ The Commonwealth did not make any argument that the physical evidence available was independently sufficient to support the defendant's conviction. Cooley, 632 Pa. at 135-36, 632 A.3d at 379-80.

self-incrimination, the Court finds that he did not. As set forth above, the Defendant was indeed in legal custody from the time he was placed in handcuffs, and as such, his Fifth Amendment privilege against self-incrimination became self-executing at that time. *Cooley*, 632 Pa. at 129, 118 A.3d at 375-76. As in *Cooley*, the Defendant here was not required to invoke his Fifth Amendment right explicitly, and his failure to do so in no way amounted to a waiver of that right. Any statement Defendant made in answer to questions posed by the parole agents after the time he was handcuffed should be suppressed; the Commonwealth is precluded from introducing any such statement into evidence against the Defendant in these proceedings.

Like the *Cooley* Court, this Court is mindful of our state parole agents' legitimate and important need to detain parolees from time-to-time, and to require truthful answers from them always, especially upon return of urinalysis positive for illegal substances. *Cooley*, supra, 632 Pa. at 134, 632 A.3d at 379. It is paramount to both our state and national Constitutions, however, that the Commonwealth recognize the equally legitimate and important rights of a parolee under the Fifth Amendment when a parolee is placed in legal custody. Whenever an agent of the Commonwealth places a parolee into legal custody, the very real possibility exists that a parolee's answers to questions, no matter how legitimate and/or necessary those questions may be, could potentially incriminate the parolee in new crimes.¹⁴ This Court in no way intends to hamper our state parole agents in the execution of the challenging duties associated with administering parole supervision. As recognized by both the United States Supreme Court in *Murphy*, supra, and the Pennsylvania Supreme Court in *Cooley*, however, when a routine supervisory meeting becomes a custodial detention, state parole agents must comply with the de minimus task of advising a parolee of his rights under *Miranda*.

Finally, the Court must determine whether the physical evidence seized during the searches of the vehicle and residence must also be suppressed under the exclusionary rule as "fruit of the poisonous tree".¹⁵ Importantly, that well-established doctrine "excludes evidence obtained from or as a consequence of lawless official acts, not evidence obtained from an 'independent source.'" *Costello v. United States*, 365 U.S. 265, 280, 81 S.Ct. 534, 542, 5 L.Ed.2d 551 (1961) (citing *Silvertorne Lumber Company v. United States*, 251 U.S. 385, 392, 40 S.Ct. 182, 182, 64 L.Ed. 319 (1920) (emphasis added)). Our own Supreme Court has opined that

[i]f the government can show that it obtained the challenged evidence by lawful means and from a source independent of the illegality, the twin aims of protecting an individual's Fourth

¹⁴ The Court recognizes a parole agent's need to ask a parolee certain crucial questions in order to administer supervision and to secure the safety of all involved. Nothing prevents a parole agent from asking these necessary questions of a parolee in custodial detention. The parole agent simply must administer *Miranda* warnings first.

¹⁵ Defendant states at the suppression hearing that he does not contest the search of his person after the positive urinalysis. Therefore, the Court need not address the evidence seized from Defendant's person in the pat-down search. (N.T. at 44).

Amendment rights and deterring illegal police conduct are satisfied.

Commonwealth v. Santiago, 653 Pa. 183, 209 A.3d 912 (2019). Even under the more stringent probable cause standard, our Supreme Court has held that “where there is probable cause independent of police misconduct that is sufficient in itself to support the issuance of a warrant, the police should not be placed in a worse situation than they would have been absent the error or violation under which the evidence was seized.” *Id.* (citing *Commonwealth v. Brundidge*, 533 Pa. 167, 620 A.2d 1115, 1119–20 (1993)). Therefore, in order for this Court to decide whether to suppress the challenged evidence in this case, we must examine whether reasonable suspicion¹⁶ independent of Defendant’s statements existed to justify the vehicle and residence searches. In so doing, the Court may not factor into the analysis any statements made by Defendant after he was placed into custody.

The Court finds that the parole agents in this case did indeed possess sufficient information, independent of the Defendant’s statements, to support their reasonable suspicion that evidence of a parole violation would be found in the Defendant’s car. The unchallenged pat-down search, justified by the positive urine test, yielded a key fob, cell phone, and controlled substance for which the Defendant did not have a prescription. This evidence, especially combined with the positive urinalysis, provided ample grounds for the parole agents to suspect they might find additional contraband or evidence of a parole violation in the parked car for which the Defendant possessed a functioning key fob. Certainly, the positive urine test raised the likelihood that Defendant’s car would contain additional illegal substances. See *United States v. Randle*, 639 F. Supp.2d 560, 565 (E.D. Pa., 2009)(citing cases from the 3rd Circuit, 8th Circuit, and 10th Circuit Courts of Appeal)(positive urinalysis alone justified reasonable suspicion that defendant might have additional evidence of contraband in either his car or residence). The parole agents in this case had reasonable suspicion, justifiably supported by evidence obtained independent of Defendant’s statements, to search the car in the parking lot for which Defendant had a key. The search of the vehicle was therefore legal, and any evidence seized therefrom is not tainted fruit of the poisonous tree requiring suppression.

Turning to the search of the residence, the Court finds that the additional contraband found in the vehicle search (more Suboxone and a bag of suspected heroin) (N.T. at 18-19, 37-38), in combination with that obtained from the pat-down search and the positive urinalysis, amounted to sufficient, independent support for the parole agents to reasonably suspect further contraband might be found in a search of the Defendant’s residence. As such, the search of the residence was legal; any

¹⁶ As parole agents and not police officers, Agents Kuilan and Stella needed only reasonable suspicion and not probable cause to search Defendant’s vehicle and home. See *Commonwealth v. Wright*, — A.3d —, 2021 WL 2345903 (Pa. Super., June 9, 2021) (citations and quotations omitted) (parole agents need not have probable cause to search a parolee or his property; instead, reasonable suspicion is sufficient to authorize a search, so long as there is reasonable suspicion that parolee has committed a parole violation and search is reasonably related to the parole officer’s duty). At the time of the relevant searches, the agents believed they were investigating possible parole violations and not new crimes. (N.T. at 36).

evidence obtained therefrom is not tainted fruit of the poisonous tree.¹⁷

Under the totality of the circumstances, the Court concludes that even if the Defendant had remained silent in the face of the parole agents' custodial questioning, the agents validly and legally possessed enough additional, independent evidence to support reasonable suspicion that contraband evidencing a parole violation would be found in both the Defendant's vehicle and at his residence. Though the actual statements the Defendant made during custodial questioning will be suppressed, the evidence seized during the searches of the Defendant's vehicle and residence will not be suppressed.

III. CONCLUSION

For the reasons set forth above, the Court enters the following:

¹⁷ The Court would be remiss if it did not take this opportunity to express the opinion that while parole agents were legally justified (under the totality of the circumstances) in entering and searching the Defendant's home as they did, nothing prevented the parole agents from obtaining a search warrant after finding the additional contraband in Defendant's car. The Defendant was securely in custody, in handcuffs, and without access to his cell phone. The risk was therefore virtually non-existent that he would somehow be able to direct another person to destroy potential evidence at his residence.

ORDER

AND NOW, this 10th day of August, 2021, upon consideration of the Defendant's Omnibus Pretrial Motion, the testimony heard on June 21, 2021, and upon argument from both parties, it is ORDERED that said motion is GRANTED in part and DENIED in part, as set forth in detail in the Opinion accompanying this Order.

BY THE COURT:
DAVID L. ASHWORTH
PRESIDENT JUDGE

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.

FIRST PUBLICATION

Armstrong, Lavon M., dec'd.

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Bates, Donna, dec'd.

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no, PC.

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Late of Manheim Township.
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Boston, Glenna Joy, dec'd.

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Gantz, Mary L., dec'd.

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Rutt, Clarence H., Jr., dec'd.

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Slaugh, Gregory Paul, dec'd.

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SECOND PUBLICATION

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Stoltzfus, Jonathan D., dec'd.

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Zook, Sara L., dec'd.

Late of Salisbury Township.

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THIRD PUBLICATION

Alcala, Doris J., dec'd.

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Anderson, Decima M., dec'd.

Late of Colerain Township.

Executor: Thomas J. Farley, Jr., 13 Wilkins Ave., Haddonfield, NJ 08033.

Attorney: Christina G. Alt, Esquire; Nachmias Morris & Alt, LLC, 605 Main Street, Suite 212, Riverton, NJ 08077.

Beaston, Deborah A., dec'd.

Late of Columbia Borough.

Co-Executors: Erik D. Beaston

and Cynthia E. Beaston c/o Karl Kreiser, Esquire, 553 Locust Street, Columbia, PA 17512.

Attorney: Mountz and Kreiser; 553 Locust Street, Columbia, PA 17512.

Beiler, Samuel F., dec'd.

Late of Paradise Township.

Co-Executors: Samuel K. Beiler and Samuel B. Allgyer c/o Nicholas T. Gard, Esquire, 121 E. Main Street, New Holland, PA 17557.

Attorneys: Smoker Gard Associates LLP.

Blackwell, Ronald A., dec'd.

Late of West Lampeter Township.

Executor: Virginia C. Blackwell, 2526 Willow Street Pike, Willow Street, PA 17584.

Attorney: Sean J. O'Brien, Esquire; Dautrich & O'Brien Law Offices, P.C., 534 Court Street, Reading, PA 19601.

Boswa, Nancy J., dec'd.

Late of Columbia.

Executors: John A. Wolf, Jr. and Michelle A. Wolf, 305 Chestnut Street, Wrightsville, PA 17368.

Attorney: Thomas W. Fleckenstein, 470 Locust Street, Columbia, PA 17512.

Bowman, Geraldine C. a/k/a Geraldine F. Bowman, dec'd.

Late of Penn Township.

Executrix: Lorna B. Nolt c/o Scott E. Albert, Esq., 50 East Main Street, Mount Joy, PA 17552.

Attorney: Scott E. Albert, Esquire.

Boyd, Timothy Carl a/k/a Timothy C. Boyd, dec'd.

Late of Drumore Township.

Administrator: Jerry C. Boyd c/o Nikolaus & Hohenadel, LLP, 303 West Fourth Street, Quarryville, PA 17566.

Attorney: Jeffrey S. Shank, Esquire.

Cowart, Charles E., dec'd.

Late of Penn Township.

Executor: Jacob Zook c/o Young and Young, 44 S. Main Street, P.O. Box 126, Manheim, PA 17545.

Attorney: Young and Young.

DePalma, David A., dec'd.

Late of East Cocalico Township.

Personal Representative: Irene Pascal, Executor, c/o John S. May, Esquire, 49 North Duke Street, Lancaster, PA 17602.

Attorneys: May, Herr & Grosh, LLP.

Dunigan, Carmen E., dec'd.

Late of the Township of Lancaster.

Executor: William L. Bard c/o James R. Clark, Esquire, 277 Millwood Road, Lancaster, PA 17603.

Attorney: James R. Clark.

Erb, Charles L., dec'd.

Late of Millersville Borough.

Personal Representative: Cheryl R. Erb, Executrix, c/o Marci S. Miller, Attorney, P.O. Box 5349, Lancaster, PA 17606.

Attorneys: Gibbel Kraybill & Hess LLP.

Forte, Gus Edward a/k/a Gus E. Forte, dec'd.

Late of East Lampeter Township.
Executrix: Tammy Lynn Forte
c/o Appel Yost & Zee LLP, 33
North Duke Street, Lancaster,
PA 17602.
Attorney: Jeffrey P. Ouellet, Es-
quire.

Fry, Gilbert E., Jr., dec'd.

Late of Rapho Township.
Executors: Mark R. Fry c/o 327
Locust Street, Columbia, PA
17512.
Attorney: John F. Markel, Es-
quire; Nikolaus & Hohenadel,
LLP, 327 Locust Street, Colum-
bia, PA 17512.

Furry, Kimberly N., dec'd.

Late of Manheim Township.
Executor: Justin H. Furry c/o
Lucy F. Dowd, Lucy Dowd Law
LLC, 342 N. Queen Street, Rear,
Lancaster, PA 17603.
Attorney: Lucy F. Dowd.

Gerhart, Deborah Ann, dec'd.

Late of Drumore Township.
Administrator: Robert F. Ger-
hart c/o Kling and Deibler, LLP,
131 W. Main Street, New Hol-
land, PA 17557.
Attorney: Linda Kling, Esquire;
Kling & Deibler, LLP.

Gossert, Mary Jane, dec'd.

Late of New Holland Borough.
Executors: Vance W. Gossert,
Vickie A. Brubaker and Gail
L. Shirk c/o James N. Clymer,
Esquire, 408 West Chestnut
Street, Lancaster, PA 17603.
Attorney: Clymer Musser & Sar-
no, PC.

Hall, Claude B., dec'd.

Late of Lancaster.

Executor: Tamara E. Hogan, Es-
quire, 101 Haskell Drive, Lan-
caster, PA 17601.
Attorney: Tamara E. Hogan, Es-
quire.

Henry, Florence E., dec'd.

Late of Drumore Township.
Executor: Michael K. Henry,
Mark E. Henry and Steven C.
Henry c/o Paterson Law LLC,
2600 Willow Street Pike N, PMB
155, Willow Street, PA 17584.
Attorney: Kim Carter Paterson.

Hensel, Ricky Allen, dec'd.

Late of East Drumore Township.
Administrator: Claudette Felczak
c/o Paterson Law LLC, 2600
Willow Street Pike N, PMB 155,
Willow Street, PA 17584.
Attorney: Kim Carter Paterson.

**Hershey, Nicholas Grant a/k/a
Nicholas G. Hershey**, dec'd.

Late of East Donegal Township.
Administratrix: Lisa A. Hershey
c/o Blakinger Thomas, PC, 28
Penn Square, Lancaster, PA
17603.
Attorneys: Blakinger Thomas,
PC.

Hess, Kathleen A., dec'd.

Late of Manheim Township.
Executor: Benjamin I. Feld c/o
Alaine V. Grbach, 675 Estelle
Drive, Lancaster, PA 17601.
Attorney: Alaine V. Grbach, Es-
quire.

Hess, W. Melvin, dec'd.

Late of Manor Township.
Executor: Melvin E. Hess c/o
Karl Kreiser, Esquire, 553 Lo-
cust Street, Columbia, PA
17512.

Attorney: Mountz and Kreiser;
553 Locust Street, Columbia, PA
17512.

Himalsbach, Charlene B., dec'd.

Late of East Hempfield Town-
ship.

Executrix: Angela L. Evans c/o
Gerald J. Brinser, P.O. Box 323,
Palmyra, PA 17078.

Attorney: Gerald J. Brinser, Es-
quire.

**Howard, Roger Lee a/k/a Roger
Lee Howard, Sr.**, dec'd.

Late of East Petersburg Bor-
ough.

Administrator: Nancy J. How-
ard c/o Young and Young, 44 S.
Main Street, P.O. Box 126, Man-
heim, PA 17545.

Attorney: Young and Young.

**Kalb, Elizabeth A. a/k/a Eliza-
beth Ann Kalb**, dec'd.

Late of Manheim Township.

Co-Executors: Kevin T. Kalb and
Deborah L. Chillot c/o Kevin
M. Richards, Esquire, P.O. Box
1140, Lebanon, PA 17042-1140.

Attorney: Kevin M. Richards,
Esquire.

Kunkle, William H., Jr., dec'd.

Late of Lancaster City.

Co-Executors: John H. Kunkle;
3906 Ridgeland Blvd., Mechan-
icsburg, PA 17050 and William
H. Kunkle, III; 9 Brian Drive,
Lititz, PA 17543.

Attorney: None.

Lapp, Nancy B., dec'd.

Late of Leacock Township.

Executors: Diane S. Shelly, Jane
L. Shifflet and Carol J. Miranda
c/o Good & Harris, LLP, 132

West Main Street, New Holland,
PA 17557.

Attorney: Good & Harris, LLP.

**Lapp, Susan Marie a/k/a Susan
M. Lapp**, dec'd.

Late of Leacock Township.

Executor: Thomas C. Lapp c/o
Blakinger Thomas, PC, 28 Penn
Square, Lancaster, PA 17603.

Attorneys: Blakinger Thomas,
PC.

Lefebvre, Gladys A., dec'd.

Late of Lancaster City.

Executor: Richard C. Lefebvre
c/o Paul C. Heintz, Esq., 1500
Market St., Ste. 3400, Philadel-
phia, PA 19102-2101.

Attorney: Paul C. Heintz, Es-
quire; Obermayer Rebmann
Maxwell & Hippel, LLP, Cen-
tre Square West, 1500 Market
St., Ste. 3400, Philadelphia, PA
19102-2101.

**Martin, Joy E. a/k/a Joy Eunice
Martin**, dec'd.

Late of the Township of Ephrata.

Executrix: Mary F. Leader c/o
Kathleen Krafft Miller, Russell,
Krafft & Gruber, LLP, 108 West
Main Street, Ephrata, PA 17522.

Attorney: Kathleen Krafft Miller.

Mast, Edna, dec'd.

Late of Denver Borough.

Executor: Eric L. Mast c/o Gard-
ner and Stevens, P.C., 109 West
Main Street, Ephrata, PA 17522.

Attorney: Kurt A. Gardner.

Meck, Norma F., dec'd.

Late of Manheim Township.

Executor: Gerald W. Meck c/o
Attorney J. Elvin Kraybill, P.O.
Box 5349, Lancaster, PA 17606.

Attorneys: Gibbel Kraybill & Hess LLP.

Megahan, Esther Harriet a/k/a Esther H. Megahan, dec'd.

Late of Manheim Township.
Executrix: Pamela Lynn Lewis c/o George H. Eager, Esquire, 1347 Fruitville Pike, Lancaster, PA 17601.
Attorneys: Eager, Stengel, Quinn, Sofilka & Babic.

Oberholtzer, Roma H., dec'd.

Late of East Cocalico Township.
Executrix: Jane L. Wenger c/o E. Richard Young, Jr., Esq., 1248 W. Main Street, Ephrata, PA 17522.
Attorney: E. Richard Young, Jr., Esquire.

Osborne, Robert J., III, dec'd.

Late of Millersville Borough.
Executor: Ethel Osborne c/o May Herr & Grosh, LLP, 234 North Duke Street, Lancaster, PA 17602.
Attorney: Bradley A. Zuke.

Owen, Ernest R. a/k/a Ernest Rufus Owen, Jr., dec'd.

Late of Quarryville Borough.
Executor: Sandra W. Owen c/o Nikolaus & Hohenadel, LLP, 303 West Fourth Street, Quarryville, PA 17566.
Attorney: Jeffrey S. Shank, Esquire.

Rankin, Gladys J., dec'd.

Late of Lancaster City.
Executor: David N. Rankin c/o Young and Young, 44 S. Main Street, P.O. Box 126, Manheim, PA 17545.
Attorney: Young and Young.

Reifsnnyder, Janice E., dec'd.

Late of Martic Township.
Executor: Troy Reifsnnyder c/o Law Office of Gretchen M. Curran, LLC, 18 East Penn Grant Road, Willow Street, PA 17584.
Attorney: Gretchen M. Curran.

Reighard, Clara J., dec'd.

Late of the Borough of Elizabethtown.
Executors: Shirley G. Byron and Theodore C. Reighard c/o Nikolaus & Hohenadel, LLP, 222 S. Market Street, Suite 201, Elizabethtown, PA 17022.
Attorney: Kevin D. Dolan, Esquire.

Rose, Jeanne Thomas, dec'd.

Late of West Lampeter Township.
Executor: PNC Bank, N.A. c/o Appel Yost & Zee LLP, 33 North Duke Street, Lancaster, PA 17602.
Attorney: James W. Appel.

Rothermel, Robert A., dec'd.

Late of Manheim Borough.
Executor: Sharon Funk c/o Young and Young, 44 S. Main Street, P.O. Box 126, Manheim, PA 17545.
Attorney: Young and Young.

Ruby, Vincent H. a/k/a Vincent Haines Ruby, dec'd.

Late of West Hempfield Township.
Executor: Vincent C. Ruby c/o Karl Kreiser, Esquire, 553 Locust Street, Columbia, PA 17512.
Attorney: Mountz and Kreiser; 553 Locust Street, Columbia, PA

17512.

Ryder, Harold L. a/k/a Harold L. Ryder, Sr., dec'd.

Late of Providence Township.
Executrix: Jamie L. Louthian
c/o Pyfer, Reese, Straub, Gray &
Farhat, P.C., 128 N. Lime Street,
Lancaster, PA 17602.
Attorney: Pyfer, Reese, Straub,
Gray & Farhat, P.C.

Sauder, Judith L., dec'd.

Late of West Cocalico Township.
Executors: Susan A. Templin,
David M. Sauder and Jeffrey L.
Sauder c/o Appel Yost & Zee
LLP, 33 N. Duke Street, Lan-
caster, PA 17602.
Attorney: James K. Noel, IV.

Schlotter, Arlene L. a/k/a Arlene Lula Schlotter a/k/a Arlene Lula Selm, dec'd.

Late of the Borough of Lititz.
Executors: David A. Schlotter,
Vicki Lynn Stewart and John G.
Schlotter, III c/o 2843 Route 6,
Gaines, PA 16921.
Attorney: None.

Schuck, Joan L., dec'd.

Late of Manor Township.
Personal Representative: Laura
E. Marks c/o John W. Metzger,
Esquire, 901 Rohrerstown Road,
Lancaster, PA 17601.
Attorneys: Metzger and Spencer,
LLP.

Shirk, Vera W., dec'd.

Late of Caernarvon Township.
Co-Executors: Sharon A. Zim-
merman and Lester Zimmerman
c/o Nicholas T. Gard, Esquire,
121 E. Main Street, New Hol-
land, PA 17557.

Attorney: Smoker Gard Associ-
ates LLP.

Snyder, Elizabeth C. a/k/a Elizabeth Caroline Snyder, dec'd.

Late of East Lampeter Township.
Executrix: Paula Fellenbaum
c/o Anthony P. Schimaneck,
700 North Duke Street, P.O.
Box 4686, Lancaster, PA 17604-
4686.
Attorney: Morgan, Hallgren,
Crosswell & Kane, P.C.

Spangler, Elwood S., dec'd.

Late of Paradise Township.
Co-Executors: Shane E. Spang-
ler and Sonya E. Rineer c/o
Appel Yost & Zee LLP, 33 North
Duke Street, Lancaster, PA
17602.
Attorney: Dana C. Panagopoulos.

Thoma, John, dec'd.

Late of Mountville.
Administrator: Timothy Thoma
c/o Covelli & Piscione Law Of-
fices, Natalie Piscione, Esquire,
357 Regis Avenue, Suite 1, Pitts-
burgh, PA 15236.
Attorney: Natalie Piscione, Es-
quire.

ARTICLES OF DISSOLUTION

Notice is hereby given that:
Born Ready, Inc.
a Pennsylvania corporation with
its registered business office at
349 Buck Road, Suite 3, Quar-
ryville, Pennsylvania, is now en-
gaged in winding up and settling
the business and affairs of said
corporation. The corporation will
file Articles of Dissolution with the
Commonwealth of Pennsylvania at

Harrisburg, Pennsylvania so that its existence shall be ended by the issuance of a Certificate of Dissolution by the Department of State, under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended. Any notices of claims should be mailed C/O the President at the above address.

Blakinger Thomas, PC

Attorneys

N-19

NOTICE IS HEREBY GIVEN THAT the Members of:

Fox Family Management
Company, LLC

a Pennsylvania Limited Liability Company, with an address at 105 N. Clay Rd., Lititz, PA 17543, have approved a proposal that the Limited Liability Company voluntarily dissolve, and that the Members are now engaged in winding up and settling the affairs of the Limited Liability Company under the provisions of Section 8871 of the Pennsylvania Uniform Limited Liability Company Act, as amended.

GIBBEL, KRAYBILL & HESS

Attorneys

N-19

ARTICLES OF INCORPORATION

HERITAGE ELECTRIC &
COMPANY INC.

has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988.

N-19

Notice is hereby given that Articles of Incorporation were filed

with the Department of the State of the Commonwealth of Pennsylvania, on September 2, 2021 with respect to a nonprofit corporation:

The Kreider Family
Foundation, Inc.

which has been incorporated under the Nonprofit Corporation Law of 1988.

N-19

Notice is hereby given that Articles of Incorporation were filed with the Department of State of Harrisburg, PA on October 18, 2021, incorporating:

Witmer Tax, Inc.

as a business corporation under the provisions of the Business Corporation Law of 1988, as amended.

Keith D. Wagner, Esquire

6 East Main Street, 2nd Floor
P.O. BOX 323

Palmyra, PA 17078

N-19

FICTITIOUS NAME NOTICE

Web Talent, LLC, 235 N. Prince St, 3rd Fl., Lancaster, PA 17573, did file in the Office of the Secretary of the Commonwealth of Pennsylvania, on or about November 3, 2021, registration of the name:

WTM Digital

under which it intend(s) to do business at 225 East Grant St., 1st Fl., Lancaster, PA 17603, pursuant to the provisions of the Act of Assembly of December 16, 1982, Chapter 3, known as the "Fictitious Name Act".

N-19

**MISCELLANEOUS LEGAL
NOTICE**

In the Court of Common Pleas of
Lancaster County, Pennsylvania

—
No. CI-21-06015
—

SUBURBAN LANCASTER SEWER
AUTHORITY

v.

ROBIN A. WELSH and FAITH A.
WELSH

—
TO: ROBIN A. WELSH and
FAITH A. WESLH

You are hereby notified that on August 30, 2021, Plaintiff Suburban Lancaster Sewer Authority filed a Writ of Scire Facias, endorsed with a Notice, against you in the Court of Common Pleas of LANCASTER County, Pennsylvania, docketed to No. CI-21-06015, wherein Plaintiff seeks judgment be entered in its favor and against Defendants Robin A. Welsh and Faith A. Welsh for sewer charges due against property located at 1551 Dunmore Drive, Lancaster, West Lampeter Township, Lancaster County, Pennsylvania based on your failure to pay an outstanding balance due as required by law.

You are hereby notified to plead to the above referenced Writ on or before 15 days from the date of this publication or a Judgment will be entered against you.

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 (15) days after this Writ and Notice are served by entering a written appearance personally or by attorney and filing in writing with

the court an affidavit of defense. 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 Writ 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. 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.

Lancaster Bar Association
Lawyer Referral Service
28 East Orange Street
Lancaster, PA 17602
Telephone: (717) 393-0737

Frank P. Mincarelli, Esq.

N-19

**NOTICE OF ACTION IN A
MORTGAGE FORECLOSURE**

In the Court of Common Pleas of
Lancaster County, Pennsylvania

Civil Action-Law

—
No. 21-05699
—

Wilmington Savings Fund Society,

FSB, not in its individual capacity, but solely as Owner Trustee of CSMC 2019-RPL11 Trust

v.

Lia Marinelli-Genardi

TO: Lia Marinelli-Genardi

You are hereby notified that on August 23, 2021, Plaintiff, Wilmington Savings Fund Society, FSB, not in its individual capacity, but solely as Owner Trustee of CSMC 2019-RPL11 Trust, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Lancaster County, Pennsylvania, docketed to No. 21-05699. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 35 Oak Hill Drive, Paradise, PA 17562, whereupon your property would be sold by the Sheriff of Lancaster County.

You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

Notice to defend: 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 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, TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

Lancaster Bar Association
Lawyer Referral Service
28 East Orange Street
Lancaster, PA 17602
Telephone: (717) 393-0737

N-19

**NOTICE OF PARENTAL RIGHTS
TERMINATION HEARING**

Court of Common Pleas
Lancaster County, Pennsylvania
Orphans' Court Division

Term No. 2664 of 2021
IN RE: AMELIA MOLINA

NOTICE

TO: MEGAN HAUPT

Notice is hereby given that the Lancaster County Children & Youth Social Service Agency has presented to Orphans' Court Division, Court of Common Pleas of Lancaster County, PA, a Petition for termination of any rights you have or might have concerning the child known as Amelia Molina, born on March 26, 2021. The Court has set a hearing to consider ending your rights to your

child. That hearing will be held in Courtroom No. 2 of the Lancaster County Courthouse, 50 North Duke Street, Lancaster, PA, on December 7, 2021, at 1:00 p.m. prevailing time. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the court without your being present. You have a right to be represented at the hearing by a lawyer. 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.

Lancaster Bar Association
Lawyer Referral Service
28 East Orange Street
Lancaster, PA 17602
717-393-0737

**NOTICE REQUIRED BY ACT
101 OF 2010 - 23 Pa. C.S.
§§2731-2742**

You are hereby informed of an important option that may be available to you under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact with your child following an adoption.

Lancaster County Children &
Youth Social Service Agency
150 North Queen Street
Lancaster, PA 17603
(717) 299-7925

N-12, 19

Court of Common Pleas
Lancaster County, Pennsylvania
Orphans' Court Division

Term No. 2938 of 2021

IN RE: TROY JAMESON
HINCKLEY

NOTICE

TO: UNKNOWN FATHER

Notice is hereby given that the Lancaster County Children & Youth Social Service Agency has presented to Orphans' Court Division, Court of Common Pleas of Lancaster County, PA, a Petition for termination of any rights you have or might have concerning the child known as TROY JAMESON HINCKLEY, born on October 4, 2020. The Court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. 2 of the Lancaster County Courthouse, 50 North Duke Street, Lancaster, PA, on December 7, 2021, at 8:30 a.m. prevailing time. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the court without your being present. You have a right to be represented at the hearing by a lawyer. 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.

Lancaster Bar Association
Lawyer Referral Service
28 East Orange Street
Lancaster, PA 17602
717-393-0737

**NOTICE REQUIRED BY ACT
101 OF 2010 - 23 Pa. C.S.
§§2731-2742**

You are hereby informed of an important option that may be

available to you under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact with your child following an adoption.

Lancaster County Children & Youth Social Service Agency
150 North Queen Street
Lancaster, PA 17603
(717) 299-7925

N-12, 19

SUITS ENTERED

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

November 4, 2021
to November 9, 2021

ADVANCED LASER PRINTER, RISSER, VERONICA; Ally Bank; 07762; Kelleher

ANKNEY, RANDALL; Discover Bank; 07719; Nolan

ATLAND, MICHAEL P.; Palisades Collection, LLC; 07715; Ratchford

BARBER, JEANETTE; Jefferson Capital Systems, Inc.; 07707; Polas

BOTTNER, BRIAN; On Deck Capital, Inc.; 07838; Santucci

BROWN, ALEXIS D.; Pennsylvania State Employees Credit Union; 07808; Urban

CINCINNATI LIFE INSURANCE COMPANY; PeachTree Settlement Funding, LLC; 07798; Maro

COCALICO AREA SCHOOL DISTRICT; H.L.; 07848; Schnee

DUCKWORTH, JOHN C.; Portfolio Recovery Associates, LLC; 07739; Goodchild

FISHER, BRIAN K.; Portfolio Recovery Associates, LLC; 07741; Goodchild

GN MANAGEMENT, INC., ESH

LAWN CARE, LLC; Andrew M. Miller; 07725; Larsen

GREENE, CHRISTOPHER B.; Commerce Bank; 07709; Ratchford

HILLSIDE ACQUISITIONS GROUP, LLC, CAMPBELL SOUP COMPANY, PEPPERIDGE FARM INCORPORATED; Cincinnati Insurance Company; 07780; Miscioscia

JEFFREY, SIDNEY; LVNV Funding, LLC; 07737

JOHNSON, JAMES; Discover Bank; 07730; Lipinski

KING, KENNETH A.; Eric J. Summy; 07827

LUDWIG, JEFFREY S., LUDWIG, MICHELLE R., LUDWIGS CUSTOM AUTO; Fred Tugend; 07746; Savoca

MARTINEZ, JOHN; Donegal Mutual Insurance Company; 07809; Einhorn

METROPOLITAN GROUP PROPERTY AND CASUALTY INSURANCE COMPANY; Sheila Thomas; 07776; Veronis

MORGAN, TIM; Baxter Credit Union; 07751; Flink

PALADE, MIOARA; Capital One Bank (USA), N.A.; 07788; Ratchford

PERME, DAVID F., PERME, GRANT D.; Deborah Landry; 07726; O'Neil

REGIONAL GASTROENTEROLOGY ASSOCIATES OF LANCASTER, LTD, US DIGESTIVE HEALTH, HORWHAT, JOHN D.; Christian Endrizzi; 07740; Millman

RODRIGUEZ, ALEXEI; Cavalry SPV I, LLC; 07754; Claffey

ROSAS, RACHAEL R.; JPMorgan Chase Bank, N.A.; 07781; Zion

SCHEID, JOSELIN Prince Street Properties, LLC; 07786; Houck

SCHIAVO, ANTHONY; Velocity

Investments, LLC; 07792; Ratchford

SINGER, JASON M.; Jason D. Maynard; 07718; Rankin

SOUTH SIDE AUTO AND TRUCK WORX, LLC; Nafiz Petty; 07775; Parrish

STOLTZFUS, DWIGHT, DSL TRUCKING, LLC; On Deck Capital; 07840; Santucci

TALCOTT RESOLUTION LIFE INSURANCE COMPANY; J.G. Wentworth Originations, LLC; 07803; Maro

WALBERT TRUCKING, INC., KRAMER, LANCE RYAN; Matthew Aungst; 07742; May

WALTON, SARA BETH; Suntrust Bank; 07712; Ratchford

WARNER, ROSEE; First National Bank of Omaha; 07765; Raker

WENGER, AMANDA; Daisy Andino; 07743; Rankin

WIEDRICH, STEEL C.; UHG I, LLC; 07819; Dougherty

WITMER, ELLEN; Olga Tolbert; 07769; McDonald

Please join us for a

Retirement Reception

HONORING

*Judge Howard F. Knisely
and
Judge Donald R. Totaro*

Thursday | December 16, 2021 | 4:30 - 6:30pm
Lancaster Bar Association, 28 E. Orange St., Lancaster

LANCASTER BAR ASSOCIATION
INVITES
LBA MEMBERS + THEIR STAFF



A N N U A L

HOLIDAY

PARTY

THURSDAY DECEMBER 9 | 4:30-6:30

YORGO'S RESTAURANT
66 NORTH QUEEN STREET, LANCASTER, PA
2ND & 3RD FLOORS + BUBBLE TENTS ON THE DECK

RSVP TO EMMA@LANCASTERBAR.ORG

POTOMAC.LEGAL

PA MD DC FED

David E. Kindermann, Esquire

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