

# FAYETTE LEGAL JOURNAL

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## FAYETTE LEGAL JOURNAL

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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

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*Executor:* Jerome W. Shell, Jr.  
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*Attorney:* Charity Grimm Krupa

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*Administrator:* Harold D. Trout  
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LOUISE YAKUBEC, a/k/a PATRICIA  
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*Executrix:* Yvonne Rafter  
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*Attorney:* Vincent J. Roskovensky, II

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**WILMA JUNE ANSELL, a/k/a WILMA J. ANSELL**, late of Dawson, Fayette County, PA (2)

*Co-Executors:* John Phillips and Jeffrey A. Phillips  
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c/o Donald McCue Law Firm, P.C.  
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*Attorney:* Donald J. McCue

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*Personal Representative:* David E. Walls  
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*Attorney:* Charity Grimm Krupa

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WHYEL**, late of Markleysburg, Fayette County,  
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*Executrix:* Pamela S. Whyel  
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## First Publication

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Township, Fayette County, PA (1)

*Executrix:* Lynn R. Abraham  
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**CAROL C. BAKOS, a/k/a CAROL  
CECELIA BAKOS**, late of Perryopolis, Fayette  
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*Attorney:* Jennifer M. Casini

**RONALD D. BAKOS, a/k/a RONALD  
BAKOS**, late of Perryopolis, Fayette County,  
PA (1)

*Executor:* Ronald S. Bakos  
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*Attorney:* Jennifer M. Casini

**HARVEY D. GOLDBLUM, a/k/a DAVID  
GOLDBLUM, a/k/a HARVEY DAVID  
GOLDBLUM**, late of Dunbar Township,  
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*Personal Representative:*  
Judith A. Goldblum  
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*Attorney:* Timothy J. Witt

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*Administrator:* Lori Cunningham  
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**RICHARD RIGGIN**, late of Dawson, Fayette  
County, PA (1)

*Executor:* Robert G. Prinkey, Jr.  
158 Spring Grove Church Road  
Dawson, PA 15428

c/o 257 Driftwood Road  
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 Attorney: William Worthington

**JAMES F. WHETSEL, JR., a/k/a JAMES FRANKLIN WHETSEL**, late of Bullsclin Township, Fayette County, PA <sup>(1)</sup>  
*Personal Representative:* Scott J. Whetsel  
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 720 Vanderbilt Road  
 Connellsville, Pa 15425  
 Attorney: Timothy J. Witt

## LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF  
 FAYETTE COUNTY, PENNSYLVANIA  
 CIVIL ACTION - LAW  
 NO. 53 OF 2022, G. D.

**SHEILA PETERSON,**  
 Plaintiff,  
 Vs.  
**JEANNE L. MOORE,**  
 Defendant.

**NOTICE TO DEFENDANT,**  
**JEANNE L. MOORE**

You have been named as a defendant in a custody action instituted by plaintiff, Sheila Peterson, against you in this Court. Plaintiff alleges in the Complaint in Ejection immediate and exclusive possession of the property at 1304 Hawthorn Street, Connellsville, Fayette County, Pennsylvania, Tax Parcel Number 06-02-0111, be granted to plaintiff, Sheila Peterson.

The service of this Complaint by publication is made pursuant to an Order of Court dated February 22, 2022 and filed at the above term and number.

You are hereby notified to plead to the Complaint in this action of which the above is a brief summary within twenty (20) days from today.

**You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a**

**judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.**

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW.**

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By: David D. Tamasy, Esquire  
 Watson Mundorff, LLP  
 720 Vanderbilt Road  
 Connellsville, PA 15425  
 Phone: 724-626-8882

### Articles of Incorporation

Poly Technologies, Inc., hereby gives notice that on February 7, 2022, Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, effective October 1, 1989, as amended. The purpose for which the corporation is to be organized is for polymer services.

### CERTIFICATE OF ORGANIZATION Limited Liability Company

Notice is hereby given that a Certificate of Organization was filed with the Department of State of the Commonwealth of Pennsylvania, for a limited liability company formed under the Limited Liability Company Law of 1994. The name of the company is 201 Mini Storage, LLC.

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IN THE COURT OF COMMON PLEAS OF  
GREENE COUNTY, PENNSYLVANIA  
CIVIL DIVISION  
A.D. No.651 of 2021

**MARY JANE GRIM, Administratrix of the  
Estate of Gladys Sanders a/k/a Gladys L.  
Sanders,**  
**Plaintiff,**  
**v.**  
**Fleet Consumer Discount Company,**  
**its successors and assigns,**  
**Defendants.**

**NOTICE**

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

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Court Administrator  
2nd Floor, Greene County Courthouse  
Waynesburg, PA 15370  
PHONE: (724) 852-5237

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# **WARMAN ABSTRACT & RESEARCH LLC**

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**JUDICIAL OPINION**

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

COMMONWEALTH OF :  
 PENNSYLVANIA :  
 v. :  
 LEONARD KARPEL, JR., : No. 2007 of 2020  
 Defendant. : Honorable Linda R. Cordaro

**OPINION**

Linda R. Cordaro, J.

February 16, 2022

**SUMMARY**

Currently before this Court is Defendant's Omnibus Pretrial Motion for suppression of evidence as the result of an illegal search of the Defendant's vehicle and person. The Defendant is charged with Driving While BAC .02 or Greater While License Suspended under 75 Pa.C.S.A § 1543(B)(1)(1.1); Intentional Possession of Controlled Substance under 35 Pa.C.S.A § 780- 113(A)(16); and Use/Possession of Drug Paraphernalia under 35 Pa.C.S.A § 780-113(A)(32). There is no objection to the validity of the initial traffic stop and the charge under § 1543(B).

**BACKGROUND**

According to testimony at the December 15, 2021 hearing on Defendant's Omnibus Pretrial Motion, on June 16, 2020, Pennsylvania State Trooper Anthony Vittone was in his marked police vehicle when he saw a black Honda Civic operated by the Defendant. Trooper Vittone knew the Defendant's license had been suspended. Based on this knowledge, he executed a traffic stop. The trooper testified that the Defendant appeared to be anxious, shifting in his seat, and unable to maintain eye contact. The trooper had previously encountered the Defendant during a traffic stop earlier in the year and testified that the Defendant's behavior on June 16 was very different from how he had acted previously. Trooper Vittone testified that, during the previous encounter, he and the Defendant had discussed the Defendant's narcotic use. The difference in the Defendant's behavior now, combined with the prior conversation, led the trooper to ask the Defendant for permission to search his vehicle. The Defendant consented to the search.

Trooper Vittone then asked the Defendant to exit the vehicle and informed the Defendant that he would conduct a pat-down search for weapons. During the pat-down, the trooper felt a bulge in the Defendant's front pants pocket which he deemed to be consistent with packaging of narcotics, and he asked the Defendant for consent to retrieve the item. The item was a small plastic bag containing a white powder which appeared to be cocaine. The search of Defendant's vehicle resulted in discovery of a metal scale on the front passenger seat.

Video-only MVR footage of the stop was admitted into evidence at the Omnibus Pretrial Motion Hearing.

### DISCUSSION

At issue in this case are two searches: the search of the Defendant's vehicle and the pat-down search of the Defendant's person. Each requires a distinct analysis within the overall context of a traffic stop.

A police officer needs only reasonable suspicion that a violation of traffic law is occurring or has occurred to justify stopping a vehicle "for the purpose of checking the vehicle's registration, proof of financial responsibility, vehicle identification number or engine number or the driver's license, or to secure such other information as the officer may reasonably believe to be necessary to enforce the provisions of this title." 75 Pa.C.S. § 6308(b). "An officer's inquiries into matters unrelated to the justification for the traffic stop, this Court has made plain, do not convert the encounter into something other than a lawful seizure, so long as those inquiries do not measurably extend the duration of the stop." *Arizona v. Johnson*, 555 U.S. 323, 333 (2009) (emphasis added).

In Pennsylvania, both probable cause and exigent circumstances must exist before police can conduct a warrantless search of a vehicle. *Commonwealth v. Alexander*, 243 A.3d 177, 207 (Pa. 2020). A warrantless search is deemed to be unreasonable unless there exists an established exception, such as voluntary consent to a search. *Commonwealth v. Strickler*, 757 A.2d 884, 888 (Pa. 2000). Nevertheless, a traffic stop is still subject to the limitations of the justification for it, and so there must be at least reasonable suspicion of criminal activity to justify an officer's request to search a vehicle when that search would expand the stop beyond its scope. Therefore, a driver's consent to a search does not necessarily mean the search is legal. "Where the encounter is a valid one, voluntariness becomes the sole focus; where, however, an illegal seizure precedes the consent search, the Commonwealth must also establish a break in the causal connection between the illegality and the evidence thereby obtained." *Com. v. Freeman*, 757 A.2d 903, 906 (Pa. 2000).

The exclusionary rule functions as a "judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect." *United States v. Leon*, 468 U.S. 897, 906 (1984). However, the rule only prohibits illegally-obtained evidence from being used against a Defendant; it does not, and cannot, "cure the invasion of the defendant's rights which he has already suffered." *Id.* (internal quotation marks and citation omitted).

The initial justification for Trooper Vittone to execute a traffic stop of the Defendant on June 16, 2020 was his knowledge that the Defendant's license had been suspended. It is not clear from the record whether the trooper had reason to be certain that the suspension was still in effect before he executed the stop. However, the scope of the stop is clear; it should have taken the span of time needed to perform the checks authorized under 75 Pa.C.S. § 6308(b) and then to take relevant and appropriate action (citation, warning, impound the vehicle, etc.).

Trooper Vittone testified that during the stop, the Defendant was shifting in his seat

and did not maintain eye contact during the encounter, and that such behavior was different from what the trooper had seen before. This, combined with a prior conversation about the Defendant's narcotic use, led the trooper to ask the Defendant for permission to search the vehicle. However, reasonable suspicion requires that "the detaining officer must be able to articulate something more than an inchoate and unparticularized suspicion or hunch." *Com. v. Jefferson*, 256 A.3d 1242, 1248-49 (Pa. Super. Ct. 2021), quoting *United States v. Sokolow*, 490 U.S. 1, 7 (1989). Here, it is unclear from the facts what crime or crimes the trooper suspected. There were no drugs or paraphernalia in plain view {1} nor did the trooper describe the Defendant's appearance as implying active drug use (e.g., glassy or bloodshot eyes, constricted pupils). The sum total of factual support consists of unusually nervous behavior (from an individual that had just been caught driving on a suspended license) and a prior conversation. Trooper Vittone may have had a hunch that something may be amiss, but this alone is not reasonable suspicion of a crime. Therefore, it was not enough to justify asking the Defendant to allow a search of his vehicle, and so this constitutes an illegal seizure by extending the traffic stop without adequate justification. Since there is no break in the causal chain between this illegality and the discovery of evidence, even though the Defendant consented to the search of the vehicle, the continued detention was illegal and any evidence obtained from it should be suppressed.

As to the search of the Defendant's person, to justify the pat-down of a driver during a traffic stop, "the police must harbor reasonable suspicion that the person subjected to the frisk is armed and dangerous." *Arizona*, 555 U.S. at 327 (2009). When considering whether reasonable suspicion exists for the stop itself, the encounter is evaluated under totality of the circumstances, including consideration for a "police officer's own observations, knowledge and experience," tempered with mindfulness that an officer's judgment "is necessarily colored by his or her primary involvement in the often competitive enterprise of ferreting out crime." *Commonwealth v. Brame*, 239 A.3d 1119, 1131 (Pa. Super. Ct. 2020) (citation omitted). A court must give weight to the "specific reasonable inferences" an officer makes based on the facts and his experience. *Commonwealth v. Conrad*, 892 A.2d 826, 829 (Pa. Super. Ct. 2006) (citation omitted). Just as the reasonableness of a traffic stop must be based upon the totality of circumstances, so should the reasonableness of an officer's belief that a driver is armed and dangerous.

Here again, the totality of circumstances includes Trooper Vittone's prior encounter with the Defendant. Trooper Vittone testified that, during that previous traffic stop, the two had discussed the Defendant's work in construction and home repair. At that time, the trooper observed knives with retractable blades inside the Defendant's vehicle. Based on his knowledge from that prior interaction and, knowing that construction and home repair workers often carry knives or box cutters on their person, Trooper Vittone inferred that the Defendant could have had such a knife on his person during the June 16, 2020 traffic stop.

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{1} A metal scale was discovered after the vehicle search.

Even setting aside the fact that the Defendant had been asked to exit his vehicle pursuant to an unconstitutional request to search, there is insufficient factual support to justify a reasonable suspicion that the Defendant was armed and dangerous. The trooper had seen knives in the Defendant's vehicle previously, but he saw none in the Defendant's vehicle during the June 16 stop. The trooper simply knew that they had been in vehicle before, and this led him to guess that the Defendant might have one on his person now. However, there was no basis on which to reasonably suspect the Defendant actually was armed, much less to suspect he was dangerous. The pat-down of the Defendant was an unconstitutional violation and so any fruits thereof shall be suppressed.

The Motion with respect to the illegality of the vehicle search and the pat-down search is GRANTED. The charges under 35 Pa.C.S.A. § 780-113(A)(16) and § 780-113(A)(32) are hereby DISMISSED.

BY THE COURT:  
LINDA R. CORDARO, JUDGE

ATTEST:  
Clerk of Courts





**BAR BANQUET SAVE-THE-DATE**



Fayette County Bar Association  
Bar Banquet

Friday, April 29th  
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