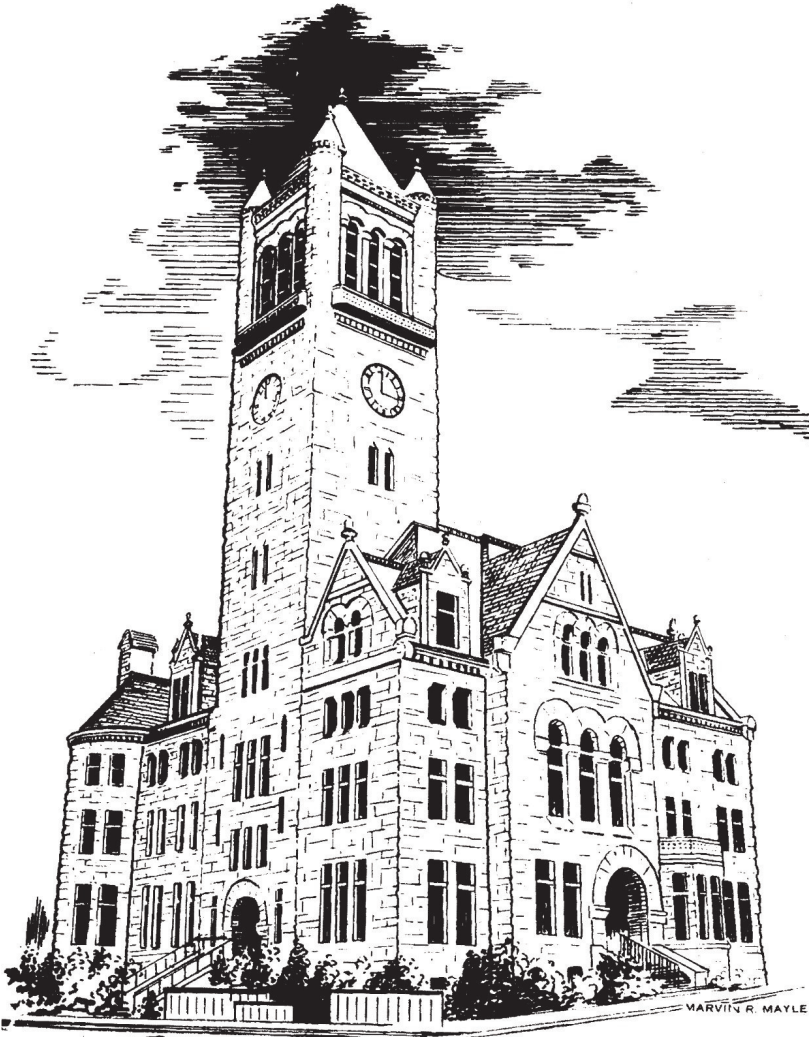


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ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

WILLIAM JOSEPH HUBBARD, late of Uniontown, Fayette County, PA (3)

Executrix: Barbara Keefer
2016 Revere Drive
Connellsville, PA 15425
Attorney: Emilie J. Cupp, Esquire
2 West Main Street, Suite 517
Uniontown, PA 15401-3403

JOHN F. NICHOLSON JR., late of Upper Tyrone, Fayette County, PA (3)

Administrator: Jody L. Nicholson
c/o Carolyn W. Maricondi
P.O. Box 760
Connellsville PA 15425
Attorney: Carolyn W. Maricondi

ROBERT NICKLOW, A/K/A ROBERT E. NICKLOW, SR., late of Springhill Township, Fayette County, PA (3)

Personal Representative:
Linda Leota Nicklow Headley
c/o John A. Kopas, III, Esquire
556 Morgantown Road
Uniontown, PA 15401
Attorney: John A. Kopas, III

JOSEPH D. RIMEL, late of Lower Tyrone, Fayette County, PA (3)

Personal Representative: Joseph E. Rimel
c/o Richard A. Husband Esquire LLC
Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

Second Publication

YOLANDA TRAFECANTY, A/K/A YOLANDA ANN TRAFECANTY, late of South Connellsville Boro, Fayette County, PA(2)

Personal Representatives: Mary Ann Osniak and Susan Trafecanty Powell
c/o Richard A. Husband, Esquire
Riverfront Professional Center
208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard A. Husband

First Publication

MARGARET A. BOTTI, late of South Union Township, Fayette County, PA (1)

Administrator: Albert J. Botti
c/o Monaghan & Monaghan
57 East Main Street
Uniontown, PA 15401
Attorney: Louise D. Monaghan

HELEN D. BRAZNOK, late of Redstone Township, Fayette County, PA (1)

Personal Representative:
Rose Marie Vrelab
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

MARY KOSISKO, A/K/A, MARY L. KOSISKO, late of Connellsville, Fayette County, PA (1)

Executor: Douglas Kosisko
c/o P.O. Box 760
Connellsville PA 15425
Attorney: Carolyn W. Maricondi

DORIS KOVALIK, A/K/A DORIS I. KOVALIK, late of Redstone Township, Fayette County, PA (1)

Personal Representative: Carol L. Girolami
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

GEORGE M. PEPPER, late of Markleysburg,
Henry Clay Township, Fayette County, PA (1)
Executor: Bryon G. Pepper
298 Martin Road
Markleysburg, PA 15459
c/o J. Ronald Bruzda
22 Highhouse Street
Smithfield, PA 15459

SHERIFF'S SALE

Date of Sale: March 10, 2016

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, March 10, 2016, at 10:30 a.m. in the Hallway outside the Sheriff's Office 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. (1)

James Custer
Sheriff Of Fayette County

STERN & EISENBERG PC
Edward J. McKee, Esquire
No. 1804 of 2015 GD
No. 440 of 2015 ED

U.S. Bank National Association, as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2005- EFC4 c/o Ocwen Loan Servicing LLC,
Plaintiff,
vs.
Stella Marie Batten,
Defendant.

SITUATE IN GEORGES TOWNSHIP,
FAYETTE COUNTY, PENNSYLVANIA,
BEING KNOWN AS 54 2nd STREET,
UNIONTOWN, PA 15401
PARCEL NO. 14-16-0046
IMPROVEMENTS - RESIDENTIAL
REAL ESTATE
SOLD AS THE PROPERTY OF- STELLA
MARIE BATTEN

No. 2108 of 2015 GD
No. 433 of 2015 ED

JPMorgan Chase Bank, National Association,
Plaintiff,
vs.
David F. Baus and Jessica E. Baus,
Defendants.

COMMONLY KNOWN AS: 110 Whyel
Avenue, Uniontown, PA 15401
TAX PARCEL NO. 25-22-0162-01

BERNSTEIN-BURKLEY, P.C.
(412) 456-8100

No. 1723 of 2015 GD
No. 436 of 2015 ED

ELDERTON STATE BANK,
Plaintiff,
vs.
CHRIS A. CASAGRANDE,
Defendant.

Address: 111 Clay Street, Perryopolis, PA
15473

Debt: \$395,108.86

Legal Description: ALL that certain piece or parcels of land situate in Perry Township, Fayette County, Pennsylvania, having erected thereon a commercial structure.

Tax Parcel # 27-10-0075-04 & 27-10-0075

No. 2036 of 2015 GD

No. 420 of 2015 ED

U.S. Bank National Association, as Indenture Trustee for Springleaf Mortgage Loan Trust 2012-3,

Plaintiff,

vs.

Howard D. Cropp,

Defendant.

ALL THAT CERTAIN parcel of land situate in Menallen Township, Fayette County, Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a stake in line of lands now or formerly of Austin Woodward and on the north side of the public road leading from New Salem Road to Uniontown; thence along the north side of the said road, South 84° 36' East, 210 feet to a stake in line of lands now or formerly of Earl Fisher; thence by lands of said Fisher, North 21° 50' East 216.2 feet to a stake; thence North 84°36' West, 2 10 feet along property now or formerly of Dell Hickle to a stake in line of lands of the said Austin Woodward; thence by line of lands of said Woodward South 21° 50' West 216.2 feet to the place of beginning, containing one acre.

UNDER AND SUBJECT to all exceptions, reservations, easements, rights of way etc., as appear in prior instruments of record.

BEING PARCEL #22-21-139

COMMONLY KNOWN AS: 344 New Salem Road, Uniontown, PA 15401

TAX PARCEL NO. 22-21-0139

Phelan Hallinan Diamond & Jones, LLP

No. 1802 of 2013 GD

No. 417 of 2015 ED

Bank of America, N.A.,

Plaintiff,

v.

Greg W. Ferrence and Gail R. Richardson,

Defendants.

By virtue of a Writ of Execution No. 1802 OF 2013 GD, Bank of America, N.A. v. Greg W.-Ferrence Gail R Richardson, owner(s) of property situate in the WASHINGTON TOWNSHIP, Fayette County, Pennsylvania, being 1238 Linn Drive, Belle Vernon, PA 15012 -2449

Parcel No.: 41-02-0028

Improvements thereon: RESIDENTIAL DWELLING

No. 2370 of 2014 GD

No. 441 of 2015 ED

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

NELLIE I. GREGG

Defendant.

All that certain parcel of land in Luzerne Township as follows:

That part of Lot No. 96 lying northeast of the center line of Maxwell Ave.

That part of Lot No. 97 lying northeast of the center line of Maxwell Ave.

That part of Lot No.95 lying northeast of the center line of Maxwell Ave.

That part of Lots No. 96 and 97 lying southwest of the center line of Maxwell Ave. all as shown in a plan of lots recorded by John W. Gailbreath d/b/a John W. Galbreath & Co. in the Recorder's Office of Fayette County Pennsylvania, in Plan Book Volume 9, Page 43.

BEING THE SAME PREMISES which Daryl W. Gregg, Sr., by Deed dated 08/26/2008 and recorded 10/10/2008 in the Office of the Recorder of Deeds in and for Fayette County in Deed Book Volume 1998-1, Page 102902, granted and conveyed unto Nellie I. Gregg and Daryl W. Gregg, Sr. And said Daryl W. Gregg, Sr. departed this life on 12/31/2010, vesting the

title solely in Nellie I. Gregg by rights of survivorship.

BEING KNOWN AS: 751 MAXWELL AVENUE, LA BELLE, PA 15450
PARCEL # 19-04-0066

Phelan Hallinan Diamond & Jones, LLP

No. 1037 of 2015 GD
No. 438 of 2015 ED

Citifinancial Servicing LLC,

Plaintiff,
vs.

Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right, Title or Interest From or Under Betty Jane Harshman, Deceased,
Defendant(s).

By virtue of a Writ of Execution No. 1037-2015 Citifinancial Servicing LLC vs. Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right, Title or Interest From or Under Betty Jane Harshman, Deceased, owner(s) of property situate in the DUNBAR TOWNSHIP, Fayette County, Pennsylvania, being 1206 Maple Street, Dickerson Run, PA 15430

Parcel No.: 09-03-0050

Improvements thereon: RESIDENTIAL DWELLING

No. 115 of 2015 GD
No. 442 of 2015 ED

21st MORTGAGE CORPORATION,
successor to Vanderbilt Mortgage & Finance Inc., assignee of Chase Manhattan Bank, USA, N.A., assignee of Tammac Financial Corporation , assignee of Tammac Corp.,
Plaintiff,

vs.

DAVID W. INMAN, as Mortgagor and Real Owner,
Defendant.

ALL that certain piece or parcel of land situate in Jefferson Township, Fayette County, Pennsylvania, having an address of 118 Francis Road, Perryopolis, PA . CONTAINING an area of 1 acre.

PARCEL ID NUMBER: 17-08-0048

BEING THE SAME PREMISES which

Howard W. Inman and Shirley A. Inman, husband and wife, by Deed dated June 15, 1999 and recorded on June 24, 1999, in the Office for the Recording of Deeds in and for the County of Fayette, at Deed Book Volume 2349, Page 33, granted and conveyed unto David W. Inman, unmarried, his heirs and assigns.

No. 2077 of 2015 GD
No. 435 of 2015 ED

cfsbank F/K/A CHARLEROI FEDERAL SAVINGS BANK,

Plaintiff,
vs.

JOHN R. SUMEY and RACHEL D. KINNEER,
Defendants.

ALL that certain parcel of land situate in the Borough of Vanderbilt, County of Fayette and Commonwealth of Pennsylvania, being known and designated as Lot No. 56 in the West Vanderbilt Plan, said Plan recorded in the Recorder's Office of Fayette County, Pennsylvania in Plan Book Volume 1, page 182.

Being also known as Tax Parcel ID No. 40-01-0024.

Phelan Hallinan Diamond & Jones, LLP

No. 3643 of 2008 GD
No. 427 of 2015 ED

Deutsche Bank National Trust Company, as Trustee Forgsamp Trust 2002-Wf, Mortgage Pass-Through Certificates, series 2002-Wf,

Plaintiff,
vs.

Joanne M. Kushnar,
Defendant.

By virtue of a Writ of Execution No.3643 OF 2008 GD, Deutsche Bank National Trust Company, as Trustee Forgsamp Trust 2002-Wf, Mortgage Pass-Through Certificates, series 2002-Wf vs. Joanne M. Kushnar, owner of property situate in the Fayette County, Pennsylvania, being 403 Cook Street, Fayette City, PA 15438-1210

Parcel No.: 12-03-0194

Improvements thereon: RESIDENTIAL DWELLING

McCABE, WEISBERG & CONWAY, P.C.
 123 South Broad Street, Suite 1400
 Philadelphia, Pennsylvania 19109
 (215) 790-1010

No. 1365 of 2015 GD
 No. 423 of 2015 ED

Green Tree Servicing LLC,

Plaintiff,

Vs.

Samantha Leska and Paul Leska,
Defendants.

All that certain piece or parcel or Tract of land situate Boro of Perryopolis, Fayette County, Pennsylvania, and being known as 210 Union Street, Perryopolis, Pennsylvania 15473.

Being known as: 210 Union Street, Perryopolis, Pennsylvania 15473

Title vesting in Samantha Leska and Paul Leska, husband and wife, by deed from Joseph Vayansky, Single dated April 22, 2004 and recorded April 29, 2004 in Instrument Number 200400006714.

Tax Parcel Number: 28-9-157

KML Law Group, P.C.
 Suite 5000 - BNY Independence Center
 701 Market Street
 Philadelphia, PA 19106
 215-627-1322

No. 2480 of 2014 GD
 No. 440 of 2015 ED

GREEN TREE SERVICING LLC

345 St Peter Street
1100 Landmark Towers St Paul, MN 55102,
Plaintiff,

vs.

MATTHEW B. MCKINSEY and KELLI R PHILLIPS,
Mortgagor(s) and Record Owner(s)
196 Churchill Road
Dunbar, PA 15431,
Defendant.

ALL THAT CERTAIN piece, parcel or tract of land situate in the Dunbar Township, County of Fayette and Commonwealth of

Pennsylvania.

TAX PARCEL #09-31-0180

PROPERTY ADDRESS: 196 Churchill Road Dunbar, PA 15431

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF: MATTHEW B. MCKINSEY and KELLI R PHILLIPS

No. 341 of 2013 GD
 No. 422 of 2015 ED

BAYVIEW LOAN SERVICING LLC

Plaintiff,

vs.

MICHAEL N. MILLER and SHANNON P. MILLER,
Defendants.

ALL THAT CERTAIN land situated in the State of PA, County of Fayette, City of Confluence.

BEING THE SAME PREMISES which Bernice D. Reckner, surviving spouse of Stephen E. Reckner, by Deed dated February 4, 2005 and recorded February 10, 2005 in the Office of the Recorder of Deeds in and for Fayette County in Deed Book Volume 2935, Page 1073, granted and conveyed unto MICHAEL N. MILLER and SHANNON P. MILLER, husband and wife.

BEING KNOWN AS: 1523 SUGAR LOAF ROAD, CONFLUENCE , PA 15424-1917

PARCEL #16-05.0059

KML Law Group, P.C.
Suite 5000 - BNY Independence Center
701 Market Street
Philadelphia, PA 19106
215-627-1322

No. 1456 of 2015 GD
No. 437 of 2015 ED

**THE BANK OF NEW YORK MELLON
FKA THE BANK OF NEW YORK AS
TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWABS,
INC., ASSET BACKED NOTES, SERIES
2004-SD4**

**55 Beattie Place, Suite 110
Greenville, SC 29601,**

**Plaintiff,
vs.**

**ROBERTS A. MYERS and ERIN L MYERS
a/k/a ERIN L. BIRMINGHAM,
Mortgagor(s) and Record Owner(s)
188 Snuff Ridge Road
New Salem, PA 15468,
Defendants.**

ALL THAT CERTAIN parcel of ground
situate in the Township of Menallen, County of
Fayette and Commonwealth of Pennsylvania.

TAX PARCEL #22-04-0032-01

PROPERTY ADDRESS: 188 Snuff Ridge
Road New Salem, PA 15468

IMPROVEMENTS: A residential
dwelling.

SOLD AS THE PROPERTY OF:
ROBERTS A. MYERS and ERIN L MYERS
a/k/a ERIN L. BIRMINGHAM

No. 436 of 2015 GD
No. 414 of 2015 ED

**Wells Fargo Bank, NA,
Plaintiff,**

vs.

**Kristoffer M. Pechatsko,
Defendant.**

ALL that certain parcel of land lying and
being situate in the Borough of Masontown,
County of Fayette, and Commonwealth of
Pennsylvania, known as 210 North Main Street,
Masontown, PA 15461 having erected thereon a
dwelling house.

Being known and designated as Tax ID
No.: 21-07-0337

BEING the same premises which Carol M.
Guthrie and Harry Guthrie, her husband and
Gerald A. Cunningham and Christine M.
Cunningham, his wife, by Deed dated August
24, 2007 and recorded in and for Fayette
County, Pennsylvania in Deed Book 3037, Page
542, granted and conveyed unto Kristoffer M.
Pechatsko, unmarried.

McCABE, WEISBERG & CONWAY, P.C.
123 South Broad Street, Suite 1400
Philadelphia, Pennsylvania 19109
(215) 790-1010

No. 1364 of 2015 GD
No. 412 of 2015 ED

**EverBank,
Plaintiff,
vs.**

**Wanda J. Puza, Administratrix of the Estate
of Keith E. Puza, Deceased Mortgagor and
Real Owner,
Defendant.**

All that certain piece or parcel or Tract of
land situate Henry Clay Township, Fayette
County, Pennsylvania, and being known as
336 Dinnerbell Ohiopyle, Farmington,
Pennsylvania 15437.

Being known as: 336 Dinnerbell Ohiopyle,
Farmington, Pennsylvania 15437

Title vesting in Keith E. Puza, by Deed
from M and P Construction Co., Inc. dated
December 5, 2002 and recorded December 6,
2002 in Deed Book 2482, Page 2468. The said
Keith E. Puza died on September 5, 2014.
Letters of Administration were granted unto
Wanda J. Puza, Administratrix of the Estate of
Keith E. Puza, Deceased Mortgagor and Real
Owner, by Operation of Law.

Tax Parcel Number: 16-06-0001-09

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

Monday, February 1, 2016
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2608-1122	VIRGINIA MARGARET STEVE, also known as VIRGINIA M STEVE	GEORGE W STEVE, Surviving Administrator

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Tuesday, February 16, 2016
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

Monday, February 1, 2016
at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2613-0491	SUSAN K DEMSKO	PAMELA M KUMOR, Executrix
2612-0621	MARGARET F KEIFER, also known as MARGARET KEIFER	TINA RIGGAR and BLAIR KEIFER SR, Co-Administrators

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Tuesday, February 16, 2016
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.

JEFFREY L. REDMAN
Register of Wills and Ex-Officio Clerk of the Orphans' Court Division (1)

JUDICIAL OPINION

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

COMMONWEALTH OF PENNSYLVANIA, v. GEORGE ARTHUR POWELL, Defendant. NO. 1236 OF 2015 JUDGE JOSEPH M. GEORGE, JR.

ATTORNEYS AND LAW FIRMS

Jessel A. Costa III, Esquire, Deputy Attorney General, For the Commonwealth Mary Campbell Spegar, Esquire, Assistant Public Defender, For the Defendant

OPINION AND ORDER

GEORGE, J.

January 4, 2016

This matter comes before the Court on an Omnibus Pre-Trial Motion filed on September 21, 2015 in the form of Motion to Suppress Evidence, Motion to Suppress Statements, and Motion to Dismiss for Lack of Probable Cause. The defendant is charged with one (1) count of Dissemination of Child Pornography {18 Pa. C.S. § 6312(c)}, sixteen (16) counts of Child Pornography {18 Pa. C.S. § 6312(d)} and one (1) count of a Criminal Use of a Communication Facility {18 Pa. C.S. § 7512(a)}. A hearing was held on December 22, 2015. Upon and after hearing and review of the record, the Court will DENY the motion in its entirety.

I. MOTION TO SUPPRESS EVIDENCE

The defendant raised in his Omnibus Pre-Trial Motion that the Commonwealth unconstitutionally searched his computer and personal belongings based on a lack of probable cause. (Paragraphs 8-12, OPT Motion). Both the Fourth Amendment of the United States Constitution and Article 1 Section 8 of the Pennsylvania Constitution require search warrants to be supported by probable cause. Commonwealth v. Jones, 605 Pa. 188, 199, 988 A.2d 649, 655 (2010). The Court must look at the totality of the circumstances to determine whether probable cause existed for the issuance of a search warrant. Commonwealth v. Huntington, 924 A.2d 1252, 1255 (Pa. Super. 2007). Under this standard, there must be a fair probability based on the facts stated in the affidavit of probable cause that evidence of a crime will be found in a particular place. Commonwealth v. Murphy, 916 A.2d 679, 682 (Pa. Super. 2007). Finally, probable cause is based on a finding of the probability, not a prima facie showing of criminal activity, and the magistrate, who may not consider evidence outside the four corners of the affidavit, is to be accorded deference in a finding of probable cause. Commonwealth v. Ryerson, 817 A.2d 510, 513-14 (Pa. Super. 2003).

In the instant case, the Commonwealth entered into evidence as Commonwealth Exhibits 8, 9, and 11, the applications for search warrant. Thus, after reviewing the search warrants and applying the "four corners" test, this Court finds that the search was reasonable and justified by probable cause.

II. MOTION TO SUPPRESS STATEMENTS

Defendant next contends the statements made to Agent Fascetti were not voluntarily and intelligently made and in violation of his constitutional rights.

When deciding a motion to suppress a confession, the touchstone inquiry is whether the confession was voluntary. Voluntariness is determined from the totality of the circumstances surrounding the confession. The question of voluntariness is not whether the defendant would have confessed without interrogation, but whether the interrogation was so manipulative or coercive that it deprived the defendant of his ability to make a free and unconstrained decision to confess. The Commonwealth has the burden of proving by a preponderance of the evidence that the defendant confessed voluntarily. Commonwealth v. Nester, 551 Pa. 157, 709 A.2d 879, 882 (1998) (citation omitted).

This Court finds that, based on Agent Fascetti's testimony, the defendant's statements were voluntarily and intelligently made. After the defendant was placed under arrest, Agent Fascetti informed him of his Miranda rights, via the Advice of Rights form, introduced into evidence as Commonwealth Exhibit 12. Subsequently, the defendant waived his rights and initialed the form, indicating he wanted to make a statement. Agent Fascetti testified that the defendant was of sound mind and did not appear to be under the influence of alcohol or drugs when he waived his rights and made his statement. Additionally, Agent Fascetti testified that the defendant's answers were consistent with the questions asked, providing a reasonable inference the defendant was aware of the situation.

Therefore, we find the uncontested testimony of Agent Lorraine Fascetti to be credible and conclude that the statements made by the defendant to Agent Fascetti were knowingly and intelligently made and made of the defendant's own free will.

III. MOTION TO DISMISS FOR LACK OF PROBABLE CAUSE

The defendant contends the Commonwealth has a lack of evidence in establishing that the defendant engaged in any criminal activity. In an Omnibus Pre-Trial Motion for Petition for Habeas Corpus relief, the Court must determine whether the Commonwealth established a prima facie case for the charged offenses. *Commonwealth v. Packard*, 767 A.2d 1068, 1070 (Pa. Super. 2001). "When deciding whether a prima facie case was established, [the Court] must view the evidence in the light most favorable to the Commonwealth, and . . . consider all reasonable inferences based on that evidence which could support a guilty verdict." *Commonwealth v. James*, 863 A.2d 1179, 1182 (Pa. Super. 2004) (citation omitted). Unlike the beyond a reasonable doubt standard, a prima facie case is merely a degree of evidence "that if presented at the trial in court, and accepted as true, the judge would be warranted in allowing the case to go to the jury." *Commonwealth v. Wojdak*, 502 Pa. 359, 368, 466 A.2d 991, 996 (1983) (emphasis original); see *James*, 863 A.2d at 1182.

Upon consideration of Agent Fascetti's uncontradicted testimony and the exhibits entered into evidence, the Court finds the Commonwealth has established a prima facie case against the defendant. The Commonwealth's evidence included:

- (1) Three cyber tips from social networking sites Pinterest and Tumblr of a member who uploaded images of child pornography;
- (2) The member name on the account was George Powell;
- (3) The IP address used to post these images came from the location where the defendant resides;
- (4) The defendant's statement that he commonly shared pornographic images on Pinterest and Tumblr;
- (5) The defendant's statement that he thought the persons displayed in the pornographic images were older than eighteen;
- (6) Agent Fascetti's credible testimony of the investigatory steps taken in the case;
- (7) Agent Fascetti's lay opinion that the persons in the images were less than eighteen-years-old; and
- (8) The observations by the Court of several images which, in the Court's opinion, were of children under the age of eighteen.

Wherefore we will enter the following Order:

ORDER

AND NOW, this 4th day of January, 2016, upon consideration of the defendant's Omnibus Pre-Trial Motion in the form of Motion to Suppress Evidence, Motion to Suppress Statements, and Motion to Dismiss for Lack of Probable Cause and after hearing thereon, it is hereby ORDERED and DECREED that the Motion is DENIED, in its entirety.

The Attorney General is DIRECTED to list this matter for trial.

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

ATTEST:
CLERK OF COURTS

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