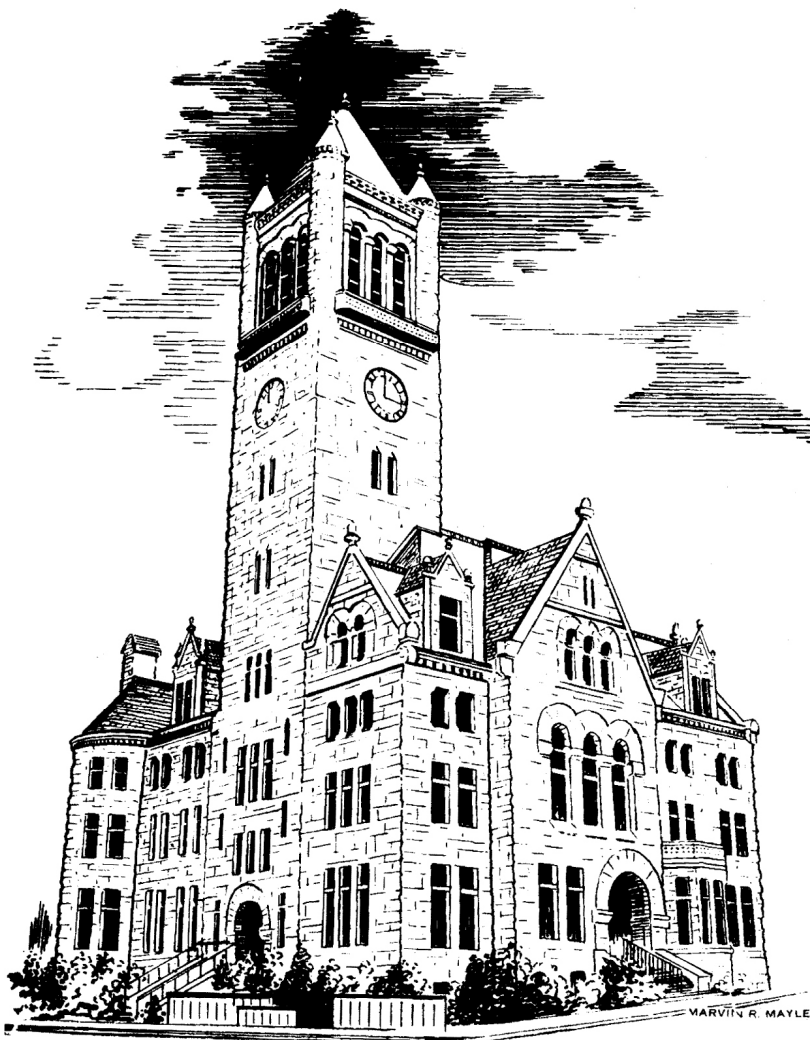


FAYETTE LEGAL JOURNAL

VOL. 82

DECEMBER 28, 2019

NO. 52



FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 45 East Main Street, Suite 100, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at www.fcbar.org no later than 12:00 noon on Friday for publication the following Saturday. No date of publication is promised, however. Legal notices are published exactly as submitted by the advertiser. Copyright 2001 Fayette County Bar Association. All rights reserved.

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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

EUGENE W. MARTINOSKY, JR., late of
Everson, Fayette County, PA (3)

Administratrix: Darlene Martinosky
c/o Nakles and Nakles
1714 Lincoln Avenue
Latrobe, PA 15650
Attorney: Ryan P. Cribbs

MICHAEL MOSKO, JR., late of South Union
Township, Fayette County, PA (3)

Personal Representative: Linda Lee Darr
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

ANGELA PIKULSKI, late of Menallen
Township, Fayette County, PA (3)

Personal Representative: Theresa Edenfield
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

JOHN C. SANSONE, late of North Union
Township, Fayette County, PA (3)

Executor: Robert L. Webster, Jr.
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

MERLE SIPE, a/k/a PAUL MERLE SIPE,
late of Springfield Township, Fayette County,
PA (3)

Executor: James M. McKeel
226 Ben Sipe Road
Mill Run, PA 15464
c/o Yelovich & Flower
102 North Kimberly Avenue
Somerset, PA 15501
Attorney: David J. Flower

SYLVIA S. THOMAS, late of North Union
Township, Fayette County, PA (3)

Executor: Nicholas J. Cook
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

Second Publication

**CONSTANCE ROSS BERRY, a/k/a
CONSTANCE JEAN BERRY**, late of
Brownsville, Fayette County, PA (2)

Executor: David Edward Manion
c/o Thomas Murphy & Associates, P.C.
237 East Queen Street
Chambersburg, PA 17201
Attorney: Jared S. Childers

DARIUS EVANS, late of Masontown, Fayette
County, PA (2)

Administratrix: Gabriella Locke
c/o Colin Adair Morgan, Certified Elder
Law Attorney and Julian Gray Associates
954 Greentree Road
Pittsburgh, PA 15220
Attorney: Colin Adair Morgan

PONSELLA EWING, late of Uniontown,
Fayette County, PA (2)

Co-Executor: Elizabeth Ann McCabe and
Mark Decarlucchi
c/o Fitzsimmons and Barclay
55 East Church Street, Suite 102
Uniontown, PA 15401
Attorney: James N. Fitzsimmons, Jr.

**GAY NICHELSON, a/k/a GAY W.
NICHELSON**, late of Bullskin Township,
Fayette County, PA (2)

Administratrix: Kathie Nicholson
146 Rice School Road

Mt. Pleasant, PA 15666
c/o 140 South Main Street #301
Greensburg, PA 15601
Attorney: John Cochran

MAGDALEN A. WILLIAMS, a/k/a
MAGDALEN ANN WILLIAMS, a/k/a
MAGDALEN WILLIAMS, late of Uniontown,
Fayette County, PA (2)

Personal Representative: Barbara Fetsko
c/o John and John
96 East Main Street
Uniontown, PA 15401
Attorney: Anne N. John

GEORGE YANKULIC, late of German
Township, Fayette County PA (2)

Personal Representative:
Mary Ann Vicinelly
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

First Publication

FLORA JEAN ESSIG, late of Masontown,
Fayette County, PA (1)

Personal Representatives: David L. Essig
and Kim M. Essig
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

ANDREW MIGYANKO, late of Georges
Township, Fayette County, PA (1)

Administrator: Mark Migyanko
c/o P.O. Box 953
Uniontown, PA 15401
Attorney: Ricardo J. Cicconi

PATRICIA A. MILLER, late of Fairchance,
Fayette County, PA (1)

Executor: Wayne David Moser
c/o Adams and Adams
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason Adams

MARGARET PRICE, late of Scottdale,
Fayette County, PA (1)

Administratrix: Carolyn Price
111 Broad Street
Scottdale, PA 15683
c/o 108 Lexington Avenue
Pittsburgh, PA 15215
Attorney: M. Elizabeth Williams

RONALD KELLY SABO, late of Brownsville
Township, Fayette County, PA (1)

Administrator: Ronald V. Sabo
c/o Adams and Adams
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason Adams

GEORGE R. SMALLEY, late of Stewart
Township, Fayette County, PA (1)

Co-Executors: George R. Smalley, Jr. and
Teresa G. Christman
c/o Proden and O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

LEGAL NOTICES

NOTICE

Notice is hereby given that a Certificate of Organization was filed with the Pennsylvania Department of State, on July 18, 2019, for a Limited Liability Company, organized under the Limited Liability Company Law of 1994, as from time to time amended. The name of the Company is JWC Hospitality LLC, having an address of 3389 National Pike, Farmington, Pennsylvania 15437. The purpose of the Limited Liability Company is retail sales of food and beverages of all types and any other lawful purpose for which a corporation may be organized.

John A. Kopas III, Esquire
556 Morgantown Road
Uniontown, PA 15401
Telephone: 724-437-1111

**NOTICE OF VOLUNTARY DISSOLUTION
OF
SHALLENBERGER POOLS, INC.**

NOTICE IS HEREBY GIVEN THAT the shareholders and directors of **SHALLENBERGER POOLS, INC.**, a Pennsylvania corporation, with an address at 2611 Memorial Boulevard, Uniontown, Fayette County, Pennsylvania 15425, have approved a proposal that the corporation voluntarily dissolve, and that the Board of Directors is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

Watson Mundorff & Sepic, LLP

**NOTICE OF ACTION IN MORTGAGE
FORECLOSURE
IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW**

COURT OF COMMON PLEAS
CIVIL DIVISION
FAYETTE COUNTY
No. 2019-02186

PNC BANK, NATIONAL ASSOCIATION
Plaintiff

vs.

JOSEPH A. SHAY
Defendant

NOTICE

To JOSEPH A. SHAY

You are hereby notified that on October 7, 2019, Plaintiff, PNC BANK, NATIONAL ASSOCIATION, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of FAYETTE County Pennsylvania, docketed to No. 2019-02186. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 170 EASY STREET, UNIONTOWN, PA 15401-3127 whereupon your property would be sold by the Sheriff of FAYETTE 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

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

Lawyer Referral Service:
Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street.
P.O. Box 186
Harrisburg, PA 17108
Telephone (800) 692-7375

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Act of Assembly No. 295, effective March 16, 1983, of the filing in the office of the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, an application for the conduct of a business in Fayette County, Pennsylvania under the assumed or fictitious name, style or designation of AMF Belle Vernon, with its principal place of business at: 4742 State Route 51 S, Belle Vernon, PA 15012. The names and addresses of all persons or entities owning or interested in said business are: Leiserv, LLC, 222 West 44th St, NY, NY 10036. The application has been filed on 12/10/2019.

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

ACTION IN QUIET TITLE
JUDGE LINDA R. CORDARO
NO. 2659 OF 2019 G.D.

BREANNA E. CHRISTENSEN,
Plaintiff,

vs.

NANCY M. PEIRSEL, ISAAC F. PEIRSEL,
MARY E. PEIRSEL, ARTHUR L. PEIRSEL,
EVELYN M. PEIRSEL, LINNIE M. PEIRSEL,
MARY GERTRUDE PEIRSEL, ELEANOR
PEIRSEL, and HAROLD PEIRSEL, their
heirs and assigns,
Defendants.

TO: NANCY M. PEIRSEL, ISAAC F.
PEIRSEL, MARYE. PEIRSEL, ARTHUR L.
PEIRSEL, EVELYN M. PEIRSEL, LINNIE M.
PEIRSEL, MARY GERTRUDE PEIRSEL,
ELEANOR PEIRSEL, and HAROLD
PEIRSEL, their heirs and assigns,

You are hereby notified that Breanna E. Christensen has sued you in Court and has filed her Complaint on November 26, 2019 at No. 2659 of 2019 General Docket in the Court of Common Pleas of Fayette County, Pennsylvania in an Action to Quiet Title wherein it is alleged that she is the owner in possession of a parcel of land in the Borough of Bulle, Fayette County, Pennsylvania described as follows:

ALL that certain parcel of land known as Lot No. 7 in the Jeremiah Peirsel Plan of Lots recorded in the Recorder of Deeds Office of Fayette County, Pennsylvania in Plan Book 8, page 7. Plaintiff and her predecessors in title have maintained open, actual, continued, visible, adverse, notorious, exclusive and hostile possession of the said Lot No. 7 for a period of time in excess of twenty-one (21) years.

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

The service of this complaint by publication is made pursuant to an Order of Court dated December 13, 2019 and filed at the above number and term.

You are further notified that the aforesaid order requires that you answer the said

complaint within twenty (20) days from the date that this notice is last published.

NOTICE

If you wish, to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

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AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Fayette County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

Court Administrator's Office
Fayette County Courthouse
Main Street
Uniontown, PA 15401
(724) 430-1230

BY THE COURT:
LINDA R. CORDARO, J.

DATE: December 17, 2019

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, January 6, 2020, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2618-0669	MILDRED MAXINE BARRICKLOW	Evelyn Denise Brown and Carolyn Maricondi, Co-Executors
2617-0677	EDWARD R. SHARKEY	Diane S. Paul, Administratrix

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on
Monday, January 21, 2020, at 9:30 A.M.

in Courtroom No. 5 of the **Honorable Joseph M. George Jr.** or his chambers, 3rd 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 of 2)

JUDICIAL OPINION

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

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
	:	
V.	:	
	:	
JASON STASKO,	:	No. 2853 of 2018
Defendant.	:	Honorable Judge Linda R. Cordaro

OPINION

Cordaro, J.

December 13, 2019

SUMMARY

Defendant is charged with one count of Drug Delivery Resulting in Death, two counts of Manufacturing, Delivering, or Possessing with Intent to Manufacture or Deliver Drugs, and one count of Intentionally Possessing Controlled Substances by a Person not Registered. Before the Court is Defendant's Omnibus Pretrial Motion in the form of a Writ of Habeas Corpus, Motion to Suppress Statements, and Motion to Suppress Evidence. A hearing on the Motion was held on October 11, 2019. For the following reasons, Defendant's Writ of Habeas Corpus and Motion to Suppress Evidence are denied. Defendant's Motion to Suppress Statements is granted.

BACKGROUND

A Preliminary Hearing was held in this case on December 20, 2018. At the Preliminary Hearing, the Commonwealth first called Corporal Andrew Hominsky, who works for the City of Connellsville Police. Corporal Hominsky testified that on November 15, 2018, he was dispatched to 415 Highland Avenue in Connellsville for a call regarding an unresponsive female.

When Corporal Hominsky arrived at the residence at around 6 AM, he found a man sleeping on a couch. That man was Defendant, Jason Stasko. The Corporal was then directed to the kitchen where the unconscious female was on the floor. The woman was lying on her back. She was not breathing and had no pulse. She was later identified as Carrie Mingrino.

There were two other women in the kitchen with Ms. Mingrino. Those women included the owner of the residence and her daughter. One of the women was administering CPR on Ms. Mingrino when Corporal Hominsky arrived. Corporal Hominsky then checked for a pulse and began administering CPR himself. Ms. Mingrino was pronounced dead at the scene.

The coroner's office later found a syringe under Ms. Mingrino's body.

When Corporal Hominsky left the kitchen after the Fayette County EMS arrived, Mr. Stasko had left the residence. The investigating officers found a cell phone with Ms. Mingrino. They later found a cell phone on the couch where Mr. Stasko had been sleeping.

Detective Thomas Patton, who works for the Connellsville Police Department, also testified at the Preliminary Hearing. Detective Patton testified that the investigating officers obtained a search warrant for the phone and discovered that it belonged to Mr. Stasko. There were over 60 phone calls and multiple text messages between Mr. Stasko and Ms. Mingrino from the early afternoon on November 14 until the time she was found unresponsive on November 15, 2018.

One of the text messages that Mr. Stasko sent to Ms. Mingrino stated, "I just found that stuff you wanted."

Detective Patton testified that the cause of death, according to the toxicology report, was an accidental overdose of fentanyl. Detective Patton stated that the only people in the house on the night of the incident were the mother and daughter who were in the kitchen with Ms. Mingrino, one of their boyfriends, children sleeping upstairs, and then Ms. Mingrino and Mr. Stasko. When Mr. Stasko was later arrested, he was found with a syringe and two empty stamp bags on his person.

As a result of the incident, Mr. Stasko was charged with one count of Drug Delivery Resulting in Death, two counts of Manufacturing, Delivering, or Possessing with Intent to Manufacture or Deliver Drugs, and one count of Intentionally Possessing Controlled Substances by a Person not Registered.

Defendant filed an Omnibus Pretrial Motion on July 10, 2019. A Hearing on the Motion was held on October 11, 2019. At the Hearing, the Commonwealth admitted the Preliminary Hearing transcript. The following testimony was also presented at the Hearing on Defendant's Omnibus Pretrial Motion.

The Commonwealth called Detective Thomas Patton. Detective Patton testified that Mr. Stasko was taken into custody on November 18, 2018. On that date, Detective Patton questioned Mr. Stasko for the first time regarding this incident. Detective Patton read Mr. Stasko his Miranda warnings, and Mr. Stasko indicated that he understood his rights. Mr. Stasko, however, did not sign a waiver of his rights, and said to the officers that he did not wish to speak with them. The interview concluded. Mr. Stasko was taken to the Fayette County Prison.

On November 19, 2018-the next day-Detective Patton sought Mr. Stasko out at the Fayette County Prison. Detective Patton wanted to access the phone found at the scene of the incident but needed the password. At the prison, Detective Patton told Mr. Stasko that there was a search warrant for the phone and asked him for the password. Mr. Stasko would not cooperate and give Detective Patton the password.

Detective Patton did not ask Mr. Stasko any other questions. However, Mr. Stasko said something to the effect of, "I just brought her vodka." The interaction lasted about five minutes. Mr. Stasko was not given Miranda warnings during this second encounter.

DISCUSSION

The first issue before the Court is Defendant's Writ of Habeas Corpus in which Defendant argues that the Commonwealth failed to establish a prima facie case for the charge of Drug Delivery Resulting in Death.

A petition for a writ of habeas corpus is the proper means for testing a pretrial finding that the Commonwealth has sufficient evidence to establish a prima facie case against a defendant. *Commonwealth v. Scott*, 578 A.2d 933, 936-37 (Pa. Super. Ct.

1990). The question of the evidentiary sufficiency of the Commonwealth's prima facie case is one of law. *Commonwealth v. Dantzler*, 135 A.3d 1109, 1111-12 (Pa. Super. Ct. 2016) (citing *Commonwealth v. Huggins*, 836 A.2d 862, 865 (Pa. 2003)).

For a charge to go forward to trial, the Commonwealth "bears the burden of establishing at least a prima facie case that a crime has been committed and that the accused is probably the one who committed it." *Commonwealth v. McBride*, 595 A.2d 589, 591 (Pa. 1991) (citing *Commonwealth v. Prado*, 393 A.2d 8, 10 (Pa. 1978) and Pa.R.Crim.P. 141(d)). In order to establish a prima facie case, the Commonwealth must present evidence with regard to each material element of the crimes charged and sufficient probable cause that the accused is the person who committed the offense. *McBride* at 591. (citing *Commonwealth v. Wojdak*, 466 A.2d 991, 996-97 (Pa. 1983)). Further, "[i]t is not necessary for the Commonwealth to establish at this stage the accused's guilt beyond a reasonable doubt." *McBride* at 591 (citing *Commonwealth v. Rick*, 366 A.2d 302,303 (Pa. Super. Ct. 1976)). The weight and credibility of the evidence are not factors at this stage. *Wojdak* at 997. The Commonwealth may establish its burden by wholly circumstantial evidence. See, e.g., *Commonwealth v. De Petro*, 39 A.2d 838, 842 (Pa. 1944). However, circumstantial evidence must rise above mere suspicion and conjecture. *Prado* at 10.

Presently, Defendant argues that the Commonwealth failed to establish a prima facie case for Drug Delivery Resulting in Death. The crime of Drug Delivery Resulting in Death is when a person "intentionally administers, dispenses, delivers, gives, prescribes, sells[,] or distributes any controlled substance or counterfeit controlled substance in violation of [The Controlled Substance, Drug, Device, and Cosmetic Act] and another person dies as a result of using the substance." 18 Pa.C.S.A. §2506(a).

A defendant need not intend to cause the death of the person to whom the drugs were delivered. See *Commonwealth v. Kakhankham*, 132 A.3d 986, 993 (Pa. Super. Ct. 2015). Rather, the Commonwealth must show only that the defendant intended to deliver the drugs to the victim without being authorized under law to do so. *Id.* Additionally, when a person dies as a result of using illegally-delivered controlled substances, the Commonwealth must show that the defendant acted recklessly in bringing about that person's death. *Id.* at 995-96.

Here, the evidence presented at the Preliminary Hearing established a prima facie case that Mr. Stasko delivered drugs to Ms. Mingrino and that his conduct recklessly caused Ms. Mingrino's death. Mr. Stasko was in the house with Ms. Mingrino when she died of a drug overdose from fentanyl. Ms. Mingrino had a syringe underneath her body. She also had an open phone call with the cell phone that was found on the couch where Corporal Hominsky saw Mr. Stasko laying. Corporal Hominsky testified at the Preliminary Hearing that when he came out of the kitchen after trying to revive Ms. Mingrino, Mr. Stasko had fled the scene.

Further, the cell phone recovered in this case shows incriminating messages between Mr. Stasko and Ms. Mingrino. Mr. Stasko texted Ms. Mingrino earlier in the day to tell her that he "found the stuff" that she wanted. The officers testified that there were numerous other references to drug use and purchasing in Mr. Stasko's cell phone. Mr. Stasko then went to the house where Ms. Mingrino was. It is not a leap of logic to conclude that Mr. Stasko brought the fentanyl to Ms. Mingrino, who died as a result of using the controlled substance. The Commonwealth presented sufficient evidence that Mr. Stasko intentionally delivered drugs to Ms. Mingrino. If believed by the finders of fact, Mr. Stasko's conduct of illegally giving a person fentanyl would clearly constitute con-

duct that recklessly brought about Ms. Mingrino's death. AB a result, the Commonwealth has established a prima facie case for Drug Delivery Resulting in Death. Defendant's Motion for Habeas Corpus is therefore without merit.

The second issue before the Court is Defendant's Motion to Suppress Statements that he made to police. Defendant argues that the statements he made while incarcerated without being given Miranda warnings or waiving his constitutional rights should be suppressed. This Court agrees.

The Fifth and Fourteenth Amendments to the United States Constitution, as well as Article 1, Section 9 of the Pennsylvania Constitution, provide that individuals shall not be compelled to testify against themselves in criminal cases. The United States Supreme Court in *Miranda v. Arizona* examined the federal constitutional right "to be free from compelled self-incrimination" in the context of custodial interrogations. *Alston v. Redman*, 34 F.3d 1237, 1242 (3d. Cir. 1994) (citing *Miranda v. Arizona*, 384 U.S. 436,468 (1966)). The Supreme Court concluded that certain procedural safeguards are necessary to "dissipate the compulsion inherent in custodial interrogation[s]," thereby protecting the constitutional rights of individuals suspected of a crime. *Alston* at 1242 (Internal citations omitted). The Third Circuit in *Alston* went on to state that, "[o]nly if there is a voluntary, knowing, and intelligent waiver of the rights expressed in the warnings can police question a suspect without counsel being present and introduce at trial any statements made during the interrogation." *Id.* (Internal citations omitted).

"As a general rule, the prosecution may not use statements, whether inculpatory or exculpatory, stemming from a custodial interrogation of a defendant unless" the Commonwealth demonstrates that the defendant was apprised of the right against self-incrimination and the right to counsel. *Commonwealth v. Umstead*, 916 A.2d 1146, 1149 (Pa. Super. Ct. 2007) (citing *Miranda v. Arizona*, 384 U.S. 436 (1966)) (Additional internal citations omitted). Further:

[T]he Miranda safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent. That is to say, the term "interrogation" under Miranda refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect.

Umstead at 1149 (citing *Rhode Island v. Innis*, 446 U.S. 291 (1980)) (Additional internal citations omitted). However, remarks made by a defendant that are unsolicited, spontaneous, or otherwise voluntary are not subject to suppression. *Commonwealth v. Fisher*, 769 A.2d 1116, 1125 (Pa. 2001) (citing *Commonwealth v. Gibson*, 720 A.2d 473, 480 (Pa. 1998)).

For example, in *Umstead* the defendant was incarcerated when another inmate was assaulted in the middle of the night. *Id.* at 1148. The next day, a corrections officer began interviewing prisoners about the incident to try to determine what happened. *Id.* When the officer questioned the defendant, who had not been given Miranda warnings, the defendant "spontaneously stated" that he had been involved in an argument with the victim the previous day. *Id.* The defendant then made an inculpatory statement regarding the assault. *Id.*

The trial court in *Umstead* denied the defendant's motion to suppress the statements, concluding that the officer involved was not asking questions that were likely to

elicit an incriminating response. *Id.* at 1150. The Superior Court upheld the trial court's decision, adding that the defendant's Miranda warnings were not implicated because the defendant was not even a suspect when the officer questioned him about the incident, nor did the officer ask the defendant to disclose any facts linking himself to the assault on the other prisoner. *Id.* at 1152.

Here, the testimony of Detective Patton is that Mr. Stasko was incarcerated on November 18, 2018. Detective Patton interviewed Mr. Stasko on that day. Detective Patton said that Mr. Stasko was given Miranda warnings and was fully aware of his constitutional rights, but would not agree to waive those rights and would not speak to the officers.

The next day, Detective Patton went back to see Mr. Stasko to try to get the cell phone password from him. Detective Patton told Mr. Stasko that there was a warrant to search the phone with the hope that Mr. Stasko would cooperate with the investigation. Mr. Stasko was still incarcerated and was not read his Miranda warnings, nor was he offered to have an attorney present. Mr. Stasko did not give Detective Patton the password to the cell phone. However, Mr. Stasko said something to the effect of, "I just brought her vodka."

Mr. Stasko was undisputedly in custody both times that Detective Patton interviewed him. The first time, Mr. Stasko was advised of his constitutional rights, although he expressly stated that he did not wish to speak to the officers. The officers acceded Mr. Stasko's wish and concluded the interview. The next day however, Detective Patton returned to see Mr. Stasko while Mr. Stasko was in a prison cell. Mr. Stasko was not given the warnings required by Miranda to those who face custodial interrogation.

In Umstead, the defendant was questioned by a corrections officer who had no suspects in the assault of another prisoner. Here, Mr. Stasko was already the sole suspect in the drug delivery that resulted in the death of Ms. Mingrino. Mr. Stasko was aware of the charges against him both times he was interviewed by Detective Patton. Mr. Stasko's statement regarding providing only vodka to Ms. Mingrino may not have been in response to a direct question by Detective Patton, but was clearly made in an effort to clear his name from the charges against him. Detective Patton should have known that asking Mr. Stasko questions regarding the charges against him was reasonably likely to elicit an incriminating response.

Despite the seemingly innocuousness of Mr. Stasko's statement, it was still made in violation of his constitutional rights. As a result, the statements made by Mr. Stasko to Detective Patton on November 19, 2018 should be suppressed.

The third issue before the Court is Defendant's Motion to Suppress Evidence. Defendant seeks to suppress evidence of the cell phone that was recovered on the couch in the residence where Ms. Mingrino died. Defendant argues in his Omnibus Pretrial Motion that there was not sufficient evidence to obtain a search warrant in connection with the cell phone.

"In general, the Fourth Amendment of the United States Constitution, and Article I, Section 8 of the Pennsylvania Constitution, do not permit police to search for or seize property absent a lawfully obtained search warrant." *Commonwealth v. Dougalewicz*, 113 A.3d 817, 824 (Pa. Super. Ct. 2015) (citing *Commonwealth v. Anderson*, 40 A.3d 1245, 1249 (Pa. Super. Ct. 2012)). For a search to be reasonable under the federal and state constitutions, police must obtain a warrant supported by probable cause and issued by an independent judicial officer prior to conducting the search. *Dougalewicz* at 824

(citing Commonwealth v. Gary, 91 A.3d 10 2, 107 (Pa. 2014)).

Here, the officers had probable cause to search the cell phone. The cell phone was recovered at the residence in close proximity to where Ms. Mingrino died. Further, Ms. Mingrino's cell phone had an outgoing call to the cell phone in question, indicating that there could be evidence on the cell phone in question that could lead to more information surrounding Ms. Mingrino 's death. Ms. Mingrino's death was determined to be from a drug overdose based on the syringe found under her body in the kitchen.

Officers also discovered several text messages and outgoing calls from Ms. Mingrino's phone to a person named "Jason." When the officers used Ms. Mingrino's cell phone to call "Jason," the phone that was recovered on the couch in the residence rang. Jason is also the first name of Mr. Stasko, who fled the residence when the police arrived.

Detective Patton drafted an Affidavit of Probable Cause to obtain a warrant to search the cell phone in question. The Affidavit of Probable Cause thoroughly describes the recovered cell phone, how it was connected to the crime, and that it would be useful in obtaining evidence to further the officers' investigation. As a result, this Court finds that there was probable cause to obtain a search warrant for the cell phone recovered in the couch at the scene. Defendant's Motion to Suppress Evidence of the cell phone is therefore without merit.

CONCLUSION

For the foregoing reasons, Defendant 's Writ of Habeas Corpus is Denied. The Commonwealth established a prima facie case for the charge of Drug Delivery Resulting in Death at the Preliminary Hearing. Defendant's Motion to Suppress Statements is Granted. The statements made by Defendant while he was in police custody were unconstitutionally obtained and shall not be used as evidence at trial. Defendant's Motion to Suppress Evidence of the cell phone recovered at the scene is Denied. There was probable cause to obtain a search warrant for the cell phone.

BY THE COURT:
Linda R. Cordaro, Judge

ATTEST:
Clerk of Courts

Date: December 13, 2019



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