

# FAYETTE LEGAL JOURNAL

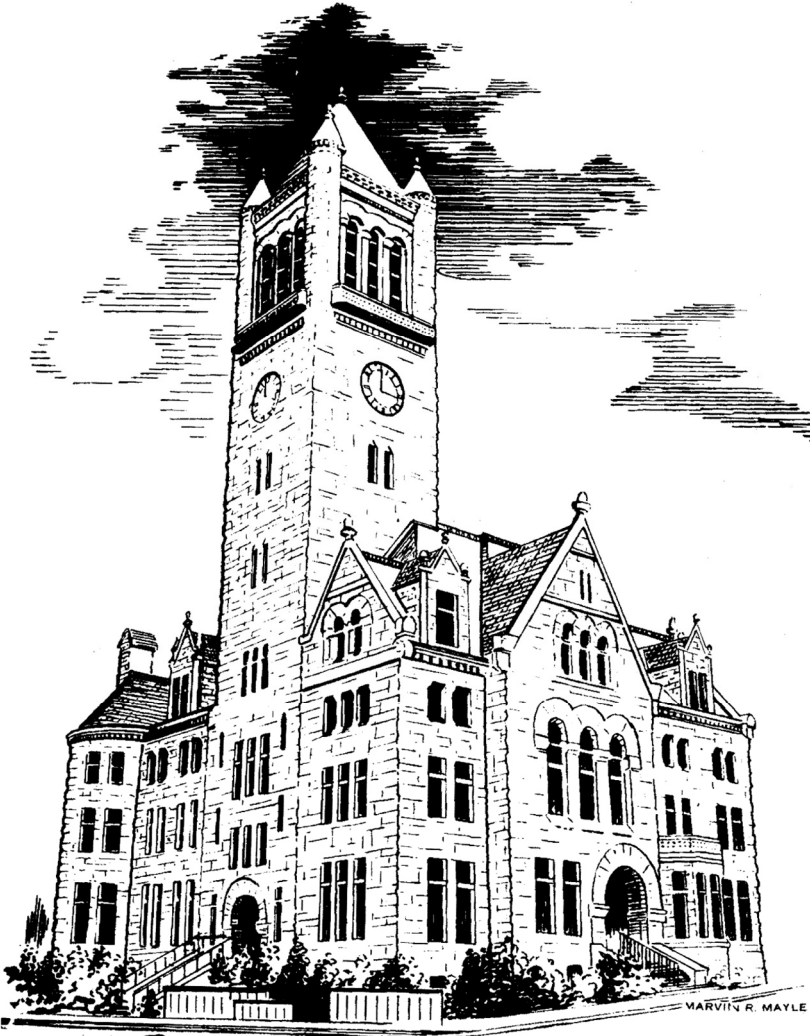
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## FAYETTE LEGAL JOURNAL

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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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*Executrix:* Lynn A. Bliss (3)  
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51 East South Street  
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*Attorney:* Webster & Webster

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*Executor:* Morgan D. Chalfant, Jr.  
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*Attorney:* Megan Loftis

**DEBORAH ELAINE DETAR, a/k/a DEBORAH E. DETAR**, late of Springfield, Fayette County, PA (3)

*Co-Administrators:* Kristy E. Detar and  
Korey L. Detar  
c/o 208 South Arch Street, Suite 2  
Connellsville, PA 15425  
*Attorney:* Richard A. Husband

**MYRTLE HARVISON, a/k/a MYRTLE M. HARVISON**, late of Fayette City, Fayette County, PA (3)

*Executor:* Margaret C. Smith  
P.O. Box 792  
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**PATRICIA A. KOPKO**, late of New Salem, Fayette County, PA (3)

*Administrator:* Mary Ann Meliher, j/k/a  
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*Attorney:* John K. Greiner

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*Executrix:* Jennifer Fleszar  
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### Second Publication

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*Attorney:* Timothy J. Witt

**EDWARD T. JACKSON**, late of Wharton Township, Fayette County, PA (2)

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*Executor:* Dewey L. Marker  
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*Attorney:* James E. Higinbotham, Jr.

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**ARTHUR P. METTS, SR.**, late of Uledi, Fayette County, PA (2)

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Uniontown, PA 15401  
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Greensburg, PA 15601  
*Attorney:* John K. Greiner

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**PAUL TIMOTHY PRIESTER, SR., a/k/a PAUL T. PRIESTER, SR.**, late of North Union Township, Fayette County, PA (2)

*Personal Representative:*  
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Paul T. Priester, Jr.  
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Uniontown, PA 15401  
*Attorney:* Joseph M. George

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**SANDRA L. SOHYDA**, late of Uniontown, Fayette County, PA (2)

*Executor:* David E. Sohyda  
c/o Proden & O'Brien  
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Uniontown, PA 15401  
*Attorney:* Wendy L. O'Brien

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**AGNES T. YABLUNOSKY, a/k/a AGNES THERESA YABLUNOSKY**, late of South Union Township, Fayette County, PA (2)

*Executrix:* Donna Palermo  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15041  
*Attorney:* James T. Davis

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## First Publication

**ELOISE J. FESTOR**, late of North Union Township, Fayette County, PA (1)

*Executor:* Edward C. Festor, Jr.  
c/o Fitzsimmons and Barclay  
55 East Church Street, Suite 102  
Uniontown, PA 15401  
*Attorney:* James N. Fitzsimmons, Jr.

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**JACQUELIN FRITTS**, late of Uniontown, Fayette County, PA (1)

*Administrator:* John W. Fritts, Jr.  
16 Pheasant Run Road  
Smock, PA 15480  
c/o Newcomer Law Offices  
4 North Beeson Boulevard  
Uniontown, PA 15401  
*Attorney:* Ewing D. Newcomer

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**SHIRLEY WOLBERT, a/k/a SHIRLEY ELAINE WOLBERT**, late of Fairchance Borough, Fayette County, PA (1)

*Administrator:* Brian Wolbert  
c/o Kopas Law Office  
556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John Kopas

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## LEGAL NOTICES

TO: CHRISTINE CRAVOTTA, JAMES CRAVOTTA, PETER CRAVOTTA, MARY CRAVOTTA, CHAZ CRAVOTTA, JASON CRAVOTTA, NICHOLAS FALCE, RALPH WILPS, AUDAN WILPS, DIANE CRAVOTTA, MICHELE PALMIEREI, MICHAEL CRAVOTTA, DOMENIC CRAVOTTA, THEIR HEIRS AND ASSIGNS:

You are hereby notified that Kimberly Renee Turney, now Kimberly Renee Fish, filed her Complaint at No. 1159 of 2024, G.D., 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 certain tract of land situate in Henry Clay Township, Fayette County, Pennsylvania, more particularly bounded and described as follows:

ALL that certain tract of land situate in Henry Clay Township, Fayette County, Pennsylvania, described in Plan Book 32, page 34, more particularly bounded and described as follows:

**BEGINNING** at a railway spike in Township Route No. 892, thence South 88° 25' 35" West 115.50 feet to a point; thence North 76° 59' 45" West 563.01 feet to a 36-inch in diameter maple tree; thence North 84° 52' 40" West 248.83 feet to a 4.5 foot in diameter black oak tree; thence North 84° 54' 55" East 180.80 feet to a one-half inch pipe set; thence North 16° 22' 20" East 16.50 feet to a one-half inch pipe set; thence South 87° 47' 10" East 287.39 feet to a one-half inch pipe set in a stone pile; thence South 79° 29' 30" East 239.25 feet to a railroad spike set in Township Route 892; thence South 52° 52' 50" West 202.95 feet to the place of beginning. Containing 2.22 acres.

The Complaint asks the Court to decree that title to said real estate is in the plaintiff and to enjoin the defendants and their heirs and assigns, from setting up any title to said real estate and from impeaching, denying, or in any way attacking the plaintiffs title to the same.

**You are hereby notified that you have been sued in court. If you wish to defend against the claims set forth in the Complaint and in the within advertisement, you must take action within twenty (20) days after the**

**last advertisement of this notice by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the 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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Vincent J. Roskovensky, II  
Attorney for Plaintiff

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## JUDICIAL OPINION

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

COMMONWEALTH OF PENNSYLVANIA :  
v. :  
SAMANTHA MALENOSKY, : No. 1583 of 2022  
Defendant. : Honorable Steve P. Leskinen

### OPINION AND ORDER

LESKINEN, P.J.

June 18, 2024

Before the Court is the Defendant's Omnibus Pretrial Motion for suppression of statements made to law enforcement and of items seized during a search incident to an arrest, and a writ of habeas corpus as to four charges. A hearing on the Motion was held on May 13th, 2024, at which a mobile vehicle recording ("MVR") of the encounter and a transcript of the Preliminary Hearing were admitted into evidence.

### FINDINGS OF FACT

The following facts were established based on the MVR and the testimony of Trooper Ronald Harris, Jr. at the May 13th, 2024, hearing.

On June 12th, 2022, the Preston County, West Virginia, Sheriff's Office ("PCSO") contacted the Pennsylvania State Police ("PSP") with information from a family member of Defendant indicating that Defendant had made comments about self-harm while in possession of a firearm. The PCSO was able to ping Defendant's cell phone at a location near the Youghiogheny River Dam and provided PSP with a photo and physical description of Defendant and a description of her vehicle, a white Kia SUV. PSP determined that Defendant also had a felony arrest warrant from West Virginia for burglary charges.

As Trooper Harris approached an intersection near the area of the Dam, Defendant, in the driver's seat of a white Kia Sportage, drove by on Hydro Lane. Trooper Harris pulled out and followed Defendant with lights and sirens engaged. As the two vehicles approached the intersection with Route 281, Defendant slowed and engaged her turn signal but did not fully stop at the stop sign. Defendant threw what appears to be a cigarette out of the driver's side window and gestured with her left hand, which Trooper Harris interpreted as "telling us to hold on a second". Dispatch requested a location and speed and Trooper Harris responded that they are crossing into Somerset County at a speed of 34 MPH. A few seconds later they pass a sign indicating that the speed limit is 40 MPH. As Defendant approaches another stop sign at the intersection with Route 523, she initially appears to proceed through the intersection without stopping, but then stops when a silver car approaches the intersection from the left and makes a left turn. As the cars are briefly stopped, Trooper Harris begins to verbally direct Defendant to stop, but she then proceeds through the intersection, following the silver car that had approached from the left. A few blocks later Defendant pulls over in the parking lot of a commercial

building. The time from when the Defendant initially passed Trooper Harris near the dam until she pulled over was two minutes and 26 seconds.

Trooper Harris, accompanied by Trooper Else and Trooper Gresko (who arrived in separate cars), repeatedly directed Defendant to get out of the car. Defendant made inaudible responses and motioned with her hand out of the driver's side window to wait. After repeated instructions to get out of the car, Defendant extended both hands out of the driver's window in a "hands up" motion. Trooper Harris and Trooper Else attempted to coax Defendant to come out of the car. Defendant responded, wailing, that someone is hurting her and references "her baby" being in the car, eventually clarifying that "her baby" is a reference to her dog. Defendant asked for an ambulance and a cigarette and eventually opened the door and slowly stepped out, crying repeatedly that "somebody's hurting me." The time elapsed from Defendant pulling into the lot until she begins to exit the car is approximately two minutes and 30 seconds.

Trooper Harris and Trooper Else leaned Defendant up against the police vehicle, handcuffed her, and conducted a quick pat-down search. Trooper Harris approached the car with a flashlight and appeared to be talking to the dog to calm it down. Defendant stated that someone wrote all over her body but that you would need a blacklight to see it and stated that there is blood all over the car. Trooper Harris asked, "you said there's blood in the car, can I look in the car?" Defendant consented to the search, and when asked if she had a weapon, she acknowledged she had her .22 in the vehicle. Trooper Grishko approached and asked if he could get the dog out of the car and Defendant agreed. Trooper Grishko then got the dog out of the car on a leash while Trooper Harris searched the vehicle.

Trooper Harris returned to the Defendant and asked Trooper Else if she had searched her, at which point Trooper Harris found a pipe in Defendant's pocket. Defendant stated that she found the pipe in the car but it was not hers and directed the Troopers to look in the center console of the car, but that those things were not hers either. Trooper Gresko then removed the gun and the holster it was in from the car. EMS arrived on the scene, examined Defendant and eventually left, at which time Defendant was taken into custody and transported.

#### DISCUSSION Habeas Corpus

A petition for a writ of habeas corpus is "the proper means for testing a pre-trial finding that the Commonwealth has sufficient evidence to establish a prima facie case" against a defendant. *Com. v. Scott*, 578 A.2d 933, 936 (Pa. Super. 1990). The purpose of a writ of habeas corpus is similar to that of a preliminary hearing, which is to prevent a person from being imprisoned or being required to post bail for a crime which was never committed or for which there was no evidence of his [or her] connection. *Id.* at 937. Thus, the focus of the petition is on "whether sufficient Commonwealth evidence exists to require a defendant to be held in government custody until he may be brought to trial." *Id.* "To satisfy this requirement the evidence must show that the existence of each of the material elements of the charge is present." *Com. v. Wojdak*, 502 Pa. 359, 369 (Pa. 1983). Weight and credibility are not factors at this stage, as the Commonwealth need only demonstrate probable cause to believe the person charged has committed the offense. However, the absence of evidence as to the existence of a material element is fatal. *Id.*



Defendant asserts that the Commonwealth failed to establish a prima facie case for Fleeing or Attempting to Elude Police Officer, 75 Pa. C.S.A. §3733(a). To sustain a conviction for this offense, the Commonwealth must show that Defendant willfully failed to bring her vehicle to a stop, or otherwise fled or attempted to elude a pursuing officer, when given a visual and audible signal to bring the vehicle to a stop. Here, the MVR footage shows that Defendant continued driving for more than a mile and roughly 2 ½ minutes from the time Trooper Harris engaged his lights and sirens, establishing that Defendant, at a minimum, failed or refused to bring her vehicle to a stop after a visual and audible signal. However, the evidence presented does not support the third degree felony grading under §3733(a.2)(2), as the record does not show that Defendant was under the influence of alcohol or a controlled substance, Defendant did not cross a state line, nor did she endanger a law enforcement officer or member of the public due to the driver engaging in a high speed chase as required for the felony grading. The MVR footage shows that Trooper Harris indicated to dispatch that they were traveling at approximately 34 MPH as they passed a road sign indicating the speed limit was 40 MPH in that area, and that Defendant slowed (though did not entirely stop) as she approached each intersection with a stop sign.

Defendant next challenges the charge of Flight to Avoid Apprehension, Trial, or Punishment, 18 Pa. C.S.A. §5126(a). The elements of this charge require that Defendant's actions were taken with the intent to avoid apprehension, trial, or punishment. However, no evidence was presented that Defendant was aware of the bench warrant that had been entered against her in West Virginia at the time of the events at issue here, and therefore the Commonwealth has failed to establish the requisite state of mind for this charge.

Defendant asserts that the Commonwealth has failed to establish the necessary elements for Resisting Arrest or Other Law Enforcement, 18 Pa. C.S.A. §5104. This charge requires that a defendant create a substantial risk of bodily injury to the public servant or anyone else or employs means justifying or requiring substantial force to overcome the resistance. There is no evidence in the record to show that Defendant drove in a manner that created a substantial risk of bodily injury to the Troopers or the public. Though Defendant did not immediately pull over when Trooper Harris engaged his lights and sirens, the pursuit did not appear to exceed the posted speed limits, and Defendant slowed (but did not fully stop) when proceeding through intersections. Further, though Defendant required significant coaxing (and the promise of a cigarette) on the part of the Troopers to get out of the vehicle, once she pulled over Defendant eventually left her vehicle on her own and did not physically resist the Troopers or otherwise attempt to leave the scene.

Defendant next challenges the charge of Recklessly Endangering Another Person ("REAP"), 18 Pa. C.S.A. §2705. This misdemeanor charge applies if a defendant recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury. In the Criminal Complaint for this charge, Trooper Harris specifically refers to the fact that Defendant was in possession of a loaded firearm at the time of the pursuit. However, Trooper Harris references the fact that Defendant had a carry permit for the firearm in question when he asked Defendant if the weapon was in the car and there is no evidence in the record to suggest that at any time in her interactions with the Troopers that Defendant referenced the firearm or brandished it in a man-

ner that could be perceived as threatening. A conviction for REAP requires actual danger, not merely the apprehension of danger; the defendant must consciously disregard a known risk of death or great bodily harm to another person. *Com. v. Martuscelli*, 54 A.3d 940, 949 (Pa. Super. 2012). Though there is evidence that Defendant may have posed some risk to herself, there is no evidence in the record to suggest that she made any threats or references to the firearm as a threat to others. To the contrary, her only reference to the firearm was in response to a specific question from Trooper Harris as to whether it was in her possession.

### Suppression

Defendant argues that as the Commonwealth has not established a prima facie case for any of the four charges discussed, supra, that the arrest for the above offenses is illegal and therefore that the seizure of the paraphernalia, incident to arrest, must be suppressed. However, as the Commonwealth has established sufficient probable cause for the Fleeing or Attempting to Elude Charge and the Troopers had information that the Defendant was in possession of a firearm, the arrest was not illegal.

WHEREFORE, this Court enters the following Order:

### ORDER

AND NOW, this 18th day of June, 2024, upon consideration of the Omnibus Pre-trial Motion filed by Defendant and the hearing on the Motion held on May 13th, 2024, the Court hereby ORDERS and DECREES as follows:

Defendant's Motion as to the charge of Fleeing or Attempting to Elude Police Officer, 75 Pa. C.S.A. §3733(a), is SUSTAINED as to grading only. The Commonwealth has established probable cause for the second degree misdemeanor charge under §3733(a.2)(1) but not for the third degree felony under §3733(a.2)(2). Therefore, the charge is regraded as an "M-2."

Defendant's Motion as to the charges of Flight to Avoid Apprehension, Trial, or Punishment under 18 Pa. C.S.A. §5126(a); Resisting Arrest of Other Law Enforcement under 18 Pa. C.S.A. §5104; and Recklessly Endangering Another Person under 18 Pa. C.S.A. §2705 are GRANTED and the charges are hereby DISMISSED.

Defendant's Motion as to suppression and all other remaining issues is hereby DENIED. The District Attorney is DIRECTED to list this matter for trial.

BY THE COURT:  
STEVE P. LESKINEN,  
PRESIDENT JUDGE

ATTEST:  
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