

# FAYETTE LEGAL JOURNAL

---

VOL. 87

APRIL 20, 2024

NO. 16

---



## 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](http://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.

**Co-Editors:** Garnet L. Gordon and Melinda Deal Dellarose

*Cover Design by Marvin R. Mayle, 207 Lick Hollow Road, Hopwood, PA*

## FAYETTE COUNTY BAR ASSOCIATION Board of Directors

**President:** Gretchen A. Mundorff

**President Elect:** Sheryl R. Heid

**Vice-President:** Michelle L. Kelley

**Secretary:** Anne N. John

**Treasurer:** Louise D. Monaghan

**Past President:** John A. Kopas, III

**Executive Director:** Garnet L. Gordon

### *Directors*

Jennifer M. Casini

Rachel A. Clark

Sarah E. Connelly

Jeremy J. Davis

James E. Higinbotham, Jr.

Sean M. Lementowski

### ETHICS HOTLINE

The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding, the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

Call (800) 932-0311, ext. 2214.

### LAWYERS CONCERNED FOR LAWYERS

Our assistance is confidential,  
non-judgmental, safe, and effective

To talk to a lawyer today, call:

1-888-999-1941

717-541-4360

## 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

**ARLENE MCCARTY**, late of South Union Township, Fayette County, PA <sup>(3)</sup>

*Administrator:* Shawn McCarty and Terry McCarty  
c/o Adams Law Offices, PC  
55 East Church Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Jason Adams

**MELISSA ANN CHOMIAK**, late of Redstone Township, Fayette County, PA <sup>(3)</sup>

*Administratrix:* Nadine Reposkey  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**STANLEY MARK EDMUNDS**, late of Luzerne Township, Fayette County, PA <sup>(3)</sup>

*Administratrix:* Maria J. Yothers  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**MARK A. LIVINGOOD**, late of Stewart Township, Fayette County, PA <sup>(3)</sup>

*Executor:* Jason K. Livingood  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**EDWARD MALDOVAN, a/k/a EDWARD MALDOVAN**, late of Menallen Township, Fayette County, PA <sup>(3)</sup>

*Executor:* Jason F. Adams  
c/o Adams Law Offices, PC  
55 East Church Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Jason Adams

**KEVIN J. MCKLVEEN**, late of South Connellsville, Fayette County, PA <sup>(3)</sup>

*Administratrix:* Beth Ann Ambrosini  
c/o Webster & Webster  
51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

**MARY LOU MOSKAL, a/k/a MARY LOUISE MOSKAL**, late of Belle Vernon, Fayette County, PA <sup>(3)</sup>

*Executor:* John F. Trosiek  
919 South Curley Street  
Baltimore, Maryland 21224  
c/o 140 South Main Street #301  
Greensburg, PA 15601  
*Attorney:* John Cochran

**STEVEN J. WHALEN**, late of Connellsville, Fayette County, PA <sup>(3)</sup>

*Personal Representative:*  
Tabitha L. Whalen  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Robert A. Gordon

### Second Publication

**JOSHUA ROY DADISMAN, a/k/a JOSHUA R. DADISMAN**, late of Menallen Township, Fayette County, PA <sup>(2)</sup>

*Administratrix:* Barbara A. Dadisman  
226 Independence Road  
Philippi, West Virginia 26416  
c/o 1900 Main Street, Suite 225  
Canonsburg, PA 15317  
*Attorney:* Richard L. Osberg, III

**CLAYTON FRYE, a/k/a CLAYTON LEROY FRYE**, late of Redstone Township, Fayette County, PA (2)

*Personal Representative:* Suzanne M. Frye  
c/o Higinbotham Law Offices  
68 South Beeson Boulevard  
Uniontown, PA 15401  
*Attorney:* James E. Higinbotham

**MARILYN J. MCDOWELL**, late of Georges Township, Fayette County, PA (2)

*Personal Representative:* Bobra Michotte  
c/o George & George  
92 East Main Street  
Uniontown, PA 15401  
*Attorney:* Joseph M. George

**THERESA A. RANKER, a/k/a THERESA RANKER**, late of Dunbar Township, Fayette County, PA (2)

*Co-Executors:* Deborah L. Rudnik  
212 Russell Street Ext.  
Connellsville, PA 15425  
John M. Ranker  
140 South Main Street, Suite 301  
Greensburg, PA 15601  
c/o John M. Ranker & Associates, P.C.  
140 South Main Street, Suite 301  
Greensburg, PA 15601  
*Attorney:* John M. Ranker

**GARY RIDER, a/k/a GARY E. RIDER**, late of Luzerne Township, Fayette County, PA (2)

*Administratrix:* Ronetta Rider  
c/o Kopas Law Office  
556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John Kopas

**BETTY SULAK, a/k/a BETTY JEAN SULAK, a/k/a BETTY J. SULAK**, late of Fairchance, Fayette County, PA (2)

*Executrix:* Deborah Sulak  
c/o John & John  
96 East Main Street  
Uniontown, PA 15401  
*Attorney:* Anne N. John

## First Publication

**DOROTHY L. BROOKS**, late of East Millsboro, Fayette County, PA (1)

*Co-Executors:* Lisa R. Carp and Glenn Andrew Brooks  
301 Penncraft Road  
East Millsboro, PA 15433  
c/o 76 East Main Street  
Uniontown, PA 15401  
*Attorney:* Douglas S. Sholtis

**WILLIAM O. GIRARD**, late of Masontown Borough, Fayette County, PA (1)

*Executor:* Chance Girard  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**THELMA ADELINE PERRY, a/k/a THELMA A. PERRY, a/k/a THELMA PERRY**, late of Springhill Township, Fayette County, PA (1)

*Administratrix:* Patricia Griffith  
c/o 9 Court Street  
Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

**HARRY EDWARD RAMAGE a/k/a HARRY E. RAMAGE**, late of Georges Township, Fayette County, PA (1)

*Executrix:* Sharon Ramage  
c/o Kristen L. Behrens, Esquire  
Dilworth Paxson LLP  
1500 Market Street, #3500E,  
Philadelphia, PA 19102  
*Attorney:* Kristen L. Behrens

**CHOLLY RAE TEICHERT**, late of Uniontown, Fayette County, PA (1)

*Executor:* Jeffrey Scott Jones  
c/o 11 Pittsburgh Street  
Uniontown, PA 15401  
*Attorney:* Thomas W. Shaffer

**LOUIS WEEDER**, late of Nicholson Township, Fayette County, PA (1)  
*Executor:* Kathleen Strosnider  
 40 Woodland Avenue  
 Masontown, PA 15461  
 c/o 76 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Douglas S. Sholtis

## LEGAL NOTICES

### NOTICE OF REVOCABLE TRUST PURSUANT TO 20 PA C.S. SECTION 7755(c)

NOTICE is hereby given of the administration of the Walter R. Ferencz and Edyth C. Ferencz Revocable Living Trust dated April 1, 1998, and amended from time to time. The Settlor of the Trust, Edyth C. Ferencz, a/k/a Edythe C. Ferencz, of Washington Township, Fayette County, Pennsylvania, died on November 11, 2023. All persons having claims against Edyth C. Ferencz, a/k/a Edythe C. Ferencz, or the Trust are requested to make the same known to the Trustee or Attorney named below. All persons indebted to Edyth C. Ferencz, a/k/a Edythe C. Ferencz, or the Trust are requested to make payment without delay to the Trustee or Attorney named below. Michael H. Ferencz, 310 Naomi Road, Fayette City, PA 15438, or to Benjamin F. Goodwin, Esquire, Goodwin Como, P.C., 108 N. Beeson Blvd., Suite 400, Uniontown, PA 15401. (1 of 3)

### NOTICE OF VOLUNTARY DISSOLUTION OF CONNELLSVILLE FLYING CLUB, LTD.

NOTICE is hereby given that the directors and members of Connellsville Flying Club, Ltd., a Pennsylvania nonprofit corporation having an address of 10 West Coffey Street, Uniontown, PA 15401, have approved a proposal that the nonprofit corporation voluntarily dissolve, that the Board of Directors is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 5972 of the Nonprofit Corporation Law of 1988, as amended, codified at 15 Pa. C.S. §5101, et seq.

Mark Skoric, Secretary  
 c/o Richard A. Husband, Esquire  
 208 S. Arch St., Suite 2  
 Connellsville, PA 15425

IN THE COURT OF COMMON PLEAS OF  
 FAYETTE COUNTY, PENNSYLVANIA  
 NO. 714 TERM, 2024  
 EMINENT DOMAIN PROCEEDING  
 IN REM

IN RE: CONDEMNATION BY THE  
 COMMONWEALTH OF  
 PENNSYLVANIA, DEPARTMENT OF  
 TRANSPORTATION, OF THE  
 RIGHT-OF-WAY FOR STATE  
 ROUTE 0119, SECTION 20K  
 IN THE TOWNSHIP OF UPPER TYRONE  
 AND BULLSKIN

### NOTICE OF CONDEMNATION AND DEPOSIT OF ESTIMATED JUST COMPENSATION

Notice is hereby given that the Commonwealth of Pennsylvania, by the Secretary of Transportation, whose address is the Commonwealth of Pennsylvania, Department of Transportation, Office of Chief Counsel, Real Property Division, Commonwealth Keystone Building, Harrisburg, Pennsylvania 17120, pursuant to the provisions of Section 2003(e) of the Administrative Code of 1929, P.L. 177, 71 P.S. 513(e), as amended, has filed on 4/9/2024 a Declaration of Taking to the above term and number, condemning the property shown on the plans of the parcels listed on the Schedule of Property Condemned which have been recorded in the Recorder's Office of the above county at the places indicated on the said schedule. The name(s) of the owner(s) of the property interest(s) condemned is (are) also shown on the aforesaid Schedule. The Secretary of Transportation, on behalf of himself/herself and the Governor has approved the within condemnation by signing on January 25, 2024 a plan entitled Drawings Reestablishing Limited Access Highway and Authorizing Acquisition of Right-of-Way for State Route 0119 Section 20K R/W in Fayette County, also State Route 1027, also Township Road 791, also Township Road 821, also Township Road 793, also State Route 1042, also State Route 1068, also State Route 8027, a copy of which plan was recorded in the Recorder's Office of the aforesaid county on February 2, 2024, in Highway Plan Book 16 on Page 53.

The purpose of the condemnation is to acquire property for transportation purposes.

Plans showing the property condemned from the parcels listed on the Schedule of

Property Condemned have been recorded in the aforesaid Recorder's Office at the places indicated on the Schedule, where they are available for inspection. The Property Interest thereby condemned is designated on the Declaration of Taking heretofore filed. The Commonwealth of Pennsylvania is not required to post security, inasmuch as it has the power of taxation.

Because the identity or the whereabouts of the condemnee(s) listed below is (are) unknown or for other reasons he (they) cannot be served, this notice is hereby published in accordance with Section 305(b) of the Eminent Domain Code (26 Pa.C.S. §305(b)).

Claim No.: 2600653000  
Parcel No.: 28  
Name: Michael A. Glowacki (deceased) and Helen Glowacki (deceased), his wife  
Address: Heirs & addresses unknown and unlocatable after a diligent search

Claim No.: 2600656000  
Parcel No.: 43  
Name: Unknown Owner  
Address: Address unknown and undeterminable after a diligent search

Claim No.: 2600681000  
Parcel No.: 126  
Name: Inter-Community Industries, Inc.  
Address: Address unknown and undeterminable after a diligent search

Claim No.: 2600684000  
Parcel No.: 131  
Name: Unknown Owner  
Address: Address unknown and undeterminable after a diligent search

The power or right of the Secretary of Transportation of the Commonwealth of Pennsylvania to appropriate the property condemned, the procedure followed by the Secretary of Transportation or the Declaration of Taking may be challenged by filing preliminary objections within thirty (30) days of the date of this notice.

FURTHERMORE, NOTICE IS GIVEN THAT the Commonwealth of Pennsylvania, Department of Transportation, pursuant to Section 522 of the Eminent Domain Code (26 Pa.C.S. §522), will, at the end of the above-referenced thirty (30) day time period within which to file preliminary objections to the Declaration of Taking, present a petition to the Court of Common Pleas of the above county to

deposit into court the just compensation estimated by the Commonwealth to be due all parties in interest for damages sustained as the result of the condemnation of the property herein involved.

The petition to deposit estimated just compensation may not be presented to the court if the owner(s) of the property herein involved inform the District Right-of-Way Administrator of the District noted below of their existence and/or whereabouts prior to the expiration of the noted period. After estimated just compensation has been deposited into court, the said monies may be withdrawn by the persons entitled thereto only upon petition to the court. If no petition is presented within a period of six years of the date of payment into court, the court shall order the fund or any balance remaining to be paid to the Commonwealth without escheat.

Gary J. Bojalad  
District Right-of-Way Administrator  
Engineering District 12-0  
Pennsylvania Department of Transportation

**NOTICE**

TO: KATHLEEN I. DUBYAK, an individual, and her unknown heirs and assigns,

You have been sued in Court. In accordance with Pennsylvania Rules of Civil Procedures 430(b)(1) and (2), you are being served by publication. In accordance with said Rule, the following is the caption of the action:

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW  
No. 544 of 2024 G.D.

JAMI HOVANEC, an individual, Plaintiff  
vs.  
KATHLEEN I. DUBYAK, an individual, and her unknown heirs and assigns, Defendant

The nature of the action is that Plaintiff, Jami Hovanec, is the owner of the following described property:

ALL that certain Condominium Unit situate in The Maples Condominium, Wharton Township, Fayette County, Pennsylvania, being Unit A in Building Ten and designated as Unit No. 1QA, as more particularly appears in the Declaration of Condominiums recorded in the Office of the Recorder of Deeds for said County and

Commonwealth in Deed Book Volume 1349, page 259, in the Plats and Plans recorded as aforesaid in Plan Book 19, page 8, and in the Amendments to said Declarations and Plats and Plans.

TOGETHER with all of grantor's right, title and interest in and to the Common Elements, Limited Common Elements and Reserved Common Elements as defined in the aforementioned Declaration of record in the Office of the Recorder of Deeds of Fayette County, Pennsylvania, in Deed Book Volume 1349, page 259.

UNDER AND SUBJECT to all roads, public or private, affecting the premises and the rights of others therein; all existing utilities, sewers and pipelines, as presently located; all oil and gas and all oil and gas bearing sands, strata, formations, and horizons in which oil and gas may be found or may have been found, together with the extensive access, exploration, excavation, boring, drilling and other rights, and all the coal, stone, sand, gravel, clay, limestone and other minerals and substances, together with extensive access exploration, mining, quarrying, storing and other rights as conveyed to Roldiva, Inc., covenants, restrictions, easements, terms, rights, agreements, conditions and rules and regulations as contained in the Declaration of Condominium and the Plans of The Maples Condominium and as contained in the unrecorded Bylaws of The Maples Condominium Corporation, and all amendments to the aforesaid; limitations and conditions imposed by and rights of parties other than the insured arising under the Uniform Condominium Act of Pennsylvania; restrictions, reservations, conditions, limitations, agreements and covenants contained in the deed to the Unit or Units; right or reentry on the Sewage Facilities Area and rights of others therein; provisions of the Declaration of Condominium restricting development of the Condominium Property to not more than three Units per acre, and limiting the right to complete such development exclusively to the Declarant; rights of way, party walls, common walks, drives, utility lines, etc., incident to the ownership of a party wall structure; and restrictions as set forth in instruments from Nemaocolin, Inc. to Dr. Joseph A. Gerard, et ux., as all appear in prior instruments of record.

TOGETHER with such rights and SUBJECT to any exceptions, restrictions, reservations and conditions as exist by virtue of prior recorded

instruments, deeds or conveyance.

BEING known and designated as Fayette County Tax Map Number 42-17-0027-01-Y0-0.

You are further notified that Plaintiff, Jami Hovanec, has caused to be filed a Complaint in Action to Quiet Title, setting forth the basis upon which she claims title to said parcel of land described above. Plaintiff's counsel has filed an Affidavit with the Court, indicating that he has been unable to determine the existence or whereabouts of any heirs or assigns of the Defendant, Kathleen I. Dubyak. The Plaintiff is seeking a decree be entered against you and any others claiming under you that the Plaintiff is the absolute, unconditional fee owner of the above-described property, and requesting that the Defendant or her unknown heirs and assigns have no estate, right, title, claim or interest whatsoever in or to or against the above described property, and that the Defendant and her unknown heirs and assigns be forever barred from asserting any claim, estate, right, title or interest whatsoever adverse to Plaintiff in or to the above described real estate. This service by publication is made pursuant to an Order of Court dated the 3rd day of April, 2024, at the above number and term.

YOU ARE FURTHER NOTIFIED that in the event you do not appear and plead to the said Complaint within twenty (20) days from the date of this publication, judgment will be entered against you, which judgment shall be absolute thirty (30) days after entry.

#### 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 CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF.

YOU MAY LOSE MONEY OR PROPERTY  
OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO  
YOUR LAWYER AT ONCE. IF YOU DO  
NOT HAVE A LAWYER, TELEPHONE THE  
OFFICE SET FORTH BELOW TO FIND OUT  
WHERE YOU CAN GET LEGAL HELP.

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

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
100 South Street  
P. O. Box 186  
Harrisburg, PA 17108  
Telephone: 1-800-692-7375

Joseph R. Govi, Esquire  
Attorney for the Plaintiff  
438 Depot Street  
Latrobe, PA 15650  
(724) 804-5185

---



## 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, April 1, 2024, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2620-0544	LENORA R. MEHAULIC	Brenda Ann Lynn
2620-0086	SHERMAN WAYNE FRIEND	James E. Higinbotham
30-OC-2021	CHARLES M. KESSLER	

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

**Monday, April 15, 2024, at 9:30 A.M.**

in Courtroom No. 1 of the **Honorable President Judge Steve P. Leskinen** or his chambers, Second 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 (2 of 2)

# 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, May 6, 2024, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2622-1138	R. NILES DODSON	Michelle R. Howard, Executor

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

**Monday, May 20, 2024, at 9:30 A.M.**

in Courtroom No. 1 of the **Honorable President Judge Steve P. Leskinen** or his chambers, Second 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 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, May 6, 2024, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2622-0567	WAYNE K. O'BRIEN	Deborah A. Martin, Executrix
2688-0965	MARTHA SHEARER PIGNETTI FAMILY TRUST	PNC Bank National Association, Trustee

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

**Monday, May 20, 2024, at 9:30 A.M.**

in Courtroom No. 5 of the **Honorable Judge Joseph M. George, Jr.** or his chambers, Third 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.



# WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE

A DECADE OF EXPERIENCE   E&O INSURED   WILL TRAVEL   ACCEPTING NEW CLIENTS



## DiBella Weinheimer

Geer McAllister Best Coco Lloyd Whalen



Holly Whalen ◊ Amy Coco ◊ Bethann Lloyd

INSIST UPON OUR EXPERIENCED TEAM

### LAWYERS DEFENDING LAWYERS

- Disciplinary Board
- Legal Malpractice
- Security Fund / IOLTA
- Ethics & Conflict Analysis
- Subpoena Assistance
- Licensure
- Conflict Resolution

WWW.DIBELLA-WEINHEIMER.COM 412 261-2900

## JUDICIAL OPINION

### IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA SUMMARY APPEAL

COMMONWEALTH OF PENNSYLVANIA :  
v. : No. 55 SA 2023  
RICHARD FRAME, : No. 183 WDA 2024  
APPELLANT. : Honorable Mark M. Mehalov

### OPINION

Mehalov, J.

April 4, 2024

Before the Court is the direct appeal of the violation of the summary offense of the Township of Georges, Fayette County, Ordinance No. 2000-3, known as the Refuse Disposal Ordinance. The Appellant was charged in a private criminal complaint with failure to remit payment for waste collection in the amount of two hundred and fifty dollars and twenty-five cents (\$250.25) for refuse collection services provided in the year 2022.

In Appellant's Answers for Pa.R.A.P. 1925(B) Errors, he raises the following:

1. The Appellant raises the issue of contracting and how judges lose subject matter jurisdiction under United States Code title 18, subsection 1341 frauds and swindles;
2. The Appellant questions whether he's charged with a civil or criminal case;
3. The Appellant asserts he was not read his Miranda rights and did not have an opportunity to have an attorney appointed to him;
4. The Appellant asserts his speedy trial rights have been violated and Judge George should have dismissed the case with prejudice when the code enforcement officer failed to appear nor did the garbage service owner;
5. The Appellant asserts that the charge violates Article 1 Section 10 of Constitution;
6. The Appellant asserts that the policies turned into municipal law do not apply to him as he is a proclaimed American State Nationalist.

### BACKGROUND

The Code Enforcement Officer for Georges Township filed a citation for a violation of Local Ordinance 2000-3 §(4)(0), known as the "Refuse Disposal Ordinance" (hereinafter Ordinance") for failure to pay two hundred and fifty dollars and twenty-five cents (\$250.25) for refuse services provided to the property located at 41 Highland Street, Smithfield, Pa. The citation was filed on March 7, 2023 and issued by

Magisterial District Judge Daniel C. Shimshock on March 10, 2023. (N.T. of 1/5/2024 at pg. 22).

After a hearing before Judge Shimshock, the Appellant was found guilty of failing to pay the refuse bill. The Appellant filed an appeal and a Summary Appeal hearing was scheduled before the Honorable Joseph M. George, Jr. The Summary Appeal hearing was subsequently transferred to and rescheduled before the Honorable Mark M. Mehalov for January 5, 2024. After the Summary Appeal hearing in Common Pleas Court on the matter, the Court found the Appellant guilty of the charge.

Richard Hlatky, the Code Enforcement Officer for Georges Township, testified that he filed the citation based on information received from Jim Collins Services LLC, which is the trash sanitation collector for Georges Township. (N.T. of 1/5/24 at pg. 10). The residence at issue is 41 Highlands Avenue, Smithfield, Pennsylvania. (N.T. at pgs. 11-12). The garbage bills are sent out in the name of the owner of the property and not in the name of a tenant or resident in the property because it is alienable debt against the property. (N.T. at pg. 23).

The Appellant stated during his questioning that the property was his mother and father's who are both deceased and the house is now in probate. (N.T. at pg. 19). The Appellant testified that his middle initial is A for Allen while his father's middle initial is E. The Appellant denied residing at the property and denied there was any use of the refuse service.

Jim Collins, the owner of the waste hauling collection business that was the garbage collector for Georges Township in 2022, testified that he drives the route that collects waste from the residence at issue, 41 Highlands Avenue. He testified that garbage was placed out for pickup until shortly before the hearing. When pickup stopped, he notified the township. A bill was issued to the Appellant for two hundred and six dollars and twenty-five cents (\$206.25). Collins testified that no payment was ever received for 2022 but there had been a prior history of payment being made. (N.T. at pg. 27). Collins testified that once the garbage was no longer being placed out, he notified the township and stopped billing. (N.T. at pg. 29).

During the Summary Appeal hearing, Appellant denied receiving the citation and denied residing at the residence. The Appellant denied that there was any refuse left for pick-up at the residence as no one resided there. The Appellant informed the Court that the house was part of his deceased parents' estate and there was a dispute as to ownership. The Appellant asserted that his sister had previously paid the refuse bill but he was not going to pay it. While he asserted that his parents had verbally given him the house, it was not his and he was not paying the bill. The Appellant admitted that he was managing the property. (N.T. at pg. 35).

The Appellant stated that the property is the same property that is the subject of a case in Commonwealth Court. (N.T. at pg. 41). In that case, the Appellant filed a Motion for Extension of Time. (Exhibit 4) (N.T. at pg. 44). In that exhibit, which was filed in June 2023, the Appellant stated that he had lived on the property since 1996 with his mother and father.

## DISCUSSION

The Georges Township Ordinance No. 2000-3 is known as the "Refuse Disposal Ordinance." The following portions of the Ordinance were cited to the Court:

SECTION 4. Mandatory subscription to waste collection services; liability for costs of waste collection services; billing and assessment of waste collection services; default in payment and imposition of penalties and service fees.

a. All persons and/or entities occupying and/or owning dwellings, multiple dwellings, apartments, commercial, industrial or any other type of structures or parts thereof in the Township, shall utilize and subscribe to the garbage, refuse, rubbish and riff-raff collection and disposal service and make payment to the collector(s) awarded a contract by the Township to collect, transport and dispose of garbage, refuse, rubbish and riff-raff, as set forth in this ordinance.

f. Owner(s), primary tenant(s) or primary occupant(s) who are billed for waste collection services hereunder, shall remit payment for those services directly to the collector which is awarded the said contract to collect waste from the particular premises for which the bill is issued

g. If, after being sent a bill for waste collection services by the contractor, the owner (s), primary tenant(s) or primary occupant(s) of a unit fail to remit payment to the collector by the date upon which such bill is due and payable, the owner(s) primary tenant(s) and/or primary occupant(s) shall be deemed to be in violation of the provisions of this ordinance.

h. In the event that the owner(s), primary tenant(s) or primary occupant(s) of a unit fail to pay the collector within five (5) days after a bill becomes due and payable, the collector(s) may, in its/their discretion, impose a service charge or late fee upon such individuals of not more than fifteen (15%) percent of each overdue bill, subject to the terms and conditions of the collector's(') contract with the Township. Such charge or late fee may be imposed in addition to any other remedy sought by the collector or penalty imposed upon the owner(s), tenant(s), or occupant(s) of a unit.

SECTION 12A. The failure of any person to comply with any term, provision, requirement or mandate under this ordinance shall constitute a violation hereof. All actions for enforcement of this ordinance shall be brought as follows:

a. As a summary offense, before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person who shall violate or fail to comply with any of the provision of this ordinance shall, upon conviction, thereof, in a summary proceeding before a District Justice, be sentenced to pay fine of not less than twenty-five (\$25.00) dollars nor more than one thousand (\$1,000.00) dollars and costs of prosecution and/or a term of imprisonment of up to ninety (90) days, per violation. Each day that a violation continues after initial notice of the violation has been served shall constitute a separate offense;

Ordinance No. 2000-3.

The Appellant filed a Notice of Appeal to the Superior Court. Thereafter, the Court directed that the Appellant file a statement of errors complained of on appeal as the Court desired clarification of the errors of concern to the Appellant. The Appellant filed a pro se Answers for Pa.R.A.P. 1925(B) Errors. Issues raised are to be supported with sufficient detail to identify the concern so the Court may readily discern and address the issues of concern. Pa. R.A.P. 1925(B)(4)(ii). In the Appellant's first issue, he cites to the federal mail fraud statute, Title 18 United States Code § 1341. At the time of the Summary Appeal hearing, no issue related to mail fraud was ever raised as an issue by the Appellant. The Appellant's mention of the statute without more is clearly insufficient to permit the Court to address the issue. For that reason, the issue is waived.

The Appellant asserts that pursuant to Article I, Section 10 of the Constitution is the contract clause and protects him from the municipality's contract with the rubbish hauler. His assertion is without merit and clearly frivolous, nor has it been developed in any manner. The issue is waived and without merit.

The Appellant informed the Court that he did not know whether this was a criminal or civil proceeding. The Appellant stated that he never was served with the citation and never appeared at the magistrate's hearing. While he stated that he never appeared at the magistrate's hearing, he later informed the Court during the hearing that Exhibit No. 1 was never presented at the magistrate's office so he objected to it. (N.T. at pg. 19). If the Appellant was not at the hearing, he would have no information as to what information was presented and what exhibits were introduced. The Appellant's statement indicated that he was present at the magistrate's hearing. The Court has determined that the contradictory statements negatively impact the Appellant's credibility.

When the Appellant claimed that he was unaware that this was a criminal proceeding, the Court gave him the opportunity to obtain counsel. When given the option of having counsel, the Appellant chose to not attempt to procure counsel. His assertion that he was not given the opportunity to obtain counsel is clearly contradicted by the Court's statements to him at the commencement of the hearing. This issue is without merit.

The Appellant states he was never served with the citation and he never appeared at the Magistrate's hearing. The Appellant further claims that he didn't know whether it was a civil or criminal case filed against him.

The Appellant asserts that his speedy trial rights were violated. The citation was filed on March 10, 2023. The hearing before Magisterial District Judge Shimshock was held on May 16, 2023. The Summary Appeal was filed on June 13, 2024. The case was heard by the Court on January 4, 2024. This issue is without merit.

The Appellant's claim that he was denied counsel is without merit as it is clear from the transcript that the Court gave him the opportunity to obtain counsel but the Appellant chose not to do so as he stated that it would serve no purpose. (N.T. at pgs. 7-8). Thus, this issue is without merit.

The Appellant mistakenly asserts that he was denied his Miranda Rights. In this case, as the Appellant was never subjected to any custodial interrogation or taken into custody, there was no requirement that he be read his Miranda Rights. The Appellant is



also mistaken in his assertion that he is entitled to a jury trial. In his case, as it involved a summary violation of a municipal ordinance, the case would be heard de novo by the judge of the court of common pleas sitting without a jury. Pa.R.Crim.P. 462(A). The Appellant is not entitled to a jury trial in this case. Therefore, this issue is without merit.

The Appellant asserts that he is an American State Nationalist and he does not give his allegiance to this government. The Appellant's declared ideology that individuals can declare themselves independent and not subject to the laws of this country are without any basis in fact or law. His assertions are frivolous and without merit.

The Court has determined that the Appellant was an occupant of the property in 2022 as evidenced by his statement to the Commonwealth Court. Based on the testimony of the trash hauler and the code enforcement office, the Appellant's contradictory statements made during the hearing compared to his subsequent correspondence to Commonwealth Court, and the mandatory requirement for a fee for refuse collection, the Court has determined that the Commonwealth has met its burden, and the Appellant's appeal without merit. Therefore, the Court respectfully requests that the appeal filed in this matter should be dismissed.

BY THE COURT:  
MARK M. MEHALOV, JUDGE

ATTEST:  
Clerk of Courts



129TH ANNUAL  
FAYETTE COUNTY BAR ASSOCIATION

# BAR BANQUET

FRIDAY, APRIL 26, 2024

5:30 | COCKTAILS & APPETIZERS

6:30 | FABULOUS BUFFET

SIGNATURE COCKTAIL | CEASE AND DESIST  
CATERED BY THE YARD

## THE GRAYSON HOUSE

157 RIGGIN HILL ROAD  
UNIONTOWN, PA 15401

RSVP TO THE ASSOCIATION BY APRIL 5  
724-437-7994 OR CINDY@FCBAR.ORG  
NO CHARGE FOR FCBA MEMBERS  
GUESTS WELCOME/GUEST FEE \$100



*Quality... Experience... Results...  
It's what your clients deserve.*

*Medical Malpractice • Auto Accidents • Personal Injury*



# GISMONDI

& ASSOCIATES

412-281-2200

[www.gislaw.com](http://www.gislaw.com)

700 Grant Bldg., 310 Grant St., Pgh., PA 15219