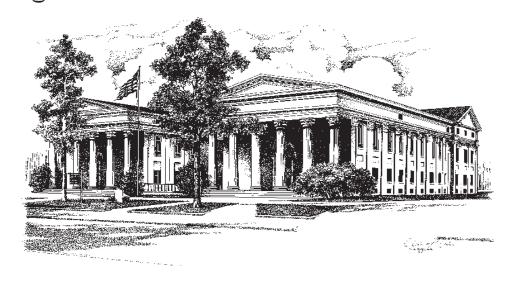
# August 20, 2010

# Erie County Legal Journal

Vol. 93 No. 34 USPS 178-360



93 ERIE 160 - 167 Commonwealth v. Lemon

### **Erie County Legal Journal**

Reporting Decisions of the Courts of Erie County The Sixth Judicial District of Pennsylvania

> Managing Editor: Paula J. Gregory Associate Editor: Heidi M. Weismiller

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# Erie County Bar Association Calendar of Events and Seminars

#### TUESDAY, AUGUST 31, 2010

Ethical Considerations for Marketing Your Law Practice with Social Networking Sites PBI Video Seminar Erie County Bar Association 9:00 a.m. - 10:00 a.m. (8:30 a.m. reg.) \$49 (member) \$59 (nonmember) 1 hour of ethics

#### WEDNESDAY, SEPTEMBER 8, 2010

The Importance of Conducting Mock Juries

ECBA Live Lunch-n-Learn

Bayfront Convention Center

Lunch & Registration ~ 11:45 a.m.

Seminar ~ 12:15 p.m. - 1:15 p.m.

\$29 (ECBA members / staff)

\$45 (nonmembers)

1 hour substantive

#### FRIDAY, SEPTEMBER 10, 2010

14th Annual Judgment Day Young Lawyers v. Seasoned Sluggers Softball Game Jerry Uht Ball Park 4:30 p.m.

All ECBA members, family, staff and courthouse employees are invited free of charge. Hotdogs, pop, beer and snacks provided compliments of Ferguson & Holdnack Reporting, Inc.

#### **MONDAY, SEPTEMBER 20, 2010**

Income Tax Planning of Closely Held Businesses
PBI Groupcast Seminar
Erie County Bar Association
9:00 a.m. - 5:00 p.m. (8:30 a.m. reg.)
\$274 (member) \$254 (admitted after 1/1/06)

\$294 (nonmember)

Early Registration - If you register more than 2 days before this presentation you will qualify for this Early Registration Fee: \$249 (member) \$229 (admitted after 1/1/06) \$269 (nonmember)

7 hours substantive

#### **TUESDAY, SEPTEMBER 21, 2010**

How to Prepare the Fiduciary Income & Decedents
Final Lifetime Income Tax Return
PBI Groupcast Seminar
Erie County Bar Association
9:00 a.m. - 1:15 p.m. (8:30 a.m. reg.)

\$224 (member) \$204 (admitted after 1/1/06) \$244 (nonmember)

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#### ERIE COUNTY LEGAL JOURNAL

NOTICE TO THE PROFESSION

#### NOTICE OF PROPOSED TERMINATION OF DIVORCE CASE

Plaintiff : IN THE COURT OF COMMON PLEAS

vs. : OF ERIE COUNTY, PENNSYLVANIA

Defendant : FAMILY DIVISION

.

The Court intends to terminate this case without further notice because the docket shows no activity in the case for at least two years.

You may stop the Court from terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed should be filed with the Prothonotary's Office at the Erie County Courthouse, 140 West Sixth Street, Room 120, Erie, Pennsylvania 16501 on or before October 10, 2010.

The Statement of Intention to Proceed shall be in the following form:

#### (Caption)

#### Statement of Intention to Proceed

To the Court:	
(name)	intends to proceed with the above captioned matter.
	•
Date:	(Signature)
	Attorney for

### If you fail to file the required Statement of Intention to Proceed, the case will be terminated.

Peter E. Freed, Deputy Court Administrator

PLAINTIFF	DEFENDANT	Docket #
Lawrence Fiero	Susan Marie Fiero	13731-98
Yolanda K. Gantz	David C. Gantz	13843-98
James A. Woods	Karen L. Woods	13922-98
Devona S. Sherrer	Williams L. Sherrer	13788-98
Vincie A. Smith	Brack Smith	13959-98
Kimberly Joy Lacey	Paul Richard Lacey	13974-98
Tammy E. Kellirman	Richard W. Kelliram	13976-98
Americo E. Coluzzi	Donna J. Coluzzi	13991-98
Shaun C. Coletta	Marissa T. Coletta	14234-98
Cindra V. Brendel	Erik J. M. Brendel	13969-98
David P. Warner	Carol J. Warner	14431-98
John D. Bartelt	Danielle M. Bartelt	14554-98
Otto Stokes Jr.	Juanita Stokes	14587-98
Cathy Ann Dicarlo	Richard John DiCarlo	14603-98
Roger L. Graves	Cathy L. Graves	14717-98
Diane M. Harpst	Glenn A. Harpst	10032-99
Darnell A. McQueen	Tamika C. Rice McQueen	10089-99
Mary Ann Kupniewski	Richard J. Kupniewski	10085-99
Rose V. McQueeney	Theodore M. McQueeney, Jr.	10210-99

#### ERIE COUNTY LEGAL JOURNAL

NOTICE TO THE PROFESSION

PLAINTIFF	DEFENDANT	Docket #
Margaret R. Giannamore	Joseph E. Giannamore	10216-99
Ira Quinn	Joyce Ann Quinn	10336-99
Jodey Bayle	Shirley Bayle	10292-99
		Aug 20

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#### NOTICE OF PROPOSED TERMINATION OF DIVORCE CASE

Plaintiff : IN THE COURT OF COMMON PLEAS

vs. : OF ERIE COUNTY, PENNSYLVANIA

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You may stop the Court from terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed should be filed with the Prothonotary's Office at the Erie County Courthouse, 140 West Sixth Street, Room 120, Erie, Pennsylvania 16501 on or before October 13, 2010.

The Statement of Intention to Proceed shall be in the following form:

#### (Caption)

#### Statement of Intention to Proceed

-	to the court.	
	(name)	intends to proceed with the above captioned matter.
	Date:	(Signature)
		Attorney for

## If you fail to file the required Statement of Intention to Proceed, the case will be terminated.

Peter E. Freed, Deputy Court Administrator

To the Court:

PLAINTIFF	DEFENDANT	Docket #
Anna C. Shirey	John A. Shirey	10389-99
David J. Tabb	Michelle R. Tabb	10506-99
Marian Sue Hilinski	Thomas J. Hilinski	10509-99
Jeffrey P. Moose	Margaret Moose	10546-99
Paul E. Becker	Paul E. Becker	10550-99
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James Arnold Becker	Tonya Rene Becker	10602-99
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Charles J. Bender	Karen M. Bender	10651-99
Rita Rice	Quentin O. Rice	10680-99
Norma I. Pabon	Juan F. Pabon	10685-99

#### ERIE COUNTY LEGAL JOURNAL

NOTICE TO THE PROFESSION

PLAINTIFF	DEFENDANT	Docket #
Daniel W. Butler	Jill Butler	10715-99
Dawn M. Sechrist	William J. Sechrist VI	10747-99
John C. Lantzy	Dyanna R. Lantzy	10781-99
Nelson Rosa	Maria Bernal	10827-99
Trina Lawrence	Peter B. Lawrence	10853-99
Helen G. Sliker	Ronald G. Sliker	10882-99
Samuel H. Miller	Barbara Ann Miller	10895-99
Daniel Ruiz	Tara Ruiz	10953-99
Kelly Wetherall	Donald Wetherall	10993-99
Elizabeth Jean Foster	Milton McArthur	11017-99
		Aug. 20

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# The Importance of Conducting Mock Juries



An Erie County Bar Association seminar presented in cooperation with its Civil Litigation Section

Wednesday, September 8, 2010
Bayfront Convention Center

Lunch - 11:45 a.m. - 12:15 p.m. Seminar - 12:15 p.m. - 1:15 p.m.

\$29 (ECBA members/staff) \$45 (nonmembers) \$20 (judges)

This seminar has been approved by the PA CLE Board for 1 hour substantive credit. As a lawyer, you are well aware that you may only get one chance to present what is hopefully a "winning strategy" for your client.

Mock Juries can be used to:

- Test legal arguments and strategies before unveiling them in the courtroom
- View deliberations as they happen to understand their thought process and refine your presentation and arguments
- Determine credibility from the "jurors" perspective
- Learn which words, terms and phrases "jurors" understand and which should be avoided
- Understand what emotions, feelings, and possibly hidden motives influence the "jurors"
- Determine what type of "jurors" are most likely to be favorable to your client's case
- Gain insights into the opposition's potential strategies

A mock jury consists of eight to ten "jurors" assembled to hear a summary presentation of both sides of a case. Once the case is presented, participants then discuss the evidence and the arguments. Lawyers observe the group discussion from behind a one-way mirror. Typically, each session lasts two hours.

#### Our Speaker



#### Colleen Moore Mezler

President & CEO of Moore Research Services, Inc.

Reservations due to the ECBA office by September 3, 2010.

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Cancellation Policy for ECBA Events/Seminars: Cancellations received on or before the last reservation deadline will be fully refunded. Cancellations received after the deadline or non-attendance will not be refunded. If you register for an event without payment in advance and don't attend, it will be necessary for the ECBA to send you an invoice for the event.

Commonwealth v. Lemon

#### COMMONWEALTH OF PENNSYLVANIA LARRY S. LEMON, DEFENDANT

#### CRIMINAL PROCEDURE / STANDARD FOR DECERTIFICATION

In determining whether to transfer a case from the Criminal Division to the Juvenile Division, the child shall be required to establish by a preponderance of the evidence that the transfer will serve the public interest.

#### CRIMINAL PROCEDURE / FACTORS FOR DECERTIFICATION

The factors to be considered in determining a transfer to Juvenile Court are the impact on the victim, impact of the offense on the community, the threat to the safety of the public by the child, nature of the offense, degree of child's culpability, the adequacy and duration of dispositional alternatives available as a juvenile and adult and finally whether the child is amenable to treatment.

#### **DECERTIFICATION**

Hardness of heart, lack of remorse and a mind without regard for social consequences precludes decertification.

#### IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, NO. 552 OF 2010 CRIMINAL DIVISION PENNSYLVANIA

Elizabeth Hirz, Esq., Attorney for Commonwealth Appearances: John Mead, Esq., Attorney for Larry S. Lemon

#### **OPINION**

Cunningham, William R., J. Aug. 13, 2010

The presenting matter is the Defendant's request to transfer this case to the Juvenile Court pursuant to 42 Pa.C.S.A. §§6322 and 6355(a)(4)(iii). After a hearing held on July 28, 2010, the Defendant has not satisfied the evidentiary burden of proof for decertification.

The Commonwealth has charged the Defendant as an adult with Criminal Homicide, Aggravated Assault, Recklessly Endangering Another Person, Firearms not to be Carried Without a License, Possession of a Firearm by a Minor and Possession of a Weapon.<sup>1</sup>

The charges are alleged to have arisen during the early evening hours of January 5, 2010, when the Defendant allegedly shot Steven Arrington multiple times with a nine millimeter semi-automatic handgun in front of Henry Lee's Market on Buffalo Road in the City of Erie. Criminal *Information, March 15, 2010; Defendant's Videotaped Statement to Police,* January 5, 2010 (Commonwealth Exhibit "B," 4/19/10). According to

<sup>&</sup>lt;sup>1</sup> 18 Pa.C.S.A. §2501(a); 18 Pa.C.S.A. §2702(a)(1); 18 Pa.C.S.A. §2705; 18 Pa.C.S.A. §6106(a)(1); 18 Pa.C.S.A. §6110.1(a), 18 Pa.C.S.A. §907(b), respectively.

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the grocery store clerk, Arrington was in the market shopping when the Defendant opened the door, looked inside and saw Arrington in the store. The Defendant was wearing all black. The Defendant waited outside for the victim to emerge from the store. The shooting occurred immediately after the victim exited the store. Steven Arrington did not die at the scene, but was pronounced dead a short time later at the hospital.

The Defendant fled the scene on foot and went to the home of Jessica Burrows, an acquaintance with a baby in the home. *Defendant's Videotaped Statement to Police, January 5, 2010.* The Defendant left the gun with Burrows as it belonged to the father of the baby. *Id.* The Defendant changed his clothing at the Burrows' residence. *Id.* 

Subsequently, the Defendant heard the police were looking for him. *Id.* Accompanied by his mother, the Defendant went to the Erie Police Station the evening of January 5, 2010. After the Defendant and his mother signed a waiver of Miranda rights, the Defendant gave a videotaped statement recounting his version of the events of the shooting.

On April 19, 2010, an evidentiary hearing was held on the Defendant's Motion to Suppress the videotaped statement. The Defendant's videotaped statement was entered into evidence as Commonwealth Exhibit "B" at the suppression hearing and is incorporated herein by reference. Findings of Fact and Conclusions of Law were filed April 21, 2010, denying the Defendant's Motion to Suppress. The Findings of Fact and Conclusions of Law are incorporated herein by reference.

The Defendant bases his request for decertification on his purported compliance with the terms of supervision while under the jurisdiction of the Juvenile Court. The Defendant claims he is amenable to treatment in the juvenile system. In support of this contention, the Defendant entered into evidence his juvenile records from 2003 through 2009 as Defense Exhibit "1." The Defendant argues he has the mental capacity and maturity to accept rehabilitation in the juvenile system.

The Commonwealth opposes the request for decertification due to the serious nature of the charges, the effect on the victim and the community and the inadequacy of dispositional alternatives under the juvenile court system. The Commonwealth argues the Defendant was non-compliant with juvenile probation, incurred several revocations from community supervision, was repeatedly placed at residential treatment facilities, increased his level of criminal sophistication, has exhausted treatment programs in the juvenile system and is not amenable to treatment in the juvenile system.

#### **DEFENDANT'S JUVENILE DELINQUENCY BACKGROUND**

The Defendant was born on January 24, 1992. On the day of the alleged homicide, January 5, 2010, the Defendant was nineteen days shy of his eighteenth birthday. The Defendant's juvenile delinquency history

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was gleaned from Defense Exhibit "1."

Allegations of delinquency were first filed in December of 2003, when the Defendant was eleven years old. The sustained delinquency allegations were for Theft by Unlawful Taking and Receiving Stolen Property for the theft of money (\$200.00) from a teacher's purse at McKinley Elementary School. The Defendant was adjudicated delinquent and placed on electronic monitoring with a deferred placement to a residential treatment facility.

While on electronic monitoring, the Defendant did not comply with school rules and the rules of juvenile probation. Separately, the Defendant was adjudicated delinquent for Failure to Comply with a Lawful Sentence. The Defendant was revoked from formal probation on November 2, 2004, and placed at Beacon Light Residential Treatment Facility. On January 28, 2005, the Defendant was released from Beacon Light, returned home and discharged from the jurisdiction of the Juvenile Court.

By June of 2005, allegations of delinquency were filed for Theft by Unlawful Taking and Receiving Stolen Property for the theft of a laptop computer from Wilson Middle School in May of 2005. In November of 2005, the Defendant was placed on Formal Probation with a deferred placement to Beacon Light Residential Treatment Program.

The Defendant was charged with Loitering and Prowling at Night on December 3, 2005, when he was found hiding in someone's backyard, and Failure to Comply With a Lawful Sentence, after he was found guilty of Harassment by the Magisterial District Court on October 24, 2005.

In December of 2005, the Defendant became a fugitive and a warrant for his arrest was issued on January 3, 2006. The Defendant was arrested in Cleveland, Ohio on February 24, 2006, where he had been residing in violation of the terms of his probation.

The allegations of delinquency were sustained at a Revocation/Adjudication Hearing on March 8, 2006.

The Defendant was again placed at Beacon Light Residential Treatment Facility. On October 26, 2006, the Defendant was released to the care of his mother. The Defendant was closed from the supervision of the Juvenile Court in February of 2007.

The Defendant's return to the community was short-lived. On December 11, 2007, the Defendant was arrested by the Erie Police and charged with Aggravated Assault, Possessing an Instrument of Crime, Simple Assault and Recklessly Endangering Another Person for striking the victim on the back of the head with a wooden board at the victim's home. The charges of Simple Assault and Possessing an Instrument of Crime were sustained.

During this time, the Defendant was also charged with Terroristic Threats, Disorderly Conduct and Harassment for threats he made at Central High School. The charge of Terroristic Threats was sustained. At a Dispositional hearing on January 16, 2008, the Defendant was placed at Cresson Secure Treatment Unit. In September of 2008, the Defendant was released from Cresson and placed on Conditional Release in the care of his aunt.

In less than one month of his release, the Defendant incurred additional allegations of delinquency. In October of 2008, the Defendant was driving a stolen car and charged with Theft by Receiving Stolen Property, Criminal Conspiracy and Drivers Required to be Licensed. The allegation of delinquency of Criminal Conspiracy (to steal a car) was sustained. The other two charges were withdrawn.

In November of 2008, after a Revocation from Probation/Dispositional hearing, the Defendant was placed at George Junior Republic, Special Needs Unit, a staff-secure unit. The Defendant was released on June 9, 2009, to the care of his aunt. The Defendant was closed from the supervision of the Juvenile Court in August of 2009.

Within five months, the Defendant was charged with this homicide.

#### STATUTORY FACTORS

In determining whether to transfer this case from the criminal division to the juvenile division, "the child shall be required to establish by a preponderance of the evidence that the transfer will serve the public interest." 42 Pa.C.S.A. §6322(a); *Com. v. Aziz*, 724 A.2d 371, 373 (Pa. Super. 1999); *Com. v. Sanders*, 814 A.2d 1248, 1250 (Pa. Super. 2003).

The factors contained in 42 Pa.C.S.A. §6355(a)(4)(iii) must be considered in determining whether the child has established the transfer will serve the public interest. Each of these statutory factors will now be discussed seriatim.

#### (A) IMPACT ON THE VICTIM

These crimes had the worst possible impact on the victim. Steven Arrington is dead. He has been permanently deprived of his life.

The circle of victims is wider. Steven Arrington was a son and a father. His parents have lost a son. His infant daughter has lost a father. They have been deprived of the victim's love, support and companionship.

#### (B) IMPACT OF OFFENSE ON THE COMMUNITY

The record is devoid of any evidence as to how the public interest would be served by decertification. To the contrary, the public would be put at risk by the Defendant's proven ability to commit serious crimes despite a plethora of resources devoted to his rehabilitation. Erie County taxpayers have spent a significant sum trying to help the Defendant since his first involvement in the juvenile justice system at the age of eleven. Extensive efforts were made to work with the Defendant within a community setting, yet he had to be removed from the community on

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four separate occasions and placed in three different residential facilities. Each of these facilities offered rehabilitative services to address any educational, substance abuse, mental health, vocational or any other need by the Defendant that would enable him to live a crime-free life.

After providing the Defendant all of these comprehensive resources, the community has a right to expect that the Defendant would not be in possession of a handgun and shooting someone at point-blank range in a parking lot outside of a grocery store.

#### THE THREAT TO THE SAFETY OF THE PUBLIC OR **(C)** ANY INDIVIDUAL POSED BY THE DEFENDANT

All of the crimes committed by the Defendant have had a victim. Some of these victims were for property offenses, including the theft of a teacher's purse in 2003, the theft of a laptop computer from a school in 2005 and driving a stolen car in 2008. The Defendant has been adjudicated delinquent for loitering and prowling when he was found hiding in someone's backyard in 2005.

The Defendant also has a history of violent behavior. In December 2007, the Defendant was adjudicated delinquent for Simple Assault and Possessing an Instrument of Crime for striking someone on the back of the head with a board at the victim's home.

Likewise in December 2007, the Defendant was adjudicated delinquent for Terroristic Threats committed at Central High School.

The Defendant's criminal behavior has escalated from property crimes to crimes against the physical safety of the victims. Ultimately, the Defendant was charged with the most serious crime against a person, homicide. The Defendant has demonstrated that he consistently poses a threat to the property and safety of citizens of this community.

#### THE NATURE AND CIRCUMSTANCES OF THE OFFENSE (D) ALLEGEDLY COMMITTED BY THE CHILD

The Defendant was not an innocent bystander in this incident. To the contrary, the Defendant created the immediate circumstances for this killing to occur.

If the Commonwealth's evidence is accepted at trial, the jury could find the Defendant was the sole actor who used a nine-millimeter semi-automatic handgun to shoot the victim multiple times, without provocation, at point-blank range. The Defendant waited to ambush Arrington outside of a grocery store. The Defendant could have easily chosen to leave once he knew the victim was inside the store. Instead, the Defendant chose to wait outside the store with a loaded gun. All other choices that were available to the Defendant were less lethal than the option he chose.

The Defendant claims there had been a long-standing feud between him and the victim. The Defendant contends Arrington and Arrington's

friends engaged in a pattern of harassment and threats directed toward the Defendant since the summer of 2009. The Defendant alleges he was threatened by Arrington in the parking lot of Henry Lee's Market on January 5, 2010, just prior to the victim entering the market. The Defendant stated he waited in the parking lot for the victim to emerge from the store. *Defendant's Videotaped Statement, Commonwealth Exhibit "B"*, 4/19/10.

If in fact the Defendant felt threatened by Steven Arrington on January 5, 2010 in the parking lot of Henry Lee's Market prior to the victim entering the store, the Defendant had a host of other legal options available, including reporting any threats to the police department. Instead, the Defendant chose to be the aggressor and waited outside of the market. The jury could find the Defendant then gunned down Arrington in a premeditated manner with malice. The Defendant fled the scene and stashed the gun at a friend's house and changed his clothes.

All of these were not the acts of an individual concerned with the safety of others in this community. The nature and circumstances of the offense allegedly committed by the Defendant are extremely alarming.

#### (E) THE DEGREE OF THE CHILD'S CULPABILITY

By his videotaped statement, the Defendant admits he fired the shots that killed Steven Arrington. Hence, this is not a case of ascertaining who fired the fatal shots.

If the jury accepts the Commonwealth's version of the events, the Defendant was the sole actor who created the circumstances for this deadly encounter to occur. The Defendant was not a happenstance participant who was in the wrong place at the wrong time. The Defendant could have easily avoided this killing.

The Defendant acted alone without the prodding or prompting of any co-conspirator. The Defendant cannot say he was a follower of any person more culpable in this killing. The Defendant was the principal actor who demonstrated his ability to commit the most heinous act known to mankind. Accordingly, the degree of the child's culpability works against his request for decertification.

# (F) THE ADEQUACY AND DURATION OF DISPOSITIONAL ALTERNATIVES AVAILABLE AS A JUVENILE OR ADULT

By his behavior, the Defendant has demonstrated he is not amenable to treatment within the juvenile system. The Defendant has had ample opportunities and sufficient time to be rehabilitated given the resources devoted to him in the juvenile system. The Defendant was placed on four separate occasions in three different residential treatment settings. Each of these placements would have given him every educational, vocational and personal skill he would have needed to succeed in life.

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Instead, this shooting occurred within five months of the Defendant's release from the jurisdiction of the juvenile court and within seven months of his release from George Junior Republic, Special Needs Unit, in June of 2009. *See Com. v. Smith*, 950 A.2d 327 (Pa. Super. 2008) (decertification denied; crimes committed within six months of defendant's release from juvenile facility.)

The Defendant is now over eighteen and one-half years old. The juvenile system has worked with the Defendant since he was age eleven. The Defendant has been offered a variety of resources and has exhausted any further treatment options.

This Court finds credible the testimony of Robert Blakely, Chief Juvenile Probation Officer for Erie County. This case was staffed by the Juvenile Probation Office, including Chief Blakely. It was determined the Defendant has exhausted all resources available within the juvenile justice system. The Defendant's juvenile record supports this contention.

The Defendant presents with several possible rehabilitative issues. It is likely the Defendant needs treatment for anger, impulse control and aggressive behavior. The Defendant also tested positive on two separate occasions for marijuana. All of these issues can be addressed in the adult system. There is nothing unique about the Defendant's issues that only the juvenile system could address.

# (G) WHETHER THE CHILD IS AMENABLE TO TREATMENT, SUPERVISION OR REHABILITATION WITHIN THE JUVENILE SYSTEM

If the Defendant's case were transferred to Juvenile Court, there is now less than two and one half years to work with the Defendant. It is unrealistic to expect that in those two and one half years, the Defendant could be rehabilitated when the Defendant's previous six years within the juvenile system were unsuccessful.

At the Defendant's age, there is insufficient time to work with the Defendant within the juvenile justice system given his personal history. It is noteworthy that in 2006, the Defendant fled the jurisdiction and was found living in Cleveland, Ohio. Hence, there is no guarantee the Defendant would make himself available for rehabilitation in Pennsylvania before reaching the age of twenty-one.

Another factor considered was the Defendant's lack of remorse demonstrated during his videotaped statement with the Erie Police Department. At the beginning of the interview, the victim was still alive. Midway through the interview, the Defendant was informed of the victim's death. The Defendant did not exhibit any concern for the victim, instead the Defendant engaged in a detailed justification for the killing. As the Defendant was confronted with the evidence mounting against him, the Defendant then began to set up a self-defense claim

as justification for the killing. In so doing, the Defendant manifested a degree of savvy and/or sophistication in attempting to extricate himself from what he knew was a serious situation. His behavior under these circumstances demonstrated a hardness of heart and a mind without regard for social consequences that preclude decertification. *See Com. v. Smith*, 950 A.2d 327 (Pa. Super. 2008). *See also Com. v. Archer*, 722 A.2d 203 (Pa. Super. 1998)(motion for decertification denied based on the defendant's lack of remorse and the defendant was not a passive participant in the killing.)

The Defendant's cognitive functioning is lower than average. According to counsel for the Defendant, the Defendant has an IQ between 59 and 69 and is competent to stand trial as an adult. *See Hearing Record*, 7/30/10. As evidenced in the Defendant's videotaped statement, the Defendant has the ability to understand his culpability and try to minimize his responsibility. The Defendant possesses sufficient intelligence to understand the illegality of his behaviors. In most of the Defendant's crimes, he acted alone.

As his history demonstrates, there is nothing about the Defendant's age, mental capacity, maturity, degree of criminal sophistication or any other factor that would warrant the transfer of this case to Juvenile Court.

#### **CONCLUSION**

After consideration of the applicable statutory factors at 42 Pa.C.S.A. §§6322 and 6355(a)(4)(iii), the Defendant is not amenable to treatment, supervision or rehabilitation in the juvenile system. The Defendant did not establish the public interest would be served by decertification. The Motion for Decertification must be denied.

BY THE COURT: /s/ WILLIAM R. CUNNINGHAM, JUDGE



Young Lawyers v. Seasoned Sluggers SOFTBALL GAME

ECBA members, families, staff, and courthouse employees are all invited to join us

FRIDAY, SEPTEMBER 10, 2010 JERRY UHT PARK - 4:30 P.M.



Hotdogs, pop, beer and snacks provided compliments of Ferguson & Holdnack Reporting, Inc.

Any interested ECBA member is welcome to play. Seasoned Sluggers should contact Mike Fetzner at (459-3111 - mfetzner@kmgslaw.com). Young Lawyers should contact Patrick Kelley at (868-8541 - pkelley@safeneterie.org).

Young Lawyers must meet the following criteria: An ECBA member who has practiced law in any state for 5 years or less or has not yet attained the age of 38, whichever comes last. A member remains a Young Lawyer until the end of the calendar year during which they exceed the above criteria.



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www.lakeshorecountryclub.com 5950 Lake Shore Dr. membership@lakeshorecountryclub.com Lake Shore Country Club is an exclusive, private club with limited membership availability.

#### CERTIFICATE OF AUTHORITY

Notice is hereby given that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on June 28, 2010, by Patriot Risk Management, Inc., a foreign corporation formed under the laws of the State of Delaware. where its principal office is located at 3411 Silverside Road, Rodney Bldg., #104, Wilmington, DE 19810, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988. The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located at c/o Corporate Creations Network, Inc., Erie County.

Aug. 20

#### CHANGE OF NAME NOTICE IN THE COURT OF COMMON

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA

DOCKET NO. 13629-10 IN RE: AARON SHABAZZ

Notice is hereby given that on August 13, 2010, a Petition was filed in the above named Court requesting an order to change the name of Aaron Jerel Shabazz to Amir Iman Shabazz.

The Court has fixed the 12th day of October 2010 at 9:00 a.m. in Courtroom No. I, #217, Erie County Court House, Erie, Pennsylvania as the time and place for the hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Aug. 20

#### INCORPORATION NOTICE

Notice is hereby given that Arnones, Inc. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988. Thomas S. Talarico, Esq. Talarico & Niebauer 558 West 6th Street Erie, PA 16507

Aug. 20

#### INCORPORATION NOTICE

Notice is hereby given that on July 30, 2010 Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania for Daily Exclusives, Inc., a corporation organized under the provisions of the Business Corporation Law of 1988, as amended, for the purpose of engaging in all lawful business for which corporation may be incorporated under said Act.

Aug. 20

#### INCORPORATION NOTICE

Notice is hereby given the Pan Sophic Alumni Association was incorporated under the provisions of the Nonprofit Corporation Law of 1988 on April 9, 2010 for the purpose of furthering charitable, educational and religious goals of the alumni of the Pan Sophic Fraternity of Grove City College. Norman A. Stark, CPA, Esq. The Stark Law Firm 100 State Street. Suite 210

Erie. PA 16507

Aug. 20

#### \_\_\_\_\_

MARSHAL'S SALE: By virtue of a Writ of Execution issued out of the U. S. Court for the W. D. of PA at suit of the USA at Civil No. 1:09-CV-111, I shall expose to public sale the real property of Lori C. Custer known as 149 Glenn Drive, Franklin, PA 16323 f/k/a RD No. 4, Box 693, Franklin, PA 16323, being fully described in the Deed dated March 28, 2000 and recorded March 29, 2000 in the Recorder's Office of Venango County, Pennsylvania at Instrument No. 2000-001897.

LEGAL NOTICE

TIME AND LOCATION OF SALE: Friday, September 17, 2010 at 10:00 A.M. at the Venango County Courthouse, Front Steps, 1168 Liberty Street, Franklin, PA 16323.

TERMS OF SALE: Successful bidder will pay ten percent (10%) by cashier's check, certified check or bank money order at the time of the sale and the remainder of the bid within thirty (30) days from

the date of the sale and in the event bidder cannot pay the remainder, the property will be resold and all monies paid in at the original sale will be applied to any deficiency in the price at which the property is resold. The successful bidder must send payment of the balance of the bid directly to the U.S. Marshal's Office c/o Ms. Sheila Blessing, Room 241, U.S. Post Office & Courthouse, Pittsburgh, PA 15219. Notice is hereby given that a Schedule of Distribution will be filed by the Marshal's Office on the thirtieth day after the date of sale, and that distribution will be made in accordance with the Schedule unless exemptions are filed thereto within ten (10) days thereafter. The successful bidder takes the real estate subject to, and shall pay all taxes, water rents, sewer charges, municipal claims, and other charges and liens not divested by the sale. Purchaser must furnish State Realty Transfer Tax Stamps, and stamps required by the local taxing authority. Purchaser shall furnish Marshal with Grantee information at the time of the sale. Marshal's costs, fees and commissions are to be borne by seller. Thomas M. Fitzgerald, United States Marshal. For additional information visit www.resales.usda.gov or contact Ms. Kimberly Williamson 314-457-5513.

Aug. 20, 27 and Sept. 3, 10

ORPHANS' COURT ORPHANS' COURT LEGAL NOTICE

#### ESTATE NOTICES

Notice is hereby given that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same and all persons indebted to said estates are requested to make payment without delay to the executors or their attorneys named below.

#### FIRST PUBLICATION COYLE, JANET RUTH, a/k/a JANET R. COYLE. deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania Barbara Administratrix: Alberstadt, c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

Attorney: Darlene M. Vlahos, Esquire, 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

#### HEBERLE, TIMOTHY J., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania

Executor: David T. Heberle, c/o James Cairns, Esq., 3527 W. 26th St., Erie, PA 16506

Attorney: James Cairns, Esq., Cairns & Associates, 3527 W. 26th Street, Erie, PA 16506

#### HOPKINS, GERALD L., a/k/a GERALD LLOYD HOPKINS, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania

Marshall David Executor: Hopkins, c/o 3305 Pittsburgh Erie, Pennsylvania Avenue, 16508

Attorney: Darlene M. Vlahos, Esq., 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

#### JOHNSON, AMELIA M., a/k/a AMELIA MARY JOHNSON. a/k/a AMELIA MARY GOETZ, a/k/a AMELIA MARY HEINTZ. a/k/a AMELIA MARY MOWERY. deceased

Late of the Township Summit, County of Erie, and Commonwealth of Pennsylvania Executrix: Ann Luden, 11541 Townline Road, North East, Pennsylvania 16428

Attornev: Robert E. McBride, Esquire, 32 West Eighth Street, Suite 600, Erie, Pennsylvania 16501

#### KNOX, DONALD FRANCIS. deceased

Late of the Township of North East. County of Erie. State of Pennsylvania

Administratrix: Betti A. Knox. c/o 78 East Main Street, North East, PA 16428

Attorney: John C. Brydon, Esq., Brydon Law Office, 78 East Main Street, North East, PA 16428

#### LEET, DONALD A., deceased

Late of the City of Erie, Pennsylvania

Executors: Thomas R Leet and Terence S. Leet, c/o Robert G. Dwyer, Esq., 120 West 10th Street, Erie, PA 16501

Attornev: Robert G. Dwyer. Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

#### LOREI, RENEE M., deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania

Administrator: John Lorei. c/o Quinn, Buseck, Leemhuis, Toohev & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506 Attorney: John M. Quinn, Jr., Esquire, c/o Ouinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd.. Erie, PA 16506

#### MACKANOS, JOHN, deceased

Late of the Township Millcreek, County of Erie

Executrix: Louise A. Heidecker, 9870 Donation Road, Waterford, PA 16441

#### MARSCHKA, RICHARD P., deceased

Late of the Township of Fairview Executrix: Helen B. Marschka, 3225 Suburban Lane, Erie, PA

Attorney: Jack M. Gornall, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

#### OLEWSKI, RICHARD V., SR., deceased

Late of the City of Erie, County of Erie

Executor: Eileen D. Zipp, 1827 W. 22nd Street, Erie, PA 16502 Attorney: Matthew J. Parini, Offices Esquire. Law

Matthew J. Parini, 502 West Seventh Street, Suite 301, Erie, Pennsylvania 16502

#### ROTH, RANDAL R., deceased

Late of the City of Corry, County of Erie and Commonwealth of Pennsylvania

Administrator: Randal A. Roth, c/o Kurt L. Sundberg, Esq., Suite 300, 300 State Street, Erie, PA 16507

Attornevs: Marsh. Baur, Spaeder & Schaaf, LLP, Attorneys-at-Law, Suite 300, 300 State Street, Erie, PA 16507

#### SEBALD, ANNA RUTH, a/k/a ANNA REICHERT SEBALD, deceased

Late of the City of Erie. County of Erie, and Commonwealth of Pennsylvania

Co-Executrices: Mary Hilbert. 14 Kellogg Road. Marlborough, Connecticut 06447 and Patricia Munz, 540 Bladen Road, Erie, Pennsylvania 16509 Attorney: Robert E. McBride, Esquire, 32 West Eighth Street, Suite 600, Erie, Pennsylvania

16501

ORPHANS' COURT

LEGAL NOTICE

Late of the City of Erie. County

ORPHANS' COURT

#### SLOMSKI, DOROTHY I., deceased

Late of Harborcreek, Pennsylvania Executor: Joseph Bawol, c/o Jeffrey D. Scibetta, Esq., 120 West 10th Street, Erie, PA 16501 Attorney: Jeffrey D. Scibetta, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street. Erie. PA 16501

# SMITH, WILLIAM C. F., II, a/k/a WILLIAM C. F. SMITH, deceased

Late of the Township of Millcreek, County of Erie and State of Pennsylvania *Executor:* Karen L. Zorn, c/o Denis W. Krill, P.C., 309 French Street, Erie, Pennsylvania 16507 *Attorney:* Denis W. Krill, Esquire, 309 French Street, Erie, Pennsylvania 16507

# SECOND PUBLICATION HIXENBAUGH, LOUISE V., deceased

Late of the Township of Millcreek, County of Erie, Pennsylvania Executor: Jeffrey C. Hixenbaugh, c/o 246 West 10th Street, Erie, PA 16501

Attorney: Scott E. Miller, Esquire, 246 West Tenth Street, Erie. PA 16501

#### HURST, LAWRENCE E., deceased

Late of Waterford Township, County of Erie, Commonwealth of Pennsylvania

Executrix: Thelma R. Hurst, Esq., c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

Attorney: I. John Dunn, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

#### KISIEL, BERNARD F., deceased

of Erie, Commonwealth of Pennsylvania

Executrix: Denise Bielinski, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

Attorney: James F. Toohey, Esquire, Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd.,

#### NEIL, DAVID J., deceased

Erie. PA 16506-4508

Late of the City of Erie, Erie County, Pennsylvania Executor: William D. Neil, 8140

Filter Plant Road, North East, PA 16428

Attorney: Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

#### REID, CATHERINE B., deceased

Late of the Borough of North East Executors: William S. Reid, Stephen M. Reid, and Janet Reid Trojanowski

Attorney: Joseph M. Walsh, III, Esq., Shapira, Hutzelman, Berlin, Ely, Smith and Walsh, 305 West 6th Street, Erie, PA 16507

#### PATTERSON, JAMES J., deceased

Late of the Township of Girard Executrix: Colleen Ann Patterson, c/o Malcolm L. Pollard, 4845 W. Lake Rd., Erie, PA 16505 Attorney: Malcolm L. Pollard, Esq., 4845 W. Lake Rd., Erie, PA 16505

#### THOMAS, DEBRA L., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania

Administrator: Lavon Thomas Attorney: David J. Rhodes, Esquire, Elderkin, Martin, Kelly & Messina, 150 West 8th Street, Erie, PA 16501

#### THIRD PUBLICATION

#### ADAMUS, OLGA M.,

#### deceased

Late of the Township of Fairview, County of Erie, Commonwealth of Pennsylvania

Executor: Daniel E. Adamus, 5605 Langmore Lane, Erie, PA 16505

Attorneys: MacDonald, Illig, Jones & Britton, LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

#### BOSSART, EDWARD C., deceased

Late of the City of Erie

Executor: Barry J. Bossart, c/o
332 East 6th Street, Erie, PA
16507-1610

Attorney: Evan E. Adair, Esq., Williams and Adair, 332 East 6th Street, Erie, PA 16507-1610

#### CUMMINGS, CARLI CHRISTINA, deceased

Late of Millcreek Twp.

Administrator: James P.

Cummings, c/o David B. Cercone,
Cercone Erlain & Associates,
1100 Manor Building, 564 Forbes
Avenue, Pittsburgh, PA 15219

Attorney: David B. Cercone, Esq.
Cercone Erlain & Associates,
1100 Manor Building, 564 Forbes
Avenue, Pittsburgh, PA 15219

#### DEINER, GENEVIEVE, deceased

Late of Erie, PA

Executrix: Dawn Sauter, 324 Newbury Drive, Monroeville, PA 15146

Attorney: None

#### GAVIN, LeANNA N., deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania Co-Executors: John R. Gavin and Barbara L. Wiley

Attorney: Edward P. Wittmann, Esquire, Elderkin, Martin, Kelly & Messina, 150 East 8th Street, Erie, PA 16501 ORPHANS' COURT LEGAL NOTICE ORPHANS' COURT

#### GRICE, FLORENCE H., a/k/a FLORENCE E. GRICE,

#### deceased

Late of the City of Corry, County of Erie Executor: Robert E. Grice, 202 West Church Street, Corry, Pennsylvania 16407 Attorney: W. Richard Cowell, Esquire, Carney & Good, 254 West Sixth Street, Erie, Pennsylvania 16507

#### NOWACZYK, THOMAS F.,

#### deceased

Late of the City of Erie

Administrator: Barbara

Nowaczyk Monteith

Attorney: Catherine A. Allgeier,
504 State St., Suite 203, Erie, PA
16501

#### ROHDE, MAY E.,

#### deceased

Late of Erie County

Executor: Douglas E. Rohde, 864 Bryn Mawr Ave., Wycliffe, OH 44092

Attorney: Eric B. Rohde, Esq., 1926 Peach Street, Erie, PA 16502

#### SHAFFER, NANCY A., a/k/a NANCY SHAFFER.

#### deceased

Late of Erie County, Pennsylvania Executor: Clara F. Moore, c/o David W. Bradford, Esq., 731 French St., Erie, PA 16501 Attorney: David W. Bradford, Esq., 731 French St., Erie, PA 16501

#### SPITMAN, ROBERTA H.,

#### deceased

Late of the City of Corry, County of Erie, Commonwealth of Pennsylvania

Executrix: Barbara Morris, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506 Attorney: Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

#### CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

<b>John F. Mizner</b>	,
<b>Krista A. Ott</b>	(f) (814) 835-0401
<b>Cathy Moodey Doyle</b>	(f) (814) 835-0401
<b>Elysia C. Tomlinson</b>	, , ,
Tracy L. Reinhart	, ,
Patrick W. Kelley	(f) (814) 868-0626

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