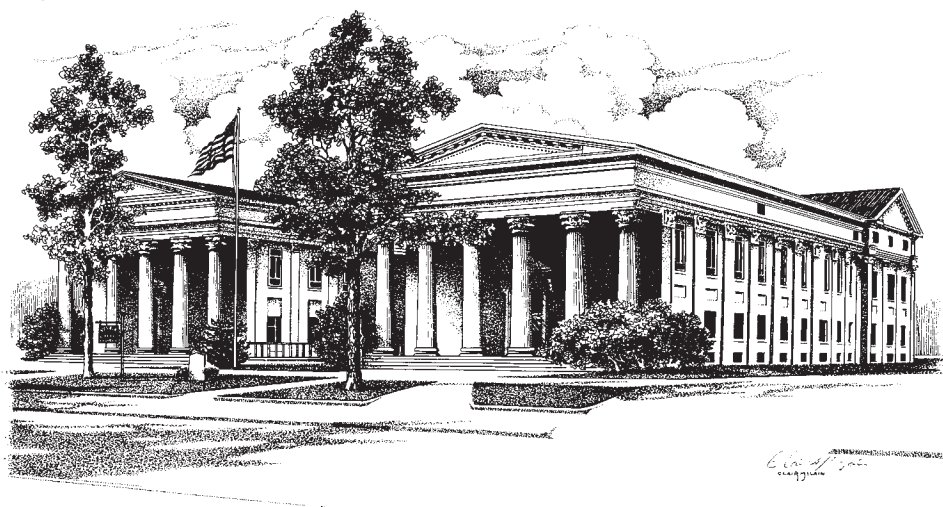


*Erie
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102 ERIE 101 - 112
Commonwealth v. Gunter

Erie County Legal Journal

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

Managing Editor: Megan E. Anthony

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Erie County Bar Association

Calendar of Events and Seminars

MONDAY, SEPTEMBER 9, 2019

Workers' Compensation Section Meeting
Noon
ECBA Headquarters

TUESDAY, SEPTEMBER 10, 2019

Family Law Section Meeting
Noon
Judge Walsh's Courtroom

TUESDAY, SEPTEMBER 17, 2019

Estates Leadership Committee Meeting
Noon
ECBA Headquarters

TUESDAY, SEPTEMBER 17, 2019

ECBA Live Lunch-n-Learn Seminar
New 2019 Guardianship Rules, Practice and Forms
The Will J. Schaaf & Mary B. Schaaf Education Center
11:45 a.m. - 12:15 p.m. - Registration/Lunch
12:15 p.m. - 1:15 p.m. - Seminar
\$47 (ECBA members/their non-attorney staff)
\$60 (non-members)
1 hour substantive

MONDAY, SEPTEMBER 23, 2019

ECBA Board of Directors Meeting
Noon
ECBA Headquarters

TUESDAY, SEPTEMBER 24, 2019

Young Lawyers Division Lunch with Judge Mead
Noon
The Will J. Schaaf & Mary B. Schaaf Education Center
\$10/ECBA member

THURSDAY, SEPTEMBER 26, 2019

Women's Division Leadership Committee Meeting
Noon
ECBA Headquarters

THURSDAY, SEPTEMBER 26, 2019

Defense Bar Meeting
4:00 p.m.
ECBA Headquarters

FRIDAY, SEPTEMBER 27, 2019

Nominating Committee Meeting
8:30 a.m.
ECBA Headquarters

SATURDAY, SEPTEMBER 28, 2019

Young Lawyers Division
Lake Erie Wine Tour 2019
Meet at the ECBA 12:45 p.m.
Tour (\$10/person) from 1:00 p.m. - 6:00 p.m.
BBQ (\$5/person) from 6:00 p.m. - 8:00 p.m.

TUESDAY, OCTOBER 1, 2019

In-House Counsel Leadership Committee Meeting
Noon
ECBA Headquarters

TUESDAY, OCTOBER 1, 2019

Red Mass
Saint Peter Cathedral
5:15 p.m.

Buffet Dinner immediately following Red Mass
Gannon University's Morosky Center
\$39/person



Erie County Bar Association



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To view PBI seminars visit the events calendar
on the ECBA website
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SHERIFF SALE SCHEDULE FOR THE YEAR 2020

LAST DATE TO FILE

December 2, 2019
January 3, 2020
February 3, 2020
March 2, 2020
April 1, 2020
May 1, 2020
June 1, 2020
July 1, 2020
August 3, 2020
September 1, 2020
November 2, 2020

DATE OF SALE

February 21, 2020
March 20, 2020
April 17, 2020
May 22, 2020
June 19, 2020
July 24, 2020
August 21, 2020
September 18, 2020
October 16, 2020
November 20, 2020
January 22, 2021

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Sept. 6



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COMMONWEALTH OF PENNSYLVANIA

v.

TREY D. GUNTER

CRIMINAL PROCEDURE / POST-CONVICTION RELIEF ACT

The purpose of the Post-Conviction Collateral Relief Act, 42 Pa.C.S.A. § 9541 et seq., is to afford persons who have been convicted of a crime they did not commit an avenue to obtain collateral relief. *See* 42 Pa.C.S.A. § 9542.

CRIMINAL PROCEDURE / POST-CONVICTION RELIEF ACT / WAIVER OF ISSUES

The court is only permitted to address issues raised in a counseled Petition for Post-Conviction Collateral Relief. Therefore, counsel's failure to raise an issue in a Supplement to Petition for Post-Conviction Collateral Relief constitutes waiver of the claim on appeal.

CRIMINAL PROCEDURE / POST-CONVICTION RELIEF ACT

A cognizable claim pursuant to the Post-Conviction Collateral Relief Act is "the unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced." *See* 42 Pa.C.S.A. § 9543(a)(2)(vi).

CRIMINAL PROCEDURE / POST-CONVICTION RELIEF ACT

A claim based on after-discovered evidence must prove: (1) the evidence was discovered after trial and it could not have been obtained at or prior to trial through reasonable diligence; (2) the evidence is not cumulative; (3) the evidence is not being used solely to impeach credibility; and (4) the evidence would likely compel a different verdict.

CRIMINAL PROCEDURE / GUILTY PLEAS

In the context of a Post-Conviction Collateral Relief proceeding, after-discovered evidence which would justify a new trial would also entitle a defendant to withdraw his guilty plea.

CRIMINAL PROCEDURE / POST-CONVICTION RELIEF ACT

The Post-Conviction Collateral Relief Act provides relief for the "[i]neffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place." *See* 42 Pa.C.S.A. § 9543(a)(2)(ii).

CRIMINAL PROCEDURE / INEFFECTIVE ASSISTANCE OF COUNSEL

In order to obtain Post-Conviction Collateral Relief on a claim of ineffective assistance of counsel, a petitioner must prove: (1) the underlying claim is of arguable merit; (2) counsel had no reasonable basis for action or failure to act; and (3) the petitioner suffered prejudice as a result of counsel's action or failure to act such that there is a reasonable probability the outcome of the proceedings would have been different.

CRIMINAL PROCEDURE / TECHNICAL DEFENSES/SELF-DEFENSE

To assert self-defense, a defendant must prove (1) he reasonably believed he was in imminent danger of death or serious bodily injury and that the use of deadly force was necessary to prevent such harm; (2) he did not provoke the incident which resulted in the victim's death; and (3) he did not violate any duty to retreat.

CRIMINAL PROCEDURE / TECHNICAL DEFENSES / SELF-DEFENSE

To support an affirmative defense of self-defense, a defendant must demonstrate his subjective belief that he is under imminent threat of death of serious bodily injury at the time of the event.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
CRIMINAL DIVISION
NO. 3499 - 2014

Appearances: Michael Burns, Esquire, and Roger Bauer, Esquire, for the Commonwealth
Thomas Farrell, Esquire on behalf of Trey Gunter

**NOTICE OF INTENT TO DISMISS PCRA
PURSUANT TO Pa.R.Crim.P. 907**

AND NOW, to-wit, this 2nd day of July, 2018, before this Court is Trey D. Gunter's (Petitioner) first Motion for Post Conviction Collateral Relief filed on January 19, 2018, and supplemented by Attorney William Hathaway on May 14, 2018. This Court finds that Petitioner has failed to state a meritorious claim under the Post Conviction Relief Act (PCRA). Accordingly, notice is hereby given that Petitioner's PCRA Petition will be dismissed without an evidentiary hearing. Petitioner shall have twenty days from the date of this Notice to file and serve objections to this Notice.

Factual and Procedural History

The Superior Court of Pennsylvania summarized the facts of this case as follows:

[Appellant's conviction stems] from an incident that occurred on November 17, 2014, at an apartment off campus of Edinboro University. Appellant, a Pittsburgh native, was an Edinboro student one semester away from graduating. The victim, Tobiah Johnson, had taken Appellant's gun several days earlier. Appellant obtained another gun, and as alleged by the Commonwealth, with the help of Ryan Andrews and Michael Barron, confronted the victim outside of the victim's apartment. The Commonwealth further alleged that Mr. Barron was waiting outside of the victim's apartment, and that when the victim came out, Mr. Barron punched him in his head, knocking him to the ground. Appellant and Mr. Andrews got out of their vehicle and assaulted the victim. When the victim tried to get up, Appellant shot him in his back, killing him.

Commonwealth v. Gunter, No. 830 WDA 2016, 2017 WL 1906089 at 1-2 (Pa. Super. 2016).

On January 20, 2015, Petitioner was charged with Criminal Homicide¹ Aggravated Assault,² Recklessly Endangering Another Person,³ Possessing Instruments of Crime,⁴ and Criminal Conspiracy to Commit Criminal Homicide.⁵ The Commonwealth and Petitioner reached a plea agreement where Petitioner would plead guilty to Murder of the Third Degree; in exchange, the Commonwealth would nolle pros the remaining charges. On September 23, 2015, a plea colloquy was held at which time the Court determined Petitioner's plea to Murder of the Third Degree was knowing and voluntary. A sentencing hearing was subsequently scheduled for February 9, 2016. At this hearing, the Court sentenced Petitioner at count

¹ 18 P.S. §2501(a).

² 18 P.S. §2702(a)(1).

³ 18 P.S. §2705.

⁴ 18 P.S. §907(a).

⁵ 18 P.S. §903; 18 P.S. §2501(a).

one, Murder of the Third Degree, to fifteen years (180 months) period of forty years (480 months) of incarceration.

On February 18, 2016, Petitioner, through Christopher Capozzi, Esquire, filed a Motion to Modify Sentence, requesting a downward modification of the sentence imposed. On the same day, Attorney Capozzi filed a Motion to Withdraw or be Appointed as Counsel for Defendant. On February 18, 2016, Petitioner filed a *pro se* "Petition for Appointment of Counsel for Appeal Purposes." On February 19, 2016, the Court issued an Order granting Attorney Capozzi's Motion to Withdraw or be Appointed as Counsel for Defendant and permitting him to withdraw as counsel. On March 11, 2016, the Court issued a Memorandum Opinion and Order denying the Motion to Modify Sentence.

On February 22, 2016, the Court issued an Order granting Petitioner's *pro se* "Petition for Appointment of Counsel for Appeal Purposes". Petitioner filed another *pro se* motion for appointment of counsel on March 19, 2016, and another on April 4, 2016. The Court denied these motions as moot in an Order dated April 21, 2016. Emily M. Merski, Esquire, was subsequently appointed as Petitioner's counsel. On May 10, 2016, Petitioner, through Attorney Merski, filed a Petition for Reinstatement of Right to Appeal, which was granted per an Order dated May 25, 2016. Petitioner timely filed a Notice of Appeal on June 9, 2016. On June 15, 2016, the Court directed Petitioner to file a statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b) within twenty-one days. Petitioner timely filed his Statement of Matters Complained of on Appeal on June 28, 2016.

On August 8, 2016, the Court issued a Memorandum Opinion detailing the reasons why Petitioner's appeal should be dismissed. On October 20, 2016, Petitioner filed an Application for Extension of Time to File Brief. On October 21, 2016, the Superior Court issued an Order dismissing Petitioner's appeal and directing Attorney Merski to file a certification that Petitioner had been notified of the dismissal within ten (10) days. On October 24, 2016, Petitioner filed a *pro se* "Request for Plea and Sentencing Transcripts, and the Preliminary Hearing Transcripts of Ryan Andrews and Michael Barron." On November 2, 2016, this Court issued an Order denying this request. On the same day, the Superior Court issued an Order vacating the October 21, 2016 Order and granting Petitioner's Application for Extension of Time to File Brief. Petitioner was given thirty (30) days in which to submit a brief.

Pursuant to the Superior Court's directive, on December 8, 2016, Attorney Merski filed an *Anders* Brief as well as an Application to Withdraw as Counsel with the Superior Court. On March 3, 2017, Petitioner filed a Motion for Remand. On May 8, 2017, the Superior Court of Pennsylvania affirmed Petitioner's judgment of sentence, denied his Motion for Remand, and granted Attorney Merski's Application to Withdraw as Counsel. *Commonwealth v. Gunter*, No. 830 WDA 2016, 2017 WL 1906089 at 9 (Pa. Super. 2017). Subsequently, Petitioner filed the instant *pro se* Motion for Post Conviction Collateral Relief on January 19, 2018. Following clarification that Petitioner was, in fact, seeking the appointment of counsel to represent him during his PCRA proceeding, Attorney William Hathaway was appointed by this Court on February 28, 2018. Thereafter, on May 14, 2018, Attorney Hathaway filed a Supplement to Motion For Post Conviction Collateral Relief (hereinafter "PCRA") and the matter is now before the Court.

Discussion

In Petitioner's first claim for relief, he alleges he is entitled withdraw his guilty plea pursuant to 42 Pa.C.S.A. §9543(a)(2)(vi), which provides relief where a petitioner can prove "[t]he unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced." 42 Pa.C.S.A. § 9543(a)(2)(vi).⁶ Specifically, Petitioner contends that a prospective witness, Darsche Jackson, has "recanted" her prior testimony, and that her new statement, "serves to establish evidence of provocation by Tobiah Johnson and a factual and legal predicate for the invocation of self-defense." Supplement To Motion For Post Conviction Relief, at 1-2. For numerous reasons, this claim is without legal or factual merit and must be dismissed.

The purpose of the PCRA is to afford persons who have been convicted of a crime they did not commit an avenue to obtain collateral relief. 42 Pa.C.S.A. § 9542. The PCRA eligibility statute provides:

(a) General rule.--To be eligible for relief under this subchapter, the petitioner must plead and prove by a preponderance of the evidence all of the following:

(1) That the petitioner has been convicted of a crime under the laws of this Commonwealth and is at the time relief is granted:

- (i) currently serving a sentence of imprisonment, probation or parole for the crime;
- (ii) awaiting execution of a sentence of death for the crime; or
- (iii) serving a sentence which must expire before the person may commence serving the disputed sentence.

(2) That the conviction or sentence resulted from one or more of the following:

- (i) A violation of the Constitution of this Commonwealth or the Constitution or laws of the United States which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.
- (ii) Ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.
- (iii) A plea of guilty unlawfully induced where the circumstances make it likely that the inducement caused the petitioner to plead guilty and the petitioner is innocent.
- (iv) The improper obstruction by government officials of the petitioner's right of appeal where a meritorious appealable issue existed and was properly preserved in the trial court.
- (v) Deleted.
- (vi) The unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced.
- (vii) The imposition of a sentence greater than the lawful maximum.
- (viii) A proceeding in a tribunal without jurisdiction.

⁶ Although Petitioner's conviction resulted from a guilty plea rather than as a result of trial, "after-discovered evidence which would justify a new trial would also entitle defendant to withdraw his guilty plea" and applies in the context of a PCRA proceeding. *Commonwealth v. Peoples*, 319 A.2d 679, 681 (Pa. 1974).

(3) That the allegation of error has not been previously litigated or waived.

(4) That the failure to litigate the issue prior to or during trial, during unitary review or on direct appeal could not have been the result of any rational, strategic or tactical decision by counsel.

42 Pa.C.S.A. § 9543.

Before delving into the specifics of Petitioner’s argument, this Court observes that no amount of after discovered evidence would allow Petitioner to credibly contend that he now has proof that he acted in self-defense. His contention that he was unaware of the factual and legal predicate for a self-defense claim and was deprived of this defense is patently meritless because it is simply contrary to the law. “The use of force upon or toward another person is justifiable when the **actor** believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion.” 18 Pa.C.S.A. § 505(a) (emphasis added).

In order for a defendant to successfully claim self-defense, he or she must meet the following three elements: (1) the defendant reasonably believed that he was in imminent danger of death or serious bodily injury and that the use of deadly force was necessary to prevent such harm; (2) the defendant did not provoke the incident which resulted in the victim’s death; and (3) the defendant did not violate any duty to retreat. *Commonwealth v. Mouzon*, 617 Pa. 527, 53 A.3d 738, 740 (2012) (citations omitted). As previously noted, the Commonwealth has the burden of disproving self-defense beyond a reasonable doubt and may do so by disproving any one of the three self-defense elements the defendant must meet. *Id.* at 740-741.

Commonwealth v. Patterson, 180 A.3d 1217, 1231 (Pa. Super. 2018). Thus, for Petitioner to avail himself of a self-defense claim, he would have to establish that the victim, Tobiah Johnson, was armed, and that Petitioner reasonably believed he was in imminent fear of death or serious bodily injury. Petitioner never asserted this position at any time, nor did either of his co-defendants.⁷ Petitioner provoked this incident by conspiring with two co-defendants to drive to Tobiah Johnson’s apartment and to forcibly take a firearm from him that Petitioner believed was his. Simply stated, it is disingenuous and, in fact, erroneous for Petitioner to assert that his affirmative defense was somehow predicted on what Darsche Jackson saw or did not see. Only Petitioner had the “keys” to his self-defense claim, not Darsche Jackson or any other witness for that matter. In other words, it is Petitioner’s belief at the time of the incident of whether he felt his life or someone else’s was in imminent danger of death or serious bodily injury. Petitioner’s subjective belief cannot be determined by what another person, such as Darsche Jackson, knew. If Petitioner did not believe that he was under imminent threat of death or serious bodily injury or that another person was, then Petitioner cannot assert a colorable self-defense claim. Accordingly, Petitioner would never be able to credibly assert that his sentence resulted from “the unavailability at the time of trial of exculpatory evidence that has subsequently become available and would

⁷ This Court also presided over Petitioner’s co-defendant’s cases. Both pled guilty, and neither one raised the possibility of a self-defense claim.

have changed the outcome of the trial if it had been introduced” so to afford him collateral relief pursuant to the PCRA. 42 Pa.C.S.A. § 9543(a)(2)(vi). Further refuting Petitioner’s claim was his knowing and voluntarily admission that he shot Tobiah Johnson with malice which will be discussed in further detail, *infra*.

Assuming, *arguendo*, that Petitioner’s first theory of relief somehow survives legal scrutiny and is not meritless, Petitioner’s claim that he should be permitted to withdraw his guilty plea because after discovered evidence establishes his innocence would nonetheless fail. In order for Petitioner to be eligible for post-conviction collateral relief based upon after discovered evidence, he must prove: “(1) the evidence has been discovered after trial and it could not have been obtained at or prior to trial through reasonable diligence; (2) the evidence is not cumulative; (3) it is not being used solely to impeach credibility; and (4) it would likely compel a different verdict.” *Commonwealth v. Johnson*, 179 A.3d 1105, 1123 (Pa. Super. 2018) (citing *Commonwealth v. Cox*, 636 Pa. 603, 614, 146 A.3d 221, 228 (2016)). As will now be discussed, Petitioner cannot meet his burden of proving the elements of this test.

Petitioner claims Darsche Jackson “recanted” her earlier statements to police and her testimony at his Preliminary Hearing, which constitutes after discovered evidence that he was justified in the killing of Tobiah Johnson. However, a review of Darsche Jackson’s post-conviction statement, which is attached to the counseled Supplement to Motion For Post-Conviction Collateral Relief, evidences that Darsche Jackson never recanted her testimony, nor does it contain any exculpatory statements regarding Petitioner’s involvement in this murder. Instead, the proffered statement, in fact, corroborates and is cumulative of Darsche Jackson’s prior statements and of her testimony at Petitioner’s Preliminary Hearing where she testified that she witnessed the confrontation, assault, and murder of Tobiah Johnson. Darsche Jackson consistently stated she saw an unknown male approach Tobiah Johnson from behind, punch him in the head, and knock him to the ground.⁸ N.T., Preliminary Hearing, 12/16/14, at 15. While the unknown male continued to beat Tobiah Johnson, a vehicle backed into the parking lot where the assault was occurring, and Petitioner emerged. *Id.* at 12-13, 16. Petitioner began repeatedly striking the victim on the head with the butt of his gun. *Id.* at 16. Darsche Jackson then reported, “A couple of seconds go past as [Petitioner] is hitting him, then I heard a first shot.” *Id.* at 17, 38-39 (relaying she heard a gunshot prior to Petitioner fatally shooting Tobiah Johnson). Darsche Jackson heard Petitioner react to the gunshot by exclaiming that Tobiah Johnson still had the gun on him, thus evidencing his knowledge of the fact. *Id.* at 18. On cross-examination, Petitioner’s counsel even clarified that it was Tobiah Johnson who fired the first shot. *Id.* at 39.

Clearly, Darsche Jackson did not recant her prior testimony. Nor do her post-conviction statements constitute “after discovered evidence.” Petitioner always knew that Tobiah Johnson’s weapon discharged first, not only because Darsche Jackson testified to it in Petitioner’s presence and was cross-examined on the details by Petitioner’s counsel, but also because Petitioner was physically present when that event occurred. In fact, Petitioner expressly demonstrated his awareness of that fact that Tobiah Johnson’s gun discharged when he reacted to the gunshot by exclaiming to his cohort that Tobiah Johnson still had the gun on him. Thus, the content of Darsche Jackson’s post-conviction statement was not discovered **after** Petitioner’s conviction, and does not warrant post-conviction relief because it is evidence

⁸ This individual was later identified as Michael Barron.

that was available to Petitioner prior to his guilty plea. *See Johnson, Cox, supra.*

Additionally, Darsche Jackson's post-conviction statement does not provide any basis for Petitioner to claim that the content therein would have compelled a different outcome than the one that resulted from his guilty plea. *See Johnson, Cox, supra.* As discussed *supra*, Petitioner was, at all times, aware that Tobiah Johnson's gun discharged prior to Petitioner shooting him in the back. Petitioner alone knew whether he reasonably believed that his life or someone else's was in imminent danger of death or serious bodily injury so to assert self-defense. Thus, Darsche Jackson's post-conviction statement could not have provided him with the factual or legal predicate to argue that the homicide was justified, and, therefore, would not have resulted in a different outcome. *Johnson, Cox, supra.* Again, without being unnecessarily redundant, Petitioner's knowing and voluntary plea circumvents his current argument. Accordingly, Petitioner's claim is devoid of legal and factual merit, and does not warrant relief.

In sum, Petitioner has not met his burden of proving that he is entitled to collateral relief from his conviction because he cannot establish "[t]he unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced" or the necessary elements of after discovered evidence. 42 Pa.C.S.A. §9543(a)(2)(vi); *see also Johnson, Cox, supra.* Consequently, this claim must fail.

Next, in his *pro se* Motion for Post Conviction Relief, Petitioner claims he is eligible for relief pursuant to 42 Pa.C.S.A. § 9543(a)(2)(ii) because his "[t]rial counsel misapplied the self-defense law which caused [Petitioner] to plead and accept a guilty plea." Motion for Post Conviction Collateral Relief, 1/19/18 at 4.⁹ However, in the subsequent, counseled Supplement To Motion For Post Conviction Collateral Relief, this issue is not raised. Accordingly, the claim is not preserved, and is waived. *Commonwealth v. Johnson*, 179 A.3d 1153, 1157 (Pa. Super. 2018) (counseled supplement to *pro se* PCRA petition that did not address the issues in the *pro se* petition resulted in waiver of said claims). However, even if the claim that counsel's ineffectiveness induced Petitioner to plead guilty was preserved, it is once again devoid of merit and must, therefore, be dismissed.

In order for Petitioner to obtain post conviction relief on grounds that his counsel rendered ineffective assistance, he is required to prove:

the underlying claim is of arguable merit, counsel's performance lacked a reasonable basis, and counsel's ineffectiveness caused him prejudice. *Commonwealth v. Pierce*, 567 Pa. 186, 786 A.2d 203, 213 (2001); *see also Commonwealth v. Pierce*, 515 Pa. 153, 527 A.2d 973 (1987). Prejudice in the context of ineffective assistance of counsel means demonstrating there is a reasonable probability that, but for counsel's error, the outcome of the proceeding would have been different. *Commonwealth v. Kimball*, 555 Pa. 299, 724 A.2d 326, 332 (1999). This standard is the same in the PCRA context as when ineffectiveness claims are raised on direct review. *Id.* Failure to establish any prong of the test will defeat an ineffectiveness claim. *Commonwealth v. Basemore*, 560 Pa.

⁹ Petitioner again argues against himself by advancing this claim. For trial counsel to be ineffective for "misapplying" the law of self-defense, trial counsel had to have knowledge of this factual predicate and erroneously advised Petitioner of the likelihood of prevailing at a trial by arguing justifiable homicide. This contention is in direct contradiction of Petitioner's first argument that he only learned that Tobiah Johnson's weapon discharged first after he was already convicted.

258, 744 A.2d 717, 738 n. 23 (2000) (citing *Commonwealth v. Rollins*, 558 Pa. 532, 738 A.2d 435, 441 (1999) (ordinarily, post-conviction claim of ineffective assistance of counsel may be denied by showing petitioner’s evidence fails to meet any one of three prongs for claim)).

Com. v. Solano, 634 Pa. 218, 230, 129 A.3d 1156, 1162-63 (2015) (citing *Commonwealth v. Keaton*, 615 Pa. 675, 45 A.3d 1050, 1060 (2012)).

Generally, counsel’s assistance is deemed constitutionally effective if he chose a particular course of conduct that had some reasonable basis designed to effectuate his client’s interests. *See Ali, supra*. Where matters of strategy and tactics are concerned, “[a] finding that a chosen strategy lacked a reasonable basis is not warranted unless it can be concluded that an alternative not chosen offered a potential for success substantially greater than the course actually pursued.

Com. v. Spatz, 624 Pa. 4, 33-34, 84 A.3d 294, 311-12 (2014) (internal quotations and citations omitted).

Applying the law to the case *sub judice*, it is evident that Petitioner’s claim that counsel was ineffective fails. Petitioner is under the misapprehension that he could have successfully argued that he shot Tobiah Johnson in self-defense had Attorney Capozzi effectively advised him of the law pertaining to the defense.

In order for a defendant to successfully claim self-defense, he or she must meet the following three elements: (1) the defendant reasonably believed that he was in imminent danger of death or serious bodily injury and that the use of deadly force was necessary to prevent such harm; (2) the defendant did not provoke the incident which resulted in the victim’s death; and (3) the defendant did not violate any duty to retreat. *Commonwealth v. Mouzon*, 617 Pa. 527, 53 A.3d 738, 740 (2012) (citations omitted). As previously noted, the Commonwealth has the burden of disproving self-defense beyond a reasonable doubt and may do so by disproving any one of the three self-defense elements the defendant must meet. *Id.* at 740-741.

Commonwealth v. Patterson, 180 A.3d 1217, 1231 (Pa. Super. 2018).

In the instant case, a self-defense claim was clearly unavailable to Petitioner. The facts demonstrate that after Tobiah Johnson stole Petitioner’s firearm, Petitioner drove to Tobiah Johnson’s apartment with two accessories and confronted him outside his apartment. *See* N.T., Preliminary Hearing, at 12-14. When Tobiah Johnson came outside, one of Petitioner’s cohorts “punched him in his head, knocking him to the ground,” at which point Petitioner got out of the vehicle and assaulted the victim. *Id.* at 16. Petitioner repeatedly bludgeoned Tobiah Johnson with the butt of his gun. *Id.* 16-17, 39. After Tobiah Johnson’s weapon discharged, Petitioner paused the assault long enough to comment that Tobiah Johnson still had a gun on his person, and then resumed the vicious beating. *Id.* at 18. When Tobiah Johnson attempted to get to his feet, Petitioner shot him in the back. *Id.* at 18, 41, 47. These facts establish that Petitioner provoked the deadly encounter and eviscerate any argument

that he only used deadly force because he reasonably believed he or another person was in imminent danger of death or serious bodily injury.

Moreover, the record contradicts Petitioner's allegation that Attorney Capozzi "misapplied the self-defense law which caused [Petitioner] to plead and accept a guilty plea" or that Petitioner in any way misunderstood the law. Motion For Post Conviction Collateral Relief, 1/19/18 at 4. In "Defendant Trey Gunter's Sentencing Memorandum," Attorney Capozzi explicitly stated, "Mr. Gunter understands that by traveling to Darsche Jackson's apartment, with a firearm and confronting Mr. Johnson about his stolen property he provoked the confrontation and, thus, the defense of self-defense is unavailable to him." Defendant Trey Gunter's Sentencing Memorandum, 12/30/15 at 2-3, n. 1. In the same document, Attorney Capozzi cited to the relevant statute, which states that an individual is justified in using force upon another person "when the actor believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion." *Id.* (citing 18 Pa.C.S.A. §505(a)). Furthermore, Attorney Capozzi cited to relevant case law stating that the Commonwealth may disprove a defendant's claim of self-defense by establishing that the defender provoked the incident. *Id.* (citing *Commonwealth v. Chine*, 40 A.3d 1239, 1243 (Pa. Super. 2012)). Therefore, Attorney Capozzi, a seasoned and experienced veteran of criminal practice, thoroughly explained the unavailability of a justification defense (e.g., self-defense) to Petitioner. The stark reality of this case is the facts do not and never will support the defense of self-defense. Petitioner understood this and knowingly, intelligently and voluntarily admitted he shot Tobiah Johnson with malice and not in self-defense.

Lastly, upon review of the record, it is clear that Petitioner's plea of guilty was knowing and voluntary. At the plea hearing held on September 23, 2015, Assistant District Attorney Roger Bauer questioned Petitioner about whether Petitioner understood the plea agreement and Petitioner indicated he did understand the agreement and entered into it knowingly and voluntarily, as demonstrated by the following colloquy:

Mr. Bauer: The plea agreement is at paragraph five. For the record the defendant will plead guilty to Count One, amending the charge of criminal homicide to murder of the third degree. The remaining charges will be nol [sic] prossed with the cost of prosecution upon the defendant, and for purposes of the Sentencing Guidelines the deadly weapons enhancement used will apply at Count One. Is that your understanding of the plea agreement in this case, sir?

Mr. Gunter: Yes, sir.

Mr. Bauer: Did you have a chance to review this form with your attorney?

Mr. Gunter: Yes, sir.

Mr. Bauer: Do you have any questions on the rights that you have and the rights you give up, the maximum penalty or the plea agreement?

Mr. Gunter: No, sir.

Mr. Bauer: I see above the line “defendant” a signature, is that yours?

Mr. Gunter: Yes.

Mr. Bauer: Did you sign this form today because you understand everything within this document?

Mr. Gunter: Yes, sir.

N.T., Guilty Plea, 9/23/15 at 9-10. Attorney Bauer then explained the charge against Petitioner, which had been amended from first-degree murder to third-degree murder. After Attorney Bauer gave a thorough explanation of the amended charge, Petitioner explicitly stated he was pleading guilty, as demonstrated by the following colloquy:

Mr. Bauer: Mr. Gunter, I have to advise you of the legal and factual basis for your plea. The Commonwealth alleges that on or about November 17, 2014, that you, Trey Darrin Gunter, did directly or by virtue of your complicity, intentionally, knowingly, or recklessly, and with malice, at 123 Water Street in a parking lot behind apartment number 27-E in the borough of Edinboro, Erie County, cause the death of another human being, specifically Tobiah Johnson, in that you, Trey Darrin Gunter, did shoot the victim, Tobiah Johnson, resulting in his death, thereby committing the crime of murder in the third degree.

Malice under the law is defined as wickedness of disposition, hardness of heart, cruelty, a recklessness of the consequences, and an extreme indifference to the value of human life.

Do you understand the legal and factual basis for Count One as amended to murder in the third degree?

Mr. Gunter: Yes, sir.

Mr. Bauer: How do you plead to Count One?

Mr. Gunter: Guilty.

Id. at 11-12.

Additionally, the Court thoroughly questioned Petitioner about whether he understood the plea agreement. Again, Petitioner indicated he fully understood the agreement and entered into it knowingly and voluntarily, as demonstrated by the following colloquy:

The Court: ...Looking at the now amended charge at Count One, Mr. Gunter, you had indicated your plea of guilty and I want to ask you now, is that what you, in fact, did on that date in question as read in this Court?

Mr. Gunter: Yes, sir.

The Court: Has anyone in any way promised you something or coerced you in any way to tell me something that wasn't true?

Mr. Gunter: No, sir.

The Court: Have there been any promises made to you outside of what has been identified here in this courtroom?

Mr. Gunter: No, sir.

The Court: I'm satisfied there's a legal and factual basis to support Count One. I'm also satisfied that his plea of guilty was knowingly and voluntarily entered.

Let me also ask you, with respect to the first sheet, the Understanding of Rights Prior to the Guilty Plea, Mr. Gunter, again, did you have enough opportunity to discuss this matter with your attorney, Attorney Capozzi?

Mr. Gunter: Yes, sir.

The Court: Were you completely satisfied with his representation?

Mr. Gunter: Yes, sir.

The Court: And outside of the agreement as set forth in paragraph five, has anyone made any other promises not written in that paragraph?

Mr. Gunter: No, sir.

The Court: Do you fully understand the maximum penalty and terms of incarceration as the worst case scenario? In other words that is what the maximum represents for this plea; do you fully understand that?

Mr. Gunter: Yes, sir.

The Court: Did you have any questions about that?

Mr. Gunter: No, sir.

The Court: And again, by signing your name above the word "defendant," does that mean that on this guilty plea and understanding of rights sheet, these rights were read to you, that you understand them, and acknowledged that by signing this plea sheet?

Mr. Gunter: Yes, sir.

Id. 13-15. All of these excerpts from Petitioner’s plea hearing unequivocally demonstrate that Petitioner’s plea of guilty was knowing and voluntary. Petitioner’s responses indicate he signed the guilty plea, was under no coercion to enter a plea of guilty, fully understood his rights under the agreement, and had the opportunity to thoroughly discuss the matter with Attorney Capozzi. Further, he also stated, under oath, that he was satisfied with Attorney Capozzi’s representation, and again, there was no mention of self-defense. *Id.*

It is abundantly clear that Petitioner has failed to meet his burden of proving that Attorney Capozzi was ineffective for “misapplying” the law of self-defense. There was no factual or legal predicate upon which to assert that Petitioner was justified in killing Tobiah Johnson. Counsel cannot be ineffective for failing to pursue a meritless claim. *Com. v. Solano*, 634 Pa. 218, 230, 129 A.3d 1156, 1162-63 (2015). Accordingly, Petitioner was not denied the effective assistance of counsel, and is not entitled to relief pursuant to the Post Conviction Relief Act.

Conclusion

For all of the above reasons, Petitioner’s PCRA request for collateral relief is denied.

Petitioner is hereby advised by this Notice that the Court intends to dismiss his Motion For Post Conviction Collateral Relief filed on January 19, 2018 and supplemented on May 14, 2018, without a hearing. Petitioner shall have twenty days from the date of this Notice to file and serve objections, if any, to this Notice.

BY THE COURT

/s/ **Hon. John J. Trucilla, President Judge**

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

v.

TREY DARON GUNTER, Appellant

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 1185 WDA 2018

Appeal from the PCRA Order Entered July 27, 2018

In the Court of Common Pleas of Erie County Criminal Division at No(s):

CP-25-CR-0003499-2014

BEFORE: DUBOW, J., McLAUGHLIN, J., and COLINS*, J.

MEMORANDUM BY DUBOW, J.:

FILED AUGUST 13, 2019

Appellant, Trey Daron Gunter, appeals from the July 27, 2018 Order entered in the Erie County Court of Common Pleas dismissing his first Petition filed pursuant to the Post Conviction Relief Act (“PCRA”), 42 Pa.C.S. §§ 9541- 9546, without a hearing. After careful review, we affirm.

The underlying facts and procedural history are, briefly, as follows. On November 17, 2014, Appellant and two other men, Ryan Andrews and Michael Barron, initiated a physical altercation with the victim, Tobiah Johnson, which ended when Appellant shot the victim in the back, killing him.

On January 20, 2015, the Commonwealth charged Appellant with Criminal Homicide, Aggravated Assault, Recklessly Endangering Another Person, Possessing Instruments of Crime, and Conspiracy to Commit Criminal Homicide. On September 23, 2015, Appellant entered into an open guilty plea to Third-Degree Murder.^{1,2} On February 9, 2016, the trial court sentenced Appellant to a term of 15 to 40 years’ incarceration. Appellant filed a Motion to Modify Sentence, which the trial court denied.

Appellant filed a direct appeal from his Judgment of Sentence challenging the voluntariness of his plea and the discretionary aspects of his sentence. On May 8, 2017, this Court affirmed Appellant’s Judgment of Sentence. *See Commonwealth v. Gunter*, 170 A.3d 1200 (Pa. Super. 2017) (unpublished memorandum). Appellant did not file a Petition for Allowance of Appeal with the Pennsylvania Supreme Court. His Judgment of Sentence, therefore, became final on August 8, 2017. *See* 42 Pa.C.S. § 9545(b)(3).

On January 19, 2018, Appellant timely filed *pro se* the instant PCRA Petition in which he claimed that his trial counsel had been ineffective and that he recently became aware of exculpatory evidence. *See* Petition, 1/19/18, at 2, 4. The PCRA court appointed counsel, who on May 14, 2018, filed a Supplemental PCRA Petition. In the Supplemental Petition, Appellant developed his newly-discovered evidence claim.³ In particular, he alleged that

* Retired Senior Judge assigned to the Superior Court.

¹ 18 Pa.C.S. § 2502(c).

² In exchange for his plea, the Commonwealth *nolle prossed* the remaining charges.

³ Appellant did not, however, reiterate or develop further his ineffective assistance of counsel claim.

the Commonwealth's key witness, Darsche Jackson, had published a Facebook Live video in which she disclosed that she had new information about the sequence of events that led to Appellant shooting the victim, including that the victim had fired the first shot.⁴ Supplemental Petition, 5/14/18, at 1. Appellant asserted that this disclosure was contrary to Ms. Jackson's previous statements to police and her testimony at Appellant's preliminary hearing. *Id.* Appellant "fully confirmed and documented" this new account of events and, therefore, claimed that it established "evidence of provocation" by the victim and a "factual and legal predicate for the invocation of a claim of self-defense" which Appellant's plea counsel had previously dismissed.⁵ *Id.* at 1-2. Appellant claims that if this evidence had been known to him, he would not have entered a guilty plea and instead would have invoked a "self-defense" or "defense of others" justification at trial. *Id.* at 2. In light of this alleged newly-discovered evidence, Appellant sought leave to withdraw his guilty plea. In support of his claims, Appellant appended to his Supplemental Petition his affidavit explaining the nature of the discovery of the new evidence and a copy of a transcript of a March 31, 2018 interview of Ms. Jackson conducted by a private investigator, Mr. Barry W. Fox, at Appellant's behest.

On July 3, 2018, the PCRA court notified Appellant of its intent to dismiss his Petition without a hearing pursuant to Pa.R.Crim.P. 907. Appellant did not file a Response to the court's Rule 907 Notice.

On July 27, the PCRA court dismissed Appellant's Petition without a hearing. Both Appellant and the PCRA court complied with Pa.R.A.P. 1925.⁶

Appellant raises the following issue on appeal:

[] Whether the PCRA [c]ourt erred by failing to grant relief when Appellant presented exculpatory evidence that had become available after sentencing and would have changed the outcome of the proceeding?

Appellant's Brief at 4.

Appellant claims that the PCRA court erred in dismissing his Petition without a hearing because Ms. Jackson's statement is exculpatory and would have changed the outcome of the proceeding had Appellant known it before entering his guilty plea. *Id.* at 19-23.

We review the denial of a PCRA Petition to determine whether the record supports the PCRA court's findings and whether its order is otherwise free of legal error. *Commonwealth v. Fears*, 86 A.3d 795, 803 (Pa. 2014). This Court grants great deference to the findings of the PCRA court if they are supported by the record. *Commonwealth v. Boyd*, 923 A.2d 513, 515 (Pa. Super. 2007). We give no such deference, however, to the court's legal conclusions. *Commonwealth v. Ford*, 44 A.3d 1190, 1194 (Pa. Super. 2012).

To be eligible for relief pursuant to the PCRA, Appellant must establish, *inter alia*, that his conviction or sentence resulted from one or more of the enumerated errors or defects found in 42 Pa.C.S. § 9543(a)(2). Appellant must also establish that the issues raised in the PCRA

⁴ In a letter to his attorney dated April 30, 2018, Appellant notes that Ms. Jackson published the Facebook Live video on November 17, 2016, but claims he only became aware of it on January 9, 2017.

⁵ Mr. Andrews and Mr. Barron also pleaded guilty to offenses arising from this altercation. Neither co-defendant raised the possibility of a self-defense claim.

⁶ In its Rule 1925(a) Opinion, the PCRA court relied on its July 3, 2018 Rule 907 Notice to explain its reasons for dismissing Appellant's Petition. We, therefore, refer to the court's Rule 907 Notice as its "Opinion."

petition have not been previously litigated or waived. 42 Pa.C.S. § 9543(a)(3). An allegation of error “is waived if the petitioner could have raised it but failed to do so before trial, at trial, during unitary review, on appeal[,] or in a prior state postconviction proceeding.” 42 Pa.C.S. § 9544(b).

Relevant here, the PCRA provides relief for a petitioner who demonstrates his conviction or sentence resulted from “[t]he unavailability at the time of trial of exculpatory evidence that has subsequently become available and would have changed the outcome of the trial if it had been introduced.” 42 Pa.C.S. § 9543(a)(2)(vi). To establish a claim of newly discovered evidence, a petitioner must prove that: “(1) the evidence has been discovered after trial and it could not have been obtained at or prior to trial through reasonable diligence; (2) the evidence is not cumulative; (3) it is not being used solely to impeach credibility; and (4) it would likely compel a different verdict.” *Commonwealth v. Sepulveda*, 144 A.3d 1270, 1276 n.14 (Pa. 2016). Newly discovered evidence must be producible and admissible in order to entitle a petitioner to relief. *Commonwealth v. Castro*, 93 A.3d 818, 825 (Pa. 2014). There is no right to a PCRA hearing; a hearing is unnecessary where the PCRA court can determine from the record that there are no genuine issues of material fact. *Commonwealth v. Jones*, 942 A.2d 903, 906 (Pa. Super. 2008).

Appellant notes that, in her preliminary hearing testimony, Ms. Jackson testified that she did not see where the first shot came from and that the shot came from “an unknown source.” Appellant’s Brief at 11-13 (citing N.T., 12/16/14, at 16, 38). She then testified that Appellant fired the first shot. *Id.* at 14 (citing N.T. at 40). Appellant emphasizes, however, that, when later interviewed by the private investigator hired by Appellant after learning of Ms. Jackson’s Facebook Live video, Ms. Jackson stated that it was the victim, and not Appellant, who fired the first shot. *Id.* at 14-15. Appellant also avers that the PCRA court erred by failing to hold an evidentiary hearing on his claim. *Id.* at 23-25.

The Honorable John J. Trucilla, who presided over all stages of this proceeding, has authored a comprehensive, thorough, and well-reasoned Opinion, citing to the record and relevant case law in addressing Appellant’s claim. *See* PCRA Court Opinion, 7/3/18, at 5-9 (concluding: (1) that Ms. Jackson’s testimony is irrelevant to Appellant’s subjective belief as to whether he was in imminent fear of death or serious bodily injury at the time of the incident; and (2) that Appellant failed to satisfy the four requisite elements of a meritorious “after discovered evidence” claim because Ms. Jackson’s post-conviction statement: (a) is not exculpatory; (b) is cumulative and corroborative of her prior statement; (c) was available to Appellant prior to his guilty plea; and (d) would not have compelled a different outcome). The record supports the PCRA court’s findings and its Order is otherwise free of legal error. We, thus, affirm on the basis of the PCRA court’s July 3, 2018 Opinion.⁷

Order affirmed.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq.

Prothonotary

Date: 8/13/2019

⁷ Moreover, because it was clear from the record that Appellant was not entitled to relief, the PCRA court did not err in not holding an evidentiary hearing on Appellant’s claims.

CHANGE OF NAME NOTICE

Notice is hereby given that on August 29, 2019, the Petition of Margaret Mary Anderson was filed with the Erie County Court of Common Pleas, Erie, Pennsylvania, praying for a decree to change Petitioner’s first and middle name from “Margaret Mary” Anderson to “Megan Elizabeth” Anderson.

The Court has fixed the 9th day of October, 2019 at 10:30 a.m. before The Honorable Stephanie Domitrovich, Court Room G, Room 222, Erie County Court House, as the time and place for the hearing on said Petition, when any or all persons interested may appear and show cause, if they have any, why the prayer of the Petitioner should not be granted.

CARNEY & GOOD

Kari A. Froess, Esquire
254 West 6th Street
Erie, Pennsylvania 16507

Sept. 6

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 12332-19 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Cristina Iulia Iordache to Cristina Julia Sonney.

The Court has fixed the 15th day of October, 2019 at 3:00 p.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 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.

Sept. 6

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 12268-19 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Austin Schaeding to Austin Dean.

The Court has fixed the 7th day of October, 2019 at 10:30 a.m. in Court Room G, Room 222, of the Erie

County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 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.

Sept. 6

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 12236-19 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Josh Yoder to Josh O’Neal. The Court has fixed the 30th day of September, 2019 at 10:15 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 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.

Sept. 6

INCORPORATION NOTICE

Notice is hereby given that Articles of Incorporation were filed with the Department of State for Hess Distributors Inc, a corporation organized under the Pennsylvania Business Corporation Law of 1988.

Sept. 6

INCORPORATION NOTICE

Notice is hereby given that Articles of Incorporation were filed with the Department of State for NTL Supply Chain Services, Inc, a corporation organized under the Pennsylvania Business Corporation Law of 1988.

Sept. 6

LEGAL NOTICE

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE
IN THE COURT OF COMMON
PLEAS OF ERIE COUNTY,
PENNSYLVANIA
CIVIL ACTION - LAW

No. 11896-19

LOANDEPOT.COM, LLC,

Plaintiff

vs.

LINDSEY MAGOUIRK, in her capacity as Heir of CHASTAIN L. MAGOUIRK, Deceased, MINOR DEFENDANT 1, in his capacity as Heir of CHASTAIN L. MAGOUIRK, Deceased, UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER CHASTAIN L. MAGOUIRK, DECEASED, Defendants

NOTICE

TO UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER CHASTAIN L. MAGOUIRK, DECEASED

You are hereby notified that on July 16, 2019, Plaintiff, LOANDEPOT.COM, LLC, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of ERIE County Pennsylvania, docketed to No. 11896-19. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 5359 MAPLEHURST DRIVE, ERIE, PA 16509-3669 whereupon your property would be sold by the Sheriff of ERIE County. You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE

CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

Notice to Defend:
Lawyer Referral &
Information Service

P.O. Box 1792
Erie, PA 16507

Telephone (814) 459-4411

Sept. 6

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MEMBER
FDIC

SHERIFF SALES

Notice is hereby given that by virtue of sundry Writs of Execution, issued out of the Courts of Common Pleas of Erie County, Pennsylvania, and to me directed, the following described property will be sold at the Erie County Courthouse, Erie, Pennsylvania on

**SEPTEMBER 20, 2019
AT 10 A.M.**

All parties in interest and claimants are further notified that a schedule of distribution will be on file in the Sheriff's Office no later than 30 days after the date of sale of any property sold hereunder, and distribution of the proceeds made 10 days after said filing, unless exceptions are filed with the Sheriff's Office prior thereto.

All bidders are notified prior to bidding that they MUST possess a cashier's or certified check in the amount of their highest bid or have a letter from their lending institution guaranteeing that funds in the amount of the bid are immediately available. If the money is not paid immediately after the property is struck off, it will be put up again and sold, and the purchaser held responsible for any loss, and in no case will a deed be delivered until money is paid.

John T. Loomis
Sheriff of Erie County

Aug. 30 and Sept. 6, 13

SALE NO. 2

**Ex. #10059 of 2018
MARQUETTE SAVINGS
BANK, Plaintiff**

v.

**DAVID A. WILL, JR., and JODI
LYNN WILL, Defendants**

DESCRIPTION

By virtue of a Writ of Execution filed at No. 2018-10059, Marquette Savings Bank vs. David A. Will, Jr. and Jodi Lynn Will, owners of property situate in the Township of Greene, Erie County, Pennsylvania being: 8122 Lake Pleasant Road, Erie, Pennsylvania.
Approx. 2.41 acres
Assessment Map Number: (25) 1-32-3
Assessed Value Figure: \$167,000.00

Improvement Thereon: Residence
Eugene C. Sundberg, Jr., Esq.
Marsh Spaeder Baur Spaeder
& Schaaf, LLP
300 State Street, Suite 300
Erie, Pennsylvania 16507
(814) 456-5301

Aug. 30 and Sept. 6, 13

SALE NO. 3

**Ex. #12363 of 2015
ERIE GENERAL ELECTRIC
FEDERAL CREDIT UNION,
now by change of name,
WIDGET FEDERAL CREDIT
UNION, Plaintiff**

v.

**JOHN L. LOMBARDOZZI and
ALICIA A. LOMBARDOZZI
and THE UNITED STATES
OF AMERICA (INTERNAL
REVENUE SERVICE),
Defendants**

DESCRIPTION

By virtue of Writ of Execution filed at No. 12363-2015, Erie General Electric Federal Credit Union, now by change of name, Widget Federal Credit Union v. John L. LombardoZZi and Alicia A. LombardoZZi and the United States of America (Internal Revenue Service), owners of the following property identified below:

1) Situate in the City of Erie, County of Erie and Commonwealth of Pennsylvania at 5 West Sixth Street, Erie, Pennsylvania 16508:
Assessment Map No.: 18-053-051.0-403.00
Assessed Value Figure: \$177,400.00
Improvement Thereon: Residential Dwelling
Michael S. Jan Janin, Esquire
Pa. I.D. No. 38880
The Quinn Law Firm
2222 West Grandview Boulevard
Erie, PA 16506
(814) 833-2222

Aug. 30 and Sept. 6, 13

SALE NO. 4

**Ex. #11047 of 2019
Jonathan L. Bowser and Maria
L. Bowser, Plaintiffs**

v.

**Erie Civic Ballet Company d/b/a
Lake Erie Ballet Company and
the United States of America,**

**Department of the Treasury,
Internal Revenue Service,
Defendants
DESCRIPTION**

By virtue of a Writ of Execution filed at No. 11047-2019, Jonathan L. Bowser and Maria L. Bowser vs. Erie Civic Ballet Company d/b/a Lake Erie Ballet Company and the United States of America, Department of the Treasury, Internal Revenue Service, owner of property situated in the City of Erie, Erie County, Pennsylvania being commonly known as 1020 Holland Street, Erie, PA 16501.

Assessment Map No. 15-2007-202
Assessed Value Figure: \$185,812
Improvement thereon: Commercial - Warehouse
Mark G. Claypool, Esquire
Knox McLaughlin Gornall & Sennett, P.C.
120 West Tenth Street
Erie, Pennsylvania 16501
(814) 459-2800

Aug. 30 and Sept. 6, 13

SALE NO. 6

**Ex. #12243 of 2018
Northwest Bank f/k/a Northwest
Savings Bank, Plaintiff**

v.

**James R. Turner a/k/a James
R. Turner, Jr. and Lynette R.
Turner, Defendants**

DESCRIPTION

By virtue of a Writ of Execution filed at No. 2018-12243, Northwest Bank f/k/a Northwest Savings Bank v. James R. Turner a/k/a James R. Turner, Jr. and Lynette R. Turner, owners of property situated in the Township of Greene, Erie County, Pennsylvania being commonly known as 8215 Wattsburg Road, Erie, PA.
Assessment Map No. (25) 2-6-37
Assessed Value Figure: \$195,915
Improvement thereon: Mixed Residential/Commercial
Mark G. Claypool, Esquire
Knox McLaughlin Gornall & Sennett, P.C.
120 West Tenth Street
Erie, Pennsylvania 16501
(814) 459-2800

Aug. 30 and Sept. 6, 13

SALE NO. 7
Ex. #11155 of 2019
QUEST TRUST COMPANY,
f/k/a QUEST IRA INC. FBO
LUIS BASTO IRA #1774011,
Plaintiff

v.
DANIEL J. WRIGHT and
AIMEE L. WRIGHT, Defendants
DESCRIPTION

By virtue of Writ of Execution filed at No. 11155-2019, Quest Trust Company, f/k/a Quest IRA Inc. FBO Luis Basto IRA #1774011 vs. Daniel J. Wright and Aimee L. Wright, owners of the following properties identified below:

- 1) Situate in the City of Erie, County of Erie, and Commonwealth of Pennsylvania at 459 East 28th Street, Erie, Pennsylvania 16504: Assessment Map No.: 18-050-069.0-222.00 Assessed Value Figure: \$68,590.00 Improvement Thereon: Single Family Residential Dwelling Michael P. Kruszewski, Esquire Pa. I.D. No. 91239 The Quinn Law Firm 2222 West Grandview Boulevard Erie, PA 16506 (814) 833-2222

Aug. 30 and Sept. 6, 13

SALE NO. 8
Ex. #11145 of 2019
CITIZENS BANK, N.A. S/B/M
TO CITIZENS BANK OF
PENNSYLVANIA, Plaintiff

v.
Charles A.J. Halpin, III, Esquire,
Personal Representative of the
Estate of Margaret M. Serafine,
Deceased, Defendant
DESCRIPTION

ALL THAT CERTAIN piece or parcel of land situate in the City of Erie, County of Erie, and Commonwealth of Pennsylvania. BEING KNOWN AS: 2230 Fairmount Parkway, Erie, PA 16510 PARCEL #18-051-034.0-238.00 Improvements: Residential Dwelling. Gregory Javardian, Esquire Id. No. 55669 Attorneys for Plaintiff 1310 Industrial Boulevard 1st Floor, Suite 101

Southampton, PA 18966
(215) 942-9690
Aug. 30 and Sept. 6, 13

SALE NO. 9
Ex. #10570 of 2019
CARRINGTON MORTGAGE
SERVICES, LLC, Plaintiff
v.
TIMOTHY D. SCHNAEKEL,
Defendant
DESCRIPTION

By virtue of a Writ of Execution filed to No. 10570-19, Carrington Mortgage Services, LLC vs. Timothy D. Schnaekel, owner of property situated in the City of Erie, Erie County, Pennsylvania being 1038-1040 West 8th Street, Erie, PA 16502

1788 square feet 0.1515 acres
Assessment Map number: 17040031013500
Assessed Value figure: 63,800.00
Improvement thereon: Residential Jill M. Fein, Esquire Attorney I.D. 318491 Hill Wallack LLP 777 Township Line Rd., Suite 250 Yardley, PA 19067 (215) 579-7700

Aug. 30 and Sept. 6, 13

SALE NO. 10
Ex. #11054 of 2019
Towd Point Mortgage Trust
2018-1, U.S. Bank National
Association, as Indenture Trustee
c/o Select Portfolio Servicing,
LLC, Plaintiff
v.
James Fuhrman a/k/a James J.
Fuhrman, Jr., Defendant
DESCRIPTION

By Virtue of Writ of Execution filed to No. 11054-2019, Towd Point Mortgage Trust 2018-1, U.S. Bank National Association, as Indenture Trustee c/o Select Portfolio Servicing, LLC vs. James Fuhrman a/k/a James J. Fuhrman, Jr., owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 550 East 29th Street, Erie, PA 16504 0.1147

Assessment Map number: 18050069024300 Assessed figure: \$80,720.00

Improvement thereon: Single Family Residential Stephen M. Hladik, Esquire 289 Wissahickon Avenue North Wales, PA 19454 (215) 855-9521
Aug. 30 and Sept. 6, 13

SALE NO. 11
Ex. #11107 of 2019
ROUNDPOINT MORTGAGE
SERVICING CORPORATION,
Plaintiff
v.

LAURA R. GOOLEY and
ALEXANDER L. IVANIC,
Defendants
DESCRIPTION

By virtue of a Writ of Execution filed to No. 11107-19, ROUNDPOINT MORTGAGE SERVICING CORPORATION vs. LAURA R. GOOLEY and ALEXANDER L. IVANIC, owner(s) of the property situated in Erie County, Pennsylvania being 4010 WOOD STREET, ERIE, PA 16509 Assessment Map Number: 18053009040000

Assessed Value Figure: \$99,550.00 Improvement Thereon: A Residential Dwelling KML LAW GROUP, P.C. ATTORNEY FOR PLAINTIFF 701 MARKET STREET, SUITE 5000 PHILADELPHIA, PA 19106 (215) 627-1322

Aug. 30 and Sept. 6, 13

SALE NO. 12
Ex. #11024 of 2019
RED STICK ACQUISITIONS,
LLC, Plaintiff
v.

KATHLEEN GRANT AKA
KATHLEEN A. GRANT
and MARIPAT C. GRANT,
Defendants
DESCRIPTION

By virtue of a Writ of Execution filed to No. 11024-19, RED STICK ACQUISITIONS, LLC vs. KATHLEEN GRANT AKA KATHLEEN A. GRANT and MARIPAT C. GRANT, owner(s) of the property situated in City of Erie, Erie County, Pennsylvania being 3125 FLORIDA AVENUE, ERIE,

PA 16504
 Assessment Map Number:
 18050070012600
 Assessed Value Figure: \$86,400.00
 Improvement Thereon: A
 Residential Dwelling
 KML LAW GROUP, P.C.
 ATTORNEY FOR PLAINTIFF
 701 MARKET STREET, SUITE
 5000
 PHILADELPHIA, PA 19106
 (215) 627-1322

Aug. 30 and Sept. 6, 13

SALE NO. 14

Ex. #12466 of 2016
U.S. BANK NATIONAL
ASSOCIATION, AS TRUSTEE
FOR THE PENNSYLVANIA
HOUSING FINANCE AGENCY,
Plaintiff

v.

LINDA P. NGUYEN, Defendant
DESCRIPTION

By virtue of a Writ of Execution No. 2016-12466, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. LINDA P. NGUYEN, Defendant Real Estate: 470 DALE DRIVE, ERIE, PA 16511
 Municipality: Township of Harborcreek
 Erie County, Pennsylvania
 Dimensions: 70 x 128
 See Deed Book 2013, page 18416
 Tax I.D. (27) 6-97-13
 Assessment: \$29,500 (Land)
 \$90,460 (Bldg)
 Improvement thereon: a residential dwelling house as identified above
 Leon P. Haller, Esquire
 Purcell, Krug & Haller
 1719 North Front Street
 Harrisburg, PA 17104
 (717) 234-4178

Aug. 30 and Sept. 6, 13

SALE NO. 15

Ex. #11065 of 2019
The Bank of New York Mellon
f/k/a The Bank of New York, as
successor in interest to JPMorgan
Chase Bank, as Trustee for
Centex Home Equity Loan Trust
2004-C, Plaintiff

v.

Robert A. Smith, AKA Robert
Smith; Amy B. Smith, AKA Amy
Smith, Defendants
DESCRIPTION

By virtue of a Writ of Execution file to No. 2019-11065, The Bank of New York Mellon f/k/a The Bank of New York, as successor in interest to JPMorgan Chase Bank, as Trustee for Centex Home Equity Loan Trust 2004-C vs. Robert A. Smith, AKA Robert Smith; Amy B. Smith, AKA Amy Smith, owner(s) of property situated in The Borough of Lake City, Erie County, Pennsylvania being 10323 Clifton Drive, Lake City Borough, AKA Lake City, PA 16423
 1232 sq. ft.
 Assessment Map Number:
 28009009001400
 Assessed Value figure: \$102,350.00
 Improvement thereon: Single Family Dwelling
 Justin F. Kobeski, Esquire
 Manley Deas Kochalski LLC
 P.O. Box 165028
 Columbus, OH 43216-5028
 614-220-5611

Aug. 30 and Sept. 6, 13

SALE NO. 16

Ex. #10966 of 2019
Land Home Financial Services,
Inc., Plaintiff

v.

Adam J. Vybiral, Defendant
DESCRIPTION

By virtue of a Writ of Execution file to No. 10966-2019, Land Home Financial Services, Inc. vs. Adam J. Vybiral, owner(s) of property situated in The City of Erie, Erie County, Pennsylvania being 2909 Perry Street, Erie, PA 16504
 1254 SQFT
 Assessment Map Number:
 18050053012600
 Assessed Value figure: \$50,600.00
 Improvement thereon: Single Family Dwelling
 Justin F. Kobeski, Esquire
 Manley Deas Kochalski LLC
 P.O. Box 165028
 Columbus, OH 43216-5028
 614-220-5611

Aug. 30 and Sept. 6, 13

SALE NO. 17
Ex. #11028 of 2019
PNC Bank, National Association,
Plaintiff

v.

Douglas E. Wells, Defendant
DESCRIPTION

By virtue of a Writ of Execution file to No. 2019-11028, PNC Bank, National Association vs. Douglas E. Wells, owner(s) of property situated in The City of Erie, Erie County, Pennsylvania being 2625 1/2 Chestnut Street, Erie, PA 16508
 3262 (sqft)
 Assessment Map Number:
 19060050023000
 Assessed Value figure: \$89,300.00
 Improvement thereon: Single Family Dwelling
 Justin F. Kobeski, Esquire
 Manley Deas Kochalski LLC
 P.O. Box 165028
 Columbus, OH 43216-5028
 614-220-5611

Aug. 30 and Sept. 6, 13

SALE NO. 19

Ex. #11144 of 2019
New Residential Mortgage LLC,
Plaintiff

v.

Dana D. Long, Cheryl M. Long,
Defendant(s)
DESCRIPTION

By virtue of a Writ of Execution filed to No. 11144-2019, New Residential Mortgage LLC vs. Dana D. Long, Cheryl M. Long Amount Due: \$138,381.34
 Dana D. Long, Cheryl M. Long, owner(s) of property situated in GREENE TOWNSHIP, Erie County, Pennsylvania being 9550 Lake Pleasant Road, Erie, PA 16509-5760
 Acreage: 0.7146
 Assessment Map number:
 25014057000300
 Assessed Value: \$157,300.00
 Improvement thereon: residential Phelan Hallinan Diamond & Jones, LLP
 One Penn Center at Suburban Station, Suite 1400
 1617 John F. Kennedy Boulevard
 Philadelphia, PA 19103-1814
 (215) 563-7000

Aug. 30 and Sept. 6, 13

SALE NO. 20
Ex. #10455 of 2019
Wells Fargo Bank, N.A., Plaintiff

v.
Diane M. Miles, James F. Miles,
Defendant(s)
DESCRIPTION

By virtue of a Writ of Execution filed to No. 10455-2019, Wells Fargo Bank, N.A. vs. Diane M. Miles, James F. Miles
 Amount Due: \$71,804.56
 Diane M. Miles, James F. Miles, owner(s) of property situated in ERIE CITY, Erie County, Pennsylvania being 257 East Lakeview Boulevard, Erie, PA 16504-2023
 Dimensions: 100 X 139
 Acreage: 0.3191
 Assessment Map number: 18053058010500
 Assessed Value: \$79,270.00
 Improvement thereon: residential Phelan Hallinan Diamond & Jones, LLP One Penn Center at Suburban Station, Suite 1400
 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814
 (215) 563-7000

Aug. 30 and Sept. 6, 13

SALE NO. 21
Ex. #12691 of 2018
Ditech Financial LLC f/k/a Green Tree Servicing LLC, Plaintiff

v.
James A. Weiland, Defendant(s)
DESCRIPTION

By virtue of a Writ of Execution filed to No. 12691-18, Ditech Financial LLC f/k/a Green Tree Servicing LLC vs. James A. Weiland
 Amount Due: \$140,236.79
 James A. Weiland, owner(s) of property situated in MILLCREEK TOWNSHIP, Erie County, Pennsylvania being 914 West 52nd Street, Erie, PA 16509-2524
 Dimensions: 88 X 147.2
 Assessment Map number: 33-119-517.0-017.00
 Assessed Value: \$190,100.00
 Improvement thereon: residential Phelan Hallinan Diamond & Jones, LLP One Penn Center at Suburban Station, Suite 1400
 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814

(215) 563-7000
 Aug. 30 and Sept. 6, 13

SALE NO. 22
Ex. #12788 of 2018
Wells Fargo Bank, NA, Plaintiff

v.
Unknown Heirs, Successors,
Assigns, and All Persons, Firms,
or Associations Claiming Right,
Title or Interest From or Under
Dorothy Wojtasik, Deceased,
Defendant(s)
DESCRIPTION

By virtue of a Writ of Execution filed to No. 12788-18, Wells Fargo Bank, NA vs. Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right, Title or Interest From or Under Dorothy Wojtasik, Deceased
 Amount Due: \$9,935.82
 Unknown Heirs, Successors, Assigns, and All Persons, Firms, or Associations Claiming Right, Title or Interest From or Under Dorothy Wojtasik, Deceased, owner(s) of property situated in ERIE CITY, Erie County, Pennsylvania being 406 Parkway Drive, Erie, PA 16511-1052
 Dimensions: 30 X 135
 Acreage: 0.0930
 Assessment Map number: 14011011011100
 Assessed Value: \$60,200.00
 Improvement thereon: residential Phelan Hallinan Diamond & Jones, LLP One Penn Center at Suburban Station, Suite 1400
 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814
 (215) 563-7000

Aug. 30 and Sept. 6, 13

SALE NO. 23
Ex. #11187 of 2019
Nationstar Mortgage LLC d/b/a Mr. Cooper, Plaintiff

v.
David A. McMutrie and
Elizabeth A. McMutrie,
Defendants
DESCRIPTION

By virtue of a Writ of Execution filed to No. 2019-11187, Nationstar Mortgage LLC d/b/a Mr. Cooper vs. David A. McMutrie and Elizabeth A. McMutrie, owner(s) of property

situated in Millcreek, Erie County, Pennsylvania being 3456 West 42nd Street, Erie, PA 16506
 0.1843

Assessment Map number: 33-083-402.0-001.02
 Assessed Value figure: \$150,840.00
 Improvement thereon: a residential dwelling
 Katherine M. Wolf, Esquire Shapiro & DeNardo, LLC Attorney for Movant/Applicant
 3600 Horizon Drive, Suite 150 King of Prussia, PA 19406
 (610) 278-6800

Aug. 30 and Sept. 6, 13

SALE NO. 24
Ex. #11279 of 2019

U.S. Bank National Association,
as Trustee for Structured Asset
Securities Corporation Mortgage
Pass-Through Certificates, Series
2007-GEL2, Plaintiff

v.
Imogene L. Stockton, Defendant
DESCRIPTION

By virtue of a Writ of Execution filed to No. 2019-11279, U.S. Bank National Association, as Trustee for Structured Asset Securities Corporation Mortgage Pass-Through Certificates, Series 2007-GEL2 vs. Imogene L. Stockton, owner(s) of property situated in City Erie, Erie County, Pennsylvania being 245 East 24th Street, Erie, PA 16503
 0.1109
 Assessment Map number: 18050011020800
 Assessed Value figure: \$39,100.00
 Improvement thereon: a residential dwelling
 Katherine M. Wolf, Esquire Shapiro & DeNardo, LLC Attorney for Movant/Applicant
 3600 Horizon Drive, Suite 150 King of Prussia, PA 19406
 (610) 278-6800

Aug. 30 and Sept. 6, 13

SALE NO. 25
Ex. #12456 of 2018

MB Financial Bank, N.A.,
Plaintiff
v.
Christina M. Goss, Defendant
DESCRIPTION

By virtue of a Writ of Execution filed to No. 2018-12456, MB Financial Bank, N.A. v. Christina M. Goss, owners of property situated in the City of Erie, Erie County, Pennsylvania being 3913 English Avenue, Erie, Pennsylvania 16510.

Tax I.D. No. 18-052-046.0-112.00

Assessment: \$ 75,695.31
 Improvements: Residential Dwelling
 McCabe, Weisberg & Conway, LLC
 123 South Broad Street, Suite 1400
 Philadelphia, PA 19109
 215-790-1010

Aug. 30 and Sept. 6, 13



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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

AULENBACHER, WILLIAM W., JR., a/k/a WILLIAM W. AULENBACHER, a/k/a WILLIAM AULENBACHER, deceased

Late of Borough of North East, County of Erie, Commonwealth of Pennsylvania
Administrator: Marlene S. Aulenbacher, c/o Leigh Ann Orton, Esquire, Orton & Orton, 68 E. Main St., North East, PA 16428
Attorney: Leigh Ann Orton, Esquire, Orton & Orton, 68 E. Main St., North East, PA 16428

BURDICK, THOMAS R., a/k/a THOMAS BURDICK, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Patricia Ann Borkowski, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

CHAUNCEY, ARTHUR O., deceased

Late of the Township of Girard, County of Erie, Commonwealth of Pa.
Executor: Richard Chauncey, c/o 504 State Street, Suite 200, Erie, Pa. 16501
Attorney: Richard E. Filippi, Esquire, 504 State Street, Suite 200, Erie, Pa. 16501

DILLON, JAMES P., a/k/a JAMES DILLOMN, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administratrix: Karen B. Elder, c/o Gary V. Skiba, Esq., Suite 300, 300 State Street, Erie, PA 16507
Attorney: Gary V. Skiba, Esq., MARSH, SPAEDER, BAUR, SPAEDER & SCHAAF, LLP., Suite 300, 300 State Street, Erie, PA 16507

DORICH, JOHN H., deceased

Late of the City of Erie, Erie County, PA
Administrator: John Dorich, c/o Mary Alfieri Richmond, Esquire, 150 East 8th Street, Floor 1, Erie, PA 16501
Attorney: Mary Alfieri Richmond, Esquire, 150 East 8th Street, Floor 1, Erie, PA 16501

EVANOFF, JOHN ROGALA, a/k/a JOHN R. EVANOFF, deceased

Late of the City of Erie, County of Erie
Executrix: Mary Payton Jarvie, Esquire, 254 West Sixth Street, Erie, Pennsylvania 16507
Attorney: Kari A. Froess, Esquire, CARNEY & GOOD, 254 West Sixth Street, Erie, Pennsylvania 16507

FRANCIOSE, COLLEEN ELIZABETH, a/k/a COLLEEN WRIGHT, a/k/a COCO FRANCIOSE, a/k/a COCO WRIGHT, deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Executrix: Dorothy Ann Bearance, c/o Anthony Angelone, Esquire, Law Office of Gery T. Nietupski, Esquire, LLC, 818 State Street, Erie, PA 16501
Attorney: Anthony Angelone, Esquire, Law Office of Gery T. Nietupski, Esquire, LLC, 818 State Street, Erie, PA 16501

GRAF, BERNARD R., deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Administratrix c.t.a.: Judith A. Barthelmes, 126 Anderson Drive, Erie, PA 16509-3203
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

LESNICKI, JAMIE, a/k/a JAMIE D. LESNICKI, a/k/a JAMIE DENISE LESNICKI, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Karen Lesnicki, c/o 504 State Street, 3rd Floor, Erie, PA 16501
Attorney: Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

MERRYMAN, ALAN R., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Brian Merryman, c/o Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508
Attorney: Darlene M. Vlahos, Esq., Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508

NEDRESKI, DONALD L., a/k/a DONALD LEE NEDRESKI, deceased

Late of Summit Township, Erie County, Pennsylvania
Executor: Michelle L. Puentes, P.O. Box 694, Eagle Butte, SD 57625
Attorney: None

RENDULIC, CHARLOTTE, a/k/a CHAR RENDULIC, a/k/a CHARLOTTE A. RENDULIC, deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Administrator: Joseph Rendulic, 4018 Canterbury Drive, Erie, PA 16506
Attorney: None

**REYNOLDS, JULIA ANN,
deceased**

Late of Millcreek Township,
County of Erie

Executor: Daniel Wade Reynolds,
341 McWilliams Road, Trafford,
PA 15085

Attorney: None

**SMITH, JAMES F.,
deceased**

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

Executrix: Darlene K. Kinnear,
118 East 6th Street, Waterford,
PA 16441

Attorney: Valerie H. Kuntz, Esq.,
24 Main St. E., P.O. Box 87,
Girard, PA 16417

**SMITH, SHIRLEY R.,
deceased**

Late of City of Erie, Erie County,
Commonwealth of Pennsylvania
Executor: Sheila M. Smith, c/o
Jeffrey D. Scibetta, Esq., 120 West
Tenth Street, Erie, PA 16501

Attorney: Jeffrey D. Scibetta,
Esq., Knox McLaughlin Gornall
& Sennett, P.C., 120 West Tenth
Street, Erie, PA 16501

**TURIFY, JOHN M.,
deceased**

Late of Springfield Township
Administrator: Michele R.
Sperrazzo, c/o 246 West 10th
Street, Erie, PA 16501

Attorney: Evan E. Adair, Esq., 246
West 10th Street, Erie, PA 16501

**VAN SLYKE, HALLY E.,
deceased**

Late of the Township of
Harborcreek, County of Erie and
Commonwealth of Pennsylvania
Co-Executors: Derek F. Van Slyke,
4128 Magnolia Blossom Dr., Erie,
PA 16510-6652 and Heather L.
Rogers, 418 Sparkhill Avenue,
Erie, PA 16511-2352

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

SECOND PUBLICATION**HOUSTON, JOHN C.,
deceased**

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

Executrix: Colleen R. Stumpf,
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

**KELLER, MARY LOUISE,
deceased**

Late of the Township of McKean

Executor: Robin C. Keller
Attorney: Steven E. George,
Esquire, George Estate and Family
Law, 305 West 6th Street, Erie,
PA 16507

**MANCO, JAMES R.,
deceased**

Late of the Township of Millcreek,
Erie County, Pennsylvania

Executor: Kevin Hall, c/o 3228
Florida Avenue, Erie, PA 16504
Attorney: Cathy M. Lojewski,
Esq., 3228 Florida Avenue, Erie,
PA 16504

**MATCZAK, LEON D.,
deceased**

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

Executor: Marc M. Matczak,
10950 Lake Pleasant Road,
Waterford, PA 16441

Attorney: None

**McCULLUM, MILLIE GRACE,
a/k/a MILLIE G. McCULLUM,
deceased**

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

Co-Executors: Angela Grace
Jones, 527 W. 7th St., Erie, PA
16502 and Arden McCullum, 1726
Clifford Drive, Erie, PA 16505

Attorney: None

**OSSORIO, JULIO M.,
deceased**

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

Co-Administrators: Julissa
Ossorio-Bermudez and Julio J.
Ossorio-Torres

Attorney: Thomas J. Minarcik,
Esquire, ELDERKIN LAW FIRM,
150 East 8th Street, Erie, PA 16501

**PALMER, GEORGE L.,
deceased**

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

Executrix: Rebecca L.
Bartholomew, 105 Cherrywood
Court, Harrison City, PA 15636-
1445

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

**REESE, BARBARA E., a/k/a
BARB REESE,
deceased**

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

Executor: Barry J. Sherman, 9320
Tate Rd., Erie, PA 16509

Attorney: None

**ROOT, DOUGLAS E.,
deceased**

Late of the City of Erie, Erie
County, Pennsylvania

Executor: Douglas E. Root, c/o
3228 Florida Avenue, Erie, PA
16504

Attorney: Cathy M. Lojewski,
Esq., 3228 Florida Avenue, Erie,
PA 16504

**SERENO, JOSEPH C.,
deceased**

Late of the Township of Millcreek,
County of Erie and Commonwealth
of Pennsylvania

Executrix: Linda M. Ponsford
Attorney: Thomas J. Minarcik,
Esquire, ELDERKIN LAW FIRM,
150 East 8th Street, Erie, PA 16501

**SWANSON, JANE W.,
deceased**

Late of the City of Corry, Erie County, Pennsylvania
Executrix: Nancy A. Vandercoy, 316 Sixth Street, Corry, PA 16407
Attorney: William E. Barney, Esquire, 200 N. Center St., Corry, PA 16407

**TERRANOVA, PAMELA J.,
deceased**

Late of Borough of Girard, County of Erie, Commonwealth of Pennsylvania
Executor: Raymond Keith Tackett, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508
Attorney: Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

**VERALDI, FRANK,
deceased**

Late of the City of Erie, Erie County, Pennsylvania
Executor: Cynthia A. Roberts, c/o 3228 Florida Avenue, Erie, PA 16504
Attorney: Cathy M. Lojewski, Esq., 3228 Florida Avenue, Erie, PA 16504

**WOODS, SYLVIA A., a/k/a SYLVIA WOODS,
deceased**

Late of Erie County, Pennsylvania
Executor: Michael J. Woods, 3157 Avonia Road, Fairview, PA 16415
Attorney: William T. Morton, Esquire, 2225 Colonial Ave., Ste. 206, Erie, Pennsylvania 16506

THIRD PUBLICATION

**ADAMS, WILLIAM
McCHESNEY, JR.,
a/k/a WILLIAM M. ADAMS,
deceased**

Late of Conneaut Township, County of Erie, Commonwealth of Pennsylvania
Executor: William M. Adams III, 209 E. Winnequah Rd., Madison, WI 53716
Attorney: None

**FERKO, MARGARET M., a/k/a MARGARET MARY FERKO,
deceased**

Late of North East Borough, Erie County, Pennsylvania
Executor: Mary Helen Furchak Page, c/o Frances A. McCormick, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Frances A. McCormick, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**FIELDS, FREDERICK F.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Co-Executors: Gerard F. DeLuca and Victor G. Kraus, c/o 2222 West Grandview Blvd., Erie, PA 16506
Attorney: Thomas E. Kuhn, Esquire, QUINN, BUSECK, LEEMHUIS, TOOHEY & KROTO, INC., 2222 West Grandview Blvd., Erie, PA 16506

**KELLY, LORRIE J., a/k/a LORRIE JEAN KELLY,
deceased**

Late of Township of North East, County of Erie and Commonwealth of Pennsylvania
Executor: Timothy S. Kelly, c/o Norman A. Stark, Esq., Suite 300, 300 State Street, Erie, PA 16507
Attorney: Norman A. Stark, Esq., MARSH, SPAEDER, BAUR, SPAEDER & SCHAFF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**KING, CAROL A., a/k/a CAROL KING,
deceased**

Late of the City of Erie
Executor: Joseph C. King
Attorney: Michael G. Nelson, Esquire, Marsh, Spaeder, Baur, Spaeder & Schaaf, LLP, 300 State Street, Suite 300, Erie, Pennsylvania 16507

**McBRIDE, MICHAEL P.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administrator: Richard A. McBride II
Attorney: Thomas J. Minarcik, Esquire, ELDERKIN LAW FIRM, 150 East 8th Street, Erie, PA 16501

**MONTAGNA, THOMAS, a/k/a TOMMASO MONTAGNA,
deceased**

Late of Township of Millcreek, County of Erie, and State of Pennsylvania
Executrix: Loreta R. Montagna
Attorney: Gregory A. Karle, Esquire, Dailey, Karle & Villella, 150 East Eighth Street, 2nd Floor, Erie, PA 16501

**PROPER, LINDA L.,
deceased**

Late of the City of Erie, County of Erie
Administrator: Joel Kahle, c/o Barbara J. Welton, Esquire, 2530 Village Common Drive, Suite B, Erie, PA 16506
Attorney: Barbara J. Welton, Esquire, 2530 Village Common Drive, Suite B, Erie, PA 16506

**ROPELEWSKI, NORBERT R.,
deceased**

Late of the City of Erie
Executrix: Kristen A. Ropelewski, 4129 Venice Drive, Erie, PA 16506
Attorney: Michael A. Fetzner, Esquire, Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**TUSHAK, TOM, a/k/a THOMAS JOHN TUSHAK,
deceased**

Late of Borough of Girard, Erie County, Pennsylvania
Co-Administrators: James Tushak and Jon Tushak, c/o Frances A. McCormick, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Frances A. McCormick, Esq., Knox McLaughlin Gornall & Sennett, P.C. 120 West Tenth Street, Erie, PA 16501

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Erie, PA 16501 *maria_goellner@fd.org*

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