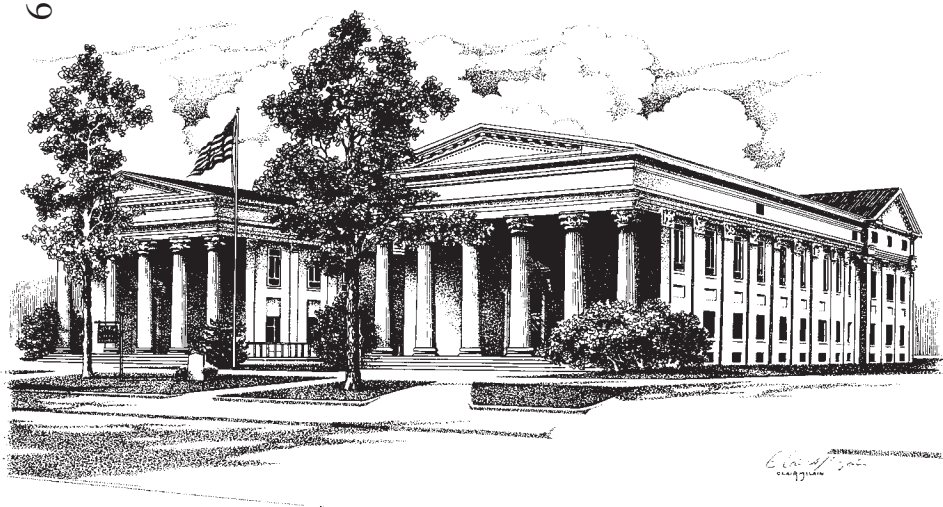


Erie County Legal Journal

September 20, 2019

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Commonwealth v. House

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 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

WEDNESDAY, SEPTEMBER 25, 2019

Flu Shots administered by LifeWorks
11:30 a.m. - 2:00 p.m.
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

FRIDAY, OCTOBER 11, 2019

ECBA Live Morning Seminar
*Observations from the Bench & Private Practice:
Tips on Effectively Advancing Your Client's
Interests During the Litigation Process*
The Will J. Schaaf & Mary B. Schaaf Education Center
8:00 a.m. - Registration
8:30 a.m. - 9:30 a.m. - Seminar
\$47 (ECBA members/their non-attorney staff)
\$60 (non-members)
1 hour substantive

SATURDAY, OCTOBER 12, 2019

Wills for Heroes
The Will J. & Mary B. Schaaf Education Center
10:00 a.m. - 2:00 p.m.



Erie County Bar Association



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To view PBI seminars visit the events calendar
on the ECBA website
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Sept. 20

ECBA NOMINATING COMMITTEE TO MEET

In accordance with Article V, Section (2) of the Erie County Bar Association (ECBA) By-Laws, the membership is hereby notified that the Nominating Committee will meet on Friday, September 27, 2019 at 8:30 a.m. at the ECBA Headquarters. Any Association member wishing to nominate a candidate for any of the following offices may do so in writing to the ECBA office prior to September 27th: Second Vice-President (1 year term); Treasurer (1 year term); four Board Members (3 year terms each.)

Positive leadership characteristics of nominees include, among other things, a willingness to devote the necessary time to this commitment; integrity, intelligence, vision, decisiveness, reliability, open-mindedness; interest in and support of the ECBA and its mission exhibited through current or recent involvement in the Association's work; is an ethical and respected member of the ECBA; unlikely to embarrass the ECBA by words or deeds; works well with staff.

It will be the duty of the Nominating Committee to place in nomination the names of one candidate for each seat to be filled by election. Nominations to be considered will come from the membership and from the Nominating Committee itself. No other nominations may be made from the floor at the election meeting.

Sept. 13, 20

 Forensic Accounting Specialists 3703 West 26 th St. Erie, PA 16506 814/833-8545 113 Meadville St. Edinboro, PA 16412 814/734-3787	<p>MALONEY, REED, SCARPITTI & COMPANY, LLP</p> <p>Certified Public Accountants and Business Advisors</p> <p>www.mrs-co.com</p> <p>fraud detection, prevention and investigation</p> <p>Joseph P. Maloney, CPA, CFE • James R. Scarpitti, CPA Rick L. Clayton, CPA • Christopher A. Elwell, CPA • Ryan Garofalo, CPA</p> <p><i>Confidential inquiries by phone or email to mrsinfo@mrs-co.com.</i></p> 

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COMMONWEALTH OF PENNSYLVANIA

v.

JAMES EARL HOUSE

CRIMINAL PROCEDURE / JUVENILE RE-SENTENCING

The United State Supreme Court has held when re-sentencing an individual convicted of homicide as a minor and serving a life without parole sentence, sentencing courts must provide a juvenile convicted of a homicide offense a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation unless the sentencing authority finds that the juvenile is incapable of rehabilitation.

CRIMINAL PROCEDURE / JUVENILE RE-SENTENCING

A trial court may not impose a term-of-years sentence, which constitutes a *de facto* life without parole sentence, on a juvenile offender convicted of homicide unless it finds, beyond a reasonable doubt, that he or she is incapable of rehabilitation.

CRIMINAL PROCEDURE / JUVENILE RE-SENTENCING

Within the meaningful opportunity to obtain release standard, is the notion it would not be meaningful to provide an opportunity for release based solely on the most tenuous possibility of a defendant's surviving the minimum sentence imposed.

CRIMINAL PROCEDURE / JUVENILE RE-SENTENCING

To be meaningful or, at least, potentially meaningful, it must at least be plausible that one could survive until the minimum release date with some consequential likelihood that a non-trivial amount of time at liberty awaits.

CRIMINAL PROCEDURE / JUVENILE RE-SENTENCING

Re-sentenced juveniles are subject to a mandatory maximum sentence of life imprisonment as required by Section 1102(a), accompanied by a minimum sentence determined by the common pleas court upon resentencing.

CRIMINAL PROCEDURE / JUVENILE RE-SENTENCING

The Pennsylvania Supreme Court's ruling in *Cmmw. v. Batts*, 163 A.3d 410, 442 (Pa. 2017) required severance of section 9756(b)(1)'s requirement that a minimum sentence can be no more than half of the maximum sentence for juveniles convicted of first-degree murder prior to *Miller v. Alabama*, 132 S.Ct. 2455 (2012).

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA

No. CR 2720 of 1999

78 WDA 2019

Appearances: Justin Panighetti, Esq., for Appellant James Earl House
Greg Sematic, Deputy Attorney General, for Appellee Commonwealth of Pennsylvania

OPINION

Domitrovich, J.

March 11, 2019

The instant matter is currently before the Pennsylvania Superior Court on the Appeal of James Earl House ("Appellant") from this PCRA Court's Sentencing Order dated December 14, 2018,

pursuant to a re-sentencing proceeding mandated by the United States Supreme Court ruling in *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016) and the Pennsylvania Supreme Court ruling in *Commonwealth v. Batts*, 163 A.3d 410 (Pa. 2017) (“*Batts II*”). Appellant was eighteen (18) years old when he was originally convicted in 2000 for the murder of twenty-one (21) year old Eddie Outlaw. This offense was committed on April 8, 1999, about five months before Appellant’s eighteenth birthday. Appellant was convicted by a jury of First Degree Murder and other crimes on March 31, 2000, and was originally sentenced to mandatory life imprisonment without the possibility of parole with consecutive incarceration sentences for other convictions.

Following an extensive re-sentencing hearing on December 6, 2018 and December 14, 2018, Appellant was re-sentenced to a period of incarceration of thirty (30) years to life with the possibility of parole for his first degree murder conviction.¹ His revised aggregate sentence with other separate convictions is thirty-two (32) years to life with the possibility of parole. Appellant received credit for time served as of the date of his re-sentencing on December 14, 2018.

The original procedural history is as follows: On May 17, 2000, Appellant filed a Post-Sentence Motion, which this PCRA Court denied on May 23, 2000. May 26, 2000, Appellant filed a timely Notice of Appeal to the Pennsylvania Superior Court. On September 10, 2001, the Pennsylvania Superior Court filed a Memorandum Opinion, affirming Appellant’s judgment of sentence. On December 27, 2001, Appellant filed his first PCRA Petition, which this PCRA Court denied on October 25, 2002. On November 26, 2008, Appellant filed an Application for Writ of Habeas Corpus, which this PCRA Court considered as Appellant’s second PCRA Petition. This PCRA Court dismissed Appellant’s second PCRA Petition on February 25, 2009. On March 26, 2009 Appellant filed a Notice of Appeal regarding this PCRA Court’s Final Order. The Pennsylvania Superior Court returned Appellant’s Notice of Appeal for Corrections with a letter dated March 31, 2009. On July 15, 2010, Appellant filed his third PCRA Petition, which was dismissed by this PCRA Court on May 13, 2011. Appellant filed his fourth PCRA Petition on August 10, 2011, which was dismissed by this PCRA Court on February 9, 2012. On February 10, 2012, Appellant filed his Notice of Appeal, which was quashed by the Pennsylvania Superior Court on August 27, 2012, due to Appellant’s failure to file a brief.

Appellant filed his fifth PCRA Petition on July 11, 2012. On July 23, 2012, this PCRA Court appointed counsel, who after several motions for extension of time filed a Supplemental Petition for Post-Conviction Relief on November 15, 2013. Commonwealth filed its Response on December 16, 2013. Thereafter, Appellant’s counsel filed a Motion to Stay Decision on Pending PCRA Claims until the outcome of the request for certiorari in the case of *Commonwealth v. Cunningham*, 81 A.3d 1 (Pa. 2013). This PCRA Court granted said stay after a hearing on January 23, 2014. The United States Supreme Court denied certiorari on *Cunningham v. Pennsylvania*, 134 S. Ct. 2724 (2014), on June 9, 2014. On June 11, 2014, this PCRA Court filed a Notice of Intent to Dismiss Appellant’s fifth PCRA Petition without a Hearing pursuant to Pa. R. Crim. P. 907(1). This PCRA Court dismissed Appellant’s fifth PCRA Petition on July 9, 2014.

¹ In the Appellant’s re-sentencing, this PCRA Court reinstated the standard range sentence of Count 2 (Carrying Firearms Without A License) for one (1) year to five (5) years of state incarceration to run consecutive to Murder in the First Degree, and Count 3 (Criminal Conspiracy to Commit Simple Assault) for one (1) year to two (2) years of state incarceration consecutive to Count 2. At the time of the original sentencing, Count 1 (Aggravated Assault) and Count 4 (Possessing Instruments of Crime) merged with Count 1 (Murder of the First Degree).

The Pennsylvania Superior Court affirmed the dismissal of Appellant's fifth PCRA Petition on March 13, 2015. Appellant filed a Petition for Allowance of Appeal to the Pennsylvania Supreme Court on April 9, 2015. The Pennsylvania Supreme Court held its decision in abeyance pending the United States Supreme Court's decision in *Montgomery v. Louisiana*. On January 25, 2016, the United States Supreme Court in *Montgomery* held *Miller v. Alabama* was to be applied retroactively. The Pennsylvania Supreme Court then vacated and remanded to the Pennsylvania Superior Court. The Pennsylvania Superior Court in turn vacated and remanded this case to this PCRA Court for re-sentencing of Appellant.

Appellant filed an Amended PCRA Petition on March 22, 2016. Office of Attorney General filed its Response to Appellant's Amended PCRA Petition on May 6, 2016. After several continuances were filed, Appellant's current counsel entered an appearance on January 13, 2017. Appellant's Petition to Permit Access to Records was granted by this PCRA Court on March 2, 2017. On May 9, 2017, Appellant's re-sentencing was continued to allow more time for *Batts II* to be decided.

By Order dated August 7, 2017, this PCRA Court noted that if Pennsylvania Office of Attorney General intends to seek a life sentence without parole in the instant criminal case, Pennsylvania Office of Attorney General should file a Notice of Intent to seek a life sentence without parole on or before September 22, 2017. Pennsylvania Office of Attorney General made no such filing. After a few further continuances, Appellant's re-sentencing hearing was scheduled to begin on December 6, 2018. Counsel filed briefs and the re-sentencing was completed on December 14, 2018.

On appeal, Appellant raises four (4) issues which this PCRA Court considers as three issues: (1) whether this PCRA Court resented Appellant to an unconstitutional sentence when imposing a sentence of 30 years with possibility of parole on the first degree murder conviction, which Appellant considers is a *de facto* life sentence, allegedly depriving Mr. House of a "meaningful opportunity for release"; (2) whether Appellant's sentence of 30 years to life with the possibility of parole violates Pennsylvania Statute 42 Pa.C.S. § 9756; and (3) whether this PCRA Court factored Appellant's life expectancy into Appellant's new sentence and whether the vacated holding of *U.S. v. Grant* should have been applied. This PCRA Court provides the following analysis:

As to Appellant's first issue, it is well settled law that sentencing is within the sound discretion of the trial judge, and "a manifest abuse of discretion" is the standard on appeal. *Com. v. Rodda*, 723 A.2d 212, 214 (Pa. Super. 1999). An abuse of discretion may not be found because of a disagreement over a sentence, but only when the sentencing court "ignored or misapplied the law, exercised its judgment for reasons of partiality, prejudice, bias or ill will, or arrived at a manifestly unreasonable decision." *Id.*

Further, the United State Supreme Court has held when re-sentencing an individual convicted of homicide as a minor and serving a life without parole ("LWOP") sentence, sentencing courts "must provide a juvenile convicted of a homicide offense a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation unless the sentencing authority finds that the juvenile is incapable of rehabilitation." *Cmmw. v. Foust*, 180 A.3d 416, 431 (Pa. Super. 2018) (*noting Miller*, 132 S.Ct. 2455, *citing Graham*, 130 S.Ct. 2011).

Here, at the time of re-sentencing, this PCRA Court considered and placed on the record in

open court, in the presence of Appellant, all parties, and counsel, a multitude of sentencing factors, including, but not limited to, Appellant's rehabilitation and other factors as follows:

(1) This PCRA Court considered the Pennsylvania Sentencing Code:

The Trial Court has taken into account the traditional sentencing considerations which this Court is making part of the record and disclosing in open court at this time of sentencing. The Trial Court statement of reasons for the sentence being imposed are as following with the Court considering all relevant statutes and case law.

(Notes of Testimony - Re-sentencing Day 2, December 14, 2018 at 15:1-7 ("NT 1"));

(2) This PCRA Court applied factors enumerated in Section 1102.1 (A):

Sentencing Court is fashioning the minimum term of incarceration, using as guidance Section 1102.1(A) with the Crimes Code, taking into consideration the many factors: The impact of the offense on the victim including oral and written victim impact statements made and submitted by family members of the victim; testimony detailing the physical, psychological, and economic effects of the crime on the victim and the victim's family; the impact of this offense on this community and the seriousness of the offense and the related offenses; the threat to the safety of the public or any individual posed by this defendant; the nature and circumstances of these offenses committed by this defendant; the degree of culpability; the Pennsylvania sentencing code and the thorough arguments of counsel; testimony of all the witnesses before the Court; sincerity of defendant's remorsefulness[.]

(NT 1 at 15:8-16:1);

(3) This PCRA Court considered the age of Appellant currently and age related characteristics at the time of the crime:

[T]he age related characteristics of the defendant; the present age of 37 and his age at the time of this offense of being 17 years old, shy of approximately five months of being 18 years of age; his mental capacity, his character, his maturity and failure to appreciate risks and consequences, and his immaturity at the time of the offenses; the degree of criminal sophistication exhibited by the defendant; the circumstances of the homicide offense; the defendant, family, and peer pressure affecting him[.]

(NT 1 at 16:1-11);

(4) This PCRA Court considered Appellant's possibility for rehabilitation:

[T]he nature and the extent of the prior delinquent history including the success or failure of previous attempts by the Court to rehabilitate him; the possibility for rehabilitation, and all other relevant factors.

(NT 1 at 16:11-15);

(5) This PCRA Court's history with Appellant and Appellant's behavior in prison:

The Trial Court being the Trial Judge who presided over the entire case, trial, this case as well as being the original sentencing judge of the defendant. This Trial Court has taken into consideration that the Commonwealth acknowledges the defendant has behaved well in prison, Commonwealth acknowledges during sentencing allocution defendant appeared to exhibit authentic contrition for this crimes[.]

(NT 1 at 16:16-24);

(6) This PCRA Court considered Appellant being under Juvenile Court supervision at the time the crime occurred:

[D]efendant was also under juvenile supervision for a shooting incident at the time of this crime which is an aggravated assault, a felony of the first-degree, and firearms not to be carried without a license, a felony three, and the defendant has had ample opportunities for rehabilitation available to him and to comply with juvenile court directives.

(NT 1 at 16:25-17:7);

(7) This PCRA Court considered the victim impact statements by the Outlaw family:

Court also notes the victim impact statement made by the Outlaw family clearly reflecting the impact of this crime on them at the time and how it continues to have that impact to this day and forever after.

(NT 1 at 17:8-12);

(8) This PCRA Court considered expert opinion testimony and expert report of Dr. Shannon Edwards, regarding her clinical expertise and evaluation of Appellant:

This Court has also taken into consideration Dr. Shannon Edwards' testimony, her clinical expertise of the defendant, her evaluation of the defendant, her report she discussed, how well defendant has done while incarcerated with

only four misconducts. The Court has considered her expert opinion in conclusion based upon the information that she reviewed.

(NT 1 at 17: 13-20);

(9) This PCRA Court has reviewed the programs Appellant participated in and employment at SCI Huntington:

Court has also taken into consideration defendant has participated in approximately ten programs including SCI Huntington's therapeutic community, a leadership-based program, and his leadership position in the soap factory at the prison.

(NT 1 at 17:21-18:1);

(10) This PCRA Court considered testimony of character witnesses for Appellant, Allen Betts, Tyshaun Taylor, and Antonio Howard:

Court also considered testimony of Allen Betts, a corrections officer, a work supervisor of defendant at SCI Huntington as well as testimony of by Tyshaun Taylor and Antonio Howard.

(NT 1 at 18:1-4);

(11) This PCRA Court considered the Presentence Investigation report:

Court also considered the pre-sentence investigation reports provided to the Court, Commonwealth, and defendant by James Bowers of the Adult Probation Office of Erie County.

(NT 1 at 18:5-8); and

(12) This PCRA Court considered the seriousness of Appellant's crime:

Defendant has extinguished every possibility of Eddie Outlaw's future and that has to be accounted for, and the violence he displayed in his life and the breakdown and the moral understanding of what's permitted by people in society. Killing by one person of another contributed to the degradation of standards in our community.

(NT 1 at 8-15).

See generally (NT 1 at 15:1-18:15).

As illustrated above, this PCRA Court examined, considered, and balanced numerous

matters and factors along with facts of the crime and rehabilitative possibilities of Appellant at the time of Appellant's re-sentencing.

Moreover, a plain application of the case law demonstrates Appellant's sentence is not a *de facto* LWOP sentence. Case law clearly indicates: "a trial court may not impose a term-of-years sentence, which constitutes a *de facto* LWOP sentence, on a juvenile offender convicted of homicide unless it finds, beyond a reasonable doubt, that he or she is incapable of rehabilitation." *Foust*, 180 A.3d at 431 (Pa. Super. 2018). As indicated earlier, Commonwealth did not attempt to prove Appellant was incapable of rehabilitation. (Notes of Testimony - Re-sentencing, December 6, 2018 at 112:13-113:3 ("NT 2"). Furthermore, the Pennsylvania Superior Court in *Foust* provides examples of certain term-of-years sentences clearly constituting *de facto* LWOP sentences, such as, a 150-year sentence is a *de facto* LWOP sentence. *Id.* at 438. The Pennsylvania Superior Court "explicitly decline[d] to draw a bright line . . . delineating what constitutes a *de facto* LWOP sentence and what constitutes a constitutional term-of-years sentence." *Id.* The Pennsylvania Superior Court in *Foust* also noted how certain sentences do not constitute *de facto* LWOP sentences: "A sentence of 30 years to life falls into this category." *Id.* at 436. The Pennsylvania Superior Court in *Foust* was "unaware of any court that has found that a sentence of 30 years to life imprisonment constitutes a *de facto* LWOP sentence for a juvenile offender." *Id.* Moreover, when deciding whether a fixed term-of-years sentence is a *de facto* LWOP sentence, courts "must consider the sentence for each individual crime separately and not the aggregate sentence imposed by the trial court." *Id.* at 441.

The Pennsylvania Superior Court provided in *Commonwealth v. Bebout* further guidance as to whether a sentence is permissible or is a *de facto* LWOP sentence for a juvenile offender. 186 A.3d 462 (Pa. Super. 2018), reargument denied (July 10, 2018). The *Bebout* Court began with the holding from the United States Supreme Court in *Graham v. Florida*, 560 U.S. 48 (2010), whereby the state must provide "some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." In order to provide this "meaningful opportunity to obtain release" standard, the *Bebout* Court stated an implicit assumption exists: "[i]mplicit in this standard is the notion it would not be meaningful to provide an opportunity for release based solely on the most tenuous possibility of a defendant's surviving the minimum sentence imposed." *Bebout*, 186 A.3d at 468. The *Bebout* Court held in order "to be meaningful or, at least, *potentially* meaningful, it must at least be *plausible* that one could survive until the minimum release date with some consequential likelihood that a non-trivial amount of time at liberty awaits." *Id.* (emphasis in original). The *Bebout* Court cited to the *Foust* Court, which "seemed to suggest some sort of meaningful-opportunity-for-release standard by declaring that a 150-years-to-life sentence constitutes a *de facto* LWOP sentence." *Id.*

To illustrate, the facts in *Commonwealth v. Bebout* indicate defendant was incarcerated for second degree murder since he was fifteen (15) years old; defendant was re-sentenced to forty-five (45) years to life. *Id.* at 462. The Pennsylvania Superior Court in *Bebout* found "Appellant's opportunity for release to be meaningful, especially in light of the gravity of his crime, because he has the potential to live for several decades outside of prison if paroled at his minimum." *Id.* at 469 (footnote removed). The *Bebout* Court concluded Appellant has "simply failed to meet his burden of demonstrating that the lower court sentenced him to

a *de facto* LWOP sentence. There simply is no comparison between the opportunity to be paroled at 60 years of age and 100+ years of age. The difference is, quite literally, a lifetime.” *Id.* at 469-70.

By way of further example, in *Commonwealth v. White*, the Pennsylvania Superior Court analyzed whether defendant’s thirty-five years to life sentence provided “some sort of meaningful-opportunity-for-release.” 193 A.3d 977 (Pa. Super. 2018). The Superior Court noted defendant’s minimum term was 35 years’ imprisonment; he had been incarcerated since he was 17 years old; and defendant would be eligible for parole when he was 52 years old. *Id.* The Superior Court in *White* concluded based on its review and analysis, defendant’s term-of-years minimum sentence did not constitute a *de facto* LWOP sentence, and his sentence provided him with a meaningful opportunity for parole. *Id.*

In the instant case, as indicated above, Commonwealth did not attempt to demonstrate Appellant was incapable of rehabilitation. (NT 2 at 12:13-113:3). This PCRA Court re-sentenced Appellant for the first degree murder conviction to a period of incarceration of thirty (30) years to life with the possibility of parole. This PCRA Court re-imposed his prior sentences, making Appellant’s revised aggregate sentence thirty-two (32) years to life with the possibility of parole.

As to Appellant’s ability to be paroled, Appellant who has been incarcerated since he was seventeen (17) years old can be considered for parole by the State authorities when he is approximately forty-seven (47) years old regarding his new sentence of thirty (30) years to life sentence for first degree murder. Assuming *arguendo*, if considering Appellant’s minimum aggregate sentence as thirty-two (32) years to life, Appellant can be considered by the state authorities for possible parole when he is approximately forty-nine (49) years old. Appellant’s ability to live to at least forty-nine (49) years of age is plausible and would provide Appellant with a non-trivial amount of time at liberty. Moreover, even accounting for the aggregate time, Appellant’s potential of being paroled at the age of forty-nine (49) years old provides Appellant an earlier opportunity at a younger age to be paroled than the defendants in both *Bebout* and *White*. Therefore, re-sentencing Appellant to a sentence of thirty (30) years to life with the possibility of parole for his murder conviction (or thirty-two (32) years to life with the possibility for his aggregate sentence) is not a *de facto* life sentence and provides Appellant with a meaningful and plausible opportunity for parole.

Next, Appellant’s second issue alleges a violation of 42 Pa.C.S. § 9756. The Pennsylvania Supreme Court has addressed this issue squarely and thoroughly twice, first in *Batts I*, and then re-affirmed in their decision in this matter in *Batts II*. In *Batts I*, the Pennsylvania Supreme Court stated “it is our determination here that they are **subject to a mandatory maximum sentence of life imprisonment** as required by Section 1102(a), accompanied by a minimum sentence determined by the common pleas court upon resentencing.” *Com. v. Batts*, 66 A.3d 286, 297 (Pa. 2013) (emphasis added). When the Pennsylvania Supreme Court heard *Batts II*, said Court specifically addressed 42 Pa.C.S. § 9756, when stating “[h]owever, our holding implicitly **required severance of section 9756(b)(1)’s requirement** that a minimum sentence can be no more than half of the maximum sentence for juveniles convicted of first-degree murder prior to *Miller*.” *Cmmw. v. Batts*, 163 A.3d 410, 442 (Pa. 2017) (emphasis added). See generally *Id.* at 441-45. Thus, Appellant’s second issue lacks merit as the Pennsylvania Supreme Court severed the requirement in 42 Pa.C.S. § 9756.

This PCRA Court has combined Appellant’s third and fourth issues regarding Appellant’s life expectancy and *U.S. v. Grant*, 887 F.3d 131 (3d Cir. 2018), *reh’g en banc granted*, opinion vacated, 905 F.3d 285 (3d Cir. 2018). The vacated holding in *U.S. v. Grant* stated: a “non-incorrigible juvenile offender should presumptively be sentenced below the national age of retirement, unless the remaining sentencing factors strongly mitigate against doing so,” with the national age of retirement being “between sixty-two and sixty-seven inclusive.” *Id.* at 151; 153.

In the instant case, no life expectancy evidence was presented to this PCRA Court even though this Court inquired during the re-sentencing hearing on December 6, 2018. (NT 2 at 128:4-10). Also, as this PCRA court stated above, even using Appellant’s aggregate sentence of thirty-two (32) years to life, Appellant has the meaningful opportunity to be paroled when he is about forty-nine (49) years old, which is less than the youngest age of retirement of sixty-two (62) years old, as stated in the vacated *U.S. v. Grant*.

Second, *U.S. v. Grant* is a federal third circuit court of appeals decision, not a United States Supreme Court case, thereby making Pennsylvania state courts not bound by this federal intermediate court decision: “At the outset we observe that it is well-settled [the Superior Court of Pennsylvania] is not bound by the decisions of federal courts, other than the United States Supreme Court, or the decisions of other states’ courts.” *Eckman v. Erie Ins. Exch.*, 21 A.3d 1203, 1207 (Pa. Super. 2011). At the time of the re-sentencing, the decision in *U.S. v. Grant* was vacated for rehearing *en banc*, thus further diminishing its persuasive value in our state courts. Therefore, Appellant’s argument otherwise is without merit.

Finally, in both *Foust* and *Bebout*, the Pennsylvania Superior Court emphasized the complex and ever evolving nature of the difficulty in applying life expectancy as a potential factor. The Court in *Foust* explicitly stated:

We similarly decline to set forth factors that trial courts must consider when making this determination, i.e., whether they must look to the life expectancy of the population as a whole or a subset thereof and whether the defendant must be given a chance at a meaningful post-release life. We need not confront these difficult questions in this case.

180 A.3d at 438 (Pa. Super. 2018). The Pennsylvania Superior Court continued to raise concerns regarding using life expectancy as a factor when the *Bebout* Court opined: “[t]he use of statistical analysis of life expectancies to govern a *de facto* LWOP standard appears to create a myriad of new questions without any easy answers, sending us down a constantly evolving rabbit hole from which we may never escape as more and more data arrives.” *Bebout* 186 A.3d at 469. The *Bebout* court also opined, “it is not at all discernible which statistics we can rely on to predict life expectancy in specific cases, and we are virtually certain to have a standard that is in constant flux with the addition of each new study.” *Id.* Therefore, Appellant’s argument to the contrary is without merit.

Accordingly, for all of the reasons set forth above, this PCRA Court requests the Honorable Pennsylvania Superior Court to dismiss this instant appeal and respectfully requests the Pennsylvania Superior Court affirm this PCRA Court.

BY THE COURT

/s/ **Stephanie Domitrovich, Judge**

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

COMMONWEALTH OF PENNSYLVANIA

v.

JAMES EARL HOUSE, Appellant

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 78 WDA 2019

Appeal from the Judgment of Sentence Entered December 14, 2018
In the Court of Common Pleas of Erie County Criminal Division at No(s):
CP-25-CR-0002720-1999

BEFORE: LAZARUS, J., MURRAY, J., and COLINS, J. *

MEMORANDUM BY MURRAY, J.:

FILED SEPTEMBER 13, 2019

James Earl House (Appellant) appeals from the judgment of sentence imposed after he was re-sentenced pursuant to the directives of *Miller v. Alabama*, 567 U.S. 460 (2012) and *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016). Upon review, we affirm.

On March 31, 2000, a jury convicted Appellant - in connection with a homicide that occurred on April 8, 1999 - of first-degree murder, 18 Pa.C.S.A. § 2502(a), criminal conspiracy (simple assault) 18 Pa.C.S.A. § 903(a), and possession of a firearm without a license, 18 Pa.C.S.A. § 6106(a)(1). It is undisputed that Appellant was 17 years old when he committed these crimes.

On May 11, 2000, the trial court sentenced Appellant to then-mandatory life without parole for first-degree murder, with consecutive sentences for the other convictions. Appellant filed a timely post-sentence motion, which the trial court denied on May 23, 2000. Appellant filed a direct appeal, and the Superior Court affirmed the judgment of sentence. *Commonwealth v. House*, 906 WDA 2001 (Pa. Super. Sept. 10, 2001) (unpublished memorandum).

Following the United States Supreme Court's decisions in *Miller* and *Montgomery*, Appellant filed a petition pursuant to the Post Conviction Relief Act, 42 Pa.C.S.A. § 9545 *et seq.*, which ultimately resulted in Appellant being granted a new sentencing hearing, and a sentence of 30 years to life imprisonment for first-degree murder, with an aggregate sentence of 32 years to life in prison.¹ The trial court summarized:

Following an extensive re-sentencing hearing on December 6, 2018 and December 14, 2018, Appellant was re-sentenced to a period of incarceration of thirty (30) years to life with the possibility of parole for his first degree murder conviction. His revised

* Retired Senior Judge assigned to the Superior Court.

¹ We recognize that 18 Pa.C.S.A. § 1102.1 provides that juveniles who commit first-degree murder between the ages of 15 and 18, and who are convicted **after** June 24, 2012, "shall be sentenced to a term of life imprisonment without parole, or a term of imprisonment, the minimum of which shall be at least 35 years to life." The statute does not apply to Appellant, who was convicted in 2000, and in this case, the trial court had discretion to impose the 30 year minimum term of imprisonment on Appellant for the murder committed prior to June 25, 2012. *See Commonwealth v. Sesky*, 170 A.3d 1105, 1108 (Pa. Super. 2017) ("After our General Assembly passed section 1102.1, our Supreme Court held that it does not apply to those minors, like Appellee, who were convicted of first or second-degree murder prior to June 25, 2012.") (citation omitted)).

aggregate sentence with other separate convictions is thirty-two (32) years to life with the possibility of parole. Appellant received credit for time served as of the date of his resentencing on December 14, 2018.

Sentencing Court Opinion, 3/12/19, at 1-2 (footnote omitted).

Appellant filed this timely appeal. Both Appellant and the sentencing court have complied with Pennsylvania Rule of Appellate Procedure 1925. Appellant presents a single issue for our review:

1. Did the Sentencing Court impose an unconstitutional sentence when it imposed the aggregate minimum sentence of 38² years, a sentence which is a *de facto* life sentence, as it deprives Appellant of a meaningful opportunity for release?

Appellant's Brief at 8.

Appellant argues that his sentence "denied Appellant a meaningful opportunity for relief as required by United States Supreme Court case law." *Id.* at 19. Recognizing Pennsylvania case law that is contrary to his claim, Appellant "asks this Court to distinguish its prior holdings, and, given that Appellant has raised this claim in the context of a non-waivable challenge to the legality of the sentence, Appellant asks this Court to remand for the sentencing court's consideration of 'any evidence made available by the parties that bears on the offender's mortality.'" *Id.* at 27. Upon review, we find no basis upon which "to distinguish" our prior holdings regarding "*de facto* life sentences" imposed after re-sentencing under *Miller* and *Montgomery*.

We first note that Appellant's claim implicates the legality of his sentence. "[A] claim challenging a sentencing court's legal authority to impose a particular sentence presents a question of sentencing legality." *Commonwealth v. Batts*, 163 A.3d 410, 434-435 (Pa. 2017) (citations omitted). "The determination as to whether a trial court imposed an illegal sentence is a question of law; an appellate court's standard of review in cases dealing with questions of law is plenary." *Commonwealth v. Crosley*, 180 A.3d 761, 771 (Pa. Super. 2018) (citation omitted), *appeal denied*, 195 A.3d 166 (Pa. 2018).

Instantly, Appellant asserts that "[c]ontrary to the holding in [*Commonwealth v.*] *Foust*, the Court should consider whether the aggregate sentence, not just the sentence for the homicide itself, constitutes a *de facto* life sentence." Appellant's Brief at 27. However, *Foust* expressly held "when considering the constitutionality of a sentence, the individual sentences must be considered when determining if a juvenile received a *de facto* [life without parole] sentence." *Commonwealth v. Foust*, 180 A.3d 416, 434 (Pa. Super. 2018). Even if we could consider the two year difference between Appellant's aggregate 32 year-to-life sentence, rather than his 30 year-to-life sentence for first-degree murder, the difference would not impact our disposition.

In *Foust*, we stated that a "trial court may not impose a term-of-years sentence, which constitutes a *de facto* [life-without-parole] sentence, on a juvenile offender convicted of homicide unless it finds, beyond a reasonable doubt, that he or she is incapable of

² This is wrong. The record reflects that Appellant was sentenced to 30 years to life for first-degree murder, with an aggregate of 32 years to life imprisonment. Re-Sentencing Order, 12/14/18. However, throughout Appellant's brief, counsel references conflicting sentences 30 years to life and 32 years to life aggregate, and 35 years to life and an aggregate 38 years to life. See Appellant's Brief at 8, 18, 19, 20, 23. Counsel's misstatements do not impact Appellant's issue and our analysis.

rehabilitation.” *Id.* at 431. We “explicitly decline[d] to draw a bright line . . . delineating what constitutes a *de facto* [life without parole] sentence and what constitutes a constitutional term-of-years sentence.” *Id.* at 438. Also, we “decline[d] to set forth factors that trial courts must consider when making this determination.” *Id.* We explained:

There are certain term-of-years sentences which clearly constitute *de facto* [life without parole] sentences. For example, a 150-year sentence is a *de facto* [life without parole] sentence. Similarly, there are clearly sentences which do not constitute *de facto* [life without parole] sentences. A sentence of 30 years to life falls into this category. We are unaware of any court that has found that a sentence of 30 years to life imprisonment constitutes a *de facto* [life without parole] sentence for a juvenile offender. Even the study with the shortest life expectancy for an offender in Appellant’s position places his life expectancy at 49 years, *i.e.*, beyond 30 years.

Id. We concluded that a “sentence of 30 years to life imprisonment does not constitute a *de facto* [life without parole] sentence which entitles a defendant to the protections of *Miller*.” *Id.*

We have found likewise in other decisions analyzing whether a court imposed a *de facto* life without parole sentence for a juvenile offender and referencing *Foust*. See, e.g., *Commonwealth v. Bebout*, 186 A.3d 462 (Pa. Super. 2018) (sentence of 45 years to life did not constitute a *de facto* life without parole sentence); *Commonwealth v. White*, 193 A.2d 977 (Pa. Super. 2018) (sentence of 35 years to life did not constitute a *de facto* life without parole sentence).

As noted, Appellant recognizes that “the Superior Court is bound by the holding in *Foust*.” Appellant’s Brief at 27. We agree that *Foust* applies in this case, where the record reveals that Appellant, who was 17 years old at the time of the murder on April 8, 1999, was born on August 31, 1981. At this writing, Appellant is 38 years old. The re-sentencing court explained:

As to Appellant’s ability to be paroled, Appellant, who has been incarcerated since he was seventeen (17) years old, can be considered for parole by the State authorities when he is approximately forty-seven (47) years old regarding his new sentence of thirty (30) years to life sentence for first degree murder. Assuming *arguendo*, if considering Appellant’s minimum aggregate sentence as thirty-two (32) years to life, Appellant can be considered by the state authorities for possible parole when he is approximately forty-nine (49) years old. Appellant’s ability to live to at least forty-nine (49) years of age is plausible and would provide Appellant with a non-trivial amount of time at liberty. Moreover, even accounting for the aggregate time, Appellant’s potential of being paroled at the age of forty-nine (49) years old provides Appellant an earlier opportunity at a younger age to be paroled than the defendants in both *Bebout* and *White*. Therefore, re-sentencing Appellant to a sentence of thirty (30) years to life with the possibility of parole for his murder conviction (or thirty-two (32) years to life with the possibility [of parole] for his aggregate sentence) is not a *de facto* life sentence and provides Appellant with a meaningful and plausible opportunity for parole.

Sentencing Court Opinion, 3/12/19, at 10-11.

Our review comports with that of the re-sentencing court. Based on the record and prevailing law, we cannot conclude that Appellant's sentence equates to a *de facto* life sentence. Accordingly, Appellant is not entitled to relief.

Judgment of sentence affirmed.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq., Prothonotary

Date: 9/13/2019

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 "Megen 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. 20

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 12313-19 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Gino Armond Orlando to Gino Armond Denardo.

The Court has fixed the 9th day of October, 2019 at 10:45 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. 20

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 12421-19 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Stephen Paul Sajewski to Stephen Paul Supjewski.

The Court has fixed the 18th day of October, 2019 at 2:15 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. 20

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 12420-19 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Meredith Annie Supinski to Meredith Annie Supjewski.

The Court has fixed the 18th day of October, 2019 at 2:15 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. 20

FICTITIOUS NAME NOTICE

Pursuant to Act 295 of December 16, 1982 notice is hereby given of the intention to file with the Secretary of the Commonwealth of Pennsylvania a "Certificate of Carrying On or Conducting Business under an Assumed or Fictitious Name." Said Certificate contains the following information:

FICTITIOUS NAME NOTICE

1. Fictitious Name: Sunny's Kitchen & Catering
2. Address of the principal place of business, including street and number: 2553 East 44th Street, Erie, PA 16510
3. The real names and addresses, including street and number, of the persons who are parties to the registration: Fitz Enterprises, LLC, 2553 East 44th Street, Erie, PA 16510
4. An application for registration of fictitious name under the Fictitious Names Act was filed on or about September 4, 2019 with the Pennsylvania Department of State.

Sept. 20

INCORPORATION NOTICE

Adventure Church of God will be incorporated under the NCPL on September 20, 2019 in the state of Pennsylvania. This corporation is a religious organization and is not organized for the private gain of any person. It is organized under the Nonprofit Religious Corporation Law exclusively for religious purposes. The purpose for which this organization is formed is to glorify God by forming a local congregation of the church of Christ, which will carry out the great commission of the Lord Jesus Christ as revealed in the New Testament of the Word of God (Matthew 28:18-20 and Mark 16:15-16). This congregation will provide opportunity for Christian people to continue steadfastly in the apostles' teaching, fellowship, breaking of bread and prayers (Acts 2:42), and prepare them for works of service (Ephesians 4:12).

Sept. 20

INCORPORATION NOTICE

JoAnna Connell Elementary School PTO has been incorporated under the provisions of the Non-Profit Corporation Law of 1988, exclusively for charitable, educational and scientific purposes, including, for such purposes, the making of distributions to organizations under Section 501 (c)(3) of the Internal Revenue Code (or the corresponding section of any future Federal tax code) and to engage in and perform all lawful acts that may be performed by a nonprofit corporation under the Pennsylvania Nonprofit Corporation Law of 1988.

The Articles of Incorporation were filed with the Pennsylvania Department of State on July 25, 2019. Colleen R. Stumpf

Attorney-at-Law

Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc.

2222 West Grandview Boulevard
Erie, Pennsylvania 16506-4508

Sept. 20

LEGAL NOTICE

ATTENTION: UNKNOWN BIOLOGICAL FATHER INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER OF THE ADOPTION OF MINOR MALE CHILD A.L.H. DOB: 04/16/2018

BORN TO: CATHERINE ANN HALL

66 IN ADOPTION, 2019

If you could be the parent of the above-mentioned child, at the instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphan's Court of Erie County, Pennsylvania, at the Erie County Court House, Judge Joseph M. Walsh, III, Courtroom I #217, City of Erie on October 10, 2019 at 1:30 p.m. and there show cause, if any you have, why your parental rights to the above child should not be terminated, in accordance with a Petition and Order of Court filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth at (814) 451-7740.

Your presence is required at the Hearing. If you do not appear at this Hearing, the Court may decide that you are not interested in retaining your rights to your children and your failure to appear may affect the Court's decision on whether to end your rights to your child. You are warned that even if you fail to appear at the scheduled Hearing, the Hearing will go on without you and your rights to your child may be ended by the Court without your being present.

You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Family/Orphan's Court Administrator Room 204 - 205

Erie County Court House
Erie, Pennsylvania 16501
(814) 451-6251

NOTICE REQUIRED BY ACT 101 OF 2010: 23 Pa. C.S §§2731-2742. This is to inform you of an important option that may be available to you under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact or communication following an adoption between an adoptive parent, a child, a birth parent and/or a birth relative of the child, if all parties agree and the voluntary agreement is approved by the court. The agreement must be signed and approved by the court to be legally binding. If you are interested in learning more about this option for a voluntary agreement, contact the Office of Children and Youth at (814) 451-7726, or contact your adoption attorney, if you have one.

Sept. 20

LEGAL NOTICE

IN THE COURT OF COMMON
PLEAS OF ERIE COUNTY
PENNSYLVANIA
CIVIL DIVISION
NO.: 2019-10279

FIRST NATIONAL BANK OF
PENNSYLVANIA, Plaintiff
vs.

UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS, AND
ALL PERSONS, FIRMS OR
ASSOCIATIONS CLAIMING
RIGHT, TITLE OR INTEREST
FROM OR UNDER DENNIS
MAGDEWSKI, AKA DENNIS J.
MAGDEWSKI, Defendants

Notice of Sheriff's Sale of Real Estate on November 15, 2019, at 10:00 A.M. in the Erie County Courthouse, County Counsel Chamber, 1st Floor, 140 West 6th Street, Erie, PA 16501. ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER DENNIS MAGDEWSKI, AKA DENNIS J. MAGDEWSKI OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THE FOLLOWING
DESCRIBED REAL ESTATE

SITUATED IN THE CITY OF ERIE, COUNTY OF ERIE, AND COMMONWEALTH OF PENNSYLVANIA. HAVING ERECTED THEREON A DWELLING BEING KNOWN AND NUMBERED AS 913 EAST 9TH STREET, ERIE, PA 16503. DBV 320, PAGE 2158 AND PARCEL #15-020-043.0-122.00.

First National Bank of Pennsylvania vs. Unknown Heirs, Successors, Assigns, and All Persons, Firms or Associations Claiming Right, Title or Interest from or under Dennis Magdewski, aka Dennis J. Magdewski, at Execution No. 2019-10279 in the amount of \$22,741.36. Schedule of Distribution will be filed by the Sheriff on the date specified by the Sheriff no later than thirty (30) days from sale date. Distributions will be made in accordance with the schedule unless exceptions are filed within ten (10) days of the filing of the Schedule.

Kristine M. Anthon, Esquire
Grenen & Birsic, P.C.

One Gateway Center, 9th Fl
Pittsburgh, PA 15222
(412) 281-7650

Sept. 20

**AUDIT LIST
NOTICE BY
KENNETH J. GAMBLE**

Clerk of Records

**Register of Wills and Ex-Officio Clerk of
the Orphans' Court Division, of the**

Court of Common Pleas of Erie County, Pennsylvania

The following Executors, Administrators, Guardians and Trustees have filed their Accounts in the Office of the Clerk of Records, Register of Wills and Orphans' Court Division and the same will be presented to the Orphans' Court of Erie County at the Court House, City of Erie, on **Wednesday, September 11, 2019** and confirmed Nisi.

October 23, 2019 is the last day on which Objections may be filed to any of these accounts.

Accounts in proper form and to which no Objections are filed will be audited and confirmed absolutely. A time will be fixed for auditing and taking of testimony where necessary in all other accounts.

2019 ESTATE

ACCOUNTANT

ATTORNEY

294. Betty Ruth Kreider Kimberly S. Horvath, Executrix Eugene C. Sundberg, Jr., Esq.
a/k/a Betty R. Kreider

KENNETH J. GAMBLE
Clerk of Records
Register of Wills &
Orphans' Court Division

Sept. 20, 27



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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

**ABBOTT, GEORGE L.,
deceased**

Late of the Township of Harborecreek, County of Erie, and Commonwealth of Pennsylvania
Executrix: Margaret V. Abbott, c/o 300 State Street, Suite 300, Erie, PA 16507
Attorney: Thomas V. Myers, Esquire, Marsh Spaeder Baur Spaeder & Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**CRAWFORD, KENNETH, JR.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Shannon L. Owers
Attorney: David J. Rhodes, Esquire, ELDERKIN LAW FIRM, 150 East 8th Street, Erie, PA 16501

**DAUGHERTY, MABEL A.,
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Executrix: Janet M. Stonbraker, 100 Railroad Street, Timblin, PA 15778
Attorney: Valerie H. Kuntz, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**DONOHUE, JANICE M.,
deceased**

Late of the City of Erie, County of Erie and State of Pennsylvania
Administrator: Katherine M. Pytlarz, c/o 227 West 5th Street, Erie, PA 16507
Attorney: Mark O. Prenatt, Esquire, 227 West 5th Street, Erie, PA 16507

**HARDING, BARBARA A.,
deceased**

Late of the Waterford Township, County of Erie, Pennsylvania
Executrix: Heather McIntire, c/o 3939 West Ridge Road, Suite B-27, Erie, PA 16506
Attorney: James L. Moran, Esquire, 3939 West Ridge Road, Suite B-27, Erie, PA 16506

**JONES, ROBERT ARNOLD,
a/k/a R. ARNOLD JONES,
deceased**

Late of Cranesville Borough, County of Erie, Commonwealth of Pennsylvania
Executor: Wayne T. Jones, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508
Attorney: Colleen R. Stumpf, Esquire, Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

**JOZEF CZYK, WALTER T.,
deceased**

Late of Millcreek Township, Erie County, Pennsylvania
Administratrix: Suzanne M. Jozefczyk, c/o 150 East 8th Street, Erie, PA 16501
Attorney: Gregory L. Heidt, Esquire, 150 East 8th Street, Erie, PA 16501

**KEELEY, DAMIAN LEE,
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Co-Administratrices: Billie Jo Hearst and Janelle Beach, 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

**LEWIS, ALLIENE D.,
deceased**

Late of the Township of McKean, County of Erie, Commonwealth of Pennsylvania
Co-Executors: Nancy L. Lewis, 9016 Neuburger Road, Fairview, Pennsylvania 16415 and Debra J. Lewis, 6219 West Road, McKean, Pennsylvania 16426
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**SEBALD, MICHAEL W., II, a/k/a
MICHAEL W. SEBALD, a/k/a
MICHAEL WILLIAM SEBALD,
II, a/k/a MICHAEL WILLIAM
SEBALD,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Raija Sebald, 4007 Sunset Blvd., Erie, PA 16504
Attorney: None

**WARREN, NYON ZIREE,
deceased**

Late of the City of Erie, Erie County
Administratrix: Latrice Williams
Attorney: William J. Kelly, Jr., Esquire, 230 West 6th Street, Suite 201, Erie, PA 16507

SECOND PUBLICATION

**BELL, RUTH S.,
deceased**

Late of the Township of Harborcreek, County of Erie and Commonwealth of Pennsylvania
Executor: Arthur G. Kriner, 432 Joliette Avenue, Erie, PA 16511-1238
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**BLOUGH, JANET DELORES, a/k/a JANET DELORES BREHM BLOUGH, a/k/a JANET D. BLOUGH,
deceased**

Late of Borough of Albion, County of Erie, Commonwealth of Pennsylvania
Executrix: Gretchen Jean Blough, 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

**BOHEN, JEANNE S., a/k/a JEANNE S. NIEDZIELSKI, a/k/a JEANNE S. BOHEN, a/k/a JEANNE NIEDZIELSKI,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Stephen Bohen, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**BORDONARO, ROSE M.,
deceased**

Late of Township of Millcreek, County of Erie, and Commonwealth of Pennsylvania
Executor: Richard E. Bordonaro, 6063 Volkman Road, Erie, PA 16506
Attorney: Gary K. Schonhaler, Esquire, The Conrad - F.A. Brevillier House, 502 Parade Street, Erie, PA 16507

**FULLER, BRADLEY A., a/k/a BRADLEY FULLER, a/k/a BRAD A. FULLER, a/k/a BRAD FULLER,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administratrix: Dorothy Boban, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**KNUPP, SHIZUE S.,
deceased**

Late of Erie County, Pennsylvania
Executor: Katherine Sue Knupp, c/o David W. Bradford, Esq., 731 French Street, Erie, PA 16501
Attorney: David W. Bradford, Esq., 731 French Street, Erie, PA 16501

**NIEBAUER, JOHN G.,
deceased**

Late of the Borough of Girard, County of Erie and State of Pennsylvania
Administrator: Anthony F. Niebauer, c/o Nicholas W. Radock, Esquire, 821 State Street, Erie, Pennsylvania 16501
Attorney: Nicholas W. Radock, Esquire, 821 State Street, Erie, Pennsylvania 16501

**SOBOLEWSKI, JOAN,
deceased**

Late of the City of Erie, County of Erie, Pennsylvania
Administratrix: Christine Sobolewski, c/o 150 East 8th Street, Erie, PA 16501
Attorney: Gregory L. Heidt, Esquire, 150 East 8th Street, Erie, PA 16501

**TROCKI, ROBERT VINCENT KENNETH, a/k/a ROBERT VINCENT TROCKI, a/k/a ROBERT V. TROCKI, a/k/a ROBERT TROCKI,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Pamela M. Trocki-Ables, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**WEARY, CATHERINE E., a/k/a CATHERINE ELIZABETH WEARY,
deceased**

Late of the Township of Waterford, County of Erie, Commonwealth of Pennsylvania
Executrix: Kathleen E. Kahala, c/o Herman & Herman LLC, 114 High Street, PO Box 455, Waterford, PA 16411
Attorney: Rebecca A. Herman, Esq., 114 High Street, Herman & Herman LLC, PO Box 455, Waterford, PA 16441

THIRD 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 FRANCIOS, 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

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CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

New email address

JENNIFER JOHNSTON BLAKELY.....*JBlakely@BlakelyandBlakely.com*

BRIAN M. MCGOWAN.....*brianmcgowanmdj@gmail.com*



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