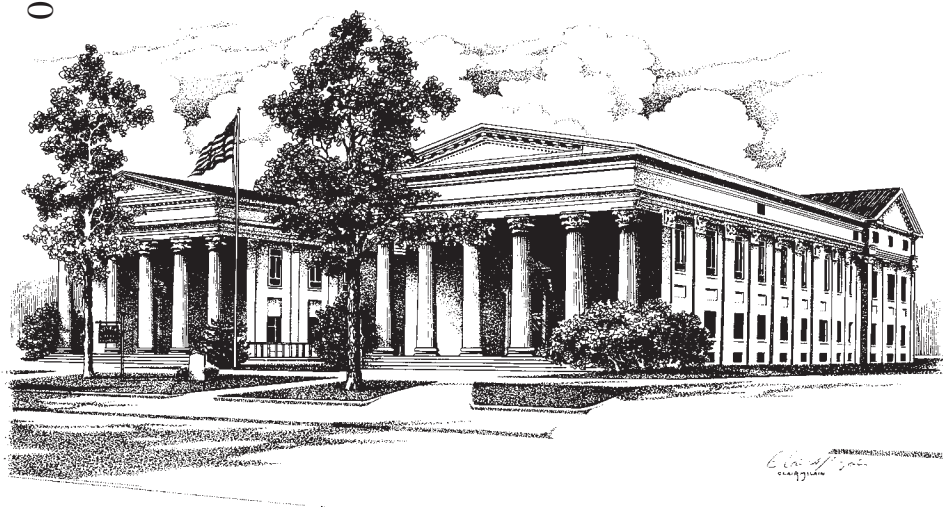


*Erie  
County  
Legal  
Journal*

September 11, 2020

Vol. 103 No. 37



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103 ERIE 24-45  
Commonwealth v. Payne

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# 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

### SEPTEMBER 1 - NOVEMBER 1, 2020

Wills for Heroes  
Virtual Event

### TUESDAY, SEPTEMBER 15, 2020

Family Law Section Meeting  
Noon  
The Will J. Schaaf & Mary B. Schaaf  
Education Center live or via Zoom Conference

### MONDAY, SEPTEMBER 21, 2020

Workers' Compensation Section Meeting  
Noon  
The Will J. Schaaf & Mary B. Schaaf  
Education Center live or via Zoom Conference

### TUESDAY, SEPTEMBER 22, 2020

ECBA Nominating Committee Meeting  
Noon  
via Zoom Conference

### TUESDAY, SEPTEMBER 22, 2020

ECBA Seminar  
*Bridge the Gap*  
The Will J. Schaaf & Mary B. Schaaf  
Education Center live or via Zoom Conference  
1:00 p.m. - 5:00 p.m.  
Free for newly admitted attorneys  
\$188 (ECBA members)  
\$240 (non-members)  
4 hours ethics CLE credits

### THURSDAY, SEPTEMBER 24, 2020

Defense Bar Section Meeting  
5:00 p.m.  
The Will J. Schaaf & Mary B. Schaaf  
Education Center live or via Zoom Conference

### MONDAY, SEPTEMBER 28, 2020

ECBA Board of Directors Meeting  
Noon  
The Will J. Schaaf & Mary B. Schaaf  
Education Center live or via Zoom Conference

### TUESDAY, SEPTEMBER 29, 2020

Erie County Law Foundation  
Board of Directors Meeting  
Noon  
via Zoom Conference

### TUESDAY, OCTOBER 6, 2020

Solo/Small Firm Meeting  
Noon  
The Will J. Schaaf & Mary B. Schaaf  
Education Center live or via Zoom Conference

### WEDNESDAY, OCTOBER 7, 2020

PBA Virtual Diversity Summit  
8:45 a.m. - 4:45 p.m.  
via Zoom Conference



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To view PBI seminars visit the events calendar  
on the ECBA website  
<https://www.eriebar.com/public-calendar>

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**COMMONWEALTH OF PENNSYLVANIA**  
**v.**  
**RAYMOND DALE PAYNE**

*HOMICIDE / MURDER / DEGREES*

Under 18 Pa.C.S.A. Section 2502, effective March 26, 1974, criminal homicide constitutes murder of the first degree when it is committed by an intentional killing. 18 Pa.C.S.A. §2502(a). A criminal homicide constitutes murder of the second degree when committed while the defendant was engaged as a principal or an accomplice in the perpetration of a felony. 18 Pa.C.S.A. §2502(b). Pursuant to 18 Pa.C.S.A. Section 2502(c), “[a]ll other kinds of murder shall be murder of the third degree.” 18 Pa.C.S.A. §2502(c). Under 18 Pa.C.S.A. Section 2502(d), “intentional killing” is “killing by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing.” 18 Pa.C.S.A. §2502(d).

*CRIMINAL LAW / EVIDENCE / WEIGHT AND SUFFICIENCY /  
CIRCUMSTANTIAL EVIDENCE*

The Commonwealth may sustain its burden to prove every element of a crime beyond a reasonable doubt by wholly circumstantial evidence and the trier of fact is free to believe all, part, or none of the evidence.

*HOMICIDE / MURDER / FIRST DEGREE*

To obtain a conviction for first-degree murder, the Commonwealth must demonstrate that a human being was unlawfully killed, that the defendant was the killer, and that the defendant acted with malice and a specific intent to kill.

*HOMICIDE / EVIDENCE / PRESUMPTIONS AND INFERENCES /  
INTENT OR MENS REA - MALICE*

Specific intent and malice may be inferred through circumstantial evidence, such as the use of a deadly weapon on a vital part of the victim’s body.

*HOMICIDE / MURDER / MOTIVE*

The Commonwealth is not required to prove motive to establish guilt even where the crime charged is murder of the first degree.

*HOMICIDE / EVIDENCE / PRESUMPTIONS AND INFERENCES / MALICE*

Actions of the accused which occur before, during, and after are admissible as evidence to prove malice.

*HOMICIDE / EVIDENCE / ADMISSIBILITY IN GENERAL /  
SUBSEQUENT INCRIMINATING OR EXCULPATORY CIRCUMSTANCES /  
SUPPRESSION OR DESTRUCTION OF EVIDENCE*

Evidence of acts to conceal a crime, such as disposing of the victim’s body, are relevant to prove the accused’s state of mind or intent.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION  
No. 2562 of 1976

Appearances: Eric V. Hackwelder, Esq. and Anderson T. Bailey, Esq., on behalf of Defendant  
Raymond Dale Payne  
John H. Daneri, Erie County District Attorney, on behalf of the Commonwealth  
of Pennsylvania

OPINION

Brabender, Jr., J.

August 12, 2020

This matter is before the Court on remand by the Superior Court of Pennsylvania for a degree of guilt determination with respect to the August, 1975 killing of Debra Lynn Gama. *See Commonwealth v. Payne, 604 WDA 2016 (Pa. Super. Ct., April 29, 2019)*. The background leading up to this degree of guilt hearing before this Court on June 25, 2020 is summarized, as follows:

In 1977, the Defendant, Raymond Dale Payne, pled guilty to a general charge of the murder of Debra Lynn Gama, and three Erie County judges, Lindley McClelland, William Pfadt and President Judge Edward Carney, were empaneled to decide Defendant's degree of guilt. A degree of guilt hearing was held before the panel of three judges (the Degree of Guilt Panel) and on July 18, 1977 the Panel entered its decision, finding the Defendant guilty of murder in the first degree.

At the original degree of guilt hearing, the Commonwealth presented evidence to support its position that the Defendant committed first degree murder. Specifically, the Commonwealth argued the Defendant murdered Debra Lynn Gama while raping her. Her clothed body was found floating in Cussewago Creek, off Center Road, 12 miles north of Meadville, in Crawford County, Pennsylvania. As part of its case-in-chief, the Commonwealth presented the testimony of one Anthony Lee Evans, who was incarcerated with the Defendant at the Erie County Prison. Evans testified that the Defendant admitted to him that he strangled the victim in the woods after he raped her; that her death was a culmination of a sexual fantasy that he had been living with for a long time; and that he liked to tie women up and do crazy things to them. *See Commw. Ex. 2e*. The Commonwealth also called Paul R. Daube, a chemist employed with the Pennsylvania State Police, to corroborate Evans' testimony that the victim died while protesting a sexual attack upon her. *See Commw. Ex. 2c*. The Commonwealth also presented a statement made by the Defendant to Crawford County Assistant District Attorney Donald E. Lewis, wherein he confessed, with counsel present, to the murder. The Defendant basically explained that Gama died accidentally after she was asphyxiated by a clothesline rope he had tied around her neck and to two trees. *See Commw. Ex. 1*. Per the Superior Court's remand decision of April 29, 2019, the Degree of Guilt Panel determined this statement of Defendant was similar to Evans' testimony, with the exception for the manner in which the victim died.

At the conclusion of the hearing, the Defendant argued this was third degree murder. The Panel rejected that argument and convicted the Defendant of first degree murder. The Defendant was therefore sentenced by the Court *en banc* to life imprisonment, without parole, on August 5, 1977. The Defendant then, on August 18, 1977, filed the first of several appeals and Post-Conviction Hearing Act (PCRA) petitions.

The conviction and judgment of sentence were upheld on direct appeal. After several unsuccessful attempts at post-conviction relief, on January 8, 1997, the Defendant filed a PCRA petition requesting DNA testing on seminal fluid that was recovered from the victim's body. The PCRA court denied his petition. The Pennsylvania Superior Court affirmed that decision and the Pennsylvania Supreme Court denied Payne's Petition for Allowance of Appeal. On February 6, 2003, the Defendant filed another motion for DNA testing pursuant to the then-newly passed provision of the PCRA permitting DNA testing under certain

circumstances. The PCRA court again denied his motion, and he appealed to the Superior Court. The Superior Court affirmed the trial court decision and the Supreme Court later denied his Petition for Allowance of Appeal.

Undeterred, the Defendant filed a complaint in the United States District Court for the Western District of Pennsylvania against the Erie County District Attorney's Office, alleging violation of 42 U.S.C. §1983 for its refusal to permit DNA testing. While his case was being litigated in federal court, the Defendant filed another motion for DNA testing. On October 4, 2011, the PCRA court again denied relief and both the Superior and Supreme Courts also denied him relief. However, on December 16, 2014, the United States District Court signed a stipulated order permitting the post-conviction DNA testing. The DNA test results established conclusively the Defendant was excluded and not a contributor to the seminal fluid found on the victim's body.

Based on this new evidence, the Defendant filed another PCRA petition asserting that he is entitled to a new trial or degree of guilt hearing based on after-discovered DNA evidence. The PCRA court again denied him relief and the Defendant filed another appeal to the Superior Court.

On April 29, 2019, the Superior Court held the Defendant was entitled to a new degree of guilt hearing. According to the Superior Court, its only issue (with regard to the trial Court's denial of PCRA after-discovered evidence claim) was whether the Defendant had established by a preponderance of the evidence that the DNA evidence would have likely changed the outcome of the trial had it been introduced. Based upon the record before the Superior Court, it held the DNA evidence would have likely changed the outcome of the hearing because the Commonwealth's theory of the case was that the Defendant killed the victim while sexually assaulting her. In reaching its decision, the Superior Court noted that during closing argument to the Panel the prosecution repeatedly emphasized the evidence of seminal fluid and argued that the Defendant raped Gama and the presence of seminal fluid was proof of the intent required for a first degree murder conviction. The Superior Court determined that, because the DNA evidence was uncontroverted that the Defendant was not the source, the three-judge Panel erred in placing such significant weight on said evidence when making its decision. The Superior Court further found this evidence discredited the testimony of Anthony Lee Evans, a key witness against the Defendant at the time. The Superior Court noted the Degree of Guilt Panel summarized in its Opinion other evidence at the hearing, but the Panel did not place any weight on that other evidence in arriving at the conclusion of first degree murder. The Superior Court determined the Degree of Guilt Panel relied *exclusively* upon the testimony of Evans and Paul Daube, the chemist. *Commonwealth v. Payne*, 604 WDA 2016, p. 13. The Superior Court therefore concluded the Defendant satisfied the "after-discovered evidence" requirements, reversing the decision of the PCRA court and remanding the matter for a new degree of guilt hearing. *Commonwealth v. Payne*, 604 WDA 2016, p. 15.

The Commonwealth filed a Petition for Allocatur to the Pennsylvania Supreme Court on May 29, 2019, and same was denied on October 29, 2019. The Superior Court returned the record to the Court of Common Pleas on November 15, 2019. On December 11, 2019, the Commonwealth notified this Court, pursuant to Pa.R.Crim.P. 590(C), of its election for the Court to determine Defendant's degree of guilt, rather than a jury.



**DEGREE OF GUILT HEARING HELD JUNE 25, 2020**

The degree of guilt hearing was held before the undersigned on June 25, 2020. It is undisputed that the Defendant, by his own admission, is guilty of murder. The sole issue for this Court to decide is whether Defendant is guilty of murder in the first or third degree.<sup>1</sup> At the time of the murder, Defendant was a 38-year old teacher of the victim at Strong Vincent High School in Erie, Pennsylvania.<sup>2</sup> The victim, known by family and friends as Debbie Gama, was 16 years old and about to enter her senior year at the time of her strangulation death.

The parties submitted pre- and post-hearing briefs, delineating their respective positions. The Commonwealth's position is, under the totality of the circumstances, the Defendant is guilty of first degree murder. The Commonwealth asserts Gama died by ligature strangulation; the evidence surrounding the strangulation is sufficient to establish the specific intent required for first degree murder; and specific intent and malice may be inferred through circumstantial evidence. The Commonwealth asserts the record establishes copper wire ligature was around the victim's neck for no less than four to six minutes so as to cause Gama's death, and no drugs were in her system, contrary to an explanation offered by the Defendant in support of his claim of accidental death.

The Defendant's position is he should be convicted only of third degree murder, as Gama's death was accidental. The Defendant asserts the Commonwealth cannot establish an intentional killing because there were no signs of trauma, other than the embedded wire around the victim's neck. Eric Vey, M.D., a pathologist who testified at the June 25, 2020 degree of guilt hearing, opined that the neck pressure applied to the ligature was between 4.4 and 11 pounds. Defense counsel assert that the Defendant, had he intended to kill Gama, very likely would have applied 11 pounds or more of force and pressure. Defense counsel further assert neither Defendant's post-mortem actions in concealing Gama's body, nor Payne's October 8, 1976 statement to the Crawford County assistant D.A., establish an intentional killing. The defense asserts the following are more suggestive of an accidental death: 1) the absence of trauma "beyond the embedded wire" around the victim's neck; 2) the wire around Gama's neck could have become embedded after the body was submerged in a pond and creek; 3) the Defendant's belief he did not leave enough slack in a rope ligature he fastened around the neck; and 4) the victim strangled to death because she was unstable due to the presence of drugs in her system; and fell forward causing her strangulation. The defense further asserts the evidence does not support a finding of first or second degree murder, therefore, the Court must convict the Defendant of third degree murder.

Factual stipulations of the parties were submitted prior to the hearing, as follows:

1. Debbie Gama died of acute asphyxia due to ligature strangulation.
2. Debbie Gama was last seen by family members as she left her home the morning of August 8, 1975.

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<sup>1</sup> Under 18 Pa.C.S.A. Section 2502, effective March 26, 1974, criminal homicide constitutes murder of the first degree when it is committed by an intentional killing. 18 Pa.C.S.A. §2502(a). A criminal homicide constitutes murder of the second degree when committed while the defendant was engaged as a principal or an accomplice in the perpetration of a felony. 18 Pa.C.S.A. §2502(b). Pursuant to 18 Pa.C.S.A. Section 2502(c), "[a]ll other kinds of murder shall be murder of the third degree." 18 Pa.C.S.A. §2502(c). Under 18 Pa.C.S.A. Section 2502(d), "intentional killing" is "killing by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing." 18 Pa.C.S.A. §2502(d).

<sup>2</sup> Defendant's date of birth is July 23, 1937. See *Commonwealth Ex. No. 1, pp. 3-4; Transcript of Proceedings, Degree of Guilt Hearing, June 25, 2020 (Tr. 6/25/20), p. 13.*

3. The victim's body was found floating in Cussewago Creek on the evening of August 12, 1975.
4. Debbie Gama had copper wire wrapped around each wrist. Her ankles were bound with the wire, and the wire was embedded in the skin completely around her neck.
5. Toxicology results from the victim's blood indicate blood alcohol of .06 percent and the presence of acetaminophen.
6. Vaginal and rectal swabs taken from Gama were positive for seminal acid phosphatase, which is a presumptive test of the presence of semen.
7. DNA testing performed on the swabs excludes Defendant as a contributor of the seminal material.
8. Defendant was arrested on September 23, 1976, and on October 8, 1976, he confessed to being responsible for Debbie Gama's death.
9. Debbie Gama's jewelry was found in a well or septic tank on Defendant's property; her shoes were buried on land adjacent to Defendant's property, as was a spool of copper wire.
10. None of Debbie Gama's jewelry, nor any rope, was located at the site where Defendant said she had died, Private Samuel Everett Hull Memorial Park in or near Waterford, Erie County, Pennsylvania.
11. Four (4) cement blocks, each weighing 40 pounds, were found in four and one-half feet of water approximately 15 feet from the shoreline of the pond on Defendant's property.

*Commonwealth's Pre-Hearing Submission; Transcript of Proceedings, Degree of Guilt Hearing, June 25, 2020 (Tr: 6/25/20), pp. 3-6.*

The parties agreed to the admission in this record of evidence and testimony introduced at the 1977 degree of guilt hearing. Also, on June 25, 2020, the Commonwealth presented the testimony of three witnesses: Eric Vey, M.D., forensic pathologist; Myshelle Will, sister of the victim; and Robin Kloss, high school classmate and close friend of the victim. The Commonwealth submitted a number of exhibits, including transcripts of testimony introduced at the 1977 degree of guilt hearing, some of which served more as background information for the case at bar, rather than evidence of the degree of guilt. *See Tr: 6/25/20, pp. 6-11.*<sup>3</sup>

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<sup>3</sup> See Commw. Ex. 2b, the 1977 Degree of Guilt Hearing Testimony of Donald E. Lewis. Lewis was the assistant district attorney of Crawford County, Pennsylvania, who participated in the investigation of the murder of Gama. Lewis first came in contact with Payne on October 8, 1976, the date Payne gave a statement to Lewis at the Crawford County Court House in Meadville, Pennsylvania, in the presence of Payne's attorney, Leonard G. Ambrose, and a court reporter. *Commw. Ex. 2b, pp. 25-26.* Lewis testified concerning Payne's statement and the police investigation. See also Commw. Ex. 2c, the 1977 Degree of Guilt Hearing Testimony of Paul R. Daube. Daube was the chemist

The Defendant did not testify, call witnesses or introduce additional evidence in the case at bar.<sup>4</sup>

## EVIDENTIARY REVIEW

### A. Statements of the Defendant, Raymond Payne

To bolster its position that the Defendant is guilty of first degree murder, the Commonwealth submitted into evidence, without objection, the Defendant's prior statements of the manner of death. The statements are inconsistent with the conclusions and opinions of the pathologists, Drs. Wilbur C. Thomas and Eric Vey, who were called as witnesses in this case.

#### **1. Oral Statement of the Defendant of October 8, 1976 to Donald E. Lewis, Assistant District Attorney, Crawford County, Pennsylvania**

Admitted as Commonwealth Exhibit 1 was the transcript of the 55-page oral statement of Payne of October 8, 1976 wherein he confessed to the killing of Debbie Gama. *Tr: 6/25/20, pp. 7, 11.* Payne related the following events: Payne's date of birth is July 23, 1937. *Commw. Ex. 1, pp. 3-4.* Present during his Mirandized statement were Donald E. Lewis, Assistant District Attorney, Crawford County, Pennsylvania, and Payne's attorney, Leonard G. Ambrose, Esq. *Commw. Ex. 1, pp. 4-10.* Payne first met Gama as a student at the school where Payne taught. Gama was one of his students. *Commw. Ex. 1, p. 13.* The morning of Friday, August 8, 1975, Payne decided to ride around the Peninsula with a new Polaroid camera he had in the vehicle and take pictures of his wife. While at the peninsula he smoked marijuana, then stopped for coffee at Mr. Donut on Sixth Street. He decided to drive by a flat he used to own on Raspberry Street. Between 11:00 a.m. and 11:30 a.m., he spotted Debbie Gama who was standing at Tenth and Raspberry Streets. Although to Payne something seemed to bother Gama, she denied anything was wrong. Payne asked Gama if she wanted to ride shotgun for a while and she agreed. He told her to get in the truck and Gama obliged. Payne stated that when he had coffee he had also taken some "downs," or Meprobamate pills. *Commw. Ex. 1, pp. 15-20; 40.*

Gama asked for gum, and Payne told her there was gum in the glove compartment. When Gama opened the glove compartment, she saw the bottle of Meprobamate pills. When Gama asked if she could have a couple of pills, Payne stated he told her he didn't want her to take "something that will hurt you or something." *Commw. Ex. 1, p. 20.* Payne stopped

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<sup>3</sup> continued with the Pennsylvania State Police Crime Laboratory in Lawrence Park, Pennsylvania who participated in the collection and testing of smears from the victim's body. Subsequent DNA testing revealed Defendant was not the contributor of the seminal material tested. See also *Commw. Ex. 2d, the 1977 Degree of Guilt Hearing Testimony of John Martin.* Martin, a member of the Criminal Investigation Unit of the Pennsylvania State Police, Lawrence Park, Pennsylvania, served the warrant on Payne charging him with the murder of Gama. Martin also participated in the recovery of the victim's jewelry and sandals, and identification of evidence at the hearing. See also *Commonwealth Ex. 2e, the 1977 Degree of Guilt Hearing Testimony of Anthony Lee Evans.* Evans was a key witness against the Defendant at the 1977 hearing. Evans' testimony the Defendant admitted he raped Gama has been largely discredited by the DNA test results. On June 25, 2020, the Commonwealth asked the Court to disregard Evans' testimony as unreliable. Defendant concurs with the assessment Evans' testimony is unreliable. *Tr: 6/25/20, pp. 86, 75.* The Court concurs Evans' testimony is not dispositive of the issue of degree of guilt.

<sup>4</sup> Following the hearing, on July 6, 2020 upon Defendant's motion and without objection, the Court took judicial notice of an ABC News article of March 28, 2005. The article concerned a statement of the victim's mother about a dispute between the victim and her mother. The evidence was offered to impeach the testimony of Myshelle Will that Gama was happy and on her way to the beach on the morning of Friday, August 8, 1975, the day she disappeared. On July 13, 2020, the Court granted the Commonwealth's request to re-open/supplement the record to clarify the date of the dispute between Gama and her mother was Thursday, August 7, 1975, rather than Friday, August 8, 1975, the day Gama was last seen. These exhibits were not dispositive of the issue of degree of guilt.

at the Baldwin Building and told Gama there was a girls' room there where she could get water to wash down the pills. Payne stated Gama removed the bottle of pills from the glove compartment; he let her out of the vehicle at the corner; and told her he would move the vehicle to the parking lot around the back and wait for her there. Payne parked the vehicle around the back. Gama returned to the vehicle, and replaced the bottle in the glove compartment. Later, Payne found some pills were left in the bottle. *Commw. Ex. 1, pp. 20-21.*

Payne stated he next drove up French Street and asked Gama if he could take bondage pictures of her. When she hesitated, he explained bondage pictures were pictures of people being tied up, and that it turned some people on. Payne repeatedly told Gama he wouldn't hurt her. Payne stated Gama said she believed him and agreed to the photo shoot. *Commw. Ex. 1, pp. 21-22.*

Payne detailed the route he proceeded to take after Gama consented to the photo shoot. He stated as he continued to drive, he said, "If you agree, we'll have to go somewhere where people can't see." *Commw. Ex. 1, p. 22.* Payne stated he drove to a park in Waterford [hence, the reason Erie County assumed jurisdiction] which he thought was named the Everett C. Hall Community Park [sic]. On the way, he smoked marijuana. He pulled into the woods and removed a blanket from the vehicle. He also removed a clothesline he purchased at K-Mart earlier that day on the way to the Peninsula. He proceeded about twenty yards from the truck and put the blanket down on the ground. He stated he told her he was not going to tie her if she felt tight. Payne described Gama as giggling. He stated he didn't know if she was unsteady or necessarily wobbling, but it was as though the pills were having an effect upon her. Payne described his own condition as high, but also as "down." *Commw. Ex. 1, pp. 22-25.*

Payne instructed Gama to get on her knees. Payne tied her hands together behind her back. With Gama sitting back on her haunches, back against her legs, he tied her ankles together. He related: "Then I took the rope and I put it on one tree, around her neck twice and on the ground and on the other tree, but I left a lot of slack in it." *Commw. Ex. 1, p. 25.* Payne stated he left a lot of slack in the rope, enough slack so if she had fallen, she wouldn't get hurt. *Commw. Ex. 1, p. 26.*

Payne stated he forgot the camera, so he left Gama tied up and returned the approximate twenty yards to the truck to retrieve it. Back at the truck, Payne smoked more marijuana. The camera did not have film in it. He removed the camera from the truck and tried to figure out "how to put the stuff in." Next, Payne described what he saw when he returned to Gama: "And I went back and I hadn't left enough slack. She had fallen forward. She was on the ground. Her face was all colored." *Commw. Ex. 1, pp. 26-29.*

Payne stated he panicked. He ran to the truck, retrieved a knife and returned to the body. He stated he cut the rope and unwrapped it. He found no heartbeat and repeated her face was "all colored." During the confession, Payne stated, "Nobody ever paid me to hurt anybody, yet I did." *Commw. Ex. 1, p. 29.*

Payne stated he decided to hide things. He put Gama's body in the truck and drove to his farm where he retrieved copper wire and cement blocks from a barn. He then drove to a pond on the property and dumped Gama's body in the pond with blocks and wire. Payne stated that, on Monday morning, he was fearful that Gama's body would rise to the surface so he checked the pond. He observed Gama's body "was back up" — it had somehow floated to the top. *Commw. Ex. 1, pp. 29-33.* Payne stated he walked into the pond to the body, cut the

wire “off at the roots,” leaving the cement blocks behind in the pond. *Commw. Ex. 1, pp. 34-35*. Payne removed Gama’s body, and drove the body to Cussewago Creek. “I put her in the creek and I got out of there as fast as I could,” he stated. *Commw. Ex. 1, pp. 31-33*.

Payne specified he tied Gama with the “clothesline rope” he purchased at K-Mart. He clarified, “It wasn’t the plastic. It was real rope.” *Commw. Ex. 1, p. 37*. With regard to the victim’s jewelry, he stated he threw some of it in the park where he killed her, and other items of jewelry he hid in the well next to his house. *Commw. Ex. 1, pp. 37-38*. He stated he removed Gama’s shoes and initially discarded them near the pond. A while later he became worried and took them further back in the woods. *Commw. Ex. 1, p. 41*. Payne denied having sexual intercourse with the victim. *Commw. Ex. 1, p. 42*. Payne stated the wire he used to tie Gama could be found back in the woods. *Commw. Ex. 1, p. 43*.

In Payne’s statement, he recounted one previous time he encountered Gama outside of the school setting. It was at Payne’s twenty-year class reunion at the Sheraton Inn in Edinboro, Pennsylvania. Gama was with her step-father with whom Payne graduated, and Gama’s mother, of whom he stated he didn’t know. *Commw. Ex. 1, pp. 50-51*.

## **2. 1989 Clemency Application of Payne**

Admitted as Commonwealth Exhibit 3 was Payne’s September 26, 1989 clemency application with the Commonwealth of Pennsylvania Board of Pardons. *Tr. 6/25/20, pp. 10-11*. In the application, Defendant recounted a different version of events leading to the killing of Gama. Payne further described Gama as a “beautiful friend” with whom he struck a bargain. The bargain was, he would photograph her and send the photos to a professional photographer he knew. If the professional thought Gama photographed well, then Payne would become her modeling agent. *Commw. Ex. 3*.

In the application, Payne stated that when he met Gama he had taken Meprobamate and smoked marijuana. Payne then took “one camera load” of photos of Gama. For the next “camera load” Payne suggested a “damsel in distress” theme. Payne indicated Gama agreed to the next series of photos. He described his actions leading to her death, and in attempting to conceal the cause of death and the victim’s body as follows:

... I tied her up to take some more pictures but when I did so, I incautiously put a rope around her neck. I then went back to my truck to re-load my camera but my mind was not functioning well from the drugs and it took me longer to load than it should have.

When I got back to her, she had fallen forward, the rope had tightened about her neck and killed her. I went to pieces, tried to revive her but couldn’t and then I panicked and the instinct for survival took over. I removed her jewelry to make it look like a robbery but then took her body to my farm and sunk her in the pond.

Several days later, the body arose in the water and I panicked again, took her body to a creek about eight miles from my home, and left it in the water. I then went home and waited for the police to come and get me. I did not know she had told no one she was meeting me. Thirteen nerve-racked months later, I was arrested.

*Commw. Ex. 3*.

### 3. 1991 Clemency Application of Payne

Admitted as Commonwealth Exhibit 4 was Payne's 1991 clemency application with the Commonwealth of Pennsylvania Board of Pardons. *Tr. 6/25/20, pp. 10-11*. The 1991 clemency application reveals yet another version of events. This version recounts Payne, who was desperate for funds to pay bills, as a "friend" of Gama, with whom he had spoken often. In the application, Payne stated "...I suggested to her on several occasions that she should try and become a model." Payne stated he then encountered Gama at a class reunion where they "danced a lot together and I again told her about becoming a model." At the reunion, Payne told Gama about a friend in Massachusetts who was a professional photographer. Payne stated he suggested to Gama that they take some pictures of Gama and send them to the friend to see what he thought. Payne stated he thought if Gama had potential, he could become her manager and thus supplement his income. *Commw. Ex. 4*.

Payne described his actions leading to her death, and in attempting to conceal the cause of death and the victim's body, as follows: "On the day [he] was to pick up Debbie," Payne stated he smoked marijuana and took at least three Meproamate pills. When Gama got in the truck, she found the pills, asked what they were, and asked if she could have any. They stopped where she could get water for the pills, and he drove around to the side and waited for her, then they left. They went to a lightly wooded area of a park where Payne smoked marijuana. Payne stated the pills worked on him and they seemed to be working on Gama, though Payne acknowledged per the coroner's report, she hadn't taken any. Payne took one camera load of facial pictures, then suggested he photograph Gama as a "damsel in distress." Payne stated that when Gama agreed,

I tied her up in such a way that she was kneeling and then very incautiously, tied a rope around her neck and, although there was a lot of slack, ran the rope to two trees.

I then went back to my truck to get another load of film. The truck was about ten yards away from where she was. I had an awful lot of trouble loading the camera and when I finally got it loaded, looked over to her and saw that she had fallen forward. I ran over to her and picked her off the ground and her face was all black. I just fell apart and at first, tried mouth-to-mouth but got sick and threw up. I untied all the ropes but I did not know what to do. All I remember then was total panic and confusion.

Sometime later, I decided to make it look like she was robbed so I removed her rings and jewelry. Then I changed my mind and decided to hide the body on my farm so I put her in my truck. ... I finally decided to put the body in the pond so I got some cement blocks and wire and dropped that poor girl in the pond. Several days later, her body rose up and I panicked all over again and took the body to a creek ... and left her in the creek ....

*Commw. Ex. 4.*

### **B. Wilbur C. Thomas, M.D., Pathologist and Coroner, Crawford County — June 7, 1977 Testimony**

On June 25, 2020, the Court admitted in evidence as Commonwealth Exhibit 2a the 1977 degree of guilt hearing testimony of Wilbur C. Thomas, M.D. Dr. Thomas was a pathologist

and the Coroner of Crawford County. *Commw. Ex. 2a, p. 12*. Dr. Thomas supervised the removal of Gama's body from Cussewago Creek, the transporting of Gama's body to Spencer Hospital for x-rays, and the removal of the body to the funeral home. Thomas also performed the autopsy of Gama on August 13th, shortly after midnight. *Commw. Ex. 2a, pp. 5-7*. Thomas identified photographs including photographs of Gama's body in the creek; portions of the wire which were around the body; and Gama's body on a stretcher. *Commw. Ex. 2a, pp. 7-8*.

Dr. Thomas' testimony is summarized in pertinent part as follows. The neck ligature, the wire about the neck, was not noted until the body was removed from the water because it formed a deep, firm impression in the neck. The knot of the wire was in the posterior portion of the lower neck at the level of the fifth cervical vertebrae. There were no localized lacerations, abrasions or hemorrhage noted on examination of the skin of the neck. Dr. Thomas found the wire around the neck was applied so tight that pliers could only be introduced below the wire with a lot of effort. After the wire was removed from the neck, the skin showed a slightly darker, dried track around the neck. There were no other abnormalities noted in the neck ligature. *Commw. Ex. 2a, pp. 8-9*.

He found a ligature of fine copper wire encircled each wrist. The wrist ligatures were removed with cutting pliers. A depressed, darkened linear track was left from the wire around each wrist. *Commw. Ex. 2a, p. 9*. Dr. Thomas found both ankles were bound with a single ligature of fine copper wire with twisted knot. The wire was cut away. Thomas indicated the skin showed no laceration, bruising, hemorrhage or abrasion in the area. *Commw. Ex. 2a, pp. 9-10*.

The autopsy physical findings were: Gama was five feet, five inches in height and weighed approximately 115 pounds. Based upon the dental evidence, Thomas estimated she was 16 years of age. *Commw. Ex. 2a, p. 11*.

Dr. Thomas arrived at the following conclusions and opinions based upon his examination of Gama's body and toxicology testing he arranged. The cause of death was "acute asphyxiation due to ligature." *Commw. Ex. 2a, p. 10*. There was no evidence of natural disease, and there were no natural causes of death. There was insufficient evidence of any toxic or poison in Gama's body. *Commw. Ex. 2a, p. 12*.

Dr. Thomas maintained the opinions rendered during direct examination, on cross-examination and upon examination by the Court. *Commw. Ex. 2a, pp. 12-23* He testified the only evidence of trauma was one small area of abrasion near the navel apparently due to the rope which anchored Gama's body until Dr. Thomas arrived at the scene. *Commw. Ex. 2a, p. 13*. Thomas testified individuals can be overcome without leaving evidence of trauma. *Commw. Ex. 2a, p. 13*. Thomas estimated Gama had been dead for three or four days before the autopsy. *Commw. Ex. 2a, p. 17*. During extensive questioning about the possibility rope was utilized in the strangulation death of Gama, Dr. Thomas maintained the opinion there was no evidence a rope had been used around the decedent's neck. He testified, as follows:

**Attorney Ambrose:** Now, when the body was first discovered and after you got to the scene, there was a ligature of wire, small copper wire, around the neck.

**Dr. Thomas:** Yes, sir.

**Attorney Ambrose:** There was never a rope around her neck that you know of, was there?

**Dr. Thomas:** I didn't see any marks of a rope.

**Attorney Ambrose:** Well, what would you be looking for - - rope burns, the type of burns that might be made with a rope?

**Dr. Thomas:** Well, the rope is an irregular object which has small pointed parts which may stick into the skin. It usually is braided, and the pattern of the braiding will stay in the skin for a long time because you usually get a little hemorrhage around the areas of minute trauma that the rope causes.

**Attorney Ambrose:** So you'd say there would be some hemorrhaging?

**Dr. Thomas:** That's correct.

...

**Attorney Ambrose:** Now, the fact that wire - - a wire ligature was found around the neck does not mean that the mode of death could not have been a rope; correct?

**Dr. Thomas:** I couldn't say a rope because I found no rope or evidence of a rope.

**Attorney Ambrose:** I understand that.

**Dr. Thomas:** I can only testify to what I found, and I found a wire around the neck.

**Attorney Ambrose:** But you can't say a rope wasn't around the neck before a wire, can you?

**Dr. Thomas:** It would have to have been a rope of certain specifications - - smooth, non-traumatic.

**Attorney Ambrose:** Like clothesline, sir; correct?

**Dr. Thomas:** Perhaps.

*Commw. Ex. 2a, pp. 16-17.* Dr. Thomas testified the fact the ligature was snugly around Gama's neck could have been caused by post-mortem swelling of the tissues from being in the water. *Commw. Ex. 2a, p. 19.* Dr. Thomas reiterated here was "the complete absence of hemorrhage in the neck area where the ligature was found." *Commw. Ex. 2a, p. 19.* He testified if force was applied to cause death, there would not necessarily be hemorrhaging. Hemorrhaging is not necessarily consistent from a forensic standpoint to the amount of force applied. *Commw. Ex. 2a, p. 20.*

When asked by the Court to describe the manner in which the wire ligature was applied to Gama's neck, Thomas testified, as follows:



**Dr. Thomas:** Well, as I said, the wire was embedded in the tissues, and the knot was in the posterior part of the neck.

**Judge Carney:** The knot would be at the back of the neck then; is that correct?

**Dr. Thomas:** That's correct.

**Judge Carney:** And was the wire twisted?

**Dr. Thomas:** Yes, sir.

*Commw. Ex. 2a, p. 21.* During further exchange between the Court and Dr. Thomas regarding manner of death, Dr. Thomas testified, as follows:

**Judge McClelland:** Wait a minute. Doctor, just to clarify it, are you saying that this girl died from strangulation caused by wire around her neck Dr. Thomas, and not by drowning?

**Dr. Thomas:** There was no evidence of drowning, your Honor.

**Judge McClelland:** I mean are you saying she died of strangulation caused by the wire around her neck? That's what I'm trying to get at.

**Dr. Thomas:** By strangulation, yes, sir.

*Commw. Ex. 2a, pp. 22-23.*

**C. Eric Vey, M.D., Forensic Pathologist — June 25, 2020 Testimony**

In support of its position that the Defendant committed first degree murder, the Commonwealth presented the expert testimony of Eric Vey, M.D. Dr. Vey is the forensic pathologist with the Erie County Coroner's Office. He is board certified in anatomic pathology and forensic pathology and has served as forensic pathologist for northwestern Pennsylvania for 26 years. *Tr. 6/25/20, pp. 23-25.* Dr. Vey has performed over 4,000 autopsies. Approximately 50 of those autopsies involved strangulation due to ligature. *Tr. 6/25/20, pp. 26-27.*

In preparation for this Degree of Guilt Hearing, Dr. Vey reviewed the following records:

1. Summary of Coroner's Case, Deborah Lynn Gama, August 22, 1975, by Wilbur C. Thomas, M.D., Crawford County Coroner;
2. Postmortem Protocol, Deborah Lynn Gama, by Wilbur C. Thomas, M.D.;
3. Report of Laboratory Results, Pc Laboratory, dated August 25, 1975;
4. Transcript, Preliminary Hearing Testimony of Wilbur C. Thomas, M.D., December 28, 1976;

5. Transcript, Degree of Guilt Hearing Testimony Wilbur C. Thomas, M.D., June 7, 1977; and
6. Transcript, Oral Statement of Raymond Payne, October 8, 1976.

*Tr. 6/25/20, p. 27; Commw. Ex. 6.* Dr. Vey prepared a narrative report setting forth his findings and conclusions. Dr. Vey's report was admitted into the record as Commonwealth Exhibit 6. Dr. Vey concurred with Dr. Thomas' conclusions the cause of Gama's death was acute asphyxiation due to ligature and the manner of death was homicide. *Tr. 6/25/20, pp. 27-28.*

Based upon Dr. Vey's education, training and experience; his review of the above-referenced records and transcripts; and his review of relevant scientific and medical literature in the field of death by asphyxia as identified in his narrative report, Dr. Vey reached the following conclusions to a reasonable degree of medical certainty, as follows:

1. The toxicology results from the laboratory analysis conducted by Pc Laboratory indicate Gama was not under the influence of drugs or alcohol at the time of her death.
2. There is no pathologic evidence to support the use of a clothesline as a ligature in this case. There is an absence of corresponding ligature furrow impressions to the skin which would indicate such, and there is the absence of any associated abrasion from a rope, to either the neck, the right wrist, the left wrist, or the ankles of Gama.
3. Payne's description of Gama's face (i.e. "her face was all colored") indicates the amount of neck pressure applied was sufficient only to cause occlusion of the jugular veins.

*Commw. Ex. 6, p. 3.*

Dr. Vey's testimony is herein summarized as follows:

"Strangulation occurs when sufficient pressure is applied about the neck to result in either loss of consciousness or death." Strangulation and hanging have similar pathophysiology in that they are "both types of asphyxiation that occur with compression of the neck." *Tr. 6/25/20, p. 28.* Death in the vast majority of hangings and strangulations occurs by constriction of the blood vessels providing oxygenated blood to and from the brain. *Tr. 6/25/20, p. 28.* Dr. Vey testified to the "selective anatomic vulnerability" to the structures of the neck from compression, as follows:

**Dr. Vey:** ... For example, the larynx and trachea require 33 pounds per square inch to occlude them.

Going down a lesser degree of restriction, the carotid arteries, which supply oxygenated blood up to the brain require 11 pounds per square inch to occlude those.

...

And then lastly, the jugular vein, which brings blood from the brain back down to the heart, the veins are more pliable and less rigid structures. They only require 4.4 pounds per square inch.

...

**D.A. Jack Daneri:** All right. And what's the time frame in which death occurs then from the strangulation or from the occlusion?

**Dr. Vey:** With complete and unremitting, in other words constant, interruption of the blood flow either to the brain or from the brain, death will occur at four to six minutes.

**D.A. Jack Daneri:** Okay. And with respect to, you had said, the lack of blood flow, does an individual lose consciousness before they die?

**Dr. Vey:** Correct.

**D.A. Jack Daneri:** Okay. And is there — is there a time frame on when someone could lose consciousness depending on how much blockage there is?

**Dr. Vey:** Right. With reduction — or, I'm sorry, with complete cessation or abrupt absence of blood flow through the carotid arteries going up to the brain, consciousness is lost between 10 to 15 seconds.

**D.A. Jack Daneri:** What if the carotids were not blocked?

**Dr. Vey:** If the jugular veins are blocked and not the carotid, the period of consciousness will be longer than with just a carotid blockage.

*Tr. 6/25/20, pp. 28-30.*

Dr. Vey testified the distinguishing features of trauma to the neck in cases of strangulation are different than in cases of hanging, as follows:

**D.A. Jack Daneri:** Okay. Now, with respect to — in your experience with respect to trauma to the neck in those cases of hanging or strangulation, what can you tell us about the trauma that you would expect to find and what is found typically?

**Dr. Vey:** Okay. Well, typically found externally is a characteristic of what's called a ligature furrow, F-U-R-R-O-W. Like when a farmer plows a field and creates an indentation in the soil to plant seeds, that's a furrow. The same thing happens with the application of a ligature, for example, cloth or rope or wire around the neck, it creates an impression or an indentation into the skin that remain after death and its characteristics.

Ligature furrowing in cases of strangulation typically, or if not all cases, completely encircles the neck. In cases of hanging, since the suspension of the head comes from a fixed point above, the ligature furrowing imprint does not completely encircle the neck and ascends behind the ears.

*Tr. 6/25/20, pp. 30-31.*

Regarding the absence of imprints and hemorrhage to Gama's neck and the significance thereof, Dr. Vey testified, as follows:

**D.A. Jack Daneri:** Okay. Now, with respect to the autopsy report, as well as the findings of Dr. Thomas, ... why don't you just report on the findings regarding imprint and hemorrhaging on the neck.

**Dr. Vey:** Okay. Dr. Thomas reported in his autopsy the presence of a thin wire that appeared to be copper completely encircling the neck just wrapped once. It was very thin and twisted in the back. And then when he removed that, there was corresponding circumferential, horizontal ligature furrowing corresponding to a wire.

In the soft tissues of the neck, he found an area of localized discoloration, red discoloration through the — one of the largest strap muscles in the neck, the left sternohyoid muscle. Aside from that, there were no internal injuries of the neck.

...

The wire was not initially visible at the scene of the recovery of the body from the creek, but rather once the body was moved to the funeral home in Meadville where the autopsy was performed. And at that point once she was placed on her back and her neck was hyperextended a little bit, he was able to have a visual of the wire.

**D.A. Jack Daneri:** Okay. Was there a description used how the wire was affixed to the skin?

**Dr. Vey:** Yes. It was, again, a single loop around the neck twisted in the back just to the right of the midline.

**D.A. Jack Daneri:** Okay. Now, with respect to imprints on the skin, not below the skin but to the skin itself, you had indicated that there would typically be some type of imprint of whatever the ligature — or the characteristics of the ligature were.

...

**Dr. Vey:** That's correct.

**D.A. Jack Daneri:** Okay. And ... what causes the imprint then?

**Dr. Vey:** The imprint is caused by pressure on the skin by the ligature creating the ligature furrowing to the point where under many circumstances once the ligature is removed or even if a ligature isn't present at the time of the autopsy, it creates a perfect mirror image of the outline and character of the ligature itself.

So for example, in the case of a coarsely woven rope, for example a bull rope, you're going to have the coarse imprint of the weave of the rope, the braid of the rope, it's also going to correspond to the width of the rope. And with a thin wire that's smooth, the ligature furrowing will be thin corresponding almost identical to the width of the wire, and there's not going to be any pattern braid from the wire because it doesn't have a braid.

**D.A. Jack Daneri:** In this case regarding Debbie Gama, what was the imprint then on the neck?

**Dr. Vey:** The imprint corresponds to the wire.

**D.A. Jack Daneri:** Okay. And did it correspond to anything else?

**Dr. Vey:** No.

**D.A. Jack Daneri:** Now, with the amount of pressure that it would take for a period of four to six minutes, if someone were applying that constant pressure with a ligature, would you have expected — would you expect to see an imprint of whatever was used?

**Dr. Vey:** Yes.

*Tr. 6/25/30, pp. 31-35.*

Regarding Payne's statement, Dr. Vey testified, as follows:

**D.A. Jack Daneri:** And can we agree that within [Payne's] statement, he indicated he had tied up Debbie Gama, correct?

**Dr. Vey:** Correct.

**D.A. Jack Daneri:** All right. And the material or the instrument the Defendant used to tie her up was what?

**Dr. Vey:** Was a, basically, to paraphrase the statement, it was essentially a garden-variety rope. It wasn't smooth plastic. It was something you could pick up from Kmart, just regular, old clothesline.

**D.A. Jack Daneri:** So he indicated it was a clothesline?

**Dr. Vey:** Correct.

**D.A. Jack Daneri:** All right. And that it was a real rope?

**Dr. Vey:** Correct.

**D.A. Jack Daneri:** Okay. And did he indicate how many times he had wrapped the real rope around the neck of Debbie Gama?

**Dr. Vey:** Yes. He did. He indicated that he wrapped with two loops.

**D.A. Jack Daneri:** Twice around the neck?

**Dr. Vey:** Correct.

**D.A. Jack Daneri:** Now, getting back to your expertise and your experience, if the ligature would leave an imprint with four to six minutes of pressure with the ligature wrapped around, would you expect the imprint to show that it was wrapped twice around the neck?

**Dr. Vey:** Sure. This would be basically a double ligature furrow imprint. In other words, there would be two separate furrows with or without an intervening portion of skin protruding between the two loops, so we should have two separate areas of indentation.

**D.A. Jack Daneri:** So if regular rope was wrapped twice, you would expect to see an imprint of some sort regarding a rope?

**Dr. Vey:** Right. And I would expect to see two imprints.

*Tr. 6/25/30, pp. 35-36.*

As to whether or not, beyond the statements of Payne, there was any evidence a rope was used in the strangulation death of Gama, Dr. Vey testified, as follows:

**D.A. Jack Daneri:** With respect to the findings of Dr. Thomas and whether or not he observed an imprint of rope around the neck of Debbie Gama, ...

**Dr. Vey:** He testified that he did not see any such imprint related to a rope.

**D.A. Jack Daneri:** Okay. Any evidence — from what you either read or observed looking through the materials, including the statement of the Defendant, any evidence that indicated that a rope was the cause of Debbie Gama's death?

**Dr. Vey:** There's no evidence in the objective material that I reviewed, namely the

transcript of Dr. Thomas preliminary hearing testimony, his testimony at the degree of guilt hearing or the findings from the autopsy report.

*Tr. 6/25/20, p. 37.*

Dr. Vey testified concerning the toxicology findings in Commonwealth Exhibit 7, the August 25, 1975 report from Pc Laboratory which was admitted into the record. The positive findings were limited to a blood alcohol level of .06%. There were no drugs in Gama's system except acetaminophen, which is Tylenol. There were no other drugs or substances in the victim's blood. There was no Meprobamate or trace amount of Meprobamate, a drug used as a sedative and an anti-anxiety agent, in Gama's blood. *Tr. 6/25/20, pp. 37-38.* Acetaminophen is not a by-product of Meprobamate. *Tr. 6/25/20, p. 39.*

Dr. Vey was asked whether the time interval between Gama's death, hypothetically Friday, August 8, 1975 when Gama was last seen by family, and Tuesday, August 12, 1975, the date her body was recovered, would have an impact as to what was in Gama's system at the time of death. Dr. Vey testified, as follows:

**Dr. Vey:** The only alteration that may have been caused by this long period of decomposition would be the production of alcohol by bacteria in the postmortem interval creating the alcohol level found in this case.

With respect to any other drugs, no further breakdown will occur after death regardless of the postmortem interval because breakdown of drugs into their inactive metabolites requires enzymes, and enzymes for them to act require cellular energy and there's no cellular energy any longer because the person is dead.

*Tr. 6/25/20, 39-40.*

When asked by the Court what .06% alcohol would represent if someone was drinking, Dr. Vey testified that depending upon the weight of an individual, .06% alcohol content would be roughly the equivalent two beers or two standard drinks. *Tr. 6/25/20, p. 40.* However, Dr. Vey opined the .06% of alcohol found in Gama's body "may be totally accounted for by postmortem bacterial production of alcohol as far as the body's decomposition process" and stated "certainly there is a contributory component from the postmortem interval with the bacterial production of alcohol in this case." *Tr. 6/25/20, p. 40. See also, 6/25/20, p. 60.*

In the context of this testimony, Dr. Vey summarized the bases for the conclusions at page 4 of his narrative report, as follows:

The conclusion that the amount of neck pressure applied was sufficient only to cause occlusion of the jugular veins of Gama's neck was premised upon the accuracy of Payne's description of Gama's face after the strangulation. Dr. Vey testified if Payne's statement that her face was "all colored" is factually accurate, then the pathophysiology is that the pressure applied was sufficient to cause obstruction or occlusion of blockage of the internal jugular veins, but not also compression of the carotid arteries. This is because, where the return of blood back down from the head via the jugular veins is impeded or completely comes to a halt because sufficient pressure is applied to block the jugular veins but not also the carotid arteries (which pump blood out from the heart), then the head will become engorged and

filled with blood which would account for Payne's description "her face was all colored." *Tr: 6/25/20, p. 43.* Dr. Vey testified the autopsy findings of Dr. Thomas of "putrefactive change" in Gama's facial features were consistent with a "partial occlusion", that is occlusion of the jugular veins. *Tr: 6/25/20, pp. 44-45.* Dr. Vey testified that with partial occlusion a victim would retain the ability to speak or make verbal noises or scream. The reason is that there would not be nearly enough pressure to block the airway. *Tr: 6/25/20, pp. 45-46.*

Dr. Vey's conclusion that there was no pathologic evidence to support the use of a clothesline as a ligature in this case is based upon the absence of findings of corresponding ligature furrow impressions or imprints to the skin which would indicate the use of a clothesline, and the absence of any associated abrasion from a rope to either the neck, the right wrist, the left wrist, or the ankles of Gama. *Tr: 6/25/20, p. 46.*

Dr. Vey's conclusion that Gama was not under the influence of drugs or alcohol at the time of her death is based upon the toxicology results from Pc Laboratory. *Tr: 6/25/20, p. 46.*

Dr. Vey testified that, of the subset of approximately 50 cases in which he was involved as a pathologist, where the individual died due to ligature strangulation and another person was present, none of those cases involved an accidental death. *Tr: 6/25/20, p. 48.* On cross examination, when questioned about the possibility Gama's death was accidental, say for example, from falling forward and being unable to help herself, Dr. Vey testified:

**Dr. Vey:** We have to then take Mr. Payne's statement in its global context. So he discusses the tying her hands behind her back with rope and looping the rope twice around her neck and then affixing it to the trunk of a tree unspecified. And with all of that, we have no ligature furrowing from a rope to the ankles the wrists or the neck.

*Tr: 6/25/20, p. 56.* During cross examination, defense counsel attempted to establish a clothesline could have been used. *Tr: 6/25/20, pp. 57-58.* However, on redirect examination, Dr. Vey reaffirmed the cause of strangulation or asphyxia was by wire ligature. *Tr: 6/25/20, pp. 58, 65.*

Per Dr. Vey's testimony, under the totality of the circumstances, Gama's death was not consistent with the Defendant's version of an accidental death.

#### **D. Myshelle Marie Will, Sister of Victim — June 25, 2020 Testimony**

On June 25, 2020, the Commonwealth presented the testimony of Myshelle Will, the victim's sister. *Tr: 6/25/20, pp. 12-17.* Will testified about events the morning of Friday, August 8, 1975. Will, then 10 years old, and Gama, then 16, shared a bedroom. Will woke up to the sun shining in the widow. She saw her sister trying on different outfits. *Tr: 6/25/20, pp. 12-13.* Will watched her sister until Gama told her to turn around. Gama told Will she was going to the beach. Will answered a phone call from a male who asked for Debbie. Gama took the phone call. When Gama left the house, nothing seemed abnormal. Gama did not appear to be down or depressed. She did not mention anything to Will about going with Raymond Payne on a photo shoot to do some modeling or anything. Gama did not say that morning if Payne was going to be her modeling agent for pictures taken. *Tr: 6/25/20, pp. 14-17.*

#### **E. Robin Kloss, Best Friend of Victim — June 25, 2020 Testimony**

On June 25, 2020, the Commonwealth presented the testimony of Robin Kloss, who characterized herself as the victim's best friend. *Tr: 6/25/20, pp. 17-22.* As of 1975, she had known Gama for about three years. They met in 9th grade and became close friends. Kloss



testified she and Gama were inseparable. They talked on the phone frequently with one another. *Tr.* 6/25/20, *pp.* 18-19.

Kloss knew Payne as her English teacher at Strong Vincent High School. She described Payne as a fun teacher with whom they got along and never had any problems. *Tr.* 6/25/20, *pp.* 18-19.

Kloss and Gama planned to go to the beach that day. There were no set plans; just whoever gets up first is supposed to call the other. Kloss called Gama at home around 11:30 a.m. that day. Myshelle, Gama's sister, answered the telephone. Kloss asked for Gama and Myshelle told Kloss that Gama was not there. Kloss asked for Gama's mother who came to the phone. Gama's mother told Kloss Gama went to the beach. Kloss testified she probably asked Gama's mother with whom she went to the beach with, "because she wouldn't have gone with anybody else but me." *Tr.* 6/25/20, *pp.* 20-21. It made no sense to Kloss that she had plans to go to the beach with Gama and when Kloss called the next morning when they were supposed to go together, Gama already left. It made no sense to Kloss because Kloss and Gama were together all the time. *Tr.* 6/25/20, *pp.* 21. During all their times together, Gama never talked about becoming a model or having Defendant be her modeling agent. She never talked about going with Payne or anyone on a photo shoot for modeling pictures. Kloss testified that is something Gama would have absolutely shared with her. *Tr.* 6/25/20, *pp.* 21-22. Gama never shared with Kloss anyone's or Payne's interest in taking bondage photos of Gama. *Tr.* 6/25/20, *pp.* 22. When asked if it would surprise Kloss there was a claim that Gama agreed to bondage photos, Kloss testified, "It would greatly surprise me." When asked the reason for this, Kloss testified, "She wasn't like that. She wouldn't have done that. She just wouldn't have." *Tr.* 6/25/20, *pp.* 22.

### ANALYSIS

The Commonwealth may sustain its burden to prove every element of a crime beyond a reasonable doubt by wholly circumstantial evidence and the trier of fact is free to believe all, part, or none of the evidence. *Commonwealth v. Hicks*, 156 A.3d 1114, 1123 (Pa. 2017). "To obtain a conviction for first degree murder, the Commonwealth must demonstrate that a human being was unlawfully killed, that the defendant was the killer, and that the defendant acted with malice and a specific intent to kill." *Commonwealth v. Hicks*, *supra*, at 1123-1124, citing *Commonwealth v. Laird*, 988 A.2d 618, 624-25 (Pa. 2010). "Specific intent and malice may be inferred through circumstantial evidence, such as the use of a deadly weapon on a vital part of the victim's body." *Commonwealth v. Hicks*, *supra*, at 1124.

It is "axiomatic that the Commonwealth is not required to prove motive to establish guilt even where the crime charged is murder of the first degree." *Commonwealth v. Keaton*, 729 A.2d 529, 536 (Pa. 1999), citing *Commonwealth v. Brantner*, 406 A.2d 1011, 1013 (Pa. 1979).

Moreover, the actions of the accused which occur before, during, and after are admissible as evidence to prove malice. *Commonwealth v. Gonzalez*, 858 A.2d 1219, 1223 (Pa. Super. 2004). Evidence of acts to conceal a crime, such as disposing of the victim's body, are relevant to prove the accused's state of mind or intent. *Commonwealth v. Dollman*, 541 A.2d 319, 322 (Pa. 1988).

Unlike the 1977 Degree of Guilt Panel, this Court does not rely on the testimony of Anthony Lee Evans, a convict who sought favors, and/or PSP chemist Paul Daube. The testimony

of Evans and Daube is of little or no value or consequence in view of the results of the DNA analysis. The fact that the DNA analysis excludes the Defendant as a contributor of the semen found on the victim's body simply leaves open the question as to whether Payne had an accomplice. The parties concur the testimony of Evans is unreliable.

The parties stipulated Gama died of ligature strangulation, and the testimony of Drs. Thomas and Vey amply supports this. The parties stipulated that the copper wire ligature that was embedded in the skin completely encircled the neck. At autopsy, the wire was found embedded around the circumference of the victim's neck and twisted in the back. There is no doubt the wire was deliberately twisted by the Defendant to secure it around the neck. When the wire was cut away, an even ligature furrow was found around the circumference of the victim's neck where the wire had been. There were no other signs of external trauma to the neck. There were no marks, abrasions, bruises, scrapings, hemorrhaging from rope fibers, or other indications of external trauma to the neck. There were no indications on the neck that clothesline rope played a role in the ligature strangulation death of Gama. If rope had been looped twice around Gama's neck as Defendant once explained, there would have been two imprints of rope left behind. In this instance, not even one imprint of rope, or not even one partial imprint of rope, was left behind on Gama's neck.

There were no indications elsewhere on Gama's body that clothesline rope was used to restrain her. Gama had copper wire around each wrist and her ankles were bound with the wire. At autopsy, copper wire was found encircled around each wrist, and the victim's ankles were bound together with more wire. There were no signs of external trauma to either wrist or to Gama's ankles from clothesline rope or any other material used as a restraint, other than from the copper wire. There were no indications on either wrist or on either ankle that clothesline rope was used to bind the victim's extremities. Not even one imprint of rope was left behind on any extremity.

The Defendant's contention that the death was accidental is belied by the record. His assertions that Gama drugged herself, was unsteady from pills she had taken and accidentally fell forward, basically hanging herself, are further belied by the record. The record establishes no drug other than acetaminophen (Tylenol) was found in Gama's system. The drug the Defendant claimed as having a role in the death, Meprobamate, was not found in Gama's body. The testimony of Dr. Vey established no drugs would have disappeared or metabolized between the dates of Gama's disappearance and discovery of her body. Dr. Vey's testimony established that the level of alcohol is explained in whole or in part by the natural decomposition process of Gama's body. There is no evidence alcohol played any role in Gama's death.

The record establishes that the circumferential ligature and ligature furrow in Gama's neck are not consistent with a death by hanging. If that were the occurrence, the ligature furrow imprint would not completely encircle the neck and would ascend behind the ears. In this case, the ligature furrow evenly encircled the neck. There was no indication of trauma elsewhere on the neck or ascension behind the ears.

Considering Dr. Thomas' findings of "putrefactive change" in the facial features of the decedent, the record amply establishes Gama's death occurred from occlusion of the jugular veins. During this process, Gama would have retained the ability to speak or make verbal noises or scream. The Defendant never indicated he heard any verbalizations or noises from

Gama. According to Defendant's statements, he would have been close enough to have heard any noises from Gama.

Defendant's assertion that it seemed like something was "bothering" Gama when he encountered her, is belied by the record. Myshelle Will credibly testified that the victim did not appear to be down or depressed when she left the house on the morning of August 8, 1975. Despite Defendant's contention that he took Gama to the woods to take bondage and/or modeling photographs of her, or that he was going to be her modeling agent, both Will and best friend Robin Kloss credibly testified Gama never mentioned anything to them about modeling or posing for photographs.

Examined closely, Payne's statement is one of a remarkable series of coincidences: a chance meeting with the victim on West Tenth Street; the victim's voluntary consent to bondage photos; having the new Polaroid camera uniquely suitable for bondage photos readily available; having just the right drugs on hand; the victim's decision to voluntarily take Meproamate, a "downer"; having available clothesline rope he just happened to buy that morning; his absence at the critical moment when the victim was being strangled to death; that he tarried to load his camera and smoke more marijuana while the victim was being strangled; and that he heard absolutely nothing coming from the victim while she was being strangled to death. This Court is not even convinced that this murder occurred at the park in question, as opposed to the murder actually happening on the Defendant's property on Kinter Hill Road.

The Court fully recognizes that the Commonwealth bears the full burden of proof in this matter. That said, the Defendant's happenstance explanations on how the death was accidental are pure fiction; not plausible; and inconsistent with the evidence presented in the case at bar. On the other hand, Payne's placement of the copper wire ligature around the neck, and tightly twisting the same, causing a four- to six-minute occlusion, proved that this killing was intentional.

Following the killing, the Defendant took deliberate steps to conceal the body of Debbie Gama and her personal effects. He hoped to sink her body with cement blocks in the pond located on his property; and when to him it surprisingly and inexplicitly surfaced, he packed the body in his truck and drove to Center Road in Crawford County and unceremoniously dumped it in Cussewago Creek. He hid the victim's shoes and the wire in a woods and hid her jewelry in the well on his property. No camera and, more tellingly, no clothesline rope that he said he purchased at K-Mart the morning of the murder were ever presented. Defendant's repeated efforts over time to dispose of Gama's body and conceal her personal effects are additional indicia of the requisite intent to kill.

### **CONCLUSION**

Under the totality of the circumstances, and with the requisite legal principles in mind, the Commonwealth has met its burden of proving the elements of first degree murder and establishing that the death of the victim was an intentional killing, beyond a reasonable doubt. The Court's verdict is that the Defendant, Raymond Dale Payne, is guilty of the murder of Debra Lynn Gama in the first degree.

**BY THE COURT**

/s/ **Daniel J. Brabender, Jr., Judge**

**CHANGE OF NAME NOTICE**

In the Court of Common Pleas of Erie County, Pennsylvania Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Timothy Allen Horton Senior to Yahweh Yahweh Yahweh. The Court has fixed the 25th day of September, 2020 at 11:00 a.m. in Court Room 213-C, 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. 11

**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: Chips & Clips
2. Address of the principal place of business is 10950 Old Route 99, McKean, PA 16426.
3. Person who is party to the registration: Leute's Milling, LLC of 10950 Old Route 99, McKean, PA 16426.
4. An application for registration of a fictitious name under the Fictitious Names Act was filed August 18, 2020.

LAW OFFICES OF GERY T. NIETUPSKI, ESQUIRE, LLC  
800 State Street, Suite A  
Erie, PA 16501

Sept. 11

**FICTITIOUS NAME NOTICE**

NOTICE IS HEREBY GIVEN pursuant to Section 311(g) of the Fictitious Name Act as follows:

1. The fictitious name is Global Motor Coach.
2. The principal place of business to be carried on under the fictitious name is 1522 E. 12th St., Erie, PA 16511.
3. The name and address of the party to the registration is: LaGrand Elite Limousine Sales, LLC — 1522 E. 12th St., Erie, PA 16511.
4. An application for registration of the above fictitious name was filed with the Pennsylvania Department of State under the Fictitious Name Act on July 31, 2020.  
G. Christopher Orton, Esquire  
Orton & Orton  
68 East Main St.  
North East, PA 16428

Sept. 11

**INCORPORATION NOTICE**

Smart Owl Holdings, Inc. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988.

Sept. 11



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**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 18, 2020  
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. 28 and Sept. 4, 11

**SALE NO. 1**

**Ex. #12569 of 2019**

**The Bank of New York Mellon as Indenture Trustee for Nationstar Home Equity Loan Trust 2009-A, Plaintiff**

v.

**Ericka M. Marzka, Defendant**

**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 2019-12569, The Bank of New York Mellon as Indenture Trustee for Nationstar Home Equity Loan Trust 2009-A vs. Ericka M. Marzka, owner(s) of property situated in the Township of Wayne, Erie County, Pennsylvania being 17595 Buffalo Road, Corry, PA 16407.  
51.5

Assessment Map number:  
49007021000900  
Assessed Value figure: \$162,100.00  
Improvement thereon: a residential dwelling  
Shapiro & DeNardo, LLC  
Attorney for Movant/Applicant  
3600 Horizon Drive, Suite 150  
King of Prussia, PA 19406  
(610) 278-6800

Aug. 28 and Sept. 4, 11

**SALE NO. 2**

**Ex. #12488 of 2019**

**PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff**

v.

**ANDREA S. HAMMONS A/K/A ANDREA HAMMONS, Defendant**

**DESCRIPTION**

By virtue of a Writ of Execution No. 2019-12488, PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. ANDREA S. HAMMONS A/K/A ANDREA HAMMONS, Defendant  
Real Estate: 2710 SHANNON ROAD, ERIE, PA 16510  
Municipality: Borough of Wesleyville, Township of Harborcreek  
Erie County, Pennsylvania  
Dimensions: 38 x 130  
Deed Book/Inst#: Book 1332, page 0062  
Tax I.D. (50) 4-56-6  
Assessment: \$15,200 (Land)  
\$77,910 (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. 28 and Sept. 4, 11

**SALE NO. 3**

**Ex. #11429 of 2019**

**U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE FOR THE NRZ PASS-THROUGH TRUST VII (NPL), Plaintiff**

v.

**KAYCI PONDEL, IN HER CAPACITY AS HEIR OF ROBERT MOKWA;**

**UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER ROBERT**

**MOKWA, Defendant(s)**

**DESCRIPTION**

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN THE CITY OF CORRY, ERIE COUNTY, PENNSYLVANIA: BEING KNOWN AS: 162 YORK STREET, CORRY, PA 16407  
PARCEL NUMBER: 7-25-61-13 | 7-25-61-14  
IMPROVEMENTS: RESIDENTIAL PROPERTY RAS CITRON, LLC  
Attorneys for Plaintiff  
Robert Flacco, Esq.  
ID No. 325024  
133 Gaither Drive, Suite F  
Mt. Laurel, NJ 08054  
855-225-6906

Aug. 28 and Sept. 4, 11

**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**

**BAKER, DOUGLAS E.,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executor:* Douglas E. Baker, Jr., c/o Christine Hall McClure, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**CARLO, BRIAN, a/k/a  
BRIAN P. CARLO,  
deceased**

Late of Erie City of Erie County  
*Administratrix:* Holly Carlo  
*Attorney:* Adam C. Haggag, Esquire, Edgar Snyder & Associates, LLC, U.S. Steel Tower, 10th Fl., 600 Grant Street, Pittsburgh, Pennsylvania 15219

**DOELFEL, JOHN G., IV, a/k/a  
JOHN GEORGE DOELFEL, IV,  
deceased**

Late of the Township of Harborcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Autumn L. Lassiter, c/o Leigh Ann Orton, Esquire, Orton & Orton, LLC, 68 East Main Street, North East, PA 16428  
*Attorney:* Leigh Ann Orton, Esquire, Orton & Orton, LLC, 68 East Main Street, North East, PA 16428

**FERRICK, SHIRLEY A., a/k/a  
SHIRLEY ANN FERRICK,  
deceased**

Late of the Township of McKean, County of Erie and Commonwealth of Pennsylvania  
*Co-Executors:* Valerie A. Metz and William L. Ferrick, c/o Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16509  
*Attorney:* Darlene M. Vlahos, Esq., Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508

**HUTTENSTINE, BARBARA N.,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executor:* John Martin Matthews, c/o Kurt L. Sundberg, Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Kurt L. Sundberg, Esq., MARSH, SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**JACKSON, AUDRIE E., a/k/a  
AUDRIE JACKSON,  
deceased**

Late of the Township of Girard, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Rex Jackson, 86 Park Avenue, Albion, Pennsylvania 16401  
*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**LAWRENCE, JUDY A., a/k/a  
JUDY ANN LAWRENCE, a/k/a  
JUDY LAWRENCE,  
deceased**

Late of Millcreek Township, Erie County, Commonwealth of Pennsylvania  
*Executrix:* Pamela S. Zaycosky, c/o Thomas C. Hoffman, II, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Thomas C. Hoffman, II, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**MACK, LEONA G.,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Sharon L. Mack, c/o Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16509  
*Attorney:* Darlene M. Vlahos, Esq., Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508

**McANDREW, MARY ALICE,  
deceased**

Late of the Township of Summit  
*Executrix:* Patricia E. Matson, 7202 Fieldstone Court, Erie, PA 16509  
*Attorney:* Michael A. Fetzner, Esquire, Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**PITONYAK, MARY ALYS, a/k/a  
MARY A. PITONYAK, a/k/a  
MARY PITONYAK,  
deceased**

Late of the Township of Girard, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Steven J. LaJohn, 9040 West Lake Road, Lake City, PA 16423-2102  
*Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**SEXSMITH, JOAN MATHER,  
deceased**

Late of the Township of Summit, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Katherine Sexsmith, c/o John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507  
*Attorney:* John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507

**SECOND PUBLICATION****ALLEN, ANN C.,  
deceased**

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

*Administratrix:* Catherine  
McCalmont

*Attorney:* David J. Rhodes,  
Esquire, ELDERKIN LAW FIRM,  
456 West 6th Street, Erie, PA  
16507

**BARTLETT, MAGDALENA M.,  
a/k/a MAGDALENA BARTLETT,  
a/k/a MADELINE M. BARTLETT,  
a/k/a MADELINE BARTLETT,  
deceased**

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

*Executrix:* Constance M. Yochim,  
2953 Coleridge Drive, Erie, PA  
16506-4421

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

**CZULEWICZ, EDWARD R.,  
deceased**

Late of the Borough of  
Wesleyville, County of Erie and  
Commonwealth of Pennsylvania

*Co-Executrices:* Janet A. York and  
Sharon M. Czulewicz

*Attorney:* David J. Rhodes,  
Esquire, ELDERKIN LAW FIRM,  
456 West 6th Street, Erie, PA  
16507

**EMLING, ROY SCOTT, JR., a/k/a  
R. SCOTT EMLING, JR., a/k/a  
SCOTT EMLING, JR., a/k/a  
ROY SCOTT EMLING, a/k/a  
R. SCOTT EMLING, a/k/a  
SCOTT EMLING,  
deceased**

Late of Harborcreek Township,  
Erie County, Commonwealth of  
Pennsylvania

*Executor:* Marc S. Emling, 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

**ERICKSON, JESSE D., a/k/a  
JESSE ERICKSON,  
deceased**

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

*Executrix:* Connie L. Johnson,  
4308 Colindale Road, Unit 104,  
Chesapeake, Virginia 23321

*Attorney:* Grant M. Yochim, Esq.,  
24 Main St. E., P.O. Box 87,  
Girard, PA 16417

**FITZGERALD, MARY M.,  
deceased**

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

*Co-Executrices:* Mary Ellen  
Simmons and Amy S. Roach,  
c/o James E. Marsh, Jr., Esq.,  
Suite 300, 300 State Street, Erie,  
PA 16507

*Attorney:* James E. Marsh, Jr.,  
Esq., MARSH SCHAFF, LLP,  
Suite 300, 300 State Street, Erie,  
PA 16507

**FLEMING, DENNIS K., III, a/k/a  
DENNIS KEITH FLEMING, III,  
a/k/a DENNIS K. FLEMING,  
deceased**

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

*Co-Administrators:* Dylan M.  
Simmer, 2715 Woodlawn Ave.,  
Erie, PA 16510-1755, Colton  
Fleming, 3116 Amherst Road,  
Erie, PA 16506-2606 and Ariel  
Fleming, 3527 Idlewood Drive,  
Erie, PA 16510-1915

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

**GRACK, GLADYS, a/k/a  
GLADYS R. GRACK, a/k/a  
GLADYS T. GRACK,  
deceased**

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

*Executor:* Anthony J. Grack, c/o  
535 W. Arlington Rd., Erie, PA  
16509-2266

*Attorney:* Scott E. Miller, Esquire,  
535 W. Arlington Rd., Erie, PA  
16509-2266

**JENSEN, JOHN M.,  
deceased**

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

*Executor:* Keith Jensen, c/o Quinn,  
Buseck, Leemhuis, Toohey &  
Kroto, Inc., 2222 West Grandview  
Blvd., Erie, PA 16506

*Attorney:* Melissa L. Larese,  
Esq., Quinn, Buseck, Leemhuis,  
Toohey & Kroto, Inc., 2222 West  
Grandview Blvd., Erie, PA 16506

**MILLOY, ROGER H., a/k/a  
ROGER MILLOY,  
deceased**

Late of the Township of Millcreek,  
Commonwealth of Pennsylvania

*Executrix:* Diane R. Heald, c/o  
Vendetti & Vendetti, 3820 Liberty  
Street, Erie, Pennsylvania 16509

*Attorney:* Richard A. Vendetti,  
Esquire, Vendetti & Vendetti, 3820  
Liberty Street, Erie, PA 16509

**MIODUSZEWSKI, JANET M.,  
deceased**

Late of Erie City, Erie County, PA  
*Co-Administrators:* Serena  
Schodt and William Michael  
Mioduszewski, c/o Kristen L.  
Behrens, Esq., 457 Haddonfield  
Rd., Ste. 700, Cherry Hill, NJ  
08002

*Attorney:* Kristen L. Behrens,  
Esq., Dilworth Paxson LLP, 457  
Haddonfield Rd., Ste. 700, Cherry  
Hill, NJ 08002

**MOKHA, HANNE W., a/k/a  
HANNE WEBER HANSEN  
MOKHA,  
deceased**

Late of the City of Erie  
*Executor:* J. Thomas Simmons,  
350 W. 10th St., Erie, PA 16502

*Attorney:* Michael A. Fetzner,  
Esquire, Knox McLaughlin  
Gornall & Sennett, P.C., 120 West  
Tenth Street, Erie, PA 16501

**SCHULTZ, DOROTHY W.,  
deceased**

Late of North East Township, Erie County, North East, PA  
*Co-Executors:* Dorothy A. Wagner and Edward J. Schultz, Jr., c/o 33 East Main Street, North East, Pennsylvania 16428  
*Attorney:* Robert J. Jeffery, Esq., Knox McLaughlin Gornall & Sennett, P.C., 33 East Main Street, North East, Pennsylvania 16428

**WETTEKIN, RONALD T.,  
deceased**

Late of Millcreek Township  
*Executor:* Charles J. Wettekin, c/o 246 West 10th Street, Erie, PA 16501  
*Attorney:* Evan E. Adair, Esq., 246 West 10th Street, Erie, PA 16501

**THIRD PUBLICATION****CAROLUS, JASON J.,  
deceased**

Late of the City of Edinboro Borough, Erie County  
*Administratrix:* Patricia J. Farris  
*Attorney:* John F. Mizner, Esquire, 311 West Sixth Street, Erie, PA 16507

**COPENHAVER, PATRICIA ANNE, a/k/a PATRICIA A. COPENHAVER,  
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Lana R. Levitt, 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

**DODDS, SHERYL A., a/k/a SHERYL ANN DODDS, a/k/a SHERYL DODDS,  
deceased**

Late of the Township of Fairview, County of Erie, Commonwealth of Pennsylvania  
*Administratrix:* Erin S. Albright, 1485 Caldwell Avenue, Apt. 1002, Ottawa, Ontario K1Z8M1  
*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**FISH, MITCHELL HOWARD, a/k/a MITCHELL H. FISH, a/k/a MITCHELL FISH,  
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Administrator:* Douglas M. Fish, Jr., c/o Randy L. Shapira, Esquire, 345 West Sixth Street, Erie, PA 16507  
*Attorney:* Randy L. Shapira, Esquire, 345 West Sixth Street, Erie, PA 16507

**HAYES, AARON J., a/k/a AARON HAYES, a/k/a AARON J. HAYES, JR., a/k/a AARON HAYES, JR., a/k/a AARON JOHN HAYES,  
deceased**

Late of the Borough of Girard, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Aaron J. Hayes, III, 944 Blue Jay Lane, Coppel, Texas 75019  
*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**KOENIG, IRENE T.,  
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Administrator:* David R. Alloway, c/o Randy L. Shapira, Esquire, 345 West Sixth Street, Erie, PA 16507  
*Attorney:* Randy L. Shapira, Esquire, 345 West Sixth Street, Erie, PA 16507

**KRAYESKI, FRANCES J., a/k/a JEAN F. KRAYESKI, a/k/a JEAN FRANCES KRAYESKI, a/k/a FRANCES JEAN KRAYESKI,  
deceased**

Late of Conneaut Township, Erie County, Pennsylvania  
*Executor:* John R. Krayseski, c/o Barbara Entwistle, Esquire, ENTWISTLE & ROBERTS, PC, 37 West Middle Street, Gettysburg, PA 17325  
*Attorney:* Barbara Entwistle, Esquire, ENTWISTLE & ROBERTS, PC, 37 West Middle Street, Gettysburg, PA 17325

**PERRY, DOMINIC S.,  
deceased**

Late of the City of Erie, Erie County, Erie, PA  
*Executrix:* Michelle L. Perry, c/o 33 East Main Street, North East, Pennsylvania 16428  
*Attorney:* Robert J. Jeffery, Esq., Knox McLaughlin Gornall & Sennett, P.C., 33 East Main Street, North East, Pennsylvania 16428

**PHILLIPS, JEANINE, a/k/a JEANINE KREMIN PHILLIPS, a/k/a JEANINE VAN KOOT,  
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Administrator C.T.A.:* Justin N. Van Koot, 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

**RANDOLPH, DORIS D.,  
deceased**

Late of Harborcreek, Erie, PA  
*Co-Executors:* Blake K. and Andrea L. Mayo, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501



**SHELDON, WILLIAM J., a/k/a  
WILLIAM SHELDON,  
deceased**

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

*Executor:* David A. Sheldon,  
1533 Fairmont Parkway, Erie,  
Pennsylvania 16510

*Attorney:* Grant M. Yochim, Esq.,  
24 Main St. E., P.O. Box 87,  
Girard, PA 16417

**SMITH, MADELINE M., a/k/a  
MADELINE MARIE SMITH,  
deceased**

Late of Millcreek, Erie, PA

*Executrix:* Jesse Marie Quinn, 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

**SOKOLOWSKI, ANNIE D.,  
deceased**

Late of the Borough of Union City,  
County of Erie, Pennsylvania

*Executrix:* Jean M. Stepnowski,  
c/o Thomas J. Ruth, Esq., 43 North  
Main Street, Union City, PA 16438

*Attorney:* Thomas J. Ruth, Esq.,  
43 North Main Street, Union City,  
PA 16438

**YATES, JUDY B.,  
deceased**

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

*Executor:* John E. Yates, 6842  
Sterrettania Road, Fairview, PA  
16415

*Attorney:* James R. Steadman,  
Esq., 24 Main St. E., P.O. Box 87,  
Girard, PA 16417

**ZURAVLEF, JAMES,  
deceased**

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

*Executrix:* Judith A. Hellyer, c/o  
MacDonald, Illig, Jones & Britton  
LLP, 100 State Street, Suite 700,  
Erie, PA 16507-1459

*Attorney:* Thomas J. Buseck,  
Esquire, MacDonald, Illig, Jones  
& Britton LLP, 100 State Street,  
Suite 700, Erie, PA 16507-1459



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