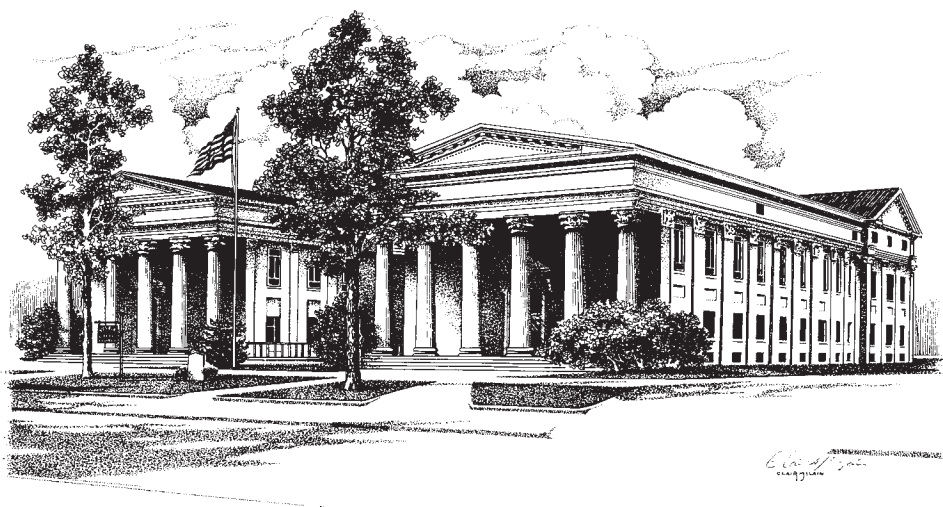


Erie County Legal Journal

April 5, 2019

Vol. 102 No. 14



102 ERIE 54 - 60
Commonwealth v. Draszkiewicz

Erie County Legal Journal

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

Managing Editor: Megan E. Black

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Erie County Bar Association

Calendar of Events and Seminars

FRIDAY, APRIL 5, 2019

ECBA Live Seminar

*Everything You Ever Wanted To Know About
Impaired Lawyers... * (...but were to afraid to ask)*

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 ethics

THURSDAY, APRIL 11, 2019

ECBA Live Seminar

*Memory Skills for Lawyers: A seminar for
any lawyer who has ever forgotten anything*

The Will J. Schaaf & Mary B. Schaaf Education Center

8:00 a.m. - Registration

8:30 a.m. - Noon - Seminar

\$140 (ECBA members/their non-attorney staff)

\$180 (non-members)

2 hours substantive, 1 hour ethics

FRIDAY, APRIL 19, 2019

Good Friday Holiday

ECBA Office Closed

Erie County and Federal Courthouses Closed

MONDAY, APRIL 22, 2019

ECBA Live Seminar

Understanding and Navigating Medicare:

*What you need to know when advising clients and
when making personal, pre-retirement decisions*

The Will J. Schaaf & Mary B. Schaaf Education Center

8:00 a.m. - Registration

8:30 p.m. - 1:15 p.m. - Seminar

\$179 (ECBA members/their non-attorney staff)

\$240 (non-members)

4 hours substantive

THURSDAY, APRIL 25, 2019

Defense Bar Section Meeting

4:00 p.m.

ECBA Headquarters

MONDAY, APRIL 29, 2019

ECBA Board of Directors Meeting

Noon

ECBA Headquarters

THURSDAY, MAY 2, 2019

AKT Kid Connection Kick Off Event

5:30 p.m. - 7:00 p.m.

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COMMONWEALTH OF PENNSYLVANIA

v.

RONALD DRASKIEWICZ, JR.

CRIMINAL PROCEDURE / POST-CONVICTION RELIEF ACT

When a PCRA Petition is untimely, the petitioner, has the burden to plead and prove that one of the three exceptions set forth in 42 Pa.C.S. § 9545(b)(1)(i)-(iii) applies.

CRIMINAL PROCEDURE / POST-CONVICTION RELIEF ACT

To meet the “after-recognized constitutional right” timeliness exception, two requirements must be satisfied: (1) the right asserted is a constitutional right that was recognized by the United States Supreme Court or the Pennsylvania Supreme Court after the time prescribed in this section; and (2) the right has been held to apply retroactively.

CRIMINAL PROCEDURE / POST-CONVICTION RELIEF ACT

A new constitutional rule applies retroactively in a collateral proceeding only if: (1) the rule is substantive, i.e. rules that decriminalize conduct or prohibit punishment against a class of persons, or (2) the rule is a watershed rule of criminal procedure implicating the fundamental fairness and accuracy of the criminal proceeding.

CRIMINAL PROCEDURE / POST-CONVICTION RELIEF ACT

To date, the Pennsylvania Supreme Court has not expressly held that *Commonwealth v. Muniz*, 164 A.3d 1189 (Pa. 2017) applies retroactively.

CRIMINAL PROCEDURE / POST-CONVICTION RELIEF ACT

A second or subsequent petition for post-conviction relief will not be entertained unless a strong prima facie showing is offered to demonstrate that a miscarriage of justice may have occurred.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA

CRIMINAL DIVISION

No. CR 1094 of 1996

Appearances: William J. Hathaway, Esq., for Appellant Ronald Draskiewicz, Jr.
John H. Daneri, Erie County District Attorney, for Appellee Commonwealth of Pennsylvania

OPINION

Domitrovich, J.

September 7, 2018

The instant matter is currently before the Pennsylvania Superior Court on the Appeal of Ronald Draskiewicz, Jr. (“Appellant”) from this Trial Court’s Order dated June 28, 2018, wherein this Trial Court dismissed Appellant’s second Petition for Post Conviction Collateral Relief (“PCRA Petition”) as patently untimely and since Appellant failed to satisfy any of the timeliness exceptions under 42 Pa.C.S. § 9545(b)(1). As such, this Trial Court had no jurisdiction to reach the merits of Appellant’s untimely PCRA Petition. *See Commonwealth v. Taylor*, 933 A.2d 1035, 1038 (Pa. Super. 2007) (“Pennsylvania law makes clear no court has jurisdiction to hear an untimely PCRA petition.”). Moreover, said PCRA Petition stated no grounds for relief to be granted under the Post-Conviction Relief Act.

On appeal, Appellant raises two issues: (1) whether the Pennsylvania Supreme Court's decision in *Commonwealth v. Muniz*, 164 A.3d 1189 (Pa. 2017) may serve as a basis for invoking the statutory "after-recognized constitutional right" exception to the timeliness requirement under 42 Pa.C.S. § 9545(b)(1)(iii) so as to confer jurisdiction upon this Trial Court and the Pennsylvania Superior Court; and (2) whether this Trial Court erred in "failing to grant PCRA relief in the form of foreclosing any application of registration or reporting requirements upon him under SORNA as violative of ex post factor considerations as expounded in" *Commonwealth v. Muniz*, 164 A.3d 1189 (Pa. 2017). This Trial Court provides the following analysis:

On May 24, 1996, the District Attorney's Office filed a Criminal Information, charging Appellant with Rape in violation of 18 Pa.C.S. § 3121(a)(1); Burglary in violation of 18 Pa.C.S. § 3502(a); Robbery in violation of 18 Pa.C.S. § 3701(a)(1); Aggravated Assault in violation of 18 Pa.C.S. § 2702(a); IDSI in violation of 18 Pa.C.S. § 3123(a)(1); Criminal Trespass in violation of 18 Pa.C.S. § 3503(a)(1)(i); Unlawful Restraining in violation of 18 Pa.C.S. § 2902(1); and Terroristic Threats in violation of 18 Pa.C.S. § 2706. Said Criminal Information alleged Appellant committed the foregoing criminal offenses on or about December 31, 1994.

On November 15, 1996, a duly empaneled jury returned guilty verdicts against Appellant for all of the foregoing criminal offenses. On December 19, 1996, this Trial Court sentenced Appellant as follows:

- Count 1 (Rape): four (4) to ten (10) years of incarceration, with 278 days of credit for time served, along with costs, restitution, and a \$500.00 fine.
- Count 2 (Burglary): two (2) to ten (10) years of incarceration concurrent to Count 1.
- Count 3 (Robbery): four (4) to ten (10) years of incarceration consecutive to Count 1.
- Count 4 (Aggravated Assault): four (4) to ten (10) years of incarceration consecutive to Count 3.
- Count 5 (IDSI): three (3) to ten (10) years of incarceration consecutive to Count 4.
- Count 6 (Criminal Trespass): merged with Count 2.
- Count 7 (Unlawful Restraining): merged with Count 1.
- Count 8 (Terroristic Threats): five (5) years of probation consecutive to Count 5.

By Order dated August 21, 2013, the Pennsylvania Board of Probation and Parole granted Appellant parole, and Appellant was released from the State Correctional Institution of Mercer on January 7, 2018. (*See* Order to Release on Parole/Reparole).

On March 14, 2018, Appellant filed *pro se* his "Motion to Vacate Illegal Sentence," which this Trial Court considered as Appellant's second Petition for Post-Conviction Collateral Relief. By Order dated March 21, 2018, this Trial Court appointed William J. Hathaway, Esq., as PCRA counsel and directed Attorney Hathaway to supplement or amend Appellant's first PCRA Petition within thirty days. On April 19, 2018, Attorney Hathaway filed a Supplement to Motion for Post-Conviction Collateral Relief. By Order dated April 23, 2018, this Trial Court directed the Commonwealth to respond to the Supplement to Motion for Post-Conviction Collateral Relief within thirty days. On May 23, 2018, Assistant District Attorney D. Robert Marion filed Commonwealth's Response to Petitioner's Petition under the Post-Conviction Relief Act and Supplement to Motion for Post Conviction Collateral Relief.

On May 31, 2018, this Trial Court notified Appellant of this Trial Court's intention to

dismiss Appellant's second PCRA Petition as patently untimely and directed Appellant to submit his Objections within twenty days. However, Appellant did not file his Objections within twenty days of the date of said Notice. By Order dated June 28, 2018, this Trial Court dismissed Appellant's second PCRA Petition.

On July 26, 2018, Appellant's counsel filed Appellant's Notice of Appeal. This Trial issued its 1925(b) Order directing counsel for Appellant to file a concise statement of the matters complained of on appeal within twenty-one days from the date of said Order. Thereafter, on August 14, 2018, counsel for Appellant filed Appellant's Concise Statement of Matters Complained of on Appeal ("Concise Statement").

The first issue is whether the Pennsylvania Supreme Court's decision in *Commonwealth v. Muniz*, 164 A.3d 1189 (Pa. 2017) may serve as a basis for invoking the statutory "after-recognized constitutional right" exception to the timeliness requirement under 42 Pa.C.S. § 9545(b)(1)(iii) so as to confer jurisdiction upon this Trial Court and the Pennsylvania Superior Court. Under the Post-Conviction Relief Act, a PCRA petition, including a second or subsequent PCRA petition, must be filed within one year of the date that judgment becomes final unless the petition alleges and the petitioner proves one of the following exceptions applies:

- (i) The failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the Constitution or laws of this Commonwealth or the Constitution or laws of the United States;
- (ii) The facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence; or
- (iii) The right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of Pennsylvania after the time period provided in this section and has been held by that court to apply retroactively.

42 Pa.C.S. § 9545(b)(1)(i)-(iii). Any PCRA Petition invoking any of the above exceptions to the timeliness requirement must be filed within sixty days of the date the claim could have been presented. 42 Pa.C.S. § 9545(b)(2). The Pennsylvania Supreme Court has clearly stated where a PCRA Petition is untimely, the petitioner, by statute, has the burden to plead in the petition and prove that one of the three exceptions set forth in 42 Pa.C.S. § 9545(b)(1)(i)-(iii) applies. *Commonwealth v. Beasley*, 741 A.2d 1258, 1261 (Pa. 1999). "That burden necessarily entails an acknowledgment by the petitioner that the PCRA Petition under review is untimely but that one or more of the exceptions apply." *Id.* Thus, the petitioner must allege in his petition and prove that said petition satisfies one of the three exceptions under Section 9545(b)(1)(i)-(iii). *Id.* As the PCRA's timeliness requirements are mandatory and jurisdictional in nature, no court may properly disregard or alter these requirements in order to reach the merits of the claims raised in an untimely PCRA Petition. *Commonwealth v. Taylor*, 933 A.2d 1035, 1042-43 (Pa. Super. 2007).

In the instant PCRA Petition, pursuant to Section 9545(b)(3), Appellant's judgment of

sentence became final on January 21, 1997, when Appellant did not make a timely direct appeal to the Pennsylvania Superior Court. *See* 42 Pa.C.S. § 9545(b)(3); *see also Commonwealth v. Draskiewicz*, 927 WDA 1999 (May 19, 2000). As Appellant filed the instant PCRA Petition on March 14, 2018, more than one year after his judgment of sentence became final, Appellant failed to file timely the instant PCRA Petition. However, Appellant alleges his first PCRA Petition falls within the “after-recognized constitutional right” timeliness exception under Section 9545(b)(1)(iii). (*See* Supplement to Motion for Post Conviction Collateral Relief, filed April 19, 2018). Specifically, Appellant argues the Pennsylvania Supreme Court’s decision in *Commonwealth v. Muniz*, 164 A.3d 1189 (Pa. 2017)¹ serves as a basis for invoking the statutory exception to the timeliness requirement “in that the right and claim . . . asserted was a constitutional right recognized by the Pennsylvania Supreme Court after the time period provided and has been found to apply retroactively.” (*Id.*).

In order for Appellant to allege and prove his otherwise untimely petition satisfies the “after-recognized constitutional right” timeliness exception under Section 9545(b)(1)(iii), Appellant must satisfy two requirements: (1) the right asserted is a constitutional right that was recognized by the United States Supreme Court or the Pennsylvania Supreme Court after the time prescribed in this section; and (2) the right has been held to apply retroactively. *Commonwealth v. Leggett*, 16 A.3d 1144, 1147 (Pa. Super. 2011); *see also Commonwealth v. Abdul-Salaam*, 812 A.2d 497, 501 (Pa. 2002). Thus, Appellant must prove a new constitutional right exists and the right has been held by United States Supreme Court or the Pennsylvania Supreme Court to apply retroactively. *Id.* A new constitutional rule applies retroactively in a collateral proceeding only if (1) the rule is substantive, i.e. rules that decriminalize conduct or prohibit punishment against a class of persons, or (2) the rule is a watershed rule of criminal procedure implicating the fundamental fairness and accuracy of the criminal proceeding. *Commonwealth v. Riggle*, 119 A.3d 1058, 1065 (Pa. Super. 2015) (citing *Whorton v. Bockting*, 549 U.S. 406 (2007)).

Recently, in *Commonwealth v. Murphy*, the Superior Court of Pennsylvania expressly held PCRA petitioners cannot rely on *Muniz* to satisfy the after-recognized constitutional right timeliness exception under Section 9545(b)(1)(iii). 180 A.3d 402 (Pa. Super. 2018). In *Murphy*, the defendant was convicted and later sentenced on November 8, 2007, for involuntary deviate sexual intercourse, sexual assault, and indecent assault. *Id.* at 403. The defendant’s judgment of sentence was affirmed on direct appeal and became final on July 28, 2009. *Id.* The defendant filed his PCRA petition on August 4, 2016, and after the trial court denied his PCRA petition, defendant timely appealed. *Id.* at 404. On appeal, the Superior Court emphasized that before the Superior Court could address the merits of defendant’s PCRA petition, the Superior Court had to examine the timeliness of the defendant’s PCRA petition since “the PCRA time limitations implicate [the Superior Court’s] jurisdiction and may not be altered or disregarded in order to address the merits of a petition.” *Id.* (citing *Commonwealth v. Bennett*, 930 A.2d 1264, 1267 (Pa. 2007)).

The Superior Court in *Murphy* addressed the defendant’s attempt, by invoking the

¹ In *Muniz*, the Pennsylvania Supreme Court held the Sexual Offender Registration and Notification Act’s (“SORNA”) registration provisions were punitive and retroactive application SORNA’s provision violated the *ex post facto* clause of both the federal and Pennsylvania Constitutions. *Commonwealth v. Muniz*, 164 A.3d 1189, 1223 (Pa. 2017).

Pennsylvania Supreme Court’s decision in *Muniz*, to satisfy the after-recognized constitutional right timeliness exception under Section 9545(b)(1)(iii). *Id.* at 405. First, the Superior Court acknowledged the Pennsylvania Superior Court in *Commonwealth v. Rivera-Figueroa*, 174 A.3d 674, 678 (Pa. Super. 2017) previously held *Muniz* “created a substantive rule that retroactively applies in the collateral context.” *Id.* Significantly, however, the Superior Court indicated since the Pennsylvania Supreme Court has not yet held *Muniz* applies retroactively, *Muniz* cannot satisfy the requirements set forth in *Abdul-Salaam*. *Id.*; see also *Abdul-Salaam*, 812 A.2d at 501 (noting the right asserted must have been a constitutional right that was recognized by either the U.S. Supreme Court or the Pennsylvania Supreme Court). Thus, the Pennsylvania Superior Court expressly held *Muniz* may not be relied upon to meet the after-recognized constitutional right timeliness exception under Section 9545(b)(1)(iii). *Murphy*, 180 A.3d at 405.

In the instant case, before this Trial Court can address the merits of Appellant’s PCRA Petition, this Trial Court must examine whether this Trial Court can exercise jurisdiction over Appellant’s untimely filed PCRA Petition. Similar to the defendant in *Murphy* who filed an untimely PCRA petition, the instant PCRA Petition was not filed timely since Appellant’s judgment of sentence became final on January 21, 1997, and Appellant filed his PCRA Petition more than a year later on March 14, 2018. Moreover, as in *Murphy*, here Appellant cited to *Muniz* in an attempt to satisfy the timeliness exception under Section 9545(b)(1)(iii). However, since Appellant’s PCRA Petition is patently untimely, Appellant must show the Pennsylvania Supreme Court has held *Muniz* applies retroactively to meet the timeliness exception under Section 9545(b)(1)(iii). Since the Pennsylvania Supreme Court has yet to issue such a holding, Appellant “cannot rely on *Muniz* to meet that timeliness exception.” See *Murphy*, 180 A.3d at 405.

Moreover, Appellant did not raise his *Muniz* claim “within 60 days of the date the claim could have been presented.” 42 Pa.C.S.A. § 9545(b)(2). Instead, the first time Appellant raised his *Muniz* claim was in his PCRA Petition dated March 14, 2018—almost seven months after the Pennsylvania Supreme Court decided *Muniz* on July 19, 2017. See *Commonwealth v. Boyd*, 923 A.2d 513, 517 (Pa. Super. 2007) (“With regard to an after-recognized constitutional right, ... the sixty-day period begins to run upon the date of the underlying judicial decision.”). Since Appellant has not properly pled the newly-recognized constitutional right exception to the PCRA’s one-year timeliness requirement, this Trial Court does not have jurisdiction to address the merits of Appellant’s untimely PCRA Petition. See *Commonwealth v. Taylor*, 933 A.2d 1035, 1038 (Pa. Super. 2007) (“Pennsylvania law makes clear no court has jurisdiction to hear an untimely PCRA petition.”).

Even assuming *arguendo* this Trial Court has jurisdiction to review the merits of Appellant’s PCRA Petition, Appellant has failed to establish he is entitled to the relief sought therein. Specifically, Appellant contends the holding set forth in *Commonwealth v. Muniz*, 164 A.3d 1189, 1193 (Pa. 2017) “serves as a legal predicate to challenge the legality of the judgment of sentence in terms of requirements imposed under SORNA.” (See Supplement to Motion for Post Conviction Collateral Relief, filed Oct. 18, 2018). The Pennsylvania Legislature enacted the Sexual Offender Registration and Notification Act (“SORNA I”), effective December 20, 2012, which enhanced the registration/reporting requirements for persons, such as the Appellant, who have been convicted of Rape-Forcible Compulsion. However,

in light of the Pennsylvania Supreme Court’s decision in *Muniz*, on February 21, 2018, the Pennsylvania Legislature amended and replaced SORNA I with Act 10 of 2018, HB 631 (“SORNA II”), which addresses the registration/reporting provisions affected by *Muniz*.

Specifically, SORNA II provides the version of Megan’s Law in effect before SORNA II will govern the reporting requirements for sex offenders who committed sex-related crimes before the effective date of SORNA I on December 20, 2012. Thus, pursuant to SORNA II, offenders who committed sex crimes before December 20, 2012, are now subject to the reporting requirements under the version of Megan’s Law in effect at the time of the commission of the offense. In particular, under 42 Pa.C.S. § 9799.54:

(a) Registration.—The following individuals shall register with the Pennsylvania State Police as provided in this subchapter:

(3) An individual who committed a sexually violent offense within this Commonwealth and is an inmate in a State or county correctional facility of this Commonwealth, including a community corrections center or a community contract facility, is being supervised by the Pennsylvania Board of Probation and Parole or county probation or parole . . . shall register for the period of time under section 9799.55. . . .

Section § 9799.55 sets forth the period of registration with respect to Appellant:

(b) Lifetime registration.—The following individuals shall be subject to lifetime registration:

(2) Individuals convicted:

(i)(A) in this Commonwealth of the following offenses, if committed on or after April 22, 1996, but before December 20, 2012:

18 Pa.C.S. § 3121 (relating to rape);

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse) [.]

(B) Individuals convicted within this Commonwealth of an offense set forth in clause (A) who were required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth on or after April 22, 1996, but before December 20, 2012, whose period of registration has not expired.

42 Pa.C.S. § 9799.55(b)(2)(i)(A)-(B).

In the instant case, after a criminal jury trial Appellant was found guilty and convicted of Rape in violation of 18 Pa.C.S. § 3121 and IDSI in violation of 18 Pa.C.S. § 3123 on November 15, 1996. As Appellant is an “individual who committed a sexually violent offense within this Commonwealth” and is currently “being supervised by the Pennsylvania

Board of Probation and Parole” as of August 21, 2013, appellant is required to register as a sexually violent predator under Section 9799.54(3). Moreover, as Appellant was sentenced on December 19, 1996, he was required to register under Megan’s Law which was in effect at that time. Thus, pursuant to Section 9799.55(b)(2) of SORNA II, Appellant is subject to the lifetime registration requirements. Accordingly, Appellant is not entitled to the relief he seeks regarding “the striking of any and all elements of the sentence in regard to requirements imposed under SORNA.” (*See* Supplement to Motion for Post Conviction Collateral Relief, filed Oct. 18, 2018).

Finally, as the instant PCRA Petition was Appellant’s second PCRA Petition, Appellant was also required to comply with the mandates of *Commonwealth v. Lawson*, 549 A.2d 107, 112 (Pa. 1988) and its progeny. *Commonwealth v. Allen*, 732 A.2d 582, 586 (Pa. 1999). The Pennsylvania Supreme Court has held “a second or subsequent petition for post-conviction relief will not be entertained unless a strong prima facie showing is offered to demonstrate that a miscarriage of justice may have occurred.” *Id.* In particular, the Pennsylvania Supreme Court has stated:

[A petitioner] makes a prima facie showing of entitlement to relief only if he demonstrates either that the proceedings which resulted in his conviction were so unfair that a miscarriage of justice occurred which no civilized society could tolerate, or that he was innocent of the crimes for which he was charged.

Id. (citing *Commonwealth v. Szuchon*, 633 A.2d 1098, 1100 (Pa. 1993)). In the instant case, Appellant has failed to argue successfully that his second PCRA Petition satisfies the *Lawson* requirement, in that Appellant has not argued either the proceedings resulting in his conviction were so unfair that a miscarriage of justice occurred or that Appellant is innocent of the crimes charged. As such, Appellant has failed to satisfy the *Lawson* requirement.

Thus, for all of the foregoing reasons, this Trial Court respectfully requests the Pennsylvania Superior Court affirm this Trial Court’s Order dated June 28, 2018.

BY THE COURT

/s/ **Stephanie Domitrovich, Judge**

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

COMMONWEALTH OF PENNSYLVANIA

v.

RONALD DRASKIEWICZ, JR., Appellant

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 1074 WDA 2018

Appeal from the PCRA Order Entered June 28, 2018
in the Court of Common Pleas of Erie County
Criminal Division at No(s): CP-25-CR-0001094-1996

BEFORE: PANELLA, J., SHOGAN, J., and MUSMANNO, J.

MEMORANDUM BY MUSMANNO, J.:

FILED FEBRUARY 28, 2019

Ronald Draskiewicz, Jr. (“Draskiewicz”), appeals from the Order dismissing his second Petition for relief filed pursuant to the Post Conviction Relief Act (“PCRA”). *See* 42 Pa.C.S.A. §§ 9541-9546. We affirm.

On November 15, 1996, following a jury trial, Draskiewicz was found guilty of various crimes, including rape and involuntary deviate sexual intercourse. On December 19, 1996, the trial court sentenced Draskiewicz to an aggregate term of 15 to 40 years in prison, followed by five years of probation. Draskiewicz did not file a direct appeal.

On August 17, 1998, Draskiewicz, *pro se*, filed his first PCRA Petition. The PCRA court appointed Draskiewicz counsel, who filed an Amended Petition. Following an evidentiary hearing, the PCRA court denied Draskiewicz’s Petition, which this Court affirmed. *See Commonwealth v. Draskiewicz*, 759 A.2d 18 (Pa. Super. 2000) (unpublished memorandum), *appeal denied*, 764 A.2d 48 (Pa. 2000).

On March 14, 2018, Draskiewicz, *pro se*, filed the instant PCRA Petition. The PCRA court appointed Draskiewicz counsel, who filed a supplemental Petition. After filing a Pa.R.Crim.P. 907 Notice of Intent to Dismiss, the PCRA court dismissed the Petition without a hearing. Draskiewicz filed a timely Notice of Appeal and a court-ordered Pa.R.A.P. 1925(b) Concise Statement of matters complained of on appeal.

On appeal, Draskiewicz presents the following questions for our review:

A. Whether the PCRA court erred in failing to grant collateral relief under [*Commonwealth v. Muniz*, 164 A.3d 1189 (Pa. 2017)]¹?

B. Whether the PCRA court erred in fin[d]ing the PCRA filing untimely?

Brief for Appellant at 2 (capitalization omitted).

¹ The court in *Muniz* held that SORNA’S registration requirements constitute criminal punishment, as opposed to a mere civil penalty, and therefore, their retroactive application violates the *ex post facto* clause of the U.S. Constitution. *See Muniz*, 164 A.3d at 1192.

We review an order dismissing a petition under the PCRA in the light most favorable to the prevailing party at the PCRA level. This review is limited to the findings of the PCRA court and the evidence of the record. We will not disturb a PCRA court's ruling if it is supported by evidence of record and is free of legal error.

Commonwealth v. Ford, 44 A.3d 1190, 1194 (Pa. Super. 2012) (Citations omitted).

Under the PCRA, any PCRA petition "shall be filed within one year of the date the judgment becomes final." 42 Pa.C.S.A. § 9545(b)(1). A judgment of sentence becomes final "at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review." *Id.* § 9545(b)(3). The PCRA's timeliness requirements are jurisdictional in nature, and a court may not address the merits of the issues raised if the PCRA petition was not timely filed. *Commonwealth v. Albrecht*, 994 A.2d 1091, 1093 (Pa. 2010).

Here, Draszkiewicz's judgment became final on January 20, 1997,² when the time to appeal to this Court expired. *See* Pa.R.A.P. 903(a). Thus, Draszkiewicz had until January 20, 1998, to file a timely PCRA Petition. The current Petition, which was filed on March 14, 2018, is thus facially untimely. *See* 42 Pa.C.S.A. § 9545(b).

However, Pennsylvania courts may consider an untimely petition if the petitioner can explicitly plead and prove one of three exceptions set forth at 42 Pa.C.S.A. § 9545(b)(1) (i)-(iii). Any PCRA Petition invoking one of the exceptions "shall be filed within 60 days of the date the claim could have been presented." *Id.* § 9545(b)(2); *Albrecht*, 994 A.2d at 1094. The PCRA petitioner bears the burden of proving the applicability of one of the exceptions. *Commonwealth v. Edmiston*, 65 A.3d 339, 346 (Pa. 2013).

Draszkiewicz purports to invoke the newly-recognized constitutional right exception at 42 Pa.C.S.A. § 9545(b)(1)(iii), alleging that his sentence is illegal as a result of the Pennsylvania Supreme Court's decision in *Muniz*.

The Pennsylvania Supreme Court filed its decision in *Muniz* on July 19, 2017. Thus, Draszkiewicz was required to file his PCRA petition invoking *Muniz* on or before Monday, September 17, 2017.³ Draszkiewicz filed the instant Petition on March 14, 2018. Consequently, Draszkiewicz cannot invoke a timeliness exception based upon the decision in *Muniz*. *See* 42 Pa.C.S.A. § 9545(b)(2).

Even if Draszkiewicz had filed his Petition within 60 days of the decision in *Muniz*, he has failed to plead and prove the newly-recognized constitutional right exception set forth at subsection 9545(b)(1)(iii). As our Supreme Court has explained, this exception has two requirements:

First, it provides that the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or [the Pennsylvania Supreme Court] after the time provided in this section. Second, it provides that the right "has been held" by "that court" to apply retroactively. **Thus, a petitioner must prove that there is a "new" constitutional right and that the right "has been held" by that court to apply retroactively.**

² Thirty days from December 19, 1996, is Saturday, January 18, 1997. *See* 1 Pa.C.S.A. § 1908 (stating that when the last day of any period of time falls on a Saturday or a Sunday, "such day shall be omitted from the computation. ").

³ The 60th day fell on Sunday, September 16, 2017. Therefore, Draszkiewicz was required to file his Petition by Monday, September 17, 2017. *See* 1 Pa.C.S.A. § 1908.

The language “has been held” is in the past tense. These words mean that the action has already occurred, *i.e.*, “that court” has already held the new constitutional right to be retroactive to cases on collateral review. By employing the past tense in writing this provision, the legislature clearly intended that the right was already recognized at the time the petition was filed.

Commonwealth v. Spatz, 171 A.3d 675, 679 (Pa. 2017) (citation omitted, emphasis added).

This Court has previously recognized that “*Muniz* created a substantive rule that retroactively applies in the collateral context.” *Commonwealth v. Rivera-Figueroa*, 174 A.3d 674, 678 (Pa. Super. 2017). However, because Draszkiewicz’s PCRA Petition is facially untimely (unlike the timely filed first petition at issue in *Rivera-Figueroa*), he must demonstrate that the Pennsylvania Supreme Court has held that *Muniz* applies retroactively in order to satisfy Section 9545(b)(1)(iii). *See Commonwealth v. Murphy*, 180 A.3d 402, 405-06 (Pa. Super. 2018) (recognizing that to invoke the timeliness exception at subsection (iii), the petitioner must demonstrate that the Pennsylvania Supreme Court has held that *Muniz* applies retroactively). To date, the Pennsylvania Supreme Court has not expressly held that *Muniz* applies retroactively. Consequently, Draszkiewicz cannot rely on *Muniz* to meet that timeliness exception.⁴ *See id.*

Because Draszkiewicz failed to timely file his PCRA Petition, and because he has not demonstrated an exception to the PCRA’s timeliness requirement, we affirm the Order of the PCRA court.

Order affirmed.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq.

Prothonotary

Date: 2/28/2019

⁴ Should the Pennsylvania Supreme Court expressly hold that *Muniz* applies retroactively, Draszkiewicz may again petition for PCRA relief within 60 days of that decision.



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CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 10579-19 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Ava Carnahan to Harvey Francis Carnahan.

The Court has fixed the 8th day of July, 2019 at 11:00 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.

Apr. 5

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

An application for registration of the fictitious name Interior Logic Group Property Services, 4500 SE Criterion Ct., Suite 100, Milwaukie, OR 97222 has been filed in the Department of State at Harrisburg, PA, File Date 02/04/2019 pursuant to the Fictitious Names Act, Act 1982-295. The name and address of the person who is a party to the registration is Criterion Supply Inc., 4500 SE Criterion Ct., Suite 100, Milwaukie, OR 97222.

Apr. 5

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an application for registration of a fictitious name, N A R D by Urban Valet, for the conduct of business in Pennsylvania, with the principal place of business being at 106B Evans Street, Hamburg, NY 14075, was approved by the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on March 20, 2019, pursuant to the Act of Assembly of

December 16, 1982, Act 295.

The name and address of the entity owning or interested in the said business is: Urban Valet Dry Cleaners, Inc., 106B Evans Street, Hamburg, NY 14075

Apr. 5

FOREIGN WITHDRAWAL NOTICE

Live Nation Concerts, Inc. with a commercial registered office provider in care of Corporate Creations Network Inc. in Erie County does hereby give notice of its intention to dissolve from doing business in this Commonwealth. Any proceedings directly affecting this company shall be sent to 9348 Civic Center Dr., Beverly Hills, CA 90210. This shall serve as official notice to creditors and taxing authorities.

Apr. 5

INCORPORATION NOTICE

Notice is hereby given that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, on 3/29/19, with respect to a proposed nonprofit corporation, Hands Boston Store NP Corp., which has been incorporated under the Nonprofit Corporation Law of 1988.

Apr. 5

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

**APRIL 26, 2019
AT 10 A.M.**

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

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

John T. Loomis

Sheriff of Erie County

Apr. 5, 12, 19

SALE NO. 2

**Ex. #12575 of 2018
Northwest Bank f/k/a Northwest Savings Bank, Plaintiff
v.**

**Winschel and Berlin Builders, LLC, a Pennsylvania limited liability company, Defendant
DESCRIPTION**

By virtue of a Writ of Execution filed at No. 2018-12575, Northwest Bank f/k/a Northwest Savings Bank v. Winschel and Berlin Builders, LLC, a Pennsylvania limited liability company, owner of property situated in the Township of Millcreek, Erie County, Pennsylvania being commonly known as 5834 Cherry Street Ext., Erie, PA with 0.4017 acreage.

Assessment Map No. (33) 163-619-127
Assessed Value Figure: \$130,896
Improvement thereon: Single family Mark G. Claypool, Esquire
Knox McLaughlin Gornall & Sennett, P.C.
120 West Tenth Street
Erie, Pennsylvania 16501
(814) 459-2800

Apr. 5, 12, 19

SALE NO. 3

**Ex. #12567 of 2018
CITIZENS BANK OF PENNSYLVANIA, Plaintiff
v.
Sharon L. Dlugas, Defendant
DESCRIPTION**

ALL THAT CERTAIN piece or parcel of land situate in the Township of McKean, County of Erie and Commonwealth of Pennsylvania.
BEING KNOWN AS: 9735 Old Route 99, McKean, PA 16426
PARCEL #31-019-070.1-005.00
Improvements: Residential Dwelling.
Gregory Javardian, Esquire
Id. No. 55669
Attorneys for Plaintiff
1310 Industrial Boulevard
1st Floor, Suite 101
Southampton, PA 18966
(215) 942-9690

Apr. 5, 12, 19

SALE NO. 4

**Ex. #12916 of 2018
PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff
v.
PATRICIA L. BLAIR, Defendants
DESCRIPTION**

By virtue of a Writ of Execution No. 2018-12916, PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. PATRICIA L. BLAIR, Defendants
Real Estate: 431 ARDMORE AVENUE, ERIE, PA 16505
Municipality: Township of Millcreek
Erie County, Pennsylvania
Dimensions: 50 x 120
See Deed Book 987, page 108
Tax I.D. (33) 5-5-14
Assessment: \$20,000 (Land)

\$77,500 (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

Apr. 5, 12, 19

SALE NO. 5

**Ex. #11218 of 2014
PNC Bank, National Association, Plaintiff
v.
Karen E. Bolton, AKA Karen E. Smith, Defendants
DESCRIPTION**

By virtue of a Writ of Execution filed to No. 11218-14, PNC Bank, National Association vs. Karen E. Bolton, AKA Karen E. Smith; owner(s) of property situated in The Township of Summitt [sic], County of Erie, Commonwealth of Pennsylvania being 8535 Oliver Road, Erie, PA 16509
0.3616
Assessment Map Number: 40029082013900
Assessed Value figure: \$201,400.00
Improvement thereon: Single Family Dwelling
Kimberly J. Hong, Esquire
Manley Deas Kochalski LLC
P.O. Box 165028
Columbus, OH 43216-5028
614-220-5611

Apr. 5, 12, 19

SALE NO. 7

**Ex. #10421 of 2018
Corry Federal Credit Union, Plaintiff
v.
Carol A. Meerhoff, Defendant
DESCRIPTION**

By virtue of a Writ of Execution filed to No. 10421-18, Corry Federal Credit Union v. Carol A. Meerhoff, Owner(s) of property situated in City of Corry, Erie County, Pennsylvania, being 12 East Congress Street, Corry, PA 16407
ALL THAT CERTAIN piece or parcel of land situate in the Second Ward of the City of Corry, County of Erie and Commonwealth

of Pennsylvania, bounded and described as follows:

BEGINNING at a point in the south line of East Congress Street at a point Seventy-eight (78) feet east of the intersection of the south line of East Congress Street with the east line of North Center Street;

THENCE south parallel to the east line of North Center Street Eighty-nine and eight-tenths (89.8) feet to a point.

THENCE east along the north line of land formerly of C.P. Rogers, Jr. Forty-one and one hundred eighty-five thousandths (41.185) feet, be the same more or less, to the southwest corner of land conveyed to Mary W. Auer by deed recorded in Erie County Deed Book 168, page 499;

THENCE north along the east line of said land formerly of Mary W. Auer, Eighty-nine and eight-tenths (89.8) feet to a point in the south line of East Congress Street;

THENCE west along the south line of East Congress Street Forty-one and seven hundred fifty-three thousandths (41.753) feet, be the same more or less, to the place of beginning.

COMMONLY known as 12 East Congress Street, Corry, Pennsylvania, bearing Erie County Tax Index Number (6) 22-30-2.

BEING the same premises conveyed to Corry Federal Credit Union, by deed dated April 30, 2012 and recorded in Erie County Recorder of Deeds under instrument #2012-011919 on May 10, 2012.

Assessment Map number: 06-022-030.0-002.00

Assessed Value figure: \$68,900.00
Improvement thereon: Residential Dwelling

MARTHA E. VONROSENSTIEL, P.C.
Martha E. Von Rosenstiel, Esq / No 52634

Heather Riloff, Esq / No 309906

Tyler J. Wilk, Esq / No 322247

649 South Ave, Ste 7

Secane, PA 19018

(610) 328-2887

Apr. 5, 12, 19

SALE NO. 8

Ex. #10810 of 2018

PNC BANK, National Association, Plaintiff

v.

William G. Bausum, Sr. a/k/a

William G. Bausum a/k/a

William Bausum, Defendant

DESCRIPTION

By virtue of a Writ of Execution filed to No. 10810-18, PNC Bank, National Association, Plaintiff v. William G. Bausum, Sr. a/k/a William G. Bausum a/k/a William Bausum, owner(s) of property situated in Township of Lawrence Park, Erie County, Pennsylvania being 4135 Bell Street, Township of Lawrence Park, PA 16511
.0320 Acres

Assessment Map number: 29-017-043.0-033.00

Assessed Value figure: 67,135.68

Improvement thereon: Single

Family Residence

Christina J. Pross, Esq.

Robert W. Williams, Esq.

Mattleman, Weinroth & Miller, P.C.

401 Route 70 East, Suite 100

Cherry Hill, NJ 08034

(856) 429-5507

Apr. 5, 12, 19

SALE NO. 9

Ex. #13428 of 2017

Finance of America Reverse LLC, Plaintiff

v.

Amelia Perino, Known Surviving

Heir of Phillip A. Farbo, Phillip

Farbo, Known Surviving Heir

of Phillip A. Farbo, Joseph

Perry, Known Surviving Heir of

Phillip A. Farbo, and Unknown

Surviving Heirs of Phillip A.

Farbo, Defendants

DESCRIPTION

By virtue of a Writ of Execution filed to No. 13428-17, Finance of America Reverse LLC v. Amelia Perino, Known Surviving Heir of Phillip A. Farbo, Phillip Farbo, Known Surviving Heir of Phillip A. Farbo, Joseph Perry, Known Surviving Heir of Phillip A. Farbo, and Unknown Surviving Heirs of Phillip A. Farbo

Amelia Perino, Known Surviving Heir of Phillip A. Farbo, Phillip

Farbo, Known Surviving Heir of Phillip A. Farbo, Joseph Perry, Known Surviving Heir of Phillip A. Farbo, and Unknown Surviving Heirs of Phillip A. Farbo, owners of property situated in the Township of City of Erie, Erie County, Pennsylvania being 3213 Schaper Avenue, Erie, Pennsylvania 16508.

Tax I.D. No. 19061059021100

Assessment: \$109,568.54 .

Improvements: Residential Dwelling

McCabe, Weisberg & Conway, LLC

123 South Broad Street, Suite 1400

Philadelphia, PA 19109

215-790-1010

Apr. 5, 12, 19

SALE NO. 10

Ex. #13057 of 2018

DLJ Mortgage Capital, Inc., Plaintiff

v.

Crystal L. Drain and Norman

Davis, Defendants

DESCRIPTION

By virtue of a Writ of Execution filed to No. 2018-13057, DLJ Mortgage Capital, Inc. vs. Crystal L. Drain and Norman Davis, owners of property situated in North East Township, Erie County, Pennsylvania being 4180 South Washington Street, North East, PA 16428

1626 Square Feet, 0.2590 Acres

Assessment Map number: 37023091001401

Assessed Value figure: \$121,620.00

Improvement thereon: Residential Dwelling

Roger Fay, Esquire

1 E. Stow Road

Marlton, NJ 08053

(856) 482-1400

Apr. 5, 12, 19

SALE NO. 11

Ex. #10053 of 2016

Deutsche Bank National Trust Company, as Trustee, in trust for registered Holders of Long Beach Mortgage Loan Trust 2005-2, Asset-Backed Certificates, Series 2005-2, Plaintiff

v.

Eric A. Sonney aka Eric Sonney and Emily L. Sonney aka Emily

**Sonney, Defendants
DESCRIPTION**

By virtue of a Writ of Execution filed to No. 10053-16, Deutsche Bank National Trust Company, as Trustee, in trust for registered Holders of Long Beach Mortgage Loan Trust 2005-2, Asset-Backed Certificates, Series 2005-2 vs. Eric A. Sonney aka Eric Sonney and Emily L. Sonney aka Emily Sonney, owners of property situated in Greene Township, Erie County, Pennsylvania being 10246 Etter Rd., Waterford, PA 16441
1728 Square Feet, 2.0000 Acres
Assessment Map number: 25014056001203
Assessed Value figure: \$217,290.00
Improvement thereon: Residential Dwelling
Roger Fay, Esquire
1 E. Stow Road
Marlton, NJ 08053
(856) 482-1400

Apr. 5, 12, 19

SALE NO. 12

Ex. #12291 of 2018
Wells Fargo Bank, NA, Plaintiff
v.

Marcia A. Popovich, Defendant(s)
DESCRIPTION

By virtue of a Writ of Execution filed to No. 12291-18, Wells Fargo Bank, NA vs. Marcia A. Popovich Amount Due: \$70,174.89
Marcia A. Popovich, owner(s) of property situated in ERIE CITY, Erie County, Pennsylvania being 1249 East 31ST Street, Erie, PA 16504-1482
Dimensions: 75 X 130.25
Assessment Map number: 18051006021500
Assessed Value: \$66,510.00
Improvement thereon: residential Phelan Hallinan Diamond & Jones, LLP
One Penn Center at Suburban Station, Suite 1400
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103-1814
(215) 563-7000

Apr. 5, 12, 19

SALE NO. 13

Ex. #11872 of 2018
NATIONSTAR MORTGAGE
LLC D/B/A CHAMPION

**MORTGAGE COMPANY,
Plaintiff**

v.

**UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS AND
ALL PERSONS, FIRMS OR
ASSOCIATIONS CLAIMING
RIGHT, TITLE OR INTEREST
FROM OR UNDER BETH
ANN BASSING, DECEASED;
THERESA BASSING, IN HER
CAPACITY AS HEIR OF BETH
ANN BASSING, DECEASED,
Defendant(s)**

DESCRIPTION

ALL THOSE CERTAIN LOTS OR
PIECES OF GROUND SITUATE
IN THE CITY OF ERIE, ERIE
COUNTY, PENNSYLVANIA:
BEING KNOWN AS: 2514 EAST
42ND STREET, ERIE, PA 16510
PARCEL NUMBER:
18052056021100
IMPROVEMENTS:
RESIDENTIAL PROPERTY
RAS Citron, LLC
Robert Crawley, Esq.
Attorney ID No. 319712
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
855-225-6906

Apr. 5, 12, 19

SALE NO. 14

Ex. #12780 of 2017
REVERSE MORTGAGE
SOLUTIONS INC, Plaintiff
v.

**ROBERT D. BRUNO, KNOWN
HEIR OF ROBERT R. BRUNO;
RUSSELL J. BRUNO, KNOWN
HEIR OF ROBERT R. BRUNO;
RICHARD F. BRUNO,
KNOWN HEIR OF ROBERT R.
BRUNO; ROBIN J. FIGURSKI,
KNOWN HEIR OF ROBERT R.
BRUNO; UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS AND
ALL PERSONS, FIRMS OR
ASSOCIATIONS CLAIMING
RIGHT, TITLE OR INTEREST
FROM OR UNDER ROBERT R.
BRUNO, Defendant(s)**

DESCRIPTION

ALL THOSE CERTAIN LOTS
OR PIECES OF GROUND
SITUATE IN THE TOWNSHIP
OF MILLCREEK, ERIE COUNTY,
PENNSYLVANIA:

BEING KNOWN AS: 2822
MORNINGSIDE DRIVE, ERIE,
PA 16506
PARCEL NUMBER: 33-55-246-16
IMPROVEMENTS:
RESIDENTIAL PROPERTY
RAS Citron, LLC
Robert Crawley, Esq.
Attorney ID No. 319712
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
855-225-6906

Apr. 5, 12, 19

SALE NO. 15

Ex. #10813 of 2017
NATIONSTAR MORTGAGE
LLC, Plaintiff
v.

**CHRISTINE HILLSTROM,
Defendant(s)**
DESCRIPTION

ALL THOSE CERTAIN LOTS
OR PIECES OF GROUND
SITUATE IN THE TOWNSHIP
OF WAYNE, ERIE COUNTY,
PENNSYLVANIA:
BEING KNOWN AS: 18633
RUSSELL ROAD, WAYNE, PA
16407
PARCEL NUMBER:
49015040000200
IMPROVEMENTS:
RESIDENTIAL PROPERTY
RAS Citron, LLC
Robert Crawley, Esq.,
Attorney ID No. 319712
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
855-225-6906

Apr. 5, 12, 19

SALE NO. 16

Ex. #12358 of 2018
Carrington Mortgage Services,
LLC, Plaintiff
v.

Shirley A. Messenger, Defendant
DESCRIPTION

By virtue of a Writ of Execution filed to No. 2018-12358, Carrington Mortgage Services, LLC vs. Shirley A. Messenger, owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 537 Huron Street assessed as 537-539 Huron Street, Erie, PA 16502
40 X 125
Assessment Map number:

16030027011000
Assessed Value figure: \$33,050.00
Improvement thereon: a residential dwelling
Samantha Gable, Esquire
Shapiro & DeNardo, LLC
Attorney for Movant/Applicant
3600 Horizon Drive, Suite 150
King of Prussia, PA 19406
(610) 278-6800

Apr. 5, 12, 19

SALE NO. 17

Ex. #12687 of 2017

JPMorgan Chase Bank, National Association, Plaintiff

v.

Jason E. Terry and Laura E. Kohl, Defendants

DESCRIPTION

By virtue of a Writ of Execution filed to No. 2017-12687, JPMorgan Chase Bank, National Association vs. Jason E. Terry and Laura E. Kohl, owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 3614 Melrose Avenue, Erie, PA 16508 55X120

Assessment Map number: 19-061-037.0-208.00

Assessed Value figure: \$92,320.00
Improvement thereon: a residential dwelling

Samantha Gable, Esquire
Shapiro & DeNardo, LLC
Attorney for Movant/Applicant
3600 Horizon Drive, Suite 150
King of Prussia, PA 19406
(610) 278-6800

Apr. 5, 12, 19

SALE NO. 18

Ex. #12545 of 2018

Carrington Mortgage Services, LLC, Plaintiff

v.

Deborah L. Vargas and Brian D. Bean, Defendants

DESCRIPTION

By virtue of a Writ of Execution filed to No. 2018-12545, Carrington Mortgage Services, LLC vs. Deborah L. Vargas and Brian D. Bean, owner(s) of property situated in City of Corry, First Ward, Erie County, Pennsylvania being 942 East Main Street, Corry, PA 16407 50X175

Assessment Map number:
05029107000200 and
05029107002200
Assessed Value figure: \$35,070.00
Improvement thereon: a residential dwelling
Samantha Gable, Esquire
Shapiro & DeNardo, LLC
Attorney for Movant/Applicant
3600 Horizon Drive, Suite 150
King of Prussia, PA 19406
(610) 278-6800

Apr. 5, 12, 19

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

BAYLESS, SHIRLEY ANN, a/k/a SHIRLEY A. BAYLESS, deceased

Late of Harborcreek Township, County of Erie and Commonwealth of Pennsylvania
Executrix: Kristi L. Smith
Attorney: Thomas J. Minarcik, Esquire, ELDERKIN LAW FIRM, 150 East 8th Street, Erie, PA 16501

CHAPMAN, WALTER R., deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Executor: Walter R. Chapman, Jr., c/o 2222 West Grandview Blvd., Erie, PA 16506
Attorney: Thomas E. Kuhn, Esquire, QUINN, BUSECK, LEEMHUIS, TOOHEY & KROTO, INC., 2222 West Grandview Blvd., Erie, PA 16506

CHENARD, PHILIP M., a/k/a PHILIP CHENARD, a/k/a PHILIP M. CHENARD, SR., deceased

Late of the Township of Millcreek, Commonwealth of Pennsylvania
Executor: Philip M. Chenard, Jr., c/o Vendetti & Vendetti, 3820 Liberty Street, Erie, Pennsylvania 16509
Attorney: James J. Bruno, Esquire, Vendetti & Vendetti, 3820 Liberty Street, Erie, PA 16509

CROUCH, WALTER WILLIAM, JR., deceased

Late of Erie County
Executor: Jennifer M. Crouch, 1032 Hulton Road, Verona, PA 15147
Attorney: Colin B. May, Esquire, The Estate Planning Centers at The Coulter Law Offices, LLC, 3824 Northern Pike, Suite 801B; One Monroeville Center, Monroeville, PA 15146

GITTRICH, BEVERLY J., deceased

Late of Millcreek Township, Erie County, Commonwealth of Pennsylvania
Executor: Kimberly A. Malangone, c/o Robert G. Dwyer, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Robert G. Dwyer, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

GUILFORD, ROSE M., a/k/a ROSE MARIE GUILFORD, deceased

Late of City of Erie, Erie County, Pennsylvania
Administrator: Tammy Guilford-Scully, 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

HINKLER, DONALD, a/k/a DONALD D. HINKLER, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Lynnette M. Dippel, 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

KEIL, ALLEN L., deceased

Late of the City of Erie in the Commonwealth of PA
Executor: Karen Keil, 4134 Page Street, Erie, PA 16510
Attorney: None

MURPHY, CATHERINE A., a/k/a CATHERINE ANN MURPHY, a/k/a CATHERINE MURPHY, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Margaret R. Murphy
Attorney: Thomas J. Minarcik, Esquire, ELDERKIN LAW FIRM, 150 East 8th Street, Erie, PA 16501

ORMSBEE, PAMELA J., deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Executrix: Barbara J. Hintz, c/o Norman A. Stark, Esquire, Suite 300, 300 State Street, Erie, PA 16507
Attorney: Norman A. Stark, Esquire, MARSH, SPAEDER, BAUR, SPAEDER & SCHAAF, LLP., Suite 300, 300 State Street, Erie, PA 16507

PIRELLO, JEANNE E., a/k/a JEANNE ELIZABETH PIRELLO, a/k/a JEANNE PIRELLO, deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Executrix: Margaret L. Sontag, c/o 3210 West 32nd Street, Erie, Pennsylvania 16506-2702
Attorney: Peter W. Bailey, Esquire, 3210 West 32nd Street, Erie, Pennsylvania 16506-2702

**STEWART, CHARLES I.,
deceased**

Late of Lawrence Park Township,
Erie County, Pennsylvania
Co-Executors: Larry Pennington
and Marjorie Lynn Pennington,
126 Water Street, PO Box 103,
Bruin, PA 16022
Attorney: Andrew M. Menchyk,
Jr., Esq., Stepanian & Menchyk,
LLP, 222 South Main Street,
Butler, PA 16001

**WIENCZKOWSKI,
PATRICIA, a/k/a
PATRICIA A. WIENCZKOWSKI,
deceased**

Late of the Township of Millcreek,
County of Erie, Commonwealth of
Pennsylvania
Executor: Kenneth Behnke,
6044 Buman Road, McKean,
Pennsylvania 16426
Attorney: Grant M. Yochim, Esq.,
24 Main St. E., P.O. Box 87,
Girard, PA 16417

SECOND PUBLICATION

**ALBERT, RANDY P.,
deceased**

Late of the City of Erie, County
of Erie
Administrator: Matthew P. Albert,
c/o Barbara J. Welton, Esquire,
2530 Village Common Dr., Suite
B, Erie, PA 16505
Attorney: Barbara J. Welton,
Esquire, 2530 Village Common
Dr., Suite B, Erie, PA 16505

**ANTHONY, DARLE.,
deceased**

Late of City of Erie, Erie County,
Commonwealth of Pennsylvania
Executrix: Linda Anthony, c/o 120
W. 10th Street, Erie, PA 16501
Attorney: Christine Hall McClure,
Esq., Knox McLaughlin Gornall &
Sennett, P.C., 120 West 10th Street,
Erie, PA 16501

**DILLEY, AVADEAN,
deceased**

Late of the Borough of Union City,
County of Erie, Commonwealth of
Pennsylvania
Co-Executors: Steven Wilkins
and Cindy Wilkins, c/o Thomas
J. Ruth, Esq., 224 Maple Avenue,
Corry, PA 16407
Attorney: Thomas J. Ruth, Esq.,
224 Maple Avenue, Corry, PA
16407

**JUCHNO, LARRY WALLACE,
a/k/a LARRY W. JUCHNO, a/k/a
LARRY JUCHNO,
deceased**

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

**LAWRENCE, ROSE MARIE,
a/k/a ROSEMARIE LAWRENCE,
deceased**

Late of Millcreek Township,
County of Erie, Pennsylvania
Executor: Thomas David
Lawrence, c/o 150 East 8th Street,
Erie, PA 16501
Attorney: Gregory L. Heidt,
Esquire, 150 East 8th Street, Erie,
PA 16501

**LIEB, JAMES F.,
deceased**

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

**MEYER, MARY JANE,
deceased**

Late of the Township of Millcreek,
County of Erie and Commonwealth
of Pennsylvania
Executor: Jack H. Meyer, 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

**MURPHY, ELIZABETH,
a/k/a ELIZABETH HELENE
MURPHY, a/k/a ELIZABETH H.
MURPHY,
deceased**

Late of the City of Erie, Erie
County, PA
Executor: Patrick J. Coyne, 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

**NYBERG, LINDA J.,
deceased**

Late of the City of Erie, County
of Erie
Executor: Stephanie Wood, c/o
Barbara J. Welton, Esquire, 2530
Village Common Dr., Suite B,
Erie, PA 16505
Attorney: Barbara J. Welton,
Esquire, 2530 Village Common
Dr., Suite B, Erie, PA 16505

**SNYDER, JOHN P.,
deceased**

Late of 3300 Baer Beach Road,
Erie, PA 16505
Executrix: Mary Jude Duncan,
11600 Clifton Drive, North
Huntingdon, PA 15642
Attorney: William C. Price, Jr.,
Esquire, Price & Associates, P.C.,
2005 Noble Street, Pittsburgh,
PA 15218

**SVETZ, MARY ANN,
deceased**

Late of the Township of Wayne,
County of Erie, Commonwealth
of Pennsylvania
Executor: Stephen Svetz, c/o Paul
J. Carney, Jr., Esq., 224 Maple
Avenue, Corry, PA 16407
Attorney: Paul J. Carney, Jr.,
Esq., 224 Maple Avenue, Corry,
PA 16407

**THOMAS, GLENN R., a/k/a
GLENN ROBERT THOMAS,
deceased**

Late of Township of Millcreek,
Erie County, Commonwealth of
Pennsylvania
Executrix: Ellen T. Bane, c/o 120
W. 10th St., Erie, PA 16501
Attorney: Christine Hall McClure,
Esq., Knox McLaughlin Gornall &
Sennett, P.C., 120 West 10th Street,
Erie, PA 16501

THIRD PUBLICATION

**BARCZYNSKI, MARCELLA,
a/k/a MARCELLA Z.
BARCZYNSKI, a/k/a MARCELLA
Z. RYAN BARCZYNSKI,
deceased**

Late of City of Erie, County
of Erie, Commonwealth of
Pennsylvania
Executrix: Jennifer Kehl, 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

**BATTERSBY, ALICE J.,
deceased**

Late of Township of Millcreek,
Erie County, Commonwealth of
Pennsylvania
Executrix: Dawn C. Carstensen,
c/o 120 W. 10th Street, Erie, PA
16501
Attorney: Christine Hall McClure,
Esq., Knox McLaughlin Gornall &
Sennett, P.C., 120 West 10th Street,
Erie, PA 16501

**BORT, MIKKI D.,
deceased**

Late of the Borough of Albion,
County of Erie, Commonwealth
of Pennsylvania
Administrator: Cody A. Bort, 5090
Chambers Hill Road, Harrisburg,
PA 17111
Attorney: Valerie H. Kuntz, Esq.,
24 Main St. E., P.O. Box 87,
Girard, PA 16417

**BRICKER, ALICE M.,
deceased**

Late of the Township of Conneaut,
Erie County, Pennsylvania
Administrator: Alan Bricker, 24
2nd Ave., Albion, PA 16401
Attorney: None

**BROWN, MARJORIE E., a/k/a
MARJORIE BROWN,
deceased**

Late of the Township of Millcreek,
County of Erie and Commonwealth
of Pennsylvania
Executrix: Maureen K. Trott, 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

**BUCZYNSKI, GLORIA J., a/k/a
GLORIA JEAN BUCZYNSKI,
a/k/a GLORIA BUCZYNSKI,
deceased**

Late of the City of Erie, County of
Erie, State of Pennsylvania
Executor: Joseph E. Buczynski,
c/o 337 West 10th Street, Erie,
PA 16502
Attorneys: THE FAMILY LAW
GROUP, LLC, 337 West 10th
Street, Erie, PA 16502

**FERRINGER, NEIL C., a/k/a
NEIL FERRINGER,
deceased**

Late of the Township of North East,
County of Erie, Commonwealth of
Pennsylvania
Executor: William J. Ferringer,
PO Box 87, Sherman, New York,
14781
Attorney: Grant M. Yochim, Esq.,
24 Main St. E., P.O. Box 87,
Girard, PA 16417

**KYSOR, THOMAS H., a/k/a
TOM KYSOR,
deceased**

Late of the City of Erie,
Pennsylvania
Executor: B. Scott Seidler, 336
Sandy Point Road, Emlenton,
PA 16373
Attorney: Ronald W. Coyer,
Esquire, S.R. LAW, LLC, 631
Kelly Blvd., P.O. Box 67, Slippery
Rock, PA 16057

**MELE, ALAN J.,
deceased**

Late of Erie, Erie County,
Pennsylvania
Administratrix: Cheryl Ann Mele,
c/o Peter J. Sala, Esquire, 731
French Street, Erie, PA 16501
Attorney: Peter J. Sala, Esquire,
731 French Street, Erie, PA 16501

**MONAHAN, MARY
CONSTANCE,
deceased**

Late of City of Erie
Executor: Michael M. Monahan,
c/o 246 West 10th Street, Erie,
PA 16501
Attorney: Evan E. Adair, Esq., 246
West 10th Street, Erie, PA 16501

**REVOK, ANNE,
deceased**

Late of the City of Erie,
Pennsylvania
Administrator: John Revak, c/o
731 French Street, Erie, PA 16501
Attorney: Angelo P. Arduini, Esq.,
731 French Street, Erie, PA 16501

**SZUMINSKI, FRANK P., a/k/a
FRANK PHILLIP SZUMINSKI,
deceased**

Late of the Township of Millcreek,
Erie County, Pennsylvania
Executor: Gary P. Szuminski, 2087
SW Mooring Drive, Palm City,
FL 34990
Attorney: Gary J. Shapira, Esquire,
305 West Sixth Street, Erie, PA
16507

**TAYLOR, ROSE MARY, a/k/a
ROSE M. TAYLOR, a/k/a
ROSE TAYLOR,
deceased**

Late of the Township of
Springfield, County of Erie,
Commonwealth of Pennsylvania
Administratrix: Pamela Mead,
2479 Nursery Road, Lake City,
Pennsylvania 16423
Attorney: Grant M. Yochim, Esq.,
24 Main St. E., P.O. Box 87,
Girard, PA 16417

**WAXHAM, MARVIN E., SR.,
a/k/a MARVIN E. WAXHAM,
deceased**

Late of Lake City Borough,
County of Erie, Commonwealth
of Pennsylvania
Executrix: Elizabeth F. Jobczynski,
22 Bainbridge Way, Bluffton, SC,
29910
Attorney: None

**WILLIAMS, MARK J.,
deceased**

Late of the City of Erie, County
of Erie and Commonwealth of
Pennsylvania
Executrix: Carol Drury, c/o 2222
West Grandview Blvd., Erie, PA
16506
Attorney: Thomas E. Kuhn,
Esquire, QUINN, BUSECK,
LEEMHUIS, TOOHEY &
KROTO, INC., 2222 West
Grandview Blvd., Erie, PA 16506

TRUST NOTICES

Notice is hereby given of the
administration of the Trust set forth
below. All persons having claims
or demands against the decedent
are requested to make known the
same and all persons indebted to
said decedent are required to make
payment without delay to the trustees
or attorneys named below:

**WINGERTER, ROBERT J., a/k/a
ROBERT JAMES WINGERTER,
deceased**

Late of the City of Erie, County
of Erie and Commonwealth of
Pennsylvania
Trustees: Robert Wingerter and
Anne Marie Burrows
Attorney: H. Valentine Holz II,
Esquire, The Holz Law Firm, 8331
Edinboro Road, Erie, PA 16509



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Dickie, McCamey & Chilcote, P.C.
100 State Street, Suite 508
Erie, PA 16507 tbrasco@dmclaw.com

KRISTA A. OTT814-881-9021
6270 Red Pine Lane
Erie, PA 16506 kristaott@gmail.com

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