



VOL. 104
NO. 31



104
ERIE



JULY 30
2021

ERIE COUNTY LEGAL JOURNAL

OPINION
INSIDE

104 ERIE 207-214
Commonwealth v. Gordon

INDEX

**NOTICE TO THE
PROFESSION**.....4

OPINION..... 7

COURT OF COMMON PLEAS

Change of Name Notice..... 21

Fictitious Name Notices..... 21

Legal Notices..... 21

Sheriff Sale.....22

ORPHAN'S COURT

Estate Notices.....25

**CHANGES IN CONTACT
INFORMATION OF
ECBA MEMBERS**..... 29

WEEKLY WRAP-UP..... 31

ON THE COVER

MEETING, Red Mass
Committee

MEETING, Young Lawyers
Division

MEETING, LRIS Proposed
Model Rules Update

ERIE COUNTY LEGAL JOURNAL

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

Managing Editor: Megan E. Anthony

PLEASE NOTE: NOTICES MUST BE RECEIVED AT THE ERIE
COUNTY BAR ASSOCIATION OFFICE BY 3:00 P.M. THE
FRIDAY PRECEDING THE DATE OF PUBLICATION.

All legal notices must be submitted in typewritten form
and are published exactly as submitted by the advertiser.
The Erie County Bar Association will not assume any
responsibility to edit, make spelling corrections, eliminate
errors in grammar or make any changes in content.

The *Erie County Legal Journal* makes no representation
as to the quality of services offered by an advertiser in
this publication. Advertisements in the *Erie County Legal
Journal* do not constitute endorsements by the Erie County
Bar Association of the parties placing the advertisements
or of any product or service being advertised.

ERIE COUNTY LEGAL JOURNAL is published every
Friday for \$57.00 per year (\$1.50 single issues/\$5.00 special
issues, i.e. Seated Tax Sales). Owned and published by the
Erie County Bar Association (Copyright 2021©), 429 West
6th St., Erie, PA 16507 (814/459-3111). POSTMASTER:
Send address changes to THE ERIE COUNTY LEGAL
JOURNAL, 429 West 6th St., Erie, PA 16507-1215.

ERIE COUNTY BAR ASSOCIATION CALENDAR OF EVENTS AND SEMINARS

TUESDAY, AUGUST 3, 2021

ADR Committee Meeting
Noon
The Will J. Schaaf & Mary B. Schaaf
Education Center live (must RSVP)
or via Zoom

WEDNESDAY, AUGUST 4, 2021

Diversity & Inclusion Education
Subcommittee Meeting
Noon
ECBA Headquarters live (must RSVP)
or via Zoom

THURSDAY, AUGUST 5, 2021

Diversity & Inclusion Data
Subcommittee Meeting
Noon
ECBA Headquarters live (must RSVP)
or via Zoom

FRIDAY, AUGUST 6, 2021

ECLF Bocce Tournament Committee Meeting
Noon
ECBA Headquarters live (must RSVP)
or via Zoom

MONDAY, AUGUST 9, 2021

Wills for Heroes Meeting
Noon
ECBA Headquarters live (must RSVP)
or via Zoom

TUESDAY, AUGUST 10, 2021

Erie Gives Day
8:00 a.m. - 8:00 p.m.
Please consider a donation to AKT
and/or Robert's Scholarship
www.eriegives.org

TUESDAY, AUGUST 10, 2021

Bankruptcy Section Meeting
Noon
ECBA Headquarters live (must RSVP)
or via Zoom

WEDNESDAY, AUGUST 11, 2021

ECBA Live Lunch-n-Learn Seminar
*Ethical Considerations in Helping a
Low-Income Ex-Offender Apply for a Pardon*
The Will J. Schaaf & Mary B. Schaaf
Education Center live or via Zoom
11:45 a.m. - Registration
12:00 - 1:00 p.m. - Seminar
\$47 (ECBA members/their non-attorney staff)
\$60 (non-members)
1 hour ethics
Click link for details
[https://www.eriebar.com/events/public-
registration/1730](https://www.eriebar.com/events/public-registration/1730)

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

2021 BOARD OF DIRECTORS

Nicholas R. Pagliari, *President*
Jennifer K. Fisher, *First Vice President*
J. Timothy George, *Second Vice President*
George Joseph, *Past President*
S. Craig Shamburg, *Treasurer*
Matthew J. Lager, *Secretary*

Emily S. Antolik
Alexander K. Cox
Jonathan M. D'Silva
Catherine Moodey Doyle
Maria Goellner
Elizabeth A. Hirz
Michael P. Kruszewski
Jamie R. Schumacher
John J. Shimek, III
William S. Spers



IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
MOTION COURT DATES FOR JUDGE THOMAS P. AGRESTI
ERIE AND PITTSBURGH DIVISION CASES
AUGUST 2021 NOTICE

The following is a list of **August 2021, September 2021 and October 2021** motion court dates and times to be used for the scheduling of motions pursuant to *Local Rule 9013-5(a)* before **Judge Thomas P. Agresti** in the Erie and Pittsburgh Divisions of the Court. The use of these dates for scheduling motions consistent with the requirements of *Local Rule 9013-5(a)* and Judge Agresti's *Procedure B(1)-(3)* summarized below and on Judge Agresti's webpage at: www.pawb.uscourts.gov.

The motions will now be heard by the Zoom Video Conference Application. When using the below self-scheduling dates to schedule a matter please include the following Zoom Meeting link in your Notice: <https://www.zoomgov.com/j/16021303488>, or alternatively, to attend and use the following Meeting ID: 160 2130 3488. To join the Zoom hearing please initiate and use the link 15 minutes prior to your scheduled hearing time. All Attorneys and Parties may only appear via the Zoom Video Conference Application and must comply with the Amended Notice of Temporary Modification of Appearance Procedures Before Judge Thomas P. Agresti, as updated on June 10, 2020.

Counsel for a moving party shall select one of the following dates and times for matters subject to the "self-scheduling" provisions of the *Local Bankruptcy Rules* and the Judge's procedures, insert same on the notice of hearing for the motion, and serve the notice on all respondents, trustee(s) and parties in interest. Where a particular type of motion is listed at a designated time, filers shall utilize that time, *only*, for the indicated motions(s) *unless*: (a) special arrangements have been approved in advance by the Court, or, (b) another motion in the same bankruptcy case has already been set for hearing at a different time and the moving party chooses to use the same date and time as the previously scheduled matter.

SCHEDULE CHAPTERS 13 & 12 MOTIONS ON:

Select the following times, EXCEPT for the specific matters to be scheduled at 11:30 a.m.:

Wednesday, August 11, 2021	9:30 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
Friday, September 10, 2021	10:00 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
Wednesday, October 13, 2021	10:30 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
	11:00 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
	11:30 a.m.:	Ch. 13 Sale, Financing and Extend/Impose Stay & Ch. 12 matters

SCHEDULE CHAPTERS 11 & 7 MOTIONS ON:

Select the following times, EXCEPT for Ch. 7 Motions to Extend/Impose Stay scheduled only at 11:00 a.m., and, all sale motions only at 11:30 a.m.:

Thursday, August 19, 2021	9:30 a.m.:	Open for all Erie & Pittsburgh Ch. 11 matters
Thursday, September 2, 2021	10:00 a.m.:	Open for all Erie & Pittsburgh Ch. 11 matters
Thursday, September 23, 2021	10:30 a.m.:	Open for all Erie & Pittsburgh Ch. 7 matters
Thursday, October 7, 2021	11:00 a.m.:	Open for all Erie & Pittsburgh Ch. 7 matters,
Thursday, October 28, 2021		including all Ch. 7 Motions to Extend/Impose Stay
	11:30 a.m.:	Ch. 11 and 7 Sale Motions at this time, only

ALL OF THE DATES ARE SUBJECT TO REVISION. Please check each month for any changes in the dates that have been published previously. THIS SCHEDULE CAN BE VIEWED ON PACER (Public Access to Court Electronic Records) and on the Court's Web Site (www.pawb.uscourts.gov).

Michael R. Rhodes
Clerk of Court

July 30

OFFICE BUILDING FOR RENT

150 West Fifth St. (across from Court House), \$1,500 per month includes 4 offices, staff work areas, conference & waiting room, kitchen area, 3 rest rooms and partially furnished. Includes parking, w/s, plowing, landscape and phone/intercom system. Approximately 3,000 sf. Call Colleen McCarthy 814-566-8023.

May 7, 21 and June 4, 18 and July 2, 16, 30

BUSINESS PARTNER



WITH OVER 25 YEARS OF EXPERIENCE, WILLIAM GOODMAN IS YOUR TRUSTED ADVISOR IN:

- ◆ Structured Settlements
- ◆ Settlement Consulting
- ◆ Trusts Services
- ◆ Medicare Set Asides
- ◆ Structured Attorney's Fees
- ◆ Qualified Settlement Funds
- ◆ Financial Planning

WILLIAM S. GOODMAN MSL, CSSC
President & Co-Founder
wgoodman@nfp.com

- Frequent speaker and educator for trial lawyers nationwide
- One of the nation's most creative, responsive and prominent structured settlement leaders
- Active member of the National Structured Settlement Trade Association (NSSTA)

www.nfpstructures.com | Toll Free 800.229.2228

LAWPAY IS FIVE STAR!



LawPay has been an essential partner in our firm's growth over the past few years. I have reviewed several other merchant processors and no one comes close to the ease of use, quality customer receipts, outstanding customer service and competitive pricing like LawPay has.

— Law Office of Robert David Malove

LAWPAY[®]

AN AFFINIPAY SOLUTION

THE #1 PAYMENT SOLUTION FOR LAW FIRMS

Getting paid should be the easiest part of your job, and with LawPay, it is! However you run your firm, LawPay's flexible, easy-to-use system can work for you. Designed specifically for the legal industry, your earned/unearned fees are properly separated and your IOLTA is always protected against third-party debiting. Give your firm, and your clients, the benefit of easy online payments with LawPay.

877-506-3498

or visit

<https://lawpay.com/member-programs/erie-county-bar/>

COMMONWEALTH of PENNSYLVANIA

v.

BILLY RAY GORDON

CRIMINAL LAW / POST-CONVICTION RELIEF ACT / INEFFECTIVE ASSISTANCE OF COUNSEL

To prove a constitutional violation under the PCRA, a petitioner must prove a violation “so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.” 42 Pa.C.S. § 9543(a)(2)(i).

CRIMINAL LAW / POST-CONVICTION RELIEF ACT / INEFFECTIVE ASSISTANCE OF COUNSEL

Counsel is presumed to have provided effective representation unless a [PCRA] petitioner pleads and proves all of the following: 1) the underlying legal claim is of arguable merit, 2) counsel's action or inaction lacked any objectively reasonable basis designed to effectuate his client's interest, and 3) prejudice, to the effect that there was a reasonable probability of a different outcome at trial if not for counsel's error. *U.S. Const. Amend. 6; 42 Pa. Cons. Stat. Ann. § 9541 et seq.*

CRIMINAL LAW / TRIAL PROCEDURE / POST-CONVICTION RELIEF ACT

A PCRA Petitioner will be granted relief only when he proves, by a preponderance of the evidence, that his conviction or sentence resulted from ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth determining process that no reliable adjudication of guilt or innocence could have taken place.

CRIMINAL LAW / TRIAL PROCEDURE / POST-CONVICTION RELIEF ACT / INEFFECTIVE ASSISTANCE OF COUNSEL

A failure to plead or prove any prong of an ineffectiveness assistance of counsel claim will defeat the claim.

CRIMINAL LAW / POST-CONVICTION RELIEF ACT / INEFFECTIVE ASSISTANCE OF COUNSEL

With regard to whether counsel lacked a reasonable basis for his or her action or failure to act on a claim for ineffective assistance of counsel, the post-conviction court does not question whether there were other more logical courses of action which counsel could have pursued; rather, the court must examine whether counsel's decisions had any reasonable basis.

CRIMINAL LAW / TRIAL PROCEDURE / POST-CONVICTION RELIEF ACT / INEFFECTIVE ASSISTANCE OF COUNSEL

Absent a demonstration of prejudice, a PCRA Petitioner cannot prevail on a claim for ineffective assistance of counsel and no further inquiry into the claim is warranted.

CRIMINAL LAW / TRIAL PROCEDURE / POST-CONVICTION RELIEF ACT / INEFFECTIVE ASSISTANCE OF COUNSEL

When a defendant challenges a conviction, the question is whether there is a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt.

CRIMINAL LAW / TRIAL PROCEDURE / POST-CONVICTION RELIEF ACT / INEFFECTIVE ASSISTANCE OF COUNSEL

The strength of the prosecution's case from the original proceeding is a vital part of the

reviewing court's inquiry. A verdict or conclusion only weakly supported by the record is more likely to have been affected by defense counsel's errors than one with overwhelming record support. *U.S. Const. Amend. 6.*

*CRIMINAL LAW / TRIAL PROCEDURE / POST-CONVICTION RELIEF ACT /
INEFFECTIVE ASSISTANCE OF COUNSEL*

The ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. The court should be concerned with whether the result of the particular proceeding is unreliable because of a breakdown in the adversarial process that our system counts on to produce just results. *U.S. Const. Amend. 6.*

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
Criminal Court, No. 3070 - 2016
PENNSYLVANIA SUPERIOR COURT
77 WDA 2021

Appearances: Tyler A. Lindquist, Esq., counsel for Appellant, Billy Ray Gordon
John H. Daneri, District Attorney of Erie County
Justin Smith, Assistant District Attorney

1925(a) OPINION

Domitrovich, J., March 1, 2021

The instant appeal concerns a Motion for Post-Conviction Collateral Relief [hereinafter PCRA Petition] filed by Tyler A. Lindquist, Esq., counsel for Appellant Billy Ray Gordon [hereinafter Appellant], on January 2, 2019. Before Appellant's trial began, this PCRA Court, acting as the Trial Court at the time, conducted voir dire with each jury panel member individually with both Appellant and his trial counsel present. Appellant and his trial counsel actively participated in Appellant's jury selection, as Appellant and his trial counsel conferred concerning the decision to excuse the juror in question. All counsel agreed during voir dire that one member of Appellant's jury panel should be excused for cause after she informed counsel and this PCRA Court she overheard a comment concerning Appellant committing a past crime. Appellant's trial counsel conversed with Appellant at that time off the record, after which both Appellant and his trial counsel were satisfied on the record with the excusal of this one juror only. Thereafter, Appellant has not presented any evidence that any other juror on Appellant's jury panel overheard the same comment, let alone was tainted by it. Appellant also claimed his trial counsel was ineffective for not obtaining DNA evidence from two crack pipes found at the crime scene and introducing this evidence at trial. As Appellant also could not provide sufficient evidence that he was prejudiced in any way by his trial counsel's decision not to move to obtain a DNA analysis of two crack pipes found at the crime scene, Appellant's claim failed.

Furthermore, at the August 2019 PCRA Evidentiary Hearing regarding Appellant's PCRA Petition, Appellant's trial counsel credibly provided this PCRA Court with reasonable bases for his decisions not to move to dismiss Appellant's entire jury panel and for not moving to obtain said DNA analysis. For all of these reasons, on December 10, 2020, this PCRA Court denied Appellant's PCRA Petition, thereby denying the same claims Appellant now raises on

appeal. Appellant's counsel has filed the following claims for appellate review: 1) Where this PCRA Court, acting as the Trial Court, excluded one member of Appellant's jury panel during individual voir dire that heard a comment concerning a past crime committed by Appellant, whether this PCRA Court allegedly violated Appellant's constitutional right to a fair and impartial jury by not dismissing the entire jury panel, and whether Appellant's trial counsel was allegedly ineffective for not moving to dismiss the entire jury panel, and 2) whether Appellant's trial counsel was allegedly ineffective for not moving to obtain DNA evidence from two crack pipes found at the crime scene to introduce as evidence at trial.

FACTUAL and PROCEDURAL HISTORY

The factual and procedural history of this case is as follows: On August 3, 2016, Appellant was arrested in connection with the stabbing death of his wife, Linda Gordon. On August 16, 2016, Attorney Mark T. Del Duca was appointed to represent Appellant in the instant case. On October 4, 2016, the Erie City Police Dept. filed a Criminal Information against Appellant for the following six (6) charges: 1) first-degree murder, 18 Pa.C.S. § 2501(a); 2) aggravated assault, 18 Pa.C.S. § 2702(a)(1); 3) recklessly endangering another person, 18 Pa.C.S. § 2705; 4) possession of instrument of crime, 18 Pa.C.S. § 907(a); 5) abuse of corpse, 18 Pa.C.S. § 5510; and 6) tampering with or fabricating physical evidence, 18 Pa.C.S. § 4910(1). On March 30, 2017, Appellant was convicted of all six (6) charges following a four-day jury trial that occurred from March 27 to March 30, 2017. On May 25, 2017, Appellant was sentenced to life imprisonment without the possibility of parole with two and a half (2 1/2) to eight (8) years consecutive.

On June 12, 2017, Appellant, with the assistance of Attorney Del Duca, filed a Notice of Appeal with the Erie County Clerk of Courts and the Pennsylvania Superior Court. On June 29, 2017, Attorney Del Duca filed a Petition to Withdraw Appearance on Appellant's behalf with the Pennsylvania Superior Court, which was dismissed so that Attorney Del Duca could file said Petition with this Court. On July 7, 2017, Appellant, with Attorney Del Duca's assistance, filed a 1925(b) Concise Statement of Matters Complained of on Appeal with this Trial Court. On direct appeal, Appellant asserted two claims: 1) "That the evidence produced at trial by Commonwealth of Pennsylvania was insufficient to support convictions in this matter with First Degree Murder (Murder 1), Aggravated Assault, Recklessly Endangering Another Person, Possession of an Instrument of Crime, Abuse of Corpse, and Tampering With/ Fabricate (*sic*) ..." and 2) "That defense counsel failed to effectively represent the Defendant in the above referenced matter. Specifically, defense counsel did not adequately cross examine Commonwealth's witnesses and failed to introduce proper evidence on behalf of Defendant."

Following a hearing on July 10, 2017, this PCRA Court granted Attorney Del Duca's Petition for Leave to Withdraw Appearance; and on July 13, 2017, Attorney Emily M. Merski, of the Erie County Public Defender's Office, entered her appearance as counsel for Appellant with the Pennsylvania Superior Court. On July 21, 2017, the Pennsylvania Superior Court granted Attorney Del Duca's Petition to Withdraw as Counsel. On July 12, 2018, the Pennsylvania Superior Court affirmed Appellant's sentence. *See Commonwealth v. Gordon*, No. 897 WDA 2017, 194 A.3d 665 (Pa. Super., July 12, 2018).

On January 2, 2019, Appellant filed *pro se* a Motion for Post-Conviction Collateral Relief. On January 8, 2019, Attorney William J. Hathaway was appointed to represent Appellant in the

instant PCRA Petition. On March 20, 2019, Attorney Hathaway filed a Supplement to Motion for Post-Conviction Collateral Relief. Commonwealth filed its response on April 22, 2019.

On August 19, 2019, a PCRA Evidentiary Hearing was conducted before this Court regarding the instant PCRA Petition. Appellant was represented during said hearing by Attorney Hathaway. Following this August 2019 PCRA Evidentiary Hearing, Appellant filed *pro se* a Motion for Withdrawal of Court-Appointed Counsel and to Proceed Pro Se. On October 16, 2019, this Court held a *Grazier Hearing*¹ regarding Appellant's *pro se* Motion to Withdraw his PCRA counsel, Attorney Hathaway. However, during this *Grazier Hearing*, Appellant orally withdrew his request to proceed *pro se* in favor of this PCRA Court appointing Appellant new PCRA counsel. Appellant's new and current PCRA counsel, Tyler A. Lindquist, Esq., was appointed shortly thereafter.

On October 31, 2019, Appellant filed *pro se* a Motion for Continuance, requesting this Court stay the proceedings "and allow new counsel time enough to review the record and determine if he/she should file ... an amended PCRA and/or request another [E]videntiary hearing." On November 8, 2019, Appellant's newly appointed PCRA counsel, Attorney Lindquist, also filed a Motion for Continuance in the instant case. Attorney Lindquist requested ninety (90) days so that he may "review the record of this matter and determine the merits of Defendant's PCRA Petition." On November 18, 2019, this PCRA Court granted Attorney Lindquist's Motion to Continue.

On February 11, 2020, Attorney Lindquist, on Appellant's behalf, filed an Amended Petition for Post-Conviction Collateral Relief, which consisted of two claims: 1) Appellant's constitutional right to an impartial jury was violated, and 2) ineffective assistance of trial counsel for failure to request a mistrial due to an allegedly tainted jury pool. Commonwealth's counsel filed its response to Appellant's Amended Petition for Post-Conviction Collateral Relief on March 2, 2020. On March 31, 2020, this PCRA Court entered an Order postponing proceedings in the instant case due to the Covid-19 pandemic.

On August 4, 2020, this Court conducted a Status Conference with Appellant and all counsel to determine whether a second PCRA evidentiary hearing was required in the instant case. Attorney Lindquist stated on the record the August 2019 PCRA Evidentiary Hearing was sufficient and, by mutual agreement of counsel, this PCRA Court set a briefing schedule for Appellant's PCRA Petition. On September 1, 2019, Attorney Lindquist filed a Motion for Extension of Time, requesting an additional sixty (60) days to file his brief, which was granted by this PCRA Court on September 2, 2019. PCRA counsel for Appellant submitted his "Brief in Support of Petitioner's PCRA Petition" on November 9, 2020. In said Brief, Attorney Lindquist argued two issues: 1) ineffective assistance of trial counsel for failure to request the jury pool be dismissed or for a mistrial, and 2) ineffective assistance of trial counsel for failure to request DNA evidence. Commonwealth's counsel filed its response on December 8, 2020. This PCRA Court denied Appellant's PCRA Petition on December 10, 2020.

On January 11, 2021, Appellant filed Notice of Appeal with the Prothonotary of the Erie County Court of Common Pleas and the Pennsylvania Superior Court. On January 13, 2021, this Court issued a 1925(b) Order directing Appellant's counsel to file a Concise Statement of Matters Complained of on Appeal, which was filed by Appellant's counsel on February 8, 2021.

¹ *Commonwealth v. Grazier*, 713 A.2d 81 (Pa. 1998).

APPELLANT'S 1925(b) ISSUES

Appellant's counsel first alleges this Court abused its discretion by not dismissing Appellant's entire jury panel upon learning one jury panel member overheard another jury pool member discuss a crime Appellant allegedly committed, which deprived Appellant of a fair and impartial jury. The excused potential juror, Juror #26, confirmed said jury pool member was not a member of Appellant's jury panel.² Appellant also alleges his trial counsel was ineffective for not moving for a mistrial on said basis although no jurors were sworn at that time until the entire jury was selected.³

During voir dire, which was conducted with each panel member individually and not in the presence of the rest of the jury panel, potential Juror #26 candidly informed trial counsel, Appellant, and the Trial Court that she overheard someone in the jury pool say Appellant had murdered her father. Juror #26 stated she did not recognize this person as a member of Appellant's jury panel. Juror #26 also stated she did not see anyone else she recognized from Appellant's jury panel in the vicinity at the time. After hearing this information, and after discussion with counsel and Appellant, who also discussed this matter with his trial counsel off the record, this Court excused Juror #26 for cause, with mutual agreement of counsel and with no objection from Appellant. All other potential jurors were then questioned regarding whether they had heard anything concerning Appellant that would bias them as jurors. *See*, N.T., 8/19/19 PCRA Evidentiary Hearing, at 13:21 - 14:9. This Trial Court determined, therefore, no one else overheard the same or a similar comment as Juror #26, and voir dire continued to occur until jury selection was completed. During Appellant's August 2019 Evidentiary Hearing, Appellant's counsel and Commonwealth's counsel both credibly testified no other jury panel member indicated to them or this Court that they had overheard any comment that may bias them against Appellant.

To prove a constitutional violation under the PCRA, a petitioner must prove a violation "so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place." 42 Pa.C.S. § 9543(a)(2)(i). In the instant case, however, Appellant has not provided any evidence whatsoever any member of Appellant's jury overheard this comment, let alone that said member was prejudiced by this comment. Therefore, Appellant cannot provide any evidence the truth-determining process in his trial was undermined in any way. Appellant is engaging in pure speculation when he alleges his jury was tainted by this comment, as the only member of Appellant's jury pool to overhear this comment was ultimately excused for cause.

As for Appellant's trial counsel's ineffectiveness regarding his failure to move for a mistrial after Appellant's jury pool was not dismissed, "counsel is presumed to have provided effective representation unless a [PCRA] petitioner pleads and proves all of the following: 1) the underlying legal claim is of arguable merit, 2) counsel's action or inaction lacked any objectively reasonable basis designed to effectuate his client's interest, and 3) prejudice, to the effect that there was a reasonable probability of a different outcome at trial if not for counsel's error." *Commonwealth v. Pier*, 182 A.3d 476, 478 (Pa. Super. 2018) (quoting *Commonwealth*

² At the time, there were two separate cases selecting juries, and members of both panels in the jury pool were located in the same general vicinity.

³ As stated in this Court's December 10, 2020 Opinion and Order, Appellant's trial counsel would not have moved for a mistrial at this time since Appellant's trial had yet to begin and jurors were not sworn-in until all jurors were selected.

v. *Simpson*, 112 A.3d 1194, 1197 (Pa. 2015)). “A PCRA Petitioner will be granted relief only when he proves, by a preponderance of the evidence, that his conviction or sentence resulted from ineffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth determining process that no reliable adjudication of guilt or innocence could have taken place.” *Commonwealth v. Ligon*, 206 A.3d 515, 519 (Pa. Super. 2019) (quoting *Commonwealth v. Spatz*, 84 A.3d 294, 311 (Pa. 2014)). “A failure to plead or prove any prong of an ineffectiveness assistance of counsel claim will defeat the claim.” *Ligon*, 206 A.3d at 519 (quoting *Commonwealth v. Grove*, 170 A.3d 1127, 1138 (Pa. Super. 2017)).

As Appellant did not present any evidence that the truth determining process was undermined in any way by the comment, Appellant’s ineffectiveness claim must fail. Appellant cannot point to any jury panel member, other than the jury panel member excused for cause, that overheard the comment in question. The trial record establishes this Trial Court conducted a thorough analysis of each potential juror to determine if any jury panel member had overheard anything that may bias them against Appellant, and excused for cause the one jury panel member that had. Appellant’s August 2019 Evidentiary Hearing further supports this conclusion, as both Appellant’s trial counsel and Commonwealth’s counsel credibly testified no other jury panel member indicated they overheard any prejudicial comments concerning Appellant, and Appellant offered no evidence to the contrary. Appellant’s claim lacks arguable merit.

Furthermore, Appellant’s speculation that some other juror may have been tainted by the comment does not provide sufficient evidence Appellant’s jury was tainted in any way. Appellant cannot make any demonstration of prejudice, as there is no support in the trial record for the allegation that another jury panel member overheard the same or a similar comment, and Appellant has not offered any such evidence during this PCRA Proceeding, either. See *Commonwealth v. Spatz*, 896 A.2d 1191, 1221 (Pa. 2006). There is no evidence Appellant’s trial counsel’s failure to move to dismiss Appellant’s entire jury panel deprived Appellant of a fair trial, whose result is reliable. See *Commonwealth v. Johnson*, 236 A.3d 63, 69 (Pa. Super. 2020). Appellant cannot prove there is any reasonable likelihood the outcome at trial would have been different had Appellant’s counsel moved to dismiss Appellant’s entire jury panel.

Moreover, from the perspective of the Trial Court in Appellant’s case, had Appellant’s trial counsel moved to dismiss Appellant’s entire jury panel, there is no reasonable probability the jury would have had any reasonable doubt as to Appellant’s guilt. See *Johnson*, 236 A.3d at 69. As there is no evidence Appellant’s jury was biased or impartial, there is no indication Appellant’s trial counsel’s failure to move to dismiss Appellant’s jury pool would have had any effect on the evidence this Trial Court and the jury reviewed. *Id.* The Commonwealth’s case against Appellant at trial was very strong. *Id.* Therefore, Appellant failed to establish the prejudice prong of an ineffective assistance claim, and his claim thereby fails two of the three prongs required to establish such a claim.

As for the third prong, Appellant’s trial counsel, at the August 2019 PCRA Evidentiary Hearing, credibly stated to this Court his reasoning for not moving to dismiss Appellant’s entire jury pool. Attorney Del Duca stated there was no evidence any other member of the jury pool overheard this comment. Therefore, trial counsel reasoned, as the Juror in question was excused for cause, any potential taint in the jury pool was excused along with her. This

Court found Appellant’s trial counsel’s decision not to move to dismiss Appellant’s entire jury pool was reasonable, and that Appellant’s trial counsel’s decision did not affect Appellant’s interest at trial. Therefore, Appellant’s claim fails all three prongs regarding an ineffective assistance of counsel claim.

Appellant’s second claim concerns Appellant’s trial counsel’s ineffectiveness regarding not moving to obtain a DNA analysis of two crack pipes found at the crime scene. Appellant alleges only that this evidence would “potentially” have been exculpatory. Attorney Del Duca credibly stated his reasoning for not obtaining said DNA analysis during the August 2019 PCRA Evidentiary Hearing: “Looking back, [whether Commonwealth intended to test the crack pipes for DNA] is probably not a question that I would want to be answered at the preliminary hearing, and I will also tell you it’s not a question I want answered in the trial for the following reasons: first, if any DNA came back with linking (sic) [Petitioner] at the scene where the body was found, that’s not good for my client at that point. Secondly, if it came back his DNA was not on either pipe, I don’t believe that to be germane to the issue as to whether or not he committed this homicide ... Again, to reiterate, if it came back positive, we’d have problems; if it was negative, okay, great, but I don’t see how that would indicate either way if he committed the crime as well.” N.T., PCRA Evidentiary Hearing, 8/19/19, at 15:20 - 16:14.

This Court found Attorney Del Duca made the preferable strategic decision not to move to obtain a DNA analysis of the crack pipes, as the wrong result would have done far more damage to Appellant’s case than the right result would have aided Appellant’s case. However, even if this Court had found it was preferable for Attorney Del Duca to have moved to obtain the DNA analysis, an ineffective assistance claim cannot be established simply because Attorney Del Duca could have made a better decision. In Pennsylvania, “with regard to whether counsel lacked a reasonable basis for his or her action or failure to act on a claim for ineffective assistance of counsel, the post-conviction court does not question whether there were other more logical courses of action which counsel could have pursued; rather, the court must examine whether counsel’s decisions had any reasonable basis.” *Commonwealth v. Hopkins*, 231 A.3d 855, 874 (Pa. Super. 2020) (quoting *Commonwealth v. Mason*, 130 A.3d 601, 618 (Pa. 2015)).

This Court found Attorney Del Duca’s decision not to move to obtain a DNA analysis of the crack pipes was reasonable, and, therefore, Appellant’s trial counsel was not ineffective for deciding not to obtain said analysis. Furthermore, as Appellant alleges only that this evidence could “potentially” have been exculpatory, Appellant fails to demonstrate Appellant was prejudiced by Attorney Del Duca’s decision. Not only can Appellant not establish any reasonable likelihood a favorable DNA analysis would have resulted in a different outcome at trial if granted by this Trial Court, Appellant cannot establish any reasonable likelihood the DNA analysis would have been favorable. In other words, Appellant cannot establish, and does not allege, his DNA would not have been on the crack pipes. There is no evidence in the record suggesting Appellant’s DNA would not have been on either crack pipe. Appellant is only speculating the outcome at trial would have been different had his trial counsel moved to obtain a DNA analysis, and if this DNA analysis was favorable.

Moreover, considering the great weight of evidence offered by the Commonwealth against Appellant at trial, there is no reasonable probability that had Appellant’s trial counsel obtained

a DNA analysis, and if it were in fact favorable, the jury would have found reasonable doubt. Commonwealth offered its own DNA evidence against Appellant and significant other evidence providing a very strong case against Appellant at trial. Given a favorable DNA analysis would only establish Appellant did not use either crack pipe, there is no indication this would have had any effect on the jury's consideration of the evidence offered against Appellant at trial.

Since Appellant's trial counsel had a reasonable basis not to move to obtain the DNA analysis, and because Appellant cannot establish the lack of this evidence prejudiced Appellant, this Court denied Appellant's ineffectiveness claim.

For all of the above reasons, this Court requests the Pennsylvania Superior Court affirm its December 10, 2020 Order denying Appellant's Motion for Post-Conviction Collateral Relief.

BY THE COURT

/s/ **Stephanie Domitrovich, Judge**

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

COMMONWEALTH OF PENNSYLVANIA

v.

BILLY RAY GORDON, Appellant

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 77 WDA 2021

Appeal from the PCRA Order Entered December 10, 2020

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

CP-25-CR-0003070-2016

BEFORE: DUBOW, J., MURRAY, J., and PELLEGRINI, J.*

MEMORANDUM BY DUBOW, J.:

FILED: JULY 14, 2021

Appellant, Billy Ray Gordon, appeals from the December 10, 2020 Order entered in the Erie County Court of Common Pleas dismissing as meritless his first Petition filed pursuant to the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S. §§ 9541-46. After careful review, we affirm.

The relevant facts and procedural history are as follows. On August 3, 2016, police arrested Appellant in connection with the July 22, 2016 stabbing death of his wife. The trial court appointed Mark T. Del Duca, Esquire ("Trial Counsel") to represent Appellant.

Prior to the commencement of trial, a prospective member of Appellant's jury, Juror 26, indicated on her juror questionnaire that "while waiting in the jury room, something happened." During the subsequent *voir dire*, Juror 26 informed the court that she had overheard a woman from outside of Appellant's jury pool state to other people also outside of Appellant's jury pool that Appellant had, years earlier, murdered that prospective juror's father.¹ With the agreement of counsel, the court excused Juror 26 from the jury pool for cause. Each member of Appellant's jury pool completed the same juror questionnaire, and no other prospective jurors reported hearing the comment.

Following a four-day trial, at which the Commonwealth introduced, *inter alia*, "substantial DNA evidence against" Appellant,² on March 30, 2017, a jury convicted Appellant of one count each of First-Degree Murder, Aggravated Assault, Recklessly Endangering Another Person ("REAP"), Possession of Instruments of Crime ("PIC"), Abuse of Corpse, and Tampering With or Fabricating Physical Evidence.³ On May 25, 2017, the trial court sentenced Appellant to life imprisonment without the possibility of parole. Appellant did not file a Post-Sentence Motion.

Appellant filed an appeal to this Court challenging the sufficiency of the Commonwealth's evidence in support of his convictions, and, on July 12, 2018, we affirmed Appellant's

* Retired Senior Judge assigned to the Superior Court.

¹ Appellant was found not guilty of this 1978 murder by reason of self-defense.

² PCRA Ct. Op., 2/3/21, at 10.

³ 18 Pa.C.S. §§ 2502(a), 2702(a)(1), 2705, 907(a), 5510, and 4910(1), respectively.

Judgment of Sentence. *Commonwealth v. Gordon*, 194 A.3d 665 (Pa. Super. 2018) (unpublished memorandum). Appellant did not seek further review of his Judgment of Sentence.

On January 2, 2019, Appellant *pro se* filed the instant PCRA Petition, asserting that: (1) he had been denied his constitutional right to an impartial jury; (2) that Trial Counsel had been ineffective for not requesting a mistrial; and (3) the Commonwealth had committed prosecutorial misconduct. Petition, 1/2/19, at 2, supplemental 1-2.

On January 8, 2019, the PCRA court appointed William J. Hathaway, Esquire, to represent Appellant. On March 20, 2019, Attorney Hathaway filed a Supplemental PCRA Petition, which included additional allegations of prosecutorial misconduct. On April 22, 2019, the Commonwealth filed a response to Appellant's PCRA Petition.

On August 19, 2019, the PCRA court held a hearing on Appellant's Petition, following which Appellant filed a *pro se* Motion for Change of Appointed Counsel. The PCRA court granted Appellant's request and appointed Tyler A. Lindquist, Esquire, to represent Appellant. On February 11, 2020, Attorney Lindquist filed an Amended PCRA Petition, raising two claims: (1) that Appellant's right to an impartial jury was violated; and (2) Trial Counsel's ineffectiveness for failing to request a mistrial due to an allegedly tainted jury pool. Amended PCRA Petition, 2/11/20.

On November 9, 2020, Attorney Lindquist filed a Brief in Support of Petitioner's PCRA Petition.⁴ In the Brief, Appellant asserted Trial Counsel was ineffective by: (1) failing to request that the court dismiss the jury pool or for a mistrial and (2) failing to request DNA evidence. Brief, 11/9/20. On December 10, 2020, the PCRA court dismissed Appellant's Petition.

This appeal followed. Both Appellant and the PCRA court complied with Pa.R.A. 1925. Appellant raises the following two issues on appeal:

1. Did the PCRA court err in finding that Appellant was not deprived of a fair trial and effective counsel when trial counsel failed to move for a mistrial despite a potentially tainted jury pool?
2. Did the PCRA court err in finding that Appellant was not deprived of a fair trial and effective counsel when trial counsel failed to demand discovery of possible DNA evidence from two crack pipes that were found at the site of where the victim's body was found?

Appellant's Brief at 6 (unpaginated).

Standard of Review

We review an order granting or denying a petition for collateral relief to determine whether the PCRA court's decision is supported by the evidence of record and free of legal error. *Commonwealth v. Jarosz*, 152 A.3d 344, 350 (Pa. Super. 2016) (citing *Commonwealth v. Fears*, 86 A.3d 795, 803 (Pa. 2014)). "The scope of review is limited to the findings of the

⁴ Attorney Lindquist did not request a second evidentiary hearing, but instead requested, and the court granted, permission to file a Brief in Support of Appellant's Amended PCRA Petition.

PCRA court and the evidence of record, viewed in the light most favorable to the prevailing party at the PCRA court level." *Commonwealth v. Koehler*, 36 A.3d 121, 131 (Pa. 2012). We will not disturb the findings of the PCRA court unless there is no support for those findings in the record. *Commonwealth v. Wah*, 42 A.3d 335, 338 (Pa. Super. 2012).

Ineffective Assistance of Counsel

Appellant's claims challenge the effectiveness of Trial Counsel. A PCRA petitioner who alleges ineffective assistance of counsel "will be granted relief only when he proves, by a preponderance of the evidence, that his conviction or sentence resulted from the '[i]neffective assistance of counsel which, in the circumstances of the particular case, so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place.'" *Commonwealth v. Johnson*, 966 A.2d 523, 532 (Pa. 2009) (quoting 42 Pa.C.S. § 9543(a)(2)(ii)).

We presume counsel is effective. *Commonwealth v. Cox*, 983 A.2d 666, 678 (Pa. 2009). To overcome this presumption, a petitioner must establish that: (1) the underlying claim has arguable merit; (2) counsel lacked a reasonable basis for his act or omission; and (3) petitioner suffered actual prejudice. *Commonwealth v. Treiber*, 121 A.3d 435, 445 (Pa. 2015). A court will deny the claim if the petitioner fails to meet any one of these prongs. *Jarosz*, 152 A.3d at 350.

It is axiomatic that "trial counsel can never be found ineffective for failing to raise a meritless claim." *Commonwealth v. Fetter*, 770 A.2d 762, 770 (Pa. Super. 2001) (citation omitted).

In addition, counsel has broad discretion to determine tactics and strategy. *Commonwealth v. Fowler*, 670 A.2d 153, 155 (Pa. Super. 1996). To prove that counsel lacked a reasonable basis for his strategic decision, a petitioner must prove that counsel's act or omission was so unreasonable that "no competent lawyer would have chosen that course of conduct." *Commonwealth v. Rega*, 933 A.2d 997, 1019 (Pa. 2007) (citation omitted).

In order to establish prejudice, a petitioner must demonstrate "that there is a reasonable probability that, but for counsel's error or omission, the result of the proceeding would have been different." *Koehler*, 36 A.3d at 132 (citation omitted).

Issue 1

In his first issue, Appellant asserts that Trial Counsel was ineffective for failing to request a mistrial or seek dismissal of the jury pool after the court excused Juror 26 for cause. Appellant's Brief at 12-17 (unpaginated). He argues that Appellant may have been prejudiced by the disclosure by a prospective juror from a jury pool other than Appellant's that Appellant had previously murdered that juror's father. *Id.* at 16. He speculates that, because the "salacious" comment was made in a "crowded jury room" potential jurors other than just Juror 26 would have heard the comment and discussed it among themselves, thereby rendering them unable to be fair and impartial. *Id.* at 16-18.

Trial Counsel testified that he did not request a mistrial or dismissal of the jury pool because he believed that, from Appellant's jury pool, only Juror 26 heard the other prospective juror's comment. N.T. Hearing, 8/19/19, at 11. Trial Counsel specifically recalled Juror 26 informing the court that "there were three, four, or maybe five people together, none of whom were on our panel. She was the only one that heard the comment." *Id.* See also *id.* at 12-13. Trial Counsel also testified that he recalled that the court added additional questions

to the potential jurors’ *voir dire* to ascertain whether any of those jurors had heard anything about the case that might impact their impartiality, and none had. *Id.* at 13-14. Trial Counsel concluded, therefore, that no further protective measures were required and no other jurors “needed to be released because no one else had really — and I’ll use the expression, nobody else had eaten of the poisonous fruit at that point.” *Id.* at 12, 14.

The PCRA court credited Trial Counsel’s testimony that he had a reasonable strategic basis for not requesting that it dismiss the jury pool.⁵ PCRA Ct. Op., 2/3/21, at 7-8. The court also opined that Appellant’s bald speculation that another juror may have overheard the comment reported by Juror 26 was insufficient to establish a reasonable probability that Appellant suffered prejudice. *Id.* The record supports the PCRA court’s determination. Thus, this claim does not garner Appellant relief.

Issue 2

In his second issue, Appellant asserts that the PCRA court erred in finding that Trial Counsel was not ineffective for failing to request DNA testing on two crack pipes found near the victim’s body. Appellant’s Brief at 18-20. Appellant claims that if DNA collected from the crack pipes did not match his DNA, “it could have possibly identified someone that was at the exact location of where the victim’s body was found.” *Id.* at 19. He argues that a DNA non-match would have been exculpatory evidence in his trial. *Id.* at 19-20. He concludes, therefore, that Trial Counsel was ineffective for not request that experts perform DNA testing and for not filing a Motion to Compel. *Id.* at 19.

With respect to this issue, Trial Counsel testified that he declined to pursue DNA testing of the crack pipes for two reasons. First, Trial Counsel testified that he did not want to take the risk that DNA testing would reveal the presence of Appellant’s DNA on the crack pipes, and thereby place Appellant at the scene where the victim’s body was found, as it was “not good” for Appellant. N.T. Hearing at 15. Second, Trial Counsel testified that he did not believe a negative DNA match was “germane [t]o the issue as to whether or not [Appellant] committed this homicide.” *Id.* at 16. In sum, “if it came back positive, we’d have problems; if it was negative, okay, great, but I don’t see how that would not indicate either way if he committed the crime as well.” *Id.*

The PCRA court, relying on Trial Counsel’s credible testimony that counsel had a reasonable strategic basis for not seeking DNA testing of the crack pipes, concluded that this issue lacks merit. PCRA Ct. Op. at 9-10. Our review of the Notes of Testimony supports this conclusion. Appellant has not, therefore, demonstrated that counsel’s strategy was so unreasonable that “no competent lawyer would have chosen” it. *Rega*, 933 A.2d at 1019.

Moreover, the PCRA court also aptly observed that Appellant failed to prove that counsel’s decision not to seek DNA testing prejudiced Appellant. The court found that Appellant did

⁵ With respect to Appellant’s assertion that Trial Counsel was ineffective for not requesting a mistrial, the PCRA court concluded, based on its interpretation of Pa.R.Crim.P. 605 that, because the Rule permits a court to grant a mistrial only if the alleged prejudicial event occurred during the trial itself, and the alleged prejudicial event in the instant case occurred prior to the commencement of trial, *i.e.*, during the jury empanelment process, Appellant would not have been entitled to a mistrial. PCRA Ct. Op. at 6 n.6. The PCRA court implied, therefore, that Trial Counsel could not have been ineffective for declining to raise a meritless claim. We disagree with the PCRA court’s interpretation of Rule 605. *See, e.g., Commonwealth v. Penn*, 439 A.2d 1154, 1160-61 (Pa. 1982) (addressing the defendant’s claim that the trial court erred in denying his motion for mistrial arising from events that occurred during jury selection); *Commonwealth v. Frazier*, 410 A.2d 826, 831 (Pa. Super. 1979) (same). Nevertheless, we conclude that the record supports the court’s determination that this claim lacks merit. *See Commonwealth v. Miller*, 787 A.2d 1036, 1038 (Pa. Super. 2001) (reiterating that “if a trial court’s decision is correct, we may affirm on any ground.”).

not prove that DNA analysis of the crack pipes would have any potential to exonerate him because, even if the DNA analysis did not reveal the presence of Appellant’s DNA, at best it would only demonstrate that Appellant did not use the crack pipes; it would not prove that he did not murder the victim. PCRA Ct. Op., at 9. Given that the Commonwealth introduced “substantial DNA evidence” against Appellant, the PCRA court opined that it was “very unlikely any DNA evidence from the crack pipes in [Appellant’s] favor would outweigh the Commonwealth’s DNA evidence against him. *Id.* at 9-10. We find no legal error or abuse of discretion in the PCRA court’s conclusion.

Order affirmed.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq.

Prothonotary

Date: 07/14/2021

When we talk about IT, we mean business.

featuring:
IT Services
Internet
Voice
HDTV

Matt Wiertel
Director of Sales & Marketing

VNET
velocity network

With our vast fiber optic network, we deliver scalable internet, voice services, and HDTV to empower businesses to compete in a global market.

And with our team's broad range of expertise and cutting-edge solutions, we offer IT assurance to business owners across the region allowing them to focus on one thing – running their business.

Contact us at (814) 833-9111 or sales@velocitynetwork.net

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 11445-21 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Adam J. Kort to Adam J. Brower.

The Court has fixed the 17th day of August, 2021 at 9:00 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.

July 30

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: Midtown Properties
 2. Address of the principal place of business: 2425 West 12th Street, Erie, Pennsylvania 16505
 3. The real names and addresses, including street and number, of the persons who are parties to the registration: 20th & Cran Storage, LLC
 4. An application for registration of a fictitious name under the Fictitious Names Act was filed on or about June 14, 2021.
- Grant M. Yochim, Esquire
24 Main Street East
Girard, Pennsylvania 16417

July 30

FICTITIOUS NAME NOTICE

1. Fictitious Name: Midtown Storage
2. Address of the principal place of business: 2425 West 12th Street, Erie, Pennsylvania 16505
3. The real names and addresses, including street and number, of

the persons who are parties to the registration: 20th & Cran Storage, LLC

4. An application for registration of a fictitious name under the Fictitious Names Act was filed on or about June 14, 2021.

Grant M. Yochim, Esquire
24 Main Street East
Girard, Pennsylvania 16417

July 30

LEGAL NOTICE

ATTENTION: UNKNOWN FATHER

INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER IN THE ADOPTION OF MINOR MALE CHILD (K.K.F.) D.O.B. 5/10/04 BORN IN ERIE COUNTY, PENNSYLVANIA TO MELISSA FISHER

58 IN ADOPTION 2021
If you could be the parent of the above mentioned male child born May 10, 2004 in Erie County, Pennsylvania to Melissa Fisher, at the instance of Kari A. Froess, Esquire, attorney for petitioners, laying aside all business and excuses whatsoever, you are hereby cited to appear before the Orphans' Court of Erie County, Pennsylvania at the Erie County Court House on August 17, 2021 at 1:30 p.m. before the Honorable Erin Connelly Marucci, Court Room D, and show cause, if any you have, why your parental rights to the above child should not be terminated in accordance with the Petition and Order of Court filed by Kari A. Froess, Esquire for the petitioners herein. A copy of these documents can be obtained by contacting Kari A. Froess, Esquire at 814-453-5004. Your presence is required at this hearing. If you do not appear at the hearing, the Court may involuntarily terminate your parental rights. If you fail to appear at the hearing, the hearing will proceed as scheduled. You have a right to be represented at the hearing by a lawyer. You should take this notice to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.
Orphans' Court Administrator

Room 204 - 205
Erie County Court House
Erie, Pennsylvania 16501
814-451-6251

NOTICE REQUIRED BY ACT 101 OF 2010: 23 Pa. C.S. §§2731-2742. This is to inform you of an important option that may be available to you under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact or communication following an adoption between an adoptive parent, a child, a birth parent and/or a birth relative of the child if all parties agree and voluntary agreement is approved by the court. The agreement must be signed and approved by the court to be legally binding. If you are interested in learning more about this option for a voluntary agreement, contact Kari A. Froess, Esquire at 814-453-5004 or contact your adoption attorney if you have one.

July 30

NOTICE OF SUSPENSION

Notice is hereby given that by Order of the Supreme Court of Pennsylvania issued July 21, 2021, DAVID CHARLES AGRESTI (#79582) whose registered address is in Erie, PA, is suspended from the practice of law for a period of three years to be effective August 20, 2021.
Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

July 30

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

**AUGUST 20, 2021
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
July 30 and Aug. 6, 13

SALE NO. 2

**Ex. #11931 of 2020
PENNSYLVANIA EQUITY
RESOURCES, INC., Plaintiff
v.**

**ROBERT G. BATES, Defendant
DESCRIPTION**
By virtue of a Writ of Execution No. 11931-20, PENNSYLVANIA EQUITY RESOURCES, INC. v. ROBERT G. BATES, owner(s) of property situate in the BOROUGH OF WATTSBURG, ERIE County, Pennsylvania, being 14370 MAIN ST., WATTSBURG, PA 16442
Tax ID No.: 48-001-001.0-004.00
Improvements thereon:
RESIDENTIAL DWELLING
Judgment Amount: \$121,723.73
Attorneys for Plaintiff

Brock & Scott, PLLC
Lauren R. Tabas, Esquire
302 Fellowship Rd., Suite 130
Mount Laurel, NJ 08054
844-856-6646
July 30 and Aug. 6, 13

SALE NO. 3

**Ex. #12281 of 2020
Federal Home Loan Mortgage
Corporation, as Trustee for
the benefit of the Freddie Mac
Seasoned Loans Structured
Transaction Trust, Series 2019-2,
Plaintiff
v.**

**Paula E. Barthelmes, Defendant
DESCRIPTION**

By Virtue of Writ of Execution filed to No. 2020-12281, Federal Home Loan Mortgage Corporation, as Trustee for the benefit of the Freddie Mac Seasoned Loans Structured Transaction Trust, Series 2019-2 vs. Paula E. Barthelmes
Paula A. Barthelmes, owner(s) of property situated in the Township of Green, Erie County, Pennsylvania being 10910 Lake Pleasant Road, Waterford, PA 16441
1.0 Acres
Assessment Map number: 25019054000100
Assessed figure: \$116,810.00
Improvement thereon:
Single Family Residential Dwelling
Hladik, Onorato & Federman, LLP
289 Wissahickon Avenue
North Wales, PA 19454
(215) 855-9521
July 30 and Aug. 6, 13

SALE NO. 4

**Ex. #12913 of 2019
BANK OF AMERICA. N.A.,
SUCCESSOR BY MERGER
TO BAC HOME LOANS
SERVICING, LP FKA
COUNTRYWIDE HOME
LOANS SERVICING LP,
Plaintiff
v.
THOMAS E. HOLLAND,
Defendant
DESCRIPTION**

By virtue of a Writ of Execution filed to No. 12913-19, BANK OF AMERICA. N.A., SUCCESSOR BY MERGER TO BAC HOME

LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP vs. THOMAS E. HOLLAND, owner(s) of the property situated in Erie County, Pennsylvania being 842 MECHANIC STREET, GIRARD, PA 16417
Assessment Map Number: 23-004.018.0-001.00
Assessed Value Figure: \$80,140.00
Improvement Thereon:
A Residential Dwelling
KML LAW GROUP, P.C.
ATTORNEY FOR PLAINTIFF
701 MARKET STREET, SUITE 5000
PHILADELPHIA, PA 19106
(215) 627-1322
July 30 and Aug. 6, 13

SALE NO. 5

**Ex. #10471 of 2021
U.S. BANK NATIONAL
ASSOCIATION, AS
INDENTURE TRUSTEE, FOR
THE HOLDERS OF THE CIM
TRUST 2017-3, MORTGAGE-
BACKED NOTES,
SERIES 2017-3, Plaintiff
v.
CHARLES I. TROUTMAN SR.
and CHARLOTTE TROUTMAN
AKA CHARLOTTE M.
TROUTMAN, Defendants
DESCRIPTION**

By virtue of a Writ of Execution filed to No. 10471-21, U.S. BANK NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE, FOR THE HOLDERS OF THE CIM TRUST 2017-3, MORTGAGE-BACKED NOTES, SERIES 2017-3 vs. CHARLES I. TROUTMAN SR. and CHARLOTTE TROUTMAN AKA CHARLOTTE M. TROUTMAN, owner(s) of the property situated in Erie County, Pennsylvania being 90 NORTH STREET, ALBION, PA 16401
Assessment Map Number: (1)2-2-9
Assessed Value Figure: \$72,030.00
Improvement Thereon:
A Residential Dwelling
KML LAW GROUP, P.C.
ATTORNEY FOR PLAINTIFF
701 MARKET STREET,

SUITE 5000
PHILADELPHIA, PA 19106
(215) 627-1322
July 30 and Aug. 6, 13

SALE NO. 6

**Ex. #10434 of 2021
PENNSYLVANIA HOUSING
FINANCE AGENCY, Plaintiff
v.
RICHARD J. QUINN, Defendant
DESCRIPTION**

By virtue of a Writ of Execution No. 2021-10434, PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. RICHARD J. QUINN, Defendant
Real Estate: 144 EAST 29TH STREET, ERIE, PA 16504
Municipality: City of Erie
Erie County, Pennsylvania
Dimensions: 40 x 159.83
Deed Book/Inst#: Deed Book 0555, page 1994
Tax I.D.: (18) 5085-222
Assessment: \$17,900 (Land)
\$47,620 (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
July 30 and Aug. 6, 13

SALE NO. 7

**Ex. #12028 of 2020
PHH Mortgage Corporation,
Plaintiff
v.**

**Jeanne M. Moore, Defendant
DESCRIPTION**

By virtue of a Writ of Execution filed to No. 2020-12028, PHH Mortgage Corporation v. Jeanne M. Moore, owners of property situated in the Township of Millcreek, Erie County, Pennsylvania being 3520 Pacific Avenue, Erie, Pennsylvania 16506.
Tax I.D. No.: 33074323001900
Assessment: \$127,222.23
Improvements:
Residential Dwelling
McCabe, Weisberg & Conway, LLC
123 South Broad Street, Suite 1400

Philadelphia, PA 19109
215-790-1010
July 30 and Aug. 6, 13

SALE NO. 8

**Ex. #10851 of 2020
WELLS FARGO BANK,
NATIONAL ASSOCIATION,
AS TRUSTEE UNDER
POOLING AND SERVICING
AGREEMENT DATED AS
OF SEPTEMBER 1, 2006
SECURITIZED ASSET
BACKED RECEIVABLES
LLC TRUST 2006-HE2
MORTGAGE PASS-THROUGH
CERTIFICATES,
SERIES 2006-HE2, Plaintiff
v.
CAROL R. KOMOROWSKI,
Defendant(s)
DESCRIPTION**

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN THE FIFTH WARD IN THE CITY OF ERIE, ERIE COUNTY, PENNSYLVANIA:
BEING KNOWN AS: 448 EAST 28TH STREET A/K/A 448 EAST 28 STREET, ERIE, PA 16504
BEING PARCEL NUMBER: 18050077012300 and 18050077012200
IMPROVEMENTS:
RESIDENTIAL PROPERTY
Robertson, Anschutz, Schneid, Crane & Partners, PLLC
A Florida Limited Liability Company
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
(855) 225-6906
Attorneys for Plaintiff
chjans@raslg.com
Robert Flacco, Esquire
Id. No. 325024
July 30 and Aug. 6, 13

SALE NO. 9

**Ex. #13057 of 2019
U.S. Bank National Association
as Legal Title Trustee for Truman
2016 SC6 Title Trust, Plaintiff
v.
David F. Wheeler aka
David F. Wheeler, Jr.,
Stacey M. Wheeler aka
Stacey M. Simos, Defendants
DESCRIPTION**

By virtue of a Writ of Execution

filed to No. 2019-13057, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust v. David F. Wheeler aka David F. Wheeler Jr. and Stacey M. Wheeler aka Stacey M. Simos
Stacey M. Wheeler aka Stacey M. Simos, owner(s) of the property situated in the City of Erie, Erie County, Pennsylvania being 4142 West 10th Street, Erie, PA 16505
0.2570 Acreage
Assessment Map Number: 33-019-101.0-005.00
Assessed Value Figure: \$94,400.00
Improvement thereon:
Single Family Dwelling
Emmanuel J. Argentieri, Esquire
Attorney for Plaintiff
ROMANO GARUBO
& ARGENTIERI
52 Newton Avenue, P.O. Box 456
Woodbury, NJ 08096
(856) 384-1515
July 30 and Aug. 6, 13

BUSINESS PARTNER



THOMSON REUTERS®

Whether you practice, support, create, or enforce the law, Thomson Reuters delivers best-of-class legal solutions that help you work smarter, like Westlaw, FindLaw, Elite, Practical Law, and secure cloud-based practice management software Firm Central™. Intelligently connect your work and your world through unrivaled content, expertise, and technologies. See a better way forward at <https://legalsolutions.thomsonreuters.com/law-products/practice/small-law-firm/>

BUSINESS PARTNER

We provide Financial Balance.

Commercial Banking Division
2035 Edinboro Road • Erie, PA 16509
Phone (814) 868-7523 • Fax (814) 868-7524
www.ERIEBANK.bank



Our Commercial Bankers are experienced, dedicated, and committed to providing exceptional service. Working in partnership with legal professionals, we provide financial insight and flexible solutions to fulfill your needs and the needs of your clients. Contact us today to learn more.



BUSINESS PARTNER



Forensic Accounting Specialists

fraud detection, prevention and investigation

3703 West 26th St.
Erie, PA 16506
814/833-8545

113 Meadville St.
Edinboro, PA 16412
814/734-3787

MALONEY, REED, SCARPITTI & COMPANY, LLP

Certified Public Accountants and Business Advisors

www.maloneyreedscarpittiandco.com

Joseph P. Maloney, CPA, CFE
Rick L. Clayton, CPA • Christopher A. Elwell, CPA • Ryan Garofalo, CPA

Confidential inquiries by phone or email to mrsinfo@mrs-co.com.

ERIE COUNTY LEGAL JOURNAL

ORPHANS' COURT

LEGAL NOTICE

ORPHANS' COURT

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

ALEXANDER, DAVID A., a/k/a DAVID ALEXANDER, deceased

Late of the Township of Millcreek, Erie County, Commonwealth of Pennsylvania
Executrix: PNC Bank, N.A., Lisa L. Masi, Estate Settlement Officer, 901 State Street, Erie, PA 16501
Attorney: Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501

CASERTA, MARIE L., deceased

Late of Millcreek Township, County of Erie and Commonwealth of Pennsylvania
Administrator: David Caserta, 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

DIAS, DOUGLAS E., deceased

Late of the City of Erie
Executrix: Patricia Leone, c/o Attorney Terrence P. Cavanaugh, P.O. Box 3243, Erie, PA 16508
Attorney: Terrence P. Cavanaugh, Esquire, P.O. Box 3243, Erie, PA 16508

ETTISON, WILLIAM, deceased

Late of the City of Erie
Administrator: Justin Debias
Attorney: Andrew J. Sisinni, Esquire, 1314 Griswold Plaza, Erie, PA 16501

KUHN, CLAYTON L., a/k/a CLAYTON KUHN, deceased

Late of Columbus Township, County of Warren and Commonwealth of Pennsylvania
Executrix: Tammy Kuhn, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

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:

SCHROEDER, ALINE A., deceased

Trust dated September 12, 2006
Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Trustees: Philip C. Kaminski and Mary Ellen Kaminski, 170 La Salle Avenue, Erie, PA 16511-1240
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

SCHROEDER, RAYMOND J., deceased

Trust dated September 12, 2006
Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Trustees: Philip C. Kaminski and Mary Ellen Kaminski, 170 La Salle Avenue, Erie, PA 16511-1240
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

SECOND PUBLICATION

ANDERSON, EVELYN, a/k/a EVELYN K. ANDERSON, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Susan Murawski
Attorney: Thomas J. Minarcik, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

BERARDUCCI, JULIO CAESAR, a/k/a JULIO C. BERARDUCCI, a/k/a JULIO BERARDUCCI, deceased

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

JOHANNES, RUTH M., deceased

Late of Millcreek Township, County of Erie and Commonwealth of Pennsylvania
Administrator: Robert R. Johannes, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan J. Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

KRAMER, JOHN RICHARD, a/k/a JOHN R. KRAMER, a/k/a JOHN KRAMER, deceased

Late of the City of Erie, County of Erie and State of Pennsylvania
Executrix: Jennifer Sibilia, 7110 Harvest Moon Drive, Erie, PA 16509
Attorney: Ronald J. Susmarski, Esq., 4030 West Lake Road, Erie, PA 16505

LACHOWSKI, ROBERT J., a/k/a ROBERT LACHOWSKI, deceased

Late of the City of Erie, County of Erie and State of Pennsylvania
Administratrix: Lily Ohmer, 7501 Bargain Road, Erie, PA 16509
Attorney: Ronald J. Susmarski, Esq., 4030 West Lake Road, Erie, PA 16505

LANDI, OLLIE T., a/k/a OLLIE LANDI, deceased

Late of the City of Erie
Co-executrices: Lorrie Henderson, 607 Lawler Street, Philadelphia, PA 19116 and Cindy Oleck, 32 Sunset Drive, Paoli, PA 19301
Attorney: David J. Mack, Esquire, 510 Parade Street, Erie, PA 16507

LEE, GREGG G., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Susan D. Margosian Lee
Attorney: Thomas J. Minarcik, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

LOCKET, MONIQUE, a/k/a MONIQUE MARIE LOCKETT, deceased

Late of the City of Erie, County of Erie, and Commonwealth of Pennsylvania
Executrix: Sylvia Lockett Cooley, 3614 Roma Drive, Erie, PA 16510
Attorney: Gregory P. Sesler, Esquire, Sesler and Sesler, 107 East Tenth Street, Erie, PA 16501

SCHAUERMAN, HENRY J., deceased

Late of the City of Erie, County of Erie and State of Pennsylvania
Executrix: Reva Revak, c/o David R. Devine, Esq., 201 Erie Street, Edinboro, PA 16412
Attorney: David R. Devine, Esq., 201 Erie Street, Edinboro, PA 16412

STELMACK, ROSE IRENE, a/k/a ROSE I. STELMACK, a/k/a ROSE STELMACK, deceased

Late of Millcreek Township, County of Erie and State of Pennsylvania
Executor: Christopher Szymanski, 4202 Stein Drive, Cranberry, PA 16066
Attorney: Ronald J. Susmarski, Esq., 4030 West Lake Road, Erie, PA 16505

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:

JOSEPHINE S. JASINSKI TRUST

Late of the Township of Greene, County of Erie, Commonwealth of Pennsylvania
Trustee: Cherly L. Mills, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506
Attorney: Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

THIRD PUBLICATION

ANDERSON, THOMAS F., deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Executrix: Leslie Drumm, 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

BIDWELL, DONALD E., a/k/a DONALD EUGENE BIDWELL, deceased

Late of the Borough of Waterford, County of Erie, Commonwealth of Pennsylvania
Executor: Carter J. Bidwell, c/o Herman & Herman, PO Box 455, 114 High Street, Waterford, PA 16411
Attorney: Rebecca A. Herman, Esq., Herman & Herman, PO Box 455, 114 High Street, Waterford, PA 16411

GIESE, CHARLENE C., a/k/a CHARLENE GIESE, deceased

Late of Millcreek Township, Erie County
Executor: Mark A. Giese
Attorney: Michael G. Nelson, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

McINTYRE, VICTOR L., deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Executrix: Karen L. McIntyre, 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

NOWAK, ETHEL L., a/k/a ETHEL NOWAK, deceased

Late of the Township of Harborcreek, Erie County, Commonwealth of Pennsylvania
Executor: Mark L. Nowak, 651 W. 7th St., Erie, PA 16502
Attorney: Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501

PASSEROTTI, ROBERT L., deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Executrix: Joan M. Passerotti, 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

SITTER, NORBERT ANTHONY, JR., a/k/a NORB SITTER, a/k/a NORBERT A. SITTER, a/k/a NORBERT A. SITTER, JR., deceased

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania
Executor: Michael R. Gerlach, 3211 Hampshire Rd., Erie, PA 16506
Attorney: None

SLATER, WILLARD E., JR., deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Executrix: Judith A. Stewart, 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

WATSON, ANNETTE P., deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Co-executrices: Diane M. Tatalone, 2308 Rudolph Avenue, Erie, Pennsylvania 16502-1953 and Mary M. Good, 11236 Backus Road, Wattsburg, Pennsylvania 16442-9748
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

WENSEL, THOMAS D., a/k/a DOUGLAS WENSEL, deceased

Late of the Borough of North East, Erie County, Commonwealth of Pennsylvania
Administrator: Kathryn I. Durst, 1160 Southview Dr., Erie, PA 16509
Attorney: None

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:

BERCHTOLD, DAVID, trustee of the BERCHTOLD FAMILY TRUST dated DECEMBER 21, 2018, deceased

Late of Erie, Erie County, Pennsylvania
Successor Trustee: Brian Berchtold, Berchtold Family Trust, 2831 Highland Road, Erie, PA 16506
Attorney: Michael S. Butler, Esq., Heritage Elder Law & Estate Planning, LLC, 318 South Main Street, Butler, PA 16001

ATTENTION ALL ATTORNEYS

Are you or an attorney you know dealing with personal issues related to substance use, depression, anxiety, grief, an eating disorder, gambling, significant stress or other mental health concerns?

YOU ARE NOT ALONE!

You are invited and encouraged to join a small group of fellow attorneys who meet informally in Erie twice a month. Please feel free to call Lawyers Concerned for Lawyers (LCL) at 1-888-999-1941 for meeting details and information about free confidential services available to you or your colleague.



Check out the LCL website www.lclpa.org for free CLE videos, extensive resources and educational information.

LOOKING FOR ESTATE NOTICES

OR OTHER LEGAL NOTICES REQUIRING PUBLICATION IN A PA LEGAL JOURNAL?

Go to www.palegalads.org

This FREE site allows you to
search statewide to determine
whether a specific legal notice
has been published.



CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

COURTNEY M. HELBLING814-333-7455
Crawford County District Attorney's Office
359 East Center Street
Meadville, PA 16335 chelbling@co.crawford.pa.us

JOHN M. BARTLETT814-774-2628
Steadman Law Office, P.C.(f) 814-774-3278
24 Main Street East
Girard, PA 16417 John@steadmanlaw.com

DENISE C. PEKELNICKY814-315-9255
Rust Belt Business Law
425 W. 10th St.
Erie, PA 16502 denise@rustbeltlegal.com

BUSINESS PARTNER



16 offices to
serve you in
Erie County.

www.northwest.com

Bank | Borrow | Invest | Insure | Plan

Only deposit products offered by Northwest Bank are Member FDIC. 

DON'T MISS THESE AUGUST EVENTS!

WEEKLY
WRAP-UP

July 30, 2021



Wednesday, August 11

**Live ECBA Lunch-n-Learn Seminar:
Ethical Considerations in Helping a Low-
Income Ex-Offender Apply for a Pardon**

Register at:

<https://www.eriebar.com/events/member-registration/1730>



Thursday, August 12

Live ECBA Summer CLE & Social:
Ethics Do's and Don'ts for Lawyer
Marketing/Advertising; Paint Your Profit
by the Numbers; Ethical Considerations &
Best Practices for Billing & Collections;
Happy Hour

Register at:

<https://www.eriebar.com/events/member-registration/1731>



Friday, August 13

Lefties Luncheon
(at Molly Brannigan's)

Register at:

<https://www.eriebar.com/events/ecba-events/1732-lefties-luncheon>



Friday, August 20

Picnic in the Park
(ECBA's membership picnic
at Presque Isle State Park)

Register at:

<https://www.eriebar.com/events/ecba-events/1729-ecba-summer-membership-picnic>

PBA President Issues Statement Supporting Professional Rule Change That Expands Lawyer Misconduct - PBA President Kathleen D. Wilkinson issued the following statement concerning the Supreme Court of Pennsylvania's adoption of an amended rule treating knowing harassment and discrimination in the practice of law as misconduct under the Rules of Professional Conduct. "The PBA applauds the Supreme Court of Pennsylvania's approval of the Disciplinary Board's recommendation to include a prohibition in the Pennsylvania Rules of Professional Conduct clearly stating that it is professional misconduct for a lawyer to 'knowingly' engage in harassment or discrimination based upon race, gender, religion, disability, and other protected characteristics. The rule includes helpful commentary explaining that the rule addresses conduct in the practice of law, including interaction with witnesses, coworkers, court personnel, lawyers or others, as well as participation on judicial boards, continuing legal education seminars, and bench bar conferences. The terms 'harassment' and 'discrimination' are also now defined in the comments, along with a limitation excluding application of the rule in certain circumstances that might present First Amendment concerns. Therefore, we commend the Disciplinary Board and the Supreme Court for acting promptly and deliberately in amending the existing misconduct rule so as to provide a meaningful disciplinary avenue for misconduct that should no longer be tolerated in the practice of law."

Defendant in cave-in wrongful death suit argues counts should be dismissed for failure to follow rule of law - One defendant named in a wrongful death lawsuit, filed after the death of a man trapped underground during a cave-in while digging a trench to replace a sewer line in North Strabane Township, has brought preliminary objections arguing two of its counts should be thrown out for failure to follow the rule of law. Read more ... <https://pennrecord.com/stories/605921392-defendant-in-cave-in-wrongful-death-suit-argues-counts-should-be-dismissed-for-failure-to-follow-rule-of-law>

Third Circuit: in longtime rail project suit, FERA retroactively applies to any case pending when law was passed - A federal appellate court unanimously ruled that an amendment to the False Claims Act which lowered the burden of proof on whistleblowers does apply retroactively, to any case pending when the U.S. Supreme Court issued a ruling that the amendment was designed to cover. On July 13, U.S. Court of Appeals for the Third Circuit judges D. Brooks Smith, Theodore A. McKee and Thomas L. Ambro ruled to affirm a special master's \$1 million judgment against The Fairfield Co. in 2019, for its underpayment of rail workers on a project that finished construction in 2007. Read more ... <https://pennrecord.com/stories/605885262-third-circuit-in-longtime-rail-project-suit-fera-retroactively-applies-to-any-case-pending-when-law-was-passed>

NLRB refuses to deflate 'Scabby the Rat' - A union's use of Scabby the Rat (an inflatable rat "approximately 12 feet in height with red eyes, fangs, and claws") and inflammatory banners targeting a neutral employer, without more, does not violate the National Labor Relations Act (NLRA), the National Labor Relations Board (NLRB) has ruled. For more than three decades, unions have displayed Scabby (or other inflatable animals, including gorillas) on public property to protest companies for reasons including doing business with employers the union finds objectionable. Whether Scabby is akin to lawful handbilling or unlawful picketing directed at a neutral employer is the subject of much debate Read more ... <https://www.natlawreview.com/article/nlrb-refuses-to-deflate-scabby-rat>

BUSINESS
PARTNERS



LAWPAY:

<https://lawpay.com/member-programs/erie-county-bar>



Velocity Network:

<https://www.velocity.net/>



Erie Bank:

<https://www.eriebank.bank/>



NFP Structured Settlements:

<https://nfpstructures.com/pdf/nfp-brochure.pdf>



Northwest Bank:

<https://www.northwest.bank/>



Maloney, Reed, Scarpitti & Co.:

<https://www.maloneyreedscarpittiandco.com/>



Thomson Reuters:

<https://www.thomsonreuters.com/en.html>

