

# Northampton County Reporter

(USPS 395-280)

VOL. LXI

EASTON, PA February 6, 2020

NO. 6

**Commonwealth of Pennsylvania v. Gregory Lewis, Defendant**

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### INSERT: Blue: 1. BALC Afternoon Seminar

2. 2020 Calendar
3. YLD Happy Hour
4. Save the Date!

### Cream: 1. Quarterly Association Meeting

2. "Sentencing Commission Update"
3. "Lincoln, Gettysburg and a New Moral and Constitutional Course for America"
4. Hartford Wolf Pack vs. Lehigh Valley Phantoms

### **NOTICE TO THE BAR...**

**March Quarterly Association Meeting**

**Thursday, March 19, 2020**

Registration form inside.

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Maura Zajac McGuire ..... President-Elect  
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Lisa M. Spitale ..... Past President

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Keri A. Schantz  
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Lisa M. Spitale  
Jonathan M. Huerta, Zone Governor

*Northampton County Reporter*  
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**PBA (800) 932-0311—PBI (800) 932-4637**  
**BAR ASSOCIATION STAFF**

Mary Beth Leeson .....Executive Director  
Patti A. Gober .....Accounting  
..... Legal Journal  
Heather Rizzotto-Stefanik .....Attorney Referral  
Deborah J. Flanagan .....Attorney Referral

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The Northampton County Reporter will be published every Thursday by the Northampton County Bar Association, 155 South Ninth St., Easton, PA 18042-4399. All legal notices relating to the business of the county, are required by rule of Court, to be published in this Journal. All legal notices must be submitted in typewritten form and are published exactly as submitted by the advertiser. Neither the Law Reporter nor the printer will assume any responsibility to edit, make spelling corrections, eliminate errors in grammar or make any changes to content.

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Editor

### **NOTICE TO NCBA MEMBERS – BAR NEWS**

#### **NCBA Foundation Grant Applications**

If you are associated with a nonprofit and would like to provide a grant opportunity to the organization, NCBA is accepting grant applications through February 15, 2020.

Contact the NCBA for a copy of the grant application.

#### **Save the Date!**

#### **Thursday, May 28, 2020 – “Foundation Libations”**

Our Second Annual Foundation Fundraiser.

5:00 – 7:30 p.m. at ArtsQuest, Bethlehem.

#### **Courthouse Library Copy Machine Cards**

Copy machine cards are still available at the NCBA Office. If you make any copies on the copy machine in the Law Library you may want to consider purchasing copy cards. The cards sell for \$10.00. If you use the cards, copies are 15 cents rather than the usual 25 cents.

Your time is limited, so don't waste it living someone else's life.~ Steve Jobs

**ESTATE AND TRUST 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. Notice is also hereby given of the existence of the trusts of the deceased settlors set forth below for whom no personal representatives have been appointed within 90 days of death. All persons having claims or demands against said estates or trusts are requested to make known the same, and all persons indebted to said estates or trusts are requested to make payment, without delay, to the executors or administrators or trustees or to their attorneys named below.

**FIRST PUBLICATION****BARRY, SHADWICK ALEX**, dec'd.

Late of Bethlehem, Northampton County, PA

Executrix: Janet Eileen Barry c/o William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018-5517

Attorney: William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018-5517

**ERNEY, WILLIAM H.**, dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Co-Executors: Stephen M. Szy and Kevin James Jones c/o Bradford D. Wagner, Esquire, 662 Main Street, Hellertown, PA 18055-1726

Attorney: Bradford D. Wagner, Esquire, 662 Main Street, Hellertown, PA 18055-1726

**GIOVANNI, ALBERT M.**, dec'd.

Late of Pen Argyl, Northampton County, PA

Co-Executrices: Lauren M. Stoudt and Andrea N. Giovanni c/o Fitzpatrick Lentz & Bubba, P.C., Two City Center, 645 W. Hamilton Street, Suite 800, Allentown, PA 18101

Attorneys: Fitzpatrick Lentz & Bubba, P.C., Two City Center, 645 W. Hamilton Street, Suite 800, Allentown, PA 18101

**HAILPERIN, RUTH R.**, dec'd.

Late of Nazareth, Northampton County, PA

Executrix: Jo H. Taylor c/o William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018-5517

Attorney: William W. Matz, Jr., Esquire, 211 W. Broad Street, Bethlehem, PA 18018-5517

**KEIM, ROBERT E.**, dec'd.

Late of Moore Township, Northampton County, PA

Executrix: Kristin N. Evans c/o Daniel M. O'Donnell, Esquire, 901 West Lehigh Street, Bethlehem, PA 18018

Attorney: Daniel M. O'Donnell, Esquire, 901 West Lehigh Street, Bethlehem, PA 18018

**KITTEK, ELSIE BARBARA**, dec'd.

Late of Bethlehem, Northampton County, PA

Executor: Francis R. Kittek c/o Elizabeth Kapo, Esquire, 2123 Pinehurst Road, Bethlehem, PA 18018

Attorney: Elizabeth Kapo, Esquire, 2123 Pinehurst Road, Bethlehem, PA 18018

**LOUPOS, JOAN M.**, dec'd.

Late of the Township of Palmer, Northampton County, PA

Joan M. Loupos Revocable Trust Dated October 29, 1993, As Amended

Trustee: Scott M. Loupos c/o Timothy J. Duckworth, Esquire, Mosebach, Funt, Dayton & Duckworth, P.C., 2045 Westgate Drive, Suite 404, Bethlehem, PA 18017

Attorneys: Timothy J. Duckworth, Esquire, Mosebach, Funt, Dayton & Duckworth, P.C., 2045 Westgate Drive, Suite 404, Bethlehem, PA 18017

**McCOY, MELISSA ANN**, dec'd.

Late of Forks Township, Northampton County, PA

Administratrix: Melanie McCoy c/o Marissa R. Harper, Esquire, Zator Law, 4400 Walbert Avenue, Allentown, PA 18104

Attorneys: Marissa R. Harper, Esquire, Zator Law, 4400 Walbert Avenue, Allentown, PA 18104

**MORROW, GERALD J.**, dec'd.

Late of Northampton, Northampton County, PA

Executors: Daniel Morrow and Jane Morrow c/o Steven Bergstein, Esquire, Engel, Wiener, Bergstein & Fleischaker, 825 North 12th Street, Allentown, PA 18102

Attorneys: Steven Bergstein, Esquire, Engel, Wiener, Bergstein & Fleischaker, 825 North 12th Street, Allentown, PA 18102

**PAGOTTO, ELSA L.**, dec'd.

Late of the Borough of Pen Argyl, Northampton County, PA

Executrix: Kathleen Emma Scott c/o Hon. Leonard N. Zito (Ret.), Florio Perrucci Steinhardt & Cappelli, LLC, 60 West Broad Street, Suite 102, Bethlehem, PA 18018

Attorneys: Hon. Leonard N. Zito (Ret.), Florio Perrucci Steinhardt

& Cappelli, LLC, 60 West Broad Street, Suite 102, Bethlehem, PA 18018

**ROTH, GERALDINE M.**, dec'd.

Late of North Catasauqua, Northampton County, PA

Co-Executors: Evelyn D. Paulus and Harrison Kline, Jr. c/o Noonan Law Office, 526 Walnut Street, Allentown, PA 18101-2394

Attorneys: Noonan Law Office, 526 Walnut Street, Allentown, PA 18101-2394

**SENSKI, WILLIAM M.**, dec'd.

Late of the Borough of Hellertown, Northampton County, PA  
Executor: William M. Senski c/o Bradford D. Wagner, Esquire, 662 Main Street, Hellertown, PA 18055-1726

Attorney: Bradford D. Wagner, Esquire, 662 Main Street, Hellertown, PA 18055-1726

**SIFTAR, JEAN H.**, dec'd.

Late of Bethlehem, Northampton County, PA

Executrix: Katherine R. Huber c/o Fitzpatrick Lentz & Bubba, P.C., Two City Center, 645 West Hamilton Street, Suite 800, Allentown, PA 18101

Attorneys: Fitzpatrick Lentz & Bubba, P.C., Two City Center, 645 West Hamilton Street, Suite 800, Allentown, PA 18101

**SIMONS, JOANNE M.**, dec'd.

Late of Palmer Township, Northampton County, PA

Executor: Claude W. Simons, Jr. c/o Ralph J. Bellafatto, Esquire, 4480 William Penn Highway, Easton, PA 18045

Attorney: Ralph J. Bellafatto, Esquire, 4480 William Penn Highway, Easton, PA 18045

**STOKES, ROSS V.,** dec'd.

Late of the Borough of Nazareth,  
Northampton County, PA  
Executor: Gregory P. Stokes c/o  
Goudsouzian & Associates, 2940  
William Penn Highway, Easton,  
PA 18045-5227

Attorneys: Goudsouzian & Asso-  
ciates, 2940 William Penn  
Highway, Easton, PA 18045-  
5227

**TALPAS, MARY A.,** dec'd.

Late of the Township of Bushkill,  
Northampton County, PA  
Executor: Martin A. Talpas, Jr.  
c/o Peters, Moritz, Peischl,  
Zulick, Landes & Brienza, LLP, 1  
South Main Street, Nazareth, PA  
18064

Attorneys: Peters, Moritz, Peischl,  
Zulick, Landes & Brienza, LLP, 1  
South Main Street, Nazareth, PA  
18064

**TARPEY, JAMES V.,** dec'd.

Late of Plainfield Township,  
Northampton County, PA  
Executor: David James Tarpey  
c/o Kristin M. Harvey, Esquire,  
Knafo Law Offices, LLC, 2740  
Nazareth Rd., Easton, PA 18045  
Attorneys: Kristin M. Harvey,  
Esquire, Knafo Law Offices, LLC,  
2740 Nazareth Rd., Easton, PA  
18045

**WERNER, LEO H.,** dec'd.

Late of the Township of Hanover,  
Northampton County, PA  
Executors: Kelly Lee Werner,  
9051 River Crescent, Suffolk, VA  
23433 and Kristi A. Wert, 3175  
Penn Dixie Road, Nazareth, PA  
18064  
Attorney: Paul J. Harak, Esquire,  
1216 Linden Street, P.O. Box  
1409, Bethlehem, PA 18016

**SECOND PUBLICATION****ALBERT, STUART J.,** dec'd.

Late of the Borough of Tatamy,  
Northampton County, PA  
Executors: Kim Stuart Albert  
and Cynthia J. Duelle c/o  
Peters, Moritz, Peischl, Zulick,  
Landes & Brienza, LLP, 1 South  
Main Street, Nazareth, PA 18064  
Attorneys: Peters, Moritz, Peischl,  
Zulick, Landes & Brienza, LLP,  
1 South Main Street, Nazareth,  
PA 18064

**ALESSI, ROBERTA P.,** dec'd.

Late of the Township of Palmer,  
Northampton County, PA  
Executor: Eric S. Alessi c/o  
Robert C. Brown, Jr., Esquire,  
Fox, Oldt & Brown, 940 W.  
Lafayette St., Suite 100, Easton,  
PA 18042  
Attorneys: Robert C. Brown, Jr.,  
Esquire, Fox, Oldt & Brown, 940  
W. Lafayette Street, Suite 100,  
Easton, PA 18042

**EASTERDAY, EMMA M.,** dec'd.

Late of the Borough of Nazareth,  
Northampton County, PA  
Co-Executors: Richard Thomas  
Smith and Stephanie H. Smith  
c/o Peters, Moritz, Peischl,  
Zulick, Landes & Brienza, LLP,  
1 South Main Street, Nazareth,  
PA 18064  
Attorneys: Peters, Moritz, Peischl,  
Zulick, Landes & Brienza, LLP,  
1 South Main Street, Nazareth,  
PA 18064

**ERKER, JACK CHARLES,** dec'd.

Late of the City of Bethlehem,  
Northampton County, PA  
Executrix: Carol A. Erker c/o  
Dionysios C. Pappas, Esquire,  
Vasiliadis Pappas Associates  
LLC, 2551 Baglyos Circle, Suite  
A-14, Bethlehem, PA 18020

Attorneys: Dionysios C. Pappas, Esquire, Vasiliadis Pappas Associates LLC, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020

**FEATHER, JAMES RICHARD,** dec'd.

Late of Bushkill Township, Northampton County, PA  
Executrix: Cynthia Ann Scullion c/o Paul G. Lutz, Esquire, 110 South Northern Way, York, PA 17402

Attorney: Paul G. Lutz, Esquire, 110 South Northern Way, York, PA 17402

**FRALEY, RICHARD E., JR.,** dec'd.

Late of Bethlehem, Northampton County, PA

Administratrix: Kimberly A. Fraley, 406 Devonshire Drive, Bethlehem, PA 18017

Attorney: Marc Kranson, Esquire, 523 Walnut Street, Allentown, PA 18101

**HARRIS, EDWIN D. a/k/a EDWIN**

**DAVID HARRIS,** dec'd.

Late of Wind Gap, Northampton County, PA

Administrator: Chad Eric Harris, 155 Hoffman Road, Wind Gap, PA 18091

Attorney: Robert P. Daday, Esquire, 1030 W. Walnut Street, Allentown, PA 18102

**KNAPP, JEAN T.,** dec'd.

Late of Plainfield Township, Northampton County, PA

Co-Executrices: Jean Sharon Stirrup and Terese Marie Cassano c/o Timothy B. Fisher, II, Esquire, Fisher & Fisher Law Offices, P.O. Box 396, Gouldsboro, PA 18424

Attorneys: Timothy B. Fisher, II, Esquire, Fisher & Fisher Law

Offices, P.O. Box 396, Gouldsboro, PA 18424

**LEARN, MARY JEAN a/k/a MARY Y. LEARN,** dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executor: David Paul Learn c/o Stanley M. Vasiliadis, Esquire, Vasiliadis Pappas Associates, LLC, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020

Attorneys: Stanley M. Vasiliadis, Esquire, Vasiliadis Pappas Associates, LLC, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020

**LIEBERMAN, MILDRED,** dec'd.

Late of the Township of Hanover, Northampton County, PA

Trust of Mildred Lieberman

Trustee: Frances Mays c/o Timothy J. Duckworth, Esquire, Mosebach, Funt, Dayton & Duckworth, P.C., 2045 Westgate Drive, Suite 404, Bethlehem, PA 18017

Attorneys: Timothy J. Duckworth, Esquire, Mosebach, Funt, Dayton & Duckworth, P.C., 2045 Westgate Drive, Suite 404, Bethlehem, PA 18017

**MIKROUDIS, KATINA P.,** dec'd.

Late of the Township of Hanover, Northampton County, PA

Executor: Soterios P. Mikroudis c/o Dionysios C. Pappas, Esquire, Vasiliadis Pappas Associates LLC, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020

Attorneys: Dionysios C. Pappas, Esquire, Vasiliadis Pappas Associates LLC, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020



**REMETTA, SYLVIA M.,** dec'd.

Late of the Township of Forks,  
Northampton County, PA

Executor: Richard J. Remetta  
c/o Theresa Hogan, Esquire,  
Attorney-at-Law, 340 Spring  
Garden Street, Easton, PA 18042  
Attorney: Theresa Hogan,  
Esquire, Attorney-at-Law, 340  
Spring Garden Street, Easton,  
PA 18042

**ROE, ROBERT W.,** dec'd.

Late of Moore Township, North-  
ampton County, PA

Administratrix: Kimberly Roe  
c/o James L. Reich, Esquire,  
Reich & Furst Law Offices, 121  
N. Cedar Crest Blvd., Suite B,  
Allentown, PA 18104

Attorneys: James L. Reich,  
Esquire, Reich & Furst Law  
Offices, 121 N. Cedar Crest Blvd.,  
Suite B, Allentown, PA 18104

**SERIA, SALVATORE NUNZIO,  
SR.,** dec'd.

Late of Plainfield Township,  
Northampton County, PA

Executor: Salvatore Nunzio  
Seria, Jr.

Attorney: P. Christopher Cotturo,  
Esquire, 75 Bangor Junction  
Road, Bangor, PA 18013

**SNYDER, DORIS A.,** dec'd.

Late of the Township of Bushkill,  
Northampton County, PA

Executor: Scott W. Snyder c/o  
Robert C. Brown, Jr., Esquire,  
Fox, Oldt & Brown, 940 W.  
Lafayette St., Suite 100, Easton,  
PA 18042

Attorneys: Robert C. Brown, Jr.,  
Esquire, Fox, Oldt & Brown, 940  
W. Lafayette Street, Suite 100,  
Easton, PA 18042

**STECKEL, NEIL STUART,** dec'd.

Late of Williams Township,  
Northampton County, PA

Executor: Steven B. Molder,  
Esquire, 904 Lehigh St., Easton,  
PA 18042

Attorney: Steven B. Molder,  
Esquire, 904 Lehigh St., Easton,  
PA 18042

**TERLESKI, SHIRLEY BELLA,**  
dec'd.

Late of Easton, Northampton  
County, PA

Executor: Robert G. Terleski,  
701 Blue Mountain Drive,  
Andreas, PA 18211

Attorney: Robert P. Daday,  
Esquire, 1030 W. Walnut Street,  
Allentown, PA 18102

**WEBB, IVA JEANNE,** dec'd.

Late of Forks Township, North-  
ampton County, PA

Executrix: Bonita Walter c/o Joel  
M. Scheer, Esquire, Fishbone  
and Scheer, 940 W. Lafayette  
Street, Easton, PA 18042

Attorneys: Joel M. Scheer,  
Esquire, Fishbone and Scheer,  
940 W. Lafayette Street, Easton,  
PA 18042

**THIRD PUBLICATION****BARTHOLOMEW, WALTER A.,  
JR.,** dec'd.

Late of Forks Twp., Northampton  
County, PA

Administrator: Shane M.  
Bartholomew c/o Kristen  
Behrens, Esquire, Dilworth  
Paxson LLP, 457 Haddonfield  
Rd., Ste. 700, Cherry Hill, NJ  
08002

Attorneys: Kristen Behrens,  
Esquire, Dilworth Paxson LLP,  
457 Haddonfield Rd., Ste. 700,  
Cherry Hill, NJ 08002

**BODDEN, NORMA ELITA,** dec'd.

Late of the City of Easton, North-  
ampton County, PA

Executor: Donald O. Bodden c/o  
Theodore R. Lewis, Esquire,



Lewis and Walters, 46 S. 4th Street, P.O. Box A, Easton, PA 18044-2099

Attorneys: Theodore R. Lewis, Esquire, Lewis and Walters, 46 S. 4th Street, P.O. Box A, Easton, PA 18044-2099

**CAVISTON, JOHN N.,** dec'd.

Late of the Borough of Wilson, Northampton County, PA

Administratrix: Lynn Ann Thomas c/o Theresa Hogan, Esquire, Attorney-at-Law, 340 Spring Garden Street, Easton, PA 18042

Attorney: Theresa Hogan, Esquire, Attorney-at-Law, 340 Spring Garden Street, Easton, PA 18042

**FOGLE, FERNE M.,** dec'd.

Late of Northampton, Northampton County, PA

Executrices: Susan E. Reyer and Cathy A. Domitrovitch c/o William J. Fries, Esquire, The Atrium, 2895 Hamilton Boulevard, Suite 106, Allentown, PA 18104

Attorney: William J. Fries, Esquire, The Atrium, 2895 Hamilton Boulevard, Suite 106, Allentown, PA 18104

**KATYNSKI, NICHOLAS,** dec'd.

Late of the Township of Hanover, Northampton County, PA

Executor: Craig Katynski  
Attorneys: Joseph J. Piperato, III, Esquire, Piperato Law Office, LLC, 3894 Courtney Street, Suite 105, Bethlehem, PA 18017

**MALOZI, PHILIP M., III,** dec'd.

Late of Nazareth, Northampton County, PA

Executrix: Melissa Pammer Rudas

Attorney: Daniel G. Dougherty, Esquire, 881 3rd St., Suite B-3, Whitehall, PA 18052

**MILLHEIM, LOIS M.,** dec'd.

Late of the Township of Moore, Northampton County, PA

Executor: Gerald K. Millheim c/o Alfred S. Pierce, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

Attorneys: Alfred S. Pierce, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

**MOLVIG, GILDA M.,** dec'd.

Late of the Township of Hanover, Northampton County, PA

Executrix: Joyce Griffith c/o Richard P. Kovacs, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

Attorneys: Richard P. Kovacs, Esquire, Pierce & Steirer, LLC, 124 Belvidere Street, Nazareth, PA 18064

**MONDAK, CHARLENE K.,** dec'd.

Late of Lehigh Township, Northampton County, PA

Executors: Brett J. Mondak and Stacy J. Herman-Benninger c/o Edward P. Sheetz, Esquire, Gardner, Racines & Sheetz, 5930 Hamilton Boulevard, Suite 106, Allentown, PA 18106

Attorneys: Edward P. Sheetz, Esquire, Gardner, Racines & Sheetz, 5930 Hamilton Boulevard, Suite 106, Allentown, PA 18106

**MORRONE, EMILIO J. a/k/a EMILIO MORRONE,** dec'd.

Late of Easton, Northampton County, PA

Executor: Emilio Morrone a/k/a Emilio John Morrone c/o Sally

L. Schoffstall, Esquire, Schoffstall Elder Law, 2987 Corporate Court, Suite 200, Orefield, PA 18069

Attorneys: Sally L. Schoffstall, Esquire, Schoffstall Elder Law, 2987 Corporate Court, Suite 200, Orefield, PA 18069

**PISCITELLO, JOSEPH S.,** dec'd.

Late of Forks Township, Northampton County, PA

Executor: Joseph T. Piscitello c/o Carolyn M. Marchesani, Esquire, Wolf, Baldwin & Associates, P.C., P.O. Box 444, Pottstown, PA 19464

Attorneys: Carolyn M. Marchesani, Esquire, Wolf, Baldwin & Associates, P.C., P.O. Box 444, Pottstown, PA 19464

**RADER, SCOTT K., SR.,** dec'd.

Late of Bethlehem, Northampton County, PA

Executrix: Barbara B. Rader c/o George K. Keenan, Esquire, 512 North New Street, Bethlehem, PA 18018

Attorney: George K. Keenan, Esquire, 512 North New Street, Bethlehem, PA 18018

**SANTORO, FRANCIS J.,** dec'd.

Late of Bethlehem, Northampton County, PA

Executors: George Santoro and Richard Santoro c/o George K. Keenan, Esquire, 512 North New Street, Bethlehem, PA 18018

Attorney: George K. Keenan, Esquire, 512 North New Street, Bethlehem, PA 18018

**SPARKS, SUSAN ADAIR,** dec'd.

Late of Lower Saucon Township, Northampton County, PA

Personal Representative: Michele Sparks Stuart c/o Paul S. Frank, Esquire, King Spry Herman

Freund & Faul LLC, One West Broad Street, Suite 700, Bethlehem, PA 18018

Attorneys: Paul S. Frank, Esquire, King Spry Herman Freund & Faul LLC, One West Broad Street, Suite 700, Bethlehem, PA 18018

**SWEET, VICTORIA J.,** dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executrix: Deborah Reed McHugh c/o Christopher T. Spadoni, Esquire, 1413 Easton Ave., P.O. Box 522, Bethlehem, PA 18018

Attorney: Christopher T. Spadoni, Esquire, 1413 Easton Ave., P.O. Box 522, Bethlehem, PA 18018

**WALTER, EVELYN R.,** dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Executor: Lester Lawrence Walter c/o Theresa Hogan, Esquire, Attorney-at-Law, 340 Spring Garden Street, Easton, PA 18042

Attorney: Theresa Hogan, Esquire, Attorney-at-Law, 340 Spring Garden Street, Easton, PA 18042

**WEAVER, EDWIN H., III,** dec'd.

Late of Wilson Borough, Northampton County, PA

Executrix: Kristen D. Behm c/o Ralph J. Bellafatto, Esquire, 4480 William Penn Highway, Easton, PA 18045

Attorney: Ralph J. Bellafatto, Esquire, 4480 William Penn Highway, Easton, PA 18045

**WERNER, NANCY E.,** dec'd.

Late of the Township of Plainfield, Northampton County, PA

Co-Executors: John George Werner, IV and Scott T. Werner c/o Peters, Moritz, Peischl, Zulick, Landes & Brienza, LLP, 1 South Main Street, Nazareth, PA 18064

Attorneys: Peters, Moritz, Peischl, Zulick, Landes & Brienza, LLP, 1 South Main Street, Nazareth, PA 18064

**WILSON, OLETHA M.**, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executors: Cynthia Ruth Piscitello and Dennis Paul Wilson c/o Peters, Moritz, Peischl, Zulick, Landes & Brienza, LLP, 1 South Main Street, Nazareth, PA 18064

Attorneys: Peters, Moritz, Peischl, Zulick, Landes & Brienza, LLP, 1 South Main Street, Nazareth, PA 18064

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**NOTICE OF INCORPORATION**

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988 (P.L. 1444, No. 177), by the following corporation:

The name of the Corporation is:

**ROBERT C. MOLL, INC.**

with its principal place of business at: 84 Main Street, Hellertown, Northampton County, Pennsylvania 18055.

The certificate was filed on September 23, 2019.

MICHAEL F. CORRIERE, ESQUIRE  
433 East Broad Street

P.O. Box 1217

Bethlehem, PA 18016-1217

Feb. 6

**CORPORATE FICTITIOUS NAME  
REGISTRATION NOTICE**

An application for registration of the fictitious name:

**IVOR TRANSPORT**

513 W. Berwick St., Easton, PA 18042 has been filed in the Department of State at Harrisburg, PA, file date November 26, 2019 pursuant to the Fictitious Names Act, Act 1982-295. The names and address of the entity and person who are parties to the registration are Ivor Investments and Winston Harewood, 513 W. Berwick St., Easton, PA 18042.

Feb. 6

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**IN THE NORTHAMPTON COUNTY  
COURT OF COMMON PLEAS  
ORPHANS' COURT DIVISION**

The following Executors, Administrators, Guardians & Trustees have filed Accounts in the Office of the Orphans' Court:

ESTATE; Accountant

RICHARD K. HAUPT; Alfred S. Pierce and Ralph Dech, Executors

THADDEUS MIKLEWICZ; Tamara Lynn Wells and Kevin Wells, Executors

**AUDIT NOTICE**

All Parties interested are notified that an audit list will be made up of all Accounts and the said list will be called for audit at the Northampton County Government Center, Easton, PA on: WEDNESDAY, FEBRUARY 19, 2020 AT 9:00 A.M. IN COURTROOM #1.

Gina X. Gibbs

Clerk of Orphans' Court

Feb. 6, 13

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**NOTICE FOR CHANGE OF NAME**

NOTICE IS HEREBY GIVEN that on January 31, 2020, the Petition of Jennifer Bastidas was filed in Northampton County Court of Common Pleas at No. C-48CV2020-866, seeking to change the name of

minor child from Allegra Layanna Hess to Anastasia Collette Hess. The Court has fixed Wednesday, March 4, 2020 at 9:00 A.M., in courtroom #4 at the Northampton County Courthouse as the date of hearing of the Petition. All persons interested in the proposed change of name may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Feb. 6

**IN THE COURT OF COMMON  
PLEAS OF NORTHAMPTON  
COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

CIVIL ACTION

QUIET TITLE

NANCY RUN ESTATES a/k/a  
NANCY RUN ESTATES FAMILY  
LIMITED PARTNERSHIP

Plaintiff

v.

SAVERCOOL AND WRIGHT

Defendant

TAX PARCELS NOS. M7-SE4-25-1,  
M7-SE4-25-2, M7-SE4-25-3,  
M7-SE4-25-4, M7-SE4-31-2,  
M7-SE4-31-3, M7-SE4-37-3,  
M7-SE4-37-4 and M7-17-13

**NO.: C48-CV-2019-12034**

NOTICE

TO: Savercool and Wright, their heirs,  
successors and assigns

BE ADVISED THAT YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. A MOTION FOR JUDGMENT OF THIS MATTER WILL BE PRESENTED AT MOTIONS COURT AT THE NORTHAMPTON COUNTY COURTHOUSE, 669 WASHINGTON STREET, EASTON, PA ON FEBRUARY 21, 2020 AT 9:00 A.M. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE

P.O. Box 4733

Easton, PA 18043-4733

(610) 258-6333

LISA A. PEREIRA, ESQUIRE

Attorney I.D. #93405

BROUGHAL & DeVITO, L.L.P.

Attorneys for Plaintiff

38 West Market Street

Bethlehem, PA 18018

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Feb. 6

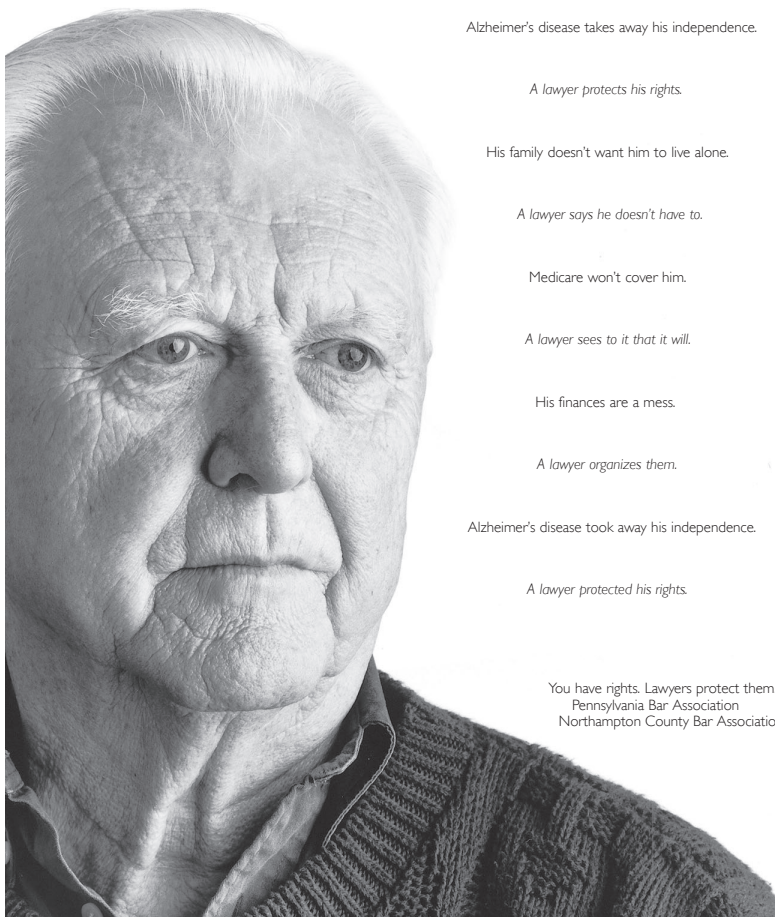
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Hof & Reid, LLC, a personal injury law firm, is seeking an associate licensed in Pennsylvania with 3+ years of litigation experience. The candidate should be able to assist and support a busy team of litigation partners, mainly in personal injury matters. Must have experience in conducting legal research (Westlaw), office software (Word, Excel), drafting briefs and other legal documents, preparing for pretrial discovery, motion practice, and trial support.

If interested in the position, please submit your resumé and cover letter to [law@valleyinjury.com](mailto:law@valleyinjury.com).

**HOF&REID<sub>LLC</sub>****Personal Injury Law**

Jan. 30; Feb. 6, 13



Alzheimer's disease takes away his independence.

*A lawyer protects his rights.*

His family doesn't want him to live alone.

*A lawyer says he doesn't have to.*

Medicare won't cover him.

*A lawyer sees to it that it will.*

His finances are a mess.

*A lawyer organizes them.*

Alzheimer's disease took away his independence.

*A lawyer protected his rights.*

You have rights. Lawyers protect them.  
Pennsylvania Bar Association  
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In order to maintain up-to-date information on all members and subscribers of the *Reporter*, complete the form below and return it to the NCBA Office whenever you have a change and/or addition to your address, telephone number, fax number or e-mail address. *Return to:* Northampton County Bar Association, 155 South Ninth Street, Easton, PA 18042-4399, FAX: (610) 258-8715.

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E-MAIL \_\_\_\_\_

***New information:***

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

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TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_

E-MAIL \_\_\_\_\_



**COMMONWEALTH of PENNSYLVANIA v.  
GREGORY LEWIS, Defendant**

*Carpenter v. United States—CSLI—Cell Phone—Search—Motion to Suppress—Probable Cause.*

Defendant's motions to suppress cell phone records and data obtained by the Commonwealth on orders issued by the Court of Common Pleas pursuant to the Pennsylvania Wiretapping and Electronic Surveillance Control Act were denied. While the data had been obtained upon a finding of "reasonable grounds" to believe that the records were "relevant and material to an ongoing investigation" in accordance with the Act, and not after a determination of probable cause, as required by the recent decision of the U.S. Supreme Court in *Carpenter v. United States*, the Court found, upon an examination of the supporting affidavits, that probable cause was in fact present at the time the orders were issued. Where warrants had been issued for other cell phone records and data, the Court likewise found that probable cause had been present at the time of their issuance.

Defendant's motion to suppress the results of a cell phone extraction was denied where the phone was both seized and searched pursuant to valid warrants supported by probable cause, and the extraction of the data thereupon was properly conducted in Lehigh County upon a request from law enforcement in Northampton County, pursuant to 42 Pa. C.S. §8953(a)(3) and Pa. R.Crim.P. 204. Moreover, whereas the phone in question was stolen, Defendant lacked a reasonable expectation of privacy therein and lacked standing to challenge the search.

Defendant's Rule 600 motion was denied where the delay in bringing the case to trial was largely occasioned by defense motions.

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division—Nos. CP-48-CR-01520-2017, CP-48-CR-01795-2017, CP-48-CR-03172-2017, CP-48-CR-03777-2017, CP-48-CR-01059-2018, CP-48-CR-01528-2018, CP-48-CR-01529-2018.

PATRICIA FUENTES MULQUEEN, ESQUIRE and EDWARD PENETAR, ESQUIRE, for the Commonwealth.

ROBERT EYER, ESQUIRE, for the Defendant.

Order of the Court entered on December 7, 2018 by ROSCIOLI, J.

*ORDER*

AND NOW, this 7th day of December 2018, upon consideration of Defendant's Omnibus Pretrial Motion, and following a hearing, it [sic] hereby ORDERED as follows:

1. Defendant's "Motion to Suppress—Cell Phone Records and Data" is DENIED, for the reasons set forth in the Statement of Reasons appearing below;

2. Defendant's "Motion to Suppress—Cell Phone Extraction" is DENIED, for the reasons set forth in the Statement of Reasons appearing below;

3. Defendant's "Motion to Suppress—Search of 12 South 17th Street" is DENIED, for the reasons set forth in the Statement of Reasons appearing below;

4. Defendant’s “Motion to Suppress—DNA Swab” is DISMISSED AS MOOT, as the Commonwealth has represented that no DNA evidence will be offered at the trial of the within matters;

5. Defendant’s “Motion to Sever” is GRANTED BY AGREEMENT. The charge of persons not to possession [sic] firearms—18 Pa.C.S. § 6105(a)(1) is hereby SEVERED from the balance of the charges at case numbers CP-48-CR-03777-2017, CP-48-CR-01529-2018, and CP-48-CR-01059-2018;

6. Defendant’s “Motion to Compel Discovery” is DISMISSED AS MOOT, as all discovery has now been provided by the Commonwealth;

7. Defendant’s “Motion to Compel Expert Report” is DISMISSED AS MOOT, as all of the materials requested therein have now been provided by the Commonwealth;

8. Defendant’s “Motion *in Limine*—Other Crimes” is GRANTED BY AGREEMENT. The Commonwealth does not intend to offer at trial any evidence of crimes for which Defendant is not charged in the above-captioned matters. The Commonwealth has agreed to redact any reference to such crimes from the recorded statement of codefendant Vaughn Felix;

9. Defendant’s “Motion for Funding of Expert” was addressed in part by our Order of November 8, 2018, and in all other respects is hereby HELD IN ABEYANCE pending further written request by the Defendant;

10. Defendant’s “Motion to Dismiss—Rule 600” is DENIED in all respects, for the reasons set forth in the Statement of Reasons appearing below.

### STATEMENT OF REASONS

#### *I. Defendant’s “Motion to Suppress—Cell Phone Records and Data”*

The first motion contained in Defendant’s Omnibus Pretrial Motion is his “Motion to Suppress—Cell Phone Records and Data,” wherein Defendant asks this Court to suppress all cell phone records and data obtained during the course of the investigation of the within matters as it relates to certain cell phone numbers believed by law enforcement to be associated with this Defendant. More specifically, the Commonwealth obtained records and data, including what is commonly known as cell site location information (CSLI), for three phone numbers: \*\*\*-\*\*\*-\*\*\*\*, \*\*\*-\*\*\*-\*\*\*\*, and \*\*\*-\*\*\*-\*\*\*\*. Defendant contends that this information was obtained without a valid search warrant and without any applicable exception to the warrant requirement, in violation of his right to be free of unreasonable searches and seizures, under both the Fourth Amendment of the U.S. Constitution and Article I, Section 8 of the Pennsylvania Constitution.

The data for \*\*\*-\*\*\*-\*\*\*\* and \*\*\*-\*\*\*-\*\*\*\* were the subject of two Orders issued by this Court pursuant to 18 Pa. C.S. §5743, a section of the Pennsylvania Wiretapping and Electronic Surveillance Control Act.<sup>1</sup>

<sup>1</sup> Commonwealth Exhibits 5 and 6.

Pursuant to subsection (d) of that statute section, an order requiring the disclosure of such data may only be issued upon a showing of “specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation.” 18 Pa. C.S. §5743(d). Importantly, the language of this statute is closely patterned after the language of the federal Stored Communications Act, at 18 U.S.C. §2703.

In its recent decision in *Carpenter v. United States*, 585 U.S. \_\_\_\_ (2018), the United States Supreme Court concluded that the acquisition of CSLI was a search within the meaning of the Fourth Amendment and found the Stored Communications Act to be unconstitutional insofar as it permitted the disclosure of CSLI without a warrant issued upon a finding of probable cause. The Supreme Court concluded that an order issued upon a showing of “reasonable grounds” to believe that the records were “relevant and material to an ongoing investigation,” as set forth in the Act, was “not a permissible mechanism” for accessing CSLI, and that “[b]efore compelling a wireless carrier to turn over a subscriber’s CSLI, the Government’s obligation is a familiar one—get a warrant.” 18 U.S.C. §2703(d); *Carpenter*, supra, slip op. at 19. Given the nearly identical language found between §2703(d) of the Stored Communications Act and §5743(d) of Pennsylvania’s Wiretapping and Electronic Surveillance Control Act, we find that we must conclude that *Carpenter* is equally applicable to the Pennsylvania statute, requiring the issuance of a warrant based upon a finding of probable cause before Pennsylvania law enforcement may obtain CSLI, and that any evidence obtained in the absence of probable cause must be suppressed.

Whereas *Carpenter* was decided on June 22, 2018, and the Orders in this case were issued on March 1, 2017 and April 7, 2017, our next task is to determine the applicability of the *Carpenter* decision to this case. Pursuant to *Griffith v. Kentucky*, 479 U.S. 314 (1987), we believe that the ruling in the *Carpenter* decision must be applied retroactively to this case. In *Griffith*, the Supreme Court found that a “failure to apply a newly declared constitutional rule to criminal cases pending on direct review violates basic norms of constitutional adjudication,” that “the integrity of judicial review requires that we apply that rule to all similar cases pending on direct review,” and that the court fulfills its “judicial responsibility by instructing the lower courts to apply the new rule retroactively to cases not yet final.” *Id.* at 322-23. The *Griffith* court went on to specifically hold “that a new rule for the conduct of criminal prosecutions is to be applied retroactively to all cases, state or federal, pending on direct review or not yet final, with no exception for cases in which the new rule constitutes a ‘clear break’ with the past.” *Id.* at 328. Given that the within matters against this Defendant have yet to proceed to trial, we must conclude that we are to apply *Carpenter* here.

Faced with the new rule announced in *Carpenter*, courts in many jurisdictions have concluded that, despite its applicability to the cases before them, the evidence obtained pursuant to orders such as those at issue here need not be suppressed, on the basis of a “good faith” exception to the exclusionary rule. The “good faith” exception permits the admission of evidence obtained in violation of an individual’s constitutional rights where law enforcement had “a reasonable, good faith belief that their actions were constitutional at the time.” *Reed v. Commonwealth*, 819 S.E.2d 446, 450 (Va. Ct. App. 2018). *See also*, *United States v. Joyner*, 899 F.3d 1199 (11th Cir. 2018); *United States v. Pleasant*, No. CR 17-62, 2018 WL 4252632 (E.D. Pa. Sept. 5, 2018). While no Pennsylvania state court has yet spoken on this issue as it pertains to *Carpenter*, the Pennsylvania Supreme Court has long held that Article I, Section 8 of the Pennsylvania Constitution affords broader protections than the Fourth Amendment of the U.S. Constitution, rejecting the U.S. Supreme Court’s application of a good faith exception to the exclusionary rule, and holding that no such exception is incorporated into Article I, Section 8. *See Commonwealth v. Edmunds*, 526 Pa. 374, 586 A.2d 887 (1991). Accordingly, we believe that we cannot properly apply a good faith exception to the exclusionary rule here.<sup>2</sup>

Nevertheless, we do not believe that suppression is required here. The aim of the *Carpenter* ruling is not to ensure that law enforcement have in hand a document called a warrant before they conduct a search. The aim is to ensure that probable cause is present before a search is conducted. While the Orders at issue here were not entered upon findings of probable cause, the judges issuing those Orders were presented with affidavits setting forth facts which law enforcement officers believed at that time entitled them to conduct searches for CSLI. We have reviewed those affidavits, and have determined that they set forth sufficient facts to support a finding that probable cause existed at the time the Orders were entered. *See State v. Sylvestre*, \_\_\_ So. 3d \_\_\_ (Fla. App. 4 Dist. 2018) (finding that the trial court properly made an additional finding that probable cause had been set forth in an affidavit seeking an order for a CSLI search, despite the fact that probable cause was not required by the statute pursuant to which the order had been entered).

“Probable cause” is that quantum of evidence that, considering the totality of the circumstances, would permit an issuing authority “to make a practical, commonsense [sic] decision [that] there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *Illinois v. Gates*, 462 U.S. 213, 238 (1983). *See also*, *Commonwealth v. Glass*, 562 Pa. 187, 197, 754 A.2d 655, 661 (2000) (reaffirming that the totality

<sup>2</sup> In its brief, the Commonwealth asks us to apply a good faith exception and deny suppression of the CSLI evidence at issue here, citing several cases in support of its position. Notably, none of those cases cited by the Commonwealth involved application of the Pennsylvania Constitution.

of the circumstances standard set forth in *Gates* is to be used to determine whether probable cause exists under both the Fourth Amendment of the U.S. Constitution and Article I, Section 8 of the Pennsylvania Constitution). The issuing authority must determine whether the “total effect” of the statements contained in the affidavit is such that there is probable cause to conclude that evidence of a crime is present in the place to be searched. *Commonwealth v. Gray*, 509 Pa. 476, 485, 503 A.2d 921, 926 (1985). Just as we would do if tasked with reviewing a challenged affidavit in support of a warrant, our review of the affidavits given in support of the Orders at issue has been “confined to the averments contained within the four corners of the affidavit,” and we have viewed the information contained therein “in a common-sense, non-technical manner.” *Commonwealth v. Wallace*, 615 Pa. 395, 408, 42 A.3d 1040, 1048 (2012); *Commonwealth v. Torres*, 564 Pa. 86, 101, 764 A.2d 532, 540 (2001).

In support of the March 1, 2017 Order pertaining to \*\*\*-\*\*\*-\*\*\*\*, affiant Eric Donaldson of the Slate Belt Regional Police Department attested to, *inter alia*, the following:

On February 9, 2017, a robbery took place at the Verizon store in Wind Gap, Pennsylvania. Shortly after arriving on the scene of the robbery, the affiant viewed video surveillance footage of the robbery. On the video, two males are seen entering the store at 10:21, at which time one of the males pulls a gun from his waistband. The individual with the gun is seen tying the hands of the store employee behind his back with a zip tie, and taking him to the back room where the safe is located.

Once the safe is unlocked by means of a code obtained by force from the store employee’s cell phone at 10:23, the suspects fill three black garbage bags with items from the safe and from the store floor, and place the bags by the back door. At 10:33:19 and 10:33:45, one of the suspects removes the black garbage bags through the back door, and does not return thereafter.

At 10:35:15, the remaining suspect appears to answer an incoming phone call on his cell phone. The call ends at 10:35:23, at which time he exits through the back door.

Upon review of data obtained pursuant to a Court Order from the cell phone tower in proximity to the Wind Gap Verizon store, the affiant discovered a phone call commencing at 10:35:06 between \*\*\*-\*\*\*-\*\*\*\* and \*\*\*-\*\*\*-\*\*\*\* lasting 23 seconds.

The number \*\*\*-\*\*\*-\*\*\*\* had been previously used on January 6, 2017 to activate an iPhone stolen during the January 5, 2017 robbery of an AT&T wireless store in Bethlehem Township, Pennsylvania. That phone number is assigned by AT&T to the account of Gregory Lewis in Easton, Pennsylvania.

On January 16, 2017, following a robbery in South Whitehall Township, a stolen vehicle containing items stolen from that robbery was lo-

cated in Easton. Gregory Lewis was stopped on foot by Easton Police less than one block from that vehicle.

On February 25, 2017, a stolen vehicle was again recovered in Easton after having been used in an armed robbery of an AT&T store in nearby Lopatcong Township, New Jersey.

Considering the totality of the circumstances set forth in the affidavit, we believe that there was probable cause to conclude that evidence of a crime could be found by conducting a search of the cell phone data associated with \*\*\*-\*\*\*-\*\*\*\*. That phone number was used to activate a phone that had been stolen during the robbery of an AT&T wireless store and was then used to make a call in both temporal and physical proximity to the robbery of a Verizon wireless store weeks later. Moreover, the individual to whom that number was registered was observed by police to be walking in proximity to a stolen vehicle containing stolen goods shortly after a robbery involving same. While this information may not give rise to a *prima facie* case against that individual, such a showing is not required for a warrant to issue. Thus, while an Order based upon “reasonable grounds”—not a warrant based upon probable cause—was issued on March 1, 2017 for the data relating to \*\*\*-\*\*\*-\*\*\*\*, we are satisfied that probable cause nevertheless existed at the time the Order was entered, and that the goal of *Carpenter*—to protect against unreasonable searches and seizures where probable cause is absent—was achieved here. For that reason, we will not suppress the evidence obtained during the search of that data.

On April 7, 2017, law enforcement obtained another CSLI Order, this time for data pertaining to \*\*\*-\*\*\*-\*\*\*\*. This Order, like the March 1, 2017 Order, was issued following consideration of an affidavit setting forth the grounds upon which officers believed they were entitled to conduct the search, pursuant to 18 Pa. C.S. §5743. Two weeks later, on April 21, 2017, that same phone number was the subject of a search warrant application that was granted by the Honorable F.P. Kimberly McFadden.<sup>3</sup> Insofar as it would appear that the records for \*\*\*-\*\*\*-\*\*\*\* were therefore obtained pursuant to the later warrant, and not the CSLI Order, we will confine our analysis to propriety of the issuance of the warrant, in the interest of relative brevity.<sup>4</sup>

Again, “before an issuing authority may issue a constitutionally valid search warrant, he or she must be furnished with information sufficient to persuade a reasonable person that probable cause exists to conduct a search.” *Commonwealth v. Baker*, 532 Pa. 121, 126, 615 A.2d 23, 25 (1992). Furthermore, when conducting a judicial review of the issuance of a war-

<sup>3</sup> Commonwealth Exhibit 7.

<sup>4</sup> While Judge McFadden is a jurist of coordinate jurisdiction with the undersigned, we are nonetheless required to review her determination of probable cause now, given the change of procedural posture at this time. *Commonwealth v. McCulligan*, 905 A.2d 983 (Pa. Super. 2006).

rant, we must “determine whether the issuing [authority had] a substantial basis for concluding that probable cause existed” and we “must accord deference to the issuing authority’s probable cause determination.” *Torres*, supra at 96, 764 A.2d at 538.

In the affidavit of probable cause executed in support of the April 21, 2017 warrant, Officer Christopher Watt of the Palmer Township Police Department set forth, *inter alia*, the following facts:

On October 29, 2016, a Verizon store in Forks Township, Pennsylvania was the site of an armed robbery. Michael DeRose is the manager of that store and was a victim at the time of the robbery. Numerous cell phones were stolen during the robbery.

On November 21, 2016, Michael Davis was shot in front of his home in Easton, after having just arrived home from working at the same Verizon store.

On November 22, 2016, DeRose was again the victim of a crime when he was abducted at gunpoint in front of his home as he exited his vehicle after arriving home from working at the Verizon store.

During the investigation of these crimes, DeRose revealed to law enforcement that he was a heroin addict and that his dealers—Kassandra Rios and Alonso Sterling—often came to the Verizon store to supply his heroin.

On November 23, 2016, a confidential source contacted by Palmer Township Police related a November 3, 2016 interaction with Kassandra Rios in which she indicated that she had sent an individual known as “Starz” to the Verizon store to collect a drug debt owed by DeRose and that “Starz” had come back with cell phones. The confidential source was able to identify “Starz,” via a JNET photo, as Nadir Chandler.

On January 5, 2017, two masked men robbed the AT&T wireless store in Bethlehem Township at gunpoint. The next day, AT&T notified police that one of the phones stolen had been activated to \*\*\*-\*\*\*-\*\*\*\*, which number was assigned to the account of Gregory Lewis.

On January 13, 2017, working undercover, Investigator Edward Fox of the Bethlehem Township Police Department purchased one of the phones stolen from the AT&T store from an individual known to law enforcement as Eric Watson.

On January 16, 2017, two masked men robbed the Verizon Wireless store located in South Whitehall Township, at gunpoint. Based upon GPS information provided by Verizon, Pennsylvania State Police located a parked, vacant vehicle in the 1000 block of Spruce Street, Easton, less than 30 minutes after the robbery. Several bags containing items stolen from the South Whitehall store were found in the vehicle, which vehicle was later determined to be stolen from Allentown and bearing plates stolen from Wilson Borough. Approximately 90 minutes after the vehicle and stolen items were found, Gregory Lewis and Vaughn Felix were stopped by patrol officers approximately one block away from the location of the vehicle.



On January 20, 2017, a woman named Patricia Calcano was questioned after police determined that her SIM card had been used to activate four phones stolen from the Forks Township Verizon store. She related that a man known to her as “Eric” had visited her home on November 16, 2016 and asked for her SIM card to test his cell phone.

On January 23, 2017, two devices were activated through the AT&T account of customer Eric Quentin Watson, utilizing phone number \*\*\*-\*\*\*-\*\*\*\*.

On February 9, 2017, the Verizon Wireless store in Wind Gap was robbed at gunpoint by two men. Numerous devices were stolen, and the men fled in a silver vehicle. On February 10, 2017, some of the phones stolen from the Wind Gap store were activated using the \*\*\*-\*\*\*-\*\*\*\* number assigned to Watson.

On February 25, 2017, the AT&T store in Lopatcong, New Jersey was robbed at gunpoint by two men. Numerous devices were again stolen. AT&T provided law enforcement with tracking information for those devices, leading officers to a silver Infiniti parked near 15th and Spring Garden Streets in Easton.

On April 3, 2017, the affiant reviewed the cell phone records of Vaughn Felix, revealing 56 communications with Nadir Chandler’s phone number during the four days surrounding the robbery of the Forks Township Verizon store. The records further revealed 15 communications with Eric Watson’s phone number, 24 communications with Nadir Chandler’s phone number, and 84 communications with \*\*\*-\*\*\*-\*\*\*\* during the six days surrounding the Davis murder and the DeRose abduction.

Viewing the totality of the circumstances set forth in the affidavit of probable cause, we find that Judge McFadden did have probable cause to conclude that evidence of a crime would be found by conducting a search of the cell phone data associated with \*\*\*-\*\*\*-\*\*\*\*, given that during a relatively brief period surrounding a homicide and an abduction related to the first in a string of cell phone store robberies, Vaughn Felix—believed to be a confederate of Eric Watson and Nadir Chandler, both of whom had ties to the robberies—was in frequent communication with the user of that number. Accordingly, we will not suppress the evidence obtained as a result of the search of the data associated with that number.

Next, we turn to the search of records associated with phone number \*\*\*-\*\*\*-\*\*\*\*. That search was conducted pursuant to a warrant issued by Magisterial District Judge Jacqueline M. Taschner on June 9, 2017.<sup>5</sup> Much of the same information that was included in the application for the April 21, 2017 warrant was also included in the application for this warrant. While further recitation of that information is therefore redundant, we repeat it here to demonstrate that our analysis of this application has been confined

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<sup>5</sup> Commonwealth Exhibit 8.

to the “four corners” thereof. Thus, in the affidavit of probable cause executed in support of the June 9, 2017 warrant, Officer Christopher Watt of the Palmer Township Police Department set forth, *inter alia*, the following facts:

On October 29, 2016, a Verizon store in Forks Township, Pennsylvania was the site of an armed robbery. Michael DeRose is the manager of that store and was a victim at the time of the robbery. Numerous cell phones were stolen during the robbery.

On November 21, 2016, Michael Davis was shot in front of his home in Easton, after having just arrived home from working at the same Verizon store.

On November 22, 2016, DeRose was again the victim of a crime when he was abducted at gunpoint in front of his home as he exited his vehicle after arriving home from working at the Verizon store.

On January 5, 2017, two masked men robbed the AT&T wireless store in Bethlehem Township at gunpoint. The next day, AT&T notified police that one of the phones stolen had been activated to \*\*\*-\*\*\*-\*\*\*\*, which number was assigned to the AT&T account belonging to Gregory Lewis.

On January 16, 2017, two masked men robbed the Verizon wireless store located in South Whitehall Township, at gunpoint. Based upon GPS information provided by Verizon, Pennsylvania State Police located a parked, vacant vehicle in the 1000 block of Spruce Street, Easton, less than 30 minutes after the robbery. Several bags containing items stolen from the South Whitehall store were found in the vehicle, which vehicle was later determined to be stolen from Allentown and bearing plates stolen from Wilson Borough. Approximately 90 minutes after the vehicle and stolen items were found, Gregory Lewis and Vaughn Felix were stopped by patrol officers approximately one block away from the location of the vehicle.

On February 9, 2017, the Verizon wireless store in Wind Gap was robbed at gunpoint by two men. Numerous devices were stolen, and the men fled in a silver vehicle. On February 10, 2017, some of the phones stolen from the Wind Gap store were activated using the number \*\*\*-\*\*\*-\*\*\*\*, assigned by AT&T to the account of Eric Watson.

On February 25, 2017, the AT&T store in Lopatcong, New Jersey was robbed at gunpoint by two men. Numerous devices were again stolen. AT&T provided law enforcement with tracking information for those devices, leading officers to a silver Infiniti parked near 15th and Spring Garden Streets in Easton.

On April 3, 2017, the affiant reviewed the cell phone records of Vaughn Felix, revealing 56 communications with \*\*\*-\*\*\*-\*\*\*\*, a number affiliated with an individual named Nadir Chandler, during the four days surrounding the robbery of the Forks Township Verizon store. The records also revealed 15 communications with the number associated with Eric

Watson, 24 communications with Nadir Chandler's number, and 84 communications with \*\*\*-\*\*\*-\*\*\*\*, a number believed to be associated with Defendant, during the six days surrounding the Davis murder and the DeRose abduction.

The affidavit goes on to state that investigators believed that Lewis had an additional phone number, given a lack of communication between Felix and \*\*\*-\*\*\*-\*\*\*\* between December 7, 2016 and January 6, 2017. The affidavit further states that Felix, Lewis, Watson, and Chandler all communicated regularly during the time surrounding the robberies, homicide, and abduction via iMessage, FaceTime, and Facebook. Finally, the affidavit states that on June 8, 2016, Officer Watt obtained account information for the Facebook page of Gregory Lewis, listed under the name Bobby Valentine. On this Facebook page, phone number \*\*\*-\*\*\*-\*\*\*\* was listed for people to contact him for the purpose of purchasing marijuana.

Viewing the totality of the circumstances set forth in the affidavit of probable cause, and accepting as true the representations of the affiant as set forth therein, we find that Judge Taschner did have probable cause to conclude that evidence of a crime could be found by conducting a search of the cell phone data associated with \*\*\*-\*\*\*-\*\*\*\*. Again, Gregory Lewis had been identified as a person of interest in connection with a string of cell phone store robberies, given the activation of a stolen phone on his AT&T account the day following the robbery of an AT&T store, his presence with Vaughn Felix in physical and temporal proximity to a vehicle filled with goods stolen from a Verizon store, and the communication link between Vaughn Felix, Defendant, and Eric Watson—another individual known to be in possession of stolen cell phones—during the time surrounding these robberies. Moreover, \*\*\*-\*\*\*-\*\*\*\* was provided by Gregory Lewis as a number upon which he could be contacted. Accordingly, we will not suppress the evidence obtained as a result of the search of the data associated with this cell phone number.

Finally, Defendant argues that any warrant that was secured for data related to the cell phone numbers discussed hereinabove was issued without jurisdiction, on the grounds that the issuing authority did not have the power to issue a warrant for records located outside the Commonwealth. We disagree. First, we note that the record is silent with respect to the jurisdiction from which the records at issue were obtained. Furthermore, pursuant to the Pennsylvania Wiretapping and Electronic Surveillance Control Act, a “court” has the authority to enter an “order” for the disclosure of cell phone records and data, including CSLI, by a “communication service.” 18 Pa. C.S. §5743. For purposes of Subchapter C of the Act, the subchapter pursuant to which the evidence at issue was obtained, a “court” authorized to enter an order for disclosure of records “shall mean the court of common pleas.” 18 Pa. C.S. §5702. Further, a “communication service”

is defined as “[a]ny service which provides to users the ability to send or receive wire or electronic communications,” without reference to the physical location of the entity providing that service. Moreover, we believe that a warrant issued by a judge of this Court may fairly be deemed an “order” of a “court” within the meaning of the statute. Accordingly, we find no error in the issuance of the March 1, 2017 Order or April 21, 2017 warrant, and Defendant’s motion on this point must be denied with respect to same.

With respect to the final warrant, issued by Magisterial District Judge Taschner, while we believe that same was not properly issued in the magisterial district court, insofar as the statute specifically refers to the court of common pleas, our Superior Court has concluded that suppression is not an available remedy for non-constitutional violations of the Pennsylvania Wiretapping and Electronic Surveillance Control Act and, moreover, that it is the independence of the issuing authority that implicates an individual’s constitutional rights. *Commonwealth v. Dougalewicz*, 113 A.3d 817, 826 (Pa. Super. 2015) (“Regardless of whether an MDJ had the authority to issue a warrant for the search and seizure of electronic communications, the Pennsylvania legislature excluded suppression as a remedy for non-constitutional violations of the Pennsylvania Act.”). *See also*, *Commonwealth v. Gary*, 625 Pa. 183, 191, 91 A.3d 102, 107 (2014) (“As a general rule, for a search to be reasonable under the Fourth Amendment or Article I, Section 8, police must obtain a warrant, supported by probable cause and issued by an independent judicial officer, prior to conducting the search.”). Accordingly, Defendant’s motion must be denied with respect to this warrant as well.

## II. Defendant’s “Motion to Suppress—Cell Phone Extraction”

In his next motion, titled “Motion to Suppress—Cell Phone Extraction,” Defendant contends that a certain cell phone seized from him was both seized and searched without a valid warrant or an exception to the warrant requirement, that any warrant for the search of the phone was not supported by probable cause, and that to the extent that a warrant was issued for a search of the phone, it was improperly executed insofar as the issuing authority was located in Northampton County and the search was conducted in Lehigh County, at the Petzhold Digital Forensic Lab.

Whereas two warrants were in fact issued for the seizure and search of the subject phone on March 6, 2017 by Magisterial District Judge Daniel Corpora, we confine our analysis to the question of probable cause.<sup>6</sup> While Defendant does not specifically contend in his motion that the first warrant, which we will refer to as the *seizure* warrant, was issued without probable cause, we have analyzed this question in order to complete the

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<sup>6</sup> Commonwealth Exhibits 9 and 10.

record and we find that there was probable cause to support the issuance of that warrant. Detective Anthony Arredondo of the Easton Police Department applied for the warrant. In the affidavit of probable cause, Detective Arredondo sets forth a recitation of facts including, *inter alia*, the following information:

On January 5, 2017, two masked men robbed the AT&T wireless store in Bethlehem Township, at gunpoint, displaying a black and silver handgun. Following the robbery, store managers supplied law enforcement officers with a list of devices stolen during the robbery. The following day, AT&T notified the Bethlehem Township Police Department that one of the stolen iPhones had been activated for use with phone number \*\*\*\*-\*\*\*\*-\*\*\*\*—which number was assigned to Gregory Lewis.

On January 16, 2017, two masked men robbed the Verizon wireless store located in South Whitehall Township, at gunpoint. Within minutes after the robbery, store managers supplied law enforcement with GPS locations for the items identified as stolen. Based upon this GPS information, Pennsylvania State Police located a parked, vacant vehicle in the 1000 block of Spruce Street, Easton, less than 30 minutes after the robbery. Several bags containing items stolen from the South Whitehall store were found in the vehicle, which was later determined to be stolen. Approximately 90 minutes after the vehicle and stolen items were found, Defendant and Vaughn Felix were stopped by patrol officers approximately one block away from the location of the vehicle.

On February 22, 2017, Defendant was arrested by Easton Police. At the time of his arrest, he provided officers with a phone number of \*\*\*\*-\*\*\*\*-\*\*\*\*.

On February 28, 2017, law enforcement received cell phone tower information from the time surrounding a robbery of a Verizon wireless store in Wind Gap, Pennsylvania. This information showed that a telephone call took place near the location of that robbery, at the time of that robbery, between \*\*\*\*-\*\*\*\*-\*\*\*\*—known to be registered to Defendant—and the number \*\*\*\*-\*\*\*\*-\*\*\*\*, known to be registered to Vaughn Felix.

On March 2, 2017, Bethlehem Township Police obtained an arrest warrant for Defendant, for the charge of receiving stolen property, for being in possession of the stolen iPhone registered to his phone number. On March 6, 2017, Defendant was arrested on that warrant during a traffic stop of the Toyota Avalon he was driving. Officer Arredondo sought the search warrant for permission to search the Toyota Avalon for cell phones, cell phone accessories, and cell phone packaging consistent with those items stolen from the cell phone stores; items of clothing consistent with those worn by the perpetrators of the robberies at issue; and any firearms or ammunition.

Taking the totality of the circumstances into consideration—wherein Defendant Gregory Lewis's phone number was activated on an iPhone stolen from an AT&T store the day following a robbery of that store; he

and Vaughn Felix were found walking in the late evening hours a mere block away from a stolen vehicle filled with items stolen from a Verizon store hours after the robbery of that store; and where Defendant's phone number and Felix's phone number were engaged in a call in proximity to another Verizon store during the time it was robbed—we find that Judge Corpora had probable cause to believe that there was a fair probability that contraband or evidence of a crime would be found in the Toyota Avalon. While mere coincidence could have been responsible for these events, we believe that a practical, common-sense review of these sworn facts would strongly suggest that evidence of a crime would be found in Defendant's vehicle. Accordingly, we find that there was probable cause to support the issuance of the *seizure* warrant.

Defendant does specifically argue that the second warrant, which we will refer to herein as the *search* warrant, was issued without probable cause. As with the first warrant, we find that there was probable cause to support the issuance of this warrant. In the application for that warrant, Detective Brian Burd of the Easton Police Department specifically requested a search, commonly referred to as an "extraction search," of a black iPhone bearing model number A1784. In the affidavit of probable cause in support of the application, Detective Burd stated, *inter alia*, the following:

On January 6, 2017, AT&T notified Bethlehem Township Police that an iPhone 7 bearing IMEI number 3553144081155711 had been activated, and that said phone had been among items stolen the previous day from the Bethlehem Township AT&T store. AT&T additionally provided information that the number upon which the phone had been activated—\*\*\*-\*\*\*-\*\*\*—was assigned to Gregory Lewis, Defendant herein.

On February 22, 2017, Defendant was arrested by Easton Police, at which time he provided a phone number of \*\*\*-\*\*\*-\*\*\*. On March 6, 2017, Defendant was arrested on a warrant, and found to be in possession of an iPhone 7 in his vehicle, of which he was the sole occupant.<sup>7</sup>

Under the totality of the circumstances set forth in this affidavit, we conclude that there was probable cause to believe that evidence of a crime may be found in the data on the iPhone, as the phone had been active on the account of Gregory Lewis for nearly a month following the theft of same, and where he was still in possession of the phone at the time of his arrest.

Defendant next argues that the extraction search warrant was unlawfully executed, insofar as the warrant was issued by a Northampton County issuing authority and the place where the search was conducted—Petzold Digital Forensic Lab—is located in Lehigh County. Defendant offers no authority for the proposition that the lab exceeded its authority in extracting the data from the phone at issue. In contrast, Pa. R.Crim.P. 204

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<sup>7</sup> Defendant does not challenge the arrest warrant.

simply provides that a search warrant must be executed by “a law enforcement officer,” without reference to territorial jurisdiction. Moreover, we do not have before us an allegation that Lehigh County law enforcement officers took it upon themselves to search an item that had been seized in Northampton County. Clearly, the phone was seized by Easton Police pursuant to the *seizure* warrant and was then taken to the lab in Lehigh County, whereby a request for assistance was made to extract the data thereupon pursuant to the *search* warrant. Pursuant to 42 Pa. C.S. §8953(a)(3), municipal officers have statewide jurisdiction to act pursuant to requests for assistance from municipal officers of other jurisdictions. We note that Defendant’s argument ignores the reality that every county in our Commonwealth does not have the means to operate a wide variety of forensic labs—including those analyzing digital evidence, DNA, fingerprints, and the like. If we were to concur with Defendant’s assertion regarding the authority of the Petzold Lab to execute the warrant by performing the extraction search, the absurd result of that conclusion would be that each county in our Commonwealth would be required equip itself with multiple forensic labs in order for law enforcement to validly analyze evidence in the prosecution of crimes.

As an additional matter, we believe that Defendant lacks standing to challenge the search of the phone at issue, as that phone was stolen. A reasonable expectation of privacy in the place searched is required in order to confer standing to challenge a search. Whereas the law does not recognize a reasonable expectation of privacy in a stolen automobile, we believe that an individual likewise has no reasonable expectation of privacy in a stolen cell phone. *See Commonwealth v. Strickland*, 707 A.2d 531, 534 (Pa. Super. 1998) (“as a threshold requirement and as part of his case for suppression, the defendant must demonstrate the existence of a privacy interest in the place searched that is actual, societally sanctioned as reasonable, and justifiable ... .”) (quotation marks omitted). *See also, Commonwealth v. Rushing*, 71 A.3d 939, 961 n.11 (Pa. Super. 2013), *rev’d on other grounds*, 627 Pa. 59, 99 A.3d 416 (2014) (“This, of course, does not apply to the situation where a cell phone is stolen because a thief has no reasonable expectation of privacy in stolen property.”).

For all of these reasons, we conclude that the black iPhone 7 at issue was properly seized and searched following the issuance of constitutionally sound warrants, and that Defendant’s motion to suppress the evidence derived therefrom must be denied.

### III. Defendant’s “Motion to Suppress—Search of 12 South 17th Street”

In his “Motion to Suppress—Search of 12 South 17th Street,” Defendant contends, in the alternative, that a warrantless search of the premises situate at 12 South 17th Street, Apartment 1, Easton, Northampton County, Pennsylvania was conducted in violation of his constitutional rights,



or that the warrant issued for the search of that premises was not supported by probable cause. Whereas a warrant was in fact issued for the search of the subject premises on March 2, 2017 by the Honorable F.P. Kimberly McFadden of the Northampton County Court of Common Pleas, we again confine our analysis to the question of probable cause.<sup>8</sup> Mindful of the standard of review set forth above, we consider the following:

Detective Brian Burd of the Easton Police Department applied for the instant warrant. In the affidavit of probable cause, Detective Burd sets forth a recitation of facts including, *inter alia*, the following information:

On January 5, 2017, two masked men robbed the AT&T wireless store in Bethlehem Township, at gunpoint, displaying a black and silver handgun. Following the robbery, store managers supplied the Bethlehem Township Police Department with a list of devices stolen during the robbery. The following day, AT&T notified the Bethlehem Township Police Department that one of the phones that had been stolen was activated under phone number \*\*\*-\*\*\*-\*\*\*\*—which was assigned to Gregory Lewis, Defendant herein—with a registered address of 12 South 17th Street, Easton.

On January 16, 2017, two masked men robbed the Verizon wireless store located in South Whitehall Township, at gunpoint. Following the robbery, store managers supplied law enforcement with GPS locations for the items identified as stolen. Based upon this GPS information, Pennsylvania State Police located a parked, vacant vehicle in the 1000 block of Spruce Street, Easton, less than 30 minutes after the robbery. Several bags containing items stolen from the South Whitehall store were found in the vehicle, which was later determined to be stolen. Approximately 90 minutes after the vehicle and stolen items were found, Gregory Lewis and Vaughn Felix were stopped by patrol officers approximately one block away from the location of the vehicle.

On February 22, 2017, Defendant was arrested by Easton Police. At the time of his arrest, he provided officers with an address of 12 South 17th Street, Easton, and a phone number of \*\*\*-\*\*\*-\*\*\*\*. This address was confirmed by reference to his driver license information.

On February 28, 2017, law enforcement received cell phone tower information from the time surrounding a robbery of a Verizon wireless store in Wind Gap, Pennsylvania. This information showed that a telephone call was placed near the location of that robbery, at the time of that robbery, between \*\*\*-\*\*\*-\*\*\*\*—known to be registered to Defendant—and the number \*\*\*-\*\*\*-\*\*\*\*, known to be registered to Vaughn Felix.

Taking all of this information into consideration—wherein Defendant Gregory Lewis's phone number was activated on an iPhone stolen from an AT&T store the day following a robbery of that store; he and Vaughn Felix were found walking in the late evening hours a mere block away from a

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<sup>8</sup> Commonwealth Exhibit 11.

stolen vehicle filled with items stolen from a Verizon store hours after the robbery of that store; and where Defendant and Felix were engaged in a phone call in proximity to another Verizon store during the time it was robbed—we find that Judge McFadden had probable cause to believe, under the totality of the circumstances, that there was a fair probability that contraband or evidence of a crime would be found in Defendant’s home. Accordingly, Defendant’s motion to suppress the evidence derived from the search of the premises at 12 South 17th Street, Easton, must be denied.

#### IV. Defendant’s “Motion to Dismiss—Rule 600”

Defendant has filed a “Motion to Dismiss—Rule 600,” with respect to cases CP-48-CR-01795-2017, CP-48-CR-01520-2017, CP-48-CR-03172-2017, and CP-48-CR-03777-2017, on the grounds that he has not been brought to trial within 365 days of the filing of the criminal complaints in those matters, in violation of Pennsylvania Rule of Criminal Procedure 600(A)(2)(a).

In cases CP-48-CR-01795-2017 and CP-48-CR-01520-2017, the criminal complaints were filed on March 6, 2017 and March 10, 2017, respectively, and the so-called “mechanical run dates” for Rule 600 purposes were therefore March 6, 2018 and March 10, 2018. While we are now well beyond those dates, certain periods during the pendency of this case are considered “excludable time” for purposes of Rule 600. Only those “periods of delay at any stage of the proceedings caused by the Commonwealth when the Commonwealth has failed to exercise due diligence shall be included in the computation of the time within which trial must commence. Any other periods of delay shall be excluded from the computation.” Pa. R.Crim.P. 600(C)(1).

On November 15, 2017, preceding a hearing, it was agreed between then-defense counsel James Brose, Esq. and the Commonwealth that 183 days of “includable time” had run against the Commonwealth’s allotted 365 days prior to the filing of the Defendant’s Motion *in Limine* on November 8, 2017 in case CP-48-CR-01795-2017 and 197 days had run in case CP-48-CR-01520-2017. We note that Defendant, through his current counsel, does not challenge that agreement. On November 15, 2017, a hearing was held on the Commonwealth’s Motion to Join Offenses, with respect to the charges against this Defendant at case numbers CP-48-CR-01795-2017 and CP-48-CR-01520-2017;<sup>9</sup> the Commonwealth’s Motion to Join Defendants, with respect to this Defendant and Vaughn Felix; and Defendant’s Motion *in Limine*. At the conclusion of that hearing, the record remained open and counsel for all parties were given an opportunity to request, within 14 days, a further hearing. On December 1, 2017, the mat-

<sup>9</sup> The motion had originally included case numbers CP-48-CR-01298-2017 and CP-48-CR-01877-2017, but the two charges of receiving stolen property contained therein were dismissed by the Commonwealth on October 20, 2017.

ter was reconvened for further proceedings. On that same date, Defendant filed an Amended Motion *in Limine*. On December 4, 2017, the Court entered an Order setting a briefing schedule, with briefs in support of the motions to be filed by December 22, 2017 and briefs in opposition to the motions to be filed by January 5, 2018.

Upon review of the Commonwealth's Motion to Join Defendants, the Court was inclined to grant the motion, thereby joining the actions between this Defendant and Vaughn Felix. However, the Court became aware—as did Defendant—that additional charges, including a homicide charge, were soon to be filed against Defendant and Mr. Felix, for additional crimes related to those already before the Court at that time. Understanding that the Commonwealth would file a new motion seeking to include those new cases in any joint trial of Defendant and Mr. Felix, and knowing that it may be inclined to take a different position on the joinder of the two defendants' trials after the filing of those new cases given the complexity that those additional charges would imbue to a joint trial, the Court determined that it would be prudent to delay disposition of the Commonwealth's Motion to Join Defendants. Furthermore, knowing that the disposition of the Motion to Join Defendants would necessarily affect the disposition of Defendant's Amended Motion *in Limine*, insofar as that motion raised *Bruton*<sup>10</sup> issues that would become moot in the absence of any joinder of defendants, the Court elected to delay disposition of that motion as well.

Following a number of court appearances in which Attorney Brose appeared to be inadequately performing his duties in representing the Defendant, and in light of the Defendant's August 8, 2017 *pro se* Motion for Change of Appointed Counsel, the Court became concerned that removal of Mr. Brose from the case was appropriate, and that new counsel should be appointed. On February 27, 2018, then-President Judge Baratta removed Mr. Brose from the case and appointed current counsel, Robert Eyer, Esq., to represent the Defendant.

As anticipated, the Commonwealth filed charges against this Defendant in case CP-48-CR-1059-2018 on February 22, 2018 and in cases CP-48-CR-01528-2018 and CP-48-CR-01529-2018 on April 25, 2018. Defendant's preliminary hearing on all three of those cases was held on May 9, 2018. Also as expected, the Commonwealth filed an Amended Motion to Join Offenses and Defendants, on May 15, 2018. On May 16, 2018, the Court scheduled a hearing on the matter for June 21, 2018, the earliest available date. Following the hearing, a briefing schedule was set and briefs were filed by both parties on July 6, 2018. On July 19, 2018, the Court disposed of the Commonwealth's Amended Motion to Join Offenses and Defendants, denying the motion to hold a joint trial for Gregory Lewis and Vaughn Felix but granting the motion to join the offenses of each defendant

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<sup>10</sup> *Bruton v. United States*, 391 U.S. 123 (1968).

individually.<sup>11</sup> On that same date, the Court disposed of Defendant's Amended Motion *in Limine*, denying his motion to exclude proffered 404(B) evidence and denying as moot his motion premised upon *Bruton*. Also on that date, the Court entered an Order scheduling this matter for trial on December 3, 2018, which was the earliest criminal trial date available for all counsel and the Court.

Accordingly, we find that the period from November 8, 2017 until July 19, 2018 must be considered "excludable time" from the Rule 600 calculation, as that period of delay was not occasioned by a lack of due diligence on the part of the Commonwealth and, moreover, was an appropriate judicial delay in light of the somewhat unusual circumstances. Thus, we recommend the calculation of "includable time" on July 20, 2018.

On October 16, 2018, Defendant filed the within Omnibus Pretrial Motion, setting forth numerous issues requiring a hearing. A hearing was scheduled for the earliest available date, and took place on November 15, 2018. The Court was prepared to resolve the within motion prior to the December 3, 2018 trial date. However, on November 20, 2018, Defendant filed three Motions *in Limine*, and indicated to the Court at a pretrial conference on November 21, 2018 that (a) he was requesting a hearing on the motions, and (b) that he would require additional time to prepare for same, thereby impairing the Commonwealth's ability to bring this matter to trial on December 3, 2018. A new trial date has been set for February 25, 2019, the earliest available date. Defendant has expressly waived the period from November 30, 2018 through February 25, 2019 for Rule 600 purposes. Therefore, counting the time prior to November 8, 2017 and the time from July 20, 2018 to October 16, 2018, we conclude that the February 25, 2019 trial of case numbers CP-48-CR-01795-2017 and CP-48-CR-01520-2017 will begin after 271 and 285 days, respectively. Accordingly, we conclude that Defendant's "Motion to Dismiss—Rule 600" must be denied with respect to these two cases.

In cases CP-48-CR-03172-2017 and CP-48-CR-03777-2017, the criminal complaints were filed on July 19, 2017 and September 6, 2017, respectively, and the so-called "mechanical run dates" for Rule 600 purposes were therefore July 19, 2018 and September 6, 2018. Again, on the basis that these dates have passed without him being brought to trial, in violation of Pa. R.Crim.P. 600, Defendant seeks the dismissal of the charges contained therein.

In opposition to the Defendant's motion, the Commonwealth contends that the same reasoning regarding the delay between November 8, 2017 and July 19, 2018, set forth above, applies to these cases, insofar as it was understood that these cases were included in the Defendant's Amended Motion *in Limine* and the Commonwealth's related Motion to Join Defendants. Defendant contends that there was no such understanding, and points

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<sup>11</sup> The motion to join all of Felix's cases for one trial against him individually was granted by agreement.

to the fact that cases CP-48-CR-03172-2017 and CP-48-CR-03777-2017 do not appear in the caption of his Amended Motion *in Limine*.

According to the docket for case number CP-48-CR-03172-2017, the preliminary hearing was held on September 19, 2017, and Defendant was formally arraigned on November 15, 2017. At case number CP-48-CR-03777-2017, the preliminary hearing was held on November 8, 2017, and Defendant was formally arraigned on January 25, 2018. Given that a defendant's pretrial motions are to be filed within 30 days following his formal arraignment, it is logical that Defendant's Amended Motion *in Limine*, filed December 1, 2017, did not include these two later cases in the caption, as Defendant had ample time within which to file additional motions with respect to those cases as of that date.

Nevertheless, we believe it would be an absurd result to conclude that Defendant did not intend for the relief requested in his Amended Motion *in Limine* to apply with equal force to CP-48-CR-03172-2017 and CP-48-CR-03777-2017. It was, clearly, the understanding of the Court that any ruling on Defendant's Amended Motion *in Limine* would be applicable to all of the Defendant's cases that were joined, as evidenced by the caption of our July 19, 2018 Order disposing of same. Moreover, given that the Commonwealth amended the caption of its Motion to Join Defendants on December 21, 2017 to include CP-48-CR-03172-2017 and CP-48-CR-03777-2017, thereby putting Defendant on notice of its intention to try all four cases together, following which Defendant did not file a further amendment to his own motion to specifically include the two newer cases, and the absurd result that would occur if the Court did not consider the Defendant's motion to include those cases, we believe that fundamental fairness requires us to reach the same conclusion in these cases with respect to excludable time between November 8, 2017 and July 19, 2018 as we reached with respect to CP-48-CR-01795-2017 and CP-48-CR-01520-2017.

Therefore, excluding the period of time from November 8, 2017 until July 19, 2018, and excluding the period of time from October 16, 2018 to February 25, 2019, for the reasons discussed above, we conclude that only 200 days of "includable time" will have run against the Commonwealth from the filing of the criminal complaint to the commencement of the February 25, 2019 trial in CP-48-CR-01795-2017.

While the Commonwealth argued at the hearing on Defendant's Omnibus Pretrial Motion that Attorney Brose was the cause of a continuance of the preliminary hearing in CP-48-CR-01795-2017 from August 2, 2017 until September 19, 2017, insufficient evidence was presented upon which we could conclude that that delay must be attributed to the Defendant. Thus, based upon the same understanding of what constitutes excludable time in these cases, we conclude that only 151 days of time will have run against the Commonwealth from the filing of the criminal complaint until the February 25, 2019 commencement of trial in case number CP-48-CR-03777-2017. Accordingly, Defendant's "Motion to Dismiss—Rule 600" must also be dismissed with respect to these two cases.

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# PERIODICAL PUBLICATION

**\* Dated Material. Do Not Delay. Please Deliver Before Monday, February 10, 2020**