



# Northampton County Reporter

(USPS 395-280)

VOL. LXII

EASTON, PA September 14, 2023

NO. 89

**Commonwealth of Pennsylvania v. Clement Barrington Swaby, Defendant (Part III of V)**

## CONTENTS

Bar News .....	3	Fictitious Name Registration Notice .....	8
Corporate Fictitious Name Registration Notice .....	8	Legal Notices .....	8
Estate and Trust Notices .....	4	Sheriff's Sales .....	10

**INSERT:** Goldenrod: 1. "Update on Changes to State and Local Custody Rules"  
2. "Nuts & Bolts of Pennsylvania's Ignition Interlock Program"  
3. "Commission on Sentencing: 8th Edition of Sentencing Guidelines"  
4. 2023 Calendar  
Cream: 1. NCBA 2023 Fall CLE Conference  
2. Registration Form

### NOTICE TO THE BAR...

**NCBA Fall CLE Conference**

Monday, October 9, 2023

Registration form inside.

**NORTHAMPTON COUNTY BAR ASSOCIATION  
2023 BAR ASSOCIATION OFFICERS**

Steven B. Molder ..... President  
Jeremy F. Clark ..... President-Elect  
Rebecca Kulik ..... Vice President  
Michael A. Santanasto ..... Treasurer  
Richard Eugene Santee ..... Secretary  
Paul J. Harak ..... Past President

**BOARD OF GOVERNORS**

Syzane Arifaj  
Abigail Bellafatto  
Gary A. Brienza  
David J. Ceraul  
Isaac A. Hof  
Mark B. Stanziola  
Dennis W. Winegar

**ZONE II DELEGATES**

Jill McComsey  
Keri A. Schantz  
Joel M. Scheer  
Michael P. Shay  
Frank W. Yandrisevits

***Northampton County Reporter***

**Attorney Referral & Information Service**

**155 South Ninth Street, P.O. Box 4733**

**Easton, PA 18042**

***Phone (610) 258-6333 Fax (610) 258-8715***

***E-mail: [ncba@nrcobar.org](mailto:ncba@nrcobar.org)***

**PBA (800) 932-0311—PBI (800) 932-4637**

**BAR ASSOCIATION STAFF**

Mary Beth Leeson ..... Executive Director  
Rose Wedde ..... Accounting  
Pamela Frick Smith ..... Legal Journal  
Deborah J. Flanagan ..... Attorney Referral  
Jessica M. Bosco ..... Attorney Referral

---

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.

Subscription Price—\$75.00 per year.

Periodical Postage Paid at Easton, PA and additional office.

Postmaster: Send all communications and address changes to:

**NORTHAMPTON COUNTY REPORTER**

**155 South Ninth St., Easton, PA 18042-4399**

**Telephone (610) 258-6333 FAX (610) 258-8715**

**Ralph J. Bellafatto, Esquire**

**Editor**

**NOTICE TO NCBA MEMBERS – BAR NEWS**

**Save the Dates**

- |                  |   |
|------------------|---|
| October 9, 2023  | NCBA Fall CLE Conference @ Wind Creek<br>Conference Center<br>Registration form inside or register at:<br><a href="https://norcobar.org/product/2023-fall-cle-conference/">https://norcobar.org/product/2023-fall-cle-conference/</a> |
| October 13, 2023 | Amicus Soirée – Invitations were mailed out   |
| October 21, 2023 | CluedUpp Scavenger Hunt for members, families<br>and friends of all ages.   |

The weather just went from 90 to 55 like it saw a state trooper. ~ Unknown

**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****ALTEMOSE, LeROY A., SR.,** dec'd.

Late of Wind Gap Borough, Northampton County, PA

Executor: David A. Altamose 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

**CONNELL, DENNIS RAYMOND,** dec'd.

Late of Bethlehem, Northampton County, PA

Personal Representative: Paul A. McGinley c/o Stuart T. Shmookler, Esquire, Gross McGinley, LLP, 33 S. 7th Street, P.O. Box 4060, Allentown, PA 18105-4060

Attorneys: Stuart T. Shmookler, Esquire, Gross McGinley, LLP, 33 S. 7th Street, P.O. Box 4060, Allentown, PA 18105-4060

**CRESSMAN, R. ALLEN,** dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Administratrix: Jennifer Lynn Bertrand c/o Goudsouzian & Associates, 2940 William Penn Highway, Easton, PA 18045

Attorneys: Goudsouzian & Associates, 2940 William Penn Highway, Easton, PA 18045

**JOHNSON, ALFORD GILMORE, JR.,** dec'd.

Late of the Township of Forks, Northampton County, PA

Executor: Alford G. Johnson, III 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

**McGARR, PALMINIA M.,** dec'd.

Late of Wilson Borough, Northampton County, PA

Executor: James Martin Connell, Esquire, 251 East Broad Street, Bethlehem, PA 18018

Attorney: James Martin Connell, Esquire, 251 East Broad Street, Bethlehem, PA 18018

**MEDENCE, RITA M.,** dec'd.

Late of North Catasauqua, Northampton County, PA

Personal Representative: Mark J. Medence c/o Robert B. Roth, Esquire, The Roth Law Firm, P.O. Box 4355, Allentown, PA 18105

Attorneys: Robert B. Roth, Esquire, The Roth Law Firm, P.O. Box 4355, Allentown, PA 18105

**NEGRAO, JOSEPH O.,** dec'd.

Late of Northampton County, PA  
Co-Executors: Neusa Soares  
Negrao and Joseph Charles  
Negrao c/o Dolores A. Laputka,  
Esquire, Norris McLaughlin,  
P.A., 515 West Hamilton Street,  
Suite 502, Allentown, PA 18101  
Attorneys: Dolores A. Laputka,  
Esquire, Norris McLaughlin,  
P.A., 515 West Hamilton Street,  
Suite 502, Allentown, PA 18101

**NEITH, ANNA MAE,** dec'd.

Late of the Borough of Hellertown,  
Northampton County, PA  
Executrix: Carol A. Coppie 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

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

Late of the Borough of East  
Bangor, Northampton County,  
PA  
Executrix: Stacy Jo Pyscher c/o  
Nancy T. Schneiderman,  
Esquire, 2704 William Penn  
Highway, P.O. Box 3443, Easton,  
PA 18043  
Attorney: Nancy T.  
Schneiderman, Esquire, 2704  
William Penn Highway, P.O. Box  
3443, Easton, PA 18043

**RECKER, JOSEPH F., III,** dec'd.

Late of Northampton, North-  
ampton County, PA  
Administratrix: Jill A. Recker c/o  
Mark C. Van Horn, Esquire, 147  
N. 10th Street, Allentown, PA  
18102  
Attorney: Mark C. Van Horn,  
Esquire, 147 N. 10th Street,  
Allentown, PA 18102

**SECOND PUBLICATION****BROWER, ANNE C. a/k/a ANNE  
T. BROWER,** dec'd.

Late of the City of Bethlehem,  
Northampton County, PA  
Executor: Stephen T. Brower c/o  
April L. Cordts, Esquire, 391  
Nazareth Pike, Bethlehem, PA  
18020  
Attorney: April L. Cordts,  
Esquire, 391 Nazareth Pike,  
Bethlehem, PA 18020

**CORCORAN, DENNIS C.,** dec'd.

Late of Williams Township,  
Northampton County, PA  
Administrator: Thomas Christian  
c/o Goudsouzian & Associates,  
2940 William Penn Highway,  
Easton, PA 18045-5227  
Attorneys: Goudsouzian &  
Associates, 2940 William Penn  
Highway, Easton, PA 18045-  
5227

**FREEMAN, DOROTHY JEAN,**  
dec'd.

Late of Hellertown, Northampton  
County, PA  
Personal Representative: Jill  
Diane Csekitz c/o Kirby G.  
Upright, Esquire, King Spry  
Herman Freund & Faul LLC,  
One West Broad Street, Suite  
700, Bethlehem, PA 18018  
Attorneys: Kirby G. Upright,  
Esquire, King Spry Herman  
Freund & Faul LLC, One West  
Broad Street, Suite 700,  
Bethlehem, PA 18018

**HARTMAN, PAULINE M.,** dec'd.

Late of the City of Bethlehem,  
Northampton County, PA  
Executrix: Mary Fenelli c/o  
Joseph F. Leeson, III, Esquire,  
70 East Broad Street, P.O. Box  
1426, Bethlehem, PA 18016-  
1426

Attorney: Joseph F. Leeson, III,  
Esquire, 70 East Broad Street,  
P.O. Box 1426, Bethlehem, PA  
18016-1426

**KANYUK, CATHERINE**, dec'd.

Late of the Township of Lower  
Nazareth, Northampton County,  
PA

Executrix: Loretta C. Kanyuk 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

**LIGHTFOOT, VICTOR C., JR.**,  
dec'd.

Late of the Township of Forks,  
Northampton County, PA

Executrix: Kimberly Ann  
Lightfoot c/o Joseph F. Leeson,  
III, Esquire, 70 East Broad  
Street, P.O. Box 1426,  
Bethlehem, PA 18016-1426

Attorney: Joseph F. Leeson, III,  
Esquire, 70 East Broad Street,  
P.O. Box 1426, Bethlehem, PA  
18016-1426

**TAYLOR, DOROTHY ZUG**, dec'd.

Late of the City of Bethlehem,  
Northampton County, PA

Executor: Martin Mayor Zug c/o  
Ellen M. Kraft, Esquire, 4510  
Bath Pike, Suite 201, Bethlehem,  
PA 18017-9265

Attorney: Ellen M. Kraft, Esquire,  
4510 Bath Pike, Suite 201,  
Bethlehem, PA 18017-9265

**THIRD PUBLICATION**

**BACHMAN, GREGORY R.**, dec'd.

Late of the Township of Lehigh,  
Northampton County, PA

Executor: Matthew A. Nowik

Attorneys: Gladys E. Wiles,  
Esquire, Snyder & Wiles, P.C.,  
7731 Main Street, Fogelsville, PA  
18051

**DRONEY, MICHAEL L.**, dec'd.

Late of Bethlehem, Northampton  
County, PA

Administratrix: Michele Marie  
Turner 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

**EVANS, RICHARD EDWIN**, dec'd.

Late of the Borough of Hellertown,  
Northampton County, PA

Executrix: Janice Evans Swah  
c/o Robert V. Littner, Esquire,  
Littner & Littner Law Offices,  
PLLC, 512 North New Street,  
Bethlehem, PA 18018

Attorneys: Robert V. Littner,  
Esquire, Littner & Littner Law  
Offices, PLLC, 512 North New  
Street, Bethlehem, PA 18018

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

Late of Williams Township,  
Northampton County, PA

Administrator: Albert W. Frasier  
c/o Steven B. Molder, Esquire,  
904 Lehigh St., Easton, PA  
18042

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

**GREATSINGER, JAMES R.**, dec'd.

Late of the Township of  
Bethlehem, Northampton  
County, PA

Administratrix: Cynthia A.  
Greatsinger c/o Richard Eugene  
Santee, Esquire, Shay, Santee,  
Kelhart & Deschler LLC, 44 E.  
Broad Street, Suite 210,  
Bethlehem, PA 18018

Attorneys: Richard Eugene Santee, Esquire, Shay, Santee, Kelhart & Deschler LLC, 44 E. Broad Street, Suite 210, Bethlehem, PA 18018

**KOLOWITZ, EUGENE F.,** dec'd.

Late of Northampton, Northampton County, PA

Administrator: Joseph Kolowitz c/o Joshua D. Shulman, Esquire, Shulman Law Office PC, 1935 Center Street, Northampton, PA 18067

Attorneys: Joshua D. Shulman, Esquire, Shulman Law Office PC, 1935 Center Street, Northampton, PA 18067

**MANDELL, SUZANNE M.,** dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Administratrix: Mollie M. Santee c/o Richard Eugene Santee, Esquire, Shay, Santee, Kelhart & Deschler LLC, 44 E. Broad Street, Suite 210, Bethlehem, PA 18018

Attorneys: Richard Eugene Santee, Esquire, Shay, Santee, Kelhart & Deschler LLC, 44 E. Broad Street, Suite 210, Bethlehem, PA 18018

**MILLER, DONNA MARIA,** dec'd.

Late of Northampton County, PA  
Executor: Paul Miller c/o Leonard M. Mellon, Esquire, 151 South 7th Street, Easton, PA 18042

Attorney: Leonard M. Mellon, Esquire, 151 South 7th Street, Easton, PA 18042

**NORTH, SAMUEL W.,** dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Administratrix: Savannah Landis North c/o Joseph F. Leeson, III, Esquire, 70 East Broad Street, P.O. Box 1426, Bethlehem, PA 18016-1426

Attorney: Joseph F. Leeson, III, Esquire, 70 East Broad Street, P.O. Box 1426, Bethlehem, PA 18016-1426

**O'KEEFE, NANCY D.,** dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: Sean Edward O'Keefe c/o Joseph F. Leeson, III, Esquire, 70 East Broad Street, P.O. Box 1426, Bethlehem, PA 18016-1426

Attorney: Joseph F. Leeson, III, Esquire, 70 East Broad Street, P.O. Box 1426, Bethlehem, PA 18016-1426

**PEARSON, CLARK L.,** dec'd.

Late of Moore Township, Northampton County, PA

Co-Executors: Raymond Pearson and William J. Ohlandt 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

**SCHUBERT, CONSTANCE H.,** dec'd.

Late of Bethlehem Township, Northampton County, PA

Trust of The Schubert Family dated 08/09/1994

Trustee: Laurie Ann Dougherty c/o Jon A. Swartz, Esquire, Prokup & Swartz, 7736 Main Street, Fogelsville, PA 18051

Attorneys: Jon A. Swartz, Esquire, Prokup & Swartz, 7736 Main Street, Fogelsville, PA 18051

**SKOPAL, THOMAS EDWARD, SR.,** dec'd.

Late of Hanover Township,  
Northampton County, PA

Executrix: Karen P. McLaughlin  
c/o Michael D. Recchiuti,  
Esquire, 60 W. Broad Street, Ste.  
303, Bethlehem, PA 18018

Attorney: Michael D. Recchiuti,  
Esquire, 60 W. Broad Street, Ste.  
303, Bethlehem, PA 18018

**VARGA, PAUL R.,** dec'd.

Late of the Township of Plainfield,  
Northampton County, PA

Executrix: Susan Traci Burcaw  
c/o Carla J. Thomas, Esquire,  
716 Washington St., Easton, PA  
18042

Attorney: Carla J. Thomas,  
Esquire, 716 Washington St.,  
Easton, PA 18042

**WICKETT, JEAN M.,** dec'd.

Late of the Borough of East  
Bangor, Northampton County,  
PA

Executors: Anthony D. Gregory,  
Steven M. Gregory and Douglas  
Allen Gregory

Attorneys: Alan B. McFall,  
Esquire, McFall Law, LLC, 31  
West First Street, Suite J, Wind  
Gap, PA 18091

**FICTITIOUS NAME****REGISTRATION NOTICE**

NOTICE IS HEREBY GIVEN that  
a Registration of Fictitious Name was  
filed in the Department of State of the  
Commonwealth of Pennsylvania on  
July 19, 2023, for:

**SEAN'S WINDOW CLEANING**

with a principal place of business  
located at: 1030 Richmond Rd.,  
Bangor, PA 18013 in Northampton  
County. The individual interested in  
this business is Sean Nyborg, also  
located at 1030 Richmond Rd.,  
Bangor, PA 18013. This is filed in  
compliance with 54 Pa. C.S. 311.

Sept. 14

**CORPORATE FICTITIOUS NAME  
REGISTRATION NOTICE**

NOTICE IS HEREBY GIVEN that  
an Application for Registration of  
Fictitious Name has been filed with  
the Department of State of the  
Commonwealth of Pennsylvania at  
Harrisburg, Pennsylvania, for the  
purposes of obtaining the following  
Fictitious Name, pursuant to the  
provisions of 54 Pa. C.S. §311:

The Fictitious Name is:

**POWERBALLERS****ATHLETIC CENTER**

having a principal place of business  
at: 155 Butztown Road, Bethlehem,  
PA 18020.

The name and address of the  
entity owning or interested in said  
business are: Powerballers Baseball,  
Inc., 155 Butztown Road, Bethlehem,  
PA 18020.

FITZPATRICK LENTZ &  
BUBBA, P.C.

Two City Center  
645 West Hamilton Street  
Suite 800  
Allentown, PA 18101

Sept. 14

**NOTICE FOR CHANGE OF NAME**

NOTICE IS HEREBY GIVEN that  
on August 10, 2023 the Petition of  
Alanis Zharick Escobar Guanoluisa  
was filed in Northampton County  
Court of Common of Pleas at No.  
C-48-CV-2023-5933, seeking to  
change the name of Petitioner from  
Alanis Zharick Escobar Guanoluisa  
to Alanis Moreira. The Court has fixed  
Monday, October 16, 2023 at 9 a.m.,  
in courtroom #4 at the Northampton  
County Courthouse as the date for  
hearing 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.

Sept. 14



**NOTICE FOR CHANGE OF NAME**

NOTICE IS HEREBY GIVEN that on September 1, 2023, a Petition of Bill Kounoupis was filed in Northampton County Court of Common Pleas at Number C-48-CV-2023-006506 to change the name of Petitioner from Bill Kounoupis to William Pete Kounoupis. The Court has fixed Thursday, November 9, 2023, at 9:00 a.m./p.m. in Courtroom Number (to be announced) of the Northampton County Courthouse, 669 Washington St., Easton, PA 18042, as the place and date for hearing this petition. All persons interested in the proposed change of name may appear and show cause, if they have any, why the prayer of the Petitioner should not be granted.

Sept. 14

**NOTICE  
POST ORDINANCE**

NOTICE IS HEREBY GIVEN by the Board of Supervisors ("Board") of Palmer Township ("Township"), Northampton County, Pennsylvania that on September 5, 2023, following a public hearing, the Board adopted Ordinance No. 2023-480, signifying its intention and desire to organize a municipal authority under the provisions of the act of the General Assembly, known as the Municipality Authorities Act, 53 Pa. C.S. §5601 et seq., to provide for stormwater system planning, management and implementation; to appoint and fix the terms of the first members of the board of such authority; to authorize and direct proper officers of the Authority perform all acts and execute all other documents required or contemplated by the ordinance; to set forth and authorize execution of articles of incorporation and all other necessary actions; and to repeal all inconsistent ordinances or parts thereof. The Articles of Incorporation for the Palmer

Township Stormwater Authority shall be filed with the Secretary of the Commonwealth on September 28, 2023.

Sept. 14

**NOTICE**

NOTICE IS HEREBY GIVEN that Petitioners/Intervenors, John Starr and Casey Starr, and Mother, Samantha S. Waldman, seek to file a Petition to Intervene in Northampton County Court of Common Pleas at No. C-48-CV-2023-02470, on September 21, 2023 at 9:00 a.m. at Motions Court before the assigned Judge at the Northampton County Courthouse, 669 Washington Street, Easton, PA 18042 for presentation of the Petition. All persons interested in the proposed Petition may appear and show cause, if any they have, why the prayer of the Petitioners should not be granted.

Sept. 14

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

NOTICE IS HEREBY GIVEN that the following accounts in decedents' estates, have been filed in the Office of the Orphans' Court of Northampton County, and that the same will be called for Confirmation on SEPTEMBER 19, 2023 at 9 A.M., IN COURTROOM #10, at which time the Courts will hear exceptions, and make distribution of the balances ascertained to be in the hands of accountants.

\*Estate of ERNEST E. MILLER;  
Bryan Douglas Miller, Executor

\*Estate of PATRICIA A. SZELAST;  
Lisa M. Spitale, Esquire, Administra-  
trix

Miranda L. Dunda  
Acting Register of Wills &  
Clerk of Orphans' Court

Sept. 7, 14

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

IN RE: PETITION OF CAREER  
INSTITUTE OF TECHNOLOGY FOR  
APPROVAL OF PRIVATE SALE OF  
LAND TOTALING APPROXIMATELY  
.25 ACRES AND BUILDINGS  
THEREON LOCATED AT 536  
CYPRESS LANE, EASTON,  
NORTHAMPTON COUNTY,  
PENNSYLVANIA  
**NO. 6376 OF 2023**  
PUBLIC NOTICE

All parties interested are notified that the Career Institute of Technology desires to sell improved real property consisting of .25 total acres located at 536 Cypress Lane, Easton, Northampton County, Pennsylvania, Parcel ID #L9NE1 8 1-20 0311E, by private sale for the purchase price of \$405,500.00 and has filed a Petition for Approval of Private Sale of Land in the Court of Common Pleas of Northampton County.

All parties interested are notified that a hearing on the Petition for Approval of Private Sale of Land is scheduled for September 27, 2023 at 9:00 a.m. in a courtroom to be determined by the Court of Common Pleas of Northampton County, located at 669 Washington Street, Easton, Pennsylvania. Any party interested shall appear to be heard and shall report to Court Administration prior to the hearing time to receive an assigned courtroom number.

Sept. 7, 14, 21

**SHERIFF'S SALE OF  
VALUABLE REAL ESTATE**

The following real estate will be sold by the Sheriff of Northampton County, Pennsylvania, on OCTOBER 6, 2023, at ten o'clock a.m. in the COUNCIL CHAMBERS, THIRD FLOOR, of the Northampton

County Government Center, within the City of Easton, County of Northampton and State of Pennsylvania.

PLEASE TAKE NOTICE that the sale price will include only the outstanding taxes certified to the Sheriff's Office. Any taxes not reported to the Sheriff are the responsibility of the purchaser.

**No. C-48-CV-2019-08409**

BARCLAYS MORTGAGE TRUST  
2021-NPL1, MORTGAGE-BACKED  
SECURITIES, SERIES 2021-NPL1  
vs.

SAMUEL G. WILLIAMS

**Property Address:**

608 Abbe Court, Freemansburg,  
PA 18017

**UPI/Tax Parcel Number:**

N7/2/65/0212

ALL THAT CERTAIN tract of land located in Freemansburg Borough, Northampton County, Pennsylvania, known as Lot No. 82 as shown on the "Development Plan Final" of Eastgate Townhomes as prepared by F & M Associates, Inc., said plan recorded on June 9, 1989, in Map Book 89 at page 86.

TITLE TO SAID PREMISES is vested in Samuel G. Williams by deed from Patrick H. Garren and Tanya N. Garren, his wife, said deed recorded on April 3, 2006, in the Northampton County Recorder of Deeds Office in Book 2006-1 at page 129747.

THEREON BEING ERECTED two-story residential townhouse with vinyl siding and shingle roof.

**No. C-48-CV-2019-12194**

LAKEVIEW LOAN SERVICING, LLC  
vs.

DIODORO FANTAUZZI SOTO,  
LOURDES M. FANTAUZZI a/k/a  
LOURDES MILAGROS FANTAUZZI

**Property Address:**

3030 Bard Street, Bethlehem, PA  
18017-3302

***UPI/Tax Parcel Number:***

M7SW4/4/4/0204

ALL THAT CERTAIN message or tenement and lot or piece of ground situate in the Fourteenth Ward of Bethlehem City, Northampton County, Pennsylvania, being Lot No. 123 on Plan of East Hill Section 6, which plan is recorded in Map Book 13 at page 48.

TITLE TO SAID PREMISES is vested in Lourdes Milagros Fantauzzi, unmarried, and Diodoro Fantauzzi Soto, married, by deed from Campbell Real Estate Holdings, LLC, said deed recorded August 3, 2018, in the Northampton County Recorder of Deeds Office in Book 2018-1 at page 165470.

THEREON BEING ERECTED a bi-level single residential dwelling with aluminum siding and brick exterior, shingle roof and one-car garage.

**No. C-48-CV-2022-02259**

ROCKET MORTGAGE, LLC f/k/a  
QUICKEN LOANS, LLC f/k/a  
QUICKEN LOANS, INC.

vs.

FREDERICK P. BAER,  
INDIVIDUALLY AND AS HEIR OF  
LOUISE C. BAER, ANDREW BAER,  
KNOWN HEIR OF LOUISE C.

BAER, EMILY KITT,  
KNOWN HEIR OF LOUISE C.  
BAER, SARAH BAER, KNOWN  
HEIR OF LOUISE C. BAER,  
UNKNOWN HEIRS OF THE  
ESTATE OF LOUISE C.

BAER, DECEASED

***Property Address:***

605 Line Street, Easton, PA 18042

***UPI/Tax Parcel Number:***

M9NE1C/7/1/0310

ALL THAT CERTAIN lot or piece of ground situate on the north side of Line Street in Easton City, Northampton County, Pennsylvania.

TITLE TO SAID PREMISES is vested in Frederick P. Baer and Louise C. Baer by deed from Frederick P. Baer, said deed recorded on August 23, 2012, in the Northampton County Recorder of Deeds Office in Book 2012-1 at page 198945. The said Louise C. Baer departed this life on November 27, 2019.

THEREON BEING ERECTED a two-story single residential dwelling with vinyl siding and shingle roof.

**No. C-48-CV-2022-02796**

WELLS FARGO BANK, N.A.

vs.

JOSHUA VAN DOREN a/k/a  
JOSHUA VANDOREN,  
HEIR OF ROBERT R. VAN DOREN  
a/k/a ROBERT R. VANDOREN,  
DECEASED, SHANNON BEAVAN,  
HEIR OF ROBERT R. VAN DOREN  
a/k/a ROBERT R. VANDOREN,  
DECEASED, UNKNOWN HEIRS,  
SUCCESSORS, ASSIGNS AND ALL  
PERSONS, FIRMS OR  
ASSOCIATIONS CLAIMING RIGHT,  
TITLE OR INTEREST FROM OR  
UNDER ROBERT R. VAN DOREN  
a/k/a ROBERT R. VANDOREN,  
DECEASED

***Property Address:***

1200 Blair Street, Easton, PA 18045

***UPI/Tax Parcel Number:***

M8NE3/40/11/0324

ALL THAT CERTAIN tract or piece of land, together with the improvements thereon erected, situated in Palmer Township, Northampton County, Pennsylvania.

TITLE TO SAID PREMISES is vested in Robert R. Vandoren, unmarried, by deed from Robert R. Van Doren, sole trustee of the Robert R. and Eileen M. Henry-Van Doren Family Trust Dated November 21, 2011, said deed recorded on February

10, 2017, in the Northampton County Recorder of Deeds Office in Book 2017-1 at page 032025. The said Robert R. Van Doren departed this life on or about February 11, 2021.

THEREON BEING ERECTED a ranch-style single residential dwelling with vinyl siding and shingle roof.

---

**No. C-48-CV-2022-04320**

DEUTSCHE BANK  
NATIONAL TRUST COMPANY,  
AS TRUSTEE ET AL.

vs.

MICHAEL SICKELS, HEIR OF  
ROBERT C. SICKELS, DECEASED,  
STEVEN BOWEN, HEIR OF  
ROBERT C. SICKELS, DECEASED,  
JEAN SICKELS, HEIR OF ROBERT  
C. SICKELS, DECEASED,  
UNKNOWN HEIRS, SUCCESSORS,  
ASSIGNS AND ALL PERSONS,  
FIRMS OR ASSOCIATIONS  
CLAIMING RIGHT, TITLE OR  
INTEREST FROM OR UNDER  
ROBERT C. SICKELS, DECEASED

***Property Address:***

209 Old Forge Drive, Bath, PA  
18014

***UPI/Tax Parcel Number:***

K6NW4B/1/25/0503

ALL THAT CERTAIN tract of land situate in Section No. 1 of Old Forge Estates in Bath Borough, Northampton County, Pennsylvania.

TITLE TO SAID PREMISES is vested in Robert C. Sickels by deed from Robert C. Sickels and Eleanor J. Sickles, husband and wife, said deed recorded on February 2, 2004, in the Northampton County Recorder of Deeds Office in Book 2004-1 at page 37953. And the said Robert C. Sickels departed this life on October 10, 2019.

THEREON BEING ERECTED a two-story residential row home with vinyl siding and brick exterior, shingle roof and attached one-car garage.

---

**No. C-48-CV-2022-04517**

FREEDOM MORTGAGE  
CORPORATION

vs.

UNKNOWN HEIRS OF ROBERT N.  
BOGART, DECEASED

***Property Address:***

3306 Oakland Road, Bethlehem,  
PA 18020

***UPI/Tax Parcel Number:***

M7NW3/8/3/0205

ALL THAT CERTAIN messuage, tenement and lot or piece of land situate in Bethlehem Township, Northampton County, Pennsylvania, being Lot No. 11 on an unrecorded Plan of Santee Acres.

TITLE TO SAID PREMISES is vested in Robert N. Bogart by deed from Robert N. Bogart and Angeline O. Bogart, husband and wife, said deed recorded on September 13, 2016, in the Northampton County Recorder of Deeds Office in Book 2016-1 at page 194396. The said Robert N. Bogart died on May 22, 2021.

THEREON BEING ERECTED a ranch-style single residential dwelling with aluminum siding, shingle roof and attached two-car garage.

---

**No. C-48-CV-2022-04993**

FREEDOM MORTGAGE  
CORPORATION

vs.

MICHAEL D. NICE

***Property Address:***

4009 Donegal Drive, Bethlehem,  
PA 18020

***UPI/Tax Parcel Number:***

M7SE1/32/15/0205

ALL THAT CERTAIN lot or parcel of land situate on the north side of Donegal Drive in Bethlehem Township, Northampton County, Pennsylvania.

TITLE TO SAID PREMISES is vested in Michael D. Nice by deed from Benigno Santiago and Maritza Santiago, said deed recorded on April 21, 2016, in the Northampton County Recorder of Deeds Office in Book 2016-1 at page 073632.

THEREON BEING ERECTED a two-story single residential dwelling with brick exterior, shingle roof and attached two-car garage.

---

**No. C-48-CV-2022-06007**

WELLS FARGO BANK,  
NATIONAL ASSOCIATION,  
AS TRUSTEE ET AL.

vs.

TAMIE S. MAMUZICH f/k/a TAMIE  
S. GILBERT, THOMAS J. GILBERT

***Property Address:***

3201 Vermont Street, Easton, PA  
18045

***UPI/Tax Parcel Number:***

M8NE3/4/2/0324

ALL THAT CERTAIN lot, tract or parcel of land and premises, hereditaments and appurtenances situate in Palmer Township, Northampton County, Pennsylvania.

TITLE TO SAID PREMISES is vested in Thomas J. Gilbert and Tamie S. Gilbert, husband and wife, by deed from Thomas J. Gilbert and Tamie S. Mamuzich, n/b/m Tamie S. Gilbert, said deed recorded on November 26, 2002, in the Northampton County Recorder of Deeds Office in Book 2002-1 at page 332495.

THEREON BEING ERECTED a one-story single residential dwelling with aluminum siding, shingle roof and detached one-car garage.

---

**No. C-48-CV-2022-07212**

U.S. BANK TRUST NATIONAL  
ASSOCIATION ET AL.

vs.

JODY L. BENNETT,  
MARLENE BENNETT

***Property Address:***

12 South Westbrook Avenue, Pen  
Argyl, PA 18072

***UPI/Tax Parcel Number:***

E8NE2B/8/14/0625

ALL THAT CERTAIN lot or parcel of land, with the improvements erected thereon, situate in Pen Argyl Borough, Northampton County, Pennsylvania.

TITLE TO SAID PREMISES is vested in Jody L. Bennett, married, by deed from Jody L. Bennett, single, said deed recorded on July 20, 2015, in the Northampton County Recorder of Deeds Office in Book 2015-1 at page 135984.

THEREON BEING ERECTED a two-and-one-half-story half-double residential dwelling with aluminum siding and slate roof.

---

**No. C-48-CV-2022-08366**

HABITAT FOR HUMANITY OF THE  
LEHIGH VALLEY, INC.

vs.

STEPHANIE MATHIS

***Property Address:***

710 Hayes Street, Bethlehem, PA  
18015

***UPI/Tax Parcel Number:***

P6SE2D/22/3B/0204

ALL THAT CERTAIN parcel or tract of land situated in Bethlehem City, Northampton County, Pennsylvania, in accordance with a plan entitled "Preliminary/Final 710 Hayes Street, Minor Subdivision, Veranda Real Estate", said plan prepared by Ott Consulting, Inc., and last revised on March 7, 2005.

TITLE TO SAID PREMISES is vested in Stephanie Mathis by deed from Habitat For Humanity of the Lehigh Valley, Inc., said deed recorded on August 7, 2007, in the Northampton County Recorder of Deeds Office in Book 2007-1 at page 289652.

THEREON BEING ERECTED a two-story half-double residential dwelling with vinyl siding and shingle roof.

---

**No. C-48-CV-2022-09019**

US BANK TRUST NATIONAL  
ASSOCIATION NOT IN ITS  
INDIVIDUAL CAPACITY BUT  
SOLELY AS OWNER TRUSTEE  
FOR VRMTG ASSET TRUST

vs.

STEVE D'ANGELO, JR.

**Property Address:**

4321 Bedford Drive, Bethlehem,  
PA 18020

**UPI/Tax Parcel Number:**

M7NE3/3/8/0205

ALL THAT CERTAIN tract of land, with improvements thereon, situated in Bethlehem Township, Northampton County, Pennsylvania, known as Lot No. 25 as shown on Sheet 1 of 1 of a Final Subdivision/Land Development Plan of William Penn Plaza, dated November 5, 1996, and last revised March 18, 1997, by Showalter & Associates.

TITLE TO SAID PREMISES is vested in Steve D'Angelo, Jr., by deed from Rondel Development Corporation at William Penn Plaza, Inc., said deed recorded on June 3, 1999, in the Northampton County Recorder of Deeds Office in Book 1999-1 at page 081996.

THEREON BEING ERECTED a two-story residential row home with vinyl siding, shingle roof and attached one-car garage.

---

**No. C-48-CV-2022-09180**

SPECIALIZED LOAN  
SERVICING, LLC

vs.

DONALD M. MERCOVICH a/k/a  
DONALD MICHAEL MERCOVICH,  
INDIVIDUALLY AND AS  
EXECUTOR AND HEIR OF THE  
ESTATE OF JANET THOMPSON,

UNKNOWN HEIRS, SUCCESSORS,  
ASSIGNS AND ALL PERSONS,  
FIRMS OR ASSOCIATION  
CLAIMING RIGHT, TITLE OR  
INTEREST FROM OR UNDER  
JANET THOMPSON

**Property Address:**

3933 Rutland Road, Bethlehem,  
PA 18020-4537

**UPI/Tax Parcel Number:**

N7NE3/5/25/0205

ALL THAT CERTAIN lot or parcel of land situate along the northerly side of Rutland Road between Hampton Road and Washington Street in Bethlehem Township, Northampton County, Pennsylvania, being Lot Number 25, Block E, as shown on Plan of Birchwood Farm according to a survey made by Leonard M. Fraivilig Co., Engineers.

TITLE TO SAID PREMISES is vested in Donald M. Mercovich and Janet Thompson by deed from Ann S. Bradley, said deed recorded on November 8, 2012, in the Northampton County Recorder of Deeds Office in Book 2012-1 at page 368033. The said Janet Thompson died on or about January 16, 2020.

THEREON BEING ERECTED a ranch-style single residential dwelling with brick exterior, shingle roof and attached one-car garage.

---

**No. C-48-CV-2022-09289**

FREEDOM MORTGAGE  
CORPORATION

vs.

KIMBERLY HNASKO a/k/a  
KIMBERLY HOLMES a/k/a  
KIMBERLY B. HOLMES,  
JAMES HOLMES a/k/a  
JAMES G. HOLMES

**Property Address:**

308 Jubilee Drive, Easton, PA  
18040

**UPI/Tax Parcel Number:**

J8/8/10U/0429



ALL THAT CERTAIN piece, parcel or tract of land situate in Stockertown Borough, Northampton County, Pennsylvania, shown as Lot 68 on the Final Plan of Long Meadows as recorded in Map Book 1998-5 at pages 131-132.

TITLE TO SAID PREMISES is vested in James Holmes and Kimberly Holmes by deed from Michael S. East and Krista K. East, said deed recorded on February 23, 2018, in the Northampton County Recorder of Deeds Office in Book 2018-1 at page 034228.

THEREON BEING ERECTED a bi-level single residential dwelling with vinyl siding and brick exterior, shingle roof and attached one-car garage.

---

**No. C-48-CV-2023-02014**

THIRD FEDERAL SAVINGS &  
LOAN ASSOCIATION OF  
CLEVELAND

vs.

LANCE C. YEAKEL

***Property Address:***

937 Jacoby Creek Road, Mount  
Bethel, PA 18343

***UPI/Tax Parcel Number:***

C11/12/2A/0131

ALL THAT CERTAIN messuage, tenement and lot or parcel of land situated in Upper Mount Bethel Township, Northampton County, Pennsylvania.

TITLE TO SAID PREMISES is vested in Lance C. Yeakel, unmarried, by deed from Lance C. Yeakel, Executor of the Estate of Roberta S. Yeakel a/k/a Roberta S. Yeakel-Cody, deceased, said deed recorded on October 6, 2020, in the Northampton County Recorder of Deeds Office in Book 2020-1 at page 257235.

THEREON BEING ERECTED a Cape Cod-style single residential dwelling with aluminum siding and stone façade, shingle roof and attached two-car garage.

---

A Schedule of Distribution will be filed by the Sheriff thirty days from the date of the sale and distribution will be made in accordance with the schedule unless exceptions are filed thereto within ten days from the date of filing the Schedule of Distribution.

RICHARD H. JOHNSTON

Sheriff

Northampton County,  
Pennsylvania

DAVID J. CERAUL, ESQUIRE  
Solicitor to the Sheriff

Sept. 14, 21, 28

*Part III of V continued*

iii. Failure to comply with Rule 579 results in a waiver of the severance issue.

The Pennsylvania Rules of Criminal Procedure provide that failure to timely file a motion for severance constitutes a waiver of the request to sever. *See* Pa. R.Crim.P. Rule 583. Therefore, Swaby waived his severance argument because he filed it nearly three months late. Assuming, *arguendo*, that Swaby did not waive his severance motion, the substance of the motion is without merit.

*A. Joinder Was Proper for These Matters*

Joinder of matters in criminal proceedings is governed by Rule 582 of the Rules of Criminal Procedure. *See* Pa. R.Crim.P. Rule 582. Rule 582 provides that “[o]ffenses charged in separate indictments or informations may be tried together if ... the evidence off each of the offenses would be admissible in a separate trial for the other and is capable of separation by the jury so that there is no danger of confusion ... ” *See id.* Nevertheless, “[t]he court *may* order separate trials of offenses ... if it appears that any party may be prejudiced by the offenses ... being tried together.” *See* Pa. R.Crim.P. Rule 583 (emphasis added). Case law further establishes the use of these rules when determining whether joinder of offenses is proper. *See Commonwealth v. Lark*, 543 A.2d 491, 496 (Pa. 1988) (finding that joinder of offenses is proper if the evidence of each offense would be admissible in a separate trial for the other offense(s), the offenses are capable of separation by the jury and there is no risk of prejudice to any party).

Therefore, this Court must first determine whether the evidence of each of the matters would be admissible in separate trials of the other matters. *See* Pa. R.Crim.P. Rule 582. Next, the Court must determine whether a jury is capable of separating the offenses. *See id.* Finally, if this Court finds that the evidence of each matter would be admissible in separate trials and that the jury can separate the offenses, the Court must determine whether the consolidation of the matters would create unfair prejudice for any party. *See* Pa. R.Crim.P. Rule 583.

i. The evidence for each of the matters would be admissible in separate trials for each matter.

The first part of the analysis requires the Court to determine whether the evidence for the offenses would be admissible in a separate trial for each of the matters. *See* Pa. R.Crim.P. Rule 582; *Lark*, *supra*.

Generally, evidence is admissible if it is relevant. *See Commonwealth v. Dillon*, 925 A.2d 131, 136 (Pa. 2007). Evidence is relevant if “it has any tendency to make a fact more or less probable than it would be without the evidence” and “the fact is of consequence in determining the action.” *See* Pa. R.E. Rule 401. However, relevant evidence is nevertheless inadmissible



if it is excluded by another rule of evidence or if “its probative value is outweighed by a danger of ... unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” See Pa. R.E. Rule 402 (“All relevant evidence is admissible, except as otherwise provided by law”); Pa. R.E. Rule 403 (establishing balancing test).

Relevant to Swaby’s case, Pennsylvania law has established rules about the admissibility of other crimes. See Pa. R.E. 404. Rule 404(b)(1) of the Pennsylvania Rules of Evidence states that “[e]vidence of any other crime, wrong, or act is not admissible to prove a person’s character in order to show that on a particular occasion the person acted in accordance with the character.” However, evidence of other crimes, wrongs or acts is admissible if offered for another purpose. See *id.* Rule 404(b)(2) contains a non-exhaustive list of permissible purposes for the introduction of other crimes, which includes motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or lack of accident. See *id.* (“Pa.R.E. 404(b)(2) ... contains a *non-exhaustive* list of purposes, other than proving character, for which a person’s other crimes, wrongs, or acts may be admissible.”) (emphasis added).

Further, Pennsylvania courts have permitted the admission of other crimes to demonstrate the *res gestae* of the offenses. See *Lark*, supra at 497; *Commonwealth v. Knoble*, 188 A.3d 1199, 1205 (Pa. Super. 2018); *Commonwealth v. Brown*, 52 A.2d 320, 326-27 (Pa. Super. 2012). This “special circumstance” occurs where “such evidence was part of the chain or sequence of events which became part of the history of the case and formed part of the natural development of the facts.” See *Lark*, supra. The evidence is “admissible to complete the story of the crime on trial by proving its immediate context of happenings near time and place.” See *id.* (citing *Carter v. United States*, 549 F.2d 77 (8th Cir. 1977); *United States v. Weeks*, 716 F.2d 830 (11th Cir. 1983)).

Because the severance analysis involves the admissibility of evidence, whether this Court properly joined the matters turns on whether the crimes would survive Rule 404 of the Pennsylvania Rules of Evidence if they were admitted in the trials of the other matters. See Pa. R.Crim.P. Rule 582; *Lark*, supra at 496.

The Commonwealth offered several purposes for the joinder of the three matters. See Commonwealth’s Brief in Response to Defendant’s Motion to Sever, *Commonwealth v. Swaby*, No. C-48-CR-1319-2021, C-48-CR-2793-2021, C-48-CR-2065-2021 (C.P. Northampton Co. May 31, 2022) (“Commonwealth’s Brief”). The first purpose is “common plan, scheme, or design.” See *id.*

“Evidence of other crimes is admissible when it tends to prove a common plan, scheme or design embracing the commission of two or more crimes so related to each other that proof of one tends to prove the others.”

See *Commonwealth v. Judd*, 897 A.2d 1224, 1231-32 (Pa. Super. 2006); see also, *Commonwealth v. Robinson*, 864 A.2d 460, 481 (Pa. 2004). Further, when establishing similarity for this purpose, the Court should consider the elapsed time between the crimes, the geographical proximity of the crimes and the manner in which the crimes were committed. See *Judd*, supra at 1232.

In *Judd*, the Pennsylvania Superior Court examined a case where the appellant had sexually abused multiple children in his basement. See *id.* at 1227. The defendant had taken his victims to school and allowed them in his basement to watch television. See *id.* The defendant was charged with several crimes based on what he did to two children. See *id.* The defendant challenged the trial court's decision to consolidate the two cases, arguing that the offenses could constitute impermissible character evidence if admitted into separate trials. See *id.* at 1228, 1230-31. The Commonwealth argued that the cases were admissible based on the "common scheme exception." See *id.* at 1231. The Superior Court affirmed the trial court, noting that "the charges against [the defendant] constituted an ongoing course of *extremely similar sexual abuse* against two youthful victims, during overlapping periods of time, at the same general locale ..." See *id.* at 1232 (emphasis added).

Here, like *Judd*, there are significant similarities between the three assaults. First, there were many similarities with respect to Swaby's victims. They were all college students who lived in off-campus housing. See N.T. Nov. 1 at 50, 53; N.T. Nov. 2 at 9; N.T. Nov. 3 at 28-29, 68-70. Specifically, all of his victims were on the second floor of their housing. See N.T. Nov. 1 at 56; N.T. Nov. 2 at 85; N.T. Nov. 3 at 10-11, 35. Second, the geographical locations of the crimes were similar. Two of the assaults occurred at Lafayette College. See N.T. Nov. 1 at 50; N.T. Nov. 2 at 81; N.T. Nov. 3 at 9. Further, these two assaults occurred on the same street. See N.T. Nov. 3 at 32. This street is only fourteen miles away from the location of the third assault at Lehigh University. See Commonwealth's Brief. Therefore, there is geographical proximity between the three assaults.

Third, the two assaults on McCartney Street occurred within weeks of each other. See N.T. Nov. 2 at 134; N.T. Nov. 3 at 163. These two assaults occurred less than a year after the assault at 563 Hillside Avenue. See N.T. Nov. 1 at 189; N.T. Nov. 2 at 134; N.T. Nov. 3 at 163. Therefore, there is also temporal proximity between the assaults.

Fourth, there are extreme similarities with respect to the manner in which Swaby assaulted his victims:

- For all three assaults, Swaby used a rental car and parked near the victims' home. See *id.*
- He broke into all three houses in the middle of the night. See N.T. Nov. 1 at 61; N.T. Nov. 2 at 134; N.T. Nov. 3 at 172-73.

- He climbed the stairs to the second floor of all three houses. *See* N.T. Nov. 1 at 60; N.T. Nov. 2 at 92-93; N.T. Nov. 3 at 37-38.

- He woke up all of his victims by waiting in their door-frame. *See* N.T. Nov. 1 at 60; N.T. Nov. 2 at 89-90; N.T. Nov. 3 at 38.

- He threatened all of his victims with a knife. *See* N.T. Nov. 1 at 60-61; N.T. Nov. 2 at 89-90; N.T. Nov. 3 at 38.

- He told all of his victims that he had a ‘friend’ downstairs who would kill them if they did not comply with his demand. *See* N.T. Nov. 1 at 61; N.T. Nov. 2 at 94; N.T. Nov. 3 at 38-39.

- He told multiple victims that he did not want their things. *See* N.T. Nov. 1 at 61; N.T. Nov. 3 at 38.

- The nature of all three assaults was sexual. *See* N.T. Nov. 1 at 61; N.T. Nov. 2 at 97; N.T. Nov. 3 at 39.

- He told multiple victims to ‘shut the fuck up.’ *See* N.T. Nov. 1 at 61; N.T. Nov. 2 at 90; N.T. Nov. 3 at 38.

- He asked multiple victims about their roommates and indicated that he had done research on their household. *See* N.T. Nov. 1 at 61; N.T. Nov. 2 at 89.

- He made references to drugs and marijuana in two of the assaults. *See* N.T. Nov. 1 at 64; N.T. Nov. 2 at 89.

- He wore similar clothing in all of the assaults. *See* N.T. Nov. 1 at 60; N.T. Nov. 2 at 92-93, 169, 174-75.

- He took all of the victims’ phones from their room and discarded the phones on the first floor in a very similar way. *See* N.T. Nov. 1 at 64; N.T. Nov. 2 at 110; N.T. Nov. 3 at 40.

- He stole from the wallets of three of his victims. *See* N.T. Nov. 2 at 20; N.T. Nov. 3 at 50, 88.

- He turned off his phone during multiple assaults. *See* N.T. Nov. 3 at 181, 195.

- He exhibited an extreme degree of sophistication with respect to all three assaults. *See* N.T. Nov. 1 at 64, 95; N.T. Nov. 2 at 89; N.T. Nov. 3 at 180-81, 196.

Finally, all four of the victims who saw Swaby described him in a very similar way:

- They all described him as being just under 6 feet tall, dark skinned with a medium build. *See* N.T. Nov. 1 at 66-67; N.T. Nov. 2 at 92; N.T. Nov. 3 at 41-42, 74-75.

- Most of them thought he was at least in his twenties, beyond college age. *See* N.T. Nov. 1 at 95; N.T. Nov. 2 at 93; N.T. Nov. 3 at 74-75.

- A.C. described him as having smile lines around his eyes. *See* N.T. Nov. 2 at 93.
- K.K. was the only victim that thought he was in college. *See* N.T. Nov. 1 at 95.
- However, on cross examination, she explained that this was due to the fact that Swaby was wearing a Lehigh University sweatshirt during the assault. *See id.*
- The victims all described Swaby as having distinguishable eyes. *See* N.T. Nov. 1 at 101; N.T. Nov. 2 at 92; N.T. Nov. 3 at 41-42.

The similarities between the assaults were so similar that they speak to Swaby's identity, another purpose for which the Commonwealth sought to join the matters. *See* Commonwealth's Brief. Identity is a proper purpose for the use of evidence of other crimes. *See* Pa. R.E. 404(b)(2). These similarities demonstrate Swaby's *modus operandi* for the commission of his assaults. *See* Commonwealth's Brief. Importantly, at the time that Swaby opposed the joinder of the offenses, A.C. had not made a post-assault identification of Swaby. *See id.* Evidence of Swaby's identity was not only relevant, but crucial to the Commonwealth's case for the 2793-2021 matter. *See id.* Therefore, identity is an additional ground for the admissibility of these crimes in all three cases and thus the appropriateness of the joinder.

The Commonwealth also joined the three matters to demonstrate the *res gestae* of the cases. *See id.* The Commonwealth explained that all three investigators for each of the matters worked together to identify Swaby and to gather evidence for their cases. *See id.* For example, the results from K.K.'s sexual assault examination generated an unidentified DNA profile. *See* N.T. Nov. 1 at 200. The police were able to determine that the DNA profile belonged to Swaby based on evidence they obtained from the investigation for the 1319-2021 matter. *See* N.T. Nov. 1 at 209, 217; N.T. Nov. 2 at 139. The stories of all three investigations are collaborative and therefore these three matters form one story for the purposes of the investigation and the evidence supporting the cases. *See e.g.,* N.T. Nov. 1 at 201-202, 209, 217; N.T. Nov. 2 at 139.

Ultimately, there are several purposes that could support the admission of each crime in separate trials for each matter. Therefore, this part of the test is satisfied.

ii. The matters were capable of separation by the jury.

The second part of the analysis requires the Court to determine whether the evidence of each of the cases is capable of separation by the jury so that there is no danger of confusion. *See* Pa. R.Crim.P. Rule 582; *Lark*, *supra*. "Where a trial concerns distinct criminal offenses that are distinguishable in time, space and the characters involved, a jury is capable of separating the evidence." *Commonwealth v. Collins*, 703 A.2d 418, 423

(Pa. 1997). In *Collins*, the Pennsylvania Supreme Court held that a jury was capable of separating the evidence for two matters where the two incidents “occurred three days apart in different locations and involved different victims.” *See id.*

Here, similar to *Collins*, all three assaults took place in different houses, occurred on different dates and involved different victims. *See* N.T. Nov. 1 at 60, 89; N.T. Nov. 2 at 92-93, 134; N.T. Nov. 3 at 36, 172-74. Therefore, pursuant to *Collins*, a jury would be capable of separating the evidence for these matters so that there is no risk of confusion.

iii. Swaby was not prejudiced by consolidation of the trials.

Because the circumstances of this case satisfy the two requirements described above, joinder of the matters was consistent with Pa. R.Crim.P. Rule 582. However, the Court *may* order that the matters be severed “if it appears that any party may be prejudiced by offenses ... being tried together.” *See* Pa. R.Crim.P. Rule 583. “Under Rule 583, the prejudice the defendant suffers due to the joinder must be greater than the general prejudice any defendant suffers when the Commonwealth’s evidence links him to a crime.” *Commonwealth v. Dozzo*, 991 A.2d 898, 902 (Pa. Super. 2010).

The prejudice of which Rule [583] speaks is, rather, that which would occur if the evidence tended to convict [the] appellant *only* by showing his propensity to commit crimes, or because the jury was incapable of separating the evidence or could not avoid cumulating the evidence. Additionally, the admission of relevant evidence connecting a defendant to the crimes charged is a natural consequence of a criminal trial, and is not grounds for severance by itself.

*Id.* (quoting *Commonwealth v. Lauro*, 819 A.2d 100, 107 (Pa. Super. 2003) (quoting *Commonwealth v. Collins*, 703 A.2d 418, 422 (Pa. 1997))) (emphasis added).

As demonstrated above, the evidence of each matter supports the other matters for numerous purposes other than a showing of Swaby’s propensity to commit crimes. Further, because the assaults occurred in different locations, on different dates and involved different victims, the jury is capable of separating the evidence.

In his brief supporting his motion for severance, Swaby argues that he would be prejudiced by joinder because there is no evidence that the sexual intercourse in the 2065-2021 matter was not consensual. *See* Defendant’s Motion Objecting to Joinder. He states that admission of the other crimes would unfairly prejudice him because they would assume that the sexual intercourse was not consensual. *See id.* This argument is without merit, as this is not the kind of prejudice that Rule 583 targets. In fact, case law demonstrates that joinder of similar matters is particularly *probative* where the defendant is claiming a defense of consent for a sexual assault

case. *See Commonwealth v. Tyson*, 119 A.3d 353, 362 (Pa. Super. 2015). The probative value comes from the common scheme of the defendant's actions. *See id.* Therefore, Swaby has proffered no valid arguments for why joinder would unfairly prejudice him.

In conclusion, joinder of the 1319-2021 matter, the 2065-2021 matter and the 2793 matter was proper under Rule 582 of the Pennsylvania Rules of Criminal Procedure. Additionally, because joinder did not unfairly prejudice Swaby, severance was not warranted under Rule 583. As a result, this Court did not err in denying Swaby's motion for severance.

## II. *The Learning [sic] Court Erred in Denying Defendant's Motion for a Continuance*

Swaby's second argument is that we erred by denying Swaby's motion for continuance that was presented to this Court orally on October 5, 2022.<sup>24</sup> *See* Concise Statement ¶4; *see also*, N.T. Oct. 5 at 3, 17.

i. This court did not abuse its discretion in denying the motion for continuance.

Continuances in court cases are governed by Pa. R.Crim.P. Rule 406, which states that "[t]he court or issuing authority *may*, in the interests of justice, grant a continuance, on its own motion, or on the motion of either party." Pa. R.Crim.P. Rule 106(A) (emphasis added). The standard of review for a trial court's ruling on a motion for continuance in a criminal case is abuse of discretion. *See Commonwealth v. Bozic*, 997 A.2d 1211, 1225 (Pa. Super. 2010) ("Appellate review of the trial court's decisions on continuance motions rests on an abuse of discretion standard.").

"An abuse of discretion is not merely an error of judgment; rather, discretion is abused when the law is overridden or misapplied, or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias, or ill-will, as shown by the evidence or the record." *See Commonwealth v. Ross*, 57 A.3d 85, 91 (Pa. Super. 2012) (quoting *Commonwealth v. Randolph*, 873 A.2d 1277, 1281 (Pa. 2005)) (internal quotation marks omitted).

"In reviewing the denial of a continuance, [the appellate courts] have regard for the orderly administration of justice as well as the right of a criminal defendant to have adequate time to prepare his defense." *See Commonwealth v. Koehler*, 737 A.2d 225, 236 (Pa. 1999) (quoting *Commonwealth v. Crews*, 640 A.2d 395, 403 (Pa. 1994)). The appellate courts "should look to the nature of the crime and the surrounding circumstances to determine if the denial of a continuance was an abuse of discretion." *See id.* (quoting *Commonwealth v. Simmons*, 662 A.2d 621, 636 (Pa. 1995)).

<sup>24</sup> Swaby renewed this motion on October 19, 2022. *See* N.T. Oct. 19 at 2. The Court denied the renewed motion. *See id.* at 28-32.

“Mere shortness of time in which to prepare does not mandate the granting of a continuance.” *See Commonwealth v. Brown*, 505 A.2d 295, 298 (Pa. Super. 1986). “An appellant must show specifically in what manner he was unable to prepare his defense or how he would have prepared differently had he been given more time.” *See id.*

Further, the Superior Court has recognized that trial judges necessarily require a great deal of latitude in scheduling trials. Not the least of their problems is that of assembling the witnesses, lawyers, and jurors at the same place at the same time, and this burden counsels against continuance except for compelling reasons.

*Commonwealth v. Sandusky*, 77 A.3d 663, 671 (Pa. Super. 2013) (quoting *Morris v. Slappy*, 461 U.S. 1, 11 (1983)).

Swaby, through Attorney Connell and Joseph Leeson, III (“Attorney Leeson”), requested a continuance on October 5, 2022, for his trial scheduled for October 31, 2022. *See* N.T. Oct. 5 at 3. During this hearing, Swaby’s attorneys represented that they did not know whether they would be prepared for trial on October 31. *See id.* 4-5. The Commonwealth strongly opposed the continuance, stating:

I am objecting to it. This is the third set of attorneys on this case. [The Commonwealth] currently [has] 50 witnesses under subpoena. [The Commonwealth has] 35 witnesses that have been prepared and are prepared to testify. There are five young women who are in graduate school [and] who are living in other parts of the country. It’s taken great efforts to get everyone to be available the week of October 31st.

All of our motions, all of our requested filings have been filed and provided to the Court and counsel. Discovery has been provided to date. The only things outstanding are trial exhibits, which are due on the 17th per the Court’s scheduling order. We are prepared. These victims want this case to move forward. They want to move past this. It’s been hanging over their heads for close to two years at this point, so I would ask for trial to move forward on the 31st.

*Id.* at 5-6.

Swaby’s attorneys told the Court that they had not had “more than five minutes” to talk to Swaby. *See id.* at 6. The Court noted that in August 2022, defense counsel had requested the trial date of October 31, 2022, and that the Court issued a scheduling order to that effect. *See id.* at 8. The Court then asked if anything factually had changed between August and October that caused them to need more time with Swaby. *See id.* Attorney Connell stated that Swaby had been transferred to Montgomery County and that he and Attorney Leeson did not know where Swaby was for several months. *See id.* at 8-9.



When pressed about what they needed to talk to Swaby about that would take longer than a month, Attorney Connell and the Court had the following exchange:

MR. CONNELL: Judge, quite frankly, we have—as I said, because he was not accessible to us for the last month and a half, we were unable to discuss with him whether or not he felt that anything that we should be—any witnesses, for instance, that we need to access, whether there was any testimony—

THE COURT: Are there any witnesses you need to—

MR. CONNELL: I don't know, Judge. I just don't know.

THE COURT: So how do you know that you need to continue it then?

MR. CONNELL: Judge, he and I—

THE COURT: I mean, if there are no witnesses you need to access or you don't—there's nothing you need to do, how do you know if needs to be continued?

MR. CONNELL: Judge, the discovery that has been provided is three cases that, before our representation, were joined by the Court. And, quite frankly, the amount of discovery that we have received from the Commonwealth is quite voluminous.

*Id.* at 9-10.

The Court then determined that Attorney Connell and Attorney Leeson had been provided the discovery in August of 2022, and that the defense had been in possession of the discovery since January of 2022. *See id.* at 10, 14. Additionally, Attorney Connell and Attorney Leeson had already reviewed the discovery. *See id.* at 10. They continued to stress that they had not had an opportunity to speak with Swaby, reiterating that Swaby had been transferred to a different county and that they did not know where Swaby was located. *See id.* at 13. However, Attorney Connell and Attorney Leeson took no steps to discover where Swaby was located. *See id.* In fact, the Commonwealth discovered where Swaby was by use of a website that is available to the public and made arrangements for Swaby to be transferred to Northampton County. *See id.* at 15.

The Commonwealth reiterated that a continuance would have on the Commonwealth and the coordination of their numerous witnesses. *See id.* at 14-15. The Commonwealth pointed out that the next trial available on November 29 would take place the same week of one of the victim's final exams for law school. *See id.* at 15. The Commonwealth also noted that the prison in Montgomery County was “not that far” and that Attorney Connell and Attorney Leeson could have driven to the prison to speak with Swaby. *See id.*



Weighing Swaby's interest in the continuance with the Commonwealth's need for the trial to stand on October 31, this Court denied Swaby's motion for a continuance with the following statement:

Okay. So just to summarize, we brought Mr. Swaby in. You were—into the courtroom in—I believe it was July. You were appointed—you and Mr. Leeson were both appointed to represent him. We had a scheduling conference. Everyone agreed on numerous dates in the scheduling order.

As Ms. Wilson said, you had the ability to find out where Mr. Swaby was. You had the ability to request from the Court that he be writted in to Northampton County, back to Northampton County, back to Northampton County Prison if you wanted to speak to him in person. You had the ability to communicate with him by Zoom, and you did not avail yourself of any of those things.

There's nothing that has happened, there's nothing that has changed since you agreed to this scheduling order on August 11th. Mr. Swaby was adamant that he did not want to waive his Rule 600 rights, and he wanted a trial as soon as possible. I believe he even said at one point, I want it today. And that was back in June. He wanted this trial. He agreed to an order. You agreed to the order.

For everything that's been said today, the Court will deny the continuance. You can take an interlocutory appeal if you like to the [S]uperior [C]ourt.

*Id.* at 16-17.

Then, during a conference on October 19, 2022, Swaby, through his attorneys, renewed his motion for continuance. *See* N.T. Oct. 19 at 2. The Court asked Attorney Connell what had changed between October 19 and October 5 that would support the renewed motion. *See id.* at 3. Mr. Connell represented that the defense needed more time to conduct an investigation based on representations Swaby had made. *See id.* The Court asked Mr. Connell again whether anything factually in the case had changed since August. *See id.* at 4. Mr. Connell reiterated that Swaby had been moved to Montgomery County and that he and Mr. Leeson did not know where he was located. *See id.* The Commonwealth remained opposed to the continuance. *See id.* at 6. The Court then had the following exchange with Mr. Connell:

THE COURT: Well, there's a publicly available website that you could track any prisoner in Pennsylvania, and you could have certainly went onto that website and found it. You could have come to Northampton County Prison. You could have asked the warden. You could have asked anyone where your client was at, found him in Montgomery County Prison and then you could have done a number of things.

*Part III of V to be continued*



Skeptics say she will never start her own company.

*A lawyer says she will.*

She is denied her loan.

*A lawyer helps her get one.*

She can't get a lease for office space.

*A lawyer sees to it that she does.*

She needs a business plan.

*A lawyer helps her draft one.*

Skeptics said she would never start her own company.

*A lawyer helped her prove them wrong.*

You have rights. Lawyers protect them.  
Pennsylvania Bar Association  
Northampton County Bar Association

**Northampton County Bar Association**  
**Notification of Change Form**

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.

***Previous information:***

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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

***New information:***

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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



**PERIODICAL PUBLICATION**

\* Dated Material. Do Not Delay. Please Deliver Before Monday, September 18, 2023