

Northampton County Reporter

(USPS 395-280)

VOL. LXII

EASTON, PA September 21, 2023

NO. 90

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

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INSERT: Blue: 1. 2023 Calendar

2. "Commission on Sentencing: 8th Edition of Sentencing Guidelines"

3. Witchcraft & Wizardry Clued Up Game Registration

4. Holiday Hope Chests Project

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.

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Northampton County Reporter

Attorney Referral & Information Service

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Easton, PA 18042

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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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Ralph J. Bellafatto, Esquire

Editor

NOTICE TO NCBA MEMBERS – BAR NEWS**Save the Dates**

October 9, 2023

NCBA Fall CLE Conference @ Wind Creek
Conference Center
Registration form inside or register at:
<https://norcobar.org/product/2023-fall-cle-conference/>

October 13, 2023

Amicus Soirée – Invitations were mailed out

October 21, 2023

CluedUpp Scavenger Hunt for members, families
and friends of all ages.
Registration form inside.

We the people are rightful masters of both Congress and the courts, not to
overthrow the Constitution but to overthrow the men who pervert the
Constitution. ~ Abraham Lincoln

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**ALBERT, MARGARET ELAINE,**
dec'd.

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

Executors: David Keith Overdorf
and Alison Roper Overdorf 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

BRANLEY, BARBARA A., dec'd.

Late of Hanover Township,
Northampton County, PA

Executrix: Katherine Strohl c/o
Douglas J. Tkacik, Esquire, 18
East Market Street, Bethlehem,
PA 18018

Attorney: Douglas J. Tkacik,
Esquire, 18 East Market Street,
Bethlehem, PA 18018

FETTERHOFF, JOYCE E., dec'd.

Late of the City of Bethlehem,
Northampton County, PA

Executors: Dale Russell Keck
and Nancy Ellen Heller 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

HAHN, ELLEN RUTH, dec'd.

Late of the Borough of
Danielsville, Northampton
County, PA

Executors: James Earl Allen, Jr.,
3235 Reeve Dr. W., Bethlehem,
PA 18020 and Richard T. Allen,
408 Stones Crossing Rd.,
Easton, PA 18045

Attorneys: Steven D. Brown,
Esquire, Spengler Brown Law
Offices, 110 East Main Street,
Bath, PA 18014

KURONYE, JUDITH ANN, dec'd.

Late of the City of Bethlehem,
Northampton County, PA

Administratrix: Ms. Karen Lynn
Holzer c/o Robert A. Nitchkey,
Jr., Esquire, 730 Washington
Street, Easton, PA 18042

Attorney: Robert A. Nitchkey, Jr.,
Esquire, 730 Washington Street,
Easton, PA 18042

NYE, SANDRA J., dec'd.

Late of Bethlehem, Northampton
County, PA

Administratrix: Debra Louise
Thompson c/o Scott R. Steirer,
Esquire, Pierce & Steirer, LLC,
124 Belvidere Street, Nazareth,
PA 18064

Attorneys: Scott R. Steirer,
Esquire, Pierce & Steirer, LLC,
124 Belvidere Street, Nazareth,
PA 18064

O'CONNELL, THOMAS JOHN, dec'd.

Late of Bethlehem Township,
Northampton County, PA

Executrix: Casey Lynn Stewarts
c/o Kevin F. Danyi, Esquire,
Danyi Law, P.C., 133 East Broad
Street, Bethlehem, PA 18018

Attorneys: Kevin F. Danyi,
Esquire, Danyi Law, P.C., 133
East Broad Street, Bethlehem,
PA 18018

PASTERNAK, BETTY L., dec'd.

Late of 175 West North Street,
Nazareth, Northampton County,
PA

Executor: Richard D. Pasternak
Attorney: Richard L. Newman,
Esquire, Park Terrace, 275 S.
Main Street, Doylestown, PA
18901

REEMSNYDER, DONNA M., dec'd.

Late of the Borough of Nazareth,
Northampton County, PA

Executrix: Amy Suzanne Blair
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

RODGERS, HARRY C., JR., dec'd.

Late of Hanover Township,
Northampton County, PA

Executor: Nelson Edward Long,
III c/o Larry R. Roth, Esquire,
The Roth Law Firm, 123 N. 5th
St., Allentown, PA 18102

Attorneys: Larry R. Roth,
Esquire, The Roth Law Firm, 123
N. 5th St., Allentown, PA 18102

ROWE, THOMAS S., dec'd.

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

Administratrix: Lauren Ashley
Rowe 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

SCHALK, SUSAN L., dec'd.

Late of the Township of Bushkill,
Northampton County, PA

Executrix: Andrea M. Beers 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

SEARFASS, JANET H., dec'd.

Late of Northampton County, PA

Executrix: Lynn M. Romig c/o
Carolyn Frisoli Furst, Esquire,
Reich & Furst Law Offices, 121
N. Cedar Crest Blvd., Ste. B,
Allentown, PA 18104

Attorneys: Carolyn Frisoli Furst,
Esquire, Reich & Furst Law
Offices, 121 N. Cedar Crest
Blvd., Ste. B, Allentown, PA
18104

SUPERS, CRAIG L., dec'd.

Late of the Township of Bushkill,
Northampton County, PA

Administratrix: Lillian G. Supers
c/o Goudsouzian & Associates,
2940 William Penn Highway,
Easton, PA 18045-5227

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

VILLANUEVA, MARIA M., dec'd.

Late of Northampton County, PA

Executor: William Nicholas
Argeros c/o Barbara L.

Hollenbach, Esquire, Norris McLaughlin, P.A., 515 West Hamilton Street, Suite 502, Allentown, PA 18101

Attorneys: Barbara L. Hollenbach, Esquire, Norris McLaughlin, P.A., 515 West Hamilton Street, Suite 502, Allentown, PA 18101

ZAVITSANOS, PETER SOCRATES,
dec'd.

Late of the Borough of Wilson, Northampton County, PA

Executrix: Katherine R. Vayda, 50 Spring Valley Rd., Easton, PA 18042

Attorneys: Steven D. Brown, Esquire, Spengler Brown Law Offices, 110 East Main Street, Bath, PA 18014

SECOND 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 Pysher 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

THIRD 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

**LIMITED LIABILITY
COMPANY NOTICES**

NOTICE IS HEREBY GIVEN that
a Certificate of Organization for a
Domestic Limited Liability Company
has been filed with the Department

of State of the Commonwealth of
Pennsylvania, at Harrisburg, Penn-
sylvania, on or about August 29,
2023, for the purpose of creating a
Limited Liability Company under the
Limited Liability Company Law of
1994, P.L. 703, No. 106.

The name of the Limited Liability
Company is:

JMEB PROPERTIES LLC

David J. Ceraul, Esquire
22 Market Street
Bangor, PA 18013

Sept. 21

NOTICE IS HEREBY GIVEN that
the Certificate of Organization has
been filed with the Department of
State of the Commonwealth of
Pennsylvania, in Harrisburg,
Pennsylvania under the provisions of
the Pennsylvania Uniform Limited
Liability Company Act of 2016,
approved November 21, 2016, Nov.
21, P.L. 1328, No. 170. The name of
the Limited Liability Company is:

PACIFICO WELLNESS, LLC

The Certificate of Organization
was filed on September 7, 2023.

DAVID R. GORDON, ESQUIRE
1883 Jory Road
Pen Argyl, PA 18072

Sept. 21

NOTICE OF DISSOLUTION

NOTICE IS HEREBY GIVEN that
Falcinelli, D.F. Inc., a Pennsylvania
corporation, having its principal office
at 60 North 2nd Street, Easton, PA
18042 intends to file Articles of Disso-
lution with the Department of State
of the Commonwealth of Pennsylva-
nia, pursuant to and in accordance
with the provisions of the Pennsylva-
nia Business Corporation Law of
1988, as amended, and that the said
corporation is winding up its affairs
in the manner prescribed by said law,
so that its corporate existence shall
be terminated upon the filing of the
Articles of Dissolution with the
Department of State.

FITZPATRICK LENTZ &
BUBBA, P.C.

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

Sept. 21

NOTICE FOR CHANGE OF NAME

NOTICE IS HEREBY GIVEN that on August 16, 2023, the petition of Catherine DiGesu was filed in Northampton County Courthouse of common Pleas at No. C-48-CV-2023-006103, seeking to change the names of minor children from Gianna Quetasia Settles to Gianna Quetasia DiGesu and Amari Antonio Settles to Amari Antonio DiGesu. The court has fixed Monday, October 16, 2023 at 9:00 a.m., in the motions courtroom at the Northampton County Courthouse as the date for hearing of the petition. All persons interested in the proposed change of the name may appear and show cause, if any they have, why the prayer of the petitioner should not be granted.

Sept. 21

**NOTICE OF ADMINISTRATIVE
SUSPENSION**

NOTICE IS HEREBY GIVEN that Paul C. Hensel of Northampton County has been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated August 9, 2023, pursuant to Rule 219, Pa. R.D.E., which requires that all attorneys admitted to practice in any court of this Commonwealth must pay an annual assessment of \$275.00. The Order became effective September 8, 2023.

Suzanne E. Price
Attorney Registrar
The Disciplinary Board of the
Supreme Court of Pennsylvania
Sept. 21

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

IN DIVORCE

ERNESTO A. FRANCOIS

Plaintiff

v.

LUZ ELENIA GERENA

Defendant

NO. 2022-8647

NOTICE TO DEFEND

AND CLAIM RIGHTS

COMPLAINT IN DIVORCE

To: Luz Elenia Gerena

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take prompt action. You are warned that if you fail to do so, the case may proceed without you and the court may enter a decree in divorce or an annulment against you by the court. A judgment may also be entered against you for any other claim or relief requested in these papers by the plaintiff. You may lose money or property or other rights important to you, including custody of your children.

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE OR ANNULMENT IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE
Northampton County
Bar Association
P.O. Box 4733
Easton, PA 18043-4733
(610) 258-6333

JOHN D. LYCHAK, ESQUIRE
LAW OFFICES OF
JOHN D. LYCHAK, P.C.
Attorneys for Plaintiff
60 W. Broad Street
Suite 98
Bethlehem, PA 18018
(610) 865-1195

Sept. 21

**COURT OF COMMON PLEAS
CIVIL DIVISION
NORTHAMPTON COUNTY**

Reverse Mortgage
Funding LLC

PLAINTIFF

vs.

Christopher Stephen Simon, Known
Heir of Andre L. Simon, Deceased
and Erika Muschert, Known Heir of
Andre L. Simon, Deceased and
Andre D. Simon, Known Heir of
Andre L. Simon, Deceased and
Unknown Heirs, Successors,
Assigns and All Persons, Firms or
Associations Claiming Right, Title or
Interest From or Under Andre L.
Simon, Deceased

DEFENDANTS

NO.: C-48-CV-2023-01156

NOTICE OF SHERIFF'S SALE OF
REAL PROPERTY

TO: Unknown Heirs, Successors,
Assigns and All Persons, Firms or
Associations Claiming Right, Title
or Interest From or Under Andre
L. Simon, deceased; 409 East
Washington Avenue, Bethlehem,
PA 18017

Your house (real estate) at: 409
East Washington Avenue, Bethlehem,

PA 18017, parcel ID: N6SE2D 2 11
0204 is scheduled to be sold at
Sheriff's Sale at Northampton County
Courthouse, 669 Washington Street,
Easton, PA 18042, on December 8,
2023 at 10:00 A.M. to enforce the
court judgment of \$265,029.59
obtained by Reverse Mortgage
Funding LLC against you.

**NOTICE OF OWNER'S RIGHTS
YOU MAY BE ABLE TO PREVENT
THIS SHERIFF'S SALE**

To prevent this Sheriff's Sale you
must take immediate action:

The sale will be cancelled if you
pay back to Reverse Mortgage
Funding LLC the amount of the
judgment plus costs or the back
payments, late charges, costs, and
reasonable attorneys fees due. To find
out how much you must pay, you
may call: LOGS Legal Group, LLP.,
(610) 278-6800.

PLEASE NOTE a Schedule of
Distribution will be filed by the Sheriff
on a date specified by the Sheriff not
later than thirty (30) days after sale.
Distribution will be made in accor-
dance with the schedule unless
exceptions are filed thereto within 20
days after the filing of the schedule.

Sept. 21

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

WELLS FARGO BANK, N.A.

Plaintiff

vs.

Richard J. Menegus (deceased);
Unknown Heirs, and/or
Administrators to the Estate of
Richard J. Menegus
Defendants

NO.: C-48-CV-2023-03534

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE

TO: Unknown Heirs, and/or Administrators to the Estate of Richard J. Menegus

You are hereby notified that Plaintiff, Wells Fargo Bank, N.A., filed an Action in Mortgage Foreclosure endorsed with a Notice to Defend, in the Court of Common Pleas of Northampton County, Pennsylvania, docketed to No. C-48-CV-2023-03534, seeking to foreclose the mortgage secured by the real estate located at 2800 Middletown Road, Bethlehem, PA 18020.

A copy of the Action in Mortgage Foreclosure will be sent to you upon request to the Attorney for the Plaintiff, Manley Deas Kochalski LLC, P.O. Box 165028, Columbus, OH 43216-5028. Phone (614) 220-5611.

You have been sued in court. If you wish to defend against the claims in this notice, you must take action within twenty (20) days after this publication, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
Lawyer Referral Service (ARIS)
P.O. Box 4733
Easton, PA 18043-4733
(610) 258-6333

Sept. 21

**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 messuage 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 message, 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 message, 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 IV of V continued

You could have asked me to writ him in to Northampton County for you to talk to him. You could have spoken to him by Zoom or by telephone. You could have driven down to Montgomery County, which is only about an hour and 15 minutes from here. You chose not to do any of those things.

You chose to just sit and do nothing and then one week prior to a trial where there are 50 witnesses coming in and five rape victims for this alleged serial rapist, you want me to continue the case at the last minute; right Mr. Connell?

MR. CONNELL: That's exactly what I want.

Id. at 4-5.

Ultimately, Mr. Connell admitted that he could have found out where Swaby was located. *See id.* at 6. This Court denied the renewed motion for continuance. *See id.* at 28-32.

Case law has firmly established that the need for more time to prepare for trial is not alone grounds for a continuance. *See Brown*, 505 A.3d at 298; *Commonwealth v. Ross*, 57 A.3d 85, 91 (Pa. Super. 2012); *Commonwealth v. Ah Thank Lee*, 566 A.2d 1205, 1206 (Pa. Super. 1989). Rather, in determining whether to grant a motion for continuance, the court must weigh the defendant's interest in having adequate time to prepare for a defense with the Commonwealth's interest and the Court's interest in orderly administration of justice. *See Koehler*, 737 A.2d at 236.

This was not a situation where Swaby's attorneys were appointed at the last minute and needed more time to familiarize themselves with the case. *See e.g., Ross*, *supra* at 85. Attorney Connell and Attorney Leeson had been the attorneys of record since June 30, 2022. *See* Attorney Connell Entry of Appearance. In fact, they had previously agreed to the trial date of October 31, 2022. *See* N.T. Oct. 19 at 3. The only reason that they needed more time was because of their failure to take steps to meet with their client. *See* N.T. Oct. 19 at 5. On the other hand, continuing the case would create prejudice for the Commonwealth. *See* N.T. Oct 5 at 5-6. With over fifty witnesses with whom to coordinate, it took a tremendous amount of effort to make the trial possible on October 31, 2022. *See id.* Further, permitting the continuance in this scenario would reward attorneys who fail to take action in their case. Any attorney who needs more time to prepare, no matter the reason, would be able to get the case continued at any time. This would be inconsistent with the efficient administration of justice. As a result, this Court did not err in denying Swaby's motion for a continuance.

ii. Any error in denying the continuance was harmless.

If the Superior Court finds that this Court erred in denying Swaby's motion for a continuance, this Court submits in the alternative that the error was harmless in the context of Swaby's case. Decisions regarding mo-

tions for continuance are subject to a harmless error analysis. *See Commonwealth v. Sandusky*, 77 A.3d 663, 672 (Pa. Super. 2013).

In *Sandusky*, the Pennsylvania Superior Court reviewed a trial court's decision to deny a continuance in case involving forty-five counts of sexual abuse. *See id.* at 666, 671. The defense requested a continuance due to the fact that they had a significant amount of discovery to sort through. *See id.* at 672. The trial court rejected the motion for continuance, noting that "considering all the interests involved—the defendant's right to a fair trial, the alleged victims' right to their day in court [sic], the Commonwealth's obligation to prosecute promptly, and the public's expectation that justice will be timely done—no date will presently present a better alternative." *See id.*

The Superior Court held that this decision to deny the motion for continuance was not an abuse of discretion, stating that the mere need for more time to investigate and sort through discovery is not a sufficient reason to require a continuance. *See id.* at 671-73. However, they held that in the alternative, any error was harmless because the defense admitted at a post-sentence hearing that they were not able to find anything in the discovery that would have changed anything at trial. *See id.*

Here, in the seven months following trial, the defense has presented nothing that combats the strength of the Commonwealth's case. This Court observed the trial and determined that the Commonwealth proved that Swaby was responsible for the crimes beyond a reasonable doubt. The cell phone data places him at 417 McCartney Street during the exact timeframe the crime occurred. *See* N.T. Nov. 3 at 190. There is surveillance footage that shows him exiting 417 McCartney Street. *See* Nov. 2 at 162-63. Three victims identified him. *See* N.T. Nov. 1 at 99, 101; N.T. Nov. 2 at 112-13; N.T. Nov. 3 at 57, 60. Ms. Christman, Swaby's significant other of fifteen years identified Swaby as the person in the footage. *See* N.T. Nov. 3 at 113-14. The police recovered a pair of moccasins with an identical paint streak as seen in the surveillance footage from Swaby's home. *See* N.T. Nov. 3 at 393. The rental cars near the scenes of the crime were registered to Swaby at the time each crime was committed. *See* N.T. Nov. 1 at 217; N.T. Nov. 2 at 135-36. Swaby was identified as the DNA profile retrieved from K.K.'s vaginal swabs after her rape. *See* N.T. Nov. 1 at 217. Finally, Swaby's identity is apparent in the unique and consistent manner in which he committed these crimes. *See* N.T. Nov. 1 at 60-61, 64; N.T. Nov. 2 at 20, 89-90, 92-94, 110, 134, 174-75; N.T. Nov. 3 at 37-39, 40, 50, 88, 172-73, 181, 195. Therefore, the Commonwealth proved their case beyond all doubt and any error in refusing to give Swaby more time to investigate was harmless.

III. *The Learning [sic] Trial Court Erred in Not Granting
Defendant's Motion to Dismiss Charges of Attempt to Commit
Involuntary Deviate Sexual Intercourse*

Swaby's third argument is that this Court erred in denying Swaby's motion to dismiss charges of Attempt to Commit Involuntary Deviate Sexual Intercourse in the 1319-2021 matter. *See* Concise Statement ¶5. During a conference prior to jury selection on October 31, 2022, by agreement of the parties, this Court dismissed one count of Criminal Attempt to Commit Involuntary Deviate Sexual Intercourse.²⁵ *See* Notes of Testimony at 37, *Commonwealth v. Swaby*, No. C-48-CR-1319-2021, C-48-CR-2065-2021, C-48-CR-2793-2021 (C.P. Northampton Co. Oct. 31, 2022) ("N.T. Oct. 31"). After trial, a jury convicted Swaby of a one count of Criminal Attempt to Commit Involuntary Deviate Sexual Intercourse. *See* Guilty, *Commonwealth v. Swaby*, No. C-48-CR-1319-2021 (C.P. Northampton Co. Nov. 4, 2022). For reasons set forth below, the facts alleged in the criminal information and proven at trial are sufficient to support the charge of Criminal Attempt to Commit Involuntary Deviate Sexual Intercourse.

18 Pa. C.S.A. §3123 sets forth the elements of Involuntary Deviate Sexual Intercourse. *See* 18 Pa. C.S.A. §3123. Section 3123(a) states that "[a] person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant ... by forcible compulsion; [or] ... by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution ..." *Id.* "Deviate Sexual Intercourse" is defined as "[s]exual intercourse per [mouth] or per anus between human beings ..." *See* 18 Pa. C.S.A. §3101. "Forcible compulsion" is defined as "[c]ompulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied ..."

18 Pa. C.S.A. §901 sets forth the elements of Criminal Attempt. *See* 18 Pa. C.S.A. §901. According to Section 901, "[a] person commits an attempt when, with intent to commit a specific crime, he does any act which constitutes a substantial step toward the commission of that crime." *Id.*

Finally, 18 Pa. C.S.A. §306 sets forth the definition of accomplice liability. *See* 18 Pa. C.S.A. §306. Section 306 provides that "[a] person is guilty of an offense if it is committed by his own conduct or by the conduct of another person for which he is legally accountable, or both." *Id.* Section 306 further provides that "[a] person is legally accountable for the conduct of another person when ... acting with the kind of culpability that is sufficient for the commission of the offense, he causes an innocent or irresponsible person to engage in such conduct ..." *Id.*

²⁵ The original criminal information had two charges of Criminal Attempt to Commit Involuntary Deviate Sexual Intercourse, which had one charge associated with each of the two victims in the 1319-2021 matter. *See* Information Filed, *Commonwealth v. Swaby*, No. C-48-CR-1319-2021 (C.P. Northampton Co. July 22, 2021). Therefore, after this Court dismissed one of the charges, one charge of Criminal Attempt to Commit Involuntary Deviate Sexual Intercourse remained for trial.

Here, the legal theory is that Swaby, acting with the culpability sufficient for the commission of criminal attempt to commit involuntary deviate sexual intercourse, caused an innocent person, M.D., to engage in conduct that constitutes Involuntary Deviate Sexual Intercourse. *See* N.T. Oct. 31 at 19-20, 23.

The Pennsylvania Superior Court recognized this theory of criminal liability in *Commonwealth v. Tavares*, 555 A.2d 199 (Pa. Super. 1989). In *Tavares*, the defendant forced two boys with cerebral palsy to have oral sex. *See id.* at 200. The defendant placed one of the boys' hand on the other boy's penis twice, despite the boy saying "no." *See id.* Then, the defendant forced one boy's head on the other boy's penis, despite the boy's attempts to move his head back. *See id.*

The defendant was convicted of attempted Involuntary Deviate Sexual Intercourse.²⁶ *See id.* The defendant challenged the conviction, arguing that he had not had oral sex with the boy. *See id.* at 201. The Superior Court rejected this argument, finding liability on a theory of complicity. *See id.* ("Although Tavares did not himself have indecent contact with the complainants, criminal liability was extended to him under the statute relating to liability for the conduct of another ..."). Importantly, the Court held that "section 306 imputes criminal liability to the individual who forces unlawful contact between two innocent victims." *See id.* The Court reasoned that a perpetrator does not wash their hands of culpability by forcing an innocent person to carry out the harmful action.²⁷ *See id.*

Here, Swaby forced M.D. to attempt to commit Involuntary Deviate Sexual Intercourse with R.T. by telling M.D. to "eat her out." *See* N.T. Nov. 3 at 39. M.D. committed the criminal attempt by tugging on R.T.'s shorts, which was a substantial step in the commission of the crime of Involuntary Deviate Sexual Intercourse. *See id.* Swaby clearly acted with the culpability that 18 Pa. C.S.A. §3123 targets, which is specific intent to Commit Involuntary Deviate Sexual Intercourse. Further, case law has recognized a finding of liability in this way, as Swaby is not any less culpable by forcing M.D. to commit the crime. Therefore, this Court did not err by not dismissing the remaining count of Criminal Attempt to Commit Involuntary Deviate Sexual Intercourse.

²⁶ The Court examined an involuntary deviate sexual intercourse statute which also had a "forcible compulsion" element. *See Commonwealth v. Tavares*, 555 A.2d 199, 201 (Pa. Super. 1989).

²⁷ The Superior Court noted that 18 Pa. C.S.A. §306 "was derived verbatim" from the Model Penal Code. *See Tavares*, *supra* at 201. The Court then quoted an official comment to the Model Penal Code which states "[there is a] universally acknowledged principle that one is no less guilty of the commission of a crime because he uses the overt conduct of an innocent or irresponsible agent." *See id.* (quoting Model Penal Code §206(2)(a) at 300 (Official Draft, 1985)). Therefore, this theory of liability is consistent with the legislative intent of the statutes supporting accomplice liability.

*IV. The Learning [sic] Trial Court Erred in Sentencing Defendant
to an Aggregate Sentence of 75 Years to 150 Years*

Finally, Swaby generally challenges his sentence. *See* Concise Statement ¶5. He states no specific challenges to the sentence. *See id.* Following being convicted of three counts of Burglary with the Intent to Commit a Bodily Injury Crime Therein, three counts of Burglary with the Intent to Commit a Crime Therein, one count of Criminal Attempt to Commit Involuntary Deviate Sexual Intercourse, one count of Criminal Attempt to Commit Indecent Assault, one count of Rape, one count of Involuntary Deviate Sexual Intercourse, two counts of Sexual Assault, one count of Aggravated Indecent Assault, two counts of Indecent Assault, three counts of Terroristic Threats, three counts of Possession of an Instrument of Crime, three counts of Theft and one count of Simple Assault, Swaby was sentenced to serve a term of 75 years to 150 years in a state correctional facility. *See* N.T. Mar. 15 at 123.

A. Legality of Sentence

During sentencing, the trial court is required to impose a minimum and maximum period of incarceration. *See* 42 Pa. C.S. §9756(a)-(b). The minimum period of incarceration “shall not exceed one-half of the maximum sentence imposed.” *Id.* “The defendant or the Commonwealth may appeal as right the legality of the sentence.” *See* 42 Pa. C.S. §9781(a).

For the three charges of Burglary with the Intent to Commit a Bodily Injury Crime Therein, Swaby was sentenced to serve a term of imprisonment, in a state correctional institution, for a minimum period of ten years to a maximum period of twenty years for each charge. *See* N.T. Mar. 15 at 112, 115, 117.

For the charge of Burglary with the Intent to Commit a Crime Therein, Swaby was sentenced to serve a term of imprisonment, in a state correctional institution, for a minimum period of eighteen months to a maximum period of thirty-six months. *See id.* at 112-13.

For the charge of Criminal Attempt to Commit Involuntary Deviate Sexual Intercourse, Swaby was sentenced to serve a term of imprisonment, in a state correctional institution, for a minimum period of ten years to a maximum period of twenty years, followed by an additional three years of probation. *See id.* at 113.

For the three charges of Possession of an Instrument of Crime, Swaby was sentenced to serve a term of imprisonment, in a state correctional institution, for a minimum period of thirty months to a maximum period of five years for each charge. *See id.* at 114, 116-18.

For the charge of Rape, Swaby was sentenced to serve a term of imprisonment, in a state correctional institution, for a minimum period of ten years to a maximum period of twenty years, followed by an additional three years of probation. *See id.* at 114-15.

For the charge of Involuntary Deviate Sexual Intercourse, Swaby was sentenced to serve a term of imprisonment, in a state correctional institution, for a minimum period of ten years to a maximum period of twenty years, followed by an additional three years of probation. *See id.* at 115.

For the charge of Sexual Assault, Swaby was sentenced to serve a term of imprisonment, in a state correctional institution, for a minimum period of five years to a maximum period of ten years, followed by an additional three years of probation. *See id.* at 115.

For the charge of Simple Assault, Swaby was sentenced to serve a term of imprisonment, in a state correctional institution, for a minimum period of one year to a maximum period of two years.²⁸ *See id.* at 118.

All of Swaby's sentences ran consecutively. *See id.* at 122. The total sentence is a term of imprisonment for a minimum period of 75 years to a maximum period of 150 years, followed by an additional twelve years of probation. *See id.* at 123. Swaby's minimum sentence does not exceed one-half of his maximum sentence. As such the Court imposed a legal sentence. *See* 42 Pa. C.S. §9756(a)-(b). Therefore, Swaby cannot appeal his sentence of right. *See* 42 Pa. C.S. §9781(a).

B. Discretionary Aspects of Sentence

Swaby contends that we abused our discretion in sentencing him to 75 years to 150 years in prison. The right to appeal a discretionary sentence is not absolute. *See Commonwealth v. Griffin*, 65 A.3d 932, 935 (Pa. Super. 2013). Rather, an appeal is only permitted if the appellate court determines that the appellant properly preserved the issue and his concise statement raises a substantial question as to whether the sentence is appropriate under the sentencing code. *See* 42 Pa. C.S. §9781(b); *see also, Commonwealth v. Dodge*, 77 A.3d 1263, 1268 (Pa. Super. 2013).

i. Preserving issues for appeal.

"Issues not raised in the lower court are waived and cannot be raised for the first time on appeal." Pa. R.A.P. 302(a). "As such, issues challenging the discretionary aspects of sentencing must be raised in a post-sentence motion or by raising the claim during the sentencing proceedings. Absent such efforts, an objection to the discretionary aspect of a sentence is waived." *Commonwealth v. Mann*, 820 A.2d 788, 794 (Pa. Super. 2003).

"In order to preserve an issue for appeal, a litigant must make a timely, *specific objection* at trial and must raise the issue on post-trial motions." *See Dennis v. Southeastern Pennsylvania Transp. Authority*, 833

²⁸ Criminal Attempt to Commit Indecent Assault, all counts of Terroristic Threats, all counts of Theft, 1 count of Sexual Assault, Aggravated Indecent Assault, all counts of Indecent Assault and 2 counts of Burglary with the Intent to Commit a Crime therein merged for sentencing. *See* N.T. Mar. 15 at 118-22. Therefore, the sentencing details of these charges are not included in this discussion.

A.2d 348, 352 (Pa. Commw. 2003) (citing *Reilly by Reilly v. Southeastern Pennsylvania Transp. Authority*, 489 A.2d 1291 (1985)) (emphasis added). The purpose of this rule “is to provide the trial court the opportunity to address and correct any potential errors.” *See H.Z. v. M.B.*, 204 A.3d 419, 430 (Pa. Super. 2019).

In *Commonwealth v. Rivera*, the Superior Court held that an appellant waived his argument on appeal where the theory underlying his post-sentence motion was different than the theory underlying his appeal. *See* 238 A.3d 482, 499 (Pa. Super. 2020). When challenging the discretionary aspects of the trial court’s sentence, the appellant in his post-sentence motion claimed that the trial court failed to adequately consider the sentencing guidelines and the mitigating factors. *See id.* On appeal, the appellant challenged the sentences on the basis of the trial judge’s alleged bias against him because he rejected a plea offer. *See id.* The Superior Court concluded that “the Appellant failed to raise his specific appellate claims in his post-sentence motion, and therefore has failed to preserve his discretionary sentencing claims.” *See id.*

Here, Swaby filed a post-sentence motion. *See* Motion for Reconsideration. The motion contained three paragraphs, which are as follows:

1. A jury on or about November 4, 2022, found [Swaby] guilty on 26 different offenses in the three above cases which were joined for trial[;]
2. On March 15, 2023, your Honorable Court sentenced [Swaby] to an aggregate sentence of 75 years to 150 years in a Pennsylvania Correctional Facility[; and]
3. The sentence was beyond the aggregated range of sentences proffered by the Pennsylvania Commission on Sentencing.

Id.

This motion only contains three factual statements. *See id.* It does not raise any issues or take any legal positions. Not only did Swaby fail to make an adequately specific objection, he failed to make any objections with respect to the discretionary aspect of his sentence. By failing to describe any errors in his post-sentence motion, Swaby failed to provide the Court with an opportunity to address the errors prior to the appeal. As such, Swaby failed to preserve this issue on appeal and consequently has waived it. *See Dennis*, *supra*. Therefore, the Court respectfully suggests that Swaby’s appeal should be dismissed as the issue has not been preserved for appeal. Assuming, *arguendo*, that Swaby did not waive this issue, for the reasons set forth below, Swaby’s appeal should be dismissed on the merits.

ii. Substantial question.

The Pennsylvania Superior Court can only review the discretionary aspects of the sentence if the defendant’s concise statement raises a substantial question as to whether the sentence is appropriate under the sentenc-

ing code. *See* 42 Pa. C.S. §9781(b); *see also*, *Commonwealth v. Dodge*, 77 A.3d 1263, 1268 (Pa. Super. 2013). “The determination of whether a particular issue raises a substantial question is to be evaluated on a case-by-case basis.” *Commonwealth v. Titus*, 816 A.2d 251, 255 (Pa. Super. 2003). “A substantial question will be found where an appellant advances a colorable argument that the sentence imposed is either inconsistent with a specific provision of the Sentencing Code or is contrary to the fundamental norms which underlie the sentencing process.” *Commonwealth v. Mastromarino*, 2 A.3d 581, 585 (Pa. Super. 2010).

“[O]rdinarily, a claim that the sentencing court failed to consider or accord proper weight to a specific sentencing factor does not raise a substantial question.” *Commonwealth v. Caldwell*, 117 A.3d 763, 769 (Pa. Super. 2015) (quoting *Commonwealth v. Berry*, 785 A.2d 994, 996-97 (Pa. Super. 2001)). When such a claim, however, is made in conjunction with other alleged errors, the Superior Court has found that the appellant has raised a substantial question. *See Caldwell*, *supra* at 769-70.

Based on the foregoing case law, we concede that Swaby’s concise statement may raise a substantial question. For the reasons set forth below, however, we disagree with Swaby’s contention that we did not adequately explain and support our sentence. Therefore, we respectfully suggest that Swaby’s claim lacks merit and should be dismissed.

C. Review of Swaby’s Sentence

i. Standard of review.

“[T]he proper standard of review when considering whether to affirm the sentencing court’s determination is an abuse of discretion.” *Commonwealth v. Walls*, 926 A.2d 957, 961 (Pa. 2007). Abuse of discretion is more than an error of judgment. *See id.* Thus, a decision of a sentencing court will not be overturned unless “the record discloses that the judgment exercised was manifestly unreasonable, or the result of partiality, prejudice, bias or ill-will.” *Commonwealth v. Smith*, 673 A.2d 893, 895 (Pa. 1996). Moreover, “the appellate courts must give great weight to the sentencing judge’s discretion, as he or she is in the best position to measure various factors such as the nature of the crime, the defendant’s character, and the defendant’s display of remorse, defiance, or indifference.” *Commonwealth v. Ellis*, 700 A.2d 948, 958 (Pa. Super. 1997), *app. denied*, 727 A.2d 127 (Pa. 1998); *see also*, *Commonwealth v. Ward*, 568 A.2d 1242, 1243 (Pa. 1990) (sentencing court is “in the best position to determine the proper penalty for a particular offense based upon an evaluation of the individual circumstances before it.”). “Simply stated, the sentencing court sentences flesh-and-blood defendants and the nuances of sentencing decisions are difficult to gauge from the cold transcript used upon appellate review.” *Walls*, *supra*.

Cases in which a sentencing court has been found to have abused its discretion generally involved extreme sentences combined with a clear failure to consider the statutory factors. *See e.g., Commonwealth v. Coulverson*, 34 A.3d 135, 146 (Pa. Super. 2011) (where nineteen-year-old boy with mental health problems was convicted of assault, robbery, burglary, and sex offenses, virtual life sentence of ninety years in the aggregate was “clearly unreasonable;” although sentences were within the standard range and the Court had the benefit of a PSI, the Court referred to the PSI “only as a perfunctory exercise,” focused “entirely on the severity of [the defendant’s] offenses,” and gave “no consideration whatsoever” to defendant’s lifelong dysfunction, his cooperation with the Commonwealth, his remorse for his crimes, his attempts at reclaiming a productive role in society, or the possibility that he might have been rehabilitated with mental health treatment); *Commonwealth v. Dodge*, 957 A.2d 1198, 1202 (Pa. Super. 2008) (“*Dodge II*”) (equivalent of life sentence for nonviolent property crimes, of which involved receiving stolen costume jewelry, was “clearly unreasonable”).

In contrast, where the trial court has considered the statutory factors and based its decision on findings in the record and the sentence is not disproportionate to the defendant’s crimes, a sentence is not clearly unreasonable. *See Commonwealth v. Klueber*, 904 A.2d 911, 911 (Pa. 2006) (reversing Superior Court and holding that aggregate sentence of thirty-three and one-half to sixty-seven years for 134 counts of possession of child pornography was not “clearly unreasonable;” “The trial court relied on [defendant’s] prior history and conducted a lengthy sentencing hearing before finding [defendant] was a high risk for re-offense and was an active danger to the public.”); *Dodge*, 77 A.3d 1263, 1270 (Pa. Super. 2013) (following remand after life sentence was vacated by Pennsylvania Supreme Court) (aggregate sentence of forty years for nonviolent property crimes, most of which involved receiving stolen costume jewelry, was not “clearly unreasonable;” Court considered statutory sentencing factors, defendant had lengthy criminal history, sentences were at lowest end of sentencing range, and sentence did not amount to a life sentence, because it would allow defendant to be paroled in his early eighties); *Commonwealth v. Macias*, 968 A.2d 773, 778 (Pa. Super. 2009) (sentence of twenty to forty years for third-degree murder for participating in beating death was reasonable; sentence was within guidelines range, and although court considered mitigating factors, including defendant’s psychological issues, it found such factors were outweighed by brutality of crime and indifference to victim’s suffering; “The sentencing court merely chose not to give the mitigating factors as much weight as Appellant would have liked and decided that the facts did not warrant imposition of a sentence lower than the standard range.”); *Commonwealth v. Malovich*, 903 A.2d 1247, 1254 (Pa. Super. 2006) (where defendant was serving sentence of eighteen months’ probation for theft by deception and was found in possession of marijuana, Court’s

decision to revoke his probation and sentence him to eighteen months to three years in state prison was not “manifestly unreasonable;” “The record thus reveals not just that Appellant was likely to commit another offense, but also that he had in fact done so In light of the court’s observations on Appellant’s intractable attitude and behavior, we find no basis to conclude that the sentence was excessive or disproportionate.”).

For the three charges of Burglary with the Intent to Commit a Bodily Injury Crime therein, Swaby was sentenced to serve a term of imprisonment for a minimum period of ten years to a maximum period of twenty years per charge in a state correctional institution. *See* N.T. Mar. 15 at 112, 115, 117. Based on Swaby’s prior record score, an aggravated sentence for Burglary with the Intent to Commit a Bodily Injury Crime therein is anywhere from thirty-two to fifty-seven months in a state correctional institution. *See id.* at 40.

For the charge of Burglary with the Intent to Commit a Crime therein, Swaby was sentenced to serve a term of imprisonment, in a state correctional institution, for a minimum period of eighteen months to a maximum period of thirty-six months. *See id.* at 112-13. Based on Swaby’s prior record score, an aggravated sentence for Burglary with the Intent to Commit a Crime therein is anywhere from thirteen months to twenty-six months in a state correctional institution. *See id.* at 40.

For the charge of Criminal Attempt to Commit Involuntary Deviate Sexual Intercourse, Swaby was sentenced to serve a term of imprisonment for a minimum period of ten years to a maximum period of twenty years in a state correctional institution, followed by an additional three years of probation. *See id.* at 113. Based on Swaby’s prior record score, an aggravated sentence for Criminal Attempt to Commit Involuntary Deviate Sexual Intercourse is anywhere from fifty-five to eighty-four months in a state correctional institution. *See id.* at 41.

For the three charges of Possession of an Instrument of Crime, Swaby was sentenced to serve a term of imprisonment for a minimum period of thirty months to a maximum period of five years per charge in a state correctional institution. *See id.* at 114, 116-18. Based on Swaby’s prior record score, an aggravated sentence for Possession of an Instrument of Crime is anywhere from one month to four months in a state correctional institution. *See id.* at 42.

For the charge of Rape, Swaby was sentenced to serve a term of imprisonment for a minimum period of ten years to a maximum period of twenty years in a state correctional institution, followed by an additional three years of probation. *See id.* at 114-15. Based on Swaby’s prior record score, an aggravated sentence for Rape is anywhere from sixty-seven months to ninety-six months in a state correctional institution. *See id.* at 43.

For the charge of Involuntary Deviate Sexual Intercourse, Swaby was sentenced to serve a term of imprisonment for a minimum period of ten

years to a maximum period of twenty years in a state correctional institution, followed by an additional three years of probation. *See id.* at 115. Based on Swaby's prior record score, an aggravated sentence for Involuntary Deviate Sexual Intercourse is anywhere from sixty-seven to ninety-six months in a state correctional institution. *See id.* at 43.

For the charge of Sexual Assault, Swaby was sentenced to serve a term of imprisonment for a minimum period of five years to a maximum period of ten years in a state correctional institution, followed by an additional three years of probation. *See id.* Based on Swaby's prior record score, an aggravated sentence for Sexual Assault is anywhere from fifty-five to sixty months in a state correctional institution. *See id.* at 44.

For the charge of Simple Assault, Swaby was sentenced to serve a term of imprisonment in a state correctional institution for a minimum period of one year to a maximum period of two years. *See id.* at 118. Based on Swaby's prior record score, an aggravated sentence for Simple Assault is anywhere from seven months to ten months in a state correctional institution. *See id.* at 44.

ii. Sentencing court's record.

In reviewing the record of the sentencing court, an appellate court must consider:

- (1) The nature and circumstances of the offense and the history and characteristics of the defendant, including any presentence investigation;
- (2) The opportunity of the sentencing court to observe the defendant, including any presentence investigation;
- (3) The findings upon which the sentence was based; and
- (4) The guidelines promulgated by the commission.

42 Pa. C.S. §9781(d).

The factors a sentencing court must consider in crafting a sentence for a defendant are also prescribed by statute:

In selecting from the alternatives ... , [a sentencing] court shall follow the general principle that the sentence imposed should call for total confinement that is consistent with ... the protection of the public, the gravity of the offense as it relates to the impact of the life of the victim and on the community, and the rehabilitative needs of the defendant. The court shall also consider any guidelines for sentencing and resentencing adopted by the Pennsylvania Commission on Sentencing

42 Pa. C.S. §9721(b). The Sentencing Code mandates individualized sentencing. *See Commonwealth v. Walls*, 926 A.2d 957, 966 (Pa. 2007). "In particular, the [sentencing] court should refer to the defendant's prior criminal record, his age, personal characteristics and his potential for rehabilitation." *Commonwealth v. Griffin*, 65 A.3d 932, 937 (Pa. Super. 2013) (quoting *Commonwealth v. Moury*, 992 A.2d 162, 171 (Pa. Super. 2010)).

Where a pre-sentence investigation report is prepared, a presumption exists that the sentencing judge is aware of the information contained therein and has “weighed those considerations along with mitigating statutory factors.” *Commonwealth v. Macias*, 986 A.2d 773, 778 (Pa. Super. 2009) (citing *Commonwealth v. Matroni*, 923 A.2d 444, 455 (Pa. Super. 2007)).

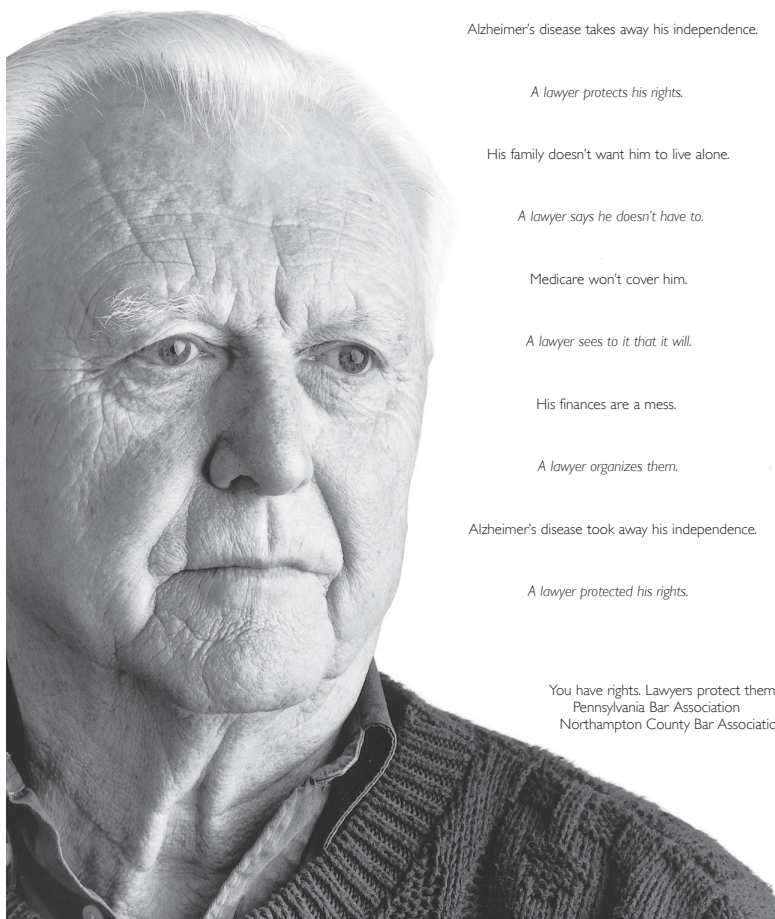
The Sentencing Guidelines are not mandatory.” *Commonwealth v. Mouzon*, 812 A.2d 617, 621 (Pa. 2002). “Even with the advent of the sentencing guidelines, the power of sentencing is a function to be performed by the sentencing court. Thus, rather than cabin the exercise of a sentencing court’s discretion, the guidelines merely inform the sentencing decision.” *Commonwealth v. Holiday*, 954 A.2d 6, 11 (Pa. Super. 2008). At sentencing, the court may consider both aggravating and mitigating factors in fashioning an appropriate sentence. *See Commonwealth v. Walls*, 926 A.2d 957, 964–65 (Pa. 2007). The weight accorded to these factors is within the trial court’s exclusive province. *See Commonwealth v. Chilquist*, 548 A.2d 272, 274 (Pa. Super. 1988). When a court imposes an aggravated or mitigated sentence, it must “state the reasons on the record.” 204 Pa. Code §303.13(c). Where the sentence imposed “deviates significantly from the guideline recommendation, [the sentencing court must] demonstrate that the case is compellingly different from the typical case of the same offense.” *Commonwealth v. Walls*, *supra* at 960 (internal quotations omitted). “In every case in which the court imposes a sentence ... outside the guidelines adopted by the Pennsylvania Commission on Sentencing ... the court shall provide a contemporaneous written statement of the reasons for the deviation” 42 Pa. C.S. §9721(b).

In *Commonwealth v. Gunderman*, the appellant challenged the sentencing court’s statutory maximum sentence of ten to twenty years for rape. *See* 407 A.2d 870, 874 (Pa. Super. 1979) (“ ... appellant argues that the lower court abused its discretion by sentencing appellant to ten-to-twenty years in prison, the statutory maximum for the crime of rape.”). The sentencing court’s reasoning for the maximum sentence was as follows:

[A]ny sentence other than confinement would, I believe, unduly depreciate the seriousness of the crime. The Court feels that ... an extended confinement is necessary to deter not only the Defendant, but also others.

The Court has considered the nature of the crime and feels it requires and deserves punishment by extended incarceration. The Court is convinced that given the opportunity he would repeat the act and is convinced that society needs to be protected from this kind of crime and that ... [a]n extended imprisonment is necessary to neutralize this dangerous offender.

Id.



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A lawyer says he doesn't have to.

Medicare won't cover him.

A lawyer sees to it that it will.

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