

Adams County Legal Journal

Vol. 38

April 4, 1997

No. 45, pp. 247-252

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-724 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN of land.

SITUATE, lying and being in the Borough of Carroll Valley, Adams County, Pennsylvania, being Lot No. 186 in Section J, Charnita Development, bounded and described as follows:

BEGINNING at a point in the cul-de-sac of Cross Land Trail; thence in said cul-de-sac and by Lot No. 185 South 82 degrees 2 minutes 20 seconds East, 196.44 feet to lands now or formerly of Columbia Gas Co.; thence by said lands South 66 degrees 15 minutes East, 5.60 feet to lands now or formerly of George F. Herring; thence by said lands South 23 degrees 45 minutes West, 135 feet to lands now or formerly of George C. Steinberger; thence by said lands North 66 degrees 15 minutes West, 75 feet to a

point; thence continuing by said lands South 23 degrees 45 minutes West, 75 feet to a point; thence continuing by said lands South 23 degrees 45 minutes West, 85.51 feet to Lot. No 202; thence by said lot North 87 degrees 23 minutes 40 seconds West, 131.11 feet to Lot No. 187; thence by said lot North 3 degrees 11 minutes 40 seconds West, 200 feet to a point in the center of said Cross Land Trail; thence in said Cross Land Trails South 87 degrees 23 minutes 40 seconds East, 100 feet to the place of beginning.

THE above description was taken from plan of lots labeled "Section J. Charnita Ski area, Inc.," dated March 20, 1968, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 24.

TOGETHER with a right of way and easement over the private roads indicated on said lot plan recorded in Adams County Plat Book No. 1 at page 24, for means of ingress, egress and regress.

TAX PARCEL NUMBER: 2-21

TITLE TO SAID PREMISES IS VESTED IN Gordon M. Sachs and Lisa

H. Sachs, his wife by Deed from Douglas S. Penvose and Karen M. Penvose, husband and wife dated 9/27/90 recorded 9/27/90 in Deed Book 568 Page 255.

SEIZED and taken into execution as the property of **Gordon M. Sachs and Lisa H. Sachs** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
March 13, 1997.

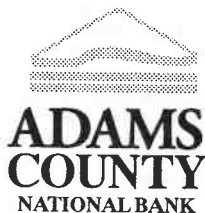
TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 22, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

3/28, 4/4 & 11

Strong.
Rooted Upon Traditional Values.
Dedicated to Quality.
Customer Service.
Dependable.
Branching Into The Future.
Our Commitment Is You.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, Donald G. Oylor, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 112 Baltimore Street, Gettysburg, PA 17325.

Business Office - 112 Baltimore Street, Gettysburg, PA 17325. Telephone: (717) 334-1193

Second-class postage paid at Gettysburg, PA 17325.

Copyright © 1959 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325.

All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-1037 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Franklin Township, Adams County, Pennsylvania, being Lot No. 12 of Silver Meadows Subdivision, bounded and described as follows:

BEGINNING at an iron pin in U.S. Route 30 at Lot No. 11; thence by said lot, North 44 degrees 38 minutes 2 seconds East, 307 feet to an iron pin at Lot No. 13; thence by said lot, South 45 degrees 21 minutes 58 seconds East 152 feet to an iron pin; thence continuing by said lot, South 46 degrees 17 minutes 41 seconds West, 92.57 feet to an iron pin at lands of Philip J. and Nellie R. Miller; thence by said lands, South 44 degrees 26 minutes 32 seconds West, 214.47 feet to an iron pin in said U.S. Route 30; thence in said U.S. Route 30, North 45 degrees 21 minutes 58 seconds West, 150.04 feet to the place of beginning. CONTAINING 1.056 Acres.

THE above description was taken from Sheet 4 of a plan of lots labeled "Silver Meadows Subdivision," dated September 22, 1978, prepared by Boyer Surveyors, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 26 at page 19C.

TAX PARCEL NO. D-10-85.

TITLE TO SAID PREMISES IS VESTED IN Joseph J. Zenitini and Monica D. Zenitini, his wife by Quit Claim Deed from Joseph J. Zenitini dated 7/29/93, recorded 7/29/93, in Deed Book 780 page 178.

BEING the same premises which Kenneth I. Kuhn and Peggy L. Kuhn, his wife by Deed dated 9/26/90 and recorded 10/1/90 in the County of Adams in Deed Book 568 page 484 conveyed unto Joseph J. Zenitini, in fee.

SEIZED and taken into execution as the property of **Joseph J. Zenitini and Monica D. Zenitini** and to be sold by me Bernard V. Miller Sheriff

Sheriff's Office, Gettysburg, PA
March 13, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the

Sheriff in his office on May 22, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

3/28, 4/4 & 11

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, April 14, 1997, at 9:00 o'clock a.m.

CLUCK—Orphans' Court Action Number OC-18-97. The First and Final Account of Edward A. Cluck, Executor of the Estate of Russell F. Cluck, deceased, late of Union Township, Adams County, Pennsylvania.

STIMER—Orphans' Court Action Number OC-23-97. The First and Final Account of Harriet E. Hartzell and Joanaleen E. Small, Executrices of the Last Will and Testament of Harvey W. Stimer, a/k/a Harvey Wilhelm Stimer, deceased, late of Reading Township, Adams County, Pennsylvania.

LOEFFEL—Orphans' Court Action Number OC-24-97. The First and Final Account of Margaret Adams Rineman, Executrix of the Estate of Margaret R. Loeffel, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

LOTT—Orphans' Court Action Number OC-25-97. The First and Final Account of David B. Lott and Donald J. Lott, Executor of the Last Will and Testament of John K. Lott, deceased, late of Straban Township, Adams County, Pennsylvania.

KELLISON—Orphans' Court Action Number OC-26-97. The First and Final Account of Elizabeth I. Fridinger and Doris Jean Stickley, Executrices of the Estate of William W. Kellison deceased, late of Tyrone Township, Adams County, Pennsylvania.

CLUCK—Orphans' Court Action Number OC-27-97. The First and Final Account of Clifford W. Rice, Administrator of the Estate of Julian N. Cluck, deceased, late of Menallen Township, Adams County, Pennsylvania.

MEARNS—Orphans' Court Action Number OC-28-97. The First and Final Account of Carolyn T. Dorsett, Administratrix, dbncta of the Estate of Margaret M. Mearns, deceased, late of Mount Joy Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

4/4 & 11

IN THE COURT
OF COMMON PLEAS OF
ADAMS COUNTY
COMMONWEALTH OF
PENNSYLVANIA
ORPHANS' COURT DIVISION

NOTICE OF HEARING

To: Domingo Perez

You are hereby notified that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been scheduled for April 21, 1997, at 8:30 a.m., prevailing time, at the Adams County Courthouse, Room 411, Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator
Adams County Courthouse
111 Baltimore Street
Gettysburg, PA 17325

Telephone: (717) 334-6781

3/28, 4/4 & 11

COMMONWEALTH VS. MCLANE

1. On consideration of a motion to consolidate cases for trial, the mere fact that one Defendant may attempt to exculpate himself or herself at the expense of the other, or even if hostility develops, is not sufficient reason for separate trials.

2. Where witnesses and evidence will basically be the same, interests of judicial economy and consistency of verdicts make it desirable to consolidate trials, especially where conspiracy is alleged.

Michael George, Esq., District Attorney

Ralph Oyler, Esq., for Defendant

Robert Chester, Esq., for Defendant

MEMORANDUM OPINION AND ORDER

Spicer, P.J., August 1, 1996.

Commonwealth has moved to consolidate these cases for trial. Defendants, who are husband and wife, oppose the request. We have previously acted upon petitions for a writs of habeas corpus and are somewhat familiar with the backgrounds of each case.

Generally, we can expect Commonwealth to try proving, at trial, that Wade McLane conspired with his wife and several other people, including Leon Thomas and Simone McCray, to distribute controlled substances. He has given a confession which described his involvement in a scheme whereby he obtained drugs from Thomas and McCray and distributed the same at his place of residence. On one occasion, it was Pam McLane who met with a buyer and told that person to return later. Following this conversation, police observed Wade McLane leave the residence, go to another location and then return. When the purchaser returned, drugs were delivered.

The scope of each defendant's conspiracy was determined to be different, when the habeas corpus was considered. In Mr. McLane's cases, evidence obviously supported findings of an unlawful agreement involving Ms. McLane, Thomas and McCray. However, because the conspiracy statute requires proof of an unlawful agreement between identifiable individuals, evidence at the preliminary hearing supported only a conspiracy between Ms. McLane and her husband. Commonwealth has not attempted to refile, or to otherwise expand charges against Ms. McLane. Therefore, issues at her trial will be limited to an agreement between herself and her husband.

Even though the distinction may have significant impact at time of sentencing, it is unimportant as to the guilt or innocence of the two defendants. It is, therefore, a matter that can be easily resolved without complicating the trial procedure.

There is no real indication that antagonistic defenses will be presented. More than a bare assertion of antagonism is required. The mere fact that one defendant may attempt to exculpate himself or herself at the expense of the other, or even if hostility develops, is not sufficient reason for separate trials. Where witnesses and evidence will basically be the same, interests of judicial economy and consistency of verdicts make it desirable to consolidate trials, especially where conspiracy is alleged. *Commonwealth v. Chester*, 526 Pa. 578, 587 A.2d 1367 (1991).

The spousal relationship is something we must consider, but it is not controlling. We have reviewed a summary of Wade McLane's confession and find nothing in it which incriminates his wife. Likewise, there has been nothing presented to indicate that extra judicial statements made by Pam McLane inculpates her husband. Commonwealth assures us that it does not intend to offer any evidence that might trigger the privileges accorded to confidential communications under 42 Pa.C.S.A. § 5914. Either defendant may take the stand at trial and thus waive the privileges bestowed by §5913. *Commonwealth v. Easley*, 341 Pa. Super 381, 491 A.2d 868 (1985).

ORDER

AND NOW, this 1st day of August, 1996, the above captioned cases are consolidated for purposes of trial.

COMMONWEALTH VS. MILLER

1. The theory that a law may not enhance a punishment for a prior act does not include every nuance of one's personal life.
2. In deciding whether a statute constitutes an ex post facto law the Court will seek to determine whether it was intended to be punishment or regulatory.
3. The restriction on possession of a "firearm" has not historically been regarded as a punishment but rather as a traditional governmental method of regulating who in our society will be allowed to possess objects which are capable of effectuating criminal activity.

In the Court of Common Pleas, Adams County, Pennsylvania,
Criminal No. CC-172-96, COMMONWEALTH VS. RODNEY
JAY MILLER.

Martha J. Duvall, Esq., Assistant District Attorney
R. Mark Thomas, Esq., for Defendant

MEMORANDUM OPINION

Kuhn, J., August 29, 1996.

This Court issued a Memorandum Opinion on August 16, 1996. The Court acknowledges that the disposition entered regarding Defendant's Pre-Trial Motion is correct but the reasoning is flawed. Therefore, this corrective Opinion is issued. The flaw in the earlier Opinion was the Court's failure to note the definition of "firearm" set forth in 18 Pa. C.S.A. §6105(i). Instead, the undersigned utilized the definition of "firearm" set forth in 18 Pa. C.S.A. §6102. The difference is critical.

The factual background is stipulated. On April 21, 1989, Defendant pled guilty to a charge of Aggravated Assault. At that time §6105 would have prohibited anyone having such a conviction from possessing a firearm (including a shotgun with a barrel length of less than 18 inches). Defendant completed his sentence, including parole. On December 20, 1995, Defendant attempted to purchase a shotgun with a barrel length in excess of 18 inches. He has been charged, inter alia, with a violation of 18 Pa. C.S.A. §6105 and with criminal attempt to violate that section.

The section under which Defendant has been cited provides,

§6105. Persons not to possess, use, manufacture, control, sell or transfer firearms.

(a) Offense defined.

(1) A person who has been convicted of an offense enumerated in subsection (b), within or without this Commonwealth, regardless of the length of sentence . . . shall not possess . . . a firearm within this Commonwealth.

Aggravated Assault in one of the offenses enumerated in subsection (b). Effective December 10, 1995, the Legislature amended the term "firearm" as used in §6105 to include "any weapons which are designed to or may readily be converted to expel any projectile by the action of any explosive . . ."

Defendant claims that the effect of the amendment to §6105, as applied to him, constituted an ex post facto law.

It has been said that a law will be found constitutionally infirm on grounds that it is an *ex post facto* law only where one of the following effects is present:

1. The law makes an act criminal which was not criminal when done;
2. The law aggravates a crime [-] one which makes it greater than it was when committed;
3. The law changes a punishment, and makes it greater than it was when a punishable act was committed;
4. The law alters the rules of evidence and requires less or different testimony than the law required at the time the offense was committed in order to be convicted.

Commonwealth v. Grady, 337 Pa. Super. 174, 177, 486 A.2d 962, 964 (1984).

Defendant contends that the recent definitional amendment of "firearm" in §6105 has the effect of enhancing the punishment of his 1989 conviction by denying him the right to purchase a shotgun which would have been legal for him to purchase before the amendment was enacted. The Court disagrees. The theory that a law may not enhance a punishment for a prior act does not include every nuance of one's personal life. For example, a law which required automatic suspension of a physician's license to practice medicine enacted after the offenses were committed did not constitute an *ex post facto* law in *Galena v. Department of State Professional and Occupational Affairs*, 122 Pa. Comlth Ct. 315, 551 A.2d 676 (1988). The Court reasoned that the suspension was not an additional punishment but rather an incidental consequence of a regulatory scheme regarding the proper qualifications for a profession. Likewise, in *Watson v. State Commissioner of Banking*, 223 A.2d 834 (Maine 1966), a law prohibiting one from being granted a license to operate a collection agency if convicted of embezzlement was not considered *ex post facto* even though passed after applicant completed his sentence for embezzlement. The Court reasoned that *ex post facto* prohibitions relates solely to crimes and their punishment and has no application to civil matters. The rationale was that the legislation was not imposition of an additional penalty but rather one which prescribed qualifications for a position. The same could be said *sub judice* because §6105 merely

prescribes, in negative terms, the qualifications for one to legally possess a firearm.

In *State v. Noble*, 289 P.2d 1217 (Ariz 1992) a law requiring convicted sex offenders to register was not considered an ex post facto law as to acts committed before enactment of the law. The Arizona Supreme Court engaged in a thorough analysis of the ex post facto clause of the United States Constitution and noted that the clause is not applicable to every change which alters the situation of a party to his disadvantage. The Court focused primarily on whether the registration requirement constituted punishment. Being unable to determine from the legislative history whether the statute was intended to be punishment or regulatory the Court considered the factors enumerated in *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 169, 83 S.Ct. 544, 568, 9 L.Ed.2d 644 (1963) which are

[w]hether the sanction involves an affirmative disability or restraint, whether it has historically been regarded as a punishment, whether it comes into play only on a finding of scienter, whether its operation will promote the traditional aims of punishment - retribution and deterrence, whether the behavior to which it applies is already a crime, whether an alternative purpose to which it may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned... 829 P.2d at 1221.

Applying these same factors here we do not find a constitutional violation. Although §6105 does impose a restraint on Defendant's ability to legally possess a firearm the effect is somewhat limited because the prior law also placed restrictions upon violent offenders, albeit not as extensive. We do not believe that the restriction on possession of a "firearm" has historically been regarded as a punishment. It has always been viewed as a traditional governmental method of regulating who in our society will be allowed to possess objects which are capable of effectuating criminal activity. We acknowledge, however, that §6105 does have, to some degree, the traditional deterrent effect of punishment in that one not having easy access to firearms may not be as likely to commit a violent crime. It is also obvious that denial of access to firearms by certain persons is also rationally related to a non-punitive purpose - i.e. control of the easy flow of firearms in the hands of felons. When

balancing all the factors we conclude that the amendment of §6105 is not punishment as applied to Defendant.

These authorities convince the Court that Defendant's challenge to the constitutionality of the charges is without merit. He has cited no relevant authority which would suggest otherwise.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 29th day of August, 1996, for the reason set forth in the attached Opinion, Defendant's Pre-Trial Motion filed April 18, 1996, is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-85 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1

BEGINNING at a spike in the center of a public road at corner of Tract No. 2 herebelow; thence by said Tract No. 2, North 50-1/2 degrees West, 69.17 perches to a stake; thence by the same North 49-1/2 degrees West, 21.69 perches to a stake at lands now or formerly of Elmer Baumgardner; thence by said last-mentioned lands, North 6-1/2 degrees West, 9.86 perches to a post at lands now or formerly of Samuel M. Clark; thence by said last-mentioned lands North 45 degrees East, 48.5 perches to a post; thence by the same, North 56-3/4 degrees West, 70.3 perches to a post; thence by same, North 21-1/2 degrees West, 53.2 perches to a post at lands now or formerly of Harry Brown Estate; thence by said last-mentioned lands, South 84 degrees East, 39.4 perches to a stone; thence by same, North 89-1/2 degrees East, 20.35 perches to a post at lands now or formerly of John S. Teeter & Sons; thence by said last-mentioned lands, due South 10.7 perches to a point; thence by the same, North 59-1/2 degrees East, 26.5 perches to a point at lands now or formerly of Ray F. Strayer; thence by said last-mentioned lands, South 53 degrees East, 91.6 perches to a post at lands now or formerly of Henry Hoke; thence by said last-mentioned lands, South 39-1/2 degrees West, 32 perches to a post; thence by same North 62 degrees West, 17.8 perches to a post; thence by the same, South 63-1/2 degrees East, 9.57 perches to a white oak; thence by the same, South 40-1/4 degrees East, 33 perches to a plum; thence by the same, South 18-1/2 degrees East, 43.9 perches to a point in the center of a public road at corner of other land now or formerly of William Brent; thence by the same, running in the center of said public road, South 72-1/2 degrees West, 35.8 perches to a point; thence by the same, South 71 degrees West, 7.15 perches to a spike, the place of BEGINNING. CONTAINING 94 Acres and 9 Perches, more or less.

LESS, HOWEVER, and there are excepted from the above description the following two small portions thereof lying along the Eastern Boundary near the Southern end thereof, both excepted tracts bordering on the East the farmland now or formerly of the Henry G. Hoke Estate, which excepted tracts were previously conveyed by the following two deeds, the descriptions and provisions of which are incorporated herein by reference:

Excepted Tract A: A tract of 3.448 acres conveyed unto Mark S. Heare and Doris Jean Heare, husband and wife, by deed from William Brent and Shirley A. Brent, husband and wife, dated March 18, 1976, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book 323 at Page 436.

TRACT NO. 2:

BEGINNING at a spike in the center of Township Road No. 309 leading to the Fairfield-Emmitsburg Road; thence by land now or formerly of Wilbur Sites and Preston Baumgardner, North 59 degrees West, 66.8 perches to a post; thence by lands now or formerly of Preston Baumgardner, North 32 degrees East, 19.2 perches to a white oak stump; thence by lands of same and lands now or formerly of John Anderson, North 6 degrees 30 minutes West, 15.44 perches to a stake; thence by Tract No. 1 above, South 41 degrees 45 minutes East, 21.69 perches to a stake; thence by same, South 42 degrees 45 minutes East, 69.17 perches to a spike in the center of the aforesaid Township Road; thence in the center of said Township Road; South 78 degrees 45 minutes West, 23.75 perches to a spike, the place of BEGINNING. CONTAINING 10 Acres and 75 Perches.

TRACT 1 AND TRACT 2 COMBINED CONTAINING 101.078 Acres more or less.

BEING the same two tracts in the conveyance which William Brent, by his deed dated March 2, 1984, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 375 at page 1069, sold and conveyed unto William G. Brent and Patricia S. Brent, Mortgagors herein.

SEIZED and taken into execution as the property of **William C. Brent and Patricia S. Brent** and to be sold by me
Bernard V. Miller
Sheriff
Sheriff's Office, Gettysburg, PA
March 18, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 2, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

4/4, 11 & 18

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-74 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN that tract of land.

SITUATE in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a railroad spike located in Township Route T-647 at the Northeast corner of land of Kenneth G. McFeaters, known as Lot No. 1 on the plan referred to below; thence in said Township Route T-647 North 37 degrees East, 192.38 feet to a railroad spike located at the Northwest corner of land off George B. McFeaters; thence by said land of George B. McFeaters South 51 degrees 1 minute East, 285.77 feet to an iron pin at lands of James G. Angelaras; thence by said land James G. Angelaras South 37 degrees West 192.38 feet to an iron pin located at the Southeast corner of the aforementioned land of Kenneth G. McFeaters; thence by said land of Kenneth G. McFeaters North 51 degrees 1 minute West, 285.77 feet to a railroad spike located in Township Route T-647, the place of beginning.

CONTAINING 1.260 Acres.

BEING known as Lot #2 on a subdivision plan prepared by Gettysburg Engineering Company, Inc., dated April 16, 1975, and recorded on May 5, 1975 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 6 at page 8.

TRACT PARCEL NUMBER: E9-29E

TITLE TO SAID PREMISES IS VESTED IN Jerry L. Chronister by Deed from Jerry L. Chronister and Cindy M. Chronister, husband and wife dated 6/7/85 recorded 6/13/85 in Record Book 402 Page 384.

SEIZED and taken into execution as the property of **Jerry L. Chronister** and to be sold by me

Bernard V. Miller
Sheriff
Sheriff's Office, Gettysburg, PA
March 13, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 22, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

3/28, 4/4 & 11

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF EDNA M. ZEIGLER, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executrix: Nina G. Clark, 1956 Beck Mill Road, Hanover, PA 17331
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF WARREN C. BEARD, DEC'D
Late of the Borough of Gettysburg, Adams County, Pennsylvania
Executrix: Edith I. Smith, 30 N. Franklin St., Gettysburg, PA 17325
Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF PAULINE N. MILLER, DEC'D
Late of the Borough of Biglerville, Adams County, Pennsylvania
Executor: Donald E. Miller, 259 N. 17th Street, Camp Hill, PA 17011
Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF LOIS W. MURPHY, DEC'D
Late of Hamilton Township, Adams County, Pennsylvania
Executor: John T. Murphy, 1483 The Spangler Road, New Oxford, Pennsylvania 17350
Attorney: Donald E. Albright, Esquire, 515 Carlisle Street, Hanover, Pennsylvania 17331

ESTATE OF LILLIE MAY PETRY, a/k/a LILLIE D. PETRY, DEC'D
Late of the Borough of Carlisle, formerly Borough of Littlestown, Adams County, Pennsylvania
Co-Executrices: Ms. Doris May Petry Sherman, 1176 North Brown's Dam Drive, New Oxford, PA 17350; Ms. Mary Catherine Petry Nunemaker, 198 Wilkinson Lane, Fayetteville, PA 17222; Ms. Betty Jane Petry Kress, 160 Chester Street, Carlisle, PA 17013
Attorney: David K. James, III, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF GLADYS R. PLANK, DEC'D
Late of the Borough of Littlestown, Adams County, Pennsylvania
Executor: Charles L. Plank, 16 Meadow Lane, Gettysburg, PA 17325
Attorney: David K. James, III, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF RUSSELLE E. POTTORFF, SR., DEC'D
Late of the Borough of Littlestown, Adams County, Pennsylvania
Co-executors: Mr. Russell E. Pottorff, Jr., 74 Crouse Park, Littlestown, PA 17340; Mr. Carl Pottorff, 55 Crouse Park, Littlestown, PA 17340
Attorney: David K. James, III, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF IRA W. REICHART, DEC'D
Late of Oxford Township, Adams County, Pennsylvania
Executrix: Dorothy Reichart Mummert, 320 Pine Street, Hanover, Pennsylvania 17331
Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, Pennsylvania 17331

THIRD PUBLICATION

ESTATE OF DOROTHY A. HERTZ, DEC'D
Late of the Borough of East Berlin, Adams County, Pennsylvania
Executor: Michael C. Hertz, 216 Ruth Avenue, Hanover, PA 17331
Attorney: Clayton R. Wilcox, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF ROBERT L. LOHR, DEC'D
Late of Mount Joy Township, Adams County, Pennsylvania
Co-executors: D. Edwin Benner, 230 Benner Road, Gettysburg, PA 17325; T. Ruth Carbaugh, 114 East Middle St., Gettysburg, PA 17325
Attorney: John A. Wolfe, Esq., Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

ESTATE OF MARY E. K. PETERS, DEC'D
Late of Huntington Township, Adams County, Pennsylvania
Executors: John F. Peters, 10540 Carlisle Pike, Gardners, PA 17324; William K. Peters, 645 Excelsior Road, Biglerville, PA 17307
Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ELSIE M. STUDY, DEC'D
Late of Straban Township, Adams County, Pennsylvania
Executors: Richard K. Bish, 503 West Myrtle Street, Littlestown, PA 17340; Chester S. Byers, 30 East Myrtle Street, Littlestown, PA 17340
Attorney: Pyle and Entwistle, 25 South Washington St., Gettysburg, PA 17325

ESTATE OF FRED H. WILHELM, DEC'D
Late of Berwick Township, Adams County, Pennsylvania
Executrix: Peggy J. Sheaffer, 304 Abbottstown Pike, Abbottstown, PA 17301
Attorney: Donald E. Albright, Esquire, 515 Carlisle Street, Hanover, PA 17331

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY COMMONWEALTH OF PENNSYLVANIA ORPHANS' COURT DIVISION

NOTICE OF HEARING

To: Daniel Camacho, Sr.

You are hereby notified that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been scheduled for April 21, 1997, at 8:30 a.m., prevailing time, at the Adams County Courthouse, Room 411, Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator
Adams County Courthouse
111 Baltimore Street
Gettysburg, PA 17325
Telephone: (717) 334-6781
3/28, 4/4 & 11

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that Pamela Jo Zepka a/k/a Pamela J. Plummer intends to apply in open Court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 12th day of May, 1997, and that she has established a full-time legal practice in Adams County within the guidelines established by the Supreme Court of Pennsylvania.

Pamela Jo Zepka, Esq.
a/k/a Pamela J. Plummer, Esq.
94 Dakota Drive
Hanover, Pennsylvania 17331
3/28, 4/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-75 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land.

SITUATE, lying and being in Huntington Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING for a point on East Berlin Road (PA 234) at lands now or formerly of Randy Kuhn; thence along said lands now or formerly of Randy Kuhn, North fourteen (14) degrees one (01) minute thirteen (13) seconds East, four hundred forty-eight and ninety-five hundredths (448.95) feet to a pipe at corner of lands now or formerly of Gordon L. Rudacile, North fifty-six (56) degrees eleven (11) minutes ten (10) seconds East, three hundred and twenty-three hundredths (300.23) feet to an iron pin at Lot No. 2; thence along said Lot No. 2, South sixteen (16) degrees forty-seven (47) minutes twenty-three (23) seconds West, four hundred seventy-six and thirty-four hundredths (476.34) feet to a concrete monument at lands now or formerly of John J. Jacobs; thence along said lands now or formerly of John J. Jacobs, South sixteen (16) degrees forty-seven (47) minutes twenty-three (23) seconds West, one hundred ninety-one and seven hundredths (191.07) feet to a point on East Berlin Road; thence along said East Berlin Road, North seventy-seven (77) degrees thirty-seven (37) minutes ten (10) seconds West, one hundred sixty-nine and thirty-six hundredths (169.36) feet to a point at lands now or formerly of Randy Kuhn, the point and place of beginning.

CONTAINING 2.332 ACRES.

BEING Lot No. 1 on a Final Plan for Craig A. Laughman, dated January 13, 1987, in Plat Book 46 Page 1.

TAX PARCEL NO. I-7-15

TITLE TO SAID PREMISES IS VESTED IN Timothy A. Sterner and Lori A. Sterner, husband and wife by Deed From James F. Myers and Susan E. Myers, husband and wife dated 6/30/95 recorded 7/3/95 in Record Book 1050 Page 160.

SEIZED and taken into execution as the property of **Timothy A. Sterner and Lori A. Sterner** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
March 13, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 22, 1997, and distribution will be made in accordance with said schedule, unless excep-

tions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

3/28, 4/4 & 11

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Pennsylvania "Fictitious Names Act," 54 Pa.C.S.A. Sections 301 et seq., of the filing of an Application for Registration for Fictitious Name under the said Act. The fictitious name is YOUNGBLOOM DESIGNS. The address of the principal office or place of business to be carried on under or through the fictitious name is 265 1/2 Buford Avenue, Gettysburg, Adams County, Pennsylvania 17325. The name and address of the individual who is interested in the business is Wendy D. Youngbloom, of 265 1/2 Buford Avenue, Gettysburg, Adams County, Pennsylvania 17325. An Application for Registration of the said Fictitious Name was filed in the Office of the Secretary of the Commonwealth of Pennsylvania on March 20, 1997.

Wolfe & Rice
47 West High Street
Gettysburg, PA 17325
Attorneys for Applicant

4/4

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act, 54 Pa. C.S.A. §§301, et seq., that an Application to conduct business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of JORDAN ANTIQUES & COLLECTIBLES was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, on March 19, 1997. The business is located at 1121 Camp Gettysburg Road, Gettysburg, Pennsylvania. The name and address of the persons who are party to the registration is James D. Sutton and Marian M. Sutton, 1121 Camp Gettysburg Road, Gettysburg, Pennsylvania.

Robert E. Campbell
Campbell & White
122 Baltimore Street
Gettysburg, PA 17325
Attorneys for Applicant

4/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-1058 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of Bonneauville, formerly Mt. Pleasant Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point at the intersection of the State Highway leading from Bonneauville to Two Taverns with the State Highway leading from Bonneauville to Littlestown; thence in the center of the State Highway leading from Bonneauville to Littlestown, South 47 degrees East, 125.70 feet to a spike situated North 31 degrees 30 minutes East, 24 feet from an iron pin; thence along lands now or formerly of Bernard E. and Anna Sheeringer, South 31 degrees 30 minutes West, 160.60 feet to a post at lands now or formerly of Dennis and Edith Little; thence by the same, North 57 degrees 45 minutes West, 125 feet to a spike in the center of the State Highway leading from Bonneauville to Two Taverns, which spike is North 57 degrees 45 minutes West, 2 feet from an iron pin; thence in the center of the State Highway leading from Bonneauville to Two Taverns, North 32 degrees 15 minutes East, 183.1 feet to the point, the place of beginning.

MAP 8, PARCEL 10.

TITLE TO SAID PREMISES IS VESTED IN James W. Pursell, Jr. and Kimberly A. Pursell, his wife by Deed from Wayne W. Miller and Holly A. Miller, his wife dated 7/1/91, recorded 7/3/91, in Recorded Book 593 page 325.

SEIZED and taken into execution as the property of **James W. Pursell, a/k/a James W. Pursell, Jr. and Kimberly A. Pursell** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
March 12, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 22, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

3/28, 4/4 & 11

Adams County Legal Journal

Vol. 38

April 11, 1997

No. 46, pp. 253-256

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 95-S-724 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN of land.

SITUATE, lying and being in the Borough of Carroll Valley, Adams County, Pennsylvania, being Lot No. 186 in Section J, Charnita Development, bounded and described as follows:

BEGINNING at a point in the cul-de-sac of Cross Land Trail; thence in said cul-de-sac and by Lot No. 185 South 82 degrees 2 minutes 20 seconds East, 196.44 feet to lands now or formerly of Columbia Gas Co.; thence by said lands South 66 degrees 15 minutes East, 5.60 feet to lands now or formerly of George F. Herring; thence by said lands South 23 degrees 45 minutes West, 135 feet to lands now or formerly of George C. Steinberger; thence by said lands North 66 degrees 15 minutes West, 75 feet to a

point; thence continuing by said lands South 23 degrees 45 minutes West, 75 feet to a point; thence continuing by said lands South 23 degrees 45 minutes West, 85.51 feet to Lot. No 202; thence by said lot North 87 degrees 23 minutes 40 seconds West, 131.11 feet to Lot No. 187; thence by said lot North 3 degrees 11 minutes 40 seconds West, 200 feet to a point in the center of said Cross Land Trail; thence in said Cross Land Trails South 87 degrees 23 minutes 40 seconds East, 100 feet to the place of beginning.

THE above description was taken from plan of lots labeled "Section J. Charnita Ski area, Inc.," dated March 20, 1968, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 24.

TOGETHER with a right of way and easement over the private roads indicated on said lot plan recorded in Adams County Plat Book No. 1 at page 24, for means of ingress, egress and regress.

TAX PARCEL NUMBER: 2-21

TITLE TO SAID PREMISES IS VESTED IN Gordon M. Sachs and Lisa

H. Sachs, his wife by Deed from Douglas S. Penvose and Karen M. Penvose, husband and wife dated 9/27/90 recorded 9/27/90 in Deed Book 568 Page 255.

SEIZED and taken into execution as the property of **Gordon M. Sachs and Lisa H. Sachs** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
March 13, 1997.

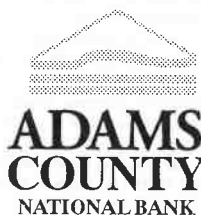
TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 22, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

3/28, 4/4 & 11

In times like these,
you and your clients need
the experience and expertise
provided by a trust professional.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, Donald G. Oyler, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 112 Baltimore Street, Gettysburg, PA 17325.

Business Office - 112 Baltimore Street, Gettysburg, PA 17325. Telephone: (717) 334-1193

Second-class postage paid at Gettysburg, PA 17325.

Copyright© 1959 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325.

All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-1037 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated in Franklin Township, Adams County, Pennsylvania, being Lot No. 12 of Silver Meadows Subdivision, bounded and described as follows:

BEGINNING at an iron pin in U.S. Route 30 at Lot No. 11; thence by said lot, North 44 degrees 36 minutes 2 seconds East, 307 feet to an iron pin at Lot No. 13; thence by said lot, South 45 degrees 21 minutes 58 seconds East 152 feet to an iron pin; thence continuing by said lot, South 46 degrees 17 minutes 41 seconds West, 92.57 feet to an iron pin at lands of Philip J. and Nellie R. Miller; thence by said lands, South 44 degrees 26 minutes 32 seconds West, 214.47 feet to an iron pin in said U.S. Route 30; thence in said U.S. Route 30, North 45 degrees 21 minutes 58 seconds West, 150.04 feet to the place of beginning. CONTAINING 1.056 Acres.

THE above description was taken from Sheet 4 of a plan of lots labeled "Silver Meadows Subdivision," dated September 22, 1978, prepared by Boyer Surveyors, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 26 at page 19C.

TAX PARCEL NO. D-10-85.

TITLE TO SAID PREMISES IS VESTED IN Joseph J. Zenitini and Monica D. Zenitini, his wife by Quit Claim Deed from Joseph J. Zenitini dated 7/29/93, recorded 7/29/93, in Deed Book 780 page 178.

BEING the same premises which Kenneth I. Kuhn and Peggy L. Kuhn, his wife by Deed dated 9/26/90 and recorded 10/1/90 in the County of Adams in Deed Book 568 page 484 conveyed unto Joseph J. Zenitini, in fee.

SEIZED and taken into execution as the property of **Joseph J. Zenitini and Monica D. Zenitini** and to be sold by me Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
March 13, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the

Sheriff in his office on May 22, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

3/28, 4/4 & 11

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, April 14, 1997, at 9:00 o'clock a.m.

CLUCK—Orphans' Court Action Number OC-18-97. The First and Final Account of Edward A. Cluck, Executor of the Estate of Russell F. Cluck, deceased, late of Union Township, Adams County, Pennsylvania.

STIMER—Orphans' Court Action Number OC-23-97. The First and Final Account of Harriet E. Hartzell and Joanaileen E. Small, Executrices of the Last Will and Testament of Harvey W. Stimer, a/k/a Harvey Wilhelm Stimer, deceased, late of Reading Township, Adams County, Pennsylvania.

LOEFFEL—Orphans' Court Action Number OC-24-97. The First and Final Account of Margaret Adams Rineman, Executrix of the Estate of Margaret R. Loeffel, deceased, late of the Borough of Littlestown, Adams County, Pennsylvania.

LOTT—Orphans' Court Action Number OC-25-97. The First and Final Account of David B. Lott and Donald J. Lott, Executor of the Last Will and Testament of John K. Lott, deceased, late of Straban Township, Adams County, Pennsylvania.

KELLISON—Orphans' Court Action Number OC-26-97. The First and Final Account of Elizabeth I. Fridinger and Doris Jean Stickley, Executrices of the Estate of William W. Kellison deceased, late of Tyrone Township, Adams County, Pennsylvania.

CLUCK—Orphans' Court Action Number OC-27-97. The First and Final Account of Clifford W. Rice, Administrator of the Estate of Julian N. Cluck, deceased, late of Menallen Township, Adams County, Pennsylvania.

MEARNS—Orphans' Court Action Number OC-28-97. The First and Final Account of Carolyn T. Dorsett, Administratrix, dncta of the Estate of Margaret M. Mearns, deceased, late of Mount Joy Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

4/4 & 11

IN THE COURT
OF COMMON PLEAS OF
ADAMS COUNTY
COMMONWEALTH OF
PENNSYLVANIA
ORPHANS' COURT DIVISION

NOTICE OF HEARING

To: Domingo Perez

You are hereby notified that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been scheduled for April 21, 1997, at 8:30 a.m., prevailing time, at the Adams County Courthouse, Room 411, Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator
Adams County Courthouse
111 Baltimore Street
Gettysburg, PA 17325

Telephone: (717) 334-6781

3/28, 4/4 & 11

COMMONWEALTH VS. REILLY

1. The title of the statute may be considered in the construction thereof.
2. Although it is presumed that a township is reasonably exercising its police powers when restricting a class of vehicles from using a highway under §4902(a) of the Vehicle Code, such action is to be taken only after completing an engineering and traffic investigation and only if the highway may be seriously damaged by that use or the movement of the vehicles would constitute a safety hazard.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal CC-434-96, COMMONWEALTH VS. JOSEPH REILLY.

Bernard Yannetti, Jr., Esq., Assistant District Attorney
Michael Koranda, Esq. for Defendant

MEMORANDUM OPINION

Kuhn, J., August 9, 1996.

This case involves a series of nine citations issued to Defendant for allegedly violating §4902(a) of the Vehicle Code, 75 Pa. C.S.A. §4902(a), between the dates of April 11 and May 13, 1996. In addition, one citation was issued for violation of §3354(a) of the Vehicle Code, 75 Pa. C.S.A. §3354(a), on April 24, 1996. The record created at hearing on July 23, 1996, revealed the following background.

Walnut Street and East Locust Lane both enter into Oxford Estates in Oxford Township. Signs are posted on both streets stating "No trucks over registered gross weight of 12,000 pounds except for local deliveries." On April 11, 17, 18, 25 and 30, 1996, Officer Steven Eisenhart of the Eastern Adams Regional Police Department observed a Mack truck cab registered to Mercer & Sons parked on East Locust Lane. On April 24, May 8, 11 and 13, 1996, the same truck was parked on East Locust Lane but on these occasions a tanker trailer was attached to the cab. The cab portion had a registered gross vehicle weight of 80,000 pounds. The officer did not weigh the vehicle at any time nor did he determine if the tanker was loaded or empty. He didn't see Defendant drive the vehicle on these occasions, however, Defendant admitted being the driver at the summary hearing before the district justice. Finally the officer had no information pertaining to any traffic and engineering study done with respect to East Locust Lane.

Defendant demurred to the evidence pertaining to the alleged violations of §4902(a). That section provides, in pertinent part,

§4902. Restrictions on use of highways and bridges

(a) Restrictions based on condition of highway or bridge.

- . . . local authorities with respect to highways . . . under their jurisdictions may prohibit the operation of vehicles

and may impose restrictions as to the weight or size of vehicles operated upon a highway . . . whenever they determine that the highway . . . may be damaged or destroyed unless use by vehicles is prohibited or the permissible size or weight of vehicles is reduced . . . (emphasis added.)

The basic penalty for violation of §4902(a) is a fine of \$75.00 plus costs. Fines and costs imposed by the district justice for the nine citations totaled \$2376.00.

Defendant argues that the citations should be dismissed because the Commonwealth failed 1) to introduce any evidence of the actual weight of the vehicle, 2) to offer testimony as to the reason for the weight restriction and 3) to offer evidence of a traffic and engineering study. Commonwealth contends that no weight or traffic study evidence is necessary because this is not a weight restriction case but rather a vehicle restriction case. For reasons stated herein below, the citations for violating §4902(a) will be dismissed.

Commonwealth's theory is that §4902(a) allows local authorities to prohibit the operation of certain vehicles on township highways. With this theory the Court has no disagreement. Oxford Township has adopted ordinance provisions which restrict vehicular usage. Commonwealth introduced several ordinance sections which it believes are applicable. Township Ordinance §301 expressly states that pursuant to authority granted by §4902(a) vehicles of certain weight limits are restricted as to certain streets. Ordinance §302 also expressly states that pursuant to authority granted by §4902(a) vehicles of certain size limits were being restricted as to certain streets. Neither section defines the weight or size limitations nor the streets affected. Therefore, these sections offer absolutely no township authority to restrict usage on East Locust Lane nor authority to prosecute under §4902(a).

Commonwealth also points the Court's attention to Township Ordinance §304. This section is entitled "Truck Traffic Restricted on Certain Streets" and makes it

"unlawful for any person to drive a vehicle other than a passenger car on any of the following streets or parts of streets: . . ."

By ordinance dated December 5, 1995, the entire length of East Locust was to be included within the §304 restrictions. Furthermore, by ordinance dated April 2, 1996, an amendment to §304 was adopted which provided that,

3. For the purpose of this section a “truck” shall be defined as a motor vehicle designed, used or maintained primarily to transport property with a registered gross vehicle weight in excess of 12,000 pounds.

The need to define “truck” is curious since the word “truck” is used nowhere in §304 except in the title. Furthermore, unlike §301 and §302 the provisions of §304 are not expressly authorized by §4902(a) and the penalties are completely different (\$25.00) than the penalties imposed under §301 and §302 which expressly reference the penalties in §4902(a).

The Court, therefore, has serious doubt that §304 was adopted by the township pursuant to §4902(a) authority. However, even if the township did intend to exercise §4902(a) authority when adopting §304 we believe those restrictions are not the basis to support a conviction in this case.

The title of §4902(a) indicates that the restrictions imposed under that section are based on the condition of the particular highway. We know that the title of a statute may be considered in the construction thereof. (1 Pa. C.S.A. §1924.) *Commonwealth v. Doleno*, 430 Pa. Super. 1, 633 A.2d 203 (1993) makes it clear that the Commonwealth must prove the reason for the restriction. Although it is presumed that a township is reasonably exercising its police powers when restricting a class of vehicles from using a highway such action is to be taken only after completing an engineering and traffic investigation and only if the highway may be seriously damaged by that use or the movement of the vehicles would constitute a safety hazard. 75 Pa. C.S.A. §6109A(a)(7) and (e). Here, Commonwealth presented no such study, therefore, it cannot be presumed that the restrictions are a reasonable exercise of the township’s police power.

Commonwealth attempts to circumvent this argument by contending that the restriction has nothing to do with weight but with restriction of a class of vehicles. There is no authority under §4902(a) to simply restrict a class of vehicles from a highway unless there is a determination that the highway may be damaged by that use. As a matter of statutory construction we find that §4902(a) authorizes on the one hand for 1) prohibition of classes of vehicles or b) restriction as to weight or size, if, on the other hand, it is also determined that damage may occur. Absent one of these elements a conviction under that section must fail.

The citation charging Defendant with violating §3354(a) of the Vehicle Code was not challenged with any discussion, however, Defendant did demur to all charges.

This section provides,

§3354. Additional Parking Regulations

(a) Two Way Highways - Except as otherwise provided in this section, every vehicle standing or parked upon a two-way highway shall be positioned parallel to and with the right-hand wheels within 12 inches of the right-hand curb or, in the absence of a curb, as close as practicable to the right edge of the right-hand shoulder.

The evidence presented was that on April 24, 1996, the Mack truck and tanker were parked along East Locust Lane facing in the wrong direction. From this evidence we can conclude that the left-hand wheels were next to the curb and the right-hand wheels were closer to the center of the street. Obviously those right-hand wheels were significantly more than 12 inches from the curb.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 9th day of August, 1996, after summary appeal hearing held July 23, 1996, and in accordance with the attached Opinion, No. A0097748-0, A0429203-5, A0429206-1, A0429254-0, A0429244-4, A0429264-3, A0429256-2, A0429257-3, and A0429288-6 charging Defendant with violations of 75 Pa. C.S.A. §4902(a) are dismissed with costs to be paid by the County of Adams.

The Court finds Defendant guilty of a violation of 75 Pa. C.S.A. §3354(a) as charged in Citation No. A0429255-1. The sentence of the Court is that Defendant shall pay a fine in the sum of \$15.00, the costs, and all fees, fines and costs mandated by law, local rule of court, or administrative order of court.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-85 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1

BEGINNING at a spike in the center of a public road at corner of Tract No. 2 herebelow; thence by said Tract No. 2, North 50-1/2 degrees West, 69.17 perches to a stake; thence by the same North 49-1/2 degrees West, 21.69 perches to a stake at lands now or formerly of Elmer Baumgardner; thence by said last-mentioned lands North 45 degrees East, 48.5 perches to a post; thence by the same, North 56-3/4 degrees West, 70.3 perches to a post; thence by same, North 21-1/2 degrees West, 53.2 perches to a post at lands now or formerly of Harry Brown Estate; thence by said last-mentioned lands, South 84 degrees East, 39.4 perches to a stone; thence by same, North 89-1/2 degrees East, 20.35 perches to a post at lands now or formerly of John S. Teeter & Sons; thence by said last-mentioned lands, due South 10.7 perches to a point; thence by the same, North 59-1/2 degrees East, 26.5 perches to a point at lands now or formerly of Ray F. Strayer; thence by said last-mentioned lands, South 53 degrees East, 91.6 perches to a post at lands now or formerly of Henry Hoke; thence by said last-mentioned lands, South 39-1/2 degrees West, 32 perches to a post; thence by same North 62 degrees West, 17.8 perches to a post; thence by the same, South 63-1/2 degrees East, 9.57 perches to a white oak; thence by the same, South 40-1/4 degrees East, 33 perches to a plum; thence by the same, South 18-1/2 degrees East, 43.9 perches to a point in the center of a public road at corner of other land now or formerly of William Brent; thence by the same, running in the center of said public road, South 72-1/2 degrees West, 35.8 perches to a point; thence by the same, South 71 degrees West, 7.15 perches to a spike, the place of BEGINNING. CONTAINING 94 Acres and 9 Perches, more or less.

LESS, HOWEVER, and there are excepted from the above description the following two small portions thereof lying along the Eastern Boundary near the Southern end thereof, both excepted tracts bordering on the East the farmland now or formerly of the Henry G. Hoke Estate, which excepted tracts were previously conveyed by the following two deeds, the descriptions and provisions of which are incorporated herein by reference:

Excepted Tract A: A tract of 3.448 acres conveyed unto Mark S. Heare and Doris Jean Heare, husband and wife, by deed from William Brent and Shirley A. Brent, husband and wife, dated March 18, 1976, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book 323 at Page 436.

TRACT NO. 2:

BEGINNING at a spike in the center of Township Road No. 309 leading to the Fairfield-Emmitsburg Road; thence by land now or formerly of Wilbur Sites and Preston Baumgardner, North 59 degrees West, 66.8 perches to a post; thence by lands now or formerly of Preston Baumgardner, North 32 degrees East, 19.2 perches to a white oak stump; thence by lands of same and lands now or formerly of John Anderson, North 6 degrees 30 minutes West, 15.44 perches to a stake; thence by Tract No. 1 above, South 41 degrees 45 minutes East, 21.69 perches to a stake; thence by same, South 42 degrees 45 minutes East, 69.17 perches to a spike in the center of the aforesaid Township Road; thence in the center of said Township Road; South 76 degrees 45 minutes West, 23.75 perches to a spike, the place of BEGINNING. CONTAINING 10 Acres and 75 Perches.

TRACT 1 AND TRACT 2 COMBINED CONTAINING 101.078 Acres more or less.

BEING the same two tracts in the conveyance which William Brent, by his deed dated March 2, 1984, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 375 at page 1069, sold and conveyed unto William G. Brent and Laticia S. Brent, Mortgagors herein.

SEIZED and taken into execution as the property of **William C. Brent and Laticia S. Brent** and to be sold by me
Bernard V. Miller
Sheriff
Sheriff's Office, Gettysburg, PA
March 18, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 2, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

4/4, 11 & 18

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-74 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN that tract of land.

SITUATE in Franklin Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a railroad spike located in Township Route T-647 at the Northeast corner of land of Kenneth G. McFeaters, known as Lot No. 1 on the plan referred to below; thence in said Township Route T-647 North 37 degrees East, 192.38 feet to a railroad spike located at the Northwest corner of land off George B. McFeaters; thence by said land of George B. McFeaters South 51 degrees 1 minute East, 285.77 feet to an iron pin located at the Southeast corner of the aforementioned land of Kenneth G. McFeaters; thence by said land of Kenneth G. McFeaters North 51 degrees 1 minute West, 285.77 feet to a railroad spike located in Township Route T-647, the place of beginning.

CONTAINING 1.260 Acres.

BEING known as Lot #2 on a subdivision plan prepared by Gettysburg Engineering Company, Inc., dated April 16, 1975, and recorded on May 5, 1975 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 6 at page 8.

TAX PARCEL NUMBER: E9-29E

TITLE TO SAID PREMISES IS VESTED IN Jerry L. Chronister by Deed from Jerry L. Chronister and Cindy M. Chronister, husband and wife dated 6/7/85 recorded 6/13/85 in Record Book 402 Page 384.

SEIZED and taken into execution as the property of **Jerry L. Chronister** and to be sold by me

Bernard V. Miller
Sheriff
Sheriff's Office, Gettysburg, PA
March 13, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 22, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

3/28, 4/4 & 11

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF DONALD A. BRETZMAN, DEC'D

Late of Latimore Township, Adams County, Pennsylvania
 Administrator: David D. Bretzman, 560 Hill Top Road, York Springs, PA 17372
 Attorney: John C. Zepp III, Esq., P. O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF NELLIE R. CLUCK a/k/a NELLIE RUTH CLUCK, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executor: Maynard Gochenauer, 119 Mt. Tabor Road, Box 77, Bendersville, PA 17306
 Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RHODA H. DENGLER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania
 Executors: Donald E. Bollinger, 12044 Rinehart Drive, Waynesboro, PA 17268; Katherine Biesecker, 136 E. Second Street, Waynesboro, PA 17268
 Attorney: Timothy W. Misner, Attorney, 39 South Broad Street, Waynesboro, PA 17268-1610

ESTATE OF ELEANOR M. GALLAGHER, DEC'D

Late of Liberty Township, Adams County, Pennsylvania
 Executors: Ira Ross Linebaugh, 2902 Waynesboro Pike, Fairfield, PA 17320; Faith Lucille Linebaugh, 60 Oak Bend Road, Newburg, PA 17240
 Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF BETTY J. HOCKENSMITH, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania
 Executors: Barbara J. Elkins, 123 East King Street, Littlestown, PA 17340; Francis E. Hockensmith, 1942 Derry Street, Harrisburg, PA 17104
 Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF J. HARVEY PETTYJOHN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executrix: Dawn F. Fields, Box 264, McVeytown, PA 17051
 Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BERNICE LOIS WENSCHHOF, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania
 Executrix: Wilma Tuckey, 215 Winding Brook Road, Biglerville, PA 17307
 Attorney: John C. Zepp III, Esq., P. O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

SECOND PUBLICATION

ESTATE OF EDNA M. ZEIGLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executrix: Nina G. Clark, 1956 Beck Mill Road, Hanover, PA 17331
 Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF WARREN C. BEARD, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executrix: Edith I. Smith, 30 N. Franklin St., Gettysburg, PA 17325
 Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325

ESTATE OF PAULINE N. MILLER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania
 Executor: Donald E. Miller, 259 N. 17th Street, Camp Hill, PA 17011
 Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF LOIS W. MURPHY, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania
 Executor: John T. Murphy, 1483 The Spangler Road, New Oxford, Pennsylvania 17350
 Attorney: Donald E. Albright, Esquire, 515 Carlisle Street, Hanover, Pennsylvania 17331

ESTATE OF LILLIE MAY PETRY, a/k/a LILLIE D. PETRY, DEC'D

Late of the Borough of Carlisle, formerly Borough of Littlestown, Adams County, Pennsylvania
 Co-Executrices: Ms. Doris May Petry Sherman, 1176 North Brown's Dam Drive, New Oxford, PA 17350; Ms. Mary Catherine Petry Nunemaker, 198 Wilkinson Lane, Fayetteville, PA 17222; Ms. Betty Jane Petry Kress, 160 Chester Street, Carlisle, PA 17013
 Attorney: David K. James, III, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF GLADYS R. PLANK, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania
 Executor: Charles L. Plank, 16 Meadow Lane, Gettysburg, PA 17325
 Attorney: David K. James, III, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF RUSSELLE E. POTTORFF, SR., DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania
 Co-executors: Mr. Russell E. Pottorff, Jr., 74 Crouse Park, Littlestown, PA 17340; Mr. Carl Pottorff, 55 Crouse Park, Littlestown, PA 17340
 Attorney: David K. James, III, Esquire, 234 Baltimore St., Gettysburg, PA 17325

ESTATE OF IRA W. REICHART, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executrix: Dorothy Reichart Mummert, 320 Pine Street, Hanover, Pennsylvania 17331
 Attorney: Stonesifer and Kelley, 209 Broadway, Hanover, Pennsylvania 17331

IN THE COURT
 OF COMMON PLEAS OF
 ADAMS COUNTY
 COMMONWEALTH OF
 PENNSYLVANIA
 ORPHANS' COURT DIVISION

NOTICE OF HEARING

To: Daniel Camacho, Sr.

You are hereby notified that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been scheduled for April 21, 1997, at 8:30 a.m., prevailing time, at the Adams County Courthouse, Room 411, Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

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

Court Administrator
 Adams County Courthouse
 111 Baltimore Street
 Gettysburg, PA 17325
 Telephone: (717) 334-6781
 3/28, 4/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-75 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land.

SITUATE, lying and being in Hunting-ton Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING for a point on East Berlin Road (PA 234) at lands now or formerly of Randy Kuhn; thence along said lands now or formerly of Randy Kuhn, North fourteen (14) degrees one (01) minute thirteen (13) seconds East, four hundred forty-eight and ninety-five hundredths (448.95) feet to a pipe at corner of lands now or formerly of Gordon L. Rudacile, North fifty-six (56) degrees eleven (11) minutes ten (10) seconds East, three hundred and twenty-three hundredths (300.23) feet to an iron pin at Lot No. 2; thence along said Lot No. 2, South sixteen (16) degrees forty-seven (47) minutes twenty-three (23) seconds West, four hundred seventy-six and thirty-four hundredths (476.34) feet to a concrete monument at lands now or formerly of John J. Jacobs; thence along said lands now or formerly of John J. Jacobs, South sixteen (16) degrees forty-seven (47) minutes twenty-three (23) seconds West, one hundred ninety-one and seven hundredths (191.07) feet to a point on East Berlin Road; thence along said East Berlin Road, North seventy-seven (77) degrees thirty-seven (37) minutes ten (10) seconds West, one hundred sixty-nine and thirty-six hundredths (169.36) feet to a point at lands now or formerly of Randy Kuhn, the point and place of beginning.

CONTAINING 2.332 ACRES.

BEING Lot No. 1 on a Final Plan for Craig A. Laughman, dated January 13, 1987, in Plat Book 46 Page 1.

TAX PARCEL NO. I-7-15

TITLE TO SAID PREMISES IS VESTED IN Timothy A. Sterner and Lori A. Sterner, husband and wife by Deed From James F. Myers and Susan E. Myers, husband and wife dated 6/30/95 recorded 7/3/95 in Record Book 1050 Page 160.

SEIZED and taken into execution as the property of **Timothy A. Sterner and Lori A. Sterner** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
March 13, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 22, 1997, and distribution will be made in accordance with said schedule, unless excep-

tions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

3/28, 4/4 & 11

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that a certificate was filed under Section 311 of Act 1982-295 (54 Pa. C.S. § 311), the Fictitious Name Act, in the Office of the Secretary of the Commonwealth of Pennsylvania setting forth that Lisa B. Little, 296 Jonathan Drive, McSherrystown, PA 17344 is the only person owning or otherwise having an interest in a business to be known as LITTLE COUNTRY HOME. The location where said business is and will be located is 296 Jonathan Drive, McSherrystown, PA 17344.

Robert J. Brown, Solicitor

4/11

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that on January 23, 1997 an application for registration of the fictitious name CROSS KEYS SUBACUTE CENTER was filed under the Fictitious Names Act, 54 Pa.C.S.A. § 301, et seq., in the Department of State of the Commonwealth of Pennsylvania, in Harrisburg, Pennsylvania, for the conduct of business at its principal office or place of business situated at 2990 Carlisle Pike, New Oxford, Adams County, Pennsylvania. The Brethren Home, whose address is 2990 Carlisle Pike, New Oxford, Adams County, Pennsylvania is the only party to the registration.

Latsha & Capozzi

Post Office Box 825

Harrisburg, PA 17108-0825

4/11

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that Pamela Jo Zepka a/k/a Pameia J. Plummer intends to apply in open Court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 12th day of May, 1997, and that she has established a full-time legal practice in Adams County within the guidelines established by the Supreme Court of Pennsylvania.

Pamela Jo Zepka, Esq.

a/k/a Pamela J. Plummer, Esq.

94 Dakota Drive

Hanover, PA 17331

3/28, 4/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-1058 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of Bonneauville, formerly Mt. Pleasant Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point at the intersection of the State Highway leading from Bonneauville to Two Taverns with the State Highway leading from Bonneauville to Littlestown; thence in the center of the State Highway leading from Bonneauville to Littlestown, South 47 degrees East, 125.70 feet to a spike situated North 31 degrees 30 minutes East, 24 feet from an iron pin; thence along lands now or formerly of Bernard E. and Anna Sheeringer, South 31 degrees 30 minutes West, 160.60 feet to a post at lands now or formerly of Dennis and Edith Little; thence by the same, North 57 degrees 45 minutes West, 125 feet to a spike in the center of the State Highway leading from Bonneauville to Two Taverns, which spike is North 57 degrees 45 minutes West, 25 feet from an iron pin; thence in the center of the State Highway leading from Bonneauville to Two Taverns, North 32 degrees 15 minutes East, 183.1 feet to a point, the place of beginning.

MAP 8, PARCEL 10.

TITLE TO SAID PREMISES IS VESTED IN James W. Pursell, Jr. and Kimberly A. Pursell, his wife by Deed from Wayne W. Miller and Holly A. Miller, his wife dated 7/1/91, recorded 7/3/91, in Recorded Book 593 page 325.

SEIZED and taken into execution as the property of **James W. Pursell, a/k/a James W. Pursell, Jr. and Kimberly A. Pursell** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
March 12, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on May 22, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

3/28, 4/4 & 11

Adams County Legal Journal

Vol. 38

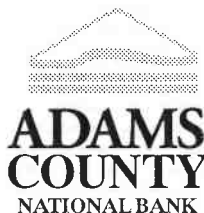
April 18, 1997

No. 47, pp. 257-264

IN THIS ISSUE

COMMONWEALTH VS. MORITZ

Adams County National Bank's commitment to its communities is more than a fleeting promise. It is a tradition founded upon our more than 130 years of service to the individuals, businesses and organizations in these communities.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, Donald G. Oyler, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 112 Baltimore Street, Gettysburg, PA 17325.

Business Office - 112 Baltimore Street, Gettysburg, PA 17325. Telephone: (717) 334-1193

Second-class postage paid at Gettysburg, PA 17325.

Copyright© 1959 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325.
All rights reserved.

NOTICE

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 96-S-601

BRENDA L. STEVENS, Plaintiff,
vs.

BRYANT M. GRAHAM, Defendant.

NOTICE TO BRYANT M. GRAHAM,
DEFENDANT

You have been named as a defendant in a civil action instituted by Brenda L. Stevens, who alleges in her complaint that her motor vehicle was involved in an accident which occurred on December 24, 1994 at the intersection of Pine Run Road and Peepytown Road in Hamilton Township, Adams County, Pennsylvania. She further alleges that you operated your automobile in a negligent manner which caused property damage.

An Order of Court of March 24, 1997 permits Brenda L. Stevens to legally serve the complaint on you by publication. You are hereby notified to plead to the complaint in this case within twenty (20) days. If you wish to defend you must enter an appearance personally or by an attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice. 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 A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

You may obtain a full copy of the civil complaint filed against you by contacting the Prothonotary's Office in the Adams County Courthouse or by contacting the attorneys listed below.

Court Administrator's Office
Adams County Courthouse
Gettysburg, PA 17325
(717) 334-6781 Ext: 213

Fowler, Addams & Rundle
28 South Pitt Street
Carlisle, PA 17013

4/18

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-689 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two certain tracts of land and improvements thereon, situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

TRACT NO. 1:

BEGINNING for a corner at an iron pin set on the Eastern edge of the Hanover-Carlisle State Highway, Route 94, at lands now or formerly of Walter B. Crowl; thence along the Eastern edge of said Hanover-Carlisle State Highway, North thirteen and three quarters (13-3/4) degrees West two hundred twelve (212) feet to an iron pin; thence along other lands now or formerly of Melvin Nace, et ux., of which this was a part, North eighty-six and one-half (86-1/2) degrees East five hundred nineteen (519) feet to an iron pin; thence continuing along said last mentioned lands South three and three-quarters (3-3/4) degrees West two hundred seventy-five and three tenths (275.3) feet to an iron pin at the aforesaid lands now or formerly of Walter B. Crowl; thence along said lands now or formerly of Walter B. Crowl, North eighty-four and three-fourths (84-3/4) degrees West four hundred fifty-four (454) feet to an iron pin, the place of BEGINNING. CONTAINING 2 acres and 108.2 square perches.

IT BEING the same tract of land which Charles A. Hershey and Mary K. Hershey, by deed dated December 19, 1995 and recorded in the Office of the Recorder of Deeds of Adams County in Book 1126, page 167, granted and conveyed unto Ricky T. Kress and Deborah C. Kress.

TRACT NO. 2:

BEGINNING for a corner at the Southeast corner of other lands now or formerly of David K. Hershey and Ica G. Hershey, his wife, acquired from Melvin Nace and Ruth Nace, his wife; thence along said other lands now or formerly of David K. Hershey and Ica G. Hershey, his wife, North three and three-fourths (3-3/4) degrees East two hundred seventy-five and three tenths (275.3) feet to an iron pin at the Northeast corner of the aforesaid lands now or formerly of David K. Hershey, et ux; thence along other lands now or formerly of the said Melvin

Nace, et ux, of which this tract was a part, the following three courses and distances: South eighty-three and one fourth (83-1/4) degrees East one hundred sixty (160) feet to an iron pin; South three and one-half (3-1/2) degrees West two hundred seventy-two and five tenths (272.5) feet to an iron pin; North eighty-four and three-fourth (84-3/4) degrees West one hundred sixty (160) feet to an iron pin, the place of BEGINNING. CONTAINING 1 acre and .76 square perches.

BEING the same two tracts of land which Charles A. Hershey and Mary K. Hershey, by Correctional Deed dated June 25, 1996 and recorded in the Office of the Recorder of Deeds of Adams County in Book 1241, page 206, granted and conveyed unto Ricky T. Kress and Deborah C. Kress.

Premises being known and numbered as 1477 Carlisle Pike, Hanover, PA

Tax Map 08, Parcel L13-2C.

SEIZED and taken into execution the property of **Ricky T. and Deborah C. Kress, Ricky T. Kress t/a Green Acres L & R** and to be sold by me

Bernard V. Miller

Sheriff

Sheriff's Office, Gettysburg, PA
March 31, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 23, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

4/18, 25 & 5/2

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that a business corporation has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988.

The name of the corporation is:

CAPITAL AUTOMOTIVE REFINISHING SUPPLIES, INC.

Mark L. James, Esquire
James & Clark, LLP
Attorneys

4/18

COMMONWEALTH VS. MORITZ

1. The following requirements have been established for valid Miranda warnings: (1) full and correct warnings are given; (2) defendant has the sufficient capacity to understand those warnings; and (3) defendant's decision to waive his or her rights is not the product of official or governmental coercion.
2. There is no precise form required for the advisement of rights, but the form must be in the nature of a fully effective equivalent of those expressed in the Miranda case.
3. Not all statements given to the police must be prefaced by Miranda warnings and only statements given in a custodial setting require admonitions.
4. The question of whether a custodial interrogation requiring Miranda warnings exists focuses on whether Defendant reasonably believed her freedom of action was being restricted by the police or whether the police physically deprived her of freedom.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-939-95, COMMONWEALTH OF PENNSYLVANIA VS. CYNTHIA SUE MORITZ.

Martha Duvall, Esq., Assistant District Attorney
Jeffery Cook, Esq., for Defendant

ADJUDICATION OF SUPPRESSION MOTION FACTS

Spicer, P.J., August 9, 1996.

Since no evidentiary hearing has been requested or held in this case, this writer's recitation of facts is based upon a mixture of inferences, assumptions and a review of a transcript of a proceeding, which occurred October 6, 1995 at the Pennsylvania State Police barracks in Cumberland Township, Adams County. An assumption made is that defendant signed a standard State Police waiver form, with which this writer is familiar. The form clearly and unequivocally states that the defendant understands Miranda rights and has waived them.

This court makes no assessment of credibility.

The transcript indicates that defendant voluntarily appeared at the barracks to answer questions concerning the death of Casie Shultz, a ten month old infant. Defendant was providing care for Casie when fatal injuries were sustained. Troopers Paul and Barnhart questioned defendant and there was apparently a third officer present. (see pages 37, 38) After obtaining background information, the officers began to focus on the results of an autopsy, and correctly gave defendant her Miranda rights. (pp 34, 35; *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694, 1966) Defendant periodically appeared uncer-

tain about whether she should continue answering and asked certain questions of the officers. She asked, for example, what would happen if she didn't say any more and received the following response:

TPR. PAUL: I can't answer that. And I don't know what happens, I mean we are still going to discuss it with you, uh we're still going to tell you the results you know. We have to protect ourselves (sic) and you legally. To protect ourselves (sic) we have to advise you of your rights because I don't know what your (sic) going to say. But we tell you what the results are, you know, and uh...(page 36)

Later, however, the officers emphasized the seriousness of the situation and told defendant she did not have to answer any questions, or could stop answering questions at any time. (pages 38, 39) They told her numerous times that she was not under arrest and was free to leave. They also said they wanted defendant's cooperation to "get to the bottom of this" and the purpose of the waiver was "to protect you and it's to protect us," (page 35), "[w]e have to protect ourselves (sic) and you legally," and "[w]e're just doing our job in covering ourselves and covering you," (page 36)

Trooper Barnhart also said:

O.K.? And if you sign the waiver all that means you're going to do is you're not admitting to it, you are just going to listen to our questions and the information we have and answer what questions you want to. That's all it entails. And I know deep down inside you want to help us. (page 40)

At one time, the trooper also paraphrased the Miranda warning by saying "If you say anything that's incriminating to yourself, we could use it in a Court of Law." (page 38)

Defendant asked to see and to speak to her husband on several occasions, evoking various responses. For example, on page 36, the following transpired:

CINDY MORITZ: Should I talk to Steve for a moment?

TPR. PAUL: Sure. I don't see any problem with it.

CINDY MORITZ: I just want him to know what we're here now doing.

TPR. PAUL: Sure.

However, questioning continued and defendant did not see her husband. A little later the following transpired:

CINDY MORITZ (referring to her husband): What did he say? He's not coming in, is he?

TPR. BARNHART: This is a decision that each adult must make on their own. O.K.? If you are 16 years old you could you know, that's something you discuss with your parents. But you are over 18 years old, this is an individual decision. O.K.? I know you want to help out with this, I know you do because I know deep down in there that you are a good person. O.K.? And you need to let that good person come out, alright (sic)? And help us out. (page 41)

Still later:

CINDY MORITZ: Can I talk to Steve now just for a minute?

TPR. PAUL: Uh, I think it would be a good idea if you brought him in. Does, does he know about this. (page 47).

Still later, the following occurred:

CINDY MORITZ: I want to see my husband please.

TPR. PAUL: O.K. We'll have Trooper Barnhart bring him in. I guess they're talking to him. I don't think they wanted him to be... (page 51)

CINDY MORITZ: Yes. Where's Steve at?

TPR. Barnhart: He's still waiting outside.

CINDY MORITZ: You're not going to let me see him?

TPR BARNHART: You are a consenting adult.

CINDY MORITZ: I know.

TPR. BARNHART: Alright, (sic) you agreed to at least listen to us. O.K.? (page 52)

Still, later, the following occurred:

CINDY MORITZ: So I am to blame? I did it. I wanna see Steve, I just needed to be held a little.

TPR. PAUL: We'll, we'll let you see your husband. We just want to talk to you here a little bit yet. You came this far, you might as well finish it up. (page 63)

CINDY MORITZ: I want to see Steve please. What's going to happen? Can I go home?

TPR. BARNHART: We need to establish.... (page 68)

CINDY MORITZ: I wanna see Steve please now.

TPR. PAUL: Steve can't answer the question. (page 70)

Although Defendant indicated several times that she was scared and that she wanted to go home, only the exchange recorded on page 68 can be interpreted as a request for permission to leave. All other exchanges can be described as involving an obviously concerned, perhaps emotional defendant who never really asserted any right to terminate the interview or to leave. Although she asked the officers if she should consult with a lawyer, she decided "But I don't think I need one." (page 44)

Following the conclusions of questioning, defendant was allowed to leave.

CONCLUSIONS OF LAW

1. There appears no basis in this record upon which the court may rule that defendant's confession was involuntarily given.
2. There is no basis in this record upon which the court may rule that defendant did not understand her Miranda rights and intelligently waive them.
3. Miranda warnings would have been necessary only if defendant was subject to custodial interrogation.
4. Defendant's interrogation clearly began in a non custodial setting and, while an argument can be made that it became custodial in nature at the point reflected on page 68, there is no basis in this record upon

which the court may conclude that defendant reasonably believed her freedom was substantially impaired or restricted.

5. After Miranda warnings were correctly given, any argument that explanations concerning the effects of defendant's waiver were misleading lacks support in the record.

6. The proceedings at the barracks do not demonstrate so clearly either a custodial setting, or defendant's confusion about the import of Miranda warnings so as to overcome the clear statement of waiver and understanding in the standard waiver form.

DISCUSSION

Cases dealing with suppression issues have resulted in various results, based upon the factual situation involved. For example, Superior Court has held that interrogation of a person on a gurney, in a hospital, was custodial, *Commonwealth v. Whitehead*, 427 Pa. Super. 362, 629 A.2d 142 (1993), but questioning in an ordinary hospital setting was not. *Commonwealth v. Britcher*, 386 Pa. Super. 515, 563 A.2d 502 (1989). The latter court established the following requirements for valid Miranda warnings:

- (1) full and correct warnings are given
- (2) defendant has the sufficient capacity to understand those warnings, and
- (3) defendant's decision to waive his or her rights is not the product of official or government coercion.

There is no precise form required for the advisement of rights, but the form must be in the nature of a fully effective equivalent of those expressed in *Miranda*, supra. *California v. Prysock*, 453 U.S. 355, 101 S.Ct. 2806, 69 L.Ed.2d 696 (1981).

Trooper Paul's statement, that defendant's statements "could" be used against her must be read in context. Although use of "could" might have been inadvisable, it is clear that the police explained enough for defendant to understand both the seriousness of the proceedings and possible future consequences. Defendant has never said she misunderstood her rights and nothing in this record justifies a holding that Trooper Paul's statement invalidated the correct warnings

given by Trooper Barnhart. Trooper Paul's explanation was not the only one given.

No conclusion can be drawn that an appeal for defendant's aid by providing information invalidated her consent and waiver. In *Commonwealth v. Friedman*, 411 Pa. Super. 628, 602 A.2d 371 (1992), Superior Court held that it was proper for police to tell a suspect that it was important for them to speak to her and find out what happened.

Although we are troubled by the exchange that occurred after rights were explained, there is no factual basis upon which we may determine that defendant's waiver was not knowingly, intelligently and voluntarily made. There was a great deal of discussion concerning defendant's rights to a lawyer and her right to stop answering questions at any time she chose. Statements that a waiver protected defendant's rights must also be read in context. The officers told her they were going to discuss information that was not generally known and that the rights allowed her to answer some, all or none of the questions.

In short, since we were not asked to conduct a suppression hearing, we did not hear defendant say she was misled, or that she didn't understand the impact of her Miranda warnings. cf. *Commonwealth v. Nester*, 443 Pa. Super. 156, 661 A.2d 3 (1995), where a defendant testified that she did not understand the contents of a Children Services rights letter and a confession was invalidated as being involuntary. While interesting questions are raised by the way the police conducted the interrogation, we have no basis for invalidating her signed waiver which clearly states that she understood her rights.

The same analysis applies to the nature of the interrogation. Not all statements given to the police must be prefaced by Miranda warnings. *Commonwealth v. Leib*, 403 Pa. Super. 223, 588 A.2d 922 (1991). Only statements given in a custodial setting require admonitions.¹ *Commonwealth v. Williams*, 539 Pa. 61, 650 A.2d 420 (1994). The question of custodial interrogation focuses on whether defendant reasonably believed her freedom of action was being restricted by the

¹Interestingly, a Superior Court panel resurrected *Commonwealth v. Feldman*, 432 Pa. 428, 248 A.2d 1 (1968) and suggested that warnings are required if defendant is the focus of an investigation. *Commonwealth v. Grimes*, 436 Pa. Super. 535, 648 A.2d 538 (1994)

police, *id.*, or whether the police physically deprived her of freedom, *Commonwealth v. Whitehead*, *supra*. There is no evidence that police physically restrained Ms. Moritz and so this case revolves around what defendant reasonably believed. We have no evidence as to her belief.

We should probably point out that defendant filed her pre-trial motion later than customary. Counsel suggested that a transcript of the state police proceedings only became available quite recently. Commonwealth has objected to defendant's request for a judicial review and ruling. However, since no hearing was held there is no evidence about defendant's belief, reasonable or otherwise. One might, while reading the transcript, surmise that certain intellectual activities were going on in defendant's mind. However, she never, after the officers thoroughly discussed with her the implications of the waiver form, said she did not understand her rights. Nor did she ever say that she felt constrained against her will. She had premonitions, of course. When told she was not under arrest, she added the word "yet."

Any argument that she viewed the interrogation as custodial lacks support. Defense counsel has argued, as is his right, otherwise. The best synopsis is: 1) the police told defendant they would continue whether or not she waived her rights. While this is true, they also told her they would not continue unless she waived those rights; 2) although the troopers repeatedly told defendant she was not under arrest and could leave at any time she chose, they also told her, on a number of occasions, she could see her husband. Since she was not allowed to see her husband, she could have concluded she would not have been free to leave.

The issue is not, as Commonwealth suggests, whether defendant had a right to have her husband present during interrogation. Obviously, no such right exists. Rather, it concerns whether she reasonably believed her freedom was significantly restricted. We might say that this case compares unfavorably with the scenario on *Commonwealth v. Williams*, *supra*, where defendant was allowed to call his father, was told that the police would help get a lawyer if defendant wished² and

²However, see *Commonwealth v. Friedman*, *supra*, where it was held that Miranda was satisfied by telling defendant a lawyer would be appointed for her when she went to court.

was left alone and unsupervised for periods of time. By contrast, defendant's requests to see her husband were fended off and her request to go home was ignored.³ Even so, there is no basis upon which the court can determine defendant's belief (subjective) and it would be inappropriate to rule that the belief was objectively reasonable.

To conclude, we rule that it is inappropriate for us to suppress defendant's statements on the basis of the record before us. We might say that the transcript might support a finding of custodial interrogation, assuming defendant would testify that she believed she was in custody, only after events reported on page 68.

ORDER

AND NOW, August 9, 1996, defendant's motion for suppression is denied.

³One authority has said, "The custodial nature of a situation depends upon the reasonable beliefs of the person under interrogation and not upon the subjective intention of the police." ... The issue of whether a suspect is in custody for purposes of the Miranda rule must be approached on a case by case basis. Factors relevant in determining whether detention is custodial include the reasons for the detention; the crime suspected; the ground for suspicion; duration of the detention; site of detention; whether the defendant was transported against his will; the method of detention; whether force was threatened or employed by the authorities; and the methods of investigation used to confirm or dispel police suspicion. Penna Trial Guide §7.30

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF VALLIE S. CASHMAN, DEC'D

Late of 2098 Table Rock Road, Butler Township, Biglerville, Adams County, Pennsylvania

Executrices: Shirley V. Plattenburg, a/k/a Shirley C. Spence, 2088 Table Rock Road, Biglerville, PA 17307; Phyllis A. Woerner, a/k/a Phyllis C. Woerner, Box 413, Biglerville, PA 17307; Nancy Lee Showers, a/k/a Nancy L. Harmon, 105 Kinsey Drive, Gettysburg, PA 17325

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF IRENE M. DEARDORFF, DEC'D

Late of 420 Tree Lane Road, Tyrone Township, Aspers, Adams County, Pennsylvania

Executor: Jeffrey L. Deardorff, 20754 Barbara Lane, Meadville, PA 16335
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF HILDA M. HAUSE-KNECHT, DEC'D

Late of 6516 Old Harrisburg Road, Huntington Township, York Springs, Adams County, Pennsylvania

Executrix: Karen L. Eckert, 195 Margate Court, Lake Bluff, IL 60044

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ROBERT C. HOFFMAN, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Executor: PNC Bank, NA, 10 York Street, Gettysburg, PA 17325

Attorney: John R. White, Campbell and White, 122 Baltimore St., Gettysburg, PA 17325

ESTATE OF MARIE H. KRICHTEN a/k/a MARIE E. KRICHTEN, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Linda Ann Mullinix, 3080 Littlestown Pike, Westminster, MD 21158

Attorney: James T. Yingst, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF EARL J. MOORE, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania
Executrix: Jayne L. Forbes, 416 Lincolnway West, New Oxford, PA 17350

ESTATE OF GLENN F. WEISHAAR, DEC'D

Late of 638 Red Patch Avenue, Borough of Gettysburg, Adams County, Pennsylvania

Executrices: Barbara A. Kane, 2180 Old Route 30, Orttanna, PA 17353; Judith L. Mesemer, 1596 Hanover Road, Gettysburg, PA 17325

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF DONALD A. BRETZMAN, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Administrator: David D. Bretzman, 560 Hill Top Road, York Springs, PA 17372

Attorney: John C. Zepp III, Esq., P. O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF NELLIE R. CLUCK a/k/a NELLIE RUTH CLUCK, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Maynard Gochenauer, 119 Mt. Tabor Road, Box 77, Bendersville, PA 17306

Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RHODA H. DENGLER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executors: Donald E. Bollinger, 12044 Rinehart Drive, Waynesboro, PA 17268; Katherine Biesecker, 136 E. Second Street, Waynesboro, PA 17268

Attorney: Timothy W. Misner, Attorney, 39 South Broad Street, Waynesboro, PA 17268-1610

ESTATE OF ELEANOR M. GALLAGHER, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Executors: Ira Ross Linebaugh, 2902 Waynesboro Pike, Fairfield, PA 17320; Faith Lucille Linebaugh, 60 Oak Bend Road, Newburg, PA 17240

Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF BETTY J. HOCKENSMITH, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executors: Barbara J. Elkins, 123 East King Street, Littlestown, PA 17340; Francis E. Hockensmith, 1942 Derry Street, Harrisburg, PA 17104

Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF J. HARVEY PETTYJOHN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Dawn F. Fields, Box 264, McVeytown, PA 17051

Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BERNICE LOIS WENSCHHOFF, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Executrix: Wilma Tuckey, 215 Windling Brook Road, Biglerville, PA 17307

Attorney: John C. Zepp III, Esq., P. O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

THIRD PUBLICATION

ESTATE OF EDNA M. ZEIGLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Nina G. Clark, 1956 Beck Mill Road, Hanover, PA 17331

Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-1046 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate along the public road leading from New Oxford to Littlestown in Oxford Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a stake at lands now or formerly of Herbert Shriver and Ben Lawrence; thence by land now or formerly of Ben Lawrence, North 51 degrees West, 633 feet to a stake at land now or formerly of William J. Brandt; thence by said lands, North 20 degrees East, 214 feet to a stake at other land now or formerly of William J. Brandt, aforesaid; thence by same, South 51 degrees East, 709 feet to a stake at land now or formerly of Herbert Shriver aforesaid; thence by the same, South 38 1/2 degrees West, 200 feet to a stake, the place of BEGINNING.

IT BEING the same which Jean M. Brashears, by deed dated August 25, 1992, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 639 at page 522, sold and conveyed unto Michael R. Schreiber and Carolyn A. Schreiber, husband and wife, the Defendants herein.

IMPROVED WITH a ranch-style, single family dwelling with a two-car attached garage.

SEIZED and taken into execution as the property of **Michael R. Schreiber and Carolyn A. Schreiber** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
April 2, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 23, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

4/18, 25 & 5/2

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982-295 (54 Pa. C.S. 311), the undersigned entity (ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately March 24, 1997, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of **LORDEMAN ASSOCIATES**, with its principal place of business at 107 Hoke Drive, Gettysburg, PA. The names and addresses of the persons owning or interested in said business are Jane L. Lordeman, residing at 107 Hoke Drive, Gettysburg, PA 17325. The character or nature of the business is financial planning services.

4/18

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name has been filed with the Department of State of the Commonwealth of Pennsylvania in Harrisburg, Pennsylvania, on March 28, 1997, pursuant to the Fictitious Name Act, Act No. 1982-295, setting forth that Nancy R. D'Agostino of 838 Fairview Avenue, Gettysburg, Adams County, Pennsylvania and Elaine Carbaugh of 7 Meadow Lane, Gettysburg, Adams County, Pennsylvania, are among the individuals engaged or interested in a business, the character of which is for the purpose of investing in stocks and bonds and that the name, style and designation under which said business is and will be conducted as **THE PROFESSIONAL WOMEN'S INVESTMENT CLUB OF ADAMS COUNTY**, and the principal office or place of business is 7 Meadow Lane, Gettysburg, Adams County, Pennsylvania 17325.

Miller & Shultz
Solicitor

4/18

Adams County Legal Journal

1. 38

April 25, 1997

No. 48, pp. 265-270

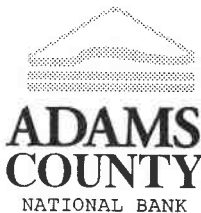
IN THIS ISSUE

COMMONWEALTH VS. BABCOCK, ET AL.

and

COMMONWEALTH VS. MISTALSKI

Strong.
Rooted Upon Traditional Values.
Dedicated to Quality.
Customer Service.
Dependable.
Branching Into The Future.
Our Commitment Is You.



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published every Friday by Adams County Bar Association, Donald G. Oyler, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 112 Baltimore Street, Gettysburg, PA 17325.

Business Office - 112 Baltimore Street, Gettysburg, PA 17325. Telephone: (717) 334-1193
Second-class postage paid at Gettysburg, PA 17325.

Copyright© 1959 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325.
All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-689 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two certain tracts of land and improvements thereon, situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

TRACT NO. 1:

BEGINNING for a corner at an iron pin set on the Eastern edge of the Hanover-Carlisle State Highway, Route 94, at lands now or formerly of Walter B. Crowl; thence along the Eastern edge of said Hanover-Carlisle State Highway, North thirteen and three quarters (13-3/4) degrees West two hundred twelve (212) feet to an iron pin; thence along other lands now or formerly of Melvin Nace, et ux., of which this was a part, North eighty-six and one-half (86-1/2) degrees East five hundred nineteen (519) feet to an iron pin; thence continuing along said last mentioned lands South three and three-quarters (3-3/4) degrees West two hundred seventy-five and three tenths (275.3) feet to an iron pin at the aforesaid lands now or formerly of Walter B. Crowl; thence along said lands now or formerly of Walter B. Crowl, North eighty-four and three-fourths (84-3/4) degrees West four hundred fifty-four (454) feet to an iron pin, the place of BEGINNING. CONTAINING 2 acres and 108.2 square perches.

IT BEING the same tract of land which Charles A. Hershey and Mary K. Hershey, by deed dated December 19, 1995 and recorded in the Office of the Recorder of Deeds of Adams County in Book 1126, page 167, granted and conveyed unto Ricky T. Kress and Deborah C. Kress.

TRACT NO 2:

BEGINNING for a corner at the Southeast corner of other lands now or formerly of David K. Hershey and Ica G. Hershey, his wife, acquired from Melvin Nace and Ruth Nace, his wife; thence along said other lands now or formerly of David K. Hershey and Ica G. Hershey, his wife, North three and three-fourths (3-3/4) degrees East two hundred seventy-five and three tenths (275.3) feet to an iron pin at the Northeast corner of the aforesaid lands now or formerly of David K. Hershey, et ux; thence along other lands now or formerly of the said Melvin

Nace, et ux, of which this tract was a part, the following three courses and distances: South eighty-three and one fourth (83-1/4) degrees East one hundred sixty (160) feet to an iron pin; South three and one-half (3-1/2) degrees West two hundred seventy-two and five tenths (272.5) feet to an iron pin; North eighty-four and three-fourth (84-3/4) degrees West one hundred sixty (160) feet to an iron pin, the place of BEGINNING. CONTAINING 1 acre and .76 square perches.

BEING the same two tracts of land which Charles A. Hershey and Mary K. Hershey, by Correctional Deed dated June 25, 1996 and recorded in the Office of the Recorder of Deeds of Adams County in Book 1241, page 206, granted and conveyed unto Ricky T. Kress and Deborah C. Kress.

Premises being known and numbered as 1477 Carlisle Pike, Hanover, PA

Tax Map 08, Parcel L13-2C.

SEIZED and taken into execution as the property of **Ricky T. and Deborah C. Kress, Ricky T. Kress t/a Green Acres L & R** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
March 31, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 23, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

4/18, 25 & 5/2

CERTIFICATE OF AUTHORITY

Law Offices of Frances J. Brennan, III, P. C., a corporation organized under the laws of the state of New Jersey, a Professional Corporation, has applied for a Certificate of Authority under the provisions of the Business Corporation Law of 1988. The address of its principal office under the laws of the jurisdiction in which it is incorporated is: 2650 Rte. 130 N., Cranbury, NJ 08512 and the address of its proposed registered office in this Commonwealth is c/o 105 N. Watts St., Phila., PA 19107.

M. Burr Keim Company
Robert Worthington
105 North Watts Street
Philadelphia, PA 19107-1983

4/25

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Fictitious Name Act, 54 Pa. C.S. §§311, et seq., and its amendments and supplements, of filing with the Secretary of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania on April 9, 1997, an application for conducting business under the assumed or fictitious name of **APPEARANCE COUNTS - HAIR SALON**, with its principal place of business at 1402 Old Harrisburg Rd., Gettysburg, Pennsylvania 17325. The Names and addresses of all persons owning or interested in said business are:

Jody M. Rummel
1402 Old Harrisburg Rd.
Gettysburg, PA 17325

4/25

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Commonwealth of Pennsylvania, Department of State, at Harrisburg, Pennsylvania on March 19, 1997 for the purpose of obtaining a Certificate of corporation.

The name of the corporation organized under the Pennsylvania Business Corporation Law of 1988, Act of December 21, 1988, P.L., 1444, No. 177, as amended and supplemented, is **MEROB, INC.**

William A. Duncan, Esquire
Duncan & Otto, P.C.
1 Irvine Row
Carlisle, PA 17013

4/25

COMMONWEALTH VS. BABCOCK, ET AL.

1. As a general policy, joint trials are encouraged when judicial economy will be promoted by avoiding the expensive and time-consuming duplication of evidence but the interest in judicial economy must be balanced against the need to minimize the prejudice that may be caused to a defendant by consolidation.

2. One factor which the trial court should consider on a motion to consolidate trials is the existence of antagonistic defenses; however, the Defendant must show a real potential for prejudice and not mere speculation.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-293-96 COMMONWEALTH VS. WENDY SHILLING-BABCOCK and CRIMINAL NO. CC-303-96 COMMONWEALTH VS. DAROLD BABCOCK.

Martha J. Duvall, Esq., Assistant District Attorney
Jean Arena, Esq., for Defendant Wendy Shilling-Babcock
Robert John Chester, Esq., for Defendant Darold Babcock

OPINION ON COMMONWEALTH'S MOTION TO CONSOLIDATE

Kuhn, J., August 29, 1996.

Commonwealth seeks to consolidate trials involving Defendant, Wendy Shilling-Babcock, hereinafter "Defendant-Wife" and Defendant, Darold Babcock, hereinafter "Defendant-Husband." Defendant-Wife is charged with Endangering Welfare of Children, 18 Pa. C.S.A. §4304, and Recklessly Endangering Another Person, 18 Pa. C.S.A. §2705. Specifically it is alleged that Defendant-Wife is the parent of a four year old female child who while in the custody of Defendant-Wife and/or Defendant-Husband during August, 1995, suffered a broken leg, bruising to both eyes, possible broken ribs and numerous other bruises about her body. Defendant-Husband is charged with Attempted Aggravated Assault, 18 Pa. C.S.A. §2702(a)(1), Endangering Welfare of Children, 18 Pa. C.S.A. §4304, Simple Assault, 18 Pa. C.S.A. §2701(a)(1), and Recklessly Endangering Another Person, 18 Pa. C.S.A. §2705, in connection with the same injuries.

Pa. R.Crim.P. 1127(A)(2) provides that "Defendants charged in separate indictments or informations may be tried together if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses." It has been said that,

As a general policy, joint trials are encouraged when judicial economy will be promoted by avoiding the expensive and time-consuming duplication of evidence. Commonwealth v. Jones, 542 Pa. 464, 485, 668 A.2d 491, 501 (1995).

Nevertheless, "the interest in judicial economy must be balanced against the need to minimize the prejudice that may be caused to a defendant by

consolidation.” Commonwealth v. Troop, 391 Pa. Super. 613, 618, 571 A.2d 1084, 1087 (1990), Alloc den. 584 A.2d 317 (1990). One factor which the trial court should consider is the existence of antagonistic defenses, Commonwealth v. Lee, 541 Pa. 260, 270-1, 662 A.2d 645, 651 (1995), however, the defendant must show a real potential for prejudice and not mere speculation. Commonwealth v. Jones, supra., 542 Pa. at 486, 668 A.2d at 501. The mere fact that one defendant might have a better chance of acquittal if tried separately is an insufficient basis to sever the trials. *Id.*

Here, each defendant argued that their physical size difference could be prejudicial. This argument is speculative and forms no basis to secure separate trials. In addition, Defendant-Wife raises concern over spousal privilege. Bare assertions of prejudice are insufficient. The Court has not been advised of any inculpatory statements made by either defendant, nor of any effort by either defendant to exculpate himself/herself at the expense of the other. We note that the privilege, 42 Pa. C.S.A. §5913, is not applicable where bodily injury is inflicted or attempted upon the child of the husband or wife.

An added factor in this case is the age of the alleged victim. We see no need to put her through the experience of separate trials for each defendant. Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 29th day of August, 1996, Commonwealth’s Motion To Consolidate the above captioned cases is granted.

COMMONWEALTH VS. MISTALSKI

The Department of Transportation’s failure to publish a list of approved motorcyclist’s protective headgear provides the basis for dismissal of a 75 Pa. C.S.A. §3525(a) prosecution.

In the Court of Common Pleas, Adams County, Pennsylvania, Criminal No. CC-531-96, COMMONWEALTH VS. STEPHEN A. MISTALSKI.

Michael A. George, Esq., District Attorney
Boyd Spencer, Esq., for Defendant

MEMORANDUM OPINION

Kuhn, J., August 30, 1996.

On August 13, 1996, the Court held a *de novo* hearing on a summary appeal from Defendant’s conviction for violating the motorcycle helmet law at 75 Pa. C.S.A. §3525(a). The testimony revealed that on April 20, 1996, Officer Louis Whittington of the Cumberland Township Police Department observed Defendant operating a motorcycle on U.S. Rt. 15 wearing what he believed to be an illegal helmet. Upon effectuating a

traffic stop the officer cited Defendant with violating §3525(a), more specifically for failing to wear a motorcycle helmet which was designed to reach the middle of the ears and which contained the "DOT" symbol, manufacturer's identity, model number and date of manufacture as required by 67 Pa. Code §107.5(d) and (f). Defendant acknowledged the defects but stated that he bought the helmet in good faith several years ago and that the "DOT" sticker and manufacturer's information had worn off in the interim. He also challenged the prosecution on the basis of the Department of Transportation's failure to publish a list of approved headgear.

The applicable Vehicle Code provision provides:

§3525. Protective equipment for motorcycle riders

(a) Protective headgear. - Except as provided in subsection (d), no person shall operate or ride upon a motorcycle . . . unless he is wearing protective headgear which complies with standards established by the department.

...

(c) Approval of equipment. - The department may approve or disapprove protective headgear. . . required under this section and may issue and enforce regulations establishing standards and specifications for the approval of the headgear . . . The department shall publish lists of all protective headgear . . . by name and type which have been approved. (emphasis added.)

The Department's failure to publish the list of approved headgear provided the basis for a dismissal of a §3525(a) prosecution in Commonwealth v. Traub, No. S314-1994, Lancaster Co. (November 13, 1995). We find Judge Farina's Opinion compelling, attach a copy hereto, and incorporate it herein.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 30th day of August, 1996, for the reasons set forth in the attached Opinion the Court finds the Defendant not guilty of violating 75 Pa. C.S.A. §3525(a) as charged in Citation No. 0196860. Costs to be paid by the County of Adams.

COURT OF COMMON PLEAS OF LANCASTER COUNTY,
PENNSYLVANIA CRIMINAL

COMMONWEALTH OF PENNSYLVANIA VS. WILLIAM B. TRAUB,
NO. S314-1994.

OPINION

By Farina, J.

Defendant is being tried “de novo” on a summary charge for failure to wear approved protective motorcycle headgear, a violation of 75 Pa.C.S.A. §3525(a).¹ At the close of the Commonwealth’s case defendant demurred contending that there cannot be a violation of §3525(a) because the Commonwealth of Pennsylvania, Department of Transportation (PennDOT) has never published a list of approved headgear as required by §3525(d). In the interests of judicial economy, the Court deferred ruling pending the filing of post-hearing briefs, proceeded to complete the trial, and with the consent of counsel, deferred issuing a verdict pending the filing of briefs on the issue of approved headgear. The briefs now having been filed, the issue is ready for disposition.

It is well-settled that the Commonwealth has the constitutional authority to regulate and require the wearing of protective headgear and eye wear by motorcycle operators on the highways. *Commonwealth v. Arnold*, 215 Pa. Super. 444, 258 A.2d 885 (1969). Section 3525(a) in its present form has withstood challenge on constitutional grounds the Superior Court so affirming on the basis of *Arnold*, *supra*, after scrutinizing the statute against constitutional standards requiring that it be “narrowly drawn” and “reasonably related to a national state interest.” *Commonwealth v. Kautz* 341 Pa. Super. 374, 380, 491 A.2d 864 (1985).

Resolution of the issue requires close examination of the statutory scheme. Section 3525, 75 Pa.C.S.A. provides:

(a) Protective headgear.—Except as provided in subsection (d), no person shall operate or ride upon a motorcycle or a motor-driven cycle (other than a motorized pedalcycle) unless he is wearing protective headgear which complies with standards established by the department.

(b) Eye-protective devices.—Except as provided in subsection (d), no person shall operate or ride upon a motorcycle (other than a motorized pedalcycle) unless he is wearing an eye-protective device of a type approved by the department.

(c) Approval of equipment.—The department may approve or disapprove protective headgear and eye-protective devices required under this section and may issue and enforce regulations establishing standards and specifications for the approval of the headgear and devices. The department shall publish lists of all protective headgear and eye-protective

¹Defendant was in fact wearing headgear at the time of apprehension, which the Commonwealth contends did not conform with performance standards presented by PennDOT at 67 P.S. §107.1 et seq.

devices by name and type which have been approved. (Emphasis added.)

(d) Exception.—The provisions of subsections (a) and (b) shall not apply to the operator or any occupant of a three-wheeled motorcycle equipped with an enclosed cab.

PennDOT has promulgated standards for protective headgear published at 67 P.S. §107.1 et seq. which are in the nature of performance standards. As such, PennDOT has acted pursuant to the constitutional authority delegated by subsection 3525(a); see *Commonwealth v. Kautz*, 341 Pa. Super. 374, 381, 491 A.2d 864 (1985). However, PennDOT has not set forth “standards and specifications for the approval of the headgear and devices,” has not “approve[d] or disapprove[d] protective headgear . . . required under this section [3525(c)]” nor has it “publish[ed] lists of all protective headgear . . . by name and type which have been approved as set forth in §3525(c). The controversy centers on what PennDOT has not done.

Defendant contends that PennDOT’s promulgated performance standards fall short of satisfying the requisite statutory scheme. Specifically, defendant asserts that the statute requires PennDOT to approve precise headgear and publish a list of the same, and that PennDOT has failed to do so. Hence defendant contends that he cannot be prosecuted for a 3525(a) violation for wearing headgear that does not meet PennDOT performance standards and is not on any “approved list” when the performance standards have not been applied by PennDOT for approval of specific headgear and no “approved list” has ever been published.

The Commonwealth counters that PennDOT has the option under §3525(c) to approve or not approve specific headgear and must publish a list only if it elects to approve specific headgear. Instead PennDOT has elected to utilize performance standards to be applied to all headgear, which standards, it contends, require no list, PennDOT insists that failure to wear headgear that complies with these performance standards violates §3525(a).

To survive constitutional scrutiny, the statute must be narrowly drawn and sufficiently specific so as to withstand review on the “void for vagueness” standard. See *Kautz*, supra. Subsection (a) is but one part of the statutory scheme. Subsection (a), though admittedly delegating authority to proscribe standards to PennDOT, must be read in the context of the remaining provisions. In particular, subsection (c) elaborates on the delegation conferred by (a). In precatory language, (c) provides that the department may approve or disapprove protective headgear and “may” issue regulations and standards for the approval of “the headgear” (emphasis added). We agree with the Commonwealth that by use of the term “may” the legislature gave PennDOT the option to approve or reject specific headgear. We also agree that in further providing in subsection (c) that the department “shall publish” lists of all protective headgear ap-

proved, such lists are required only if PennDOT elects to approve specific headgear. However, it does not follow that where PennDOT elects not to approve specific headgear, violation of the performance standards can be prosecuted as a violation of subsection (a). To do so reads subsection (c) out of the statute.

It is clear to this Court that to the extent the standards contemplated by the legislature in subsection (a) are performance standards, they then are to be applied in conformity with subsection (c). "Every statute shall be construed, if possible, to give effect to all its provisions." 1 Pa.C.S.A. § 1921 (a); see also § 1922(2), *supra*. Subsection (c) clearly states that whatever standards are established are to be used for "the approval of the headgear" by "the department" as to which approved headgear "the department shall publish lists." Compliance with subsection (a) becomes a simple matter in that either the headgear is on the list or it is not. Accordingly, use of headgear which is not listed violates subsection (a). Certainty is present where otherwise speculation reigns. The Commonwealth's position requires motorcycle operators to assess their protective headgear against performance standards unrelated to identified brand name, make or model and forces them to make individual determinations whether or not the technical standards have been met. We consider it unlikely the legislature intended that such a technical review be performed by each headgear user.

It was argued at trial that construing subsection (c) so as to require approval of specific headgear and the publication of approved headgear lists by PennDOT imposes an undue burden on PennDOT, as there are untold numbers and types of headgear on the market. No doubt the burden is immense and the performance standard scheme devised and currently utilized by PennDOT is less burdensome; nonetheless we doubt the legislature intended to shift the burden of technical review for standard compliance to the ultimate headgear user. Given full effect to the entire statute and thereby reading subsection (a) in light of subsection (c) as we must, the regulatory scheme that emerges must be followed. PennDOT, while free under of the precatory "may" language of subsection (c) not to implement the scheme, is not free to change it once it has been adopted.

Accordingly we will sustain the defense demurrer and enter the following:

ORDER

AND NOW, this 13th day of November, 1995, the defendant's demurrer to the evidence is sustained, the summary charge of violation of section 3525(a) 75 Pa.C.S.A. is dismissed, and the defendant is discharged, costs on the Commonwealth.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION

ESTATE OF BEATRICE G. BRANDT, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania
Co-Executors: David R. Brandt, One Ridge Lake Drive, Manning, SC 29102; Martin L. Brandt, One Ridge Lake Drive, Manning, SC 29102
Attorney: John A. Wolfe, Esq., Wolfe & Rice, 47 West High St., Gettysburg, PA 17325

ESTATE OF LEON C. GROFT a/k/a LEON CARROLL GROFT, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
Executrices: Susan A. Eline, 617 South Street, McSherrystown, PA 17344; Mary Lee Slagle, 607 South Street, McSherrystown, PA 17344
Attorney: James T. Yingst, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF ESTHER B. MCGLAUGHLIN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executor: Guy F. Donaldson, 1746 Carrolls Tract Rd., P. O. Box 77, Orttanna, PA 17353
Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF VALLIE S. CASHMAN, DEC'D

Late of 2098 Table Rock Road, Butler Township, Biglerville, Adams County, Pennsylvania
Executrices: Shirley V. Plattenburg, a/k/a Shirley C. Spence, 2088 Table Rock Road, Biglerville, PA 17307; Phyllis A. Woerner, a/k/a Phyllis C. Woerner, Box 413, Biglerville, PA 17307; Nancy Lee Showers, a/k/a Nancy L. Harmon, 105 Kinsey Drive, Gettysburg, PA 17325
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF IRENE M. DEARDORFF, DEC'D

Late of 420 Tree Lane Road, Tyrone Township, Aspers, Adams County, Pennsylvania
Executor: Jeffrey L. Deardorff, 20754 Barbara Lane, Meadville, PA 16335
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF HILDA M. HAUSE-KNECHT, DEC'D

Late of 6516 Old Harrisburg Road, Huntington Township, York Springs, Adams County, Pennsylvania
Executrix: Karen L. Eckert, 195 Margate Court, Lake Bluff, IL 60044
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ROBERT C. HOFFMAN, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Executor: PNC Bank, NA, 10 York Street, Gettysburg, PA 17325
Attorney: John R. White, Campbell and White, 122 Baltimore St., Gettysburg, PA 17325

ESTATE OF MARIE H. KRICHTEN a/k/a MARIE E. KRICHTEN, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
Executrix: Linda Ann Mullinix, 3080 Littlestown Pike, Westminster, MD 21158
Attorney: James T. Yingst, Esquire, Rudisill, Guthrie, Nonemaker, Guthrie & Yingst, 40 York Street, Hanover, PA 17331

ESTATE OF EARL J. MOORE, DEC'D
Late of the Borough of New Oxford, Adams County, Pennsylvania

Executrix: Jayne L. Forbes, 416 Lincolnway West, New Oxford, PA 17350

ESTATE OF GLENN F. WEISHAAR, DEC'D

Late of 638 Red Patch Avenue, Borough of Gettysburg, Adams County, Pennsylvania
Executrices: Barbara A. Kane, 2180 Old Route 30, Orttanna, PA 17353; Judith L. Masemer, 1596 Hanover Road, Gettysburg, PA 17325
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, Attorneys at Law, 126 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF DONALD A. BRETZMAN, DEC'D

Late of Latimore Township, Adams County, Pennsylvania
Administrator: David D. Bretzman, 560 Hill Top Road, York Springs, PA 17372
Attorney: John C. Zepp III, Esq., P. O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF NELLIE R. CLUCK a/k/a NELLIE RUTH CLUCK, DEC'D

Late of Straban Township, Adams County, Pennsylvania
Executor: Maynard Gochenauer, 119 Mt. Tabor Road, Box 77, Bendersville, PA 17306
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RHODA H. DENGLER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania
Executors: Donald E. Bollinger, 12044 Rinehart Drive, Waynesboro, PA 17268; Katherine Biesecker, 136 E. Second Street, Waynesboro, PA 17268
Attorney: Timothy W. Misner, Attorney, 39 South Broad Street, Waynesboro, PA 17268-1610

ESTATE OF ELEANOR M. GALLAGHER, DEC'D

Late of Liberty Township, Adams County, Pennsylvania
Executors: Ira Ross Linebaugh, 2902 Waynesboro Pike, Fairfield, PA 17320; Faith Lucille Linebaugh, 60 Oak Bend Road, Newburg, PA 17240
Attorney: Bulleit, Schultz & Thrasher, 16 Lincoln Square, Gettysburg, PA 17325

ESTATE OF BETTY J. HOCKENSMITH, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania
Executors: Barbara J. Elkins, 123 East King Street, Littlestown, PA 17340; Francis E. Hockensmith, 1942 Derry Street, Harrisburg, PA 17104
Attorney: Ronald J. Hagarman, Esquire, 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF J. HARVEY PETTYJOHN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
Executrix: Dawn F. Fields, Box 264, McVeytown, PA 17051
Attorney: Robert E. Campbell, Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

ESTATE OF BERNICE LOIS WENSCHHOF, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania
Executrix: Wilma Tuckey, 215 Windling Brook Road, Biglerville, PA 17307
Attorney: John C. Zepp III, Esq., P. O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-1046 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that lot of ground situate along the public road leading from New Oxford to Littlestown in Oxford Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a stake at lands now or formerly of Herbert Shriver and Ben Lawrence; thence by land now or formerly of Ben Lawrence, North 51 degrees West, 633 feet to a stake at land now or formerly of William J. Brandt; thence by said lands, North 20 degrees East, 214 feet to a stake at other land now or formerly of William J. Brandt, aforesaid; thence by same, South 51 degrees East, 709 feet to a stake at land now or formerly of Herbert Shriver aforesaid; thence by the same, South 38 1/2 degrees West, 200 feet to a stake, the place of BEGINNING.

IT BEING the same which Jean M. Brashears, by deed dated August 25, 1992, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 639 at page 522, sold and conveyed unto Michael R. Schreiber and Carolyn A. Schreiber, husband and wife, the Defendants herein.

IMPROVED WITH a ranch-style, single family dwelling with a two-car attached garage.

SEIZED and taken into execution as the property of **Michael R. Schreiber and Carolyn A. Schreiber** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
April 2, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 23, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

4/18, 25 & 5/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 96-S-426 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of May, 1997, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being in Carroll Valley Borough, Adams County, Pennsylvania, being Lot No. 157, Section R1, more particularly bounded and described as follows:

BEGINNING at a point in the center of Faircloth Trail at Lot No. 156; thence by said lot South 63 degrees 23 minutes East, 200 feet to Lot No. 158; thence by said lot South 18 degrees 26 minutes 20 seconds West, 125 feet to a point in the center of McGlaughlin Trail; thence in said McGlaughlin Trail North 87 degrees 22 minutes 40 seconds West, 238.37 feet to a point in the intersection of McGlaughlin Trail and Faircloth Trail; thence in said Faircloth Trail North 26 degrees 37 minutes East, 200.66 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section R1 of Charnita, Inc." dated May 29, 1970, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 83.

BEING the same which William D. Stem, Jr., by deed dated October 2, 1989, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 535 at page 169, conveyed unto William D. Stem, Jr. and Diane M. Lorenz, who have since married, the Defendants herein.

TOGETHER WITH and SUBJECT TO rights of way, restriction, easements, set back lines, etc., as more fully set forth in Deed Book 297 at page 934.

IMPROVED WITH a 3-bedroom, ranch-style single-family dwelling with a 2-car garage.

SEIZED and taken into execution as the property of **William D. Stem, Jr. and Diane M. Stem formerly Diane M. Lorenz** and to be sold by me

Bernard V. Miller
Sheriff

Sheriff's Office, Gettysburg, PA
April 8, 1997.

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on June 23, 1997, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

All claims to property must be filed with Sheriff before sale.

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

4/25, 5/2 & 9

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN in compliance with the requirements of the "Fictitious Names Act," Section 311, Act of 1982-295(54 Pa. C.S.A. 311), of the filing of an application in the Office of the Secretary of the Commonwealth of Pennsylvania, on April 9, 1997, for a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of CENTURY 21 NEIGHBORHOOD REALTY, INC., with its principal place of business at 1060 York Road, Gettysburg, Pennsylvania, 17325. The purpose of the business is to own, operate and maintain a real estate agency. The name and address of the entity owning or interested in said business is: Neighborhood Realty, Inc., 1060 York Road, Gettysburg, Pennsylvania, 17325.

Ronald J. Hagarman
110 Baltimore Street
Gettysburg, PA 17325

4/25