



4-2021

Criminal Justice Update - April 2021

Haley B. Shultz

Gettysburg College, shulha02@gettysburg.edu

Follow this and additional works at: <https://cupola.gettysburg.edu/cjupdates>



Part of the [Criminology and Criminal Justice Commons](#), and the [Public Affairs, Public Policy and Public Administration Commons](#)

Share feedback about the accessibility of this item.

Recommended Citation

Shultz, Haley B., "Criminal Justice Update - April 2021" (2021). *Criminal Justice Updates*. 8.
<https://cupola.gettysburg.edu/cjupdates/8>

This is the author's version of the work. This publication appears in Gettysburg College's institutional repository by permission of the copyright owner for personal use, not for redistribution. Cupola permanent link:
<https://cupola.gettysburg.edu/cjupdates/8>

This open access newsletter is brought to you by The Cupola: Scholarship at Gettysburg College. It has been accepted for inclusion by an authorized administrator of The Cupola. For more information, please contact cupola@gettysburg.edu.

Criminal Justice Update - April 2021

Abstract

The Criminal Justice Update is a monthly newsletter created by the Adams County Bar Foundation Fellow providing updates in criminal justice policy coming from Pennsylvania's courts and legislature as well as the US Supreme Court.

Contents

- Updates from PA Governor's Office (no updates this month)
- Updates from the PA Legislature
- Updates from the Courts
 - U.S. Supreme Court: Criminal Law & Procedure
 - PA Supreme Court: Criminal Law & Procedure
 - PA Superior Court: Criminal Law & Procedure

Keywords

Criminal Justice Update, Adams County Bar Foundation, ACBF

Disciplines

Criminology and Criminal Justice | Public Affairs, Public Policy and Public Administration



CRIMINAL JUSTICE UPDATE



A monthly newsletter produced by the ACBA Fellow at
Gettysburg College

April 2021

Keep up to date with developments in criminal law, criminal procedure, and victims issues via this monthly newsletter.

Comments or questions?
Contact Haley Shultz at
shulhao2@gettysburg.edu.

Updates from PA Governor's Office

**No updates this month*

Updates from the PA Legislature

Criminal Law & Procedure

House Bill 954

Final Passage in the House, Apr. 21, 2021

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&ind=o&body=H&type=B&bn=954>

"An Act amending Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, dealing with child abuse: in criminal history record information, further providing for information in central repository or automated systems; and, in organization and responsibilities of Child Protective Service, further providing for services for prevention, investigation and treatment of child abuse."

House Bill 184— Causing or Aiding Suicide - Shawn's Law

Final Passage in the House, Apr. 7, 2021

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&ind=o&body=H&type=B&bn=184>

"An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in criminal homicide, further providing for the offense of causing or aiding suicide."

This legislation "amends a provision within the Crimes Code entitled Causing or Aiding Suicide. Under this provision, any individual who intentionally aids or solicits another to commit suicide is guilty of a felony of the second degree if his conduct causes such suicide; otherwise, the offense is graded as a misdemeanor of the second degree."

Additionally, the legislation "provides that the Pennsylvania Commission on Sentencing shall create a sentencing enhancement for any individual found guilty of Causing or Aiding Suicide when the victim is under 18 years of age or has an intellectual disability."

Updates from the Courts

U.S. Supreme Court

Criminal Law & Procedure

Jones v. Mississippi

DECIDED: April 22, 2021

https://www.supremecourt.gov/opinions/20pdf/18-1259_8njq.pdf

"A Mississippi jury convicted petitioner Brett Jones of murder for killing his grandfather. Jones was 15 years old when he committed the crime. Under Mississippi law at the time, murder carried a mandatory sentence of life without parole. The trial judge duly imposed that sentence, which was affirmed on direct appeal. This Court subsequently decided *Miller v. Alabama*, 567 U. S. 460, which held that the Eighth Amendment permits a life-without-parole sentence for a defendant who committed a homicide when he or she was under 18, but only if the sentence is not mandatory and the sentencer therefore has discretion to impose a lesser punishment. In the wake of that decision, the Mississippi Supreme Court ordered that Jones be resentenced in accordance with *Miller*. At the resentencing, the sentencing judge acknowledged that he had discretion under *Miller* to impose a sentence less than life without parole. The judge determined, however, that life without parole remained the appropriate sentence for Jones. Jones again appealed his sentence, citing both *Miller* and the then-recently decided case of *Montgomery v. Louisiana*, 577 U. S. 190, which held that *Miller* applied retroactively on collateral review. Jones contended that, under *Miller* and *Montgomery*, a sentencer must make a separate factual finding that a murderer under 18 is permanently incorrigible before sentencing the offender to life without parole. The Mississippi Court of Appeals rejected Jones's argument

Held: In the case of a defendant who committed a homicide when he or she was under 18, *Miller* and *Montgomery* do not require the sentencer to make a separate factual finding of permanent incorrigibility before sentencing the defendant to life without parole. In such a case, a discretionary sentencing system is both constitutionally necessary and constitutionally sufficient."

PA Supreme Court

Criminal Law & Procedure

COMMONWEALTH OF PENNSYLVANIA v. KHALID EID

DECIDED: April 29, 2021

<http://www.pacourts.us/assets/opinions/Supreme/out/J-85-2020mo%20-%20104761640133983085.pdf?cb=1>

"This case presents constitutional challenges to the Vehicle Code's enhancement of sentences for those who refuse chemical testing after driving under a suspended license ("DUS"). Although we conclude that the evidence was sufficient to sustain Khalid Eid's conviction for refusing to submit to a warrantless breath test—which, unlike a warrantless blood draw, does not violate established constitutional safeguards against unreasonable searches and seizures—we vacate his sentence of imprisonment because the sentencing statute in question fails to specify a maximum term, and thus is unconstitutionally vague in contravention of state and federal due process principles."

COMMONWEALTH OF PENNSYLVANIA v. CARLOS PEREZ

DECIDED: April 29, 2021

<http://www.pacourts.us/assets/opinions/Supreme/out/J-108-2020mo%20-%20104761751133994680.pdf?cb=1>

"We granted discretionary review to determine whether the Superior Court employed the proper standard for evidentiary sufficiency in evaluating the Commonwealth's prima facie presentation at a preliminary hearing. See *Commonwealth v. Karetny*, 880 A.2d 505, 513-15 (Pa. 2005) (Commonwealth need not prove defendant's guilt beyond a reasonable doubt at pre-trial stage; it must put forth sufficient evidence to establish prima facie case of guilt, i.e.,

probable cause to warrant belief the accused committed the offense); Commonwealth v. Huggins, 836 A.2d 862, 866 (Pa. 2003) (when determining whether prima facie case has been established, evidence must be read in light most favorable to Commonwealth, giving effect to all inferences reasonably drawn from evidence to support a verdict of guilty). We hold the Superior Court failed to review the evidence in the proper light, and accordingly, we reverse and remand.”

COMMONWEALTH OF PENNSYLVANIA v. MELVIN SPEIGHT

DECIDED: April 29, 2021

<http://www.pacourts.us/assets/opinions/Supreme/out/J-57-2020mo%20-%20104761631133982704.pdf?cb=1>

“In 2017, the United States District Court for the Eastern District of Pennsylvania denied appellant Melvin Speight’s petition for a writ of habeas corpus relative to challenges to the guilt phase of his state criminal trial, but granted relief with respect to his death sentence and remanded the case to the Commonwealth of Pennsylvania for resentencing. In granting this limited penalty-phase relief the District Court’s order cited only the agreement of the parties indicating such relief was unopposed. For that reason, when appellant’s case finally returned to the state court for resentencing in 2019, the court declined to resentence him. The sentencing court took the position that the federal District Court lacked authority to grant relief based exclusively on the agreement of the parties in the absence of an independent judicial determination consistent with 28 U.S.C. §2254(d) (habeas corpus relief shall not be granted with respect to any claim that was adjudicated on the merits in state court proceedings unless the adjudication resulted in a decision that was contrary to, or an unreasonable application of, federal law, or the decision was based on an unreasonable determination of facts in light of the evidence presented). As a result, the sentencing court issued an order declaring appellant’s “sentence of death stands.” We now vacate the court’s order and remand for resentencing.”

COMMONWEALTH OF PENNSYLVANIA v. GEORGE IVAN LOPEZ

DECIDED: April 29, 2021

<http://www.pacourts.us/assets/opinions/Supreme/out/J-119-2020mo%20-%20104761611133979773.pdf?cb=1>

“In this serial capital post-conviction appeal, George Ivan Lopez (“Lopez”) challenges the order of the Court of Common Pleas of Lehigh County dismissing as untimely his petition for relief filed pursuant to the Post Conviction Relief Act, 42 Pa.C.S. §§ 9541-9546 (“PCRA”). In the current PCRA petition, Lopez claims that at his trial, the prosecution had entered into a plea deal with an important witness in exchange for testimony against him that was substantially better than what the prosecutor and the witness told the jury. Lopez requests that this Court vacate the PCRA court’s dismissal and remand the case for an evidentiary hearing. We agree with the PCRA court’s conclusion that it did not have jurisdiction over this claim. Specifically, we conclude that Lopez failed to demonstrate that the facts upon which the current claim is predicated were previously unknown to him so as to satisfy the newly-discovered evidence timeliness exception in section 9545(b)(1)(ii).”

“In conclusion, Lopez fails to demonstrate that the facts upon which the claim is predicated were previously unknown to him. Therefore, we affirm the PCRA court’s conclusion that it lacked jurisdiction over his claim.”

COMMONWEALTH OF PENNSYLVANIA v. KENNETH HAIRSTON

DECIDED: April 29, 2021

<http://www.pacourts.us/assets/opinions/Supreme/out/J-65-2020mo%20-%20104761642133982786.pdf?cb=1>

“In this capital PCRA appeal, Kenneth Hairston (“Hairston”) challenges the order of the Court of Common Pleas of Allegheny County dismissing his petition for relief filed pursuant to the Post Conviction Relief Act, 42 Pa.C.S. §§ 9541-9546 (“PCRA”). Hairston requests that this Court grant PCRA relief on his claims, inter alia, that the death penalty is unconstitutional under the Eighth Amendment to the United States Constitution and Article I, Section 13 of the Pennsylvania Constitution, and that his trial counsel was ineffective for allowing the jury to consider a non-statutory aggravating factor in reaching its verdict of death. For the reasons that follow, we affirm the PCRA court’s denial of relief.”

<http://www.pacourts.us/assets/opinions/Supreme/out/J-73-2020mo%20-%20104761822133996364.pdf?cb=1>

"We granted discretionary review to clarify the appropriate standard for the admission of evidence of a third person's crimes, wrongs or other acts ("third person guilt") offered by a criminal defendant in an effort to raise a reasonable doubt that he was not the perpetrator of the crime charged. The Superior Court applied the standard of admissibility typically associated with the Commonwealth's introduction of crimes, wrongs or other acts evidence against a criminal defendant pursuant to Pennsylvania Rule of Evidence ("Pa.R.E.") 404(b).¹ We hold that evidence of a third person's guilt offered by a defendant is admissible if it is relevant pursuant to Pa.R.E. 401² and not otherwise excludable pursuant to Pa.R.E. 403.³ Thus, we vacate the Superior Court order and remand for proceedings consistent with this opinion."

<http://www.pacourts.us/assets/opinions/Supreme/out/J-114-2020mo%20-%20104761664133984015.pdf?cb=1>

"In this appeal by allowance, we consider whether a single past conviction for a violent crime demonstrates a "history of present or past violent behavior" for purposes of the Recidivism Risk Reduction Act ("RRRI Act"), 61 Pa.C.S. §§ 4501-4512, thereby disqualifying an offender from eligibility for a reduced sentence. Before addressing this question, however, we must first determine whether a trial court's failure to impose a sentence under the RRRI Act implicates sentencing illegality. For the reasons that follow, we affirm in part and reverse in part the order of the Superior Court."

"In conclusion, we hold that a trial court's failure to sentence an eligible offender pursuant to the RRRI Act implicates sentencing illegality. We also find that a single prior [J-114-2020] - 18 conviction for a non-enumerated crime demonstrating violent behavior does not qualify as a history of past violent behavior under the Section 4503 of the RRRI Act. Accordingly, we reverse in part and affirm in part the order of the Superior Court and remand for further consideration in accordance with this opinion."

<http://www.pacourts.us/assets/opinions/Supreme/out/J-87-2020mo%20-%20104761491133970298.pdf?cb=1>

"In this criminal case, jurors could not reach a unanimous verdict on some counts, and the trial court sua sponte declared a mistrial. The defendant, Joshua Wardlaw, objected to the mistrial, and sought a judgment of acquittal on the unresolved charges. The trial court denied Wardlaw's motion. Wardlaw filed an interlocutory appeal in the Superior Court, claiming a right to do so pursuant to Pennsylvania Rule of Appellate Procedure 311(a)(6), which permits an appeal from a non-final order "awarding a new trial where the defendant claims that the proper disposition of the matter would be an absolute discharge." Pa.R.A.P. 311(a)(6). The Superior Court quashed the appeal, holding that Rule 311(a)(6) did not apply because the trial court's declaration of a mistrial was not an "award" of a new trial. We granted Wardlaw's request for discretionary review to consider whether the Superior Court's interpretation of Rule 311(a)(6) was erroneous.

PA Superior Court

(Reporting only cases with precedential value)

Criminal Law & Procedure

<http://www.pacourts.us/assets/opinions/Superior/out/J-So7040-210%20-%20104763409134174507.pdf?cb=1>

"Appellant, Andrew Jordan Mattis, appeals from the judgment of sentence entered in the Fayette County Court of Common Pleas, following his stipulated bench trial convictions for possession of marijuana (small amount personal

use), use/possession of drug paraphernalia, and maximum speed limits. We vacate the judgment of sentence and remand for further proceedings.”

COMMONWEALTH OF PENNSYLVANIA v. COLBY DAVID ORNER

FILED: April 27, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-E03003-200%20-%20104759565133834603.pdf?cb=1>

“The Commonwealth of Pennsylvania appeals from the January 24, 2019 order that granted the petition for relief filed by Colby David Orner under the Post-Conviction Relief Act (“PCRA”), and awarded him a new trial due to his trial counsel failing to call a beneficial witness at trial. We affirm.”

COMMONWEALTH OF PENNSYLVANIA v. ALEJANDRO VELA-GARRETT

FILED: April 23, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-A01015-210%20-%20104756544133587671.pdf?cb=1>

“Appellant, Alejandro Vela-Garrett, appeals from the aggregate judgment of sentence of 42 to 96 months’ incarceration, imposed after he was convicted of, inter alia, driving under the influence of a controlled substance metabolite (“DUI-metabolite”), 75 Pa.C.S. § 3802(d)(1)(iii), and endangering the welfare of children (“EWOC”), 18 Pa.C.S. § 4304(a)(1). On appeal, Appellant challenges the sufficiency of the evidence to sustain his EWOC conviction, and argues that a new trial is warranted based on the prosecutor’s references to his co-defendant’s pleading guilty to that offense. After careful review, we reverse Appellant’s conviction for EWOC, vacate his judgment of sentence, and remand for resentencing.”

COMMONWEALTH OF PENNSYLVANIA v. RODERICK SIMS

FILED: April 23, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-A07024-210%20-%20104756753133597911.pdf?cb=1>

“Appellant Roderick Sims appeals pro se from the August 4, 2020 Order denying his “Motion for DNA Testing.” After review, we affirm.

“Because this fourth PCRA Petition, titled “Motion for DNA Testing,” is untimely, and Appellant has not pleaded the applicability of any timeliness exception, this Court is without jurisdiction to provide further review.”

COMMONWEALTH OF PENNSYLVANIA v. MELVIN HOWARD

FILED: April 20, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-S56012-200%20-%20104752549133234729.pdf?cb=1>

“Appellant, Melvin Howard, appeals from the order dismissing his untimely petition filed pursuant to the Post Conviction Relief Act (“PCRA”), 42 Pa.C.S. §§ 9541-9546. After careful review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. BRANDON ROSS SNYDER

FILED: April 20, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-S51010-200%20-%20104752465133227892.pdf?cb=1>

“Brandon Ross Snyder (Appellant) appeals from the order dismissing his petition filed pursuant to the Post Conviction Relief Act (PCRA), 42 Pa.C.S.A. §§ 9541-9546. After careful review, we affirm in part, vacate in part, and remand with instructions.”

COMMONWEALTH OF PENNSYLVANIA v. ROBERT TIRRELLE DEVANTE CAREY

FILED: April 19, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-S01019-210%20-%20104750952133115495.pdf?cb=1>

“Robert Tirrelle Devante Carey (Appellant) appeals from the judgment of sentence entered in the Cumberland County Court of Common Pleas following his jury conviction of two counts of possession with intent to deliver controlled substances (PWID)¹ (cocaine and oxycodone) and related offenses. Appellant argues the trial court erred when it denied his motion to suppress based on an invalid warrant and the unlawful execution of that warrant. He also insists the court’s imposition of a 12-month period of re-entry supervision pursuant to 61 Pa.C.S. § 6137.2 is an

unconstitutional ex post facto punishment. Because we agree the application of Section 6137.2 is unconstitutional as applied to Appellant, where he committed the underlying offenses before the effective date of the statute, we vacate that part of his sentence. In all other respects, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. CISTON BROWN

FILED: April 15, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-A05032-210%20-%20104748032132562922.pdf?cb=1>

“Appellant Ciston Brown appeals from the Judgment of Sentence of sixteen (16) years to thirty-two (32) years in prison entered in the Court of Common Pleas of Philadelphia County on October 21, 2019, after a jury convicted him of three violations of the Uniform Firearms Act and acquitted him of murder and aggravated assault charges. Following our review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. JASON BRANDON VINSON

FILED: April 14, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-So8037-210%20-%20104747095132473833.pdf?cb=1>

“Appellant, Jason Brandon Vinson, appeals from the March 27, 2020, order entered in the Court of Common Pleas of Lycoming County dismissing his first petition filed under the Post Conviction Relief Act (“PCRA”), 42 Pa.C.S.A. §§ 9541-9546, at lower court docket numbers CP-41-CR-0002027-2014 (“CR-2027-2014”) and CP-41-CR-0001574-2014 (“CR-1574-2014”). After a careful review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. CHRISTOPHER SNYDER

FILED: April 9, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-S35012-200%20-%20104742281132099139.pdf?cb=1>

“Christopher Snyder appeals from his June 20, 2019 judgment of sentence imposed after a jury found him guilty of corruption of minors, indecent assault without consent, indecent assault of person unconscious, and indecent assault with a person less than thirteen years of age. After careful review, we affirm Appellant’s conviction, affirm in part and vacate in part Appellant’s judgment of sentence, and remand for resentencing.”

COMMONWEALTH OF PENNSYLVANIA v. CARL JOHN CRAWFORD

FILED: April 9, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-So8042-210%20-%20104742362132104727.pdf?cb=1>

“Appellant Carl John Crawford, who is 82 years old, appeals from the Judgment of Sentence of eighteen (18) months to seven (7) years in prison entered in the Court of Common Pleas of Northumberland County on June 29, 2020, following a bench trial. We affirm.”

COMMONWEALTH OF PENNSYLVANIA v. ALTON M. PARKER

FILED: April 8, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-S56007-200%20-%20104741244131991798.pdf?cb=1>

“The Commonwealth appeals from the order granting Appellee’s, Alton M. Parker, petition filed pursuant to the Post Conviction Relief Act (“PCRA”), 42 Pa.C.S. §§ 9541-9546. The Commonwealth contends that the PCRA court erred by granting relief based on the retroactive application of *Birchfield v. North Dakota* 136 S.Ct. 2160 (2016). After careful review, we vacate the order granting Appellee’s petition and remand for further proceedings.”

COMMONWEALTH OF PENNSYLVANIA v. JOSEPH DIROSA

FILED: April 6, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-So8043-210%20-%20104737822131724023.pdf?cb=1>

“Appellant Joseph Dirosa appeals the judgment of sentence entered by the Court of Common Pleas of Berks County after Appellant was convicted of Driving Under the Influence (DUI: Highest Rate of Alcohol), 75 Pa.C.S.A. § 3802(c). Appellant challenges the sufficiency of the evidence supporting his conviction. We affirm.”

COMMONWEALTH OF PENNSYLVANIA v. SCOTT ALLEN SHREFFLER

FILED: April 6, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-So8041-210%20-%20104737743131717654.pdf?cb=1>

"Appellant, Scott Allen Shreffler, appeals from the July 25, 2019, judgment of sentence entered in the Court of Common Pleas of Mifflin County following his conviction by a jury on three counts of delivery of a controlled substance. After a careful review, we affirm."

COMMONWEALTH OF PENNSYLVANIA v. ALFRED ELLIOTT

FILED: April 5, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-S56015-200%20-%20104736499131614594.pdf?cb=1>

"Appellant, Alfred Elliott, appeals from the post-conviction court's order denying, as untimely, his petition filed under the Post Conviction Relief Act (PCRA), 42 Pa.C.S. §§ 9541-9546. Herein, Appellant argues that his sexualoffender registration, notification, and counseling ("RNC") requirements, and designation as a sexually violent predator ("SVP"), are unconstitutional. After careful review, we disagree with the PCRA court that Appellant's petition is untimely, but we nevertheless affirm the order denying his petition."

COMMONWEALTH OF PENNSYLVANIA v. MATTHEW WIGGINS

FILED: April 1, 2021

<http://www.pacourts.us/assets/opinions/Superior/out/J-S52005-200%20-%20104734792131453100.pdf?cb=1>

"Matthew Wiggins appeals from the order entered in the Court of Common Pleas of Montgomery County that dismissed his first and timely petition filed pursuant to the Post Conviction Relief Act ("PCRA"). See 42 Pa.C.S.A. §§ 9541-9546. Wiggins asserts his plea counsel was ineffective for failing to file a Rule 600 motion on his behalf, given that over 365 days had elapsed between the Commonwealth's filing of a criminal complaint against him and his acceptance of a guilty plea. See Pa.R.Crim.P. 600. We affirm."

Contact Me

Haley Shultz

Telephone: 484-798-3040

Email: shulhao2@gettysburg.edu