

7-2021

Criminal Justice Update - July 2021

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Recommended Citation

Mahoney, Patrick, "Criminal Justice Update - July 2021" (2021). *Criminal Justice Updates*. 11.
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Criminal Justice Update - July 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 (no updates this month)
- Updates from the Courts
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 - 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

July 2021

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

Comments or questions?
Contact Patrick Mahoney at
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Updates from PA Governor's Office

**No new updates this month*

Updates from the PA Legislature

**No new updates this month*

Updates from the Courts

U.S. Supreme Court

Criminal Law & Procedure

Dunn v. Reeves

DECIDED: July 2, 2021

https://www.supremecourt.gov/opinions/20pdf/20-1084_19m1.pdf

“Willie Johnson towed Matthew Reeves’ broken-down car back to the city after finding Reeves stranded on an Alabama dirt road. In payment for this act of kindness, Reeves murdered Johnson, stole his money, and mocked his dying spasms. Years after being convicted of murder and sentenced to death, Reeves sought state postconviction relief, arguing that his trial counsel should have hired an expert to develop sentencing-phase mitigation evidence of intellectual disability. But despite having the burden to rebut the strong presumption that his attorneys made a legitimate strategic choice, Reeves did not call

any of them to testify. The Alabama Court of Criminal Appeals denied relief, stressing that lack of evidence about counsel's decisions impeded Reeves' efforts to prove that they acted unreasonably. *Reeves v. State*, 226 So. 3d 711, 750–751 (2016). On federal habeas review, the Eleventh Circuit held that this analysis was not only wrong, but indefensible. In an unpublished, per curiam opinion that drew heavily on a dissent from denial of certiorari, the Eleventh Circuit reinterpreted the Alabama court's lengthy opinion as imposing a simple per se prohibition on relief in all cases where a prisoner fails to question his counsel. *Reeves v. Commissioner, Ala. Dept. of Corrections*, 836 Fed. Appx. 733, 744–747 (2020). It was the Eleventh Circuit, however, that went astray in its "readiness to attribute error." *Woodford v. Visciotti*, 537 U. S. 19, 24 (2002) (per curiam). Federal habeas courts must defer to reasonable state-court decisions, 28 U. S. C. §2254(d), and the Alabama court's treatment of the spotty record in this case was consistent with this Court's recognition that "the absence of evidence cannot overcome the strong presumption that counsel's conduct fell within the wide range of reasonable professional assistance." *Burt v. Titlow*, 571 U. S. 12, 23 (2013) (internal quotation marks and brackets omitted).

PA Supreme Court

Criminal Law & Procedure

COMMONWEALTH OF PENNSYLVANIA v. JAMES DUANE BAKER-MYERS

DECIDED: July 21, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-80-2020mo%20-%20104840197140920657.pdf?cb=1>

"In 2010, the legislature amended the corruption of minors statute, 18 Pa.C.S. §6301, to include new subsection (a)(1)(ii), which provides for additional penalties when the act or acts that corrupt the morals of a minor are sexual offenses. The subsection provides: "Whoever, being of the age of 18 years and upwards, by any course of conduct in violation of Chapter 31 (relating to sexual offenses) corrupts or tends to corrupt the morals of any minor less than 18 years of age, or who aids, abets, entices or encourages any such minor in the commission of an offense under Chapter 31 commits a felony of the third degree." 18 Pa.C.S. §6301(a)(1)(ii). We granted discretionary review in this case to consider whether the Superior Court properly determined the language "in violation of Chapter 31" is an essential element of an offense under the statute. Upon review, we agree with the Superior Court's assessment. And, because appellee James Baker-Myers was acquitted of all Chapter 31 sexual offenses charged in the indictment and submitted to the jury, we further agree that, under these circumstances, appellee's conviction for corruption of minors, graded as a third-degree felony, cannot stand. We therefore affirm in all respects."

RENEE' A. RICE v. DIOCESE OF ALTOONA-JOHNSTOWN, BISHOP JOSEPH ADAMEC (RETIRED), MONSIGNOR MICHAEL E. SERVINSKY, EXECUTOR OF THE ESTATE OF BISHOP JAMES HOGAN, DECEASED, AND REVEREND CHARLES F. BODZIAK

DECIDED: July 21, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-81-2020mo%20-%20104840042140933659.pdf?cb=1>

“In this appeal, we address the proper application of the statute of limitations to a tort action filed by Renee’ Rice (“Rice”) against the Diocese of Altoona-Johnstown and its bishops (collectively, the “Diocese”) for their alleged role in covering up and facilitating a series of alleged sexual assaults committed by the Reverend Charles F. Bodziak. Rice alleged that Bodziak sexually abused her from approximately 1974 through 1981. She did not file suit against Bodziak or the Diocese until June 2016, thirty-five years after the alleged abuse stopped. For the reasons set forth herein, we conclude that a straightforward application of Pennsylvania’s statute of limitations requires that Rice’s complaint be dismissed as untimely. Accordingly, we reverse the order of the Superior Court and reinstate the trial court’s dismissal of the case.”

COMMONWEALTH OF PENNSYLVANIA v. JACK EDWARD SATTERFIELD

DECIDED: July 22, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-27-2021mo%20-%20104842272141127674.pdf?cb=1>

“In this case of first impression, we granted allocatur to determine whether Jack Edward Satterfield (“Satterfield”) has raised a meritorious challenge to the legality of the sentences imposed on three counts of leaving the scene of an accident involving death or personal injury, 75 Pa.C.S. § 3742, stemming from a multi-vehicle crash that resulted in three fatalities. We conclude that two of Satterfield’s three sentences were illegal. Accordingly, we reverse the order of the Superior Court, vacate the judgment of sentence, and remand for resentencing.”

COMMONWEALTH OF PENNSYLVANIA v. JOSEPH BERNARD FITZPATRICK, III.

DECIDED: July 23, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-70-2020mo%20-%201048436751411276254.pdf?cb=1>

“Because hearsay is presumptively unreliable and unworthy of belief, it generally is barred from admission in courts of law. 1 But not every extra-judicial statement that later is repeated inside of a courtroom constitutes inadmissible hearsay. In light of the varied exceptions to the rule against hearsay that have developed in the law of evidence, a trial court’s task is often far from simple. Things can get complicated pretty quickly. To constitute hearsay, a statement first must be uttered out-of-court, and then it must be offered in court for the truth of the matter asserted in the statement. For example,

consider a witness at a murder scene who tells a police officer that “the killer had green eyes.” If the prosecution offered that statement at a subsequent murder trial to prove that the murderer’s eyes, in fact, were green, it would be hearsay. 2 However, if the statement is intended to be used for some purpose other than establishing its truth—i.e., to show the effect that the statement had on the listener (say, for instance, the utterance caused the police officer to create a photo array using only people with green eyes)—then it would not be hearsay and, consequently, would be admissible for that non-truth purpose, subject to any other applicable evidentiary rules. At times, the line that divides hearsay from non-hearsay can be difficult to discern. The task of identifying a statement as hearsay by scrutinizing the purpose for which it is being offered is only the first step. Facially inadmissible hearsay still may be introduced as substantive evidence for the truth of the matter asserted if the statement falls under one of numerous exceptions to the general hearsay proscription. These exceptions arise from various circumstances that “enhance the reliability of the contents of the utterance,” 3 and range from business records and ancient texts to statements against interest and dying declarations. See generally Pa.R.E. 803, 804. The applicability of some of the exceptions depends upon the availability (or unavailability) of the speaker, *id.* 803, 804, while others depend upon whether the declarant is subject to cross-examination. See *id.* 803.1. When a party invokes one of these exceptions, a court must ascertain whether the proffered statement meets the exacting demands of the exception. This is not always an easy chore. The case before us today is a good example of the difficulties posed by hearsay and its exceptions. Here, we consider the applicability of the “then-existing mental, emotional, or physical condition” exception, 4 which has come to be known as the “state of mind” exception. The victim in this murder case, Annemarie Fitzpatrick (hereinafter “Annemarie”) wrote a note in her day planner on the day before she died. The note read: “If something happens to me—JOE,” an apparent reference to her husband, Joseph Fitzpatrick, III (hereinafter “Fitzpatrick”). Both the trial court and the Superior Court held that Annemarie’s statement was admissible as an expression of her then-existing state of mind under Rule 803(3). We conclude that the statement was admitted in error, and that the error was not harmless. Hence, we reverse, and we remand for a new trial.”

PA Superior Court

(Reporting only cases with precedential value)

Criminal Law & Procedure

COMMONWEALTH OF PENNSYLVANIA v. KAMERON EDWARD ORR

FILED: July 1, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A12012-21o%20-%20104822647139331791.pdf?cb=1>

“Appellant, Kameron Edward Orr, appeals from his sentence of life imprisonment following his conviction for first-degree murder. Appellant contends that the trial court erred by admitting four text messages into evidence that were sent from Appellant’s cell phone to the victim several nights before her murder. Appellant argues that the Commonwealth failed to authenticate these text messages

because it failed to demonstrate that Appellant authored the messages. We hold that the Commonwealth properly authenticated the text messages, and we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. JUSTIN STANLEY

FILED: July 8, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-S12008-21o%20-%20104828451139905251.pdf?cb=1>

“Justin Stanley appeals from the judgment of sentence, entered in the Court of Common Pleas of Philadelphia County, following his revocation of probation and resentencing. After careful review, we conclude that because Stanley was convicted under an unconstitutional statute, there was no valid statute under which he could be resentenced. Therefore, Stanley is entitled to reversal and discharge from his conviction. Consequently, we reverse his conviction and vacate his judgment of sentence.”

COMMONWEALTH OF PENNSYLVANIA v. WAYNE PRATER

FILED: July 9, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A04011-21o%20-%20104829887140034558.pdf?cb=1>

“Appellant, Wayne Prater, filed a petition under the Post Conviction Relief Act (“PCRA”), 42 Pa.C.S.A. §§ 9541-9546, claiming that his original sentence was illegal and seeking a new trial on the basis of ineffective assistance of counsel. The PCRA court held that Appellant’s original sentence was illegal and imposed a new sentence, but it rejected Appellant’s claims of ineffective assistance. Appellant moved for reconsideration of his new sentence, which the court denied. He then filed an appeal to this Court challenging his new sentence as well as the denial of his ineffective assistance claims. We affirm.”

COMMONWEALTH OF PENNSYLVANIA v. RONALD SCOTT MORGAN

FILED: July 13, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-S03044-21o%20-%20104832915140328206.pdf?cb=1>

“Appellant, Ronald Scott Morgan, appeals from the Judgment of Sentence entered on March 6, 2020, wherein the sentencing court resentenced Appellant to the same aggregate sentence as his original sentence. After careful review, we affirm Appellant’s designation as a sexually violent predator (“SVP”), vacate his judgment of sentence, and remand for resentencing.”

COMMONWEALTH OF PENNSYLVANIA v. PAUL DANIEL LOWMILLER

FILED: July 27, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A12040-21o%20-%20104846664141520384.pdf?cb=1>

“Paul Daniel Lowmiller (“Lowmiller”) appeals from the judgment of sentence imposed following his convictions of one count each of statutory sexual assault – person less than 16 years of age, involuntary deviate sexual intercourse – person less than 16 years of age (“IDSI”), aggravated indecent assault – person less than 16 years of age, indecent assault – person less than 16 years of age, and two counts of corruption of minors. 1 We reverse and remand for a new trial.”

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