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Criminal Justice Update - November 2021

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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
 - Criminal Law & Procedure
- Updates from the Courts
 - U.S. Supreme Court (no updates this month)
 - 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 Administration | Public Affairs | Public Policy



CRIMINAL JUSTICE UPDATE



A monthly newsletter produced by the ACBA Fellow at Gettysburg College

November 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

Criminal Law & Procedure

House Bill 1737 – Protecting Victims of Child Abuse

Final Passage in the House, November 10, 2021

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&sind=0&body=H&type=B&bn=1737>

House Bill 1737 would amend Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes to “allow a county children and youth agency to petition the court for an order to compel drug screenings when there is evidence that substance use may be a contributing cause of child abuse or neglect.”

House Bill 1736 --- Altering Sentencing Laws for Violent Offenses Involving Firearms.

Final Passage in the House, November 15, 2021

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&sind=0&body=H&type=B&bn=1590>

House Bill 1590 would amend Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes to “make Pennsylvania’s sentencing guidelines presumptive for certain offenses and requiring courts to state, on the record, a substantial and compelling reason that an injustice would occur by imposing a sentence below the standard range of the sentencing guidelines. This provision would apply to the following offenses: (1) a violent offense, when a firearm is possessed by the defendant during the commission of an offense; (2) drug trafficking if the defendant possessed the

firearm during the commission of the offense; and (3) the unlawful possession of a firearm if the person is not allowed to possess a firearm because he or she has been previously convicted of a serious crime.”

House Bill 2039 --- Notifying Victims of Any Proceedings in Which Conditions of Bail May be Altered

Final Passage in the House, November 15, 2021

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&ind=0&body=H&type=B&bn=2039>

House Bill 2039 would amend the Crime Victims Act of 1998 to “add a provision which would require a victim of a crime of violence to be notified of any proceeding in which conditions for bail can be modified.”

Updates from the Courts

U.S. Supreme Court

**No new updates this month*

PA Supreme Court

Criminal Law & Procedure

COMMONWEALTH OF PENNSYLVANIA v. ROBERT S. WHARTON

DECIDED: November 17, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-47-2021mo%20-%20104958046151837015.pdf?cb=1>

“Appellant Robert Wharton appeals from the order of the Court of Common Pleas of Philadelphia County dismissing his fourth petition pursuant to the Post-Conviction Relief Act (PCRA) in this capital case. We affirm the order of the PCRA court dismissing Appellant’s PCRA petition.”

COMMONWEALTH OF PENNSYLVANIA v. DAVID PACHECO

DECIDED: November 17, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-2-2021mo%20-%20104957574151802155.pdf?cb=1>

“We granted allowance of appeal to determine whether trial court orders that authorized the disclosure of Appellant David Pacheco’s real-time cell site location information (“CSLI”) were the functional equivalent of search warrants and satisfied the requisites of the Fourth Amendment pursuant to the United States Supreme Court’s decision in *United States v. Carpenter*, 138 S.Ct. 2206 (2018). For the reasons set forth herein, we hold that the challenged orders were the functional equivalent of search

warrants and complied with the Fourth Amendment. Accordingly, we affirm the judgment of the Superior Court, which affirmed Appellant’s judgment of sentence.”

COMMONWEALTH OF PENNSYLVANIA v. ALKIOHN DUNKINS

DECIDED: November 17, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-3-2021mo%20-%20104957715151816413.pdf?cb=1>

“We granted review to determine whether the trial court erred by denying suppression of wireless internet network (WiFi) connection records obtained by police without a warrant from the Information Technology Department of Moravian College. For the following reasons, we conclude this search was constitutionally permissible, and accordingly, we affirm the order of the Superior Court.”

PA Superior Court

(Reporting only cases with precedential value)

Criminal Law & Procedure

COMMONWEALTH OF PENNSYLVANIA v. DAVID GALLOWAY

FILED: November 2, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-S29036-21o%20-%20104943497150642888.pdf?cb=1>

“The Commonwealth appeals¹ from the October 16, 2020 order granting the pre-trial suppression motion filed by Appellee, David Galloway. After careful review, we reverse the suppression order and remand for proceedings consistent with this opinion.”

IN THE INTEREST OF: KB, A MINOR

FILED: November 9, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A19001-21o%20-%20104950601151232060.pdf?cb=1>

“Appellant, the Commonwealth, appeals from the January 11, 2021 predispositional Order that found the alleged victim, six-year-old A.B. (“Child Victim”), incompetent to testify in the delinquency proceedings against K.B. (“Juvenile”). Upon review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. TYRELL BISHOP

FILED: November 15, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-S29035-21o%20-%20104955524151630814.pdf?cb=1>

“Appellant Tyrell Bishop appeals from the December 11, 2019, Order dismissing his petition filed pursuant to the Post Conviction Relief Act (PCRA), 42 Pa.C.S.A. §§ 9541-9546. We affirm.”

COMMONWEALTH OF PENNSYLVANIA v DEAUNTAY DONTAZ MOYE

FILED: November 19, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-S32003-21o%20-%20104961377152210677.pdf?cb=1>

“On September 20, 2016, Deauntay Moye entered a guilty plea to first-degree murder, robbery-inflicts serious bodily injury, criminal use of a communications facility, firearms not to be carried without a license, criminal conspiracy-possession with intent to deliver, abuse of a corpse, killing, maiming or poisoning domestic or zoo animals, unauthorized use of automobiles or other vehicles, and possession of firearm by minor. On December 2, 2016, the court sentenced Moye to life imprisonment without the possibility of parole (LWOP) on the homicide count. On the remaining counts, the court sentenced Moye to various prison terms ranging from a minimum of one month to a maximum of 20 years’ incarceration, all to run concurrently to the other counts. Although the sentencing court had considered the post *Miller v. Alabama*, 567 U.S. 460 (2012), 10 statutory factors set forth in 18 Pa.C.S.A. § 1102.1(d)(7), 11 on appeal to this Court, we vacated and remanded.

In this timely appeal, Moye challenges the discretionary aspects and the constitutionality of his sentence. Of note, Moye claims his sentence amounts to “de facto life.”

After consideration of all relevant sentencing factors and mitigation evidence, the court ultimately determined a term of fifty years to life was an appropriate sentence. The court’s findings are well-supported by the record and reflect thoughtful and considered judgment. We are unable to discern a manifest abuse of discretion. Judgment of sentence affirmed.”

COMMONWEALTH OF PENNSYLVANIA v. CAL HEIDELBERG

FILED: November 23, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-E02007-21o%20-%20104965159152505839.pdf?cb=1>

“Cal Heidelberg (Appellant) appeals pro se from the judgment of sentence imposed after a jury found him guilty of four counts of possession of a controlled substance, as well as one count each of firearms not to be carried without a license, possession with intent to deliver a controlled substance, possession of a small amount of marijuana, and possession of drug paraphernalia.¹ Appellant challenges the lawfulness of his arrest and the denial of his motion to suppress contraband recovered from his vehicle following the arrest. After careful consideration, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. ARHAWN JONES

FILED: November 29, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A18039-21o.pdf?cb=1>

“Arhawn Jones (“Jones”) appeals from the judgment of sentence imposed following his conviction of firearms not to be carried without a license. We affirm”

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