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Criminal Justice Update - December 2021

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Criminal Justice Update - December 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
 - 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

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Disciplines

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CRIMINAL JUSTICE UPDATE



A monthly newsletter produced by the ACBA Fellow at Gettysburg College

December 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

Senate Bill 904 – Expanding Opportunities for Remote Meetings for Probation Officers.

Final Passage in the Senate, December 15, 2021

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&sind=0&body=S&type=B&bn=904>

Senate Bill 904 would amend Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes to “encourage the development of policies within probation offices to expand opportunities for more remote meetings when appropriate and to clarify the recommendations and standards of the circumstances that shall be considered when making scheduling decisions for probation meetings.”

Senate Bill 913 – Reforming Pennsylvania's Probation System

Final Passage in the Senate, December 15, 2021

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&sind=0&body=S&type=B&bn=913>

Senate Bill 913 would amend Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes to “establish a mandatory probation review conference for probationers, providing criteria for when they occur, and a presumption that probation will be terminated unless the individual does not qualify. Additionally, the bill will allow for the review conference to occur earlier based on the good conduct of defendants by achieving certain educational, employment, or other goals. A provision has

also been added to allow for the waiving of the mandatory review conference in cases where all stakeholders agree it is unnecessary.”

Updates from the Courts

U.S. Supreme Court

**No new updates this month*

PA Supreme Court

Criminal Law & Procedure

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA AND LORRAINE HAW v. VERONICA DEGRAFFENHEID AS ACTING SECRETARY OF THE COMMONWEALTH

DECIDED: December 21, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-48-2021mo%20-%20104992480155209409.pdf?cb=1>

“In this direct appeal, we review the Commonwealth Court’s entry of a permanent injunction blocking the Secretary of the Commonwealth from certifying the results of the November 5, 2019 election in which the voters of the Commonwealth were asked to approve a proposed “victim’s rights amendment,” described as “Marsy’s Law,” which would be added as a new provision of Article I of the Pennsylvania Constitution – Section 9.1 (“Victim’s Rights Amendment”). The Commonwealth Court entered its injunction on the basis that the Victim’s Rights Amendment violated the requirement of Article XI, Section 1 of the Pennsylvania Constitution that, “[w]hen two or more amendments shall be submitted they shall be voted upon separately.” Pa. Const. art. XI, § 1. After careful review, we affirm the decision of the Commonwealth Court, because, for the reasons we detail herein, the Victim’s Rights Amendment was, in actuality, a collection of amendments which added a multiplicity of new rights to our Constitution, and, because those new rights were not interrelated in purpose and function, the manner in which it was presented to the voters denied them their right to consider and vote on each change separately, as Article XI, § 1 mandates. We, therefore, affirm the decision of the Commonwealth Court.”

CRAIG STELTZ v. WILLIAM C. MEYERS, M.D.; VINCERA CORE INSTITUTE AND VINCERA INSTITUTE

DECIDED: December 22, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-51-2021mo%20-%20104992084155179184.pdf?cb=1>

“We granted allowance of appeal to consider whether the Superior Court erred in affirming the trial court’s award of a new trial. Because we conclude that the trial court did not abuse its discretion in denying a mistrial based on a single, unanswered question proposed to an expert witness, that decision

alone cannot later serve as the basis for granting a new trial. Accordingly, we reverse the order of the Superior Court and remand for further proceedings.”

COMMONWEALTH OF PENNSYLVANIA v. DANIEL GEORGE TALLEY

DECIDED: December 22, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-56-2021mo%20-%20104992190155188326.pdf?cb=1>

“We granted review of this matter to resolve two distinct legal issues, one of longstanding import to the criminal law, and the other of contemporary significance. The first addresses the Commonwealth’s burden of proof when it seeks to deprive the accused of his or her state constitutional right to bail—a right that has existed in Pennsylvania law since the Commonwealth’s founding by William Penn in 1682. That right, now reposed in Article I, Section 14 of the Pennsylvania Constitution, embodies three core tenets of our system of criminal justice: “(a) the importance of the presumption of innocence; (b) the distaste for the imposition of sanctions prior to trial and conviction; and (c) the desire to give the accused the maximum opportunity to prepare his defense.” *Commonwealth v. Truesdale*, 296 A.2d 829, 834-35 (Pa. 1972).

“For more than three centuries, the right-to-bail clause invariably has provided that “all prisoners shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or presumption great.” But in the 1998 general election, a majority of Pennsylvania’s voters approved an amendment that added new language to Article I, Section 14, the relevant portion of which now provides:

“All prisoners shall be bailable by sufficient sureties, unless for capital offenses or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great”

PA. CONST. art. I, § 14. While the amendment expanded the class of nonbailable prisoners, the requisite proof needed to deny them bail did not change. Since 1682, one’s right to bail could not be denied unless “the proof was evident or presumption great.” In this case, we must determine the meaning of that colonial-era phrase as it relates to an assertion that the accused should be denied bail because “no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community.” The second issue, in contrast, concerns the interplay between twenty-first century cellphone technology and the rules governing the admissibility of evidence. More specifically, we must determine whether the best-evidence rule allows a party to introduce printed photographs of text messages as they appeared on a cellphone’s interface—i.e., “screenshots.” Ordinarily, the best-evidence rule requires the production of an “original” writing when a document is central to a case. Under certain conditions, however, a party may offer a “duplicate” of the original writing. Here, we assess whether the best-evidence rule applies to the text messages at issue, and, if so, whether the printed screenshots of the messages were admissible as either originals or duplicates.

In sum, while the trial court committed an error of law in denying Talley’s motion for release on nominal bail, Talley is due no relief because he has failed to prove that the error affected the outcome of his trial.

Nor is a new trial warranted on his best-evidence claim, since the lower courts concluded correctly that the screenshots of the text messages were admissible duplicates. Accordingly, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. JOSEPH MCCABE

DECIDED: December 22, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-10-2021mo%20-%20104992271155194295.pdf?cb=1>

“In this appeal by allowance, we consider whether a problem-solving court, in this case a Veterans Treatment Court (VTC), created pursuant to 42 Pa.C.S. § 9161 is subject to Chapter 3 of the Pennsylvania Rules of Criminal Procedure (the Rules) governing Accelerated Rehabilitative Disposition (ARD). We also consider whether Appellant, Joseph McCabe, due to his inability to fully pay restitution, was denied the full benefit of the problem-solving court in contravention of his rights to due process and equal protection under the Fourteenth Amendment of the United States Constitution.

In Conclusion, the language of Section 916 does not perforce create an ARD program to be governed by Chapter 3 of the Rules, 16 and specifically the VTC does not. Problem-solving courts such as the VTC are designed to provide funding and programing to afford individualized treatment to offenders with issues that have contributed to their criminal conduct, after the entry of a plea. Such treatment is itself a benefit and the chief impetus in enacting Section 916. Positive sentencing consideration, including dismissal of charges, may accompany a successful completion of the program, but the program does not create guarantees, procedures, or discretion not already authorized under the Rules. Accordingly, we affirm the Superior Court’s determination that the trial court’s sentencing order regarding restitution was not governed by Chapter 3 of the Rules. We also affirm the judgments of the lower courts, finding no as-applied constitutional infirmities to have been established in Appellant’s claim.”

COMMONWEALTH OF PENNSYLVANIA v. ERIC LAVADIUS GREEN

DECIDED: December 22, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-55-2021mo%20-%20104992100155179663.pdf?cb=1>

“This appeal originates from an investigation into internet sharing of child pornography. During the investigation, officers obtained a warrant to search for evidence of possession and distribution of child pornography on the electronic devices in the home of Appellant, Eric Green. We granted review in this matter to address whether that search warrant was overbroad.

We find no reason to establish a unique overbreadth standard for the contents of electronic devices. Applying the traditional overbreadth standard to the facts before us, we find no error with the lower courts’ determinations that the warrant was not overbroad because it described the physical devices and digital data for which there was probable cause as nearly as may be under the circumstances.”

COMMONWEALTH OF PENNSYLVANIA v. DAVID SANTANA

DECIDED: December 22, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-66-2021mo%20-%20104994035155311768.pdf?cb=1>

“In this case, we must decide whether our decision in *Commonwealth v. Muniz*— wherein we held that the Sexual Offender Registration and Notification Act (“SORNA”)² constituted a punitive regulatory scheme that, when imposed retroactively to sex offenders who committed their offenses prior to SORNA’s enactment, amounted to an unconstitutional ex post-facto law—applies with equal force to offenders whose triggering offenses occurred in another state. We conclude that it does. Therefore, we affirm the order of the Superior Court.”

IN THE INTEREST OF Y.W.B. – A MINOR AND N.W.B. – A MINOR

DECIDED: December 23, 2021

https://www.pacourts.us/assets/opinions/Supreme/out/J-39B-2021mo%20-%2010499525115538361720211228_121153_8765325.pdf?cb=2

“A report from an unidentified source provided the sole basis for an allegation that Mother (J.B.) was homeless and had failed to feed one of her children during a single eight-hour period and led to the issuance of an order compelling her to allow the [J-39A&B-2021] - 2 Philadelphia Department of Human Services (“DHS”) to enter and inspect the family residence. Before the Court is the question of whether DHS established sufficient probable cause for the trial court to issue the order permitting entry into the home without consent. We conclude that DHS did not establish probable cause and thus reverse the order of the Superior Court.”

COMMONWEALTH OF PENNSYLVANIA v. TIMOTHY OLIVER BARR II

DECIDED: December 29, 2021

<https://www.pacourts.us/assets/opinions/Supreme/out/J-70-2021mo%20-%20104999017155668065.pdf?cb=1>

“We granted allowance of appeal in this matter to examine to what extent, if at all, the smell of marijuana can be considered when determining whether law enforcement had probable cause to conduct a warrantless search of a vehicle. This issue arises in light of the General Assembly’s enactment of the Medical Marijuana Act (“MMA”), 35 P.S. §§ 10231.101-10231.2110, which legalized the possession and use of marijuana in limited circumstances, and this Court’s recent decision in *Commonwealth v. Hicks*, 208 A.3d 916 (Pa. 2019), which addressed whether police can stop and frisk a person merely based on the fact that the person possesses a concealed firearm in public. Like the Superior Court, we hold that the smell of marijuana may be a factor, but not a stand-alone one, in determining whether the totality of the circumstances established probable cause to permit a police officer to conduct a warrantless search of a vehicle. However, we respectfully disagree with the Superior Court’s decision to remand the matter to the trial court for reconsideration of its order granting the motion to suppress filed by Timothy Barr, II (“Appellant”). Instead, for the reasons that follow, we vacate the Superior Court’s judgment, reinstate the trial court’s order which granted Appellant’s motion to suppress, and remand for further proceedings that are consistent with this opinion.”

PA Superior Court

(Reporting only cases with precedential value)

Criminal Law & Procedure

COMMONWEALTH OF PENNSYLVANIA v. GARRETT JAMES HAYES

FILED: December 2, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A16013-21o%20-%20104972407153230924.pdf?cb=1>

“The Commonwealth appeals from the judgment of sentence imposing five years’ probation (with 90 days of restrictive, driving-under-the-influence conditions) against Garrett James Hayes. The sentencing court determined that this was Hayes’ second DUI offense; it did not consider his driving-while intoxicated (“DWI”) case from Maryland in 2011 to be a prior offense, under Commonwealth v. Chichkin, 232 A.3d 959 (Pa. Super. 2020). This holding rested upon a misinterpretation of Maryland’s procedural law. Therefore, we vacate the sentence and remand.”

COMMONWEALTH OF PENNSYLVANIA v. MICHAEL ANTHONY HOWELL

FILED: December 6, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A29044-21o%20-%20104975514153491906.pdf?cb=1>

“Michael Anthony Howell (Howell) appeals from the judgment of sentenced imposed in the Court of Common Pleas of Fayette County after his jury conviction for delivery of contraband to a convict in a prison and possession of a controlled substance.¹ He challenges the constitutionality of his mandatory minimum sentence of not less than two years as grossly disproportionate to the crime. We affirm.”

COMMONWEALTH OF PENNSYLVANIA v. MATTHEW COLLINS MARKS

FILED: December 7, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-S26004-21o%20-%20104977332153648309.pdf?cb=1>

“Appellant, Matthew Collins Marks, appeals from the February 11, 2021 judgment of sentence imposing a flat 150 days of incarceration for violation of a Protection From Abuse (“PFA”) order. Appellant argues the flat sentence is illegal. We affirm.”

COMMONWEALTH OF PENNSYLVANIA v. CHRISTOPHER S. MULLEN

FILED: December 8, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A22042-21o%20-%20104978509153762419.pdf?cb=1>

“Appellant, Christopher S. Mullen, appeals from the order entered in the Lycoming County Court of Common Pleas, which denied his petition filed pursuant to the Post Conviction Relief Act (“PCRA”). We affirm.”

COMMONWEALTH OF PENNSYLVANIA v. JOSHUA SANDOVAL

FILED: December 14, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-S24027-21o%20-%20104984051154529488.pdf?cb=1>

“Appellant, Joshua Sandoval, appeals from the judgment of sentence entered in the Clarion County Court of Common Pleas, following his bench trial conviction for failure to comply with Subchapter I registration requirements. We affirm.”

COMMONWEALTH OF PENNSYLVANIA v. CARL JONES

FILED: December 16, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A25035-21o%20-%20104986777154794591.pdf?cb=1>

“Appellant, Carl Jones, appeals from the judgment of sentence imposed after his conviction of third-degree murder at a bench trial. After careful review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. SHAMON KENNEDY

FILED: December 16, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A24015-21o%20-%20104986633154762784.pdf?cb=1>

“Shamon Kennedy appeals pro se from the order, entered in the Court of Common Pleas of Chester County, denying as untimely his fourth petition filed pursuant to the Post Conviction Relief Act (PCRA), 42 Pa.C.S.A. §§ 9541-9546. Upon careful review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. WAYNE SINGLETARY

FILED: December 17, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A24005-21o%20-%20104988008154895223.pdf?cb=1>

“The Commonwealth of Pennsylvania appeals from the order, entered in the Court of Common Pleas of Delaware County, suppressing a firearm found as a result of a warrantless search of an automobile in which Wayne Singletary was a passenger. After careful review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. JACOB SCOTT ROHRBACH

FILED: December 21, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-S23024-21o%20-%20104991237155110832.pdf?cb=1>

“The Commonwealth appeals as of right from the order suppressing its evidence against Jacob Scott Rohrbach and granting him a Writ of Habeas Corpus. The Commonwealth fails to persuade us that police had reasonable suspicion for an investigative detention of Mr. Rohrbach. Thus, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. KEVIN JACKSON

FILED: December 21, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-S29029-21o%20-%20104991186155103196.pdf?cb=1>

“The Commonwealth appeals from the order granting Kevin Jackson’s motion to suppress evidence that he abandoned while fleeing from an officer in Philadelphia. 1 Because the officer reasonably suspected Mr. Jackson was involved in a recent shooting, his command for Mr. Jackson to halt was a legal request so he could further investigate. As such, we vacate and remand.”

COMMONWEALTH OF PENNSYLVANIA v. BRAD A. JAMES

FILED: December 22, 2021

<https://www.pacourts.us/assets/opinions/Superior/out/J-A23023-21o%20-%20104992878155240904.pdf?cb=1>

“Appellant, Brad A. James, appeals from the judgment of sentence of an aggregate term of 27 to 54 months’ incarceration, imposed after he was convicted by a jury of simple assault (18 Pa.C.S. §2701(a)(1)), recklessly endangering another person (REAP) (18 Pa.C.S. § 2705), and discharging a firearm into an occupied structure (18 Pa.C.S. § 2707.1(a)). Appellant challenges the sufficiency and weight of the evidence to sustain his convictions. After careful review, we affirm.”