



2-2022

## Criminal Justice Update - February 2022

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### Recommended Citation

Chassie, Autumn R., "Criminal Justice Update - February 2022" (2022). *Criminal Justice Updates*. 18.  
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## Criminal Justice Update - February 2022

### 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 new updates this month
- Updates from the PA Legislature
- Updates from the Courts
  - U.S. Supreme Court: No new 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 | 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

*February 2022*

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

*Comments or questions?  
Contact Autumn Chassie 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 2143 – Continuing County Prison Board Status after Change in County Designation**

**Presented to the Governor, Feb. 9, 2022**

<https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2021&slnd=0&body=H&type=B&bn=2143>

House Bill 2143 would allow “a county the ability to continue to use their current prison board and ensure that the transition is smooth as minimal adjustments would be needed. Therefore, the legislation will add 2A class counties to the current procedure that are used for 3<sup>rd</sup> through 8<sup>th</sup> class counties, thus allowing them to continue to use their current county prison board after the transition.”

## Updates from the Courts

### U.S. Supreme Court

\*No new updates this month

### PA Supreme Court

**Criminal Law & Procedure**

## COMMONWEALTH OF PENNSYLVANIA v. MICHAEL FELDER

**DECIDED: February 23, 2022**

<https://www.pacourts.us/assets/opinions/Supreme/out/J-53-2019mo%20-%20105054806163521755.pdf?cb=1>

“When sentencing juvenile homicide offenders from this point forward, sentencing courts are required to consider only the relevant sentencing statutes, which will guarantee that the sentencer considers the juvenile’s youth and attendant characteristics as required by *Miller*. So long as the sentence imposed is discretionary and takes into account the offender’s youth, even if it amounts to a *de facto* life sentence, *Miller* is not violated. Because the sentencing court in the present case followed this procedure, we affirm.”

**Concurring Opinion:** <https://www.pacourts.us/assets/opinions/Supreme/out/J-53-2019co%20-%20105054806163479195.pdf?cb=1>

“I write separately to recognize that this result is limited to what the Eighth Amendment requires. Today’s decision does not foreclose further developments in the law as to the legality of juvenile life without parole sentences (or their *de facto* equivalent as alleged here) under the Pennsylvania Constitution nor as to how appellate courts will review the discretionary aspects of such sentences.”

**Dissenting Opinion:** <https://www.pacourts.us/assets/opinions/Supreme/out/J-53-2019do%20-%20105054806163479548.pdf?cb=1>

“I would wait for an appropriate case in which the Court might address these important and complicated matters, and I would dismiss the instant appeal as improvidently granted. Because the Majority presses on in the face of these patent deficiencies, I respectfully dissent.”

### **PA Superior Court**

*(Reporting only cases with precedential value)*

## **Criminal Law & Procedure**

### COMMONWEALTH OF PENNSYLVANIA v. AKEEM KEVIN WASHINGTON

**FILED: February 1, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-E03004-21o%20-%20105033233161585089.pdf?cb=1>

“The Commonwealth is not precluded from introducing Mr. Jones’ prior testimony at a new trial. See Pa.R.E. 804(a)(4) (stating declarant is considered unavailable as witness if declarant cannot be present or testify at trial or hearing because of death); and (b)(1) (stating former testimony that was given as witness at trial, hearing or lawful deposition is not excluded by rule against hearsay if declarant is unavailable as witness and where testimony is now offered against party who had opportunity and similar motive to develop it by direct, cross, or redirect examination). Accordingly, we reverse the order denying PCRA relief, vacate the judgment of sentence, and remand for a new trial. Order reversed.”

**Dissenting Opinion:** <https://www.pacourts.us/assets/opinions/Superior/out/J-E03004-21o%20-%20105033233161585426.pdf?cb=1>

“I must respectfully dissent from the learned Majority’s decision in this case because, I believe, the Majority improperly relieved Appellant of his burden to produce evidence that his aggravated assault conviction was not admissible as impeachment evidence.”

#### **COMMONWEALTH OF PENNSYLVANIA v. RICHARD KRISTA**

**FILED: February 4, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-A29018-21o%20-%20105037267161957863.pdf?cb=1>

“Therefore, because we are convinced neither (1) that trial court’s finding that the prosecutor’s improper statement was the result of frustrated inadvertence rather than recklessness is insufficiently supported by the certified record, nor (2) that the impropriety here rose to the level of overreaching necessary to trigger double jeopardy immunity, we affirm the trial court’s order denying Appellant’s second motion to bar retrial. Order affirmed.”

#### **COMMONWEALTH OF PENNSYLVANIA v. ANN LUTZ**

**FILED: February 14, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S31045-21o%20-%20105046150162777165.pdf?cb=1>

“In sum, our review of the record in conjunction with the foregoing case law supports Lutz’s claim that the evidence of the marijuana contained in the eyeglass case under the driver’s seat found during the search incident to her arrest should have been suppressed. However, the evidence of the metal pipe was properly admitted by the trial court under the plain view doctrine. Accordingly, we affirm the suppression order in part as to the metal pipe but reverse its denial of Lutz’s motion to suppress the marijuana in the eyeglass case and remand for further proceedings consistent with this Opinion.

Suppression Order affirmed in part and reversed in part. Judgment of sentence vacated. Case remanded for further proceedings. Jurisdiction relinquished.”

#### **COMMONWEALTH OF PENNSYLVANIA V. RAHSAAN O. MAY**

**FILED: February 15, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-A26004-21o%20-%20105047730162881252.pdf?cb=1>

“Herein, the legislature found that driving while impaired by a Schedule I substance merited a minimum mandatory fine of \$1,000. As that punishment is proportional to the crime, we hold that § 3804 does not violate the excessive fines clause of the Pennsylvania or United States Constitution. Judgment of sentence affirmed.”

#### **COMMONWEALTH OF PENNSYLVANIA v. BENOY THOMAS**

**FILED: February 15, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S04020-22o%20-%20105047913162902673.pdf?cb=1>

“As the record supports the PCRA court’s factual findings, and its conclusions are consistent with the law, we discern no error in the PCRA court’s determination that Appellant was not entitled to postconviction relief. Order affirmed.”

#### **COMMONWEALTH OF PENNSYLVANIA v. SHERRY HOLT**

**FILED: February 17, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-A25029-21o%20-%20105051357163177251.pdf?cb=1>

“Appellant argues the evidence was insufficient because her statements did not impair the efforts by law enforcement to apprehend Mr. Holt, the statute requires only the intent to hinder apprehension, not proof of actual hindrance. Here, Appellant’s intent to delay or interfere with her son’s apprehension can be readily inferred from her conduct. Viewed in the light most favorable to the Commonwealth as verdict-winner, the evidence was sufficient to sustain Appellant’s conviction for hindering apprehension or prosecution under the current version of the statute. Accordingly, we affirm.”

#### **COMMONWEALTH OF PENNSYLVANIA v. JOHN R. AUMICK**

**FILED: February 23, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-A24016-21o%20-%20105056490163601054.pdf?cb=1>

“For these reasons, because Dr. Muscari’s opinion and her report were based on unproven allegations, the trial court should have excluded that evidence and her opinion based on that evidence. Furthermore, because she was its only witness, without any proof to support the underlying claims that formed the basis of Dr. Muscari’s opinion, the Commonwealth failed to present clear and convincing evidence that Aumich qualifies as an SVP. Accordingly, because the Commonwealth has not made out its statutory evidentiary burden, the trial court’s SVP designation is reversed.”

#### **COMMONWEALTH OF PENNSYLVANIA v. BRIAN S. WOOLSTRUM**

**FILED: February 25, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S38023-21o%20-%20105058991163826977.pdf?cb=1>

“Appellant’s PCRA petition was untimely filed, and he failed to plead the applicability of any of the PCRA’s timeliness exceptions. In accordance with the May 6, 2020 Order, the PCRA court properly exercised its discretion in concluding that Appellant’s ‘late filing was not the result of or affected by the judicial emergency.’ Thus, the PCRA court properly concluded it did not have jurisdiction to address the merits of Appellant’s ineffective assistance of counsel claims. This Court, likewise, lacks jurisdiction. Order affirmed.”

#### **COMMONWEALTH OF PENNSYLVANIA v. DEREK MURCHISON**

**FILED: February 28, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S09005-21o%20-%20105060854163997330.pdf?cb=1>

“We conclude the PCRA court properly found the “new” DNA evidence was merely cumulative and not likely to compel a different result. Accordingly, Appellant has not met the high burden of demonstrating that he is entitled to PCRA relief.”

**Dissenting Opinion:** <https://www.pacourts.us/assets/opinions/Superior/out/J-S09005-21do%20-%20105060854163997435.pdf?cb=1>

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