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## Criminal Justice Update - August 2022

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## Criminal Justice Update - August 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 updates this month)
- Updates from the PA Legislature (no updates this month)
- Updates from the Courts
  - U.S. Supreme Court: Criminal Law & Procedure (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 Affairs, Public Policy and Public Administration



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# CRIMINAL JUSTICE UPDATE



*A monthly newsletter produced by the ACBF Fellow at Gettysburg College*

*August 2022*

Keep up to date with developments in criminal law, criminal procedure, and victims' rights 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

\*No new updates this month

### PA Supreme Court

**COMMONWEALTH OF PENNSYLVANIA v. ALBERT E. REID**

**DECIDED: August 16, 2022**

Majority Opinion (Chief Justice Baer)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-117-2020mo%20-%20105242072194782884.pdf?cb=1>

“A jury convicted Albert Reid (“Appellant”) of two counts of first-degree murder for the killings of his estranged wife, Carla Reid, and her fourteen-year-old daughter, D.M. He received two death sentences, and this Court affirmed the judgment of sentence. Commonwealth v. Reid, 811 A.2d 530 (Pa. 2002) (“Reid I”). Appellant subsequently filed a petition pursuant to the Post Conviction Relief Act (“PCRA”), 42 Pa.C.S. §§ 9541-9546. The PCRA court denied the petition, and Appellant appealed to this Court, which affirmed in part the PCRA court’s order but remanded the matter, while retaining jurisdiction, directing the PCRA court to provide a supplemental opinion addressing why it denied relief on the following issue: ‘Was the defendant incompetent to proceed to trial and represent himself; were prior counsel ineffective for failing to investigate and effectively litigate this issue before trial and failing to raise it on appeal?’ 1 Commonwealth v. Reid, 259 A.3d 395, 444 (Pa. 2021) (“Reid II”) (quoting Appellant’s Initial Brief at 3). The PCRA court complied with our directive, and we have received the parties’ responses to the PCRA court’s supplemental opinion. Thus, this remaining matter is ripe for review. As explained in detail infra, we respectfully find that the PCRA court erred in the manner in which it assessed Appellant’s claim that he was incompetent to stand trial, as the court’s reasoning, inter alia, failed to account for new, post-conviction evidence that potentially demonstrates that Appellant was incompetent to stand trial. Accordingly, we are constrained to vacate in part the PCRA court’s order and remand for further proceedings consistent with this opinion.”

#### Dissenting Opinion (Justice Mundy)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-117-2020do%20-%20105242072194782772.pdf?cb=1>

### JOSEPH J. O’NEILL v. STATE EMPLOYEES’ RETIREMENT SYSTEM

**DECIDED: August 16, 2022**

<https://www.pacourts.us/assets/opinions/Supreme/out/J-1-2022mo%20-%20105242085194783987.pdf?cb=1>

#### Majority Opinion (Justice Debra Todd)

“Pennsylvania’s Public Employee Pension Forfeiture Act (“Act 140”) mandates the forfeiture of the pension of a public official or public employee when he or she is convicted of certain Pennsylvania crimes related to public office or public employment, or is convicted of federal offenses that are “substantially the same” as the forfeit-triggering state crimes. 43 P.S. §§ 1312, 1313. We granted discretionary review to consider whether a federal conviction for false statements to a federal agent, 18 U.S.C. § 1001 (“Section 1001”), is ‘substantially the same’ as the Pennsylvania crime of false reports to law enforcement authorities, 18 Pa.C.S. § 4906 (“Section 4906”), for purposes of Act 140. For the reasons that follow, we conclude that the two offenses are not ‘substantially the same,’ and, thus, the Commonwealth Court erred in affirming the forfeiture of the pension of Appellant, former Municipal Court of Philadelphia County Judge Joseph O’Neill.

### COMMONWEALTH OF PENNSYLVANIA v. ALEXIS LOPEZ

**DECIDED: August 16, 2022**

<https://www.pacourts.us/assets/opinions/Supreme/out/J-6-2022mo%20-%20105242096194785510.pdf?cb=1>

#### Majority Opinion (Justice Kevin Dougherty)

“We granted discretionary review to consider whether Pennsylvania Rule of Criminal Procedure 706(C) requires a trial court to consider a defendant’s ability to pay prior to imposing mandatory court costs at sentencing. We hold it does not, and affirm the Superior Court.”

[Dissenting Opinion \(Justice Christine Donohue\)](#)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-6-2022do%20-%20105242096194785489.pdf?cb=1>

## [PA Superior Court](#)

*(Reporting only cases with precedential value)*

### Criminal Law & Procedure

#### [THOMAS HENRY MASSARO v. MCDONALD’S CORPORATION](#)

[FILED: August 2, 2022](#)

<https://www.pacourts.us/assets/opinions/Superior/out/J-A16038-22o%20-%20105227707193162930.pdf?cb=1>

Thomas Henry Massaro appeals an order of the Court of Common Pleas of Philadelphia County (trial court) dismissing his claims with prejudice for lack of legal sufficiency. It was alleged by Massaro, a senior citizen, that he was continuously harassed and assaulted by a deranged third party while mentoring a student in a McDonald’s restaurant. His repeated requests for help from the restaurant’s staff had gone unheeded for about an hour. The above-captioned Appellees (collectively referred to here as “McDonald’s”) filed a preliminary objection in the nature of a demurrer, arguing that they could not be held liable for Massaro’s injuries as a matter of law because he had remained in the restaurant beyond the point where it was reasonable for him to do so. The trial court sustained McDonald’s preliminary objection on what appear to be two not entirely consistent grounds. The trial court first determined that McDonald’s did not owe Massaro a duty of care because he had assumed the risk of a known danger in the restaurant. Next, the trial court found that, as a matter of public policy, recognizing a duty of care on the part of McDonald’s would constitute an undue burden which would disincentivize its business operations. We hold that the trial court improperly dismissed the case by misconstruing the allegations, resolving disputed material facts, and misapplying the law. Accordingly, the order on review must be reversed.”

#### [COMMONWEALTH OF PENNSYLVANIA v. BRENDAN PATRICK YOUNG & COMMONWEALTH OF PENNSYLVANIA v. DANIEL CASEY](#)

[FILED: August 3, 2022](#)

<https://www.pacourts.us/assets/opinions/Superior/out/J-S54002-19o.pdf?cb=1>

“The instant appeals are before us on remand from our Supreme Court. We have been directed to consider whether the Commonwealth should be permitted pursuant to Pa.R.A.P. 902 to correct its failure to file separate notices of appeal at each of the dockets affected by the trial court’s November 21, 2018 order which, inter alia, granted in part the suppression motions filed by Brendan Patrick Young and Daniel Casey (collectively “Appellees”). See *Commonwealth v. Young*, 265 A.3d 462, 477-78 (Pa. 2021) (“*Young*”). Following consideration of the competing principles and interests, we remand for the

Commonwealth to correct its procedural error, while retaining jurisdiction to subsequently either address the merits of the appeals or quash them if the Commonwealth fails to comply.”

#### **COMMONWEALTH OF PENNSYLVANIA v. JAROD MAURICE MCMAHON**

**FILED: August 8, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S20021-22o%20-%20105233288193676254.pdf?cb=1>

“Jarod Maurice McMahon (Appellant) appeals from the judgment of sentence imposed after the trial court convicted him of one count of possession of a controlled substance and one count of possession of marijuana.<sup>1</sup> After careful review, we affirm.”

#### **IN THE INTEREST OF: G.R. , A MINOR**

**FILED: August 9, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S17017-22o%20-%20105235296194233021.pdf?cb=1>

“K.M. (Mother) and B.R. (Father) (collectively, Parents) appeal from the trial court’s order reunifying their daughter G.R. (Child) (born August 2019) with Parents, finding that Child was the victim of child abuse, and concluding that Mother and Father were the perpetrators of the abuse. See 42 Pa.C.S.A. § 6302; 23 Pa.C.S.A. §§ 6303, 6381(d). After careful review, we affirm.”

#### **COMMONWEALTH OF PENNSYLVANIA v. JERALD LATEITH BROWN**

**FILED: August 10, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S05031-22o%20-%20105237265194376889.pdf?cb=1>

“Appellant, Jerald Lateith Brown, appeals from the judgment of sentence entered on October 19, 2017 in the Court of Common Pleas of Dauphin County following his convictions of Possession of a Controlled Substance and Possession with Intent to Deliver. Following considered review, we affirm.”

#### **MARK AND LEAH GUSTAFSON v. SPRINGFIELD, INC.**

**FILED: August 12, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-E02008-21Kunselman.pdf?cb=1>

“In this appeal, the Court must decide whether the trial court erred by finding that a federal statute, the Protection of Lawful Commerce in Arms Act of 2005, 15 U.S.C. §§ 7901-7903 (“PLCAA”), bars a state, product-liability lawsuit arising from the shooting death of Mark and Leah Gustafson’s 13-year-old son, James Robert (“J.R.”) Gustafson. The Gustafsons claim PLCAA does not apply to their product-defect claims or, alternatively, PLCAA is an unconstitutional infringement upon the sovereign police powers of the fifty states. This Court is not deciding whether PLCAA represents good policy or is wise legislation. Nor does this Court consider whether this statute would be constitutional if the General Assembly of Pennsylvania adopts it. Finally, the Court today does not render any opinion regarding an individual’s right to bear arms under the Second Amendment of the Constitution of the United States or Article I, § 21 of the Constitution of the Commonwealth of Pennsylvania. Based on the reasons below, I vote to

reverse the Order dismissing the Gustafsons' case and remand for the Defendants to file their Answer and New Matter."

#### **COMMONWEALTH OF PENNSYLVANIA v. MICHAEL DAVID LAKE**

**FILED: August 15, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S05041-22o%20-%20105241566194748117.pdf?cb=1>

"Appellant, Michael David Lake, appeals from the Judgment of Sentence entered on November 4, 2020, after a jury convicted him of Intimidation of Witnesses or Victims ("Intimidation"), Terroristic Threats, Simple Assault, and Recklessly Endangering Another Person ("REAP"). Appellant challenges the sufficiency and weight of the evidence to convict him of Intimidation, the jury charge on Intimidation, and the legality of his sentence. After careful review, we affirm."

#### **COMMONWEALTH OF PENNSYLVANIA v. NICOLE R. ENGLER-HARPER**

**FILED: August 16, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S18045-22m%20-%20105242742194853961.pdf?cb=1>

"Nicole Engler-Harper (Appellant) appeals from the judgment of sentence entered in the Court of Common Pleas of Lycoming County, following her jury convictions of two counts of endangering the welfare of children (EWOC). Appellant raises three claims: (1) there was insufficient evidence to support her EWOC convictions; (2) the verdict was against the weight of the evidence; and (3) the sentence was unreasonable and excessive. We affirm."

#### **COMMONWEALTH OF PENNSYLVANIA v. DERRICK RUFFIN**

**FILED: August 23, 2022**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S17005-22o%20-%20105250310195477950.pdf?cb=1>

"The Commonwealth appeals from the August 20, 2021 order granting Derrick Ruffin's ("Appellee") pre-trial motion to suppress evidence recovered during a traffic stop. Specifically, the Commonwealth challenges the suppression court's ruling that probable cause did not support a traffic stop for a violation of Pennsylvania's Vehicle Code concerning an obscured registration plate. Upon careful review, we agree and reverse."

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