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Criminal Justice Update - September 2022

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Criminal Justice Update - September 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
- 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

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

September 2022

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

*Comments or questions?
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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 146 – Markie's Law: Reforming Parole Rules

Final Passage in the House, September 19, 2022

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&sind=0&body=H&type=B&bn=146>

House Bill 146 would amend Title 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes to “to preclude the parole board from prematurely releasing an inmate at the expiration of his minimum sentence if the inmate was convicted of a violent offense while incarcerated. The legislation will postpone consideration of a violent inmate’s parole until an additional 24 months following the inmate’s minimum release date for each conviction for a violent offense while incarcerated. In addition, the legislation will postpone consideration of an inmate’s parole an additional 12 months if the inmate attempts to escape, smuggles contraband, or retaliates or intimidates witnesses while incarcerated.”

House Bill 1419 – Adding Protections for Incarcerated Women

Final Passage in the House, September 19, 2022

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&sind=0&body=H&type=B&bn=1419>

House Bill 1419 would amend Title 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes to “further provide for State recording system for application of restraints to pregnant prisoners or detainees; in county correctional institutions, further providing for county recording system for application of restraints to pregnant prisoners or detainees; and, in miscellaneous provisions, further providing for healthy birth for incarcerated women and providing for restrictive housing prohibited for pregnant or postpartum incarcerated individuals and detainees, for cavity search and inspection restrictions, for training and education requirement, for family consideration in placement and visitation, for feminine hygiene and incontinence products and for postpartum recovery.”

Updates from the Courts

U.S. Supreme Court

**No new updates this month*

PA Supreme Court

COMMONWEALTH OF PENNSYLVANIA v. ALBERT E. REID

DECIDED: September 29, 2022

Majority Opinion (Justice Brobson)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-19-2022mo%20-%20105290373199059101.pdf?cb=1>

“In this capital case, Paul G. Taylor appeals from the denial of his fifth petition filed pursuant to the Post Conviction Relief Act (PCRA), 42 Pa. C.S. §§ 9541-9546. As we agree with the conclusion of the Court of Common Pleas of York County (PCRA court) that Taylor untimely filed the petition, we affirm.”

Dissenting Opinion (Justice Donohue)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-19-2022do%20-%20105290373199060044.pdf?cb=1>

COMMONWEALTH OF PENNSYLVANIA v. VIKTOR L. STEVENSON

DECIDED: September 29, 2022

Majority Opinion (Chief Justice Baer)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-23-2022mo%20-%20105289651199014596.pdf?cb=1>

“A trial court found Victor Stevenson (“Appellant”) guilty of indirect criminal contempt for violating a final order issued pursuant to the Protection from Abuse (“PFA”) Act, 23 Pa.C.S. §§ 6101-6122. On appeal to the Superior Court, Appellant argued that the evidence of record was insufficient to support

his conviction because the Commonwealth failed to present adequate proof that he received proper notice of the final PFA order from a member of law enforcement or a person tasked by the trial court to provide such notice. The Superior Court rejected this argument, holding that the subject of a final PFA order must have notice of the order to be found guilty of indirect criminal contempt for violating the order but that it is unnecessary for a member of law enforcement or a person designated by the court to provide that notice. We granted allowance of appeal to review the intermediate court’s decision. We hold that, to convict a defendant of indirect criminal contempt for violating a PFA order, the Commonwealth must demonstrate beyond a reasonable doubt that, at the time of the violation, the defendant had actual knowledge of the PFA order, regardless of how the defendant gained this knowledge. Here, the Commonwealth met that burden; accordingly, we affirm the judgment of the Superior Court.”

[Dissenting Opinion \(Justice Wecht\)](#)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-23-2022do%20-%20105289651199015721.pdf?cb=1>

COMMONWEALTH OF PENNSYLVANIA v. DERRICK GALLAWAY

DECIDED: September 29, 2022

[Majority Opinion \(Justice Todd\)](#)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-2-2022mo%20-%20105289740199019794.pdf?cb=1>

“In this appeal by allowance, we consider whether the Superior Court’s determination that the probative value of videotape evidence which showed Appellant Derrick Gallaway in prison clothing outweighed its prejudicial effect, such that admission of the evidence did not deprive Appellant of a fair trial under *Estelle v. Williams*, 425 U.S. 501 (1976) (an accused cannot be compelled to stand trial before a jury while dressed in identifiable prison clothing). We hold that the probative value of the evidence was not outweighed by its prejudicial effect, and, thus, we affirm Appellant’s judgment of sentence.”

[Dissenting Opinion \(Justice Wecht\)](#)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-2-2022do%20-%20105289740199020803.pdf?cb=1>

COMMONWEALTH OF PENNSYLVANIA v. CARL GAMBY

DECIDED: September 29, 2022

[Majority Opinion \(Justice Todd\)](#)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-10-2022mo.pdf?cb=2>

“In this appeal by allowance, we consider whether the unwanted kissing of a person’s neck constitutes the touching of “sexual or other intimate parts” for purposes of the crime of indecent assault. 1 For the reasons that follow, we determine that “other intimate parts” are those parts of the body that are

personal and private, and which a person ordinarily allows to be touched only by other individuals with whom the person has a close personal relationship, and which are commonly associated with sexual relations or intimacy. Applying this meaning, we conclude that the neck is an intimate part of the body, and thus, we do not disturb the jury’s finding that Appellant, Carl Gamby, by grabbing the victim, K.A., from behind and kissing her neck for the purpose of sexual gratification, committed indecent assault. Accordingly, we affirm the order of the Superior Court.”

Dissenting Opinion (Justice Donohue)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-10-2022do1.pdf?cb=2>

Dissenting Opinion (Justice Wecht)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-10-2022do2.pdf?cb=2>

COMMONWEALTH OF PENNSYLVANIA v. JQUAN HUMPHREY

DECIDED: September 29, 2022

Majority Opinion (Chief Justice Baer)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-34A-B-2022mo.pdf?cb=1>

“This appeal presents the issue of whether Section 7403(e) of the Mental Health Procedures Act (“MHPA” or “Act”), 50 P.S. § 7403(e), authorizes a trial court to dismiss criminal charges filed against a defendant who is incompetent, and will likely remain so, under circumstances where the passage of time and its effect upon the criminal proceedings render it unjust to resume the prosecution. Following established intermediate appellate court precedent, the Superior Court held that Section 7403(e) authorizes dismissal of criminal charges only under circumstances where the defendant has regained his competence, and not where he remains incompetent. Jquan Humphrey (“Appellant”) challenges this settled statutory interpretation.

For the reasons set forth herein, we respectfully reject the Superior Court’s interpretation of Section 7403(e) and hold that the MHPA does not limit the trial court’s authority to dismiss criminal charges to circumstances where the defendant regained his competency. Instead, Section 7403(e) authorizes a trial court to dismiss criminal charges filed against an incompetent defendant where the court finds that it would be unjust to resume the prosecution due to the passage of time and its effect upon the criminal proceeding. Accordingly, we vacate the judgments of the Superior Court and remand for further proceedings consistent with this opinion.”

Dissenting Opinion (Justice Dougherty)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-34A-B-2022do.pdf?cb=1>

PA Superior Court

(Reporting only cases with precedential value)

Criminal Law & Procedure

COMMONWEALTH OF PENNSYLVANIA v. JOSHUA CHRISTIAN FORRESTER-WESTAD

FILED: September 1, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-A05038-22o%20-%20105260177196430290.pdf?cb=1>

“The Commonwealth appeals from the June 18, 2021 order that granted a motion filed by Joshua Christian Forrester-Westad (“Forrester-Westad”) to withdraw his guilty plea and quash the criminal information filed against him in the Court of Common Pleas of Snyder County. We affirm.”

COMMONWEALTH OF PENNSYLVANIA v. MATTHEW ELIAS DON BULLIAN

FILED: September 2, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S10043-22o%20-%20105261993196581204.pdf?cb=1>

“The Commonwealth appeals from an order entered by the Court of Common Pleas of Lebanon County (trial court) dismissing a simple assault charge against the defendant, Matthew Elias Don Bullian (Appellee). For the reasons set forth below, we reverse.”

COMMONWEALTH OF PENNSYLVANIA v. SHELDON KROCK

FILED: September 7, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S24021-22o%20-%20105265458196945689.pdf?cb=1>

“Sheldon Krock appeals from the order, entered in the Court of Common Pleas of Lehigh County, dismissing his petition filed pursuant to the Post Conviction Relief Act (PCRA), 42 Pa.C.S. §§ 9541-9546. After careful review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. ANDRE BOYER

FILED: September 8, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S17035-22o%20-%20105266757197053151.pdf?cb=1>

“Appellant, Andre Boyer, appeals from the May 10, 2021 order entered in the Court of Common Pleas of Philadelphia County finding him guilty of indirect criminal contempt. 23 Pa.C.S.A. § 6114.1,2 Appellant argues that the trial court erred by denying his due process rights, that it lacked jurisdiction to enter the

order, and that the evidence was insufficient to support a finding of indirect criminal contempt. Upon review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. KHALID JACKSON

FILED: September 13, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S17027-22o.pdf?cb=2>

“Khalid Jackson appeals from the judgment of sentence, 1 entered in the Court of Common Pleas of Philadelphia County, following his conviction of firstdegree murder and related offenses. After careful review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. OBADIAH MOSER

FILED: September 19, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S26013-22o%20-%20105278078198016376.pdf?cb=1>

“Obadiah Moser appeals from the judgment of sentence of 80 to 160 years of incarceration entered following his conviction of numerous sexual offenses against a minor victim, R.H. He challenges the denial of his motion to suppress evidence and the discretionary aspects of his sentence. We affirm.”

COMMONWEALTH OF PENNSYLVANIA v. ERIC WARREN BIEBER

FILED: September 22, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-A14012-22o%20-%20105282807198435516.pdf?cb=1>

“Appellant, Eric Warren Bieber, appeals from the judgment of sentence of time-served1 to 23 months’ incarceration, imposed after a jury convicted him of carrying a firearm without a license, 18 Pa.C.S. § 6106(a). After careful review, we vacate Appellant’s judgment of sentence and remand for a new trial.”

COMMONWEALTH OF PENNSYLVANIA v. JUSTIN THOMAS WATTS

FILED: September 26, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S26012-22o%20-%20105285794198683010.pdf?cb=1>

“Justin Thomas Watts appeals from his judgment of sentence imposed after the trial court found him guilty of driving under the influence (DUI) of a Schedule I controlled substance. 1 Additionally, Watts’ counsel filed a petition to withdraw representation and an accompanying brief pursuant to Anders v.

California, 386 U.S. 738 (1967). Upon review, we grant counsel’s petition and affirm the judgment of sentence.”

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