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Criminal Justice Update - November 2022

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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 (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



CRIMINAL JUSTICE UPDATE



A monthly newsletter produced by the ACBA Fellow at Gettysburg College

November 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

Criminal Law & Procedure

**No new updates this month*

Updates from the Courts

U.S. Supreme Court

**No new updates this month*

PA Supreme Court

SHANE MCGUIRE ON BEHALF OF COLBY NEIDIG v. CITY OF PITTSBURGH

DECIDED: November 23, 2022

Majority Opinion (Justice Wecht)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-28-2022mo%20-%20105350311204494113.pdf?cb=1>

“This case involves a dispute about whether the City of Pittsburgh has a statutory duty to indemnify one of its police officers for a judgment entered against him in a federal civil rights lawsuit. We reject the argument that a federal jury’s finding that a police officer acted “under color of state law” for purposes of Section 19831 necessarily constitutes a “judicial determination” that he also acted within the “scope of his office or duties” for purposes of the Political Subdivision Tort Claims Act. 2 Thus, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. DEMETRIUS CARLOS COLEMAN

DECIDED: November 23, 2022

Majority Opinion (Justice Brobson)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-21-2022mo%20-%20105350319204494683.pdf?cb=1>

“In this discretionary matter, Demetrius Carlos Coleman (Appellant) appeals from an order of the Superior Court, which vacated Appellant’s judgment of sentence and remanded the matter to the Court of Common Pleas of Allegheny County (sentencing court) for resentencing. The Superior Court concluded that the sentencing court erred in failing to sentence Appellant pursuant to the mandatory sentencing enhancement set forth in Section 9715(a) of the Sentencing Code, 42 Pa. C.S. § 9715(a), requiring that any person convicted of third-degree murder “in this Commonwealth who has previously been convicted at any time of murder . . . be sentenced to life imprisonment.” We must decide whether the Superior Court was correct in concluding that the mandatory sentencing enhancement applies to a defendant such as Appellant, who killed three people simultaneously and was thereafter convicted of three counts of third-degree murder. Upon careful review, we conclude that the sentencing enhancement does apply in such a scenario. Accordingly, we affirm.”

Dissenting Opinion (Justice Wecht)

<https://www.pacourts.us/assets/opinions/Supreme/out/J-21-2022do%20-%20105350319204494866.pdf?cb=1>

PA Superior Court

(Reporting only cases with precedential value)

Criminal Law & Procedure

COMMONWEALTH OF PENNSYLVANIA v. BRADY ALAN REED

FILED: November 4, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S34009-22o%20-%20105331430203005608.pdf?cb=1>

“Appellant, Brady Alan Reed, appeals from the judgment of sentence entered on February 17, 2020, in the Court of Common Pleas of Clarion County, after the court recommitted him to imprisonment following revocation of his parole. 1 For the reasons discussed below, we vacate and remand.”

COMMONWEALTH OF PENNSYLVANIA v. MALIK SMITH

FILED: November 4, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S24006-22o%20-%20105330796202953039.pdf?cb=1>

“The Commonwealth brings this appeal after the trial court granted Malik Smith’s motion to suppress evidence seized following a motor vehicle stop, during which a firearm was observed in the back seat of the car. Upon careful review, we reverse the order and remand for further proceedings.”

COMMONWEALTH OF PENNSYLVANIA v. MELVIN HOWARD

FILED: November 9, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S56012-20o%20-%20105336450203326439.pdf?cb=1>

“Appellant, Melvin Howard, appeals from the September 11, 2019 order dismissing, as untimely, his petition filed pursuant to the Post Conviction Relief Act (“PCRA”), 42 Pa.C.S. §§ 9541-9546. This Court originally affirmed that order by opinion filed on April 20, 2020, therein agreeing with PCRA court that Appellant had failed to demonstrate that the contents of a state government report on capital punishment constituted newly-discovered facts under Section 9545(b)(1)(ii) so as to excuse the untimeliness of his petition. However, our Supreme Court subsequently vacated our decision and remanded for this Court to apply its holding in *Commonwealth v. Small*, 238 A.3d 1267 (Pa. 2020) (disavowing the ‘public record presumption’ as violative of the plain text of Section 9545(b)(1)(ii)). See *Commonwealth v. Howard*, 249 A.3d 1229 (Pa. Super. 2021), vacated and remanded, 266 A.3d 1067 (Pa. 2021) (per curiam order). After careful reconsideration of our prior decision and *Small*, and for the reasons set forth herein, we again affirm the order dismissing Appellant’s PCRA petition as untimely.”

IN THE INTEREST OF: J.C.

FILED: November 17, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S17029-22o%20-%20105344873204033102.pdf?cb=1>

“J.C. appeals from the dispositional order, entered in the Court of Common Pleas of Monroe County, after J.C. made an admission to the crime of corruption of minors (COM)1 and was placed on one year of

probation. Because a “child,” as defined by the Juvenile Act, 2 is incapable of committing a crime that applies only to adult perpetrators, we are constrained to vacate and reverse.”

COMMONWEALTH OF PENNSYLVANIA v. JOHN WILLIAM COLLINS

FILED: November 18, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S16018-22o%20-%20105346585204195493.pdf?cb=1>

“John William Collins appeals from the judgment of sentence of 15 days’ incarceration and a fine of \$600 after his non-jury conviction on two counts of harassment.¹ Upon careful review, we affirm.”

COMMONWEALTH OF PENNSYLVANIA v. BRYAN WILLIAM CONLEY

FILED: November 22, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S20015-22o%20-%20105349690204447122.pdf?cb=1>

“Appellant Bryan William Conley appeals from the judgment of sentence imposed following the revocation of his county intermediate punishment (CIP) and his consecutive terms of probation. This matter returns to this Court after we remanded for the filing of an amended Anders/Santiago¹ brief or an advocate’s brief. Appellant has filed an advocate’s brief challenging both the discretionary aspects and the legality of his revocation sentence. We vacate the judgment of sentence and remand for further proceedings consistent with this opinion.”

COMMONWEALTH OF PENNSYLVANIA v. ENDER RADAMES ARIAS

FILED: November 30, 2022

<https://www.pacourts.us/assets/opinions/Superior/out/J-S35039-22o%20-%20105355725205117844.pdf?cb=1>

“Appellant Ender Radames Arias appeals from the judgment of sentence entered by the Court of Common Pleas of Lackawanna County after Appellant was convicted of several violations of the Uniform Firearms Act (VUFA), receiving stolen property, and related charges. Appellant raises challenges to the trial court’s denial of his suppression motion as well as the sufficiency and weight of the evidence supporting his convictions. We affirm.

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