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Criminal Justice Update - June 2023

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Criminal Justice Update - June 2023

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
 - PA Supreme Court
 - PA Superior Court

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 newsletter produced by the ACBF Fellow at Gettysburg College.



June 2023

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

**Comments or questions?
Contact Michael Klatt 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 260 – Body Camera Authorization for Parole Agents

Final Passage in the Senate: June 26, 2023

<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20230&cosponId=37907>

Senate Bill 260 would amend Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, "in wiretapping and electronic surveillance, further providing for definitions."

Senate Bill 44 – Ensuring Victims of Human Trafficking Have Access to Services

Final Passage in the Senate: June 29, 2023

<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20230&cosponId=39266>

Senate Bill 44 would amend Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, "in human trafficking, further providing for definitions, for the offense of trafficking in individuals and for the offense of patronizing a victim of sexual servitude; in minors, further providing for unlawful contact with minor; and, in domestic and sexual violence victim address confidentiality, further providing for definitions and for persons eligible to apply."

House Bill 689

Final Passage in the House: June 5, 2023

<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2023&sessInd=0&billBody=H&billTyp=B&billNbr=0689&pn=1360>

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House Bill 689 would amend Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, “in criminal history record information, further providing for definitions, for general regulations, for petition for limited access, for clean slate limited access, for exceptions, for effects of expunged records and records subject to limited access and for employer immunity from liability.”

House Bill 394 – Reforming Venue for Human Trafficking

Final Passage in the House: June 6, 2023

<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2023&sessInd=0&billBody=H&billTyp=B&billNbr=0394&pn=0361>

House Bill 394 would amend Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, “in human trafficking, further providing for civil causes of action.”

House Bill 1085 – Creating a Public Safety Resident Communications Program with our Police

Final Passage in the House: June 12, 2023

<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2023&sessInd=0&billBody=H&billTyp=B&billNbr=1085&pn=1089>

House Bill 1085 would amend the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law, “providing for Indigent Defense Advisory Committee; and establishing the Indigent Defense Grant Program.”

House Bill 900 – Dignity for Incarcerated Women

Final Passage in the House: June 13, 2023

<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2023&sessInd=0&billBody=H&billTyp=B&billNbr=0900&pn=0959>

House Bill 900 would amend Title 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes, in general administration, “further providing for State recording system for application of restraints to pregnant prisoners or detainees; in county correctional institutions, for county recording system for application of restraints to pregnant prisoners or detainees; providing for Department of Human Services facilities; and,... 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 feminine hygiene and incontinence products and for postpartum recovery.”

House Bill 1296 – Fitzgerald’s Law – Protecting Our Law Enforcement Officers

Final Passage in the House: June 29, 2023

<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2023&sessInd=0&billBody=H&billTyp=B&billNbr=1296&pn=1416>

House Bill 1296 would amend Title 44 (Law and Justice) of the Pennsylvania Consolidated Statutes, ‘in other officers and officials, providing for law enforcement practices and policy; conferring powers and imposing duties on the Attorney General.’

Updates from the Courts

US Supreme Court

SMITH V. UNITED STATES

FILED: June 15, 2023

https://www.supremecourt.gov/opinions/22pdf/21-1576_e29g.pdf

“Except as prohibited by the Double Jeopardy Clause, it “has long been the rule that when a defendant obtains a reversal of a prior, unsatisfied conviction, he may be retried in the normal course of events.” United States v. Ewell, 383 U. S. 116, 121 (1966); accord, Bravo-Fernandez v. United States, 580 U. S. 5, 18–19 (2016). Remedies for constitutional violations in criminal trials, we have explained, “should be tailored to the injury suffered from the constitutional violation and should not unnecessarily infringe on competing interests.” United States v. Morrison, 449 U. S. 361, 364 (1981). When a conviction is obtained in a proceeding marred by harmful trial error, “the accused has a strong interest in obtaining a fair readjudication of his guilt,” and society “maintains a valid concern for [e]nsuring that the guilty are punished.” Burks v. United States, 437 U. S. 1, 15 (1978). Therefore, the appropriate remedy for prejudicial trial error, in almost all circumstances, is simply the award of a retrial, not a judgment barring reprosecution.”

LORA V. UNITED STATES

FILED: June 16, 2023

https://www.supremecourt.gov/opinions/22pdf/22-49_d18e.pdf

“The Court of Appeals affirmed, adhering to its precedent barring §924(j) sentences from running concurrently with other sentences. That decision reinforced a conflict among the Courts of Appeals over whether §924(c)(1)(D)(ii)’s concurrent-sentence bar governs §924(j) sentences.¹ We granted certiorari to resolve the conflict.”

JONES V. HENDRIX

FILED: June 22, 2023

https://www.supremecourt.gov/opinions/22pdf/21-857_4357.pdf

“We hold that §2255(e)’s saving clause does not permit a prisoner asserting an intervening change in statutory interpretation to circumvent AEDPA’s restrictions on second or successive §2255 motions by filing a §2241 petition. We begin by considering the role of the saving clause in §2255 prior to AEDPA’s enactment. We then consider the impact of AEDPA on the statutory scheme.”

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PUGIN V. GARLAND

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https://www.supremecourt.gov/opinions/22pdf/22-23_d18e.pdf

“Federal law provides that noncitizens convicted of an “aggravated felony” are removable from the United States. The definition of “aggravated felony” includes federal or state offenses “relating to obstruction of justice.” 8 U. S. C. §1101(a)(43)(S). The question here is whether an offense “relat[es] to obstruction of justice” under §1101(a)(43)(S) even if the offense does not require that an investigation or proceeding be pending. That question arises because some obstruction offenses can occur when an investigation or proceeding is not pending, such as threatening a witness to prevent the witness from reporting a crime to the police. We conclude that an offense may “relat[e] to obstruction of justice” under §1101(a)(43)(S) even if the offense does not require that an investigation or proceeding be pending.”

SAMIA V. UNITED STATES

FILED: June 22, 2023

https://www.supremecourt.gov/opinions/22pdf/22-196_p8k0.pdf

“The Confrontation Clause was not violated by the admission of a nontestifying codefendant’s confession that did not directly inculcate the defendant and was subject to a proper limiting instruction.”

PA Supreme Court

COMMONWEALTH OF PENNSYLVANIA V. RIVERA

FILED: June 21, 2023

<https://www.pacourts.us/assets/opinions/Supreme/out/J-78-2022mo%20-%20105576229228342109.pdf?cb=1>

“A ‘mere reference to pre-arrest silence does not constitute reversible error where the prosecution does not exploit the defendant’s silence as a tacit admission of guilt.’ The prosecutor’s questions, the opinion reasoned, did not violate this rule because they only contextualized the detective’s pre-trial investigation for the jury; in particular, they helped to explain why law enforcement sought the defendant’s DNA. But it was a ‘close case,’ the opinion admitted, especially because the second question brought up the defendant’s “refusal to speak to the detectives despite being aware that they were law enforcement personnel.” Thus, the opinion “caution[ed] prosecutors to tread carefully when referencing a defendant’s refusal to speak to officers, limiting such reference to the description of the investigation or other relevant purpose.” Finding no error, the opinion did not reach the question of harmlessness.”

Concurring and Dissenting Opinion by Justice Mundy:

<https://www.pacourts.us/assets/opinions/Supreme/out/J-78-2022cdo%20-%20105576229228342604.pdf?cb=1>

PA Superior Court

(Reporting only cases with precedential value)

COMMONWEALTH OF PENNSYLVANIA V. JETER

FILED: June 7, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-A22008-22o%20-%2010556262227017066.pdf?cb=1>

“Once the existence of a potentially prejudicial extraneous influence has been established by competent testimony, the trial judge must assess the prejudicial effect of such influence. Because a trial judge is precluded from considering evidence concerning the subjective impact of an extraneous influence on any juror, it has been widely recognized that the test for determining the prejudicial effect of an extraneous influence is an objective one. In order to determine whether an extraneous influence is prejudicial, a trial judge must determine how an objective, typical juror would be affected by such an influence. In addition, cases from other jurisdictions which have considered the prejudicial effect of an extraneous influence, make clear that prejudice is to be determined in light of the facts and circumstances in each case. Where the precise extraneous matter is known but direct evidence as to its effect on the deliberations is not permitted, a sound balance is struck by a rule which looks to the probability of prejudice from the face of the extraneous matter in relation to the circumstances of the particular case.”

COMMONWEALTH OF PENNSYLVANIA V. DAHL

FILED: June 12, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-A29016-22o%20-%20105566997227451409.pdf?cb=1>

“In the context of a criminal case, restitution may be imposed either as a direct sentence, 18 Pa.C.S. § 1106(a), or as a condition of probation, 42 Pa.C.S. § [9763]. When imposed as a sentence, the injury to property or person for which restitution is ordered must directly result from the crime. However, when restitution is ordered as a condition of probation, the sentencing court is accorded the latitude to fashion probationary conditions designed to rehabilitate the defendant and provide some measure of redress to the victim.

As [the Pennsylvania Supreme Court] stated in *Harner*: Such sentences [of ordering restitution as a condition of probation] are encouraged and give the trial court the flexibility to determine all the direct and indirect damages caused by a defendant and then permit the court to order restitution so that the defendant will understand the egregiousness of his conduct, be deterred from repeating this conduct, and be encouraged to live in a responsible way.”

COMMONWEALTH OF PENNSYLVANIA V. JAMES

FILED: June 12, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-A01030-23o%20-%20105567229227473628.pdf?cb=1>

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“A conviction for simple possession should merge with a conviction for PWID for sentencing purposes when “both charges stemmed from the same act of possession.” Commonwealth v. Knupp, 290 A.3d 759, 777 (Pa. Super. 2023) (quoting Commonwealth v. Murphy, 592 A.2d 750, 753 (Pa. Super. 1991)).”

COMMONWEALTH OF PENNSYLVANIA V. BOYD

FILED: June 13, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-S13044-23o%20-%20105568750227631900.pdf?cb=1>

“Viewing the totality of the circumstances, we agree with the trial court that the officers had probable cause to conduct the search given the peculiar location of the car where vehicles do not typically park, the time frame that the vehicle was idle in the high crime area, the fact that the vehicle had a license plate registered to another vehicle, the odor of marijuana, Appellant's dishonesty, and his combative behavior. As a result, we conclude the trial court did not err in denying Appellant's suppression motion.”

COMMONWEALTH OF PENNSYLVANIA V. ROSS

FILED: June 20, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-A28017-22o%20-%20105575465228282964.pdf?cb=1>

“The traffic stop terminated once the officers investigated [Ross’s] inoperable center brake light, [and] determined that he had no outstanding warrants.... The officers’ further questioning as to whether [Ross] had a weapon went beyond the scope of the initial motor vehicle code investigation. The court’s findings are supported by the record as Officer Kotchi stated [Ross] did not present as a threat to the officers' safety, ... and “entered into a new series of questions” only after learning [Ross’s] license to carry a firearm was revoked.”

COMMONWEALTH OF PENNSYLVANIA V. GINDAW

FILED: June 23, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-S38010-22o%20-%20105580678228730215.pdf?cb=1>

“The suppression court did not err in finding the public servant exception applied: the trooper had specific, objective, and articulable facts that suggested Gindraw was in need of assistance, the trooper’s caretaking action was independent of the investigation of crime, and the level of intrusion was commensurate with the perceived need for assistance. Because the suppression court’s findings of fact have record support and the court did not commit an error of law, the court properly denied Gindraw’s suppression motion. Accordingly, we affirm the order denying suppression of evidence of evidence following Trooper Sentak’s investigative detention of Gindraw.”

COMMONWEALTH OF PENNSYLVANIA V. GRINDAW

FILED: June 23, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-E01002-23o%20-%20105588870229935344.pdf?cb=1>

“In sum, we conclude that under the plain language and meaning of Subsection 3301(a)(1)(i), within the arson endangering persons statute, the unit of prosecution is the intentional starting of a fire which recklessly places another person in danger of death or bodily injury. See 18 Pa.C.S. § 3301(a)(1)(i). Accordingly, a defendant may be convicted of and sentenced separately on multiple counts if one act of arson causes more than one person to be in danger of death or bodily injury. Applying this holding to the case sub judice, we affirm the separate sentences imposed on each of Appellant’s four arson endangering persons convictions, and hold they are not illegal.”

Dissenting Opinion by Justice Lazarus:

<https://www.pacourts.us/assets/opinions/Superior/out/j-e01002-23do.pdf?cb=2>

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