




7-2023

## Criminal Justice Update - July 2023

Michael Klatt  
Gettysburg College, klatmi01@gettysburg.edu

Follow this and additional works at: <https://cupola.gettysburg.edu/cjupdates>

 Part of the [Criminology and Criminal Justice Commons](#), and the [Public Affairs, Public Policy and Public Administration Commons](#)

**Share feedback about the accessibility of this item.**

---

### Recommended Citation

Klatt, Michael, "Criminal Justice Update - July 2023" (2023). *Criminal Justice Updates*. 35.  
<https://cupola.gettysburg.edu/cjupdates/35>

This is the author's version of the work. This publication appears in Gettysburg College's institutional repository by permission of the copyright owner for personal use, not for redistribution. Cupola permanent link:  
<https://cupola.gettysburg.edu/cjupdates/35>

This open access newsletter is brought to you by The Cupola: Scholarship at Gettysburg College. It has been accepted for inclusion by an authorized administrator of The Cupola. For more information, please contact [cupola@gettysburg.edu](mailto:cupola@gettysburg.edu).

---

## Criminal Justice Update - July 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 (no updates this month)
  - PA Supreme Court (no updates this month)
  - 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.



July 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  
klatmi01@gettysburg.edu**

## Updates from PA Governor's Office

*\*No new updates this month*

## Updates from the PA Legislature

### **Criminal Law & Procedure**

#### **House Bill 841 – Expunging and Limiting Juvenile DNA Data**

**Final Passage in the House: July 6, 2023**

House Bill 841 would amend Title 44 (Law and Justice) of the Pennsylvania Consolidated Statutes, “in DNA data and testing, further providing for policy, for definitions, for DNA sample required upon conviction, delinquency adjudication, and certain ARD cases, for collection from persons accepted from other jurisdictions, for expungement and for mandatory cost.”

<https://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2023&sessInd=0&billBody=H&billTyp=B&billNbr=0841&pn=1801>

## Updates from the Courts

### US Supreme Court

*\*No new updates this month*

### PA Supreme Court

*\*No new updates this month*

#### **Contact Information:**

Telephone: (724) 216-3013

Email: [klatmi01@gettysburg.edu](mailto:klatmi01@gettysburg.edu)

## PA Superior Court

*(Reporting only cases with precedential value)*

### **COMMONWEALTH OF PENNSYLVANIA V. STROUD**

**FILED: July 10, 2023**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S15014-23o%20-%20105596460231032166.pdf?cb=1>

“In sum, without the trial court’s opinion, the plea transcript, or the post-sentence motion, we lack a complete record and, as a result, cannot conduct our Anders review. See McBride, supra at 758 (finding that) ‘[t]his Court cannot meaningfully review claims raised on appeal unless we are provided with a full and complete certified record’ and that ‘absent the proper filing of any statement of record by counsel, this Court cannot properly consider counsel’s request to withdraw.’”

### **COMMONWEALTH OF PENNSYLVANIA V. RONDON**

**FILED: July 10, 2023**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S15015-23o%20-%20105598229231182559.pdf?cb=1>

“Based upon the foregoing, we hold that the trial court did not err in finding that the written consent required by § 5747.1(b) was not triggered by the September order, which was entered as a result of court error. Since the trial court was not required to obtain the written consent of Surety before reinstating the defendant’s bail in October 2020, we affirm the order denying Surety’s petition to strike and/or set aside bail forfeiture and exonerate surety.”

### **COMMONWEALTH OF PENNSYLVANIA V. CORSON**

**FILED: July 11, 2023**

<https://www.pacourts.us/assets/opinions/Superior/out/J-A13005-23o%20-%20105598257231186774.pdf?cb=1>

“Even when a trial court’s decision was not legally erroneous at the time it was made, a criminal defendant has the right to benefit from a change in the law on appeal when he has preserved the issue for review. See, e.g., Commonwealth v. Ardestani, 736 A.2d 552, 556 (Pa. 1999) (plurality) (holding that a decision issued during the pendency of the defendant’s direct appeal overruling the trial court’s basis for denying the defendant’s pretrial motion applied to require reversal and remand for a new trial); Commonwealth v. Chaney, 350 A.2d 829, 830 (Pa. 1975) (same). Therefore, we agree that Appellant is entitled to relief where the overruling of Chichkin wholly undermined the basis of the trial court’s conclusion that the DA’s blanket policy was a fair exercise of his discretion.”

### **COMMONWEALTH OF PENNSYLVANIA V. GREEN**

**FILED: July 11, 2023**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S18038-23o%20-%20105597747231142445.pdf?cb=1>

“In contrast, in this case, officers discovered Appellant’s vehicle, which they suspected had been abandoned, was parked in an area known for previous narcotics sales, contained drug paraphernalia in plain view, exhibited an odor of marijuana, and was occupied by an individual suspected to be in possession of a firearm.

As such, the suppression court did not err in finding the officers had reasonable suspicion to justify an investigative detention based on the totality of the circumstances that suggested that Appellant was in possession of illegal narcotics and a firearm in a vehicle that was not legally inspected.”

#### **COMMONWEALTH OF PENNSYLVANIA V. ASBURY**

**FILED: July 12, 2023**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S17005-23o%20-%20105599447231330065.pdf?cb=1>

“We note that since J.B., our Supreme Court held in *Commonwealth v. Butler*, 226 A.3d 972 (Pa. 2020) (“Butler II”), that the registration requirements of Subchapter H applicable to SVPs do not constitute punishment. Notably, in enacting SORNA II, the General Assembly expressed its intention and declaration of policy as “a means of assuring public protection and shall not be construed as punitive.” 42 Pa.C.S.A. § 9799.11(b)(2). Thus, Asbury’s argument that registration constitutes cruel and unusual punishment is meritless. Cf. *Commonwealth v. Cotto*, 753 A.2d 217, 223 (Pa. 2000) (“[T]he special treatment provided to criminal offenders by the Juvenile Act is not a constitutional requirement. It is a statutory creation.”)

#### **COMMONWEALTH OF PENNSYLVANIA V. MYERS**

**FILED: July 20, 2023**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S22022-23o%20-%20105609544232237388.pdf?cb=1>

“We affirm the order of dismissal for two reasons. First, we agree with the PCRA court that no causal connection exists between Judge Pozonsky’s misconduct and Appellant’s guilty plea or sentence. We recognize that a merits-based analysis is inappropriate at this stage. See *Commonwealth v. Bennett*, 930 A.2d 1264, 1271 (Pa. 2007); see also *Commonwealth v. Cox*, 146 A.3d 221, 227 (Pa. 2016). However, ‘[r]ecognizing the nature of the underlying claim—as distinguished from assessing its merits—is necessary to determine whether Appellant acted with due diligence in unearthing the newly-discovered facts.’ *Robinson*, at 1062.”

#### **COMMONWEALTH OF PENNSYLVANIA V. AGNEW**

**FILED: July 21, 2023**

<https://www.pacourts.us/assets/opinions/Superior/out/J-S22035-23o%20-%20105610918233126953.pdf?cb=1>

“Because the texts were admitted, not for their truth, but to explain Sergeant Moser’s course of conduct, Agnew’s claim of a Confrontation Clause violation would merit no relief. See *Dargan*, 897 A.2d at 500 (holding that evidence offered to explain course of conduct is not excluded by hearsay rule nor barred by Confrontation Clause). Consequently, Agnew cannot establish actual prejudice resulting from prior counsel’s failure to seek the addition of this issue to Agnew’s concise statement.”

#### **Contact Information:**

Telephone: (724) 216-3013

Email: [klatmi01@gettysburg.edu](mailto:klatmi01@gettysburg.edu)

## COMMONWEALTH OF PENNSYLVANIA V. DOVE

FILED: July 25, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-A09021-23o%20-%20105614543233515173.pdf?cb=1>

“Generally, an issue that is raised for the first time on appeal is waived, and this Court cannot review the issue on appeal. See Pa.R.A.P. 302(a) (stating, as a general rule, “[i]ssues not raised in the trial court are waived and cannot be raised for the first time on appeal”). Recently, our Supreme Court held that constitutional challenges to SORNA – Subchapter H implicate the legality of a sentence and cannot be waived on the basis that such claims were raised for the first time on appeal. *Thorne*, 276 A.3d at 1198. Because Appellant’s constitutional challenges were presented for the first time on appeal, however, there is no factual record before us. Therefore, in consonance with *Thorne*, *supra*, we remand this case for further development of the record related to Appellant’s challenge to the constitutionality of SORNA – Subchapter H.”

## COMMONWEALTH OF PENNSYLVANIA V. FADDIS

FILED: July 25, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-A14018-23o%20-%20105614593233520042.pdf?cb=1>

“We agree with the trial court that Appellant’s January 2021 Probation Sentence remained intact, regardless of whether the court referenced that sentence in the December 2021 Sentencing Order. Indeed, the court correctly recognized that the January 2021 Probation Sentence was not before the court in December 2021, given that under *Simmons*, Appellant could not have violated the consecutive probationary sentence that she had yet to begin serving. *Tr. Ct. Op.*, 12/9/22, at 3. Appellant fails to cite any other indication in the record of the court’s intent to terminate the January 2021 Probation Sentence. Accordingly, we agree that the January 2021 Probation Sentence continued to bind Appellant and that the court had jurisdiction to adjudicate her violation of it.”

## COMMONWEALTH OF PENNSYLVANIA V. KUHLMAN

FILED: July 25, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-S14028-23o%20-%20105617426233794713.pdf?cb=1>

“Appellant’s arguments are waived. He does not cite to where he objected to P.O. Sturgeon’s at-issue, suppression-hearing testimony, and/or raised his prosecutorial-misconduct claim before the trial court. See Pa.R.A.P. 302(a) (‘Issues not raised in the lower court are waived and cannot be raised for the first time on appeal.’). Moreover, Appellant cannot now argue that the trial court erred in relying on P.O. Sturgeon’s testimony in denying his motion to suppress where no objection to that evidence was lodged. Accordingly, Appellant’s second and third issues are waived and/or meritless.”

## COMMONWEALTH OF PENNSYLVANIA V. GARNER

FILED: July 27, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-A13024-23o%20-%20105617657233817379.pdf?cb=1>

“We conclude that even though Garner was charged with committing two different second-degree misdemeanors, he was convicted of five offenses for purposes of the limited access statute. 13 Commonwealth v. Frisbie, 485 A.2d 1098, 1099 (Pa. 1984) (‘a single act [that] injures multiple victims may form the basis for multiple sentences without violating double jeopardy’).”

## COMMONWEALTH OF PENNSYLVANIA V. WHITMIRE

FILED: July 28, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-S22044-23o%20-%20105618715233923821.pdf?cb=1>

“Again, our review reveals that the trial court’s reasoning is supported by the record and the law, and we agree with its conclusion. See *id.* The record belies Appellant’s claim that ‘PSP employed a method of persuasion and induced him to appear at the [b]arracks.’ Appellant’s Brief at 32. We are also persuaded by the Commonwealth’s argument. Commonwealth Brief at 20; see also *id.* at 21 (correctly noting, “Trooper Dahlstrom clarified at trial that he did not give [Appellant] any explicit instruction on how to get to the barracks.” (citing N.T., 7/8/22, at 28-29, 32-33)). The PSP did ‘no more than [to] afford [A]ppellant an opportunity to commit an illegal act.’ *Marion*, 981 A.2d at 239 (‘Where police do no more than afford appellant an opportunity to commit an illegal act, their actions are not considered sufficiently outrageous police conduct to support an entrapment defense.’ (citations omitted)); see also Pa. SSJI (Crim.) 8.313 (‘A defendant is not entrapped merely because the police gave him or her an opportunity to commit a crime or merely because the police outwitted him or her.’). For these reasons, Appellant’s third issue does not merit relief.”

## COMMONWEALTH OF PENNSYLVANIA V. GOODIS

FILED: July 28, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-A06037-22o%20-%20105618834233936281.pdf?cb=1>

“Because the record establishes that the police did not announce their purpose before they entered Appellant’s house and the Commonwealth did not prove that the police had any reason to believe that announcement of their purpose prior to entry would imperil their safety, the search of Appellant’s house violated Appellant’s rights under Article I, Section 8 of the Pennsylvania Constitution. The trial court’s denial of Appellant’s motion to suppress the NAS and other items seized from his house in that search and evidence derived from the NAS was therefore error. “[T]he remedy for noncompliance with the knock and announce rule is always suppression.” *Crompton*, 682 A.2d at 290; *Frederick*, 124 A.3d at 755 (quoting *Crompton*) (emphasis omitted).”

### Concurring Opinion by Justice Sullivan:

<https://www.pacourts.us/assets/opinions/Superior/out/J-A06037-22co%20-%20105618834233936377.pdf?cb=1>

### Contact Information:

Telephone: (724) 216-3013

Email: [klatmi01@gettysburg.edu](mailto:klatmi01@gettysburg.edu)