




8-2023

## Criminal Justice Update - August 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 - August 2023" (2023). *Criminal Justice Updates*. 36.  
<https://cupola.gettysburg.edu/cjupdates/36>

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/36>

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 - August 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 (no updates this month)
- Updates from the Courts
  - U.S. Supreme Court (no updates this month)
  - 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.



August 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

*\*No new updates this month*

## Updates from the Courts

### US Supreme Court

*\*No new updates this month*

### PA Supreme Court

**PENNSYLVANIA STATE POLICE V. AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA**

**FILED: August 22, 2023**

<https://www.pacourts.us/assets/opinions/Supreme/out/J-3-2023do%20-%20105643365236258990.pdf?cb=1>

"The RTKL establishes that agencies bear the burden of proving that an exception to the disclosure rule applies. As the Commonwealth Court recognized, PSP has not carried that burden.<sup>72</sup> Nothing remains, then, but for the panel below to order that PSP provide ACLU with an unredacted copy of AR 6-9. We must, and we do, bring this six year quest for transparency to an end."

**JUSTICES MUNDY AND BROBSON'S DISSENTING OPINION:**

<https://www.pacourts.us/assets/opinions/Supreme/out/J-3-2023do%20-%20105643365236258990.pdf?cb=1>

**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. WILLIAMS

FILED: August 4, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-S15019-23o%20-%20105626813234645602.pdf?cb=1>

“A fact resulting in an increased sentencing guideline range, such as the defendant’s use of a deadly weapon, need not be submitted to the factfinder and proven beyond a reasonable doubt. *Commonwealth v. Buterbaugh*, 91 A.3d 1247, 1270 n.10 (Pa. Super. 2014) (en banc), appeal denied, 104 A.3d 1 (Pa. 2014). Here, the weight of the fentanyl enhanced the sentencing guideline range; it did not change the statutory maximum or trigger a mandatory minimum. And the trial court retained discretion to impose a minimum sentence below, within, or above the guideline range. Appellant’s reliance on *Apprendi* and *Alleyne* is misplaced.”

### COMMONWEALTH OF PENNSYLVANIA V. SMITH

FILED: August 7, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-S15019-23o%20-%20105626813234645602.pdf?cb=1>

“Smith’s argument fails, most notably because it fails to take into account the explicit language of Section 4503’s definition of ‘eligible person.’ As noted above, in order to be eligible for the RRR program, an individual must meet all of the eligibility requirements listed. Those requirements include being an individual who has not demonstrated a history of violent behavior. However, in addition, the eligibility requirements also include being an individual who has not been previously convicted of any of the disqualifying offenses enumerated in Section 4503. Here, Smith was convicted of terroristic threats, a crime under Chapter 27, which is one of the disqualifying offenses. As such, under the explicit definition of ‘eligible person,’ Smith was ineligible for the program, irrespective of whether or not he has demonstrated a history of violent behavior.”

### COMMONWEALTH OF PENNSYLVANIA V. MABUS

FILED: August 7, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-A13037-23o%20-%20105628649234804988.pdf?cb=1>

“We conclude the trial court did not abuse its discretion in holding the lack of uncertainty and confidence intervals did not create unfair prejudice or mislead the fact finder so as to require exclusion under Pa.R.E. 403. Accordingly, we find Appellant is not entitled to relief.”

## COMMONWEALTH OF PENNSYLVANIA V. GANJEH

FILED: August 15, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-S08011-23o%20-%20105633057235238753.pdf?cb=1>

“A motion for change of counsel by a defendant for whom counsel has been appointed shall not be granted except for substantial reasons.” Pa.R.Crim.P. 122(C). “To satisfy this standard, a defendant must demonstrate that he has an irreconcilable difference with counsel that precludes counsel from representing him.” Commonwealth v. Spotz, 756 A.2d 1139, 1150 (Pa. 2000) (citation omitted), cert. denied, 532 U.S. 932 (2001). We have held that a strained relationship with counsel, a difference of opinion in trial strategy, a lack of confidence in counsel’s ability, or brevity of pretrial communications do not necessarily establish irreconcilable differences. See Commonwealth v. Floyd, 937 A.2d 494, 497-498, 500 (Pa.Super. 2007). Ultimately, “[t]he decision of whether to appoint new counsel lies within the sound discretion of the trial court.” Spotz, 756 A.2d at 1150 (citation omitted).”

## COMMONWEALTH OF PENNSYLVANIA V. GILLINS

FILED: August 18, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-A03014-23o%20-%20105641612236093036.pdf?cb=1>

“Although it is settled that the trial court had no authority to order Appellant’s federal sentences to run concurrently with Appellant’s state sentences, Appellant has presented federal statutory and decisional law, discussed supra, showing that federal inmates may receive federal credit towards the service of a term of imprisonment for detention that has not been credited against another sentence. Vacatur of Appellant’s 20-year sentence while keeping intact his underlying state convictions, would serve the dual purpose of providing Appellant an opportunity to receive federal credit for his state time and otherwise retaining Appellant’s record of conviction. In this way, the Commonwealth’s plea agreement with Appellant, as accepted by the trial court, may be effectuated to provide the benefit of the bargain struck between the parties.”

## COMMONWEALTH OF PENNSYLVANIA V. FORTUNE

FILED: August 29, 2023

<https://www.pacourts.us/assets/opinions/Superior/out/J-S18041-23o%20-%20105652599237146099.pdf?cb=1>

“In this case, the trial court was correct in finding that Appellant’s disagreement with his public defender as to trial strategy was not a conflict of interest. Further, we agree with the trial court’s assessment that, given Appellant’s mental health issues, Appellant’s disagreement with his counsel would likely not have been resolved by an assignment of new counsel from a different office. Thus, Appellant is not entitled to relief on this claim.”

### Contact Information:

Telephone: (724) 216-3013

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