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Criminal Justice Update - October 2023

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Criminal Justice Update - October 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: Criminal Law and Procedure
- Updates from the Courts
 - U.S. Supreme Court (no updates this month)
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 - PA Superior Court

Keywords

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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

October 2023



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

Comments or questions?
Contact Delaney Rabenold at rabede01@gettysburg.edu

Updates from PA Governor's Office

***No new updates this month**

Updates from PA Legislature

Criminal Law and Procedure

House Bill 1278

Last Action: October 19, 2023

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in wiretapping and electronic surveillance, further providing for definitions and for exceptions to prohibition of interception and disclosure of communications, providing for public access and for Department of Corrections retention policy and further providing for expiration of chapter.

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2023&csind=0&body=H&type=B&bn=1278>

Senate Bill 842

Last Action: October 25, 2023

“An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in assault, providing for the offense of harassment of sports official”

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2023&csind=0&body=S&type=B&bn=842>

Senate Bill 235

Last Action: October 3, 2023

“An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in criminal homicide, further providing for the offense of drug delivery resulting in death; and imposing a penalty.”

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2023&csind=0&body=S&ctype=B&bn=235>

Updates from the Courts

U.S. Supreme Court

***No new updates this month**

PA Supreme Court

Commonwealth of Pennsylvania v. Michael Conforti

Filed: October 23, 2023

“In this direct capital appeal, the Commonwealth appeals the PCRA court’s grant of relief to Appellee Michael Conforti, vacating his convictions for murder of the first degree, kidnapping, rape, criminal conspiracy to commit murder, criminal conspiracy to commit rape and criminal conspiracy to commit kidnapping and his resulting death sentence. For the reasons set forth below, we affirm the PCRA court’s order vacating Conforti’s convictions”

<https://www.pacourts.us/assets/opinions/Supreme/out/J-11-2023mo%20-%20105712036243158944.pdf?cb=1>

PA Superior Court

(Reporting only cases with precedential value)

Commonwealth of Pennsylvania v. Seth Louis Hamilton

Filed: October 2, 2023

“Seth Louis Hamilton (Hamilton) appeals from the order of the Court of Common Pleas of Mercer County (PCRA court) granting in part and denying in part his petition filed pursuant to the Post-Conviction Relief Act (PCRA), 42 Pa.C.S. § 9541-9546. He argues that the PCRA court erred in finding that counsel was not ineffective. We agree, as we conclude counsel was ineffective for failing to object to the Commonwealth’s motion for joinder resulting in the admission of irrelevant evidence. We, therefore, reverse the PCRA court’s order denying relief and remand for a new trial.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-A15032-23o%20-%20105688232241064153.pdf?cb=1>

Commonwealth of Pennsylvania v. Vaughn John Felix

Filed: October 2, 2023

“Vaughn John Felix appeals from the order denying his first petition filed pursuant to the Post Conviction Relief Act (“PCRA”). See 42 Pa.C.S.A. §§ 9541-9545. Felix argues that his plea counsel’s ineffectiveness caused him to enter an involuntary guilty plea to first-degree murder, because counsel failed to inform him of the nature of the charges, the factual basis of the plea, and the nature of the death penalty proceedings. We affirm. In 2016 and 2017, Felix and co-conspirator, Gregory Lewis, Jr., robbed numerous businesses in Northampton County. Relevant to this case, during one robbery attempt, Felix shot and killed an employee of a cell phone store. The police arrested Felix and charged him in several different cases with numerous crimes.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-S23015-23o%20-%20105688144241055301.pdf?cb=1>

Commonwealth of Pennsylvania v. Robert Charles Hind

Filed: October 10, 2023

“In these two appeals,¹ the Commonwealth appeals from judgments of sentence imposed after Robert Charles Hind and Alexander Joseph Wiesenberg (collectively, Appellees) each pled guilty to driving under the influence (DUI) of alcohol—highest rate. In both appeals, the Commonwealth argues that the trial court should have treated Appellees’ prior acceptance of Accelerated Rehabilitative Disposition (ARD) for a DUI charge as a prior offense for sentencing purposes in accordance with *Commonwealth v. Richards*, 284 A.3d 214 (Pa. Super. 2022) (*Richards I*) (en banc), appeal granted, 294 A.3d 300 (Pa. 2023) (*Richards II*) (per

curiam order), and Commonwealth v. Moroz, 284 A.3d 227 (Pa. Super. 2022) (en banc). After careful review, we affirm the judgments of sentence.”

<https://www.pacourts.us/assets/opinions/Superior/out/I-S13004-23o%20-%20105696171241849564.pdf?cb=1>

Commonwealth of Pennsylvania v. Mercheleyn Shanae Fisher

Filed: October 11, 2023

“Mercheleyn Fisher appeals from the judgment of sentence entered after she was convicted of disorderly conduct and an equipment violation. 1 We affirm Fisher’s convictions but vacate her sentence and remand for resentencing. Following trial, the trial court found Fisher guilty of disorderly conduct and an equipment violation. The court sentenced Fisher to undergo three days of imprisonment, pay a fine, and “complete 24 hours of community service washing police cars at the South Williamsport Police Department.” Order, 2/13/23, at 1. It indicated that failure to complete community service could expose Fisher to prosecution for criminal contempt.”

<https://www.pacourts.us/assets/opinions/Superior/out/I-S32022-23o%20-%20105697773241987487.pdf?cb=1>

Commonwealth of Pennsylvania v. Anthony J. Banniger

Filed: September 21, 2023

“Anthony Banniger appeals from the judgment of sentence entered after he was convicted of rape by forcible compulsion, involuntary deviate sexual intercourse by forcible compulsion, 1 and other offenses committed against J.Z., a minor in his extended family. We affirm. In this case we must determine whether a conviction for a sexual offense “by forcible compulsion” can stand if the victim was unconscious when the assault began. For reasons discussed herein, we hold that evidence that a defendant had intercourse with an unconscious person, without more, is insufficient to prove forcible compulsion. Such conduct is fully proscribed in other statutory subsections. However, the person’s unconsciousness is a relevant circumstance as to whether the defendant used force while having intercourse. Further, evidence that a victim is unable to move out of fear of a defendant can be sufficient to prove forcible compulsion.”

<https://www.pacourts.us/assets/opinions/Superior/out/I-S23020-23o%20-%20105697813241990623.pdf?cb=1>

Commonwealth of Pennsylvania v. James Smith

Filed: October 11, 2023

“The Commonwealth appeals from the order entered in the Philadelphia County Court of Common Pleas denying it permission to refile criminal charges against James Smith (Appellee), an inspector in the Philadelphia Police Department, for his participation in an alleged assault that occurred while he was off duty. On appeal, the Commonwealth contends it presented sufficient evidence to establish a prima facie case that Appellee and his co-defendant committed simple assault, criminal conspiracy, and recklessly endangering another person (REAP).² For the reasons below, we affirm. The charges against Appellee arose from an incident that occurred during the late evening hours of August 18, or the early morning hours of August 19, 2020. Appellee and his co-defendant were both charged with simple assault, criminal conspiracy and REAP. A joint preliminary hearing was conducted on February 22, 2022, before Philadelphia Municipal Court Judge William Austin Meehan, Jr., where the following evidence was presented by the Commonwealth.”

<https://www.pacourts.us/assets/opinions/Superior/out/I-S16036-23o%20-%20105698078242010629.pdf?cb=1>

Commonwealth of Pennsylvania v. Harold Walker

Filed: October 13, 2023

“Appellant, Harold Walker, appeals from his judgment of sentence of 30½-61 years’ imprisonment for rape of a child and related offenses. Appellant argues that the trial court erred by asking prospective jurors during voir dire whether they could follow the principle that the testimony of the alleged victim standing alone, if believed, could constitute sufficient proof upon which to find the defendant guilty of sexual assault beyond a reasonable doubt. We conclude that this inquiry was proper, and we affirm.”

<https://www.pacourts.us/assets/opinions/Superior/out/I-S22020-23o%20-%20105700720242260230.pdf?cb=1>

Commonwealth of Pennsylvania v. Zavion Tavaris Little

Filed: October 13, 2023

Appellant, the Commonwealth of Pennsylvania, appeals¹ from the order entered in the Blair County Court of Common Pleas, which granted the motion of Appellee, Zavion Tavaris Little, for writ of habeas corpus and dismissed the charge against Appellee of conspiracy to commit robbery. We affirm. On December 22, 2022, the trial court granted Appellee’s motion for writ of habeas corpus for the charge of conspiracy to commit robbery and denied the motion with respect to the escape charge. The Commonwealth filed a timely notice of appeal

per Rule 311(d) on January 6, 2023. On January 17, 2023, the court ordered the Commonwealth to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). On February 6, 2023, the Commonwealth timely complied.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-S17042-23o%20-%20105700710242259274.pdf?cb=1>

Commonwealth of Pennsylvania v. Mach Transport, LLC

Filed: October 13, 2023

“Appellant, Mach Transport, LLC, was issued a traffic summons for driving an unregistered vehicle, 75 Pa.C.S.A. § 1301. A magisterial district justice found Appellant guilty and fined Appellant \$4,652.00, and Appellant timely appealed to the court of common pleas. On the day of trial, Appellant appeared in court through counsel. Counsel and the Commonwealth agreed that Appellant would pay a reduced fine. The trial court accepted the agreement, entered a disposition of guilty and imposed the reduced fine. Appellant now appeals to this Court and asks us to vacate its guilty plea because it was unknowing, unintelligent, and involuntary. Appellant asserts that (1) its attorney entered the guilty plea by mistake by relying on a registration for another vehicle, and (2) the registration for the correct vehicle demonstrates that it was properly registered on the date of the traffic stop. For the reasons that follow, we remand for further proceedings concerning whether Appellant is entitled to vacatur of its guilty plea”

<https://www.pacourts.us/assets/opinions/Superior/out/J-S10045-23o%20-%20105700855242270904.pdf?cb=1>

Commonwealth of Pennsylvania v. Jennifer N. Smith

Filed: October 16, 2023

“In this interlocutory appeal as of right,¹ the Commonwealth seeks to challenge the order granting Jennifer N. Smith’s suppression motion. Because it did not preserve various theories for appellate review, we affirm. On October 7, 2021, Joel Gross, an agent with the Pennsylvania Board of Probation and Parole (“the Board”) received an e-mail from a colleague, Agent Liam Sweeney. According to that e-mail, a third-party parolee, Danielle Parsons, told Agent Sweeney that she and two other women “drove to [Ms. Smith’s] house [and] bought bath salts.” N.T., 12/19/22, at 38. However, the e-mail did not include the date on which this alleged transaction occurred.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-S32021-23o%20-%20105702882242409349.pdf?cb=1>

Commonwealth of Pennsylvania v. Lastacia Marie Griffith

Filed: October 19, 2023

“I respectfully dissent. The facts as found by the trial court in this bench trial established only that Griffith was a casual, temporary possessor of Jocelyn Murphy’s iPhone. I conclude that the General Assembly, when enacting the theft of lost property statute,¹ did not intend to punish a person who temporarily controls an item. The Majority, in contrast, holds that citizens are forced to act as bailees if they happen to pick up a lost item. This holding is inconsistent with the fact that a citizen has no duty to help another absent special circumstances that are not present here. I would therefore discharge Griffith’s conviction.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-S19028-23do%20-%20105708258242875546.pdf?cb=1>

Commonwealth of Pennsylvania v. Benjamin Jordan Jenkins

Filed: October 19, 2023

“Appellant Benjamin Jordan Jenkins appeals from the judgment of sentence entered by the Court of Common Pleas of Adams County after the trial court convicted Appellant of Driving Under the Influence of a Controlled Substance (DUI). Appellant claims that the trial court erred in removing Appellant from the Accelerated Rehabilitative Disposition Program (ARD). After careful review, we affirm. At the conclusion of the review hearing, the trial court entered an order terminating Appellant’s participation in ARD as a result of the new DUI charges J-A20032-23 - 3 - filed against Appellant after he had been admitted to ARD on the instant charges. Although it was undisputed that the new charges were based on Appellant’s second DUI arrest that occurred before Appellant’s application for ARD on the instant charges, the trial court emphasized that Appellant’s failure to disclose his second DUI arrest and the possibility that he would be charged with a second DUI, made Appellant unsuitable for ARD.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-A20032-23o%20-%20105708174242866949.pdf?cb=1>

Commonwealth of Pennsylvania v. Kathryn Dana Papp

Filed: October 20, 2023

“Kathryn Dana Papp (Appellant) appeals from the judgment of sentence of a \$100 fine imposed in the Dauphin County Court of Common Pleas following her jury conviction of one count of harassment – communicates repeatedly.¹ On appeal, she argues: (1) the harassment statute is violative of the free speech protections in both the United States and Pennsylvania Constitutions on its face and as-applied; (2) the trial court erred in failing to instruct the jury regarding constitutionally protected activity under both the United States and Pennsylvania Constitutions; and (3) the evidence was insufficient to support her conviction. For the reasons below, we affirm.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-S12025-23o%20-%20105709989243002959.pdf?cb=1>

Commonwealth of Pennsylvania v. Shannon Mcknight

Filed: October 23, 2023

“The Commonwealth appeals from the trial court’s January 12, 2023 pretrial order directing that it shall provide information requested in Appellee’s, Shannon McKnight, “Request for Bill of Particulars Pursuant to Pa.R.Crim.P. 572(A)” (“Request”). After careful review, we affirm. We summarize the pertinent background of this case, as follows. On December 20, 2022, the Commonwealth filed a Bill of Information (“Information”) charging Appellee with, inter alia, two counts of first-degree murder (18 Pa.C.S. § 2501(a)) and one count of attempted murder (18 Pa.C.S. § 901(a)). The Information alleges that Appellee caused the death of a three-month-old infant, N.M., by poisoning the infant with fentanyl. The Information also alleges that Appellee attempted to murder a 16-month-old toddler, K.M., also with fentanyl.¹ On December 20, 2022, the Commonwealth filed a “Notice of Aggravating Circumstances” for purposes of seeking the death penalty.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-A18010-23o%20-%20105711359243109493.pdf?cb=1>

Commonwealth of Pennsylvania v. Michael Ramone Williams

Filed: October 24, 2023

“Michael Ramone Williams (Appellant) appeals from the judgment of sentence entered following his non-jury convictions of person not to possess a firearm, carrying a firearm without a license, and public drunkenness. After careful review, we affirm. On July 6, 2021, Appellant filed an omnibus pretrial motion seeking to suppress all physical evidence. A suppression hearing took place on September 15, 2021. At the end of the hearing, the

suppression court denied Appellant’s omnibus pretrial motion. A stipulated non-jury trial took place on March 3, 2022. On March 7, 2022, the court found Appellant guilty of the above offenses. On May 23, 2022, the trial court sentenced Appellant to an aggregate 4 – 8 years in prison, followed by 18 months of probation. The instant, timely appeal followed.”

<https://www.pacourts.us/assets/opinions/Superior/out/1-S34036-23o%20-%20105713235243241408.pdf?cb=1>

Commonwealth of Pennsylvania v. James Mario Pridgen

Filed: October 24, 2023

“James Mario Pridgen appeals pro se from the order dismissing his serial petition filed pursuant to the Post Conviction Relief Act (“PCRA”). We affirm. Appellant is serving a sentence of life imprisonment without possibility of parole for committing first-degree murder in 1992. His judgment of sentence became final in 1996 when his direct appeal garnered him no relief. See Commonwealth v. Pridgen, 181 A.3d 415, 2017 WL 5483209, at *1 (Pa.Super. 2017) (unpublished memorandum). Appellant filed his first, timely PCRA petition in 1996.1 William W. Boyd, Esquire was appointed to represent him and filed an amended petition raising three claims of ineffective assistance of trial counsel. The PCRA court denied Appellant’s petition after a hearing, and Attorney Boyd filed a notice of appeal. Thereafter, the PCRA court entered an order permitting Attorney Boyd to withdraw at Appellant’s request so that he could proceed with the appeal pro se. In that appeal, Appellant abandoned the claims litigated in the PCRA court and argued that Attorney Boyd was ineffective for failing to pursue certain other issues. We affirmed the PCRA court’s order, holding that claims of PCRA counsel’s ineffectiveness were not cognizable under the PCRA. See Commonwealth v. Pridgen, 723 A.2d 235 (Pa.Super. 1998) (unpublished memorandum at 7-8).”

<https://www.pacourts.us/assets/opinions/Superior/out/1-S27023-23o%20-%20105713746243291320.pdf?cb=1>

Commonwealth of Pennsylvania v. Tara Ann Seladones

Filed: October 24, 2023

“Tara Ann Seladones appeals from the judgment of sentence of one to eighteen months of imprisonment plus costs and restitution imposed upon her conviction for theft by unlawful taking. We vacate the sentence and remand for proceedings consistent with this opinion. By way of background, the victim in this matter, Connie Yutko, kept currency and silver coins worth approximately \$10,000 in a metal firebox in the spare bedroom of her home. In October

of 2021, after falling ill from COVID-19, Ms. Yutko was admitted to the hospital where she remained for approximately eight days. Shortly after admission, she texted Appellant and asked if Appellant would go to her house to take care of her cats. Ms. Yutko had previously hired Appellant to watch after her home and pets while on vacation. A few weeks after being discharged, Ms. Yutko realized that the firebox and all its contents were missing. She contacted the police and provided details about the box, currency, and coins to Pennsylvania State Police Trooper Steven Kase, Jr. She also informed the trooper that she suspected Appellant had taken the items, as no one else was in her home while she was at the hospital and there were no signs of forced entry. Trooper Kase then interviewed Appellant in a common area outside her apartment building. After denying any involvement in the theft numerous times, and after multiple assurances from the trooper that Ms. Yutko had no desire to press charges if the responsible person came clean, Appellant eventually confessed that she took the firebox and items therein to satisfy her gambling habit. The confession was recorded with a microphone the trooper was wearing. Trooper Kase arrested Appellant several minutes later.”

<https://www.pacourts.us/assets/opinions/Superior/out/I-A18010-23o%20-%20105711359243109493.pdf?cb=1>

Commonwealth of Pennsylvania v. Tyler Blaine Raling

Filed: October 26, 2023

“Tyler Blaine Raling (Appellant) appeals from the order denying his motion for parole, entered after the trial court’s retention of parole jurisdiction.¹ We affirm. On December 2, 2022, Appellant filed a notice of appeal. On April 26, 2023, this Court issued a rule on Appellant to show cause (RTSC) why we should not quash the appeal as untimely filed. RTSC, 4/26/23, at 2 (observing Appellant filed the notice of appeal more than 30 days after the trial court’s November 3, 2022 order, and citing Pa.R.Crim.P. 720(A)(3) (“If the defendant does not file a timely post-sentence motion, the defendant’s notice of appeal shall be filed within 30 days of imposition of sentence”)).”

<https://www.pacourts.us/assets/opinions/Superior/out/I-S34038-23o%20-%20105716360244436067.pdf?cb=1>