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Criminal Justice Update - November 2023

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Criminal Justice Update - November 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
 - PA Superior Court

Keywords

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Disciplines

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CRIMINAL JUSTICE UPDATE

A newsletter produced by the ACBF Fellow at Gettysburg College

November 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 941

Last Action: November 14, 2023

“An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in particular rights and immunities, providing for parental firearm liability for minor's negligence or willful misconduct.”

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?syear=2023&sind=0&body=H&type=B&bn=941>

House Bill 1629

Last Action: November 14, 2023

“An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in minors, providing for the offense of access to firearms by minors; and imposing penalties.”

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?sYear=2023&sInd=0&body=H&type=B&bn=1629>

Senate Bill 975

Last Action: November 14, 2023

“An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in assault, further providing for the offense of terroristic threats.”

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?sYear=2023&sInd=0&body=S&type=B&bn=975>

House Bill 1278

Last Action: November 15, 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?sYear=2023&sInd=0&body=H&type=B&bn=1278>

House Bill 1786

Last Action: November 28, 2023

“An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in bases of jurisdiction and interstate and international procedure, further providing for assistance to tribunals and litigants outside this Commonwealth with respect to service and for issuance of subpoena; in commencement of proceedings, further providing for authority of officers of another state to arrest in this Commonwealth; and, in detainers and extradition, further providing for definitions, for duty of Governor with respect to fugitives from justice and for presigned waiver of extradition.”

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?sYear=2023&sInd=0&body=H&type=B&bn=1786>

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. Erza Weitzel

Filed: November 6, 2023

“Appellant, Ezra Weitzel, appeals from the aggregate judgment of sentence of 7 years and 4 months to 17 years’ incarceration imposed on him after he was convicted by a jury of strangulation, simple assault, and terroristic threats.¹ Appellant’s appellate counsel has filed a petition to withdraw and an Anders² brief, stating that the appeal is wholly frivolous. After careful review, we grant counsel’s petition to withdraw and affirm. Appellant was arrested and charged with the above offenses for choking his 62-year-old mother (Victim) and telling her that he would kill her. On January 25, 2023, those charges were tried to a jury. Two witnesses, Victim and the police officer to whom she reported the attack, testified at trial.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-S35035-23o%20-%20105727834245432320.pdf?cb=1>

Commonwealth of Pennsylvania v. Jacquay T. Hall

Filed: November 3, 2023

“Jacquay T. Hall (Appellant) appeals from the judgment of sentence imposed following his jury conviction of fleeing or attempting to elude a police officer, accidents involving death or personal injury, accidents involving damage to an attended vehicle or property, and false reports by reporting an offense that did not occur.¹ After careful review, we affirm Appellant’s judgment of sentence. Relevant to this appeal, the facts established at the suppression hearing are not in dispute. On April 26, 2021, at around 4:00 a.m., Pittsburgh Police Officer Phillip

Szalla and his partner, Officer Zachary Swarrow, observed a 2014 Nissan Altima exceeding the speed limit in a residential area. When the officers initiated a traffic stop, the Nissan pulled to the side of the road with its brake lights engaged. However, the vehicle was not placed in “park.” As the officers exited their vehicle, the Nissan fled the scene. The officers issued a radio alert about the incident and began canvassing the area.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-A15044-23.pdf?cb=2>

Commonwealth of Pennsylvania v. Flecia Harvey

Filed: October 8, 2023

“In this case of first impression, Flecia Harvey appeals from a judgment of sentence, imposing one year probation, after the trial court convicted her of destroying a survey monument and trespass.¹ There is no evidence proving whether the stakes and flags she removed from a driveway met the statutory definition of “survey monuments or markers.” Thus, we reverse the denial of post-sentence relief and remand for resentencing on the trespass charge. Ms. Harvey and her wife, Veronica Rutherford, owned a residence on a landlocked property in Penn Hills. Their land adjoined that of Holly and Ramin Fashandi, another landlocked property. Mr. Fashandi’s parents (“Parents”) owned the land separating the landlocked properties from the public road.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-A18041-23.pdf?cb=2>

Commonwealth of Pennsylvania v. Jamal Rice

Filed: October 11, 2023

“Appellant, the Commonwealth of Pennsylvania, appeals from the order entered in the Philadelphia County Court of Common Pleas, granting the motion to suppress filed by Appellee, Jamal Rice. We reverse and remand for further proceedings. The relevant facts and procedural history of this case are as follows. The Commonwealth charged Appellee with possession of a firearm prohibited, possession of firearm with an altered manufacturer’s number, firearms not to be carried without a license, and carrying firearms on public streets in Philadelphia. ¹ Appellee filed a motion to suppress all physical evidence on March 10, 2022. ”

<https://www.pacourts.us/assets/opinions/Superior/out/J-A03035-23o%20-%20105729786245567366.pdf?cb=1>

Commonwealth of Pennsylvania v. Terry Allen Patterson

Filed: November 7, 2023

“Appellant, Terry Allen Patterson, appeals from the judgments of sentence imposed by the Court of Common Pleas of Lancaster County after it found him guilty of possessing a controlled substance with intent to deliver, knowingly possessing a controlled substance, driving under the influence (DUI), and of violating the Motor Vehicle Code prohibition against driving with a suspended license for a prior DUI. 1 The sole issue on appeal is the trial court’s ruling that the initial seizure was lawful under the public servant exception to the warrant requirement where appellant’s car partially blocked the left lane of a limited access highway. After careful review, we affirm.”

<https://www.pacourts.us/assets/opinions/Superior/out/J-S29040-23o%20-%20105729550245552617.pdf?cb=1>

Commonwealth of Pennsylvania v. Susan Krankowski

Filed: November 8, 2023

“Appellant, Susan Krankowski, appeals from the November 16, 2022 judgment of sentence of two years’ probation entered in the Snyder County Court of Common Pleas following her conviction for False Reports of Child Abuse. 1 Upon review, we affirm. On January 15, 2021, Appellant sent an email to Paul Roman, then-viceprincipal of Selinsgrove High School, and Matt Conrad, then-principal of Selinsgrove High School with the subject line “Child abuse CYS.” The email contained a link to one of Appellant’s Facebook posts. The Facebook post stated: “Brian Shambaugh is a child abuser. Brian Shambaugh under color of law misused his authority as a caseworker and without proper jurisdiction subjected my son to physical and sexual abuse of his person and giggled/laughed about it. Later, Shambaugh was elevated to supervisor at Children and Youth.” The Facebook post also contained a screenshot of the Snyder County Children and Youth Services (“the Agency”) staff directory. At the time that Appellant sent the email, Appellant’s son was a student at Selinsgrove High School. Mr. Roman and Mr. Conrad are both mandated reporters, who proceeded to make a report of suspected child abuse to the Agency pursuant to 23 Pa.C.S. § 6313 (“Childline Report”).”

<https://www.pacourts.us/assets/opinions/Superior/out/J-S39012-23o%20-%20105731321245695685.pdf?cb=1>

Commonwealth of Pennsylvania v. Justin Albert Powanda

Filed: November 9, 2023

“Appellant, Justin Albert Powanda, appeals from a probationary judgment of sentence that the Court of Common Pleas of Schuylkill County imposed after a jury found him guilty of defiant trespass and the court found him guilty of disorderly conduct.¹ He challenges the denial of his motion to dismiss the trespass charge based on the statutory defense at 18 Pa.C.S. § 3503(c)(2), that he made at the close of the Commonwealth’s case-in-chief. Upon review, we affirm. The trial court summarizes the relevant facts of the instant case as follows: On March 8, 2023, Appellant proceeded to be tried by a jury on the trespass charge and tried by the lower court on the disorderly conduct charge, and he was found guilty of both offenses. After the close of the Commonwealth’s case-in-chief during the jury trial, defense counsel unsuccessfully made an oral motion to dismiss the trespass charge based on the statutory defense at 18 Pa.C.S. § 3503(c)(2):”

<https://www.pacourts.us/assets/opinions/Superior/out/I-S35038-23o%20-%20105733568245847754.pdf?cb=1>

Commonwealth of Pennsylvania v. Raffaella Marie Spone

Filed: November 14, 2023

“This direct appeal filed by Raffaella Marie Spone follows her convictions of three counts of harassment. In addition, Spone has filed an application for post-submission communication. We affirm the appeal and deny the application for post-submission communication. Spone’s daughter was a member of a competitive cheerleading gym. Beginning in July 2020, Spone began sending anonymous text messages regarding behavior of other cheerleaders at the gym.¹ Individual text messages were initially sent on July 6, 2020 to the owner of the gym and an assistant director at the gym that included images of M.H., a student at the gym. The images were accompanied by language indicating the anonymous sender’s “concern.” The following day, the owner and his business partner met with M.H.’s mother to alert her of the situation.”

<https://www.pacourts.us/assets/opinions/Superior/out/I-S18007-23o%20-%20105737502246190476.pdf?cb=1>

Commonwealth of Pennsylvania v. William R. Dell

Filed: November 14, 2023

“William Dell appeals the Philadelphia County Court of Common Pleas’ order granting the 2022 request of the Pennsylvania Board of Probation and Parole (“PBPP”) to add three conditions to Dell’s probation, which was imposed in 2008. Dell argues on appeal that the trial court lacked a legal basis for entering this order modifying his probation. Both the trial court

and the Commonwealth agree with Dell, as do we. We therefore vacate the order, and remand for proceedings consistent with this opinion. In 2007, Dell was convicted of sexual abuse of children and related offenses after a bench trial. The trial court sentenced Dell in 2008 to five to ten years' incarceration, followed by five years of probation. The conditions of Dell's probation were that he: (1) be supervised by the Sex Offender's Unit and (2) register as a sex offender and comply with Megan's Law. See Sentencing Order, 5/23/2008, at 1-2."

<https://www.pacourts.us/assets/opinions/Superior/out/I-A14012-23o%20-%20105737081246150998.pdf?cb=1>

Commonwealth of Pennsylvania v. Larry Ray Yaw Jr.

Filed: November 21, 2023

"Appellant, Larry Ray Yaw, Jr., appeals from the September 20, 2022 order entered in the Court of Common Pleas of Lehigh County that denied his petition filed pursuant to the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S.A. §§ 9541-9546. We affirm. On March 8, 2018, a jury convicted Appellant of first-degree murder, burglary – overnight accommodation with person present, kidnapping - to facilitate a felony, and kidnapping - to inflict bodily injury or to terrorize the victim. 1 On March 9, 2018, during the penalty phase of the trial, a jury sentenced Appellant to life imprisonment for his first-degree murder conviction. On April 16, 2018, the trial court sentenced Appellant to 10 to 20 years' incarceration for his burglary – overnight accommodation with person present conviction, with the sentence set to run consecutively to the life imprisonment sentence. The trial court sentenced Appellant to 10 to 20 years' incarceration for his kidnapping – to facilitate a felony conviction, with the sentence set to run consecutively to the sentence imposed for his burglary conviction. Finally, for his conviction of kidnapping - to inflict bodily injury or to terrorize the victim, the trial court sentenced Appellant to 10 to 20 year's incarceration, with the sentence set to run concurrently to the sentence imposed for his conviction of kidnapping – to facilitate a felony. Appellant's aggregate sentence was life imprisonment to be followed by 20 to 40 years' incarceration."

<https://www.pacourts.us/assets/opinions/Superior/out/I-S31011-23o%20-%20105746596246941232.pdf?cb=1>

Commonwealth of Pennsylvania v. Stuart Harrison

Filed: November 28, 2023

"Former police officer, Stuart Harrison, faces one count of simple assault despite the Commonwealth's two attempts to terminate that prosecution. In its second attempt, which is

the subject of this interlocutory appeal by permission, the Commonwealth claimed that it could not proceed due to the death of a witness. The trial court disagreed with the Commonwealth's evidentiary analysis. Harrison and the Commonwealth¹ ask this Court to conclude that the trial court improperly credited its own view of the evidentiary question instead of deferring to the Commonwealth's judgment. The parties submit that this Court should look to *In re Ajaj*, 288 A.3d 94 (Pa. 2023), which addresses judicial review of prosecutors' declining to file private criminal complaints, for the relevant standard of review. Under that standard, the Commonwealth's petition must be granted unless its request was due to "bad faith, occurred due to fraud, or was unconstitutional." *Id.* at 97."

<https://www.pacourts.us/assets/opinions/Superior/out/J-A16020-23o%20-%20105751341247477544.pdf?cb=1>

Commonwealth of Pennsylvania v. Jose L. Velazquez Jr.

Filed: November 29, 2023

"Appellant, Jose L. Velazquez Jr., appeals from a judgment of sentence of ten to twenty years' imprisonment for burglary. Following the verdict and the dismissal and dispersal of the jury, Appellant requested that the court poll the jury. The trial court called the jurors back into the courtroom, polled them, determined that their verdict was not unanimous, and ordered a mistrial. Several weeks later, the court reversed its order on the ground that Appellant's right to poll the jury expired upon dispersal of the jury. We hold that the court properly reversed its order granting a mistrial, and we affirm. Appellant was charged with burglary and other offenses for breaking into the home of Tony Chillemi, the husband of Appellant's girlfriend, and threatening him with a gun. On March 16, 2022, after a three-day trial, the jury found Appellant guilty and acquitted him of all other offenses."

<https://www.pacourts.us/assets/opinions/Superior/out/J-A19025-23o%20-%20105753300247663874.pdf?cb=1>

Commonwealth of Pennsylvania v. Adam W. Moffitt

Filed: November 29, 2023

"Appellant, Adam Moffitt, appeals from the judgment of sentence imposed on June 27, 2022 in the Court of Common Pleas of Montgomery County following his convictions of fleeing or attempting to elude an officer,¹ resisting arrest,² and numerous summary offenses³ arising out of events that occurred on April 29, 2019. Appellant contends that the trial court erred by permitting amendment of the information charging him with fleeing and eluding; that the

evidence was insufficient to support a conviction for resisting arrest; and that the trial court erred by denying a motion to quash the summary offenses based on the statute of limitations. For the reasons stated herein, we affirm. Following a trial on March 8, 2022, a jury convicted Appellant of fleeing or attempting to elude an officer as well as resisting arrest. The trial court found Appellant guilty of the vehicle code summary offenses. On June 27, 2022, the trial court imposed an aggregate sentence of 12 to 24 months in prison, plus fines for the summary offenses.⁴ Appellant filed post-sentence motions, which the trial court denied on October 24, 2022. This timely appeal followed. Both Appellant and the trial court complied with Pa.R.A.P. 1925”

<https://www.pacourts.us/assets/opinions/Superior/out/J-A19016-23o%20-%20105753320247665470.pdf?cb=1>