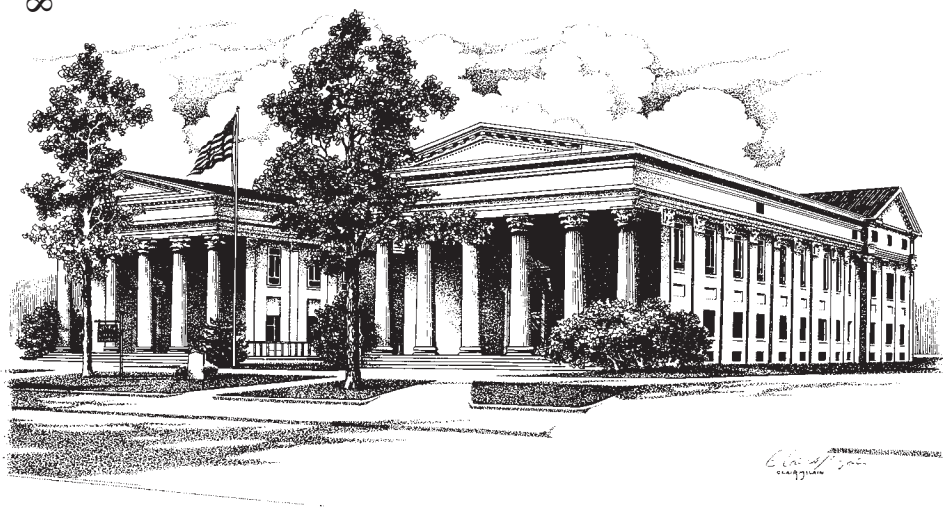


Erie  
County  
Legal  
Journal

December 21, 2018

Vol. 101 No. 51



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101 ERIE 226 - 233  
Commonwealth v. Maxon

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# Erie County Legal Journal

*Reporting Decisions of the Courts of Erie County  
The Sixth Judicial District of Pennsylvania*

Managing Editor: Megan E. Black

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# Erie County Bar Association Calendar of Events and Seminars

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**TUESDAY, DECEMBER 25, 2018**

**WEDNESDAY, DECEMBER 26, 2018**

Christmas Holiday

ECBA Office Closed

Erie County and Federal Courthouses Closed

**TUESDAY, JANUARY 1, 2019**

New Year's Day

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## COMMONWEALTH OF PENNSYLVANIA

v.

ALBERT D. MAXON, JR.

*CRIMINAL PROCEDURE / SUFFICIENCY OF EVIDENCE*

At a suppression hearing, the Commonwealth must demonstrate by a preponderance of the evidence that the challenged evidence was not obtained in violation of the defendant's rights.

*CRIMINAL PROCEDURE / ARREST*

Under current United States and Pennsylvania constitutional jurisprudence, three (3) categories of interactions between police officers and citizens exist: (1) a "mere encounter" (or request for information), which need not be supported by any level of suspicion, but carries no official compulsion to stop or to respond; (2) an "investigative detention," must be supported by reasonable suspicion; said detention subjects a suspect to a stop and a period of detention, but does not involve such coercive conditions as to constitute the functional equivalent of an arrest; and (3) an arrest or "custodial detention" must be supported by probable cause.

*CRIMINAL PROCEDURE / ARREST / REASONABLE SUSPICION*

To establish grounds for "reasonable suspicion," a police officer must articulate specific observations which, in conjunction with reasonable inferences derived from these observations, led him reasonably to conclude, in light of his experience, that criminal activity was afoot and the person he stopped was involved in that activity.

*CRIMINAL PROCEDURE / ARREST / PROBABLE CAUSE*

To determine whether probable cause exists, the court must consider whether the facts and circumstances which are within the knowledge of the officer at the time of the arrest, and of which he has reasonably trustworthy information, are sufficient to warrant a man of reasonable caution in the belief that the suspect has committed or is committing a crime.

*CRIMINAL PROCEDURE / PRE-TRIAL PROCEDURE /**PRE-TRIAL MOTIONS / HABEAS CORPUS*

"Petition for Writ of Habeas Corpus" is the proper means for testing whether the Commonwealth has sufficient evidence to establish a *prima facie* case.

*CRIMINAL PROCEDURE / PRE-TRIAL PROCEDURE /**PRE-TRIAL MOTIONS / HABEAS CORPUS*

When reviewing a Petition for Writ of *Habeas Corpus*, a trial court must view the evidence and all reasonable inferences to be drawn from the evidence in a light most favorable to the Commonwealth.

*CRIMINAL PROCEDURE / PRE-TRIAL PROCEDURE /**PRE-TRIAL MOTIONS / HABEAS CORPUS*

To demonstrate that a *prima facie* case exists, the Commonwealth must produce evidence of every material element of the charged offense(s) as well as the defendant's complicity therein.

*CRIMINAL PROCEDURE / CONTROLLED SUBSTANCE /**CONSTRUCTIVE POSSESSION*

As the contraband was not found on a defendant's person, the Commonwealth must establish Defendant's constructive possession of the items.

*CRIMINAL PROCEDURE / CONTROLLED SUBSTANCE /  
CONSTRUCTIVE POSSESSION*

In order to prove a defendant had constructive possession of a prohibited item, the Commonwealth must establish that the defendant had both the ability to consciously exercise control over it as well as the intent to exercise such control.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION  
NO. CR 3995 of 2016

Appearances: Michael E. Burns, Assistant District Attorney, on behalf of the Commonwealth  
Jason A. Checque, Esq., on behalf of Albert D. Maxon, Jr. (Defendant)

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Domitrovich, J.

July 12, 2017

After thorough consideration of the entire record regarding Defendant’s Omnibus Pre-trial Motion, including, but not limited to, the testimony and evidence presented during the June 1, 2017 Omnibus Pre-trial Motion Hearing, as well as an independent review of the relevant statutory and case law, this Trial Court hereby makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. On August 12, 2016, City of Erie Police Corporal Curtis Waite (hereafter referred to as “Corporal Waite”) received a dispatch call to the four hundred (400) block of East 3rd Street in Erie, Pennsylvania for a male and female passed out in a vehicle.
2. Upon arriving in the four hundred (400) block of East 3rd Street, Corporal Waite observed the vehicle, which was parked with the driver’s door wide open, and further observed a male seated in the driver’s seat and a female seated in the front passenger seat.
3. The male, identified as Albert D. Maxon, Jr. (hereafter referred to as “Defendant”) had a blunt in his mouth and discarded the blunt as Corporal Waite approached the vehicle.
4. When asked about the blunt by Corporal Waite, who has been involved in prior drug investigations and has experience with the packaging and sale of drugs, Defendant admitted the blunt contained marijuana and he [Defendant] had smoked the marijuana blunt earlier.
5. Defendant and the female occupant were asked to exit the vehicle, to which they complied, and were patted down for weapons and contraband, none of which were found on their persons.
6. Thereafter, Corporal Waite searched the front area of the vehicle as the back seat of the vehicle was filled with clothes and other personal belongings.
7. Corporal Waite discovered a closed black hygiene bag on the head cushion of the driver’s seat of the vehicle, where Defendant had been seated.
8. When Corporal Waite opened the black hygiene bag, he discovered one hundred (100) empty clear & yellow baggies, nine (9) baggies containing a substance suspected to be heroin, four (4) baggies containing a substance suspected to be cocaine and a digital scale.

9. Defendant admitted to Corporal Waite that everything in the black hygiene bag was his.
10. The substances in the baggies were field-tested, which indicated positive for heroin and cocaine, and were thereafter sent to the Pennsylvania State Police lab.
11. On October 19, 2016, the District Attorney's Office filed a Criminal Information, charging Defendant with two (2) counts of Possession of a Controlled Substance, in violation of 35 P.S. §780-113(a)(16); two (2) counts of Possession with Intent to Deliver, in violation of 35 P.S. §780-113(a)(30); and two (2) counts of Possession of Drug Paraphernalia, in violation of 35 P.S. §780-113(a)(32).
12. On March 24, 2017, Defendant, by and through his counsel, Jason A. Checque, Esq., filed the instant Omnibus Pre-trial Motion.
13. A hearing on Defendant's Motion to Suppress was scheduled for May 5, 2017, but was continued to June 1, 2017 at the request of the Commonwealth and with no objection from defense counsel.
14. At the June 1, 2017 Omnibus Pre-trial Motion hearing, this Trial Court heard testimony from City of Erie Police Corporal Curtis Waite and Detective Ryan Victory (hereafter referred to as "Detective Victory") and received evidence. Defendant appeared and was represented by his counsel, Jason A. Checque, Esq., and Assistant District Attorney Michael E. Burns appeared on behalf of the Commonwealth.
15. Detective Victory, who was qualified as an expert in narcotics investigations stated he reviewed the Pennsylvania State Police lab report (*see Commonwealth's Exhibit 1*), which indicated the baggies found in the black hygiene bag contained 3.09 grams of heroin and 4.66 grams of cocaine, and other police incident reports.
16. Detective Victory, based upon his review of the documents provided to him, stated his conclusion, which were also contained in his Incident Report, that Defendant was engaged in the sale of narcotics, rather than possessing narcotics for personal use. *See Commonwealth's Exhibit 2*.
17. Following this hearing, counsel agreed to submit Memoranda of Law regarding the issues presented in Defendant's Omnibus Pre-trial Motion for Relief on or before July 3, 2017. The Commonwealth, by and through ADA Michael E. Burns, submitted its Memorandum of Law on June 30, 2017. Defendant, by and through his counsel, Jason A. Checque, Esq., submitted his Memorandum of Law on July 3, 2017.

## CONCLUSIONS OF LAW

### **A. Motion for Suppression**

Pennsylvania Rule of Criminal Procedure 581 governs the suppression of evidence. Pursuant to Rule 581, the Commonwealth, not the defendant, shall have the burden of going forward with the evidence and of establishing that the challenged evidence was not obtained in violation of the defendant's rights. *See Pa. R. Crim. P. 581(h)*. The Commonwealth's burden is by a preponderance of the evidence. *Commonwealth v. Bonasorte*, 486 A.2d 1361, 1368 (Pa. Super. 1984); see also *Commonwealth v. Jury*, 636 A.2d 164, 169 (Pa. Super. 1993) (the Commonwealth's burden of proof at suppression hearing has been defined as "the burden of producing satisfactory evidence of a particular fact in issue; and ... the burden of persuading the trier of fact that the fact alleged is indeed true.").

Under current United States and Pennsylvania constitutional jurisprudence, three (3)

categories of interactions between police officers and citizens exist. The first is a “mere encounter” (or request for information), which need not be supported by any level of suspicion, but carries no official compulsion to stop or to respond. *Commonwealth v. Roberts*, 133 A.3d 759, 771 (Pa. Super. 2016). The second, an “investigative detention,” must be supported by reasonable suspicion; said detention subjects a suspect to a stop and a period of detention, but does not involve such coercive conditions as to constitute the functional equivalent of an arrest. *See id.* Finally, an arrest or “custodial detention” must be supported by probable cause. *Id.*

Corporal Waite’s contact with Defendant originated as a “mere encounter,” but was elevated to an “investigative detention,” which is supported by reasonable suspicion. To establish grounds for “reasonable suspicion,” a police officer must articulate specific observations which, in conjunction with reasonable inferences derived from these observations, led him reasonably to conclude, in light of his experience, that criminal activity was afoot and the person he stopped was involved in that activity. *See Commonwealth v. Fulton*, 921 A.2d 1239, 1243 (Pa. Super. 2007). In order to determine whether the police officer had reasonable suspicion, the totality of the circumstances must be considered, which does not limit a trial court’s inquiry to an examination of only those facts that clearly indicate criminal conduct; rather, even a combination of innocent facts, when taken together, may warrant further investigation by the police officer. *See Roberts* at 771.

Corporal Waite, who has been involved in prior drug investigations and has experience with the packaging and sale of drugs, was dispatched to the four hundred (400) block of East 3rd Street for a male and female passed out in a vehicle. Upon arriving, Corporal Waite observed the vehicle, which was parked with the driver’s door wide open, and approached the vehicle. The male, identified as Defendant, had thrown away a blunt and, after questioning from Corporal Waite, admitted the blunt contained marijuana and he [Defendant] had smoked the marijuana blunt earlier. The totality of the circumstances, including Corporal Waite’s experience in drug investigations, Corporal Waite’s observation of the blunt discarded by Defendant and Defendant’s own admission that the blunt contained marijuana supports sufficient reasonable suspicion to have detained Defendant and investigated the possibility of drug-related activity.

In the case of *Commonwealth v. Gary*, 91 A.3d 102 (Pa. 2014), the Pennsylvania Supreme Court adopted the federal automobile exception to the warrant requirement, which allows police officers to search a motor vehicle when there is probable cause to do so and does not require any exigency beyond the inherent mobility of a motor vehicle. *See id.* at 104. To determine whether probable cause exists, the court must consider whether the facts and circumstances which are within the knowledge of the officer at the time of the arrest, and of which he has reasonably trustworthy information, are sufficient to warrant a man of reasonable caution in the belief that the suspect has committed or is committing a crime. *Commonwealth v. Ibrahim*, 127 A.3d 819, 824 (Pa. Super. 2015). Furthermore, if a police officer has probable cause for a warrantless search of a vehicle for contraband, he was also permitted to search any container found therein where the contraband could be concealed. *See Commonwealth v. Runyan*, 2017 Pa. Super. 114, \*5 (Pa. Super. 2017). Again, in the instant case, Corporal Waite’s experience in drug investigations, including experience with packaging and sale of drugs, Corporal Waite’s observation of the blunt discarded by Defendant and Defendant’s



own admission that the blunt contained marijuana supports probable cause that Defendant was involved in drug-related criminal activities and gave Corporal Waite the authority to search Defendant's vehicle. During the search of the vehicle, Corporal Waite had discovered a closed black hygiene bag on the head cushion of the driver's seat of the vehicle, where Defendant had been seated. Inside the black hygiene bag, Corporal Waite had discovered numerous empty baggies, baggies containing suspected heroin and cocaine, and a digital scale.

Therefore, the totality of the circumstances, Corporal Waite's experience III drug investigations, including the packaging and sale of drugs, Corporal Waite's observation of Defendant discarding a blunt and Defendant's own admission that the blunt contained marijuana, supports reasonable suspicion to initiate an investigatory detention of Defendant and also supports probable cause to search Defendant's vehicle and any containers therein for controlled substances. Defendant's Motion for Suppression is hereby denied.

### **B. Petition for Writ of Habeas Corpus**

A pre-trial Petition for Writ of *Habeas Corpus* is the proper means for testing whether the Commonwealth has sufficient evidence to establish a *prima facie* case. *Commonwealth v. Dantzler*, 135 A.3d 1109, 1112 (Pa. Super. 2016). When reviewing a Petition for Writ of *Habeas Corpus*, a trial court must view the evidence and all reasonable inferences to be drawn from the evidence in a light most favorable to the Commonwealth. *See Commonwealth v. Santos*, 876 A.2d 360, 363 (Pa. 2005). To demonstrate that a *prima facie* case exists, the Commonwealth must produce evidence of every material element of the charged offense(s) as well as the defendant's complicity therein. *See Dantzler* at 1112. To meet its burden, the Commonwealth may utilize the evidence presented at the preliminary hearing and also may submit additional proof. *See id.*

In the instant case, as the contraband was not found on a defendant's person, the Commonwealth must establish Defendant's constructive possession of the items. *See Commonwealth v. Haskins*, 677 A.2d 328, 330 (Pa. Super. 1996). Regarding "constructive possession," the Pennsylvania Superior Court has held:

Constructive possession is a legal fiction, a pragmatic construct to deal with the realities of criminal law enforcement. Constructive possession is an inference arising from a set of facts that possession of the contraband was more likely than not. We have defined constructive possession as "conscious dominion." We subsequently defined "conscious dominion" as "the power to control the contraband and the intent to exercise that control." To aid application, we have held that constructive possession may be established by the totality of the circumstances.

*Commonwealth v. Cruz*, 21 A.3d 1247, 1253 (Pa. Super. 2011) (*citing Parker*, 847 A.2d at 750). In order to prove a defendant had constructive possession of a prohibited item, the Commonwealth must establish that the defendant had "both the ability to consciously exercise control over it as well as the intent to exercise such control." *Commonwealth v. Gutierrez*, 969 A.2d 584, 591 (Pa. Super. 2009). Intent to maintain a conscious dominion may be inferred from the totality of the circumstances, and circumstantial evidence may be used to establish a defendant's possession of drugs or contraband. *See id.*

During Corporal Waite's search of Defendant's vehicle, Corporal Waite had found a closed

black hygiene bag on the head cushion of the driver's seat of the vehicle, where Defendant had been seated. Following a search of the hygiene bag, Corporal Waite had found numerous empty baggies, baggies containing suspected heroin and cocaine, and a digital scale. After questioning from Corporal Waite, Defendant had admitted "everything in the bag was his [Defendant's]." Based upon the location of the black hygiene bag and Defendant's own voluntary admission to ownership of the black hygiene bag and its contents, this Trial Court finds and concludes the Commonwealth had produced sufficient evidence to demonstrate Defendant constructively possessed the black hygiene bag and its contents.

Furthermore, at the time of the Omnibus Pre-trial Motion hearing, the Commonwealth introduced the testimony of City of Erie Police Detective Ryan Victory, who had previously worked with the City of Erie Police Department's Vice/Narcotics Unit, as well as having experience and training in drug investigations. Detective Victory stated he had reviewed the police reports and the Pennsylvania State Police lab report regarding the illegal drugs and paraphernalia seized from Defendant's vehicle. In his Investigative Report, Detective Victory indicated: (1) eight [8] baggies contained heroin with a total weight of 3.09 grams, which amounts to thirty [30] to sixty [60] doses, and a street value of \$450-\$600, which is consistent with selling drugs, rather than personal use; (2) four [4] baggies contained cocaine with a total weight of 4.66 grams and a street value of \$400-\$500, which is consistent with selling drugs, rather than personal use; (3) Defendant did not possess items of "use" paraphernalia, such as needles, burnt spoons, possible used bags, etc.; (4) Defendant possessed a digital scale, which is commonly used by drug dealers to weigh specific amounts of heroin and is consistent with selling drugs, rather than personal use; (5) Defendant possessed over one hundred [100] unused baggies, which is consistent with selling drugs, rather than personal use; and (6) during booking and when asked if he used drugs, Defendant responded "No." See *Commonwealth's Exhibit 2*. The weights of the controlled substances are supported by the Pennsylvania State Police lab report. See *Commonwealth's Exhibit 1*. Ultimately, Detective Victory opined, based upon his review of the evidence, that Defendant's possession of these illegal drugs and paraphernalia was consistent with the sale and delivery of controlled substances, rather than personal use. See *Commonwealth's Exhibit 2*. Therefore, based upon the testimony and evidence presented, this Trial Court finds and concludes the Commonwealth has produced sufficient evidence to support the charges of Possession with Intent to Deliver, Possession of a Controlled Substance and Possession of Drug Paraphernalia. Defendant's Petition for Writ of *Habeas Corpus* is hereby denied.

For all of the foregoing reasons, this Court enters the following Order:

### **ORDER**

AND NOW, to wit, this 12th day of July, 2017, after thorough consideration of the entire record regarding Defendant's Omnibus Pre-trial Motion, including, but not limited to, the testimony and evidence presented during the June 1, 2017 Omnibus Pre-trial Motion Hearing, as well as an independent review of the relevant statutory and case law, and the Findings of Fact and Conclusions of Law, attached hereto above pursuant to Pennsylvania Rule of Criminal Procedure 581, it is hereby **ORDERED, ADJUDGED AND DECREED** that Defendant's Omnibus Pre-trial Motion is hereby **DENIED**.

**BY THE COURT**

/s/ **Stephanie Domitrovich, Judge**

## COMMONWEALTH OF PENNSYLVANIA

v.

ALBERT D. MAXON

*CRIMINAL PROCEDURE / WEIGHT AND SUFFICIENCY OF EVIDENCE*

Evidence is sufficient when viewing all evidence admitted in the light most favorable to the verdict winner, there is sufficient evidence to enable the fact finder to find every element of the crime beyond a reasonable doubt.

*CRIMINAL SENTENCING / DISCRETION*

Where a sentence is within the standard range of the guidelines, the sentence is considered appropriate under Pennsylvania law.

*CRIMINAL SENTENCING / CONTROLLED SUBSTANCE*

Any detectable amount of a controlled substance in a compound of mixture is deemed composed of the controlled substance.

*CRIMINAL SENTENCING / CONTROLLED SUBSTANCE*

Purity of controlled substances is irrelevant for sentencing purposes.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA

CRIMINAL DIVISION

DOCKET NO. 3995-2016

Appearances: Michael E. Burns, Assistant District Attorney, on behalf of the Commonwealth  
Jason A. Checque, Esq., on behalf of Albert D. Maxon, Jr. (Defendant)

**MEMORANDUM ORDER**

Mead, J.

December 4, 2017

Appellant Albert Maxon appeals from the judgment of sentence entered on October 3, 2017, following his conviction for two counts of possession (heroin and cocaine); two counts of possession with the intent to deliver (heroin and cocaine); and two counts of possession of drug paraphernalia.

Appellant has stated three reasons for his appeal.

**1. SUPPRESSION ISSUES**

Appellant claims that Judge Domitrovich erred by denying his pretrial omnibus motion to suppress evidence obtained as a result of a stop and search of his vehicle. This Court relies on the well-reasoned Opinion of Judge Domitrovich as to this matter.

**2. VERDICT AGAINST THE WEIGHT OF EVIDENCE**

Appellant argues that the verdict is against the sufficiency of the evidence because the Commonwealth

[C]annot conclusively prove beyond a reasonable doubt that all 4.66 grams of cocaine and/or all 3.09 grams of Heroin was 100% pure or 50% pure or even 1% pure, AND the Commonwealth cannot conclusively prove beyond a reasonable doubt that all of the Cocaine and/or Heroin was, in fact, Cocaine and/or Heroin and/or another substance that was not one of those two (2) illegal substances.

*Appellant's 1925(b) Statement, p. 2.*

Appellant's argument is without merit. There was sufficient evidence for the jury to reach its verdict. First, there was testimony that several bags of powder were found in Appellant's vehicle, and Appellant admitted on cross examination that the drugs found in his vehicle were his. *Trial Transcript, p. 174.* Second, the Commonwealth called David Eddinger, a forensic scientist with the Pennsylvania State Police, as an expert witness on drug identification. *Id. at 53-55.* Mr. Eddinger testified he examined a total of fourteen (14) different bags found in Appellant's vehicle. He determined nine of the bags contained heroin (weighing a total of 3.09 grams), and four of the bags contained cocaine (weighing a total of 4.66 grams.) (One bag did not contain drugs). Mr. Eddinger did not measure the percentage of the heroin or cocaine in the bags. Third, Officer Ryan Victory testified as an expert in the field of narcotic investigation and possession with intent to deliver. He opined that both the heroin and cocaine were possessed with the intent to deliver. *Id. at 120.*

Thus, the evidence presented at trial was sufficient to prove Appellant possessed the drugs with the intent to deliver. There is no requirement that the Commonwealth must prove weight or purity for, purpose of a conviction. The evidence was uncontradicted that appellant possessed nine bags containing a measurable amount of heroin, and four bags containing a measurable amount of cocaine. Since weight or purity is not an element of the crimes for which Appellant was convicted, his argument is meritless.

### **3. SENTENCING**

The Appellant argues that the Court erred by sentencing Appellant to a standard range sentence based on the 4.66 grams of cocaine and 3.09 grams of heroin, since the Commonwealth did not prove the purity of the drugs.

Appellant's argument is without merit. 204 Pa. Code §303.3(e) states: "If any mixture or compound contains any detectable amount of a controlled substance, the entire amount of the mixture or compound shall be deemed to be composed of the controlled substance."

Here, there was no evidence that contradicted the forensic scientist's testimony that the nine (9) bags possessed by Appellant all contained heroin and totaled 3.1 grams, and the other four (4) bags in his possession all contained cocaine and totaled 4.6 grams. Purity is irrelevant for sentencing purposes. Appellant was thus properly sentenced under the applicable sentencing guidelines to a standard range sentence.

Therefore, Appellant's appeal should be denied.

**BY THE COURT**

/s/ **John J. Mead, Judge**

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

v.

ALBERT D. MAXON, JR., Appellant

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 1638 WDA 2017

Appeal from the Judgment of Sentence October 3, 2017

In the Court of Common Pleas of Erie County Criminal Division at No(s):

CP-25-CR-0003995-2016

BEFORE: OLSON, J., MURRAY, J., and FORD ELLIOTT, P.J.E.

MEMORANDUM BY OLSON, J:

**FILED NOVEMBER 2, 2018**

Appellant, Albert D. Maxon, Jr., appeals from the judgment of sentence entered on October 3, 2017. We affirm.

The trial court thoroughly summarized the evidence presented at the suppression hearing:

On August [12,] 2016, City of Erie Police Corporal Curtis Waite . . . received a dispatch call to the [400 block] of East 3rd Street in Erie, Pennsylvania for a male and female passed out in a vehicle. Upon arriving in the [400 block,] . . . Corporal Waite observed the vehicle, which was parked with the driver's door wide open, and further observed a male seated in the driver's seat and a female seated in the front passenger seat. The male, identified as [Appellant,] had a [marijuana] blunt in his mouth and discarded the blunt as Corporal Waite approached the vehicle. When asked about the blunt by Corporal Waite, who has been involved in prior drug investigations and has experience with packaging and sale of drugs, [Appellant] admitted the blunt contained marijuana and he [] had smoked the marijuana blunt earlier.

[Appellant] and the female occupant were asked to exit the vehicle, to which they complied, and were patted down for weapons and contraband, none of which were found on their persons. Thereafter, Corporal Waite searched the front area of the vehicle[,] as the back seat of the vehicle was filled with clothes and other personal belongings. Corporal Waite discovered a closed black hygiene bag on the head cushion of the driver's seat of the vehicle, where [Appellant] had been seated. When Corporal Waite opened the black hygiene bag, he discovered [109] empty clear [and] yellow baggies, nine [] baggies containing a substance suspected to be heroin, four [] baggies containing a substance suspected to be cocaine[,] and a digital scale. [Appellant] admitted to Corporal Waite that everything in the black hygiene bag was his.

The substances in the baggies were field-tested, which indicated positive for heroin and cocaine, and were thereafter sent to the Pennsylvania State Police lab. . . . [The]

Pennsylvania State Police lab report [declared that] the baggies found in the black hygiene bag contained 3.09 grams of heroin and 4.66 grams of cocaine.

Trial Court Opinion, 7/12/17, at 1-3 (internal paragraphing omitted).

The Commonwealth charged Appellant with two counts each of possession of a controlled substance with the intent to deliver (PWID), possession of a controlled substance, and possession of drug paraphernalia.<sup>1</sup>

On March 24, 2017, Appellant filed a pre-trial motion, where he requested that the trial court suppress the physical evidence against him. Appellant claimed that suppression was mandated because Corporal Waite did not have probable cause to search the closed, black hygiene bag in Appellant's vehicle. Appellant's Motion to Suppress, 3/24/17, at 4-5. The trial court held a hearing on Appellant's suppression motion and, on July 12, 2017, the trial court denied the motion. Trial Court Order, 7/12/17, at 1.

Appellant proceeded to a jury trial, where the Commonwealth again presented the above-summarized evidence; at the conclusion of trial, the jury found him guilty of all charged crimes. N.T. Trial, 8/18/17, at 233. On October 3, 2017, the trial court sentenced Appellant to serve an aggregate term of 27 to 54 months in prison, followed by two years of probation, for his convictions. N.T. Sentencing, 10/3/17, at 17-18. Appellant filed a timely notice of appeal. He numbers three claims in the "statement of questions involved" section of his brief:

[1.] Whether the trial court erred in denying Appellant's omnibus pre-trial motion to suppress?

[2.] Whether the Commonwealth presented insufficient evidence to establish [Appellant's] guilt beyond a reasonable doubt of [PWID], possession of a controlled substance, and possession of drug paraphernalia?

[3.] Whether [Appellant's] sentence is manifestly excessive, clearly unreasonable and inconsistent with the objectives of the Pennsylvania Sentencing Code?

Appellant's Brief at 3 (some internal capitalization omitted).

Appellant first claims that the trial court erred when it denied his motion to suppress. Appellant's Brief at 7. "Once a motion to suppress evidence has been filed, it is the Commonwealth's burden to prove, by a preponderance of the evidence, that the challenged evidence was not obtained in violation of the defendant's rights." *Commonwealth v. Wallace*, 42 A.3d 1040, 1047-1048 (Pa. Super. 2012) (en banc); see also Pa.R.Crim.P. 581(H). With respect to an appeal from the denial of a motion to suppress, our Supreme Court has declared:

Our standard of review in addressing a challenge to a trial court's denial of a suppression motion is whether the factual findings are supported by the record and whether the legal conclusions drawn from those facts are correct. When reviewing the ruling of a

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<sup>1</sup> 35 P.S. §§ 780-113(a)(30), (16), and (32), respectively.

suppression court, we must consider only the evidence of the prosecution and so much of the evidence of the defense as remains uncontradicted when read in the context of the record .... Where the record supports the findings of the suppression court, we are bound by those facts and may reverse only if the legal conclusions drawn therefrom are in error.

*Commonwealth v. Eichinger*, 915 A.2d 1122, 1134 (Pa. 2007) (internal citations omitted). “It is within the suppression court’s sole province as factfinder to pass on the credibility of witnesses and the weight to be given their testimony.” *Commonwealth v. Gallagher*, 896 A.2d 583, 585 (Pa. Super. 2006). Moreover, our scope of review from a suppression ruling is limited to the evidentiary record that was created at the suppression hearing. *In re L.J.*, 79 A.3d 1073, 1087 (Pa. 2013).

According to Appellant, the trial court erred when it denied his suppression motion, as Corporal Waite did not have probable cause to search the closed, black hygiene bag in his vehicle. This claim fails.

“The Fourth Amendment to the [United States] Constitution and Article I, Section 8 of [the Pennsylvania] Constitution protect citizens from unreasonable searches and seizures.” *Commonwealth v. McAdoo*, 46 A.3d 781, 784 (Pa. Super. 2012). “A search conducted without a warrant is deemed to be unreasonable and therefore constitutionally impermissible, unless an established exception applies.” *Commonwealth v. Strickler*, 757 A.2d 884, 888 (Pa. 2000). One exception to the warrant requirement is a search conducted on an automobile. As we recently explained:

In [*Commonwealth v. Gary*, 91 A.3d 102 (Pa. 2014) (plurality)], the Supreme Court of Pennsylvania reinterpreted Article I, § 8 as paralleling the Fourth Amendment’s protections against warrantless searches of automobiles, because “it is desirable to maintain a single, uniform standard for a warrantless search of a motor vehicle, applicable in federal and state court, to avoid unnecessary confusion, conflict, and inconsistency in this often-litigated area.” [*Gary*, 91 A.3d at 138]. Hence, Pennsylvania now follows federal law on this issue; “where police possess probable cause to search a car, a warrantless search is permissible.” *In re I.M.S.*, 124 A.3d 311, 317 (Pa. Super. 2015).

*Commonwealth v. Davis*, 188 A.3d 454, 457-458 (Pa. Super. 2018) (internal footnote omitted).

Moreover, in *In re I.M.S.* and *Commonwealth v. Runyan*, 160 A.3d 831 (Pa. Super. 2017), we applied the United States Supreme Court’s holding in *Wyoming v. Houghton*, 526 U.S. 295 (1999) to Pennsylvania and held that, in Pennsylvania, where “there is probable cause to search for contraband in a car, it is reasonable for police officers - like customs officials in the founding era - to examine packages and containers without a showing of individualized probable cause for each one.” *In re I.M.S.*, 124 A.3d at 316, quoting *Houghton*, 526 U.S. at 302; see also *Runyan*, 160 A.3d at 837. Thus, “if [an officer] ha[s] probable cause to search the vehicle [] for contraband[, the officer is] also permitted to search any container found therein where the contraband could be concealed,” without an individualized showing of probable cause for the particular container. *Runyan*, 160 A.3d at 837.

As to the probable cause requirement, we have explained:  
The level of probable cause necessary for warrantless searches of automobiles is the same



as that required to obtain a search warrant. The well-established standard for evaluating whether probable cause exists is the “totality of the circumstances” test. This test allows for a flexible, common-sense approach to all circumstances presented. Probable cause typically exists where the facts and circumstances within the officer’s knowledge are sufficient to warrant a person of reasonable caution in the belief that an offense has been or is being committed. The evidence required to establish probable cause for a warrantless search must be more than a mere suspicion or a good faith belief on the part of the police officer.

The question we ask is not whether the officer’s belief was correct or more likely true than false. Rather, we require only a probability, and not a *prima facie* showing, of criminal activity.

*Id.* (internal quotations, citations, and emphasis omitted).

As the trial court ably explained, Corporal Waite possessed probable cause to believe that marijuana was contained within Appellant’s vehicle; therefore, Corporal Waite possessed probable cause to search the black hygiene bag inside of the vehicle:

Corporal Waite’s experience in drug investigations, including experience with packaging and sale of drugs, Corporal Waite’s observation of the blunt discarded by [Appellant,] and [Appellant’s] own admission that the blunt contained marijuana supports probable cause that [Appellant] was involved in drug-related criminal activities and gave Corporal Waite the authority to search [Appellant’s] vehicle. During the search of the vehicle, Corporal Waite [] discovered a closed black hygiene bag on the head cushion of the driver’s seat of the vehicle, where [Appellant] had been seated. Inside the black hygiene bag, Corporal Waite [] discovered numerous empty baggies, baggies containing suspected heroin and cocaine, and a digital scale.

Therefore, the totality of the circumstances, Corporal Waite’s experience in drug investigations, including the packaging and sale of drugs, Corporal Waite’s observation of [Appellant] discarding a blunt and [Appellant’s] own admission that the blunt contained marijuana, [established] ... probable cause to search [Appellant’s] vehicle and any containers therein for controlled substances.

Trial Court Opinion, 7/12/17, at 5.

We agree with the trial court’s cogent analysis. Therefore, Appellant’s challenge to the trial court’s suppression order fails. Next, Appellant claims that the evidence was insufficient to support his PWID convictions.<sup>2</sup> Appellant’s Brief at 10. We review Appellant’s sufficiency of the evidence claim under the following standard:

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<sup>2</sup> Within the “statement of questions involved” section of Appellant’s brief, Appellant declares that he is challenging the sufficiency of all of his convictions. However, the argument section of Appellant’s brief only challenges the sufficiency of his PWID convictions. *See* Appellant’s Brief at 10-11. Therefore, we will only consider Appellant’s claim that the evidence was insufficient to support his PWID convictions. *Commonwealth v. Leatherby*, 116 A.3d 73, 83 (Pa. Super. 2015) (holding that, where the appellant “fails to expand upon [a] claim in the argument section of his brief ... the claim is waived”).



The standard we apply in reviewing the sufficiency of the evidence is whether viewing all the evidence admitted at trial in the light most favorable to the verdict winner, there is sufficient evidence to enable the fact-finder to find every element of the crime beyond a reasonable doubt. In applying the above test, we may not weigh the evidence and substitute our judgment for [that of] the fact-finder. In addition, we note that the facts and circumstances established by the Commonwealth need not preclude every possibility of innocence. Any doubts regarding a defendant's guilt may be resolved by the fact-finder unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances. The Commonwealth may sustain its burden of proving every element of the crime beyond a reasonable doubt by means of wholly circumstantial evidence. Moreover, in applying the above test, the entire record must be evaluated and all evidence actually received must be considered. Finally, the trier of fact while passing upon the credibility of witnesses and the weight of the evidence produced, is free to believe all, part or none of the evidence.

*Commonwealth v. Brown*, 23 A.3d 544, 559-560 (Pa. Super. 2011) (*en banc*), quoting *Commonwealth v. Hutchinson*, 947 A.2d 800, 805-806 (Pa. Super. 2008).

“In order to uphold a conviction for possession of narcotics with the intent to deliver, the Commonwealth must prove beyond a reasonable doubt that the defendant possessed a controlled substance and did so with the intent to deliver it.” *Commonwealth v. Aguado*, 760 A.2d 1181, 1185 (Pa. Super. 2000) (*en banc*). As our Supreme Court has held, while the quantity of a controlled substance is a factor in determining whether the defendant possessed the contraband with the intent to deliver, “[t]he amount of the controlled substance is not crucial to establish an inference of possession with intent to deliver, if other facts are present.” *Commonwealth v. Ratsamy*, 934 A.2d 1233, 1237 (Pa. 2007) (internal quotations, citations, and corrections omitted). Specifically, our Supreme Court held;

if the quantity of the controlled substance is not dispositive as to the intent, the court may look to other factors. Other factors to consider when determining whether a defendant intended to deliver a controlled substance include the manner in which the controlled substance was packaged, the behavior of the defendant, the presence of drug paraphernalia, and large[] sums of cash found in possession of the defendant. The final factor to be considered is expert testimony. Expert opinion testimony is admissible concerning whether the facts surrounding the possession of controlled substances are consistent with an intent to deliver rather than with an intent to possess it for personal use.

*Id.* (internal quotations, citations, and paragraphing omitted).

Appellant claims that the evidence was insufficient to support his PWID convictions because, Appellant contends, “the Commonwealth failed to establish that the cocaine and heroin recovered from Appellant [were], in fact, cocaine and heroin.” Appellant’s Brief at 10. On appeal, Appellant acknowledges that City of Erie Police Detective Ryan Victory testified as an expert at trial that: Appellant possessed 4.66 grams of cocaine and 3.09 grams of heroin; the amounts of narcotics Appellant possessed were not consistent with personal use; Appellant possessed unused plastic bags and a digital scale, which are commonly used for dealing drugs; and, in Detective Victory’s expert opinion, Appellant possessed both the

cocaine and the heroin with the intent to deliver. *Id.* at 5 and 10-11; *see also* N.T. Trial, 8/18/17, at 111-120. Nevertheless, Appellant claims that the evidence was insufficient to support his PWID convictions because “[Detective] Victory noted that amounts of drugs are ‘cut’ with other substances in order to increase volume for sale - and[,] in this case, [Detective Victory] could not conclusively establish” the total weight of the actual narcotic substance. Appellant’s Brief at 11.

Appellant’s claim on appeal fails because the relative purity of the controlled substance is not a required element of PWID. Rather, as was already stated, to properly convict a defendant of PWID, the Commonwealth “must prove beyond a reasonable doubt that the defendant possessed a controlled substance and did so with the intent to deliver it.” *Aguado*, 760 A.2d at 1185. In this case, the evidence was sufficient to prove that Appellant possessed both heroin and cocaine. N.T. Trial, 8/18/17, at 113 and 117. Further, the totality of the circumstances (which we summarized above) are sufficient to prove that Appellant possessed both drugs with the intent to deliver. *See supra* at \*9. Appellant’s claim on appeal thus fails.

Finally, we note that the “statement of questions involved” section of Appellant’s brief lists a challenge to the discretionary aspects of Appellant’s sentence. *See* Appellant’s Brief at 3. However, the claim is not contained within the argument section of Appellant’s brief. As such, the claim is waived. *Leatherby*, 116 A.3d at 83 (holding that, where the appellant “fails to expand upon [a] claim in the argument section of his brief ... the claim is waived”).

Judgment of sentence affirmed. Jurisdiction relinquished.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq.

Prothonotary

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**CHANGE OF NAME NOTICE**

In the Court of Common Pleas of Erie County, Pennsylvania 13256-18 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Halle Elizabeth Brown to Halle Elizabeth Noonan.

The Court has fixed the 17th day of January, 2019 at 3:30 p.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Dec. 21

**CHANGE OF NAME NOTICE**

In the Court of Common Pleas of Erie County, Pennsylvania 13278-18 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Michael James Carr to Mequila LaShay Carr.

The Court has fixed the 5th day of February, 2019 at 9:00 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Dec. 21

**FICTITIOUS NAME NOTICE**

Pursuant to Act 295 of December 16, 1982 notice is hereby given of the intention to file with the Secretary of the Commonwealth of Pennsylvania a "Certificate of Carrying On or Conducting Business under an Assumed or Fictitious Name." Said Certificate contains the following information:

**FICTITIOUS NAME NOTICE**

1. Fictitious Name: Heise Rebuilding
2. Address of principal place of business, including street and number: 1291 Walbridge Road, Erie, PA 16511.

3. The real name and addresses, including street and number, of the persons who are parties to the registration: Lois A. Heise, 8240 Bernet Road, Harborcreek, Pennsylvania 16421

4. An application for registration of a fictitious name under the Fictitious Names Act was filed on November 19, 2018.

Ronald J. Susmarski, Esq.  
4036 West Lake Road  
Erie, PA 16505

Dec. 21

**FICTITIOUS NAME NOTICE**

1. Fictitious Name: Juliet's Gentlemen's Club

2. Address of the principal place of business including street number: 2022 West 8th Street, Erie, Pennsylvania 16505.

3. The real name and address, including street and number, of the person who is a party to the registration: Juliet M. Wright, 2022 West 8th Street, Erie, PA 16505.

4. An application for registration of a fictitious name under the Fictitious Names Act was filed on November 1, 2018

Dec. 21

**LEGAL NOTICE**

NOTICE OF PETITION FOR APPOINTMENT OF TRUSTEE FOR ABSENTEE IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION NO. 295 - 2018 IN RE: TIMOTHY LEE GREEN NOTICE TO TIMOTHY LEE GREEN: You are hereby notified that a Petition for Appointment of Trustee for Absentee has been filed seeking the appointment of a Trustee of the Person and Estate of Timothy Lee Green and a Citation issued to you to show cause why Laurie Lanich should not be appointed as your Trustee. A hearing will be held on Wednesday, January 9, 2019 at 9:30 am before Judge Elizabeth K. Kelly, Court Room 229-H, Erie County Court House, 140 West 6th Street, Erie PA 16501. If you wish to defend, you must enter a written appearance personally or by attorney

and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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Mary Alfieri Richmond, Esquire,  
Jones School Square - First Floor,  
150 East 8th Street, Erie PA 16501;  
(814) 455-2200. Attorney for Laurie Lanich.

Dec. 7, 14, 21, 28

**AUDIT LIST  
NOTICE BY  
KENNETH J. GAMBLE**

**Clerk of Records**

**Register of Wills and Ex-Officio Clerk of  
the Orphans' Court Division, of the**

**Court of Common Pleas of Erie County, Pennsylvania**

The following Executors, Administrators, Guardians and Trustees have filed their Accounts in the Office of the Clerk of Records, Register of Wills and Orphans' Court Division and the same will be presented to the Orphans' Court of Erie County at the Court House, City of Erie, on **Wednesday, December 12, 2018** and confirmed Nisi.

**January 23, 2019** is the last day on which Objections may be filed to any of these accounts.

Accounts in proper form and to which no Objections are filed will be audited and confirmed absolutely. A time will be fixed for auditing and taking of testimony where necessary in all other accounts.

<u>2018</u>	<u>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
417.	Donald W. Kline ..... a/k/a Donald W. Klein	Donald N. Klein, Executor.....	Darlene M. Vlahos, Esq.
418.	Marian E. Denardo ..... a/k/a Marian Edith Denardo	Anita Divecchio-Bissonnette, ..... Executrix	Kurt L. Sundberg, Esq.
419.	Robert G. Havrilla.....	David K. McMullin, Executor.....	David K. McMullin, Esq. Andrew McMullin, Esq.

KENNETH J. GAMBLE  
Clerk of Records  
Register of Wills &  
Orphans' Court Division

Dec. 21, 28

**ESTATE NOTICES**

Notice is hereby given that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same and all persons indebted to said estates are requested to make payment without delay to the executors or their attorneys named below.

**FIRST PUBLICATION****AIKENS, DORIS A., a/k/a DORIS ANN AIKENS, deceased**

Late of the Township of Harborscreek, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Jeffrey P. Aikens, c/o Quinn, Buseck, Leemhuis, Toohy & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506  
*Attorney:* Melissa L. Larese, Esq., Quinn, Buseck, Leemhuis, Toohy & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

**BARR, ROSE MARIE, a/k/a ROSE M. BARR, deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executor:* David H. Barr, c/o Eugene C. Sundberg Jr., Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Eugene C. Sundberg Jr., Esq., MARSH, SPAEDER, BAUR, SPAEDER & SCHAFF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**CALLAHAN, JAMES E., a/k/a JAMES CALLAHAN, deceased**

Late of the Township of Springfield, County of Erie, State of Pennsylvania  
*Administratrix:* Betty J. Callahan, 5250 Colby Drive, West Springfield, PA 16443  
*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**CONNER, CAROL M., a/k/a CAROL CONNER, deceased**

Late of the Township of Millcreek, County of Erie and State of Pennsylvania  
*Executor:* Clarence L. Conner, 406 California Drive, Erie, PA 16505  
*Attorney:* Ronald J. Susmarski, Esq., 4030 West Lake Road, Erie, PA 16505

**CONWAY, MICHAEL PATRICK, deceased**

Late of City of Erie  
*Administratrix:* Renae M. Conway, 2611 VanBuren Ave., Erie, PA 16504  
*Attorney:* Jeffrey D. Scibetta, Esquire, Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**FREE, MARILYN ADA, a/k/a MARILYN A. FREE, deceased**

Late of Washington Township, Erie County, Pennsylvania  
*Co-Executors:* Rita Lutz and William Free, 12410 Fry Rd., Edinboro, PA 16412  
*Attorney:* None

**FULLER, DOUGLAS S., a/k/a DOUGLAS FULLER, deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Douglas J. Fuller, c/o 3210 West 32nd Street, Erie, Pennsylvania 16506-2702  
*Attorney:* Peter W. Bailey, Esquire, 3210 West 32nd Street, Erie, Pennsylvania 16506-2702

**GORR, JAMES R., a/k/a JAMES GORR, a/k/a JAMES RICHARD GORR, deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Robin M. Semrau, c/o VLAHOS LAW FIRM, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508  
*Attorney:* Darlene M. Vlahos, Esq., Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508

**KEMLING, SALLY SUE, a/k/a SALLY S. KEMLING, deceased**

Late of Borough of Albion, Erie County, Commonwealth of Pennsylvania  
*Executrix:* Susan Shaffer, c/o 120 W. 10th Street, Erie, PA 16501  
*Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501

**PATBERG, ROLF L., deceased**

Late of Municipality of Murrysville, Westmoreland County, PA  
*Executrix:* Sharon L. Patberg, 4700 Logan Ferry Road, Murrysville, PA 15668  
*Attorney:* Mary Jo Corsetti, Esquire, One Gateway Center, 16th Floor, 420 Fort Duquesne Blvd., Pittsburgh, PA 15222  
*Please note:* If you (or your organization) were a client of Attorney Rolf L. Patberg, deceased, or have funds on deposit with Patberg, Carmody & Ging, P.C., d/b/a the Patberg Law Firm, please contact Mary Jo Corsetti, Esq., Williams Coulson, 420 Fort Duquesne Blvd., 16th Floor, Pittsburgh, PA 15222, Phone 412-454-0228

**PUGH, BEULAH MAE, a/k/a BEULAH PUGH, a/k/a BEULAH PATTERSON PUGH, deceased**

Late of the Township of Girard, County of Erie and State of Pennsylvania  
*Executor:* David John Pugh, 27 Wilcox Street, Girard, PA 16417  
*Attorney:* Ronald J. Susmarski, Esq., 4030 West Lake Road, Erie, PA 16505

**RUTKOWSKI, JAMES M.,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executor:* Richard G. Rutkowski, c/o Mary Alfieri Richmond, Esquire, 150 East 8th Street, Floor 1, Erie, PA 16501  
*Attorney:* Mary Alfieri Richmond, Esquire, 150 East 8th Street, Floor 1, Erie, PA 16501

**SCEIFORD, CHESTER L., a/k/a  
CHESTER LAFFER SCEIFORD,  
deceased**

Late of North East Township, Erie County, Commonwealth of Pennsylvania  
*Executor:* Michael R. Sceiford, c/o Thomas C. Hoffman, II, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Thomas C. Hoffman, II, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**SHREVE, JACK W., a/k/a JACK  
WILLIAM SHREVE,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Dennis P. Bort, c/o 504 State Street, 3rd Floor, Erie, PA 16501  
*Attorney:* Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

**WYGANT, MICHAEL  
ANTHONY,  
deceased**

Late of Harborcreek Township, County of Erie  
*Executors:* Sharon Wygant and Danny L. Wygant  
*Attorney:* John F. Mizner, Esq., 311 West Sixth Street, Erie, PA 16507

**YOUNG, ROBERT L.,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executors:* Scott K. Young and Denise A. King, c/o Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508  
*Attorney:* Darlene M. Vlahos, Esq., Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508

**SECOND PUBLICATION**

**DeVITA, MARY K., a/k/a MARY  
KATHLEEN DeVITA, a/k/a  
MARY DeVITA, a/k/a MARY K.  
PERRY,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executor:* James R. DeVita, c/o Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507  
*Attorney:* John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507

**GRIEP, SHIRLEY R., a/k/a  
SHIRLEY GRIEP,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Jacquelyn Griep, c/o Michael A. Agresti, Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Michael A. Agresti, Esq., MARSH, SPAEDER, BAUR, SPAEDER & SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**HART, JAMES R., a/k/a JAMES  
HART,  
deceased**

Late of the City of Erie, County of Erie, State of Pennsylvania  
*Administratrix:* Kimberly Gray, 5854 Kuhl Road, Erie, Pennsylvania 16510  
*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**JACKSON, JAMES H., SR., a/k/a  
JAMES HERBERT JACKSON,  
SR.,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Administratrix:* Fang Guan, 937 Brown Ave., Erie, PA 16502  
*Attorney:* None

**JONES, ETHEL L., a/k/a ETHEL  
LEE JONES, a/k/a ETHEL  
JONES, a/k/a ETHEL LEE  
QUINCE JONES,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Sandra Jones, c/o John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507  
*Attorney:* John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507

**NICHOLSON, KEITH R., a/k/a  
KEITH NICHOLSON,  
deceased**

Late of the Township of Fairview, County of Erie, State of Pennsylvania  
*Executor:* Michael K. Nicholson, 8390 Sterrettania Road, Girard, Pennsylvania 16417  
*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417



**PETERSON, RAYMOND E.,  
deceased**

Late of Township of Millcreek, Erie County, Commonwealth of Pennsylvania  
*Executor:* Eric Peterson, c/o 120 W. 10th Street, Erie, PA 16501  
*Attorney:* Jeffrey D. Scibetta, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501

**REGAN, ROBERT P.,  
deceased**

Late of the Township of Millcreek, Erie County, Pennsylvania  
*Administrator:* David J. Regan, Jr., c/o Raymond A. Pagliari, Esq., 217 Anderson Drive, Erie, Pennsylvania 16509  
*Attorney:* Raymond A. Pagliari, Esq., 217 Anderson Drive, Erie, Pennsylvania 16509

**REINHARDT, MARGARET E.,  
a/k/a MARGARET REINHARDT,  
deceased**

Late of the Township of Girard, County of Erie, State of Pennsylvania  
*Executrices:* Joyce M. Campbell and Linda A. Shollenberger, 235 E. Washington Street, Albion, PA 16401  
*Attorney:* None

**RIVERA, ISMAEL, a/k/a  
ISMAEL L. RIVERA,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Carlos M. Rivera  
*Attorney:* Craig A. Zonna, Esquire, ELDERKIN LAW FIRM, 150 East 8th Street, Erie, PA 16501

**SOBUCKI, STANLEY S., JR.,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Steven Sobucki, 1152 East 37th Street, Erie, PA 16504  
*Attorneys:* The Travis Law Firm, P.C., 100 State Street, Suite 210, Erie, Pennsylvania 16507-1459

**SUROVIC, DENISE L.,  
deceased**

Late of the Township of Springfield, County of Erie and Commonwealth of Pennsylvania  
*Administratrix:* Shelly A. Smith, c/o Michael A. Agresti, Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Michael A. Agresti, Esq., MARSH, SPAEDER, BAUR, SPAEDER & SCHAAF, LLP., Suite 300, 300 State Street, Erie, PA 16507

**THOMAS, KATHLEEN M.,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Gregory A. Seabrooke, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506  
*Attorney:* Melissa L. Larese, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

**VITT, HILLERT,  
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Lorraine M. Vitt  
*Attorney:* Kenneth G. Vasil, Esquire, ELDERKIN LAW FIRM, 150 East 8th Street, Erie, PA 16501

**WENSEL, THOMAS M.,  
deceased**

Late of Borough of North East, Erie County, Commonwealth of Pennsylvania  
*Executrix:* Kathryn I. Durst, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**TRUST NOTICES**

Notice is hereby given of the administration of the Trust set forth below. All persons having claims or demands against the decedent are requested to make known the same and all persons indebted to said decedent are required to make payment without delay to the trustees or attorneys named below:

**EULIANO, JOHN J., SR., a/k/a  
DR. JOHN J. EULIANO, SR.,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Successor Trustee:* Douglas J. Euliano, 515 Frontier Drive, Erie, PA 16505-2511  
*Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**THIRD PUBLICATION**

**BARBATO, ALFRED A., SR.,  
deceased**

Late of the County of Erie, Commonwealth of Pennsylvania  
*Executor:* Alfred Barbato, 1441 Biebel Ave., Erie, PA 16509  
*Attorney:* Robert M. Barbato, Jr., Esquire, 1314 Griswold Plaza, Erie, Pennsylvania 16501

**BRETZ, EVA MAY, a/k/a EVA M.  
BRETZ, a/k/a EVA BRETZ,  
deceased**

Late of the Township of Springfield, County of Erie, State of Pennsylvania  
*Executrix:* Marjorie Whipple, 4145 Genesee Ave., Erie, PA 16510  
*Attorney:* James R. Steadman, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417



**FERGUS, ROBERT,  
deceased**

Late of Harborcreek Township, Erie County, Erie, PA  
*Executor:* R. Benson Fergus, c/o 33 East Main Street, North East, Pennsylvania 16428  
*Attorney:* Robert J. Jeffery, Esq., Knox, McLaughlin, Gornall & Sennett, P.C., 33 East Main Street, North East, Pennsylvania 16428

**HIRST, JAMES L.,  
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Melvin L. Hirst, 5820 Forest Crossing, Erie, PA 16506-7004  
*Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**HUNTLEY, PHILIP S.,  
deceased**

Late of the Borough of North East, County of Erie, Commonwealth of Pennsylvania  
*Administrator C.T.A.:* Philip S. Huntley II, c/o Leigh Ann Orton, Esq., Orton & Orton, 68 E. Main St., North East, PA 16428  
*Attorney:* Leigh Ann Orton, Esq., Orton & Orton, 68 E. Main St., North East, PA 16428

**MCCARTHY, ELIZABETH S.,  
deceased**

Late of Township of Millcreek, Erie County, Commonwealth of Pennsylvania  
*Executor:* Todd J. Benedict, c/o 120 W. 10th Street, Erie, PA 16501  
*Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501

**OLSON, CAROLYN J., a/k/a  
CAROLYN JEAN OLSON, a/k/a  
CAROLYN OLSON,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Kimberly A. Dickerson, c/o John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507  
*Attorney:* John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507

**WILKINSON, MARY E.,  
deceased**

Late of North East Township, Erie County, North East, PA  
*Co-Executors:* Donald C. Wilkinson, Jr. and Michael D. Wilkinson, c/o 33 East Main Street, North East, Pennsylvania 16428  
*Attorney:* Robert J. Jeffery, Esq., Knox, McLaughlin, Gornall & Sennett, P.C., 33 East Main Street, North East, Pennsylvania 16428

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## CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

SCOTT E. MILLER.....814-456-1880  
535 W. Arlington Rd. ....(f) 814-240-2055  
Erie, PA 16509-2266..... *sem@cpaatty.com*

JENNIFER K. FISHER.....814-870-4244  
Counsel / Office of the President .....(f) 814-870-2010  
Erie Insurance Group  
100 Erie Insurance Place  
Erie, PA 16530 .....*jennifer.fisher@erieinsurance.com*

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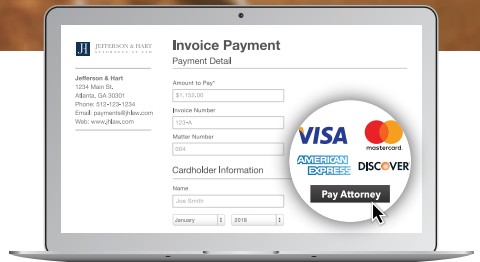
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