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COMMONWEALTH v. JAMISON 22
LUZERNE COUNTY ORDER AND FAMILY COURT RULES..... 14

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HOLIDAY HOURS

The Register & Bar Offices
Will Be

CLOSED

**Friday, December 23rd,
Monday, December 26th,
Friday, December 30th,
Monday, January 2nd.**

Dec. 9, 16, 23, 30



W-BLLA Component Parts:

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The Luzerne Legal Register and
Luzerne County Lawyer Referral Service.

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Consumer Debt Conciliation Program

The Luzerne County Consumer Debt Conciliation Program will be held at **1:00 p.m.** on the Third Floor of the Luzerne County Courthouse, 200 N. River Street, Wilkes-Barre, Pennsylvania.

The 2023 schedule is as follows:

- Friday, January 20, 2023**
- Friday, February 17, 2023**
- Friday, March 17, 2023**
- Friday, April 21, 2023**
- Friday, May 19, 2023**
- Friday, June 16, 2023**
- Friday, July 14, 2023**
- Friday, August 18, 2023**
- Friday, September 15, 2023**
- Friday, October 20, 2023**
- Friday, November 17, 2023**
- Friday, December 15, 2023**

Aug. 19—Dec. 30



*Mortgage Foreclosure Diversionary
Program*

The Luzerne County Mortgage Foreclosure Diversionary Program mediations will be held on the Third Floor of the Luzerne County Courthouse, 200 N. River Street, Wilkes-Barre, Pennsylvania.

The 2023 schedule is as follows:

- Friday, January 20, 2023**
- Friday, February 17, 2023**
- Friday, March 17, 2023**
- Friday, April 21, 2023**
- Friday, May 19, 2023**
- Friday, June 16, 2023**
- Friday, July 14, 2023**
- Friday, August 18, 2023**
- Friday, September 15, 2023**
- Friday, October 20, 2023**
- Friday, November 17, 2023**
- Friday, December 15, 2023**

Aug. 19—Dec. 30



Criminal Conflict Counsel

Luzerne County adult and juvenile criminal conflict attorneys needed. Criminal trial experience required.

Please contact Attorney Vito DeLuca at:
vito.deluca@luzernecounty.org, if interested.

Nov. 25—Dec. 30

LEGAL SECRETARY/PARALEGAL WANTED

The Tamaqua law firm of Bowe & Odorizzi is looking for a full-time or part-time legal secretary or paralegal. Experience in real estate transactions preferred, but not necessary. Please send resume and salary requirements to:

tony@boweodorizzilaw.com to arrange for an interview.

Dec. 23, 30



FREE DPC PHOTO SESSIONS

If you have not yet had your photo taken, there will be more dates scheduled in 2023 in the spring to have your photo taken for the 2023 Bar Composite. These sessions will be **FREE** for members.

After New Year's, *more session dates will be added.* The new dates will be advertised in the Legal Register in late January and in February. The new link to register for a photo session will also be included in the advertisement, so you can select a session date in April or May 2023 to get photographed. The dates and the link will also be sent by Gail to all Members by way of Constant Contact. If you are not receiving your Constant Contacts from the bar, e-mail Gail so she can check to make sure she has your correct e-mail address. Her e-mail address is:

Gail.Kopiak@luzernecounty.org.

Dec. 16, 23, 30; Jan. 6



SAVE THE DATE:

W-BLLA

Annual Meeting,

Thursday—

January 19, 2023

Dec. 30

LOCATION: SCRANTON, PA

Position: Labor & Employment Associate

Ufberg & Associates, LLP, a regional boutique Labor and Employment firm (Management side), seeks an associate with 2-5 years' experience to join its practice. The ideal candidate will have excellent analytical, verbal, and written communication skills, and strong academic credentials and work ethic. Experience in one or more aspects of labor or employment law, e.g., drafting employment policies and agreements, workplace counseling (whether for employers, unions or employees), employment litigation before federal or state courts or agencies, or traditional labor law practice (e.g., labor negotiations, labor arbitration) is a plus. Our firm provides competitive compensation and a collegial environment with attention to work/life balance. Please e-mail resume to John Ellis at Ufberg & Associates, LLP: jellis@ufberglaw.com. All candidate information received will be regarded and treated as strictly confidential.

Dec. 30



Luzerne Legal Register Rates
Effective *January 1, 2023*

LEGAL NOTICES

ESTATES (3 publications).....	\$136.00
FICTITIOUS NAMES.....	\$106.00
INCORPORATION NOTICES	\$106.00
NAME CHANGE.....	\$86.00
<i>(Includes \$3.50 Proof Charge.)</i>	
MINIMUM AD	\$83.00
FULL PAGE.....	\$284.00
PER LINE.....	\$3.25
ORIGINAL PROOF.....	\$3.50
ADDITIONAL PROOF.....	\$6.50
REPLACEMENT PROOF	\$12.00

COMMERCIAL RATES

WEEKLY RATES:

FULL.....	\$284.00
HALF	\$171.00
QUARTER PAGE	\$95.00
MINIMUM RATE	\$83.00



For Members in Good Standing the W-BLLA
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W-BLLA Member Rates:

LEGAL NOTICES

ESTATES	\$112.00
FICTITIOUS NAMES	\$83.00
INCORPORATION NOTICES	\$83.00
NAME CHANGE.....	\$75.00

(Includes \$2.50 Proof Charge.)

MINIMUM AD	\$59.00
FULL PAGE.....	\$260.00
PER LINE.....	\$2.70

ORIGINAL PROOF.....	\$2.50
ADDITIONAL PROOF.....	\$6.00
REPLACEMENT PROOF	\$11.50

COMMERCIAL RATES

WEEKLY RATES:

FULL.....	\$260.00
HALF	\$147.00
QUARTER PAGE	\$71.00
MINIMUM RATE	\$59.00

Dec. 30; Jan. 6, 13

LUZERNE COUNTY
Adoption of Luzerne County Family Court Rules
No. 00003 of 2022

ORDER

And now, this 15 day of December, 2022, it is hereby ORDERED and DECREED as follows:

1. The Luzerne County Court of Common Pleas hereby adopts Luzerne County Family Law Court Rules attached hereto.
2. Pursuant to Pa.R.J.A. 103(d) and Pa.R.C.P. 239(c), the attached Luzerne County Family Law Court Rules shall be disseminated and published in the following matter:
 - a. One copy via email to the Administrative Office of Pennsylvania Courts;
 - b. Two paper copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* and one electronic copy via e-mail saved in a Microsoft format to bulletin@palrb.us;
 - c. One copy for publication on the Court's website, located at www.luzernecountycourts.com; and,
 - d. One copy to the Luzerne County Office of Court Administration, *Luzerne Legal Register*, and the Luzerne County Clerk of Judicial Records for public inspection and copying.
3. It is further Ordered that the effective date of this Order shall be thirty (30) days after the date of Publication in the *Pennsylvania Bulletin*.
4. It is further Ordered that these local rules shall be kept continuously available for public inspection and copying in the Office of Judicial Services and Records of Luzerne County.

BY THE COURT,
/s/Michael T. Vough
MICHAEL T. VOUGH
President Judge

LUZERNE COUNTY FAMILY COURT RULES

TABLE OF CONTENTS

PRACTICE AND PROCEDURAL GENERALLY.....	1
Rule 205.2 (b). Filing of Legal Papers with the Clerk of Judicial Records	1
Rule 206.4 (d). Procedure for Issuance of Rule to Show Cause.....	1
Rule 208.3 (c). Motion to Compel Answers to Interrogatories and/or Responses to Requests for Production of Documents.....	2
SUPPORT RULES	2
Rule 1910.1. Scope.....	2
Rule 1910.4-1. Domestic Relations Section	2
Rule 1910.6-1. Representation	3
Rule 1910.10. Hearing Procedures.....	3
Rule 1910.12 (e). Brief on Exceptions	3
Rule 1910.12.1. Continuances.....	3
Rule 1910.17. Orders for Payment of Support, Alimony and Alimony Pendente Lite	3
Rule 1910.19. Modification or Termination.....	4
CUSTODY PROCEDURES	4
Rule 1915.4-1. Alternative Hearing Procedures for Partial Custody Actions.....	4
Rule 1915.4-2. Partial Custody. Conciliation Conference. Record Hearing. Exceptions. Service of Pleading Filed Six Months from the date of Court Order. Procedure for Scheduling of Trial	4
Rule 1915.13. Special Relief.....	7
DIVORCE PROCEDURES.....	7
Rule 1920.1 (b). Conformity to Civil Action.....	7
Rule 1920.42 (d). Certification of Hearing Officer's Fees.....	7
Rule 1920.51 (f). Motion to Continue Divorce Hearing before a Hearing Officer. Form of Motion	8
Rule 1920.55-2. Exceptions to Hearing Officer's Report and Recommendation	9

PRACTICE AND PROCEDURAL GENERALLY

Rule 205.2 (b). Filing of Legal Papers with the Clerk of Judicial Records

All pleadings and other documents submitted for filing with the Clerk of Judicial Records shall contain the following:

- (1) The correct caption of the case, including the names of the parties, the docket number and the division of the court;
- (2) A title indicating the nature of the documents;
- (3) The name, address, telephone number, fax number, e-mail address and Supreme Court identification number of the attorney filing the document;
- (4) If the party filing the document is not an attorney, the name, address, telephone number and e-mail address of such party.

Rule 206.4 (d). Procedure for Issuance of Rule to Show Cause

(1) A Petition for Special Relief and/or Contempt in a divorce action is to be presented with a Rule to Show Cause for a hearing either in Motion Court or via e-mail. Once a Rule to Show Cause has been issued and a return date has been assigned, the moving party shall file the executed Rule to Show Cause indicating the assigned return date, the underlying motion/petition, a comprehensive brief in support, a proposed order, and a certificate of service with the Clerk of Judicial Records. The moving party shall within three (3) days of filing the aforementioned, serve a time- stamped copy of the same upon all opposing parties and deliver a copy to the chambers of the assigned judge to the case.

(2) Within fifteen (15) days of service of the Rule to Show Cause, the underlying motion/petition, a comprehensive brief in support and a proposed order, the opposing party must file an answer, comprehensive brief and a certificate of service with the Clerk of Judicial Records. The opposing party shall within three (3) days of the filing of the answer, serve the same upon all parties and deliver a copy to the chamber of the assigned judge to the case.

(3) Where the moving party is seeking immediate relief in addition to the issuance of the rule to show cause and/or where the relief requested has the effect of a stay of proceedings pending the resolution of the matter subject to the rule to show cause, a party seeking the same shall present the rule to show cause along with the underlying motion/petition, a comprehensive brief in support, and a proposed order to Motions Court for consideration. When appropriate in the context of the proceedings, notice shall be given to the other party.

(4) If the moving party fails to file a comprehensive brief in support, as required by this Rule, the opposing party may present a motion to dismiss to Motions Court

for dismissal of the matter.

(5) Service shall be made immediately after filing by hand delivering, mailing, or emailing to all parties.

(6) Proof of service shall be filed and shall be by written acknowledgement of service by affidavit of the person making service, or by certification of counsel.

Rule 208.3 (c). Motion to Compel Answers to Interrogatories and/or Responses to Requests for Production of Documents

A Motion to Compel Answers to Interrogatories and/or Responses to Requests for Production of Documents, where no objections have been filed, shall be presented to the Motions Judge, either in person or by e-mail to familycourtmotions@luzernecounty.org, along with a proposed order requiring the opposing party to provide full and complete answers and/or responses within thirty (30) days or suffer such sanctions as the court deems necessary.

Notice of Intention to Present any such Motions to Compel must be provided to all parties of record not less than three (3) business days prior to the date of presentation and must be attached to the Motion. A brief in support of the Motion shall not be required.

SUPPORT RULES

Rule 1910.1. Scope

Except as otherwise stated, the practice and procedure to enforce a duty of support obligation to pay alimony pendente lite or alimony shall be governed by Pennsylvania Rules of Civil Procedure 1910.1 to 1910.50.

Rule 1910.4-1. Domestic Relations Section

(a) The Court of Common Pleas of Luzerne County hereby establishes the Domestic Relations Section.

(b) The Clerk of the Domestic Relations Section shall be appointed by the Court and known as the Recording Clerk.

(c) Powers

The Director, Deputy Director, Conference Officer, Domestic Relations Support Officer, Probation/Enforcement Officer and Domestic Relations Hearing Officer shall have the power and duty to administer oaths and affirmation in all actions and proceedings relating to support, alimony pendent lite or alimony and to exercise such other powers and perform such other duties relating thereto as may be necessary for the performance of the functions of the Section and/or as directed by Order or Rule of Court.

Rule 1910.6-1. Representation

Representation in all matters relating to support, alimony pendente lite or an enforcement of an alimony obligation shall be governed by Pa. R.C.P. 1930.8 including, specifically, withdrawal of counsel.

Rule 1910.10. Hearing Procedures

Pursuant to certification of the President Judge of this Judicial District, all support and alimony pendente lite proceedings shall be conducted in accordance with Pa. R.C.P. 1910.12.

Rule 1910.12 (e). Brief on Exceptions

Within ten (10) days of the filing of exceptions by either party, the proponent shall file with the Domestic Relations Recording Clerk a comprehensive brief in support of the exceptions, unless the time for filing the brief is extended upon court order for good cause. The opposing party's brief shall be filed within ten (10) days of the proponent's brief. Copies of briefs shall be served upon the opposing party or counsel. If the party filing the exceptions fails to file a brief, the Court may dismiss the exceptions.

Rule 1910.12.1. Continuances

(a) Requests to continue a conference shall be made to the assigned conference officer no later than forty-eight (48) hours before the time set for the conference with notice to the opposing party or counsel. No hearing scheduled before the Hearing Officer shall be continued in the absence of a written Motion, signed by the party and his or her attorney of record, if any, containing a meritorious reason therefore.

(b) A motion for a hearing before the Hearing Officer on behalf of a party shall be made as soon as the reason for the continuance is known, but no later than forty-eight (48) hours before the time set for the hearing. A later Motion shall be entertained only when the opportunity therefore did not previously exist or the interest of justice requires it.

(c) Notice of the intention to file the Motion for Continuance must be served on the opposing party and his or her counsel of record, if any, not less than forty-eight (48) hours before the Motion will be presented, unless the opportunity to do so did not exist; and state whether the opposing party concurs or objects to the continuance. No continuance shall be granted ex parte.

Rule 1910.17. Orders for Payment of Support, Alimony and Alimony Pendente Lite

Pursuant to Section 3704 of the Divorce Code, 23 Pa.C.S.A. § 3704, all payments of child and spousal support, alimony or alimony pendente lite shall be paid to the Domestic Relations Section. All marital settlement agreements whether incorporated or merged in a

divorce decree shall be required to specifically state the alimony shall be paid to and collected by the Luzerne County Domestic Relations Section and shall be filed immediately upon issuance.

Rule 1910.19. Modification or Termination

(a) No conference or hearing on a Petition for Modification may be scheduled within one hundred eighty (180) days of the date of the existing Order of Support or Alimony Pendente Lite unless waived by the existing order.

(b) Petitions for modification, termination, or enforcement of alimony shall be presented to and heard by the assigned Family Court Judge and not the Domestic Relations Section.

CUSTODY PROCEDURES

Rule 1915.4-1. Alternative Hearing Procedures for Partial Custody Actions

(d) All custody proceedings generally are conducted in accordance with Pa.R.C.P. No. 1915.4-2.

Rule 1915.4-2. Partial Custody. Conciliation Conference. Record Hearing. Exceptions. Service of Pleading Filed Six Months from the date of Court Order. Procedure for Scheduling of Trial

(a) Conciliation Conference

(1) The Court shall appoint one or more persons as Custody Hearing Officers to: (1) conciliate custody cases filed with the Court; (2) recommend to the Court Interim Orders relating to partial custody or supervised physical custody of the child or children following a record hearing. Hearing officers shall not make a recommendation to the Court on matters relating to the award of primary physical custody, shared physical custody or legal custody of the child or children.

(2) At the conclusion of the conference, if an agreement relating to primary physical custody, shared physical custody or legal custody has not been reached, and the Court's calendar does not permit the scheduling of a prompt custody trial, then a brief Evidentiary Hearing shall then be scheduled promptly before a judge addressing the issues of physical custody and/or legal custody of the children. The Court shall then enter an Interim Order pending further Order of Court or trial on the merits in accordance with Pa.R.C.P.1915.4 (b)(c) & (d).

All parties must file a Request for a Custody Trial within twenty (20) days of the date of the Interim Order issuing from the Evidentiary Hearing and serve a copy of same upon the judge's chambers and upon all parties. In the event no request is made for a

Custody Trial by either party within twenty (20) days, then the Interim Order shall become a Final Order. Any other issues not related to primary physical custody, shared physical custody and/or legal custody, shall be addressed by a Custody Hearing Officer, if necessary.

In the event the Court's calendar allows for the prompt scheduling of a trial on the merits following a Conciliation Conference, then the scheduling of an Evidentiary Hearing shall not be necessary.

(3) All custody matters not specifically reserved to the Court shall be scheduled for a Conciliation Conference before the Custody Hearing Officer. All parties shall attend such conference. Failure of a party to appear at the conference, following service of the pleading, may result in the entry of an Order as non-contested.

(4) To facilitate the conciliation process and encourage settlement exchange between the parties and their respective counsel, settlement proposals shall not be admissible as evidence in Court. The Custody Hearing Officer may not be a witness for any party.

(5) More than one Conciliation Conference or Record Hearing may be scheduled by the Custody Hearing Officer.

(6) In the event that the parties are able to reach an agreement during the Conciliation Conference, the Custody Hearing Officer shall prepare and transmit the agreed upon Order to the Court for adoption.

(7) Counsel or self-represented parties may submit to the Court a signed stipulation and proposed Order within thirty (30) days of any scheduled Conciliation Conference. The executed stipulation must be witnessed by counsel or notarized for self-represented parties. Failure to submit a fully executed or notarized Stipulation and Order to the Court within thirty (30) days shall render the Stipulation null and void.

(8) At the conclusion of the Conciliation Conference, if an agreement relating to partial custody or supervised physical custody has not been reached, the parties shall be given notice of the date, time and place of a Record Hearing before a Custody Hearing Officer, which may be the same day, but in no event shall be more than forty-five (45) days from the date of the conference.

(b) Record Hearing

(1) The hearing shall be conducted by a Custody Hearing Officer who must be a lawyer, and a record shall be made of the testimony. A Hearing Officer who is a lawyer employed by, or under contract with, a judicial district or appointed by the court shall not practice law before a conference officer, hearing officer or any judge of the 11th judicial district.

(2) The Custody Hearing Officer shall receive evidence and hear argument. The hearing officer may recommend to the court that the parties and/or subject child or

children submit to an examination and evaluation by experts pursuant to Rule 1915.8.

(3) Within ten (10) days of the conclusion of the hearing, the Custody Hearing Officer shall file with the court a report containing a recommendation with respect to the entry of an order of partial custody or supervised physical custody. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order, including a specific schedule for partial custody or supervised physical custody.

In the event the proposed Order is approved by the court, an Interim Order may be issued by the court adopting the Master's Report and Recommendation. The court shall serve the Interim Order together with Master's Report and Recommendation upon all parties.

(4) Within twenty (20) days after the date the Interim Order is mailed or received by the parties, whichever occurs first, any party may file exceptions to the Interim Order or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to the entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within twenty (20) days of the date of service of the original exceptions. A brief in support of the Exceptions shall not be required.

(5) Exceptions filed to an Interim Order shall be served upon all opposing counsel or parties, as well as to familycourtmotions@luzernecounty.org.

(6) If no exceptions are filed within the twenty-day (20) period, then the Interim Order shall become a final Order.

(7) If exceptions are filed, the court shall hear argument on the exceptions within forty-five (45) days of the date that the last party filed exceptions, and enter an appropriate final order within fifteen (15) days of argument.

(c) Service of Pleading Filed Six Months from the date of Court Order

Service of a Pleading other than original process shall be made upon counsel of record except, if no pleading has been filed within six (6) months of the date of the last Order, any subsequent pleading shall be served on both opposing party and counsel of record.

(d) Procedure for Scheduling of Trial

In the event there is a request for trial by a party seeking primary physical custody, shared physical custody and/or legal custody of a child and/or relocation with a child, the party shall advise the hearing officer at the conciliation conference of the same who will then schedule the case for a pre-trial conference and a trial before a judge.

The pre-trial conference may be waived by agreement of counsel or self-represented parties who must advise the court of the waiver in writing within seven (7) days of the pre-trial conference date.

Rule 1915.13. Special Relief

(a) Unless otherwise directed by the Court, a brief in support of the Petition for Special Relief shall not be required.

(b) A Petition for Special Relief is to be presented with a Rule to Show Cause for a hearing either in Motions Court or via e-mail to familycourtmotions@luzernecounty.org. Once a rule to show cause has been issued and a return date has been assigned, the moving party shall file the executed rule to show cause indicating the assigned return date, the underlying petition, a proposed order, and certificate of service with the Clerk of Judicial Records and shall, within three (3) days, serve a time-stamped copy of the aforementioned upon all opposing parties and deliver a copy to the chamber of the judge who is assigned to the case.

(c) Where the moving party is seeking immediate relief in addition to the issuance of the Rule to Show Cause and/or where the relief requested has the effect of a stay of proceedings pending the resolution of the matter subject to the Rule to Show Cause, a party seeking the same shall present the Rule to Show Cause along with the underlying petition and a proposed order to the Motions Court for consideration. When appropriate in the context of the proceedings, notice shall be given to all other parties.

(d) Service shall be made immediately after filing by hand delivering, mailing, or emailing to all parties.

(e) Proof of service shall be filed and shall be by written acknowledgement of service, by affidavit of the person making service, or by certification of counsel.

DIVORCE PROCEDURES

Rule 1920.1 (b). Conformity to Civil Action

Except as otherwise stated, the procedure in a divorce action shall be in accordance with the PA Rules of Civil Procedure.

Rule 1920.42 (d). Certification of Hearing Officer's Fees

When a Hearing Officer in Divorce has been appointed, prior to filing the Praecipe to Transmit Record, a Certification must be filed verifying that the Hearing Officer's fees have been paid or an ~~eligibility for Waiver of fees and costs petition was granted~~ by the Court.

Rule 1920.51 (f). Motion to Continue Divorce Hearing before a Hearing Officer. Form of Motion

(1) A Motion to Continue the Divorce Hearing must be in the form prescribed by Luz. Co. R.C.P. 1920.51(b)(3) and filed with the Office of Judicial Services and Records (Prothonotary) five (5) days prior to the scheduled date of the Divorce Hearing.

Simultaneously, the moving party shall serve a copy of the filed motion and proposed order upon opposing party or counsel and the familycourtmotions@luzernecounty.org.

After the Court issues an order on the motion for continuance, the moving party shall serve a copy of the filed order upon opposing party or counsel and the Hearing Officer in Divorce.

(2) The Court may entertain a Motion filed later than five (5) days before the scheduled date of the Divorce Hearing when an exigent or emergency circumstance arises within said five (5) day period or in the interest of justice.

(3) Form of Motion to Continue Divorce Hearing before a Hearing Officer:

(Caption)

1. The Divorce hearing is scheduled on _____.
2. The party requesting the continuance of the Divorce Hearing is _____ whose address is _____ and represented by _____.
3. Opposing party is _____ whose address is _____ and represented by _____.
4. The Divorce Hearing has been continued _____ times by Plaintiff and _____ times by Defendant.
5. For any and all previous continuances, state the date of each continuance and the reason for each continuance:
6. State the reason for this request to continue the Divorce Hearing:
7. Before this Motion for Continuance was filed, on _____ (date), I served a copy of this Motion and the proposed Order upon opposing party or their counsel. If service was not made, state the reason:
8. This Motion to Continue the Divorce hearing is _____ OPPOSED or

____ UNOPPOSED by opposing party or their counsel. If
Opposed, state the reason:

9. By signing this Motion, Attorney _____
represents that their client consents to this request to continue
the Divorce Hearing.

Date: _____
Moving Party or Attorney for Moving Party

Rule 1920.55-2. Exceptions to Hearing Officer's Report and Recommendation

(b) Within twenty (20) days of the date of receipt or the date of mailing of the Hearing Officer's Report and Recommendation, whichever occurs first, any party may file exceptions to the report, or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final decree, leave is granted to file exceptions raising those matters.

(1) If a party files exceptions, that party shall simultaneously serve a filed copy of the exceptions upon the opposing party and to familycourtmotions@luzernecounty.org.

(2) If the party filing exceptions has presented a Motion for Transcript of the divorce hearing on or before the date of the filing of the exceptions and received an Order granting the transcription of the divorce hearing, then said party shall file their brief in support of their exceptions within twenty (20) days of the receipt of said transcript. Said brief shall cite cases, statutes and rules that support their exceptions. Upon filing said brief, a copy of said brief shall be simultaneously served upon the opposing party.

(3) If the party filing exceptions has not requested a transcription of the divorce hearing, then said party shall file the brief in support of the exceptions simultaneously with the filing of the exceptions. Said brief shall cite cases, statutes and rules that support the exceptions. Upon filing said brief, a copy of said brief shall be simultaneously served upon the opposing party.

(c) If exceptions are filed, any other party may file exceptions within twenty (20) days of the date of service of the original exceptions. The court shall hear argument on the exceptions and enter a final decree.

(1) If the other party filing exceptions has presented a Motion for Transcript of the divorce hearing on or before the date of the filing of the exceptions and received an Order granting the transcription of the divorce hearing, then said party shall file the brief in support of the exceptions within twenty (20)

days of the receipt of said transcript. Said brief shall cite cases, statutes and rules that support their exceptions. Upon filing said brief, a copy of said brief shall be simultaneously served upon the opposing party.

(2) If the other party filing exceptions has not requested a transcription of the divorce hearing, then said party shall file the brief in support of the exceptions simultaneously with the filing of the exceptions. Said brief shall cite cases, statutes and rules that support the exceptions. Upon filing said brief, a copy of said brief shall be simultaneously served upon the opposing party.

Dec. 30

COMMONWEALTH v. JAMISON

Criminal Law and Procedure—Criminal Homicide—Firearm Charge—Guilty Plea—Waiver—Legal Presumption—Awareness—Burden of Proof—Statements Made During Plea Colloquy—Determination of Understanding—Totality of Circumstances—Appeal Issue—Examination of Record—Court’s Colloquy—Pa. R.Crim.P. 319 [now 590]—Withdrawal of Guilty Plea—Judicial Discretion—No Absolute Right to Withdraw a Guilty Plea—Withdrawal Prior to Sentencing—Liberally Treated—Fair and Just Reason—Substantial Prejudice—Analysis—Abuse of Discretion—Attached Documents—Case of Self-Defense—Alleged Lack of Proper Representation—Credibility of Testimony—Attempt to Manipulate Criminal Justice System—No Grounds for Mistrial—Defendant’s Guilty Plea, Voluntarily, Intelligently and Knowingly Tended—Failure to Meet Burden—Court’s Discretion Properly Exercised—On Appeal to Pa. Superior Court—AFFIRMED.

1. A plea of guilty constitutes a waiver of all non-jurisdictional defects and defenses and waives the right to challenge anything but the legality of the sentence and the validity of the plea.

2. The law presumes that a defendant who enters a guilty plea was aware of what he was doing. He bears the burden of proving otherwise.

3. A defendant is bound by the statements he makes during his plea colloquy.

4. Determining whether a defendant understood the connotations of his plea and its consequences requires an examination of the totality of the circumstances surrounding the plea.

5. In addressing Defendant’s appeal issue in this case, the Court must examine the record, including Defendant’s guilty plea agreement, the written guilty plea colloquy and Defendant’s reason for seeking to withdraw his plea.

6. The guilty plea hearing record demonstrates the Court’s colloquy covered all material matters necessary to a voluntary, knowing and intelligent plea.

7. No more than the inquiries outlined in Pa. R.Crim.P. 319 [now Rule 590] is required.

8. Pursuant to Rule 591 the Court, in its discretion, can permit a defendant to withdraw his guilty plea upon oral or written motion made before sentencing. However, there is no absolute right to withdraw a guilty plea.

9. A request to withdraw a guilty plea prior to sentencing should be treated liberally.

10. Any “fair and just” reason demonstrated by a defendant will support granting a pre-sentence motion to withdraw guilty plea unless withdrawal would work substantial prejudice to the Commonwealth.

11. In analyzing what is fair and just, it has been found by this Court that a knowing and intelligent guilty plea will not be abrogated by a subsequent assertion of a speculative right where such purported right does not call into question the factual basis for the plea and/or the voluntariness of the plea.

12. A trial court’s decision regarding whether to permit a guilty plea to be withdrawn should not be upset absent an abuse of discretion.

13. An abuse of discretion exists when a defendant shows any “fair and just” reason for withdrawing his plea absent “substantial prejudice” to the Commonwealth.

14. In the matter *sub judice*, Defendant attached the precise documents to his motion to withdraw guilty plea that demonstrate his decision to plead guilty was indeed knowing and voluntary.

15. Defendant, herein, merely contends that he did not believe he was guilty because it was a case of self-defense. Defendant alleged he entered the guilty plea because he did not feel he was getting proper representation.

16. The Court finds Defendant's testimony offered in support of his motion to be not credible when juxtaposed with the totality of the record in this case and because the result he seeks is simply not supported by the record in this case.

17. The record here does not manifest Defendant satisfying his burden; rather, the reasons asserted by Defendant are belied by the record and suggest an attempt to manipulate the criminal justice system.

18. Defendant's actions, if allowed to succeed might be a means of obtaining an entirely new jury for a defendant anytime he feels that the jury originally selected is not favorably disposed to his cause, even though there were no grounds for a mistrial.

19. For all the stated reasons herein, Defendant's guilty plea was voluntarily, intelligently and knowingly tendered and as a consequence it was accepted by the Court. Defendant failed to meet his burden to establish a fair and just reason for granting his request to withdraw the guilty plea.

20. The Court's discretion was properly exercised in this case. On Appeal to the Superior Court of Pennsylvania, the Court's ruling was AFFIRMED. *See* Pennsylvania Superior Court No. 1355 MDA 2021, 2022 PA Super. 178 (filed 14 October 2022).

*In the Court of Common Pleas of Luzerne County—
Criminal Division—No. CP-40-CR-0001365- 2020.
Appealed to the Superior Court of Pennsylvania,
No. 1355 MDA 2021—Court of Common Pleas
AFFIRMED—October 14, 2022—2022 Pa. Super.
178 (2022).*

Thomas J. Hogans, Esquire, Luzerne County Assistant
District Attorney, for Commonwealth.

Demetrius W. Fannick, Esquire, for Defendant.

Before: Sklarosky, Jr., J.

SKLAROSKY, JR., J., February 15, 2022:

Opinion Pursuant to Pa. R.A.P. 1925A

I. Relevant Procedural and Factual History

On May 31, 2017, Defendant was accused of causing the death of one Devon Brown by shooting the victim with a firearm. The criminal complaint was filed on June

1, 2017 and alleged two specific violations of the Pennsylvania Crimes Code. *See* 18 Pa. C.S. Section 2501(a);¹ 18 Pa. C.S. Section 6105(a)(1).²

On August 12, 2020, the criminal information was filed approving the criminal charges in the criminal complaint: an “open” count of criminal homicide and a firearm charge as specified above. A motion to sever was filed on or about October 26, 2020. Thereafter, an order was filed on March 31, 2021, granting severance of the firearm charge.

Jury selection commenced on May 24, 2021, with the trial convened on May 25, 2021. The Commonwealth presented the testimony of fifteen (15) witnesses and admitted sixty (60) exhibits in the case-in-chief. Defendant was present at trial with private counsel and at all relevant times had an opportunity to hear and observe the testimony, review the numerous exhibits admitted into evidence, and to observe the jury.

On May 26, 2021, after the Commonwealth presented the testimony of its final three witnesses and rested its case, Defendant, by and through counsel, informed the court he wanted to enter a guilty plea pursuant to the written plea agreement (“agreement”) negotiated with the Commonwealth. The “open” count of criminal homicide as charged was amended to third-degree murder by the parties’ agreement.³ *See* 18 Pa. C.S. Sec-

¹(a) *Offense defined.*—A person is guilty of criminal homicide if he intentionally, knowingly, recklessly or negligently causes the death of another human being. 18 Pa. C.S.A. §2501.

²(a) *Offense defined.*—(1) A person who has been convicted of an offense enumerated in subsection (b), within or without this Commonwealth, regardless of the length of sentence or whose conduct meets the criteria in subsection (c) shall not possess, use, control, sell, transfer or manufacture or obtain a license to possess, use, control, sell, transfer or manufacture a firearm in this Commonwealth. 18 Pa. C.S.A. §6105.

³The agreement reflects the amended criminal charge of third-degree murder which subjected Defendant to a maximum statutory penalty of incarceration for 40 years and a

tion 2502(c).⁴ The agreement dated May 26, 2021, was signed by Defendant, his counsel and was endorsed by the prosecuting Assistant District Attorney (ADA). Defendant was given ample time (several hours) by the court to discuss and consider the negotiated plea agreement with his lawyer prior to endorsing the written plea agreement and tendering the plea.⁵

The guilty plea hearing record demonstrates that Defendant’s decision to enter into the plea agreement occurred on the second day of his jury trial after the Commonwealth had rested and with the benefit of evaluating the Commonwealth’s entire case-in-chief.⁶ At the hearing, the ADA outlined the terms and conditions set forth in the written guilty plea agreement. Defendant was present when the ADA stated that Defendant was entering a plea to third-degree murder, a first-degree felony that subjected him to a maximum statutory penalty of 40 years’ incarceration and/or a \$50,000 fine. The record colloquy and agreement clearly demonstrate Defendant was informed sentencing was left to the discretion of the Court.

maximum fine of \$50,000. In addition, Defendant was required to pay the cost of prosecution, have no contact with victims or witnesses, and sentencing was at the court’s discretion.

⁴(c) *Murder of the third degree.*—All other kinds of murder shall be murder of the third degree. Murder of the third degree is a felony of the first degree. 18 Pa. C.S.A. §2502.

⁵We note that, by negotiating a guilty plea to third-degree murder, Defendant eliminated the risk of being convicted by jury of first-degree murder and the resultant automatic statutory sentence of life imprisonment. *See* 18 Pa. C.S.A. Section 1102.

⁶For persuasive authority, *see Commonwealth v. Whelan*, 392 A.2d 1363 (Pa. 1978) (plurality) *cert. denied*, *Whelan v. Pennsylvania*, 440 U.S. 926 (1979) where the defendant pleaded guilty after the Commonwealth had presented its case-in-chief and rested. (“When a defendant pleads guilty after the Commonwealth has commenced its case, we hold that the Commonwealth will be “substantially prejudiced” if the defendant is allowed to withdraw his plea. *Whelan*, at 422, 1364 (1978).

When questioned during the guilty plea colloquy, Defendant clearly stated it was his decision to enter a guilty plea as outlined in the agreement. He acknowledged the opportunity to discuss the case with his attorney prior to his decision to tender the guilty plea. Defendant acknowledged his attorney answered all his questions. Defendant authenticated his signature as set forth in the agreement. He was once again informed by this court that he was subject to a statutory maximum penalty of 40 years in prison. He acknowledged the maximum penalty and agreed that by entering the guilty plea he was waiving his right to complete his jury trial. The elements of the offense to which he pleaded guilty are set forth in the guilty plea hearing record with respect to the Commonwealth's burden. The Defendant acknowledged an understanding of the same.

In addition, Defendant acknowledged completing a 10-page written guilty plea colloquy which set forth his various rights. Completed with the assistance of his attorney, Defendant testified under oath that the answers set forth therein are his answers. He acknowledged his initials appeared on the bottom of each page and his signature is set forth on page ten of the colloquy.

During the guilty plea hearing colloquy, Defendant voiced his dissatisfaction with the trial evidence generally, the Office of the District Attorney in particular, and expressed his subjective perception that the evidence presented was contrived—without further explanation. Notwithstanding, Defendant was informed by this court that he was not being forced “... in any way, shape or form to enter the guilty plea” and that he had the right to finish the jury trial if he so desired. *See* N.T. Guilty Plea

Hearing, 5/26/2021, at 7-8. However, Defendant insisted on proceeding with his guilty plea.⁷ He acknowledged no one threatened him to enter the guilty plea and, when provided with the opportunity to move forward with the jury trial, he repeatedly declined, choosing instead to enter the guilty plea. At no point was Defendant heard to complain of his private attorney's alleged failure[s] to investigate the case and/or secure the attendance of witnesses to testify for him.

Defendant agreed the factual basis for his guilty plea was the extensive testimony and evidence of record presented by the Commonwealth prior to his decision to enter the plea. The record reflects Defendant was not under the influence of any substance that would impair his judgment and the ability to making a knowing, voluntary and intelligent guilty plea. Defendant was clearly aware of the rights he gave up in exchange for the plea agreement negotiated with the Commonwealth. Defendant was advised that he was limited on appeal to challenging the jurisdiction of the Court, legality of his sentence and voluntariness of the guilty plea. Based on the guilty plea hearing colloquy and our observations of Defendant at said hearing, we were satisfied that he clearly understood what he was doing as it relates to his decision to enter the guilty plea and waive rights. Accordingly, the guilty plea was accepted. Thereafter, a presentence investigation was ordered with sentencing scheduled for July 29, 2021.

⁷Indeed, after advising Defendant that the jury was waiting to continue with the trial if that was his choice, N.T. Guilty Plea Hearing, 5/26/2021 at 8, the court asked Defendant *three times* during the colloquy if he wished to proceed with the guilty plea and on each occasion he expressed his desire to do so. *See* N.T. Guilty Plea Hearing, 5/26/2021, at 8, l.13-18; at 9, l.12-15; at 11, l.11-12.

On July 22, 2021, one week prior to sentencing,⁸ Defendant, by and through new defense counsel, filed a motion to withdraw his guilty plea. At the conclusion of the hearing on August 31, 2021, Defendant's motion to withdraw guilty plea was denied and Defendant was thereafter sentenced at a hearing on September 23, 2021.⁹

Defendant filed a timely Notice of Appeal to the Superior Court on October 20, 2021. By Order dated October 22, 2021, this Court directed the Defendant file and serve a Concise Statement of Errors Complained of on Appeal (Statement). Pa. R.A.P. 1925(b). The required Statement was filed on November 9, 2021, alleging the following error:

(A) Did the Trial Court err or abuse its discretion in refusing to allow the defendant to withdraw his guilty plea prior to the date of his Sentencing?

II. Applicable Law and Analysis

Initially, we note that “[a] plea of guilty constitutes a waiver of all non-jurisdictional defects and defenses and waives the right to challenge anything but the legality of the sentence and the validity of the plea.” *Commonwealth v. Luciani*, 201 A.3d 802, 806-807 (Pa.

⁸56 days after entering the guilty plea.

⁹Defendant has not challenged the sentence imposed, to wit: Count 1, Criminal Homicide: Murder of the third degree: 18 years minimum to 40 years maximum at a state correctional facility; No contact with victim's family; Total restitution of \$3,258.00 (\$1,950.00 for autopsy to the Luzerne County coroner's office, \$593.00 to Pennsylvania State Police (PSP) for fingerprint testing, \$106.00 to PSP for ballistics testing and \$609.00 to PSP for bullet comparison); 831 days' credit for time served (6-28-19 to 2-10-2020 and 2-11-2020 to 9-23-2021); Defendant to obtain GED; Defendant remanded to county correctional facility while pending trial on severed charge; Court will schedule trial date by order on severed charge; No contact with victims, witnesses, or co-defendants; Pay court costs; Undergo a drug/alcohol evaluation and follow recommendations; undergo a mental health evaluation and follow recommendations; Provide DNA sample; Destroy contraband after appeal period. Defendant was advised of appeal rights.

Super. 2018). In addition, the law presumes “... that a defendant who enters a guilty plea was aware of what he was doing. *He bears the burden of proving otherwise.*” *Commonwealth v. Yeomans*, 24 A.3d 1044, 1047 (Pa. Super. 2011) (emphasis supplied). Moreover, “[a] defendant is bound by the statements he makes during his plea colloquy” *Commonwealth v. McCauley*, 797 A.2d 920, 922 (Pa. Super 2001). “Determining whether a defendant understood the connotations of his plea and its consequences requires an examination of the totality of the circumstances surrounding the plea.” *See Commonwealth v. Hart*, 174 A.3d 660, 664 (Pa. Super. 2017); *Commonwealth v. Yager*, 685 A.2d 1000, 1004 (Pa. Super. 1996); Pa. R.Crim.P. 590. Accordingly, in addressing Defendant’s appeal issue we must examine the record of May 25th and 26th, 2021, including Defendant’s guilty plea agreement, the written guilty plea colloquy¹⁰ and Defendant’s reason for seeking to withdraw his plea.

The guilty plea hearing record demonstrates the court’s colloquy covered all material matters necessary to a voluntary, knowing and intelligent plea. *See Commonwealth v. Muhammad*, 794 A.2d 378, 383 (Pa. Super. 2002). “No more than the inquiries outlined in Pa.R.Crim.P. 319 [now Rule 590] is required.” *Commonwealth v. Kay*, 478 A.2d 1366, 1368 (Pa. Super. 1984).

We are mindful that pursuant to Rule 591 we can, in our discretion, permit a defendant to withdraw his guilty plea upon oral or written motion made before sentencing. Pa. R.Crim.P. 591. However, there is no absolute right to withdraw a guilty plea. *Commonwealth v. Carrasquillo*, 115 A.3d 1284, 1285 (Pa. 2015). We acknowledge that,

¹⁰Signed, dated and filed of record on May 26, 2021.

generally speaking, a request to withdraw a guilty plea prior to sentencing should be treated liberally. *Commonwealth v. Kerbacher*, 594 A.2d 655, 656 (Pa. 1991). Moreover, any “fair-and-just” reason demonstrated by a defendant will support granting a pre-sentence motion to withdraw guilty plea “unless withdrawal would work substantial prejudice to the Commonwealth.” *Carrasquillo*, 115 A.3d at 1292 (citation omitted). Furthermore, *Kerbacher* instructs that “[i]n analyzing what is fair and just, it has been found by this Court that a knowing and intelligent guilty plea will not be abrogated *by a subsequent assertion of a speculative right* where such purported right does not call into question the factual basis for the plea and/or the voluntariness of the plea. *Id.* (internal quotes/citations omitted) (emphasis supplied). Importantly, “[a] trial court’s decision regarding whether to permit a guilty plea to be withdrawn should not be upset absent an abuse of discretion. An abuse of discretion exists when a defendant shows any ‘fair and just’ reason for withdrawing his plea absent ‘substantial prejudice’ to the Commonwealth.” *Commonwealth v. Elia*, 83 A.3d 254, 261 (Pa. Super. 2013) (internal quotes/citations omitted).

As set forth above, Defendant, by and through new counsel, filed a motion to withdraw his guilty plea on July 22, 2021. Contained within the motion are claims the guilty plea was not knowing or voluntary and Defendant asserted he was innocent—ostensibly based on the theory of self-defense. *See Kerbacher*, *supra*. Significantly, the claim of self-defense was known to Defendant, asserted prior to trial, and formed the basis of his defense during the jury trial. In the motion to withdraw, Defendant also claimed he was “coerced” into pleading

guilty due to his trial counsel's failure to investigate the case and secure defense witnesses—although he failed to identify *any* specific witnesses or fact[s] in support of this allegation.

Ironically, Defendant attached the precise documents to his motion to withdraw guilty plea that demonstrate his decision to plead guilty was indeed knowing and voluntary.¹¹ At the hearing on the motion convened on August 31, 2021, Defendant was the only witness to testify. Notwithstanding his allegations regarding trial counsel, Defendant did not subpoena or seek to compel by court order trial counsel's attendance at the hearing to withdraw the guilty plea. Essentially, Defendant merely contended yet again that he did not believe he was guilty because it was a case of self-defense. *See* N.T. Guilty Plea Hearing, 5/26/2021, at 5. Thereafter, Defendant alleged he entered the guilty plea because he did not feel he was getting proper representation. Parenthetically, we note the defense case had not commenced prior to Defendant's decision to plead guilty. At the time of the hearing, Defendant failed to provide any evidence to support his claims. Additionally, he never complained about his attorney's lack of preparation prior to trial, during trial or when he had the opportunity at the guilty plea hearing. Notably, trial counsel was privately retained and thus the lawyer of his choosing.

Furthermore, at the hearing on the motion to withdraw guilty plea, Defendant implied or asserted that the answers set forth on the written guilty plea colloquy were not his own. He stated the document was already completed when presented to him. However,

¹¹Attached exhibits were the guilty plea agreement, written guilty plea colloquy, transcript of the guilty plea hearing and disposition order.

this allegation is belied by Defendant’s testimony at the guilty plea hearing. *See* N.T. Guilty Plea Hearing, 5/26/2021, at 6. Moreover, trial counsel—an officer of the court—informed us in the presence of Defendant that he marked the answers to the questions while discussing the questions with Defendant and assured this Court the answers were provided by Defendant. *Id.* at 8. Importantly, when asked *twice* by the court, Defendant confirmed that the answers in the written guilty plea colloquy were indeed his own. *Id.* at 6. More significantly, Defendant acknowledged that he initialed each page of the written colloquy and agreed trial counsel reviewed the guilty plea colloquy with him. *Id.* at 7.

Also at the hearing on the motion to withdraw guilty plea, when questioned specifically as to questions 27 and 28 in the written guilty plea colloquy, Defendant again testified under oath he answered those questions. *See* N.T. Motions Hearing, 8/31/2021, at 7-8. The record is devoid of any evidence supporting the notion that Defendant did not answer each question in the written guilty plea colloquy after discussion with his lawyer. Defendant’s testimony as it relates to questions number 27 and 28 in the colloquy seems to demonstrate the true motivation behind the motion to withdraw guilty plea notwithstanding any other claims. Simply stated, he wanted to secure a new jury panel. Apparently, after the Commonwealth completed its case-in-chief, Defendant did not believe the case was going well and that he wanted a new lawyer *and* jury. *See id.* at 8. Defendant testified that he believed by entering the guilty plea he could thereafter readily withdraw the plea and get a new trial if he felt his lawyer was incompetent—even in the absence of facts demonstrating the same—and then

secure a different attorney (and obviously with that a new, different jury).

Defendant's testimony at the hearing on the motion to withdraw guilty plea is not worthy of belief. At no time during his guilty plea hearing colloquy did Defendant express dissatisfaction with his lawyer.¹² Instead, Defendant directed ire toward the Commonwealth when he accused the ADA of producing witnesses at trial who lied against him. *See* N.T. Guilty Plea Hearing, 5/26/2021, at 7, l.15-23. Moreover, Defendant's claim of "innocence" by way of self-defense at the withdrawal motion hearing lacks credibility and is unavailing. First, as noted above, Defendant's trial lawyer announced this defense during opening statements so it was not a revelation after Defendant's guilty plea. Second, Defendant made no mention of self-defense—and expressed no reservations *vis a vis* self-defense—at his guilty plea hearing despite the opportunity to do so. Third, as we stated at the hearing on the withdrawal motion, any self-defense claim is simply inconsistent with the substantial and compelling evidence presented by the Commonwealth during its case-in-chief. We indicated that the Commonwealth's case-in-chief made out a case of first-degree murder that would go to the jury and that said evidence did not warrant a self-defense charge to the jury.¹³

If believed, the thrust of Defendant's testimony in support of the withdrawal motion suggests that we should disregard his answers given under oath at the guilty

¹²Similarly, we can recall no instances during the jury trial when Defendant expressed dissatisfaction with his lawyer.

¹³In accepting Defendant's guilty plea to third-degree murder, under all the facts and circumstances and the totality of the record, we considered that Defendant was making a reasonable and rational decision in eliminating any risk that he would be found guilty by the jury of first-degree murder at trial insofar as the victim was shot in the head with a handgun.

plea hearing and the observations made by the court of Defendant at that time, disregard the written guilty plea colloquy, disregard the written plea agreement, and disregard the substantial and compelling evidence presented by the Commonwealth in its case-in-chief and permit the withdrawal and allow Defendant to proceed to trial with a new lawyer and an entirely new jury—in essence, grant a “do-over” or second “bite at the apple.” We categorically reject this position not because such a standard could wreak havoc on the criminal justice system, but because we find Defendant’s testimony offered in support of his motion to be not credible when juxtaposed with the totality of the record in this case and because the result he seeks is simply not supported by the record in this case.

In our judgment, the record here does not manifest Defendant satisfying his burden; rather, the reasons asserted by Defendant are belied by the record and suggest an attempt to manipulate the criminal justice system. As stated in *Morales*, “... [Defendant’s] actions, if allowed to succeed might be a means of obtaining an entirely new jury for a defendant anytime he feels that the jury originally selected is not favorably disposed to his cause, even though there were no grounds for a mistrial.” *Commonwealth v. Morales*, 305 A.2d 11, 13 (Pa. 1973).¹⁴ In our judgment, the reasoning set forth

¹⁴The *Morales* court stated: “... appellant did not plead guilty until after the Commonwealth had presented its case in chief. Prejudice to the Commonwealth, under such circumstances, although difficult to prove, may be a very real possibility. Appellant would obtain an unfair advantage by being allowed, together with his counsel, a full preview of the Commonwealth’s evidence before deciding upon their trial strategy. Similarly, appellant’s actions, if allowed to succeed might be a means of obtaining an entirely new jury for a defendant anytime he feels that the jury originally selected is not favorably disposed to his cause, even though there were no grounds for a mistrial. Considering the possibility that prejudice might exist under these circumstances, the court committed no abuse of discretion in refusing to permit the appellant to withdraw his plea after holding a full hearing on appellant’s allegation.” See also, *Whelan*, at n. 5.

in *Morales* as it may relate to the case is appropriately applied in this instance. *See* footnote 11.

Lastly, at the hearing on the withdrawal motion Defendant alleged trial counsel showed him what was identified as Defense Exhibit No. 4—the basic sentencing guideline matrix. He alleges trial counsel informed him of a possible sentence of five years in prison. Again, Defendant’s testimony is simply not credible and stands contrary to the guilty plea hearing record, written plea agreement, and written guilty plea colloquy. Defendant was clearly informed sentencing was at the discretion of the court. Additionally, the maximum possible statutory sentence of forty years’ incarceration was set forth in writing in the guilty plea agreement, was contained in the written guilty plea colloquy, was stated of record by the ADA prior to Defendant tendering his guilty plea, and, importantly, Defendant was informed a *fourth time* by this Court during the guilty plea hearing. *See* N.T. Guilty Plea Hearing, 5/26/2021, at 4.

For the above-stated reasons, in our judgment Defendant’s guilty plea was voluntarily, intelligently and knowingly tendered and as a consequence it was accepted by the court. He has failed to meet his burden to establish a fair and just reason for granting his request to withdraw the guilty plea. Accordingly, we respectfully assert that our discretion was properly exercised in this case.

THE LUZERNE LEGAL REGISTER

DECEDENTS' ESTATES

Notice is hereby given that letters testamentary or of administration have been granted in the following estates. All persons indebted to said estates are required to make payment and those having claims or demands to present the same without delay to the administrators or executors named or their attorneys

FIRST PUBLICATION

ESTATE OF CATHERINE M. ALLAN a/k/a Catherine Allan, late of Nanticoke (died October 12, 2022), Richard Allan and John David Allan, Co-Executors; Paul M. Pugliese, Esquire, Pugliese, Finnegan, Shaffer & Ferentino LLC, 575 Pierce St., Suite 500, Kingston, PA 18704

ESTATE OF ISABELLE K. BALAKER, late of Drums (died November 19, 2022), John J. McGee and Carolyn L. Levy, Executors; John J. McGee, Esquire, P.O. Box 3298, Scranton, PA 18505

ESTATE OF ASSUNTA BELLANCA, late of Laflin (died April 11, 2016), Salvatore Bellanca, Administrator; Rosenn, Jenkins & Greenwald, LLP, 1065 Hwy. 315, Suite 200, Wilkes-Barre, PA 18072

ESTATE OF DANIEL FREDERICK CARR a/k/a Daniel F. Carr, late of Hunlock Twp. (died December 7, 2022), Darlene E. Pearson, Executrix; Donald P. Roberts, Esquire, Burke Vullo Reilly Roberts, 1460 Wyoming Ave., Forty Fort, PA 18704

ESTATE OF SIMON W. CEPRISH a/k/a Simon Ceprish, late of Wilkes-Barre (died October 27, 2022), Ronald Ceprish, Administrator; Michael S. Sklarosky, Esquire, 400 Third Ave., Suite 100, Kingston, PA 18704

ESTATE OF DREW L. COFFMAN, late of Kingston (died May 11, 2022), Drew F. Coffman, Administrator; James V. Senape, Jr., Esquire, Catherine A. McGovern, Esquire and Michael B. Senape, Esquire, Senape & Associates, 612-614 Main St., P.O. Box 179, Freeland, PA 18224-0179

ESTATE OF SALLY CONNOR a/k/a Sally C. Connor, late of Jenkins Twp. (died October 30, 2022), Edward H. Connor and Trudy Doss, Co-Executors; Gene M. Molino, Esquire, Skibitsky & Molino, 457 North Main St., Suite 101, Pittston, PA 18640

ESTATE OF PEGGY DALO, late of Butler Twp. (died November 17, 2022), Donato A. Dalo, Executor; Robert A. Bull, Esquire, Law Offices of Bull & Bull, LLP, 106 Market St., Berwick, PA 18603

ESTATE OF CARMEN DeVIZIA a/k/a Carmine DeVizia a/k/a Carmene DeVizia, late of Pittston (died February 13, 2021), Anna Mills, Administratrix; Girard J. Mecadon, Esquire, 363 Laurel St., Pittston, PA 18640

ESTATE OF FLORENCE JEAN DRASHER a/k/a Florence J. Drasher a/k/a Florence Drasher, late of Black Creek Twp. (died February 5, 2022), John R. Drasher, Administrator; Richard J. Marusak, Esquire, Ustynoski & Marusak, LLC, 101 West Broad St., Suite 205, Hazleton, PA 18201

ESTATE OF LOIS C. ISOPI a/k/a Lois Isopi, late of Mountain Top (died November 16, 2022), Lynne Isopi, Executrix; David W. Saba, Esquire, 345 Market St., Kingston, PA 18704

ESTATE OF ANNA MAE KAMINSKI, late of Hanover Twp. (died August 26, 2022), Gail Kaminski, Execu-

THE LUZERNE LEGAL REGISTER

trix; Mark P. McNealis, Esquire, 5929 Main Rd., Hunlock Creek, PA 18621

ESTATE OF FLORENCE R. KORNBLATT a/k/a Florence Kornblatt, late of Kingston (died October 3, 2022), Elayne Phillips, Executrix; Rosenn, Jenkins & Greenwald, LLP, 1065 Hwy. 315, Suite 200, Wilkes-Barre, PA 18072

ESTATE OF FRED H. KRUEGER, late of Laurel Run (died November 15, 2022), Garrett Krueger, Executor; John J. Terrana, Esquire, 400 Third Ave., Suite 216, Kingston, PA 18704

ESTATE OF MIRNA E. MACKAY, late of Kingston Twp. (died August 2, 2021), Scott Mackay, Administrator; John P. Rodgers, Esquire, 1170 Hwy. 315, Suite 1, Plains, PA 18702

ESTATE OF ELEANOR P. MAILLOUX a/k/a Eleanor Pauline Mailloux, late of Hazleton (died October 30, 2022), Alice Regina Mailloux, Executrix; Joseph D. Ustynoski, Esquire, Ustynoski & Marusak, LLC, 101 West Broad St., Suite 205, Hazleton, PA 18201

ESTATE OF ANNE MARIE MIKOLAICHIK, late of Kingston Twp. (died July 18, 2022), Matthew Mikolaichik, Administrator; Job T. Stepanski, Esquire, 183 Market St., Suite 200, Kingston, PA 18704

ESTATE OF BARBARA RAPPAPORT a/k/a Barbara L. Rappaport, late of Kingston (died November 27, 2022), Lisa K. Jacobs, Executrix; Stephen J. Fendler, Esquire, Comitiz Law Firm, LLC, 46 Public Sq., Suite 101, Wilkes-Barre, PA 18701

ESTATE OF JAMES S. SKURKEY, late of Hazle Twp. (died October 8, 2022), Lisa M. Nesler, Administrator; James V. Senape, Jr., Esquire, Catherine A. McGovern,

Esquire and Michael B. Senape, Esquire, Senape & Associates, 612-614 Main St., P.O. Box 179, Freeland, PA 18224-0179

ESTATE OF CHRISTINE M. TROTTINI a/k/a Christine Trottini, late of Wyoming (died September 18, 2022), Paul T. Hindmarsh, Executor; Saporito, Falcone & Watt, 48 South Main St., Pittston, PA 18640

ESTATE OF ROMALD J. TRZESKOWSKI, late of Wright Twp. (died November 9, 2022), Diane Cunningham, Executrix; Frank J. Aritz, Esquire, 23 West Walnut St., Kingston, PA 18704

ESTATE OF PHYLLIS N. YODER, late of Nescopeck (died August 14, 2022), Sharon L. Slusser, Executrix; Brenda R. Hess, Esquire, Dickson, Gordner and Hess, 28 West Second St., Berwick, PA 18603

SECOND PUBLICATION

ESTATE OF MAX BARTIKOWSKY, late of Forty Fort (died October 18, 2022), Jeffrey Yelen, 8 West Market St., Suite 320, Wilkes-Barre, PA 18701, Executor

ESTATE OF DANIEL F. BARTON, late of Plymouth (died November 15, 2022), Kristen Kmush, Executrix; Frank J. Aritz, Esquire, 8 West Walnut St., Kingston, PA 18704

ESTATE OF JANET MARY BUTTERWICK, late of Hazleton (died March 28, 2022), Donald J. Karpowich, Esquire, 85 Drasher Rd., Drums PA 18222, Executor

ESTATE OF ROSALIE L. CLARK, late of Wilkes-Barre (died January 22, 2019), Leah Hakim, Administrator; Raymond A. Hassey, Esquire, 304 Wilkes-Barre Twp. Blvd., Wilkes-Barre, PA 18702

THE LUZERNE LEGAL REGISTER

- ESTATE OF JAMES T. COLLUM, SR. a/k/a James Thomas Collum, Sr., late of Wilkes-Barre (died November 12, 2022), James Thomas Collum, Jr., Administrator; Bregman & Lantz, LLC, 1205 Wyoming Ave., Forty Fort, PA 18704
- ESTATE OF CHARLES J. DUGAN, late of Kingston (died November 26, 2022), Ann M. Dugan, Executrix; Robert A. Anders, Esquire, 1170 Highway 315, Suite 2, Plains, PA 18702
- ESTATE OF CARL W. EICHORN, late of Wilkes-Barre (died December 27, 2021), Ms. Katherine Eichorn and Ms. Virginia Eichorn, Executrices; Andrew J. Katsock, III, Esquire, 15 Sunrise Dr., Wilkes-Barre, PA 18705
- ESTATE OF RITA A. FINNERTY a/k/a Rita Finnerty, late of Pittston (died August 17, 2022), Maureen Roman, Executrix; Michael I. Butera, Esquire, 121 South Main St., Pittston, PA 18640
- ESTATE OF JANEANN LOKKEN, late of Mountain Top (died January 22, 2022), John C. Lokken, Executor; Brian M. Vinsko, Esquire, Vinsko & Associates, P.C., 37 North River St., Wilkes-Barre, PA 18702
- ESTATE OF JAMES P. PRIDEAUX a/k/a James Prideaux, late of West Wyoming (died November 5, 2022), Anne Prideaux, Executrix; Saporito, Falcone & Watt, 48 South Main St., Pittston, PA 18640
- ESTATE OF THEODORE SIMKO, JR., late of Exeter Twp. (died November 13, 2022), Theodore Simko, III, Administrator; Sherwood P. Grabiec, Esquire, 20 Laurel St., Pittston, PA 18640
- ESTATE OF SHIRLEY M. STEWART, late of Wapwallopen (died September 19, 2022), Mary I. Balliet, Administratrix; Rebecca S. Reimiller, Esquire, Dickson, Gordner and Hess, 128 W. Second St., Berwick, PA 18603
- ESTATE OF MARTIN L. THOMAS, late of Wilkes-Barre (died November 5, 2022), Lisa M. Thomas, Administratrix; Hudacek and Hudacek, 33 E. Main St., Plymouth, PA 18651
- ESTATE OF DENNIS J. WOREK a/k/a Dennis J. Worek, Sr., late of Hazle Twp. (died August 24, 2022), Marilyn Worek, Executrix; Richard J. Marusak, Esquire, Ustynoski & Marusak, LLC, 101 West Broad St., Suite 205, Hazleton, PA 18201
- ESTATE OF ALBERT ZAMBOTTI, late of Hazle Twp. (died November 8, 2022), Judy L. Malloy, Executrix; Thomas J. Sharkey, Esquire, 982 North Sherman Ct., Hazleton, PA 18201

THIRD PUBLICATION

- ESTATE OF DANIEL ARNOLD, JR. a/k/a Daniel H. Arnold, Jr., late of Shickshinny (died October 21, 2022), Daniel H. Arnold and Kathy Arnold, Co-Administrators; Robert A. Bull, Esquire, Law Offices of Bull & Bull, LLP, 106 Market St., Berwick, PA 18603
- ESTATE OF JEAN LOUISE DAVIES a/k/a Jean L. Davies, late of Wilkes-Barre Twp. (died August 1, 2022), Linda St. Pierre, Administratrix; Donald P. Roberts, Esquire, Burke Vullo Reilly Roberts, 1460 Wyoming Ave., Forty Fort, PA 18704
- ESTATE OF DAVID SCOTT DAVIS, late of Hazleton (died October 19, 2022), Christen Lee Cosgrove, Executrix; Donald G. Karpowich, Esquire, 85 Drasher Rd., Drums, PA 18222

THE LUZERNE LEGAL REGISTER

- ESTATE OF LOIS HANCZYC a/k/a Lois A. Hanczyk, late of Duryea (died May 21, 2021), Nestor G. Dequevedo, Executor; Biagio V. Musto, II, Esquire, 171 William St., Pittston, PA 18640-1719
- ESTATE OF IRENE M. HOCH, late of Nescopeck (died September 10, 2022), Diane Bloss, Executrix; Brenda R. Hess, Esquire, Dickson, Gordner and Hess, 128 West Second St., Berwick, PA 18603
- ESTATE OF STEVEN A. JANIGA, JR. a/k/a Steve A. Janiga, Jr. a/k/a Stephen A. Janiga, Jr., late of Hazleton (died November 5, 2022), Kimberly A. Janiga, Administratrix; Christine A. Holman, Esquire, 204 East Broad St., Tamaqua, PA 18252
- ESTATE OF EDWARD WALTER KARASEK a/k/a Edward Karasek a/k/a Edward W. Karasek, late of Shickshinny (died August 3, 2022), Sarah Karasek, Personal Representative; Nicholas D. Lutz, Esquire, Cardinal Estate Planning, LLC, 120 W. Front St., Berwick, PA 18603
- ESTATE OF JAMES C. KASKIEL, late of Dallas Twp. (died November 15, 2022), Ryan D. Kaskiel, 144 Wyoming Rd., Dallas, PA 18612, Executor
- ESTATE OF CARL D. LUTZ, SR., late of West Hazleton (died November 7, 2022), Diane M. Lazar and Theresa Lonczynski, Co-Executrices; Peter O'Donnell, Esquire, 305 South Church St., Suite 175, Hazleton, PA 18201
- ESTATE OF JOSEPH MARINKO a/k/a Joseph Marinko, Jr., late of Wilkes-Barre (died October 22, 2022), Mark Marcinko, Executor; Frank J. Aritz, Esquire, 23 West Walnut St., Kingston, PA 18704
- ESTATE OF TAMMY A. MARUSAK, late of Freeland (died September 18, 2022), Samantha Marusak, Executrix; Donald G. Karpowich, Esquire, 85 Drasher Rd., Drums, PA 18222
- ESTATE OF MARY MAGDALENE MIGATULSKI, late of Wilkes-Barre (died May 22, 2018), Barbara Molitoris, Executrix; Alexander B. Russin, Esquire, 1516 Wyoming Avenue, Forty Fort, PA 18704
- ESTATE OF JAMES WILLIAM MURPHY, III, late of Wilkes-Barre (died October 17, 2022), Ronald R. Keener, Executor; Jonathan A. Spohrer, Esquire, 279 Pierce St., Kingston, PA 18704
- ESTATE OF JOSEPHA PHILLIPS, late of Dupont (died October 23, 2022), Marc J. Phillips a/k/a Marc John Phillips, Executor; Girard J. Mecadon, Esquire, 363 Laurel St., Pittston, PA 18640
- ESTATE OF DOMINICK PIZZELLA, late of Plains Twp. (died November 19, 2022), Mark Dickson, Administrator; Michael I. Butera, Esquire, 121 South Main St., Pittston, PA 18640
- ESTATE OF MILDRED C. SEARFOSS, late of White Haven (died September 26, 2022), Carol Jean Eidle, Executrix; Donald G. Karpowich, Esquire, 85 Drasher Rd., Drums, PA 18222
- ESTATE OF JOSEPH A. SHAVER, late of Harveys Lake (died November 5, 2022), Judith L. Shaver, Executrix; David J. Harris, Esquire, 67-69 Public Sq., Suite 700, Wilkes-Barre, PA 18701
- ESTATE OF ROBERT M. TOBIAS, late of Swoyersville (died November 17, 2022), Mark Dezagottis, Executor; Frank J. Aritz, Esquire, 23 West Walnut St., Kingston, PA 18704

THE LUZERNE LEGAL REGISTER

ESTATE OF ANGELA MARIE VELAZ-
QUEZ a/k/a Angela Velazquez,
late of Wilkes-Barre (died March 6,
2022), Jiavanni T. Velazquez, Ad-
ministrators; Jennifer L. Zegel,
Esquire, 1717 Arch St., 5th Fl.,
Philadelphia, PA 19103

JURY TRIAL DEMANDED

IN THE COURT OF COMMON
PLEAS OF LUZERNE COUNTY
CIVIL ACTION—LAW

NO. 2019-CV-13675

Michelle Powell, Individually
and as Administratrix of the
Estate of Sean Powell, 305 Alice
Street, Olyphant, PA 18447

Plaintiffs

vs.

Lindsey Lacorte, 821 Charles
Street, Luzerne, PA 18709

Defendant

NOTICE

YOU HAVE BEEN SUED IN
COURT. If you wish to defend
against the claims set forth in the
following pages, you must take
action within twenty (20) days
after this Complaint and Notice
are served by entering a written
appearance personally or by at-
torney and filing in writing with
the Court your defenses or objec-
tions to the claims set forth
against you. You are warned that
if you fail to do so, the case may
proceed against you and a judg-
ment may be entered against you
by the Court without further
notice for any money claimed in
the Complaint or for any other
claim or relief requested by the
Plaintiff. You may lose money or
other rights important to you.

YOU SHOULD TAKE THIS
PAPER TO YOUR LAWYER AT
ONCE. IF YOU DO NOT HAVE
OR CANNOT AFFORD ONE, GO
TO OR TELEPHONE THE OF-
FICE SET FORTH BELOW TO
FIND OUT WHERE YOU CAN
GET LEGAL HELP. THESE OF-
FICES CAN PROVIDE YOU WITH
INFORMATION ABOUT HIRING
A LAWYER.

IF YOU CANNOT AFFORD TO
HIRE A LAWYER, THESE OF-
FICES MAY BE ABLE TO PRO-
VIDE YOU WITH INFORMATION
ABOUT AGENCIES THAT MAY
OFFER LEGAL SERVICES TO
ELIGIBLE PERSONS AT A RE-
DUCED FEE OR NO FEE.

North Penn Legal Services, Inc.
33 N. Main Street
Suite 200
Pittston, PA 18640
(570) 299-4100

- or -

101 West Broad Street
Suite 713
Hazleton, PA 18201
(570) 455-9512

EDWARD G. KROWIAK,
ESQUIRE
THOMAS W. MUNLEY,
ESQUIRE

Atty. I.D. Nos. 38502/92379
MINORA KROWIAK
MUNLEY BATYKO
700 Vine Street
Scranton, PA 18510
Phone: (570) 961-1616
Fax: (570) 558-1110

Dec. 30

NOTICE

NOTICE IS HEREBY GIVEN
that Lisa Andrejko, the legal
guardian of Hailey Cartwright,
has filed a Petition in the Court
of Common Pleas of Luzerne

THE LUZERNE LEGAL REGISTER

County, Pennsylvania to No.: 11136 of 2022, to change Hailey Cartwright's name from Hailey Cartwright to Hailey Andrejko.

The Court has fixed March 20, 2023 at 1:00 p.m. as the time, and Judge Bernard C. Brominski Building, 113 West North Street, Wilkes-Barre, Pennsylvania, as the place for said Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer of the said Petition should not be granted.

Dec. 30

NOTICE OF ACTION IN MORTGAGE FORECLOSURE

LUZERNE COUNTY COURT OF COMMON PLEAS

Number: 2019-14815

Wilmington Savings Fund Society, FSB, as trustee of Finance of America Structured Securities Acquisitions Trust 2019-HB1

Plaintiff

v.

Amber Halye, Known Surviving Heir of Patricia Halye, Jessica Rodriguez, Known Surviving Heir of Patricia Halye, Kristin Halye, Known Surviving Heir of Patricia Halye, and Unknown Surviving Heir of Patricia Halye

Defendants

TO: Unknown Surviving Heir of Patricia Halye

Premises subject to foreclosure: 614 Lincoln Street, Hazleton, Pennsylvania 18201.

NOTICE

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.

North Penn Legal Services 33 N. Main Street Suite 200 Pittston, PA 18640 (570) 299-4100 McCABE, WEISBERG & CONWAY, LLC Attorneys for Plaintiff 1420 Walnut St. Ste. 1501 Philadelphia, PA 19102 (215) 790-1010

Dec. 30

NOTICE

NOTICE IS HEREBY GIVEN that Lisa Andrejko, the legal guardian of Joshua Cartwright, has filed a Petition in the Court of Common Pleas of Luzerne

THE LUZERNE LEGAL REGISTER

County, Pennsylvania to No.:
11137 of 2022, to change Joshua
Cartwright's name from Joshua
Cartwright to Joshua Andrejko.

The Court has fixed March 20,
2023 at 1:00 p.m. as the time,
and Judge Bernard C. Bromin-
ski Building, 113 West North

Street, Wilkes-Barre, Pennsylva-
nia, as the place for said Petition,
when and where all persons in-
terested may appear and show
cause, if any they have, why the
prayer of the said Petition should
not be granted.

Dec. 30

THE LUZERNE LEGAL REGISTER



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PERIODICAL PUBLICATION

*** Dated Material. Do Not Delay. Please Deliver Before Tuesday, January 3, 2023**