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Commonwealth v. Rubinsky

Erie County Legal Journal

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

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Erie County Bar Association

Calendar of Events and Seminars

THURSDAY, MARCH 23, 2017

Solo/Small Firm Division Meeting
Noon
ECBA Headquarters

FRIDAY, MARCH 24, 2017

ECBA Live Seminar
The Isis Age: From Nuremburg to Religious Freedom for All
Manufacturer & Business Association
Conference Center
4:00 p.m. - 5:30 p.m. (registration 3:45 p.m.)
\$70 (ECBA member/non-attorney staff)
\$90 (nonmember)
\$49 (member judge not needing CLE)
1.5 hours substantive

WEDNESDAY, MARCH 29, 2017

Defense Bar Meeting
Noon
ECBA Headquarters

THURSDAY, MARCH 30, 2017

ECBA Live Lunch-n-Learn Seminar
*Roth Conversions:
Is paying the tax now a good idea?*
Bayfront Convention Center
12:15 - 1:15 p.m. (registration/lunch - 11:45 a.m.)
\$47 (ECBA member/non-attorney staff)
\$60 (nonmember)
\$33 (member judge not needing CLE)
1 hour substantive

FRIDAY, APRIL 15, 2017

Good Friday
ECBA Office Closed

MONDAY, APRIL 24, 2017

ECBA Board of Directors Meeting
Noon
ECBA Headquarters

TUESDAY, APRIL 25, 2017

ECBA Live Seminar
Ethics Stampede! Remaining Professional and Virtuous When Legal Ethics Chaos Threatens
Manufacturer & Business Association
Conference Center
8:30 a.m. - 12:00 p.m. (registration/8:00 a.m.)
\$140 (ECBA member/non-attorney staff)
\$180 (nonmember)
\$97 (member judge not needing CLE)

WEDNESDAY, APRIL 26, 2017

Criminal Section Meeting
3:00 p.m.
Judge Cunningham's Courtroom

SATURDAY, APRIL 29, 2017

Law Day 5k Run/Walk
9:00 a.m.
*more information and registration
available at www.eriebar.com*

To view PBI seminars visit the events calendar
on the ECBA website
<http://www.eriebar.com/public-calendar>



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COMMONWEALTH OF PENNSYLVANIA**v.****CODY RUBINOSKY***EVIDENCE / WEIGHT & SUFFICIENCY*

The standard of review in a sufficiency of the evidence challenge is to determine if the Commonwealth established beyond a reasonable doubt each of the elements of the offense, considering all the evidence admitted at trial, and drawing all reasonable inferences therefrom in favor of the Commonwealth as the verdict-winner. This standard is equally applicable to cases where the evidence is circumstantial rather than direct so long as the combination of the evidence links the accused to the crime beyond a reasonable doubt. In applying this standard, the appellate courts bear in mind that the Commonwealth may sustain its burden by means of wholly circumstantial evidence; that the entire trial record should be evaluated and all evidence received considered, whether or not the trial court's rulings thereon were correct; and that the trier of fact, while passing upon the credibility of witnesses and the weight of the proof, is free to believe all, part, or none of the evidence.

CRIMINAL OFFENSES / WEAPONS / POSSESSION

Possession can be found by proving actual possession, constructive possession or joint constructive possession.

CRIMINAL OFFENSES / WEAPONS / 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. The Court has defined constructive possession as "conscious dominion." The Court subsequently defines "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.

CRIMINAL OFFENSES / WEAPONS / 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. 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.

EVIDENCE / IMPEACHMENT / CONSCIOUSNESS OF GUILT

The conduct of an accused following a crime, including "manifestations of mental distress," is admissible as tending to show guilt.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
CRIMINAL DIVISION - NO. CR 2253 of 2015

APPEARANCES: Laurie A. Mikielski, Esq., on behalf of Cody Rubinosky, Appellant
Michael E. Burns, Esq., for the Commonwealth, Appellee

OPINION

Domitrovich, J., April 13, 2016

The instant matter is currently before the Pennsylvania Superior Court on the Appeal of Cody Rubinosky (hereafter referred to as “Appellant”) from his conviction by jury trial and from the Sentencing Order entered on January 26, 2016 by Judge John P. Garhart.¹ The sole issue before this Trial Court is whether the evidence was sufficient as a matter of law to establish Appellant’s guilt beyond a reasonable doubt as to the element of “Possession” for Counts 1 and 2 of the instant docket.

Factual and Procedural History

On July 27, 2015, Pennsylvania State Troopers Joshua Zeigler and Jonathan Casey were patrolling around the area of Peach Street and Downs Drive, in full uniform and in a marked patrol vehicle, when they initiated a traffic stop on a dark-colored 2003 Cadillac sedan with an expired registration. *Notes of Testimony, Jury Trial, November 20, 2015, page 16, line 3 – page 17, line 19; page 58, lines 12-18.* The traffic stop was initiated in the northeast corner of the Walmart parking lot. *N.T., pg. 58, lines 16-18.* Upon initiating the traffic stop, the driver, later identified as James Bigley, and the front seat passenger, later identified as Christine Kennelly, stayed with the vehicle, but the backseat passenger, later identified as Appellant Cody Rubinosky, quickly exited the vehicle and “made a beeline,” i.e. walked briskly, towards Walmart. *N.T., pg. 18, lines 9-22; pg. 59, lines 4-15.* Trooper Casey went after Appellant, while Trooper Zeigler remained with Mr. Bigley and Ms. Kennelly. *N.T., pg. 19, lines 3-6.* Trooper Casey shouted “State Police!” multiple times to Appellant, who did not stop, and upon reaching Appellant informed him “he [Appellant] was involved in the traffic stop” and had to return to the vehicle. *N.T., pg. 60, lines 1-5.* Initially, Appellant did not comply and related to Trooper Casey “the only things that belong to him [Appellant] were on his person and nothing in that vehicle belonged to him [Appellant].” *N.T., pg. 60, lines 14-20.*

While Trooper Casey was speaking with Appellant, Trooper Zeigler spoke with Mr. Bigley and Ms. Kennelly. Trooper Zeigler noticed “track marks” on Mr. Bigley’s and Ms. Kennelly’s arms and asked if there was anything illegal in the vehicle, to which they responded there was drug paraphernalia in the vehicle. *N.T., pg. 19, lines 11-14.* This gave Trooper Zeigler probable cause to initiate a search. *N.T., pg. 19, lines 16-18.* When Trooper Casey brought Appellant back to the vehicle, Appellant was “extremely irate and acting kind of indignant.” *N.T., pg. 19, line 23 – pg. 20, line 1.* While Mr. Bigley and Ms. Kennelly had a “calm demeanor,” Appellant was “real upset, trying to distance himself from the vehicle and obviously indicating ‘nothing in the vehicle belonged to him.’” *N.T., pg. 21, lines 9-18; pg. 70, lines 7-12.* Both troopers noticed a dark-colored or black backpack located in the back seat of the vehicle where Appellant had been seated. *N.T., pg. 20, lines 10-20; pg. 30, lines 11-16; pg. 68, lines 13-18.* Based upon the information Trooper Zeigler received from Mr. Bigley and Ms. Kennelly regarding drug paraphernalia in the vehicle, Trooper Zeigler “obtained probable cause to search the vehicle, which was related to Trooper Casey,” but

¹ Judge Garhart had signed the above-referenced Sentencing Order on behalf of Judge Shad F. Connelly, who presided over the criminal trial, but is now retired. The undersigned judge was assigned the instant criminal action by the Erie County Court Administrator to handle this appeal.

did not conduct the probable cause search of the vehicle himself. *N.T.*, pg. 19, lines 11-18; pg. 61, line 23 – pg. 62, line 8. Along with various forms of drug paraphernalia, a Stallard Arms JS-9 9mm firearm was found in the backpack that was positioned in the middle rear of the vehicle. *N.T.*, pg. 62, lines 10-13. Appellant was “doing a lot of pacing,” and when the firearm was located, his pacing “began to intensify,” his “demeanor changed drastically,” and he was “acting really nervous.” *N.T.*, pg. 21, lines 21-24. Upon discovering the firearm, Trooper Casey notified Trooper Zeigler that he found the firearm and had removed the magazine from the firearm. *N.T.*, pg. 36, lines 14-20; pg. 64, lines 19-24. During the traffic stop, Ms. Kennelly indicated to both Pennsylvania State troopers several times that the firearm belonged to Appellant and further indicated Appellant does carry around a black backpack. *N.T.*, pg. 41 lines 1-3, 21-22; pg. 64, lines 4-6.

When asked to provide identification, Appellant failed to produce any identification and stated his name was “Corey Francis Gulnac” and his birth date was 11/26/1989; however, upon investigation, Trooper Casey determined this information was false. *N.T.*, pg. 22, lines 11-24; pg. 66, line 19 – pg. 67, line 21. When Trooper Casey confronted Appellant and asked whether he provided false information, Appellant continued to state “No, my name is Corey Francis Gulnac and that’s my name;” however, in a side conversation, Ms. Kennelly identified Appellant as “Cody Rubinosky.” *N.T.*, pg. 23, lines 9-19. Appellant later admitted to providing false identification to Trooper Casey, but maintained “nothing in the vehicle belonged to him, including the drug paraphernalia and the firearm.” *N.T.*, pg. 69, lines 19-23; pg. 88, lines 18-25.

Appellant was charged with one count of Persons Not to Possess, Use, Manufacture, Control, Sell or Transfer Firearms, in violation of 18 Pa. C. S. §6105(a)(1); one count of Firearms Not to be Carried without a License, in violation of 18 Pa. C. S. §6106(a)(1); and one count of False Identification to Law Enforcement Authorities, in violation of 18 Pa. C. S. §4914(a). A Criminal Jury Trial was presided over by Judge Shad F. Connelly on November 20, 2015, at which the Commonwealth presented testimony and evidence to the jury.² The Commonwealth introduced two (2) exhibits in particular – Commonwealth’s Exhibit 1, which the Stallard Arms model JS-9 9mm firearm, black in color, found in the black backpack in the center rear of the vehicle; and Commonwealth’s Exhibit 2, which was a firearm functionality test indicating the firearm found in the vehicle was functional and capable of discharging the types of ammunition for which it was designed and manufactured. *N.T.*, pg. 71, lines 4-6; pg. 72, lines 11-14. The jury found Appellant “Guilty” on all three (3) charges. A sentencing hearing was held on January 26, 2016 before Judge Connelly, and Judge Garhart signed the following Sentencing Order:

- Count 1: sixty (60) to one hundred twenty (120) months of incarceration, consecutive to the sentence imposed at docket no. CR 446 – 2012;
- Count 2: forty-two (42) to eighty-four (84) months of incarceration, concurrent to Count 1 of the instant docket; and
- Count 3: six (6) to twelve (12) months of incarceration, concurrent to Count 2 of the instant docket.

² According to the Notes of Testimony from the Criminal Jury Trial, Appellant’s counsel did not present testimony or evidence to the jury. See *N.T.*, pg. 92, line 24 – pg. 93, line 2.

On February 23, 2016, Appellant filed a Notice of Appeal to the Pennsylvania Superior Court. This Trial Court filed its 1925(b) Order on March 2, 2016. Appellant filed his "Statement of Matters Complained of on Appeal" on March 22, 2016.

Legal Argument

1. The Commonwealth presented sufficient evidence to prove beyond a reasonable doubt Appellant "possessed" a firearm, and the jury properly found Appellant "Guilty" at Count 1: Persons Not to Possess, Use, Manufacture, Control, Sell or Transfer Firearms, in violation of 18 Pa. C. S. §6105(a)(1); and at Count 2: Firearms Not to be Carried without a License, in violation of 18 Pa. C. S. §6106(a)(1), based upon the evidence presented.

The standard of review in a sufficiency of the evidence challenge is to determine if the Commonwealth established beyond a reasonable doubt each of the elements of the offense, considering all the evidence admitted at trial, and drawing all reasonable inferences therefrom in favor of the Commonwealth as the verdict-winner. *Commonwealth v. Hopkins*, 67 A.3d 817, 820 (Pa. Super. 2013). This standard is equally applicable to cases where the evidence is circumstantial rather than direct so long as the combination of the evidence links the accused to the crime beyond a reasonable doubt. *Commonwealth v. Parker*, 847 A.2d 745, 750 (Pa. Super. 2004). In applying this standard, the appellate courts bear in mind that the Commonwealth may sustain its burden by means of wholly circumstantial evidence; that the entire trial record should be evaluated and all evidence received considered, whether or not the trial court's rulings thereon were correct; and that the trier of fact, while passing upon the credibility of witnesses and the weight of the proof, is free to believe all, part, or none of the evidence. *See Commonwealth v. Reed*, 990 A.2d 1158, 1162 (Pa. 2010).

Possession can be found by proving actual possession, constructive possession or joint constructive possession. *See Commonwealth v. Gutierrez*, 969 A.2d 584, 590 (Pa. Super. 2009) (*quoting Commonwealth v. Heidler*, 741 A.2d 213, 215 (Pa. Super. 1999)). 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. *Gutierrez*, 969 A.2d at 591. 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.*

After a thorough review of the facts and circumstances of the instant criminal action, together with a thorough review of relevant case law, this Trial Court concludes the

Commonwealth presented sufficient evidence to establish beyond a reasonable doubt that Appellant “possessed” a firearm, and the jury properly found Appellant “Guilty” as to Counts 1 and 2 based upon the evidence presented. The facts and circumstances, considered in their totality, clearly establish Appellant had both the ability to exercise consciously his control over the firearm as well as his intent to exercise this control. First, the location of the firearm indicates Appellant’s constructive possession of said firearm. The firearm was located inside a black backpack, and said backpack was located “in the center of the back seat directly adjacent to where the defendant [Appellant] was seated,” according to Troopers Zeigler and Casey. No other individuals were seated in the rear of the vehicle besides Appellant at the time of the traffic stop. Furthermore, during the traffic stop, the front seat passenger, Christine Kennelly, indicated to both Pennsylvania State troopers that both the firearm and the black backpack belonged to Appellant, and there was no evidence or statements from the other occupants in the vehicle that led the troopers to believe the firearm might have belonged or been in the possession of the other occupants. Finally, according to Trooper Jonathan Casey, the firearm was found with a magazine inside, which was eventually removed by Trooper Casey. A firearm functionality test, admitted at trial as Commonwealth’s Exhibit 2, indicated the firearm was functional and capable of discharging the types of ammunition for which it was designed and manufactured.

Appellant’s actions before and during the traffic stop also demonstrated his constructive possession of the firearm. The conduct of an accused following a crime, including “manifestations of mental distress,” is admissible as tending to show guilt. *Commonwealth v. Hughes*, 865 A.2d 761, 792 (Pa. 2004). When the traffic stop was initiated by Troopers Zeigler and Casey, Appellant quickly exited the vehicle and briskly walked towards Walmart. Trooper Casey stated “State Police” several times to Appellant, who would not stop. When Trooper Casey made contact with Appellant, Appellant became irate, uncooperative and continuously stated “nothing in the vehicle belonged to him.” Upon being brought back to the vehicle, Appellant became extremely irate, acted indignant and continued to state “nothing in the vehicle belonged to him.” Appellant began pacing during Trooper Casey’s search of the vehicle, and when the firearm was discovered, Appellant’s pacing intensified, his demeanor changed drastically and he began acting very nervous. When asked for identification, Appellant gave the name “Corey Francis Gulnac” and the birthdate 11/26/89 and repeatedly gave this information; however, through an investigation, Trooper Casey determined this information was false. Christine Kennelly identified Appellant as “Cody Rubinosky” in a side conversation with the troopers. Appellant ultimately admitted to Trooper Casey the information he gave was false. These facts and circumstances, considered in their totality, evidence Appellant’s “consciousness of guilt” regarding his possession of the firearm. *See Cruz*, 21 A.3d at 1253 (Pa. Super. 2011) (“consciousness of guilt” regarding firearms offenses was shown by Defendant giving police officer five or six different names and multiple birthdates); *see also Commonwealth v. Micking*, 17 A.3d 924, 926 (Pa. Super. 2011) (Appellant’s behavior of extreme nervousness, shaking and trembling exhibited a “consciousness of guilt” regarding firearms offenses).

Therefore, in consideration of the totality of the facts and circumstances, together with a thorough review of relevant case law, this Trial Court concludes the Commonwealth produced sufficient evidence for the jury to find beyond a reasonable doubt that Appellant

constructively possessed the firearm found inside the vehicle, as Appellant had both the ability to exercise consciously his control over the firearm as well as the intent to exercise this control. This Trial Court concludes Appellant's issue is without merit.

Conclusion

For all of the foregoing reasons, this Trial Court concludes the instant appeal is without merit and respectfully requests the Pennsylvania Superior Court deny Appellant's appeal.

BY THE COURT
/s/Stephanie Domitrovich, Judge

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

COMMONWEALTH OF PENNSYLVANIA, Appellee

v.

CODY RUBINOSKY, Appellant

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 274 WDA 2016

Appeal from the Judgment of Sentence January 26, 2016

In the Court of Common Pleas of Erie County

Criminal Division at No(s): CP-25-CR-0002253-2015

BEFORE: BENDER, P.J.E., OTT, J., and FITZGERALD, J.*

MEMORANDUM BY OTT, J.:

FILED FEBRUARY 14, 2017

Cody Rubinosky appeals from the judgment of sentence entered January 26, 2016, in the Erie County Court of Common Pleas. On November 20, 2015, a jury convicted Rubinosky of one count of persons not to possess, use, manufacture, control, sell or transfer firearms, one count of firearms not to be carried without a license, and one count of false identification to law enforcement authorities.¹ The court imposed an aggregate sentence of 60 to 120 months' incarceration. The sole issue on appeal is a challenge to the sufficiency of the evidence with respect to his two firearms convictions. After a thorough review of the submissions by the parties, the certified record, and relevant law, we affirm the judgment of sentence.

The trial court set forth the factual history as follows:

On July 27, 2015, Pennsylvania State Troopers Joshua Zeigler and Jonathan Casey were patrolling around the area of Peach Street and Downs Drive, in full uniform and in a marked patrol vehicle, when they initiated a traffic stop on a dark-colored 2003 Cadillac sedan with an expired registration. The traffic stop was initiated in the northeast corner of the Walmart parking lot. Upon initiating the traffic stop, the driver, later identified as James Bigley, and the front seat passenger, later identified as Christine Kennel[e]y, stayed with the vehicle, but the backseat passenger, later identified as Appellant Cody Rubinosky, quickly exited the vehicle and "made a beeline," i.e. walked briskly, towards Walmart. Trooper Casey went after [Rubinosky], while Trooper Zeigler remained with Mr. Bigley and Ms. Kennel[e]y. Trooper Casey shouted "State Police!" multiple times to [Rubinosky], who did not stop, and upon reaching [Rubinosky] informed him "he [Rubinosky] was involved in the traffic stop" and had to return to the vehicle. Initially, [Rubinosky] did not comply and related to Trooper Casey "the only things that belong to him [Rubinosky] were on his person and nothing in that vehicle belonged to him [Rubinosky]."

While Trooper Casey was speaking with [Rubinosky], Trooper Zeigler spoke with Mr. Bigley and Ms. Kennel[e]y. Trooper Zeigler noticed "track marks" on Mr. Bigley's and Ms. Kennel[e]y's arms and asked if there was anything illegal in

* Former Justice specially assigned to the Superior Court.

¹ 18 Pa.C.S. §§ 6105(a)(1), 6106(a)(1), and 4914(a).

the vehicle, to which they responded there was drug paraphernalia in the vehicle. This gave Trooper Zeigler probable cause to initiate a search. When Trooper Casey brought [Rubinosky] back to the vehicle, [Rubinosky] was “extremely irate an acting kind of indignant.” While Mr. Bigley and Ms. Kennell[e]y had a “calm demeanor,” [Rubinosky] was “real upset, trying to distance himself from the vehicle and obviously indicating ‘nothing in the vehicle belonged to him.’” Both troopers noticed a dark-colored or black backpack located in the back seat of the vehicle where [Rubinosky] had been seated. Based upon the information Trooper Zeigler received from Mr. Bigley and Ms. Kennell[e]y regarding drug paraphernalia in the vehicle, Trooper Zeigler “obtained probable cause to search the vehicle, which was related to Trooper Casey,” but did not conduct the probable cause search of the vehicle himself. Along with various forms of drug paraphernalia, a Stallard Arms JS-9 9mm firearm was found in the backpack that was positioned in the middle rear of the vehicle. [Rubinosky] was “doing a lot of pacing,” and when the firearm was located, his pacing “began to intensify,” his “demeanor changed drastically,” and he was “acting really nervous.” Upon discovering the firearm, Trooper Casey notified Trooper Zeigler that he found the firearm and had removed the magazine from the firearm. During the traffic stop, Ms. Kennell[e]y indicated to both Pennsylvania State troopers several times that the firearm belonged to [Rubinosky] and further indicated [Rubinosky] does carry around a black backpack.

When asked to provide identification, [Rubinosky] failed to produce any identification and stated his name was “Corey Francis Gulnac” and his birth date was 11/26/1989; however, upon investigation, Trooper Casey determined this information was false. When Trooper Casey confronted [Rubinosky] and asked whether he provided false information, [Rubinosky] continued to state “No, my name is Corey Francis Gulnac and that’s my name;” however, in a side conversation, Ms. Kennell[e]y identified [Rubinosky] as “Cody Rubinosky.” [Rubinosky] later admitted to providing false identification to Trooper Casey, but maintained “nothing in the vehicle belonged to him, including the drug paraphernalia and the firearm. Trial Court Opinion, 4/14/2016, at 1-3 (record citations omitted).

Rubinosky was charged with one count of persons not to possess firearms, one count of firearms not to be carried without a license, and one count of false identification to law enforcement authorities. A one-day jury trial took place on November 20, 2015. At the conclusion of the trial, the jury convicted Rubinosky of all three counts. Subsequently, on January 26, 2016, the court imposed the following sentence: (1) a term of 60 to 120 months’ imprisonment for the persons not to possess a firearm conviction; (2) a concurrent term of 42 to 84 months’ incarceration for the firearms not to be carried without a license conviction; and (3) a concurrent term of six to 12 months’ incarceration for the false identification offense. Rubinosky did not file post-sentence motions but did file this timely direct appeal²

In his sole issue on appeal, Rubinosky challenges the sufficiency of the evidence with

² On March 4, 2016, the trial court ordered Rubinosky to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). We note neither the certified record nor the docket reveals that Rubinosky filed a concise statement. Nevertheless, in its opinion, the trial court indicated Rubinosky filed a concise statement on March 22, 2016. Neither party takes issue with this; therefore, we will infer that a concise statement was filed. The trial court issued an opinion pursuant to Pa.R.A.P. 1925(a) on April 14, 2016.

respect to his two firearms convictions. Specifically, he states, “[T]he Commonwealth failed to present any evidence at trial that he actually possessed the firearm in question.” Rubinosky’s Brief at 7. In support of his argument, Rubinosky points to the following: (1) the firearm was found in the backseat of a vehicle belonging to Kennelley and Bigley; (2) Kennelley and Bigley were under the influence of heroin at the time of the incident; (3) contrary to statements Kennelley gave to police, she testified at trial that she did not remember who the gun belonged to and that she and Bigley had been living out of the car for a month and had given several individuals rides in that car, all of whom had ridden in the backseat; (4) Kennelley alleged that some of those passengers were drug dealers who were known to possess firearms; and (5) Kennelley stated she never checked the back seat so she was unsure who owned the gun. *Id.* Additionally, Rubinosky states the Commonwealth failed to present any evidence in form of fingerprints or deoxyribonucleic acid (“DNA”) to connect him with the gun. *Id.* Lastly, Rubinosky argues the Commonwealth did not present sufficient evidence to demonstrate constructive possession of the firearm because it only established he was sitting in the backseat of the same car where a backpack was found in the center of that backseat. *Id.* at 8. He notes the vehicle was unkempt and there were only two ammunition clips recovered from the vehicle – one in the gun and one in the glove compartment. Rubinosky states the only person who connected him to the firearm was Kennelley and she was high on heroin at the time of the stop. *Id.*

We begin with our well-settled standard of review:

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 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 finder 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. Melvin, 103 A.3d 1, 39-40 (Pa. Super. 2014) (citation omitted).

The crime of persons not to possess firearms is defined as follows:

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. § 6105(a)(1).

The crime of firearms not to be carried without a license is defined as follows:

Except as provided in paragraph (2), any person who carries a firearm in any vehicle or any person who carries a firearm concealed on or about his person, except in his place of abode or fixed place of business, without a valid and lawfully issued license under this chapter commits a felony of the third degree.

18 Pa.C.S. § 6106(a)(1).

Because the firearm was not found on Rubinosky's person, we also note the Commonwealth may satisfy its burden by establishing constructive possession:

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. Hopkins, 67 A.3d 817, 820 (Pa. Super. 2013) (citation omitted), *appeal denied*, 78 A.3d 1090 (Pa. 2013).

Here, the record reveals the following: Trooper Zeigler testified that on July 27, 2015, he and Trooper Casey conducted a traffic stop of a dark-colored Cadillac with an expired registration. N.T., 11/20/2015, at 18. The officers observed Rubinosky sitting in the backseat on the driver's side of the vehicle. *Id.* While the other passengers exited the car, Rubinosky "made his way around the vehicle and made a direct beeline towards the entrance of Walmart." *Id.* Trooper Casey followed after Rubinosky. *Id.* at 19. When Trooper Casey returned to the car with Rubinosky, Trooper Zeigler testified Rubinosky was acting "irate" and "indignant." *Id.* at 20. Trooper Zeigler also indicated he saw a dark-colored backpack "right in the middle of the backseat." *Id.* at 30. Inside the backpack, Trooper Casey discovered a Stallard Arms JS-9, 9 mm firearm. *Id.* at 62.

While Trooper Casey was searching the car, Rubinosky told the troopers that nothing in the vehicle belong to him. *Id.* at 21, 24-25. Trooper Zeigler indicated Rubinosky was very upset and "doing a lot of pacing." *Id.* at 21.³ Rubinosky also provided the troopers with false identification information. *Id.* at 22. Trooper Zeigler testified that the front seat passenger, Kennelley, eventually told him that the subject he was talking to was, indeed, Rubinosky. *Id.* at 23.⁴ Kennelley also told the trooper that the firearm was Rubinosky's and he "needed [their] assistance in taking that firearm to Gander Mountain to trade it in for funds to get more funds to obtain heroin." *Id.* at 41. Lastly, Kennelley informed the trooper the backpack belonged to Rubinosky. *Id.*

Kennelley also testified at trial. On direct examination, she stated Rubinosky had been a

³ During a search of the vehicle, Trooper Zeigler stated Rubinosky's nervousness and pacing "began to intensify." *Id.* at 21.

⁴ Kennelley also indicated there was drug paraphernalia in the car. *Id.* at 31.

family friend for a very long time. *Id.* at 48. She also indicated she could not recall telling the troopers Rubinosky was the backseat passenger, and that he had a gun and had asked Kennelley and her husband to drive him to Gander Mountain to sell that firearm. *Id.* at 49. On cross-examination, Kennelley stated she and her husband had been living out of the car for a month. *Id.* at 50-51. She indicated she had given rides to a handful of individuals during that period. *Id.* at 52-53. Kennelley testified a lot of the passengers were drug dealers who had guns, but she could not remember if any of them left their guns in her car, and she did not always check to make sure they did not leave their firearms. *Id.* at 53-55. Lastly, Kennelley admitted she and her husband had used heroin on the day in question. *Id.* at 52.

The trial court analyzed the claim as follows:

After a thorough review of the facts and circumstances of the instant criminal action, together with a thorough review of relevant case law, this Trial Court concludes the Commonwealth presented sufficient evidence to establish beyond a reasonable doubt that [Rubinosky] “possessed” a firearm, and the jury properly found [Rubinosky] “Guilty” as to Counts 1 and 2 based upon the evidence presented. The facts and circumstances, considered in their totality, clearly establish [Rubinosky] had both the ability to exercise consciously his control over the firearm as well as his intent to exercise this control. First, the location of the firearm indicates [Rubinosky]’s constructive possession of said firearm. The firearm was located inside a black backpack, and said backpack was located “in the center of the back seat directly adjacent to where the defendant [Rubinosky] was seated,” according to Troopers Zeigler and Casey. No other individuals were seated in the rear of the vehicle besides [Rubinosky] at the time of the traffic stop. Furthermore, during the traffic stop, the front seat passenger, Christine Kennell[e]y, indicated to both Pennsylvania State troopers that both the firearm and the black backpack belonged to [Rubinosky], and there was no evidence or statements from the other occupants in the vehicle that led the troopers to believe the firearm might have belonged or been in the possession of the other occupants. Finally, according to Trooper Jonathan Casey, the firearm was found with a magazine inside, which was eventually removed by Trooper Casey. A firearm functionality test, admitted at trial as Commonwealth’s Exhibit 2, indicated the firearm was functional and capable of discharging the types of ammunition for which it was designed and manufactured.

[Rubinosky]’s actions before and during the traffic stop also demonstrated his constructive possession of the firearm. The conduct of an accused following a crime, including “manifestations of mental distress,” is admissible as tending to show guilt. *Commonwealth v. Hughes*, 865 A.2d 761, 792 (Pa. 2004). When the traffic stop was initiated by Troopers Zeigler and Casey, [Rubinosky] quickly exited the vehicle and briskly walked towards Walmart. Trooper Casey stated “State Police” several times to [Rubinosky], who would not stop. When Trooper Casey made contact with [Rubinosky, he] became irate, uncooperative and continuously stated “nothing in the vehicle belonged to him.” Upon being brought back to the vehicle, [Rubinosky] became extremely irate, acted indignant and continued to state “nothing in the vehicle belonged to him.” [Rubinosky] began pacing during Trooper Casey’s search of the

vehicle, and when the firearm was discovered, [Rubinosky]’s pacing intensified, his demeanor changed drastically and he began acting very nervous. When asked for identification, [Rubinosky] gave the name “Corey Francis Gulnac” and the birthdate 11/26/89 and repeatedly gave this information; however, through an investigation, Trooper Casey determined this information was false. Christine Kennel[e]y identified [Rubinosky] as “Cody Rubinosky” in a side conversation with the troopers. [Rubinosky] ultimately admitted to Trooper Casey the information he gave was false. These facts and circumstances, considered in their totality, evidence [Rubinosky]’s “consciousness of guilt” regarding his possession of the firearm. *See [Commonwealth v.] Cruz*, 21 A.3d [1247,] 1253 (Pa. Super. 2011) (“consciousness of guilt” regarding firearms offenses was shown by Defendant giving police officer five or six different names and multiple birthdates); *see also Commonwealth v. Micking*, 17 A.3d 924, 926 (Pa. Super. 2011) (Appellant’s behavior of extreme nervousness, shaking and trembling exhibited a “consciousness of guilt” regarding firearms offenses).

Therefore, in consideration of the totality of the facts and circumstances, together with a thorough review of relevant case law, this Trial Court concludes the Commonwealth produced sufficient evidence for the jury to find beyond a reasonable doubt that [Rubinosky] constructively possessed the firearm found inside the vehicle, as [Rubinosky] had both the ability to exercise consciously his control over the firearm as well as the intent to exercise this control. This Trial Court concludes [Rubinosky]’s issue is without merit.

Trial Court Opinion, 4/16/2016, at 6-8.

We agree with the court’s well-reasoned analysis. Viewed in the light most favorable to the Commonwealth, the evidence was sufficient to sustain the trial court’s finding that Rubinosky constructively possessed the weapon. Rubinosky was the only passenger in the backseat of the car adjacent to where the backpack, which contained the gun, was located in plain view. As such, one can reasonably infer the contraband was well within Rubinosky’s reach.⁵ Furthermore, at the time of the car stop, Kennelley told the police the gun and the backpack belonged to Rubinosky. Moreover, Rubinosky’s flight towards the Walmart store after the stop and nervous behavior were both indicative signs of his guilt. *See Commonwealth v. Dent*, 837 A.2d 571, 576 (Pa. Super. 2003) (flight indicates consciousness of guilt, and “a trial court may consider this as evidence, along with other proof, from which guilt may be inferred.”), *appeal denied*, 863 A.2d 1143 (Pa. 2004); *Commonwealth v. Micking*, 17 A.3d 924, 926 (Pa. Super. 2011) (“The conduct of an accused following a crime, including ‘manifestations of mental distress,’ is admissible as tending to show guilt.”) (citation omitted), *appeal denied*, 31 A.3d 291 (Pa. 2011).

Additionally, with respect to Rubinosky’s argument regarding the counter-evidence of Kennelley’s testimony that she did not remember who the gun belonged to, we note this

⁵ *See Commonwealth v. Flythe*, 417 A.2d 633, 634 (Pa. Super. 1979) (“It strains the imagination to believe that defendant innocently entered this vehicle having no knowledge of the items found therein when, the pistol at least, was within a few inches of him and a portion of it was in plain view.”).

argument goes to the weight rather than the sufficiency of the evidence. The jury, sitting as the factfinder, “is free to believe all, part, or none of the evidence and to determine the credibility of the witnesses.” *Commonwealth v. Ramtahal*, 33 A.3d 602, 609 (Pa. 2011) (citation omitted). Here, the jury chose to believe Kennelley’s prior statements made to the troopers on the night of the incident, rather than her trial testimony.

Lastly, to the extent Rubinosky argues there was no DNA evidence connecting him to the gun, we find this of no consequence based on the remaining circumstantial evidence. *See Commonwealth v. Lopez*, 57 A.3d 74, 80 (Pa. Super. 2012) (holding that the lack of forensic evidence was not fatal to the prosecution’s case based on wholly circumstantial evidence), *appeal denied*, 62 A.3d 379 (Pa. 2013). Accordingly, we conclude there was sufficient evidence to enable the jury to find Rubinosky constructively possessed a firearm. Therefore, Rubinosky is not entitled to relief with respect to his sufficiency challenge regarding the firearms convictions.

Judgment of sentence affirmed.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq.

Prothonotary

Date: 2/14/2017

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CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania
 Docket No. 10308-17
 Notice is hereby given that a petition was filed in the above named Court, requesting an Order to change the name of Kyaira Lashay Blue to Amour Machol Machar.
 The Court has fixed the 21st day of March, 2017 at 10:30 a.m. in Courtroom G, Room 222 of the Erie County Courthouse, 140 W. 6th St., Erie, PA 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.

Mar. 17

INCORPORATION NOTICE

Notice is hereby given that Adaptive Construction Solutions, Inc. has been incorporated under the Business Corporation Law of 1988.
 Gery T. Nietupski, Esquire
 Law Offices of Gery T. Nietupski, Esquire, LLC
 818 State Street, Suite A
 Erie, Pennsylvania 16501

Mar. 17

LEGAL NOTICE

ATTENTION: SCOTT J. DUNN, JR.
 INVOLUNTARY TERMINATION OF PARENTAL RIGHTS
 IN THE MATTER OF THE ADOPTION OF MINOR FEMALE CHILD A.D.M. - DOB: 10/09/2015
 BORN TO: D'SHANE KAILEE-KIZ MARKHAM
 44 IN ADOPTION 2016
 If you could be the parent of the above mentioned child at the instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphans' Court of Erie County, Pennsylvania, at the Erie County Court House, Senior Judge Shad Connelly, Court Room No. 217-I, City of Erie, on April 6, 2017, at 1:30 p.m., and there show cause, if any you have, why your parental rights to the above child should not be terminated, in accordance with a Petition and Order of Court

filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth at (814) 451-7740.

Your presence is required at the Hearing. If you do not appear at this Hearing, the Court may decide that you are not interested in retaining your rights to your child and your failure to appear may affect the Court's decision on whether to end your rights to your child. You are warned that even if you fail to appear at the scheduled Hearing, the Hearing will go on without you and your rights to your child may be ended by the Court without your being present. You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.
 Family/Orphans' Court Administrator
 Room 204 - 205
 Erie County Court House
 Erie, Pennsylvania 16501
 (814) 451-6251

NOTICE REQUIRED BY ACT 101 OF 2010: 23 Pa. C.S. §§2731-2742. This is to inform you of an important option that may be available to you under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact or communication following an adoption between an adoptive parent, a child, a birth parent and/or a birth relative of the child, if all parties agree and the voluntary agreement is approved by the Court. The agreement must be signed and approved by the Court to be legally binding. If you are interested in learning more about this option for a voluntary agreement, contact the Erie County Office of Children and Youth at (814) 451-7726, or contact your adoption attorney, if you have one.

Mar. 17

LEGAL NOTICE

NOTICE OF SHERIFF'S SALE
 IN THE COURT OF COMMON PLEAS OF ERIE COUNTY,
 PENNSYLVANIA

NO. 12142-16
 WELLS FARGO BANK, N.A.
 Vs.
 GARY LOUIS KOWALSKI,
 IN HIS CAPACITY AS HEIR
 OF MARY M. KOWALSKI,
 DECEASED and UNKNOWN
 HEIRS, SUCCESSORS, ASSIGNS,
 AND ALL PERSONS, FIRMS,
 OR ASSOCIATIONS CLAIMING
 RIGHT, TITLE OR INTEREST
 FROM OR UNDER MARY M.
 KOWALSKI, DECEASED
 NOTICE TO: UNKNOWN HEIRS,
 SUCCESSORS, ASSIGNS, AND
 ALL PERSONS, FIRMS, OR
 ASSOCIATIONS CLAIMING
 RIGHT, TITLE OR INTEREST
 FROM OR UNDER MARY M.
 KOWALSKI, DECEASED and
 GARY LOUIS KOWALSKI, in
 his capacity as Heir of MARY M.
 KOWALSKI, Deceased

NOTICE OF SHERIFF'S SALE
 OF REAL PROPERTY
 Being Premises: 5450 GARDNER
 DRIVE, ERIE, PA 16509-3019
 Being in MILLCREEK TOWNSHIP,
 County of ERIE, Commonwealth of
 Pennsylvania, (33) 145-463-17
 Improvements consist of residential
 property.
 Sold as the property of GARY LOUIS
 KOWALSKI, IN HIS CAPACITY AS
 HEIR OF MARY M. KOWALSKI,
 DECEASED and UNKNOWN
 HEIRS, SUCCESSORS, ASSIGNS,
 AND ALL PERSONS, FIRMS,
 OR ASSOCIATIONS CLAIMING
 RIGHT, TITLE OR INTEREST
 FROM OR UNDER MARY M.
 KOWALSKI, DECEASED
 Your house (real estate) at 5450
 GARDNER DRIVE, ERIE, PA
 16509-3019 is scheduled to be sold
 at the Sheriff's Sale on 05/19/2017
 at 10:00 AM, at the ERIE County
 Courthouse, 140 West 6th Street,
 Room 18, Erie, PA 16501-1077,
 to enforce the Court Judgment
 of \$145,132.02 obtained by,
 WELLS FARGO BANK, N.A.
 (the mortgagee), against the above
 premises.
 PHELAN HALLINAN DIAMOND
 & JONES, LLP
 Attorney for Plaintiff

Mar. 17

LEGAL NOTICE

NOTICE OF ACTION IN

**MORTGAGE FORECLOSURE
IN THE COURT OF COMMON
PLEAS OF ERIE COUNTY,
PENNSYLVANIA**

CIVIL ACTION – LAW

NO: 2012-12334

**U.S. Bank Trust National Association
as Trustee of American Homeowner
Preservation Trust Series 2014B,
Plaintiff vs. The Unknown Heirs
and Administrators of The Estate of
Tammy S. Wise, Defendant(s)**

NOTICE

**TO: All Other Heirs of Tammy
S. Wise, Known or Unknown,
Defendant(s), whose last known
address is 1036 East 33rd Street,
Erie, PA 16504.**

**NOTICE OF SHERIFF'S SALE
OF REAL PROPERTY**

TAKE NOTICE that the real estate located 1036 East 33rd Street, Erie, PA 16504, is scheduled to be sold at Sheriff's Sale on 4/21/17 at 10:00 A.M., Central Court, Erie County Courthouse, 140 W. Sixth St., 2nd Fl., Erie, PA 16501, to enforce the court judgment of \$81,627.35, obtained by U.S. Bank Trust National Association as Trustee of American Homeowner Preservation Trust Series 2014B, against you. Property Description: Prop. sit in the City of Erie. BEING prem.: 1036 East 33rd Street, Erie, PA 16504. Tax Parcel: (18) 5201-326. Improvements consist of residential property. Sold as the property of TAMMY S. WISE. **TERMS OF SALE:** The purchaser at sale must pay the full amount of his/her bid by two o'clock P.M. on the day of the sale, and if complied with, a deed will be tendered by the Sheriff at the next Court of Common Pleas for Erie County conveying to the purchaser all the right, title, interest and claim which the said defendant has in and to the said property at the time of levying the same. If the above conditions are not complied with on the part of the purchaser, the property will again be offered for sale by the Sheriff at three o'clock P.M., on the same day. The said purchaser will be held liable for the deficiencies and additional costs of said sale. **TAKE NOTICE** that a Schedule of Distribution will be filed

by the Sheriff on a date specified by the Sheriff not later than thirty (30) days after sale. Distribution will be made in accordance with the schedule unless exceptions are filed thereto within 10 days after the filing of the schedule.
Powers, Kirm & Associates, LLC
Attys. for Plaintiff
Eight Neshaminy Interplex, Ste. 215
Trevose, PA 19053
215.942.2090

Mar. 17

**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, March 8, 2017** and confirmed Nisi.

April 19, 2017 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.

2017 ESTATE

ACCOUNTANT

ATTORNEY

- | | | |
|--|--|--------------------------|
| 64. Westbrook Clark..... | George M. Clark, Administrator | Thomas J. Minarcik, Esq. |
| 65. Betty M. Angerer a/k/a Betty | Erin Anderson and Nichole Campbell,..... | Grant M. Yochim, Esq. |
| May Angerer a/k/a Betty | Co-Executrices | |
| Angerer a/k/a B. M. Angerer | | |
| 66. Marie Theresa Behr | Grant M. Yochim, Administrator..... | Grant M. Yochim, Esq. |
| a/k/a Marie T. Behr | | |
| 67. Robert L. Peterson..... | Peter W. Bailey, Executor..... | James R. Steadman, Esq. |

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

Mar. 17, 24

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

BLAKESLEE, BARBARA A., deceased

Late of the City of Erie, Erie County, Pennsylvania
Executrix: Karen Marie Matteson, c/o Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 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

CHAFFEE, DAVID L., deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Executrix: David M. Chaffee, c/o Melaragno, Placidi, Parini & Veitch, 502 West Seventh Street, Erie, PA 16502
Attorney: Gene P. Placidi, Esquire, Melaragno, Placidi, Parini & Veitch, 502 West Seventh Street, Erie, PA 16502

FALCONE, JOHN R., deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Co-Executors: Shawn Goring & John R. Falcone, II, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508
Attorney: Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

GOODSPEED, ANNA MAE, deceased

Late of North East Township, Erie County, North East, Pennsylvania
Executrix: Nancy Eisaman, c/o Robert J. Jeffery, Esq., 33 East Main Street, North East, Pennsylvania 16428
Attorney: Orton & Jeffery, P.C., 33 East Main Street, North East, Pennsylvania 16428

HENNEN, CHARLOTTE ANNE, a/k/a CHARLOTTE ANN HENNEN, a/k/a CHARLOTTE A. HENNEN, a/k/a CHARLOTTE HENNEN, deceased

Late of the Borough of Albion, County of Erie, State of Pennsylvania
Executor: Wayne C. Hennen, 215 South Main Street, Albion, PA 16401
Attorney: James R. Steadman, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

KASPER, EMILIE M., deceased

Late of Lake City Borough, County of Erie
Executrix: Janet M. Kuhns, 7025 Kreider Road, Fairview, PA 16415
Attorney: Thomas A. Testi, Esq., 3952 Avonia Road, P.O. Box 413, Fairview, PA 16415

LEWIS, MARGARET A., a/k/a MARGARET LEWIS, a/k/a MARGARET ANN LEWIS, deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Co-Executors: Kenneth E. Lewis, Thomas W. Lewis and Mary B. Lewis, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506
Attorney: Darlene M. Vlahos, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

PETRI, DAVID H., a/k/a DAVID PETRI, deceased

Late of the Borough of Lake City, County of Erie, State of Pennsylvania
Administrator: David D. Petri, 734 Country Club Road, Mount Airy, NC 27030
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

PREISLER, JOHN E., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administrator: Jim S. Preisler
Attorney: Thomas J. Minarcik, Esquire, Elderkin Law Firm, 150 East 8th Street, Erie, PA 16501

ROSE, PATRICIA M., deceased

Late of the Township of Harborcreek, County of Erie and Commonwealth of Pennsylvania
Executor: James J. Rose, c/o Yochim, Skiba & Nash, 345 West Sixth Street, Erie, PA 16507
Attorney: Gary H. Nash, Esq., Yochim, Skiba & Nash, 345 West Sixth Street, Erie, PA 16507

STEWART, JAMES RALDO, a/k/a JAMES R. STEWART, a/k/a JAMES STEWART, deceased

Late of the City of Erie, Erie County, Pennsylvania
Administratrix: Patricia Stewart, c/o Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 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

**VEREB, ROBERT J.,
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania

Administratrix: Melissa Sull, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

Attorney: Melissa L. Larese, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

SECOND PUBLICATION

**BATTLE, JOYCE,
deceased**

Late of Summit Township, Erie County, Pennsylvania

Administrator: Julius L. Battle, 834 E. 29th St., Erie, PA 16504
Attorney: Robert Freedenberg, Skarlatos Zonarich LLC, 17 S. 2nd St., 6th Fl., Harrisburg, PA 17101

**BRASINGTON, THERESA B.,
deceased**

Late of the City of Erie, Erie County, Pennsylvania

Executor: Kenneth C. Brasington, c/o Nathaniel Conti, Esq., 234 West 6th Street, Erie, PA 16507
Attorney: Nathaniel Conti, Esq., Bernard Stuczynski & Barnett, 234 West 6th Street, Erie, PA 16507

**BUSCENI, MARGARET J., a/k/a
MARGARET JULIA BUSCENI,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania

Executor: John Trippe
Attorney: David J. Rhodes, Esquire, Elderkin Law Firm, 150 East 8th Street, Erie, PA 16501

**CAMPBELL, FRED A L.,
deceased**

Late of Borough of North East, Erie County, Commonwealth of Pennsylvania

Executrix: Janice M. Culp, 120 West Tenth Street, Erie, PA 16501
Attorney: Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**CARRIG, MARY G.,
deceased**

Late of Erie County, Pennsylvania
Executor: Jill Peasley, c/o Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507

Attorney: Joseph P. Martone, Esquire, Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507

**ENGLE, JAMES H.,
deceased**

Late of Albion Borough, Erie County, Commonwealth of Pennsylvania

Executrix: M. Barbara Stebinsky, c/o 120 West Tenth Street, Erie, PA 16501
Attorney: Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**HART, EDWARD L.,
deceased**

Late of the Borough of Union City, County of Erie and Commonwealth of Pennsylvania

Administratrix: Joanna M. Adams, c/o 504 State Street, 3rd Floor, Erie, PA 16501
Attorney: Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

**HATHEWAY, GLORIA D.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania

Co-Administrators: Robert R. Hatheway and Gary L. Hatheway, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**HERSHELMAN, AUDREY R.,
a/k/a AUDREY HERSHELMAN,
deceased**

Late of the City of Erie, County of Erie and State of Pennsylvania
Administrator: Tim Hershelman, 2802 Sigsbee Street, Erie, PA 16508

Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**JAGTA, MARY J., a/k/a MARY
JANE JAGTA,
deceased**

Late of Waterford Township, County of Erie
Executor: Ronald Jagta, 12884 Hood Road, Waterford, PA 16441
Attorney: Thomas A. Testi, Esq., 3952 Avonia Road, P.O. Box 413, Fairview, PA 16415

**LYNCH, ELVORA L.,
deceased**

Late of Greenfield Township, Erie County, Wattsburg, Pennsylvania
Co-Executors: Julie Brennan and Amanda Gibson, c/o Robert J. Jeffery, Esq., 33 East Main Street, North East, Pennsylvania 16428
Attorney: Orton & Jeffery, P.C., 33 East Main Street, North East, Pennsylvania 16428

**MacISAAC, RICHARD SCOTT,
a/k/a RICHARD S. MacISAAC,
deceased**

Late of the City of Erie, County of Erie and State of Pennsylvania
Executrix: Barbara J. MacIsaac, 531 Colorado Drive, Erie, PA 16505
Attorney: None

MARTIN, HAROLD C., a/k/a H.C. MARTIN, deceased

Late of the Township of Harborcreek, County of Erie and Commonwealth of Pennsylvania
Executrix: Lynne M. Martin, c/o Yochim, Skiba & Nash, 345 West Sixth Street, Erie, PA 16507
Attorney: Gary H. Nash, Esq., Yochim, Skiba & Nash, 345 West Sixth Street, Erie, PA 16507

MILLER, TIMOTHY E., deceased

Late of the Township of North East, County of Erie and Commonwealth of Pennsylvania
Administratrix: Emily Johnson, 65 Gibson Street, North East, PA 16428-1035
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

STRAIT, ADELBERT L., deceased

Late of North East Township, County of Erie and Commonwealth of Pennsylvania
Executrix: Sabrina Midlik, c/o 818 State Street, Erie, PA 16501
Attorney: Gery T. Nietupski, Esq., The Law Offices of Gery T. Nietupski, Esquire LLC, 818 State Street, Erie, Pennsylvania 16501

THOMPSON, JESSIE N., a/k/a JESSIE NICOL THOMPSON, a/k/a MRS. JESSIE N. THOMPSON, a/k/a JESSIE THOMPSON, a/k/a JESS THOMPSON, deceased

Late of the Township of Fairview, County of Erie, State of Pennsylvania
Executrix: Glenn Thompson, 8351 Pondview Drive, McKean, PA 16426
Attorney: James R. Steadman, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

WAMBSGANS, LORAIN S., deceased

Late of the City of Erie, County of Erie
Co-Executrices: Mrs. Cynthia Rohan, 3920 West Lake Road, Erie, Pennsylvania 16505 and Mrs. Susan Williams, 312 Tennessee Avenue, Elizabethtville, Pennsylvania 17023
Attorney: Kari A. Froess, Esquire, Carney & Good, 254 West Sixth Street, Erie, Pennsylvania 16507

WION, NOAH SAMUEL, deceased

Late of the Township of Greenfield, Erie County
Administratrix: Kathleen Wion
Attorney: William J. Kelly, Jr., Esquire, 230 West 6th Street, Suite 201, Erie, PA 16507

THIRD PUBLICATION

BITTING, VALENTINE V., a/k/a VALENTINE BITTING, deceased

Late of the Township of Millcreek, County of Erie, State of Pennsylvania
Administrator: Robert K. Bitting, 1605 Moland Road, Alfred Station, NY 14803
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

BORATEN, AMELIA N., deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Executrix: Edrye M. Boraten, c/o Quinn, Buseck, Leemhuis, Toohy & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506
Attorney: Darlene M. Vlahos, Esq., Quinn Buseck Leemhuis Toohy & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

CARLSON, DOROTHY R., a/k/a DOROTHY CARLSON, deceased

Late of the Township of Fairview, County of Erie, State of Pennsylvania
Co-Executrices: Linda S. Lentz, 6785 Avonia Road, Fairview, PA 16415 and Carol C. Amick, 3620 Bear Creek Road, Fairview, PA 16415
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

COPELAND, WALTER B., deceased

Late of the Township of Conneaut, County of Erie and State of Pennsylvania
Executrix: Alan W. Copeland, 10335 Clifton Drive, Lake City, PA 16423
Attorney: James R. Steadman, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

FICHENA, REGINA M., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administratrix: Carla A. Rupp, c/o 504 State Street, 3rd Floor, Erie, PA 16501
Attorney: Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

GOLDEN, THOMAS JOSEPH, a/k/a THOMAS J. GOLDEN, a/k/a THOMAS GOLDEN, deceased

Late of the Township of Millcreek, County of Erie, Pennsylvania
Executrix: Michael A. Nelligan, c/o 6350 Meadowrue Lane, Erie, PA 16505-1027
Attorney: Scott E. Miller, Esquire, 6350 Meadowrue Lane, Erie, PA 16505-1027

**HART, HAL HENRY, a/k/a
HAL H. HART,
deceased**

Late of Wesleyville Borough,
Erie County, Commonwealth of
Pennsylvania

Executor: Nicholas F. Blossy,
c/o 120 West Tenth Street, Erie,
PA 16501

Attorney: Jeffrey D. Scibetta,
Esq., Knox McLaughlin Gornall
& Sennett, P.C., 120 West Tenth
Street, Erie, PA 16501

**KOLATOROWICZ,
MADELINE M.,
deceased**

Late of the City of Erie, County
of Erie

Executor: Brian Johnson

Attorney: Barbara J. Welton,
Esquire, 2530 Village Common
Dr., Suite B, Erie, PA 16505

**KOSOBUCKI, BARBARA A.,
deceased**

Late of the City of Erie

Executor: Donald J. Kosobucki,
Jr., 3900 Hannon Road, Erie,
PA 16510

Attorney: David J. Mack, Esq.,
510 Parade Street, Erie, PA 16507

**PALO, DENNIS L.,
deceased**

Late of Springfield Township,
Erie County, Commonwealth of
Pennsylvania

Executor: Judith A. Koehler, 6462
Wild Oak Bay Blvd., Condo #247,
Bradenton, FL 34210

Attorney: Adam C. Hellwig, Esq.,
PO Box 73, Portville, NY 14770

**PAPE, MARLENE M., a/k/a
MARLENE MARIE PAPE,
deceased**

Late of the City of Erie, Erie
County, Pennsylvania

Executor: Robert A. Pape, Jr.,
c/o Nadia A. Havard, Esq., Knox
McLaughlin Gornall & Sennett,
P.C., 120 West Tenth Street, Erie,
PA 16501

Attorney: Nadia A. Havard, Esq.,
Knox McLaughlin Gornall &
Sennett, P.C., 120 West Tenth
Street, Erie, PA 16501

**RAGAN, GEORGE R.,
deceased**

Late of the City of Erie, Erie
County, Pennsylvania

Administrator: Michael R. Ragan,
89 Lake Meade Drive, East Berlin,
PA 17316

Attorney: Michael C. Giordano,
Esquire, 221 W. Main Street,
Mechanicsburg, PA 17055

**SADLIER, RICHARD PHILIP,
deceased**

Late of the City of Erie, County
of Erie, Commonwealth of
Pennsylvania

Administrator: Nancy M. Sadlier,
c/o The McDonald Group, L.L.P.,
456 West Sixth Street, Erie, PA
16507-1216

Attorney: Valerie H. Kuntz, Esq.,
The McDonald Group, L.L.P.,
456 West Sixth Street, Erie, PA
16507-1216

**SKREKLA, MICHAEL J.,
deceased**

Late of the Borough of North East

Executor: Michael J. Skrekla, II,
8545 Oxbow Road, North East,
PA 16428

Attorney: David J. Mack, 510
Parade Street, Erie, PA 16507

**SMITH, DONALD R., a/k/a
DONALD ROBERT SMITH,
deceased**

Late of the Township of Millcreek,
Erie County, Pennsylvania

Administrator C.T.A.: Donald
Thomas Smith, 5936 Southland
Drive, Erie, PA 16509

Attorney: Randy L. Shapira,
Esq., 305 West Sixth Street, Erie,
PA 16507

**SOZVLORDO, MICHAEL D.,
deceased**

Late of City of Erie, Erie County,
Commonwealth of Pennsylvania

Executor: Gary Shotts, c/o 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

**WHITE, HELEN M., a/k/a
HELEN WHITE,
deceased**

Late of the Township of
Conneaut, County of Erie, State
of Pennsylvania

Executor: David D. White,
10835 Whittaker Road, Albion,
Pennsylvania 16401

Attorney: Grant M. Yochim,
Esq., 24 Main St. E., P.O. Box 87,
Girard, PA 16417

**WIENCZKOWSKI, ROBERT A.,
deceased**

Late of the Township of Millcreek,
Erie County

Executrix: Charlotte Wienczkowski

Attorney: William J. Kelly, Jr.,
Esquire, 230 West Sixth Street,
Suite 201, Erie, PA 16507

**WINNIE, VIRGINIA,
deceased**

Late of the Township of North
East, County of Erie and
Commonwealth of Pennsylvania

Administrator: Dominick A.
Sisinni, 100 State Street, Suite 700,
Erie, Pennsylvania 16507-1459

Attorney: MacDonald, Illig, Jones
& Britton LLP, 100 State Street,
Suite 700, Erie, Pennsylvania
16507-1459

CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

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Cleveland, OH 44113.....jleikin59@gmail.com

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