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Chapter 1 : Title 40 - INSURANCE

Page 3 of 34 Pennsylvania Geology Winter And much of the interest can be summed up in one map made by Harper showing the thickness of the.

We find that the case before us satisfies this standard, because the Sixth Amendment issue will not survive for this Court to review, regardless of the outcome of the proceedings on remand. If the trial court decides that the CYS files do not contain relevant information, or that the nondisclosure was harmless, the Commonwealth will have prevailed, and will have no basis to seek review. When a case is in this procedural posture, we have considered it sufficiently final to justify review. Alternatively, if Ritchie is found to have been prejudiced by the withholding, and is granted a new trial, the Commonwealth still will be unable to obtain a ruling from this Court. Therefore, if this Court does not consider the constitutional claims now, there may well be no opportunity to do so in the future. This hardly could be true, because of the acknowledged public interest in ensuring the confidentiality of CYS records. See n 17, infra. Although this consideration is not dispositive, we have noted that "statutorily created finality requirements Page U. The court found that this right of access is required by both the Confrontation Clause and the Compulsory Process Clause. We discuss these constitutional provisions in turn. A The Confrontation Clause provides two types of protections for a criminal defendant: Ritchie does not allege a violation of the former right. He was not excluded from any part of the trial, nor did the prosecutor improperly introduce out-of-court statements as substantive evidence, thereby depriving Ritchie of the right to "confront" the declarant. Instead, Ritchie claims that, by denying him access to the information necessary to prepare his defense, the trial court interfered with his right of cross-examination. Ritchie argues that he could not effectively question his daughter because, without the CYS material, he did not know which types of questions would best expose the weaknesses in her testimony. Had the files been disclosed, Ritchie argues that he might have been able to show that the daughter made statements to the CYS counselor that were inconsistent with her trial statements, or perhaps to reveal that the girl acted with an improper motive. Of course, the right to cross-examine includes the opportunity to show that a witness is biased, or that the testimony is exaggerated or Page U. Because this type of evidence can make the difference between conviction and acquittal, see Napue v. See United States v. Inadi, supra, at U. The Pennsylvania Supreme Court accepted this argument, relying in part on our decision in Davis v. If we were to accept this broad interpretation of Davis, the effect would be to transform the Confrontation Clause into a constitutionally compelled rule of pretrial discovery. Nothing in the case law supports such a view. The opinions of this Court show that the right to confrontation is a trial right, designed to prevent improper restrictions on the types of questions that defense counsel may ask during cross-examination. In short, the Confrontation Clause only guarantees "an opportunity for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish. See also Ohio v. Roberts, supra, at U. We reaffirmed this interpretation of the Confrontation Clause last Term in Delaware v. Fensterer was in full accord with our earlier decisions that have upheld a Confrontation Clause infringement claim on this issue only Page U. Alaska therefore is misplaced. The constitutional error in that case was not that Alaska made this information confidential; it was that the defendant was denied the right "to expose to the jury the facts from which jurors. Because defense counsel was able to cross-examine all of the trial witnesses fully, we find that the Pennsylvania Supreme Court erred in holding that the failure to disclose the CYS file violated the Confrontation Clause. The first and most celebrated analysis came from a Virginia federal court in , during the treason and misdemeanor trials of Aaron Burr. Instead, the Court traditionally has evaluated claims such as those raised by Ritchie under the broader protections of the Due Process Clause of the Fourteenth Amendment. See also Wardius v. Because the applicability of the Sixth Amendment to this type of case is unsettled, and because our Fourteenth Amendment precedents addressing the fundamental fairness of trials establish a clear framework for review, we adopt a due process analysis for purposes of this case. Although we conclude that compulsory process provides no greater protections in this area than those afforded by due process, we need not decide today whether and how the guarantees of the Compulsory Process Clause differ

from those of the Fourteenth Amendment. Maryland, supra, at U. Although courts have used different terminologies to define "materiality," a majority of this Court has agreed, "[e]vidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. The Commonwealth, however, argues that no materiality inquiry is required, because a statute renders the contents of the file privileged. Although we recognize that the public interest in protecting this type of sensitive information is strong, we do not agree that this interest necessarily prevents disclosure in all circumstances. This is not a case where a state statute grants CYS the absolute authority to shield its files from all eyes. Given that the Pennsylvania Legislature contemplated some use of CYS records in judicial proceedings, we cannot conclude that the statute prevents all disclosure in criminal prosecutions. In the absence of any apparent state policy to the contrary, we therefore have no reason to believe that relevant information would not be disclosed when a court of competent jurisdiction determines that the information is "material" to the defense of the accused. We therefore affirm the decision of the Pennsylvania Supreme Court to the extent it orders a remand for further proceedings. Ritchie is entitled to have the CYS file reviewed by the trial court to determine whether it contains information that probably would have changed the outcome of his trial. If it does, he must be given a new trial. If the records maintained by CYS contain no such information, or if the nondisclosure was harmless beyond a reasonable doubt, the lower court will be free to reinstate the prior conviction. It also held that defense counsel must be allowed to examine all of the confidential information, both relevant and irrelevant, and present arguments in favor of disclosure. Bagley, supra, at U. Agurs, supra, at U. Although the eye of an advocate may be helpful to a defendant in ferreting out information, Dennis v. United States, U. Settled practice is to the contrary. In the typical case where a defendant makes only a general request for exculpatory material under Brady v. If a defendant is aware of specific information contained in the file e. Moreover, the duty to disclose is ongoing; information that may be deemed immaterial upon original examination may become important as the proceedings progress, and the court would be obligated to release information material to the fairness of the trial. Child abuse is one of the most difficult crimes to detect and prosecute, in large part, because there often are no witnesses except the victim. It therefore is essential that the child have a state-designated person to whom he may turn, and to do so with the assurance of confidentiality. Relatives and neighbors who suspect abuse also will be more willing to come forward if they know that their identities will be protected. Recognizing this, ,the Commonwealth -- like all other States [Footnote 17] -- has made a commendable effort to assure victims Page U. Neither precedent nor common sense requires such a result. IV We agree that Ritchie is entitled to know whether the CYS file contains information that may have changed the outcome of his trial, had it been disclosed. Thus, we agree that a remand is necessary. We disagree with the decision of the Pennsylvania Supreme Court to the extent that it allows defense counsel access to the CYS file. The judgment of the Pennsylvania Supreme Court is affirmed in part and reversed in part, and the case is remanded for further proceedings not inconsistent with this opinion. It is so ordered. No criminal charges were filed as a result of this earlier investigation. At the time of trial, the statute only provided five exceptions to the general rule of confidentiality, including the exception for court-ordered disclosure. The statute was amended in to increase the number of exceptions. For example, the records now may be revealed to law enforcement officials for use in criminal investigations.

Chapter 2 : PETTKO v. PENNSYLVANIA AM | 39 A.3d () | | calendrierdelascience.com

The Pennsylvania Supreme Court accepted this argument, relying in part on our decision in Davis v. Alaska, supra. Alaska, supra. In Davis the trial judge prohibited defense counsel from questioning a witness about the latter's juvenile criminal record, because a state statute made this information presumptively confidential.

Syllabus Respondent was charged with various sexual offenses against his minor daughter. The matter was referred to the Children and Youth Services CYS , a protective service agency established by Pennsylvania to investigate cases of suspected child mistreatment and neglect. CYS refused to comply with the subpoena, claiming that the records were privileged under a Pennsylvania statute which provides that all CYS records must be kept confidential, subject to specified exceptions. One of the exceptions is that CYS may disclose reports to a "court of competent jurisdiction pursuant to a court order. Although the trial judge did not examine the entire CYS file, he refused to order disclosure. The court vacated the conviction and remanded for further proceedings to determine whether a new trial should be granted. The court concluded that defense counsel was entitled to review the entire file for any useful evidence. The judgment is affirmed in part and reversed in part, and the case is remanded. This Court does not lack jurisdiction on the ground that the decision below is not a "final judgment or decree," as required by 28 U. Although this Court has no jurisdiction to review an interlocutory judgment, jurisdiction is proper where a federal claim has been finally decided, with further proceedings on the merits in the state courts to come, but in which later review of the federal issue cannot be had whatever the ultimate outcome of the case. Here, the Sixth Amendment issue will not survive for this Court to review regardless of the outcome of the proceedings on remand. The Sixth Amendment issue has been finally decided by the highest court of Pennsylvania, and unless this Court reviews that decision, the harm that the State seeks to avoidâ€”the disclosure of the confidential fileâ€”will occur regardless of the result on remand. However, this Court has never held that the Clause guarantees the right to discover the identity of witnesses, or to require the government to produce exculpatory evidence. Under due process principles, the government has the obligation to turn over evidence in its possession that is both favorable to the accused and material to guilt or punishment. Evidence is material only if there is a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different. Although the public interest in protecting sensitive information such as that in CYS records is strong, this interest does not necessarily prevent disclosure in all circumstances. The Pennsylvania Supreme Court thus properly ordered a remand for further proceedings. Respondent is entitled to have the CYS file reviewed by the trial court to determine whether it contains information that probably would have changed the outcome of his trial. If it does, he must be given a new trial. If the CYS file contains no such information, or if the nondisclosure is harmless beyond a reasonable doubt, the trial court will be free to reinstate the prior conviction. The Pennsylvania Supreme Court erred in holding that defense counsel must be allowed to examine the confidential information. Respondent argued that he could not effectively question his daughter because, without the CYS material, he did not know which types of questions would best expose the weaknesses in her testimony. However, the Confrontation Clause is not a constitutionally compelled rule of pretrial discovery. The right of confrontation is a trial right, guaranteeing an opportunity for effective cross-examination, not cross-examination that is effective in whatever way and to whatever extent the defense might wish. There may well be a confrontation violation if, as here, a defendant is denied pretrial access to information that would make possible effective cross-examination of a crucial prosecution witness. However, the procedure the Court has set out for the lower court to follow on remand is adequate to address any confrontation problem. Advertisement Edward Marcus Clark, for petitioner. In , respondent George Ritchie was charged with rape, involuntary deviate sexual intercourse, incest, and corruption of a minor. The victim of the alleged attacks was his year-old daughter, who claimed that she had been assaulted by Ritchie two or three times per week during the previous four years. The girl reported the incidents to the police, and the matter then was referred to the CYS. The relevant statute provides that all reports and other information obtained in the course of a CYS investigation must be kept confidential, subject to 11 specific exceptions. Ritchie argued that he was entitled to the information because

the file might contain the names of favorable witnesses, as well as other, unspecified exculpatory evidence. He also requested disclosure of a medical report that he believed was compiled during the CYS investigation. In an attempt to rebut her testimony, defense counsel cross-examined the girl at length, questioning her on all aspects of the alleged attacks and her reasons for not reporting the incidents sooner. Except for routine evidentiary rulings, the trial judge placed no limitation on the scope of cross-examination. At the close of trial Ritchie was convicted by a jury on all counts, and the judge sentenced him to 3 to 10 years in prison. The Superior Court ruled, however, that the right of confrontation did not entitle Ritchie to the full disclosure that he sought. It held that on remand, the trial judge first was to examine the confidential material in camera, and release only the verbatim statements made by the daughter to the CYS counselor. The court stated that the prosecutor also should be allowed to argue that the failure to disclose the statements was harmless error. If the trial judge determined that the lack of information was prejudicial, Ritchie would be entitled to a new trial. Rather, it concluded that Ritchie, through his lawyer, is entitled to review the entire file to search for any useful evidence. The Pennsylvania Court concluded that by denying access to the file, the trial court order had violated both the Confrontation Clause and the Compulsory Process Clause. We now affirm in part, reverse in part, and remand for proceedings not inconsistent with this opinion. Ritchie argues that under this standard the case is not final, because there are several more proceedings scheduled in the Pennsylvania courts: Ritchie claims that because the Sixth Amendment issue may become moot at either of these stages, we should decline review until these further proceedings are completed. As we recognized in Cox Broadcasting Corp. One of these exceptions states that the Court may consider cases: If the trial court decides that the CYS files do not contain relevant information, or that the nondisclosure was harmless, the Commonwealth will have prevailed and will have no basis to seek review. When a case is in this procedural posture, we have considered it sufficiently final to justify review. Therefore, if this Court does not consider the constitutional claims now, there may well be no opportunity to do so in the future. This hardly could be true, because of the acknowledged public interest in ensuring the confidentiality of CYS records. Although this consideration is not dispositive, we have noted that "statutorily created finality requirements should, if possible, be construed so as not to cause crucial collateral claims to be lost and potentially irreparable injuries to be suffered. The court found that this right of access is required by both the Confrontation Clause and the Compulsory Process Clause. We discuss these constitutional provisions in turn. Ritchie does not allege a violation of the former right. He was not excluded from any part of the trial, nor did the prosecutor improperly introduce out-of-court statements as substantive evidence, thereby depriving Ritchie of the right to "confront" the declarant. Instead, Ritchie claims that by denying him access to the information necessary to prepare his defense, the trial court interfered with his right of cross-examination. Had the files been disclosed, Ritchie argues that he might have been able to show that the daughter made statements to the CYS counselor that were inconsistent with her trial statements, or perhaps to reveal that the girl acted with an improper motive. Of course, the right to cross-examine includes the opportunity to show that a witness is biased, or that the testimony is exaggerated or unbelievable. Because this type of evidence can make the difference between conviction and acquittal, see Napue v. See United States v. Inadi, supra, U. Nothing in the case law supports such a view. The opinions of this Court show that the right to confrontation is a trial right, designed to prevent improper restrictions on the types of questions that defense counsel may ask during cross-examination. The ability to question adverse witnesses, however, does not include the power to require the pretrial disclosure of any and all information that might be useful in contradicting unfavorable testimony. In short, the Confrontation Clause only guarantees "an opportunity for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish. See also Ohio v. Roberts, supra, U. Fensterer was in full accord with our earlier decisions that have upheld a Confrontation Clause infringement claim on this issue only when there was a specific statutory or court-imposed restriction at trial on the scope of questioning. Alaska therefore is misplaced. The constitutional error in that case was not that Alaska made this information confidential; it was that the defendant was denied the right "to expose to the jury the facts from which jurors. Because defense counsel was able to cross-examine all of the trial witnesses fully, we find that the Pennsylvania Supreme Court erred in holding that the failure to disclose the CYS file violated the

Confrontation Clause. The first and most celebrated analysis came from a Virginia federal court in , during the treason and misdemeanor trials of Aaron Burr. Instead, the Court traditionally has evaluated claims such as those raised by Ritchie under the broader protections of the Due Process Clause of the Fourteenth Amendment. See also Wardius v. Because the applicability of the Sixth Amendment to this type of case is unsettled, and because our Fourteenth Amendment precedents addressing the fundamental fairness of trials establish a clear framework for review, we adopt a due process analysis for purposes of this case. Although we conclude that compulsory process provides no greater protections in this area than those afforded by due process, we need not decide today whether and how the guarantees of the Compulsory Process Clause differ from those of the Fourteenth Amendment. Maryland, supra, U. Although courts have used different terminologies to define "materiality," a majority of this Court has agreed, "[e]vidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. The Commonwealth, however, argues that no materiality inquiry is required, because a statute renders the contents of the file privileged. This is not a case where a state statute grants CYS the absolute authority to shield its files from all eyes. Given that the Pennsylvania Legislature contemplated some use of CYS records in judicial proceedings, we cannot conclude that the statute prevents all disclosure in criminal prosecutions. In the absence of any apparent state policy to the contrary, we therefore have no reason to believe that relevant information would not be disclosed when a court of competent jurisdiction determines that the information is "material" to the defense of the accused. Ritchie is entitled to have the CYS file reviewed by the trial court to determine whether it contains information that probably would have changed the outcome of his trial. If the records maintained by CYS contain no such information, or if the nondisclosure was harmless beyond a reasonable doubt, the lower court will be free to reinstate the prior conviction. It also held that defense counsel must be allowed to examine all of the confidential information, both relevant and irrelevant, and present arguments in favor of disclosure. Bagley, supra, U. Agurs, supra, U. Although the eye of an advocate may be helpful to a defendant in ferreting out information, Dennis v. United States, U. Settled practice is to the contrary. In the typical case where a defendant makes only a general request for exculpatory material under Brady v. If a defendant is aware of specific information contained in the file e. Moreover, the duty to disclose is ongoing; information that may be deemed immaterial upon original examination may become important as the proceedings progress, and the court would be obligated to release information material to the fairness of the trial. Child abuse is one of the most difficult crimes to detect and prosecute, in large part because there often are no witnesses except the victim. It therefore is essential that the child have a state-designated person to whom he may turn, and to do so with the assurance of confidentiality. Relatives and neighbors who suspect abuse also will be more willing to come forward if they know that their identities will be protected. Recognizing this, the Commonwealthâ€”like all other States 17 â€”has made a commendable effort to assure victims and witnesses that they may speak to the CYS counselors without fear of general disclosure. Neither precedent nor common sense requires such a result.

Chapter 3 : International V39olha Vac-con - Used International Vlha for sale in Wyoming, Pennsylvania |

COMMONWEALTH OF PENNSYLVANIA. Keystone State. Proudly founded by William Penn in as a place of tolerance and freedom.

Reargument Denied March 6, Attorney s appearing for the Case Donna M. Doblick , Pittsburgh, for appellee. Commonwealth Court of Pennsylvania. Leslie Pettko Pettko , on behalf of himself and others similarly situated, appeals from an order of the Court of Common Pleas of Washington County trial court , which transferred the above-captioned action to the Pennsylvania Public Utility Commission PUC. The trial court then transferred the action to the PUC. Pettko seeks review of that order. PAWC bills customers based on a thirty-day cycle, but the cycle does not correspond to calendar months. In this appeal, 7 Pettko raises the following issues for our review: We begin, as the trial court did, by considering whether the PUC has primary jurisdiction in this matter. Bell of Pennsylvania, Pa. The plaintiff sought injunctive relief and compensatory and punitive damages. The Supreme Court phrased the issue before it as "whether [the plaintiff] had adequate administrative remedies available under the Public Utility Law. Thus, the Supreme Court remanded the matter to the trial court. Following Feingold, our Supreme Court in Elkin v. Bell Telephone Company, Pa. In Elkin, the plaintiff filed a four-count trespass action in the Court of Common Pleas of Montgomery County, asserting various negligence claims involving averments that the telephone company had failed to furnish reasonable telephone service, and requesting both compensatory and punitive damages. The trial court stayed the matter until the PUC could issue a determination regarding the appropriate standards for the service at issue. The plaintiff filed a complaint with the PUC, raising the same claims as those he raised in his action before the trial court. The PUC, following hearing, issued an order in which it determined that the plaintiff had failed to substantiate his allegations of inadequate service. The Supreme Court rejected this argument as sweeping too broadly. To address such circumstances, our Supreme Court reasoned, the courts developed the doctrine of primary jurisdiction. The Supreme Court explained: Another important consideration is the statutory purpose in the creation of the agencyâ€”the powers granted by the legislature and the powers withheld. And, another fundamental concern is the need to promote consistency and uniformity in certain areas of administrative policy. It has been noted that these purposes are frequently served in, and the doctrine of primary jurisdiction principally applicable to, the controversies concerning the so-called "regulated industries. Such determinations by administrative agencies, therefore, serve more than a merely advisory function. As we stated in County of Erie v. Our Supreme Court, however, admonished trial courts not to abdicate judicial responsibility, and summarized the circumstances in which the primary jurisdiction doctrine applies, as follows: Also weighing in the consideration should be the need for uniformity and consistency in agency policy and the legislative intent. In such cases, it would be wasteful to employ the bifurcated procedure of referral, as no appreciable benefits would be forthcoming. Additionally, in County of Erie this Court confirmed the notion that the nature of the claims a plaintiff brings is not necessarily determinative of the question of whether the doctrine of primary jurisdiction applies. Bell Telephone Company of Pennsylvania, Pa. Pettko contends that the issues he raises are simple tort, contract, and statutory claims that do not require the expertise of the PUC. Peoples Natural Gas Company, Pa. The special gas rate was to be effective for the life of the systems. The consumers filed an action in assumpsit with the Court of Common Pleas of Allegheny County, and the utility filed preliminary objections claiming that the PUC had jurisdiction over the claim. The trial court dismissed the preliminary objections. The Superior Court reasoned that, in the latter situation, the trial court, rather than the PUC, would have jurisdiction. Pettko asserts that, like the scenario in Byer, he is not seeking to challenge the established rates, but rather seeking to recover overcharges. Philadelphia Electric Company, Pa. The hopeful litigant sought to recover overcharges he believed an electric company had billed for the installation of underground electric service facilities. The Supreme Court considered the following statutory language, which provides that "[n]o action shall be brought in any court for a refund, unless and until the commission shall have determined that the rate in question was. The Supreme Court concluded that: Both the Public Utility Law and the decisions of this Court, with unmistakable clarity, require that questions dealing with excessive charges be

decided in the first instance exclusively by the Commission. In the absence of such determination, there is no escheatable property. In addition to this issue, we note that the Reproduced Record R. For example, one page of the tariff referring to the DSIC includes the following notation: In addition to the net charges provided for in this Tariff, a charge of 0. I The above charges will be recomputed quarterly, using the elements prescribed by the Commission in its Order dated August 26, at Docket No. These examples illustrate why the PUC is in the best position to evaluate in the first instance the claims Pettko initiated in the trial court. In DiSanto, the court addressed a complaint filed by a real estate developer who entered into a contract with a water company to provide water services to a development. The Superior Court then considered whether the PUC had exclusive jurisdiction over the claims in the complaint or whether the "bifurcated procedure adopted by Elkin should be followed. The Superior Court opined: If the available administrative remedies are complete and adequate to make the complainant whole, then the PUC has exclusive jurisdiction over the controversy and there is no recourse to the courts outside of the normal channels of appeal to the Commonwealth Court. In this case, the trial court noted Section a of the Code, which provides for refunds as follows: If, in any proceeding involving rates, the commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility, the commission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection. As stated above, the term "rates" is defined by Section of the Code as "every. We observe, however, that, as the Supreme Court held in Feingold, under the doctrine of exhaustion of administrative remedies, an administrative agency does not have exclusive jurisdiction unless it has the power to award relief that will make a successful litigant whole. In this case, however, Pettko has included claims that, if he is successful, would provide him with relief that the PUC is not empowered to grant. We believe that our inquiry must focus on the wrongs alleged to have been perpetrated by PAWC and consider whether the PUC has the ability to provide a statutory remedy for the alleged wrongful conduct, in order to determine if the PUC could make Pettko whole. The statutory refund remedy available through the PUC is sufficient to provide Pettko with relief for alleged overcharging; however, there is no remedy available through the PUC to provide relief for deceptive trade practices. Such remedies serve both a deterrent and punitive functionâ€”goals not identical to those contained in the Public Utility Code. Except as otherwise provided in this part, nothing in this part shall abridge or alter the existing rights of action or remedies in equity or under common or statutory law of this Commonwealth, and the provisions of this part shall be cumulative and in addition to such rights of action and remedies. Section c of the Code pertinently provides as follows: No action shall be brought in any court for a refund, unless and until the commission shall have determined that the rate in question was. Although this provision confirms our conclusion above regarding the applicability of the primary jurisdiction doctrine in this case, this section of the Code also creates a specific limitation on the ability of a party to bring a lawsuit for a refund in a common pleas court. The latter phrase of this provision indicates that when a party seeks a refund for a payment that exceeds the amount a utility is due under a tariff, a party may bring suit only to recover refund amounts to which the PUC has determined a consumer is entitled. The last phrase appears to provide authority for trial courts to entertain only actions seeking to enforce a judgment entered by the PUC against a utility. This provision, however, pertains only to refund actions, and not to other statutory remedies that are cumulative to the refund remedy. We see no legislative intent to preclude parties from availing themselves of those additional remedies. For the reasons identified above, including the fact that the Code does not authorize the PUC to remedy fraudulent conduct unlike the UTPCPL , we do not view the language relating to refunds to limit the cumulative remedies to which Section c of the Code refers. Thus, we conclude that the PUC has not only primary jurisdiction, but also exclusive jurisdiction over claims based merely on overpayment under the tariff. With the above conclusions in mind, the remaining question we must consider is whether the trial court correctly transferred the matter to the PUC. Unlike Elkin, where the trial court stayed the matter and the plaintiff filed an identical action with the PUC, in County of Erie the trial court dismissed the underlying civil action without prejudice, based upon its conclusion that the PUC had primary jurisdiction over the matter. The decision in this case was reached

prior to January 7, , when Judge Pellegrini became President Judge. We note that Pettko initially appealed to the Superior Court, which transferred the matter to this Court by order dated April 25, Pursuant to Section of the Judicial Code, 42 Pa. Pennsylvania Rule of Appellate Procedure provides that "[t]he failure of an appellee to file an objection to the jurisdiction of an appellate court on or prior to the last day under these rules for the filing of the record shall, unless the appellate court shall otherwise order, operate to perfect the appellate jurisdiction of such appellate court, notwithstanding any provision of law vesting jurisdiction of such appeal in another appellate court. In the interest of judicial economy, this Court will decide the merits of the appeal. DSIC "is used for infrastructure improvements to water and sewer delivery systems and to fund the replacement of water distribution facilities. Act of December 16, , P. This sub-section of the UTPCPL provides a catch-all definition of the terms "unfair methods of competition" and "unfair or deceptive acts or practices" by including the following conduct: In considering whether a trial court properly sustained preliminary objections, this Court accepts as true all well-pled facts and all inferences reasonably deducible therefrom. This Court has observed also the distinction between subject matter jurisdiction and equity jurisdiction, "which describes the remedies available in equity" and which is a term "used to refer to invocation of the extraordinary remedies of equity. Similarly, the General Assembly creates and sets the limits of the competency of administrative agencies to adjudicate certain classes of cases. In this case, there can be no dispute that the courts of common pleas have subject matter jurisdiction over common law claims such as conversion and breach of contract involving private individuals and businesses and with regard to causes of action arising under the UTPCPL. At the time that the plaintiff in Feingold filed his appeal, the Supreme Court was vested with jurisdiction to hear such appeals directly from the trial court. As noted below, Section c of the Code, 66 Pa. We note that we do not believe that this process would result in a double recovery for Pettko and the members of the putative class.

Chapter 4 : Sorry, this content is not available in your region.

Article V, Section 5 of the Pennsylvania Constitution is the ultimate source of jurisdiction for the courts of common pleas, and our General Assembly has provided further definition to the "manner in which the common pleas courts' jurisdiction is exercised.".

Petition for Allowance of Appeal Denied May 16, Quinn, Assistant Public Defender, Lancaster, for appellant. The charges arose out of an incident which took place at a branch office of the National Central Bank located in Bridgeport, Pennsylvania. Following the denial of post-verdict motions, appellant was sentenced to a term of imprisonment. The instant appeal was then filed. For the reasons discussed below, we now vacate the judgment of sentence on the attempted murder charge and affirm the judgment of sentence on the remaining charges. Officer Savage proceeded to the bank in a marked police vehicle. As he pulled up behind the bank, he encountered two black males, one of whom pointed a gun at him. When the shooting stopped, Officer Savage reported over the county radio that two black males had shot at him and had fled the scene in an unknown direction. Meanwhile, Troopers Ator and Harnish of the Pennsylvania State Police also proceeded to the bank in response to the alarm. As they entered a passageway between two stores which were adjacent to the bank, they observed a maroon over silver Cougar automobile exiting the plaza parking lot at a high rate of speed. The state troopers left in pursuit of this vehicle. Trooper Ator observed that there were two occupants in the car and that one, the passenger, appeared to be taking clothing off and crawling from the back to the front seat. Within moments, the officers received a radio message that there had, in fact, been a robbery and that shots had been fired. Trooper Ator then activated the sirens and flashing lights on his vehicle. The Cougar did not stop, but instead attempted to evade the police officers by entering a parking lot and turning around to emerge traveling in the opposite direction. A brief high-speed chase ensued. One black male in the area was immediately seized and taken into custody. Trooper Ator approached the disabled vehicle and observed green overalls, a blue bank deposit bag, and an open paper bag containing money in the car. Chief Glick of the East Lampeter Township Police Department, who had also been chasing the Cougar, had arrived on the scene by this time and informed Trooper Ator that the bank had been robbed by two black males who had fired shots at Officer Savage. One observer told Trooper Ator that a person had run between a railroad boxcar and a nearby building. Another individual, who was located on top of a tank truck, told Trooper Ator that there was a person on the roof of the building. Trooper Ator then saw the appellant peering over the roof of the building, ordered him down from the roof, and placed him under arrest at about Various pre-trial motions were denied and appellant was tried by a jury in January, As stated above, he was found guilty of all five charges. Following the denial of post-verdict motions, appellant was sentenced as follows: Appellant raises several issues on appeal. His first claim is that the lower court erred in denying his application to quash the count charging him with terroristic threats. The information alleged that when the head teller, Katherine Hess, refused to open the vault, appellant stated to her, "I ought to kill you," and that the statement was made while appellant was kicking her and brandishing a firearm at her. According to 18 Pa. He contends, however, that the statement "I ought to kill you" is not, by definition, a threat. We need not look at the statement in a vacuum. Rather, we will consider the statement in light of the surrounding circumstances. We feel that the statement "I ought to kill you," made during the course of a robbery by someone brandishing a gun and kicking the person to whom the statement was made, is sufficient to constitute a threat under section of the Crimes Code. Appellant next claims that the lower court erred in denying his motion to suppress certain evidence. With regard to the existence of probable cause, we have stated that: We have reviewed the testimony presented at the suppression hearing, as summarized above, and we have no difficulty concluding that the facts and circumstances known to Trooper Ator at the time appellant was ordered down from the rooftop and arrested were sufficient to warrant his belief that the appellant had participated in a bank robbery. Since all of the charges arose out of the same criminal episode, the Commonwealth was compelled to consolidate the charges for trial under the holding in Commonwealth v. Appellant argues that the Commonwealth could not try the charges together absent the filing of a formal pre-trial motion to consolidate. Neither Pennsylvania case

law nor the Pennsylvania Rules of Criminal Procedure have imposed such a requirement on the Commonwealth and we will not do so now. The items in question are two pairs of overalls, black gloves, two green ski masks, two "Giant" supermarket bags, one of which contained money, and a blue bank bag. The police officer who seized the items in question from the maroon and silver Cougar involved in the robbery testified that he personally turned the items over to the officer in charge of the evidence locker and watched as the items were marked and placed in the locker. There is no question that the Commonwealth established the chain of custody up until this point. The admission of demonstrative evidence is a matter committed to the discretion of the trial court. Pedano, supra; Commonwealth v. Every hypothetical possibility of tampering need not be eliminated; it is sufficient that the evidence, direct or circumstantial, establishes a reasonable inference that the identity and condition of the exhibit remained unimpaired until it was surrendered to the trial court. Proctor, supra; Commonwealth v. Finally, physical evidence may be properly admitted despite gaps in testimony regarding its custody. The circumstances in the instant case certainly support a reasonable inference that the identity and condition of the exhibits remained unimpaired, in spite of the gap in testimony regarding custody of the exhibits. This is especially true in view of the fact that the officer who seized the items from the car positively identified each of them at trial. The lower court did not, therefore, abuse its discretion in admitting the items into evidence. Appellant next claims that the evidence was insufficient to support the verdict of the jury on the charge of simple assault. Specifically, he claims that there is insufficient evidence to prove that he caused bodily injury to Katherine Hess, the alleged victim of the assault. Hess testified at trial that appellant kicked her, but, as appellant points out, she did not testify that she suffered any pain or discomfort as a result of this action. As we stated in Commonwealth v. Therefore, it is not essential to prove that the victim of an assault sustained actual injury. The court neglected, in this portion of its charge, to state that an attempt to inflict bodily injury was sufficient to support a conviction. Appellant reasons, therefore, that the jury could not have convicted him without finding that he actually inflicted bodily injury, and that since the evidence does not support such a finding, the verdict of the jury must be overturned. We note, however, that early in its charge, the court informed the jury that count one of Information No. Reading the charge as a whole, as we must, Commonwealth v. The evidence presented at trial was sufficient to sustain a conviction on the charge. In its instructions to the jury on the charge of attempted murder, the court first defined criminal attempt, and then proceeded to define the three degrees of murder. It defined murder of the first degree as murder committed by an intentional killing; murder of the second degree as a killing committed while the defendant was engaged as a principal or an accomplice in the perpetration of a felony; and murder of the third degree as all other kinds of murder. The court further explained that third degree murder included "any unlawful killing under circumstances or depravity of heart and a disposition of mind regardless of social duty where no intention to kill exists or can reasonably and fully be inferred. The court specifically instructed the jury that "the Commonwealth need not prove an attempt to commit first degree murder. It need only prove beyond a reasonable doubt an intention to commit murder of any degree. He argued that criminal attempt to commit murder of the second or third degree was logically improper and he requested that the court give a curative instruction to the effect that a specific intention to kill was necessary for a conviction of attempted murder. The court refused to do so. The question squarely presented to us is whether someone can attempt to commit murder of the second or third degree. A person commits an attempt when, with intent to commit a specific crime, he does any act which constitutes a substantial step toward the commission of that crime. Murder of the second or third degree occurs where the killing of the victim is the unintentional result of a criminal act. While a person who only intends to commit a felony may be guilty of second degree murder if a killing results, and a person who only intends to inflict bodily harm may be guilty of third degree murder if a killing results; it does not follow that those persons would be guilty of attempted murder if a killing did not occur. They would not be guilty of attempted murder because they did not intend to commit murder they only intended to commit a felony or to commit bodily harm. LaFave and Scott have explained in their treatise on criminal law why it is necessary to prove an intent to kill in order to sustain a charge of attempted murder: Some crimes, such as murder, are defined in terms of acts causing a particular result plus some mental state which need not be an intent to bring about that result. Thus, if A, B, and C have each taken the life of another,

A acting with intent to kill, B with an intent to do serious bodily injury, and C with a reckless disregard of human life, all three are guilty of murder because the crime of murder is defined in such a way that any one of these mental states will suffice. However, if the victims do not die from their injuries, then only A is guilty of attempted murder; on a charge of attempted murder it is not sufficient to show that the defendant intended to do serious bodily harm or that he acted in reckless disregard for human life. Again, this is because intent is needed for the crime of attempt, so that attempted murder requires an intent to bring about that result described by the crime of murder i. Numerous other jurisdictions have also held that an attempt to commit murder requires an intent to kill. Van Broussard, 76 Cal. But see, Fleming v. Furthermore, we note that a Subcommittee Note to the Pennsylvania Suggested Standard Criminal Jury Instructions suggests that an intent to kill is necessary to support a charge of attempted murder. The Subcommittee Note following the suggested jury instruction on the crime of criminal attempt states that in defining the crime which was attempted, the court should limit its definition to those aspects of the crime which are relevant to an attempt. We hold that in order to convict a person of attempted murder, an intent to kill must be shown, and that a defendant charged with attempted murder is entitled to a jury instruction to that effect. Appellant also claims that the lower court erred in refusing to instruct the jury concerning the crime of recklessly endangering another person. The instruction requested by appellant was to the effect that if, instead of finding that appellant intended to kill Officer Savage, they found that he recklessly engaged in conduct which placed Officer Savage in danger of death or serious bodily injury, then they should find him guilty of recklessly endangering another person. Recklessly endangering another is a lesser included offense of the crime of murder, Commonwealth v. It is not error, however, for a judge to refuse to instruct the jury on the lesser-included offense unless the evidence could support a conviction on the lesser offense. Conversely, if it is rational for the jury to render a verdict of not guilty of the greater offense but guilty of the lesser, it is incumbent upon the judge to instruct the jury on the law related to the constituent offense if so requested by counsel. United States, U. Melnyczenko, supra; Commonwealth v. Moore, supra [Pa. See also Sansone v. A person is guilty of recklessly endangering another person "if he recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury. The evidence in the instant case established that appellant fired bullets at Officer Savage as he sat in a police car. If the jury found that the Commonwealth failed to prove an intent to kill, the evidence would certainly support a finding that appellant recklessly engaged in conduct which placed Officer Savage in danger of death or serious bodily injury. Thus, the lower court erred in refusing to instruct the jury on the crime of recklessly endangering another. At that trial, the court shall instruct the jury on the crime of recklessly endangering another person, if appellant requests such an instruction. Finally, appellant claims that the sentence imposed by the lower court was manifestly excessive and an abuse of discretion.

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Melvin Wax, 88 Irving Younger, 69 Of the four injured officers, three were shot and one was injured by glass fragments. His grandparents took responsibility for raising him, as his mother suffered from health problems. He then dropped out of high school and worked as a trucker. The Lord Jesus Christ [has] come in the flesh. He had published posts supporting the white genocide theory. Bowers also stated supporters of the QAnon conspiracy theory were "deluded" and being tricked. His attorney was appointed by the court and he was remanded to the custody of the United States Marshals Service without bail pending further hearings. The charges carry a maximum penalty of death or years in federal prison. Mayor of Pittsburgh Bill Peduto stands listening, seventh from right striped tie. Many news reports asserted that Lau refused to refer to the Conservative congregation as a "synagogue" since it is non-Orthodox, but in the interview in question, Lau asked rhetorically, "Why does it matter in what synagogue or what liturgy they were praying?! He asked God "to help us to extinguish the flames of hatred that develop in our societies". On the same day, President Donald Trump visited Pittsburgh in response to the shooting incident. Jewish tradition requires a person to guard a corpse until it is buried. Volunteer guards shomrim took one-hour shifts at the Pittsburgh morgue until the bodies were moved to funeral homes. The Atlantic reported that "most of the volunteers appeared to be Orthodox, but they felt strong solidarity with the liberal communities that were directly affected by the shooting. The brothers, who were intellectually disabled , had a sister who is a former employee of the team. The team announced that following the game, the team would auction off the jerseys on behalf of the synagogue. A video was streamed during the event featuring Israeli president Reuven Rivlin , [] who offered brief remarks and led the crowd in a recitation of the Kaddish. Louis, Washington, Wilkes-Barre and Woodbridge. NBC News reported that thousands of people around the world attended services in local synagogues, community centers, and college campuses, including Mayor of London Sadiq Khan. Trump lit candles for the victims in the vestibule and then went outside to place one small stone on each of the 11 Star-of-David markers of the memorial to those killed there, stones which Trump had brought from the grounds of the White House. Then the group went to UPMC Presbyterian Hospital, where Trump spoke with wounded victims, their families, law enforcement officials, and medical staff. Pittsburgh mayor Bill Peduto said that Trump should not have come, as the wounds were raw and the community was just beginning to mourn and hold funerals. It just seems to be getting worse. We need to do, we need to act to tone down rhetoric," adding that he would welcome a visit from President Trump.

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Theft by unlawful taking or disposition. Theft of property lost, mislaid, or delivered by mistake. Theft by failure to make required disposition of funds received. Unauthorized use of automobiles and other vehicles. Unlawful possession of retail or library theft instruments. Theft of trade secrets. Theft of unpublished dramas and musical compositions. Theft of leased property. Unlawful use of computer Repealed. Theft from a motor vehicle. Theft of secondary metal Unconstitutional. Theft of secondary metal. Section is referred to in sections , , , A person deceives if he intentionally: Section is referred to in sections , of this title; sections , of Title 42 Judiciary and Judicial Procedure. Section is referred to in sections , , of this title; section of Title 5 Athletics and Sports ; sections , of Title 42 Judiciary and Judicial Procedure ; section of Title 61 Prisons and Parole. A person who comes into control of property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient is guilty of theft if, with intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it. Section is referred to in section of Title 42 Judiciary and Judicial Procedure. Section is referred to in sections , This inference shall not apply to the act of a subscriber to cable television service, who receives service through an authorized connection of a television receiving set at his dwelling, in making, within his dwelling, an unauthorized connection of an additional television receiving set or sets or audio system which receives only basic cable television service obtained through such authorized connection. The term "unauthorized" means that payment of full compensation for service has been avoided, or has been sought to be avoided, without the consent of the supplier of the service. The term includes, but is not limited to, phones altered to obtain service without the consent of the telecommunication service provider, tumbler phones, counterfeit or clone phones, tumbler microchips, counterfeit or clone microchips, scanning receivers of wireless telecommunication service of a telecommunication service provider and other instruments capable of disguising their identity or location or of gaining access to a communications system operated by a telecommunication service provider. Section is referred to in sections , of this title; section of Title 42 Judiciary and Judicial Procedure. The foregoing applies notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the failure of the actor to make the required payment or disposition. Section is referred to in section of this title; section of Title 42 Judiciary and Judicial Procedure. A copy of the order shall be transmitted to the Department of Transportation. Such detention shall not impose civil or criminal liability upon the peace officer, merchant, employee, or agent so detaining. Fingerprints so obtained shall be forwarded immediately to the Pennsylvania State Police for determination as to whether or not the defendant previously has been convicted of the offense of retail theft. The results of such determination shall be forwarded to the Police Department obtaining the fingerprints if such department is the prosecutor, or to the issuing authority if the prosecutor is other than a police officer. The issuing authority shall not proceed with the trial or plea in summary cases until in receipt of the determination made by the State Police. The magisterial district judge shall use the information obtained solely for the purpose of grading the offense pursuant to subsection b. Act amended subsec. Section 3 of Act provided that the amendment of subsec. Section 4 of Act provided that subsec. Act amended subsecs. See section 29 of Act in the appendix to this title for special provisions relating to construction of law. Act 42 added subsec. The results of such determination shall be forwarded to the police department if the department is the prosecutor, or to the issuing authority if the prosecutor is other than a police officer. Act 95 added section

Chapter 7 : Pittsburgh synagogue shooting - Wikipedia

Pa. Superior Ct. 39 () A.2d COMMONWEALTH of Pennsylvania v. Jessie James GRIFFIN, Appellant. Superior Court of

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Pennsylvania. Argued December 8,

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scheduled in the Pennsylvania courts: at a minimum there will be an in camera review of the file, and the parties will present arguments on whether the lack of disclosure was prejudicial; after that, there could be a new trial on the merits.

Chapter 9 : Pennsylvania v. Ritchie :: U.S. 39 () :: Justia US Supreme Court Center

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