**Index of Opinions – 2010**

1. COMMONWEALTH V. $11,999.00 IN CASH ONE DODGE DURANGO (CHRISTOPHER DAVIS)
2. COMMONWEALTH V. RYAN LEE WEIGLE
3. JAMES E. HARBAUGH V. JOHN R. WHITE, ESQUIRE V. CAMPBELL & WHITE
4. TERRY BLACK V. GLENDALE L.P. II, GLENDALE MANAGEMENT, CO., AND SCOTT ROY
5. COMMONWEALTH V. AMBER RAE BERGSTEDT

Appeal from Commonwealth for order of October 5, 2009, for the forfeiture of evidence related to charges of various violations against respondent. The original order excluded cash which the Court believed to have belonged to respondent’s mother.

Appeal from defendant of sentencing order of October 27, 2009, for conviction of various drug-related offenses. Sole issue raised involves error in failing to suppress physical evidence pursuant to allegedly defective search warrants. Search warrants are allegedly defective due to insufficient probable cause. Court satisfied that warrants were based on sufficient probable cause. Defendant’s Motion denied.

Appeal from Plaintiff regarding legal malpractice action against the defendants. Plaintiff contends that the Court erred by 1) concluding that the defendants were not negligent; 2) finding any harm sustained by plaintiff was the result of his own negligence; and 3) making limited findings of fact before reviewing the post-trial briefs. Plaintiff contends that his unenforceable pre-nuptial agreement is due to defendants’ malpractice. Court upholds original ruling.

Reasons for granting summary judgment on behalf of Defendants were fully set forth in the opinion which accompanied Court’s order of November 19, 2009

Appeal from Defendant following sentence for conviction driving under the influence of a drug or combination of drugs and careless driving. Issues raised include 1) that the Commonwealth failed to prove that she was in actual physical control of the movement of the vehicle; 2) the Court’s error in admitting the toxicologist’s report, in that it violated Defendant’s Sixth Amendment right to confront her accusers. Court upholds jury verdict, finding that testimony of the toxicology “analyst” satisfied the Sixth Amendment requirement.

1. COMMONWEALTH V. EVA ORDO
2. TERRY BLACK V. GLENDALE LODGING L.P. II, MANAGEMENT, CO., AND SCOTT ROY
3. IN RE: KEVIN JACOBS, Petitioner
4. VALERIE L. BEASTON V. GREGORY A. EBERSOLE
5. COMMONWEALTH V. ELWOOD C. WILLIARD
6. COMMONWEALTH V. TYRONE BROWN, JR.

Appeal from Defendant of conviction for obtaining Welfare Funds by Misrepresentation. Sole issue raised is that there was insufficient evidence to prove that defendant willfully failed to disclose employment. Court upholds jury’s verdict; the jury’s prerogative to distrust Defendant’s testimony was key to jury’s decision.

Reasons for granting summary judgment on behalf of Defendants set forth in opinion of November 19, 2009. Summary judgment appropriate due to lack of evidence regarding how long Defendant’s truck had been blocking the sidewalk, which would have indicated the length of time the hazardous condition existed.

Appeal for order dated November 9, 2009, denying petitioner’s requested relief from involuntary civil commitment. Petitioner contends that 1) there was not sufficient evidence to prove he was a “clear and present” danger to others, and 2) the involuntary treatment order violated his right to due process. The Court finds that there was sufficient evidence to sustain the involuntary commitment and that there is no precedent requiring the option of voluntary treatment as part of due process protections.

Appeal from Defendant for order of January 11, 2010. The order was entered upon remand at the direction of the Court.

Appeal from Defendant regarding conviction of several drug-related charges due to involvement in a heroin delivery scheme. Issues raised include Court’s alleged error in 1) refusing to grant the defense request for continuance; 2) denying the defendant’s motion for mistrial; and 3) admitting into evidence certain illegal drugs without the proper chain of custody having been established.

Appeal from Defendant over conviction of various drug-related offenses. Defendant contends that the search warrant for his residence was defective because the affidavit of probable cause failed to include 1) “any facts which could enable an issuing authority to judge the reliability or trustworthiness of the confidential informant or the two unwitting individuals . . .” and 2) “any facts from which probable cause could be found that illegal contraband was likely to be found at the address listed.”

1. AUDREY J. WICKS V. GARY D. FORMAN
2. COMMONWEALTH V. DAVID GUY EBERSOLE, JR.
3. JOHN RICHARD JAE V. DR. JEFFREY A. BEARD, Ph.D., et al
4. CHERI L. SHEAFFER V. THOMAS S. SHEAFFER
5. IN THE INTEREST OF: T.G., born MAY 5, 2008

Appeal from Defendant, Forman, from Court’s order dismissing his exceptions to the Support Master’s Report and Recommendations and making the interim support order final. Defendant’s exceptions involved the Master’s use of the plaintiff’s actual income rather than her earning capacity to determine the recommended support. The Court may choose whether or not to utilize the Master’s report; the support order is upheld and exceptions dismissed.

*Pro se* appeal from Defendant from Court’s sentencing order of February 5, 2010. Defendant takes issue with the Court’s alleged refusal to honor the plea agreement negotiated with the Commonwealth. The Court is satisfied that, having modified the initial sentencing order, the Court has complied with the terms of the plea agreement.

Appeal from Plaintiff from the Court’s order dismissing his suit against Secretary of Corrections Jeffrey Bears et al. Plaintiff contends that the Court abused its discretion in dismissing the action on jurisdictional grounds; and that the Court erred in dismissing the action under Section 6602(f) of the Prison Litigation Reform Act. The court is satisfied that the action was properly dismissed because there was not credible allegation that he was in “imminent danger of serious bodily injury.”

Defendant, Thomas S., has filed numerous exceptions to the Support Master’s Report and Recommendation. Exceptions involve the Master’s alleged error in 1) using the Defendant’s 2008 income rather than his year to date and projected income for 2009; and 2) improperly allocating all personal expenses paid by the corporation as income to the Defendant. The Court is satisfied that the order pursuant to the Master’s Report and Recommendations was appropriate.

Mother and Father each filed appeals from the Court’s order of April 2010 which 1) changed the goal from “return home” to “adoption”; and 2) terminated their parental rights. The Court upholds the order, finding that grounds for removal clearly existed; at the time of the hearings, T.G. had been living in the foster home for more than 16 months. The conditions which necessitated his placement – his parents’ inability to care for and properly feed him have not been remedied despite FAST program attempts.

1. MARGARET M. STUSKI V. SHERYL M. DELOZIER, FRIENDS OF SHERYL DELOZIER, AND THOMAS BEENE
2. IN RE: TRUEST UNDER WILL OF ROBERT C. HOFFMAN, Deceased
3. COMMONWEALTH V. CHRISTINE DIESPOSTI
4. IN RE: D.I., D.O.B. 9/4/2008
5. JOSEPH A. ELLIOT, SR., V. JEFFREY A. BEARD, Ph.D.

Defendants’ preliminary objections in the nature of a demurrer are sustained and the Plaintiff’s third amended complaint is dismissed with prejudice. Plaintiff filed a multi-count complaint against Defendant alleging defamation in the form of claims made in a campaign brochure and a letter to the editor of the *Patriot News*.

The Court denies 1) the amended petition to cause trustee to make distribution at the direction of the Trust Advisory Committee; 2) the petition for removal of two members of the Trust Advisory Committee. The Court is satisfied that the members of the Advisory committee had done nothing to justify their removal. The transfer of funds is denied because it would be contrary to Mr. Hoffman’s expressed intentions that the funds not be held in trust and that the Advisory Committee have sole control of purposing the funds.

Appeal from the Commonwealth from the Court’s order granting Defendant’s post sentence motion for a new trial. Commonwealth alleges that the Court erred in ruling that the prior decision precluding the Defendant’s expert witnesses from testifying required a new trial. The Court cites *Commonwealth v. Malone* (Pa.Super. 1986) in which the Superior Court held that the trial court abused its discretion in precluding in testimony because of the Defendant’s failure to provide discovery.

Mother has filed an appeal of the Court’s order changing the goal for D.I. from “return home” to adoption.” She alleges that the Court erred in changing the goal. The Court upholds the goal change due to D.I.’s need for permanency, as well as Mother’s incapability of independently parenting a child, even after four years of parental training.

Petitioner, a sentenced prisoner under the control of the Pennsylvania Department of Corrections, filed a “Petition for Writ of *Habeas Corpus* on Cruel and Unusual Punishment and the Denial of Due Process” against the respondent, secretary of the Pennsylvania Department of Corrections. The petition is dismissed as a retaliatory transfer does not provide the basis for *habeas corpus* relief.

1. PNC BANK, NATIONAL ASSOCIATION EXECUTOR OF THE ESTATE OF WILLIAM G. MAGARO V. LOWELL R. GATES
2. BRIAN IRVINE V. MAUREEN IRVINE
3. CONSTANCE L. JODON V. SAMUEL JODON

The Court finds no genuine issue of fact with regard to the dates when Defendant’s alleged legal malpractice occurred. Defendant’s motion for Summary judgment is granted and the trial is cancelled.

Appeal from Defendant (Mother) from order amending previous custody order. Defendant alleges that the Court denied her due process and/or abused its discretion and/or erred in a number of ways including: 1) failing to receive testimony from the child; 2) failing “to properly establish a change in circumstance to warrant modification”; 3) not giving adequate weight to the status quo; 4) not giving Mother additional partial custody; and 5) adopting the status quo on the issue of the school selection.

Appeal from Defendant from the Court’s order extending a projection from abuse order. Defendant alleges prejudicial error and/or abuse of the Court’s discretion in extending the order. The extension of the order was based on Defendant’s repeated violation of the Court’s order and Plaintiff’s reasonable fear of bodily injury.