

the court with a document from her employer stating that the circumstances surrounding her overtime work have passed. Support guideline number 10 states that if overtime is sporadic or periodic, it shall not be considered in determining a party's net income. The court feels that the overtime work by the plaintiff was periodic and it shall not be included in the calculation of the plaintiff's net income. The problem is that the plaintiff's net income statements reflect that overtime. Therefore, the court will calculate the plaintiff's net income in the following manner: The gross income for the regular 75 hours worked will be added together and then divided by the number of pay periods covered to obtain an average gross bi-weekly income. To reach the bi-weekly net income, the percentage by which the gross income is reduced will be determined for each pay period, and the average percentage will be used to reduce the average gross income to the average net income. That figure will then be divided in half to reach the plaintiff's average net weekly income.

The plaintiff's average bi-weekly gross income between June and December of 1987 was \$653.65. The average percentage by which her gross income was reduced each pay period was 29.95%. Therefore, the plaintiff's average net bi-weekly income was \$460.23. Dividing that in half and allowing a \$6 deduction for mileage, the plaintiff's average net weekly income is approximately \$224.

Using the plaintiff's average net weekly income of \$224 and the defendant's average net weekly income of \$309, the Franklin/Fulton County support charts indicate that the sum of \$57 per week is due plaintiff. That sum is allocable \$17 to plaintiff and \$40 to minor child.

In addition to the sum due plaintiff and minor child, the defendant shall pay \$53.50 per week as payment for one-half of the joint mortgage, tax, and insurance costs. Furthermore, defendant will continue to pay the \$20 bi-weekly on the arrearage.

This court shall order that the defendant, Preston Cook, pay to the plaintiff, the sum of \$221 plus 50¢ service charge each second Monday thereafter until further order of this court plus \$20 bi-weekly on the arrearage.

Finally, the defendant must continue to maintain the minor child on his medical insurance.

## ORDER OF COURT

March 10, 1988, the court having found that the plaintiff has a net weekly income of \$224 and the defendant has a net weekly income of \$309, it is ordered that the defendant pay the sum of \$57 per week to the plaintiff. This sum is allocated: \$17 for plaintiff and \$40 for the minor child.

In addition, defendant shall pay the sum of \$53.50 per week as one-half of the joint mortgage, tax, and insurance costs on the marital residence. Defendant shall continue to pay \$20 bi-weekly on the arrearages.

In summary, the defendant shall pay the plaintiff the sum of \$221 plus 50¢ service charge plus \$20 on arrearages each second Monday until further order of the court.

COMMONWEALTH vs. GRASSO, C.P. Franklin County Branch, Crim. Div., No. 72 of 1988

*Criminal Law - Murder - Transfer - Juvenile Court Division*

1. Transfer from the criminal court to the juvenile court in a murder case is not a matter of right, but is within the sound discretion of the trial court.
2. A child has the burden of proving to the Court that he is amenable to treatment, supervision or rehabilitation as a juvenile.
3. The Court must consider an individual's personal makeup, previous history and the nature and circumstances of the alleged homicide.
4. Shooting another person in the back of the head is an inherently heinous act.

*John F. Nelson, District Attorney, Counsel for the Commonwealth  
David S. Keller, Esq., and John N. Keller, Esq., Counsel for Defendant*

WALKER, J., November 16, 1988:

On December 30, 1986, outside the New Franklin Firehouse, Keith L. Koons was killed by a gunshot wound to the back of his head.

On May 5, 1988, the defendant, George G. Grasso II, was charged with the murder of Keith L. Koons.

The defendant filed a petition pursuant to 42 Pa.C.S.A. 6322 requesting the court to transfer jurisdiction of this action from the criminal court division to the juvenile court division.

The sole issue before the court is whether the juvenile defendant, charged with murder, shall be tried as an adult in the criminal division of this court or be transferred to the juvenile division for treatment as a juvenile.

The court must resolve this issue based on the provisions of the Pennsylvania Juvenile Act, 42 Pa.C.S.A. §§ 6301-6355. Section 6322 of the Juvenile Act provides that if a child is charged with murder in a criminal proceeding, the court in its discretion may transfer the proceeding to the juvenile system. "From the language of the act, it is clear that transfer from the criminal court in murder cases is not a matter of right, and the determination of whether the interests of the state and society require prosecution of murder on an indictment is left to the sound discretion of the Common Pleas Court." *Commonwealth v. Zoller*, 345 Pa. Super. 350, 355, 498 A.2d 436, 439 (1985).

Section 6322 further provides that the child has the burden of proving to the court that he is amenable to treatment, supervision or rehabilitation as a juvenile. In carrying his burden, the child must meet the criteria of 42 Pa.C.S.A. § 6355 (a)(4)(iii)(A):

1. Age;
2. Mental capacity;
3. Maturity;
4. The degree of criminal sophistication exhibited by the child;
5. Previous records, if any;
6. The nature and extent of any prior delinquent history, including the success or failure of any previous attempts by the juvenile court to rehabilitate the child;
7. Whether the child can be rehabilitated prior to the expiration of the juvenile court jurisdiction;
8. Probation or institutional records, if any;
9. The nature and circumstances of the acts for which transfer is sought;
10. Any other relevant factors.

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## LEGAL NOTICES, cont.

necessary to function as a "unit owners' association" under the Uniform Condominium Act.

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6/16/89

Notice is hereby given that RICHARDS AND RUBBO, INC., on May 25, 1989, caused to be filed in the Department of State of the Commonwealth of Pennsylvania its articles of incorporation to be organized under the Business Corporation Law, approved the 5th day of May, 1933, P.L., 364, as amended. The purposes of the corporation are to provide physical therapy and related services and the unlimited power to engage in and to do any lawful acts concerning any or all lawful acts concerning any or all lawful business for which corporations may be incorporated under the Business Corporation Law of the Commonwealth of Pennsylvania, and the corporation is incorporated under the provisions of the said Business Corporation law of the Commonwealth of Pennsylvania.

GRAHAM AND GRAHAM  
3 North Second Street  
Chambersburg, PA 17201

6/16/89

Notice is hereby given that THE TAR BUCKET on May 1, 1989, caused to be filed in the Department of State of the Commonwealth of Pennsylvania its articles of incorporation to be organized under the Business Corporation Law, approved the 5th day of May, 1933, P.L. 364, as amended. The purposes of the corporation are to do any lawful acts concerning any or all lawful business for which corporations may be incorporated under the Business Corporation Law of the Commonwealth of Pennsylvania, and the corporation is incorporated under the provisions of the said Business Corporation Law of the Commonwealth of Pennsylvania.

GRAHAM AND GRAHAM  
3 North Second Street  
Chambersburg, PA 17201

6/16/89

### FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act, Act No. 1982-295, of the filing, with the Department of State of the Commonwealth of Pennsylvania, on April 13, 1989, an application for a certificate for the conducting of a business under the assumed or fictitious

## LEGAL NOTICES, cont.

name of BARGAIN STORE, with its principal place of business at 14439 Buchanan Trail West, Mercersburg, PA. The name and address or the person owning or interested in said business is Constance A. Fitty, P.O. Box 265, McConnellsburg, PA 17233.

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6/16/89

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Determination of whether the child has proven that he is amenable to juvenile treatment is to be made after careful consideration of the individual's personal makeup, previous history and the nature and circumstances of the alleged homicide, *Commonwealth v. Cessna*, Pa. Super. , , 537 A.2d 834, 839 (1988). *Commonwealth v. Pyle*, 462 Pa. 613, 623 n. 13, 342 A.2d 101, 106 n. 13 (1975).

In determining whether the defendant has met his burden of proof, the court will consider how the facts of this case apply to the aforementioned criteria.

### I. THE DEFENDANT'S PERSONAL MAKEUP

The individual child's personal makeup includes his mental capacity and maturity as determined by consideration of his home and school situation, emotional attitude, and pattern of living. *Pyle*, at 623, n. 13.

Defendant is presently 17 years and 7 months old and was age 15 years and 9 months at the time of the Koons' homicide. It appears from the evidence that the defendant possesses at least average mental capacity and maturity. The defendant left home after the coroner's inquest in October of 1987 and lived with his cousin, Wanda Greenawalt, near Lancaster. The defendant attended school for the two months he lived in Lancaster. Reverend William DeHass, pastor of St. John's Lutheran Church in Scotland, Pennsylvania, testified that the defendant regularly attended and satisfactorily completed catechism classes at his church from 1985 to 1987.

The evidence reveals the defendant to possess, at the very least, a normal degree of maturity for a person of his age. The defendant has held several jobs during the past two years, including his present job at Mountain Valley Farms. James Sheppard, defendant's supervisor at Mountain Valley Farms testified to the defendant's good work habits and his dependability.

Mrs. Wanda Grasso, defendant's mother, testified that the defendant has presented no problems within the family.

### II. DEFENDANT'S PREVIOUS HISTORY

The court notes with favor the fact that defendant has no

previous criminal record nor any previous contact with juvenile authorities or courts.

### III. THE NATURE AND CIRCUMSTANCES OF THE SHOOTING

The court is particularly concerned with the violent, apparently well planned, execution type slaying of Keith Koons. Whoever committed this heinous crime had a great deal of sophistication and eluded the Pennsylvania State Police for a lengthy period of time. The court is not suggesting that Mr. Grasso was that individual.

Defendant contends that the alleged homicide did not contain any of the heinous nature of the crimes which were exhibited in other cases in which courts have denied petitions to transfer to the juvenile system. See *Commonwealth v. Waters*, 334 Pa. Super. 513, 483 A.2d 855 (1984) where the victim had been stabbed and bludgeoned to death in an abandoned farm house; see also *Commonwealth v. Zoller*, 345 Pa. Super. 350, 498 A.2d 436 (1985) where the victim was beat over the head with a shovel and buried in a shallow grave. The court believes that shooting another person in the back of the head is both a very serious charge and also an inherently heinous act. In *Commonwealth v. Williams*, 514 Pa. 62, 522 a.2d 1058 (1987) the Pennsylvania Supreme Court has noted that "Murder is a heinous and serious crime, and the Legislature's assumption that one who commits murder is in need of adult discipline and restraint is a reasonable one." This court is particularly concerned with the serious and heinous nature of the alleged crime in this case.

The court is concerned with the defendant's continuous denial of any involvement or knowledge of the events surrounding the shooting death of Keith Koons. John Hargreaves, Department of Public Welfare liaison to the Juvenile Justice System, testified that the first step of rehabilitation is to have the party admit his involvement in the crime. However, after a period of time where the defendant continuously denies involvement, it becomes counter-productive to keep approaching the juvenile with this particular issue. Mr. Hargreaves said that it is difficult to build a trusting relationship with the juvenile if he continues to deny and the counselor continues to probe into the juvenile's involvement. In his many years of experience, Mr. Hargreaves can only recall of two juveniles charged with murder being transferred to juvenile court.

No psychological or psychiatric evidence was presented that based on the juvenile programs available, the individual make-up of the defendant, and the time remaining before the defendant turns 21, that a program is available that could reasonably assure defendant's rehabilitation.

The court presumes the defendant to be innocent. It is the court's belief that if the defendant were convicted, there is not reasonable assurance that the defendant could be rehabilitated within the remaining time as a juvenile. The defendant is presently 17 years, 7 months old. He would only have approximately three years to be detained and successfully rehabilitated before reaching 21 years of age. Therefore, considering the violent and heinous nature of the crime, the degree of criminal sophistication exhibited by the perpetrator of this crime, and the defendant's continuous denial of any involvement in the crime, the court does not believe that the defendant could be rehabilitated within the juvenile system within a little over three years.

With the foregoing concerns in mind, the court finds that the need for legal restraint far outweighs the need for treatment in the juvenile system. The defendant has failed to show that his need for care, guidance and control as a juvenile outweighs the state's and society's need to apply legal restraint as an adult.

The court considered the defendant's maturity, home life, good work habits and good character testimony in reaching its decision. However, the serious nature of the crime and the lack of reasonable assurance that the defendant could be rehabilitated within the juvenile system before reaching majority require that the defendant's petition to transfer to the juvenile court be denied.

### ORDER OF COURT

November 16, 1988, defendant's petition to transfer this case to the jurisdiction of the juvenile court is denied.

HOLTRY, ETC., ET AL. VS. DRUCKENBROD, ET AL., C.P.  
Franklin County Branch, No. A.D. 1988-290

*Medical Malpractice - Filial Consortium - Negligent Infliction of Emotional Distress - Sensory*