

Objection! Evidence Issues Every Pennsylvania Jurist Should Know

Professor Marian Braccia



2026 Bench Bar Conference | Bedford Springs, PA

first

THANK YOU
for all you do



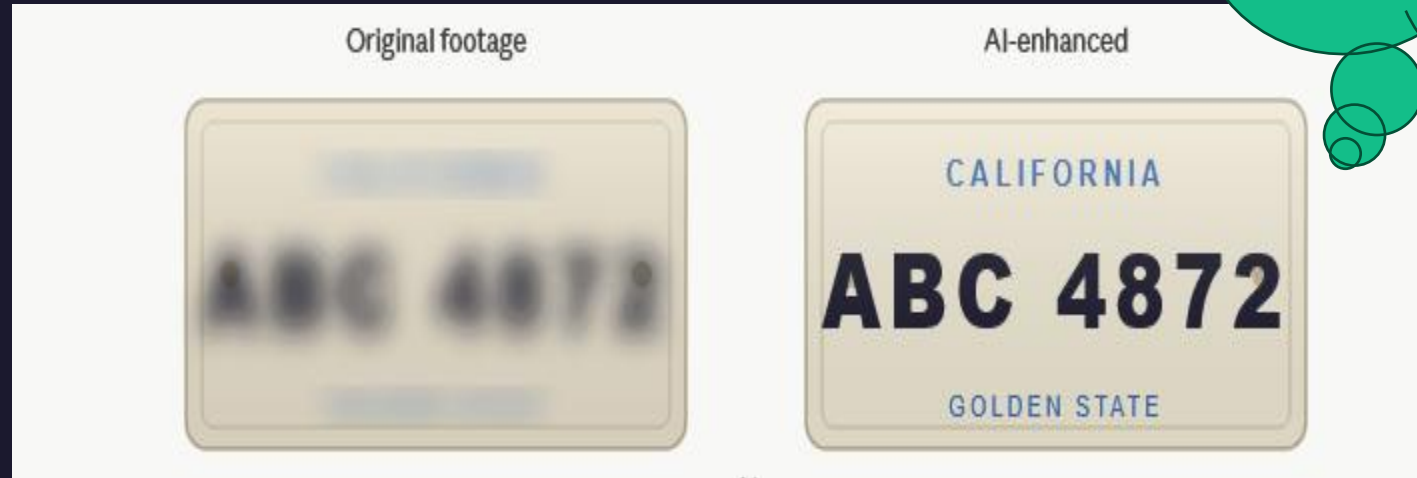
second

- In the pipeline
 - 404(b)
 - Video
 - *Corpus*
 - AI in Court



Can we chat first?

Your Honor, we
used AI to clear
up the license
plate photo.





Cases in the pipeline



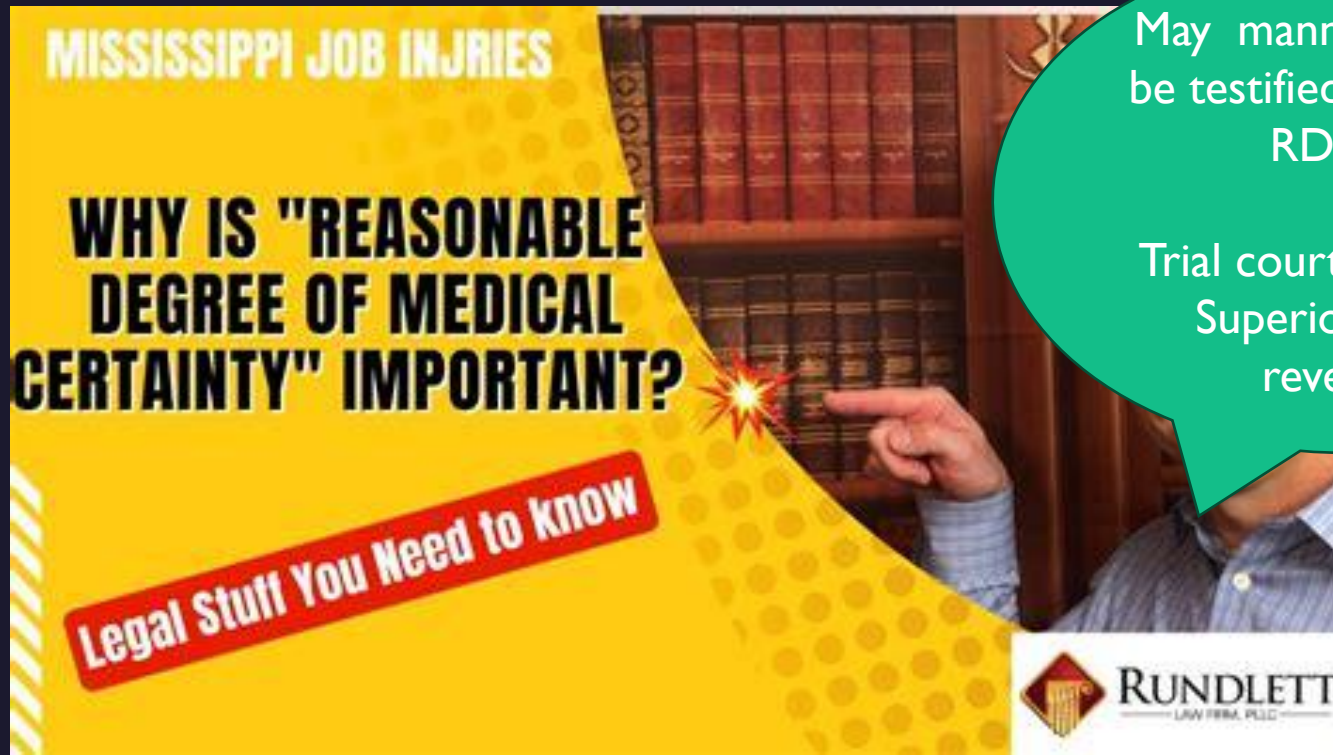
McCLELLAND THEORY OF NEEDS

WWW.NOTESLEARNING.COM



Commonwealth v. Sutton, argued 10/8/25

Com v. Fitzpatrick, Decided 2026



May manner of death
be testified to without
RDMC?

Trial court precluded,
Superior Court
reversed

The Science of Possibility: Nature's Guide to the Future.

- Whether the Superior Court properly applied the increased risk of harm standard established by *Hamil v. Bashline*, 481 Pa. 256, 392 A.2d 1280 (Pa. 1978), and its progeny as it relates to expert testimony regarding the risk and resultant harm.
- Smith v. Kannarkatt, 2025 Pa. LEXIS 261, *1

In Plain English – “substantial possibility”

- **Although, as Appellees correctly note, Dr. Soiffer could not opine with certainty what Decedent's likelihood of survival would have been, we conclude that, under Hamil, he was not required to.**
- **Smith v. Kannarkatt, 2024 Pa. Super. Unpub. LEXIS 622, *23-24**



Serrano-Delgado, 2026 Pa. LEXIS 1293, *1-2 (2026) – argued 10/8/25



Com v Vance, 3 MAP 2025

Argued 11/19/25



- Whether Google GPS location data was improperly admitted into evidence without proper authentication, as the Commonwealth presented no testimony establishing the reliability and accuracy of the information generated by Google?
- (2) Whether a police lieutenant who lacked information regarding Google's proprietary algorithms and processes was erroneously permitted to testify as an expert regarding Google's GPS location data?

Something to think about

CERTIFICATE OF AUTHENTICITY
[NAME OF COMPANY]
[ADDRESS] & [CONTACT DETAILS]

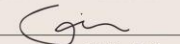
THIS IS TO CERTIFY THAT THE ITEM KNOWN AS

[NAME OF ITEM]

WHICH WAS OFFICIALLY PURCHASED BY [NAME] ON [DATE] AT [TIME] AT [LOCATION]
IS AN ORIGINAL AND BRAND NEW ITEM IN GOOD WORKING CONDITION

AND HAS BEEN MANUFACTURED IN ACCORDANCE WITH THE STANDARDS OF [NAME OF COMPANY].


Holly A. Woods
SALES MANAGER


John Phillip S. Tores
HR MANAGER

Understanding the Role of Expert Witnesses



Recently granted allocatur – Com v Di Pietro (12/8/25)

**D
a
y
s

E
y
e**

COMPLETE THE STORY

The  lives in the .

It is a  time. The

frog sees a  in the

 _____.

Kids Channel

**ANALYSIS
ON
DOCTRINE
OF RES GESTAE**

BY: ESHITA SHARMA



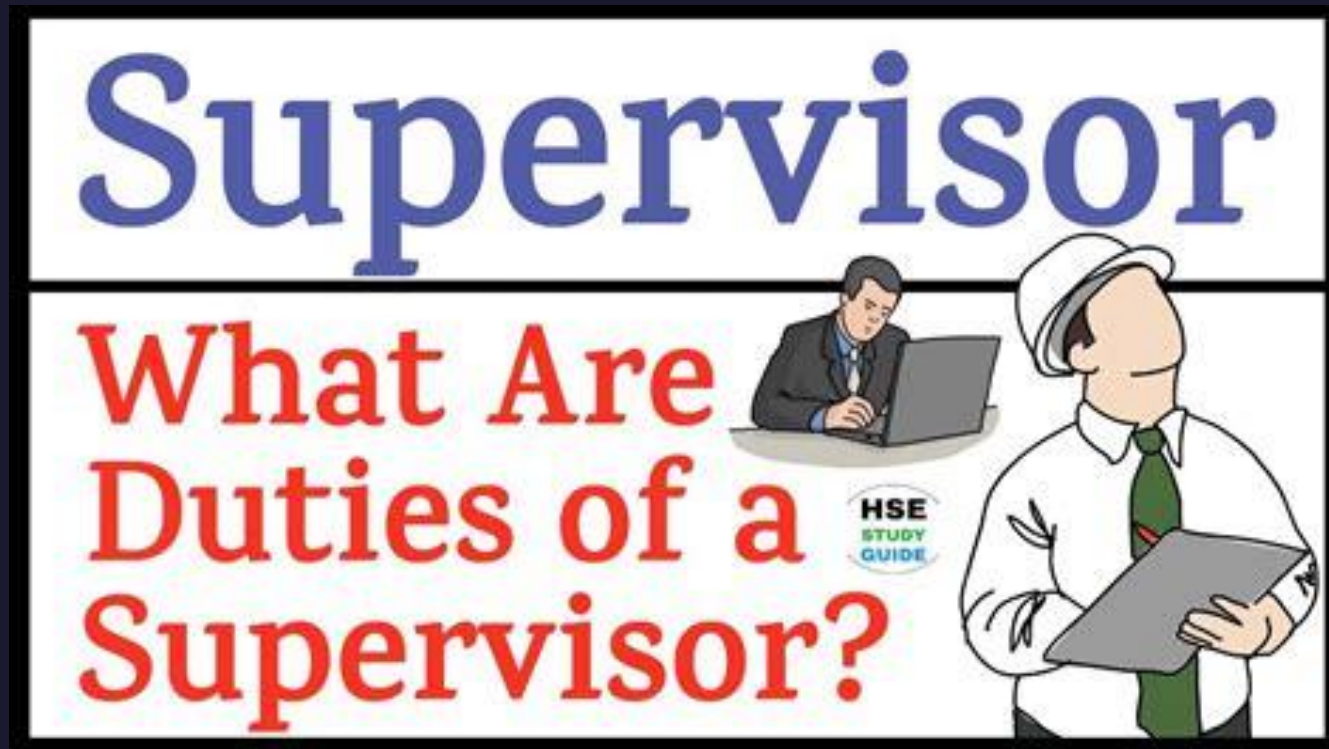
Allocatur granted

- Com v. Bloom

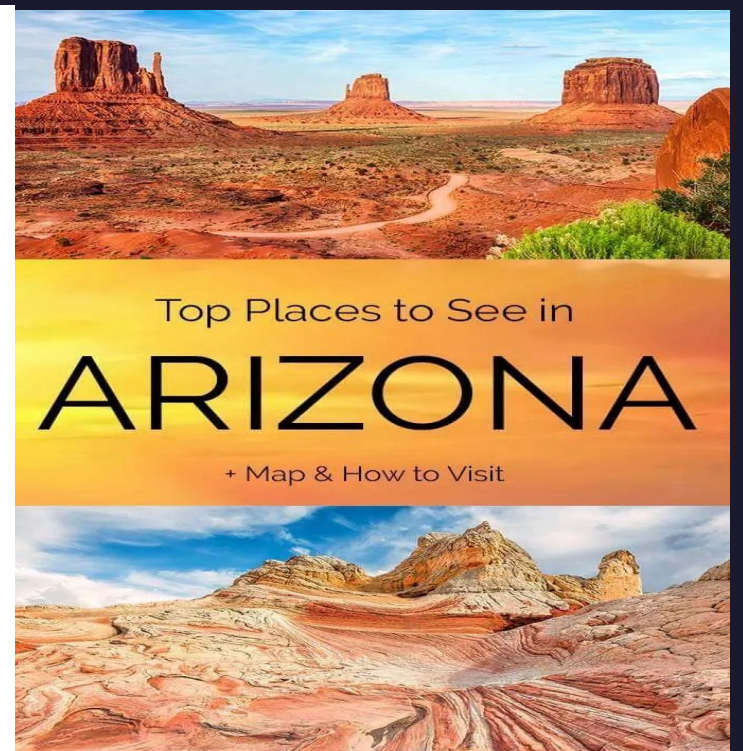


- Under *Smith v. Arizona*, when is a toxicology report relied on by a forensic pathologist “testimonial hearsay?”

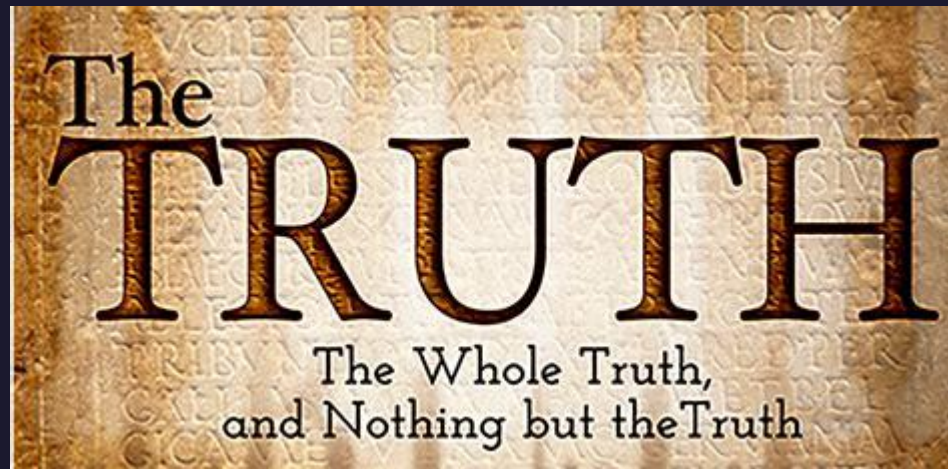
Companion Case - *Jackson*



And that brings us to

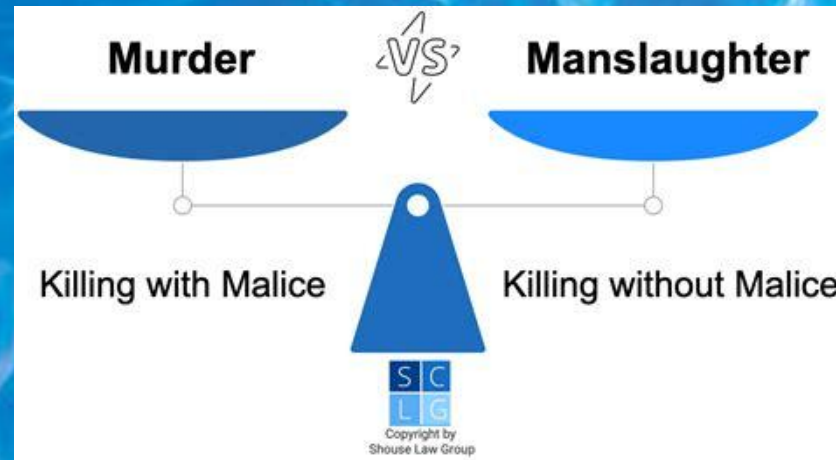


- Truth is everything when it comes to the kind of basis testimony presented here.

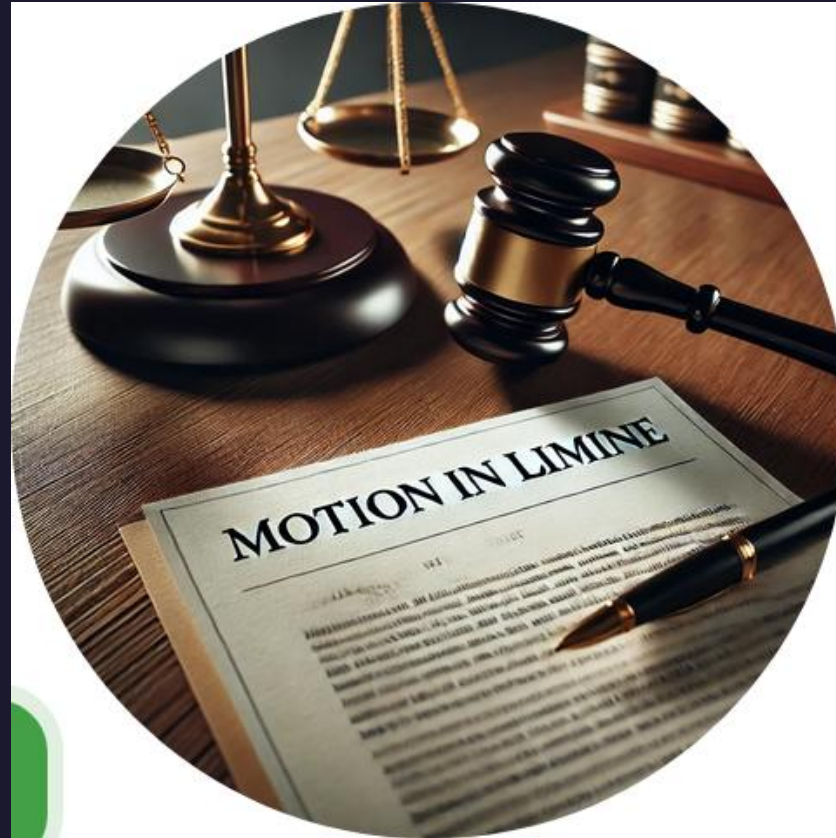


Commonwealth v. Peters, No. 1 MAP 2025

Decided 5/4/26



Topic 2





It has to be



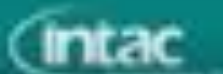
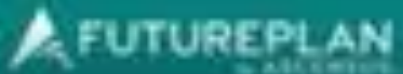
example



CS17268.6

What's not enough?

Avoiding the 7 Common Plan Errors: Tips and Tactics



And in the Superior Court?



Criminal Law in the Superior Court

Appellant's reaction to the victim's death was different than other families' reactions in similar circumstances

- Trooper Miller's reaction of grief over his child's death was not "typical" involving a

•

Commonwealth v. Brunson, 2025 Pa. Super. LEXIS 519, *31

– Google Timeline Screenshot

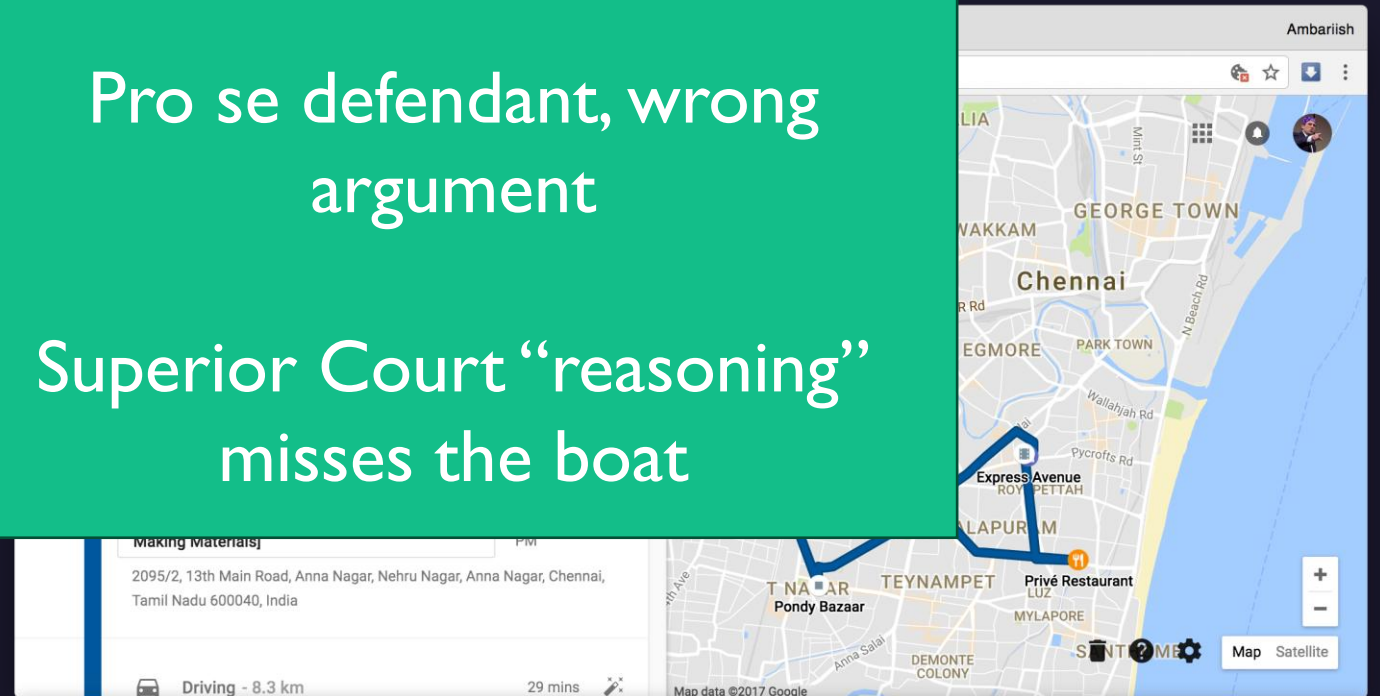
- Detective Lombardo similarly "did not offer any testimony requiring scientific, technical, or specialized knowledge beyond the understanding of any phone user of average intelligence" when he solely relayed the information provided by the Google Maps app

- Commonwealth v. Jones, 2025 Pa. Super. LEXIS 568, *24

Epstein take?

Pro se defendant, wrong argument

Superior Court “reasoning” misses the boat



Next topic



Corpus
for drug
use?

CORNER

Crime – former
felon not to possess
firearm

Gun was on roof of
store



CORNER STORE



CORNER STORE





CORNER STORE

closed





CORNER STORE

closed



So?



WHAT DO
YOU THINK

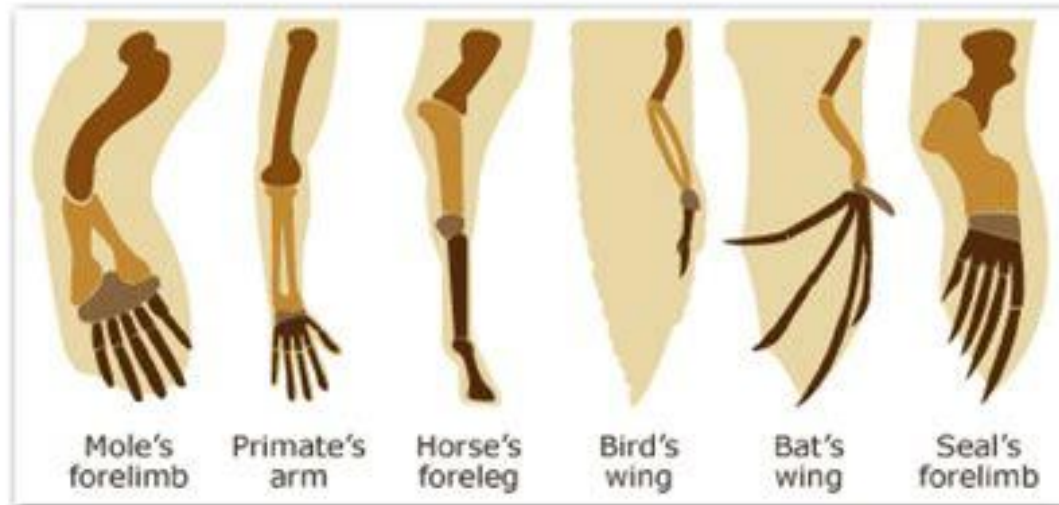
And the answer?

"more likely than not that the loaded .380 caliber handgun did not end up on the roof of a closed convenience store in Allentown by accident, but rather had been intentionally tossed or placed on the roof in order to conceal it, clearly suggesting that the person who placed the handgun on the roof did not lawfully possess it."

Commonwealth v. Lassends, 2026 Pa. Super. LEXIS 111, *8-9

Before we
leave *corpus*

EXPLAIN WHICH ORGANISMS ARE
MOST CLOSELY RELATED

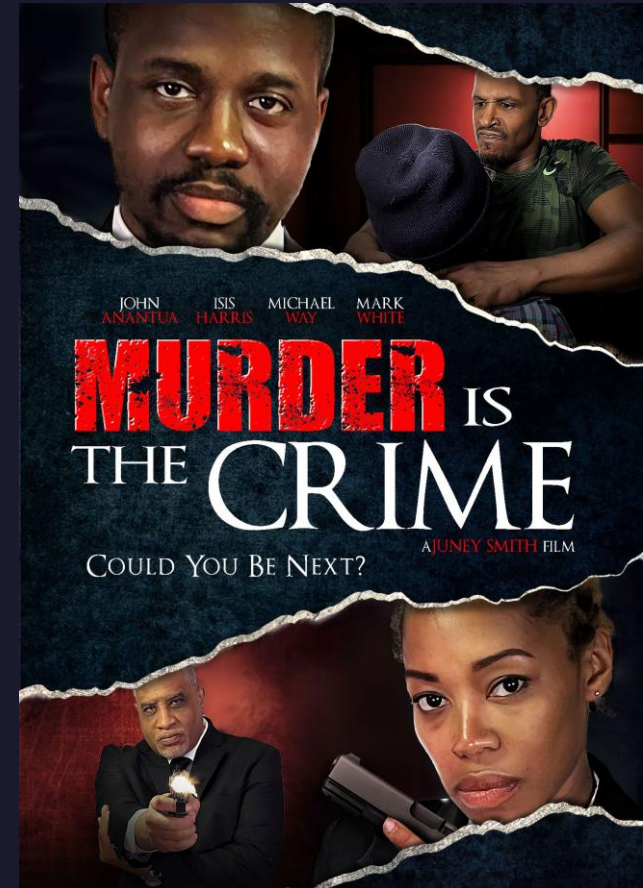


What crimes are “closely related”

- Corpus as to robbery
 - Conspiracy to rob
- Possession of drugs
 - PWID



And what ones weren't?



Want to learn more?

- Commonwealth v.
Taylor, 574 Pa. 390



Now, the next issue



What we won't talk about

A.I. 'Hallucinations' Created Errors in Court Filing, Top Law Firm Says

Sullivan & Cromwell apologized for submitting a court document that had fake citations created by artificial intelligence.

Listen · 3:51 min

Share full article



231



Lawyers for Sullivan & Cromwell apologized for submitting a court filing that had fake citations created by artificial intelligence. John Taggart for The New York Times



By **Santul Nerkar**

sources



What are possible issues (let's leave out deepfakes for now)

- Authentication
- Narration
- Distortion (403?)
- Hearsay
- Enhancement



Look at what is available

[Import bookmarks...](#) [Why Is Your Computer...](#) [Jim Shellenberger | Fin...](#)

The exclusive spring presets are now available to unlock. [Unlock Spring Preset](#) ×

 [Products](#) [Features](#) [Resources](#) [Pricing](#) [Support](#) [Download](#) [Sign in](#)

Online AI Photo Enhancer

Enhance photos for clearer, sharper and higher image quality. Evoto AI Photo Enhancer makes it easy to unblur and raise photo resolution. Give online free trial a go!





 **Upload Image**
* JPEG, JPG, PNG or WebP image allowed.

No image? Try one of these ▼



Can we “chat” about AI and enhancement?

- AI enhancement is genuinely powerful for making images **look better and more usable** — but it's creative reconstruction, not true recovery. The more information lost in the original, the more the AI is essentially *guessing* what



When AI "sharpens" a blurry image, it doesn't recover lost data — **it invents plausible detail** based on patterns learned from training data. This means:

- A blurry face might become sharp, but the fine details (exact freckles, hair strands) may not match reality
- Text in a blurry image might be "restored" incorrectly
- The result looks convincing but **is not forensically accurate**

This is why AI-enhanced images **cannot be used as legal evidence** and why "CSI-style zoom and enhance" is still largely fiction.

What do we
need to trust
enhancement?

"Trust The Process"
-Joel Embiid

BASKETBALL
MINDSET TRAINING

Ground Truth Data
for AI

Final topic

The background of the slide features a hand holding a smartphone, with the screen displaying a complex mechanical or circuit-like pattern. The overall color scheme is dark, with the text in white for high contrast.

AI EVIDENCE IN THE COURTROOM

Attorney Legal Blog

What forms might it take?

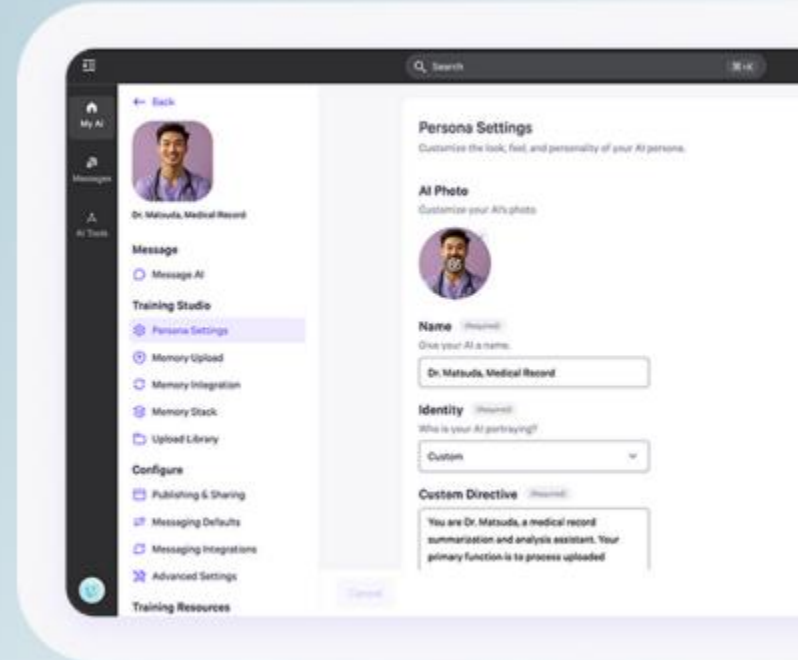
- **A New York judge rejected ChatGPT-generated billing rates, citing the tool's unreliability.**
- **A Washington state judge excluded an AI-enhanced video when the expert couldn't explain the model's training data.**
- **A Florida judge donned a VR headset to review a crime scene recreation—but emphasized the importance of proving the tech's reliability before a jury sees it.**
- **<https://www.jimersonfirm.com/blog/2025/07/ai-evidence-in-the-courtroom-what-businesses-in-tech-healthcare-and-beyond-need-to-know/>**

Braccia's guesses

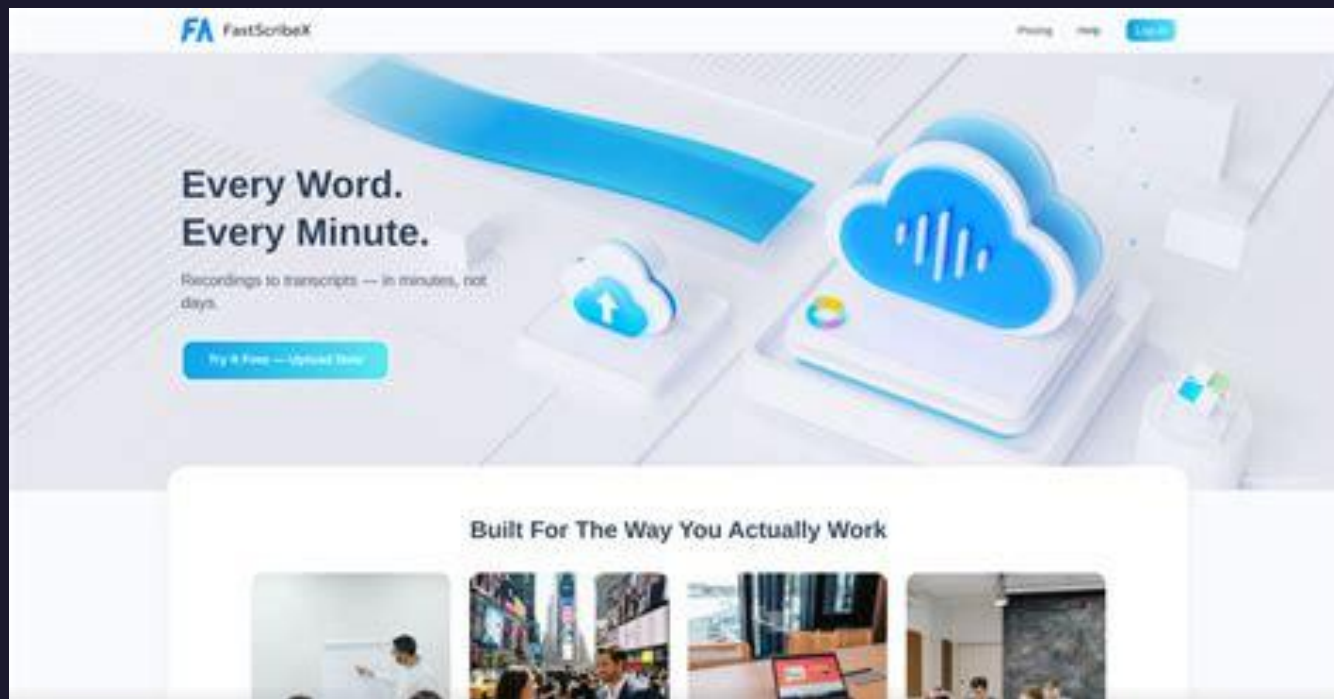
 Personal AI

MEDICAL RECORDS

Summary Persona



More guesses

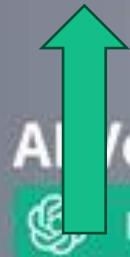


More guesses

Rpbznr

AI Voice Recording

Record | Transcribe | Summarize |
Translation | Answer | Create



AI Voice Recorder



Powered by ChatGPT



Another Guess or Two

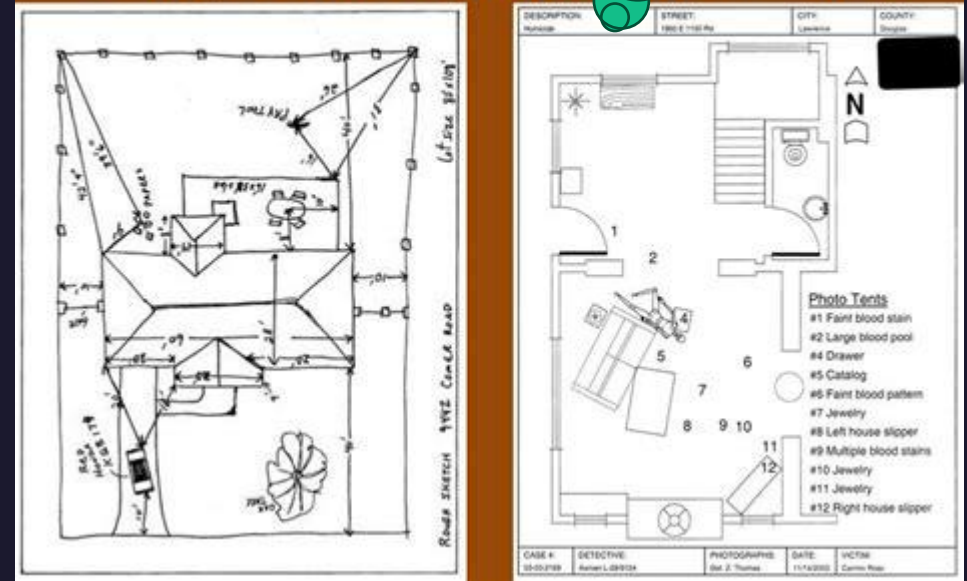
I used AI
to test
this
theory

**INTERNET
EXPERT WITNESS**

SECURE YOUR CASE WITH US

I gave chatgpt
the
measurements
and....

Examples of Rough and AI Sketches



Another guess



 Clearview AI

AI-POWERED FACIAL RECOGNITION FOR LAW ENFORCEMENT INVESTIGATIONS

Accelerate criminal investigations with highly accurate facial recognition and rapid search results for law enforcement. Helps identify suspects, witnesses, and victims in seconds.

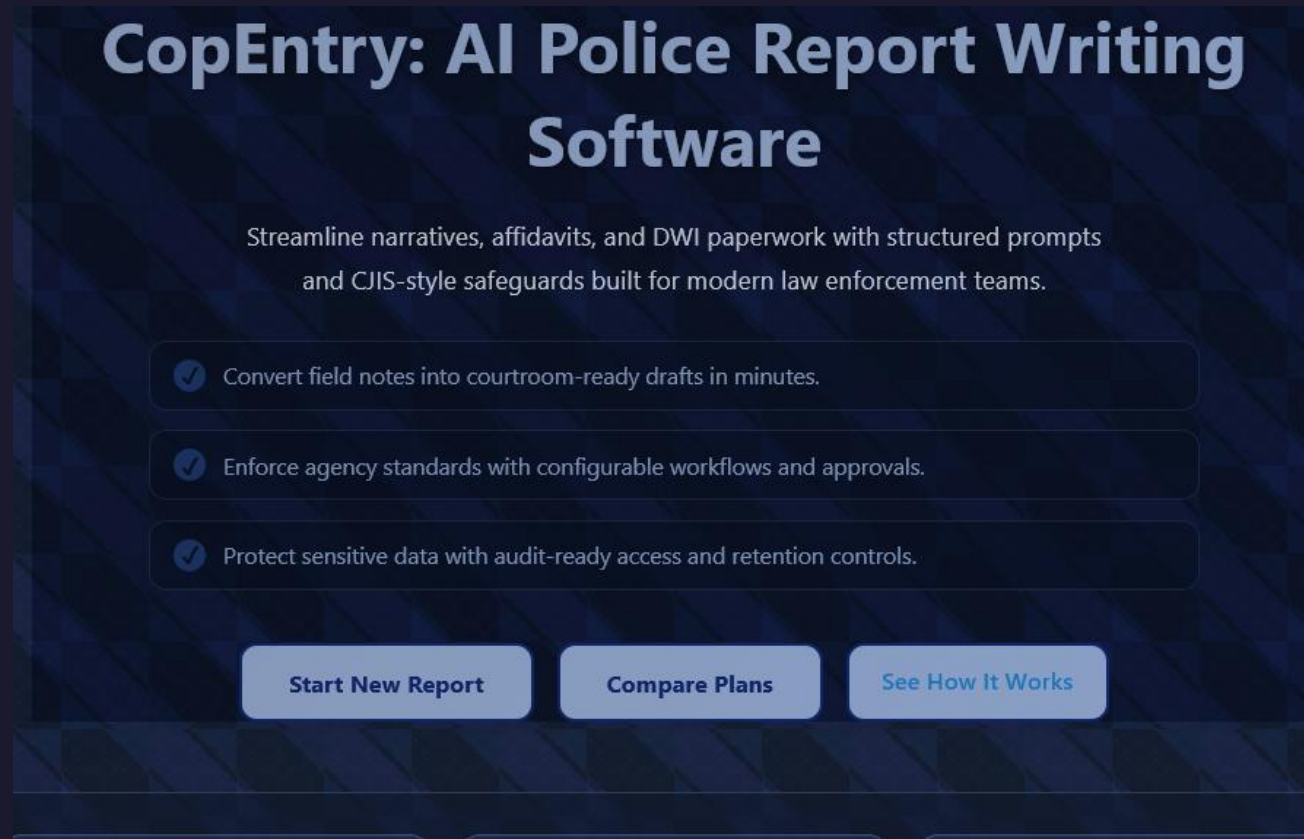
- The limited case law...take[s] for granted that facial recognition has not been accepted as reliable within the relevant scientific community.

- FEATURE: WHAT DEFENSE COUNSEL SHOULD KNOW ABOUT FACIAL RECOGNITION TECHNOLOGY, 47 Champion 18, 24



Last guess...
Voluminous
records

Coming soon to a witness stand near you?



CopEntry: AI Police Report Writing Software

Streamline narratives, affidavits, and DWI paperwork with structured prompts and CJIS-style safeguards built for modern law enforcement teams.

- ✓ Convert field notes into courtroom-ready drafts in minutes.
- ✓ Enforce agency standards with configurable workflows and approvals.
- ✓ Protect sensitive data with audit-ready access and retention controls.

[Start New Report](#) [Compare Plans](#) [See How It Works](#)

The image shows a landing page for 'CopEntry: AI Police Report Writing Software'. The background is dark blue with a subtle geometric pattern. The title is in a large, bold, white font. Below the title is a descriptive sentence in a smaller white font. There are three bullet points, each with a white checkmark icon and text. At the bottom, there are three white buttons with blue text: 'Start New Report', 'Compare Plans', and 'See How It Works'. The 'See How It Works' button is slightly larger and has a blue link-like appearance.

WED
JUN 18

Why a US court allowed a dead man to deliver his own victim impact statement – via an AI avatar

And at
sentencing?

Written by James D Metzger, Senior Lecturer in Law & Justice, UNSW Sydney

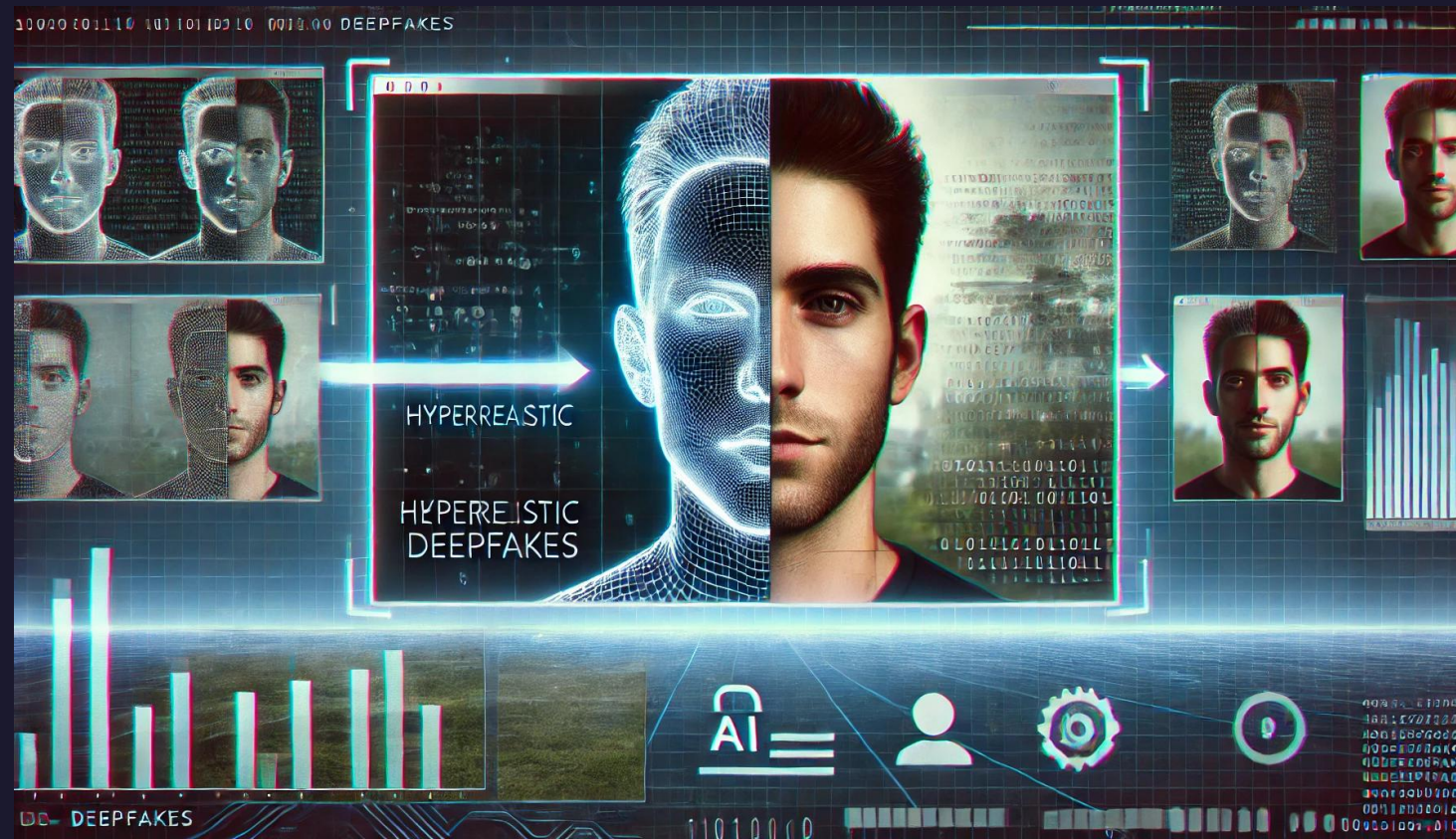


And maybe we have
some guidance...from
20 years ago



- a CGA should be treated equivalently to any other demonstrative exhibit or graphic representation and, thus, a CGA should be admissible if it satisfies the requirements of Pa.R.E. 401, 402, 403, and 901
- Commonwealth v. Serge, 586 Pa. 671, 681

And of course



A [the] Case To Read

Matter of M.S. (M.H.)

 [Copy Citation](#)

 [Ask Protégé™](#)

 [Law School Case Brief](#)

Court of Appeals of New York

5/1/2017 17:00:06 Downloaded

And it will be in state court where
the deepfake action is

HOME > GEORGIA PULSE

Court Rule Changes Uncertain After Few Deepfake Challenges



By Jack Karp | 2026-05-05 16:48:33 -0400 ·  Listen to article

Very few federal judges have handled challenges to audiovisual evidence that litigants claim has been faked by artificial intelligence, raising questions about whether changes to the rules of evidence are actually necessary.

FIND M

Read more o
California leg
Lex

Any relief in sight?



[Home](#) [Blog](#) [About](#) [Disclaimer](#) [Contact](#) [Partners](#) [Events Calendar](#)



JANUARY 26, 2026

DOUG AUSTIN

Proposed Federal Rule of Evidence 707, a Supporting Letter from Grossman and Grimm: Artificial Intelligence Trends

And in Pennsylvania?



Sooo....,



And let me end here...

