

IN THE SUPERIOR COURT OF PENNSYLVANIA
WESTERN DISTRICT

21 WDA 2023

COMMONWEALTH OF PENNSYLVANIA
APPELLEE

V.

IN RE: SEALED ARREST WARRANTS PUSURANT TO PA R. CRIM. 513.1
THE HERALD STANDARD – UNIONTOWN NEWSPAPERS, INC., MON VALLEY
INDEPENDENT, OBSERVER REPORTER
APPELLANT

RESPONSIVE BRIEF FOR APPELLEE

APPEAL FROM THE ORDER OF COURT ENTERED IN THIS MATTER ON DECEMBER 14,
2022 BY JUDGE CHRISTOPHER FELICIANI OF THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY PENNSYLVANIA AT CP-65-MD-801-2022.

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TABLE OF CONTENTS

Reply Argument	1
Conclusion	3

Reply Argument

Media Intervenors' brief perpetuates a fundamental misapprehension of the ability for a reviewing court to consider claims and alleged facts not of record. Neither the declarations submitted as exhibits to their original motion to the Trial Court nor the declarations submitted as exhibits to the Appellant's brief should be available for consideration by this Honorable Court. Media Intervenors were given the opportunity to be heard by the Trial Court and chose not to call any witnesses or present any evidence. Media Intervenors cannot then use facts not of record to support arguments in their brief. All arguments referencing facts not of record should be discounted. Indeed, the very attempt to use such statements proves one of the Appellee's main contentions: Media Intervenors failed to proffer any testimony or evidence establishing that the Trial Court erred.

Furthermore, while authoring this reply, the Appellee received a copy of this Honorable Court's order dated January 26, 2023. This order further underscores the Appellee's argument. The Media Intervenors failed to build an adequate record with the correct parties present to

address any of the issues now before this Honorable Court. The Trial Court complied with the mandates of Pa. Rule. Crim. Pro. 513.1. Media Intervenors allege that other parties such as the Magisterial District Court and the AOPC may have implemented the Trial Court's order in a manner that Media Intervenors allege to have been in error. However, Media Intervenors failed to establish any facts on the record to address these issues.

Conclusion

Wherefore, for the foregoing reasons, the Commonwealth respectfully requests that this Honorable Court affirm the decision of the trial court.

Respectfully Submitted,



Anthony S. Iannamorelli, Jr., Esq



James T. Lazar, Esq

IN THE SUPERIOR COURT OF PENNSYLVANIA
WESTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA :

VS

:
: NO. 21 WDA 2023
:

IN RE: SEALED ARREST WARRANTS :
PURSUANT TO PA R. CRIM. 513.1 :

THE HERALD STANDARD- :
UNIONTOWN NEWSPAPERS INC, :
MON VALLEY INDEPENDENT, AND :
OBSERVER REPORTER :

PROOF OF SERVICE

I hereby certify that a true and correct copy of the Commonwealth's brief was served upon the following individual on this date in the matter indicated below:

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Dated: January 26, 2023

CERTIFICATION OF COMPLIANCE WITH Pa.R.A.P. 127

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.