

In the Superior Court of Pennsylvania

No. 641 MDA 2023

COMMONWEALTH OF PENNSYLVANIA, Appellee

vs.

STEVEN A. WIGGS, Appellant

On Appeal from the Order and Sentence of April 3, 2023,
in the Court of Common Pleas of Perry County,
in Case No. CP-50-SA-0000026-2021

Appellant's
SUPPLEMENTAL BRIEF,
for the *En Banc* Review

Respectfully submitted by:

RONALD L. CLEVER
LAW OFFICES OF RONALD L. CLEVER
Pa. Atty. Id. No. 038811
Attorney for the Appellant

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- **FIRST Appendix: An example of public policy damage—in particular, an example of what the Pennsylvania State Police could circulate to all municipal police departments, resultant from the Feb. 7 statements of the merits panel.**
Attached is an example, which is 100% *realistic* of what can be happening, right now, “in the field,” due to the holdings of the merits panel.
(As to *how realistic* this example is,
this example is, in fact, not just realistic, but *real*.)
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- **SECOND Appendix: Another example of public policy damage—in particular, what any municipal police department could circulate to all of its police officers, directly resultant from the Feb. 7 statements of the merits panel.**
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- **THIRD Appendix: The APPLICATION for RECONSIDERATION, for REARGUMENT, and/or for EN BANC REVIEW**
[*Incorporated by reference, infra* at p. 1, ¶3, into the instant *Supplemental Brief*.]
(And it has its *own* Appendices, which are listed in its *own* Table of Contents.)
86 pages

* For real things, AS argument , please see footnote *, which follows footnote 6, on page 3, *infra*.

ARGUMENTS,
SUPPLEMENTING
THE 42-PAGE BRIEF
THAT WAS FILED ON JANUARY 19, 2024

Regarding the instant Supplemental Brief.

1. The instant *Supplemental Brief* directly supplements the original *Brief for the Appellant*, which the undersigned filed on January 19, 2024.

2. Both the instant *Supplemental Brief*, and the said January 19, 2024, *Brief for the Appellant*, are being filed/re-filed, on June 17, 2025. They are being filed now, for consideration by the Superior Court, sitting *en banc*.

3. The *Application for Reconsideration, for Reargument, and/or for En Banc Review*, filed on February 28, 2025, is hereby **incorporated by reference**—especially **pages 7-22**, which comprise the section setting forth the reasons for that application. Some of that text is already set forth herein, *infra*, but, in order to avoid excessive repetition, the undersigned hereby does, if it please the Court, incorporate the February 28, 2025, application itself.

I.
What are the effects of the Merits Panel decision of Feb. 7, 2025?

The Merits Panel issued a Memorandum decision on February 7, 2025. The effects of this decision are devastating. And dangerous.

The Mertis Panel decision is the result of failure to follow precedent. In particular, the Pennsylvania Supreme Court has very explicitly ruled that

“The constable is a police officer.” *In re Act 147 of 1990*, 528 Pa. 460, at 470 n.3, 598 A.2d 985, at 990 n.3 (1991) (“The constable is a police officer.”).

Despite this precedent, the said Memorandum fails to follow it. This occurs on pages 10,¹ 15,² 22,³ and 26.⁴ Four times, the Memorandum declares that “a constable simply is not a police officer” (on page 10), and that “a constable is not a police officer” (on pages 15, 22, & 26).⁵ As a direct result of the said decision, which, although non-precedential, the said decision is what the police officers—municipal officers everywhere, and the State Police, and more—rely upon.

[Main text continues on the next page.]

¹ The 3rd line of the first full paragraph of page 10.

² The 1st and 2nd lines of the first full paragraph of page 15.

³ The final sentence of footnote 7, at the bottom of page 22.

⁴ The 5th and 6th lines on page 26.

⁵ For the exact ¶-&-line numbers, *see* the preceding four (4) footnotes, *supra*.

And—believe it or not—this information gets to the public as well.⁶

In addition to the dangers now confronting the Constable as the Constable deals with the general public (including some parts of the general

[Main text continues on the next page.]

“Ignorance of the law is no excuse” is a maxim or precept that goes both ways: the public DOES know about this. And now they “know” [incorrectly!] that **“a constable is simply NOT a police officer.”** (See the preceding five (5) footnotes.) **This statement is INCORRECT as a matter of law.**

What’s the effect of this?

Well, now, a Constable arrives on the front porch of a house, holding a warrant—a warrant which, by the way, under Pa.R.Crim.P. 431(A) (“When a warrant is issued pursuant to Rule 430 in a summary case, the warrant **shall** be executed by a police officer as defined in Rule 103.”), **cannot** be executed by anybody except “a police officer”! So, there he or she stands, on the front porch,* authorized by law and commanded by the warrant itself to arrest a person—and the neighbors on both sides are telling the intended arrestee to simply ignore the Constable, because [incorrectly] “the courts say that a Constable is not a police officer”!

Devastating. Damaging. And dangerous.

This ruling - - which is patently false for reasons stated in the original *Brief for the Appellant* - - immediately places the Constable in clear danger. Not only can’t he or she do their job, but, now, also, they are subject to being mocked, or even attacked, by members of the general public! After all, here is some apparent pretender—“pretending” that he or she is a police officer, and “pretending” that he or she can arrest. But they can’t, because the Superior Court has now declared that “a constable simply is not a police officer” (4 times—*see* footnotes 1 through 4., *supra*).

* Throughout the instant *Supplemental Brief*, the undersigned is aware that he may not go “dehors the record.” But some of the arguments herein - - which are supplemental to those in the original *Brief for the Appellant* - - are based on the fact that, in addition to legal errors (and an error of unconstitutionality), the rulings contained in the Merits Panel’s Memorandum create serious public policy damage, and the main way to observe this dangerous damage is to posit what CAN happen, as a result of those rulings—by looking at what HAS happened/IS happening; thus, the material is not factual submissions dehors the record, but the material is, instead, argument about what CAN happen.

public whom one can find listed as the intended arrestees in arrest warrants!— some of whom can be very dangerous people!), the Constable also now encounters municipal police officers, and state police officers/Troopers, who will now arrest the Constable! YES: They actually are arresting Constables, right now.* For *allegedly* committing a crime (a misdemeanor of the second degree!) by *allegedly* “impersonating a police officer.”

It's stated here as a theoretical possibility, only because I really can't put, into an appellate brief, “new” facts.*

But this IS happening.*

Statewide.*

* For real things, AS argument , please see footnote *, which follows footnote 6, on page 3, *supra*.

II.
What ruling is required, under Pennsylvania law?

The correct ruling needs to be that, YES, a Constable is a police officer. Please *see* the first two sentences of the dissent in the 2-1 Merits Panel decision in the instant case. There, His Honor, Judge Stabile, directly quotes the Pennsylvania Supreme Court:

“The constable is a police officer.” Those are the unequivocal words of our Supreme Court where the role of a constable in the Commonwealth’s government was at issue.

(Judge Stabile’s first sentence.)

His Honor completes the first paragraph of His Honor’s dissent, saying:

I would therefore **vacate the judgment of sentence because** Appellant’s status as a constable entitled him **to equip his car with emergency lights** under 75 Pa.C.S.A. § 4571.

(The final sentence of the first paragraph of Judge Stabile’s dissent [emphasis added].)

The undersigned hereby commends, to the reader of the instant document, the opportunity to read the said dissent, in full. Yes, indeed: the Superior Court should, please, “... **therefore vacate the judgment of sentence,**” and should indeed do so “**because** Appellant’s status as a constable entitled him to **equip his car with emergency lights** under 75 Pa.C.S.A.

§ 4571.”

And the Superior Court should, indeed, do so, furthermore, for all of the reasons stated in the well-reasoned 9-page dissent written by Judge Stabile.

Also, on page 1, *supra*, in numbered ¶3, the instant Supplemental Brief incorporates the Application for Reconsideration, for Reargument, and/or for En Banc Review, by reference. The instant argument points are found, at length, both in the Brief for the Appellant and in the said Application for Reconsideration, for Reargument, and/or for En Banc Review, incorporated herein by reference.

III.
What rulings WERE BEING made, prior to the Merits Panel’s 2-1
decision?
—(And why?)—

Prior to the instant case, the Magisterial District Courts, or, on appeal, the Courts of Common Pleas, were uniformly following the law. In fact, **the instant case has been the only one** of which the undersigned is aware, that has ended with a conviction.⁷ All others⁷ have ended with a verdict of Not

⁷ #1—In Luzerne County, in Case No. CP-40-SA-0000301-2015, the District Attorney chose to have the statute of limitations expire, so the case was dismissed.

#2—In Monroe County, in Case No. 1884 EDA 2017, its footnote 6 records that the DA chose not to pursue the § 4571 charge, so *that* charge was dismissed.

#3—In Philadelphia County, in Case No. CP-51-SA-0001107-2018, the entire § 4571 case was “quashed” and “dismissed,” and a “demurrer [was] sustained.”

#4—In Northampton County, in Case No. MJ-03204-TR-0000761-2022, the MDJ found the Constable “not guilty,” on the grounds that Constable vehicles are police vehicles.

#5—In Lehigh County, in Case No. MJ-31104-TR-0003109-2022, the DA chose not to pursue the charge, so the case was dismissed.

#6—In Montgomery County, in Case No. CP-46-SA-0000254-2023, a Judge of the Court of Common Pleas held a full trial, over a 2-day period, and found the Constable “Not Guilty,” on the grounds that Constable vehicles are police vehicles.

#1-#6—In the above six cases, every Constable who pled not guilty, was not guilty. And/or, the § 4571 charge or case against him was dismissed.

#7—**The instant case**, is the **ONLY** case, in or before 2024, in which a Court of Common Pleas found a Constable guilty. **Yes:** the instant case is the “**outlier.**”

#8-#9—There are two pending cases in other Courts of Common Pleas, pending as pending summary appeals.

#10—Just now, another “**outlier**” just happened, earlier in 2025 (a case in which the undersigned is NOT involved). The Court of Common Pleas rendered its decision in that case exactly 17 days after the 2-1 Merits Panel Memorandum in the

* For real things, AS argument, please see footnote *, which follows footnote 6, on page 3, *supra*.

Guilty, or with a dismissal. Examining the list of cases in the footnote on the preceding page, a Court can observe, from the public records, that instant case—the 7th case—**is the only case** of which the undersigned is aware that did not end with “Not Guilty” or “dismissed.”⁸ (Because a Constable’s vehicle is a police vehicle.)

The following four reasons are hereby relied upon, by the Appellant, as the basis for the Superior Court to vacate the judgment of sentence. First of all, the Superior Court has already decided *Commonwealth v. Allen*, 2019 PA Super 88, 206 A.3d 1123 (2019). In *Commonwealth v. Allen*, the Superior Court discussed at length the fact that, and held that, constables have centuries-old arrest powers at common law—not just when acting under a warrant, but for all on-view breaches of the peace. The Merits Panel 2-1 decision irreconcilably conflicts with *Commonwealth v. Allen*.

Second, precedent has not been followed. The Pennsylvania Supreme Court, in *In re Act 147 of 1990*, *supra*, explicitly held that

instant case was issued. That newest case is now pending on appeal in the Superior Court as Case No. 291 MDA 2025.

#1-#10— So - - yes - - it is important for the instant case, upon *en banc* review, to lead eventually to a published decision vacating the judgment of sentence.

⁸ See the preceding footnote.

* For real things, AS argument , please see footnote *, which follows footnote 6, on page 3, *supra*.

“The constable is a police officer.”

The Superior Court, sitting *en banc*, in the instant case, should follow the precedential holding of the Pennsylvania Supreme Court of the *In re Act 147* case. Instead of following this precedent, the merits panel 2-1 decision repeatedly says—quite erroneously—that “a constable simply is not a police officer” and similar phrases.⁹

⁹ See, e.g., merits panel opinion, p. 9 (“constables **are deemed distinct from** police officers”); p. 10 (“a constable **simply is not** a police officer”); and dozens of other examples within the merits panel opinion. (Both, emphasis added.) The 31 pages are replete with torsions that were necessary, in order to chart a course toward a conclusion that said, in essence: Well, a constable is a police officer, but then again isn’t, and sometimes is, so therefore is not.

* For real things, AS argument , please see footnote *, which follows footnote 6, on page 3, *supra*.

Third, some supposed factual conclusions relied upon by the Merits Panel Majority completely lacked evidence to support them. The uncontroverted audio recording irreconcilably conflicts with what the Majority Opinion relies upon as a supposed fact, but the government's evidence completely failed to prove the lights' color or their being flashing/revolving, both of which are essential elements of the offense.

Fourth, the merits panel opinion has issued holdings which are already having a significant impact, since the February 7, 2025, 2-1 decision was made public. Because the merits panel held that constables "are not police officers," constables statewide are now subjected to true danger on the street and in other situations and locations in the field.* This holding places constables in danger, when they go to any neighborhood to do the tasks connected with their elected office.

We raise this point, both for the purpose of public policy—and also for the purpose of emphasizing the fact that the proper interpretation of Pennsylvania law—as it exists right now—DOES allow constables to equip their vehicles with red-&-blue lights. And because the merits panel opinion places constables, right now, in grave peril.

Each of these four reasons is discussed, in more detail, in the

application for en banc review, which the instant Supplemental Brief (in numbered point #3 on page 1, *supra*) has incorporated by reference.

Constables are elected officials. They do NOT “work for” the MDJs, and Constables do not “work for” the AOPC, In re Act 147 of 1990, *supra* (*passim*), and Constables do not “work for” the PCCD, which supplies only training and certification, and which has NO supervisory authority.

Just like every other elected official (other than judges, as provided for in Article V of the Constitution of the Commonwealth of Pennsylvania), each constable—like each Sheriff, and like each District Attorney—has no pyramid chart of supervision. Each constable is in office, in an office which is independent (like each Sheriff; like each District Attorney).

And each and every constable is an elected **police officer**.

A panel of the Superior Court, in Commonwealth v. Allen, 2019 PA Super 88, 206 A.3d 1123 (2019), made, within its written opinion, a very long series of holdings regarding constables, deciding, *inter alia*, that:

- “Our jurisprudence recognizes, therefore, that the common law confers arrest powers upon constables for in-presence felonies or breaches of the peace.” Id. at pp. 7-8, 206 A.3d at 1127.
- “[C]onstables possess[] the power at common law to make warrantless arrests for felonies and breaches of the peace.” Id. at p. 6, 206 A.3d at 1126-27.

Allen made many other holdings about the arrest powers that constables possess. The panel in Allen consisted of Justice Stevens, Judge Dubow, and Judge Stabile. Judge Stabile joined in the unanimous panel decision in Allen, and has dissented in the instant case, in which His Honor Judge Stabile authored a DISSENTING OPINION.

The instant case's 2-1 holding clashes with Allen, by creating different classifications, based upon differences in certain powers, in an attempt to make “**police officer**” mean something other than “**police officer.**” There is no legal basis for doing this. The instant case's 2-1 holding, in the Majority Opinion (“Memorandum”), clashes with Allen in all of the following ways, and more, by incorrectly stating:

- That constables “are deemed distinct from police officers” (at p. 9);

- That “**a constable simply is not a police officer**” (five lines from the bottom of p. 10);*
- That some of the definitions in *other* statutes, which are completely *unrelated* to the statutes applicable to the instant case, use *other* definitions which, if extrapolated, might be read to refer to officers other than constables (in footnote 4, at pp. 10 through 12);
- That the *Taylor* case (cited in *Allen*) applies, even though the *Allen* holding is broader, and newer.
- “[W]e hold that a constable is not a police officer.” (The first sentence of the first full paragraph of p. 15 of the MEMORANDUM);

... and many, many more, similar phrases.

* This statement 100% clashes, also, with the Pennsylvania Supreme Court’s holding in *In re Act 147 of 1990, supra*, which explicitly holds that:

“The constable is a police officer.”

528 Pa. at 470 n.3, 598 A.2d at 990 n.3; and:

“A constable is a known officer charged with the conservation of the peace, and whose business it is to arrest those who have violated it [*i.e.*, who have breached the peace].”

528 Pa. at 470, 598 A.2d at 990 (quoting *Commonwealth v. Deacon*, 8 Serg. & R. 47, 49 (Pa. Supreme 1822)).

By quoting itself, the Pennsylvania Supreme Court used 169 years of Pennsylvania jurisprudential history, to make it very clear that “The constable is a police officer.”

There is a great temptation to “swap” terms around: the term “police officer,” the term “peace officer,” the term “sworn law enforcement officer,” etc. That’s fine, as long as they are used interchangeably, but the temptation is it invent “distinctions,” and then to more-or-less graft ideas onto the terms, without any legislative basis for doing so.

Not only do these statements clash with both Supreme Court and Superior Court holdings in *In re Act 147* and in *Allen*, respectively, but, also, these dangerous statements—**proclaiming to the general public that:**

“a constable is not a police officer” (page 15)

and that

“a constable simply is not a police officer” (page 10)

... **place constables in true peril**—in genuine danger for their physical safety. (*See also* the fuller discussion of **Point “D,”** *infra*.)

The merits panel opinion is inconsistent with the Superior Court’s *Allen* case, and probably with other Superior Court holdings, too.

By holding that

“a constable is not a police officer” (page 15)

and that

“a constable simply is not a police officer” (page 10)

... the Majority’s Memorandum misapprehends a 203-yr.-old holding of the Supreme Court:

“A constable is a known officer charged with the conservation of the peace, and whose business it is **to arrest those who have violated** [the peace].”

In re Act 147 of 1990, 528 Pa. at 470, 598 A.2d at 990 (emphasis added) (quoting *Commonwealth v. Deacon*, 8 Serg. & R. 47, 49 (**Pa. Supreme Court, 1822**)).

In addition, the Memorandum says that “[w]e do not extrapolate the

High Court’s footnote [footnote 3 in the *In re Act 147* case] ... to equate constables with police officers **for all purposes**, including in the definition of police officers in § 102 of the Vehicle Code.” (Emphasis added.)

However, it is not necessary to match each officer’s legal authority with each other officer’s legal authority, “**for all purposes.**” That extra language, and other extra language appearing elsewhere throughout the 71 times when the phrase “police officer” is used in the Majority Opinion, matches, in part, what the DISSENTING OPINION refers to, wherein Judge Stabile says:

“[t]he lack of ambiguity in these provisions makes it improper for the Majority to engage in further statutory interpretation, and Appellant should prevail under a straightforward application of the law.”

The Majority Opinion is replete with “extra language,” the use of which causes errant interpretation.

Also, on page 1, *supra*, in numbered ¶3, the instant Supplemental Brief incorporates the *Application for Reconsideration, for Reargument, and/or for En Banc Review*, by reference. The instant argument points are found, at length, both in the *Brief for the Appellant* and in the said *Application for Reconsideration, for Reargument, and/or for En Banc Review*, incorporated herein by reference.

IV.
What ruling should be made,
as a matter of state & federal Constitutional Due Process?

The *Brief for the Appellant* states this law. In the instant *Supplemental Brief*, may the Appellant simply add that the judgment of sentence should be vacated, to put an end to the vagueness.

Also, on page 1, *supra*, in numbered ¶3, the instant Supplemental Brief incorporates the *Application for Reconsideration, for Reargument, and/or for En Banc Review*, by reference. The instant argument points are found, at length, both in the *Brief for the Appellant* and in the said *Application for Reconsideration, for Reargument, and/or for En Banc Review*, incorporated herein by reference.

The "void for vagueness" doctrine applies.

CONCLUSION

To avert ongoing harm to constables and to the public, this Court should reverse the judgment of sentence, and the conviction, toward the goals of restoring legal clarity and safeguarding those who uphold the peace.

Attached to the instant Application (“as its Final Appendix”) are certain public comments, augmenting Point “D” (*Developing law and Public policy*), *supra*. Each of these “Comments” constitutes a publicly available comment, which either is - - *or which hypothetically could be* - - circulating by, to, among, and against constables, statewide, during the past 20 days, ever since the merits panel OPINION appeared as a public record on February 6, 2025:

Although these particular comments are not of record, they don’t have to be - - they are simply *illustrative* of what *can* be (*and/or are*) direct *public policy* effects of the February 6, 2025, merits panel Opinion.

Respectfully submitted,
/s/ Ronald L. Clever
Attorney for the Appellant

* Please see footnote *, which follows footnote 6, *supra*.

CERTIFICATIONS AND CERTIFICATE:

CERTIFICATION FOR PAPER COPY:

I certify that, with regard to the Reproduced Record, and with regard to the instant Supplemental Brief, the paper copies being mailed on or after June 17, 2025, are identical to the PAC-filed originals.

CERTIFICATE OF COMPLIANCE:

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 Appellant and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

/s/ Ronald L. Clever

Attorney for the Appellant

APPENDIX

- **FIRST Appendix: An example of public policy damage—in particular, an example of what the Pennsylvania State Police could circulate to all municipal police departments, resultant from the Feb. 7 statements of the merits panel.**

Attached is an example, which is 100% *realistic* of what can be happening, right now, “in the field,” due to the holdings of the merits panel.

(As to *how realistic* this example is, this example is, in fact, not just realistic, but *real*.)

From MPOETC—February 19, 2025

Type: Legal Update

Title: Emergency Lighting

**Content: Commonwealth v. Wiggs
641 MDA 2023 (2/6/2025) (SUPERIOR
COURT)**

Facts: On June 15, 2021, a Pennsylvania State Police Trooper observed a “fully marked” black and white Ford Crown Victoria-style constable vehicle that was equipped with a light bar. The Trooper had been aware of a previous complaint of the described vehicle, with red and blue lights. The vehicle was determined to be registered to the appellant, Steven Ahmad Wiggs.

When stopped, Wiggs was armed and in his “constable uniform”. Wiggs advised the Trooper that, “constables are police officers” and therefore “allowed to have red and blue lights”. The appellant conceded that the lights were red and blue when he explained to the Trooper that the Pennsylvania State Police had previously seized the same vehicle and cited him for having the red and blue lights on it. The citation was dismissed, for unknown reasons, and the vehicle was returned to Wiggs with the red and blue lights intact. Wiggs advised the trooper that he ignored the State Police request to remove the lights because he had won the case at to whether he could use the lights.

Wiggs was issued a citation for violation of Title 75 Pa.C.S. § 4571(b)(1) *Visual and audible signals*

on emergency vehicles. He was found guilty by the Magisterial District Judge (“MDJ”). Wiggs filed a summary appeal in the Perry County Court of Common Pleas. The court found Wiggs guilty and imposed fines and costs.

ISSUE: Is a constable a police officer, and by extension, a constable vehicle a police vehicle as it pertains to § 4571(b)(1) *Visual and audible signals on emergency vehicles*.

Ruling: No, constables are not police officers, and therefore constable vehicles are not police vehicles.

The Superior Court relied on § 4571(b)(1) and §102 of the Vehicle Code to define “emergency vehicle”. The Superior Court’s interpretation of the two sections is as follows: “Throughout the Vehicle Code, constables are deemed distinct from police officers as they are consistently listed separately”. According to the Superior Court, “our General Assembly did not include private vehicles utilized by constables as one of the enumerated vehicles authorized to utilize red and blue lights within the text of § 4571 or in the definition of “emergency vehicle” in § 102.

The below Link was included by MPOETC at the end of the above MPOETC “Legal Update” notification.

Commonwealth v. Wiggs 641 MDA 2023 (2/6/2025)

APPENDIX

● **SECOND Appendix: Another example of public policy damage—in particular, what any municipal police department could circulate to all of its police officers, directly resultant from the Feb. 7 statements of the merits panel.**

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(As to *how realistic* this example is, this example is, in fact, not just realistic, but *real*.)

(Emphasis added)

Posted on facebook by the Wilkes-Barre Township Police Department

New Case Law Ruling:

Is a constable a police officer, and by extension, a constable vehicle a police vehicle as it pertains to § 4571(b)(1) Visual “red/blue” and audible signals on emergency vehicles.

Ruling:

No, constables are not police officers and therefore constable vehicles are not police vehicles. (Not to be confused with the fact that constables DO have certain arrest powers)

The court relied on § 4571(b)(1) and §102 of the Vehicle Code to define “emergency vehicle”. The courts’ interpretation of the two sections is as follows:

“Throughout the Vehicle Code, **constables are deemed distinct from police officers** as they are consistently listed separately”.

According to the court,

“our General Assembly did not include private vehicles utilized by constables as one of the enumerated vehicles authorized to utilize red and blue lights within the text of § 4571 or in the definition of “emergency vehicle” in § 102.

Opinion: <http://www.pacourts.us/assets/opinions/Superior/out/J-A11008-24o%20-%20106264627299005878.pdf?cb=1>

APPENDIX

● **THIRD Appendix: The APPLICATION for RECONSIDERATION, for REARGUMENT, and/or for EN BANC REVIEW**

[Incorporated by reference, infra at p. 1, ¶3, into the instant Supplemental Brief.]

(And it has its own Appendices, which are listed in its own Table of Contents.)

86 pages

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Respectfully submitted by:

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APPENDICES:

● **First Appendix:**

OPINION of the Merits Panel (by Judge Bowes,
joined in by Judge Murray) 31 pages

● **Second Appendix:**

DISSENTING OPINION (by Judge Stabile) 9 pages

● **Third Appendix: Pennsylvania Supreme Court**

“PENNSYLVANIA UNIFIED JUDICIAL SYSTEM CONSTABLE
POLICIES, PROCEDURES AND STANDARDS OF CONDUCT”—
Promulgated pursuant to Pa.R.J.A. 1907.2(a) by the Pennsylvania Supreme
Court; available online at:

<https://www.pccd.pa.gov/training/Pages/Legislation-and-Regulation.aspx>

... by clicking (therein),
on “Supreme Court Rules for Constables.” 12 pages
[Promulgated pursuant to Pa.R.J.A. 1907.2(a)]

● **Final Appendix: Hypothetical examples of “public policy”
damage resultant from the holdings of the merits panel**

Attached are examples, which are 100% *realistic* of what can be happening,
right now, “in the field,” due to the holdings of the merits panel.
(As to how realistic - - each of them is, in fact, not just realistic, but *real*.)
2 pages

COMMON PLEAS COURTS & MDJ COURTS, WITH SIMILAR CASES:

Other cases with Not Guilty or Dismissal Page 8n for all
Luzerne County, Case No. CP-40-SA-0000301-2015
Monroe County, affirmed in Case No. 1884 EDA 2017
Philadelphia County, Case No. CP-51-SA-0001107-2018
Northampton County, Case No. MJ-03204-TR-0000761-2022
Montgomery County, Case No. CP-46-SA-0000254-2023
Lancaster County, Case No. CP-36-SA-0000216-2024
(which was appealed to the Superior Court on February 28, 2025)

RULES, PROMULGATED BY THE PA. SUPREME COURT

PENNSYLVANIA RULES

**“PENNSYLVANIA UNIFIED JUDICIAL SYSTEM CONSTABLE
POLICIES, PROCEDURES AND STANDARDS OF CONDUCT”**—

A promulgation by the Pennsylvania Supreme Court,
available online at

<https://www.pccd.pa.gov/training/Pages/Legislation-and-Regulation.aspx>

by clicking (therein), on “Supreme Court Rules
for Constables.”

Pages 2-3 & 9-10

Pennsylvania Rule
of Criminal Procedure 103

Pages 2, 9, & 20

Pennsylvania Rule
of Criminal Procedure 431(A)

Pages 2, 9, & 20

Pennsylvania Rule
of Criminal Procedure 515(B)

Pages 2, 9, & 20

Pennsylvania Rule
of Judicial Administration 1907.2(a)

Pages 2-3 & 9-10

REFERENCE TO THE ORDER IN QUESTION

A merits panel consisting of The Hon. Mary Jane Bowes, J. and The Hon. Mary P. Murray, J., and The Hon. Victor P. Stabile, J., heard argument on May 7, 2024.

On February 6, 2025, the said judges of Your Honorable Court issued two opinions. There is an OPINION authored by Judge Bowes, in which Judge Murray joined, and there is a DISSENTING OPINION, authored by Judge Stabile.

There is no separate ORDER. In particular, the decision of the merits panel is stated on page 31 of the 31-page OPINION, in this manner:

“OPINION BY BOWES, J.:”	[from page 1]
* * * * [rationale and holding]	[from p. 1 to p. 31]
[from page 31:]	
“Judgment of sentence affirmed.”	
“Judge Murray joins.”	
“Judge Stabile files a Dissenting Opinion.”	
“Judgment Entered.”	
“/s/ <i>Benjamin D. Kohler</i> ”	
“Benjamin D. Kohler, Esq.”	
“Prothonotary”	
“Date: <u>2/6/2025</u> ”	

It is the intent and hope of Applicant/Appellant, and of the undersigned, that the information on this page constitutes a proper “reference to the order in question,” as that phrase is used in Pa.R.A.P. 2544(a)(i).

**SPECIFICATION OF THE POINTS OF LAW AND FACT WHICH
WERE OVERLOOKED OR MISAPPREHENDED BY THE COURT**

Points of Law

Misapprehended: Every Constable in Pennsylvania is a police officer. Thus says the Pennsylvania Supreme Court. *In re Act 147*, 528 Pa. 460, at 470 n.3, 598 A.2d 985, at 990 n.3 (1991). The Majority decision misapprehends this holding.

Overlooked: Constables have centuries-old arrest powers at common law—not just when acting under a warrant, but for all on-view breaches of the peace. *Commonwealth v. Allen*, 2019 PA Super 88, 206 A.3d 1123 (2019). These arrest powers were also re-stated by the Pennsylvania Supreme Court, which, in *In re Act 147*, *supra*, cited its own centuries-old decision in *Commonwealth v. Deacon*, 8 Serg. & R. 47, 49 (Pa. Supreme 1822). There may, indeed, be other cases similar to *Allen*.

Overlooked and misapprehended: The Pennsylvania Supreme Court promulgated Rules of Court which hold that constables are police officers: Pa.R.Crim.P. 103; Pa.R.Crim.P. 431(A); Pa.R.Crim.P. 515(B); Pa.R.J.A. 1907.2(a) (and the “PENNSYLVANIA UNIFIED JUDICIAL SYSTEM

[Continued on next page]

CONSTABLE POLICIES, PROCEDURES AND STANDARDS OF CONDUCT,” promulgated under Rule 1907.2).¹

Other statutes explicitly state that a every Constable is a police officer.

For example:

“Police officer.” “Any person employed **or elected** by this Commonwealth, or by any municipality and whose duty it is to preserve peace or to make arrests or to enforce the law. **The term includes constables**”

3 P.S. § 459-102 (emphasis added.) Other such statutes, all either overlooked or misapprehended, are cited in the *Brief*.

See also 75 Pa.C.S. § 6304(c), a statute which preserves the same police powers described in *Allen, supra*. There are many other police powers of Constables. These include, *inter alia*, the power to arrest a person upon an arrest warrant, even when the person is seen driving a car: a Constable can stop that car, because that vehicle stop is not being done for the purpose of enforcing the Vehicle Code, and the same is true when a Constable sees, “on view,” a crime committed by a driver: the Constable’s police powers include the power to do a vehicle stop, in that situation. A constable is a police officer.

The merits panel misapprehended the law, by focusing *exclusively* on

¹ This last item is the 3rd appendix hereto.

certain statutes which mention both police officers “AND” constables and by rationalizing that the “AND” construct leads inexorably to the conclusion that the legislature intends a “distinction” between police officers and constables, when, in fact, constables are a certain TYPE of police officer.

The majority’s unfounded exclusion of constables from police-officer status also overlooks due process concerns under Article 1, Section 9, of the Pennsylvania Constitution, as it denies constables clear notice of lawful conduct and endangers their liberty interest in personal safety. This is fully set forth in the *Brief*, including federal due process.

Point of Fact

The sole government witness did not see any red-&-blue lights, and did not see any flashing/revolving lights. The witness did not say that he saw the color of the lights (nor see them flashing/revolving), which is an essential element of the offense. Instead, with the Assistant District Attorney asking questions, he said:

Q. And did you see the light bar lit up with red and blue lights lit within it?

A. Yes. I **believe** I did. We'd been doing this case for a long time, and a little bit of it blurs together **to be honest with you.**

N.T. page 10, lines 4-8 (emphasis added.) Here, the phrase “*I believe ...*” unambiguously means: “*maybe.*” This is not a credibility issue: it is a

situation in which, while dedicating most of its 31-page opinion to the legal question, that particular rationale found it completely necessary to depend upon a misapprehended fact. At trial, Defendant's Exhibit D-2² was admitted into evidence. That is audio of the entire conversation between the Trooper and the Constable, and it undeniably shows that the lights were never

[Continued on next page]

² Exhibit D-2 is a flash drive. It is in the Court of Common Pleas original court record, transmitted to the Superior Court in the instant appeal.

Contrary to what the trial court states on the final page of its Rule 1925(a) Statement (appended to the *Brief for the Appellant*), this video/audio recording was offered into evidence NOT by the Commonwealth, but by the Constable/ Defendant, precisely to prove that the light bar was NEVER activated during the traffic stop.

See also the next footnote.

activated. Because the lights were never activated, there is zero evidence that the lights were of any particular color, nor whether they were flashing/revolving.³

To state that evidence of these two elements exists, is to misapprehend the facts.

³ Erroneously, the trial court, on the final page of its Rule 1925(a) Statement makes the following two wrong statements:

1. “Trooper Brown-Shields ... testified under oath that he observed the lights on Appellant’s vehicle to be red and blue”
2. “The audio recording indicated that Appellant admitted that the lights on his vehicle were red and blue.”

Final page of the 2023, Memorandum (the Rule 1925(a) Statement). Both of these statements have nothing of record to support them.

The Trooper testified (RR. 56a-61a, only that he “believe[d]” that he saw the lightbar on. **He wasn’t sure,** so neither a factfinder nor a merits panel can add to that. MOREOVER, the Trooper NEVER testified—not even tentatively—that the lights were “flashing,” and “flashing or revolving” is also a necessary element of the offense.

Indeed, this is a situation with zero evidence. Not credibility, and not weight-of-the-evidence - - but ZERO evidence.

And the merits panel misapprehended this fact, and should have reversed the Constable’s conviction and sentence.

**CONCISE STATEMENT OF THE REASONS RELIED UPON FOR
ALLOWANCE of RECONSIDERATION, of REARGUMENT, and/or
of EN BANC REVIEW**

A Constable was given a ticket for allegedly having red-&-blue flashing and/or revolving lights on his police vehicle. To date, the undersigned has been counsel, for the Constables, in nine of these cases. *I.e.*, in summary appeal cases (or summary cases at the MDJ level) in which a Constable was charged, under § 4571, for having red-&-blue lights.

This case is appropriate for *en banc* review, because (*inter alia*):

The instant case is an “outlier.” Six of the above-referenced Constable cases ended with the Constable being found “**not guilty**” or otherwise having the charge **dropped or dismissed**.⁴ Two of the cases (the 8th & 9th cases) are still pending as summary appeals in the Courts of Common Pleas. And

[Continued on next page]

⁴ See the following footnote.

the instant case—the 7th case—**is the only case** in which the undersigned is aware, that has ended with a conviction.⁵ All others have ended with “not guilty” or “dismissed.”⁶ (Because a Constable’s vehicle is a police vehicle.)

The following four reasons are hereby relied upon, by the Appellant, as the basis for the Superior Court to grant the instant Application, and thus to

⁵ #1—In Luzerne County, in Case No. CP-40-SA-0000301-2015, the District Attorney allowed the statute of limitations to expire, and the charge was dismissed.

#2—In Monroe County, in Case No. 1884 EDA 2017, in footnote 6 it is recorded that the DA decided not to pursue the § 4571 charge. (Other charges remained.)

#3—In Philadelphia County, in Case No. CP-51-SA-0001107-2018, the § 4571 charge was “quashed” and “dismissed,” and a “demurrer [was] sustained.”

#4—In Northampton County, in Case No. MJ-03204-TR-0000761-2022, the MDJ found the Constable “not guilty,” on the grounds that Constable vehicles are police vehicles.

#5—In Lehigh County, in Case No. MJ-31104-TR-0003109-2022, the undersigned was present in MDJ court when the MDJ announced that the ADA had called to say that he was dropping the case.

#6—In Montgomery County, in Case No. CP-46-SA-0000254-2023, a Judge of the Court of Common Pleas held a full trial, over a 2-day period, and found the Constable “not guilty,” on the grounds that Constable vehicles are police vehicles.

#1-#6—In the above six cases, every Constable who pled not guilty, **was** not guilty.

#7—**So, the instant case,** is the ONLY one in which a Court of Common Pleas found a Constable guilty. Yes: the instant case is the “outlier.”

#8-#9—There are two pending cases in other Courts of Common Pleas, as pending summary appeals. One of them is scheduled for April of 2025, and the other will be later.

#10—And another one just happened, earlier THIS week (a case in which the undersigned is NOT involved). That case is No. CP-36-SA-0000216-2024. As happened in the instant case, the Court of Common Pleas ruled against the Constable’s right to have red-&-blue lights. So, that case was appealed to the Superior Court, **just today** (February 28, 2025).

#1-#10— So - - yes - - it is important for the instant case to receive *en banc* review, and eventually a published decision.

⁶ See the preceding footnote.

grant reconsideration, and/or reargument, and/or review by the Superior Court
en banc:

A. Inconsistency with another Superior Court decision.

The merits panel opinion is inconsistent with other decisions of the Superior Court.⁷

For example, in *Commonwealth v. Allen*, 2019 PA Super 88, 206 A.3d 1123 (2019), the Superior Court discussed at length the fact that, and held that, constables have centuries-old arrest powers at common law—not just when acting under a warrant, but for all on-view breaches of the peace.

The merits panel opinion irreconcilably conflicts with *Commonwealth v. Allen*.

B. Relevant authority, overlooked and misapprehended.

The merits panel opinion the court has overlooked and misapprehended controlling and directly relevant authority—that is, relevant precedents, relevant statutes, and relevant rules of court.⁸

For example, the Pennsylvania Supreme Court, in *In re Act 147*, *supra*, explicitly held that

“The constable is a police officer.”

The DISSENTING OPINION in the instant case would follow the precedential holding of the Pennsylvania Supreme Court of the *In re Act 147* case. Its first sentence is: **“The constable is a police officer.”**

However, the merits panel opinion misapprehends this holding of the Pennsylvania Supreme Court—in particular, by repeatedly **saying⁹ that “a constable simply is not a police officer”** and similar phrases.

In addition, the Pennsylvania Supreme Court has promulgated Rules of Criminal Procedure 103, 431(A), and 515(B), as well as Pennsylvania Rule of Judicial Administration 1907.2(a) (and the

⁷ See Pa.R.A.P. 2543’s *Note*, at its numbered paragraph “(1),” and IOP § 65.38(D)(1).

⁸ See Pa.R.A.P. 2543’s *Note*, at its numbered paragraph “(3),” and IOP § 65.38(D)(2).

⁹ See, e.g., merits panel opinion, p. 9 (“constables **are deemed distinct from** police officers”); p. 10 (“a constable **simply is not** a police officer”); and dozens of other examples within the merits panel opinion.

“PENNSYLVANIA UNIFIED JUDICIAL SYSTEM CONSTABLE POLICIES, PROCEDURES AND STANDARDS OF CONDUCT” promulgated under Rule 1907.2), all of which consist of the Pennsylvania Supreme Court ruling and holding that constables are police officers.

In addition, there are statutes explicitly noting that constables are police officers; these statutes don’t even need to be “interpreted,” since the text is clear.

Both federal and state due process have been misapplied: the relevant statute has been applied unconstitutionally.

C. Facts, overlooked and misapprehended.

The merits panel opinion has overlooked and misapprehended certain facts of record material to the outcome of the case.¹⁰

The uncontroverted audio recording irreconcilably conflicts with what the Majority Opinion relies upon as a supposed fact, but the government’s evidence completely failed to prove the lights’ color or their being flashing/revolving, both of which are essential elements of the offense.

D. Developing law, and public policy.

The merits panel opinion has issued holdings which are already having a significant impact, just in the past 20 days.¹¹

Because the merits panel held that constables “are not police officers,” constables statewide are now subjected to true danger on the street and in other situations and locations in the field. This holding places constables in danger, when they go to any neighborhood to do the tasks connected with their elected office.

We raise this point, both for the purpose of public policy—and also the purpose of emphasizing the fact that the proper interpretation of Pennsylvania law—as it exists right now—DOES allow constables to equip their vehicles with red-&-blue lights. And because the merits panel opinion places constables, right now, in grave peril.

Each of these four reasons is discussed, in more detail, below. Because some of the discussions apply to more than one of these four reasons, would Your

¹⁰ See Pa.R.A.P. 2543’s *Note*, at its numbered paragraph “(2),” and IOP § 65.38(D)(3).

¹¹ See IOP § 65.38(D)(5).

Honors please apply the arguments to any and all of the four reasons to which the arguments may logically apply.

I.e., all statements in each separate argument discussion below (*i.e.*, the respective discussions of Points “A,” “B,” “C,” and “D,” *infra*), are hereby incorporated, by reference, into every other argument discussion.

FURTHER DISCUSSION OF POINT “A”
(“Inconsistency with another Superior Court decision”)

Constables are elected officials. They do NOT work for the MDJs, nor for the AOPC. *In re Act 147 of 1990, supra (passim)*. Just like every other elected official (other than judges), each constable—like each Sheriff, and like each District Attorney—has no pyramid chart of supervision. Each constable is in office, in an office which is independent (like each Sheriff; like each District Attorney).

And each constable is an elected **police officer**.

A panel of the Superior Court, in *Commonwealth v. Allen*, 2019 PA Super 88, 206 A.3d 1123 (2019), made, within its written opinion, a very long series of holdings regarding constables, deciding, *inter alia*, that:

- “Our jurisprudence recognizes, therefore, that the common law confers arrest powers upon constables for in-presence felonies or breaches of the peace.” *Id.* at pp. 7-8, 206 A.3d at 1127.
- “[C]onstables possess[] the power at common law to make warrantless arrests for felonies and breaches of the peace.” *Id.* at p. 6, 206 A.3d at 1126-27.

Allen made many other holdings about the arrest powers that constables possess. The panel in *Allen* consisted of Justice Stevens, Judge Dubow, and Judge Stabile. Judge Stabile joined in the unanimous panel decision in *Allen*, and has dissented in the instant case, in which His Honor Judge Stabile

authored a DISSENTING OPINION. The instant holding clashes with *Allen*, by creating different classifications, based upon differences in certain powers, in an attempt to make “**police officer**” mean something other than “**police officer.**” The OPINION in the instant case goes far beyond the fact that constables definitely DO have the *Allen* arrest powers, but goes on to say (at the indicated, respective pages of the instant case’s slip opinion of the merits panel’s 2-1 majority):

- That constables “are deemed distinct from police officers” (at p. 9);
- That “**a constable simply is not a police officer**” (five lines

[Continued on next page]

from the bottom of p. 10);*

- That some of the definitions in *other* statutes, which are completely *unrelated* to the statutes applicable to the instant case, use *other* definitions which, if extrapolated, might be read to refer to officers other than constables (in footnote 4, at pp. 10 through 12);
- That the *Taylor* case (cited in *Allen*) applies, even though the *Allen* holding is broader, and newer.
- “[W]e hold that a constable is not a police officer.” (The first sentence of the first full paragraph of p. 15 of the OPINION);

... and many, many more, similar phrases.

* This statement 100% clashes, also, with the Pennsylvania Supreme Court’s holding in *In re Act 147 of 1990, supra*, which explicitly holds that:

“The constable is a police officer.”

528 Pa. at 470 n.3, 598 A.2d at 990 n.3; and:

“A constable is a known officer charged with the conservation of the peace, and whose business it is to arrest those who have violated it [*i.e.*, who have breached the peace].”

528 Pa. at 470, 598 A.2d at 990 (quoting *Commonwealth v. Deacon*, 8 Serg. & R. 47, 49 (Pa. Supreme 1822)).

By quoting itself, the Pennsylvania Supreme Court used 169 years of Pennsylvania jurisprudential history, to make it very clear that “[t]he constable is a police officer.”

There is a great temptation to “swap” terms around: the term “police officer,” the term “peace officer,” the term “sworn law enforcement officer,” etc. That’s fine, as long as they are used interchangeably, but the temptation is it make “distinctions,” and then to more-or-less graft ideas onto the terms, without any legislative basis for doing so.

Of course, because the instant footnote is addressing how the instant case’s decision clashes with a Pennsylvania Supreme Court holding, this same discussion is also applicable to Point “B,” discussed *infra*.

Not only do these statements clash with both Supreme Court and Superior Court holdings in *In re Act 147* and in *Allen*, respectively, but, also, these dangerous statements—**proclaiming to the general public that:**

“a constable is not a police officer” (page 15)
and that

“a constable simply is not a police officer” (page 10)

... place constables in true peril—in genuine danger for their physical safety. (*See also* the fuller discussion of **Point “D,”** *infra.*)

The merits panel opinion is inconsistent with the Superior Court’s *Allen* case, and probably with other Superior Court holdings, too.

FURTHER DISCUSSION OF POINT “B”
(“Relevant authority, overlooked and misapprehended”)

By holding that

“a constable is not a police officer” (page 15)

and that

“a constable simply is not a police officer” (page 10)

... the Majority Opinion misapprehends a 205-yr.-old holding* of the Supreme Court. Both of these statements 100% clash with the Supreme Court’s holding in the “Act 147” case, In re Act 147 of 1990, *supra*.

The Supreme Court explicitly holds that:

“The constable is a police officer.”

In re Act 147 of 1990, 528 Pa. at 470 n.3, 598 A.2d at 990 n.3. In re Act

147 also holds that:

“A constable is a known officer charged with the conservation of the peace, and whose business it is **to arrest those who have violated** [the peace].”

528 Pa. at 470, 598 A.2d at 990 (emphasis added) (quoting Commonwealth v. Deacon, 8 Serg. & R. 47, 49 (**Pa. Supreme 1822**)).

The In re Act 147 case has already been discussed, *supra*.*

* Please see footnote “*” *supra*. It is on page 14, *supra*, in the middle of the “fuller discussion” of Point “A.”

It’s very important to note that this Pennsylvania Supreme Court holding from 1991—that it is the very task of constables to arrest those who violated the peace—was already old when it was stated in the case of Commonwealth v. Deacon (Pa. Supreme 1822), over 200 years ago. Please see footnote “*” *supra*.

In addition, the Majority Opinion says that “[w]e do not extrapolate the High Court’s footnote ... to equate constables with police officers **for all purposes**, including in the definition of police officers in § 102 of the Vehicle Code.” (Emphasis added.) however, it is not necessary to match each officer’s legal authority with each other officer’s legal authority, “**for all purposes.**” That extra language, and other extra language appearing elsewhere throughout the 71 times when the phrase “police officer” is used in the Majority Opinion, matches, in part, what the DISSENTING OPINION refers to, when it says that

“[t]he lack of ambiguity in these provisions makes it improper for the Majority to engage in further statutory interpretation, and Appellant should prevail under a straightforward application of the law.”

The Majority Opinion is replete with “extra language,” the use of which causes errant interpretation.

Cognizant of the 3,000-word word limit for the instant document,¹² the undersigned, in discussing statutory interpretation, has elected to omit

¹² The undersigned hereby respectfully represents that, in good faith, he has applied the 3,000-word word limit.

The undersigned hereby respectfully requests that, in the event that he might have exceeded that limit, Your Honorable Court will, please, excuse this flaw. It is, indeed, a matter of great importance, for this instant case to receive *en banc* review.

discussion of the Statutory Construction Act, 1 Pa.C.S. §§1501-1991 (especially § 1928). May the undersigned please hope that, if it becomes appropriate to do so before ruling upon the instant Application, the Court might *please see* the Brief. The Brief also discusses both federal and state due process, which is also controlling law which the merits panel opinion overlooks: the majority's unfounded exclusion of constables from police officer status raises due process concerns under Pennsylvania's Article 1, Section 9, as it denies constables clear notice of lawful conduct (which they get charged for) and endangers their liberty interest in personal safety.

FURTHER DISCUSSION OF POINT “C”
(“Facts, overlooked and misapprehended”)

Deciding that the state trooper had seen the red-&-blue lights in operation, is not what the undeniable facts show.

Please see the discussion at pages 4-6, *supra*.

FURTHER DISCUSSION OF POINT “D”
(“Developing law” and “Public policy”)

Right now—yes, *right now*—constables all over Pennsylvania are reading the merits panel’s Opinion, and many of them are concluding that the instant case’s decision “strips” constables of the legal authority¹³ to serve warrants under Pa.R.Crim.P. 431(A), and of the right to serve warrants under Pa.R.Crim.P. 515(B):

“When a warrant is issued pursuant to Rule 430 in a summary case, the warrant **shall** be executed by a police officer as defined in Rule 103.”

— Pa.R.Crim.P. 431(A) (emphasis added)

“A warrant of arrest **shall** be executed by a police officer.”

— Pa.R.Crim.P. 515(B) (emphasis added)

And this scary *reading* of the merits panel’s Opinion (*i.e.*, that it “strips” constables of other powers!) is a correct reading, but an incorrect holding. Therefore, it needs, please, to be reconsidered *en banc*.

Constables, statewide, execute Rule 431(A) warrants and Rule 515(B) warrants, ALL THE TIME. In fact, this particular duty is what constables

¹³ Please see the FINAL APPENDIX to the instant Application. This appendix contains numerous public statements derived directly from the text of the Majority Opinion.

Although these are not of record, they don’t have to be - - they are simply *illustrative* of what *can* be (*and/or are*) direct *public policy* effects of the February 6, 2025, merits panel opinion.

are the *most* widely known for! And now, under the Majority Opinion it appears to be gone.

In addition, as of JUST TODAY, there will be another appeal, to the Superior Court, of a Court of Common Pleas decision, with identical relevant facts. This will be *Commonwealth v. Paul Castline*, CCP Lancaster County Case No. CP-36-SA-0000216-2024, guilty verdict & sentence on February 24, 2024; Superior Court appeal being filed TODAY). Mr. Castline is a Constable, and his case is identical to this one.

And statewide, there are probably more, already, and there definitely **will** be more.

By branding constables as non-police officers, the current opinion in the instant case, which, of course, is publicly available, has unleashed a public-safety crisis. Stripped, in this manner, of their lawful authority and of protective equipment, constables now face heightened peril—assaults, defiance, and chaos—while performing their elected duties, a direct and foreseeable consequence of this misguided ruling.

Until this exact question - - **“Is a constable’s vehicle a police vehicle for the purpose of 75 Pa.C.S. § 4571(d)?”** - - gets a definitive answer in the Pennsylvania Superior Court, this exact question will keep coming up.

And in the meantime, whether they are using marked cars, whether they

are operating undercover, whether they have unmarked police cars with NO lights, whether they have marked police cars with or without lights, the constables of Pennsylvania are in peril—true, genuine danger—because the Majority Opinion in the instant case **proclaims to the general public that:**

“a constable is not a police officer”

and that

“a constable simply is not a police officer”

Kindly see the long footnote on page 7, *supra*. It is becoming increasingly urgent for this case to end up being heard *en banc*, and for a decision on this matter to be published.

CONCLUSION
STATING THE PRECISE RELIEF SOUGHT

1. The Superior Court should please grant *en banc* review, on or before next Friday, March 7th.
2. In the alternative, the Superior Court should grant reargument.
3. In the alternative, the Superior Court should grant reconsideration.

To avert ongoing harm to constables and to the public, this Court should grant *en banc* review, toward the goals of restoring legal clarity and safeguarding those who uphold the peace.

Attached to the instant Application (“as its Final Appendix”) are certain public comments, augmenting Point “D” (*Developing law and Public policy*), *supra*. Each of these “Comments” constitutes a publicly available comment, which either is - - *or which hypothetically could be* - - circulating by, to, among, and against constables, statewide, during the past 20 days, ever since the merits panel OPINION appeared as a public record on February 6, 2025:

Although these particular comments are not of record, they don’t have to be - - they are simply *illustrative* of what *can* be (*and/or are*) direct *public policy* effects of the February 6, 2025, merits panel Opinion.

Respectfully submitted,
/s/ Ronald L. Clever
Attorney for the Appellant

CERTIFICATIONS AND CERTIFICATE:

CERTIFICATION OF WORD COUNT

Using the word-processing program on which the instant document was written, the undersigned has determined that the word count is approximately 2,985 words.

CERTIFICATION FOR PAPER COPY:

The paper copies being mailed are time-stamped, and are identical to the copy that was PAC-filed.

CERTIFICATE OF COMPLIANCE:

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 Appellant and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

/s/ Ronald L. Clever

Attorney for the Appellant

First appendix:

Opinion of the Merits Panel—(by Judge Bowes,
joined in by Judge Murray). 31 pages

2025 PA Super 29

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
STEVEN AHMAD WIGGS	:	
	:	
Appellant	:	No. 641 MDA 2023

Appeal from the Judgment of Sentence Entered April 3, 2023
 In the Court of Common Pleas of Perry County Criminal Division at
 No(s): CP-50-SA-0000026-2021

BEFORE: BOWES, J., STABILE, J., and MURRAY, J.

OPINION BY BOWES, J.: **FILED: FEBRUARY 6, 2025**

Steven Ahmad Wiggs appeals from the judgment of sentence of a \$500 fine imposed after he was found guilty at a *de novo* trial of a summary offense for having red and blue lights on his personal vehicle, which he used while acting as a constable. We affirm.

On June 15, 2021, Pennsylvania State Police (“PSP”) Trooper Jacob Brown-Shields observed a “fully marked black and white [C]rown [V]ic¹ style

¹ We note that the Crown Victoria Police Interceptor was the iconic police vehicle on the street and on the screen in the 1990s. As explained in an article examining its importance in popular culture:

The *Times* recently reported that police departments are assigning officers the last of the Ford Crown Victorias, thereby signalling the end for one of law enforcement’s most iconic vehicles. Produced by Ford from 1979 to 2011, the heavysset sedan is beloved by police for its durability and muscle, and also, above all, for its hulking yet stealthy silhouette. Anyone who has been pulled over in the past twenty years is self-trained in spotting an unmarked Crown Vic. Its distinctive profile was so synonymous with the
 (Footnote Continued Next Page)

constable vehicle" that was "equipped with a light bar on top." N.T. Summary Appeal, 4/3/23, at 7, 9. Having received a report of Appellant using a vehicle with red and blue lights a couple of weeks prior, Trooper Brown-Shields followed the vehicle, determined that it was registered to Appellant, and initiated a traffic stop. Appellant, who was armed and in a self-styled uniform, insisted multiple times that "constables are police officers" and he was "allowed to have red and blue lights." **Id.** at 9.

Since Appellant professed to being "embarrassed about being pulled over" as a constable, Trooper Brown-Shields permitted Appellant to turn on his lights. At a subsequent hearing, the trooper testified that he believed Appellant took him up on this offer, and that in doing so visually confirmed that the lights were red and blue. **Id.** Regardless of whether the lights were in fact activated, Appellant conceded that the lights were red and blue when he explained to Trooper Brown-Shields that the PSP had previously seized the same vehicle and cited Appellant for having red and blue lights on it. After the citation was dismissed for unknown reasons, the PSP returned the vehicle to Appellant with the red and blue lights intact. Despite the PSP asking him to remove the red and blue lights, Appellant told the trooper that he had

police that flashing lights became secondary. The mere sight of its outline was enough to frighten civilian drivers into compliance.

Sam Sweet, *The Crown Vic Jumps its Last Curb*, THE NEW YORKER, Sep. 3, 2013, available at <https://www.newyorker.com/culture/culture-desk/the-crown-vic-jumps-its-last-curb>. In the instant case, Appellant's black and white Crown Victoria had yellow striping, an image of the Pennsylvania coat of arms, and signage indicating "State Constable" and "Emergency 911." **See** Exhibit D-3.

refused to do so because he had won the case as to whether he could use such lights. **See** Exhibit D-2 at 7:45-9:08.

As will be discussed at length *infra*, the Vehicle Code specifies at 75 Pa.C.S. § 4571(b)(1) the types of vehicles permitted to have red and blue lights, which include police vehicles. Trooper Brown-Shields determined that Appellant's vehicle was not encompassed by the statute and cited Appellant for violating § 4571(b)(1). **See** N.T. Summary Appeal, 4/3/23, at 12-14. A Magisterial District Judge ("MDJ") found Appellant guilty and he appealed to the Perry County Court of Common Pleas. After litigating a pre-trial motion challenging the legality of the stop and the deletion of the trooper's mobile video recording prior to discovery, Appellant proceeded to a *de novo* trial. Trooper Brown-Shields testified, and Appellant introduced photographs of his vehicle and a twenty-two-minute audio recording he had made of the stop. At the conclusion, the court found Appellant guilty and imposed fines and the costs of prosecution.

This appeal followed. Appellant complied with the court's order to file a Pa.R.A.P. 1925(b) statement, and the court issued a Rule 1925(a) opinion addressing the issues raised by Appellant.² In this Court, Appellant has refined his arguments to the following four questions:

A. Statutory Construction: Does the Statutory Construction Act lead to a holding that [Appellant]'s car was a "police vehicle,"

² We note that Appellant's requests for this case to be heard before another panel were denied.

as that two-word phrase is used in the applicable statute, 75 Pa.C.S. § 4571 (through its definitions section, § 102)?

- B. Void for Vagueness Doctrine: If the two-word phrase “police vehicle” is interpreted as not including a constable’s marked vehicle (of the particular type that is the subject of the instant case), does convicting a constable (convicting him of an offense for which having a “police vehicle” is a complete defense) cause a due process violation (as applied to that particular type of vehicle), under the “void for vagueness” doctrine, under either the Constitution of the Commonwealth of Pennsylvania and/or the Constitution of the United States of America?
- C. Wrong Charge: When a person is convicted under the wrong subsection of a statute, is that conviction void?
- D. No Evidence: When the color of the allegedly red[and]blue lights on a constable’s police car is an essential element of the alleged offense, and when there is zero evidence of the color of the lights in a light bar which is off, is that conviction void?

Appellant’s brief at 8 (cleaned up).

Appellant first challenges the court’s interpretation of the Vehicle Code as prohibiting him from equipping his constable vehicle with red and blue lights.³ His argument is simple: “A constable vehicle is a police vehicle; and a constable is a police officer.” *Id.* at 11 (unnecessary capitalization omitted). Therefore, because police vehicles are permitted to have red and blue lights, he cannot be found guilty of a summary offense for having such lights.

³ Although we refer to Appellant’s vehicle as a “constable vehicle,” we are cognizant that the designation confers no particular status. **See Commonwealth v. Rodriguez**, 81 A.3d 103, 108 & n.10 (holding that constables are not employees of the Commonwealth, and noting that their vehicles, which must be privately purchased and insured, are not government vehicles and therefore not exempt from the Vehicle Code’s window tinting prohibitions). Rather, when we refer to a “constable vehicle” within this writing, we simply mean a private vehicle operated by an individual in his or her capacity as a Pennsylvania constable.

This issue requires us to interpret § 4571(b)(1) to determine whether Appellant was prohibited from having such lights, or whether he was authorized to utilize them on his constable vehicle. As this presents a question of law, our standard of review is *de novo* and our scope of review plenary. ***See Vellon v. Dep't of Transportation, Bureau of Driver Licensing***, 292 A.3d 882, 890 (Pa. 2023) (cleaned up). Statutory interpretation is, of course, conducted in accordance with the Statutory Construction Act:

Pursuant to that Act, “[t]he object of all statutory interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly.” 1 Pa.C.S. § 1921(a). When the words of a statute are clear and free from ambiguity, the letter of the statute is not to be disregarded under the pretext of pursuing its spirit. ***Id.*** § 1921(b). When, however, the words of a statute are not explicit, a court may discern the General Assembly’s intent by examining considerations outside of the words of the statute. ***Id.*** § 1921(c). In addition, when construing a statute, we must, if possible, give effect to all of its provisions. ***Id.*** § 1921(a).

The Statutory Construction Act also instructs that, in ascertaining the intention of the General Assembly in enacting a statute, several presumptions may be used. ***Id.*** § 1922. Among those presumptions is that “the General Assembly intends the entire statute to be effective and certain.” ***Id.*** § 1922(2). We also may presume that the General Assembly does not intend absurd or unreasonable results. ***Id.*** § 1922(1). As this Court wisely stated over sixty years ago, to avoid such results, we “must read [statutes] in the light of reason and common sense.” ***Ayers v. Morgan***, 154 A.2d 788, 789 (Pa. 1959). [Further], we may presume that the General Assembly does not intend to violate the Constitution of the United States or this Commonwealth. 1 Pa.C.S. § 1922(3).

Id. at 890 (citations altered).

Pursuant to the maxim *expressio unius est exclusio alterius*, where “a section of a statute contains a given word, the omission of such word from a similar section of the statute shows a different legislative intent.” ***Commonwealth v. Collins***, 286 A.3d 767, 774 (Pa.Super. 2022) (cleaned up). Stated another way, “[w]here a legislature includes specific language in one section of a statute and excludes it from another, that language should not be implied where excluded.” ***Id.*** (cleaned up). Finally, our legislature has directed that statutes that are *in pari materia*, *i.e.* “relate to the same persons or things or to the same class of persons or things[,]” must “be construed together, if possible, as one statute.” 1 Pa.C.S. § 1932(a), (b).

With these principles in mind, we turn to the statute at issue in the case *sub judice*. Appellant was convicted of violating § 4571(b)(1) of the Vehicle Code, which provides as follows in pertinent part:

(a) General rule.--Every emergency vehicle shall be equipped with one or more revolving or flashing red lights and an audible warning system. Spotlights with adjustable sockets may be attached to or mounted on emergency vehicles.

(b) Police, sheriff, fire and coroner or medical examiner vehicles.--

(1) Police, sheriff, coroner, medical examiner or fire police vehicles may in addition to the requirements of subsection (a) be equipped with one or more revolving or flashing blue lights. **The combination of red and blue lights may be used only on police, sheriff, coroner, medical examiner or fire police vehicles.**

(2) Unmarked police and sheriff vehicles used as emergency vehicles and equipped with audible warning systems shall be equipped with the lights described in this subsection.

. . . .

(d) Vehicles prohibited from using signals.--Except as otherwise specifically provided in this section, **no vehicle other than an emergency vehicle may be equipped with revolving or flashing lights or audible warning systems identical or similar to those specified in subsections (a) and (b).** A person who equips or uses a vehicle with visual or audible warning systems in violation of this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$500 nor more than \$1,000.

75 Pa.C.S. § 4571 (footnote omitted, emphases added). In § 102 of the Vehicle Code, our legislature defined “emergency vehicle” thusly:

A State or county emergency management vehicle, fire department vehicle, police vehicle, sheriff vehicle, ambulance, advanced life support squad vehicle, basic life support squad vehicle, emergency canteen support service organization vehicle, blood delivery vehicle, human organ delivery vehicle, hazardous material response vehicle, armed forces emergency vehicle, one vehicle operated by a coroner or chief county medical examiner and one vehicle operated by a chief deputy coroner or deputy chief county medical examiner used for answering emergency calls, a vehicle owned by or leased to a regional emergency medical services council that is used as authorized by the Department of Health to respond to an actual or potential disaster, mass casualty situation or substantial threat to public health, a vehicle owned by a county or regional police association and operated by a police officer that is used for police transport or victim extraction, a vehicle that is owned and operated by a county correctional institution in a city of the first class and used to respond to an emergency at a correctional institution in a city of the first class or to escort an ambulance which is transporting sick or injured prisoners in a city of the first class, any vehicle operated by a special agent, special agent supervisor, narcotics agent or narcotics agent supervisor while performing official duties as employees of the Office of Attorney General, any vehicle owned and operated by the Philadelphia Parking Authority established in accordance with 53 Pa.C.S. Ch. 55 (relating to parking authorities) and used in the enforcement of 53 Pa.C.S. Ch. 57 (relating to taxicabs and limousines in first[-]class cities), a vehicle owned by a city of the first class and operated by first judicial district

certified armed probation officers, a vehicle owned and operated by the Pennsylvania Turnpike Commission that is used by an emergency service responder as dispatched by the Pennsylvania Turnpike Commission's traffic operations center, or any other vehicle designated by the State Police under [§] 6106 (relating to designation of emergency vehicles by Pennsylvania State Police), or a privately owned vehicle used in answering an emergency call when used by any of the following:

- (1) A police chief and assistant chief.
- (2) A fire chief, assistant chief and, when a fire company has three or more fire vehicles, a second or third assistant chief.
- (3) A fire police captain and fire police lieutenant.
- (4) An ambulance corps commander and assistant commander.
- (5) A river rescue commander and assistant commander.
- (6) A county emergency management coordinator.
- (7) A fire marshal.
- (8) A rescue service chief and assistant chief.
- (9) The chief or operations director of a county hazardous materials response team.
- (10) A police officer who is also a member of a county or regional municipal special emergency response team which is authorized to respond to emergencies under 42 Pa.C.S. § 8953 (relating to Statewide municipal police jurisdiction).

75 Pa.C.S. § 102.

Patently, our General Assembly did not include private vehicles utilized by constables as one of the enumerated vehicles authorized to utilize red and blue lights within the text of § 4571 or in the definition of "emergency vehicle"

in § 102. Therefore, the plain language of the statute indicates that our legislature did not intend to permit constable vehicles to be equipped with such lights. **See *Commonwealth v. Sanchez-Frometa***, 256 A.3d 440, 448 (Pa.Super. 2021) (cleaned up) (“Under the doctrine *expressio unius est exclusio alterius*, the inclusion of a specific matter in a statute implies the exclusion of other matters.”).

Appellant nonetheless reasons that because a constable is a police officer, a constable vehicle must be considered a police vehicle, which is one of the vehicles that our General Assembly authorized to equip such lights pursuant to §§ 4571 and 102. Our review of the Vehicle Code dictates otherwise. Throughout the Vehicle Code, constables are deemed distinct from police officers as they are consistently listed separately. **See, e.g.**, 75 Pa.C.S. § 1376(b)(1), (5) (listing individually “[l]ocal police officers” and “[c]onstables or deputy constables” as those who may be delegated the authority to seize surrendered registration plates); 75 Pa.C.S. § 3102 (requiring compliance with the traffic direction of “any uniformed police officer, sheriff or constable”); 75 Pa.C.S. § 6309, 6309.1 (discussing impoundment by “police officer, sheriff or constable”).

In line with the doctrine of *expressio unius est exclusio alterius*, “this Court has long recognized that as a matter of statutory interpretation, although one is admonished to listen attentively to what a statute says, one must also listen attentively to what it does not say.” ***Sanchez-Frometa***, 256 A.3d at 448 (cleaned up). Consequently, Appellant’s equation of constables

with police officers in one part of the Vehicle Code, when they are treated separately in other *in pari materia* provisions, is contrary to *expression unius est exclusion alterius*. We cannot simultaneously give the General Assembly's distinction between constables and police officers credit and conclude that it neglected to list constable vehicles as one of the emergency vehicles because it implicitly considers constables as police officers. If that were true, there would be no need to list constables separately in §§ 1376(b), 3102, 6309, and 6309.1. Since we construe the entire statute to have meaning and the General Assembly to have not intended absurd results, we conclude that constable vehicles are not police vehicles.

Moreover, notwithstanding the insistence of Appellant and the dissent to the contrary, a constable vehicle cannot be included within the purview of a police vehicle because a constable simply is not a police officer. The term "police vehicle" is not defined within the statute, but we reasonably surmise that it is a vehicle equipped for use by a police officer. Section 102 of the Vehicle Code defines a police officer as "[a] natural person authorized by law to make arrests for violations of law."⁴ 75 Pa.C.S. § 102.

⁴ We note that this is but one definition our General Assembly has set forth for the phrase "police officer." The Crimes Code defines a "police officer" as "includ[ing] the sheriff of a county of the second class and deputy sheriffs of a county of the second class who have successfully completed the requirements under . . . the Municipal Police Education and Training Law ['MPETL']". 18 Pa.C.S. § 103 (footnote omitted). The General Assembly elaborated on the definition of police officer in the MPETL as any of the following:

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(1) A full-time or part-time employee assigned to criminal or traffic law enforcement duties of any of the following:

(i) A police department of a county, city, borough, town or township.

(ii) Any railroad or street railway police.

(iii) Any campus or university police department, including the State System of Higher Education and its member institutions.

(iv) The Capitol Police.

(v) The Harrisburg International Airport Police.

(vi) An airport authority police department.

(2) A deputy sheriff of a county of the second class.

(3) A security officer of a first class city housing authority or a police officer of a second class city housing authority.

(4) A county park police officer.

The term excludes persons employed to check parking meters or to perform only administrative duties and auxiliary and fire police.

53 Pa.C.S. § 2162. Unlike the traditional understanding of a police officer, constables are not employed by police departments, or by any body for that matter, because they operate as independent contractors. **See *In re Act 147 of 1990***, 598 A.2d 985, 990 (Pa. 1991). Indeed, they are elected by the citizenry or appointed in the event of a vacancy. **See** 44 Pa.C.S. § 7111-7114.

More importantly, constables do not undergo the rigors of MPETL training. **See** 53 Pa.C.S. § 2167(a) ("All municipalities of this Commonwealth or groups of municipalities acting in concert and all colleges and universities shall be required to train all members of their police departments pursuant to this subchapter prior to their enforcing criminal laws, enforcing moving traffic violations under Title 75 (relating to vehicles) or being authorized to carry a
(Footnote Continued Next Page)

Our Supreme Court has interpreted this definition thusly:

[F]acially, the provision applies broadly to anyone with a power of arrest. **See** 75 Pa.C.S. § 102. Under the Statutory Construction Act, however, we presume that the General Assembly did not intend unreasonable results. **See** 1 Pa.C.S. § 1922. In this circumstance, a literal reading of the Vehicle Code's definition of "police officer" would invest enforcement authority in all citizens, in light of their common-law arrest power. **See generally Commonwealth v. Chermansky**, 242 A.2d 237, 239-40 (Pa. 1968) (referencing the citizens' authority to arrest). It is manifest, however, that the Legislature did not intend to

firearm."). The Municipal Police Officers' Education and Training Commission ("MPOETC") has mandated that aspiring police officers demonstrate certain physical fitness standards before entry into the training program. Once admitted, trainees undergo 919 hours of classroom and practical instruction, including forty hours on the operation of emergency vehicles and 124 hours on firearms. Additionally, a trainee must pass with a score of at least 80% various exams throughout the program, including a driving skills test, before being eligible to take the 200-question certification exam to become a police officer. **See** Physical Fitness, available at <https://www.pa.gov/agencies/mpoetc/programs/training/basic-police-officer-training/physical-fitness.html>; Municipal Police Officer Basic Training Program, 2024, available at https://www.pa.gov/content/dam/copapwp-pagov/en/mpoetc/documents/training/basic-police-officer-training/curriculum_overview_2024.pdf; MPOETC 2022 Basic Police Syllabus, available at <https://www.pa.gov/content/dam/copapwp-pagov/en/mpoetc/documents/training/basic-police-officer-training/basic%20police%20training%20syllabus.pdf>.

Contrarily, constables undergo only eighty hours of basic training and forty hours of firearms instruction, with the requirement that they achieve a passing score of at least 70% on each written exam. **See** 44 Pa.C.S. § 7145 ("The Constables' Education and Training Program shall include training for a total of 80 hours, the content of which shall be determined by regulation. The training shall include instruction in the interpretation and application of the fees provided for in section 7161 (relating to fees)."); Constables' Education and Training, available at <https://www.pa.gov/agencies/pccd/programs-and-services/training/public-safety-training/cetb-training.html>. Therein, the only training pertinent to the use of a vehicle is four hours of instruction about prisoner transport and how to reduce the possibility of an escape. **See** Constables' Education and Training.

denominate the citizenry at large as “police officers” or confer vehicle-related enforcement authority upon it. Thus, we find that the Legislature’s definitional reference to the authorization “by law to make arrests for violations of law,” 75 Pa.C.S. § 102, refers to some form of legal authorization beyond a mere common-law power shared among Pennsylvania citizens.

Commonwealth v. Marconi, 64 A.3d 1036, 1041 (Pa. 2013) (citations altered).

“It is well settled that when vesting a group with police powers and duties, the Legislature does so with specificity.” ***Commonwealth v. Frombach***, 617 A.2d 15, 19 (Pa.Super. 1992) (cleaned up). Certainly, constables possess the authority to effect certain limited arrests:

In addition to any other powers granted under law, a constable of a borough shall, without warrant and upon view, arrest and commit for hearing any person who:

- (1) Is guilty of a breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness.
- (2) May be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens.
- (3) Violates any ordinance of the borough for which a fine or penalty is imposed.

44 Pa.C.S. § 7158.

Additionally, this Court has observed that “constables possessed the power at common law to make warrantless arrests for felonies and breaches of the peace.” ***Commonwealth v. Taylor***, 677 A.2d 846, 851 (Pa.Super. 1996). However, that arrest power was no greater than the “power exercised by [all] private citizens since antiquity,” namely, “the power to make

warrantless arrests for felonies.” *Id.* at 852. Hence, our ruling on the authority of constables to make certain arrests did not enlarge their power, but merely “avoid[ed] the anomalous situation of depriving constables of powers possessed by the ordinary citizenry.” *Id.* (cleaned up); **see also** Peter J. Gardner, *Arrest and Search Powers of Special Police in Pennsylvania: Do Your Constitutional Rights Change Depending on the Officer’s Uniform?*, 59 Temp. L.Q. 497, 536 (1986) (“Constables, however, do not possess general police powers and they have no statutory search powers. Despite their statutory arrest powers, their historical role as law enforcement officers, and the fact that they are more likely than private citizens to perform arrests and searches, some question exists whether police powers possessed by constables are any greater than the powers of private citizens.” (footnotes omitted)).

Moreover, the statutory provisions governing constables confirm that constables are not synonymous with police officers. Section 7132 (Police Officers), sets forth the following pertinent conflict between the two positions:

(a) Constable employed as policeman not to accept other fees in addition to salary.--Except for public rewards and legal mileage allowed to a constable for traveling expenses, and except as provided in subsection (b), it is unlawful for a constable who is also employed as a policeman to charge or accept a fee or other compensation, other than his salary as a policeman, for services rendered or performed pertaining to his office or duties as a policeman or constable.

(b) Exception.--Unless prevented from doing so by the operation of 8 Pa.C.S. Ch. 11 Subch. J (relating to civil service for police and fire apparatus operators), borough policemen who reside in the

borough may hold and exercise the office of constable in the borough, or in any ward thereof, and receive all costs, fees and emoluments pertaining to such office.

44 Pa.C.S. § 7132 (footnote omitted). Clearly, and consistent with our interpretation of the Vehicle Code, the General Assembly views constables as **distinct** from police officers.

Based upon the foregoing, we hold that a constable is not a police officer. This holding is based in part upon our interpretation that the constable's limited arrest power is not equivalent to the arrest powers described within the definition of police officer in § 102 of the Vehicle Code. Indeed, the authority of constables is inconsistent with the unqualified arrest powers attributed to police officers in § 102. In point of fact, to include constables within that definition, we would need to read it as "authorized by law to make arrests **for certain** violations of the law." Such a broad interpretation would convert every citizen into a police officer, render every vehicle a police vehicle, and permit every private vehicle owned by a citizen to equip red and blue lights. **See Marconi**, 64 A.3d at 1041. Rather, a plain reading of "police officer" in § 102, in conjunction with the presumption that the General Assembly did not intend absurd results by its enactment, leads us to the conclusion that it means only those natural persons who have a general

authority to make arrests, *i.e.*, those employed as police officers by police departments.⁵ **See** 1 Pa.C.S. § 1922(1).

We would end our analysis here were it not for Appellant's insistence that the statute implicitly includes constable vehicles within the characterization of police vehicles based upon our Supreme Court's statement that "[t]he constable is a police officer" in ***In re Act 147 of 1990***, 598 A.2d 985, 990 n.3 (Pa. 1991). **See** Appellant's brief at 19. Indeed, the learned dissent rests his writing upon that same allegedly "unequivocal" statement. **See** Dissent at 1. For the reasons that follow, we find this premise faulty.

First, it bears clarifying that the case from which this statement derives, ***In re Act 147 of 1990***, did not touch upon the limited issue before us in this matter. Rather, in that case, the issue was where constables belonged within our governmental system for purposes of oversight and accountability. Our Supreme Court categorized constables as executive branch officials. Because Act 147 had placed constables within the judicial hierarchy, the Court found Act 147 unconstitutional.

Second, the Court's statement that a "constable is a police officer" must be considered in context. Notably, it appeared in a footnote as a reference to

⁵ The dissent accuses us of improperly analyzing legislative intent despite a lack of ambiguity in the statutory language. **See** Dissent at 5. We reiterate that "[t]he object of all interpretation and construction of statutes is to ascertain and effectuate the **intention** of the General Assembly." 1 Pa.C.S. § 1921(a) (emphasis added). Presently, we discerned the General Assembly's intent not from an examination of the factors applicable to ambiguous language and set forth in § 1921(c), but from the plain language of the statute and the generally applied presumptions outlined by ***Vellon*** and § 1922.

the comic opera, the *Pirates of Penzance*. In full, the phrase relied upon by Appellant and the dissent appears thusly:

Simply stated, a constable is a peace officer.³ A constable is a known officer charged with the conservation of the peace, and whose business it is to arrest those who have violated it. By statute in Pennsylvania, a constable may also serve process in some instances. As a peace officer, and as a process server, a constable belongs analytically to the executive branch of government, even though his job is obviously related to the courts. It is the constable's job to enforce the law and carry it out, just as the same is the job of district attorneys, sheriffs, and the police generally. Act 147 is unconstitutional and violates the separation of powers doctrine in our Constitution because it attempts to place constables within the judicial branch of government and under the supervisory authority of the judicial branch. . . . At most, constables are "related staff" under the Rules of Judicial Administration. They cannot, however, be made part of the judicial branch under our Constitution. To attempt to do so constitutes a gross violation of the separation of powers. Personnel whose central functions and activities partake of exercising executive powers cannot be arbitrarily made part of another branch of government whose functions they do not perform. To do so interferes with the supervisory authority of the Supreme Court just as much as attempting to dictate how that authority is to be exercised over personnel who are properly part of the judicial system. In consequence, we find Act 147 unconstitutional and invalid.

³ **The constable is a police officer.** It would perhaps not be remiss to recall Sir William S. Gilbert's famous line from *The Pirates of Penzance*, "When constabulary duty's to be done, to be done, a policeman's lot is not an 'appy one!"

In re Act 147 of 1990, 598 A.2d at 990 (cleaned up, emphasis added).

Despite determining that a constable cannot be placed within the judiciary because that position constitutes an executive branch official, the Court observed that "[a] constable is an elected official[,] . . . an independent

contractor[,] and is not an employee of the Commonwealth, the judiciary, the township, or the county in which he works." **Id.** at 986 (cleaned up). In other words, it is apparent that constables exist in a league of their own.

We do not extrapolate the High Court's footnote and operative allusion to equate constables with police officers for all purposes, including in the definition of police officers in § 102 of the Vehicle Code. Instead, we heed the warning of our Supreme Court regarding "the necessity of reading legal rules—especially broad rules—against their facts and the corollary that judicial pronouncements should employ due modesty." **Tincher v. Omega Flex, Inc.**, 104 A.3d 328, 378 (Pa. 2014). Our High Court adopted "the principle that the holding of a decision is to be read against its facts" precisely because "it is very difficult for courts to determine the range of factual circumstances to which a particular rule should apply in light of the often myriad possibilities." **Maloney v. Valley Med. Facilities, Inc.**, 984 A.2d 478, 490-91 (Pa. 2009). In doing so, the Court echoed the sentiment of the Seventh Circuit Court of Appeals that "[j]udicial opinions are frequently drafted in haste, with imperfect foresight, and without due regard for the possibility that words or phrases or sentences may be taken out of context and treated as doctrines." **Id.** (cleaned up).

Consistent with this approach, we grappled with the import of **In re Act 147 of 1990's** statement about the role of constables in **Taylor**:

The Supreme Court's statement that "a constable is a peace officer" was merely express recognition of a well-settled legal principle. **See e.g.**, Black's Law Dictionary (5th ed. 1979)

(defining “peace officers” to include “sheriffs and their deputies, constables ... and other officers whose duty it is to enforce the peace.”), and 6A C.J.S. Arrest, § 17 (“Justices, sheriffs, coroners, constables and watchmen are recognized peace officers at common law.”). Lastly, 16 P.S. § 1216, Peace officers; powers and duties, expressly applies to constables.

Moreover, following its statement that “a constable is a peace officer”, the Court inserted a footnote which provides, “[t]he constable is a police officer.” ***In re Act 147 of 1990***, 598 A.2d at 990. Instantly, the Commonwealth asserts that this statement constitutes Supreme Court recognition that constables possess “the same authorities and duties” as police officers under all circumstances. (Appellant’s brief at 10.) We flatly reject this claim. Specifically, when read in the context in which it was uttered, the Court’s statement indicates that the powers of constables and police officers are coextensive in matters relating to “conservation of the peace.” ***Id.*** Further, as the remainder of the Court’s Opinion indicates, its notation that “[t]he constable is a police officer” was intended as further support for the Court’s ultimate conclusion that “a constable belongs analytically to the executive branch of government.” ***Id.*** Therefore, since ***Act 147*** did not involve the relative arrest powers of constables and police officers, the Court’s statement cannot be taken as a blanket endorsement of constable powers coextensive with those of police officers under all circumstances. Finally, the Court’s finding that constables are independent contractors, as quoted above, clearly indicates that the Court did not consider constables and police officers analogous for all purposes, since Pennsylvania law has never characterized police officers as independent contractors.

Taylor, 677 A.2d at 847 n.6 (citations altered).

Stated simply, the ***In re Act 147 of 1990*** Court was not considering whether constables were police officers for purposes of the Vehicle Code. Rather, it was contemplating under which branch constables fell, and concluded that, as peace officers, they fell within the executive branch. As such, we will not take the footnote of ***In re Act 147 of 1990*** out of context

and extrapolate it to fit Appellant's desired outcome. **See Maloney**, 984 A.2d at 490.

While **In re Act 147 of 1990** certainly offers important background, our interpretation of the unambiguous language of the statute is confirmed by our Supreme Court's related decisions in **Commonwealth v. Leet**, 641 A.2d 299 (Pa. 1994), and **Commonwealth v. Roose**, 710 A.2d 1129 (Pa. 1998). We begin with **Leet**, wherein the High Court considered whether sheriffs possess the authority to stop motorists for violations of the Vehicle Code. Recounting the history of the sheriff, the High Court noted that "[i]t is a commonplace that in times going back to the Magna Carta, the sheriff was the chief law enforcement officer of the shire or county." **Leet**, 641 A.2d at 302. The Court concluded that "[u]nless the sheriff's common law power to make warrantless arrests for breaches of the peace committed in his presence has been abrogated, it is clear that a sheriff (and his deputies) may make arrests for motor vehicle violations which amount to breaches of the peace committed in their presence." **Id.** at 303. Recognizing the need for those who enforce the Vehicle Code to undergo training equivalent to that of "[p]olicemen, to whom the legislature has given primary responsibility for enforcement of the . . . [V]ehicle [C]ode," the Court clarified that "a sheriff or deputy sheriff would be required to complete the same type of training[.]" **Id.** (footnote omitted). Tellingly, our General Assembly **included** "sheriff vehicle" within the definition of an emergency vehicle authorized to utilize the lights at issue in the case *sub judice*. **See** 75 Pa.C.S. § 102.

In **Roose**, the Court was tasked with determining whether constables possess the authority to stop motorists for violations of the Vehicle Code. Applying the same analysis as **Leet**, the Court held that constables do not possess such authority. First, it noted, “the same sources referred to in **Leet**, which provided a rich history of the common law development of the powers of the sheriff, are silent with reference to the authority of the constable.” **Roose**, 710 A.2d at 1130. Thus, the Court was “impressed with what appears to be a significant difference between the duties of sheriffs and constables.” **Id.** More importantly, the Court observed that constables did not develop in the common law, but rather from statute:

Most relevant for our inquiry is the statutory basis for the powers of constables in England. Unlike sheriffs, whose powers grew in the common law tradition to include broad law enforcement authority, the powers of constables were not developed as fully in such a strong common law tradition, but were rather set forth in a series of statutes. Thus it is not appropriate to follow the analysis of **Leet**, wherein we reasoned that sheriffs, due to their common law powers, had the authority to enforce the motor vehicle laws unless contravened by statute; conversely, as to constables, it seems proper to conclude that unless a statute empowers them to enforce the vehicle laws, then they do not possess the legal authority to do so.

We hold, therefore, that due to the absence of statutory authority for constables to enforce the motor vehicle laws, they do not possess such authority, as such authority cannot be derived from the common law as was the case for sheriffs in **Leet**.

Id. (citations altered).

We observe that the Supreme Court affirmed our decision in **Roose** based upon a comparison of constables and sheriffs, whereas the Superior

Court panel focused on constables and police officers. Critically, the High Court neither disapproved of nor reversed our conclusions regarding whether constables are police officers and the scope of their authority to utilize red and blue lights pursuant to the Vehicle Code. Indeed, this Court has continued to rely upon our panel decision in **Roose** for the proposition that “the private vehicles of Pennsylvania constables traditionally are not recognized at statute as privileged, official vehicles.” **Commonwealth v. Rodriguez**, 81 A.3d 103, 108 n.10 (Pa.Super. 2013) (citation omitted).⁶ Furthermore, implicit in our Supreme Court’s ruling in **Roose** is the recognition that since constables do not have the power to pull over vehicles, they have no need for red and blue lights.⁷

⁶ Similarly, our sister court has echoed the concerns expressed in our **Roose** opinion, notwithstanding the Supreme Court’s differing analysis in affirming our decision. **See Ward v. Com., Dep’t of Transp., Bureau of Motor Vehicles**, 65 A.3d 1078, 1082-83 (Pa.Commw. 2013).

⁷ The dissent posits that constables require these lights to safely perform their duties of directing traffic and issuing orders to motorists. **See** Dissent at 4 n.3. While we do not opine upon whether red and blue lights would make such tasks safer, we question whether they are necessary, as school crossing guards and traffic control flaggers regularly perform similar duties utilizing visibility-enhancing safety gear other than red and blue lights. Interestingly, the dissent notes that red and blue lights are critical for “signaling to a stopped motorist that it is a police officer. . . who is approaching.” **Id.** (quoting **Commonwealth v. Livingstone**, 174 A.3d 609, 621 (Pa. 2007)). We agree that the lights are one of the hallmarks of a police vehicle. However, a constable vehicle is not a police vehicle, and a constable is not a police officer. Therefore, such lights have no place on a constable vehicle.

Accordingly, we deem it worthwhile to revisit this Court's detailed analysis in **Roose**, as it provides valuable context for the matter at hand, and our rejection of the interpretation espoused by Appellant and the dissent:

Constables and deputy constables are not employees of any municipal subdivision as police and sheriffs are. They are not paid a salary by any municipal subdivision but rather are independent contractors whose pay is on a per job basis. As independent contractors, they are not acting for or under the control of the Commonwealth and cannot be considered Commonwealth employees in order to receive legal representation when sued in connection with their duties. No one supervises constables in the way a police chief supervises police officers or a sheriff supervises deputies. No municipality is responsible for their actions in the way a city, borough, or township is responsible for its police or a county is responsible for its sheriff's office. In fact, our Supreme Court [in ***In re Act 147 of 1990***] found unconstitutional legislation which attempted to place constables under the supervisory authority of the courts.

. . . .

Training for police officers and constables is also vastly different. Constables and deputy constables are required to have only [eighty] hours of basic training, some of which is devoted to the interpretation and application of the fee schedule. Conspicuously absent from the curriculum of the basic training course is enforcement of the Vehicle Code. Police officers are required to take a course of 520 hours of study, [forty] hours of which are devoted to the Vehicle Code.^[8] Also mandatory for police officers are minimum physical fitness standards, psychological evaluations and background investigations to determine suitability for employment as a police officer. This training must be satisfactorily completed prior to actually enforcing criminal laws and moving traffic violations. The definition of police officer in the training act notably includes deputy sheriffs of second[-]class counties and housing authority police of first class cities but does not include constables or deputy constables, thus these

⁸ As noted hereinabove, the MPOETC has since enlarged those requirements.

requirements do not apply to constables or deputy constables. Deputy sheriffs of second[-]class counties who have successfully completed this training are included in the definition of "police officer" in the Crimes Code. Neither constables nor deputy constables are, however, included in this definition.

Roose, 690 A.2d 268, 269-70 (Pa.Super. 1997) (cleaned up).

Further, we hypothesized about the problems that could arise by ascribing police powers to constables, including the very issue before us, *i.e.*, using red and blue lights on their constable vehicles:

[I]s a citizen required to stop when signaled to do so by a constable or deputy constable? The offense of fleeing or attempting to elude a police officer by its very terms is limited to police officers who are in a clearly identifiable police vehicle or, if the vehicle is unmarked, the officer must be in uniform and displaying a badge. Constables and deputy constables do not have uniforms and they are not provided with municipal vehicles but use their own private cars. By what means does a constable or deputy constable signal a driver to stop? Under the Vehicle Code, a constable's private automobile does not fit within the definition of an emergency vehicle, and is not within that class of vehicles which may display flashing red or blue lights or use sirens. If a constable or deputy constable violates someone's constitutional rights, is there "state action"? What if a constable or deputy constable is injured or killed while making a traffic stop? Since there is no employer, there would be no workers' compensation coverage, leaving the injured constable to pay any expenses.

A more serious problem with motor vehicle stops is the possibility of pursuit. If the motorist refuses or fails to stop, will the constable feel compelled to instigate a chase which might endanger innocent bystanders? The General Assembly recently passed legislation requiring each municipal police department to establish policies and guidelines to be followed by officers when engaging in motor vehicle pursuits as defined by the Vehicle Code. The policies must include criteria for deciding when to initiate a pursuit including the potential for harm to others, the seriousness of the offense, safety factors posing a risk to the general public, responsibilities of the various parties, including officers,

supervisors and communications centers, pursuit tactics, roadblock usage, and communications during interjurisdictional pursuit. It is clear that these regulations contemplate that **only** properly trained and supervised police officers would be involved in such pursuits. This legislation evidences the legislature's intent to control high speed pursuits to provide for the safety of both the participants and the general public who may simply be in the path of the pursuit. Constables and deputy constables are not part of any municipal police force and are not supervised in the manner that this statute presumes. Yet if we grant constables and deputy constables a common law right to stop vehicles, doesn't this also include allowing them to pursue a fleeing vehicle or at least allow for the possibility that they will feel authorized to do so? Absent explicit statutory authority from the General Assembly, we hesitate to bestow such unbridled power on someone who is, as discussed below, not trained to handle such a situation.

Id. (cleaned up, emphasis in original). Ultimately, we noted that the constable in that case "was himself in violation of the . . . Vehicle Code for using flashing lights and a siren on a vehicle which was not authorized as an emergency vehicle under the [Vehicle] Code." **Id.** at 270 n.2.

Based on the foregoing, even if the Vehicle Code did not plainly provide that constable vehicles are not one of the enumerated vehicles which may equip red and blue lights, we would not be persuaded by Appellant's arguments to deviate from our concerns expressed in the panel decision in **Roose**. Read "in the light of reason and common sense," § 4571(b)(1) intended to limit the usage of red and blue lights to those vehicles operated by officials with either the authority to stop motorists or a particular responsibility in responding to serious emergencies. **See Vellon**, 292 A.3d at 890 (cleaned up); 75 Pa.C.S. § 4571 (limiting the usage of red and blue lights to "police, sheriff, coroner, medical examiner or fire police vehicles").

Constables lack the authority to do either. Permitting constables to affix red and blue lights would cause confusion to motorists and bystanders, blurring the distinction between those who have the authority to act and aid as police officers, and those who lack such authority but are operating in what purports to be an authoritative vehicle. Thus, for purposes of § 4571, a constable is not a police officer, and a constable vehicle is not a police vehicle. Accordingly, Appellant is not entitled to relief on his first issue.

Appellant next argues that § 4571(b)(1) is void for vagueness because it is subject to two “legally correct ways to read it[.]”⁹ Appellant’s brief at 30. We review such a challenge *de novo*. **See Commonwealth v. Davidson**, 938 A.2d 198, 203 (Pa. 2007). The principles governing a void-for-vagueness claim are well-settled:

Under the void-for-vagueness standard, a statute will only be found unconstitutional if the statute is so vague that persons of common intelligence must necessarily guess at its meaning and differ as to its application. However, a statute will pass a vagueness constitutional challenge if the statute defines the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement. Due process requires that a criminal statute give fair warning of the conduct it criminalizes. Furthermore, even if the General

⁹ The Commonwealth avers that this issue is waived because Appellant did not include it in his Rule 1925(b) statement. **See** Commonwealth’s brief at 7. Rather than directing us to where in the statement he preserved it, Appellant merely retorts that “he did.” Appellant’s reply brief at 1. While his concise statement could have benefited from a clearer indication that he was challenging the vagueness of § 4571, the trial court interpreted it to include such a claim and addressed it. **See** Trial Court Opinion, 7/7/23, at unnumbered 2-5. Accordingly, we decline to find waiver.

Assembly could have chosen clearer and more precise language equally capable of achieving the end which it sought does not mean that the statute which it in fact drafted is unconstitutionally vague.

Id. at 207–08 (cleaned up).

Here, the Vehicle Code clearly lists which vehicles may utilize red and blue lights. As indicated, constable vehicles are not specified as one of those, and while Appellant has interpreted the statute differently than this Court, the trial court, the MDJ, and Trooper Bown-Shields, that does not mean that it has two equally plausible readings. A commonsense interpretation of the plain language of the Vehicle Code provides notice to lay individuals that, unless they are operating one of the emergency vehicles explicitly listed, they may not equip red and blue lights on their vehicles.¹⁰ The legislature was not required to add language explaining which vehicles were **prohibited** when it clearly delineated which ones were **permitted**. Since the statute is not vague, this claim fails.

In his third issue, Appellant avers that he was convicted under the wrong subsection of § 4571. **See** Appellant’s brief at 34. Specifically, he contends that he was improperly charged with § 4571(a) and convicted of a violation of § 4571(b)(1), when he should have been charged and convicted of § 4571(d). To refresh, these subsections provide as follows:

¹⁰ We acknowledge that the dissent agrees with Appellant’s reading of § 4571. While respecting our colleague’s reasoning and conclusions, we cannot join in that interpretation, and we do not find that this difference in opinion renders the statute vague.

(a) General rule.--Every emergency vehicle shall be equipped with one or more revolving or flashing red lights and an audible warning system. Spotlights with adjustable sockets may be attached to or mounted on emergency vehicles.

(b) Police, sheriff, fire and coroner or medical examiner vehicles.--

(1) Police, sheriff, coroner, medical examiner or fire police vehicles may in addition to the requirements of subsection (a) be equipped with one or more revolving or flashing blue lights. The combination of red and blue lights may be used only on police, sheriff, coroner, medical examiner or fire police vehicles.

. . . .

(d) Vehicles prohibited from using signals.--Except as otherwise specifically provided in this section, no vehicle other than an emergency vehicle may be equipped with revolving or flashing lights or audible warning systems identical or similar to those specified in subsections (a) and (b). A person who equips or uses a vehicle with visual or audible warning systems in violation of this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$500 nor more than \$1,000.

75 Pa.C.S. § 4571. In addition to the discrepancy between the charging document and his conviction, Appellant maintains that he could only be convicted of subsection (d) because that is the provision that prohibited the relevant conduct. **See** Appellant's brief at 35-37.

By way of background, Appellant was cited with a violation of subsection (b)(1) and convicted at the same subsection following a *de novo* appeal. Therefore, any complaint about the validity of his summary conviction before the MDJ was nullified by his appeal to the Court of Common Pleas for a trial *de novo*.

As for whether Appellant should have been charged with § (d) instead of (b)(1), we agree with the trial court's explanation of the interplay between the relevant subsections: "[I]t's clear [§ 4571(d)] is what happens if you are convicted or in violation of [§] 4571(b)(1)." N.T. Summary Appeal, 4/3/23, at 44. Based on the foregoing, we discern no error in Appellant being charged with violating § 4371(b)(1) as he equipped red and blue lights to a vehicle that lacked statutory authorization. Having violated § 4571(b), the grading of his offense and the parameters of his punishment were set forth in § 4571(d). No relief is due.

Finally, Appellant challenges the sufficiency of the evidence to sustain his conviction because he contends that there was no evidence that the light bar, which was clear when not illuminated, contained red and blue lights. **See** Appellant's brief at 38-40. He maintains that the lights were never activated and the trooper's testimony indicated he was unsure whether he had observed the color of the lights. **Id.** at 39.

We review a claim challenging the sufficiency of the evidence pursuant to these well-established legal principles:

When reviewing a challenge to the sufficiency of the evidence, we view the evidence in the light most favorable to the Commonwealth as the verdict winner in order to determine whether the jury could have found every element of the crime beyond a reasonable doubt. Any doubts regarding a defendant's guilt may be resolved by the fact-finder unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances. Additionally, this Court cannot re-weigh the evidence and substitute our judgment for that of the fact-finder. This presents

a pure question of law and, as such, our standard of review is *de novo*, and our scope of review is plenary.

Commonwealth v. Santiago, 294 A.3d 482, 484–85 (Pa.Super. 2023) (cleaned up).

While understandably not without some qualification due to the intervening two years, Trooper Brown-Shields testified that it was his recollection that he permitted Appellant to turn on his lights during the traffic stop and that, when he did so, it confirmed that the lights were red and blue. Additionally, the trooper attested that Appellant conceded the light bar contained red and blue lights, and that he was permitted to have them.

Although it is unclear from the audio recording whether Appellant in fact turned on his lights during the stop, the recording confirms that the trooper gave him the option to turn on his lights so he would feel less embarrassed about being pulled over in his constable vehicle. Nothing in the recording contradicts the trooper's testimony that Appellant opted to turn on his lights.

More importantly, though, the audio recording corroborated the trooper's testimony that Appellant himself conceded the color of the lights. As noted at the outset, Appellant stated during his conversation with Trooper Brown-Shields that the PSP had previously seized the same vehicle for having red and blue lights. He explained that he was cited for a violation of § 4571, but the citation was ultimately dismissed and the vehicle returned to him with the red and blue lights still affixed. Appellant boasted that when asked to remove the lights thereafter, he refused to do so because he had won the case, thereby confirming that the lights were still the same red and blue ones.

See Exhibit D-2 at 7:45-9:08. Indeed, Appellant reported that whenever there is a disabled vehicle on the road or he observes a breach of the peace and the troopers are not on scene, “my lights are on.” **Id.** at 21:20-21:35. At no point did Appellant deny that his lights were red and blue. Rather, he emphatically insisted throughout the encounter that he was entitled to have red and blue lights on his vehicle because he was a police officer.

Viewing this evidence in the light most favorable to the Commonwealth, we conclude that there was sufficient evidence to prove that Appellant’s light bar emitted red and blue flashing lights in violation of § 4571(b)(1). Accordingly, Appellant’s sufficiency challenge fails.

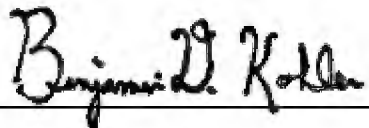
In light of the foregoing, we discern no reason to overturn Appellant’s summary conviction. Therefore, we affirm his judgment of sentence.

Judgment of sentence affirmed.

Judge Murray joins.

Judge Stabile files a Dissenting Opinion.

Judgment Entered.

A handwritten signature in black ink that reads "Benjamin D. Kohler". The signature is written in a cursive style and is positioned above a solid horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 2/6/2025

Second appendix:

Dissenting Opinion

(by Judge Stabile).

9 pages

2025 PA Super 29

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
STEVEN AHMAD WIGGS	:	
	:	
Appellant	:	No. 641 MDA 2023

Appeal from the Judgment of Sentence Entered April 3, 2023
 In the Court of Common Pleas of Perry County
 Criminal Division at No: CP-50-SA-0000026-2021

BEFORE: BOWES, J., STABILE, J., and MURRAY, J.

DISSENTING OPINION BY STABILE, J.: **FILED: FEBRUARY 6, 2025**

“The constable is a police officer.” Those are the unequivocal words of our Supreme Court in a case where the role of a constable in the Commonwealth’s government was at issue. ***See In re Act of 147 of 1990***, 598 A.2d 985, 990 n.3 (Pa. 1991). The Court’s statement is also fully consistent with the Vehicle Code’s definition of a police officer, and by implication, its definitions of a “police vehicle” and an “emergency vehicle” in 75 Pa.C.S.A. § 102. I would therefore vacate the judgment of sentence because Appellant’s status as a constable entitled him to equip his car with emergency lights under 75 Pa.C.S.A. § 4571.

On the evening in question, Appellant was serving as a constable in Perry County. Blue and red emergency lights were mounted on the roof of his vehicle. While on patrol, a state trooper pulled over Appellant and cited him for a violation of section 4571 of the Vehicle Code. Under that statute, the

type of visual warning system that Appellant had installed is only authorized for “emergency vehicles.” 75 Pa.C.S.A. § 4571(d). The definitions section of the Vehicle Code specifies that a “police vehicle” falls into that category. **See** 75 Pa.C.S.A. § 102.

Nothing in the Vehicle Code excludes a constable’s vehicle from being considered as either an “emergency vehicle” or a “police vehicle.” In fact, a “police officer” is defined in the that title as “[a] natural person authorized by law to make arrests for violations of law.” **Id.** Our Supreme Court has emphasized that “[i]t is the constable’s job to enforce the law and carry it out, just as the same is the job of district attorneys, sheriffs, and the police generally.” **In re Act 147 of 1990**, 598 A.2d at 990. The General Assembly has further clarified that the powers and duties of “[c]onstables, county detectives, sheriffs, deputy sheriffs, waterways patrolmen” are those “authorized or imposed upon them by statute.” Act of June 29, 1976, P.L. 475, No. 121 § 1, (codified as amended at 16 P.S. § 1216 and transferred to 13 P.S. § 40).¹

Moreover, a number of statutory powers are expressly granted to constables, many of which involve the use of force to carry out the law. **See generally** 44 Pa.C.S.A. §§ 7101-7178. Constables are authorized “to carry

¹ In 2009, 13 P.S. § 40 was repealed as to constables by 2009, Oct. 9, P.L. 494, No. 49, § 4(2)(xxxv). The statute was replaced by 44 Pa.C.S.A. § 7151, which contains nearly identical language.

or use firearms in the performance of **any** duties.” 44 Pa.C.S.A. § 7148 (emphasis added). Constables are statutorily tasked with overseeing and preserving the peace at elections held in their jurisdictions (section 7152), and investigating complaints of a violation of law when directed to do so by a court (section 7157).

Unlike an ordinary citizen, constables are statutorily authorized to make warrantless arrests in their boroughs for observed violations of law, such as breaches of the peace, and “any unlawful act tending to imperil the personal security or endanger the property of the citizens.” 44 Pa.C.S.A. § 7158. **Constables are also permitted, “upon view,” to make a warrantless “arrest” of any person who “[v]iolates any ordinance of the borough for which a fine or penalty is imposed.”** *Id.* (Emphasis added). The Pennsylvania Rules of Criminal Procedure likewise define a “police officer” as “any person who is by law given the power to arrest when acting within the scope of the person's employment.” Pa.R.Crim.P. 103.

And although enforcement of the Vehicle Code is not within the purview of constables,² they are nevertheless referred to in that title as being among the class of officials who may direct traffic and issue orders to motorists: “No person shall willfully fail or refuse to comply with any lawful order or direction

² **See Commonwealth v. Roose**, 710 A.2d 1129, 1330 (Pa. 1998).

of (1) any uniformed police officer, sheriff or constable[.]” 75 Pa.C.S.A. § 3102.³

It follows that since a constable is authorized by law to make arrests for violations of law (satisfying the definition of “police officer” in the Vehicle Code), they must be classified as police officers for the purposes of section 4571 in that title, and constables’ vehicles must in turn be classified as police vehicles, which can be equipped with emergency lights.⁴ Separately

³ The Majority has taken the untenable position that, on the one hand, the General Assembly has explicitly authorized constables to direct traffic, issue orders to motorists, and make warrantless arrests, but on the other hand, the Majority supposes that the General Assembly has implicitly deprived constables of the right to mount emergency lights, which are a means of safely performing those duties. The Majority attempts to defend this inconsistency by questioning whether emergency lights are “necessary” to carry out a constable’s duties, noting that crossing guards and traffic control flaggers can carry out their own duties without that equipment. **See** Maj. Opinion, at 22-23 n.7. I note first that the “necessity” of emergency lights is not at issue here. Second, the duties of a constable are markedly different from that of crossing guards and traffic control flaggers, who have no statutory authority to make arrests, and who are not mentioned along with “any uniformed police officer, sheriff or constable” in 75 Pa.C.S.A. § 3102. Finally, the Majority’s observation about the necessity of emergency lights is rather dubious, as it is well-settled law that there are circumstances in which they may be the only reasonable and narrowly tailored means available for law enforcement “to render assistance or mitigate the peril” of a motorist. **See Commonwealth v. Livingstone**, 174 A.3d 609 (Pa. 2007). “It is undeniable that emergency lights on police vehicles in this Commonwealth serve important safety purposes, including ensuring that the police vehicle is visible to traffic, and signaling to a stopped motorist that it is a police officer, as opposed to a potentially dangerous stranger, who is approaching.” **Id.**, at 621.

⁴ Black’s Law Dictionary defines a “peace officer” as either a sheriff or police officer who is appointed to “maintain public tranquility and order[.]” Black’s Law Dictionary (12th ed. 2024). A “constable” is defined in Black’s as a “peace (Footnote Continued Next Page)

enumerating “constable vehicle” in the Vehicle Code’s list of emergency vehicles would have made the Vehicle Code’s definitions internally inconsistent. **See** 75 Pa.C.S.A. § 102.

In upholding the trial court’s ruling that Appellant was not authorized to mount emergency lights, I believe the Majority takes a position that misapplies the law and goes beyond the scope of the matter now before us. First, the Majority overlooks that a constable easily fits the Vehicle Code’s definition of a “police officer” in section 102, instead jumping immediately to an analysis of legislative intent despite the lack of any ambiguity in the term. Second, the Majority effectively rewrites section 102 by interpreting “police officers” to refer only to “persons who have a general authority to make arrests,” beyond the authority of constables. **See** Maj. Op., at 15.⁵ Third, the Majority ignores the questions presented in this appeal by suggesting, in reliance on

officer.” **Id.** Our Supreme Court has referred to constable as a “peace officers.” **In re Act of 147 of 1990**, 598 A.2d 985, 990 (Pa. 1991) (“Simply stated, a constable is a peace officer.”).

⁵ The Majority describes its interpretation of “police officer” in section 102 as a “plain reading,” but it is nothing of the sort. A plain reading would not require the Majority to apply common law to interpret statutorily authorized arrest power. It would not compel the Majority to insert its own additional language into the black letter of the law. By construing “police officers” to mean “only those natural persons who have a general authority to make arrests,” (beyond the authority of constables), Maj. Op., at 15, the Majority has gone out of its way to rewrite an unambiguous statute to reach a desired result.

inapplicable caselaw, that it would be unnecessary and confusing for constables to equip their vehicles with emergency lights.

“[W]here the language of a statute is clear and unambiguous, a court may not add matters the legislature saw fit not to include under the guise of construction.” ***Mohamed v. Commonwealth Dep't of Transp.***, 40 A.3d 1186, 1194–95 (Pa. 2012). The provisions now being examined, sections 102 and 4571, are plain and unambiguous. A constable is a “police officer” under section 102 because the individual is “authorized by law to make arrests for violations of law.” 75 Pa.C.S.A. § 102. A constable’s vehicle, then, is necessarily a “police vehicle,” which is in turn classified as an “emergency vehicle” for the purposes of section 4571. ***See id.*** The lack of ambiguity in these provisions makes it improper for the Majority to engage in further statutory interpretation, and Appellant should prevail under a straightforward application of the law.

Regardless, even if we were permitted to ignore, or go beyond the plain meaning of those statutes, and apply rules of construction, the Majority relies on a faulty premise to justify its affirmance. It simply is not true, as the Majority asserts, that construing the definition of a police officer in section 102 to include constables would “convert every citizen into a police officer,” Maj. Op., at 15, due to their mutual common law power to make arrests for an observed felony.

The disputed definition in section 102 of the Vehicle Code refers to *statutory* authorization to make arrests, which constables notably have, **see** 44 Pa.C.S.A. § 7158(1)-(3), and ordinary citizens notably lack. As was made apparent by the General Assembly, the powers and duties it has conferred upon constables are limited to those which are *legislatively enacted*. **See** 13 P.S. § 40; 44 Pa.C.S.A. § 7158. A constable's authorization "by law to make arrests for violations of law" therefore has nothing to do with the historical common law right of the "citizen's arrest."

Even by the Majority's own logic, the General Assembly could not have intended to convert all ordinary citizens into police officers by virtue of their common law rights. I agree with this. But following the premise to its logical conclusion leads to only one reasonable interpretation – that the General Assembly considered "police officers" to be individuals who are specifically tasked, by statutory enactment, with the job of enforcing the law by making arrests.⁶

⁶ I do not see how the Majority is justified in grafting on vague qualifying terms to section 102. The Majority writes, "Rather, a plain reading of 'police officer' in § 102 leads us to the conclusion that it means only those natural persons who have a general authority to make arrests, *i.e.*, those employed as police officers by police departments." Maj. Op., at 15. This construction supposedly excludes constables, who are authorized to make arrests for "certain violations" of law. **Id.** However, section 102 does not categorize arrest authority in that manner, and the General Assembly would have been fully capable of doing so had that been its intent. Again, section 102 defines a police officer as a person who is "authorized by law to make arrests for violations of law." The definition is clear, and there is no legal basis for the Majority to parse, and gratuitously supplement, the statute's wording.

To the extent that the definition of “police officer” in section 102 is ambiguous (it is not), the only way to give the provision effect is to read it in the manner I have outlined above. This construction, classifying constables as police officers, would also comport with the rule of lenity, which requires us to interpret ambiguous penal statutes in favor of the accused. **See *Commonwealth v. Shiffler***, 879 A.2d 185, 189 (Pa. 2005).

As to the principal cases relied upon by the Majority – ***Commonwealth v. Leet***, 641 A.2d 299 (Pa. 1994), and ***Commonwealth v. Roose***, 710 A.2d 1129, 1330 (Pa. 1998) – I would not find them to be applicable to the matter at hand. In ***Leet***, our Supreme Court held that a sheriff has the power to make a warrantless arrest to enforce motor vehicle violations under the Vehicle Code despite that this power was not statutorily authorized. **See** 641 A.2d at 301. The ***Leet*** Court explained that sheriffs have “always possessed” that authority in common law, and it has never been statutorily abrogated. **See** 641 A.2d at 303.

Conversely, in ***Roose***, our Supreme Court held only that constables lack express statutory authority to enforce motor vehicle laws, and that such authority “cannot be derived from the common law as was the case for sheriffs in ***Leet***[.]” 710 A.2d at 1330. The ***Roose*** Court declined to adopt this Court’s *dictum* in ***Commonwealth v. Roose***, 690 A.2d 268, 269-70 (Pa. Super. 1997), in which we speculated that the constable’s vehicle in that case was not an “emergency vehicle,” and that the constable had violated the

prohibitions of section 4571. The holding was predicated strictly on the absence of any statutory or common law authority allowing constables to conduct traffic stops, **see** 710 A.2d at 1330, which, again, is not at issue in the present appeal.

The limited focus of the holdings in **Leet** and **Roose** prevent either case from having controlling effect here. Unlike in those cases, at issue in this appeal is whether section 4571 allowed Appellant to mount emergency lights on his vehicle. He was permitted to do so if he fit the Vehicle Code's definition of "police officer" in section 102, and he did.

To be sure, **Leet** and **Roose** say nothing about the construction of that definition, or whether a constable is "authorized by law to make arrests for violations of law." Those cases do not contain a single citation to section 102, or otherwise indicate that the issue now before us was even considered. Accordingly, I would find **Leet** to be inapplicable, and I would follow our Supreme Court's lead by declining to adopt the *dictum* in our **Roose** opinion, as doing so here would only thwart the intent of the General Assembly.

Thus, for all of the aforementioned reasons, it my view that Appellant's statutory construction claim is meritorious, and I must respectfully dissent from the Majority's decision on that point.⁷

⁷ As I would hold that Appellant's statutory construction claim entitles him to a new trial, I would find it unnecessary to address his remaining issues.

Third appendix:

“PENNSYLVANIA UNIFIED JUDICIAL SYSTEM CONSTABLE
POLICIES, PROCEDURES AND STANDARDS OF CONDUCT”—

A promulgation by the Pennsylvania Supreme Court,
available online at

[https://www.pccd.pa.gov/training/Pages/
Legislation-and-Regulation.aspx](https://www.pccd.pa.gov/training/Pages/Legislation-and-Regulation.aspx)

... by clicking (therein),

on “Supreme Court Rules for Constables.”

12 pages

**PENNSYLVANIA
UNIFIED JUDICIAL SYSTEM**

**CONSTABLE POLICIES, PROCEDURES AND
STANDARDS OF CONDUCT¹**

**Administrative Office of Pennsylvania Courts
May, 2013**

¹ See Pa.R.J.A. No. 1907.2.

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PREFACE

In Pennsylvania, constables perform numerous important functions at the municipal level and are independent contractors, statutorily authorized to perform services for the courts.

The purpose of the Unified Judicial System Constable Policies, Procedures and Standards of Conduct (Constable Policies), is to establish uniform policies and procedures, as well as standards of conduct for constables engaged to perform services for the courts. The provisions that follow are mandatory, unless expressly stated otherwise. All references to constables herein include elected and appointed constables and deputy constables. A constable's failure to comply with the Constable Policies may render the constable ineligible to receive assignments from the courts or be paid for work performed.

Nothing in the Constable Policies, Procedures or Standards of Conduct are intended to create an employer / employee relationship between the courts and constables. *See In re Act 147 of 1990*, 528 Pa. 460, 598 A.2d 985 (1991).

Constables having questions regarding the Constable Policies, or local policies and procedures should contact their president judge or district court administrator.

I. ADMINISTRATION

A. QUALIFICATIONS

1. Election & Appointment

Constables and deputy constables must be in compliance with all applicable laws, Pennsylvania Commission on Crime and Delinquency (PCCD) Constable Education and Training Board (Board) regulations and certification requirements, requirements of the Ethics Act, *see* Appendix “A”, and the provisions of the Constable Policies in order to be assigned to perform judicial duties.² Compliance with the aforementioned does not entitle a constable to the receipt of judicial duties.

Only individuals who have been elected or appointed to serve as a constable, and who are currently certified by PCCD, may perform or assist in the performance of judicial duties, unless otherwise authorized by law.

2. Registration

Each district court administrator’s office shall maintain a list of constables and deputy constables from their county who are authorized to perform judicial duties. The list shall include those constables who are certified to perform judicial duties by PCCD and who have not been prohibited from receiving judicial duties by the President Judge. The list, and any updates, shall be provided to all magisterial district judges in the judicial district, and, upon request, to any other judge, magisterial district judge or district court administrator.

If a president judge decides that an otherwise certified constable is not to be assigned judicial duties, the district court administrator shall immediately notify the district court administrators of all other judicial districts of this determination.

3. Insurance

A constable must file with the Clerk of Courts proof of current professional liability insurance, covering each individual in the performance of his or her judicial duties with a minimum coverage of \$250,000 per incident and a minimum aggregate of \$500,000 per year. 44 Pa.C.S.A. § 7142(b).

² Throughout the Constable Policies, “judicial duties” refers to those services a constable performs for the courts pursuant to Act 49 of 2009, 44 Pa.C.S.A. §§ 7161-7161.1.

4. Appointment of Deputies

Deputies serve based upon need and at the pleasure of elected constables, subject to approval and appointment as prescribed by law. Deputies must comply with all requirements governing elected constables.

B. CONSTABLE REVIEW BOARD

President Judges may authorize the creation of an advisory board called a Constable Review Board (CRB) to assist in resolving any disputes related to a constable's performance of judicial duties.³ If a CRB is created, the President Judge, in consultation with relevant county officials, should develop filing procedures and guidelines, including notice and opportunity to be heard, and timetables for decisions.

The CRB may receive complaints by or against constables regarding the performance of judicial duties, financial/payment disputes or other matters relevant to a constable's services to the courts. The CRB may then make recommendations to the President Judge regarding the judiciary's continued use of the constable's services, or to the county controller / county executive if the dispute concerns financial or other matters within the county's control.

Any findings of suspected criminal activity shall be forwarded to the county District Attorney. The President Judge shall be notified of any referrals to the District Attorney and shall determine if a constable's services should continue to be used.

It is recommended that membership on a CRB include:

- A Judge of the Court of Common Pleas or Magisterial District Judge
- The District Court Administrator or Special Courts Administrator
- A Certified Constable and an alternate to be used in case of conflict
- The County Controller or his or her designee.

³ If a CRB is created, it is anticipated that the President Judge will appoint members to the CRB. If the county wishes to empower the CRB to make recommendations to the appropriate county individual / agency regarding disputes within the county's purview, the county executive or another member of the county executive branch would also make an appointment to the CRB.

C. FINANCE / PAYMENTS

Each court of common pleas must develop or adopt a form (“payment sheet”) to be used by all constables seeking payment for the performance of judicial duties. Payment sheets submitted by constables must be legible, complete, and contain at a minimum the following information: 1) the defendant’s name; 2) the docket and/or OTN number; 3) the statutorily authorized fees requested, *see* 44 Pa.C.S. A. §§ 7161 and 7161.1; 4) the signature of the constable/deputy constable who is submitting the document; and 5) the signature of the judicial authority who authorized the services to be performed. The President Judge or his or her designee, as well as the county executive / paying agent, may require that additional information be included on payment sheets.

II. EDUCATION

The following section is a summary of the training and certification programs and requirements established by the PCCD pursuant to Act 49 of 2009. *See* 44 Pa. C.S.A. §§ 7141 - 7149 and 37 Pa. Code §§ 431.1 - 431.54 . (This information is provided by the PCCD Constables’ Education and Training Board). This information applies to elected and appointed constables and deputy constables.⁴

1. Requirements for Certification

Act 49 of 2009 established the Constables’ Education and Training Board (Board) as an advisory board of the PCCD and authorized the Board to establish and administer the mandatory training and certification of constables.

2. Training Requirements

Training programs administered by the Board include: basic training (the initial certification of constables) and annual continuing education (the re-certification of constables). Certification is awarded only to individuals who hold the office of constable or deputy constable. Constables/deputy constables must complete these programs in order to receive judicial assignments.

3. PCCD Registration

Act 49 training is available, free of charge, to all elected or appointed constables and deputy constables who are registered with PCCD. Registration is the first step in

⁴Constables and other users of the Constable Policies are advised to review state law and Constable’s Education and Training Board regulations for changes that may occur after this publication.

obtaining certification and allows constables to receive training bulletins, training schedules, and other PCCD communications regarding certification.

4. Training

The Constables' Education and Training Program provides six types of training:

- * 80 hours basic training
- * 20 hours annual continuing education training
- * 40 hours basic firearms training
- * 20 hours annual firearms training
- * 20 hours advanced firearms training
- * Up to 16 hours annual optional training.

Regional contractors offer training from January through October of each year at various locations throughout the state.

A constable must successfully complete basic training in order to obtain initial certification as a constable. Successful completion of continuing education and training every subsequent year is required in order to maintain certification.

Firearms training is optional, as constables are not required to carry firearms in the performance of their duties. However, Act 49 mandates firearms training and certification for any constable who intends to carry a firearm during the performance of his or her constable duties. 44 Pa.C.S.A. §7148.

Note: By the requirements set forth in the Constable Policies, some judicial duties, such as prisoner transports and security, may require a constable to carry a firearm.

A constable must successfully complete basic firearms training one time in order to obtain initial certification to carry a firearm in the performance of constable duties. Following initial firearms certification, successful completion of annual or advanced firearms training every year is required in order to maintain firearms certification

A. Basic Training

A constable must attend basic training only once, as long as he or she maintains certification. If a constable has taken and passed the law enforcement basic training waiver examination, as determined by PCCD, and has been certified by the Board, he or she is not required to attend basic training.

B. Continuing Education

A constable must complete annual continuing education in order to renew his or her certification for the following calendar year. Upon successful completion of

continuing education by October, constables and deputy constables will be issued new certification cards in December, providing certification for the following year.

C. Basic Firearms Training

A constable must be at least twenty-one (21) years of age to attend firearms training. Constables who seek Act 49 firearms certification must first complete Basic Firearms Training. While not mandatory, this training is available to any constable who has completed the 80-hour basic training course, has acquired a certification number, and is not precluded under state or federal law from possessing or using a firearm. Firearms certification is contingent upon a constable passing an annual criminal history record check. Successful completion of the 40-hour Basic Firearms training course is a prerequisite for the Annual Firearms and the Advanced Firearms courses.

D. Annual & Advanced Firearms Training

Constables who are currently in office and have obtained certification through basic training or the waiver examination are authorized to attend firearms training. This training must be completed annually in order to maintain firearm certification. The Annual Firearms course is designed for the average proficiency level shooter while the Advanced Firearms course is for more experienced proficiency level shooters.

III. STANDARDS OF CONDUCT

Scope: "Constable" includes elected and appointed constables and deputy constables.

Standard 1. Adherence to the Unified Judicial System Constable Policies, Procedures and Standards of Conduct

A constable shall adhere to the terms and provisions contained within the Constable Policies. Nothing in the Constable Policies shall prohibit judicial districts from enacting policies and procedures consistent therewith.

Standard 2. Non-Discrimination and Equal Employment Opportunity

A constable shall comply with all provisions of the UJS Policy on Non-Discrimination and Equal Employment Opportunity (attached as Appendix "B"). As "officers serving process or enforcing orders," a constable is included in the policy's definition of "related staff" (as defined in 42 Pa.C.S.A. § 102) and is thus covered by the Supreme Court policy.

Standard 3. Impropriety and Appearance of Impropriety to be Avoided

A constable must respect and comply with the law, and while performing judicial duties, shall conduct him or herself in a manner that promotes public confidence in his or her integrity and impartiality. A constable shall not allow family, social or other relationships to influence his or her conduct while performing judicial duties. A constable shall not lend the prestige of his or her office to advance the private interests of others, nor shall he or she convey or permit others to convey the impression that they are in a special position to influence the constable in the performance of judicial duties.

Standard 4. Business of the Office of Constable

A constable shall devote the time necessary for the prompt and proper performance of judicial duties.

Standard 5. Solicitation of Funds

A constable shall not solicit funds for any educational, religious, charitable, fraternal, political or civic organizations while performing judicial duties.

Standard 6. Political Activity

A constable shall not engage in partisan political activity while performing judicial duties.

As used in this Rule, the term “partisan political activity” shall include, but is not limited to: running for public office; serving as a party committee-person; working at a polling place on Election Day, except as part of the constable’s statutory duties; performing volunteer work in a political campaign; soliciting contributions for political campaigns; and soliciting contributions for a political action committee or organization, but shall not include involvement in non-partisan or public community organizations or professional groups.

This prohibition applies only while constables are performing judicial duties. It is not a complete ban on all political activity.

Standard 7. Professionalism

A constable shall conduct him or herself in a professional, courteous and respectful manner when interacting with the public and the courts.

Standard 8. Confidentiality

A constable shall not disclose personal or confidential information obtained while performing judicial duties, except as authorized by law. A constable shall neither access directly, nor request through an individual with authorized access, information contained within criminal justice agency databases, unless expressly authorized to do so by law,

Supreme Court rule, AOPC policy, or by the court on a case-by-case basis. Criminal justice agency databases include, but are not limited to, the Pennsylvania Justice Network (JNET), the Commonwealth Law Enforcement Assistance Network (CLEAN), and the Federal Bureau of Investigation's National Crime Information Center (NCIC).

IV. SECURITY AND TRANSPORTS

The following procedures set forth the minimum standards to be implemented by constables and deputy constables while performing judicial duties, including but not limited to the transportation of defendants to and from magisterial district courts and the performance of security within a magisterial district court facility.

A. Certification & Clearances

A constable may only perform judicial duties for the courts if he or she has been certified by the Constables' Education and Training Board pursuant to 44 Pa.C.S.A. § 7142.

B. Weapons

No constable shall carry a firearm in the performance of judicial duties unless he or she has received firearm certification pursuant to 44 Pa.C.S.A. § 7144 and complied with all regulations established by the Constables' Education and Training Board.

C. Attire

A constable shall carry identification and wear clothing that clearly identifies him or her as a constable while performing judicial duties.

D. Security at a Magisterial District Court Facility

1. When providing security at a magisterial district court, a constable:
 - a. shall conduct a search of prisoner hold areas, restrooms, and any other areas of the magisterial district court facility accessible by prisoners prior to allowing them to occupy such areas;
 - b. shall observe all actions of those within the court facility to ensure the safety of the public, the parties, court staff, and the magisterial district judge, and be prepared to act swiftly should the need arise;
 - c. shall prohibit any direct or indirect contact within the magisterial district court facility between a defendant and family members,

friends, or members of the public unless authorized by the magisterial district judge;

- d. shall search all defendants prior to handcuffing and shackling of the waist and/or ankles.⁵ Concerns regarding the use of restraints on a defendant while in a magisterial district court facility or during proceedings should be discussed with the magisterial district judge; and
 - e. shall, when carrying a firearm, secure the weapon in a Level 2, or higher, security holster.
2. High-Profile/High-Risk Cases: In addition to the requirements set forth above, the following shall also be observed when providing security at a magisterial district court in a proceeding that has been deemed high-profile and/or high-risk by the magisterial district judge and/or the President Judge of the judicial district or his or her designee:
- a. As many constables as necessary shall be present to ensure safety and security⁶;
 - b. Two fire armed, certified constables shall transport the defendant(s) to and from the magisterial district court, unless directed otherwise by the President Judge.⁷

E. Vehicles

Vehicles used for the transportation of defendants shall:

1. comply with applicable law and regulations, including the provisions of the Pennsylvania Motor Vehicle Code (Title 75);

⁵ It is recommended that a transport belt with an integrated “D” ring be used around the defendant’s waist. It is further recommended that all handcuffs and shackles should be double-locked for added security.

⁶ For example, a constable may be stationed at the court entrance with a metal detector wand while another is assigned to monitor activity within the courtroom and another to escort defendants to and from a holding cell. It is recommended that constables assigned to maintain physical custody of defendants should not be assigned to or perform other court security duties.

⁷ A President Judge may waive or amend this requirement in individual cases, or in a class of cases.

2. be maintained in a roadworthy condition to ensure the safety of its occupants and the public;
3. contain a cage behind the driver's seat and in front of the back passenger seat for purposes of creating separate and secure areas of the vehicle for the constable and the defendant(s). Cages shall be permanent, rather than temporary, and of the same type and quality used in police and sheriff vehicles; and
4. include functioning window and child safety door locks.

F. Transports

While transporting a defendant to and from court, the following provisions apply.

1. Each transport to and from a magisterial district court or other court facility⁸ shall include at least one certified fire armed constable, unless directed otherwise by the President Judge.⁹
2. Each transport shall include at least one of the following forms of two-way communication: i) two-way radio or ii) cellular phone.
3. A constable shall not transport a number of defendants that is greater than the number of seatbelts present in the secure area of the vehicle, in accordance with applicable provisions of the Pennsylvania Motor Vehicle Code (with the exception of a specially-adapted van without seatbelts, such as a prisoner transport van).
4. The constable shall search the transport area of the vehicle prior to and following each transport.
5. The constable shall, in the event of an escape or other security breach during a transport, immediately contact 911 or, if applicable, the local emergency communications center, and then notify the magisterial district judge who issued the transport or commitment order.

⁸ Magisterial district court includes not only the established magisterial district court office, but also any other facility that may be used by that court to conduct judicial business.

⁹ A President Judge may waive or amend this requirement in individual cases, or in a class of cases.

Final (4th) appendix:

Hypothetical examples of “public policy” damage:

Attached are 2 examples, which are 100% *realistic* of what can be happening, right now, “in the field,” due to the holdings of the merits panel.

(As to *how realistic* - - all of them are, in fact, not just realistic, but *real*.)

- 1 page from State Police (MPOETC, the statewide municipal police officers’ training & certification agency)
- 1 page from Wilkes-Barre police

There are many more, including dozens of facebook posts by, to, among, and against Constables. Here, only these two (2) police bulletins are reproduced in the instant appendix - - mostly because these

From MPOETC—February 19, 2025

Type: Legal Update

Title: Emergency Lighting

**Content: Commonwealth v. Wiggs
641 MDA 2023 (2/6/2025) (SUPERIOR
COURT)**

Facts: On June 15, 2021, a Pennsylvania State Police Trooper observed a “fully marked” black and white Ford Crown Victoria-style constable vehicle that was equipped with a light bar. The Trooper had been aware of a previous complaint of the described vehicle, with red and blue lights. The vehicle was determined to be registered to the appellant, Steven Ahmad Wiggs.

When stopped, Wiggs was armed and in his “constable uniform”. Wiggs advised the Trooper that, “constables are police officers” and therefore “allowed to have red and blue lights”. The appellant conceded that the lights were red and blue when he explained to the Trooper that the Pennsylvania State Police had previously seized the same vehicle and cited him for having the red and blue lights on it. The citation was dismissed, for unknown reasons, and the vehicle was returned to Wiggs with the red and blue lights intact. Wiggs advised the trooper that he ignored the State Police request to remove the lights because he had won the case at to whether he could use the lights.

Wiggs was issued a citation for violation of Title 75 Pa.C.S. § 4571(b)(1) *Visual and audible signals*

on emergency vehicles. He was found guilty by the Magisterial District Judge (“MDJ”). Wiggs filed a summary appeal in the Perry County Court of Common Pleas. The court found Wiggs guilty and imposed fines and costs.

ISSUE: Is a constable a police officer, and by extension, a constable vehicle a police vehicle as it pertains to § 4571(b)(1) *Visual and audible signals on emergency vehicles*.

Ruling: No, constables are not police officers, and therefore constable vehicles are not police vehicles.

The Superior Court relied on § 4571(b)(1) and §102 of the Vehicle Code to define “emergency vehicle”. The Superior Court’s interpretation of the two sections is as follows: “Throughout the Vehicle Code, constables are deemed distinct from police officers as they are consistently listed separately”. According to the Superior Court, “our General Assembly did not include private vehicles utilized by constables as one of the enumerated vehicles authorized to utilize red and blue lights within the text of § 4571 or in the definition of “emergency vehicle” in § 102.

The below Link was included by MPOETC at the end of the above MPOETC “Legal Update” notification.

Commonwealth v. Wiggs 641 MDA 2023 (2/6/2025)

(Emphasis added)

Posted on facebook by the Wilkes-Barre Township Police Department

New Case Law Ruling:

Is a constable a police officer, and by extension, a constable vehicle a police vehicle as it pertains to § 4571(b)(1) Visual “red/blue” and audible signals on emergency vehicles.

Ruling:

No, constables are not police officers and therefore constable vehicles are not police vehicles. (Not to be confused with the fact that constables DO have certain arrest powers)

The court relied on § 4571(b)(1) and §102 of the Vehicle Code to define “emergency vehicle”. The courts’ interpretation of the two sections is as follows:

“Throughout the Vehicle Code, **constables are deemed distinct from police officers** as they are consistently listed separately”.

According to the court,

“our General Assembly did not include private vehicles utilized by constables as one of the enumerated vehicles authorized to utilize red and blue lights within the text of § 4571 or in the definition of “emergency vehicle” in § 102.

Opinion: <http://www.pacourts.us/assets/opinions/Superior/out/J-A11008-24o%20-%20106264627299005878.pdf?cb=1>