

Hearsay Cases are getting overturned

It must be emphasized that the prima facie standard requires that the Commonwealth's evidence must establish that the crime has been committed. Commonwealth v Prado, supra; Commonwealth v Mullen, supra; Commonwealth v Berlin, 294 Pa. Super 470, 440 A.2d 562 (1982) Commonwealth v Beatty, 281 Pa. Super. 85, 421 A.2d 1159 (1980); Commonwealth v Gordon, 254 Pa. Super. 267, 385 A.2d 1013 (1978).

To satisfy this requirement, the evidence must show that the existence of each of the material elements of the charge is present, see, e.g., Garabedian v Superior Court, 59 Cal. 2d 124, 28 Cal. Rptr. 318, 378 P. 2d 590 (1963) People v Treat, 193 Colo, 570, 568 P. 2d 473 (1977); People v Hodge, 53 N.Y. 2d 313, 414 N.Y.S. 2d 231, 423 N.E. 2d 1060 (1981) State v Olsen, 75 Wis. 2d 575, (466 A. 2d 997 (250 N.W. 2d 12 (1977)

That's a lot to start out with, every claim you make has to have case law behind it, preferable reversed & remanded cases. What is Hearsay? According to Pa. R. Evidence 801, Hearsay is any statement made out of court used to prove the truth of the matter asserted. If a statement was made out-of-court it is less valuable evidence than a statement made-in-court.

The Confrontation Clause of the Sixth Amendment to the United States Constitution provides that "in all criminal prosecutions, the accused shall enjoy the right, to be confronted, with the witnesses against him. Hearsay also implicates the Confrontation Clause.

If the government uses nothing but hearsay (out-of-court statements), the attorney cannot cross examine or scrutinize the person in-court. In court a witness may change their story, appear nervous or unreliable, or explain something differently than out-of-court. Also, another thing, the person out-of-court is not under oath. For these reasons, the PA Rules of evidence precludes hearsay in many situations.

The case of McClelland II (2020) has put an end to illegal hearsay. A prima facie case cannot rely solely on hearsay there has to be physical evidence that a crime has been committed. The courts cannot use exclusively out-of-court statements (unreliable hearsay) to hold a case for court.

The Rule 542E has been amended, the Pennsylvania Supreme Court has reaffirmed that the Preliminary Hearing is an important proceeding that protects the individual against unlawful detention. If all the evidence presented against the defendant at preliminary hearing or trial court. The case can be thrown out. Jot down anything you can think of that was said or used to convict you, by the Commonwealth, they couldn't prove. Write to your clerk of courts and ask for the material evidence the Commonwealth used to prove the "statement" used against you is truth, but does not exist, nor even from anyone never existed, that's "illegal hearsay". Then write a Petition to the Courts to provide the "disc overy used against you to convict" from the District Attorney's Office, and your trial attorney. Now your

in the fight back for real justice. Once they affirm that the material evidence is non-existent, write to the Honorable Judge. Then if no response, the higher courts,

Let's proceed further on... It's very important!

On July 21, 2020, The Pennsylvania Supreme Court overturned a 2015 case that prosecutors relied on the use of "hearsay" testimony solely to sustain their burden at Preliminary hearings. The ruling in *Commonwealth v. McClelland 2* (2020) overturns what has become known as the "Ricker Rule" referring to the 2015 case of *Commonwealth v. Ricker*.

At the preliminary hearing stage of a criminal prosecution, the prosecutor must present a "prima facie" case that criminal charges should proceed to trial. The system is designed to ensure that an independent magistrate determines whether a criminal prosecution should proceed, and the preliminary hearing acts as a safe guard against someone being charged with a crime with insufficient evidence.

Prior to the Ricker decision, hearsay testimony alone was insufficient for a prosecutor to sustain its burden, therefore, witnesses were required to provide testimony and be subject to cross examination. The Pennsylvania Superior Court's ruling in *McClelland 2* overturns the "Ricker Rule" and restores rights to individuals who are charged with a crime. Check this out, great stuff.

"Upon careful review," held the Superior Court erred to the extent it concluded hearsay evidence alone is sufficient to establish a

prima facie case at a preliminary hearing. Accordingly, we reverse the Superior Court's decision in this matter and disapprove the Superior Court's prior decision in Rucker, which similarly concluded hearsay evidence alone is sufficient to establish a prima facie case at the preliminary hearing." The Supreme Court announced in McClelland II (2020)

While hearsay evidence remains admissible at preliminary hearings, it now cannot serve as the sole basis of a prima facie case, at trial.

If you have a hearsay Court case based on "solely hearsay" and the hearsay is obvious perjury by Commonwealth witnesses and prosecution. Call them out and get out of prison.

Note: PCRA untimeliness doesn't apply if you are proving an actual innocence case, with "newly discovered evidence" not available or known before this time.

Points to look up at your law libraries

- 1) The amended PA Rule 542E
- * 2) Commonwealth v McClelland II (2020)
- 3) Commonwealth v Rucker (2015)
- 4) Commonwealth v Vanie Haskell (2018) perjury

Tell a friend!