

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CAMBRIA



POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA

VS.

DEFENDANT:

(NAME and ADDRESS):

Magisterial District Number: 47-1-01
MDJ: Hon. Michael Musulin
Address: Central Park Complex
110 Franklin Street
Johnstown, PA 15901
Telephone: (814)539-9982

RICHARD J **GREEN**
First Name Middle Name Last Name Gen
239 Wall Street
Windber, PA 15963

NCIC Extradition Code Type

- 1-Felony Full
- 2-Felony Limited
- 3-Felony Surrounding States
- 4-Felony No Extradition
- 5-Felony Pending Extradition
- 6-Felony Pending Extradition Determ.
- A-Misdemeanor Full
- B-Misdemeanor Limited
- C-Misdemeanor Surrounding States
- D-Misdemeanor No Extradition
- E-Misdemeanor Pending Extradition
- F-Misdemeanor Pending Extradition

DEFENDANT IDENTIFICATION INFORMATION

Docket Number CR-120-20	Date Filed 4/24/20	OTN/LiveScan Number U 868997-3	Complaint/Incident Number BN4028618C/MF 104507D	Request Lab Services? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
GENDER <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	DOB 5/15/1955	POB	Add'l DOB / /	Co-Defendant(s) <input checked="" type="checkbox"/>
First Name		Middle Name		Last Name
AKA				
RACE <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Unknown	ETHNICITY <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic <input type="checkbox"/> Unknown			
Hair Color <input type="checkbox"/> GRY (Gray) <input type="checkbox"/> BLK (Black) <input type="checkbox"/> BLN (Blonde / Strawberry)	<input type="checkbox"/> RED (Red/Aubn.)	<input type="checkbox"/> SDY (Sandy)	<input type="checkbox"/> BLU (Blue) <input checked="" type="checkbox"/> XXX (Unk./Bald)	<input type="checkbox"/> PLE (Purple) <input type="checkbox"/> GRN (Green)
Eye Color <input type="checkbox"/> BLK (Black) <input checked="" type="checkbox"/> HAZ (Hazel)	<input type="checkbox"/> BLU (Blue) <input type="checkbox"/> MAR (Maroon)	<input type="checkbox"/> BRO (Brown) <input type="checkbox"/> PNK (Pink)	<input type="checkbox"/> GRN (Green) <input type="checkbox"/> MUL (Multicolored)	<input type="checkbox"/> GRY (Gray) <input type="checkbox"/> XXX (Unknown)
DNA <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DNA Location			WEIGHT (lbs.) 200
FBI Number	MNU Number			Ft. HEIGHT In. 6 0
Defendant Fingerprinted <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Fingerprint Classification:			

DEFENDANT VEHICLE INFORMATION

Plate #	State	Haz mat <input type="checkbox"/>	Registration Sticker (MM/YY) /	Comm'l Veh. Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code	Reg. same as Def. <input type="checkbox"/>
VIN	Year	Make	Model	Style	Color		

Office of the attorney for the Commonwealth Approved Disapproved because: _____

(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P. 507).

SDAG JEFFREY BAXTER (Name of the attorney for the Commonwealth) VIA EMAIL (Signature of the attorney for the Commonwealth) 4/17/2020 (Date)

I, **NA MATTHEW MASSARO/SA ALBERT RIVARDO III** **BADGE #627/#552**
(Name of the Affiant) (PSP/MPOETC -Assigned Affiant ID Number & Badge #)

of **Pennsylvania Office of Attorney General** **PA0222400**
(Identify Department or Agency Represented and Political Subdivision) (Police Agency ORI Number)

do hereby state: (check appropriate box)

1. I accuse the above named defendant who lives at the address set forth above
 I accuse the defendant whose name is unknown to me but who is described as _____

I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have therefore designated as John Doe or Jane Doe with violating the penal laws of the Commonwealth of Pennsylvania at [301] **213 Vine Street, Johnstown, Pa**
15901 (Subdivision Code) (Place-Political Subdivision)

in CAMBRIA County [11] on or about **APRIL 21, 2016 - MAY 28, 2018**
(County Code)



POLICE CRIMINAL COMPLAINT

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Defendant Name: First: RICHARD	Middle: J	Last: GREEN
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The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically. (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA.Code §§ 213.1 – 213.7.)

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____
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<input checked="" type="checkbox"/> Lead?	1	2506	a	of the	TITLE 18	1	F1		
Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code		

<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance): **PENNSYLVANIA CRIMES CODE TITLE 18; 2506(A); DRUG DELIVERY RESULTING IN DEATH**

Acts of the accused associated with this Offense: (a) Offense defined.--A person commits a felony of the first degree if the person intentionally administers, dispenses, delivers, gives, prescribes, sells or distributes any controlled substance or counterfeit controlled substance in violation of section 13(a)(14) or (30) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, and another person dies as a result of using the substance. To wit: Between May 7, 2018 and May 24, 2018 the defendant prescribed controlled substances in violation of 780-113(a)(14) to patient, Sherrie Istvan, who on May 28, 2018, died as a result of using those substances.

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____
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<input type="checkbox"/> Lead?	2	1407	(a)(6)	of the	TITLE 62	1	F3		
Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code		

<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance): **PENNSYLVANIA CRIMES CODE TITLE 62; 1407(A)(6); POOR PERSONS AND PUBLIC WELFARE-PROVIDER PROHIBITED ACTS**

Acts of the accused associated with this Offense: Between April 21, 2016 and May 28, 2018 the defendant knowingly or intentionally referred a recipient to another provider by prescription for services or supplies which are below accepted medical treatment standards, or are unneeded by the recipient. To wit: The defendant prescribed controlled substances and other medications to medical assistant recipient, Sherri Istvan that were below accepted treatment standards and/or were unneeded by the patient resulting in provider pharmacies billing the Pennsylvania Medical Assistance program for payment.

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____
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<input type="checkbox"/> Lead?	3	780-113	(a)(14)	of the	TITLE 35	1	F		
Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code		

<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance): **THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT; APRIL 1972; TITLE 35; 780-113; (A) (14)**

Acts of the accused associated with this Offense: Between April 21, 2016 and May 28, 2018, the defendant prescribed controlled substances as a practitioner that were not in good faith in the course of his professional practice and/or were not in accordance with the treatment principles accepted by a responsible segment of the medical profession. To wit: The defendant prescribed various controlled substances to patient, Sherri Istvan, that were not in good faith and/or were not in accordance with the treatment principles accepted by a responsible segment of the medical profession.

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POLICE CRIMINAL COMPLAINT

Docket Number: CR-120-20	Date Filed: 4/24/20	OTN/LiveScan Number U 868 997-3	Complaint/Incident Number
Defendant Name:	First: RICHARD	Middle: J	Last: GREEN

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____
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<input type="checkbox"/>	4	2504	a	of the	TITLE 18	1	M1		
Lead?	Offense#	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance): **PENNSYLVANIA CRIMES CODE TITLE 18; 2504(A); INVOLUNTARY MANSLAUGHTER**

Acts of the accused associated with this Offense: On or about May 28, 2018, Sherri Istvan died as a direct result of the doing of an unlawful act in a reckless or grossly negligent manner or the doing of a lawful act in a reckless or grossly negligent manner. To wit: The defendant prescribed controlled substances to patient, Sherri Istvan, in violation of 780-113(a)(14) which was an unlawful act done in a reckless or grossly negligent manner and/or he prescribed controlled substances which were done as a lawful act done in a reckless or grossly negligent manner and it resulted in the death of Sherri Istvan.

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____
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<input type="checkbox"/>				of the					
Lead?	Offense#	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
-------------------------------------	-----------------	-------------------------------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance):

Acts of the accused associated with this Offense:

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903	Number of Victims Age 60 or Older _____
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<input type="checkbox"/>				of the					
Lead?	Offense#	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Interstate	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
-------------------------------------	-----------------	-------------------------------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance):

Acts of the accused associated with this Offense:



POLICE CRIMINAL COMPLAINT

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Defendant Name:	First: RICHARD	Middle: J	Last: GREEN

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.
- This complaint consists of the preceding page(s) numbered 1 through 3.
- I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.

(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

NA M. MASSARO/SA A. RIVARDO

(Date)

(Year)

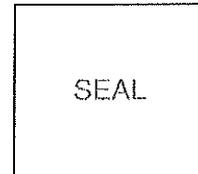
Agent [Signature] / SA [Signature]
(Signature of Affiant)

AND NOW, on this date 4/24/2020 I certify that the complaint has been properly completed and verified.

An affidavit of probable cause must be completed before a warrant can be issued.

47-3-07
(Magisterial District Court Number)

[Signature]
(Issuing Authority)





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Defendant Name:	First: RICHARD	Middle: J	Last: GREEN

AFFIDAVIT of PROBABLE CAUSE

Your Affiants are Narcotics Agent Matthew Massaro and Special Agent Albert J. Rivardo, III, of the Pennsylvania Office of Attorney General, Commonwealth of Pennsylvania.

In 2017, the Pennsylvania Office of Attorney General started receiving complaints regarding overprescribing of narcotic medications and in 2018 Medicaid Fraud by the defendant, Dr. Richard J. Green. The defendant is a licensed medical doctor in Pennsylvania and he is registered with the United States Drug Enforcement Agency to write prescriptions for Schedule II, III, IV and V Controlled substances. The defendant practices family medicine at 213 Vine Street, Johnstown, PA 15901.

During the investigation, it was discovered that the Drug Enforcement Agency (DEA) also received complaints regarding the defendant's prescribing habits. Through collaboration with the DEA, your Affiants identified and interviewed several former patients and former employees of the defendant. During those interviews, Affiants learned about the inner workings of the defendant's prescribing and office procedures. The description of treatment was consistent among the interviewed patients regarding their experiences with the defendant. On arrival by a patient, the lobby at the defendant's office was usually full. The patient would check in and be taken back by one of the front office staff and placed into an exam room. The defendant would enter the exam room and conduct a very brief exam by listening to the patient's heart and lungs, grabbing their ankles and sometimes checking blood pressure. The defendant would ask simple questions about the patients' ailments and provide a prescription for a one month supply of narcotics without doing any further physical exam of the ailments described by the patient. Patients estimated this entire encounter as occurring within approximately 5-10 minutes. It was also consistent that none of the interviewed patients were ever sent for further testing, physical therapy or alternative treatment for their described ailments.

One of the former patients interviewed was J.M. Agent Rivardo interviewed J.M. regarding his treatment from the defendant as well as the treatment of J.M.'s longtime girlfriend, Sherri Lynn Istvan, who is now deceased. J.M. stated that he attributed Istvan's overdose death to the overprescribing of narcotics by the defendant. J.M. advised that Istvan had been a patient of the defendant's for over 20 years and that he was a patient of the defendant's for over two years. J.M. stated that at his first appointment with the defendant he told the doctor that he had knee and rotator cuff pain at which time the defendant asked him, "What do you need." J.M. stated that he asked for and received a written prescription for 90, 10mg Percocet (Oxycodone) tablets. J.M. further stated that he would ask for and receive more Percocet tablets increasing to a 120 count and eventually to a 150 count per month. J.M. advised that when he asked the defendant to increase the amount of Percocet tablets he would always say, "Sure." J.M. stated that he and Istvan both received prescriptions for 150; 10mg Percocet tablets a month and Xanax (Istvan 2mg and J.M. 0.5 to 1mg) every month as well.

J.M. advised that he and Istvan went to their monthly appointment at the defendant's office on Thursday May 24, 2018 to obtain their prescriptions. They filled the prescriptions in Johnstown and then went to a motel. J.M. advised that he and Istvan would usually go to the motel after getting their narcotics and would crush and snort their Percocet and Xanax. J.M. further advised that Istvan would also ingest the Seroquel that the defendant prescribed to her. J.M. stated that several days after receiving the prescriptions, he found Istvan in the motel room bed deceased.

J.M. stated that he felt that the defendant was prescribing too many Xanax to Istvan. J.M. advised that he warned the defendant that Istvan was "out of control" and asked him to stop giving her Xanax six or seven different times. J.M. stated that he also questioned the defendant about the amount and quantity of Seroquel he was prescribing Istvan.

When questioned about the examinations that the defendant would provide them on their monthly visits, J.M. stated that the exams were quick and would only take approximately 60 – 90 seconds and that the defendant



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would only check their hearts with a stethoscope, and grab their ankles. He then advised that the defendant would provide them their prescriptions and they would leave only being in the exam room for approximately four minutes. J.M. stated, "It was so easy to get the scripts."

J.M. was asked if the defendant ever ordered x-rays or MRI tests in an attempt to verify their ailments at which he responded "no". J.M. also advised that the defendant never referred him or Istvan to other doctors or specialist for their ailments, nor did he ever change their drugs or talk to them about alternatives to drug use such as physical therapy, or a referral to a pain clinic. J.M. stated that the defendant never drug tested either one of them the entire time they went to him or ever discussed with them the risks of drug dependency.

Agent Rivardo requested and received the Record of Autopsy, Toxicology Report and Coroner's Summary Report for Istvan. According to the aforementioned reports, the date of death for Istvan is listed as May 28, 2018. The reported results on the Record of Autopsy by Pathologist Kevin D. Whaley, MD listed the cause of death for Istvan as Acute Alprazolam, Oxycodone, and Quetiapine Toxicity. The Coroner's Summary Report lists the manner of death for Istvan as accidental and the cause of death as Acute Alprazolam, Oxycodone, and Quetiapine Toxicity. Those drugs are consistent with the prescription drugs Istvan was receiving from the defendant in that the brand name for Alprazolam is Xanax, Percocet is the brand name for a combination of Oxycodone and Acetaminophen, and the brand name for Quetiapine is Seroquel.

A copy of Istvan's patient file/medical record was obtained from a search warrant executed on March 12, 2020. A copy of Istvan's patient files/medical records was provided to Commonwealth expert Dr. Stephen Thomas on March 13, 2020. Dr. Thomas is recognized as an expert in pain management and has testified in both state and federal cases. Dr. Thomas reviewed Istvan's patient files/medical records and provided his opinion regarding the defendant's prescribing of narcotics to Istvan, and her subsequent death. Part of Dr. Thomas' conclusion reads as follows:

"The medical record established that Ms. Istvan was admitted to hospital on August 26, 2013, January 19, 2014, September 18, 2014, April 21, 2016, and December 11, 2017, for the treatment of drug overdoses. The majority of the urine drug screens in the medical record were performed at these emergent encounters and most of these were of presumptive, rather than definitive, in type. For each of these, except for the one performed on April 21, 2016, the drugs identified were those prescribed by Dr. Green. According to history, on April 21, 2016, the patient and her fiance took and overdosed on Heroin."

"The overwhelming evidence associated with these five overdoses was that the primary drugs involved were those supplied by Dr. Green."

"In the remainder of Dr. Green's records and progress notes, there was not a single mention of any of these overdoses. There was not a single medical response to these life-threatening events associated with the prescription of controlled substances. After the December 11, 2017 overdose, on December 22, 2017, Dr. Green did manage to perform a urine drug screen. It was positive for the prescribed Oxycodone and its metabolites, Alprazolam and Quetiapine. Notably absent were Tramadol and Temazepam. Dr. Green again exhibited no medical response to the absence of drugs that he was allegedly prescribing. Thus, a patient who has had five life-threatening events associated with the use of drugs who was clearly noncompliant, who had used Heroin, who had used Cocaine, who had been detoxified from alcohol, who was an ongoing Nicotine addict and suffered from multiple psychiatric diagnoses, was clearly at an exceedingly high risk with respect to the prescription of controlled substances. Clearly, based upon the discussion above, I believe that much of Dr. Green's controlled substances prescribing was substandard in its documentation and execution. That said, it is my opinion that all of the controlled substances prescribing that occurred after the April 21, 2016 Heroin overdose that required intubation and mechanical ventilation was not for a medically legitimate purpose in the usual course of professional practice."

AKM

FRL



POLICE CRIMINAL COMPLAINT

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"In response to the exceedingly high-risk with which Ms. Istvan presented, Dr. Green simply continued to refill her medications, ignoring every event and behavior. In this context, the only reasonable conclusion is the prescriptions of controlled substances that led to Ms. Istvan's overdose and death were not dispensed for a medically legitimate purpose in the usual course of professional practice. Likewise, Dr. Green prescribed these drugs, while ignoring relevant appropriate history, absent pertinent physical examination, bereft of monitoring of medication taking behaviors, lacking consideration of drug-drug interactions, or consideration of the patient's mental health history. As such, that prescribing in the documented fashion was reckless to the extent that it would be reasonably anticipated that she would likely experience another overdose. To fail to respond to the multiplicity of life-threatening events was to act in a manner that was counter to the accepted treatment principles of any responsible segment of the medical community and placed the observed prescribing behavior outside of the bounds of medical practice in the treatment of chronic pain. But for this unreasonable and reckless prescribing, the patient would not have overdosed and died on May 28, 2018."

Furthermore, as mentioned above, Dr. Green continued to prescribe controlled substances and write prescriptions to Mrs. Istvan after she had overdosed on Heroin on April 21, 2016. Dr. Thomas opined that all of the controlled substances prescribing that occurred after the April 21, 2016 Heroin overdose that required intubation and mechanical ventilation was not for a medically legitimate purpose in the usual course of professional practice. As such the controlled substances that were prescribed to Mrs. Istvan were filled at pharmacies in Johnstown which were enrolled as Medicaid providers and subsequently were paid via Medicaid funds. The total amount of Medicaid funds that were paid for the controlled substances after the April 21, 2016 Heroin overdose was \$4,289.93.

I, NA MATTHEW MASSARO/SA ALBERT RIVARDO III, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

I CERTIFY THAT THIS FILING COMPLIES WITH THE PROVISIONS OF THE CASE RECORDS PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA THAT REQUIRE FILING CONFIDENTIAL INFORMATION AND DOCUMENTS DIFFERENTLY THAT NON-CONFIDENTIAL INFORMATION AND DOCUMENTS.

Agent Matthew Massaro / S.A. Albert Rivardo III
 (Signature of Affiant)

Sworn to me and subscribed before me this 24th day of April 2020
 _____ Date Frederic Cleary, Magisterial District Judge

My commission expires first Monday of January, 2024

