

LibertyWatch

A Publication of the Pennsylvania Association of Criminal Defense Lawyers January 2007

Welcome to *LibertyWatch*. Katharine R. Allen covered the United States Supreme Court, the U.S. Court of Appeals for the Third Circuit, the Pennsylvania Supreme Court, and the Pennsylvania Superior and Commonwealth Courts for the month of December, 2006. We are necessarily selective in our coverage and no newsletter can substitute for diligent research and innovative analysis. The cases can be found in full at: www.aopc.org. If you prefer NOT to receive *LibertyWatch* via e-mail, kindly so inform us so that we may delete your e-mail from our records.

UNITED STATES SUPREME COURT DECISIONS

Criminal Procedure — Due Process

Carey v. Musladin, 05-785. Opinion by Thomas, J., 12/11/06.

The grant of *habeas* relief by the Ninth Circuit in a first-degree murder case was vacated. The court erred in concluding that buttons displaying the victim's image worn by the victim's family during appellant's trial denied appellant his right to a fair trial.

UNITED STATES COURT OF APPEALS, THIRD CIRCUIT DECISIONS

Mandatory Victims — Restitution Act

U.S. v. Fallon, No. 03-4184. Opinion by Sloviter, J., 12/12/06.

In the context of restitution and the Mandatory Victims Restitution Act (MVRA), where the government demonstrates that a business transaction was consummated due to fraud by the defendant, a commonsense, but rebuttable inference arises that subsequent losses suffered by the victim of the fraud are sufficiently linked to the underlying fraud to support an award of restitution. However, where, as here, appellant was able to rebut the amount of ordered restitution such that there was a question as to whether some victims' claims of loss were unrelated to appellant's 510(k) FDA fraud, the trial court's blanket restitution order may not stand.

Criminal Procedure — Evidence — *Habeas Corpus*

Wright v. Vaughn, No. 04-3457. Opinion by Sloviter, J., 12/26/06.

Denial of a petition for a writ of *habeas corpus* brought by an individual serving a life sentence for second-degree murder is affirmed where: 1) petitioner's lawyer on direct appeal was not constitutionally ineffective in allegedly inadequately presenting a claim that trial counsel was ineffective for failing to call petitioner's alibi witness; 2) prosecutorial misconduct claims were either defaulted or without merit; and 3) erroneous rulings by the trial court on the scope of a witness's cross-examination were not so defective as to amount to constitutional error.

Criminal Procedure — Due Process

U.S. v. Harris, No. 05-2016. Opinion by Van Antwerpen, J., 12/29/06.

While agreeing that the prosecution's questions of one witness asking whether another is lying are inappropriate, the Court upheld appellant's conviction for being a felon in possession of a firearm. The Court rejected appellant's claim that he was denied a fair trial because: 1) he was improperly cross-examined by the government about the credibility of police witnesses; 2) the prosecutor improperly vouched for the credibility of government witnesses during summation; and 3) he was not permitted to question a witness about testimony in an unrelated case that may have shown a particular racial bias on the part of the witness.

Criminal Procedure — Health Care Fraud

U.S. v. Jones, No. 05-4898. Opinion by Restani, J., 12/28/06.

A methadone clinic worker's conviction and sentence for health care fraud are reversed and vacated respectively where the government did not establish the elements of health care fraud in violation of 18 U.S.C. § 1347(2), as it failed to show any type of misrepresentation by appellant in connection with the delivery of, or payment for, health care benefits, items or services.

PENNSYLVANIA SUPREME COURT DECISIONS

Fourth Amendment — Underage Drinking — Warrantless Detention of Large Group — Individualized Suspicion

Cmwlth. v. Mistler, et al, Nos. 154–161 MAP 2005. Opinion by Newman, J.,

Where undercover alcohol agents entered a fraternity party without a warrant, called local police who also entered without a warrant and then proceeded to question and detain all minor party attendees without individualized suspicion, the stop violated both the 4th Amendment of the U.S. Constitution and Article 1 of the Pennsylvania Constitution. In so holding the Court noted that the actions of the police officers were geared toward general crime control and the discovery of ordinary criminal wrongdoing and reiterated the United States Supreme Court has found these purposes insufficient to justify a suspicionless stop.

Fetal Homicide — Constitutionality — Criminal Procedure — Jury Instruction, Voluntary Manslaughter of Unborn Child

Cmwlth v. Bullock, No. 111 MAP 2005. Opinion by Saylor, J., concurring opinions by Baldwin, J., and Baer, J., 12/27/06.

The Court rejected appellant's constitutional arguments against Pennsylvania's Fetal Homicide Statute, (18 Pa.C.S. §2601–2609) after appellant's conviction and sentencing for voluntary manslaughter of an unborn child caused by the 3rd degree murder of his twenty-one week pregnant girlfriend. The Court found without merit appellant's void for vagueness argument and held that the Act's proscription against recklessly or negligently causing the death of an unborn child was straightforward and easy to understand and that the fact that the Act does not address the issue of viability is immaterial to the question of whether appellant's actions caused a

cessation of the biological life of the fetus. Similarly, the Court rejected appellant's substantive due process argument maintaining that the statute is overbroad and thus violates his fundamental right to liberty. The Court concluded that since appellant was unable to cite authority for the unilateral right to kill an unborn child, appellant failed to establish any right infringed upon by the statute. Appellant's equal protection argument, based on the fact that women have the right to intentionally abort fetuses they are carrying while others are prosecuted for producing the same result also failed. The Court concluded only a rationale basis scrutiny was warranted as the right involved (ending the fetal life) is neither suspect nor quasi suspect. As such, the Court found, the legislature has a legitimate interest in distinguishing between a fetus's mother and everyone else and such classification was neither overbroad nor arbitrary. The Court did find, however, that the trial court erred in refusing appellant's request that it define criminal negligence for purposes of the offense of voluntary manslaughter of an unborn child. However, the error was harmless and appellant's convictions affirmed.

PCRA — Ineffectiveness of Counsel — Presentation of Mitigating Evidence

Cmwlth. v. Carson, No. 400 CAP 2004. Opinion by Castille, J., concurring opinions by Cappy, J. and Baldwin, J., concurring and dissenting opinion by Saylor, J., 12/27/06.

Reviewing twenty-two issues on appeal, the Court affirmed appellant's conviction but remanded to the PCRA court for an evidentiary hearing on appellate and trial counsel's alleged ineffectiveness for failure to present sentencing mitigation evidence of an alleged organic brain injury, traumatic childhood, and prior positive adjustments to incarceration

Probation & Parole — Revocation Objections and Waivers — *Dilliplaine*

Goods v. Pa. Board of Prob. & Parole, No. 144 MAP 2005. Opinion by Castille, J., 12/27/06.

The Court held that appellant did not waive his right to challenge the timeliness of an administrative parole revocation when he failed to object to the same at the hearing itself. In so holding the Court noted that the Board was free to adopt a *Dilliplaine* issue preservation rule [*Dilliplaine v. Lehigh Valley Trust Company*, 322 A.2d. 114 (Pa. 1974) requiring to preserve a claim for administrative appeal an appellant must forward a contemporaneous objection at the appropriate time], failure to abide by such a rule does not result in waiver.

Appellate Procedure — SVP Review-Abuse of Discretion

Cmwlth. v. Meals, No. 58 MAP 2005. Opinion by Castille, J., concurring opinion by Cappy, J., 12/27/06.

In reversing the Superior Court's determination that the Commonwealth had failed to meet its burden of proof in appellant's SVP status, the Court held the Superior Court impermissibly stepped beyond its authority when it reweighed the evidence and gave more weight to "absent factors" — those not addressed at the hearing — than to those found and relied upon by the trial court.

Custodial Interrogation — *Miranda*

Cmwlth. v. Gaul, No. 86 MAP 2005. Opinion by Cappy, J., dissenting opinion by Castille, J., 12/27/06.

Where appellant, arrested for theft of a weapon, was taken to a detention center, read a criminal complaint and affidavit of probable cause, and told twice if he wanted to discuss the charges he would be administered *Miranda* but was not actually *Mirandized* until after he made incriminating statements, the Court held the encounter amounted to custodial interrogation in

which he should have been given *Miranda*. In so holding the Court found the investigator should have known his comments were reasonably likely to elicit incriminating responses. Reversed.

Sentencing — Burglary, Trespass and Merger

Cmwlth. v. Jones, No. 2 EAP 2005. Opinion by Castille, J., concurring opinion by Saylor, J., dissenting opinion by Newman, J., 12/28/06.

Appellant was tried and convicted of burglary and criminal trespass and sentenced to consecutive sentences for both. The Court held that criminal trespass is a lesser-included offense of burglary where one act is involved and the same facts establish nearly identical elements for both crimes.

DUI — Statutory Construction, Requirements of Notice, Form DL-26

Cmwlth. v. Weaver, No. 145 MAP 2005. Opinion by Eakin, J., dissenting opinion by Baer, J., 12/28/06.

Appellant was stopped for suspected DUI and arrested for refusal to submit to blood analysis after being read the warnings from form DL-26 (in which arrestees are informed that DUI and refusal will result in additional penalties as provided by statute). Rejecting appellant's argument that the implied consent warnings on DL-26 were insufficient and that 75 Pa.C.S. §1574(b)(2) requires warnings that fully inform arrestees of the penalties they could face, the Court held that the plain language of the implied consent statute requires only that the officer inform the arrestee that if he is convicted of DUI, refusal will result in additional penalties; it does not require the officer to enumerate all of the possible penalties.

PCRA — Criminal Procedure — Jury Instructions, Transferred Intent — Constructive Denial of Counsel — *Witherspoon* Claim — Notice of Informations

Cmwlth. v. Jones, No. 409 CAP 2004. Opinion by Newman, J., concurring opinion by Saylor, J., concurring and dissenting opinions by Castille, J. and Eakin, J., 12/29/06.

Inter alia: Jury instruction addressing the issue of legal malice was proper where the instructions specifically stated the jury "may" draw an inference and that an intent to kill "may" be transferred and nothing in the language demanded or in any other way required that the jury make this finding. Further, such instructions were justifiable in light of the circumstances where appellant and his co-conspirators fired multiple shots at an intended victim and instead wounded and killed others in the vicinity. Appellant was not constructively denied counsel due to non-receipt of *voir dire* transcripts where he failed to sufficiently demonstrate that he ever requested them. Only where a defendant establishes that such a request was made and denied can a defendant forward an argument for constructive denial of counsel. Further, appellant's argument that he could have made a *Witherspoon* claim [*Witherspoon v. Illinois*, 291 U.S. 510 (1968) holding that the sentence of death cannot be carried out if the jury that imposed it was chosen by excluding venirepersons for cause simply because they voiced generalized objections to the death penalty]. fails in light of the fact that the affidavit by an excluded venireperson stated that she notified the court she unequivocally opposed the death penalty and would not be able to impose it and it is well settled that a jury person may be excluded if they are unable to carry out their duties. Lastly, despite the fact that the criminal informations specified the names of the deceased and not the intended victim of appellant's crime, the Court held that when properly read the indictments gave appellant adequate notice of the charges against him.

PENNSYLVANIA SUPERIOR COURT DECISIONS

Appellate Procedure — Sentencing Guidelines — Oxycontin

Cmwlth. v. Gould, No. 355 WDA 2006. Opinion by Panella, J., 12/01/06.

Where appellant was sentenced pursuant to the mandatory minimum sentencing provisions, trial court had no authority to sentence appellant to a lesser sentence and appellant's assertion that the sentence was vindictive is without merit. Further, appellant's claim that a lesser sentence for his co-defendant violates the Equal Protection Clause is waived for failure to provide citations to case law and the record.

Evidence — Sufficiency to Support 3rd Degree Disorderly Conduct (18 Pa.C.S.A. 5503)

Cmwltth. v. Fedorek, No. 742 WDA 2004. Opinion by Ford Elliott, P.J., dissenting opinion by Orie Melvin, J., 12/07/06.

The Court found the evidence insufficient to support appellant's conviction for disorderly conduct, graded as a 3rd degree misdemeanor. The Commonwealth failed to show that appellant's inciteful behavior was intended to cause substantial harm or inconvenience to the public. The Court rejected the argument that the legislature intentionally left out the word public in the grading portion of the statute. The Court reasoned that the word public is specifically contained as an element necessary to convict of disorderly conduct, graded as a 3rd degree misdemeanor.

Evidence — Unlawful Contact with Minor

Cmwltth. v. Morgan, No. 239 EDA 2006. Opinion by Bowes, J., 12/08/06.

Where the evidence established appellant had sexual intercourse with the minor victim after he discovered she had misrepresented her age as 18 in the Internet chat room where they met, appellant's argument that the verdict was against the weight of evidence or based on insufficient evidence has no merit. The jury reasonably could have found that the letters, instant messages and visit to the minor's home were made for the purposes of rekindling their sexual relationship. Lastly, appellant's void for vagueness argument fails as the statute prohibiting unlawful contact with a minor does not punish a substantial amount of constitutionally protected conduct and is narrowly tailored to protect minors.

Appellate Procedure — Notice

Cmwltth. v. Panto, No. 1025 EDA 2006. Opinion by Popovich, J., 12/08/06.

The trial court erred in dismissing appellant's summary appeal of a careless driving conviction due to appellant's failure to appear at the hearing. The continuance form (filled out by appellant when he continued the first trial) failed to provide the time and location of the new trial. Further, appellant was not properly noticed pursuant to Pa.R.Crim.P 114 (which provides for notice of the hearing by certified, registered or first-class mail).

DUI — Sentencing — IPP

Cmwltth. v. Poncala, No. 1365 MDA 2004. Opinion by Gantman, J., concurring opinion by Joyce, J., 12/08/06.

The mandatory and specific sentencing provision set forth in 75 Pa.C.S.A. § 3804(c) (3) applies to appellant's current DUI under 75 Pa.C.S.A. § 3802(c), which overrides the general and discretionary IPP sentencing provision of 42 Pa.C.S.A. § 9804 *et al* regardless of whether the DUI was appellant's third or fourth DUI in ten years.

Possession Child Pornography — Search & Seizure — Sufficiency — Merger Doctrine

Cmwltth. v. Koehler, No. 2073 WDA 2005, opinion by Stevens, J., 12/08/06.

Reasonable suspicion of a parole violation justified the warrantless search of appellant's home by parole agents. The application for a search warrant for a further search of his bedroom and

seizure of his computer was supported by probable cause. The earlier search revealed nude photos of children and the sex unit officer swore that the warrant was necessary to complete the investigation. Practicality and common sense require the conclusion that such photos were for the purpose of sexual stimulation or gratification and depicted prohibited sexual acts.

Further, the Court concluded appellant's argument that the date of pornography possession was not "fixed with reasonable certainty so to give him notice to prepare a defense" fails as the evidence of possession offered against appellant with respect to 12 video clips was well within the timeframe contemplated by the criminal information. Finally, the Court found appellant's sentence legal where the record established that appellant obtained each of the video clips individually at separate times. It was thus appropriate under Pa.C.S.A. § 6312(d) to charge convict and sentence appellant for each act of possession and the merger doctrine is inapplicable.

Criminal Procedure — DUI — Amendment of Charges — Jury Instruction, "drug"-Motion to Postpone — Sentencing

Cmwlth. v. Roser, No. 518 MDA 2006 Opinion by Bender, J., 12/13/06.

The Court found no error in the trial court's decision to allow the Commonwealth to amend the charges to include counts of driving under the influence of drugs. Relying on Pa.R.Crim.P. 564, the Court held that because appellant had provided inculpatory testimony against himself at his own trial (which in itself supported the amended charges), appellant had laid the foundation for the amendment and suffered no prejudice. Furthermore, the Court rejected appellant's argument that whether or not a substance is a drug is a matter of law and must be established by expert testimony. The Court held that appellant's testimony of how the gasoline *et al* affected him along with the trial court's instruction to consider drugs as "anything intended to affect the function of the human body" were sufficient to prove the substances were drugs as contemplated by the amended charges. Lastly, the Court held it was not error to deny appellant's second motion to continue based on the unavailability of a competent toxicologist.

Evidence — Prior Bad Acts & Reasonable Notice, Sufficiency IDSI — Criminal Procedure — Motion to Reduce

Cmwlth. v. Mawhinney, No. 1957 WDA 2005. Opinion by Klein, J., 12/13/06.

The trial court did not err in finding reasonable notice to elicit testimony of prior bad acts despite the fact that the Commonwealth never filed a notice to elicit such testimony. The trial court's determination that constructive notice had been given by way of pretrial conferences was consistent with Pa.R.E. 404(b)(4). In so holding the Court noted that the rule does not require a formal notice in writing to attain the admissibility of prior bad acts. Further, where a competent victim testified that appellant performed anal and oral sex on the victim two to three times a week over a 2 year period and photographed him in the nude, the evidence was sufficient to support conviction for IDSI. Further, the trial court did not abuse its discretionary powers in imposing consecutive sentences where appellant had allocated and asked the court to consider his age and poor health; the trial court stated that it had considered the presentence report, the Sentencing Guidelines and the trial testimony; and appellant received standard-range sentences for each of his offenses.

Parole Revocation — *Ander's* Brief

Cmwlth. v. Pass, No. 2439 EDA 2005. Opinion by Stevens, J., 12/13/06.

Where appellant pleaded guilty to possession of a controlled substance while on probation for earlier forgery and drug charges, and did not contest the fact that he violated said probation, appellant's appeal presented no arguable issue of merit on appeal and the judgment is affirmed. Counsel's *Ander's* motion granted.

Search & Seizure, Co-tenant Consent — Criminal Procedure — Immunity

Cmwlth. v. Yancoskie, No. 268 WDA 2006. Opinion by Todd, J., 12/14/06.

The Court rejected appellant's argument that the premeditated search of his residence with his wife's cooperation and consent was *de facto* a removal of appellant for the sake of avoiding a possible objection to the search and therefore unreasonable under the standards of *Georgia v. Randolph*, 126 S. CT. 1515 (2006) [in which the Supreme Court recognized that a warrantless search of a shared dwelling for evidence over the express refusal of a physically present resident was unreasonable]. The Court held that despite the obvious fact that police timed their search with the wife's cooperation to coincide with appellant's planned fishing trip, by voluntarily absenting himself from the house he shared with his wife, appellant assumed the risk that she would allow a search. Further, the Court found the trial court properly denied appellant's motion for immunity for his wife. Courts have no power to grant immunity except upon the request of the prosecutor.

Deadly Weapons Enhancement

Cmwlth. v. Raybuck, No. 704 WDA 2006. Opinion by McCafferty, J., 12/22/06

Commercial mouse poison is a deadly weapon for purposes of enhancing the appellant's sentence for aggravated assault. Household chemicals (here, never identified) are not, without evidence as to their identity and nature.

Mental Health — Expungement of Civil Commitment

In Re: R.F., No. 284 EDA 2006. Opinion by Popovich, J., 12/27/06

Order refusing to expunge appellant's civil commitment record was upheld where there was sufficient evidence to support both his initial involuntary commitment and his continued involuntary commitment.

Search & Seizure — Reasonable Suspicion

Cmwlth. v. Plante, No. 1540 EDA 2006. Opinion by Stevens, J. 12/28/06.

The Court found that the officer's initial stop of appellant was a mere encounter and warranted no reasonable suspicion or probable cause. The officer's subsequent stop of the vehicle (after following the vehicle) required only reasonable suspicion because the officer had an investigative purpose in stopping the vehicle after noting appellant and his cohort had behaved nervously and arrogantly during the initial encounter and the officer noted, for the first time, several antennae of various frequency bands on the trunk of the car (indicating monitoring of police activity, or look out). The suppression court did not err in denying appellant's motion to suppress stolen property found as a result of the vehicle's impoundment and search after the second stop.

Sixth Amendment — Right to Counsel

Cmwlth. v. Lucarelli, No. 1196 MDA 2005. Opinion by Johnson, J., dissenting opinion by Orie Melvin, J., 12/29/06.

In vacating appellant's sentence and remanding for a new trial, the Court held the trial court erred when it denied appellant his constitutional right to counsel in a trial for reckless endangerment, risking a catastrophe, disorderly conduct and criminal mischief with pecuniary loss in excess of five thousand dollars. In so holding the Court found that despite appellant's uncooperative and difficult behavior and retention and loss of several attorneys, his behavior did not arise to the abusive conflict necessary to forfeit counsel. The Court noted that despite appellant's final decision to appear *pro se*, the trial court neglected to conduct a proper colloquy on appellant's knowing, voluntary and intelligent waiver of counsel.

Search & Seizure — Investigative Stop — Consent

Cmwlt. v. Moyer, No. 345 MDA 2006. Opinion by Bender, J., dissenting opinion by McCaffery, J., 12/29/06.

Where appellant's car was properly stopped for a traffic violation, appellant questioned then cited, when the officer further requested to ask more questions and search appellant's car and appellant did not feel free to leave, appellant was subject to a second investigatory detention which must comply with reasonable suspicion standards. The Court found that here, where the officers testified only to noting activity in car "directed to the floorboards" while behind the vehicle and that a criminal history inquiry revealed a prior marijuana conviction and where the testimonies of the two arresting officers and appellant did not match, the second detention was not based on reasonable suspicion and appellant's subsequent consent to search was tainted.

NOTE: One to keep on file. Excellent recitation of factors essential for voluntary consent as well as the fact that the police method is implicitly discredited.

PENNSYLVANIA COMMONWEALTH COURT DECISIONS

DUI — Refusal & Suspension — Frivolous Appeal — Attorney Fees

Kachurak v. Cmwlt., *Penn DOT, Bureau of Licensing*, No. 1174 C.D. 2006.

Opinion by Leavitt, J., concurring and dissenting opinion by McGinley, J., 12/27/06.

The Court rejected appellant's argument that his license should not have been suspended for refusal to submit to chemical testing based on an unreasonable stop. The Court held the stop was reasonable because the arresting officer was put on the look out for an erratically operated vehicle that resembled appellant's, that appellant smelled of alcohol when stopped and because appellant staggered when he left his vehicle at the officer's request. The Court further held that because appellant refused chemical testing and was informed of the consequences of such refusal, he was properly placed under arrest and the suspension was valid. Further, the Court held that pursuing an appeal that is contraindicated by well-established controlling law, even after it is pointed out by opposing counsel and the trial court, makes the appeal frivolous. The Court thus remanded the matter for determination of reasonable attorney fees on motion of the Commonwealth.

PACDL News and Announcements

Capital Cases

Mitigation Series - Youth

Friday, February 9, 2007

Radisson Hotel Valley Forge

1160 First Ave.

King of Prussia, PA

Defense counsel's most fundamental duty in the penalty phase of a capital case is to thoroughly investigate a defendant's background to discover mitigating evidence that could spare a defendant's life and evidence to rebut any aggravating evidence that may be introduced by the prosecution.

As part of its commitment to quality capital defense in this critical area of the law, PACDL is pleased to introduce its mitigation series. Over the next several months, PACDL will be presenting a series of programs, each of which will concentrate on one particular mitigating circumstance and how to investigate and present the full dimensions of that particular mitigating factor. Through experts, mitigation investigators, and experienced capital trial, appellate, and post-conviction counsel, PACDL will instruct on the scope of each mitigating factor; the panoply of evidence that may be presented in support of each particular mitigating factor; how to investigate these facts; and the use of experts in support of each mitigating factor.

The first program of this series will be introduced, with “Age” as the focus of the mitigation program. The morning session will consist of an update on developments in death penalty litigation and the import of recent death decisions. The afternoon session will consist of two tracks. Track 1 will be designed for those individuals who are new to death penalty litigation or who need a “refresher” on the foundations of death penalty litigation. Track 2 will focus on the mitigating factor of “Age.” Both experts and experienced counsel will address the full and proper development of this mitigating factor. This program promises to be unique and will provide practical guidance to assist trial counsel in fully developing and presenting “Age” as a mitigating factor.

Tentative Schedule

Friday, February 9, 2007

8:00 a.m. Registration and Continental Breakfast

9:00 a.m. – 12:15 p.m. Update on Developments in Death Penalty Litigation

12:15 p.m. - 1:30 p.m. B Lunch on your own
PACDL General Membership and Board of Directors Meeting

Track 1

1:30 – 4:45 p.m. Foundations of Death Penalty Litigation
or

Track 2

1:30 – 4:45 p.m. Mitigation – Youth as a Mitigating Factor

4:45 p.m. Seminar Concludes

Faculty: Robert B. Dunham, Training Director, Philadelphia Defender Association, Capital Habeas Unit

Jules Epstein, Widener University School of Law

Dr. Wanda Foglia

Anne Saunders, Capital Habeas Unit, Federal Public Defender’s Office, Middle District of Pennsylvania

Nathan Schenker, West Chester

Bernard L. Siegel, Philadelphia

and others to be announced

REGISTRATION INFORMATION

Capital Cases: Mitigation Series: Youth

Mail the completed Registration Form with payment no later than January 27, 2007. Only prepaid attendees are guaranteed seating. Door registrations are permitted only as space and material are available. The address is: PACDL, 115 State Street, Harrisburg, PA 17101. Telephone 717-234-7403. Fax 717-234-7462.

CANCELLATION POLICY - PACDL must guarantee payment for meals and materials in advance. There will be no refunds after 1/31/07. If you cannot attend, a colleague may take your place or your materials will be mailed to you. Cancellations made prior to that date will be subject to a \$50 cancellation fee.

SCHOLARSHIPS - There are a limited number of partial scholarships available to assist with the seminar fee for PACDL members whose dues are current. Hotel charges are not included. To apply, mail the completed seminar registration form along with a letter requesting financial assistance to PACDL no later than January 25, 2007. Scholarship applications received after that date will not be considered.

LOCATION - The Radisson Hotel Valley Forge is located at 1160 First Ave., King of Prussia, PA 19406. For overnight reservations call 610-337-2000 or 888-267-1500. PACDL has a block of rooms available for \$109 single or double/night, plus tax. Please call immediately and reserve your room. You must state you are with the Pa. Assoc. of Criminal Defense Lawyers to receive this rate.

REGISTRATION FORM

CAPITAL CASES: MITIGATION SERIES: YOUTH - 2/9/07 - 6 Rule 801 Capital case training credit hours

G PACDL Members	\$275
G PACDL Public Defender Members	\$225
G PACDL Members in Practice Less than 5 Years	\$225
G Public Defenders	\$315
G All Other Criminal Defense Attorneys	\$375

10% Discount for groups of three or more from the same office

Please fill out the following portion as well:

_____ Desired Number of Credit Hours Reported to the CLE Board at \$1.50 per hour \$ _____
(no discount on CLE reporting fees)

TOTAL REGISTRATION and CLE REPORTING FEES \$ _____

Name _____ Attorney ID _____

Mailing Address _____

City _____ State _____ Zip _____

Phone Number _____ FAX _____

Please note any dietary needs or needs related to disabilities

Capital Cases: Mitigation Series: Youth has been approved for 6 Rule 801 Capital Case Training hours by the Continuing Legal Education Board of the Supreme Court of Pennsylvania.

Mark Your Calendar

2007 Joint Annual Meeting

(includes a repeat of *Capital Cases: Mitigation Series*)

Thursday, April 19, 2007 - Saturday, April 21, 2007

Harrisburg Hilton

Harrisburg, PA

Announcing a new service to our members!

The PACDL Membership Handbook entries, as you may know, are located in the "Members Only " section of our website, www.pacdl.org. This is because several members did not want their information in the public domain.

Commencing in January 2007, we will list any member who desires it, on the public section of our website in a searchable database. This will allow members of the general public who are looking for a criminal defense lawyer in a particular area to find you.

You can list as much or as little information as you desire, i.e., if you do not want your e-mail in the public area but do want your phone and fax, you can just tell us so by returning the form below. If you do NOT want to be listed in public -- DO NOTHING. We will only list those of you who tell us to do so.

Please FAX this page to PACDL at 717-234-7462 or send it in to the office at the above address:

Yes, I want to be listed in the public section of the website. I would like you to list the following information about me (please fill in ONLY the information you want the general public to have)

Name: _____

Law Firm: _____

Address: _____

City & State _____ Zip: _____ County: _____

Telephone number: _____ Fax number: _____

e-mail: _____