**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

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| Estate of Kevin Wilson, Appellant | : | |
| v. | : | No. 1141 C.D. 2024 |
| | : | ARGUED: October 13, 2026 |
| Tax Claim Bureau of Delaware County | : | |

BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge (P.)
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

**OPINION NOT REPORTED**

**MEMORANDUM OPINION BY SENIOR JUDGE LEADBETTER** **FILED: November 19, 2026**

Kelli A. Barth, Executrix of the Estate of Kevin Wilson, appeals from the order of the Court of Common Pleas of Delaware County denying her petition to set aside the upset tax sale of certain property for failure to comply with the notice provisions of the Real Estate Tax Sale Law (RETSL).[1] Upon review, we reverse.

In June 2017, Bonnie Wilson purchased the subject property located at 5103 Poplar Street, Garnet Valley, Delaware County, Pennsylvania (Property). Bonnie lived at the Property until her passing in December 2019. In her will, Bonnie devised the Property to her son, Kevin Wilson, who also resided at the Property. Unfortunately, Kevin then passed away on or about August 7, 2023.

On September 21, 2023, the Property was exposed to an upset tax sale by the Tax Claim Bureau of Delaware County (Bureau) due to delinquent real estate

[1] Act of July 7, 1947, P.L. 1368, *as amended*, 72 P.S. §§ 5860.101 - 5860.803.

taxes for 2021 and 2022. CJD Group, LLC was the successful bidder at the sale, purchasing the Property for $109,000. Barth subsequently filed the petition to set aside,[2] and the trial court granted CJD Group's petition to intervene as the purchaser of the Property.

In a hearing before the trial court, CJD Group presented the testimony of Janine Heinlein, upset tax sale coordinator for the Bureau. Heinlein was familiar with the Property and had reviewed the Bureau's file in connection with the sale. Based on the records of both the Bureau and the Tax Assessment Office, Heinlein believed that Bonnie was still the owner of the Property in 2023. Therefore, a return and claim outlining the delinquent taxes was sent by certified mail to Bonnie at the Property's address in 2022. May 14, 2024 Notes of Testimony (N.T.) at 13-14; Ex. R-1. This notice was returned to the Bureau with the postal service marking unclaimed, unable to forward. N.T. at 14; Ex. R-2. In July 2023, because the taxes for the Property remained unpaid and because the Bureau was unaware of Bonnie's passing, the Bureau again sent notice of the tax sale to Bonnie at the Property's address, this time by certified mail, restricted delivery. N.T. at 15; Ex. R-4. In return, the Bureau received a green card with an illegible signature and the date July 19, 2023. N.T. at 16; Ex. R-5. The affidavit of Deputy Sheriff James R. Miller states that he posted the Property and personally served Kevin with notice of the tax sale on July 24, 2023. N.T. at 16-17; Ex. R-6. In August 2023, still being unaware of Bonnie's death, the Bureau sent a final notice of the tax sale to Bonnie at the Property's address, this time by first class mail. N.T. at 18; Ex. R-7.

[2] During the trial court hearing, Barth withdrew her request to redeem the Property. *See* May 14, 2024 Notes of Testimony (N.T.) at 10.

On September 6, 2023, the Bureau filed a petition to waive personal service for the Property, as well as numerous other owner-occupied properties that were listed for the September 21, 2023 sale. N.T. at 20-21; Ex. R-11. The trial court signed an order waiving personal service for all of the properties that same day. N.T. at 21; Ex. R-12. According to Heinlein, as of the date of the sale, taxes for the Property were still delinquent and the Bureau remained unaware of Bonnie's passing; therefore, the Property was sold to CJD Group after competitive bidding. N.T. at 21; Ex. R-13.

Following the sale, the Bureau sent a notice addressed to Bonnie by certified mail explaining that the Property had been sold for delinquent taxes. N.T. at 23; Ex. R-14. Heinlein acknowledged that the notice was subsequently returned to the Bureau with a postal service stamp stating refused, unable to forward, and the handwritten notation "Deceased." *Id.* According to Heinlein, this was the *first time* the Bureau "had any inkling at all that the record owner of the [P]roperty was deceased[.]" N.T. at 24. Despite this notation, the Bureau filed a petition for confirmation of the sale, and a decree of absolute confirmation was subsequently issued. N.T. at 24-25; Exs. R-15 to R-17. Heinlein believed that the Bureau fulfilled all of its requirements under RETSL with respect to the sale. N.T. at 26.

On cross-examination, Heinlein acknowledged that the final notice the Bureau sent to Bonnie by first class mail *prior* to the sale was *also* returned as not deliverable with the handwritten notation "Deceased." N.T. at 27; Ex. D-1. The date on this returned notice was August 29, 2023, almost a month before the sale. *Id.* Heinlein also conceded, as she must given Bonnie's passing, that she did not have any evidence showing Bonnie was personally served with notice of the sale. N.T. at 28. Nonetheless, Heinlein maintained that since the Recorder of Deeds and

the Board of Assessment both listed Bonnie as the owner of the Property at the time of the sale, the Bureau had met all the requirements of RETSL. N.T. at 29-30.

Barth testified that while she did not personally know Bonnie, Kevin was a friend of her and her husband for 20 to 30 years. N.T. at 35. Kevin was a double amputee with multiple health issues, so Barth and her husband took him grocery shopping, to doctors' appointments, etc. *Id.* While Kevin's death certificate listed August 7, 2023 as his date of death, Barth and her husband had not heard from Kevin for some time prior to that, leading them to twice call for a welfare check. N.T. at 37; Ex. D-2. Kevin was found deceased in the home during the second welfare check. N.T. at 38.

On August 24, 2023, Barth had Kevin's will probated by the Register of Wills of Delaware County and was granted letters testamentary. N.T. at 38-39; Ex. R-20. Barth then paid the inheritance and estate tax and listed the Property for sale. D-4. When preparing the Property for sale, Barth went through Kevin's papers and belongings but did not come across a notice for the sale or see a posting on the Property. N.T. at 42. It was not until October 5, 2023, when an agreement of sale was signed, that Barth learned from the realtor that the Property had already been sold. N.T. at 40-41; Ex. D-3.

On cross-examination, Barth admitted that she was also the executrix of Bonnie's estate but had done nothing to administer the estate, despite knowing that Bonnie had willed the Property to Kevin.[3] N.T. at 43. She further conceded

[3] There is some confusion as to when Barth was appointed as executrix of Bonnie's estate. Barth later testified that Kevin was initially the executor of Bonnie's will, and she did not take over that role until *after* Kevin passed away. N.T. at 51-52. Regardless, the timing of this issue does not impact the outcome of the appeal.

that her husband was a beneficiary of Kevin's estate and that her husband would personally benefit if the sale was set aside. N.T. at 45.

The trial court issued an opinion and order denying the petition, determining that the Bureau met its notice obligations under RETSL. The trial court explicitly rejected Barth's argument that she was entitled to notice of the sale as executrix of Kevin's estate, reasoning that Barth was not an "owner" of the Property as that term is defined in Section 102 of RETSL, 72 P.S. § 5860.102. However, the trial court did not acknowledge the two notices that were returned to the Bureau with the notation "Deceased," or examine whether the Bureau met the additional notification requirements found in Section 607.1 of RETSL.[4] The appeal to this Court followed.

On appeal,[5] Barth argues that the trial court erred in refusing to set aside the sale of the Property for two main reasons. First, Barth maintains that Kevin's estate was the equitable owner of the Property at the time of the sale and therefore she was entitled to notice as executrix and personal representative of his estate. Second, Barth claims that the Bureau ignored the notices that were returned and marked "Deceased," which should have triggered the need for further inquiry pursuant to Section 607.1 of RETSL. The Bureau's failure to investigate after being alerted that the owner of the Property was deceased deprived the estate of property without due process of law. We begin with Barth's second argument, which is dispositive.

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[4] Added by the Act of July 3, 1986, P.L. 351, 72 P.S. § 5860.607a.

[5] When reviewing a trial court's decision to deny a petition to set aside a tax sale, we consider whether the trial court committed an error of law, abused its discretion, or rendered a decision that is not supported by substantial evidence. *McClain v. Del. Cnty. Tax Claim Bureau*, 344 A.3d 1149, 1155 (Pa. Cmwlth. 2025).

As our courts have repeatedly explained, "it is a momentous event under the United States and the Pennsylvania Constitutions when a government subjects a citizen's property to forfeiture for the non-payment of taxes." *Citimortgage, Inc. v. KDR Investments, LLP*, 954 A.2d 755, 759 (Pa. Cmwlth. 2008) [quoting *Geier v. Tax Claim Bureau of Schuylkill Cnty.*, 588 A.2d 480, 483 (Pa. 1991)]. Due process requires that before commencing a tax sale, the bureau must "provide notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the act and afford them an opportunity to present their objections." *Rice v. Compro Distrib., Inc.*, 901 A.2d 570, 574 (Pa. Cmwlth. 2006) [quoting *Jones v. Flowers*, 547 U.S. 220, 226 (2006)]. To satisfy these due process concerns, Section 602 of RETSL requires that a tax claim bureau

> must provide three separate methods of notification to the property owner: (1) publication of the tax sale at least [30] days in advance of the sale; (2) notification of the sale to each owner by certified mail at least [30] days in advance of the sale; and (3) posting notice of the sale on the property at least [10] days prior to the sale. 72 P.S. § 5860.602.

*Krawec v. Carbon Cnty. Tax Claim Bureau*, 842 A.2d 520, 523 (Pa. Cmwlth. 2004). The only form of notice at issue in this appeal is notification to the owner, as Barth has not challenged the publication or posting requirements.

Importantly, with respect to notification to a property owner, Section 607.1 of RETSL further requires

> that where notice of [the] tax sale is mailed to an owner and returned without the personal signature of the addressee or there are other circumstances raising a significant doubt as to the personal receipt of the [b]ureau['s] notice, the [b]ureau must undertake reasonable efforts to discover the whereabouts of that

> person. . . . In the absence of any evidence of such efforts, the tax sale must be set aside.

*Husak v. Fayette Cnty. Tax Claim Bureau*, 61 A.3d 302, 312 (Pa. Cmwlth. 2013) (quotation omitted, emphasis removed). Therefore, we have long held that "where it is obvious that notice is not effectively reaching the owners of record, the [b]ureau must go beyond the mere ceremonial act of notice by certified mail." *Krawec*, 842 A.2d at 524 [citing *Farro v. Tax Claim Bureau of Monroe Cnty.*, 704 A.2d 1137 (Pa. Cmwlth. 1997), *appeal denied*, 724 A.2d 936 (Pa. 1998)]. Given these important due process concerns, RETSL's notice provisions must be strictly construed and the burden to demonstrate compliance rests with the bureau, not the property owner. *McClain v. Del. Cnty. Tax Claim Bureau*, 344 A.3d 1149, 1154 (Pa. Cmwlth. 2025); *Citimortgage, Inc.*, 954 A.2d at 759. We must also keep in mind that the purpose of upset tax sales and RETSL is to provide a mechanism for recouping delinquent taxes, not "to create investment opportunities for others." *McClain*, 344 A.3d at 1154 [quoting *Jenkins v. Fayette Cnty. Tax Claim Bureau*, 176 A.3d 1038, 1043 (Pa. Cmwlth. 2018)].

The additional notification requirements under Section 607.1 were triggered under the present circumstances where the first notice was returned as unclaimed, and both the final notice before the tax sale and the post-sale notice were returned and specifically marked "Deceased." As this Court held in *Krawec*,[6] "notices marked 'Deceased' would 'rais[e] a significant doubt as to the . . . actual receipt' of the Bureau's notices." 842 A.2d at 524 [quoting Section 607.1(a) of RETSL, 72 P.S. § 5860.607a(a)]. The record here is devoid of evidence that the

[6] We note that in *Krawec*, we reversed the trial court's order denying exceptions to the tax upset sale of a *vacant lot*. 842 A.2d at 522. Due process is even more implicated here given that the Property was owner-occupied.

Bureau made *any effort*, let alone a reasonable effort to discover whether Bonnie had indeed passed away, if a will had been probated, or who owned the Property. It is troubling that after the final notice was returned as unclaimed, instead of contacting the Register of Wills, the Bureau instead petitioned the trial court to waive personal service. Further still, after the post-sale notice was also returned with the notation "Deceased," rather than employ the additional notification efforts required under Section 607.1, the Bureau instead moved to have the sale confirmed absolutely. Simply put, "the Bureau had information available to it that it failed to pursue," in direct contravention of the requirements of Section 607.1 of RETSL. *Delaware Cnty. Tax Bureau v. Ather*, ___ A.3d ___ (Pa. Cmwlth., No. 987 C.D. 2024, filed Sept. 29, 2026), slip op. at 10; *see also Krawec*. The trial court's failure to even address the fact that two of the Bureau's notification attempts were returned with the notation "Deceased" next to Bonnie's name is confounding and constitutes an error of law given Section 607.1's explicit requirements.

CJD Group argues that because Deputy Sheriff Miller made personal service of the notice of sale upon Kevin, this overcomes any technical defects in the Bureau's process. This argument is without merit since Kevin *also* passed away more than a month before the sale, and the Bureau was operating under the assumption that Bonnie still owned the Property. RETSL cannot explicitly account for each and every factual scenario regarding the changes in ownership of property, and how a tax claim bureau should respond. The unusual facts of this case demonstrate this point and bear out the principle that "even technical compliance with the statute may not always satisfy the demands of due process since [RETSL] states the *minimum effort* to be done by a tax claim bureau." *In re Consol. Reps. & Return by Tax Claims Bureau of Northumberland Cnty. of Props.*, 132 A.3d 637,

644 (Pa. Cmwlth. 2016) (emphasis in original, quotation omitted). Here, the Bureau failed to meet the minimum requirements found in Section 607.1.

CJD Group also contends that Barth's testimony was less than credible, citing purported inconsistencies and a possible financial motive given that her husband was a beneficiary of Kevin's estate. Witness credibility is not implicated here since Heinlein, CJD's own witness, admitted to all of the pertinent facts, namely that the first notice was returned as unclaimed, and both the final notice and the post-sale notice were returned with the notation "Deceased." Finally, CJD Group takes issue with Barth's failure to administer Bonnie's estate. However, when considering the validity of a tax sale under RETSL, "the focus is not on the alleged neglect of the owner, which is often present in some degree, but on *whether the activities of the* [*b*]*ureau* comply with the requirements of the statute." *McClain*, 344 A.3d at 1154 [quoting *Smith v. Tax Claim Bureau of Pike Cnty.*, 834 A.2d 1247, 1251 (Pa. Cmwlth. 2003) (emphasis added)]; *see also Krawec*, 842 A.2d at 525 n.9 (noting that RETSL "impose[s] duties, not on owners, but on the agencies responsible for sales" and therefore the proper inquiry is not "on the neglect of the owner . . . but on whether the activities of the [b]ureau comply with the requirements of the statute").

Accordingly, we reverse the order of the trial court and remand for entry of an order setting aside the tax sale of the Property.

**BONNIE BRIGANCE LEADBETTER,**
President Judge Emerita

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**O R D E R**

AND NOW, this 19th day of November, 2026, the order of the Court of Common Pleas of Delaware County in the above-captioned matter is hereby REVERSED, and this case is REMANDED for entry of an order setting aside the upset tax sale.

Jurisdiction relinquished.

**BONNIE BRIGANCE LEADBETTER,**
President Judge Emerita