

Unofficial Dissenting Analysis of Commonwealth v. Wiggs

The Status of Pennsylvania Constables Under the Vehicle Code and 75 Pa.C.S. § 4571
Supporting Judge Stabile's Dissent and a Plain-Language Interpretation of 75 Pa.C.S. §§ 102
and 4571

A public legal position statement of the Sewickley Township Constable's Office

September 5, 2026

IMPORTANT: This is an unofficial analysis—not a court opinion or legal advice. The en banc majority in *Commonwealth v. Wiggs* remains controlling unless reversed, vacated, superseded, or changed by legislation.

Purpose and Important Notice

This publication states the professional legal and public-safety position of Bruce K. Zarnick Jr., Elected Constable, and the Sewickley Township Constable's Office concerning *Commonwealth v. Wiggs*, 2026 PA Super 126. It is not a judicial opinion, is not issued or endorsed by any court, and does not constitute legal advice. The title "dissenting analysis" describes disagreement with the en banc majority's statutory interpretation and support for Judge Stabile's published dissent.

The Superior Court's majority decision remains controlling precedent unless it is reversed, vacated, or superseded by the Pennsylvania Supreme Court or by legislation. A Petition for Allowance of Appeal has been filed, but the filing of a petition does not itself alter the decision below. Constables and members of the public should obtain legal advice before acting in reliance on any interpretation discussed here.

The Decision

On June 17, 2026, an en banc panel of the Superior Court affirmed Steven A. Wiggs's summary conviction for operating a vehicle equipped with red and blue emergency lights. The majority concluded that a constable's marked, privately owned vehicle was not a "police vehicle" authorized to display those lights under 75 Pa.C.S. § 4571. Judge Stabile dissented.

The narrow question was not whether constables possess unlimited police powers or general authority to enforce every provision of the Vehicle Code. The question was whether the General Assembly's definitions and equipment provisions classify an official-use constable vehicle as a police vehicle for purposes of §§ 102 and 4571. That distinction matters. Authority to initiate a traffic stop is one subject; authority to equip a vehicle used in lawful constable duties is another.

Why Judge Stabile's Reading Is More Persuasive

Section 102 of the Vehicle Code defines a "police officer" as "[a] natural person authorized by law to make arrests for violations of law." Pennsylvania constables possess express statutory arrest authority. See, e.g., 44 Pa.C.S. § 7158. They also carry statutory responsibilities involving preservation of the peace, warrants, court-directed investigations, firearms, and other duties imposed or authorized by law. See 44 Pa.C.S. §§ 7148, 7151, 7152, 7157–7158.

Judge Stabile followed the statutory chain: a constable is a natural person whom the law authorizes to make arrests; the Vehicle Code therefore places the constable within its functional definition of police officer; a vehicle used by that officer in official duties may qualify as a police vehicle; police vehicles are included among emergency vehicles; and § 4571 permits the specified emergency lighting on police vehicles.

That reading also aligns with the Pennsylvania Supreme Court's description of the office in *In re Act 147 of 1990*, 598 A.2d 985, 990 & n.3 (Pa. 1991): a constable is a peace officer whose business includes arresting those who violate the law, and "[t]he constable is a police officer." The statement should not be stretched beyond its context, but neither should it be treated as meaningless when the Vehicle Code uses a materially similar functional definition.

Section 4571 does not say that a police vehicle must be owned by the Commonwealth, a county, or a municipality. Nor does it expressly exclude a vehicle because it is owned by an elected constable. Courts ordinarily should not insert ownership, employment, certification, or agency-approval conditions into a penal statute when the General Assembly did not place those conditions in the text.

Roose Does Not Decide the Equipment Question

Commonwealth v. Roose, 710 A.2d 1129 (Pa. 1998), addressed whether a constable had authority to make a Vehicle Code stop. It did not decide whether a constable satisfies § 102's definition of police officer or whether a vehicle used for authorized constable duties may carry equipment permitted by § 4571. Concluding that constables lack general traffic-enforcement power does not resolve their classification for every other Vehicle Code purpose.

The same caution applies when statutes list "police officers" and "constables" separately. Separate naming may clarify who may act in a particular setting. It does not necessarily establish that a constable can never fall within a broader functional definition in a different provision. Indeed, § 3102 recognizes that motorists may be required to comply with lawful traffic directions given by constables.

Miranda Duties Confirm Governmental Law-Enforcement Authority

Pennsylvania appellate law also confirms that a constable performing authorized custodial duties is not merely a private citizen. In *Commonwealth v. Seeney*, 316 A.3d 645 (Pa. Super. 2024), the Superior Court held that a constable who created and maintained a custodial environment under governmental authority could not conduct custodial interrogation without first providing the warnings required by *Miranda v. Arizona*, 384 U.S. 436 (1966).

Seeney does not independently decide whether every constable is a "police officer" for every purpose of the Vehicle Code. It does, however, reject the idea that constables exercising authorized custody are private actors with no governmental law-enforcement character. When a constable performs the same coercive custodial function that another law-enforcement officer would perform, the same constitutional safeguard applies. That reality supports reading § 102 according to its functional words rather than according to labels or employment structure.

Strict Construction and Fair Notice

Section 4571(d) creates a summary offense and imposes a fine. Penal provisions are strictly construed. 1 Pa.C.S. § 1928(b)(1). Clear statutory text must be applied as written, and courts may not add language the legislature omitted. If a penal provision reasonably supports two constructions, the rule of lenity requires the ambiguity to be resolved in favor of the accused.

Under either approach, the conviction raises a serious problem. If the text is plain, § 102's functional definition encompasses a constable who possesses statutory arrest authority, and § 4571 contains no express constable or private-ownership exclusion. If "police vehicle" remains ambiguous, the constable's interpretation is at least reasonable. A person should not face penal liability after reading the statutory definition, confirming legislatively granted arrest authority, and finding a Pennsylvania Supreme Court decision describing the constable as a police officer, only to learn that an unwritten limitation controls.

Training Policy Cannot Rewrite a Statute

Training, certification, and operational policy are important. They are not substitutes for enacted text. The Pennsylvania Commission on Crime and Delinquency administers constable education and certification responsibilities assigned by law, and the Pennsylvania State Police has substantial expertise in traffic and vehicle safety. Their views may inform policy, but neither agency may redefine "police officer" or "police vehicle" through training materials, websites, custom, or litigation positions.

If the General Assembly wishes to condition emergency-light authority on a particular course, inspection, registration, ownership model, or written approval, it can do so expressly and uniformly. Courts should not infer a new element of a penal offense from generalized assumptions about constable training or from material outside the trial record.

Public-Safety Consequences

Constables may execute warrants, transport prisoners, preserve the peace, direct traffic when lawfully authorized, provide scene security, assist with civil standbys, and support fire or emergency-medical personnel. Not every duty requires emergency lighting, and emergency equipment cannot enlarge the lawful scope of the office. But when warning lights are lawfully used, they serve concrete purposes: identifying official authority, warning motorists and pedestrians of danger, improving visibility, and helping responding units locate an incident.

The Pennsylvania Supreme Court recognized in *Commonwealth v. Livingstone*, 174 A.3d 609, 621 (Pa. 2017), that emergency lights can protect traffic and identify an approaching officer rather than a potentially dangerous stranger. Those considerations are especially significant when an elected constable performs official duties in a marked but personally owned vehicle. The public benefits from a clear, statewide rule rather than uncertainty, inconsistent local practices, or recurring prosecutions.

A Narrow and Workable Position

This position does not claim that constables possess every power held by municipal police, that emergency lights authorize pursuit or traffic enforcement, or that any officer may disregard equipment, inspection, or use restrictions that the law actually imposes. It is narrower: when the Vehicle Code defines police officer by lawful arrest authority, courts should apply that definition to constables who possess such authority and should not add an unstated government-ownership exception to § 4571.

If broader policy concerns remain, the best solution is legislative clarity. The General Assembly can specify which constable vehicles qualify, the duties during which lights may be used, required training and inspections, permissible colors and configurations, and penalties for misuse. A clear statute would protect the public, responsible constables, and other emergency responders alike.

Conclusion

Judge Stabile's dissent better respects the words chosen by the General Assembly, the Pennsylvania Supreme Court's description of the constable's office, the distinction between traffic-enforcement power and vehicle classification, and the strict-construction principles governing penal statutes. The Pennsylvania Supreme Court should grant review and provide a definitive statewide interpretation of 75 Pa.C.S. §§ 102 and 4571.

Until a higher court or the General Assembly changes the law, however, the en banc majority opinion in *Commonwealth v. Wiggs* remains controlling. This statement advocates reconsideration; it does not advise anyone to disregard the present decision.

Selected Authorities

- *Commonwealth v. Wiggs*, 2026 PA Super 126 (en banc)
- *Commonwealth v. Seeney*, 316 A.3d 645 (Pa. Super. 2024)
- *Commonwealth v. Livingstone*, 174 A.3d 609 (Pa. 2017)
- *Commonwealth v. Roose*, 710 A.2d 1129 (Pa. 1998)
- *In re Act 147 of 1990*, 598 A.2d 985 (Pa. 1991)
- *Miranda v. Arizona*, 384 U.S. 436 (1966)
- 1 Pa.C.S. §§ 1921, 1928; 44 Pa.C.S. §§ 7148, 7151–7152, 7157–7158; 75 Pa.C.S. §§ 102, 3102, 4571

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