DOCKET



Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

٧.

Page 1 of 12

Jonathan David McCann

CASE INFORMATION

<u>Judge Assigned:</u> Musti Cook, Maria <u>Date Filed:</u> 05/23/2022 <u>Initiation Date:</u> 04/01/2022

<u>OTN:</u> U 778193-3 <u>LOTN:</u> <u>Originating Docket No:</u> MJ-19301-CR-0000090-2022

Initial Issuing Authority: John H. Fishel Final Issuing Authority: John H. Fishel

<u>Arresting Agency:</u> York County Regional Police Department <u>Arresting Officer:</u> Longnecker, Scott E.

<u>Complaint/Citation No.:</u> 67-22-02356-1916 <u>Incident Number:</u> 67-22-02356

<u>County:</u> York <u>Township:</u> Windsor Township

Case Local Number Type(s)

Case Local Number(s)

RELATED CASES

Related Docket No Related Case Caption Related Court Association Reason

Related Misc. Bail Cases

CP-67-MD-0001011-2022 Comm. v. McCann, Jonathan David CP-19-67-Crim Same MDJ Case

STATUS INFORMATION

04/01/2022 Complaint Date: Case Status: Closed Status Date **Processing Status** 04/11/2023 Sentenced/Penalty Imposed 12/12/2022 **Awaiting Sentencing** 11/16/2022 Awaiting Trial 06/13/2022 Awaiting Pre-Trial Conference 06/11/2022 **Awaiting Trial** 05/23/2022 Awaiting Formal Arraignment 05/23/2022 Awaiting Filing of Information

DOCKET



Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

V

Page 2 of 12

Jonathan David McCann

	CALENDAR EVENTS						
Case Calendar Event Type	<u>Schedule</u> Start Date	<u>Start</u> Time	Room	<u>Judge Name</u>	<u>Schedule</u> Status		
Arraignment	06/16/2022	9:00 am	Courtroom 6003	President Judge Maria Mu Cook	usti Cancelled		
Pre-Trial Conference	08/08/2022	9:00 am	Courtroom 7006	President Judge Maria Mo Cook	usti Scheduled		
Pre-Trial Conference	08/17/2022	2:00 pm	Courtroom 7006	President Judge Maria Mo Cook	usti Scheduled		
Pre-Trial Conference	10/24/2022	9:00 am	Courtroom 7006	President Judge Maria Mu Cook	usti Scheduled		
Pre-Trial Conference	11/16/2022	3:00 pm	Courtroom 7006	President Judge Maria Mo Cook	usti Scheduled		
Guilty Plea	12/12/2022	3:00 pm	Courtroom 7006	President Judge Maria Mo Cook	usti Scheduled		
Sentence	03/13/2023	9:30 am	Courtroom 7006	President Judge Maria Mu Cook	usti Scheduled		
Motion/Petition Hearing	04/11/2023	9:30 am	Courtroom 7006	President Judge Maria Mu Cook	usti Scheduled		
Sentence	04/11/2023	9:30 am	Courtroom 7006	President Judge Maria Mu Cook	usti Scheduled		
		•	CONFINEMENT INFO	RMATION			
Confinement Known As Of	Confinement Type		<u>Destination</u> <u>Location</u>	<u>Confinement</u> <u>Reason</u>	Still in Custody		
07/05/2023	State Correctional In	stitution	SCI Camp Hill		Yes		
			DEFENDANT INFORM	IATION			
Date Of Birth:	01/08/1987	<u>Cit</u>	t <u>y/State/Zip:</u> Middletown	, PA 17057			
			CASE PARTICIPA	NTS			
Participant Type		<u>Name</u>					
Defendant		McCanr	n, Jonathan David				
			BAIL INFORMA	TION			
McCann, Jonathan	David				Nebbia Status: None		
Bail Action	<u>Date</u>		Bail Type	Originating Court	Percentage Amount		
Denied	04/04/2022		Manadan	Magisterial District Court	\$0.00		
Set	05/02/2022		Monetary	Common Pleas	\$100,000.00		
			CHARGES		0" 0"		
Seq. Orig			Statute Descripti		Offense Dt. OTN		
1 1	F1 18 §	3122.1 §§ B	Statutory Sexual	Assault: 11 Years Older	07/28/2020 U 778193-3		

CPCMS 9082 Printed: 12/20/2025

DOCKET



Docket Number: CP-67-CR-0002377-2022

Start Date

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

Page 3 of 12

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CHARGES							
Seq.	Orig Seq.	<u>Grade</u>	<u>Statute</u>	Statute Description	Offense Dt.	<u>OTN</u>	
2	2	F1	18 § 3123 §§ A7	IDSI Person Less Than 16 Yrs Age	07/28/2020	U 778193-3	
4	4	F1	18 § 3123 §§ A7	IDSI Person Less Than 16 Yrs Age	07/28/2020	U 778193-3	
12	12	F3	18 § 6301 §§ A1ii	Corruption Of Minors - Defendant Age 18 or Above	07/28/2020	U 778193-3	

DISPOSITION SENTENCING/PENALTIES

Incarceration/Diversionary Period

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l IIC	posi	tion
טוט	posi	LIOI

Case Event **Disposition Date** Final Disposition Sequence/Description Offense Disposition Grade Section Sentencing Judge Sentence Date Credit For Time Served

Sentence/Diversion Program Type Sentence Conditions

Held for Court (Lower Court)	Defendant Was Present

· · · · · · · · · · · · · · · · · · ·			
Lower Court Disposition	05/19/2022	Not Final	
1 / Statutory Sexual Assault: 11 Years Older	Held for Court (Lower Court)	F1	18 § 3122.1 §§ B
2 / IDSI Person Less Than 16 Yrs Age	Held for Court (Lower Court)	F1	18 § 3123 §§ A7
4 / IDSI Person Less Than 16 Yrs Age	Held for Court (Lower Court)	F1	18 § 3123 §§ A7
12 / Corruption Of Minors - Defendant Age 18 or Above	Held for Court (Lower Court)	F3	18 § 6301 §§ A1ii

Defendant Was Not Present Proceed to Court

Information Filed	06/08/2022	Not Final	
1 / Statutory Sexual Assault: 11 Years Older	Proceed to Court	F1	18 § 3122.1 §§ B
2 / IDSI Person Less Than 16 Yrs Age	Proceed to Court	F1	18 § 3123 §§ A7
4 / IDSI Person Less Than 16 Yrs Age	Proceed to Court	F1	18 § 3123 §§ A7
12 / Corruption Of Minors - Defendant Age 18 or Above	Proceed to Court	F3	18 § 6301 §§ A1ii

Guilty Plea - Negotiated

Guilty Plea 12/12/2022 Final Disposition

F1 1 / Statutory Sexual Assault: 11 Years Older Guilty Plea - Negotiated 18 § 3122.1 §§ B

Musti Cook, Maria 04/11/2023

04/11/2023 Confinement Min of 3.00 Years

Max of 10.00 Years

Other

To pay such costs/restitution as has been imposed.

Defendant is to have no contact with victim whatsoever. M.O.

Defendant to complete Sex Offender Treatment & abide by the Adult Probation Sex Offender Conditions.

Not eligible for Boot Camp, RRRI ineligible, State Drug Tx Found to be a sexuall violent predator under Megan's Law

Guilty Plea - Negotiated F1 2 / IDSI Person Less Than 16 Yrs Age 18 § 3123 §§ A7

Musti Cook, Maria 04/11/2023

CPCMS 9082 Printed: 12/20/2025

DOCKET



Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

V

Jonathan David McCann

Page 4 of 12

DISPOSITION SENTENCING/PENALTIES

Disposition

Case EventDisposition DateFinal DispositionSequence/DescriptionOffense DispositionGradeSection

<u>Sentencing Judge</u> <u>Sentence Date</u> <u>Credit For Time Served</u>

Sentence/Diversion Program Type Incarceration/Diversionary Period Start Date

Sentence Conditions

Confinement Min of 6.00 Years 04/11/2023

Max of 15.00 Years

Other

To pay such costs as has been imposed.

4 / IDSI Person Less Than 16 Yrs Age Guilty Plea - Negotiated F1 18 § 3123 §§ A7

Musti Cook, Maria 04/11/2023

Confinement Min of 6.00 Years 04/11/2023

Max of 15.00 Years

Other

To pay such costs as has been imposed.

12 / Corruption Of Minors - Defendant Age 18 or Above Guilty Plea - Negotiated F3 18 § 6301 §§ A1ii

Musti Cook, Maria 04/11/2023

Probation Min of 5.00 Years Max of 5.00 Years

Max of 5.00 Years 5 years

5 years

To pay such costs as has been imposed.

LINKED SENTENCES:

Link 1

CP-67-CR-0002377-2022 - Seq. No. 2 (18 § 3123 §§ A7) - Confinement is Consecutive to

CP-67-CR-0002377-2022 - Seq. No. 1 (18 § 3122.1 §§ B) - Confinement

Link 2

CP-67-CR-0002377-2022 - Seq. No. 4 (18 § 3123 §§ A7) - Confinement is Consecutive to

CP-67-CR-0002377-2022 - Seq. No. 2 (18 § 3123 §§ A7) - Confinement

Link 3

CP-67-CR-0002377-2022 - Seq. No. 12 (18 § 6301 §§ A1ii) - Probation is Consecutive to

CP-67-CR-0002377-2022 - Seq. No. 4 (18 § 3123 §§ A7) - Confinement

DOCKET



717-771-9600

York County Courthouse

45 North George St.

York, PA 17401

(Phone)

Name:

Address:

Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

Page 5 of 12

Jonathan David McCann

ATTORNEY INFORMATION **COMMONWEALTH INFORMATION**

> York County District Attorney's Office Thomas Henry Kelley Name: **District Attorney**

Private

063667 Supreme Court No: Supreme Court No: Active Phone Number(s): Rep. Status:

Phone Number(s): 717-683-4545

(Phone)

Address:

103 E Philadelphia St York, PA 17401

Representing: McCann, Jonathan David

ENTRIES Sequence Number **CP Filed Date Document Date** Filed By 05/23/2022 Court of Common Pleas - York County Original Papers Received from Lower Court 1 05/25/2022 Byrnes, Daniel Impounded York County District Attorney's Office Served 05/25/2022 05/25/2022 Court of Common Pleas - York County Event Track changed to Sexual Offense from Standard Court Case York County District Attorney's Office 05/25/2022 Served eService 06/08/2022 Commonwealth of Pennsylvania Information Filed 06/11/2022 Kelley, Thomas Henry Entry of Appearance York County District Attorney's Office 06/11/2022 eNotice Notified 06/11/2022 Kelley, Thomas Henry Waiver of Appearance at Arraignment York County District Attorney's Office 06/13/2022 Notified

CPCMS 9082

DOCKET



Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

٧.

Page 6 of 12

Jonathan David McCann

ENTRIES Sequence Number **CP Filed Date** Document Date Filed By Service To Service By Issue Date Status Date Service Status Service Type 3 06/13/2022 Court of Common Pleas - York County Hearing Notice-PreTrial Conference 08/08/22 at 9am Kelley, Thomas Henry eService Served 06/13/2022 York County District Attorney's Office Served 06/13/2022 eService McCann, Jonathan David York County Court Administration First Class Returned - Remailed 06/13/2022 06/30/2022 McCann, Jonathan David First Class 06/30/2022 08/18/2022 08/17/2022 York County Court Administration Proof of Service 8/17/22 Order MMC 08/22/2022 08/08/2022 York County Court Administration Proof of Service 8/8/22 Order MMC 10/25/2022 10/24/2022 York County Court Administration Proof of Service 10/24/22 Order MMC 11/16/2022 Musti Cook, Maria Order to Place Case on Trial List-Wk of Jan 9,2023 Kelley, Thomas Henry eService Served 11/16/2022 York County District Attorney's Office 11/16/2022 eService Served 11/29/2022 Court of Common Pleas - York County Hrg notice - plea 12/12/22 Kelley, Thomas Henry eService Served 11/29/2022 York County District Attorney's Office Served 11/29/2022 eService McCann, Jonathan David 12/02/2022 First Class

CPCMS 9082 Printed: 12/20/2025

DOCKET



Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

٧.

Page 7 of 12

equence Number	CP Filed Date	Document Date	Filed By
	12/09/2022	11/16/2022	·
l Proof of Service Orde		11/10/2022	York County Court Administration
— — — — — -	— — — — — — —		
1	12/12/2022		Musti Cook, Maria
Guilty Plea - Negotiate	ed		
		. — — — — — —	
 Order of SOAB Asses 			masa ossa, mana
Kelley, Thomas Henry			
12/16/2022	eService		Served
York County District Atto	rney's Office		
12/16/2022	eService		Served
			York County District Attorney's O
Request for Transcrip			,,
Kelley, Thomas Henry			
12/13/2022	eNotice		Notified
York County Court Admi	nistration		
12/13/2022	Electronic Means		
			York County Court Administration
Transcript of Proceed	ings Filed 12/12/2022		·
York County District Atto			
01/05/2023	E-Mail		
			York County Court Administration
			Bitzer, Jeffrey
Proof of Service-12/12	2/22 Order MMC		•
		03/13/2023	York County Court Administration
Proof of Service 3/13/	23 Order MMC		·
1		Predator	,
1 Order Classifying Def	endant as a Sexually Violent		
1 Order Classifying Def Kelley, Thomas Henry	endant as a Sexually Violent		
	endant as a Sexually Violent eService		Served
Kelley, Thomas Henry	eService		Served

CPCMS 9082 Printed: 12/20/2025

DOCKET



Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

V

Page 8 of 12

Jonathan David McCann

		ENTRIES	
Sequence Number	CP Filed Date	Document Date	Filed By
2	04/11/2023		Musti Cook, Maria
Order - Sentence/Per	nalty Imposed		
1			Court of Common Pleas - York County
Penalty Assessed			,
2			Court of Common Pleas - York County
Itemized Account of F	Fines, Costs, Fees, and Res	titution	
3	04/19/2023		Court of Common Pleas - York County
Itemized Account of F	Fines, Costs, Fees, and Res	titution	
1	04/20/2023		Court of Common Pleas - York County
Court Commitment St	tate or County Correctional	Institution	
1	05/02/2023	04/11/2023	York County Court Administration
Proof of Service 4/11/	/23 Order MMC		
1	05/22/2023		Court of Common Pleas - York County
Entry of Civil Judgmo	nt		Byrnes, Daniel
Entry of Civil Judgme — — — — -	 — — — — — — -		
1	06/19/2023		Byrnes, Daniel
Judgment Received f	rom Prothonotary		

DOCKET



Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

V

Page 9 of 12

Jonathan David McCann

PAYMENT PLAN SUMMARY								
Payment Plan No	Pavme	nt Plan Freq.		Next Due Date	Active		Overdue Amt	
Responsible Participant			-		Suspended		Next Due Amt	
67-2023-P000001655	Monthly	·	(01/09/2026	Yes		\$0.00	
McCann, Jonathan David	WOTHI	у	`	31/03/2020	No		\$2.00	
,								
Payment Pla	n History:	Receipt Date		Payor Name		Participant Role	<u>Amount</u>	
		06/16/2022	Payment	McCann, Jonath	an David	Defendant	\$55.00	
		06/27/2022	Payment	McCann, Jonath	an David	Defendant	\$344.00	
		07/11/2022	Payment	McCann, Jonath	an David	Defendant	\$55.00	
		08/09/2022	Payment	McCann, Jonath	an David	Defendant	\$55.00	
		09/22/2022	Payment	McCann, Jonath	an David	Defendant	\$55.00	
		10/25/2022	Payment	McCann, Jonath	an David	Defendant	\$55.00	
		11/29/2022	Payment	McCann, Jonath	an David	Defendant	\$55.00	
		12/19/2022	Payment	McCann, Jonath	an David	Defendant	\$55.00	
		01/09/2023	Payment	McCann, Jonath		Defendant	\$55.00	
		09/26/2023	Payment	Pennsylvania De		-	\$5.00	
		10/25/2023	Payment	Pennsylvania De	•	•	\$4.90	
		10/25/2023	Payment	Pennsylvania De			\$7.00	
		11/29/2023	Payment	Pennsylvania De	•	•	\$13.12	
		11/29/2023	Payment	Pennsylvania De			\$2.00	
		12/27/2023	Payment	Pennsylvania De			\$13.12	
		12/27/2023	Payment	Pennsylvania De			\$2.00	
		01/31/2024	Payment	Pennsylvania De			\$12.66	
		01/31/2024	Payment	Pennsylvania De	•	•	\$2.00	
		02/27/2024	Payment	Pennsylvania De			\$11.80	
		02/27/2024	Payment	Pennsylvania De			\$2.00	
		03/27/2024	Payment	Pennsylvania De			\$24.20	
		03/27/2024	Payment	Pennsylvania De	•	•	\$2.00	
		04/30/2024	Payment	Pennsylvania De			\$19.00	
		04/30/2024	Payment	Pennsylvania De			\$2.00	
		05/29/2024	Payment	Pennsylvania De			\$20.00	
		05/29/2024	Payment	Pennsylvania De			\$2.00	
		06/27/2024	Payment	Pennsylvania De		-	\$19.00	
		06/27/2024	Payment	Pennsylvania De	•	•	\$2.00	
		07/24/2024	Payment	Pennsylvania De			\$20.00	
		07/24/2024	Payment	Pennsylvania De	epartment of	Payor	\$2.00	
		08/26/2024	Payment	Pennsylvania De	•	•	\$19.00	
		08/26/2024	Payment	Pennsylvania De	•	•	\$2.00	
		09/25/2024	Payment	Pennsylvania De		-	\$24.63	
		10/28/2024	Payment	Pennsylvania De		-	\$19.00	
		10/28/2024	Payment	Pennsylvania De			\$4.00	
		12/11/2024	Payment	Pennsylvania De			\$18.00	
		12/11/2024	Payment	Pennsylvania De	epartment of	Payor	\$4.00	

CPCMS 9082 Printed: 12/20/2025

DOCKET



Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

V

Page 10 of 12

Jonathan David McCann

PAYMENT PLAN SUMMARY								
Payment Plan No	Payme	Payment Plan Freq.		Next Due Date	<u>Active</u>		Overdue Amt	
Responsible Participant					Suspended		Next Due Amt	
67-2023-P000001655	Monthly	y		01/09/2026	Yes		\$0.00	
McCann, Jonathan David					No		\$2.00	
D 18	11.	5		D 11		D ::		
Payment Plar	n History:	Receipt Date	Daymaant	Payor Name		Participant Role	Amount	
		01/03/2025	Payment	Pennsylvania De	•	•	\$23.00	
		02/05/2025	Payment	Pennsylvania De	•	•	\$15.00	
		02/05/2025	Payment	Pennsylvania De	•	•	\$2.00	
		03/05/2025	Payment	PENNSYLVANIA		,	\$2.15	
		03/05/2025	Payment	PENNSYLVANIA		•	\$2.00	
		03/28/2025	Payment	Department of C		Payor	\$2.52	
		03/28/2025	Payment	Department of C	Corrections	Payor	\$2.00	
		04/29/2025	Payment	Department of C	Corrections	Payor	\$2.09	
		04/29/2025	Payment	Department of C	Corrections	Payor	\$2.00	
		05/28/2025	Payment	PENNSYLVANIA	A DEPARTME	Payor	\$6.18	
		05/28/2025	Payment	PENNSYLVANIA	A DEPARTME	Payor	\$2.00	
		06/24/2025	Payment	PENNSYLVANIA	A DEPARTME	Payor	\$7.68	
		06/24/2025	Payment	PENNSYLVANIA	A DEPARTME	Payor	\$2.00	
		07/29/2025	Payment	PENNSYLVANIA	A DEPARTME	Payor	\$10.88	
		07/29/2025	Payment	PENNSYLVANIA	A DEPARTME	Payor	\$2.00	
		08/26/2025	Payment	PENNSYLVANIA	A DEPARTME	Payor	\$12.21	
		08/26/2025	Payment	PENNSYLVANIA	A DEPARTME	Payor	\$2.00	
		09/24/2025	Payment	PENNSYLVANIA	A DEPARTME	Payor	\$13.30	
		09/24/2025	Payment	PENNSYLVANIA	A DEPARTME	Payor	\$2.00	
		10/28/2025	Payment	PENNSYLVANIA		•	\$18.30	
		10/28/2025	Payment	PENNSYLVANIA		•	\$2.00	
		11/25/2025	Payment	PENNSYLVANIA		,	\$23.20	
		11/25/2025	Payment	PENNSYLVANIA		•	\$2.00	
		,20,2020	. 4,		/	, -,	Ψ2.00	

DOCKET



Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

Jonathan David McCann **CASE FINANCIAL INFORMATION** Page 11 of 12

Last Payment Date:	11/25/2025			lot	tal of Last Payment:	-\$25.20
Cann, Jonathan David		Assessment	<u>Payments</u>	<u>Adjustments</u>	Non Monetary	Bal
Defendant					<u>Payments</u>	
=						

McCann, Jonathan David Defendant	Assessment	<u>Payments</u>	<u>Adjustments</u>	Non Monetary Payments	<u>Balance</u>
Costs/Fees					
Pretrial Supervision Fee-Monthly (York)	\$55.00	(\$55.00)	\$0.00	\$0.00	\$0.00
Crime Lab User Fee - State Police	\$344.00	\$0.00	\$0.00	\$0.00	\$344.00
Pretrial Supervision Fee-Monthly (York)	\$55.00	(\$55.00)	\$0.00	\$0.00	\$0.00
Crime Lab User Fee - State Police	\$2,630.00	\$0.00	\$0.00	\$0.00	\$2,630.00
Pretrial Supervision Fee-Monthly (York)	\$55.00	(\$55.00)	\$0.00	\$0.00	\$0.00
Pretrial Supervision Fee-Monthly (York)	\$55.00	(\$55.00)	\$0.00	\$0.00	\$0.00
Pretrial Supervision Fee-Monthly (York)	\$55.00	(\$55.00)	\$0.00	\$0.00	\$0.00
Pretrial Supervision Fee-Monthly (York)	\$55.00	(\$55.00)	\$0.00	\$0.00	\$0.00
Transcript Fees (York)	\$115.00	(\$115.00)	\$0.00	\$0.00	\$0.00
Constable Education Training Act	\$5.00	\$0.00	\$0.00	\$0.00	\$5.00
Constable Costs (York)	\$94.05	(\$13.33)	\$0.00	\$0.00	\$80.72
Constable Costs (York)	\$25.93	(\$3.67)	\$0.00	\$0.00	\$22.26
ATJ	\$6.00	(\$6.00)	\$0.00	\$0.00	\$0.00
Booking Center Fee (York)	\$300.00	\$0.00	\$0.00	\$0.00	\$300.00
CJES	\$2.50	(\$2.50)	\$0.00	\$0.00	\$0.00
Commonwealth Cost - HB627 (Act 167 of 1992)	\$22.70	\$0.00	\$0.00	\$0.00	\$22.70
Costs of Prosecution - CJEA	\$50.00	\$0.00	\$0.00	\$0.00	\$50.00
County Court Cost (Act 204 of 1976)	\$33.15	\$0.00	\$0.00	\$0.00	\$33.15
Crime Victims Compensation (Act 96 of 1984)	\$35.00	(\$35.00)	\$0.00	\$0.00	\$0.00
DNA Detection Fund (Act 185-2004)	\$250.00	\$0.00	\$0.00	\$0.00	\$250.00
Domestic Violence Compensation (Act 44 of 1988)	\$10.00	\$0.00	\$0.00	\$0.00	\$10.00
Firearm Education and Training Fund	\$5.00	\$0.00	\$0.00	\$0.00	\$5.00
JCPS	\$21.25	(\$21.25)	\$0.00	\$0.00	\$0.00
Judicial Computer Project	\$8.00	(\$8.00)	\$0.00	\$0.00	\$0.00
OAG - JCP	\$2.50	(\$2.50)	\$0.00	\$0.00	\$0.00
State Court Costs (Act 204 of 1976)	\$15.15	\$0.00	\$0.00	\$0.00	\$15.15
Variable Amount to be Distributed CVC/VWS (Act 96)	\$28.00	(\$28.00)	\$0.00	\$0.00	\$0.00
Variable Amount to be Distributed CVC/VWS (Act 96)	\$12.00	(\$12.00)	\$0.00	\$0.00	\$0.00
Victim Witness Service (Act 111 of 1998)	\$25.00	(\$25.00)	\$0.00	\$0.00	\$0.00
Automation Fee (York)	\$5.00	(\$5.00)	\$0.00	\$0.00	\$0.00

CPCMS 9082 Printed: 12/20/2025

DOCKET



Docket Number: CP-67-CR-0002377-2022

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania

V

Page 12 of 12

Jonathan David McCann

CASE FINANCIAL INFORMATION									
McCann, Jonathan David Defendant	<u>Assessment</u>	<u>Payments</u>	<u>Adjustments</u>	Non Monetary Payments	<u>Balance</u>				
Clerk - County - Plea (York)	\$171.50	(\$171.50)	\$0.00	\$0.00	\$0.00				
DA Felony (York)	\$18.00	(\$18.00)	\$0.00	\$0.00	\$0.00				
Sheriff - Felony (York)	\$4.00	(\$4.00)	\$0.00	\$0.00	\$0.00				
Postage (York)	\$13.00	(\$13.00)	\$0.00	\$0.00	\$0.00				
Prothonotary Filing Fee (York)	\$65.00	\$0.00	\$0.00	\$0.00	\$65.00				
Warrant Costs (York)	\$69.00	\$0.00	\$0.00	\$0.00	\$69.00				
Photo Copies (York)	\$11.75	(\$11.75)	\$0.00	\$0.00	\$0.00				
Costs/Fees Totals:	\$4,727.48	(\$825.50)	\$0.00	\$0.00	\$3,901.98				
Restitution									
CVC Board Restitution (Act 145 of 2018)	\$1,900.00	(\$395.44)	\$0.00	\$0.00	\$1,504.56				
Restitution Totals:	\$1,900.00	(\$395.44)	\$0.00	\$0.00	\$1,504.56				
Grand Totals:	\$6,627.48	(\$1,220.94)	\$0.00	\$0.00	\$5,406.54				

^{** -} Indicates assessment is subrogated