[J-25-2013]
IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

CASTILLE, C.J., SAYLOR, EAKIN, BAER, TODD, McCAFFERY, ORIE MELVIN, JJ.

GERALD W. HORTON AND SUSAN M. HORTON, HUSBAND AND WIFE,	:	No. 33 WAP 2012
	:	
	:	Appeal from the Order of the Commonwealth Court entered May 21, 2012, at No. 75 CD 2011, affirming the Order of the Court of Common Pleas of Washington County dated December 29, 2010 at No. 2009-10264.
v.	:	
WASHINGTON COUNTY TAX CLAIM BUREAU AND E.D. LEWIS,	:	44 A.3d 710 (Pa.Cmwlth. 2012)
	:	
APPEAL OF: E.D. LEWIS	:	ARGUED: April 9, 2013

OPINION

MR. JUSTICE McCAFFERY **DECIDED: DECEMBER 16, 2013**

The issue before the Court is a matter of statutory interpretation of Section 602 of the Real Estate Tax Sale Law[1] which sets forth the requirements for notice prior to an upset tax sale for non-payment of delinquent taxes. Specifically, we must determine if the Commonwealth Court correctly held that "proof of mailing" in subsection 602(e)(2) refers exclusively to United States Postal Service (hereinafter "USPS") Form 3817, also known as a Certificate of Mailing.

The relevant facts are not at issue and are summarized below. See Horton v. Washington County Tax Claim Bureau, No. 2009-10264 (Ct. Common Pleas, filed

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

12/29/10) (hereinafter “Trial Court Opinion”). The property at issue is Unit 1021 in the Fairways Condominium at Southpointe (hereinafter the “Property”), located in Cecil Township, Washington County, Pennsylvania. The Property was purchased by Gerald W. and Susan M. Horton (hereinafter, collectively, “Appellees”) on June 22, 2006, for $200,000 cash. It was used for purposes related to their business, USG Insurance Services, Inc., which was based in Florida, with a local office in Washington County. The Property was occasionally occupied by business associates and family; mail was not delivered to the address. The deed to the Property contained three errors: (1) Gerald W. Horton’s name was listed as “Jerry W. Horton;” (2) Susan M. Horton’s name was listed as “Susan W. Horton;” and (3) a Certificate of Residence filed with the deed to the Property identified Appellees’ “precise residence” as 1021 Eagle Point Drive, Canonsburg, PA, 15317 (the Property’s address) even though, at all times relevant to this case, Appellees resided in Florida.

At no time relevant to the instant dispute did the Washington County Tax Claim Bureau (hereinafter the “Bureau”) receive or determine the correct information as to the location of Appellees’ residence. Appellees made no real estate tax payments on the Property for the years 2007 and 2008. On September 23, 2009, still having received no tax payments, the Bureau sold the Property in a tax upset sale. The buyer was E.D. Lewis (hereinafter “Appellant”), who purchased the Property for $10,298.96 without competitive bidding.

Prior to the upset tax sale, the Bureau made a variety of efforts, many of which are required by the Real Estate Tax Sale Law, to try to locate and notify Appellees. Specifically, these efforts included the following. On April 2, 2008, the Bureau mailed a courtesy letter regarding the 2007 unpaid taxes to Appellees at the Property’s address; the letter was returned by USPS as “No Such Number.” Subsequently, at various times

over the next year, the Bureau checked several sources, some sources more than once, in an unsuccessful attempt to determine Appellees' whereabouts.[2] On May 29, 2009, the Bureau mailed, via first-class to Appellees at the Property's address, a courtesy pre-sale warning letter advising of the sale scheduled for September 23, 2009, and containing a payment due date of June 30, 2009; the letter was returned by USPS as "Return to Sender - Attempted - Not Known - Unable to Forward." On July 14, 2009, as required by statutory provision 72 P.S. § 5860.602(e)(1), the Bureau sent tax upset sale notices via certified mail, restricted delivery, to each Appellee at the Property's address; each notice was returned by USPS as "Not Deliverable as Addressed - Unable to Forward." On July 22, 2009, as required by statutory provision 72 P.S. § 5860.602(e)(3), a Bureau agent posted the Property; his affidavit indicated that personal service had not been made as there was no answer at the Property. On August 20, 2009, as required by statutory provision 72 P.S. § 5860.602(a), the Bureau gave notice in three local newspapers of the scheduled September 23, 2009 tax upset sale of the Property. On August 27, 2009, as required by statutory provision 72 P.S. § 5860.602(e)(2), second notices of the impending tax upset sale of the Property were sent via first-class mail to each Appellee at the Property's address; each notice was returned by USPS as "Not Deliverable as Addressed - Unable to Forward." On

[2] The sources checked by the Bureau included the Prothonotary's Office, the Washington County Tax Assessment Office, the Washington County Treasurer's Office, the 2007 Lien Docket, the Register of Wills Office, and voter registration records. The Bureau also did internet searches via the Switchboard on-line directory and Accurint Search Assistance. Via the latter, the Bureau found a Susan W. Horton in Lancaster, Pennsylvania, and sent her a delinquent tax statement in March 2009. The statement was returned by the USPS marked as "Return to Sender - Attempted - Not Known - Unable to Forward." The Bureau also sent post-sale notices to this Lancaster address, but these were returned by USPS as "Attempted - Not Known." There is no indication from the record that this individual had or has any relationship to Appellees.

September 8, 2009, the Bureau filed with the Prothonotary's Office a petition to waive personal service.[3]

On September 23, 2009, the tax upset sale was conducted as scheduled, and the Property was sold to Appellant.[4] In October 2009, the Bureau mailed several post-sale notices to Appellees at the Property's address via certified mail; all were returned via USPS as not deliverable.

After the tax upset sale, Appellant retained David Holland, Esq., to file a quiet title action against Appellees. Mr. Holland was unable to locate Appellees through USPS; utility companies; or several internet sites, including the on-line data service Accurint, Social Security obituaries, and telephone directories. Notes of Testimony, 4/22/10, ("N.T.") at 167-69, 172. Mr. Holland was also unable to learn any information about Appellees' whereabouts when he did an internet search of the Property's address; the search came up with the name "USG Insurance" and a telephone number that yielded merely a recorded message directing one to enter a remote access code. Id. at 173-74. In addition, an internet search for a condominium association related to the Property did not yield any helpful information. Id. at 169-70. In a further attempt to locate a condominium association office, Mr. Holland then asked Appellant "to canvas the neighborhood" around the Property. Id. at 170. Appellant "drove around the

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[3] The tax collector for Cecil Township also attempted, unsuccessfully, to locate Appellees via the local Sewage Authority, the earned income tax files, and an internet telephone directory. She billed Appellees for the 2007, 2008, and 2009 tax years. USPS returned the 2007 and 2009 tax bills as not deliverable and unable to forward. The 2008 tax bills were not returned. See Notes of Testimony, 4/22/10, ("N.T.") at 39-48.

[4] Yvonne Orsatti, the Bureau's financial operations manager at the time of the tax upset sale, testified that the Bureau went to the sale with 270 properties and sold approximately 30. Id. at 73.

neighborhood," found a sales office, and made inquiry. Id. From the sales office, Mr. Holland obtained a phone number in Columbus, Ohio, through which, after several calls, he learned of Appellees' business address in Florida. Id. at 171-72, 181; see Trial Court Opinion at 6-7 ¶ 16. On October 19, 2009, Appellant's counsel served the quiet title action upon Appellees via certified mail, restricted delivery, at their Florida business address. On November 18, 2009, Appellees filed a petition to open and/or set aside the tax upset sale.

The trial court conducted a hearing on the matter on April 22, 2010. Yvonne Orsatti, the Bureau's financial operations manager at the time of the tax upset sale, testified as to the Bureau's procedures prior to and after the tax upset sale. N.T. at 4-38, 72-83. Appellee Mr. Horton testified that he had received no final closing documents, including the deed and title insurance policy, from his settling agent following his purchase of the Property in 2006. Id. at 92-93, 96. In addition, he testified that he had never received any tax bill for the Property, any notice of his tax delinquencies, or any notice of the tax upset sale. Id. at 110-12, 115-16, 139. He admitted that the deed to the Property contained three errors, that those errors would make it difficult to locate Appellees, and that the Bureau had not been responsible for the errors.[5] Id. at 93-95, 125-31; Trial Court Opinion at 7 ¶ 18.

Before the trial court, Appellees argued that the Bureau had not exercised reasonable investigative efforts to locate them, and, as a secondary argument, that the

[5] Mr. Horton testified that he had filled out and signed a document provided to him by his settling agent indicating that tax bills and notices for the Property were to be sent to his home address in Florida. N.T. at 91-92, 97-98, 132. He further testified that he had never received a tax bill, did not have "any idea that [the tax bills] weren't paid," and "figured that [the tax bills] had been taken care of … by [his] accounting department" in Florida as "[a]ll other bills have been routinely paid." Id. at 139, 144. Utility bills for the Property were sent to USG's business address in Florida and were paid by USG. Id. at 99-109, 121.

Bureau had not placed contemporaneous notations in the Property file to document the investigative efforts that had been undertaken. N.T. at 184-90 (closing argument) (citing 72 P.S. § 5860.607a).[6]

On December 29, 2010, the trial court granted Appellees' petition to set aside the tax upset sale, holding that the Bureau had not satisfied the notice requirement of 72 P.S. § 5860.602(e)(2), pursuant to In Re: York County Tax Claim Bureau, 3 A.3d 765 (Pa.Cmwlth. 2010). Trial Court Opinion at 9, 12. The trial court determined that although the Bureau had complied with the statutory requirements to provide three separate methods of notice prior to a tax upset sale (to wit, publication, certified mail, and posting), it had failed to provide "proof of mailing" of the second notice to Appellees, mailed via first-class on August 27, 2009, as required by subsection 5860.602(e)(2). Id. at 12. Accordingly, the trial court declared the tax upset sale of the Property to be null

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[6] Section 607a(a) requires the Bureau to "exercise reasonable efforts" to discover the whereabouts of a property owner if it appears that he or she has not received notice of an upcoming tax upset sale. In relevant part, Section 607a(a) provides as follows:

> …the bureau must exercise reasonable efforts to discover the whereabouts of such person or entity and notify him. The bureau's efforts shall include, but not necessarily be restricted to, a search of current telephone directories for the county and of the dockets and indices of the county tax assessment offices, recorder of deeds office and prothonotary's office, as well as contacts made to any apparent alternate address or telephone number which may have been written on or in the file pertinent to such property. When such reasonable efforts have been exhausted, regardless of whether or not the notification efforts have been successful, a notation shall be placed in the property file describing the efforts made and the results thereof, and the property may be rescheduled for sale or the sale may be confirmed as provided in this act.

and void. Id. at 13. Notably, York, the basis for the trial court's holding here, was decided months after the sale and the hearing in the instant case,[7] and no party here raised the subsection 602(e)(2) issue that the Commonwealth Court decided in York.

Appellant appealed to the Commonwealth Court, which affirmed. Horton v. Washington County Tax Claim Bureau, 44 A.3d 710 (Pa.Cmwlth. 2012). Agreeing with the trial court, the Commonwealth Court relied on York, supra, to hold that the "proof of mailing" requirement set forth in subsection 602(e)(2) can be satisfied **only** with a USPS Certificate of Mailing, also known as USPS Form 3817. Id. at 714. Although the Bureau had submitted a United States Postal Service Consolidated Postage Statement with an attachment delineating to whom mailings had been sent on August 27, 2009, as well as the actual envelopes sent to both Appellees and returned with USPS's official stamp, the Bureau had not obtained a USPS Certificate of Mailing and thus, pursuant to York's holding, had failed to satisfy the strict notice requirement set forth in subsection 602(e)(2). Id. at 714-15.[8]

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[7] The tax upset sale and the hearing in the instant case were conducted, respectively, on September 23, 2009, and April 22, 2010. York was decided on September 1, 2010.

[8] Appellant raised two issues before the Commonwealth Court: (1) the trial court had erred by concluding that the Bureau had failed to provide "proof of mailing" as required by subsection 602(e)(2), as discussed in the text, supra; and (2) the trial court had erred by concluding that the Bureau had not conducted a reasonable investigation to discover Appellees' whereabouts. The Commonwealth Court addressed only the first issue, concluding that York, supra, controlled the outcome of the case and also determining that the trial court's discussion of the second issue was dicta. Horton, 44 A.3d at 715 n.6. In its opinion, the trial court opined that it "is hard pressed to find that the Bureau conducted a reasonable investigation" to determine Appellees' whereabouts and notify them, as required pursuant to 72 P.S. § 5860.607a. Trial Court Opinion at 12. The trial court specifically cited the Bureau's failure to conduct an internet search of the Property, but also stated that the "issue of whether or not an address internet search is required under 'reasonable' efforts shall not be decided in the case sub judice." Id. at 13. We agree with the Commonwealth Court's determination that the trial court's discussion of (…continued)

Appellant sought allowance of appeal from this Court, which we granted. The sole issue presented for our review is as follows:

> Whether the Commonwealth Court erred in affirming the trial court's decision to set aside the upset tax sale on the basis that the bureau failed to provide certificates of mailing under 72 P.S. § 5860.602(E)(2) where the trial court made an express finding that the bureau mailed each taxpayer a notice of tax sale on August 27, 2009 by first class mail, and the trial court's finding is supported by substantial, undisputed evidence?

Horton v. Washington County Tax Claim Bureau, Petition of Lewis, 55 A.3d 1054 (Pa. 2012).

Pursuant to 72 P.S. § 5860.602 ("Notice of sale"), a tax claim bureau is required to take several steps to attempt to provide notice to a property owner before conducting a tax upset sale due to a delinquency in payment of taxes on the property. The notice provisions of the statute "must be strictly complied with in order to guard against the deprivation of property without due process of law." Krumbine v. Lebanon County Tax Claim Bureau, 663 A.2d 158, 162 (Pa. 1995) (citation omitted).

Section 602 specifically requires the following types of notice. At least thirty days prior to a scheduled tax upset sale, the Bureau must give notice of the scheduled sale by publication in two local newspapers and a legal journal. 72 P.S. § 5860.602(a). Also, at least thirty days prior to a scheduled sale, the Bureau must give notice by "United States certified mail, restricted delivery, return receipt requested, postage prepaid, to each owner." 72 P.S. § 5860.602(e)(1). At least ten days prior to the scheduled sale, the property must be posted. 72 P.S. § 5860.602(e)(3). In the instant

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(continued…)
the subsection 607a "reasonable investigation" issue was dicta. See Horton, supra at 715 n.6.

case, there is no dispute that these three requirements (the publication notice, the certified mail notice, and the posted notice) were all satisfied. Horton, supra at 713; Trial Court Opinion at 11-12.

The dispute here concerns another statutory requirement, to wit, 72 P.S. § 5860.602(e)(2), which mandates the mailing of a **second** notice if a return receipt is not received from each owner in response to the first, certified mail notice. Subsection 602(e)(2) provides, in relevant part, as follows:

> If return receipt is not received from each owner [in response to the certified mail notice required under subsection 602(e)(1), supra], then, at least ten (10) days before the date of the sale, similar notice of the sale shall be given to each owner who failed to acknowledge the first notice by **United States first class mail, proof of mailing**, at his last known post office address … .

72 P.S. § 5860.602(e)(2) (emphasis added).

The issue presented here requires us to interpret the phrase "proof of mailing" in subsection 602(e)(2), an issue that the Commonwealth Court addressed in York, supra. In York, fifteen days prior to a tax upset sale, the tax bureau sent a second notice to the property owner via first-class mail, as required by subsection 602(e)(2). When the tax bureau did not receive a timely response, it proceeded with the tax upset sale. The property owner, who had not received the first-class notice until after the sale of his property had been accomplished, challenged the sale. Before the trial court, as evidence of the second notice mailed via first-class pursuant to subsection 602(e)(2), the tax bureau proffered an internal office document indicating, in the supervisor's handwriting, the date that the notice was sent. York, supra at 766-67. Noting that the tax bureau has the burden of proving compliance with all applicable notice provisions, the Commonwealth Court relied on the plain language of the statute to hold that the tax

bureau had not established "proof of mailing" as required by subsection 602(e)(2). Id. at 768-69. The Commonwealth Court found it "evident that 'proof of mailing' in [sub]section 602(e)(2) refers to a document obtained from the USPS." Id. at 769. The rationale behind the court's determination was that all the other types of mailing specified in Section 602 are USPS services. Therefore, particularly since "proof of mailing" immediately follows "United States first class mail" in the statutory text, there was "no reason to believe that the legislature was referring to anything other than a USPS form" in subsection 602(e)2). Id.

With regard to what specific USPS form was statutorily mandated, the Commonwealth Court looked to the USPS official website,[9] from which the court determined that "the only 'Proof of Mailing' for 'First-Class Mail' is a 'Certificate of Mailing,'" also known as USPS Form 3817. Id. at 769-770. The Commonwealth Court then held as follows:

> [A]fter reviewing the text of section 602(e) in its entirety, as well as the types of mailing services available through the USPS, we are compelled to conclude that 'proof of mailing' refers only to a USPS certificate of mailing.

Id. at 770.[10]

Because the tax bureau in York had not proffered a Certificate of Mailing to establish "proof of mailing," the Commonwealth Court held that the bureau had failed to

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[9] The Commonwealth Court cited Figueroa v. Pennsylvania Board of Probation and Parole, 900 A.2d 949, 950 n.1 (Pa.Cmwlth. 2006), for the proposition that the court may take judicial notice of information provided on a website. York, supra at 770 n.10.

[10] The Commonwealth Court also noted the need for statewide uniformity in proof of mailing, and determined that it was not an onerous burden to require the county tax bureaus to purchase a Certificate of Mailing at an additional cost of $1.15. York, supra at 770.

prove compliance with the subsection 602(e)(2) notice provision, and accordingly affirmed the order of the trial court vacating the tax upset sale. Id. at 771.

In the case presently before us, both the Commonwealth Court and the trial court relied upon York to conclude that the Bureau had not satisfied subsection 602(e)(2)'s "proof of mailing" requirement because it had not obtained and proffered a Certificate of Mailing from USPS. Horton, supra at 714-15. Accordingly, as in York, the Commonwealth Court affirmed the order of the trial court setting aside the tax upset sale. Horton, supra at 714-15.

Because the interpretation of the statutory phrase "proof of mailing" presents a pure question of law, our standard of review is de novo and our scope of review is plenary. Newman Development Group of Pottstown, LLC v. Genuardi's Family Markets, Inc., 52 A.3d 1233, 1239 (Pa. 2012); Dechert LLP v. Commonwealth of Pennsylvania, 998 A.2d 575, 579 (Pa. 2010). "The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly." 1 Pa.C.S. § 1921(a). The best indicator of the legislature's intent is the statute's plain language. Dechert, supra. "When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit." 1 Pa.C.S. § 1921(b).

From our review of Section 602(e), we must conclude that the Commonwealth Court's determination that "proof of mailing" can be satisfied **only** via proffer of a Certificate of Mailing, USPS Form 3817, does not reflect the intention of the legislature as revealed by the plain text of the statute.

Preliminarily, we express our agreement with the Commonwealth Court that, in several instances, the types of mailings expressly delineated in Section 602(e) are specific USPS terms specifying specific USPS services, which are explained and

defined on the USPS website. See York, supra at 769 & n.8 and n.9; https://www.usps.com/send. This is easily visualized on a page from the USPS website that describes first-class mail and the extra services available with that class of mail:

> **First-Class Mail**
> First-Class Mail® is a fast and affordable service for envelopes and packages weighing up to 13 oz. Delivery is in 3 days or less. It's perfect for personal correspondence, bills, and light merchandise.
>
> * * * * *
>
> **Extra Services** **Rules & Restrictions**
>
> **You can add the following options to all First-Class Mail® (except for postcards) to …**
>
> **Insure the contents.**
> Insurance coverage up to $5,000.
> Registered Mail™ for loss or damage up to $25,000.
>
> **Get delivery information.**
> USPS Tracking™ to see tracking updates … .
> Signature Confirmation™ [] to see when it was delivered ….
>
> **Get proof of mailing.**
> Certificate of Mailing as a way of proving the date you sent it.
>
> **Get proof of mailing and delivery information.**
> Certified Mail™ See when it was delivered or delivery was attempted. Requires the signature of the recipient.
>
> **Get proof of delivery.**
> Return Receipt with proof of delivery sent by email or postcard showing the recipient's signature.
>
> **Get only authorized recipients to sign for the delivery.**
> Restricted Delivery to specify who is allowed to sign for the delivery.
>
> **Get your customers to pay for merchandise.**

> Collect on Delivery (COD) Recipient pays for merchandise and shipping when they receive the package.

https://www.usps.com/send/first-class.htm (emphasis in original).

Similarly, in another location on the USPS website, entitled "Mail with Extra Services," thirteen services offered by the USPS are listed, defined, and priced. Specifically, the extra services, listed using terms specifically chosen by USPS, are as follows: Insurance*, Registered Mail™, USPS Tracking™, Signature Confirmation™, Certificate of Mailing, Certified Mail®, Return Receipt, Return Receipt for Merchandise, Restricted Delivery, Collect on Delivery (COD), Special Handling, Adult Signature Required, and Adult Signature Restricted Delivery. See https://www.usps.com/send/insurance-and-extra-services.htm. "Certificate of Mailing" is defined as follows: "Have evidence that you sent the item when you say you did. This official record shows the date your mail was accepted. Certificates of mailing furnish evidence of mailing only." Id. A footnote to the definition clarifies that a Certificate of Mailing refers only to Form 3817 or Form 3877. Id.

Thus, as set forth on the USPS website, First-Class Mail, Certified Mail, Restricted Delivery, and Return Receipt, inter alia, are specific USPS terms for specifically defined USPS service options. These terms are used in subsection 602(e)(1) ("United States certified mail, restricted delivery, return receipt requested") or subsection 602(e)(2) ("United States first class mail"). As the Commonwealth Court determined, it is clear from the statutory text that the legislature intended these terms to be interpreted pursuant to USPS definitions.

However, "proof of mailing," the statutory phrase at issue here, is not a USPS term specifying a particular USPS service option. Rather, as illustrated above by the USPS website pages, the specific USPS term for the service option designed to provide evidence of the date that an item was mailed is "Certificate of Mailing." We cannot

conclude that the General Assembly's failure to use the USPS term "Certificate of Mailing" in the statutory text is irrelevant or insignificant. Recognizing that the legislature chose to use the USPS terms first class mail, certified mail, restricted delivery, and return receipt in Section 602(e), we must conclude that, if the legislature had intended to **mandate** the proffer of a Certificate of Mailing in order to establish proof of mailing, then the legislature would have so specified by use of that specific USPS term in subsection 602(e)(2). Thus, we hold that the Commonwealth Court erred by promulgating a per se rule that subsection 602(e)(2)'s requirement for "proof of mailing" could be satisfied only and exclusively by the proffer of a Certificate of Mailing, USPS Form 3817.

Here, the Bureau proffered other USPS documents as "proof of mailing" pursuant to subsection 602(e)(2). First, the Bureau proffered a "United States Postal Service Consolidated Postage Statement -- First-Class Mail & Priority Mail" (hereinafter "USPS Consolidated Postage Statement"), signed by a USPS employee, bearing a USPS stamp, and showing a mailing date of August 27, 2009, for a total of 2,913 pieces. This document was accompanied by an attachment containing a list of several persons, with their addresses, to whom second notice mailings were sent; Jerry W. Horton and Susan W. Horton, at the Property's address, are both on the list.[11] Second, and more importantly, the Bureau proffered the actual envelopes sent via first-class mail to Jerry W. Horton and Susan W. Horton, respectively, and returned to the Bureau on or about September 10, 2009, with the following USPS notation:

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[11] The "Run Date" of the attachment is provided at the top of the page as August 20, 2009. This date matches the date on the line of the USPS Consolidated Postage Statement where one is instructed to "Enter Date of Address Matching and Coding," which is distinct from the mailing date provided on another line of the USPS Consolidated Postage Statement.

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD.

Thus, although the Bureau did not obtain a Certificate of Mailing, it did proffer other documents **from the USPS** as evidence to establish "proof of mailing." We hold that these USPS documents satisfy the statutory mandate for "proof of mailing" in subsection 602(e)(2).

In sum, we vacate the Commonwealth Court's order in the instant case; we disapprove of York's holding to the extent that it mandated a Certificate of Mailing, USPS Form 3718, to the exclusion of any other USPS documentation,[12] in order to establish "proof of mailing" under 72 P.S. § 5860.602(e)(2); and we remand to the trial court for consideration of the other issues raised in Appellees' petition.

Former Justice Orie Melvin did not participate in the consideration or decision of this case.

Mr. Chief Justice Castille, Mr. Justice Saylor, and Madame Justice Todd join the opinion.

Mr. Justice Eakin files a concurring opinion.

Mr. Justice Baer files a dissenting opinion.

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[12] We recognize that a Certificate of Mailing, USPS Form 3817, may in general be the most consistently reliable form of evidence of the date of mailing. However, under the facts of this case, where the Bureau proffered the **actual envelopes** mailed to Appellees and returned by USPS to the Bureau as undeliverable, we cannot conclude that the Bureau failed to establish "proof of mailing" merely because it did not also proffer a Certificate of Mailing.