

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	CR-89-2017
	:	CR-90-2017
v.	:	
	:	
JOSEPH S. COLEMAN	:	HABEAS
JORDAN A. RAWLS,	:	
Defendants	:	

OPINION AND ORDER

Defendant, Joseph Coleman (Coleman) filed a Motion for Habeas Corpus on January 30, 2017. Defendant, Jordan Rawls (Rawls) filed a similar motion on March 3, 2017. Argument on the Motions took place on March 14, and April 17, 2017. A transcript of the preliminary hearing was provided to the Court for review. Both defendants' challenge the Commonwealth's evidence on the charges of criminal conspiracy to commit criminal homicide and robbery. Individually, Rawls challenges the Commonwealth's evidence on the attempted robbery and Coleman on both of the murder charges. For the following reasons, no charges will be dismissed.

Factual Background

Joseph Coleman and Jordan Rawls (co-Defendants) are charged identically with Criminal Homicide (two open counts)¹; Criminal Conspiracy (criminal homicide)², Robbery³; Criminal Conspiracy (robbery)⁴; Criminal Attempt (robbery)⁵; Persons not to Possess Firearms⁶; Firearms not to be Carried without a License⁷; and Possessing

¹ 18 Pa.C.S. § 2501(a).
² 18 Pa.C.S. § 903(a)(1).
³ 18 Pa.C.S. § 3701(a)(1)(iii).
⁴ 18 Pa.C.S. § 903(a)(1).
⁵ 18 Pa.C.S. § 901(a).
⁶ 18 Pa.C.S. § 6105(a)(1).
⁷ 18 Pa.C.S. § 6106.

Instruments of a Crime⁸. The charges arise from a shooting that occurred on October 31, 2016, at 613 Poplar Street in Williamsport, PA.

Preliminary Hearing Testimony

Testimony of Casey Wilson

Casey Wilson testified on behalf of the Commonwealth. He testified that on the evening of October 31, 2016, he drove his fiancée's blue Chevy Cruze and parked on the same block outside the home of Shane Wright and Kristine Kibler of Poplar Street, Williamsport, Pa. P.H., 1/17/2017, at 6. Joseph Coleman and his friend, identified by Wilson as Defendant Rawls at the preliminary hearing, were in the vehicle with him that evening. Id. at 8. Wilson testified that the plan that evening was for Wilson to go into the residence and then for Coleman and Rawls to come in the residence and take drugs and money. Id. at 9.

Wilson testified that he went into the home for about five minutes and then came back out and told Coleman and Rawls that Wright was sitting on the couch. Id. at 10. He testified that both Coleman and Rawls had guns and that they left his vehicle with those guns and left for about 10-15 minutes. Id. at 12. He said he then saw Coleman run by the car and into the alleyway. Id. He said then he "heard pow and like five seconds later another pow" and that by "pow" he meant gunshots. Id. at 13. He testified that Coleman was in the alleyway at the time of the gunshots and that after the gunshots he came back to the car and "then about 10 seconds later his friend [Rawls] ran and tapped on the window with the gun and said "open the fuckin' car door". Id. at 13-14.

⁸ 18 Pa.C.S. § 907(b).

Wilson testified that Coleman called his friend an “F-ing retard for shooting.” Id. He also testified that the reason he told Coleman and Rawls that Mr. Wright was home, even though Mr. Wright was his good friend of eight years, was because “they both threatened my life and my fiancée’s life”. Id. at 20. He testified that he himself owed Mook⁹ [sic] money, not Mr. Wright. Id. at 21. He testified that the money they intended to recover from Mr. Wright would be to go on Mook’s books in jail. Id.

Testimony of Affiant

Peacock testified regarding Commonwealth’s Exhibits #1 and #2, autopsy reports for victims Shane Wright and Kristine Kibler. Id. at 31. The report revealed that Wright died of a gunshot wound to the chest and Kibler of a gunshot wound to the abdomen. Id. at 31 and 32.

Discussion

At the preliminary hearing stage of a criminal prosecution, the Commonwealth need not prove the defendant’s guilt beyond a reasonable doubt, but rather, must merely put forth sufficient evidence to establish a *prima facie* case of guilt. A *prima facie* case exists when the Commonwealth produces evidence of each of the material elements of the crime charged and establishes probable cause to warrant the belief that the accused committed the offense. Furthermore, the evidence need only be such that, if presented at trial and accepted as true, the judge would be warranted in permitting the case to be decided by the jury. Commonwealth v. Karetny, 880 A.2d 505, 583 Pa. 514, 529 (Pa. 2005). *Prima facie* in the criminal realm is the measure of

⁹ No other identifying information for “Mook” was provided at the preliminary hearing.

evidence, which if accepted as true, would warrant the conclusion that the crime charged was committed.

The evidentiary sufficiency, or lack thereof, of the Commonwealth's *prima facie* case for a charged crime is a question of law as to which an appellate court's review is plenary. Karetny at 513. The *prima facie* standard requires that the Commonwealth's evidence must establish that the crime has been committed and to satisfy this requirement the evidence must show that the existence of each of the material elements of the charge is present. Commonwealth v. Wodjak, 446 A.2d 991, 996 (Pa. 1983). While the weight and credibility of the evidence are not factors at this stage, and the Commonwealth need only demonstrate sufficient probable cause to believe the person charged has committed the offense, the absence of evidence as to the existence of a material element is fatal. Id. at 997. Moreover, "inferences reasonably drawn from the evidence of record which would support a verdict of guilty are to be given effect, and the evidence must be read in the light most favorable to the Commonwealth's case." Commonwealth v. Huggins, 836 A.2d 862, 866 (Pa. 2003) (quoting Commonwealth v. Owen, 580 A.2d 412, 414 (Pa. Super. 1990).)

Coleman argues there was insufficient evidence to hold him for court on both Criminal Homicide counts. To find that the Commonwealth presented *prima facie* evidence that the Defendants committed Criminal Homicide it must have shown evidence of each element below, To Wit:

- 1) That the Defendants
- 2) Intentionally, knowingly, recklessly or negligently
- 3) Caused the death
- 4) Of another human being.

In Rawls case, the testimony of Wilson circumstantially establishes that Rawls went into the home of Wright/Kibler and shot them. Wilson testified that Rawls went into the house with a gun, that he heard gunshots, and the autopsy reports show that each victim died of a gunshot wound. As to Coleman, Wright's testimony shows that he assisted Rawls in the deaths of Wright and Kibler. Wilson testified that it was upon Coleman's directions that Wilson, Rawls and Coleman went to the Poplar St. residence. Coleman was in possession of a firearm. Through the testimony of Wilson it is clear that Coleman could not have pulled the trigger in the deaths of Wright and Kibler. However his decision to participate in the events of that evening established his participation as an accomplice¹⁰.

In order to establish a *prima facie* case for Criminal Conspiracy to commit Criminal Homicide, the Commonwealth must present some evidence of the following elements:

If with the intent of promoting or facilitating its [criminal homicide] commission, Defendant

- 1) agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or

¹⁰ To be an accomplice, a person does not have to agree to help someone else; the person is an accomplice if he or she, on his or her own, acts to help the other person commit a crime.

6. More specifically, the defendant is an accomplice of another for a particular crime if the following two elements are proved beyond a reasonable doubt:

a. that the defendant had the intent of promoting or facilitating the commission of that crime; and

b. [the defendant [solicits] [commands] [encourages] [requests] the other person to commit it] [or] [[aids] [agrees to aid] [or] [attempts to aid] the other person in planning or committing it]. Pa. SSJI (Crim) 8.306(a)

- (2) agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime.

Both Counsel does not dispute that the evidence presented at the preliminary hearing is sufficient to hold for court the charge of criminal conspiracy to commit robbery; however, they take exception to the charge of criminal conspiracy to commit criminal homicide since they believe the preliminary hearing testimony tends to show that the death of another human being(s) was neither planned nor anticipated. *Id.* at 37. As it was reasonably foreseeable that bringing guns to a robbery (as Wilson testified both Defendants did) reasonably could find them being used on the victim in some way to facilitate the robbery with the result being the death of the victim, the Commonwealth has established its case.

A person is guilty of robbery if, in the course of committing a theft, he:

- (i) inflicts serious bodily injury upon another;
- (ii) threatens another with or intentionally puts him in fear of immediate serious bodily injury;
- (iii) commits or threatens immediately to commit any felony of the first or second degree;
- (iv) inflicts bodily injury upon another or threatens another with or intentionally puts him in fear of immediate bodily injury;
- (v) physically takes or removes property from the person of another by force however slight; or

....

- (2) An Act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft or in the flight after the attempt or commission.

18 Pa.C.S. § 3701 (robbery).

Wilson and Peacock's testimony is sufficient to evidence to establish *prima facie* on the charge of Robbery. Wilson testified that the purpose of the visit to the

Wright/Kibler residence was to take both drugs and money from Wright. Like felony murder, robbery does not require the completion of the predicate offense, theft, but it does require that force be utilized or threatened while in the course of committing a theft. Commonwealth v. Austin, 906 A.2d 1213, 1221 (Pa. Super. 2006). Despite the fact Coleman never entered the home with his firearm, he could be considered to be liable as an accomplice in the robbery. Commonwealth v. Gladden, 665 A.2d 1201, 1209 (Pa. Super 1995) (where defendant arranged the robbery and enlisted that aid of the gunman there was sufficient evidence to prove accomplice liability).

Rawls alleges that the Commonwealth has failed to present sufficient evidence on the charge of attempted robbery. A person commits an attempt when, with intent to commit a specific crime, he does any act which constitutes a substantial step toward the commission of that crime. 18 Pa.C.S. §901 (criminal attempt). Wilson testified that the purpose of Rawls' visit that evening was to take drugs and money from the victims. The Court finds that entering the house with weapons is a substantial step towards the commission of robbery.

ORDER

AND NOW, this 16th day of August, 2017, based upon the foregoing Opinion, Defendants' Motion for Habeas Corpus are hereby DENIED.

BY THE COURT,

Nancy L. Butts, P.J.

cc: Nicole Spring, Esq. Defense Counsel
Ron Travis, Esq. Defense Counsel
DA
Gary Weber, Esq.