

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA : NO.: CR-1184-2017  
:   
vs. :   
:   
SOLOMON LAWRENCE, :   
Defendant : Omnibus Pretrial Motion Nunc Pro Tunc

**OPINION & ORDER**

The defendant is charged by Information filed on July 21, 2017 with one count of burglary, criminal trespass, possession with intent to deliver, possession of paraphernalia, possession of a small amount of marijuana, persons not to possess a firearm, receiving stolen property and possession of a controlled substance. By Order dated January 19, 2018, the defendant's case was consolidated for trial purposes with the case of Tarron Dennis at Information No. 1409-2017 of Lycoming County.

According to the affidavit of probable cause, on April 22, 2017, police officers from the Williamsport Bureau of Police responded to 810 Rhoads Alley for a report of trespassing. Upon arrival, all of the doors were locked and there was an unsecured window on the first floor. Upon looking into the residence, there was evidence of individuals living there. This evidence included, among other things, a television, a bed, a cat and clothes. The officer soon detected the odor of marijuana on the second floor. The owner of the property gave consent to the officers to search the residence. The owner confirmed that no one had been given permission to be inside.

A search of the residence uncovered, among other things, marijuana in the kitchen, mail with the defendant's name along with the address of the residence, and clothing

for more than one person.

In the second floor bedroom, the police discovered heroin and heroin related paraphernalia. A search underneath the mattress in the same second floor bedroom revealed a loaded firearm that was reportedly stolen. The firearm was lying on top of mail that allegedly belonged to the defendant. The defendant was previously convicted of manufacturing a controlled substance, which conviction precluded him from possessing any firearms.

The defendant filed an Omnibus Pretrial Motion on October 9, 2017. A hearing was eventually held on February 20, 2018. The defendant contends that the search of the residence was without a warrant and, accordingly, that all evidence should be suppressed. The defendant submits that the consent to search given by the owner, Rhonda Walker, was insufficient because the property was leased to the defendant at the time, and Ms. Walker did not have “common authority” over the property.

At the February 20, 2018 hearing, Rhonda Walker testified. She is and has been the owner of the house at 810 Rhoads Alley. In late 2015 or early 2016, she moved to Philadelphia. Prior to moving, she turned off all of the utilities to the property although she kept some of her furniture and belongings in it.

In late 2016, she was informed by Tyshira Brown, her daughter’s ex-girlfriend, that there were individuals living in the house. She asked her daughter, Unique, to look into the matter for her. She eventually travelled to Williamsport in January or February of 2017 to investigate the matter herself. She went to the house and confronted the defendant as he was entering the house. The defendant told her that Ms. Brown gave him permission to

live there.

Ms. Walker told the defendant that he had to leave but given the fact that children were apparently living in the house as well, Ms. Walker gave the defendant a little bit of time to leave. Ms. Walker gave the defendant permission to stay in the premises until he found a place to stay but she insisted that the defendant pay money for the months that he had previously lived there.

Ms. Walker eventually found out there were no children living in the apartment. Nonetheless, she was hoping that the defendant would enter into a lease for the property. She obtained a form lease but it was never signed by anyone. In late March, as verified by text messages between the defendant and Ms. Walker, the defendant agreed to pay Ms. Walker \$300.00 for past “rent” and \$600.00 for the month of April. If the defendant did not pay, he was to be out of the residence by April 3, 2017.

Hoping to get at least some money, she extended the “drop dead date” for the money until April 14, 2017. The defendant advised Ms. Walker on or around April 19, 2017 that the house would be “evacuated.”

The evidence confirmed that the defendant moved into the house, moved Ms. Walker’s belongings to the attic, turned on the utilities without her permission and while possibly misrepresenting her identity and, unfortunately, never paid her one cent.

The defendant testified that he first moved into the premises with permission from Ms. Brown. He testified that he had entered into a written lease with Ms. Walker but could not produce a copy. Determinatively, the defendant testified that he moved out of the

house by mid-April and prior to April 22, 2017. The police did not search the residence until on April 22, 2017.

Both the Fourth Amendment to the United States Constitution and Article I, § 8 of the Pennsylvania Constitution protect individuals from unreasonable searches and seizures by police in areas where those individuals have a reasonable expectation of privacy. *Commonwealth v. Enimpah*, 630 Pa. 357, 106 A.3d 695, 699 (2014)). An expectation of privacy exists if a person has a subjective expectation of privacy that society is willing to recognize as legitimate and reasonable. *Commonwealth v. Gordon*, 546 Pa. 65, 683 A.2d 253, 256 (1996). Where there exists a reasonable expectation of privacy, Article 1, Section 8 and the Fourth Amendment generally require police to obtain a warrant, issued by a neutral and detached magistrate and founded upon probable cause, prior to conducting a search of a person's property, unless one of the few well delineated exceptions apply. *Commonwealth v. Arter*, 637 Pa. 541, 151 A.3d 149, 153 (Pa. 2016).

*Commonwealth v. Loughnane*, 173 A.3d 733, 741 (Pa. 2017).

In Pennsylvania, a landlord or lessor cannot consent to a search of a tenant's premises, regardless of the lessor's right to enter and inspect. *Commonwealth v. Basking*, 970 A.2d 1181, 1189 (Pa. Super. 2009); *Commonwealth v. Lowery*, 305 Pa. Super. 66, 451 A.2d 245, 247 (1982).

The court finds, however, that there was never a landlord tenant relationship between the parties. The court finds the testimony of Ms. Walker to be credible. The court does not find the testimony of the defendant to be entirely credible.

Regardless, even if there was a landlord/tenant relationship, it ended on the day that the defendant left the premises. By the defendant's own words, he left the premises prior to the search and specifically agreed to "evacuate" the premises prior to the search. He clearly had no expectation of privacy in the premises once he left them, regardless of what he

left behind.

Sequentially, the court finds that the defendant first was trespassing on the property and as a trespasser had no expectation of privacy. Next, the defendant's status changed to that of a licensee. He was given an oral license by Ms. Walker to remain on the premises until he could find another place to live. Ms. Walker eventually revoked that license because it was given only on the condition that the defendant would pay monies. The defendant never satisfied the condition of the license. Finally, the defendant abandoned the property and had no right whatsoever in it. He had not paid to live there during the month of April. There was no written document allowing him to live there during the month of April, there was no oral permission to live there during the month of April, and the defendant left and/or abandoned the property prior to Ms. Walker permitting the search. Because the defendant was not in lawful possession of the property at the time of the search, he had no reasonable expectation of privacy and Ms. Walker was legally permitted to give consent to search.

**ORDER**

**AND NOW**, this \_\_\_\_ day of March 2018, following a hearing, oral argument and review of the defendant's brief, the court **DENIES** the defendant's motion to suppress. The court also **DENIES** the defendant's motion to reduce bail. The court is of the strong opinion that the defendant is not only a flight risk but also a risk to commit other offenses.

By The Court,

Marc F. Lovecchio, Judge

cc: Kyle Rude, Esquire  
Melissa Kalas, Esquire, Assistant District Attorney  
Gary Weber, Lycoming Reporter  
Work File