IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	**CR: 277-2013; 891-2013**
	:	**CRIMINAL DIVISION**
OSHANE THOMPSON,	:	
Defendant	:	

OPINION AND ORDER

The Defendant filed an Omnibus Pretrial Motion on July 24, 2013. A hearing on the motion was held on September 18, 2013. By agreement of the parties, a stipulation was filed on September 25, 2013 and argument on the Omnibus Pretrial Motion was held on October 18, 2013.

Background

On September 30, 2012, Oshane Thompson (Defendant) and Katisha Armour (Armour) attempted to purchase four (4) cartons cigarettes at an A-Plus Market located in Lock Haven, Clinton County. The Defendant tried to use two (2) credit cards to make the purchase; however, both the credit cards were declined. In addition, Armour attempted to use another two (2) credit cards and those were also declined. Before leaving the gas station, the Defendant pulled out an additional credit card but did not attempt to us it.

Officer Timothy Moyer (Moyer) of the City of Lock Haven Police responded to a 911 call that reported that a black male and black female were using stolen credit cards at the A-Plus Market. When Moyer arrived he saw a black Dodge Charger pulling out of the gas station with a black male and a black female. Moyer conducted a traffic stop on the vehicle. The Defendant, who was the driver, stated that he used one (1) credit card and showed him a credit card that listed his name. The Defendant stated that he did not have any additional credit cards.

Moyer went into the A-Plus Market and an employee confirmed that the individuals in the black Dodge Charger had attempted to use stolen credit cards. In addition, Moyer and employees checked past transactions that credit card companies had flagged or also referred to as "call back transactions" in the previous months of July, August, and September. During these transactions, Moyer was able to identify the Defendant and Armour making similar cigarette purchases.

Moyer went back to the Dodge Charger with the Defendant and Armour and requested permission to speak with them at the police station, which they declined. During the interaction Moyer noticed the smell of marijuana emanating from the vehicle. Moyer told the Defendant and Armour that he was detaining them while a search warrant was obtained. The search warrant was granted and officers searched the vehicle and found approximately twenty (20) credit cards and suspected marijuana in the front passenger seat. During the search the Defendant and Armour were not handcuffed and on their own request sat in a police vehicle because it was cold. Following the search, both the Defendant and Armour were released.

On July 24, 2013, the Defendant filed an Omnibus Pre-trial Motion. The Defendant in his Motion to Suppress Evidence alleged that the search of the vehicle and the search warrant were each not based on probable cause. The Defendant also contends that he was unlawfully detained during the stop. Finally, the Defendant also alleged in his Motion to Dismiss Charges that the Lycoming County case needed to be dismissed on Rule 110 grounds because the Defendant pled guilty to charges in this criminal episodes in Clinton County.

Motion to Suppress

Whether the search warrant and search were based on probable cause.

The Defendant argues that the search warrant and search of his vehicle were without probable cause. "[P]olice have probable cause [to arrest] where the facts and circumstances within the officer's knowledge are sufficient to warrant a person of reasonable caution in the belief that an offense has been or is being committed." Commonwealth v. Rogers, 849 A.2d 1185, 1192 (Pa. 2004). Probable cause is determined by considering all the relevant facts under the totality of the circumstances. Commonwealth v. Gray, 503 A.2d 921 (Pa. 1985). A magistrate's finding of probable cause must be based on facts described within the four corners of the affidavit. Commonwealth v. Stamps, 427 A.2d 141, 143 (Pa. 1981). The standard for evaluating whether probable cause exists for the issuance of a search warrant is the "totality of the circumstances" test. Illinois v. Gates, 462 U.S. 213 (1983); Commonwealth v. Gray, 503 A.2d 921 (1985) (adopting the ruling of Gates to be applied within the Commonwealth of Pennsylvania). In a brief summary:

> The linch-pin that has been developed to determine whether it is appropriate to issue a search warrant is the test of probable cause. Probable cause exists where the facts and circumstances within an affiant's knowledge and of which he has reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that a search should be conducted.

Commonwealth v. Jones, 988 A.2d 649, 655 (Pa. 2010).

In this case, the Affidavit of Probable Cause attached to the search warrant application contains many facts that support probable cause. The A-Plus Market called police regarding a black male and black female using stolen credit cards. Moyer stopped a vehicle with two individuals matching the description and was able to confirm with a store clerk that they were the

suspects. In addition, an A-Plus manager showed Moyer pictures matching the description of the Defendant and Armour from three past disputed claims by credit card companies:

> Your Affiant spoke with Beth Mitchell, the APLUS Manager. Mitchell reported that the[re] have been three disputed claims recently at the APLUS. Mitchel reported on 9/1/12 at 1437 hours, a purchase was made using card ending in 4005 for a total of 146.77. Your Affiant viewed still photograph taken from the APLUS security cameras which showed two persons matching Thompson and Armour making the purchase. Mitchell reported on 8/4/12 at 2015 hours, a purchase was made using a card ending in 1020 for a total of 141.48. Your Affiant viewed a still photograph taken form the APLUS security cameras which showed two persons matching Thompson and Armour making the purchase. Mitch reported on 7/24/12 at 1520 hours, a purchase was made using card ending in 5449 for a total of $125.61. Your Affiant viewed a still photograph taken from the APLUS security cameras which showed two persons matching Thompson and Armour making the purchase.

Further, Moyer noted that the receipt for the August 4, 2012 transaction was signed "Oshane T" and that the vehicle with the Defendant and Armour had the odor of marijuana. Based upon the entire application for search warrant, this Court finds that the magistrate district judge properly issued the search warrant on probable cause that the Defendant possessed and had used stolen credit cards. Further, the search of the vehicle based upon the warrant was legal.

Whether Defendant was unlawfully detained during the stop

The Defendant contends that he was unlawfully detained during the stop and police investigation. "A 'custodial detention' must be supported by probable cause; it is deemed to arise when the conditions and/or duration of an investigating detention become so coercive as to be the functional equivalent of arrest." Commonwealth v. Douglass, 539 A.2d 412, 418 (Pa. Super. 1988) (finding that a three and a half hour detention was not custodial). "An arrest is an act that indicates an intention to take a person into custody or that subjects the person to the will and control of the person making the arrest." Commonwealth v. Guillespie, 745 A.2d 654, 660 (Pa. Super. 2000). Factors to consider when determining if a detention is investigative or

custodial include: 1) the basis for the detention (the crime suspected and the grounds for suspicion); 2) the duration of the detention; 3) the location of the detention (public or private); 4) whether the suspect was transported against his will (how far, why); 5) the method of detention; 6) the show, threat, or use of force; and 7) the investigative methods used to confirm or dispel suspicions. Douglass, 539 A.2d at 421.

> In assessing whether a detention is too long in duration to be justified as an investigative stop, we consider it appropriate to examine whether the police diligently pursued a means of investigation that was likely to confirm or dispel their suspicions quickly, during which time it was necessary to detain the [defendants]. A court making this assessment should take care to consider whether the police are acting in a swiftly developing situation, and in such cases the court should not indulge in unrealistic second guessing.

Guillespie, 745 A.2d at 660. The court is to conduct an objective test viewed in "light of the reasonable impression conveyed to the person subjected to the seizure . . ." Id.

In Guillespie, two men were told to step away from a building and were placed in handcuffs. Guillespie, 745 A.2d at 660. Officers explained that a robbery had just occurred and that they matched the suspects' descriptions. Id. Officers also told the individuals that they had to wait until the victim could come to the scene to make an identification. Id. The Superior Court found that the officers were not unnecessarily intrusive towards the suspects.

> [T]he handcuffing of [the suspects] was merely part and parcel of ensuring the safe detaining of the individuals during the lawful *Terry* stop. The police diligently pursued bringing the robbery victim to the scene for identification purposes. While the use of restraints is a factor to be considered with regard to whether a detention is custodial, in the present case other factors mitigate against such a finding – e.g., minimal duration of detention, no transport against will, no show or threat or use of force.

Id. at 660-61. The Superior Court also noted that the Supreme Court had declined to hold that every time an individual is placed in handcuffs that such individual has been arrested. Id.

Here, the Court is unpersuaded that the Defendant was placed in an illegal custodial detention. First, as discussed above, the police did have probable cause following the vehicle

stop and contact with the A-Plus employees. The detention by police, however, would not require probable cause as it did not raise to the level of a custodial detention. The Defendant was never placed in handcuffs or transported and only sat in a police vehicle because he was cold. The detention occurred in a public location and occurred while police diligently obtained a search warrant for the vehicle. Lastly, the Defendants were not threated with force and they were released following the search of the vehicle. The Court acknowledges that the vehicle stop occurred over a long period of time from approximately 2:15 PM to 9:15 PM; however, the remaining factors clearly establish that there was no custodial interrogation.

Whether the charges should be dismissed pursuant to a violation of Rule 110.

The Defendant alleges that all the charges in Lycoming County should be dismissed because charges from the same criminal episodes have been previously adjudicated in Clinton County. Based on the credit cards found in the vehicle, the Defendant was charged twice in Clinton County and twice in Lycoming County. In Clinton County the Defendant was charged with eight (8) counts of Access Device Fraud, two (2) counts of Criminal Conspiracy Access Device Fraud, two (2) counts of Identity Theft, three (3) counts of Theft by Deception, one (1) count of Criminal Conspiracy Theft by Deception, three (3) counts of Receiving Stolen Property, and one (1) count of Criminal Conspiracy Receiving Stolen Property. The charges out of Clinton County have already been disposed of as the Defendant pled *nolo contendere* to two (2) counts of Access Device Fraud on May 9, 2013. In Lycoming County the Defendant was charged with seventeen (17) counts of Forgery, seventy-two (72) counts of Access Device Fraud, twenty-six (26) counts of Identity Theft, seven (7) counts of Criminal Conspiracy, four (4) counts of Theft By Deception, and four (4) counts of Receiving Stolen Property The first issue raised by the

parties is whether 18 Pa.C.S. § 110 or Pa.R.Crim.P. 130(B) should be applied in this case. The relevant portion of 18 Pa.C.S. § 110 states:

> Although a prosecution is for a violation of a different provision of the statutes than a former prosecution or is based on different facts, it is barred by such former prosecution under the following circumstances:
>
> (1) The former prosecution resulted in an acquittal or in a conviction as defined in section 109 of this title (relating to when prosecution barred by former prosecution for the same offense) and the subsequent prosecution is for:
>
> (i) Any offense which the defendant could have been convicted on the first prosecution;
>
> (ii) Any offense based on the same conduct or arising from the same criminal episode, if such offense was known to the appropriate prosecuting officer at the time of the commencement of the first trial and occurred within the same judicial district as the former prosecution unless the court ordered a separate trial of the charge of such offense; or

Further, the relevant potion of Pa.R.Crim.P. 130(B) states:

> (B) Transfer of Proceedings in Court Cases.
>
> (1) Prior to the completion of the preliminary hearing:
>
> (a) When charges arising from a single criminal episode, which occurred in more than one judicial district,
>
> (i) are filed in more than one judicial district, upon the filing with the issuing authority of a written agreement by the attorneys for the Commonwealth, the proceedings shall be transferred to the magisterial district in the judicial district selected by the attorneys for the Commonwealth; or
>
> (ii) are filed in one judicial district, upon the filing of a written agreement by the attorneys for the Commonwealth, the proceedings shall be transferred to the magisterial district in the judicial district selected by the attorneys for the Commonwealth.

The parties both agree that 18 Pa.C.S. § 110 should not be applied. The Commonwealth argues that the statute only applies to prosecutions within the same jurisdiction. Similarly, the

Defendant argues that the statute does not apply to offenses that occurred in more than one jurisdiction.[1]

The Superior Court of Pennsylvania, however, applied 18 Pa.C.S. § 110 recently in a similar situation as this case. In Miskovitch, the defendant was charged in Westmoreland County for a theft by unlawful taking that occurred on July 31, 2004 and charged in Allegheny County for robbery and aggravated assaulted that occurred on August 1, 2004. Commonwealth v. Miskovitch, 64 A.3d 672 (Pa. Super. 2013). The defendant pled guilty to the Westmoreland County offense before the Allegheny County offenses and then argued that they were part of the same criminal episode under 18 Pa.C.S. § 110. The Superior Court applied Wittenburg to determine whether the offenses were the same criminal episode:

> The determination of what constitutes a single criminal episode must not be approached in a rigid or hypertechnical manner that would defeat the purposes underlying Section 110. Rather, when determining what constitutes a single criminal episode, we consider (1) the temporal relationship between the acts in question and (2) the logical relationship between the acts. In determining whether a number of offenses are "logically related" to one another, a court should inquire whether there is a substantial duplication of factual and/or legal issues presented by the offenses; if there is substantial duplication, then the offenses are logically related and must be prosecuted at one trial.

Id. at 686. (citing Commonwealth v. Wittenburg, 710 A.3d 69, 73 (Pa. Super. 1998)). The Superior Court found that there was no logical relationship between the crimes and therefore no double jeopardy grounds:

> The crimes occurred on different days and at different locations, and, not surprisingly, different witnesses were required for the prosecution of the separate crimes. There were no common elements of the charged criminal offenses beyond the identity of the perpetrator, nor did the separate prosecutions result in duplication of any other legal or factual issues.

[1] See 18 Pa.C.S. § 111 (dealing with when prosecution is barred by former prosecution in another jurisdiction).

Id. at 687. Further, the Superior Court discussed Pa.R.Crim.P. 130(B) only in regards to a venue issue and not towards double jeopardy. See also Commonwealth v. Selenski, 994 A.2d 1083 (Pa. 2010) (applying Pa.R.Crim.P. 130(B) to venue issues).

Irrespective of whether 18 Pa.C.S. § 110 or Pa.R.Crim.P. 130(B) is applied; the analysis focuses on whether the charges occurred during one single criminal episode. Based upon case law and similar issues being addressed under 18 Pa.C.S. § 110, this Court will focus its evaluation of whether double jeopardy is applied in this case under § 110. The parties disagree as to whether all the charges in Clinton County and Lycoming County are the same criminal episode. The Commonwealth acknowledges that any charges that were filed in both counties and which arose from using the same credit card on the same day are more likely to be considered as within the same criminal episode than the other charges.

The legal analysis to determine a single criminal episode has traditionally been the "logical and temporal" inquiry, which was cited above in Miskovitch. This analysis, however, has notably led to contradictory results. See Commonwealth v. Reid, 2013 Pa. LEXIS 2198 (September 26, 2013). Therefore, in Reid, the Supreme Court of Pennsylvania clarified the analysis:

> We reiterate the determination of whether the logical relationship prong of the test is met turns on whether the offenses present a substantial duplication of issues of fact and law. Such a determination depends ultimately on how and what the Commonwealth must prove in the subsequent prosecution. There is a substantial duplication of issues of fact if "the Commonwealth's case rest[s] solely upon the credibility of [one witness]" in both prosecutions. There is no substantial duplication if "proof of each individual instance of possession and delivery in each county . . . require the introduction of the testimony of completely different police officers and expert witnesses as well as the establishment of separate chains of custody[,]" or if "there were three victims in three different counties requiring three different investigations, and different witnesses were necessary at each trial." When determining if there is a duplication of legal issues, a court should not limit its analysis to a mere comparison of the charges, but should also consider whether, despite "the variation in the form of the criminal charges," there is a "commonality" of legal issues within the two prosecutions. It should be remembered, however, "[t]he mere

> fact that the additional statutory offenses involve additional issues of law or fact is not sufficient to create a separate criminal episode since the logical relationship test does not require an absolute identity of factual backgrounds. Finally, in considering the temporal and logical relationship between criminal acts, we are guided by the policy considerations § 110 was designed to serve, which "must not be interpreted to sanction 'volume discounting[,]' [procedural maneuvering,] or . . . to label an 'enterprise' an 'episode.'"

Id. (citations omitted).

In addition, case law provides this Court with direction regarding what constitutes a single criminal episode. In Nolan, the defendant stole twenty-five (25) vehicles over a seven-month span and in two separate counties. Commonwealth v. Nolan, 855 A.2d 834 (Pa. 2004). The Defendant argued that the entire illegal operation that occurred in Lackawanna and Luzerne Counties was a single criminal episode. The Supreme Court of Pennsylvania, however, disagreed and found that they were separate criminal episodes:

> Here, over a seven-month period, appellee ran a profitable enterprise in which he stole at least 25 vehicles from numerous individuals and 11 dealerships and then resold them, creating even more victims. Much like a television sitcom, each week's story has similar characters, producers, and continuity of storyline, but each week is a separate episode-the series of episodes is an enterprise. Such is the scenario here, appellee starred in his own series with multiple episodes in each county.

Id. at 840.

With the law in mind, this Court will begin its analysis by determining whether there is a substantial duplication of issues of fact and law. Here, all the charges in both counties stem from an initial traffic stop and investigation out of Clinton County. This traffic stop resulted in the suppression issues raised in the beginning of this opinion. The traffic stop, however, only led to the discovery of the stolen credit cards that had been used in Lycoming County. Police agencies in Lycoming County conducted an additional investigation in order to file these current charges. Other than the traffic stop establishing the Defendant's possession of the stolen credit cards, that stop alone does not provide sufficient evidence to convict the Defendant at trial.

Although both sets of charges share facts, the charges themselves are supported by discrete facts from each transaction. In some instances, the Defendant used the same credit card with the same victim in both counties on the same day. On other occasions, the Defendant used different credit cards with different victims and only in one county. Due to the number of incidents and the variety of facts, the parties stipulated to the following chart:

Date	Store	Location	Time	Card	Value	Signature
7/24/2012	Sunoco	Lock Haven	15:20	VISA-5449	125.61	KA
8/4/2012	Weis Markets	Loyalsock	18:13	AMX-1020	153.61	Oshane T
8/4/2012	Weis Markets	Loyalsock	18?49	AMX-1020	299.48	Oshane T
8/4/2012	Weis Markets	Loyalsock	18:52	AMX-1020	146.26	Oshane T
8/4/2012	Mt. View Deli	Woodward Twp.	19:32	AMX-1020	143.56	Oshane T
8/4/2012	Sunoco	Lock Haven	20:15	AMX-1020	141.48	Oshane T
8/16/2012	Wine & Spirits	Old Lycoming	17:54	AMX-1022	428.12	Oshane T
8/16/2012	Sunoco	Old Lycoming	18:38	AMX-1022	193.7	Oshane T
8/16/2012	Heller's Market	Old Lycoming	Unknown	AMX-1022	25.27	
8/16/2012	Heller's Market	Old Lycoming	Unknown	AMX-1022	153.67	
8/16/2012	McDonald's	Old Lycoming	Unknown	AMX-1022	11.39	
9/1/2012	Sheetz	Woodward Twp.	14:22	AMX-0480	135.43	Oshane T
9/1/2012	Sunoco	Lock Haven	14:37	AMX-4005	146.77	KA
9/1/2012	Mt. View Deli	Woodward Twp.	15:34	AMX-4080	154.46	Oshane T
9/1/2012	Sheetz	Williamsport	15:46	AMX-4080	193.96	Oshane T
9/1/2012	Sunoco	Old Lycoming	15:57	AMX-4080	163.72	KA
9/1/2012	Wine & Spirits	Old Lycoming	16:10	AMX-4080	270.22	Oshane T
9/7/2012	Sunoco	Old Lycoming	5:09	AMX-9688	146.76	Oshane T
9/7/2012	UniMart	South Williamsport	17:25	AMX-1004	127.4	Oshane T
9/16/2012	Sunoco	Old Lycoming	22:15	AMX-1154	15.7	
9/16/2012	Sunoco	Old Lycoming	22:15	AMX-1154	272.58	Oshane T
9/17/2012	Sunoco	South Williamsport	0.29	AMX-1154	134.07	Illegible (OT)
9/17/2012	UniMart	South Williamsport	5:28	AMX-1154	189.53	Oshane T
9/17/2012	McDonald's	South Williamsport	Unknown	AMX-1154	3.79	
9/17/2012	Kwick Fill	Clinton County	19:31	AMX-1005	285.26	
9/17/2012	Sunoco	Lock Haven	19:46	AMX-1005	125.61	Oshane T
9/17/2012	Sunoco	Lock Haven	19:47	AMX-1005	127.41	Oshane T
9/17/2012	Red Lobster	Williamsport	21:47	AMX-1005	135.92	
9/30/2012	Sunoco	Old Lycoming	6:25	AMX-1003	312.58	KA
9/30/2012	Sunoco	Lock Haven	17:28	AMX-2001	128.3 (D)	
9/30/2012	Sunoco	Lock Haven	17:28	AMX-3001	128.3 (D)	
9/30/2012	Sunoco	Lock Haven	17:28	AMX-4002	128.3 (D)	
10/26/2012	Sunoco	Old Lycoming	11:17	AMX-2079	1000 (D)	
10/26/2012	Sunoco	Old Lycoming	11:17	AMX-3018	1000 (D)	
10/26/2012	Sunoco	Old Lycoming	11:18	AMX-3005	1000 (D)	
10/26/2012	Sunoco	Old Lycoming	11:18	AMX-2594	1000 (D)	

No matter which victim or the credit card used, each time the card was used resulted in new witnesses developed at each location. Likewise, supporting evidence such as surveillance videos or forensic evidence would also be different for each transaction. Finally, the affiants in both the Lycoming County cases are different than the affiants in the Clinton County cases.

As acknowledged by the Commonwealth, the alleged criminal acts by the Defendant are distinguishable with regards to whether they are a single criminal episode or not. In circumstances where a new credit card was used in Lycoming County and not previously in Clinton County, the Court finds that there is no substantial duplication and that these transactions are separate criminal episodes. Each credit card was used at a different location and involved a separate victim. As stated in Reid, there is no substantial duplication if "there were three victims in three different counties requiring three different investigations, and different witnesses were necessary at each trial." Further, as explained in Nolan, this Defendant engaged in an enterprise of stealing credit cards and using them in various locations. Each episode of the Defendant engaging in using the stolen credit cards was separate and together made an enterprise. It was the legislative intent of 18 Pa.C.S. § 110 not to treat enterprises as one criminal episode.

Additional issues arise, however, when the Defendant used the same card on the same day but in both counties. Again, this Court must determine the duplication of issues of fact and law, making it a difficult decision in these circumstances. The transactions always occur on the same day and within hours of one another. The Defendant would use the same credit card, but he would change locations and/or counties. Each location would result in different employees working, witnesses who might have observed the crime, and video surveillance.

The first issue to review is the duplication of facts in the evidence of incidents. The credit card company and victims in these incidents would stay the same. Although they are

victims, they have no eyewitness testimony to establish that the Defendant may have committed the crimes; they merely establish the fact that they did not make the charges on their credit card. Therefore, having the same victims in these type of cases does not present the typical situation with the duplication of law or facts as it would in typical cases.

The next consideration is the duplication of the law. In Nolan, the defendant committed the same type of crime but on different days and in different locations. The focus by the Superior Court was not that each alleged act had similar charges, but whether each charge resulted in separate legal issues. Similarly, the Defendant here had also committed the same type of crime on each occurrence but did so at different times and locations. Each alleged use of the stolen credit cards has distinguishable facts which cause there to be distinct law for each case. Each alleged crime brings with it its own legal issues as to witnesses, such as prior records and *crimin falsi*. In addition, each occurrence presents possibly different admissibility issues with videos, photos, and other physical evidence.

Lastly, this Court must determine the policy considerations of the statute. As stated above, the statute here was not intended to allow "volume discounting" or having an "enterprise" labeled as a single criminal episode. While the Court believes that the Defendant engaged in an enterprise, there are additional concerns if all the Defendant's acts were found to be a single criminal episode. The Defendant, knowing of all the charges arising out of both counties, argued double jeopardy against the other after the District Attorney's Offices decided not to join the cases.

> So long as two prosecutions are pending concurrently, and neither has gone beyond the stage at which joinder would be inappropriate or impermissible, the accused has an adequate remedy for his problem in seeking joinder of the offenses. If the accused does not request that the offenses be joined, it is fair to conclude that he has waived a claim that Section 110 of the crimes Code has been violated. On the other hand, it is unfair to dismiss charges for serious offenses on the basis of presumed protections which the

> accused has not lifted a finger to exercise, especially since the accused is often in a better position to know of a potential conflict with Section 110 of the Crimes Code than the Commonwealth.

Commonwealth v. Cicconi, 653 A.2d 40, 43 (Pa. Super. 1995); see also Nolan 855 A.2d at 840. While the Defendant did seek joinder directly with the Commonwealth, he never sought relief with this Court. The Court finds such procedural maneuvering is against the policy behind 18 Pa.C.S. § 110 and should not be rewarded.

Although a decision could be made supporting either outcome regarding 18 Pa.C.S. § 110, the Court believes that there is not sufficient duplication in these instances to find one criminal episode. While the victims are the same, their role in establishing the Commonwealth's burden at trial is less than in typical cases. Further, the Court believes the policy behind the statute and the distinction in facts and law in this case support this Court's decision against finding one criminal episode.

ORDER

AND NOW, this _____ day of December, 2013, based upon the foregoing Opinion, the Court finds that the search warrant obtained on the Defendant's vehicle had probable cause and that the detention of the Defendant was a legal investigative detention. Further, the Court finds that all the charges against the Defendant were not one criminal episode. Therefore, the Defendant's Omnibus Pre-Trial Motion is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge

xc: DA
DA (MW)
Pete Campana, Esq.