

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH :
 :
 vs. : No. CR-1217-2014
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 ERICA LAMBERT, :
 Defendant :

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COMMONWEALTH :
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 vs. : No. CR-1412-2014
 :
 RASHAWN J. WILLIAMS, :
 Defendant :

OPINION AND ORDER

This matter came before the court on the Commonwealth’s motion to consolidate.

By way of background, Defendant Williams is charged with criminal homicide; two counts of aggravated assault; firearms not to be carried without a license; persons not to possess, use, manufacture, control, sell or transfer firearms; possession of instrument of crime; simple assault; terroristic threats, and flight to avoid apprehension. These charges arise out of an incident that occurred on June 1, 2014 at approximately 2:30 a.m. outside the Lamphouse Hookah Lounge in Williamsport, Pennsylvania in which Defendant Williams allegedly shot Aaron Lowrey and then fled at a high rate of speed in a gold, four-door sedan.

Defendant Lambert is charged with two counts of hindering apprehension or prosecution, one count of false reports to law enforcement, and one count of tampering with physical evidence for allegedly helping Defendant Williams flee the area by driving him to Danville, Virginia, making a false report to the police that Williams stole her vehicle and

deleting Williams' contact information from her phone.

The Commonwealth filed a motion to consolidate these cases pursuant to Pa.R. Crim.P. 582(B)(2) because "Defendants Lambert and Williams are alleged to have participated in the same act: namely, leaving the state of Pennsylvania, knowing that Williams had just committed a crime by shooting Aaron Lowrey."

The court held a hearing and argument on the Commonwealth's motion on December 10, 2014. The Commonwealth did not present any evidence in support of its motion. The Commonwealth merely argued that Williams and Lambert participated in the same act or transaction when they left Pennsylvania and that judicial economy would be served by trying these cases together because there were a number of out-of-state witnesses who would testify against both defendants.

Defense counsel argued that other than a single count in each Information related to flight from Pennsylvania, neither defendant was even remotely involved in the remaining charges against the other. Defense counsel also noted that Defendant Lambert's trial would only take a day or two whereas Defendant Williams' homicide trial could last over a week. Defendant Lambert argued that she would be prejudiced by the additional, significantly more serious charges filed against Defendant Williams, as well as Williams' prior criminal record if he testified at trial. She also asserted that she would be prejudiced by the delay that likely will occur in bringing Defendant Williams' homicide case to trial.

After considering the arguments of counsel and reviewing the law, the court concludes that consolidation is not appropriate in these matters.

Rule 582(A)(2) states: “Defendants charged in separate indictments or informations may be tried together if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses.” Pa.R.Crim.P. 582(A)(2). However, Rule 583 provides: “The court may order separate trials of offenses or defendants, or provide other appropriate relief, if it appears that any party may be prejudiced by offenses or defendants being tried together.” Pa.R.Crim.P. 583.

Although Defendant Lambert and Defendant Williams both allegedly fled from Pennsylvania a few hours after the shooting, there is absolutely nothing in the record to even remotely suggest that Lambert was in any way involved with the incident that occurred at the Lamphouse Hookah Lounge. The majority of the crimes charged against Williams and Lambert are not identical and, with the exception of leaving the state of Pennsylvania, the criminal behavior of each is vastly different from the other. While there undeniably is some overlap in the evidence necessary to prove the flight to avoid apprehension charge against Williams and the hindering apprehension charge against Lambert, such is paltry in comparison to the evidence against Williams that has absolutely no bearing on the charges against Lambert. In short, Lambert was not involved in the majority of the acts or transactions that resulted in the charges against Williams and she would be unduly prejudiced from such evidence being introduced during her trial. Therefore, consolidation is inappropriate. See Commonwealth v. O’Neil, 2015 PA Super 12, 2015 Pa. Super. LEXIS 18 (January 20, 2015)(reversible error to consolidate appellant’s theft, corrupt organizations, perjury and false swearing with co-defendant who was charged with multiple murders in addition to those offenses); Commonwealth v. Brookins, 10

A.3d 1251 (Pa. Super. 2010), appeal denied 22 A.3d 1033 (Pa. 2011)(reversible error to join appellant's drug and corrupt organizations case with co-defendants who faced additional charges of kidnapping and robbery) .

ORDER

AND NOW, this ___ day of February 2015, the court denies the Commonwealth's motion to consolidate.

By The Court,

Marc F. Lovecchio, Judge

cc: Martin Wade, Esquire (ADA)
Jerry Lynch, Esquire
William Miele, Esquire (APD)
Gary Weber, Esquire (Lycoming Reporter)
Work file