

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH :
 :
 vs. : No. CR-2003-2013
 :
 MICHAEL WRIGHT, :
 Defendant :

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COMMONWEALTH :
 : No. CR-1293-2013; CR-293-2014
 vs. :
 :
 DA RAN SEARS :
 Defendant :

OPINION AND ORDER

This matter came before the Court on each defendant’s request for discovery seeking all statements made by and to Gage Wood during meetings with individuals in the District Attorney’s office and/or law enforcement officials about his cooperation when he spoke with them about a plea deal, including information about other defendants, instead of the redacted version which the defense received. Since these cases involve the same informant and the same issue, the Court will address them in a single decision.

It appears that the chronology of events is as follows:

On November 26, 2012, Wood was arrested on drug charges and interviewed by Sergeant Chris Kriner of the Old Lycoming Police Department. Wood was willing to speak to Sgt. Kriner about other individuals, but he did not want to talk about his charges. During the interview, Sgt. Kriner specifically asked Wood about individuals named Matthews and Mancini. Sgt. Kriner didn’t recall whether or not he spoke to Wood about

cooperating or any benefits he could receive as a result. Wood also was arrested by and had contact with the Tiadaghton Valley Regional Police on November 28, 2012.

On April 27, 2013, Wood's attorney requested a continuance in Wood's cases based on "ongoing negotiations." The continuance request was agreed to by District Attorney Eric Linhardt even though he was not the attorney assigned to those cases. Defense counsel contends that the reason for the continuance and the circumstances surrounding it, including Mr. Linhardt's assent to the continuance, is "code" or evidence that Wood's cases were being continued due to Wood's ongoing cooperation.

During other pretrial hearings, Wood and his attorney testified about Wood's interest in cooperating and the District Attorney's response to those inquiries between April 2013 and August 17, 2013 when Wood wrote a letter to the District Attorney. In April 2013, Wood told his attorney he was potentially interested in cooperating and could provide information about a substantial number of individuals involved with weapons and the local drug trade. The District Attorney was interested in any information Wood had regarding an individual named Hyson Frederick and how Frederick obtained a firearm used in a robbery case. Wood, however, told his attorney that he did not know Frederick. In fact, in a letter Wood wrote to his attorney on May 20, 2013, Wood wrote in the post script "I'm very curious as to why the D.A. thought I was connected to Hyson Fredericks!? I am now on a block with him." Wood also provided a list of names of individuals involved with drugs and weapons to his attorney. When Wood's attorney read the list of names, he realized that he had a conflict of interest because he and the other attorneys in his law firm represented some

of individuals on Wood's list. Prior to withdrawing from Wood's case, his attorney notified the District Attorney of Wood's desire to cooperate and the fact that Wood could provide information about a significant number of individuals.

On June 13, 2013, Defendant Sears was arrested and charged with involuntary manslaughter.

On June 30, 2013, Wood was arrested on a third set of charges.

On August 17, 2013, Wood wrote a letter to the District Attorney offering to provide information about other cases and individuals in exchange for a plea deal in his cases. In addition to offering to provide information about drugs and firearms, Wood stated that during his incarceration he had engaged in many conversations with individuals, in which they admitted guilt and spoke about the details of their cases. Wood listed about a dozen names of such individuals, including Defendant Sears. The Commonwealth provided the defense with a copy of the letter, but redacted all of the names, except Defendant Sears.

On October 17, 2013, County Detective Stephen Sorage and Sergeant Kriner met with Wood in the District Attorney's office to determine what useful information, if any, Wood had about Hyson Frederick's robbery case. The meeting was not recorded and no police reports were generated. Wood apparently did not provide any useful information and he was not called as a witness in the robbery trial.

On or about October 26, 2013, there was a fire at Defendant Wright's residence and his wife's body was discovered inside. Wright allegedly made statements about killing his wife to individuals in a bar. Wright was charged with murder in November

2013.

On November 8, 2013, another continuance was requested and granted in Wood's cases because he was cooperating with the District Attorney and there were ongoing plea negotiations.

On November 18, 2013, Wood was taken from the prison and brought to the District Attorney's office so that he could provide a recorded proffer. Wood provided information regarding several people, including Defendant Sears.

On January 17, 2014, Wood was interviewed at the Williamsport Bureau of Police headquarters in City Hall. The interview was recorded. Wood provided information regarding various individuals. Agent Trent Peacock asked Wood who he was housed with at the prison. Wood told Agent Peacock that he was housed with Defendant Wright. Peacock then asked Wood if Wright talked about his case. Wood said yes, and, for the first time, provided information about Defendant Wright.

On February 7, 2014, Defendant Sears was charged with murder based on the same incident for which he was charged with involuntary manslaughter. The addition of the murder charge was based, at least in part, on statements Defendant Sears allegedly made to or in the presence of Wood while both were incarcerated at the Lycoming County Prison.

Defense counsel contend that they are entitled to the full transcripts, police reports and videotapes of the meetings Wood had with law enforcement and members of the District Attorney's office, because they are necessary to show that Wood was acting as an agent of law enforcement when he was talking to and gathering information about Defendant

Sears and Defendant Wright, as well as to show an implied or tacit agreement or understanding.

The Commonwealth contends that no Brady material is contained in the videos or police reports and it asserts that nothing was said to Wood in any of the meetings or interviews to get him to seek out information from individuals incarcerated at the Lycoming County Prison. The Commonwealth also claims that the information about other cases is not relevant to these cases.

Wood made a statement in a pretrial hearing in Defendant Wright's case to the effect that information about other individuals was "like currency." He claimed, however, that no one instructed him or encouraged him to gather information from other individuals incarcerated at the prison.

Although it appears from the hearings held thus far in these matters that it was merely fortuitous circumstances that resulted in Wood being housed in the same cell with Defendant Wright and on the same block as Frederick and Defendant Sears, the court nevertheless finds that information regarding the nature and extent of Wood's cooperation is relevant and discoverable with respect to Wood's potential bias in favor of the Commonwealth.

Rule 573 of the Pennsylvania Rules of Criminal Procedure governs discovery in criminal cases. The items of mandatory discovery include any "evidence favorable to the accused that is material either to guilt or punishment, and is within the possession or control of the attorney for the Commonwealth." Pa.R.Crim.P. 573(B)(1)(a). Among the items of

discretionary discovery is “any other evidence specifically identified by the defendant, provided the defendant can additionally establish that its disclosure would be in the interests of justice.” Pa.R.Crim.P. 573(B)(2)(a)(iv).

Pennsylvania case law permits a defendant to cross-examine a Commonwealth’s witness to show his or her potential bias. As the Superior Court noted in Commonwealth v. Copeland, 723 A.2d 1049 (Pa. Super. 1998): “The law is clear that a criminal defendant is entitled to know about any information that may affect the reliability of the witnesses against him....Further, there are a variety of reasons why a witness’s criminal record is relevant to his or her potential bias, including an agreement with prosecutors on open charges, **hopes for leniency in sentencing and prior dealings with law enforcement as an informant.**” Id. at 1051-1052 (emphasis added).

If a defendant’s criminal record is relevant to show potential bias in the areas of hopes for leniency and his dealings with law enforcement as an informant, then certainly the nature and extent of his cooperation is relevant to those areas as well. For example, Wood might reasonably expect to receive a greater benefit from providing information in homicide cases than other, less serious cases. One also might expect that any plea agreement or recognition of cooperation in Wood’s pending cases would be based on the entirety of Wood’s assistance. Finally, and perhaps most importantly, Wood’s cooperation against Defendant Sears appears to have contributed to the Commonwealth filing a murder charge against him as compared to the original manslaughter charge. Therefore, Wood’s credibility and potential bias in favor of the Commonwealth may be particularly important in Defendant

Sears' cases. Accordingly, the following order is entered.

ORDER

AND NOW, this ____ day of February 2015, the court GRANTS IN PART Defendant's motion for discovery. The Commonwealth shall provide defense counsel with copies of the interviews of Gage Wood and any police reports generated as a result thereof. The Commonwealth may redact the names and case numbers of the other individuals but shall otherwise disclose the full nature and extent of Wood's cooperation with the Commonwealth and law enforcement officials and their statements and responses to Wood. Defense counsel can review these materials with Defendant in preparation for trial, but the Court precludes defense counsel from providing Defendant with a copy of these materials.

By The Court,

Marc F. Lovecchio, Judge

cc: Eric Linhardt, Esquire (DA)
Kenneth Osokow, Esquire (ADA)
William Miele, Esquire (PD)
Nicole Spring, Esquire (APD)
Gary Weber, Esquire (Lycoming Reporter)
File 2003-2013
File 1293-2013
Work file