

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	: No. CR-1293-2013
	: CR-293-2014
vs.	:
	:
DA' RAN SEARS,	: Opinion and Order Re
Defendant	: Defendant's motion to suppress
	:

OPINION AND ORDER

This matter came before the court on January 16, 2015 for a hearing on Defendant's motion to suppress any statements that he made to Gage Wood. Defendant asserts that the statements were obtained in violation of his Sixth Amendment right to counsel because Wood was acting as an agent of law enforcement. The relevant facts follow.

On November 26, 2012, Wood was arrested for drug offenses that allegedly occurred in July 2012 and he was interviewed by Sergeant Chris Kriner of the Old Lycoming Police Department. Sgt. Kriner spoke to Wood about a drug investigation and some of the people involved. Sgt. Kriner did not recall asking Wood for cooperation or saying there would be any benefit. Sgt. Kriner specifically inquired about individuals named Mancini and Matthews. Wood spoke about some individuals involved in drugs, but when Sgt. Kriner asked Wood about the offenses for which he had been arrested, Wood did not want to talk anymore and asked to be taken to jail.

A couple of days later, Officer Deremer from Jersey Shore arrested Wood. Officer Deremer, however, did not interview Wood.

Wood was represented by Attorney Robert Hoffa. Attorney Hoffa filed a suppression motion, which was scheduled to be heard on April 29, 2013. Shortly before the

hearing date, Wood expressed to Attorney Hoffa an interest in cooperating with the Commonwealth. On April 26, 2013, Attorney Hoffa met with District Attorney Eric Linhardt. Attorney Hoffa told DA Linhardt that Wood had a substantial number of names of people who were involved in drug and firearm offenses and that Wood was interested in cooperating. D.A. Linhardt wanted to know what Wood knew about an individual named Hyson Frederick because D.A. Linhardt had information that Wood provided Frederick with a weapon that Frederick used in a robbery case. Wood's suppression hearing was continued because of the potential plea negotiations. See Defendant's Exhibit 1. Attorney Hoffa visited Wood at the prison and asked if knew anything about Frederick. Wood denied knowing anything about selling a gun to or getting a gun for Frederick. Attorney Hoffa called DA Linhardt and told him such.

On May 10, 2013, the pretrial conference in Wood's case was continued because Attorney Hoffa was in federal court. On May 20, 2013, Wood wrote a letter to Hoffa asking if there was any news on his cases after the pre-trial conference. According to Attorney Hoffa, Wood kept vacillating between wanting to pursue the motion to suppress and wanting to cooperate with the D.A. In the post script to that letter, Wood wrote, "I'm very curious as to why the D.A. thought I was connected to Hyson Frederick!? I am now on a block with him." See Defendant's Exhibit 4. He also thought of more names and enclosed a list of them. When Attorney Hoffa read the list, he realized that he and the other attorneys at his law firm represented some of the individuals on Wood's list.

On June 13, 2013, Defendant Sears was arrested and charged with involuntary manslaughter. Between June 14 and July 1, 2013 Sears and Woods had conversations at the

prison. Although they may have had conversations after that date, Wood stated he did not learn anything new after that time frame.

A status conference was held in Woods cases on June 28, 2013. Before that conference, Wood quit vacillating and decided to cooperate. Attorney Hoffa spoke to DA Linhardt outside of the judge's chambers about Woods decision to cooperate. At the conference, Attorney Hoffa raised the conflict of interest issue and he was permitted to withdraw as Wood's attorney.

On July 30, 2013, Wood was arrested for a burglary that occurred in September 2012. Sgt. Kriner was the affiant, but he did not talk to Wood.

On August 17, 2013, Wood wrote a letter to DA Linhardt. Wood offered to provide information about individuals who were involved in drug and firearm offenses, as well as cooperate against about a dozen individuals he met at the prison and who admitted guilt and details about their cases to him. In exchange for this information, Wood wanted his girlfriend's, his brother's and his charges dismissed or reduced to misdemeanors with a sentence of time served or probation.

In October 2013, County Detective Stephen Sorage and Sgt. Kriner interviewed Wood. Detective Sorage had information that Wood provided a weapon to Frederick, which was used in a robbery. Wood denied providing any weapon to Frederick or even knowing him until they met in prison.

On November 18, 2013, Sgt. Kriner and Cpl. Sponhouse met with Wood and his attorney John Gummo about Wood's offer to cooperate. This interview was recorded and Sgt. Kriner prepared a police report. Sgt. Kriner again asked Wood about an individual

named Mancini. Wood also had notes about other individuals. Some of the individuals were people who Wood had met at the county prison. Sgt. Kriner described the interview as “more of a proffer meeting.” The purpose of the meeting was to see what kind of information Wood could provide and to see if the information was reliable. They discussed information that Wood already had. Sgt. Kriner was not interested in using Wood as an informant because he knew Wood was going to jail. Sgt. Kriner told Wood he would let other police agencies know about the information Wood was providing. Sgt. Kriner, though, did not recall telling Wood that he would let others know he was cooperating or that it would help his cases.

Wood provided information about Defendant Sears and other homicides in the city. Wood talked about the people on his list. Sgt. Kriner asked who they were and what their involvement was. Sgt. Kriner did not recall whether they went down the list or if Wood brought it up. He also did not recall Wood saying when he got the information that he was providing.

After the November 18, 2013 interview, Sgt. Kriner spoke to the Williamsport Bureau of Police, the Pennsylvania State Police and the South Williamsport Police Department about the information Wood provided.

On January 14, 2014, Agent Trent Peacock of the Williamsport Bureau of Police interviewed Wood. Wood told Agent Peacock about the information he had about Defendant Sears. Wood stated that the information was from before July 1, 2013 and it “was the same gist of things” that he told Sgt. Kriner in November; there was nothing new. When he provided the information about Sears to the DA, it was pretty much the end of his

discussions with Defendant Sears.

Wood testified that he contacted the District Attorney and initiated everything. Neither the District Attorney nor the police told Wood to obtain information to obtain information from other inmates at the prison.

Defense counsel, relying on Commonwealth v. Franciscus, 710 A.2d 1112 (Pa. 1998), contends that Defendant's statements to Wood must be suppressed because Wood was acting as an agent of the Commonwealth and law enforcement when he spoke to Sears in the prison. The Commonwealth asserts that Wood obtained the information on his own and then informed the Commonwealth to try and help his own situation.

The court finds that Franciscus is distinguishable. In Franciscus, the police continually communicated with the informant throughout his stay in prison. They protected the informant from retaliation and encouraged him to obtain whatever useful information he could.

Instead, the court finds this case more akin to Commonwealth v. Lopez, 739 A.2d 485 (Pa. 1999) in which the Court affirmed the lower court's denial of the motion to suppress because the authorities made no promises to the informant and took no action to assist him in obtaining incriminating information from the defendant or any other inmates.

Here, like the informant in Lopez, Wood decided on his own to attempt to obtain incriminating information from other inmates and then try to use it to obtain a lesser sentence.

Accordingly, the following order is entered:

ORDER

AND NOW, this ___ day of February 2015, the court denies Defendant's motion to suppress any statements he made to Gage Wood.

By The Court,

Marc F. Lovecchio, Judge

cc: Kenneth Osokow/Melissa Kalaus (ADA)
William Miele/Nicole Spring (APD)
Work file
Gary Weber, Esquire (Lycoming Reporter)