

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA  
COMMONWEALTH**

**vs.**

**SOLOMON LAWRENCE,  
Defendant**

\* \* \* \* \*

**COMMONWEALTH**

**vs.**

**TARRON DENNIS,**

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:  
: **No. CR-1184-2017**  
:  
: **Motion to Consolidate**  
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:  
: **No. CR-1409-2017**  
:  
: **Motion to Consolidate**

**OPINION AND ORDER**

Before the Court is the Commonwealth’s Motion to Consolidate for trial the above-captioned Informations. Dennis is charged with one count of burglary, one count of criminal trespass, one count of possession with intent to deliver, one count of possession of drug paraphernalia, and one count of possession of a small amount of marijuana. Lawrence is charged similarly with one count of burglary, one count of criminal trespass, one count of possession with intent to deliver, one count of possession of drug paraphernalia, and one count of possession of a small amount of marijuana. Additionally, Lawrence is charged with one count of persons not to possess, use, manufacture, control, sell or transfer firearms, one count of receiving stolen property, and one count of possession of a controlled substance (heroin).

The argument on the Commonwealth’s Motion to Consolidate was held before the court on January 8, 2018. None of the parties presented any facts. The parties agreed that for purposes of the Motion to Consolidate, the court could consider the

information set forth in the respective affidavits of probable cause.

Said affidavits are strikingly similar. 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 officers 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 each 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 Lawrence. Lawrence was previously convicted of manufacturing a controlled substance, which precluded him from possessing any firearms.

The Commonwealth's motion filed on December 15, 2017 seeks to consolidate the cases for trial asserting that the defendants 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. The Commonwealth argues further that the evidence of the offenses

would be admissible in a separate trial for the other and is capable of separation by the jury so that there is no danger of confusion. The Commonwealth argues as well that it would be expedient and judicially economical to try these cases together. Finally, the Commonwealth argues that there is no prejudice to either of the defendants.

At the argument in this matter, the defendants opposed the Commonwealth's consolidation motion. Lawrence argued the evidence against each of the parties is different and not very compelling. Dennis argued that he would be prejudiced by consolidation because first, the charges against Lawrence include firearm charges and that if the Commonwealth proved such by introducing evidence that Lawrence possessed a firearm and had a prior criminal record, the factfinder would find Dennis essentially guilty by association. Second, Dennis argued that he would be prejudiced because the defenses asserted by each defendant would be antagonistic. Dennis argued that he would blame Lawrence while implying that Lawrence would blame him. Finally, Dennis argued that he will be prejudiced because there are outstanding federal charges against him and if Dennis was to go to trial, he is "fearful of the effect" his conviction would have in connection with any "federal sentencing."

Defendant's arguments are without merit. Rule 582(A)(2) of the Pennsylvania Rules of Criminal Procedure states as follows:

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.

Contrary to the claim of Lawrence, both of the defendants are alleged to have

participated in the same act or transaction or in the same series of acts or transactions. Both are alleged to have illegally occupied the premises and to have possessed with intent to deliver heroin. The fact that each is alleged to have possessed, as well, different contraband such as one possessing a gun, is of no moment.

As a general policy, joint trials are encouraged when judicial economy will be promoted by avoiding the expense and time consuming duplication of evidence.

*Commonwealth v. Jones*, 542 Pa. 464, 668 A.2d 491, 501 (1998). The parties, however, claim prejudice. Rule 583 of the Pennsylvania Rules of Criminal Procedure permits the court to “order separate trials of offenses or defendants... if it appears that any party may be prejudiced by offenses or defendants being tried together.” The burden is on the party claiming prejudice; and such prejudice must be real. *Commonwealth v. Patterson*, 519 Pa. 190, 546 A.2d 596, 599 (1988)(“The defendant must show real potential for prejudice and not mere speculation.”).

The fact that the defendants have conflicting versions of what took place or their involvement in it is a reason for, rather than against, a joint trial because the truth may be more easily discerned if both are tried together. *Commonwealth v. Martinelli*, 690 A.2d 203, 213 (Pa. 1997), citing *Commonwealth v. Chester*, 587 A.2d 1367, 1373 (Pa. 1991).

Additionally, the concern of Dennis that the evidence against Lawrence would somehow “spillover” or be attributed to Dennis can easily be negated through the use of a jury instruction. See *Commonwealth v. Childress*, 680 A.2d 1184, 1187 (Pa. Super. 1996) (any prejudice which may have resulted from “spillover” effect of evidence admissible only

against co-defendant was cured by lower court's jury instruction that "although there are two defendants, you should consider each defendant separately as if he were on trial on his own."").

Additionally, it is highly unlikely that the jury will hear any evidence regarding the prior record of Lawrence or even the weapon. Indeed, it is expected and would be common place for said charges to be severed in light of the prejudice against Lawrence.

Finally, while the concern of Dennis regarding his federal charges is a legitimate concern, it is not at all a basis to establish prejudice. Prejudice is defined as an impact on the jury that would cause it to decide the case not on the basis of the law or facts.

The court fails to see how consolidation of the cases would cause defendants to suffer a specific prejudice greater than the general prejudice any defendant suffers when the Commonwealth's evidence links them to a crime. *Commonwealth v. Dozzo*, 991 A.2d 898, 902 (Pa. Super. 2010).

### **ORDER**

**AND NOW**, this \_\_\_ day of January 2018, following a hearing and argument, the Court **GRANTS** the Commonwealth's Motion to Consolidate. The Informations set forth at No's. 1409-2017 and 1184-2017 shall be tried together.

By The Court,

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Marc F. Lovecchio, Judge

cc: CA; Nicole M. Ippolito, Esquire (ADA)  
Nicole Spring, Esquire (APD), attorney for Tarron Dennis  
Kyle Rude, Esquire, attorney for Solomon Lawrence

Gary Weber, Lycoming Reporter  
Work File