

COMMONWEALTH : **No. CP-41-CR-0000260-2018**
:
vs. :
: **Opinion and Order re:**
ATIASHA MONIQUE WILLIAMS : **Defendant's Omnibus Pretrial Motion**

OPINION AND ORDER

Before the Court is Defendant's omnibus pretrial motion filed May 3, 2018, which includes a motion to suppress and a motion for further discovery.

By Information filed on February 23, 2018, Defendant was charged with Count 1, Dealing in Infant Children, a misdemeanor of the first degree.

On December 22, 2017, Trooper Zachary Martin of the Pennsylvania State Police, Criminal Investigation Unit met with Mrs. Joyce Way at her residence regarding alleged criminal activity concerning the custody of a child.

On September 21, 2017, Mrs. Way received a call from Ronda Hummel, SCI Muncy Director, stating that the Defendant, Atiasha Williams, wished to release the custody of her newborn child to Mrs. Way and her husband, Cleveland. The Ways were familiar with Defendant due to her frequenting the American Rescue Workers where Cleveland Way is employed.

After the call, Mr. and Mrs. Way had a brief discussion regarding the phone call and taking custody of Defendant's newborn child. Following the conversation, Mr. and Mrs. Way then traveled to Geisinger Medical Center in Danville, Pennsylvania. While at the hospital, Defendant signed a permission form to release custody of her newborn child, J.M., born September 20, 2017, to Mr. and Mrs. Way. The Ways then took the child to their residence.

On October 2, 2017, Mrs. Way received temporary guardianship of the child from the Defendant through a signed agreement notarized by Margaret Bitler of Clinton Township in Lycoming County, Pennsylvania.

Conversations and interactions with the Defendant, confirmed to Mrs. Way that the Defendant did not want to assume custody of her child. Defendant told Mrs. Way that she would give her full custody of the child. Defendant even articulated to Mrs. Way, “he’s yours now,” at Geisinger Medical Center on September 21, 2017, prior to Mr. and Mrs. Way taking J.M. home to their residence.

Mrs. Way confirmed that a custody hearing was scheduled for February 27, 2018, in front of Judge Joy McCoy, in which Defendant was planning to sign over full custody of the child to Mr. and Mrs. Way.

After taking custody of the child, Mrs. Way informed Trooper Martin that the Defendant showed a renewed interest in procuring custody of her child.

On December 14, 2017, Mrs. Way received a letter from Defendant. At the time, Defendant was serving a sentence at SCI Muncy. In the letter Defendant stated that, “this was an opportunity for her and Joyce to part or for her to continue to battle for her child.” At the end of the letter, Defendant stated, “sending the paper you know what to do with. \$999.99 x 9 will do.”

Accompanying the handwritten letter from Defendant was a money order deposit form for SCI Muncy, in which the maximum deposit amount of \$999.99 on the form was circled in pen. Next to the circled \$999.99 was “x 9” written with the same pen made to draw the circle around the \$999.99.

Upon receiving this letter, Mrs. Way informed her attorney, Melody Protasio. Attorney Protasio informed her that Defendant was breaking the law and that she should contact the police.

On January 4, 2018, Trooper Martin visited SCI Muncy to speak with the Defendant. Upon Trooper Martin's arrival at SCI Muncy at approximately 10:30 a.m. the Defendant initially would not cooperate and refused to speak with him. Defendant would not even leave her cell. Trooper Martin asked the corrections officer to inform Defendant that he was present in regard to the custody of her child, J.M. Defendant then agreed to meet with Trooper Martin in a conference room at SCI Muncy.

At the outset, Trooper Martin informed her that she was not under arrest; that he was present to speak with her in regard to the custody of her child; and, that she was free to go back to her cell at any time.

As a safety precaution, Trooper Martin then informed Defendant of her *Miranda* rights and provided a written waiver form for her to read and sign. Although she refused to sign the form provided by the Trooper, Defendant agreed to speak with Trooper Martin.

During the interview, Defendant provided Trooper Martin a hand-written statement that described her dealings with the Ways regarding her child, J.M. Defendant told Trooper Martin that she could not find a family member to take custody of her son when she gave birth on September 20, 2017, at Geisinger Medical Center. Defendant could not assume custody of her child at the time of his birth because she was incarcerated at SCI Muncy. Therefore, Defendant reached out to Mrs. Way to take temporary custody, as Defendant was familiar with her. Defendant advised Trooper Martin that Mr. and Mrs. Way would not allow

her to see her child and refused to give the child back. The Ways were allegedly unable to have children of their own.

Trooper Martin then presented Defendant with the letter that she allegedly wrote to Joyce Way regarding the custody of her child, J.M. Defendant admitted to Trooper Martin that she wrote the letter to Mrs. Way, but denied that it was regarding the custody of her child. When Trooper Martin asked Defendant what the letter was referring to, Defendant claimed she did not know.

Defendant claims that at no time prior to questioning did Trooper Martin advise Defendant of the general nature of the visit giving rise to the investigation. Defendant argues that her alleged waiver of *Miranda* was invalid and her “admission” to Trooper Martin should be suppressed.

At the hearing in this matter, Trooper Martin testified that Defendant was well-informed of what the subject of the discussion was going to be. He told Defendant that he was present in regard to an investigation about the custody of her child, it may be in her best interest to talk to him, she was not under arrest, and she was free to go back to her cell at any time. After this initial interaction, Trooper Martin advised Defendant of her *Miranda* warnings, and she agreed to speak with him.

The court finds that *Miranda* warnings were not required in this case. “There are two separate requirements, custody and interrogation, that have to be found in order for *Miranda* to apply.” *Commonwealth v. Turner*, 777 A.2d 970, 973 (Pa. Super. 2001). “[S]ervice of a term of imprisonment, without more, is not enough to constitute *Miranda* custody.” *Howe v. Fields*, 565 U.S. 499, 132 S.Ct. 1181, 1191 (2012). “When a prisoner is questioned, the determination of custody should focus on all of the features of the

interrogation. These include the language that is used in summoning the prisoner to the interview and the manner in which the interrogation is conducted.” *Id.*

Based on all the features of the interrogation, the court finds that Defendant was not in custody. Trooper Martin expressly informed Defendant that she was not under arrest and she was free to go back to her cell at any time. He also told her that he wanted to speak to her in regards to an investigation about the custody of her child. Trooper Martin did nothing to drain Defendant’s powers of discretion. As a matter of fact, Trooper Martin continued to remind Defendant of her ability to leave and return to her cell.

There was nothing improper about the method of interrogation; it was simply a dialogue between Defendant and Trooper Martin regarding the clearly annotated topic, the custody of Defendant’s child.

The conditions of detention of Defendant were free of any coercion, and there was nothing about the attitude of Trooper Martin toward Defendant that would have demonstrated coercion. Furthermore, the duration of the questioning was relatively short.

Since Defendant was not in custody, *Miranda* warnings were not required. Accordingly, Defendant’s motion to suppress will be DENIED.

Relative to Defendant’s motion for further discovery, she seeks to view the original letter and envelope sent to Mrs. Way. Defense Counsel claims the Commonwealth plans to introduce this at trial. Defendant also seeks the police report regarding the alleged handwriting expert that the Commonwealth retained. Finally, defense counsel requests Defendant’s signed *Miranda* form from the questioning on January 4, 2018.

During testimony, Trooper Martin admitted to telling Defendant that he used a “handwriting expert” to analyze the letter sent to Mrs. Way by Defendant. Trooper Martin then admitted that this was false. The Commonwealth did not retain a handwriting expert.

Since there is no report, the request for the police report regarding the handwriting expert’s analyzation and the name of the expert is DENIED.

With respect to the original envelope and letter sent to Mrs. Way, the court will GRANT the motion for further discovery. Within two weeks, the Commonwealth shall arrange a mutually acceptable time for defense counsel to view the original envelope and letter.

With respect to the signed *Miranda* form from January 4, 2018, it appears that Defendant refused to sign the form, but agreed to speak with the Trooper. To ensure that the court correctly understood Trooper Martin’s testimony, within two weeks of this Order the Commonwealth must either provide defense counsel with a copy of *Miranda* form signed by Defendant or submit a signed statement from Trooper Martin that a *Miranda* waiver form signed by Defendant does not exist in this case.

Accordingly, Defendant’s motion for further discovery will be DENIED, in part, and GRANTED, in part.

ORDER

AND NOW, this ___ day of September 2018, following a hearing and argument, it is ORDERED and DIRECTED as follows:

1. Defendant’s motion to suppress is **DENIED**.
2. Defendant’s motion for further discovery is **GRANTED**, in part. Within two weeks, the Commonwealth shall arrange a mutually acceptable time for defense counsel to view the original envelope and letter. Furthermore, within two weeks, the Commonwealth

must provide defense counsel with either a copy of Defendant's signed *Miranda* waiver form or a signed statement from Trooper Martin that a *Miranda* waiver form signed by Defendant does not exist in this case.

3. Defendant's request for discovery of reports regarding a handwriting expert is **DENIED**. Trooper Martin admitted that he lied to Defendant, and no such report exists.

By The Court,

Marc F. Lovecchio, Judge

cc: PD (Kirsten Gardner, Esquire)
DA (Joseph Ruby, Esquire)
Gary Weber, Lycoming Reporter
Work File