

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA

vs.

**QUENTIN ARMAN YOUNG,
Defendant**

:

: No. CR-88-2018

:

:

: Motion to Suppress

OPINION AND ORDER

The defendant is charged by Information filed on February 2, 2018 with one count of possession with intent to deliver a controlled substance, one count of possession of a controlled substance and one count of possession of a small amount of marijuana for personal use. The Commonwealth alleges that on January 4, 2018 at a residence located at 841 High Street in Williamsport, the defendant possessed in his bedroom 56 grams of crack cocaine and a small amount of marijuana for personal use.

On March 6, 2018, the defendant filed a motion to suppress. The hearing on the motion was held on April 18, 2018. The parties previously filed briefs in support of their positions.

On January 4, 2018, Trooper Daniel Denucci, who was assigned to the Bureau of Criminal Investigation Fugitive Apprehension US Marshall's Fugitive Task Force, obtained information that the defendant could be located at 841 High Street in Williamsport. Plans were made to serve an arrest warrant on the defendant at that address. The arrest warrant was previously obtained based on two controlled buys from the defendant in September of 2017.

In preparing for the execution of the warrant, members of the team compiled background and other relevant information concerning the defendant. Information was provided to the team that confidential informants had made controlled substances buys from the defendant in the garage behind the residence. The confidential informant indicated that

defendant may be in possession of a firearm. Information was obtained that verified the defendant had drug charges dating back to 2007. Information was obtained that the defendant may still be in the business of dealing narcotics. The defendant's alleged Facebook was monitored and the team found a post from January 4, 2018 in the early morning hours which noted as follows: "These weird-ass wake niggas be talking in their sleep." Trooper Denucci testified that this comment caused him to believe that other individuals were in the house with the defendant.

At approximately 9:25 a.m., Trooper Denucci and six other team members executed the arrest warrant at 841 High Street. Trooper Denucci knocked at the front door and announced that he and the others were law enforcement. No one responded. Trooper Denucci then pushed open the mail slot and looked into the residence. No lights were on and it appeared that no one was in the house. He continued to knock and while again looking through the mail slot, he saw the defendant. He screamed "police." The defendant, however, did not respond to the door but walked toward the stairwell leading to the second floor. Trooper Denucci yelled "we can see you." At that time, the defendant mumbled something to the effect that he was going to get clothes. The defendant had no shirt, no socks, and no shoes but he did have on blue sweatpants. At this time, Trooper Denucci heard other movement inside the house that was not consistent with what they were observing. The movement suggested to him that there were other individuals inside.

The defendant slowly came to the door and answered it. The defendant was taken into custody without incident. He was placed in handcuffs and directed to the living room which was adjacent to the front door and hallway.

Standing behind the defendant when he opened the door was the homeowner and defendant's girlfriend, Justina Gordner. She was asked if anyone else was in the house. She responded that her kid was home sick upstairs.

In initially looking around the immediate area, Trooper Denucci did not see any individuals or threats. In order to assure their safety, however, Trooper Denucci and other officers conducted a protective sweep of the home. Trooper Denucci walked up the stairs to the second floor. He walked down the hallway and located a bedroom with the door partially closed. He went into the bedroom, looked around, and noticed a closet. He looked into the closet. On his way out of the room, he saw what appeared to be crack cocaine and paraphernalia on the top of a dresser.

The room was eventually identified by Ms. Gordner as the defendant's bedroom. The entire protective sweep took approximately five minutes. Following the protective sweep, officers may have gotten some clothing for the defendant from defendant's bedroom. The defendant was then transported to the MDJ to be preliminarily arraigned.

While the defendant was being transported, other officers secured the residence until a search warrant was obtained. After defendant was preliminarily arraigned, Trooper Denucci returned back to the residence. Photos were taken of the residence and the alleged controlled substances and paraphernalia. The search warrant was then executed.

In addressing why he and the other officers conducted the protective sweep almost immediately after taking the defendant into custody, Trooper Denucci indicated that it was to assure officer safety. He was concerned that there may be a threat given the fact that information was obtained at the briefing which included the CI's statement that the defendant may have a weapon and the Facebook posting that led Trooper Denucci to believe that others

may be present inside the residence; the defendant did not answer the door immediately but actually walked away and attempted to hide; noises were coming from the house that were not consistent with what the trooper was seeing and suggested to the trooper that others were in the house; and Trooper Denucci knew that Ms. Gordner's "kid" was upstairs but did not know anything further about the individual such as his age or access to any weapons.

Combining all of these concerns, Trooper Denucci believed that he and the other officers might be vulnerable. He was concerned that others could be present in the home and could either purposefully attack and injure the officers or innocently do so not knowing who the officers were or why they were in the home. According to Trooper Denucci, any person could be a threat.

The defendant argues that the police had insufficient legal justification to conduct the protective sweep and exceeded the scope of the protective sweep by going upstairs and checking all of the bedrooms. He asserts that because he was arrested at the front door, law enforcement could have easily taken him away without "having to search the entire house." He also claims that the officers had no reason to fear anything once he was in custody.

While the defendant argues the reasoning and scope behind the protective sweep in this incident, the court concludes that it was in fact constitutional. A "protective sweep" is a quick and limited search of the premises, incident to an arrest and conducted to protect the safety of police officers and others. *Commonwealth v. Witman*, 750 A.2d 327, 335 (Pa. Super. 2000), appeal denied, 564 Pa. 138, 764 A.2d 1053 (2000), cert. denied. 534 U.S. 815, 122 S. Ct. 42 (2001)(citing *Maryland v. Buie*, 494 U.S. 325, 327, 110 S. Ct. 1093 (1990)). In this particular case, law enforcement officers initially made cursory visual

inspections of the areas immediately adjacent to the arrest scene. They then went beyond the immediate arrest scene and conducted a sweep of the entire residence.

Such a protective sweep is lawful if there are articulable facts which, taken together with the rational inferences from those facts, would warrant a reasonably prudent officer in believing that the area to be swept harbors an individual posing a danger to those on the arrest scene. *Witman, id.* at 335. This scope of a search is “for attackers further away from the place of arrest, provided that the officer that conducted the sweep can articulate specific facts to justify a reasonable fear for the safety of himself and others.” *Commonwealth v. Potts*, 73 A.3d 1275, 1282 (Pa. Super. 2013)(quoting *Commonwealth v. Taylor*, 565 Pa. 140, 771 A.2d 1261, 1267 (2001), cert. denied, 534 U.S. 994, 122 S. Ct. 462 (2001)).

In this case, the court finds that there were several reasons why the officers, including Trooper Denucci, acted reasonably when they did a brief protective sweep of the premises including the back bedroom. The articulable facts, taken together with the rational inferences from those facts, would warrant a reasonably prudent officer in believing that the area to be swept harbored an individual posing a danger to those on the arrest scene.

When the officers observed the defendant, he was trying to hide from them. He actually went toward the stairs leading to the second floor where the bedroom was located. While the officers were observing the defendant through the mail slot of the front door, they heard noises that were not consistent with what they were seeing. It can reasonable be inferred that these noises were from other individuals located inside the residence. The officers had information that the defendant was selling narcotics from the residence and they had a screenshot of the defendant’s social media post which could reasonably be interpreted as confirming that there were other individuals in the residence. The confidential informant who

previously purchased controlled substances from the defendant indicated that the defendant may be in possession of a firearm. Lastly, the owner of the premises told the officers that her “kid” was upstairs. No further information was provided regarding the age or physical abilities of the “kid.”

As Trooper Denucci explained, he and the other officers were vulnerable. It was possible that another person in the residence, not knowing what was happening, could have come from another portion of the residence armed and in an attempt to prevent a burglary, robbery or other crime being committed on either the defendant or Ms. Gordner. On the opposite end of the spectrum, a person knowing what was happening and not wanting to get caught or let the defendant be apprehended, could have come down the stairs or from another part of the premises and engaged the law enforcement officers in a shootout of some kind.

Determinately, the police officers were alerted to the fact that there was at least one, if not more, unseen persons present in the home. This alone would have justified the protective sweep. *Commonwealth v. Crouse*, 729 A.2d 588 (Pa. Super. 1999).

Finally, when Officer Denucci went to the backroom and conducted his part of the protective sweep, he was not required to ignore the controlled substances and paraphernalia that he saw in the bedroom in plain view on top of the dresser. *Potts, supra* at 1282. The protective sweep was quick—lasting approximately five minutes—and was limited to a sweep of the premises. The search was not a full search of the premises but only a search limited to a cursory inspection of those spaces where a person may be found. On balance, the safety of the officers sufficiently outweighed the intrusion on the individual privacy interests such procedures could entail. *Crouse, supra* at 596.

ORDER

AND NOW, this ____ day of April 2018, following a hearing, submission of
briefs and argument, the court denies the defendant's motion to suppress filed on March 6,
2018.

BY THE COURT,

Marc F. Lovecchio, Judge

cc: Aaron Gallogly, Esquire ADA
Benjamin Green, Esquire, APD
Gary Weber, Esquire (Lycoming Reporter)
Work File