

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA :
 : CP-41-CR-90-2017
v. :
 :
JOSEPH COLEMAN, :
 : MOTION FOR A NEW TRIAL
Defendant :

OPINION AND ORDER

Following a three day jury trial which commenced on February 13, 2019, Joseph Coleman (Defendant) was convicted of one count of Conspiracy to Commit Robbery,¹ one count of Robbery,² one count of Criminal Attempt to Commit Robbery,³ and two counts of Murder of the Second Degree.⁴ Defendant filed this Motion for a New Trial on July 31, 2019. Defendant contends that he should be afforded a new trial because the Commonwealth violated *Brady* requirements by failing to disclose two interviews of Ronald Shoop, Jr. (Shoop) discussing Defendant's involvement in the matters for which he was convicted. A hearing on the Motion was held by this Court on October 21, 2019, at which time the Commonwealth entered the interviews and excerpt transcripts of the interviews as exhibits. Based upon the subsequent Opinion the Motion for a New Trial is **DENIED**.

Shoop Interviews

The first interview of Shoop occurred on January 13, 2017 while he was incarcerated at the Clinton County Prison and was video recorded. *See* Commonwealth's Exhibit #1.1 at 0:00-

¹ 18 Pa. C.S. § 903(a).

² 18 Pa. C.S. § 3701(a)(1)(iii).

³ 18 Pa. C.S. § 901(a).

⁴ 18 Pa. C.S. § 2502(b).

2:48.⁵ Throughout the interview Shoop differentiates Defendant's cases as the Poplar St. homicide and Park Ave. homicide.⁶ The above conviction stems from what Shoop refers to as the Poplar St. homicide. During the interview Shoop stated that Defendant told him he had a .22 during the Poplar St. homicide. *Id.* at 16:33. Shoop went on to state that while in his cell with Defendant:

I talked to him about the Poplar Street one. And when I first asked him about it, I said to him, I said, I ain't gonna say nothing. He's like, oh I know you're not, you didn't say nothing about the other one, referring to the Park Ave. homicide. And he told me . . . I asked him what was going on because I only knew what was in the paper, I didn't really know nothing about it, and he said that this Casey Wilson was, you know, cooperating, and uh that that's the only thing they had on him, and he told me he went in there with his co-defendant KD, he referred to him as, he said he was, Joe said he was the first one in, well he said first Casey went there to make sure that there was no kids in the house, then he said Casey came out and told him there wasn't no kids in the house, and Casey was in the car. He, Joe said he went in first, and KD came in behind him, and Joe said he grabbed Shawn and, uh . . . punched him in the nose a couple times, and uh . . . or hit him in the face whatever, and that Shawn was stumbling around looking for the money or the drugs and KD had ahold of the mom who was on the steps, and uh . . . that's when a door opened upstairs, and Joe said he heard kids up there, and ran out the house. He said—he, at that point, he left out the house, and that he heard gunshots, and then KD came out and they hopped in the car, and left.

Id. at 18:58-20:36; Commonwealth's Exhibit #2 at 4.

During the interview Shoop states he does not know Casey Wilson, Defendant told him he went to the victims' house to rob them "for weed and money," and that Casey Wilson knew the victims. Commonwealth's Exhibit #1.1 at 21:38-3:00; Commonwealth's Exhibit #2 at 4. Casey Wilson was to drive the victims' house and go in before Defendant to make sure there were no kids. Commonwealth's Exhibit #1.1 at 23:00; Commonwealth's Exhibit #2 at 5. Defendant

⁵ Both interviews were copied on to the same disk marked as Commonwealth's Exhibit #1. To distinguish the first and second interview the Court will indicate Commonwealth's Exhibit #1.1 to notate the first interview and Commonwealth's Exhibit #1.2 to notate the second interview.

⁶ Park Ave. homicide refers to Defendant's pending case, CR 352-2019, which has yet to proceed to trial.

referred to his co-defendant as “KD” and told Shoop he wanted to rob Shawn, because he was a “big time weed dealer.” Commonwealth’s Exhibit #1.1 at 24:00-:34; Commonwealth’s Exhibit #2 at 6. Defendant told Shoop he was already outside when he heard the shots and that he had had a .22 and “KD” had a .40. Commonwealth’s Exhibit #1.1 at 26:05-:40; Commonwealth’s Exhibit #2 at 7. He also stated that the guns were now in the water. Commonwealth’s Exhibit #1.1 at 26:40; Commonwealth’s Exhibit #2 at 7. Shoop stated he did not know who “KD” was, but that Defendant said he was from Philadelphia. Commonwealth’s Exhibit #1.1 at 27:48-:58; Commonwealth’s Exhibit #2 at 8.

The second interview occurred on January 12, 2018 when Shoop was locked up at SCI Rockview and was audio recorded. Commonwealth’s Exhibit #1.2 at 0:00-:30. Shoop now states that Defendant told him “J-rock” was with him during both the Park Ave. and Poplar St. homicides, but that Shoop had never met “J-rock.” Commonwealth’s Exhibit #1.2 at 7:56; Commonwealth’s Exhibit #3 at 2. Defendant indicated to Shoop that “J-rock” shot the victims in the Poplar St. homicide to prove himself after the Park Ave. homicide, but that Defendant only referred to him as his “co-D” when describing the Poplar St. incident. Commonwealth’s Exhibit #1.2 at 8:32-9:54. When discussing guns, Shoop stated Defendant told him about a .40 his co-defendant used in the Poplar St. homicide and about a .22 and a 9mm. *Id.* at 14:50; Commonwealth’s Exhibit #3 at 2. In regards to the Poplar St. homicide, Defendant told Shoop:

CJ knew this guy had a bunch of weed and picked him and his co-defendant up and they went there. He went in to make sure, there was supposed to be no kids in there, and he came out. Crack and his co-defendant went in there and Crack hit this dude in the face and told him to get the money and the drugs. Dude was walking around like he didn’t know and the co-defendant had his mom on the steps. Um, there was somebody upstairs, his sister and his sister’s boyfriend. He said there was kids in there upstairs that they didn’t know about and he told his co-defendant, like lets go. He said that’s when he shot his mom. He ran out the house and his co-defendant came out.

Commonwealth's Exhibit #1.2 at 17:42-18:37.

Whether Defendant is Entitled to a New Trial Based on an Alleged *Brady* Violation

Defendant contends the interviews constitute a violation of *Brady* and/or Pa. R. Crim. P. 573(B)(1)(b), which necessitates he be granted a new trial. The United States Supreme Court in *Brady* determined that the “suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” *Commonwealth v. Reid*, 99 A.3d 470, 496–97 (Pa. 2014) (citing *Brady v. Maryland*, 373 U.S. 83, 87 (1963)). For an individual to succeed on a *Brady* violation claim he/she must prove that the prosecution suppressed the evidence, the evidence would have been helpful to the defendant, and that the suppression of that evidence prejudiced the defendant. *Id.* The favorable evidence can be either exculpatory or impeachment evidence and the defendant need not prove it was suppressed willfully. *Commonwealth v. Ovalles*, 144 A.3d 957, 965 (Pa. Super. 2016). “However, the mere possibility that an item of undisclosed information might have helped the defense, or might have affected the outcome of the trial does not establish materiality in the constitutional sense.” *Commonwealth v. Smith*, 985 A.2d 886, 900 (Pa. 2009). Only when “there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the trial would have been different” is the evidence material. *Id.*⁷ Exculpatory evidence has been defined as “evidence which extrinsically tends to establish a defendant's innocence of the crimes charged, [and] . . . includes material that goes to the heart of the defendant's guilt or innocence.”

⁷ Pa. R. Crim. P. 573, which was created to codify the requirements of *Brady*, also requires that the evidence be material for a violation to occur. *See* Pa. R. Crim. P. 573(B) (“Commonwealth shall disclose to the defendant's attorney all of the following requested items or information, ***provided they are material to the instant case***”) (emphasis added).

Commonwealth v. Hudgens, 582 A.2d 1352, 1361 (Pa. Super. 1990) (internal citations omitted).

The Commonwealth at the hearing on October 21, 2019 conceded that the information was inadvertently suppressed as it was in possession of police prior to trial. Regardless of the Commonwealth conceding the inadvertent disclosure of the evidence, this Court finds Defendant fails to demonstrate that the evidence is helpful to Defendant and how Defendant was prejudiced by the interviews' suppression. Defendant specifically points out that during the interviews, Shoop stated the guns were in the water and that Defendant had used a .40 in the Poplar St. homicide. Defendant's Motion for a New Trial 7/31/19, at 3. As for the statement that the guns used in the homicide were in the water, it is not exculpatory. It does not contradict any elements of the crimes for which Defendant was convicted, but simply changes how the firearm was disposed of. *See* N.T. 2/13/19, at 157-59 (Transcript of the first day of Defendant's trial). Additionally, Defendant's contention that the interviews state he used a .40 caliber firearm as opposed to a .22 caliber is also incorrect. *See* Commonwealth's Exhibit #1.1 at 16:33, 26:05; Commonwealth's Exhibit #1.2 at 14:50. Contrary to Defendant's position, the interviews of Shoop only solidify the Commonwealth's theory of the case and the evidence presented at trial concerning Defendant's involvement in the homicide. Both consistently show Defendant used a .22 during the incident. Commonwealth's Exhibit #1.1 at 16:33; N.T. 2/13/19, at 127-29. Both demonstrate Casey Wilson was the first to go in to the victim's residence to check and that the purpose of the burglary was to take drugs and money from Shane Wright. Commonwealth's Exhibit #1.1 at 24:00; N.T. 2/13/19, at 138-41. Lastly, both show that the co-defendant and not Defendant pulled the trigger. Commonwealth's Exhibit #1.2 at 17:42; N.T. 2/13/19, at 154-56.

Conclusion

Defendant has failed to demonstrate that the facts put forth in Shoop's two interviews are favorable to Defendant and that the suppression of the interviews prejudiced him at trial. The Court finds the facts put forth in Shoop's interviews only solidify the Commonwealth's theory of the case that was presented at trial and bolsters the testimony provided by Casey Wilson, Jennifer Hornyak, and others. Although the Commonwealth candidly admitted it inadvertently suppressed the interviews and both should have been discovered, Defendant is not entitled to a new trial because the evidence neither supported his innocence nor hindered his defense.

ORDER

AND NOW, this 24th day of October, 2019, based upon the foregoing Opinion, Defendant's Motion for a New Trial is hereby **DENIED**.

By the Court,

Nancy L. Butts, President Judge

cc: DA (MW)
Jeana Longo, Esquire