

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

**COMMONWEALTH OF PENNSYLVANIA** :  
 : **CP-41-CR-1847-2019**  
 v. :  
 :  
 **AMY YOUNG,** : **OMNIBUS PRETRIAL**  
 **Defendant** : **MOTION**

**OPINION AND ORDER**

Amy Young (Defendant) was arrested by the Pennsylvania State Police (PSP) on November 8, 2019 for two counts of Conspiracy to Possess a Controlled Substance with the Intent to Deliver<sup>1</sup> and two counts of Conspiracy to Deliver a Controlled Substance.<sup>2</sup> The charges arise from two controlled buys that took place on July 26, 2019 and July 31, 2019. Defendant filed a Request for a Bill of Particulars on December 27, 2019 and Omnibus Pretrial Motions on February 18, 2020. A hearing on the motion was held by this Court on July 16, 2020 following a number of continuances.

Defendant raises a number of issues in her Omnibus Pretrial Motion and is requesting the following relief: (1) seeking to compel discovery of any surveillance photographs or video,<sup>3</sup> (2) seeking discovery of any information or criminal history of witnesses and/or the confidential informant (CI),<sup>4</sup> (3) seeking additional undisclosed discovery,<sup>5</sup> (4) disclosure of

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<sup>1</sup> 18 Pa. C.S. § 903.

<sup>2</sup> 18 Pa. C.S. § 903.

<sup>3</sup> At the hearing, the Commonwealth agreed to inform Defendant within thirty days as to whether such evidence exists and to provide copies if it does.

<sup>4</sup> At the hearing, the Commonwealth agreed to provide the CI's information and any criminal history of witnesses by pretrial.

<sup>5</sup> At the hearing, the Commonwealth agreed to provide any discovery that has not yet been provided under this section of the Motion by pretrial, if it does in fact exist.

any Pa. R. Evid. 404(B) information,<sup>6</sup> (5) reserving the right to file additional motions as a result of this discovery,<sup>7</sup> (6) seeking to compel a bill of particulars, and (7) petitioning for writ of habeas corpus. Both of Defendant's unresolved issues, a bill of particulars and habeas corpus, involve the same allegations that the facts provided are not sufficient to satisfy the charges levied against Defendant. As explained below, this Court finds that the facts alleged and provided at the preliminary hearing are sufficient to satisfy the charges and therefore both motions would be denied.

### **Background**

Trooper Thomas Wool (Wool) of the PSP testified on behalf of the Commonwealth at the preliminary hearing held on December 5, 2019. That testimony established the following. On July 26, 2019, Wool contacted CI, who informed Wool that he could purchase Suboxone from Corey Moon (Moon) and that they could buy heroin from another individual whose name he did not know. P.H. 12/5/19, at 3. CI and Wool then proceeded to 2117 Riverside Drive and pulled into an alley where they met with Moon, who sold Wool Suboxone. *Id.* A blue Subaru, which Defendant was driving, then passed by them and came to a stop approximately three or four car lengths away. *Id.* at 3-4. An individual later identified as Stephen Moore (Moore) was in the passenger seat. *Id.* at 3. Wool then handed Moon the prerecorded money, at which time he walked up to Moore at the passenger side window and an exchange took place. *Id.* at 4. Moon then returned and handed the suspected heroin to CI, who put it in the cup holder of Wool's vehicle. *Id.* Wool got Moon's phone number at some point during this first exchange. *Id.* at 5.

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<sup>6</sup> Disclosure of such information has already been ordered by pretrial by Judge Marc Lovecchio on January 9, 2020.

<sup>7</sup> This Motion is liberally granted by this Court at such time it becomes appropriate due to any later discovered information.

On July 31, 2019, Wool contacted Moon to set up a buy for heroin. *Id.* Moon instructed Wool to pick him up at a residence on Franklin St. *Id.* Both Wool and Moon then proceed to the Turkey Hill gas station on Washington Boulevard where Wool pulled in next to the same blue Subaru from the previous exchange. *Id.* When they pulled in Defendant was in the driver's seat and Moore was standing outside of the vehicle with the passenger door open. *Id.* at 5, 11. Wool gave Moon the prerecorded currency, Moon then got out of the vehicle and conducted a hand to hand exchange with Moore between the two vehicles, and then returned to Wool's vehicle, placing the suspected heroin in the cup holder. *Id.* at 5-6. After the exchange, Defendant drove away with Moore and Wool signaled to another trooper to stop the Subaru for the purposes of identifying the individuals. *Id.* at 6, 11.

CI had informed Wool on previous exchanges that the individual he got heroin from was often accompanied by a female that "always stared him down." *Id.* at 7. Wool confirmed that she was watching during each of the two above exchanges. *Id.* at 8.

### **Whether Evidence was Sufficient to Establish a *Prima Facie* Case of Conspiracy**

At the preliminary hearing stage of a criminal prosecution, the Commonwealth need not prove a defendant's guilt beyond a reasonable doubt, but rather, must merely put forth sufficient evidence to establish a *prima facie* case of guilt. *Commonwealth v. McBride*, 595 A.2d 589, 591 (Pa. 1991). A *prima facie* case exists when the Commonwealth produces evidence of each of the material elements of the crime charged and establishes probable cause to warrant the belief that the accused likely committed the offense. *Id.* Furthermore, the evidence need only be such that, if presented at trial and accepted as true, the judge would be warranted in permitting the case to be decided by the jury. *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa. Super. 2001). To meet its burden, the Commonwealth may utilize the evidence presented at the

preliminary hearing and also may submit additional proof. *Commonwealth v. Dantzler*, 135 A.3d 1109, 1112 (Pa. Super. 2016). The weight and credibility of the evidence may not be determined and are not at issue in a pretrial habeas proceeding. *Commonwealth v. Wojdak*, 466 A.2d 991, 997 (Pa. 1983); *see also Commonwealth v. Kohlie*, 811 A.2d 1010, 1014 (Pa. Super. 2002). Moreover, “inferences reasonably drawn from the evidence of record which would support a verdict of guilty are to be given effect, and the evidence must be read in the light most favorable to the Commonwealth's case.” *Commonwealth v. Huggins*, 836 A.2d 862, 866 (Pa. 2003).

For the Commonwealth to establish conspiracy they must show “that the defendant (1) entered into an agreement to commit or aid in an unlawful act with another person or persons, (2) with a shared criminal intent and (3) an overt act was done in furtherance of the conspiracy.” *Commonwealth v. Murphy*, 795 A.2d 1025, 1037-38 (Pa. Super. 2002). “Circumstantial evidence may provide proof of the conspiracy. The conduct of the parties and the circumstances surrounding such conduct may create a web of evidence linking the accused to the alleged conspiracy.” *Commonwealth v. Jones*, 874 A.2d 108, 121 (Pa. Super. 2005). The agreement can be demonstrated in a variety of ways including “the relation between the parties, knowledge of and participation in the crime, and the circumstances and conduct of the parties surrounding the criminal episode.” *Id.* at 122. A driver of a vehicle can be found liable for conspiracy in certain circumstances. *See Commonwealth v. Brown*, 505 A.2d 295, 297 (Pa. Super. 1986) (sufficient evidence was presented to support conviction of conspiracy when the defendant drove co-defendant to the house, waited in the car for the co-defendant while he took a television from the residence, and sped off with co-defendant and television after the fact).

The Commonwealth has presented enough evidence to establish a *prima facie* showing of Conspiracy of Possession with the Intent to Deliver and Delivery on two separate occasions. On July 26, 2019, Defendant drove Moore to the controlled buy. She came into the alley and stopped nearby Wool's vehicle. Then Moon came up to the passenger window and exchanged currency for suspected heroin in her presence. This was after CI told Wool that a woman often accompanied Moore to the buys and would "stare him down." Defendant then drove Moore away from the buy. On a separate occasion on July 31, 2019, Defendant again was with Moore at a controlled buy in the driver's seat of the same vehicle she drove for the last controlled buy. Again, she observes the hand to hand exchange, before driving Moore away from the controlled buy. Not only is it clear that Defendant was aware of Moore's activity, but she was actively assisting and facilitating these transactions by providing transportation to and from each buy.

**ORDER**

**AND NOW**, this 23<sup>rd</sup> day of July, 2020, based upon the foregoing Opinion, Defendant's Petition for Writ of Habeas Corpus and Motion to Compel Particulars in her Omnibus Pretrial Motion are hereby **DENIED**. The remainder of Defendant's Omnibus Pretrial Motions has been resolved as explained in the foregoing opinion.

By the Court,

Nancy L. Butts, President Judge

cc: DA (JR)  
Jeana Longo, Esquire

NLB/kp