

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH :
vs. : **CR-439-2021**
JAMAL BENNETT :

OPINION

ON THE 6th day of July, 2021, a hearing was held in connection with defendant's pro se "subpoena duces tecum" filed on April 26, 2021. Pursuant to this Court's order of May 5, 2021, the Court treated defendant's document as a motion for bill of particulars, and a motion for pretrial discovery and inspection.

At the outset of the hearing the Court expected to address this document, as well as defendant's request for discovery filed on May 17, 2021, and defendant's letter dated June 17, 2021 indicating that he was not being provided discovery per a court order. However, due to time constraints the only portion of the filings that the Court could address concerned defendant's subpoena duces tecum and the discovery portion thereafter.

During the hearing the Court, in painstaking detail, and to some extent to the defendant's chagrin, addressed each individual request by the defendant. Many of defendant's requests were withdrawn. Specifically defendant withdrew his requests for the following: Dolly's restaurant video; Julie's parking lot video; all documents regarding reinsurance bonds, administration forms, tax forms, general services administration forms, tax returns, contracts and/or torts with "estates name"; the legal names, IEN, and addresses for persons issued bonds, claiming to be injured parties, who signed acceptance bonds or the

value of damage being complained of; all documents regarding penal sums; documents requested from the Clerk of Courts with respect to the oaths of office and surety bonds for numerous individuals; all bid bonds, payment bonds, performance bonds, and discharge bonds; the name of any person alleging a confession of debt; an original bill of particulars; the “arraignment under notary seal” (the Court notes that it provided the defendant with a true and correct copy of the Information previously filed in this matter); and all documents requested from District Attorney Ryan Gardner, except as set forth below; and all professional liability insurance bonds and constitutional oaths of office.

As for the remaining requests, the Court notes that with regard to obtaining records a defendant must articulate a reasonable basis for his request. Commonwealth v. McFalls, 2021 Pa. Super 92, (May 10, 2021). Rule 573 of the Pennsylvania Rules of Criminal Procedure provides that a defendant may request other evidence specifically identified provided that the defendant can establish that its disclosure would be in the interests of justice.

A criminal defendant is not entitled to a wholesale inspection of investigatory files. The right to exculpatory material does not mean that a defendant has unfettered access to files not in his possession, nor that he may search untrammelled through Commonwealth files in order to argue the relevance of material therein. Defendants may not engage in a fishing expedition hoping to find something in police personnel files, disciplinary files, policies, guidelines, or training materials, which might impeach the credibility of the officers involved in his case. Id.

The Defendant requests the affidavits of probable cause approved in MDJ offices, authored by Officer Bell over the past four (4) years which involve searches and/or

charges involving "African-Americans". This request will be denied. It is nothing more than a request to review material with a hope that the defendant might uncover some collateral information with which to challenge the credibility of police officers. See Commonwealth v. Blakeney, 946 A.2d. 645 (Pa. 2008).

Defendant requests all civil discovery documents regarding a federal lawsuit filed by Libby Williams. This request shall be denied. This information is accessible to defendant, and is public information. Moreover, this Court has no control over federal documents, and cannot order the production of such. Finally, this request appears to be requesting collateral information to challenge the credibility of police officers. Its disclosure would not be in the interests of justice.

Defendant next requests the names and witnesses with respect to Officer Bell's alleged "pattern/practice of misconduct". This request shall be denied. The Commonwealth denies that there is a pattern/practice of misconduct, and accordingly cannot provide any "names of witnesses". Moreover, and as set forth above, this is a fishing expedition hoping to find something that may attack the credibility of Officer Bell.

The defendant also requests all "personnel records, investigative files, reports, demotion records, reprimand records, and extra occurrence reports with respect to Officer Bell". This request will be denied. Defendant cannot engage in a fishing expedition hoping to find something in these files which might impeach the credibility of Officer Bell. The defendant did not articulate a reasonable basis for his request which was likely to produce admissible evidence.

Defendant next requests the names of cases involving "African-Americans" where the preliminary hearings were held over for court, but that were ultimately dismissed

by this Court or Judge Butts over the last four (4) years. This request shall be denied. Again this is a fishing expedition, the defendant did not articulate a reasonable basis for this request, its disclosure would not be in the interests of justice, and the defendant is proceeding in the mere hope that he might uncover some collateral information with which to challenge the credibility of the police officers.

The same is true with respect to defendant's request for "all complaints, investigations, civil lawsuits, tort claims, disciplinary reports over the last six (6) years as well as authority to initiate charges against the defendant" by a handful of different officers. This request will be denied.

Defendant requests the names of "African-Americans" who had preliminary hearings but "won" their case over the last four (4) years. Defendant wants to match up these individuals to show that Officer Bell and other members of the NEU are "liars". This request will be denied. Again defendant is seeking these records in the mere hope that he might uncover some collateral information with which to challenge the credibility of the police officers.

Defendant is seeking complaints, investigations, civil suits, tort claims filed against all NEU officers. Again this request shall be denied. It is a fishing expedition, as defendant is requesting the records in the mere hope that he might uncover some collateral information to damage the credibility of the officers.

With respect to himself, the defendant is requesting arrest warrants, affidavits of probable cause, preliminary hearing transcripts, orders, opinions, motions, affidavits, all notes inside the case file, the dismissal order, and other related documents concerning a case that the defendant was involved in in 2018 and 2019. Defendant cannot cite to the case

number, believing it to be 1552 of 2018. The Commonwealth confirmed that there is no such number involving the defendant. The Commonwealth believes it is 1582 of 2017. The Court will deny this request. The documents the defendant seeks are readily available to the defendant through his prior counsel. To the extent defendant did not have prior counsel those documents would have been provided to the defendant previously. The fact that defendant chose not to retain them is not a reason to require the Commonwealth to obtain those documents at this time. Furthermore, the Court does not see where their disclosure would be in the interest of justice.

Finally, defendant requests all documents regarding "torts" against him. He is requesting these documents from District Attorney Gardner. He is requesting them because he "trusts no one" and "wants to see what is against him". This again is a fishing expedition and is not a reasonable request. This request shall be denied.

ORDER

AND NOW, July 6, 2021, defendant's subpoena treated by the Court as a motion for discovery is denied. This Order does not prejudice the defendant with respect to his other outstanding motions for discovery.

BY THE COURT

Marc F. Lovecchio, Judge

cc: District Attorney (MW)
M. Welickovitch, Esq.
Jamal Bennett – c/o LCP
G. Weber, Esq.
(MFL:pjs)