

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

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CR-1086-2021
	:	
vs.	:	
	:	CRIMINAL DIVISION
KEVIN M. CAGLE,	:	
Defendant	:	

OPINION

This matter is before the Court on Commonwealth’s Petition for Modification of Bail,¹ the hearing for which was held on August 31, 2021 at which time Defendant appeared in person and was represented by Bryan Fitzcharles, Esq. In the Petition, the Commonwealth requests that the Defendant’s intensive supervised bail be modified to add the special condition that Defendant be prohibited from attending the Williamsport Area School District (hereinafter “School District”) in person.

Dr. Richard Poole, the Director of Student Services at the School District, testified that Kevin will be entering the 12th grade. Due to the concerns surrounding the severity and nature of the current charges, which include robbery and simple assault, the School District is recommending Defendant attend school virtually at Justice Works, where he can be supervised. The School District will provide an IEP as well as door-to-door transportation. The education will be the same as if he was attending in person and Defendant will be

¹ The Court also heard the Commonwealth’s Petitions for Modification of Bail regarding Mr. Cagle’s co-Defendants, Moreece Person on September 1, 2021, and Dawson Crawford on the same date as Mr. Cagle’s hearing. Mr. Person concurs in the Petition, and a separate Order was issued accordingly. Mr. Crawford does not concur in the Petition.

enrolled in the courses needed to graduate on time.

On cross-examination, Dr. Poole did testify that it is his opinion that in person lessons are preferred and that the Williamsport Area High School, where Defendant would be attending, has 230 cameras around the campus and other security protocols and procedures in place. He also testified that the Defendant has been suspended in the past due to an altercation with another student and that, to his knowledge, there are no students attending school in person who have been criminally charged as an adult.

Harry Rogers, Defendant's Bail Release Officer, testified that while he believes the Defendant should continue with his education, he is concerned that the chance of recidivism will increase due to "idle hands" if Defendant is attending virtual classes at home as well as if Defendant and co-Defendant, Mr. Crawford, are together in the same location. He also testified that age is a big factor in bail and that, if Defendant was over 18, he most likely would have recommended that he not be released on bail.

Article I, Section 14 of the Pennsylvania Constitution states as follows with regard to bail:

All prisoners shall beailable by sufficient sureties, unless for capital offenses or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great

Pa. Const. art. I, § 14.

In 1998, the Article was amended to include the following language: "unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community." *Grimaud v. Com.*, 806 A.2d 923, 926

(Pa.Cmwlt. 2002), *aff'd*, 865 A.2d 835 (Pa. 2005). The Commonwealth Court held that the

1998 amendment was intended to serve “one core purpose and effectuate only one substance change: that is, to reinforce public safety by making it more difficult for seriously dangerous accused criminals to obtain bail.” *Id.* at 930.

Here, the Court’s primary concern with allowing the Defendant to attend public school is public safety. Of course, the Defendant is presumed innocent until proven guilty. However, the Court must also take into consideration the nature of the alleged crimes, which involve violence and deadly weapons, as well as the strength of the Commonwealth’s case. Allowing Defendant and Mr. Crawford to congregate and associate with one another in a school of approximately 1500 students, even with teachers and cameras, creates a potentially dangerous situation for the students and faculty. However, the Court also shares Mr. Rogers’ concerns that being bored at home, with no supervision or motivation to complete the schoolwork, could also create an opportunity for Defendant to re-offend. Additionally, as we have seen in the last year due to the COVID-19 pandemic, virtual based programs exist to provide a substantially similar education as one would receive in a brick and mortar setting.

For these reasons, the Commonwealth’s Petition is granted. Defendant is prohibited from attending school in the Williamsport Area School District in person. However, the School District must provide alternative in-person schooling, which may be done through a virtual program such as Ingenuity. This program shall not be conducted in a home setting. The School District may place Defendant and Mr. Crawford at the same location for the virtual schooling but they shall not have contact with one another or be unsupervised for any amount of time that that could result in Defendant and Mr. Crawford making contact with one another.

ORDER

AND NOW this 10th day of **September, 2021**, upon consideration of the Commonwealth's Petition for Modification of Bail, and for the reasons and restrictions set forth above, the Petition is hereby **GRANTED**.

By the Court,

Ryan M. Tira, Judge

RMT/ads

CC: DA (KG)
Bryan Fitzcharles, Esq.
JPO
Supervised Bail
Thomas Burkhart, Esq.
Gary Weber, Esq.
Alexandra Sholley – Judge Tira's Office