

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

IN THE INTEREST OF:	:	
NS-C,	:	No. JV-38-2021
	:	
A Juvenile	:	

OPINION AND ORDER

AND NOW, this 9th day of **June, 2021**, at a time set for a hearing on a Motion to Suppress filed by the Juvenile on May 4, 2021, at which time Kirsten Gardner, Esquire, was present on behalf of the Commonwealth and Donald F. Martino, Esquire, was present on behalf of the Juvenile.

On December 1, 2020, NS-C (“Juvenile”) was charged with one (1) count of Aggravated Assault by Attempting to Cause Serious Bodily Injury (F1); one (1) count of Aggravated Assault with a Deadly Weapon (F2); one (1) count of Firearms not to be Carried Without a License (F3); one (1) count of Possession of a Firearm by a Minor (M1); two (2) counts of Simple Assault (M2); and one (1) count of Recklessly Endangering Another Person (M2). These charges were direct filed in criminal court to docket #1651-CR-2020. Counsel for the Juvenile filed an Omnibus Pretrial Motion, which included a Petition for Writ of *Habeas Corpus* requesting the Court dismiss the two (2) Aggravated Assault charges. An initial hearing was held on January 29, 2021. On February 5, 2021, the Commonwealth filed a Motion to Amend Information seeking to withdraw the two Aggravated Assault charges. Subsequently, by agreement of counsel, an Order was entered transferring the remaining charges in docket #1651-CR-

2020 to juvenile court in accordance with 42 Pa.C.S.A. §6322 and §6355. The Petition for Delinquency was filed to the present juvenile docket number on April 28, 2021, and the instant Motion to Suppress was filed by Counsel for the Juvenile on May 4, 2021.

A hearing on the Juvenile's Motion to Suppress was scheduled for June 3, 2021. Prior to the hearing taking place, this Court became aware of a separate case involving the Juvenile which was direct filed in criminal court to docket #21-CR-2021. On January 26, 2021, Counsel for the Juvenile filed a Motion to Suppress as part of an Omnibus Pretrial Motion. Counsel filed an Additional Motion to Suppress on March 15, 2021. A hearing on the motions in docket #21-CR-2021 was held on April 19, 2021, before the Honorable Nancy L. Butts and the Court's decision on the matter is pending.

As the Motion to Suppress in the present case is identical to the Motions to Suppress in the criminal case and involved the same circumstances and allegations surrounding the weapon alleged to have been illegally seized and statements alleged to have been illegally obtained, this Court requested counsel for both the Commonwealth and the Juvenile to present argument on whether the Juvenile Court would be bound by the decision of the Criminal Court.

Counsel for the Juvenile argued that the Juvenile Court is not bound by the decision of the Criminal Court based partly on the "coordinate jurisdiction rule," which prevents judges of coordinate jurisdictions from overruling each other's decisions. Commonwealth v. King, 999 A.2d 598, 600 (Pa. Super. 2010). This rule is applicable in both civil and criminal cases and falls within the purview of the "law of the case

doctrine.” In Commonwealth v. Starr, 664 A.2d 1326, 1331 (Pa. 1995), the Supreme Court explained that the law of the case doctrine “refers to a family of rules which embody the concept that a court involved in the later phases of a litigated matter should not reopen questions decided by another judge of that same court or by a higher court in the earlier phases of the matter.” “Among the related but distinct rules which make up the law of the case doctrine is the rule that “upon transfer of a matter between trial judges of coordinate jurisdiction, the transferee trial court may not alter the resolution of a legal question previously decided by the transferor trial court.” Id. Counsel for the Juvenile argues that, had a decision already been made in the Criminal Court, the Juvenile Court would be bound by it but because a decision has not yet been rendered, the Juvenile Court has the authority to conduct a separate hearing and make an independent determination on the Motion to Suppress.

The position of Counsel for the Commonwealth is that the Juvenile Court is indeed bound by the decision of the Criminal Court with regard to the Motion for Suppression, as the motion was already argued and there is a decision pending. In support of her position, Counsel cites 42 Pa.C.S. §952, which states “in a court of common pleas having two or more divisions, each division of the court is vested with the full jurisdiction of the whole court. . . .” This Court notes that these charges and this Motion to Suppress were originally filed in Criminal Court and were scheduled to be addressed at the same time as the Motion to Suppress in docket #21-CR-2021. The matter was transferred to the Juvenile Court due to the Commonwealth withdrawing the offenses which necessitated the direct file in Criminal Court. However, the facts and

circumstances which lead to the seizure of the weapon and the statements made are the same in both the Criminal and Juvenile cases and, in fact, the Motions to Suppress are identical.

The Superior Court has previously held that where the legality of a search and seizure had already been litigated in another case in which the defendant was a party, it did not have to be re-litigated in a subsequent case. Commonwealth v. Bastone, 396 A.2d 1327, 1331 (Pa. Super. 1979). This holding, of course, “is subject to the caveat that if the defendant alleges new facts tending to show that the seizure was in fact illegal, then another suppression hearing is required.” Id. This promotes judicial efficiency by keeping cases proceeding without delay, and avoids legal questions that have previously been decided from continually being re-litigated through the pendency of a case, and prevents litigants from getting the proverbial “second bite at the apple” if they disagree with one judge’s decision.

After careful consideration of the relevant statutory provisions, case law, and argument of counsel, this Court has determined that the Juvenile Court will be bound by the decision of the Criminal Court with regard to the evidence alleged to have been illegally obtained, which was addressed at the hearing on April 19, 2021, at docket #21-CR-2021. While this Court is cognizant of the fact that the motions were filed in separate divisions of the Lycoming County Court of Common Pleas, we do not find persuasive Counsel for the Juvenile’s arguments that, because a formal decision had not yet been rendered and because this matter was transferred to Juvenile Court from Criminal Court, the Court should not be bound by the decision. Both the Juvenile and

the Commonwealth had a full and fair opportunity to present evidence at the time of the hearing on the Motion to Suppress at docket #21-CR-2021, and a decision by the President Judge of the Lycoming County Court of Common Pleas is forthcoming. The charges filed at docket #21-CR-2021 and docket #JV38-2021 (initially filed to #1651-CR-2021) were the result of the same evidence and statements alleged to have been illegally obtained. Neither the Juvenile nor the Commonwealth has alleged any new facts or circumstances as it applies to the case presently before the Juvenile Court. Accordingly, this Court is of the opinion that the coordinate jurisdiction rule is applicable in this case and, although it has not yet been rendered, the Juvenile Court will not revisit, contradict, or overrule the imminent decision of another judge of the Lycoming County Court of Common Pleas.

As this Court has determined that it will be bound by the decision of the Criminal Court in docket #21-CR-2021 with regard to the evidence sought to be suppressed, the arguments of counsel regarding whether the Juvenile Court could rely on the transcripts of the previously held hearing or whether a new hearing would need to be held is moot.

The evidentiary hearing in this matter is scheduled for **August 12, 2021, at 1:30 p.m. in Courtroom #3 of the Lycoming County Courthouse.**

By The Court,

Joy Reynolds McCoy, Judge