

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

**COMMONWEALTH OF PENNSYLVANIA** :  
 : **CP-41-CR-1547-2021**  
 v. :  
 :  
 **TAYLON HAMILTON,** : **OMNIBUS MOTION**  
 **Defendant** :

**OPINION AND ORDER**

Taylon Hamilton (Defendant) was charged with Criminal Conspiracy<sup>1</sup>, Delivery of a Controlled Substance<sup>2</sup>, and Possession with Intent to Deliver<sup>3</sup>. The charges arise from an incident that occurred on October 20, 2021. Defendant filed an Omnibus Pretrial Motion on February 6, 2022, and then filed an Amended Omnibus Motion on February 10, 2022. This Court held a hearing on the amended motion on April 28, 2022. In his motion, Defendant first asserts a motion to suppress evidence based on his assertion that his warrantless arrest and law enforcement’s warrantless entry was unlawful. Second, Defendant submits a motion to suppress statements made to police during an interview. Third, Defendant reserves the right to file additional pre-trial motions if necessary.

**Background and Testimony**

Nicole McKinley (McKinley) testified on behalf of the Commonwealth. McKinley testified that she resides at 427 ½ Louisa Street in the city of Williamsport and that she has lived there for a little over a year. McKinley testified that she is on the lease to the apartment by herself, but she does have a roommate and a best friend that has a key. 427 ½ Louisa Street was McKinley’s home on October 20, 2021. Defendant was in her residence that day and McKinley indicated that she had known Defendant for about one (1) year at that time. McKinley stated

---

<sup>1</sup> 18 Pa.C.S. § 903.

<sup>2</sup> 35 Pa.C.S. § 780-113(a)(30).

<sup>3</sup> 35 Pa.C.S. § 780-113(a)(30).

that Defendant does not have a key to her house, does not keep his possessions in the home, does not control who comes and goes at her residence, and has never slept there. On the day in question, Defendant spent time at her home for a few hours before the police arrived.

Detective Tyson Havens (Havens) of the Lycoming County Narcotics Enforcement Unit (NEU) also testified on behalf of the Commonwealth. Havens noted that he is familiar with Defendant since 2015 when he arrested Defendant for possession of marijuana. Havens testified that during July of 2021, the NEU began investigating Defendant and a few others for delivery and possession with intent to deliver various narcotics such as methamphetamine, crack cocaine, and heroin. Defendant became a person of interest after two (2) confidential informants conveyed his name to law enforcement indicating that he was delivering methamphetamine and an undercover cop bought meth from a man named Derrick Carson (Carson) and Defendant was present at the undercover buy. Havens also testified that there were three (3) controlled buys conducted with Carson prior to 2021 but Defendant was only present for the first one. On July 23, 2021, an individual named Jamie West was arrested and confessed to delivering drugs for Defendant. Havens indicated that the NEU was alerted to a residence at 427 ½ Louisa Street from a man named Shane who informed an undercover officer that the mother of his child, McKinley, knew someone who had eight-balls of meth. The undercover told Shane that he was interested in buying some meth.

The Louisa Street house was surveilled and a silver Volkswagen Jetta arrived with Carson as the driver and Defendant as a passenger. Havens testified that Shane called McKinley to order the meth. Detective Caschera (Caschera) was inside the home with Shane wearing a covert body camera. Carson and McKinley left Louisa Street and got in the Jetta and drove to Shane's house on Cherry Street. McKinley entered Shane's residence and gave the

meth to Caschera. After this interaction, Havens indicated that the NEU wanted to arrest Carson. Havens returned to Louisa Street and Detective Dent (Dent) was to conduct a traffic stop on Carson after he left. Carson left Shane's house after approximately fifteen (15) minutes with a man named Tiler Wood (Wood). Wood and McKinley are in a romantic relationship. Carson and Wood left in the Jetta and Dent initiated a traffic stop. Carson and Wood both exited the car without being instructed to do so. Both men were arrested and transported to City Hall.

Havens further testified that he questioned Wood at City Hall because he observed cellophane containing meth on the curb at the traffic stop. Havens confronted Wood with the meth and Wood admitted to dropping it. Wood confessed to buying the drugs from "TayTay" for fifteen (15) dollars about five (5) minutes before his encounter with police. Havens stated that "TayTay" is another name for Defendant. Wood told Havens that Defendant has a whole bunch of drugs on his person and takes it with him wherever he goes. Wood believed that Defendant kept the narcotics in his pocket and in a personal jar. Wood told police that he did not know why Carson and McKinley went to her child's father's house on Cherry Street. Havens thought this was a lie.

However, Wood agreed to provide information to police and Havens did not ask Wood to buy from Defendant because he believed Defendant was smarter than most drug dealers. Havens thought that Wood trying to buy from Defendant would be unsuccessful, especially since Wood had just purchased drugs and Defendant would be able to see through this plan. Havens believed that Defendant was only waiting on the Jetta to return to the house on Louisa before he left so Havens did not want to delay his arrest. Havens testified that he notified other NEU members what Wood told him and that he wanted to arrest Defendant. Havens stated that

he did not get an arrest warrant because of the timing and he wanted to move quickly. Havens returned to 427 ½ Louisa Street and reactivated his body camera. He met Detective Gardner and other undercover officers at the scene.

Havens knew that the home was a double but was not sure of the exact layout. Havens stated that the door to the residence was not fully latched, so it popped open when he knocked on the door. Havens believed that this was a common foyer or entryway and that there was another door to the apartment at the top of the stairs. Havens said he did not believe he had access to the apartment from the first floor. However, Havens saw McKinley walking in the hallway and then observed Defendant sitting on a couch and realized he had entered the apartment. Regardless, Havens thought that he had sufficient probable cause to arrest Defendant before arriving at the house. Defendant was arrested and advised of his Miranda rights. Havens also testified that he believed Defendant to be cognizant and understanding what was going on around him. Havens did say that Defendant asked what was going on between coughing fits. A search incident to arrest was conducted on Defendant's person and two (2) eight-balls and cash were found in Defendant's pants. Dent took Defendant to City Hall for an interview. Havens reiterated that he thought Defendant was able to understand what was happening. Havens stated that Defendant told police that he is a drug user and that McKinley, Wood, and Carson bought eight-balls of meth in order to sell them to make enough money to buy more meth for their own use.

Havens did not see Defendant holding any bags when he entered the residence. No video surveillance of the home or the informant was recorded. Havens admitted that a confidential informant never bought drugs directly from Defendant. Havens suspected that Defendant was a drug user. Havens clarified with Wood that Defendant gave him fifteen (15)

dollars worth of meth. Havens further testified that he would not have arrested Defendant if the only evidence was the information from Wood. Havens thought that the totality of the circumstances gave him probable cause to arrest Defendant. Wood told Havens that Defendant had more than an eight-ball of meth on him and Havens later found Defendant to have two (2) eight-balls, or approximately seven (7) grams of meth.

The Commonwealth introduced footage of the interview of Wood at City Hall, marked as Commonwealth's Exhibit 1. This footage shows the following. Havens confirms with another officer that Wood has been *Mirandized*. Havens approaches Wood who is sitting on a bench in a hallway. Havens confronts Wood with suspected methamphetamine and accuses Wood of trying to get rid of it at the traffic stop. Wood confesses to dropping the meth and admits to buying it from Defendant about five (5) minutes before leaving Louisa Street. Havens asks Wood why McKinley, Wood's girlfriend, and Carson left together to go to a house on Cherry Street. Wood says he believes Carson took her there because the father of her child lives there, but otherwise he did not know why they went there. Wood tells Havens that he can guarantee that Defendant has "a whole bunch" of meth on his person right now. Wood did not believe that Defendant was storing narcotics at McKinley's home, but did think that Defendant takes the drugs with him wherever he goes. Wood said Defendant keeps the meth inside a little personal jar and the rest he stores in his boxers.

The Commonwealth also introduced video footage of Havens' entry into the home and arrest of Defendant, also marked as Commonwealth's Exhibit 1. This footage shows the following. Havens approaches 427 ½ Louisa Street with a second officer. Havens knocks on the door approximately a dozen times, saying, "Hey Nicole", and then pushes the unlatched door open with ease. Havens enters the residence and begins climbing the stairs. Sunlight is

coming into the building from a window at the top of the staircase and a railing is visible on the left hand side that looks like it connects the stairs to a hallway. As Havens is on the staircase, he calls out again for McKinley and she responds, “yea?” McKinley’s legs are visible on the bodycam footage when Havens is a little over halfway up the stairs. Havens announces “police” and McKinley says, “why?” Havens asks if Defendant is here with her as he continues up the stairs and onto the landing in the hallway. Havens notices Defendant sitting on the couch and follows McKinley into the living room area. Havens tells Defendant they need him to get his car. Havens orders Defendant to stand up and places him in handcuffs, then advises Defendant of his rights under Miranda. Defendant confirms that he understands his rights. Throughout the interaction, Defendant continually asks Havens what is going on. Havens escorts Defendant out of the living room, down the stairs, and out onto the front porch. Havens conducts a search of Defendant’s person on the porch and discovers methamphetamine and a wad of cash. Defendant admits to being a drug user. Havens eventually tells Defendant that he is under arrest for delivering meth to McKinley’s boyfriend, Wood. Defendant denies selling any narcotics. Another officer led Defendant to the patrol unit and transported him to City Hall. Havens returned to the home and continued speaking with McKinley.

Lastly, the Commonwealth presented footage of Defendant’s interview at City Hall, marked as Commonwealth’s Exhibit 1. This footage shows the following. Havens enters an interrogation room where Defendant is sitting in a chair by himself. Defendant is slumped over onto his arm that is propped on his leg. Defendant’s appearance is groggy and unfocused. Upon his entry into the room Havens accuses Defendant of having previously arranged to pick up a pound of meth in an hour. Havens still offers Defendant the chance to cooperate by going to pick up the drugs and letting law enforcement follow him in order to arrest the dealer.

Defendant denies selling drugs and claims that he was talked into buying drugs. Havens told Defendant that his Uncle Jamie told police that Defendant sells narcotics and Defendant looked incredibly frustrated and said that he buys drugs from his uncle, not the other way around. Defendant confesses to having a personal vile of meth that he used to get high and then stuffed into the couch when the police arrived inside the home. Havens asks to see Defendant's phone or if he needs to get a search warrant for it. Defendant said the only text on his phone is Defendant asking for more meth for his personal use. Defendant hesitates to give Havens the name of the "one person we buy off" because this person knows where Defendant's mother lives and he is afraid that the dealer will kill her if he talks. Havens asks again for the name of Defendant's dealer, but Defendant refuses to tell Havens the name, arguing that once he reveals who it is Havens will arrest them.

Defendant repeatedly denies selling drugs and admits to trying to buy eight hundred (800) dollars of more narcotics after he and his friends bought enough for their personal use. Defendant clears his throat frequently throughout the interrogation, speaks very quickly, slurs his speech, and tells Havens that he is "high as shit." Havens accuses Defendant of buying the drugs and having other people sell it for him. Defendant claims that himself, McKinley, Wood, and Carson were all chipping in to buy four (4) eight-balls, then wanted to buy eight hundred (800) dollars more of meth so they could get high. Havens again offers to let Defendant go through with the buy so law enforcement can arrest the dealer. Defendant seems unsure and claims to know where twenty (20) drug dealers are, but again denies giving the name because of his fears concerning his mother. Havens offers to let Defendant work as a confidential informant for any of the other dealers aside from the one who has information about Defendant's family. Havens explains this process to him and Defendant determines that he

would rather go to jail and declines. Havens abruptly concludes the interview and leaves the interrogation room.

## **Discussion**

### ***Warrantless Entry***

Defendant challenges law enforcement's warrantless entry into the home to arrest him as unjustified. The Fourth Amendment to the United States Constitution and Article 1 Section 8 of the Pennsylvania Constitution protect citizens against unreasonable searches and seizures. U.S. Const. amend. IV; P.A. Const. art. 1, § 8. Warrantless searches are unreasonable per se, "subject only to a few specifically established and well-delineated exceptions." Katz v. United States, 389 U.S. 347, 357 (1967). One such exception arises when "the exigencies of the situation" create "a compelling need for official action and no time to secure a warrant." Kentucky v. King, 563 U.S. 452, 460 (2011); Missouri v. McNeely, 569 U.S. 141, 149 (2013). An exigency of this kind may occur when "an officer must act to prevent imminent injury, the destruction of evidence, or a suspect's escape." Lange v. California, 141 S.Ct. 2011, 2013 (2021).

Absent an exigency such as this or consent to enter, the United States Supreme Court has consistently held that "entry into a home to conduct a search or make an arrest is unreasonable under the Fourth Amendment unless done pursuant to a warrant." Steagald v. United States, 451 U.S. 204, 211 (1981); *see also* Payton v. New York, 445 U.S. 573 (1980). "In terms that apply equally to seizures of property and to seizures of persons, the Fourth Amendment has drawn a firm line at the entrance to a house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant." Payton v. New York, 445 U.S. 573, 590 (1980). The Supreme Court has also held that the "Fourth Amendment prohibits



law enforcement from making a warrantless and nonconsensual entry into a residence for the purpose of conducting a routine felony arrest.” Commonwealth v. Romero, 183 A.3d 354, 371 (Pa. 2018); *See* Payton v. New York, 445 U.S. 573 (1980). The Court further held that a warrant for someone’s arrest does not authorize the entry into the home of a third party not named in the arrest warrant. *See* Steagald v. United States, 451 U.S. 204 (1981). In *dictum* at the end of its opinion, the Court stated that a warrant requirement for arrests conducted in a home does not place undue burden on law enforcement. Payton v. New York, 445 U.S. 573, 603 (1980); *See also* In Interest of O.A., 717 A.2d 490 (Pa. 1998).

Defendant asserts that the bodycam footage of the entry speaks for itself to demonstrate that the entry was illegal. Defendant argues that Havens entered without a warrant, without consent, and without any exigency that would support foregoing a warrant. Defendant emphasizes that there was especially no exigency present here because the NEU was undercover in the area and could observe what was happening. Defendant relies on a case decided by this Court and the precedent outlined in that case to support his assertion that the warrantless entry into 427 ½ Louisa Street was unjustified. Commonwealth v. Tennison, Lyc. Cty. No. CR-442-2021 (Butts, P.J., 01/21/2022); *See also* Commonwealth v. Romero, 183 A.3d 354 (Pa. 2018); Steagald v. United States, 451 U.S. 204 (1981); In Interest of O.A., 717 A.2d 490 (Pa. 1998).

In the Tennison case, co-defendants Tennison and Artley challenged the legality of evidence seized following the execution of an arrest warrant inside a residence. Both defendants challenged law enforcement’s entry in the residence, arguing that the arrest warrant, by itself, was not proper justification for the police to enter the home to arrest Artley when it was not certain that Artley lived in that residence or was inside at the time police were

executing the warrant. This Court ultimately agreed with the defendants, holding that the arrest warrant was deficient and contained stale information, and no probable cause or exigency supported law enforcement's entry into the home. Similarly, Defendant believes that the warrantless entry in the instant case was unsupported and any evidence seized as a result of the entry should be suppressed.

The Commonwealth believes that Defendant did not have a reasonable expectation of privacy in McKinley's home and asserts that Defendant cannot claim someone else's rights. It is generally held that "a casual visitor who is merely present in another person's home does not have a legitimate expectation of privacy to contest an illegal entry by police into that home." Id.; *see also* Commonwealth v. Tann, 459 A.2d 322, 325 (Pa. 1983); Commonwealth v. Ferretti, 577 A.2d 1375 (Pa. Super. 1990).

An expectation of privacy will be found to exist when the individual exhibits an actual or subjective expectation of privacy and that exception is one that society is prepared to recognize as reasonable. In determining whether a person's expectation of privacy is legitimate or reasonable, the totality of the circumstances must be considered and the determination will ultimately rest upon a balancing of the societal interests involved." The constitutional legitimacy of an expectation of privacy is not dependent on the subjective intent of the individual asserting the right but on whether the expectation is reasonable in light of all the surrounding circumstances.

Commonwealth v. Viall, 890 A.2d 419, 422 (Pa. Super. 2005) (internal quotations omitted.)

However, the "Fourth Amendment does not shield only those who have title to the searched premises." Commonwealth v. Ferretti, 577 A.2d 1375, 1377 (Pa. Super. 1990). As a result, "a defendant who is more than a casual visitor to the...dwelling in which illegal drugs have been seized has the right under the Fourth Amendment...to challenge the search and seizure of the illegal drugs which he is accused of possessing." Commonwealth v. Rodriguez, 679 A.2d 1320, 1325 (Pa. Super. 1996).

The factors to consider in determining whether a defendant has a legitimate expectation of privacy in another's home are: "(1) possession of a key to the premises; (2) having unlimited access to the premises; (3) storing of clothing or other possessions on the premises; (4) involvement in illegal activities conducted on the premises; (5) ability to exclude other persons from the premises; and (6) expression of a subjective expectation of privacy in the premises." Commonwealth v. Govens, 632 A.2d 1316, 1319 (Pa. Super. 1993). The Fifth Circuit has held that a guest who did not possess a key to the home, did not leave any personal belongings there, and did not have unencumbered access to the property did not have a legitimate expectation of privacy. United States v. Meyer, 656 F.2d 979, 981-82 (5th Cir. 1981). The Commonwealth asserts that McKinley's testimony at the hearing on this motion confirms that Defendant does not have a reasonable expectation of privacy and therefore cannot challenge law enforcement's entry into the residence.

After considering the arguments and facts of the case, this Court has to agree that Defendant does not have a legitimate expectation of privacy in 427 ½ Louisa Street. Testimony from McKinley indicated that Defendant does not have a key to the residence, has never slept at the house, does not store his possessions there, and does not control who visits the residence. It is also clear that McKinley's testimony establishes that Defendant does not enjoy unlimited access to the premises. Based on these factors, it would be difficult to hold that Defendant had standing to challenge the warrantless entry, particularly in light of the precedent on this issue. *See* United States v. Meyer, 656 F.2d 979, 981-82 (5th Cir. 1981). It is apparent from these facts that Defendant was a casual visitor in the Louisa Street residence and therefore does not have a reasonable expectation of privacy in that home. Although law enforcement's conduct in entering the house is concerning to the Court, Defendant is not able to challenge said conduct.

“[A]n illegal search only violates the rights of those who have a ‘legitimate expectation of privacy in the invaded place.’” United States v. Salvucci, 448 U.S. 83, 91-92 (1980), quoting Rakas v. Illinois, 439 U.S. 128, 143 (1978). Therefore, this Court will not make a determination of the legality of the warrantless entry and no evidence shall be suppressed as a result of the entry.

### ***Warrantless Arrest***

Defendant also challenges his warrantless arrest. To be constitutionally valid, “a warrantless arrest must be supported by probable cause.” In Interest of O.A., 717 A.2d 490, 495 (Pa. 1998); *See* Commonwealth v. Barnett, 398 A.2d 1019 (Pa. 1979). “Where probable cause to arrest does not exist in the first instance, any evidence seized in a search incident to arrest must be suppressed. It is well settled that in determining whether probable cause exists to justify a warrantless arrest, the totality of the circumstances must be considered.” Id.; *See* Illinois v. Gates, 462 U.S. 213 (1983); Commonwealth v. Gray, 503 A.2d 921 (Pa. 1985). Under this test, “[p]robable cause exists where the facts and circumstances within the officers’ knowledge are sufficient to warrant a person of reasonable caution in the belief that an offense has been or is being committed.” Commonwealth v. Gibson, 638 A.2d 203, 206 (Pa. 1994). “Suspicion is not a substitute for probable cause to conduct a valid search and seizure.” Id. All relevant facts are considered in deciding whether the warrantless arrest was justified by probable cause. In Interest of O.A., 717 A.2d at 495. “Where, as here, the officers’ actions resulted from information gleaned from an informant, in determining whether there was probable cause, the informant’s veracity, reliability and basis of knowledge must be assessed.” Id.

Defendant challenges his arrest by law enforcement arguing that the police did not have probable cause to justify the arrest. Specifically, Defendant asserts that he was not the subject of the established surveillance that targeted Carson and he was never seen with drugs or dealing drugs between July 2021 through October 2021. Additionally, Defendant contends that Havens did not see Defendant commit any crime. Defendant further asserts that mere presence at alleged drug buys is not enough to establish probable cause. Defendant believes that the only connection police had between Defendant and the narcotics was the information from Wood who is not reliable, namely because Havens himself testified that he believed Wood to be lying during their conversation. Defendant is of the position that to allow police to enter homes based on information from a source the police believe to be untruthful is a slippery slope.

Defendant cites to Commonwealth v. Barasky, Lyc. Cty. No. CR-1357-2020 (Butts, P.J., 06/25/2021) In the Barasky case, the defendant challenged law enforcement's traffic stop of his vehicle and subsequent search of his phone following an alleged controlled purchase for fentanyl between defendant and a confidential informant. In order to ascertain if the warrantless search of the phone was lawful, this Court was first required to analyze whether Barasky's warrantless arrest was lawful. The Court ultimately concluded that the confidential informant had never been used before and the police did not corroborate the information given to them by a confidential informant that was not yet determined to be reliable and trustworthy.

The Commonwealth's position is that Havens had sufficient probable cause to arrest Defendant without a warrant. To support their position, the Commonwealth reiterates that additional evidence beside the information from Wood was present to allow the warrantless arrest. Havens saw Defendant go into the house and confirmed that a drug deal occurred

originating from the house where Defendant was located. Additionally, Havens had prior knowledge of Defendant from earlier controlled buys and Defendant's prior arrest in 2015.

A consideration of the totality of the circumstances in the case *sub judice* reveals that law enforcement did not have sufficient probable cause before arresting Defendant without a warrant. Similar to Barasky, the informant in the present case had never been utilized as an informant by law enforcement before providing information to Havens at City Hall following his arrest. Havens admitted that he believed Wood to be lying during parts of their conversation. Defendant's mere presence at the scene of a crime does not rise to the level of probable cause. Commonwealth v. Stores, 463 A.2d 1108, 1112-13 (Pa. Super. 1983). Furthermore, law enforcement had little to no independent corroboration of Defendant's involvement in dealing narcotics outside of Wood's information that Havens himself was unsure about the veracity. An arrest for an unrelated incident approximately seven (7) years prior does not assist this Court in determining whether it was reasonable to believe that Defendant was committing a criminal offense on the day in question. Police did not see Defendant deal drugs and, at best, had the word of an individual who was just arrested and facing criminal charges of his own and whose reliability had not yet been established. It is apparent that police had a suspicion that Defendant was dealing drugs and acted quickly to apprehend him before substantiating this information. Therefore, this Court holds that the warrantless arrest of Defendant was not properly supported by the requisite probable cause and all evidence seized as a result of his arrest, including the narcotics and currency found on his person, shall be suppressed.

***Miranda Waiver***

Lastly, Defendant challenges the waiver of his Miranda rights during the interview conducted with Havens on the basis of his drug use and mental state at the time of the interview. “[A]n individual held for interrogation must be clearly informed that he has the right to consult with a lawyer and to have the lawyer with him during the interrogation....” Miranda v. Arizona, 384 U.S. 436, 471 (1966). The Commonwealth bears the burden of proving by a preponderance of the evidence that a defendant’s Miranda waiver was “knowing, intelligent, and voluntary.” Commonwealth v. Smith, 210 A.3d 1050, (Pa. Super. 2019). First, the waiver must be “voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion or deception.” Commonwealth v. Cephas, 522 A.2d 63, 65 (Pa. Super. 1987). Second, the waiver was “knowing and intelligent, in the sense that it was made with full comprehension of both the nature of the right being abandoned and the consequence of that choice.” Miranda v. Arizona, 384 U.S. 436, 451 (1966).

“The fact that an accused has been drinking does not automatically invalidate his subsequent incriminating statements.” Commonwealth v. Milligan, 693 A.2d 1313, 1316 (Pa. Super. 1997). “The test is whether he had sufficient mental capacity at the time of giving his statements to know what he was saying and to have voluntarily intended to say it.” Id. The Superior Court held that the determining factor is whether a confession “was the product of an essentially free and unconstrained choice.” Id. This standard has been equally applied when “an accused was allegedly under the influence of drugs or narcotics at the time of his interrogation by police officials.” Commonwealth v. Manning, 435 A.2d 1207, 1209-10 (Pa. 1981).

Defendant argues that his statements during the interrogation were made while he was under the influence of methamphetamine. Defendant believes it is clear from his behavior that he was high on controlled substances and could not focus on the questions asked or provide

answers to more specific questions. As a result, Defendant asserts that his waiver of his rights under Miranda was not knowing or intelligent. The Commonwealth contends that Defendant was clearly cognizant, even if under the influence of narcotics. The Court agrees with the Commonwealth on this issue. The video footage of Defendant's interrogation shows that Defendant was able to consider and weigh his options, answer questions, and think critically about whether he should cooperate with police. Admittedly, Defendant confesses to being under the influence and his appearance confirms that he looks high, but this Court is of the opinion that Defendant was not so under the influence that he was unable to properly waive his rights under Miranda. Therefore, this Court holds that Defendant's Miranda waiver was knowing, intelligent, and voluntary, and the statements made during his interrogation shall not be suppressed.

### **Conclusion**

The Court finds that Defendant does not have standing to challenge law enforcement's warrantless entry into 427 ½ Louisa Street and makes no determination of the legality of the entry. Therefore, the evidence seized pursuant to the entry shall not be suppressed. The Court also finds that the warrantless arrest of Defendant violated his constitutional rights and any evidence seized from a search incident to his arrest shall be suppressed. The Court further finds that Defendant's waiver of his Miranda rights was knowing, intelligent, and voluntary despite being under the influence of controlled substances. As a result, the statements Defendant made to Havens during his interview shall not be suppressed.



**ORDER**

**AND NOW**, this 24th day of June, 2022, based upon the foregoing Opinion, it is **ORDERED AND DIRECTED** that Defendant's Motion to Suppress is **GRANTED IN PART and DENIED IN PART**. The evidence seized due to the warrantless entry of law enforcement into the residence in question shall not be suppressed. The evidence seized pursuant to the search incident to Defendant's arrest, including the controlled substance and cash found on Defendant's person, shall be **SUPPRESSED**. Defendant's Motion to Suppress Statements is hereby **DENIED**.

By the Court,

Nancy L. Butts, President Judge

cc: DA  
Matthew Diemer, Esq.  
Law Clerk (JMH)