

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

**COMMONWEALTH OF PENNSYLVANIA** :  
 : **CP-41-CR-771-2021**  
 v. :  
 :  
 **RAZZAAQ TAYLOR,** : **OMNIBUS MOTION**  
 **Defendant** :

**OPINION AND ORDER**

Razzaaq Taylor (Defendant) was charged with Possession with Intent to Deliver<sup>1</sup>, Delivery of a Controlled Substance<sup>2</sup>, and Possession of a Controlled Substance<sup>3</sup>. The charges arise from Defendant’s purported delivery of marijuana in the city of Williamsport. Defendant filed this Omnibus Pretrial Motion on September 3, 2021. This Court held a hearing on the motion on October 26, 2021. A briefing schedule was established and counsel were instructed to file briefs. Defendant filed an Amended Omnibus Motion on November 23, 2021 withdrawing the suppression argument contained in the original Omnibus motion and asserting new grounds for suppression. On the same date, the Commonwealth filed a Motion to Dismiss Defendant’s Amended Omnibus, arguing that the motion was untimely filed without an excusable delay. This Court held a second hearing on February 1, 2022. At that hearing, this Court granted the Commonwealth’s Motion to Dismiss Defendant’s Amended Omnibus Motion. The remaining issues to be discussed contained in the initial Omnibus Motion are a Motion for Return of Property<sup>4</sup> and a Petition for Habeas corpus for Counts 1 and 2.

**Preliminary Hearing**

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<sup>1</sup> 35 Pa.C.S. § 780-113(a)(30).

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

<sup>3</sup> 35 Pa.C.S. § 780-113(a)(16). At the hearing on this motion, the parties agreed that Count 3 should have been charged as Possession of a Small Amount of Marijuana pursuant to 35 Pa.C.S. § 780-113(a)(31). This amendment was finalized by Order of this Court issued October 26, 2021.

<sup>4</sup> This particular issue requires a separate Opinion and Order from this Court.

At the preliminary hearing, Detective Curtis Loudenslager (Loudenslager) of the Lycoming County Narcotics Enforcement Unit (NEU) testified on behalf of the Commonwealth. Loudenslager testified that on April 19, 2021, he was in a plain-clothes patrol capacity in the city of Williamsport in the area of the Conoco gas station at the intersection of High Street and Wildwood Boulevard. N.T. 6/15/2021, at 3-4. While on patrol, he observed a car parked at the gas pumps that was not engaged in pumping gas. Id. at 4. Loudenslager stated that he has, “seen this tactic used many times where individuals that are involved in the delivery of controlled substances and buying the controlled substances will park vehicles at gas pumps and wait for someone to arrive.” Id. For this car in particular, Loudenslager observed an individual sitting in the driver’s seat. Id. The rear passenger door was open and another individual, later identified as Defendant, was leaning into the car in apparent conversation with the driver. Id. Loudenslager noted that Defendant was leaning into the vehicle to the extent that half of their body was inside the car. Id.

Loudenslager repositioned his vehicle, ran the license plate of the vehicle at the gas station, and determined that the car was registered to an address in Lock Haven, Pennsylvania. Id. Loudenslager communicated to other members of the NEU that he believed he was witnessing a drug deal in progress. Id. at 5. Loudenslager watched Defendant enter the gas station and return outside within a short amount of time. Id. Defendant exchanged words in passing with the person in the car and then got into a white Dodge Caliber. Id. Loudenslager also ran the license plate to the Caliber and determined it was registered to Defendant. Id. Other NEU members were notified of Defendant’s vehicle type and that he was leaving the gas station. Id. at 6.

Detective Kevin Dent (Dent) of the NEU also testified on behalf of the Commonwealth. Dent testified that on April 19, 2021, he was engaged in a “crime suppression” following Loudenslager’s communication of a suspected narcotics transaction. Id. at 9. Officer Clint Gardner of the Williamsport Police subjected the vehicle alleged to have purchased narcotics to a traffic stop. Id. Dent stated that he watched this traffic stop and saw the driver, later identified as Jawan Keyes (Keyes), get taken into custody for possession or possession with intent to deliver heroin. Id. After being informed of his *Miranda*<sup>5</sup> rights, Keyes confessed that he purchased marijuana from a man matching the description Loudenslager gave of Defendant. Id. at 10. The marijuana discovered on Keyes was packaged in a Ziplock bag that said “Pineapple Piss” on it. Id.

Detective Tyson Havens (Havens) of the NEU also testified on behalf of the Commonwealth at the preliminary hearing. Havens testified that, on the day in question, he received radio communication that Loudenslager had observed a drug deal involving a black male in red pants. Id. at 12. This male had been surveilled to the area of Pine Street to the offices of a local attorney. Id. Havens became involved in the investigation at this point and participated in the surveillance. Id. Havens observed the vehicle’s occupants enter the attorney’s office and exit a short time later. Id. One male who exited the office was a black male wearing red pants. Id. Havens surveilled the vehicle through downtown Williamsport, ultimately arriving at the parking authority after the car had received a ticket while parked outside the attorney’s office. Id. at 13. The driver of this car, later identified as Aaron Williams, exited the vehicle and walked into the parking authority. Id. Havens approached the vehicle and encountered the black male with red pants, later identified as Defendant. Id. Prior to

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<sup>5</sup> Miranda v. Arizona, 384 U.S. 436 (1966).

approaching, Havens had been informed that the other individual involved in the drug transaction had confessed to buying marijuana from the man in red pants. Id.

Havens asked Defendant to get out of the vehicle and provide identification. Id. Defendant complied and Havens also conducted a pat-down search on Defendant's person. Id. Havens testified that he felt "what I immediately knew was marijuana in a quasi-dispensary package, they're...shiny, hard plastic Ziplock bag type, often times have very flashy pictures on the front." Id. Havens asked Defendant if this item was marijuana and Defendant confirmed that it was. Id. Havens stated, "I searched him and I found him to be in possession of a bag of the dispensary-type bag of marijuana that the brand name of it was pineapple piss. He also had a gallon size Ziplock bag with marijuana, not full; but with marijuana in it as well and he was in possession of several hundred dollars in cash." Id. at 13-14. Havens clarified that both bags of marijuana were discovered on Defendant's person. Id. at 14. A search of the vehicle was also conducted that yielded no results. Id. at 15.

## **Discussion**

### ***Petition for Habeas corpus***

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 may also submit additional proof. Commonwealth v. Dantzler, 135 A.3d 1109, 1112 (Pa. Super. 2016). “The Commonwealth may sustain its burden of proving every element of the crime...by means of wholly circumstantial evidence.” Commonwealth v. DiStefano, 782 A.2d 574, 582 (Pa. Super. 2001); *see also* Commonwealth v. Jones, 874 A.2d 108, 120 (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).

Defendant challenges the sufficiency of the evidence on Counts 1 and 2 against him. To begin, Defendant argues that the Commonwealth failed to show a *prima facie* case for Count 1: Possession with Intent to Deliver. A person commits this offense when they possess a controlled substance with the intent to manufacture or deliver it. 35 Pa.C.S. § 780-113(a)(30). Defendant also challenges Count 2: Delivery of a Controlled Substance. Pursuant to 35 Pa.C.S. § 780-113(a)(30), the delivery of a controlled substance is considered a crime. At the hearing in February 2022, Defendant clarified that both counts should be dismissed for the Commonwealth’s violation of McClelland. Commonwealth v. McClelland, 233 A.3d 717 (Pa. 2020). McClelland held that hearsay evidence alone to establish a *prima facie* case violates due process. Id. The Commonwealth contends that additional evidence was presented to substantiate the hearsay as McClelland requires at this stage of the proceedings. This Court

agrees with the Commonwealth on this issue. In addition to Keyes' confession of buying marijuana from Defendant, the Commonwealth presented further evidence of both contested charges. Loudenslager testified as to his personal observations and that, based on his training and experience, believed that he was witnessing a drug transaction based on familiarity with this specific technique. The Commonwealth also presented evidence that the label on the marijuana found on Keyes was the same as the labeled marijuana found on Defendant. Specifically, both bags were marked "pineapple piss." Defendant also had another bag of marijuana on his person in addition to a few hundred dollars in cash. Viewing this evidence in the light most favorable to the Commonwealth as required and considering the minimal burden of proof required, this Court finds that the Commonwealth presented sufficient evidence in addition to the hearsay confession from a third party. Therefore, Counts 1 and 2 shall not be dismissed.

### **Conclusion**

The Court finds that the Commonwealth presented enough evidence at the preliminary hearing to establish a *prima facie* case for Counts 1 and 2 against Defendant. Therefore, Defendant's Petition for Writ of Habeas Corpus is denied.

**ORDER**

**AND NOW**, this 11th day of March, 2021, based upon the foregoing Opinion, it is **ORDERED AND DIRECTED** that Defendant's Petition for Writ of Habeas Corpus in his Omnibus Pretrial Motion is hereby **DENIED**.

By the Court,

Nancy L. Butts, President Judge

cc: DA  
PD (HG)  
Law Clerk (JMH)