

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

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| COMMONWEALTH OF PENNSYLVANIA | : | |
| | : | CP-41-CR-1589-2021 |
| v. | : | |
| | : | |
| ALYIA WEST, | : | OMNIBUS MOTION |
| Defendant | : | |

OPINION AND ORDER

Alyia West (Defendant) was charged with five (5) counts of Aggravated Cruelty to Animals—Causing Serious Bodily Injury or Death¹, and seventeen (17) counts of Neglect of Animals². The charges arise from the suspected neglect of several puppies by Defendant. Defendant filed this Omnibus Pretrial Motion on February 3, 2022. This Court held a hearing on the motion on April 25, 2022. In her Omnibus motion, Defendant argues that the Commonwealth has not provided sufficient evidence to satisfy the *prima facie* burden at the preliminary hearing on Counts 1 through 5 and those counts should be dismissed.

Preliminary Hearing and Testimony

The Commonwealth provided the transcript of the preliminary hearing held on December 9, 2021. At the preliminary hearing, Officer Betsy Sparling (Sparling) of the Lycoming County SPCA testified on behalf of the Commonwealth. Sparling testified that she came in contact with Defendant on September 14, 2021 after receiving a call from someone who was concerned about puppies in poor condition. N.T. 12/9/2021, at 3. Sparling was informed that there were up to nine (9) puppies in this condition, but that some had possibly already been re-homed. *Id.* When Sparling responded to the home in question, the adult was not present, so Sparling left her card with the young woman who answered the door and said for

¹ 18 Pa.C.S. § 5534(a)(4).

² 18 Pa.C.S. § 5532(a)(3).

the adult to call as soon as they returned. Id. at 3-4. The young woman informed Sparling that her mother would be home within an hour. Id. at 4. Shortly after returning to the SPCA, Defendant called Sparling. Id. Defendant told Sparling that she had “some puppies that were in extreme need of medical care and that one...from the litter had passed.” Id.

Sparling and another staff member, Kelli Smith (Smith), responded to the house and encountered five (5) puppies, four (4) of which were in desperate need of medical care. Id. These four (4) puppies were “lethargic, cold, extremely thin. They had...diarrhea. They had sores on their paws and on their legs. Some hair loss....They were very dehydrated.” Id. at 5. Two (2) of the puppies were on a dog bed placed on top of a crate and were “extremely lethargic.” Id. at 10. The other (2) were inactive, laying on the floor. Id. Defendant signed three (3) of the puppies over to Sparling and agreed to let them take a fourth for treatment. Id. The fifth puppy was in better condition and a more appropriate size, so that puppy stayed at the home with two (2) adult dogs. Id. The puppy that remained at the home appeared to be in fairly good health and was active. Id. at 10. Sparling thought the condition of the home was neat and clean. Id.

Sparling and Smith took the puppies to the veterinarian’s office immediately. Id. at 5. The vet came out into the parking lot to examine them in case of illnesses that could spread to other animals if they were treated in the office. Id. After the vet ran tests on the puppies’ fecal matter and blood, all of them tested positive for coccidian, a parasite that could cause death if untreated. Id. Sparling said that this parasite is usually spread through feces but is easily treated with proper veterinarian care. Id. at 7. The vet advised Sparling that, due to the condition of the puppies, they were likely to “lose at least some of them.” Id. at 5-6. Sparling testified that Defendant had informed her that the litter was comprised of eleven (11) puppies, some of

which were re-homed, and one (1) that died prior to Sparling's involvement. Id. at 6. Sparling further stated that two (2) of the puppies Defendant released to them passed away. Id.

Sparling testified similarly at the hearing on this motion. At this hearing, Sparling provided additional information about the puppies and their condition. The puppies seized by Sparling were named Angel, Rocky, Sky, and Ice Jr. The Commonwealth presented photographs of the puppies. The first photo, Commonwealth's Exhibit 1, shows Rocky and Ice Jr., and the second photo, marked as Commonwealth's Exhibit 2, depicts Angel and Sky. Additional photos of the dogs were taken the day they were seized. The Commonwealth introduced several photos in particular of Rocky, marked as Commonwealth's Exhibit 3. These photos show that Rocky's spine and ribs were visible, that Rocky had no body fat, and had hair loss on his paws and tail. Sparling further testified that Rocky was cold to the touch and had feces and urine on his body. Sparling also indicated that the puppies were sticky and wet and smelled like they were ill. Photos of the puppy named Angel, marked as Commonwealth's Exhibit 4, show that Angel was in the worst condition out of all of the puppies seized. One of the puppies vomited in the car on the way to the vet. A photo of the aftermath was presented and marked as Commonwealth's Exhibit 5. Sparling stated that the state of the vomit was concerning because it was watery, did not contain any food substance, and smelled different than it should. The vet prescribed medicine and gave Sparling care instructions, namely for the puppies to receive the medication and fluids. Sparling indicated that Rocky passed away the same night, within twenty-four (24) hours, from the time the puppies were signed over to Sparling. Sparling further testified that Angel also did not survive.

Kelli Smith (Smith) of the Lycoming County SPCA also testified at the hearing on this motion on behalf of the Commonwealth. Smith testified that her role is to maintain medical

care for the animals at the SPCA and was trained to do so by veterinarians. On September 14, 2021, Smith assisted Sparling with the response to the home and helped transport the puppies. Smith helped carry the animals from the house to the car and then to the veterinarian's office. Smith indicated that two (2) of the puppies were in worse condition than the others were and were lethargic, cold to the touch, and clearly did not feel well. These puppies were found on a dog bed that was damp that made their bellies wet. Smith stated that the puppy named Ice Jr. was still walking around but very thin. She also believed Sky to be more active but thought that Sky was also not feeling well. A fifth puppy stayed with Defendant.

Smith further testified that Angel vomited on the dog bed at one point and that she could tell they were all feeling nauseous. Smith gave all the puppies a heating pad, fluids, anti-nausea medication, and an antibacterial medication for their stomachs. Smith noted that the puppies were not interested in food so she attempted to syringe feed them. The two (2) puppies that survived the ordeal maintained a syringe diet for two (2) days and were able to keep chicken and rice down without vomiting on the fourth day. Smith indicated that, prior to their deaths, Angel and Rocky's temperatures were too low to read. Smith said their thermometer reads temperatures as low as 94 degrees but stated that a safe low temperature for puppies is 98 or 99 degrees.

Discussion

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 contends that the Commonwealth failed to satisfy the *prima facie* burden at the preliminary hearing. Defendant challenges the sufficiency of the evidence on Counts 1 through 5, Aggravated Cruelty to Animals, and believes these charges should be dismissed. To commit this offense, a person must intentionally or knowingly torture, neglect, or cause serious bodily injury or death to an animal. 18 Pa.C.S. § 5534. Defendant argues no evidence was presented to show that she intentionally or knowingly caused this condition of the puppies. Defendant further asserts that there was no evidence of willful or malicious conduct from Defendant nor was there any evidence that she showed indifference or disregard. Defendant

believes that sick puppies that have parasites is not sufficient to rise to the level required by the statute and therefore the charges should be dismissed. Defendant cites to two (2) cases to support her argument. *See Commonwealth v. Tomey*, 884 A.2d 291 (Pa. Super. 2005) (holding that defendant's conviction of wantonly and cruelly depriving his dogs of access to clean and sanitary shelter was sufficiently proven); *Commonwealth v. Shickora*, 116 A.3d 1150 (Pa. Super. 2015) (holding evidence was sufficient to show defendant unreasonably risked harm while being utterly indifferent to the consequences.)

In *Tomey*, a police officer was dispatched to defendant's home for reports of a suspected burglary. *Tomey*, 884 A.2d at 292. Upon entering the home, the officer was overwhelmed by the smell of ammonia and discovered the source of the smell in a large amount of dog feces and urine all over the floor. *Id.* Ultimately, fourteen (14) Siberian Huskies were removed from the house by the SPCA. *Id.* All the food and water bowls in the home, in addition to the toilet, were empty and the house was filthy. *Id.* A veterinarian examined all the dogs and determined they were generally in good health but believed the home's conditions were dangerous to the dogs. *Id.* The groomer that serviced the dogs after they were seized indicated that the dogs were

stained with urine and had a strong odor of feces on their hindquarters. The dogs all required bathing, nail clipping and ear cleaning, and one required treatment for sores found all over his neck. All of the dogs had to have their heavy undercoats brushed out, and some of them were matted so badly that they had to be partially shaved. The matting had actually impinged on the ability of some of the dogs to walk normally.

Id. at 293. The Pennsylvania Superior Court ultimately concluded that the evidence presented at trial was sufficient to establish beyond a reasonable doubt that the defendant denied access to clean and sanitary shelter. *Id.* at 295.

In the Shickora case, defendant's neighbor called the police concerning animals at defendant's home. Shickora, 116 A.3d at 1151. When the officer arrived to the home, he found the house to be in horrendous condition, with the floor, walls, and carpet covered in animal feces. Id. Numerous dogs were found in cages and feces were on both the dogs and their crates. Id. No food or water could be found on at least one of the SPCA's visits to the home, the dogs were infested with fleas, had matted fur, long nails, and eye issues. Id. at 1152. An SPCA worker believed that the house was not fit for human or animal habitation. Id. Seventeen (17) dogs and one (1) cat were seized from the home. Id. at 1157. All of the animals were in poor health and needed extensive veterinary treatment upon being removed from the home. Id. at 1152. The Superior Court affirmed defendant's conviction, holding that the Commonwealth sufficiently demonstrated that defendant wantonly neglected the animals. Id. at 1157.

The Commonwealth's position is that the evidence establishes a *prima facie* case for all counts challenged by Defendant. In particular, the Commonwealth emphasizes the photographs taken of the puppies that show these animals were soiled, underweight, and damp. The Commonwealth argues that one of the puppies died within twenty-four (24) hours of being seized from Defendant and one (1) other puppy had died before the SPCA became involved. The Commonwealth also believes that the pictures show a significant size difference between the puppies which makes it impossible for Defendant not to know that these animals were sickly. The Commonwealth further asserted that the testimony by Sparling and Smith that the puppies were lethargic and very inactive is not normal puppy behavior and Defendant should have known they needed medical attention.

Furthermore, the attorney for the Commonwealth cited to 18 Pa.C.S. § 5532(a)(2) which requires animal owners to provide access to clean, sanitary shelter that allows the animal

to retain body heat and keeps the animal dry. The Commonwealth believes Defendant failed to do this since their dog bed was wet and the puppies were cold and had wet bellies. The Commonwealth also pointed to Section 5532(a)(3) which requires animals to be provided with necessary veterinary care. 18 Pa.C.S. § 5532(a)(3). Defendant called Sparling and admitted that these animals were in extreme need of medical care. However, the Commonwealth asserts that this call came too late, particularly since one (1) of the puppies was already deceased.

This Court finds no weight in Defendant's argument. An individual commits the offense of aggravated cruelty to animals when they intentionally or knowingly violate section 5532, which as previously discussed, enumerates neglectful abuse of animals. Defendant appears to be under the incorrect impression that the Commonwealth has to demonstrate Defendant's conduct was wanton or cruel. The caselaw Defendant cites to in support of her argument is delineated under a statute that has since been repealed by the legislature. The standard the Commonwealth must prove is not wanton or cruel, but intentional or knowing. "A person acts 'knowingly' under the criminal law's mental-state hierarchy, when he is aware that a result is practically certain to follow from his conduct, whatever his affirmative desire." United States v. Bailey, 444 U.S. 394 (1980).

This Court believes that the Commonwealth established a *prima facie* case that Defendant knowingly failed to provide necessary veterinary care in addition to failing to provide dry shelter that allowed the puppies to retain their body heat. Although Defendant's home was not as horrendously filthy like those cited to in Tomey and Shickora, the Commonwealth's evidence shows that the dog's beds were wet, causing the puppies' bellies to be damp and their body temperatures to drop. The testimony from both SPCA workers was unequivocal in that the seized puppies were cold to the touch, inactive, emaciated, lethargic,

losing hair, had sores, and had feces and urine in their fur. Defendant admitted that one (1) puppy was already dead and two (2) more puppies died shortly after Sparling and Smith removed them from Defendant's care.

It is unfathomable in the circumstances that Defendant would not reasonably know that these puppies required veterinary care, but especially inconceivable for her to claim no knowledge of their condition following the death of a puppy. Additionally, it is apparent that Defendant did in fact know that these puppies were sick because she told Sparling they needed veterinary attention. The photographs of the puppies confirm that these puppies look sickly, underweight, and in poor condition. Defendant oversimplifies the evidence in her claim that the puppies had parasites and that this condition is not enough to show neglect or abuse. While that may be true on its own, it is abundantly clear that additional information was available to Defendant that she would reasonably know these puppies were ill. In addition to their appearance and behavior inconsistent with puppies, Defendant admitted that these puppies were in extreme need of medical care and two (2) of the surrendered dogs did not survive. It is clear from their mannerisms and ailments that these animals were ill and needed treatment. For these reasons, this Court finds that Defendant's argument is entirely without merit and her contention that no evidence of Defendant intentionally or knowingly causing these conditions for the animals is unfounded. Therefore, the Defendant's motion to dismiss Counts 1 through 5 is denied.

Conclusion

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

ORDER

AND NOW, this 6th day of June, 2022, based upon the foregoing Opinion, it is **ORDERED AND DIRECTED** that Defendant's Petition for Writ of Habeas Corpus in her Omnibus Pretrial Motion is hereby **DENIED**.

By the Court,

Nancy L. Butts, President Judge

cc: DA (TB)
PD (EB)
Law Clerk (JMH)