IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	:	**No. CR-1187-2022**
	:	
vs.	:	
	:	**Habeas**
THERESA SALAZAR,	:	
Defendant	:	

OPINION AND ORDER

This matter came before the court on December 6, 2022 for a hearing and argument on Defendant's Petition for Writ of Habeas Corpus filed on October 3, 2022. In her motion, Defendant contends that the Commonwealth failed to present a prima facie case on Count 1, Criminal Attempt- Homicide. At the hearing and argument, the Commonwealth admitted Commonwealth's Exhibit 1, a transcript of the preliminary hearing held on September 6, 2022, and Commonwealth's Exhibit 2, a disc of the video surveillance of the incident that occurred at the Little League Museum on Sunday, July 2, 2022.

Three witnesses testified at the preliminary hearing: Melissa Mull, Corporal William MacInnis, and Joy Reynolds McCoy.

Melissa Mull was the Little League Museum coordinator. She described the layout of the building. The entryway was a glass vestibule consisting of two sets of double doors separated by about 6 feet. Upon entering the building, one was in the gift shop. The back of the gift shop had a curved wall. The cash registers were to the right of the gift shop. The museum was laid out in a loop behind the curved wall in six galleries called innings to keep with the baseball theme. The first inning was the theater, which was directly behind the curved gift shop wall.

She testified that on Sundays the museum was open from 9:00 a.m. to 4:00 p.m. At

around 1:00 p.m. on July 3, 2022, she and three other employees were standing near the registers. One employee had just clocked out and was about to leave the building but Ms. Mull called her to the register area to show her something on her laptop computer. There were 30-40 people in the back touring the museum. They were probably in innings 2, 3, and 4. All of a sudden, a white van crashed through the first set of double doors. Ms. Mull was about ten feet away. She was concerned that the driver might be in distress from a seizure or some other medical emergency so she started to run over toward the vehicle. Within seconds she was about three or four feet away from the passenger side of the vehicle when the driver of the vehicle hit the gas and accelerated crashing through the second set of doors and pushing the tables and racks into the curved back wall and the vehicle coming to rest against the debris that was now against the wall.

The driver said to Ms. Mull, "I'm Theresa Salazar. You know who I am. You should be afraid. Ms. Mull had been told to call security if she ever saw Defendant because she had made threats in the past. Defendant reached her hand down. Ms. Mull was concerned that Defendant had a weapon. Ms. Mull screamed to get everyone out of the museum. Defendant said you should be afraid to Ms. Mull at least two more times.

When Defendant crashed through the second set of doors, Ms. Mull thought she was in danger of getting hit by the van. Ms. Mull was hit by some flying glass, but did she did not need any medical treatment, as she only received a scrape from the glass.

Ms. Mull testified that Defendant crashed through the doors and into the gift shop on purpose. Defendant was trying to go as fast as she could through the second set of glass doors. It was not like she was just trying to get herself out of the wreckage. Ms. Mull admitted, however, that she was never directly in front of the vehicle.

Corporal William MacInnis of the South Williamsport Police Department testified that he was dispatched for a vehicle going into the Little League structure. When he arrived, there was a white minivan sitting inside. The van would have driven over a curb with a sidewalk in front of the doors and gone through both sets of doors, which were separated by six to eight feet, and came to rest against the interior wall. Ms. Mull pointed out Defendant as the driver of the van. The only thing Defendant said to Corporal MacInnis was the word "Miranda" several times.

Corporal MacInnis reviewed the surveillance video for the incident. The video depicted Defendant driving the white van through the first set of doors, she paused briefly, and then she accelerated through the second set of doors before coming to rest against the interior wall. Corporal MacInnis did not see any skid marks or brake marks. Defendant also was not crying and did not seem upset at all.

Corporal MacInnis also listened to six or seven voicemails that Defendant left for Steve Keener, the President of Little League International between July 2nd and July 3rd.

Joy Reynolds McCoy, the Chief Legal Officer and a Senior Vice President of Little League International since January 28, 2022, testified that she was familiar with Defendant. Her predecessor updated her on all pending matters and files from a legal perspective and Defendant was one of those. Defendant had disputes with Little League since 2000 or 2001. Defendant claimed that she was a relative of George and Bert Bebble, who she claimed were co-founders of Little League and not just the first true Little League volunteers. When a statue was being erected of Little League founder Carl Stotz, Defendant claimed that the Bebble should receive the same recognition. She wrote letters to several government officials seeking such recognition. When Defendant indicated that she was going to protest at the

Little League World Series that year, Little League's counsel sent her correspondence indicating that any type of disruptive behavior at Little League would result in defiant trespass charges being brought against her.

Things were somewhat quiet at least in written format until 2018, when Defendant filed a document with the Register and Recorder to be the sole executor of anything in regards to Little League with the Bebbles, and again started a letter writing campaign to everyone she possible could. She also was seeking the return of artifacts that were donated to the Museum by the wife and son of one of the Bebbles claiming Little League had stolen those items.

In 2020, Defendant attempted to purchase a Honda vehicle in Florida and have Little League pay for it. Counsel sent her two letters to cease and desist making false claims, committing liable and slander and contacting Little League's sponsors. She would contact Little League sponsors and make claims to them about the Bebble family having an interest in Little League. Defendant was never employed by Little League, and she never had any type of official affiliation with Little League. The cease and desist letters did not prohibit Defendant from being at the Museum or on Little League property.

In her position, Ms. McCoy received alerts anytime any of the alarms, such as burglar alarms and fire alarms went off. On July 3, 2022, Ms. McCoy received a call as a result of an alarm being activated and she was advised that Defendant drove a vehicle into the Little League Museum. When Ms. McCoy arrived at the Museum, Defendant was in the back of a police vehicle and Defendant's white van was through the front of the Museum doors. Most of the glass in the vestibule was shattered, there were gouges and marks in the floor, there were black marks on the floor from the tires spinning and there were gouges from the glass

and other items on the floor. Freedom Towing arrived and pulled the vehicle out. The Museum was boarded up. To enable the Museum to be open during the Little League World Series which began on August 17, 2022, Little League temporarily fixed the entryway with a double set of glass doors. The amount of damage to the building was just under $50,000.

Ms. McCoy also testified that she reviewed the voicemails that were received between noon on July 2 and noon on July 3, 2022. Most of the messages were directed at Steve Keener. The messages included demands that she be paid for her interest in Little League, demands that the Bebbles be recognized, and personal attacks on Steve Keener.

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).

Defense counsel argued that the Commonwealth failed to establish that Defendant had the specific intent to kill when she drove through the doors of the Museum. She noted that Ms. Mull and the other employees were to the right of Defendant's vehicle; they were never directly in front of her vehicle. Defendant did not swerve toward anyone, and no one was injured. She relied on *Commonwealth v. Predmore*, 199 A.3d 925 (Pa. Super. 2018) and *Commonwealth v. Packard*, 767 A.2d 1068 (Pa. Super. 2001).

The Commonwealth also relied on these cases as well as *Commonwealth v. Cross*, 331 A.2d 813 (Pa. Super. 1974), and argued that the evidence and the reasonable inferences from the evidence were sufficient to establish a prima facie case. The Commonwealth argued that *Packard* stands for the proposition that a vehicle can be a deadly weapon depending on the way it is employed. According to the Commonwealth, Defendant drove her vehicle at a high rate of speed over the curb and sidewalk and through the first set of doors. She then stepped on the accelerator to bust through the second set of doors and crashed into the wall. She continued to spin her tires after she crashed into the wall. She even crashed through a mannequin. The Commonwealth argued that if she had stopped at the first set of doors it would be one thing, but when she paused and then accelerated through the second set of doors, she demonstrated her intent to kill. What adds to that is the evidence

of the "back story" of a 20-year feud with Little League and Defendant's statements, "I'm Theresa Salazar. You know who I am" and then saying multiple times "You should be afraid." Defendant's intent to kill can be inferred from the totality of the circumstances.

In *Predmore*, the alleged victim saw the appellee's vehicle at his ex-girlfriend's house. The alleged victim stopped near the appellee's vehicle. As he was leaving the residence, the appellee appeared in the parking lot. A confrontation ensued between the alleged victim and the appellee. The ex-girlfriend broke up or attempted to break up the fight. The appellee went to his vehicle and retrieved a firearm. The appellee fired three shots. Two shots struck the alleged victim in his calves and the third shot missed. The appellee left the scene and the alleged victim was driven to the hospital by a friend. When interviewed by the police, the appellee indicated that he was acting in self-defense and just wanted to stop the beating. The appellee filed a petition for writ of habeas corpus, which the trial court granted, finding the Commonwealth failed to establish a prima facie case of the specific intent to kill. The Commonwealth appealed. The Superior Court affirmed. The Superior Court noted that the appellee did not shoot the alleged victim in or near a vital organ; therefore, the presumption that specific intent may be inferred from the use of a deadly weapon on a vital organ was not applicable. Furthermore, the Commonwealth did not present any evidence that the appellee verbally indicated, directly or indirectly, his intent to kill the alleged victim, nor did any other circumstantial evidence indicate such intent.

The court finds the facts and circumstances of this case are distinguishable from *Predmore* in that Defendant had a long-standing feud with Little League and commented several times to Ms. Mull that she should be afraid of her.

In *Packard*, the defendant was driving a vehicle when her passenger threw a fast-food

bag out of the window and onto the victim's property. The victim picked up the bag and threw it back at the defendant's vehicle when she drove by her property a second time. The defendant made a U-turn, crossed the median into the wrong lane of traffic, and struck the victim with her car. The defendant hit the brakes when she was about one foot before hitting the victim at a velocity of about fifteen miles per hour. The defendant filed a petition for writ of habeas corpus which the trial court granted. The Commonwealth appealed, and the Superior Court reversed the trial court. The Superior Court noted that a motor vehicle may become a deadly weapon depending on how it is used. The defendant deliberately steered her car across the median, took aim and struck victim at fifteen miles per hour. The victim sustained serious bodily injuries. Whether the defendant's braking immediately prior to impact evidence a renunciation of her intent was a question for a jury.

The court finds that this case is distinguishable from *Packard* in that there is no evidence that Defendant turned or swerved to try to hit Ms. Mull with her vehicle, although it is unclear whether Defendant was prohibited from doing so by the support structures of the two sets of glass double doors in the vestibule.

In *Cross*, the issue was whether the evidence was sufficient to support a guilty verdict on the charge of attempt with the intent to kill. The victim testified that while he was parked on Vine Street in Philadelphia, the appellant approached his vehicle unobserved by him until the appellant shouted "this is for your brother," pulled out a revolver and shot at him. The bullet struck the middle of the passenger side door where the victim was located directly in line with the victim's stomach, but it did not strike the victim. The appellant testified that he had known the victim and his brother for about nine years and several altercations occurred between them, including one where the victim was wielding a gun. The appellant testified

that because these prior incidents made him nervous and apprehensive to the point of using tranquilizers, he decided to scare the victim by firing at his vehicle but at no time did he intend to shoot at the victim. The appellant was convicted at a non-jury trial and he appealed. The Superior Court affirmed his conviction. The Court noted that the long-standing feud between appellant and the victim and the victim's brother. The appellant alerted the victim of his intentions by calling out to him "this is for your brother." Then the appellant fired a bullet which but for the protection of the automobile door would have caused serious bodily injury or death to the victim. In light of this evidence, the Superior Court found it entirely proper for the fact-finder to conclude that the appellant did intend to kill the victim for the deliberately fired shot narrowly missed striking a vital organ of the appellant's target.

The court finds that this case is most similar to *Cross*. As in *Cross*, there was a long-standing feud and statements by the alleged perpetrator. The Commonwealth's burden of proof, however, is lower in this case because the standard here is a *prima facie* case, whereas it was proof beyond a reasonable doubt in *Cross*. Here, there was a 20-year feud between Defendant and Little League, and Defendant made statements toward the victim, a Little League employee, that she should be afraid. Defendant narrowly missed striking Ms. Mull, who was only a few feet away from the vehicle when Defendant hit the gas, accelerated and crashed through the second set of doors, tables and display racks of merchandise, and came to rest against this debris at the curved back wall of the gift shop. Although Ms. Mull was not hit by the vehicle, she was struck by the flying glass. She was fortunate that she did not suffer a more significant injury. The court finds that based on the totality of the circumstances, a jury could, but would not be required to, infer that Defendant had the intent

to kill from her feud with Little League and her statements to Ms. Mull and that Defendant took a substantial step when she drove her vehicle into the Museum during business hours on a Sunday afternoon when the Museum was typically busy.

ORDER

AND NOW, this 5th day of May 2023, the court DENIES Defendant's Petition for Writ of Habeas Corpus.

By The Court,

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Nancy L. Butts, President Judge