

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

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
	:	CR-1409-2022
vs.	:	CR-441-2023
	:	
VINCENT CLARK LANGLEY, JR.,	:	OMNIBUS MOTION
Defendant	:	

OPINION

This matter is before the Court on Defendant’s Omnibus Pretrial Motion filed on February 10, 2023, and the supplement thereto filed on May 19, 2023. For the reasons set forth below, the Motion is Denied.

Factual and Procedural Background

On or about October 18, 2022, Vincent C. Langley, Jr. (“Defendant”) was charged with Possession with Intent to Deliver Crack Cocaine¹, Receiving Stolen Property², Possession of a Weapon³, and Persons not to Possess Firearms⁴ at Lycoming County Docket #1409-2022. These charges stem from the execution of a search warrant by the Lycoming County Narcotics Enforcement Unit (NEU) at 617 3rd Ave. in the City of Williamsport, Lycoming County, for cocaine, fentanyl and related drug paraphernalia; cash proceeds from illegal drug sales; cellular telephones; and indicia of occupancy. Upon execution of the search warrant, the NEU members encountered the Defendant in a bedroom just west of the kitchen and a search of that room yielded three folded/banded stacks of cash, a knotted

1 35 Pa.C.S. §780-113(a)(30).
2 18 Pa.C.S. §3925(a).
3 18 Pa.C.S. §907(b).
4 18 Pa.C.S. §6105(a).

plastic bag containing a substance that field tested positive for cocaine and a Crown Royal bag which contained a stolen Smith & Wesson .9mm handgun.

Defendant filed an Omnibus Pretrial Motion under Docket #1409-2022 on February 10, 2023, wherein he sought to have Count 4, Person Not to Possess/Use Firearms, Dismissed. The Motion also requested Pretrial Discovery and for Permission to File Additional Motions After Receipt of Discovery.

On March 3, 2023, the Defendant was charged with two counts of Delivery of a Controlled Substance – crack cocaine⁵, and two counts of Criminal Use of a Communication Facility⁶ at Lycoming County Docket #441-2023. These charges stem from separate incidents on September 28, 2022⁷, and October 18, 2022⁸, in which a detective from the NEU utilized a confidential informant (CI) to use a cell phone to arrange a meeting with the Defendant and subsequently purchase crack cocaine from him.

On May 19, 2023, the Defendant filed a Supplement to Previously Filed Omnibus Pretrial Motion to both docket numbers. By Stipulated Order filed May 31, 2023, Count 4 of Docket #1409-2022 was dismissed. The Motion for Pretrial Discovery was dismissed as moot, as the Commonwealth provided the requested discovery items. The Motion for Permission to File Additional Motions After Receipt of Discovery was granted, and the Supplement to the Previously Filed Omnibus Pretrial Motion was deemed to be timely filed. A hearing was scheduled for August 29, 2023, at which time the Defendant requested a continuance to a time that his retained counsel, rather than another attorney from his firm,

5 35 Pa.C.S. §780-113(a)(30).

6 18 Pa.C.S. §7512(a).

7 This sale of crack cocaine is alleged to have occurred at 617 Green Street in the City of Williamsport.

8 This sale of crack cocaine is alleged to have occurred at Grace Street in the City of Williamsport.

was available. The hearing took place on October 2, 2023, with the Defendant participating via Polycom and represented by Peter T. Campana, Esquire, and Phoebe Yates, Esquire, appearing on behalf of the Commonwealth.

Discussion

The Court will discuss each of the above Motions separately.

I. MOTION TO SUPPRESS

Defendant's Omnibus Motion contains a Motion to Suppress Evidence, the basis for which is a search warrant signed by the Honorable Nancy L. Butts for the Defendant's residence located at 617 Third Avenue in the City of Williamsport. The search warrant listed, among other things to be searched for and seized: cocaine, fentanyl, drug paraphernalia, cell phones, cash proceeds from illegal drug sales, and indicia of occupancy. The warrant was obtained shortly after the controlled buy took place on the morning of October 18, 2022, and executed on the same date at approximately 11:16 a.m. As a result of the execution of the search warrant, the police seized three tied-off bags with suspected controlled substances, 4.9 grams of suspected controlled substances, a digital scale, two iPhones, and U.S. currency in the amount of \$4,000. Additionally, a firearm was located in the residence, which was seized upon the securing of a second search warrant. Finally, on April 10, 2023, search warrants were issued by a magisterial district judge allowing police to search one of the iPhones for certain information and for police to collect a DNA sample of the Defendant from the Lycoming County Prison via a buccal swab.

Defendant, in his Motion to Suppress, argues that any evidence seized pursuant to the execution of the search warrant of the residence on October 18, 2022, should be

suppressed because the search warrant was issued without probable cause. The Defendant alleges that there is no nexus between the alleged controlled buys which took place on September 28, 2022, and October 18, 2022, and the Defendant's residence and therefore the search warrant was issued in violation of his rights under Article 1 Section 8 of the Pennsylvania Constitution and under the Fourth Amendment to the United States Constitution.

“The issuance of a constitutionally valid search warrant requires that police provide the issuing authority with sufficient information to persuade a reasonable person that there is probable cause to conduct a search based upon information that is viewed in a commonsense manner.” *Commonwealth v. Nicholson*, 262 A.3d 1276, 1280 (Pa. Super. 2021) (quoting *Commonwealth v. Housman*, 986 A.2d 822, 843 (Pa. 2009)). “The issuing authority must determine whether, given the totality of the circumstances presented, there is a fair probability that evidence of a crime or contraband will be found in a particular location.” *Id.* However, “probable cause to believe that a man has committed a crime on the street does *not* necessarily give rise to probable cause to search his home.” *Commonwealth v. Wallace*, 42 A.3d 1040, 1049–50 (Pa. 2012) (citing *Commonwealth v. Heyward*, 375 A.2d 191, 192 (Pa. Super. 1977)) (emphasis added). The affidavit of probable cause must establish a “substantial nexus” between the suspect's home and the criminal activity or contraband sought to permit the search of the home. *Id.*

At the hearing on the Omnibus Motion, the Commonwealth called Tyson Havens (Havens), a detective with the Lycoming County Narcotics Enforcement Unit, who testified that after working with a CI on two controlled buys involving the Defendant, he applied for

a search warrant for the Defendant's residence. The search warrant was entered into evidence as Commonwealth's Exhibit 1. In addition to several paragraphs with general information regarding the sale and trafficking of drugs based upon Havens' training and experience, the affidavit of probable cause for the warrant includes a paragraph regarding Havens' previous involvement with the CI, which consisted of 11 successful controlled drug purchases from 8 different people and providing information for two separate residential search warrants resulting in arrests and drug seizures. Additionally, the affidavit of probable cause detailed the CI's previous purchases of cocaine from the Defendant, whom he knew as "Butter", most of which were arranged through the Defendant's cell phone and occurred at the Defendant's apartment at 617 Third Avenue in Williamsport. The CI provided a detailed description of the layout of the inside of the Defendant's apartment and physically escorted Havens to the building and pointed out the entrance to the Defendant's apartment.

The affidavit of probable cause indicated that after the controlled buy on September 28, 2022, was arranged, the NEU observed the Defendant walk, while holding crack cocaine in his hand, to 617 Green Street. The affidavit of probable cause further indicated that the Defendant instructed the CI to travel to Grace Street to make the purchase of the controlled buy on October 18, 2022, as he had spent the night at his girlfriend's house, but advised the CI that he would be returning to his residence on Third Avenue afterwards. Following the transaction, the Defendant was observed by NEU entering a silver Honda operated by a black female, which was surveilled to the rear of the Shamrock bar parking lot on West Edwin Street where the Defendant was observed exiting the Honda with cash in hand and entering a white Chevy Malibu. The white Chevy Malibu with the Defendant was

surveilled to the rear of 617 Third Avenue where he met with the same black female in the silver Honda and both individuals were observed entering the southern, east facing door of 617 Third Avenue in the City of Williamsport, the same entrance pointed out to Havens by the CI. Havens testified at the Omnibus hearing that members of the NEU watched the building until the warrant was secured and neither the Defendant nor the female who entered with him left the apartment.

Based upon the reliability of the CI, who informed Havens that he had purchased crack cocaine from the Defendant on numerous occasions at the Defendant's residence and was able to provide a detailed description of the layout of the apartment, as well as the observations by the NEU of the Defendant either coming from or returning to the apartment with cash or drugs in his hands at the time of the controlled buys, this Court finds that there is a clear nexus between the Defendant's residence and the drug operation. This Court further finds, given the totality of the circumstances presented, that there is a fair probability that evidence of a crime or contraband would be found at the Defendant's residence and therefore there was probable cause to issue the search warrant.

The Defendant next argues that the search conducted by the NEU at his residence on October 18, 2022, was unreasonable in that they violated the so-called "knock and announce" rule. Furthermore, Defendant alleges that after entering the residence, the members of the NEU used extraordinary violence in breaching the second door and caused damage to the residence during the course of the search. Defendant argues that the search was unreasonable and violated Pa.R.Crim.P. 207, which states:

(A) A law enforcement officer executing a search warrant shall, before entry, give, or make reasonable effort to give, notice of the officer's

identity, authority, and purpose to any occupant of the premises specified in the warrant, unless exigent circumstances require the officer's immediate forcible entry.

(B) Such officer shall await a response for a reasonable period of time after this announcement of identity, authority, and purpose, unless exigent circumstances require the officer's immediate forcible entry.

(C) If the officer is not admitted after such reasonable period, the officer may forcibly enter the premises and may use as much physical force to effect entry therein as is necessary to execute the search.

At the hearing on the Defendant's Omnibus Motion, the bodycam footage worn by one of the NEU detectives executing the search warrant was admitted into evidence as Commonwealth's Exhibit 2. Law enforcement is seen knocking on the door, announcing their presence, waiting several seconds and then entering by force. Havens testified that it was approximately 9.9 seconds between the knocking/announcing and the breaching of the door. Havens further testified that he was aware there were at least two people inside the apartment, as detectives from the NEU had followed the Defendant and his girlfriend back to the apartment after the controlled buy earlier that morning and had maintained surveillance on the apartment while the search warrant was prepared and authorized, and no one exited the premises. Havens indicated that the CI was credible and provided a detailed layout of the apartment, which was very small and contained a distance of only 10-12 feet through the kitchen to the Defendant's bedroom upon entry through the east facing door, and that they believed the occupants would be awake at the time the warrant was executed at approximately 11:00 a.m. because they were awake two hours earlier at 9:00 a.m. when they completed the controlled buy and returned to the apartment. Additionally, Havens emphasized that there was a concern that the occupants of the apartment would either arm

themselves, destroy evidence, or both if they delayed entry. Counsel for the Defendant argued that it would be merely speculation as to whether the occupants were armed or destroying evidence, or if they even heard the knock and announcement of the NEU prior to their entry.

“Ordinarily, refusal of admittance is not directly articulated but by implication.” *Commonwealth v. Walker*, 874 A.2d 667, 676 (Pa. Super. 2005). “There are no set rules as to the time an officer must wait before using force to enter a house; the answer will depend on the circumstances of each case.” *Id.* “No case in this Commonwealth interpreting this rule has ever required officers to wait until the occupants destroy the evidence or flee and thus render a search unavailing and an arrest impossible.” *Id.* Here, the NEU clearly stated their authority and purpose. While waiting 10 seconds before forcibly entering the premises may seem brief, we must evaluate the reasonableness based upon the facts known to those executing the warrant at that time. *Id.* As testified to by Havens, and confirmed by the footage shown in Commonwealth’s Exhibit 2, the apartment was very small and there were at least two occupants inside, who had been awake two hours prior when they observed them completing a controlled buy. There was credible information from the CI that he had purchased drugs from the Defendant at the apartment on several occasions, amplifying concerns that any further delay would give the Defendant the opportunity to dispose of or destroy the very evidence being sought.

This Court finds that, although brief, the 10 second delay was reasonable under the totality of the circumstances, and the use of force to enter the premise was necessary to execute the search.

For all of the foregoing reasons, the Defendant's Motion to Suppress Evidence is **DENIED**. The Court declines to suppress the evidence seized during the execution of the search warrant on October 18, 2022, including any evidence obtained as a result of subsequent warrants issued for the iPhone and the Defendant's DNA sample.

II. MOTION TO DISMISS COUNT 4 OF INFORMATION CR-1409-2022

The Defendant reiterates his Motion to Dismiss Count 4 of the Information set forth in the Omnibus Pretrial Motion filed on February 10, 2023, at CR-1409-2022. By Stipulated Order filed May 31, 2023, Count 4 of Docket #1409-2022 was dismissed. Therefore, this Motion has been previously resolved and no further action will be taken as it is considered by the Court to be moot.

III. MOTION FOR RETURN OF PROPERTY

The Defendant requests the Court to order the Commonwealth to return to him the \$4,000 in U.S. currency that was seized during the execution of the search warrant at his residence. The basis for Defendant's request is that the money was illegally and unlawfully seized and therefore cannot be forfeited to the Commonwealth. Further, the Defendant submits that he is entitled to lawful possession of said U.S. currency and it should be returned to him.

The application for search warrant identified, among other things to be searched for and seized, "cash proceeds from illegal drug sales." For the reasons articulated in Section I above, this Court found that there was a reasonable nexus between the Defendant's residence and the drug operation, and that there was a fair probability that evidence of a crime or contraband would be found at the Defendant's residence. Accordingly, the Court

found that the search warrant was supported by probable cause and the search and seizure of the items listed on the Receipt/Inventory of Seized Property, including the \$4,000 of U.S. currency, was valid. Defendant is not entitled to the return of the property, as there is reason to believe that it connected to the drug operation associated with Defendant's residence. As such, Defendant's Motion for Return of Property is **DENIED**.

ORDER

AND NOW, this 23rd day of **April, 2024**, upon consideration of Defendant's Omnibus Pre-Trial Motion and the Supplement thereto, the argument of counsel on October 2, 2023, and for the reasons set forth above, the Omnibus Pretrial Motion is **DENIED**.

By the Court,

Ryan M. Tira, Judge

RMT/jel
CC: DA
Peter T. Campana, Esquire
Gary Weber, Esquire
Jennifer Linn, Esquire