

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

COMMONWEALTH OF PENNSYLVANIA	:	CR-101-2024
	:	CR-103-2024
v.	:	
	:	
RASHAWN LAVELLE DAVIS,	:	
Defendant	:	

OPINION

On September 27, 2024, the Court held a hearing on the Defendant’s Omnibus Pretrial Motion. The Defendant’s Motion contained a Motion to Suppress Arrest, a Motion to Suppress Physical Evidence Seized Pursuant to Search Warrant, and a Motion to Join under Docket No. 101-2024. The Court also heard argument on the Defendant’s Omnibus Motion under Docket No. 103-2024 which contains a Petition for Writ of Habeas Corpus and a Motion for Disclosure of Criminal Charges, Promises of Leniency, and/or Immunity for the Confidential Informant utilized during surveillance of the Defendant.

The Defendant is charged under Docket No. 101-2024 with two counts of Possession with Intent to Deliver a Controlled Substance pursuant to 35 Pa.C.S.A. §780-113(a)(30) and two counts of Person Not to Possess, Control, Sell or Transfer Firearms under 18 Pa.C.S.A. §6105(a)(1). Under Docket No. 103-2024, the Defendant is charged with four counts of Delivery of a Controlled Substance pursuant to 35 Pa.C.S.A. §780-113(a)(30) and four counts of Criminal Use of a Communication Facility pursuant to 18 Pa.C.S.A. §7512(a).

The charges stem from incidents that occurred between December 5, 2023 and January 3, 2024. A preliminary hearing was held on January 23, 2024, and all counts were held for court. The Defendant waived his arraignment. Prior to arraignment the Commonwealth filed a Notice of Joinder of Docket No. 101-2024 and No. 103-2024.

Background and Testimony

At the hearing, the Commonwealth called Detective Kevin Dent, Lycoming County Narcotics Enforcement Unit and Officer Tyson Minnier, Williamsport Bureau of Police. Detective Dent testified to a series of controlled buys utilizing a confidential informant (“CI”) to set up transactions with the Defendant for the purchase of controlled substances. He testified that the CI set up the transactions consistently using the same contact number for each transaction. Detective Dent testified to the dates of the transactions (December 6, 2023, December 19, 2023 January 2, 2024 and January 3, 2024), that the CI wore a surveillance camera during the transactions, that he and other detectives could view the surveillance in real time, and that the detectives and Officer Minnier were relaying information to each other throughout the surveillance. Furthermore, Detective Dent testified that the Defendant was surveilled going to and from the property at 331 Center Street, Williamsport, Pennsylvania before or after the transactions. Officer Minnier testified that he conducted a traffic stop of the Defendant on December 19, 2023. During the traffic stop, Officer Minnier was able to confirm the identity of the Defendant. He also testified that during the January 3, 2024 controlled buy that the detectives were relaying information regarding their observations of the Defendant’s delivery of a controlled substance to the CI. Officer Minnier testified that on January 3, 2024, Detective Dent directed him to arrest the Defendant.

I. Motion to Suppress Arrest

The Defendant alleges that law enforcement lacked probable cause to effect a warrantless arrest of the Defendant. In particular, the Defendant claims that Officer Minnier, who effected the actual arrest of the Defendant, personally lacked sufficient knowledge to have probable cause the Defendant committed a felony to execute the arrest on the

Defendant. The Defendant argued that Officer Minnier cannot rely upon information provided to him by other officers.

The Defendant's argument lacks merit. Pennsylvania law is clear that the officer effecting the arrest does not have to personally possess knowledge of the felony offense but can rely upon the order of another officer that possesses such knowledge and orders or requests an individual be arrested. *Commonwealth v. Kenney*, 449 Pa. 562, 566 297 A.2d 794,796 (1972). In the case at bar, the Commonwealth has put forth direct evidence that Detective Dent and others that witnessed the alleged felony offense shared that information among themselves and then directed Officer Minnier to effect the arrest on the Defendant. The testimony clearly meets the burden that Detective Dent and other detectives had probable cause to arrest the Defendant for the delivery of a controlled substance. To grant the Defendant's request would limit law enforcement's ability to effect an arrest on suspects. For example, if a suspect flees an officer, no other officer would be able to detain the suspect for fleeing except the officer who witnessed the initial fleeing. This would be an absurd result that incentivizes suspects to flee. The Motion to Suppress Arrest is **DENIED**.

II. Motion to Suppress Physical Evidence Seized Pursuant to Search Warrant

Next, the Defendant requests suppression of items seized pursuant to separate search warrants for 331 Center Street Williamsport, Pennsylvania. The Defendant states that his argument on both search warrants is based on a lack of probable cause in the first search warrant to search 331 Center Street. The Defendant alleges that there was no connection between the controlled buys and 331 Center Street.

The Fourth Amendment of the United States Constitution and Article 1, Section 8 of the Pennsylvania Constitution protect citizens from unreasonable searches and seizures. *Commonwealth v. Burgos*, 64 A.3d 641, 648 (Pa. Super. 2013). An affidavit of probable

cause must provide an issuing authority with a substantial basis for determining that probable cause exists to justify a search. *Commonwealth v. Leed*, 186 A.3d 405, 413 (Pa. Super. 2018) citing *Illinois v. Gates*, 462 U.S. 213, 239 (1983). Moreover, the issuing magistrate must make a practical, common sense determination when provided with all of the circumstances provided in the affidavit, “there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *Commonwealth v. Clark*, 611 Pa. 601, 607 28 A.3d 1284, 1288 (2012). The reviewing court is tasked with ensuring that the issuing magistrate had a substantial basis for concluding that probable cause existed and the search was conducted lawfully. *Id.* Moreover, the reviewing court should evaluate the issuing magistrate’s probable cause determination by extending deference to that determination. *Commonwealth v. Leed*, 646 Pa. 602, 618 186 A.3d 405, 415 (2018).

A reviewing court must limit its inquiry to the information provided in the “four corners” of the affidavit proffered to support the finding of probable cause in concluding that the warrant was issued upon sufficient probable cause. *Commonwealth v. Arthur*, 62 A.3d 424, 432 (Pa. Super. 2013). Probable cause is a fluid and practical concept that relies on assessing the probabilities in particular factual contexts which cannot be categorically reduced to a neat set of legal rules. *Commonwealth v. Rapak*, 138 A.3d 666, 671 (Pa. Super. 2016)(internal citations omitted). Probable cause exists where the affiant’s knowledge of the facts and circumstances based on reasonably trustworthy information justify a man of reasonable caution in the belief that a search should be executed. *Commonwealth v. Leed*, 186 A.3d 405, 413 (Pa. Super. 2018). “The standard for evaluating whether probable cause exists for the issuance of a search warrant is the ‘totality of the circumstances’ test as set forth in *Illinois v. Gates*, 462 U.S. 213 (1983), and adopted in *Commonwealth v. Gray*, 509 Pa. 476, 486, 503 A.2d 921, 925 (1985).” *Commonwealth v. Jones*, 542 Pa. 418, 424 (1995).

Further, the affidavit of probable cause must contain information that links the place to be searched directly to the criminal activity. *Commonwealth v. Nicholson*, 262 A.3d 1276, 1280 (Pa. Super. 2021)(internal citations omitted). Additionally, search warrants are consistently found to be valid so long as other factors eliminate the possibility of the police intruding in the incorrect place. *Commonwealth v. Leed*, 646 Pa. 602, 619 (2018).

The testimony provided by Detective Dent and the search warrant contain multiple references to surveillance of the Defendant to and from 331 Center Street before and/or after the controlled buys. (Defendant's Exhibit A, "Application and Affidavit of Probable Cause"). The search warrant contained statements related for each of the four controlled buys that connected the defendant coming from and/or going to 331 Center Street before or after the controlled buys. There is clearly a connection of the Defendant's actions in the controlled buys and the residence at 331 Center Street. Therefore, the defendant's Motion to Suppress Physical Evidence Seized Pursuant to Search Warrant is **DENIED**.

III. Motion to Join

The Defendant's final Motion was to join cases CR-101-2024 and CR-103-2024 for purposes of the Omnibus Motion. The Commonwealth had previously filed to join the matters for purposes of trial. The Court hereby **GRANTS** the Motion and cases CR-101-2024 and CR-103-2024 are hereby joined for purposes of trial and the Omnibus Motion. Therefore, the above decisions apply to both CR-101-2024 and CR-103-2024.

IV. Petition for Writ of Habeas Corpus

Under Docket No. 103-2024, the Defendant is charged with four counts of Delivery of a Controlled Substance and four counts of Criminal Use of a Communication Facility. The Defendant alleges that the Commonwealth failed to meet its burden by establishing a *prima facie* case. Specifically, the Defendant avers that the Commonwealth failed to establish that

the Defendant delivered a controlled substance to a CI. Also, the Defendant alleges that the Commonwealth failed to present any evidence that the Defendant utilized any type of communication facility to facilitate the commission of a crime or felony under the Controlled Substance Act. Accordingly, the Defendant requests the dismissal of all counts on the basis that the Commonwealth failed to present sufficient evidence to establish the elements of these offenses.

A defendant appropriately files a motion for writ of habeas corpus during the pre-trial stages to test whether the Commonwealth has met its burden for a *prima facie* case. *Commonwealth v. Dantzler*, 135 A.3d at 1112, *citing Carroll*, 936 A.2d at 1152. The Commonwealth meets its burden that a *prima facie* case exists when the evidence produced meets every material element of the charged offenses and the defendant's complicity therein. *Id.* Parties may meet this burden by utilizing the evidence available at a preliminary hearing and producing additional evidence. *Id.*

It is well settled that the preliminary hearing is not a trial and the Commonwealth need not establish Defendant's guilt beyond a reasonable doubt at that stage. *Commonwealth v. McBride*, 595 A.2d 589, 591 (Pa. 1991). Rather, the Commonwealth bears the burden of establishing a *prima facie* case "that a crime has been committed and that the accused is probably the one who committed it." *Id.*; Pa.R.Crim.P. 141(d). In its consideration, a court does not factor in the weight and credibility of the evidence. *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa. Super. 2001); *see also Commonwealth v. Huggins*, 836 A.2d 862, 866 (Pa. 2003) (holding that "[t]he evidence need only be such that, if presented at trial and accepted as true, the judge would be warranted in permitting the case to go to the jury"). "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. Owen*, 580 A.2d 412, 414 (Pa. Super. 1990).

Here, the Defendant is charged with six counts of Delivery of a Controlled Substance under 35 Pa.C.S.A. Section 780-113 subsection (a)(30) which prohibits, “except as authorized by this act, the manufacture, delivery or possession with intent to manufacture or deliver, a controlled substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, or knowingly creating, delivering or possessing with intent to deliver, a counterfeit controlled substance” within this Commonwealth. Based on the testimony of Detective Dent that corroborates the allegations in the Application and Affidavit of Probable Cause submitted by the Defendant, the Court is satisfied here that the Commonwealth has presented sufficient evidence to meet its burden of establishing a *prima facie* case against the Defendant. Detective Dent testified to each controlled buy and the Defendant’s participation in each buy.

Next, the Defendant is charged with four counts of Criminal Use of Communication Facility under 18 Pa.C.S.A. Section 7512, which defines the offense as a person committing a felony of the third degree “if that person uses a communication facility to commit, cause or facilitate the commission or the attempt thereof of any crime which constitutes a felony under this title or under... the Controlled Substance, Drug, Device and Cosmetic Act. Every instance where the communication facility is utilized constitutes a separate offense under this section.” The statute further defines “communication facility” as a public or private instrumentality used or useful in the transmission of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part, including, but not limited to, telephone, wire, radio, electromagnetic, photoelectronic or photo-optical systems or the mail.” *18 Pa.C.S.A. §7512*. The Application and Affidavit of Probable cause contains

information in each of the controlled buys to which Detective Dent corroborated with testimony, that the CI contacted the Defendant at the same number prior to each transaction. The Defendant avers that the Commonwealth failed to confirm the Defendant's identity or use of the phone prior to the transactions, and thus, has not established its burden of producing evidence sufficient to establish a prima facie case. The Commonwealth countered that the Defendant's that Detective Dent was cognizant of the phone conversations between the CI and the Defendant. Moreover, the Defendant's identity was confirmed for Controlled Buy number three and four. Furthermore, the CI called the same phone number for each buy and the Defendant is the individual who appeared to conduct the transaction. For those reasons, the Court is satisfied that the Commonwealth has met its burden of establishing a prima facie case by providing sufficient evidence to establish the elements for the charge of Criminal Use of a Communication Facility.

Accordingly, the Court finds that the Commonwealth has satisfied its burden of providing sufficient evidence to establish the elements of the charges under Docket No. 103-2024, thus, the Court hereby **DENIES** the Defendant's Petition for Writ of Habeas Corpus.

V. Motion for Disclosure of Criminal Charges, Promises of Leniency, and/or Immunity

In his Motion for Disclosure, the Defendant seeks discovery related to the CI's criminal history, history of substance purchasing, and the circumstances surrounding the CI's cooperation with the Lycoming County Narcotics Enforcement Unit. Moreover, the discovery received by the Defendant does not disclose information on the CI's reliability or credibility.

The Commonwealth has a duty to disclose all exculpatory evidence to a defendant prior to trial. *Brady v. Maryland*, 373 U.S. 83 (1967). "All exculpatory evidence" includes

impeachment evidence providing any possible understanding between the prosecution and a witness that tends toward the relevancy of the witness's credibility. *Id.* Additionally, a witness' criminal convictions, arrests, and parole or probation status are relevant, impeachment evidence with a longstanding history of being a necessary and valuable asset to the Defendant. *Commonwealth v. Marsh*, 997 A.2d 318, 321 (Pa. 2010). A criminal defendant is entitled to know any information that may affect the reliability of the Commonwealth's witnesses. *Id.* When a defendant requests the disclosure of an informant's identity and demonstrates that the request is reasonable, material, and relevant to his case, the reviewing court must balance the factors to determine if the informant's identity should be revealed. *Id.* Pennsylvania Rule of Criminal Procedure 573 provides the trial court discretion to require the Commonwealth to reveal the names and addresses of all eyewitnesses, including confidential informants, when a defendant establishes material need and reasonableness for the disclosure. *Id.*

At the hearing, the Commonwealth stated that the Brady Checklist was delivered on May 31, 2024. Additional information sought by the Defendant must be turned over by the Commonwealth prior to Jury Selection in this matter. Accordingly, the Defendant's request is **GRANTED.**

By the Court,

Ryan M. Tira, Judge

RMT/asw

CC: DA

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