

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	: No. CR-0547-2024
	:
vs.	:
	: OMNIBUS PRETRIAL MOTION
MUHAMMAD DAVIS,	:
Defendant	:

OPINION AND ORDER

This matter came before the court on October 24, 2024 for a hearing and argument on Defendant's Petition for Omnibus Pretrial Motion (OPTM).

By way of background, Defendant is charged with two counts of first-degree murder¹, two counts of second-degree murder², two counts of kidnapping to facilitate a felony³, aggravated assault,⁴ robbery,⁵ tampering with evidence,⁶ possession of firearm prohibited,⁷ and firearm not to be carried without a license.⁸ Defendant was arrested on March 4, 2024 and is not eligible for bail.⁹ A preliminary hearing was held on April 12, 2024, and Defendant waived his arraignment on May 20, 2024. Defendant filed his timely Omnibus Pretrial Motion (OPTM) on June 10, 2024. Hearing on the motion was scheduled on November 22, 2024. Defendant raises seven issues in his OPTM. The Court will address them in the order in which they were addressed at the hearing on the motion.

¹ 18 Pa. C.S.A. §2502(a).

² 18 Pa. C.S.A. §2502(b).

³ 18 Pa. C.S.A. §2901(a)(2).

⁴ 18 Pa. C.S.A. §2702(a)(4).

⁵ 18 Pa. C.S.A. §3701(a)(1)(i).

⁶ 18 Pa. C.S.A. §4910(1).

⁷ 18 Pa. C.S.A. §6105(a)(1).

⁸ 18 Pa. C.S.A. §6106(a)(1).

▪ Const. Art. 1, § 14.

404(b) Evidence

The first issue to be discussed was the possibility of the Commonwealth requesting to admit evidence under Pa. R.E. 404(b) at Davis's trial.

Rule 404(b) of the Pennsylvania Rules of Evidence provides

(b) Other Crimes, Wrongs, or Acts.

(1) *Prohibited Uses.* Evidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) *Permitted Uses.* This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. In a criminal case this evidence is admissible only if the probative value of the evidence outweighs its potential for unfair prejudice.

(3) *Notice in a Criminal Case.* In a criminal case the prosecutor must provide reasonable written notice in advance of trial so that the defendant has a fair opportunity to meet it, or during trial if the court excuses pretrial notice on good cause shown, of the specific nature, permitted use, and reasoning for the use of any such evidence the prosecutor intends to introduce at trial.

The May 20, 2024 arraignment order issued by the Honorable Ryan Tira already directs the Commonwealth to file its notice of intent to introduce Rule 404(b) evidence by the date of the pre-trial conference and it also directs Defendant to file any motion in limine within fourteen days of the Commonwealth's notice.

Motion for Change Venue and Gag order

Striking the balance between the right to a fair trial and freedom of the press has long been a complex and troublesome problem. Freedom of thought and discussion and the public's right to know are very important rights in a democratic society. Therefore, the news media must be given wide latitude in reporting material about criminal proceedings.... On the other hand[,] the judicial system cannot allow news accounts to interfere with the administration of justice. Each and every defendant in a criminal prosecution is entitled to a fair trial which is conducted solely in the courtroom and is free of any outside influence.

Commonwealth v. Lambert, 723 A.2d 684, 689 (Pa. Super. Ct. 1998), quoting *Commonwealth v. Casper*, 249 Pa. Super. 21, 375 A.2d 737, 739 (Pa. Super.1977) (citations omitted), *rev'd on other grounds*, 481 Pa. 143, 392 A.2d 287 (1978).

Davis' counsel argues that at the time of the filing of the charges against his client there were multiple press reports available and online. Counsel additionally asserts that the issue of pretrial publicity is twofold: The first is the source of the information and second, the nature of the communications. Defense argues that the source of the information is almost exclusively the District Attorney's Office and to a large extent the District Attorney himself and what he characterized as the inflammatory nature of the newspaper articles and videos where Mr. Martino specifically says that he intends to seek the death penalty in this case, which is not an accurate statement of the case penalties. Davis' counsel seeks a gag order to stop the inflammatory and/or inaccurate pre-trial publicity and to preserve his client's right to a fair trial by an impartial jury.

The Commonwealth opposed a change of venue, but it agreed to a gag order. The Commonwealth argued that if a gag order were granted, the pre-trial publicity would lessen such that there would be a sufficient cooling off period that a jury could be selected from and the trial could remain in Lycoming County.

Although Davis was charged with first degree murder, that charge was dismissed by the MDJ after the preliminary hearing. Furthermore, with respect Davis, there were no aggravating circumstances; therefore, this case was not actually eligible for the death penalty. *See* 18 Pa. C.S.A. §1102; 42 Pa. C.S.A. §9711(d). In fact, the Commonwealth has not filed a notice of aggravating circumstances which is a pre-requisite for a case to be eligible for the

death penalty. *See* Pa. R. Crim. P. 802

The parties agreed to gag order to prohibit Commonwealth and individuals associated with them from speaking publicly about the case. In light of the pre-trial publicity that has already occurred in this case, such an order is necessary to ensure a fair trial for both sides based solely on the evidence presented at trial.

The court will deny the request for a change of venue or venire at this time. The mere existence of pre-trial publicity does not warrant a presumption of prejudice. *Commonwealth v. Karenbauer*, 715 A.2d 1086, 1092 (Pa. 1998). Even where a defendant shows publicity which gives rise to a presumption of prejudice,

a change of venue or venire is not warranted unless he or she also shows that the pre-trial publicity was so exhaustive, sustained or pervasive that the community must be deemed to have been saturated with it, and that there was insufficient time between the publicity and the trial for any prejudice to have dissipated.

Id. *Voir dire* examination is the proper place to determine whether a defendant's notoriety has resulted in a prospective juror's prejudice. *Commonwealth v. Briggs*, 12 A.3d 291, 315 (Pa. 2011). This ruling is without prejudice to Defendant renewing his motion during *voir dire* if it becomes apparent that there has not been a sufficient cooling off period.

Motion For Supplemental Jury Questionnaire

Davis' counsel asked that a supplemental jury questionnaire be mailed to potential jurors ahead of trial to ask questions about pretrial publicity, racial bias, and local bias. The Commonwealth takes no position on this request.

The court is not opposed to the parties submitting proposed supplemental questions

on these topics. However, the court is reluctant to mail an additional questionnaire prior to the arrival of potential jurors at the courthouse on the day of jury selection. There would be an added expense both in mailing and creating a supplemental questionnaire in at least triplicate. Furthermore, not all individuals appear for jury selection and not all remember to bring their mailed questionnaires with them. They would have to be sent to the entire panel for the week, not just the potential jurors for this case, because the court would not know until their arrival in the courthouse who would appear and who would actually be drawn for the panel of prospective jurors in this particular case. The court finds that it would be helpful, however, to have the parties submit any proposed questions and any objections thereto on these issues to the court ahead of time so that any objections could be resolved prior to the start of jury selection. The court would be willing to provide a short supplemental questionnaire after the prospective jurors arrive at the courthouse with the instruction that the jurors not discuss the questionnaire with anyone unless or until they are questioned in the presence of the court and the parties and the court would collect them upon completion and make photocopies for counsel to use during *voir dire*. In the alternative, the court would permit the parties to ask general questions on these topics during questioning of the entire panel, for example to determine whether they had read or seen anything about this case, and then conduct more specific questioning about what they may have seen or heard and how it might impact their ability to be a fair and impartial juror at sidebar or in a separate room such as chambers or a deliberation room on an individual basis to avoid a potential juror's answers from tainting the entire pool.

The parties shall have 30 days from the date of this decision to submit any proposed supplemental questionnaire and 14 days thereafter to file any objections. If objections are

■

filed, the court would schedule a hearing and argument to resolve or decide them prior to jury selection.

Motion Requesting Court to Order Commonwealth to Provide to Counsel for Defendant All Investigative Information Obtained Concerning Potential Jurors

Davis' counsel requested the court to order the Commonwealth to provide investigative information concerning potential jurors derived from sources to which the Commonwealth has access, such as the Justice Network (JNET) and the National Crime Information Computer (NCIC), that he cannot access. The prosecutor stated that it no longer uses JNET and NCIC to gather information regarding potential jurors and currently only uses the Unified Judicial System (UJS) and the Prosecutor's Management System (PMS) and perhaps case notes from older, archived cases. Davis' counsel then stated he was rescinding his request but would renew it if the Commonwealth utilized information from these sources or other resources to which only the prosecutor has access.

Motion for Habeas Corpus relief

Davis is seeking habeas corpus relief with respect to the charge of kidnapping to facilitate a felony, all of the robbery charges, and the theft charges. Davis' counsel asserts that there is no evidence that Davis' acts satisfied the elements of these crimes; instead, these crimes were committed solely by Troy Bailey. Furthermore, he argues that the Commonwealth failed to establish that Davis agreed to commit or had the intent to aid or facilitate the commission of the crimes of kidnapping to facilitate a felony, robbery and theft.

The Commonwealth argues that Davis is liable for all of the crimes as an accomplice or co-conspirator of Troy Bailey.

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 also may submit additional proof. *Commonwealth v. Dantzler*, 135 A.3d 1109, 1112 (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). The Commonwealth is not required to present direct evidence and can sustain its burden of proof via wholly circumstantial evidence. See *Commonwealth v. Diggs*, 949 A.2d 873, 877 (Pa. 2008), *cert. denied*, 566 U.S. 1106 (2009); *Commonwealth v. Watley*, 81 A.3d 108, 113 (Pa. Super. 2013)(*en banc*). Furthermore, the evidence need not preclude every possibility of innocence. *Watley, id.*

There are several ways that an individual may be held criminally liable – as a

principal, an accomplice, or a co-conspirator. *See* 18 Pa. C.S.A. §306(a)(“A person is guilty of an offense if it is committed by his own conduct or by the conduct of another person for which he is legally accountable, or both.”). A person is a principal if the offense is committed by his own conduct.

A person is legally accountable for the conduct of another person when:

- (1) acting with the kind of culpability that is sufficient for the commission of the offense, he causes an innocent or irresponsible person to engage in such conduct;
- (2) he is made accountable for the conduct of such other person by this title or by the law defining the offense; or
- (3) he is an accomplice of such other person in the commission of the offense.

18 Pa. C.S.A. §306(b).

The law makes a conspirator liable for conduct of his co-conspirators. *See Commonwealth v. Lambert*, 795 A.2d 1010, 1016 (Pa. Super. 2002)(“Once there is evidence of the presence of a conspiracy, conspirators are liable for acts of co-conspirators committed in furtherance of the conspiracy.”).

The co-conspirator rule assigns legal culpability equally to all members of the conspiracy. All co-conspirators are responsible for actions undertaken in furtherance of the conspiracy regardless of their individual knowledge of such actions and regardless of which member of the conspiracy undertook the action.

The premise of the rule is that the conspirators have formed together for an unlawful purpose, and thus, they share the intent to commit any acts undertaken in order to achieve that purpose, regardless of whether they actually intended any distinct act undertaken in furtherance of the object of the conspiracy. It is the existence of shared criminal intent that “is the sine qua non of a conspiracy.”

Id. at 1016-17 (citations omitted).

A person is guilty of conspiracy with another person or persons to commit a crime if with the intent of promoting or facilitating its commission he:

(1) agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or

(2) agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime.

18 Pa. C.S.A. §903.

A person is also liable for the conduct of another when he is an accomplice of the person who commits the offense.

A person is an accomplice of another person in the commission of an offense if:

(1) with the intent of promoting or facilitating the commission of the offense, he:

(i) solicits such other person to commit it; or

(ii) aids or agrees or attempts to aid such other person in planning or committing it; or

(2) his conduct is expressly declared by law to establish his complicity.

18 Pa. C.S.A. §306(c).

The intent required for criminal conspiracy and accomplice liability are the same. *See Commonwealth v. Ruffin*, 463 A.2d 1117, 1120 n.7 (Pa. Super. 1983). The Commonwealth may prove an agreement for conspiracy and the intent for both conspiracy and accomplice liability by wholly circumstantial evidence. In fact, the law recognizes that both are rarely proven by direct evidence. *See Commonwealth v. Murphy*, 844 A.2d 1228, 1238 (Pa. 2004)(direct evidence of criminal intent and conspiratorial agreement is rarely available; consequently, the intent and agreement are almost always proven through circumstantial evidence such as the relations, conduct or circumstances of the parties or overt acts on the part of the co-conspirators); *Commonwealth v. Matthews*, 870 A.2d 924, 929 (Pa. Super. 2005)(intent, a subjective state of mind, is difficult of direct proof; accordingly, it may be

proven by direct or circumstantial evidence, including by inference from acts or conduct or the attendant circumstances); *Lambert*, 795 A.2d at 1016 (“A conspiracy is almost always proved through circumstantial evidence.”).

Among the circumstances which are relevant to whether a conspiracy exists are:

(1) an association between alleged conspirators; (2) knowledge of the commission of the crime; (3) presence at the scene of the crime; and (4) in some situations, participation in the object of the conspiracy. The presence of such circumstances may furnish a web of evidence linking an accused to an alleged conspiracy beyond a reasonable doubt when viewed in conjunction with each other and in the context in which they occurred.

Lambert, id.

At the April 12, 2024, preliminary hearing, the Commonwealth presented testimony from multiple witnesses, including: Kassandra Houseknecht, Deputy Coroner, who described the crime scene and postmortem findings; Dr. Edward Mazuchowski, Forensic Pathologist, who confirmed the cause of death for both victims as multiple gunshot wounds; Officer Damon Cole of the Williamsport Bureau of Police (WBP), who took photographs of the crime scene; Trooper Brittany Naylor, who helped process the crime scene, took photographs and collected evidence including Dailey’s wallet and Seese’s bank cards; WBP Agent Laura Kitko, who testified about GPS data from the Intoxalock system in the male victim’s vehicle and video surveillance footage from Knight-Confer Funeral home, and Lycoming County Detective Stephen Storage, who was one of the officers who interviewed Defendant. The testimony and evidence presented at the preliminary hearing showed the following.

At around 2:21 a.m. on January 12, 2024, the police and a deputy coroner were dispatched to the intersection of Ames Place and Beeber Street near Lycoming Supply¹⁰ for a

¹⁰ The address for Lycoming Supply is 801 Beeber Street in Williamsport, Pennsylvania.

double shooting where the bodies of Ronald Dailey, Jr. and Alisha Seese were discovered. Mr. Dailey's body was in the driver's seat of his white BMW SUV. His pants were down around his ankles and his torso was slumped across the center console. Mr. Dailey's wallet was on the ground just outside the driver's side door. Someone had rummaged through the wallet. Three of Mr. Dailey's cards, including a bank card, were located on the ground toward the rear of the driver's side of the vehicle. There was no cash in the wallet. His cell phone was near the rear of the vehicle.

Mr. Dailey's cause of death was multiple gunshot wounds. He was shot in the face in the area his nose, twice in the back of his head and had a graze wound on his shoulder. There was stippling around the gunshot wound to his nose, which indicated he was shot at close range, which depending on the firearm and other factors could be anywhere from a few inches to several feet away.

Ms. Seese's body was found lying face down outside the passenger side of the vehicle. She had a wound on her forehead. She was shot twice in the back of her head. She also had a gunshot wound to her left arm. Her purse and some of its contents were scattered on the ground on the passenger side of the vehicle near her feet. Her identification card was found in the 600 block of Beeber Street by a resident. Her bank card was discovered a day or two after the homicide on the sidewalk on West Fourth Street near Dunkin Donuts by an employee.¹¹ At the time of the preliminary hearing, her cell phone had not been located but it was subsequently discovered in Lycoming Creek near the bridge/overpass on West Fourth Street.

Mr. Dailey's vehicle was equipped with an Intoxalock system, which required a

breath sample from the driver for the vehicle to start. Agent Laura Kitko obtained a search warrant and obtained records from that company for Mr. Dailey's unit. The system recorded the GPS coordinates for the breath samples as well as the dates and times that the vehicle started and stopped. The records from the Intoxalock system contained a photograph of Mr. Dailey providing a breath sample to start his vehicle at 10:14 p.m. in the Lycoming Engines parking lot. The vehicle was operated for approximately three minutes before it stopped at 10:17 p.m. in or near the parking lot of the Knight Confer Funeral Home.¹² Video surveillance from the funeral home also showed the vehicle pulling in at 10:17 p.m., travelling across the parking lot and out of view of the camera. On the other side of that parking lot are the rear of residences on Short Street, including 1917 Short Street.

At 10:57 p.m., Mr. Dailey provided another sample to restart the vehicle. The GPS showed that the vehicle was in the 1900 block of Short Street behind the funeral home's parking lot. The surveillance video from the funeral home showed the vehicle back up and leave. The vehicle stopped at 11:03 p.m., which is around the time that the police believe the homicides occurred.

Agent Kitko testified that 1917 Short Street is a vacant rental that Troy Bailey visited earlier in the day on January 11, 2024. After she received the Intoxalock records, she went to the Short Street rental. There was a key box on the door but the key box was not latched and there was no sign that anyone had broken into the rental.

Mr. Dailey and Ms. Seese worked as security officers at the Lycoming Engines

¹¹ The address of Dunkin Donuts is 1975 West Fourth Street in Williamsport, Pennsylvania.

¹² The address of Knight-Confer Funeral Home is 1914 Memorial Avenue in Williamsport, Pennsylvania.

facility on Oliver Street.¹³ Their shift ended at 10:00 p.m. The Lycoming Engines surveillance video showed two individuals lurking near a shed at the end of the parking lot. Mr. Dailey's white BMW was parked next to the shed. When Mr. Dailey walked across the parking lot after completing his shift, the two individuals surrounded him and forced him into his vehicle. When Alisha Seese exited Lycoming Engines and walked across the parking lot shortly thereafter, the two individuals forced her into the rear passenger seat of Mr. Dailey's white BMW. From the video, one can reasonably conclude that the two individuals were acting in concert with each other.

In Defendant's interview with the police, he talked to the police about Troy Bailey's recent firing from his position as a security officer at Lycoming Engines after Ms. Seese obtained a Protection From Abuse order against him, and that Troy Bailey had worked the same shift as Mr. Dailey and Ms. Seese, which is how Troy Bailey knew when they got off work. Defendant admitted that he was with Troy Bailey between 9:00 p.m. and midnight. He eventually indicated that he and Troy Bailey went to Lycoming Engines together. Troy Bailey drove them from their residence at 1209 High Street to a road near Lycoming Engines where he parked the vehicle. They walked down a hill and over to the Lycoming Engines parking lot. Defendant admitted that Troy Bailey forced Mr. Dailey and Ms. Seese into Mr. Dailey's vehicle. He also stated that Troy Bailey possessed a firearm and displayed it. Defendant stated that Mr. Dailey was in the driver's seat, he was in the front passenger seat, Troy Bailey was in back seat behind Mr. Dailey, and Ms. Seese was in the back seat behind him. Troy Bailey directed Mr. Dailey to drive to an area near Knight Confer Funeral Home and park behind a vacant residence in the 1900 block Short Street. Troy Bailey took Ms.

¹³ The address of Lycoming Engines is 652 Oliver Street, Williamsport, Pennsylvania.

Seese inside the residence. Defendant remained in the white BMW with Mr. Dailey.

Although Defendant claimed that he did not possess a firearm, Defendant admitted in his interview that Mr. Dailey probably believed that he was armed. After about twenty minutes,¹⁴ Troy Bailey and Ms. Seese returned to the vehicle. Then all four travelled in the vehicle from the rear of 1917 Short Street to a parking area near Lycoming Supply. Once there, Troy Bailey made Mr. Dailey pull his pants down around his ankles. According to Defendant, Troy Bailey wanted to make it appear that Mr. Dailey and Ms. Seese had a sexual relationship. Then Mr. Bailey shot Mr. Dailey and Ms. Seese. Defendant and Troy Bailey walked back to Troy Bailey's vehicle, and Troy Bailey then drove Defendant home.

Although at points in his interview Defendant denied knowing what Troy Bailey was going to do and claimed that he thought Bailey was going to let Mr. Dailey and Ms. Seese go, at other points in his interview he said he thought Troy Bailey was going to cause harm to somebody but he claimed he did not know it was going to be her [Ms. Seese].¹⁵ Defendant told the officers who interviewed him that he knew he would be charged with conspiracy and wanted to know how much time he would get.

1. ***Kidnapping to facilitate a felony***

Defendant contends that the Commonwealth failed to establish a prima facie case for the counts of kidnapping to facilitate a felony, the robbery counts, and the theft by unlawful taking counts.¹⁶ The court cannot agree.

The offense of kidnapping to facilitate a felony is defined as follows:

¹⁴ According to the Intoxalock records and the surveillance video from the funeral home, it was actually forty minutes.

¹⁵ See Transcript of Muhammad Davis Interview, 03/01/2024, at 154.

¹⁶ In the Information, the kidnapping to facilitate a felony are counts 3 and 4, the robbery counts are counts 8

Except as provided in subsection (a.1), a person is guilty of kidnapping if he unlawfully removes another a substantial distance under the circumstances from the place where he is found, or if he unlawfully confines another for a substantial period in a place of isolation, with any of the following intentions: ... (2) To facilitate commission of any felony or flight thereafter.

18 §2901(a)(2). Davis actively participated in the kidnapping of Mr. Dailey and Ms. Seese. He helped Troy Bailey force them both into Mr. Dailey's vehicle and helped keep them from fleeing, particularly while he was alone in the vehicle with Mr. Dailey while Troy Bailey was inside the Short Street residence with Ms. Seese for forty minutes according to the Intoxalock records. The kidnapping facilitated the robbery from Mr. Dailey and Ms. Seese. It also facilitated their deaths. It put them in a vulnerable position away from other co-workers leaving Lycoming Engines so that they could be robbed and killed.

One also could infer that one of the purposes of the robbery was to hide or cover-up Davis' and Bailey's involvement in the kidnapping and/or murders. Davis told police in his interview that Bailey made Mr. Dailey pull down his pants to make it appear that Mr. Dailey and Ms. Seese were involved in a sexual relationship. Taking property from them and scattering at least some of it on the ground could make it appear that they were robbed and killed by some random person in search of items worth stealing, rather than someone like Troy Bailey, who knew Ms. Seese and had a motive to kill her or at least intimidate her from proceeding with the PFA proceedings or from being a witness against him in PFA or criminal proceedings.¹⁷

through 13, and the theft counts are counts 14 and 16. It appears that the habeas motion was drafted based on the count numbers in the criminal complaint, rather than the Information.

¹⁷ During the interview with the police, Davis and the police talked about how Troy Bailey was fired from Lycoming Engines and how he had used his son's identification to obtain his employment there. Ms. Seese was aware of Bailey's illegal use of his son's identity to obtain employment at Lycoming Engines. She also had filed a PFA on behalf of her daughter(s) against Troy Bailey, who was also being investigated by police for criminal charges committed against her daughter.

Although Defendant claimed that he thought that Bailey was just going to talk to Ms. Seese and he did not know that Bailey was going to kill them or do anything else to them (including do anything with their property), the fact-finder is not required to accept Defendant's denial of his involvement. Defendant initially lied to the police and told them that he was not with Troy Bailey that evening; he was in bed at home. He later said that he went with Troy Bailey to Bailey's aunt Chestine's house, but he walked home and Bailey drove elsewhere without him. The route that he walked home included walking along Fourth Street near Dunkin Donuts where Ms. Seese's bank card was found. He later admitted that he was with Troy Bailey and went to Lycoming Engines with him and participated in getting Mr. Dailey and Ms. Seese into Mr. Dailey's vehicle (allegedly so Troy Bailey could talk to Ms. Seese), but that he was not part of the killing, robbery or any theft from them. However, if the only purpose was for Troy Bailey to talk to Ms. Seese, there was no need to involve Mr. Dailey who exited Lycoming Engines before Ms. Seese.

Instead, when viewed in the light most favorable to the Commonwealth as the court must at this stage of the proceedings, the fact-finder could infer from the totality of the circumstances that Defendant and Troy Bailey were acting in concert throughout the entire incident. The kidnapping did not end until Mr. Dailey and Ms. Seese were killed. The other conduct was in furtherance of the kidnapping and flight thereafter.

Such an inference would be supported by, but not limited to, the following: Davis thought Troy Bailey was going to cause harm to someone; they were clearly acting in concert when they abducted Mr. Dailey and Ms. Seese from Lycoming Engines; Defendant did not leave, release Mr. Dailey, contact the police or otherwise renounce his involvement once Troy Bailey and Ms. Seese entered the Short Street residence (because if the only purpose

was so that Troy Bailey could talk to Ms. Seese that opportunity was occurring inside the residence and there was no longer a need to hold Mr. Dailey); Davis kept Mr. Dailey in the vehicle for forty minutes without Mr. Dailey calling or texting for help while Troy Bailey and Ms. Seese were inside the residence (which suggests that Mr. Dailey was deprived of his phone or its use at that time); Davis knew why Troy Bailey made Mr. Dailey drop his pants down around his ankles, which is information that Troy Bailey would likely only share with a trusted accomplice or co-conspirator; after hearing Troy Bailey shoot Mr. Dailey and Ms. Seese, Defendant walked back to Troy Bailey's vehicle and rode with him back to their residence at 1209 High Street;¹⁸ and once Defendant arrived at his residence and Troy Bailey drove away, he did not contact law enforcement to tell them that Troy Bailey had shot Mr. Dailey and Ms. Seese.

2. *Robbery* (§3701(a)(i), (ii), and (iii))

(1) A person is guilty of robbery if, in the course of committing a theft, he:

- (i) inflicts serious bodily injury upon another;
- (ii) threatens another with or intentionally puts him in fear of immediate serious bodily injury;
- (iii) commits or threatens immediately to commit any felony of the first or second degree;

(2) An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft or in flight after the attempt or commission.

Davis' counsel argues that there is insufficient evidence to show that Davis participated in the robberies or thefts from Mr. Dailey and Ms. Seese or that he intended, agreed with Troy Bailey or aided or facilitated Troy Bailey with the intent to commit these crimes. Davis' counsel focuses on the lack of evidence that Davis was the shooter or that he

¹⁸ Troy Bailey was living with Defendant and his wife at 1209 High Street. The police obtained a search

was the person who took any property.

When all of the facts and circumstances and the inferences which can reasonably be drawn from the facts and circumstances are viewed in the light most favorable to the Commonwealth, the court finds that sufficient evidence was presented to hold these charges for trial. The Commonwealth need not prove Davis' guilt beyond a reasonable doubt at this stage of the proceedings.

There are numerous inferences that a jury could choose, but would not be required, to make at trial. The jury can believe all, part or none of any testimony, including the evidence regarding statements Davis made to the police. A jury could conclude, despite Davis' denials, that Davis was involved in the entire incident. Davis actively participated in the kidnapping of Mr. Dailey and Ms. Seese, who were held against their will throughout the incident until their deaths. In his interview, he knew he would be charged with conspiracy with Troy Bailey and asked how much time he would get.

The evidence also showed that there was a theft, an attempted theft or flight after a theft or attempted theft. Although it appears that Mr. Dailey was shot inside the vehicle, his wallet was rummaged through and his empty wallet, three cards and cell phone were located on the ground outside the rear driver's side of the vehicle. Davis' counsel argues that there is no evidence that there was cash inside the wallet before the incident occurred. This argument does not justify dismissal of the robbery charges. Either the wallet was rummaged through and cash was taken which would mean a theft occurred or no cash was found, which would mean an attempted theft occurred.

The evidence also shows that Mr. Dailey was inside his vehicle with Defendant for

warrant for this residence but did not find any property of the victims during the search.

forty minutes while Troy Bailey took Ms. Seese inside the Short Street residence. Mr. Dailey did not know Defendant. Defendant claimed that he did not have a firearm but admitted that Mr. Dailey probably thought that he did. The logical inference from this evidence is that Dailey had been threatened with or was in fear of immediate serious bodily injury. Furthermore, Mr. Dailey could not have been held this long outside of the presence of Troy Bailey if Defendant was not acting as Troy Bailey's accomplice or co-conspirator.

With respect to Ms. Seese, not only was her purse rummaged through and her property strewn on the ground on the passenger side of the vehicle, but her cell phone, identification and bank card were taken from the scene. Her bank card was discovered a day or two after the homicide on the sidewalk on West Fourth Street near Dunkin Donuts by an employee. Her cell phone was discovered in Lycoming Creek near the bridge/overpass. During his interview with the police, Davis said he walked home and in doing so, he walked on the sidewalk in front of Dunkin Donuts on West Fourth Street, continued walking past Memorial Park, and turned left near a former church and walked up Cemetery Street. Although he later claimed that he lied about that, the credibility of his statements and determining which ones, if any, were truthful is the function of the jury.

Once a conspiracy has been proven, conspirators are liable for the acts of co-conspirators in furtherance of the conspiracy. *Lambert*, 795 A.2d at 1016. A reasonable jury could find that shooting Mr. Dailey and Ms. Seese, forcing Mr. Dailey to pull his pants down around his ankles, and rummaging through and taking some of their property was in furtherance of the kidnapping or the flight thereafter. A jury could infer that these actions were undertaken to deflect suspicion from Defendant and Troy Bailey and to make it look like Mr. Dailey and Ms. Seese were involved in an intimate relationship and that while they

were in a vulnerable position they were robbed by individuals unknown to them. As Defendant was involved in the kidnapping, he also has a motive to make sure that the victims were not around to point the finger at him. Although Defendant denied knowing that Troy Bailey was going to rob or kill Mr. Dailey and Ms. Seese, in another portion of his interview he stated that he thought Troy Bailey was going to cause harm to somebody but he didn't know it was going to be Ms. Seese.

Additionally, despite Davis' denials, one could infer that he was involved in the shootings. He acknowledged in his interview that Dailey probably believed he was armed. Therefore, at a minimum, Davis contributed to Mr. Dailey's fear and helped keep him from trying to escape prior to his death. Furthermore, Mr. Dailey was shot in the face at close range, based on the stippling around the gunshot wound on his nose. The deputy coroner testified on cross examination that, in her opinion, Mr. Dailey was killed inside the vehicle. His body from the hips down were in the driver's seat and his upper body was slumped across the center console. There was significant blood in the front passenger seat, and some seeped through to below and behind the seat onto the floor. The pathologist testified that the gunshot wound to the nose/face was an entrance wound with stippling and broke facial bones, travelled to the back of the oral cavity, through the first cervical vertebrae, and exited the right side of Mr. Dailey's neck. Davis, by his own statements, was the occupant of the front passenger seat.

Given the totality of circumstances including the path of the gunshot wound to the face, one could infer that Mr. Dailey's head was turned at least somewhat to the side toward the right/front passenger area and someone in the front passenger area shot Mr. Dailey in the face, not the rear driver's side passenger. A shot from the rear passenger area would enter the

back of the head, not the face/nose area if Mr. Dailey's head was facing forward, or pass through one side of the nose and exit the other side of the nose if Mr. Dailey's head was turned toward the right or to the left.

There also was a gunshot wound to the back of Mr. Dailey's head, which would be more consistent with Troy Bailey being the shooter for that gunshot wound since Davis told police that Bailey was seated in the back seat behind Mr. Dailey. There were partial exits for this bullet. The bullet entered the back of the head, injuring the skin, soft tissue, skull, and then the brain. Due to the curvature of the back of the skull, part of the bullet went into the brain and part created an exit wound on the right side of the head. Davis told police that Troy Bailey was seated in the back seat behind the driver's seat.

The deputy coroner testified that Ms. Seese was probably killed outside the vehicle. There was a swipe of blood on the outside of the rear passenger door. The pathologist testified that Ms. Seese had a gunshot wound to her left arm from the outer or lateral area of the left arm to the medial or inside area of the left arm where the arm pit is. She also had two gunshot wounds to the back of her head close enough together that he could not tell which was associated with the recovery of bullet fragments from the base of the brain and which was associated with the exit wound on the front forehead area.

Defendant told police that Troy Bailey was seated in the rear driver's side seat and Ms. Seese was seated in the rear passenger side seat. This would place Bailey on the left side of Ms. Seese next to her left arm. If Bailey shot Ms. Seese in the arm as she was attempting to exit or flee from the vehicle and then shot her twice in the back of the head, the blood on the rear passenger door could be from the gunshot wound to her left arm grazing the passenger door as she fell face down on the ground on the passenger side of the vehicle from

the gunshot wounds to the back of her head.

Defendant was involved in the kidnapping. As a result of the kidnapping, Mr. Dailey and Ms. Seese were shot and their property was rummaged through and some items were taken from the scene. Therefore, the evidence was sufficient to show a prima facie case that during the course of committing a theft, an attempted theft or the flight thereafter, Troy Bailey and/or Defendant, who were co-conspirators, inflicted serious bodily injury to Mr. Dailey and Ms. Seese.

Since the shooting of Mr. Dailey and Ms. Seese was arguably in furtherance of the conspiracy to commit kidnapping or flight thereafter, regardless of who shot whom, there is sufficient evidence to hold Davis on robbery

There also is sufficient evidence for robbery by threatening another with or putting another in fear of immediate serious bodily injury. Defendant admitted that Troy Bailey was armed and that the victims were aware of his possession of a firearm. Although Davis denied possessing a firearm, he admitted that Mr. Dailey probably believed that he was armed. The fact that the robbery occurred after the victims were kidnapped by being forced into Mr. Dailey's vehicle also shows that the victims would have been intentionally placed in fear of immediate serious bodily injury.

The Commonwealth also charged Davis with robbery while committing or threatening to commit a felony of the first or second degree. In this case, the Commonwealth has alleged that the felony committed or threatened was kidnapping. All of the kidnapping charges in this case are felonies of the first degree. Davis participated in the kidnapping as an accomplice and/or co-conspirator. The Textron video shows him participating in the

kidnapping of Mr. Dailey and Ms. Seese. The robberies occurred during the kidnapping. The kidnapping did not cease when Mr. Dailey and Ms. Seese were taken to 1917 Short Street; rather, the kidnapping continued while they were transported to the area near Lycoming Supply and remained held at that location against their will. The robbery, theft, and killing were in furtherance of the kidnapping or the flight thereafter. Individuals are liable for the acts of their co-conspirators in furtherance of the conspiracy. Therefore, Davis would be responsible for the actions of Troy Bailey.

3. Theft By Unlawful Taking

A person is guilty of theft if he unlawfully takes, or exercises unlawful control over, movable property of another with intent to deprive him thereof. 18 Pa. C.S.A. §3921(a). Davis and Bailey exercised unlawful control over the movable property of the Mr. Dailey by forcing him into his vehicle and forcing him to drive places in the city including the location of his death. The deputy coroner did not see the keys inside the vehicle or at the scene. Davis participated in the kidnapping during which unlawful control was exercised over Mr. Dailey's vehicle. He was permanently deprived of his vehicle when, during the kidnapping or flight thereafter, they killed him.

Ms. Seese's cell phone, identification and bank card were removed from the scene. The cell phone was discarded in Lycoming Creek. The identification card and bank card were discarded near Dunkin Donuts and on Beeber Street. In his interview with the police, Davis claimed that he was walking on West Fourth Street in front of Dunkin Donuts. From this evidence the jury could infer that Davis took the card and discarded it near Dunkin Donuts. The thefts from Ms. Seese occurred during the kidnapping. Davis participated in

the kidnapping. The thefts were part of the kidnapping or flight thereafter. Therefore, the Commonwealth presented a prima facie case for the theft counts.

Motion to Suppress Davis' Statements to Police During Interview at Clinton County Prison on March 1, 2024

On February 29, 2024, Davis was incarcerated on felony drug charges at the Clinton County Correctional Facility (CCCF) in lieu of \$100,000 bail.¹⁹ The next day, March 1, 2024, Lycoming County Detective Steven Sorage and Williamsport Bureau of Police (WBP) Agent Benjamin Hitesman traveled to the CCCF to interview Davis about this homicide case. The officers told Davis that they had gathered more information in the six weeks since the incident and they wanted to speak with him about Troy Bailey's comings and goings on the night of the incident. Davis said, "Yeah, yeah, yeah. Man, what y'all want to know." Detective Sorage explained that they had to read Davis his Miranda rights first because he was in custody. Officer Hitesman read the Miranda warnings to Davis and asked him if he understood those rights. Then the following exchange occurs:

MUHAMMAD DAVIS: Yeah, so—without—without you all questioning a lawyer be here, right?

DETECTIVE SORAGE: Pardon?

MUHAMMAD DAVIS: A la—a lawyer could be here, right?

DETECTIVE SORAGE: If you don't want to talk to us without an attorney you don't have to talk to us.

¹⁹ He was incarcerated in Clinton County so that he and Troy Bailey, his co-conspirator in this homicide case, were not housed in the same facility.

MUHAMMAD DAVIS: Yeah, yeah, I rather have a lawyer.

DETECTIVE SORAGE: You don't want to talk to us then?

MUHAMMAD DAVIS: No. Huh-uh.

DETECTIVE SORAGE: Okay. Okay

MUHAMMAD DAVIS: I'm not incriminating myself whereas—where I gave a, you know, like me and my wife own stories, you know, like (inaudible) I'm not incriminating myself.

DETECTIVE SORAGE: Well, the only way you can incriminate yourself is if you didn't tell the truth then, or if things changed, or if you – if there's something else that's different.

MUHAMMAD DAVIS: No, ain't nothing different. There's nothing different (inaudible) nothing different.

DETECTIVE SORAGE: Okay, but if you don't want to talk to us without an attorney that's up to you. I mean there's some more things about Troy that we know that we didn't know then that, you know, might change what –how you feel. I don't know, but I can't talk to you if you don't want to talk to us without an attorney.

MUHAMMAD DAVIS: I'll talk.

DETECTIVE SORAGE: You'll talk?

MUHAMMAD DAVIS: Yeah, I'll talk.

After this exchange, Agent Hitesman read the Miranda rights to Davis again. Davis said he understood them. Agent Hitesman then asked Davis if, with these rights in mind, he wished to talk without having an attorney present. Davis said "I will" and then he initialed, signed and dated the Miranda waiver form.

□□

At the suppression hearing, Detective Sorage testified that they went to CCCF to interview Davis about the double homicide that had occurred in mid-January. Troy Bailey was a suspect and he resided at 1209 High Street with Davis and his wife. Detective Sorage was dressed in cargo pants and a polo shirt with a Lycoming County emblem. All of the interview rooms at CCCF were in use, so they were allowed to use a supervisor's office for the interview. Davis was summoned to the supervisor's office. Detective Sorage was not sure if Davis was escorted to the room by guards or if he was just called to Intake. Detective Sorage told Davis that they were not there to talk about his charges for which he was arrested the previous night; rather, they were there to talk about his association with Troy Bailey. Davis was not handcuffed or placed in leg shackles. He was not physically restrained at all inside the office. Nothing prohibited him from walking out of the interview. He could get up and say he wanted to go back to his cell, but he was not explicitly told that he could leave. Davis also was not under the influence of drugs or alcohol. Both Detective Sorage and Agent Hitesman had body cameras and Agent Hitesman started his body camera shortly after they entered the room.

Detective Sorage testified that Davis spoke in a low tone of voice and he mumbled quite a bit. Detective Sorage had difficulty hearing and understanding Davis. He heard Davis say something about incriminating himself and he thought that he was answering him and what he was saying. It seemed to Detective Sorage that Davis wanted to talk. He explained to him that the decision was his. He did not ask Davis any questions before Davis indicated that he would talk, he was read his rights again, and he waived them by initialing, signing and dating the waiver form. He did not view his statement about having more information about Troy Bailey as an inducement.

Agent Laura Kitko testified about Davis' criminal history, which was admitted as Commonwealth Exhibit 8. She noted that Davis was on active supervision. She acknowledged that despite his history, it was possible that this was the first time that Davis was interviewed by law enforcement. She also testified that Ms. Seese's cellphone was recovered in Lycoming Creek near the bridge/West Third Street overpass near the recycling center in Williamsport. This location was at or near the location of a traffic stop of Troy Bailey during which Davis was not present.

Davis' counsel argued that Davis' statements made to police on March 1, 2024 must be suppressed because Davis' rights were violated when he indicated that he wanted a lawyer, but was interrogated thereafter nonetheless. He relied on *Commonwealth v. Lukach*, 195 A.3d 176 (Pa. 2018) to support his argument that the evidence must be suppressed. He also argued that Detective Sorage's statements about having more information about Troy Bailey were an inducement.

The Commonwealth argued that suppression was not required because Davis initiated further conversation with the police after he said he wanted a lawyer to be present when he spoke about the prior statements he gave them about him and his wife. The Commonwealth argued that this case was controlled by the United States Supreme Court decision in *Oregon v. Bradshaw*, 462 U.S. 1039 (1983).

The court agrees with the Commonwealth and finds this case to be more akin to *Bradshaw* than *Lukach*. The court finds that *Lukach* is distinguishable because the police initiated further conversation and questioning without any further comments or questions by the defendant. Here, however, after Davis said that he wanted an attorney and the officers said okay, Davis started commenting about prior statements and incriminating himself.

Davis was soft-spoken, which made it difficult for the officers to hear and understand what he was saying. Even the court reporter who transcribed the interview could not decipher exactly what Davis was saying as noted by the inaudible notation in the transcript. *See* Commonwealth Exhibit 5, at 3-4.

Detective Sorage credibly testified that he was merely responding to Davis' comments. Detective Sorage reaffirmed that it was up to Davis. He repeated or paraphrased what he had already told Davis before they read him his rights that they had new information about Troy so Davis would know that they were not there to talk about the charges for which he was currently incarcerated. *See id.* at 2, 4. Davis initially freely agreed to speak with the officers when he repeatedly said yeah and asked what they wanted to know. The officers could not immediately question Davis without first reading him his Miranda warnings because Davis was in custody on other charges.

Detective Sorage calmly told Davis that he could not speak him if he didn't want to talk to them without an attorney. Davis then said he would talk. Detective Sorage confirmed what Davis had said, and Davis again said he would talk. *Id.* at 4. Agent Hitesman then re-read the Miranda warning to Davis, who indicated that he understood his rights, he agreed to talk without a lawyer present and completed the waiver form.

Neither officer threatened or coerced Davis in any manner. They did not raise their voices or do anything else leading up to the waiver to pressure Davis. Davis was not handcuffed or placed in leg shackles at all during the interview. The interview began mid-morning shortly before 10:00 a.m. and ended at lunch time. Davis was 49 years old and had several experiences with the criminal justice system between 1993 through 2021 prior to this interview on March 1, 2024.

Similar to *Bradshaw*, the court finds that Davis voluntarily waived his right to counsel and freely and willingly spoke with the officers. Therefore, the court will deny the motion to suppress Davis' statements made during the interview on March 1, 2024.

Motion to Extend Time for Mental Infirmary Related to Defense of Duress and Notice of Expert Evidence of Mental Condition

The only dispute between the parties on this issue was the length of time for the extension. This dispute is largely moot as defense counsel filed a notice on or about June 11, 2025, and the Commonwealth filed its reciprocal notice on or about June 17, 2025. To ensure that there is an adequate record and avoid any potential issues regarding the timeliness of the notices, the court would permit extensions up to and including the dates that the parties filed their notices.

ORDER

AND NOW, this 27th day of October, 2025, upon consideration of Defendant's Omnibus Pre-Trial Motion, it is ORDERED and DIRECTED as follows:

1. The Commonwealth shall file notice of 404(b) evidence and defense counsel shall file any motion in limine in accordance with the provisions of the arraignment order.
2. The court **denies** the request for a change of venue or venire without prejudice to the defense re-asserting this issue during jury selection.
3. With the agreement of the Commonwealth, the court **grants** the defense motion for a gag order. In order to protect the ability to select a fair and impartial jury that will base its verdict solely on the evidence presented during trial, neither

party nor its employees or agents shall make public comments on this case.

4. The court **grants in part and denies in part** the defense motion for a supplemental jury questionnaire. The court **denies** the request to the extent it seeks to mail a supplemental questionnaire to jurors. The court **grants** the request as follows: The parties may submit proposed supplemental jury questions to the court and opposing counsel within 30 days. Any objections to the proposed questions shall be submitted to the court within 14 days thereafter. Following the submission of questions and objections, the court will schedule an in-chambers conference with counsel to discuss the proposed questions, any objections and how any supplemental questions will be posed to the jury (whether by supplemental written questionnaire once the potential jurors for this case are present at the courthouse or whether general questions will be posed during *voir dire* and any follow-up done in camera so that the entire panel is not tainted by what other jurors may have seen or heard about this case from pre-trial publicity.
5. Based on the prosecutor's representation that the Commonwealth no longer uses systems such as NCIC and JNET to obtain data regarding potential jurors, the defense request for the Commonwealth to provide investigative information regarding potential jurors is **withdrawn without prejudice** to re-assert it in the event the Commonwealth changes its policy and gathers data about potential jurors from systems such as NCIC and JNET to which defense counsel does not have access.
6. The court **denies** the defense request for habeas corpus relief.
7. The court **denies** the defense motion to suppress evidence.

8. The court finds that the notices filed in June 2025 by the parties related to mental infirmity or duress are timely. With this ruling, the request for extension is moot.

By The Court,

Nancy L. Butts, President Judge

cc: Martin Wade, Esquire (ADA)
Donald F. Martino, Esq.
April McDonald, Deputy Court Admin.
Jerri Rook

NLB/laf