

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

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CRIMINAL DIVISION
v.	:	CR-1516-2023
	:	
ALLEN FRAZIER,	:	Motion for New Trial
Defendant	:	

OPINION

Before the Court is the Defendant’s Motion for a New Trial filed by and through his attorney, Krista Deats, Esquire, on March 20, 2025. A hearing was held on April 9, 2025. First Assistant District Attorney Martin Wade appeared on behalf of the Commonwealth; and, Attorney Krista Deats appeared on behalf of her client. The Commonwealth presented witness testimony from Korrin Moon, Esquire, and submitted several exhibits that were admitted to the record without objection from the Defendant. The Defendant did not present any witnesses, and relied on the legal argument set forth in the Motion for a New Trial.

Background

Defendant in this matter was charged with Conspiracy and Attempted Trafficking in Individuals, Unlawful Contact with Minors, Corruption of Minors, and Possession of a Controlled Substance for conduct occurring in Lycoming County, Pennsylvania, that took place on or about August 7, 2023. The Jury Trial occurred on February 24th and 25th, 2025, before this Court. After the two-day trial, the Jury returned a verdict convicting the Defendant of one count each of Conspiracy and Attempted Trafficking in Individuals, Possession of a Controlled Substance, Corruption of Minors, and two counts of Unlawful Contact with a Minor.

At the trial in February, the Commonwealth presented several witnesses, including an expert witness, Clinton Gardner. Mr. Gardner was established as an expert in this matter

based on his testimony regarding his extensive investigative experience as a law enforcement agent and as the regional director for Lantern Rescue, a non-profit organization established to raise awareness around human trafficking. In his capacity as regional director for the organization, Mr. Gardner provides training in human trafficking to law enforcement agents, courts, and facilities providing aftercare to victims. When he worked for law enforcement, Mr. Gardner was involved in approximately 50 to 100 human trafficking investigations, including the investigation of the Defendant in this matter for these charges related to trafficking in individuals. Based on his credentials, the Commonwealth submitted his testimony as an expert witness, and without objection or questioning from the Defendant, Mr. Gardner was established as an expert for the Commonwealth's presentation of its case against the Defendant.

The Defendant's Motion for a New Trial is based upon the marital relationship between Attorney Moon and Mr. Gardner that was not disclosed to Counsel for the Defense prior to trial. It was not until days after the trial was completed that Defense Counsel was made aware of the marital relationship between the prosecuting attorney and the Commonwealth's expert witness. The Defendant's Motion for a New Trial claims that the nondisclosure of the relationship by the Commonwealth to the Defendant prior to trial violated *Brady* as the information was relevant to the impeachment of the witness and as a conflict of interest effectuating a clear bias or prejudice that undermined the fairness of the trial.

Argument

In his Motion, Defendant argued that the nondisclosure creates a conflict of interest and that a *Brady* violation occurs when information that qualifies to impeach the Commonwealth's witness is withheld from the Defendant. *Commonwealth v. Weiss*, 986

A,2d 808 (Pa. 2009). Defendant specifically argued that the “relationship between the prosecutor and the police officer who interviewed all of the Commonwealth’s witnesses throughout the investigation is so close as to create a clear bias or prejudice that undermines the fairness of the trial.” (Defendant’s Motion for a New Trial, 03/20/2025, ¶9). Defendant further argued that the United States Supreme Court determined in *United States v. Bagley* that impeachment evidence falls within the *Brady* rule, and held that “regardless of request, favorable evidence is material, and constitutional error results from its suppression by the government and, if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.” *Bagley*, 473 U.S. 667 (1985). The Defendant further argued that when evaluating whether a reasonable probability of a different outcome is demonstrated, “the question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence.” *Kyles v. Whitley*, 514 U.S. 419 (1995). Accordingly, in his Motion, the Defendant argued that a prosecutor’s personal relationship with an arresting officer, especially marriage, creates a perception or reality of bias, potentially influencing the prosecutor’s decisions and actions in a case. Defendant contended that the failure of the Prosecution to provide the impeachment evidence to the Defense, as well as the conflict itself, created a bias that undermined the fairness of the Defendant’s trial. Thus, Defendant requests a new trial in light of the impeachable evidence discovered after the fact.

At the hearing on the Motion on April 9, 2025, the Commonwealth presented Korrin Moon, Esquire, and prosecuting attorney on behalf of the Commonwealth for the Defendant’s trial on the 24th and 25th of February, 2025. Attorney Moon was assigned to prosecute this matter by the Commonwealth due to the assistant district attorney originally

assigned to the case being out on maternity leave. In her testimony, Attorney Moon stated that the Commonwealth contacted her and requested her involvement in the case in or around December of 2024. Attorney Moon did not represent the Commonwealth in this matter for the preliminary hearing, which she believed to occur in or around August of 2024. Attorney Moon further testified that she did not have a specific conversation with Attorney Deats, counsel for the Defendant, regarding her marital status to Mr. Gardner. However, Attorney Moon stated that the parties' wedding ceremony was in September of 2024, and although the relationship was not disclosed, the pair have Facebook photos together specifically depicting their wedding. Moreover, Attorney Moon stated that Counsel for the Defendant was in the vicinity when Attorney Moon spoke with a different attorney about her wedding with "Clint." Attorney Moon further stated that if one were to search her name in a search engine, one of the top results would be her wedding registry made with Clinton Gardner, and advertised with both of their names. It was Attorney Moon's understanding that, within this county, the marital relationship between the parties was generally known, so while it was not deliberately withheld from Counsel for the Defendant, it was also not specifically disclosed.

Attorney Moon also testified about her role as the president and founder of Lantern Rescue. Regarding this relationship, Attorney Moon stated that Mr. Gardner's employment and involvement with Lantern Rescue was discovered in the expert report and Curriculum Vitae ("C.V.") provided to Defense Counsel prior to the trial and the affiliation was elicited during his testimony at trial. Moreover, Attorney Moon stated that a Google search of Lantern Rescue will provide a link to the website that depicts Attorney Moon as the face of the organization, as well as her role as president and founder of the organization. While the testimony at trial did elicit that Mr. Gardner was employed by Lantern Rescue, his

relationship with the prosecuting attorney and the president and founder of Lantern Rescue was not elicited during his testimony. Additionally, it was elicited that Mr. Gardner worked for Lantern Rescue, but there was no evidence or testimony or disclosure related to Attorney Moon's major role within the organization as its founder, president, and face of the company.

The Commonwealth argued that to establish a *Brady* violation, a defendant must show that: "(1) the prosecution concealed evidence; (2) which was either exculpatory evidence or impeachment evidence favorable to him; and (3) he was prejudiced by the concealment." *Commonwealth v. Simpson*, 620 Pa. 60, 79, 66 A.3d 253, 264 (2013). In order to demonstrate prejudice, a defendant must show "a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *Id.*, citing *Clark*, 599 Pa. at 219, 961 A.2d at 89. For these purposes, a reasonable probability "undermines the confidence in the outcome of the trial." *Commonwealth v. Simpson*, 620 Pa. 60, 79, 66 A.3d 253, 264 (2013)(citing *Kyles v. Whitley*, 514 U.S. 419, 4439, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995)).

The Commonwealth argued that Mr. Gardner's presence in the courtroom during the trial as the expert witness is a common practice because an expert's testimony relies on the testimony of others' and factors presented during trial. The Commonwealth asserted that counsel for the Defendant has an affirmative obligation to inspect the credentials of expert witnesses, and if that occurred then Attorney Deats should have known about Mr. Gardner's and Attorney Moon's roles and working relationship with Lantern Rescue.

The Commonwealth argued that the prosecuting attorney did not deliberately withhold the information regarding the marital status between herself and the expert witness. The Commonwealth further argued that no information regarding this relationship was concealed; and, in fact, Counsel for the Defendant could have conducted a few searches to

reveal the relationship between the parties and Attorney's Moon's role in Lantern Rescue to impeach the expert witness. The Commonwealth argued that under *Kyles v. Whitely*, the Defendant bears the burden of establishing that the evidence would cast the whole case in a different light and undermine the confidence and outcome returned by the Jury at trial. The Commonwealth strongly disputed that this line of questioning directed at the expert witness would reap any meaningful value regarding the verdict that the Jury returned in this matter. The Commonwealth further stated that impeaching Mr. Gardner with this evidence is distasteful. The Commonwealth contended that the mere possibility that the evidence could have bolstered the Defendant's case does not establish the requisite materiality to order a new trial under *Brady*.

Analysis

I. Brady Claim

To establish a *Brady* violation, a defendant must show that: “(1) the prosecution concealed evidence; (2) which was either exculpatory evidence or impeachment evidence favorable to him; and (3) he was prejudiced by the concealment.” *Commonwealth v. Simpson*, 620 Pa. 60, 79, 66 A.3d 253, 264 (2013). Additionally, “*Brady* evidence may not be cumulative of other evidence, cannot have been equally available to the defense, and cannot have been discoverable through the exercise of reasonable diligence.” *Commonwealth v. Simpson*, 620 Pa. 60, 80, 66 A.3d 253 (2013)(internal citations omitted). “In assessing the significance of evidence withheld, a reviewing court must bear in mind that not every item of the prosecution's case would necessarily have been directly undercut had the *Brady* evidence been disclosed.” *Commonwealth v. Weiss*, 604 Pa. 573, 586, 986 A.2d 808 (2009)(citing *Kyles v. Whitley*, at 451).

The *Weiss* Court emphasized that “the question is not whether the jury would have reached a different verdict had the alleged impeachment evidence” *Weiss, supra* at 586, 604 Pa. 573 (2009), been made available, rather the question is whether a defendant received a fair trial worthy of confidence in the verdict in the absence of the alleged impeachment evidence. *Id.* In *U.S. v. Bagley*, 473 U.S. 667, 678 (1985), the Supreme Court determined that “impeachment evidence...as well as exculpatory evidence, falls within the *Brady* rule, and held that regardless of request, favorable evidence is material, and constitutional error results from its suppression by the government ‘if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.’” *Weiss, supra* at 585, 604 Pa. 573 (2009). Accordingly, a reviewing “court must consider whether the disclosure of the impeachment evidence to competent counsel would have made a different result reasonably probable.” *Id.* A “reasonable probability” is demonstrated “when the government’s suppression of evidence ‘undermines the confidence in the outcome of the trial.’” *Id.* at 585, citing *U.S. v. Bagley*, 473 U.S. 667, 678 (1985).

Here, the Defendant asserts that he did not receive a fair trial because impeachment evidence that could have been used to impeach the Commonwealth’s expert witness was not disclosed. The Commonwealth conceded that the evidence does qualify as impeachment evidence, so, the Court must determine whether the Defendant received a fair trial worthy of confidence in the verdict and whether the disclosure of the evidence to the Defendant’s competent counsel predicates that a different result at trial was reasonably probable.

First, the Court finds the Commonwealth’s contention that attacking the expert witness’s credibility on the basis of his marriage to the prosecuting attorney would be in poor taste is of no moment. The Defendant and his Counsel possess a right to receive impeachable evidence, regardless of how or if the party intended to use the evidence at trial against the

witness. It is up to the Defendant to determine if he believes certain questioning may have a negative impact on his case. As with all questioning, a party bears some risk a jury will find it repulsive.

Second, Attorney Moon practices law under her maiden name. Thus, there is nothing that would obviously raise the potential marital relationship with Mr. Gardner. The Court finds that while there was no intentional misleading of the Defendant or Counsel for the Defendant regarding the marital status, the failure to affirmatively disclose it led to the potential inadvertent concealment due to the fact that Attorney Deats is not a local attorney based in Lycoming County. The Court finds that this combination of factors led to the inadvertent concealment of the marital relationship between Attorney Moon and Mr. Gardner.

Regardless of how the concealment occurred, the inability of the Defendant to effectively utilize impeachment evidence against an expert witness for the Commonwealth inhibits the Defendant's right to a fair trial and the right to confront witnesses under the Sixth Amendment. Disregarding this right substantiates the prejudice necessary to overcome the requirements under *Brady*. Minor as it may seem, the intimate relationship between a prosecuting attorney and her expert witness paired with a close working relationship within the same organization is viewed by this Court as material impeachment evidence that defeats the threshold requirements under the *Brady* rule.

Finally, the Commonwealth argued that Counsel for Defense had a duty to exercise due diligence in discovering equally available evidence. The Commonwealth argued that the evidence of the intimate relationship was easily discoverable through Google searching and social media investigation. However, the Court finds that Counsel for the Defendant had no reason to be looking for evidence of a marital relationship between the Prosecution and a

witness. Unless Attorney Deats or the Defendant knew of the marital relationship there would be no reason for Attorney Deats to investigate for a potential relationship. As Attorney Moon and Mr. Gardner interacted in a professional manner throughout their time in court in this matter, there would be no reason to suspect a marital relationship. Thus, Counsel for the Defendant did not know that there even was equally available and discoverable evidence to reach a level of exercising due diligence in investigating Attorney Moon's relationship with Mr. Gardner, let alone considering the implications Attorney Moon's marital status would mean at trial for the Defendant. In consideration of the aforementioned reasons, the Court finds that the Commonwealth's failure to affirmatively disclose this impeachment evidence constitutes a violation under *Brady* that undermines the confidence of the outcome of the trial.

II. Conflict of Interest Claim

Additionally, Defendant included a conflict of interest claim in his Motion. As the Court determined the information regarding the marital relationship requires granting the Defendant a new trial, the Court will not address the alleged conflict of interest, as it is deemed irrelevant at this point.

Conclusion

Under the standard for determining a valid *Brady* claim, the Defendant established that the evidence withheld was impeachment evidence, and had the evidence been disclosed to the defense there is a reasonable probability that the proceeding would have resulted differently because the government's failure to disclose the evidence effectively undermined the confidence in the outcome of the trial. Here, based on the parties' testimony and arguments, and the Court's findings, the Defendant did establish that a *Brady* violation occurred so as to warrant a new trial in this matter.

Accordingly, the Court enters the following Order:

ORDER

AND NOW, this **22nd day of April, 2025**, for the aforementioned findings of facts, conclusions of law, and reasons set forth above, the guilty verdict is **VACATED**; and, the Defendant's Motion for a New Trial is **GRANTED**.

By the Court,

Ryan M. Tira, Judge

RMT/asw

CC: DA

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