

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

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
	:	<b>CRIMINAL DIVISION</b>
<b>v.</b>	:	<b>CR-918-2024</b>
	:	
<b>STACY F. HENRY,</b>	:	<b>Omnibus Pretrial</b>
<b>Defendant</b>	:	<b>Motion</b>

**OPINION**

This matter was before the Court on November 12, 2024, on the Defendant's Omnibus Pretrial Motion filed on September 3, 2024. The Defendant is charged in the Criminal Information for incident occurring on or about June 24, 2024. Defendant in this matter is charged with one count each of: (1) Possession with Intent to Deliver a Controlled Substance, an ungraded Felony; (2) Criminal Use of a Communication Facility, a Felony of the Third Degree; (3) Criminal Attempt–Persons not to Possess, Use, Manufacture, Control, Sell, or Transfer Firearms, a Felony of the Second Degree.

The preliminary hearing occurred on July 2, 2024, before Magisterial District Judge Carl Frey. All criminal charges were bound for court. At his preliminary hearing, the Defendant elected to proceed pro se. On August 5, 2024, the Defendant was formally arraigned and placed on the trial list. On September, 16, 2024, the Honorable Nancy L. Butts, President Judge conducted a *Grazier* Hearing finding the Defendant knowingly, intelligently, and voluntarily forfeited his right to representation by counsel in this matter<sup>1</sup>. The appointment of standby counsel followed on September 17, 2024, issued by the Honorable Nancy L. Butts, President Judge<sup>2</sup>.

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<sup>1</sup> See Order, Re: Grazier Hearing, 09/16/2024; filed on 09/20/2024.

<sup>2</sup> See Order Appointing Standby Counsel, 09/17/2024; filed on 09/17/2024.

On November 12, 2024, a hearing on the Defendant's Omnibus Pretrial Motion occurred before this Court. The Defendant's Motion contains a Motion to Suppress his Warrantless Arrest, a Petition for a Writ of Habeas Corpus, various motions related to discovery, and a Motion for Leave to File Supplemental Motions.

### ***Background***

At the hearing on the Motion, the Commonwealth presented Detective Kevin Dent with the Lycoming County Narcotics Enforcement Unit to provide testimony regarding the events resulting in the Defendant's arrest. Detective Dent testified that on or around June 21, 2024, he was contacted by a confidential informant who advised the Detective that he was in contact with an individual known as "Big" who was interested in trading drugs for firearms. Detective Dent directed the confidential informant to facilitate the deal with "Big." Detective Dent also stated that the confidential informant provided him with a still-shot of "Big" that Detective Dent distributed to local law enforcement for identification purposes. Through that procedure, the individual was identified as Stacy Henry, the Defendant in this matter. Detective Dent further stated that the confidential informant set up an exchange of drugs for firearms to occur on June 25, 2024, at the Burger King on Maynard Street in Williamsport, Lycoming County, Pennsylvania. Detective Dent stated that the arrangement was facilitated through calls and text messages between the Defendant and the confidential informant.

On the day of the transaction, Detective Dent arrived at Burger King in an undercover car with Detective Sarah Edkin. The two detectives set up in the back-parking lot, and the confidential informant traveled to Lock Haven, Pennsylvania to pick up the Defendant and transport him to Burger King. Detective Dent further testified that the confidential informant was surveilled to Lock Haven and back by Detective Caschera, and that a video recorder was placed in the informant's vehicle that depicted the Defendant in the car with the confidential

informant. The video recording device used in the confidential informant's car recorded only visual footage. There was no audio recording of the car ride. The Defendant and the confidential informant met Detective Dent in the back-parking lot, and Detective Dent had the Defendant enter his undercover vehicle in the front seat. Detective Dent stated that the Defendant was in the front passenger seat of the undercover vehicle, and he entered the back-passenger compartment whereupon the parties negotiated the deal of drugs for firearms. Detective Dent stated that the deal was one firearm for three "balls of cocaine" from the Defendant. Detective Dent testified that, during the course of this investigation, he ran Mr. Henry's criminal history and it came back that he has a prior conviction for delivery of a controlled substance or possession with intent to deliver a controlled substance.

The Defendant made the offer of "three balls of cocaine" for one firearm. Detective Dent testified that the substance was later field tested and tested positive as cocaine. Detective Dent further testified that while negotiating the deal, he asked the Defendant if he would need any ammunition for the firearm. The Defendant responded that he would need ammunition, and Detective Dent exited the vehicle to retrieve the firearm which was the signal to surveilling law enforcement to arrest the Defendant. Detective Dent stated that Detective Havens observed the interaction via live visual and audio feed transmitted to another vehicle.

The testimony of Detective Dent was presented at the hearing to support the Commonwealth's *prima facie* case. To address the Defendant's Motion to Suppress, the Commonwealth submitted the Criminal Complaint and the Affidavit of Probable Cause as Commonwealth Exhibit 1. Without objection from the Defendant, the exhibit was admitted to the Court. The Defendant did not present any witnesses or exhibits, and both parties relied on argument to further support their respective positions regarding the Defendant's Omnibus

Pretrial Motion. At the conclusion of the hearing, the Defendant requested to file additional memoranda of law to support his motion to suppress. The Court granted the request and provided the Defendant and the Commonwealth twenty (20) days to file supporting memoranda of law.

### ***Analysis***

#### **I. DEFENDANT’S PETITION FOR WRIT OF HABEAS CORPUS**

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. *Commonwealth v. Dantzler*, 135 A.3d 1109, 1112 (Pa. Super. 2016). This burden may be met by utilizing the evidence available at a preliminary hearing and also may produce additional proof. *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 which requires the Commonwealth to present evidence of each element of every crime charged. *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa. Super. 2001); *see also* Pa.R.Crim.P. 141(d). In its consideration, a court does not factor in the weight and credibility of the evidence. *Id.*; *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”). “[T]he weight and credibility of the evidence are not factors at this stage, and the Commonwealth need only demonstrate sufficient probable cause to believe the person charged has committed the offense.” *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa. Super. 2001). “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 in Count 1 with Possession with Intent to Deliver, an ungraded Felony under 35 P.S. Section 780-113 subsection (a)(30) providing that “[e]xcept 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” is prohibited within the Commonwealth.

At the preliminary hearing and at the hearing on the Defendant’s Motion, the Commonwealth proffered evidence and testimony that supports a finding that the Defendant intended to partake in the trade of drugs for firearms. The Commonwealth elicited testimony at the hearing on the Motion that the Defendant was recorded via video footage being transported in the confidential informant’s car to the transaction site at Burger King. Additionally, the evidence promotes the finding that the Defendant intended to appear at Burger King to conduct the trade of drugs for firearms. Moreover, Detective Dent’s testimony established that the two concluded the deal, or at least arrived at an agreement to transfer their respective offers. The finality of the negotiation evidences the Defendant’s intent to deliver cocaine at Burger King which leads the Court to believe that the Defendant was present at Burger King with drugs on or about his person. Accordingly, the Court finds that the Commonwealth has established its burden in establishing a *prima facie* case against the Defendant for Count 1 exists sufficiently to proceed to trial.

Next, the Defendant is charged in Count 2 with Criminal Use of a Communication Facility under 18 Pa.C.S.A. Section 7512 that provides that, “[a] person commits 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 act of April 17, 1972, known as The Controlled Substance, Drug, Device and Cosmetic Act. Every instance where the communication facility is utilized constitutes a separate offense under this section.”

At the hearing, Detective Dent testified that the confidential informant contacted the individual known as “Big” through phone calls and text messaging. Detective Dent later independently verified the identity of “Big” as Stacy Henry, the Defendant. The Affidavit of Probable Cause also contains information regarding the phone number consistently used to facilitate these communications between the confidential informant, the NEU, and the Defendant. Ultimately, the parties settled on the plan to meet at Burger King on Maynard Street in Williamsport and trade drugs for firearms. The Commonwealth argued that it has met its burden of establishing a *prima facie* case because the Defendant was identified independently by Detective Dent on a tip from the confidential informant and because Defendant is the individual who appeared then the facts support the finding that the Defendant was the individual conducting the phone communication regarding the transaction.

The Court agrees with the Commonwealth. Accordingly, the Court finds that the Commonwealth has met its burden in establishing that the Defendant utilized a communication facility to facilitate a criminal act under The Controlled Substance, Drug, Device and Cosmetic Act. Thus, the evidence presented is sufficient to establish a *prima facie* case against the Defendant regarding Count 2.

Finally, the Defendant is charged in Count 3 with Criminal Attempt–Persons not to Possess a Firearm under 18 Pa.C.S.A. Section 6105 (a)(1) which provides that “[a] person

who has been convicted of an offense enumerated in subsection (b), within or without this Commonwealth, regardless of the length of sentence or whose conduct meets the criteria in subsection (c) shall not possess, use, control, sell, transfer or manufacture or obtain a license to possess, use, control, sell, transfer or manufacture a firearm in this Commonwealth.” “A person commits a criminal attempt when, with intent to commit a specific crime, he does any act which constitutes a substantial step toward the commission of that crime.” 18 Pa.C.S.A. §901(a).

Here, the Commonwealth provided evidence that the confidential informant knew of an individual, later identified as the Defendant, who was looking for options to trade drugs for firearms. With Detective Dent’s directive, the confidential informant established the meeting to negotiate the deal. Detective Dent independently verified the individual’s identity and determined that the Defendant has a prior conviction that precludes him from owning or possessing firearms. The Commonwealth further provided testimony that the Defendant did present at Burger King to facilitate the negotiation and leave with a firearm.

Accordingly, the Court finds that the Commonwealth has satisfied its burden of establishing a *prima facie* case against the Defendant for Count 2, Criminal Attempt–Persons not to Possess a Firearm.

## **II. SUPPRESSION ISSUES**

### **a. Defendant’s Assertions Challenging his Warrantless Arrest**

#### **(i) Defendant’s contention that the detectives did not possess sufficient probable cause to effectuate his warrantless arrest and thus, his arrest should be suppressed**

In this matter, Defendant contends that the offenses with which he is charged did not happen nor did the events follow the sequence as outlined in the Criminal Complaint and Affidavit of Probable Cause. Specifically, Defendant contests that he is charged with the

delivery of a controlled substance, when a hand to hand transaction involving controlled substances did not occur. Thus, Defendant asserted that probable cause did not exist to effectuate the warrantless arrest on June 24, 2024. Defendant also raises issues with the reliability of the Confidential Informant in this matter, and his participation in the establishment of the agreed upon transaction of firearms for drugs.

The Commonwealth argued in its supplemental memoranda that all offenses with which the Defendant is charged are felonies, and as such, the commission of any one justifies the warrantless arrest of the Defendant. Moreover, the Commonwealth argued that on the date in question, NEU officers possessed the requisite probable cause to believe that all three of the alleged felony offenses were committed. More specifically, for Counts 1 and 2, the Defendant was found with an amount of drugs on his person, and the amount found is consistent with that of an individual involved in drug trafficking. Also, the Commonwealth alleged that the Defendant presented Detective Dent with drugs in an undercover vehicle and proceeded to inform Detective Dent about the drugs he could provide to Detective Dent.

The Commonwealth further argued that the Defendant was found in possession of a cell phone. Moreover, because the transaction date, time, and location were established through cell phone communication, and the Defendant presented at Burger King within the parameters specified, Detective Dent possessed the requisite probable cause to believe a warrantless arrest was justified for the charge of criminal use of a communication facility.

Additionally, the Commonwealth argued that because the Defendant presented at the precise location of the specified transaction, and proceeded to engage in conversation with Detective Dent regarding the exchange of drugs for firearms, an attempt was substantiated. An attempt simply requires an actor taking a substantial step toward the commission of the crime. Accordingly, the Commonwealth concluded that the Defendant's presence at the



precise location of the scheduled transaction indicates that the Defendant took a substantial step toward the commission of the offense of Possession of a Firearm Prohibited—Attempt.

The Commonwealth agreed with the Defendant that the reliability of a confidential informant requires more than a blanket statement by the affiant that the informant is reliable. The Commonwealth further posited that objective facts as to a specific informant's reliability must substantiate the assertion thereof in order to support a finding of probable cause. Accordingly, the Commonwealth argued that Detective Dent, the affiant, testified to his use of the particular informant in the past. Moreover, Detective Dent corroborated the information provided to him by the informant regarding the identity of the individual known as "Big." Thus, the Commonwealth argued that Detective Dent's independent corroboration of the informant's tip renders moot arguments related to the reliability of the informant.

The Commonwealth argued that the totality of the circumstances and facts present to NEU detectives on the day of the arrest provided more than the requisite probable cause to effectuate the warrantless arrest. The Commonwealth bolsters its argument by stating that for felony charges to be filed, an affiant is required to receive approval from the Commonwealth. The Commonwealth determines if sufficient probable cause exists to justify the charges, and because the Commonwealth approved the charges in this matter then the Commonwealth determined that sufficient probable cause existed to file the Criminal Complaint.

In general, a police officer must have a warrant to arrest an individual in a public place unless they have probable cause to believe that a felony has been committed, and the person to be arrested is the felon. *Commonwealth v. Dozier*, 99 A.3d 106 (Pa. Super. 2014). The touchstone of appropriateness for a warrantless arrest is the existence of probable cause. *Commonwealth v. Romero*, 673 A.2d 374, 377 (Pa. Super. 1996). "Probable cause to effectuate an arrest exists when the facts and circumstances within the knowledge of the

arresting officer are reasonably trustworthy and sufficient to justify a person of reasonable caution in believing that the arrestee has committed [or is committing] an offense.” *Id* at 377. The standard for probable cause for warrantless arrest is probability not a *prima facie* showing of criminal activity. *Commonwealth v. Quiles*, 619 A.2d 291, 298 (Pa. Super. 1993) citing *Commonwealth v. Kloch*, 230 Pa.Super. 563, 327 A.2d 375 (1974). A reviewing court must reach its probable cause determination by using a common-sense, non-technical approach, and considering “the factual and practical considerations of everyday life on which reasonable and prudent men act” employing the perspective of police officers rather than that of an average citizen. *Id* at 376-77.

Additionally, in determining whether probable cause existed to effectuate the warrantless arrest, a court will consider the “totality of the circumstances” and all of the factors total effect as it appeared to the arresting officer. *Commonwealth v. Quiles*, 619 A.2d 291, 298 (Pa. Super. 1993). “In dealing with questions of probable cause, a court must be cautious to remember that it is not dealing with certainties, but with factual and practical considerations of daily life on which reasonable and prudent people act.” *Id* citing *Commonwealth v. Simmons*, 295 Pa.Super. 72, 83, 440 A.2d 1228, 1234 (1982), quoting *Commonwealth v. Kazior*, 269 Pa.Super. 518, 522, 410 A.2d 822, 824 (1979).

Here, the detectives’ use of a confidential informant to effectuate the agreed upon transaction paired with Detective Dent’s preemptive corroboration of the informant’s tip of the Defendant’s identity establish that if the Defendant appeared then the detectives possessed the requisite probable cause to justify a warrantless arrest. Additionally, the offenses charged in this matter are all felonies, accordingly, the Defendant’s participation thereof in the presence of detectives speaks to the probable cause necessary to conduct a warrantless arrest.

Thus, in considering the totality of the circumstances using a common-sense non-technical approach, the Court agrees with the Commonwealth and finds that sufficient probable cause existed to effectuate the warrantless arrest in this matter. Accordingly, Defendant's Motion to Suppress the Warrantless Arrest is **DENIED**.

**(ii) Defendant's assertion that the conduct of the Lycoming County Narcotics Enforcement Unit detectives' conduct amounted to entrapment so his arrest should be suppressed**

The essence of Defendant's argument here is that the Lycoming County NEU perpetuated entrapment of the Defendant because the NEU employed a confidential informant to induce the Defendant to partake in criminal activity when the NEU instructed the informant to contact the Defendant to disclose that the informant knew of an individual looking to trade firearms for drugs. Defendant appropriately identified the statute defining what police conduct qualifies as entrapment. Defendant contends that he did not have a predisposition to sell or trade drugs, and that the NEU detectives exploited the informant to induce his commission of criminal offenses. Defendant bolsters this assertion by stating that the NEU dictated the informant's conduct from contacting the Defendant to retrieving him from Clinton County and hauling him into Lycoming County to conduct criminal offenses in the lawful jurisdiction in which the NEU operates. Defendant further argued that the NEU originated the criminal design, implanted in Defendant's innocent mind the urge to commit criminal conduct, and induced the commission of the crime for the government to prosecute.

Defendant asserted that the NEU solicited, employed, or induced the informant to provide information on the Defendant and then utilized the informant as an extension of law enforcement to prompt the Defendant to agree to the discussed transaction, and ultimately partake in the commission of a felony in the presence of law enforcement agents. Defendant takes issue with the informant's reliability, the manner in which the communication and

transportation occurred, and the NEU's conduct in handling the informant throughout the investigation.

“Where police ‘do no more than afford appellant an opportunity’ to commit an illegal act, their actions are not considered sufficiently outrageous police conduct to support an entrapment defense. *Commonwealth v. Marion*, 981 A.2d 230, 239 (2009). *Commonwealth v. Morrow*, 437 Pa.Super. 584, 650 A.2d 907, 913 (1994), appeal denied, 540 Pa. 648, 659 A.2d 986 (1995). *See also Commonwealth v. Ritter*, 419 Pa.Super. 430, 615 A.2d 442 (1992), appeal denied, 535 Pa. 656, 634 A.2d 220 (1993) (offering opportunity to sell drugs alone does not constitute sufficiently outrageous police conduct for purposes of entrapment defense). Additionally, information provided by a confidential informant may form the basis for a finding of probable cause. *Commonwealth v. Luv*, 735 A.2d 87, 91 (Pa. Super. 1999). An ascertainment of probable cause relies on the informant's reliability and basis of knowledge using a common sense, non-technical analysis of the information. *Id.* (internal citations omitted). Where police independently corroborate a tip, inter alia, an informant's tip may constitute probable cause. *Id.* (internal citations omitted).

Nonetheless, Pennsylvania case law consistently holds that:

*[T]he determination of whether police conduct constitutes entrapment is for the jury, unless the evidence of police conduct clearly establishes entrapment as a matter of law.... Thus, after the defense of entrapment has been properly raised, the trial court should determine the question as a matter of law wherever there is no dispute as to the operative facts relating to the defense.*

*Commonwealth v. Marion*, 981 A.2d 230, 239 (Pa. Super. 2009) (quoting *Commonwealth v. Thompson*, 335 Pa. Super. 332, 484 A.2d 159, 163-64 (1984))(emphasis added).

Importantly, a court may also reject, based on the operative facts, an entrapment defense as a matter of law. *Id.* Operative facts are required for a defendant to prove by a preponderance of the evidence that he was entrapped. *Id.* More specifically, these facts would

support that the course of conduct of a law enforcement officer or agent fell below the standards of common understanding for the proper function of government power. *Id.*

In Pennsylvania, courts apply an objective test to determine whether entrapment as a matter of law occurred. *Id.* at 238. Thus, the test for entrapment turned from the conduct of an accused to an evaluation of officer conduct “to determine whether there is a substantial risk that the offense will be committed by those innocently disposed.” *Id.* The entrapment defense, per the statute, does not preclude law enforcement from acting in a manner to ferret out those individuals engaging in criminal conduct and ready and willing to commit further crimes if the opportunity to do so arises. *Id.* citing *Commonwealth v. Morrow*, 437 Pa. Super. 584, 650 A.2d 907, 914 (1994).

Based on the arguments by the parties, evidence presented, and the testimony at the hearing, the Court concludes that the conduct in which Lycoming County NEU engaged does not rise to a level so outrageous or egregious to substantiate that entrapment as a matter of law exists in this matter. Specifically, the informant was not contacted nor induced by the NEU to coerce the Defendant into engaging in conversations related to the trading of firearms for drugs. According to the testimony, the informant advised Detective Dent that he knew of an individual who was willing and prepared to trade controlled substances for firearms. It was upon this tip that Detective Dent engaged in instructing the informant to facilitate the transaction. Defendant resided in Lock Haven, Clinton County, Pennsylvania at the time the events occurred. However, the Defendant willingly entered the vehicle of the informant to travel to Lycoming County to conduct the transaction at Burger King on Maynard Street. Presumably, the Defendant was aware of the time, location, and deal that was established to occur leading to his eventual arrest.

To date, Defendant has not submitted exhibits that support this Court finding that he met his burden that the facts and events in this matter occurred contrary to what was provided and presented by the Commonwealth to substantiate his assertions. Defendant attached the supplemental narratives to his supplemental memoranda that include the dialogue between the informant, Detective Dent, and Defendant. Despite harmless omissions regarding each detail of the conversations during the trade, the dialogue indicates that Defendant was willingly present in Lycoming County to conduct criminal activity, namely, trading controlled substances for firearms that he is prohibited from possessing due to prior convictions. Accordingly, the Court concludes that Defendant's defense of entrapment is **DENIED**. Moreover, the Court previously determined that the warrantless arrest of Defendant was based on sufficient probable cause.

**b. Defendant's contention that the Criminal Complaint and Affidavit of Probable Cause lack requisite probable cause and should be suppressed**

In his Motion, the Defendant challenges the Criminal Complaint and Affidavit of Probable Cause submitted to commence criminal proceedings. In its supplemental memoranda, the Commonwealth reduced the Defendant's argument to assert that Defendant's challenge of the affidavit based on typographical errors is without merit.

Defendant challenge of the information within the Criminal Complaint and the affidavit of probable cause relate back to his argument against the warrantless arrest and his Petition for Writ of Habeas Corpus. More specifically, Defendant challenges the Criminal Complaint as if it is an application for a warrant to search or arrest. In actuality, Defendant's warrantless arrest did rely on adequate probable cause, and the Criminal Complaint was submitted with an affidavit of probable cause to present a showing to the magistrate that the detectives possessed the necessary probable cause to conduct the warrantless arrest.

Accordingly, the Court previously determined that (1) the Commonwealth presented a *prima facie* case against the Defendant for each element of every crime charged and (2) that the warrantless arrest relied on sufficient probable cause. Thus, Defendant's challenges to the information contained in the Criminal Complaint and the affidavit are moot.

**c. Defendant's Motion challenging the strip search and seeking suppression of the evidence obtained thereof as fruits of the poisonous tree**

Among his various suppression motions, Defendant further seeks to suppress the search conducted at the Williamsport Bureau of Police Headquarters subsequent to his arrest. Defendant argues that the strip-search conducted on him after his arrest was unlawful because: (1) the police did not have a search warrant for his person and (2) he had already handed over the drugs on his person. Thus, law enforcement had no basis to further search him as there was no reason to believe he had additional contraband concealed on his person. Defendant further argued that there was no probable cause on which to justify the cavity search, which is generally unreasonable, unless the search satisfies one of the exceptions. Defendant claimed that this search does not fall under one of the exceptions, and thus the evidence obtained therefrom should be suppressed.

The Commonwealth argued that Defendant was searched incident to arrest at the scene of the arrest and directly transferred to Williamsport Bureau of Police Headquarters. At police headquarters, Defendant was strip searched, as per intake policy for every suspect in custody who will be transferred to Lycoming County Prison. The Commonwealth further argued that the strip search was within the scope of a search incident to the lawful arrest of Defendant. Also, the search was reasonable under the circumstances because the Defendant was in custody, so the search qualifies as an exception to the warrant requirement.

The *Layfette* Court determined that "[t]he justification for such searches does not rest on probable cause, and hence the absence of a warrant is immaterial to the reasonableness of

the search.” *Illinois v. Lafayette*, 462 U.S. 640, 643 (1983). Moreover, the United States Supreme Court established that inventory searches constitute a well-defined exception under the warrant requirement. *Id.* The Court in *Lafayette* relied on *United States v. Chadwick*, 433 U.S. 1, 97 S.Ct. 2476, 53 L.Ed.2d 538 (1977) and *Arkansas v. Sanders*, 442 U.S. 753, 99 S.Ct. 2586, 61 L.Ed.2d 235 (1979). In *United States v. Chadwick*, 433 U.S. 1, 97 S.Ct. 2476, 53 L.Ed.2d 538 (1977), the Supreme Court noted that:

probable cause to search is irrelevant in inventory searches and went on to state[,] [t]his is so because the salutary functions of a warrant simply have no application in that context; the constitutional reasonableness of inventory searches must be determined on other bases.”

*Id.* at 643-44.

An “inventory search” is an incidental administrative function subsequent to arrest and prior to incarceration. *Id.* at 644. To determine whether the search was unreasonable, a court must balance the search’s intrusion on the individual’s Fourth Amendment rights against the search’s advancement of legitimate government interests. *Id.* (internal citations omitted). “It is the fact of the lawful arrest which establishes the authority to search, and we hold that in the case of a lawful custodial arrest a full search of the person is not only an exception to the warrant requirement of the Fourth Amendment, but is also a ‘reasonable’ search under that Amendment.” *United States v. Robinson*, 414 U.S., at 235, 94 S.Ct., at 477 (1973). The underlying interests of the government in conducting a stationhouse search of an arrestee’s person and possessions is, in some circumstances, greater than the governmental interests that justify a search immediately after an arrest. *Illinois v. Lafayette*, 462 U.S. 640, 643 (1983). While the Court in *Lafayette* left open any questions regarding strip searches following arrest specifically, the Court noted that:

[T]he scope of a stationhouse search will often vary from that made at the time of arrest. Police conduct that would be impractical or unreasonable—or embarrassingly intrusive—on the street can more readily—and privately—be performed at the station.



For example, the interests supporting a search incident to arrest would hardly justify disrobing an arrestee on the street, but the practical necessities of routine jail administration may even justify taking a prisoner's clothes before confining him, although that step would be rare... A standardized procedure for making a list or inventory as soon as reasonable after reaching the stationhouse not only deters false claims but also inhibits theft or careless handling of articles taken from the arrested person. Arrested persons have also been known to injure themselves—or others—with belts, knives, drugs or other items on their person while being detained. Dangerous instrumentalities—such as razor blades, bombs, or weapons—can be concealed in innocent-looking articles taken from the arrestee's possession. The bare recital of these mundane realities justifies reasonable measures by police to limit these risks—either while the items are in police possession or at the time they are returned to the arrestee upon his release. Examining all the items removed from the arrestee's person or possession and listing or inventorying them is an entirely reasonable administrative procedure... In short, every consideration of orderly police administration benefiting both police and the public points toward the appropriateness of the examination of respondent's shoulder bag prior to his incarceration.

*Id* at 646-47.

The Court in *Lafayette* concluded that

We are hardly in a position to second-guess police departments as to what practical administrative method will best deter theft by and false claims against its employees and preserve the security of the stationhouse. It is evident that a stationhouse search of every item carried on or by a person who has lawfully been taken into custody by the police will amply serve the important and legitimate governmental interests involved.

*Id* at 649.

The Pennsylvania Supreme Court echoes the findings and holdings in *Lafayette, supra*, 462

U.S. 640, 643 (1983) by outlining the scope and purpose of an inventory search:

It is reasonable for police to search the personal effects of a person under lawful arrest as part of the routine administrative procedure at a police station house incident to booking and jailing the suspect. The justification for such searches does not rest on probable cause, and hence the absence of a warrant is immaterial to the reasonableness of the search.

*Commonwealth v. Knoche*, 678 A.2d 395, 397-98 (Pa. Super. 1996) (quoting *Commonwealth v. Nace*, 524 Pa. 323, 327, 571 A.2d 1389, 1392 (1990), *cert. denied*, 498 U.S. 966, 111 S.Ct. 426, 112 L.Ed.2d 411 (1990)).

In the instant matter, the Court finds that the strip and body cavity search was reasonable as part of the routine booking procedure. As part of the booking procedure, officers are permitted to search the personal effects of an arrestee's person and possessions, which would ultimately include an exhaustive search of the arrested individual. The Court further finds the extensive search of Defendant was justified as the contraband that was found on Defendant is easily concealable within the body cavities or specific anatomy of the human body. Moreover, the search can be justified as a safety measure for the Defendant to remove the drugs in his body before negative ramifications resulted.

The Court finds the Defendant's argument without merit. Defendant's argument that the search was unreasonable because it was not contemporaneous with and at the place of the arrest and because he handed over contraband to the officers indicating his compliance does not disqualify the government's interest in discovering and disposing of contraband concealed in the orifices of individuals being transferred to incarceration at the Lycoming County Prison. Ultimately, the Court concludes that the search was in furtherance of the search incident to arrest, and as a routine booking procedure of an arrested individual prior to incarceration. Accordingly, the Defendant's Motion to Suppress the Search conducted at the Williamsport Bureau of Police Headquarters is **DENIED**.

### ***Conclusion***

In addition to the aforementioned motions contained in Defendant's Omnibus Motion, he submitted various discovery motions and a Motion for Leave to File Additional Motions. The discovery motions to date have been heard and decided by this Court in a separate Order<sup>3</sup>.

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<sup>3</sup> See: Order Denying Motion to Compel Discovery and Issue Sanctions, February 13, 2025.

Regarding Defendant's Motion for Leave to File Additional Motions, the Court orally granted this request at the hearing on November 12, 2024.

Accordingly, the Court enters the following Order:

**ORDER**

**AND NOW**, this **23<sup>rd</sup>** day of **May, 2025**, based the testimony and evidence presented at the hearing, arguments by counsel, and the supplemental memoranda submitted by the parties, the Court Orders that:

1. Defendant's Petition for Writ of Habeas Corpus is **DENIED**;
2. Defendant's Motion to Suppress the Arrest is **DENIED**;
3. Defendant's request to instruct the Jury that he was entrapped is **DENIED**;
4. Defendant's Motion to Suppress the Criminal Complaint and Affidavit of Probable Cause is **DENIED** as moot;
5. Defendant's Motion to Suppress the Search occurring at the Williamsport Bureau of Police and evidence obtained thereof is **DENIED**; and
6. Defendant's Motion for Leave to File Additional Motions is **GRANTED**.

By the Court,

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Ryan M. Tira, Judge

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