

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA	: No. CR-407-2025
	:
vs.	:
	: CRIMINAL DIVISION
JA’HSIR KASEEM LEGARE	:
Defendant	:

OPINION AND ORDER

Presently before the Court is an Omnibus Pretrial Motion filed by Defendant on June 3rd, 2025. Included in Defendant’s Omnibus Pretrial motion is a Petition for Writ of Habeas Corpus, Motion to Suppress, a Motion to Decertify and Transfer to Juvenile Court and a Motion to Compel Discovery. A hearing was held on November 10th, 2025 at which time the Defendant was present and represented by Robert Hoffa, Esquire. The Commonwealth was represented by District Attorney Thomas Marino as well as First Assistant District Attorney Martin Wade. At the time of the hearing the Court received expert testimony from both the Defendant and the Commonwealth regarding the issue of decertification to juvenile court. The Court further received argument from Defendant regarding his motions for habeas and suppression and finally, Defendant’s request to compel discovery. The Court will address each motion in the order presented in Defendant’s Omnibus.

By way of background and per the preliminary hearing transcript that was entered into evidence at the beginning of the November 10th hearing, Defendant and his mother drove to the parking lot of the TGIF restaurant (hereinafter TGIF) located in Loyalsock Township, Lycoming County on March 2, 2024. Prior to their arrival at TGIF, Defendant’s mother received telephone calls from both Defendant and her younger son, J.S. During the telephone call from Defendant to his mother, Defendant advised his mother that the juvenile who previously smacked J.S. (J.S. is Defendant’s younger brother) was at TGIF and that he

was around the corner from where she was located so that she could pick him up during her drive to TGIF. Upon Defendant and his mother's arrival at TGIF, J.S. and his friends exited TGIF. The juvenile (hereinafter A.P.) that previously smacked J.S. and his friends also exited TGIF. Both groups walked in the direction of Defendant's mother, who was now standing outside of her vehicle in the parking lot. Words were exchanged between A.P., the Defendant's mother and another individual who drove to TGIF with mother and Defendant. A.P.'s friends who also exited TGIF with him were standing behind him. During this verbal altercation, Defendant presents next to his mother and discharges a firearm. Mother identified her son, Defendant, as the shooter. Mother testified that after the first gunshot, A.P.'s body spun and fell to the ground. Defendant discharged the firearm at least five (5) times.

Per the testimony of Lycoming County Coroner, Charles Kiessling, A.P.' cause of death was multiple gunshot wounds and the manner of death was homicide. Coroner Kiessling testified that A.P. was struck in three different areas of his body. One bullet passed from the front to the back of A.P.s right thigh. A second bullet passed from the back to the front of A.P.'s left thigh and a third bullet passed from the back to the front of A.P.'s head. Coroner Kiessling testified that in his experience, the gunshot wound sustained by A.P. to his right thigh occurred while A.P. was facing the shooter. The other two gunshot wounds sustained by A.P. occurred while A.P. was moving away from the shooter. Trooper Brian Siebert testified at the preliminary hearing that a total of five 9MM casings were collected at the scene of the shooting and that two vehicles were damaged as a result of being struck by bullets.

After the shots were fired, Defendant's mother and J.S. departed in her vehicle and returned to her residence. Shortly thereafter, Defendant's mother drove herself, her nephew, J.S. and Defendant to Philadelphia. During the drive to Philadelphia, Defendant threw his cellphone out of the car.

Defendant was formally charged on April 3rd, 2024 with various counts including count one Criminal Homicide¹, count two Aggravated Assault – Attempts to cause seriously bodily injury or causes injury with extreme indifference², count three Aggravated Assault – Attempts to cause or causes bodily injury with a deadly weapon³, count four Firearms not to be carried without a license⁴, count five Possession of a Firearm by a minor⁵, count six Possession of an Instrument of a Crime with intent⁶, count seven Possession of a Weapon⁷, count eight Recklessly Endangering Another Person⁸, count nine Criminal Mischief⁹ and count ten Criminal use of a Communication Facility¹⁰. Defendant's Preliminary hearing was not held until approximately one year after the incident occurred, March 17th, 2025. At the time of the instant hearing, Defendant is nineteen (19) years of age.

Petition for Writ of Habeas Corpus

Defendant requests various counts of the Information be dismissed alleging that the Commonwealth failed to satisfy its prima facie burden at the time of the preliminary

¹ 18 Pa. C.S § 2501(A)

² 18 Pa. C.S § 2702(A)(1)

³ 18 Pa. C.S § 2702(A)(4)

⁴ 18 Pa. C.S § 6106(A)(1)

⁵ 18 Pa. C.S § 6110.1(A)

⁶ 18 Pa. C.S § 907(A)

⁷ 18 Pa. C.S. § 907(B)

⁸ 18 Pa. C.S. § 2705

⁹ 18 Pa. C.S § 3304(A)(5)

¹⁰ 18 Pa. C.S § 7512(A)

hearing. Specifically, Defendant argues that count four, Firearms Not to be Carried Without a License, count six, Possession of an Instrument of a Crime, and count ten, Criminal Use of a Communication Facility, be dismissed.

At a preliminary hearing the Commonwealth “bears the burden of establishing at least a prima facie case that the crime was committed”.¹¹ Further, to prove its burden at this hearing, “the Commonwealth is required to present evidence with regard to each of the material elements of the charge and to establish sufficient probable cause to warrant the belief that the accused committed the offense”.¹² The evidence presented at the preliminary hearing must be considered in the light most favorable to the Commonwealth.¹³

Defendant’s challenge to count four, Firearms Not to be Carried Without a License, is without merit. Per Title 18 Pa.C.S.A. section 6106(a)(1), a person commits a felony of the third degree when, [e]xcept as provided in paragraph (2), any person who carries a firearm concealed on or about his person, except in his place of abode or fixed place of business, without a valid and lawfully issued license.

During the preliminary hearing, the Commonwealth established that Defendant was 17 years of age at the time of the incident. The Commonwealth further established that Defendant did ride in a vehicle with his mother to the TGIF restaurant. Lastly, Defendant’s mother testified that she witnessed Defendant discharge a black in color gun. Defendant’s mother made no mention of seeing a firearm until she witnessed Defendant discharging a black in color gun as he was standing beside her in the TGIF parking lot. Clearly, in light of this testimony, a strong inference can be drawn that Defendant had concealed the firearm on

¹¹ *Commonwealth v. McBride*, 528 Pa. 153, 591 (Pa. Super. 1991)

¹² *Id.*

¹³ *Commonwealth v. Hilliard*, 172 A. 3d 5, 10 (Pa. Super. 2017)

his person prior to getting picked up by his mother en route to TGIF or, in the alternative, Defendant had stored the firearm somewhere in his mother's vehicle prior to him getting picked up and then accessed same during the drive or after his arrival at TGIF. Moreover, because Defendant was 17 years of age at the time of the incident, he was legally precluded from obtaining a valid license. In light of the above, the Court finds that the Commonwealth did satisfy its burden with respect to count four of the Information.

Defendant next requests that the Court dismiss Count six of the Information, Possession of an Instrument of Crime (PIC) pursuant to Title 18 Pa.C.S.A. section 907(a) as the Commonwealth failed to present evidence that Defendant possessed the cellphone (i.e. the instrument of crime) with the intent to employ it criminally. Obviously, Defendant utilized his cellphone to coordinate a ride from his mother to TGIF after he received a separate call from his younger brother advising Defendant that a juvenile who previously slapped his younger brother was located at TGIF. This testimony applied to the elements of section 907(a) at first blush leads to the conclusion that the Commonwealth has met its prima facie burden. The Superior Court, however, has indicated that the PIC statute was not intended to include as instruments of crime equipment not used in the crime itself, but used only to facilitate the crime. For example, the Superior Court concluded that a telephone and walkie-talkie, both of which were used to facilitate the sales of narcotics, did not constitute instruments of crime.¹⁴ Conversely, the Superior Court has ruled that a paint stick is an instrument of crime when wielded by a graffiti artist to commit criminal mischief.¹⁵ As a result, this Court is constrained to conclude that because Defendant's cellphone was not used by Defendant to commit the homicide, the cellphone cannot be categorized as an

¹⁴ *Commonwealth v. Williams*, 808 A.2d 213, 215 (Pa Super. 2022)

¹⁵ *Commonwealth v. Vida*, 715 A.2d 1180 (Pa. Super. 1998)

instrument of crime pursuant to 907(a). Accordingly, count six of the Information shall be dismissed.

Finally, Defendant requests dismissal of Count ten of the Information. Under Count ten, Defendant is charged with Criminal Use of a Communication Facility in violation of 18 Pa.C.S.A section 7512(a). Per the statutory language of 7512(a), “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.....” As previously stated, Defendant utilized his cellphone to coordinate a ride from his mother to TGIF after he received a separate call from his younger brother advising Defendant that a juvenile who previously slapped his younger brother was located at TGIF. Following Defendant’s arrival TGIF, he shoots and kills A.P. After killing A.P. and as Defendant was being transported to Philadelphia by this mother, he disposed of his cellphone by throwing it out the window of the car. Based on the testimony of Defendant’s mother during the preliminary hearing, the inference is drawn that Defendant utilized his cellphone to coordinate a ride to TGIF in order to shoot and kill A.P. Further, it is difficult to overlook the inference that the phone likely contained incriminatory information regarding Defendant’s killing of A.P. and that is why he disposed of it on his way to Philadelphia. The Commonwealth has met its prima facie burden with respect to Count ten.

Motion to Suppress

At the time of the hearing the Commonwealth and Defense came to a stipulation regarding the Motion to Suppress. The parties agreed that as it relates to the single search warrant attached to the Defense’s motion the Commonwealth may present subscriber

information and location data that was lifted from the cell phone extraction of the subject phone at the time of trial.

Motion to Decertify and Transfer to Juvenile Court

In determining whether to transfer a case involving any of the offenses excluded from the definition of “delinquent act” in section 42 Pa.C.S. §6302, the Defendant shall be required to establish by a preponderance of the evidence that the transfer will serve the public interest.¹⁶ Because this Defendant is charged with homicide, homicide/murder is excluded from the definition of “delinquent act.”¹⁷

In determining whether the child has so established that the transfer will serve the public interest, the court shall consider the factors contained in section 42 Pa.C.S.

§6355(a)(4)(iii) (relating to transfer to criminal proceedings):

- a. The impact of the offense on the victim or victims
- b. The impact of the offense on the community
- c. The threat to the safety of the public or to any individual posed by the child
- d. The nature and circumstances of the offense(s)
- e. The child’s degree of culpability
- f. The “adequacy and duration” of available juvenile dispositional alternatives in comparison with adult criminal sentencing options
- g. Whether the child is amenable to treatment, supervision or rehabilitation as a juvenile by considering the following factors:
 - i. Age
 - ii. Mental capacity
 - iii. Maturity
 - iv. Degree of criminal sophistication exhibited by the child
 - v. Previous records as a delinquent
 - vi. Nature and extent of any prior delinquent history, including successes or failures of previous attempts of the juvenile court to rehabilitate the child
 - vii. Whether the child can be rehabilitated prior to the expiration of juvenile court jurisdiction

¹⁶ 42 Pa.C.S. §6322(a)

¹⁷ 18 Pa. C.S § 2501(A)

- viii. Probation or institutional reports, if any
- ix. Any other relevant factors

While the Juvenile Act requires that a decertification court consider all of the amenability factors, it is silent as to the weight assessed to each by the Court.¹⁸ The ultimate decision of whether to certify a minor to stand trial as an adult is within the sole discretion of a decertification court.¹⁹

Robert J. Meachum (hereinafter Meachum), M.S., a licensed psychologist, performed a psychological evaluation on the Defendant. Meachum was requested by Defendant's attorney to perform the evaluation that included, *inter alia*, meeting with Defendant for four extended interviews at the Lycoming County Prison. Meachum authored a report dated August 25, 2025 and testified to same during the decertification hearing that was held November 10th. The report was admitted into evidence and labeled "D-2".

Meachum testified that from his interviews with Defendant, it was learned that until the age of twelve (12), Defendant attended seven (7) different schools in Philadelphia as the result of transient living circumstances requiring supervision by various adults, including his grandmother and aunt. Defendant did not know his father, was introduced to several men by his mother and witnessed domestic violence where his mother was the victim. His mother and grandmother impressed upon him that he was the "man in the family". Defendant remarked that "where we come from, you protect your own." Additionally, Defendant was told by his grandmother that he "need[ed] to protect [his] little brother." Meachum testified that Defendant was assigned inappropriate parental roles as both his mother and grandmother assigned him protective authority and responsibility over his family.

¹⁸*Commonwealth v. Jackson*, 722 A.2d 1030, 1033 (Pa. 1999)

¹⁹ *Id.* at 1034

Moreover, Defendant acknowledged that he “grew up around a lot of drug dealing [and that] he saw guns [and] heard gunshots all the time.” Meachum testified that guns were likely viewed by Defendant as a socially acceptable necessity in the exercise of inappropriately assigned parental/protective authority over family members. Within Meachum’s report he states that Defendant has no criminal history, was involved in prosocial activities, that previously there was no need for any treatment, Defendant is in good medical health and not prescribed medication for behavior management purposes and but for the intermittent use of marijuana Defendant has no history of drug or alcohol use. Following Meachum’s review of Defendant’s extensive student records from the Loyalsock Township School District, Defendant was not an IEP student and there was no mention that Defendant was a threat to himself or others and he was not noted to act aggressively in school.

Meachum testified that he administered several assessments on Defendant including the Wechsler Adult Intelligence Scale-5th Edition. This test measures intelligence and Meachum wanted to identify whether amenability may be affected by any intellectual disability. Defendant received a full-scale IQ of 96 which translates to an average range of intelligence. Because Defendant is of average intelligence and capable of insight, Meachum writes that Defendant is a good candidate for utilizing treatment programs aimed at reducing reoffending in the future.

Defendant was also administered the MMPI-2 personality test. This test was independently scored, completed in a valid manner with the results then considered as a good measure of Defendant’s personality characteristics. Per Meachum’s testimony, the results indicated that Defendant had a level of moderate anxiety and tension and apprehension handling responsibilities, likely caused by, *inter alia*, various childhood

experiences as well as his assigned responsibility to protect his family. Meachum's report indicates that the test results predict "a positive short-term response to symptom-oriented treatment" and successful therapy is likely to be quite gradual and extended over time." Also, per the report it is noted that "[m]ost importantly, scoring interpretation of the MMPI-2 did NOT reveal diagnostic impressions or severe pathology or any evidence of anti-social tendencies or a disordered personality."

The last test administered to Defendant was the Adverse Childhood Experience Questionnaire. Defendant endorsed 7 of 10 items on this questionnaire suggesting that he may be at risk to experience trauma or crisis if not provided with targeted treatment.

Meachum also testified to his interview with Ken Cecil, Director of Clinical Services, Pennsylvania Bureau of Juvenile Justice Services. Mr. Cecil oversees six treatment locations that serve adjudicated delinquent males who are court ordered in treatment for an extended period of time. Mr. Cecil advised that currently there are individuals in the facilities with weapon offenses or homicides. Stays at these facilities range between 18-48 months and beyond and include individual and group counseling, various classes and life skills training, among many other things. Conversely, according to Meachum, treatment options are much more limited in the adult system and also includes exposure to individuals with extensive criminal histories.

Meachum also discussed the research that has been performed on young adult brains. Meachum states that a 17-year-old brain is not fully mature and as a result should be considered by the Court for decertification purposes because the environment to which a young person is subjected can shape whether the young person is rehabilitated or becomes a repeat offender.

Although Meachum would not commit to a recommendation that Defendant be decertified as “that is a decision to be made by the bench,” he did opine, with a reasonable degree of psychological certainty, that “there are a number of characteristics about [Defendant], his background, test results that would cause the court to give [decertification] considerable thought.” In support of this statement, Meachum summarizes on page eleven (11) of his report various factors to consider regarding Defendant’s amenability to treatment.

John S. O’Brien II (hereinafter Dr. O’Brien), M.D., J.D., performed a psychiatric evaluation on Defendant at the request of the Commonwealth at the Lycoming County District Attorney’s Office on October 30, 2025. Dr. O’Brien authored a report dated November 8, 2025 and same was entered into evidence as “Commonwealth’s Exhibit 3” during the hearing held November 10th. Dr. O’Brien largely agreed with Meachum’s characterization of Defendant’s deleterious childhood as well as his education. Dr. O’Brien did testify, however that Defendant did not identify any aspect of his childhood that equated to responsibilities being placed upon him in connection with his family (i.e. reference to being the “man in the family” as per the report and testimony of Meachum).

Per Dr. O’Brien’s report he states that “[o]n clinical examination, [Defendant] exhibited no psychiatric symptoms. His cognitive examination was similarly devoid of any symptoms indicative of cognitive impairment. Also, per Dr. O’Brien’s report, he had Defendant complete a Minnesota Multiphasic Personality Inventory 2 – Restructured Form (MMPI – 2RF) and that same was computer scored. This testing indicated that Defendant’s profile as unremarkable for psychiatric or psychological symptoms or any mental health condition. He continued by writing that the report stated, “There are no indications of

somatic or cognitive complaints or of emotional thought, behavior, or interpersonal dysfunction.”

In his report, Dr. O’Brien writes “that neither I nor any other professional could opine with reasonable certainty that [Defendant] is amenable to treatment, supervision, or rehabilitation in the less than two-year-period left to him in the juvenile justice system. [Defendant] has not revealed any aspect of himself, how he thinks, what he feels, what he wants, or what he intends to anyone. [Defendant] has not provided a foundation upon which any opinion about his future can be based. I see nothing to suggest that [Defendant] would be amenable to a juvenile disposition at the present time or in the foreseeable future.” Dr. O’Brien summarized his conclusion when testifying on direct by stating that if Defendant is referred for treatment, he will not be kept for treatment (i.e. he will be released) because he doesn’t have any treatable symptoms. Stated otherwise, despite his deleterious childhood, Defendant is not currently afflicted with any symptom that warrants or suggests amenability to treatment or rehabilitation. Also factoring into Dr. O’Brien’s conclusion that Defendant is not amenable to treatment is consideration of the alleged offense. Specifically, based on the materials provided to him by the Commonwealth, Dr. O’Brien stated regardless of who pulled the trigger, the offense appears planned, effectively executed, intentional and aggravated in nature. Both in his report as well as during the conclusion of his testimony on direct examination, Dr. O’Brien stated that his opinions were offered to a reasonable degree of medical and psychiatric certainty.

The offense of homicide is one of the most egregious offenses for which any adult or juvenile can be charged. In the instant matter, Defendant is accused of discharging a firearm five (5) times with three rounds striking and killing the fifteen (15) year old victim. One of

the three rounds that contributed to the death of the victim penetrated the back of the victim's head and exited the front of the victim's head. The gunshot to the back of Defendant's head was after he was first shot in the leg causing the victim's body to spin around, fall toward the ground and away from Defendant. In other words, the victim was no longer facing Defendant when Defendant shot him through the back of the head. The remaining two rounds struck two vehicles that were in the parking lot where the incident occurred. Moreover, this incident occurred just outside a public restaurant/hotel and within very close proximity to arguably the most heavily traveled road in Lycoming County. Prior to Defendant's arrival at the parking lot where the incident occurred, Defendant initiated a telephone call to his mother to advise her that the juvenile who previously smacked Defendant's younger brother was presently at the TGIF Restaurant. That phone call resulted in Defendant being picked-up by his mother and driving to the TGIF location. The Defendant's mother identified him as the shooter during the preliminary hearing. The Defendant's degree of culpability and criminal sophistication is unquestionably high.

The impact of this crime on the victim constitutes an untimely finality that no human deserves, regardless of age, especially considering the manner in which this occurred. It is not difficult to fathom the ripple of fear that tore through the community after word got out that a fifteen-year-old juvenile was gunned down outside of a public restaurant in a business district of Lycoming County that is always bustling with pedestrian and vehicular traffic. Due to the location of where this incident occurred, the threat to the safety of the public was significant.

Defendant was seventeen (17) years of age when the offense was committed and nineteen (19) years of age at the time of the decertification hearing. Per the testimony of

Meachum and Dr. O'Brien, Defendant performed very well on the various tests administered upon him. Neither expert's testimony leads this court to believe that Defendant's mental capacity is diminished or that his level of maturity at the time of the offense was anything but average for a 17-year-old. Although Defendant's record is devoid of any prior delinquency, as discussed above, his involvement in this matter displayed a high degree of criminal sophistication, beginning with the first phone call placed to his mother and concluding with the discharge of a firearm resulting in the death of another juvenile. No probation or institutional reports were received by the Court during the decertification hearing. No prior attempts at rehabilitation were made as Defendant was not previously the subject of any criminal charges or diagnosed with any psychopathy.

During the decertification hearing, Matt Minnier of the Juvenile Probation Office testified that if Defendant is decertified, it will likely take the probation office an additional six months from the date of decertification to locate a bed at a facility deemed appropriate for Defendant. At that time, Defendant would have only one and one-half years of supervision remaining under juvenile probation as juvenile court jurisdiction will expire. Even if the juvenile probation office was able to find a bed immediately, Defendant will have less than two years remaining on juvenile probation supervision as juvenile court jurisdiction will expire. It defies common sense to think that in less than two years Defendant can be rehabilitated, regardless of any evidence-based programming designed to promote accountability, change his thinking, and prevent recidivism. Especially, as Dr. O'Brien opined, Defendant presents with no symptoms to even begin treating.

Following consideration of the testimony of both Meachum and Dr. O'Brien as well as their respective reports coupled with this Court's review of the factors contained in 42

Pa.C.S. section 6355(a)(4)(iii), the Court finds that Defendant has failed to satisfy by a preponderance of the evidence that his decertification will serve the public interest.

Motion to Compel Discovery

At the time of the hearing the Commonwealth and Defense agreed that all available discovery material to date has been given to the Defense. If any additional discovery material becomes available the Court grants the Defense's request to file any additional motions.

ORDER

AND NOW, this **1st** day of **December, 2025**, for the reason set forth above the Court rules that Defendant's Petition for Habeas Corpus as it relates to counts four and ten are hereby **DENIED**. Count six, Possession of an Instrument of a Crime is hereby **DISMISSED**. The Motion to Suppress is hereby **GRANTED** in accordance with the stipulation made at the time of the hearing. The Motion to Decertify and Transfer to Juvenile Court is hereby **DENIED**. The Motion to Compel Discovery is hereby **GRANTED**.

BY THE COURT,

Ryan C. Gardner, Judge

RCG/kbc

cc: DA
Robert Hoffa, Esq.
JPO
Clerk of Courts
Supervised Bail
Gary Weber, Esquire