

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

**COMMONWEALTH**

**vs.**

**HAROLD HAKEEM RAINIER,  
Appellant**

**: No. CP-41-CR-1342-2023**

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**: 1925(a) Opinion**

**OPINION IN SUPPORT OF ORDER IN  
COMPLIANCE WITH RULE 1925(a) OF  
THE RULES OF APPELLATE PROCEDURE**

This opinion is written in support of this court's Opinion and Order entered on June 27, 2025, which granted suppression.

By way of background, the Commonwealth charged Rainier with possession with intent to deliver a controlled substance as a result of a stop and search of his vehicle on October 5, 2023, during which police discovered an ounce of methamphetamine. Rainier filed a motion to suppress evidence contending that the police lacked reasonable suspicion or probable cause to stop his vehicle. The court granted the motion, and the Commonwealth appealed.

The Commonwealth has asserted the following issues in its concise statement of errors complained of on appeal:

1. The trial court abused its discretion when it concluded that the police lacked reasonable suspicion that criminal activity was afoot to stop the Defendant's vehicle.
2. The trial court abused its discretion when it suppressed physical evidence based on its erroneous conclusion that police lacked reasonable suspicion to stop the Defendant's vehicle.

3. The trial court committed an error of law when it concluded that police lacked reasonable suspicion to stop the Defendant's vehicle.
4. The trial court abused its discretion by applying a legal standard higher than reasonable suspicion and more akin to probable cause in granting suppression of evidence.
5. The court committed an error of law and abused its discretion when it concluded that the reasonable suspicion to stop the vehicle had to be linked to the personal observations of the officer conducting the stop as opposed to observations by fellow officers.
6. The trial court abused its discretion by omitting facts from its opinion and legal analysis which support the Commonwealth's argument that police had reasonable suspicion to stop the Defendant's vehicle.
7. The trial court abused its discretion by erroneously concluding that the Commonwealth did not present any evidence regarding the reliability of the confidential informant, a conclusion which is inconsistent with the testimony presented.
8. The trial court abused its discretion by erroneously concluding that police lacked any "fresh" information to justify an investigative detention based on reasonable suspicion that criminal activity was afoot.

The court would rely on its Opinion and Order entered on June 27, 2025 and would supplement it with the following.

When reviewing the grant of a suppression motion, the standard of review is whether the court's findings are supported by the record and whether the legal conclusions drawn from those facts are correct. *See Commonwealth v. Gagliardi*, 128 A.3d 790, 801 (Pa. Super. 2015). Where, as here, the defendant prevailed before the suppression court, the court may consider only the evidence presented by the defense and so much of the evidence for the prosecution which remained uncontradicted when read in the context of the record as a whole. *See Commonwealth v. Torres*, 764 A.2d 532, 537 (Pa. 2001). The Commonwealth is not viewing the evidence as the non-prevailing party that it is.

The court was not applying a probable cause standard. The court was assessing the

reliability and credibility of Aurand's testimony at the hearing.

There were at least two confidential informants in this case, if not more. *See* N.T., 09/17/24, at 30. On October 5, one confidential informant ("Mike") was with Detective Anderson. Detective Anderson could not see the individual entering and exiting the residence. Since "Mike" was with Detective Anderson, he also would not have seen the individual entering and exiting the residence.

"Mike" was dating another informant, Jasmine Aurand, and was concerned that she was involved in drugs in the house. *Id.* at 29. The detectives and "Mike" were there to rescue Aurand from the house. *Id.* at 15, 30. Aurand met with Detective Edkin after she was "rescued" from the residence. She was not there as a CI; she was there using drugs. *Id.* at 15.

The court ultimately did not consider Detective Anderson's testimony about what the other informant ("Mike") told him because it was hearsay. The CI known as "Mike" did not testify at the hearing. Defense counsel made a hearsay objection, which the court initially overruled based on the prosecutor's argument that it was being offered for its effect on the listener. However, the court indicated that if it did not do that, the court would sustain the objection and get strike that testimony. *See* N.T., 09/17/24 at 4-5. There was no testimony that Detective Anderson relayed that information to other officers. Detective Havens came up with the plan to stop the vehicle and assisted in the stop. *See* N.T., 09/17/24, at 20-21. He relayed that Aurand identified Rainier as Keem. Furthermore, the information allegedly supplied by "Mike" is only relevant to the totality of the circumstances if it is true. Therefore, the testimony was being offered for the truth and the court would strike that testimony as inadmissible hearsay.

The only non-hearsay testimony about Rainier allegedly being involved in criminal activity was the testimony of Jasmine Aurand, which was not credible/reliable. Aurand was a rogue CI, who was high at the time she gave information to Detective Edkin. *See* N.T., 09/17/24, at 13. She was not at the residence on October 4 and October 5 as a CI; she was there getting high. She would have said anything to redeem herself as a CI.

There also was no testimony that Aurand was involved in any of the successful controlled buys or when any of the successful controlled buys occurred. If Anderson could not recall the specific dates of the controlled buys, the Commonwealth could easily have refreshed Detective Anderson's recollection with his reports related to the buys. Due to this lack of evidence and the fact that Aurand was a rogue CI who was high on drugs, the Commonwealth failed to establish the reliability/credibility of Aurand. Furthermore, none of the controlled buys involved Rainier. The only non-hearsay evidence presented at the suppression hearing to show that Rainier was the alleged supplier of drugs to that residence was the statement of Aurand, whose reliability/credibility was not adequately established by the Commonwealth and, in fact, was negatively impacted by the fact that she was a rogue CI who was high.

The court never said that reasonable suspicion had to be based on the personal observations of the officer conducting the stop. The court only noted that the "traffic" stop was not based on any traffic violation. If Officer Minier had seen a traffic violation, such a violation would provide a basis for the stop.

The court was stating that there had to be evidence of observations of criminal or suspicious activity on the date in question (October 5) for the officers to reasonably believe

that criminal activity was afoot. The court found that there were no observations of criminal or suspicious activity on the date in question. Both detectives testified that they did not see any criminal activity on the date in question. Anderson testified that no one relayed that the black male took any drugs into the residence, no one relayed that any drug transaction occurred inside the residence while the black male was inside it, nobody saw the black male with drugs, and nobody witnessed any criminal activity whatsoever. N.T., 09/17/24, at 8-9. Havens testified that he did not see Rainier engage in criminal activity in the residence, he did not see him engage in criminal activity going in or out of the residence, he wasn't advised by anyone that a drug transaction occurred inside the residence, and he had no information that any drug transaction occurred that day prior to the stop. *Id.* at 28-29. Even Aurand did not see Rainier engage in criminal activity on that date. *Id.* at 16-17.

To the extent there is a credibility issue between the testimony of Detective Anderson and Detective Havens regarding how long Rainier was inside the residence, the court would credit the testimony of Detective Anderson over that of Detective Havens. Detective Havens testified that he was surveilling the residence for 10 to 15 minutes, but he was cross-examined with his preliminary hearing testimony where he said 20 minutes. The court does not know which estimate is more accurate; it only knows that there is a difference of at least five minutes. Detective Havens estimated that Rainier was in the residence for one to two minutes, maybe a bit more, but he could not give an exact time without looking at his supplemental report. N.T., 09/17/24 at 22. Detective Anderson testified that Rainier was in the residence for five to six minutes or so. *Id.* at 5. Given Havens' five-minute margin of error and his admission that he could not give an exact time without looking at his report, the

court credits Detective Anderson's testimony that it was five to six minutes or so.

Furthermore, the Commonwealth could have easily clarified the time frame by refreshing Havens' recollection with his police reports. When an officer practically gives the Commonwealth an engraved invitation to refresh his recollection with his report and it does not, one can infer that the information contained in the report is not favorable to the Commonwealth.

The Commonwealth does not state what "facts" the court allegedly omitted from its opinion and legal analysis. Therefore, the court cannot adequately address this issue and it should be considered waived.

The Commonwealth also contends that the trial court abused its discretion by erroneously concluding that the Commonwealth did not present any evidence regarding the reliability of the confidential informant, a conclusion which is inconsistent with the testimony presented. The court cannot agree. Instead, the Commonwealth is ignoring, among other things, the fact that there were multiple confidential informants; the controlled buys were not from Rainier; the fact that not all of the controlled buys were successful; its failure to show which controlled buys involved Aurand; and that Aurand was a rogue CI who was high on the day in question and probably the day before as well.<sup>1</sup> For all the court knows, all of the successful controlled buys were made by other CIs months earlier and the unsuccessful buys were attempted by Aurand who didn't want to lose her source of drugs.<sup>2</sup>

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<sup>1</sup> None of the detectives testified that there was a controlled buy on October 4, but Aurand was allegedly there and saw Keem supply drugs. Therefore, she was not there as a CI, but likely there using drugs. Furthermore, the impression that the court got from the testimony from Aurand and the detectives that Aurand needed to be "rescued" from the residence was that she had gone on a drug bender and "Mike" was afraid she would overdose.

<sup>2</sup> The court is not suggesting that the Commonwealth necessarily had to disclose the identities of its CIs. The Commonwealth could have referred to the CIs as CI#1, CI#2, etc. and linked each CI to the controlled buy that

Finally, the Commonwealth is ignoring the fact that this case is not about the residence but the alleged criminal activity of Rainier.

The Commonwealth also contends that the trial court abused its discretion by erroneously concluding that police lacked any “fresh” information to justify an investigative detention based on reasonable suspicion that criminal activity was afoot. Again, the court believes that the Commonwealth has misconstrued the court’s statements in the prior opinion. The court stated that it did not have sufficient information regarding the controlled buys to determine the freshness or staleness **of the successful controlled buys**.

Here is what the Commonwealth is not realizing or understanding. The only witness who testified at the suppression hearing regarding personal observations of Keem supplying drugs to the residence and identifying Rainier as the Keem who was supplying drugs was Aurand. At the time Aurand identified Rainier as Keem, she was a rogue CI who was high on drugs. The only specific date that Aurand stated seeing Keem supply drugs was October 4. There was no credible testimony, however, that there was a controlled buy or attempted controlled<sup>3</sup> buy on October 4. Therefore, Aurand was likely a rogue CI who was getting high on drugs on October 4 as well as October 5. Using drugs can affect an individual’s ability to accurately perceive individuals and events. If the shoe were on the other foot and the defense called a witness who admitted he or she was high on drugs, the Commonwealth would be arguing that the witness was not credible because the witness’s ability to accurately see, hear, and remember what occurred was impaired by their drug use. The court was using the same

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he or she participated in.

<sup>3</sup> By controlled buy, the court is referring to a situation where the CI is not high on drugs and has been strip-searched and provided pre-recorded funds to purchase drugs while under surveillance by law enforcement officers. A rescue mission to retrieve a rogue CI who is high on drugs is neither a controlled buy nor an

principles with the Commonwealth's witness that the Commonwealth argues in hearings and trials with respect to defense witnesses all the time. What is good for the goose is good for the gander. As a result, the court was unwilling to find reasonable suspicion based on the drug-influenced observations of the Commonwealth's rogue CI. The court tried to examine the controlled buys to see if there was other specific information in the record where Aurand was not high that would provide some other basis to accept Aurand's observations. The information regarding the controlled buys was not specific enough, however, to determine which, if any, of the successful controlled buys Aurand participated in or when any such controlled buys occurred. Similarly, there was no specificity regarding other dates that Aurand allegedly observed Keem supply the house with drugs and whether Aurand was there on those other dates as a CI or as an impaired drug user.

The detectives did not observe Rainier supply drugs to the residence or engage in criminal activity. The court highlighted the detectives' testimony to that effect earlier in this Opinion. There was no evidence that they had predictions of future behavior from a reliable source that Rainier was going to arrive at the residence at a certain day and time to supply the house with drugs. There also was no evidence that Rainier was engaging in furtive movements, was clutching the black cross draw bag usually tightly, looking around like his head was on a swivel or anything of that nature when he entered or exited his father-in-law's residence.<sup>4</sup> The detectives only had a hunch that Rainier was in possession of drugs that day and that hunch was the only basis for stopping Rainier's vehicle.

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attempted controlled buy even if detectives from the NEU attempt to categorize it as such. Saying that a cow is a horse does not make the cow a horse.

<sup>4</sup> It is undisputed that Rainier's father-in-law, Cameron Belle, lived at the residence. The only issue was when the detectives became aware of it.



DATE: August 25, 2025

By The Court,

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Nancy L. Butts, President Judge

cc: Martin Wade, Esquire (ADA)  
Michael Morrone, Esquire  
Superior Court (original & 1)  
Jerri Rook