

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	:	No. CR-537-2023
	:	CR-538-2023
vs.	:	
	:	
REGGIE DARNELL SPENCER,	:	
Defendant	:	

**OPINION AND ORDER**

This matter came before the court on September 19, 2024 for a hearing and argument on the Omnibus Pre-Trial Motion (OPTM) filed on behalf of Reggie Spencer (Spencer) in the above-captioned cases. In both cases, Spencer made a request for *habeas corpus* relief and a request to suppress evidence.

In case 537-2023, the Commonwealth charged Spencer with Aggravated Assault,<sup>1</sup> Escape,<sup>2</sup> and Resisting Arrest.<sup>3</sup> In case 538-2023, the Commonwealth charged Spencer with Possession With Intent to Deliver (PWID),<sup>4</sup> Delivery,<sup>5</sup> Resisting Arrest,<sup>6</sup> Tampering with Evidence,<sup>7</sup> Evading Arrest on Foot,<sup>8</sup> Aggravated Assault,<sup>9</sup> and Criminal Mischief.<sup>10</sup>

Some time prior to March 24, 2023, Detective Tyson Havens of the Lycoming County Narcotics Enforcement Unit (LCNEU) took David Trice into custody as a result of his involvement in drug deliveries as a middleman to support his own drug addiction. Havens asked Trice to become a confidential informant. Trice spoke to Havens about his

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<sup>1</sup> 18 Pa. C.S. §2702(a)(3).

<sup>2</sup> 18 Pa. C.S. §5121 (a).

<sup>3</sup> 18 Pa. C.S. §5104.

<sup>4</sup> 35 P.S. §780-113(a)(30).

<sup>5</sup> 35 P.S. §780-113(a)(30).

<sup>6</sup> 18 Pa. C.S. §5104.

<sup>7</sup> 18 Pa. C.S. §4910(1).

<sup>8</sup> 18 Pa. C.S. §5104.2(a).

<sup>9</sup> 18 Pa. C.S. §2702(a)(3).

drug addiction and being a middleman but he was not willing to be a confidential informant. He ultimately, however, became an unwitting informant.

On March 24, 2023, a confidential informant (CI) was working the to purchase controlled substances from drug dealers in Lycoming County. The CI called Trice to purchase cocaine. The CI and his/her vehicle was searched and the LCNEU provided the CI with pre-recorded controlled buy money to purchase cocaine. The CI was equipped with a recording device. The CI drove his/her vehicle to pick up Trice. Trice then directed the CI to drive to River Avenue and park at the Eye Center. The CI drove Trice to that location. Trice got out of the CI's vehicle and walked north on River Avenue to the convenience store/gas station at the corner of River Avenue and Sheridan Street. He entered the convenience store for a few seconds and then exited the store and paced in the parking lot while talking on his phone and looking around.

A white Subaru arrived. The driver was a white male and the front seat passenger was a black male. The white Subaru did not park in a parking spot or use the gas pumps. None of the occupants exited the vehicle or entered the store. Rather, the vehicle stopped and Trice entered the back seat. The white Subaru then went west on Sheridan Street and turned south onto Catherine Street (a small street or an alley that runs behind Faxon Bowling) where it stopped and Trice exited the vehicle. Half of the detectives with the LCNEU followed the white Subaru while the other half monitored Trice and the CI. Detective Havens also remained in communication with the CI through an open line and text messages.

Trice went back to the CI's vehicle and provided cocaine to the CI.

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<sup>10</sup> 18 Pa. C.S. §3304(a)(1).

Detectives from the LCNEU followed the white Subaru until Detective Havens directed Officer Tyson Minier of the Williamsport Bureau of Police (WBP) to stop the vehicle near the American Rescue Workers (ARW) on Elmira Street and identify the occupants. The vehicle did not stop anywhere between the time Trice left the vehicle and Officer Minier stopped it.

Officer Minier approached the driver's side of the vehicle and Detective Michael Caschera went to the passenger side of the vehicle. The driver was Justin Kennedy and Spencer was the black male passenger.

Spencer was attempting to make a phone call. Minier told him to stop. Spencer disregarded Minier's commands so Detective Michael Caschera asked Spencer to exit the vehicle. After being told several times to exit the vehicle, Spencer finally did so. Spencer then began eyeing potential flight paths and said he was "not going in no handcuffs." Caschera attempted to handcuff Spencer and Spencer tried to flee on foot to the north. Caschera got a hand on Spencer and attempted to push him up against an ARW truck to contain him at which point Spencer threw a punch at him. Caschera avoided getting hit in the head or face but the punch landed on Caschera's arm, causing Caschera to let go of Spencer. Spencer then continued to flee.

Detective Loudenslager attempted to taser Spencer, but the prongs could not make a connection due to Spencer's puffy coat. Officer Geary of WBP arrived and twice attempted to stop Spencer while Geary was still in his vehicle. Geary ultimately got out of his vehicle and chased Spencer on foot. Geary fired his taser at Spencer which was not successful at stopping him but he eventually stopped Spencer. Three officers handcuffed Spencer, taking him into custody. Spencer was then transported to WBP headquarters.

Detective Havens spoke to Kennedy who said that he knew the passenger as “Hassan” and he gave him a ride to River Avenue. Kennedy said that an old guy (Trice) got into the vehicle and there was an exchange between the old guy and Hassan (Spencer).

Detective Havens then went to WBP headquarters to meet with Spencer. He advised Spencer of his Miranda rights but Spencer did not wish to speak with him. The buy money that the LCNEU provided to the CI was found in Spencer’s pocket. Detective Havens attempted to strip search Spencer. He asked Spencer to bend over and spread his butt cheeks. Spencer was bending over but not spreading his cheeks. Finally, Spencer spread his butt cheeks slightly and it was far enough for Detective Havens to observe part of a plastic bag containing cocaine protruding from his anus. Detective Havens asked Spencer to remove the bag. Spencer said that he would. Instead, Spencer then took his middle finger and pushed the bag further up (presumably into his rectum) such that Havens could no longer see it. Havens sat Spencer on a bench and cuffed Spencer, still naked, to the wall and he left to draft a search warrant for Spencer’s body cavity.

A short time later, there was a commotion where Spencer was. Detectives Jonathan Rachel and Robert Anderson came back to that room and there was smashed cocaine and a plastic bag on the floor.

Havens and Caschera came back with the search warrant. They transported Spencer to UPMC-Williamsport’s emergency room (ER) to have a body cavity search done there. While waiting for the search to occur, MDJ Gary Whiteman arrived and arraigned Spencer. MDJ Whiteman ordered Spencer committed to the Lycoming County Prison on \$100,000 bail. A physician’s assistant (PA) came to conduct the cavity search on Spencer and determined that nothing else was inside Spencer’s anus/rectum and cleared him to be

transported to the prison. Spencer put his pants and shoes on but he had to be uncuffed to remove the hospital gown. When Havens took the second handcuff off so Spencer could remove the gown, Spencer fled on foot again to the circular area inside the ER. About half-way around the circle, Havens caught up to Spencer and got his hands on him around his waist. Spencer continued to try to flee. Havens dropped down to his knees to grab Spencer by the ankles and Caschera grabbed Spencer's head area and they brought Spencer to the floor. Spencer was flailing his arms/elbows and one of his elbows struck Havens in the eye, causing injury to the eye which was depicted in a photograph. Havens and Caschera handcuffed Spencer and transported him to the Lycoming County Prison.

The charges in 537-2024 relate to the incident at the hospital. The charges in 538-2024 relate to the delivery of drugs from Spencer to Trice, the stop of the vehicle, and Spencer's post-stop actions at or near the scene of the stop and at headquarters.

In case 538-2024, Spencer contends that the vehicle stop was illegal, he was arrested without probable cause and all of the evidence gathered after the stop must be suppressed as fruit of the poisonous tree. He also contends that the Commonwealth failed to present sufficient evidence for all of the charges because it failed to present any eyewitness testimony for the delivery charge. With respect to the other charges, his arrest was unlawful as it was made without a warrant and without probable cause. Therefore, that evidence must be suppressed and without the suppressed evidence, the Commonwealth lacks sufficient evidence to establish each of the other charges.

In case 537-2023, Spencer asserts that his arrest was illegal and the warrant to search his body cavity was issued without probable cause; therefore, all the evidence must be suppressed. He also contends that the Commonwealth failed to present *prima facie* evidence

to support the charges on the same basis. As the events leading up to the charges in case 538-2024 occurred first chronologically and form the basis for the body cavity search which lead to the charges in case 537-2024, the court will first address the suppression issues in case 538-2024.

## **DISCUSSION**

### ***A. Suppression***

#### ***1. Was the vehicle stop lawful?***

Spencer contends that the vehicle stop was unlawful because the police lacked probable cause. The court cannot agree.

Whether the police need probable cause or reasonable suspicion to conduct a traffic stop depends on whether the stop serves an investigative purpose. When it does, the Commonwealth must only show that the police had reasonable suspicion of criminal activity or a violation of the Motor Vehicle Code. *See Commonwealth v. Harris*, 176 A.3d 1009, 1019 (Pa. Super. 2017). When it does not, the Commonwealth must show that the police had probable cause. *See id.*

The question whether reasonable suspicion existed at the time of the investigatory detention must be answered by examining the totality of the circumstances through the eyes of a law enforcement officer to determine whether there was a particularized and objective basis for suspecting the individual stopped of criminal activity. *Commonwealth v. Brinson*, 328 A.3d 1096, 1104 (Pa. Super. 2024). Reasonable suspicion requires a finding that based on the available facts, a person of reasonable caution would believe the intrusion was appropriate. *Id.* Probable cause exists where the facts and circumstances within the officer's knowledge are sufficient to warrant a person of reasonable caution to believe that an offense

has been committed or is being committed. *Commonwealth v. Saunders*, 326 A.3d 888, 897 (Pa. 2024).

The court finds that reasonable suspicion was required to stop the white Subaru to investigate who the occupants were and whether they, or one of them, delivered controlled substances to Trice. The court finds that the police had reasonable suspicion to stop the white Subaru.

The CI called Trice to obtain cocaine. The CI was strip-searched and his/her vehicle was searched to ensure that neither had controlled substance on or in them. The LCNEU provided the CI with pre-recorded funds to purchase cocaine. Detective Havens was aware that Trice was a middleman who would purchase drugs from someone else, take a small amount for himself, and then transfer the remaining drugs to the purchaser. Trice directed the CI to pick him up, drive to River Avenue and park at the Eye Center. The CI provided the pre-recorded funds to Trice. Trice exited the vehicle and walked north up River Avenue to the gas station/convenience store at the corner of River Avenue and Sheridan Street. Although Trice went into the convenience store for a few seconds, he immediately returned to the parking lot where he paced, spoke on his phone and kept looking around.

A white Subaru arrived in the parking lot and Trice entered the back seat. The driver of the vehicle drove west on Sheridan Street and then turned onto Catherine Street. Trice exited the vehicle and immediately walked back to the CI's vehicle.

The white Subaru and its occupants continued down Catherine Street, turned west onto Washington Boulevard and traveled west from Loyalsock Township into the City of Williamsport. Havens directed Minier to stop the white Subaru. The traffic stop occurred after the vehicle turned south off of High Street and onto Elmira Street near the ARW. The

vehicle did not stop anywhere between the time Trice exited it and Minier stopped it.

From the totality of these facts and circumstances and the inferences that reasonably can be drawn therefrom, a person of reasonable caution would believe that a detention of the vehicle was reasonable to investigate the occupants' involvement in criminal activity. Trice was there as a middleman to obtain drugs for the CI. Given Trice's actions in the parking lot, a person of reasonable caution would conclude that when Trice was pacing, talking on his phone and looking around, he was waiting for his supplier to arrive. When Trice entered the vehicle and then immediately exited it after the vehicle only drove a short distance west on Sheridan Street and turned onto Catherine Street,<sup>11</sup> it was reasonable for the police to believe that a drug transaction occurred inside the vehicle, as that was Trice's purpose for going to that area. Therefore, the police had reasonable suspicion to stop the white Subaru.

Even if probable cause were required, the court would find the police had probable cause to believe that Trice purchased controlled substances from the occupants of the white Subaru. Since the transfer of controlled substances by a person who is not authorized to dispense them constitutes the crime of delivery, the police had probable cause to believe that at least one, if not more, of the occupants inside the vehicle were involved in criminal activity, specifically the delivery of cocaine to Trice.

Spencer contends that the police lacked probable cause because (1) Trice could have obtained the drugs from inside the convenience store; (2) the police did not know that Trice had delivered drugs to the CI at the time the vehicle was stopped; and (3) the police did not

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<sup>11</sup> Catherine Street is a small street or alley that runs behind Faxon Bowling. It runs parallel to River Avenue. Faxon Bowling and its parking lots is bounded to the east by Catherine Street, to the north by Sheridan Street, and to the west by River Avenue. The gas station/convenience store is bounded to the west by River Avenue and the north by Sheridan Street. In other words, the Subaru only drove far enough down Sheridan Street to



know who, if anyone, inside the vehicle delivered cocaine to Trice. The court cannot agree.

Probable cause does not require certainty. The more likely scenario was that Trice obtained the drugs from the occupants of the white Subaru. Trice was only inside the convenience store for a few seconds. When he came back outside, he was pacing in the parking lot, talking on his phone and looking around as if he were waiting for someone. Trice was in the area to meet his supplier to obtain cocaine for the CI. When the white Subaru arrived in the parking lot, it did not pull up to the gas pumps or park in a parking spot. None of the occupants exited the vehicle and entered the convenience store. The vehicle just stopped momentarily and Trice entered the back seat. The white Subaru then left the gas station/convenience store and basically drove partially around the block before Trice exited the vehicle and walked back to the CI's vehicle. From these facts, a person of reasonable caution would infer that the reason the white Subaru stopped at the convenience store was to pick up Trice and the reason Trice was waiting in the parking lot was to meet his supplier to purchase cocaine.

## ***2. Did the police have probable cause to arrest Spencer?***

Spencer next contends that his arrest was unlawful because the police lacked probable cause to arrest him. Again, the court cannot agree.

The police stopped the vehicle to determine who the occupants were and to determine whether they engaged in a drug transaction with Trice. When Officer Minier stopped the vehicle, Spencer was attempting to make a phone call. Officer Minier repeatedly asked and then told Spencer to stop, but he did not. Spencer's failure to follow Officer Minier's

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turn down Catherine Street and either hide behind Faxon Bowling or stop on Catherine Street at the northwest corner of the building.

commands made Officer Caschera concerned for their safety, so he directed Spencer to exit the vehicle.<sup>12</sup> Again, Spencer refused to follow commands when he was asked to do so. When Spencer eventually exited the vehicle, he said he was “not going in no handcuffs and he fled. Spencer’s flight can be considered as evidence of consciousness of guilt.

Spencer was not actually placed in handcuffs until after he fled, assaulted Caschera when Caschera attempted to handcuff him at the ARW truck, and was chased down on foot by Geary. Based on Spencer’s failure to follow commands, his flight, and his striking Caschera while trying to get away from him, a person of reasonable caution would believe that Spencer probably delivered cocaine to Trice and he did not want to be arrested for that crime.

This belief is supported by Kennedy’s actions and statements. Kennedy did not flee. He cooperated with the police. He told the police that he knew the passenger of his vehicle

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<sup>12</sup> As part of any traffic stop, the police have the authority to order the occupants out of the vehicle. *See Commonwealth v. Clinton*, 905 A.2d 1026, 1030 (Pa. Super. 2006)(the police possess additional authority to request that the driver and any passengers step out of the vehicle which is the subject of a traffic stop as a matter of course). Furthermore, for their safety, police officers may handcuff individuals during an investigative detention and such does not convert the investigative detention into an arrest. *See Commonwealth v. Spencer*, 290 A.3d 301, 314 (Pa. Super. 2023)(police may handcuff individuals during an investigative detention); *Commonwealth v. Rosas*, 875 A.2d 341, 348 (Pa. Super. 2005)(“While we acknowledge that [the trooper] ordered [the appellee] out of the car and placed him in handcuffs, such facts, by themselves, do not support the conclusion that [the appellee] was under arrest.”).

(Spencer) as Hassan and gave him a ride to River Avenue. He also said that there was an exchange inside the vehicle between Hassan (Spencer) and the old guy (Trice).

Furthermore, Detective Havens had an open line with the CI and he was communicating with him via text messages.

Considering the totality of the circumstances and the inferences to be drawn from them, including but not limited to Spencer's flight, Kennedy's statements, and Havens' communication with the CI, it is reasonable to conclude that Trice obtained the cocaine that he ultimately provided to the CI from the occupants of the white Subaru, specifically Spencer.

Even if Havens did not have confirmation that Trice delivered cocaine to the CI until after Spencer was handcuffed, the court would find that Spencer's arrest was lawful. The police had reasonable suspicion to stop the vehicle to investigate whether the occupants were involved in drug trafficking. Spencer was not following the requests and directions of the police, so Detective Caschera became concerned for their safety and ordered him to exit the vehicle. Caschera had the authority to do so. *See* footnote 12, *infra*. Detective Caschera caught up to Spencer, pushed him up against an ARW truck and grabbed him to handcuff him and bring him back to the vehicle stop. Spencer assaulted Detective Caschera. Spencer tried to punch Caschera but he moved and was struck in the arm, causing Caschera to lose his grip on Spencer. At that point, the police had probable cause to arrest Spencer for assault. *See Commonwealth v. Jackson*, 924 A.3d 618, 620-21 (Pa. 2007).

The court will also deny Spencer's motion to suppress in case 537-2023. Spencer was lawfully arrested for delivery of a controlled substance to Trice and/or for assaulting Detective Caschera. Therefore, any observations made after Spencer was placed into

handcuffs, including Havens' observation of part of a plastic bag sticking out of Spencer's anus when he attempted to strip-search Spencer and the later observations of the smashed cocaine and the plastic bag where Spencer was cuffed to the wall while Havens was drafting a search warrant to search Spencer's body, were made after he was lawfully arrested. Furthermore, at the hearing and argument on the motion, defense counsel indicated that the suppression motions revolved around the legality of the stop and the arrest of Spencer. Due to that statement and the defense objections to the development by the Commonwealth of any evidence beyond the stop of the vehicle,<sup>13</sup> the Commonwealth did not introduce the search warrant into evidence. *See* N.T., 09/19/24, at 45.

***B. Habeas Corpus***

At the preliminary hearing stage of a criminal prosecution, the Commonwealth need not prove a defendant's guilt beyond a reasonable doubt, but rather, must merely put forth sufficient evidence to establish a prima facie case of guilt. *Commonwealth v. McBride*, 595 A.2d 589, 591 (Pa. 1991). A prima facie case exists when the Commonwealth produces evidence of each of the material elements of the crime charged and establishes probable cause to warrant the belief that the accused likely committed the offense. *Id.* Furthermore, the evidence need only be such that, if presented at trial and accepted as true, the judge would be warranted in permitting the case to be decided by the jury. *Commonwealth v. Marti*, 779 A.2d

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<sup>13</sup> Although the search warrant was not introduced, evidence of what occurred following the stop was testified to by witnesses at the preliminary hearing. The preliminary hearing transcript for these two cases was introduced as Commonwealth's Exhibit #2. Commonwealth's Exhibit #1 was the preliminary hearing transcript for Spencer's other case, CR-186-2023.

1177, 1180 (Pa. Super. 2001). To meet its burden, the Commonwealth may utilize the evidence presented at the preliminary hearing and may also submit additional proof. *Commonwealth v. Dantzler*, 135 A.3d 1109, 1112 (Pa. Super. 2016). The weight and credibility of the evidence may not be determined and are not at issue in a pretrial habeas proceeding. *Commonwealth v. Wojdak*, 466 A.2d 991, 997 (Pa. 1983); *see also* *Commonwealth v. Kohlie*, 811 A.2d 1010, 1014 (Pa. Super. 2002). Moreover, “inferences reasonably drawn from the evidence of record which would support a verdict of guilty are to be given effect, and the evidence must be read in the light most favorable to the Commonwealth's case.” *Commonwealth v. Huggins*, 836 A.2d 862, 866 (Pa. 2003).

**A. Case 537-2023**

In case 537-2023, the Commonwealth charged Spencer with Aggravated Assault, Escape, and Resisting Arrest. These charges relate to the incident at the hospital.

**1. Aggravated Assault**

In Count 1, the Commonwealth charged Spencer with Aggravated Assault in violation of 18 Pa.C.S.A. §2701(a)(3), which states:

A person is guilty of aggravated assault if he: (3) attempts to cause or intentionally or knowingly causes bodily injury to any of the officers, agents, employees, or other persons enumerated in subsection (c), in the performance of duty.

18 Pa C.S. § 2702(a)(3). A police officer is a person enumerated in subsection (c). 18 Pa. C.S.A. §2702(c)(1). Bodily injury is defined as impairment of physical condition or substantial pain. 18 Pa.C.S.A. § 2301.

In prosecution for aggravated assault on a police officer, the Commonwealth has no obligation to establish that the officer suffered a bodily injury; rather, the Commonwealth

must establish only an attempt to inflict bodily injury, and this intent may be shown by circumstances which reasonably suggest that the defendant intended to cause injury.

*Commonwealth v. Rahman*, 75 A.3d 497, 502 (Pa. Super. 2013).

Evidence at the preliminary hearing showed that Spencer was taken to UMPC Medical Center Emergency Room to have a body cavity search done. After the search was completed, Spencer was uncuffed by Detective Havens, so that Spencer could change out of the hospital gown. After Detective Havens removed the cuffs, Spencer fled and ran to the circular part of the Emergency Room. Both Detective Havens and Detective Caschera gave chase. Detective Havens was able to wrap his arms around Spencer's waist and was eventually able to bring Spencer to the floor once Detective Caschera was able to get a hold of the top of Spencer. Once on the floor, Spencer began to struggle with both Detectives as they tried to place handcuffs on him. Spencer was flailing his arms and elbows around, struggling with the Detectives trying to avoid being handcuffed. During the struggle, Spencer ended up striking the corner of Detective Havens' eye, causing injuries to him that were depicted in a photograph.

The testimony presented by Detective Havens supports the conclusion that Spencer committed the offense of Aggravated Assault. Spencer intentionally ran from the Detectives and refused to stop. *Id.* Detectives had to physically bring Spencer to the floor. Once on the floor, Spencer struggled and flailed his arms around to avoid being arrested by the officers, causing Detective Havens to get struck in the left eye, causing injury. Therefore, the testimony at the preliminary hearing established a prima facie case for one count of Aggravated Assault.

## **2. *Escape***

Spencer is charged with one count of Escape. A person commits the offense of Escape “when he unlawfully removes himself from official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited time.”

18 Pa C.S.A. § 5121(a). The term “official detention” means

arrest, detention in any facility for custody of persons under charge or conviction of crime or alleged or found to be delinquent, detention for extradition or deportation, or another detention for law enforcement purposes; but the phrase does not include supervision of probation or parole, or constraint incident to release on bail.

18 Pa. C.S.A. § 5121(e).

The evidence presented the Commonwealth at the preliminary hearing showed that Spencer was arrested for delivery of a controlled substance to Trice, the assault of Detective Caschera and the other charges related to the vehicle stop on Elmira Street in the area of the ARW. Once Spencer was handcuffed, he was taken to police headquarters. At headquarters, Detective Havens’ attempted to strip-search Spencer but he was not fully compliant. Despite not fully spreading his butt cheeks as directed, Detective Havens was able to see a part of a plastic bag hanging out of Spencer’s anus. Havens’ directed Spencer to remove the bag and Spencer said he would. Instead, Spencer took his middle finger and pushed the bag farther into his butt so that Detective Havens could no longer see it. Spencer was placed on a bench and handcuffed to the wall while Detective Havens prepared a search warrant to search Spencer’s body for the plastic bag. Shortly thereafter, there was a commotion coming from Spencer’s location. Smashed cocaine and a plastic bag were seen near Spencer where none had been before he was handcuffed to the wall.

Once Detective Havens obtained the search warrant, he and Detective Caschera transported Spencer to UMPC’s ER to have a body cavity search performed. While at UMPC

waiting for a physician's assistant to perform the search, Magisterial District Judge (MDJ) Gary Whiteman arrived at UPMC to arraign Spencer on his charges. MDJ Whiteman arraigned Spencer in bed and directed that he be committed to Lycoming County Prison (LCP) on \$100,000 bail. After Spencer was examined and it was determined that there was nothing else left inside him, he was cleared to be transported to LCP. Spencer was uncuffed so that he could change out of his hospital gown. Detective Tyson Havens testified that when he was removing the second cuff, Spencer fled on foot into the circular area of the ER. Both Detective Havens and Detective Caschera gave chase. Detective Havens was able to get his arms around Spencer's waist. *Id.* Spencer continued to run with Detective Havens' arms wrapped around his waist until Detective Caschera was able to grab Spencer up near his head. Havens dropped to his knees and grabbed Spencer by the ankles and brought him to the floor. Once on the floor, Spencer continued to struggle, flailing his arms and elbows around, trying to run out of the Detectives' grip. It took the Detectives a couple of seconds to secure handcuffs because Spencer continued to struggle.

The testimony presented by Detective Havens supports the conclusion that Spencer committed the offense of Escape. At the time Spencer fled from the Detectives in UMPC, he had been arrested for delivery of cocaine and the other offenses related to the traffic stop, and he had been arraigned in his hospital bed and ordered committed to LCP on \$100,000 bail by MDJ Whiteman. Spencer was temporarily unhandcuffed so that he could change out of the hospital gown when he fled from both Detectives. Therefore, the testimony at the preliminary hearing established prima facie evidence for one count of Escape.

### ***3. Resisting Arrest or Other Law Enforcement***

Spencer is charged with resisting arrest, which is defined as follows:



A person commits a misdemeanor of the second degree if, with the intent of preventing a public servant from effecting a lawful arrest or discharging any other duty, the person creates a substantial risk of bodily injury to the public servant or anyone else, or employs means justifying or requiring substantial force to overcome the resistance.

18 Pa C.S.A. § 5104. This statute does not require serious bodily injury, nor does it require actual injury to the arresting officer. Sufficient resistance is established if the person's actions created a substantial risk of bodily injury to the officer. *Commonwealth v. Lyons*, 382 A.2d 438, 449 (Pa. Super. 1989).

The evidence presented by the Commonwealth at the preliminary hearing showed that while at UMPC, MDJ Whiteman arraigned Spencer and committed him to LCP on \$100,000 bail. Although Spencer was already under arrest, the detectives had the duty to transport him from the hospital to LCP. The detectives uncuffed Spencer so that he could change out of his hospital gown. Once Detective Havens took off the second cuff, Spencer fled from the detectives through the ER of the hospital. Both Detective Havens and Detective Caschera gave chase until they were able to bring Spencer to the ground. Once Spencer was on the ground, there was a struggle between both Detectives and Spencer. Spencer flailed his arms and elbows around, trying to escape. Spencer also pulled on the lanyard that was around Detective Havens' neck. Detective Havens tried to place the cuffs on Spencer; however, Spencer continuously grabbed the cuffs from Detective, not allowing Detective to cuff him.

The testimony presented by Detective Havens supports the conclusion that Spencer committed the offense of Resisting Arrest or Other Law Enforcement. Spencer struggled with the detectives, who were trying to perform their duty of transporting him from the hospital to LCP. Spencer ran through the ER. He flailed his arms and elbows. One of his elbows struck Detective Havens in the eye, causing injury. Spencer also pulled on Detective

Havens' lanyard, which was around his neck. It took both detectives to bring Spencer to the ground and re-handcuff him.

Spencer's actions created a substantial risk of injury to the detectives and his actions justified and required the detectives to use substantial force to overcome his resistance. A fleeing felon in a hospital also creates a risk of injury to medical staff, other patients, and members of the public. Therefore, the testimony at the preliminary hearing established *prima facie* evidence of Resisting Arrest or Other Law Enforcement.

***B. Case 538-2023***

In case 538-2023, the Commonwealth charged Spencer with Delivery of cocaine, PWID-cocaine, Resisting Arrest, Tampering With Evidence, Evading Arrest on Foot, and Aggravated Assault.<sup>14</sup> These charges arise out of the activities that occurred within the white Subaru, as a result of the traffic stop, and Spencer's conduct following the traffic stop on March 24, 2023.

***1. Delivery of Cocaine***

In Count 1, Spencer is charged with delivering cocaine to Trice. Pennsylvania law

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<sup>14</sup> The Commonwealth also charged Spencer with criminal mischief graded as a summary offense. However, the MDJ was required to bound that forward that charge to the court of common pleas so long as the Commonwealth presented a *prima facie* case on one or misdemeanor or felony offenses. *See* Pa. R. Crim. P. 542(F); Pa. R. Crim. P. 543(F). Therefore, the court will not address the summary criminal mischief offense.

declares that the following acts are prohibited:

Except 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.

35 P.S. §780-113(a)(30). The terms “deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, other drug, device or cosmetic whether or not there is an agency relationship. 35 P.S. §780-102. Cocaine is a Schedule II controlled substance. 35 P.S. §780-104 (2)(i)(4).

The CI called Trice to obtain cocaine. The CI was strip-searched and his/her vehicle was searched to ensure that neither had controlled substance on or in them. The LCNEU provided the CI with pre-recorded funds to purchase cocaine. Detective Havens was aware that Trice was a middleman who would purchase drugs from someone else, take a small amount for himself, and then transfer the remaining drugs to the purchaser. Trice directed the CI to pick him up, drive to River Avenue and park at the Eye Center. The CI provided the pre-recorded funds to Trice. Trice exited the vehicle and walked north up River Avenue to the gas station/convenience store at the corner of River Avenue and Sheridan Street. Although Trice went into the convenience store for a few seconds, he immediately returned to the parking lot where he paced, spoke on his phone and kept looking around.

A white Subaru arrived in the parking lot and Trice entered the back seat. The driver of the vehicle drove west on Sheridan Street and then turned onto Catherine Street. Trice exited the vehicle and immediately walked back to the CI's vehicle.

Trice was only inside the convenience store for a few seconds. When he came back outside, he was pacing in the parking lot, talking on his phone and looking around as if he

were waiting for someone. Trice was in the area to meet his supplier to obtain cocaine for the CI. When the white Subaru arrived in the parking lot, it did not pull up to the gas pumps or park in a parking spot. None of the occupants exited the vehicle and entered the convenience store. The vehicle just stopped momentarily and Trice entered the back seat. The white Subaru then left the gas station/convenience store and basically drove partially around the block before Trice exited the vehicle and walked back to the CI's vehicle. From these facts, a person of reasonable caution would infer that the only reason the white Subaru stopped at the convenience store was to pick up Trice and the only reason Trice was waiting in the parking lot was to meet his supplier to purchase cocaine.

The white Subaru and its occupants continued down Catherine Street, turned west onto Washington Boulevard and traveled west from Loyalsock Township into the City of Williamsport. Havens directed Minier to stop the white Subaru. The traffic stop occurred after the vehicle turned south off of High Street and onto Elmira Street near the ARW. The vehicle did not stop anywhere between the time Trice exited it and Minier stopped it.

The police stopped the vehicle to determine who the occupants were and to determine whether they engaged in a drug transaction with Trice. When Officer Minier stopped the vehicle, Spencer was attempting to make a phone call. Officer Minier repeatedly asked and then told Spencer to stop, but he did not. Spencer's failure to follow Officer Minier's commands made Officer Caschera concerned for their safety, so he directed Spencer to exit the vehicle. Again, Spencer refused to follow commands when he was asked to do so. When Spencer eventually exited the vehicle, he said he was not going in handcuffs and he fled. When Detective Caschera caught up to Spencer and grabbed him by the arm, Spencer assaulted him by punched him in the arm, causing him to lose his grip. Spencer ran

away again and was not captured until he was tased several times by Officer Geary.

Spencer's flight can be considered as evidence of consciousness of guilt from which one can infer that Spencer was the individual who delivered cocaine to Trice.

Detective Havens spoke to the driver, Kennedy, who informed him that he gave a ride to Spencer to River Avenue, they picked up Trice, and an exchange occurred inside the vehicle between Spencer and Trice. This evidence, while hearsay, corroborates the inference of guilt that arose from Spencer's flight.

Spencer was transported to police headquarters. While there, Spencer committed additional conduct that constituted more evidence of consciousness of guilt, and other evidence was discovered that supported the statements of Kennedy. Detective Havens strip-searched Spencer. He observed a portion of a plastic bag containing cocaine sticking out from Spencer's anus. He asked Spencer to remove it. Spencer said that he would but instead, he took his middle finger and shoved it further into his body then denied that any bag was there. Detective Havens handcuffed Spencer to a bench/wall in headquarters and went to draft a search warrant for Spencer's body cavity. There was commotion coming from the area where Spencer was handcuffed. On the floor in that area, detectives discovered smashed cocaine and a plastic bag that was not there previously. Spencer's false statements denying the presence of a plastic bag containing cocaine, and his unsuccessful efforts to conceal it and then dispose of it all can be considered consciousness of guilt. The observations of the plastic bag and cocaine protruding from his anus and on the floor near where he was handcuffed corroborate the inference and Kennedy's statements that he delivered cocaine to Trice who provided it to the CI. Moreover, when Spencer was searched at headquarters, the pre-recorded buy money that the CI provided to Trice to purchase cocaine was found in

Spencer's pocket.

The court finds that the totality of these facts and circumstances established a *prima facie* case that Spencer delivered cocaine to Trice.

Spencer contends that the evidence was insufficient for this count because there was no eyewitness testimony of the delivery and therefore, this charge must be dismissed pursuant to *Harris* and *McClelland*. The court cannot agree.

Although the Commonwealth did not present testimony from the CI, Trice, or Kennedy at the preliminary hearing, the court finds that the evidence to establish this count was not based solely on hearsay. It was also based on Spencer's conduct that could be considered consciousness of guilt and the observations of the police, including but not limited to, Spencer's possession of the buy money, the plastic bag of cocaine Havens saw partially protruding from Spencer's butt and the subsequent discovery of cocaine and a plastic bag on the floor where Spencer was handcuffed.

## **2. PWID-cocaine**

PWID is also a violation of 35 P.S. §780-113(a)(30). To establish a PWID charge, the Commonwealth must show that a person actually or constructively possessed a controlled substance and that the person intended to deliver or transfer that substance to another individual. Based on the evidence set forth with respect to Count 1, the Commonwealth presented a *prima facie* case that Spencer delivered cocaine to Trice. Spencer also possessed additional cocaine which he hid in his butt. His conduct to hide and/or dispose of that cocaine is consciousness of guilt. From all of the facts and circumstances, a reasonable person can infer that Spencer also intended to deliver the remaining cocaine to other persons. Therefore, the court finds that the Commonwealth presented a *prima facie* case for PWID-cocaine.

### 3. *Resisting Arrest*

In Count 3, the Commonwealth charged Spencer with resisting arrest by members of the LCNEU and Williamsport Bureau of Police (WBP) officers. This crime is defined as:

A person commits a misdemeanor of the second degree if, with the intent of preventing a public servant from effecting a lawful arrest or discharging any other duty, the person creates a substantial risk of bodily injury to the public servant or anyone else, or employs means justifying or requiring substantial force to overcome the resistance.

18 Pa C.S.A. § 5104. This statute does not require serious bodily injury, nor does it require actual injury to the arresting officer. Sufficient resistance is established if the person's actions created a substantial risk of bodily injury to the officer. *Commonwealth v. Lyons*, 382 A.2d 438, 449 (Pa. Super. 1989).

The evidence presented by the Commonwealth established a *prima facie* case of resisting arrest. When Detective Caschera directed Spencer to exit the vehicle, he was not compliant or cooperative. When he finally exited the vehicle, he said he wasn't going in no handcuffs and fled. While still having an arm of Spencer, Caschera ran with him, and pushed him against an ARW truck. He tried to handcuff him, but Spencer threw a violent, aggressive overhand right punch at Caschera. Caschera avoided being struck in the head, but the punch struck Caschera's arm/shoulder area. Spencer ran away. Detective Loudenslager attempted to taser Spencer but it was not successful due to Spencer's puffy coat. Officer Geary attempted to cut Spencer off with his vehicle, but Spencer jumped and slid across the hood of Geary's vehicle, Duke of Hazard-style and continued to flee. Geary again attempted to cut off Spencer with his vehicle but was not successful. When Spencer ran through a yard, Geary exited his vehicle and chased Spencer on foot. Geary attempted to taser Spencer but

again Spencer's puffy jacket prevented the prongs of the taser to make connection with Spencer's body. Geary caught up to Spencer and it took three people – Geary, Caschera, and Detective Jonathan Rachel – to place Spencer in handcuffs.

Clearly, the evidence was sufficient to support a charge of resisting arrest. Spencer punched Detective Caschera with a violent, aggressive overhand right so that Caschera could not place him in handcuffs, which prevented Caschera from exercising his duty to detain him and returning him to the vehicle stop so that the police could investigate whether he was engaging in drug dealing. The violent, aggressive, overhand punch with his right hand created a substantial risk of bodily injury to Detective Caschera. This alone could support a charge of resisting arrest or other law enforcement. However, his acts of continuing to flee and Dukes of Hazard over Officer Geary's vehicle also created a substantial risk of bodily injury to himself, Officer Geary and others. Instead of sliding across the hood, he could have been struck by Officer Geary's vehicle and propelled into Geary's windshield, into traffic or onto the street in the path of Geary's vehicle.

#### ***4. Tampering With Physical Evidence***

In Count 4, Spencer is charged with Tampering with Physical Evidence. A person commits this crime

if, believing that an official proceeding or investigation is pending or about to be instituted, he:

(1) alters, destroys, conceals or removes any record, document or thing with intent to impair its verity or availability in such proceeding or investigation.

18 Pa. C.S.A. §4910(1). According to the Information, this charge is based on Spencer pushing the plastic bag containing cocaine into his rectum.

The court finds that the Commonwealth presented a *prime facie* case that Spencer



tampered with evidence. Detective Havens testified that when he was searching Spencer, he observed a portion of a plastic bag containing cocaine protruding from Spencer's anus. He asked Spencer to remove the bag of cocaine and Spencer said he would but, instead, he took his middle finger and pushed the bag of cocaine from his anus up into his rectum. Spencer then denied that there was a bag of cocaine. The court finds that this evidence shows that Spencer engaged in conduct to conceal a thing, the bag of cocaine, with the intent to impair its availability for Detective Havens' investigation. Therefore, the Commonwealth presented a *prima facie* case for the charge of tampering with evidence.

#### **5. *Evading Arrest or Detention on Foot***

In Count 5, Spencer is charged with Evading Arrest or Detention on Foot. Section 5104.2(a) of the Crimes Code states: "A person commits an offense if the person knowingly and intentionally flees on foot from a public servant attempting to lawfully arrest or detain that person." 18 Pa. C.S.A. §5104.2(a).

Following the traffic stop, Detective Caschera attempted to detain Spencer. Spencer said he wasn't going in no handcuffs. Spencer ran away from Caschera. When Caschera pushed Spencer against an ARW truck and tried to handcuff him, Spencer punched Caschera in the arm, causing him to lose his grip on Spencer. Spencer then fled, running on foot, from Detective Loudenslager's attempt to taser him and Officer Geary's attempts to stop him with his vehicle and on foot as well as his attempt to taser him. Eventually, Geary pursued Spencer on foot, caught up to him and stopped him. It took three police officers to place Spencer in handcuffs. This evidence was sufficient to establish a *prima facie* case of Evading Arrest or Detention on Foot.

## **6.      *Aggravated Assault***

In Count 6, the Commonwealth charged Spencer with Aggravated Assault in violation of 18 Pa. C.S.A. §2702(a)(3), which states:

A person is guilty of aggravated assault if he:  
(3) attempts to cause or intentionally or knowingly causes bodily injury to any of the officers, agents, employees or other persons enumerated in subsection (c), in the performance of duty.

A police officer is a person enumerated in subsection (c). 18 Pa. C.S.A. §2702(c)(1).

Bodily injury is defined as impairment of physical condition or substantial pain. 18 Pa. C.S.A. § 2301.

In prosecution for aggravated assault on a police officer, the Commonwealth has no obligation to establish that the officer suffered a bodily injury; rather, the Commonwealth must establish only an attempt to inflict bodily injury, and this intent may be shown by circumstances which reasonably suggest that the defendant intended to cause injury. *Commonwealth v. Rahman*, 75 A.3d 497, 502 (Pa. Super. 2013).

Detective Caschera is an officer with the LCNEU. When he was attempting to detain Spencer, Spencer punched him with a violent, aggressive, overhand right. Caschera moved to avoid the punch but it landed on his arm/shoulder area, causing him to lose his grip on Spencer. These circumstances show that Spencer intentionally swung at and punched Caschera and that he did so with the intent to cause bodily injury to him. The circumstances are sufficient to infer that Spencer attempted to inflict bodily injury on Caschera. Therefore, the court finds that the Commonwealth presented *prima facie* evidence for the charge of Aggravated Assault.

## ***Conclusion***

The police had reasonable suspicion to stop the white Subaru to investigate whether the occupants were engaging the criminal activity of dealing drugs. Spencer's actions following the stop showed consciousness of guilt. His consciousness of guilt in conjunction with Kennedy's statements established probable cause to arrest him for delivery of cocaine. His subsequent actions were also sufficient for him to be arrested for assault of Caschera and resisting arrest or other law enforcement. Therefore, the police had probable cause to arrest Spencer at the time he was placed in handcuffs and there is no basis to suppress the evidence in these cases.

The evidence presented by the Commonwealth at the preliminary hearing was sufficient to establish a *prima facie* case for all of the charges it filed against Spencer. Therefore, he is not entitled to *habeas corpus* relief.

Accordingly, the court will deny all aspects of Spencer's Omnibus Pre-Trial Motions.

**ORDER**

**AND NOW**, this 25<sup>th</sup> day of July 2025, the court DENIES Spencer's  
Omnibus Pre-Trial Motions.

By The Court,

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Nancy L. Butts, President Judge

cc: Jessica Feese, Esquire (ADA)  
Matthew Diemer, Esquire  
Jerri Rook

NLB/laf