

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

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CR-926-2024
	:	
v.	:	
	:	
THOMAS VAUGHN,	:	OMNIBUS PRETRIAL
Defendant	:	MOTION

**OPINION AND ORDER**

Thomas Vaughn (Vaughn) was arrested by the Pennsylvania State Police on May 15, 2024 for Making a Materially False Written Statement<sup>1</sup> and Statement Under Penalty<sup>2</sup>. The charges were held for court on July 8, 2024. The above listed charges arise from Vaughn applying to purchase a firearm and failing to properly complete the Alcohol, Tobacco and Firearms (ATF) 4473 form. Vaughn filed an Omnibus Pretrial Motion on November 30, 2024. In his Motion, Vaughn alleges among other things, that the Commonwealth has failed to demonstrate a *prima facie* case that Vaughn committed the charges.<sup>3</sup> A hearing on the Motion

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<sup>1</sup> 18 Pa. C.S. § 6111(g)(4)(ii).

<sup>2</sup> 18 Pa. C.S. § 4904(b).

<sup>3</sup> The Court issued an order at the time of the hearing on the Omnibus motion disposing of the remaining issues raised. Item 1, motion to dismiss selective prosecution, was withdrawn without prejudice. Item 3, 404(b) evidence, the Court reminded the Commonwealth that if they intended to present such evidence that it must be provided at the pretrial for the case. Item 4, promises of leniency, immunity or preferential treatment, the Commonwealth was given a 30-day deadline prior to jury selection to provide any information to the Defendant; however, the Commonwealth did not believe that there would any promises given and did not expect that to change. Item 5, timely notice of expert testimony, if they will be utilizing an expert, the Commonwealth must provide either a report or the substance of the expert's testimony at least 30-days of jury selection although the Commonwealth believes they will not be using an expert. Item 6, Motion to Compel Discovery, Defense counsel believed that video surveillance of the incident may exist. Although the Commonwealth did not believe that any existed, they were given 14 days to provide verification of the existence of the materials. No motion has been made by the defense on this issue, so the Court believes that it has been complied with. Item 7, motion to reserve right and to raise additional issues, the Court believes in the interests of justice the Defendant may have the opportunity to raise those issues at a later time. As all of the other issues have been resolved, only the Petition for Writ of Habeas Corpus shall be addressed in this opinion.

was held on February 18, 2025. At the hearing, the Commonwealth submitted a copy of the preliminary hearing transcript and presented no additional testimony.

### ***Testimony from the Preliminary Hearing***

The Commonwealth's first witness at the preliminary hearing on July 8, 2024 was David Charles Hart (Hart). He has worked for DC Muzzleloaders in Proctor, Lycoming County, Pennsylvania for approximately three years as a gun salesman, ammunition and hunting equipment salesman. N.T., 7/8/2024 at 3. He described DC's Muzzleloaders as a "little sporting goods store." *Id.* Hart testified that as part of his job he processed forms for background checks; he called them PIC checks. *Id.* He described that they use the ATF 4473 which is the mandated form. *Id.* at 4. An individual coming in for a background check would fill out the form, Hart would take their driver's license and run it through the computer system in Harrisburg to determine if they were approved or accepted to buy a handgun. *Id.* He testified that he knew Vaughn as a customer and that he would have come to the store on May 20, 2023 about an hour prior to closing. *Id.* at 5. Vaughn was interested in a semi-automatic Ruger Mini 14, and this was a firearm that would require a background check. *Id.* Hart said that he talked with Vaughn as he did with most customers, specifically asking him if he had any previous felonies or served any jail time and he said he "just had some overdue parking tickets and misdemeanor, but nothing to worry about". *Id.* Hart then would have had him fill out the ATF 4473 form which was entered at the preliminary hearing into evidence as Commonwealth Exhibit No. 1. *Id.* at 6. Hart testified that there are two questions that discuss prior convictions. *Id.* Letter B asks are you under indictment or information in any court for a felony or any crime for which the judge would imprison you for more than one year, to which Vaughn answered no.

*Id.* The second question 21(c) “have you been convicted in any court, including military court, of a felony or any crime for which the judge would imprison you for more than one year even if you receive a shorter sentence, including probation” and Hart testified that Vaughn answered that question by answering no as well. *Id.* at 7. Vaughn completed the form in Hart’s presence and signed at number 22. *Id.* Hart then entered Vaughn’s driver’s license number on the form and he called in the PICS or background check down to Harrisburg. *Id.* at 8. Hart described this process is taking about five to ten minutes and automated, but this time a person got on the phone to speak with Hart. *Id.* Hart said the person he spoke with said that Vaughn failed his background check and is not able to get a firearm. *Id.* As a consequence, Hart had to fill out another form and fax all of the information to Harrisburg including the ATF 4473, to be provided to the State Police. *Id.* Hart said he spoke with the Vaughn about it who said he did not understand. *Id.* at 9. Hart also offered him a challenge form, but Vaughn did not want that, he would just talk with his attorney. *Id.*

On cross, Hart described the ATF 4473 is a six-page form of approximately two and one-half pages constituting the application and the remainder being instructions and legalities. *Id.* at 11. Hart also agreed that sometimes the instructions are not the easiest to read. *Id.* Hart said that when he was going over the prior conviction information with Vaughn, he told him that he had a misdemeanor and that he gave him the form after he confirmed his prior history. *Id.* at 12. Hart did say that based upon Vaughn’s answers, he thought it was still sufficient enough to give him the form, and even when he followed up about the misdemeanor offense, he still felt it was appropriate to give him the ATF 4473 form. *Id.* Hart said that Vaughn filled out his correct name, correct address, correct height and weight, correct date of birth and correct Social Security number. *Id.* at 12. Vaughn did not appear to be hiding anything. *Id.* at 13. Hart

estimated that it took about ten minutes to complete the form but by the time the PICS check was done, it was after closing time. *Id.* at 14. Although Hart didn't know which question was incorrectly answered, he assumed it was Question 21(c). *Id.* at 15. Hart testified that Vaughn said his misdemeanor was a "misunderstanding on overdue parking tickets". *Id.* at 16. Hart clarified that when he asked Vaughn about what the misdemeanor was, he said it was parking, it was all about too many parking tickets. *Id.* at 17.

Next witness for the Commonwealth was Trooper Josiah Reiner (Reiner) of the Pennsylvania State Police (PSP). *Id.* at 18. Reiner testified that on April 9, 2024 he received a request for investigation into a denied PICS check for Vaughn that was completed on May 20, 2023. *Id.* Using the information that was provided Reiner conducted a criminal background history check at this point the Commonwealth introduce exhibit number two, which is Vaughn's rap sheet generated by the PSP Central repository. *Id.* Reiner testified that there were two convictions: a plea of guilty to a corruption of minors charge on October 1, 1994<sup>4</sup> and then a plea of no contest to corruption of minors and indecent assault from March 1, 1998<sup>5</sup>. *Id.* at 19. Reiner testified that first-degree misdemeanor charges are punishable by more than one year in jail. *Id.* at 20. He then followed up and spoke with Hart from the sporting goods store and obtained the original documentation, specifically the ATF 4473 form. *Id.* at 21. Vaughn never met with Reiner despite being given the opportunity to give an interview. *Id.*

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<sup>4</sup> Although Reiner corrected himself at the preliminary hearing first stating October 1, 1994 and changing to October 5, 1994, this guilty plea to one count of Corruption of Minors, a misdemeanor of the first degree was to criminal docket number 98-10,633 and took place before Judge Kenneth Brown on October 15, 1998. He received two and one-half years' probation.

<sup>5</sup> This no contest plea by Vaughn was at docket number 00-11,278 before this court on September 18, 2000, to one count of Indecent Exposure and one count of Corruption of Minors both graded misdemeanors of the first degree. He received 12 months' probation on each offense to run consecutively for an aggregate sentence of two years' probation.

## ***Discussion***

At the preliminary hearing stage of a criminal prosecution, the Commonwealth need not prove 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 1177, 1180 (Pa. Super. 2001). "A *prima facie* case in the criminal realm is the measure of evidence, which if accepted as true, would warrant the conclusion that the crime charged was committed." *Commonwealth v. MacPherson*, 752 A.2d 384, 391 (Pa. 2000). While the weight and credibility of the evidence are not factors at this stage, and the Commonwealth need only demonstrate sufficient probable cause to believe the person charged has committed the offense; the absence of evidence as to the existence of a material element is fatal. *See Commonwealth v. Williams*, 331 A.3d 556, 570 (Pa. 2025)(weight and credibility of evidence are not factors at preliminary hearing stage); *Commonwealth v. Ripley*, 833 A.2d 155, 159-60 (Pa. Super. 2003)(Commonwealth must present *prima facie* evidence of each and every element; of crime charged; absence of evidence of an element of charge is fatal). 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). In assessing whether a *prima facie* case has been demonstrated,

“[i]nferences 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.” *Perez*, 249 A.3d at 1102, *quoting Huggins*, 836 A.2d at 866.

At the hearing on the motion, neither attorney made argument. They merely submitted the challenge regarding whether the Commonwealth presented *prima facie* evidence to sustain the charges on the transcript of the preliminary hearing on July 8, 2024. However, the Court did consider the arguments of counsel made at the preliminary hearing.

### ***Materially false statement***

Section 6111(g)(4)(ii) of the Pennsylvania Crimes Code defines this charge as follows:

Any person, purchaser or transferee commits a felony of the third degree if, in connection with the purchase, delivery or transfer of a firearm under this chapter, he knowingly and intentionally:

(ii) makes any materially false written statement, including a statement on any form promulgated by Federal or State agencies.

18 Pa. C.S.A. §6111(g)(4)(ii). Therefore, to establish a *prima facie* case, the Commonwealth must show that the defendant made a written statement on a firearm purchase form, the statement was materially false, the defendant acted knowingly and intentionally and the statement was made in connection with the purchase or transfer of a firearm. Any knowingly false statement given by a person in connection with the purchase of a firearm—even if given in response to the questions on the federal form—is “material” and would subject that person to prosecution. *Commonwealth v. Baxter*, 956 A.2d 465, 472 (Pa. Super. 2008).

Evidence from the preliminary hearing demonstrated that Vaughn completed ATF 4473 on May 20, 2023, answered 'No' to Question 21(c) (regarding convictions punishable by more than one year), and signed the form. Reiner testified Vaughn has prior convictions for

corruption of minors and indecent assault, both graded as misdemeanors of the first degree and punishable by up to five years each. Vaughn's statements to the store employee, downplaying his record to 'parking tickets and misdemeanors,' can be viewed as evidence of intent to conceal his criminal history.

### ***Statement under Penalty***

Section 4904(b) defines Statements "under penalty" as follows:

A person commits a misdemeanor of the third degree if he makes a written false statement which he does not believe to be true, on or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable.

18 Pa. C.S.A. §4904(b). Therefore, to establish a *prima facie* case, the Commonwealth must show that the defendant made a written statement on a form bearing a warning that false statements are punishable, the statement was false, the defendant did not believe the statement to be true and the statement was made knowingly.

The evidence presented at the preliminary hearing established that ATF 4473 clearly bears a warning that false statements are punishable. Vaughn's answer denying any convictions punishable by more than one year was false, given his prior first-degree misdemeanor convictions. His minimizing comments to Hart and his choice not to disclose his convictions are sufficient for *prima facie* purposes, to infer that Vaughn knew the statement was false.

### ***Conclusion***

Viewing the evidence in the light most favorable to the Commonwealth, the testimony of both David Hart and Trooper Reiner, combined with the documentary evidence (ATF 4473 and criminal history report), established a *prima facie* case for both charged offenses. While the defense's arguments at the preliminary hearing regarding confusion or lack of intent are

relevant to a jury's assessment of guilt or innocence they do not negate the *prima facie* evidence required at the preliminary hearing stage of the case.

**ORDER**

**AND NOW**, this 21st day of July, 2025, based upon the foregoing Opinion, Defendant's Petition for Writ of Habeas Corpus is hereby **DENIED**.

By the Court,

Nancy L. Butts, President Judge

cc: Jessica Feese, Esq. (ADA)  
E.J. Rymza, Esquire  
Jerri Rook