

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

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
	:	<b>CR-975-2024</b>
<b>v.</b>	:	
	:	
<b>NAOMI VROMAN,</b>	:	<b>Omnibus Pretrial Motion</b>
<b>Defendant</b>	:	

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<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
	:	<b>CR-976-2024</b>
<b>v.</b>	:	
	:	
<b>DANZEL BLACK,</b>	:	<b>Omnibus Pretrial Motion</b>
<b>Defendant</b>	:	

**OPINION**

This matter was before the Court on February 10, 2025, on the Defendants' Omnibus Pretrial Motion filed on August 27, 2024, by and through Defendant Vroman's counsel of record, Matthew Diemer, Esquire.

On September 3, 2024, the Commonwealth filed a Motion to Consolidate the Criminal Informations for the above two cases to be consolidated for trial. The basis for the Commonwealth's motion was that the Defendants are alleged to have violated a duty of care to their infant child and for providing false information to police regarding the injuries incurred by the infant. The Pennsylvania Rules of Criminal Procedure, Rule 582(A)(1)(a), permits consolidation of Criminal Informations for trial if the evidence of each of the offenses would be admissible in a separate trial for the other and is capable of separation by the jury so that there is no danger of confusion. The offenses charged are based on the same act or transaction, both Defendants would not be prejudiced by the consolidation as witnesses, the victim is the same for both cases, and counsel for both Defendants did not

object to consolidation. The Informations were consolidated for trial by entry of an uncontested order on September 10, 2024.

On September 30, 2024, the Commonwealth filed the Criminal Information charging each Defendant with one count each of Endangering the Welfare of Children—Parent/Guardian/Other under 18 Pa.C.S.A. Section 4304 (a)(1) and Obstruction under 18 Pa.C.S.A. Section 4958(b.1).

At the hearing on the pretrial motion, Assistant District Attorney Lindsay Sweeley appeared on behalf of the Commonwealth, Attorney Matthew Diemer appeared on behalf of Naomi Vroman, and Attorney Kyle Rude appeared on behalf of Danzel Black. The Commonwealth submitted the Preliminary Hearing Audio, and without objection from the Defendants the Preliminary Hearing Audio was admitted as Commonwealth Exhibit 1. The preliminary hearing occurred on July 17, 2024, and the Commonwealth presented Doctor Ashley Pence, a general pediatrician, Dr. Bruno, an expert in child abuse cases, and Trooper Adams of the Pennsylvania State Police, the investigating officer.

At the motion hearing, the Commonwealth presented no further testimony, and the Defendants submitted limited argument. After argument, the Commonwealth requested leave of court to submit an answer to the Omnibus Pretrial Motion. The Commonwealth's request was granted, and the Commonwealth was provided ten (10) days to file an answer. The Commonwealth filed its answer timely on February 20, 2025.

In the pre-trial motion, the Defendants submitted a Petition for Writ of Habeas Corpus for both counts of the Information asserting that the evidence presented at the preliminary hearing was insufficient to meet the *prima facie* threshold and requested all charges be dismissed.

## ***Background***

On or about June 13, 2024, Defendants were each charged with one count each of Endangering the Welfare of Children and Obstruction. The criminal charges arise from allegations that Defendants dropped their newborn child, did not seek medical treatment for the child, the child ultimately suffered from severe injuries, and when initially questioned by the investigating officer regarding inquiries of abuse the parents were not forthcoming with information.

Defendants are the natural parents of the alleged child victim (Child) in this matter. The preliminary hearing occurred on July 17, 2024. On April 19, 2024, Defendants presented child for his three-week, post-birth check-up at his primary care office.

The Commonwealth first presented Dr. Ashley Pence, DO, who received her doctorate of medicine in 2012, she completed her pediatric residency in 2015, and she has been practicing as a general pediatrician for nine (9) years<sup>1</sup>. Dr. Pence regularly treats infants<sup>2</sup>. Dr. Pence was admitted as an expert in the area of general pediatrics for the preliminary hearing without objection from Defendants<sup>3</sup>.

Dr. Ashley Pence testified about the initial findings and the appointment on April 19, 2024. When initially called back for their appointment, Defendants and Child were escorted to an exam room and instructed to remove all clothing but the diaper from Child for the nurse to take length, weight, and vitals measurements<sup>4</sup>, which was the same process as the Child's initial post-birth check up on April 5, 2024<sup>5</sup>. After performing the measurements,

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<sup>1</sup> Commonwealth Exhibit No. 1, Preliminary Hearing Audio, 07/17/2024 at 00:00:49 to 00:01:38.

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Com. Ex.1 at 00:09:40 to 00:10:30.

<sup>5</sup> Com. Ex. 1 at 00:10:31 to 00:10:35.

the nurse inputs the pre-examination information into the chart<sup>6</sup>, and if any abnormalities are visually noticeable then then the nurse includes those findings in the chart<sup>7</sup>.

On April 19, 2024, Dr. Pence reviewed the nurse's collected information, and on that day the nurse did not report any abnormal findings upon initial visual examination, noting that the nurse is the individual who would have placed Child on the scale for his weight<sup>8</sup>. Dr. Pence was not in the examination room with the nurse during the initial intake. When Dr. Pence entered the examination room, she observed Defendant Black holding Child who was covered in a blanket and taking a bottle<sup>9</sup>. Beyond the Child coughing, Dr. Pence did not recall observing any other abnormalities or peculiarities in Child's behavior.<sup>10</sup> Dr. Pence could also not recall whether she placed Child on the examination table or whether Defendant Black placed Child on the examination table<sup>11</sup>.

Nevertheless, Dr. Pence began to conduct her physical examination of Child by starting at the top of the child and moving toward the toes, noting that there were no remarkable injuries to Child's head, arms, or abdominal area<sup>12</sup>. Dr. Pence testified that if something abnormal was observed in another area of the body while working in a different area, the finding would be noted in Child's chart<sup>13</sup>.

Once Dr. Pence reached Child's legs, she conducted "Ortolani and Barlow Maneuvers,<sup>14</sup>" which allow a medically trained practitioner<sup>15</sup> to evaluate for any hip

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<sup>6</sup> Com. Ex. 1 at 00:10:57-00:11:08.

<sup>7</sup> Com. Ex. 1 at 00:11:09 to 00:11:30.

<sup>8</sup> Com. Ex. 1 at 00:11:32 to 00:12:07.

<sup>9</sup> Com. Ex. 1 at 00:12:50 to 00:12:57.

<sup>10</sup> Com. Ex. 1 00:13:01 to 00:13:27.

<sup>11</sup> Com. Ex. 1 00:13:57 to 00:14:13.

<sup>12</sup> Com. Ex. 1 at 00:15:16 to 00:17:27.

<sup>13</sup> Id.

<sup>14</sup> Com. Ex. 1 at 00:02:42 to 00:03:03.

<sup>15</sup> Com. Ex. 1 at 00:15:16 to 00:17:27, Dr. Pence stated that she learned how to conduct Ortolani and Barlow maneuvers and the purpose for such movements while she was in medical school—qualifying that it is not knowledge a layperson would have without specialized knowledge and training.

pathology, including dysplasia; and, for which infants are laid on their backs<sup>16</sup>. While conducting the maneuvers, Dr. Pence felt “crepitus” in Child’s left thigh/hip region<sup>17</sup>. Dr. Pence described crepitus as a “rubbing, crunchy feeling” evaluated in bone on bone movement, typically presenting in suspected fractures and not seen in a typical physical examination<sup>18</sup>. Dr. Pence also observed that Child’s left leg was in an external rotation, meaning that, the knee was pointing out and the leg was “drawn up, flexed at the hip<sup>19</sup>.” The left leg also had less spontaneous movement than Child’s right leg<sup>20</sup>. Dr. Pence stated that Child did not react with screaming or crying when she conducted the movements of his legs<sup>21</sup>. During Dr. Pence’s examination, Child did not have signs of swelling, bruising, or redness<sup>22</sup> and had the maneuvers not been conducted the injury would not have been appreciated upon visual evaluation other than the lack of movement in the left leg<sup>23</sup>. Dr. Pence had concerns due to the abnormal finding which was a drastic change from Child’s initial post-birth check-up where no such finding was made on April 5, 2024<sup>24</sup>.

Dr. Pence discussed her findings with Defendants, explaining that she felt something odd, and briefly questioned the parents about any history of Child falling, rolling, or issues with diaper changing to which Defendants responded in the negative<sup>25</sup>. The history requested by Dr. Pence from Defendants was a brief conversation due to concerns over Child receiving necessary medical treatment and stability of the limb with the expectation that more details could be collected after the immediate concerns over Child’s condition

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<sup>16</sup> Id.

<sup>17</sup> Com. Ex. 1 at 00:03:03 to 00:03:20.

<sup>18</sup> Com. Ex. 1 at 00:03:20 to 00:03:50.

<sup>19</sup> Com. Ex. 1 at 00:03:50 to 00:04:55.

<sup>20</sup> Id.

<sup>21</sup> Com. Ex. 1 at 00:28:42 to 00:28:56.

<sup>22</sup> Com. Ex. 1 at 00:29:00 to 00:29:06.

<sup>23</sup> Com. Ex. 1 at 00:21:20 to 00:21:55.

<sup>24</sup> Com. Ex. 1 at 00:06:10 to 00:06:27.

<sup>25</sup> Com. Ex. 1 at 00:06:35 to 00:07:07.

were addressed<sup>26</sup>. The parents were referred directly to the Emergency Department by Dr. Pence for Child to receive further testing and treatment<sup>27</sup>. Dr. Pence stated that Child and Defendants were not released from the well-check appointment because of the significant change in Child's condition and any delay in care would jeopardize Child's limb<sup>28</sup>. Dr. Pence further explained that the abnormal finding was in an area that is anatomically close to large blood vessels and nerves that, without addressing the injury, creates a risk of bone puncturing the large blood vessels and nerves which poses a threat to life<sup>29</sup>.

Dr. Pence further testified that the radiology reports indicated Child had a left femur fracture—an unusual break for a child of three weeks to sustain in a fall—that could be possible from a fall of a height greater than two feet,<sup>30</sup> in Dr. Pence's medical opinion. Dr. Pence further testified that she could not determine the etiology of the break to any degree of medical certainty<sup>31</sup>, but that it is unlikely the break occurred from Child being swaddled too tightly, an object falling on Child, or Dr. Pence's Ortolani and Barlow Maneuvers<sup>32</sup>. Dr. Pence also stated that the Ortolani and Barlow Maneuvers would not have exacerbated Child's injury to cause swelling<sup>33</sup>. Dr. Pence provided the radiology report describing the fracture as a clean break fracture through the femur and read that the report indicated a “transverse fracture of the left femoral midshaft with soft tissue edema, and the knee had normal alignment<sup>34</sup>” radiographically. Dr. Pence testified that her opinions and reports were offered to a reasonable degree of medical certainty<sup>35</sup>.

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<sup>26</sup> Com. Ex. 1 at 00:31:45 to 00:32:39.

<sup>27</sup> Com. Ex. 1 at 00:17:38 to 00:18:25.

<sup>28</sup> Com. Ex. 1 at 00:32:41 to 00:32:53.

<sup>29</sup> Com. Ex. 1 at 00:32:41 to 00:33:20.

<sup>30</sup> Com. Ex. 1 at 00:17:33 to 00:19:05.

<sup>31</sup> Com. Ex. 1 at 00:31:12 to 00:31:30.

<sup>32</sup> Com. Ex. 1 at 00:20:08 to 00:20:38.

<sup>33</sup> Com. Ex. 1 at 00:20:08 to 00:20:18.

<sup>34</sup> Com. Ex. 1 at 00:19:07 to 00:20:07.

<sup>35</sup> Com. Ex. 1 at 00:07:55 to 00:08:00.

The Commonwealth then presented Dr. Pat Bruno, MD, who completed his pediatric internship and residency at Ohio State University, began practicing general pediatrics in the late 1970s, and obtained training in child abuse medical diagnoses at the San Diego Children's Hospital<sup>36</sup>. Dr. Bruno founded the Children's Advocacy Center in the late 1980s, a facility where practitioners evaluate referrals for children of possible child abuse and where he was the medical director until 2024<sup>37</sup>. Dr Bruno currently works full time at the Children's Advocacy Center<sup>38</sup>. Dr. Bruno has a history of testifying in court in child abuse cases, and he has experience with diagnosing and treating infants<sup>39</sup>. Dr. Bruno was admitted as an expert without objection from Defendants<sup>40</sup>.

Dr. Bruno evaluated the alleged child victim on April 20, 2024, and he took the history from Child's Mother, Defendant Vroman, by phone<sup>41</sup>. By Dr. Bruno's recollection, mother provided that Child was seen by his primary care physician for his three-week check-up the day prior<sup>42</sup>. Defendant Vroman reported that the PCP noted swelling of Child's leg and referred Child to the Emergency Department for X-rays<sup>43</sup>. Dr. Bruno stated that Defendant Vroman further reported Child fell a few days prior to the routine appointment on April 19, 2024<sup>44</sup>. Dr. Bruno stated that Defendant Vroman disclosed that Defendant Black was holding Child and he fell on the edge of the bed then onto a carpeted floor while Defendant Vroman was present in the bedroom with Child and Defendant Black<sup>45</sup>. After the

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<sup>36</sup> Com. Ex. 1 at 00:32:25 to 00:38:52

<sup>37</sup> Id.

<sup>38</sup> Id.

<sup>39</sup> Id.

<sup>40</sup> Id.

<sup>41</sup> Com. Ex. 1 at 00:39:12 to 00:40:00

<sup>42</sup> Com. Ex. 1 at 00:40:08 to 00:41:44.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> Id.

fall, Defendant Vroman reported to Dr. Bruno that Child did not cry or vomit, and that he seemed fine and without any bruising or swelling<sup>46</sup>.

After Child was referred to the Emergency Department, further evaluation was conducted<sup>47</sup>. Dr. Bruno noted that medical practitioners found (1) a fracture of the left femur; (2) a fracture of the left seventh rib, noted as a healing fracture; (3) multiple areas of the brain presented on imaging with small subdural bleeds<sup>48</sup>; (4) a fracture to the upper frenulum—the piece of tissue connecting the upper lip to the hard, gingival tissue<sup>49</sup>.

Dr. Bruno conducted another evaluation of Child wherein he noted that there was no bruising but some noticeable swelling of Child's upper leg<sup>50</sup>. Dr. Bruno testified that both Dr. Pence and the radiologist noted swelling of Child's upper left leg, and while he did notice swelling, his report that the prior two practitioners noted swelling came from Defendant Vroman's verbal report<sup>51</sup>. Dr. Bruno did not review Dr. Pence's report, so he could not testify to whether Dr. Pence did note any swelling of Child's left leg<sup>52</sup>. However, Dr. Bruno did state that more damage could be caused and the area would likely present with swelling it had not before if an individual has a broken bone and the area is aggravated<sup>53</sup>. Dr. Bruno further stated that the bone fracture suffered by Child was likely caused by a significant, perpendicular force and doubts that a fall could have caused the injury<sup>54</sup>. Dr. Bruno was unable to provide an estimate of the amount of force required to fracture a child's femur, noting that it is a large bone and any fracture thereof would require

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<sup>46</sup> Id.

<sup>47</sup> Com. Ex. 1 at 00:41:47 to 00:44:30.

<sup>48</sup> Id.

<sup>49</sup> Com. Ex. 1 at 00:44:33 to 00:45:16.

<sup>50</sup> Id.

<sup>51</sup> Com. Ex. 1 at 01:13:03 to 01:13:22.

<sup>52</sup> Com. Ex. 1 at 01:13:28 to 01:13:54.

<sup>53</sup> Com. Ex. 1 at 01:14:11 to 01:15:14.

<sup>54</sup> Com. Ex. 1 at 00:45:34 to 00:47:00.



a significant force<sup>55</sup>. Dr. Bruno testified that the femur fracture was an acute break because there was no calcification of the bone<sup>56</sup>. When asked if a fall from a height of about four feet onto the edge of a hard object, like a bed frame, with no protection on Child's legs could cause the injury, Dr. Bruno opined that it is "very unlikely this injury occurred due to an accident<sup>57</sup>." Dr. Bruno medically concluded that Child's injury was a result of non-accidental trauma,<sup>58</sup> despite qualifying that a drop or fall could not be medically ruled out as the cause of Child's injuries<sup>59</sup>.

Dr. Bruno also explained the healing fracture of Child's left seventh rib—a shorter rib on the left side closer to the area of the hip<sup>60</sup>—noting that it would be unusual for a rib to fracture during child labor and delivery, but cannot determine when that injury would have been caused<sup>61</sup>. Dr. Bruno explained that the rib fracture was healing because the imaging showed callus formation—the fracture line was no longer apparent on the image<sup>62</sup>—which indicates that the rib fracture occurred at a different time than the femur fracture because it takes approximately ten to fourteen days for bone callus to form<sup>63</sup>. The only indication that there was a rib fracture came from a review of the radiological images as there was no external bruising or evidence of trauma<sup>64</sup>. Dr. Bruno did ask Defendant Vroman whether there were any issues with her labor and delivery to which she replied in the negative<sup>65</sup>. Dr.

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<sup>55</sup> Com. Ex. 1 at 00:55:09 to 00:55:53.

<sup>56</sup> Com. Ex. 1 at 01:02:32 to 01:02:56.

<sup>57</sup> Com. Ex. 1 at 01:05:20 to 01:01:08:45.

<sup>58</sup> Com. Ex. 1 at 01:10:53 to 01:11:21.

<sup>59</sup> Com. Ex. 1 at 01:17:52 to 01:18:00.

<sup>60</sup> Com. Ex. 1 at 00:59:50 to 01:01:06.

<sup>61</sup> Com. Ex. 1 at 00:47:01 to 00:47:35.

<sup>62</sup> Com. Ex. 1 at 00:59:50 to 01:01:06.

<sup>63</sup> Com. Ex. 1 at 00:48:50 to 00:49:30.

<sup>64</sup> Com. Ex. 1 at 01:01:12 to 1:01:38.

<sup>65</sup> Com. Ex. 1 at 00:47:30 to 00:50:15.

Bruno relied solely on Defendant Vroman's recitation for the medical history regarding her labor and delivery<sup>66</sup>.

Dr. Bruno expanded on his finding of the traumatized frenulum, noting that such an injury is usually indicative of force-feeding habits, covering a child's mouth forcefully, or an impact to a child's face at the lips<sup>67</sup>. Dr. Bruno was unable to testify to the etiology of the frenulum fracture present in Child<sup>68</sup>, but he has observed this type of injury in infants before they sustain more severe forms of abuse<sup>69</sup>.

Dr. Bruno further explained that the number of subdural brain bleeds is concerning as well, because while those can be caused by delivery, the number, location, and the inability to determine the etiology raises medical questions<sup>70</sup>. Subdural brain bleeds can cause a risk of seizure, long-term developmental effects, and gastrointestinal bleeds;<sup>71</sup> here, however, Dr. Bruno stated that the subdural bleeds are small<sup>72</sup>. Regarding physical signs or symptoms of brain bleeds that a layperson would recognize as an issue without more knowledge, Dr. Bruno stated that feeding issues may present with small subdural bleeds<sup>73</sup>. In general, though, any apparent signs or symptoms depend on how large the bleeds are, for example, larger bleeds can present with seizures<sup>74</sup>. In this case, Child did not have any physical signs or symptoms indicated because the feeding issues could also be related to the femur fracture, plus, without knowing what signs to look for feeding issues may go unnoticed<sup>75</sup>.

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<sup>66</sup> Com. Ex. 1 at 00:59:29 to 00:59:42.

<sup>67</sup> Com. Ex. 1 at 00:47:35 to 00:48:30.

<sup>68</sup> Com. Ex. 1 at 01:18:57 to 01:19:14.

<sup>69</sup> Com. Ex. 1 at 00:47:35 to 00:48:30

<sup>70</sup> Com. Ex. 1 at 00:51:46 to 00:52:04.

<sup>71</sup> Com. Ex. 1 at 00:53:34 to 00:53:50.

<sup>72</sup> Com. Ex. 1 at 00:53:50 to 00:54:09.

<sup>73</sup> Com. Ex. 1 at 00:56:45 to 00:57:45.

<sup>74</sup> Id.

<sup>75</sup> Com. Ex. 1 at 00:57:54 to 00:58:42.

Dr. Bruno testified that his opinions are provided to a reasonable degree of medical certainty<sup>76</sup>.

The Commonwealth then called Trooper Adams of the Pennsylvania State Police. Trooper Adams testified that on April 19, 2024, he was dispatched to University of Pittsburgh Medical Center (UPMC) to investigate injuries to a three-week old infant<sup>77</sup>. Initially, Trooper Adams attempted to interview the parents in the Emergency Department where they were present in Curtain No. 3<sup>78</sup>. Trooper Adams specifically inquired of Defendants whether anything had fallen or was dropped on Child, and Defendant Vroman responded that she did not know of anything happening to Child, and Defendant Black did not initially respond to Trooper Adams' questions<sup>79</sup>. Thereupon, Defendant Vroman volunteered to take a lie detector test<sup>80</sup>, and Trooper Adams exited the area of the parents and walked down the hall<sup>81</sup> to coordinate a polygraph. While Trooper Adams was down the hall making phone calls, he was approached by the Lycoming County Children and Youth Services Caseworker on the scene who informed Trooper Adams that Defendant Black stated he had dropped Child<sup>82</sup>. Trooper Adams re-entered the room and asked Defendant Black what happened<sup>83</sup>. Defendant Black reported that on or around April 15 or April 16, 2024<sup>84</sup>, he was in his bedroom holding Child while attempting to unwrap Child when Child slipped from his grip and fell to the floor causing Child to hit his buttocks, leg, and back area<sup>85</sup>. Defendant Black further stated that Child did not cry or otherwise react, so Defendant

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<sup>76</sup> Com. Ex. 1 at 00:56:18 to 00:56:24.

<sup>77</sup> Com. Ex. 1 at 01:20:32 to 01:20:47.

<sup>78</sup> Com. Ex. 1 at 01:20:50 to 01:21:02.

<sup>79</sup> Com. Ex. 1 at 01:21:07 to 01:21:26.

<sup>80</sup> Com. Ex. 1 at 01:21:26 to 01:21:32.

<sup>81</sup> Com. Ex. 1 at 01:31:07 to 01:31:32.

<sup>82</sup> Com. Ex. 1 at 01:21:32 to 01:21:52.

<sup>83</sup> Com. Ex. 1 at 01:21:55 to 01:22:44.

<sup>84</sup> Com. Ex. 1 at 01:22:44 to 01:23:07.

<sup>85</sup> Id.

Black believed Child to be okay,<sup>86</sup> and he reported that no one else was present in the room at the time of Child's fall<sup>87</sup>.

Trooper Adams' reports provide conflicting information about whether Defendant Black refused to respond to his questions about Child's injuries or whether Defendant Black stated "I don't know."<sup>88</sup> The interview with Defendants was recorded, and they were aware of the recording at that time<sup>89</sup>. Initially, Defendant Vroman was the only parent answering Trooper Adams' questions until Defendant Black volunteered his information<sup>90</sup>. Trooper Adams recalled that he was out of Emergency Room No. 3 for less than three minutes before the CYS caseworker approached him to take down Defendant Black's information<sup>91</sup>.

The Commonwealth did not present any additional witnesses at the preliminary hearing. The parties submitted oral argument and all charges were bound for court.

### ***Argument and Analysis***

In their Petition for Writ of Habeas Corpus, Defendants argued that the Commonwealth failed to establish its burden of a *prima facie* case that (1) Defendants knowingly failed to seek prompt medical attention for any injury suffered by the child and (2) Defendants intentionally or knowingly lied to Trooper Adams regarding the cause of the child's injuries with the intention of impairing, impeding, perverting, interfering with or otherwise obstructing the investigation in this matter.

The Commonwealth meets its burden that a *prima facie* case exists when the evidence produced meets every material element of the charged offenses and the defendant's complicity therein. *Commonwealth v. Dantzler*, 135 A.3d 1109, 1112 (Pa. Super. 2016).

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<sup>86</sup> Id.

<sup>87</sup> Com. Ex. 1 at 01:32:28 to 01:32:36.

<sup>88</sup> Com. Ex. 1 at 01:25:29 to 01:26:33.

<sup>89</sup> Com. Ex. 1 at 01:28:06 to 01:28:28.

<sup>90</sup> Com. Ex. 1 at 01:31:22 to 01:31:32.

<sup>91</sup> Com. Ex. 1 at 01:31:36 to 01:31:44.

This burden may be met by utilizing the evidence available at a preliminary hearing and also may produce additional proof. *Id.* It is well settled that the preliminary hearing is not a trial and the Commonwealth need not establish Defendant's guilt beyond a reasonable doubt at that stage. *Commonwealth v. McBride*, 595 A.2d 589, 591 (Pa. 1991). Rather, the Commonwealth bears the burden of establishing a *prima facie* case which requires the Commonwealth to present evidence of each element of every crime charged. *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa. Super. 2001); *see also* Pa.R.Crim.P. 141(d).

In its consideration, a court does not factor in the weight and credibility of the evidence. *Id.*; *see also Commonwealth v. Huggins*, 836 A.2d 862, 866 (Pa. 2003) (holding that "[t]he evidence need only be such that, if presented at trial and accepted as true, the judge would be warranted in permitting the case to go to the jury"). "[T]he weight and credibility of the evidence are not factors at this stage, and the Commonwealth need only demonstrate sufficient probable cause to believe the person charged has committed the offense." *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa. Super. 2001). "Inferences reasonably drawn from the evidence of record which would support a verdict of guilty are to be given effect, and the evidence must be read in the light most favorable to the Commonwealth's case." *Commonwealth v. Owen*, 580 A.2d 412, 414 (Pa. Super. 1990).

**I. Petition for Habeas Corpus on Count 1—Endangering the Welfare of Children**

Defendants are charged in Count 1 with Endangering the Welfare of Children pursuant to 18 Pa.C.S.A. Section 4304(a)(1) which provides that "[a] parent, guardian or other person supervising the welfare of a child under 18 years of age, or a person that employs or supervises such a person, commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support." Defendants argue that

the evidence presented clearly shows that the child did not exhibit any outward signs of injury whatsoever that would have caused any reasonable person to believe that medical treatment was necessary or required. Additionally, the evidence is clear that Defendants did present Child for his normal, routine, three-week post-birth check-up, and again when the primary care physician directed the family to the Emergency Department for additional imaging, tests, and evaluations.

At the motion hearing on February 10, 2025, Defendants argued that Child had no physical reaction to the fall and he did not incur any external markings or otherwise show signs even at the routine check-up on April 20, 2024. The only indication that Child sustained an injury was when Dr. Pence conducted specialized maneuvers that she learned how to do while receiving specialized medical training. Additionally, Defendants argued that Dr. Bruno based his medical opinions and findings off of the history provided by Defendant Vroman without any further evaluation or explanation of other providers' reports. Defendants aver that this raises questions regarding Dr. Bruno's degree of medical certainty that the injuries were a result of non-accidental trauma.

In their response to the petition, the Commonwealth asserts that the evidence presented at the preliminary hearing established that Child was dropped from several feet in the air, landed on the floor, and did actually suffer from severe injuries<sup>92</sup>. The Commonwealth expands on their argument by claiming that the lack of immediately noticeable injuries or reaction does not release the Defendants from their duty to seek medical treatment for Child<sup>93</sup>. A reasonable person knows that there are a "million and one precautions that have to be taken with babies, to include: baby-proofing your home, holding

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<sup>92</sup> Commonwealth's Response, February 20, 2025, at Paragraph 22.

<sup>93</sup> Id at ¶ 24.

the baby's head a certain way...placing them in their cribs a certain way, etc<sup>94</sup>." The Commonwealth also posits that a reasonable person would have known that dropping an infant onto a hard surface from several feet in the air would be a circumstance that *could* threaten the child's physical welfare<sup>95</sup>.

The Commonwealth further argued that Trooper Adams' testimony that the parents did not want to disclose what they might have known happened to Child to cause his injuries<sup>96</sup> because they knew that dropping Child was the cause of his injuries and they did not seek appropriate medical attention. (Id).

The Commonwealth initially relies on the Pennsylvania Criminal Jury Instructions which provide the elements that must be met for a conviction under 18 Pa.C.S.A. Section 4304(a)(1). First, a showing that the defendant endangered the welfare of a child by violating a duty of care, protection or support is required; second, a showing that the defendant did so knowingly, meaning that he or she is aware that it is practically certain that his or her conduct will cause a particular result; third, a showing the defendant was, at the time, a parent, guardian, or person supervising the welfare of the child under the age of eighteen; and fourth, a showing that the child was under the age of eighteen at the time of the endangering<sup>97</sup>.

If a parent-child relationship exists between the parties then the rule that a person is under no legal compulsion to act to aid another person is not applicable because children inherently depend on their parents to obtain medical aid because children's incapacity to

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<sup>94</sup> Commonwealth's Brief at ¶ 25.

<sup>95</sup> Id at ¶ 26 (emphasis in original).

<sup>96</sup> Id at ¶ 27.

<sup>97</sup> Id at ¶ 16 citing PA-JICRIM 15.4304A, Pa. SSJI (Crim), §15.4304A (2024).

evaluate their condition and summon aid independently supports an imposition of such a duty on their parents<sup>98</sup>.

To establish that a defendant acted knowingly: (1) the defendant must be aware of his or her duty to protect the child; (2) the defendant must be aware that the child is in circumstances that could threaten the child's physical or psychological welfare; and (3) the defendant has either failed to act or has taken action to lame or meager that such actions cannot reasonable be expected to protect the child's welfare<sup>99</sup>.

Thus, the Commonwealth concludes that the third and fourth elements are established because it is uncontested that the child victim in this matter was three-weeks old at the time of the incident<sup>100</sup>. Next, the Commonwealth avers that intent is established because both Defendants possessed the requisite mental state for the charge of endangering the welfare of a child<sup>101</sup>.

Here, the Court finds that the Commonwealth has established its burden of establishing that a *prima facie* case exists regarding Count 1—Endangering the Welfare of Children because there is testimony that both parents were aware Child fell. More specifically, Dr. Bruno's testimony indicates that he only received the history and information from Defendant Vroman, Mother to Child, and she reported she was present in the room with Child and Defendant Black when Child fell out of Defendant Black's grasp onto the edge of the bed then the floor. Thus, the evidence exhibits that both parents were aware that a fall occurred and both parents violated their duty to Child by failing to seek medical aid. Therefore, the Court concludes the Commonwealth has provided sufficient

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<sup>98</sup> Commonwealth's Brief at ¶18 citing to *Commonwealth v. Konz*, 450 A.2d 638 (Pa. 1982).

<sup>99</sup> Id at ¶ 17 citing to *Commonwealth v. Mackert*, 781 A.2d 178 (Pa. Super. 2001); *Commonwealth v. Pahel*, 689 A.2d 963 (Pa. Super. 1997); *Commonwealth v. Wallace*, 817 A.2d 485 (Pa. Super 2002).

<sup>100</sup> Id at ¶ 20.

<sup>101</sup> Id at ¶ 21.



evidence to support each element required for a charge of Endangering the Welfare of Children against both Defendants in this matter, and the Defendant's request to dismiss the charge is **denied**.

## **II. Defendants' Petition for Habeas Corpus on Count 2—Obstruction**

Defendants are charged in Count 2 with Obstruction pursuant to 18 Pa.C.S.A. Section 4958(b.1) which provides that: "...a person commits an offense if, with intent to prevent public servant from investigating or prosecuting a report of child abuse under 23 Pa.C.S. Ch. 63, the person by any scheme or device or in any other manner obstructs, interferes with, impairs, impedes or perverts the investigation or prosecution of child abuse."

In their petition, Defendants argue that the evidence clearly establishes that they did not take any intentional or knowing action that could arguably rise to the level of obstructing the investigation into this matter. Defendants argue the contrary that they were cooperative in the investigation and provided information about the possible cause of the injury to Trooper Adams.

In their answer to the petition, the Commonwealth first relies on the Pennsylvania Criminal Jury Instructions for Obstruction related to child abuse cases. The jury instructions require that the following elements are met: (1) the defendant engaged in a scheme or device to obstruct, interfere with, impair, impede, or pervert the investigation or prosecution of child abuse or obstructed, interfered with, impaired, impeded, or perverted the investigation or prosecution of child abuse in any manner; and (2) the Defendant did so with the intent to prevent a public servant from investigating or prosecuting a report of child abuse under the laws of Pennsylvania<sup>102</sup>.

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<sup>102</sup> Commonwealth's Brief at ¶ 29 citing to PA-JICRIM 15.4958, pa. SSJI (Crim), §15.4958 (2024).

Thus, the Commonwealth argues that the *prima facie* burden is established for this charge because the evidence shows that the Defendants denied knowing what happened when Trooper Adams informed them that he was investigating the child victim's injuries, and the testimony indicated that Defendants did eventually disclose to Trooper Adams that Child was dropped<sup>103</sup>. The Commonwealth further asserts that the only explanation for Defendants to lie is because they knew they could face potential prosecution,<sup>104</sup> and the act of lying or withholding information from the police could only serve the purpose of interfering with the investigation to avoid consequences. Accordingly, the Commonwealth avers that the evidence presented at the preliminary hearing is sufficient to establish a *prima facie* case for Count 2.

Here, the Court finds that the Commonwealth failed to satisfy its burden of sufficiently establishing a *prima facie* case against the Defendants for Count 2—Obstruction. More specifically, there is not sufficient evidence to establish that the Defendants engaged in a scheme or devise to obstruct, interfere with, impair, impede, or pervert the investigation or prosecution of child abuse. There is testimony that Defendant Vroman volunteered knowledge of the fall to at least one medical professional. Moreover, the testimony indicates that Trooper Adams exited the room for “less than three minutes” to coordinate a polygraph when Defendant Black came forth with the information he knew related to the possible cause of Child's injuries. Additionally, the intent element is not sufficiently established because neither the medical providers nor Trooper Adams explicitly advised Defendants that they were being investigated for potential child abuse, and thus, contrary to the Commonwealth's argument the alleged lying or withholding was for the purpose of impeding or impairing an investigation. Accordingly, the Court concludes that

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<sup>103</sup> Id at ¶ 30.

<sup>104</sup> Id at ¶ 32.

the Commonwealth failed to present sufficient evidence to establish a *prima facie* case against the Defendants to substantiate a charge for Obstruction. Therefore, the Defendants' request for Count 2—Obstruction to be dismissed with respect to Defendant Vroman and Defendant Black is **granted**.

Accordingly, the Court enters the following Order:

**ORDER**

**AND NOW**, this \_\_\_\_ day of July, 2025, the Defendants' Petition for Writ of Habeas Corpus is denied in part and granted in part. With respect to the Defendants' Petition for Habeas Corpus on Count 1—Endangering the Welfare of Children, the request to dismiss the charge is **DENIED**. With respect to the Defendants' Petition for Habeas Corpus on Count 2—Obstruction, the request to dismiss the charge is **GRANTED**.

By the Court,

\_\_\_\_\_  
Ryan M. Tira, Judge

RMT/asw

CC: DA; CA  
Kyle Rude, Esquire  
Matthew Diemer, Esquire  
File-977-2024  
Gary Weber, Esquire—Lycoming Reporter