McCormick

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR 62-2026

vs. : CRIMINAL DIVISION

DANIEL ADE,
Defendant

FILED
LYCOMING COUNTY
2026 NOV 16 PM 3:55
KELLY L. THOMAS
PROTHONOTARY &
CLERK OF COURTS

OPINION and ORDER

Daniel Ade (Defendant) was charged with two hundred (200) counts of Possession of Child Sexual Abuse Material[1] and one (1) count of Criminal Use of a Communication Facility[2]. The charges arise from an incident that occurred on November 10th, 2025, at which time Defendant was arrested and two electronic devices found in Defendant's walker were seized by law enforcement. The seized devices contained the child sexual abuse material for which the Defendant has been charged. On March 11th, 2026 counsel for Defendant filed an Omnibus Pretrial Motion that included a Motion to Suppress, where it is argued that the electronic devices seized from Defendant's walker constitutes a warrantless search and seizers and therefore any of the evidenced found therein should be suppressed. Conversely, the Commonwealth argues that the search was an authorized warrantless search as the search and seizer because it was done by law enforcement incident to arrest. Argument on the matter was heard on May 21st, 2026.

Background and Testimony

At the time of the hearing, Sargent McGee of the Williamsport PD testified on behalf of the Commonwealth. Additionally, the body worn camera (BWC) of Sargent McGee was played as Commonwealth's exhibit 1. On November 10th, 2025 Sargent McGee arrived at the scene where Defendant was actively being confronted by a group of individuals, who identified

[1] 18 Pa. C. S. A. § 6312(d)
[2] 18 Pa. C. S. A. § 7512(a)

themselves as "Predator Hunters". The Predator Hunter group accused Defendant of engaging in sexually explicit conversations with a person posing as a minor (hereinafter decoy). When law enforcement approached the Defendant, he was standing outside on the sidewalk and holding onto his walker. His walker had an attached basket that held the personal belongings of the Defendant including the two electronic devices at issue. Sargent McGee was provided print-outs by the Predator Hunter group of the alleged conversations between the Defendant and decoy. After Sargent McGee determined that there was probable cause to make an arrest for criminal use of a communication facility he and two other officers tried to place the Defendant in handcuffs. A brief altercation ensued and Defendant was taken to the ground and placed in handcuffs. Approximately five (5) minutes after Defendant was handcuffed he was placed inside a police vehicle. The location of the altercation and where the Defendant was handcuffed was within arm's reach of Defendant's walker. While Defendant was being handcuffed and placed inside the police vehicle a cell phone was removed from his person. Defense counsel conceded at the time of the suppression hearing that this cell phone is not subject to suppression.

Approximately one (1) minute after Defendant is placed in the police vehicle, Sargent McGee askes if there is anything of value in Defendant's walker and if he would want anything from it. He indicates that he does not, but Sargent McGee returns to the walker and seizes a second cell phone and a tablet from the basket of the walker. Prion to seizing the other two electronic devices Sargent McGee was advised by the Predator Hunters at the scene that Defendant was deleting things from his phone when they approached him. Sargent McGee testified that he seized the cell phone and tablet as he believed they were seized as incident to the arrest. During the Suppression Hearing, Sargent McGee also testified that he was uncertain which of the three electronic devices had evidence on it. Once the electronic devices were seized,

a search warrant was issued for the extraction of each device. The extraction of each phone gives rise to the present charges.

Discussion

The Defendant makes the argument that the second and third electronic devices seized by Sargent McGee were illegally seized in violation of Defendant's 4th amended right against unlawful search and seizers. Specifically, Defendant argues that once Defendant was arrested, handcuffed, and placed in the police vehicle he no longer was in the immediate vicinity of the walker and therefore, the walker would not be subject to the search incident to arrest exception of the 4th amendment.

A warrantless search of a person or the area within the person's immediate control may be conducted incident to a lawful arrest "to remove any weapons that might be used to facilitate escape or resist arrest, and to prevent destruction of evidence" *Commonwealth v. Bess*, 476 Pa. 364, (Pa. Super. 1978). Further, the search incident to arrest must be substantially contemporaneous with the arrest and confined to the immediate vicinity of the arrest. *Commonwealth v. Williams*, 305 A.3d 89 (Pa. Super. 2023). Once a person is lawfully placed under arrest and is in custody, anything that was previously subject to search and seizure at the time of the arrest may be lawfully searched without a warrant even after a substantial amount of time has elapsed following the arrest. *Commonwealth v. Guzman*, 612 A.2d 524 (Pa. Super. 364). Lastly, "whether an item has been properly seized pursuant to a search incident to arrest depends upon the facts of each case. The central question is whether the area searched is one 'within which (the arrested person) might gain possession of a weapon or destructible evidence'" *Id.* quoting *Chimel v. California* 395 U.S. 752 (1969)

Here, when Sargent McGee arrived on scene he was approached by the 'Predator Hunters" and provided a series of text messages allegedly made between the Defendant and the decoy. After Sargent McGee reads the messages, he is also told by two of the individuals that the Defendant had been actively trying to delete evidence of the alleged crimes from the devices contained in the basket of his walker that he was physically holding. Within a matter of three (3) minutes, the Defendant is taken down to the ground, handcuffed, and placed in the police vehicle. When Defendant was taken to the ground and handcuffed he was within arms-reach of the walker. About five minutes later Sargent McGee secures the cell phone and tablet located in the basket.

When reviewing all of the facts presented, the two electronic devices found in the walker's basket belonging to the Defendant were properly seized as they were subject to a valid search incident to arrest. Officer McGee was made aware that Defendant was actively attempting to delete evidence of the alleged crimes from the devices immediately prior to his arrest. The Defendant was not only touching the walker just prior to his arrest but he remained in arms reach when he was taken to the ground and arrested. Moreover, based upon the above facts Defendant's walker would have been subject to search and seizure prior to him being handcuffed and placed in the police vehicle, and therefore, the search of the walker after the fact would still be lawful.

Furthermore, the seizure of the electronic devices would be valid under the plain view exception of the 4th amendment. The plain view doctrine authorizes a warrantless seizure of evidence when (1) the police must observe the object from a lawful vantage point; (2) the incriminating character of the object must be immediately apparent; and (3) the police must have a lawful right of access to the object. *Commonwealth v. Graham*, 554 Pa. 472, 721 A.2d 1075,

1079 (1998) (citing *Horton v. California*, 496 U.S. 128, 136-37, 110 S.Ct. 2301, 110 L.Ed.2d 112 (1990)).

Here, each of the three prongs have been met. First the police officers observed the items while they were confronting the Defendant on the street. Secondly, Sargent McGee believed he had probable cause to arrest Defendant for criminal use of communication facility after reviewing the communications presented to him at the time by the Predator Hunters. Further, he was told that Defendant had actively been trying to delete things from the electronic devices located in the basket. It was immediately apparent based upon the messages that Sargent McGee was presented that any one of the three devices could have been used to solicit the decoy. Lastly, the police had a lawful right to access the devices as they were located in the basket of Defendant's walker in plain view to not only the officers, but the Predator Hunters who brought the officer's attention to the devices. Accordingly, the seizure of the devices would be authorized pursuant to the plain view exception.

ORDER

AND NOW, this 12th day of **November, 2026**, the Court DENIES Defendant's Motion to Suppress.

BY THE COURT

Ryan C. Gardner, Judge

RCG/kbc

cc: DA (Martin Wade, Esq)
Giovanna Daniele, Esq.
Gary Weber, Esq.