

Weber, Esq

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

: NO. CR 163-2025

vs.

: CRIMINAL DIVISION

JAMIE LEE BADGER,
Defendant

FILED
LYCOMING COUNTY
2026 OCT -1 PM 1:54
JOLLY L. THOMAS
PROthonary &
CLERK OF COURTS

OPINION and ORDER

AND NOW, this 1st day of **October, 2026**, based upon the following the Defendant's Motion in Limine is here by DENIED:

By way of his Motion in Limine Defendant requests that three pieces of evidence be precluded from being used at the time of trial. The first is an audio/video recording that was taken without the consent of the Defendant. The Defense argues that the recording was taken in violation of the Wiretap Act and therefore should be suppressed. Secondly, the Defense argues that any testimonial evidence regarding a sex doll owned by the Defendant should be suppressed because it is not relevant and in the event this Court finds that it is relevant, the prejudicial effect outweighs the probative value. Lastly, the Defense argues that a picture of the sex doll referenced in this matter should be suppressed as it is not relevant and was taken by an individual that was a trespasser at the time.

As to the first request of the Defense, it is clear that any challenge to the admissibility of evidence on the grounds that it violated the Wire Tap act must happen by way of an Omnibus Pretrial Motion. In criminal cases procedural rules require that a defendant must include any motion for suppression of evidence in an Omnibus Pretrial Motion. Pa. R. Crim. P. 578, 581. If a

suppression issue is not timely raised it is waived. The Superior Court in *Commonwealth v.*

Markos, 331 A.3d 38 (Pa. Super 2025) ruled that,

“Because a motion to exclude evidence under the Wiretap Act must comply with applicable procedural rules, we hold that the waiver provision of Rule 581(B) applies to Wiretap Act challenges. A criminal defendant who does not file a timely motion under Section 5721.1(b) therefore waives any claim that could have been included in such a motion.”

Here, the videotape at issue was provided to Defense counsel on or about March 6th, 2025 as evidenced by Commonwealth’s Exhibit 1. Defense counsel did not file an Omnibus Pretrial Motion and did not challenge the admissibility of the videotape until 11 months later in February of 2026 by way of the present Motion in Limine. Pursuant to the ruling in *Markos* Defendant’s Wiretap Act violation claim has been waived.

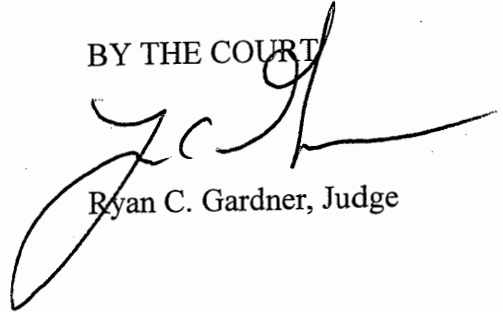
Secondly, the Defendant argues that any mention of the sex doll at issue is not relevant and would only be used to embarrass the Defendant. The Defendant is charged with various sex offenses including the lead count Indecent Assault – Person Less than 13 Years of Age. To prove that the Defendant is guilty of Indecent Assault – Person Less than 13 Years of Age the Commonwealth must prove that the Defendant had indecent contact for the purposes of arousing sexual desire. 18 Pa. C.S. § 3126(a)(7). Evidence is relevant when it has any tendency to make a fact more or less probable than it would be without the evidence and the fact is of consequence in determining the action. PA. R. E. 401. Once evidence is deemed relevant the next determination of the Court is whether the probative value of the evidence outweighs the prejudicial effect on the Defendant. Further, “evidence will not be prohibited merely because it is harmful to the Defendant.” *Commonwealth v. Dillon*, 592 A.2d 131, 141 (2007). The Court is not “required to sanitize the trial to eliminate unpleasant facts from the jury’s consideration where those facts are

relevant to the issues at hand and form part of the history and natural development of the events and offenses for which the defendant is charged." *Id.*

Here, it is alleged that not only did the Defendant have a sex doll that was similar in size to the alleged minor victim in this case, he also dressed the sex doll in the alleged minor victim's underwear. Additionally, the Defendant allegedly smells the same underwear placed on the sex doll belonging to the minor child. There is no question to this court that evidence of the sex doll and how it was used by the Defendant is relevant in this case to show that the alleged contact with the minor child was for sexual desire. Further, mention of the use of the sex doll would not be so prejudicial that it would suggest a decision on an improper basis as the jury is capable of aligning whatever weight it deems appropriate to the testimony regarding the sex doll.

Lastly, the Defense would like to prohibit the Commonwealth from presenting a picture of the above referenced sex doll because it would not be relevant and it was taken by a trespasser. For the same reasons as stated above, Defendant's request is denied. The sex doll is relevant in this matter and it is not unfairly prejudicial and the challenge to the admissibility of this photograph was waived when Defense Counsel failed to file a timely Omnibus Pretrial Motion.

BY THE COURT



Ryan C. Gardner, Judge

RCG/kbc

cc: DA (Lindsay Sweeley, Esq)
Michael Rudinski, Esq.
Gary Weber, Esq.