

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	: CR-1421-2025
	:
vs.	: CRIMINAL DIVISION
	:
DOMINEEK W. CARTER	:
Defendant.	: Omnibus Pretrial Motion

OPINION AND ORDER

This matter came before the Court for an evidentiary hearing on February 12, 2026, on the Omnibus Pretrial Motion (hereinafter the “Motion”) filed by Domineek W. Carter (hereinafter “Defendant”) on December 23, 2025. The Motion seeks relief in several counts. At Count I, Defendant asserts that the Information should be dismissed pursuant to 18 Pa.C.S.A. Section 110, for failure of the Commonwealth to consolidate the charges filed in this matter with those listed on the Information filed to Lycoming County docket number 1550-2023. At Count II, Defendant seeks habeas corpus relief, asserting that the evidence presented at the preliminary hearing was insufficient to establish probable cause. At Counts III and IV, Defendant seeks to suppress from evidence at trial a cell phone seized in the search which resulted in the charges which were the subject of Lycoming County docket 1550-2023.

The Defendant attended the hearing, with counsel. Both the attorney for the Commonwealth and the attorney for the Defendant introduced exhibits, some of which were the subject of judicial notice. Counsel for both parties discussed the procedural history on the record. Counsel for the Commonwealth stipulated to the relief sought at Counts III and IV of the Motion, and the Court entered an appropriate Order. No testimony was introduced.

BACKGROUND:

The Affidavit of Probable Cause (“Affidavit”) submitted with the Complaint for the charges listed in the Information in this matter alleges that “on November 3rd, 2023, I observed Domineek Carter deliver crack cocaine to Shana Hill in the area of 1st Ave and Park Ave in the City of Williamsport. Hill admitted to calling Carter on 11/3/23 and arranging the purchase of cocaine.” The Affidavit further alleges “On November 20th, 2023, Members of the LCNEU observed Carter deliver crack cocaine to Shana Hill in the area of 1st Ave and Park Ave in the

City of Williamsport. Hill admitted to calling Carter on 11/20/23 and arranging the purchase of cocaine.” The Affidavit further alleges “On November 21st, 2023, I obtained a search warrant for Carter’s residence (623 ½ Green St in the City of Williamsport) Carter was detained and arrested inside the residence. Also found while conducting the search, was cocaine, cocaine packaging material, (1) cell phone, and \$100 in prerecorded police funds from 11/20/23 were located inside the residence.”

On October 24, 2025, the Defendant was charged with the November 3, 2023, and November 20, 2023 cocaine deliveries, and criminal use of a communication facility. Those charges are listed in the Information filed in this matter. On November 1, 2023, Defendant was charged with possession of cocaine with intent to deliver, related to the cocaine seized pursuant to the search warrant, issued on November 20, 2023. The Defendant pled guilty to that charge, filed to docket number 1550-2023, and was sentenced on December 16, 2025.

ISSUES PRESENTED:

1. WHETHER THE CHARGES LISTED IN THE INFORMATION IN THIS MATTER AND THE CHARGES LISTED AT DOCKET 1550-2023, ARISE OUT OF A SINGLE CRIMINAL EPISODE, REQUIRING CONSOLIDATION PURSUANT TO 18 PA.C.S.A. SECTION 110.
2. WHETHER THE EVIDENCE INTRODUCED BY THE COMMONWEALTH AT THE PRELIMINARY HEARING WAS SUFFICIENT TO ESTABLISH PROBABLE CAUSE TO BELIEVE THAT A CRIME WAS COMMITTED, AND THAT THE DEFENDANT COMMITTED THAT CRIME.

RESPONSES TO ISSUES PRESENTED:

1. THE CHARGES LISTED IN THE INFORMATION IN THIS MATTER AND THE CHARGES LISTED AT DOCKET 1550-2023, INVOLVED THE SAME CRIMINAL ENTERPRISE, BUT DID NOT ARISE OUT OF A SINGLE CRIMINAL EPISODE.
2. THE EVIDENCE INTRODUCED BY THE COMMONWEALTH AT THE PRELIMINARY HEARING WAS SUFFICIENT TO ESTABLISH PROBABLE CAUSE TO BELIEVE THAT A CRIME WAS COMMITTED, AND THAT THE DEFENDANT COMMITTED THAT CRIME.

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The Statute in Question:

18 Pa.C.S.A. 110 provides as follows:

Although a prosecution is for a violation of a different provision of the statutes than a former prosecution or is based on different facts, it is barred by such former prosecution under the following circumstances:

(1) The former prosecution resulted in an acquittal or in a conviction as defined in section 109 of this title (relating to when prosecution barred by former prosecution for the same offense) and the subsequent prosecution is for:

(i) any offense of which the defendant could have been convicted on the first prosecution;

(ii) any offense based on the same conduct or arising from the same criminal episode, if such offense was known to the appropriate prosecuting officer at the time of the commencement of the first trial and occurred within the same judicial district as the former prosecution unless the court ordered a separate trial of the charge of such offense or the offense of which the defendant was formerly convicted or acquitted was a summary offense or a summary traffic offense; or

(iii) the same conduct, unless:

(A) the offense of which the defendant was formerly convicted or acquitted and the offense for which he is subsequently prosecuted each requires proof of a fact not required by the other and the law defining each of such offenses is intended to prevent a substantially different harm or evil; or

(B) the second offense was not consummated when the former trial began.

(2) The former prosecution was terminated, after the indictment was found, by an acquittal or by a final order or judgment for the defendant which has not been set aside, reversed or vacated and which acquittal, final order or judgment necessarily required a determination inconsistent with a fact which must be established for conviction of the second offense.

(3) The former prosecution was improperly terminated, as improper termination is defined in section 109 of this title (relating to when prosecution barred by former prosecution for the same offense) and the subsequent prosecution is for an offense of which the defendant could have been convicted had the former prosecution not been improperly terminated.

18 Pa.C.S.A. 110.

Controlling authority:

In the matter of *Commonwealth v. Hude*, 500 Pa. 482, 458 A.2d 177 (Pa. 1983), our Supreme Court instructed us to consider the “temporal” and “logical” relationship between the charges to determine whether they arose from a “single criminal episode.” More recently, the Court cautioned us to “be aware that a mere de minimus duplication of factual and legal issues is insufficient to establish a logical relationship between offenses. Rather, what is required is a substantial duplication of issues of law and fact.” *Commonwealth v. Bracalielly*, 540 Pa. 460, 472, 658 A.2d 755, 761 (Pa. 1995). In the matter of *Commonwealth v. Anthony* 553 Pa. 55, 717 A.2d 1015 (Pa. 1998), our Supreme Court observed that the consideration of whether acts constitute a single criminal episode must include not only the sequence of events, but also the policy considerations which underlie 18 Pa.C.S.A 110. The Court explained that:

As this court stated in *Hude*, “in defining what acts constitute a single criminal episode, not only is the temporal sequence of events important, but also the logical relationship between the acts must be considered.” 500 Pa. at 491, 458 A.2d at 181. In our consideration of the temporal and logical relationship between the criminal acts, we are guided by the policy considerations that § 110 was designed to serve:

(1) to protect a person accused of crimes from governmental harassment of being forced to undergo successive trials for offenses stemming from the same criminal episode; and (2) as a matter of judicial administration and economy, to assure finality without unduly burdening the judicial process by repetitious litigation. See *Commonwealth v. Stewart*, 493 Pa. 24 29, 425 A.2d 346 348 (1981); *Commonwealth v. Holmes*, 480 Pa. 536, 541, 391 A.2d 1015, 1017 (1978); *Commonwealth v. Tarver*, 467 Pa. 401 408, 357 A.2d 539, 542 (1976). “By requiring compulsory joinder of all charges arising from ... (the same criminal episode) a defendant need only once ‘run the gauntlet’ and confront the awesome resources of the state.” *Commonwealth v. Campana, (Campana I)*, 452 Pa. 233, 251, 304 A.2d 432 440-441 (1973). *Hude*, 500 Pa. at 489, 458 A.2d at 180.

553 Pa. 55, 63, 717 A.2d 1015, 1018-19 (Pa. 1998).

In *Commonwealth v. Reid*, 621 Pa. 245, 77 A.3d 579 (2013), our Supreme Court conducted a comprehensive review of its jurisprudence regarding 18 Pa.C.S.A 110, and reversed an order of our Superior Court reversing the order of the Court of Common Pleas of

Clinton County, on the basis of 18 Pa.C.S.A 110. The Court explained that the question of whether there is a “logical relationship” between the charges turns “turns on whether the offenses present a *substantial* duplication of issues of fact and law. Such a determination depends ultimately on how and what the Commonwealth must prove in the subsequent prosecution.” *Commonwealth v. Reid*, 621 Pa. 245, 257, 77 A.3d 579, 585 (2013).

In this matter, counsel for the Defendant points out that the Affidavit of Probable Cause for the search warrant which led to the charges at docket 1550-2023, alleged buys of controlled substances on November 3, 2023, and November 20, 2023, which are the subject of the information filed in this matter (Motion, Paragraph 20).

In his Opinion and Order of November 5, 2024, filed to docket 1550-2023, marked as Defendant’s Exhibit 5, the Honorable Ryan Tira noted that Defendant was charged at docket 1023-2023 with three (3) counts of delivery of controlled substances and criminal use of a communication device. A search warrant was executed on 623 ½ Green Street on July 14, 2023. Law enforcement sought another warrant to search that same residence on November 20, 2023, alleging many of the facts used to obtain the July 14, 2023 warrant. The cocaine seized as a result of that search was the basis of the charges at docket 1550-2023.

The Court infers that the witnesses to the two buys of cocaine on November 3, 2023, and November 20, 2023, would overlap with the witnesses to the search conducted on November 20, 2023, but would not be the same. Shana Hill can testify to her two buys of cocaine, but does not appear to have been involved in the search which led to the charges at docket 1550-2023. It appears that Lycoming County Drug Enforcement Unit (hereinafter “DEU”) Detective Caschera observed the buys on November 3, 2023 and November 20, 2023, and that he secured the search warrant executed on November 21, 2023.

Although the two (2) Informations obviously arise out of the Defendant’s criminal enterprise, the facts are distinct. The two (2) Informations charge similar, but distinct crimes, containing different elements. See, *Commonwealth v. Copes*, 2023 PA.Super. 91, 295 A.3d 1277, 1280 (Pa.Super. 2023).

Defendant’s Motion to Dismiss presents a question which commonly arise in cases involving the alleged sale of controlled substances. One of the most common law enforcement

techniques in drug investigations is a buy of controlled substances, conducted by either law enforcement or a civilian informant. Days or weeks or months after those buys take place, law enforcement routinely conduct searches of the target's vehicle and residence. Under Defendant's theory, any charge which arises from such a search must always be consolidated with the drug buys, even if the search was conducted by different law enforcement officers, long after the buys. Many defendants would prefer to avoid consolidation, since the cumulative weight of the allegations might lead to a conviction, if tried as one case." Defendants are free to seek consolidation by pretrial motion. It is no mystery that defendants rarely do so.

2. THE EVIDENCE INTRODUCED BY THE COMMONWEALTH AT THE PRELIMINARY HEARING WAS SUFFICIENT TO ESTABLISH PROBABLE CAUSE TO BELIEVE THAT A CRIME WAS COMMITTED, AND THAT THE DEFENDANT COMMITTED THAT CRIME.

The Test for a Prima Facie Case:

In the matter of *Commonwealth v. Dantzler*, 2016 PA Super. 59, 135 A.3d 1109 (Pa.Super.2016), our Superior Court reversed the trial court's order granting a habeas corpus motion, and discussed the sufficiency of evidence to establish a *prima facie* case as follows:

We review a decision to grant a pre-trial petition for a writ of *habeas corpus* by examining the evidence and reasonable inferences derived therefrom in a light most favorable to the Commonwealth. *Commonwealth v. James*, 863 A.2d 1179, 1182 (Pa.Super.2004) (en banc). In *Commonwealth v. Karetny*, 583 Pa. 514, 880 A.2d 505 (2005), our Supreme Court found that this Court erred in applying an abuse of discretion standard in considering a pre-trial *habeas* matter to determine whether the Commonwealth had provided *prima facie* evidence. The *Karetny* Court opined, "the Commonwealth's *prima facie* case for a charged crime is a question of law as to which an appellate court's review is plenary." *Id.* at 513, 880 A.2d 505; *see also Commonwealth v. Huggins*, 575 Pa. 395, 836 A.2d 862, 865 (2003) ("The question of the evidentiary sufficiency of the Commonwealth's *prima facie* case is one of law"). The High Court in *Karetny* continued, "[i]ndeed, the trial court is afforded no discretion in ascertaining whether, as a matter of law and in light of the facts presented to it, the Commonwealth has carried its pre-trial, *prima facie* burden to make out the elements of a

charged crime.” *Karetny*, supra at 513, 880 A.2d 505. Hence, we are not bound by the legal determinations of the trial court. To the extent prior cases from this Court have set forth that we evaluate the decision to grant a pre-trial *habeas corpus* motion under an abuse of discretion standard, our Supreme Court has rejected that view. *See id.*

A pre-trial *habeas corpus* motion is the proper means for testing whether the Commonwealth has sufficient evidence to establish a *prima facie* case. *Carroll*, supra at 1152. “To demonstrate that a *prima facie* case exists, the Commonwealth must produce evidence of every material element of the charged offense(s) as well as the defendant’s complicity therein.” *Id.* To “meet its burden, the Commonwealth may utilize the evidence presented at the preliminary hearing and also may submit additional proof.” *Id.*

Commonwealth v. Dantzler, 135 A.3d 1109, 1111-12 (Pa. Super. Ct. 2016) (*en banc*) (footnote omitted) (emphasis added); *See, e.g., Commonwealth v. White*, 2024 WL 2991903 (Pa. Super. Ct. 2024) (“We review a decision to grant a pre-trial petition for a writ of *habeas corpus* by examining the evidence and reasonable inferences derived therefrom in a light most favorable to the Commonwealth.”) (citing *Commonwealth v. Dantzler*, 135 A.3d 1109, 1111 (Pa. Super. Ct. 2016)).

Rule 542 of the Pennsylvania Rules of Criminal Procedure provides, in part, as follows:

* * *

(D) At the preliminary hearing, the issuing authority shall determine from the evidence presented whether there is a *prima facie* case that (1) an offense has been committed and (2) the defendant has committed it.

(E) Hearsay as provided by law shall be considered by the issuing authority in determining whether a *prima facie* case has been established. Hearsay evidence shall be sufficient to establish any element of an offense, including, but not limited to, those requiring proof of the ownership of, non-permitted use of, damage to, or value of property.

Pa. R. Crim. P. 542.

In interpreting the above-cited rule, our Supreme Court opined, in 2024, the following:

To summarize the state of the law regarding the use of hearsay at preliminary hearings, Rule 542(E) “is intended to allow some use of” otherwise inadmissible hearsay by the Commonwealth to

establish a *prima facie* case that an offense has been committed. *McClelland*, 233 A.3d at 735. But “[t]he plain language of the rule does not state a *prima facie* case may be established solely on the basis of hearsay” and to do so would violate due process in any event. *Id.* Finally, we now hold, based on the plain language of Rule 542, that inadmissible **hearsay alone may not be used to prove a *prima facie* case as to the defendant's identity**. This means the Commonwealth at a preliminary hearing is required to produce some non-hearsay or admissible hearsay evidence to sustain its *prima facie* burden as to the defendant's identity. *See Verbonitz*, 581 A.2d at 174 (“In order to satisfy [its] burden of establishing a *prima facie* case, the Commonwealth must produce ... legally competent evidence to demonstrate the existence of facts which connect the accused to the crime charged.”).

Commonwealth v. Harris, 315 A.3d 26, 37 (Pa. 2024) (emphasis added); *see Commonwealth v. Allis*, 2024 WL 2991851, at 4-5 (Pa. Super. Ct. 2024) (unpublished memorandum) (concluding that “[t]he Commonwealth is permitted to rely on the out-of-court statements of a [confidential informant] as related to a law enforcement officer[,]” and that “[t]he trial court erred in determining that the Commonwealth did not present a *prima facie* case merely because it relied on hearsay testimony of Detective Lamanna....”); *Cf. Commonwealth v. Sutton*, 313 A.3d 1071, 1077 (Pa. Super. Ct. 2024), *appeal granted*, 2024 WL 4832282 (Pa. 2024) (opining that reliance on a confidential informant’s hearsay statements did not render deficient the *prima facie* showing of defendant’s identity at a preliminary hearing).

In *Allis*, the Commonwealth charged the defendant—among other things—with counts of possession of a controlled substance, possession of a controlled substance with intent to deliver, and possession of drug paraphernalia pertaining to separate incidents where the defendant “[a]llegedly sold methamphetamine to a confidential informant....” *Allis*, 2024 WL 2991851, at 1. At the preliminary hearing, a Bradford County detective—who had training in drug investigations—testified that the detective used a confidential informant to conduct a controlled buy of drugs from the defendant. *Id.* According to the detective, the confidential informant was provided with pre-recorded currency and was searched prior (and after) the controlled buy. *Id.* The confidential informant did not testify at the preliminary hearing, and the charges were bound over at the end of the hearing. *Id.* at 2. The defendant then filed a petition for writ of *habeas corpus*, “[a]sserting that the Commonwealth had failed to establish a *prima facie* case...when it relied solely on the hearsay testimony of [the detective]” and the trial court

granted the defendant's *habeas* petition. *Id.* Reversing the trial court's decision, the Superior Court opined, in pertinent part:

[T]he trial court erred in determining that the Commonwealth did not present a *prima facie* [sic] case merely because it relied on hearsay testimony of Detective Lamanna regarding Appellee's involvement in the delivery of methamphetamine. The Commonwealth produced other, non-hearsay evidence at the preliminary hearing, including Detective Lamanna's testimony that he searched the CI before and after each of the three controlled buys and found that the CI had obtained methamphetamine on each occasion....

....

Therefore, viewing the evidence in the light most favorable to the Commonwealth, *see Dantzler*, 135 A.3d at 1111, we conclude that the evidence was sufficient to establish a *prima facie* case that Appellee committed the charged offenses. *See Sutton*, 2024 WL 1163627, at *6-7; *Commonwealth v. Strobe*, No. 249 MDA 2023, 2024 WL 1715348, at *3 (Pa. Super., filed April 22, 2024) (holding, under *Sutton*, that trial court erred when ruling that Commonwealth had failed to establish a *prima facie* case that Strobe committed controlled substance offenses where Commonwealth relied on detective's hearsay testimony repeating CI's statement that Strobe sold drugs to CI in addition to non-hearsay evidence establishing Strobe's identity as the wrongdoer and Commonwealth represented that CI would testify at trial) (non-precedential decision cited for its persuasive value, *see* Pa.R.A.P. 126(b)).

Id. at 5 (footnotes omitted).

The Preliminary Hearing:

Defendant cites *Commonwealth v. McClelland*, 233 A.3d 717 (Pa. 2020) and *Commonwealth v. Harris*, 315 A.3d 26 (Pa. 2024), for the proposition that hearsay alone is not sufficient to establish a *prima facie* case. The preliminary hearing testimony in this matter was far more than hearsay, alone. The Court listened to the audio record of the Commonwealth's testimony at that hearing, conducted on November 6, 2025. The Commonwealth introduced the testimony of Detective Michael Caschera of the Lycoming County District Attorney's Narcotics Enforcement Unit (NEU). The Detective testified to two (2) controlled buys of crack

cocaine conducted by the NEU involving a confidential informant and an individual known as Shana Hill and the Defendant. Detective Caschera testified that Shana Hill was under surveillance while making exchanges with the Defendant. The Detective did not know that the Defendant would be the source of the crack cocaine before the first controlled buy. The crack cocaine purchased in each of the two (2) transactions were field tested and confirmed to be crack cocaine. Detective Caschera further testified that he conducted a search of the residence of the Defendant on November 21, 2023, which yielded the seizure of pre-recorded police funds from the second controlled buy. On re-direct examination, Detective Caschera testified that the confidential informant identified the source of the cocaine as “Dom.” Only that testimony could fairly be described as pure hearsay.

The preliminary hearing testimony in this matter is remarkably similar to the preliminary hearing testimony in *Commonwealth v. Allis*, 2024 WL 2991851, 323 A.3d 203 (Pa.Super. 2024), *unpublished decision*. While that decision was unpublished and is not precedential, it is instructive in its conclusion that the Commonwealth may establish a prima facie case through a mix of both hearsay and non-hearsay testimony. In this matter, as in *Allis*, the Commonwealth was not required to produce the testimony of the confidential informant at the preliminary hearing.

ORDER

AND NOW, this ____ day of February, 2026, for the reasons more fully set forth above, Defendant's Omnibus Pretrial Motion filed December 23, 2025, is **GRANTED** in part and **DENIED** in part, as follows:

1. Defendant's Motion seeking to dismiss the information for failure to comply with 18 Pa.C.S.A. 110, is **DENIED**.
2. Defendant's Motion seeking habeas corpus relief is **DENIED**.
3. Defendant's Motion to exclude from evidence at trial the cell phone seized in the search pursuant to the warrant issued November 20, 2023, is **GRANTED** for the reasons more fully set forth in the November 5, 2024, Opinion and Order of the Honorable Ryan M. Tira, filed to docket number 1550-2023.

BY THE COURT,

William P. Carlucci, Judge

cc: Court Administrator
Lycoming County District Attorney's Office
Lycoming County Public Defender Office