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

**COMMONWEALTH OF PENNSYLVANIA : NO. CR 732-2025**

**vs.**

**: CRIMINAL DIVISION**

**RASHAWN LAVELLE DAVIS,  
Defendant**

**:  
:  
:**

FILED  
LYCOMING COUNTY  
2026 APR -9 AM 11:35  
CLERK OF COURT

**AMENDED OPINION and ORDER**

AND NOW this 9<sup>th</sup> day of April, 2026 this Court's Opinion and Order dated April 8<sup>th</sup>, 2026 is hereby AMENDED to reflect the correct Defendant's name in the first paragraph as, Rashawn Lavelle Davis, the remainder of the Opinion and Order shall remain in full force and effect.

Rashawn Lavelle Davis (Defendant) was charged with four counts of Possession of a Firearm Prohibited, three counts of Possession with Intent to Deliver a Controlled Substance, three counts of Possession of a Controlled Substance, one count of Use or Possession of Drug Paraphernalia and one count of Receiving Stolen Property. The charges arise from a search of the alleged residence of the Defendant on about January 22, 2025. As a result, the Defendant was charged on May 14, 2025. Defendant, following his preliminary hearing, held June 3<sup>rd</sup>, 2025, filed an Omnibus Pretrial Motion that included a Petition for Writ of Habeas Corpus. Defendant argues that the Commonwealth failed to meet their burden of proof at the preliminary hearing for each count and requests that each count be dismissed.

**Background**

At the time of the hearing on Defendant's Omnibus Pre-Trial motion the parties stipulated to submitting the transcript of the preliminary hearing to the Court. Additionally, the Commonwealth called Detective Kevin Dent as a narcotics investigation expert. At the time of

the preliminary hearing the Commonwealth called Officer Badger of the Williamsport Police Department. Officer Badger testified as follows: On January 22<sup>nd</sup>, 2025 a 911 call was placed by a juvenile indicating that she had found drugs and guns inside a backpack in a bedroom closet located at 2318 Linn St., Williamsport.

Upon receiving this tip Officer Badger applied for a search warrant of the residence and executed said search warrant. The search found four firearms, one of which was reported as stolen, a bag of powdered cocaine, a bag of crack cocaine, and numerous waxine baggies of heroin. At the time of the Omnibus Pretrial motion hearing Detective Dent also testified that items such as scales and a sifter were also found. Additionally, he testified that the amount of drugs found would be consistent with the sale of narcotics.

Moreover, during the search of the bedroom, Officer Badger found mail listing the Defendant as the recipient and that he also received state benefits at that location. Further, a criminal background check was done and it indicated that the Defendant was a person not to possess a firearm.

### **Discussion**

Defendant argues that for each count contained within the information Commonwealth failed to meet its prima facie burden. Specifically, he alleges that, for counts one through four, the Commonwealth did not establish that the Defendant possessed the firearms. As for counts five through eleven, Defendant argues again that the Commonwealth failed to establish that the Defendant was in control of the controlled substances for the purposes of delivering. Lastly, as to count twelve the Defendant argues that the Commonwealth failed to present evidence that the Defendant had received or retained possession of the stolen firearm.

At a preliminary hearing the Commonwealth “bears the burden of establishing at least a prima facie case that the crime was committed”. *Commonwealth v. McBride*, 528 Pa. 153, 591 (Pa. Super. 1991). Further, to prove its burden at this hearing, “the Commonwealth is required to present evidence with regard to each of the material elements of the charge and to establish sufficient probable cause to warrant the belief that the accused committed the offense”. *Id.* 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. *Commonwealth v. Ripley*, 833 A.2d 155, 159-60. The evidence presented at the preliminary hearing must be considered in the light most favorable to the Commonwealth. *Commonwealth v. Hilliard*, 172 A. 3d 5, 10 (Pa. Super. 2017).

In this case the Commonwealth argues that the Defendant had constructive possession of the firearms, controlled substances, and drug paraphernalia. Constructive possession is a legal fiction, created for the purpose of dealing with the everyday realities of criminal law. *Commonwealth v. Aviles*, 615 A.2d 398, 401 (Pa. Super. 1992). Its principal purpose is “to expand the scope of possession statutes to encompass those cases where actual possession at the time of arrest cannot be shown, but where the inference that there has been actual possession is strong.” *Commonwealth v. Carroll*, 507 A.2d 819, 820 (Pa. 1986). It permits the law to encompass what one ‘must’ have possessed at one point or another given the surrounding circumstances, and allows the Commonwealth to prove the necessary element of possession through inference. See *id.* This inference is based upon the set of facts provided, and it must show that the contraband was more likely than not, in possession of the defendant. *Commonwealth v. Davis*, 280 A.2d 119, 121 (Pa. 1971). The court has defined constructive

possession as “conscious dominion,” which has subsequently been defined to be “[1] the power to control the [illegal item] and [2] the intent to exercise control over the [illegal item].”

*Commonwealth v. Macolino*, 469 A.2d 132, 134 (Pa. 1983). Both of these elements may be inferentially proven by a totality of the circumstances. *Commonwealth v. Fortune*, 318 A.2d 327, 329 (Pa. 1974).

Pennsylvania courts have also held that when more than one person has equal access to where the illegal contraband or weapon is found, the defendant cannot be said to have either the power or the intent to control such weapon or contraband per se. *Commonwealth v. Heidler*, 741 A.2d 213, 216 (Pa. Super 1999); see *Commonwealth v. Keblitis*, 456 A.2d 149, 151 (Pa. 1983). “It is well settled that facts giving rise to mere ‘association,’ ‘suspicion,’ or ‘conjecture’ will not make out a case of constructive possession.” *Commonwealth v. Valette*, 613 A.2d 548, 551 (Pa. 1992). If this situation arises, there must be a showing of something more as to why it was specifically in the defendant’s power and intent to control, and not just from someone else who had access to the area. See *Valette*, 613 A.2d at 551. The concepts of “constructive possession” and “equal access” depend on the facts and circumstances of the particular case. When there are multiple people that have access to a home, “equal access” typically extends to the common areas of that home, such as the living room, dining room, and kitchen. But, when there is something such as a bedroom or office that is typically excluded from other members of the home that is not deemed to be of “equal access” to the other members of the home even though they would be physically capable of getting there. See *Macolino*, 469 A.2d at 135; see also *Commonwealth v. Gilchrist*, 386 A.2d 603, 605 (Pa. Super. 1978); *Commonwealth v. Hannan*, 331 A.2d 503, 505 (Pa. Super. 1974).

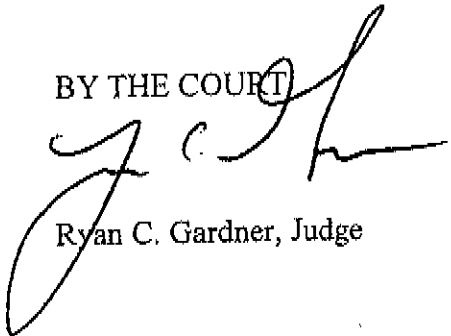
Here, the Court finds that the Commonwealth has met its burden as to all twelve counts. The firearms, controlled substances, and paraphernalia were found in a bedroom closet in the home. Within the same bedroom officers found mail that was addressed to the Defendant. Additionally, it was discovered that the Defendant received state benefits at the same address. Based upon the totality of the circumstances and looking at the evidence in the light most favorable to the Commonwealth the Defendant was at a minimum in constructive possession of the firearms, controlled substances, and paraphernalia.

Further, as to counts five through seven and eight through eleven Detective Dent presented evidence that the amounts of each drug as well as the specific paraphernalia found were, in his expert opinion, consistent with the sale of controlled substances.

**ORDER**

AND NOW, this 4<sup>th</sup> day of April, 2026, for the reasons stated above the Court DENIES Defendant's Petition for Habeas Corpus. Additionally, Defense counsel has withdrawn counts two and three of the Omnibus Pretrial Motion.

BY THE COURT

A handwritten signature in black ink, appearing to read 'Ryan C. Gardner', is written over the printed name below.

Ryan C. Gardner, Judge

RCG/kbc

cc: DA (Lindsay Sweeley, Esq)  
Robert Hoffa, Esq.  
Gary Weber, Esq.