

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

COMMONWEALTH OF PENNSYLVANIA	:	CRIMINAL DIVISION
	:	NO. CR-1027-2024
v.	:	
	:	
TIMOTHY EASTER,	:	Omnibus Motion
Defendant	:	

OPINION

This matter was before the Court on July 14, 2025, for a hearing on the *pro se* Omnibus Motion filed by Defendant on November 13, 2024. At the time of filing, the Defendant was without counsel¹. At the hearing on July 14, 2025, the Defendant appeared personally and was represented by Krista Deats, Esquire. First Assistant District Attorney Martin Wade appeared on behalf of the Commonwealth.

Defendant is charged in this matter with Count 1, Delivery of a Controlled Substance², a Felony, and Count 2, Criminal Use of a Communication Facility³, a Felony of the Third Degree.

At the hearing on the motion, Attorney Deats, the Defendant, the Commonwealth, and the Court agreed that Defendant's *pro se* arguments amount to: (1) a Petition for Writ of

¹ On September 3, 2024, Peter Lovecchio, Esquire, was court appointed to represent Defendant. On September 25, 2024, Attorney Lovecchio and Defendant met regarding Defendant's pending cases. Defendant indicated that he wanted to be in control of what pretrial motions are filed in this matter. As a result, the attorney-client relationship deteriorated. On October 1, 2024, Attorney Lovecchio filed his Motion for Leave to Withdraw as Counsel. Attorney Lovecchio's request was granted on October 28, 2024. At the time of the hearing on the Motion for Leave to Withdraw, the Court conducted a *Grazier* Colloquy with Defendant and determined that he wished to knowingly, intelligently, and voluntarily forfeit his right to counsel. Attorney Lovecchio agreed to assist Defendant as stand-by counsel. Defendant filed his Omnibus Motion. On January 22, 2025, at a hearing on Defendant's Motion for Nominal Bail, Attorney Lovecchio made an oral Motion for Leave to Amend the Omnibus Motion filed by Defendant and requested a continuance of the hearing scheduled for January 31, 2025, be continued. This Court granted Attorney Lovecchio's request and ordered the amended Omnibus Motion be filed by February 21, 2025. By Order dated January 30, 2025, the hearing on the Omnibus Motion was scheduled for March 24, 2025. On February 25, 2025, Attorney Lovecchio filed a second Motion for Leave to Withdraw as Counsel due to a conflict with this matter. On March 24, 2025, the Court granted Attorney Lovecchio's request. On April 25, 2025, the Court appointed Krista Deats, Esquire, as conflict counsel for Defendant, and the hearing on the Omnibus Motion was scheduled for July 14, 2025.

² 35 Pa.C.S. §780-113(a)(30).

³ 18 Pa.C.S. §7512(a).

Habeas Corpus challenging the *prima facie* evidence; (2) a Motion to Disclose Informant's Reliability; and (3) a Motion to Suppress evidence illegally obtained by the Commonwealth.

At the hearing on the motion, the Commonwealth submitted in opposition of Defendant's Petition for Writ of Habeas Corpus as Commonwealth Exhibit No. 1 the Preliminary Hearing Audio Recording, October 27, 2024, and as Commonwealth Exhibit No. 2 the Surveillance video of the Controlled Buy, July 3, 2024. Without objection from the Defendant, the exhibits were admitted to the record. Additionally, in opposition of the Habeas Corpus, the Commonwealth presented Detective Robert Anderson of the Lycoming County Narcotics Enforcement Unit (hereinafter "LCNEU").

Regarding the Defendant's Motion to Disclose Informant's Reliability, the Commonwealth stated that the standard confidential informant report was sent to the Defendant on May 29, 2025. The Court has not received any further indication that the document was not delivered to the Defendant.

Regarding Defendant's Motion to Suppress, the Commonwealth asserted that the motion is ambiguous. More specifically, the Commonwealth argued that in consideration of the circumstances underlying Defendant's arrest, he bears the burden of establishing his expectation of privacy because the surveillance video is home surveillance conducted from another individual's property. The Defendant presented his testimony in support of his Motion to Suppress.

Additionally, Attorney Deats requested to file a brief on the issues of the Petition for Habeas Corpus and the Motion to Suppress on the basis that she was not counsel at the time of the preliminary hearing. The Court granted the request, and ordered counsel to file a brief in support of Defendant's Omnibus Motion on or before August 14, 2025. The Court directed the Commonwealth to file a brief thirty (30) days later. The Court did not receive the

Commonwealth's brief. By Order dated December 30, 2025, the Court provided the Commonwealth an additional thirty (30) days to file its brief. On January 12, 2025, the Commonwealth asserted its right not to file a brief, making the issue of the Omnibus Motion ripe for decision.

Background

By way of further background, the affidavit of probable cause in the search warrant dated July 8, 2024, provides that members of the LCNEU met with a “new” confidential informant (CI) who stated that he or she could purchase Fentanyl from an individual known to the CI as “Tim” who goes by “Stacks.” The CI provided that a phone number for Tim was available to them and they would call Tim to do a drop at the CI’s residence. Through investigation measures in consort with other law enforcement agencies, the LCNEU was able to ascertain that “Stacks” is also known as the Defendant in this case, Timothy Easter.

According to the affidavit of probable cause, the CI contacted Tim Easter to purchase Fentanyl, and Tim Easter agreed to the sale of the Fentanyl for \$150.00. The affidavit of probable cause stated that Tim Easter informed the CI he was at the Weis on Lycoming Creek Road, and he would drop the Fentanyl at the CI’s residence when he was done shopping. Detectives from the LCNEU established surveillance on the vehicle believed to be driven by the Defendant. Additionally, Detective Anderson set up a covert video recording device on the porch of the CI’s residence, and reported that he observed Timothy Easter place the alleged Fentanyl on the porch in place of pre-recorded U.S. currency that was waiting for him as was agreed. The affidavit provided that the Defendant was constantly surveilled during this process and returned to his residence at 823 Second Street in Williamsport, Lycoming County, PA.

On July 8, 2024, Detective Dent prepared an application for search warrant and was authorized to search the residence at 823 Second Street, Williamsport, PA belonging to the Defendant. The residence was subsequently searched and nothing of significance or in relation to this investigation was recovered.

Argument and Analysis

a. Defendant's Motion to Suppress the Search Warrant

Defendant challenges the video evidence obtained from the CI's porch at the time of the controlled buy that the detectives relied on, in part, in obtaining a search warrant for the Defendant's property at 823 Second Street, Williamsport, Pennsylvania. Defendant argues that the action of Detective Dent establishing surveillance on the property where the Fentanyl was delivered to the porch was in violation of Article I, Section 8 of the Pennsylvania Constitution and the Fourth Amendment of the Constitution of the United States. While the Commonwealth bears the burden of establishing that the evidence was not obtained in violation of an individual's rights, it is the burden of the Defendant to establish that he possessed an expectation of privacy.

Both the Fourth Amendment of the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution "guarantee individuals freedom from unreasonable searches and seizures." *Commonwealth v. Bostick*, 958 A.2d 543 (Pa. Super. 2008). Absent an applicable exception, police must have a warrant based on probable cause before they may conduct a search for or seizure of evidence. *Commonwealth v. Heidelberg*, 267 A.2d 492 (Pa. Super. 2021).

An individual exhibits an expectation of privacy by his actions when he demonstrates that he possessed an actual privacy interest in the place invaded. This area is one that is understood by society to be reasonable and one where the warrantless entry of the police is

not justifiable under Article I, Section 8, and the Fourth Amendment. *Id* at 256 citing *Commonwealth v. Sell*. “The constitutional legitimacy of an expectation of privacy is not dependent on the subjective intent of the individual asserting the right but on whether the expectation is reasonable in light of all the surrounding circumstances.” *Commonwealth v. Bostick*, 958 A.2d 543, 552 (Pa. Super. 2008) quoting *Commonwealth v. Viall*, 890 A.2d 419, 422 (Pa. Super. 2005)(other citations omitted in original).

Additionally, the right to be free from unreasonable searches and seizures is personal in nature, a defendant cannot obtain relief via suppression by asserting that law enforcement officials violated another’s rights. *Commonwealth v. Millner*, 585 Pa. 237, 248 (2005). While the *Sell* Court provides a higher standard of protection to defendants seeking to suppress evidence obtained through unreasonable searches and seizures, the court noted that under *Rakas v. Illinois*, 439 U.S. 128 (1978), *U.S. v. Salvucci*, 448 U.S. 83 (1980), and *Rawlings v. Kentucky*, 448 U.S. 98 (1980), the “‘sole determinant of the scope of protection afforded’ under the Fourth Amendment was the defendant’s ‘ability to prove a legitimate expectation of privacy’ by the ‘totality of the circumstances.’” *Id* at 253 citing *Commonwealth v. Sell*, 504 Pa. 46, 470 A.2d 457, 466 (1983). Even if not an owner or lessee of the premises, “a defendant who is more than a casual visitor to the...dwelling in which illegal drugs have been seized has the right under the Fourth Amendment to the United States Constitution...to challenge the search and seizure of the illegal drugs which he is accused of possessing.” *Commonwealth v. Rodriguez*, 679 A.2d 1320 (Pa. Super. 1996). “[A] defendant must establish a possessory interest, a legitimate presence, or some ‘factor from which a reasonable and justifiable expectation of privacy could be deduced’ to prove that this subjective expectation of privacy is legitimate.” *Commonwealth v. Bostick*, 958 A.2d 543 (Pa. Super. 2008).

Defendant testified at the hearing that he was more than a casual visitor at the home of the CI. Defendant explained that he has been to the residence countless times, would spend hours there cooking, and associating with the CI and his family. Defendant argues that his testimony supports his argument that he was more than a casual “passerby” at this residence. Defendant argues *Commonwealth v. Govens*, 632 A.2d 1316 (Pa. Super. 1993), wherein the Pennsylvania Superior Court referred to factors for a court’s consideration in determining whether a defendant has a legitimate expectation of privacy, including unlimited access to the premises and involvement in illegal activities conducted on the premises. Additional factors enumerated in *Govens*, include: “(1) possession of a key to the premises; (2) storing of clothing or other possessions on the premises; (3) ability to exclude other persons from the premises; and (4) expression of a subjective expectation of privacy in the premises.” *Commonwealth v. Govens*, 632 A.2d 1316, 1319 (Pa. Super. 1993); *see also: United States v. Nabors*, 761 F.2d 465, 469–470 (8th Cir.1985), *cert. denied*, 474 U.S. 851, 106 S.Ct. 148, 88 L.Ed.2d 123 (1985); *United States v. Haydel*, 649 F.2d 1152, 1154–1155 (5th Cir.1981), *cert. denied*, 455 U.S. 1022, 102 S.Ct. 1721, 72 L.Ed.2d 140 (1982). In *Govens*, the Court considered the aforementioned factors and found that, under circumstances where the defendant was present when police entered the apartment without a warrant, the defendant was engaged in selling cocaine from the apartment, and apparently had dominion and control over the apartment along with the cocaine and other evidence seized by law enforcement officials, Defendant possessed a reasonable expectation of privacy that society would find reasonable. *Commonwealth v. Govens*, 632 A.2d 1316 (Pa. Super. 1993).

In consideration of the evidence presented by Defendant to establish that he had an expectation of privacy in the CI’s porch, the Court finds, under the totality of the

circumstances, that Defendant has not established he had a reasonable expectation of privacy in the property. Defendant's testimony describes that of an individual invited inside of the residence when the family unit is home, including enjoying meals and associating with the residents. Defendant did not provide testimony or evidence that he enjoyed unlimited access to the property, such as a key to the residence whereby he can enter the residence at his will. Notably, Detective Anderson testified that the door to enter the home from the porch area was locked, and Defendant did not use a key or any other means to enter the home to deliver drugs on the date in question. The Court further considered evidence that Defendant maintained his own residence, where it was established that he lived on Second Street. Defendant did not provide evidence or testimony that he stayed for extended period of times, paid bills, or stored personal items within the residence.

Thus, the Court is unable to conclude from the evidence provided that Defendant possessed a reasonable and justifiable expectation of privacy in the CI's enclosed porch that society is likely to recognize as legitimate. Without establishing that the Defendant possessed a reasonable expectation of privacy in the place that evidence was seized, the Court need not consider the Defendant's challenge to the recorded video footage that was obtained from the porch. Accordingly, Defendant's Motion to Suppress is **DENIED**.

b. Defendant's Petition for Writ of Habeas Corpus

Defendant argues that the Commonwealth did not meet its burden to establish that a *prima facie* case exists against the Defendant in this matter. Defendant also argues that the reliability of the CI should be examined in relation to the Commonwealth's burden for a *prima facie* case. Defendant asserts that the motivations of the CI should be examined due to informants working with law enforcement to secure leniency in their own cases which can

influence the trustworthiness of their information⁴. Moreover, a CI's criminal history or substance abuse can further undermine the credibility paired with insufficient independent police corroboration.

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). 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

⁴ The Court notes that Defendant's arguments for both segments of the Omnibus Motion rely, in part, on a challenge to the reliability and credibility of the confidential informant. At this stage, the Court cannot consider reliability and credibility of the confidential informant as it relates to his challenge for habeas corpus.

most favorable to the Commonwealth's case." *Commonwealth v. Owen*, 580 A.2d 412, 414 (Pa. Super. 1990).

In Count 1, Defendant is charged with Delivery of a Controlled Substance pursuant to 35 Pa.C.S. Section 780-113(a)(30) for the incident occurring on July 3, 2024. Under Section 780-113(a)(30):

[t]he following acts and the causing thereof within the Commonwealth are hereby prohibited: [e]xcept as authorized by this act, the manufacture, delivery, or possession with intent to manufacture or deliver, a controlled substance by a person not registered under this act, or a practitioner not registered or licensed by the appropriate State board, or knowingly creating, delivering or possessing with intent to deliver, a counterfeit controlled substance.

Detective Anderson testified at the preliminary hearing that he set up the undercover video camera which produces a live feed. Detective Anderson testified that on July 3, 2025, he was able to observe in real-time through the camera, the Defendant enter the enclosed porch, pick up the cash, and in the place of the cash dropped a plastic bag. After the Defendant left the vicinity, Detective Anderson entered the porch to retrieve the baggy. He field-tested the contents contained in the baggy, and the result came back positive as Fentanyl. Following the controlled buy, the other detectives surveilled the Defendant driving from the CI's residence back to his own residence on Second Street in Williamsport, Pennsylvania. The detectives surveilled the Defendant from Weis Market to his address on Second Street and then to the CI's residence where Detective Anderson picked up the surveillance for the controlled buy.

The testimony provided by Detective Anderson at the preliminary hearing and the hearing on the motion in conjunction with Commonwealth Ex. No. 2, the surveillance recording, set forth evidence of every material element required for a charge of delivery of a controlled substance and the Defendant's complicity therein. Accordingly, the Court finds

that the Commonwealth has met its burden that a *prima facie* case exists in this matter for Count 1, Delivery of a Controlled Substance, and the Defendant's Petition for Writ of Habeas Corpus with regard to Count 1 is **DENIED**.

In Count 2, Defendant is charged with Criminal Use of a Communication Facility pursuant to 18 Pa.C.S. Section 7512(a) for the incident occurring on July 3, 2024. Under Section 7512(a):

A person commits a felony of the third degree if that person uses a communication facility to commit, cause or facilitate the commission or the attempt thereof of any crime which constitutes a felony under this title or under the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act. Every instance where the communication facility is utilized constitutes a separate offense under this section.

At the preliminary hearing and the hearing on the subject motion, Detective Anderson provided testimony that Defendant and the CI communicated for the sale of drugs via telephone. Detective Anderson testified to being in the presence of the CI when the phone call to establish the location for the controlled buy was determined between the Defendant and the CI. Detective Anderson testified to recognizing the voice of the Defendant through past dealings. Moreover, Detective Anderson heard the Defendant request to meet the CI at Weis on Lycoming Creek Road, Cogan Station, Pennsylvania, but the CI directed the Defendant to drop the drugs at his house and pick up the cash from their "normal spot." Upon hearing this call, Detective Anderson directed detectives to Weis Market on Lycoming Creek Road to surveille the Defendant. Additional detectives located the Defendant and the vehicle he was driving.

The testimony provided by Detective Anderson at the preliminary hearing and the hearing on the motion set forth evidence sufficient to establish every material element required for a charge of criminal use of a communication facility and the Defendant's

complicity therein. Accordingly, the Court finds that the Commonwealth has met its burden that a *prima facie* case exists in this matter for Count 2, Criminal Use of a Communication Facility, and the Defendant's Petition for Writ of Habeas Corpus with regard to Count 2 is **DENIED**.

ORDER

AND NOW, this 27th day of January, 2026, for the aforementioned reasons, Defendant's Omnibus Motion is **DENIED** in whole. It is so Ordered.

By the Court,

Ryan M. Tira, Judge

RMT/asw

CC: DA(LS); CA

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