

McCormick

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : CRIMINAL DIVISION
v. : NO. CR-1247-2025
DOMINIQUE EVANS, : Petition for Habeas Corpus
Defendant :

FILED
2026 OCT 21 AM 9:16
HOLLY L. THOMAS
PROTHONOTARY &
CLERK OF COURTS

OPINION

This matter was before the Court on April 7, 2026, for hearing and argument on the Petition for Habeas Corpus filed by Taylor Paulhamus, Esquire, on behalf of Defendant. At the hearing on the Motion, Defendant appeared personally represented by Tyler Calkins¹, Esquire. Jessica Feese, Esquire, appeared on behalf of the Commonwealth.

Defendant is charged by way of the Criminal Information with one count each of the following: Aggravated Assault-Attempts to Cause or Causes Serious Injury to Designated Individual², felony of the second degree; Disorderly Conduct-Engage in Fighting³, misdemeanor of the third degree; Harassment-Subject Other to Physical Contact⁴, summary; and Simple Assault⁵, misdemeanor of the second degree, for events that occurred at UPMC in the emergency department on or around September 9, 2025.

Defendant filed a Petition for Habeas Corpus on October 31, 2025, with agreement from the Commonwealth regarding the untimeliness. Defendant submits that the victim, Carole Burke is not a designated person for purposes of 18 Pa.C.S. Section 2702(c)(21) because Burke is an Emergency Department Registration Clerk. Additionally, Defendant

¹ On January 5, 2026, Attorney Paulhamus submitted a Request for Continuance of the Habeas hearing scheduled for January 6, 2026, citing newly discovered evidence that created a conflict for the Defendant's representation through the Lycoming County Public Defender's Office. The continuance request was granted. On January 13, 2026, Attorney Calkins was appointed as conflict counsel to represent Defendant.

² 18 Pa.C.S. §2702(a)(3).

³ 18 Pa.C.S. §5503(a)(1).

⁴ 18 Pa.C.S. §2709(a)(1).

⁵ 18 Pa.C.S. §2701(a)(1).

submits that Burke was not acting in the scope of her employment when the alleged offenses because she stepped away from the clerk desk and her duties to approach the Defendant because she recognized him. Thus, it is Defendant's argument that count one of the Information be dismissed for the Commonwealth's failure to present sufficient evidence to satisfy its burden that a *prima facie* case exists.

At the hearing on the Motion, a brief hearing occurred where the Court did receive brief testimony from the victim, the Court ordered and directed both parties to file briefs on the limited issue of whether the victim meets the definition prescribed under Title 18 Section 2702(c)(21)(emergency medical services personnel) and whether the victim was operating in the capacity of her employment at the time the alleged offenses against the victim occurred. Both parties submitted timely briefs.

The testimony provided that Burke was employed at UPMC in the emergency department on September 9, 2025, as "patient access" personnel, which requires no medical training. Burke was trained on the Epic software system used by the hospital. Burke described the duties of her employment to include: obtaining basic patient information upon entry, basic patient registration, and she accommodates basic requests from patients, such as providing water. Burke can perform some of her duties at various locations throughout the emergency department. On September 9, 2025, Burke was working at the front desk inputting information for another patient when Defendant was brought in/arrived. Burke used her badge to access the location of Defendant while she was still working in the course of her shift. Burke cautioned Defendant against speaking in the manner he was when Defendant allegedly punched Burke in the shoulder.

Standard of Review

In evaluating a petition for writ of habeas corpus, the court must examine the evidence in a light most favorable to the Commonwealth. *Commonwealth v. Starry*, 196 A.3d 649, 656 (Pa. Super. 2018). The Commonwealth bears the burden of establishing a *prima facie* case “that a crime has been committed and that the accused is probably the one who committed it.” *Id.*; Pa.R.Crim.P. 141(d). “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.*, and may do so by utilizing evidence presented at the preliminary hearing as well as submitting additional proof. *Id.* Weight and credibility of the evidence are not factors for the Court to consider. *Commonwealth v. Marti*, 779 A.2d 1177, 1180 (Pa. Super. 2001); *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”). “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 most favorable to the Commonwealth's case.” *Commonwealth v. Owen*, 580 A.2d 412, 414 (Pa. Super. 1990).

Under Title 18 Pa.C.S. Section 2702(a)(3), “[a] person is guilty of aggravated assault if he... attempts to cause or intentionally or knowingly causes bodily injury to any of the officers, agents, employees or other persons enumerated in subsection (c), in the performance of duty.” There is no question that an assault occurred and injury resulted. Burke testified to receiving the injury and being in physical therapy as a result of the strike. Defendant attacks the Commonwealth's case on the basis that Burke (1) does not qualify as an enumerated person under the statute and (2) was not acting in performance of her duty at the time the

alleged assault occurred. In consideration of the parties' arguments contained in their briefs, the Court answers the aforementioned questions below.

Application and Analysis

I. Was Burke emergency medical personnel as intended by the legislature under Title 18 Section 2702(c)(21) at the time the alleged assault occurred?

Under 18 Pa.C.S. Section 2702(d), "[t]he term ["medical emergency personnel"] includes, but is not limited to, doctors, residents, interns, registered nurses, licensed practical nurses, nurse aides, ambulance attendants and operators, paramedics, emergency medical technicians and members of a hospital security force while working within the scope of their employment. "Personnel" is defined as "a body of persons usually employed."⁶ The language contained in the definition of the "emergency medical personnel" by its use of the phrase "not limited to" seems to encapsulate intending to protect those employees involved in emergency healthcare circumstances who provide patient care services and assist with access to medical care from assaults by patients or emergency department visitors who are in distress, stressed, medically compromised, or otherwise not acting reasonably.

In consideration of the parties' arguments contained in their briefs, the Court agrees with the Commonwealth. More specifically, simply because Burke was not specified by her profession under subsection (d), the statute is expressly "not limited to" only those professions specifically listed. Burke's testimony provided that she is a member of what constitutes the staff of the emergency department, in that she provides triage information to the medical professionals to begin treatment of patients in the emergency department. Burke testified to being part of the team that meets ambulances and conducts the intake interview for patients being brought in in emergency situations. As the Commonwealth argued, Burke

⁶ "Personnel." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/personnel>. Accessed 19 Oct. 2026.

is not providing direct patient care, but neither are the ambulance drivers or the hospital security guards—professions that are listed in the definition for “emergency medical personnel.” Commonwealth’s Brief at 2. Burke does have direct contact with the admittees to the emergency department when she performs intake services and conducts check-ins with admitted patients and those who are waiting to be seen.

Without a strong argument to the contrary or legal authority to look to from Defendant, the Court rejects his argument, and finds that Burke is part of the classes of emergency medical personnel as defined by the statutory language under Section 2702(d). Accordingly, Defendant’s Petition for Habeas Corpus on this basis shall be denied.

II. Was Burke working within the scope of her employment on September 9, 2025, when the alleged assault occurred?

Defendant next argues that count one of the Information should be dismissed on the basis that Burke was not acting within the scope of her information-taking function when the alleged assault occurred. Defendant relies on the portion of Burke’s testimony where she stated that she stepped away from her duties to tend to Defendant because she recognized him from her apartment building. The Commonwealth argues that Burke visited Defendant in the triage room at his request to “look at [his] finger,” and not simply because she recognized him from outside of the emergency room. Commonwealth’s Brief at 3. While the Commonwealth admits that Burke was not interacting with Defendant for the purpose of collecting his information, the Commonwealth argues that she was responding to a patient who requested her attention while she was on duty within her workplace. Id. The Commonwealth relies on the portion of Burke’s testimony where she stated that her duties include checking on patients who speak with her. Id.

The Court agrees with the Commonwealth’s characterization of “performance of duty” and its application to the victim here. Burke was employed by the hospital in the

emergency department, working her shift on September 9, 2025, within the area of the emergency department where her job functions, she was responding to a patient regarding his injury, and the scope of her employment includes responding to simple patient requests, *i.e.*, “look at my finger.” *Accord Commonwealth v. McFadden*, 156 A.3d 299, 307 (Pa. Super. 2017) (victim was acting in performance of her duty when the assault occurred and victim was standing on her assigned street corner, performing job tasks as a crossing guard, and wearing a uniform). Accordingly, the Court finds that Burke was acting in performance of her duty as a patient access employee in the emergency department at the time the alleged assault occurred. Accordingly, Defendant’s Petition for Habeas Corpus on this basis shall be denied.

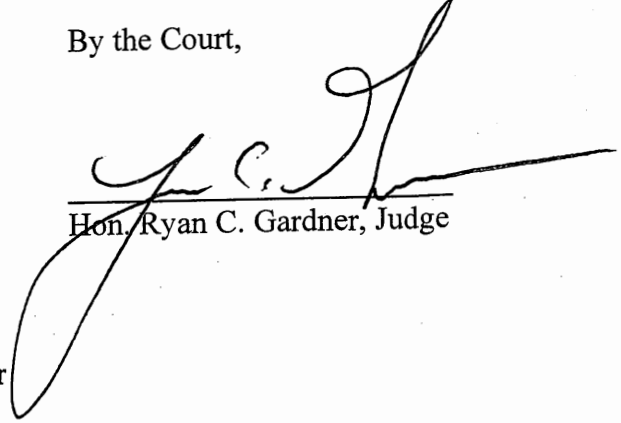
Conclusion

Because the Court finds that Burke does qualify as an enumerated person under the language of Section 2702(3), Burke was acting in performance of her duties at the time the alleged assault occurred, and there is no dispute that an assault occurred, the Court determines that the Commonwealth has set forth sufficient evidence to establish its *prima facie* burden for the offense to proceed to a jury as charged. Accordingly, the Court enters the following Order:

ORDER

AND NOW, this 20th day of October, 2026, the Defendant's Petition for Habeas Corpus is hereby **DENIED** based on the foregoing and in consideration of the evidence, testimony, and arguments presented by the parties.

By the Court,



Hon. Ryan C. Gardner, Judge

RCG/asw

CC: DA; CA

Tyler Calkins, Esq.

Gary Weber, Esq.—Lycoming Reporter