

G. Weber

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR 75-2026

vs.

: CRIMINAL DIVISION

M.J.,

Defendant

**FILED
LYCOMING COUNTY
2026 MAY 18 AM 11:50
JUDITH L. THOMAS
PROthonary
CLERK OF COURT**

OPINION and ORDER

M.J. (Defendant) was charged with six total counts; count one Criminal Conspiracy – Robbery, count two Firearms not to be Carried Without a License, count three Possession of a Firearm With an Altered Manufacturer’s Number, count four Possession of a Firearm by a Minor, count five Simple Assault, and count six Robbery. The charges arise from an interaction with a confidential informant (CI) on January 6th, 2026, resulting in the above charges being filed the same date. Defendant, following his preliminary hearing, held January 15th, 2026, filed an Omnibus Pretrial Motion that included a Petition to Decertify and Transfer to Juvenile Court and a Petition for Habeas Corpus. Defendant requests that the Court find that transferring this matter to juvenile court would serve the public interest, as well as, find that the Commonwealth failed to meet the elements required for conspiracy to commit robbery and robbery and therefor dismiss counts one and six.

Background

At the time of the hearing on Defendant’s Omnibus Pre-Trial motion both the Defendant and Commonwealth agreed to submit the audio recording of the preliminary hearing as “Commonwealth’s Exhibit 1” for the purpose of the Petition for Habeas Corpus. As for the Petition to Decertify, Defendant called two witnesses. Argument was provided by both the

Defendant and Commonwealth as to both the Petition for Habeas Corpus and Petition to Decertify. Although Defense Counsel objected to the Court reading the Affidavit of Probable Cause or considering the audio recording of the preliminary hearing for the purpose of deciding the Petition to Decertify, this Court can find no authority precluding the consideration of either to assist the Court in determining whether to grant or deny Defendant's request to decertify. The alleged events that give rise to the present charges are as follows:

On December 22nd, 2025, Detective Dustin Kreitz, a detective for the Lycoming County District Attorney's Office, was contacted by a confidential informant (CI) advising him that the CI could purchase a handgun with an obliterated serial number, specifically, a black semiautomatic 9mm Ruger. The first person that the CI was in contact with regarding this possible transaction was known to the detective and the CI as "Jay". The CI was in contact with Jay through snapchat, video chat and text message. The CI did send snapshots of text messages and other correspondence between the CI and "Jay" regarding the sale and purchase of the firearm to Detective Kreitz. An initial controlled buy was scheduled in December that never came to fruition.

In January a second controlled buy was planned. For this controlled buy, Jay gave the CI a telephone number that belonged to a second individual (a "666" telephone number). The CI contacted the second individual in preparation to purchase the same firearm as earlier agreed upon with Jay. After the CI contacted the second number, the phone number was searched online and the number came back to a cellphone associated with the Defendant's Father. Ultimately, a controlled buy for the purchase of the handgun in exchange for \$400 was to occur January 6th, 2026 in the area of 816 High St., Williamsport, PA.

On January 6th and prior to the controlled buy, Detective Kreitz met with the CI. The CI was searched and provided with \$400 of prerecorded funds for the purchase of the handgun. The CI was also equipped with a confidential audio and video recording device. Thereafter, the CI traveled to the arranged buy location and waited approximately fifteen minutes for Defendant to arrive. During this approximate fifteen (15) minute window prior to when Defendant arrived, the CI and Detective Kreitz remained in communication while the CI was also communicating with the individual on the same "666" telephone number that the CI was previously provided. Law enforcement then observed two individuals approaching the CI's vehicle at the same time with one wearing a gray jacket with a "MB" symbol on it and the other individual wearing a black jacket. The individual wearing the gray jacket with the "MB" symbol was observed entering the front passenger seat of the CI's vehicle and the individual wearing the black coat entering the rear passenger seat of the CI's vehicle. The individual wearing the gray jacket with the "MB" symbol was later identified as the Defendant, M.J.

Once the individuals entered the CI's vehicle, Detective Kreitz testified that the individual in the front seat wearing the gray jacket (Defendant) laid a handgun on his right leg as he counted the money received by him from the CI. Defendant then stowed the money, picked up the handgun and while pointing the gun at the CI stated to the CI, "you're burnt" with the CI replying "what". The Defendant and the individual wearing the black coat who was seated in the rear passenger seat then exited the vehicle at the same time.

Once Defendant and the individual wearing the black coat exited the vehicle, they began walking and then running away from the CI's vehicle. Additional detectives surveilling the controlled buy then apprehended the Defendant and other individual after a short pursuit.

Following Defendant's apprehension, law enforcement located on his person the \$400 in pre-recorded buy money as well as a black 9mm handgun in his right front coat pocket. Located on the other individual's person was a handgun tucked under his armpit. Each handgun had an obliterated serial number. Both Defendant and the other individual were sixteen (16) years of age at the time of arrest.

Although Detective Kreitz testified at the time of the preliminary hearing that he was able to observe and hear what was occurring in the car through the consensual recording device, on cross-examination he acknowledged that he was unable to see the gun possessed by Defendant in the car in real time and he could not recall if he did or did not hear the Defendant say to the CI "you're burnt". Detective Kreitz did also state that all consensual recordings and his debrief of the CI following the incident are preserved.

Detective Loudenslager, a detective for the Lycoming County District Attorney's Office, also testified at the preliminary hearing. His testimony mirrored that of Detective Kreitz. Specifically, Detective Loudenslager testified that he observed both individuals enter the CI's vehicle, exit the CI's vehicle and begin to run. Detective Loudenslager further stated that he heard Detective Kreitz say that the "CI was robbed." Detective Loudenslager did join in the pursuit of both individuals and maintained that following their apprehension, both of the individuals were the same individuals that entered and exited the CI's vehicle.

Discussion

At the preliminary hearing stage of a criminal prosecution, the Commonwealth need not prove Defendant's guilt beyond a reasonable doubt, but rather, must merely put forth sufficient evidence to establish a prima facie case of guilt. Commonwealth v. McBride, 595 A.2d 589, 591

(Pa. 1991). A prima facie case exists when the Commonwealth produces evidence of each of the material elements of the crime charged and establishes probable cause to warrant the belief that the accused likely committed the offense. *Id.* Furthermore, the evidence need only be such that if presented at trial and accepted as true the judge would be warranted in permitting the case to be decided by the jury. Commonwealth v. Marti, 779 A.2d 1177, 1180 (Pa. Super. 2001). “A prima facie case in the criminal realm is the measure of evidence, which if accepted as true, would warrant the conclusion that the crime charged was committed.” Commonwealth v. MacPherson, 752 A.2d 384, 391 (Pa. 2000). 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 (Pa. Super. 2003). Moreover, “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. Huggins, 836 A.2d 862, 866 (Pa. 2003). Speculation, suspicion, assumptions and conjecture, however, are not sufficient to support a prima facie case. See Commonwealth v. Bostian, 232 A.3d 898, 908 (Pa. Super. 2020). “[W]here the Commonwealth's case relies solely upon a tenuous inference to establish a material element of the charge, it has failed to meet its burden of showing that the crime charged was committed.” Commonwealth v. Wojdak, 502 Pa. 359, 466 A.2d 991, 997 (1983) (emphasis in original). Instead, to satisfy due process, any inference in a criminal prosecution must “more likely than not” flow from the basic facts proven by the Commonwealth upon which the inference was is

founded. See In re J.B., 647 Pa. 339, 189 A.3d 390, 415 n.25 (2018) citing County Court of Ulster v. Allen, 442 U.S. 140, 165, 99 S.Ct. 2213, 60 L.Ed.2d 777 (1979).

In Commonwealth v. Harris, 315 A.3d 26, 37 (Pa. 2024) the Supreme Court discussed the type and use of hearsay by the Commonwealth to establish its burden of prima facie at the preliminary hearing. 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. Commonwealth v. McClelland, 233 A.3d 717, 735 (Pa. 2020). 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 Commonwealth ex rel. Buchanan v. Verbonitz, 581 A.2d 172, 174 (Pa. Super. 1990) (plurality). (“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.”).

Harris goes on to say that despite affirming the Superior Court's holding, we disapprove its rationale in three respects. See, e.g., Commonwealth v. Chisebwe, — Pa. —, 310 A.3d 262 (2024) (“because we review not reasons but judgments,” we may uphold a lower court order for any valid reason appearing from record) (internal quotation marks and citations omitted). First, we do not endorse its discussion of “core” elements and the like, terms which do appear in

the text of Rule 542. We also reject the panel's opinion to the extent it implies due process "require[s] direct evidence that the defendant was the person who committed the crime[.]" Harris, 269 A.3d at 547 (emphasis added). It has long been the law that "[d]irect evidence of identity is, of course, not necessary and a defendant may be convicted solely on circumstantial evidence." Commonwealth v. Hickman, 453 Pa. 427, 309 A.2d 564, 566 (1973); see Commonwealth v. Lovette, 498 Pa. 665, 450 A.2d 975, 977 (1982) ("The fact that the evidence establishing a defendant's participation in a crime is circumstantial does not preclude a conviction where the evidence coupled with the reasonable inferences drawn therefrom overcomes the presumption of innocence."). Put simply, circumstantial evidence and hearsay evidence are not opposite sides of the same coin, and Rule 542(E) only precludes the latter from serving as sufficient evidence to bound a case over for court. Third and finally, both the preliminary hearing judge and the panel seemed to believe that only non-hearsay evidence could suffice to establish a prima facie case as to appellee's identity. See N.T. Hearing, 9/16/20, 10 at 6 (referencing lack of "non-hearsay evidence"); Harris, 269 A.3d at 547-48 (same). To reiterate, what matters to establish identity — what Rule 542 demands — is the use of legally competent evidence, such as non-hearsay evidence or admissible hearsay evidence falling under a hearsay exception. Accord supra note 8; see McClelland, 233 A.3d at 738 (Wecht, J., concurring) ("the result of a hearing so intertwined with one's liberty interests cannot rest exclusively upon evidence that is unreliable, inadmissible, and provides no assurances as to the future viability of a particular prosecution").

Regarding Defendants Motion for Habeas, he contends that the Commonwealth failed to establish a prima facie case for the charges of Criminal Conspiracy to Robbery as well as to the

added count of Robbery. Specifically, Defendant asserts that at the preliminary hearing, the Commonwealth presented insufficient evidence to establish that Defendants entered into a conspiracy to commit robbery as well as failed to satisfy the elements of robbery.

Criminal Conspiracy to commit Robbery and Robbery

In order to establish a *prima facie* case for Criminal Conspiracy to commit Robbery, the Commonwealth must present some legally competent evidence of the following elements:

If with the intent of promoting or facilitating the commission of [Robbery], the Defendant:

1. agrees with another person or person that they or one or more of them would engage in conduct which constitutes such crime; or
2. agrees to aid such other person or persons in the planning or commission of such crime and did an overt act in pursuit thereof.

In order to establish a *prima facie* case for Robbery pursuant to 18 Pa.C.S.A section 3701(a)(1)(ii), the Commonwealth must present some legally competent evidence that Defendant, in the course of committing a theft, threatens another with or intentionally puts him in fear of immediate serious bodily injury.

At the preliminary hearing stage, the Commonwealth may meet its burden entirely through circumstantial evidence, and the court must view all reasonable inferences in favor of the Commonwealth. Commonwealth v. McBride, 595 A.2d at 591; Commonwealth v. Huggins, 836 A.2d 862, 866 (Pa. 2003).

In the instant matter, law enforcement was made aware through a confidential informant that an unknown person or persons was willing to sell to the CI a firearm in exchange for \$400. Law enforcement not only discussed this arrangement with the CI but also reviewed text based

correspondence as well as other correspondence between the CI and the unknown person or persons prior to the controlled buy. Law enforcement arranged through the CI a date and time where this exchange would occur and made preparations to surveil the exchange within the vehicle by utilizing a confidential audio video recording device. Law enforcement also undertook efforts to surveil activity that occurred outside the vehicle by posting other law enforcement in close proximity to the location of the exchange.

Law enforcement did observe two individuals' approach and enter at the same time the CI's vehicle within approximately fifteen (15) minutes of the time prearranged between the CI and the unknown individual(s) for the sale of the firearm. Law enforcement further observed the same two individuals that entered the CI's vehicle depart the CI's vehicle at the same time and then proceed to run away together from the CI's vehicle. These two individuals were apprehended following a short pursuit and found on the one individual's person who was observed sitting in the front seat of the CI's vehicle and later identified as Defendant was the \$400 in pre-recorded funds as well as a 9mm handgun with an obliterated serial number. The 9mm handgun with an obliterated serial number fits the description of the handgun that was first offered to the CI in exchange for money. Additionally, located on the other individual that was apprehended was also a handgun with an obliterated serial number.

Although Detective Kreitz did not observe a handgun in real time as he was watching the interaction within the CI's vehicle through the consensual audio video recording device, a strong inference can be drawn that handguns were in fact on the person of both Defendant and the other individual when they entered the CI's vehicle. Moreover, a strong inference can be drawn that despite whether Detective Kreitz heard the words "you're burnt" in real time as he was watching

the interaction within the CI's vehicle through the consensual audio video recording device, a robbery did occur and it defies common sense to suggest that anything other than a robbery did take place within the CI's vehicle. Specifically, the testimony reveals that law enforcement, the CI as well as Defendant were all aware that the CI was at that specific location at that specific time for the sole purpose of providing Defendant with money in exchange for a handgun with an obliterated serial number. That exchange did not occur as evidenced by the CI not providing a gun to Detective Kreitz following the foiled transaction as well as Defendant (after fleeing the scene) was found with a gun on his person that fit the description of the gun that was to be sold. Defendant also had the pre-recorded buy money on his person. Additionally, the Defendants immediate flight from the CI's vehicle strongly suggests that they wanted to separate themselves from what occurred within the CI's vehicle. Detective Loudenslager's testimony that he heard Detective Kreitz state that the "CI was robbed" as both Defendant and the other individual were actively fleeing further suggests that either the CI by way of excited utterance proclaimed to Detective Kreitz that he was in fact robbed or, Detective Kreitz did in fact hear Defendant say "you're burnt." Under either scenario and when combined with all other observations of law enforcement before and after Defendant's entry of and exit from the CI's vehicle, it is highly suggestive that a robbery was committed. Also, because the Commonwealth has met its prima facie burden with respect to the robbery count and based on the totality of the circumstances including, but not limited to Defendant arriving at the CI's vehicle at the same time as the other individual, departing the CI's vehicle at the same time, fleeing at the same time and after apprehended both Defendant and the other individual were each found with a handgun with

obliterated serial numbers, a strong inference is drawn that Defendant agreed with, planned with and committed with the other individual to commit the act of robbery.

Finally, Defendant argued during the habeas hearing that a robbery could not have occurred because the Commonwealth failed to prove that the robbery occurred “in the course of a theft.” This argument fails for several reasons. First, “[a] conviction for robbery does not require proof of a completed theft, it requires only that the requisite force was used ‘in the course of committing theft,’ which is statutorily defined as ‘an attempt to commit theft or in flight after the attempt or commission.” Commonwealth v. Robinson, 936 A.2d 107 (Pa. Super. 2007). Moreover, even though it was Detective Kreitz and not the CI that testified at the preliminary hearing that Defendant pointed the handgun at him in the CI’s vehicle, this hearsay testimony alone does not warrant dismissal because the Commonwealth is able to satisfy the other elements based on strong circumstantial evidence. As previously discussed, the totality of the evidence presented by the Commonwealth at the time of the preliminary hearing coupled with the understanding that the Commonwealth may meet its burden entirely through circumstantial evidence, and the court must view all reasonable inferences in favor of the Commonwealth, the Commonwealth has satisfied its *prima facie* burden with respect to both the Conspiracy to Robbery and Robbery counts.

Motion to Decertify and Transfer to Juvenile Court

In determining whether to transfer a case involving any of the offenses excluded from the definition of “delinquent act” in section 42 Pa.C.S. §6302, the Defendant shall be required to establish by a preponderance of the evidence that the transfer will serve the public interest.¹ As

¹ 42 Pa.C.S. §6322(a)

the Defendant was at least 15 years of age at the time of the alleged conduct, and a deadly weapon was used during the commission of the offenses, the charge of robbery is excluded from the definition of "delinquent act."²

In determining whether the child has so established that the transfer will serve the public interest, the court shall consider the factors contained in section 42 Pa.C.S. §6355(a)(4)(iii) (relating to transfer to criminal proceedings):

- a. The impact of the offense on the victim or victims
- b. The impact of the offense on the community
- c. The threat to the safety of the public or to any individual posed by the child
- d. The nature and circumstances of the offense(s)
- e. The child's degree of culpability
- f. The "adequacy and duration" of available juvenile dispositional alternatives in comparison with adult criminal sentencing options
- g. Whether the child is amenable to treatment, supervision or rehabilitation as a juvenile by considering the following factors:
 - i. Age
 - ii. Mental capacity
 - iii. Maturity
 - iv. Degree of criminal sophistication exhibited by the child
 - v. Previous records as a delinquent
 - vi. Nature and extent of any prior delinquent history, including successes or failures of previous attempts of the juvenile court to rehabilitate the child
 - vii. Whether the child can be rehabilitated prior to the expiration of juvenile court jurisdiction
 - viii. Probation or institutional reports, if any
 - ix. Any other relevant factors

42 Pa.C.S. § 6322(a). While the Juvenile Act requires that a decertification court consider all of the amenability factors, it is silent as to the weight assessed to each by the Court. Commonwealth

² 18 Pa. C.S § 2501(A)

v. Jackson, 722 A.2d 1030, 1033 (Pa. 1999). The ultimate decision of whether to certify a minor to stand trial as an adult is within the sole discretion of a decertification court. Id. at 1034

At the time of the decertification hearing Nate Hill of the Lycoming County Juvenile Probation office (JPO) was called to testify by defendant. Officer Hill has been a JPO officer for seven years and became involved with defendant by way of a separate juvenile action where Defendant was placed on a consent decree. In that action a delinquency petition was filed after Defendant committed a Felony 2 Burglary in December of 2024. Defendant was placed on a consent decree in April of 2025 as a result and placed under the supervision of the juvenile probation office.

During the time Defendant was supervised by JPO, Defendant was generally compliant with the terms of his supervision as well as respectful during Officer Hill's interactions with him. He was placed on an electric monitor and complied with his curfew. Additionally, he completed 64 hours of community service toward his restitution, but has not finished paying his costs and restitution for that case. Further, he had no behavioral issues in school, but did fail two classes this past school year. Defendant was also part of the day treatment program where Officer Hill stated he undertook a leadership role. While on supervision, Defendant resided with his Father, Danny Joyner. During home visits, Officer Hill stated that he had no issues with Defendant.

Defendant's consent decree was continued for an additional six months in September 2025 to allow Defendant more time to complete the remainder of the requirements of his consent decree. Although Officer Hill stated that Defendant seemed to be doing well on supervision in the months leading up to the present charges Officer Hill did notice concerning behavior. This concerning behavior included hearing rumors that defendant was sneaking out of the home after

his electronic monitor was removed and surrounding himself with peers that the JPO officer was familiar with. This resulted in Officer Hill having a conversation with Defendant about his concerns. In March of 2026, Defendant's consent decree was revoked and he was adjudicated delinquent because of the current charges. Ultimately, Officer Hill stated that additional resources are available for Defendant in the juvenile system and he does not believe he is beyond help.

Danny Joyner, Defendant's Father, also testified at the time of the hearing. Mr. Joyner is employed and works five days a week on night shift. He indicated that although he works night shift he is available as a resource for Defendant, willing to participate in whatever he is required to ensure Defendant is compliant with supervision and is involved with the daily life of Defendant. With that said, Mr. Joyner does believe that defendant should be monitored at all times. In the days leading up to the incident at issue in this matter, Mr. Joyner also noticed that Defendant was spending time with individuals for whom he did not approve. Despite the fact that defendant has now been charged with a serious criminal offense, Mr. Joyner does not believe his son is a lost cause and believes that he can be rehabilitated.

Although the Court understands and appreciates the expressions of support and confidence on behalf of Defendant from both his Father and Officer Hill, transferring this matter to Juvenile Court will not serve the public interest. Defendant is currently 16 years of age (17 in August), has been adjudicated of a Felony 2 Burglary and is currently charged with a Felony 1 Robbery. The underlying facts in the instant case demonstrate that Defendant continues to develop his level of criminal activity and sophistication as Defendant is alleged to have used a deadly weapon in the commission of the robbery. Moreover, there is no indication that

Defendant was just passively present at the time of the alleged robbery. Rather, based on the evidence presented by the Commonwealth, Defendant was the protagonist in the alleged Conspiracy to Robbery and Robbery charges as he was observed by law enforcement entering the front seat of the victim's car, allegedly brandished a handgun, and following his apprehension by law enforcement was found in possession of \$400 in pre-recorded funds as well as a handgun with an obliterated serial number.

Despite the fact that it was reported by Officer Hill and Mr. Joyner that Defendant seemed to do well under JPO supervision, Defendant significantly fails to appreciate the consequences of his actions or the effect that his actions have on the safety and welfare of the community, as evidenced by his most recent involvement in the robbery matter. He has continued to spend time with peers that he knew or should have known would lead him down a path of continued criminality. Further, although Defendant complied with conditions of his supervision, such as his curfew while on electric monitoring, once the electric monitor was removed he was caught sneaking out of his Father's home during the nighttime while his Father was working. Unfortunately, JPO and Mr. Joyner do not have the ability to monitor Defendant 24 hours a day seven days a week to ensure his compliance with community-based programming and Defendant has not demonstrated that he is able to control his proclivity for criminal activity. Also, based on the undersigned's experience with the juvenile justice system in unrelated matters, if Defendant's case is remanded to juvenile court and he is adjudicated and placed in a juvenile treatment facility, it is unlikely that Defendant will realize, at most, more than three (3) years of supervision and/or community-based treatment/supervision. This is an insufficient

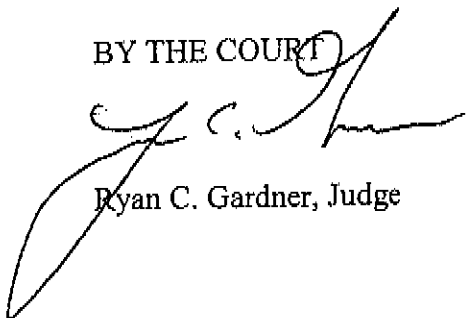
amount of time to ensure Defendant's rehabilitation of Defendant or the safety and welfare of the community.

Furthermore, it cannot be ignored that the offense committed by Defendant is just one example of the well-known significant uptick in violent juvenile crime that plagues Lycoming County and fills both adults and children alike with a heightened sense of fear for their personal safety and welfare. It is not hard for this Court to imagine, based upon the continued violent criminal behavior exhibited by Defendant, that he presents a serious risk of harm to the public, as well as to himself. Finally, although there was no testimony presented by the Commonwealth, it can strongly be inferred based on the alleged conduct committed by Defendant in the instant matter that because a gun was allegedly brandished in the commission of the robbery, the victim of the robbery will likely be traumatized as a result.

ORDER

AND NOW, this 18th day of **May, 2026**, based upon the above opinion counts two and three of Defendant's Omnibus Pretrial Motion are hereby **DENIED**.

BY THE COURT


Ryan C. Gardner, Judge

RCG/kbc

cc: JPO, APO, CA
DA (JF)
Matthew Diemer, Esq.
Gary Weber, Esq.