IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	**:**	**CRIMINAL DIVISION**
	:	**NO. CR-761-2025**
v.	**:**	
	:	**Omnibus Motion**
GREGORY PERSON,	**:**	
Defendant	**:**	

OPINION

This matter was before the Court on October 31, 2025, for hearing and argument on Defendant's Omnibus Pretrial Motion. At the hearing on the Motion, Defendant appeared personally, represented by Taylor Paulhamus, Esquire. First Assistant District Attorney Martin Wade appeared on behalf of the Commonwealth.

Procedural and Factual Background

Defendant is charged with thirty-three (33) counts of Child Pornography, felony of the second degree, pursuant to 18 Pa.C.S. Section 6312(d) and eighteen (18) counts of Child Pornography, felony of the third degree, pursuant to 18 Pa.C.S. Section 6312(d). The charges against Defendant arise from allegations he was in possession of child sexual assault material (CSAM) for the period from March 6, 2018 through June 23, 2021. The Criminal Complaint was filed on March 20, 2025. Defendant's preliminary hearing occurred on June 6, 2025. On July 31, 2025, a stipulated order was filed extending the omnibus due date to August 30, 2025. Defendant's Omnibus Motion was filed on August 21, 2025. On August 21, 2025, Defendant also filed a Request for Bill of Particulars. On August 26, 2025, a stipulated order extending the omnibus due date was filed, providing a 60-day extension for the filing of a Supplemental Omnibus Motion. On October 10, 2025, Defendant filed his Supplemental Omnibus Motion.

Contained in Defendant's initial Omnibus Motion are: (1) a Petition for Habeas Relief; (2) a Motion to Request Meta Data of Physical Evidence; and (3) a Motion to Reserve Right. In his supplemental omnibus motion, Defendant submitted a (1) Motion to Suppress an Overbroad Search Warrant dated 02/06/2024; (2) a Motion to Suppress Search Warrant dated 02/06/2024 due to Stale Information; (3) a Motion to Suppress Search Warrant dated 02/06/2024 based on Credibility of the Witness; and (4) a Motion to Suppress Search Warrant Dated 04/08/2024 based on Lack of Particularity.

At the hearing on Defendant's collective Omnibus Motion, the Commonwealth presented Detective Loretta Badger with the Lycoming County District Attorney's Office to testify. The Commonwealth also submitted the following exhibits:

Commonwealth's Exhibit No. 1	Preliminary Hearing Transcript, 06/06/2025
Commonwealth's Exhibit No. 2A-2M	Photographs provided by Lawrence Knight
Commonwealth's Exhibit No. 3	Index of Each Image Charged Against Defendant
Commonwealth's Exhibit No. 4	Credit Report, 04/10/2007
Commonwealth's Exhibit No. 5	Letter from Shelly Rae McCartney to Defendant, 08/20/2011
Commonwealth's Exhibit No. 6	Image of Defendant Laying on Couch with Black Dog,
Commonwealth's Exhibit No. 7	Image of Defendant—Family Photograph
Commonwealth's Exhibit No. 8	Initial Search Warrant Authorized by the Honorable Nancy Butts, 02/06/2024
Commonwealth's Exhibit No. 9	Photograph of Tote Containing CSAM
Commonwealth Exhibit No. 10	Property Record Created by Badger
Commonwealth's Exhibit No. 11	Second Search Warrant Authorized by Magisterial District Judge Aaron Biichle, 04/08/2024

I. Habeas Corpus

Defendant submits that the Commonwealth failed to satisfy its *prima facie* burden to establish that Defendant was in possession of the child sexual abuse material (CSAM) that was found at 1350 West Mountain Avenue South Williamsport, Lycoming County,

Pennsylvania. Defendant submits that the testimony presented at the preliminary hearing by Tammi Knight and Detective Badger established that Defendant lived at his mother's home in Muncy, Pennsylvania, until 2021. In 2021, Defendant was incarcerated on unrelated charges, and Ms. Knight packed his belongings at his mother's house and moved the property to 1350 West Mountain Avenue. Because Defendant was incarcerated in 2021 through to the time of the execution of the search warrant in 2024, Defendant argues that he did not have access to or possession of his belongings. Moreover, Defendant did not have control over the belongings. Defendant further asserts that (1) the recovered CSAM was located in the basement of the residence where multiple people had access; (2) the recovered items were among various other people's items in the basement; and (3) there was no testimony that Defendant ever possessed the CSAM recovered. Defendant submits that he did not have constructive possession of the property, and there was no direct or circumstantial evidence to support that Defendant had the intent to control the CSAM.

At the hearing, the Commonwealth, relying on *Commonwealth v. Perez*, 249 A.3d 1092 (Pa. 2021), argued that the standard for a *prima facie* case is that the accused "more likely than not" committed the offenses charged. The Commonwealth further argued the inferences drawn in a light more favorable to the Commonwealth established through clear, uncontradicted testimony at the preliminary hearing (1) the possessions belonged to Defendant; (2) the possessions were removed from his bedroom at his mother's house; (3) the possessions were among other personal items belonging to Defendant stored at the 1350 West Mountain Avenue residence. The Commonwealth further argued there is enough circumstantial evidence to establish the *prima facie* burden that Defendant possessed the CSAM before his incarceration in 2021. Relying on *Commonwealth v. Koehler*, 914 A.2d 427 (Pa. Super. 2006), the Commonwealth argued that the indicia of Defendant present on

the recovered property is more than enough to sustain its burden to move forward with the charges at this stage. At the hearing on the Motion, the Commonwealth submitted Commonwealth's Exhibit No. 1, Preliminary Hearing Transcript, 06/06/2025, in support of its position that the *prima facie* burden was met.

At the preliminary hearing, the Commonwealth presented Detective Loretta Badger, detective with the Lycoming County District Attorney's Office. Detective Badger testified that she received a call from Lawrence (Larry) Knight Jr. for a report of CSAM present in his residence. (Commonwealth Exhibit No. 1, Preliminary Hearing Transcript at 3:7-13). Mr. Knight presented at the DA's Office for an interview to report that he located a clear tote with a gray lid that belonged to Defendant at the residence where he lives with his estranged wife, Tammi Knight at 1350 West Mountain Avenue in South Williamsport. (Id). Detective Badger testified Defendant was not living at the West Mountain Avenue address at the time of the report and interview; however, prior to his incarceration, Defendant lived with his mother in Muncy, Pennsylvania. (Id at 3:18-24). Defendant's Mother passed away, and Defendant's sister, Tammi Knight, went to their mother's home to retrieve Defendant's belongings from his bedroom and store them in her basement during his incarceration. (Id at 4:2-8). When Detective Badger executed the search warrant, Ms. Knight directed the detectives to which storage totes belonged to Defendant in the basement of her home. (Id at 5:1-3). The search of the clear tote produced DVDs, CDs, a letter addressed to Defendant, tax documents, and various electronic devices. (Id at 5:22-25). The seized property was provided to the Pennsylvania State Police who transferred the contents of the various devices onto a hard drive for the Lycoming County District Attorney's Office. (Id at 5:22-25). Detective Badger reviewed the contents on the hard drive and testified that "thousands and thousands of images and videos of CSAM" were transferred to the hard drive from the external drives

found in Defendant's tote at the West Mountain Avenue residence. (Id at 6:1-3). Detective Badger identified still images of prepubescent females and males depicted in various stages of undress and engaged in various sexual acts. (Id at 6:4-11). Additionally, Detective Badger identified a three (3) hour long video of grown men having sex with girls under the age of 18. (Id at 6:16-21). Also contained among the property seized from the tote and contained on the disc were "indicia" of Defendant, including photographs of Defendant with his dog and with his family, and a 2007 credit report for Defendant. (Id at 7:2-9). On cross-examination, Detective Badger testified, to the best of her knowledge, that the items retrieved from Defendant's Mother's home were all his and only came from his bedroom at that residence. (Id at 9). Additionally, Detective Badger testified that the basement was open to the individuals living in the home on West Mountain Avenue and Tammi and Larry Knight stored their personal items in the basement as well. (Id).

Tammi Knight testified Defendant is her brother. (Commonwealth Exhibit No. 1, Preliminary Hearing Transcript at 12:6). Ms. Knight lives at 1350 West Mountain Avenue, and she has lived there for seventeen (17) years. (Id at 12:13-16). Ms. Knight testified Defendant was already incarcerated when their mother was diagnosed with cancer and given a short time to live. (Id at 12:19-25). Ms. Knight stated that Defendant's belongings were packed and moved to her residence in or around August of 2021. (Id). Defendant's mother began the packing process, but due to being sick she was unable to complete the process. (Id at 13:3-20). Ms. Knight and her mother were the only two who packed Defendant's belongings from his room. (Id at 16:16-17). Once his belongings were packed, Ms. Knight moved the tote boxes to her basement storage shelf. (Id at 13:21-23). Ms. Knight testified his belongings were moved from their mother's residence to the Knight residence, and not otherwise touched, moved, sorted through, or altered since being placed in her basement. (Id

at 14:1-21). Ms. Knight became aware of the allegations against Defendant when she was served at the residence with the search warrant. (Id at 15:1-10). Ms. Knight did advise the detectives about the area where Defendant's personal belongings were stored in the basement. (Id). Ms. Knight testified to the best of her knowledge that Defendant lived with his mother for approximately seven (7) years before he was convicted and sentenced to incarceration in 2021. (Id at 15:21-24). Ms. Knight testified that three people, including Larry Knight, lived with her in the residence on West Mountain Avenue in the time since Defendant's incarceration; and, all three people would have had access to the basement from 2021 to 2024. (Id at 17:15-19).

At the initial interview with Mr. Knight, he provided photographs that he took of the tote and the devices, discs, and external drives he believed contained CSAM. The photographs were introduced at the hearing on the Omnibus Motion through the testimony of Detective Badger. (Commonwealth Exhibit 2A-2M).

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 18 Pa.C.S. Section 6312(d), "[a]ny person who intentionally views or knowingly possesses or controls any child sexual abuse material or artificially generated child sexual abuse material commits an offense." The issue before the Court is whether Defendant knowingly possessed CSAM as required by the statute. Defendant argues that the evidence presented by the Commonwealth fails to establish the material element of possession—actual or constructive. Defendant relies on *Commonwealth v. Parrish*, 191 A.3d 31, 36 (Pa. Super. 2018) to argue that constructive possession requires "conscious dominion, meaning that the defendant has 'the power to control the contraband and the intent to exercise that control.'" (Defendant's Motion quoting *Parrish*, *supra*, quoting *Commonwealth v. Hopkins*, 67 A.3d 817 (Pa. Super. 2013).

Here, the testimony and evidence show that: (1) CSAM was found among Defendant's belongings on CDs and DVDs; (2) Defendant's belongings all came from his bedroom at his mother's house in Muncy, Pennsylvania; (3) only his mother and Tammi Knight packed his bedroom; (4) Tammi Knight testified that Defendant's stored boxes were not tampered with, altered, opened, *etc*., once they were placed in her basement; (5) indicia of Defendant, including personal photographs and financial information, were contained in the box and incorporated among the digital files depicting CSAM; and (6) the only evidence collected from the residence came from the clear tote identified by Tammi Knight as belonging to Defendant from his bedroom at his mother's residence. The inferences drawn from the evidence, and viewed in a light more favorable to the Commonwealth, establish that

it is more probable than not that Defendant did at one time possess the child pornography, and, but for his incarceration, would have maintained "conscious dominion" over the belongings moved from his bedroom. In the same vein, it is logical to presume that Defendant would regain control over his belongings upon his release from incarceration, which therefore goes to his intent to exercise control over the child pornography in the future. Accordingly, the Court finds that enough evidence exists to satisfy the Commonwealth's *prima facie* burden that the crime of possession of child pornography was committed and the most likely individual to have possessed the child pornography is Defendant. Thus, Defendant Petition for Habeas Corpus shall be denied.

II. Suppression Motions

A. Defendant's Motion to Suppress Search Warrant date 02/06/2024 based on Overbroad Search Shall be Denied

Both the Fourth Amendment of the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution provide protection to citizens against unreasonable searches and seizures from law enforcement. *Commonwealth v. Sands*, 887 A.2d 261, 268 (Pa. Super. 2005). Preliminarily, the Commonwealth opposed Defendant's suppression motions on the basis that Defendant does not have a reasonable expectation of privacy in the residence to challenge the search of the whole residence, despite being named on the property information and testimony that he helped Ms. Knight purchase the property.

Two search warrants were issued in this matter. Defendant challenges both search warrants on various grounds. The Court must first determine whether Defendant has standing and a reasonable expectation of privacy in the area that was searched before evaluating the challenges on their merits. Defendant's standing in this matter is not at issue[1]. However, in

[1] Generally, under Pennsylvania law, a defendant has automatic standing to challenge a search where a possessory offense is charged. *Commonwealth v. Powell*, 984 A.2d 1096, 1104 (Pa. Super. 2010). Automatic standing requires a defendant to demonstrate one of the following: (1) his presence on the premises at the time

Commonwealth v. Peterson, the Pennsylvania Supreme Court explicitly clarified that the preservation of automatic standing under Article I, Section 8 of the Pennsylvania Constitution in *Sell* does not absolve a defendant of his obligation to demonstrate that the challenged law enforcement conduct "implicated a reasonable expectation of privacy that he personally possessed." *Commonwealth v. Millner*, 585 Pa. 237, 254 (2005). Thus, here, the Court moves forward with determining whether Defendant had a reasonable expectation of privacy in the places to be searched as described in the search warrant.

It is well settled in this Commonwealth that "before a defendant can challenge the seizure of physical evidence, he must demonstrate that he had both a possessory interest in the evidence and a legally cognizable expectation of privacy in the area from which the evidence was seized." *Commonwealth v. Byrd*, 987 A.2d 786, 790 (Pa. Super. 2009). Under the Pennsylvania Supreme Court's precedent, a defendant bears the initial burden of showing that he possessed a reasonable expectation of privacy that was infringed by the police entering a constitutionally protected area. *Commonwealth v. Millner*, 585 Pa. 237, 254 (2005). 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*. "An expectation of privacy is constitutionally legitimate if the expectation is reasonable in light of all the surrounding circumstances and does not depend on the subjective intent of the individual claiming the right." *Commonwealth v. Powell*, 994

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of the search and seizure; (2) a possessory interest in the evidence improperly seized; (3) that the offense charged includes as essential element the element of possession; or (4) a proprietary or possessory interest in the searched premises. *Id* at 1104.

A.2d 1096, 1104 (2010) citing *Commonwealth v. Burton*, 973 A.2d 428, 435 (Pa. Super. 2009).

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).

The Commonwealth asserts that Defendant lacked a legitimate, reasonable expectation of privacy in the residence at 1350 West Mountain Avenue to challenge the search warrants and have suppressed the evidence obtained therefrom on the basis that the search of the whole house was overbroad. The Commonwealth argues that the Defendant did not meet his burden of establishing a reasonable expectation of privacy in the residence. Conversely, the Commonwealth submits that Defendant's argument under the petition for habeas corpus expresses a concerted effort to distance Defendant from the residence, *i.e.*, Defendant did not recently live at 1350 West Mountain Avenue, he did not have access to his belongings, and he does not have control or authority over who has access to the house.

In his first suppression motion regarding the February 6, 2024, search warrant, Defendant submits the warrant was insufficient in that it was overbroad on two grounds: (1) the clear tote was not described with sufficient particularity and (2) the search warrant was sought on the basis of the contents alleged to be contained in a clear tote belonging to Defendant, but the search warrant authorized a search of the entire premises. In agreement with the Commonwealth, the Court finds that Defendant's challenge to the search warrant

from February 6, 2024, on the basis that the search was overbroad or exceeded the scope of requested areas to be searched fails because Defendant lacks a reasonable expectation of privacy to challenge the search that was executed in areas of the residence other than the personal belongings identified as his property. Accordingly, the Court will not address Defendant's argument that the February 6, 2024, search warrant was overly broad because Defendant did not establish that he had a reasonable expectation of privacy in the areas searched to include Mr. Knight's bedroom and other areas of the residence. With respect to Defendant's specific challenges to the clear tote, the Court will address Defendant's arguments on the merits because it was established that all of Defendant's belongings were packed into the totes and placed in the basement.

The United States Constitution and the Pennsylvania Constitution require a warrant be based on probable cause and specify with particularity the place to be searched. U.S. Const. Amend. IV.; Pa. Const. Art. 1 §8. Moreover, Article I, Section 8 provides that "the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures, and no warrant shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant."

The first search warrant sought to seize the "[c]lear tote as noted in photos provided by [Lawrence] Knight" located at 1350 W. Mountain Avenue, South Williamsport, Pennsylvania and "CSAM and any computer equipment used to generate, access, store, or share CSAM including computer hardware, which is any equipment, which can collect, analyze, create, display, convert, store, conceal, transmit child pornography, images and videos. Computer processing units, internal and peripheral storage devices (such as fixed disk, external hard disks, flash drives, and optical storage devices) capable of storing

CSAM." (Commonwealth Exhibit No. 8, 02/06/2024 at 1). Lawrence Knight reported he discovered and previewed 89 DVDs that contained "explicit images of nude girls that [Knight] believed were between the ages of 8 to 17 years old." (Id at 2). Additionally, Knight identified a letter addressed to Defendant inside of the tote containing the DVDs and CDs, leading him to conclude the CSAM contained on the discs and additional property in the tote belonged to Defendant. (Id). Also, in the course of the initial interview with Knight, he informed Detective Badger that he took photographs of the tote and informed her that he found the tote on top of a filing cabinet in the basement at 1350 West Mountain Avenue. (Omnibus Hearing Transcript, 10/31/2025 at 15:16-20).

Article I, Section 8 of the Pennsylvania Constitution "has been held not to preclude a search of the entire residence where there is probable cause to believe that contraband is located within any particular room of a single living unit." *Commonwealth v. Korn*, 139 A.3d 249, 255 (Pa. Super. 2016). In *Commonwealth v. Waltson*, 724 A.2d 289 (Pa. 1998), the Pennsylvania Supreme Court rejected the contention that the "Pennsylvania Constitution's enhanced privacy rights limit the scope of a lawful search of a single unit residence more than the Fourth Amendment." *Id* quoting *Waltson*, *supra*, at 291. The *Waltson* court ultimately concluded:

> [W]here a search warrant adequately describes the place to be searched and the items to be seized the scope of the search "extends to the entire area in which the object of the search may be found and properly includes the opening and inspection of containers and other receptacles where the object may be secreted."

Defendant's argument that the clear tote was not described with particularity, and the search warrant should be suppressed as a result, lacks merit. First, a clear plastic tote with a gray lid was among the items to be seized from the residence at 1350 West Mountain Avenue. Second, the search warrant authorized a search of the entire residence, and the

standard is clear that a valid search warrant authorizes officers of the law to search any container where evidence of the crime may be concealed. Thus, even if the detectives did rifle through other containers while executing the search warrant, such action does not render the entire search unconstitutional here. The detectives were authorized to search through any containers that could hold "CSAM and any computer equipment used to generate, access, store, or share CSAM including computer hardware, which is any equipment, which can collect, analyze, create, display, convert, store, conceal, transmit child pornography, images and videos. Computer processing units, internal and peripheral storage devices (such as fixed disk, external hard disks, flash drives, and optical storage devices) capable of storing CSAM." (Commonwealth Exhibit No. 8, 02/06/2024 at 1). Mr. Knight informed Detective Badger that the CSAM he viewed was on CDs/DVDs. The size of CDs and DVDs and the other external hardware used to maintain digital files is, without question, easily stored in a clear plastic storage tote. Third, the law requires "sufficient particularity" not enough particularity to guarantee exactness in identifying the places to be searched and evidence to be seized. The search warrant identified a clear tote as noted by the photographs provided by Mr. Knight. While Detective Badger did not attach the photographs to the application for search warrant, she did testify to having seen the photographs provided by Mr. Knight and verifying that a tote matching the description was on top of a filing cabinet in the basement. Accordingly, Defendant's Motion to Suppress on the basis that the search warrant lacked sufficient particularity in describing the clear tote shall be denied.

B. Defendant's Motion to Suppress Search Warrant dated 02/06/2024 based on Stale Information Shall be Denied

Defendant contends that the information comprising the affidavit of probable cause contained stale information because there was no basis for the issuing magistrate to determine when the CSAM was discovered by Mr. Knight.

"Settled Pennsylvania law establishes that stale information cannot provide probable cause in support of a warrant." *Commonwealth v. Janda*, 14 A.3d 147, 158 (Pa. Super. 2011). More specifically:

> [a]ge of the information supporting a warrant application is a factor in determining probable cause. If too old, the information is stale, and probable cause may no longer exist. Age alone, however, does not determine staleness. The determination of probable cause is not merely an exercise in counting the days or even months between the facts relied on and the issuance of the warrant. Rather, *we must also examine the nature of the crime and the type of evidence.*

Id at 158-59 (quoting *United States v. Harvey*, 2 F.3d 1318 (3rd Cir. 1993)(specifically discussing staleness of information contained in a search warrant relative to suspicion of child pornography offenses))(emphasis added).

In evaluating claims of stale information contained in an affidavit of probable cause, the Pennsylvania Superior Court has reasoned "that a stale observation of items that can be quickly disposed of, such as drugs, does not provide probable cause for a warrant absent evidence of an ongoing course of conduct on the part of the defendant." *Commonwealth v. Novak*, 335 A.2d 773, 775-76 (Pa. Super. 1975). Regarding probable cause, the Pennsylvania Supreme Court has stated:

> An affidavit for a search warrant is to be tested by this [C]ourt with common sense and a realistic manner, and not subjected to overly technical interpretations; the magistrate's determination of probable cause is to be accorded great deference on review. The law is clear that before a search warrant may issue, facts supported by oath or affirmation must be presented to the issuing officer which will justify a finding of probable cause. For the warrant to be constitutionally valid, the issuing officer *must conclude that probable cause exists at the time the warrant is issued.* Such a conclusion may not be made arbitrarily and must be based on facts [that] are closely related in time to the date the warrant is issued.

Commonwealth v. Baker, 532 Pa. 121, 126 (1992)(citations and quotation marks omitted)(emphasis added).

Here, Detective Badger received the call from Mr. Knight on February 5, 2024, at which time he stated he believed that CSAM existed in the residence at 1350 West Mountain Avenue. Mr. Knight based his report on his review of CDs/DVDs contained in a box he identified as belonging to Defendant based on the additional contents contained therein. Detective Badger applied for the search warrant the following day, and the search warrant was authorized. While it may be unknown when Mr. Knight discovered the CSAM on the discs within the residence, it was within a 48-hour period of time that he reported CSAM was present in his residence on DVDs the search warrant was authorized. Thus, Defendant's argument that the probable cause finding was based on stale information necessarily fails because the probable cause determination was made close in time to when the alleged crime of possession of child pornography was reported to law enforcement officers.

Defendant also asserts that the omitted time of when Mr. Knight last viewed the CSAM and the added context that Defendant has been incarcerated since 2021 support a finding that the information was stale. The Court rejects this argument for the aforementioned reasons. Additionally, the Court rejects this assertion because the Pennsylvania Supreme Court adopted the view that possessors of child pornography "rarely, if ever, dispose of child pornography." In *Commonwealth v. Janda*, 14 A.3d 147, 158 (Pa. Super. 2011), the Pennsylvania Superior Court opined:

> [a]ge of the information supporting a warrant application is a factor in determining probable cause. If too old, the information is stale, and probable cause may no longer exist. Age alone, however, does not determine staleness. The determination of probable cause is not merely an exercise in counting the days or even months between the facts relied on and the issuance of the warrant. Rather, *we must also examine the nature of the crime and the type of evidence.*

Id at 158-59 (quoting *United States v. Harvey*, 2 F.3d 1318 (3rd Cir. 1993)(specifically discussing staleness of information contained in a search warrant relative to suspicion of child pornography offenses))(emphasis added). *See*: *Commonwealth v. Gomolekoff*, 910 A.2d 710 (Pa. Super. 2010)(distinguishing child pornography from other

crimes and holding that age of the information supporting the search warrant is a factor to be considered alongside the nature of the crime and the type of evidence). *See also*: *Commonwealth v. Hoppert*, 39 A.3d 358, 363 (Pa. Super. 2012); *United States v. Lacy*, 119 F.3d 742, 746 (9th Cir. 1997); *United States v. Peden*, 891 F.2d 514, 518-19 (5th Cir. 1989); *United States v. Zimmerman*, 277 F.3d 426, 435 (2002).

In the instant matter, the age of the information is a factor to be considered alongside the nature of the crime and the type of evidence. As the legal precedent provides, crimes alleging a suspect's involvement in the sexual abuse and exploitation of children is to be given considerable weight in evaluating the perishability of the information provided to support the issuance of search warrants. Additionally, the type of evidence here is digital, which is difficult to dispose of even when an individual believes he has deleted the contents because the information can be extracted with digital forensics. Accordingly, the Court finds Defendant's argument to lack merit, and Defendant's Motion to Suppress the February 6, 2024, search warrant on the basis that the information supporting probable cause was stale shall be denied.

C. Defendant's Motion to Suppress Search Warrant dated 02/06/2024 based on the Credibility of the Witness Shall be Denied

Defendant requests for the suppression of the search warrant dated February 6, 2024, and evidence obtained therefrom on the basis that the search warrant was insufficient and lacked critical information pertaining to the veracity of the Commonwealth's witness, Mr. Knight. Defendant submits that Mr. Knight was not a reliable informant because: (1) the detectives made statements during the interview with Mr. Knight to the effect that his credibility was questioned; (2) Mr. Knight requested to be paid by the detectives at the end of the interview; and (3) Mr. Knight's motive in providing the information about the discovered CSAM was based on monetary gain and self-serving in nature. Defendant argues the omission of these statements from Mr. Knight in the affidavit of probable cause form part of the basis for a challenge to the search warrant pursuant to *Commonwealth v. Taylor*, 850

A.2d 684, (Pa. Super. 2004). Under *Taylor*, a partial basis to challenge the search warrant can be formed upon the following factors: (1) whether the officer withheld a highly relevant fact within his knowledge, where "any reasonable person would have known that this was the kind of thing the judge would wish to know"; and (2) whether the affidavit would have provided probable cause if it had contained a disclosure of the omitted information. *Taylor*, *supra*, at 689.

In response, the Commonwealth noted the Defendant's burden of establishing that the omitted information negates the probable cause contained in the affidavit to which the Commonwealth argued the Defendant cannot carry that burden. The Commonwealth further asserted that the probable cause finding turns to whether there is enough reliable information to search the place where evidence of a crime is alleged to exist. The Commonwealth submits that the omitted information did not materially alter the information provided to the issuing authority in order to obtain the search warrant and does not render the probable cause finding invalid.

Probable cause is a practical and fluid concept that turns on the assessment of probabilities in particular factual contexts, which cannot readily be reduced to a neat set of legal rules. *Commonwealth v. Rapak*, 138 A.3d 666, 671 (Pa. Super. 2016), quoting *Commonwealth v. Huntington*, 924 A.2d 1252, 1256 (Pa. Super. 2007). Probable cause exists where the facts and circumstances within the affiant's knowledge and of which he has reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that a search should be conducted. *Commonwealth v. Leed*, 646 Pa. 602, 186 A.3d 405, 413 (Pa. 2018). Our Supreme Court, in *Commonwealth v. Torres*, opined the following regarding probable cause for search warrants:

> Pursuant to the 'totality of the circumstances test set forth by the United States Supreme Court in [*Illinois v.*] *Gates* [462 U.S. 213, 235, 103 S.Ct. 2317, 76

> L.Ed.2d 527 (1983)], the task of an issuing authority is 'simply make a practical, common-sense decision whether, given all of the circumstances set forth in the affidavit before him, including the 'veracity' and 'basis of knowledge' of persons supplying hearsay information there is a fair probability that contraband or evidence of a crime will be found in a particular place.' *Commonwealth v. Gray*, 509 Pa. 476, 484, 503 A.2d 921, 925 (1986)(quoting *Gates*, 462 U.S. at 238-39, 103 S.Ct. at 2332). Thus, the totality of the circumstances test 'permits a balanced assessment of the relative weights of all the various indicia of reliability (and unreliability) attending an informant's tip….' *Gates*, 462 U.S. at 234, 103 S.Ct. at 2330. It is the duty of a court reviewing an issuing authority's probable cause determination to ensure that the magistrate had a substantial basis for concluding that probable cause existed. *Gray*, 509 Pa. at 484, 503 A.2d at 925. In so doing, the reviewing court must accord deference to the issuing authority's probable cause determination, and must view the information offered to establish probable cause in a common-sense, non-technical manner. *Commonwealth v. Jones*, 542 Pa. 418, 668 A.2d 114, 117 (1995)(opinion announcing the judgment of the Court).

Commonwealth v. Torres, 764 A.2d 532, 537-38 (Pa. 2001); *see e.g.*, *Commonwealth v. Jones*, 542 Pa. 418, 668 A.2d 114, 117 (1995)("The totality of circumstances test was adopted to do away with rigid, precise determinations of probable cause….To require corroboration in every situation would be contrary to the purpose of the totality of circumstances test: allowing flexible, common-sense approach to all the circumstances of an affidavit.")(internal citations omitted); *See also*: *Commonwealth v. Manuel*, 194 A.3d 1076, 1081 (Pa. Super. 2018)(probable cause does not demand the certainty we associate with formal trials; rather, it requires only that the totality of the circumstances demonstrate a fair probability that contraband or evidence of a crime will be found in a particular place).

"[A] tip from an unnamed informant can properly form the basis for probable cause, provided there is adequate evidence of the informant's credibility." *Commonwealth v. Singleton*, 603 A.2d 1072, 1074 (Pa. Super. 1992). In *Commonwealth v. Jones*, the Pennsylvania Supreme Court opined that "basis of knowledge" may be established when "[t]he information provided by the informant is not a rumor or speculation, but is based upon direct, personal observation[,]" and that "veracity" may be established by independent corroboration under certain limited circumstances. *Commonwealth v. Jones*, 542 Pa. 418, 668 A.2d 114, 117 (1995)(noting also that if [t]he affidavit provides a sufficient basis of knowledge, no corroboration is required[]" and "[a]s to the informant's veracity, although *Gates* recognized the importance of police corroboration, it did so in the limited circumstance

of anonymous tips because the veracity of persons supplying such tips is unknown.")(internal citation omitted).

Here, Mr. Knight reported the CSAM located in his residence, potentially against his penal interest because Mr. Knight is a registered sex offender. Additionally, neither Detective Badger nor any other detective enticed Mr. Knight to provide the information by offering him money. Detective Badger testified that Mr. Knight made it known that he wanted money when he initially reported his findings and requested the money after he provided the information. Detective Badger further testified that no money was offered nor furnished to Mr. Knight in exchange for the information he provided. The omission of that information would not have changed the probable cause finding because Mr. Knight reported that CSAM was found in the residence he shares with his estranged wife at 1350 West Mountain Avenue. The money requested by the informant is immaterial because no payment was furnished, and the detectives and issuing magistrate still had probable cause to suspect the CSAM remained in the residence when the search warrant was obtained. Another factor the Court considers is that Mr. Knight is a named informant in the affidavit of probable cause. Thus, while independent corroboration of the information would bolster the probable cause set forth, no independent corroboration was required pursuant to *Gates*. Moreover, Mr. Knight did not base his report on speculation or rumor. Rather, Mr. Knight physically observed the contents of the discs contained in the tote identified as belonging to Defendant. None of the omitted information negates the findings of the issuing magistrate that probable cause existed at the time detectives applied for the search warrant to search the residence. Mr. Knight was able and willing to provide a sufficient basis of knowledge for the probable cause determination to be based on a fair probability that evidence of the crime of possession of CSAM would be found in the place to be searched. Accordingly, Defendant's Motion to Suppress the search

warrant and the evidence obtained therefrom shall be denied.

D. Defendant's Motion to Suppress Search Warrant dated 04/08/2024 for Lack of Particularity Shall be Denied

Defendant submits that the search warrant dated 04/08/2024 lists several electronic devices to be searched, providing their names and serial numbers with some of serial those numbers not matching the evidence and property record dated February 29, 2024.

The Commonwealth submitted the clerical error related to the serial numbers of devices exist on the property record dated February 29, 2024, but the application page for the search warrant contains the correct serial numbers for the devices that were seized. Additionally, the Commonwealth submitted that the only evidence of CSAM was found on the discs contained in the tote containing the indicia of Defendant's ownership.

The Fourth Amendment and Article I, Section 8, both protect citizens from unreasonable searches and seizures by the government unless a constitutionally valid search warrant is issued or an enumerated exception exists. *Commonwealth v. Moser*, 283 A.3d 850, 856 (Pa. Super. 2022). Under the Fourth Amendment, a search warrant is required to be issued "particularly describing the place to be searched, and the person or things to be seized." *Id* (quoting *Commonwealth v. Turpin*, 654 Pa. 619 (2019) (other citations omitted)). In Pennsylvania, the state's constitution "requires that a search warrant describe things to be seized 'as nearly as may be' to prevent general, exploratory searches and 'the seizure of one thing under a warrant describing another.'" *Id* quoting *Commonwealth v. Waltson*, 555 Pa. 223 (1998).

Here, the application for search warrant provides under the section identifying items to be searched for and seized:

> TO BE SEARCHED: electronic data contained on each listed device, including storage devices. TO BE SEIZED: Images and/or videos of children under the age of eighteen in a state of full or partial undress.

> Images and/or videos of children engaged in simulation or actual performances of sexual acts. Indicia of ownership tending to prove ownership of the devices or any images and videos present on the device. Any evidence of web activity involving the download of child pornography. Any evidence of child pornography being sent through communications.

Commonwealth Exhibit No. 11, 04/08/2024.

Under the "Specific Description of Premises and/or persons to be searched (Street and No., Apt. No., Vehicle, Safe Deposit Box, etc.), the search warrant specified the type of devices and hard drives from those devices with the identifying serial numbers, including the colors of the devices and device brands. The property items were individually listed. Identified as coming from the tote were "Optical disks (CD, DVD, ETC), and 2 SD cards. Along with other optical disks that were located during the execution of the search warrant." Based on the Commonwealth's submission that the serial number contained on the property record was a clerical error, the testimony from Detective Badger to the same effect, and the fact that the search warrant contains the correct serial number, without more to prove otherwise from Defendant, his motion to suppress on the basis of lack of particularity shall be denied. Even without the serial numbers, the Court finds that a sufficient description with particularity was provided for the electronic devices seized from the property at 1350 West Mountain Avenue.

III. Motion to Request Meta Data of Physical Evidence

Defendant submitted his Motion for Meta Data of Physical Evidence requesting the meta data available to the Pennsylvania State Police and Detective Badger that was used to create the itemized list of contents contained on the seized property. Defendant seeks the meta data to ascertain when items were created, last accessed, and/or last edited. The Commonwealth agreed to make the extraction available for defense, with or without, a digital forensics expert. The Commonwealth requested defense make an appointment to review the

requested discovery, and the party will be accommodated in his request. The Court agreed that review of the discovery by appointment will be the most practical. The Court granted Defendant the right to file additional motions based on any issues accessing the requested meta data.

IV. Motion to Reserve Right

The Court granted Defendant's Motion to Reserve Right at the time of the hearing on the Motion. No additional motions have been filed since October 31, 2025.

V. Request for Bill of Particulars

In addition to the hearing on the Omnibus Motion, Defendant's Request for Bill of Particulars was also scheduled before the Court. At the time of the hearing, the Court directed the Commonwealth to answer Defendant's request within seven (7) days of the date of the hearing. On November 7, 2025, the Commonwealth filed an answer to Defendant's request.

Accordingly, the Court enters the following Order:

ORDER

AND NOW, this 10th day of November, 2026, based on the foregoing and in consideration of the evidence and testimony presented at the hearing on the Motion, it is hereby **ORDERED**:

1). Defendant's Petition of Writ of Habeas Corpus is **DENIED;**

2). Defendant's Motion to Suppress Search Warrant date 02/06/2024 based on Overbroad Search is **DENIED;**

3). Defendant's Motion to Suppress Search Warrant dated 02/06/2024 based on stale information is **DENIED;**

4). Defendant's Motion to Suppress Search Warrant dated 02/06/2024 based on credibility of the witness is **DENIED;**

5). Defendant's Motion to Suppress Search Warrant dated 04/08/2024 for lack of particularity is **DENIED;**

6). Defendant's Motion to Request Meta Data of Physical Evidence is **GRANTED** pursuant to the agreement reached by the parties at the hearing on the Motion;

7). Defendant's Motion to Reserve Right was **GRANTED** at the time of the hearing.

By the Court,

_____

Hon. Ryan M. Tira, Judge

RMT/asw
CC: DA; CA; PD(NS and TP)
Gary Weber, Esq.—Lycoming Reporter