

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	NO. CR 1422-2025
	:	
vs.	:	CRIMINAL DIVISION
	:	
TYREE MOY,	:	
Defendant	:	

OPINION and ORDER

Tyree Moy (Defendant) was charged with six (6) different counts including, Criminal Attempt – Contraband, Criminal Solicitation – Contraband, Criminal Attempt – Possession With Intent to Distribute a Non-controlled Substance Resembling a Controlled Substance, Criminal Attempt – Contraband, Criminal Solicitation – Possession With Intent to Distribute a Non-controlled Substance, and Criminal Attempt – Possession With Intent to Distribute a Non-controlled Substance Resembling a Controlled Substance. Defendant’s Preliminary Hearing was held on November 6th, 2025 and the present Omnibus Pretrial Motion was filed December 19th, 2025. Contained within Defendant’s Omnibus Motion is a Petition for Habeas Corpus where Defendant argues that the Commonwealth failed to meet its prima facie burden for each count. During the time of the Omnibus Motion hearing, the Commonwealth submitted a recording of the preliminary hearing, as well as, a copy of the letter that led to the above charges.

Background

The alleged facts leading to the pending charges are as follows. Defendant was incarcerated in the Lycoming County Prison in I block from the dates of April 16th, 2025 to April 28th, 2025. On April 23rd, during a video visit with his son, Tyrick Moy, the Defendant indicates that Tyrick should be getting his letter soon. On April 24th and Defendant states again to his son on video call that the letter would be arriving Monday or Tuesday. On April 25th Inmate M, later identified at the preliminary hearing as Inmate Timothy Maddox, was also

placed in I block. On April 26th, Inmate Maddox sent a typed letter to Tyrick Moy. Inmate Maddox indicated that he did not know the contents of the letter. Lastly, on April 27th, Defendant video calls his son once more stating that the letter would be arriving on Tuesday.

The letter was intercepted by Tyrick Moy's Mother before the letter reached Tyrick and she provided the letter to officials at Lycoming County Prison. The contents of the letter describe how to apply wasp spray to letter paper for the purposes of making money by selling the soaked pages to other inmates in prison. After the letter was intercepted on May 1st, 2025 Defendant had another video call with his son discussing the letter being confiscated.

Discussion

Defendant argues first that, the elements of the Crimes of Contraband – Non-controlled Substance and Possession With Intent to Distribute a Non-controlled Substance because wasp spray is not a medicine or poison and wasp spray is not a stimulant or depressant. Secondly, they argue that there was no sufficient evidence presented to prove that Defendant solicited or attempted to introduce contraband into the Lycoming County prison for the purposes of distribution to other inmates.

At a preliminary hearing the Commonwealth “bears the burden of establishing at least a prima facie case that the crime was committed”. *Commonwealth v. McBride*, 528 Pa. 153, 591 (Pa. Super. 1991). Further, to prove its burden at this hearing, “the Commonwealth is required to present evidence with regard to each of the material elements of the charge and to establish sufficient probable cause to warrant the belief that the accused committed the offense”. *Id.* While the weight and credibility of the evidence are not factors at this stage, and the Commonwealth need only demonstrate sufficient probable cause to believe the person charged has committed the offense, the absence of evidence as to the existence of a material element is fatal. *Commonwealth*

v. Ripley, 833 A.2d 155, 159-60. The evidence presented at the preliminary hearing must be considered in the light most favorable to the Commonwealth. *Commonwealth v. Hilliard*, 172 A.3d 5, 10 (Pa. Super. 2017).

For a person to be charged with Contraband – Non-controlled Substance the Commonwealth must show that they, “sell, give or furnish to any convict in a prison... any kind of spirituous or fermented liquor, medicine or poison...” 18 Pa. C.S. §5123(C). Here the substance at issue was wasp spray.

At the time of the preliminary hearing Detective Sorage testified that he was unfamiliar with any wasp spray that was not a poison to humans. Defendant argues that there are bug sprays on the market that are made of natural essential oils and the letter indicates that, “it’s for sure safe thing ... this aint no drugs so it aint bad.” The following line of said letter goes on to state that, “Its just a finesse thing and these bulls just want to feel something.” Further, a quick google search of wasp spray will show that it is not meant for human consumption and can cause a variety of physical effects. For the purposes of the Petition for Habeas Corpus the Commonwealth has met its burden as it relates to the underlying offense Contraband – Non-controlled Substance.

Next, for a person to be charged with Possession With Intent to Distribute a Controlled Substance the Commonwealth must show that:

“Except as otherwise provided by law, manufacturing, processing, packaging, distributing, possessing with intent to distribute or selling a noncontrolled substance that has a stimulant or depressant effect on humans, other than a prescription drug, which, or the label or container of which, substantially resembles a specific controlled substance. In determining whether there has been a violation of this subclause, the following factors shall be considered: (A) Whether the noncontrolled substance in its overall finished dosage appearance is substantially similar in size, shape, color and markings or lack thereof to a specific controlled substance. (B) Whether the noncontrolled substance in its finished dosage form is packaged in a container which, or the labeling of which, bears

markings or printed material substantially similar to that accompanying or containing a specific controlled substance.” 35 P.S. § 780-113 (a)(35).

Defendant argues that there was no evidence presented that shows that wasp spray has a stimulant or depressive effect on humans and points again to the letter referencing the same line quoted above. Again, as discussed above, Defendant goes on in the letter stating that, “these bulls just want to feel something”. Based upon that language in the letter a strong inference is drawn that wasp spray does have an effect whether it be a stimulant effect or depressive effect on humans. The Commonwealth has also met its burden as to the underlying offense of Possession With Intent to Distribute a Non-controlled Substance.

Moving now to the charges of Criminal Attempt and Solicitation of the above underlying offenses, “A person commits an attempt when, with intent to commit a specific crime, he does any act which constitutes a substantial step toward the commission of that crime.” 18 Pa. C. S. § 901 and “A person is guilty of solicitation to commit a crime if with the intent of promoting or facilitating its commission he commands, encourages or requests another person to engage in specific conduct which would constitute such crime or an attempt to commit such crime or which would establish his complicity in its commission or attempted commission.” 18 Pa. C.S. § 902.

Here, based on the evidence presented, Counts one, two, three, and five, are attributed to the alleged conduct of the Defendant relating to his son. For purposes of Criminal Attempt, the Commonwealth presented evidence that Defendant was in fact the individual who authored the letter as per the video call conversations with Tyrick prior to the letter being sent as well as the video conversations after the letter was intercepted. Additionally, testimony was presented that the letter was typed and that the Defendant often used the law library in the prison where the only computer to type a letter is available. The evidence of Defendant writing the letter and

having it mailed through a third party is sufficient at this step in the proceedings to satisfy the Commonwealth's prima facie burden. As for Criminal Solicitation, the Court infers from the conversations with his son that after the letter was intercepted that there was communication relating to the introduction of contraband into the prison for the purposes of delivering it to other inmates, as he indicated "I'm going to figure another way out, but let's just try Monday, man. With this business stuff. All right? All right."

Based on additional information presented by the Commonwealth, Counts four and six of the information are attributed to the alleged conduct of Defendant relating to Inmate Maddox. It's clear through the testimony of Detective Sorage that Defendant approached Inmate Maddox to have him send the letter at issue to Defendant's son for the purposes of introducing contraband into the prison for the purposes of delivering it to other inmates.

ORDER

AND NOW, this ____ day of **June, 2026**, based upon the above Defendant's Petition for Habeas Corpus is hereby DENIED. Additionally, As the Court's attributes counts one two three and five to the conduct of the Defendant as it relates to his son and counts four and six to his conduct as it relates to Inmate Maddox, Defendant's Motion to Compel a Response to the Bill of Particulars is DENIED. If the Defense counsel believes that the Court attributed the charges incorrectly they may file a Motion for Reconsideration of their Motion to Compel.

BY THE COURT

Ryan C. Gardner, Judge

RCG/kbc

cc: DA (LS)
PD (TP)
Gary Weber, Esq.