IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	:	**No. CR-378-2023**
	:	
vs.	:	
	:	
GRENILE BILL GAINEY,	:	
Defendant	:	

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COMMONWEALTH	:	**No. CR-371-2023**
	:	**CR-379-2023**
vs.	:	**CR-209-2024**
	:	**CR-210-2024**
MONIQUE LAKEYSHA TAYLOR,	:	
Defendant		

OPINION AND ORDER

This matter came before the court on September 30, 2024 for a hearing and argument on the Omnibus Pre-Trial Motions filed on behalf of Grenile Bill Gainey ("Gainey") and Monique Lakeysha Taylor ("Taylor"). The sole issue was whether law enforcement violated the "knock and announce" rule when they executed the search warrant at Taylor's residence located on First Avenue in Williamsport, Pennsylvania.

At the hearing, the Commonwealth called Detective Sarah Edkin as a witness and Gainey's attorney called Taylor as a witness.

Detective Edkin testified that, at the time of the suppression hearing, she had been a detective with the Lycoming County Narcotics Enforcement Unit (NEU) for about five years and she was a police officer with the Penn College Police Department for about one year prior to becoming a detective with the NEU. She conducted or participated in hundreds of controlled buys, undercover buys and in the execution of over a hundred search warrants. She also participated in at least one hundred forced entries.

Detective Edkin testified that the NEU made three controlled buys from Taylor utilizing two different confidential informants (CIs). One buy occurred on November 17, 2022 and two buys occurred on January 17, 2023. The buy on November 17 and one of the buys on January 17 occurred at Taylor's residence. For the other buy, Taylor left her residence, drove in her Blue Chevy Traverse to meet the CI and conduct the transaction, and then returned to her residence in the Traverse.

One of the CIs told Detective Edkin that the person who she purchased drugs from was named "Mo" and she had a Facebook account under the name Monique Taylor. One of the CIs also informed Detective Edkin that Taylor worked the second shift. Detective Edkin verified that Monique Taylor was Taylor's real name. She also verified that the Blue Chevy Traverse was registered to Taylor. The Traverse was parked in front of the residence when the police arrived to execute the search warrant.

Detective Edkin also claimed that she ran Taylor's history and saw a resisting arrest and firearms offenses. She did not recall anything about that information, though, including how long ago those offenses allegedly occurred or what the firearm offenses were. No evidence was presented to show whether these offenses resulted in convictions. This was not mentioned during Detective Edkin's preliminary hearing testimony, in the video recording, in the warrant or in any narratives of police reports. Detective Edkin asserted it was discussed orally during the "de-brief" at the office before the officers went out to execute the search warrant, not on any recording or in any documents.

Detective Edkin also accessed a database shared with the Williamsport Bureau of Police that showed contacts for disturbances at the residence "with spouses or whatever" but she had no current information that a spouse, significant other, or anyone else would be

inside the residence.

On January 19, 2023 between 9:00 and 10:00 a.m., Detective Edkin obtained a search warrant for Taylor's residence. She and at least nine other law enforcement officers went to the residence to surround it and execute the search warrant. Male and female officers were present. Officers were watching the doors and windows of the residence to make sure that no one was trying to leave or to discard evidence. To the left of the front door was a window, which one of the officers would have been observing. Detective Edkin knocked on the door of the residence and yelled, "Police, we have a search warrant" twice and then immediately began to hit the door of the residence with a battering ram. This testimony was corroborated with the video recording from Detective Edkin's body camera, which was admitted as Commonwealth's Exhibit #1. Within approximately fifteen seconds the door was forced open with the battering ram, and the police entered the residence. When the police entered, Gainey was in the nude at the top of the stairs and Taylor was in an upstairs bedroom in bed in the nude. Both Taylor or Gainey were concerned that they were not clothed. Gainey did not come downstairs immediately and tried to go back up the stairs, and Taylor did not want to get out of bed because she was not clothed.

Detective Edkin did not see or hear any movement from inside the residence. She did not hear running or yelling or a toilet flushing or anything else to suggest that the someone inside the residence was attempting to destroy evidence.

Monique Taylor testified that she rented the residence on First Avenue. She and Gainey were sleeping when the police came to the residence. The police damaged the front door of the residence. There were deep dents in and around the door, the locks were knocked off the door, and the door frame was damaged. The door, locks and frame had to be repaired

or replaced, and Taylor had to pay for it.

The defense attorneys argued that the police violated the knock and announce rule and Rule 207 of the Rules of Criminal Procedure, which not only require that the police knock and announce their presence and their purpose but also was a reasonable amount of time before forcible entry to protect the safety of everyone, as well as the privacy and property of the occupants of the premises. They argued that the law enforcement officers clearly violated the knock and announce rule and that the remedy for a knock and announce violation is always suppression. They cited *Commonwealth v. Bellamy*, 281 MDA 2020 and *Commonwealth v. Crompton*, 682 A.2d 286, 290 (Pa. 1996).

The Commonwealth argued that the officers did not violate the knock and announce rule or that suppression was not an appropriate remedy because the police did knock and announce their presence and purpose, they just did not wait to use the battering ram. They did not gain entry for about 15 seconds which, according to the Commonwealth, was a reasonable amount of time under the totality of the circumstances. The Commonwealth also argued that exigent circumstances existed to excuse waiting, specifically that the officers had reason to believe their safety was imperiled and/or that evidence would be destroyed. The Commonwealth relied on Rule 207(A), and the following cases: *Commonwealth v. Walker,*874 A.2d 667 (Pa. Super. 2005); *Commonwealth v. Davis*, 595 A.3d 1216 (Pa. Super. 1991); *Commonwealth v. Parsons*, 570 A.2d 1328 (Pa. Super. 1990); *Commonwealth v. Gray*, 2018 WL 1918204; *Commonwealth v. Kane*, 940 A.2d 483 (Pa. Super. 2007); *Commonwealth v. Frederick*, 124 A.3d 748 (Pa. Super. 2015), appeal denied 124 A.3d 748 (Pa. 2015); *Commonwealth v. Carey*, 249 A.3d 1217 (Pa. Super. 2021); and *Commonwealth v. (Vincent) Langley*, Lyc. Cnty. No. CR-1409-2023 and CR-441-2023.

DISCUSSION

The Superior Court explained the knock and announce rule in *Frederick*, supra, as follows:

> Pennsylvania Rule of Criminal Procedure 207 codifies the "knock and announce" rule:
>
> > (A) A law enforcement officer executing a search warrant shall, before entry, give, or make reasonable effort to give, notice of the officer's identity, authority, and purpose to any occupant of the premises specified in the warrant, unless exigent circumstances require the officer's immediate forcible entry.
> >
> > (B) Such officer shall await a response for a reasonable period of time after this announcement of identity, authority, and purpose, unless exigent circumstances require the officer's immediate forcible entry.
> >
> > (C) If the officer is not admitted after such reasonable period, the officer may forcibly enter the premises and may use as much physical force to effect entry therein as is necessary to execute the search.
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> Pa.R.Crim.P. 207. Although this rule is frequently referred to as 'knock and announce,' the rule actually imposes no specific obligation to knock. *Commonwealth v. Walker*, 874 A.2d 667, 671 (Pa.Super. 2005) (quoting *Commonwealth v. Doyen*, 848 A.2d 1007, 1012 (Pa.Super. 2004)). Nonetheless, the rule requires that police officers announce their identity, purpose and authority and then wait a reasonable amount of time for the occupants to respond prior to entering any private premises. *Commonwealth v. Crompton*, 545 Pa. 586, 682 A.2d 286, 288 (1996). This requirement, however, will be relaxed only in the presence of exigent circumstances. Carlton, [549 Pa. 174, 701 A.2d 143,148 (1997)]. Our Supreme Court has recognized only four exigent circumstances:
> 1. the occupants remain silent after repeated knocking and announcing;
> 2. the police are virtually certain that the occupants of the premises already know their purpose;
> 3. the police have reason to believe that an announcement prior to entry would imperil their safety; or
> 4. the police have reason to believe that evidence is about to be destroyed.
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> *Commonwealth v. Chambers*, 528 Pa. 403, 598 A.2d 539, 541 (1991); accord *Commonwealth v. Means*, 531 Pa. 504, 614 A.2d 220, 222 (1992); *Crompton*, 682 A.2d at 288; *Carlton*, 701 A.2d at 147. […].

> The purpose of the 'knock and announce' rule is to prevent violence and physical injury to the police and occupants, to protect an occupant's privacy expectation against the unauthorized entry of unknown persons, and to prevent property damage resulting from forced entry. *Chambers*, 598 A.2d at 541. The purpose of the rule may be achieved only through police officers' full compliance. *See id.* Indeed, our Supreme Court has held that "in the absence of exigent circumstances, forcible entry without announcement of identity, authority and purpose violates Article I, Section 8 of the Pennsylvania Constitution, which proscribes unreasonable searches and seizures. *Carlton*, 701 A.2d at 148 ("In a free society, the mere presence of police does not require an individual to throw open the doors to his house and cower submissively before the uniformed authority of the state."). Our Supreme Court has determined that "the remedy for noncompliance with the knock and announce rule ***is always suppression***." *Crompton*, 682 A.2d at 290 (emphasis added).
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> During a suppression hearing, the Commonwealth bears the burden of proving that the police seized evidence without violating defendant's constitutional rights. *Id*. at 288. The Commonwealth can satisfy its burden by establishing either that the police complied with the knock and announce rule or that the circumstances ***satisfied an exception***. *Id.* (emphasis added).

Frederick, 124 A.3d at 754–55 (footnotes and some internal quotation marks omitted).

Here, the police clearly did not comply with the knock and announce rule, as the police did not await ***any*** time. Instead, ***immediately*** after they announced their identity, authority and purpose, they began to hit the door with the battering ram. They did not give the occupants an opportunity to relinquish the premises voluntarily. In *Parsons*, one of the cases cited by the Commonwealth, the Superior Court stated that "even where the police announce both their identity and their purpose, …forcible entry remains impermissible if the occupants of the premises sought to be entered have not been provided with the opportunity to relinquish the premises voluntarily." 570 A.2d at 1331.

The Commonwealth asserts that there were several seconds (approximately 10 to 15) between when the police began knocking on the door and when they gained entry. The

Commonwealth's argument misconstrues the relevant time period. Rule 207(B) clearly states that the reasonable time begins ***after*** the police announce their identity, authority and purpose, not while they are doing so. Furthermore, in *Commonwealth v. Means*, 614 A.2d 220, 223 (Pa. 1992), the Pennsylvania Supreme Court stated that a five to ten second delay is not a reasonable time for an occupant to respond to officers knocking and announcing their purpose.

The Commonwealth also asserts that there were exigent circumstances in this case, which justified forcible entry without waiting a reasonable time. The Commonwealth contends that the police had reason to believe that an announcement prior to entry would imperil their safety and/or they had reason to believe that evidence was about to be destroyed. The court cannot agree.

With respect to the argument that the police had reason to believe that immediate entry was necessary so as to not imperil their safety, the Commonwealth failed to present any credible evidence that the police had reason to believe that Taylor was in possession of a firearm ***at or near the time of the search***. Detective Edkin was cross-examined about her testimony that Taylor had a resisting arrest and firearms offenses in her prior history. She did not know when those offenses allegedly occurred nor what the firearms offenses were. Taylor is in her late forties.[1] For all the court knows, those offenses could have occurred decades ago. The Commonwealth has access to an individual's criminal history or "rap sheets" through JNET. The Commonwealth had a laptop computer with internet access in the courtroom during the hearing or could have sent a message to someone in the District

[1] The court observed Taylor when she testified as a defense witness. The court is also aware from documents filed of record that Taylor was born in 1975.

Attorney's office to bring Taylor's rap sheet to the courtroom.[2] The Commonwealth could have easily showed Taylor's rap sheet to defense counsel before showing it to the witness and seen if that would have refreshed Detective Edkin's recollection or it could have admitted the rap sheet into evidence as an exhibit to show what the precise offenses were in Taylor's history, when they occurred and whether they resulted in convictions.[3] There also was no testimony or evidence presented that the CIs observed Taylor in possession of a firearm. *See Commonwealth v. Dean*, 693 A.2d 1360, 1364 (Pa. Super. 1997)(although the officers knocked and announced their presence and then waited only a very short time prior to gaining entry, without observing any movement inside the residence or hearing any sounds, which appeared to have facially violated the knock and announce rule, the rule was not violated because exigent circumstances existed where officers were informed that the defendant kept a gun in his house for protection and an informant had observed a gun in the residence when making a purchase of controlled substances less than 48 hours prior to the entry). The court also finds that this case is more similar to the cases cited in *Dean* where the rule was violated due to waiting periods of twenty seconds or less than those where the rule was not violated due to longer waiting periods and the observations of officers of sounds and movement inside. *Id.* at 1364.

The Commonwealth also contends that the officers had reason to believe that

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[2] The District Attorney's Office is on the fourth floor of the courthouse and the courtroom in which the hearing was occurring in on the second floor.

[3] Although a firearm was found in the residence as a result of the search, the court must make its decision based on the objective facts known to the officers before the entry was made. It cannot justify or negate a search based on what was or was not discovered as a result of the search. It also cannot assume that certain types of offenses automatically involve a risk of danger to officers or destruction of evidence. *See Richards v. Wisconsin*, 520 U.S. 385, 393, 117 S.Ct. 1416, 1421, 137 L.Ed.2d 615 (1997)("If a *per se* exception were allowed for each category of criminal investigation that included a considerable—albeit hypothetical—risk of danger to officers or destruction of evidence, the knock-and-announce element of the Fourth Amendment's

evidence was about to be destroyed. Again, the court cannot agree.

"In determining whether the police properly complied with the knock and announce rule, a court must consider the amount of time the police wait ***after*** knocking and announcing prior to gaining entry, as well as the circumstances observed upon announcement." *Id*. (emphasis added). Here, the police did not wait at all before hitting the door with the battering ram and they did not see or hear anything to suggest that evidence was about to be destroyed. They did not see occupants awake and active in a room adjacent to the door ignoring their attempts to gain entry through voluntary relinquishment as in the *Davis* case cited by the Commonwealth. They did not wait at least 45 seconds and hear footsteps as in *Parsons* nor did they knock at multiple doors multiple times and hear someone inside as in *Frederick*.

In *Carey*, the officers had a body warrant for the appellant. The windows to residence were draped such that the officers could not see inside anywhere. They knocked and waited ten seconds. At that point, they opened the door and announced that they were police with a warrant from outside the threshold of the residence and called out to appellant, who was wanted on a parole violation with the original charges being related to felony firearms possession and had a lengthy criminal history which included robbery, firearms not to be carried without a license, resisting arrest, fleeing and eluding, and delivery of controlled substances. Officers were also briefed that it was a high-risk warrant involving possible guns and drugs. This case is also factually distinguishable.

Unlike *Carey*, here the officers did not wait any time before striking the door with a battering ram; they did not simply open a door, they broke the locks, and damaged the door

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reasonableness requirement would be meaningless.").

and the door frame; they did not stand outside after opening the door and call out to occupants who they could now see. Instead, they did not wait at all, broke into the residence, rushed in with their weapons drawn and threatened to deploy a taser on an obviously unarmed naked man who was not involved at all in the drug deliveries that resulted in the issuance of the search warrant.[4]

Finally, the Commonwealth asserts that suppression is not an appropriate remedy because it substantially complied with the knock and announce rule and/or that the defense argument is an overly technical interpretation of the rule. The Commonwealth relies on *Commonwealth v. Kane*, 940 A.2d 483 (Pa. Super. 2007) and *Commonwealth v. Davis*, 595 A.2d 1216 (Pa. Super. 1991). The Commonwealth's reliance on these cases is misplaced.

Kane involved a marijuana grow operation in a warehouse that was attached to a residence. The police obtained search warrants for both. They went to the residence first thinking that it would be more likely that someone would come to the door of the residence. They knocked and announced three separate times before entering the residence, waiting 15 to 20 seconds between the first and second knocks, 20 to 30 seconds between the second and third, and 10 to 15 seconds after the third before forcibly entering through the front door by battering it down. After the first knock, five dogs inside the residence began barking. Between the first and second knock, the police perceived movement inside the residence but no one responded. They searched the basement, first floor and second floor of the residence before entering the warehouse. There was a doorway between the residence and the

[4] The remaining cases cited by the Commonwealth were *Gray* and *Langley*, neither of which are binding precedent. In fact, because *Gray* is a non-precedential Superior Court decision issued prior to May 2, 2019, it cannot be cited by the parties nor relied on by the court even for its persuasive value. Superior Court Internal Operating Procedures, §65.37(B).

adjoining warehouse. The doorway had a wooden door, a tapestry, insulation and then a metal door before entry to the warehouse. The police removed the wooden door, tapestry, insulation and the metal door without again knocking and announcing their authority and purpose. The trial court suppressed, finding that the police had violated the knock and announce rule by failing to knock and announce on the metal door prior to its removal, and the Superior Court reversed. The Superior Court found that in light of the barking dogs, the battering open of the residence door and the police yelling who they were and their purpose as the crossed each doorway or threshold in the residence, the Commonwealth established the first exception with the respect to the metal door to the warehouse. In other words, the police were not required to knock and announce at the metal door because police "need not engage in the futile gesture of announcing purpose when the occupants of the premises remain silent after repeated knocking and identification."

In *Kane*, unlike this case, the occupants had multiple opportunities to voluntarily relinquish the premises and had a 45 to 65 seconds before the door of the residence was battered down as well as the additional time that the police were in the residence to respond to the police before the metal door to the warehouse was breached. *Kane* is not factually analogous and a separate exigent circumstance than the ones argued by the Commonwealth.

The Commonwealth also relied on *Commonwealth v. Davis*, 595 A.2d 1216 (Pa. Super. 1991) for the proposition that suppression may not be the appropriate remedy for a violation of the knock and announce rule. Although *Davis* has not been expressly overruled, the proposition for which the Commonwealth cites it has been limited by subsequent decisions by the Pennsylvania Supreme Court. In fact, in *Frederick* (another case cited by the Commonwealth in this matter), the Superior Court stated:

> Although Davis is factually similar to the case *sub judice*, its holding has been limited by subsequent decisions of our Supreme Court, such as *Chambers*, *Means*, *Crompton*, and *Carlton*. In these subsequent cases, the Court has determined categorically that a knock and announce violation requires the suppression of evidence. Thus, complete compliance with the knock and announce rule is required unless one of the four exigencies applies.

124 A.3d at 757. Accordingly, the court rejects the Commonwealth's argument that suppression is not an appropriate remedy in this case.

Conclusion

The Commonwealth bears the burden to show that either the knock and announce rule has been fully complied with or that one of the four exigent circumstances apply. The Commonwealth has failed to meet its burden in this case. The police did not fully comply with the knock and announce rule because they failed to wait a reasonable period of time before forcibly entering the residence through the use of a battering ram. Although the term "forcible entry" does not necessarily involved force and can be met by simply opening a door without complying with the knock and announce rule or one of the exigent circumstances, force was used in this case. The door and door frame to the residence Taylor was renting was damaged, a result that the knock and announce rule is designed to prevent. The occupants did not have any opportunity to peacefully relinquish the premises because the police did not wait at all after announcing their presence before bashing the door in with a battering ram. The Commonwealth failed to establish exigent circumstances to justify the failure to fully comply with the knock and announce rule because it did not present credible evidence that Taylor was in possession of a firearm ***at or near the time of the entry*** and the police did not see or hear any activity inside the residence prior to entry, let alone activity that would lead one to believe that the occupants were about to destroy evidence.

Accordingly, the court finds that the police violated the knock and announce rule, and it will grant suppression as that is always the remedy for a knock and announce violation.

ORDER

AND NOW, this 2nd day of October 2024, the court GRANTS Defendants' motions to suppress evidence contained in their omnibus pretrial motions due to a violation of the knock and announce rule. All evidence obtained during the search of Taylor's residence on First Avenue shall be suppressed.

By the Court,

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Nancy L. Butts, President Judge

cc: Lindsay Sweeley, Esquire (ADA)
Matthew Diemer, Esquire
Riane Aichner, Esquire
Jerri Rook
Gary Weber, Esq.