

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA**

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
	:	
	:	
<b>v.</b>	:	<b>CR-781-2023</b>
	:	<b>CR-784-2023</b>
	:	
<b>SAMUEL H. HARRIS,</b>	:	
<b>Defendant</b>	:	

**OPINION AND ORDER**

This matter comes before the Court on October 22, 2024, for a hearing and argument on the Defendant’s Omnibus Pretrial Motion filed on March 25, 2024, by and through his attorney, Matthew Diemer, Esquire.

By way of background, the Defendant was charged on June 28, 2023, with four counts of Delivery of a Controlled Substance, two counts of Possession with Intent to Deliver a Controlled Substance, four counts of Criminal use of a Communications Facility, and one count of Possession of Firearm Prohibited. The charges arise from the allegations that the Defendant delivered a controlled substance to Confidential Informants on April 6, April 11, April 17, and May 23, 2023. On May 25, 2023, detectives executed a search warrant at 1217 Race Street, Williamsport, Pennsylvania, wherein officers located two separate controlled substances and a firearm. At the outset the Defendant was represented by Attorney Paul Petcavage, Esquire, in his capacity as Conflicts Counsel.

On or about September 13, 2023, the Commonwealth made a motion to consolidate the Defendant’s charges in this matter with Co-Defendant, Jerry Jennings’ charges under Docket No. 617-2023 and 780-2023. On March 13, 2024, Attorney Matthew Diemer, Esquire, entered his appearance as appointed Conflicts Counsel for the Defendant.

On July 17, 2024, the Honorable William P. Carlucci issued the order to sever the two matters pending against Co-Defendant, Jerry Jennings, from the two matters pending against the Defendant. On August 19, 2024, the Honorable Nancy L. Butts, President Judge, issued an order to sever Count 3, Possession of Firearm Prohibited under Docket No. 781-2023.

By the time of the hearing on the Defendant's Omnibus Pretrial Motion, his Motion to Compel Discovery had been withdrawn as the Commonwealth obliged with turning over the requisite discovery. Moreover, the Court denied as moot both the Defendant's Motion to Sever Count 3 from the Criminal Information under Docket No. 781-2024 as it was cured in the order dated August 19, 2024, and the Defendant's Motion to Sever Defendants for Trial which was ordered on July 17, 2024. Further, the Defendant's Motion to Preclude Evidence of the Defendant's Pre-Arrest Silence was denied as moot as it only related to Count 3, Possession of Firearm-Prohibited, which was severed from this matter.

Accordingly, the Defendant argued his Motion to Suppress Evidence due to Insufficient Probable Cause Within the Four Corners of the Search Warrant, the Motion to Compel Disclosure of Confidential Informants' and Other Witnesses' Identities, Complete Criminal Histories, and any Promises of Leniency or Leniency Received, and his Motion-in-Limine to Preclude Irrelevant and Prejudicial Evidence at Trial Regarding Allegations Against Nicole Daniels and Jerry Jennings.

At the Omnibus Pretrial Hearing on October 22, 2024, the Commonwealth submitted the search warrant as Commonwealth Exhibit #1 for the purpose of the Motion to Suppress Evidence. Neither party submitted any further evidence or witnesses. Both parties relied on legal argument to address the Defendant's Omnibus Pretrial Motion.

## Background

In April of 2023, Confidential Informant #23-18 informed detectives that he/she could purchase controlled substances from an individual called “Boo” and provided the name “Samuel Harris.” (Commonwealth Ex. #1). The CI #23-18 provided information regarding the individual’s appearance, location of his residence, name, phone number, the kind of car he drove plus that it had out of state tags, and provided a Facebook photograph of the individual. (Commonwealth Ex. #1, Controlled Buy One, 4/6/2023). The CI #23-18 described and provided a photograph of Samuel H. Harris, the Defendant, corroborating information that the detectives then acted upon. Detectives instructed the CI #23-18 to contact Samuel Harris and request to meet for the purpose of purchasing cocaine. (CW Ex. #1, Controlled Buy One, 4/6/2023). Detectives were present when CI #23-18’s request was made to the individual. (Commonwealth Ex.#1, Controlled Buy One 4/6/2023).

Acting upon the CI 23-18’s descriptions, detectives were able to identify the described vehicle with New Jersey plates parked in the area of 1217 Race Street. (Commonwealth Ex. #1, Controlled Buy One, 4/6/2023). A search of previous law enforcement contacts for “HARRIS” confirmed that he resided at 1217 Race Street. (Commonwealth Ex. #1, Controlled Buy #1).

Detective Edkin executed the strip searches on the Confidential Informants to ensure that they were absent any controlled substances, contraband, or U.S. currency prior to the first three controlled buys. (Commonwealth Ex. #1, Controlled Buys One on 4/6/2023, Two on 4/11/2023, and Three on 4/17/2023). Detective Rachael utilized an undercover vehicle to handle the transportation and maintain surveillance of the Confidential Informant for each of the first three controlled buys. (Commonwealth Ex. #1, Controlled Buys One, Two, and Three). For the first three controlled buys, detectives

reported diligently maintaining surveillance on the 1217 Race Street address, the Confidential Informant, and the Defendant. The first controlled buy from Commonwealth Ex. #1, in part, provides:

...At approximately 1032hrs: The CI contacted HARRIS [via cell phone] and he directed the CI to meet him at Race Street. The CI then exited DET. Rachael's vehicle and walked east, toward Race Street. Detective Anderson observed HARRIS emerge from the rear of 1217 Race Street and enter a black Mitsubishi SUV, bearing New Jersey registration. The vehicle traveled south on Race St and park at Blaine Street. At this time, DET. Anderson observed the CI enter the vehicle. During these observations Detective Anderson was able to identify the individual as Samuel HARRIS from the social media photograph and law enforcement photograph that was shared before the controlled buy.

At approximately 1034hrs: Detective Havens observed the TARGET vehicle travel south on Race Street then west on Apple Street.

At approximately 1035hrs: DET. Rachael observed the TARGET vehicle north on Dewey Ave, east on Blaine and park approximately 30 yards west of him on the south side of Blaine Street, facing him. The CI exited the vehicle and walked directly to DET. Rachael's UC vehicle. At this same time, the TARGET vehicle traveled north on Flexer CT. at this time, DET. Rachael was also able to verify the identity of the driver and sole occupant to be Samuel HARRIS.

At approximately 1035hrs: The CI entered my UC vehicle and immediately handed over to me 2 knotted off plastic bag corners each containing approximately .5 grams of cocaine. (Field-tested positive by #507)

The CI was strip searched by Detective Edkin and found to be absent of any contraband, controlled substances and or U.S. currency.

....

On April 11, 2023, the second controlled buy from Commonwealth Ex. #1, in part, provides:

At approximately 1144hrs: As they [DET. Rachael, Detective Edkin, and the CI] were arriving in the [pre-determined location], DET. Rachael directed the CI call HARRIS in order to ask him where he wanted to meet. During this call, HARRIS stated "go where we normally meet". DET. Rachael let the CI out of his UC vehicle at the intersection of Race Street and Arnold Street and the CI walked west on Race Street. At this time, Detective Dent, who was on Race Street, observed the CI walk west on Blaine Street, then north on Flexer CT.

At approximately 1145hrs: Detective Caschera related that the TARGET vehicle (black Mitsubishi SUV with NJ tags) was parked in a parking lot off of Flexer CT between Memorial Ave and Blaine Street. (same direction the CI was walking)

At approximately 1147hrs: Detective Loudenslager observed HARRIS wearing a red shirt and black pants emerge from the rear of 1217 Race Street, walk west on Flexer CT, then north on Flexer CT. as HARRIS walked north on Flexer CT, Detective Caschera and Loudenslager observed the CI walking behind HARRIS. The CI and HARRIS continued north on Flexer, past the TARGET vehicle, then west on Memorial Ave. Detective Caschera observed the CI and HARRIS part ways in the area of Flexer CT and Memorial Ave. HARRIS walked back south and entered his vehicle and traveled north on Flexer then west on Memorial.

At approximately 1150hrs: Detective Loudenslager observed the TARGET vehicle, operated by HARRIS, drive south on Dewey Ave, with the CI in the vehicle. Detective Loudenslager surveilled this vehicle south bound on Dewey Ave and east on Newberry Street. At this time, Detective Dent took over surveillance.

At approximately 1152hrs: Detective Dent observed the CI exit the TARGET vehicle in the area of Race Street and Newberry Street. Detective Dent drove around the block and maintained surveillance of the CI in the Newberry Hotel parking lot. At this time, the CI called DET. Rachael and told him that he/she was at the Newberry Hotel parking lot. DET. Rachael directed him/her to stay there until he picked him/her up.

At approximately 1155hrs: the CI entered DET. Rachael's UC vehicle at the Newberry Hotel and immediately handed over 1 knotted off plastic bag corner containing approximately .9 grams of cocaine. (Field-tested positive by #507).

The CI was strip searched by Detective Edkin and found to be absent of any contraband, controlled substances and or U.S. currency.

....

On April 17, 2023, the third controlled buy investigation occurred in which CI #23-20 was utilized to conduct the operation. (Commonwealth Ex.#1, Controlled Buy Three, 4/17/2023). Prior to the operation, detectives interviewed CI #23-20 who reported knowing the Defendant as Samuel Harris and that his street name was "boo." (Commonwealth Ex. #1, Controlled Buy Three, 4/17/2023). CI #23-20 provided a physical description that fit the profile of the Defendant. (Commonwealth Ex. #1, Controlled Buy Three, 4/17/2023). The CI #23-20 contacted the Defendant using the same phone number as the previous two buys, and agreed to meet on Blaine Street in Newberry to conduct the drug transaction.

(Commonwealth Ex. #1, Controlled Buy Three, 4/17/2023). Detective Anderson met the CI 23-20 and performed the strip search to negate the presence of any drugs, contraband, or U.S. currency, and none were found. (Commonwealth Ex. #1, Controlled Buy Three, 4/17/2023). The CI #23-20 was provided \$100.00 of pre-recorded police funds to purchase cocaine. (Commonwealth Ex. #1, Controlled Buy Three, 4/17/2023). Detective Anderson was able to overhear a phone call between CI 23-20 and the Defendant wherein the Defendant instructed CI #23-20 to meet at the “usual spot” (Commonwealth Ex. #1, Controlled Buy Three, 4/17/2023) on Blaine Street in Newberry. (Commonwealth Ex. #1, Controlled Buy Three, 4/17/2023). Detective Edkin transported CI #23-20 to the agreed upon site request by the Defendant. (Commonwealth Ex. #1, Controlled Buy Three, 4/17/2023). Detective Rachael observed the target vehicle, a black Mitsubishi SUV with New Jersey registration park in front of 1217 Race Street, Williamsport, Pennsylvania, the Defendant’s address. (Commonwealth Ex. #1, Controlled Buy Three, 4/17/2023). Detective Rachael confirmed that the Defendant was operating the vehicle. (Commonwealth Ex. #1, Controlled Buy Three, 4/17/2023).

The chronological account of controlled buy three on April 17, 2024, provides, in part:

1257hrs: DET. Edkin and the CI arrive on Blaine Street, near Flexer Court. The CI exits the vehicle and walks north on Flexer Court, where DET. Dent maintained visual.

1258hrs: I observed HARRIS drive south on Race Street, then travel west on Blaine Street. DET. Dent relays the vehicle’s registration as New Jersey [ ], on a black Mitsubishi SUV. DET. Loudenslager observed HARRIS continue west on Blaine Street, to Dewey Avenue. DET. Loudenslager relayed that there was a black male passenger with HARRIS. DET. Havens relayed that the CI turned around and was now walking south on Flexer Court. DET. Edkin relayed that the CI was on their phone.

1259hrs: DET. Edkin observed HARRIS arrive in Flexer Court and the CI approach the vehicle. DET. Havens relayed that the CI entered the vehicle and it went east.

1300hrs: I observed the vehicle appear on Race Street and travel north to the intersection with Memorial Avenue. I then observed the vehicle travel west on Memorial Avenue.

1301hrs: DET. Rachael observed the CI exit HARRIS' vehicle and walk south. HARRIS drove north on Dewey Avenue. DET. Rachael continued to surveil HARRIS, while DET. Havens maintained visual of the CI walking south.

1302hrs: DET. Edkin relayed that they had visual of the CI returning to them. DET. Edkin then relayed that the CI was with them in their UC vehicle. Once with DET. Edkin, the CI turned over two knotted off bags each containing crack cocaine (later field-tested positive). The CI was strip-searched to negate the presence of any drugs, contraband or currency (none found). Surveillance of HARRIS was lost on Lycoming Creek Road.

Following the controlled buy I conducted an audio debrief with the CI. The CI confirmed that HARRIS was the driver and advised that a second black male was in the front passenger seat. The CI advised that they recognized the male as a person they had purchased drugs from years ago. The CI was unable to remember their name. The CI advised that they conducted the hand to hand transaction with HARRIS.

The evidence in this case has been photographed and logged into evidence.

On May 23, 2023, Detective Anderson conducted controlled buy number seven utilizing the CI #23-20 from controlled buys three, four, and six to purchase cocaine from the Defendant. (CW Ex. #1). Controlled buy seven provides:

On Tuesday May 23, 2023, I utilized CI 23-20 to conduct a controlled purchase of crack cocaine from Samuel HARRIS in exchange for \$80.00. the CI contacted HARRIS at phone number 215-[ ]-[ ] in the presence of DET. Edkin and he directed the CI to park in the area of Newberry Street and Dewey Avenue. Other detectives maintained surveillance of 1217 Race Street, which is the residence of HARRIS. The following is a chronological account of my observation and assisting detectives' observations. All times and weights are approximate.

1030hrs-the CI is met at a predetermined location. The CI is strip-searched to negate the presence of any drugs, contraband or currency (none found).

1113hrs- the CI contacts HARRIS in the presence of DET. Edkin. HARRIS agrees to meet the CI and instructs them to park by the "Hippie" shop by the Newberry Hotel (Newberry Street and Dewey Avenue). The CI is provided \$80.00 of prerecorded police currency and is transported to the area by DET. Edkin.

1117hrs- DET. Loudenslager observes a person wearing a white shirt briefly step out of the front door of 1217 Race Street and return inside. DET. Loudenslager was not able to identify if it was HARRIS.

1118hrs- The CI arrives at the meeting location, exits DET. Edkin's vehicle and begins to walk east on Newberry Street. DET. Edkin then observes the CI walk north on Race

Street. At this time, DET. Loudenslager relays that HARRIS exited the front door of 1217 Race Street, wearing a white t-shirt and gray pants. DET. Loudenslager was able to positively identify the person as HARRIS.

1119hrs- DET. Loudenslager relayed that a white sedan traveled south on Race Street, from the area HARRIS was last seen. I then observed (through electronic surveillance) the CI enter the front seat of a vehicle. I observed the driver was HARRIS, wearing a white t-shirt with his dreadlocks pulled back into a ponytail. I observed the vehicle travel south on Race Street. DET. Edkin then relayed that the vehicle traveled east on Newberry Street. I observed the vehicle travel south on Moore Avenue, west on W. Fourth Street and north on Race Street. During the drive, the CI conducted a hand-to-hand transaction with HARRIS. The vehicle stopped at the intersection of Race Street and Newberry Street and the CI exited and I observed that the vehicle HARRIS was driving was a white sedan. I observed all these events through electronic surveillance.

1121hrs- The CI returned to DET. Edkin and immediately turned over (2) knotted off bags containing crack cocaine (later field-tested positive). The CI is strip-searched to negate the presence of any drugs, contraband or currency (none found). The CI was then released.

1121hrs- DET. Caschera observes the white sedan and confirms that HARRIS is the driver. Detectives tailed HARRIS as he drove north on Race Street, east on Memorial Avenue, north on Cemetery Street and west on Park Avenue. Surveillance of HARRIS was lost in this area.

The evidence in this case has been photographed and logged into evidence.

Through electronic surveillance, I was able to establish that the vehicle HARRIS was using is a white Kia sedan, which appears to have an out of state registration, which leads me to believe it is a rental vehicle. Drug traffickers commonly use rental vehicles that are rented by another person because it helps to conceal their identities. HARRIS and JENNINGS have used rented vehicles previously during this investigation. For example during this investigation HARRIS used a black Mitsubishi SUV rental car and JENNINGS used a white Honda civic rental vehicle (rented by HARRIS) to make these drug deliveries.

At approximately 1517 hours on May 23, 202. Chief Simpler located HARRIS' white Kia sedan back into a parking spot in a parking lot that is west of 1217 Race Street, just off an alleyway where HARRIS has parked in the past.

I would submit that based upon the above stated facts;

Probable cause exists that currently within 1217 Race Street, Williamsport and the white Kia sedan with unknown out of state registration is crack cocaine, related paraphernalia, cellular phones used to arrange drug sales, prerecorded police currency and proceeds of illegal drug sales, to include U.S. currency.



The foregoing information was submitted with an Application for Search Warrant and authorization for 1217 Race Street, Williamsport, Pennsylvania, by Detective Anderson on May 24, 2023. The Honorable Nancy L. Butts, President Judge, authorized and issued the Search Warrant for the property and the execution of a search for “crack, cocaine, related paraphernalia, cellular phones used to arrange drug sales, prerecorded police currency, and proceeds of illegal drug sales to include U.S. currency” at 1217 Race Street in Williamsport, Pennsylvania. (CW Ex. #1). Officers executed the search of 1217 Race Street on May 25, 2023.

I. MOTION TO SUPPRESS EVIDENCE DUE TO INSUFFICIENT PROBABLE CAUSE WITHIN THE FOUR CORNERS OF THE SEARCH WARRANT

The Defendant asserts that the search warrant and all evidence obtained therefrom should be suppressed because the search warrant lacked probable cause within the four corners of the affidavit to execute a search at 1217 Race Street, Williamsport, Pennsylvania. The Defendant alleges that there is no information in the affidavit to establish a sufficient nexus between the alleged events and the residence. Specifically related to the nexus issue, the Defendant argues that (1) the language in the search warrant does not indicate the Confidential Informant ever purchased controlled substances from the subject’s residence, (2) that of the described information, nothing supports a probable finding that controlled substances were being sold or stored in the residence since each alleged transaction occurred away from the residence or in a vehicle, and (3) that the information in the affidavit of probable cause does not indicate that the Defendant returned to the residence immediately after the alleged deliveries.

**a. Did the Search Warrant contain sufficient information to establish probable cause?**

When a defendant files a motion to suppress evidence, the Commonwealth shall have the burden of proving to a preponderance of the evidence that the challenged evidence was not obtained in violation of the defendant's rights. Pa. R. Crim. P. 581 (H). A preponderance of the evidence standard is tantamount to a "more likely than not" burden of proof.

*Commonwealth v. McJett*, 811 A.2d 104, 110 (Pa. Cmwlth. Ct. 2002). 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 reasonable 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). The issuing authority must apply the totality of the circumstances test which requires him or her to make a practical, common-sense decision whether, given all of the circumstances set forth in the affidavit, 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. (Harve) Johnson*, 615 Pa. 354, 42 A.3d 1017, 1031 (2012).; see also *Commonwealth v. Fletcher*, 307 A.3d 742 (Pa. Super. 2023)("probable cause is based on a probability, not a *prima facie* showing, of criminal activity and deference is to be accorded to a magistrate's finding of probable cause"); *Commonwealth v. Manuel*, 194 A.3d 1076, 1081 (Pa. Super. 2018)(probable cause does not demand 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 reviewing court's duty is to ensure that the issuing authority had a substantial basis for concluding that probable cause existed. 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. (Lavelle) Johnson*, 240 A.3d 575, 584 (Pa. 2020).

The Defendant avers that the information provided in the affidavit of probable cause is not a sufficient showing of probable cause to authorize the search executed at 1217 Race Street, Williamsport, Pennsylvania on May 25, 2023. The Commonwealth argued that the proffered facts and circumstances surrounding the investigation and the information collected during the controlled drug transactions justified the issuing authority in her determination that the affidavit of probable cause supported a common-sense, non-technical decision to authorize the execution of the search on 1217 Race Street. Specifically, of seven controlled buys conducted by detectives and confidential informants under this investigation, four of the controlled buy procedures describe the Defendant's direct involvement in the drug transactions. (Commonwealth Ex. #1, Controlled Buys One, Two, Three, Seven). The information was corroborated by the Confidential Informants who positively identified the Defendant and provided the same alias known to detectives and the informants that confirmed the individual in question was Samuel H. Harris, the Defendant in this matter. The details provided in the affidavit of probable cause further the Commonwealth's argument because detectives diligently surveilled the activity of the Defendant and the Confidential Informants for the duration of each of the controlled buys reported in the affidavit of probable cause. Moreover, detectives conducted debriefs with the informants after the controlled buys to establish that the Defendant conducted the transactions in which he was directly involved.

**b. Was there a sufficient nexus of criminal activity relating back to 1217 Race Street, Williamsport, Pennsylvania, to justify a search?**

An affidavit of probable cause must establish a “substantial nexus” between the suspect’s home and the criminal activity or contraband sought to permit the search of the home. *Commonwealth v. Nicholson*, 262 A.3d 1276, 1280 (Pa. Super. 2021)(internal citations omitted). The reviewing court is tasked with ensuring that the issuing authority was presented a substantial basis to conclude that probable cause existed. *Id.* Accordingly, the affidavit of probable cause must contain information that links the place to be searched directly to the criminal activity. *Id.* A detective’s reference to professional experience cannot support the issuance of a search warrant without a showing that demonstrates a nexus between his experience and the search, arrest, or seizure of evidence. *Id.*, citing *Commonwealth v. Thompson*, 985 A.2d 928, 935 (Pa. Super. 2009). Moreover, “probable cause to believe a [person] has committed a crime on the street does not necessarily give rise to probable cause to search [the person’s] home. ” *Commonwealth v. Wallace*, 42 A.3d 1040, 1049-1050 (Pa. 2012). Under Article I, Section 8 of the Pennsylvania Constitution, an informant’s veracity, reliability, and knowledge must be assessed to determine whether an affidavit establishes adequate probable cause. *Id.* at 1045, quoting the Supreme Court of Pennsylvania’s holding in *Commonwealth v. Gray*, Pa. 476, 503 (1985), that adopts the *Gates* analysis). “[A]n informant’s tip may constitute probable cause where police independently corroborate the tip, or where the informant has provided accurate information of criminal activity in the past, or where the informant himself participated in the criminal activity.” *Commonwealth v. Gagliardi*, 128 A.3d 790, 795 (Pa. Super. 2015).

The Defendant claims that the affidavit of probable cause fails to establish a substantial nexus between the suspect’s home and the criminal activity or contraband

justifying the search of 1217 Race Street. Specifically, the Defendant asserts that the Confidential Informants did not purchase controlled substances from the address, that there was no probable finding that controlled substances were being sold from 1217 Race Street, and that the information provided in the affidavit of probable cause does not indicate that the Defendant returned to the address immediately after the alleged deliveries. The Defendant relies on the holdings in *Commonwealth v. Kline*, 335 A.2d 361 (Pa. Super. 1975), *Commonwealth v. Way*, 492 A.2d 1151 (Pa. Super. 1985), and *Commonwealth v. Wallace*, 42 A.3d 1040 (Pa. 2012) to establish the basis of his argument because the higher courts held that the affidavits of probable cause in these cases lacked sufficient facts to establish a substantial nexus between the criminal activity and the appellants' addresses to be searched. While the holdings in the cases on which the Defendant relies have merit to invalidate a search warrant and suppress the evidence obtained from the execution of a search, the facts of the cases are not analogous to this matter.

First, in *Commonwealth v. Kline*, the Pennsylvania Superior Court held that the affidavit of probable cause failed to establish a nexus between the drug dealer's apartment and the contraband because the affidavit omitted certain facts concerning the only private drug transaction between the informants and the defendant. *Commonwealth v. Kline*, 335 A.2d 361, 364 (Pa. Super. 1975). Among the omitted facts were (1) the location of the transaction, (2) the duration of the transaction, (3) and how the informants determined the dealer had gone to his apartment to retrieve the drugs. *Id.*

Also, in *Commonwealth v. Way*, the affidavit of probable cause simply declared "that the defendant was a drug dealer, an 'alleged [drug] transaction occurred in [the defendant's] blue van along a country road [and, a]fter the alleged [drug] transaction, police followed the blue van to a driveway of a property' that was owned by the defendant." *Commonwealth v.*

*Way*, 492 A.2d 1151, 1152-1154 (Pa. Super. 1985). The *Way* court held that the affidavit of probable cause contained insufficient facts to believe that contraband and drugs would be found in the defendant's house. *Id.*

Finally, in *Commonwealth v. Wallace*, the Supreme Court of Pennsylvania held that the affidavit did not contain sufficient information to establish any nexus between the appellant's house and the sale or storage of drugs. *Commonwealth v. Wallace*, 42 A.3d 1040, 1050 (Pa. 2012). The investigators did not independently establish that the residence was utilized for selling or storing drugs either by conducting a controlled buy at the address or conducting surveillance. *Id.* Moreover, the informant's reliability and veracity of information regarding the appellant could not overcome the affidavit's overall lack of information to establish the requisite nexus. *Id.* at 1051.

In *Wallace*, the informant's reliability and veracity were under scrutiny because the affidavit of probable cause provided by detectives was also lacking significantly in sufficient information to effectuate a substantial nexus worthy of issuing the warrant for the appellant's address. *Commonwealth v. Wallace*, 42 A.3d 1040, 1050 (Pa. 2012). Here, the Confidential Informants provided independent information regarding the Defendant's conduct, process, address, and appearance. CI information on the Defendant also included his phone number, physical description and photograph, his vehicle, and his street alias. The Confidential Informant in Controlled Buy One and Two provided detectives with the location of the Defendant's residence and a description of his vehicle, including that it has out of state registration. Detectives were able to locate the described vehicle in the area of where the Confidential Informant described the Defendant residing, verifying the informant's report. An independent search of previous law enforcement contacts confirmed the Defendant's address as 1217 Race Street, Williamsport, Pennsylvania.

Additionally, unlike in *Kline*, where information regarding when, where, and how long each transaction took, detectives diligently reported maintaining surveillance of the Defendant, the confidential informant, the target vehicle, and 1217 Race Street. The affidavit of probable cause is time stamped throughout to account for the approximate time that each action pursuant to the transaction and the activities surrounding the procedure occurred. This matter is drastically dissimilar to the facts provided under *Way* when the only information in the affidavit described an alleged transaction in a vehicle with no ties to the defendant's address. *Commonwealth v. Way*, 492 A.2d 1152-1154 (Pa. Super. 1985). In contrast to *Kline* and *Way*, here, the Confidential Informants provided independent information that corroborated what detectives already knew, suspected to know, and confirmed with surveillance. Also, the detectives provided detailed information that included surveillance of the Defendant leaving his house, conducting the drug transaction with a confidential informant, and returning to 1217 Race Street.

The affidavit of probable cause indicates that the Defendant does execute drug transactions away from the home. However, the Defendant's conduct exhibits a pattern in which the Defendant left 1217 Race Street upon being contacted for the sale of drugs and met customers at an agreed upon location to complete the transaction. See *Commonwealth v. Clark*, Pa. 28 A.3d 1284 (2011)([A]ffidavit described police conducting a controlled buy in which they observed the defendant leave his residence, drive to the site of the predetermined sale, complete the transaction, and return to his residence. The conduct of the defendant was consistent with the description of how he conducted sales and delivered drugs provided by the confidential informant. The affidavit was sufficient to establish probable cause for a search of the residence).

Utilizing the totality of the factual circumstances provided by the affiant in the affidavit of probable cause justifies the Issuing Authority in granting the Application for Search Warrant on May 23, 2024. A non-technical, common sense analysis of the contents of the affidavit of probable cause indicates a fair probability that evidence of a crime or contraband could be discovered at the 1217 Race Street address because the Confidential Informants provided sufficient information regarding the Defendant and his alleged conduct for executing drug sales. This information was then corroborated by detectives over the course of collecting surveillance during four controlled buy procedures. The information provided to the issuing authority exhibited a substantial nexus directly linking the Defendant's criminal conduct to the 1217 Race Street address. Specifically, the Defendant was surveilled leaving his house immediately preceding each controlled buy, met with Confidential Informants directly, did not make stops on the way to the agreed upon location, and the target vehicle was consistently parked in the vicinity of 1217 Race Street.

The Court agrees with the Commonwealth that the information provided within the four corners of the affidavit of probable cause is sufficient to justify the search executed on 1217 Race Street and **Denies** the Defendant's Motion to Suppress all evidence obtained in the execution of the search.

II. MOTION TO COMPEL DISCLOSURE OF CONFIDENTIAL INFORMANT'S AND OTHER WITNESS IDENTITY, COMPLETE CRIMINAL HISTORY, AND ANY PROMISES OF LENIENCY OR LENIENCY RECEIVED

The Commonwealth has a duty to disclose all exculpatory evidence to a defendant prior to trial. *Brady v. Maryland*, 373 U.S. 83 (1967). "All exculpatory evidence" includes impeachment evidence providing any possible understanding between the prosecution and a witness that tends toward the relevancy of the witness's credibility. *Id.* Additionally, a witness' criminal convictions, arrests, and parole or probation status are relevant,



impeachment evidence with a longstanding history of being a necessary and valuable asset to the Defendant. *Commonwealth v. Marsh*, 997 A.2d 318, 321 (Pa. 2010). A criminal defendant is entitled to know any information that may affect the reliability of the Commonwealth's witnesses. *Id.* When a defendant requests the disclosure of an informant's identity and demonstrates that the request is reasonable, material, and relevant to his case, the reviewing court must balance the factors to determine if the informant's identity should be revealed. *Id.* Pennsylvania Rule of Criminal Procedure 573 provides the trial court discretion to require the Commonwealth to reveal the names and addresses of all eyewitnesses, including confidential informants, when a defendant establishes material need and reasonableness for the disclosure. *Id.*

Here, the Defendant avers that the disclosure of the identities of the confidential informants utilized for the controlled buys is material and relevant to his case. The Commonwealth conceded at the Pre-trial Hearing that the information sought by the Defendant will be required prior to jury selection. The Defendant finds the Commonwealth's concession reasonable, and the Court agrees. The Defendant's Motion to Compel Disclosure of Confidential Informants' and other Witness Identity, Complete Criminal History, and Any Promises of Leniency or Leniency received is **Granted**. Accordingly, the Commonwealth is required to turnover the requested information prior to the Jury Selection for this matter.

### III. MOTION FOR DISCLOSURE AND/OR NOTICE OF THE COMMONWEALTH'S INTENT TO USE ANY 404(B) EVIDENCE

In his Motion, Defendant requests that the Court order the Commonwealth to provide reasonable notice in advance of trial of all evidence it intends to introduce pursuant to Rule 404(b). Pennsylvania Rule of Evidence 404(b)(1) provides that evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show a conforming action thereof. An exception is found in Pennsylvania Rule of Evidence

404(b)(2) which permits introduction of evidence of other crimes, wrongs, or acts for other purposes such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident when the Commonwealth is able to demonstrate that the probative value of the evidence outweighs its potential for unfair prejudice. The Commonwealth is directed to provide reasonable written notice in advance of trial regarding the general nature of any such evidence it intends to introduce at trial. *PA. R. Evid. 404(b)(4)*. The Court hereby orders the Commonwealth to provide notice to the Defendant pursuant to Pennsylvania Rule of Evidence 404(b) thirty (30) days in advance of trial. The Defendant's request for Notice is **Granted**.

IV. MOTION-IN-LIMINE TO PRECLUDE IRRELEVANT AND PREJUDICIAL EVIDENCE AT TRIAL REGARDING ALLEGATIONS AGAINST NICOLE DANIELS AND JERRY JENNINGS

In his Motion to Preclude Evidence concerning allegations of criminal conduct against Nicole Daniels and Jerry Jennings, the Defendant requests that all irrelevant and prejudicial evidence surrounding the incidents on April 21, 2023, and May 3, 2023, is suppressed as it is entirely irrelevant to his charges. The Defendant asserts that to the extent the evidence can be considered relevant, it does not meet any of the recognized exceptions under Pennsylvania Rule of Evidence 404(b). Moreover, the Defendant alleges that any introduction of such evidence of criminal allegations against Nicole Daniels and Jerry Jennings in his trial will be unfairly prejudicial. The Court finds that any references to Nicole Daniels and Jerry Jennings could be unfairly prejudicial. However, the Commonwealth has not identified specific information and testimony it seeks to introduce regarding Nicole Daniels and Jerry Jennings. Thus, it would be premature to grant or deny this part of the Motion. Therefore, the Commonwealth will provide the Defendant reasonable notice of its intent to use any evidence regarding allegations of criminal conduct against Nicole Daniels

and Jerry Jennings prior to the Defendant's trial pursuant to Pennsylvania Rule of Evidence 404(b). The Defendant shall have the right to file a Motion-in-Limine to challenge any such evidence.

The Court hereby enters the following order:

**ORDER**

**AND NOW**, this 26<sup>th</sup> day of **November, 2024**, upon consideration of the Defendant's Omnibus Pretrial Motion and for the reasons set forth above, the Court Orders the following:

1. Motion to Compel Discovery was **WITHDRAWN** by the Defendant;
2. Motion to Sever Count 3 from the Criminal Information under docket No. CR-781-2023 is **DENIED** as moot;
3. Motion to Sever Defendants for Trial is **DENIED** as moot;
4. Motion-in-Limine to Preclude Evidence of the Defendant's Pre-Arrest Silence is **DENIED** as moot;
5. Motion to Suppress Evidence due to Insufficient Probable Cause Within the Four Corners of the Search Warrant is **DENIED**;
6. Motion to Compel Disclosure of confidential informants and other witness identity, complete criminal history, and any promises of leniency or leniency received is **GRANTED**;
7. Motion For Disclosure and/or Notice of the Commonwealth's Intent to use any 404(B) Evidence is **GRANTED**;
8. Motion-in-Limine to preclude irrelevant and prejudicial evidence at trial regarding allegations against Nicole Daniels and Jerry Jennings is **PREMATURE**;

9. The Commonwealth is **ORDERED** and **DIRECTED** to provide the Defendant reasonable notice of the Commonwealth's intent to use any evidence regarding allegations against Nicole Daniels and Jerry Jennings at the Defendant's trial.

By the Court

Ryan M. Tira, Judge

RMT/asw

CC: DA

Matthew Diemer, Esquire

Gary Weber, Esquire