

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

COMMONWEALTH OF PENNSYLVANIA :
 :
vs. : **CR-745-2024**
 :
JOSEPH E. WALTER, :
DEFENDANT :

OPINION

And now, this **4th** day of **October, 2024**, the Court after a hearing on October 1, 2024, on the Defendant’s Omnibus Pretrial Motion filed on July 15, 2024, the Motion is hereby granted in part and denied in part.

I. Factual and Procedural Background

On or around April 23, 2024, the Defendant was arrested following a police investigation into the November 26, 2023, burglary of Puff’s Express Convenience Store at 1349 Washington BLVD, Williamsport, PA. By information filed June 13, 2024, the Defendant was charged with the following:

- Count 1 – Robbery-Threatening Immediate Serious Bodily Injury; 18 § 3701 §§A1II
- Count 2 – Robbery-Taking Property From Others by Force; 18 § 3701 §§ A1V
- Count 3 – Theft by Unlawful Taking-Movable Property 18 § 3921 §§ A
- Count 4 – Simple Assault; 18 § 2701 §§ A3
- Count 5 – Possible Instrument of Crime with Intent; 18 § 907 §§ A
- Count 6 – Terroristic Threats with Intent to Terrorize Another; 18 § 2706 §§ A1

Defendant filed his Omnibus Motion on July 15, 2024, containing a Motion to Petition for Writ of Habeas Corpus for Count 5, a Motion to Compel Discovery, a Motion to Compel Disclosure of Complete Criminal History of Witness Nykeana Hutchinson, and Any Promises of Leniency or Leniency received, a Motion for Disclosure and/or Notice of the Commonwealth's intention to use any 404(B) Evidence, and a Motion-in-Limine to Preclude Irrelevant and Prejudicial Evidence at Trial Regarding Allegations Against the Defendant. An argument was held on October 1, 2024, at which time, Phoebe Yates appeared on behalf of the Commonwealth and the Defendant was represented by Eric Williams.

II. Discussion

Defendant's motions will be addressed individually below.

a. Petition for Writ of Habeas Corpus for Count 5.

The Defendant argues that the Commonwealth failed to prove a *prima facie* case for the Possessing Instrument of Crime charge. Specifically, the Defendant avers that the Commonwealth was unable to prove any of the elements of the charge for Possessing [an] Instrument of Crime at the Preliminary Hearing. The Commonwealth indicates that it does not object to the Defendant's motion and would withdraw Count 5. Therefore, the motion for Petition for Writ of Habeas Corpus is **GRANTED**. Count 5, Instrument of Crime with Intent is dismissed for lack of a *prima facie* case.

b. Motion to Compel Discovery

Initially, the Defendant argues that several discovery items exist which have not been provided; and, thereby compels the Commonwealth to produce the discovery materials. Since the filing of this Motion, Defendant agrees that the Commonwealth has met its obligation to produce the requested discovery. Both parties assert this Motion has been cured; and, that the

issue is moot as of the October 1, 2024 hearing. This Court is apt to agree and hereby **DENIES** this motion.

c. Motion to Compel Disclosure of Complete Criminal History of Witness

Nykeana Hutchinson and Any Promises of Leniency or Leniency Received

The Defendant motions to compel all exculpatory evidence, including impeachment evidence, from the Commonwealth prior to trial. Further, the Defendant motions to compel the witness's criminal convictions, arrests, and parole or probation status as relevant impeachment information. Additionally, the Defendant argues that he is entitled to know any information that may affect a witness's reliability in testimony, specifically any leniency made or already received. Since the filing of this Motion, the Defendant agrees that the Commonwealth has satisfied its obligation to produce the requested information. Both parties assert that this Motion has been cured and that the issue is moot at the October 1, 2024 hearing. This Court is also in agreeance in hereby **DENIES** this motion.

d. Motion for Disclosure and/or Notice of the Commonwealth's intention to use any 404(B) Evidence at Trial Regarding Allegations against Defendant

The Defendant asserts that the Commonwealth may attempt to elicit an evidentiary and testimonial record relating to the Defendant's prior criminal record or other wrongdoings or prior bad acts. The Defense requests reasonable (30 days) notice of the Commonwealth's intention to present any such evidence at trial and disclosure thereof. The Commonwealth agrees that it will provide effective and reasonable notice to the Defendant prior to trial. Trial is set for the October/November trial term. Accordingly, this Court hereby **GRANTS** this motion and orders the Commonwealth to provide notice in accordance with Rule 404(B) by October 14, 2024.

e. Motion-in-Limine to Preclude Irrelevant and Prejudicial Evidence at Trial Regarding Allegations Against the Defendant

Finally, the Defendant expands on the preceding Motion by elucidating on specific evidence of suspected prior criminal acts, of which, the Defendant adamantly denies. The Defense submits this Motion on the basis that any mention of the alleged prior acts will create unfair prejudice and, therefore, requests the evidence precluded. The Commonwealth contends that it does not intend to utilize any of the aforementioned evidence. This Court finds that if the Commonwealth shifts in strategy, then the Commonwealth must seek leave of court before presenting any such testimony to the jury. Accordingly, this motion is **GRANTED**.

The Court hereby enters the following Order:

ORDER

And now, this **2nd** day of **October, 2024**, upon consideration of the Defendant's Omnibus Pre-Trial Motion and for the reasons set forth above, the Court Orders the following:

- a. Petition for Writ of Habeas Corpus for Count 5 is **GRANTED**;
- b. Motion to Compel Discovery is **DENIED**;
- c. Motion to Compel Disclosure of Complete Criminal History of Witness Nykeana Hutchinson and Any Promises of Leniency or Leniency Received is **DENIED**;
- d. Motion for Disclosure and/or Notice of the Commonwealth's intention to use any 404(B) Evidence at Trial Regarding Allegations against Defendant is **GRANTED**;
- e. Motion-in-Limine to Preclude Irrelevant and Prejudicial Evidence at Trial Regarding Allegations Against the Defendant is **GRANTED**;

By the Court,

Ryan M. Tira, Judge

RMT/asw

CC: DA-Phoebe Yates, Esq.
PD-Eric Williams, Esq.