

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

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	
	:	CR-310-2024
KADEEN D. CRAWFORD,	:	
Defendant	:	
	:	

OPINION

This matter is before the Court on an Omnibus Pretrial Motion filed by the Defendant on May 1, 2024. The Defendant’s Omnibus Motion contains a Petition for Writ of Habeas Corpus, a Motion for Disclosure of Criminal Charges, and both Promises of Leniency and Immunity, and a Motion to Reserve Right to File additional Pretrial Motions. A hearing was held on the matter on August 26, 2024, wherein, Attorney Matthew Diemer, Esquire appeared on behalf of the Defendant for Attorney Robert Hoffa, Esquire. Attorney Diemer requested on behalf of Attorney Hoffa that the parties be permitted to submit briefs related to the Petition for Writ of Habeas Corpus. The Court granted the Attorney Diemer’s request and provided thirty (30) days for the parties to file briefs. The date for filing briefs was September 26, 2024, and both parties filed timely.

The Defendant is charged with the following:

- i. One count of Manufacture, Delivery or Possession with Intent to Manufacture or Deliver under 35 Pa.C.S.A. 780-113(a)(30);
- ii. One count of Criminal use of a Communication Facility under 18 Pa.C.S.A. §7512(a);
- iii. One count of Criminal Attempt-Burglary, Overnight Accommodations with Person Present, Bodily Injury under 18 Pa.C.S.A. §901(a);
- iv. One count of Intimidation of a Witness or Victim under 18 Pa.C.S.A. §4953(a)(3);
- v. One count of Retaliation against a Witness or Victim under 18 Pa.C.S.A. §4953(a);
- vi. One count of Loitering and Prowling at Night Time under 18 Pa.C.S.A. §5506, and

- vii. One count of Criminal Attempt-Criminal Trespass, Breaking into a Structure under 18 Pa.C.S.A. §901(a).

A preliminary hearing was held on February 29, 2024, and all charges were bound for court. At the preliminary hearing, the Commonwealth presented Detectives Kevin Dent and Michael Caschera with Lycoming County Narcotics Enforcement Unit (“LCNEU”) as witnesses. The Defendant waived his formal arraignment on or around April 1, 2024. At the hearing on the Defendant’s Omnibus Pretrial Motion on August 26, 2024, the Commonwealth submitted a recording of the preliminary hearing from February 29, 2024, into evidence as Commonwealth Exhibit 1.

Background

Detective Caschera testified at the preliminary hearing that on or about February 25, 2023, he was working in his capacity as a detective with the Lycoming County Narcotics Enforcement Unit. (Commonwealth Exhibit 1, Preliminary Hearing Transcript, 02/29/2024). On February 25, 2023¹, Detective Caschera was preparing a controlled buy procedure with a confidential informant (“CI”) equipped with audio and visual recording equipment to purchase controlled substances from an individual known as “Q” or “Run.” (Commonwealth Exhibit 1). On cross examination, Detective Caschera testified that neither he nor the CI knew the actual name of the individual with whom the transaction was arranged. (Commonwealth Exhibit 1). Despite the identity being unknown, Detective Caschera, directed the CI to call the cell phone number known to her and arrange a sale of controlled substances with the individual known as “Q” or “Run.” (Commonwealth Exhibit 1). The buy procedure was arranged to occur at the CI’s apartment in the Michael Ross complex in the

¹ Detective Caschera and Detective Dent testified about the same controlled buy but the date to which the detectives refer to for the controlled buy are different. Detective Caschera is examined about a controlled buy occurring on February 25, 2023 and Detective Dent testified that the controlled buy occurred on March 3, 2023. The Commonwealth refers to the March 3, 2023, date provided in Detective Dent’s testimony throughout its brief. Commonwealth Exhibit 1.

east end of Williamsport, Pennsylvania within Lycoming County. (Commonwealth Exhibit 1). Prior to the arranged sale, the CI was searched to negate the presence of any drugs, contraband, or U.S. currency and none were found. (Commonwealth Exhibit 1). The CI was provided pre-recorded police funds and the consensual recording equipment. (Commonwealth Exhibit 1). After preparation was completed, surveillance units established surveillance positions in the area of the CI's apartment of the Michael Ross complex. (Commonwealth Exhibit 1).

Detective Caschera testified that he observed a red Ford Explorer² enter the parking lot and an individual exited the vehicle and walked toward the CI's apartment door. (Commonwealth Exhibit 1). Both Detective Dent and Detective Caschera stated that the vehicle did have a passenger present. (Commonwealth Exhibit 1). Detective Caschera testified to seeing a hand-to-hand exchange, the prerecorded police funds for the "Crack cocaine," (Commonwealth Exhibit 1), occur between the CI and the individual via the live audio and video feed. (Commonwealth Exhibit 1). However, Detective Caschera testified on cross-examination that the individual delivering the controlled substance was wearing a face mask that covered all features except his eyes. (Commonwealth Exhibit 1). Moreover, Detective Caschera conceded that the individual did not have any unique characteristics regarding his eyes. (Commonwealth Exhibit 1). As the individual returned to his vehicle, he made eye contact with Detective Caschera, who was holding surveillance equipment. (Commonwealth Exhibit 1). Detective Caschera testified to observing the individual's mannerisms and gait before the individual entered his vehicle and left the complex. (Commonwealth Exhibit 1). Detective Caschera stated that he could positively identify the

² The Commonwealth refreshed Detective Caschera's recollection with the Affidavit regarding which vehicle was involved in the first controlled buy. There are two cars involved in the overall surveillance—Toyota Rav 4 and Ford Explorer. Detective Caschera clarified that it was a red Ford Explorer that he observed on the date of the controlled buy. Commonwealth Exhibit 1.

individual as Kadeen Crawford despite the individual still wearing a full face covering. (Commonwealth Exhibit 1). After the individual departed the complex, the CI returned to the detectives to turn over the controlled substance and be searched to negate the presence of any drugs, contraband, and U.S. currency. (Commonwealth Exhibit 1). The suspected controlled substance was field-tested, and came back positive as cocaine. (Commonwealth Exhibit 1).

Detective Caschera testified that later in the same day he received a call from the CI in a fearful state after being contacted by the individual who sold her cocaine earlier. (Commonwealth Exhibit 1). The individual utilized the same phone number that the CI used to facilitate the transaction, and the individual accused the CI of “setting him up.” (Commonwealth Exhibit 1). Detective Caschera testified that the conversation between the individual and the CI contained details related to seeing undercover police officers in the area and accusing the CI of working with the police. (Commonwealth Exhibit 1). On March 5, 2023, Detective Caschera received another call from the CI, and he testified that the CI was in an “even more fearful state,” (Commonwealth Exhibit 1), because the individual who sold her controlled substances tried to break down her apartment door in the middle of the night. (Commonwealth Exhibit 1). In reviewing surveillance footage from the Michael Ross Housing complex, Detective Caschera testified that he observed a Toyota Rav 4 enter the complex parking lot and an individual exited the passenger side of the vehicle. (Commonwealth Exhibit 1). Both Detective Caschera and Detective Dent testified to another individual being present in the Toyota Rav 4 as the driver of the vehicle. (Commonwealth Exhibit 1). The individual retrieved an unknown object, (Commonwealth Exhibit 1), from the vehicle, and then he approached the CI’s apartment door. (Commonwealth Exhibit 1). First, the individual was unable to gain access to the apartment using the door handle.

(Commonwealth Exhibit 1). The individual began kicking the door and using the force of his body to attempt to knock the door down. (Commonwealth Exhibit 1). After being unsuccessful in his attempts to access the apartment, the individual returned to the Toyota Rav 4, and the vehicle departed. (Commonwealth Exhibit 1). Detective Caschera testified that the CI was able to identify the individual attempting to break in as the individual who sold her cocaine in the controlled buy procedure on March 3, 2023. (Commonwealth Exhibit 1). However, in reviewing the footage Detective Caschera stated that he did not have a visual of the face of the individual attempting to break into the CI's apartment. (Commonwealth Exhibit 1).

Detective Caschera testified that following the incident on March 5, 2023, the LCNEU ran the Pennsylvania registration number from the red Ford Explorer from March 3 2023, and determined it was a rented vehicle from Avis Rental Company. (Commonwealth Exhibit 1). A search warrant was subsequently obtained for the vehicle rental records, and the records showed the red Ford Explorer was rented by Kadeen Crawford. (Commonwealth Exhibit 1). Additionally, the records indicated that Kadeen Crawford returned the red Ford Explorer and rented a Toyota Rav 4. (Commonwealth Exhibit 1).

Detective Caschera testified that he was able to positively identify the individual from March 3, 2023, as the Defendant, Kadeen Crawford based on how the individual moved. (Commonwealth Exhibit 1). Detective Caschera testified that he is familiar with Kadeen Crawford from previous narcotic investigations, in which Detective Caschera logged countless hours of surveillance on Kadeen Crawford. (Commonwealth Exhibit 1). Detective Caschera testified that he knows the Defendant to walk with a unique gait from and because Kadeen Crawford disclosed to Detective Caschera that his gait is a result of being shot in the leg. (Commonwealth Exhibit 1). Detective Caschera also testified to recognizing the general

appearance and mannerisms of Kadeen Crawford. (Commonwealth Exhibit 1). However, Detective Caschera was unable to testify to the specific unique characteristics that comprise the Defendant's alleged unique gait. (Commonwealth Exhibit 1).

I. Petition for Writ of Habeas Corpus on all Seven Counts

The Defendant's overarching reason for filing his Petition for Writ of Habeas Corpus on all seven counts is that the Commonwealth failed to present evidence establishing the identity of the individual involved in the crimes as the Defendant. (Defendant's Brief at 8). Specifically, in his Petition for Writ of Habeas Corpus, the Defendant seeks dismissal of all charges because first, the Commonwealth failed to establish that the Defendant delivered a controlled substance, second, the Commonwealth failed to establish that the Defendant utilized a communication facility for criminal purposes, third, the Commonwealth failed to establish the elements of criminal attempt for burglary or criminal trespass or both, fourth, the Commonwealth failed to establish the elements of intimidating a witness and retaliation against a witness, fifth, the Commonwealth failed to establish the elements of loitering and prowling at nighttime, and finally, the Commonwealth failed to establish the identity of the perpetrator. (Defendant's Brief).

A defendant appropriately files a motion for writ of habeas corpus during the pre-trial stages to test whether the Commonwealth has met its burden for a *prima facie* case. *Commonwealth v. Dantzler*, 135 A.3d at 1112, citing *Carroll*, 936 A.2d at 1152. The Commonwealth meets its burden that a *prima facie* case exists when the evidence produced meets every material element of the charged offenses and the defendant's complicity therein. *Id.* Parties may meet this burden by utilizing the evidence available at a preliminary hearing and producing additional evidence. *Id.*

It is well settled that the preliminary hearing is not a trial and the Commonwealth need not establish Defendant's guilt beyond a reasonable doubt at that stage. *Commonwealth v. McBride*, 595 A.2d 589, 591 (Pa. 1991). Rather, 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). In its consideration, a court does not factor in the weight and credibility of the evidence. *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).

First, the Defendant asserts that the Commonwealth failed to establish that the Defendant delivered a controlled substance. (Defendant's Brief at 2). An individual is charged with Delivery of a Controlled Substance under the Controlled Substance, Drug, Device, and Cosmetic Act if the person is not a registered or licensed practitioner by the appropriate state board and commits the act of delivering any controlled substance to another individual. The Defendant asserts that the Commonwealth is required to present evidence that identifies the person charged as the individual conducting the transaction. (Defendant's Brief at 2). The Defendant alleges that the Commonwealth did not present any evidence other than Detective Caschera's assertion that the individual selling in the controlled buy was Kadeen Crawford, the Defendant. Moreover, the CI only knew the individual selling controlled substances as "Q" or "Run," (Defendant's Brief at 2, Defendant's Exhibit A, Preliminary Hearing Transcript, 02/29/2024, p.1), and Detective Caschera's assertion about

the individual's identity was not verified by video or audio that the Defendant is the individual alleged to have conducted the transaction. (Defendant's Brief at 2, Defendant's Exhibit A, Preliminary Hearing Transcript, 02/29/2024, p.1). The Commonwealth countered that because Detective Caschera and the CI observed the transaction personally and through recording equipment and the substance with which the CI returned to the detectives field-tested positive as cocaine qualifies as evidence sufficient to establish delivery by the Defendant occurred. (Commonwealth's Brief at 8). Detective Caschera, based on his prior interactions with and related to the Defendant, was able to identify the Defendant as the individual who delivered the cocaine. (Commonwealth Exhibit 1).

Second, the Defendant alleges that the Commonwealth failed to establish that the Defendant utilized a communication facility for criminal purposes. (Defendant's Brief at 3). Under 18 Pa.C.S.A. Section 7512(a) a person is charged with criminal use of a communication facility when he uses a communication facility to commit, cause or facilitate the commission or attempt thereof of any crime which constitutes a felony. The Defendant asserts that the phone number is irrelevant if there is no confirmation of the identity of the individual on the other end of the communications. (Defendant's Brief at 3). The Defendant further argues that there is no evidence identifying him as the individual using the communication facility to facilitate the drug transaction in the controlled buy. (Defendant's Brief at 3). The Commonwealth counters that the evidence presented establishes that the Defendant used a telephone device, likely a cell phone, to arrange the transaction with the CI, and that that phone number was the same as the phone number that contacted the CI after the transaction regarding the CI's role in the controlled buy. (Commonwealth's Brief at 8-9). The Commonwealth did not provide any evidence that the number used to arrange the transaction was the Defendant's phone or that he was the individual with whom the CI was

communicating. (Defendant's Brief at 3). The Commonwealth relies on the circumstantial evidence that because the CI contacted a specific number to arrange the sale and the individual who presented allegedly delivered controlled substances and Detective Caschera identified the individual as Kadeen Crawford that the Commonwealth has met its burden in establishing that the Defendant is the individual who delivered controlled substances to the CI in this matter.

Third, the Defendant asserts that the Commonwealth failed to establish the elements of criminal attempt for burglary or criminal trespass or both. (Defendant's Brief at 4). "Criminal attempt" is defined under 18 Pa.C.S.A. Section 901(a) as "a person who commits an attempt when, with intent to commit a specific crime, he does an act which constitutes a substantial step towards the commission of that crime;" and, 18 Pa.C.S.A. Section 3502(a)(1)(i) defines burglary as a person, with the intent to commit a crime, enters a building or occupied structure that is adapted for overnight accommodations in which at the time of the offense any person is present and the person commits, attempts or threatens to commit a bodily injury crime therein. Criminal trespass requires the individual committing the act to know that he is not licensed or privileged to enter and still gains entry or enters a building or occupied structure. The Defendant avers that because there is no testimony or evidence to verify that the individual attempting to gain access to the CI's apartment is the accused the Commonwealth's claims are speculative. (Defendant's Brief at 5). Moreover, the Defendant asserts that the Commonwealth failed to establish the specific intent necessary to commit the crime of burglary. (Defendant's Brief at 5). The Defendant argues that the Commonwealth must establish an unauthorized entry with the intent to commit a crime after entry supporting his claim by citing *Commonwealth v. Alston*, 651 A.2d 1092, Pa. (1994). (Defendant's Brief at 5). The Commonwealth asserts that attempt, with the intent to commit a

specific crime, occurs when a person does any act constituting a substantial step towards the commission of that crime. (Commonwealth's Brief at 9). The testimony from Detective Caschera that he reviewed the security footage from the apartment complex of an individual arriving at the CI's apartment in the early hours of the morning and use the weight of his bodily force to break into the apartment supports a finding that a substantial step was taken to commit attempt of both burglary or criminal trespass.

Fourth, the Defendant avers that the Commonwealth failed to establish the elements of intimidating a witness and retaliation against a witness. (Defendant's Brief at 5). Under 18 Pa.C.S.A. Section 4952(a)(3), a person commits the offense of intimidation of a witness or victim if, with the knowledge that his or her conduct will obstruct, impede, impair, prevent or interfere with the administration of criminal justice, he intimidates or attempts to intimidate any witness or victim to withhold any testimony information related to the commission of a crime from any law enforcement officer, prosecuting official, or judge. Also, 18 Pa.C.S.A. Section 4953, "retaliation against a witness" is defined as an offense that requires harm to another by an unlawful act or engages in a course of conduct or repeatedly commits acts which threatens another in retaliation for anything lawfully done in the capacity of a witness, victim or party in a civil matter. The Defendant argues that the Commonwealth did not call the CI to testify at the preliminary hearing, and there is no circumstantial evidence presented that would lead a victim or witness to believe an intimidation factor existed. (Defendant's Brief at 6). The Defendant concedes that Detective Caschera testified about being contacted by the CI who indicated that he or she was being threatened. (Defendant's Brief at 6). However, the information provided failed to provide the content of the threats or the identity of the individual at the CI's door on March 5, 2023. (Defendant's Brief at 6). In his argument, the Defendant also states that one of the messages read "I will pray for you."

(Defendant's Brief at 7). The Commonwealth argues that the evidence presented establishes the incident on March 5, 2023, was the direct result of the controlled buy that was conducted on March 3, 2023. (Commonwealth's Brief at 11). Moreover, the CI received messages that the individual knew of the undercover detective in the area and that he never should have sold the CI a controlled substance. (Commonwealth's Brief at 11). The Commonwealth argues that the evidence, including the text messages and subsequent actions on behalf of the individual, provides sufficient support to establish a *prima facie* case against the Defendant for the charge of intimidating a witness or victim. (Commonwealth's Brief at 11). Moreover, Detective Caschera's testimony that he has previously investigated the Defendant and that the Defendant knew of the consequences of a CI testifying later indicate the incident on March 5, 2023 are more than likely related to the controlled buy conducted on March 3, 2023. (Commonwealth's Brief at 11). The Commonwealth further argues that the totality of the evidence presented, including the events surrounding the controlled buy, the text messages, the complex's security footage of an individual arriving at the complex, retrieving something from under the seat of the vehicle, and approaching the CI's apartment door, combine to contrive a reasonable finding that the individual was attempting to cause bodily injury upon entering the dwelling. (Commonwealth's Brief at 11).

Fifth, the Defendant claims that the Commonwealth failed to establish the elements of loitering and prowling at nighttime. (Defendant's Brief at 8). An individual is charged with loitering and prowling at nighttime under 18 Pa.C.S.A. Section 5506 if he or she maliciously loiters or prowls around a dwelling or house or any other place used wholly or in part for living or dwelling purposes, belonging to or occupied by another. The statute does not provide a definition of loitering or prowling, and the Defendant argues when using common understanding of the meaning of the words the act or acts do not exist to support a charge for

loitering and prowling at nighttime. (Defendant's Brief at 8). The Commonwealth counters that the evidence presented established that the same individual involved in the controlled buy on March 3, 2023, returned to the CI's apartment complex during the late hours of March 5, 2023, while the CI was home, and after being unsuccessful in turning the doorknob to enter the dwelling, began using his body to force entry into the dwelling. (Commonwealth's Brief at 11).

Finally, the Defendant alleges that the Commonwealth failed to establish the identity of the perpetrator. (Defendant's Brief at 8). The Defendant finds support in his allegation that insufficient identity evidence exists from the Superior Court's decision in *Commonwealth v. Minnis*, 312 Pa. Super. 53, 458 A.2d 231 (1983), wherein the Superior Court concluded that common items of clothing and general physical characteristics are commonly insufficient to support a conviction. (Defendant's Brief at 8). The Defendant argues that the Commonwealth needs to provide more evidence than the testimony of a detective who is familiar with this Defendant's gait from previous investigations to establish that a *prima facie* case exists. (Defendant's Brief at 8). Moreover, the Defendant argues that Detective Caschera's testimony failed to provide additional description of the unique gait of the individual observed that is substantially similar to that of which he is familiar with from observing Kadeen Crawford. (Defendant's Brief at 8). The Commonwealth counters that the Pennsylvania Supreme Court has held that direct evidence that a defendant is the person who committed a crime is not mandatory. (Commonwealth's Brief at 12, citing *Commonwealth v. Harris*, 315 A.3d 26, 37 (Pa. 2024)). The Commonwealth provided a list of the eighteen (18) pieces of evidence to establish that the named Defendant is the individual who committed the acts alleged in the criminal information. (Commonwealth's Brief at 12-13). The Commonwealth asserts that the Court could disregard seventeen of the eighteen pieces of

evidence and still find that the *prima facie* burden was met. (Commonwealth's Brief at 14). The specific piece of evidence on which the Commonwealth asserts the Court could rely is Detective Caschera's positive identification that the individual involved in the alleged acts is Kadeen Crawford, the Defendant. (Commonwealth's Brief at 14).

In consideration of the parties' arguments regarding the evidence presented, the Court finds that the Commonwealth has met its burden to establish a *prima facie* case against the Defendant in this matter.

II. Motion for Disclosure of Criminal Charges, and both Promises of Leniency and Immunity

In his Motion for Disclosure, the Defendant seeks discovery related to the CI's criminal history, history of substance purchasing, and the circumstances surrounding the CI's cooperation with the Lycoming County Narcotics Enforcement Unit. Moreover, the discovery received by the Defendant does not disclose information on the CI's reliability or credibility.

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.*

The Commonwealth did not address this issue in its brief, and the Commonwealth did not object to providing the requested information. The Commonwealth routinely provides the requested information in controlled buy cases. Thus, the Commonwealth shall provide their standard CI information form to the Defendant within fourteen (14) days if not already provided.

III. Motion to Reserve Right

The Defendant's motion further requests to reserve right under Rule 579 of the Pennsylvania Rules of Criminal Procedure. Pursuant to this request, the Defendant seeks to reserve the right to submit additional pre-trial motions in consideration of newly received discovery.

The Court shall grant the Defendant's request to reserve the right to file additional pretrial motions related to discovery received after the filing of the initial Omnibus Pretrial Motion. All motions must be filed within thirty (30) days of this Order or when the discovery was received, whichever is later.

ORDER

AND NOW, this 8th day of January, 2025, upon consideration of the Defendant's Omnibus Pretrial Motion, counsels' briefs, and for the reasons set forth above, the Court Orders the following:

1. The Defendant's Petition for Writ of Habeas Corpus on all Seven Counts is

DENIED;

2. The Defendant's Motion for Disclosure of Criminal Charges, and both Promises of Leniency and Immunity is **GRANTED**, and the Commonwealth has fourteen (14) days to comply with providing the Defendant with the standard CI form, if not already provided; and,
3. The Defendant's Motion to Reserve Right to file additional pretrial motions is **GRANTED**.

By the Court,

Ryan M. Tira, Judge

RMT/asw

CC: DA

Robert Hoffa, Esquire

Gary Weber, Esquire-Lycoming Reporter