2025 PA Super 1

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
MARCEASE AKEEM EASTER	:	
Appellant	:	No. 1627 MDA 2023

Appeal from the Judgment of Sentence Entered October 30, 2023
In the Court of Common Pleas of York County
Criminal Division at No(s): CP-67-CR-0002837-2019

BEFORE: PANELLA, P.J.E., SULLIVAN, J., and STEVENS, P.J.E.*

OPINION BY SULLIVAN, J.: **FILED: JANUARY 2, 2025**

Marcease Akeem Easter ("Easter") appeals from the judgment of sentence entered following his jury convictions of two counts of possession with intent to deliver a controlled substance, and one count of possession of a controlled substance; the trial court found Easter guilty of possession of a small amount of marijuana.[1] Because the court erred in denying suppression, we reverse the suppression order and vacate the judgment of sentence.

On a morning in February 2019, Sergeant Keith Farren ("Sergeant Farren"), of the Newberry Township Police Department contacted his fellow Sergeant, Taylor Nauman ("Sergeant Nauman"). Sergeant Farren asked Sergeant Nauman to assist in serving on Easter a summary arrest warrant

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* Former Justice specially assigned to the Superior Court.

[1] 35 P.S. § 780-113(a)(30), (16), (31)(i).

issued by a Magisterial District Judge ("MDJ"). ***See*** N.T. Suppression Hearing, 11/2/22, at 10-11.

When Easter answered his door, the officers smelled marijuana; they conducted a pat-down search of Easter and found numerous pills and a large amount of money on his person. ***See*** Search Warrant Affidavit of Probable Cause, 3/14/19, at 1 (unnumbered). The police applied for, and received, a search warrant for Easter's vehicle and residence and discovered more drugs when they executed the warrant. ***See id***.

In August 2022,[2] Easter filed a pre-trial motion to suppress, maintaining the Commonwealth refused to produce in discovery a copy of the summary arrest warrant. ***See*** Omnibus Pre-Trial Motion to Suppress, 8/19/22, at 3. Easter contended that, absent proof of the warrant's existence, all drugs and monies found on his person, in his home, and in his vehicle should be suppressed as fruit of the poisonous tree. ***See id***. at 3-5.

The court held a suppression hearing in November 2022. At the hearing, Sergeant Nauman testified he "believed" a summary arrest warrant had been issued for Easter based on his failure to respond to a citation for driving with a suspended license. ***See*** N.T. Suppression Hearing, 11/2/22, at 11. Sergeant Nauman further stated he "believed" Sergeant Farren wrote the

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[2] Proceedings in this matter were delayed by the Covid-19 pandemic, Easter's failure to appear at several proceedings, and a period when Easter was without counsel.

original citation to which Easter had not responded. ***See id***. Sergeant Nauman explained that prior to service the arrest warrant was maintained on a computer database called "MISSILE," but was inaccessible on that database once service was made. ***See id***. at 12. Sergeant Farren did not testify at the suppression hearing.

On cross-examination, Sergeant Nauman admitted that following service of an arrest warrant he is required to complete a return of service; he could not remember if he did so in this case. ***See id***. at 14-15. Sergeant Nauman acknowledged there are other publicly available Pennsylvania computer records that contain information about warrants. ***See id***. at 15-16.[3] Sergeant Nauman testified he did not believe he had seen the arrest warrant but stated Sergeant Farren "had to" have seen it, and further "believed" Sergeant Farren had looked up the warrant on MISSILE. ***See id***. at 17.

York County Deputy Sheriff Sam Snider ("Deputy Snider") testified about how arrest warrants are purged from MISSILE. ***See id***. at 21-27. Deputy Snider testified once an MDJ arrest warrant is served, the arresting entity contacts the County, and the warrant is "canceled." ***See id***. at 22.

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[3] There is no testimony in the record that the Commonwealth attempted to obtain the arrest warrant at issue from the other databases alluded to by Officer Nauman.

Once the warrant is canceled, MISSILE removes all reference to the warrant. ***See id***. at 23.[4]

Following the hearing, the suppression court found the Commonwealth met its burden to prove the existence of the arrest warrant by eliciting Officer Nauman's testimony a warrant existed for a driving under a suspended license citation and Easter failed to respond to that citation. ***See*** Order, 11/2/22, at 1. The court therefore denied Easter's motion to suppress.

A jury trial took place in July 2023, and the jury and trial court found Easter guilty of the above-cited charges. In October 2023, the trial court sentenced Easter to an aggregate term of six to twelve years in prison. The instant, timely appeal followed.[5]

On appeal, Easter raises a single question for our review:

> Did the [suppression] court err in denying [] Easter's suppression motion when the recovery of all evidence used against him was premised on an arrest warrant the Commonwealth could not produce, only a non-testifying officer was purported to have seen the warrant, and the Commonwealth failed to prove the existence of the warrant through alternative means?

Easter's Brief at 4.

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[4] On cross-examination, Deputy Snider confirmed there are other statewide computer programs that would show the existence of a warrant but could not say what effect the cancellation of the warrant in MISSILE would have on records in those databases. ***See id***. at 24, 26.

[5] Easter and the trial court complied with Pa.R.A.P. 1925.

Easter challenges the denial of his motion to suppress. ***See*** Easter's Brief at 14-25. Our appellate standard of review of the denial of a motion to suppress:

> is limited to determining whether the findings of fact are supported by the record and whether the legal conclusions drawn from those facts are in error. In making this determination, this Court may only consider the evidence of the Commonwealth's witnesses, and so much of the witnesses for the defendant, as fairly read in the context of the record as a whole, which remains uncontradicted. If the evidence supports the findings of the trial court, we are bound by such findings and may reverse only if the legal conclusions drawn therefrom are erroneous.

Further, our review is limited to the suppression hearing record. With respect to a suppression court's factual findings, it is the sole province of the suppression court to weigh the credibility of the witnesses. Further, the suppression court judge is entitled to believe all, part or none of the evidence presented. . . .

Both the Fourth Amendment of the Constitution of the United States and Article 1, Section 8 of the Constitution of the Commonwealth of Pennsylvania protect citizens from unreasonable searches and seizures. The Fourth Amendment provides:

> [t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const. Amend. IV.

Similarly, the Pennsylvania constitution provides:

> [t]he people shall be secure in their persons, houses, papers and possessions from unreasonable searches

> and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant.

Pa. Const. Art. I, § 8.

Commonwealth v. Rosendary, 313 A.3d 236, 240-41 (Pa. Super. 2024) (quotation marks and citations omitted).

To be lawful, an arrest must be supported by probable cause. ***See Commonwealth v. Heidelberg***, 267 A.3d 492, 499 (Pa. Super. 2021) (*en banc*). In determining whether probable cause exists, we examine the totality of the circumstances. ***See id***. When an officer makes an unlawful arrest, any evidence seized during a search incident to the arrest must be suppressed. ***See id***.

> At a suppression hearing, "the Commonwealth has the burden of establishing by a preponderance of the evidence that the evidence was properly obtained." ***Commonwealth v. Galendez***, 27 A.3d 1042, 1046 (Pa. Super. 2011) (*en banc*) (citation, quotation marks, and brackets omitted); ***see also*** Pa.R.Crim.P. 581(H) (at a suppression hearing, the Commonwealth "shall have the burden . . . of establishing that the challenged evidence was not obtained in violation of the defendant's rights."). The preponderance of the evidence is "the lowest burden of proof in the administration of justice, and it is defined as the greater weight of the evidence, *i.e.*, to tip a scale slightly in one's favor." ***Commonwealth v. Ortega***, 995 A.2d 879, 886 n.3 (Pa. Super. 2010).

Id. Moreover, our Supreme Court has long held the Pennsylvania Constitution does not recognize a good-faith exception to the exclusionary rule. ***See Commonwealth v. Edmunds***, 586 A.2d 887, 905-06 (Pa. 1991). Lastly,

> evidence constitutes poisonous fruit, and, thus, must be suppressed if, granting establishment of the primary illegality, the evidence to which instant objection is made has been come at by exploitation of that illegality or instead by means sufficiently distinguishable to be purged of the primary taint.

Commonwealth v. Shabezz, 166 A.3d 278, 289 (Pa. 2017) (citation and internal quotation marks omitted).

Easter argues his arrest was illegal absent proof of a valid arrest warrant. ***See*** Easter's Brief at 16. Easter notes the Commonwealth admitted at the suppression hearing it was unable to produce the warrant because "it is removed from the system once it's effectuated." ***Id***. (citation omitted). Easter states the Commonwealth can prove the existence of a warrant through testimonial evidence but did not do so because it failed to produce the testimony of a witness with direct knowledge of the warrant. ***See id***. at 17-23. Because the Commonwealth failed to introduce sufficient evidence of the arrest warrant, Easter contends the evidence used against him at trial must be suppressed as fruit of the poisonous tree because it was seized as a result of an illegal arrest. ***See id***. at 23-25.

The suppression court disagreed, stating:

> the [c]ourt found the Commonwealth presented credible witness testimony that [Easter] had an outstanding summary warrant for driving under a suspended license and failing to respond to the citation. It is well-settled that it is the "suppression court's sole province as factfinder to pass on the credibility of witnesses and the weight to be given to their testimony." ***Commonwealth v. Elmobdy***, 823 A.2d 180, 183 (Pa. Super. 2003). The Court may "believe all, part or none of the evidence presented." ***Id***. . . .

> Here, the [suppression c]ourt found Sergeant Nauman's testimony credible. . . . .
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> * * * * *
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> The record and precedent support [the suppression c]ourt's holding that the Commonwealth met its burden of proving by a preponderance of the evidence that a valid summary warrant existed for [Easter]. Sergent Nauman credibly testified that he was informed of [Easter's] outstanding summary warrant from a reliable source, namely, Sergeant Farren, who learned of the warrant from the MISSLE system. As such, [the suppression c]ourt's] order . . . should not be disturbed. ***See Heidelberg***, 267 A.3d at 501.

Suppression Court Opinion, 2/8/24, at 5-9 (citation format and capitalization regularized, record citations and footnote omitted).

We are constrained to reverse the suppression court, because its legal conclusions are not supported by the record. The Commonwealth failed to prove the existence of a lawful arrest warrant, and the evidence seized thereafter was fruit of the poisonous tree.

At the suppression hearing, the Commonwealth presented an officer who had no first-hand knowledge of the warrant that was the subject of the arrest at issue. The Commonwealth also presented a deputy sheriff who, in summary, testified that arrest warrants in the MISSILE system essentially disappear once an arrest warrant is served, and the county is notified. N.T. Suppression Hearing 11/2/22 at 21-27. Decidedly more important to this analysis is what the Commonwealth failed to present — 1) documentary evidence or testimony regarding the issuance of the underlying citation, 2) the physical arrest warrant, 3) testimony of a witness with first-hand

knowledge of the existence of the arrest warrant, 4) records from a reliable database demonstrating the existence and issuance of the arrest warrant (*i*.*e*. N.C.I.C., JNET, AOPC, etc. . .), and 5) evidence of the return of service of the arrest warrant.[6] The record fails to demonstrate which rules regarding the issuance of citations were followed[7] and how the unproved arrest warrant came into existence.[8] We are thus squarely presented with an issue this Court has not directly decided: has the Commonwealth met its burden to prove the existence of a valid arrest warrant at a suppression hearing where it fails to produce the warrant, fails to produce any testimony from anyone with first-hand knowledge of the warrant,[9] and fails to produce any documentary evidence which would confirm the existence of the warrant? In light of the facts of the record before us, we must conclude the answer is "no."

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[6] ***See*** Pa.R.Crim.P. 400 (regarding the means of instituting summary cases).

[7] ***See*** Pa.R.Crim.P. 406 and 407 (stating the procedures to be followed when a summons is issued pursuant to Pa.R.Crim.P. 400(1)) and Pa.R.Crim.P. 410, 411, 412 (stating the procedures to be followed if a summons is issued pursuant to Pa.R.Crim.P. 400(2)).

[8] ***See*** Pa.R.Crim.P. 430 and 431 (providing the rules regarding issuance of a warrant and the procedures when a defendant is arrested pursuant to that warrant).

[9] We are unable to discern from the record why Sergeant Farren, who testified at Easter's trial, did not testify at the suppression hearing. Moreover, presumably either the MDJ or one of the MDJ's staff would have had direct knowledge of a warrant issued from their office and could have testified.

A review of Pennsylvania caselaw demonstrates that at a suppression hearing the Commonwealth must present documentary evidence or the testimony of a witness with first-hand knowledge of the requisite supporting police action depriving a person of his liberty or seeking the admission of evidence against him. In ***Commonwealth v. Queen***, 639 A.2d 443 (Pa. 1994), a uniformed police officer was summoned to a scene by detectives who had stopped a vehicle. ***See Queen***, 639 A.2d at 444. A detective told the officer the driver of the vehicle resembled a robbery suspect, and the officer frisked the driver and discovered a gun. ***See id***. Only the officer, not the detective, testified at the suppression hearing, and the officer did not know any of the facts that led the detective to suspect Queen of robbery, only that the detective believed he was a suspect. The Supreme Court reversed the denial of suppression because the suppression court did not have a description of the robbery suspect or the circumstances surrounding the robbery, which compelled the court to speculate, in violation of the federal and state constitutions, whether reasonable suspicion existed. ***See id***. at 445-46. The Court stated that to deny suppression under such circumstances would:

> permit the government to bypass the protections of the Fourth Amendment and Article I, Section 8, of the Pennsylvania Constitution ***by always having a second police officer summoned for assistance for the purpose of making the inquiry of a suspect on the basis of an initial police officer's suspicion.*** At no time would the government have to establish any articulable facts, thus completely emasculating the protections against illegal searches and seizures.

Id. at 445.

This Court has similarly recognized the need at a suppression hearing for the testimony of a person with first-hand knowledge of the information giving rise to reasonable suspicion. In ***Commonwealth v. Cotton***, 740 A.2d 258 (Pa. Super. 1999), an officer saw Cotton ignore a stop sign, pulled the car over, and ran Cotton's name through the N.C.I.C.[10] database which showed Cotton had outstanding arrest warrants. During a search incident to arrest, the officer recovered a loaded semiautomatic pistol. ***See id***. at 259-60. Although the Commonwealth did not produce the arrest warrant, this Court affirmed the trial court's denial of suppression. It distinguished the case from ***Queen*** noting: 1) Pennsylvania courts have long held information contained in N.C.I.C. is inherently reliable and is sufficient to provide probable cause; and 2) the testifying officer ***personally*** ran Cotton's name through N.C.I.C., had first-hand knowledge of the results, and then ascertained the validity of the warrants. ***See id***. at 264-65.[11]

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[10] National Crime Information Center.

[11] ***Commonwealth v. Bumbarger***, 231 A.3d 10 (Pa. Super. 2020), also involved this Court's recognition N.C.I.C. reports are reliable. In that case, a trooper saw Bumbarger, whom he knew, driving a car, and confirmed through N.C.I.C. there was an outstanding warrant for Bumbarger's arrest; the officer arrested Bumbarger and recovered drugs and a firearm. ***See id***. at 15. In affirming the trial court's denial of Bumbarger's motion to suppress, this Court noted the inherent reliability of N.C.I.C., the trooper's previous familiarity with both Bumbarger and his vehicle and the testifying trooper's confirmation through N.C.I.C. of his belief that there was a warrant for Bumbarger's arrest. ***See id***. at 16.

In ***Murray***, this Court affirmed the denial of suppression where the Commonwealth presented a physical copy of the warrant issued on the day of Murray's arrest, in addition to the arresting officer's testimony that he had been told of the warrant's existence by a non-testifying officer. ***See Murray***, 2019 WL 6840599, at *1. The Court found the trial court had not relied solely on a detective's statement about the warrant or the hearsay in the warrant. Of significance to this case, the Court in ***Murray noted*** "[W]e do not suggest by our decision today that we would reach the same conclusion ***had the Commonwealth failed to produce a warrant at the suppression hearing***.. . . ***Id***. at *3 n.4 (emphasis added).

Finally, in ***Heidelberg***, a police corporal observed Heidelberg, whom he knew from previous encounters, sitting in his car, contacted dispatch to see if there were any outstanding warrants for Heidelberg and learned there were. The Commonwealth did not produce the warrant at the suppression hearing, only the testimony of the corporal. ***See Heidelberg***, 267 A.3d at 499. In upholding the denial of suppression, this Court found immaterial the distinction between a police officer personally checking N.C.I.C. on his computer for an arrest warrant and asking a dispatcher to conduct the identical check. ***See id***. at 501. This Court concluded police dispatch was a reliable source, and noted the testifying officer had received, first-hand, the information that open warrants existed. Finally, we also cited the footnote in ***Murray*** quoted above, declining to suggest what the suppression result would

be in a case where the Commonwealth fails to produce the warrant and the testimony of a person with first-hand knowledge of the arrest warrant. ***See id***. at 502.

Here, the Commonwealth failed to produce the physical arrest warrant, and Sergeant Nauman could not testify to first-hand knowledge of the arrest warrant. Sergeant Nauman testified that he did not believe he saw the warrant, he only testified he "believed" there was an outstanding warrant for Easter for driving with a suspended license based on Sergeant Farren's representations, ***see*** N.T., 11/2/22, at 11, and further "believed" Sergeant Farren "wrote the original citation." ***Id***. at 10-11. Sergeant Nauman admitted he had not personally seen the warrant but believed Sergeant Farren had and "believed" Sergeant Farren had looked it up on MISSILE. ***See id***. at 17. Thus, Nauman had no first-hand knowledge of the warrant and could not confirm direct knowledge of its existence or validity.

Thus, unlike in ***Murray***, the suppression court here ***solely*** relied on Sergeant Nauman's testimony about his belief about Sergeant Farren's conduct in determining that the warrant existed. It has been settled law in Pennsylvania for over thirty years that there is no good-faith exception to the exclusionary rule. ***See Edmunds***, 585 A.2d at 905-06. Sergeant Nauman's belief in Sergeant Farren's statements is not a substitute for a copy of the warrant or testimony from Sergeant Farren or some other individual who had direct knowledge of the warrant's existence.

The suppression court's assertion ***Heidelberg*** and ***Cotton*** support its decision, ***see*** Suppression Court Opinion, 2/8/24, at 9, is mistaken. The court does not point to any cases where this Court or our Supreme Court has held the MISSILE system, which deletes arrest warrants as soon as they are executed, is inherently reliable. Further, the court disregards the Supreme Court's holding in ***Queen*** that communication between police officers is not sufficient to demonstrate probable cause where the officer with first-hand knowledge does not testify and the other officer is unable to offer the basis for the non-testifying officer's suspicions. ***See Queen***, 639 A.2d at 445-46. As we explained in ***Cotton***, the arrest in ***Queen*** was a Constitutional infringement because the arresting officer did not have personal knowledge of the facts that constituted probable cause only his reliance on statements made by a non-testifying colleague. ***See Cotton***, 740 A.2d at 265. By denying suppression in reliance on the testimony of an officer with no direct knowledge of the facts and circumstances, who testified "on the basis of an initial police officer's suspicion," the suppression court allowed "the government to bypass the protections of the Fourth Amendment and Article I, Section 8, of the Pennsylvania Constitution" and "emasculat[ed] the protections against illegal searches and seizures." ***Queen***, 639 A.2d at 445.

Heidelberg, ***Bumbarger***, ***Cotton***, and ***Murray*** are distinguishable. In those cases, the Commonwealth either produced a physical copy of the warrant or testimony of a police officer who ***personally verified*** the existence

of the warrant. ***See Heidelberg***, 267 A.3d at 496; ***Bumbarger***, 231 A.3d at 16; ***Cotton***, 740 A.2d at 264-65; ***Murray***, 2019 WL 6840599, at *3. The Commonwealth in the instant matter provided neither at the suppression hearing.

Under the precedent discussed above, the suppression court erred when it held the Commonwealth proved the existence of the warrant without evidence of the warrant itself or the testimony of an officer with no personal knowledge of the warrant's existence. ***See Queen***, ***supra***; ***Cotton***, ***supra***. We therefore reverse the suppression court's determination that probable cause existed for Easter's arrest.[12]

Having found that the suppression court committed an error of law, we must next decide whether the items seized from Easter's person, residence, and vehicle are fruit of the poisonous tree.[13] As noted above, the exclusionary rule bars the admission of "any fruits" of an unconstitutional search or seizure.

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[12] The suppression court ignores the record deficiencies and focuses on its credibility finding with respect to Sergeant Nauman, arguing its decision cannot be overturned on appeal. ***See*** Suppression Court Opinion, 2/8/24, at 6-7. We are not making a credibility determination here; we respect the court's credibility determination. Officer Nauman's credibility aside, the fact remains that factually he still could not provide the first-hand knowledge and facts necessary to prove the existence or validity of the warrant or a physical copy of the arrest warrant. One or the other was necessary to show probable cause to arrest Easter.

[13] In its brief, the Commonwealth argues only that the arrest was legal. ***See*** Commonwealth's Brief, at 10-13. It does not address the issue of whether there was an independent basis upon which to admit the physical evidence. ***See id***.

See Shabezz, 166 A.3d at 289; ***Heidelberg***, 267 A.3d at 499. The Commonwealth bears the burden to establish the evidence found in an unconstitutional search was not the fruit of an illegal seizure. ***See Commonwealth v. Wimbush***, 750 A.2d 807, 814 n.7 (Pa. 2000).

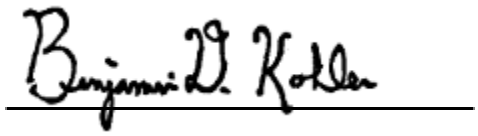
Even had it attempted to do so, the Commonwealth would fall short. The police came to Easter's home solely because of the unproved arrest warrant, the search of his person was made incident to arrest, and the basis for obtaining the search warrant for his vehicle and residence was the drugs and money uncovered on his person during the arrest. ***See*** N.T., 11/2/22, at 10-11; Search Warrant Affidavit of Probable Cause, 3/14/19, at 1 (unnumbered). Thus, the evidence obtained from the search incident to arrest of Easter, his residence, and his vehicle flows from the arrest. ***See Shabezz***, 166 A.3d at 289. Accordingly, we must reverse the denial of suppression and vacate the judgment of sentence.

Judgment of sentence vacated. Suppression order reversed. Case remanded for proceedings consistent with this opinion. Jurisdiction relinquished.

President Judge Emeritus Panella joins this decision.

President Judge Emeritus Stevens files a dissenting opinion.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

Date: 01/02/2025