

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	
v.	:	No. CR 910-2018
	:	
MARY MCCULLOUGH,	:	
Defendant	:	

Cynthia A. Dyrda-Hatton, Esq.	Counsel for Commonwealth Assistant District Attorney
Eric Raynor, Esq.	Counsel for Defendant

MEMORANDUM OPINION AND ORDER

Matika, J. - June 16, 2020

I. INTRODUCTION.

This Memorandum Opinion addresses the May 30, 2019 "Motion to Suppress Physical Evidence," (the "Suppression Motion") filed by Defendant Mary McCullough ("Ms. McCullough" or "Defendant").

As shall be delineated in detail herein, Defendant seeks to suppress as unconstitutional certain items seized and utilized as the basis for the prosecution subsequent to the vehicle stop in this matter.

In accordance with the Order that follows this Memorandum Opinion, the Suppression Motion shall be **DENIED**.

II. FACTUAL AND PROCEDURAL BACKGROUND.

A. The Underlying Charges.

Defendant has been charged with:

- Prohibited Acts [under The Controlled Substance, Drug, Device and Cosmetic Act] [Count 1] [Felony] (35 Pa.C.S.A. §780-113(a)(30)) ("...manufacture, delivery, or possession with intent to manufacture or deliver, a controlled substance...");
- Prohibited Acts [under The Controlled Substance, Drug, Device and Cosmetic Act] [Count 2] [Misdemeanor] (35 Pa.C.S.A. §780-113(a)(16)) ("...[k]nowingly or intentionally possessing a controlled or counterfeit substance..."); and
- Prohibited Acts [under The Controlled Substance, Drug, Device and Cosmetic Act] [Count 3] [Misdemeanor] (35 Pa.C.S.A. §780-113(a)(31)(i)) ("...possession of a small amount of [marijuana] only for personal use...").

B. Factual Background.

On June 25, 2018 Pennsylvania State Police Trooper Thomas Fleisher ("Trooper Fleisher"), operating a marked State Police Unit, patrolled the northbound Northeast Extension of the Pennsylvania Turnpike, Interstate 476, in the vicinity of Exit 95, the Pocono Exit to Interstate 80.¹ While so doing, he observed a blue Mercury sedan (the "Mercury") traveling in the right-hand

¹ The Court gleans the factual background herein set forth from the testimony given at the December 10, 2019 suppression hearing (the "December 10, 2019 Suppression Hearing") in this matter.

lane, in heavy traffic, traveling at approximately seventy miles per hour, and trailing immediately behind a tractor trailer by a distance of one car length. The Pennsylvania State Police Mobile Video Recording ("MVR") demonstrates the June 25, 2018 weather at time of the events herein described to be sunny, dry, and with overhead clouds.²

Trooper Fleisher followed the Mercury onto the Exit 95 ramp and into a cash lane of the Exit 95 toll plaza; he observed numerous items hanging from the rear-view mirror, including three air fresheners, a bracelet, a lanyard, and an identification card, all in violation of 75 Pa.C.S.A. §4524(c).³

Trooper Fleisher thereafter activated his emergency lights and initiated a vehicle stop within the Exit 95 interchange and prior to the intersection with Pennsylvania State Route 940. He had no prior information pertaining to Defendant prior to this stop.

² See MVR, Suppression Hearing, Commonwealth's Exhibit 2.

³ See 75 Pa.C.S.A. §4524(c) ["Windshield Obstructions and Wipers"] ("**(c) Other obstruction.** -- No person shall drive any motor vehicle with any object or material hung from the inside rearview mirror or otherwise hung, placed or attached in such a position as to materially obstruct, obscure or impair the driver's vision through the front windshield or any manner as to constitute a safety hazard."). Trooper Fleisher testified at the Suppression Hearing as to the legal nature of the items hanging from the Mercury's rear-view mirror; he further testified that no particular number of items hanging from a rear-view mirror would be per se illegal and that the items in this matter obstructed the view of the driver.

Trooper Fleisher approached the passenger's side of the Mercury and asked Defendant for her license and registration. These documents identified Defendant. As Trooper Fleisher spoke with Defendant, he smelled the odor of marijuana emanating from the Mercury. Upon inquiry from Trooper Fleisher, Defendant confirmed that she had been smoking marijuana in the vehicle earlier. Despite smelling the odor of marijuana while speaking with Defendant, Trooper Fleisher did not at that time observe marijuana in plain view within the Mercury's interior. Defendant volunteered to check and retrieve any remaining marijuana in the Mercury.

Once informed by Defendant that she had smoked marijuana in the Mercury and that she would willingly surrender any remaining marijuana, Trooper Fleisher returned to his State Police Unit and ran a record check of on the Mercury and a National Crime Information Center ("NCIC") criminal background check on Defendant. These checks revealed that a third party owned the Mercury and that Defendant had a prior weapons arrest from 2012.

After performing the NCIC and vehicle checks, Trooper Fleisher ordered Defendant out of the Mercury and informed her that based upon the odor of marijuana he would perform a probable cause search of her vehicle. Prior to conducting the search, Trooper Fleisher did not observe any marijuana, contraband,

firearms, drug paraphernalia, baggies of marijuana, or other narcotics within the Mercury. Trooper Fleisher did not have any prior information that either Defendant or the Mercury had any connection to narcotics trafficking. Defendant advised Trooper Fleisher immediately prior to his commencement of his search of the presence of burnt marijuana cigarettes within the interior of the Mercury.

In addition to the odor of marijuana, Trooper Fleisher, based on his extensive experience in law enforcement and training in highway drug and crime interdiction, concluded that numerous indicators existed to support probable cause for a search of the Mercury. These include the third party ownership of the Mercury, the number of air fresheners and items hanging from the rear-view mirror of the Mercury, Defendant's 2012 arrest for firearms violations, Defendant's travel route from the Philadelphia area to Williamsport, Defendant's female gender and the degree to which drug dealers exploit females, and Defendant's admission to possessing within the Mercury a small amount of marijuana.

Trooper Fleisher's search of the interior of the Mercury revealed within the middle console a marijuana roach in the ash tray and a marijuana blunt within a cigarette pack.

Trooper Fleisher then conducted a search of the trunk which revealed the presence of a red and white plastic bag that contained

two packages wrapped in brown tape, each containing one pound of methamphetamine, along with a small, clear Ziploc bag containing twenty grams of fentanyl.

After recovering the alleged narcotics, Trooper Fleisher placed Defendant under arrest. Trooper Fleisher mirandized Defendant, after which Defendant waived her rights to counsel and to remain silent. Defendant then told Trooper Fleisher that she did not know anything about the alleged narcotics or how they came to be placed in the Mercury.

C. Procedural Background: The Charges Filed and the Instant Motion.

Based upon the foregoing, the Commonwealth charged Defendant with the above-delineated charges.

Defendant, in her January 22, 2020 "Brief in Support of Motion to Suppress Physical Evidence" ("Brief in Support of Suppression Motion") characterized the issues raised for this Court's consideration thusly:

"1. Whether Defendant was subjected to an unlawful traffic stop by Trooper Fleisher...

2. Whether Trooper Fleisher conducted an unconstitutional and, therefore, illegal warrant-less (sic) search without probable cause..."

See Brief in Support of Suppression Motion at 8 (emphasis added).⁴

III. DISCUSSION.

A. The Commonwealth's Burden Applicable to Suppression of Evidence Motions.

Rule 581(H) of the Pennsylvania Rules of Criminal Procedure ("Rule 581(H)") provides in pertinent part that "[t]he

⁴ Because of Defendant's abandonment of the following contentions during briefing of the instant motion and the lack of evidence to support these claims, the Court need not address Defendant's sub-arguments that:

"5. ...Trooper Fleisher's stated reason for initiating the traffic stop was a trumped up pretext and Defendant was a victim of classic racial profiling, where Trooper Fleisher detained Defendant because she was an African-American from the Philadelphia Metropolitan area, which would have been evident upon a routine check of her license plate, traveling alone on the Northeast Extension.

6. Trooper Fleisher's observations of the items hanging off Defendant's rear view mirror occurred after he seized Defendant's vehicle without reasonable suspicion or probable cause, and is therefore, the product of an unconstitutional search and seizure under the Fourth Amendment to the United States Constitution and Article 1, Section 8 of the Pennsylvania State Constitution, rendering the contraband inadmissible fruit of the poisonous tree."

See Suppression Motion at ¶¶5-6.

Similarly, the Court need not address Defendant's sub-argument that:

"The alleged moving violations Trooper Fleisher cited as the reasons for the stop are clearly a pre-text to distract from the true reasons he stopped her, which he testified on the record included that she was a female traveling northbound to Williamsport from Philadelphia."

See Brief in Support of Suppression Motion at 17.

Commonwealth shall have the burden of going forward with the evidence and of establishing that the challenged evidence was not obtained in violation of defendant's rights." See Pa.R.Crim.P. 581(H). With respect to all motions to suppress, the Commonwealth bears the burden of production. See Pa.R.Crim.P. 581(H), Comment citing *Commonwealth ex rel. Butler v. Rundle*, 239 A.2d 426 (Pa. 1968). The Commonwealth also bears the burden of persuasion. See *Id.* citing *Miranda v. Arizona*, 384 U.S. 436, 479, 86 S.Ct. 1602, 1630 (1966). The Commonwealth must satisfy its burden of proof in a suppression hearing by a preponderance of the evidence. See *Id.* citing *Commonwealth ex rel. Butler v. Rundle*, *supra*.

B. Constitutionality of the Vehicle Stop.

1. Standards Governing Vehicle Stops.

In a motion to suppress evidence, the Commonwealth bears the burden to establish that it did not obtain the evidence in question in violation of the defendant's rights. *Commonwealth v. Ryan*, 407 A.2d 1345, 1348 (Pa.Super. 1979). "The Fourth Amendment of the United States Constitution and Article I, Section VIII of the Pennsylvania Constitution guarantee individuals freedom from unreasonable searches and seizures." *Commonwealth v. El*, 933 A.2d 657, 660 (Pa.Super. 2007).

When analyzing the propriety of a vehicle stop, the Court must initially address whether the context of the stop necessitates

that a police officer possess probable cause to effectuate the vehicle stop or if mere reasonable suspicion will suffice.⁵

More specifically, when a police officer believes a violation of the Motor Vehicle Code has occurred:

"If reasonable suspicion exists, but a stop cannot further the purpose behind allowing the stop, the "investigative" goal as it were, it cannot be a valid stop. Put another way, if the officer has a legitimate expectation of investigatory results, the existence of reasonable suspicion will allow the stop - if the officer has no such expectations of learning additional relevant information concerning the suspected criminal activity, the stop cannot be constitutionally permitted on the basis of mere suspicion."

See *Commonwealth v. Chase*, 960 A.2d 108, 115 (Pa. 2008).⁶

⁵ "[T]o establish grounds for reasonable suspicion, the officer must articulate specific observations which, in conjunction with reasonable inferences derived from those observations, led him reasonably to conclude, in light of his experience, that criminal activity was afoot and that the person he stopped was involved in that activity. The question of whether reasonable suspicion existed at the time [the officer conducted the stop] must be answered by examining the totality of the circumstances to determine whether the officer who initiated the stop had a particularized and objective basis for suspecting the individual stopped. Therefore, the fundamental inquiry of a reviewing court must be an objective one, namely, whether the facts available to the officer at the moment of the [stop] warrant a [person] of reasonable caution in the belief that the action taken was appropriate." See *Commonwealth v. Basinger*, 982 A.2d 121, 125 (Pa.Super. 2009) (internal citations and quotation marks omitted; alterations in original).

⁶ See also *Commonwealth v. Mack*, 953 A.2d 587, 589 (Pa.Super. 2008) (internal citations omitted) (Court notes that, "As provided for by statute [75 Pa.C.S.A. §6308(b)], anytime a police officer has "reasonable suspicion" to believe a violation of the Motor Vehicle Code is occurring or has occurred, the officer may initiate an investigatory vehicle stop," that "[i]ncident to this stop, an officer may check the vehicle's registration, the driver's license and obtain any information necessary to enforce provisions of the motor vehicle code," and that "[a]dditionally, police may request both drivers and their passengers

"For a stop based on the observed violation of the Vehicle Code or otherwise non-investigable offense, an officer must have probable cause to make a constitutional vehicle stop." See *Commonwealth v. Calabrese*, 184 A.3d 164, 166 (Pa. 2018) (emphasis added) citing *Commonwealth v. Harris*, 176 A.3d 1009, 1019 (Pa.Super. 2017). In such situations, "[i]f the alleged basis of a vehicular stop is to permit a determination whether there has been compliance with the Motor Vehicle Code of this Commonwealth, it is incumbent (sic) upon the officer to articulate specific facts possessed by him, at the time of the questioned stop, **which would provide probable cause to believe that the vehicle or the driver was in violation of some provision of the Code.**" See *Commonwealth v. Gleason*, 785 A.2d 983, 989 (Pa. 2001) (citations omitted) (emphasis in original).

Accordingly, in the instant case, the Commonwealth must demonstrate that it possessed probable cause by a preponderance of the evidence.

to alight from a lawfully stopped car as a matter of right.""). In this circumstance, the constitutional reasonableness of a traffic stop does not depend upon the actual motivations of the officer(s) involved, so long as specific facts have been articulated that would have given rise to a reasonable suspicion that the operator had committed a vehicle code violation. See *Commonwealth v. Chase* at 120.

2. Probable Cause for Following Too Closely.

The Pennsylvania Supreme Court has defined probable cause as follows:

"Probable cause is made out when the facts and circumstances which are within the knowledge of the officer at the time of the stop, and of which he has reasonably trustworthy information, are sufficient to warrant a man of reasonable caution in the belief that the suspect has committed or is committing a crime. The question we ask is not whether the officer's belief was correct or more likely true than false. Rather, we require only a **probability**, and not a prima facie showing, of criminal activity. In determining whether probable cause exists, we apply a totality of circumstances test."

See *Commonwealth v. Calabrese*, 184 A.3d at 166-167 citing *Commonwealth v. Martin*, 101 A.3d 706, 721 (Pa. 2014) (internal citation omitted) (emphasis in original).

Section 3310(a) of the Motor Vehicle Code, the violation of which authorities did not ultimately charge Defendant, provides:

"The driver of a motor vehicle shall not follow another vehicle more **closely** than is **reasonable and prudent**, having due regard for the **speed** of the vehicles and the **traffic** upon and the **conditions** of the highway."

See 75 Pa.C.S.A. §3310(a) (emphasis added).⁷ [A] police officer's

⁷ "[A] prosecutor... has the duty to decide what charges should be brought against a particular offender and then to prosecute the offender to that law" and "[a] prosecutor is vested with considerable discretion in deciding who will or will not be charged and what they will be charged with." See *Commonwealth v. Amundsen*, 611 A.2d 309, 311 (Pa.Super. 1992). The United States Supreme Court has acknowledged that a prosecutor enjoys considerable discretion in

observations, without more, are legally sufficient to support a vehicle stop for a violation of Section 3310(a). See *Commonwealth v. Calabrese*, 184 A.3d at 167.

Over the past approximately two decades, the Superior Court, when evaluating potential violations of Section 3310(a), has placed unmistakable analytical primacy upon the distance between subject vehicles. Hence, in *Commonwealth v. Phinn*, where police observed the defendant "traveling less than a motorcycle-length distance behind a tractor-trailer on Interstate 80 where the vehicles' respective rates of speed were at or near the speed limit for that highway," the Superior Court, with no discussion of traffic or conditions, and a discussion of speed confined solely to noting that the subject vehicles proceeded at or near the speed limit, unequivocally pronounced that "the evidence clearly bespeaks a hazard within the contemplation of Section 3310(a)" and found the initial traffic stop to be lawful. See *Commonwealth v. Phinn*, 761 A.2d 176, 180 (Pa.Super. 2000).⁸

deciding what charges to bring against a defendant. See *United States v. Batchelder*, 442 U.S. 114, 99 S.Ct. 2198, 60 L.Ed.2d 755 (1979).

⁸ As the Superior Court explicitly acknowledged, its decision in *Commonwealth v. Phinn*, with its overarching emphasis upon vehicle distance, represented a divergence from the more multi-faceted Section 3310(a) analysis of the style which this Court, per Lavelle, P.J., had earlier undertaken in *Commonwealth v. Samuel*, 23 Pa. D&C 4th 29, 1995 WL 520694 (C.C.P. Carbon 1995), *aff'd* 671 A.2d 772 (Pa.Super. 1995) (table), a published decision of this Court that had been affirmed by the Superior Court in an unpublished memorandum. See *Commonwealth v. Phinn* 761 A.2d at 180. In *Commonwealth v. Samuel*, this Court found

One year after deciding *Commonwealth v. Phinn*, the Superior Court, in *Commonwealth v. Bybel*, analyzed Section 3310(a) when presented with a factual context in which a "Honda coupe follow[ed] two to three feet behind a tractor trailer in the passing lane" of Interstate 80 when "both vehicles were traveling the posted sixty-five mile per hour speed limit in good driving conditions..." See *Commonwealth v. Bybel*, 779 A.2d 523, 524 (Pa.Super. 2001). In *Bybel*, the Superior Court confronted a solitary issue: "**Whether evidence of the proximity of Appellant's vehicle to the tractor, alone, was sufficient to support a conviction under Section 3301(a)?**" See *Id.* at 524 (emphasis added).

In resolving this issue, the Court determined that, as with the *Phinn* holding, "the evidence clearly bespeaks a hazard within the contemplation of Section 3310(a)" and that "[t]he same conclusion holds here, for the Commonwealth presented evidence that Appellant not only tailgated the tractor trailer, but also compromised safety on the Interstate in the process." See *Id.* at

law enforcement testimony on behalf of the Commonwealth that related solely to observed distance between vehicles, in the absence of supporting evidence of "lack of control by the driver of defendants' vehicle," "traffic conditions," "the weather," and "conditions of the highway," to be inadequate to establish either probable cause - or even reasonable suspicion - for a vehicle stop. See *Commonwealth v. Samuel*, 1995 WL 520694 at *3 ("We hold that a suspected violation of section 3310(a) of the Vehicle Code requires more articulation than just 'traveling less than one car length' from another vehicle on the highway...").

524-525. The Court particularly emphasized relative vehicle proximity in noting that the appellant in that case "**could not have avoided a collision if the tractor trailer had cause to brake suddenly.**" See *Id.* at 525 (emphasis added).

Most recently, the Superior Court, in *Commonwealth v. Calabrese*, again emphasizing vehicle proximity, found probable cause to support a vehicle stop based upon a purported violation of 75 Pa.C.S.A. §3310(a). In that case, the Superior Court confronted a factual narrative in which the offending vehicle traveled "at a high rate of speed," "got on the tail of another vehicle," and "was so close in proximity that the officer thought there as going to be an accident." See *Commonwealth v. Calabrese*, 184 A.3d at 167 (internal citations omitted).

In the instant matter, the Commonwealth has provided sufficient testimonial facts and evidence with respect to the distance between the Defendant's vehicle and the tractor-trailer that it purportedly followed too closely. Trooper Fleisher observed the Mercury to be traveling north on the Northeast Extension at approximately seventy miles per hour at a distance of one car length behind a tractor trailer. The MVR confirms Trooper Flesiher's observation.

Given the foregoing, Trooper Fleisher initiated the subject vehicle stop. Based upon review of the record evidence and the

applicable law, the Court finds Trooper Fleisher's testimony credible and the Commonwealth's evidence to be sufficient to establish probable cause for Trooper Fleisher to believe that Defendant in this matter followed another vehicle more closely than is reasonable and prudent and for Trooper Fleisher to conduct a vehicle stop.

For the reasons set forth in this section, Defendant's suppression motion based upon an improper vehicle stop shall be denied.

3. Probable Cause for Vehicle Search.

"The Fourth Amendment, by its text, has a strong preference for searches conducted pursuant to warrants." See *Commonwealth v. Kemp*, 195 A.3d 269, 275 (Pa.Super. 2018) (citation omitted). In *Commonwealth v. Gary*, the Pennsylvania Supreme Court adopted the federal exception to the warrant requirement, holding:

"Therefore, we hold that, in this Commonwealth, the law governing warrantless searches of motor vehicles is coextensive with federal law under the Fourth Amendment. The prerequisite for a warrantless search of a motor vehicle is probable cause to search; no exigency beyond the inherent mobility of a motor vehicle is required. The consistent and firm requirement for probable cause is a strong and sufficient safeguard against illegal searches of motor vehicles, whose inherent mobility and the endless factual circumstances that such mobility engenders constitute a *per se* exigency allowing police officers to make the determination of probable cause in the first instance in the field."

See *Commonwealth v. Gary*, 91 A.3d 102, 138 (Pa. 2014).

The Superior Court has noted that:

"Probable cause does not demand the certainty we associate with formal trials. Rather, a determination of probable cause required only that the totality of the circumstances demonstrates a fair probability that contraband or evidence of a crime will be found in a particular place."

See *Commonwealth v. Manuel* 194 A.3d 1076, 1081 (Pa.Super. 2018) (en banc) quoting *Commonwealth v. Otterson*, 947 A.2d 1239, 1244 (Pa.Super. 2008).

The United States Supreme Court has held that an odor may be sufficient to establish probable cause. See *Commonwealth v. Stoner*, 344 A.2d 633, 635 (Pa.Super. 1975). In *Stoner*, the Superior Court "...analogized a 'plain smell' concept with that of plain view and held that were an officer is justified in being where he is, his detection of the odor of marijuana is sufficient to establish probable cause." See *Commonwealth v. Stainbrook*, 471 A.2d 1223, 1225 (Pa.Super. 1984).

With respect to probable cause for searches within different compartments of a vehicle, the Superior Court, in *Commonwealth v. Scott*, has stated that:

"Regarding the search of an automobile, '[t]he scope of a warrantless search of an automobile... is not defined by the nature of the container in which the contraband is secreted.' [*United States v. Ross*, 456 U.S. [798] at 824, 102 S.Ct. 2157 [1982]]. 'Rather, it is defined by the object of the search and the places in which there is probable cause to believe that it may be found.' *Id.* 'It follows from the foregoing that if a police officer possesses probable cause to search a motor vehicle, he may then conduct a search of

the trunk compartment without seeking to obtain probable cause relative to the particularized area.' *Commonwealth v. Bailey* 376 Pa.Super. 291, 545 A.2d 942, 944 (1988)."

See *Commonwealth v. Scott*, 210 A.3d 359, 364 (Pa.Super. 2019).

Notwithstanding the cited language therein from *Commonwealth v. Bailey* that suggests that probable cause to search any portion of a vehicle supports a search of the trunk of the same vehicle - i.e., the "It follows from the foregoing that if a police officer possesses probable cause to search a motor vehicle, he may then conduct a search of the trunk compartment without seeking to obtain probable cause relative to the particularized area[]" pronouncement - the Superior Court in *Commonwealth v. Scott* nonetheless requires a particularized showing of probable cause relevant to the trunk area that exists separate and apart from the vehicle cabin area. See *Commonwealth v. Scott*, 210 A.3d at 364-365.⁹ The Superior Court indicated that a showing of additional

⁹ A careful reading of *United States v. Ross* indicates that the Superior Court's enunciated requirement in *Commonwealth v. Scott* of a particularized showing of area-specific probable cause to support the search of a vehicle cabin or a vehicle trunk more accurately interprets *United States v. Ross* than does the Superior Court's opinion in *Commonwealth v. Bailey* that seemingly conflates an area-specific distinction between vehicle cabin and vehicle trunk. Rather than suggesting that "[i]t follows from the foregoing that if a police officer possesses probable cause to search a motor vehicle, he may then conduct a search of the trunk compartment without seeking to obtain probable cause relative to the particularized area[,]" the United States Supreme Court specifically preserved the necessity of area-specific probable cause. See *United States v. Ross*, 456 U.S. at 824

specific facts such as specialized trooper training to support a belief that contraband might be located in a trunk and trooper expertise could provide such probable cause. See *Commonwealth v. Scott*, 210 A.3d at 365.

In the instant matter, Trooper Fleisher, based on his extensive experience in law enforcement and training in highway drug and crime interdiction, concluded that numerous indicators existed to support probable cause for a search of the Mercury cabin and trunk. These include the third party ownership of the Mercury, the number of air fresheners and items hanging from the rear-view mirror of the Mercury, Defendant's 2012 arrest for firearms violations, Defendant's travel route from the Philadelphia area to Williamsport, Defendant's female gender and the degree to which drug dealers exploit females, and Defendant's admission to possessing within the Mercury a small amount of marijuana.

For the reasons set forth in this section, Defendant's suppression motion based upon an improper vehicle stop shall be denied.

IV. CONCLUSION.

For the foregoing reasons, the Suppression Motion shall be
DENIED.

BY THE COURT:



Joseph J. Matika, J.

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA,

v.

MARY MCCULLOUGH,
Defendant

:
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: No. CR 910-2018
:
:
:

Cynthia A. Dyrda-Hatton, Esq.

Counsel for Commonwealth
Assistant District Attorney

Eric Raynor, Esq.

Counsel for Defendant

ORDER OF COURT

AND NOW, this 16th day of June, 2020, upon consideration of

- the May 30, 2019 "Motion to Suppress Physical Evidence"
filed by Defendant Mary McCullough,

- the January 22, 2020 "Brief in Support of Motion to
Suppress Physical Evidence" filed by Defendant Mary
McCullough,

- the January 29, 2020 "Brief Contra Defendant's Motion
to Suppress Physical Evidence" filed by the
Commonwealth,

after the December 10, 2019 hearing thereon, and upon comprehensive
review of this matter, it is hereby **ORDERED and DECREED** that the
Suppression Motion filed by Defendant Mary McCullough is **DENIED**.

BY THE COURT:



Joseph J. Matika, J.