

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

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	No. 469-2021
	:	
LUIS SIERRA,	:	
Defendant	:	

Michael S. Greek, Esq.

Counsel for Commonwealth  
District Attorney

Lonny Fish, Esq.

Counsel for Defendant

MEMORANDUM OPINION

Matika, J - September 25, 2024

This Memorandum Opinion addresses the March 15, 2024 "Motion to Dismiss" ("Defendant's Motion to Dismiss") filed by Defendant Luis Sierra ("Sierra" or "Defendant") on the basis that the Court lacks subject matter jurisdiction.

Having thoroughly examined this matter, we are constrained to **GRANT** Defendant's Motion.

**FACTUAL AND PROCEDURAL BACKGROUND**

On or about December 20, 1976, the human remains of an unidentified female and her unborn fetus were discovered in a wooded area near the Lehigh River, in East Side Borough, Carbon County, Pennsylvania. The female was first identified as "Ms. X" and later came to be called "Beth Doe". Over the next forty-five (45) years law enforcement attempted to identify "Beth Doe" through

various means. In 2021, through the use of genealogical testing, a possible living relative was discovered, that being Luis Colon Jr.

Law enforcement contacted Luis Colon Jr. to inquire about the potential match, when he revealed that his aunt, Evelyn Colon (hereinafter "Victim" or "Evelyn"), went missing in the 1970's. Luis Colon, father of Luis Colon Jr. and brother of Evelyn Colon, stated that his sister was approximately fifteen years old and 8-9 months pregnant at the time of her disappearance in 1976. Mr. Colon also stated that he last saw his sister in Jersey City, New Jersey, where she had been residing with her boyfriend, the father of the unborn child, Defendant Luis Sierra. In January 1977, the Colon family received a letter<sup>1</sup> allegedly from Evelyn claiming that she had moved to Connecticut and given birth to a baby boy, named "Luis Sierra Jr." No missing person report was filed in the forty-five (45) years since Evelyn went missing.

On or about March 31, 2021, Pennsylvania State Police Troopers had contact with the Defendant at his home in New York. The Troopers questioned Defendant for a period of approximately four (4) hours, after which Defendant was subsequently arrested for the murder of Evelyn Colon<sup>2</sup>. On April 28, 2021, a preliminary hearing

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<sup>1</sup> The Colon family is not in possession of this letter.

<sup>2</sup> During this questioning, Defendant maintained his innocence and later claimed that the police coerced him into a false confession.

was held where the charge of Criminal Homicide (18 Pa.C.S.A. §2501) was bound over to the Court of Common Pleas. After several years muddling through the Court system, new evidence came to light when Defendant's former cellmate in the Carbon County Correctional Facility came forward claiming Defendant made statements to him confessing to the homicide.

On or about January 16, 2024, Vincent J. Valentini II (hereinafter "Valentini") sent a letter to the Carbon County District Attorney's Office claiming he was in possession of information regarding the case *sub judice*. On January 26, 2024, law enforcement interviewed Valentini and received information which was summarized in a report written by Trooper Brian V. Noll<sup>3</sup>. Included in the report were statements detailing how Valentini met Defendant at the Carbon County Correctional Facility, how the victim was murdered according to the Defendant and how the victim was removed from the apartment<sup>4</sup>. There were also references to the letter Defendant allegedly sent to the Colon family and other personal information about Defendant. A hearing on the instant motion was held on May 31, 2024. At that hearing, the transcript of the interview with the Defendant, along with the homicide investigation report from Trooper Noll's interview with Valentini

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<sup>3</sup> A full audio recording of the interview was taken, but not admitted into evidence at the hearing on the instant petition

<sup>4</sup> The report does not mention the precise physical location of the apartment where the crime had allegedly taken place.

were admitted into evidence. Additionally, counsel stipulated for purposes of the motion, that the apartment referenced in the police report, the location made known to Valentini by the Defendant where the homicide occurred, was in Jersey City, New Jersey.

Defendant's Motion to Dismiss, filed on March 15, 2024, claims that the Commonwealth will be unable to prove that the homicide was committed within the Commonwealth and thus would lack subject matter jurisdiction. Defendant claims that all evidence and testimony indicate that the homicide occurred in Jersey City, New Jersey and not anywhere within the jurisdictional boundaries of the Commonwealth. Further, the Defendant argues that since the Commonwealth does not have jurisdiction of this case, the Court does not have the authority to transfer it to New Jersey. The Court will address each issue accordingly.

### **LEGAL DISCUSSION**

Controversies arising out of violations of the Commonwealth Criminal Codes are entrusted to the original jurisdiction of the Court of Common Pleas for resolution. See *Commonwealth v. Bethea*, 828 A.2d 1066, 1074 (Pa. 2003). See also 18 Pa.C.S.A. §102. "Jurisdiction of subject matter relates to the competency of a court to hear and determine controversies of the general nature of the matter involved..." See *McGinley v. Scott*, 164 A.2d 424, 427 (Pa. 1960). Jurisdiction is a matter of substantive law. See *Id.* The Commonwealth bears the burden of providing facts sufficient to

establish jurisdiction and may rely upon circumstantial evidence. See *Commonwealth v. Passmore*, 857 A.2d 697, 709 (Pa. Super. 2004).

Issues over jurisdiction may be raised at any time and is fatal at any stage of the proceedings. See *Commonwealth v. Maldonado-Vallespil*, 225 A.3d 159, 161 (Pa. Super. 2019). It is well settled that a judgement or decree rendered by a court which lacks subject matter or personal jurisdiction, is null and void. See *Commonwealth ex rel. Howard v. Howard*, 10 A.2d 779, 781 (Pa. Super. 1940).

I. JURISDICTION UNDER 18 Pa.C.S.A. 102(C)

In cases involving homicide, the Commonwealth may exercise jurisdiction when the body of a homicide victim, including an unborn child, is found within the Commonwealth because it is presumed that the homicide occurred within the Commonwealth. See 18 Pa.C.S.A. §102 (c). This presumption of where the crime occurred is rebuttable and overcome through facts indicating the crime occurred in another jurisdiction. See *Commonwealth v. Field*, 827 A.2d 1231 (Pa. Super. 2003). See also *Commonwealth v. Bradfield*, 508 A.2d 568, 571 (Pa. Super. 1986).

Defendant filed their Motion to Dismiss claiming that the evidence presented rebuts the presumption that the homicide occurred within the Commonwealth, thus the Commonwealth does not have jurisdiction to prosecute this case. The key piece of evidence presented at the hearing was the Homicide Investigation Report from Trooper Noll detailing his interview with Valentini. The

report details Valentini's account of Defendant's statements, including Defendant's admission to Valentini that he killed Evelyn. The report goes on to detail how the victim's body was removed from the apartment without detection. The apartment from where the victim's body was removed could suggest where the homicide occurred, as the Defendant and the victim were allegedly living together at the time of the victim's disappearance. This alone would not be enough to rebut the presumption that the homicide occurred within the Commonwealth, however, at the May 31, 2024 hearing on Defendant's Motion to Dismiss, the parties stipulated that the location of the apartment in question is in Jersey City, New Jersey. When detailing the report to the Court, the District Attorney stated that putting the victim's body in a suitcase was the only way to get her down the stairs of the apartment in Jersey City, New Jersey, without detection. The Court then asked both counsel if this was the physical location where the alleged homicide occurred, which both parties agreed. These stipulated facts, along with the other evidence presented, would be enough to rebut the presumption that the homicide occurred in Carbon County or anywhere else within the Commonwealth.

Having found facts to rebut the presumption that the homicide occurred in Carbon County, this Court cannot exercise jurisdiction to allow the Commonwealth to prosecute this case under 18 Pa.C.S.A. §102(c) in Carbon County. Since the case cannot be prosecuted in

Carbon County under 18 Pa.C.S.A. §102(c), a determination must be made if the case can be prosecuted in another location within the Commonwealth under 18 Pa.C.S.A. §102(a).

## II. JURISDICTION UNDER 18 Pa.C.S.A. 102(a)

Under 18 Pa.C.S.A. §102(a), a person may be convicted under the law of this Commonwealth of an offense committed by their own conduct if either that conduct is an element of an offense or the result which is such an element occurs within this Commonwealth. (Emphasis ours) See 18 Pa.C.S.A. §102(a).

The Supreme Court of Pennsylvania addressed similar issues in *Commonwealth v. Peck*, 242 A.3d 1274 (Pa. 2020). In *Peck*, the Court held that the Commonwealth did have subject matter jurisdiction under 18 Pa.C.S.A. §102(a) to prosecute that Defendant for the charged crime. The charged crime in that case was Drug Delivery Resulting in Death (18 Pa.C.S.A. §2506). That crime has two elements, (1) A defendant intentionally administers, dispenses, delivers, gives, prescribes, sells or distributes any controlled substances and (2) another person dies as a result of using the substance. The Court found that the first element of that crime occurred solely in the State of Maryland, however because the death of the victim occurred within the Commonwealth, the Commonwealth had subject matter jurisdiction to prosecute the case. The Court reasoned "[a]s explained, however, Section 102 only provides a basis for the Commonwealth to exercise jurisdiction to prosecute

crimes that occur in part outside of Pennsylvania." See *Peck*, 242 A.3d at 1285.

In the case *sub judice*, Defendant has been charged with 18 Pa.C.S.A. §2501 Criminal Homicide, "A person is guilty of criminal homicide if he intentionally, knowingly, recklessly or negligently causes the death of another human being". See 18 Pa.C.S.A. §2501 (a). This crime has one conduct element, "causes the death of another human being." Since it has been agreed that the conduct element, i.e. the causing of the death of Evelyn, was committed inside the apartment in Jersey City, New Jersey, the necessary elements of the crime occurred outside of the Commonwealth.

At the Court's instruction, both parties were requested to analyze *Commonwealth v. Gross*, 101 A.3d 28 (Pa. 2014). In *Gross*, the Supreme Court of Pennsylvania found that a Motion to Dismiss was not the appropriate remedy for improper venue and a transfer to the appropriate venue was the appropriate remedy. The crime in that case occurred within two different counties within the Commonwealth. Pa.R.Crim.P. Rule 109 states, "[a] defendant shall not be discharged nor shall a case be dismissed because of a defect in the form or content of a complaint, citation, summons, or warrant, or a defect in the procedure of these rules." See *Gross*, 101 A.3d at 36 (internal citations omitted). However, the case *sub judice* and *Gross* are distinguishable.



Venue can only be proper where jurisdiction already exists. See *Bethea*, 828 A.2d at 1075. Jurisdiction and venue are often used interchangeably, but they are distinct. See *Id.* at 1074. As stated above, jurisdiction is an issue of substantive law, while venue is a predominately procedural issue. See *Id.* Jurisdiction is the power of the court to entertain and adjudicate a matter, while venue is the locality most convenient to entertain and adjudicate a matter. See *Id.* at 1074-75.

Therefore, nowhere in the Commonwealth can jurisdiction be exercised nor venue lie to prosecute a homicide that occurred solely outside the Commonwealth. We now must determine whether this Court has the power to transfer this case to the appropriate jurisdiction.

### III. THE COURT'S AUTHORITY TO TRANSFER THIS CASE TO THE APPROPRIATE JURISDICTION

The Supreme Court's ruling in *Gross* that transferred a case to the appropriate venue as the proper remedy as opposed to dismissing the charges, does not apply here because we lacked jurisdiction in the first instance. Due to lack of jurisdiction, any order or decree of Court transferring this matter to the appropriate jurisdiction, New Jersey, would be considered null and void. Further, we have exhaustively panned other states looking for decisions addressing this same issue and have found none.

**CONCLUSION**

Based on the foregoing, this Court grants Defendant's Motion to Dismiss. Accordingly, the charge of Criminal Homicide, a violation of 18 Pa.C.S.A. §2501, is **DISMISSED**<sup>5</sup>.

BY THE COURT:

  
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Joseph J. Matika, J.

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<sup>5</sup> Notwithstanding this Court's ruling, nothing precludes prosecution in the appropriate jurisdiction should the appropriate law enforcement agencies choose to do so.