

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

2015 DEC -9 AM 9:42

FILED

CARBON COUNTY  
CLERK OF COURTS  
WM. C. MCGRINLEY

COMMONWEALTH OF PENNSYLVANIA :  
: Vs. : No. CR-575-2015  
: JENNIFER RUDELITCH, :  
: Defendant :  
Michael S. Greek, Esquire Counsel for Commonwealth  
Assistant District Attorney  
Angela Stehle, Esquire Counsel for Defendant

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COMMONWEALTH OF PENNSYLVANIA :  
: Vs. : No. CR-581-2015  
: HOLLY KOCH, :  
: Defendant :  
Michael S. Greek, Esquire Counsel for Commonwealth  
Assistant District Attorney  
Adam Weaver, Esquire Counsel for Defendant

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COMMONWEALTH OF PENNSYLVANIA :  
: Vs. : No. CR-584-2015  
: MEGAN ROSE MAGUSCHAK, :  
: Defendant :  
Michael S. Greek, Esquire Counsel for Commonwealth  
Assistant District Attorney  
Edward Olexa, Esquire Counsel for Defendant

MEMORANDUM OPINION

Matika, J. - December 9, 2015

Before the Court are three (3) separate filings by three (3) different Defendants, namely Holly Koch, (hereinafter "Koch"), Megan Maguschak (hereinafter "Maguschak"), and Jennifer

Rudelitch (hereinafter "Rudelitch"), each seeking habeas corpus relief. Each Defendant had initially been charged by the Commonwealth with various drug-related offenses arising out of the smuggling of controlled substances into the Carbon County Correctional Facility by another inmate. By agreement of all parties and for purposes of judicial economy, expediency, and efficiency, hearings on these matters were held together. Since these cases are based on similar fact patterns and arguments, the Court consolidates its decisions on each into this singular opinion. For the reasons stated herein, the Court grants the relief requested by each Defendant.

#### FACTUAL BACKGROUND

On or about February 25, 2015, Carbon County Correctional Facility inmate, Jacqueline Homschek (hereinafter "Homschek") appeared at Magisterial District Judge Casimir Kosciolk's office for purposes of a preliminary hearing. While there, Homschek was allowed to enter the restroom alone and, while in the restroom, she took possession of a quantity of heroin and suboxone allegedly left there by her boyfriend, Dylan Rahmann. After locating the items, and in an attempt to smuggle them back into the Carbon County Correctional Facility, she inserted these controlled substances into her vagina. She was then returned to the Carbon County Correctional Facility later that date. Upon

her return, she shared these substances with her cellmate, Tiffany Scott, and two other inmates, Jennifer Steigerwalt and Shaina Haas. At no time did Homschek supply any heroin or suboxone to Koch, Maguschak, or Rudelitch. In fact, Homschek testified that she had never even spoken to any of these three (3) Defendants about obtaining, having, or using these substances.

Chief Sean Smith of the Nesquehoning Police Department (hereinafter "Chief Smith") testified that he was called to investigate this matter at the correctional facility. During the course of this investigation, he attempted to interview, among others, these three (3) Defendants. In doing so, he learned that each Defendant was previously requested to submit to a urine screen, as per correctional facility protocol. Per Chief Smith's testimony, Holly Koch refused to provide a urine sample and in fact, she invoked her Fifth Amendment right against self-incrimination and refused to provide a statement to Chief Smith. Chief Smith also attempted to interview Rudelitch, but she declined to give a statement as well. Chief Smith learned that Rudelitch did, in fact, submit to a urine test; however, the results indicated a "diluted sample", which amounted to and was considered a negative test by the correctional facility authorities. Chief Smith also testified that Maguschak's lab test showed a negative result for

controlled substances<sup>1</sup>.

Warden Tim Fritz (hereinafter "Warden Fritz") testified that upon learning of Homschek's actions, an investigation was commenced. In the course of the investigation, a number of inmates were interviewed and asked to submit to urine screens. Warden Fritz corroborated Chief Smith's testimony *vis-à-vis* these screenings and these three (3) Defendants. Warden Fritz also testified that a search was conducted of the affected areas of the female units and no controlled substances nor drug paraphernalia were located.

The Commonwealth also called Corrections Officer Bryan Pryce (hereinafter "Pryce"). Pryce's involvement in this situation was limited to an impromptu conversation with Rudelitch during which she supposedly admitted to Pryce that she "did a little heroin." Corrections Officer Judith Shubeck (hereinafter "Shubeck") also testified, stating that in a conversation with Maguschak, Maguschak allegedly admitted she had used part of a strip of suboxone.

Lastly, the Commonwealth called inmate Shaina Haas (hereinafter "Haas"). Haas testified that while she was "in the hole" with Koch, Koch told her that she "refused a urine" and that they "couldn't prove if she took any drugs or anything."

At the close of the testimony and after argument by

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<sup>1</sup> No testimony was given by Chief Smith as to whether or not Maguschak gave a statement or invoked her Fifth Amendment rights.

Counsel, Magisterial District Judge Kosciolk found that the Commonwealth had made out a prima facie case against all three (3) of these Defendants on the possession of a controlled substance/contraband by inmate charge and dismissed the other two (2) counts<sup>2</sup>. However, due to an apparent error or oversight at the Magisterial District Court level, this particular charge was listed as "dismissed" and the charge of possession of drug paraphernalia was "held for court." Thereafter, on July 1, 2015, the Commonwealth, relying upon the erroneous transcript from the Magisterial District Judge, filed identical informations in each of these Defendants' cases, listing the paraphernalia charge and not the possession offense.

On June 10, 2015, July 2, 2015, and July 23, 2015 respectively, Defendants Koch, Maguschak, and Rudelitch filed the instant Habeas Corpus matters. In Koch's motion, she argued that the Commonwealth failed to establish a prima facie case that she ever possessed contraband (controlled substance) or paraphernalia and accordingly, the charges of possession of drug paraphernalia must be dismissed. Similarly, Maguschak argued that the Commonwealth's evidence was grossly insufficient to establish a prima facie case regarding any charge currently pending against her. Lastly, Rudelitch claimed the evidence presented against her could not establish that she ever had

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<sup>2</sup> See Preliminary Hearing Transcript pages 143-144 (P.H. June 4, 2015).

actual possession or control of a controlled substance or paraphernalia. At the hearing held on September 25, 2015, the parties stipulated to Joint Exhibit #1, a copy of the preliminary hearing transcript from June 4, 2015. No other testimony was presented. At this hearing<sup>3</sup>, the Court directed the parties to lodge any legal memos they wished the Court to consider. Each Defendant, in written support of their respective filings, lodged legal memorandums. These matters are now ripe for disposition.

#### LEGAL DISCUSSION

In order to satisfy its burden to establish a prima facie case, the Commonwealth is required to present evidence with regard to each and every element of the charges filed against the defendants and establish sufficient probable cause to believe the Defendants committed these offenses. *Commonwealth v Wojdak* 466 A.2d 991 (Pa. 1983). Such evidence, as presented by the Commonwealth, will be viewed in the light most favorable to the Commonwealth. *Commonwealth v. Keller*, 823 A.2d 1004 (Pa. Super. Ct. 2003). "In determining the presence or absence of a prima facie case, inferences reasonably drawn from the evidence

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<sup>3</sup> Since the informations filed by the Commonwealth erroneously listed a count of possession of drug paraphernalia as the only charge that was bound over by Magisterial District Judge Kosciolk against each Defendant, the Court expected the Commonwealth to seek to amend the information adding to or replacing that count with one (1) count of possession of a controlled substance contraband by inmate (18 Pa. C.S.A. §5123(a.2)). While this would have been permitted under the circumstances, (See *Commonwealth v. Sinclair*, 897 A.2d 1218 (Pa. Super. Ct. 2006)), it was not done.

of record that would support a verdict of guilty are to be given effect, but suspicion and conjecture are not evidence and are unacceptable as such." *Commonwealth v. Packard*, 767 A.2d 1068, 1071 (Pa. Super. Ct. 2001).

In each of the three (3) Defendant's cases, there is nary a scintilla of evidence to meet this burden. The best the Commonwealth presents are statements that Rudelitch and Maguschak each told different Corrections Officers that they used heroin and suboxone, respectively. A lack of testimony regarding baggies or packaging materials warrants this Court's granting of the Defendants' motions and the dismissal<sup>4</sup> of the drug paraphernalia charges, especially in light of the *corpus delicti* rule.

In Pennsylvania, the *corpus delicti* rule requires the Commonwealth to bear the burden of showing that the charges actually occurred before a confession or admission by the Defendant can be introduced and admitted as evidence. *Commonwealth v. Rivera*, 828 A.2d 1094 (Pa. Super. Ct. 2003), appeal denied, 842 A.2d 406 (Pa. 2004). Pennsylvania Law prohibits the admission of an inculpatory statement absent proof

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<sup>4</sup> This Court would be remiss not to address the charge of possession of a controlled substance/contraband by inmate, the offense which was actually bound over, but not listed, on each Defendant's information for the reasons stated earlier. Had this particular charge been placed on the information as it should have been, the Court still believes that the Commonwealth's evidence would have been insufficient to meet its burden *vis-à-vis* *prima facie* cases against each Defendant.



of the corpus delicti or "body of the crime." *Commonwealth v. Taylor*, 831 A.2d 587 (Pa. 2003). "The corpus delecti [sic] is literally the body of the crime; it consists of proof that a loss or injury has occurred as a result of the criminal conduct of someone." *Id.* "The purpose of the corpus delicti rule is to guard against the hasty and unguarded character which is often attached to confessions and admissions and the consequent danger of a conviction where no crime has in fact been committed." *Commonwealth v. Edwards*, 903 A.2d 1139, 1158 (Pa. 2006), quoting *Commonwealth v. Reyes*, 681 A.2d 724, 727 (Pa. 1996), cert denied, 52 U.S. 1174 (1997) ("Reyes 1"). However, the rule is not a "condition precedent to the admissibility of the statements" of an accused. *Taylor, Supra* at 590. "Rather, the rule seeks to ensure that the Commonwealth has established the occurrence of a crime before introducing the statements or confessions of the accused to demonstrate that the accused committed the crime. The rule was adopted to avoid the injustice of a conviction where no crime exists." *Commonwealth v. Herb*, 852 A.2d 356, 363 (Pa. Super. Ct. 2003), quoting *Taylor, Supra* at 590. For purposes of admission, the corpus delicti may be established by a preponderance of evidence, *Reyes, Supra*, at 728, and established with circumstantial evidence. See *Commonwealth v. McMullen*, 745 A.2d 683 (Pa. Super. Ct. 2000).



In the cases sub judice, the circumstantial evidence presented by the Commonwealth falls short of the preponderance burden relative to the paraphernalia charge. While there was testimony by one of the main actors, Jacqueline Homschek, that she was responsible for bringing the heroin and suboxone into the prison, she never distributed it to any of these three (3) Defendants nor ever spoke to them about these substances. As to Defendant Maguschak, the only evidence proffered by the Commonwealth in an attempt to establish any of the crimes charged before introducing the testimony of Corrections Officer, Shubeck, (indicating Maguschak admitted to taking suboxone) was a negative drug screen. Turning to Defendant Rudelitch, the admissible evidence to establish the crimes charged against her before introducing the testimony of Correctional Officer Pryce (indicating Rudelitch admitted to using heroin) was a diluted, or negative drug screen. This evidence, relative to these two Defendants, is insufficient to meet the preponderance of the evidence burden required of the Commonwealth prior to the introduction of the statements of the respective Corrections Officers. Therefore, those statements cannot be considered. Accordingly, without those statements, the Commonwealth could not establish a prima facie case against either Rudelitch or Maguschak on neither the paraphernalia charges nor on the

possession charges had they been filed as part of the information.

In regards to Koch, the evidence that was admitted against her for purposes of a prima facie case on the paraphernalia charge consisted of her refusal to give a statement to Chief Smith and her refusal to submit to a drug screen. In addition, the Commonwealth presented the testimony of Haas in an attempt to indicate Koch's "admission" that she too used or possessed a controlled substance. In essence, Haas testified that Koch told her that "she (Koch)" said she refused a urine and that they "couldn't prove if she took any drugs or anything." While the Court does not find this to be an admission nor an inculpatory statement necessitating an objection based upon the corpus delicti rule, this Court also does not find that the evidence presented by the Commonwealth rises to the prima facie level necessary on the paraphernalia charge lodged against Koch nor the possession charge had it been properly listed on Koch's information.

#### CONCLUSION

Based upon the above, the Court enters the following Orders:

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

COMMONWEALTH OF PENNSYLVANIA :

:

:

VS.

:

No. CR-575-2015

:

JENNIFER RUDELITCH,

:

Defendant :

Michael S. Greek, Esquire

Counsel for the Commonwealth

Assistant District Attorney

Angela Stehle, Esquire

Counsel for the Defendant

ORDER OF COURT

AND NOW, this 9<sup>th</sup> day of December, 2015, upon consideration of the "Motion for a Writ of Habeas Corpus" filed by the Defendant, Jennifer Rudelitch, it is hereby ORDERED and DECREED that the Motion is GRANTED and the charge of use/possession of drug paraphernalia, 35 Pa.C.S.A. §780-113(A32) is DISMISSED.

BY THE COURT:

  
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Joseph J. Matika, J.

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COMMONWEALTH OF PENNSYLVANIA :

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VS. : No. CR-581-2015

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HOLLY KOCH, :

Defendant :

Michael S. Greek, Esquire

Counsel for the Commonwealth

Assistant District Attorney

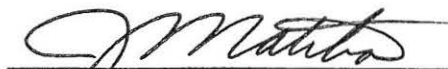
Adam Weaver, Esquire

Counsel for the Defendant

ORDER OF COURT

AND NOW, this 9<sup>TH</sup> day of December, 2015, upon consideration of the "Petition for a Writ of Habeas Corpus" filed by the Defendant, Holly Koch, it is hereby ORDERED and DECREED that the Petition is GRANTED and the charge of use/possession of drug paraphernalia, 35 Pa.C.S.A. §780-113(A32) is DISMISSED.

BY THE COURT:



Joseph J. Matika, J.

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CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :

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VS. :

No. CR-584-2015

:

MEGAN ROSE MAGUSCHAK, :

Defendant :

Michael S. Greek, Esquire

Counsel for the Commonwealth

Assistant District Attorney

Edward Olexa, Esquire

Counsel for the Defendant

ORDER OF COURT

AND NOW, this 9<sup>th</sup> day of December, 2015, upon consideration of the "Petition for a Writ of Habeas Corpus" filed by the Defendant, Megan Rose Maguschak, it is hereby ORDERED and DECREED that the Petition is GRANTED and the charge of use/possession of drug paraphernalia, 35 Pa.C.S.A. §780-113(A32) is DISMISSED.

BY THE COURT:

  
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Joseph J. Matika, J.

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