
IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

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CRIMINAL DIVISION

VS.

CR-3923-2022

Richard Metricari

Motion to Dismiss the Defendant's Motion to Suppress

The Commonwealth of Pennsylvania, by and through its attorney, William J. Judge, Jr, Deputy District Attorney, respectfully requests this Honorable Court to Dismiss the provided Defense Pre-Trial Motions, for failure to conform with Pa. R. Crim. P. 581 (D), and in support thereof hereby avers the following:

1. On or about May 4, 2023, the defendant, Richard Metricari, (hereinafter “Defendant”) by and through his counsel, Nathan Vonderheide, filed and caused to be served on the Commonwealth an Omnibus Pre-Trial Motion to Suppress Evidence.
2. The Pre-Trial Motion to Suppress Evidence is currently pending, before this Honorable Court.
3. Defendant purports to seek to address through the filing statements and physical evidence. However, the Commonwealth is left to decipher which statements and what evidence.
4. The Commonwealth avers per Rule 581 (D), these motions should be dismissed.
 - i. Per Rule 581 (D), a motion for suppression of evidence “shall state specifically and with particularity the evidence sought to be suppressed, the grounds for suppression, and the facts and events in support thereof.” *Pa. R. Crim. P. 581(D)*.
 - ii. A complete failure to comply with the specificity requirements of rule requiring motion seeking suppression of evidence state specifically and with particularity evidence sought to be suppressed, grounds for suppression, and facts and events in support thereof will result in waiver, as those requirements have been held to be mandatory. *Com. v. Dixon*, 997 A.2d 368, Super.2010, appeal denied 26 A.3d 482, 611 Pa. 654.
 - iii. Failure to present a proper suppression motion resulted in waiver of issue, where only portion of the defendant's suppression motion even arguably raised an issue and did not state with specificity and particularity grounds for suppression or discard facts and events

underlying grounds for suppression. *Com. v. Menginie*, 458 A.2d 966, 312 Pa.Super. 293, Super.1983.

- iv. To require the Commonwealth to prove the legality of all its investigatory techniques, in a situation where no specific or particular course of conduct is clearly challenged, is not within the contemplation of 323(h) [now 581(H)]. Under these circumstances we may assume that the Commonwealth obtained the evidence in a legal manner, without requiring proof of legal procedures. *Com. v. Bradshaw*, 324 Pa. Super. 249, 253, 471 A.2d 558, 560 (1984).
 - v. The Supreme Court has held it proper that the Court recognize the burdens placed on both the Defendant and the Commonwealth under Rule 581 and when a defendant fails to comply with Rule with Rule 581(D), the burden imposed on the Commonwealth by Rule 581(H) never shifted, and suppression was thus denied. *Com. v. Dixon*, 2010 PA Super 109, 997 A.2d 368, 374 (2010)
 - vi. The opinion of Justin Larsen (in a plurality opinion) states in *Commonwealth v. Dobson*, These rules were not adopted to construct procedural impediments to presentation of the accused's defense but were, rather, promulgated in order to achieve a proper balance between the preservation of constitutional and other rights of the defendant and the orderly and efficient administration of the criminal justice system. These concerns have been paramount in the many decisions of this Court imposing stringent waiver requirements. *Commonwealth v. Dobson*, 486 Pa. 299, 304, 405 A.2d 910, 913 (1979)
 - vii. The defendant's motion failed to cite to any specific facts to support any of the legal violations alleged in the motion.
 - viii. The defendant's motion failed to comport with the rule and provides no notice to the Commonwealth of potential Constitutional or legal violations.
 - ix. The Commonwealth avers the purpose of the Rule is to insure, and the interests of justice require, that the Commonwealth have ample opportunity to investigate certain facts crucial to the determination alleged violations of the defendant's Constitutional or legal rights.
5. The motion defense leaves the Commonwealth to guess as to what specifically defense is alleging should be suppressed and under what basis.
6. Before any burden shifts to require the Commonwealth to justify the conduct of law enforcement, the defense must first state with specificity the item or statements sought to be suppressed and the illegal conduct that supports the suppression.

7. Defense fails to particularly and specifically identify any specific evidence that was seized and what violation of the defendant's rights occurred in obtaining the specific evidence.
8. Defense fails to particularly and specifically identify the statements that were obtained and what violation of the defendant's rights occurred in obtaining the specific statement.
 - i. In the particular matter at hand, the Commonwealth suggests the specific statements sought must be identified in some way as to put the Commonwealth on notice. The Commonwealth further suggests that it is the obligation of the defense, under the facts at hand to aver when the allegedly custody occurred.
 - ii. The failure of the defense to cite any specifics to tangentially refer to the content of specific statements or when they occurred fails to comply with requirements under Rule 581.
 - iii. The general overture that several statements were made after the defendant was placed in custody is insufficient to rise to the level of which the burden shift to the Commonwealth.
9. Despite the specifics above ascertained by the Commonwealth after a diligent and detailed reading of the filing, the motion at issue seeks vaguely seeks to suppress any and all physical evidence, and all statements between the defendant and law enforcement.
10. The Commonwealth has sought to obtain this information by informal request to which defense has not responded.

WHEREFORE, the defendant wholly failed to comply with the requirement imposed by Rule 581(D), to state specifically and with particularity the evidence to be suppressed and the facts and events in support of the suppression, and it is therefore insufficient to shift the burden to the to require the Commonwealth to present any evidence. As a result the Commonwealth respectfully requests this Honorable Court to Dismiss the provided Defense Pre-Trial Motions.

5/23/2023
Date



William J. Judge, Jr, Esquire
Deputy District Attorney

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CERTIFICATE OF SERVICE

I hereby certify that I am this date serving the foregoing document upon the persons and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Criminal Procedure:

Via PACFILE

The Honorable Lou Mincarelli
Justice Center
201 W. Market Street
West Chester, PA 19380-0989

Nathan Vonderheide
Office of the Public Defender, Chester County



5/23/2023
Date

William J. Judge, Jr, Esquire
Deputy District Attorney

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VERIFICATION

I verify that the statements contained in the within **Commonwealth's Motion** are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

CERTIFICATION

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.



5/23/2023

Date

William J. Judge, Jr, Esquire
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ORDER

AND NOW, to wit, this day of 2022, the consideration of the motion of the attorney of the Commonwealth's **Motion to Dismiss the Defendant's Motion to Suppress**, it is hereby ORDERED AND DECREED that the motion is **GRANTED** and the Defendant's Motion to Suppress is hereby DISMISSED.

BY THE COURT:

J.