

**IN THE COURT OF COMMON PLEAS LEBANON COUNTY
PENNSYLVANIA**

CRIMINAL DIVISION

COMMONWEALTH OF : NO. CR-589-2024
**PENNSYLVANIA :
vs. :
SHYHEEM J. MILES :
:**

ORDER OF COURT

AND NOW, this 17th day of March 2025, in accordance with the attached Opinion, the Order of this Court is as follows:

1. Because we conclude that law enforcement possessed valid cause to enter the structure at 117 North 10th Street, Lebanon, Pennsylvania, in order to arrest DEFENDANT, we re-affirm the decision we rendered on November 20, 2024, to deny DEFENDANT's pre-trial Motion to Suppress Evidence.
2. DEFENDANT is directed to appear at the Criminal Call of the List scheduled for April 1, 2025, at 8:30am in the designated Courtroom. He is also directed to appear for the first day of Criminal Trials scheduled to commence on April 21, 2025, at 8:30am in the designated Courtroom. The deadline for DEFENDANT to enter a plea of guilty pursuant to a plea agreement will be April 1, 2025.

BY THE COURT:

BHC/CH J.

BRADFORD H. CHARLES

BHC/pmd

cc: District Attorney's Office
Andrew Luch, Esq.
Court Administration

**IN THE COURT OF COMMON PLEAS LEBANON COUNTY
PENNSYLVANIA**

CRIMINAL DIVISION

COMMONWEALTH OF : NO. CR-1589-2024
PENNSYLVANIA :
VS. :
SHYHEEM J. MILES :
APPEARANCES :
DISTRICT ATTORNEY For Commonwealth of Pennsylvania
ANDREW J. LUCH, Esquire For Defendant

OPINION BY CHARLES. J., March 17, 2025

For the second time in six months, we author an Opinion to address a pre-trial Suppression Motion filed by Shyheem J. Miles (hereafter DEFENDANT). For the second time in six months, we will deny DEFENDANT's request for suppression of evidence. However, our decision today will be based upon a different analysis than the one we proffered on November 20, 2024. We will explain below.

I. FACTS and PROCEDURAL BACKGROUND

On May 1, 2024, a task force spearheaded by United States Marshals surrounded and then entered property located at 117 North 10th Street, in the City of Lebanon. This property was leased and occupied by Ciannie

Diggs. At the time, DEFENDANT was involved in a relationship with Ms. Diggs.

Armed with an arrest warrant, law enforcement officials entered Ms. Diggs' apartment. There, they located and arrested DEFENDANT. While conducting a protective sweep, police also located contraband that they later seized and used to form the basis of criminal charges against DEFENDANT.

Initially, DEFENDANT was represented by the Lebanon County Public Defender's Office. That office filed a Motion to Suppress. While lack of consent to enter the property at 117 North 10th Street was included in the motion, its primary focus was upon other issues, including the authority of U.S. Marshals to spearhead an arrest and the purportedly excessive scope of the protective sweep that revealed the existence of contraband.

We conducted an initial hearing on August 28, 2024. At that hearing, law enforcement officials testified that they were given consent to enter the apartment by Ms. Diggs. No one refuted that testimony and we upheld the initial entry into 117 North 10th Street based upon the concept of consent.

Following our Opinion to deny DEFENDANT's pre-trial motion issued on November 20, 2024, DEFENDANT complained about the representation he was afforded by the Public Defender's Office. We conducted several proceedings regarding DEFENDANT's representation. Ultimately, we agreed to terminate the Public Defender's role as counsel and we appointed Attorney Andrew Luch to represent DEFENDANT. We also authorized

Attorney Luch to file an Amended Suppression Motion based upon DEFENDANT's proffer that he had "proof" that the police lied during the initial suppression hearing.

On February 6, 2025, we conducted a second suppression hearing. This hearing focused upon the alleged consent afforded by Ms. Diggs for police to enter her apartment. At this second hearing, we did receive testimony from Ciannie Diggs. In addition, we watched video footage of what occurred on May 1, 2024, that had been created by Ms. Diggs and via police body cameras.

Based upon the information presented at the February 6, 2025, hearing, it became apparent to this Court that the "consent" alleged by the Commonwealth was based upon little more than Ciannie Diggs stepping aside in the vestibule of her house to allow police to enter. No affirmative written or verbal consent was proven.

On the other hand, additional information was provided by the Commonwealth regarding the execution of the arrest warrant. Specifically, police testified that surveillance had been conducted of the North 10th Street property during which DEFENDANT was observed. In addition, Ms. Diggs acknowledged after police arrived that DEFENDANT was inside her apartment.

Following the hearing on February 6, 2025, we solicited and received briefs from both sides. We issue this Opinion today in order to focus exclusively upon the appropriateness of the initial entry by police into Ms.

Diggs' apartment without a search warrant. To the extent necessary, we adopt and affirm all portions of our November 20, 2024, Opinion that did not deal with Ms. Diggs' purported consent to the initial entry into her apartment.

II. DISCUSSION

In order for police to enter a structure based upon consent, the consent must be afforded by someone who has authority. See, e.g., **Commonwealth v. Strader**, 931 A.2d 630 (Pa. 2007). More pertinent to this case, the consent must be unequivocal. See, e.g., **Commonwealth v. Stapinski**, 431 A.2d 260 (Pa. 1981); **Commonwealth v. Gibson**, 638 A.2d 203 (Pa. 1994).

In this case, a special task force appeared at Ms. Diggs' door clad in body armor and carrying assault rifles. A brief conversation occurred wherein police disclosed that they were present to execute an arrest warrant upon DEFENDANT. Ms. Diggs acknowledged that DEFENDANT was inside her home. She then stepped clear of the transom of her door and police entered. At no point did Ms. Diggs provide verbal consent for police to enter.

When a group of large and heavily-armed men arrive unexpectedly at a citizen's doorstep indicating that they intend to arrest somebody located within, what is a citizen to do? Certainly, initiating a dispute would not be

wise. On the other hand, stepping aside to allow the armed men to do what they would is a far more prudent decision.

We cannot and will not equate stepping aside for a group of heavily armed men with unequivocal voluntary consent. Therefore, we rescind the portion of our November 20, 2024, Opinion that was predicated upon the consent purportedly offered by Ms. Diggs for police to enter her apartment. Today, we will not predicate any decision regarding DEFENDANT's Motion to Suppress upon consent by Ms. Diggs.

With the above being said, we nevertheless question from a visceral sense the DEFENDANT's premise that officers who possess an arrest warrant cannot enter a structure where a suspect is known to be located in order to effectuate the arrest. Requiring a search warrant under such circumstances would risk escape by the suspect. More alarming, such a policy would provide suspects with time to arm themselves and create barricades that could lead to dangerous and even deadly encounters. From a practical standpoint, entry into a structure to effectuate an arrest warrant for someone known to be inside should be permissible.

Fortunately, there is legal precedent that governs the ability of police to enter the residence of a third party in order to execute a search warrant. That precedent enables police to enter a third party's residence in order to arrest a suspect provided that police officers possess a reasonable belief that the individual is inside.

In **Commonwealth v. Mullen**, 267 A.3d 507 (Pa. Super. 2021), the Defendant was a parolee who absconded from supervision. His parole agent received an anonymous tip indicating that he was located at 408 Anthony Street, in Williamsport, Pennsylvania. Police surrounded the property. A parole agent observed the Defendant through one of the windows, but he refused to comply with commands that he exit the property. After parole agents knocked on the door, another occupant answered and denied permission for the agents to enter. Nevertheless, law enforcement agents did enter and apprehended the Defendant. During the process, agents observed guns and drugs inside the premises. The Defendant was thereafter charged with possession of this contraband.

Pennsylvania's Superior Court cited two United States Supreme Court Opinions that reached slightly different conclusions regarding authority of police to enter a premises in order to execute an arrest warrant. In **Payton v. New York**, 445 US 573 (1980), our nation's highest court held that an arrest warrant creates limited authority for police to enter a dwelling when there is reason to believe that the suspect is inside. On the other hand, in **Steagald v. United States**, 451 US 204 (1981), the Court held that an arrest warrant does not automatically authorize entry into the home of a third person not named in the warrant. Based upon this precedent, the Superior Court drew a distinction between the challenge of an arrestee and the challenge of a third party when police enter a residence under the authority of an arrest warrant. In **Mullen**, the rights of the arrestee were at

issue. Therefore, the Superior Court upheld the entry by law enforcement into the residence where the defendant was located. The Court stated:

"The facts of this case are governed by [**Commonwealth v. Stanley**, 446 A.2d 583 (Pa. 1982)]. Here, as in **Stanley**, police had a valid arrest warrant for Appellant. Agent Barvitskie testified that he received an anonymous tip that Appellant was at 408 Anthony Street in Williamsport the night before. When agents arrived at 408 Anthony Street shortly after receiving the tip, Agent Barvitskie personally observed Appellant through the window. Under **Stanley**, a valid arrest warrant and Agent Barvitskie's reasonable belief that Appellant was inside were all that the agents needed to enter the third-party residence for the purposes of protecting Appellant's Fourth Amendment rights."

Id at page 516 (emphasis in original).

In **Commonwealth v. Wyatte**, 2024 WL4319939 (Pa. Super. 2024), members of the United States Marshals' Fugitive Task Force received information that the Defendant was located at 5604 Catherine Street in Philadelphia. After setting up surveillance, a Deputy U.S. Marshal observed the Defendant enter and leave the apartment building. A security perimeter was established. Marshals then knocked on the door, but received no response. Thereafter, Marshals breached the residence without a search warrant. During the protective sweep that followed, no contraband was detected by law enforcement. However, a search warrant was procured. A more detailed search was conducted. A loaded firearm and 843 packets of fentanyl were discovered as a result of this search warrant.

Mr. Wyatte filed a Motion to Suppress, claiming that his arrest and the subsequent search were unlawful. After hearing, the lower Court denied the Defendant's Motion to Suppress. However, the lower Court determined

that the U.S. Marshals' initial entry into 5604 Catherine Street was unlawful because it was effectuated without a search warrant.¹

On appeal, the Defendant claimed that U.S. Marshals improperly entered his girlfriend's residence and that his subsequent arrest was unlawful. He then argued that the subsequent search warrant was "fruit of the poisonous tree" and should have been suppressed.

The Superior Court once again emphasized the distinction between rights of the third-party residence and rights of the arrestee. The Court stated:

"[A] suspect arrested within a third-party residence has no privacy interest in the third-party's home; a suspect's privacy interests are not implicated if the suspect is arrested within a third-party residence pursuant to an arrest warrant, and not a search warrant..."

After reviewing the foregoing caselaw, we conclude that Wyatte was the subject of a valid arrest warrant and that law enforcement did not require a search warrant to enter the Catherine Street residence and execute that arrest warrant. Importantly, law enforcement had information that Wyatte was staying at 5604 Catherine Street and began surveillance of the address. After observing 5604 Catherine Street for some time, law enforcement identified Wyatte as he exited the residence to smoke a cigarette before re-entering the premises. Law enforcement, thus, has a reason to believe that Wyatte was in the residence. This reason to believe Wyatte was present, coupled with the arrest warrant, was sufficient to arrest Wyatte in 5604 Catherine Street without violating his Fourth Amendment rights." (Slip Opinion).

¹ The lower Court effectively concluded that the subsequent search warrant cured any problem created by the initial entry.

Based upon the above analysis, the Superior Court denied the Defendant's Motion to Suppress.²

The Motion to Suppress now before us was filed by the arrestee, and not the third party occupant of 117 North 10th Street. As such, the principle of law articulated in ***Mullen*** and ***Wyatte*** applies – police could enter the structure provided they possessed a warrant and a reasonable belief that DEFENDANT was located within. Trooper Neil Navitsky testified that he received information revealing that DEFENDANT resided at 117 North 10th Street in Lebanon. Trooper Navitsky then undertook “considerable surveillance” in order to verify the accuracy of the information he received. According to Trooper Navitsky, DEFENDANT was seen during surveillance entering and leaving the North 10th Street property. Based upon this surveillance, U.S. Marshals knocked on the door of the North 10th Street property in the morning of May 1, 2024. When Ciannie Diggs came to the door, police asked about the whereabouts of DEFENDANT. Ms. Diggs responded: “He is inside.” At this point, police possessed more than “reasonable belief” that DEFENDANT was located inside the premises at 117 North 10th Street. Because they had actual knowledge the DEFENDANT was inside 117 North 10th Street and because they possessed an arrest warrant, police properly entered the apartment in order to apprehend DEFENDANT.

² ***Wyatte*** is an unpublished non-precedential decision. It is being cited for its persuasive effect, and not because we consider it to be authoritative.

This Court does not believe that police should have been required to obtain a search warrant before entering Ms. Diggs' apartment. Based upon the circumstances that existed at 7am on May 1, 2024, police certainly possessed justification to immediately enter the apartment of Ciannie Diggs at 117 North 10th Street, even without affirmative consent affirmatively offered by Ms. Diggs.

III. CONCLUSION

We will again deny DEFENDANT's Motion to Suppress. We reject the additional information and argument proffered by DEFENDANT in support of his motion. While we concede that Ciannie Diggs did not offer affirmative consent for police to enter her property in order to apprehend DEFENDANT, we conclude based upon the totality of the evidence presented that police possessed both an arrest warrant and probable cause to conclude that DEFENDANT was present inside Ms. Diggs' apartment. Therefore, they properly entered the property to effectuate an arrest of DEFENDANT.