

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

WILLIAM ANTHONY REEVES,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1713 MDA 2013

Appeal from the Judgment of Sentence of September 17, 2013  
In the Court of Common Pleas of Dauphin County  
Criminal Division at No(s): CP-22-CR-0003698-2012

BEFORE: FORD ELLIOTT, P.J.E., OLSON and STRASSBURGER,\* JJ.

MEMORANDUM BY OLSON, J.:

**FILED JUNE 30, 2014**

Appellant, William Anthony Reeves, appeals from the judgment of sentence entered on September 17, 2013, following his bench trial convictions for possession with intent to deliver a controlled substance, possession of drug paraphernalia, and two counts of persons not to possess a firearm.<sup>1</sup> We affirm.

The trial court summarized the facts of this case as follows:

Agent George Mann (hereinafter "Agent Mann") has been a parole officer for the Pennsylvania Board of Probation and Parole in the Harrisburg District Office for eight (8) years. Likewise, Agent George Baird (hereinafter "Agent Baird") has been a parole officer for about eight and a half (8 1/2) years.

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<sup>1</sup> 35 P.S. § 780-113(a)(30), 35 P.S. § 780-113(a)(32), and 18 Pa.C.S.A. § 6105(a)(1), respectively.

\* Retired Senior Judge assigned to the Superior Court.

Agent Mann was assigned to supervise Appellant beginning in 2011 because of prior drug charges. Upon release from state prison, Appellant was provided with a list of parole conditions. Specifically, the notice of conditions stated:

In consideration of being granted the privilege of parole by the Pennsylvania Board of Probation and Parole, I hereby agree that I expressly consent to the search of my person, property, and residence without a warrant by agents of the Pennsylvania Board of Probation and Parole. Any items in the possession of which constitutes a violation of parole shall be subject to seizure and may be used as evidence in the parole revocation process.

Appellant signed this notice on April 20, 2011, April 21, 2011, and April 25, 2011.

In August of 2011, Appellant moved residences without Agent Mann's approval. Agent Mann learned of said move because Appellant's prior approved residence, the Sof'ella House located at 1842 Park Street, called [Agent Mann] to inform [him that] Appellant had not paid his rent. Agent Mann confronted Appellant and he admitted to moving to 804 Green Street. Thereafter, Agent Mann changed Appellant's approved residence to 804 Green Street, Apartment 1. Throughout supervision, Appellant worked as a prep cook at Applebee's Restaurant one day per week earning just above minimum wage.

In August or September of 2011, Agent Mann received a call from Pennsylvania State Trooper Valez informing [him] that Appellant had resumed selling drugs. Agent Mann also received anonymous calls and messages reporting [that] Appellant was selling drugs. Likewise, Agent Baird received a message from [another agent] that a source complained [that] Appellant was selling drugs in Lancaster and the parole agents were doing nothing about it. Furthermore, Agent Baird received a call from the girlfriend of Jeron Johnson (hereinafter "Mr. Johnson") that Mr. Johnson and Appellant were traveling to New York to pick up cocaine and then bringing the cocaine back to her house in Harrisburg

where they proceeded to "cook it up." She reported Appellant would sell cocaine in Lancaster.

Agent Mann received an anonymous call informing that Appellant was operating a gold Chrysler Concord. Around November or December of 2011, during a routine visit to Appellant's residence, Agent Mann observed Appellant with a gray Chrysler car key. Agent Mann also observed a gold Chrysler Concord parked across the street from Appellant's residence. Said vehicle was registered to Appellant and Mr. Johnson. Per Appellant's conditions of parole, he is not permitted to operate a motor vehicle without a valid Pennsylvania driver's license, proof of registration, or his supervising agent's written permission. Appellant did not have a driver's license or Agent Mann's permission.

On February 16, 2012, Agent Mann and Agent Baird were checking on parolees. They were heading over to 804 Green Street to see Appellant and Agent Baird's offender, Mr. Johnson. On their way, they saw Appellant driving a gold Chrysler Concord and making a right onto Walnut Street. They attempted to follow the vehicle, but were stopped at a traffic light. By the time the light turned green, they had lost sight of the vehicle. As a result, they decided to head over to the residence. Upon arrival at 804 Green Street, they noticed the vehicle was not present. The agents proceeded onto North Street, at which time they saw Appellant drive by on Second Street. They attempted to follow Appellant's vehicle, but were stopped at the traffic light at Second and Forrester Streets. Meanwhile, Appellant crossed the light at Second and Forrester Streets, pulled off to the right, and two other gentlemen got into his vehicle. Appellant proceeded down Second Street, the light turned green, and the parole agents followed behind. They pulled up next to Appellant's vehicle at a traffic light, placing Agent Mann about three feet away from Appellant. Agent Mann made eye contact with Appellant and positively identified Appellant as the driver. The light turned green and Appellant continued driving down Second Street. Since Appellant was violating parole, the agents contacted Dauphin County Dispatch to request the Harrisburg Police Department conduct a traffic stop.

Uniformed police officers stopped the vehicle off Fifth Street. Harrisburg Police Officer Ty Meik (hereinafter "Officer Meik") was first on the scene and conducted the stop. Officer Meik had his gun drawn and was yelling, "he's reachin', he's reachin'." The front-seat passenger was refusing to show his hands and kept reaching [] down his pants. Agent Baird and Agent Mann also approached with their guns drawn while yelling for the front seat passenger to get his hands out of his pants and to put them on the dashboard. Eventually, everyone [was] taken out of the vehicle and detained. Officer Meik told Agent Baird he saw the driver hand the front seat passenger the object he was shoving into his pants.

The front seat passenger was identified as Steven Lavendar (hereinafter "Mr. Lavendar") who was on state parole out of Lancaster for drug charges. Agent Baird lifted up the back of Mr. Lavendar's shirt and saw a plastic bag sticking out of his pants in the same area he was reaching his hands during the traffic stop. The plastic bag contained crack cocaine. Agent Baird also found cash in large denominations on Mr. Lavendar's person.

The back seat passenger was also under supervision out of Lancaster State Parole Office and informed that he and Mr. Lavendar were both on curfew. He admitted to having a crack stem in his shorts pocket. He said that he had come to Harrisburg to make money performing deliveries for Appellant. He explained that is what they were doing when Appellant picked them up at Second and Forrester Streets.

Five hundred dollars (\$500[.00]) in cash was found on Appellant's person. This [money], along with Appellant's possession of the car and prior observations of Appellant with items beyond his means, led Agent Mann to believe the tips that Appellant was again selling drugs. Appellant argued that his girlfriend sent him money.

Due to Appellant violating curfew, driving without a license, associating with known drug dealers/users, and the suspicious behavior of the front seat passenger shoving something in his pants that was believed to have been in the common area of the car prior to the traffic stop, a decision was made to search Appellant's residence for

further parole violations. Officer Darrin Bates (hereinafter "Officer Bates") has been employed by the Harrisburg Police Department for ten (10) years. Officer Bates agreed to transport Appellant to his residence for the search[.] Officer Bates asked where they were working and Agent Baird said 804 Green Street. Appellant overheard and averred he lived on the 6900 block of Derry Street.

As of February 16, 2012, Appellant's approved address was Apartment 9 at 804 Green Street. Agent Mann changed Appellant's approved residence from Apartment 1 to Apartment 9 at 804 Green Street because he received an automatic notification from PennDot that Appellant had changed his address. However, Appellant [himself] never informed Agent Mann of this apartment change.

Upon arrival, Agent Mann used Appellant's keys to open the front door of the building. They proceeded to Apartment 1 on the lower level. Appellant's keys opened the door, but the agents found another tenant living inside. Agent Mann averred that he knew Appellant did not reside in Apartment 1, but he attempted to go [] there to confirm Appellant again changed residences without permission. During this time, Appellant never tried to advise that Apartment 1 was no longer his residence. Alternatively, Appellant continued asserting that he lived off Derry Street. Appellant admitted to not living at the approved address.

They left Apartment 1 to head to Mr. Johnson's residence at Apartment 7. The keys Appellant possessed also opened Mr. Johnson's apartment. They observed that Mr. Johnson was not home and then proceeded up to Appellant's apartment on the third floor. For the first time, Agent Mann made a comment to Appellant that he [was] aware Appellant moved to Apartment 9. Appellant was stressed and sulking with his head down. He continued trying to convince the agents that he lived off Derry Street.

Appellant's keys opened the door to Apartment 9. Agent Mann and Agent Baird announced their presence and cleared the apartment. Both agents observed a pile of mail with Appellant's name and addressed to Apartment 9. Even his supervision fee letter from the Parole Board was lying in the pile and addressed to Apartment 9. Appellant informed

he lived there with someone else. Since the agents received prior approval from their supervisor, Peter Hans, they begin to search the apartment.

Officer Bates escorted Appellant inside and stayed with him in the living room. Agent Baird opened a closet door and found Appellant's coat hanging on the door. He reached inside the pocket of the coat and found a baggie of cocaine not intended for personal use. At that point, he notified Officer Bates and they stop[ped] the search. Officer Bates read Appellant his Miranda rights. They requested consent to continue searching, but Appellant denied consent. As a result, Officer Bates left the apartment to obtain a search warrant. Agent Baird and Agent Mann stayed at Appellant's residence to ensure no interference while Officer Bates was gone.

Officer Bates returned with a search warrant and a K-9 unit. In the kitchen cabinets above the sink, inside a microwave popcorn box, Agent Baird found more cocaine. In a cabinet above that, in a pot, he found two handguns. Discovered underneath the sink, in plastic grocery bags, was \$17,000[.00] to \$20,000[.00] in cash. Appellant was arrested and charged by the Harrisburg police.

Trial Court Opinion, 11/19/2013, at 2-8 (record citations omitted).

Prior to trial, on February 13, 2013, Appellant filed an omnibus pre-trial motion seeking suppression of the evidence obtained. The trial court held a hearing on March 22, 2013. On April 8, 2013, the trial court denied relief. Appellant filed a motion for reconsideration that the trial court denied on September 5, 2013. On September 17, 2013, the trial court held a bench trial wherein Appellant was found guilty of the aforementioned charges. The

trial court sentenced Appellant on the same day to an aggregate term of seven to 14 years of incarceration. This timely appeal followed.<sup>2</sup>

On appeal, Appellant presents one issue for our review:

- I. Whether the trial court erred in failing to suppress evidence found in Appellant's apartment where law enforcement lacked reasonable suspicion to conduct the property search in violation of Article 1, Section 8 of the Pennsylvania Constitution and the Fourth Amendment to the United States Constitution?

Appellant's Brief at 5.

Appellant argues that Agent Mann lacked reasonable suspicion to search his apartment. *Id.* at 10-13. More specifically, he asserts that "Agent Mann's observations of Appellant's driving without a license and violating curfew were completed probation violations[,] therefore, "[t]here was nothing Agent Mann could conceivably have discovered in Appellant's apartment [that] would have been relevant to proving or investigating these already-completed violations." *Id.* at 12. "Likewise, the fact that Appellant was driving with individuals who possessed crack cocaine and a crack pipe does not suggest that Appellant himself possessed any contraband in his apartment." *Id.* Further, Appellant maintains that Agent Mann's discovery of \$500.00 in cash on his person was "not indicative of criminal activity"

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<sup>2</sup> Appellant filed a notice of appeal on September 20, 2013. The trial court directed Appellant to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). Appellant complied timely on October 14, 2013. The trial court filed an opinion pursuant to Pa.R.A.P. 1925(a) on November 19, 2013.

given the facts that: (1) he was working at Applebee's; (2) he had received a \$5,000.00 refund from Harrisburg Area Community College; and (3) Agent Mann knew Appellant's girlfriend frequently gave Appellant money. **Id.** Appellant posits that Agent Mann only possessed an "unparticularized hunch" rather than the requisite reasonable suspicion necessary to conduct a search of his apartment. **Id.** at 13. Thus, he contends the trial court erred in denying his motion to suppress the evidence recovered during the search of his apartment. **Id.**

Our standard of review is as follows:

Our standard of review in addressing a challenge to the denial of a suppression motion is limited to determining whether the suppression court's factual findings are supported by the record and whether the legal conclusions drawn from those facts are correct. Because the Commonwealth prevailed before the suppression court, we may consider only the evidence of the Commonwealth and so much of the evidence for the defense as remains uncontradicted when read in the context of the record as a whole. Where the suppression court's factual findings are supported by the record, we are bound by these findings and may reverse only if the court's legal conclusions are erroneous. Where, as here, the appeal of the determination of the suppression court turns on allegations of legal error, the suppression court's legal conclusions are not binding on an appellate court, whose duty it is to determine if the suppression court properly applied the law to the facts. Thus, the conclusions of law of the courts below are subject to our [*de novo*] review.

**Commonwealth v. McAdoo**, 46 A.3d 781, 783-784 (Pa. Super. 2012)  
(citation omitted).



“Because the very assumption of the institution of parole is that the parolee is more likely than the ordinary citizen to violate the law, the agents need not have probable cause to search a parolee or his property; instead, reasonable suspicion is sufficient to authorize a search.” **Commonwealth v. Curry**, 900 A.2d 390, 394 (Pa. Super. 2006) (citation, internal quotations, and footnote omitted). “Essentially, parolees agree to endure warrantless searches based only on reasonable suspicion in exchange for their early release from prison.” **Id.** (internal quotations omitted). “The search of a parolee is only reasonable, even where the parolee has signed a waiver similar to the one in this case, where the totality of the circumstances demonstrate that (1) the parole officer had reasonable suspicion to believe that the parolee committed a parole violation; and (2) the search was reasonably related to the duty of the parole officer.” **Commonwealth v. Hunter**, 963 A.2d 545, 552 (Pa. Super. 2008) (citations and quotations omitted). It is the duty of the suppression court to independently evaluate whether, under the particular facts of a case, an objectively reasonable law enforcement officer would have reasonably suspected criminal activity was afoot. **Commonwealth v. Shabazz**, 18 A.3d 1217, 1221 (Pa. Super. 2011). In defining the supervisory relationship of a parole agent to an offender, 61 Pa.C.S.A. § 6153(d)(6) provides, as follows:

The existence of reasonable suspicion to search shall be determined in accordance with constitutional search and seizure provisions as applied by judicial decision. In accordance with such case law, the following factors, where applicable, may be taken into account:

- (i) The observation of agents.
- (ii) Information provided by others.
- (iii) The activities of the offender.
- (iv) Information provided by the offender.
- (v) The experience of agents with the offender.
- (vi) The experience of agents in similar circumstances.
- (vii) The prior criminal and supervisory history of the offender.
- (viii) The need to verify compliance with the conditions of supervision.

61 Pa.C.S.A. § 6153(d)(6).

Initially, the trial court “found the testimony of Agent Mann, Agent Baird, and Officer Bates credible.” Trial Court Opinion, 11/19/2013, at 9. In determining that there was sufficient reasonable suspicion to conduct a search of Appellant’s apartment, the trial court concluded:

[T]he parole agents had more than enough reasonable suspicion [that] Appellant’s residence contained evidence that he was violating parole, in turn supporting their decision to conduct a search thereof. Specifically, Appellant had a history of violating parole by changing residences without notifying his supervising agent. This is behavior [that] suggests Appellant was trying to conceal activity within his residence from Agent Mann. Appellant was on supervision for drug related crimes. While on supervision, he registered a vehicle with Mr. Johnson; another parolee who had a drug offense history. The parole agents received numerous tips from other law enforcement officers, anonymous callers, and even Mr. Johnson’s girlfriend that

Appellant was again selling drugs in Lancaster. On the night in issue, Appellant was suspiciously driving around the city and associating with known drug dealers/users. Appellant was driving without a license and without Agent Mann's permission. Further, he was out past curfew. At the start of the stop, Officer Meik observed Appellant pass an object to the front passenger that was later determined to be crack cocaine. The backseat passenger admitted to being in Harrisburg to make drug deliveries for Appellant.

Agent Mann previously observed Appellant living beyond his means as he was maintaining employment one night per week at a minimum wage job. At the time of the traffic stop, Appellant was found in possession of five hundred dollars (\$500[.00]) cash. Appellant argued his girlfriend gave him the money. However, the parole agents were not bound to accept Appellant's story, especially since Appellant had a history of not being forthright with the parole agents. Even after the stop, Appellant continued lying to the agents about his correct address.

The totality of the circumstances demonstrates that Agent Mann had reasonable suspicion to search Appellant's approved residence for suspected parole violations. Said search was reasonably related to this particular event as it was Agent Mann's duty to confirm any suspected drug violations and/or criminal acts. Since the search was valid, the [s]uppression [c]ourt found the evidence need not be suppressed.

**Id.** at 11-12.

Upon review, we agree. The record supports the trial court's factual determinations and we will not usurp its credibility findings. **McAdoo**, 46 A.3d at 784. Agent Mann testified that he began supervising Appellant while on parole for a conviction for possession with intent to deliver narcotics. N.T., 3/22/2013, at 4-5. Agent Mann had information that Appellant changed residences without notifying him, in violation of the terms of Appellant's parole. **Id.** at 6-8; 32-38. Agent Mann received information

from a state trooper in Lancaster that Appellant was potentially involved in the drug trade again. **Id.** at 12-13. He also received an anonymous call that Appellant was allegedly driving a gold Chrysler and Agent Mann knew Appellant did not have a driver's license. **Id.** at 13-14. Agent Mann confirmed that Appellant was driving and that the car was registered to Appellant. **Id.** at 14-18. Appellant was seen driving after his established parole curfew. **Id.** at 19. When stopped, one of the passengers in the car was stuffing a bag of crack cocaine into his pants and another passenger had a crack pipe on his person. **Id.** at 26-28. Appellant had \$500.00 in cash on his person, despite working one day a week for minimum wage as a prep cook at Applebee's. **Id.** at 29-30. In sum, Agent Mann testified:

He's out – one, curfew violation. He's drivin', doesn't have a license. He's with persons who, one had admitted to smoking crack and the other one's in possession of – of narcotics. So we feel as though there's possibly more violations at his residence.

**Id.** at 32.

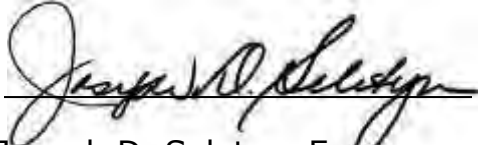
Accordingly, in light of the totality of the circumstances, including: (1) the observations of Agent Mann; (2) information provided by others regarding Appellant's violations of parole and potential criminal activities; (3) Agent Mann's personal observation of Appellant's activities; (4) untruthful information provided by Appellant to Agent Mann; (5) Agent Mann's knowledge of Appellant's prior narcotics conviction; and (6) the need to verify compliance with the conditions of supervision, Agent Mann had the requisite reasonable suspicion to conduct a search of Appellant's property.

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Hence, suppression was not appropriate in these circumstances and we discern no error of law. Accordingly, Appellant's issue lacks merit.

Judgment of sentence affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 6/30/2014