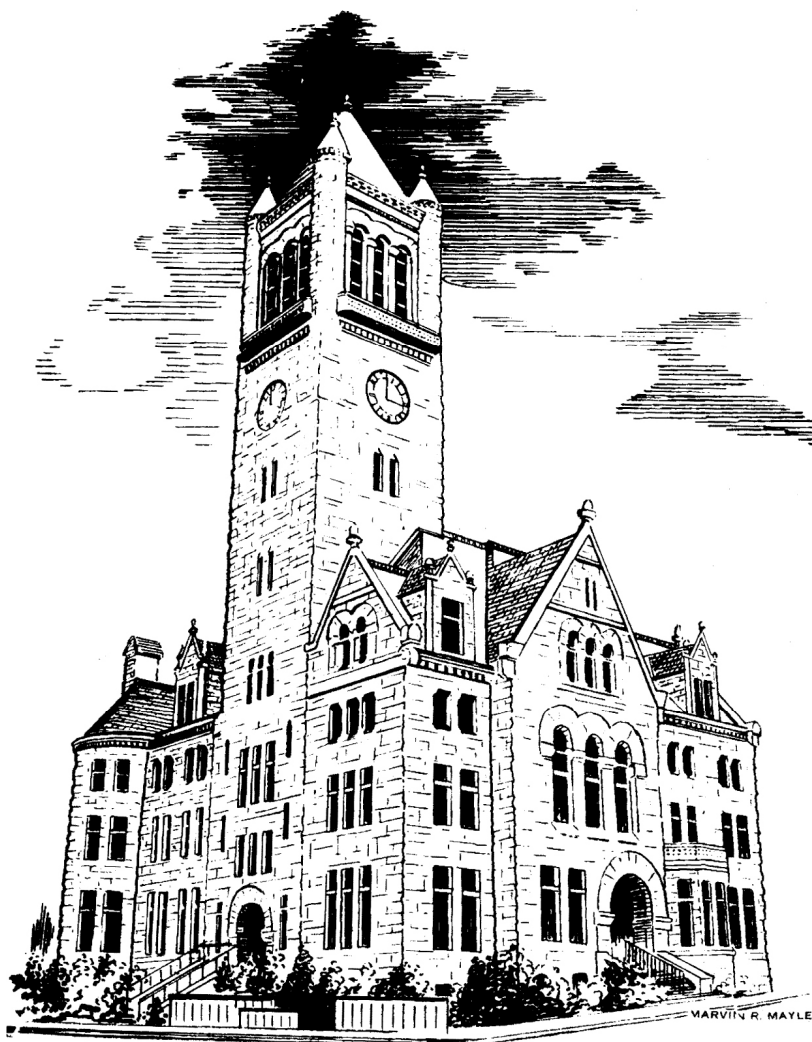


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Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

AMANDA LYNN COLLINS, a/k/a

AMANDA L. COLLINS, late of South Union Township, Fayette County, PA (3)

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Second Publication

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First Publication

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JUDICIAL OPINION

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

COMMONWEALTH OF
PENNSYLVANIA,
VS.
ZACHARY RYAN DAVID,
Defendant.

:
:
:
: No. 1598 of 2025
: Honorable Nancy D. Vernon

OPINION AND ORDER

VERNON, J.

July 10, 2026

Before the Court is Defendant Zachary Ryan David’s Omnibus Pretrial Motion in the Nature of a Petition for Writ of Habeas Corpus seeking dismissal of charges of Possession with Intent to Deliver a Controlled Substance, Possession of a Controlled Substance, and Possession of Drug Paraphernalia.

The Commonwealth submitted the instant matter on the record of the preliminary hearing. These charges arise from an incident occurring on August 13, 2025, at Defendant’s apartment in Uniontown, Fayette County. Uniontown City Police Officer Bukovan testified at the preliminary hearing that he was dispatched to Defendant’s residence for an unknown emergency. Upon arriving, he learned that Defendant had suffered a seizure and observed Defendant lying on the floor sweating profusely. While waiting for emergency medical personnel to respond, Officer Bukovan learned that Defendant was subject to an active Protection From Abuse Order prohibiting contact with Emma Sager, who was the person to call 911 and who answered the apartment door.

While medical personnel evaluated Defendant, Officer Bukovan observed a glass smoking device with burnt residue on the kitchen counter. Defendant required medical treatment at the hospital and was going to be transported by ambulance. Defendant was placed under arrest for violating the Protection From Abuse Order. During a search incident to arrest while he was on the ambulance’s stretcher, officers recovered a knotted plastic bag containing approximately 23.3 grams of suspected cocaine and a cut straw from Defendant’s pant pockets.

Detective Seth Haggerty of the Fayette County Drug Task Force and Uniontown City Police Department was stipulated to be qualified as a “drug expert” and testified that in his opinion, the quantity of cocaine recovered was indicative of possession for sale rather than personal use. Detective Haggerty acknowledged on cross-examination that his opinion was based solely upon the quantity recovered and that no cash, scales, baggies, call log, or other traditional indicia of drug trafficking were recovered.

A pretrial petition for writ of habeas corpus is the proper vehicle to challenge whether the Commonwealth has established a prima facie case. A petition for writ of habeas corpus is the proper vehicle for challenging a pretrial finding that the Commonwealth presented sufficient evidence to establish a prima facie case. *Commonwealth v. Smith*, 136 A.3d 170 (Pa. Super. 2016). A prima facie case exists when the Commonwealth produces evidence of each of the material elements of the crime charged and establishes probable cause to warrant the belief that the accused committed the offense. *Commonwealth v. Williams*, 331 A.3d 556 (Pa. 2025). The evidence need only be such that, if presented at trial and accepted as true, the judge would be warranted in permitting the case to be decided by the jury. *Id.*

In his Motion, Defendant argues that he is immune from prosecution for simple possession and possession of drug paraphernalia pursuant to 35 P.S. § 780-113.7. The Drug Overdose Response Immunity Act provides immunity from prosecution for specified drug possession offenses where law enforcement becomes aware of the offense solely because emergency assistance was sought in good faith for an individual experiencing a drug overdose and certain enumerated statutory conditions are met.

The evidence presented at the preliminary hearing establishes that police responded to Defendant's apartment due to an "unknown emergency" and upon arrival found that Defendant had suffered a seizure which required emergency medical assistance. The first issue is whether the record sufficiently establishes that Defendant was experiencing a "drug overdose event" as required by statute for immunity. Officer Bukovan testified that Defendant had suffered a seizure, was sweating profusely, and required transportation to the hospital by ambulance. The record is devoid of evidence that Defendant's medical emergency was an overdose except for the fact that Defendant alleges in his motion the event was a drug overdose.

At the time set for hearing, the Commonwealth did not dispute that Defendant's medical emergency was a drug overdose. Nor did the Commonwealth dispute that the officers only became aware of the possession of the smoking device and cut straw after responding to the emergency call. The record further evidences that Ms. Sager identified herself, remained at the scene, and cooperated with law enforcement and emergency personnel sufficient to meet the requirements of the Drug Overdose Response Immunity Act.

Because the Commonwealth presented no evidence contradicting Defendant's assertion that the medical emergency was a drug overdose and the record establishes all other elements of the immunity statute as to the possessory offenses, Defendant is entitled to statutory immunity from prosecution for Count II - Possession of Drug Paraphernalia (glass smoking device and cut straw) and Count III - Possession (cocaine). Importantly though, the Drug Overdose Response Immunity Act does not extend to Possession with Intent to Deliver under 35 P.S. § 780-113(a)(30).

Defendant next contends that the Commonwealth failed to establish a prima facie case of Possession with Intent to Deliver. The Court disagrees. The recovery of approximately 23.3 grams of cocaine combined with expert testimony that such quantity is inconsistent with personal use is sufficient to establish a prima facie case. Intent to deliver may be inferred from the quantity possessed and substantiated by un rebutted expert testimony. The absence of scales, cash, packaging materials, or other indicia of distribution could serve to undermine the weight of the Commonwealth's evidence. Accordingly, Petition must be denied as to Possession with Intent to Deliver.

WHEREFORE, we will enter the following Order.

ORDER

AND NOW, this 10th day of July, 2026, upon consideration of the Omnibus Pretrial Motion filed by Defendant, Zachary Ryan David, in the nature of a Petition for Writ of Habeas Corpus, and the record it is hereby ORDERED and DECREED that the Motion is GRANTED as to Count II and Count III as Defendant is entitled to statutory immunity from prosecution pursuant to the Drug Overdose Response Immunity Act for Possession of Drug Paraphernalia and Possession of a Controlled Substance. It is further ORDERED and DECREED that the Motion is DENIED as to Count I as the Commonwealth established a prima facie case for Possession with Intent to Deliver.

BY THE COURT:
NANCY D. VERNON, JUDGE

ATTEST:
CLERK OF COURTS

LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, August 12th** from **12:00 p.m. to 1:30 p.m.**
- Location: **Fayette County Courthouse - Courtroom TBD**
- Discussion topic: **Civility and Mental Health**
- Presenter: **Brian S. Quinn, Esquire** - Lawyers Concerned for Lawyers

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1.5 hours of Ethics CLE credit for the program.

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Members of the FCBA - \$15

Attorneys admitted after January 1, 2021 - \$5

Non-members of the FCBA - \$40

**** All fees to be paid at the door ****

Lunch will be provided.

RSVP

If interested in attending, please call Leslie at the Bar office at 724-437-7994 or email to admin@fcbar.org on or before Monday, August 10th.