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COMMONWEALTH OF PENNSYLVANIA VS.
DEREK MICHAEL REAVER

1. Detective Evans was investigating the alleged sexual assault of D. J. which occurred on or about October 30-31, 2021, in Gettysburg, Adams County, Pennsylvania.

2. Detective Evans advised Defendant if he did not come to the Gettysburg Police Department to speak with him, Detective Evans would go to his workplace. Defendant was apprehensive but agreed he would come to the police department after he got off work.

3. The issue raised in Defendant's motion and outlined by defense counsel prior to the suppression hearing was whether statements made by police to defendant that the police would come to his job to speak with him if he did not come to the Gettysburg Police Department were deliberately coercive and thus, Defendant's statements made to police at the Gettysburg Police Station were not voluntary and were not the product of his free will.

4. The test for determining the voluntariness and thus, the admissibility, of an accused's statement is the totality of the circumstances surrounding the statement.

5. Detective Evans' statement to Defendant on May 12, 2022, at 10:14 a.m. that if Defendant did not come to the Gettysburg Police Department to speak with him, Detective Evan would go to his work did not impact the voluntariness of Defendant's subsequent statements given eight hours later.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, CP-01-CR-673-2022, COMMONWEALTH OF
PENNSYLVANIA VS. DEREK MICHAEL REAVER.

Sara P. Miller, Esquire, Attorney for Commonwealth

Kristin L. Rice, Esquire, Attorney for Defendant

Wagner, J., December 1, 2022

OPINION ON DEFENDANT'S MOTION
TO SUPPRESS EVIDENCE

Presently before this Court is Derek Michael Reaver's (hereinafter "Defendant") Motion to Suppress Evidence, filed September 26, 2022. A hearing was held on October 18, 2022. The issue raised in Defendant's motion and outlined by defense counsel prior to the suppression hearing was whether statements made by police to defendant that the police would come to his job to speak with him if he did not come to the Gettysburg Police Department were deliberately coercive and thus, Defendant's statements to police at the Gettysburg Police Station were not voluntary and were not the product of his free will. For the reasons set forth herein, Defendant's Motion to Suppress Evidence is denied.

FINDINGS OF FACT

1. Detective Christopher Evans (hereinafter “Detective Evans”) is employed with the Gettysburg Borough Police Department.
2. Detective Evans was investigating the alleged sexual assault of D.J., which occurred on or about October 30 – 31, 2021, in Gettysburg, Adams County, Pennsylvania.
3. On May 10, 2022, Detective Evans left a voicemail on Defendant’s cell phone. On May 11, 2022, Detective Evans spoke with Defendant by cell phone and advised Defendant he wanted to speak with Defendant about an event that occurred in Gettysburg around the time of the Halloween parade. Defendant responded that he worked for Alam B. Roofing, and he did not know when he would be available.
4. On May 12, 2022, at 10:14 a.m., Detective Evans called Defendant again on his cell phone and advised he wanted Defendant to come to the police department to talk in person about an incident that occurred around the Halloween parade. Detective Evans advised Defendant if he did not come to the Gettysburg Police Department to speak with him, Detective Evans would go to his workplace. Defendant was apprehensive but agreed he would come to the police department after he got off work.
5. It was Detective Evans’ intent to obtain a search warrant for Defendant’s DNA and execute the search warrant on May 12, 2022, because Detective Evans was scheduled off after May 12, 2022. On May 12, 2022, at 2:51 p.m., Detective Evans obtained a search warrant for Defendant’s DNA.
6. Defendant arrived at the Gettysburg Borough Police Department at approximately 4:30 p.m. on May 12, 2022. Detective Evans was involved with another police investigation and had contact with Defendant at approximately 6:00 p.m.
7. Detective Evans interviewed Defendant in the Gettysburg Borough Police Department interview room on May 12, 2022. The first interview of Defendant began at 6:02 p.m. Detective Evans was the only police officer present during the interview. At the beginning of the interview, Detective

Evans advised Defendant that he was conducting an investigation concerning an incident that occurred around the time of the Halloween parade at a party in Gettysburg. Defendant advised he had no recollection of attending a party in Gettysburg around Halloween.

8. Detective Evans advised Defendant of his **Miranda** rights using the **Miranda** rights waiver form. Detective Evans read each part of the **Miranda** warnings to Defendant and Defendant advised he understood each warning and initialed each warning. Defendant signed the **Miranda** rights waiver form, waived his **Miranda** rights and agreed to speak with Detective Evans. Defendant's waiver of his **Miranda** rights was recorded and was memorialized on the recording of the interview.
9. During the first interview, Defendant advised he had no recollection concerning a Halloween party in Gettysburg. Defendant advised he had no recollection concerning a sexual assault or encounter with a female at a Halloween party in Gettysburg. Defendant further advised he was drinking heavily during this time period and had no recollection of the alleged incident.
10. During the first interview, at approximately 6:30 p.m., Detective Evans provided Defendant with the search warrant for Defendant's DNA. Detective Evans obtained a DNA sample from Defendant.
11. Detective Evans ended the first interview at 7:09 p.m. and turned off the recording device. Defendant reviewed the affidavit of probable cause for the search warrant after the first interview concluded. Defendant asked Detective Evans questions. Detective Evans asked to start the recording again and Defendant agreed.
12. The second recorded interview began at 7:13 p.m. and ended at 8:05 p.m. This interview also occurred in the Gettysburg Borough Police Department interview room. The only individuals present were Detective Evans and Defendant.
13. During the second interview, Defendant admitted he remembered the Halloween party and made statements concerning his contact and interaction with the alleged victim. Defendant

advised he was drinking heavily. Defendant admitted to engaging in sexual intercourse with the victim and advised it was consensual.

14. Detective Evans and Defendant were both calm during the interviews, and neither raised their voice. Detective Evans maintained a professional demeanor during the interviews, allowed Defendant to fully answer the questions and did not interrupt Defendant during his answers.
15. After the second interview, Defendant was placed under arrest by Detective Evans and charged with rape, in violation of § 3121(a)(3) of the Crimes Code as a felony of the first degree, sexual assault, in violation of § 3124.1 of the Crimes Code as a felony of the second degree and aggravated indecent assault, in violation of § 3125(a)(4) of the Crimes Code as a felony of the second degree.
16. A DVD recording of both interviews on May 12, 2022, and a transcript of both interviews, were admitted into evidence during the October 18, 2022, suppression hearing.
17. This Court finds Detective Evans' testimony credible.

CONCLUSIONS OF LAW

1. The statements Defendant provided to Detective Evans were voluntary.

LEGAL STANDARD

In a suppression hearing, the Commonwealth has the burden to establish, by a preponderance of the evidence, the admissibility of those items the accused seeks to preclude. *Commonwealth v. Ruey*, 892 A.2d 802, 807 (Pa. 2006). Moreover, "it is the sole province of the suppression court to weigh the credibility of the witnesses. Further, the suppression court judge is entitled to believe all, part or none of the evidence presented." *Commonwealth v. Benton*, 655 A.2d 1030, 1032 (Pa. Super. 1995) (internal citations omitted).

DISCUSSION

The facts of this case and the applicable law require this Court to deny Defendant's Motion to Suppress Evidence. The test for determining the voluntariness, and thus, the admissibility, of an accused's

statement is the totality of the circumstances surrounding the statement. *Commonwealth v. Perez*, 845 A.2d 779, 787 (Pa. 2004). In *Commonwealth v. Martin*, 101 A.3d 706 (Pa. 2014), the Pennsylvania Supreme Court set forth factors which should be considered concerning the voluntariness of a statement, as follows:

Numerous factors should be considered under a totality of the circumstances test to determine whether a statement was freely and voluntarily made: the means and duration of the interrogation, including whether questioning was repeated, prolonged, or accompanied by physical abuse or threats thereof; the length of the accused's detention prior to the confession; whether the accused was advised of his or her constitutional rights; the attitude exhibited by the police during the interrogation; the accused's physical and psychological state, including whether he or she was injured, ill, drugged, or intoxicated; the conditions attendant to the detention, including whether the accused was deprived of food, drink, sleep, or medical attention; the age, education, and intelligence of the accused; the experience of the accused with law enforcement and the criminal justice system; and any other factors which might serve to drain one's powers of resistance to suggestion and coercion.

Id. at 725 (citations omitted).

On May 12, 2022, Defendant freely came to the Gettysburg Police station approximately six hours after Detective Evans requested to speak with him. Defendant was fully informed of his **Miranda** rights, waived his **Miranda** rights and agreed to speak with Detective Evans. During both interviews, Detective Evans asked open-ended questions of Defendant and allowed Defendant to fully answer the questions. Detective Evans maintained a professional demeanor during the interviews. Both Detective Evans and Defendant were calm during the interviews and neither raised their voice. Detective Evans' questions were not accompanied by any physical abuse or threats. No evidence was presented that Defendant was injured, ill, drugged or intoxicated, nor was Defendant deprived of food, drink, sleep or medical attention during the interviews. Defendant referenced several prior criminal convictions during the first interview which illustrates his experience

with law enforcement and the criminal justice system. Defendant's answers to Detective Evans' questions illustrate that Defendant understood the questions and provided intelligent answers.

Detective Evans' statement to Defendant on May 12, 2022, at 10:14 a.m. that if Defendant did not come to the Gettysburg Police Department to speak with him, Detective Evans would go to his work did not impact the voluntariness of Defendant's subsequent statements given eight hours later. In the first statement, Defendant was adamant he had no recollection of the Halloween party or a sexual encounter with the alleged victim. Only after Defendant had reviewed the search warrant affidavit of probable cause did he change his statement. Defendant then advised Detective Evans he remembered the Halloween party and a sexual encounter with the alleged victim. Defendant advised that the sexual encounter was consensual and that the victim was conscious and consented during the incident. As such, Defendant's statement was voluntary.

In Defendant's Memorandum in Support of Defendant's Motion to Suppress, Defendant raises a second issue which was not raised in Defendant's Motion to Suppress, nor was this issue raised during the suppression hearing on October 18, 2022. Specifically, Defendant argues that Defendant did not know what he was being questioned about before he waived his **Miranda** rights on May 12, 2022.

Rule of Criminal Procedure 581(D) requires that a motion to suppress "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). Neither Defendant's Motion to Suppress nor the inquiry by this Court on October 18, 2022, questioning the specific suppression issues raised, referenced that Defendant did not have an awareness of the general nature of the transaction giving rise to the investigation prior to the waiver of his **Miranda** rights. Defendant is now asking this Court to suppress evidence on grounds not raised in Defendant's motion to suppress nor raised during the suppression hearing. In accordance with Pa. R.Crim.P. 581(D) and *Commonwealth v. Carter*, 234 A.3d 729 (Pa. Super. 2020), such issue was not properly raised and is waived. Regardless, this issue has no merit. *Commonwealth v. Dixon*, 475 Pa. 17, 379 A.2d 553 (1977) is factually distinguishable to the facts in this case. Looking at the totality of the circumstances surrounding

the statements in question, and looking at the factors set forth in *Martin*, it is clear that Defendant's statements on May 12, 2022, were voluntarily provided to Detective Evans.

Therefore, for the reasons set forth above, the attached Order is entered.

ORDER OF COURT

AND NOW, this 1st day of December 2022, for the reasons set forth in the attached Opinion, Defendants' Motion to Suppress Evidence is hereby denied.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary or of administration to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION**ESTATE OF SHIRLEY A. ALTHOFF, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Patricia M. Smith, c/o Linda S. Siegle, Esq., Siegle Law, 1010 Eichelberger Street, Suite 3, Hanover, PA 17331

Attorney: Linda S. Siegle, Esq., Siegle Law, 1010 Eichelberger Street, Suite 3, Hanover, PA 17331

ESTATE OF ROBERT FRANKLIN BENNETT, SR. a/k/a ROBERT F. BENNETT, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executrix: Lorelie Tarrosa Bennett a/k/a Lorelie Plansay Bennett, 4530 Coldsprings Road, Fayetteville, PA 17222

Attorney: Lawrence R. Rife, IV, Esq., Hoskinson, Wenger & Rife, 147 East Washington Street, Chambersburg, PA 17201

ESTATE OF JEANNE MARIE GLEESON, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Thomas O. Oyler, III, 61 Pinckney Drive, Coatesville, PA 19320

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RICHARD HAHN, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Administrator: Deborah Hahn c/o David W. Crosson, Esq., Crosson Richetti & Daigle, LLC, 609 W. Hamilton Street, Suite 210, Allentown, PA 18101

Attorney: David W. Crosson, Esq., Crosson Richetti & Daigle, LLC, 609 W. Hamilton Street, Suite 210, Allentown, PA 18101

ESTATE OF SHIRLEY M. MEGEE a/k/a SHIRLEY MARLENE MEGEE, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Executrix: Jason Megee, 1711 Waynesboro Pike, Fairfield, PA 17320

Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

ESTATE OF LIONEL P. SCHINDLER, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Executrix: Bari M. Downey, 118 Ellis Alley, Mechanicsburg, PA 17050

Attorney: Justin S. Alex, Esq., 63 N. Main Street, Suite K, Stewartstown, PA 17363

ESTATE OF J. ROBERT WINGERT a/k/a JAMES ROBERT WINGERT, JR., DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator C.T.A.: Grayson P. Wingert, 605 Dubs Church Road, Hanover, PA 17331

Attorney: Alex E. Snyder, Esq., Barley Snyder LLP, 14 Center Square, Hanover, PA 17331

ESTATE OF TINA M. WOODWARD, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Executrix: Tracy L. Woodward, 13 Lindsay Trail, Fairfield, PA 17320

SECOND PUBLICATION**ESTATE OF MARION THOMAS BARKER, JR., DEC'D**

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executrix: Olivia Nicole Arden, c/o Todd A. King, Esq., Salzmann Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

Attorney: Todd A. King, Esq., Salzmann Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CHRISTINE BERGIN a/k/a CHRISTINE MARY BERGIN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Dawn Bergin and Karen Bergin, c/o Linda S. Siegle, Esq., Siegle Law, 1010 Eichelberger Street, Suite 3, Hanover, PA 17331

Attorney: Linda S. Siegle, Esq., Siegle Law, 1010 Eichelberger Street, Suite 3, Hanover, PA 17331

ESTATE OF LEONARD K. CLEMENT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrix: Shirley A. Blanton, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF HELEN P. KELLEY, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Executrix: Amber L. Altland, 330 Silo Road, Orrtanna, PA 17353

Attorney: Bernard A. Yannetti, Esq., Hartman & Yannetti, Inc. Law Office, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF EUGENE W. MILLER a/k/a EUGENE WILFORD MILLER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Brian Edward Miller, 24 Antler Lane, New Oxford, PA 17350; Melissa Sue Koontz, 424 Glenwyn Drive, Littlestown, PA 17340

Attorney: Thomas E. Miller, Esq., Law Office of Thomas E. Miller, Esquire LLC, 249 York Street, Hanover, PA 17331

ESTATE OF DONALD E. WARREN a/k/a DONALD EUGENE WARREN, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

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ESTATE OF RUTH V. WILLIAMS, DEC'D

Late of the Borough of York Springs, Adams County, Pennsylvania

Co-Executors: Thomas D. Williams and Frederick L. Williams, c/o John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

THIRD PUBLICATION**ESTATE OF NORA H. COHEE, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

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ESTATE OF RHONDA R. DEARDORFF, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

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ESTATE OF GLADYS M. FELIX, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

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ESTATE OF GERALD RAY HARING, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Administratrix: Elizabeth K. Jones, 15 Essex Drive, Carlisle, PA 17015

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Mette, Evans & Woodside, 3401 N. Front Street, P.O. Box 5950, Harrisburg, PA 17110-0950

ESTATE OF SHARON G. HOKE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator: Stacy A. Spielman, c/o Jennifer M. Stetter, Esq., Barley Snyder, LLP, 14 Center Square, Hanover, PA 17331

Attorney: Jennifer M. Stetter, Esq.,
Barley Snyder, LLP, 14 Center Square, Hanover, PA 17331

ESTATE OF NICHOLAS P. MISITI a/k/a NICHOLAS PATRICK MISITI, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executrices: Angela M. Elder f/k/a Angela M. Nace, 2189 Reservoir Heights Drive, Hanover, PA 17331; Rose M. O'Brien, 127 Beaver Creek Road, Abbottstown, PA 17301

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ESTATE OF LARRY ORVILLE MOSER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Administratrix: Janet Zechman, 326 Georgetown Road, Littlestown, PA 17340

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ESTATE OF VICKY A. MUMMERT, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

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