

a suspect in Detective Smith's investigation, resided at the Defendant's residence.

3. Detective Smith asked the Defendant for her name. The Defendant responded by giving Detective Smith the name of "Danielle Shaffer". The Defendant further advised that no other tenant was on the lease with her. Later in the conversation, Detective Smith informed the Defendant that he was a law enforcement officer with the City of Martinsburg Police Department. After being informed that Detective Smith was a law enforcement officer investigating criminal activity, the Defendant did not provide Detective Smith with her real name.
4. Following his interaction with the Defendant, Detective Smith spoke with the property manager of 100 S. Raleigh St. The property manager informed Detective Smith that the name on the lease was that of the Defendant, Rachel Dunbar. The property manager further informed Detective Smith that the name Danielle Shaffer was not found in the lease paperwork.
5. With the aid of dispatch, Detective Smith located a WV driver's license for Rachel Dunbar, and determined that the photo in the driver's license matched the appearance of the Defendant.
6. Following Detective Smith's determination that the Defendant was in fact Rachel Dunbar, and not "Danielle Shaffer" as the Defendant had stated to him, Detective Smith sought a warrant to be issued for the Defendant for knowingly giving him false or misleading information pursuant to § 509.05 of the City of Martinsburg Municipal Code.

Conclusions of Law

Under the City of Martinsburg Municipal Code, “[n]o person shall, at any time intercept, molest, or interfere with any officer or member of the Martinsburg Police Department, while on duty, or knowingly give false or misleading information to a member of the Department.” See § 509.05, City of Martinsburg Municipal Code.

At the trial *de novo*, both Detective Smith and the Defendant testified that the Defendant provided Detective Smith with the name of “Danielle Shaffer”, rather than the Defendant’s actual name. Additionally, both Detective Smith and the Defendant testified that Detective Smith identified himself as a law enforcement officer with the City of Martinsburg Police Department. The Defendant admitted in her testimony that at no point did she correct her false statement to Detective Smith that her name was “Danielle Shaffer” upon learning that he was a law enforcement officer.

The Defendant argues that when she gave the false name to Detective Smith, it was prior to her being aware she was providing false information to a law enforcement officer, and therefore she did not knowingly give false information as contemplated by the municipal code. However, the Court finds by the Defendant’s own admission that the Defendant became aware that Detective Smith was a law enforcement officer and made no attempt to cure her prior false statement when she had the opportunity to do so. Accordingly, the Court concludes that the Defendant knowingly provided false or misleading information to Detective Smith, a member of the City of Martinsburg Police Department, and therefore was in violation of § 509.05, City of Martinsburg Municipal Code.

The Defendant contends that she did not act unlawfully by failing to correct her

false statement to the detective. The court acknowledges that Ms. Dunbar did not have the obligation to cooperate absent some legal duty to do so. *State v. Carney*, 222 W. Va. 152, 158, 663 S.E.2d 606, 612 (2008) (“[A] person does not violate the law by doing what he has a lawful right to do.” [Citation omitted.] ... [N]ot every hindrance to a police investigation rises to the level of a colorable offense under West Virginia Code § 61–5–17(a)). Making a false statement to a police officer in the course of a felony investigation, however, is clearly obstruction. *State v. Davis*, 229 W. Va. 695, 735 S.E.2d 570 (2012).

Conclusion

Accordingly, it is ORDERED and ADJUDGED that the Defendant, Rachel Dunbar, is GUILTY of the charge of violating § 509.05, City of Martinsburg Municipal Code. It is further ORDERED that the Defendant shall forfeit that amount of \$252.00 paid by Defendant as a cash bond to the Clerk of the Circuit Court of Berkeley County.

This is a final order.

The Court notes the objections and exceptions of the parties to any adverse ruling herein.

The Clerk is directed to provide true and correct copies of this Order to counsel of record.

/s/ Michael Lorensen
Circuit Court Judge
23rd Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit www.courtswv.gov/e-file/ for more details.