

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA :  
 :  
 :  
 vs. : NO. 83-10,480  
 :  
 :  
 ROBERT W. BLACKWELL, :  
 Defendant : 1925(a) OPINION

**OPINION IN SUPPORT OF THE ORDER OF APRIL 23, 1999, IN COMPLIANCE  
WITH RULE 1925(a) OF THE RULES OF APPELLATE PROCEDURE<sup>1</sup>**

The reasons for this Court's Order of April 23, 1999, are set forth in that Order and supplemented by this Opinion.

First, the Petition/Motion was not timely filed by Defendant. 42 Pa.C.S. §9545(b) provides that such requests shall be filed within one year of the date the judgment becomes final, unless one of the exceptions set forth under 42 Pa.C.S. §9545(b)(1)(i),(ii) or (iii) are alleged and proved, none of which are applicable to the instant case. Moreover, second or subsequent requests for post-conviction relief require a strong *prima facie* showing of manifest injustice, which we do not believe Defendant has demonstrated. *Commonwealth v. Lawson*, 549 A.2d 107 (Pa. 1988).

Further, with respect to Defendant's allegations of deficiencies during the preliminary hearing stage, the case proceeded and was submitted to a jury. Accordingly, any

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<sup>1</sup> Defendant also filed a "Petition for Bail" June 24, 1999. No action is taken on this filing as it is our understanding this is a Petition to the Superior Court. However, we would deny bail in any event. Defendant has demonstrated neither exceptional circumstances nor compelling reasons, which would lead this Court to believe bail is appropriate in this case. *Commonwealth v. Bonaparte*, 530 A.2d 1351 (Pa.Super. 1987).

error with respect to the preliminary hearing is deemed harmless. *Commonwealth v. Hess*, 414 A.2d 1043 (Pa. 1980); *Commonwealth v. Taylor*, 596 A.2d 222 (Pa.Super. 1991) (*see also* page 1 of the Opinion filed in this case November 16, 1983).

Based upon the foregoing, as well as the reasons indicated in this Court's Order of April 23, 1999, it is the opinion of this Court that Defendant's Motion/PCRA Petition must be denied.

BY THE COURT,

Date: September 24, 1999

William S. Kieser, Judge

cc: Court Administrator  
District Attorney  
Jayne Shinko, Esquire  
Dean Livermore, Esquire  
Robert Blackwell – AT-1022  
SCI Camp Hill; P. O. Box 200; Camp Hill, PA 17001-0200  
Judges  
Nancy M. Snyder, Esquire  
Gary L. Weber, Esquire (Lycoming Reporter)