

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

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|------------------------------|------------------------|
| COMMONWEALTH OF PENNSYLVANIA | : No. 99-11,634 |
| | : |
| vs. | : CRIMINAL DIVISION |
| | : |
| ANWAR AMOS, | : |
| Defendant | : Post Sentence Motion |

ORDER

AND NOW, this _____ day of May 2000, after argument on the Post Sentence Motion filed by defense, it is ORDERED and DIRECTED as follows:

Count I. **MOTION FOR A NEW TRIAL**

The defendant contends that the Court erred in giving the jury a consciousness of guilt instruction. The Court sees no error in giving this instruction to the jury as a factual issue for their determination.

The Commonwealth presented testimony that after the defendant punched the victim, a second Commonwealth witness responded to victim's radio transmission that he had been hit. The witness testified that upon arrival he saw the defendant in the distance in a run or semi-jog leaving the scene; the defendant looked back at him and he seemed to be pulling his sweatshirt off. The jury was clearly entitled to determine whether this conduct indicated a consciousness of guilt instruction. Therefore, the Motion for New Trial is DENIED.

Count II. **MOTION IN ARREST OF JUDGMENT**

The Motion in Arrest of Judgment addresses the defendant's conviction for the summary offense of criminal trespass, 18 Pa.C.S.A. §3503.¹

In reviewing the case, the Court agrees with the defense that the defendant's conviction of this offense cannot stand. The evidence is clear that the defendant was on the premises of Timberland Apartments at the invitation of his girlfriend, Faith Rochester, who was a tenant of Timberland Apartments at the time. The permission of the tenant would negate the requisite trespassing status needed for this offense. Accordingly, the Motion in Arrest of Judgment for the summary offense of Criminal Trespass is GRANTED.

The sentence imposed by the Court in its Order of March 30, 2000 for the summary offense of criminal trespass (a fine of \$100) is hereby VACATED.

By The Court,

Kenneth D. Brown, J.

cc: Nicole Spring, Esq., (APD)
District Attorney
Adult Probation
Cost Clerk
Work File

¹It should be noted the Court granted the defendant's demurrer at trial to criminal trespass, defiant trespasser, charged as a misdemeanor of the third degree. See the Court's Order of February 17, 2000.