

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO: 01-10,383

VS :

SAMUEL EASLEY :

OPINION AND ORDER

Before the Court is Defendant's Petition for Habeas Corpus. The Defendant was charged with simple assault (two counts), terroristic threats, harassment by communication, and intimidation of a witness, as a result of an incident that occurred on January 24, 2001. A Preliminary Hearing was held February 2, 2001 before District Magistrate Allen P. Page, after which, the charges of simple assault and intimidation of a witness were dismissed, and the charges of terroristic threats and harassment by communication were bound over. Defendant now argues that the Commonwealth failed to establish a prima facie case of terroristic threats. The parties agreed to submit the motion on the transcript of the preliminary hearing. After a review of the transcript of preliminary hearing, the Court finds the following facts relevant to the motion.

Robin Lynn Shifflett testified that on January 21, 2001, she and the Defendant<sup>1</sup> got into a disagreement that escalated into a fistfight. Ms. Shifflett called the police, and the Defendant was taken into custody. (N.T. 2/2/01, p. 3) After being released from custody, the Defendant called Ms. Shifflett at her home and the two "exchanged words." Ms. Shifflett testified that the Defendant informed her at that time that he "was gonna to kill [her], he said he should have killed [her], he was going to beat [her] up, ..." (*Id.*, p. 4) The Defendant came to her house the next day. Ms. Shifflett testified that he became

angry when she was not able to give him his clothing, and the Defendant pounded on the door, and stated that he was going to f\*\*\* her up. (Id., p. 6) Ms. Shifflett testified that she did not feel scared or threatened when the Defendant stated that he was going to kill her. She testified “I really wasn’t, I just didn’t know what he was capable of after that, so you know.” (Id., p. 9)

Officer Kevin Stiles, of the Williamsport Bureau of Police testified that he responded to Ms. Shifflett’s residence on January 24, 2001. He testified that Ms. Shifflett reported on that date that the Defendant had called her and stated that he should kill her, that he should come over and beat her up. He testified that later the same evening, Ms. Shifflett called him to report that the Defendant had been pounding at the door of her residence stating that he was “going to f\*\*\* [her] up hard” and when he saw her on the street he was “going to f\*\*\* [her] up bad.” Stiles testified that Ms. Shifflett seemed distraught at the time. She stated to Officer Stiles that she was not going to put up with the Defendant’s behavior, and that she wished to have charges filed against him. (Id., p. 13)

The issue before the Court is whether the Commonwealth established a prima facie case of terroristic threats. To successfully establish a prima facie case, the Commonwealth must present sufficient evidence that a crime was committed and the probability the Defendant could be connected with the crime. Commonwealth v. Wodjak, 502 Pa 359, 466 A.2d 991 (1983). Under 18 Pa.C.S.A. § 2706(a)(1), a person commits the crime of terroristic threats if the person communicates, either directly or indirectly, a threat to commit any crime of violence with intent to terrorize another. Therefore, to prove the offense of terroristic threats, the Commonwealth must prove that

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<sup>1</sup> Ms. Shifflett and the Defendant were at the time, and are currently engaged to be married.

the defendant made a threat to commit a crime of violence, and that the threat was communicated with the intent to terrorize another or with reckless disregard for the risk of causing terror. [Commonwealth v. Tizer, 454 Pa.Super 1 , 684 A.2d 597 \(1996\)](#) In the instant case, the Court finds that the Commonwealth established that the Defendant made threats of violence when he told Ms. Shifflett that he was going to “f” her up.

The Defendant argues that although he may have made threats to Ms. Shifflett, he did not do so with the intent to terrorize, or with reckless disregard for the risk of causing terror. The Court rejects this argument. The Court finds the circumstances surrounding the Defendant’s statements indicate that the statements were made with the intent to threaten and terrorize Ms. Shifflett. Ms. Shifflett obviously thought the threats were serious enough to warrant calling the police for assistance. Additionally, Ms. Shifflett testified that she “just didn’t know what [the Defendant] was capable of after that...” The Court finds this evidence is sufficient to establish a prima facie case.

The Defendant argues that the Commonwealth failed to establish a prima facie case, since Ms. Shifflett testified at the preliminary hearing that she was not afraid, and since there was no evidence presented to establish that the Defendant had the intent to carry out his threats. The Court rejects these arguments. See [Commonwealth v. Kelley, 664 A.2d 123, 444 Pa.Super. 377, \(1995\)](#), appeal denied [674 A.2d 1068, 544 Pa. 603](#). (To establish a prima facie case of terroristic threats at the preliminary hearing, the Prosecution is not required to produce evidence that the person to whom defendant communicated threat was actually frightened.) See *also* [Commonwealth v. Fenton, 750 A.2d 863, \(Super.2000\)](#) (Neither the ability to carry out the threat, nor a belief by the person threatened that it will be carried out, is an essential element of the crime of

terroristic threats; rather, the harm sought to be prevented is the psychological distress that follows from an invasion of another's sense of personal security.)

ORDER

AND NOW, this \_\_\_\_ day of June 2001, based on the foregoing Opinion, it is ORDERED AND DIRECTED that the Defendant's Petition for Writ of Habeas Corpus is DENIED.

By The Court,

Nancy L. Butts, Judge

cc: CA  
Edward J. Rymsza, Esquire  
Robert Ferrell, III, Esquire  
Honorable Nancy L. Butts  
Judges  
Law Clerk  
Gary Weber, Esquire