

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 01-10,921
:
:
vs. : CRIMINAL DIVISION
: Petition for Writ of Habeas Corpus
ANTHONY CONNELLY, :
Defendant :

OPINION AND ORDER

Before the Court is Defendant’s Petition for Writ of Habeas Corpus, filed June 29, 2001. Argument was scheduled for August 17, 2001 but counsel stipulated to submit the matter upon the transcript of the preliminary hearing, attached to the Petition.

Defendant has been charged with robbery, criminal conspiracy, theft, receiving stolen property, simple assault and harassment, in connection with an incident alleged to have occurred on or about April 30, 2001. Defendant contends in his Petition that the Commonwealth failed to present sufficient evidence at the preliminary hearing to establish prima facie that he was involved in the incident. The Court does not agree.

A review of the transcript of the preliminary hearing indicates the victim testified that he was 75% sure of his identification of Defendant. Further, Officer Miller testified that the victim identified Defendant from a photo array shortly after the incident. Evidence was also presented, through Officer Miller’s testimony, that Defendant was identified as having been involved in the incident by a witness, who communicated that fact to law enforcement personnel while Officer Miller was at the scene.¹

¹According to Officer Miller’s testimony, Defendant walked by he and the victim while they were at the scene and while Defendant was doing so, Officer Miller received a radio communication that the person walking by was involved. From other testimony, the Court gathers that radio communication came from County Communications, who had been or still was on the telephone with a person who witnessed the incident from a nearby building.

Considering all of the evidence presented, the Court finds that the Commonwealth did indeed present a prima facie case that a crime was committed and that Defendant was probably a perpetrator of that crime.²

ORDER

AND NOW, this 20th day of August, 2001, for the foregoing reasons, Defendant's Petition for Writ of Habeas Corpus is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: DA
Matt Zeigler, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson

²The incident involved more than one (1) perpetrator.