

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. 01-12,138
	:
	:
vs.	: CRIMINAL DIVISION
	: Omnibus Pre-Trial Motion
JENNIFER JOLENE DUDEK,	:
Defendant	:

OPINION AND ORDER

Defendant has been charged with resisting arrest, obstructing the administration of justice, disorderly conduct and four summary offenses in connection with a vehicle accident and the subsequent investigation thereof by an officer of the South Williamsport Police Department, on October 19, 2001. In the instant pre-trial motion, Defendant seeks to dismiss all charges, to suppress all evidence, and also asks for a Writ of Habeas Corpus. A hearing on the motion was held August 5, 2002.

The events which led to the instant charges have been described in detail in a companion case, that of Commonwealth v Alexander Bobotas, filed to No. 01-12,140, specifically the Opinion and Order entered May 21, 2002. The Court hereby incorporates into the instant opinion the factual recitation contained therein.

In both the Motion to Dismiss and the Motion to Suppress, Defendant contends either or both remedies are appropriate based upon the officer's alleged violation of the Statewide Municipal Police Jurisdiction Act. 42 Pa. C.S. Section 8953. The identical argument was raised in Bobotas and for the reasons contained in the Opinion addressing that matter, both motions will be denied.

The Petition for Writ of Habeas Corpus contends the evidence was insufficient to support the charges of resisting arrest, obstructing the administration of justice, and disorderly conduct. Considering the evidence presented at the hearing on August 5, 2002, the Court

agrees.

With respect to the charge of resisting arrest, 18 Pa. C.S. Section 5104, the Commonwealth must show, among other elements, that the person created a substantial risk of bodily injury or employed means justifying or requiring substantial force to overcome the resistance. The evidence in the instant matter indicated that Defendant engaged in mostly yelling and screaming, that the resisting was “very brief”, and that it required only light physical force to overcome. According to the assisting officer, the officers “got the cuffs on her very quickly.” The Court finds this evidence insufficient to establish a substantial risk of bodily injury or that substantial force was required to overcome Defendant’s resistance.

With respect to the charge of obstructing the administration of justice, 18 Pa. C.S. Section 5101, the Commonwealth is required to show that the person intentionally obstructed, impaired or perverted the administration of law or other government function, by force, violence, physical interference or obstacle, breach of official duty, or any other unlawful act. Again, the evidence presented does not support this charge inasmuch as the officer testified that he had to “fend her off”, meaning that he pushed her back when she grabbed at him, but no evidence of any force, violence or physical interference within the meaning of the act was presented.

Finally, with respect to the charge of disorderly conduct, for the reason given in Commonwealth v Bobotas, that is, that the residence was in an area which was described as desolate and that any neighbors were far away and could not be seen, thus eliminating the element of public inconvenience, annoyance or alarm, this charge will also be dismissed.

ORDER

AND NOW, this 13th day of September, 2002, for the foregoing reasons, Defendant’s Pre-Trial Motion is hereby granted in part and denied in part. Counts 1, 2 and 3 of the information filed January 18, 2002 are hereby dismissed.

By the Court,

Dudley N. Anderson, Judge

cc: DA
Pete Campana, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson