

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 02-10,657
:
:
vs. : CRIMINAL DIVISION
: Motion to Suppress
TROY HEARD, :
Defendant :

OPINION AND ORDER

Defendant has been charged with two (2) counts of criminal conspiracy, four (4) counts of possession with intent to deliver a controlled substance, three (3) counts of delivery of a controlled substance, three (3) counts of possession of a controlled substance and three (3) counts of possession of drug paraphernalia, following his arrest on April 10, 2002. After his arrest, Defendant was read his Miranda rights and waived those rights, thereafter making statements which he now seeks to suppress through his motion filed July 17, 2002. A hearing on the motion was held September 6, 2002.

Defendant argues that at the time he waived his Miranda rights, he was intoxicated to the point that he was incapable of making a knowing, understanding and intelligent waiver of those rights. The testimony presented by the Commonwealth indicates otherwise, however. Officer Dustin Kreitz of the Williamsport Police Department, the narcotics unit, testified that he was present when Defendant was read his rights and waived them, and that there was absolutely no indication he was under the influence of any alcohol or controlled substance. Corporal Thomas Ungard, also of the Williamsport Police Narcotics Unit, as well as the coordinator of the Drug Task Force and DUI Center, testified that he participated in the interview of Defendant and that based on his training and experience, Defendant was not intoxicated or under the influence of any alcohol or controlled substance. Both officers testified to significant experience with individuals who were under the influence of alcohol and/or drugs, lending credibility to their

opinions.

Based on the testimony presented, the Court finds that Defendant was not intoxicated to the point that he was incapable of making a knowing, understanding and intelligent waiver of his Miranda rights at the time he waived those rights.

ORDER

AND NOW, this 13th day of September, 2002, for the foregoing reasons, Defendant's Motion to Suppress is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: DA
Diane Turner, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson