

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, : NO. 81-10,857
:
:
vs. :
:
JON M. SHERWOOD, :
Defendant :

OPINION IN SUPPORT OF ORDER
DATED JULY 2, 2003 IN
COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

The Commonwealth and the Pennsylvania State Police have appealed this Court’s Order dated July 2, 2003, which denied reconsideration of the Order dated June 10, 2003, in which Defendant’s application for restoration of firearms rights was granted. The Court notes that in “granting” the application, the Court found that it was unable to determine that Defendant had actually lost his state right to possess firearms but that it nevertheless appeared that he should be entitled to possess firearms. Therefore, the Court ordered that to the extent his state right to possess firearms had been lost by reason of a prior conviction, the Court thereby restored that right, as well as the right to vote, hold public office and to serve on a jury. In their statement of matters complained of on appeal, the Commonwealth and the Pennsylvania State Police contend the Order is erroneous in several regards.

First, it is complained that this Court’s Order does not address Defendant’s federal firearm disabilities. As noted in the Order dated July 2, 2003, addressing the motion for reconsideration, the Court agrees that the Order of June 10, 2003 does not address Defendant’s federal firearm rights. The Court was not asked to address Defendant’s federal firearm rights.

Second, it is contended Defendant is not entitled to relief under 18 Pa. C.S. Section 6105.1. The Court agrees that Defendant’s prior conviction for statutory rape (18 Pa. C.S. Section 3122) does not entitle him to relief under Section 6105.1 of the Uniform Firearms

Act because statutory rape is not a “disabling offense” as set forth in Section 6105.1(e). The Court did not purport to grant Defendant relief under that Section, however.

Next, it is contended this Court has no authority to restore Defendant’s core civil rights. The Commonwealth Court has held otherwise, however, in Pennsylvania State Police v Paulshock, 789 A.2d 309 (Pa. Commw. 2001), appeal granted, 2002 Pa. Lexis 2374 (Pa. November 13, 2002). The Court assumes that the Commonwealth and the State Police are challenging this Court’s ruling even though it follows the law of Paulshock, in the hopes that Paulshock will be overturned, inasmuch as the issue is currently pending before the Pennsylvania Supreme Court in that case.

Finally, it is contended this Court’s Order has no practical effect because it does not address Defendant’s federal firearms privilege. Whether this Court’s Order restoring Defendant’s state firearm disabilities and other core civil rights, to the extent they were lost in the first place, has any practical effect with respect to federal law is not a matter this Court deems necessary to address.

A review of the entire matter presented by way of the instant appeal convinces this Court that its original order was correct and therefore should be affirmed.

Dated: October 9, 2003

By The Court,

Dudley N. Anderson, Judge

cc: DA
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Hon. Dudley N. Anderson