

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. 04-11,352  
:   
vs. : CRIMINAL  
:   
TYRONE HARRIS, : Petition for Habeas Corpus  
Defendant :

**ORDER**

AND NOW, this \_\_\_ day of October 2004, the Court DENIES the defendant's Petition for Habeas Corpus. Although the Court is concerned that Officer Miller did not state a basis for some of his opinion testimony, the Court believes that the amount of cocaine, the lack of paraphernalia to use the cocaine and inferences from the defendant's statements that he was not a cocaine addict or user were sufficient for the charge of possession with intent to deliver cocaine to be held for court.<sup>1</sup>

By The Court,

\_\_\_\_\_  
Kenneth D. Brown, P.J.

cc: Nicole Spring, Esquire (APD)  
District Attorney

1 The Court would encourage the parties to discuss resolving this case. The cocaine found on the defendant was not individually packaged. There was a single bag containing numerous small chunks that total approximately an eight ball. Officer Miller's opinion to the effect that the \$20 found on the defendant "may have indicated that the narcotics were just obtained and he'd only made one sale from the bag" seems to be conjecture or speculation. Furthermore, Officer Miller's opinion that the numerous chunks indicated an intent to deliver despite not being in individual baggies seems contrary to the police testimony that individual baggies or packets indicates an intent to deliver that the undersigned has heard over the years as a jurist and former district attorney. The undersigned cannot recall a case where drugs were sold to another individual without being packaged in some manner. The Court recognizes that the Commonwealth may not have presented all its evidence at the preliminary hearing. However, if it weren't for the inference that the defendant is not a cocaine addict or user, the result in this case may have been different.

Work file  
Gary Weber, Esquire (Lycoming Reporter)