

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. 04-10,892  
:   
vs. : CRIMINAL  
:   
ROBERT E. JOHNSON, III, : Habeas Corpus  
Defendant :

**ORDER**

AND NOW, this \_\_\_ day of July 2004, the Court DENIES the Defendant's Habeas Corpus Petition. The testimony at the preliminary hearing showed that the Defendant fired two shots at Penn College Police Officer Chubb from a distance of about ten feet during a foot chase. One shot struck Officer Chubb's belt. The other shot struck Officer Chubb's abdomen below the belt line and angled downward, lodging a quarter of an inch from his tailbone. Intent to kill can be inferred from the use of a deadly weapon upon a vital part of the body. Since there are vital organs in the abdomen, the Court concludes sufficient evidence was presented to establish the Defendant had the intent to kill. Therefore, the Commonwealth presented sufficient evidence for the attempted homicide charge.

By The Court,

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Kenneth D. Brown, P.J.

cc: William Miele, Esquire (PD)  
Kenneth Osokow, Esquire (ADA)  
Gary Weber, Esquire (Lycoming Reporter)