

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : No. 03-10,050
:
:
vs. : CRIMINAL
: Commonwealth's Oral Motion
: for the Court to Reconsider
RICHARD WAYNE ILLES, SR., : its Order of 1/7/04 Re:
Defendant : Grand Jury Transcripts

O R D E R

AND NOW, this ___ day of January 2004, after oral argument, the Court **DENIES** the Commonwealth's request to reconsider its Order dated January 7, 2004 concerning Grand Jury Transcripts of witnesses who the Commonwealth will call to testify at trial.

The Commonwealth seeks to have the Court limit their production obligation when the witnesses, typically a police investigator, spoke to other potential witnesses and the investigator before the Grand Jury is only testifying to third party witness statements. The Commonwealth contends that since such statements are hearsay and would not be the subject of the witnesses' trial testimony, they need not be produced in supplying the defense with the transcript of the investigator's testimony before the Grand Jury.

Further, the Commonwealth requests the Court to reconsider its Order of January 7, 2004 in regard to Grand Jury testimony by trial witnesses, typically police investigators, who only testify to limited subject matter at a given time with the expectation that they will be recalled to

the witness stand by the Commonwealth later on in the trial to testify concerning a different subject matter. The Commonwealth requests that they only provide the portion of the witnesses Grand Jury testimony relating to the trial testimony.

The problem with the Commonwealth's position is that it would complicate the transcript production process by allowing the Commonwealth to eliminate or parse out sections of the witnesses' Grand Jury Testimony. Rule 230(2) makes no such distinction in its discussion of furnishing transcripts of Grand Jury witnesses to a defendant. Pa.R.Cr.P. 230(2). The Rule simply applies to a witness in a criminal case who has previously testified before an investigating Grand Jury "concerning the subject matter of the charges against the defendant." The Court will not further complicate this process by parsing the production of Grand Jury transcripts as requested by the Commonwealth. At this late stage of the proceedings, it is better for the trial process to have information shared by both sides as soon as practicable. Thus, the Court **DENIES** this request by the Commonwealth.

By The Court,

Kenneth D. Brown, P.J.

cc: Michael Dinges, Esquire (DA)
Kenneth Osokow, Esquire (ADA)
George Lepley, Esquire

Craig Miller, Esquire
Work file
Gary Weber, Esquire (Lycoming Reporter)