

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA** : **No. 03-10,050**  
:   
:   
**vs.** : **CRIMINAL**  
:   
**RICHARD WAYNE ILLES, SR.,** : **Appointment of**  
**Defendant** : **Counsel**

**O R D E R**

AND NOW, this 21<sup>st</sup> day of May 2004, the Court **APPOINTS** Craig Miller, Esquire, as a specially appointed public defender to represent the Defendant, Richard Wayne Illes, Sr., in the Post Sentence Motion and direct appeal process. Mr. Miller will be compensated at a contract rate as agreed upon by Mr. Miller and the Lycoming County Commissioners.

The Court notes it would be particularly difficult for the Lycoming County Public Defender to assume representation of the Defendant since the Post Sentence Motion filed April 5, 2004 must be heard and determined within a 120-day period or 150 days if the defense requests a 30-day extension. See Pa.R.Cr.P. 720.

The transcripts for this lengthy trial will not be ready for months. Attorney Miller, who represented the Defendant at trial, will not need transcripts because he is aware and prepared as trial counsel to address all events and issues surrounding the trial.

In its Order of March 30, 2004, the Court ruled any issue of ineffective assistance of trial counsel could not be raised in Post Sentence Motions or on direct appeal. Rather, any issue of ineffective assistance of counsel could be raised, if at all, in the collateral proceeding created by the Post Conviction Relief Act if the Defendant is unsuccessful on direct appeal. This procedure is envisioned by the Pennsylvania Supreme Court's recent decision in Commonwealth v. Grant, 572 Pa. 48, 813 A.2d 176 (2002). See also this Court's Order of March 30, 2004 pp. 3-4.

The argument or hearing on the Defendant's Post Sentence Motion is scheduled for July 8, 2004 at 9:00 a.m. in Courtroom No. 1. After the argument, the Court will give the Defendant a chance to be heard by the Court if he contends his relationship with Attorney Miller is such that Attorney Miller should not continue to represent him on direct appeal or other disposition of the Post Sentence Motion. However, it would appear to the Court that the Defendant's best interests are most clearly served by him being represented by the attorney most intimately familiar and aware of all the trial related issues that could be raised in the Post Sentence Motion and direct appeal process.

If for any reason the Defendant opposes Attorney Miller's continued representation for the direct appeal and the Court finds the Defendant has stated legitimate reasons for Mr. Miller not representing him, the Lycoming County Public Defender's office will assume representation of the

Defendant on direct appeal.<sup>1</sup>

The Lycoming County Sheriff shall transport the Defendant to the Lycoming County Courthouse for the Post Sentence Argument/Hearing and shall return the Defendant to the State Correctional Institution at Camp Hill after completion of the hearing.

By The Court,

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Kenneth D. Brown, Judge

cc: Michael Dinges, Esquire (DA)  
Kenneth Osokow, Esquire (ADA)  
Roan Confer, Esquire (ADA)  
George Lepley, Esquire  
Craig Miller, Esquire  
William Miele, Esquire (PD)  
Eugene Yaw, Esquire  
Richard Wayne Illes, Sr., #FS5769  
1500 Lisburn RD, PO 8837  
Camp Hill PA 17001-8837  
Work file  
Sheriff  
SCI-Camp Hill  
Gary Weber, Esquire (Lycoming Reporter)

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<sup>1</sup> The Defendant should understand that he does not get to choose who will represent him unless he hires private counsel. Rather, the Court will determine who will be appointed to represent him.