

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

**COMMONWEALTH**

**v.**

**LAWRENCE MANSON,  
Defendant**

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**No.: 05-10,144**

**OPINION AND ORDER**

Before the Court is the Defendant's Omnibus Pretrial Motion filed March 9, 2005. The Defendant asserts two Motions to Dismiss, alleging that the Commonwealth failed to establish a prima facie case for each of the charges, Endangering the Welfare of a Child, and Invasion of Privacy. Defendant also submits a Motion for Return of Property seized by police.

(1) Motion to Dismiss the charge of Endangering the Welfare of a Child.

Defendant asserts that the Commonwealth failed to set forth a prima facie case of Endangering the Welfare of a Child. To successfully establish a prima facie case, the Commonwealth must present sufficient evidence that a crime was committed and the probability the Defendant could be connected with the crime. *Commonwealth v. Wodjak*, 502 Pa 359, 466 A.2d 991 (1983). Under 18 Pa.C.S. § 4304, a person is guilty

of Endangering the Welfare of a Child if as a parent, guardian, or other person supervising the welfare of a child under 18 years of age, he knowingly endangers the welfare of the child by violating a duty of care, protection or support. The crime has been given particularly broad applicability as interpreted by the Supreme Court. "Section 4304 was drawn broadly to cover a wide range of conduct in order to safeguard the welfare and security of children." *Commonwealth v. Cochrane*, 1989 Pa.Super. LEXIS 4097 (1989), *citing Commonwealth v. Mack*, 467 Pa. 613, 618, 359 A.2d 770, 772 (1976). The "common sense of the community, as well as the sense of decency, propriety and the morality which most people entertain is sufficient to apply the statute to each particular case, and to individuate what particular conduct is rendered criminal by it." *Id.*

The testimony presented at the preliminary hearing was sufficient to establish a prima facie case of Endangering the Welfare of a Child. The victim testified that she discovered nude photographs of herself in Defendant's dresser drawer. She also testified that she was unaware of and had not consented to the photographs. The victim testified that she had been living with Defendant at the time the photographs were taken, and that after this time she had periodically stayed with Defendant. The Court finds the evidence sufficient to establish, prima facie, that the relationship between Defendant and Victim involved the supervision of the welfare of the child and that Defendant had violated a duty of care.

(2) Motion to Dismiss the charge of Invasion of Privacy.

Defendant also argues that the Commonwealth failed to establish a prima facie case of Invasion of Privacy. A person is guilty of Invasion of Privacy under 18 Pa.C.S. 7507.1, if he, “knowingly views, photographs or films another person without that person's knowledge and consent while the person being viewed, photographed or filmed is in a state of full or partial nudity and is in a place where the person would have a reasonable expectation of privacy.” The statute defines partial nudity as, “[d]isplay of all or any part of the human genitals or pubic area or buttocks, or any part of the nipple of the breast of any female person, with less than a fully opaque covering.” § 7507.1(e).

The evidence presented at the preliminary hearing established, prima facie, that the photograph was knowingly taken without the victim’s consent. Defendant argues that the photograph does not contain full or partial nudity and therefore a prima facie case has not been adequately established. The Court disagrees. The photograph clearly depicts a child completely unclothed. Without attempting to define the precise limits of “any part” of the pubic area or buttocks, the Court finds that the photograph depicts “partial nudity” as described by the statute. The Court is satisfied that the Commonwealth has proven that a crime has been committed and the probability the Defendant could be connected with the crime.

### (3) Motion for Return of Property.

Defendant argues that computers seized from Defendant’s home were not implicated in the charges nor do they have any relevancy to the proceedings and should therefore be returned to Defendant. The Court finds no implication that the computers

are relevant to the proceedings and the Commonwealth made no assertion to the contrary at the time for hearing.

**ORDER**

AND NOW, this \_\_\_\_ day of April, 2005, after hearing on the Defendant's Omnibus Pretrial Motion, and for the reasons set forth above, it is ORDERED and DIRECTED that;

1. With respect to Defendant's Motion to Dismiss the charge of Endangering the Welfare of a Child, the Court finds a prima facie case has been established by the Commonwealth and hereby DENIES Defendant's Motion.
2. With respect to Defendant's Motion to Dismiss the charge of Invasion of Privacy, the Court finds a prima facie case has been established by the Commonwealth and hereby DENIES Defendant's Motion.
3. The Defendant's Motion for Return of Property is hereby GRANTED. The Commonwealth and/or Williamsport Bureau of Police shall return to Defendant computers seized from his home as well as directly related computer equipment, as the Commonwealth did not challenge Defendant's assertion that he was lawfully entitled to the property.

By the Court,

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Nancy L. Butts, Judge

xc: DA (HM)  
J. Cleland, Esq.  
Honorable Nancy L. Butts  
Law Clerk  
Gary Weber, Esq.