

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. 04-11,294
:
vs. : CRIMINAL
:
STEVEN REID, : Omnibus Pretrial Motion
Defendant :
ORDER

AND NOW, this ___ day of January 2005, upon consideration of the defendant's Omnibus Pre-trial Motion, it is ORDERED and DIRECTED as follows:

I. With respect to the motion to compel discovery, the Court rules on each numbered request as follows:

The Commonwealth shall provide items 1, 2 and 4-6 on or before the date of trial (before it calls any witnesses).

The Court DENIES the defendant's request for a witness list contained in paragraph 3.

With respect to items 7, 8,9, and 10, the Commonwealth shall provide any written, audiotaped and/or videotaped statements made by the defendant or by an eyewitness within two weeks. The Commonwealth shall provide any other witness statements prior to the witness testifying at trial. Any 9-1-1 tapes, tapes of the crime scene, surveillance tapes or tapes from in-car cameras shall be provided within two weeks. The Commonwealth shall inform defense counsel if no such tapes exist.

With respect to item 11, which concerns photographs, the Commonwealth shall make any photographs available to defense counsel for inspection and defense counsel may obtain copies, provided the defense pays any expenses for copying.

The Court DENIES the defense request number 12, which seeks the name and department of all law enforcement personnel involved in the investigation of this case. The Court believes the defense already has this information in that the Commonwealth has provided the defense with copies of the police reports in this case. If the Commonwealth gets any supplemental reports, it shall promptly turn them over to the defense.

Item 13 requests a copy of all search warrants. During argument, the Commonwealth represented that they are none to its knowledge.

With respect to items 14, 15 and 18, the evidence for this case is in the custody of the police. The defense shall have the right to inspect the evidence. Defense counsel should make arrangements with Officer Lucas to inspect the evidence.

The Court denies the defendant's request in item 16 for a chain of custody for each piece of evidence from the time it was seized to the present.

Item 17 requests the results of any laboratory analysis. At the time of argument, the Commonwealth did not have any lab reports. If any such reports are obtained, the Commonwealth shall promptly provide a copy to the defense.

Item 19 requests medical records. The Commonwealth represented that they do not have any such records, but if they obtain any medical records of the victim that relate to this incident they will provide them to the defense.

Item 20 requests diagrams or other depictions. If any diagrams or depictions exist, the Commonwealth agreed to provide them to the defense. The Commonwealth should review the file and provide the diagrams/depictions or a statement that none currently exist within two weeks.

Item 21 requests reports from County detectives or other investigators or

officers working for the District Attorney's Office. The Commonwealth does not believe there are any such reports. If there are, or if the County detectives interview witnesses after the date of this order and before the disposition of this case, the Commonwealth shall provide any statements of the Defendant, any statements of eyewitnesses and any exculpatory material promptly. The Commonwealth does not have to provide any other witness statements until the witness is called at trial.

II. The Court denies the Defendant's request for a new preliminary hearing. Although the Magistrate should not have sustained some of the Commonwealth's objections to defense counsel cross-examination, the Court does not think a remand is necessary, especially since the Magistrate dismissed the terroristic threats charge.

III. The Court reserves ruling on the Defendant's motion to exclude evidence until the time of trial.

IV. The Court grants in part and denies in part the defense request for a bill of particulars. The Commonwealth shall answer #1, and #2. With respect to #3, the Commonwealth shall provide the name and address of the victim(s), but not his or her date of birth.¹ With respect to #5, the Court believes the only injuries claimed are bruises and pain. If the Commonwealth intends to pursue the simple assault charges based on any other injuries, it shall answer #5. The Court will not require the Commonwealth to answer #4, and

¹ One of the reasons the Court is requiring an answer to #1, 2 and #3 is because it is not clear to the court whether Mr. Donato's testimony at the preliminary hearing regarding the approximate start time refers to the first incident or the second incident. Also, the Information lists different individuals as the owner or custodian of the property in Counts 1, 2, and 6. The Court also notes the Commonwealth did not file any written response to the bill of particulars. At argument the Commonwealth contended many of the particulars requested were provided in discovery or not the proper subject of a bill of particulars. Even if that is the case, the Commonwealth should have stated that in an answer rather than simply ignoring the request for bill of particulars.

#6-13 as these are discovery or evidentiary type requests.

By The Court,

Kenneth D. Brown, P.J.

cc: District Attorney
Donald Martino, Esquire
Work file
Gary Weber, Esquire (Lycoming Reporter)