

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

COMMONWEALTH	:	
	:	
	:	
v.	:	No: 04-12,055
	:	
GEORGE SEITZER,	:	
Defendant	:	
	:	

OPINION AND ORDER

Before the Court is Defendant’s Petition for Writ of Habeas Corpus. The Petition alleges that the charges of Indecent Assault, Unlawful Contact with a Minor, and Corruption of Minors were improperly held for court by the magistrate following the preliminary hearing held on December 16, 2004.

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). A person is guilty under 18 Pa.C.S. § 3126(a)(1) “Indecent Assault,” if he has indecent contact with the complainant or causes the complainant to have indecent contact with him, if he does so without the complainant's consent. “Indecent contact” is defined in 18 Pa.C.S.A. § 3101 as any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in either person. “The language of the statutory section defining indecent contact includes both ‘sexual’ and ‘other intimate parts’ as possible erogenous zones for purposes of prosecution. Therefore, the phrase ‘other intimate parts’ cannot refer solely to genitalia, as such a construction ignores the distinction between

‘sexual’ and ‘other intimate parts,’ making the latter term redundant.” *Commonwealth v. Capo*, 1999 Pa.Super. 56, 727 A.2d 1126, 1127 (1999).

In the present case, the alleged victim testified that Defendant grabbed her “butt,” rubbed her upper thigh, and kissed her, among other physical contact. She also testified that these contacts were unwanted and not consented to. (N.T. 12/16/04 pp. 4-6). The alleged victim also recalled throughout her testimony instances of Defendant expressing his desire for her sexually. For purposes of establishing a prima facie case, the Commonwealth met its burden at the time of the preliminary hearing. The evidence established sufficient probability that the Defendant touched intimate areas of the alleged victim for purposes of arousal without her consent.

A person is guilty under 18 Pa.C.S. § 6318(a)(1), “Unlawful Contact with a Minor,” if he is intentionally in contact with a minor for the purpose of engaging in an activity prohibited under any of the offenses enumerated in Chapter 31, such as Indecent Assault. The Court finds a prima facie case has been established based on the foregoing Indecent Assault analysis, as well as the alleged victim’s status as a minor at the time of the offense.

A person is guilty under 18 Pa.C.S. § 6301(a)(1), “Corruption of Minors” if, being of the age of 18 years and upwards, by any act corrupts or tends to corrupt the morals of any minor less than 18 years of age, or who aids, abets, entices or encourages any such minor in the commission of any crime, or who knowingly assists or encourages such minor in violating his or her parole or any order of court. Actions that tend to corrupt the morals of a minor are those that “would offend the common sense of the community and the sense of decency, propriety and morality which most people entertain.” *Commonwealth v. Dewalt*, 2000 PA Super 149, 752 A.2d 915, 918 (Pa. Super. 2000); *cited in Commonwealth v.*

Snyder, 2005 Pa.Super. 83, P34 (2005). Based on the transcript of the preliminary hearing as well as the conduct described in the foregoing Indecent Assault analysis, the Court finds that the Commonwealth sufficiently established a prima facie case of Corruption of Minors.

ORDER

AND NOW, this ____ day of April, 2005, after a review of the transcript of the preliminary hearing held December 16, 2004, and based on the foregoing Opinion, the Defendant's Petition for Writ of Habeas Corpus is hereby DENIED.

By the Court,

Nancy L. Butts, Judge

xc: G. Lepley, Esquire
DA (KO)
Honorable Nancy L. Butts
Law Clerk
G. Weber, Esquire