

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR – 1263 - 2005
:
vs. : CRIMINAL DIVISION
:
JAMES EDWARD ERTWINE, :
Defendant : Omnibus Pre-trial Motion

OPINION AND ORDER

Before the Court is Defendant’s Motion to Suppress, filed October 14, 2005. A hearing on the motion was held January 20, 2006.

Defendant has been charged with burglary and related offenses. In his suppression motion, Defendant indicates he gave a custodial statement to authorities that resulted in his prosecution, and that at the time he gave the statement, he was under the influence of prescription drugs such that he was unable to make a knowing and voluntary statement. While evidence that an accused was under the influence of drugs is relevant to a determination of the voluntariness of his statement, the focus is on whether such resulted in an impairment of his faculties. See Commonwealth v. Clark, 427 A.2d 1197 (Pa. Super. 1980). In the instant case, the evidence presented at the suppression hearing does not indicate that Defendant was so impaired.

Defendant presented the testimony of his treating physician, Dr. Donald Mandetta. Dr. Mandetta treated Defendant for a period of 48 weeks¹ for Hepatitis C with Interferon, which, according to Dr. Mandetta, is known to exacerbate pre-existing mental conditions such as depression, but does not usually cause hallucinations or disorientation. The drug is also known to cause anemia and resultant fatigue. Dr. Mandetta testified that Defendant did complain of fatigue and an inability to concentrate, but that he did not notice any effects in interviews with Defendant; Defendant was “slow but appropriate.” Dr. Mandetta testified he never saw Defendant in a state where he would not be able to perceive that he was in custody, and that he

¹ According to the exhibit attached to Defendant’s motion, the period of treatment ran from July 27, 2004 through July 1, 2005. The statement was given in mid-July 2005.

would have been slower than normal, but that he would not have been so impaired that he would not have been able to understand questions put to him. In fact, Defendant testified that he remembers being questioned, he remembers who did the questioning, and that he did understand the questions. The investigating officer testified that during questioning, Defendant appeared alert and oriented and his responses were appropriate. The officer testified that Defendant gave no sign he did not understand and in fact, after being read his Miranda rights, Defendant signed a waiver form indicating he did understand his rights. The officer testified Defendant asked no questions about his rights when he signed the form. Further, the answers given by Defendant appeared to conform with the officer's investigation.

Considering the evidence, the Court finds no reason to conclude Defendant's statement was not made knowingly and voluntarily. The motion to suppress will, therefore, be denied.

ORDER

AND NOW, this 23rd day of January 2006, for the foregoing reasons, Defendant's Motion to Suppress is hereby DENIED.

BY THE COURT,

Dudley N. Anderson, Judge

cc: DA
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Gary Weber, Esq.
Hon. Dudley Anderson