

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :  
 :  
 vs. : NO. 1-2006  
 :  
 GABRIEL GATES, : CRIMINAL ACTION - LAW  
 :  
 Defendant :  
 :

**DATE: August 7, 2006**

**ORDER**

This order is entered in relation to an issue raised at the pre-trial conference held in this matter on August 3, 2006. Defense counsel asserted that the Commonwealth failed to supply him with Defendant's criminal record as directed by this court's June 5, 2006 order and pursuant to Pennsylvania Rules of Criminal Procedure Rule 573(B)(1)(c). The June 5, 2006 order noted that the Commonwealth had agreed to provide the requested discovery indicated in sub-paragraph 4 .r. of Defendant's May 4, 2006 Motion to Compel Discovery, which was Defendant's prior criminal record.

At the pre-trial conference, the Commonwealth provided defense counsel with a copy of a form normally referred to as a sentence guideline calculation form. The form indicated that Defendant's prior record score was a 3 and set forth a list of asserted convictions that formed the basis of the prior record score calculation. The list of convictions was handwritten. The word "Philly" was at the top of the list. Each item in the list followed the following format: a number,

such as “92”, indicating the year; a reference to the criminal offense, such as “CSA 113(31)(32)”; an indication as to the disposition of the offense in the form of a “G” or a “GP”; and then a capital letter, such as “F” or “M”, indicating whether the offense was graded as a felony or a misdemeanor.

The Court finds that the Commonwealth must provide defense counsel with additional information regarding Defendant’s criminal record it may have in its possession or which may be readily accessible and available. The information shall include, at a minimum: the court where the conviction occurred: the case number in that court: the date and type of disposition; and the identity of the charges, preferably by Crimes Code section number, but at least by descriptive name. The Commonwealth shall search its file and resources such as NCIC or J-NET for this information. Following the search, if such information is not within the Commonwealth’s possession it shall so notify defense counsel. If the Commonwealth is able to obtain the above indicated information, then it shall furnish it to defense counsel as soon as possible, but no later than seven days prior to the pre-trial conference scheduled on October 12, 2006.

The court must note that it believes that the Commonwealth has acted in good faith in this regard. The information the Commonwealth provided in many ways is more than that which would be immediately available through sources such as NCIC or J-NET, which often show information concerning charges or case numbers in particular courts without reported dispositions. Also, the Pennsylvania Rules of Criminal Procedure would not necessarily be interpreted to require the Commonwealth’s calculation of a defendant’s prior record score to be disclosed. In this case, the Commonwealth has furnished information which no doubt goes

beyond that which is immediately available to the Commonwealth through NCIC or J-NET because it reports dispositions as well as a calculation of Defendant's prior record score.

BY THE COURT,

William S. Kieser, Judge

cc: Judges  
James R. Elliot, Esquire  
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DA (KO)  
Christian Kalas, Esquire (Law Clerk)  
Gary L. Weber, Esquire