

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	NO. CR – 1163 - 2006
	:	
vs.	:	CRIMINAL DIVISION
	:	
KEITH A. LEWIS,	:	
Defendant	:	

OPINION AND ORDER

Before the Court is Defendant’s Petition for Habeas Corpus, filed September 7, 2006. At the time scheduled for hearing on the petition, counsel stipulated to the Court basing its decision on a transcript of the Preliminary Hearing.

Defendant has been charged with stalking and disorderly conduct. In his Petition for Habeas Corpus, Defendant contends the Commonwealth failed to demonstrate a prima facie case for either charge.

The crime of stalking in this case requires a showing that Defendant “engage[d] in a course of conduct or repeatedly commit[ted] acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person....” 18 Pa.C.S. Section 2709.1(a)(1). In the instant case, the evidence presented at the preliminary hearing indicates that Defendant drove by the victim’s house, honking his horn, “a couple times a day almost every day... at least 20 times...in the two weeks prior” to the date the victim called the police, and that on that particular date, he followed her as she was on her way home from work. The evidence also showed that the victim was upset by Defendant’s conduct and that she called the police as a result. The Court believes this evidence to be sufficient to support the charge of stalking.

With respect to the charge of disorderly conduct, however, the Court agrees with Defendant that the evidence does not support such a charge. The Commonwealth must show that Defendant “engage[d] in fighting or threatening, or in violent or tumultuous behavior, ... with intent to cause public inconvenience, annoyance or alarm”. 18 Pa.C.S. Section

5503(a)(1). Not only is there no evidence of fighting, threatening or violent behavior, there is further no evidence of an intent to cause *public* inconvenience, annoyance or alarm. This charge will therefore be dismissed.

ORDER

AND NOW, this 10th day of October 2006, for the foregoing reasons, the Petition for Habeas Corpus is granted in part and denied in part. The charge contained in Count 2 of the Information filed August 22, 2006, Disorderly Conduct, is hereby dismissed.

BY THE COURT,

Dudley N. Anderson, Judge

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