

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	NO. CR – 584 - 2006
	:	
vs.	:	CRIMINAL DIVISION
	:	
ERIC LEE SAGAN,	:	
Defendant	:	Motion to Suppress Evidence

OPINION AND ORDER

Before the Court is Defendant’s Motion to Suppress Evidence, filed June 13, 2006. A hearing on the motion was held September 13, 2006.

Defendant was charged with aggravated assault, simple assault, resisting arrest, disorderly conduct and three summary offenses in connection with an altercation with police after they responded to a report of a domestic disturbance on February 11, 2006. In the instant motion, Defendant contends all evidence of his actions must be suppressed because police entered his home in violation of his constitutional rights to be free from unreasonable searches and seizures. Specifically, Defendant contends the police did not have a warrant, the police did not have Defendant’s consent to enter the residence, and the police did not have probable cause to believe Defendant had committed an offense and/or there were no exigent circumstances justifying the entry without a warrant.

At the hearing, the Commonwealth showed that on February 11, 2006, at approximately two o’clock in the morning, police were dispatched to Defendant’s home after a neighbor called to report a domestic disturbance at the residence. Upon arriving, officers found a woman sitting in the snow outside the residence. She indicated that she and her boyfriend had just had a fight and that he had hit her. The officers asked the woman where her boyfriend was and she indicated he was inside. The officers told the woman they “[had] to talk to him” and the woman then opened the door to the residence and let the officers inside. They went to Defendant’s bedroom where he was either asleep or passed out, and woke him, asking him to get up so they could question him about the fight. The officers then returned to the living room and suggested to the woman that she make arrangements to go somewhere else for the night,

and when Defendant entered the room and began making a ruckus, escorted her outside while she made a telephone call. Although the officers had requested of Defendant that he remain inside the residence, he came out of the residence and continued the fracas. Defendant was then arrested and while at the police station, hit one of the officers, leading to the assault charges.

Although the officers did not have a warrant, and the Court agrees that there were no exigent circumstances justifying entry into the home, the Court finds the officers did have proper consent to enter the home, given by Defendant's girlfriend.¹ If Defendant's girlfriend resided in the home,² she had actual authority to consent to the entry. But even if she did not live there, under the circumstances the officers were reasonably mistaken in believing that she did, and thus, their reliance upon her consent was proper. See Commonwealth v. Quiles, 619 A.2d 291 (Pa. Super. 1993)(officers' entry lawful where their assumption that person answering door had apparent authority to consent to entry was reasonable under the circumstances). The officers arrived at the home approximately fifteen minutes after the dispatch, and found the woman sitting outside even though it was cold and, in fact, there was snow on the ground. When told the officers needed to speak with Defendant, the woman did not indicate that she did not live there, but instead, simply opened the door for them. Under these circumstances, the Court finds the officers' belief that the woman had the authority to consent to their entry a reasonable one.

Inasmuch as the entry was a lawful one, any observations of Defendant's behavior following that entry need not be suppressed.³

¹ The Court believes that the opening of the door, in response to the officers' statement "we have to talk to him", clearly constitutes consent to their entry.

² While an officer testified that he believed at the time that the woman lived at the residence, the evidence left unclear whether she did in fact reside with Defendant.

³ In light of the disposition of the issue of the lawfulness of the entry, the Court does not address whether suppression is the appropriate remedy in any event.

ORDER

AND NOW, this 20th day of September 2006, for the foregoing reasons, Defendant's Motion to Suppress Evidence is hereby denied.

BY THE COURT,

Dudley N. Anderson, Judge

cc: DA
Peter T. Campana, Esq.
Gary Weber, Esq.
Hon. Dudley Anderson