

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	NO. CR – 1616 - 2006
	:	
vs.	:	CRIMINAL DIVISION
	:	
ARTHUR LEWIS,	:	
Defendant	:	Motion to Determine Competency

OPINION AND ORDER

Before the Court is Defendant’s Motion to Determine Competency, filed April 9, 2007. A hearing on the motion was held June 1, 2007.

Defendant has been charged with indecent assault and corruption of minors in connection with an incident involving his granddaughter alleged to have occurred in April 2006. In the instant motion, Defendant seeks a finding that he is currently incompetent to stand trial on these charges.

A defendant is presumed to be competent to stand trial and the burden is on the defendant to prove by a preponderance of the evidence that he is incompetent to stand trial. Commonwealth v. duPont, 681 A.2d 1328, (Pa. 1996). In order to prove that he is incompetent, a defendant must establish that he is either unable to understand the nature of the proceedings against him or to participate in his own defense. Commonwealth v. Santiago, 855 A.2d 682 (Pa. 2004).

Defendant presented the testimony of Dr. Teri Calvert, a psychiatrist who examined Defendant in February 2007, as well as just prior to the hearing on June 1, 2007. According to Dr. Calvert, Defendant suffers from mild to moderate Vascular Dementia, an Axis I psychotic condition. Dr. Calvert testified that Defendant has difficulty with detail, short term memory loss, bouts of confusion, and periods of delusion, whereby his recollection may not be reality based. Defendant was admitted to Kramm’s Nursing Home in October 2006 due to confusion, and he remains there at this time; Dr. Calvert indicated he is unlikely to improve. She opined that while Defendant is aware of the charges against him, the purpose of a trial, and the fact that he could go to jail if he is found guilty, he would understand the aspects of a trial in an

extremely limited manner, and, in her opinion, would not be able to assist in his own defense. Dr. Calvert believes Defendant is not competent to stand trial at this time.

From the Court's questioning of Defendant it is also concluded that Defendant has trouble with detail and short term memory. He did not appear to be able to understand the proceedings in a meaningful way, and the Court believes that he would not be able to assist his counsel in defending himself at trial. It is determined, therefore, that he is not at this time competent to stand trial.

ORDER

AND NOW, this 5th day of June 2007, for the foregoing reasons, Defendant's Motion to Determine Competency is resolved by finding Defendant is not competent to stand trial at this time.

BY THE COURT,

Dudley N. Anderson, Judge

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