

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-678-2009
vs. :
TRINA CAMPBELL, : Order re: Defendant's Petition for
Defendant : Writ of Habeas Corpus
:

OPINION AND ORDER

This matter came before the Court on Defendant's Petition for Writ of Habeas Corpus. The relevant facts follow.

On March 11, 2009 Anne Shoemaker got a telephone call from Chief Shearer of the Hughesville Police Department. Chief Shearer asked Ms. Shoemaker to bring her son to the police station to speak to them about some vandalism that happened at Buck Lumber.

When Ms. Shoemaker was leaving her driveway, she received a phone call from Defendant. Defendant asked her if she knew what was going on. Ms. Shoemaker said she did and told Defendant she and her son were on their way to the police station. Defendant asked why. Ms. Shoemaker replied that he son admitted he had done wrong and that Defendant's son had been with him. Ms. Shoemaker said "I guess I'll see you up there." Defendant replied that she was not going to go to the police station. She said the police had nothing on the kids and the only way they would was if Ms. Shoemaker's son told the police that the kids were involved. Defendant also told Ms. Shoemaker that she and her son shouldn't go to the police station either because they [the police] didn't have any proof. Ms. Shoemaker replied that she and her son were already on their way to the police station, her son admitted to doing wrong and he was going to do what he had to do to take care of it.

On the way to the police station, Ms. Shoemaker gradually learned more information from her son about the vandalism at Buck Lumber and the boys involved,

including Defendant's son. Ms. Shoemaker called Defendant back to say maybe Defendant and her son should come down and take care of things because her son definitely was involved. Defendant flat out refused to come down to the police station, stating they had nothing on her son and Chief Shearer was "out for all of these kids." Defendant also said Ms. Shoemaker and her son shouldn't go because the only way Shearer would get his proof was if Ms. Shoemaker's son gave it to him.

Ms. Shoemaker and her son proceeded to the police station and her son gave statements to the police.

Based on these telephone conversations, the police charged Defendant with obstruction of law or other governmental function, 18 Pa.C.S.A. §5101, and hindering apprehension or prosecution, 18 Pa.C.S.A. §5105(a)(4). Defendant filed a petition for writ of habeas corpus, in which she asserted the testimony presented by the Commonwealth at the preliminary hearing was insufficient to establish a prima facie case for these offenses.

The Court will address the hindering apprehension charge first. Hindering apprehension, as charged in this case, is defined as follows:

A person commits an offense if, with intent to hinder the apprehension, prosecution, conviction or punishment of another for crime or violation of the terms of probation, parole, intermediate punishment or Accelerated Rehabilitative Disposition, he: (4) warns the other of impending discovery or apprehension, except that this paragraph does not apply to a warning given in connection with an effort to bring another into compliance with law.

18 Pa.C.S.A. §5105(a)(4). The Commonwealth needed to present prima facie evidence to establish two elements: that the defendant warned the offender of impending discovery or apprehension; and that the defendant did so with the intent or conscious purpose to hinder the apprehension, prosecution, conviction or punishment of the offender. See Pa.SSJI 15.5105B.

The Court finds under the facts and circumstances of this case that the Commonwealth failed to present prima facie evidence of the first element. First, Defendant did not even speak to the offender; she spoke to the offender's mother. More importantly, there is no evidence that Defendant warned either the offender or Ms. Shoemaker of impending discovery or apprehension. Rather, Defendant asked Ms. Shoemaker if she knew what was going on. Ms. Shoemaker replied in the affirmative and told Defendant she and her son were on their way to the police station.

The police also charged Defendant with obstructing the administration of law or other governmental function. The Crimes Code defines obstruction as follows:

A person commits a misdemeanor of the second degree if he intentionally obstructs, impairs or perverts the administration of law or other governmental function by force, violence, physical interference or obstacle, breach of official duty, or any other unlawful act, except that this section does not apply to flight by a person charged with crime, refusal to submit to arrest, failure to perform a legal duty other than an official duty, or any other means of avoiding compliance with law without affirmative interference with governmental functions.

18 Pa.C.S.A. §5101. Defendant did not use force, violence or any type of physical interference or obstacle. Similarly, Defendant's phone call to Ms. Shoemaker did not breach an official duty. Therefore, the only theory of liability in this case must be that Defendant committed some "other unlawful act." From the record in this case, however, it is unclear to the Court what that unlawful act was. Defendant did not threaten or intimidate Ms. Shoemaker to not go to the police station with her son, and there is no testimony in the record that Ms. Shoemaker felt threatened or intimidated by Defendant's phone call.

In the alternative, the Court finds that any alleged infractions in this case were *de minimus*. Section 312 of the Crimes Code specifically authorizes the Court to dismiss

charges if the conduct of the defendant “did not actually cause or threaten the harm or evil sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction.” 18 Pa.C.S.A. §312. Defendant’s conduct in this case did not hinder or obstruct anything. Ms. Shoemaker proceeded to the police station and her son fully cooperated with the police.

The Court wants to make clear that it does not condone Defendant’s conduct; the Court finds Ms. Shoemaker was the parent who was teaching her child the right lesson about acceptance of responsibility for one’s actions. At the very least, Defendant would be wise to keep her opinions about the strength of the officer’s case to herself in the future. Nevertheless, the Court finds the evidence presented at the preliminary hearing was insufficient to support the charges and/or was too trivial to warrant criminal prosecution.

ORDER

AND NOW, this ____ day of October 2009, the Court GRANTS Defendant’s
Petition for Writ of Habeas Corpus.

By The Court,

Kenneth D. Brown, President Judge

cc: Henry Mitchell, Esquire (ADA)
George Lepley, Esquire
Work file
Gary Weber, Esquire (Lycoming Reporter)