

COMMONWEALTH : No. CR-50-2003 (03-10,050)
:
:
vs. : CRIMINAL
:
RICHARD WAYNE ILLES, : Defendant's Motion to
Defendant : Compel

ORDER

AND NOW, this 30th day of March 2009, the Court DENIES Defendant's Motion to Compel Attorney Lepley to provide documents relating to the alleged \$85,000 escrow account prior to the April 7, 2009 PCRA hearing in this case. Rule 902(E)(1) of the Pennsylvania Rules of Criminal Procedure state: "Except as provided in paragraph (E)(2), no discovery shall be permitted at any stage of the proceedings, except upon leave of court after a showing of exceptional circumstances." Pa.R.Cr.P. 902(E)(1). Provision (E)(2) only applies to death penalty cases; therefore it is not applicable. Defendant has not alleged any exceptional circumstances to justify discovery of the documents prior to the hearing. In fact, the Court did not grant an evidentiary hearing on Defendant's general claims regarding the escrow account and the failure to obtain unbiased experts. The PCRA is not a mechanism to obtain an accounting of how the alleged \$85,000 escrow account was spent. The only issue relating to experts that the Court granted an evidentiary hearing was whether the trial attorneys were ineffective in failing to call Carol Chaski as a witness at trial. However, Attorney Lepley should bring the documents with him to the hearing just in case one of the reasons the defense did not call Ms. Chaski as an expert was because the funds had been expended on other witnesses or expenses or the like.

By The Court,

Kenneth D. Brown, P.J.