

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. CR – 2026 - 2007
	:
vs.	:
	:
MICHAEL FLEMING HILL,	:
Defendant	:

OPINION IN SUPPORT OF ORDER OF DECEMBER 23, 2008, IN COMPLIANCE WITH RULE 1925(A) OF THE RULES OF APPELLATE PROCEDURE

Defendant appeals this Court’s Order of December 23, 2008, which sentenced him on two counts of driving under the influence and several summary offenses, following a trial by jury and a verdict of guilty on all counts.¹ In his Concise Statement of Matters Complained of on Appeal, Defendant complains that the verdict was against the weight of the evidence.

In addressing a challenge to the weight of the evidence, the Court is to determine whether the verdict is a product of speculation or conjecture, and will award a new trial only when the verdict is so contrary to the evidence as to shock one's sense of justice. Commonwealth v. Dougherty, 679 A.2d 779 (Pa. Super. 1996). In the instant case, Defendant admitted to having consumed eight to ten beers prior to driving his ATV, but testified that he was driving through the woods and a field toward his home when he wrecked the vehicle, contending he did not drive on a roadway. The Court finds the weight of the evidence to support the jury’s verdict, however, as there was evidence that the ATV was found in a ditch along the road, there were scuff marks on the edge of the road and Defendant’s hat was found in the road at a distance up from where he wrecked. Further, Defendant had presented a video he made of the path through the woods he allegedly took that night, and it appeared unlikely that he had indeed taken that tortuous route at two o’clock in the morning. In light of this evidence, the Court’s sense of justice was not shocked when the jury found that Defendant had driven on the road, and thus found him guilty of DUI.

Dated: March 24, 2009

Respectfully Submitted,

Dudley N. Anderson, Judge

cc: DA
George Lepley, Jr., Esq.

1 The Court rendered a verdict on the summary counts following the jury's verdict.

Gary L. Weber, Esq.
Hon. Dudley Anderson