

**IN THE COURT OF COMMON PLEAS FOR LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH**

**v.**

**TEDDY DIEMER,  
Defendant**

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**No. 1348-2010  
CRIMINAL**

**OPINION AND ORDER**

Defendant filed a Petition for Writ of Habeas Corpus on October 4, 2010. By agreement of the parties, the Court reviewed the Petition using transcripts of the Preliminary Hearing held before Magisterial District Judge Allen Page on September 10, 2010.

***Background***

In June of 2008, Ms. Doris Brown (Brown) contacted Teddy Diemer (Defendant) to see if he could do electrical work for her on a rental property located on Washington Boulevard in Williamsport, PA. The Defendant did work on rental properties for Brown in the past. The Defendant indicated to Brown that he could do the electrical work, but that he needed an advance of money in order to buy the materials needed for the job. Brown gave the Defendant a check for \$300.00. The check was subsequently cashed. About a week after Brown gave the Defendant the money, the Defendant indicated that he was tied up with another job, but that he would be there the following day to start work on the Washington Boulevard property. About a month later, despite repeated attempts by Brown to get in touch with the Defendant, the Defendant still had not started work on the Washington Boulevard property. Brown then found the Defendant at the Defendant's father's house and gave him a letter. The letter stated that if the Defendant did not complete the work on the Washington Boulevard property, Brown wanted

the money back or else she would file a lawsuit against the Defendant. The Defendant did provide a partial refund to Brown, but it was later discovered that the money was taken from a mutual friend. Therefore, Brown returned the money to the friend. After giving the Defendant the letter, Brown had to get someone else to complete the electrical work on the property as the Defendant failed to do so. As of the date of the Preliminary Hearing, the Defendant has failed to return the \$300.00 to Brown. Brown made a complaint to the Williamsport Bureau of Police regarding the Defendant. After investigating the matter, Agent Ronald Bachman determined that the Defendant is not a licensed contractor in the city of Williamsport.

### ***Discussion***

The Defendant filed a Petition for Habeas Corpus to dismiss criminal counts relating to 18 Pa.C.S. 3922(A)(3) Theft By Deception. A petition for habeas corpus is the means by which a party can challenge at the pre-trial level whether the Commonwealth presented sufficient evidence against them to establish a prima facie case. Commonwealth v. Carbo, 822 A.2d 60, 67 (Pa. Super 2003). The standard for a prima facie case is met when the Commonwealth produces enough evidence to establish “[p]robable cause to warrant the belief that the accused committed the offense.” Commonwealth v. Williams, 911 A.2d 548 (Pa.Super.2006). (citing Commonwealth v. Huggins, 836 A.2d 862, 866 (Pa. 2003)). The evidence presented is to be “[r]ead in the light most favorable to the Commonwealth’s case[,]” and the court is to give effect to the “[i]nferences reasonably drawn from the evidence of record[.]” Williams at 551. (citing Huggins).

A person is guilty of 18 Pa.C.S. 3922(a)(3) Theft By Deception if that person intentionally obtains or withholds property of another by deception. A person deceives if he fails

to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship.

The Court finds that the Commonwealth presented sufficient evidence at the preliminary hearing to establish a prima facie case against the Defendant for committing the offense of Theft By Deception. The facts of this case show that the Defendant told Brown that he would complete an electrical job for her and that he took money from Brown in order to complete the job. The Defendant never completed the electrical job and failed to return the money to Brown. Furthermore, the Defendant was never licensed as a contractor in the city of Williamsport. The Court believes that these facts, at the very least, lead to the reasonable inference that the Defendant intentionally obtained or withheld Brown's property by deception.

**ORDER**

AND NOW, this \_\_\_\_ day of December, 2010 based on the foregoing Opinion, it is ORDERED and DIRECTED that the Defendant's Petition for Writ of Habeas Corpus is hereby DENIED as the Court finds the Commonwealth presented a prima facie case against the Defendant for the offense of Theft By Deception.

By the Court,

Nancy L. Butts, President Judge

cc. Mary Kilgus, Esq.  
Jeana Longo, Esq.  
Amanda Browning, Esq. (Law Clerk)

