

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	
v.	:	No. 925-2006
	:	CRIMINAL DIVISION
MARK FISHER,	:	
Defendant	:	PCRA

ORDER

AND NOW, this 23rd day of November, 2010, after a conference with Counsel, and upon review of the Defendant's Amended Post Conviction Relief Act (PCRA) Petition, it is clear that the Defendant is alleging ineffectiveness of Trial Counsel for failing to file a Pre-Trial Motion to Suppress the Defendant's confession. Defense Counsel alleged in the Amended PCRA Petition that a video tape depicting the Defendant's confession would demonstrate to the Court the involuntary nature of the confession. Specifically, Defense Counsel alleges that a review of the video will show that: 1) the Defendant was under the influence at the time of the video taped confession; 2) the night prior to the confession, the Defendant was up late taking care of his ill mother; 3) the Defendant was under the influence of prescription drugs which hindered his ability to think clearly and make an informed decision; 4) the police officers conducting the interview made promises to the Defendant, namely that they would put in a good word with his parole officer.

The Court reviewed the video tape, provided by the District Attorney's Office, which depicted a law enforcement interview of the Defendant on May 12, 2006. The Court saw no evidence on the video of an involuntary confession by the Defendant. The video failed to show evidence of any of the above listed allegations from Defense Counsel. As the Court finds no

evidence of an involuntary confession in the video provided to it, the Court can find no reason to find ineffective assistance of counsel on the part of Trial Counsel.

Based upon the foregoing, the Court finds no basis upon which to grant the Defendant's Amended PCRA Petition. Additionally, as the Court finds that no purpose would be served by conducting any further hearing, none will be scheduled. Pursuant to Pennsylvania Rule of Criminal Procedure 907(1), the parties are hereby notified of the Court's intention to deny the Petition. The Defendant may respond to this proposed dismissal within twenty (20) days. If no response is received within that time period, the Court will enter an Order dismissing the Petition.

ORDER

AND NOW, this 23rd day of November, 2010, the Defendant and his attorney are notified that it is the intention of the Court to dismiss the Defendant's Amended PCRA petition unless he files an objection to that dismissal within twenty days (20) of today's date.

By the Court,

Nancy L. Butts, President Judge

xc: Ken Osokow, Esq.
Andrea Pulizzi, Esq.
Mark Fisher – Defendant
P.O. Box 1709
Harrisburg, PA 17105