

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1627-2009
vs. :
HUBERT GRAVES, JR., : CRIMINAL DIVISION
Defendant :
: 1925(a) Opinion

**OPINION IN SUPPORT OF ORDER IN
COMPLIANCE WITH RULE 1925(a) OF
THE RULES OF APPELLATE PROCEDURE**

This opinion is written in support of this Court's Order dated June 30, 2010 and docketed July 6, 2010, which granted the Defendant's Motion to Suppress Evidence. The reasons for the Court's decision can be found in the Opinion accompanying that Order.

In addition, the Court would note the following. When the Commonwealth filed its notice of appeal, the Court was unsure whether the Commonwealth also was appealing the Court's denial of the Commonwealth's request to re-open the suppression hearing to present additional testimony. Therefore, the Court issued an order dated July 30, 2010 and docketed August 2, 2010 directing the Commonwealth to file a concise statement of errors complained of on appeal within twenty-one days.

The statement was due no later than August 21, 2010. The Commonwealth filed its statement on August 30, 2010. The Commonwealth did not request any extension. Furthermore, as of the date of this Opinion, the Commonwealth has not submitted a motion to file the statement nunc pro tunc. Thus, under Rule 1925(b) and relevant case law, the issue the Commonwealth wanted to raise in this appeal has been waived. Pa.R.App.P. 1925(b); Commonwealth v. Gravely, 601 Pa. 68, 970 A.2d 1137 (Pa. 2010).

DATE: _____

By The Court,

Marc F. Lovecchio, Judge

cc: Mary Kilgus, Esquire (ADA)
Kyle Rude, Esquire
Work file
Gary Weber, Esquire (Lycoming Reporter)
Superior Court (original & 1)