

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1844-2009
:
vs. : CRIMINAL DIVISION
:
:
KHALEEF THOMAS-SMITH, :
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 May 11, 2010.

The rationale for the Court granting the Defendant's motion to suppress evidence can be found in the Opinion accompanying that Order.

The Court would simply supplement that Opinion by noting the following:

(1) The only issue presented and argued by the parties was whether the Defendant was in custody for purposes of Miranda warnings. Any other argument or legal theory from either party should be considered waived.

(2) Before the questioning became accusatory and confrontational, the police met outside the curtained area where the Defendant was being treated and concluded based on the physical evidence that the Defendant had shot himself in the foot. Therefore, the questioning did not become accusatory and confrontational because the police were concerned there was a shooter on the loose, but because they concluded the Defendant was the shooter and wanted the Defendant to admit it.

DATE: _____

By The Court,

Marc F. Lovecchio, Judge

cc: Paul Petcavage, Esquire (ADA)
William Miele, Esquire (APD)
Work file
Gary Weber, Esquire (Lycoming Reporter)
Superior Court (original & 1)