

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-217-2011
vs. :
JUSTIN D. BLOOM, : Opinion and Order Denying
: Defendant's Omnibus Pre-trial Motion

Defendant : Seeking Habeas Corpus Relief on the Charges of
: Burglary and Criminal Trespass

OPINION AND ORDER

This matter came before the Court on May 16, 2011 for an argument on Defendant's Omnibus Pre-Trial Motion, which sought habeas corpus relief on the charges of burglary and criminal trespass. At the argument, the parties agreed that this issue would be decided on the transcript of the Defendant's preliminary hearing, which was marked as Defendant's Exhibit 1 and admitted into evidence.

At the preliminary hearing held on February 9, 2011, the Commonwealth presented the testimony of Casey Snyder. Ms. Snyder testified that she resided at an apartment at 437 South Main Street in Jersey Shore, Pennsylvania and the lease was only in her name. Preliminary Hearing Transcript (PHT), pp. 2-3. She knew Defendant, because he had been her boyfriend for two years and had resided with her at the apartment, but they had broken up and Defendant had moved out. PHT, pp. 2-3. Once their relationship was over, Defendant was excluded from the apartment. PHT, p. 3.

On January 31, 2011, after they had broken up, Defendant showed up at the apartment a little after 10:00 p.m. and knocked on the door. PHT, p. 4. Ms. Snyder didn't answer the door, and when she got up to get out of the bedroom, she realized Defendant had forced his way into the apartment. PHT, p. 4. Defendant yelled at Ms. Snyder, rushed back

to the bedroom, punched her friend in the face, smashed a guitar, and threw her clothing around in the bedroom. PHT, pp. 5-6. Defendant took Ms. Snyder's cell phone when he left. PHT, p. 5.

Ms. Snyder indicated that the door to the apartment could not be locked from the outside, because Defendant had previously kicked it in during a fight a few months earlier. PHT, p. 8. Ms. Snyder, however, had installed a small deadbolt lock, so she could lock the door from the inside, and the door was locked from the inside on January 31, 2011. PHT, pp. 5, 8. Defendant did not have a key to the apartment. PHT, p. 8.

On cross-examination, Ms. Snyder acknowledged Defendant was allowed to come back to the apartment to get his stuff. PHT, pp. 7-8, 10. She further testified that Defendant would send her a text message saying he was coming to get his stuff, but then he wouldn't show up when he said he was going to; he would show up unexpectedly. PHT, p. 7. She indicated he could come to the apartment when she was there and she could give him his stuff. PHT, p. 10.

On redirect examination, Ms. Snyder stated she did not let Defendant into her apartment on January 31, 2011, and she did not want him there, but he forced his way into the apartment. PHT, pp. 9-10.

Defendant argued that since he had previously resided at the apartment and was allowed to come back to pick up his stuff, the Commonwealth did not present a prima facie case that he was not licensed or privileged to enter the premises. The Court cannot agree.

A jury could reasonably conclude that Defendant was not licensed or privileged to enter the apartment after 10:00 p.m. on January 31, 2011. The Court finds that when the evidence is viewed as a whole, Defendant was not licensed or privileged to enter the apartment anytime he wanted to do so. Defendant's name was not on the lease. He no longer lived at the apartment and did not have a key thereto. Ms. Snyder had a small deadbolt lock installed, so she could lock the door from the inside. The door was locked in this manner on the night in question. Defendant had not contacted Ms. Snyder to pick up his belongings at that time on that date. If Defendant had made arrangements with Ms. Snyder in advance to come pick up his personal belongings, he would not have been prohibited from being there. Defendant, however, did not do that. Instead, he appeared at Ms. Snyder's apartment late at night and forced his way through a locked door.

Defendant's conduct once he was inside the apartment also supports a conclusion that Defendant did not enter the apartment pursuant to Ms. Snyder's permission for him to pick up his belongings. Defendant did not open the door, step inside and say I'm here to pick up my stuff or pick up his stuff and leave. He forced the door open, burst down the hallway to the bedroom, punched Ms. Snyder's friend in the face, smashed her guitar and threw her clothing around the bedroom.

Accordingly, the following order is entered:

ORDER

AND NOW, this 3rd day of June 2011, the Court DENIES Defendant's Omnibus Pre-trial Motion seeking habeas corpus relief with respect to the burglary and criminal trespass charges.

By The Court,

Marc F. Lovecchio, Judge

cc: Aaron Biichle, Esquire (ADA)
Trisha Hoover, Esquire (PD)
Gary Weber, Esquire (Lycoming Reporter)
Work file