

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

**COMMONWEALTH**

**v.**

**ANTOINE CORMIER,  
Defendant**

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**No. 113-2010  
CRIMINAL**

**OPINION AND ORDER**

The Defendant filed a Motion in Limine on February 10, 2011. The Commonwealth filed a Motion for Discovery on February 14, 2011. A hearing on both Motions was held March 24, 2011. At the time of the hearing, the Court granted the Commonwealth's Motion for Discovery and ordered that Defense Counsel provide the requested letter to the Commonwealth. Therefore, the only issue before the Court is the Defendant's Motion in Limine.

The Commonwealth has charged the Defendant with Perjury based on his statements during the November 5, 2009 jury trial for charges related to the delivery of heroin. During the jury trial, the Defendant stated that he could not have been involved in drug transactions on the dates in question, as he was working on those dates. The November 5<sup>th</sup> and 6<sup>th</sup> jury trial ended in a mistrial due to a hung jury. The Defendant was then retried and acquitted of all charges on February 1<sup>st</sup> and 2<sup>nd</sup> of 2010. The Defendant contends that the Commonwealth is collaterally estopped from introducing testimony from officers of the Federal Bureau of Investigation and Pennsylvania State Police in an effort to show that the Defendant could not have been working on the dates in question as they observed him conducting drug transactions on those dates. Collateral estoppel represents the notion that "[w]hen an issue of ultimate fact has once been

determined by a valid and final judgment, that issue cannot again be litigated between the same parties in any future lawsuit.” Ashe v. Swenson, 397 U.S. 436 (1970).

In this case, the Court finds that collateral estoppel does preclude testimony which indicates that the Defendant could not have been working on the dates in question as he was involved in drug transactions on those date. Since the Defendant was acquitted of the drug charges in question, collateral estoppel precludes the litigation of these charges in the current prosecution for Perjury. However, any testimony of the officers that does not refer to the alleged drug transactions would be allowed in the trial for the current Perjury charge. Independent statements from other witnesses are also not precluded and would be allowed to be introduced by the Commonwealth.

### **ORDER**

AND NOW, this 28<sup>th</sup> day of March, 2011 based on the foregoing Opinion, it is ORDERED and DIRECTED that the Defendant’s Motion in Limine is hereby GRANTED to the extent that the witnesses are prohibited from testifying specifically that the Defendant could not have been working on the days in question as he was engaged in illegal drug transactions.

By the Court,

Nancy L. Butts, President Judge

cc. Mary Kilgus, Esq.  
Jeffrey Rowe, Esq.