

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-176-2011
vs. :
 :
TERESA MASSEY, :
Defendant :

OPINION AND ORDER

This matter came before the Court on Defendant's Omnibus Pre-trial Motion, which seeks habeas corpus relief on the sole charge of welfare fraud or unlawfully obtaining public assistance benefits in violation of 62 P.S. §481(a). A hearing and argument were held on the motion on July 7, 2011. The relevant facts follow.

Defendant Teresa Massey applied for and received child care benefits. Some of the requirements of the child care program were that Defendant work at least 20 hours per week and that she notify Child Care Information Services (CCIS) within 10 days if she changed employers or stopped working.

Robin Rotolie is employed by CCIS at STEP Incorporated as an eligibility specialist. She testified that she personally met with Defendant in April 2009 and verbally advised Defendant of the requirements of the child care program. At that time, Defendant reported that she was working 8 a.m. to 4 p.m. for Gary Lehman. Defendant never reported to CCIS that she changed employers or that she was not working at least 20 hours per week.

At some point, Ms. Rotolie's supervisor, Patricia Jenkins, received a report that Defendant was not working. Ms. Jenkins turned this information over to the Office of Inspector General for investigation.

Amy Austra Gerneth, a claims investigation agent with the Office of Inspector

General, investigated this information. During her investigation, Ms. Gerneth discovered that Defendant was working for Stan Ansty. She obtained information from Mr. Ansty about the amount of time Defendant was working for him, which indicated Defendant was not working at least 20 hours per week. Instead, she was working 20 to 35 hours about every twelve to fifteen days. Ms. Gerneth also discovered there was an issue whether Defendant was ever an employee of Gary Lehman or instead was merely performing odd jobs to repay money he had loaned her but, regardless of the arrangement, Defendant had not worked for Mr. Lehman since May 1, 2009. As of result of her investigation, Ms. Gerneth filed a criminal complaint against Defendant, charging her with fraudulently obtaining \$9,664.85 in child care benefits.

Stan Ansty testified at both the preliminary hearing and the hearing on the Defendant's Omnibus Pre-trial Motion. His testimony was consistent with Commonwealth's Exhibit 4 and Ms. Gerneth's testimony that Defendant worked between 20-35 hours every twelve to fifteen days.

Gary Lehman testified at Defendant's preliminary hearing. Mr. Lehman indicated he was a friend of Defendant. He didn't have a real good memory of giving statements to the Step Officer or whether Defendant worked for him in April of 2009 or thereafter, because that was a bad time in his life. He did, however, indicate that the signature on Commonwealth's Exhibit 3 was not his. Preliminary Hearing Transcript (PHT), at 12-13. He indicated that Ms. Massey could have worked for him in March or April of 2009, but to the best of his knowledge she did not work for him in November 2009 or any

time other than in March or April. PHT, at 13. He also stated he really doubted that Defendant would have worked up to 20 hours a week for him, because he was barely working 30 or 40 hours and he wouldn't have been able to pay her. PHT, at 14.

The relevant portion of section 481 of the Public Welfare Code that defines the offense with which Defendant is charged states:

Any person who, either prior to, at the time of, or subsequent to the application for assistance, ... by willfully failing to disclose a material fact regarding eligibility or other fraudulent means secures, or attempts to secure or aids and abets or attempts to aid and abet any person in securing assistance...commits a crime which shall be graded as provided in subsection (b).

62 P.S. §4841(a). Based on the evidence presented at the preliminary hearing and the hearing on Defendant's Omnibus Pre-trial Motion, a jury could find the following: (1) Defendant knew she had to tell CCIS if she changed employers or if she wasn't working at least 20 hours per week; (2) Defendant changed employers, but did not inform CCIS; (3) Defendant was not working at least 20 hours per week, but she did not inform CCIS; and (4) as a result of Defendant's failures to report this information to CCIS, she received child care benefits that she was not entitled to receive based on the program requirements. Thus, the Court finds the evidence is sufficient to establish a prima facie case. Accordingly, the following Order is entered:

ORDER

AND NOW, this ____ day of August 2011, the Court DENIES Defendant's
Omnibus Pre-trial Motion.

By The Court,

Kenneth D. Brown, Senior Judge

cc: Paul Petcavage, Esquire (ADA)
Trisha Hoover, Esquire (APD)
Gary Weber, Esquire (Lycoming Reporter)
Work file