

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

COMMONWEALTH OF PENNSYLVANIA	:
	:
vs.	: NO. 591-2010
	:
CHRISTOPHER WHITE,	: CRIMINAL ACTION - LAW
	:
Defendant	:

ORDER

AND NOW, this 24th day of **January, 2011**, this order is entered after argument and a hearing held January 20, 2011, regarding Defendant Christopher White’s Omnibus Pre-Trial Motion, filed January 13, 2011 by Robin Buzas, Esquire of the Public Defenders’ Office. The motion is hereby DENIED.

Initially, the Court will address the Commonwealth’s objection that the motion failed to comply with Pennsylvania Rule of Criminal Procedure 579. Generally, all Omnibus Pre-trial Motions must be filed and served within 30 days after arraignment. Pa.R.Crim.P. 579. Ordinarily, in this case, this Court would have dismissed Mr. White’s motion for failure to comply with Pa.R.Crim.P. 579. Mr. White was first represented by Robert Cronin, Esquire of the Public Defenders’ Office, who entered his appearance on May 17, 2010. Shortly thereafter, Mr. White obtained private counsel, Michael Morrone, Esquire, who entered his appearance June 17, 2010. Mr. Morrone was granted leave to withdraw his appearance by the Honorable Judge Richard A. Gray’s order of September 22, 2010. On that date, in the same order, Judge Gray granted Mr. White a continuance “on the eve of jury selection” and

specifically directed that Mr. White promptly contact the Public Defender's Office to arrange for formal representation. Although it was not until December 30, 2010, that Ms. Buzas entered her appearance on behalf of Mr. White, certainly Mr. White had the opportunity to ensure that any proper motions be promptly filed promptly after being granted a continuance by Judge Gray on September 21, 2010. Ordinarily this Court would dismiss Mr. White's Omnibus Pre-Trial Motion as untimely, as no good cause can be shown for why it was filed almost four months after being granted the continuance on the eve of jury selection based upon a change of counsel.

Unfortunately, at the time that this Court heard Mr. White's motion, there was still no formal arraignment nor was there waiver of arraignment in this matter. At the time of argument on Mr. White's Motion, there was only an intent to waive arraignment as memorialized in the May 17, 2010 order of the Honorable Judge Marc F. Lovecchio. Thus, this Court cannot dismiss Mr. White's Omnibus Pre-Trial Motion based upon failure to comply with Pa.R.Crim.P. 579 as the motion was filed prior Mr. White's waiver of arraignment.

The motion, however, lacks merit and is accordingly denied. Officer Paulhamus testified that he knew Mr. White to have two Domestic Relations bench warrants for failure to appear and a suspended driver's license. Office Paulhamus confirmed that Mr. White had the two active bench warrants and confirmed that Mr. White had a suspended drivers' license prior to making the stop. Officer Paulhamus testified that he ran the vehicles license plate

and confirmed that it was Mr. Whites vehicle and saw that it was indeed Mr. White, who he knew, that was driving the vehicle prior to the stop.

Mr. White argued that because the Domestic Relations Office employs officers to seek out and apprehend obligors with bench warrants, Mr. White's status was of no consequence to Officer Paulhamus and that, therefore, Officer Paulhamus' stop was done on a pretext and illegal. The Court does not follow the same reasoning. The fact that there is a need for the Lycoming County Domestic Relations Office to employ detectives for the sole purpose of locating and arresting obligors with domestic relations bench warrants, does not discharge the ability of a police officer to apprehend an individual with an active warrant for his or her arrest.

As the attorney for the Commonwealth, Paul Petcavage, Esquire, has pointed out in his brief, the Superior Court has made it clear that an officer can make a motor vehicle stop pursuant to 75 Pa.C.S. § 6308(b) based upon a reliable report, NCIC report, that a person is driving with a suspended drivers' license when that person, and/or their license plate, is in plain view. *Commonwealth v. Bolton*, 831 A.2d 734 (Pa. Super. 2003). Furthermore, a reliable report that there is an active bench warrant out for an individual's arrest constitutes probable cause for an arrest. *Commonwealth v. Cotton*, 740 A.2d 258 (Pa. Super. 1999). Mr. White had two active bench warrants and a suspended drivers license, all of which Officer Paulhamus confirmed via radio communication after seeing Mr. White driving a vehicle he confirmed to be his own. Thus, Officer Paulhamus had a probable cause to stop,

as well as arrest, Mr. White based upon this information. Mr. White has no valid basis for the suppression of evidence garnered pursuant to the stop.

BY THE COURT,

Joy Reynolds McCoy, Judge