IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	:	**No. CR-1027-2010**
vs.	:	
	:	**Opinion and Order denying**
RYON D. WORTHY, JR.,	:	**Commonwealth's Motion in Limine**
Defendant	:	

OPINION AND ORDER

This matter came before the Court for a hearing on June 7, 2011 on the Commonwealth's Motion in Limine, which sought a ruling permitting it to introduce into evidence a DVD or a transcript of the DVD of Defendant's disciplinary hearing that occurred at the Lycoming County Prison during which Defendant made statements or admissions about the incident which forms the basis of his current charge of aggravated harassment by a prisoner. The relevant facts follow.

On June 5, 2010, there was an incident at the Lycoming County Prison where urine and feces were thrown into cell 19 on Block G. Corrections staff noticed an odor emanating from G Block and investigated its source. Based on the location of the human excrement and the statements of the inmates housed in cell 19, corrections staff concluded Defendant Ryan Worthy, who was an inmate housed in cell 20, had thrown the urine and feces into cell 19.

On June 28, 2010, a criminal complaint was filed against Defendant charging him with aggravated harassment by a prisoner.

In November 2010, prison officials conducted a disciplinary hearing with Defendant regarding this incident. At the hearing, Brad Shoemaker, the Deputy Warden of Security and Operations, informed Defendant of the prison violations he was accused of

committing, which consisted of assault, disruption, unsafe acts and failure to follow safety and sanitation regulations. Deputy Warden Shoemaker asked Defendant if he had received a copy of the allegations and report, which Defendant acknowledged, then he read the document to Defendant. When he finished reading this document, the Deputy Warden stated, "And your explanation?" Defendant claimed he and one of the inmates of cell 19 were "going through it on the block," Defendant indicated that the other inmate threw urine on him and thought it was funny, which made Defendant mad and he did what he had to do. Deputy Warden Shoemaker asked Defendant what he did after the other inmate did that. Defendant stated, "I waited until I came back up from visiting then I struck back; I retaliated." Deputy Warden Shoemaker asked, "By doing what? What did you do?" Defendant answered, "I threw piss back in his cell." The deputy warden asked Defendant if he also threw feces and Defendant admitted he had also done that.

After the Commonwealth provided a copy of the DVD of the disciplinary hearing to defense counsel, Defendant filed a motion in limine seeking to preclude the admission of the DVD and the DVD transcript at trial on the basis that the Deputy Warden's questioning was not preceded by Miranda warnings. The Court scheduled a hearing and argument on this motion for February 18, 2011. On that date, the Honorable Joy Reynolds McCoy entered an Order granting the motion in limine and directing that "the DVD and/or DVD transcript of the Defendant's disciplinary hearing shall be excluded from admission at Trial." Judge McCoy also noted that the attorney for the Commonwealth indicated he did not object to the motion in limine.

On May 16, 2011, the Commonwealth filed a motion in limine seeking to allow the DVD transcript of the Defendant's disciplinary hearing into evidence at trial. Unaware that this issue already had been raised before Judge McCoy, the undersigned had the Commonwealth's motion scheduled for a hearing and argument, which was held on June 7, 2011.

At the hearing, the Commonwealth presented the testimony of Deputy Warden Shoemaker, who testified the purpose of the hearing was to review the disciplinary write-up and give Defendant an opportunity to speak. The hearing was not to further a criminal prosecution. Instead, the hearing was concerned with the internal control of the prison. He indicated that when an inmate is brought down to the administrative hearing he is not restrained unless he is a maximum security inmate. Deputy Warden Shoemaker also stated that an inmate can refuse to come to the hearing and he is not required to speak at the hearing, but rather is given an opportunity to speak.

On cross-examination, the deputy warden admitted that prison staff turns over its write-ups and reports to the District Attorney's Office if they feel criminal conduct has occurred and the District Attorney decides whether to file criminal charges. The write-ups and reports were turned over to County Detective Jean Stump, but the deputy warden was not sure if that had occurred prior to the administrative hearing.[1] Deputy Warden Shoemaker readily conceded that Defendant clearly was a suspect at the time of the hearing.

After the deputy warden testified, defense counsel submitted the DVD of

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1 At the hearing defense counsel asked the deputy warden if the hearing occurred in November 2010 and he replied he did not recall, but would not dispute that date. Detective Stump was the affiant on the criminal

Defendant's administrative disciplinary hearing as Defendant's Exhibit #1. Defense counsel also noted that she had previously filed a motion in limine on this same issue, which was granted by Judge McCoy.

A review of the DVD shows that Defendant was not handcuffed or otherwise restrained during the administrative hearing. It does not reflect that Defendant was ever told that he was not required to attend the hearing or that he did not have to offer an explanation or answer the deputy warden's questions. It appears, however, that the administrative hearing was for two write-ups and the DVD begins at a point when the review of the other write-up is nearly over.

In its motion, the Commonwealth asserted that the Deputy Warden's questioning was done at an administrative hearing and not by police officers; therefore, Miranda warnings were not required and Defendant's statements should be admitted at trial.

Defense counsel argued that this issue was already resolved by Judge McCoy's order. She also claimed that the fact the Deputy Warden was not a police officer did not mean Miranda warnings were not required. In support of this claim, she cited Commonwealth v. Ramos, 532 A.2d 465 (Pa. Super. 1987) and Commonwealth v. McGrath, 495 A.2d 517 (Pa. 1985).

After reviewing the facts and circumstances of this case and relevant case law, the Court must deny the Commonwealth's motion.

When the Commonwealth participates in pre-trial conferences and hearings and makes agreements on issues discussed or raised therein that are reduced to or embodied

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complaint which was filed on June 28,2010.

in court orders, it is bound by those agreements. Commonwealth v. Hemmingway, 13 A.3d 491, 500-501 (Pa. Super. 2011)(Commonwealth bound by agreement made at pre-trial conference to provide grand jury transcripts in advance of trial); see also Commonwealth v. Impellizzeri, 661 A.2d 442, 432 (Pa. Super. 1995)(but for defendant "opening the door, " Commonwealth bound by pretrial agreement to exclude evidence of the defendant's possession of other sexually explicit materials).

At the time scheduled for hearing on Defendant's motion in limine the Commonwealth agreed to the exclusion of the evidence, and Judge McCoy entered an Order on February 18, 2011 precluding the introduction of the DVD or a transcript thereof in evidence at trial. Based on Hemmingway and Impellizzeri, the Commonwealth cannot simply renege on its agreement and file its own motion in limine to obtain a different ruling.

In a similar vein, the Court could not issue a ruling different from Judge McCoy's due to the coordinate jurisdiction rule, which is considered part of the law of the case doctrine. The coordinate jurisdiction rule embodies the concept that judges involved in later phases of a litigated matter should not reopen questions decided by another judge of that same court. Commonwealth v Starr, 541 Pa. 564, 664 A.2d 1326, 1331 (Pa. 1995). The Court may only depart from this rule in exceptional circumstances such as "where there has been an intervening change in the law, a substantial change in the facts or evidence giving rise to the dispute in the matter, or where the prior ruling was clearly erroneous and would create a manifest injustice if followed." 664 A.2d at 1332. The Commonwealth has not offered any evidence or argument to support any exceptional circumstances. Therefore, in

light of Judge McCoy's previous ruling on this issue, the Court is precluded from issuing a ruling that would permit the Commonwealth to introduce this evidence at trial.

Even if Judge McCoy had not previously entered an order on this issue and the Court was working on a clean slate, it would not permit the Commonwealth to introduce the Defendant's statements from the disciplinary hearing into evidence at his upcoming trial.

Contrary to the Commonwealth's argument, the mere fact that the Deputy Warden is not a police officer does not render Miranda inapplicable. The Pennsylvania Courts have found that Miranda warnings apply to a Children and Youth Services (CYS) caseworker, as well as to military officers. Commonwealth v. McGrath, 508 Pa. 250, 495 A.2d 517 (Pa. 1985)(military officers); Commonwealth v. Ramos, 367 Pa. Super. 84, 532 A.2d 465 (Pa. Super. 1987)(CYS caseworker).

The Courts also have addressed cases involving prison officials. Where prison officials interviewed a defendant who was a suspect in a prison stabbing, the Pennsylvania Supreme Court found Miranda applied and suppressed the statements made prior to Miranda warnings being given. Commonwealth v. Chacko, 500 Pa. 571, 459 A.2d 311 (Pa. 1983). Where, however, prison officials did not have a suspect and were merely looking for witnesses or leads in a scalding incident, the Pennsylvania Superior Court found Miranda warnings were not required. Commonwealth v. Umstead, 916 A.2d 1146 (Pa. Super. 2007).

The Court finds this case is more akin to Chacko than Umstead and therefore

Miranda warnings were required for the Commonwealth to be able to utilize Defendant's statements from his disciplinary hearing at his upcoming trial. Defendant was a suspect in the incident involving someone throwing human excrement into cell 19. Prison officials referred the matter to the District Attorney by sending him copies of the prison reports. Moreover, it appears that when the disciplinary hearing was held, Defendant had already been charged with a criminal offense arising out of the prison incident. [2] Although Defendant was not placed in restraints, he was escorted or "brought down" to the disciplinary hearing without being told that he could refuse to attend or participate therein. These facts make this case similar to Chacko and Ramos. Since Miranda warnings were required and none were given, the Court will deny the Commonwealth's motion in limine seeking to introduce Defendant's statements made during the disciplinary hearing.

O R D E R

AND NOW, this ___ day of June 2011, the Court DENIES the Commonwealth's Motion in Limine seeking to introduce Defendant's statements made at his prison disciplinary hearing without Miranda warnings being given.

By The Court,

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Marc F. Lovecchio, Judge

[2] It also appears that the disciplinary hearing occurred after a public defender had been appointed to represent Defendant on the criminal charges.

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