

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	NO. CR – 369 – 2009
	:	
vs.	:	CRIMINAL DIVISION
	:	
BETH ELLEN CAMP,	:	
Defendant	:	

SUPPLEMENTAL OPINION IN RESPONSE TO
COMMONWEALTH’S CONCISE STATEMENTS OF MATTERS ON APPEAL

The Commonwealth, in its Concise Statement of Matters on Appeal, argues the sanction imposed by the Court for failure to comply with the discovery order was too severe and effectively precludes the prosecution from presenting its case.

The history of the discovery request ordered and lack of compliance is documented in this Court’s Opinion and Order dated December 1, 2010. Under the circumstances presented, the Court had, as a practical matter two sanctions at its disposal: 1) Dismissal of the case; or, 2) precluding from evidence the subject matter of the offended discovery request. The Court chose the less severe of the two options.

The Commonwealth argues that defense counsel had been provided with the requested evidence. This argument overlooks the primary purpose of a Bill of Particulars which is intended to define the Commonwealth’s theory of the particulars of a crime and to confine the Commonwealth to prosecution on that theory rather than an alternative for which the defense is unprepared.

To date, even after the defense motion for sanctions was filed, after a hearing was scheduled and held, after an opinion and order was produced, after a motion for reconsideration was filed and heard by the Court and after an appeal was filed by the Commonwealth, the order entered by the Honorable Nancy L. Butts, dated April 9, 2010, has still not been complied with.

Should the Superior Court deem the sanction inappropriate, this Court would appreciate suggestions as to an appropriate sanction.

BY THE COURT,

DATE: February 9, 2011

Dudley N. Anderson, Judge

cc: DA
Edward J. Rymysz, Esq.
Gary Weber, Esq.
Hon. Dudley Anderson