

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

**COMMONWEALTH**

**v.**

**JACOB ALLISON,  
Defendant**

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**CR: 691-2012  
CRIMINAL DIVISION**

**OPINION AND ORDER**

The Commonwealth filed a Motion to Terminate ARD on August 20, 2012. A hearing on the Motion was held September 13, 2012.

***Background***

As a result of Jacob Allison (Defendant) driving his vehicle over an embankment on River Mill Road on January 19, 2012, he was charged with Driving Under Influence of Alcohol or Controlled Substance, Driving Under the Influence With Highest Rate of Alcohol, and various summary offenses.<sup>1</sup> At the time, this was the Defendant's first DUI. The Defendant filed an Accelerated Rehabilitative Disposition (ARD) application with the District Attorney's Office for this DUI. After filing the application on May 4, 2012, the Defendant was arrested for a second DUI on the 600 block of Allegheny Street by Officer Brian Fioretti. On May 29, 2012, the Honorable Judge Marc Lovecchio granted the Commonwealth's Motion for ARD for the DUI at River Mill Road and placed the Defendant on probation for a period of one year under the supervision of the Adult Probation Office of Lycoming County. After the Defendant's ARD hearing, the Commonwealth learned that the Defendant was charged with a DUI from his May 4,

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<sup>1</sup> The summary offenses include Accidents Involving Damage to Vehicle or Property, Driving Vehicle at Safe Speed, and Restriction on Alcoholic Beverages.

2012 police contact. The Commonwealth has filed this Motion to Terminate the Defendant's ARD as it believes the Defendant failed to disclose his subsequent arrest when he was before Judge Lovecchio to be placed on ARD for his first DUI.

At the hearing in front of Judge Lovecchio, the record reflects that the Defendant was asked the following question: "In order to be placed on the program, you have to confirm for me number one, that you have no prior juvenile adjudications for delinquency and no prior criminal adult convictions. Can both of you confirm that for me?" In response, the Defendant answered "Yes." This appears to be the only statement where the Defendant was asked about his criminal record. However, on May 29, 2012, when the Defendant had been asked this question, he had not yet been charged or convicted of his second DUI. Therefore he did not make a misrepresentation to the Court. The Court finds that it is equally likely that the Defendant did not even know at the time of his ARD hearing that he had been formally charged with his second DUI. In fact, in Docket Number 1227-2012, which is the Defendant's second DUI, the Criminal Complaint was only filed with the issuing authority on June 5, 2012. Since the Defendant would have received his summons after his ARD hearing and the Defendant truthfully answered the question put to him by Judge Lovecchio at his ARD hearing, this Court will not terminate the Defendant's ARD.

**ORDER**

AND NOW, this \_\_\_\_\_ day of October, 2012, based upon the foregoing Opinion, the Court finds that the Defendant did not make a misrepresentation to the Court regarding his record when being placed onto the ARD program. Therefore, the Commonwealth's Motion to Terminate ARD is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge

xc: DA  
George Lepley, Esq.