

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	No: 826-2012
v.	:	
	:	CRIMINAL DIVISION
KEVIN LATTIE,	:	APPEAL
Defendant	:	

OPINION IN SUPPORT OF ORDER IN COMPLIANCE WITH RULE 1925(a)
OF THE RULES OF APPELLATE PROCEDURE

On January 31, 2013, following a non-jury trial, this Court found Kevin Lattie (Defendant) guilty of Criminal Trespass, a felony of the third degree;¹ two counts of Driving Under the Influence of a Controlled Substance, ungraded misdemeanors;² Resisting Arrest, a misdemeanor of the second degree;³ and Public Drunkenness, a summary offense.⁴ The Court found the Defendant not guilty of Possession of Drug Paraphernalia, an ungraded misdemeanor⁵ and Escape, a felony of the third degree.⁶ On February 19, 2013, the Defendant received an aggregate sentence of ten (10) months and seventy-two (72) hours to forty-two (42) months under the Intermediate Punishment Program.⁷

On February 21, 2013, the Defendant filed Post-Sentence Motions raising two issues: 1) the verdict of guilt for the charge of Criminal Trespass was based on insufficient evidence and 2) the verdict of guilt for the charge of Criminal Trespass was against the weight of the evidence. On March 26, 2013, the Court heard argument on the Defendant's Post Sentence Motions.

¹ 18 Pa.C.S. § 3503(a)(1)(i).

² 75 Pa.C.S. § 3892(d)(1)(ii); 75 Pa.C.S. § 3802(d)(1)(i).

³ 18 Pa.C.S. § 5104.

⁴ 18 Pa.C.S. § 5505.

⁵ 18 Pa.C.S. § 5121(a).

⁶ 35 P.S. § 780-113(A)(32).

⁷ The first two (2) months and seventy-two (72) hours were to be served at the Pre-Release Center.

Subsequently on May 3, 2013, following the completion of the transcripts from the non-jury trial, the Court denied the Post Sentence Motions in an Opinion and Order.

On May 7, 2013, the Defendant filed a timely Notice of Appeal to the Superior Court of Pennsylvania. On the same day, the Court directed the Defendant to file a concise statement of the matters complained of on appeal in accordance with Pa.R.A.P. 1925(b). On May 9, 2013, the Defendant alleged three (3) issues: 1) the verdict of guilt with respect to the criminal trespass charge was based on insufficient evidence; 2) the verdict of guilt with respect to the criminal trespass charge was against the weight of the evidence; and 3) the trial court erred by finding that ignorance or mistake of fact was not a defense to criminal trespass.

For purposes of this Opinion, the Court will rely on its Opinion and Order dated May 3, 2013, which found that the guilty verdict was based on sufficient evidence and was not against the weight of the evidence. Further, the Court found that the defense of ignorance and mistake of fact was not applicable in this case as the defense was unreasonable. The Court did not find, as the defense attorney alleges, that ignorance or mistake of fact was not a defense to criminal trespass.

DATE: _____

By the Court,

Nancy L. Butts, President Judge

xc: DA
Jeana Longo, Esq.