

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

**COMMONWEALTH OF PENNSYLVANIA**

**v.**

**CHRISTOPHER WILLIAMS,  
Defendant**

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**No. CR-2050-2012  
CRIMINAL**

**OPINION AND ORDER**

The Defendant filed a Petition for Habeas Corpus on January 17, 2013. By agreement of both parties, the Court was to decide the Petition based on the transcript of the Preliminary Hearing held in this matter on November 30, 2012 before Magisterial District Judge Allen P. Page III. On April 30, 2013, the Defendant and Commonwealth waived argument on the Petition immediately before the scheduled hearing.

***Background***

At the Preliminary Hearing, Trooper Samuel Fishel (Fishel) of the Pennsylvania State Police (PSP) testified regarding telephone calls between Christopher Williams (Defendant) and Khalil Fulks (Fulks). As a result of an investigation that commenced around July 2011 of Fulks, Judge Mundy of the Superior Court of Pennsylvania approved a wire intercept on his phone. Fulks' phone was intercepted on July 23, 2011 at 3:52 PM and was authorized for the hours of 12 noon to 12M. As a product of this wire intercept, numerous phone conversations between the Defendant and Fulks were captured and reviewed by PSP. The Defendant used the phone number 570-360-7054, which was subscribed by him with an account address of 809 Sheridan Street. Id. at 5.

Following the preliminary hearing on November 30, 2012, Magisterial District Judge Allen P. Page III held for court seventy-six (76) of the offenses charged against the Defendant.

One of the offenses was dismissed. The Defendant was charged with twenty-two (22) counts of Criminal Conspiracy; ungraded felonies;<sup>1</sup> twenty-three (23) counts of Criminal Conspiracy, ungraded misdemeanors;<sup>2</sup> twenty-three (23) counts of Criminal Use of a Communication Facility, felonies of the third degree;<sup>3</sup> four (4) counts of Possess with Intent to Deliver, ungraded felonies;<sup>4</sup> and four (4) counts of Possession of a Controlled Substance; ungraded misdemeanors.<sup>5</sup>

### ***Discussion***

Upon review of the Defendant’s Petition for Writ of Habeas Corpus, the pleading merely states that “[t]he aforesaid charges should be dismissed because the Commonwealth’s evidence is insufficient to prove any essential elements of the charges.” According to defense counsel, the Commonwealth did not prove a single element of all seventy-six (76) counts charged against the Defendant.<sup>6</sup> The Petition does not state what specific counts had not been established or why. Further, defense counsel did not cite any legal authority or any facts that relate to the pending charges against the Defendant.

Pennsylvania Rules of Criminal Procedure sets forth the requirements for motions seeking relief within the courts of the Commonwealth of Pennsylvania. One such requirement states that “[t]he motion shall state *with particularity* the grounds for the motion, *the facts that support each ground*, and the types of relief or order requested.” Pa.R.Crim.P. 575(a)(2)(c) (emphasis added). In addition, “[t]he failure, in any motion, to state a type of relief or a ground

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<sup>1</sup> 18 Pa.C.S. § 903(a)(1).

<sup>2</sup> 18 Pa.C.S. § 903(a)(1).

<sup>3</sup> 18 Pa.C.S. § 7512.

<sup>4</sup> 35 P.S. § 780-113(a)(30).

<sup>5</sup> 35 P.S. § 780-113(a)(16).

<sup>6</sup> No argument or hearing was requested by the Defendant or the Commonwealth for this Petition.

therefore shall constitute a waiver of such relief or ground.” Pa.R.Crim.P. 575(a)(3). Rule 581 echoes these requirements for suppression motions.<sup>7</sup>

Bold assertions without specificity do not satisfy the requirements of the Pennsylvania Rules of Criminal Procedure. In Lewis, a defendant challenged the weight of the evidence by stating that “the verdict was against the weight” without pleading additional information. Commonwealth v. Lewis, 2012 Pa. Dist & Cnty. Dec. LEXIS 108 (Pa. County Ct. 2012). The Allegheny County Common Pleas Court of Pennsylvania found that the defendant had waived this issue because there was no particularity or facts set forth in support of the motion. The Common Pleas Court relied upon Dixon, which applied Pa.R.Crim.P. 581(D). Commonwealth v. Dixon, 997 A.2d 368 (Pa. Super. 2010). Rule 581(D) requires particularity for suppression motions and has similar language found in Rule 575(a)(2)(c). See also Commonwealth v. Waters, 2011 Pa. Dist. & Cnty. Dec. LEXIS 31 (Pa. County Ct. 2011); Commonwealth v. Quel, 2010 Pa. Dist. & Cnty. Dec. LEXIS 456 (Pa. County Ct. 2010); Commonwealth v. Barbour, 2011 Pa. Super. LEXIS 2566 (Pa. Super. Ct., May 23, 2011).

Without the Petition citing in any way how the Commonwealth failed to meet its burden, the Court has no point from which to start its review. Therefore, the Court finds that the relief sought from the Petition has been waived. Pa.R.Crim.P. 575(a)(3).

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<sup>7</sup> “The Motion shall state specifically and with particularity the evidence sought to be suppressed, the grounds for suppression, and the facts and events in support thereof.” Pa.R.Crim.P. 581(D).

**ORDER**

AND NOW, this \_\_\_\_\_ day of May, 2013, based on the foregoing Opinion, it is ORDERED and DIRECTED that the Defendant's Petition for Habeas Corpus is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge

cc. DA (KO)  
Christian Lovecchio, Esq.