

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CP-41-CR-355-2012  
vs. : CP-41-CR-1445-2012  
:   
:   
: CRIMINAL DIVISION  
HYSON FREDERICK, :   
Appellant : 1925(a) Opinion

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

This opinion is written in response to Appellant Hyson Frederick’s notice of appeal. The relevant facts follow.

**355-2012**

On January 19, 2012, Lycoming County Detective Laudenslager had paperwork to serve on Appellant Hyson Frederick (Frederick) dealing with child support. While outside Frederick’s apartment, Laudenslager came into contact with Lycoming County Sheriff Deputy Eric Spiegel who happened to be in the area. Laudenslager informed Spiegel that Frederick lived in an apartment with Miranda Welsh (Welsh) and that Lycoming County had an arrest warrant for her. Laudenslager asked Spiegel if he would like to assist him in going to 338 High Street, Apartment 3, which was the residence of Frederick and Welsh. Spiegel and Laudenslager knocked on the back door of the residence several times but there was no answer. Laudenslager believed he could hear someone in the residence. Spiegel and Laudenslager then went to the main or common entrance of the building and knocked on the front door several times and there still was no answer. Spiegel, however, observed that

Frederick and Welsh had their names on the mailbox for apartment 3 of the building. Spiegel and Laudenslager then returned to the back entrance that was directly attached to apartment 3 and began to knock again. Spiegel realized that the door was locked but it could be pushed open. He opened the door and noticed that a television was on. He and Laudenslager announced that they were law enforcement and that they had a warrant before entering the apartment. They then began searching the apartment room-by-room for Welsh. When they got to a rear bedroom with its door ajar, they realized someone was inside. They announced their presence again, but still received no response. Spiegel then opened the bedroom door and saw Welsh and young children lying on a bed. When Spiegel opened a closet door to see if anyone was hiding in it, he observed a sawed off shotgun leaning against a pile of clothes.

The police were contacted, and, on January 31, 2012, Frederick was arrested and charged with persons not to possess a firearm and possession of a prohibited offensive weapon.

On May 15, 2012, Frederick filed a motion to suppress, which was denied by the Honorable Nancy L. Butts in an opinion and order entered on August 2, 2012.

### **1445-2012**

At approximately 11:30 p.m. on December 11, 2011, three black males broke into the Guinther residence in Williamsport. Mr. Guinther heard a noise, and he woke his wife. The three men entered the bedroom and held the Guinthers at gunpoint. One of the assailants was armed with a sawed off shotgun, and the other two assailants had handguns. One of them asked the Guinthers where the drugs and money were. Although the assailants discovered that they had broken into the wrong house, they nevertheless robbed the Guinthers of \$1400 cash, jewelry, cell phones and an ATM card. One of them even put a gun

to Mr. Guinther's head to get him to reveal his pin number for the ATM card. Thereafter, the ATM card was used to withdraw \$300 from the Guinther's account.

Although the Guinthers called the police and, using an app on their son's phone, tried to track their cell phones in an effort to locate their assailants, the perpetrators were not apprehended that night.

In January 2012, an inmate at the Lycoming County Prison with pending theft charges contacted the police to provide information about the burglary and related offenses at the Guinther residence. On January 30, 2012 the police interviewed the inmate about this incident. The inmate told the police that he drove Frederick and two other individuals to the residence on Ross Street so they could rob the place to get money and drugs. Although they went to the wrong residence, Frederick and the others robbed the occupants of jewelry and an ATM card. Frederick also told him that he put a shotgun in the man's mouth to get him to divulge his pin number.

The police obtained a search warrant for Frederick's residence. During the search, they located some of the jewelry stolen from the Guinther residence.

On July 18, 2012, Frederick was arrested and charged with multiple counts of conspiracy to commit robbery, multiple counts of robbery, one count of burglary, one count of criminal trespass, one count of theft by unlawful taking, one count of receiving stolen property, two counts of simple assault, two counts of terroristic threats, one count of possession of an instrument of crime, one count of persons not to possess a firearm, one count of possessing a firearm without a license, one count of unlawful use of a computer and one count of computer trespass.

On October 18, 2012, Frederick filed a motion to suppress, which was denied

by the Honorable Nancy L. Butts in an Opinion and Order entered on December 11, 2012.

The cases were consolidated for trial, which was held October 29-31, 2013. Defendant was convicted of all the charges except access device fraud and unlawful use of a computer.<sup>1</sup>

On February 4, 2014, the court sentenced Frederick to an aggregate term of 26 to 52 years of incarceration in a state correctional institution. Frederick filed a post sentence motion, which the court denied in an Opinion and Order entered June 9, 2014.<sup>2</sup>

Frederick filed a timely notice of appeal. The sole issue raised on appeal is that the court erred by denying his motion to suppress evidence where law enforcement officers failed to announce their identity and purpose prior to forcibly entering his residence in violation of the “knock and announce” rule. This issue was fully addressed by the Opinions and Orders entered by the Honorable Nancy L. Butts on August 2, 2012 in case 355-2012 and on December 11, 2012 in case 1445-2012.

DATE: \_\_\_\_\_

By The Court,

\_\_\_\_\_  
Marc F. Lovecchio, Judge

cc: Kenneth Osokow, Esquire (ADA)  
Julian Allatt, Esquire  
Work file  
Gary Weber, Esquire (Lycoming Reporter)  
Superior Court (original & 1)

<sup>1</sup> The charges of computer trespass, person not to possess a firearm, and robbery by force however slight in 1445-2012 were withdrawn or dismissed.

<sup>2</sup> While his post sentence motion was pending, Frederick filed a motion for a new trial based on after-discovered evidence, but this motion ultimately was withdrawn.