

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR – 333 – 2015  
:   
vs. :   
:   
SHYHEEM GADSON, :   
Defendant : Motion in Limine

**OPINION AND ORDER**

Defendant is charged with fleeing or attempting to elude a police officer in connection with a high-speed chase that followed the officer’s attempt to pull the vehicle over for speeding. The police determined that the vehicle was owned by a Mr. Kevin Baggett, and from Mr. Kevin Baggett, it was determined that the vehicle had been used by his son, Adam Baggett.<sup>1</sup> During argument on Defendant’s motion in limine, filed this date, the Commonwealth disclosed that in an interview yesterday with Mr. Adam Baggett, Mr. Baggett stated that he had loaned the car to a Mr. Gordon and that he later received a text message from someone whom he assumed to be Mr. Gordon, that stated, in effect, that Mr. Gordon “had just been in a high-speed chase with police and had dumped the car in the Wal-Mart parking lot.” The defense wishes to place the contents of the text message into evidence, and the Commonwealth has made an oral motion to exclude such, asserting several reasons in support of that motion. Because the court believes the evidence must be excluded as hearsay, only that issue will be addressed.

At first blush, Rule 804(b)(3) appears to allow the statement:

(b) Hearsay exceptions

The following statements, as hereinafter defined, are not excluded by the hearsay rule if the declarant is unavailable as a witness:<sup>2</sup>

...

(3)Statement Against Interest. A statement which at the time of its making ... so far tended to subject the declarant to ... criminal liability, ... that a reasonable

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<sup>1</sup> When this information was learned by the Commonwealth was unclear.

<sup>2</sup> Mr. Gordon is now deceased.

person in the declarant's position would not have made the statement unless believing it to be true.

Pa.R.E. 804(b)(3).<sup>3</sup> The rule's next following sentence is critical, however:

In a criminal case, a statement tending to expose the declarant to criminal liability is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

Id. Here, the court cannot find that corroborating circumstances clearly indicate the trustworthiness of the statement. The only circumstances are that the car was loaned to Mr. Gordon at some time prior to the incident. In light of the other evidence in the case, including the fingerprint evidence which tends to show that Defendant was the driver,<sup>4</sup> the court finds the statement too untrustworthy to merit introduction in this matter.

**ORDER**

AND NOW, this 15th day of September 2015, for the foregoing reasons, the Commonwealth's oral Motion in Limine, the motion is hereby granted.

BY THE COURT,

Dudley N. Anderson, Judge

cc: DA  
PD

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<sup>3</sup> The court rejects the Commonwealth's argument that the statement must be made to law enforcement officials to be considered against penal interest.

<sup>4</sup> Video cameras in the Wal-Mart parking lot show that the driver ran from the vehicle and placed his hands on the second set of glass doors at the entrance as he ran into the store. The palm and finger prints lifted from the glass match those of Defendant.