

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH :
 :
 vs. : No. CR-1498-2017
 :
 DAVID BEAN, :
 Defendant :

OPINION AND ORDER

Defendant is charged by Information filed on September 15, 2017 with aggravated assault and related charges. By Order of Court dated November 13, 2017, President Judge Nancy L. Butts concluded that Defendant forfeited his right to counsel. The defendant, proceeding without counsel, requested a continuance of the scheduled trial. By Order of Court dated March 8, 2018, the court granted Defendant's motion. Defendant's case is now scheduled for Call of the List in January 2019.

Subsequent to the March 8, 2018 Order, Defendant wrote a letter to the court dated May 30, 2018. The court responded to that letter by Order dated June 4, 2018. The letter was attached to the court's June 4, 2018 Order and the Prothonotary was directed to file the letter as well.

Defendant recently sent a letter to the court dated July 8, 2018. That letter will, as well, be attached to this Order and the Prothonotary is DIRECTED to separately file the letter in accordance with Rule 576 of the Pennsylvania Rules of Criminal Procedure.

Defendant's most recent letters to the court include offensive slights and insults of interminable repetition. These slights and insults appear to be deliberate and

calculated. They appear to be designed to offend the personal sensitivities of the undersigned and to prejudice the expeditious, orderly and dispassionate conduct of the litigation.

In Defendant's May 30, 2018 letter, Defendant hurls the following insults at the court:

"Are you batshit fucking crazy?" "You have the balls to tell me", "what fucking world do you live in?" "You judges...are full of shit", "why don't you quit trying to fraud the public with the whole fight against dope thing?" "What a big bunch of Fuckery. The whole big bunch of you", "how bout you step up and get some ethics and morals and fairness", "what the fuck is your idea of enough is enough?"

In Defendant's July 8, 2018 letter, he follows with:

"I truly-truly believe that you are a fucking moron", "you seem to have a learning disability", "you jackass", "since your [sic] a fucking retard (I assume that you got your legal degree from Jackoff University)", "you dolt", "you seem to be afflicted with the same comprehension disability."

As Justice Frankfurter noted in his dissenting Opinion in *Sacher, et al. v. United States*, 343 U.S. 1, 30, 72 S. Ct. 451, 465 (1952), "...where the contempt charge has in it the element of personal criticism or attack upon the judge, the judge must banish the slightest personal impulse to reprisal, but he should not bend backwards, and injure the authority of the court by too great leniency." As he further noted,

Criminal justice is concerned with the pathology of the body politic. In administering the criminal law, judges wield the most awesome surgical instruments of society. A criminal trial, it has been well said, should have the atmosphere of the operating room. The presiding judge determines the atmosphere. He is not an umpire who enforces the rules of a game, or merely a moderator between contestants. If he is adequate to his functions, the moral authority which he radiates will impose the indispensable standard

of dignity and austerity upon all of those who participate in a criminal trial.
343 U.S. at 37, 72 S.Ct. at 469.

As Defendant is aware, a hearing is scheduled for July 30, 2018. The court has set aside two hours. The hearing will address Defendant's motion to dismiss, Defendant's motion for appointed counsel, Defendant's motion for an investigator and Defendant's motion for discovery.

With respect to that hearing, Defendant notes in his most recent letter that he does not know how to subpoena representatives of the Lycoming County Public Defender's office. Defendant claims that he wrote to his standby counsel, Ryan Gardner, and "asked but he doesn't respond." Accordingly, a copy of this Opinion and Order shall be served on Nicole Spring and Elisabeth Frankel.

Defendant asserts that he has fired his court appointed counsel. He asserts that his court appointed counsel's "failure to respond is constant." The hearing on July 30 will address, as well, whether Defendant is entitled to newly appointed standby counsel.

Defendant is also requesting the District Attorney Ken Osokow be present to testify. Accordingly, Ryan Gardner is DIRECTED to subpoena Nicole Spring, Elisabeth Frankel and Ken Osokow to the hearing on July 30, 2018.

Defendant also requests that his enclosures be "introduced as evidence." Defendant does not comprehend the Rules of Criminal Procedure or the Rules of Evidence. The introduction of evidence takes place at a hearing or trial. He will need to introduce the documents at trial and give the opposing party an opportunity to object. Obviously, the

introduction of evidence depends in large part upon its relevancy and any potential prejudice.

Defendant has requested that his enclosures be returned to him. The enclosures include:

1. A newspaper article entitled “Man files Complaint against DA”,
2. A one-page document entitled Rule 1.4 Communication;
3. A two-page document entitled “Communicating with Client” and “Explaining Matters” and “Withholding Information”; and
4. Another two-page document entitled “Diligence.”

Under separate letter, the original documents were returned to Defendant.

Unless there are court orders to the contrary, the court understands that Judge Butts previously ruled that Defendant forfeited his right to counsel. At the hearing, Defendant will need to establish that an attorney/client relationship exists with Nicole Spring of the Public Defender’s office in this case and how such a relationship, if any, relates to his motions.

Defendant’s thinly veiled attempts to disrupt the proceedings and/or delay the proceedings by lodging his personal insults against the court are in vain. The insults mean absolutely nothing and will not impact this court in its duty to preside over this case in a fair, objective and just manner. However, this court must make clear that it will not address Defendant’s claims for relief in other cases. Those claims must be addressed through the appropriate legal remedies available to Defendant through the applicable statutes and/or rules.

As William Blake famously noted, “the...insults of individuals will not hinder me from doing my duty to my Art.” While Defendant’s insults fly from his human quiver with the frequency of an archery competition, they do not and will not hit their intended target. As Justice Hugo Black noted in a dissenting opinion issued long ago, “The very reason for the First Amendment is to make the people of this country free to think, speak, write...as they wish, not as the Government commands.” *Intnational Association of Machinists v. Street*, 367 U.S. 740 (1961). Finally, as former Chief Justice Charles Evans Hughes aptly noted,

Our institutions were not devised to bring about uniformity of opinion; if they had we might well abandon hope. It is important to remember, as has well been said, the essential characteristic of true liberty is that under its shelter many different types of life and character and opinion and belief can develop unmolested and unobstructed.

Charles Evans Hughes, former Chief Justice of the United States Supreme Court, *Forbes* magazine, November 1, 1957.

By The Court,

Marc F. Lovecchio, Judge

CC: David Bean, #DU5064
SCI Coal Township, 1 Kelley Drive, Coal Township, PA 17866, **(via Certified Mail)**
Scott Werner, Esquire, ADA
Ryan Gardner, Esquire
PD (NS); PD (EF)
DA (KO)
Work file
Gary Weber, Esquire (Lycoming Reporter)

Marc Lovecchio,

7-8-18

In response to your court order from 6-4-18, I will start by saying that I truly-truly believe that you are a fucking moron. It's like the only thing you're good at, is not actually answering any of the questions, or twisting what I've written to fit how you want it to sound. I'm not going to let you do either one. So I'll address things as I go, & I hope you can keep up, since you seem to have a hearing disability.

① I didn't say that I wanted the DA to file charges & I didn't ask you to "compel" them to do so you jackass.

I said they don't respond to such requests from me or don't even answer me. That's what I said. As far as a formal motion or record, why don't you ask the DA for all of the letters I sent about it, & use that as a formal record or motion. You seem to be good & able to do that with anything else I write.

Enclosed is an article about the the "history" of the DA, not responding to such requests. Try doing your job, even if it's a little bit. You spend all of your time trying to "save lives" as you always say, of JUNKIES lives who should die, instead of trying to find REAL JUSTICE for people who deserve it.

② It's not an "alleged" denial of due process. It's fact.

You only mention in your Court Order, the 1ST part of what I said in my letter about "the case ending in a mistrial of some sort." I actually went on to say, in the same sentence, that it would be because of some kind of procedural error. Why don't you mention that in your court order huh? It's because you want me to seem or sound like a monster who would intentionally fuck up the trial. That's why you only say the part that you want. Can you explain that? Huh?

③ I am willing to support, with legal authority, my position to have the attorney & pro se legal to speak to & communicate with me. Since you're a fucking moron

retard (I assume that you got your legal degree from Berkoff UNLV. you would know I am not a past client. I am a current & active client, who continues to get fucked over by Nicole & Betsy. So my legal authority to force you to have them communicate with me is this... It's called the PA.

RULES OF COURT - RULES OF PROFESSIONAL RESPONSIBILITY you COLT. I thought it would be a simple thing for you to know about, but since you seem to be afflicted with the same comprehension disability that everyone else in the court house has, I've enclosed a copy of it for your reading pleasure.

I guess I should have never expected you to step-up & do the right thing anyway, & help me get all of the past screw-ups fixed. What was I thinking?

Anyway, I have a couple of newspaper articles & news reports of guards beating up handcuffed inmates, & even to the point of death. So I'm asking the court to allow me to introduce that to the jury. I'm going to do it, no matter what you say, but I tried to do the decent thing & ask.

Also I wrote Nicole & Betsy, & told them I had this video hearing on the 30th at 9 & for them to be there to testify. I don't know how to subpoena them, & I wrote Ryan Gardner & asked but he doesn't respond - so you know now - HE'S FIRED - DATE - PERIOD, & the reason is for him not responding to legal questions - over & over again his failure to respond is constant. He's fired. We can tell him - I'm not wasting my time or envelopes anymore. So make sure that Nicole & Betsy are there to testify about why they were fired & their actions after they were. Also, I want Osborn there to testify, & again he hasn't responded to anything, so you gotta let him know to be there too. Thank you.

Enclosed are my originals of stuff to be introduced as evidence for the 30th. Please return them to me ASAP. I have copies, but I want the originals back. Please do so.

RECEIVED

JUL 11 2018

OFFICE OF JUDGE
MARC F. LOVECCHIO

Dave De