

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA

: No. CR-1189-2021

vs.

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: CRIMINAL DIVISION

**SYLVESTER R. GREENE,
Defendant**

ORDER

AND NOW, this 7th day of **September, 2022**, before the Court is Defendant's Motion to Reinstate Omnibus Pretrial Motion and Schedule Hearing. A hearing was held on September 6, 2022. Kirsten Gardner, Esquire, was present on behalf of the Commonwealth and the Defendant was present and represented by Robert Hoffa, Esquire, on behalf of Peter T. Campana, Esquire.

A hearing on Defendant's Omnibus Pretrial Motion was scheduled for April 13, 2022. Defendant failed to appear, and the Court entered an Order dismissing the Defendant's Motion, with the provision that he may make a motion for reconsideration if he could prove exigent circumstances as to why he failed to appear. In Defendant's Motion to Reinstate, he alleges that he had a work-related injury on April 12, 2022, and was not able to travel to attend the hearing in question. However, the Defendant failed to notify his counsel until the following day. Attached to the Motion were various documents indicating that the Defendant was seen in the emergency department on April 17, 2022, at which time he was excused from work from April 13, 2022, and allowed to return on April 18, 2022.

At the time of the hearing, the Defendant testified that his injury was the result of resin getting into his eye. He further testified that he did not seek medical attention immediately because he waited a day or two to see if it would improve on its own. He

indicated that he was unable to travel to the hearing on April 13, 2022, because his license is suspended and therefore he would have to make arrangements to travel by bus but was unable to do so because he was “basically blind.”

The Commonwealth objected to the reinstatement of the Omnibus Pretrial Motion, indicating that the Defendant should have contacted his counsel on the date of the injury to inform him that he was unable to attend the hearing the following day. Interestingly, when questioned about the contact with his counsel, the Defendant testified that he did contact them because he knew he had court “sometime” that week or “within a two week span” and that he normally received a letter notifying him of his court dates. The Defendant testified that he was moving back and forth between Williamsport and Philadelphia due to constantly getting pulled over for some reason and the letter from his counsel may have gotten lost in the mail.

After consideration of Defendant’s Motion, and the testimony of the Defendant at the hearing on the Motion, this Court finds that the Defendant himself admitted that his failure to appear at the hearing was not due to his purported eye injury, but rather because he did not know when his Court date was. However, whether the Defendant’s failure to appear is attributable to his injury or his inability to remember his court date, the Defendant has a duty to maintain contact with his counsel. The Defendant did not testify that he contacted his counsel’s office to explain that his eye injury was the cause of his failure to appear. Instead, the Defendant contacted his counsel because he did not know when his hearing was, and found out that the hearing date had already passed when he contacted his counsel. For this reason, the Court will not find that the Defendant’s failure to appear was attributable to his

eye injury and subsequent treatment, as stated in the Motion to Reinstate Omnibus Pretrial Motion. Accordingly, said Motion is **DENIED**.

BY THE COURT,

Ryan M. Tira, Judge

cc: DA (KG)
Peter T. Campana, Esquire
Gary Weber, Esquire