

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : 99-11,134

V :

YVONNE LAMB :

OPINION AND ORDER

Before the Court is the Defendant's Petition for Habeas Corpus. The Defendant has been charged with Prostitution as a result of an incident which took place on July 17, 1999 in the area of Hepburn Street and Little League Boulevard. A preliminary hearing was held July 23, 1999 before District Justice Allen P. Page, after which the charge was bound over. The Defendant first argues that her admission was improperly admitted because the corpus had not been established. The Defendant further argues that the Commonwealth did not establish a prima facie case of the charge at the preliminary hearing, and requests that the charges be dismissed.

After a review of the transcripts from the preliminary hearing, the Court finds the following facts. On July 17, 1999 at approximately 3:30 p.m., the Defendant approached Solomon L. Bolton as he walked between the Bi-Lo and the Uni-Mart on Hepburn Street. Mr. Bolton testified that the Defendant asked him if he wanted her to walk down the street with him. He responded that he did not. The Defendant then asked him if he had any money, to which he responded in the negative and he kept on walking.

Sueanne Brian testified that her boyfriend, Solomon Bolton, came to her apartment and asked her to go down and call the police. She testified that as she

walked down to call the police, she saw the Defendant stop a white car and asked them for fifty dollars. She did not hear any other part of the conversation, and kept on walking. She testified that she also saw the Defendant try to flag down a brownish/yellow car, but the vehicle did not stop.

Officer Raymond Kontz, a police officer with the Williamsport Bureau of Police, testified that at approximately 4:00 p.m. on that date, he received a call regarding some suspicious activity in the Hepburn Street area. He responded to the area and observed the Defendant trying to hide between two cars going northbound on Noviello's parking lot. He testified that when he approached the Defendant she told him that she was not a prostitute, and that she had the HIV virus. Officer Kontz interviewed the Defendant after advising her of her rights. In her audio-taped interview, the Defendant indicated that she was in the area trying to get either a ride to Randall Circle, or money to get a ride. She further stated that she was willing to do anything for it – including sexual favors.

The Defendant now argues that the charges should be dismissed, as the Commonwealth did not present a prima facie case. Specifically, the defense argues that the district justice erred in admitting Defendant's incriminating statements without proof of the corpus delicti of the crime of prostitution. Without the incriminating statement, the defense argues that the Commonwealth cannot establish a prima facie case. The rule of law relied on by the Defendant is that "an extra-judicial admission or confession of one accused of crime cannot be received in evidence unless and until the corpus delicti of the crime has first been established by independent proof." Commonwealth v. Turza, 340 Pa. 128, 133, 16 A.2d 401, 404 (1940).

To prove corpus delicti, Commonwealth need not prove each element of the crime charged beyond reasonable doubt, it need merely establish that a crime was committed. Instantly, the Court finds that the Commonwealth established that a crime was committed in this case. The Commonwealth argued that rather than using explicit terms when soliciting, prostitutes often use slang expressions. The first witness testified that the Defendant approached him to inquire if he would like her to “take a walk” with him. She then inquired whether he had any money. The Court cannot conceive of another plausible reason for asking a stranger if they would like to take a “walk” down the street with her for a fee. When the witness responded that he did not have any money, the Defendant proceeded to approach passing vehicles. The Court finds this evidence sufficient to establish the corpus of prostitution.

The next issue before the Court is whether the Commonwealth established a prima facie case of prostitution. To successfully establish a prima facie case, the Commonwealth must present sufficient evidence that a crime was committed and the probability the Defendant could be connected with the crime. Commonwealth v. Wodjak, 502 Pa 359, 466 A.2d 991 (1983). Under 18 Pa.C.S.A. § 5902, a person is guilty of prostitution if he or she loiters in or within view of any public place for the purpose of being hired to engage in sexual activity. Instantly, the Defendant approached a man walking, and occupants of cars on a public street for the purpose of getting money. Additionally, she admitted that she was willing to do anything to get the money, including sexual favors. The Court finds that this evidence established a prima facie case of prostitution. The Defendant’s motion to dismiss this charge is therefore denied.

ORDER

AND NOW, this _____day of December, 1999, based on the foregoing Opinion, it is ORDERED AND DIRECTED that the Defendant's Petition for Writ of Habeas Corpus is DENIED.

By The Court,

Nancy L. Butts, Judge

cc: CA
Nicole Spring, Esquire
Robert Ferrell, Esquire
Honorable Nancy L. Butts
Judges
Law Clerk
Gary Weber, Esquire