

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : 99-11,323

V :

BRIAN GREGORY QUINN :

OPINION AND ORDER

Before the Court is the Defendant's Petition for Habeas Corpus. The Defendant has been charged with one count of Terroristic Threats and one count of Disorderly Conduct as a result of an incident that occurred on August 2, 1999 at the security entrance of the Lycoming County Courthouse. A Preliminary Hearing was held on August 20, 1999 before District Justice Allen Page after which, both charges were bound over. The Defendant now argues that the Commonwealth failed to establish a prima facie case as to the two charges.

The Commonwealth presented the testimony of Adele Sims, a security officer with the Burns International Security Company. She testified that on August 2, 1999, she worked at the security desk at the Lycoming County Courthouse. She testified that the Defendant came through the door that afternoon at approximately 5:30 p.m.. When he walked through the metal detector at the door, the alarm sounded, indicating that he had metal on his person. She requested that he step back through the detector. At that time, the Defendant said to her "the bomb is on the table" (N.T. 8/20/99, p.1). The item that the Defendant referred to was an electric monitoring device used for home monitoring of those on probation. Ms. Sims recognized the device as something that she sees regularly in her employment. She testified that the device did not look unusual in any way (Id., p.2). After the Defendant made the comment, she asked him to repeat what he had said. The Defendant pointed to the monitoring device and stated "the bomb's there" (Ibid.).

Ms. Sims testified that she engaged in no other conversation with the Defendant, and waited for Scott Erb, the Defendant's Adult Probation Officer, to take it from there. Ms. Sims testified that although she was familiar with the monitoring device, there was still a possibility that the Defendant could have "rigged it," so she took the Defendant's statements seriously. She testified that when he said the statement the second time, she was scared and concerned (Id., p.9). On cross examination Ms. Sims testified that she was not alarmed enough to leave the building or leave the area where the Defendant was located. She testified that the only person that she alerted was Mr. Erb, the person with whom the Defendant said that he was meeting.

Mr. Erb, the Defendant's Adult Probation Officer, was called by the Commonwealth and testified that he was the Defendant's Probation Officer on the date in question. He testified that he received the call from Ms. Sims who stated that she had one of his clients at the front desk saying that he had a bomb. He stated that he immediately hung up the phone and requested that another agent accompany him to the front desk to address the situation. Upon arrival at the front desk he approached the Defendant and asked him what was going on. The Defendant told him that he was having a bad day. Mr. Erb searched the Defendant while the other officer examined the monitoring device. It did not appear that the monitoring device had been tampered with. (Id., p. 10).

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). 18 Pa.C.S.A. § 2706 defines the crime of terroristic threats as follows:

A person is guilty of a misdemeanor of the first degree if he threatens to commit any crime of violence with intent to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public

inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience.

A violation of the statute is proved by evidence that (1) a threat to commit a crime of violence was made and (2) such threat was communicated with intent to terrorize. Commonwealth v. Ferrer, 283 Pa.Super. 21, 23, 423 A.2d 423, 424 (1980); Commonwealth v. Ashford, 268 Pa.Super. 225, 229, 407 A.2d 1328, 1329 (1979); Commonwealth v. Holguin, 254 Pa.Super. 295, 305, 385 A.2d 1346, 1351 (1978). Instantly, the Court finds that the Defendant 's statement that "the bomb's on the table" could have reasonably have been interpreted by the victim as a threat to commit a crime of violence. Although the Defense argued that the victim was not actually threatened, since she knew that the device was not a bomb but an electronic monitoring device, in establishing a prima facie case the Commonwealth is not required to produce evidence that the person to whom the Defendant communicated the threat was actually frightened. See, Commonwealth v. Campbell, 425 Pa.Super. 514, 625 A.2d 1215 (1993).

Additionally, the Court finds that the Commonwealth established a prima facie case that the threat was communicated with intent to terrorize. The Defendant was given the opportunity to retract the statement, and deliberately repeated the statement. Additionally, the Defendant never gave Ms. Sims an indication that he was being humorous. Although the Defense argued that the Defendant obviously did not have the intent to bomb the building since the device was not a bomb, "the offense does not require that the accused intend to carry out the threat; it does require an intent to terrorize. The harm sought to be prevented is the psychological distress which follows from an invasion of another's sense of personal security." Commonwealth v. Hardwick, 299 Pa.Super. 362, 365, 445 A.2d 796, 797 (1982). The Court therefore finds that the Commonwealth established a prima facie case of terroristic threats, and would deny the Defendant's motion to dismiss this charge.

The Defendant next argues that the Defendant failed to establish a prima facie case of Disorderly Conduct. 18 Pa.C.S.A. § 5503 provides that “a person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he” . . .”4) creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.” Subsection (c) of the statute provides that public means “affecting or likely to affect persons in a place to which the public or a substantial group has access; among the places included are highways, transport facilities, schools, prisons, apartment houses, places of business or amusement, any neighborhood, or any premises which are open to the public.” Instantly, the Court finds that the Commonwealth established a prima facie case that the Defendant entered a place open to the public, he recklessly created a risk of alarm when he stated that the bomb was on the table, and the statement served no legitimate purpose to the actor. The Court therefore denies the Defendant’s motion to dismiss this charge.

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