

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: No. 98-12,228
	:
	:
vs.	: CRIMINAL
	:
STEVEN SMITH,	: Habeas Corpus
Defendant	:

ORDER

AND NOW, this day of May, 1999, upon consideration of the defendant's Petition for Habeas Corpus, the same is GRANTED. The Court finds that the Commonwealth has not set forth a prima facie case that the defendant was trespassing at 1430 Randall Circle. In order to make such a showing under the facts and circumstances of this case, the Commonwealth would need to show that the tenant of the apartment gave the defendant notice of trespass and ordered him to leave. Generally, the tenant has the right to invite family members, visitors and social guests to his or her apartment and the landlord cannot pre-emptively prohibit certain individuals from the property. See 68 P.S. 250.504-A; Branish v. NHP Property Management, Inc., 694 A.2d 1106 (Pa.Super. 1997). The Commonwealth has not provided any authority that the landlord's "no trespassing" letter to the defendant was valid or enforceable. In fact, it appears that Branish stands for

the opposite conclusion.

By The Court,

Kenneth D. Brown, J.

cc: Public Defender
District Attorney (DH)
Work file