

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA:

vs.

HOWARD MANNING,

Defendant

:

: NO. 00-11,415

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:

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: 1925(a) OPINION

Date: March 21, 2001

**OPINION IN SUPPORT OF THE ORDER OF JANUARY 4, 2000, IN COMPLIANCE
WITH RULE 1925(a) OF THE RULES OF APPELLATE PROCEDURE**

BEFORE THE COURT is Appellant's appeal of his conviction for a violation of the brake regulation, 75 P.S.C.A. § 4502 (b). The reasons discussed on the record at the time of the summary trial held on January 4, 2001, establish the basis for the Defendant's conviction. This Opinion is issued to supplement and clarify the prior adjudication of guilt.

Facts

On July 20, 2000, at approximately 5:30 p.m., Pennsylvania State Trooper Nicholas Loffredo in the Uni-Mart parking lot located in Jersey Shore observed Appellant. N.T., 1-4-01, p.6. Trooper Loffredo noticed that the front end of Appellant's vehicle was balanced on top of the guardrail. *Id.* at p.7. Trooper Loffredo proceeded to investigate further and asked Appellant what had happened. Appellant responded that his brakes failed. *Id.* at p.7. Upon further inquiry, Appellant volunteered that earlier in the day he had experienced a small brake fire and had blown a tire. Appellant related that after he removed the tire to change it, he had 'backed off' the caliper on that brake. *Id.* at p.7. Trooper Loffredo testified that this type of adjustment renders the brake in question ineffective. *Id.* at p.7. Trooper Loffredo further

testified that the adjustment was in violation of the Vehicle Equipment Inspection Regulations section 175.64 (b)(1).

During Appellant's testimony, he did not contradict any of the statements offered by the Commonwealth. Appellant agreed that he adjusted the caliber. N.T., 1-4-01, p.17. By way of explanation for the brake failure, Appellant testified that he was not responsible for his behavior because in 1959, the Department of Defense implanted electrodes into his brain and he is under the influence of signals from a DoD computer. *Id.* at p.12. Appellant offered no other evidence in his case. The Court held that Appellant was guilty of violating the aforementioned regulation. This appeal followed¹.

Discussion

In his Statement of Matters Complained on the Appeal, Appellant reiterated several of the statements from his previous testimony. Specifically, Appellant writes:

- a. This was a planned accident in which both the rear brakes and front brakes were tampered with by the Pennsylvania State Police as part of their carrying out Department of Defense mind control activities and is an act of attempted murder carried out by the Pennsylvania State Police. The rear brake adjusters were turned down all the way and the left front caliper jammed against the rotor and grease smeared on both sides of the rotor for the purpose of causing this accident.
- b. I have had electrodes implanted in my brain in 1959 and have since been under the influence of the Department of Defense mind control activities and cannot be held legally responsible for my behavior.

¹ On February 2, 2001, Appellant filed a Notice of Appeal. On February 5, 2001, the Court issued an Order pursuant to Rule 1925 (b) of the Pennsylvania Rules of Appellate Procedure. Appellant filed a Statement of Matters Complained on the Appeal on March 2, 2001.

Because Appellate is arguing that these conditions absolve him of culpability, the most reasonable method to analyze his statements is to consider them as a defense. According to American Jurist 2d, “a defendant may, by proper evidence, prove that another person committed the crime with which he is charged where the guilt of such other person is consistent with the defendant’s innocence.” 21 Am Jur 2d §468. However, the treatise goes on to state, “but the fact that persons other than the accused have also violated or are violating the law is no defense, although the particular violation may be of long standing, and although the other offenders have not been prosecuted.” *Id.* at p.498. That is precisely the situation in this case.

Even giving Appellant the benefit of the doubt and allowing that there is some merit to his assertions, he is in no way absolved of his own guilt. He admitted under oath that he altered the caliper by backing it off. He then drove the car knowing of the defect in the brakes.

The Court further observes that Appellant offered no proof to support his defense that the State Police tampered with his brakes. The Court understands that Appellant is under no obligation to raise any defense. However, if a defendant elects to do so, then the burden of production shifts to him. In this case, Appellant only made general accusations that others were responsible for his behavior. The Court rejects this contention as being untrue. These statements, without any further corroboration, do not even come close to satisfying his burden of establishing his asserted defense.

CONCLUSION

For the reasons explained in the preceding opinion, Appellant's appeal of the summary conviction should be denied.

BY THE COURT,

William S. Kieser, Judge

cc: Court Administrator
District Attorney
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Judges
Jeffrey L. Wallitsch, Esquire
Gary L. Weber, Esquire (Lycoming Reporter)