

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. 01-11.377
	:
vs.	: CRIMINAL DIVISION
	: Pre-Trial Motion
OMAR SHARIF LITTLE,	:
Defendant	:

OPINION AND ORDER

Before the Court is Defendant's Pre-Trial Motion filed October 18, 2001. A hearing on the Motion was held November 14, 2001.

Defendant has been charged with escape, criminal trespass, flight to avoid apprehension and intimidation of witnesses, in connection with an incident on July 22, 2001, wherein it is alleged by officers of the Williamsport Bureau of Police that upon attempting to serve him with a federal warrant for his arrest, Defendant ran from them and hid in a residence without the knowledge or consent of the occupants. In his Pre-Trial Motion, Defendant contends the matter should be remanded for a preliminary hearing, and also challenges three of the four charges.

With respect to the request for remand for a preliminary hearing, the Court notes no preliminary hearing was held based upon Defendant's waiver of such. Defendant signed a Waiver of Preliminary Hearing form on August 7, 2001, which was also signed by his counsel, Eric Linhardt, Esq. According to the form, District Justice Carn determined that Defendant made a knowing, voluntary and intelligent waiver of his right to a preliminary hearing. At the hearing on November 14, 2001, Defendant testified that although his counsel informed him he had a right to a preliminary hearing at which the Commonwealth would have to call witnesses and the magistrate would have to find sufficient evidence to hold the matter for Court, he felt he had no choice as his counsel indicated that the plea agreement offered by the Commonwealth was advisable and with such agreement, no

preliminary hearing was necessary. Defendant has apparently changed his mind with respect to the plea agreement and now seeks to challenge the voluntariness of his waiver of the preliminary hearing. The Court believes, however, that this change of mind does not vitiate the voluntariness of his waiver. All of the evidence presented at the hearing on the instant motion indicates that Defendant was given a choice and although he may not like the choice he made, he did have that choice.

Having found that the preliminary hearing was voluntarily waived, the Court also finds that Defendant has waived his right to make a preliminary challenge to the charges. While Defendant remains free to demur to the Commonwealth's case after presentation at trial, the Court is not at this time in a position to rule upon the sufficiency of the Commonwealth's case.

ORDER

AND NOW, this 11th day of November, 2001, for the foregoing reasons, Defendant's Pre-Trial Motion is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: DA
Emmanuel Izuogu, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson