

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

APPEAL OF DENIAL OF PRIVATE : NO: 01-10,003
CRIMINAL COMPLAINT OF: :
 :
MARK'S BUYS AND SELLS :
 : CRIMINAL DIVISION
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OPINION AND ORDER

Before the Court is complainant's appeal from the District Attorney's denial of his request for the filing of a private criminal complaint. The request is based upon a lessee's failure to return property being purchased through a rent to purchase contract, after receiving notice from the lessor of its request for return based upon non-payment. The District Attorney's Office has denied the request to prosecute the matter, citing policy reasons, specifically, that the office chooses to require complainants in matters such as these to pursue the civil remedies available to them, saving prosecutorial resources for other matters.

Where the District Attorney's disapproval of a private criminal complaint is based on policy considerations, the trial court must defer to the decision in the absence of bad faith, fraud, or unconstitutionality. In re: Private Complaint of Adams, 764 A.2d 577 (Pa. Super. 2000). Moreover, the Courts have held that where there are civil remedies, and a private criminal complaint is simply an attempt to utilize the criminal justice system for private purposes, a District Attorney's decision to deny the request to prosecute such a matter constitutes a valid policy reason. Commonwealth v Cooper, 710 A.2d 76 (Pa. Super. 1998).

Since complainant has offered no evidence of bad faith, fraud, or unconstitutionality, and since the Commonwealth has offered a valid policy reason for refusing to prosecute the matter, the Court will defer to that decision.

ORDER

AND NOW, this 11th day of September, 2001, for the foregoing reasons, the appeal of Mark's Buys and Sells is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: DA
Jonathan Butterfield, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson