

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 01-10,608
 :
 :
 vs. : CRIMINAL DIVISION
 : Motion to Suppress
 LORENZO ABNER, :
 Defendant :

OPINION AND ORDER

Defendant has been charged with burglary, criminal trespass, theft, and receiving stolen property. In the instant Motion to Suppress Evidence, filed January 10, 2002, Defendant seeks to suppress certain statements made by him during an interview with police, which took place at the time of his arrest on March 10, 2001 for disorderly conduct in connection with a domestic disturbance. A hearing on the motion was held February 11, 2002, at the conclusion of which Defendant requested the opportunity to present a drug screen report. That report has now been received and the Court considers the matter ripe for decision.¹

Defendant contends the statements given to police should be suppressed as he did not make a knowing and intelligent waiver of his Miranda rights. Defendant contends specifically that he was under the influence of drugs and/or alcohol to a degree which rendered him incapable of making such

¹Although in submitting the report to the Court, Defense counsel asked the Court to reconvene the Suppression Hearing, the Court believes that such is not necessary as the report appears so inconclusive that Defendant could not possibly present expert testimony to help the Court in making an appropriate finding.

a waiver.

In response to Defendant's claim, the Commonwealth presented the testimony of the arresting officer, Officer Stiles. Officer Stiles testified that while Defendant appeared agitated due to whatever incident he was involved in at the time of his arrest, he did not appear to be under the influence of anything and did not smell of alcohol. He also testified that by the time Defendant was taken to City Hall, he was no longer even agitated. According to Officer Stiles, Defendant seemed perfectly normal when he read him his rights and appeared to give a knowing waiver of those rights. While Defendant has introduced a drug screen information, obtained by the Adult Probation Office upon Defendant's arrest, whereby Defendant underwent a urine test which showed a positive result for cocaine and alcohol, the Court is unable to draw any conclusion from this report, other than that Defendant used cocaine and alcohol at some point prior to the test. Defendant has the burden to show that his waiver was not knowing and intelligent and the Court finds that he has not sustained that burden.

ORDER

AND NOW, this 28th day of February, 2002, for the foregoing reasons, Defendant's Motion to Suppress is hereby denied.

By the Court,

Dudley N. Anderson, Judge

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