

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. 01-11,994
	:
	:
vs.	: CRIMINAL DIVISION
	: Petition for Writ of Habeas Corpus
JEANNETTE ROBIN JONES,	:
Defendant	:

OPINION AND ORDER

Defendant has been charged with endangering the welfare of children after an investigation by police indicated her four (4) children had been left alone for a period of two (2) days. In the instant Petition for Writ of Habeas Corpus, Defendant contends the evidence presented at the preliminary hearing was insufficient to establish a prima facie case.

A transcript of the preliminary hearing has been completed and was submitted at argument, heard February 26, 2002. A review of the transcript indicates the Commonwealth presented evidence that Defendant’s four (4) children, between the ages of 10 and 15, were left by her unattended from after school on October 5, 2001 until sometime after 5:20 p.m. on October 7, 2001. Police responded to a call from the grandparents who were concerned because the children were alone and found that they indeed were unattended in the residence. Defendant argues that the ages of the children, 10 through 15, justified Defendant’s actions in leaving them unsupervised and that they were therefore not endangered. Section 4304 defines endangering the welfare of children as follows:

- (a) Offense defined. - A parent, guardian, or other person supervising the welfare of a child under 18 years of age commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support.

Commonwealth v Taylor, 471 A.2d 1228 (Pa. Super. 1984). Thus, in determining whether particular

conduct is rendered criminal by the statute, the Court is to apply the common sense of the community, as well as the sense of decency, propriety and the morality which most people entertain. Id. In the instant case, while Defendant may be able to convince the fact finder at trial that certain circumstances support a finding of not guilty beyond a reasonable doubt, in considering whether the Commonwealth has presented a prima facie case, the Court believes the act of leaving the four (4) children alone for the weekend violates the community's sense of decency, propriety and morality to a degree sufficient to support the charge.

ORDER

AND NOW, this 28th day of February, 2002, for the foregoing reasons, Defendant's Petition for Writ of Habeas Corpus is hereby denied.

By the Court,

Dudley N. Anderson, Judge

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