

IN THE COURT OF COMMON PLEAS
LANCASTER COUNTY, PENNSYLVANIA
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

vs.

Nos. 6287 of 2017
6288 of 2017
6295 of 2017
6271 of 2017
6264 of 2017
6294 of 2017
6293 of 2017

MALINDA S. CLATTERBUCK,
DARRELL EUGENE YODER,
ANN W. DE VITRY,
ELIZABETH A. LUCABAUGH,
ANTHONY JOSEPH PROVENZANO,
BARBARA W. VANHORN and
ELAM ZOOK

TRANSCRIPT OF PROCEEDINGS

Before: HONORABLE HOWARD F. KNISELY

Date: July 8, 2019

Place: Courtroom No. 3
Lancaster County Courthouse
50 North Duke Street
Lancaster, Pennsylvania

APPEARANCES:

ANDREW T. LEFEVER, ESQUIRE
Assistant District Attorney
For - The Commonwealth

PAUL JOSEPH HETZNECKER, ESQUIRE
1420 Walnut Street, Suite 911
Philadelphia, PA 19102
For - The Defendant

ORDERED: 7/8/19 LODGED: _____ FILED: _____

P R O C E E D I N G S
(9:06 a.m.)

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THE COURT: Mr. Lefever.

MR. LEFEVER: Thank you, Your Honor. Again, this is concerning seven defendants, Commonwealth versus Clatterbuck on 6287, Commonwealth versus De Vitry on 6295, Commonwealth versus Lucabaugh, 6271, Commonwealth versus Provenzano, 6264, Commonwealth verse Vanhorn, 6294, Commonwealth versus Yoder, 6288, and Commonwealth versus Zook, 6293, all of 2017.

Fortunately and happily, the Commonwealth and defense counsel have reached a resolution on this matter, on all the matters.

The agreement was that the seven defendants would complete community service hours, which the attorney has provided me confirmation that was completed. So based on that completion, the Commonwealth would move to nol-pros the charges against all the named defendants in the interest of justice with costs on the County of Lancaster.

And just for the record, the Commonwealth will not be seeking to re-file these charges at any time.

If I may approach, I have the nol-pros slips.

THE COURT: You may.

Counsel for the defense is in agreement; is

1 that correct?

2 MR. HETZNECKER: That is correct, Your Honor.

3 THE COURT: Thank you.

4 Ladies and gentlemen, each of you are here, of
5 course this was the time set for trial in this
6 matter, each with a misdemeanor of the third degree,
7 defiant trespass by actual communication.

8 That type of offense says that knowing you
9 were not licensed or privileged to do so, you entered
10 or remained in any place in which notice against
11 trespass had been given by actual communication by
12 someone in authority at that point.

13 Before we conclude this and I decide to accept
14 the nol-prosses, having done the community service, I
15 would offer a few words:

16 First, I would like to commend counsel for
17 both sides in presenting their positions with highly
18 professional approaches to issues that are both
19 highly controversial and legally challenging.

20 Second, my efforts in ruling on these legal
21 motions and matters before me are strictly my
22 interpretation of the law and precedent in the area
23 of criminal law as presented to me.

24 My rulings are in no way contrary to anyone's
25 First Amendment rights to protest. Having been

1 involved with protests since the late 1960s, we
2 realized that peaceful, nonviolent protest is
3 something that the United States permits and
4 encourages more than any other place on this planet.

5 There are, however, under the criminal law,
6 limitations to even peaceful protesting. Such was
7 the case here.

8 Rules and laws as put in place by our
9 legislature control those limitations, as well as
10 Federal over State's rights issues. Those are the
11 bodies, not the courts, where changes to the laws and
12 limitations to prevent the abuse of our environment
13 and safety concerns become law.

14 We must all be more vigilant to elect to those
15 legislative positions persons who are highly
16 concerned with their local constituents and local
17 problems, and not those who merely look for personal
18 advancement or who look to industry to fill their
19 coffers for re-election.

20 I am more than pleased that the Commonwealth
21 and defense have reached a resolution short of trial.

22 I'm also fairly confident, and I think that -- had
23 significant conversations with counsel, that the
24 rulings I have made in this case were appropriate
25 based on the current status of the law in

1 Pennsylvania regarding criminal law only.

2 With that, I am pleased, and I will agree with
3 each of these requests for nol-pros as presented by
4 Mr. Lefever, and costs to be paid -- outstanding
5 costs on the County.

6 I will sign each of these nol-pros. I will
7 grant them, and as counsel has indicated, without
8 charges to be re-filed, this matter has come to a
9 conclusion.

10 I will certainly grant counsel for either side
11 an opportunity if they wish to speak, but they need
12 not if they don't want.

13 Counsel for the defense, is there anything
14 you'd like to say?

15 MR. HETZNECKER: No, nothing other than thank
16 you, Your Honor.

17 THE COURT: Counsel for the prosecution?

18 MR. LEFEVER: Nothing further, Your Honor.

19 THE COURT: With that, ladies and gentlemen,
20 we stand adjourned. Thank you.

21 (The proceedings concluded at 9:12 a.m.)
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REPORTER'S CERTIFICATE

I hereby certify that I was present upon the hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the transcript is true and correct and meets the format specifications established by the Supreme Court of Pennsylvania in Rule 4010.

In testimony whereof, I have hereunto subscribed my hand this 8th day of July, 2019.

Jamie F. Hackman
Official Court Reporter

AND NOW, _____, _____, this transcript is approved and ordered to be filed.

HOWARD F. KNISELY, JUDGE