

Dunkle

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CRIMINAL ACTION - LAW

COMMONWEALTH OF PENNSYLVANIA

v.

HOBSON L. MCKOWN

:
:
:
:
:

No. CP-14-CR-1569-2008

Attorney for the Commonwealth:
Attorney for the Defendant:

Carolyn Larrabee, Esq.
Jason S. Dunkle, Esq.

OPINION AND ORDER

Kistler, J.

Presently before this Court is a Motion to Remand, filed by Hobson L. Mckown [hereinafter "Defendant"]. After having reviewed the briefs submitted on this Motion, the Defendant's Motion to Remand is hereby **DENIED** for the following reasons.

PROCEDURAL HISTORY

On September 2, 2008, Defendant was scheduled to appear for a summary hearing before Magisterial District Judge Jonathan Grine. Officer R.W. Bradley and other officers from the State College Police Department were standing inside the lobby of Magisterial District Judge Grine's Court. Defendant told Officer Bradley that he was carrying a concealed firearm and gave the officer permission to retrieve the weapon. Officer Bradley filed a Police Criminal Complaint charging Defendant with two (2) counts of Firearms Not To Be Carried Without a License and Possession of Firearm or Other Dangerous Weapon in Court Facility.

Magisterial District Judge Prestia set bail at \$10,000 straight. Defendant's preliminary hearing was scheduled for September 10, 2009. Defendant's bail was posted and Defendant was released from the Centre County Correctional Facility. Defendant retained defense counsel on

the afternoon of September 9, 2009. Defendant appeared at his preliminary hearing scheduled for September 10, 2008, at 11:00 A.M. Prior to the commencement of Defendant's preliminary hearing, a continuance was requested on behalf of Defendant. Magisterial District Judge Leslie A. Dutchcot denied the request for continuance and the preliminary hearing was held. Upon the conclusion of preliminary hearing, Magisterial District Judge Dutchcot bound over all charges to the Court of Common Pleas.

DISCUSSION

Defendant raises two arguments in favor of his Motion to Remand. The first argument is that Defendant's motion for a continuance should have been granted because his counsel was retained one day prior to his preliminary hearing. Defendant points to the complicated nature of the offenses, the short amount of time in which his counsel had to prepare for the hearing and the minimal prejudice that the Commonwealth would incur had the Court granted Defendant's Motion.

Taking these assertions as true, this Court finds that Defendant failed to allege any actual harm caused to the Defendant by the denial of the Motion for Continuance. *See Commonwealth v. Palmer*, 417 A.2d 229, 232 (1979) ("In view of the absence of any asserted harm, appellant's argument that counsel was unable to perform competently because of insufficient time to prepare is without merit."). Without alleging any actual harm caused to the Defendant this Court finds that Defendant's argument lacks merit.

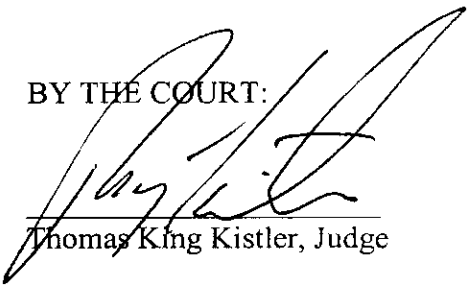
Defendant's final argument states that Magisterial District Judge Dutchcot should have recused herself because she was a Court Clerk with Magisterial District Judge Grine in Monroe County. Although this Motion was to be decided on briefs, Defendant has provided the Court with no case law addressing this type of relationship. Defendant makes reference to the high

amount of bail set in this case; however, the Court agrees with the Commonwealth that this bail was likely due to Defendant appearing back in Court just a few hours after originally being released on bail.

ORDER

AND NOW, this 29th day of April, 2009, the Defendant's Motion to Remand is hereby **DENIED.**

BY THE COURT:



Thomas King Kistler, Judge