

IN THE COURT OF COMMON PLEAS OF PIKE COUNTY, PENNSYLVANIA  
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

vs.

ERIC MATTHEW FREIN,

Defendant

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: No. 19 – 2015 - CR  
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ORDER

AND NOW, this 3<sup>rd</sup> day of April, 2017, upon consideration of the Defendant's Motion to Suppress Statements Obtained from Eric Frein on October 30, 2014 and after hearing held thereon, it is hereby ORDERED as follows:

1. The Defendant's Motion to Suppress Statements based on the alleged failure to honor the Defendant's invocation of his right to silence is **DENIED**.

With regard to this immediate issue, the Commonwealth presented the testimony of Corporal Benjamin Clark of the Pennsylvania State Police and a DVD of the State Police's custodial interview of the Defendant on the night of his capture on October 30, 2014. Commonwealth's Exhibit No. 1. Based on a careful review of the entire video interview of the custodial interview of the Defendant by the Pennsylvania State Police on October 30, 2014 and the totality of the hearing record, including the testimony and evidence presented with regard to the second noted issue of this decision, this Court determines that the Commonwealth established that the challenged evidence was not obtained in violation of the Defendant's right to remain silent. The

Court specifically finds that the Defendant did not make an unambiguous or unequivocal assertion of his right to remain silent based on the entirety of the hearing record presented.

2. The Defendant's Motion to Suppress Statements based on the alleged failure to afford the Defendant his right to counsel under the United States and Pennsylvania Constitutions, under the Fifth and Sixth Amendments and Article 1, Sections 8 and 9 of the Pennsylvania Constitution is **DENIED**.

With regard to this issue, the Defendant presented the testimony of James Swetz, Esquire who stated that he had been retained by the Defendant's father, Michael Frein on October 30, 2014 to represent the Defendant. Attorney Swetz testified that he attempted to gain access to the Defendant at the State Police barracks on the night of October 30, 2014, but was not permitted to do so. The hearing record, including the video interview of the Defendant (Commonwealth Exhibit No. 1), fails to establish any request of the Defendant himself to retain or speak with Attorney Swetz. In addition, the officers interviewing the Defendant testified that they were not made aware of the request of Attorney Swetz to meet and/or speak with the Defendant on the night in question.

BY THE COURT:



HON. GREGORY H. CHELAK, J.

c- Pike County District Attorney  
Michael E. Weinstein, Esquire  
William Ruzzo, Esquire  
Court Administrator