

IN THE COURT OF COMMON PLEAS  
LANCASTER COUNTY, PENNSYLVANIA  
CRIMINAL

----- :  
COMMONWEALTH OF PENNSYLVANIA :

vs. :

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

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

----- :  
**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.)

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-prosses. 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.)

22

23

24

25

1 REPORTER'S CERTIFICATE

2  
3 I hereby certify that I was present  
4 upon the hearing of the above-entitled matter and  
5 there reported stenographically the proceedings had  
6 and the testimony produced; and I further certify  
7 that the transcript is true and correct and meets the  
8 format specifications established by the Supreme  
9 Court of Pennsylvania in Rule 4010.

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

12  
13  
14 \_\_\_\_\_  
15 Jamie F. Hackman  
16 Official Court Reporter  
17

18 AND NOW, \_\_\_\_\_, \_\_\_\_\_, this  
19 transcript is approved and ordered to be filed.  
20

21  
22 \_\_\_\_\_  
23 HOWARD F. KNISELY, JUDGE  
24  
25