

ORIGINAL

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IN THE COURT OF COMMON PLEAS OF SOMERSET COUNTY, PENNSYLVANIA

<b>COMMONWEALTH</b>	)	<u>Nos. 230 &amp; 249 Criminal 1999</u>
	)	Pros: Thomas
<b>vs</b>	)	at 1st no., Forgery (4 Cnts.),
	)	Obtain Cont. Subst. by Decep.,
	)	Etc. (3 Cnts.), at 2nd no,
	)	Crim. Attempt
<b>LYNDA KATHERINE FERNICCHIO</b>	)	<u>CALL OF CRIMINAL LIST - PLEA</u>

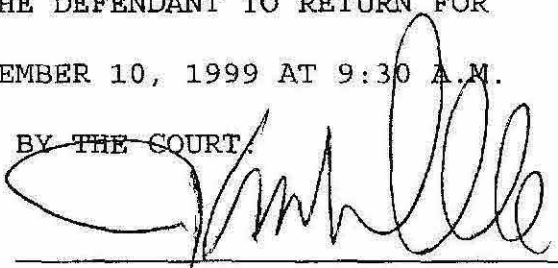
APPEARANCES:  
 Commonwealth: Darryl G. Geary, Esq.; A.D.A.  
 Defendant: William R. Carroll, Esq.; Somerset, PA  
 (Defendant appearing)

\* \* \*

ORDER OF COURT

NOW, THIS 2ND DAY OF AUGUST, 1999, THE  
DEFENDANT HAVING PLED GUILTY TO TWO COUNTS OF OBTAINING A  
CONTROLLED SUBSTANCE, TWO COUNTS OF FORGERY, AND ONE COUNT OF  
ATTEMPT, THE COMMONWEALTH'S MOTION TO NOL PROS THE REMAINING  
 CHARGES IN BOTH CASES IS GRANTED.

WE ORDER A MODIFIED PRE-SENTENCE  
 INVESTIGATION AND DIRECT THE DEFENDANT TO RETURN FOR  
 SENTENCING ON FRIDAY, SEPTEMBER 10, 1999 AT 9:30 A.M.

BY THE COURT:  


JOHN M. CASCIO, JUDGE

*8/12/99*  
*copy to*  
*Dg. Geary*  
*Atty Carroll*  
*APB*

1 MON., AUG. 2, 1999 - 10:44 A.M. - CRM. 1 - #230 & 249 CR 1999

2 JOHN M. CASCIO, JUDGE

3 \* \* \*

4 MS. YOUNG: 179 and 187, Linda Katherine  
5 Fernichio.

6 MR. CARROLL: These are going to be a plea  
7 bargain arrangement in the two cases, Your Honor. And I would  
8 ask the Court to note that the written plea questionnaire and  
9 the other single-page plea form are incorporated in the sense  
10 that Case No. 230 Criminal 1999 and Case No. 249 Criminal 1999  
11 are on the same form, would ask the record to show that the  
12 original's filed at No. 230.

13 The reference can be made to that case for  
14 it. Plea would be as follows, in No. 230, a plea to two  
15 counts of the offense of forgery under Crimes Code Section  
16 4101(a)(3), both of which are misdemeanors of the first degree  
17 punishable by imprisonment of up to five years for each and a  
18 fine of up to \$10,000 for each.

19 Also in No. 230, there is a plea to two  
20 counts of the offense under the Controlled Substance Act  
21 referring to Section 780-113(a)(12). That crime is defined as  
22 acquiring possession of a controlled substance. Those are  
23 ungraded misdemeanors -- strike that, ungraded felonies, but  
24 they have a maximum incarceration of five years each and a  
25 maximum fine of \$15,000 each.

1 In the case at No. 249 Criminal 1999, there  
2 would be a plea to one count of criminal attempt under Crimes  
3 Code Section 901(a). That criminal attempt would have been to  
4 commit the offense of acquiring possession of a controlled  
5 substance. Therefore, it's a felony. This has an  
6 incarceration maximum of five years, but the fine on that one  
7 is \$10,000; so the total cost of incarceration is 25 years and  
8 the total possible fines are 60,000.

10:47A

9 THE COURT: Thank you.

10 MS. YOUNG: This is based on an incident  
11 alleged to have occurred on April 12th, 1999 in Meyersdale  
12 borough. The charges were filed by Trooper Thomas of the  
13 Pennsylvania State Police. On April the 12th, Linda Katherine  
14 Fernichio arrived at Meyersdale Hospital about 3:10 in the  
15 morning to seek medical attention for an alleged migraine.

16 She provided information with the name of  
17 Deirdre, D-e-i-r-d-r-e, J. O'Brien-Burns to the medical  
18 person. She posed as Deirdre O'Brien-Burns, requesting that  
19 she be given 125 grams of Demerol. She was told that she  
20 would only get 25 milligrams of Demerol.

21 She signed herself out. She signed the  
22 forms that must be signed and received treatment and released  
23 information. She used Deirdre O'Brien to sign those forms.  
24 I'm assuming there were three incidents where she signed that  
25 name.

1 She then proceeded to Somerset Hospital  
2 where she attempted to obtain the same drug in the same  
3 manner. Those are the basis for the charges filed to No. 230.  
4 I believe that's the basis for the charges filed to No. 230  
5 Criminal 1999 and additionally for the charge filed to No. 249  
6 Criminal 1999.

10:48A

7 THE COURT: Thank you, Mrs. Young. Mr.  
8 Carroll.

9 MR. CARROLL: To make a long story short,  
10 she first appeared at the Meyersdale Hospital and then found  
11 herself coming up to Somerset Hospital, essentially committed  
12 the same acts in both places.

13 THE COURT: Thank you.

14 INTERROGATION OF DEFENDANT

15 BY THE COURT:

16 Q Miss Fernichio, would you state your name for the  
17 record, please.

18 A Linda Katherine Fernichio.

Legally, her name is Lynda  
Katherine Kerr. Not Fernichio.

19 Q And how old are you, ma'am?

20 A 44 years old.

21 Q What's your home address?

22 A 525 Vine Street, Apartment 201, Johnstown,  
23 Pennsylvania.

24 Q How far did you go in school?

25 A Four years of college.

Lie!

1 crimes. The first crime is obtaining a controlled substance  
2 by subterfuge. That is that you acquired or attempted to  
3 acquire possession of a controlled substance -- as alleged in  
4 the complaint here, it's Demerol -- by misrepresenting  
5 yourself or defrauding the hospital by indicating that you  
6 were somebody else. Do you understand that?

7 A Yes, sir.

8 Q And there are two counts of that to which you're  
9 pleading guilty. In addition, you're pleading guilty to two  
10 counts of forgery, and that is that you -- with the intent to  
11 defraud somebody else or knowing that you were creating a  
12 fraud -- uttered or delivered a writing that you knew was  
13 forged, that is by signing a false name to those documents.  
14 Do you understand that charge?

10:51A 15 A Yes.

16 Q The basis for that charge. There are two counts of  
17 that as well, ma'am. And finally in the case at No. 249  
18 Criminal 1999, we have the charge of criminal attempt; and  
19 that is with the intent to commit a specific crime -- that is  
20 the crime of acquiring or obtaining a controlled substance --  
21 you took a substantial step toward actually putting that crime  
22 into place or committing that crime. Do you understand that?

23 A Yes, sir.

24 Q The obtaining or acquiring charges are felonies as Mr.  
25 Carroll pointed out. Each carries a maximum penalty of five

1 years in jail and a \$15,000 fine. The forgeries are  
2 misdemeanors of the first degree, each carrying a maximum  
3 penalty of five years in jail and a \$10,000 fine. And the  
4 attempt is a felony, carrying with it a maximum penalty of  
5 five years in prison and a \$10,000 fine. Do you understand  
6 that?

7 A Yes.

8 Q Ma'am, you could be sentenced to serve the maximum in  
9 all of these charges which means you could be facing up to 25  
10 years in jail and up to \$60,000 in fines by this plea. Do you  
11 understand that?

10:52A 12 A Yes, sir.

13 Q Ma'am, your attorney has given me a written plea  
14 questionnaire which appears to have your signature on each  
15 page. Have you read through it carefully?

16 A Yes, I have, Your Honor.

17 Q Do you have any questions about it?

18 A No, sir.

19 Q Is there anything about it that you don't understand?

20 A No, sir.

21 Q Are you pleading guilty to these particular crimes  
22 because you admit you committed these crimes?

23 A Yes, sir.

24 Q You are represented here by Attorney William Carroll.  
25 Have you had time to talk to him about these cases?

1 A Yes.

2 Q Are you satisfied with his representation of you?

3 A Very satisfied.

4 Q Ma'am, these pleas are being entered as a result of a  
5 plea arrangement where the attorneys have met and agreed that  
6 in exchange for your plea of guilty to these charges, the  
7 district attorney's office will come in and move to withdraw  
8 or dismiss the other charges. Do you understand that although  
9 the attorneys have agreed to that, it won't become effective  
10 unless I also approve it here this morning?

11 A Yes. I understand that.

12 Q Other than the plea arrangement, has anybody promised  
13 you anything or threatened you with anything to get you to  
14 plead guilty?

15 A No, sir.

16 Q Has anybody promised you what sentence I would give  
17 you?

10:53A 18 A No.

19 Q Do you understand that although the lawyers have the  
20 right to make a recommendation about your sentence, the final  
21 decision on your sentence will be solely up to me?

22 A Yes, sir.

23 Q Do you have any questions?

24 A No, sir, I don't.

25 Q Are you pleading guilty voluntarily and of your own

1 free will after full consultation with your lawyers?

2 A Yes, I am.

3 THE COURT: We will accept the plea.

4 MS. YOUNG: Upon entry of the plea, the  
5 Commonwealth moves to nol pros the remaining charges.

6 THE COURT: The Defendant having pled  
7 guilty to two counts of obtaining a controlled substance, two  
8 counts of forgery, and one count of attempt, the  
9 Commonwealth's motion to nol pros the remaining charges in  
10 both cases is granted. We order a modified pre-sentence  
11 investigation and direct the Defendant to return for  
12 sentencing on Friday, September 10, 1999 at 9:30 a.m.

13 MR. CARROLL: For the sake of the  
14 pre-sentence, Your Honor, I wish to note that the Deirdre  
15 O'Brien is indeed a real person. She's an associate of the  
16 Defendant. We understand there's been some attempt by the  
17 medical system to get compensation from her for services in  
18 the emergency rooms, and we understand that she has  
19 communicated or will communicate to the appropriate  
20 authorities that she's expecting no restitution in this case.  
21 So I just want that on the record before we get to that.

22 -- 10:54 A.M. --

23

24

25



REPORTER'S CERTIFICATE:

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the hearing of the above cause, and that this copy is a correct transcript of the same.



Rhonda J. Smith  
Official Reporter  
16th Judicial District

Date: 8-12-99