461 Pa. 17, 334 A.2d 610 (1975). An automobile "aimed" at a person is no less a deadly weapon. Only "Superman" can dodge a speeding bullet. Cpl. Farrell was fortunate the automobile aimed at him did not accelerate to the speed of a bullet. Only because he was attentive and was fortuitously located near the edge of the travelled portion of the road was he able to avoid the intended run down and serious bodily injury.

In a sort of distorted logic the defendant contends that the most the Commonwealth showed in establishing that he slouched down and stepped on the gas was that Short intended to avoid apprehension. Rather than exonerate the defendant, we think the fact that he was no intent on avoiding capture established beyond peradventure that he would run Cpl. Farrell down to do it. We conclude therefore that the evidence established that the defendant knowingly attempted to cause bodily injury to Cpl. Farrell. See the Crimes Code, Act of 1972, Dec. 6, P. L. , 18 C.P.S.A. Sections 2701, 2702(a)(3).

The remainder of Short's reasons supporting his post trial motions deal with purported errors committed by the court. He contends that the District Attorney, in his opening statement, defined aggravated assault without mentioning the required intent. We do not recall that we were asked for a curative instruction as stated by the defendant, but only that our attention was called to the statements of the District Attorney. Nevertheless, the jury was bound to follow the instructions of the court on the law and those instructions included a reference to the required intent.

The defendant presented 10 points for charge. The first two were points for binding instructions which the court properly refused. Points 3 and 4 dealt with the burden of proof, and these like the remaining points which dealt with the definitions of the crimes the defendant was alleged to have committed, and the interest of Earl Lehman in the case were covered fully in the charge. The Court did not read Short's points verbatim because they were redundant and were, as we said, covered elsewhere in the charge. The court need not read defendant's points verbatim, so long as the issues raised are adequately, accurately and clearly presented to the jury for their consideration. *Commonwealth v. McComb,* 462 Pa. 504, 341 A.2d 496 (1975).

ORDER OF COURT

September 18, 1979, the motions for new trial and in arrest of judgment are refused. It is directed that the Probation Department prepare a presentence investigation report and that sentencing in this matter be scheduled for October 10, 1979, at 9:30 o'clock a.m.

COMMONWEALTH v. BEELER, C.P. Fulton County Branch, No. 6 of 1975

Criminal Law - Ineffective Counsel - PCHA Petition - Failure to Appeal

1. Where a defendant was tried with a co-defendant and both parties' convictions were sustained by the Superior Court, the fact that the co-defendant's petition for allocatur was denied by the Supreme Court and defendant's grounds for appeal would be the same as co-defendant's, is insufficient reason for counsel to refuse appeal.

2. Failure to appeal, even though an appeal appeared frivolous, precludes defendant from entering the Federal Courts on a Petition for a Writ of Habeas Corpus in that he has not exhausted his state remedies.

Gary D. Wilt, Esq., District Attorney, Counsel for the Commonwealth

James M. Schall, Esq., Public Defender, Post Conviction Proceeding Counsel for Defendant

Douglas W. Herman, Esq., Post Conviction Proceeding Counsel for Defendant

OPINION AND ORDER

EPPINGER, P.J., September 25, 1979:

It is the contention of Ray R. Beeler in these Post Conviction Hearing Act proceedings that he was denied the right to effective assistance by counsel.

Beeler was tried with a co-defendant and after being found guilty and sentenced, both convictions were sustained by the Superior Court, Pa. Super , 389 A.2d 165 (1978). Then the co-defendant petitioned for an allowance of an appeal to the Supreme Court. That petition for allowance of an appeal was denied. *Commonwealth v. Duffy*, No. 362 Allocature Docket. Beeler's trial attorney took no such action and the Public Defender was appointed to represent him in post conviction matters. A Petition for Leave to File a Petition for Allowance of an Appeal Nunc Pro Tunc was granted and the next step would have been to file a Petition for Allowance of Appeal.

In the meantime, counsel had the decision of the Supreme Court in the co-defendant's case denying the Petition for Appeal. Beeler's grounds would be identical to those of the co-defendant.

Beeler's post-trial attorney wrote him stating that he had been granted the right to file an appeal nunc pro tunc, but that since his grounds were the same as his co-defendant's, the attorney felt the results would be identical and that the appeal would not be filed. Beeler notified post conviction counsel that he intended to file a PCHA petition alleging the incompetence of his trial counsel in not filing a timely appeal and of post conviction counsel in not filing the petition for appeal after the right to do so had been granted nunc pro tunc. This PCHA petition is now before us. The interesting contention of Beeler is that even if he loses in our Supreme Court as might be expected, by failing to appeal and thereby obtaining a final appellate court determination of the matter, he has not exhausted his state remedies and is precluded from entering the Federal Courts on a Petition for a Writ of Habeas Corpus.

We conclude counsel were ineffective in not obtaining a final decision from the state courts in this case, and pursuant to the authority confirmed in *Commonwealth v. Sullivan*, 472 Pa. 129, 371 A.2d 468 (1977), leave is granted to Beeler to file an Application for the Allowance of an Appeal to the Supreme Court.

ORDER OF COURT

September 25, 1979, the defendant is granted the right to file an Application for the Allowance of an Appeal to the Supreme Court and the appointment of Douglas W. Herman, Esquire, is continued for the purpose of taking this action.

EDWARDS v. WARREN, C. P. Fulton County Branch, Civil Action - Custody

Custody - Uniform Child Custody Jurisdiction Act - Full Faith and Credit

1. Where a Pennsylvania Court enters a temporary order, and mother takes child to Virginia in violation of Pennsylvania order, a full hearing on issue of custody does not oust the jurisdiction of Pennsylvania Court.

2. Where a parent knowingly violates the Order of a Pennsylvania Court by taking child to another state, the Court of that state cannot assume jurisdiction under the Uniform Child Custody Jurisdiction Act.

3. The doctrine of full faith and credit generally does not extend to child custody cases.

D. Brooks Smith, Esq., Counsel for Petitioner

Lawrence C. Zeger, Esq., Counsel for Respondent

OPINION AND ORDER

KELLER, J., September 4, 1979:

This custody proceeding was commenced by the presentation of a petition of Earl M. Edwards for a Rule to be issued to Debra Lynn Edwards to show cause why custody of Earl M. Edwards, II, should not be committed to Earl M. Edwards, the petitioner, on January 30, 1976. An order was entered the same date directing the Rule to be issued and served upon the respondent, and setting March 9, 1976 at 1:30 o'clock P.M. for hearing on the matter. The Rule, together with a true and correct copy of the petition and order of court were served upon the respondent by certified mail on February 10, 1976. An Answer to the petition was filed by the respondent. Hearing was held as scheduled, but had not been completed at the end of the court day on March 9, 1976. An order was entered awarding temporary custody of Earl M. Edwards, II, to his father, Earl M. Edwards, his paternal grandfather, Melvin E. Edwards and his paternal grandmother, Abbie M. Edwards to be exercised at the home of the paternal grandparents in Thompson Township, Fulton County, Pennsylvania pending the completion of the full hearing on the merits, and visitation rights were granted to the respondent who then resided in Fairfax County, Virginia.

On April 12, 1976 on the stipulation of Merrill W. Kerlin, Esq., then counsel for the respondent, and G. D. Wilt, Esq., then counsel for the petitioner, an order was entered directing the Fulton County Office for Children & Aging to make a home study of Earl M. Edwards and make a report thereon to the Court and counsel. The Department of Social Services for Fairfax, Virginia was requested to make a home study of the respondent of Fairfax County, Virginia and make a report thereon to the Court and counsel. A proceeding was initiated in the Juvenile and Domestic Relations Court of Fairfax County, Virginia concerning Earl M. Edwards, II, and on December 22, 1975, that court referred the matter to the Department of Social Services for investigation and report with custody of the