

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	: NO. 01-12,131
Plaintiff	:
	:
vs.	:
	:
AARON PATRICK MURRAY,	:
Defendant	:

OPINION IN SUPPORT OF ORDER DATED
JANUARY 2, 2003 IN
COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

Defendant appeals this Court’s Order of January 2, 2003, sentencing him to incarceration for a period of 3 to 18 months on the charge of endangering the welfare of a child, of which he was convicted by a jury on November 15, 2002. Defendant’s Post-Sentence Motion was denied by Order dated February 27, 2003 and in his statement of Matters Complained of on Appeal, Defendant alleges error in the Court’s denial of that motion, and again raises the issue raised in his Post-Sentence Motion, that the evidence was insufficient in two regards: to establish injury to the child in the relevant time period, and to establish the requisite knowledge.

In testing the sufficiency of the evidence, the Court must view all evidence admitted at trial, together with all reasonable inferences therefrom, in the light most favorable to the Commonwealth as verdict winner, and determine whether the jury could have found Defendant’s guilt established beyond a reasonable doubt. Commonwealth v Collins, 702 A.2d 540 (Pa. 1997). In the instant case, the charge of endangering the welfare of a child required the Commonwealth to show that Defendant, a parent, knowingly endangered the welfare of the child by violating a duty of care, protection or support. 18 Pa. C.S. Section 3304. In the instant matter the Commonwealth specifically contended Defendant endangered the welfare of his three-month-old son by failing to obtain medical treatment for an injury the child suffered to his

arm. At trial, the Commonwealth introduced evidence to show that Defendant knew of the arm injury but failed to obtain medical treatment in a timely fashion, thus violating his duty of care. The Commonwealth introduced medical evidence that the baby had suffered from a fractured arm and fractured ribs at some point prior to or on the evening of June 28, 2001, that such an injury would have caused the baby to cry in pain or distress, especially if he had been picked up and the arm had been moved, that Defendant and the baby's mother noticed a problem with the baby's arm at approximately 1:00 a.m. on June 29, 2001 and that the baby was not taken to the hospital until approximately 8:00 a.m. on June 29, 2001. The Court finds the evidence introduced did indeed establish, such that a jury could find beyond a reasonable doubt, that the child did suffer an injury, that Defendant was aware of the injury, that the injury would have been extremely painful to the child and that Defendant would have been aware of that pain, and yet failed to seek medical treatment in a timely fashion, thus violating a duty of care owed as a parent to a child. The jury's verdict was therefore appropriate, based upon the evidence presented at trial and the Court properly denied the Post-Sentence Motion for Judgment of Acquittal.

By the Court,

Dudley N. Anderson, Judge

Date: June 4, 2003

cc: DA
George Lepley, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson