

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA**

COMMONWEALTH OF PA,	:	
Plaintiff	:	
	:	
v.	:	No. 04-12,055
	:	
GEORGE SEITZER, JR.,	:	
Defendant	:	

**OPINION**  
**Issued Pursuant to Pa. R.A.P. 1925(a)**

This is an appeal from a judgment of sentence entered by the court. On June 27, 2005, after a jury trial, the defendant was found guilty of Unlawful Communication with a Minor. The court then entered a verdict of guilty as to the summary offense of harassment. The defendant was sentenced by this court on December 19, 2005.

The defendant first asserts the evidence presented by the Commonwealth does not support the guilty verdicts. The court disagrees.

The crime of Unlawful Contact or Communication with a Minor requires the Commonwealth to prove beyond a reasonable doubt that the defendant, knowing he is contacting or communicating with a minor, intentionally contacts or communicates with that minor for the purpose of engaging in activity prohibited under the offenses enumerated in Chapter 31, one of which is Indecent Assault.

The victim, who was sixteen at the time of the incidents, testified that she worked for the defendant manning his booth at the Lycoming County Fair.<sup>1</sup> The victim also was planning to travel with the defendant to Buffalo, New York, the following

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<sup>1</sup> No citations to the transcript are given in this opinion because the defendant failed to pay the cost for the transcript to be produced.

month, to work at another fair. The fair would last about a week. The defendant told the victim that he had plans for each night. She testified,

One night he had plans for a bubble bath and after the bubble bath he was going to dry me and then perform oral sex and – until it was dry and he said it would never be dry. And another night he said that we'd get chocolate and strawberries and, like, fool around on the bed with chocolate and strawberries.

N.T. p. 17. The victim also testified that she was not at all interested in or romantically attracted to the defendant, and did not consent to or encourage any sexual contact with defendant. N.T. p. 23. Moreover, she never went to Buffalo with the defendant because after her experience with the defendant she never wanted to go anywhere with him and never wanted to see him again. N.T. p. 24. This testimony, if believed by the jury, is sufficient to support a conviction of Unlawful Contact or Communication with a Minor.

As to the charge of harassment, §2709(a)(1) requires the Commonwealth to prove beyond a reasonable doubt that the defendant struck, shoved, kicked, or otherwise subjected the victim to physical contact or attempted or threatened to do this. The Commonwealth must also prove the defendant committed such acts with an intent to harass, annoy or alarm the victim. The court entered a guilty verdict on this charge as the court believed beyond a reasonable doubt that the defendant made the statements cited above, and engaged in other sexual discussions with the victim (N.T. p. 16), with an intent to harass, annoy, or alarm her.

The defendant next asserts the guilty verdicts conflict with the not guilty verdicts on the crimes of Indecent Assault and Corruption of Minors. It is well recognized that consistency in criminal verdicts is not required. In Commonwealth v. Campell, 651 A.2d 1096, 1100 (Pa. 1994), the court stated, [I]t has long been the rule in Pennsylvania and in the federal courts that consistency in a verdict in a criminal case is not necessary, so long as the evidence is sufficient to support the convictions that the trier of fact has returned. This is due to the fact that an acquittal cannot be interpreted

as a specific finding in relation to some of the evidence.” In Dunn v. United States, 284 U.S. 390, 52 S.Ct. 189, 76 L.Ed. 356 (1932), Justice Holmes wrote,

[T]he verdict may have been the result of compromise, or of a mistake on the part of the jury, is possible. But verdicts cannot be upset by speculation or inquiry into such matters.

*See also* Commonwealth of Szarko, 616 A.2d 26 (Pa. Super. 1992); and Commonwealth v. Anderson, 550 A.2d 807 (Pa. Super. 1988).

Similarly, in Commonwealth v. Glendening, 396 A.2d 793, 795 (Pa. Super. 1980), the Superior Court explained,

Allowing inconsistent verdicts in criminal trials runs the risk that an occasional verdict may have been the result of compromise. But the advantage of leaving the jury to exercise its historic power of lenity has been correctly thought to outweigh that danger.

For these reasons, the court rejects the defendant’s argument that his convictions for Unlawful Contact or Communication with a Minor and Harassment cannot stand. The record fully supports the verdicts.

BY THE COURT,

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Richard A. Gray, J.

cc: District Attorney  
Jeffrey Yates, Esq.  
Dana Jacques, Esq., Law Clerk  
Gary Weber, Esq., Lycoming Reporter