

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

: NO. CR – 1908 - 2006

vs.

DARRILL D. DOZIER,
Defendant

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OPINION IN SUPPORT OF ORDER OF OCTOBER 12, 2007,
IN COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

Defendant appeals this Court's Order of October 12, 2007, which denied his Post Sentence Motion. Defendant was sentenced on one count of persons not to possess firearms to four to ten years incarceration, and on one count of firearms not to be carried without a license to a concurrent term of three to seven years incarceration,¹ following a trial by jury and guilty verdicts on those two charges.² In his Concise Statement of Matters Complained of on Appeal, Defendant challenges the sufficiency of the evidence, the weight of the evidence and the length of the sentence.

In addressing a challenge to the sufficiency of the evidence, the court is to view all of the evidence admitted at trial in the light most favorable to the Commonwealth as verdict winner, and the verdict will be upheld if there is sufficient evidence to enable the fact-finder to find every element of the crimes charged beyond a reasonable doubt. Commonwealth v. Adams, 882 A.2d 496 (Pa. Super. 2005). A "weight of the evidence" claim contends the verdict is a product of speculation or conjecture, and requires a new trial only when the verdict is so contrary to the evidence as to shock one's sense of justice. Commonwealth v. Dougherty, 679 A.2d 779 (Pa. Super. 1996).

In the instant case, the Court believes the evidence presented by the Commonwealth was more than sufficient to support the verdict and further, that the verdict was not at all contrary to the evidence, let alone shocking. Several police officers testified to making a felony vehicle stop after a dispatch regarding shots being fired in the 600 block of Second Street in Williamsport, and to watching Defendant exit the passenger side of the vehicle,

1 This sentence was imposed by Order dated July 16, 2007, and amended by Orders dated July 23, 2007, August 2, 2007, and August 22, 2007.

2 Defendant was acquitted of a third charge, possession of an instrument of crime.

revealing a revolver on the passenger seat upon which he had been sitting.³ One of the officers saw the weapon under Defendant's right buttocks before he stood up to get out of the seat. Further, that officer testified that he had subsequently determined that Defendant was not able to legally possess a firearm and that he did not have a license to do so.⁴ While the evidence did not show that Defendant held the weapon in his hand, the Court believes the fact he had been sitting on it is sufficient to support the jury's finding that he indeed possessed it.

Finally, with respect to Defendant's claim the maximum sentence of ten years is excessive, inasmuch as such is within the statutory limits the Court feels it was within its discretion to impose such a sentence.⁵ Further, in light of Defendant's criminal history, and especially considering the nature of his prior crimes, which involve the illegal possession of firearms, the Court also believes the sentence was appropriate.

Dated: January 30, 2008

Respectfully Submitted,

Dudley N. Anderson, Judge

cc: DA
PD
Gary L. Weber, Esq.
Hon. Dudley Anderson

3 One of the officers testified that Defendant had been sitting on a single seat, as opposed to a bench seat.

4 These assertions were also the subject of a stipulation placed before the jury for its consideration.

5 See Commonwealth v. Gallagher, 442 A.2d 820 (Pa. Super. 1982)(because the sentence imposed was within the statutorily prescribed limits, the Court would not disturb the sentence as unduly harsh or manifestly excessive).