

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

: NO. CR – 1314 – 2003

vs.

DAYLE WHEELOCK,  
Defendant

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OPINION IN SUPPORT OF ORDER OF JANUARY 22, 2009,  
IN COMPLIANCE WITH RULE 1925(A) OF  
THE RULES OF APPELLATE PROCEDURE

On March 13, 2008, Defendant was found guilty of four counts of sexual abuse of children (possession of child pornography), and on January 22, 2009, he was sentenced to four consecutive terms of incarceration which aggregated to seventy-five months to twelve years.<sup>1</sup> Defendant has appealed that Order and in his Concise Statement of Matters Complained of on Appeal, Defendant raises an issue with respect to the application for a search warrant, evidentiary issues with respect to the trial as well as the Megan’s Law hearing, and two sentencing issues.

First, Defendant contends the affidavit of probable cause contained insufficient facts for the issuance of a search warrant. This issue was raised in a suppression motion and was addressed in the Opinion of the Honorable Nancy Butts issued in response to that motion, on February 25, 2004. The Court will, therefore, simply rely on that opinion with respect to this issue.

Next, with respect to the evidentiary issues, as all were previously raised in post-sentence motions, the Court will rely on the opinion issued in response to such, dated September 30, 2008.

Finally, with respect to Defendant’s sentencing issues, as the first is being raised with the hope that Commonwealth v. Jarowecki, 923 A.2d 425 (Pa. Super. 2007), will be overturned, such will not be addressed further. With respect to the second, that the Court abused its discretion in sentencing, imposing a sentence which “constitutes too severe a punishment under the circumstances”, the Court wishes to note that not only did it consider the

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<sup>1</sup> It had been determined at a hearing held in conjunction with a prior sentencing, on June 4, 2008, that Defendant is a sexually violent predator under Megan’s Law.

circumstances of the instant crimes, but also Defendant's significant history of similar behavior, and the apparent lack of rehabilitation provided by his previous incarceration. The Court does not believe the sentence too harsh in light of such.

Dated: March 18, 2009

Respectfully Submitted,

Dudley N. Anderson, Judge

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