

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

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| COMMONWEALTH OF PENNSYLVANIA | : | |
| | : | No. 1775-2009 |
| v. | : | |
| | : | CRIMINAL DIVISION |
| TYREE M. GATES, | : | APPEAL |
| Defendant | : | |

OPINION IN SUPPORT OF ORDER IN COMPLIANCE WITH RULE 1925(a)
OF THE RULES OF APPELLATE PROCEDURE

The Defendant appeals the Sentencing Order of this Court dated January 24, 2011, and the Opinion and Order of June 30, 2011, which addressed the issues raised in the Defendant's Post-Sentence Motion notwithstanding that fact that the Motion was denied by operation of law pursuant to Pa. R. Crim. P. 720(B)(3)(a). Following the reinstatement of his appellate rights on September 9, 2011, the Defendant filed a Notice of Appeal on October 3, 2011 and an Amended Notice of Appeal on October 26, 2011. On October 19, 2011, this Court directed the Defendant, in accordance with Pa.R.A.P. No. 1925(b), to file within thirty days a concise statement of matters complained of on appeal: the Court thereafter received the Defendant's concise statement on November 18, 2011.

The Defendant raises four (4) issues in his concise statement: (1) the trial court erred in failing to permit the Defendant to cross examine the alleged victim as to her statement that the Defendant accidentally shot her; (2) the trial court erred in failing to grant a mistrial as a result of the prosecutor arguing in summation about statistics relating to victims of domestic violence when no such evidence was presented during the trial nor would such evidence have even been admissible; (3) the trial court erred in failing to grant the Defendant's Post Conviction Relief Act

(PCRA) Petition requesting relief based upon the illegal sentence imposed by this Court¹; and (4) the trial court erred by sentencing the Defendant to an excessive term of incarceration when facts and circumstances of the case did not warrant such a sentence.

For purposes of this Opinion, the Court will rely on its Opinion and Order of June 30, 2011, which analyzed the issues raised in the Defendant's Post-Sentence Motion despite the fact that the Motion was denied by operation of law.

DATE: _____

By the Court,

Nancy L. Butts, President Judge

xc: DA
Lori Rexroth, Esq.
Gary L. Weber (LLA)

¹ The Defendant actually requested relief from the sentence imposed against him in his Post-Sentence Motion, filed February 2, 2011, not in a PCRA Petition as alleged.