

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
v.	:	No. 1776-2009
	:	CRIMINAL DIVISION
BRIAN NEWTON,	:	APPEAL
Defendant	:	

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

The Defendant appeals the Order of the Court dated January 12, 2011, which denied the Defendant's Post-Sentence Motion. The Defendant filed a Notice of Appeal on January 18, 2011, and on January 19, 2011, the 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 received the Defendant's concise statement on January 31, 2011.

The Defendant raises four issues on appeal; 1) The verdict of the jury was against the weight of the evidence; 2) the evidence was insufficient to sustain a verdict of guilt; 3) the evidence was insufficient to sustain a verdict of guilt as to Counts 11 and 13¹, where a felony was neither attempted nor completed; and 4) the Defendant's sentence was manifestly excessive and unduly harsh as the school zone mandatory is not applicable due to there being no way of knowing precisely where the alleged drug transactions took place.

¹ After speaking with Defense Counsel, the Court notes that the correct counts to be listed on the 3rd issue raised on appeal are counts 12 Criminal Attempt and count 15 Criminal Use of a Communication Facility.

For the purposes of this Opinion, this Court will rely on the Order of the Court dated January 12, 2011.

DATE: _____

By the Court,

Nancy L. Butts, President Judge

xc: DA
Trisha D. Hoover, Esq.
Amanda Browning, Esq. (Law Clerk)
Gary L. Weber (LLA)