

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR – 1462 - 2010
 :
 vs. :
 :
 TROY V. MATTY, :
 Defendant :

OPINION IN SUPPORT OF ORDER OF JULY 5, 2011,
IN COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

In response to Defendant’s Statement of Matters Complained of on Appeal, filed October 31, 2011, the court will rely on its opinion issued September 22, 2011, in support of its order denying Defendant’s Motion for Judgment of Acquittal, and also on the opinions issued by the Honorable Nancy L. Butts on March 11, 2011, and September 30, 2011, in support of her order denying Defendant’s Motion to Suppress.

With respect to Defendant’s final point of contention, that the court’s separate sentences on two counts of possession of drug paraphernalia are illegal because said counts should have merged for sentencing purposes, the Court wishes to note its agreement with Defendant’s contention. Counts 5 and 6 of the Information charge Defendant with possession of drug paraphernalia based on his alleged possession of two marijuana pipes. As did the sentences on the four counts of possession of a small amount of marijuana, which counts were based on Defendant’s possession of three separate bags of marijuana and a jar of marijuana, the sentences on the two counts of possession of drug paraphernalia should have merged. The Court therefore respectfully suggests that once the

merits of the other two issues are addressed, if appropriate, the matter be remanded for resentencing.¹

Dated: 11/07/11

Respectfully submitted,

Dudley N. Anderson, Judge

cc: District Attorney
Peter T. Campana, Esq.
Gary Weber, Esquire

¹ The court also wishes to note that the Order of May 12, 2011, which enters the court's adjudication, and the Order of July 5, 2011, the sentencing order, both contain errors in that Counts 3 and 4 should have referenced possession of a small amount of marijuana rather than possession of drug paraphernalia. The error has no practical effect, however, as once corrected, Counts 3 and 4 would merge with Count 1 rather than with Counts 5 and 6.

Hon. Dudley N. Anderson