

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : **CR-681-2014**
:
v. :
: **CRIMINAL DIVISION**
DEMETRIUS LAWRENCE WILLIAMS, :
Defendant : **1925(a) Opinion**

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

This Opinion is written in support of the Court’s Sentencing Order of April 9, 2015. The Court will rely on this Opinion and the Opinion filed on August 14, 2015. In this Opinion, the Court will discuss why Intimidation of a Victim was correctly graded as a felony of the second degree instead of a felony of the third degree. Intimidation of a Victim is graded as follows:

(2) The offense is a felony of the first degree if a felony of the first degree or murder in the first or second degree was charged in the case in which the actor sought to influence or intimidate a witness or victim as specified in this subsection.

(3) The offense is a felony of the second degree if a felony of the second degree is the most serious offense charged in the case in which the actor sought to influence or intimidate a witness or victim as specified in this subsection.

(4) The offense is a felony of the third degree in any other case in which the actor sought to influence or intimidate a witness or victim as specified in this subsection.

18 Pa.C.S. § 4952(b).

“[C]ounsel represent their client and their admissions are *prima facie* his admissions. Certainly so even in criminal cases when made in his presence and to the jury.” Commonwealth v. Johnson, 961 A.2d 877, 882 (Pa. Super. 2008). Here, Defense Counsel agreed that the Defendant was charged with Sexual Assault, Statutory Sexual Assault, and Aggravated Indecent Assault. N.T., 10/30/14, at 71, 134. Sexual Assault is a felony of the second degree. 18 Pa.C.S. § 3124.1. Statutory Sexual Assault is either a felony of the first degree or a felony of the second degree. 18 Pa.C.S. § 3122.1. Aggravated Indecent Assault is either a felony of the first degree or a felony of the second degree. 18 Pa.C.S. § 3125(c).

In addition, Defense Exhibit #4 was admitted into evidence after Defense Counsel moved for its admission. N.T., 10/30/14, at 126. Defense Exhibit #4 is the criminal complaint, which charged the Defendant with Statutory Sexual Assault and Aggravated Indecent Assault. Because Defense Counsel admitted that the Defendant was charged with felonies of the second degree, Intimidation of a Victim was properly graded as a felony of the second degree.

DATE: _____

By the Court,

Nancy L. Butts, President Judge