

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. CR – 341 – 2013
	:
vs.	: CRIMINAL DIVISION
	:
TIMOTHY EILAND,	:
Defendant	: Post-Sentence Motion

**OPINION AND ORDER**

Before the Court is Defendant’s Post-Sentence Motion, filed June 3, 2016. Argument was heard July 11, 2016, following which the court directed the preparation of a transcript of the trial. That transcript was completed September 8, 2016, and the matter is now ripe for decision.

After a non-jury trial on March 9, 2016, Defendant was found guilty of four counts of possession with intent to deliver (heroin and cocaine), two counts of possession of a controlled substance (heroin and cocaine), possession of drug paraphernalia, and firearms not to be carried without a license, based on evidence that the drugs and a firearm were found in the vehicle he was driving after that vehicle was stopped by police. On May 25, 2016 Defendant was sentenced to an aggregate term of incarceration of five to ten years. In the instant post-sentence motion, Defendant contends (1) the evidence was insufficient to sustain the verdict with respect to the charge of firearms not to be carried without a license, (2) the court erred in denying his supplemental motion to suppress evidence and (3) he should be granted bail pending appeal.<sup>1</sup> These issues will be addressed seriatim.

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<sup>1</sup> Defendant also included a motion for permission to proceed *in forma pauperis*, but a separately filed motion to that effect was filed and granted on August 9, 2016.

To support the charge of firearms not to be carried without a license, the Commonwealth introduced evidence that the vehicle stopped by the police was being driven by Defendant and had been rented by Defendant for a one-month period, that the firearm, a Taurus PT 940 handgun, was found in the trunk under containers of heroin,<sup>2</sup> that ammunition was found in the trunk and that the gun was loaded. Also presented was the testimony of a woman who stated that she had previously purchased heroin from Defendant and that immediately after the stop (Defendant had been released and his vehicle impounded) Defendant came to her house to ask for her help in having the vehicle released from impoundment. According to the witness, Defendant stated that he had had a fight with his girlfriend and had taken “all his stuff”, put it in the trunk and left, and had then been stopped by police. Even though two other individuals were in the car when it was stopped, there was nothing to indicate that they had any connection to the gun.

In addressing a challenge to the sufficiency of the evidence, the court is to view all of the evidence admitted at trial in the light most favorable to the Commonwealth as verdict winner, and the verdict will be upheld if there is sufficient evidence to enable the fact-finder to find every element of the crime charged beyond a reasonable doubt. Commonwealth v. Adams, 882 A.2d 496 (Pa Super. 2005). Here, the court had no trouble finding beyond a reasonable doubt that the gun had been placed in the trunk by Defendant and belonged to him,<sup>3</sup> based on the evidence as outlined above.

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<sup>2</sup> Other evidence showed that a very large quantity of heroin and cocaine was found in the vehicle, and that Defendant had over \$7,000 in cash on his person at the time of the stop.

<sup>3</sup> It does not appear there was any argument that Defendant did not possess a license to carry a concealed weapon; the Commonwealth introduced evidence that he did not, and Defendant did not argue otherwise.

Defendant's supplemental motion to suppress evidence was filed on August 28, 2015. That motion was denied by Opinion and Order dated November 19, 2015, by the Honorable Nancy L. Butts. Judge Butts was consulted regarding the instant Post-Sentence Motion, and indicated that the court should rely on that Opinion in issuing the instant Order.

Finally, the Motion for Bail Pending Appeal asserts as a basis the merit of Defendant's Post-Sentence motion issues. As the Court finds those issues have no merit, no bail will be set.

**ORDER**

AND NOW, this            day of September 2016, for the foregoing reasons, Defendant's Post-Sentence Motion is hereby DENIED.

BY THE COURT,

Dudley N. Anderson, Judge

cc: DA  
Peter T. Campana, Esq.  
Gary Weber, Esq.  
Hon. Dudley Anderson