

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR – 1592 - 2015
:
vs. :
:
RONELL ANTOINE WYLIE, :
Defendant :

OPINION IN SUPPORT OF ORDER OF January 12, 2017,
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 March 31, 2017, as the issues raised therein were raised in Defendant’s Post-Sentence Motion, the Court chooses to rely on the Opinion and Order entered in disposing of that motion, dated February 8, 2017.

Defendant has also, however, claimed on appeal that there is a *mens rea* requirement for conviction of Possession of a Firearm With Altered Manufacturer’s Number and that the Commonwealth failed to prove that Defendant knew that the serial number had been obliterated or that he acted with reckless disregard for the obliteration of the serial number. The court does not believe the statute contains any *mens rea* requirement. The statute reads, in relevant part:

(a) General rule.—No person shall possess a firearm which has had the manufacturer's number integral to the frame or receiver altered, changed, removed or obliterated.

18 Pa.C.S § 6110.2(a). The statute does not say “knowingly or recklessly” possess, simply “possess”. Moreover, in Commonwealth v. Smith, 146 A.3 257 (Pa. Super. 2016), in addressing whether the defendant therein had “constructive possession” of the firearm, the Superior Court looked to whether the defendant had “the requisite knowledge and intent” but that “knowledge” was of the fact that the firearm was where it was, and the “intent” was the intent and ability to control it. There is no mention by the Court of knowledge of the obliteration.

In the instant case, possession of the firearm was conceded. N.T., November 16, 2016, at page 33. The court believes that possession alone is sufficient to satisfy the statute's requirement of possession, without evidence that Defendant knew that the serial number was altered, changed, removed or obliterated. Therefore, the evidence presented at trial was sufficient to sustain the conviction.

Dated: _____

Respectfully submitted,

Dudley N. Anderson, Judge

cc: District Attorney
Peter T. Campana, Esq.
Gary Weber, Esq., Lycoming Reporter
Hon. Dudley N. Anderson