

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-784-2017
vs. : CRIMINAL DIVISION
CARLOS CASTRO, :
Appellant : 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 judgment of sentence dated April 9, 2019. The relevant facts follow.

By way of background, Carlos Castro (hereinafter “Castro”) was charged with numerous sexual offenses against several female children. A jury trial was held September 11-13, 2018. Castro was convicted of three counts of Indecent Assault of a Complainant Less Than 13 Years of Age, three counts of Corruption of Minors, two counts of Endangering the Welfare of Children, one count of Aggravated Indecent Assault of a Child, one count of Rape of a Child, one count of Solicitation of Rape of a Child, two counts of Criminal Attempt Rape of a Child, and sixteen counts of Sexual Abuse of Children.¹

On December 27, 2018, the court sentenced Castro to an aggregate term of 67 to 189 years’ incarceration in a state correctional institution, which consisted of three to seven years’ incarceration on Count 3, Indecent Assault of a Complainant Less Than 13 Years of Age; five to ten years’ incarceration on Count 6, Aggravated Indecent Assault of a

¹ 18 Pa.C.S. §§ 3126(a)(7), 6301(a)(1)(ii), 4304(a)(1), 3125(b), 3121(c), 902(a), 901(a), and 6312(b)(1).

Child; three to seven years' incarceration on Count 7, Indecent Assault of a Complainant Less Than 13 Years of Age; twenty to 40 years' incarceration on Count 8, Rape of a Child; two to five years' incarceration on Count 11, Endangering the Welfare of Children; ten to 40 years' incarceration on Count 12, Solicitation of Rape of a Child; seven to 20 years' incarceration on Count 14, Sexual Abuse of Children; seven to 20 years' incarceration on Count 19, Sexual Abuse of Children; and ten to 40 years' incarceration on Count 22, Criminal Attempt Rape of a Child.

Castro filed post sentence motions which consisted of a motion for reconsideration of sentence, a motion for a new trial, and a motion in arrest of judgment. The court denied the motion for a new trial and motion for arrest of judgment, but granted re-sentencing as Count 3 was improperly graded as a felony of the third degree, rather than a misdemeanor of the first degree. Otherwise, the court rejected Castro's claims that his sentence was unduly harsh and excessive.

On April 8, 2019, the court reduced the sentence on Count 3 to two and one-half to five years' incarceration and ran Count 7 concurrent rather than consecutive to the other sentences, which resulted in an aggregate sentence of 63 ½ to 180 years.

On April 12, 2019, Castro filed a post sentence motion in which he sought reconsideration of sentence. The court summarily denied the motion on April 16, 2019.

Castro filed a notice of appeal on April 30, 2019.

In his first issue on appeal, Castro avers that the court erred by denying his first motion to suppress on the merits and subsequent motion to suppress as untimely as specified in his motions to suppress and post-sentence motions. The court would rely on its Opinions and Orders entered on September 26, 2017 and March 21, 2018.

In his second issue on appeal, Castro avers that the evidence was insufficient to prove penetration necessary for a rape conviction as specified in his post-sentence motion. The court would rely on pages 9-12 of its Opinion and Order entered on March 26, 2019.

In his third issue on appeal, Castro avers that the court abused its discretion when imposing an aggregate sentence of 63 ½ to 180 years, as specified in his motions for reconsideration. The court would rely on pages 3-6 of its Opinion and Order entered on March 26, 2019.

DATE: _____

By The Court,

Marc F. Lovecchio, Judge

cc: Martin Wade, Esquire (ADA)
Nicole Spring, Esquire (PD)
Work file
Gary Weber, Esquire (Lycoming Reporter)
Superior Court (original & 1)