

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA :
 :
 vs. : No. CR-352-2019
 :
 JOSEPH COLEMAN, :
 :
 Defendant : Post-Sentence Motion

OPINION AND ORDER

By Information filed on April 1, 2019, Defendant was charged with criminal homicide, robbery and related charges. The case proceeded to a jury trial from February 10, 2020 to February 13, 2020. Following the trial, the jury convicted Defendant of Count 1, first degree murder, Count 1 (subpart), second degree murder,¹ Count 3, robbery, Count 4, conspiracy to commit robbery, Count 7, possessing instruments of a crime, Count 9, robbery and Count 10, burglary. The court imposed sentence on February 13, 2020. The aggregate sentence was a period of life imprisonment without the possibility of parole to run consecutive to any and all sentences that Defendant was presently serving.

On February 24, 2020, Defendant filed a Post-Sentence Motion. Argument on the Post-Sentence Motion was held on April 7, 2020 in the presence of Defendant.

In Defendant's Post-Sentence Motion, Defendant raises three issues. First, Defendant asserts that the verdict on all of the counts was against the weight of the evidence because the Commonwealth failed to establish that the defendant committed the crimes. (Post-Sentence Motion, Paragraph 29). Second, Defendant argues that the verdict with

¹Count 1 was an open count of homicide. The jury found Defendant guilty of both first degree murder and second degree murder.

respect to the first degree murder charge was against the weight of the evidence because “none of the Commonwealth witnesses testified that Coleman intentionally shot the decedent.” (Post-Sentence Motion, Paragraph 35). Third and finally, Defendant argues that he should either be granted a new trial or that the court should enter a directed verdict with respect to the murder in the first degree charge because the court improperly instructed the jury on third degree murder and “because [defendant] was convicted of murder in the third degree.” (Post-Sentence Motion, Paragraph 46).

The court will first address Defendant’s argument that the court improperly advised the jury that they could find the defendant guilty of all three charges and that the defendant was found guilty of third degree murder in addition to both first and second.

During the argument on Defendant’s Post-Sentence Motion, the court indicated to defense counsel that the court was confused because the defendant was not found guilty of third degree murder. The court further advised defense counsel that it instructed the jury that if they found the defendant guilty of first and/or second degree murder, that they did not need to address third degree murder. During the argument, Defendant interjected that “they found me guilty of everything.” (April 7, 2020 transcript of Post-Sentence Motion argument, p. 10). Defense counsel requested that the motion be denied without prejudice because at the time of the argument, she did not have her entire file with her and was not sure what she was thinking. (April 7, 2020 transcript, p. 11).

Defendant’s Post-Sentence Motion arguing that the jury was improperly charged shall be denied. It is factually erroneous. The court specifically charged the jury as

follows:

“If you find that the Commonwealth has not proven all of the elements of the first degree murder beyond a reasonable doubt, you must find the defendant not guilty of that charge, and then go to the next charge of homicide, which would be second degree. If you find him guilty of second degree murder, you need not consider the verdict on third degree murder. If you find him not guilty of both of those two, then you can go to third degree and you consider third degree.” (February 13, 2020 Transcript, pp. 83-84). Furthermore and contrary to what counsel and Defendant claim, the jury did not find Defendant guilty of third degree murder. (February 13, 2020 Transcript, p. 114; Verdict Form dated February 13, 2020; Order of Court dated February 13, 2020).

The court will next address Defendant’s weight of the evidence challenges.

Defendant in his motion asserts that only three witnesses testified that Defendant committed the crimes, that all three witnesses had criminal charges pending and were receiving a benefit for their testimony, that no forensic evidence implicated Defendant’s accomplice, that there was no blood on the hat that Defendant wore, that there was no blood on the cutoff mask that was worn by the accomplice, that the Commonwealth failed to submit “referenced samples to the lab” for analysis to determine the identity of other individuals, that an eyewitness to the shooting indicated that neither of the assailants wore dreadlocks or twisties in their hair, that the only physical evidence was Defendant’s DNA on items recovered at the scene along with the DNA of at least three other individuals and that Defendant’s accomplice testified that Defendant and the decedent were “tussling and the gun

went off.” (Post-Sentence Motion, Paragraphs 8 through 34). Further, during the argument in this matter, defense counsel argued that “the main problem” was that the one “actual eyewitness”, Lewis Martin testified that Defendant was not one of the two individuals that he saw there. (Post-Sentence Motion Transcript, p. 4). Defense counsel further argued that the other eyewitness, “Tyke” (Tyrone Small) served time at the prerelease facility with accomplice “Rooks” but didn’t recognize him from his voice. (Post-Sentence Motion Transcript, p. 4). Defense counsel further argued that accomplice Rooks testified that he was wearing a mask that covered his entire face yet the mask was tested and only Defendant’s DNA was found on the mask. (Post-Sentence Motion Transcript, p. 5). Defense counsel argued as well that despite Defendant allegedly being in close proximity when the shot was fired, there was no blood splatter on his hat although “there was blood splatter all across the room.” (Post-Sentence Motion Transcript, p. 5).

“The weight of the evidence is a matter exclusively for the finder of fact, who is free to believe all, part, or none of the evidence and to determine the credibility of the witnesses.” *Commonwealth v. Gonzalez*, 109 A.3d 711, 723 (Pa. Super. 2015). A trial court may only grant a new trial on a weight claim “when the jury’s verdict is so contrary to the evidence as to shock one’s sense of justice and the award of a new trial is imperative so that right may be given another opportunity to prevail.” *Commonwealth v. Clay*, 64 A.3d 1049, 1055 (Pa. 2013).

A trial court should not grant a new trial because of a mere conflict in the testimony. *Id.* “Rather, to grant a new trial, the trial court must determine that

notwithstanding all the facts, certain facts are so clearly of greater weight that to ignore them or to give them equal weight with all the facts, is to deny justice.” *Id.*, quoting *Commonwealth v. Widmer*, 744 A.2d 745, 752 (Pa. 2000). As well, the court may not reweigh the evidence and substitute its judgment for the factfinder. *Commonwealth v. Troy*, 832 A.2d 1089, 1092 (Pa. Super. 2003).

Finally, a verdict is contrary to the evidence such that it shocks one’s sense of justice when “the figure of justice totters on her pedestal, or when the jury’s verdict, at the time of its rendition, causes the trial judge to lose his breath, temporarily, and causes him to almost fall from the bench, then it is truly shocking to the judicial conscience.” *Commonwealth v. Cruz*, 919 A.2d 279, 282 (Pa. Super. 2007).

The verdict in this case was not so contrary to the evidence as to shock one’s sense of justice. Notwithstanding all the facts, certain facts were not so clearly of greater weight that to ignore them or to give them equal weight with all the facts, would be to deny justice. Obviously, during its deliberations, the jury had the opportunity to weigh the credibility of all of the witnesses and the evidence presented at trial and determined which evidence it found most compelling.

The court will first address those facts which Defendant alleges are so clearly of greater weight that to ignore them would be to deny justice. While certainly, defense counsel has an obligation to zealously represent Defendant, many of the alleged facts are embellished in favor of Defendant.

The testimony did not establish that there was blood splattered all across the

room where the decedent was shot. Janiece Green, a neighbor who contacted 911 and who found the decedent was asked whether there was a lot of blood in the room. She answered that there was a lot of blood around him. (February 10, 2020 Transcript, pp. 63-64). When asked whether there was blood everywhere in the room, she answered “no.” (February 10, 2020 Transcript, p. 63). Detective Trent Peacock who responded to the scene testified that while the decedent was face down in a pool of his own blood, there was blood on the front of a washing machine and on a sock found on the washing machine. (February 10, 2020 Transcript, pp. 100-101). Trooper William Jones of the Pennsylvania State Police was called to the scene to help with the processing by taking photos. (February 10, 2020 Transcript, pp. 109-110). It was his responsibility to document the crime scene by taking photographs as well as a video. (February 10, 2020 Transcript, p. 121). He testified regarding a photograph that he took of the scene depicting the washer and “some blood marks on the washer.” (February 10, 2020 Transcript, p. 113). He testified as well that there was “blood associated on” a “rag...on the face of the washer.” (February 10, 2020 Transcript, p. 113). Detective Peacock also testified as to a photograph depicting the decedent laying on the ground and there being a bloody sock on the front of the washing machine and a blood smear on the front of the washing machine. (February 10, 2020 Transcript, pp. 100-101). In fact, and contrary to what is alleged by Defendant, no witness testified that there was “blood splatter all across the room.”

As for James Rooks, prior to entering the residence, Defendant gave him a “little mask thing” for his face. (February 11, 2020 Transcript, p. 110). He described it as

“like something like a pant leg” that he “put...over [his] face or whatever.” (February 11, 2020 Transcript, p. 110). Defendant had a ski mask with “two holes in it and the mouth.” (February 11, 2020 Transcript, p. 111). After the shooting, he took the mask off of his face and threw it on the ground. (February 11, 2020 Transcript, p. 129). He took it off by pulling it over his head. (February 11, 2020 Transcript, pp. 129-130).

As for Lewis Martin, he testified that he was in the residence when the assailants entered. (February 12, 2020 Transcript, pp. 131-132). Both individuals were wearing masks and one had a hat on. (February 12, 2020 Transcript, p. 141). The one with a hat on had a mask that covered his entire face. (February 12, 2020 Transcript, p. 145). While he did testify that neither one had dreadlocks (February 12, 2020 Transcript, pp. 132, 134), he later admitted that he could not see their hair. (February 12, 2020 Transcript, p. 147). Further, while he testified that Defendant was not one of the two individuals (February 12, 2020 Transcript, p. 133), he later admitted that he could not see either of their faces. (February 12, 2020 Transcript, p. 147). He said the one individual had a full ski mask and the other individual had his face partially covered where all he could see was the “eyes up”. (February 12, 2020 Transcript, p. 146).

As for Defendant’s claim that all three of the Commonwealth witnesses who testified regarding what occurred that day, had criminal charges pending and “were receiving a benefit for their testimony”, such is simply not true. Ariel Harlan testified that charges were pending and that she was hoping to get favorable treatment although she was not advised or offered any benefit whatsoever. (February 11, 2020 Transcript, p. 16). Jamal Brown testified

that he was charged with first degree murder but didn't know if he would be given any benefit from his testimony. (February 11, 2020 Transcript, pp. 43-44). Finally, James Rooks testified that he had no agreement with the prosecutors in exchange for him testifying. (February 11 2020 Transcript, p. 126).

As for Mr. Rooks, he testified that upon entering the decedent's room, Defendant pointed a gun at him. (February 11, 2020 Transcript, p. 113). He testified that Defendant shot "the other dude." (February 11, 2020 Transcript, p. 113). Immediately following the gunshot, Defendant "ran out of the room." (February 11, 2020 Transcript, p. 114). In explaining what happened after Defendant pointed the gun at the decedent, Rooks testified that "they started tussling and from there and he shot-shot the gun off." (February 11, 2020 Transcript, p. 113). In further explaining what he meant by "tussling", Rooks explained that Defendant was holding the decedent's arm and the decedent was holding Defendant "a little bit" while Defendant had the gun pointed at him. (February 11, 2020 Transcript, p. 124). The whole incident "happened fast." (February 11, 2020 Transcript, p. 124).

The facts argued by Defendant and as actually reflected in the testimony of the witnesses, are far from greater weight than all of the other facts as presented at trial.

Sergeant Brian McGee was on duty on August 30, 2016 working for the Williamsport Bureau of Police and responded to 505 Park Avenue for a reported shooting. (February 10, 2020 Transcript, pp. 39-40). He entered the residence and in a room to the right he found the decedent laying face down on the ground with a pool of blood surrounding

his head. (February 10, 2020 Transcript, pp. 41, 42).

Janiece Green was living across the street on August 30, 2016 at 504 Park Avenue. (February 10, 2020 Transcript, pp. 52-53). She was at her home when Savoy Jennings came knocking on her window, hysterical, saying “something happened to his friend Chris.” (February 10, 2020 Transcript, p. 55). As she was leaving her house to go over to 505 Park Avenue, she saw a person turning the corner off of Park Avenue. (February 10, 2020 Transcript, p. 64).

She went to 505 Park Avenue and entered where she saw the victim in one room and her Uncle Jeff in another room. (February 10, 2020 Transcript, pp. 55, 56, 61). He was asleep. (February 10, 2020 Transcript, p. 61). She woke him and he began getting into his wheelchair. (February 10, 2020 Transcript, pp. 55, 56, 61). She immediately called 911. (February 10, 2020 Transcript, p. 56). Savoy Jennings was friends with the decedent and was living with him at 505 Park Avenue on August 30, 2016. (February 10, 2020 Transcript, p. 68). At the time, Janiece Green was his girlfriend. (February 10, 2020 Transcript, p. 69).

Earlier in the day, between approximately 9:00 a.m. and 12:00 noon, he was at the decedent’s house sitting in his room with him and smoking. (February 10, 2020 Transcript, p. 69). He left briefly to go across the street to see Janiece but soon returned to 505 Park Avenue to get a lighter. (February 10, 2020 Transcript, p. 70).

While crossing the street to return, he saw two black males turning the corner at Cherry and Park Streets. (February 10, 2020 Transcript, p. 70). The one was tall and slender while the other was heavy set with dreadlocks. (February 10, 2020 Transcript, p. 71).

Upon his return to 505 Park Avenue, he saw the back door open and a hat on the back patio. (February 10, 2020 Transcript, pp. 70, 77). He went into the decedent's room and saw him laying on the floor in a puddle of blood with a bullet wound to the side of his head. (February 10, 2020 Transcript, p. 71).

On August 30, 2016, Trent Peacock was working as an agent for the Williamsport Bureau of Police investigating violent crimes. (February 10, 2020 Transcript, p. 95). He responded to the shooting scene at 505 Park Avenue. (February 10, 2020 Transcript, p. 96). Upon arrival, he noticed a gray ball cap and a black scarf or sleeve type item both laying on the back porch. (February 10, 2020 Transcript, p. 96).

He became the lead investigator in the case. (February 10, 2020 Transcript, p. 102). His investigation determined that five people had been at the scene at or around the shooting including Savoy Jennings, Tyrone Small, Lewis Martin, Janiece Green and Jeff Green. (February 10, 2020 Transcript, p. 103).

On September 27, 2016, he submitted the following items to the lab for DNA testing: the decedent's DNA profile; the black cutoff sleeve found on the back porch; the gray ball cap found on the back porch; and white socks. (February 11, 2020 Transcript, p. 59). He also sent to the lab Defendant's DNA sample and the DNA sample of Mr. Rooks. (February 11, 2020 Transcript, pp. 60-61).

Trooper William Jones was employed by the Pennsylvania State Police at Troop F in Montoursville, PA on August 30, 2016. (February 10, 2020 Transcript, p. 109). He was called to the crime scene to assist as indicated above by taking photographs and a

video. (February 10, 2020 Transcript, pp. 109, 110).

Trooper Russell Ramin was employed by the Pennsylvania State Police in August of 2016 and was called to assist with the crime scene. (February 10, 2020 Transcript, p. 117). He collected two items depicted in Commonwealth Exhibit 26 (the ball cap and the cloth/sleeve) and released them to Williamsport police officer Joseph Ananea. (February 10, 2020 Transcript, p. 119).

Joseph Ananea was employed by the Williamsport Bureau of Police and assigned to the Forensic Services Unit. (February 10, 2020 Transcript, p. 120). On August 30, 2016, he was called to the crime scene. (February 10, 2020 Transcript, p. 122). He took a photograph of the ball cap and the cloth/sleeve on the back porch which was introduced and marked as Exhibit 37. (February 10, 2020 Transcript, p. 123). In the room where the decedent's body was found, he collected a bloody sock "draped over the...washing machine...next to the body." (February 10, 2020 Transcript, p. 125).

He took the custody of the ball cap and "sleeve" from Trooper Ramin. (February 10, 2020 Transcript, p. 126). The ball cap was described as a Brooklyn Dodgers ball cap (Commonwealth Exhibit 39) and the sleeve was described as a black cut off sleeve. (Commonwealth Exhibit 40).

He was present for the autopsy of the decedent, Chris Williams, and took custody of the projectile and jacket taken from the body as well as a DNA sample. (February 10, 2020 Transcript, pp. 127-128; Commonwealth Exhibit 42).

Ariel Harlan testified that on August 30, 2016 she was driving her vehicle on

Cherry Street in Williamsport, PA with Defendant as the front seat passenger. Defendant was wearing a Superman t-shirt and black sweatpants. She was driving a black Dodge Dart and Calvin Rooks was in the back passenger seat and Jamal Brown in the back driver seat. (February 11, 2020 Transcript, pp. 6, 7, 8, 14, 17).

She was parked on Cherry Street when Brown got out and walked toward 505 Park Avenue. After a few minutes, he returned. (February 11, 2020 Transcript, pp. 10, 11). After Brown returned, Defendant and Calvin Rooks got out of the car and met with Brown. Defendant and Rooks then started walking toward 505 Park Avenue. (February 11, 2020 Transcript, p. 11).

After a few minutes, she heard a loud noise, then saw them running around the corner. As they were running around the corner to her car, she saw Defendant shoving a gun and cloth type thing in his waistband. Defendant jumped in her car, screamed for her to drive away and she did so. (February 11, 2020 Transcript, pp. 11, 12, 13). As she drove away, Defendant threw a “cloth thing” out of the car. Later she returned to where he threw it and saw that it was a mask. (February 11, 2020 Transcript, pp. 12, 15).

Jamal Brown testified that on August 30, 2016, he encountered Defendant on Park Avenue and Defendant asked him about the \$300.00 that Brown owed him for Defendant fronting him some crack cocaine. (February 11, 2020 Transcript, pp. 20, 21).

Defendant told him that he wanted to “rob” 505 Park Avenue because “guy from Philadelphia” sold drugs out of there. He asked Brown to describe the layout. After Brown described the layout, Defendant left. (February 11, 2020 Transcript, p. 21).

Later, Defendant encountered Brown again and told Brown it was “a go.” Brown got in the car with Defendant and Ms. Harlan. (February 11, 2020 Transcript, p. 22).

All three then drove to the Timberland Apartments where they picked up Calvin Rooks who was described by Brown as black, heavy set with dreadlocks. (February 11, 2020 Transcript, pp. 22, 23).

They then drove back to Park Avenue. Ms. Harlan parked the car on Cherry Street. Once they arrived, Defendant pulled a small revolver gun out of a bag and gave it to Mr. Rooks. Defendant pulled a bigger revolver, believed to be black, out of the bag for himself. (February 11, 2020 Transcript, pp. 23, 24, 50).

After Defendant went across the street to speak with “Jerry”, he came back to the car. Rooks got out, they both went around the corner up to the handicap ramp and yelled to Brown, who could see them from his vantage point, that the door was locked. Brown replied that it was not locked. (February 11, 2020 Transcript, pp. 24, 25, 27, 29, 49).

As indicated, Brown could see the back of 505 from where he was located and saw both Defendant and Rooks go inside the back door. (February 11, 2020 Transcript, pp. 26-27). As he was walking away from the scene, he heard a loud bang. (February 11, 2020 Transcript, p. 28).

Steven Schmit was employed by the Pennsylvania State Police and was called to the scene on August 30, 2016 to “document and forensically map the scene and evidence.” (February 11, 2020 Transcript, pp. 52, 53).

Tyrone Small was inside 505 Park Avenue on August 30, 2016. (February

11, 2020 Transcript, pp. 89-90). He was in the living room while the decedent and Savoy Jennings also known as “Vortex” were in the decedent’s room. (February 11, 2020 Transcript, pp. 44, 91). Vortex then left. (February 11, 2020 Transcript, p. 91).

Mr. Small then saw two individuals “run” into the residence. (February 11, 2020 Transcript, p. 91). One of the “dudes” who came in hit Mr. Small on the back of his right shoulder with a gun knocking him down. (February 11, 2020, Transcript, pp. 91, 92). They got him up, opened the decedent’s door, put Small back on the ground and one of the assailants pointed a gun at the decedent asking him where the stuff was.(February 11, 2020 Transcript, p. 92).

When the decedent indicated he didn’t know, “one of them shot him.” (February 11, 2020 Transcript, p. 92, 101). Immediately after the shooting, the smaller assailant went through the decedent’s pockets. (February 11, 2020 Transcript, p. 101).

He could not identify the assailants, they both had masks on, other than noting that they were “black.” (February 11, 2020 Transcript, pp. 92, 93).

When he was locked up at the PRC, he met Calvin Rooks and talked with him. (February 11, 2020 Transcript, pp. 102, 103). He definitely knew his voice. (February 11, 2020 Transcript, p. 103). However, he did not know whether it was similar to what he heard during the incident because he wasn’t thinking about it. (February 11, 2020 Transcript, p. 103).

James Rooks, who goes by Calvin, was at 505 Park Avenue with Defendant on August 30, 2016. (February 11, 2020 Transcript, p. 105). Earlier in the day,

Defendant came to Rooks' girlfriend's house and said he needed Mr. Rooks; so Mr. Rooks went with him. They both got into Ariel Harlan's car. (February 11, 2020 Transcript, pp. 106, 107, 108).

They drove toward Park Street but parked on a "side street." Defendant tried to give him a gun, Defendant gave him a face mask "like a pant leg." Defendant had a similar mask with his gray hat on. (February 11, 2020 Transcript, pp. 109, 110, 111).

They went through the back door at 505 Park Avenue and Defendant had a gun in his hand. (February 11, 2020 Transcript, pp. 111, 112). While Rooks was in the hallway looking in, Defendant went into the decedent's room, hit another dude with a gun knocking him down to the floor, asking the "boy to give it up", they started tussling, and Coleman shot him. (February 11, 2020 Transcript, pp. 113, 114, 124).

They then left, Defendant took the mask off and Rooks threw his mask on the porch. (February 11, 2020 Transcript, pp. 114, 118, 129, 130).

Rooks identified the picture of the Brooklyn Dodgers ball cap as the hat Defendant was wearing. (February 11, 2020 Transcript, pp. 117, 118). At the time of the incident, Rooks had small twisty hair like dreads (February 11, 2020 Transcript, p. 118). The mask found on the back porch was the one that Rooks was wearing. (February 11, 2020 Transcript, p. 121).

The Commonwealth presented the testimony of six expert witnesses to address chain of custody and DNA evidence. Brunee Coolbaugh testified as an expert in the field of serological analysis and was employed by a forensic scientist for the Pennsylvania

State Police. (February 11, 2020 Transcript, p. 64).

Kelsey Gober, was employed by the Pennsylvania State Police as a Forensic Scientist (February 11, 2020 Transcript, pp. 69, 70) and testified as an expert in the field of serology. (February 11, 2020 Transcript, pp. 70, 71). She tested various items to determine if there was any biological material on them noting that there were no visible stains on the ball cap. (February 11, 2020 Transcript, p. 86).

Barbara Bollinger, M.D. is employed by Forensic Pathology Associates and was admitted as an expert in the field of forensic pathology. (February 11, 2020 Transcript, pp. 12, 13). She performed the autopsy on the decedent and testified that he sustained a gunshot wound to his head causing him to die. (February 12, 2020 Transcript, pp. 15, 16, 17, 18, 20). She also testified that stippling was observed at the wound entrance site indicating that the gun shot was somewhere between one and three feet away. (February 12, 2020 Transcript, pp. 19, 20, 21, 22).

Regina Kozero was employed as a Forensic Scientist and was admitted as an expert in the field of DNA analysis. (February 12, 2020 Transcript, pp. 24, 25). She prepared a DNA profile of Defendant. (February 12, 2020 Transcript, p. 29).

Britney Lenig was employed as a Forensic Scientist for the Pennsylvania State Police and was admitted as an expert in the field of DNA analysis. (February 12, 2020 Transcript, pp. 34, 35). She received and processed five items for analysis including the blood sample card from the decedent, a cutting from inside the Brooklyn Dodgers ball cap, two cuttings from the sock found on the washer in the decedent's bedroom, a DNA profile for

Defendant and a cutting from the black cutoff sleeve found on the back porch. (February 12, 2020 Transcript, pp. 40, 41). She also received three known reference samples from the decedent, Rooks and Defendant. (February 12, 2020 Transcript, pp. 50, 51).

She testified that the major DNA contributor to both the sleeve and the hat was a match to Defendant. (February 12, 2020 Transcript, pp. 57, 59).

The Commonwealth's final witness was Jennifer Horoyak-Bracamontes. She is a DNA Analyst for a company called Cybergeneitics. (February 12, 2020 Transcript, p. 63). She testified as an expert in the field of DNA evidence interpretation. (February 12, 2020 Transcript, p. 67).

Using a "super computer" program called True Allele which was first developed in the early 2000's but updated in 2009, she analyzed data from the black cutoff sleeve, the Brooklyn Dodgers baseball hat and the two cuttings from the sock, and compared those with known samples from the decedent and Defendant. (February 12, 2020 Transcript, pp. 79, 80, 81, 82).

Based upon the computer's analysis and results, there was a very high statistical DNA match between both the sleeve and the hat and Defendant. (February 12, 2020 Transcript, pp. 83, 90).

With respect to the sleeve, there were five DNA contributors and with respect to the hat, there were three. Defendant, however, contributed most of the DNA to both samples. (February 12, 2020 Transcript, pp. 86, 88, 91, 92).

The remaining testimony and evidence presented to the jury was presented

as part of Defendant's case in chief.

Eric Armstead was employed as a property manager for the Lycoming County Housing Authority. (February 12, 2020 Transcript, p. 77). Jonathan Green testified that the defendant was previously at 505 Park Avenue and knew the layout. (February 12, 2020 Transcript, p. 109). He also testified that he previously saw Jamal Brown wearing a Brooklyn Dodgers gray hat. (February 12, 2020 Transcript, pp. 109, 110).

In addition to the testimony by Lewis Martin indicated above, he testified that he works as a personal care assistant and was at 505 Park Avenue when the shooting occurred. (February 12, 2020 Transcript, pp. 128-129). The previous night he was hanging out, playing cards and "doing drugs" including marijuana and heroin. (February 12, 2020 Transcript, pp. 129, 138).

He was asleep in a chair in Jeffrey Green's room and heard "I ain't got nothing" repeated three times and then he heard a "pop." (February 12, 2020 Transcript, pp. 130, 131). He saw two individuals come out of the decedent's room. One was short, slim and muscular and the other was a little taller with really dark skin. (February 12, 2020 Transcript, pp. 131, 132, 133, 140, 141).

Based on all of this evidence, when the jury rendered its verdict, this judge did not temporarily lose his breath. The verdict did not cause this judge to almost fall from the bench. The verdict was not truly shocking to the judicial conscience of the court or in other words, did not shock this judge's sense of justice.

ORDER

AND NOW, this ____ day of May 2020, Defendant's Post-Sentence Motion is **DENIED**.

Defendant is advised that he has a right to appeal. Any appeal must be filed within thirty (30) days of the date of this Order.

Defendant is advised that he has the right to assistance of counsel in the preparation of the appeal.

As Defendant is indigent, he has the right to appeal *in forma pauperis* and to proceed with assigned counsel as provided in Pa. R. Crim. P. 122.

Defendant has been found guilty of an offense which is punishable by life imprisonment; therefore, he is not entitled to bail pending appeal. Pa. R. Crim. P. 521(A)(1), (B)(2).

By The Court,

Marc F. Lovecchio, Judge

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