

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CP-41-CR-0001712-2012
:
vs. : CRIMINAL DIVISION
:
:
BENJAMIN VILLANUEVA, :
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 this court’s Order entered on January 15, 2020, in which the court denied Appellant’s Post Conviction Relief Act (PCRA) petition. The court would rely on the Opinion accompanying that Order.

In addition, the court disagrees with Appellant’s assertion that the inconsistencies in the testimony were minor. Thomas Moore’s testimony about the details of the robbery did not comport with the facts of the robbery as reported by the witnesses at trial, the video surveillance footage from nearby establishments, or with the testimony of Philip Hall at the PCRA hearing. Moreover, Appellant’s DNA was on the Halloween mask with reddish hair, and the height difference between the perpetrators of the robbery was consistent with Appellant and Philip Hall being the perpetrators, not Thomas Moore and Philip Hall.

In light of the foregoing, the court was of the opinion that the “story” that Thomas Moore was the other robber was made up because Thomas Moore is serving a life sentence and had nothing to lose by claiming he committed the crime, particularly where he did not disclose his involvement until after the statute of limitations had expired.

DATE: _____

By The Court,

Marc F. Lovecchio, Judge

cc: Donald Martino, Esquire
Joseph Ruby, Esquire(ADA)
Work file
Gary Weber, Esquire (Lycoming Reporter)
Superior Court (original & 1)