

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA**

**v.**

**SAMUEL PAGE,**  
**Petitioner**

:  
:  
:  
:  
:  
:  
:

**CR-1029-2020**

**POST-SENTENCE MOTION**

**OPINION AND ORDER**

On September 16 and 17, 2021, a jury trial was held for the criminal charges filed against Samuel Page (Petitioner). After the two-day trial, the jury found Petitioner guilty of two (2) counts of Involuntary Deviate Sexual Intercourse with Child<sup>1</sup>, one (1) count of Aggravated Indecent Assault<sup>2</sup>, two (2) counts of Indecent Assault Person Less than 13 Years<sup>3</sup>, one (1) count of Indecent Exposure<sup>4</sup>, one (1) count of Unlawful Contact with Minor<sup>5</sup>, one (1) count of Endangering Welfare of Children<sup>6</sup>, one (1) count of Corruption of Minors<sup>7</sup>, and two (2) counts of Incest of a Minor<sup>8</sup>. On December 21, 2021, this Court sentenced Petitioner to an aggregate term of incarceration in a state correctional institution for a minimum of fifty-two (52) years and a maximum of one hundred seven (107) years.

Petitioner, through his counsel, filed a timely Post-Sentence Motion on January 3, 2022. This Court held a hearing on the motion on March 15, 2022. In his motion, Petitioner advances two (2) issues for the Court to address. First, Petitioner submits a motion for a new trial for the failure to allow a witness for the defense to testify. Secondly, Petitioner alleges that the Court

---

<sup>1</sup> 18 Pa.C.S. § 3123(B).

<sup>2</sup> 18 Pa.C.S. § 3125(A)(7).

<sup>3</sup> 18 Pa.C.S. § 3126(A)(7).

<sup>4</sup> 18 Pa.C.S. § 3127(A).

<sup>5</sup> 18 Pa.C.S. § 6318(A)(1).

<sup>6</sup> 18 Pa.C.S. § 4304(A)(1).

<sup>7</sup> 18 Pa.C.S. § 6301(A)(1)(ii).

<sup>8</sup> 18 Pa.C.S. § 4302(B)(1).

imposed a manifestly excessive sentence in light of the weight and sufficiency of the evidence at trial and requests the reconsideration of his sentence.

## **Analysis**

### ***Weight and Sufficiency of Evidence***

Although Petitioner asserted blanket statements of inadequate weight and sufficiency of the evidence to convict him of these charges at argument on these motions, Petitioner does not aver what particular inadequacies he has with the evidence presented at trial. Petitioner failed to articulate a specific charge or element of a crime that he believes was not established at trial or elaborate where the evidence was lacking. Nevertheless, this Court has reviewed the evidence submitted in the trial against Petitioner and determined that the weight and sufficiency of said evidence is sufficient to establish beyond a reasonable doubt that Petitioner committed the charged offenses.

To begin, testimony from Norma and Samuel Harrison, Abigail Page's grandparents, revealed that she had initially revealed the abuse at the hands of her father, Petitioner, after Norma noticed a rash on the upper inside of Abigail's thigh while she was in the bathtub. N.T. 9/16/2021, at 12-13, 23-25. Abigail informed Norma and Samuel of various types of sexual abuse she was subjected to by Petitioner, including Petitioner touching her genitals with his hands and mouth, and coercing Abigail into touching his penis with her hands in a masturbatory motion, which she demonstrated for them. *Id.* at 12-13, 24-25. Norma and Samuel notified the child hotline that same evening Abigail told them about the abuse and a Children and Youth representative came to their house the next morning. *Id.* at 13, 25. A safety plan for the children was created and Abigail, her brother, and her mother stayed with Norma and

Samuel. Id. at 14, 26. Throughout the Children and Youth investigation, Abigail continued to assert to her grandparents and caseworkers that Petitioner touched her genitals. Id. at 27.

Jordan McGill (McGill), the Children and Youth caseworker assigned to Abigail testified that she spoke with Abigail and heard her say that Petitioner touched her vagina and she touched his penis many times. Id. at 42-45. McGill also observed Abigail mime a masturbatory movement with her hand and flick her tongue in and out of her mouth while explaining the interactions between her and her father. Id. at 42. McGill informed the jury that she referred Abigail to a trauma counselor because her family informed her that Abigail was beginning to demonstrate sexually acting out behaviors such as straddling stuffed animals and moving her hips, had angry outbursts, and cried a lot, which was not typical for the child. Id. at 50-51. Additionally, an audio recording of Abigail's testimony at the preliminary hearing was presented to the jury for consideration wherein Abigail repeated the specific sexual actions Petitioner did to her and what Petitioner had her do to him. Id. at 49-50.

Melissa Page (Melissa), Abigail's mother, also testified that after she was made aware of the sexual abuse of her daughter, she discovered flavored condoms and strawberry flavored lubricant in the bedroom she shared with Petitioner. Id. at 59-62. Photographs of these items were shown to the jury as well as the physical items themselves. Id. at 62, 71-73. Melissa was adamant that she and Petitioner did not utilize these items during sexual activity after Abigail was born. Id. at 60-61. Testimony also revealed from Detective William Weber that the box of flavored condoms came in a pack of twelve (12) and only eight (8) condoms remained. Id. at 76. Additionally, Abigail testified electronically at trial and articulated explicit testimony about the abuse from Petitioner that was consistent with her statements in the past. N.T. 9/16/2021 at 3-7. Specifically, Abigail testified at length that she had seen Petitioner's private parts, had

touched them with her hand and mouth, that Petitioner had done the same to her genitalia, and that this occurred more than one (1) time. Id. at 4-5.

Lastly, Petitioner himself offered testimony on his own behalf. During his testimony, Petitioner admitted to Abigail being in the room when Petitioner masturbated. N.T. 9/17/2021, at 18. This occurred “occasionally” where Petitioner “looked over and I’ve seen her a couple of times standing there.” Id. at 19. Petitioner also confessed to keeping these instances as a secret from his wife and never told her that he had his penis out when Abigail was in the room. Id. Based on the jury’s verdict convicting Petitioner of all charges, it is clear that the jury did not believe Petitioner’s testimony denying the allegations of sexual abuse against his daughter. Furthermore, in considering all the evidence in the aggregate, this Court believes that sufficient proof was established to convict Petitioner of the listed criminal charges. Since Petitioner failed to articulate a specific issue with the evidence and following this Court’s consideration of all evidence presented at trial, Petitioner’s argument is without merit.

#### ***Motion for a New Trial***

Petitioner argues that he is entitled to a new trial due to this Court’s error. “A motion for a new trial is addressed to the trial judge’s discretion.” United States v. Console, 13 F.3d 641, 665 (3d Cir. 1993). “A motion for a new trial is not favored and is viewed with great caution.” United States v. Miller, 987 F.2d 1462, 1466 (10th Cir. 1993). This power should be used sparingly and “should be granted only where there is a reasonable probability that the trial error could have had a substantial impact on the jury’s decision.” United States v. Patrick, 985 F.Supp. 543, (E.D. Pa. 1997); *See also* United States v. Delgado, 367 F.Supp.3d 286 (M.D. Pa. 2019).

Petitioner submits that the trial court erred by denying Petitioner's request to allow Richard Scott (Scott) to provide testimony on behalf of Petitioner. The Court would note that Scott was in fact permitted to take the witness stand during trial. However, the attorney for the Commonwealth requested a proffer on the record specifically seeking to object to "excessive testimony about a divorce that happened 30 years ago because I don't think it's relevant." N.T. 9/17/2021, at 89. Defense counsel sought to introduce testimony from Scott regarding "something from his past marriage that goes to bias of the witness." Id. This divorce occurred in the 1990s, approximately thirty (30) years prior. The Court ultimately sustained the Commonwealth's objection, noting that the information was too remote in time. Id. at 90. The Commonwealth further asserted that it was not fair "to attack the character of another witness based on something that happened decades ago" and due to the lingering animosity in the nature of divorces. Id. at 92. The Court also precluded Scott from offering any irrelevant testimony about an unfounded report of abuse against Scott made by his daughter, Melissa Page (Abigail's mother) twenty (20) years ago. Id. at 93. Defense counsel similarly attempted to elicit testimony from Scott placing blame of the sexual abuse of Abigail on the child's mother, Melissa. The Commonwealth objected on the basis of relevance for this testimony and another sidebar with this Court was held. Id. at 98. The Court ultimately sustained the Commonwealth's objection on this particular testimony that it had no connection to the issue of Petitioner's innocence, stating that it was "inadmissible character evidence" against Melissa. Id. at 101.

The Commonwealth relies on their argument at trial, namely that any purported testimony about Scott's divorce thirty (30) years ago or the allegations of assault against Scott by Melissa are not relevant. Despite Petitioner asserting that it was an error for this Court to

deny the aforementioned portions of Scott's intended testimony, Petitioner has not raised any explanation or argument that Scott's precluded testimony is relevant in any way to the case at hand. This Court finds that, due to this failure, Petitioner has waived the right to challenge this ruling by the Court. Nevertheless, even if Petitioner had contended the relevancy of this testimony, this Court continues to disagree with Petitioner's argument that a new trial is needed based upon this particular issue. The criminal charges against Petitioner center around whether he was sexually assaulting his own young daughter. All precluded evidence revolved around smearing different witnesses' character or raising issues that were prevalent twenty (20) to thirty (30) years ago. This Court agrees with the Commonwealth that all of the testimony Scott was not permitted to introduce was not relevant to the question of whether Petitioner repeatedly sexually abused his young child. Therefore, Petitioner's argument on this issue is entirely without merit and Petitioner shall not be granted a new trial on these grounds.

***Motion for Reconsideration of Sentence***

Petitioner requests reconsideration of his sentence for being manifestly excessive and an abuse of the Court's discretion. Sentencing is a matter vested in the sound discretion of the sentencing judge, and a sentence will not be disturbed on appeal absent a manifest abuse of discretion." Commonwealth v. Hoch, 936 A.2d 515, 517 (Pa. Super. 2007). An abuse of discretion "is not shown merely by an error in judgment. Rather, the appellant must establish, by reference to the record, that the sentencing court ignored or misapplied the law, exercised its judgment for reasons of partiality, prejudice, bias or ill will, or arrived at a manifestly unreasonable decision." Id. at 517-18. Petitioner avers that the sentence was manifestly excessive for inflicting too severe a punishment in light of the weight and sufficiency of the evidence. Petitioner also argues the sentence is unduly harsh in consideration of the nature of

the crimes. Petitioner further contends that the sentence is an abuse of the trial court's discretion.

On December 21, 2021 following a hearing, this Court found by clear and convincing evidence that Petitioner is a sexually violent predator. At this hearing, Townsend Velkoff (Velkoff), a licensed psychologist, testified on behalf of the Commonwealth. Velkoff was offered as an expert in the area of sexually violent predator assessments. N.T. 12/21/2021, at 5-7. Ultimately, Velkoff opined that Defendant was a sexually violent predator and met the diagnostic criteria for pedophilic disorder. Id. at 11-12. Velkoff testified to the fact that Defendant displayed predatory behavior in the molestation of his daughter and his abuse of her trust. Id. at 11.

Defendant was sentenced immediately after the determination of his status as a sexually violent predator. The Court went through his background and familial history at length. Id. at 17-18. Defendant was convicted of two (2) charges of Involuntary Deviate Sexual Intercourse, which carries an Offense Gravity Score (OGS) of fourteen (14) and has a standard range of seventy-two (72) months to the statutory limit. Id. at 20. The charges of Aggravated Indecent Assault and Indecent Assault have an OGS of ten (10) and a standard range of twenty-two (22) to thirty-six (36) months. Id. Additionally, the Court established, "the indecent exposure is a four, so it's RS to three. The unlawful contact with a minor, the way I read that it would be the most serious offense, which would be the IDSI, so it should be an offense gravity score of 14...." Id. The Endangering the Welfare of Children charge and the Corruption of Minor charge both have an OGS score of six (6) with a standard range of three (3) months to twelve (12) months. The Incest counts have an OGS of nine (9) with a standard range of twelve (12) months to twenty-four (24) months. However, Counts 1 and 2: Involuntary Deviate Sexual

Intercourse with Child, require a mandatory sentence of ten (10) years each. Id. at 29. In addition, Count 3, Aggravated Indecent Assault, carries a mandatory sentence of five (5) years. Id.

The Court permitted Defendant's father-in-law, Richard Scott (Scott) to speak on his behalf at the time of the sentencing hearing, the majority of which was dedicated to removing blame for the sexual abuse of Abigail Page from Defendant and replacing it on the victim's own mother. Id. at 21-24. This Court also asked the Defendant to speak, wherein he continued to proclaim his innocence. Id. at 25. Samuel Harrison, the victim's grandfather, was able to convey the impact to the victim. Id. at 25-27. The Court also heard the Commonwealth reiterate the testimony of Dr. Denise Feger, who testified that she was providing trauma counseling to Abigail Page, the victim in this case, and that Dr. Feger saw "clear indications of a trauma response when they would discuss the incident that occurred." Id. at 28.

Nevertheless, despite the substantial consideration of the nature of the convicted offenses and Defendant's biographical history and maintained proclamation of innocence, defense counsel asked this Court to take into account Defendant's rehabilitation in the sentence given. Id. at 33. However, this Court stated,

I find it really hard to think that Mr. Page can be rehabilitated if he's in complete denial of everything. I feel it – I think it's gonna be really hard for him to rehabilitate when he's surrounded by people who are also of the belief that it's everybody else's fault that this happened and it has nothing to do with Mr. Page. I find it really hard to believe he can rehabilitate when he even tells the presentence investigation preparer that he didn't even testify during trial when he clearly did. Mr. Wade even had the transcript prepared. I sat here and listened to him testify...And in fact, when I heard Mr. Page testify, I thought if there was a chance for reasonable doubt in this case, he eliminated all doubt when he testified.

Id. at 34. Furthermore, this Court saw no remorse from Defendant over the egregious conduct against his own child. Id. at 37. This Court reflected that Defendant's behavior was, "one of the worst cases that I've ever been involved with and I believe this sentence should reflect that." Id. at 39. Defendant's claims that the sentence does not reflect the severity of the conduct is utterly unfounded. Defendant sexually abused his daughter for at least two (2) years and left her with significant trauma for the remainder of her life. Since Petitioner's sentence incorporated mandatory minimums and was within the sentencing guidelines, this Court believes that Petitioner's sentence was not an abuse of the Court's discretion. Petitioner spoke untruthfully about his opportunity to testify during his trial, abused the familial relationship and trust of his young daughter, and took advantage of and subjected his child to appalling sexual acts. Additionally, Petitioner is in complete denial regarding his situation and demonstrates a total lack of remorse. This Court believes the sentence Petitioner received reflects the atrocity of the crimes he has been convicted of and acts as a deterrent for similar behavior. Furthermore, it is clear from the testimony of the victim, those closest to her, and professionals who provide her with counseling, that Petitioner's conduct has left this little girl with unspeakable trauma and obstacles for her to manage for the remainder of her life. Therefore, this Court did not abuse its discretion in sentencing Petitioner and his sentence will not be amended.

### **ORDER**

**AND NOW**, this 2nd day of May, 2022, upon review of the record and after an evidentiary hearing, Petitioner's Post-Sentence Motions are **DENIED**.

Petitioner is hereby notified that he has the right to appeal this order. An appeal is initiated by the filing of a Notice of Appeal with the Lycoming County Clerk of Courts within

thirty (30) days after entry of this order. *See* Pa.R.App.P. 902, Pa.R.App.P. 903, Pa.R.App.P. 904. Petitioner has the right to assistance of counsel in the preparation of the appeal. He has the right, if he is indigent, to appeal *in forma pauperis* (without the payment of costs and fees) and to proceed with assigned counsel as provided in Rule 122 of the Pennsylvania Rules of Criminal Procedure. He has a qualified right to bail under Rule 521(B) of the Pennsylvania Rules of Criminal Procedure. When the sentence imposed includes imprisonment of less than two (2) years, the Petitioner has the same right to bail as before verdict unless the judge modified the bail order. When the sentence imposed includes imprisonment of two (2) years or more, the Petitioner does not have the same right to bail as before verdict, but bail may be allowed in the discretion of the judge. In either scenario, the Petitioner's release on bail is conditioned on the Petitioner filing an appeal with thirty (30) days after the entry of this order. If the Notice of Appeal is not filed in the Clerk of Courts' office within the thirty (30) day time-period, Petitioner may lose forever his right to raise these issues.

By the Court,

Nancy L. Butts, President Judge

cc: DA  
PD (EB)  
Law Clerk (JMH)

NLB/jmh