

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR-176-2023
:
vs. : CRIMINAL DIVISION
:
JALLIL ELLMAN, :
Defendant :

**OPINION IN SUPPORT OF ORDER IN COMPLIANCE WITH RULE 1925(a) OF THE
RULES OF APPELLATE PROCEDURE**

Jallil Ellman, Appellant, files this appeal following the denial of his Post Sentence Motions filed on November 21st, 2023. Following a jury trial on June 8th, 2023, Appellant was convicted of Possession with Intent to Deliver a Controlled Substance – Methamphetamine, and Possession of Methamphetamine. He was sentenced on October 19th, 2023.

After sentencing, Defense counsel filed Post Sentence Motions on Appellant’s behalf. The Motions filed included a Motion for a New Trial and a Motion to Arrest Judgment. Argument was held on November 21st, 2023 and the Motions denied by Opinion and Order dated December 29th, 2023.

Following the denial of Appellant’s Post Sentence Motions, Attorney Tyler Calkins filed a Notice of Appeal on January 29th, 2024.

On January 3rd, 2024, Appellant filed his Statement of Matters Complained of on Appeal and alleges the following:

1. Defendant respectfully avers that there was insufficient evidence to convict him of Possession with Intent to Deliver a Controlled Substance because the Commonwealth did not prove that the substance was intended for delivery and there was evidence seized in another occupant's bedroom.
2. Defendant respectfully avers that the Court erred in allowing the

Commonwealth to present evidence of marijuana possessed by the Defendant over the objection of the Defense when the Court had denied the Commonwealth's Motion to Amend the Criminal Information to add Possession with Intent to Deliver Marijuana.

3. Defendant respectfully avers that the Court erred in allowing the Commonwealth to play recorded SCI video calls over the objection of the Defense when those calls were not sufficiently authenticated.

The second and third issues raised by Appellant were thoroughly addressed in the Court's Opinion and Order dated December 19th, 2023. As such, this Court relies on that opinion for the purpose of this appeal.

As for Appellant's first error raised on appeal, the Defendant was charged with Possession with Intent to Deliver. The Commonwealth, in order to uphold a conviction for possession with intent to deliver, must prove that the Defendant, beyond a reasonable doubt, possessed a controlled substance and did so with the intent to deliver. *Commonwealth v. Aguado*, 760 A.2d 1181 (Pa. Super. 200), citing *Commonwealth v. Harper*, 416 Pa. Super. 608, 611 A.2d 1211 (1992). "The intent to deliver may be inferred from an examination of the facts and circumstances surround(ing) the case." *Id.* "Factors which may be relevant in establishing that drugs were possessed with the intent to deliver include the particular method of packaging, the form of the drug, and the behavior of the defendant." *Id.*, citing *Commonwealth v. Sherrell*, 414 Pa. Super. 477, 607 A.2d 767 (1992).

Here, Detective Caschera testified that approximately forty-one (41) MDA or Methamphetamine pills were found in the Defendant's room along with a roll of fake prescriptions, a digital scale, and individually packaged bags of marijuana. N.T., 6/8/2023 at 53.

Further, Detective Caschera testified that the number of pills were consistent with an individual that was dealing Methamphetamines. *Id.* at 61.

Based on the testimony and evidence presented at trial this Court believes that the Commonwealth proved beyond a reasonable doubt that the Defendant possessed the Methamphetamine pills with the intent to deliver.

BY THE COURT

Nancy L. Butts, President Judge

NLB/kbc

cc: Superior Court (Original + 1)
DA
Tyler Calkins, Esquire
Gary Weber, Esquire
Jerri Rook