

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : **No. CR-240-2021**
 :
vs. : **CRIMINAL DIVISION**
 :
JESSE DERICK GIDDINGS, : **Opinion pursuant to**
Defendant. : **Pa. R.A.P. 1925(a)**

**OPINION PURSUANT TO RULE 1925 OF THE
PENNSYLVANIA RULES OF APPELLATE PROCEDURE**

This matter came before the Court for a jury trial September 17-18, 2024. The Commonwealth severed the charges related to unlawful possession of a firearm, in order to ensure that the jury did not learn that the Defendant had a criminal record.

Long before trial, the Defendant sought dismissal of his cases under Pa. R. Crim. P. 600, and sought to exclude from evidence at trial GPS tracking information from Defendant’s ankle monitor, which established the Defendant’s presence at the scene of each crime.

By Opinion and Order dated January 19, 2024, President Judge Nancy L. Butts denied Defendant’s Motion related to Pa. R. Crim. P. 600. A copy is attached hereto. Simply stated, after calculation of excludable time and excusable delay, the adjusted run date was no earlier than January 10, 2023. The Defendant filed his Motion to Dismiss on December 30, 2022. As of that date, he was not entitled to dismissal.

By Opinion and Order dated July 11, 2024, President Judge Nancy L. Butts denied Defendant’s Motion in Limine. A copy is attached hereto. Simply stated, President Judge Butts ruled that the Commonwealth was permitted to introduce evidence at trial regarding the fact that the Defendant was on GPS monitoring at the time of the alleged offenses, but no details regarding the Defendant’s conduct which caused him to be on GPS monitoring. President Judge Butts further ruled that the testimony of Agent Miller regarding the GPS monitoring was in the nature of fact testimony, and not in the nature of expert testimony, and that John Inzinna was qualified to offer expert testimony.

The Commonwealth’s evidence at trial was consistent with the pre-trial rulings of President Judge Butts, and was overwhelming. The Commonwealth established that the

Defendant committed armed robberies at Boost Mobile and Subway and Family Dollar over a period of a few days in November, 2020, while wearing a GPS tracking device. The GPS device established the presence of the Defendant at the time and location of the robberies. Both cash and cell phones were stolen from Boost Mobile. Further, the Commonwealth established that a close relative of the Defendant turned in the cell phone which were stolen, for a cash refund. The jury found the Defendant to be guilty on all charges which were the subject of the trial (firearms charges were severed pre-trial).

It is worthy of note that on September 10, 2024, very shortly before trial, the Defendant filed an additional Motion in Limine. Defendant sought to exclude from trial law enforcement testimony that, when Defendant's relative was questioned about how she secured the cell phones stolen from Boost Mobile, she identified the Defendant. Defendant's objection to that potential hearsay testimony was addressed at trial. *E.g.*, Tr. of September 17, 2024 at 5-6. The statement was not introduced. The Commonwealth's witnesses testified only that Defendant's close relative turned in the cell phones, and that event caused the investigating officers to turn their attention to the Defendant. *E.g.*, *Id.* at 124.

The Defendant filed his Notice of Appeal on March 27, 2025. By Order filed March 31, 2025, the Court directed the Defendant to file a Concise Statement of Matters Complained of on Appeal, within twenty-one (21) days. On April 21, 2025, the Defendant filed that Statement, a copy of which is attached hereto. The Statement asserts three errors, as follows:

1. That the Court erred in not dismissing his case pursuant to Pa. R. Crim. P. 600.
2. That the Court erred in denying his Motion in Limine.
3. That the Court erred in allowing the presentation of GPS evidence.

In the view of this Court, the Commonwealth's evidence was introduced in a manner consistent with the pre-trial rulings of President Judge Butts, which were completely consistent with applicable law. The firearm charges listed in the information were severed, the jury did not learn the details of the Defendant's prior criminal convictions, and the oral statement by the Defendant's relative was not introduced into evidence at trial.

BY THE COURT,

William P. Carlucci, Judge

WPC/aml

cc: Court Administrator
Prothonotary
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