IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	
v.	:	**CR-677-2022**
	:	
CHRISTOPHER FRAUNFELTER,	:	
Appellant	:	

Dated: April 29, 2026

OPINION and ORDER

Christopher Fraunfelter ("Defendant") was charged with twenty (20) counts of Sexual Abuse of Children – Dissemination of Photos/Videos of Child Sex Acts pursuant to 18 Pa.C.S. 6312(c) and twenty (20) counts Sexual Abuse of Children – Possession of Child Pornography pursuant to 18 Pa.C.S. §6312(d). Following a jury trial held on May 5, 2023, Appellant was found guilty of all 40 counts. On September 5, 2023, Appellant was sentenced on Count 1 to a term of five (5) to ten (10) years in a state correctional institution and on Count 2 to a term of five (5) to ten (10) years in a state correctional institution, to run consecutive to the sentence in Count 1. On Counts 3-20, Defendant was sentenced to a term of five (5) to ten (10) years in a state correctional institution, to run concurrent to each other and concurrent to the sentences imposed on Counts 1 and 2. On Counts 21 and 22, Defendant was sentenced to a term of five (5) to ten (10) years in a state correctional institution, to run consecutive to each other and consecutive to the sentences imposed on Counts 1 and 2. On Counts 23-40, the Defendant was sentenced to a term of five (5) to ten (10) years on each count, to run concurrent to each other and concurrent to the sentences imposed under all other counts in the case. The aggregate sentence imposed was for a period of twenty (20) to forty (40) years in a state correctional institution. The Defendant is required to register as a

Tier II sexual offender under SORNA. The Defendant was deemed not to be a sexually violent predator.

On January 22, 2024, Appellant filed a Notice of Appeal. On January 25, 2024, Appellant filed a Concise Statement of Matters Complained of on Appeal as directed by this Court's Order pursuant to Pa.R.A.P. 1925(b). Appellant raised the following issues on appeal:

1. Defendant avers that the lower Court erred by permitting Trooper Ballentyne to testify at trial concerning general signs of deception by defendants during police interviews.

   The Defendant avers that Trooper Ballentyne was not qualified as an expert about signs of deception, and his testimony prejudiced the Defendant even though the Court sustained counsel's objection to testimony about the Defendant's actions during the portions of his statement that were played for the jury. The Commonwealth argued those characteristics during her closing. Additionally, the testimony usurped the function of the jury to determine credibility. See Trial transcript 5/4/23 pp. 89-90.

2. The Defendant avers that the evidence presented at trial was insufficient to establish distribution of child pornography for counts 3, 5, 6, 8, 10, 11, and 13.

   The testimony of Trooper Ballentyne established that images and videos under those counts were sent by one Fraunfelter account to another Fraunfelter account and not to other individuals. Although it is for the jury to determine if the Defendant intended to distribute to others, the verdict was pure speculation since no evidence presented showed that the Defendant intended to distribute to others. The images/videos sent to the Defendant's accounts were received on December 5, 2021 and forwarded to the

other account near the same time. Other images sent to outside groups were forwarded closely in time to their receipt. See Tr. pp. 102-113.

3. The Defendant avers the evidence was insufficient to establish prepubescence. The jury found in the affirmative to the questions on the verdict slip on Counts 9, 10, 11, 15 and 16. The Trooper was unable to determine the age range of the children depicted in those counts; therefore, the jury's finding that they were prepubescent was pure speculation.
4. The Defendant avers the evidence was insufficient to establish that the images/videos depicted indecent contact for counts 4, 6, 7, 8, 9, 11, 12, 13, 14, 16. The jury also answered the indecent contact in the affirmative for those counts when no evidence was presented that indecent contact occurred. For a few of those counts; if the trooper was unsure or said no indecent contact was seen; then the jury's verdict was speculative.
5. The Defendant avers that the trial court abused its discretion when imposing consecutive sentences of 5 to 10 years for Counts 1 and 2 and 21 and 22. The Defendant avers counts 21 and 22 are the same images/videos as counts 1 and 2, and therefore, should have run concurrently.
6. The Defendant avers that the aggregate 20 to 40 year sentence was manifestly excessive based on the facts of the offenses, including that the Defendant did not have any contact with any of the depicted children, and based on his history and characteristics including his prior controlled substance use. In addition, the duplicative nature of counts 1 to 20 and 21 to 40.

7. Finally, the Defendant avers that his prior record score should have been calculated as 5 rather than RFEL.

On September 30, 2025, the Superior Court issued a decision partially granting the Defendant's appeal but upholding the Defendant's conviction on several of the counts. Specifically, the Superior Court vacated the Defendant's convictions on Counts 3, 5, 6, 8, 10, 11 and 13 and remanded for resentencing. On January 27, 2026, the Court held a hearing and heard argument from the Commonwealth and the Defendant on sentencing. The Court then resentenced the Defendant and issued a Sentencing Order, dated January 27, 2026. On January 30, 2026, the Defendant filed a Motion to Reconsider Sentence. On March 17, 2026, argument was held on the Moton to Reconsider Sentence. This Order address the Motion to Reconsider Sentence.

Motion to Reconsider Sentence

The first issue Defendant raises in his Motion alleges that this Court erred by not merging the possession counts with the dissemination offenses. The Defendant claimed that for every dissemination count that there was a corresponding possession count and that they should merge for sentencing purposes. The Commonwealth argued that the merger doctrine did not apply to these specific counts. While neither the Defendant nor the Commonwealth provided case law to support their positions, the Superior Court has addressed this specific issue in a non-precedential decision in Commonwealth v. Johnson, 249 A.3d 1139 (Pa Super 2021). In Johnson, the Court was considering the Defendant's argument that the counts for possession of child pornography should merge with the counts for dissemination for the same

child pornography. The Johnson Court provided a detailed analysis on whether possession of child pornography counts merged into dissemination counts for the purpose of sentencing.

> "Our legislature has defined the circumstances under which convictions for separate crimes may merge for the purpose of sentencing.
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> Merger of sentences. No crimes shall merge for sentencing purposes unless the crimes arise from a single criminal act and all of the statutory elements of one offense are included in the statutory elements of the other offense. Where crimes merge for sentencing purposes, the court may sentence the defendant only on the higher graded offense. 42 Pa.C.S.A. § 9765.
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> To determine whether offenses are greater and lesser included offenses, we compare the elements of the offenses. If the elements of the lesser offense are all included within the elements of the greater offense and the greater offense has at least one additional element, which is different, then the sentences merge. If both crimes require proof of at least one element that the other does not, then the sentences do not merge. Commonwealth v. Hill, 140 A.3d 713, 715-16 (Pa. Super. 2016).
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> Pennsylvania jurisprudence has moved away from the prior " 'practical, hybrid approach' that looks to the statutory elements of the respective crimes and evaluates whether the defendant was charged and convicted on a single set of facts that satisfies both offenses." Commonwealth v. Quintua, 56 A.3d 399, 401 (Pa. Super. 2012). "[T]he current state of merger law in Pennsylvania makes clear there is no merger if each offense requires proof of an element the other does not." Id.
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> Appellant was convicted of ten counts under each of the following two subsections of the sexual abuse of children statute:
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> (c) Dissemination of photographs, videotapes, computer depictions and films. — Any person who knowingly sells, distributes, delivers, disseminates, transfers, displays or exhibits to others, or who possesses for the purpose of sale, distribution, delivery, dissemination, transfer, display or exhibition to others, any book, magazine, pamphlet, slide, photograph, film, videotape, computer depiction or other material depicting a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such act commits an offense.
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> (d) Child pornography. — Any person who intentionally views or knowingly possesses or controls any book, magazine, pamphlet, slide, photograph, film, videotape, computer depiction or other material depicting a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such act commits an offense. See 18 Pa.C.S. § 6312(c), (d).

> Although Appellant properly cites the law generally for statutory elements and lesser and greater offenses, he presents no examination or comparison of the particular statutory provisions at issue here. See Appellant's Brief at 15. Instead, Appellant's supporting argument is that the same set of facts — his conduct — could establish both dissemination of photographs and possession of child pornography. As stated above, however, Pennsylvania courts have rejected this "practical, hybrid" approach to sentencing merger. See Quintua, 56 A.3d at 401.
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> Our comparison of the two subsections reveals that no sentencing relief is due, as each crime includes several distinct elements. Dissemination of child pornography requires, inter alia, the act of selling, distributing, delivering, disseminating, transferring, displaying or exhibiting child pornography to others, or possessing child pornography "for the purpose of sale, distribution, delivery, dissemination, transfer, display or exhibition to others." 18 Pa.C.S. § 6312(c). Thus, although the crime of dissemination may involve the possession of child pornography, such possession, under the statute, must be for the specific purpose of dissemination. Id.
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> Conversely, simple possession of child pornography does not require an act of dissemination, nor does it require possession for any particular purpose. See 18 Pa.C.S. § 6312(d). Instead, the statute merely defines this offense as the intentional viewing, knowing possession, or control of child pornography. Id. Relatedly, the offense of possession of child pornography may be established without actual possession, through either the control or viewing of child pornography, neither of which are elements of dissemination. Compare 18 Pa.C.S. § 6312(c) with 18 Pa.C.S.§ 6312(d).
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> We conclude that because each crime contains at least one element that the other does not, the second prong of Section 9765 (requiring that all elements be shared) cannot be met. Accordingly, Appellant's sentences for dissemination of photographs and possession of child pornography do not merge. See 18 Pa.C.S. § 6312(c), (d); 42 Pa.C.S.A. § 9765; Hill, 140 A.3d at 715-16.

The analysis of the Johnson Court is directly on point for the case at bar. This Court adopts the well thought out logic of the Johnson Court as the correct standard for evaluating merger of possession of child pornography counts and dissemination counts. Applying the arguments raised by the Defendant, the Court finds the Defendant has not raised any arguments that warrant a different outcome from the one in Johnson. Therefore, the Court denies the Motion to Reconsider Sentence on the basis that the possession of child pornography counts merge with the dissemination counts.

The Defendant further argues that the aggregate 20 to 40 year sentence was manifestly excessive based on the Defendant's "long-standing substance use disorder in relation to the nature of the offenses alleged to be committed". The Defendant failed to set forth any causal connection between the use of controlled substances and the possession or dissemination of child pornography. The Defendant did not allege that somehow his possession or dissemination of child pornography was somehow necessary to fuel his substance use disorder or that the substance use disorder made it impossible for him to refrain from possessing and/or disseminating child pornography. Even if the Defendant had claimed such a causal connection, the Court finds such a claim completely lacking in any foundation on the record from either the trial or sentencing hearings.

Finally, the Defendant claims his sentence is "unduly harsh and manifestly excessive in relation to other cases in Pennsylvania and Lycoming County for similar offenses." However, the Defendant failed to cite to any specific cases that would support his argument. In contrast, the Court took into consideration the PSI report prepared for sentencing, the arguments from the Defendant and the Commonwealth and issued a sentence within the standard sentencing guidelines. The record is deplete of any indication that the Court abused its discretion in sentencing the Defendant.

"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. Hess*, 745 A.2d 29, 31 (Pa. Super. 2000). "An abuse of discretion is more than just an error in judgment and, on appeal, the trial court will not be found to have abused

its discretion unless the record discloses that the judgment exercised was manifestly unreasonable, or the result of partiality, prejudice, bias, or ill-will." *Id*.

The trial court is afforded broad discretion in sentencing criminal defendants "because of the perception that the trial court is in the best position to determine the proper penalty for a particular offense based upon an evaluation of the individual circumstances before it." *Commonwealth v. Mouzon*, 571 Pa. 419, 812 A.2d 617, 620 (Pa.2002) (quoting *Commonwealth v. Ward*, 524 Pa. 48, 568 A.2d 1242, 1243 (1990)). Furthermore, under 42 Pa.C.S.A. § 9721, the court has discretion to impose sentences consecutively or concurrently and, ordinarily, a challenge to this exercise of discretion does not raise a substantial question. *Commonwealth v. Pass*, 914 A.2d 442, 446–47 (Pa.Super.2006). The imposition of consecutive, rather than concurrent, sentences may raise a substantial question in only the most extreme circumstances, such as where the aggregate sentence is unduly harsh, considering the nature of the crimes and the length of imprisonment. *Id.* Despite the Defendant's allegation that his sentence was manifestly excessive, the Court notes that the sentence given for each count was at the bottom end of the standard range according to the sentencing guidelines. Given the nature of the crimes and the importance of recognizing the multiple victims associated with the Defendant's crimes, it was not an abuse of discretion to run a portion of Defendant's sentences consecutively in light of the fact that the remaining counts were ordered to run concurrent to each other. Therefore, the Defendant's Motion to Reconsider Sentence based upon an alleged abuse of discretion is DENIED.

By the Court,

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Ryan M. Tira, Judge

RMT

cc: DA
Nicole Spring, Esquire
Gary Weber, Esquire