

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CRIMINAL DIVISION - LAW

COMMONWEALTH OF PENNSYLVANIA, :
: Appellee :
v. : No. CR-216-2021 :
JOSHUA CORRELL, :
: Appellant :

Jennifer L. Rapa, Esquire
Assistant District Attorney

Counsel for Appellee

Mary M. Connors, Esquire
Assistant Public Defender

Counsel for Appellant

MEMORANDUM OPINION

Serfass, J. - May 19, 2022

Joshua Correll (hereinafter "the Appellant") appeals from this Court's Orders of October 28, 2021, pursuant to which he was sentenced following a jury trial to an aggregate period of incarceration of not less than one hundred seventeen (117) months nor more than two hundred thirty-four (234) months. We file the following Memorandum Opinion in accordance with Pa.R.A.P. 1925(a), respectfully recommending that the instant appeal be denied and that our Sentencing Orders of October 28, 2021 be affirmed.

FACTUAL AND PROCEDURAL HISTORY

On January 14, 2021, Officer John Pruitte of the Jim Thorpe Police Department was on routine patrol when he observed a yellow Ford Escape parked on Olympian Way in Jim Thorpe, Carbon County,

Pennsylvania. Officer Pruitte testified that he was familiar with the vehicle due to recent narcotics investigations, that he knew the owner to be Appellant, and that he learned that morning that a felony arrest warrant had been issued for Appellant. Officer Pruitte observed Appellant and a person later identified as Katie Murphy looking at a silver Chevy Trailblazer for sale along with Mark Holland, the owner of the vehicle. As Officer Pruitte approached the passenger side of the vehicle where Appellant was seated, he observed Appellant place an unknown item under the front passenger seat.

Officer Pruitte informed Appellant of the warrant and advised him to exit the vehicle several times. Appellant eventually exited the vehicle, but refused to follow commands. Officer Pruitte then called Detective Lee Marzen for backup. Appellant attempted to flee from Officer Pruitte which led to Detective Marzen chasing Appellant toward State Route 903. Officer Pruitte used a taser to assist Detective Marzen in detaining Appellant. Officer Pruitte's search of Appellant's person yielded two thousand thirty dollars (\$2,030.00) in U.S. currency, a syringe and a spoon. Detective Marzen obtained consent from Mr. Holland to search the Chevy Trailblazer and found a 9mm handgun under the front passenger seat. On January 15, 2021, a search of Appellant's vehicle yielded a gun holster and bag, approximately 1.2 grams of methamphetamine,

syringes, boxes, baggies, rubber bands, and other materials commonly used to package and distribute narcotics.

Appellant was charged with Possession of Firearm Prohibited (18 Pa.C.S.A. §6105 §§(a)(1)); Firearms not be Carried Without a License (18 Pa.C.S.A. §6106 §§(a)(1)); Flight to Avoid Apprehension/Trial/Punishment (18 Pa.C.S.A. §5126 §§(a)); Possession with Intent to Deliver (35 P.S. §780-113 §§(a)(30)); Resisting Arrest (18 Pa.C.S.A. §5104); False Identification to Law Enforcement Officer (18 Pa.C.S.A. §4914 §§(a)); two (2) counts of Intentional Possession of a Controlled Substance by a Person not Registered (35 P.S. §780-113 §§(a)(16)); and Use/Possession of Drug Paraphernalia (35 P.S. §780-113 §§(a)(32)).

On April 8, 2021, Appellant filed an "Omnibus Pre-Trial Motion", which included a suppression motion challenging his arrest and a habeas corpus motion challenging the sufficiency of the evidence supporting the charges. (Appellant's Omnibus Pre-Trial Motion, 4/8/21). On July 15, 2021, we entered an order granting Appellant's habeas corpus motion as to Count 2 - Firearms not to be Carried Without a License and dismissing that charge, and denying the omnibus motion in all other respects. (Court's Order of July 15, 2021).

Following a jury trial held on August 5-6, 2021, Appellant was found guilty on all eight (8) remaining counts. On October 28, 2021, we sentenced Appellant to an aggregate period of

incarceration in a State Correctional Institution of not less than one hundred seventeen (117) months nor more than two hundred thirty-four (234) months. (Court's Orders of October 28, 2021).

On November 1, 2021, Appellant filed a "Post-Sentence Motion" which included an acquittal motion, a motion for a new trial, and a sentence modification motion. Appellant requested that this Court: (1) enter a judgment of acquittal for Count 1 - Possession of Firearm Prohibited and Count 4 - Possession with Intent to Deliver arguing that the Commonwealth failed to prove that Appellant had constructive possession over the firearm and that the amount of methamphetamine possessed was consistent with personal use; (2) vacate his sentence and order a new trial arguing that the verdict was against the weight of the evidence and that the Commonwealth withheld the exculpatory statement of Katie Murphy; and (3) deem him not ineligible for the state drug treatment program. (Appellant's Post-Sentence Motion, 11/1/21).

A hearing on Appellant's "Post-Sentence Motion" was convened on January 21, 2022. Post-hearing briefs were submitted by counsel for Appellant and counsel for the Commonwealth on February 7, 2022 and February 18, 2022, respectively. On February 28, 2022, we entered an order denying Appellant's "Post-Sentence Motion" finding that the Commonwealth produced sufficient evidence to sustain convictions on the charges of Possession of Firearm Prohibited and Possession with Intent to Deliver, that the

Commonwealth's failure to disclose Miss Murphy's statement and produce her as a witness at trial did not deprive Appellant of a fair trial, and that Appellant is ineligible for the state drug treatment program. (Court's Order of February 28, 2022).

On March 25, 2022, Appellant filed an Appeal to the Superior Court of Pennsylvania seeking review and reversal of this Court's October 28, 2021 sentencing order. On March 28, 2022, we entered an order directing Appellant to file a concise statement of matters complained of on appeal pursuant to Pa.R.A.P. 1925(b). On April 18, 2022, the date on which the concise statement was due, Appellant filed an "Application for Extension of Time for Appellant to File Concise Statement of Matters Complained of on Appeal" based on the recent assignment of new counsel by the Carbon County Public Defender's Office. On April 29, 2022, we entered an order granting Appellant's request for an extension of time to file his concise statement and directed Appellant to file his concise statement no later than May 3, 2022. In compliance with our order, Appellant filed his "Concise Statement of Matters Complained of on Appeal" on May 3, 2022.

ISSUES

In his Concise Statement, Appellant raises six (6) issues which we summarize as follows:

1. Whether the Trial Court erred in denying Appellant's "Omnibus Pre-Trial Motion", specifically his suppression

motion regarding the constitutionality of his arrest and his habeas corpus motion regarding the charges of Possession of Firearm Prohibited and Possession with Intent to Deliver;

2. Whether the evidence presented at trial was insufficient to establish that Appellant possessed the firearm that was found in Mr. Holland's vehicle, that Appellant possessed the 1.2 grams of methamphetamine with the intent to deliver, and that Appellant resisted arrest;
3. Whether the Trial Court erred in denying Appellant's "Post-Sentence Motion", specifically his motion for a new trial based on the weight of the evidence and the withholding of exculpatory evidence in violation of Brady; and
4. Whether the Trial Court's sentence was manifestly excessive in abuse of its discretion.

DISCUSSION

1. Appellant's "Omnibus Pre-Trial Motion"

Appellant filed a suppression motion challenging whether Officer Pruitte possessed probable cause that there was a valid warrant for Appellant's arrest and that the individual seized and arrested was in fact Joshua Correll. When a defendant files a suppression motion, the Commonwealth has the burden of proving by a preponderance of the evidence that the evidence is admissible. Commonwealth v. Benton, 655 A.2d 1030, 1032 (Pa.Super. 1995). It

is within the Court's discretion to weigh the credibility of the witnesses and the evidence presented. Id.

Probable cause to arrest exists when the facts and circumstances within the police officer's knowledge and of which the officer has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief that an offense has been committed by the person to be arrested. Probable cause justifying a warrantless arrest is determined by the totality of the circumstances.

Commonwealth v. Weaver, 76 A.3d 562, 565 (Pa.Super. 2013) (quoting Commonwealth v. Williams, 941 A.2d 14, 27 (Pa.Super. 2008)) (internal citations and quotation marks omitted).

Officer Pruitte testified that approximately three (3) hours prior to his interaction with Appellant, he received information that there was an active felony arrest warrant for Appellant. Pennsylvania law does not require the arresting officer to possess a physical copy of the arrest warrant. Commonwealth v. Gladfelter, 324 A.2d 518, 519 (Pa.Super. 1974). Officer Pruitte testified that he was familiar with Appellant and Appellant's vehicle through previous narcotic investigations and physical interactions with him. Officer Pruitte also testified that he knew Appellant had given a false name because he knew Appellant's brother from a prior arrest. Additionally, Officer Pruitte testified that he drove around the block three (3) times trying to confirm the identity of Appellant. Based on the totality of the circumstances, we found

that Officer Pruitte possessed probable cause that there was a valid warrant for Appellant's arrest and that the individual seized and arrested was Joshua Correll. Therefore, we found that Officer Pruitte's arrest of Appellant was constitutional and denied the suppression motion accordingly.

We need not address Appellant's habeas corpus motion at this stage of the proceedings. "Since the Commonwealth met its burden of proving [A]ppellant guilty beyond a reasonable doubt at trial, even if the Commonwealth had failed to establish a prima facie case at the preliminary hearing, it is immaterial." Commonwealth v. Tyler, 587 A.2d 326, 328 (Pa.Super. 1991) (citing Commonwealth v. Troop, 571 A.2d 1084, 1088 (Pa.Super. 1990)). Moreover, we note that because a defect in the preliminary hearing is rendered moot after a defendant is tried and convicted, the defendant must take a direct appeal from the trial court's denial of a petition for habeas corpus before trial to preserve the issue. Id. (citing Commonwealth v. Hetherington, 331 A.2d 205, 209 (Pa. 1975)). Following the hearing held on Appellant's "Omnibus Pre-Trial Motion" where supplemental evidence was presented, we entered our order on July 15, 2021 granting Appellant's habeas corpus motion as to Count 2 and denying it in all other respects. By proceeding to trial and failing to take a direct appeal from the denial of his habeas corpus motion, Appellant has failed to preserve his claim for appellate review.

2. Sufficiency of Evidence at Trial

Appellant argues that the Commonwealth failed to present sufficient evidence that Appellant had constructive possession of the handgun found in Mr. Holland's vehicle, that he possessed an amount of methamphetamine consistent with an intent to deliver, and that he resisted arrest.

A claim challenging the sufficiency of the evidence is a question of law. Evidence will be deemed sufficient to support the verdict when it establishes each material element of the crime charged and the commission thereof by the accused, beyond a reasonable doubt. Where the evidence offered to support the verdict is in contradiction to the physical facts, in contravention to human experience and the laws of nature, then the evidence is insufficient as a matter of law. *When reviewing a sufficiency claim[,] the court is required to view the evidence in the light most favorable to the verdict winner giving the prosecution the benefit of all reasonable inferences to be drawn from the evidence.*

Commonwealth v. Stahl, 175 A.3d 301, 303-4 (Pa.Super. 2017) (quoting Commonwealth v. Widmer, 744 A.2d 745, 751 (Pa. 2000)).

Constructive possession is an inference based on the evidence presented that "possession of the contraband was more likely than not." Commonwealth v. Hopkins, 67 A.3d 817, 820 (Pa.Super. 2013) (quoting Commonwealth v. Brown, 48 A.3d 426, 430 (Pa.Super. 2012), appeal denied, 63 A.3d 1243 (Pa. 2013)). Constructive possession is defined as "conscious dominion", meaning the defendant had the power to control the contraband and the intent to exercise that

control. Id. Constructive possession may be established by the totality of the circumstances. Id. Officer Pruitte testified that when he approached the subject vehicle, he observed Appellant remove an item from his waist and place it underneath the front passenger seat. Detective Marzen testified that the search of the subject vehicle found the handgun under the passenger seat. Therefore, we find that the Commonwealth produced sufficient evidence to sustain a conviction on Possession of Firearm Prohibited.

The quantity of a controlled substance is not "crucial to establish an inference of possession with intent to deliver, if ... other facts are present." Commonwealth v. Ariondo, 580 A.2d 341, 350-51 (Pa.Super. 1990). The totality of the circumstances can establish sufficient evidence to support a conviction for possession with intent to deliver. Commonwealth v. Ratsamy, 934 A.2d 1233, 1237 (Pa. 2007) (*citing* Commonwealth v. Brown, 904 A.2d 925, 931-32 (Pa.Super. 2006), *appeal denied*, 919 A.2d 954 (Pa. 2007)). The search of Appellant's vehicle found rubber bands and unused clear plastic baggies consistent with the packaging and distribution of narcotics. Moreover, the searches conducted by the officers yielded two thousand thirty dollars (\$2,030.00) in U.S. currency, drug paraphernalia, a firearm, a gun holster and bag, syringes and boxes commonly used to store bricks of heroin. Officer Pruitte testified that this evidence viewed as a whole shows an

intent to deliver narcotics. Therefore, we find that the Commonwealth produced sufficient evidence to sustain a conviction on Possession with Intent to Deliver.

"A person resists arrest by conduct which 'creates a substantial risk of bodily injury' to the arresting officer or by conduct which justifies or requires 'substantial force to overcome the resistance.'" Commonwealth v. Miller, 475 A.2d 145, 156 (Pa.Super. 1984). Acts of resistance that are overcome only through the effort of several officers constitute resisting arrest. Commonwealth v. McDonald, 17 A.3d 1282, 1285-86 (Pa.Super. 2011). Officer Pruitte and Detective Marzen testified that after Appellant tried to flee, Detective Marzen chased Appellant toward State Route 903 and that Appellant continued to struggle with Detective Marzen even after Officer Pruitte used a taser to effectuate the arrest. Therefore, we find that the Commonwealth has produced sufficient evidence to sustain a conviction on Resisting Arrest. Based upon the foregoing, we find that the Commonwealth produced sufficient evidence at trial to sustain convictions on the aforesaid charges.

3. Appellant's "Post-Sentence Motion"

Appellant's motion for a new trial consisted of two (2) claims. First, Appellant requested a new trial on the basis that the verdict was against the weight of the evidence.

'The weight of the evidence is exclusively for the finder of fact, which is free to believe all, part, or none of the evidence[.]' It is the purview of the fact-finder to 'assess the credibility of the witnesses' and resolve inconsistent testimony. Thus, a trial court should not grant a motion for a new trial 'because of a mere conflict in the testimony or because the judge on the same facts would have arrived at a different conclusion,' but only when 'certain facts are so clearly of greater weight' than others that 'the jury's verdict is so contrary to the evidence as to shock one's sense of justice.'

Commonwealth v. Brown, 212 A.3d 1076, 1085 (Pa.Super. 2019), *appeal denied*, 221 A.3d 643 (Pa. 2019) (internal citations omitted).

Moreover, we note that:

Trial judges, in reviewing a claim that the verdict is against the weight of the evidence do not sit as the thirteenth juror. Rather, the role of the trial judge is to determine that 'notwithstanding all the facts, certain facts are so clearly of greater weight that to ignore them or to give them equal weight with all the facts is to deny justice.'

Widmer, 744 A.2d at 752.

Regarding the charge of Possession of Firearm Prohibited, Officer Pruitte testified that as he approached the passenger side of Mr. Holland's vehicle where Appellant was seated, he observed Appellant place an unknown item under the front passenger seat. Detective Marzen testified that he found the handgun under the passenger seat of Mr. Holland's vehicle. Mr. Holland testified that he did not own the handgun found under the front passenger seat of his vehicle where Appellant was sitting and that he had

cleaned out the vehicle getting it ready for sale. The search of Appellant's vehicle yielded a gun holster and bag.

Regarding the charge of Possession with Intent to Deliver, Officer Pruitte testified that the evidence found in Appellant's vehicle when viewed as a whole shows an intent to deliver narcotics. Donna Martino, the deposit operations manager at the Mauch Chunk Trust Company, testified that Appellant made frequent deposits and withdrawals in December 2020 and January 2021 prior to the underlying incident. Appellant was unemployed at this time and the bank statements do not indicate that the deposits came from an employer, Social Security, or unemployment benefits. Based upon the foregoing, we do not find that the jury's verdict is so contrary to the evidence as to shock our sense of justice.

Additionally, Appellant requested a new trial on the basis that his due process rights were violated under Brady v. Maryland. See Brady v. Maryland, 373 U.S. 83, 87 (1963). Appellant argued that the Commonwealth failed to disclose material evidence, specifically a "Supplemental Narrative" generated by Detective Marzen on March 9, 2021. The "Supplemental Narrative" describes Detective Marzen's interview of Miss Murphy, who was present at the time of the underlying incident, at the Carbon County Correctional Facility. Appellant asserted that the Commonwealth's failure to disclose this information as well as its failure to

produce Miss Murphy as a witness at trial deprived Appellant of his due process rights in violation of Brady.

The law governing alleged Brady violations is well-settled. In Brady, the United States Supreme Court held that 'the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.' The Supreme Court subsequently held that the duty to disclose such evidence is applicable even if there has been no request by the accused ... and that the duty may encompass impeachment evidence as well as directly exculpatory evidence. Furthermore, the prosecution's Brady obligation extends to exculpatory evidence in the files of police agencies of the same government bringing the prosecution.

Commonwealth v. Lambert, 884 A.2d 848, 853-54 (Pa. 2005) (internal citations omitted).

To establish a Brady violation, a defendant must demonstrate that 1) the evidence was favorable to the accused, either because it is exculpatory or because it impeaches; 2) the evidence was suppressed by the prosecution, either willfully or inadvertently; and 3) prejudice ensued. Id. at 854 (*quoting* Commonwealth v. Burke, 781 A.2d 1136, 1141 (Pa. 2001)).

Appellant conceded that the "Supplemental Narrative" was not exculpatory, but contended that the information could have been used to impeach the testimony of Mr. Holland and Detective Marzen. It was also clear that the Commonwealth failed to disclose the

"Supplemental Narrative" prior to trial. The critical question then, was whether Appellant was prejudiced by the Commonwealth's failure to disclose.

The mere possibility that an item of undisclosed information might have helped the defense, or might have affected the outcome of the trial does not establish materiality in the constitutional sense. The relevant inquiry is 'not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence.'

Commonwealth v. Haskins, 60 A.3d 538, 547 (Pa.Super. 2012)
(internal citations omitted).

We found that Appellant was not prejudiced by the Commonwealth's failure to disclose such that he did not receive a fair trial. The "Supplemental Narrative" contains statements that Miss Murphy observed a black gun with a holster on Appellant's right side and that Mr. Holland asked Appellant if he had a permit for the handgun. Appellant argued that Mr. Holland's statement was inconsistent with his testimony at trial where he stated that he did not observe Appellant with the handgun. However, Mr. Holland testified that he did not own the handgun found in his vehicle and that he had cleaned out the vehicle getting it ready for sale. The Commonwealth also presented the testimony of Officer Pruitte and Detective Marzen as well as evidence obtained from Appellant's vehicle linking the handgun to Appellant. Appellant also argued

that he was not able to question Detective Marzen about his interview with Miss Murphy. However, it is unclear how this line of questioning would have been beneficial to Appellant as the statements contained within the "Supplemental Narrative" did not appear to be helpful to his defense.

We also found that Appellant was not prejudiced by the Commonwealth's decision to not produce Miss Murphy as a witness at trial. The Commonwealth did not withhold from Appellant the identity of Miss Murphy as a potential witness. Appellant had the opportunity to interview Miss Murphy and produce her as a defense witness. When determining whether a Brady violation has occurred, we must evaluate the undisclosed evidence in the context of the entire record. Id. We found that the record contained sufficient evidence to support the verdict and that the "Supplemental Narrative" did not contain information that deprived Appellant of a fair trial. Based upon the foregoing, we find that this Court did not err in denying Appellant's "Post-Sentence Motion".

4. Discretionary Aspects of Sentence

Lastly, Appellant argues that this Court abused its discretion when we sentenced Appellant to an aggregate period of incarceration in a State Correctional Institution of not less than one hundred seventeen (117) months nor more than two hundred thirty-four (234) months. Initially, we note that a challenge to the discretionary aspects of sentencing is not automatically

reviewable as of right and an appellant's failure to preserve the issue at sentencing or in a motion to reconsider and modify sentence results in a waiver of said issue. Commonwealth v. Cramer, 195 A.3d 594, 610 (Pa.Super. 2018). While Appellant's post-sentence motion did contain a sentence modification motion, that motion pertained to his eligibility for the state drug treatment program and not the discretionary aspects of his sentence. As such, we find that this issue has been waived for appellate review.

The foregoing notwithstanding, we find that the sentence imposed in the instant matter was appropriate and entirely consistent with the guidelines promulgated by the Pennsylvania Commission on Sentencing.

We note that:

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. In this context, 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.

Commonwealth v. Wallace, 244 A.3d 1261, 1278-79 (Pa.Super. 2021) (quoting Commonwealth v. Raven, 97 A.3d 1244, 1253 (Pa.Super. 2014)).

The sentencing court is given broad discretion in determining whether a sentence is manifestly excessive because the sentencing judge "is in the best position to measure factors such as the nature of the crime, the defendant's character, and the defendant's display of remorse, defiance, or indifference." Commonwealth v. Andrews, 720 A.2d 764, 768 (Pa.Super. 1998) (quoting Commonwealth v. Ellis, 700 A.2d 948, 958 (Pa.Super. 1997)). Appellant's sentence to an aggregate period of incarceration of not less than one hundred seventeen (117) months nor more than two hundred thirty-four (234) months is within the standard range of the applicable sentencing guidelines based on his prior record score and the offense gravity score. See 204 Pa. Code §303.16(a).

Appellant also argues that his sentence should be modified on the basis that the Court failed to consider his history of drug abuse, mental health issues, and rehabilitative needs and that the Court placed an undue amount of weight on the fact that the officers referred to the handgun as a "ghost gun." We see no reason warranting modification on either basis.

"When imposing a sentence, a court is required to consider the particular circumstances of the offense and the character of the defendant." Commonwealth v. Griffin, 804 A.2d 1, 10 (Pa.Super. 2002), *appeal denied*, 868 A.2d 1198 (Pa. 2005), *cert. denied*, 545 U.S. 1148 (2005) (quoting Commonwealth v. Burns, 765 A.2d 1144, 1150-51 (Pa.Super. 2000), *appeal denied*, 782 A.2d 542 (Pa. 2001)).

"In particular, the court should refer to the defendant's prior criminal record, his age, personal characteristics and his potential for rehabilitation." Id. at 1151. "[A]n allegation that the sentencing court 'failed to consider' or 'did not adequately consider' various factors ... does not raise a substantial question that the sentence imposed was in fact inappropriate." Commonwealth v. Wellor, 731 A.2d 152, 155 (Pa.Super. 1999) (*quoting Commonwealth v. Rivera*, 637 A.2d 1015, 1016 (Pa.Super. 1994)).

At Appellant's sentencing, we stated the following:

[W]e would agree with the Commonwealth in their assessment as to the danger posed to the community by these ghost guns. It is a good thing that it is off the street but it does trouble the Court. In reviewing the PSI, again, as we have said in reviewing all the reports prepared by the Department for the Court's consideration today and there were several, it is thorough and the Court has been informed by the report and the recommendations made by the Department to the Court, we believe that the recommendation here is an appropriate recommendation. ... The Court's sentence is based upon the fact that we find that there is a risk that you will commit further acts based on your previous conduct, further criminal acts; that you have a serious drug addiction and that we have considered the nature and gravity of your offense, your rehabilitative needs and the impacts of your crimes on the community.

(See N.T., 10/28/21, p. 7-8, 11).

While this Court acknowledges Appellant's drug addiction and mental health issues, we find that the imposed sentence is appropriate given the nature of the offenses and the impact that

Appellant's criminal acts have had on the community. Furthermore, we do not find that the imposed sentence was unduly influenced by our references to the handgun as a "ghost gun" because the sentence imposed in this matter was fashioned following due consideration of the pre-sentence investigation report and was within the standard range of the applicable sentencing guidelines.¹

CONCLUSION

Based upon the foregoing, we respectfully recommend that the instant appeal be denied and that our Orders of October 28, 2021, sentencing Appellant to an aggregate period of incarceration in a State Correctional Institution of not less than one hundred seventeen (117) months nor more than two hundred thirty-four (234) months, be affirmed accordingly.

BY THE COURT:

A handwritten signature in dark ink, appearing to read "S.R. Serfass", written over a horizontal line.

Steven R. Serfass, J.

¹ We note that "[t]he sentencing judge can satisfy the requirement that reasons for imposing sentence be placed on the record by indicating that he or she has been informed by the pre-sentencing report; thus properly considering and weighing all relevant factors." Commonwealth v. Fowler, 893 A.2d 758, 767 (Pa.Super. 2006).