NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
DREW ALI MUSLIM,	:	
	:	
Appellant	:	No. 1201 EDA 2013

Appeal from the Judgment of Sentence November 26, 2012
In the Court of Common Pleas of Carbon County
Criminal Division No(s).: CP-13-CR-0000611-2011

BEFORE: BOWES, PANELLA, and FITZGERALD,* JJ.

MEMORANDUM BY FITZGERALD, J.: **FILED DECEMBER 23, 2013**

Appellant, Drew Ali Muslim, appeals from the judgment of sentence entered in the Carbon County Court of Common Pleas after a jury found him guilty of possession of a controlled substance, possession with intent to deliver a controlled substance ("PWID"), and possession of drug paraphernalia.[1] Appellant challenges the sufficiency and weight of the evidence and regarding his intent to deliver a controlled substance. We affirm.

The trial court thoroughly summarized the trial evidence presented by the Commonwealth and we adopt its summary for the purposes of appeal.

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* Former Justice specially assigned to the Superior Court.

[1] 35 P.S. § 780-113(a)(16), (30), (32).

See Trial Ct. Op., 4/1/13, at 2-7. Procedurally, a jury found Appellant guilty of possession of a controlled substance, PWID, and possession of drug paraphernalia[2] on September 11, 2012. The trial court, on November 26, 2012, sentenced him to serve an aggregate sentence of imprisonment of twenty-eight months to eighty-four months. Appellant timely filed post-sentence motions on November 30, after which the trial court ordered the filing of briefs. On March 27, 2013, the trial court denied Appellant's post-sentence motions.[3] Appellant timely appealed and complied with the court's order to file a Pa.R.A.P. 1925(b). This appeal followed.

Appellant presents the following questions for our review:

> I. WAS THE VERDICT RETURNED BY THE JURY AS TO THE CHARGE OF POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER CONTRARY TO THE WEIGHT OF THE EVIDENCE IN THAT THE RECORD DISCLOSED NO EVIDENCE, AND PARTICULARLY NO EXPERT OPINION, OF INTENT ON THE PART OF [APPELLANT] TO DISSEM[I]NATE A CONTROLLED SUBSTANCE TO ANY OTHER PERSON OR PERSONS?
>
> II. WAS THERE A LEGALLY INSUFFICIENT BASIS TO SUPPORT THE VERDICT RETURNED BY THE JURY AS THE RECORD DISCLOSED NO EVIDENCE, AND PARTICULARLY NO EXPERT OPINION, OF INTENT ON THE PART OF [APPELLANT] TO DISSEM[I]NATE A CONTROLLED SUBSTANCE TO ANY OTHER PERSON OR PERSONS?

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[2] The jury found Appellant not guilty of conspiracy.

[3] The trial court denied Appellant's post-sentence motions 117 days after they were filed. ***See*** Pa.R.Crim.P. 720(B)(3)(a) (setting forth general rule that "the judge shall decide post-sentence motion . . . within 120 days of the filing of the motion").

> III. WAS A MOTION IN ARREST OF JUDGMENT PROPER AS TO THE VERDICT RETURNED BY THE JURY INCIDENTAL TO THE CHARGE OF POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER IN THAT THE RECORD DISCLOSED NO EVIDENCE, AND PARTICULARLY NO EXPERT OPINION, OF INTENT ON THE PART OF [APPELLANT] TO DISSEM[I]NATE A CONTROLLED SUBSTANCE TO ANY OTHER PERSON OR PERSONS?
>
> IV. WAS A MOTION FOR JUDGMENT OF ACQUITTAL AS TO THE VERDICT RETURNED BY THE JURY WITH REGARD TO THE CHARGE OF POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER PROPER IN THAT THE RECORD DISCLOSED NO EVIDENCE, AND PARTICULARLY NO EXPERT OPINION, OF INTENT ON THE PART OF [APPELLANT] TO DISSEM[I]NATE A CONTROLLED SUBSTANCE TO ANY OTHER PERSON OR PERSONS?

Appellant's Brief at 5.

We summarize Appellant's arguments in support of his request for a new trial or that his PWID conviction be vacated. Appellant, in each of his four arguments on appeal, sets forth nearly identical claims, namely, that the evidence regarding his intent to deliver cocaine was lacking. Specifically, he emphasizes that no controlled substances or paraphernalia were found on his person when he was arrested, and that "none of the indicia normally associated with a drug transaction were discovered." ***Id.*** at 23. Moreover, he claims that the quantities of cocaine found by the arresting officers were suggestive of personal use. ***Id.*** He also observes that the Commonwealth did not present expert testimony distinguishing cocaine possessed for personal use and for distribution to others. ***Id.*** Lastly, Appellant recognizes that Deanna Hoherchak testified against him,

but asserts that her testimony is unworthy of belief. ***Id.*** at 25-27, 33-34, 39-40, 45-46.

We are further mindful that although Appellant purports to assert four claims, three are duplicative and framed as a challenge to the sufficiency of the evidence, a challenge to the denial of a motion for arrest of judgment, and a challenge to the denial of a motion for judgment of acquittal, respectively. ***See id.*** at 31, 37, 43. Each, however, is essentially a challenge to the sufficiency of the evidence. ***Id.*** Moreover, while Appellant alleges that "the verdict as returned by the jury was both erroneous and contrary to the weight of the evidence[,]" ***id.*** at 24-25, the ensuing argument is nearly identical to the arguments set forth in the remainder of his brief. ***See id.*** at 25-30, 32-36, 37-42, 43-48. Thus, we discern two challenges raised in this appeal: whether the evidence was sufficient to convict Appellant of possession with intent to deliver; whether the verdict on that crime was against the weight of the evidence.[4]

The standards underlying challenges to the sufficiency and the weight of the evidence are as follows:

> A claim challenging the sufficiency of the evidence, if granted, would preclude retrial under the double jeopardy provisions of the Fifth Amendment to the United States Constitution, and Article I, Section 10 of the Pennsylvania

[4] Appellant's challenge to the weight of the evidence was raised in the trial court in a post-sentence motion and preserved in his Pa.R.A.P. 1925(b) statement.

> Constitution, whereas a claim challenging the weight of the evidence if granted would permit a second trial.
>
> 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.
>
> A motion for new trial on the grounds that the verdict is contrary to the weight of the evidence, concedes that there is sufficient evidence to sustain the verdict. Thus, the trial court is under no obligation to view the evidence in the light most favorable to the verdict winner. An allegation that the verdict is against the weight of the evidence is addressed to the discretion of the trial court. A new trial should not be granted because of a mere conflict in the testimony or because the judge on the same facts would have arrived at a different conclusion. A trial judge must do more than reassess the credibility of the witnesses and allege that he would not have assented to the verdict if he were a juror. 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."

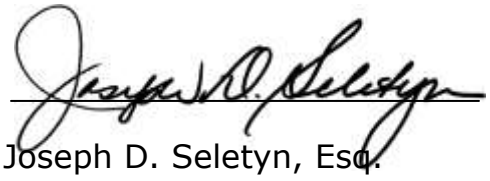
Commonwealth v. Widmer, 744 A.2d 745, 751-52 (Pa. 2000) (citations omitted).

Having reviewed Appellant's arguments, the record, and the opinion filed by President Judge Roger Nanovic, we find no merit to Appellant's

challenges to either the sufficiency of the evidence or the weight of the evidence underlying the jury's findings that he intended to deliver cocaine. Moreover, because the trial judge thoroughly discussed and analyzed both challenges, we affirm on the basis of the attached trial court opinion.

Judgment of sentence affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 12/23/2013

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA

CRIMINAL

COMMONWEALTH OF PENNSYLVANIA	:	
	:	
vs.	:	NO. 611 CR 2011
	:	
DREW ALI MUSLIM,	:	
Defendant	:	

Michael S. Greek, Esquire — Counsel for Commonwealth
Asst. District Attorney

Michael P. Gough, Esquire — Counsel for Defendant

MEMORANDUM OPINION

Nanovic, P.J. - April 1, 2013

On September 11, 2012, the Defendant, Drew Ali Muslin ("Defendant"), was convicted of one count of possession of a controlled substance,[1] one count of possession with intent to deliver a controlled substance (PWID),[2] and one count of possession of drug paraphernalia.[3] He was acquitted of criminal conspiracy to commit the offense of possession with intent to deliver a controlled substance.[4]

On November 26, 2012, Defendant was sentenced to a term of imprisonment of no less than twenty-eight nor more than eighty-four months in a state correctional facility. Following this sentence, on November 30, 2012, Defendant filed post-sentence

[1] 35 P.S. § 780-113(a)(16).
[2] 35 P.S. § 780-113(a)(30).
[3] 35 P.S. § 780-113(a)(32).
[4] 18 Pa.C.S.A. § 903.

motions for judgment of acquittal and in arrest of judgment challenging the sufficiency of the evidence to sustain his conviction of PWID,[5] together with a motion for a new trial on the basis that the jury's verdict finding him guilty of this offense was contrary to the weight of the evidence.

FACTUAL AND PROCEDURAL BACKGROUND

To convict Defendant, the Commonwealth presented the following evidence. On June 29, 2011, while searching for Defendant, Trooper Daniel Nilon of the Pennsylvania State Police went to Deanna Hoherchak's home at 86 Mountainview Drive, Bear Creek Lakes, located in Penn Forest Township, Carbon County, Pennsylvania. At the time, the police had reason to believe Defendant was using Hoherchak's vehicle.

Nilon arrived at Hoherchak's home at approximately 7:00 P.M. Hoherchak was at home, but her vehicle was not there. When Nilon questioned Hoherchak about this, Hoherchak denied knowing where her vehicle was and initially claimed it was

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[5] Historically, a post-verdict challenge to the sufficiency of the evidence to sustain a conviction was raised in a motion for arrest of judgment. This terminology was changed effective January 1, 1994, such that "[a]ll sufficiency challenges, regardless of the stage of the proceedings in which they are made, are termed 'motions for a judgment of acquittal.'" 16B West's Pa. Prac. Series (*Criminal Practice*) § 30:4, n.2; *see specifically* Pa.R.Crim.P. 606(A)(6) and 720(B)(1)(a)(ii). Nevertheless, because the grounds to arrest a judgment after a verdict of guilt were not limited to sufficiency challenges, but extended to any fatal defect in the prosecution, a motion to arrest judgment remains proper when a fatal defect - such as a challenge based on the court's jurisdiction, on double jeopardy, or on the statute of limitations - is claimed. *See* Pa.R.Crim.P. 606 cmt. and 720(B)(1)(a)(iii).

stolen. Nilon was skeptical of this claim and believed Hoherchak knew more than she was saying.

While speaking with Hoherchak, Nilon believed she was under the influence of drugs. (N.T., pp. 77, 109). Also, when Nilon entered the home, he observed in plain view the empty corners of plastic sandwich bags coated with a white film in a garbage can near the kitchen door, which he testified were indicative of drug use. (N.T., pp. 79-80, 115-16). Hoping to gain more information, Nilon asked Hoherchak if he could search her home. Hoherchak agreed. Approximately thirty to forty prescription pain pills were found in a brown paper bag in one of the bedrooms, as were additional corners of plastic baggies found in the kitchen garbage. (N.T., pp. 79-80, 117).

When Nilon showed Hoherchak what was found and commented she could be in trouble, Hoherchak began to cooperate. (N.T., pp. 64, 81, 127). She now told Nilon that she had given her car to Defendant to use, that she had expected him back earlier, and that she would contact Nilon when Defendant returned. Nilon left Hoherchak's home at approximately 8:00 P.M.

Shortly after returning to his barracks, Nilon received a call from Hoherchak that Defendant was at her home with his sister, and he was packaging cocaine at the kitchen table. (N.T., pp. 82-83, 133-34). Hoherchak testified at trial that when Defendant returned to her home, she told Defendant she

needed to use the car to pick up some cigarettes, immediately left, and used her cell phone to contact Nilon once she was out of the home. She also testified that when she left, Defendant gave her a bag of cocaine to deliver which she placed in her car console. (N.T., pp. 33, 65-66).

Upon receiving Hoherchak's call, Nilon drove back to Hoherchak's home, together with Corporal Kathleen Temarantz. Arrangements were also made for backup with Patrolman Robert Carelli of the Jim Thorpe Police Department who met them a short distance from Hoherchak's home so as not to arouse Defendant's suspicion. All three were outside Hoherchak's home at approximately 9:00 P.M.

The three then walked up the driveway to Hoherchak's home and onto an outside deck. From this vantage point, Nilon was able to look through a window into the kitchen and observe Defendant at the kitchen table with a pile of loose crack cocaine in front of him which he was separating into smaller quantities, measuring on a digital scale, and placing into plastic sandwich bags whose corners he twisted off to individually wrap. (N.T., pp. 85, 142-43). Over a period of three to five minutes, Nilon observed Defendant complete three to four packages in this manner. Carelli, who then switched places with Nilon, observed the same type of conduct. (N.T., pp. 143-44, 207-08). As Nilon and Carelli looked into the

window, they also saw Defendant's sister, who was sitting in the living room within several feet of Defendant watching television as Defendant divided and packaged the cocaine. No dividing wall existed between the kitchen and the living room.

The three officers next decided that Carelli should go to the rear of the home to prevent any escape from that direction as Nilon and Temarantz entered the home through the kitchen door. Once Carelli was in position, Nilon announced their presence and tried to open the kitchen door. When he was prevented from doing so because the door was locked, he tried unsuccessfully to kick the door in. As this was occurring, Nilon saw Defendant twice run down a hallway to the rear of the home carrying both the loose and packaged cocaine with him. (N.T., p. 88). In the rear of the home, two bedrooms were located on the left side of the hallway, and a bathroom and back bedroom on the right side. Nilon also saw Defendant's sister run down the hallway and could see Defendant and his sister running back and forth between the back bedrooms. (N.T., pp. 90, 151).

To enter the home, both Nilon and Temarantz went around the corner of the home and entered through a sliding glass door. Once inside the home, Defendant and his sister were ordered to come out of the bedrooms. After some delay, each exited from a separate bedroom, after which they were patted down and placed

in handcuffs. (N.T., pp. 90-91, 153). No additional drugs or paraphernalia were found on either, however, $1,715.00 in cash currency was found on Defendant's sister. (N.T., pp. 92, 101).

While Carelli watched Defendant and his sister, Nilon and Temarantz searched the home. Fourteen packets containing crack cocaine wrapped in clear plastic baggie corners were found scattered throughout the home. (N.T., p. 156). Two to three were found thrown on the floor of the right rear bedroom from which Defendant's sister had exited, with more found on the floor of the left rear bedroom exited by Defendant; several were in the living room; and one bag was found in the toilet. (N.T., pp. 91, 93, 155, 185, 202). In addition, the bag of cocaine Defendant had asked Hoherchak to deliver was given to Nilon by Hoherchak after she returned to the home as the search was concluding; it was identical to the other bags. (N.T., pp. 93, 203). The loose cocaine was placed in a separate bag by the officers. (N.T., p. 157). All tested positive for cocaine at the state police lab. (N.T., p. 175).

Before transporting Defendant to the state police barracks, as he was being led from the home to the police cruiser, Carelli noticed Defendant was sweating and did not look good. When Carelli asked if he was okay, Defendant responded by asking if a person could get sick from swallowing drugs. (N.T., pp. 161-62, 211).

At the barracks, Defendant was placed in the interview room. While there, he was sweating, became ill and passed out. (N.T., pp. 165-66). Nilon testified that the symptoms he observed were similar to those of someone who was overdosing. (N.T., p. 167). Defendant was taken to the hospital and admitted to the intensive care unit where he remained for more than twelve hours. (N.T., p. 167).

DISCUSSION

A. Sufficiency of the Evidence: PWID

A sufficiency of the evidence claim requires an assessment of whether the evidence introduced at trial established the offense charged.

> Evidence will be deemed sufficient to support [a guilty] verdict when it establishes each material element of the crime charged and the commission thereof by the accused, beyond a reasonable doubt. The standard we apply in reviewing the sufficiency of the evidence is whether viewing all the evidence admitted at trial in the light most favorable to the verdict winner, there is sufficient evidence to enable the fact-finder to find every element of the crime beyond a reasonable doubt. In making a determination as to whether the evidence adduced at trial is legally sufficient to sustain a guilty verdict, we must evaluate the entire trial record and consider all the evidence actually received. [T]he facts and circumstances established by the Commonwealth need not be absolutely incompatible with the defendant's innocence, but the question of any doubt is for the trier of fact unless the evidence [is] so weak and inconclusive that, as a matter of law, no probability of fact can be drawn from the combined circumstances.

Commonwealth v. Davis, 799 A.2d 860, 865-66 (Pa.Super. 2002) (citations and quotation marks omitted).

> [T]he critical inquiry on review of the sufficiency of the evidence to support a criminal conviction . . . does not require a court to ask itself whether *it* believes that the evidence at the trial established guilt beyond a reasonable doubt. Instead, it must determine simply whether the evidence believed by the fact-finder was sufficient to support the verdict.

Commonwealth v. Ratsamy, 934 A.2d 1233, 1235-36 (Pa. 2007)(citations and quotation marks omitted)(emphasis in the original).

"The Commonwealth establishes the offense of possession with intent to deliver when it proves beyond a reasonable doubt that the defendant possessed a controlled substance with the intent to deliver it." Commonwealth v. Little, 879 A.2d 293, 297 (Pa.Super. 2005), *appeal denied*, 890 A.2d 1057 (Pa. 2005). In determining whether drugs in a defendant's possession are for delivery or for personal use, the totality of the circumstances must be examined. Factors to be considered are the quantity of drugs, how it was packaged, the behavior of the defendant, the presence of drug paraphernalia, the presence of large sums of cash, and the existence of expert testimony to establish whether the drugs were intended for sale rather than personal use. Commonwealth v. Jackson, 645 A.2d 1366, 1368 (Pa.Super. 1994); *see also* Commonwealth v. Kirkland, 831 A.2d 607, 612 (Pa.Super.

2003) (noting the importance of expert testimony to establish intent "where the other evidence does not overwhelmingly support the conclusion that the drugs were intended for distribution"), *appeal denied*, 847 A.2d 1280 (Pa. 2004).

In this case, we find the evidence sufficient to sustain Defendant's PWID conviction. Defendant was observed by both Nilon and Carelli separating, weighing, and packaging crack cocaine from a loose pile into smaller, individually wrapped packets. To do so, Defendant placed measured amounts of cocaine into separate plastic sandwich bags whose corners he twisted off. Nilon testified this was a common way to package and distribute cocaine. (N.T., pp. 79-80).

In addition to these observations, seized at the time of Defendant's arrest was the digital scale and box of sandwich bags used by Defendant for weighing and packaging the cocaine respectively. Also located in the home were three cell phones. One Thousand Seven Hundred Fifteen Dollars ($1,715.00) in cash was found on Defendant's sister. Defendant's sister was with Defendant when he returned to Hoherchak's home, was sitting within feet of Defendant as he packaged the cocaine, and fled with Defendant to the rear of the home and hid in a bedroom when the police entered. Defendant, who denied any interest in or knowledge of this money, could not explain the source of the

money - his sister worked as a waitress at McDonald's - or why she would be carrying this amount of cash.

The evidence did not establish that Defendant was a drug user; rather, Defendant's questioning of Carelli about overdosing on drugs suggested the contrary. Further, no paraphernalia suggestive of personal use, such as a pipes or needles, were found on either Defendant or his sister. *See* Commonwealth v. Jones, 874 A.2d 108, 121 (Pa.Super. 2005) ("[P]ossession with intent to deliver can be inferred from the quantity of the drugs possessed and other surrounding circumstances, such as lack of paraphernalia for consumption."). While the total amount of cocaine seized, 6.92 grams, appears to be a relatively small quantity, and no expert testimony was presented to establish whether this amount, the size, and number of packets found was more consistent with PWID than with personal use, most damaging to Defendant was the actual delivery of one of the smaller packets by Defendant to Hoherchak for delivery to another. *See* Ratsamy, 934 A.2d at 1237 ("We emphasize that, if the quantity of the controlled substance is not dispositive as to the intent, the court may look to other factors."); *see also* Commonwealth v. Bess, 789 A.2d 757, 761-62 (Pa.Super. 2002) (possession of significant sum of cash, $158.00, absence of drug paraphernalia associated with personal use, and 2.2 grams of cocaine, supported conviction of PWID).

B. Weight of the Evidence: PWID

In contrast to a challenge to the sufficiency of the evidence,

> [a] motion for new trial on grounds that the verdict is contrary to the weight of the evidence concedes that there is sufficient evidence to sustain the verdict but contends, nevertheless, that the verdict is against the weight of the evidence. Whether a new trial should be granted on grounds that the verdict is against the weight of the evidence is addressed to the sound discretion of the trial judge, and his decision will not be reversed on appeal unless there has been an abuse of discretion. The test is not whether the court would have decided the case in the same way but whether the verdict is so contrary to the evidence as to make the award of a new trial imperative so that right may be given another opportunity to prevail.

Davis, 799 A.2d at 865 (quoting Commonwealth v. Merrick, 488 A.2d 1, 5 (Pa.Super. 1985)). Further, in Commonwealth v. Sanchez, the Pennsylvania Supreme Court stated:

> The finder of fact – here, the jury – exclusively weighs the evidence, assesses the credibility of witnesses, and may choose to believe all, part, or none of the evidence. Issues of witness credibility include questions of inconsistent testimony and improper motive. A challenge to the weight of the evidence is directed to the discretion of the trial judge, who heard the same evidence and who possesses only narrow authority to upset a jury verdict. The trial judge may not grant relief based merely on some conflict in testimony or because the judge would reach a different conclusion on the same facts. Relief on a weight of the evidence claim is reserved for extraordinary circumstances, when the jury's verdict is so contrary to the evidence as to shock one's sense of justice and the award of a

> new trial is imperative so that right may be given another opportunity to prevail.

36 A.3d 24, 39 (Pa. 2011) (citations and quotation marks omitted).

Defendant testified that when he heard Nilon kicking at the kitchen door it sounded like gun shots going off and glass shattering, and that he ran to the rear of the home for safety. (N.T., p. 245). He denied that the cocaine found in the house was his, that he had been packaging drugs or using a scale immediately prior to the police's entry, or that he had asked Carelli if someone could get sick from ingesting drugs. (N.T., pp. 247, 255-57). According to Defendant, he simply fell asleep at the police barracks, no one tried to wake him up, and he did not know why he was strapped down in a gurney and taken by ambulance to the hospital. (N.T., pp. 248, 257).

Defendant's story directly contradicted Nilon and Carelli's testimony of seeing Defendant sitting at the kitchen table weighing and packaging cocaine. As to the presence of drugs in the home, Defendant testified Hoherchak was a drug addict and prostitute; that she constantly had strangers in the home, one of whom he saw leaving on his return; and that drugs were scattered throughout the home when he got there. (N.T., pp. 252, 254-55). Yet, the police testified the cocaine they found that evening was not there when they searched the home

approximately an hour earlier, and Hoherchak testified she immediately left the home when Defendant returned and that it was Defendant who brought drugs with him. While Defendant testified he did not give a packet of cocaine to Hoherchak for delivery to another, she testified he did. (N.T, pp. 33, 65-66, 258).

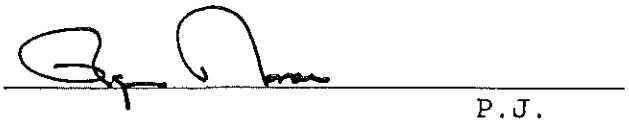
The inconsistencies and contradictions in the evidence, the credibility of the witnesses and their motives for testifying, and the weight of the evidence was all for the jury to decide. In crediting the Commonwealth's testimony over that of Defendant's, and in finding that Defendant was in fact in possession of cocaine with the intent to deliver, the jury did not act arbitrarily or reach conclusions unsupported by the evidence. The evidence here required no jury conjecture: it was clear and direct, and required only that the jury decide whom to believe. That the jury chose to find Defendant guilty based on the evidence before it does not shock our sense of justice.

CONCLUSION

For the reasons stated, the Commonwealth presented sufficient evidence to sustain Defendant's conviction of PWID crack cocaine. Further, the evidence of record is neither so unreliable nor contradictory nor inconclusive as to undermine the verdict as one based on speculation and conjecture. The

evidence fairly and fully supports the jury's decision. Accordingly, Defendant's challenges are without merit.

BY THE COURT:



P.J.