

**NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
IRENE F. MILLER,	:	
	:	
Appellant	:	No. 1569 WDA 2012

Appeal from the Judgment of Sentence entered September 12, 2012 in the Court of Common Pleas of Allegheny County, Criminal Division, at No(s): CP-02-SA-0001232-2012.

BEFORE: BENDER, MUNDY, and STRASSBURGER,\* JJ.

MEMORANDUM BY STRASSBURGER, J.: FILED: May 3, 2013

Irene F. Miller (Appellant) appeals from the judgment of sentence entered September 12, 2012 after a *de novo* hearing at which she was found guilty of the summary offense of failing to obey traffic control devices.<sup>1</sup> We affirm.

On January 4, 2012, Appellant was cited for failing to stop at a stop sign. Appellant was convicted on May 17, 2012 and filed a timely summary appeal on May 30, 2012. A *de novo* hearing was held on September 12, 2012. At the hearing, Officer Aaron Loughran testified that he observed Appellant drive past a stop sign without stopping. N.T., 9/12/2012 at 4. Specifically, he observed Appellant’s vehicle stop behind a black pickup truck which was itself stopped at the stop sign. *Id.* Then, as the black pickup truck

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<sup>1</sup> 75 Pa.C.S. § 3111.

\* Retired Senior Judge assigned to the Superior Court.

began to move, Appellant's vehicle "followed him right out . . . like it was a green light." *Id.* at 6. Appellant testified that she stopped behind a white stop line, and that the black pickup truck was actually stopped "in the intersection beyond the white line." *Id.* at 5. The trial court found Appellant guilty. *Id.* at 7. This appeal followed. On October 11, 2012, the trial court ordered Appellant to file a statement pursuant to Pa.R.A.P. 1925. On October 26, 2012, Appellant filed a criminal docketing statement. Attached to the docketing statement was a five-paragraph argument which the trial court accepted as a 1925(b) statement.

On appeal, Appellant claims that she should not have been cited for failing to stop at the relevant stop sign. Appellant's Brief at 3 (unnumbered pages).<sup>2</sup> Appellant argues that there was a white stop line "**SEVERAL CAR LENGTHS**" in front of the stop sign, and that she stopped at that line. Appellant's Brief at 3 (emphasis in original). Therefore, Appellant contends, she was "not required to make another complete stop." *Id.* (capitalization omitted). In support of this argument, Appellant includes in her brief two black and white photographs of what she claims is the intersection at which

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<sup>2</sup> We note that Appellant's brief fails to comply with the Rules of Appellate Procedure in several respects. **See** Pa.R.A.P. 2111. Appellant's brief consists of a five-paragraph argument section and a number of exhibits. The brief contains no statement of jurisdiction, no statement of the scope and standard of review, no statement of the questions involved, and no statement of the case. This Court is permitted to dismiss an appeal when an appellant's brief suffers from such substantial defects. **See** Pa.R.A.P. 2101. However, because these defects do not hinder our review, we do not dismiss the appeal.

she was ticketed. *See id.* at 4. In these photographs a narrow white line is visible some distance down the street from a stop sign. Notably, it does not appear that these photographs were presented to the trial court during Appellant's *de novo* hearing. Instead, they first appear in the record as attachments to Appellant's Rule 1925 statement. We are not a fact-finding Court, and we cannot find trial court error based on evidence that the trial court did not have the opportunity to consider. *See Commonwealth v. Griscavage*, 517 A.2d 1256, 1259 (Pa. 1986) ("A reviewing court must not give weight to or speculate upon matters not in evidence, and must recognize and honor the right and obligation of the trier of fact to believe all, part or none of the evidence."). Moreover, these photographs seem to disprove Appellant's argument, as the white line depicted in the images is a considerable distance away from the relevant stop sign, and does not even resemble a typical stop line, as it crosses the entire width of the street. Accordingly, no relief is warranted.

Judgment of sentence affirmed.

Judge Mundy concurs in the result.

Judgment Entered.



Deputy Prothonotary

Date: 5/3/2013