

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

RALPH EUGENE SNYDER

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1709 MDA 2012

Appeal from the Judgment of Sentence August 29, 2012
In the Court of Common Pleas of Lackawanna County
Criminal Division at No(s): CP-35-CR-0003009-2011

BEFORE: DONOHUE, J., ALLEN, J., and OTT, J.

MEMORANDUM BY OTT, J.:

Filed: March 15, 2013

Ralph Eugene Snyder appeals from the judgment of sentence imposed on August 29, 2012. On appeal, he challenges his classification as a sexually violent predator ("SVP") pursuant to 42 Pa.C.S. § 9791 *et seq.* ("Megan's Law II") and the discretionary aspects of sentencing. Upon review, we remand for further actions consistent with this memorandum.

Snyder sexually abused the victim, his step-daughter, from July 1, 2006 to September 1, 2008.¹ On April 11, 2012, Snyder tendered a plea of *nolo contendere* to one count of indecent assault to a child under the age of

¹ The victim was nine-years-old when the abuse began.

13.² The court deferred sentencing and ordered Snyder to undergo an assessment by the Pennsylvania Sexual Offenders Assessment Board (“SOAB”) to determine whether he was an SVP.

An evaluation was completed and, on August 29, 2012, prior to sentencing, the trial court held a hearing under Megan’s Law II. The Commonwealth presented the testimony of Paula Brust, an expert from the SOAB. Based on the testimony and reports, the court found Snyder to be an SVP. N.T., 8/29/2012, at 19. That same day, the court sentenced Snyder to a term of 24 to 60 months’ incarceration, which was outside the aggravated range but within the statutory limits.³ Snyder filed a motion for reconsideration of sentence, which was denied on September 4, 2012. This appeal followed.⁴

Snyder now raises the following four issues:

- (A) Whether the lower court abused its discretion and/or committed an error of law when it determined that [Snyder] was a sexually violent predator where the Commonwealth failed to prove by clear and convincing

² 18 Pa.C.S. § 3126(a)(7).

³ Snyder had a prior record score of one and an offense gravity score of five. The mitigated range for the sentence was restorative sanctions and the standard range was one to 12 months’ imprisonment. The aggravated range was 12 to 15 months’ incarceration. The statutory limits were 30 to 60 months.

⁴ The court did not order Snyder to file a concise statement of errors complained of on appeal under Pa.R.A.P. 1925(b) and did not issue a Pa.R.A.P. 1925(a) opinion.

evidence that he met the criteria for such a classification?

- (B) Whether the sentence was within the fundamental norms which underlie the sentencing process?
- (C) Whether the lower court erred by failing to consider [Snyder]'s background, his history, his need for rehabilitation, and his previous success at rehabilitation when it imposed its sentence?
- (D) Whether the sentence imposed was excessive and constitutes a harsh and unreasonable sentence?

Snyder's Brief at 4.

Before we may address the substantive merits of these issues, we note:

[I]n any case where the trial court fails to prepare an opinion that addresses the issues upon which it passed and which are raised by a party on appeal, the net result is the same: the appellate court is deprived of explication and guidance on those issues from the judicial entity most familiar with the matter. Moreover, the parties may be left without a meaningful context within which to make their arguments on appeal, particularly as to discretionary matters. Those concerns are no less salient in the context of direct capital review than they are in the PCRA arena; nor are they less salient where the lower court is silent on appeal issues, as opposed to adopting the position of an advocate as the entire basis for opinion.

Commonwealth v. DeJesus, 868 A.2d 379, 383 (Pa. 2005).

Because the trial court did not file a Rule 1925(a) opinion, we are deprived of its rationale with regard to the issues raised on appeal. Therefore, we remand this matter to the trial court for issuance of an adequate opinion in accordance with Pa.R.A.P. 1925, which addresses the

issues raised by Snyder in this appeal. The opinion is to be filed within 60 days of the date that the record is received in the trial court.

The Prothonotary of this Court is directed to remand the certified record to the trial court. The record shall then be returned to our Court no later than 70 days of the date of this order.

Case remanded with instructions consistent with this decision. Panel jurisdiction retained.