

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

SALIM D. BROKENBOROUGH,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1875 MDA 2011

Appeal from the Judgment of Sentence entered August 4, 2011  
In the Court of Common Pleas of Lancaster County  
Criminal Division at No(s): CP-36-CR-0001775-2010

BEFORE: OLSON, OTT and FITZGERALD,\* JJ.

JUDGMENT ORDER BY OLSON, J.:

**FILED MAY 08, 2013**

Appellant, Salim D. Brokenborough, appeals from the judgment of sentence entered on August 4, 2011, as made final by the denial of post-sentence motions on October 6, 2011, following his jury trial convictions for corrupt organizations, criminal conspiracy, criminal use of a communication facility, and three counts of delivery or possession with intent to deliver a controlled substance.<sup>1</sup> Based upon our published decision in ***Commonwealth v. Huggins***, 2013 PA Super --, we affirm.

On appeal, Appellant presents the following issue<sup>2</sup> for our review:

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<sup>1</sup> 18 Pa.C.S.A. §§ 911, 903, 7512, and 35 P.S. 780-113(a)(30), respectively.

<sup>2</sup> We note that, in his appellate brief, Appellant has not presented his second claim as set forth in his concise statement pursuant to Pa.R.A.P. 1925(b). An appellate court will not undertake review of issues an appellant (*Footnote Continued Next Page*)

\*Former Justice specially assigned to the Superior Court.

Whether the trial court improperly allowed the affiant to testify in the dual role of case agent and expert witness[?]

Appellant's Brief at 4 (complete capitalization omitted).

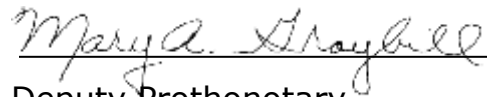
Our decision in **Huggins** is dispositive. Appellant was one of Huggins' co-conspirators. On appeal, Huggins presented the identical issue as presented herein. In **Huggins**, we determined that the Pennsylvania Rules of Evidence do not preclude a single witness from testifying as both a lay witness and an expert; however, we cautioned that the trial court's gatekeeping functions were imperative. Therein, we ultimately determined the trial court took significant steps to minimize any juror confusion. The jury received multiple cautionary instructions throughout trial. The trial court specifically directed the Commonwealth to delineate between Agent David Carolina's expert and fact-based opinions, which it did. Finally, defense counsel was permitted to engage in rigorous cross-examination of Agent Carolina regarding his expertise and the substance of his testimony. Hence, we rejected Huggins' assertion that Agent Carolina's testimony in dual capacities usurped the jury's fact-finding. As our decision in **Huggins** is directly on point, we rely on it in denying Appellant relief.

Judgment of sentence affirmed.

(Footnote Continued) \_\_\_\_\_

abandons on appeal. **Commonwealth v. Sanchez**, 36 A.3d 24, 72 (Pa. 2011). Hence, Appellant has waived his sentencing claim.

Judgment Entered.

  
Deputy Prothonotary

Date: 5/8/2013