NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
	:	
EDDIE TATE,	:	
	:	
Appellant	:	No. 1404 EDA 2013

Appeal from the Judgment of Sentence April 2, 2013
In the Court of Common Pleas of Delaware County
Criminal Division No(s).: CP-23-CR-0004358-2012

BEFORE: BENDER, P.J., SHOGAN, and FITZGERALD,* JJ.

MEMORANDUM BY FITZGERALD, J.: **FILED AUGUST 15, 2014**

Appellant, Eddie Tate, appeals from the judgment of sentence entered in the Delaware County Court of Common Pleas following his jury convictions of murder in the second degree,[1] robbery,[2] and conspiracy[3] to commit robbery. He argues the trial court erred in finding: (1) his waiver of ***Miranda***[4] rights was valid where detectives presented ***Miranda*** warnings to

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* Former Justice specially assigned to the Superior Court.

[1] 18 Pa.C.S. § 2502(b).

[2] 18 Pa.C.S. § 3701(a)(1)(i) (inflicting serious bodily injury).

[3] 18 Pa.C.S. § 903(a).

[4] ***Miranda v. Arizona***, 384 U.S. 436 (1966).

him on a laptop computer for him to read to himself, without any accompanying verbal advisement, and (2) the verdict was not against the weight of the evidence where there was no physical evidence to corroborate his own statements to investigators. We affirm.

The trial court summarized the underlying investigation of this case as follows.

> At 6:25 a.m. on September 13, 2008, while waiting at a bus stop, Ms. Nicole Smith saw two African American men, one wearing a dark hooded sweatshirt and the other wearing a white hooded sweatshirt, walking down Church Lane from the direction of Redwood Avenue in Yeadon Borough, Delaware County, PA. She watched them cross the street diagonally and turn into the driveway of 645 Church Lane where she lost sight of them. At 6:45 a.m. Ms. Scott heard two gunshots coming from that direction and saw the two males quickly run out of the driveway back towards Redwood Avenue. About ten minutes later, police found Veno Leigertwood, Jr. dead in the driveway of his home. The cause of death was a single gunshot wound to the back of the neck from a .22 caliber handgun. Although the victim's wallet, laptop, computer accessories, and car were left at the scene, his cell phone and pocket Bible were missing.
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> The Yeadon Borough Police Department and the Delaware County Criminal Investigation Division initiated a homicide investigation that was joined by the Federal Bureau of Investigations (FBI) in February 2010.

Trial Ct. Op., 7/25/13, at 1-2 (citations to trial transcript omitted).

The focus of the investigation eventually shifted to a Brahiem Thompson. The FBI learned that Appellant was Thompson's close friend and interviewed Appellant on February 18, 2011.

> Appellant told officials that a man named Marquis Robinson[1] had bragged "to the neighborhood that he had shot" Mr. Leigertwood. Appellant claimed that Mr. Roberts "had said that he stuck a gun in Veno's face trying to rob him and that the victim punched him and when he punched him he . . . shot him a few times." Appellant also indicated that Mr. Roberts had stolen a cell phone and a laptop from the victim. Finally, Appellant told officials that Mr. Roberts had shot Mr. Leigertwood with either a .22 or .25 caliber, small, black handgun.
>
> [1] "Marquis Robinson" was later correctly identified as Mr. Marquis Roberts.
>
> The FBI conducted a second interview of Appellant on July 22, 2011. . . . Appellant told officials "that he was in a car with Marquis Roberts and Braheim Thompson when Braheim and Marquis were having a conversation about the murder [of Mr. Leigertwood], and . . . [Appellant] deduced from listening to the two of them talk . . . that they had . . . shot Veno in the course of a robbery." Appellant also revealed that Mr. Roberts and Mr. Thompson had previously committed other robberies and that when they did so, Mr. Roberts wore a white zip-up hooded sweatshirt while Mr. Thompson wore a black hooded sweatshirt. However, Appellant averred that despite knowing about the murder, he was not present when Mr. Leigertwood was shot.
>
> Appellant was interviewed a third time by Special Agent Thomas Scanzano on July 27, 2011.[2] At this time, Mr. Thompson and Mr. Roberts were both suspects in this case, but Appellant was being interviewed as "a possible cooperating witness." Agent Scanzano testified that before beginning the interview, he placed his laptop, which was displaying an electronic version of the standard ***Miranda*** form,[5] in front of Appellant and directing him to read through it. Appellant acknowledged that he understood and was waiving his ***Miranda*** rights by signing an electronic signature pad. When asked what he knew about Mr. Leigertwood's murder, Appellant initially repeated that

[5] The form was titled "Advice of Rights."

he heard about the robbery/murder from Mr. Thompson and Mr. Roberts a few days after it took place. He maintained that he was not present for and did not participate in the murder.

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[2] . . . Agent Scanzano was brought into the investigation [to administer] a polygraph test to Appellant. Any reference to the polygraph test was not mentioned during Trial.

However, after observing that when these questions were asked Appellant's shoulders slumped and he broke eye contact, Agent Scanzano said, "Eddie it's obvious to me that you're not telling the truth . . . We just need to get to the truth." Appellant then confessed that he was lying and "afraid to tell the truth because he could be charged in the murder or conspiracy to commit murder." When prompted to explain, Appellant stated that on the morning of September 13, 2008, he was driving around Yeadon with Mr. Roberts and Mr. Thompson "looking for someone to rob." Appellant said he stopped the car when they saw Mr. Leigertwood, and Mr. Roberts and Mr. Thompson exited the vehicle. Appellant said he could tell there was an altercation and then heard multiple gun shots, after which Mr. Roberts and Mr. Thompson immediately ran back to the car. All three men then went back to Appellant's apartment, where "Mr. Roberts said that he pulled out a gun, attempted to rob the black male, the black male punched him in the face, and as he was falling backwards he shot the black male multiple times." Appellant said that the men concluded that Mr. Leigertwood was likely dead. Finally, Appellant told Agent Scanzano that the victim's cell phone was stolen and that Mr. Roberts used either a .22 or .25 caliber black handgun, but he did not know what happened to either of those items.

When he had concluded his interview, Agent Scanzano asked Appellant if he would be willing to speak to Agent Carter and Detective Benham, and Appellant agreed. Agent Carter testified that both he and Detective Benham first verbally reminded Appellant of his ***Miranda*** rights, which Appellant chose not to invoke. Appellant repeated

> the story he had told Agent Scanzano, adding that before stopping the car to let Mr. Roberts and Mr. Thompson out, he made a right turn onto the next street past Mr. Leigertwood's driveway. Detective Benham testified that this street is Redwood Avenue, which corroborated the earlier testimony of Ms. Scott. According to Agent Carter's testimony, the only inconsistency between Appellant's July 27 statements concerned where the discussion after the shooting took place, since he indicated to Agent Scanzano that the conversation took place in his apartment, but told Agent Carter it occurred while the men were still in the car.

Trial Ct. Op. at 2-5.

Appellant was charged with murder in the second degree, murder in the third degree, conspiracy, and robbery. On October 16, 2012, he filed a motion to suppress all statements he made to FBI agents on July 27, 2011. The court held a hearing and denied the motion on January 22, 2013. Appellant then filed a second motion to suppress, seeking suppression of all statements he made while in federal custody. After another hearing, the court denied the motion on the first day of trial, February 26, 2013.

A four-day trial proceeded before a jury. Appellant's statements to the FBI agents were admitted. He did not testify or present evidence or witnesses. Appellant was found guilty of murder in the second degree, robbery by infliction of serious bodily injury, and conspiracy to commit robbery. On April 2, 2013, the court imposed a sentence of life imprisonment without parole for the murder charge and a consecutive 8½ to 20 years for conspiracy. Appellant filed post-sentence motions, which the

court denied on April 18, 2013. Appellant then took this timely appeal.[6] As stated above, he presents two issues for this Court's review

Appellant's first issue before this Court is whether the trial court erred in finding he validly waived his ***Miranda*** rights. He does not challenge the content of the ***Miranda*** warnings or claim that he did not understand them, but rather contests the manner in which they were provided to him. His central argument is that Agent Scanzano should have orally advised him of his ***Miranda*** rights and erred in only showing him the ***Miranda*** warnings on a laptop computer and having him read the ***Miranda*** warnings to himself. Appellant complains that he "was not even provided a paper copy of his ***Miranda*** Warnings to review." Appellant's Brief at 23. He further avers that "[a]s a result of Agent Scanzano's flawed procedure, the Court is left with assumptions as to whether Appellant read and understood his ***Miranda*** Warnings, despite his alleged acknowledgment by signing the electronic form." ***Id.*** at 24. We find no relief is due.

We note:

> This Court does not, nor is it required to, defer to the suppression court's legal conclusions that a confession or ***Miranda*** waiver was knowing or voluntary. Instead, we examine the record to determine if it supports the suppression court's findings of fact and if those facts

[6] After sentencing, Appellant first filed a *pro se* post-sentence motion; he then filed two counseled motions, one challenging the weight of the evidence and one challenging the sentence. Following the denial of all three of these motions on April 18, 2013, Appellant filed a *pro se* notice of appeal. Counsel then filed a timely notice of appeal on May 15th.

> support the conclusion that, as a matter of law, Appellant knowingly and intelligently waived his ***Miranda*** rights. . . .
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> > Regardless of whether a waiver of ***Miranda*** is voluntary, the Commonwealth must prove by a preponderance of the evidence that the waiver is also knowing and intelligent.
> >
> > ***Miranda*** holds that the defendant may waive effectuation of the rights conveyed in the warnings provided the waiver is made voluntarily, knowingly and intelligently. The inquiry has two distinct dimensions. First[,] the relinquishment of the right must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion or deception. Second, the waiver must have been made with a full awareness both of the nature of the right being abandoned and the consequences of the decision to abandon it. Only if the totality of the circumstances surrounding the interrogation reveal both an uncoerced choice and the requisite level of comprehension may a court properly conclude that ***Miranda*** rights have been waived.

Commonwealth v. Rushing, 71 A.3d 939, 949 (Pa. Super. 2013) (citation omitted), *appeal granted in part on unrelated issue*, 84 A.3d 699 (Pa. 2013), *cross appeal denied*, 85 A.3d 483 (Pa. 2014).

Our review of Pennsylvania authority has not revealed a discussion on the propriety of providing ***Miranda*** warnings in written format only. However, we note that the federal appellate courts have consistently held that verbal warnings, while preferred, are not required. For example, in ***U.S. v. Sledge***, 546 F.2d 1120 (4th Cir. 1977), the United States Court of Appeals for the Fourth Circuit considered a case in which the defendant was given a "standard ***Miranda*** advice of rights form" and "was observed

reading the form;" it was "undisputed that neither of the federal agents orally gave the defendant the ***Miranda*** warnings." ***Id.*** at 1121. The Court stated:

> We agree with the First, Third, Ninth, and Tenth Circuits that it is not essential that the warnings required by ***Miranda*** [ ] must be given in oral rather than written form. ***See***: [***U.S.***] ***v. Coleman***, 524 F.2d 593 (10th Cir. 1975); [***U.S.***] ***v. Alexander***, 441 F.2d 403 (3rd Cir. 1971); [***U.S.***] ***v. Van Dusen***, 431 F.2d 1278 (1st Cir. 1970); [***U.S.***] ***v. Osterburg***, 423 F.2d 704 (9th Cir. 1970), *cert. denied*, 399 U.S. 914, 26 L. Ed. 2d 571, 90 S. Ct. 2216 (1970). Here the defendant admitted he could read and write, was given a legally sufficient rights form, was observed reading it, orally admitted that he fully understood his rights and then signed a legally sufficient waiver form. We remind the Government, however, that a heavy burden rests upon it to prove that a person in custody did knowingly and intelligently waive his privilege against self-incrimination and his right to retained or appointed counsel, ***Miranda***[,] 384 U.S. at 475, and, although each particular case must depend upon its own facts, [***U.S.***] ***v. Hayes***, 385 F.2d 375, 377 (4th Cir. 1967), *cert. denied*, 390 U.S. 1006 [ ] (1968), the preferred practice would include both an oral recitation of the required ***Miranda*** warnings coupled with the delivery of a written explanation thereof to the accused and the request that he execute a legally sufficient waiver prior to the commencement of custodial interrogation.

Sledge, 546 F.2d at 1122.

In the Ninth Circuit opinion of ***Bell v. U.S.***, 382 F.2d 985 (9th Cir. 1967), an FBI agent asked the defendant whether he could read, and the defendant replied in the affirmative. ***Id.*** at 986. The agent then presented the defendant "with a document containing all of the warnings and advice required under ***Miranda***," and the defendant signed the document and gave

a statement. ***Id.*** The defendant argued that his statement should have been excluded because the agent "was obliged to advise [him] of his ***Miranda*** rights orally and not in writing." ***Id.*** at 987. The Court summarily rejected this claim as follows:

> This is absurd. If [the defendant] read and understood the written advice, then he acquired knowledge of his rights in a very satisfactory and most unimpeachable way. There is no requirement as to the precise manner in which police communicate the required warnings to one suspected of crime. The requirement is that the police fully advise such a person of his rights, and [the defendant] made no showing that he did not read or understand the written warnings which were presented to him.

Id.

In the instant matter, the trial court, Appellant, and the Commonwealth have all referred to the United States Supreme Court decision in ***Duckworth v. Eagan***, 492 U.S. 195 (1989),[7] which stated:

> We have never insisted that ***Miranda*** warnings be given in the exact form described in that decision.[ ] In ***Miranda*** itself, the Court said that "the warnings required and the waiver necessary in accordance with our opinion today are, **in the absence of a fully effective equivalent**, prerequisites to the admissibility of any statement made by a defendant." 384 U.S., at 476 (emphasis added). In ***California v. Prysock***, 453 U.S. 355 (1981) (per curiam), we stated that "the 'rigidity' of ***Miranda*** [does not] extend to the precise formulation of the warnings given a criminal defendant," and that "no talismanic incantation [is] required to satisfy its strictures."
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> . . . The prophylactic ***Miranda*** warnings are "not themselves rights protected by the Constitution but [are]

[7] Trial Ct. Op. at 10; Appellant's Brief at 22; Commonwealth's Brief at 20-21.

> instead measures to insure that the right against compulsory self-incrimination [is] protected." Reviewing courts therefore need not examine ***Miranda*** warnings as if construing a will or defining the terms of an easement. The inquiry is simply whether the warnings reasonably "convey to [a suspect] his rights as required by ***Miranda***."

Duckworth, 492 U.S. at 202-03 (some citations omitted).

Here, the trial court considered the following suppression hearing testimony from Agent Scanzano. The agent's standard ***Miranda*** procedure is to ask an individual if he can read and write English, and that if the individual cannot, he "[has] the form read to [him]." Trial Ct. Op. at 9. Before directing Appellant to review the "Advice of Rights" form, Agent Scanzano "asked Appellant whether he spoke and read the English language." ***Id.*** Appellant responded that he could; Agent Scanzano stated Appellant was "extremely articulate," "understood English," and "said he could read and write." ***Id.*** Agent Scanzano also stated, "You can see as they're reading if they don't understand." ***Id.*** Agent Scanzano provided the "Advice of Rights" form to Appellant, instructed him to read the form and the consent portion, and watched him read both on the computer screen. "Appellant did not stop [while reading to] ask Agent Scanzano to either elaborate or clarify anything about the form." ***Id.*** Agent Scanzano asked Appellant if he had any questions about his rights, and Appellant stated he did not. Furthermore, "Appellant was not under the influence of alcohol or controlled substances," and "did not appear to be mentally deficient nor . . . to have any trouble understanding who Agent Scanzano was or why he was

in the interview room." ***Id.*** at 9-10.

Agent Scanzano further

> testified that the electronic form notified Appellant that he had "the right to remain silent," that anything he said could "be used against" him "in court," that he had "the right to talk to a lawyer for advice before" being asked "any questions," that he had "the right to have a lawyer with" him "before any questioning," and that if he decided to "answer questions . . . without a lawyer present" he had the right to stop answering at any time."

Id. at 10.

The trial court found, "[I]t is clear that the electronic format reasonably conveyed to Appellant his rights as required by ***Miranda***."[8] ***Id.*** The trial court held, "The fact that the Advice of Rights form was presented to Appellant in writing on a computer screen rather than in paper format was inconsequential. ***Id.*** (citing ***Duckworth***, 492 U.S. at 202-03; ***Bell***, 382 F.2d at 987). The court also noted that Appellant "did not indicate that the electronic format hindered or prevented him from reading the form." Trial Ct. Op. at 10-11.

Appellant makes no allegation that he was intimidated, coerced, or deceived into signing a waiver of his rights. ***See Rushing***, 71 A.3d at 949.

[8] We note that the Advice of Rights form also stated, "If you cannot afford a lawyer, one will be appointed for you before any questioning you wish." Commonwealth Exhibit, Advice of Rights.

He likewise advances no claim that he did not understand the form.[9] Instead, as stated above, his argument is that "[t]he preferable course of action . . . is for the law enforcement officer to **read** the form outlining the rights **aloud**" and "[t]he preferred practice includes both an **oral** recitation of the ***Miranda*** Warnings coupled with the delivery of a written explanation." Appellant's Brief at 22 (citing ***Sledge***, 546 F.2d at 1122; ***U.S. v. Choice***, 392 F. Supp. 460, 466 (E.D.Pa. 1975)).

We agree with Appellant that in advising an individual of his ***Miranda*** rights, the **preferred** manner is to provide both oral and written warnings. ***See Sledge***, 546 F.2d at 1122. In the instant case, federal investigators interrogated Appellant. The warnings were provided to Appellant on a laptop computer, and required him only to provide one signature after reading all the warnings, rather than signing or initialing after each warning. As stated in ***Sledge***, we remind the Commonwealth that it bears a "heavy burden . . . to prove that a person in custody did knowingly and intelligently waive his privilege[s]." ***See id.*** The practice of showing ***Miranda*** warnings on a laptop computer and having an individual read them to himself should not be standard procedure, but instead an infrequent occurrence with sufficient reasons for the variance shown.

[9] While Appellant avers that "the Court is **left with assumptions** as to whether [he] read and understood his ***Miranda*** Warnings," Appellant's Brief at 24 (emphasis added), a careful review of his argument reveals no outright claim that he did not understand the form.

Nevertheless, we decline to disregard Pennsylvania authority requiring review of the totality of circumstances in favor of adopting a bright-line rule requiring oral ***Miranda*** warnings. ***See Duckworth***, 492 U.S. at 202-03; ***Sledge***, 546 F.2d at 1122; ***Bell*** at 986; ***Rushing***, 71 A.3d at 949. Instead, we agree with the trial court that in this case, the totality of the circumstances support a finding that Appellant comprehended the Advice of Rights and was not coerced into giving a statement to FBI agents. ***See Rushing***, 71 A.3d at 949. Accordingly, we do not disturb the trial court's denial of Appellant's motion to suppress his statement.

Appellant's second contention on appeal is that the trial court erred in denying his post-sentence motion claim that the verdict was against the weight of the evidence.[10] He avers the jury's verdict "was based solely upon [his] alleged statements to law enforcement officers without any corroboration of any physical evidence." Appellant's Brief at 28. Appellant maintains that at trial, there was no eyewitness testimony placing him "anywhere near 645 Church Lane on September 13, 2008," and that the witness, Ms. Scott, could not identify the two black males, did not see any vehicles in the area, and did not see the two males running to any vehicle.

[10] This issue is preserved for appeal, as Appellant raised it in a post-sentence motion. ***See*** Pa.R.Crim.P. 607(A)(3).

However, we note that Appellant only mentions the crimes of which he was convicted, and provides no discussion of the elements of these offenses, nor any discussion of conspirator or accomplice liability.

Id. at 29. Appellant adds that the none of the forensic and DNA evidence or information from the victim's and his family's cell phones and the victim's laptop established a link to Appellant. He further avers that it was "not until the police receive[d] information from [the victim's wife], who stood to inherit $2 million [ ] as her husband's beneficiary and was a suspect in her husband's robbery/homicide for several years that the police learn[ed] about Thompson and Roberts and their involvement in the robbery/homicide." ***Id.*** at 30. Finally, Appellant contends that his "own alleged statements were inconsistent," where he first told the agents that Roberts stole the victim's laptop, but subsequently stated that only the victim's cellphone was stolen. ***Id.*** at 31. We find no relief is due.

We note the relevant standard of review:

> A claim alleging the verdict was against the weight of the evidence is addressed to the discretion of the trial court. Accordingly, an appellate court reviews the exercise of the trial court's discretion; it does not answer for itself whether the verdict was against the weight of the evidence. It is well settled that the [jury] is free to believe all, part, or none of the evidence and to determine the credibility of the witnesses, and a new trial based on a weight of the evidence claim is only warranted where the [jury's] verdict is so contrary to the evidence that it shocks one's sense of justice. In determining wheth er this standard has been met, appellate review is limited to whether the trial judge's discretion was properly exercised, and relief will only be granted where the facts and inferences of record disclose a palpable abuse of discretion.

Commonwealth v. Brown, 71 A.3d 1009, 1013 (Pa. Super. 2013) (citation omitted), *appeal denied* 77 A.3d 635 (Pa. 2013).

In ***Commonwealth v. Fisher***, 364 A.2d 483 (Pa. Super. 1976), the defendant was charged with breaking into a store and stealing a television. ***Id.*** at 485. Police recovered from the defendant's apartment a television of the same make and size as the one stolen; however, the model and serial numbers were obliterated. ***Id.*** The defendant admitted to police that he broke into the store and stole the television. ***Id.*** He later sought suppression of this statement on the ground that it was not voluntarily given. ***Id.*** The trial court denied the motion and it was admitted at trial. ***Id.*** At trial, the defendant "testified that the statement was coerced from him while he was ill and under sedation," "that the police made promises of probation and threatened to prosecute his wife unless he confessed," and "that he had purchased his television set at a Philadelphia warehouse." ***Id.*** at 486. The jury found him guilty of burglary. ***Id.*** at 485.

On appeal before this Court, the defendant argued the evidence was insufficient, where "the Commonwealth failed to prove that he was the person who committed the crime but for the fact that he gave a statement admitting the burglary," and that "[n]o other evidence implicating [him] was adduced at trial." ***Id.*** He "contend[ed] that a jury cannot be convinced beyond a reasonable doubt of guilt when the entire case rests upon the contradictory statements of one material witness." ***Id.*** at 486. This Court disagreed, finding:

> The jury in the case at bar could properly have based its verdict on the confession because [the defendant]

> admitted committing all the elements of the crime of burglary. The jury, as the evaluator of credibility in this case, was free to find appellant's testimony at trial less worthy of belief than his confession.

Id. (citation omitted). The defendant also challenged the weight of the evidence. ***Id.*** This Court likewise found no relief was due:

> ["]Where the evidence is conflicting, the credibility of the witnesses is solely for the jury and if its finding is supported by the record, the trial court's denial of a motion for a new trial will not be disturbed." In the case before us, there was a conflict in the evidence as to the voluntariness and reliability of the confession and the jury chose to disbelieve appellant. This conclusion is supported by the record. Accordingly, we uphold the trial court's refusal to grant a new trial on this ground. In the case before us, there was a conflict in the evidence as to the voluntariness and reliability of the confession and the jury chose to disbelieve appellant. This conclusion is supported by the record. Accordingly, we uphold the trial court's refusal to grant a new trial on this ground.

Id. (citation omitted).

Here, in ruling on Appellant's post-sentence motion, the trial court considered, as Appellant argued, the lack of any forensic evidence linking him to the crime, as well as the testimony of a responding officer, that upon arriving at the scene of the shooting, he did not see Appellant. Trial Ct. Op. at 22. However, the court also considered the fact "that Appellant gave numerous statements that corroborated" the observations of the witness Nicole Scott, such as what Thompson and Roberts were wearing, "what property was taken from [the victim], what caliber weapon was used to shoot the victim, what street Mr. Roberts and Mr. Thompson approached the

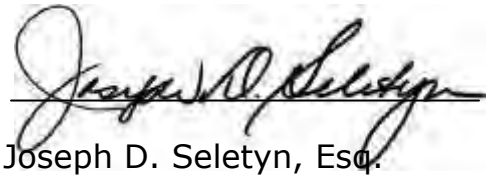
victim from and where the car was waiting for them to return, and that [the victim] had been killed in the course of a robbery." ***Id.*** at 21-22. Finally, the court considered that "the jury heard testimony that Appellant, after acknowledging his ***Miranda*** rights, confessed to knowingly participating in the robbery/murder of Mr. Leigertwood." ***Id.*** at 22. The court found, "[I]t is evidence that the jury found the FBI agents to be credible and weighed the evidence accordingly," and held the verdict was not so contrary as to shock one's sense of justice. ***Id.*** at 23.

As stated above, the jury was free to believe all, part, or none of the evidence and was thus charged with resolving any inconsistencies in Appellant's statements. ***See Brown***, 71 A.3d at 1013. Furthermore, under ***Fisher***, Appellant's conviction, based on his confession to law enforcement, may stand. ***See Fisher***, 364 A.2d at 485. We find the trial court properly exercised its discretion. ***See Brown***, 71 A.3d at 1013.

For the foregoing reasons, we affirm the judgment of sentence.

Judgment of sentence affirmed.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 8/15/2014