

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF
PENNSYLVANIA

Appellee

v.

FLORENCE JOHNSON

Appellant

No. 2025 WDA 2012

Appeal from the Judgment of Sentence November 1, 2012
In the Court of Common Pleas of Allegheny County
Criminal Division at No(s): CP-02-CR-0002577-2012

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

MEMORANDUM BY PANELLA, J.

FILED JUNE 25, 2014

Appellant, Florence Johnson, appeals from the judgment of sentence entered on November 1, 2012, by the Honorable David R. Cashman, Court of Common Pleas of Allegheny County. After careful review, we affirm.

On a Saturday in early February 2012, Wayne Owens helped Johnson paint her apartment living room. **See** N.T., Trial, 8/8/12, at 8, 15. After he finished painting, Owens cleaned up, took off his shoes, and sat down on the couch to have a drink. **See id.**, at 8. Johnson then approached Owens claiming she saw scratches on his back, accused him of cheating, and threatened to kill him. **See id.**, at 9. At that time, Owens had on a short-sleeved undershirt and a long-sleeved sweatshirt. **See id.**

Johnson then ran into the kitchen, returned with a knife, and lunged at Owens in an attempt to stab him. **See id.**, at 9, 11. Owens blocked the

attack with his arm and began to bleed profusely. **See id.**, at 9. Owens then left the apartment, without his coat or shoes, and encountered neighbors in the hallway, who called the paramedics and police. **See id.** Owens went to Mercy Hospital, where he received 14 stitches in his arm. **See id.**, at 11-12.

Following a bench trial on August 8, 2012, Johnson was convicted of aggravated assault with a deadly weapon, terroristic threats, and recklessly endangering another person. At sentencing on November 1, 2012, Johnson received an aggregate sentence of three years' probation. This timely appeal follows.

On appeal, Johnson claims the verdict is against the weight of the evidence. Specifically, Johnson claims Owens's testimony was inconsistent and incredible.

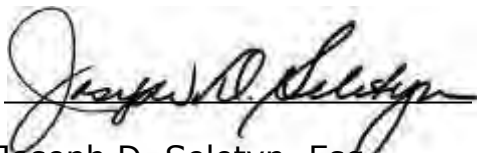
Our standard of review for a challenge to the weight of the evidence is well settled. We may not substitute our judgment for that of the fact finder, who is free to believe all, part, or none of the evidence and to determine the credibility of the witnesses. **See Commonwealth v. Diggs**, 949 A.2d 873, 879 (2008). The trial court may only award a new trial where the verdict is "so contrary to the evidence as to shock one's sense of justice." **Id.** A verdict is said to shocks one's sense of justice when "the figure of Justice totters on her pedestal," or when "the jury's verdict, at the time of its rendition, causes the trial judge to lose his breath, temporarily, and causes him to almost fall from the bench, then it is truly shocking to the judicial

conscience.” **Commonwealth v. Cruz**, 919 A.2d 279, 282 (Pa. Super. 2007) (citation omitted). Our review is thus limited to whether the trial court properly exercised its discretion, and relief is only granted where “the facts and inferences of record disclose a palpable abuse of discretion.” **Diggs**, 949 A.2d at 879.

In considering all evidence in the light most favorable to the Commonwealth, the trial court found the facts to be as stated above. Further, the trial court found Owens’s testimony clear and concise, credible, and supported by the evidence. The trial court found the verdict certainly did not shock any sense of justice. We find no abuse of discretion with this conclusion.

Judgment of sentence affirmed. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 6/25/2014

