

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

GORDON FRENCH

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1554 WDA 2015

Appeal from the Order September 11, 2015
In the Court of Common Pleas of Potter County
Criminal Division at No(s): CP-53-MD-0000085-2015

BEFORE: SHOGAN, J., OTT, J., and FITZGERALD, J.*

MEMORANDUM BY OTT, J.:

FILED JUNE 09, 2016

Gordon French appeals from the order entered on September 11, 2015 in the Potter County Court of Common Pleas, which found him in indirect criminal contempt of a prior Protection From Abuse ("PFA") order¹ and sentenced him to three months' of probation, with appropriate fees, and to pay a \$300 fine with court costs. For the reasons set forth below, we affirm the order.

French's sole issue is a claim the verdict is against the sufficiency of the evidence. However, the substance of his argument is that the Commonwealth's evidence was not credible. **See** French's Brief at 6-12. A

* Former Justice specially assigned to the Superior Court.

¹ 23 Pa.C.S. § 6114.

challenge to the credibility of evidence represents a claim that the verdict was against the weight of the evidence. **See Commonwealth v. Griffin**, 65 A.3d 932, 939 (Pa. Super. 2013) (argument directed to credibility challenges weight, not sufficiency of evidence).

A challenge to the weight of the evidence must be preserved before the trial court in accordance with the Pennsylvania Rules of Criminal Procedure.² Here, counsel failed to properly preserve the issue before the trial court.³

² A claim that the verdict was against the weight of the evidence shall be raised with the trial judge in a motion for a new trial:

- (1) orally, on the record, at any time before sentencing;
- (2) by written motion at any time before sentencing; or
- (3) in a post-sentence motion.

Pa.R.Crim.P. 607(A).

³ Even if we overlooked this deficiency, we would still be compelled to affirm the order. The trial Court found:

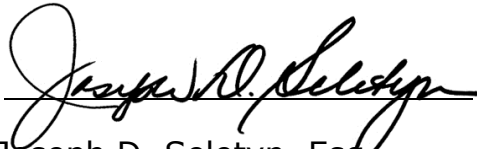
[T]he Order was definite and specific that [French] would have no contact with [Saunders], but for inadvertent contact. [French] acknowledges that he knew of the Order. Also, the actions of [French] were undeniably intentional in that he approached [Saunders] at her work station and remained there for 10-20 minutes. Finally, [French] acted with wrongful intent in an attempt to convince [Saunders] to withdraw the Protection from Abuse Order and the criminal charges; and to inquire of her romantic involvement with another gentleman.

Trial Court Opinion, 11/23/2015 at 4-5. As to the weight of the evidence, the trial court stated: "Due to the clear discrepancies and inconsistencies in (Footnote Continued Next Page)

Because French failed to preserve the issues claimed on appeal, we affirm the trial court's finding of indirect criminal contempt.

Order affirmed.

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: 6/9/2016

(Footnote Continued) _____

[French]'s testimony, the Court finds that [French] is not a credible witness. The Court also finds [Saunders] to be credible." Trial Court Opinion, 11/23/2015 at 3.