

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

GEORGE POPLAWSKI,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 289 MDA 2015

Appeal from the Judgment of Sentence January 9, 2015
In the Court of Common Pleas of Luzerne County
Criminal Division at No(s): CP-40-CR-0002941-2013

BEFORE: BENDER, P.J.E., SHOGAN, and PLATT,* JJ.

CONCURRING STATEMENT BY SHOGAN, J.: **FILED FEBRUARY 09, 2016**

I join the learned Majority's memorandum decision in this matter. However, I write separately to note that, after the instant judgment of sentence is vacated and the case remanded for resentencing, the Commonwealth is permitted to reintroduce evidence regarding the amount of mandatory restitution and the trial court may reimpose an appropriate amount of restitution. ***Commonwealth v. Smith***, 956 A.2d 1029, 1034 n.3 (Pa. Super. 2008) (*en banc*). ***See also Commonwealth v. Deshong***, 850 A.2d 712, 716 (Pa. Super. 2004) (explaining that appellate court's determination that restitution order was illegal altered trial court's

* Retired Senior Judge assigned to the Superior Court.

sentencing scheme and the proper remedy was to vacate entire judgment of sentence and remand for resentencing).

P.J.E. Bender and Judge Platt join this Concurring Statement.