

**NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37**

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

ALAN ORTIZ,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1590 MDA 2016

Appeal from the Judgment of Sentence Entered August 8, 2016  
in the Court of Common Pleas of Berks County  
Criminal Division at No(s): CP-06-CR-0005948-2014

BEFORE: BENDER, OTT, and STRASSBURGER,\* JJ. **FILED JULY 12, 2017**

CONCURRING AND DISSENTING MEMORANDUM BY STRASSBURGER, J.:

I agree with the learned Majority that the evidence was sufficient to support Appellant’s convictions for multiple counts of aggravated assault. However, I believe that the imposition of consecutive terms of imprisonment is manifestly excessive under the circumstances presented here, and constitutes an abuse of the trial court’s discretion. **See e.g. Commonwealth v. Zirkle**, 107 A.3d 127, 134 (Pa. Super. 2014) (Strassburger, J., dissenting) (expressing concern about the “nearly unfettered discretion given to trial courts in imposing consecutive or concurrent sentences”). I am cognizant that Appellant herein was convicted of crimes against police officers and in no way condone this behavior. Nonetheless, I am troubled by the imposition of what is tantamount to a life sentence where Appellant did not cause actual injury to any of the victims.

\*Retired Senior Judge assigned to the Superior Court.

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Thus, because I believe the imposition of consecutive sentences to be an abuse of discretion in light of the criminal conduct at issue, I would vacate his judgment of sentence and remand for resentencing.