

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

SHERRY LYNN WISE

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1684 MDA 2016

Appeal from the Judgment of Sentence September 13, 2016
In the Court of Common Pleas of York County
Criminal Division at No(s): CP-67-CR-0006928-2015

BEFORE: SHOGAN, J., MOULTON, J., and STEVENS, P.J.E.*

CONCURRING STATEMENT BY MOULTON, J.: **FILED SEPTEMBER 15, 2017**

I agree with the majority's conclusion that the evidence was sufficient to support Appellant's conviction, and concur with its decision to affirm the judgment of sentence. However, I do not join the majority's analysis of the statutory interpretation question briefed by the parties, as I believe it is unnecessary to a proper disposition of this case.

Appellant was charged with violating 75 Pa.C.S. § 3733 under two different theories – failing to bring her vehicle to a stop after being directed to stop; and fleeing after being directed to stop. While both theories were submitted to the jury, the jury instructions delivered by the trial court required a finding that Appellant “was aware of the officer's signal to stop

* Former Justice specially assigned to the Superior Court.

and refused to do so,” N.T., 9/12/16, at 119. Accordingly, we need not consider the question whether the statute’s reference to “a pursuing police officer” modifies “otherwise flees,” because no one contends that it modifies “fails or refuses to . . . stop.”