

2017 PA Super 365

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
FREDERICK W. KARASH	:	
	:	
Appellant	:	No. 263 WDA 2017

Appeal from the Judgment of Sentence January 24, 2017
 In the Court of Common Pleas of Erie County Criminal Division at No(s):
 CP-25-SA-0000161-2016

BEFORE: BOWES, J., LAZARUS, J., and OTT, J.

CONCURRING STATEMENT BY OTT, J.: **FILED NOVEMBER 16, 2017**

I am constrained to agree with the Majority that the decision in **Banellis** is controlling, and accordingly, we must reverse the appellant’s judgment of sentence.

Nevertheless, I agree with the comment of the **Williams** Court that this interpretation of the statute will lead to an “absurd result.” **Williams, supra**, 872 A.2d at 189. Indeed, I find it difficult to believe the legislature, when enacting this statute, intended to require the Commonwealth to prove a negative in every prosecution under this section.

Judge Lazarus joins the concurring statement.