

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
JARAY PELIER	:	
	:	
Appellant	:	No. 284 MDA 2017

Appeal from the Judgment of Sentence December 19, 2016
 In the Court of Common Pleas of Lackawanna County Criminal Division at
 No(s): CP-35-CR-0002461-2015

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

CONCURRING AND DISSENTING STATEMENT BY FITZGERALD, J.:

FILED DECEMBER 08, 2017

While I agree with the majority’s disposition of Appellant’s claims, I am of the view that the term “prison,” as used in 18 Pa.C.S. § 5123, does not include a police headquarters. Although a police station may contain temporary detention facilities, it is not a facility for housing persons convicted of crime or awaiting trial. ***Cf. Commonwealth v. Clark***, 761 A.2d 190, 193 (Pa. Super. 2000) (holding that police station is a “detention facility” for the purposes of aggravated harassment by a prisoner). Therefore, I respectfully concur in part and dissent in part.

* Former Justice specially assigned to the Superior Court.

