

**NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37**

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
EDWARD LEE MITCHELL, JR.	:	
	:	
Appellant	:	No. 441 MDA 2018

Appeal from the Order Entered February 21, 2018  
In the Court of Common Pleas of Dauphin County Criminal Division at  
No(s): CP-22-CR-0001894-2015,  
CP-22-CR-0003264-2015, CP-22-CR-0003608-2015,  
CP-22-CR-0003609-2015, CP-22-CR-0003655-2016

BEFORE: BOWES, J., MCLAUGHLIN, J. and STRASSBURGER, J.\*

CONCURRING MEMORANDUM BY STRASSBURGER, J.:

**FILED OCTOBER 11, 2018**

I agree with the Majority that Appellant has waived his claim to the confiscated funds by agreeing to have the funds applied to his restitution, fines, and costs, and thus the trial court’s order should be affirmed.

I write separately because I disagree with the Majority’s finding of untimeliness. Appellant raised the issue of having the confiscated funds applied to his restitution, costs, and fines, unsuccessfully, at least four times prior to the underlying Rule 588 motion for return of property. **See** N.T., 7/19/2016, at 19; *Pro Se* Petition for Disbursement of Confiscated Money, 11/14/2016; *Pro Se* Petition for Entry of Final Order, 1/9/2017; Amended

\*Retired Senior Judge appointed to the Superior Court.

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PCRA Petition, 7/6/2017. Accordingly, I would find that Appellant raised the issue in a timely manner.