

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
JOSE ORLANDO MORILLO	:	
	:	
Appellant	:	No. 1635 MDA 2019

Appeal from the Judgment of Sentence Entered August 26, 2019
In the Court of Common Pleas of Lancaster County Criminal Division at
No(s): CP-36-CR-0002555-2018

BEFORE: PANELLA, P.J., McLAUGHLIN, J., and STEVENS, P.J.E.*

CONCURRING MEMORANDUM BY STEVENS, P.J.E.: **FILED: MAY 27, 2020**

While I join the Majority’s decision to affirm the judgment of sentence and to grant counsel’s petition to withdraw, I respectfully do not join the decision in its entirety.

This Court has specifically found that an appellant fails to raise a substantial question when his challenge to the excessiveness of his sentence is premised on his argument that the trial court failed to consider mitigating circumstances. ***Commonwealth v. Radecki***, 180 A.3d 441, 469 (Pa.Super. 2018). “[T]his Court has held on numerous occasions that a claim of inadequate consideration of mitigating factors does not raise a substantial question for our review.” ***Id.*** (quoting ***Commonwealth v. Disalvo***, 70 A.3d

* Former Justice specially assigned to the Superior Court.

900, 903 (Pa. Super. 2013) and ***Commonwealth v. Eline***, 940 A.2d 421, 435 (Pa. Super. 2007)).

In this case, Appellant argues that the trial court's failure to consider mitigating circumstances in his challenge to what he labels as an "excessive" sentence is an abuse of discretion; thus, Appellant has failed to present a substantial question for our review.

As a result, I would not reach the merits of his challenge to the discretionary aspects of his sentence.