

2013 PA Super 56

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

MICHAEL L. HOWARD,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 2859 EDA 2011

Appeal from the Judgment of Sentence of September 23, 2011,
in the Court of Common Pleas of Philadelphia County,
Criminal Division at No. CP-51-CR-0002767-2010

BEFORE: BENDER, LAZARUS and COLVILLE*, JJ.

CONCURRING OPINION BY COLVILLE, J.:

Filed: March 19, 2013

I agree that Appellant is not entitled to relief; however, I would address his appellate issues as follows.

Appellant's first issue is a challenge to the warrantless search of his person. That search was conducted pursuant to his arrest. A search incident to a lawful arrest is a specifically established and well-delineated exception to the Fourth Amendment prohibition against warrantless searches. *In the Interest of O.A.*, 717 A.2d 490, 495 (Pa. 1998). Appellant does not challenge the legality of the arrest. Accordingly, Appellant's first issue is without merit.

*Retired Senior Judge assigned to the Superior Court.

Appellant's second issue is a challenge to the search of his property. That search was conducted pursuant to a search warrant. Appellant does not challenge the legality of the search warrant. Accordingly, this issue is also without merit.

For these reasons, I would affirm the judgment of sentence. Thus, I concur.