NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA Appellee v. HECTOR TRINIDAD Appellant	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 2988 EDA 2011

Appeal from the Judgment of Sentence July 14, 2011
In the Court of Common Pleas of Philadelphia County
Criminal Division at No(s): CP-51-CR-0014446-2009

BEFORE: GANTMAN, OLSON and FITZGERALD,* JJ.

MEMORANDUM BY OLSON, J.: Filed: January 16, 2013

Appellant, Hector Trinidad, appeals from the judgment of sentence entered on July 14, 2011, as made final by the denial of Appellant's post-sentence motion on September 9, 2011. We affirm.

The trial court has provided us with an excellent summary of the underlying facts and procedural posture. As the trial court explained:

> On September 2, 2008, [at] approximately 2:35 [p.m.], Appellant, Rolando Rosado, and another male [named "Scooby"], were standing on Rosado's porch[.] The [decedent, named Keith Bolden (hereinafter "Decedent Bolden"), and two other] males . . . walked towards [Rosado's] porch. [As a witness named K.J.] testified:
>
> > [As Decedent Bolden and the two other males] were coming down the block, approaching the porch, some words were exchanged between – well, not a whole conversation, but it just was like some animosity between these two . . . groups, and you know, weapons were pulled out and shots were fired. One group was retreating, running back, as [Appellant] and his group

*Former Justice assigned to the Superior Court.

> were firing towards the group. So they were exchanging fire[.]

[K.J.] explained that when [Decedent Bolden] and his group were in front of the porch, Appellant and his group were concealing their weapons. [K.J.] described the exchange of words as being with animosity. He testified that [Decedent Bolden's friend, named] Raynell, fired first, and then "it just went crazy from there." [K.J. testified] that once the firing began, [Decedent Bolden] and his group [were "actually] pointing their guns and firing towards the porch and retreating backwards." At some point, [K.J.] observed that [Decedent Bolden's] gun jammed and was not operating[. According to K.J., when Decedent Bolden's gun jammed, Decedent Bolden quickly turned around] and started to flee. Appellant and his group then ran [off of] the porch and Appellant began firing towards [Decedent Bolden while] Rosado and the other male shot at the others. [K.J.] then fled from the block.

Another witness, [named B.M.], testified about the shooting and gave a statement to police as follows[:]

> [] I was on my porch when I saw [Decedent Bolden] with four young boys. They were coming down G Street from the corner store. They were all creeping up and then they started to run. I saw that they all had guns and they started shooting toward the guys in front of Ms. Rose's house, my next-door neighbor. Then I saw [Appellant] and Scooby start shooting back towards [Decedent Bolden] and the young boys. I ran inside my house and hid behind the couch until the shooting stopped. Then I looked out the front of the house. I saw [Decedent Bolden] lying on the cement a couple of houses down from my house. There was a lady from the house that [Decedent Bolden] was in front of who put a pillow under his head and she put a napkin on his side where he was bleeding. Then the police came and the ambulance took him away[.]

[Decedent Bolden] was transported to Temple University Hospital and pronounced dead. An autopsy was conducted and it was determined that [Decedent Bolden] died as a

result of a single gunshot wound to the back and that the manner of death was homicide.

Police Officer Rose Matos [secured the crime scene]. Sergeant Steven Crosby arrived shortly thereafter and [supervised] the processing of the scene. [From the scene of the crime, Sergeant] Crosby and members of his unit recovered four firearms [as well as] live rounds, bullet fragments, and fired cartridge casings, all from .32 caliber, .45 caliber, and 9 [millimeter] weapons. Blood stains were observed and swab samples were made and submitted to the laboratory for analysis.

Officer Ernest Bottomer, of the Firearms Identification Unit, conducted forensic analysis on the ballistics evidence collected. [Officer Bottomer] analyzed [the] four guns [that were found at the scene of the crime:] a Bryco 9 [millimeter] pistol with a barrel length of [3 ¾ inches]; a Davis .32 caliber automatic firearm with a barrel length of [2 ¾ inches]; a Llama .45 caliber automatic [firearm] with a barrel length of [4 ¼ inches; and, a fourth weapon that had jammed as a result of] a double feed in the magazine . . . . [Officer] Bottomer [concluded that all four of the weapons were operable. N.T. Trial, 4/12/11, at 18, 24, 26, and 34-35. Officer Bottomer] also examined the fired cartridge casings recovered [at the scene] and [was able to conclusively determine that some of the cartridge casings were fired by] the weapons that he examined. [Further, although Officer Bottomer could not "conclusively" match all of the fired cartridge casings to a particular firearm, Officer Bottomer testified that the calibers of all fired cartridge casings were consistent with the firearms that he examined].

[A second incident] occurred [] on December 27, 2008[. At this time,] Rosado was *en route* to visit his mother [when] he encountered Appellant and another male [named] Luigi. Appellant and Luigi drew [their] weapons [on Rosado and] Luigi [asked Rosado] "What are you going to do now?" [Appellant and Luigi then fired their weapons] at Rosado. Rosado fled with Luigi giving chase. When Rosado slipped and fell[,] Luigi shot him in the back. Later, Rosado explained to Detective Phillip Nordo that he was shot because Appellant believed that he had given [a statement

> to the police] that incriminated Appellant in the shooting of [] Decedent Bolden.
>
> [At trial, the] Commonwealth introduced a sealed certificate of nonlicensure from the Pennsylvania State Police custodian of records indicating that on September 2, 2008, Appellant did not have a valid license to carry a firearm in the Commonwealth of Pennsylvania or a valid sportsman's permit. . . . [Appellant stipulated that he] has a prior conviction for [a]ggravated [a]ssault.
>
> . . .
>
> [With respect to the in the September 2, 2008 murder of Decedent Bolden,] Appellant was . . . charged with [third-degree murder, criminal conspiracy, carrying a firearm without a license, and possessing an instrument of crime. Appellant was also charged with attempted murder and criminal conspiracy in the December 27, 2008 shooting of Rosado. On June 11, 2010, the trial court granted the Commonwealth's motion to consolidate the charges against Appellant].
>
> [Appellant proceeded to a jury trial. With respect to the September 2, 2008 killing of Decedent Bolden, the jury found Appellant guilty only of carrying a firearm without a license and possessing an instrument of crime.[1, 2] T]he jury deadlocked [on the charges relating to the December 27, 2008 attempted murder of Rosado].
>
> [On April 20, 2011, Appellant was tried for violating section 6105 of the Uniform Firearms Act. Following a stipulated bench trial, the trial court found Appellant guilty of committing this offense]. . . .

---

[1] 18 Pa.C.S.A. §§ 6106(a)(1) and 907(a), respectively.

[2] With respect to the September 2, 2008 murder of Decedent Bolden, the jury found Appellant not guilty of third-degree murder and criminal conspiracy.

> [O]n July 14, 2011[,] Appellant was sentenced to [an aggregate] term of [six-and-one-half to 13] years [in prison. Appellant filed a timely post-sentence motion on Monday, July 25, 2011 and the trial court denied the motion on September 9, 2011].

Trial Court Opinion, 5/3/12, at 1-4 (internal citations omitted).

Appellant filed a timely notice of appeal and now raises the following claims:[3]

> [1.] The trial court's granting of the Commonwealth's consolidation motion constitutes reversible error.
>
> [2.] The Commonwealth failed[] as a matter of law regarding Crimes Code section [6106](a)(1), to prove the essential element of possession of a firearm in a "vehicle" or "concealment" of such firearm.
>
> [3.] The Commonwealth failed[] as a matter of law regarding Crimes Code section 907(b), to prove the essential element of "concealment" of a weapon (i.e., firearm).
>
> [4.] The Commonwealth failed[] as a matter of law regarding Crimes Code section [6105](a)(1), to prove the essential element of barrel length as required by section 6102 and also operability in connection with the purported firearm allegedly possessed by Appellant.

Appellant's Brief at i.

As Appellant first claims, the trial court erred when it granted the Commonwealth's motion to consolidate the offenses that were charged in

---

[3] The trial court ordered Appellant to file a concise statement of errors complained of on appeal, pursuant to Pennsylvania Rule of Appellate Procedure 1925(b). Appellant complied and, within his Rule 1925(b) Statement, Appellant listed the four claims he currently raises on appeal.

separate informations. According to Appellant, consolidation was improper because "[A]ppellant might have chosen to testify in one case but not the other," because "the jury was likely to have cumulated the evidence in both of the cases and assume[d] . . . that if [A]ppellant did one bad thing then he must have done the other bad thing," and because the Commonwealth's motion to consolidate was untimely filed. ***Id.*** at 8. Appellant's claim fails.

"Whether or not separate indictments [or informations] should be consolidated for trial is within the sole discretion of the trial court and such discretion will be reversed only for a manifest abuse of discretion or prejudice and clear injustice to the defendant." ***Commonwealth v. Keaton***, 729 A.2d 529, 537 (Pa. 1999) (internal quotations and citations omitted). "An abuse of discretion is not merely an error of judgment. Rather, discretion is abused when the law is overridden or misapplied, or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias, or ill-will, as shown by the evidence or the record." ***Commonwealth v. Flor***, 998 A.2d 606, 620 (Pa. 2010) (internal quotations and citations omitted).

As our Supreme Court has held, "[w]here the defendant moves to sever offenses not based on the same act or transaction that have been consolidated in a single indictment or information, or opposes joinder of separate indictments or informations," the trial court must determine:

> whether the evidence of each of the offenses would be admissible in a separate trial for the other; whether such evidence is capable of separation by the jury so as to avoid

> danger of confusion; and, if the answers to these inquiries are in the affirmative, whether the defendant will be unduly prejudiced by the consolidation of offenses.

Commonwealth v. Lark, 543 A.2d 491, 496-497 (Pa. 1988); ***see also*** Pa.R.Crim.P. 582(A); Pa.R.Crim.P. 583. If all three of the above elements favor joinder, consolidation is proper.

Therefore, we must first determine whether "the evidence of each of the offenses would be admissible in a separate trial for the other." Pa.R.Crim.P. 582(A)(1)(a). Our Supreme Court has explained:

> Evidence of distinct crimes are not admissible against a defendant being prosecuted for another crime **solely** to show his bad character and his propensity for committing criminal acts. However, evidence of other crimes and/or violent acts may be admissible in special circumstances where the evidence is relevant for some other legitimate purpose and not merely to prejudice the defendant by showing him to be a person of bad character. . . .
>
> The general rule prohibiting the admission of evidence of prior crimes . . . allows evidence of other crimes to be introduced to prove (1) motive; (2) intent; (3) absence of mistake or accident; (4) a common scheme, plan or design embracing commission of two or more crimes so related to each other that proof of one tends to prove the others; or (5) to establish the identity of the person charged with the commission of the crime on trial, in other words, where there is such a logical connection between the crimes that proof of one will naturally tend to show that the accused is the person who committed the other. . . .
>
> This list of "special circumstances" is not exclusive, and [the Pennsylvania Supreme] Court has demonstrated it will recognize additional exceptions to the general rule where the probative value of the evidence outweighs the tendency to prejudice the jury. . . . [Indeed, the Supreme Court has held that,] where evidence of other crimes . . . was part of the chain or sequence of events which became part of the

> history of the case and formed part of the natural development of the facts[,] . . . [the evidence] may be relevant and admissible. . . . This special circumstance, sometimes referred to as the "res gestae" exception to the general proscription against evidence of other crimes, is also known as the "complete story" rationale, *i.e.*, evidence of other criminal acts is admissible to complete the story of the crime on trial by proving its immediate context of happenings near in time and place. . . . [Our Supreme Court has also recognized that evidence of other crimes may be admissible where the] evidence constitute[s an] admission[] by conduct showing consciousness of guilt.

Lark, 543 A.2d at 497 and 500 (internal citations and corrections omitted and some internal quotations omitted) (emphasis in original); ***see also*** Pa.R.E. 404(b). Under our Rules of Evidence, where evidence of another crime is relevant to prove one of the above "special circumstances," the evidence is only admissible if "the probative value of the evidence outweighs its potential for prejudice." Pa.R.E. 404(b)(3).

In the case at bar, evidence of each crime would have been admissible in a separate trial for the other. First, evidence that Appellant attempted to murder Rosado would have been admissible in Appellant's separate trial for the September 2, 2008 murder of Decedent Bolden. Indeed, as Rosado testified, the entire reason Appellant tried to kill him on December 27, 2008 was because Appellant believed that Rosado had "ratted him out" to the police and that Rosado had told the police of Appellant's involvement in the September 2, 2008 murder of Decedent Bolden. ***See*** N.T. Trial, 4/6/11, at 99. This demonstrates that Appellant's motivation for shooting Rosado was Appellant's desire to eliminate a witness to the September 2, 2008 murder.

As such, Appellant's shooting of Rosado "constitute[s an] admission[] by conduct showing [Appellant's] consciousness of guilt" regarding the September 2, 2008 murder. ***Commonwealth v. Rega***, 933 A.2d 997, 1009-1010 (Pa. 2007) ("[the Pennsylvania Supreme Court] has long recognized that any attempt by a defendant to interfere with a witness's testimony is admissible to show a defendant's consciousness of guilt"); ***Commonwealth v. Goldblum***, 447 A.2d 234, 243 (Pa. 1982) (evidence that defendant had agreed to pay an undercover police officer $2,000.00 to kill a murder witness was admissible in defendant's underlying murder trial, as the evidence constituted "an admission by conduct of evidence of [the defendant's] consciousness of guilt"). Given the considerable probative value of this "admission by conduct," we have no hesitation in concluding that evidence regarding Appellant's attempted murder of Rosado would have been admissible in a separate trial for the murder of Decedent Bolden.

Likewise, evidence that Appellant murdered Decedent Bolden would have been admissible in a separate trial for Appellant's attempted murder of Rosado. Initially, such evidence would have been relevant and admissible to explain the motive behind Appellant's attempted murder of Rosado. Certainly, the evidence showed Appellant's inducement to murder Rosado: to eliminate a witness to Appellant's September 2, 2008 murder of Decedent Bolden. Further, evidence that Appellant murdered Decedent Bolden would have been admissible to "complete the story" of Appellant's attempted murder of Rosado, as the evidence explained "the natural development of

the case" and the reason Appellant chose to murder Rosado. Again, given the significant probative value of this evidence, we conclude that evidence regarding Appellant's murder of Decedent Bolden would have been admissible in a separate trial for Appellant's attempted murder of Rosado.

Our next inquiry is whether the evidence was "capable of separation by the jury so as to avoid [the] danger of confusion." ***Lark***, 543 A.2d at 497; ***see also*** Pa.R.Crim.P. 582(A)(1)(a). Here, the two shootings involved two different victims and occurred on two separate dates, at two distinct places, and for two very different (alleged) reasons. Moreover, the facts underlying the two shootings were simple and straightforward. Under these circumstances, the trial court was well within its discretion to conclude that consolidation posed no danger of jury confusion, as the jury could easily separate the evidence related to each shooting. ***See***, ***e.g.***, ***Commonwealth v. Collins***, 703 A.2d 418, 423 (Pa. 1997) ("[w]here a trial concerns distinct criminal offenses that are distinguishable in time, space and the characters involved, a jury is capable of separating the evidence").[4]

Finally, we must determine whether Appellant was "unduly prejudiced by the consolidation of offenses." ***Lark***, 543 A.2d at 497; ***see also***

---

[4] We note that the jury, in fact, demonstrated that it could separate the evidence pertaining to the two shootings. Indeed, the jury acquitted Appellant of murder and conspiracy with respect to the killing of Decedent Bolden and deadlocked on the charges relating to the attempted murder of Rosado.

Pa.R.Crim.P. 583. As our Supreme Court has explained, when consolidation of offenses is the issue, "prejudice":

> [i]s not simply . . . that appellant will be linked to the crimes for which he is being prosecuted, for that sort of prejudice is ostensibly the purpose of all Commonwealth evidence. The prejudice of which [Pennsylvania Rule of Criminal Procedure 583] speaks is rather that which would occur if the evidence tended to convict appellant only by showing his propensity to commit crimes, or because the jury was incapable of separating the evidence or could not avoid cumulating the evidence.

Collins, 703 A.2d at 423, *quoting* ***Lark***, 543 A.2d at 499. Moreover, we have "identified three specific types of prejudice which may inure to [a defendant] when tried at one trial for several offenses." ***Commonwealth v. Boyle***, 733 A.2d 633, 638 (Pa. Super. 1999). These three types of prejudice are:

> (1) the defendant may be embarrassed in presenting defenses, as where his defense to one charge is inconsistent with his defenses to others; (2) the jury may use evidence of the additional crimes to infer criminal disposition, and find guilt on the basis of this inference; or (3) the jury may cumulate evidence of the various crimes to find guilt, when it would not so find had it considered the evidence of each offense separately.

Id.

According to Appellant, consolidation caused him unfair prejudice because he "might have chosen to testify in one case but not the other" and because "the jury was likely to have cumulated the evidence in both of the cases and assume[d] . . . that if [A]ppellant did one bad thing then he must have done the other bad thing." Appellant's Brief at 8. Both claims fail.

At the outset, Appellant baldly claims that consolidation caused him prejudice because he "might have chosen to testify in one case but not the other." ***Id.*** Appellant has not developed this claim. Indeed, even assuming that the claim is based upon an assertion that Appellant's "defense to one charge [was] inconsistent with his defense[] to other[charges]," Appellant has presented this Court with no explanation as to what defenses he could have asserted, had the offenses been severed. Appellant has thus waived this claim. ***Commonwealth v. Spotz***, 716 A.2d 580, 585 n.5 (Pa. 1999) ("[the Pennsylvania Supreme Court] has held that an issue will be deemed to be waived when an appellant fails to properly explain or develop it in his brief").

Appellant also claims that consolidation caused him unfair prejudice because "the jury was likely to have cumulated the evidence in both of the cases and assume[d] . . . that if [A]ppellant did one bad thing then he must have done the other bad thing." Appellant's Brief at 8. Yet, as this Court has already explained, evidence of each crime would have been admissible in a separate trial for the other. Further, had there been separate trials, evidence of Appellant's "other bad acts" would not have been admissible "solely to show [Appellant's] bad character [or] his propensity for committing criminal acts." ***Lark***, 543 A.2d at 497; ***see also*** Pa.R.E. 404(b). Rather, the evidence would have been admissible to prove motive, the natural development of the case, and Appellant's consciousness of guilt. Appellant's claim of prejudice thus fails.

In conclusion, "the evidence of each of the offenses would [have been] admissible in a separate trial for the other," the "evidence [was] capable of separation by the jury so as to avoid [the] danger of confusion," and Appellant was not "unduly prejudiced by the consolidation of offenses." ***Lark***, 543 A.2d at 497. As such, the trial court did not abuse its discretion when it consolidated the informations against Appellant.[5]

Appellant's final three claims all challenge the sufficiency of the evidence to support his convictions. These claims are completely undeveloped and are, thus, waived. ***Spotz***, 716 A.2d at 585 n.5 (Pa. 1999). Further, and in the alternative, we conclude that Appellant's sufficiency claims fail, as the claims are meritless. ***See Commonwealth v. Markman***, 916 A.2d 586, 606 (Pa. 2007) ("[w]here a decision rests on two or more grounds equally valid, none may be relegated to the inferior status of *obiter dictum*"), *quoting* ***Commonwealth ex rel. Fox v. Swing***, 186 A.2d 24, 26

---

[5] Appellant also claims that the trial court erred in granting the Commonwealth's motion to consolidate, as the Commonwealth filed its motion beyond the 30-day period established by Pennsylvania Rule of Criminal Procedure 579. Here, however, the trial court granted the Commonwealth's pretrial motion one year before trial and Appellant has not even claimed that he was prejudiced by the delay in filing the motion. Therefore, Appellant's claim automatically fails. ***Commonwealth v. Baez***, 21 A.3d 1280, 1282 (Pa. Super. 2011) (claim that the trial court erred in granting an untimely pretrial motion necessarily failed, as the appellant did not "claim [or] argue that the delay [in filing the Rule 579 motion] prejudiced [the appellant] in any[]way"); ***Commonwealth v. Chmiel***, 889 A.2d 501, 528 (Pa. 2005) ("[m]ere error in the abstract is not sufficient to warrant a retrial").

(Pa. 1962); ***see also Commonwealth v. Reed***, 971 A.2d 1216, 1220 (Pa. 2009) (where Superior Court determined that appellant's claims were both waived and meritless, the merits-based decision "was a valid holding [and] constitutes the law of the case").

We review Appellant's sufficiency of the evidence challenges under the following standard:

> The standard we apply in reviewing the sufficiency of the evidence is whether viewing all the evidence admitted at trial in the light most favorable to the verdict winner, there is sufficient evidence to enable the fact-finder to find every element of the crime beyond a reasonable doubt. In applying the above test, we may not weigh the evidence and substitute our judgment for [that of] the fact-finder. In addition, we note that the facts and circumstances established by the Commonwealth need not preclude every possibility of innocence. Any doubts regarding a defendant's guilt may be resolved by the fact-finder unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances. The Commonwealth may sustain its burden of proving every element of the crime beyond a reasonable doubt by means of wholly circumstantial evidence. Moreover, in applying the above test, the entire record must be evaluated and all evidence actually received must be considered. Finally, the trier of fact while passing upon the credibility of witnesses and the weight of the evidence produced, is free to believe all, part or none of the evidence.

Commonwealth v. Brown, 23 A.3d 544, 559-560 (Pa. Super. 2011) (*en banc*), *quoting* ***Commonwealth v. Hutchinson***, 947 A.2d 800, 805-806 (Pa. Super. 2008).

Appellant's sufficiency claims require little discussion. Appellant first claims that the evidence was insufficient to support his conviction under 18

Pa.C.S.A. § 6106(a)(1). According to Appellant, the Commonwealth failed to prove that his firearm was "concealed." Appellant's Brief at 9. This claim fails.

With respect to the September 2, 2008 murder of Decedent Bolden, Appellant was convicted of "firearms not to be carried without a license," as defined within 18 Pa.C.S.A. § 6106(a)(1). In relevant part, section 6106(a)(1) provides:

> . . . any person who carries a firearm in any vehicle or any person who carries a firearm concealed on or about his person, except in his place of abode or fixed place of business, without a valid and lawfully issued license under this chapter commits a felony of the third degree.

18 Pa.C.S.A. § 6106(a)(1).

While Appellant now claims that the Commonwealth failed to prove he concealed the firearm on his person, it is clear that Appellant's claim is factually baseless. Indeed, an eyewitness to the shooting specifically testified that – immediately prior to the September 2, 2008 shooting – Appellant was standing on the porch concealing his gun. N.T. Trial, 4/7/11, at 24-25. Viewing this evidence in the light most favorable to the Commonwealth as the verdict winner, Appellant's sufficiency of the evidence claim fails.

Next, Appellant claims that the evidence was insufficient to support his "possessing an instrument of crime" conviction, as the Commonwealth failed to prove that he concealed the firearm. In the case at bar, however, Appellant was convicted of possessing an instrument of crime under 18

Pa.C.S.A. § 907(a). This subsection simply does not require that the Commonwealth prove concealment. Rather, section 907(a) provides: "A person commits a misdemeanor of the first degree if he possesses any instrument of crime with intent to employ it criminally." 18 Pa.C.S.A. § 907(a). Therefore, Appellant's claim is meritless.

Finally, Appellant claims that the Commonwealth failed to prove he violated 18 Pa.C.S.A. § 6105(a)(1), because the Commonwealth failed to prove "the required elements of barrel length and operability." Appellant's Brief at 11. This claim has no legal basis.

Section 6105, entitled "[p]ersons not to possess, use, manufacture, control, sell or transfer firearms," provides in relevant part: "[a] person who has been convicted of an [enumerated] offense . . . shall not possess, use, control, sell, transfer or manufacture . . . a firearm in this Commonwealth." 18 Pa.C.S.A. § 6105(a)(1). As used within section 6105, the term "firearm" is defined to "include any weapons which are designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon." 18 Pa.C.S.A. § 6105(i).

Thus, under the plain language of the statute, to establish a violation of section 6105, the Commonwealth is not required to prove either "barrel length" or "operability." Appellant's final claim on appeal necessarily fails. ***See also Commonwealth v. Gillespie***, 821 A.2d 1221, 1225 (Pa. 2003) (majority of the Pennsylvania Supreme Court recognized that "barrel length is no longer an essential element of the offense under [section] 6105");

Commonwealth v. Thomas, 988 A.2d 669, 672 (Pa. Super. 2009) (holding that "operability" is not an essential element of section 6105).

Judgment of sentence affirmed.