NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA, Appellee v. JEROME ARMSTRONG, Appellant	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 3023 EDA 2011

Appeal from the Judgment of Sentence entered October 26, 2011
In the Court of Common Pleas of Philadelphia County
Criminal Division at No(s): CP-51-CR-0003229-2010

BEFORE: OLSON, WECHT AND COLVILLE,* JJ.

MEMORANDUM BY OLSON, J.: **FILED JUNE 07, 2013**

Appellant, Jerome Armstrong, appeals from the judgment of sentence entered October 26, 2011, as made final by the denial of his post-sentence motions, committing him to life without the possibility of parole, for convictions of first-degree murder and possession of an instrument of crime ("PIC"). We affirm.

The trial court summarized the relevant factual and procedural history of this matter as follows:

> On June 13, 200[9], Tamika Nicole Way and her husband Brian Way (the victim), stopped at a store (later identified as the Joselin Grocery Store) located at 18th and Huntingdon Streets to pick up pies to make pie a la mode. Mrs. Way stayed in the car with their daughter while her husband went into the store. While he was in the store, Mrs. Way heard four shots behind her. She looked in the rearview mirror and saw people running from the store. She did not see her husband, so she exited the car and went into the store. The owner of the store motioned her

*Retired Senior Judge assigned to the Superior Court.

over to the area where her husband was lying in a pool of blood. Her husband was conscious, but could not speak. He died shortly thereafter. Mrs. Way gave police a description of a man wearing blue jeans and a blue striped shirt running from the store after she heard the gunshots. She saw him go south on 18th Street. She did not see the person's face, nor did she see a gun.

Mrs. Way testified that her husband (also known as Brock) knew the [Appellant] (also known as Duck) and that he told her that in the past, there had been an altercation with the [Appellant] over a gun and that [Appellant] thought that her husband or his cousin, Daniel Way (also known as Pricey (PH)), had taken the gun. However, he told her that there was no ongoing dispute and that he was not concerned about [Appellant], because he believed that everything was "okay" between them.

Manuel Peralta testified that he was on the corner outside the Joselin Grocery Store at approximately 7:20 p.m. on June 13, 2009 when he heard about four or five gunshots. As he was walking toward the entrance of the store, somebody walked out (he could only see that person's back and could not identify the person) when he heard his aunt scream. Mr. Peralta described the person he saw walking out of the store as a black male, in his late twenties, six foot two, 200 – 210 pounds, wearing blue jeans and a dark blue shirt with white stripes, holding a gun. Mr. Peralta saw the male walk south down 18th Street and enter a house 17 houses from the grocery store. Mr. Peralta called 911.

Police Office Gary Geraldo of the Crime Scene Unit processed the scene. Officer Geraldo testified he received several items: fired cartridge casings, projectiles, and copper fragments. He found no usable fingerprints or weapons.

Police Office William Robbins responded to a police radio call of a person with a gun and a reported shooting in the area of 18th and Huntingdon Streets. When Officer Robbins arrived at the grocery store, he observed the [victim], with his eyes open, but unresponsive. The medics arrived and transported the [victim] to the hospital. Police Office Rosado (first name not given) spoke to Manuel Peralta; as a result of that conversation, Officer Robbins proceeded south on 18th Street with other officers. The officers initially went to [] N. 18th Street and were

redirected next door (to a house with a red awning). The officers did not find anyone who matched the description of the male given over police radio.

Rasheeda Tyler, a woman who had previously dated the [Appellant], testified that on the day of the shooting, she was living at [] N. 18th Street. Her house had a green awning; her neighbor had a red awning. The [Appellant] had stopped at her house for an unexpected visit (they had been broken up for about one year at the time) and then left to get a pack of cigarettes. A few minutes later she heard gunshots. When [Appellant] returned to the house, he told her that they needed to leave.

Ms. Tyler stated that the [Appellant's] mood was different when he returned. She kept asking him why they had to leave and he eventually told her that there had been a shooting at the store and that he had shot someone. She described [Appellant] as wearing blue jeans and a blue striped shirt. Ms. Tyler then drove [Appellant] to Broad Street and Girard Avenue. She returned home, and from the top of her street she could see police officers on her porch. After calling a relative, she went home and spoke to the police who took her to the police station to make a statement. On cross-examination, Ms. Tyler stated that she had not seen [Appellant] with a gun that day.

Daniel Way, the [victim's] cousin, testified that he and [Appellant] were from the same neighborhood and that he knew [Appellant] as "Duck." Mr. Way stated that in 2007 he had been at the home of a gentleman named Shawn Faulkner. While there, he saw a 9 millimeter gun which allegedly belonged to [Appellant]. The next day the gun was missing. After finding a note from "Duck," Mr. Way had a conversation with [Appellant] regarding the missing gun. He told [Appellant] that neither he nor his cousin had the gun. About two weeks later [Appellant] called Daniel Way and told him that he was going to kill him or his cousin (the victim) the next time he saw either of them. On the night [Appellant] had been shot in 2007, the victim had

called Daniel Way and told him that he went to confront [Appellant] about the gun and ended up shooting him.[1]

April Giddings, who has two children with [Appellant], testified that they had been living together on June 13, 2009. He had left the house at about noon that day and did not return. Ms. Giddings was not concerned because they had had an argument earlier that day. When he left the house [Appellant] was wearing blue jeans and a striped blue shirt. A few days later [Appellant] contacted her by phone. When they met, he told her that the police had chased him and that he had to get rid of his shirt.

About two weeks later she met with him again at a room he had been keeping at 52nd and Reno Streets. Her mother called while she was there and told her that the police were at her house. Ms. Giddings called the police and was told that [Appellant] had killed someone. She then told the police where they could find [Appellant]. She also told police that [Appellant] had told her that he had to throw away his shirt and his bag because the police had been chasing him. Ms. Giddings remembered [Appellant] telling her in 2007 that someone had shot him in a fight over a gun. On cross-examination, Ms. Giddings stated that [Appellant] never told her that he had shot anyone on June 13th.

Police Office Edward Eric Nelson of the Firearms Identification Unit testified that he received and examined six fired cartridge cases from a 9 millimeter Luger, two bullet specimens, and one bullet jacket fragment. Two additional fragments recovered from the Medical Examiner's Office were insufficient to test; these fragments were also from a 9 millimeter weapon.

Dr. Edward Lieberman, Assistant Medical Examiner, testified that [the victim] suffered multiple gunshot wounds: one to the right shoulder blade which went through the spinal column and spinal cord and instantly rendered [the victim] paralyzed (the fatal shot); one to the back and outside the right

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[1] Police Office David Blackburn testified that on November 17, 2007, he went to [] Franklin Place in response to a report of gunshots. Office Blackburn met with [Appellant] who told him that he did not know who shot him.

buttocks; two that were clustered in the groin region and lower abdomen; and one in the front side of his thigh. Dr. Lieberman concluded that death was caused by multiple gunshot wounds and that the manner of death was homicide.

For the defense, Sheila Manigo testified that she was in a relationship with [Appellant] in June of 2009 and was with him on June 13th. She specifically remembers [Appellant] being at her house on June 13, 2009, because it was her boyfriend's birthday and he went away that week to Ocean City, Maryland. (She also testified that [Appellant] could not visit her while her boyfriend was there.) She stated that she and [Appellant] never left her house located at [] 6th Street.

On cross-examination, Ms. Manigo testified that on June 13th she and [Appellant] had been together the entire day and night. According to Ms. Manigo, she never called the police or told anyone that the police had the wrong man. Ms. Manigo also denied discussing the case with [Appellant] despite their numerous conversations and visits following his arrest. (It was revealed that Ms. Manigo and [Appellant] spoke on the phone 91 times between October 10, 2010 and June 6, 2011 and that she visited him in prison at least five times since he was arrested.) Ms. Manigo did not come forward and give a statement regarding the shooting until May 7, 2011 when [she] told the defense investigator that she remembered the date because it was her boyfriend's birthday and he was out of town.

[Appellant] testified on his own behalf. He stated that he did not know the victim, Brian Way, nor does he know Tamika Way; that he does know Daniel Way because Daniel used to hang out with his brother; that he knows Shawn Faulkner, but never stored a gun at his house; and that he does not know who shot him in 2007 and if he did, he would have gone to the police. [Appellant] denied being at 18th and Huntingdon Streets on June 13, 2009. He testified that he has never been in the Joselin Grocery Store; that he did not see Rasheeda Tyler on June 13th, nor were there any phone calls to her about getting back together; and that April Giddings lied about living together at the time of the shooting. He said that he did not shoot [the victim], and [the victim] did not shoot him.

On rebuttal, Hameed Douglas testified that he was living with his girlfriend Sheila Manigo at [] N. 6th Street on June 13, 2009. He remembered that in June 2009, he and his friend,

> Saleh McGill, went to Atlantic City for the night. Mr. Douglas was home by three or four o'clock the next afternoon. He and Sheila had been living together for about 2 years; her three children also lived there. Mr. Douglas knew the [Appellant] was a past boyfriend, but did not think that there was anything going on between Sheila and [Appellant] while they were dating. He and Sheila had broken up in October 2009 for reasons other than her relationship with [Appellant].
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> Saleh McGill testified that he has been friends with Hameed Douglas since childhood. He stated that he went to Atlantic City with Hameed for his birthday in June 2009.

Trial Court Opinion, 5/10/2012, at 2-9 (citations to the record omitted, footnote in original).

Appellant underwent a jury trial, and on October 26, 2011, the jury found him guilty of first-degree murder and PIC. The trial court immediately sentenced Appellant to life without the possibility of parole for his first-degree murder conviction and imposed no further penalty for his PIC conviction. Appellant filed post-sentence motions, which the trial court denied. This timely appeal followed.

Appellant presents five issues for appeal:

> 1. Whether there was insufficient evidence to sustain the verdict. The Commonwealth failed to meet its burden to prove each and every element of the crimes charged: (1) pursuant to 18 Pa.C.S.A. § 2502(a), to be convicted of violation of homicide in the first[-]degree, an individual must be found to be guilty of an intentional killing, meaning a killing by a willful, deliberate and premeditated killing. ***See also*** § 2502(d); (2) pursuant to 18 Pa.C.S.A. § 907(a) a person commits a misdemeanor in the first degree if he possesses any instrument of a crime with the intent to employ it criminally, in this case a gun. [Appellant] avers that the evidence presented to the jury was insufficient to find the [Appellant] guilty of either charge.

2. Whether the verdict was against the weight of the evidence because the testimony of the Commonwealth witnesses were in conflict.

3. Whether the trial court erred in denying the defense in bringing in the decedent's prior convictions and the Commonwealth even conceded during its closing that the decedent was not "without problems in his past." [Appellant] avers that this hindered the defense that someone, other than the [Appellant], was responsible for the decedent's death.

4. Whether the trial court's ruling to allow hearsay communications between the decedent and his wife, Tamika Way, that took place four years before trial about an alleged shooting between the decedent and the [Appellant] violated the hearsay rule. [Appellant] asserts that this was extremely prejudicial to this case and the Commonwealth's evidence was inadmissible.

5. Whether the trial court erred by ruling that the hearsay testimony of conversations between the decedent and his cousin, Daniel Way, about a conversation that occurred four years before trial was admissible[.] The trial court permitted Daniel Way to testify concerning a self-defense shooting that [involved the victim and the Appellant, in violation of] the hearsay rule. This decision was extremely prejudicial to the [A]ppellant and the Commonwealth's testimony in this regard was inadmissible.

Appellant's Brief at 3.[2]

Appellant's first issue on appeal challenges the sufficiency of the evidence, which we consider under a well-accepted standard of review.

> The standard we apply in reviewing the sufficiency of evidence is whether, viewing all the evidence admitted at trial in the light most favorable to the verdict winner, there is sufficient evidence

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[2] The requirements of Pennsylvania Rule of Appellate Procedure 1925 have been satisfied in this matter.

> to enable the factfinder 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 a 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. Muniz, 5 A.3d 345, 348 (Pa. Super. 2010) (internal citations and quotations omitted), *appeal denied*, 19 A.3d 1050 (Pa. 2011).

Appellant challenges the sufficiency of the evidence for both of his convictions, first-degree murder and PIC. Appellant's Brief at 16-20. Pursuant to Pennsylvania law:

> A person is guilty of first-degree murder where the Commonwealth proves that (1) a human being was unlawfully killed; (2) the person accused is responsible for the killing; and (3) the accused acted with specific intent to kill. 18 Pa.C.S.A. § 2502(a), (d); ***Commonwealth v. DeJesus***, 860 A.2d 102, 105–106 (Pa. 2004). An intentional killing is a "[k]illing by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing." 18 Pa.C.S.A. § 2502(d). Specific intent to kill can be inferred from the use of a deadly weapon on a vital part of the victim's body. ***DeJesus,*** 860 A.2d at 106.

Commonwealth v. Bedford, 50 A.3d 707, 711 (Pa. Super. 2012) (parallel citations omitted).

With regard to PIC, pursuant to Pennsylvania statute, "[a] person commits a misdemeanor of the first degree if he possesses a firearm or other weapon concealed upon his person with intent to employ it criminally." 18 Pa.C.S.A. § 907.

In this matter, Appellant argues that the evidence presented established that there was no on-going dispute between him and the victim, and that his actions were therefore not willful, deliberate, or premeditated. Appellant's Brief at 18-19. Accordingly, Appellant argues that the evidence was insufficient to convict him of first-degree murder because, according to Appellant, the Commonwealth failed to present evidence that he "had the motive for intent to kill" the victim. ***Id.*** at 20. Furthermore, with regard to his conviction for PIC, Appellant argues that there was insufficient evidence to establish that Appellant was the shooter or that he possessed a firearm on the date of the incident. ***Id.***

The record, however, belies Appellant's claims. Indeed, the Commonwealth presented multiple witnesses who identified the clothing worn by the shooter as that of Appellant's. Additionally, the Commonwealth presented a witness who informed police where the shooter fled to immediately after the incident. Police went to that location and found Appellant's girlfriend, to whom Appellant had confessed the murder. Such evidence, when viewed in the light most favorable to the Commonwealth as the verdict winner, is sufficient to establish Appellant as the shooter involved

in the incident on June 13, 2009.

Having established that Appellant was the shooter involved in the incident that killed the victim, the evidence was sufficient to convict Appellant of first-degree murder and PIC. Indeed, with regard to Appellant's challenge to the lack of motive for the murder, we remind Appellant that specific intent to kill can be inferred from the use of a deadly weapon upon a vital part of the body. ***See DeJesus***, 860 A.2d at 106. Regardless of the status of the relationship between Appellant and the victim prior to the shooting, having presented evidence that Appellant shot the victim multiple times, resulting in the victim's death, the Commonwealth presented sufficient evidence of Appellant's specific intent to kill.

Similarly, having presented sufficient evidence that Appellant was the shooter on the date in question, the Commonwealth presented sufficient evidence of Appellant's possession of an instrument of crime – the gun used to kill the victim. Appellant's challenges to the sufficiency of the evidence are without merit.

Appellant's second issue on appeal challenges the weight of the evidence for both of his convictions. ***See*** Appellant's Brief at 20-23. We note that to preserve a weight of the evidence claim, Pennsylvania Rule of Criminal Procedure 607 sets forth that:

> (A) A claim that the verdict was against the weight of the evidence shall be raised with the trial judge in a motion for a new trial:

(1) orally, on the record, at any time before sentencing;

(2) by written motion at any time before sentencing; or

(3) in a post-sentence motion.

Pa.R.Crim.P. 607. In this matter, Appellant filed a timely post-sentence motion challenging the weight of the evidence. Therefore, Appellant has properly preserved his weight of the evidence claim for our consideration.

Our standard of review for weight of the evidence claims is as follows:

> A motion for a new trial alleging that the verdict was against the weight of the evidence is addressed to the discretion of the trial court. An appellate court, therefore, reviews the exercise of discretion, not the underlying question whether the verdict is against the weight of the evidence. The factfinder is free to believe all, part, or none of the evidence and to determine the credibility of the witnesses. The trial court will award a new trial only when the jury's verdict is so contrary to the evidence as to shock one's sense of justice. In determining whether this standard has been met, appellate review is limited to whether the trial judge's discretion was properly exercised, and relief will only be granted where the facts and inferences of record disclose a palpable abuse of discretion. Thus, the trial court's denial of a motion for a new trial based on a weight of the evidence claim is the least assailable of its rulings.

Commonwealth v. Cousar, 928 A.2d 1025, 1035-1036 (Pa. 2008), *cert. denied*, 553 U.S. 1035 (2008).

Appellant's claim that the verdict was against the weight of the evidence rests largely upon his own testimony, claiming that, contrary to the Commonwealth's evidence, he did not know the victim or several of the Commonwealth's witnesses, he was not at the scene of the incident, and he did not shoot the victim. ***Id.*** at 22-23. Additionally, Appellant challenges the reliability of the Commonwealth's evidence, claiming that the evidence

consisted of inconclusive identification testimony and hearsay. ***Id.*** at 23. Consequently, Appellant argues that the jury's verdict was so contrary to the evidence that should shock one's sense of justice that he should be granted a new trial. ***Id.***

We disagree. Rather, contrary to Appellant's claims, the Commonwealth presented overwhelming and consistent evidence identifying Appellant as the individual who shot and killed the victim. That the jury accepted the Commonwealth's evidence and explanation of events, as opposed to Appellant's, does not amount to a miscarriage of justice. The jury was free to believe all or none of Appellant's testimony. Having found him guilty, the jury obviously rejected Appellant's testimony and accepted that presented by the Commonwealth. Nothing that Appellant identifies results in a shock to one's sense of justice. Consequently, Appellant's weight of the evidence claim is without merit.

Appellant's final three claims all challenge the trial court's admission of certain evidence. The admission of evidence is within the sound discretion of the trial court and will be reversed only upon a showing that the trial court clearly abused its discretion. ***Commonwealth v. Lilliock***, 740 A.2d 237, 234 (Pa. Super. 1999). Further, an erroneous ruling by a trial court on an evidentiary issue does not require us to grant relief where the error is harmless. ***Commonwealth v. Mitchell***, 839 A.2d 202, 214 (Pa. 2003).

Pennsylvania Rule of Evidence 402 sets forth that "[a]ll relevant evidence is admissible, except as otherwise provided by law. Evidence that is not relevant is not admissible." Pa.R.E. 402. Furthermore, pursuant to Rule 401:

> Evidence is relevant if:
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> (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
>
> (b) the fact is of consequence in determining the action.

Pa.R.E. 401.

Appellant's first challenge to the admission of evidence argues that the trial court erred in excluding evidence regarding the victim's prior convictions. Appellant's Brief at 24-25. Appellant argues that the evidence was relevant and therefore should have been admitted. ***Id.*** Appellant asserts that exclusion of evidence regarding the victim's past convictions hindered Appellant's defense that someone other than himself shot the victim. ***Id.*** at 24. Appellant claims that the exclusion of the evidence regarding the victim's convictions was made more egregious by the fact that during its closing argument the Commonwealth conceded that the victim was not "without problems in his past." ***Id.*** at 24-25. Consequently, Appellant argues that he suffered prejudice which entitled him to a new trial. ***Id.*** at 25.

The trial court, however, denied the admission of evidence regarding the victim's prior acts, finding the evidence to be irrelevant. Trial Court

Opinion, 5/10/2012, at 15-16. We find no abuse of discretion in the trial court's determination.

Indeed, as the trail court explained, pursuant to long established Pennsylvania precedent,

> when self-defense is properly at issue, evidence of the victim's prior convictions involving aggression may be admitted, if probative, either (1) to corroborate the defendant's alleged knowledge of the victim's violent character, to prove that the defendant was in reasonable fear of danger, or (2) as character/ propensity evidence, as indirect evidence that the victim was in fact the aggressor.

Commonwealth v. Mouzon, 53 A.3d 738, 740-741 (Pa. 2012). In this matter, however, self-defense was not properly at issue. Appellant's defense was based purely upon mistaken identification / alibi (arguing that he was not there and was not the shooter), not self-defense. Therefore, the victim's prior convictions were not relevant for the traditional reasons as set forth in ***Mouzon***. Furthermore, but for baldly claiming that the victim's prior convictions were relevant to his defense that someone else shot the victim, Appellant fails to set forth how they are relevant in this matter. Consequently, Appellant's appeal of the exclusion of this evidence lacks merit.

Appellant's final two evidentiary claims argue that the trial court abused its discretion in admitting into evidence testimony that Appellant

argues was inadmissible hearsay. Appellant's Brief at 25-30.[3] The testimony that Appellant challenges came from two witnesses and regarded conversations that the victim had with his wife and cousin. Specifically, the victim's wife testified that, prior to the incident in question, the victim told her that, in 2007, he shot Appellant following a misunderstanding about a gun. ***Id.*** at 25. Furthermore, the victim's wife testified that her husband had told her that there was no on-going dispute between him and Appellant, and that everything was "okay" between them. ***Id.*** at 26. The victim's cousin also testified about the prior shooting, explaining that in 2007, the victim called him and said that he had confronted Appellant about the gun misunderstanding, and had shot Appellant. ***Id.*** at 29. On appeal, Appellant argues that the testimony from the victim's wife and cousin was inadmissible hearsay, the prejudicial effect of which entitles Appellant to a new trial. ***Id.*** at 29-30.

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[3] We note that, contrary to the Commonwealth's argument in favor of waiver for lack of preservation (***see*** Commonwealth's Brief at 13 & 16), Appellant's motion *in limine* seeking to exclude the challenged testimony preserved his appeal of the admission of the testimony, even without a renewed contemporaneous objection at trial. ***See*** Pa.R.E. 103(a)(2) ("Once the court makes a definitive ruling on the record admitting or excluding evidence, either at or before trial, a party need not renew an objection or offer of proof to preserve a claim of error for appeal."); ***Blumer v. Ford Motor Co.***, 20 A.3d 1220, 1232 (Pa. Super. 2011) ("a motion in *limine* may preserve an objection for appeal at trial, but only if the trial court clearly and definitely rules on the motion.") In this matter, the certified record reveals that the trial court ruled on Appellant's motion *in limine* seeking to exclude the challenged testimony. Therefore, Appellant's appeal of the admission of that evidence is not waived.

We disagree. Specifically, pursuant to the Pennsylvania Rules of Evidence, "[h]earsay' is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Pa.R.E. 801(c). Under Rule 802, "[h]earsay is not admissible except provided by these rules, by other rules proscribed by the Pennsylvania Supreme Court, or by statute." Pa.R.E. 802.

Rule 804 sets forth exceptions to the rule excluding hearsay testimony where a declarant is considered "unavailable." Pursuant to Rule 804, a declarant is considered "unavailable" where, *inter alia*, the declarant "is unable to be present or to testify at the hearing because of death…" Pa.R.E. 804(a)(4). Among the exceptions listed in Rule 804 are statements against interest, defined as follows:

> A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. In a criminal case, a statement tending to expose the declarant to criminal liability is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

Pa.R.E. 804(b)(3).

In this matter, the deceased victim was the declarant in the challenged testimony. Therefore, the declarant was clearly unavailable pursuant to Rule 804(a)(4). Moreover, the deceased victim's statements, wherein he admitted to having committed a serious crime (therefore exposing himself to

criminal liability), constituted statements against his criminal interest that fit within the hearsay exception set forth at Rule 804(b)(3). Additionally, corroborating circumstances clearly indicate the trustworthiness of the challenged statements. Such corroborating circumstances include the seriousness of the crime to which the victim was admitting, the victim's interest in maintaining his wife's safety at the time of the statement, and the victim's cousin's interest in knowing that the dispute with Appellant had been resolved. Therefore, we hold that the trial court did not abuse its discretion in admitting the challenged testimony. Appellant is not entitled to a new trial on these evidentiary grounds.

Judgment of sentence affirmed.

Wecht, J., files a Concurring Memorandum.

Colville, J., concurs in the result.

Judgment Entered.

Prothonotary

Date: 6/7/2013