

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

JACK J. JAROSZ, JR.,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 372 WDA 2012

Appeal from the Judgment of Sentence entered August 17, 2011
In the Court of Common Pleas of Bedford County,
Criminal Division, at No(s): CP-05-CR-0000316-2008

BEFORE: ALLEN, J., WECHT, J., and STRASSBURGER, J.*

CONCURRING AND DISSENTING MEMORANDUM BY WECHT, J.:

Filed: February 22, 2013

I concur in the result reached by the learned majority. I agree that Appellant failed to preserve his first claim (regarding the Commonwealth's references to alcohol consumption) through timely objection at trial. I also join in the majority's rejection of Appellant's second claim, in which Appellant challenges the sufficiency of the evidence to support his conviction for homicide by vehicle.

However, I must respectfully dissent in part.

Specifically, I write separately to note my disagreement with the majority's decision to reach the merits of Appellant's first issue. In light of

* Retired Senior Judge assigned to the Superior Court.

Appellant's waiver of the issue, I do not believe it necessary to reach those merits. With respect to the merits, had Appellant properly preserved his claim, I would not be as readily prepared as the majority to minimize the potential prejudicial significance of the Commonwealth's improper references to alcohol consumption.

Nonetheless, in light of today's result, further examination of this issue is unnecessary.