

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

Appellee

v.

ROBERT TUCKER A/K/A  
CALVIN BLACKSON

Appellant

No. 812 EDA 2012

Appeal from the Judgment of Sentence February 9, 2012  
In the Court of Common Pleas of Philadelphia County  
Criminal Division at No(s): CP-51-CR-0010042-2011,  
MC-51-CR-0026675-2011

BEFORE: FORD ELLIOTT, P.J.E., LAZARUS, J., and MUSMANNO, J.

MEMORANDUM BY LAZARUS, J.

**FILED JUNE 03, 2013**

Robert Tucker appeals from the judgment of sentence, entered in the Court of Common Pleas of Philadelphia County, after he was found guilty of possession with intent to deliver a controlled substance<sup>1</sup> (PWID), and of knowing and intentional possession of a controlled substance.<sup>2</sup> The trial court sentenced Tucker to 15 to 30 months of incarceration on the PWID conviction.<sup>3</sup> On appeal, Tucker argues that the trial court erred in denying

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<sup>1</sup> 35 Pa.C.S.A. § 780-113(a)(30).

<sup>2</sup> 35 Pa.C.S.A. § 780-113(a)(16).

<sup>3</sup> The trial court found that the knowing and intentional possession of a controlled substance conviction merged for sentencing purposes.

his motion to reveal the identity of a confidential informant (CI) and that the evidence was insufficient to support his conviction. Upon review, we affirm.

The trial court correctly determined that our Supreme Court's decisions in ***Commonwealth v. Bing***, 713 A.2d 56 (Pa. 1998) and ***Commonwealth v. Marsh***, 997 A.2d 318 (Pa. 2010) are controlling on the first issue. In both of those cases, the Supreme Court determined that the respective trial courts had correctly denied motions to reveal a CI's identity where police officer eyewitness testimony independently established the identity of the defendant. Here, there was police officer testimony identifying Tucker, and therefore, the trial court correctly denied the motion.

Tucker's sufficiency claim is similarly meritless. Viewing the evidence in the light most favorable to the Commonwealth as verdict winner, and where credibility determinations are within the sole purview of the factfinder, we find that the trial court reasonably determined that the police officer witnessed Tucker conduct a drug transaction. ***See Commonwealth v. Stays***, 40 A.3d 160, 167-69 (Pa. Super. 2012). Accordingly, there is sufficient evidence on the record to satisfy each element of PWID and to support the conviction. ***See*** 35 Pa.C.S.A. § 780-113(a)(30).

We rely on the Honorable Barbara McDermott's Pa.R.A.P. 1925(a) opinion in affirming Tucker's sentence on appeal. We instruct the parties to attach a copy of Judge McDermott's decision in the event of further proceedings in the matter.

Judgment of sentence affirmed.

J-S08020-13

Judgment Entered.

A handwritten signature in black ink, appearing to read "Kevin Gambetti", written over a horizontal line.

Prothonotary

Date: 6/3/2013