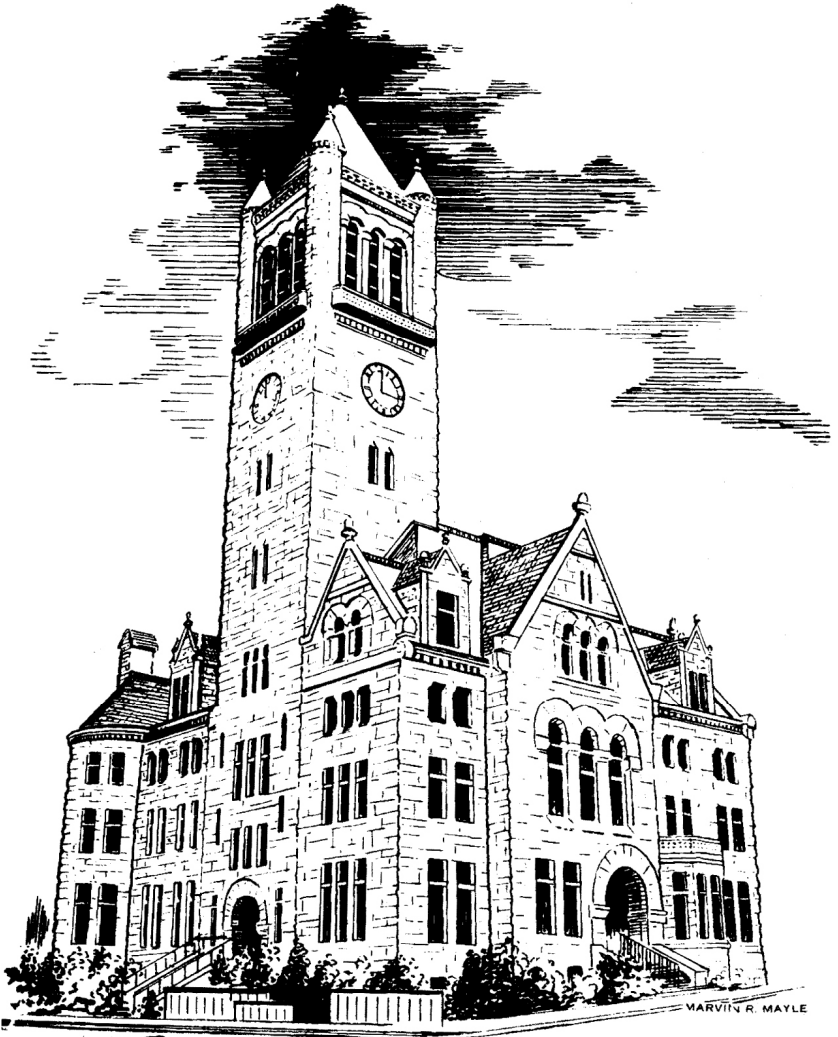


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ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

PATRICIA ARNOLD, late of German Township, Fayette County, PA ⁽³⁾
Personal Representative: Ryan Arnold
 c/o George and George
 92 East Main Street
 Uniontown, PA 15401
Attorney: Joseph M. George

JACKLYN M. HENRY, late of Connellsville, Fayette County, PA ⁽³⁾
Executrix: Heidi Sue Henry Eutsey
 323 Narrows Road
 Connellsville, PA 15425
 c/o Moore Becker Smarto & Ciszek, P.C.
 121 West Second Street
 Greensburg, PA 15601
Attorney: Lawrence F. Becker, III

MICHAEL SABAT, late of Normalville, Fayette County, PA ⁽³⁾
Executor: Samantha Shultz
 1708 Franks Street
 Connellsville, PA 15425

JEFFREY A. TEETS, late of Connellsville, Fayette County, PA ⁽³⁾
Administratrix: Sara L. Teets
 449 Reidmore Road
 South Connellsville, PA 15425
 c/o Tremba Kinney Greiner & Kerr
 120 South Third Street
 Connellsville, PA 15425
Attorney: John Greiner

Second Publication

THOMAS LOUIS BERTOVICH, late of Springhill Township, Fayette County, PA ⁽²⁾
Co-Executrix: Roxana Marie Bertovich
 3509 Fletchers Way
 Stem, NC 27581
 Varina Cecelia Bertovich Houk
 7646 Vallejo Street
 Denver, CO 80221
 c/o Newcomer Law Offices
 4 North Beeson Boulevard
 Uniontown, PA 15401
Attorney: Ewing D. Newcomer

TIMOTHY R. KESSLER, a/k/a TIMOTHY RALPH KESSLER, late of Uniontown, Fayette County, PA ⁽²⁾
Administrator: Douglas A. Kessler
 38 East Wine Street
 Uniontown, PA 15401
 c/o Newcomer Law Offices
 4 North Beeson Boulevard
 Uniontown, PA 15401
Attorney: Ewing Newcomer

LESLIE KAREN PREKSTA, LESLIE KAREN BRICKNER, late of Springhill Township, Fayette County, PA ⁽²⁾
Personal Representative: Dennis Dolinar
 c/o Davis and Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: James T. Davis

THELMA TRAYNOR, late of Washington Township, Fayette County, PA ⁽²⁾
Executrix: Sherri Traynor-Novak
 c/o 815A Memorial Boulevard
 Connellsville, PA 15425
Attorney: Margaret Zylka House

EARL E. WHETSEL, JR., a/k/a EARL WHETSEL, late of Uniontown, Fayette County, PA ⁽²⁾
Executrix: Nancy Kovach
 c/o Proden and O'Brien
 99 East Main Street
 Uniontown, PA 15401
Attorney: Wendy L. O'Brien

JOSEPHINE MARIE YOKIEL, late of
 Redstone Township, Fayette County, PA (2)
Executrix: Dorothy L. Bryant
 c/o 51 East South Street
 Uniontown, PA 15401
Attorney: Webster & Webster

First Publication

CHARLES MARVIN HYDE, JR., a/k/a
CHARLES MARVIN HYDE, late of
 Springhill Township, Fayette County, PA (1)
Executrix: Michelle L. Hyde, a/k/a
 Michelle Louise Hyde
 c/o DeHaas Law, LLC
 51 East South Street
 Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

LEGAL NOTICES

NOTICE

NOTICE is hereby given that Articles of Incorporation were filed on September 11, 2020 with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation of a domestic nonprofit corporation which was organized under the Business Corporation law of 1988 of the Commonwealth of Pennsylvania (15 Pa. C.S.A. Section 5306, et sec.) The name of the corporation is "CASA of Fayette County, Inc."

Robert A. Gordon, Esquire
 Watson Mundorff, LLP
 720 Vanderbilt Road
 Connellsville, PA 15425

NOTICE

Notice is hereby given that a Certificate of Organization was filed with the Pennsylvania Department of State, on September 2, 2020 for a Limited Liability Company, organized under the Limited Liability Company Law of 1994, as from time to time amended. The name of the Company is ON POINT AUTOMOTIVE GROUP, LLC, having an address of 3489 Pittsburgh Road, Perryopolis, PA 154 73.

Thomas W. Shaffer, Esquire
 11 Pittsburgh Street
 Uniontown, PA 15401
 724-425-1162

IN THE COURT OF COMMON PLEAS OF
 FAYETTE COUNTY, PENNSYLVANIA
 CASE# 892 OF 2020, G.D.
 JUDGE WAGNER

IN RE: CHANGE OF NAME OF MARLENE
 M. NOVAK Formerly MARLENE MICKEY
 To MARLENE MAY NOVAK

NOTICE

Notice is hereby given that on the 17th day of August, 2020, the Petition of Marlene M. Novak was filed in the Fayette County Court of Common Pleas at No. 892 of 2020, G.D. seeking to change the name of Petitioner from Marlene M. Novak formerly Marlene Mickey to Marlene May Novak. The Court has fixed September 23rd, 2020 at 11:00 a.m. in Courtroom Number 2 in the Fayette County Courthouse, 61 East Main Street, Uniontown, Pennsylvania 15401 as the date for the hearing of the Petition. All persons interested in the proposed change of name may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

John A. Kopas III
 556 Morgantown Road
 Uniontown, PA 15401
 (724) 437-1111

SHERIFF'S SALE

Date of Sale: November 19, 2020

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday, November 19, 2020, at 2:00 p.m. in Courtroom Number One at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (1 of 3)

James Custer
Sheriff Of Fayette County

KML LAW GROUP, P.C.
Suite 5000
701 Market Street
Philadelphia, PA 19106-1532
(215) 627-1322

No. 2386 of 2019 GD
No. 138 of 2020 ED

**WELLS FARGO BANK, N.A., AS
TRUSTEE FOR CARRINGTON
MORTGAGE LOAN TRUST, SERIES 2007-
RFC1, ASSET-BACKED PASS-THROUGH
CERTIFICATES
c/o CARRINGTON MORTGAGE
SERVICES, LLC
1600 S. Douglass Road, Suite 200-A
Anaheim, CA 92806**

Plaintiff

vs.

**MARGARET A. BREAKIRON aka
MARGARET BREAKIRON
KENNETH D. BREAKIRON aka
KENNETH BREAKIRON
Mortgagor(s) and Record Owner(s)
25 Vernon Street
Uniontown, PA 15401**

ALL THAT CERTAIN LOT OF LAND
SITUATE IN SOUTH UNION TOWNSHIP.
COUNTY OF FAYETTE AND
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 25 VERNON
STREET, UNIONTOWN, PA 15401

TAX PARCEL #34-16-0246

IMPROVEMENTS: A RESIDENTIAL
DWELLING

SOLD AS THE PROPERTY OF:
MARGARET A. BREAKIRON aka
MARGARET BREAKIRON AND KENNETH
D. BREAKIRON aka KENNETH
BREAKIRON

Andrew J. Marley, Esquire
Stern & Eisenberg, PC
1581 Main Street, Suite 200
The Shops at Valley Square
Warrington, PA 18976
Phone: (215) 572-8111

No. 644 of 2020 GD
No. 142 of 2020 ED

Deutsche Bank National Trust Company, as Trustee for Equifirst Mortgage Loan Trust 2003-2, Asset- Backed Certificates, Series 2003-2

v.

Emma J. Marucci, 1046 Main Street, Redstone Township, Republic, PA 15475

By virtue of Writ of Execution No. 2020-00644

Deutsche Bank National Trust Company, as Trustee for Equifirst Mortgage Loan Trust 2003-2, Asset- Backed Certificates , Series 2003 -2 v. Emma J. Marucci, 1046 Main Street, Redstone Township, Republic, PA 15475, Tax Parcel No. 30-24-0206. Improvements thereon consisting of a Residential Dwelling, sold to satisfy judgment in the amount of \$51,243.70.

No. 1004 of 2020 GD
No. 141 of 2020 ED
No. 1 of 2020 ML

TOWNSHIP OF SPRINGFIELD,

Plaintiff,

vs.

GERALD PRINKEY,
Defendant.

ALL that certain tract located in Springfield Township, Fayette County, Pennsylvania, described as Tax Parcel No. 35-09 -0087 and more particularly described in a deed recorded in the Office of the Recorder of Deeds for Fayette County in Record Book 2779, page 323.

The street address of the property is 352 Hawkins Hollow Road, Connellsville, Springfield Township, Fayette County, Pennsylvania 15425.

Seized and taken in execution as the property of Gerald Prinkey, defendant, in the action on the municipal claim of the Township of Springfield in the Court of Common Pleas of Fayette County, Pennsylvania at No. 1004 of 2020, G.D.

ANNE N. JOHN
ATTORNEY AT LAW

No. 612 of 2020 GD
No. 145 of 2020 ED

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF GREENE COUNTY, a corporation,

Plaintiff

vs.

JOSHUA C. SUMEY,
Defendant

ALL that certain piece or parcel of property situated in South Union Township, Fayette County, PA.

FOR prior title see Record Book 3241, page 630

Tax Parcel No.: 34-28-0048

UPON which is erected a residential brick dwelling known locally as 715 Morgantown Road, Uniontown, PA 15401.

RAS Citron, LLC
Robert Flacco, Esquire
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
(855)225-6906

No. 2472 of 2018 GD
No. 139 of 2020 ED

FINANCE OF AMERICA REVERSE LLC

Plaintiff

v.

TINA UNDERWOOD, IN HER CAPACITY AS HEIR OF NANCY L. ROBERTS; LINDA MCMAHAN, IN HER CAPACITY AS HEIR OF NANCY L. ROBERTS; UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER NANCY L. ROBERTS

Defendant(s)

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN THE TOWNSHIP OF UPPER TYRONE, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 801 BROADFORD ROAD CONNELLSVILLE, PA 15425

PARCEL NUMBER: 39-07-0175

IMPROVEMENTS: RESIDENTIAL PROPERTY

Registers' Notice

Notice by JEFFREY L. REDMAN, Register of Wills and Ex-Officio Clerk of the Orphans' Court Division of the Court of Common Pleas

Notice is hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, October 5, 2020, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2617-0844	KATHLEEN G. SWEITZER	David A. Sweitzer and Amanda L. Stoner, Co-Administrators

Accounts filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas of Fayette County Pennsylvania

2678-0462	EDWARD RAY HILL	PNC BANK NA, Guardian
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Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

Monday, October 19, 2020, at 9:30 A.M.

in Courtroom No. 1 of the **Honorable Steve P. Leskinen** or his chambers, 2nd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

Notice is also hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, October 5, 2020, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2619-0761	PATRICIA A. CHECK	Mary Shubert, Executrix

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

Monday, October 19, 2020, at 9:30 A.M.

in Courtroom No. 5 of the **Honorable Joseph M. George Jr.** or his chambers, 3rd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF
PENNSYLVANIA

:
:
:
:
:
:

v.

DEREK LEE ROYSTER,
Appellant.

: No. 931 of 2018
: Honorable President Judge John F. Wagner, Jr.

OPINION

Wagner, P.J.

August 17, 2020

Before the court is the Concise Statement of Errors Complained of on Appeal filed by Appellant, Derek Lee Royster. Following a trial by jury, the Appellant was convicted of the following crimes: Voluntary Manslaughter; Criminal Attempt Homicide; Aggravated Assault, two counts; Recklessly Endangering Another Person, two counts; and Firearms Not To Be Carried Without a License. On March 5, 2020, the Appellant was sentenced at the charge of Voluntary Manslaughter to sixty-six (66) to one hundred and thirty-two (132) months incarceration; at one count of the charge of Aggravated Assault, the sentence imposed was eighteen (18) to thirty-six (36) months incarceration; and at the charge of Firearms Not To Be Carried Without a License to a term of incarceration of thirty-six (36) to seventy-two (72) months. No further penalty was imposed at the other charges. The sentence at each charge was to run consecutive to each other. A post sentence motion was filed raising the issues that the jury’s verdict was contrary to the weight of the evidence and that the court erred in its determination of his time credit. The post sentence motion was denied.

ISSUES RAISED

The concise issues raised are as follows:

1. The Petition for Habeas Corpus should have been granted and the case dismissed.
2. The evidence was legally insufficient to support the guilty verdicts.
3. The verdicts were contrary to the weight of the evidence
4. The trial court erred in calculation and determination of the credit for time served when it imposed the sentence.
5. The trial court erred in permitting the officer to testify to a statement made by the Appellant to his attorney during a pre-trial proceeding in regard to a possible defense.

FACTS

On November 17, 2017, Miranda Engle was contacted by the Appellant and asked if she knew of anyone who wanted to purchase drugs, specifically cocaine. (N.T. Vol. 1, pg. 17). After the call, Engle and Megan Bowlen along with Marquell Bailey, Joel Grooms, and Devin Fitzgerald set up a plan to steal the cocaine from the Appellant. (N.T. Vol. 1, pg. 20). Engle arranged a meeting to purchase an eight ball of cocaine from the Appellant at an empty apartment located at 61 Pershing Court, Uniontown, Fayette County, Pennsylvania. *Id.* That night the two women were waiting in the living room of the apartment when the Appellant arrived. Marquell Bailey and Devin Fitzgerald were hiding in another room of the apartment. The only light in the apartment came from the second floor. The Appellant placed some cocaine on a coffee table for the women to sample. Bowlen then pretended that she couldn't find her money, the women and the Appellant went upstairs to locate her money. (N.T. Vol. 1, 22). When no money was found upstairs, the three returned to the living room. While the Appellant stood by the door, Engle sprayed mace in his direction. Bailey entered the room and punched the Appellant once in the face. (N.T., Vol. 1, pg. 24). The Appellant then pulled his gun and repeatedly fired it at Bowlen, Bailey, and Engle. Engle and Fitzgerald fled the apartment. (N.T. Vol. 1, pg. 25). Bailey, despite being shot twice in the chest, managed to exit the rear door of the apartment before collapsing. The Appellant fled the apartment through the front door.

Bowlen went across the street and called an ambulance for Bailey. She also informed Engle that Bailey had been shot. Both women returned to the apartment and Engle began performing CPR until the ambulance arrived. (N.T. Vol. 1, pg. 26). After the ambulance arrived, the two women left the scene. Bailey died from the gunshot wounds. When contacted by the police later that evening, the women went to the police station and informed them that the Appellant had shot Bailey. The Appellant was subsequently arrested in Wilkinsburg. (N.T. Vol. 2, pg. 78). After his arrest, a Wilkinsburg detective testified that the Appellant spontaneously stated that he was the victim and it was self-defense. (N.T. Vol. 2, pg. 80).

DISCUSSION

Initially, this Court notes that the Appellant fails to provide any specificity in his Concise Issues. While a party has a right to challenge the evidence on appeal per Pa.R.Crim.P. 606(A)(7), it is also necessary, under Pa.R.A.P. 1925(b)(4), for the statement of errors complained of on appeal to concisely identify each ruling or error that the appellant intends to challenge with sufficient detail to identify all pertinent issues for the Court. Appellant's statement of errors on appeal is so vague that it ought to constitute a waiver of the issues. "A Concise Statement [that] is too vague to allow the court to identify the issues raised on appeal is the functional equivalent of no Concise Statement at all." *Commonwealth v. Dowling*, 778 A.2d 683, 686-687 (Pa.Super. 2001). When "a trial court directs a defendant to file a Concise Statement of Matters Complained of on Appeal, any issues not raised in such a statement will be waived. *Dowling* at 686 (citing *Commonwealth v. Lord*, 797 A.2d 306, 308 (Pa. 1998)). Failure of an appellant to concisely identify issues for appeal impedes the trial court in its preparation of a legal analysis that is pertinent to those issues. *Id.*

However, in the interests of justice, this Court will attempt to address the issues raised by the Appellant.

1. The Appellant asserts that the Petition for Habeas Corpus should have been granted and the case dismissed. His Concise Statement does not specifically state the basis for this assertion. The evidence presented at trial was sufficient. The Court stands by its prior determination in denying the Petition for Habeas Corpus.

2. The Appellant challenges the sufficiency of the evidence as to the charges of Voluntary Manslaughter, Criminal Attempt Homicide, Aggravated Assault! Recklessly Endangering Another Person. The test for determining the sufficiency of the evidence is whether viewing the evidence in the light most favorable to the Commonwealth as verdict winner and drawing all proper inferences favorable to the Commonwealth, the jury could reasonably have determined all elements of the crime to have been established beyond a reasonable doubt. *Commonwealth v. Edwards*, 353 A.2d 383 (Pa. 1976). The Pennsylvania Supreme Court has held that evidence will be deemed sufficient to support the verdict when it establishes each material element of the crime charged and the commission thereof by the accused beyond a reasonable doubt. *Commonwealth v. Widmer*, 744 A.2d 745, 751 (Pa. 2000). Evidence is insufficient as a matter of law when the evidence offered to support the verdict contradicts the physical facts or conflicts with human experience and the laws of nature. *Id.* The jury may resolve any doubts regarding guilt unless the evidence is so weak and inconclusive that no probability of fact may be drawn from the combined circumstances. *Id.* The Commonwealth may use wholly circumstantial evidence to sustain its burden of proving every element of the crime beyond a reasonable doubt. *Commonwealth v. Fortson*, 165 A.3d 10, 14 (Pa. Super. 2017).

The charge of Voluntary Manslaughter occurs when a person kills an individual without lawful justification commits voluntary manslaughter if at the time of the killing he is acting under a sudden and intense passion resulting from serious provocation by the individual killed. 18 Pa. C.S.A. § 2503(a)(1). The elements of the justifiable use of deadly force in self-protection are as follows: (a) the slayer was free from fault in provoking or continuing the difficulty which resulted in the slaying; (b) the slayer must have reasonably believed that he was in imminent danger of death or serious bodily injury and that there was a necessity to use such force in order to save himself; (c) the slayer did not violate any duty to retreat or to avoid danger. *Commonwealth v. Walley*, 353 A.2d 396 (Pa. 1976).

The evidence presented at trial was that the Appellant went to the apartment to sell drugs and he brought a gun, that he was not licensed to possess, with him. He gave one of the women a sample of the drugs for her to try. She subsequently sprayed mace in the room and Marquell Bailey came out of a back room and punched the Appellant once. The Appellant then pulled his gun shot Bailey twice and repeatedly fired the weapon at the women in the small apartment. While there was provocation by the physical actions of Bailey and the use of mace, neither Bailey or Engle possessed any weapon. The evidence is clear that the Appellant used the deadly weapon on a vital part of the victim's body, it is apparent that the Commonwealth disproved the justifiable use of deadly force. The provocation of one punch by the victim was not sufficient to provoke a justifiable fear of death or serious bodily injury. The one punch administered by Bailey and the prior use of mace in the room are not sufficient to establish that the Appellant could

have reasonably believed that he was in imminent danger of death or serious bodily injury when he used deadly force against this victim. In addition, at the time of the punch, the Appellant was at the front door of the apartment but failed to retreat. (N.T. Vol. 1, pg. 23). The evidence sufficiently established that the Commonwealth disproved any claim of justifiable self defense. The Commonwealth presented sufficient evidence to support the charge.

The charge of Criminal Attempt Homicide is defined in 18 Pa. C.S.A. § 901(a) which states that a “person commits an attempt when, with intent to commit a specific crime [that person] does any act [that] constitutes a substantial step towards the commission of that crim e.” The specific crime for which the Appellant was charged with attempting was Criminal Homicide, which states that a “person is guilty of criminal homicide if [that person] intentionally, knowingly, recklessly, or negligently causes the death of another human being.” 18 Pa. C.S. A. § 2501.

The crime of homicide can be established by showing that the defendant acted with an intent to cause serious bodily injury or with reckless disregard for human life. For the crime of attempted homicide, the Commonwealth must establish that the defendant had a specific intent to kill. *Commonwealth v. Geathers*, 847 A.2d 730 (Pa. Super. 2004). The Commonwealth can prove a specific intent to kill through circumstantial evidence. *Commonwealth v. Koehler*, 737 A.2d 225, 234 (Pa. 1999). The finder of fact may properly infer an intent to kill from the circumstances surrounding the use of a deadly weapon. Therefore, the firing of a deadly weapon at a vital part of any area of the body which contains organs required to maintain life establishes the intent to kill.

The evidence presented at trial was that the Appellant went to an apartment to sell drugs and he carried a loaded handgun with him to that meeting. He gave one of the women a sample of the drugs for her to try. She subsequently sprayed him with mace and Marquell Bailey came out of a back room and punched the Appellant once in the face. The Appellant then pulled his gun shot Bailey twice and repeatedly fired the weapon at the women in the small apartment. The cumulation of the evidence presented was clearly sufficient to establish each element of the crime of attempted homicide against Bowlen and that the Appellant was the person who committed the crime. It is for the jury to decide whether the Appellant had such an intent to kill and they found that he did. The evidence was sufficient to support this charge.

As to the sufficiency of the evidence to support the charge of aggravated assault, a person who “attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly, or recklessly under circumstances manifesting extreme indifference to the value of human life” is guilty of aggravated assault. 18 Pa. C.S.A. § 2702 (a)(1). The evidence presented to support the criminal attempt homicide is sufficient to establish that the Appellant committed Aggravated Assault against each of the women in the apartment.

Recklessly Endangering Another person occurs when a person engages in conduct which placed or may have placed another person in danger of death or serious bodily injury. 18 Pa. C.S.A. § 2905. The repeated firing of the gun at the women in the small apartment is sufficient to establish all the elements of this charge.

The charge of Carrying Firearms Without a License occurs when a person carries a firearm concealed on his person when the person did not possess a valid and lawfully issued license. 18 Pa. C.S.A. § 6106(a)(1). Each of the two women testified that they observed the Appellant possessing a handgun and heard the weapon being fired. Uniontown Police Officer Holland testified and presented documentation that the Appellant did not possess a license to carry a firearm. (N.T. Vol. 2, pg. 95). The fact that no firearm was located does not weight against the verdict. The testimony of the witnesses and the injuries suffered by Marquell Bailey support the Appellant's conviction on this charge.

3. The Appellant alleges that the verdicts were contrary to the weight of the evidence. A weight of the evidence claim is exclusively addressed to the discretion of the trial court. *Commonwealth v. Dupre*, 866 A.2d 1089 (Pa. Super 2005). A weight of the evidence claim concedes that there is sufficient evidence to sustain the verdict. *Commonwealth v. Porter*, 194 A.3d 159 (Pa. Super. 2018). When considering a motion for a new trial on the grounds that the verdict is contrary to the weight of the evidence, this court must determine in its sound discretion whether in considering the facts of the case that certain facts are so clearly of greater weight to ignore those facts or to give them equal weight with all other facts would result in an injustice. *Commonwealth v. Thomas*, 194 A.2d 159 (Pa. Super. 2018). To grant a new trial, the evidence must be so tenuous, vague and uncertain that the verdict shocks the conscious of the court. *Id.* The evidence presented by the Commonwealth at trial clearly developed each element of the crimes charged and was not so imprecise as to be considered vague, tenuous or uncertain as to shock one's conscious. The jury's verdicts as to each charge in this case are not based on contradictory evidence and do not shock the conscious of this court.

4. The Appellant asserts that trial court erred in calculation and determination of the credit for time served when it imposed the sentence. The Court stands by its calculations. Although the Appellant was arrested on November 20, 2017, he only had credit for three days due to his being revoked and resentenced in his other cases and a detainer on a third case. The Appellant was arrested on November 30, 2017 and bail was denied. At the of his arrest, the Court had issued bench warrants in Cases No. 1932 and 1946 of 2016 for the Appellant's failure to appear at a revocation hearing on November 11, 2017. On December 4, 2017, this Court resentenced the Appellant at each case to a term of incarceration of six (6) to twelve (12) months to run consecutively to each other. He maxed out on each sentence on December 3, 2019. At Case no. 267 of 2014, Judge Steve P. Leskinen scheduled a revocation hearing for May 22, 2018, when the Appellant failed to appear for that hearing, Judge Leskinen issued a detainer for the Appellant. On March 5, 2020, Judge Leskinen revoked his sentence and resentenced him to forty-five (45) to ninety (90) days incarceration with that sentence beginning on December 3, 2019. As the Appellant's time incarcerated was primarily used on these cases, the sentence imposed was correct.

5. The Appellant last issue is that the court erred in permitting the police officer to testify to a statement made by the Appellant to his attorney during a pre-trial proceeding in regard to a possible defense. At a pre-trial hearing held on November 21, 2018, the Appellant made a statement in the courtroom that was transcribed and made a part of the record. The Appellant asserts that it was error for the court to have permitted the introduction of that statement by the Appellant as it was a communication to his attorney.

ney. At the trial, counsel stipulated to the transcript. (N.T. Vol. 2, pg. 102). Officer Holland read from the hearing transcript:

The Court: so you're raising self defense

The Defendant: no, fuck no, stop playing with me, you're trying to sell me out, bro, no, no. We're not raising no self defense.

The Defendant: they have no physical evidence to say that I've done anything illegal other than the statement of the two junkies who have conflicting testimony.

(N.T. Vol. 2, pg. 103).

After the Court asked the question about self-defense, the Appellant, who had injected questions and comments throughout the hearing, lost his composure, stood up, and shouted the statements read from the transcript. It was apparent that the statements were not confidential communications shared with his counsel. The statements were made spontaneously when the Appellant was agitated in the courtroom as such they are clearly admissible.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the judgment and sentence of Derek Lee Royster should be AFFIRMED.

BY THE COURT,
WAGNER, P.J.

ATTEST:
Clerk of Courts

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