

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
ADAM ISAIAH SANTIAGO,	:	
	:	
Appellant	:	No. 1437 MDA 2013

Appeal from the Judgment of Sentence entered on May 17, 2013  
in the Court of Common Pleas of Lancaster County,  
Criminal Division, No. CP-36-CR-0003765-2011

BEFORE: LAZARUS, WECHT and MUSMANNNO, JJ.

MEMORANDUM BY MUSMANNNO, J.:

**FILED JULY 25, 2014**

Adam Isaiah Santiago (“Santiago”) appeals from the judgment of sentence imposed following his convictions of 3 counts each of Involuntary Deviate Sexual Intercourse—Person less than 13 years of age, Sexual Assault, Unlawful Contact with a Minor, Indecent Assault—Person less than 13 years of age and Indecent Exposure.<sup>1</sup> We affirm.

Santiago forced the victim, his nephew, to perform oral sex on him. The victim was seven years old at the time the sexual assaults began, and the assaults continued throughout a 2½-year period.

Following a jury trial, Santiago was convicted of the above-mentioned crimes. The trial court ordered a pre-sentence investigation, as well as a sexual offender assessment, which indicated that Santiago did not meet the

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<sup>1</sup> 18 Pa.C.S.A. §§ 3123(b), 3124.1, 6318(a)(1), 3126(a)(7), 3127(a).

requirements to be designated as a sexually violent predator. **See** 42 Pa.C.S.A. § 9718. Santiago was subsequently sentenced to an aggregate prison term of 7 to 20 years.

Santiago filed a Post-Sentence Motion for Modification and Reduction of Sentence, which was denied. He filed a timely Notice of Appeal and Concise Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925(b).

On appeal, Santiago claims that the evidence presented at trial was insufficient to sustain the jury verdict. Brief for Appellant at 13. He argues that the victim's testimony was inconsistent with previous statements made to the police, and that, at times, the victim was unable to remember particular events. **Id.** Additionally, Santiago claims that the victim's history of *crimen falsi* convictions, his desire to avoid prison on a burglary charge pending at the time of trial, drug use and a dispute between Santiago and the victim prior to the present allegations should discredit the victim's testimony. **Id.** at 14-15. Thus, Santiago claims that without the victim's testimony, there was insufficient evidence for the jury to find guilt beyond a reasonable doubt. **See id.** at 13.

A sufficiency claim requires a court "to determine whether the evidence, and all reasonable inferences deducible from that, viewed in the light most favorable to the Commonwealth as verdict winner, are sufficient to establish all the elements of the offense beyond a reasonable doubt."

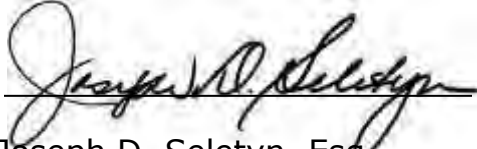
***Commonwealth v. Kinney***, 863 A.2d 581, 584 (Pa. Super. 2004). A challenge to the sufficiency of the evidence cannot “include an assessment of the credibility of the testimony offered by the Commonwealth.” ***Commonwealth v. Wilson***, 825 A.2d 710, 713-14 (Pa. Super. 2003). A claim that seeks a reassessment of witness credibility is more properly characterized as a challenge to the weight of the evidence, and a weight challenge must first be presented to the trial court. ***Id.*** at 714.

Here, Santiago seeks only to establish that the victim’s testimony was not credible, and that without such testimony, his sentence cannot stand. Thus, Santiago’s claim is a challenge to the weight, rather than sufficiency, of the evidence. Because he did not bring a challenge to the weight of the evidence to the trial court, we cannot address the merits of his claim. ***See*** Brief for Appellant at 7 n.8 (wherein Santiago concedes that “any issues regarding weight of the evidence were waived...”); ***see also*** Pa.R.Crim.P. 607(A) (stating that “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...”); ***see also Wilson***, 825 A.2d at 714 (stating that a weight of the evidence challenge must be presented to the trial court).

Judgment of sentence affirmed.

J-A18004-14

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 7/25/2014