

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
KARL BROWN,	:	
	:	
Appellant	:	No. 1364 EDA 2013

Appeal from the Judgment of Sentence December 19, 2012,
Court of Common Pleas, Philadelphia County,
Criminal Division at No. CP-51-CR-0013707-2010

BEFORE: BOWES, DONOHUE and MUNDY, JJ.

DISSENTING STATEMENT BY DONOHUE, J.: **FILED AUGUST 28, 2014**

The Appellant relied on self-defense to refute the charges against him. The Prosecutor’s closing argument advised the jury that if Appellant was indeed defending himself, he would have so stated when given the opportunity to do so in the presence of the police. The Appellant’s claim that the police investigation was faulty does not change the dynamics of this case. The Appellant was under no obligation to assist the government in its investigation of him.

Had the prosecution tailored its argument to state merely that no one advised the police of the victim’s possession of a knife, this issue would not be before us. Instead, the prosecution deliberately relied on the Appellant’s pre-arrest silence in the summation. The Appellant’s silence was used to

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convict him in contravention of the established case law cogently detailed by the learned Majority.

Therefore, I dissent.