

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
BREON LAWRENCE,	:	
	:	
Appellant	:	No. 3051 EDA 2015

Appeal from the Judgement of Sentence September 11, 2015  
In the Court of Common Pleas of Delaware County  
Criminal Division No.: CP-23-CR-0005326-2014

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
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BREON LAWRENCE,	:	
	:	
Appellant	:	No. 3053 EDA 2015

Appeal from the Judgement of Sentence September 11, 2015  
In the Court of Common Pleas of Delaware County  
Criminal Division No.: CP-23-CR-0005705-2014

BEFORE: BENDER, P.J.E., DUBOW, J., and STEVENS, P.J.E.\*

MEMORANDUM BY DUBOW, J.:

**FILED JUNE 24, 2016**

Appellant, Breon Lawrence, appeals from the Judgment of Sentence entered by the Delaware County Court of Common Pleas following his

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\* Former Justice specially assigned to the Superior Court.

conviction by a jury of First-Degree Murder and related offenses. After careful review, we affirm on the basis of the trial court's Opinion.

We adopt the facts as set forth in detail by the trial court. **See** Trial Court Opinion, filed 1/13/16, at 1-9. In summary, Appellant had a disagreement with the occupants of a vehicle and fired a silver gun into the vehicle, hitting both Jabri Green and Jahkil Swain. Swain died as a result of the shooting. Multiple witnesses identified Appellant as the shooter and police officers recovered the murder weapon from Appellant's bedroom. After waiving his **Miranda**<sup>1</sup> rights, Appellant provided a statement to police denying any involvement in the shooting, stating that he was with his son and his grandmother at the time of the shooting.

Prior to trial, Appellant stipulated that he was a Person Not To Possess Firearms. A jury convicted Appellant, and the trial court sentenced him accordingly.

Appellant filed a Notice of Appeal on October 8, 2015. Both Appellant and the trial court complied with Pa.R.A.P. 1925.

Appellant raises the following two issues for this Court's review:

1. Was the evidence presented at the time of trial sufficient to convict the [Appellant] of the charges of First[-]Degree Murder, Recklessly Endangering Another Person, Possessing an Instrument of Crime[,], and Person Not To Possess A Firearm?

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<sup>1</sup> **Miranda v. Arizona**, 384 U.S. 436 (1966).

2. Was the trial court in error in denying [Appellant]’s pre[-]trial Motion as to suppression of statements given by the [Appellant] to law enforcement authorities?

Appellant’s Brief at 4 (capitalization omitted).

Appellant first challenges the sufficiency of the evidence. We review claims regarding the sufficiency of the evidence by considering whether, viewing all the evidence admitted at trial in the light most favorable to the verdict winner, there is sufficient evidence to enable the fact-finder to find every element of the crime beyond a reasonable doubt. **Commonwealth v. Melvin**, 103 A.3d 1, 39-40 (Pa. Super. 2014). Further, a conviction may be sustained wholly on circumstantial evidence, and the trier of fact—while passing on the credibility of the witnesses and the weight of the evidence—is free to believe all, part, or none of the evidence. **Id.** In conducting this review, the appellate court may not weigh the evidence and substitute its judgment for the fact-finder. **Id.**

It is well-established that “[t]o sustain a conviction for murder of the first degree, the Commonwealth must prove that: (1) a human being was unlawfully killed; (2) the person accused is responsible for the killing; and (3) the accused acted with malice and intent to kill.” 18 Pa.C.S. § 2502(a); **Commonwealth v. Hitcho**, 123 A.3d 731, 746 (Pa. 2015). “Section 2502 of the Crimes Code defines murder of the first degree as an ‘intentional killing,’” which, in turn, is defined as “a ... willful, deliberate and premeditated killing.” 18 Pa.C.S. § 2502(a)-(d); **Commonwealth v.**

***Diamond***, 83 A.3d 119, 126 (Pa. 2013). “[T]he period of reflection required for premeditation to establish the specific intent to kill may be very brief; in fact[,] the design to kill can be formulated in a fraction of a second. Premeditation and deliberation exist whenever the assailant possesses the conscious purpose to bring about death.” ***Hitcho, supra*** at 746.

A person is guilty of Recklessly Endangering Another Person and “commits a misdemeanor of the second degree if he recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury.” 18 Pa.C.S. § 2705.

A person is guilty of Possession of an Instrument of Crime “if he possesses any instrument of crime with intent to employ it criminally.” 18 Pa.C.S. § 907(a). The statute defines instrument of crime as “anything used for criminal purposes and possessed by the actor under circumstances not manifestly appropriate for lawful uses it may have.” 18 Pa.C.S. § 907(d)(2).

Section 6105, Persons Not to Possess Firearms provides, in relevant part, that “[a] person who has been convicted of an offense enumerated in subsection (b) ... shall not possess, use, control, sell, transfer or manufacture or obtain a license to possess, use, control, sell, transfer or manufacture a firearm in this Commonwealth.” 18 Pa.C.S. § 6105(a)(1), (b).

The Honorable James F. Nilon, Jr., sitting as the trial court, has authored a comprehensive, thorough, and well-reasoned opinion, citing to

the record and relevant case law in addressing Appellant's claims on appeal. After a careful review of the parties' briefs and the certified record, we affirm on the basis of the trial court's Opinion. **See** Trial Court Opinion, filed 1/13/16, at 10-17.

Appellant next challenges the denial of his Motion to Suppress his statements. Our standard of review in an appeal from an order denying a Motion to Suppress is as follows:

Our standard of review in addressing a challenge to the denial of a suppression motion is limited to determining whether the suppression court's factual findings are supported by the record and whether the legal conclusions drawn from those facts are correct. Because the Commonwealth prevailed before the suppression court, we may consider only the evidence of the Commonwealth and so much of the evidence for the defense as remains uncontradicted when read in the context of the record as a whole. Where the suppression court's factual findings are supported by the record, we are bound by these findings and may reverse only if the court's legal conclusions are erroneous.

**Commonwealth v. Jones**, 988 A.2d 649, 654 (Pa. 2010) (citation omitted).

"It is within the suppression court's sole province as factfinder to pass on the credibility of witnesses and the weight to be given their testimony."

**Commonwealth v. Gallagher**, 896 A.2d 583, 585 (Pa. Super. 2006).

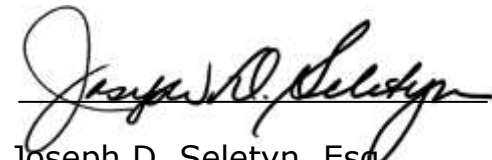
Moreover, our scope of review from a suppression ruling is limited to the evidentiary record that was created at the suppression hearing. **In re L.J.**, 79 A.3d 1073, 1087 (Pa. 2013).

After a careful review of the parties' arguments and the record, we affirm on the basis of the trial court's Opinion. **See** Trial Court Opinion, filed 1/13/16, at 17, Exhibit A<sup>2</sup> (concluding it properly denied Appellant's Motion to Suppress his statements to police because Appellant knowingly, intelligently, and voluntarily waived his **Miranda** rights as demonstrated through the written waiver and testimony from detectives about the circumstances of the statement and waiver).

The parties are instructed to attach a copy of the trial court's Opinion to all future filings.

Judgment of Sentence affirmed. Jurisdiction relinquished.

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: 6/24/2016

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<sup>2</sup> The trial court incorporated and attached its earlier Order and Opinion denying Appellant's Motion to Suppress filed on July 29, 2015.