

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT OF
PENNSYLVANIA

Appellee

v.

JACK D. PENNINGTON

Appellant

No. 3012 EDA 2013

Appeal from the Judgment of Sentence October 11, 2013
In the Court of Common Pleas of Montgomery County
Criminal Division at No(s): CP-46-CR-0006758-2012

BEFORE: ALLEN, OLSON and STRASSBURGER*, JJ.

CONCURRING STATEMENT BY OLSON, J. **FILED DECEMBER 18, 2014**

In light of this Court's decisions in ***Commonwealth v. Newman***, 99 A.3d 86 (Pa. Super. 2014) (*en banc*), ***Commonwealth v. Valentine***, ___ A.3d ___, 2014 WL 4942256 (Pa. Super., Oct. 3, 2014), ***Commonwealth v. Fennell***, ___ A.3d ___, 2104 WL 6505791 (Pa. Super., Nov. 21, 2014), and ***Commonwealth v. Cardwell***, ___ A.3d ___, 2014 WL 6656644 (Pa. Super., Nov. 25, 2014), I am constrained to concur with the learned majority's decision to vacate and remand for resentencing. However, for the reasons set forth in the dissenting opinion issued by The Honorable Sallie Updyke Mundy in ***Newman***, and the concurring opinion issued by The Honorable Mary Jane Bowes in ***Commonwealth v. Bizzel***, ___ A.3d ___, 2014 WL 6756277, *4-*11 (Pa. Super., Dec. 2, 2014), I note my disagreement with the issue of severability.

*Retired Senior Judge assigned to the Superior Court.

Judge Strassburger joins the Concurring Statement.