

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

M.D. Appeal Dkt.
36 MAP 2017

COMMONWEALTH OF PENNSYLVANIA,	:	No. 138 MAL 2017
	:	
Petitioner	:	
	:	
v.	:	Petition for Allowance of Appeal from the Order of the Superior Court
	:	
	:	
	:	
JONATHAN NELSON SMITH,	:	
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 26th day of July, 2017, the Petition for Allowance of Appeal is **GRANTED**. The issues, as stated by petitioner are:

- (1) The Pennsylvania Superior Court’s Opinion misapplies the Deadly Weapon Used enhancement, which leads to a result inconsistent with statutory construction by reading an additional specific intent element into the Deadly Weapon Used statute that does not exist in the plain language[.]
- (2) The Pennsylvania Superior Court rendered a decision that is inconsistent with the plain language of *Commonwealth v. Buterbaugh, infra*, and thereby leads to a misapplication of *Buterbaugh* and an irreconcilable conflict between Superior Court case law[.]
- (3) The Pennsylvania Superior Court’s decision is inconsistent with fundamental notions of *mens rea* and the applicability of *mens rea* when no *mens rea* is specifically stated, improperly creating a default *mens rea* of specific intent.