

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
DEREK LEE	:	
	:	
Appellant	:	No. 1008 WDA 2021

Appeal from the Judgment of Sentence Entered December 19, 2016
In the Court of Common Pleas of Allegheny County Criminal Division at
No(s): CP-02-CR-0016878-2014

BEFORE: OLSON, J., DUBOW, J., and COLINS, J.*

CONCURRING MEMORANDUM BY DUBOW, J.: **FILED: JUNE 13, 2023**

I agree with the well-reasoned Majority Memorandum finding that we are bound by existing case law that holds that the mandatory imposition of life without parole for a defendant convicted of second-degree murder is constitutional under both the U.S. Constitution and the Pennsylvania Constitution.

I write separately only to suggest that the Pennsylvania Supreme Court revisit whether a mandatory minimum sentence of life without parole imposed for all second-degree murder convictions is constitutional under Article I, Section 13 of the Pennsylvania Constitution. In light of changes in related case law from other states and research and policy concerns regarding the criminal justice system, it is important to revisit the factors set forth in

* Retired Senior Judge assigned to the Superior Court.

Commonwealth v. Edmunds, 586 A.2d 887 (Pa. 1991), to determine whether the rights that the Pennsylvania Constitution grants to defendants are still coextensive to the rights that Eighth Amendment grants to defendants, especially in light of the mandatory nature of the life without parole sentence.

If I were not bound by existing case law, I would have remanded the case to the trial court to hold an evidentiary hearing on the ***Edmunds*** factors.