

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
v.	:	No. 1776 WDA 2012
	:	
GREGORY SCOTT HOPKINS	:	

Appeal from the Suppression Order, November 5, 2012,
in the Court of Common Pleas of Beaver County
Criminal Division at No. CP-04-CR-0000580-2012

BEFORE: FORD ELLIOTT, P.J.E., OTT AND MUSMANNO, JJ.

CONCURRING AND DISSENTING MEMORANDUM STATEMENT BY
FORD ELLIOTT, P.J.E.: **FILED OCTOBER 4, 2013**

I concur in the decision of the learned majority that Dr. Wecht's opinion that the victim must have known her assailant, based on lack of forced entry and no signs of a struggle, was inadmissible. The issue was not beyond the ken of the average layperson.

However, I respectfully dissent on the matter of whether the remainder of Dr. Wecht's expert report and proposed testimony were admissible. I have the greatest regard for Dr. Wecht's reputation as a forensic pathologist, however upon my review, Dr. Wecht's conclusions appear to be merely his own thoughts on the evidence and not based on any scientific or forensic analysis. In addition, as the trial court states, the issue whether, as Dr. Wecht concluded, it was "extremely unlikely" the

defendant's seminal fluid could have been deposited three weeks earlier, based on the locations where the fluid was found, without more to substantiate this conclusion, does not represent the use of scientific or technical knowledge beyond that possessed by a layperson. In my view, these are issues for the jury. Therefore, I would affirm on the basis of the trial court opinion.