

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
BRADLEY ANDREW BUCHANAN	:	
	:	
Appellant	:	No. 1218 MDA 2025

Appeal from the Judgment of Sentence Entered May 27, 2025
 In the Court of Common Pleas of Lancaster County Criminal Division at
 No(s): CP-36-CR-0004317-2022

BEFORE: KUNSELMAN, J., LANE, J., and FORD ELLIOTT, P.J.E.*

OPINION BY FORD ELLIOTT, P.J.E.: **FILED: SEPTEMBER 11, 2026**

Appellant, Bradley Andrew Buchanan, appeals from the judgment of sentence imposed by the Lancaster County Court of Common Pleas following his jury convictions for attempted statutory sexual assault, solicitation of statutory sexual assault, attempted unlawful contact with a minor – sexual offenses, attempted patronizing of a victim of human trafficking, solicitation of patronizing of a victim of human trafficking, attempted indecent assault of a person less than sixteen years of age, and solicitation of indecent assault of a person less than sixteen years of age.¹ Appellant argues that the trial court

* Retired Senior Judge assigned to the Superior Court.

¹ 18 Pa.C.S. §§ 901(a) (criminal attempt), 902(a) (criminal solicitation); 3122.1(b) (statutory sexual assault), 6318(a)(1) (unlawful contact with a minor – sexual offenses; version extant at the time of Appellant’s offense), 3013(a)(1) (patronizing a victim of human trafficking, 3126(a)(8) (indecent assault of a person less than sixteen years of age). We note that the unlawful contact with a minor statute was amended between Appellant’s trial and
(Footnote Continued Next Page)

erred by proceeding to a trial *in absentia* when he failed to appear. After careful review, we affirm Appellant's convictions, but *sua sponte* vacate an illegal sentence term and remand for resentencing.

Appellant's prosecution was the result of an undercover operation by the Lancaster County Human Trafficking Task Force on August 24, 2022. A member of the task force placed an advertisement on a website used primarily by people purchasing and selling sexual contact. The advertisement, different than that typically placed for sexual contact with an adult, implied that it was for an underage female. The task force had a contact number listed, which was operated by a detective. Around nine a.m., Appellant sent a text to that number, and a texting conversation ensued, during which the detective informed Appellant that she was representing her twelve-year-old niece, and they agreed on a time and price for a half hour session for Appellant to engage with this "niece." The texting conversation had the hallmarks of a person seeking to purchase sexual contact with an underage female, as well as concern about being caught in a "sting" operation by law enforcement. **See** N.T. Trial, 10/12/23, 80-103, 111-115, 141-145, 147; Ex. C-4; Ex. C-5.

Appellant estimated that his drive would be fifty minutes, and, when he arrived at an appointed location, he sent a photograph of a gas station in order to receive the specific location at a nearby Comfort Inn. He drove into the

sentencing. **See** 2025, June 27 P.L. 6, No.5, § 2 (effective Aug. 26, 2025). The particular subsection under which Appellant was found guilty of criminal attempt to violate has been deleted and replaced with separate subsections. **See** 18 Pa.C.S. §§ 6318 (1.1)-(1.4) (2025).

parking lot of the hotel, and was the only person that did so at the time he texted the undercover detective that he had arrived. Appellant demanded to see the twelve-year-old girl; he messaged the contact, "I just need to see her before I come up." Backup officers arrested Appellant in his car. He had cash in his pants pocket equal to the agreed-upon price. The police recovered the cellular phone Appellant used and searched it pursuant to a warrant. The entire texting conversation with the undercover detective was found on Appellant's cellular phone, along with applications that hid his identity and the phone number of his cellular phone. Over 100 internet searches of the website used by the task force were found on Appellant's cellular phone, including one with respect to the advertisement placed by the task force. Appellant was thirty-seven years old at the time of his arrest. After waiving his rights, Appellant gave a recorded statement to the police. **See** N.T. Trial, 10/12/23, 104-111, 145-147, 160-184, 190-193, 206-221; C-6; C-7; C-8; C-9; C-10; C-17; C-26; C-27; C-28; C-29.

On September 29, 2023, Appellant's case was listed for trial in the upcoming two-week trial term before the assigned judge. At the call of the list, Appellant's counsel first indicated that the matter should be given a date for a guilty plea hearing, but when the court noted that it could take the plea that morning, counsel hesitated and asked for Appellant to be brought into the courtroom. The court explained to Appellant that he would be subject to a mandatory minimum sentence of twenty-five years if convicted of the second-strike sexual offense and that the Commonwealth's offer of a sentence

half that length for a guilty plea would expire after the day. Appellant informed the court that he would not take the Commonwealth's offer. The court, in Appellant's presence, then ordered the case to be placed on the trial list for the week of October 9, 2023, the start of the next criminal trial term.² **See** N.T. Conference Order, 9/29/23, 2-4; N.T. Trial, 10/12/23, 75.

Trial was scheduled for October 12, 2023. Appellant's counsel made attempts to contact him, including sending him "red alert" emails to appear for trial on October 12. Counsel also believed that Appellant would show up at the courthouse on October 9, 2023, and discover it was closed for Columbus Day and then call counsel, but that did not happen. Appellant did not appear in court on October 12. Appellant's counsel requested a continuance. The Commonwealth objected on the ground that one of its witnesses would not be available the following week and a second witness had been delaying a major medical procedure to be available for the trial. The court denied the continuance request, and, upon noting that Appellant had been present at the call of the list, ordered the matter to proceed *in absentia*. **See** N.T. Trial, 10/12/23, 75-78.

² As the trial court explains in its written opinion:

At the time of Appellant's trial, the trial process was thus: after the call of the criminal trial list was completed, the cases on the list were referred to the District Attorney's Office who [compiled] the priority list of cases to be placed to the individual judge's two-week trial term.

Trial Court Opinion, 10/20/25, 9.

The Commonwealth presented five police officer witnesses and numerous exhibits. The jury found Appellant guilty of all charges. **See** N.T. Trial, 10/13/23, 289-290. The trial court ordered Appellant's bail to be forfeited and issued a bench warrant for Appellant's arrest. **See id.**, 292.

"On February 11, 2025, Appellant was located [in Santa Cruz, California] and eventually brought back to Lancaster County for sentencing." Trial Court Opinion, 10/20/25, 2; **see also** Pre-Sentence Investigation, 3. At the sentencing hearing on May 27, 2025, Appellant spoke to the court directly and said, "when I absconded, it wasn't – I wasn't trying to disrespect the Court." N.T. Sentencing, 5/27/25, 7. He explained, "My father was dying, and I just wanted to get time with him before he passed, and he wasn't able to join me when I left. [...] I apologize for that." **Id.**, 7-8. The court then imposed the second-strike mandatory minimum of twenty-five to fifty years' imprisonment on each of the criminal attempt convictions for statutory sexual assault, patronizing a victim of human trafficking, and indecent assault of a person less than sixteen years of age. **See** 42 Pa.C.S. § 9718.2; Corrected Sentencing Order, 5/27/25, 1-2. Each of these terms were imposed concurrently. **See id.** The corresponding criminal solicitation convictions merged for sentencing purposes. **See id.** The court also imposed a consecutive term of thirty-six to

forty-eight months' imprisonment on the attempted unlawful contact with a minor conviction.³ **See id.**

Appellant filed a timely post-sentence motion in which, among other things, he requested an extension of time to file a supplemental post-sentence motion, which extension of time was granted. **See** Trial Court Opinion, 10/20/25, 2. On July 20, 2025, Appellant filed his supplemental post-sentence motion asserting that the court erred in proceeding *in absentia* and that the verdict was against the weight of the evidence. **See** Appellant's Supplemental Post-Sentence Motion, 7/20/2025. The court denied the post-sentence motions by written order. Order, 8/11/2025. "Appellant then filed a timely

³ We *sua sponte* vacate the thirty-six-to-forty-eight-month term of imprisonment on the conviction for attempted unlawful contact with a minor because it violates the statutory requirement that the minimum term "shall not exceed one-half of the maximum sentence imposed." 42 Pa.C.S. § 9756(b)(1). The court did not refer to any specific sentencing provision that might control over this general requirement. As this term was ordered to run consecutive to the concurrent twenty-five-to-fifty-year mandatory minimum terms, our decision upsets the court's sentencing scheme, and therefore we remand for resentencing on the conviction for attempted unlawful contact with a minor.

We also remind the trial court that, upon resentencing, a mandatory period of three years of probation consecutive to the imprisonment terms is required pursuant to 42 Pa.C.S. § 9718.5. Appellant's inchoate convictions of statutory sexual assault qualify as Tier III sexual offenses under 42 Pa.C.S. § 9799.14(d). **See** 42 Pa.C.S. § 9718.5(a) ("A person who is convicted in a court of this Commonwealth of an offense under section 9799.14(d) (relating to sexual offenses and tier system) shall be sentenced to a mandatory period of probation of three years consecutive to and in addition to any other lawful sentence issued by the court"); 42 Pa.C.S. § 9799.14(d) (classifying a conviction for either attempt or solicitation to commit statutory sexual assault as a Tier III sexual offense).

notice of appeal on September 3, 2023, and filed his concise statement [of errors in accordance with Pennsylvania Rule of Appellate Procedure 1925(b)] on September 23, 2025.” Trial Court Opinion, 10/20/25, 2; **see also** Appellant’s Notice of Appeal, 9/3/2025; Appellant’s Statement of Errors, 9/23/2025.

In his brief, Appellant raises a single issue for our review:

Whether the trial court erred in proceeding against Appellant *in absentia* where the Commonwealth introduced no evidence prior to trial that Appellant voluntarily failed to appear for his court date without cause and the record shows that Appellant was told to appear for trial on a different date on which the courts were closed for a holiday.

Appellant’s Brief, 4.

“A defendant has an absolute right to be present at his trial. It is a right, however, which may be waived. It may be waived expressly, or waiver may be implied by a defendant’s actions.” **Commonwealth v. Sullens**, 619 A.2d 1349, 1351 (Pa. 1992) (citations omitted); **see also** Pa.R.Crim.P. 602(A) (“The defendant’s absence without cause at the time scheduled for the start of trial or during trial shall not preclude proceeding with the trial, including the return of the verdict and the imposition of sentence”). “A defendant’s presence may be deemed waived by the defendant intentionally failing to appear at any stage of the trial after proper notice.” Pa.R.Crim.P. 602, comment. “The burden of proving that the defendant’s absence is without cause is upon the Commonwealth by a preponderance of the evidence.” **Id.**; **see also Commonwealth v. Scarborough**, 421 A.2d 147, 153 (Pa. 1980) (when a

constitutional right is waived, the Commonwealth must show by a preponderance of the evidence that the waiver was voluntary, knowing and intelligent). We review a decision to conduct a trial *in absentia* for an abuse of discretion. **See Commonwealth v. Wilson**, 712 A.2d 735, 738 (Pa. 1998); **Commonwealth v. DeCosta**, 197 A.3d 813, 816 (Pa. Super. 2018); **see also Commonwealth v. Bond**, 693 A.2d 220, 223 (Pa. Super. 1997) (“we find that the trial court did not abuse its discretion when it [...] conducted [appellant’s] trial and sentenced him *in absentia*”).⁴

Appellant argues that it is the Commonwealth’s burden to prove that he was absent from trial without cause. **See** Appellant’s Brief, 18. He asserts, “[o]f course, the Commonwealth must meet its burden *before* the trial starts.” **Id.**, 19 (emphasis in original). Appellant contends that decisions that affirm the holding of trials *in absentia* “contain far more evidence of a willful failure to appear” than that present in this matter. **See id.**, 20-21. He compares this

⁴ Appellant erroneously asserts that we may review the trial court’s order *de novo*. **See** Appellant’s Brief, 19. He relies on a 2017 opinion of this Court because it contradicts “prior case law,” **id.**, but ignores that the opinion in question addressed a defendant’s assertion that he should be permitted “to convince the judge that he was willing to behave” at a retrial caused by his “his attack on counsel that [had] precipitated [a] mistrial.” **Commonwealth v. Tejada**, 161 A.3d 313, 316-317 (Pa. Super. 2017). The trial court in **Tejada**, as a result of the defendant’s behavior, presumptively excluded him from attending retrial in person. Tejada’s legal theory was that a presumptive ruling without a colloquy violated both due process and the Sixth Amendment, which waiver colloquy claims would be subject to *de novo* review. **See id.** at 317. Here, the trial court proceeded *in absentia* pursuant to Rule 602 when it determined that Appellant failed to appear without cause. We review that ruling for an abuse of discretion. **See DeCosta**, 197 A.3d at 816.

matter to our decision in ***Commonwealth v. Pantano***, 836 A.2d 948 (Pa. Super. 2003), reversing the trial court's decision to proceed *in absentia* where the Commonwealth did not object to a continuance request when the defendant did not appear at the time of trial due to a death in his family. ***See id.***, 21. He also compares this case to ***DeCosta*** where we reversed a trial court's decision to proceed *in absentia* when the defendant failed to appear after the jury commenced deliberating and the court was "suspicious of the unproven suicide allegations" as the cause of the absence. ***See id.***, 22.

Turning to his case, Appellant argues that there is no "evidence whatsoever that [he] willfully failed to appear for a known, scheduled trial date," as he was told to appear on October 9, 2023, when the courts were closed, with "no indication that he was ever told to appear for any other date." ***Id.***, 22-23. He further contends that trial counsel "stated only that he could not reach [Appellant,]" and that "the record does not even establish how trial counsel knew to be there on October 12, 2023." ***See id.***, 23, 25. Appellant also points out that the "Commonwealth introduced no evidence whatsoever" to prove that he willfully failed to appear ***Id.***, 23. Moreover, he argues that his admission to absconding made at sentencing could not apply retroactively to authorize the trial *in absentia*. ***See id.***, 24-25. Thus, he concludes that, "[w]here the docket reflects only one noticed trial date, and that date fell on a court holiday, the Commonwealth cannot meet its burden by assuming the defendant should have known how trial terms in a particular county operate."

Id., 23 Therefore, the “trial court erred in substituting assumption for evidence.”⁵ **Id.**

With respect to whether Appellant was properly informed to appear at court for trial, the court explains that “Appellant was present at the call of the list held on September 29, 2023, and was thus aware that his case was on the call of the trial list and ready to be called for trial.” Trial Court Opinion, 10/20/25, 8. Moreover, Appellant was specifically informed that October 9 was the start of the “next trial term.” **See id.**, 9; **see also** N.T. Call of the Criminal List, 9/29/23, 4. The trial court explains that:

The Lancaster County Court of Common Pleas provides trial terms to defendants and counsel at call of the criminal trial list hearings. At the time of Appellant’s trial, the trial process was thus: after the call of the criminal trial list was completed, the cases on the list were referred to the District Attorney’s Office who [compiled] the priority list of cases to be placed to the individual judge’s two-week trial term. After the cases were compiled on the two-week term list, the District Attorney’s Office would contact the defense attorneys on the list and inform them of their trial date; the defense attorneys were then responsible for notifying their client of their specific trial date within the trial term.

⁵ Appellant also asserts that “the trial court also violated [his] right to be present for his trial under the Pennsylvania and United States Constitutions. This is a structural error which deprived [him] of his right to be present at trial. It is not subject to harmless-error review.” Appellant’s Brief, 25. As this is the totality of the argument supporting any constitution-based claims in Appellant’s brief and is unsupported by any analysis or case citations, we deem it waived for review. **See Commonwealth v. Hartzell**, 988 A.2d 141, 145 (Pa. Super. 2009) (finding two appellate issues waived where the appellant “provided only one short paragraph in support of each [...], neither of which contains any citation to authority”); **Commonwealth v. Bobin**, 916 A.2d 1164, 1168 (Pa. Super. 2007) (finding arguments waived on appeal when “amounting to less than one half page and containing no analysis or case citation”).

Trial Court Opinion, 10/20/25, 9. Thus, Appellant was informed of the trial term during which his trial would be scheduled. It follows that, though the courts were closed on October 9, 2023, Appellant's trial would still be held within the two-week period starting on that date, and that counsel would be informed by the District Attorney's Office of the particular date for trial to commence. The trial court opines that it was thus incumbent on Appellant to stay ready and in communication with counsel. **See *id.***, 10.

However, the record makes clear that Appellant did not stay ready to appear for trial or remain in communication with trial counsel. On the day set for Appellant's trial in the criminal term, October 12, 2023, Appellant failed to appear and the parties met in chambers, the results of which were placed on the record after the jury was selected. **See** N.T. Trial, 10/12/23, 75. Trial counsel informed the court that:

[Trial Counsel]: ... we have made attempts to contact [Appellant], e-mails, whatever, reminding him; red alert, red alert, whatever, to be here today. [Because] we weren't sure on the 29th what day actually we were [going to] start.

[The Court]: It would come in during the two-week period of time that we have for trials.

[Trial Counsel]: We thought he was [going to] show up on October 9th, with [the court] being closed, and call [us] and say, ["I went to court and nobody was there and everything,["] but that didn't happen[.]

Id.

In addition, trial counsel requested a continuance because he "was unable to reach [his] client." N.T. Trial, 10/12/23, 77. The trial court denied

the continuance based upon the Commonwealth's objection that "next week would not have been an option for us. We don't have a detective available, and one of the other detectives ... put off a major medical procedure to be here today." N.T. Trial, 10/12/23, 77. The trial court also found that Appellant "had more than enough notice of this trial going this week and that he should be prepared to come in during this week or the next week for trial." **Id.** Appellant "was here for [the] call of the list just a couple weeks ago and was told at that time that the trial would occur this week or the next week." **Id.**, 78.

After our review, we conclude that the trial court's finding that Appellant had due notice of the trial date, has support in the record in the form of the Conference Order listing the case for trial for the term starting on October 9, 2023, the record of the call of the list, and trial counsel's admission that Appellant was not present and had not remained in contact with counsel. **See** Conference Order, 9/29/23; N.T. Call of the List, 3-4; N.T. Trial, 10/12/23, 75. In addition, the court's denial of Appellant's continuance request was reasonable under the circumstances because the Commonwealth would lose at least one witness and potentially a second. **See Commonwealth v. Hilburn**, 746 A.2d 1146, 1149 (Pa. Super. 2000) (stating "before exercising its discretion to proceed *in absentia*, a trial court must weigh the specific circumstances of the case such as the probability that the defendant will return and the difficulty of rescheduling the trial"). Accordingly, the trial court's conclusion that Appellant was absent "without cause at the time scheduled for

the start of trial,” Pa.R.Crim.P. 602(A), was sufficient to properly proceed *in absentia*. **See Sullens**, 619 A.2d at 1352 (holding that it was proper for trial to commence *in absentia* when the defendant failed to appear on the day his trial was scheduled to begin).⁶

Furthermore, Appellant’s unexplained failure to stay in contact with his attorney when he knew that trial was impending, even if it would not exactly commence on October 9th due to the court holiday, established his intent to waive his right to be present at trial. “A defendant owes the court an affirmative duty to advise it if he or she will be absent. ... [T]he defendant can alert the court personally or through counsel.” **Wilson**, 712 A.2d at 738. Also, “by voluntarily refusing to remain in contact with counsel, a presumption arises that [an appellant] knowingly sought to avoid being tried[.]” **Commonwealth v. Kelly**, 78 A.3d 1136, 1144 (Pa. Super. 2013), **disapproved of on other grounds by Commonwealth v. King**, 234 A.3d 549 (Pa. 2020). **Accord Commonwealth v. Nelson**, 2024 WL 5256288, *6

⁶ This Court has held that where, as here, a defendant has due notice of the trial date and willfully fails to appear, that is sufficient by itself to support the exercise of the trial court’s discretion to proceed to a trial *in absentia*. **See Commonwealth v. Johnson**, 734 A.2d 864, 866–667 (Pa. Super. 1999); **see also Commonwealth v. Bethune**, 2023 WL 8648954, *5 (Pa. Super., filed Dec. 14, 2023) (non-precedential decision cited for persuasive value) (“not disputed that [Bethune] had personal notice of the trial date. The **Sullens** case indicates that this is itself sufficient”); **Commonwealth v. Nelson**, 2024 WL 5256288, *5 (Pa. Super., filed Dec. 31, 2024) (non-precedential decision cited for persuasive value) (finding an abuse of discretion in proceeding to a trial *in absentia* where, unlike here, “the records do not clearly show [that Nelson] had notice of his jury selection [...], nor his jury trial”).

(Pa. Super., filed Dec. 31, 2024) (non-precedential decision cited for persuasive value pursuant to Pa.R.A.P. 126(b)) (noting “an individual on bail has responsibilities to the courts and the efficient administration of justice” and those individuals such as defendant Nelson have “affirmative duties to remain in contact with his attorney”); **Commonwealth v. Hawa**, 2022 WL 1165128, *2 (Pa. Super., filed Apr. 20, 2022) (non-precedential decision cited for persuasive value pursuant to Pa.R.A.P. 126(b)) (finding Hawa’s “unexcused failure to stay in contact with his attorney established his intent to waive his right to be present for trial”); **Commonwealth v. Turner**, 2021 WL 2662274, *4 (Pa. Super., filed June 29, 2021) (non-precedential decision cited for persuasive value pursuant to Pa.R.A.P. 126(b)) (ruling that a trial *in absentia* “was appropriate” where the record established that defendant Turner “failed to appear for his trial without explanation after selecting a jury[,] and then failed to maintain contact with the court and his attorney”). Thus, where, as here, a defendant “did not contact the court or court administration regarding an inability to appear at trial,” and there is no evidence that defendant contacted counsel or “was precluded from attending trial by circumstances beyond his control,” then it is “reasonable for the court to conclude that [he] absented himself voluntarily and waived his right to be present.” **Commonwealth v. Wilson**, 22020 WL 2570774, *4 (Pa. Super., filed May 21, 2020) (non-precedential decision cited for persuasive value pursuant to Pa.R.A.P. 126(b)). We find that the trial court acted within its

discretion to find that Appellant intentionally waived his right to attend his trial.

In ***Pantano***, which Appellant cites, the decision to deny a defense requested continuance and proceed *in absentia* arose “from a message left on the attorney’s answering machine about a death in [the defendant’s] family,” no prior continuances had been requested by the defense, and the Commonwealth did not object to the continuance. ***Pantano***, 836 A.2d at 951. We reversed the trial court’s decision because, in key part, the defendant “did not absent himself without explanation, but rather presented the trial court with his request for a continuance through his counsel.” ***Id.*** In stark contrast, here, Appellant was absent without explanation, counsel admitted he had not heard from Appellant, and the Commonwealth objected to a continuance because it would lose a witness and possibly a second if the trial were continued into the second week of the two-week trial term. All of the factors that weighed in favor of reversal in ***Pantano*** weigh in favor of affirmance here.

Appellant also compares the circumstances presented here to those in ***DeCosta*** where the defendant had been present for the first three days of trial up to when the jury began deliberations on a Friday but failed to appear on the following Monday. ***See DeCosta***, 197 A.3d at 814-815. Decosta’s counsel informed the court that Decosta “had been hospitalized over the weekend with a diagnosis of Sepsis[,] ... was sedated and on a mechanical ventilator[,]” and “provided documentation from two doctors corroborating

this account.” ***Id.*** at 815. Finding that no prejudice would result to defendant by proceeding *in absentia* through the end of jury deliberations, the trial court overruled defense objections, including a separate objection to hearing the jury’s verdict while defendant was not present. ***See id.*** at 815. We reversed the trial court because the Commonwealth did not oppose the defense motions, “did not prove, by a preponderance of the evidence, that [the defendant] was absent without cause,” and “the trial court’s determination that he was absent without cause [based on prior misconduct and the possibility of a suicide attempt] was manifestly unreasonable.” ***Id.*** at 819. In contrast, here, there were no facts in dispute, Appellant had not appeared on the first day of trial, had not provided a reason to counsel or contacted counsel at all, and the Commonwealth had valid reasons to proceed as scheduled. In no manner was the trial court’s ruling manifestly unreasonable.

Appellant’s argument that the Commonwealth failed to prove that his absence was intentional is misguided for two reasons. The first is that there was sufficient evidence on the record to support the trial court’s conclusion that Appellant intentionally waived his presence at trial. Moreover, Appellant did not object to this alleged lack of evidence at the time, but waited until he filed his supplemental post-sentence motion to raise this issue for the first time. “[O]ne must object to errors, improprieties[,], or irregularities at the earliest possible stage of the criminal ... adjudicatory process to afford the jurist hearing the case the first occasion to remedy the wrong and possibly avoid an unnecessary appeal to complain of the matter.” ***Commonwealth v.***

Strunk, 953 A.2d 577, 580 (Pa. Super. 2008) (citation omitted); **see also Commonwealth v. Rosser**, 135 A.3d 1077, 1086 (Pa. Super. 2016) (*en banc*) (quoting **Strunk**). By waiting to raise this complaint, Appellant improperly attempts to impose a post-hoc obligation on the Commonwealth to adduce evidence that was not requested at the proper time.

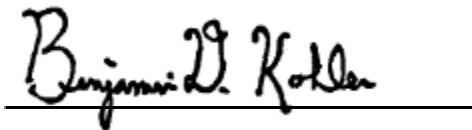
The second reason is that Appellant's belated demand, first raised in his supplemental post-sentence motion, was contradicted by his own admission at sentencing that he had knowingly "absconded" from trial to visit his father, who passed away "the following March." N.T. Sentencing, 5/27/25, 7-8. Appellant argues that we should not consider his admission because it was made "after any decisions on proceeding *in absentia* were made," Appellant's Brief, 24, and that it cannot "change the fact that the Commonwealth bears the burden of proving absence without cause by a preponderance of evidence," Appellant's Reply Brief, 6. He provides no reason for why we should task the Commonwealth with proving a fact that he did not contest at the proper time, and which can no longer be disputed at this time; Appellant was not prevented from appearing at his trial by circumstances beyond his control, but intentionally failed to appear at trial.⁷

⁷ Appellant argues that his admission at sentencing has alternative interpretations. **See** Appellant's Reply Brief, 6-7. He posits that he did not admit he knew of his trial date. **See id.**, 6. This is a separate issue than whether his absence was willful, and we have determined that the extant record supported the trial court's determination that Appellant knew that his trial would be held in the two-week period following October 9, 2023. (*Footnote Continued Next Page*)

Accordingly, we conclude that the trial court did not abuse its discretion by proceeding to trial *in absentia* when Appellant failed to appear in court on the date trial was scheduled to start. We also find that the sentence imposed on the conviction for attempted unlawful contact with a minor is illegal and must be vacated. The matter is remanded for resentencing on that count, at which time, the court must also impose the mandatory probation term required by 42 Pa.C.S. § 9718.5.

Convictions affirmed. Judgment of sentence vacated. Remand for resentencing. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 09/11/2026

Appellant's admission clearly proves that he chose to visit his father rather than attend trial and disproves that he was prevented from arriving at trial by a circumstance beyond his control.