

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
JOSE SANCHEZ-RODRIGUEZ	:	
	:	
Appellant	:	No. 593 EDA 2026

Appeal from the PCRA Order Entered February 3, 2026
In the Court of Common Pleas of Monroe County Criminal Division at
No(s): CP-45-CR-0001347-2021

BEFORE: LAZARUS, P.J., MURRAY, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY MURRAY, J.:

FILED SEPTEMBER 11, 2026

Jose Sanchez-Rodriguez (Appellant) appeals from the order denying his first petition timely filed pursuant to the Post Conviction Relief Act (PCRA).¹ After careful consideration, we affirm in part, vacate in part, and remand for further proceedings.

The PCRA court summarized the relevant factual history underlying this appeal:

On or about August 27, 2019, emergency medical services (EMS) arrived at 710 Meixsell Valley Road, Saylorsburg, Monroe County, Pennsylvania, in response to a report of a thirty-eight (38) year old male experiencing cardiac arrest. (N.T. 8/25/2022, at 48, 56). Shortly after the arrival of EMS, the victim, [Edward Blew (Blew)], was declared dead due to a suspected drug overdose. (N.T. 8/25/2022, at 66-67). A later autopsy confirmed that [Blew] had

* Retired Senior Judge assigned to the Superior Court.

¹ 42 Pa.C.S.A. §§ 9541-9546.

fatal levels of heroin, fentanyl and methamphetamine in his bloodstream. (N.T. 8/25/2022, at 89, 94-97; 8/29/2022, at 58-60).

[Appellant] was charged[,] in Monroe County[,] with drug delivery resulting in death, 18 Pa.C.S.A. § 2506(a), a felony of the first degree, two counts; conspiracy to commit drug delivery resulting in death, 18 Pa.C.S.A. § 903, a felony of the first degree; possession with intent to deliver, three (3) counts, 35 P.S. § 780-113(a)(30); conspiracy to deliver, three (3) counts, 18 Pa.C.S.A. § 903; criminal use of communication facility, 18 Pa.C.S.A. § 7512(a), a felony of the third degree; and involuntary manslaughter, 18 Pa.C.S.A. § 2506....

PCRA Court Opinion, 2/3/26, at 2-3 (capitalization, punctuation, and citation format modified).

Significant to this appeal,

[a]pproximately six (6) weeks after the incident giving rise to the charges in Monroe County, on October 15, 2019, the Salisbury Township Police, in Lehigh County, ... observed a vehicle with an expired registration exit a parking lot without signaling. **See Commonwealth v. Sanchez-Rodriguez**, No. 239-CR-2019 (Lehigh Cnty., 10/16/2019). Salisbury Township police initiated a traffic stop of the vehicle, which was being driven by [Appellant]. (N.T. 8/26/2022, at 53-56). Officers removed [Appellant] from the vehicle and observed a jar of marijuana and two (2) yellow bags in plain view. (N.T. 8/26/2022, at 56-57). A more thorough scan of the vehicle revealed additional yellow bags, three thousand dollars (\$3,000.00) in cash, multiple digital scales and multiple cell phones. (N.T. 8/26/2022, at 57-58).

Based upon the Salisbury officers' wingspan search, officers were granted a search warrant for the vehicle. During the search, officers found methamphetamine in pouches, a white powdery substance, a lunchbox containing suboxone pills and sublingual strips, and approximately two hundred twelve (212) yellow glassine bags. (N.T. 8/26/2022, at 63-64, 68-70). As a result, [Appellant] was charged[,] in Lehigh County[,] ... with felony possession with intent to distribute charges for methamphetamine, heroin/fentanyl, marijuana and cocaine; misdemeanor possession for the same; [and other related

offenses]. On August 13, 2020, [Appellant] pleaded ... *nolo contendere* to a single charge of felony possession of marijuana with intent to deliver. (N.T. 8/13/2020, Lehigh Cnty.). [Appellant] was sentenced, in Lehigh County, to one (1) year of probation.

While litigating the Lehigh County charges, [Appellant's] Lehigh County attorney moved to suppress the fruits of the stop [(the Lehigh County evidence),] having learned that the arresting officer improperly logged the dashcam footage where the traffic infraction occurred. More specifically, [Appellant's] attorney moved to suppress the evidence pursuant to the Fourth Amendment to the United State Constitution and Article I, Section 8 of the Pennsylvania Constitution. **A hearing was held on [Appellant's] suppression motion before the Court of Common Pleas of Lehigh County Before [a ruling on the Lehigh County suppression motion] was rendered ..., [Appellant] pled guilty in that case to a single marijuana charge with the remaining felony drug charges dropped.**

PCRA Court Opinion, 2/3/26, at 3-4 (emphasis added; citations' format and punctuation modified).

In the Monroe County case underlying this appeal,

the Commonwealth filed a notice of intent to introduce evidence of other bad acts, including ... the Lehigh County [evidence]. In response [to] the Commonwealth's notice, [Appellant's] trial counsel opposed [admission of the Lehigh County evidence] and filed a motion *in limine*, arguing that under Rules 403 and 404 of the Pennsylvania Rules of Evidence, the evidence was irrelevant and more prejudicial than probative.² [The trial court] disagreed and allowed the evidence to be admitted at trial. **See[]** Order, 8/23/2022.

PCRA Court Opinion, 2/3/26, at 4 (footnote added).

² Appellant's trial counsel did not challenge the constitutionality of the seizure of evidence resulting from the Lehigh County traffic stop.

A jury ultimately convicted Appellant of, *inter alia*, drug delivery resulting in death, multiple counts of conspiracy, and possession with intent to deliver controlled substances.³ On November 29, 2022, the trial court sentenced Appellant to 37-74 years in prison. This Court affirmed Appellant's judgment of sentence on April 1, 2024. ***Commonwealth v. Sanchez-Rodriguez***, 319 A.3d 1, 26 EDA 2023 (Pa. Super. filed Apr. 1, 2024) (unpublished memorandum). Appellant did not petition for allowance of appeal to the Pennsylvania Supreme Court.

On April 30, 2025, Appellant timely filed the instant PCRA petition claiming ineffective assistance of his trial counsel. The PCRA court conducted an evidentiary hearing on June 9, 2025.

Following the hearing, the parties agreed to leave the matter open for receipt of the transcript of the Lehigh County suppression hearing at issue, to provide post-hearing briefs, and for the Commonwealth to present witnesses. The matter resumed on November 14, 2025....

PCRA Court Opinion, 2/3/26, at 1. On February 3, 2026, the PCRA court denied Appellant's petition, after which Appellant timely filed the instant appeal. Appellant and the PCRA court have complied with Pa.R.A.P. 1925.

Appellant presents the following issues for our review:

1. Was trial counsel ineffective for failing to investigate the facts and circumstances related to a car stop and subsequent search and seizure occurring in [Lehigh] County, and upon such investigation[,] for not moving to suppress the evidence seized as

³ **See** 18 Pa.C.S.A. §§ 2506, 903(a); 35 P.S. § 780-113(a)(30).

the product of an illegal stop, and as a violation of discovery rules, when the motions would have succeeded?

2. Was trial counsel ineffective at sentencing for failing to object to the court's consideration of uncharged bad acts that were neither contained in the pre-sentence investigation [(PSI) report] nor developed during trial?

3. Was trial counsel ineffective at sentencing for failing to object to the court's consideration of Appellant's alleged "lack of remorse" when Appellant remained silent at trial, during the preparation of the [PSI] report, and during sentencing, and there existed no other basis to support the court's conclusion that Appellant lacked remorse?

4. Was Appellant prejudiced by the cumulative impact of counsel's ineffectiveness at sentencing?

Appellant's Brief at 1-2 (capitalization modified).

Appellate review of a PCRA court's denial of relief "is limited to the examination of whether the PCRA court's determination is supported by the record and free of legal error." ***Commonwealth v. Maxwell***, 232 A.3d 739, 744 (Pa. Super. 2020) (*en banc*) (citation and quotation marks omitted). "[W]e review the PCRA court's legal conclusions *de novo*." ***Id.*** (citation omitted).

Each of Appellant's issues argue the ineffective assistance of his prior counsel. To prevail on a claim of ineffective assistance of counsel,

the petitioner must plead and prove that the underlying claim is of arguable merit; that counsel had no reasonable strategic basis for the disputed action or inaction; and that there is a reasonable probability that the outcome of the proceeding would have been different but for counsel's error. Failure to satisfy any one of these prongs is fatal to a claim of ineffective assistance. The PCRA court's factual findings are binding if the record supports them, and we review the court's legal conclusions *de novo*.

Commonwealth v. Prater, 256 A.3d 1274, 1282 (Pa. Super. 2021) (citations omitted).

In his first issue, Appellant argues that the PCRA court improperly denied relief on his ineffectiveness claim, which is based on trial counsel's failure to seek suppression of the Lehigh County evidence. Appellant's Brief at 19. According to Appellant, his trial counsel should have moved to suppress the Lehigh County evidence "based on the same grounds" that were advanced in Lehigh County, *i.e.*, as a violation of Appellant's constitutional rights. ***Id.*** at 20. Appellant directs our attention to his trial counsel's PCRA hearing testimony admitting that counsel never obtained the Lehigh County court file, and counsel's statement that he was not "familiar with [the Lehigh County] suppression motion until I read [Appellant's] petition." ***Id.*** (citation omitted).

Regarding the underlying Lehigh County suppression issue, Appellant further argues that the Lehigh County traffic stop was illegal, as the officer who conducted the traffic stop left his jurisdiction without authorization. ***Id.*** at 21-22. Appellant claims that the officer was not in "hot pursuit" of his vehicle or involved in a police chase. ***Id.*** at 23. Appellant points out that the PCRA court did not address the arguable merit of this ineffectiveness claim. ***Id.*** at 25. According to Appellant, the PCRA court erroneously concluded it was precluded from reviewing the substantive underlying issue. ***Id.***

Appellant additionally claims that trial counsel rendered ineffective assistance by not seeking suppression of the Lehigh County evidence, based

on the Lehigh County prosecutor's violation of mandatory discovery rules. ***Id.*** at 27. According to Appellant, his Lehigh County counsel moved for suppression based on the Commonwealth's failure to produce the dashcam and surveillance videos, but his Monroe County trial counsel failed to do so. ***Id.*** at 28. Appellant argues that his Monroe County "trial counsel could and should have attempted to keep the evidence derived from the traffic stop out of evidence[,] based on the Commonwealth's discovery violations in that case." ***Id.*** (footnote omitted). Appellant asserts that without the dashcam and surveillance videos, his counsel could not challenge the validity of that traffic stop, and the subsequent search warrant issued in Lehigh County. ***Id.*** at 29.

Appellant argues that he suffered prejudice resulting from trial counsel's failure to investigate and seek suppression of the Lehigh County evidence. ***Id.*** at 32. Appellant states that the Lehigh County traffic stop resulted in the seizure of about 200 glassine bags that were unique, and matched the bags found in the home of the Monroe County victim, Blew. ***Id.*** Appellant argues that the uniqueness of the bags, and their similarity to the bags found in Blew's home, constituted "the lynchpin of the Commonwealth's presentation inculcating Appellant." ***Id.***

In particular, Appellant challenges the legal basis for the PCRA court's refusal to review the merits of his ineffectiveness claim, *i.e.*, that Appellant waived any challenge to the Lehigh County evidence by pleading guilty to the

Lehigh County charges. *Id.* Appellant disputes this conclusion, arguing that because the Lehigh County court never ruled on the suppression issue, the PCRA court could review the merit of his ineffectiveness claim. *Id.*

In its opinion, the PCRA court addressed Appellant's claim, stating that [the court does] not get to the merits of [Appellant's] PCRA petition because [Appellant] has waived the very issues raised in his petition when he pleaded guilty in the Lehigh County matter.

PCRA Court Opinion, 2/3/26, at 5-6. The PCRA court cited the coordinate jurisdiction rule as precluding its review of the Lehigh County evidence. *Id.* at 6. The PCRA court concluded that as part of Appellant's Lehigh County plea, Appellant waived the right to litigate any pretrial motions or claims raised in that matter. *Id.* However, the PCRA court recognized that Appellant pled guilty prior to the Lehigh County suppression court ruling on his motion. *Id.*

Appellant's first issue implicates the coordinate jurisdiction rule. The coordinate jurisdiction rule

states that judges of coordinate jurisdiction should not overrule each other's decisions. The rule, applicable in both civil and criminal cases, falls within the ambit of the law of the case doctrine. ... [T]he law of the case doctrine refers to a family of rules which embody the concept that a court involved in the later phases of a litigated matter should not reopen questions decided by another judge of that same court or by a higher court in the earlier phases of the matter. **Among the related but distinct rules which make up the law of the case doctrine is the rule that upon transfer of a matter between trial judges of coordinate jurisdiction, the transferee trial court may not alter the resolution of a legal question *previously decided* by the transferor trial court.**

Commonwealth v. King, 999 A.2d 598, 600 (Pa. Super. 2010) (citations and quotation marks omitted; emphasis added). As this Court has explained,

[w]here a motion has been presented **and decided**[,] and where no new facts are presented in the motion which is seeking the same relief, the first order should be followed based on considerations of judicial economy and efficiency. This rule prevents forum shopping because without this rule, the same issue could be raised repeatedly before different judges of the same court until a litigant finds a judge sympathetic to his or her position. Additionally, our Supreme Court has stated that absent the most compelling circumstances, a judge should follow **the decision** of a colleague on the same court when based on the same set of facts.

Drapeau v. Joy Techs., 670 A.2d 165, 167-68 (Pa. Super. 1996) (citations and quotation marks omitted; capitalization modified; emphasis added).⁴

Instantly, our review discloses that the Lehigh County suppression court never “decided” Appellant’s suppression motion. Rather, Appellant chose to plead *nolo contendere* prior to the disposition of his motion. Because the Lehigh County suppression court never *decided* Appellant’s suppression motion, the PCRA court erred in concluding that the coordinate jurisdiction

⁴ In ***Musumeci v. Penn’s Landing Corp.***, 640 A.2d 416 (Pa. Super. 1994), this Court recognized that

there is an exception to the [coordinate jurisdiction] rule which provides that the second judge is authorized to overrule the first if new evidence or newly decided legal authorities compel him or her to do so....

Id. at 419 (citations omitted).

barred its consideration of Appellant's instant ineffectiveness claim. **See *Drapeau***, 670 A.2d at 167-68.

The PCRA court's decision also appears to invoke the collateral estoppel doctrine, albeit not by name.

The doctrine of collateral estoppel is a part of the Fifth Amendment's guarantee against double jeopardy, which was made applicable to the states through the Fourteenth Amendment. The phrase "collateral estoppel," also known as "issue preclusion," simply means that when an issue of law, evidentiary fact, or ultimate fact has been determined by a valid and final judgment, that issue cannot be litigated again between the same parties in any future lawsuit. Collateral estoppel does not automatically bar a subsequent prosecution, but rather, it bars redetermination in a second prosecution of those issues necessarily determined between the parties in a first proceeding that has become a final judgment.

Traditionally, Pennsylvania courts have applied the collateral estoppel doctrine only if the following threshold requirements are met: 1) the issues in the two actions are sufficiently similar and sufficiently material to justify invoking the doctrine; 2) **the issue was actually litigated in the first action**; and 3) a final judgment on the specific issue in question was issued in the first action. **An issue is actually litigated when it is properly raised, submitted for determination, and then actually determined.** For collateral estoppel purposes, a final judgment includes any prior adjudication of an issue in another action that is sufficiently firm to be accorded conclusive effect.

Commonwealth v. Holder, 805 A.2d 499, 502-03 (Pa. 2002) (plurality) (citations and footnotes omitted; original emphasis omitted; emphasis added).

In ***Commonwealth v. Lagana***, 509 A.2d 863 (Pa. 1986), our Supreme Court considered whether the doctrine of collateral estoppel applies to pre-

trial suppression rulings, where separate prosecutions arose from a single arrest. ***Id.*** at 864. The Supreme Court opined that,

in those instances where two prosecutions arise out of a single search and/or seizure, **a decision by a suppression judge during the first prosecution can, upon the motion of the previous prevailing party, become part of the second prosecution.** The party against whom this decision is being offered may offer any new evidence which was previously unavailable. ***See generally*** Pa.R.Crim.P. 323(j). Absent such new evidence the suppression judge in the second prosecution must adopt the findings and conclusions of the first judge, and incorporate them into the record. Thereupon, the party against whom the first decision is offered may have the validity of the decision reviewed on appeal.

Id. at 866 (original footnote omitted; footnote added). “Although ***Lagana*** involved separate actions before different judges of the same court, its teaching is equally applicable to separate cases before courts of equal jurisdiction in different counties of this Commonwealth.” ***Commonwealth v. Camperson***, 650 A.2d 65, 69 (Pa. Super. 1994).

In ***Commonwealth v. Maldonado***, 317 A.3d 615, 405 EDA 2023 (Pa. Super. filed Mar. 25, 2024) (unpublished memorandum),⁵ this Court addressed a situation similar to the instant case, wherein the defendant sought suppression of evidence that resulted in charges in two counties: Bucks and Northampton. After the defendant argued a suppression motion in Northampton County, but before a ruling by the Northampton County

⁵ ***See*** Pa.R.A.P. 126(b) (stating this Court may rely on unpublished decisions of this Court filed after May 1, 2019, for their persuasive value).

suppression court, Appellant sought suppression of the same evidence in Bucks County. This Court stated that,

[u]nder these circumstances, [the defendant] was not precluded from raising the motion to suppress [in the Bucks County case] simply because he had already argued for suppression of the evidence in the Northampton County case. Further, **because there was no ruling on the suppression motion in the Northampton County case at the time [the defendant] moved for suppression of the evidence in this case, the trial court in this case was not required to adopt any findings or conclusions from the Northampton County case.**

Id. (unpublished memorandum at 5 n.3) (emphasis added). This Court's reasoning in ***Maldonado*** is persuasive.

Here, the Lehigh County suppression court issued no findings, conclusions, or decision that could have been adopted by the Monroe County suppression court. Because there was no decision on Appellant's Lehigh County suppression motion, the doctrine of collateral estoppel did not bar Appellant from seeking suppression of the Lehigh County evidence in the Monroe County prosecution. ***See Lagana***, 509 A.2d at 866. For this reason, the PCRA court erred in concluding that it was barred from considering the Appellant's ineffectiveness claim. Because the PCRA court did not address any of the elements of Appellant's ineffectiveness claim based on trial counsel's failure to seek suppression of the Lehigh County evidence, we are constrained to vacate the order of the PCRA court, and remand for further proceedings. On remand, the PCRA court is directed to address Appellant's ineffectiveness

claim, and is authorized to conduct additional evidentiary hearings, if necessary, to resolve Appellant's ineffectiveness claim.

In his second issue, Appellant argues that his trial counsel rendered ineffective assistance by failing to object to the sentencing court's consideration of uncharged bad-acts evidence. Appellant's Brief at 36. Appellant claims that at sentencing, the Commonwealth alleged that officers found ammunition during his Lehigh County traffic stop, and showed a photograph of this evidence at the sentencing hearing. **Id.** According to Appellant, "[t]he Commonwealth argued [at the hearing] that due to Appellant's status as a person not to possess a firearm, Appellant could have been charged for possessing the ammunition, although he was not." **Id.** Appellant claims that the Commonwealth additionally and improperly referred to evidence that Appellant had committed an illegal act by taking a photograph of the courtroom during his bail modification hearing. **Id.**

Appellant points out that neither act was referenced in his PSI report. **Id.** at 37. Further, Appellant asserts that the Commonwealth's photograph of the ammunition was not presented or admitted at his trial. **Id.** Appellant thus claims that the trial court relied upon these impermissible factors as the basis for sentencing Appellant in excess of the aggravated range of the sentencing guidelines. **Id.**

In assessing Appellant's ineffectiveness claim, we are cognizant that, when it is clear that the petitioner has failed to meet the prejudice prong, the

court may dispose of the claim on that basis alone, without a determination of whether the first two prongs of an ineffectiveness claim were met.

Commonwealth v. Travaglia, 661 A.2d 352, 357 (Pa. 1995).

Prejudice exists if there is a reasonable probability that the outcome of the proceeding would have been different but for counsel's constitutionally deficient performance. A reasonable probability is less than more likely than not[.] It is a probability that is sufficient to undermine confidence in the outcome of the proceeding.

Commonwealth v. Johnson, 353 A.3d 609, 665-66 (Pa. 2026) (citations and quotation marks omitted).

In its Opinion, the PCRA court⁶ addressed this issue and, *inter alia*, concluded that Appellant failed to establish the arguable merit of his claim, or prejudice resulting from trial counsel's allegedly deficient performance:

[Appellant's] issue relates to references made at the time of sentencing to nine-millimeter shells and a photo from an unspecified courtroom that were made by counsel for the Commonwealth prior to sentencing. (N.T. 11/29/2022, at 36-38). [Appellant] asserts that these references were neither presented at trial nor contained in the [PSI r]eport. These references came from text messages and a photo on [Appellant's] cell phone that were made part of the record as an exhibit at the time of trial. As such, [the PCRA court] find[s] no merit in [Appellant's] argument.

Additionally, the nine-millimeter shells and the photo were not a basis for [the trial court's] sentence that was imposed upon [Appellant]. Although [the trial court] addressed the photo of the unspecified courtroom at the time of sentencing, it was to illustrate that [the court was] acknowledging the plethora of evidence presented at trial regarding [Appellant's] proud

⁶ The Honorable Jennifer Harlacher Sibum presided over both Appellant's trial and his PCRA proceedings.

membership of an active gang. (N.T. 11/29/2022, at 44, 60). The photo itself and the reference to the nine-millimeter shells had no bearing on the sentence [the court] imposed. Rather, the sentence imposed was based upon an extensive [PSI] report and the circumstances surrounding [Appellant's] conviction. (N.T. 11/29/2022, at 45).

PCRA Court Opinion, 3/23/26, at 3 (citations' format modified).

The PCRA court's findings are supported in the record, and we discern no legal error in its conclusion. Accordingly, Appellant's second issue merits no relief. **See Travaglia**, 661 A.2d at 357.

In his third issue, Appellant argues that his trial counsel rendered ineffective assistance by failing to object to the trial court's "use of Appellant's silence in the formulation of [its] sentence." Appellant's Brief at 45. Appellant asserts that he exercised his constitutional right to remain silent at trial and at sentencing. **Id.** According to Appellant, the sentencing court stated, among its reasons for the sentences imposed, the fact that Appellant "sat through the entire trial stone cold as he is here today, not an ounce of remorse." **Id.** at 45-46 (quoting N.T., 11/29/22, at 42). Appellant claims that the trial court then imposed a sentence greatly exceeding the maximum aggravated guidelines range. **Id.** at 46.

Appellant claims that, pursuant to **Commonwealth v. Bowen**, 975 A.2d 1120 (Pa. Super. 2009), when a defendant exercises his right to remain silent in order to preserve his appeal issues, the court may not cite the defendant's "failure to take responsibility for crimes they never admitted to committing at sentencing." Appellant's Brief at 46 (quoting **Bowen**, 975 A.2d

at 1127). Appellant argues “there can be no serious question that the court relied, at least in part[,], on Appellant’s silence.” **Id.** at 47.

Appellant acknowledges his trial counsel’s explanation for not objecting to the trial court’s statement. **Id.** Specifically, Appellant acknowledges the following testimony by his trial counsel at the PCRA hearing: “I took that specific passage to mean [Appellant’s] demeanor and appearance throughout the proceedings, not necessarily relevant to him taking the stand and testifying. But no, I didn’t make any objection in that regard.” Appellant’s Brief at 47 (citation omitted). Appellant further points out his trial counsel’s testimony that Appellant was “just staring[,], focused on what was being said throughout the entire time, as far as I can recall.” **Id.** (citation omitted). Appellant argues that his focus on the trial “does not constitute a lack of remorse—it is what every criminal defendant has a right to do, and is expected to do.” **Id.** at 48. Appellant argues that trial counsel’s failure to object resulted in the waiver of this issue, and caused him prejudice. **Id.**

The PCRA court offered the following explanation for rejecting Appellant’s ineffectiveness issue:

[The sentencing court] placed [its] reasons for the sentence imposed upon [Appellant] on the record at the time of sentencing on November 29, 2022. (N.T. 11/29/2022, pp. 41-51). There are numerous legitimate factors that were placed upon the record at the time of sentencing illustrating [its] imposition of sentence. **Id.** [The court] stand[s] by those reasons.

PCRA Court Opinion, 3/23/26, at 4.

The PCRA court did not address (1) the arguable merit of Appellant's underlying issue; (2) whether counsel had a reasonable basis for not objecting to the sentencing court's stated reasons for its sentence; or (3) whether Appellant suffered prejudice resulting from counsel's alleged ineffectiveness. **See *Prater***, 256 A.3d at 1282. As such, we are constrained to vacate the PCRA court's order as to this issue. We remand for the PCRA court to consider Appellant's ineffectiveness claim under the appropriate standard.⁷ **See *id.*** The PCRA court is authorized to conduct additional evidentiary hearings, if necessary, to resolve Appellant's ineffectiveness claim.

In his fourth and final issue, Appellant argues that the "cumulative prejudicial effect" of the sentencing errors warrants relief. Appellant's Brief at 50. However, as we conclude Appellant's second issue challenging the sentencing court's consideration of "uncharged" bad acts evidence warrants

⁷ We note that

a sentence based in part on an impermissible consideration is not made proper simply because the sentencing judge considers other permissible factors as well. In deciding whether a trial judge considered only permissible factors in sentencing a defendant, an appellate court must, of necessity, review all of the judge's comments. Moreover, in making this determination it is not necessary that an appellate court be convinced that the trial judge in fact relied upon an erroneous consideration; it is sufficient to render a sentence invalid if it reasonably appears from the record that the trial court relied in whole or in part upon such a factor....

Commonwealth v. Taylor, 309 A.3d 754, 784 (Pa. 2024) (citation omitted).

no relief, Appellant's "cumulative prejudicial effect" argument fails. No relief is due on this issue.

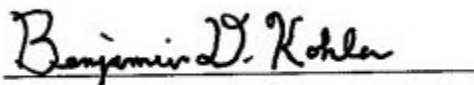
For the foregoing reasons, we affirm the PCRA court's denial of relief on Appellant's ineffectiveness claims premised on the sentencing court's consideration of uncharged bad acts evidence, and the "cumulative effect" of counsel's ineffectiveness at the sentencing hearing. However, we are constrained to vacate the PCRA court's order denying relief on Appellant's ineffectiveness claims premised on trial counsel's failure to (a) seek suppression of the Lehigh County evidence, and (b) object to the sentencing court's consideration of Appellant's demeanor/silence. We remand these issues to the PCRA court for further proceedings, in accordance with this memorandum.

Order affirmed in part, vacated in part, and remanded for further proceedings in accordance with this memorandum. Superior Court jurisdiction relinquished.

P.J. Lazarus joins the memorandum.

P.J.E. Ford Elliott concurs in the result.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/11/2026