

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
ERIC LANE	:	
	:	
Appellant	:	No. 2094 EDA 2024

Appeal from the Judgment of Sentence Entered July 12, 2024
In the Court of Common Pleas of Philadelphia County Criminal Division at
No(s): CP-51-CR-0006409-2023

BEFORE: PANELLA, P.J.E., NICHOLS, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY NICHOLS, J.:

FILED SEPTEMBER 14, 2026

Appellant Eric Lane appeals from the judgment of sentence imposed after he was convicted following a nonjury trial of possession of a firearm prohibited, firearm carried without a license, and carrying a firearm in public in Philadelphia.¹ This matter returns to us after our Supreme Court remanded the case for this Court to reconsider whether the evidence was sufficient to support the suppression court's conclusion that the location where Appellant was stopped was a high-crime area, in light of *Commonwealth v. Lewis*, 343 A.3d 1016 (Pa. 2025). After review, we vacate Appellant's judgment of sentence and remand for further proceedings consistent with this memorandum.

* Retired Senior Judge assigned to the Superior Court.

¹ 18 Pa.C.S. §§ 6105(a), 6106(a), & 6108, respectively.

The trial court summarized the relevant facts and procedural history of the matter as follows:

On August [2]8, 2023, [Philadelphia Police Officer George] Lutz and his partner Officer [Brian] Canela were on routine patrol in a marked police vehicle. Both officers were wearing full uniforms. Officer Lutz was the recorder and sat in the passenger seat. At approximately 9:00 p.m. the officers were traveling [northbound] on 39th Street in Philadelphia, Pennsylvania, when they stopped to let Appellant cross the street. Appellant was crossing from the 3900 block of Folsom Street to the 3800 block of Folsom Street.

While Appellant was crossing [the street,] Officer Lutz observed a large bulge in Appellant's waistband, weighing down his pants. Officer Lutz alerted Officer Canela. And they waited for Appellant to step into the vehicle's headlights to confirm the observation. The officers turned on Folsom Street, driving parallel to Appellant as he walked on the sidewalk. The officers got ahead of Appellant and stopped the vehicle a half a car ahead of Appellant.

At this time, Officer Lutz opened the passenger door slightly and asked Appellant if he had a license to carry a firearm. Appellant did not respond but looked down at his waistband. Officer Lutz went to step out of the vehicle and before he had one foot on the pavement Appellant grabbed his waistband and took off running in the opposite direction. Officer Lutz pursued Appellant on foot and followed him westbound on Folsom Street and then turned southbound on 39th Street. Officer Lutz caught up to Appellant and grabbed him from behind. Appellant fell on his stomach and was placed in custody. Officer Lutz observed the firearm at the bottom of Appellant's pants and recovered it. Appellant was wearing tight pants that cinched at the bottom. Due to Appellant's flight the firearm moved from his waist and fell to the bottom of his pants. The firearm recovered was a black Glock 17. . . .

On August 29, 2023, Appellant was arrested and charged with possession of a firearm prohibited, firearm carried without a license, carry a firearm in public in Philadelphia, and evading arrest of detention on foot. A motion to suppress was litigated before [the trial court] on April 25, 2024. [The trial court] granted the motion to suppress as to Appellant's statements after he was

arrested but before he was given his **Miranda**^[2] rights. However, [the trial court] denied the motion to suppress as to physical evidence, the recovered firearm. Before immediately proceeding to a waiver trial[,], the Commonwealth *nolle [prossed]* the charge of evading arrest of detention on foot.

[The trial court] found Appellant guilty of possession of a firearm prohibited, firearm carried without a license, and carry a firearm in public in Philadelphia. Sentencing was deferred and [the trial court] ordered a mental health evaluation and a presentence investigation. At sentencing on July 12, 2024, [the trial court] sentenced Appellant to five to ten years of incarceration followed by one year of re-entry supervision.

Appellant filed a post-sentence motion to reconsider the sentence on July 22, 2024. [The trial court] denied [Appellant's] motion to reconsider the sentence on July 30, 2024. . . . Appellant then filed a notice of appeal to [this Court] on August 5, 2024. On August 6, 2024, a [Pa.R.A.P.] 1925(b) order was issued [by the trial court]. On September 19, 2024, the Appellant timely filed a statement of errors[.]

Trial Ct. Op, 10/4/24, at 2-3 (unpaginated, footnotes omitted, and some formatting altered).

On appeal, this Court previously affirmed Appellant's judgment of sentence agreeing

with the trial court's conclusions that the initial interaction between Appellant and police prior to Appellant's flight was a mere encounter; that Appellant's flight was unprovoked; that the Commonwealth established that the location of the interaction was a high-crime area; and that, based upon the totality of the circumstances, which included Appellant's unprovoked flight in a high-crime area, police had reasonable suspicion to investigate Appellant and subsequently had probable cause to recover the firearm.

² **Miranda v. Arizona**, 384 U.S. 436 (1966).

Commonwealth v. Lane, 2094 EDA 2024, 2025 WL 2466072, at *2 (Pa. Super. filed Aug 27, 2025) (unpublished mem.). Appellant subsequently filed a petition for allowance of appeal with the Pennsylvania Supreme Court. On March 18, 2026, our Supreme Court issued an order vacating this Court's order and remanding the case for this Court to reconsider "the issue of whether the evidence was sufficient to support the suppression court's conclusion that the location where petitioner was stopped was a high-crime area . . . in light of [**Lewis**], 343 A.3d 1016." **See Commonwealth v. Lane**, 385 EAL 2025, 356 A.3d 743 (Pa. 2026). Accordingly, on remand, we must address the trial court's conclusion that the Commonwealth established that the location of the interaction was a high-crime area.

Appellant argues that the Commonwealth failed to present any evidence that the stop occurred in a high-crime area and, instead, "relied on a few throwaway remarks by the arresting officer." Appellant's Brief at 22. Appellant contends that

the testimony gave the court no basis to conclude that the level of crime, either in general or of any particular type, and either at this location or in the surrounding area, was especially high. Nor was there any indication of how the information was relevant to the officer's observations.

Id. at 24. Appellant concludes that, in the absence of sufficient evidence to conclude that the area was a high-crime area, his flight alone was not a justification for conducting the stop. **See id.** at 24-25.

Our standard of review in addressing a challenge to the denial of a suppression motion is limited to determining whether the

suppression court's factual findings are supported by the record and whether the legal conclusions drawn from those facts are correct. Because the Commonwealth prevailed before the suppression court, we may consider only the evidence of the Commonwealth and so much of the evidence for the defense as remains uncontradicted when read in the context of the record as a whole. Where the suppression court's factual findings are supported by the record, we are bound by these findings and may reverse only if the court's legal conclusions are erroneous. Where the appeal of the determination of the suppression court turns on allegations of legal error, the suppression court's legal conclusions are not binding on an appellate court, whose duty it is to determine if the suppression court properly applied the law to the facts. Thus, the conclusions of law of the court below are subject to our plenary review.

Commonwealth v. McLean, 302 A.3d 211, 215 (Pa. Super. 2023) (citing ***Commonwealth v. Jones***, 988 A.2d 649, 654 (Pa. 2010)) (some formatting altered).

A recent *en banc* panel of this Court summarized the factors espoused in ***Lewis*** for establishing a "high-crime area" as follows:

Recently, in ***Lewis***, our Supreme Court considered "the quantum of evidence necessary to prove an area is high in crime, such that a suppression court may properly consider that fact among the totality of the circumstances when assessing whether reasonable suspicion existed at the time of a stop." ***Lewis***, 343 A.3d at 1021.

Initially, the ***Lewis*** Court noted that the Pennsylvania Supreme Court "has long recognized a suspect's presence in a high-crime area as a relevant factor in assessing reasonable suspicion." ***Id.*** at 1029. The ***Lewis*** Court observed, however, that "over time, general designations of neighborhoods as 'high crime' areas seems to have become a box-checking heuristic for law enforcement in search-and-seizure cases." ***Lewis***, 343 A.3d at 1031 (citation and quotations marks omitted).

Seeking to "rectify this apparent problem," ***id.*** at 1032, the ***Lewis*** Court stated that,

although we decline to impose a statistics requirement or adopt a strict test that must be satisfied before suppression courts may consider the relevant characteristics of an area when conducting a reasonable suspicion analysis, one point cannot be overstated: **merely intoning the words “high-crime area” is never sufficient to prove an area is, in fact, high in crime. See generally *Interest of T.W.*, 261 A.3d 409, 438 (Pa. 2021) (Dougherty, J., concurring) (cautioning officers testifying at suppression hearings to “not rely on broad generalities, or assume certain ‘magic words’ will satisfy the reasonable suspicion standard”).** The Commonwealth bears the burden of proving a high-crime area is, in fact, high in crime, **see** Pa.R.Crim.P. 581(H) (“The Commonwealth shall have the burden of going forward with the evidence and of establishing that the challenged evidence was not obtained in violation of the defendant's rights”), and the suppression court is free to discredit the Commonwealth’s evidence when appropriate, **see *Commonwealth v. Poplawski*, 130 A.3d 697, 711 (Pa. 2015)** (it is within the “sole province” of the suppression court “to pass on the credibility of witnesses and the weight to be given their testimony”).

Lewis, 343 A.3d at 1035-36 (emphasis added; some citations modified).

The ***Lewis*** Court set forth the following nonexclusive list of factors for trial courts to consider in evaluating whether a location merits the designation of a high-crime area:

We hold that when assessing whether an area is high in crime, a suppression court may consider a variety of factors, including, but not limited to: the geographic scope of the high-crime area; the nexus between the type of crime the area is known for and the type of crime suspected on the day of the stop; the officer’s level of familiarity with the area; the recency of the officer’s information; empirical data known to the officer; and the assignment of specialized police units targeting high-crime areas. . . . However, these factors are discretionary, not mandatory, and it is ultimately up to suppression courts to determine if the Commonwealth has met its burden of proof.

Id. at 1036 (citations omitted); **see also *id.*** at 1036 n.12 (explaining that “[i]f the defense believes a claimed high-crime

area designation is overbroad or outdated, it is free to probe that issue on cross-examination.”).

The **Lewis** Court continued, “if the suppression court is satisfied the Commonwealth has introduced sufficient credible evidence implicating the area is high in crime, the court must then determine in its sole discretion what weight to assign to this factor.” **Id.** “In any event, we believe **suppression judges are best suited to make such assessments**, and that they are capable of doing so without the constraints of a multi-prong test.” **Id.** (footnote omitted; emphasis added).

Commonwealth v. Snowden, 402 WDA 2023, 2026 WL 1896859, at *8-9 (Pa. Super. filed June 30, 2026) (unpublished mem.) (some formatting altered).³

Here, the full extent of the officer’s testimony regarding the high-crime area was as follows:

[Prosecutor:] Officer, what first brought you in contact with this defendant?

[Officer:] We were just patrolling the area. It’s a high-crime area known for narcotics and multiple [violations of the uniform firearm act] --

[Defense Counsel:]: Objection, Your Honor, to “high-crime area.”

[Prosecutor:] Your Honor, this goes to direct factors leading to reasonable suspicion and probable cause.

[Defense Counsel:] It’s conclusory.

[Trial Court:] Well, I’ll scratch the part that says “high-crime area,” but not the rest of the response.

[Prosecutor:] Could you enumerate, again, what type of crimes occur in that area?

³ **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).

[Officer:] Yeah. 3800 Folsom, they sell crack on that block.

[Trial Court:] You said 3800 Folsom?

[Officer:] Yes. There was a homicide on 3900 Folsom a few weeks before, so we were just patrolling the area.

N.T. Suppression Hr'g, 4/25/24, at 7-8 (some formatting altered).

Based upon this testimony, the trial court concluded that the area of the stop was a high-crime area. **See** Trial Ct. Op., 10/4/24, at 7. Additionally, the trial court's high-crime-area finding was a significant factor in its totality-of-the-circumstances analysis in determining whether the officers had reasonable suspicion to stop Appellant. **See id.** at 8 (concluding that reasonable suspicion was established based upon "Appellant's presence in a high-crime area coupled with his failure to respond to police, a firearm, and unprovoked flight").⁴ Further, this Court credited the trial court's high-crime area finding in our initial memorandum opinion filed approximately a month before **Lewis** was decided. **See Lane**, 2025 WL 2466072, at *2. However, since **Lewis** was decided after this Court filed its previous memorandum opinion and while Appellant's direct appeal was pending in our Supreme Court, neither the parties nor the trial court had the benefit of the guidance supplied

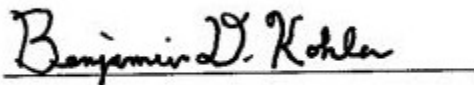
⁴ We once again note that, while the trial court considered Appellant's failure to respond to the officer's questions in its analysis, when a person "has the right to completely walk away" then they also have "the right to decline to answer questions" and "refusing to provide the requested information is not criminal conduct." **See Lane**, 2025 WL 2466072, at *2 n.4 (some formatting altered and citation omitted).

by the **Lewis** decision in arguing or deciding whether the area where Appellant was stopped was a high crime area.

Accordingly, since neither the parties nor the trial court were guided by **Lewis** during the suppression hearing, we vacate Appellant's judgment of sentence in order for the trial court to conduct an evidentiary hearing on the issue of whether the police interaction with Appellant occurred in a high-crime area based on the factors first announced in **Lewis**. **See Snowden**, 2026 WL 1896859, at *12 (remanding a case for the suppression court to consider the **Lewis** factors where **Lewis** was decided while the case was on direct appeal); **see also Lewis**, 343 A.3d at 1036 (recognizing that suppression court judges are best suited to assess whether the Commonwealth has introduced sufficient credible evidence to support that an area is high in crime and to assign weight to the high-crime factor). If the trial court denies Appellant's suppression motion after conducting the evidentiary hearing and considering **Lewis**, the trial court shall reinstate Appellant's sentence without the need for a new trial.

Judgment of sentence vacated. Case remanded with instructions consistent with this memorandum. 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: 9/14/2026