

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
DAREN WALLACE	:	
	:	
Appellant	:	No. 1348 MDA 2025

Appeal from the Judgment of Sentence Entered May 7, 2025
In the Court of Common Pleas of Lebanon County Criminal Division at
No(s): CP-38-CR-0000804-2023

BEFORE: PANELLA, P.J.E., NICHOLS, J., and NEUMAN, J.

MEMORANDUM BY NEUMAN, J.:

FILED: SEPTEMBER 15, 2026

Appellant, Daren Wallace, appeals from the judgment of sentence of 610 days' to 42 months' incarceration, imposed after a jury convicted him of one count of failing to register as a sexual offender, 18 Pa.C.S. § 4915.1(a)(2). On appeal, Appellant argues his registration requirement expired prior to the date he allegedly committed this offense. After careful review, we affirm.

The pertinent facts and procedural history are as follows. On May 3, 2004, Appellant was convicted by a jury in Lancaster County of various sexual offenses he committed on June 10, 2002, including involuntary deviate sexual intercourse ("IDSI") - person less than 16 years of age, 18 Pa.C.S. § 3123(a)(7), and aggravated indecent assault ("AIA"), 18 Pa.C.S. § 3125 (hereinafter "Lancaster County case"). On July 1, 2004, he was sentenced by the Lancaster County Court of Common Pleas to an aggregate term of 5 to 10 years' incarceration. This Court affirmed his judgment of sentence on May 16,

2005, and our Supreme Court denied his subsequent petition for allowance of appeal on September 27, 2005. **See *Commonwealth v. Wallace***, 880 A.2d 13 (Pa. Super. 2005) (unpublished memorandum), *appeal denied*, 885 A.2d 42 (Pa. 2005).

Relevant to Appellant's argument herein, Megan's Law II (discussed *infra*) was in effect at the time Appellant was sentenced in his Lancaster County case. Megan's Law II imposed a lifetime registration requirement for Appellant's crimes of IDSI and AIA. **See** 42 Pa.C.S. § 9795.1(b)(2) (version effective Jan. 21, 2003 to Jan. 23, 2005). However, Appellant claims he was only required to register for "a period of 10 years[,] per the transcript of sentencing from Lancaster County." Appellant's Brief at 8. He explains he was released from incarceration and began serving parole in 2010, at which point he "started to initially register with the Pennsylvania State Police [('PSP')]...." **Id.** at 4.

In March of 2023, the Commonwealth charged Appellant with failing to register under section 4915.1, based on his failing to complete certain registration requirements in February and March of that year. On December 3, 2023, Appellant filed a motion to dismiss, arguing he was only subject to a 10-year registration requirement, yet the PSP had unconstitutionally applied a lifetime registration requirement to him under the Sexual Offenders Registration and Notification Act ("SORNA"), 42 Pa.C.S. §§ 9799.10 - 9799.42, thereby violating *ex post facto* principles. **See** Motion to Dismiss, 12/4/23, at

1-2.¹ Appellant attached to that motion the transcript from the sentencing hearing in his Lancaster County case, which confirmed the court had told Appellant he was subject to a 10-year reporting requirement. **See id.** at Exhibit B (N.T. Sentencing, 7/1/04, at 13-14).

On January 4, 2024, the court issued an order directing the parties to file briefs and they subsequently complied. **See** Order, 1/4/24, at 2; Defendant's Brief in Support of Dismissal, 2/23/24; Commonwealth's Brief in Response to Defendant's Motion to Dismiss, 2/29/24; Defendant's Reply Brief, 3/20/24. On June 13, 2024, the court issued an order (along with an accompanying opinion) stating "[i]t is not clear to the [c]ourt whether the charges filed in the above-referenced matter were predicated upon [Appellant's] failure to register within ten (10) years [in his] Lancaster County [case] ... or whether they were predicated upon a purported lifetime registration requirement." Order, 6/13/24, at 1. Accordingly, the court directed the Commonwealth to file a response within 30 days, "notify[ing] the

¹ As our Supreme Court explained in **Commonwealth v. Muniz**, 164 A.3d 1189 (Pa. 2017):

Article I, Section 10 of the United States Constitution provides, in pertinent part: "No State shall ... pass any Bill of Attainder, *ex post facto* Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility." U.S. CONST., art. I, § 10. Article I, Section 17 of the Pennsylvania Constitution provides: "No *ex post facto* law, nor any law impairing the obligation of contracts, or making irrevocable any grant of special privileges or immunities, shall be passed." PA. CONST., art. I, § 17.

Id. at 1193 n.1.

[c]ourt with respect to whether the charges ... were based upon a 10-year registration requirement or a lifetime registration requirement....” ***Id.*** Rather than filing a response, the Commonwealth confusingly filed a notice of appeal, which was docketed by this Court at No. 1009 MDA 2024.

While that appeal was pending, the Commonwealth filed a response to Appellant’s motion to dismiss on August 5, 2024. Therein, the Commonwealth contended that, even if Appellant was subject to only a 10-year registration requirement, it had been tolled for at least 2,745 days between 2010 and 2023 due to Appellant’s numerous periods of incarceration over those years. ***See*** Commonwealth’s Response to Motion to Dismiss, 8/5/24, at 5. Accordingly, the Commonwealth concluded Appellant’s 10-year registration requirement had not been fulfilled in 2023 when he failed to register. ***See id.***

On October 1, 2024, the court issued an order indicating that, after consulting with the parties, they had reached an agreement that the Commonwealth would withdraw its appeal to this Court, “without prejudice to the ability of the Commonwealth to appeal or otherwise litigate the 10-year versus life[.]time registration requirement issue if that becomes necessary in the future.” Order, 10/1/24, at unnumbered 2. On October 2, 2024, the Commonwealth filed a praecipe for discontinuance of the appeal at No. 1009 MDA 2024.

Thereafter, Appellant filed another motion to dismiss on December 17, 2024.² Therein, Appellant argued Megan's Law did not have a tolling provision and, thus, the time he spent incarcerated counted toward his registration period. **See** Motion for Dismissal, 12/17/24, at 2. He also claimed SORNA provides that "an individual subject to registration shall receive credit for any time registered with the [PSP] prior to December 20, 2012." **Id.** (citing 42 Pa.C.S. § 9799.15). Accordingly, Appellant concluded that, "even though he was incarcerated" for periods between March of 2010 when he began registering, and December 20, 2012, that time "would count towards his registration period" and demonstrate his 10-year registration requirement had been fulfilled before 2023. **Id.** On February 11, 2025, the Commonwealth filed a response to Appellant's motion to dismiss, arguing "the tolling statutes were in place as far back as 2000." Commonwealth's Response to Motion to Dismiss, 2/11/25, at unnumbered 2. The Commonwealth also seemingly resurrected its assertion that Appellant is subject to lifetime registration under SORNA and, thus, he was required to register in 2023 when he failed to do so. **See id.**

Presumably, the court denied Appellant's motion to dismiss.³ He proceeded to a jury trial on February 26, 2025, and at the close thereof, the

² For some reason, this motion is not included on the docket, although it is time-stamped and contained in the certified record.

³ Although there is a docket entry on February 14, 2025, stating "Order Unsigned," that order does not have any language indicating it was disposing
(Footnote Continued Next Page)

jury convicted him of one count of failing to register. On May 7, 2025, Appellant was sentenced to the term of incarceration set forth *supra*. He was given credit for time served, leading to his immediate parole.

On May 12, 2025, Appellant filed a post-sentence motion seeking judgment of acquittal, again contending his 10-year registration period had expired prior to 2023 and, thus, his conviction for failing to register in February and March of that year could not stand. **See** Post-Sentence Motion, 5/12/25, at 1-4. On September 22, 2025, the court issued an order denying Appellant's post-sentence motion. Appellant filed a timely notice of appeal, and he and the court complied with Pa.R.A.P. 1925. Herein, Appellant raises five issues for our review, which we reorder for ease of disposition:

1. Did the trial court err[] or abuse its discretion when it denied [Appellant's] motion for judgment of acquittal on the grounds that there was no lapsing provision in the previous Megan's Law/SORNA statutes?
2. Did the trial court err[] or abuse its discretion when [Appellant] filed his motion to dismiss based upon the additional credit he should have received after he was paroled?
3. Did the trial court err or abuse its discretion when it denied [Appellant's] motion for dismissal based upon unconstitutional grounds?
4. Did the trial court err or abuse its discretion by failing to issue an order that [Appellant] shall be subject to a ten-year registration requirement and issue the order to the [PSP] to correct [Appellant's] registration requirements?

of Appellant's motion to dismiss, and we see no other order docketed or contained in the certified record expressly ruling on that motion.

5. Did the trial court err or abuse its discretion by not granting [Appellant's] motion for dismissal when the Commonwealth failed to respond in the time frame as the court ordered?

Appellant's Brief at 2-3 (unnecessary capitalization omitted).

Appellant's arguments in support of each of his first four issues are confusing, repetitive, and seem to be intertwined. Thus, we will address those together.

Appellant first contends the trial court erred in not granting his post-sentence motion for a judgment of acquittal. "A motion for judgment of acquittal challenges the sufficiency of the evidence to sustain a conviction on a particular charge, and is granted only in cases in which the Commonwealth has failed to carry its burden regarding that charge." ***Commonwealth v. Foster***, 33 A.3d 632, 634-35 (Pa. Super. 2011). Additionally, we have explained:

In passing upon a post-verdict motion for judgment of acquittal, a trial court is limited to determining the presence or absence of that quantum of evidence necessary to establish the elements of the crime. To determine the legal sufficiency of evidence supporting a jury's verdict of guilty, this Court must[,]

view the evidence in the light most favorable to the Commonwealth, which has won the verdict, and draw all reasonable inferences in its favor. We then determine whether the evidence is sufficient to permit a jury to determine that each and every element of the crimes charged has been established beyond a reasonable doubt. It is the function of the jury to pass upon the credibility of the witnesses and to determine the weight to be accorded the evidence produced. The jury is free to believe all, part[,]

or none of the evidence introduced at trial. The facts and circumstances established by the Commonwealth need not be absolutely incompatible with the defendant's innocence, but the question of any doubt is for the jury unless the

evidence be so weak and inconclusive that as a matter of law no probability of fact can be drawn from the combined circumstances.

Commonwealth v. Feathers, 660 A.2d 90, 94–95 (Pa. Super. 1995) (cleaned up).

Here, Appellant challenges the court’s refusal to grant his motion for judgment of acquittal regarding the charge of failing to register, defined in pertinent part as follows:

(a) Offense defined.--An individual who is subject to registration under 42 Pa.C.S. § 9799.13 (relating to applicability) commits an offense if he knowingly fails to:

(2) verify his address or be photographed as required under 42 Pa.C.S. § 9799.15, 9799.19[,], or 9799.25[.]

18 Pa.C.S. § 4915.1(a)(2).

Appellant contends the Commonwealth did not prove he was ‘subject to registration’ at the time he failed to verify his address or be photographed. He insists he “was sentenced in [his] Lancaster County [case] for a period of 10 years[,], per the transcript of sentencing from Lancaster County.” Appellant’s Brief at 8. Appellant acknowledges he was incarcerated for lengthy periods of time for unrelated offenses between 2011 and 2013, but he maintains that time still counted towards his 10-year registration requirement, as there was purportedly no tolling provision in the versions of Megan’s Law applicable to his convictions over those years. ***Id.*** at 5. Thus, Appellant concludes that, the time he registered before 2023 — even when he was incarcerated — totaled “4,032 days” (or just over 11 years). Consequently,

he argues he was not ‘subject to registration’ at the time the Commonwealth charged him with failing to register in early 2023, and “the trial court should have dismissed this case for [his] having fulfilled his registration requirements.” **Id.** at 6. Appellant also argues the court erred by not issuing an order directing the PSP to apply a 10-year registration obligation to Appellant, rather than a lifetime registration requirement. **See id.** at 16-18.

Alternatively, Appellant insists that even if Megan’s Law **did** have a tolling provision, the statute was deemed unconstitutional in **Commonwealth v. Derhammer**, 173 A.3d 723 (Pa. 2017), and therefore, the tolling provision could not be legally applied in this case. **Id.** at 9. He also contends that SORNA, which replaced Megan’s Law (as discussed *infra*), was also declared unconstitutional as violative of *ex post facto* principles in **Muniz** and **Commonwealth v. Santana**, 266 A.3d 528 (Pa. 2021). **Id.** at 13. Thus, Appellant argues “the law applied to him is *ex post facto* and is therefore unconstitutional.” **Id.** at 10-12.

For the reasons that follow, we conclude Appellant’s arguments are meritless. A brief history of the sexual offender registration laws in this Commonwealth is helpful. First, Megan’s Law was enacted in 1995. **See Muniz**, 164 A.3d at 1196. The original version of the statute was subsequently deemed unconstitutional.⁴ In response, the General Assembly passed Megan’s Law II, which was signed into law on May 10, 2000. **Id.**

⁴ **See Commonwealth v. Williams**, 733 A.2d 593 (Pa. 1999).

Megan's Law II was in effect until the General Assembly amended it in November of 2004 with Megan's Law III. ***Id.*** at 1197. As stated *supra*, Megan's Law II was in effect at the time of Appellant's sentencing in his Lancaster County case. Although Megan's Law II imposed lifetime registration for Appellant's IDSI and AIA convictions, the Lancaster County court erroneously told Appellant he was only subject to a 10-year reporting requirement, which Appellant began completing in 2010.

Megan's Law III was then replaced by SORNA, which took effect on December 20, 2012 ("SORNA I"). ***See Muniz***, 164 A.3d at 1203-04. However, as Appellant observes, in ***Muniz***, our Supreme Court held SORNA I was punitive and, therefore, its retroactive application violated *ex post facto* principles.⁵ Accordingly, the General Assembly amended SORNA I by enacting Act 10 on February 21, 2018, and Act 29 on June 12, 2018, which are collectively known as SORNA II. ***See*** Act of Feb. 21, 2018, P.L. 27, No. 10 ("Act 10"); Act of June 12, 2018, P.L. 140, No. 29 ("Act 29"). SORNA II now divides sex offenders into two subchapters: (1) Subchapter H, which applies to an offender who committed a sexually violent offense on or after December 20, 2012 (the date SORNA I became effective); and (2) Subchapter I, which applies to an individual who committed a sexually violent offense on or after April 22, 1996, but before December 20, 2012, whose period of registration

⁵ ***See also Santana***, 266 A.3d at 534, 538-39 (holding that where the defendant was convicted of rape in 1983 when there were no registration requirements, the retroactive application of registration requirements under SORNA I was unconstitutional because the statute was punitive).

has not expired, or whose registration requirements under a former sexual offender registration law have not expired.

Importantly, on July 21, 2020, the Pennsylvania Supreme Court held in ***Commonwealth v. Lacombe***, 234 A.3d 602 (Pa. 2020), that the registration requirements of Subchapter I of SORNA II do not constitute criminal punishment, and therefore, they may be applied retroactively without violating *ex post facto* rules. ***Lacombe***, 234 A.3d at 626-27. In ***Lacombe***,

two sex offenders, Lacombe and Witmayer, petitioned to terminate their sexual offender registration requirements, asserting that the retroactive application of Subchapter I of SORNA II to them was punitive and constituted an *ex post facto* violation. ... Lacombe was convicted of [IDSI] in 1997, and subject to a 10-year registration under the then-applicable version of Megan's Law. After he was released from prison in 2005, he was made subject to the lifetime registration requirement of SORNA II. The Supreme Court held that Subchapter I of SORNA II is nonpunitive and does not violate the *ex post facto* laws. In doing so, the Supreme Court explained that,

[i]n response to ***Muniz*** ... the General Assembly enacted Subchapter I, the retroactive application of which became the operative version of SORNA for those sexual offenders whose crimes occurred between April 22, 1996[,] and December 20, 2012. In this new statutory scheme, the General Assembly, *inter alia*, eliminated a number of crimes that previously triggered application of SORNA and reduced the frequency with which an offender must report in person to the [State Police]. With regard to Subchapter I, the General Assembly declared its intent that the statute "shall not be considered as punitive." 42 Pa.C.S. § 9799.51(b)(2).

Lacombe, 234 A.3d at 615.

The Supreme Court then explained that, in enacting SORNA II, "the General Assembly made a number of material changes to the operation of SORNA [I]" in order "[t]o achieve its dual goals of ensuring public safety without creating another unconstitutionally punitive scheme." ***Id.*** Among other things, pursuant to

Subchapter I of SORNA II, and unlike SORNA I, a lifetime registrant may petition a court to be removed from the statewide registry by demonstrating with “clear and convincing evidence that he or she no longer poses a risk, or a threat of risk, to the public or any individual person.” *Id.* at 616-17.

The Supreme Court then proceeded to discuss each of the factors enumerated in ***Kennedy v. Mendoza-Martinez***, 372 U.S. 144 ... (1963), to determine whether Subchapter I of SORNA II was punitive in effect. In balancing these factors, our Supreme Court reasoned:

As the above ***Mendoza-Martinez*** analysis clearly reflects, Subchapter I effected significant changes from the original version of SORNA, retroactive application of which we found unconstitutional in ***Muniz***. To summarize, we find three of the five factors weigh in favor of finding Subchapter I nonpunitive. Additionally, we give little weight to the fact Subchapter I promotes the traditional aims of punishment and give significant weight to the fact Subchapter I is narrowly tailored to its nonpunitive purpose of protecting the public. As we have not found the requisite “clearest proof” Subchapter I is punitive, we may not “override legislative intent and transform what has been denominated a civil remedy into a criminal penalty[.]”

Lacombe, 234 A.3d at 626.

J.B. v. Pennsylvania State Police, 273 A.3d 77, 82-83 (Pa. Cmwlth. 2022).⁶

The ***Lacombe*** Court concluded that because Subchapter I of SORNA II is not punitive, it was not unconstitutional to apply it retroactively to Lacombe, thereby extending his registration requirement from 10 years to lifetime.

Lacombe, 234 A.3d at 626-27 (holding “Subchapter I does not constitute

⁶ “This Court is not bound by the decisions of the Commonwealth Court. However, such decisions provide persuasive authority, and we may turn to our colleagues on the Commonwealth Court for guidance when appropriate.” ***Petow v. Warehime***, 996 A.2d 1083, 1089 n.1 (Pa. Super. 2010) (citations omitted).

criminal punishment, and the *ex post facto* claims forwarded by [Lacombe] necessarily fail”).

Applying this case law to Appellant’s case — especially **Lacombe** — it is clear his arguments are meritless. Even if Appellant received a 10-year registration requirement in his Lancaster County case, as he avers, he concedes that 10-year registration requirement began in 2010 when he was released from prison. **See** Appellant’s Brief at 4 (“[Appellant] started to initially register with the [PSP] when he made parole in 2010.”); **id.** at 5 (“[Appellant’s] first registration was on March 9, 2010.”). **See also** Trial Court Opinion (“TCO”), 6/13/24, at 2 (“[Appellant] was incarcerated on [the Lancaster County] charges until 2010, and he was first required to register as a sex offender on March 4, 2010.”). Thus, Appellant’s alleged 10-year registration requirement was still in effect in 2018 when SORNA II took effect. Pursuant to SORNA I and II, Appellant’s IDSI and AIA convictions constitute Subchapter I offenses requiring lifetime registration. **See** 42 Pa.C.S. § 9799.55(b)(2)(i)(A). Indeed, Appellant was notified of this fact when, “[o]n December 3, 2012, [he] received a letter from [the] PSP that stated, ‘**Under the new statute, your sexual offender classification is Tier [III]. This designation requires that you register as a sexual offender with the**

[PSP] for Lifetime.” TCO at 3 (italicized emphasis omitted; bold emphasis added).⁷

Thus, with the passage of SORNA in 2012, as amended by SORNA II in 2018, Appellant became a lifetime registrant for his IDSI and AIA convictions, and was notified of this fact in 2012. Although SORNA I was struck down, SORNA II has been deemed non-punitive, and it is constitutional to apply that statute retroactively, even if it increases a defendant’s registration requirements. ***See Lacombe, supra***. In other words, even if Appellant had validly received only a 10-year registration period for those convictions, it is not unconstitutional that with the passage of SORNA II in 2018, he became subject to lifetime registration. Indeed, our Supreme Court upheld this very same increase in registration requirements under Subchapter I of SORNA II in ***Lacombe***.

In sum, because Appellant was still serving his 10-year registration requirement in 2018 when SORNA II took effect, he lawfully became subject to a lifetime registration requirement under Subchapter I of that nonpunitive statute. Consequently, he was ‘subject to registration’ in 2023 when he failed to complete his registration requirements, regardless of whether Megan’s Law II had tolling provisions or was deemed unconstitutional, and also regardless

⁷ We point out that it does not appear Appellant raised any challenge to his lifetime registration requirement as a Tier III SORNA offender at the time he received this notice. Instead, it seems he simply stopped registering at some point before 2023, and was ultimately charged with failing to register in March of that year.

of SORNA I's being deemed unconstitutional in **Muniz** and **Santana**. Additionally, there is no error in the PSP's considering Appellant a lifetime registrant. Therefore, his first four issues are meritless.

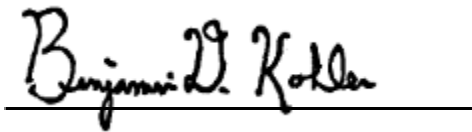
In Appellant's fifth claim, he argues the trial court should have granted his motion for judgment of acquittal when the Commonwealth failed to timely respond to its June 13, 2024 order directing the Commonwealth to notify the court if Appellant was subject to a 10-year or lifetime registration requirement. Appellant's Brief at 15. Appellant claims "the Commonwealth should not have been afforded the opportunity to proceed to trial because it failed to respond to the court's order...." **Id.** at 15-16.

Initially, the Commonwealth **did** respond to the court's order, albeit later than directed. Moreover, Appellant does not explain how he was prejudiced by the Commonwealth's late response, nor does he cite any legal authority to support his confusing and undeveloped argument that he was entitled to a judgment of acquittal based on this fact. Thus, he has waived this issue for our review. **See Commonwealth v. Hardy**, 918 A.2d 766, 771 (Pa. Super. 2007) ("When briefing the various issues that have been preserved, it is an appellant's duty to present arguments that are sufficiently developed for our review. The brief must support the claims with pertinent discussion, with references to the record[,] and with citations to legal authorities. ... [W]hen defects in a brief impede our ability to conduct meaningful appellate review, we may dismiss the appeal entirely or find certain issues to be waived.").

As none of Appellant's issues warrant relief, we affirm his judgment of sentence.

Judgment of sentence affirmed.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/15/2026