

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
CHRISTOPHER ROBERT PAPALIA	:	
	:	
Appellant	:	No. 895 WDA 2025

Appeal from the Judgment of Sentence Entered May 8, 2025
In the Court of Common Pleas of Allegheny County Criminal Division at
No(s): CP-02-CR-0005044-2021

BEFORE: STABILE, J., DUBOW, J., and STEVENS, P.J.E.*

MEMORANDUM BY STEVENS, P.J.E.: **FILED: September 17, 2026**

Appellant Christopher Robert Papalia appeals the judgment of sentence entered by the Court of Common Pleas of Allegheny County after a jury convicted Appellant of third-degree murder. Appellant claims the trial court erred in (1) refusing to give a jury instruction on ignorance or mistake and (2) finding sufficient evidence to support his murder conviction. We affirm.

Appellant was charged with criminal homicide in connection with the March 2021 shooting of Julian Carter (“the victim”). Appellant proceeded to a jury trial at which the following factual background was developed. On March 6, 2021, at approximately 2:02 a.m., Pittsburgh Police Officer Devon Crippen was dispatched to the area of Frankstown Road and North Braddock Road, where she discovered a deceased male, later identified as the victim,

* Former Justice specially assigned to the Superior Court.

lying in the road with a pool of blood around his head. Notes of Testimony (N.T.), Trial, 2/5/25 – 2/7/25, at 66, 134, 138, 250. The victim's autopsy subsequently revealed that his head exhibited entry and exit bullet wounds; the medical examiner opined that the victim's cause of death was a single gunshot to the head. **Id.** at 73.

About ten minutes after Officer Crippen arrived at the crime scene, Appellant approached with his hands in the air and appeared to be intoxicated. **Id.** at 137, 140. The Commonwealth admitted Officer Crippen's body camera video which showed that Appellant admitted to the officers that he had shot the victim. Cmwlth Exh. 6. Officer Crippen searched Appellant's person but did not find a firearm. **Id.** at 137-38. Investigators confiscated Appellant's blood-stained coat and submitted it for DNA testing which revealed that the blood belonged to the victim. **Id.** at 192-95, 218, 236-38.

Brandon English-Dean ("English-Dean") testified that on the night of March 5, 2021 into the early morning hours of March 6, 2021, he went out to celebrate Appellant's birthday with Appellant and the victim, who were his long-time friends. **Id.** at 94-95, 106, 111. Appellant drove English-Dean and the victim to two clubs where the men drank alcohol and smoked marijuana. **Id.** at 95, 101-103. English-Dean asserted that the three men became intoxicated. **Id.** at 103, 105-107, 126.

When the men attempted to leave the second club and discovered that Appellant's car would not start, English-Dean contacted his uncle, Terrance Dean, who agreed to drive the men home. **Id.** at 96, 108-109. When Dean

arrived, there was a passenger already sitting in the front seat; Appellant, English-Dean, and the victim sat in the back seat. **Id.** at 97, 110.

English-Dean recalled laying his head back on the seat, closing his eyes, and nodding off to sleep. **Id.** at 98, 113-14. When English-Dean awoke, he his eyes were “flashing,” his ears were ringing, and noted a “weird smell” which he identified as gunsmoke. **Id.** He looked to his right and saw the victim with blood coming out of his mouth. **Id.** English-Dean indicated that both Appellant and the victim “fell out of the car.” **Id.** at 99. English-Dean testified he could not remember much of anything else that happened that night as he was in shock and also intoxicated. **Id.** at 115, 118, 128-29.

Pittsburgh Police Detective Anthony Beatty secured Appellant’s car and had it towed to a police garage. **Id.** at 149-51. After investigators obtained a search warrant for the vehicle, Pittsburgh Police Sergeant James Sherer examined Appellant’s vehicle and recovered a bottle of Dusse cognac and a firearm magazine containing twelve rounds. **Id.** at 174, 180. Three months later, on June 15, 2021, officers recovered a firearm that was found on the roof of a house; the firearm, which was registered to Appellant, was unloaded and had no magazine. **Id.** at 305-308.

The parties stipulated that on the day the victim’s body was discovered, Appellant made a 911 call at 1:59 a.m., reporting the shooting and claiming it was a mistake. The 911 call was played for the jury. **See** Cmwlt. Exh. 7; N.T. Trial, at 142, 143; 250. On the call, Appellant told the dispatcher, “I pulled my gun. I didn’t want to shoot him, but then he’s dead.” **See** Cmwlt.

Exh. 7; N.T., Trial, at 299. Appellant admitted that he had an altercation with the victim before they got into the car. Cmwlth. Exh. 7. When asked where his firearm was, Appellant indicated that it was “gone.” ***Id.***

At the close of the Commonwealth’s case, defense counsel moved for a judgment of acquittal. The trial court granted a judgment of acquittal on second-degree murder, but allowed the case to proceed as to first-degree murder and third-degree murder.

The defense presented the expert testimony of William Barrett, who found it significant that officers recovered a firearm magazine in Appellant’s vehicle and a firearm registered to Appellant in a separate location that was unloaded and did not have a magazine. ***Id.*** at 403. Barrett indicated that it is common for individuals, even police officers, to mistakenly believe a firearm is unloaded when the magazine is removed as a round may remain in the chamber. ***Id.*** at 403-404. As such, Barrett testified that the evidence was consistent with an unintentional discharge as the firearm registered to Appellant did not have a magazine. ***Id.*** at 407.

At the conclusion of the trial, the jury acquitted Appellant of first-degree murder but convicted him of third-degree murder. On May 8, 2025, the trial court sentenced Appellant to 200 to 480 months of incarceration. On May 16, 2025, Appellant filed a post-sentence motion, which the trial court denied on June 25, 2025. Appellant filed a timely appeal to this Court on July 23, 2025. Appellant complied with the trial court’s directive to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b).

Appellant raises the following issues for our review on appeal:

- I. Whether the Trial Court erred by denying the defense's request to give the jury instruction on ignorance or mistake?
- II. Whether the evidence was sufficient to convict [Appellant] of Third-Degree Murder where the Commonwealth failed to prove, beyond a reasonable doubt, that [Appellant] possessed the requisite *mens rea*, namely malice?

Appellant's Brief, at 5.

Appellant first argues the trial court abused its discretion by refusing to instruct the jury on ignorance or mistake, contending the physical evidence and the expert's testimony provided a sufficient factual basis for the instruction and that this question should have been submitted to the jury.

In reviewing a trial court's failure to give a requested jury instruction, "the relevant inquiry for this Court ... is whether such charge was warranted by the evidence in the case." ***Commonwealth v. Dula***, 262 A.3d 609, 635 (Pa. Super. 2021) (quoting ***Commonwealth v. Baker***, 963 A.2d 495, 506 (Pa. Super. 2008)). We assess "whether the trial court committed a clear abuse of discretion or an error of law which controlled the outcome of the case." ***Commonwealth v. Brown***, 911 A.2d 576, 582–83 (Pa. Super. 2006).

We recognize that "[t]he trial court has considerable discretion in fashioning a jury charge." ***Commonwealth v. Gomez***, 224 A.3d 1095, 1102 (Pa. Super. 2019). "The trial court is not required to give every charge that is requested by the parties and its refusal to give a requested charge does not require reversal unless the appellant was prejudiced by that refusal."

Commonwealth v. Scott, 73 A.3d 599, 602 (Pa. Super. 2013) (quoting ***Brown***, 911 A.2d at 583).

Specifically, Appellant argues the trial court erred in refusing to give a jury instruction on the defense of mistake as he asserts that the evidence presented at trial supported a finding that the shooting was accidental. Appellant points out there was no eyewitness to the shooting. Appellant highlights that officers recovered a firearm magazine from Appellant's car and subsequently discovered a firearm registered to Appellant that did not have a magazine. Appellant also argues that defense expert Barrett testified that it is common for people to mistakenly believe a firearm is unloaded if they remove a magazine from a firearm without realizing there is still a bullet in the chamber. In sum, Appellant argues that these facts sufficiently show that he accidentally shot the victim as he mistakenly believed that the firearm was unloaded because the magazine had been removed when there was still a bullet in the chamber.

The defense of mistake of fact is defined as follows:

§ 304. Ignorance or mistake

Ignorance or mistake as to a matter of fact, for which there is reasonable explanation or excuse, is a defense if:

- (1) the ignorance or mistake negatives the intent, knowledge, belief, recklessness, or negligence required to establish a material element of the offense; or
- (2) the law provides that the state of mind established by such ignorance or mistake constitutes a defense.

18 Pa.C.S.A. § 304.

This Court has found a mistake of fact may disprove a required element of criminal intent under certain circumstances:

It is well established that a bona fide, reasonable mistake of fact may, under certain circumstances, negate the element of criminal intent. 18 Pa.C.S.A. § 304 (providing, inter alia, that ignorance or mistake as to a matter of fact, for which there is a reasonable explanation or excuse, is a defense if “the ignorance or mistake negatives the intent, knowledge, recklessness, or negligence required to establish a material element of the offense”); **Commonwealth v. Compel**, 236 Pa.Super. 404, 344 A.2d 701 (1975); **Commonwealth v. Bollinger**, 197 Pa.Super. 492, 179 A.2d 253, 255 (1962). “It is not necessary that the facts be as the actor believed them to be; it is only necessary that he have ‘a bona fide and reasonable belief in the existence of facts which, if they did exist, would render an act innocent.’ **Commonwealth v. Lefever**, 151 Pa.Super. 351, 30 A.2d 364, 365 (1943). **See generally, Morissette v. United States**, 342 U.S. 246, 72 S.Ct. 240, 96 L.Ed. 288 (1952).” **Compel, supra**, at 702–03. When evidence of a mistake of fact is introduced, the Commonwealth retains the burden of proving the necessary criminal intent beyond a reasonable doubt. **Commonwealth v. Cottam**, 420 Pa.Super. 311, 616 A.2d 988, 1000–1001 (1992). In other words, the Commonwealth must prove either the absence of a bona fide, reasonable mistake, or that the mistake alleged would not have negated the intent necessary to prove the crime charged.

Scott, 73 A.3d at 603 (quoting **Commonwealth v. Hamilton**, 766 A.2d 874, 878–79 (Pa. Super. 2001)).

We cannot find that Appellant was entitled to his requested jury instruction on the defense of mistake-of-fact as Appellant did not set forth evidence to show he had a bona fide and reasonable belief that the firearm was not loaded. No witness offered testimony establishing that Appellant believed the firearm was unloaded; Appellant did not testify. While Appellant

indicated in the 911 call that the shooting was a “mistake,” he never clarified what that mistake was or indicated that he thought the firearm was unloaded.

Although Appellant alleges that he mistakenly believed that the firearm was unloaded because the magazine had been removed, he did not present any testimony to show he fired the gun without a magazine. Although Appellant suggests that the investigators’ discovery of a firearm magazine in Appellant’s car shows that the magazine was not in his firearm when he shot the victim, there was no evidence to show when the magazine was placed in the car or whether it was compatible with the firearm registered to Appellant. We acknowledge that Appellant’s expert claimed that it is a common mistake for individuals to believe that a firearm is unloaded when a magazine is removed from the firearm. However, Appellant’s expert, who offered general testimony about how accidental discharges could potentially occur, could not speculate as to Appellant’s state of mind regarding the alleged mistake of fact.

Even assuming *arguendo* that Appellant had shown that he had a bona fide and reasonable belief that the firearm was unloaded, he failed to establish that such a belief would render the act innocent or negate the criminal intent for the crime for which he was convicted.

Appellant was convicted of third-degree murder. Pennsylvania retains the common law definition of murder, which is a killing conducted “with malice aforethought.” ***Commonwealth v. Packer***, 641 Pa. 391, 402–403, 168 A.3d 161, 168 (2017) (citations omitted). Section 2502 of the Crimes Code sets forth three categories of murder. 18 Pa.C.S.A. § 2502(a)-(c). First-degree

murder is a murder “committed by an intentional killing.” 18 Pa.C.S.A. § 2502(a). Second-degree murder is a murder “committed while [the] defendant was engaged as a principal or an accomplice in the perpetration of a felony.” 18 Pa.C.S.A. § 2502(b). Third-degree murder is defined as ‘all other kinds of murder,’ i.e., those committed with malice that are not intentional (first-degree) or committed during the perpetration of a felony (second-degree).” **Packer**, 641 Pa. at 402–403, 168 A.3d at 168 (quoting 18 Pa.C.S.A. § 2502(c)).

This Court has explained that “[m]alice comprehends not only a particular ill-will, but also a wickedness of disposition, hardness of heart, recklessness of consequences, and a mind regardless of social duty, although a particular person may not be intended to be injured.” **Commonwealth v. Vansyckel**, 341 A.3d 174, 179 (Pa. Super. 2025). “[M]alice may be found to exist not only in an intentional killing, but also in an unintentional homicide where the perpetrator consciously disregarded an unjustified and extremely high risk that his actions might cause death or serious bodily harm.” **Commonwealth v. Young**, 494 Pa. 224, 228, 431 A.2d 230, 232 (1981).

The act of aiming a firearm at a vital organ of another individual, regardless of a defendant’s belief about the weapon’s loaded status, supports an inference of malice under Pennsylvania law. In **Young**, this Court rejected the defendant’s claim that there was insufficient evidence that he acted with malice when he pointed a firearm that he thought was unloaded at the victim and accidentally shot the victim. This Court explained as follows:

Appellant intentionally pointed a loaded gun at the victim and shot him in the chest. Under these circumstances, whether the gun discharged accidentally or was fired intentionally is irrelevant for the purpose of determining the existence of malice. Even if, as appellant claims, he did not know that the gun was loaded and intended only to “scare” the victim, his conduct nevertheless unjustifiably created an extremely high degree of risk, thereby evincing a wanton and reckless disregard for human life. By intentionally aiming a gun at Williams without knowing for a certainty that it was not loaded, appellant exhibited that type of cruel and wanton conduct of which legal malice is made.

Id. at 228–29, 431 A.2d at 232. ***See also Commonwealth v. Seibert***, 622 A.2d 361 (Pa. Super. 1993) (finding the record supported a finding that the defendant acted with malice in holding a gun to the victim’s forehead even though the defendant claimed that he thought the gun was unloaded and asserted that he had shot the victim accidentally).

Based on this logic, Appellant’s alleged belief that the firearm was unloaded does not negate a finding of malice given that circumstantial evidence supported an inference that he aimed the firearm at the victim’s head, an act which demonstrated that Appellant “consciously disregarded an unjustified and extremely high risk that his actions might cause death or serious bodily harm.” ***Id.***

We are not persuaded by Appellant’s suggestion that this Court’s decision in ***Commonwealth v. Hamilton***, 766 A.2d 874 (Pa. Super. 2001) compels a different result. In that case, Hamilton, who was charged with first-degree murder, had repeatedly claimed at trial that he mistakenly believed that his firearm was unloaded and only pointed it at the victim to scare him. ***Id.*** at 876. This Court concluded that the trial court committed reversible

error when it failed to give the specific mistake-in-fact jury instruction that Hamilton had requested.

Hamilton can be distinguished from the instant case as Hamilton voiced a bona fide and reasonable belief that his firearm was unloaded, whereas Appellant presented no evidence of such a belief at his trial. In addition, this Court found that Hamilton's claim that he did not expect the firearm to discharge would negate a finding that he had the relevant *mens rea* for first-degree murder, i.e., the specific intent to kill the victim. As noted above, in this case, Appellant's claim that he believed the firearm was unloaded would not negate a finding that he had the relevant *mens rea* for third-degree murder, i.e., malice. **See Young, supra** (aiming a firearm at a vital organ of another individual without knowing for certain whether the firearm is loaded supports an inference of malice).

Further, Appellant has failed to show he was prejudiced by the trial court's refusal to give a mistake instruction. **See Scott, supra**. Appellant presented inconsistent defenses to the jury, first arguing that he had not committed the shooting and second, claiming he had committed an accidental shooting. Appellant's defense of non-participation was contradicted by Appellant's 911 call and admission to police indicating that he shot the victim. Further, Appellant was covered in the victim's blood, fled the scene after the shooting, and disposed of the murder weapon. A firearm registered to Appellant was found concealed on a roof several months after the shooting in a nearby area.

For the foregoing reasons, we conclude that the trial court did not abuse its discretion in refusing to give Appellant's requested jury instruction as to the defense of mistake of fact.

Second, Appellant argues the evidence was insufficient to support his third-degree murder conviction as the prosecution had not proven Appellant acted with malice. Appellant contends that the evidence showed that the shooting was consistent with an accidental discharge, no testimony described how the firearm was aimed or handled, and the inference of malice from use of a deadly weapon on a vital body part should not apply where evidence suggests the defendant believed the weapon was unloaded.

A claim challenging the sufficiency of the evidence is a question of law. Accordingly, our standard of review is de novo, and our scope of review is plenary. In reviewing a sufficiency challenge, we determine whether the evidence at trial, and all reasonable inferences derived therefrom, when viewed in the light most favorable to the Commonwealth as verdict winner, is sufficient to establish all elements of the offense beyond a reasonable doubt. Further, a conviction may be sustained wholly on circumstantial evidence, and the trier of fact—while passing on the credibility of the witnesses and the weight of the evidence—is free to believe all, part, or none of the evidence. In conducting this review, the appellate court may not weigh the evidence and substitute its judgment for the factfinder.

Commonwealth v. Hernandez, 359 A.3d 39, 48 (Pa. Super. 2026) (brackets and citation omitted).

As noted above, third-degree murder is defined as “a killing with malice that is not intentional or committed in the perpetration of a felony.”

Commonwealth v. Peters, 355 A.3d 1270, 1281 (Pa. 2026) (citations

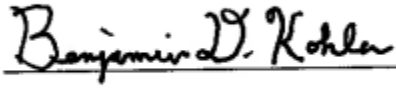
omitted). "Malice may be inferred from the 'attending circumstances of the act resulting in death.'" ***Commonwealth v. Geiger***, 944 A.2d 85, 90 (Pa. Super. 2008) (*quoting Commonwealth v. Gardner*, 490 Pa. 421, 424, 416 A.2d 1007 (1980)) (citation omitted). As previously discussed, "one such circumstance is evidence that the defendant used a deadly weapon upon a vital part of the victim's body; this inference alone is sufficient to establish malice." ***Commonwealth v. Lee***, 626 A.2d 1238, 1241 (Pa. Super. 1993).

Viewing the evidence in the light most favorable to the Commonwealth, we find the record contains sufficient evidence to support the jury's finding that Appellant killed the victim with malice. Appellant shot the victim in the head at close range, using a deadly weapon on a vital part of the victim's body. Appellant's clothes were covered in the victim's blood. Despite defense counsel's argument to the contrary, there was no evidence that anyone else shot the victim. Appellant told the 911 operator and the officers at the scene he had shot the victim. While Appellant asserted that the prosecution failed to show a motive for the killing, Appellant admitted the men had an altercation that evening shortly before they got into the car. After the shooting, Appellant fled the scene and disposed of his weapon. Three months later, a firearm registered to Appellant was later found concealed on a roof near the scene of the shooting. Accordingly, the trial court did not err in finding Appellant's third-degree murder conviction was supported by sufficient evidence.

For the foregoing reasons, we affirm the 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

9/17/2026