

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
ADAM BENNETT ELLIS	:	
	:	
Appellant	:	No. 196 MDA 2026

Appeal from the Judgment of Sentence Entered October 14, 2025
In the Court of Common Pleas of Union County Criminal Division at
No(s): CP-60-CR-0000082-2021

BEFORE: PANELLA, P.J.E., DUBOW, J., and SULLIVAN, J.

MEMORANDUM BY PANELLA, P.J.E.: **FILED: OCTOBER 2, 2026**

Adam Bennett Ellis appeals from the judgment of sentence entered in the Court of Common Pleas of Union County following his conviction of various offenses at a jury trial held *in absentia*. Ellis challenges the trial court's decision to proceed with a jury trial *in absentia*. After careful consideration, we affirm.

A detailed recitation of the facts underlying Ellis's convictions is unnecessary to our disposition. Briefly, on April 7, 2021, Ellis was charged by criminal information with, *inter alia*, fleeing or attempting to elude an officer, use or possession of drug paraphernalia, resisting arrest, persons not to possess firearms, receiving stolen property, defiant trespass, and harassment¹

¹ 75 Pa.C.S.A. § 3733(a), 35 P.S. § 780-113(a)(32), 18 Pa.C.S.A. §§ 5104, 6105(a)(1), 3925(a), 3503(b)(1)(i), and 2709(a)(1), respectively.

stemming from a domestic dispute involving his former paramour that occurred on February 12, 2021. Following a hearing on August 3, 2021, Ellis was released on bail. On October 19, 2021, the court entered an order scheduling jury selection for January 18, 2022. On January 18, 2022, the court entered a scheduling order in which it set Ellis's trial date for February 28, 2022, and on January 19, 2022, the court entered a "List of Jurors."²

When the parties convened for Ellis's trial before the late Honorable Michael H. Sholley at 9:02 a.m. on February 28, 2022, Ellis was notably absent, and the following exchange ensued:

The Court: Some things are notably absent from
defense counsel table[.]

[Defense Counsel]: Yes, Your Honor. ...

With candor to the tribunal, I had a phone call yesterday with my client that was probably about an hour and twenty-five minutes or so. I did not get any feeling from him that he was not going to appear here today. We discussed the case at length. I had advised him to be here as close to [8:00 a.m.] as possible. Obviously, we have not seen him.

[T]wo sweeps of the building [have been conducted] from top to bottom. I have left several text messages at the number we used yesterday, no response. When I called the number that I phoned

² It is unclear whether jury selection took place on January 18th or January 19th or whether Ellis was present, as the certified record before us does not contain a transcript of those proceedings. However, in the 1925(a) opinion authored by the Honorable Michael Piecuch, the court maintains that Ellis "was at jury selection where the trial date was announced." Trial Court Opinion, 3/30/26, at 2 (unpaginated). It is well established that it is the appellant's responsibility to make sure that the certified record contains all of the necessary transcripts.

him on yesterday, unfortunately it indicates that it has been disconnected or there is no service.

The Court: And he hasn't provided you or your staff with a new phone number, I assume?

[Defense Counsel]: No. As a matter of fact, that number was provided to me over the weekend.

Your Honor, I suppose there is a chance that, you know, between traffic and medical issues, something could have happened; but, as I say, I wouldn't—I do give candor to the tribunal and we have been trying for the better part of an hour and have had no response.

N.T. Trial, 2/28/22, at 3-4. Defense counsel objected to proceeding *in absentia* and requested a continuance, which the Commonwealth opposed. **See id.** at 5, 10. At 9:31 a.m., the court denied defense counsel's request for a continuance, and the matter proceeded to a trial *in absentia*. **See id.** at 12-13. The court instructed the jury that Ellis's absence could not "be held against him in any way." **Id.** at 13.

At the conclusion of trial, the jury convicted Ellis of the above offenses. The court entered the jury's verdict and revoked Ellis's bail, issued a bench warrant for his arrest based upon his failure to appear, and deferred his sentencing. Over three years later, on April 27, 2025, Ellis was apprehended in Philadelphia on an unrelated, and since dismissed, charge and was subsequently arrested on the outstanding bench warrant. On October 14, 2025, the court held a joint sentencing and bench warrant hearing at which Ellis acknowledged that he intentionally absented himself from his trial by explicitly apologizing "for absconding [on his] bail and prolonging the court

proceedings” and taking “full responsibility” for his actions. N.T. Sentencing, 10/14/25, at 22. Ellis was found in contempt of the bench warrant and sentenced to an aggregate term of 12 ½ to 27 years’ imprisonment. **See id.** at 36.³ Ellis timely filed a post-sentence motion, which the court denied on January 23, 2026. Ellis timely filed a notice of appeal. Both the trial court and Ellis have complied with Rule 1925. **See** Pa.R.A.P. 1925(a), (b).

On appeal, Ellis raises the following question for our review:

Did the trial court err when it denied [Ellis’s] motion for a continuance and proceeded to trial *in absentia*?

Appellant’s Brief, at 1.

We review a trial court’s decision to conduct a trial *in absentia* for an abuse of discretion. **See Commonwealth v. DeCosta**, 197 A.3d 813, 816 (Pa. Super. 2018). “A trial court abuses its discretion where the course pursued represents not merely an error of judgment, but where the judgment is manifestly unreasonable or where the law is not applied or where the record shows that the action is a result of partiality, prejudice, bias, or ill-will.” **Commonwealth v. Hernandez**, 359 A.3d 39, 47 (Pa. Super. 2026) (citation omitted). Furthermore, “[w]here a trial court denies a request for continuance, discretion is abused where the defendant’s right outweighs the

³ With respect to his contempt conviction, Ellis was separately sentenced to serve 30 days’ incarceration and to pay a \$200 fine and costs.

Commonwealth's need for efficient administration." **Commonwealth v. Pantano**, 836 A.2d 948, 950 (Pa. Super. 2003) (citation omitted).

[I]n determining whether trial *in absentia* constitutes reversible error, we are not limited to examining the record at the time that trial proceeded and must affirm if the entire record before us, including evidence from subsequent hearings, shows that the defendant's absence was without ca[u]se. **See [Commonwealth v. Sullens**, 619 A.2d 1349, 1352-53 (Pa. 1992)]; **see also Commonwealth v. Johnson**, 734 A.2d 864, 866-67 (Pa. Super. 1999) (appellant's admission at sentencing that he received notice of his trial date was a relevant factor in the analysis).

Commonwealth v. Nelson, 332 A.3d 1273, 2024 WL 5256288 at *5 (Pa. Super. filed Dec. 31, 2024) (unpublished memorandum).⁴

A defendant's right to be present at his trial is guaranteed by both our federal and state constitutions as well as our Rules of Criminal Procedure.

The right to trial by jury is guaranteed by the Sixth Amendment to the U.S. Constitution and by the Pennsylvania Constitution, Article I, Section 6 and Section 9. A defendant's right to be present at his or her trial is grounded in the Confrontation Clause of the Sixth Amendment and in the Due Process Clauses of the Fifth and Fourteenth Amendments. The United States Supreme Court has determined that "one of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial." **Illinois v. Allen**, 397 U.S. 337, 338[] (1970). In addition, the High Court "has assumed that, even in situations where the defendant is not actually confronting witnesses or evidence against him, he has a due process right to be present in his own person whenever his presence has a relation, reasonably substantial, to the fullness of his opportunity to defend against the charge.... Thus, a defendant is guaranteed the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would

⁴ We may rely on the unpublished non-precedential memorandum decisions of this Court filed after May 1, 2019 for their persuasive value. **See** Pa.R.A.P. 126(b).

contribute to the fairness of the procedure.” **Kentucky v. Stincer**, 482 U.S. 730, 745[] (1987).

Commonwealth v. DeCosta, 197 A.3d 813, 815-16 (Pa. Super. 2018) (brackets and some citations and quotation marks omitted). However, a defendant’s right to be present at trial “may be waived expressly, or waiver may be implied by a defendant’s actions.” **Commonwealth v. Sullens**, 619 A.2d 1349, 1351 (Pa. 1992) (citations omitted).

Likewise, Rule 602 of our Rules of Criminal Procedure provides:

The defendant shall be present at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule. The defendant’s absence without cause at the time scheduled for the start of trial or during trial shall not preclude proceeding with the trial, including the return of the verdict and the imposition of sentence.

Pa.R.Crim.P. 602(A). The Commonwealth bears the burden of proving, by a preponderance of the evidence, that the defendant’s absence is without cause. **See** Pa.R.Crim.P 602, *Comment*. In determining whether good cause for a defendant’s absence exists, we consider whether the record demonstrates that the defendant was “advised when the proceedings were to commence” and whether he “knowingly, voluntarily, and without justification failed to be present at the designated time and place of the trial.” **Commonwealth v. Hilburn**, 746 A.2d 1146, 1149 (Pa. Super. 2000) (citation omitted).

Ellis avers the trial court abused its discretion in denying defense counsel’s request for a continuance because his “right to be present at trial outweighed the Commonwealth’s need for efficient administration.”

Appellant's Brief, at 4. Ellis specifically disputes the court's decision to proceed *in absentia* where "the Commonwealth made no effort to meet its burden of proving by a preponderance of the evidence that [Ellis] was absent without cause and that he knowingly waived his right to be present." ***Id.*** Accordingly, Ellis requests that we vacate his judgment of sentence. ***See id.*** at 9.

Ellis is not entitled to his requested relief. It is undisputed that Ellis did not appear before the court throughout his trial. While Ellis maintains, correctly, that the Commonwealth failed to prove that his absence was without cause, he notably does not contend that he lacked notice of the date and time his trial was scheduled to commence. Rather, our review of the record reveals that, when Ellis failed to appear the morning of trial, defense counsel indicated that he and Ellis had discussed the trial at length the prior evening and that he advised Ellis to report to the courthouse the following morning at 8:00 a.m. for his trial. ***See*** N.T. Trial, 2/28/22, at 3. Counsel further indicated that the phone number Ellis had provided and used as recently as the prior evening to discuss the trial with counsel had since been inexplicably disconnected. ***See id.*** Ellis's unexcused failure to stay in contact with counsel on the date of his trial demonstrates his intent to waive his right to be present. Thus, the record evidence establishes that, despite having notice of when his trial was scheduled to commence, Ellis knowingly absented himself from the proceedings. ***See Hilburn***, 746 A.2d at 1149.

Furthermore, Ellis failed to offer any justification to explain his failure to appear at trial or to forewarn either counsel or the trial court of his impending nonappearance that would suggest his absence was involuntary or otherwise supported by good cause. **See id.** Rather, at his sentencing hearing, Ellis took accountability for absconding his bail and prolonging proceedings. **See** N.T. Sentencing, 10/14/25, at 22. Additionally, at Ellis's sentencing hearing, subsequent counsel suggested that Ellis failed to appear for trial because he was unsatisfied with trial counsel's representation, not because an unforeseen circumstance beyond his control thwarted his attendance. **See id.** at 36. Even assuming *arguendo* that Ellis had good cause for failing to appear for trial, it is undisputed that, following his convictions, Ellis absconded and remained at large for over three years despite his awareness of the outstanding bench warrant for his arrest. **See id.** at 34. Thus, the ensuing record evidence further supports the conclusion that Ellis's absence from trial was knowing, voluntary, and without cause.

Based on the foregoing, we cannot find that the trial court abused its discretion in holding Ellis's trial *in absentia* where the record before us establishes that Ellis was absent without cause and knowingly and voluntarily waived his right to be present. Accordingly, we affirm Ellis's judgment of sentence.

Judgment of sentence affirmed.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/02/2026