NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA Appellant v. BRANDON ISAIAH JOHNSON	: : : : : : : : :	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 1124 WDA 2025

Appeal from the Order Entered September 8, 2025
In the Court of Common Pleas of Mercer County Criminal Division at
No(s): CP-43-CR-0001533-2024

BEFORE: KUNSELMAN, J., SULLIVAN, J., and STEVENS, P.J.E.*

MEMORANDUM BY SULLIVAN, J.: **FILED: October 22, 2026**

The Commonwealth appeals from the order granting the petition of Appellee Brandon Isaiah Johnson ("Johnson") for a writ of *habeas corpus* and dismissing criminal charges filed against him.[1] Because the Commonwealth had not shown that any criminal activity occurred in Mercer County, we affirm as to the finding of improper venue, but we vacate the dismissal of the action and remand with directions for the trial court to transfer the case to an appropriate county.

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* Former Justice specially assigned to the Superior Court.

[1] The petition for *habeas corpus* sought dismissal of the case on the grounds the Commonwealth had not presented a *prima facie* case. ***See*** Petition for a Writ of Habeas Corpus, 12/27/24, at 2-4. We are unable to determine from the record when the focus of the hearing shifted to improper venue, but the record is clear that improper venue was the sole basis for the dismissal of the action. ***See*** Trial Court Opinion, 9/8/25, at 1-5.

On September 22, 2024, Johnson was driving his then-girlfriend, Aliseia Baker ("the victim"), from Pittsburgh, Allegheny County, Pennsylvania, to the city of Franklin in Venango County, Pennsylvania. ***See*** Trial Court Opinion, 9/8/25, at 1. The trial court described the events as follows:

> [the victim] was asleep before [Johnson] woke her up by yelling about something he found on her phone. [The victim stated Johnson] struck her, pushed her into the car window and threatened her. After that, . . . [Johnson] pulled over the car and let her out of the vehicle but subsequently dragged her by the hair back inside of the vehicle and would not let her exit. Also, [the victim claimed Johnson] strangled her by putting his hands around her neck, punched her in the ribs, and backhanded her in the face.

Id. at 1-2.

In a criminal complaint, the Commonwealth charged Johnson with kidnapping, strangulation, terroristic threats, simple assault, unlawful restraint, and recklessly endangering another person.[2] Johnson subsequently filed a petition for a writ of *habeas corpus*. The trial court held a hearing on the petition, the only witness presented by the Commonwealth was the victim; the Commonwealth did not place any exhibits into evidence.

At the hearing, the victim testified she fell asleep in the car as Johnson was driving them back to Franklin from Pittsburgh. ***See*** N.T., 1/7/25, at 4-6. The victim gave a detailed description of the assault, which is summarized above. ***See id***. at 6-10. However, with respect to venue, the victim was only

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[2] 18 Pa.C.S.A. §§ 2901(a)(3), 2718(a)(1), 2706(a)(1), 2701(a)(1), 2902(a)(1), 2705.

able to provide the following information: (1) at some point she saw an exit sign for Slippery Rock;[3] (2) she thought the assault started approximately one hour after they left Pittsburgh; (3) they were on a highway, which may have been Route 80. ***See id***. at 8, 25-26, 43-45, 47. The victim admitted she had no idea what county the events took place in. ***See id***. at 47. In fact, the only specific testimony about the location where any criminal activity occurred was in Venango County, as the victim testified when they ultimately reached Johnson's residence in Franklin city, Venango County, and he attempted to prevent her from leaving. ***See id***. at 41-42.

In September 2025, the trial court granted the petition for a writ of *habeas corpus* and dismissed the criminal complaint without prejudice to it being refiled in the proper venue. The instant, timely appeal followed.[4]

On appeal, the Commonwealth raises three issues for our review:

1. Whether the [t]rial [c]ourt erred by opining that venue was improper?

2. Whether the [t]rial [c]ourt erred by finding that the Commonwealth had not made a showing that any act which would be criminal in nature or in furtherance of a crime took place in Mercer County?

3. Whether the [t]rial [c]ourt erred when the [c]ourt opined that charges can be filed in another county without transferring jurisdiction, while also opining, that "the evidence does not point to any particular alternative venue"?

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[3] The town of Slippery Rock is in Butler County. There is also a township named Slippery Rock in Lawrence County.

[4] The Commonwealth and the trial court complied with Pa.R.A.P. 1925.

Commonwealth's Brief at 5.

In its first two interrelated issues, the Commonwealth challenges the trial court's grant of *habeas corpus* and its conclusion that venue was not proper in Mercer County. ***See*** Commonwealth's Brief at 15-21.

An appellate court will review a grant of a petition for writ of *habeas corpus* for abuse of discretion; however, in cases concerning questions of law, our standard of review is *de novo*, and our scope of review is plenary. ***See Commonwealth v. Judge***, 916 A.2d 511, 521 n. 13 (Pa. 2007).

Regarding venue, our Supreme Court explained:

> [j]urisdiction relates to the court's power to hear and decide the controversy presented. All courts of common pleas have statewide subject matter jurisdiction in cases arising under the Crimes Code. . . . Venue, on the other hand, refers to the convenience and locality of trial, or the right of a party to have the controversy brought and heard in a particular judicial district. Venue assumes jurisdiction exists and it can only be proper where jurisdiction already exists. Even though all common pleas courts may have jurisdiction to resolve a case, such should only be exercised in the judicial district in which venue lies. Venue in a criminal action properly belongs in the place where the crime occurred.
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> Our criminal procedural rules provide a system in which defendants can seek transfer of proceedings to another judicial district due to prejudice or pre-trial publicity. Such decisions are generally left to the trial court's discretion. Venue challenges concerning the locality of a crime, on the other hand, stem from the Sixth Amendment to the United States Constitution and Article I, § 9 of the Pennsylvania Constitution, both of which require that a criminal defendant stand trial in the county in which the crime was committed, protecting the accused from unfair prosecutorial forum shopping. Thus, proof of venue, or the locus of the crime, is inherently required in all criminal cases.

Commonwealth v. Gross, 101 A.3d 28, 32-33 (Pa. 2014) (internal citations, quotations, and corrections omitted); ***see also Commonwealth v. Bethea***, 828 A.2d 1066, 1075 (Pa. 2003) ("[v]enue in a criminal action properly belongs in the place where the crime occurred. . . . A change of venue from the *situs* of the action to a different locale is permitted only upon good cause shown").

This Court has stated:

> [t]he constitutional requirement that, generally, a criminal defendant must stand trial in the county in which the crime was committed provides a number of protections to the defendant, including protecting the defendant from prosecutorial forum shopping (as to both judges and juries) and providing the defendant with the convenience of having relevant evidence and witnesses more readily accessible (for, it is more likely that relevant evidence and witnesses will be located in the place where the crime occurred).
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> Further, operating under the assumption that most defendants will be accused of committing a crime at or near their place of residence (which was undoubtedly true in 1790, when Article I, Section 9 of the Pennsylvania Constitution was adopted), the vicinage and venue requirements allow most defendants to stand trial near their residence, near the place where their character witnesses will likely be located, close to their friends and family (who may provide them with moral support and aid in preparing for trial), and in an area where they are more likely to know the local attorneys and thereby have greater confidence in [their] selection of counsel.
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> Because the Commonwealth selects the county of trial, . . . it [bears] the burden of proving venue is proper. Though, since [v]enue merely concerns the judicial district in which the prosecution is to be conducted – and is not an essential element of the crime, nor does it relate to guilt or innocence – the Commonwealth is not tasked with proving venue beyond a reasonable doubt. Rather, our Supreme Court held, where the defendant properly challenges the Commonwealth's chosen

> venue, the Commonwealth is tasked with the burden of proving, by a preponderance of the evidence, that venue is proper. Appellate review of venue challenges, similar to that applicable to other pre-trial motions, [ ] turn[s] on whether the trial court's factual findings are supported by the record and its conclusions of law are free of legal error.

Commonwealth v. Callen, 198 A.3d 1149, 1158-59 (Pa. Super. 2018) (internal citations and quotation marks omitted, brackets in the original).

However,

> [w]hen charges arising from the same criminal episode occur in more than one judicial district, the criminal proceeding on all the charges may be brought before one issuing authority in a magisterial district within any of the judicial districts in which the charges arising from the same criminal episode occurred.

Pa.R.Crim.P. 130(A)(3); ***see also*** Pa.R.Crim.P. 555 (concerning transfer of proceedings in "cases in which charges arising from a single criminal episode occur in more than one judicial district"). We have stated:

> a condition precedent to the exercise by a single county to [venue] in a case involving multiple offenses in various counties is: the offense must constitute a single criminal episode. If a number of charges are logically or temporally related and share common issues of law and fact, a single criminal episode exists. When we ascertain whether a number of statutory offenses are logically related to one another, the court should initially inquire as to whether there is a substantial duplication of factual, and/or legal issues presented by the offenses. The mere fact that the additional statutory offenses involve additional issues of law or fact is not sufficient to create a separate criminal episode since the logical relationship test does not require an absolute identity of factual backgrounds.
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> The temporal relationship between criminal acts will be a factor which frequently determines whether the acts are logically related. However, the definition of a single criminal episode should not be limited to acts which are immediately connected in time. Transaction is a word of flexible meaning. It may

> comprehend a series of many occurrences, depending not so much upon the immediateness of their connection as upon their logical relationship.

Commonwealth v. Witmayer, 144 A.3d 939, 946-47 (Pa. Super. 2016) (internal quotation marks, citations and paragraphing omitted). Moreover,

> [a]lthough there is no exclusive provision which sets forth the statutory grounds for establishing venue in a particular county within Pennsylvania, "our courts frequently [look to 18 Pa.C.S.A. § 102] in determining the proper county in which a criminal trial should take place." ***Commonwealth v. Field***, 827 A.2d 1231, 1233 (Pa. Super. 2003) (citing cases), *appeal denied*, 847 A.2d 1279 (Pa. 2004). Looking to this provision, § 102 provides, in relevant part, that an individual may be convicted in a county if, among other things, his "conduct which is an element of the offense ***or*** the result of which is such an element occurs within the [county]." 18 Pa.C.S.A. § 102(a)(1) (emphasis added). Under § 102, then, venue is proper in a county where either an element of an offense or a required result occurs. An "element of an offense" consists of conduct which is "included in the description of the forbidden conduct in the definition of the offense." ***See*** 18 Pa.C.S.A. § 103.

Commonwealth v. Graham, 196 A.3d 661, 664-65 (Pa. Super. 2018).

The Commonwealth argues the victim testified that she saw a sign for an exit to Slippery Rock when they were driving on a highway and "[p]ractically, the route from Pittsburgh to Franklin, while traveling on a highway, runs through Mercer County." Commonwealth's Brief at 17; ***see also id***. at 20-21.

The trial court found the Commonwealth had not met its burden. ***See*** Trial Court Opinion, 9/8/25, at 4-5. Specifically, the court stated, "the Commonwealth characterizes the violent crimes with which [Johnson is] charged as continuing throughout the drive from Pittsburgh to Franklin, but

the Commonwealth has not made a showing that any act which would be criminal in nature or in furtherance of a crime took place in Mercer County." ***Id***.

After a thorough review of the record, we discern neither an abuse of discretion nor an error of law in the trial court's ruling. As noted above, the victim was unable to provide any information regarding the *situs* of the crime other than she believed it began an hour after the couple departed from Pittsburgh, they were driving on a highway, and, at some point, she saw an exit sign for Slippery Rock. ***See*** N.T., 1/7/25, at 8, 25-26, 43-45, 47. That is insufficient to show the couple ever drove through Mercer County let alone that any criminal activity or act in furtherance of a crime took place in Mercer County. Further, the Commonwealth's argument that the only practical route to drive from Pittsburgh to Franklin includes driving through Mercer County is unpersuasive, and as the trial court noted fails to show by a preponderance of the evidence that venue lies in Mercer County. The Commonwealth failed to present conclusive evidence to explain why it was more likely than not the couple drove one particular route. The Commonwealth's first two issues do not merit relief. ***See Graham***, 196 A.3d at 664-65.

In its third issue, the Commonwealth maintains that the trial court erred in dismissing the case rather than transferring it to an appropriate county. Commonwealth's Brief at 21-23. It argues Pennsylvania law does not permit

dismissal for improper venue, only transfer of the case to the appropriate county. ***See id***.

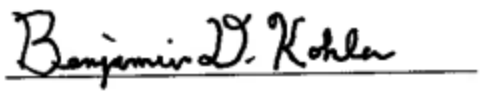
In its opinion dismissing the action, the trial court did not address this issue except to say the Commonwealth failed to point to an appropriate venue. ***See*** Trial Court Opinion, 9/8/25, at 5.

Our Supreme Court has held, "[n]o provision in our criminal procedural rules permits dismissal as a remedy for improper venue." ***Gross***, 101 A.3d at 36. Rather, the correct remedy is to transfer the case to an appropriate venue. ***See id***. Thus, dismissing the case was legal error. If the trial court felt it had insufficient information to decide which county was appropriate, it should have bifurcated the hearing or asked for briefing on the issue.

Accordingly, for the reasons discussed above, we affirm the portion of the order finding venue was not appropriate in Mercer County but vacate the portion of the order dismissing the case and remand the matter for any additional proceedings necessary to determine a county where venue is appropriate and direct the trial court to transfer the matter to that county.

Order affirmed in part and vacated in part. Case remanded. Jurisdiction relinquished.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

DATE: 10/22/2026