NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
STEPHEN M. RUZBACKI	:	
Appellant	:	No. 1636 WDA 2025

Appeal from the Judgment of Sentence Entered November 24, 2025
In the Court of Common Pleas of Butler County Criminal Division at
No(s): CP-10-CR-0000511-2023

BEFORE: BOWES, J., OLSON, J., and MURRAY, J.

MEMORANDUM BY OLSON, J.: **FILED: October 30, 2026**

Appellant, Stephen M. Ruzbacki, appeals *pro se* from the judgment of sentence entered on November 24, 2025, following his bench trial convictions for disorderly conduct and harassment.[1] We affirm Appellant's convictions, but vacate his judgment of sentence and remand for resentencing.

We briefly summarize the facts of this case as follows. On March 30, 2023, the police were dispatched to Magnolia Place, an assisted living facility in Butler, County, Pennsylvania when Appellant was involved in an altercation with his cousin, Frank Yerace ("the victim"), regarding Appellant's resident mother. Appellant struck the victim with his head and knocked out a tooth. The police arrested Appellant. The Commonwealth initially charged Appellant

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[1] 18 Pa.C.S.A. §§ 2709(a)(1) and 5503(a)(1), respectively. The trial court also found Appellant not guilty of a second count of disorderly conduct pursuant to Section 2709(a)(4).

with disorderly conduct, simple assault, and aggravated assault. On September 25, 2025, however, the Commonwealth amended the charges to two counts of disorderly conduct and one count of harassment. The trial court permitted the amendment by order entered on September 29, 2025. While initially represented by appointed counsel, Appellant proceeded *pro se* at a bench trial on November 24, 2025, wherein he testified that he acted in self-defense. As mentioned, the trial court convicted Appellant of one count each of harassment and disorderly conduct. By order entered on November 25, 2025, the trial court sentenced Appellant to pay the costs of prosecution and ordered a $100.00 fine for each offense. On December 11, 2025, the trial court entered an order directing Appellant to pay restitution in the amount of $32.50, representing a trial witness' mileage for attending trial.[2] This timely *pro se* appeal resulted.[3]

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[2] We note that at sentencing, the Commonwealth suggested that the victim "was out of pocket $3,000.00" when discussing restitution, but upon review of the certified record, there was no subsequent order entered to that effect. ***See*** N.T., 11/24/2025, at 110.

[3] Appellant filed a *pro se* notice of appeal on December 22, 2025. On December 26, 2025, the trial court directed Appellant to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b) and Appellant complied timely. He also filed a supplemental Rule 1925(b) statement, after the express grant of leave to court to do so. The trial court issued an opinion pursuant to Pa.R.A.P. 1925(a) on March 10, 2026, relying upon the record to support its decision without further substantive discussion.

On appeal *pro se*, Appellant presents six issues[4] for our review:

A. Whether the trial court erred by proceeding with a non-jury trial despite Appellant's objection and the absence of a knowing, voluntary, and intelligent waiver of his constitutional and procedural [jury] trial rights[?]

B. Whether the trial court violated Appellant's rights to due process and a fair trial by denying his requests for continuance and requiring him to proceed to trial without a meaningful opportunity to present exculpatory evidence[?]

C. Whether the evidence was insufficient as a matter of law to sustain the convictions where the Commonwealth failed to disprove self-defense beyond a reasonable doubt and where the evidence established that the alleged victim was the initial aggressor[?]

D. Whether the verdict was against the weight of the evidence where the trial court credited inconsistent and unreliable inculpatory testimony while disregarding evidence corroborating Appellant's claim of self-defense[?]

E. Whether a breakdown in court operations occurred when material filings submitted by Appellant, including objections and motions filed on or about October 31, 2025, were not docketed or included in the certified record, thereby depriving Appellant of meaningful appellate review[?[5]]

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[4] We have slightly reorganized the arguments presented for ease of discussion.

[5] Appellant does not provide any appellate argument or citation to legal authority or the certified record in support of this claim. As such, we find it waived. ***See*** Pa.R.A.P. 2119 (It is axiomatic that the argument portion of an appellate brief must be developed with citation to the record and relevant authority); ***see also Commonwealth v. B.D.G.***, 959 A.2d 362, 371–72 (Pa. Super. 2008) (finding waiver where appellant failed to cite any pertinent authority to support his argument). Appellant does not currently identify the specific documents that were purportedly not docketed or excluded from the certified record.

> F. Whether the cumulative effect of the foregoing errors deprived Appellant of due process, a fair trial, and confidence in the reliability of the verdict[?]

Appellant's Brief at 8-10.

First, Appellant argues that the Commonwealth downgraded charges on the eve of trial to force him to proceed to a bench trial instead of a jury trial, where he was not prepared to support his claim of self-defense. ***See*** Appellant's Brief at 28. More specifically, Appellant avers that "the Commonwealth sought to amend or regrade the case and proceed by way of summary non-jury proceeding" and that "[t]he practical effect of this last-minute procedural shift was to substantially alter the posture of the case while simultaneously reducing the procedural protections otherwise available to Appellant." ***Id.*** Appellant contends that it "impaired his ability to prepare" for trial and that he was prejudiced as a result. ***Id.; see also*** ("Appellant prepared his defense for criminal prosecution that had been proceeding through the Court of Common Pleas as a felony matter."). Appellant also suggests that "[t]he prejudice was compounded by the fact that [he] was proceeding *pro se*." ***Id.*** at 29.

Pennsylvania Rule of Criminal Procedure 564, provides:

> The court may allow an information to be amended, provided that the information as amended does not charge offenses arising from a different set of events and that the amended charges are not so materially different from the original charge that the defendant would be unfairly prejudiced. Upon amendment, the court may grant such postponement of trial or other relief as is necessary in the interests of justice.

Pa.R.Crim.P. 564. "[T]he purpose of Rule 564 is to ensure that a defendant is fully apprised of the charges, and to avoid prejudice by prohibiting the last minute addition of alleged criminal acts of which the defendant is uninformed." ***Commonwealth v. Sinclair***, 897 A.2d 1218, 1221 (Pa. Super. 2006).

When presented with a question concerning the propriety of an amendment, we consider:

> whether the crimes specified in the original indictment or information involve the same basic elements and evolved out of the same factual situation as the crimes specified in the amended indictment or information. If so, then the defendant is deemed to have been placed on notice regarding his alleged criminal conduct. If, however, the amended provision alleges a different set of events, or the elements or defenses to the amended crime are materially different from the elements or defenses to the crime originally charged, such that the defendant would be prejudiced by the change, then the amendment is not permitted. Additionally, in reviewing a grant to amend an information, the Court will look to whether the appellant was fully apprised of the factual scenario which supports the charges against him. Where the crimes specified in the original information involved the same basic elements and arose out of the same factual situation as the crime added by the amendment, the appellant is deemed to have been placed on notice regarding his alleged criminal conduct and no prejudice to defendant results.
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> Further, the factors which the trial court must consider in determining whether an amendment is prejudicial are:
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> > (1) whether the amendment changes the factual scenario supporting the charges; (2) whether the amendment adds new facts previously unknown to the defendant; (3) whether the entire factual scenario was developed during a preliminary hearing; (4) whether the description of the charges changed with the amendment; (5) whether a change in defense strategy was necessitated by the amendment; and (6) whether the timing of the Commonwealth's request for amendment allowed for ample notice and preparation.

Commonwealth v. Moffitt, 305 A.3d 1095, 1101 (Pa. Super. 2023) (internal citations and quotations omitted).

Here, the amendments did not change the factual scenario, add new previously unknown facts and/or change the description of charges. The amendment relied upon the same set of facts as originally alleged. The Commonwealth has always maintained that, on March 30, 2023, Appellant engaged in a physical altercation resulting in injuries to the victim at Magnolia Place, an assisted living facility in Butler, Pennsylvania. There was no need for Appellant to change his defense strategy as a result of the amendment. Appellant has steadfastly and consistently argued that he was acting in self-defense. Therefore, Appellant has not demonstrated that he did not have ample notice and preparation as a result of the Commonwealth's amendment. Appellant is deemed to have been placed on notice regarding his alleged criminal conduct and no prejudice resulted from the Commonwealth's amendments. After the Commonwealth properly amended the criminal information, the only charges pending against Appellant were summary offenses and, therefore, he was not entitled to a jury trial. ***See Commonwealth v. Kincade***, 518 A.2d 297, 300 (Pa. Super. 1986) (The Constitution requires that one accused of serious offenses, those crimes carrying more than six months sentence, be given a jury trial. A summary offense is only punishable by ninety days imprisonment, or a $300 fine, or both.) Furthermore, we note that Appellant concedes that he was prepared to defend himself in "a felony matter" but does not explain how he was

prejudiced by defending himself on lesser summary offenses. ***See Commonwealth v. Sperry***, 577 A.2d 603, 606 (Pa. Super. 1990) ("It is ingenious but borders on sophistry for appellant to now argue that an injustice was created in charging him with a lesser offense, which was legal[.]"). Finally, our Supreme Court has determined that "[u]nder Pennsylvania law, *pro se* defendants are subject to the same rules of procedure as are represented defendants." ***Commonwealth v. Blakeney***, 108 A.3d 739, 766 (Pa. 2014), *citing* ***Commonwealth v. Williams***, 896 A.2d 523, 534 (Pa. 2006) (*pro se* defendants are held to same standards as licensed attorneys). "Although the courts may liberally construe materials filed by a *pro se* litigant, *pro se* status confers no special benefit upon a litigant, and a court cannot be expected to become a litigant's counsel[.]" ***Id.*** For this additional reason, Appellant is not entitled to relief.

Next, Appellant claims he was denied a continuance and the Commonwealth withheld exculpatory evidence pursuant to ***Brady v. Maryland***, 373 U.S. 83 (1963). ***See generally*** Appellant's Brief at 12-24; ***see id.*** at 11 ("Appellant repeatedly sought continuances and discovery in order to obtain evidence he consistently identified as material, exculpatory, and directly relevant to his defense, including evidence bearing upon self-defense, witness credibility, and the circumstances that precipitated.)".

We adhere to the following standards:

> The grant of a continuance is discretionary and a refusal to grant is reversible error only if prejudice or a palpable and manifest abuse of discretion is demonstrated. An abuse of

> discretion is not merely an error of judgment, but if in reaching a conclusion the law is overridden or misapplied, or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias or ill-will, as shown by the evidence or the record, discretion is abused.
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> The reviewing court should examine the nature of the crime and the surrounding circumstances to determine if the denial of a continuance was an abuse of discretion.

Commonwealth v. Robinson, 239 A.3d 154, 158 (Pa. Super. 2020) (internal citations omitted).

Here, upon review of the record, the trial court granted multiple continuances at Appellant's request prior to trial. By the time of trial, while Appellant faced three summary offenses, almost two-and-a-half years had transpired since the incident. Accordingly, we conclude that the trial court's decision to deny Appellant's request for yet another continuance on the eve of trial was not unreasonable, or the result of partiality, prejudice, bias or ill-will. As such, we conclude that there was no abuse of discretion in denying Appellant's request for a continuance.

With regard to discovery, our Supreme Court has determined:

> In ***Brady***, the U.S. Supreme Court held that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. The duty to disclose may encompass impeachment evidence as well as directly exculpatory evidence. […Moreover, t]he prosecution's duty when faced with a ***Brady*** request extends to exculpatory evidence in the files of police agencies of the same government prosecuting the case. With regard to the issue of materiality, evidence is material if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the trial would have been different. [***See***] ***Commonwealth v.***

> ***Collins***, 888 A.2d 564, 577–578 (Pa. 2005) (to establish ***Brady*** violation, defendant "must establish that there has been a suppression by the prosecution of either exculpatory or impeachment evidence that was favorable to the accused, and that the omission of such evidence prejudiced the defendant"). However, the mere possibility that an item of undisclosed information might have helped the defense, or might have affected the outcome of the trial, does not establish materiality in the constitutional sense.

Commonwealth v. Lesko, 15 A.3d 345, 370–371 (Pa. 2011) (quotations and most internal citations omitted). "The burden rests with [an a]ppellant to '**prove, by reference to the record**, that evidence was withheld or suppressed by the prosecution.'" ***Commonwealth v. Sneed***, 45 A.3d 1096, 1116 (Pa. 2012) (citation omitted; emphasis in original). "[B]ald assertions are insufficient to establish a viable ***Brady*** claim." ***Id.***

Here, Appellant has failed to prove the existence of allegedly exculpatory evidence that was suppressed by the Commonwealth. Without specifically identifying the purported discovery violation, Appellant has also failed to show it was material and deprived him of a fair trial. Appellant's bald assertions are insufficient to establish a viable ***Brady*** claim. As such, this claim is without merit.

Next, Appellant contends that there was insufficient evidence to support his convictions and that the verdict was also against the weight of the evidence. Appellant argues:

> The evidence presented at trial established a viable claim of self-defense. Appellant consistently maintained that he was not the aggressor and that the physical confrontation began when Frank Yearce rushed toward him and placed his hands around Appellant's throat. Appellant testified that he reacted only after

> being physically attacked and threatened. According to Appellant, his actions were undertaken solely to protect himself from imminent unlawful force. The trial court failed to meaningfully address this testimony or reconcile it with the Commonwealth's burden of proof. Rather than evaluating whether the Commonwealth disproved self-defense beyond a reasonable doubt, the court appears to have credited the testimony of the Commonwealth's witnesses and rejected Appellant's account without adequate explanation.

Appellant's Brief at 34.

Our standard of review is as follows:

> When reviewing a challenge to the sufficiency of the evidence, we must determine whether the evidence admitted at trial, and all reasonable inferences drawn therefrom, when viewed in a light most favorable to the Commonwealth as verdict winner, support the conviction beyond a reasonable doubt. Where there is sufficient evidence to enable the trier of fact to find every element of the crime has been established beyond a reasonable doubt, the sufficiency of the evidence claim must fail. This standard applies equally where the Commonwealth's evidence is circumstantial.
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> In conducting this analysis, we do not weigh the evidence and substitute our judgment for that of the fact-finder. Additionally, the Commonwealth's evidence need not preclude every possibility of innocence in order to prove guilt beyond a reasonable doubt. The fact-finder is free to believe all, part, or none of the evidence.

Commonwealth v. Knox, 219 A.3d 186, 195 (Pa. Super. 2019) (internal citations and quotations omitted).

Furthermore,

> [i]f a defendant introduces evidence of self-defense, the Commonwealth bears the burden of disproving the self-defense claim beyond a reasonable doubt. The use of force against a person is justified when the actor believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by the other person. A self-defense claim thus entails three elements:

> (1) Defendant reasonably believed that he was in imminent danger of death or serious bodily injury and that it was necessary to use [] force against the victim to prevent such harm;
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> (2) Defendant was free from fault in provoking the difficulty which culminated in [injury to the victim]; and
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> (3) Defendant did not violate any duty to retreat.

Id. at 196 (internal citations, quotations, and original brackets omitted).

In addition, "[w]hen the defendant's own testimony is the only evidence of self-defense, the Commonwealth must still disprove the asserted justification and cannot simply rely on the [fact-finder's] disbelief of the defendant's testimony." ***Commonwealth v. Smith***, 97 A.3d 782, 788 (Pa. Super. 2014). "If there are other witnesses, however, who provide accounts of the material facts, it is up to the fact finder to reject or accept all, part or none of the testimony of any witness." ***Id.*** (internal citation and quotations omitted). "The complainant can serve as a witness to the incident to refute a self-defense claim." ***Id.*** (citations omitted). "Although the Commonwealth is required to disprove a claim of self-defense arising from any source beyond a reasonable doubt, a fact-finder is not required to believe the testimony of the defendant who raises the claim." ***Id.*** (citation and original brackets omitted).

Here, upon review of the certified record, while Appellant has consistently maintained that the victim was the initial aggressor, the victim identified Appellant as the one who instigated the altercation. ***See*** N.T., 11/24/2025, at 23 (Victim testified that Appellant "clenches his fists, he grinds his teeth, his eyes got real big … and he grabbed [the victim] by the shoulders

and spun [him] around and … pushed [the victim] against [] a kitchenette [counter] and head butted [him].”). Moreover, a visiting nurse at Magnolia Place testified that Appellant admitted to her that he had just headbutted his cousin and was angry “about the medical system and the elite tearing families apart.” ***Id.*** at 50. The personal care administrator at Magnolia Place testified in a similar manner. ***Id.*** She testified that although she did not witness the altercation, the victim “arrived at [her] office with a facial injury.” ***Id.*** at 58. While calling 911, the administrator witnessed Appellant leaving the facility. ***Id.*** at 58-59. The police issued a “no trespassing order” that Appellant was “not allowed on the property, [but] that phone calls were welcome.” ***Id.*** at 65. Appellant returned later and was denied entry. ***Id.*** at 60-61.

The trial court was free to accept all, part, or some of the trial testimony and we will not usurp its credibility determinations. Here, despite the fact that Appellant testified that the victim started the physical altercation, there was evidence that Appellant was the only aggressor. Furthermore, upon review of the certified record, Appellant did not sustain his burden of showing he did not violate a duty to retreat. There was simply no evidence presented that Appellant could not safely leave the scene without the immediate necessity for the use of force. The victim’s testimony, combined with Appellant’s departure from the facility when the administrator summoned the police, offers firm record support for the trial court’s rejection of Appellant’s self-defense claim. Accordingly, for all of the foregoing reasons, we reject

Appellant's suggestion that the Commonwealth did not sufficiently disprove his claim of self-defense.

Additionally,

> [a]ppellate review of a weight claim is a review of the exercise of the trial court's discretion, not of the underlying question of whether the verdict is against the weight of the evidence. Because the trial court had the opportunity to hear and see the evidence presented, an appellate court will give the gravest consideration to the findings and reasons advanced by the trial court when reviewing a trial court's determination that the verdict is, or is not, against the weight of the evidence. One of the least assailable reasons for granting or denying a new trial is the trial court's conviction that the verdict was, or was not, against the weight of the evidence and that a new trial should be granted in the interest of justice.
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> 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. By comparison, the role of the trial court is to determine whether, notwithstanding all the evidence, certain facts are so clearly of greater weight that to ignore them, or to give them equal weight with all the facts, is to deny justice. For an appellant to prevail on a weight of the evidence claim, the evidence must be so tenuous, vague, and uncertain that the verdict shocks the conscience of the trial court.
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> Furthermore, a weight challenge predicated on the credibility of trial testimony is generally not cognizable on appellate review.

Commonwealth v. Hernandez, 359 A.3d 39, 47 (Pa. Super. 2026) (internal citations and quotations omitted).

Contrary to Appellant's bald assertion that his testimony was more credible than the victim's, credibility of trial testimony is generally not

cognizable on appeal when challenging the weight of the evidence. It was within the province of the trial court, as factfinder, to weigh the evidence presented and determine which statements to believe. In this case, however, the evidence was not so tenuous, vague, and/or uncertain that the verdict shocked the conscience of the court. As such, there is no merit to Appellant's claim that the verdict was against the weight of the evidence.

Finally, we note that although not included in his statement of issues presented, Appellant argues two issues related to restitution in his appellate brief. ***See*** Appellant's Brief at 50-55. Appellant claims that the trial court erred by imposing restitution without a sufficient evidentiary foundation or specific findings of fact. ***Id.*** at 50-51. These issues were not included in Appellant's Rule 1925(b) statement or his supplemental Rule 1925(b) statement and would generally be considered waived. ***See*** Pa.R.A.P. 1925(b)(4)(vii) ("Issues not included in the [s]tatement and/or not raised in accordance with the provisions of this paragraph (b)(4) are waived"). Here, however, at the time of sentencing, the trial court generally ordered Appellant to pay restitution, without an amount certain, and gave the Commonwealth an additional 10 days to "file a restitution order." N.T., 11/24/2025, at 110. As set forth above, the trial court ultimately entered an order directing Appellant to pay restitution in the amount of $32.50.

When "the [trial] court initially impose[s] a generalized, open-ended sentence of restitution, [it] is a matter we can raise and review *sua sponte* as an illegal sentence." ***Commonwealth v. Ramos***, 197 A.3d 766, 768 (Pa.

Super. 2018), *citing* ***Commonwealth v. Mariani***, 869 A.2d 484 (Pa. Super. 2005) (explaining judgment of sentence including open restitution "to be determined at later date" is *ipso facto* illegal); ***Commonwealth v. Deshong***, 850 A.2d 712, 713 (Pa. Super. 2004) (stating timeliness of court's imposition of restitution concerns legality of sentence); ***see also Commonwealth v. Oree***, 911 A.2d 169, 172 (Pa. Super. 2006), *appeal denied*, 918 A.2d 744 (Pa. 2007) (maintaining legality of sentence claims cannot be waived, given proper jurisdiction, and Superior Court can review illegal sentences *sua sponte*). If restitution is ordered, "the amount must be determined at the time of sentencing." ***Ramos***, 197 A.3d at 770, *citing* 18 Pa.C.S.A. § 1106(c)(2). "As long as the sentencing court sets some amount and method of restitution at the initial sentencing, the court can later modify that order, but only if the [other] requirements of Section 1106 … are met." ***See Ramos***, 197 A.3d at 770.

In this case, at the time of sentencing, the trial court ordered Appellant "to pay restitution" without setting an amount or method and gave "[t]he Commonwealth … 10 days … to file a restitution order." ***Id.*** "This practice is contrary to law." ***See id.*** at 771 ("Notwithstanding the statutory language and case law requiring imposition of some amount of restitution and a method of payment at the time of sentencing, we continue to see courts make a general order of restitution as part of the sentence but postpone the actual specifics to a later date. …[A] sentence intended to include restitution, which is initially entered without a definite amount and a method of payment is illegal

and must be vacated in its entirety."). Because the record makes clear that the trial court intended restitution as an integral part of its sentencing scheme, we are constrained to vacate Appellant's judgment of sentence and remand for resentencing.

Convictions affirmed. Judgment of sentence vacated. Case remanded for resentencing. Jurisdiction relinquished.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 10/30/2026