NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
AARON JOHNSON	:	
Appellant	:	No. 1124 EDA 2025

Appeal from the Judgment of Sentence Entered March 13, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at No(s): CP-51-CR-0005535-2023

BEFORE: OLSON, J., DUBOW, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY OLSON, J.: **FILED NOVEMBER 18, 2026**

Appellant, Aaron Johnson, appeals from the judgment of sentence entered on March 13, 2025, as made final by the denial of Appellant's post-sentence motion on April 25, 2025. We affirm.

The trial court ably summarized the underlying facts of this case:

> On April 24, 2023, at approximately 4:20 a.m., Marquis Edgar was shot and killed on the 3200 block of Kensington Avenue in Philadelphia. Officer Christopher Campbell of the Philadelphia Police Crime Scene Unit (CSU) arrived at the scene at 6:05 a.m., which was being held by uniformed personnel from the 24th District. No ballistic evidence, DNA, or fingerprints were found on the scene. However, Officer Campbell recovered a cell phone, which he turned over to the assigned detective, Vincent Parker of the Philadelphia Police Homicide Unit.
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> As a part of the investigation, Detective Thorsten Lucke of the Philadelphia Police Homicide Unit, a stipulated expert in

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* Retired Senior Judge assigned to the Superior Court.

surveillance video recovery and analysis, compiled a video compilation of this incident. The video showed a red vehicle arriving at the 3200 block of Kensington Avenue. Upon arrival, three [] individuals could be seen exiting the vehicle. Amongst these individuals, Marquis Edgar could be seen stumbling out of the rear passenger side door before fleeing the scene. After a few steps, Mr. Edgar collapsed in the middle of the street while the driver, later identified as Appellant, quickly returned to the vehicle and drove away.

After viewing this video footage, Detective Parker put out a patrol alert on the red vehicle. On April 27[], 2023, Police Officer Nicholas O'Neill observed the red sedan while on patrol and pulled it over as part of a routine traffic stop. Officer O'Neill identified the driver as Rasania Smith and the passenger as Almirah Kemp. The vehicle was later confirmed as a red 2007 Mercury Milan with Georgia [plates]. After receiving a warrant to search the vehicle, law enforcement found four [] cell phones inside, as well as [16] mylar bags with a green substance, believed to be marijuana.

Subsequently, Rasania Smith and Ms. Kemp were brought into the Homicide Unit for questioning. While Smith gave a lengthy statement, Detective Parker testified that he gained no substantial information from the encounter.

On June 10, 2023, Smith returned to the Homicide Unit and gave her recollection of the incident. Smith testified that she had picked up Jameer Brooks that evening and subsequently met up with Appellant. Later in the evening, when Appellant was driving the vehicle, they stopped at a convenience store located at the corner of 17th Street and Cecil B. Moore Avenue. Mr. Brooks exited the vehicle and returned with an unknown individual, later identified as Mr. Edgar. Mr. Edgar asked to go to Kensington and Allegheny, but when the vehicle arrived, Appellant pulled out a firearm, prompting Ms. Smith to exit the vehicle and flee.

On June [16], 2023, Mr. Brooks came into the Homicide Unit with Ms. Smith and told Detective Parker that Appellant had wanted to sell a gun shortly after the incident. During Appellant's trial, Mr. Brooks testified and corroborated Ms. Smith's testimony, confirming Appellant as the individual who shot Mr. Edgar.

> During Appellant's arrest on June 17, 2023, Detective Parker recovered a cell phone belonging to Appellant. Detective Robert Daly of the Philadelphia Police Homicide Unit, a stipulated expert in call detail record analysis and geospatial plotting, analyzed the call detail records of [Appellant]. Detective Daily placed Appellant in proximity to the documented events of April 24, 2023.
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> At Appellant's trial, Dr. Khalil Wardock, an Assistant Medical Examiner in Philadelphia, testified to completing a posthumous medical examination of Mr. Edgar on April 25, 2023, and determined that the cause of Mr. Edgar's death was a perforating gunshot wound to the chest, and the manner of his death as homicide.

Trial Court Opinion, 12/30/25, at 1-4 (citations and footnotes omitted).

Appellant was charged with multiple crimes, including murder. Following trial, the jury found Appellant guilty of third-degree murder, possessing instruments of crime ("PIC"), firearms not to be carried without a license, and carrying firearms on the public streets of Philadelphia.[1]

On March 13, 2025, the trial court sentenced Appellant to serve an aggregate term of 20 to 40 years in prison for his convictions. N.T. Sentencing, 3/13/25, at 52. The trial court denied Appellant's post-sentence motion on April 25, 2025 and Appellant filed a timely notice of appeal. Appellant raises one claim to this Court:

> Whether the trial court erred in precluding evidence that Commonwealth witness Jameel Brooks had been arrested for pistol-whipping Commonwealth witness Rasania Smith with an illegal firearm, and that Smith thereafter testified falsely at Brooks's preliminary hearing to secure dismissal of those

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[1] 18 Pa.C.S.A. §§ 2502(c), 907(a), 6106(a)(1), and 6108, respectively.

> charges, where the excluded evidence was admissible to establish third-party guilt, motive to fabricate, and bias under ***Commonwealth v. Yale***, 249 A.3d 1001 (Pa. 2021), and ***Chambers v. Mississippi***, 410 U.S. 284 (1973)?

Appellant's Brief at 4.

Appellant challenges the trial court's evidentiary ruling on appeal. "Our standard of review for a trial court's evidentiary rulings is narrow, as the admissibility of evidence is within the discretion of the trial court and will be reversed only if the trial court has abused its discretion." ***Commonwealth v. Melvin***, 103 A.3d 1, 35 (Pa. Super. 2014). "An abuse of discretion may not be found merely because an appellate court might have reached a different conclusion." ***Commonwealth v. Cook***, 231 A.3d 913, 919 (Pa. Super. 2020) (quotation marks and citations omitted). "Instead, an abuse of discretion occurs only where the trial court has reached a conclusion that overrides or misapplies the law, or when the judgment exercised is manifestly unreasonable, or is the result of partiality, prejudice, bias or ill-will." ***Id.*** (quotation marks and citations omitted). "To constitute reversible error, an evidentiary ruling must not only be erroneous, but also harmful or prejudicial to the complaining party." ***Commonwealth v. Lopez***, 57 A.3d 74, 81 (Pa. Super. 2012) (quotation marks and citations omitted).

Prior to trial, the Commonwealth filed a motion *in limine*, seeking to preclude Appellant from offering evidence that, in a prior, unrelated shooting investigation, Commonwealth witness Rasania Smith had provided a false statement to the police. ***See*** Commonwealth's Motion *in Limine*, 10/4/24, at 1-5. As the Commonwealth argued, evidence that Rasania Smith was

untruthful in this prior, specific, unrelated instance was inadmissible under Pennsylvania Rule of Evidence 608 and ***Commonwealth v. Minich***, 4 A.3d 1063 (Pa. Super. 2010). ***See*** Commonwealth's Motion *in Limine*, 10/4/24, at 1-5; ***see also*** Pa.R.E. 608(a) and (b)(1) ("A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness;" however, "the character of a witness for truthfulness may not be attacked . . . by cross-examination or extrinsic evidence concerning specific instances of the witness' conduct"); ***Minich***, 4 A.3d at 1072-1073 (holding: evidence that "the victim of a sexual assault was caught lying in school about matters wholly unrelated to the allegations against [the defendant]" was inadmissible under Rule 608, as the defendant was intending to use the evidence to challenge the victim's credibility).

During *voir dire*, the trial court held oral argument on the Commonwealth's motion, where the Commonwealth argued that Appellant could not challenge witness Rasania Smith's credibility with the prior, specific instance where she was untruthful to the police in the unrelated matter. ***See*** N.T. Trial, 10/8/24, at 20-24. As argument on that issue was concluding, Appellant raised a different, specific instance where Rasania Smith was untruthful. This instance involved another Commonwealth witness in the case, Jameel Brooks. Appellant declared:

> [Appellant's Counsel]: The second part of this, and it wasn't outlined, but as an officer of the court, it's my obligation. There is another case where Ms. Smith had Jameel Brooks,

> the second witness in this case, who was her boyfriend, arrested for aggravated assault, that he pistol whipped her. And that case, she went into the preliminary hearing and said, I [sic] didn't do this, nothing happened, I'm fine. So at one point, she is telling the police my boyfriend pistol whipped me, hit me, gets him arrested, goes to court, and then says nothing happened.
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> . . .
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> This is a woman who when it's convenient for her will tell the truth, and when it's not, will lie.

Id. at 24.

Apparently addressing both the issue the Commonwealth raised in its written motion, as well as the issue Appellant orally raised at argument, the trial court ruled:

> If you have reputation evidence of [Rasania Smith], some witness who says she is a known liar, she is this, you know, you can certainly present that. . . . But asking specifically about another case where she may not have told the truth, I don't want it to become a trial within a trial. You'll have plenty of leeway to cross-examine her about what it took to get it out even here in Homicide on this case.
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> . . .
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> So the motion is granted, however, you do have leeway to cross her. And if you have a witness to come in as negative character for her truthfulness, feel free to bring that in.

Id. at 25-26.

Now on appeal, Appellant claims that the trial court erred when it excluded evidence that Rasania Smith accused Jameel Brooks of pistol-whipping her and then, at the preliminary hearing in that unrelated matter, testified that Jameel Brooks "didn't do this, nothing happened, I'm

fine." ***See*** Appellant's Brief at 23; ***see also*** N.T. Trial, 10/8/24, at 24. According to Appellant, the trial court incorrectly "treated this evidence as inadmissible specific instances of conduct under [Rule] 608(b)," when the trial court should have viewed the evidence as relevant to Jameel Brooks' "third-party guilt," as well as "impeachment evidence to show motive to fabricate and bias under ***Commonwealth v. Nolan***, 634 A.2d 192 (Pa. 1993) and ***Commonwealth v. Evans***, 512 A.2d 626 (Pa. 1986)." Appellant argues on appeal:

> the trial court hamstrung the defense by granting the Commonwealth's motion *in limine* and excluding evidence that Brooks had been arrested for pistol-whipping Smith with an illegal firearm and that Smith thereafter lied under oath at Brooks's preliminary hearing to secure dismissal of those charges. This evidence was critical: it put a gun in Brooks's hands that could have been the murder weapon, it gave both witnesses a motive to cooperate with the Commonwealth to protect themselves and each other, and it gave Smith a specific reason to implicate Appellant rather than Brooks, who she was afraid of. The trial court treated the evidence as inadmissible under Pa.R.E. 608(b), but it never engaged with the correct framework for third-party guilt evidence under ***Commonwealth v. Yale***, 249 A.3d 1001 (Pa. 2021). The resulting conviction is built on the uncorroborated, contradictory testimony of two self-interested witnesses, and the jury was unfairly denied the evidence it needed to evaluate their credibility and assess an alternate suspect.

Appellant's Brief at 23-24.

At the outset, Appellant did not raise **any** of the above grounds to the trial court in support of his oral motion to (apparently) admit evidence that, in a separate, unrelated case, Rasania Smith recanted an accusation that Jameel Brooks pistol-whipped her. Instead, during argument on the

Commonwealth's motion to exclude evidence that Rasania Smith was untruthful during one prior, specific instance of providing a false statement to the police in an unrelated shooting, Appellant's counsel declared that, "as an officer of the court, it's [his] obligation" to inform the trial court that Rasania Smith was untruthful in **another**, specific instance – this one regarding the alleged pistol-whipping by Jameel Brooks. ***See*** N.T. Trial, 10/8/24, at 24. Further, as Appellant's counsel informed the trial court, this separate instance of untruthfulness was relevant to demonstrate that Rasania Smith "is a woman who when it's convenient for her will tell the truth, and when it's not, will lie." ***Id.***

Pennsylvania Rule of Evidence 103 declares: "[a] party may claim error in a ruling to . . . exclude evidence only . . . [if the] party informs the court of its substance by an offer of proof, unless the substance was apparent from the context." Pa.R.E. 103(a). As this Court has explained:

> An offer of proof must be sufficient to alert the trial judge to the purpose for which the evidence is being offered, and a trial court's exclusion of evidence must be evaluated on appeal by a review of the contents of the offer at the time it was made. The party specifying the purpose for which the testimony is admissible cannot argue on appeal that the evidence was admissible for a purpose other than that offered at trial. Appellant is deemed to have waived any grounds, other than those offered at trial, for the admission of the evidence at trial.

Commonwealth v. Newman, 555 A.2d 151, 156 (Pa. Super. 1989) (citations omitted).

In the case at bar, Appellant specifically informed the trial court that evidence Rasania Smith recanted her accusation against Jameel Brooks was relevant to demonstrate she "is a woman who when it's convenient for her will tell the truth, and when it's not, will lie." N.T. Trial, 10/8/24, at 24. Appellant's offer of proof did not include any of the grounds he currently raises on appeal, *i.e.*, that the evidence was relevant to establish: Jameel Brooks' possible "third-party guilt;" a motive for Rasania Smith and Jameel Brooks "to cooperate with the Commonwealth to protect themselves and each other;" or, a possible reason for Rasania Smith "to implicate Appellant rather than Brooks, who she was afraid of." ***See*** Appellant's Brief at 23-25. Further, none of these newly-raised grounds were remotely "apparent from the context" of Appellant's proffer. ***See*** Pa.R.E. 103(a). Thus, Appellant's claims on appeal are waived. ***See*** Pa.R.E. 103.[2]

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[2] Within Appellant's brief, Appellant argues that, "should [this Court] find that trial counsel did not articulate [the newly-raised appellate] arguments thoroughly enough to preserve the issue[s]," this Court should conclude that Appellant's trial counsel was ineffective for failing to preserve the claims he currently raises on appeal. ***See*** Appellant's Brief at 38-39. Under our Supreme Court's precedent, this ineffective assistance of counsel claim may not be raised on direct appeal. ***See Commonwealth v. Grant***, 813 A.2d 726 (Pa. 2002) (holding: "as a general rule, a petitioner should wait to raise claims of ineffective assistance of trial counsel until collateral review"). We have explained:

> Generally, a criminal defendant may not assert claims of ineffective assistance of counsel on direct appeal. ***See Commonwealth v. Holmes***, [79 A.3d 562, 577-580 (Pa. 2013)]. Instead, such claims are to be deferred to [collateral] review [in a petition filed pursuant to the Post Conviction Relief Act ("PCRA"),

(Footnote Continued Next Page)

Judgment of sentence affirmed. Jurisdiction relinquished.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/18/2026

> 42 Pa.C.S.A. §§ 9541-9546]. ***Id.*** However, our Supreme Court has recognized three exceptions to the general rule. In ***Holmes***, [our Supreme] Court held that a trial court has discretion to address ineffectiveness claims on direct review in cases where (1) there are extraordinary circumstances in which trial counsel's ineffectiveness is apparent from the record and "meritorious to the extent that immediate consideration best serves the interests of justice;" or (2) "there is good cause shown," and the defendant knowingly and expressly waives his entitlement to seek subsequent PCRA review of his conviction and sentence. More recently, our Supreme Court adopted a third exception, which requires "trial courts to address claims challenging trial counsel's performance where the defendant is statutorily precluded from obtaining subsequent PCRA review." ***Commonwealth v. Delgros***, 183 A.3d 352, 361 (Pa. 2018).

Commonwealth v. James, 297 A.3d 755, 760-761 (Pa. Super. 2023).

None of the above three listed exceptions apply to the case at bar. Thus, Appellant's claim of ineffectiveness is barred on direct appeal, without prejudice for Appellant to seek relief through collateral review.