2026 PA Super 251

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
DOUGLAS ALLEN SHIELDS	:	
Appellant	:	No. 1197 MDA 2025

Appeal from the Judgment of Sentence Entered April 14, 2025
In the Court of Common Pleas of Cumberland County
Criminal Division at No: CP-21-CR-0000754-2023

BEFORE: LAZARUS, P.J., STABILE, J., and BENDER, P.J.E.

OPINION BY STABILE, J.: **FILED NOVEMBER 06, 2026**

Appellant, Douglas Allen Shields, the chief of Yellow Breeches Emergency Medical Services, appeals from his judgment of sentence of 6½-17 years' imprisonment for sexually abusing a teenager who was volunteering at Yellow Breeches. During trial, the Commonwealth presented evidence of Appellant's improper contact with two other teenagers under the common plan, scheme or design exception in Pennsylvania Rule of Evidence 404(b). Pursuant to our Supreme Court's recent decision in ***Commonwealth v. Walker***, —Pa.—, 350 A.3d 54 (2026), and related authorities, we hold that this evidence was inadmissible under the common plan, scheme or design exception and was prejudicial to Appellant's defense. We reverse Appellant's judgment of sentence and remand for a new trial.

Appellant was charged with committing statutory sexual assault, aggravated indecent assault, corruption of minors, sexual assault by employee of a non-profit association, and indecent assault against A.R., a fifteen-year-

old female volunteer at Yellow Breeches, from March 2021 through December 2021. The Commonwealth filed a pretrial motion to admit evidence under Rule 404(b) of Appellant's improper contact with two other teenagers: (1) T.B., whom Appellant allegedly fondled in 1998-99 when she was a member of the West End fire company; and (2) A.B., whom Appellant allegedly groped in 2022 while he was her supervisor at Yellow Breeches. The Commonwealth filed a pretrial motion to introduce A.B.'s and T.B.'s testimony to show a common plan, scheme or design and absence of mistake or accident. Following a hearing, over Appellant's objection, the court granted the motion on the ground that the "prior incidents reported by the proposed witnesses are sufficiently similar to the instant allegations to demonstrate a common plan as contemplated by [Rule 404(b)]." Opinion, 7/16/24, at 1. The order was silent as to the Commonwealth's claim of absence of mistake or accident.

T.B. and A.B. testified at trial before A.R. The trial court summarized T.B.'s testimony as follows:

> T.B., who may have been the first volunteer to be subjected to Appellant's misuse of his authority. T.B. recounted events from the fall of 1998 when she was a 14-year-old junior member of the West End Fire Company and Appellant was a thirty-something Deputy Chief. The first incident occurred when Appellant was leading a group of volunteers who were promoting reflective address signs to help first responders locate rural residents. On a cool fall afternoon, Appellant approached T.B. from the rear, reached his arms over her shoulders and placed his hands under her shirt and on top of her bra. Startled, she attempted to pull away and eventually Appellant relented, acting as if it were a laughing matter, claiming he just wanted to keep his hands warm.

> The second incident occurred about 6 months later when T.B. was in the upstairs lounge at the station, working on the computer while another member was watching TV. Appellant entered the room and ordered the other individual to "clean something," insisting that he do so immediately. This time, when Appellant "attempt[ed] to put his hands down my shirt again ... I stood up and told him get his hands off of me." T.B. continued:
>
> > He just blank stared initially, and I made the comment that - around that time, the quote, "fifteen will get you twenty" was prevalent. So I made the comment, "fifteen will get you twenty." He said are you threatening an officer? And I said are you trying to perform child molestation? And he just looked, He is like I can have you thrown out of here for insubordination. And I said well then I can have you thrown in jail for child molestation. The conversation ended and he walked away.
>
> Significantly, T.B. said she did not report the first incident because it "was his word against mine [and] [t]hey are going to believe a Deputy Fire Chief who has been in the service for as long as he has versus somebody who had been in the service less than a year, plus I was a female." Following the second incident, T.B. told a few other members and was "eventually pulled into the Fire Chief's office," after which "I shut up. I didn't say anything more." T.B. shut up, in part because she did not want to "get a reputation ... in a predominantly man's world.'' She lived with the guilt of not having come forward until hearing of these charges, and even then was hesitant to do so. Though she may never read this opinion, we suggest that her guilt should give way to pride. It is never too late to do the right thing, which A.B. did as well.

Trial Court Opinion, 12/31/25, at 5-7 (minor grammatical revisions; footnotes omitted).

> The trial court recounted A.B.'s testimony as follows:
>
> A.B. was 19 years old in 2022 when she started at Yellow Breeches EMS, first as an "apprentice" and eventually as a full member of the ambulance company. As the Chief, Appellant was "sometimes too friendly [] I don't really see a reason for a boss to like, you know, put a hand on a shoulder, to offer a hug, and it was stuff

like that ..." Appellant was never rude but was "inappropriate." On one occasion, when A.B. was in between housing, he invited her to stay at his house, which seemed odd, "especially with the age gap of, you know, an older boss and a 19-year-old female employee, so that struck me as inappropriate."

Beyond inappropriate conversations, the primary focus of her testimony concerned a training exercise in the Spring of 2022 when Appellant and two other employees were placing a splint on A.B.'s hip. While the two female employees were holding her right calf and left knee,

> [Appellant's] hand was uncomfortably high, I think unreasonably high on my leg and kind of turned towards the inside of the thigh as well, which I think there — it would have been possible to stabilize me in that position without holding me there. So I was uncomfortable, so I kind of, you know, shuffled my leg a little, kind of tried to move [his hand] without moving it.

To be fair, Appellant argued A. B. was hyper-sensitive and one of the employees testified that she saw nothing amiss in this practice exercise. But, of course, it was not her leg, nor could she feel Appellant's fingers "on the inside of [her] thigh, which [A.B.] remembered] very clearly. "Creepy" may not be a crime, but the totality of Appellant's actions with young women certainly lays the groundwork for the next steps he took with the ultimate victim in this case. A.B. related, not unlike T.B., when

> I would be at the desk, and would get hands on my shoulders; or there is a time where I remember I was upset ... and the defendant just kind of came at me with a hug and ... I just kind, kind of like with the training exercise, just kind of was frozen, like it will be over in a second, just deal with it.

Unlike T.B., whose words to Appellant and her demeanor on the stand, lead us to suspect her default is to "fight," A.B.'s response was to freeze. Beyond their responses, why did none of the victims report after the first inappropriate act? We will give A.B. the final word on that. When asked why she did not simply say stop touching me, she responded:

> As a 19-year-old girl, especially at a company like Yellow Breeches, where, you know, anybody who works in EMS will tell you it is, there are blurrier boundaries, but especially at a place like that, as a 19-year-old girl, where most of the employees on a day-to-day were adult men, I did not feel at all like it was - there was not a workplace culture that I felt would have welcomed me speaking up, especially not against somebody like the Chief. I had just started. I was - for some of these stories barely released, some of these stories not released at all from my preceptorship, so I kind of didn't want to make waves, you know, didn't feel like I should speak up.

Id. at 7-10 (minor grammatical revisions; footnotes omitted). A.B. also testified that Appellant offered to let her stay at his residence when she was between housing. N.T., 9/16/24-9/19/24, at 100, 102-03.

A.R., the complainant herein, took the stand after T.B.'s and A.B.'s testimony. A.R. testified that she met Appellant at Yellow Breeches when she was fifteen. ***Id.*** at 149. She initially enrolled in a Junior Ride Along program and then entered an EMT training contract with Yellow Breeches, which allowed her to attend classes with her tuition advanced by the company. ***Id.*** at 150, 155-56. Under the agreement, A.R. was required to reimburse the cost only if she failed to complete the program. ***Id.*** at 156. Appellant was one of her bosses but not her direct supervisor. ***Id.*** at 158.

A.R. saw Appellant when she was on shift, and they typically interacted in a "very friendly" manner. ***Id.*** at 160. A.R. testified that she built a very close relationship with Appellant over a short period of time and "looked at him like a father." ***Id.*** She was very trusting of him as they were able to talk

to each other and make jokes. ***Id.*** She knew he was roughly in his fifties. ***Id.*** at 161.

A.R. testified that the first inappropriate contact occurred outside behind a shed on the station property. ***Id.*** at 164. They had been talking and walked over behind the shed, an area not covered by any security cameras. ***Id.*** Appellant placed his hands on her breasts over her shirt and then under her shirt while they were behind the shed. ***Id.*** at 168-69. Appellant pulled her close to him, and she felt that she could not leave because she was just a kid. ***Id.*** at 170. Appellant made an inappropriate comment that her "nipples were hard, so [she] must have been turned on." ***Id.***

Over the next several months, there were additional incidents in which Appellant touched her breasts and one instance where he touched her pelvic area over her clothing. ***Id.*** at 171-72. Eventually, Appellant suggested that she do an overnight shift. ***Id.*** at 172. Their relationship progressed into a sexual relationship during the overnight shift, when she spent the night in the station dormitories. ***Id.*** at 181. There was no camera coverage in the dormitory rooms, and Appellant's specific dormitory was known as the "dungeon" because it had no windows. ***Id.*** at 178, 180.

During subsequent overnights, Appellant invited her into his dormitory, where they engaged in various sexual acts from touching and kissing to sexual intercourse. ***Id.*** at 183-84. Sexual intercourse took place on multiple occasions, generally on Wednesdays. ***Id.*** at 185. In one other incident, A.R.

and Appellant had sexual intercourse in the station's storage unit. ***Id.*** at 187. This location, again, had no cameras. ***Id.*** at 189.

At the conclusion of a four-day trial, the jury found Appellant guilty of all charges. On April 14, 2025, the court entered sentence. On April 23, 2025, the court granted Appellant an extension until May 1, 2025 to file post-sentence motions. On May 1, 2025, Appellant filed post-sentence motions. On August 1, 2025, the court denied Appellant's post-sentence motions. On September 2, 2025, Appellant filed a timely notice of appeal.[1] Both Appellant and the trial court complied with Pa.R.A.P. 1925.

Appellant raises two issues in this appeal:

> I. Did the sentencing court abuse its discretion in sentencing Appellant to the maximum sentence allowable at Count 4 as the court failed to consider the factors enumerated at 42 Pa.C.S.[A.] § 9721 or provide any rationale not already accounted for by the sentencing guidelines adopted by the Pennsylvania Commission on Sentencing?
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> II. Did the trial court abuse its discretion in permitting evidence of bad acts pursuant Pa.R.E. 404(b) as the acts in question were not sufficiently similar to demonstrate a common plan and the probative value of the evidence did not outweigh its potential for unfair prejudice?

Appellant's Brief at 5. We need only review the second issue, since it is dispositive.

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[1] August 31, 2025, the thirtieth day after denial of post-sentence motions, fell on a Sunday, and September 1, 2025 was Labor Day. Thus, the final day for filing the notice of appeal was Tuesday, September 2, 2025. ***See*** 1 Pa.C.S.A. § 1908.

Appellant argues that the trial court abused its discretion by allowing A.B.'s and T.B.'s testimony under Rule 404(b). Our standard of review is well-settled:

> [T]he admission of evidence is solely within the discretion of the trial court, and a trial court's evidentiary rulings will be reversed on appeal only upon an abuse of that discretion. An abuse of discretion is not simply an error of judgment, but is an overriding misapplication of the law, or the exercise of judgment that is manifestly unreasonable, or the result of bias, prejudice, ill-will, or partiality.

Commonwealth v. Smith, 325 A.3d 513, 518-19 (Pa. 2024).

Rule 404(b), a rule of relevance,[2] provides in pertinent part:

> (1) *Prohibited Uses*. Evidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.
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> (2) *Permitted Uses*. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. In a criminal case this evidence is admissible only if the probative value of the evidence outweighs its potential for unfair prejudice.

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[2] In general,

> [a]ll relevant evidence is admissible, except as otherwise provided by law. Evidence that is not relevant is not admissible. Evidence is relevant if it logically tends to establish a material fact in the case or tends to support a reasonable inference regarding a material fact. Even if evidence is relevant, the court may nonetheless exclude it if its probative value is outweighed by a danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Commonwealth v. Carter, 320 A.3d 140, 147-48 (Pa. Super. 2024).

Id.

Under Rule 404(b)(1), "the Commonwealth cannot present evidence of a defendant's other bad acts solely for the purpose of establishing the defendant's propensity to commit crimes." ***Walker***, 350 A.3d at 62. This general principle, however, is subject to the exceptions prescribed in Rule 404(b)(2). Moreover, the list of exceptions in Rule 404(b)(2) is non-exhaustive. Comment, Pa.R.E. 404. Thus, courts have recognized additional exceptions, such as evidence of the defendant's consciousness of guilt, ***Commonwealth v. Carter***, 320 A.3d 140, 148-49 (Pa. Super. 2024), the *res gestae* exception permitting evidence of other crimes or bad acts to tell the complete story, ***id.***, and, most importantly of all for purposes of the present case, the common plan, scheme, or design exception. ***Id.***

Our Supreme Court recently analyzed the common plan, scheme or design exception at length in ***Walker***.[3] A detailed examination of ***Walker*** and its progeny will place this appeal in proper context.

The defendant in ***Walker*** was charged with raping three different victims on three separate occasions — one victim in January 2011; another in December 2014; and a third in January 2015. Each victim underwent a sexual

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[3] We note that the trial court herein did not have the benefit of ***Walker's*** analysis when it issued its opinion in late 2025. On the other hand, ***Walker*** was issued months before both parties filed their briefs in this appeal. Both parties have not mentioned or discussed this important decision in their briefs.

assault examination after the attack, and in each case, DNA from the purported perpetrator was recovered and uploaded to the Combined DNA Index System ("CODIS"). In December 2018, a CODIS search uncovered that the DNA samples taken from the three victims matched, so the police believed the same perpetrator committed the assaults. This DNA profile later was linked to Walker.

The Commonwealth moved to consolidate the three cases for trial under Pennsylvania Rule of Criminal Procedure 582.[4] Relying on the exceptions to the admission of other bad acts evidence in Rule 404(b), the Commonwealth sought consolidation on the ground that evidence of each assault would be admissible in a trial for the others, because the assaults shared sufficient similarities to establish a common plan, scheme, or design, and they demonstrated an absence of mistake, that is, they rebutted any claim by Walker that the acts were consensual. The court granted consolidation, and the jury found the defendant guilty of raping each victim and related crimes.

In an opinion authored by Justice McCaffery, our Supreme Court held that the trial court abused its discretion when it consolidated the three rape cases for trial because the evidence of each of the offenses was not admissible in a separate trial for the others under the common plan, scheme or design

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[4] Rule 582 permits the joinder of offenses charged in separate informations if, *inter alia*, "the evidence of each of the offenses would be admissible in a separate trial for the other and is capable of separation by the jury so that there is no danger of confusion." Pa.R.Crim.P. 582(A)(1)(a).

exception. ***Walker***, 350 A.3d at 76. The Court thus vacated the defendant's judgment of sentence and remanded for a new trial in each case. ***Id.***

To reach this decision, ***Walker*** began by reviewing the history of the common plan, scheme or design exception, noting that its genesis can be traced back to the Court's nineteenth century decision in ***Shaffner v. Commonwealth***, 72 Pa. 60 (1872). ***Walker***, 350 A.3d at 62. The facts in ***Shaffner***, ***Walker*** observed,

> read like a B-movie. Shaffner was on trial for poisoning his wife, Nancy. The trial court permitted the Commonwealth to introduce evidence that Shaffner also poisoned John Sharlock a few months earlier. Sharlock exhibited similar symptoms to Nancy before his death, which occurred at Shaffner's home. According to the Commonwealth, the connection between the two deaths supplied the motive — Shaffner was having an affair with Sharlock's wife, and upon the deaths of their respective spouses, they each collected life insurance proceeds.

Id. The ***Shaffner*** Court opined:

> To make one criminal act evidence of another, ***a connection between them must have existed in the mind of the actor, linking them together for some purpose he intended to accomplish; or*** it must be necessary to identify the person of the actor, ***by a connection which shows that he who committed the one must have done the other.*** Without this obvious connection, it is not only unjust to the prisoner to compel him to acquit himself of two offences instead of one, but it is detrimental to justice to burthen a trial with multiplied issues that tend to confuse and mislead the jury. ...

Id. (quoting ***Shaffner***, 72 Pa. at 65) (emphasis in ***Walker***). ***Shaffner*** emphasized that in order to introduce evidence of Sharlock's murder during the trial for Nancy's murder, both crimes "must have been … contemplated by [Shaffner] as **parts of one plan** in his mind[;]" that is, Shaffner must have

"contemplated the death of Nancy **before** taking the life of Sharlock." ***Walker***, 350 A.3d at 63 (quoting ***Shaffner***, 72 Pa. at 66 (emphases in ***Walker***). ***Shaffner*** found no supporting evidence for this preconceived plan in the record. ***Id.*** Additionally, ***Shaffner*** determined there was no evidence that Shaffner intended to marry Sharlock's wife, which would have made it "probable, that [he] took Sharlock's life as preparatory to taking Nancy's life, and as the means of enabling him to marry" Sharlock's wife. ***Id.*** In fact, the two had been having an affair for years, even prior to their marriages to their respective spouses. The lack of testimony indicating Shaffner intended to marry Sharlock's wife also undermined any intimation that Shaffner killed Sharlock before Nancy so that Sharlock's wife (assuming he intended to marry her) would obtain Sharlock's life insurance proceeds. ***Walker***, 350 A.3d at 63 (citing ***Shaffner***, 72 Pa. at 67). Accordingly, ***Shaffner*** held the trial court abused its discretion when it permitted evidence of Sharlock's murder during Shaffner's trial for Nancy's murder, "[I]t was … unjust to [Shaffner] to compel him, on his trial for the murder of his wife, to defend himself against the charge of murdering Sharlock." ***Walker***, 350 A.3d at 63 (quoting ***Shaffner***, 72 Pa. at 68).

Walker summarized that

> what evolved from [***Shaffner***] was a two-fold test to determine the admissibility of (arguable propensity) evidence pursuant to the common plan, scheme or design exception — other bad acts evidence was admissible if it demonstrated (1) a previously conceived plan that linked the prior crime and present crime

> together for a singular purpose or (2) crimes so similar that they must have been committed by the same actor.

Id. at 63. The first ***Shaffner*** exception has been referred to as the "linked acts" theory. ***Id.*** Evidence of other crimes or bad acts is admissible if the prosecutor establishes that the defendant formed "a single, overall grand design" and that each bad act or crime is an "integral component[ ] of the same plan; each criminal act is a stop or stage in the execution of the plan." ***Id.*** The key to the "linked plan" exception is one overarching goal. ***Id.***

The second ***Shaffner*** exception is commonly known as the defendant's *modus operandi* — "a pattern of criminal behavior so distinctive that investigators attribute it to the work of the same person." ***Id***. (citations omitted). This exception, said ***Walker***, "more appropriately applies to the 'identity' exception in Rule 404(b)(2)," *i.e.*, the exception that permits other acts evidence for the purpose of proving the defendant's identity. ***Id.*** at 71 & n.16. The *modus operandi* exception applies when the other acts or "crimes of the accused (are) so nearly identical in method as to earmark them as the handiwork of the accused." ***Id.*** It requires more than "the mere repeated commission of crimes of the same class; instead, the devise used must be so unusual or distinctive as to be like a signature." ***Id***. (cleaned up); ***see also id.*** at 73 ("facts of the other bad acts and the offense on trial are so unique and distinctive that they must have been committed by the same culprit"; circumstances between the cases must "present a virtual signature" for purposes of proving common scheme, intent and identity).

Walker explained that through a series of decisions over time, the Supreme Court "has relaxed the strict parameters surrounding the exception[:]"

> [The] two-pronged common plan, scheme, or design exception morphed into a more general consideration as to whether the defendant's other bad acts share "sufficient similarities" with the offense on trial. In fact, a new test to determine "similarity" arose ... — courts were to consider "the elapsed time between the crimes, the geographical proximity of the crime scenes, and the manner in which the crimes were committed."

Id. at 64. What emerged from these decisions — a "watered-down" "logical connection" or "sufficient similarities" test, ***id.*** at 65, 71 — "does not demand the same high level of similarities between the acts as admission under the *modus operandi* or signature crime exception. ***Id.*** at 72.

> Nor does the logical connection test require proof of an overarching plan or scheme linking the criminal acts together, as envisioned in ***Shaffner***. Rather, it appears to be a hybrid of these two traditional exceptions — while there is no previously conceived plan linking the bad acts, they are **similar enough** for a jury to conclude the same perpetrator committed them.

Id. (emphasis in original).

"Our case law," the Court continued, "has strayed from the traditional exceptions to the preclusion of other bad acts evidence and teetered on the line of allowing propensity evidence in the name of a common plan, scheme, or design, resulting in undue prejudice to defendants." ***Id.*** "Today a common plan or scheme simply requires 'shared characteristics' between the crimes and the victims." ***Id***.

Walker criticized several older Supreme Court decisions for applying the improper watered-down standard. In one such case, ***Commonwealth v. Arrington***, 86 A.3d 831 (Pa. 2014), the defendant was on trial for murdering the victim, his former girlfriend, whom he had physically abused for years, and harassed and threatened after she filed a criminal complaint against him. ***Id.***, 86 A.3d at 837-38. The Commonwealth presented evidence that the defendant had physically assaulted three other former girlfriends, then attempted to preserve those relationships through harassment, and harmed or threatened to harm their male friends. ***Id.*** at 844. ***Arrington*** held that this evidence was admissible "to establish [the defendant] acted pursuant to a common plan or scheme." ***Id.*** at 844. ***Walker*** cast doubt on this conclusion, stating, "While [Arrington's] other bad acts were clearly 'similar' to the offense for which he was on trial, they could not be characterized as "so unusual or distinctive as to be like a signature." ***Id.***, 350 A.3d at 72.

Walker determined that "the time has come for this Court to acknowledge that the 'logical connection' test runs afoul of the purpose of Rule 404(b) and invites the admission of impermissible propensity evidence." ***Id***. at 73. Furthermore, "it is time to return to the origin of the common plan, scheme, or design exception, and limit the admission of other bad acts evidence to those cases involving a common goal (*i.e.*, "linked plan") or a signature crime." ***Id***. at 73. The Court announced the proper test:

> When the admissibility of the defendant's other bad acts is premised upon the common plan, scheme, or design exception,

> the Commonwealth must establish either: (1) the offenses constitute "signature crimes" — that is, they are so unique and distinctive that they must have been committed by the same perpetrator — or; (2) the offenses were linked to achieve a common goal.

Id. at 75. This formulation "is not so much a break from prior rulings as it is a reaffirmation of the vital safeguards Rule 404(b) provides in criminal prosecutions. By permitting other acts evidence based solely on a 'logical connection' between similar crimes, we run the very real risk of admitting pure propensity evidence."[5] ***Id.*** at 74.

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[5] Two justices joined Justice McCaffery's opinion in full. Justice Dougherty filed a concurring and dissenting opinion in which he joined most of Justice McCaffery's opinion and joined in the decision to grant a new trial. Three justices dissented in full.

Justice Dougherty joined Justice McCaffery's opinion in disavowing the logical connection test, but he dissented on the ground that, "in appropriate circumstances, an 'unlinked plan' theory could serve as an exception to Rule 404(b)'s general rule of exclusion." ***Id.*** at 92. Justice Dougherty defined the unlinked plan theory as "allow[ing] for admissibility where the actor applied the same plan or methodology to accomplish unrelated crimes." ***Id.*** at 92 n.3. He further described this theory as requiring a plan — i.e., forethought by the defendant — with "[p]reparatory steps" that "were committed in a manner nearly identical" to the other charged offenses. ***Id.*** at 95-96 (citation omitted; emphasis in original).

It might be suggested that Justice McCaffery's opinion is only a plurality opinion because of Justice Dougherty's partial dissent, and therefore we should analyze the present case under Justice Dougherty's test as well as Justice McCaffery's. We conclude it is not necessary to apply Justice Dougherty's test to the present case. In ***Commonwealth v. Alexander***, 355 A.3d 945 (Pa. Super. 2026), while mentioning Justice Dougherty's opinion in a footnote, we applied Justice McCaffery's test alone in ruling that the trial court erroneously admitted evidence under the common plan, scheme or design exception. Since ***Alexander*** is a precedential opinion, we use the same methodology in this case.

Under this standard, the evidence presented in ***Walker*** did not satisfy the common plan, scheme or design exception. The Commonwealth charged the defendant at three separate trial dockets for the following allegations. First, in January 2011, around midnight, the defendant was outside a convenience store when he "flashed money at [the victim, P.C.,] and said '[Y]ou know what to do for this.'" ***Id.*** at 57. At trial, the victim testified that she was not a prostitute but followed the defendant to the alley because she was scared. The defendant "pushed P.C. to her knees and tried to force her to perform oral sex on him[, then] punched her in the face and threw her body against a car[, and] forcibly pulled down P.C.'s pants and raped her." ***Id***.

Second, in December 2014, in the morning, the victim, T.A., was walking after a drug treatment program when the defendant, whom she did not know, "inquired whether she was interested in purchasing headphones." ***Id***. The victim expressed interest and the defendant asked her to walk with him. ***Id***. The defendant then placed a knife at the base of her neck, told her, "[Y]ou're going to do what I'm telling you to do," and led her to an alley. ***Id***. The defendant took the victim's money and cell phone, pushed her to the ground, forced her to perform oral sex, "grabbed her face, turned her around, ... pushed [her] against a fence" and raped her. ***Id***. The defendant did not return the victim's money or cell phone. ***Id***.

Finally, in January 2015, in the morning, the victim was walking and encountered the defendant, whom she did not know, and asked where she

could buy loose cigarettes. ***Id***. The defendant responded that he sold them and told her to follow him, and she did, to the rear of a house. ***Id***. at 58. The defendant entered the property, and as the victim waited outside, she "felt someone come behind [her], put their hand over [her] mouth, and trip [her] forward onto the ground [and] on [her] stomach." ***Id***. The defendant attempted to pull down her pants, the victim screamed, and the defendant "struck her in the back with a tire iron[,] remove[d] her pants and forcibly" raped her. ***Id***.

All three victims underwent sexual assault examinations, where nurse examiners recovered sperm evidence. ***Id.*** at 57-58. Several years later, in 2018, "law enforcement learned that the unknown male DNA samples recovered from all three victims matched," and ultimately that they linked to the defendant. ***Id***. at 58.

The ***Walker*** court held that this evidence did not satisfy either prong of the common plan, scheme or design test. The Court determined that there was no evidence that the "crimes were…linked together in order to achieve a common goal" or that the defendant "had a preconceived goal in mind." ***Id***. at 73. "[T]he Commonwealth failed to present any evidence of a preconceived plan or common goal linking the three rapes together. [The defendant's] desire to rape women is not enough." ***Id***. at 74. Instead, "the evidence reasonably suggested" that the defendant acted to "satisfy[ ] his own

salacious interests" and that "he raped women when he was presented with the opportunity to do so." ***Id***.

Nor could the defendant's acts at each docket "be characterized as so unusual or distinctive as to be like a signature."[6] ***Id.*** at 72. While the crimes "were clearly similar," multiple differences existed between them:

> In two of the cases, [the defendant] initiated contact with the victims; the third victim approached him. Two of the assaults occurred in the late morning; the third assault occurred near midnight. Each sexual assault occurred in a different Philadelphia neighborhood. Although [the defendant] convinced all three victims to follow him to a secluded area, in one case, he held a knife to her neck while doing so. He did not otherwise physically assault that victim; however, he punched another victim, and struck the third victim with a tire iron. He forced two of the three victims to perform oral sex on him before raping them. He robbed only one victim. One rape occurred three years before the other two. Plainly, the three rapes for which [the defendant] was charged cannot be linked as signature crimes.

Id. at 72-73.

Walker thus concluded that the trial court committed reversible error in finding that evidence of each offense would be admissible in consolidated trial under the common plan, scheme or design exception.

This Court has applied ***Walker*** in one precedential opinion, ***Commonwealth v. Alexander***, 355 A.3d 945 (Pa. Super. 2026), and multiple non-precedential decisions, including ***Commonwealth v. Wakeley***,

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[6]Although ***Walker*** stated that signature crime or *modus operandi* analysis is most relevant when the identity of the perpetrator is at issue, ***Walker*** analyzed whether the defendant's actions qualified as a signature crime even though his identity did not appear to be at issue due to DNA evidence.

2026 WL 1146254 (Pa. Super., Apr. 28, 2026). We examine ***Alexander*** and ***Wakeley*** as well as our pre-***Walker*** decision in ***Commonwealth v. Semenza***, 127 A.3d 1 (Pa. Super. 2015), which, like the present case, involved allegations of sexual abuse against the chief of a fire department.

In ***Alexander***, the defendant was convicted of sexual offenses against his two minor nieces, C.H. and D.B. During trial, the Commonwealth introduced evidence under Rule 404(b) that the defendant sexually abused S.S., his step-niece. This Court held that "the evidence presented falls woefully short of meeting the threshold for admission under Rule 404(b) as set forth in ***Walker***." ***Id.***, 355 A.3d at 958. We pointed out the following differences in the defendant's alleged conduct towards each girl:

(1) The defendant allegedly abused S.S. in the 1970s, while he allegedly abused C.H. and D.B. in the 1990s.

(2) The defendant was 16 years old at the time he allegedly abused S.S., while he was approximately 30 years old at the time he allegedly abused C.H. and D.B.

(3) The defendant allegedly abused S.S. when she was 10 years old for a period of one year. He allegedly abused C.H. when she was 10 years old and continued until she was 16 years old. He allegedly abused D.B. on one occasion when she was seven years old.

(4) The defendant allegedly abused S.S. by foundling her breasts and vagina, removing her clothing, rubbing his penis on her vagina and

ejaculating on her. He allegedly abused C.H. by repeatedly raping her and, on one occasion, forcibly placing his penis in her mouth. He allegedly abused D.B. once by rubbing his penis against her buttocks, wherein she felt "[d]iscomfort in [her] butt region and pressure."

(5) The defendant allegedly abused S.S. in her bedroom. He allegedly abused C.H. in the basement of her family home, her bedroom in the family home, his bedroom in the family home, his vehicle, his residence after he moved out of C.H.'s family home, and her aunt's house. He allegedly abused D.B. in the basement of her family home.

Id. at 958-59.

We concluded that this evidence failed to satisfy either prong of the ***Walker*** test. The evidence did not satisfy the common goal prong because "[t]he Commonwealth did not present any evidence that the defendant "had a preconceived goal in mind, other than satisfying his own salacious interests." ***Id.*** at 959 (citing ***Walker***, 350 A.3d at 73). Instead, the evidence only suggested that he sexually assaulted young women when he was presented with the opportunity to do so. ***Id.*** Nor did the evidence fulfill the signature crime prong, because it did not

> [reveal anything] unique, unusual, or distinctive about the way S.S., C.H., and D.B. were sexually abused. To the contrary, the chief similarity is that each victim was [the defendant's] niece or step-niece which, unfortunately, "is the kind of familial connection that is all too common when children are sexually abused." Hence, their accounts establish[], at most, the commission of crimes or conduct in the past of the same general class, namely physical and/or sexual assaults.

Id. The admission of evidence relating to S.S. was not harmless error, because "it was essential to the Commonwealth's case and could have improperly bolstered C.H. and D.B.'s credibility," and "it improperly required [the defendant] to defend against criminal acts against S.S. for which he was not charged." ***Id.*** Accordingly, we vacated the defendant's judgment of sentence and remanded for a new trial.

In ***Wakeley***, the defendant was convicted of sexually abusing three boys in 2004, when the victims and their mother (Wendy Stout) were living with the defendant. The victims were four, six, and eight years old, respectively, at the time of the alleged incidents. Each victim testified during trial in 2024. The Commonwealth also presented the testimony of S.Q., who stated that the defendant sexually abused her during the 1990's, when she and/or her mother were living with the defendant. The trial court allowed S.Q.'s testimony under the common plan, scheme or design exception to Rule 404(b). In 2025, this Court affirmed the defendant's judgment of sentence, but in early 2026, our Supreme Court remanded this case for reconsideration in light of ***Walker***.

On remand, we determined that the admission of S.Q.'s testimony was not admissible under the common plan, scheme or design exception. We held that S.Q.'s testimony did not satisfy either prong of ***Walker's*** two-part test:

> First, we determine that Wakeley's abuse of S.Q., when compared to the instant abuse against the [v]ictims, did not establish "a pattern of criminal behavior so distinctive that investigators

> [would] attribute it to the work of the same person." ***Walker***, 350 A.3d at 63. We acknowledge the seriousness of Wakeley's offenses, and his targeting of vulnerable and young [v]ictims. Nevertheless, after careful review we determine his actions "were not so unique or distinctive as to qualify as signature crimes." ***Id***. at 74. The [v]ictims testified that Wakeley included all three boys and/or their mother in some of the sexual conduct — including making the [v]ictims watch them engage in sex — S.Q. gave no testimony that Wakeley's abuse of her included her mother or other children. The [v]ictims also testified about certain acts of abuse that did not appear in S.Q.'s testimony, including Wakeley's making the [v]ictims perform sexual acts on each other, touching their mother's vagina under a promise of toys. Finally, identity was not at issue in this matter; Wakeley makes no claim on appeal that S.Q. or the [v]ictims misidentified their abuser. ***See id***. at 73 (stating that "[t]he signature crime, or *modus operandi*, exception is most relevant when the identity of the perpetrator is at issue").
>
> Second, we determine there was no evidence, nor even a claim by the Commonwealth, that Wakeley contemplated his abuse of S.Q., from 1988 through 2000, and the abuse of the [v]ictims, from 2004 through 2013, to be "parts of one [previously conceived] plan in his mind." ***Walker***, 350 A.3d at 64. The Commonwealth presented no evidence that when Wakeley committed the abuse against S.Q., he already had in mind a criminal objective to also abuse the [v]ictims.

Id., 2026 WL 1146254, at *11.

We further held, however, that the admission of S.Q.'s testimony was harmless error because the other evidence of the defendant's guilt was overwhelming:

> Here, the Commonwealth presented overwhelming evidence proving Wakeley's guilt beyond a reasonable doubt…Each of the [v]ictims provided remarkably similar testimony regarding the sexual abuse, including such details as the location where it occurred — the "NASCAR room" — and the fact that Wakeley offered toys as rewards for participating in certain sexual acts. Stout confirmed much of the abuse, notwithstanding that she was admitting that she also perpetrated abuse on her sons. Moreover, the Commonwealth presented evidence of Wakeley's

> consciousness of guilt when he failed to appear for an interview with Detective Zimmerman, then fled and attempted suicide.

Id. (cleaned up).

Finally, ***Semenza***, like the present case, involved charges against the chief of a fire department for sexual abuse against a fifteen-year-old volunteer firefighter (N.B.). The chief was convicted of corruption of minors and failure to report suspected child abuse for sexual offenses. The trial court permitted the Commonwealth to introduce evidence of the defendant's sexual relationship with an adult female, M.K.S., to show a common plan, scheme or design. We held that the trial court abused its discretion by admitting evidence relating to M.K.S.:

> Certain general similarities exist between [the defendant]'s relationships with N.B. and with M.K.S.: [the defendant] was substantially older than both females, hired both females after interviewing them, and was their superior in the workplace. These similarities, however, are not sufficiently unique to constitute [the defendant]'s "signature". To the contrary, these facts are commonplace in many, and perhaps most, sexual harassment cases that arise in the workplace.
>
> The differences between [the defendant]'s relationships with N.B. and M.K.S. are more pronounced than their similarities. When M.K.S. met [the defendant], it is virtually certain that she was no longer a minor, because she had served in the military and had graduated the Police Academy; N.B., on the other hand, was only 15 years old and a high school sophomore when she met [the defendant]. The nature of [the defendant]'s sexual contact with M.K.S. differed from his alleged sexual contact with N.B. Whereas [the defendant] had vaginal intercourse with M.K.S. twice, N.B. claimed that [the defendant] digitally penetrated her twice, had her touch his penis once, and kissed and fondled her on other occasions. [the defendant] had sex with M.K.S. outside of her place of employment, in a hotel or in an automobile; N.B. claimed that [the defendant] digitally penetrated her and had her touch

> his penis in the firehouse. N.B. alleged that [the defendant] watched her take a shower in the firehouse; [the defendant] never watched M.K.S. shower. N.B. wanted a romantic relationship with [the defendant]; M.K.S. did not. [the defendant] gave gifts to N.B. such as a Claddagh ring and Maltese Cross; he did not give similar gifts to M.K.S. M.K.S. accused [the defendant] of withdrawing scheduling privileges when their physical relationship ended; N.B. did not accuse [the defendant] of withdrawing any privileges when their relationship faded away.

Id., 127 A.3d at 11. We further held that M.K.S.'s testimony prejudiced the defendant because the other evidence against him was not overwhelming, and the Commonwealth highlighted M.K.S.'s testimony during closing argument by stating that it "could not have been more crucial to this trial." ***Id.*** at 12. Accordingly, we vacated the defendant's judgment of sentence and ordered a new trial.

Based on these precedents, we hold that the evidence of Appellant's conduct towards A.B. and T.B. does not satisfy either prong of the ***Walker*** test. To fulfill the "previously conceived plan" prong, the evidence must demonstrate "one overarching goal" in which each act is part of the same plan. ***Id.***, 350 A.3d at 53, 63. For this to occur, the plan must exist at the time of the first act. ***Id.*** There is no evidence of any such plan here. Appellant allegedly attempted to touch T.B.'s breasts in 1998—23 years before his contact with A.R. and 24 years before his contact with A.B. Neither A.R. nor A.B. were born in 1998. There is no evidence that when Appellant groped T.B. in 1998, he already had in mind a criminal objective to abuse two unborn girls nearly a quarter century later. As in ***Alexander*** and ***Wakeley***, Appellant had

contact with A.B., T.B. and A.R. not as part of a preconceived plan, but simply because opportunities arose to "satisfy his own salacious interests." ***Alexander***, 355 A.3d at 959 (citing ***Walker***, 350 A.3d at 73); ***Wakeley***, 2026 WL at 1146254, *11.

We also hold that Appellant's conduct towards A.B. and T.B., compared to his conduct against A.R., does not satisfy ***Walker's*** signature crime exception. Notably, evidence of signature is most pertinent when the defendant's identity is in question. Appellant's identity was not at issue, since Appellant did not claim that any of the three girls misidentified their assailant. For this reason alone, it would have been an abuse of discretion for the court to have permitted the introduction of A.B.'s and T.B.'s testimony under the signature exception to 404(b).

Moreover, there was nothing "unique, unusual, or distinctive" about Appellant's behavior that would constitute a signature. ***Alexander***, 355 A.3d at 959. The Commonwealth argues:

> [Appellant]'s central bad act is his grooming and controlling brand of 'supervising' young female volunteers. A.B., T.B., and A.R. were all teenagers who had dreams of becoming first responders when they first met [Appellant]. [Appellant] used his position of authority to gain their trust and perpetrate sexual offenses on them at the station. He then used his clout to intimidate and prevent disclosure.

Commonwealth's Brief at 20. Absent from the Commonwealth's brief—and more importantly, absent from the record—are details that reflect the level of

singularity and uniqueness required in ***Walker*** and the other cases summarized above.

The Commonwealth claims, without more, that "Appellant used his position of authority to gain their trust." Commonwealth's Brief at 20. Read in context with the rest of the Commonwealth's brief, this assertion appears to mean that Appellant had friendly verbal interactions with the girls and that they looked upon him as a father figure. This hardly constitutes the signature of a wrongdoer; after all, the same may be said of countless supervisors in many lines of work. Furthermore, Appellant's verbal interactions with each girl did not follow the same pattern. Although he suggested that A.R. stay overnight at the fire station and that A.B. stay at his house when she was between residences, he made no similar suggestion to T.B.

Equally unsatisfactory is the Commonwealth's contention that Appellant "perpetrated sexual offenses [against the witnesses] at the station." ***Id.*** The Commonwealth overlooks the fact that Appellant's physical conduct with each girl was different. In 1998, he attempted twice to touch T.B.'s breasts. In 2021, he touched A.R.'s breasts on several occasions but then shifted to different behavior, including (1) touched her pelvic area over her clothing, (2) asking A.R. to do an overnight shift at the fire station, (3) having sexual intercourse with A.R. on multiple occasions in the station dormitory or storage unit. In 2022, he rubbed A.B.'s shoulders and placed his hand on her thigh during a training exercise with other people present. Viewed as a whole, this

evidence merely shows that Appellant made physical advances against the three girls, conduct "of the same general class," ***Alexander***, 355 A.3d at 959, but not the *uniquely similar* conduct required in ***Walker*** and its progeny. ***See Walker***, 350 A.3d at 72-73 (while defendant's rapes of three different women were "clearly similar," they lacked level of similarity required for signature crimes); ***Alexander***, 355 A.3d at 958-59 (defendant's sexual abuse of one step-niece was not sufficiently similar to abuse of two other nieces to be admissible under common plan, scheme or design exception).

Finally, the record does not support the Commonwealth's claim that Appellant had a pattern of "us[ing] his clout to intimidate and prevent disclosure." Commonwealth's Brief at 20. Although A.R. testified that Appellant once threatened to kill her if she disclosed his conduct, A.B. and T.B. did not testify that Appellant made any threats or otherwise "used his clout" to intimidate them or prevent disclosure of his behavior.

We acknowledge, as we did in ***Semenza***, that certain similarities existed between Appellant's relationships with the three young girls: Appellant was substantially older than they were, they were all young volunteers, and he was their superior in the workplace. He also touched and spoke to each girl in a manner they found inappropriate. As ***Semenza*** reasoned, however, "[such] similarities…are not sufficiently unique to constitute [the defendant's] 'signature.' To the contrary, these facts are commonplace in many, and perhaps most, sexual harassment cases that arise in the workplace." ***Id.***, 127

A.3d at 11. Moreover, as discussed above, the differences in Appellant's behavior toward each girl outweigh the similarities and dispel the claim that Appellant utilized a unique *modus operandi*. There simply is not enough evidence to fulfill the demanding standards articulated in ***Walker***.

The evidence of Appellant's interactions with A.B. and T.B. prejudiced Appellant's defense. The evidence against Appellant was not overwhelming. There was no physical or documentary evidence of Appellant's guilt; the only direct evidence of guilt was testimony by the lone complainant, A.R.[7] Thus, as in ***Alexander***, A.B.'s and T.B.'s testimony "could have improperly bolstered [A.R.'s] credibility," and "it improperly required Appellant to defend against…acts against [individuals other than the complainant] for which he was not charged." ***Id.***, 355 A.3d at 959. It also is noteworthy that the Commonwealth presented A.B.'s and T.B.'s testimony before A.R.'s testimony. The effect of this strategy was to portray Appellant as a serial abuser and to bolster A.R.'s credibility before A.R. took the stand. The Commonwealth repeated the same strategy during closing argument by discussing Appellant's conduct towards A.B. and T.B., Tr. at 702-04, before addressing his conduct towards A.R, ***id.*** at 704-11. The Commonwealth further exploited A.B.'s and

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[7] ***Compare Wakeley***, 2026 WL 1146254, *11 (erroneous admission of Rule 404(b) evidence was harmless error where Commonwealth produced other overwhelming evidence of guilt).

T.B.'s testimony during closing argument by suggesting improperly that Appellant should be found guilty for victimizing *all three girls*, not just A.R.:

> [Appellant] is a wolf in sheep's clothing, someone who for years has used his position in the community, at Yellow Breeches, and in the ambulance community to shield himself from accountability…
>
> And then we have *these young women* that you heard from. Teenagers who had very little in the way of social capital. In fact, a couple of them I don't think even had a high school diploma at the time. *They were kids* that were coming to the station for education, because *they were excited* about the field, because *they wanted to learn, for some of them because their parents wanted them to get out* and have some socialization and get out into the community. *They were young teenage girls. They didn't have a lot of the protections and trappings that [Appellant] had to protect himself.* And how did [Appellant] use the power that he was entrusted with? *He used it to groom these young women and ultimately to take advantage of them*.

Id. at 701, 702 (emphasis added).

We recognize that the trial court gave a limiting instruction cautioning the jury to use evidence about A.B. and T.B. solely to determine whether Appellant acted "in accordance with a common plan or in the absence of any mistake or accident." ***Id.*** at 724. Even so, the sequencing of A.B.'s and T.B.'s testimony before A.R., the content of this testimony, and the Commonwealth's misuse of this testimony during closing argument may well have resulted in Appellant's conviction. ***See Semenza***, 127 A.3d at 13 (despite court's limiting instruction on common scheme evidence, evidence of Rule 404(b) witness might well have spelled difference between mixed verdict that jury returned and acquittal on all counts).

Having concluded that the evidence fails to satisfy the common plan, scheme, or design exception, we also conclude that it fails to demonstrate absence of mistake or accident. Despite reciting the term "absence of mistake" on pages 3 and 17 of its brief, the Commonwealth made no other effort in this Court to analyze this exception or explain what mistake or accident was absent. Nor does it appear from the record that the Commonwealth explained, before or during trial, why this exception applies. Under these circumstances, we decline to guess what the Commonwealth meant and will not address this subject further.

We vacate Appellant's judgment of sentence and remand for a new trial. In light of this decision, we need not address Appellant's other argument, an objection to his sentence.

Judgment of sentence vacated. Case remanded for a new trial. Jurisdiction relinquished.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/06/2026