NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
PORTIE TURNER	:	
Appellant	:	No. 2188 EDA 2025

Appeal from the Judgment of Sentence Entered July 17, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at No(s): CP-51-CR-0001197-2023

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
PORTIE TURNER	:	
Appellant	:	No. 2189 EDA 2025

Appeal from the Judgment of Sentence Entered July 17, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at No(s): CP-51-CR-0006797-2023

BEFORE: PANELLA, P.J.E., STABILE, J., and KING, J.

MEMORANDUM BY PANELLA, P.J.E.: **FILED NOVEMBER 19, 2026**

Portie Turner appeals from the judgment of sentence imposed for his convictions of one count each of third-degree murder and involuntary manslaughter, and two counts each of possessing instruments of crime, persons not to possess firearms, carrying firearms on public streets or public

property in Philadelphia, and firearms not to be carried without a license.[1] Turner challenges the sufficiency of the evidence as to the convictions of third-degree murder and involuntary manslaughter and asserts the two convictions for persons not to possess firearms should have merged for sentencing. After careful review, we affirm.

We obtained the following procedural and factual history from the certified record. On July 24, 2022, Turner stole a Ruger 9mm pistol from his brother, Isaiah Turner. Isaiah reported it stolen the same day and told police Turner was the one who took it. Ten days later, on August 3, 2022, Turner shot and killed Nathaniel Ervin (also referred to as Nathaniel Irvin in the record). Turner fled the scene and changed his clothes but kept the stolen 9mm pistol.

Three hours after Turner shot Ervin, he shot and killed Sekour Islam while Islam was driving and Turner was a passenger in Islam's vehicle. The vehicle then crashed into a pole, where Turner fled, leaving behind the stolen 9mm pistol, a bloody t-shirt, and other evidence.

Turner was charged with first-degree murder and related charges for both incidents. He proceeded to a consolidated bench trial on April 7-8, 2025. The Commonwealth presented surveillance video footage compiled from both scenes. The footage regarding the first shooting does not have sound and

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[1] 18 Pa.C.S.A. §§ 2502(c), 2504(a), 907(a), 6105(a)(1), 6108, and 6106(a)(1), respectively.

shows Turner hanging out, seemingly waiting for someone for about fifteen minutes prior to the killing of Ervin. The footage further shows Turner walking down the street towards two people, one of whom was Ervin, and talking to those people for a period of time before running away. The evidence established that Ervin was shot just prior to Turner running away.

The footage of the second shooting includes sound. A gunshot is heard, then the roar of a car engine. Seconds later, Islam's vehicle is seen speeding by with a broken driver's side window. The vehicle almost stops at a stop sign before immediately crashing into a pole. Turner is seen getting out of the passenger side of the vehicle, then leaning back inside before running away down the street.

The parties also entered multiple stipulations to evidence at trial, including photographs of both scenes, testimony from responding officers, the cause and manner of death for both victims along with the medical examiner's reports, the recovery of evidence from both scenes, DNA reports showing Turner's DNA on the stolen 9mm pistol and a t-shirt found at the second scene, and the fact that Turner has a prior record that makes him ineligible to possess a firearm. The Commonwealth also presented the testimony of witnesses Isaiah Turner and Detective Thorsten Lucke.

After the Commonwealth rested its case, Turner testified in his own defense. He admitted to stealing his brother's firearm, claiming he planned to sell it for drugs. Turner also admitted to shooting Ervin, asserting he did so in

self-defense. Finally, Turner claimed he was with Islam, who was helping him sell the stolen 9mm pistol, when a potential purchaser tried to steal the gun and it went off, striking Islam in the head and killing him.

At the conclusion of the defense case, the trial court found Turner guilty of the charges noted above. The court ordered a pre-sentence investigation ("PSI") and a mental health report.

The trial court explained what occurred at sentencing:

> At sentencing, [Turner] pled guilty to the charges of robbery, violation of the Uniform Firearms Act and criminal mischief from the gun-point robbery of a barbershop located at 3659 Frankford Avenue in Philadelphia on October 3, 2022, docketed at CP-51-CR-0007596-2022.[2]
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> Having consulted the pre-sentence report, the mental health report as well as the sentencing memoranda, the family of [Turner] and the victims, the arguments of counsel and [Turner's] allocution, [Turner] was sentenced for the third-degree murder of Nathaniel Ervin to fifteen to thirty years' incarceration with the remaining charges on that bill of information to run concurrently. For involuntary manslaughter [of Islam], [Turner] was sentenced to two to four years' incarceration; for possession of a firearm prohibited five to ten years' incarceration. These two offenses were to be served concurrent to each other, but consecutive to the third-degree murder.
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> For the barbershop robbery, Turner was sentenced to five to ten years in prison for both the robbery and the possessing of a firearm prohibited, concurrent to each other, but consecutive to the other sentences imposed, for an aggregate sentence of twenty-five to fifty years' incarceration.

Trial Court Opinion, 11/19/25, at 2 (unnecessary capitalization).

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[2] Turner did not file a notice of appeal at this docket.

Turner filed a timely notice of appeal. Both Turner and the trial court complied with Rule 1925. ***See*** Pa.R.A.P. 1925(a), (b).

Turner raises the following three issues for our review:

> [1.] Where a claim of self-defense was properly raised, and where the evidence was insufficient to disprove self-defense beyond a reasonable doubt, was the evidence insufficient to convict [Turner] of murder in the third degree?
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> [2.] Where [Turner] raised a claim of accident, and where the evidence otherwise failed to prove that the death of another resulted from [Turner] engaging in an illegal act in a reckless or grossly negligent manner, was the evidence insufficient to convict [Turner] of involuntary manslaughter?
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> [3.] Where [Turner] was in continuous possession of a firearm during the course of two serial, allegedly criminal incidents, but [Turner] was charged, convicted and sentenced for two separate violations of 18 Pa.C.S[.A.] § 6105, should the two § 6105 convictions have been deemed one offense for sentencing purposes, and did the imposition of two separate sentences for the two § 6105 convictions result in an illegal sentence?

Appellant's Brief, at 4-5 (lower court answers omitted).

Turner's first two claims challenge the sufficiency of the evidence. We begin with our scope and standard of review:

> Our applicable standard of review is whether the evidence admitted at trial, and all reasonable inferences drawn from that evidence, when viewed in the light most favorable to the Commonwealth as verdict-winner, was sufficient to enable the fact-finder to conclude that the Commonwealth established all of the elements of the offense beyond a reasonable doubt. Additionally, when examining sufficiency issues, we bear in mind that: the Commonwealth's burden may be sustained by means of wholly circumstantial evidence; the entire trial record is evaluated and all evidence received against the defendant considered; and the trier of fact is free to believe all, part, or none of the evidence when evaluating witness credibility.

> This standard is equally applicable to cases where the evidence is circumstantial rather than direct so long as the combination of the evidence links the accused to the crime beyond a reasonable doubt. Although a conviction must be based on more than mere suspicion or conjecture, the Commonwealth need not establish guilt to a mathematical certainty.

Commonwealth v. Rodriguez, 340 A.3d 334, 347 (Pa. Super. 2025) (citation omitted).

In his first issue, Turner asserts the trial court erred in disbelieving his testimony regarding self-defense and finding that the Commonwealth sufficiently disproved his self-defense claim. ***See*** Appellant's Brief, at 22-23. Turner essentially argues the trial court should have believed his testimony that Ervin had a gun, even though no gun was found at the scene, because the scene was not secured immediately by police and a person was seen on surveillance videos near the body. ***See id.*** at 26. As such, Turner claims the Commonwealth failed to establish sufficient evidence to support the third-degree murder conviction. ***See id.*** at 33.

The Commonwealth submits there was sufficient evidence to establish the requisite elements of third-degree murder and negate Turner's claim of self-defense. ***See*** Appellee's Brief, at 6, 8-10. The Commonwealth points out that no firearm was found on victim Ervin; that the video compilation presented at trial clearly shows the victim did not pop out and scare Turner, as Turner was walking up to the victim and another person standing on the sidewalk prior to him shooting the victim; and that his claim that someone could possibly have taken the victim's firearm after he was shot ignores the

standard of review this Court must utilize—viewing the evidence in the light most favorable to the Commonwealth as verdict winner. ***See id.*** at 8-10. We agree with the Commonwealth that the evidence established that all the elements of third-degree murder were proven beyond a reasonable doubt.

This Court has detailed the required elements for third-degree murder and self-defense as follows:

> To establish the offense of third-degree murder, the Commonwealth must prove the killing of an individual with malice. …
>
> Malice includes not only particular ill will toward the victim, but also wickedness of disposition, hardness of heart, wantonness, and cruelty, recklessness of consequences, and conscious disregard by the defendant of an unjustified and extremely high risk that his actions may cause serious bodily harm.
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> Self-defense is a complete defense to a homicide charge if 1) the defendant reasonably believed that he was in imminent danger of death or serious bodily injury and that it was necessary to use deadly force to prevent such harm; 2) the defendant did not provoke the threat that resulted in the slaying; and 3) the defendant did not violate a duty to retreat. Where the defendant has introduced evidence of self-defense, the burden is on the Commonwealth to disprove the self-defense claim beyond a reasonable doubt by proving that at least one of those three elements is absent. …
>
> The finder of fact is not required to believe the defendant's testimony that he thought that he was in imminent danger and acted in self-defense. Disbelief of the defendant's testimony, however, is not sufficient to satisfy the Commonwealth's burden to disprove self-defense absent some evidence negating self-defense.

Commonwealth v. Jones, 271 A.3d 452, 458-59 (Pa. Super. 2021) (citations omitted).

This Court has further explained the fact-finder's role in evaluating credibility in self-defense claims:

> When 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[.] … 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. 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.

Commonwealth v. Smith, 97 A.3d 782, 788 (Pa. Super. 2014) (citations, quotation marks, and brackets omitted).

Here, the video footage of the first shooting puts Turner with the victim at the exact time of the shooting. The evidence also showed that Turner ran away moments after Ervin had been shot. The trial court, sitting as fact finder, found "there was absolutely no evidence that [] Ervin had a gun on him that day, and no gun was recovered from the crime scene on Zeralda Street." Trial Court Opinion, 11/19/25, at 12. Further, the trial court did not find Turner's testimony credible and explained the defense's theory about a random individual walking away with the alleged gun:

> The defense argued that a person seen on video walking in the area of the crime scene before responders arrived had a white towel in his hand when walking away from the scene, which means that he took the victim's gun. The defense's theory that [] Ervin was clearly the aggressor and that this unknown person, who only appears in the area of the crime scene after the shooting[,] was there to take the decedent's gun away from the crime scene is wild speculation. The video clearly does not substantiate the defense's claim that this person was cleaning up the crime scene [and] there

> is nothing to indicate that [] Ervin had a gun or that this person walked away with a gun.

Id.

We agree with the trial court. We are required to view the evidence in the light most favorable to the Commonwealth as verdict winner. ***See Rodriguez***, 340 A.3d at 347. In that light, there is nothing to support Turner's claim that Ervin had a firearm. No firearm was found at the scene or on Ervin.

Furthermore, the video submitted to the trial court disputes Turner's version of events. Turner testified that Ervin jumped out from between two cars and threatened him when he walked up to purchase marijuana from another individual. ***See*** N.T. Trial, 4/8/25, at 25, 47. However, the surveillance video that captured the incident shows Turner walking up to and then standing with Ervin and another, talking for approximately 45 seconds, before he shot Ervin. ***See*** Commonwealth Exhibit C18 at 15:34-16:56. Based upon our review of the record, there was sufficient evidence presented by the Commonwealth to disprove Turner's self-defense claim as he could not have reasonably believed he was in imminent danger of death or serious bodily injury.

Turner's second sufficiency claim focuses on the second shooting on August 3, 2022. ***See*** Appellant's Brief, at 33. Turner relies on his own testimony that he was trying to sell the gun on the streets of Philadelphia when one of the potential purchasers tried to steal the gun and they started to struggle over it. ***See id.*** at 36. Turner argues the Commonwealth failed to

present sufficient evidence of involuntary manslaughter when his testimony established that the gun only discharged accidentally. ***See id.***

The Commonwealth cogently argues "the evidence established that [Turner] acted recklessly or grossly negligent[] when he mishandled a stolen, loaded firearm while in the passenger seat of a moving vehicle, and that while doing so he fired a shot that caused the victim's death." Appellee's Brief, at 11. Further, the Commonwealth notes:

> Even taking [Turner's] story at face value, the evidence would still be sufficient to establish involuntary manslaughter. [Turner] was handling a loaded firearm, that he was unlawfully possessing, while a passenger in a running vehicle. A direct and foreseeable result of mishandling a loaded firearm in a running vehicle, or brandishing it to shady strangers in the street[,] is that it could discharge a round and lead to serious injury or death. Thus, even taking [Turner's] unlikely version of events at face value, the evidence was sufficient to establish that he acted recklessly or grossly negligent by mishandling a loaded stolen gun in a running vehicle.

Appellee's Brief, at 12-13.

This Court recently described what the Commonwealth must establish to convict an individual of involuntary manslaughter:

> A person is guilty of involuntary manslaughter when as a direct result of the doing of an unlawful act in a reckless or grossly negligent manner, or the doing of a lawful act in a reckless or grossly negligent manner, he causes the death of another person. Stated differently, involuntary manslaughter requires 1) a mental state of either recklessness or gross negligence, and 2) a causal nexus between the conduct of the accused and the death of the victim.
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> The Crimes Code defines the term recklessly as follows:

> A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustified risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

The Crimes Code defines causation as follows:

> (a) ***General rule.***—Conduct is the cause of a result when:
>
> > (1) it is an antecedent but for which the result in question would not have occurred; and
> >
> > (2) the relationship between the conduct and result satisfies any additional causal requirements imposed by this title or by the law defining the offense.

To establish criminal causation, the Commonwealth must prove that the defendant's conduct was so directly and substantially linked to the actual result as to give rise to the imposition of criminal liability.

A victim's death cannot be entirely attributable to other factors; rather, there must exist a causal connection between the conduct and the result of conduct; and causal connection requires something more than mere coincidence as to time and place. Where the fatal result was an unnatural or obscure consequence of the defendant's actions, justice would prevent us from allowing the result to have an impact upon a finding of the defendant's guilt. So long as the defendant's conduct started the chain of causation which led to the victim's death, criminal responsibility for the crime of homicide may properly be found.

Commonwealth v. Garcia Arce, 352 A.3d 495, 505-06 (Pa. Super. 2026) (quotation marks, citations, and footnote omitted).

Viewing the evidence in the light most favorable to the Commonwealth, the facts established that Turner and Islam were driving in Islam's vehicle. Islam was the driver while Turner was the passenger. ***See*** N.T. Trial, 4/7/25, at 23; Commonwealth's Exhibit C19. No other person was present in Islam's vehicle.

While driving, Turner's stolen, loaded firearm discharged, striking Islam in the head and killing him. ***See*** N.T. Trial, 4/7/25, at 26-27; N.T. Trial, 4/8/25, at 5-6, 9-13; Commonwealth's Exhibit C19. We agree with the Commonwealth that this evidence is sufficient to support the verdict of involuntary manslaughter. Turner was the only one with a firearm, as no one else was in the vehicle. The circumstantial evidence supports the theory that Turner was mishandling this stolen, illegally possessed, loaded firearm, which is certainly an unlawful act taken in a grossly negligent manner and an act that one can reasonably foresee would result in the death or serious bodily injury of another.

Turner attempts to claim that the chain of causation was broken because, according to him, the gun only discharged because another person was trying to steal it. ***See*** Appellant's Brief, at 36. Even if we were to take Turner's testimony as true, which we are not required to do during sufficiency review, this would not break the chain of causation. If not for Turner's illegal possession of a stolen, loaded firearm that he used to shoot Ervin three hours prior, and Turner's decision to try to illegally sell this firearm on the streets of

Philadelphia, the firearm would not have discharged, causing Islam's death. Turner's conduct started the chain of events that lead to Islam's death. ***See Garcia Arce***, 352 A.3d at 506. As such, Turner's second sufficiency claim fails.

Finally, Turner submits the court imposed an illegal sentence because he only possessed one stolen firearm on August 3, 2022, but he was sentenced to two separate counts of person not to possess a firearm. ***See*** Appellant's Brief, at 38-40. Turner relies upon this Court's decision in ***Commonwealth v. Woods***, 710 A.2d 626 (Pa. Super. 1998), for his argument that his possession of the firearm was continuous and uninterrupted, therefore requiring the court to merge the sentences for the two offenses. ***See id.***

The Commonwealth argues the two incidents were distinct and separated by time and distance which permitted the trial court to impose a sentence for each conviction. ***See*** Appellee's Brief, at 17-18. Alternatively, the Commonwealth submits Turner not only possessed the stolen firearm on the day of the two shootings but admitted to stealing it ten days prior with a break in his possession when he was arrested on a separate offense two days before the shootings. ***See id.*** at 15-16.[3]

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[3] We briefly note we are not persuaded by the Commonwealth's argument that charging Turner with two counts of violating section 6105 was supported by the fact that Turner also possessed the firearm prior to the shootings when he stole the firearm from his brother. The Commonwealth did not charge Turner with persons not to possess a firearm for any date other than August 3, 2022, the date of the two shootings. Therefore, the fact that Turner also
(Footnote Continued Next Page)

In ***Woods***, this Court addressed 18 Pa.C.S.A. § 6108, carrying firearms on public streets or public property in Philadelphia. ***See Woods***, 710 A.2d at 631. In that case, Woods was charged with two counts of section 6108 after two road rage incidents where he shot at individuals. ***See id.*** at 628. The shootings were only separated by a short period of time, and both occurred along Roosevelt Boulevard in Philadelphia. ***See id.*** This Court held that Woods could only be sentenced on one count of section 6108 because the evidence established that Woods had carried the firearm in an uninterrupted and continuous fashion "for the entire period encompassing the two assaults[.]" ***Id.*** at 631.

Turner acknowledges that this Court has distinguished ***Woods*** in a handful of cases but asserts none of those distinguishing factors applies here. ***See*** Appellant's Brief, at 39-40. We disagree.

We find ***Commonwealth v. Packer***, 336 A.3d 951 (Pa. Super. 2025) (unpublished memorandum),[4] persuasive and apply the same reasoning here. In that case, Packer shot at people on November 24, 2018, and again on November 25, 2018. ***See Packer***, 336 A.3d 951, at *1. Packer relied upon ***Woods*** in arguing to this Court that he could not be sentenced to two counts

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possessed the firearm on other dates is not dispositive here and we need not consider the argument further.

[4] Pursuant to Pa.R.A.P. 126(b), unpublished memorandum filed after May 1, 2019, may be relied upon for their persuasive value.

of carrying a firearm without a license as the shootings were one continuous act. ***See id.*** at *4. After discussing ***Woods***, this Court, as written by President Judge Anne Lazarus, held:

> This Court has distinguished cases analogous to the one before us from ***Woods*** on at least two occasions: In ***Commonwealth v. Stewart***, 151 A.3d 1147 (Pa. Super. 2016) [(unpublished memorandum)], we held that two separate convictions for carrying a firearm without a license were appropriate because the record was clear that twenty-one hours elapsed between the underlying incidents and that each was an independent criminal act. Likewise, in ***Commonwealth v. Shaw***, 281 A.3d 1081 (Pa. Super. 2022) [(unpublished memorandum)], this Court reasoned that separate firearm charges were appropriate as the charges resulted from separate incidents and the defendant had not possessed the firearm in an uninterrupted fashion for the entire period encompassing the two incidents.
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> Here, Packer illegally possessed a firearm twice in a thirty-four-hour span and in two separate locations. As such, his acts constituted two separate events distinct enough such that they did not constitute a continuous offense.
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> The facts before us are significantly more analogous to those presented in ***Stewart*** and ***Shaw*** than in ***Woods***. Packer possessed a firearm during two incidents that occurred thirty-four hours apart—a stark difference from the occurrences happening shortly after one another in ***Woods***. Moreover, Packer used the firearm to shoot two different individuals in two different locations. Given the length of time between the acts of possession and the differing circumstances, Packer's conduct did not constitute an "uninterrupted criminal episode" or a "continuous act" and, therefore, the trial court did not err by imposing two separate sentences for two convictions of carrying a firearm without a license.

Id. at *4 (some citations, some quotation marks, brackets, and record citations omitted).

We recognize this is a shorter time period than ***Stewart*** and ***Packer***. However, the same standard must apply. Turner shot two different people under significantly different circumstances, in two parts of Philadelphia, with a three-hour gap and a change of clothes in between the shootings. Turner's possession was not uninterrupted and continuous. He first shot Ervin at one location, fled the scene, got a ride with second victim Islam to change his clothes, and then drove around the city for three hours before the second fatal shooting. Given the two separate incidents with differing circumstances, we find the trial court did not err in imposing a sentence on each of the two counts of persons not to possess firearms.

Finding no merit to Turner's claims, we affirm the judgment of sentence.

Judgment of sentence affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/19/2026