

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
DERRICK RAHEEM HARRISON	:	
	:	
Appellant	:	No. 1627 MDA 2025

Appeal from the PCRA Order Entered October 24, 2025
In the Court of Common Pleas of Huntingdon County Criminal Division at
No(s): CP-31-CR-0000030-2022

BEFORE: DUBOW, J., BECK, J., and BENDER, P.J.E.

MEMORANDUM BY BECK, J.:

FILED AUGUST 28, 2026

Derrick Raheem Harrison ("Harrison") appeals from the order entered by the Huntingdon County Court of Common Pleas ("trial court") dismissing his petition pursuant to the Post Conviction Relief Act ("PCRA").¹ Harrison argues his trial counsel was ineffective for failing to raise a discretionary sentencing claim in his post-sentence motion and failing to file a motion to suppress. We affirm.

On June 20, 2021, Harrison was travelling with others in a vehicle on the Pennsylvania Turnpike. As Harrison believed the people he was travelling with were going to hurt or kill him, he exited the vehicle on the side of the Turnpike with the intention of stealing a car and travelling back to

¹ 42 Pa.C.S. §§ 9541-9546.

Philadelphia. In the early morning hours, Harrison broke into the home of Thelma Briggs ("Briggs"), an eighty-six-year-old woman who lived alone in a single-story home near the Turnpike in Huntingdon County.

Briggs had awoken and observed Harrison standing in her kitchen. She asked him who he was and told him to leave. Harrison quickly approached Briggs and began to beat and strangle her until she lost consciousness. As a result of the attack, Briggs' dentures were knocked out of her mouth, she lost control of her bladder and bowels, and she was left unconscious in a pool of her own blood, urine, and feces.

Harrison took Briggs' car keys, forty dollars in cash from her pocketbook, and her cellphone from a nearby countertop. He then stole Briggs' 2001 Chevrolet Impala and began travelling eastbound on the Pennsylvania Turnpike. While driving, Harrison used Briggs' cellphone to make four phone calls, including one call to his girlfriend, Toshiana Pittman ("Pittman"), and one call to an old acquaintance, Rachel Harak ("Harak"). Eventually, he abandoned Briggs' car in Philadelphia and went to a cellphone store to call his brother. His brother drove him to a behavioral health facility at Harrison's request, and Harrison checked himself in.

Briggs was unconscious for about two and a half hours. When she regained consciousness, she dragged herself to her bedroom and called her daughter, Kelly Reed ("Reed"), on her landline. Reed drove to her mother's home and called emergency services.

Criminal investigators used location data from Briggs' stolen cellphone and pictures taken by toll cameras to determine the path Harrison followed after he left Briggs' house. Officers investigating the area surrounding Briggs' residence found credit cards issued to "Derrick Harrison" laying in the grass near the Turnpike.² Other officers attempted to contact the recipients of the phone calls Harrison made from Briggs' stolen phone.

On July 2, 2021, investigators arrived at Pittman's house, but she appeared not to be home. While on the porch, an officer observed a trash can without a lid in front of the house and noticed an envelope sitting therein addressed to "Derek Harrison." That same day, investigators interviewed Harak. She identified Harrison as the person who called from Briggs' phone on June 20, 2021.

On July 16, 2021, police arrested Harrison at the behavioral health facility. Three days later, he gave a full confession during a police interview. The Commonwealth charged him with numerous crimes.

On November 23, 2022, a jury found Harrison guilty of attempted murder, criminal trespass, recklessly endangering another person, aggravated assault, simple assault, strangulation, robbery, two counts of burglary, and three counts of theft. On February 2, 2023, the trial court sentenced Harrison

² The PCRA court noted that the "credit cards were not initially collected as evidence, but were noted by the investigators." PCRA Court Opinion, 10/24/2025, at 4.

to consecutive sentences of twenty to forty years for attempted murder, ten to twenty years for burglary, and ten to twenty years for robbery, and no further sentence on the remaining crimes.³ Harrison filed a timely post-sentence motion, which the trial court denied on May 9, 2023.⁴ This Court affirmed Harrison's judgment of sentence. ***See Commonwealth v. Harrison***, 324 A.3d 1256 (Pa. Super. filed Jul. 23, 2024) (non-precedential decision).

On October 28, 2024, Harrison filed a timely pro se PCRA petition. The PCRA court appointed counsel, who filed an amended PCRA petition, asserting that trial counsel provided ineffective assistance. After the PCRA court held a hearing, it denied Harrison's petition. He timely appealed.

Harrison raises the following issues for our review:

- I. Did the trial court commit an abuse of discretion or error of law in finding that [Harrison's] trial counsel was not ineffective in failing to file a motion to modify sentence, and/or appeal, on the imposition of a statutory maximum sentence on the charges of robbery and burglary?
- II. Did the trial court commit an abuse of discretion or error of law in finding that [Harrison's] trial counsel was not ineffective for failing to file a motion to suppress resulting

³ The standard range sentence for attempted murder, given Harrison's prior record score of four, was 168 months to 240 months. The standard range sentence for burglary with an offense gravity score of nine was thirty-six months to forty-eight months. The standard range sentence for robbery with an offense gravity score of twelve was seventy-two months to ninety months.

⁴ Relevantly, Harrison did not raise a challenge to the discretionary aspects of his sentence in his post-sentence motion.

from a search of a trash can in Philadelphia, Pennsylvania, in which an envelope was located with [Harrison's] name?

Harrison's Brief at 6 (unnecessary capitalization changed).

Standard of Review

We conduct our review guided by the following:

[O]ur standard of review from the denial of a PCRA petition is limited to examining whether the PCRA court's determination is supported by the evidence of record and whether it is free of legal error. The PCRA court's credibility determinations, when supported by the record, are binding on this Court; however, we apply a de novo standard of review to the PCRA court's legal conclusions.

Commonwealth v. Miranda, 317 A.3d 1070, 1075 (Pa. Super. 2024) (citation and brackets omitted).

"A court's review of a claim of ineffective assistance of counsel begins with the strong presumption that counsel was effective." ***Commonwealth v. Pacheco***, 340 A.3d 1038, 1041 (Pa. Super. 2025). To overcome this presumption, a petitioner must establish: "(1) the underlying claim has arguable merit; (2) counsel had no reasonable basis for their action or inaction; and (3) the petitioner suffered prejudice as a result." ***Commonwealth v. Drayton***, 313 A.3d 954, 960 (Pa. 2024) (citations omitted).

[A] PCRA petitioner seeking to establish that prior counsel was ineffective in a Pennsylvania court generally has the burden to establish all three prongs, which we have defined as follows:

A claim has arguable merit where the factual averments, if accurate, could establish cause for relief. The ultimate question

of whether facts rise to the level of arguable merit is a legal determination.

Regarding the second prong of the ineffectiveness test, we do not question whether there were other more logical courses of action which counsel could have pursued; rather, we must examine whether counsel's decisions had any reasonable basis. We will conclude that counsel's chosen strategy lacked a reasonable basis only if an appellant proves that an alternative not chosen offered a potential for success substantially greater than the course actually pursued.

With respect to the prejudice prong, the petitioner must demonstrate that but for the errors and omissions of counsel, there is a reasonable probability that the outcome of the proceedings would have been different. A reasonable probability is a probability that is sufficient to undermine confidence in the outcome of the proceeding. The prejudice inquiry requires consideration of the totality of the evidence.

Pacheco, 340 A.3d at 1042 (citation, ellipses, and brackets omitted).

Discretionary Aspects of Sentencing

Harrison first claims that trial counsel was ineffective for failing to challenge the discretionary aspects of his sentence on appeal. Harrison's Brief at 14. He argues that the trial court erred when it did not provide sufficient reasoning on the record for imposing the statutory maximum sentence for his burglary and robbery convictions. ***Id.*** at 16. While acknowledging that the attempted homicide sentence was in the standard range, Harrison argues that the trial court did not state adequate reasons on the record for imposing the burglary and robbery convictions. ***Id.*** at 19; ***see also id.*** at 20 (noting his claim of a "sentence above the aggravated range without appropriate justification raises a substantial question"). He states that although the trial

court considered his rehabilitative needs, it failed to acknowledge his lack of prior violent behavior and made no mention of his mental health concerns. **Id.** at 19. Harrison claims the sentence exhibited the trial court's bias against him. **Id.** at 20. He concludes that his sentencing claim has arguable merit, counsel did not have a reasonable basis for failing to raise this issue on appeal, and the trial court would have imposed a different sentence but for counsel's error. **Id.**

It is well settled that a discretionary sentencing claim must be preserved either at sentencing or in a post-sentence motion before the trial court. **See Commonwealth v. Rivera**, 312 A.3d 366, 376-77 (Pa. Super. 2024) (requiring appellant to satisfy a four-part test to allow this Court's review of a discretionary sentencing claim, including that "the appellant preserved the issue either by raising it at the time of sentencing or in a post-sentence motion") (citation omitted). With respect to a claim of ineffective assistance of counsel for failing to file post-sentence motions, our Supreme Court has expressed:

[There is a] distinction between errors which completely foreclose merits review and those which merely "narrow its ambit." Thus, [the Court] [has] held an attorney's failure to file a post-sentence motion preserving a particular sentencing claim "did not operate to entirely foreclose appellate review," but merely "waive[d] those claims subject to issue preservation requirements which were not otherwise properly preserved."

Commonwealth v. Rosado, 150 A.3d 425, 432 (Pa. 2016) (citation omitted). "[E]rrors which *completely* foreclose appellate review amount to a

constructive denial of counsel and thus ineffective assistance of counsel *per se*, whereas those which only *partially* foreclose such review are subject to the ordinary [ineffective assistance of counsel] framework.” ***Id.*** at 433 (emphasis in original). Here, Harrison was not completely foreclosed from appellate review by counsel’s failure to raise a discretionary sentencing challenge in the post-sentence motion; thus, he must prove that he was prejudiced by counsel’s failing. ***Commonwealth v. Reaves***, 923 A.2d 1119, 1131-32 (Pa. 2007).

Our standard of review for a challenge to the discretionary aspects of a defendant’s sentence is well established:

Sentencing is a matter vested in the sound discretion of the sentencing judge, and a sentence will not be disturbed on appeal absent a manifest abuse of discretion. Appellant must establish, by reference to the record, that the sentencing court ignored or misapplied the law, exercised its judgment for reasons of partiality, prejudice, bias or ill will, or arrived at a manifestly unreasonable decision.

Commonwealth v. Devine, 326 A.3d 935, 939 (Pa. Super. 2024) (citations omitted). In addition to the abuse of discretion standard, our review is confined by section 9781(c) and (d) of the Sentencing Code:

(c) Determination on appeal.--The appellate court shall vacate the sentence and remand the case to the sentencing court with instructions if it finds:

- (1) the sentencing court purported to sentence within the sentencing guidelines but applied the guidelines erroneously;
- (2) the sentencing court sentenced within the sentencing guidelines but the case involves circumstances where the application of the guidelines would be clearly unreasonable; or

(3) the sentencing court sentenced outside the sentencing guidelines and the sentence is unreasonable.

In all other cases the appellate court shall affirm the sentence imposed by the sentencing court.

(d) Review of record.--In reviewing the record the appellate court shall have regard for:

(1) The nature and circumstances of the offense and the history and characteristics of the defendant.

(2) The opportunity of the sentencing court to observe the defendant, including any presentence investigation.

(3) The findings upon which the sentence was based.

(4) The guidelines promulgated by the commission.

42 Pa.C.S. § 9781(c), (d).

If the trial court was informed by a presentence investigation report, “it is presumed that the court is aware of all appropriate sentencing factors and considerations, and that where the court has been so informed, its discretion should not be disturbed.”⁵ ***Commonwealth v. Miller***, 275 A.3d 530, 535 (Pa. Super. 2022); ***see also Commonwealth v. Rhoades***, 8 A.3d 912, 919 (Pa. Super. 2010) (noting that where “the sentencing court had the benefit of a pre[.]sentence investigation report, we can assume the sentencing court was

⁵ The sentencing factors include “the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the defendant.” 42 Pa.C.S. § 9721(b). “The balancing of these [s]ection 9721(b) sentencing factors is within the sole province of the sentencing court.” ***Commonwealth v. Baker***, 311 A.3d 12, 19 (citation omitted).

aware of relevant information regarding the defendant's character and weighed those considerations along with mitigating statutory factors") (citation and quotation marks omitted).

Where ... a court imposes a sentence outside of the Sentencing Guidelines, the court must provide, in open court, a contemporaneous statement of reasons in support of its sentence. 42 Pa.C.S. § 9721(b).

A sentencing judge must demonstrate on the record, as a proper starting point, its awareness of the sentencing guidelines. Having done so, the sentencing court may deviate from the guidelines, if necessary, to fashion a sentence which takes into account the protection of the public, the rehabilitative needs of the defendant, and the gravity of the particular offense as it relates to the impact on the life of the victim and the community, so long as it also states of record the factual basis and specific reasons which compelled it to deviate from the guideline range.

Commonwealth v. Beatty, 227 A.3d 1277, 1287-88 (Pa. Super. 2020) (brackets, citation, and ellipses omitted).

The record reflects that at the time of sentencing, the trial court provided the following statement of reasons for the sentence it imposed:

It's my duty to consider the Sentencing Guidelines, the presentence investigation. I have to consider the protection of the public and the gravity of these offenses as they relate to the impact on the life of the victim and on the community and I also need to consider the rehabilitation needs of [Harrison]. And I've considered all that. And I heard the trial testimony and the one word that comes to mind is horrifying.

There is nothing more valuable than the security that someone has in their own home and the impact that this crime has had on [] Briggs is beyond measure but the impact this crime has had on a rural community where most of the people don't even lock their doors, to know that somebody can come into their home and savagely beat them to the point of death and it's a

miracle that [] Briggs is here. Absolute miracle. Words can't describe this crime.

The first thing I wrote when I [went] through the presentence investigation was elderly, helpless victim. But as I've gone through this, I've changed my mind. There's nothing helpless about [] Briggs. In fact, you messed with the wrong person. You tried to kill an [eighty-six]-year-old lady and she survived.

The Sentencing Guidelines never contemplated actions like this. There's nobody sitting in Harrisburg that can consider attempted murder and robbery and burglary with this crime in mind what happened here. The Sentencing Guidelines are absolutely inadequate. Because we have an elderly victim, because your actions that day showed a callousness that was just incredible. [] Briggs described this - - described what you did to her and you left her for dead. You left her for dead because you wanted a car. There are so many unanswered questions here, [] Harrison, that we'll never know. I don't know what you were doing there. I don't know why you were there. All I know is that you have put a community in fear and caused people to lock their doors.

N.T., 2/2/2023, at 11-12.

The trial court provided a contemporaneous written statement wherein it clearly described the guidelines and why it deviated from the standard range, explaining that it took into account factors such as the age of the victim and the callousness of the crime. The trial court also had the benefit of presentence investigation report, and we therefore presume it considered all appropriate sentencing factors. **See Miller**, 275 A.3d at 535.

Given that the trial court put forth an explanation on the record for deviating from the guideline range, authored a separate written explanation, and had the benefit of a presentence investigation report, there would be no

basis for this Court to find that the trial court abused its discretion in imposing the sentence. **See Commonwealth v. Bowen**, 55 A.3d 1254, 1265 (Pa. Super. 2012) (concluding that “the trial court properly articulated the nature and circumstances of the offense, as well as [a]ppellant’s history and personal characteristics, when it imposed a sentence in excess of the guideline range,” and finding no abuse of discretion on that basis). Thus, Harrison failed to establish that he was prejudiced by trial counsel’s failure to bring a challenge to the discretionary aspects of his sentence. He is due no relief on his first claim.

Motion to Suppress

Harrison further asserts that trial counsel was ineffective for failing to file a motion to suppress the envelope found in the trash can outside Pittman’s home with his name on it. Harrison’s Brief at 21. He claims that the search of the trashcan was unlawful because it was located within the curtilage of the home. **Id.** at 23. According to Harrison, the location of the can is relevant to determine whether he had an expectation of privacy in the contents of the trashcan. **Id.** at 23-24; **see also id.** at 24 (contending that a row house, such as the house at issue here, is unique and the fact the trashcan was located near the front of the residence does not surrender his right to privacy). He disagrees that the officer observed the envelope in plain view, noting the garbage had been collected the day before, and the envelope therefore would

not have been visible to anyone “simply peering in the top of the trash can.” ***Id.*** at 24.

Harrison asserts that the envelope was significant, as it was the basis for investigators to scrutinize the credit cards found near the Turnpike, which were used as exhibits at trial. ***Id.*** at 21. Further, he argues that the envelope was crucial to the approval of his arrest warrant, which led to his statement to police implicating himself. ***Id.*** at 22. Harrison contends that the phone calls from him did not establish he was in Briggs’ home. ***Id.*** at 25. He argues that if counsel had filed the suppression motion, the arrest warrant would have found to have been invalid, and his statement to police excluded. ***Id.*** at 25-26.

“[T]he failure to file a suppression motion under some circumstances may be evidence of ineffective assistance of counsel.” ***Commonwealth v. Watley***, 153 A.3d 1034, 1044 (Pa. Super. 2016) (citation omitted). To succeed on this claim, the petitioner “must establish that there was no reasonable basis for not pursuing the suppression claim and that if the evidence had been suppressed, there is a reasonable probability the verdict would have been more favorable.” ***Id.*** (citation omitted).

[U]nder both the Fourth Amendment to the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution, searches conducted without a warrant are per se unreasonable unless a recognized exception applies. Once a defendant files a motion to suppress, it is the Commonwealth’s burden to prove, by a preponderance of the evidence, that the challenged evidence was not obtained in violation of the defendant’s rights. However, a defendant must show that he had

a privacy interest in the place invaded or thing seized that society is prepared to recognize as reasonable. A reasonable expectation of privacy will be found to exist when the defendant exhibits an actual or subjective expectation of privacy and that expectation is one that society is prepared to recognize as reasonable.

In determining whether an individual's expectation of privacy is legitimate or reasonable, we must consider the totality of the circumstances and the determination ultimately rests upon a balancing of the societal interests involved. The constitutional legitimacy of an expectation of privacy is not dependent on the subjective intent of the individual asserting the right but on whether the expectation is reasonable in light of all the surrounding circumstances. The expectation of privacy is an inquiry into the validity of the search or seizure itself; if the defendant has no protected privacy interest, neither the Fourth Amendment nor Article I, § 8 is implicated.

Commonwealth v. Zealor, 357 A.3d 1003, 1009-10 (Pa. Super. 2026) (citations, quotation marks, and emphasis omitted).

Harrison's trial counsel testified at the PCRA hearing that he did not file a motion to suppress the envelope because "case law is pretty clear when you throw something away ... there is no expectation of privacy." N.T., 8/18/2025, at 15-16. He explains that the trashcan was a few feet away from the residence and in plain view from the sidewalk. ***Id.*** at 16. Further, counsel testified that he was "not sure it would have made a difference if I would have filed a suppression even if it was granted" because the police had "a lot of evidence." ***Id.*** at 17.

Trooper Robert Colton, the lead investigator in the case, testified that they proceeded to Pittman's home because she had received a call from Briggs' phone. ***Id.*** at 25, 29. The officers collected Turnpike toll photographs

and determined who had used Briggs' phone to find the perpetrator, locating three females who confirmed Harrison had called them. **Id.** at 29, 34, 37, 38. Trooper Colton described the home as having steps that led to the front door, and noted the trashcan was located in front of the home, but not at the curb. **Id.** at 31, 32; **see also** N.T., 11/22/2022, at 143. He indicated the trash can had no bag in it, no lid covering it, and was about a quarter full. N.T., 8/18/2025, at 33, 36, 38-39. He stated that he looked down from the steps and noticed the mail with Harrison's name. **Id.** at 33, 37; **see also** N.T., 11/22/2022, at 143. The officers then removed the mail from the trash can. N.T., 8/18/2025, at 33-34, 35-36, 37.

The PCRA court rejected Harrison's ineffectiveness claim, explaining that while the connection between Harrison and the crime began when police found the envelope, it was "far from the only piece of evidence establishing [Harrison's] identity." **Id.** at 8. The court noted that Harrison would have been identified as a suspect through the interviews conducted with the individuals who had received phone calls from Briggs' stolen cellphone, including Harak, the same day the envelope was found. **Id.** Therefore, the PCRA court found that Harrison cannot claim the outcome of the investigation would have been different had the letter not been seized. **Id.** at 9. Additionally, the PCRA court found that there is no reasonable expectation of privacy in a trashcan located in an area subject to public access, which had no bag or lid to prevent the public from viewing inside. **Id.** at 10-11.

We need not delve into the question of whether police properly seized the envelope, as there is no basis to find that Harrison was prejudiced by trial counsel's failure to file a suppression motion. As the PCRA court noted, police utilized multiple methods to identify Harrison as the perpetrator. The record reflects that police were in the process of contacting each person who received a call from Briggs' phone. During Harak's interview, which would have been conducted whether the envelope was found or not, she identified Harrison as the person that called her from Briggs' stolen phone. N.T., 8/18/2025, at 28-29. Trooper Colton confirmed that at least two other people likewise stated that Harrison had called them from Briggs' stolen cellphone. *Id.* at 29, 38. Moreover, police found several credit cards with the name "Derek Harrison" in the area surrounding Briggs' home. *Id.* at 27-28; N.T., 11/22/2022, at 122-30.

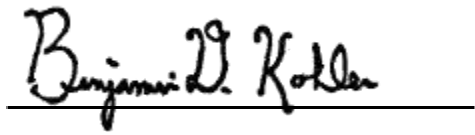
Contrary to Harrison's claim, the envelope was not the means for police to identify him as the perpetrator of Briggs' assault. It certainly would not have resulted in the exclusion of his confession to police, let alone the myriad other evidence connecting him to the crimes. Thus, whether or not trial counsel sought suppression of the envelope, the result of the trial would not have been different. Trial counsel, therefore, was not ineffective for failing to file a motion to suppress.

Conclusion

Harrison's ineffectiveness claims are without merit. Accordingly, the PCRA court properly denied Harrison's PCRA petition.

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 08/28/2026