NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
AMNIE EUGENE LAWVER III	:	
Appellant	:	No. 1351 WDA 2025

Appeal from the Judgment of Sentence Entered September 24, 2025
In the Court of Common Pleas of Fayette County Criminal Division at
No(s): CP-26-CR-0000003-2025

BEFORE: SULLIVAN, J., NEUMAN, J., and STEVENS, P.J.E.*

MEMORANDUM BY SULLIVAN, J.: **FILED: November 19, 2026**

Amnie Eugene Lawver III ("Lawver") appeals from the judgment of sentence imposed after a jury found him guilty of, *inter alia*, robbery, theft by unlawful taking, aggravated assault, and simple assault.[1] Lawver claims the evidence was insufficient to sustain the convictions as to one of the victims, Thomas Bageant ("Bageant"), because there was no clear evidence he attacked Bageant or took Bageant's personal property during the attack. Although Lawver's sufficiency claims lack merit, we are constrained to vacate the judgment of sentence because, pursuant to ***Commonwealth v. Mumford***, 353 A.3d 247 (Pa. Super. 2026), the trial court appears to have imposed an illegal amended sentence without Lawver being present. We

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* Former Justice specially assigned to the Superior Court.

[1] 18 Pa.C.S.A. § 3701(a)(i), 3921(a), 2702(a)(1), 2701(a)(1).

therefore affirm the convictions, vacate the judgment of sentence, and remand for resentencing consistent with decision.

The parties and trial court are familiar with the facts of this appeal, and we note Lawver's convictions arise out of a December 2024 brawl that broke out after Bageant and his friend, Robert Kiral ("Kiral"), discovered numerous squatters in a home Bageant owned.[2] The trial court provided the following summary of Kiral's and Bageant's relevant testimony at Lawver's trial:

> The jury heard the testimony of [Kiral] that . . . [i]nside the home were six individuals—three males including [Lawver] and Robert Nicholson (hereinafter "Nicholson") and three females. Bageant asked for everyone to vacate the property. [Kiral] testified that initially the individuals were fairly cooperative, but the encounter escalated into an argument. Bageant did call the police, [ ]but they w[ere] taking forever . . . to come out. Kiral testified that one of the men threatened them. . . . [Once all the squatters were outside of the home, further words were exchanged, and one of the females attempted to get back inside the home.] Nicholson charged Kiral, and they engaged in a scuffle for several minutes. . . . [A]t some point in the melee, [Lawver] joined in the scuffle and pummeled [Kiral] in the head and face. [Lawver] and Nicholson continued striking Kiral. Kiral was defending himself against Nicholson and did not observe Bageant being assaulted by [Lawver]. He did, however, hear Bageant . . . crying ["]get off me, leave me alone" . . ..
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> [Bageant] testified . . . [after the squatters initially left the home, a male and a female] re-entered the home to gather some of the female's belongings and an argument [between Nicholson and the female] and Kiral and Bageant ensued. The argument escalated to a physical altercation, and Bageant was . . . pushed down and punched and beaten in the face multiple times by [Lawver.] While

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[2] Bageant owned the home for approximately thirty years, although the home had been left vacant with no trespassing signs posted. ***See*** N.T., 7/8/25, at 121, 124.

> he was laying on the floor after having been badly beaten, Bageant felt that he was being rolled over and [Lawver] was going through his pants pockets. [Lawver] took [Bageant's] wallet from his pocket. [Bageant] also immediately noticed his cell phone was missing and suspected his phone had been stolen. [Lawver] and the other individuals then left the property.

Trial Court Opinion, 12/9/25, at 4-5, 7-8 (record citations, brackets, and some quotation marks omitted).[3]

Six days after the brawl, employees at a car dealership near the home found Bageant's cellphone on the ground in a grassy area near their mailbox. ***See*** Trial Court Opinion, 12/9/25, at 7. Police reviewed the dealership's surveillance camera footage. ***See id***. The footage from the day of the altercation showed Lawver walking, and falling, in the same grassy area where employees found Bageant's phone. ***See id***.[4]

Lawver was charged with the above-stated offenses and related crimes committed against Bageant as well as Kiral, and he proceeded to a jury trial. At trial, Kiral and Bageant testified as stated in the trial court's summary of the evidence. Bageant also specifically identified Lawver as the person who assaulted him and stated "he [(Lawver)] managed to get [his] wallet and then

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[3] The jury also heard expert testimony from Bageant's treating physician about the injuries he suffered to his face, around his collarbone, and to his ribs. ***See*** N.T., 7/7/25, at 49; ***see also*** Trial Court Opinion, 12/9/25, at 5-6. The jury additionally viewed a photograph showing Bageant's injuries to his face. ***See*** N.T., 7/8/25, at 138-39; Commonwealth's Exhibit 6. Lawver does not contest the injuries Bageant suffered, which included fractures of bones around his eye and broken ribs, ***see*** N.T., 7/7/25, at 49, constituted serious bodily injury or bodily injury.

[4] Bageant did not recover his wallet. ***See*** N.T., 7/8/25, at 144.

he stopped beating me." N.T., 7/8/25, at 133, 135.[5] Additionally, Nicholson testified for the Commonwealth that while engaged with Kiral, he saw Lawver and Bageant get into an altercation, although Nicholson suggested Bageant "came to" Lawver with the hammer, which Bageant denied. ***See*** N.T., 7/7/25, at 62; N.T., 7/8/25, at 132. Lawver testified on his own behalf, denied striking Bageant, and stated he saw one of the female squatters grab Bageant from behind and strike him with her foot before he fled the home and crossed through the grassy area at the car dealership where employees later found Bageant's phone. ***See*** N.T., 7/8/25, at 192-97.

The jury, in relevant part, found Lawver guilty of robbery, theft by unlawful taking, aggravated assault, and simple assault as to Bageant, as well as most of the charges as to Kiral.[6] On September 17, 2025, the trial court sentenced Lawver to an aggregate term of ten to twenty-five years of imprisonment. On September 24, 2025, the trial court entered an amended sentencing order requiring Lawver to serve mandatory state reentry

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[5] Lawver cross-examined Bageant by using his preliminary hearing testimony, which suggested he did not see who hit him or took his property, by underscoring Bageant's trial testimony that at least three squatters got back into the home with two of them, Nicholson and Lawver, scuffling with Kiral, and by eliciting Bageant's testimony that Bageant could not specifically tell how many squatters were in the home when he was assaulted. ***See id***. at 152-53. During this cross-examination, however, Bageant responded by stating, "I know exactly who hit me," and he confirmed on redirect examination that he was "positive" about his in-court identification of Lawver. ***Id***. at 153, 156.

[6] The trial court separately found Lawver guilty of summary offenses of harassment.

supervision for one year. There was no indication that Lawver was present in court when the trial court imposed the amended sentence.

Lawver timely appealed and filed a facially untimely Pa.R.A.P. 1925(b) statement. The trial court filed a Rule 1925(a) opinion addressing the issue raised in Lawver's statement.[7]

Lawver raises the following issue for review:

> 1. Whether the evidence presented was sufficient to support the guilty verdict of robbery, aggravated assault, simple assault, and theft of movable property as it related to . . . Bageant?

Lawver's Brief at 10.[8] As noted above, Lawver claims the evidence was insufficient to establish he was the person who injured Bageant or took Bageant's personal property during the assault. ***See id***. at 11-17.

This Court's standard and scope of review over challenges to the sufficiency of the evidence are well settled:

> A claim challenging the sufficiency of the evidence is a question of law. Evidence will be deemed sufficient to support the verdict when it establishes each material element of the crime charged and the commission thereof by the accused, beyond a reasonable doubt. Where the evidence offered to support the verdict is in contradiction to the physical facts, in contravention to human experience and the laws of nature, then the evidence is insufficient as a matter of law. When reviewing a sufficiency claim[,] the court is required to view the evidence in the light most favorable to the

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[7] Because counsel's filing of a late Rule 1925(b) statement would constitute *per se* ineffectiveness, we decline to find waiver. ***See Commonwealth v. Presley***, 193 A.3d 436, 441 (Pa. Super. 2018). Moreover, because the court filed an opinion addressing the issue raised in the late Rule 1925(b) statement, there is no need for a remand. ***See id***.

[8] The Commonwealth has not filed a brief in this appeal.

> verdict winner giving the prosecution the benefit of all reasonable inferences to be drawn from the evidence.

Commonwealth v. Johnson, 180 A.3d 474, 478 (Pa. Super. 2018) (citation omitted).

"In addition to proving the statutory elements of the crimes charged beyond a reasonable doubt, the Commonwealth must also establish the identity of the defendant as the perpetrator of the crimes." ***Commonwealth v. Smyser***, 195 A.3d 912, 915 (Pa. Super. 2018) (citation and quotation marks omitted). When reviewing the sufficiency of the evidence concerning identity, "[a] victim's in-court testimony, identifying the defendant as the perpetrator of a crime, is by itself sufficient to establish the identity element of that crime." ***Johnson***, 180 A.3d at 478 (citations omitted). "Variances in testimony ... go to the credibility of the witnesses and not the sufficiency of the evidence." ***Id***. (citation and quotation marks omitted).

Moreover, "[t]he fact that the evidence establishing a defendant's participation in a crime is circumstantial does not preclude a conviction where the evidence coupled with the reasonable inferences drawn therefrom overcomes the presumption of innocence." ***Commonwealth v. Bullers***, 599 A.2d 662, 665 (Pa. Super. 1991) (citation and quotation marks omitted). "Although a conviction must be based on more than mere suspicion or conjecture, the Commonwealth need not establish guilt to a mathematical certainty[,]" and "the trier of fact is free to believe all, some, or none of the testimony presented." ***Commonwealth v. Martuscelli***, 54 A.3d 940, 947 (Pa. Super. 2012) (citations and quotation marks omitted). This Court may

not weigh the evidence and substitute its own judgment for the factfinder. ***See Commonwealth v. Orr***, 38 A.3d 868, 872 (Pa. Super. 2011) (*en banc*).

Lawver initially asserts the trial evidence was "unclear and insufficient as to his involvement" in the injuries Bageant suffered during the altercation at the home. Lawver's Brief at 11. Lawver acknowledges Bageant identified him as the person assaulting him when he was on the ground but argues Bageant identified him as his assailant for the first time at trial and "could not truly identify [him]." ***Id***. at 12. Lawver asserts Bageant was confused about precisely how many squatters, or their genders, were in the home, when he was pulled to the ground and assaulted. ***See id***. at 12-13. Additionally, Lawver summarizes the various testimony about the chaotic situation inside the home from Kiral and Nicholson, as well as his own testimony that a female squatter assaulted Bageant, and he concludes the jury was left to guess or speculate who caused Bageant's injuries. ***See id***. at 12-15. In short, Lawver claims the evidence was insufficient to prove he attacked Bageant and, therefore, to convict him of aggravated assault and simple assault.[9]

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[9] Our Crimes Code defines aggravated assault and simple assault, respectively, as: "[a] person is guilty of aggravated assault if he . . . attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life[,]" 18 Pa.C.S.A. § 2702(a)(1); and "[a] person is guilty of assault if he . . . attempts to cause or intentionally, knowingly or recklessly causes bodily injury to another[,"] 18 Pa.C.S.A § 2701(a)(1).

The trial court rejected Lawver's assertion and explained Bageant credibly identified Lawver in court and heard Nicholson's testimony that Lawver and Bageant got into an altercation. ***See*** Trial Court Opinion, 12/9/25, at 8-9. This Court agrees with the trial court's conclusion that there was sufficient evidence identifying Lawver as committing aggravated assault and simple assault. Specifically, Bageant stated he saw Lawver assaulting him and positively identified Lawver as the "individual punching [him] in the face." N.T., 7/8/25, at 133, 153, 156. Moreover, Bageant stated, "As far as he could tell[,] it was just one" person attacking him after he was on the ground. ***Id***. at 136. Lastly, there was no dispute that Bageant suffered injuries to his face. ***See id***. at 139-40; ***see also*** N.T. 7/7/25, at 49-50. Thus, when viewed in a light most favorable to the Commonwealth, Bageant's identification of Lawver as the person who punched him was alone sufficient to establish Lawver had attacked Bageant. ***See Johnson***, 180 A.3d at 478; ***see also Orr***, 38 A.3d at 872. Therefore, Lawver's challenges to his aggravated assault and simple assault convictions merit no relief.

Next, Lawver contends the evidence was insufficient to prove he took Bageant's wallet and phone during the assault to sustain the convictions of robbery and theft. Lawver asserts there was no evidence that he removed either Bageant's wallet or phone by force. ***See*** Lawver's Brief at 16. Lawver emphasizes that there was no direct evidence from the car dealership's employees or the surveillance camera footage showing he possessed Bageant's phone. ***See id***. at 16-17. He contends the facts that employees

found Bageant's phone in the grassy area by their store, and the footage showing him walking in that same area after the altercation did not support a logical inference that he had taken Bageant's phone. ***See id***. at 16-17. He suggests the evidence instead required the jury to guess or speculate that he had taken the phone and then dropped it in the grassy area. ***See Id***. at 17.[10]

The trial court concluded there was sufficient evidence for the jury to reasonably infer Lawver had taken Bageant's phone during the assault and, a short time later, dropped the phone in the grassy area by the car dealership. ***See*** Trial Court Opinion, 12/9/25, at 9-10. The court emphasized the surveillance camera footage showing Lawver "slip and fall in the exact place . . . where [employees] later found the phone," which supported a "logical inference" Lawver dropped the phone "when he slipped and fell to the ground, linking [Lawver] to Bageant's phone." ***Id***. at 7. The trial court further concluded the evidence Lawver committed both aggravated assault and theft was sufficient to convict him of robbery. ***See id***. at 10.

At the outset, Lawver's bare assertion that there was no evidence that he removed either Bageant's wallet or phone by force lacks any meaningful

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[10] Although Lawver does not summarize the precise elements of the robbery and theft charges, this Court notes that: (1) pursuant to 18 Pa.C.S.A. § 3701(a)(1)(i), "[a] person is guilty of robbery if, in the course of committing a theft, he . . . inflicts serious bodily injury upon another;" and (2) pursuant to 18 Pa.C.S.A. § 3921(a), "[a] person is guilty of theft if he unlawfully takes, or exercises unlawful control over, movable property of another with intent to deprive him thereof."

development. In any event, it is clear that Lawver disregards Bageant's testimony that, in addition to Lawver's assault of Bageant described above, Bageant felt "him [(Lawver)] trying to roll me over and ke[ep] trying to get into [his pocket]" and that "he [(Lawver)] managed to get the wallet and then . . . stopped beating on [him]." N.T., 7/8/25, at 134-35. This testimony, when viewed in a light most favorable to the Commonwealth, was sufficient to prove that Lawver, while committing a theft, had "beat" Bageant and taken his wallet. Such testimony belies Lawver's bare assertion the evidence was insufficient to convict him of robbery and theft. ***See*** 18 Pa.C.S.A. §§ 3701(a)(1)(i), 3921(a). With respect to the Bageant's phone, we agree with the trial court that the surveillance camera footage was sufficient to establish Lawver's possession of the phone shortly after he assaulted Bageant and left the home, which, in turn, constituted circumstantial proof of Lawver's theft of the phone during the assault. ***Cf***. ***Bullers***, 599 A.2d at 664-55 (noting sufficient circumstantial evidence existed to convict Bullers took a firearm where police found Bullers in possession of the victim's pistol hours after the victim reported someone stole his truck, with the pistol inside, and, during that time, Bullers had travelled from the location where the stolen truck was recovered to the place where he was arrested). Thus, Lawver's challenge to his robbery and theft convictions merit no relief.

Lastly, we address, *sua sponte*, the legality of trial court's September 24, 2025 amendment of its sentence in light of this Court's recent decision in ***Mumford***. ***See Mumford***, 353 A.3d at 261 (noting that "[t]he legality of a

criminal sentence is non-waivable, and this Court may raise and review an illegal sentence *sua sponte*") (citation omitted).

In ***Mumford***, the trial court initially sentenced Mumford to a term of imprisonment, but, six days later entered an amended sentencing order that "added a one-year term of reentry supervision to the previously imposed sentence." ***Mumford***, 353 A.3d at 254. The ***Mumford*** Court noted that 61 Pa.C.S.A. § 6137.2 mandates a sentence "to a period of reentry supervision of [twelve months] consecutive to and in addition to any other lawful sentence issued by the court," when a defendant is committed to the Department of Corrections with an aggregate minimum sentence of four years or more. ***Id***. at 261 (discussing 61 Pa.C.S.A. § 6137.2(a)-(b)). The ***Mumford*** Court concluded a trial court's initial sentence, which did not include the term of reentry supervision was illegal and further held the court's amended sentence to include that term was also illegal because there was no indication the court held a resentencing hearing or Mumford was present when the court amended the sentence. ***See id***. at 262.

In the present case, the record of the procedures leading to the trial court's September 24, 2025 amended sentence in the present case are indistinguishable from those in ***Mumford***. In particular, the trial court's September 17, 2025 initial sentence imposed a term of minimum confinement in excess of four years (*i.e.*, a ten year aggregate minimum), but did not include the required term of reentry supervision, which rendered that sentence illegal. The trial court then entered its amended sentence that added the

required term, but there was no indication that the court scheduled a hearing or ensured Lawver was present in court when the court imposed the amended sentence. Therefore, as in ***Mumford***, this Court concludes the trial court's amended sentence was illegal, and we must vacate the amended sentence and remand for resentencing consistent with this decision. ***See id***. at 262.

Convictions affirmed. Judgment of sentence vacated. Case remanded for resentencing consistent with this decision. Jurisdiction relinquished.

Judgment Entered.

Benjamin D. Kohler

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Prothonotary

11/19/2026