NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
MELISSA LYNN SUDER	:	
Appellant	:	No. 1395 WDA 2025

Appeal from the Judgment of Sentence Entered July 7, 2025
In the Court of Common Pleas of Bedford County Criminal Division at No(s): CP-05-CR-0000525-2023

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

MEMORANDUM BY SULLIVAN, J.: **FILED: NOVEMBER 20, 2026**

Melissa Lynn Suder ("Suder") appeals from the judgment of sentence following her jury convictions for two counts of attempted murder, seven counts of attempted murder of a law enforcement officer, seven counts of assault of a law enforcement officer, seven counts of aggravated assault of a police officer, eleven counts of aggravated assault with a deadly weapon, one count of discharge of a firearm into an occupied structure, four counts of terroristic threats, one count of propelling a missile into an occupied vehicle, eleven counts of simple assault attempted bodily injury, eleven counts of simple assault fear of bodily injury, and eleven counts of recklessly endangering another person.[1] Suder's claims that the Commonwealth failed

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* Former Justice specially assigned to the Superior Court.

[1] ***See*** 18 Pa.C.S.A. §§ 901(a), 2501(a), 2507(a). 2702.1(a)(1), 2702(a)(2), 2702(a)(4), 2707.1(a), 2706(a)(1), 2707(a), 2701(a)(1), 2701(a)(3), 2705.

to present sufficient evidence to support her convictions and the trial court abused its sentencing discretion are without merit. However, for the reasons discussed below, we amend her illegal flat sentences for assault of a law enforcement officer from twenty years of incarceration to a term of twenty to forty years of incarceration. Because the illegal sentences imposed were run concurrent to the aggregate sentence and do not affect the overall sentencing scheme, we choose to impose the modified sentence and do not remand to the trial court for resentencing.

In early August 2023, Suder spent about one week in the hospital after suffering a seizure. ***See*** N.T., 5/5/25, at 30. The hospital gave Suder anti-seizure medication and changed another medication. ***See id***. at 31. Upon her return to her home, Suder became upset that nobody had done any work around the house. ***See*** N.T., 4/30/25, at 42. She was intoxicated, "[s]lurring her words, [and] couldn't walk straight." ***Id***. at 41.

Suder's son Dillon, ("Dillon Suder"), Dillon's friend Shay Graham ("Graham"), Suder's daughter Madison ("Madison Suder"), and Madison's boyfriend Nick Thompson ("Thompson") were at the residence when Suder arrived. ***See id***. at 62. Graham testified, while she was in Dillon Suder's bedroom, she could hear Suder arguing with her children and Thompson. ***See id***. at 43. During the argument, Suder threatened to stab her son in the eyes with a fork and her daughter in the eyes with a kitchen utensil. ***See id***. at 54, 96. Suder also said everyone in the house was going to die that night and

she was going to shoot everybody at the house. ***See id***. at 95. Madison Suder told her mother they needed to get milk for a recipe; Suder responded if she left to get the milk, she would shoot her. ***See id***. at 96.

Graham and Dillon Suder attempted to leave the residence; Graham entered her car while Dillon Suder stood outside on the phone. ***See id***. at 45. Dillon Suder watched Suder come out of the house holding a can of Mike's Hard Lemonade and a car key; Dillon Suder told her not to drink and drive. ***See id***. at 74. Suder walked to her car and pulled out a gun, which she loaded, and chambered a bullet. ***See id***. at 45, 97. Suder pointed her gun at her son, and he ran. ***See id***. at 45-46. Madison Suder called 911 from inside the house. ***See id***. at 97. Suder walked to the deck and fired a shot, pointed the gun at her son again, and came up to Graham in the car. ***See id***. at 47, 97. Suder went back and forth between her son and Graham, then came up to Graham in the driver's seat and fired a shot at Graham. ***See id***. at 48. Graham testified that Suder shot at her from an arms-length away. ***See id***. at 49. Graham attempted to back up and drive away; Suder shot her tire. ***See id***. at 50. Although Suder's shots did not hit Graham, Graham sought medical attention at a hospital for injuries sustained from glass shattering because of Suder's shots. ***See id***. at 52-53.

Suder shot through the bay window of her home towards Thompson and her daughter. ***See id***. at 98. Madison Suder and Thompson ran out of the

back of the house and into the woods. ***See id***. at 99. At some point, Suder returned to her residence.

Major Matthew Nickey ("Major Nickey") testified that state troopers, upon their response to the scene, were pinned down or trapped on the property by gunfire. ***See id***. at 115. Trooper Thad Ferguson ("Trooper Ferguson"), one of the seven members of the Pennsylvania State Police who initially approached the residence, testified that they indicated to Suder they were police officers and attempted to hail her out of the residence. ***See id***. at 165. Suder screamed at them from the doorway, told them to leave, and yelled profanities. ***See id***. at 165, 194; N.T., 5/1/25, at 8. Suder retreated inside the house and began to shoot at the police officers. ***See*** N.T., 4/30/25, at 166; N.T., 5/1/25, at 9. Trooper Ferguson testified that he heard multiple shots and saw them hit near where the officers were hiding. ***See*** N.T., 4/30/25, at 167. The troopers were extracted after approximately four hours because of the potential for more gunfire. ***See id***. at 124-26. Major Nickey testified that law enforcement attempted to contact Suder over a loudspeaker for four hours. ***See id***. at 127. Suder eventually exited her home. ***See id***. at 128. Major Nickey described the situation as "life or death." ***Id***. Trooper Levi Neuder ("Trooper Neuder"), Corporal John R. Romeo ("Corporal Romeo"), Trooper Patrick Kelly ("Trooper Kelly"), Trooper Colton Wassell ("Trooper

Wassell"), and Trooper Luke Hoover ("Trooper Hoover"), who all initially responded to the scene, also testified that Suder shot at them.[2]

In May 2025, a jury convicted Suder of the above-listed offenses. As it pertains to her other charges, the jury acquitted Suder of two counts of attempted murder. In July 2025, the trial court sentenced Suder to an aggregate term of fifty-eight and one-half to one hundred and thirty-five years of imprisonment. This sentence included a twenty-year flat sentence for each count of assault of a law enforcement officer pursuant to 42 Pa.C.S.A. § 9719.1(a) ("Section 9719.1(a)"), to run concurrently to each other and to her remaining sentences.[3]

Suder filed post-sentence motions challenging the discretionary aspects of sentence, legality of sentence, weight of the evidence, and sufficiency of the evidence. ***See*** Post-Sentence Motion, 7/16/25. The trial court denied the motions in their entirety. ***See*** Order, 9/30/25. Suder timely appealed, and Suder and the trial court complied with Pa.R.A.P. 1925.

Suder raises the following issues for our review:

> 1. Whether the [t]rial [c]ourt erred in denying [Suder's] [m]otion for [j]udgment of [a]cquittal, where the Commonwealth failed to present sufficient evidence to establish that [Suder]

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[2] Trooper Daniel White ("Trooper White"), the seventh officer who initially responded to the scene was unavailable to testify at the time of trial.

[3] Section 9719.1(a) states that a person convicted of 18 Pa.C.S.A. § 2702.1(a)(1), relating to assault of a law enforcement officer, shall be sentenced to a mandatory term of imprisonment of not less than twenty years.

possessed the specific intent to kill two . . . civilian victims, which is a required element of the two . . . counts of [c]riminal [a]ttempt – [c]riminal [h]omicide, and seven . . . law enforcement officers, which is a required element of the seven . . . counts of [c]riminal [a]ttempt [m]urder of a [l]aw [e]nforcement [o]fficer of the [f]irst [d]egree?

2. Whether the [t]rial [c]ourt erred in denying [Suder's] [m]otion for [j]udgment of [a]cquittal, where the Commonwealth failed to present sufficient evidence to establish that [Suder] possessed the specific intent to cause serious bodily injury to any of the law enforcement victims, which is a required element of the seven . . . counts of [a]ggravated [a]ssault – [d]esignated [i]ndividuals?

3. Whether the [t]rial [c]ourt erred in denying [Suder's] [m]otion for [j]udgment of [a]cquittal, where the Commonwealth failed to present sufficient evidence to establish that [Suder] possessed the specific intent to cause bodily injury to any of the victims, which is a required element of the seven . . . counts of [a]ssault of a [l]aw [e]nforcement [o]fficer – [f]irearm [d]ischarged, and eleven . . . counts of [a]ggravated [a]ssault – [a]ttempts to [c]ause or [c]auses [b]odily [i]njury with a [d]eadly [w]eapon?

4. Whether the [t]rial [c]ourt abused its discretion by imposing a manifestly excessive and unduly harsh aggregate sentence of incarceration, where the [c]ourt failed to give appropriate consideration and weight to the evidence supporting mitigation, and the mandatory sentencing considerations pursuant to 42 Pa.C.S.[A.] §[]9721(b), to include the protection of the public, gravity of the offense, and the rehabilitative needs of [Suder]?

5. Whether the [t]rial [c]ourt erred, as a matter of law, by imposing an illegal sentence, where the [t]rial [c]ourt sentenced [Suder] to a flat period of twenty . . . years[of] incarceration at each of the seven . . . counts of [a]ssault of [l]aw [e]nforcement [o]fficer . . . to run concurrently with each other and all other sentences imposed, in violation of 42 Pa.C.S.[A.] § 9756(b)(1), which prohibits the imposition of flat sentences of confinement?

Suder's Brief at 4-6 (claims reordered for ease of disposition).

Suder's first three claims challenge the sufficiency of the evidence supporting her convictions for attempted murder, attempted murder of a law enforcement officer, assault of a law enforcement officer, and aggravated assault. Suder challenges the elements of specific intent to kill, cause serious bodily injury, and cause bodily injury. Our standards of review for sufficiency is as follows:

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

Commonwealth v. Rivera, 238 A.3d 482, 495 (Pa. Super. 2020) (internal citation omitted).

Regarding intent, the Crimes Code defines "criminal attempt" as follows: "A person commits an attempt when, with intent to commit a specific crime, he does any act which constitutes a substantial step toward the commission of that crime." 18 Pa.C.S.A. § 901(a). To be found guilty of attempted murder, this Court has noted:

> [T]he Commonwealth must establish specific intent to kill. Therefore, if a person takes a substantial step toward the commission of a killing, with the specific intent in mind to commit such an act, he may be convicted of attempted murder. The Commonwealth may establish the *mens rea* required for first-

> degree murder, [18 Pa.C.S.A. § 2502(a),] specific intent to kill, solely from circumstantial evidence.

Commonwealth v. Tucker, 143 A.3d 955, 964 (Pa. Super. 2016) (internal citations, quotations, and brackets omitted). A person is presumed to intend the natural and probable consequences of his actions. ***See Commonwealth v. Lewis***, 911 A.2d 558, 564 (Pa. Super. 2006).

A person commits assault of a law enforcement officer if she "attempts to cause or intentionally or knowingly causes bodily injury to a law enforcement officer, while in the performance of duty and with knowledge that the victim is a law enforcement officer, by discharging a firearm." 18 Pa.C.S.A. § 2702.1(a)(1).

A person commits aggravated assault if she, *inter alia*, "attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to any [police officer]" or "attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon[.]" 18 Pa.C.S.A. § 2702(a)(2), (4).

We have explained the elements of aggravated assault as follows:

> "Serious bodily injury" has been defined as "[b]odily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ." 18 Pa.C.S.A. § 2301. For aggravated assault purposes, an "attempt" is found where an "accused who possesses the required, specific intent acts in a manner which constitutes a substantial step toward perpetrating a serious bodily injury upon another." An intent ordinarily must be proven through circumstantial evidence and inferred from acts, conduct or attendant circumstances.

Commonwealth v. Fortune, 68 A.3d 980, 984 (Pa. Super. 2013) (some internal citations and quotations omitted).

In her first claim, Suder contests the sufficiency of the evidence showing her specific intent to kill. Suder asserts the following: there was insufficient evidence she took a substantial step towards killing her daughter or had the specific intent to do so because the Commonwealth presented no evidence she pointed a gun or fired at Madison Suder; there was insufficient evidence she intended to kill her son because there was no evidence of threats made to Dillon Suder immediately prior to shooting at him or her proximity to her son; there was insufficient evidence to show she intended to kill Graham because "[t]he evidence presented by the Commonwealth proves only that [Suder] fired a single bullet into a vehicle occupied by [Graham];" and there was insufficient evidence to prove she specifically intended to kill Thompson because there was no evidence she saw him through the bay window. Suder's Brief at 57, 59, 61-64. Regarding law enforcement, Suder asserts there was no proof that she knew exactly where the officers were hiding and she did not shoot, physically injure, or kill any of the officers present at the scene. ***See id***. at 67-69. Suder claims, had she "intended to kill the [officers], she had the firepower and ammunition to relentlessly fire upon them for hours, while they were pinned down." ***Id***. at 70. Likewise, in her second and third issues, Suder contests the sufficiency of the evidence establishing her specific intent to cause serious bodily injury, with respect to her seven convictions of

aggravated assault of a law enforcement officer, and intent to cause bodily injury, with respect to her seven convictions of assault of a law enforcement officer and eleven convictions of aggravated assault.

The trial court considered Suder's sufficiency claims altogether and concluded they merited no relief. Specifically, the trial court explained:

> The Commonwealth's evidence was that [Suder] had made threats of violence and to kill and then proceeded to shoot firearms at eleven different people. In doing so, [Suder] narrowly missed shooting the nine victims she was convicted for by inches, according to the Commonwealth's evidence. While [Suder] did not actually hit any of the victims, the Commonwealth's testimony regarding how close the bullets came to hitting all of the victims—in conjunction with [Suder's] threats of violence—were enough to support the jury's verdicts. In short, [Suder's] intent was a question left for the jury to decide, [and] their verdicts were sufficiently supported by the evidence.

Trial Court Opinion, 12/31/25, at 3-4 (footnote omitted).

Preliminarily, we are perplexed that nowhere in the record does it indicate which two individuals the jury acquitted Suder of attempting to murder. We have reviewed, among other documents, the Criminal Information, the verdict slip, Suder's post-sentence motions, the appellate briefs, and six transcripts. We are particularly confounded by the trial court's following statement to Suder at sentencing:

> [Y]ou attempted to murder your own family members. ***Now, whether or not the jury convicted you of that. I don't know.*** They found you not guilty of two of the people, so. But, nonetheless, you are convicted of agg[ravated] assault of your family members, that's for sure.

N.T., 7/7/25, 32-33 (emphasis added). Pursuant to Pennsylvania Rule of Criminal Procedure 560, a criminal information does not always need to specify the victim pertaining to each count. However, considering Suder contested the weight of the evidence on the last day of trial, prior to the jury's verdict, we do not understand how the trial court did not inquire as to which two victims the jury acquitted Suder of attempting to murder. Moreover, Suder ***does not argue this was in error***, and instead contests the sufficiency of the evidence for all four individuals at the house, knowing that she was acquitted of attempting to murder two of them.

However, this issue is not dispositive because the Commonwealth presented sufficient evidence to find Suder possessed the specific intent to murder all eleven victims. The testimony at trial established Suder said everyone in the house was going to die that night and, specifically, she was going to shoot everybody at the house. ***See*** N.T., 5/5/25, at 95. Suder later walked to her car, retrieved her gun, and loaded it before pointing it at her son. ***See id***. at 45-46, 97. Suder fired the weapon several times at her son and Graham. ***See id***. at 47-48, 97. Suder then shot towards her home, where Thompson and her daughter remained. ***See id***. at 98. Suder took a substantial step towards killing all four victims when she threatened to kill everyone in the house, retrieved her firearm from her vehicle, and fired shots at her son, Graham, and towards her house. ***See Tucker***, 143 A.3d at 964. Further, we presume Suder intended the natural and probable consequences

of her actions; the jury, as the finder of fact, was permitted to infer that death is a natural and probable consequence of Suder shooting at the victims. ***See Lewis***, 911 A.2d at 564; ***Commonwealth v. Gease***, 696 A.2d 130, 133 (Pa. 1997).

Suder committed similar actions towards law enforcement. The officers identified themselves to Suder when they were outside of her residence. ***See*** N.T., 5/5/25, at 165. Suder told them to leave and began to yell profanities, including "fuck you, I'll show you a laser" before opening fire on the officers. ***Id***. at 194. Suder took a substantial step towards killing the seven officers when she threatened to "show them a laser" and opened fire on them. ***See Tucker***, 143 A.3d at 964. The natural and probable consequence of her actions was death. ***See Lewis***, 911 A.2d at 564; ***Gease***, 696 A.2d at 133.

Suder repeatedly states that because her shots missed the victims, she did not possess the specific intent to kill. Our longstanding precedent establishes that a shot does not need to strike the intended victim in order to establish the specific intent to kill. ***See Commonwealth v. Jones***, 629 A.2d 133, 135 n.2 (Pa. Super. 1993); ***Commonwealth v. Cross***, 331 A.2d 813, 815 (Pa. Super. 1974). Moreover, the Commonwealth presented evidence that Suder verbally and directly indicated her intent to kill her son, her daughter, Graham, Thompson, and all seven law enforcement officers. ***See id***. at 814 (holding the evidence established a specific intent to kill where the appellant yelled "this is for your brother" and then shot the victim).

We acknowledge the jury, out of lenity or some other motive, acquitted Suder of attempting to murder two of the victims. ***See generally Commonwealth v. Frisbie***, 889 A.2d 1271, 1273 (Pa. Super. 2005) (discussing inconsistent verdicts and explaining that they are not a basis for reversal). We recognize that because the evidence was sufficient to support a finding of Suder's specific intent to kill ***all*** of the victims, her convictions for attempted murder stand.

Suder advances no independent factual or legal argument to defend her position regarding her lack of specific intent to commit aggravated assault and aggravated assault of a law enforcement officer. Instead, she incorporates by reference the facts and legal analysis she discusses in her first claim, pertaining to the specific intent to kill. ***See*** Suder's Brief at 73, 75-76. The evidence supporting a finding that Suder specifically intended to kill all eleven victims also supports a finding that she intended to cause serious bodily injury to all eleven victims. By its own definition, "serious bodily injury" means "[b]odily injury which creates a substantial risk of death." ***Fortune***, 68 A.3d at 984. Suder announced her intention to shoot everyone and acted upon that intention, firing her weapon several times that day. Thus, there was sufficient evidence to support a finding that Suder intended to cause serious bodily injury and, inherently, bodily injury. Therefore, her first three claims are without merit.

In her fourth claim, Suder argues the trial court abused its discretion by imposing a manifestly excessive and unduly harsh sentence and failed to appropriately consider mitigating factors and mandatory sentencing considerations. Suder's fourth issue implicates the discretionary aspects of sentencing.

Our standard of review for challenges to the discretionary aspects of sentencing is well settled: "[S]entencing is vested in the discretion of the trial court, and will not be disturbed absent a manifest abuse of that discretion." ***Commonwealth v. Brown***, 249 A.3d 1206, 1211 (Pa. Super. 2021). An abuse of discretion is more than an error in judgment. ***See Commonwealth v. Lucky***, 229 A.3d 657, 663 (Pa. Super. 2020). To demonstrate an abuse of discretion, an 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." ***Id***. (internal citation omitted).

There is no absolute right to challenge the discretionary aspects of a sentence. ***See Commonwealth v. Moury***, 992 A.2d 162, 170 (Pa. Super. 2010). Rather, an appellant challenging the sentencing court's discretion must invoke this Court's jurisdiction by:

> (1) filing a timely notice of appeal; (2) properly preserving the issue at sentencing or in a motion to reconsider and modify the sentence; (3) complying with Pa.R.A.P. 2119(f), which requires a separate section of the brief setting forth "a concise statement of the reasons relied upon for allowance of appeal with respect to the discretionary aspects of a sentence[;]" and (4) presenting a

> substantial question that the sentence appealed from is not appropriate under the Sentencing Code.

Commonwealth v. Padilla-Vargas, 204 A.3d 971, 975 (Pa. Super. 2019) (citation omitted) (brackets in original); ***see also*** 42 Pa.C.S.A. § 9781(b).

Suder timely appealed, her brief includes a Rule 2119(f) statement, and she raised her discretionary aspects of sentencing claims in her post-sentence motion. This Court has held "an excessive sentence claim[—]in conjunction with an assertion that the court failed to consider mitigating factors[—]raises a substantial question." ***Commonwealth v. Raven***, 97 A.3d 1244, 1253 (Pa. Super. 2013). Therefore, Suder has presented a substantial question, and we will address the merits of her discretionary aspects of sentencing claim.

When a sentence is within the standard range of the sentencing guidelines, Pennsylvania law views the sentence as appropriate under the Sentencing Code. ***See Commonwealth v. Walls***, 926 A.2d 957, 963 (Pa. 2007); ***Moury***, 992 A.2d at 171. We may only vacate a sentence within the guidelines where the sentence is "clearly unreasonable." 42 Pa.C.S.A. § 9781(c)(2). In addition, when the trial court had the benefit of a PSI, we "presume that the sentencing judge was aware of relevant information regarding the defendant's character and weighed those considerations along with mitigating statutory factors." ***Commonwealth v. Devers***, 546 A.2d 12, 18 (Pa. 1988). Lastly, "[l]ack of remorse is an appropriate sentencing consideration." ***Commonwealth v. Summers***, 245 A.3d 686, 695 (Pa. Super. 2021).

Suder asserts the trial court abused its discretion in imposing her fifty-eight and one-half to one-hundred and thirty-five-year sentence. Specifically, Suder argues the trial court erred by: making assumptions about her past conduct in order to determine that the sentence served the protection of the public and did not offer any legitimate reason to support that determination; giving little to no consideration to Suder's medical and psychiatric history, including degenerative disc disease, stomach and bowel issues, seizure disorder, and attention deficit hyperactivity disorder; and running her sentences for two counts of attempted murder and seven counts of attempted murder of a law enforcement officer consecutively, a *de facto* life sentence that failed to consider mitigating evidence. ***See*** Suder's Brief at 35-51.

The trial court disagreed with Suder's claim and, instead of providing an analysis, referred this court to the sentencing transcript. ***See*** Trial Court Opinion, 12/31/25, at 1-2.

After careful review, we conclude Suder's standard-range sentences were neither excessive nor clearly unreasonable and discern no abuse of discretion in sentencing. ***See, e.g.***, Moury, 992 A.2d at 171; ***see also Raven***, 97 A.3d at 1254-55. Suder's aggregate sentence was composed of nine terms of six-and-one-half to fifteen years of incarceration for attempted murder of two civilians and seven police officers. Each of these sentences fell within the standard range of the guidelines. ***See*** 204 Pa. Code §§ 303.3(c), 303.15,

303.16(a), 303.17(b).[4] Suder has failed to persuade us that her standard-range sentence is clearly unreasonable. The trial court imposed consecutive sentences only on her convictions for attempted murder. As the trial court explained, it is a miracle Suder did not kill anyone that day. ***See*** N.T., 7/7/25, at 28. Moreover, the trial court was in possession of a PSI, so we presume it was "aware of relevant information regarding the defendant's character and weighed those considerations along with mitigating statutory factors." ***Devers***, 546 A.2d at 18. However, the trial court noted Suder showed a lack of remorse, ***see Summers***, 245 A.3d at 695, and emphasized the gravity of the offense and the need to protect the public. ***See*** N.T., 7/7/25, at 32-33. The court did not abuse its discretion when it considered relevant sentencing factors but weighed them in a manner inconsistent with Suder's wishes. ***See Commonwealth v. Proctor***, 156 A.3d 261, 274 (Pa. Super. 2017). Therefore, we discern no abuse of the trial court's sentencing discretion in weighing mitigating factors and imposing this standard-range sentence.

In her fifth and final issue, Suder claims the trial court imposed an illegal flat sentence of twenty years for her convictions of assault of a law enforcement officer, and that the trial court instead should have imposed a minimum and maximum term. Such a claim goes to the legality of sentence. ***See Commonwealth v. Postie***, 110 A.3d 1034, 1043 (Pa. Super. 2015). Our standard of review for a challenge to the legality of sentence is *de novo*

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[4] The Seventh Edition, Sixth Amendment of the Sentencing Guidelines apply because Suder committed the underlying crimes in August 2023.

and our scope of review is plenary. ***See Commonwealth v. Perzel***, 291 A.3d 38, 45 (Pa. Super. 2023).

"If this Court determines that a sentence must be corrected, we are empowered to either amend the sentence directly or to remand the case to the trial court for resentencing." ***Commonwealth v. Benchoff***, 700 A.2d 1289, 1294 (Pa. Super. 1997). If this Court's correction may upset the overall "sentencing scheme envisioned by the trial court, the better practice is to remand." ***Id***. (internal citation omitted).

Suder was convicted of assault of a law enforcement officer under 18 Pa.C.S.A. § 2702.1(a)(1) ("Section 2702.1"). Section 2702.1(b) states the penalty as follows:

> Notwithstanding [S]ection 1103(1) (relating to sentence of imprisonment for felony), a person convicted under subsection (a)(1) shall be sentenced to a term of imprisonment fixed by the court at ***not more than 40 years***.

18 Pa.C.S.A. § 2702.1(b) (emphasis added).

Suder was sentenced pursuant to Section 9719.1(a), which states, in relevant part:

> (a) Mandatory sentence.--A person convicted of the following offense shall be sentenced to a mandatory term of imprisonment as follows:
>
> 18 Pa.C.S.[A.] § 2702.1(a)(1) (relating to assault of law enforcement officer) - ***not less than 20 years***.

42 Pa.C.S.A. § 9719.1(a) (emphasis added).

Therefore, when read together, Suder should have received a sentence of not less than 20, but not more than 40, years of imprisonment. ***See*** 18 Pa.C.S.A. § 2702.1(b); 42 Pa.C.S.A. § 9719.1(a). Her flat sentence is illegal.

Suder acknowledges the mandatory minimum sentence is applicable to her seven convictions of assault of a law enforcement officer. ***See*** Suder's Brief at 54. Suder also is aware that these sentences ran concurrently to each other and to her sentences on the other charges. ***See id***. at 52.

At sentencing, the trial court clearly indicated its reasoning for the aggregate sentence. Specifically, the trial court explained that it sentenced consecutively on the attempted murder convictions because they were the most serious crimes. ***See*** N.T., 7/7/25 at 38. The trial court then explained it would impose the mandatory minimum for Suder's convictions of assault of a law enforcement officer, and that its intent was to impose all other offenses concurrently. ***See id***. Moreover, it appears clear that the trial court meant to sentence Suder to the minimum mandatory sentence under Section 2702.1(b); specifically, at least twenty years.

The Sentencing Code provides that a "court shall impose a minimum sentence of confinement which shall not exceed one-half of the maximum sentence imposed." 42 Pa.C.S.A. §9756(b)(1). Here, therefore, where the trial court intended to impose the mandatory minimum term of twenty years, the maximum would be at least forty years in order to comply with 42 Pa.C.S.A. §9756(b)(1). Section 2702.1(b) prohibits sentences over forty

years for a conviction of assault of a law enforcement officer. ***See*** 18 Pa.C.S.A. § 2702.1(b). Thus, Suder's correct sentence, considering the trial court's intent, would be twenty to forty years of imprisonment.

Suder requests that this Court vacate the judgment of sentence. ***See id***. at 54. Instead, we will amend Suder's seven sentences for assault of a law enforcement officer to a term of twenty to forty years on each charge. These sentences continue to run concurrently to each other and to the overall sentencing scheme; as such, they do not disrupt Suder's aggregate sentence, which is composed of consecutive sentences solely on her attempted murder convictions. ***See Benchoff***, 700 A.2d at 1294. Suder's aggregate sentence remains fifty-eight and one-half to one hundred and thirty-five years of imprisonment.

Judgment of sentence affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 11/20/2026