NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
WILLIAM MAYS	:	
Appellant	:	No. 1102 EDA 2025

Appeal from the PCRA Order Entered April 1, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at No(s): CP-51-CR-0004938-2012

BEFORE: NICHOLS, J., McLAUGHLIN, J., and KING, J.

MEMORANDUM BY NICHOLS, J.: **FILED NOVEMBER 10, 2026**

Appellant William Mays appeals from the order dismissing his first petition pursuant to the Post Conviction Relief Act[1] (PCRA). On appeal, Appellant contends that the PCRA court erred when it dismissed, without an evidentiary hearing, his PCRA petition alleging ineffective assistance of trial counsel for failing to call an alibi witness. We affirm.

A previous panel of this Court set forth the following factual and procedural history:

> On April 9, 2011, officers responded to a reported shooting and discovered two victims with gunshot wounds near a minivan parked in front of 5321 Malcolm Street in Philadelphia. Saquanne Stanford was lying in the street and holding onto the door of the minivan. Michael Askew was seated in the passenger seat with his head slumped over onto the driver's seat. Both men were bleeding profusely.

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[1] 42 Pa.C.S. §§ 9541-9546.

When medical personnel arrived, paramedics treated Stanford's wounds and rushed him to the University of Pennsylvania Hospital. Although Stanford received gunshot wounds to his upper neck and his rear scalp and sustained fractures of his skull and his left jaw, doctors noted that Stanford was awake, alert, and orientated. Toxicology reports revealed that Stanford's blood contained Benzodiazepines and THC. As Stanford's injuries did not require surgical invention, he was released to a rehabilitation facility.

While Stanford survived his injuries, medical personnel pronounced Askew dead at the scene of the shooting. Autopsy results revealed that Askew's cause of death was a gunshot wound to the neck and the manner of his death was homicide. Based on the extent of Askew's injuries, Dr. Gary Collis, forensic pathology expert, testified that the victim did not die immediately from his injuries but instead likely collapsed due to a large loss of blood and difficulty breathing. Toxicology results revealed that Askew's blood contained Alprazolam (Xanax), cocaine[,] and ethanol.

Officers investigating the scene of the shooting discovered several pieces of ballistic evidence from two different guns. Officers recovered six .40 caliber fired cartridge casings outside of the vehicle, three of which were found on the sidewalk and three in the grass in front of 5319 Malcolm Street. Officers seized two .45 caliber fired cartridge casings inside the vehicle, one of which was on the back of the front passenger seat underneath Askew and the other on the middle rear passenger seat. In addition, officers discovered two .45 caliber bullet jackets, one on the floor near Askew's front leg and one in a rear bench seat.

Officer William Trenwith employed steel trajectory rods to determine the path of the bullets. Although Officer Trenwith could not conclude which direction the shooter fired the .45 caliber gun, he ascertained that this gun was fired from inside the vehicle. In addition, Officer Trenwith determined that a second shooter, who was standing very close to the minivan, fired a .40 caliber firearm into the passenger side of the vehicle.

The officers could not find any witnesses to the shooting. Detective George Fetters went to the hospital to speak with Stanford, who initially claimed that he did not know what happened. After several attempts to interview Stanford, Detective Fetters convinced Stanford to give a statement on May 9, 2011, but Stanford did not identify the shooters. However, on May 12,

2011, Detective Fetters learned from one of Stanford's family members that Stanford had revealed information about the shooting over several text messages, in which he claimed to know the identity of one of the shooters and the motive for the shooting. Stanford also discussed his plan for revenge. Detective Fetters obtained copies of the messages from the relative's phone.

[On February 1, 2012,] Detective Fetters brought Stanford to the homicide unit . . . and confronted him with the text messages. Stanford then gave a handwritten statement, identifying one of the shooters as a man known as "Will" or "Man Man[,]" and describing where he lived. When presented with a photo array, Stanford circled Appellant's photo and identified him as one of the shooters.

Stanford revealed that[,] prior to the shooting, he had stolen Appellant's gun while the men were together on Conestoga Street. Appellant had left his gun on top of a car tire and went inside his home; Stanford admitted taking Appellant's gun. On the night of the shooting, Stanford called Appellant, told him he had taken the gun, and asked to return it. Appellant asked Stanford to meet him on Conestoga Street. Stanford agreed and brought Askew along with them. When they arrived, Appellant asked Stanford to drive him to his cousin's house on Malcolm Street. Stanford drove Appellant to this location and was about to park at the end of the block[] when Appellant directed Stanford to park between two particular cars. Stanford followed this direction and parked the vehicle. As the left door of the minivan opened, Appellant started shooting at Stanford and Askew while he was seated in the minivan. Stanford gave no information about the possibility of a second shooter.

Detective Fetters located Appellant in a Delaware County prison and discovered that Appellant was charged with an incident that provided evidence of his involvement in the shooting in this case. On July 28, 2011, Appellant fled from police who attempted to initiate a traffic stop of his unregistered vehicle. After Appellant slowed down at the intersection of Chester Pike and McDade Boulevard, his passenger jumped out of the vehicle and ran towards a nearby Walgreens. After Appellant drove away at a high rate of speed and collided with two vehicles, he was taken into police custody. The police also arrested Appellant's passenger, Christopher Graham, who subsequently gave a signed statement.

> About a month later, Walgreens employees notified police that a firearm was discovered in a secure storage facility at the location where Graham had fled. Officers responded to the store and recovered a stainless steel Kimber Target II .45 caliber pistol that was loaded. Officers determined that the gun had been stolen from Dwayne Eugene Bale of 234 East Filbert Street in Lancaster, Pennsylvania. Ballistics experts concluded that two of the .45 caliber fired cartridge casings and two .45 caliber bullet jackets recovered from inside the minivan involved in the shooting were fired from the .45 caliber pistol recovered from the Walgreens.
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> The police were subsequently contacted by Virgil Pauling, one of Appellant's former cellmates in county prison. Pauling indicated that Appellant [had] often spoke about a shooting he committed and gave Pauling details that matched Stanford's account of the April 9, 2011 shooting. Moreover, Appellant [had] shared with Pauling that police attempted to stop his vehicle when he had the murder weapon in his glove compartment so he attempted to evade police in a high-speed chase and told his passenger to take the weapon and flee.
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> Based on this evidence, Appellant was arrested for the murder of Michael Askew and the attempted murder[2] of Saquanne Stanford. He was also charged with carrying a firearm without a license, carrying a firearm in public in Philadelphia, and possession of an instrument of crime.[3] On May 6, 2013, a jury convicted Appellant of the aforementioned charges. On the same day, the trial court sentenced Appellant to life imprisonment without the possibility of parole along with a concurrent imprisonment term of 28½ to 57 years.

Commonwealth v. Mays, 3225 EDA 2014, 2017 WL 3428829 at *1-*2 (Pa. Super. filed Aug. 10, 2017) (unpublished mem.). This Court affirmed Appellant's judgment of sentence on August 10, 2017. ***See id.*** at *9. On

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[2] 18 Pa.C.S. §§ 2502(a) and 901(a), respectively.

[3] 18 Pa.C.S. §§ 6106(a)(1), 6108, and 907(a), respectively.

June 19, 2018, our Supreme Court denied Appellant's petition for allowance of appeal. ***Commonwealth v. Mays***, 187 A.3d 908 (Pa. 2018).

Appellant filed a timely *pro se* PCRA petition on April 30, 2019. The PCRA court appointed Earl G. Kauffman, Esq., to represent Appellant, and on February 21, 2021, Attorney Kauffman filed a ***Turner***/***Finley*** no-merit letter.[4] Deon B. Browning, Esq., subsequently entered his appearance on Appellant's behalf, and Appellant filed amended PCRA petitions on August 24, 2021, November 12, 2021, and January 3, 2023. After a series of continuances, the PCRA court entered a notice of its intent to dismiss Appellant's PCRA petition without a hearing pursuant to Pa.R.Crim.P. 907 on March 6, 2025. Appellant did not file a response and on April 1, 2025, the PCRA court entered an order dismissing Appellant's PCRA petition.

Appellant filed a timely notice of appeal on April 23, 2025. The PCRA court did not order Appellant to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). On January 13, 2026, Hon. Rose Marie Defino-Nastasi, Supervising Judge of the Criminal Trial Division of the Court of Common Pleas of Philadelphia County, sent this Court a letter stating that the record in the instant appeal was being transmitted to this Court without a Rule 1925(a) opinion because the judge presiding over Appellant's PCRA proceedings, Hon. Scott DiClaudio, was under suspension by order of the Court of Judicial Discipline. ***See*** PCRA Ct. Letter, 1/13/26.

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[4] ***See Commonwealth v. Turner***, 544 A.2d 927 (Pa. 1988), ***Commonwealth v. Finley***, 550 A.2d 213 (Pa. Super. 1988) (*en banc*).

Appellant raises the following issue for our review:

> Did the PCRA court err in dismissing the PCRA petition without an evidentiary hearing?

Appellant's Brief at 2 (some formatting altered).

In his sole issue on appeal, Appellant contends that his trial counsel, Anthony J. Voci, Jr., Esq., was ineffective for failing to call Appellant's wife as an alibi witness. ***Id.*** at 6. Specifically, Appellant argues that,

> A simple evidentiary hearing in which trial counsel, Appellant, and Appellant's wife would be called to answer relevant questions for the PCRA court to evaluate the credibility of Appellant's alibi witness and Appellant's claim that he told trial counsel about the alibi witness would suffice to provide the PCRA court with everything it needs to properly dispose of this claim one way or the other.

Id. at 7.

In its brief, the Commonwealth argues that Appellant's claim is waived. Specifically, the Commonwealth notes that during trial, at the close of Appellant's case-in-chief, Appellant stated to the trial court that he did not wish to call any additional witnesses and that he was satisfied with his counsel's representation. ***See*** Commonwealth's Brief at 10 (citing N.T. Trial, 5/3/13, at 80).

In reviewing an order denying a PCRA petition, our standard of review is well settled:

> Our review of a PCRA court's decision is limited to examining whether the PCRA court's findings of fact are supported by the record, and whether its conclusions of law are free from legal error. We view the record in the light most favorable to the

> prevailing party in the PCRA court. We are bound by any credibility determinations made by the PCRA court where they are supported by the record. However, we review the PCRA court's legal conclusions *de novo.*

Commonwealth v. Staton, 184 A.3d 949, 954 (Pa. 2018) (citation and quotation marks omitted). A PCRA petitioner "has the burden to persuade this Court that the PCRA court erred and that such error requires relief." ***Commonwealth v. Wholaver***, 177 A.3d 136, 144-45 (Pa. 2018) (citations omitted).

This Court previously considered a claim of ineffective assistance of trial counsel where the defendant informed the court at trial that there were no additional witnesses that he wanted his counsel to investigate or call. ***See Commonwealth v. Parker***, 1104 EDA 2019, 2021 WL 2933227 at *5-6 (Pa. Super. filed July 12, 2021) (unpublished mem.).[5] The ***Parker*** Court summarized our well-settled jurisprudence on this type of claim as follows:

> [A] claim [that] counsel was ineffective for failing to interview or call witnesses to testify lacks arguable merit where the trial court conducted a colloquy of the defendant at trial, and the defendant agreed with counsel's decision not to interview or present witnesses. ***See*** [***Commonwealth v. Pander***, 100 A.3d 626, 642 (Pa. Super. 2014) (*en banc*)]. "[A] defendant who makes a knowing, voluntary, and intelligent decision concerning trial strategy will not later be heard to complain that trial counsel was ineffective on the basis of that decision." ***Commonwealth v. Paddy***, 800 A.2d 294, 316 (Pa. 2002) (citation omitted). Accordingly, "[a] defendant who voluntarily waives the right to call witnesses during a colloquy cannot later claim ineffective assistance and purport that he was coerced by counsel."

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[5] We may cite to this Court's unpublished memoranda filed after May 1, 2019 as persuasive authority. Pa.R.A.P. 126(b).

> ***Commonwealth v. Lawson***, 762 A.2d 753, 756 (Pa. Super. 2000).

Parker, 2021 WL 2933227 at *5.

Here, the record reflects that the trial court conducted the following colloquy, in relevant part, at the conclusion of Appellant's case-in-chief at trial:

> **Q:** As a defendant in a criminal case you have an absolute right to testify on your own behalf, to subpoena and call witnesses, to present a defense, justification, or excuse.
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> Do you understand that?
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> **A:** Yes, sir.
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> * * *
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> **Q:** Are you satisfied with [Attorney Voci's] services?
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> **A:** Yes, sir.
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> * * *
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> **Q:** Are you satisfied with [Attorney Voci's] services?
>
> **A:** Yes, sir.
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> * * *
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> **Q:** Are there any other witnesses you wish to call?
>
> **A:** No, sir.
>
> **Q:** As far as you're concerned, when this jury comes back in your attorney has your authority to rest the case; is that right?
>
> **A:** Yes, sir.
>
> **Q:** That will close the evidence for William Mays; is that correct?

A: Yes, sir.

THE COURT: [Attorney] Voci, did you discuss this matter with your client?

[**ATTORNEY VOCI**]: I have.

I might also add that [Appellant] is a thoughtful and considerate individual, and bright.

THE COURT: In your professional opinion, did he make this decision knowingly, voluntarily and intelligently?

[**ATTORNEY VOCI**]: Absolutely. Throughout the course of this trial he has written a number of notes and memos to me that display a keen awareness of exactly what is going on, what the issues are and has contributed considerably to his own defense.

N.T. Trial, 5/3/13, at 79-81.

Based on our review of the record, we discern no error on the part of the PCRA court when it dismissed Appellant's PCRA petition without a hearing. ***See Staton***, 184 A.3d at 954. Here, at the conclusion of Appellant's case-in-chief at trial, the trial court's colloquy of Appellant reflects that he agreed with Attorney Voci's decision not to call any additional witnesses. ***See*** N.T. Trial, 5/3/13, at 80. Moreover, the record reflects that Appellant's wife, Robin Hawkins, testified during Appellant's trial. ***See id.*** at 68-73.[6] Appellant cannot now claim that trial counsel provided ineffective assistance due to a failure to pursue a strategy to which Appellant agreed at trial. ***See Parker***, 2021 WL 2933227 at *5 (citing ***Paddy***, 800 A.2d at 316; ***Pander***, 100 A.3d

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[6] While Ms. Hawkins testified at trial, she did not testify as to Appellant's whereabouts at the time of the shooting.

at 642; ***Lawson***, 762 A.2d at 756). Accordingly, Appellant's claim lacks arguable merit. ***See Parker***, 2021 WL 2933227 at *5 (citing ***Pander***, 100 A.3d at 642). Appellant, therefore, is not entitled to relief.

Order affirmed. Jurisdiction relinquished.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/10/2026