

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

v.

ANTONIO LOUIS MORALES

Appellant

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No. 1434 MDA 2025

Appeal from the Judgment of Sentence Entered August 25, 2025
In the Court of Common Pleas of Berks County Criminal Division at
No(s): CP-06-CR-0003762-2024

BEFORE: BOWES, J., OLSON, J., and KUNSELMAN, J.

MEMORANDUM BY BOWES, J.:

FILED: SEPTEMBER 29, 2026

Antonio Louis Morales appeals from the judgment of sentence imposed upon his convictions for indecent exposure, disorderly conduct, and harassment. We affirm the convictions, vacate the judgment of sentence, and remand for resentencing.

By way of background, at around 5:00 p.m. on May 17, 2024, Lauren Simons and her friend, Lillie Daniel-Wright, were walking along the Schuylkill Valley River Trail when they encountered Appellant traveling in the opposite direction. Rather than passing the women, Appellant crossed to their side of the trail and stopped them. Dressed in a stained gray tee shirt, black pants, and black torn shoes, and carrying a white plastic bag, he began asking the women questions. He explained that he was walking from Morgantown to Fleetwood and inquired about the nearest exit on the trail. Ms. Simons told

him it was less than one mile away and attempted to move on. Appellant, however, persisted in continuing the interaction. Despite the women's repeated efforts to disengage, including telling him to have a nice day, he continued to re-engage them in conversation for approximately eight minutes.

Uneasy, Ms. Simons discreetly borrowed her friend's phone and photographed Appellant, deliberately framing the shot from the torso down so as not to alert him. When she finally informed Appellant that she and her friend wished to continue their walk, the women moved on, only to turn back repeatedly to find Appellant standing still, watching them as they went. Frightened, Ms. Simons called her brother and informed him of the situation. The women eventually walked out of Appellant's sight, but they would need to retrace their steps along the same stretch of the trail they had left Appellant in order to return to their parked vehicles. Concerned about another encounter with him, they waited approximately ten minutes before turning back.

While still on the phone with her brother, Ms. Simons and Ms. Daniel-Wright began the return trip to their vehicles. It was then that Ms. Simons spotted Appellant crouched in the bushes approximately nine feet from the trail, with his pants around his ankles, masturbating. Appellant was not in "heavy shrubbery," but there were "a few branches" around him. **See** N.T. Jury Trial, 8/25/25, at 63. Appellant's face, penis, and hand motions were all visible to Ms. Simons. She alerted her friend, and upon Ms. Daniel-Wright

observing Appellant, the two women fled towards their cars. Ms. Simons called the police, who arrived approximately twelve minutes thereafter.

Sergeant Thomas Pinkasavage of the Cumru Township Police Department responded to the call, which had been dispatched as a report of a “creepy male making [Ms. Simons and Ms. Daniel-Wright] feel uncomfortable.” ***Id.*** at 92-93. Armed with the victims’ description of a “scruffy, dirty looking male wearing a baggie gray t[ee] shirt, black pants and sneakers and carrying a white plastic grocery bag,” ***id.*** at 93, Sergeant Pinkasavage located Appellant walking along Route 422, which ran adjacent to the Schuylkill Valley River Trail. He activated his lights, crossed two lanes of traffic, stopped Appellant, and advised him that pedestrians were prohibited on the highway. The sergeant then provided Appellant a ride to the bus station.

Meanwhile, Officer Matthew Melcher of the Cumru Township Police Department responded to the scene, where he found the two victims frantically waving and visibly distraught. He took a “rapid” statement in which they reported that a man had followed them on the trail, pulled down his pants, and masturbated in front of them. ***Id.*** at 107. They showed the officer the picture Ms. Simons had taken of Appellant, depicting his stained gray tee shirt, black pants, ripped black shoes, and white plastic bag. The women were still approximately one mile from their vehicles and did not feel safe completing their walk. Officer Melcher escorted them back and began

searching for the suspect. After Sergeant Pinkasavage reported that he located an individual matching the victims' description, Officer Melcher arrived at the bus station to find Appellant standing outside of the sergeant's police vehicle.

Officer Melcher began asking Appellant some preliminary questions and recognized his clothing and white plastic bag from Ms. Simons's photograph. Appellant was cooperative and friendly. When the officer's inquiries turned to the incident involving the two women, however, Appellant denied any involvement and refused to answer further. Sergeant Pinkasavage had also photographed Appellant, which proved to be a precise match in clothing and bag, to the image Ms. Simons had taken earlier that day. Officer Melcher informed Appellant that he was the lead suspect in an active investigation and that he would be charged with indecent exposure. As Appellant walked away, he remarked that he would "just beat it." ***Id.*** at 112.

Based on the aforementioned, Appellant was arrested and charged with indecent exposure, disorderly conduct, and harassment. The first two offenses were tried by jury, while the trial court considered the harassment charge simultaneously. At trial, Ms. Simons, Sergeant Pinkasavage, and Officer Melcher established the above facts.¹ Appellant testified in his defense. He explained that he did not have a car, and on the day in question he had

¹ Ms. Daniel-Wright could not be located.

felt ill at work and decided to walk to the Reading bus terminal using the trail running along Route 422 rather than the highway. He acknowledged approaching Ms. Simons and Ms. Daniel-Wright, but claimed the conversation lasted no more than two minutes and that the women “denied [him] any type of help.” **Id.** at 137. He rejected any awareness of a public masturbation incident, denied that he watched the women walk away, and offered that Sergeant Pinkasavage found him on the highway because the walking trail had gradually diverged from the roadway, leaving him no choice but to return to Route 422, with which he was familiar, to get to the bus station. **Id.** at 138.

At the conclusion, the jury found Appellant guilty of indecent exposure and disorderly conduct, and the court convicted him of harassment. The matter proceeded immediately to sentencing, where the court imposed three to twenty-three months of incarceration for indecent exposure, followed by one year of probation for disorderly conduct, and a fine of \$200 for harassment.

Appellant filed a timely post-sentence motion, which the court denied, leading to this timely appeal. The requirements of Pa.R.A.P. 1925 have been met. Appellant raises the two issues for our consideration:

1. Whether the evidence presented by the Commonwealth was sufficient to establish beyond a reasonable doubt that [Appellant] committed the offenses of disorderly conduct and harassment.
2. Whether the verdicts of guilty of indecent exposure, disorderly conduct, and harassment are contrary to the weight of the evidence presented at trial?

Appellant's brief at 6 (cleaned up).

We begin with Appellant's contest to the sufficiency of the evidence, which we analyze with the following legal precepts in mind:

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.

In applying the above test, we may not reweigh the evidence and substitute our judgment for the fact-finder.

Commonwealth v. Holmes, 327 A.3d 307, 311-12 (Pa.Super. 2024) (cleaned up).

For ease of disposition, we first address the sufficiency of the evidence for Appellant's harassment conviction. "A person commits the crime of harassment when, with intent to harass, annoy[,], or alarm another, the person: . . . (3) engages in a course of conduct or repeatedly commits acts which serve no legitimate purpose[.]" 18 Pa.C.S. § 2709(a)(3). A "course of conduct" may be a "pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct."

Commonwealth v. Coniker, 290 A.3d 725, 734 (Pa.Super. 2023) (cleaned up). A defendant's "intent to harass may be inferred from the totality of the

circumstances.” ***Commonwealth v. Spone***, 305 A.3d 602, 607 (Pa.Super. 2023) (citation omitted).

Appellant argues that the evidence merely proved that he “engaged in conversation” with the women, “which, while uncomfortable for [Ms.] Simons, served a legitimate purpose” and failed to establish harassment. **See** Appellant’s brief at 20. He explains that he was obtaining information as to his whereabouts and there was no evidence presented that he “intended to harass, annoy, or alarm the women with this conversation.” ***Id.***

We conclude that the Commonwealth’s evidence sufficiently supports Appellant’s conviction for harassment. Appellant repeatedly engaged Ms. Simons and her friend in unwanted conversation. Ms. Simons testified that she attempted to end the interaction with Appellant several times, including telling him to have a nice day, but Appellant persisted. **See** N.T. Jury Trial, 8/25/25, at 60. Appellant acknowledged that the women had no interest in helping him when he asked for directions, and nevertheless testified that he was familiar with Route 422, which ran adjacent to the walking path. The fact finder could therefore conclude that his further probing of the women for eight minutes did not serve a legitimate purpose. Ms. Simons was also so uncomfortable and scared during this interaction that she inconspicuously captured a photo of Appellant, which she later showed to the police. Appellant further watched the women until they walked out of his sight, even after Ms. Simons continuously looked back at him. Considering the totality of the

circumstances and viewed in the light most favorable to the Commonwealth, the evidence established that Appellant engaged in a course of conduct with the intent to annoy, harass, or alarm the women, which served no legitimate purpose. **See** 18 Pa.C.S. § 2709(a)(3).

We now address the disorderly conduct offense, of which a person is guilty “if, with intent to cause public inconvenience, annoyance[,] or alarm, or recklessly creating a risk thereof, he: . . . creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.” 18 Pa.C.S. § 5503(a)(4). This Court has explained that “a defendant can create a physically offensive condition if [he] invades the physical privacy of another in an extreme manner or if [he] sets off a stink bomb, strews rotting garbage in public places, or shines blinding lights in the eyes of others.” ***Commonwealth v. McConnell***, 244 A.3d 44, 49 (Pa.Super. 2020) (cleaned up).

As to the grading of disorderly conduct:

An offense under this section is a misdemeanor of the third degree if the intent of the actor is to cause substantial harm or serious inconvenience, or if he persists in disorderly conduct after reasonable warning or request to desist. Otherwise disorderly conduct is a summary offense.

18 Pa.C.S. § 5503.

Appellant claims that the evidence failed to establish the elements of disorderly conduct in that he did not create a hazardous or physically offensive condition. **See** Appellant’s brief at 15. Relying upon ***Commonwealth v.***

Williams, 574 A.2d 1161 (Pa.Super. 1990), he maintains that his conduct was morally offensive, but fell short of the definition of a physically offensive condition. **Id.** at 17-18. In **Williams**, shortly after midnight, the defendant had been observed by a tenant in an apartment parking lot pacing around dressed only in his underwear and tee shirt, and entering her friend's vehicle to sit. We explained that a physically offensive condition "encompasses direct assaults on the physical senses of members of the public," but "[u]nder extreme circumstances, . . . may also result if a defendant invades the physical privacy of another person." **Williams**, 574 A.2d at 1164. We concluded that Williams's behavior did not constitute a physically offensive condition thusly:

[A]ppellant did not directly assault the senses of the residents of the apartment house. Appellant did not invade the residents' physical privacy. All appellant did was enter a car belonging to someone else while dressed in his underwear. Although appellant was inadvertently observed by one of the tenants, we cannot say that she was physically offended by his conduct. For some, the idea of wearing underwear in public may be morally offensive. Yet, the sight of a person in underwear is no more physically offensive than the sight of a person dressed in other eccentric costumes that from time to time come into fashion. In order to affirm appellant's conviction for disorderly conduct, we would have to stretch the words of the statute beyond all reasonable bounds.

Id. at 1165 (cleaned up). Here, Appellant claims that **Williams** is apt because "while the sight of [Appellant] masturbating may have been morally offensive and disturbing to [Ms.] Simons, it does not constitute the type of behavior that would be a physically offensive condition." Appellant's brief at 18.

Appellant's reliance on **Williams** is unpersuasive because his actions greatly surpassed those of the defendant in that case. In **Williams**, this Court

could not conclude that the tenant who observed Williams was physically offended by his conduct where he was dressed in underwear and an undershirt, simply paced around the parking lot, and sat in a vehicle shortly after midnight. Appellant, on the other hand, was naked from the waist down, masturbated in daylight hours in view of a public walking path, and was witnessed by the same two women who he had previously engaged in a lengthy, unwanted conversation.

Viewing the evidence in the light most favorable to the Commonwealth, Appellant's actions constituted at least a reckless disregard of causing "public inconvenience, annoyance or alarm" by creating a physically offensive condition through his public masturbation. Appellant did not merely create a scene that was "no more physically offensive than the sight of a person dressed in other eccentric costumes that from time to time come into fashion." **Williams**, 574 A.2d at 1165. Instead, Appellant was masturbating, naked from the waist down, in plain sight of those walking, including Ms. Simons, who could clearly observe his face, penis, and hand motion. The Commonwealth therefore presented sufficient evidence to sustain his conviction for disorderly conduct.

Finally, Appellant challenges the weight of the evidence as to all three of his convictions. We review this issue with the following in mind:

A trial court's denial of a post-sentence motion based on a weight of the evidence claim is the least assailable of its rulings. In connection with a weight-of-the-evidence issue, we engage in exceedingly narrow review. . . . Our standard of review for a

weight-of-the-evidence claim is an abuse of discretion. As we have often reminded appellants, [a]n appellate court's standard of review when presented with a weight of the evidence claim is distinct from the standard of review applied by the trial court. Appellate review of a weight claim is a review of the exercise of discretion, not of the underlying question of whether the verdict is against the weight of the evidence.

An abuse of discretion is not merely an error of judgment, but is rather the overriding or misapplication of the law, or the exercise of judgment that is manifestly unreasonable, or the result of bias, prejudice, ill-will or partiality, as shown by the evidence of record. To mount an abuse-of-discretion attack against the trial court's determination that its guilty verdicts were not so against the weight of the evidence as to shock that court's own conscience, an appellant must demonstrate how the trial court's ruling overrode the law, was manifestly unreasonable, or the product of bias, prejudice, ill-will or partiality.

Commonwealth v. Douglas, 346 A.3d 825, 831 (Pa.Super. 2025) (cleaned up).

Appellant contends that "the trial court should have determined that [Appellant's] testimony was so clearly of greater weight than [Ms.] Simons'[s] testimony due to [Ms.] Simons'[s] extreme inconsistencies." Appellant's brief at 22 (cleaned up). He points out that her initial statement to Officer Melcher that Appellant "followed [Ms.] Simons and her friend on the trail, pulled out his penis, and masturbated in front of them directly on the trail," was inconsistent with her testimony at trial. ***Id.*** Contrastingly, he states that his position has remained consistent in denying any wrongdoing. ***Id.***

The trial court, after reviewing the facts established at trial, explained as follows:

[T]he verdicts of guilty on the charges of indecent exposure, disorderly conduct, and harassment were well-reasoned and do not shock one's sense of justice. Furthermore, this court's denial of Appellant's post-sentence motion was not manifestly unreasonable, was not the result of misapplication of the law, and was not the result of partiality, prejudice, bias, or ill will.

Trial Court Opinion, 1/21/26, at 37-38.

The court's rationale fails to reflect an abuse of discretion. Appellant points to no indication that the court misapplied the law or based its decision on improper grounds. **See Douglas**, 346 A.3d at 831. Rather, he wishes for this Court to re-weigh the evidence and credit his testimony over that of the Commonwealth's witnesses, which we may not do. **Id.**

In the alternative, Appellant states that the evidence was insufficient to grade the disorderly conduct offense as a misdemeanor of the third degree where there was no proof that he had "the intent to cause substantial harm or serious inconvenience or that he persisted in any behavior after warning or request to cease." Appellant's brief at 18. Since Appellant was hunched over in a bush off of the trail, he maintains it was clear that he "did not intend to be found masturbating[.]" **Id.**²

We agree with Appellant that the disorderly conduct conviction must be graded as a summary offense. **See Commonwealth v. Hoffman**, 198 A.3d 1112, 1123 (Pa.Super. 2018) (establishing that this Court has a *de novo*

² The Commonwealth does not contest this aspect of Appellant's argument. **See generally**, Commonwealth's brief.

standard of review over “a claim that the court improperly graded an offense for sentencing purposes” (cleaned up)). While the evidence proved that Appellant recklessly created a risk of causing a public disturbance, the Commonwealth failed to produce evidence to establish that he intended to “cause substantial harm or serious inconvenience” or persisted “in disorderly conduct after reasonable warning or request to desist” to support the grading as a misdemeanor of the third degree. **See** 18 Pa.C.S. § 5503.

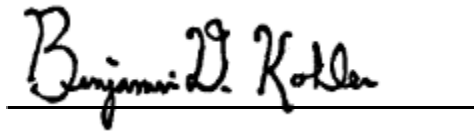
While reprehensible, Appellant’s public masturbation occurred nine feet away from the trail as he was hunched over in a bush, and there is no evidence that he continued his conduct after a request to desist. We accordingly vacate the judgment of sentence imposed for disorderly conduct graded as a third-degree misdemeanor, and remand for resentencing as a summary offense. **See Commonwealth v. H.C.**, 240 A.3d 128, 2020 WL 4559118, at *10 (Pa.Super. 2020) (non-precedential decision) (vacating H.C.’s judgment of sentence for indecent assault where the record failed to support the elements for a felony of the third degree, and remanding for resentencing with consideration of the sentencing guidelines for indecent assault as a misdemeanor of the first degree, which was supported by the record).

In sum, viewing “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,” Appellant has failed to establish that his convictions for disorderly conduct and harassment were unsupported by the evidence.

See Holmes, 327 A.3d at 312. He further fell short of his burden to prove that the trial court abused its discretion in denying his motion for a new trial based upon the weight of the evidence as to all three convictions. However, we agree with Appellant that the Commonwealth failed to present evidence to support the grading of the disorderly conduct offense as a misdemeanor of the third degree, and it therefore must be graded as a summary offense. Since the court imposed consecutive sentences, we remand for resentencing on all counts, as our disposition may upset the court's overall sentencing scheme. **See Commonwealth v. Hoffman**, 198 A.3d 1112, 1125 (Pa.Super. 2018) (vacating the judgments of sentence for certain crimes where the gradings were unsupported by the record, but remanding for resentencing on all crimes where the court had imposed consecutive sentences and the ruling may have altered the court's sentencing structure). We accordingly affirm the convictions, vacate Appellant's judgment of sentence, and remand for resentencing.

Convictions affirmed. Judgment of sentence vacated. Case remanded for resentencing. Jurisdiction relinquished.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 09/29/2026