

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
DONNIE KNIGHT	:	
	:	
Appellant	:	No. 1896 EDA 2025

Appeal from the Judgment of Sentence Entered July 10, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at
No(s): CP-51-CR-0003435-2023

BEFORE: PANELLA, P.J.E., LANE, J., and BENDER, P.J.E.

MEMORANDUM BY BENDER, P.J.E.:

FILED SEPTEMBER 3, 2026

Donnie Knight ("Appellant") appeals from the judgment of sentence imposed following his convictions for one count each of murder in the third degree, firearms not to be carried without a license, possessing a handgun in Philadelphia, and possessing an instrument of crime.¹ In this appeal, Appellant raises an evidentiary challenge to a document that was shown to a primary witness at his trial. After careful review, we affirm.

The trial court recited the facts of this case as follows:

The evidence adduced at trial, including direct and circumstantial evidence, viewed in the light most favorable to the Commonwealth as the verdict winner, established the following:

On November 23, 2022, the night before Thanksgiving, Appellant and several juvenile friends were hanging out at the corner of 13th and Allegheny in Philadelphia. At about 7:00 PM, Decedent, 53-year-old Frederick Hoskins, was walking to his nearby home, when

¹ 18 Pa.C.S. §§ 2502(c), 6106(a)(1), 6108, and 907(a), respectively.

he encountered Appellant and his friends, who had targeted Hoskins' car to steal. Hoskins had a gun, which he displayed, but did not point at Appellant and his friends and did not fire.

Words were exchanged and at some point Mr. Hoskins started to run away, followed by Appellant. Appellant fired ten shots at Hoskins, who reached his home a block away, before collapsing on the sidewalk. As he lay dying, Appellant took a .22 caliber gun and a debit card from Mr. Hoskins. The gun was never fired.

Based on information received, responding officers went to Appellant's nearby home, where they found a 9mm handgun with an extended magazine lying in the yard under Appellant's window. That gun matched the 10 fired casings found at the scene of the shooting. Hoskin's debit card was found in a drawer in Appellant's home. There was also gunshot residue found in a pocket of Appellant's clothes.

One of the Appellant's friends, J.S., testified to the targeting of Mr. Hoskins' car, Hoskins' approach with the gun at his side, his flight, and Appellant firing several shots at Hoskins, before the group scattered and ran away to Appellant's home.

Finally, the Commonwealth presented phone calls Appellant made from jail suggesting that if the friends who were at the scene did not testify, there was no evidence upon which he could be convicted.

Trial Court Opinion ("TCO"), 12/1/25, at 1-2.

Appellant's jury trial occurred between April 22–28, 2025. On April 28, the jury returned guilty verdicts on the counts noted above, while also finding Appellant not guilty of murder in the first degree. After considering a pre-sentence investigation report, the trial court sentenced Appellant to an aggregate term of 26 to 52 years of incarceration, followed by one year of probation, on July 10, 2025. Appellant did not file a post-sentence motion, but instead filed a timely notice of appeal of his judgment of sentence on July

21, 2025. Both Appellant and the trial court have complied with Pa.R.A.P. 1925.

Appellant raises one issue on appeal, namely:

1. Whether the court committed reversal [*sic*] error when it allowed the Commonwealth to show the witness and the jury exhibit C-84 to the witness J.S. [in] that the statement/document: was not signed by the witness; the original statement given by the witness was lost and the detective who prepared said document did not testify at trial and therefore this document could not be properly authenticated by this witness and this document was inadmissible hearsay; the witness stated that he did not use it to refresh his recollection; and the fact that witness did not need to be show [*sic*] this document since he was able to testify without referring to it.

Appellant's Brief at 4.

"Questions concerning the admissibility of evidence are within the sound discretion of the trial court and we will not reverse a trial court's decision concerning admissibility of evidence absent an abuse of the trial court's discretion." ***Commonwealth v. LeClair***, 236 A.3d 71, 78 (Pa. Super. 2020).

Appellant's sole issue on appeal concerns the testimony of the witness, J.S., who had been placed into custody in advance of this trial due to a material witness warrant. While J.S. did not indicate on direct examination that he did not recall what he told the police during their investigation of the murder, the Commonwealth nonetheless presented J.S. with a copy of an interview summary prepared by the interviewing officer. The Commonwealth presented this document to J.S. to anticipatorily rehabilitate J.S., as the Commonwealth presumed that Appellant would suggest that J.S. was testifying on behalf of

the Commonwealth due to his desire to be released from custody. During deliberations, the jury requested that J.S.'s trial testimony be repeated and also asked for a copy of this interview summary document.

Before addressing the merits of Appellant's claim, however, we first consider whether his issue has been waived. In a footnote to the trial court opinion in this case, the court noted that Appellant may have waived the issue by not objecting to admission of the document at trial and not including the issue in his Pa.R.A.P. 1925(b) Concise Statement. **See** TCO at 4 n.1. As to the latter rationale, we note that, although Appellant's 1925 Statement does not use the same wording as the trial court, it does allege that exhibit C-84 should not have been admitted for various reasons. Appellant's 1925(b) Statement of Matters Complained of on Appeal, 9/29/25 (single page). We conclude that the question presented on appeal is fairly subsumed within Appellant's statement. We will not find waiver on this basis.

As for whether Appellant preserved an objection at trial, during J.S.'s testimony, the Commonwealth asked the trial court for permission to show Exhibit C-84 to the witness, which was a summary of J.S.'s statement to police identifying Appellant as the shooter. Defense counsel objected. N.T., 4/22/25, at 53. The trial court then asked to see counsel at sidebar, and the parties had a discussion that was not transcribed. The trial court overruled defense counsel's objection, the Commonwealth was permitted to show the statement to J.S., and the witness stated that he recognized it as the statement he gave to police. **Id.** at 54-55. The witness testified that he did

not rely on the statement to refresh his recollection, as he had not seen it since his interview in 2022, but admitted that it accurately reflected what he had told to police. **Id.** at 55-56.² J.S. also testified that he had been placed in custody on a material witness warrant since the previous day, but would be permitted to go home after testifying at Appellant's trial. **Id.** at 58-60.

After J.S. testified and was excused from the courtroom, the court took a brief recess; upon reconvening, the trial court stated that the material witness warrant was dismissed. **Id.** at 68. The trial court then mentioned the sidebar discussion that had occurred, and the ruling it had made, and then the judge asked counsel: "Is there anything you'd like to put on the record, [defense counsel]?" **Id.** at 69. Counsel declined this invitation. **Id.**

The trial court states that, by declining the invitation to put any objection on the record, defense counsel waived any objection to the admission of exhibit C-84 into evidence. **See** TCO at 4 n.1; **see also** N.T., 4/24/25 at 88 (noting that C-84 had been admitted into the record). Rule 103 of our Rules of Evidence provides that, to preserve a challenge to a particular piece of evidence for an appeal, a defendant must make a timely objection and state the specific ground for the objection on the record, unless it was already apparent. Pa.R.E. 103(a)(1). Further, it is well-settled that "issues

² In addition, J.S. testified that, prior to trial, he had been accosted by several men wearing ski masks who tried to kill him, stating that it was because he was testifying against Appellant in this case. **Id.** at 57. These men tried to shoot J.S., but the gun would not fire. **Id.**

not raised in the trial court are waived and cannot be raised for the first time on appeal.” Pa.R.A.P. 302(a).

We agree with the trial court that the grounds advanced by Appellant on appeal to preclude this evidence are not ascertainable from the record due to Appellant’s failure to make a specific, transcribed, objection to the statement being admitted into evidence. Accordingly, the objection was not preserved. ***Id.*** ***See also Commonwealth v. Adorno***, No. 2566 EDA 2022, 2024 WL 3292613, *9 (Pa. Super. filed July 3, 2024) (unpublished memorandum) (holding that an objection made at sidebar, which was not transcribed, does not preserve an issue for appellate review).^{3, 4}

Appellant also argues that the court erred by permitting the statement to go out with the jury when, during deliberations, the jury requested to

³ We may rely upon unpublished memoranda from the Superior Court filed after May 1, 2019, for their persuasive value. Pa.R.A.P. 126(b).

⁴ Even if preserved, we discern no abuse of discretion. Pursuant to ***Commonwealth v. Bond***, 190 A.3d 664, 667–68 (Pa. Super. 2018), prior consistent statements are admissible to rehabilitate a witness impeached for faulty memory, bias, or fabrication, and a trial court may admit such statements in anticipation of impeachment where it is clear the defense will attack the witness’s credibility. ***Commonwealth v. Cook***, 952 A.2d 594, 625 (Pa. 2008). Here, in Appellant’s opening statement to the jury, counsel referred to J.S. as the Commonwealth’s “so-called eyewitness” and emphasized that the defense centered on witness reliability and credibility. N.T. at 41-43. Counsel ultimately implied that J.S. testified falsely to secure his release from a material-witness warrant. ***Id.*** at 58-60. Exhibit C-84 directly rebutted counsel’s position; it showed J.S. gave a consistent account to police before the material-witness warrant was issued, and therefore, before any alleged motive to fabricate arose. It was within the trial court’s discretion to admit the statement under Rule 613(c)(1). ***See Bond, supra; Cook, supra.***

review both C-84 and J.S.'s trial testimony. The trial court instructed the jury that they had to rely upon their recollection as to what the trial testimony was. N.T., 4/25/25 at 76-86 (discussions regarding the jury questions and redaction). As for the statement, the trial court went through the document with counsel, ensuring that it only referenced the information also testified to by J.S. in the courtroom. **Id.** The court overruled Appellant's objection to the statement being furnished to the jurors. **Id.**

"[W]hether an exhibit should be allowed to go out with the jury during deliberations is within the discretion of the trial judge, and such decision will not be overturned absent an abuse of discretion." **Commonwealth v. Manley**, 985 A.2d 256, 273 (Pa. Super. 2009) (citations omitted); **see also Commonwealth v. Barnett**, 50 A.3d 176, 194 (Pa. Super. 2012) ("Our courts have rarely found that materials given to juries during deliberations constitute reversible error.").

Rule 646 provides that, upon retiring, the jury may take with it such exhibits as the trial court deems proper, except for the materials specifically prohibited by paragraph (C). Pa.R.Crim.P. 646(A), (C); **Barnett, supra**; **Commonwealth v. Brown**, 769 WDA 2024, 2025 WL 1683680 (Pa. Super. filed June 16, 2025). Prohibited materials include trial transcripts, copies of a defendant's confession, and a copy of the information or indictment. Pa.R.Crim.P. 646(C). Importantly, however, a witness statement admitted solely for a limited, non-substantive purpose may not be provided to the jury during deliberations. **Brown, supra**, at *7; **see also Commonwealth v.**

Russell, 322 A.2d 127, 131 (Pa. 1974) (finding error when a written exhibit, which had been entered into evidence for impeachment purposes only, was permitted to go out with the jury). Moreover, although **Brown** concerned a prior *inconsistent* statement admitted only for impeachment, the same concern applies here. C-84 was admissible under Rule 613(c) solely to rehabilitate J.S.'s credibility and not as substantive evidence. Accordingly, the court erred in permitting the jury to possess the statement during deliberations. **Russell, supra.**

Nonetheless, Appellant will not be entitled to relief if the court's error is deemed harmless. An error will be deemed harmless where the appellate court concludes beyond a reasonable doubt that the error could not have contributed to the verdict. **Commonwealth v. Story**, 383 A.2d 155, 164 (Pa. 1978). An error may be deemed harmless when the uncontradicted evidence of guilt is overwhelming, so that by comparison the error is insignificant. **Commonwealth v. Mitchell**, 839 A.2d 202, 214-15 (Pa. 2003). Further, we appreciate that the harmless error doctrine

recognizes the principle that the central purpose of a criminal trial is to decide the factual question of the defendant's guilt or innocence and promotes public respect for the criminal process by focusing on the underlying fairness of the trial rather than on the virtually inevitable presence of immaterial error.

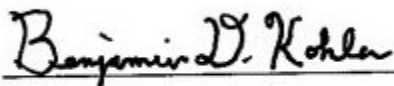
Commonwealth v. Hamlett, 234 A.3d 486, 491 (Pa. 2020) (quoting **Delaware v. Van Arsdall**, 475 U.S. 673, 681 (1986)).

Here, we conclude that the court's error in this regard was harmless beyond a reasonable doubt. J.S.'s statement was not the only evidence

provided during trial. The Commonwealth also established that the 9mm firearm recovered from directly beneath Appellant's bedroom window had fired the ten cartridge casings recovered from the scene. Further, the victim's debit card was found in a drawer at Appellant's residence, and the clothing Appellant wore on that day was found to possess gunshot residue. Finally, the parties stipulated that, just prior to his trial, Appellant was on a three-way recorded phone call from the jail to his mother and another of the juveniles who had been present on the night of the homicide, suggesting that he will not be convicted if no witnesses testify, indicating his consciousness of guilt. N.T. 4/24/25 at 75-77. Thus, we find the properly admitted evidence of Appellant's guilt to be overwhelming, and the impact of the jury's possession of the statement relatively insignificant in comparison.

Finding no merit to Appellant's sole claim on appeal, we affirm the judgment of sentence.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/3/2026