

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
WILLIAM JA YARBROUGH, JR.	:	
	:	
Appellant	:	No. 716 WDA 2025

Appeal from the Judgment of Sentence Entered January 31, 2025
In the Court of Common Pleas of Washington County Criminal Division at
No(s): CP-63-CR-0000369-2024

BEFORE: STABILE, J., DUBOW, J., and STEVENS, P.J.E.*

MEMORANDUM BY STEVENS, P.J.E.:

FILED: AUGUST 28, 2026

William Ja Yarbrough, Jr. appeals from the January 31, 2025 aggregate judgment of sentence of 3 to 6 years' imprisonment imposed after a jury found him guilty aggravated assault, simple assault, and harassment.¹ After careful review, we affirm.

The relevant facts of this case, as gleaned from the certified record, are as follows: On the early afternoon of January 26, 2024, Pennsylvania State Trooper Samuel Apke was dispatched to the parking lot of a Burger King in North Franklin Township in Washington County, Pennsylvania to investigate a report of female victim, Danielle Metts ("Victim"), being run over by a vehicle

* Former Justice specially assigned to the Superior Court.

¹ 18 Pa.C.S.A. §§ 2702(a)(4), 2701(a)(1), and 2709(a)(1), respectively.

driven by her boyfriend, Appellant, following an argument. Notes of testimony, 8/20/24 at 131-135.

The trial court summarized the procedural history of this case as follows:

On January 26, 2024, [Trooper Apke] filed a criminal complaint against [Appellant] charging him with the following offenses: [aggravated assault, simple assault, and harassment]. A preliminary hearing was held on February 6, 2024 and all charges were held for court. On March 27, 2024 the Criminal Information in the above-captioned matter was filed containing each of the above-listed charges.

[Appellant's] formal arraignment was held on March 28, 2024, after which, on May 1, 2024, [Appellant] made a request for a jury trial before the Honorable Judge Brandon P. Neuman. On June 18, 2024, the Commonwealth filed a Motion in Limine and Notice to Introduce Prior Bad Acts. Citing a prior history of assaults committed by [Appellant] against the Victim in the present matter, the Commonwealth sought to introduce evidence of the parties' prior domestic violence incidents pursuant to Pa R.E. 404(b)(2). The Commonwealth argued that such evidence demonstrated the nature of their acrimonious relationship, the chain of events leading to the present incident, and lack of accident or mistake. More specifically, the Commonwealth requested to present evidence that at former case, identified at docket number 775-2022, [Appellant] smacked the [Victim's] face, back-handed her, pulled her hair, and broke a wooden scratcher off of her head. On March 27, 2023, [Appellant] pleaded guilty at Case 775 of 2022 to misdemeanor [two] simple assault. In addition to other penalties, [Appellant] was ordered to have no contact with [Victim].

The Commonwealth identified a second former case docketed as 773-2022. At this case, the same victim reported to the police that on April 6, 2022, [Appellant] punched her in the face and kicked her in the stomach. [Appellant] pleaded guilty to

misdemeanor two simple assault, was sentenced and ordered to have no contact with [Victim].

The Commonwealth requested to have [Appellant's] prior assaults of the victim admitted for the limited purposes of providing evidence of [Appellant's] intent, motive, malice, and absence of mistake in addition to showing the "continual and escalating nature of [Appellant's] abuse of the victim."

On July 1, 2024, the Commonwealth's Motion in Limine was granted permitting the prior behavior of [Appellant], as described in the motion, to be introduced at trial. Thereafter, at the request of [Appellant], trial was rescheduled for the August 2024 trial term.

Trial court opinion, 8/1/25 at 1-3 (citations, footnotes, and extraneous capitalization omitted).

On August 20, 2024, Appellant proceeded to a jury trial before the Honorable Traci L. McDonald and was subsequently found guilty of aggravated assault, simple assault, and harassment. Following the completion of a presentence investigation report, the trial court sentenced Appellant to an aggregate term of 3 to 6 years' imprisonment on January 31, 2025. On February 10, 2025, Appellant filed a timely post-sentence motion arguing that his guilty verdict was not supported by sufficient evidence and the sentence imposed was unduly excessive. **See** "Post-Sentence Motion and Request for Extension," 2/10/25 at ¶¶ 3-4. Thereafter, on March 4, 2025, the trial court granted Appellant an additional 45 days to supplement his post-sentence motion. No supplemental post-sentence motions were ever filed. The trial

court ultimately denied Appellant's post-sentence motion on May 13, 2025. This timely appeal followed on June 11, 2025.²

Appellant raises the following issue for our review:

1. Appellant wishes to challenge the decision to admit Appellant's prior bad acts and whether the jury instruction regarding that evidence was sufficient[?]

Appellant's brief at 5.³

Appellant first argues that the trial court abused its discretion admitting prior bad act evidence, specifically his prior two simple assault convictions against the Victim. **Id.** at 12-13.

"[T]he admission of evidence is within the sound discretion of the trial court and will be reversed only upon a showing that the trial court clearly abused its discretion." **Commonwealth v. Fransen**, 42 A.3d 1100, 1106 (Pa.Super. 2012) (citation omitted), **appeal denied**, 76 A.3d 538 (Pa. 2013). It is well settled that "evidence of prior crimes is not admissible for the sole purpose of demonstrating a criminal defendant's propensity to commit crimes." **Commonwealth v. Melendez-Rodriguez**, 856 A.2d 1278, 1283 (Pa.Super. 2004) (**en banc**); **see also** Pa.R.E. 404(b)(1). Nevertheless, "[e]vidence may be admissible in certain circumstances where it is relevant

² Appellant and the trial court have complied with Pa.R.A.P. 1925.

³ Appellant indicated in his brief that he is withdrawing his challenge to the sufficiency of the evidence. Appellant's brief at 5.

for some other legitimate purpose and not utilized solely to blacken the defendant's character." **Id.** Specifically, evidence of other crimes or bad acts is admissible evidence of other crimes may be introduced to show:

motive; intent; absence of mistake or accident; a common scheme or plan; and identity. The evidence may also be admissible to impeach the credibility of a testifying defendant; to show that the defendant has used the prior bad acts to threaten the victim; and in situations where the bad acts were part of a chain or sequence of events that formed the history of the case and were part of its natural development.

Commonwealth v. Reid, 811 A.2d 530, 550 (Pa. 2002) (citations and numeration omitted), **cert. denied**, 540 U.S. 850 (2003); **see also** Pa.R.E. 404(b)(2). When offered for a legitimate purpose, evidence of prior crimes or bad acts is admissible "if the probative value of the evidence outweighs its potential for unfair prejudice." **Commonwealth v. Hairston**, 84 A.3d 657, 665 (Pa. 2014) (citation omitted), **cert. denied**, 574 U.S. 863 (2014).

Prior to our consideration of the merits of Appellant's claim, we must determine whether he has properly preserved it for appellate review. This Court has long recognized that the "failure to raise a contemporaneous objection to evidence at trial waives that claim on appeal." **Commonwealth v. Ramos**, 231 A.3d 955, 957 (Pa.Super. 2020) (citations omitted); **see also** Pa.R.E. 103(a)(1)(A) (providing a party may only claim error regarding admission of evidence if he makes timely objection on the record).

Here, our review of the record indicates that although the Victim testified at length with regard to Appellant's two prior simple assaults of her

person, Appellant did not object to the admission of this testimony as improper Rule 404(b) evidence. **See** notes of testimony, 8/20/24 at 34-38. Appellant has also failed to cite in his brief to the place in the record where he lodged any objection to this evidence, in violation of Pa.R.A.P. 2119(c) (requiring citation “to the place in the record where the matter referred to appears”). Nor did Appellant raise this issue in his post-sentence motion. Accordingly, Appellant has waived this claim on appeal. **See** Pa.R.A.P. 302(a) (“[i]ssues not raised in the lower court are waived and cannot be raised for the first time on appeal.”).

Appellant also argues that the trial court erred in its cautionary instruction to the jury on prior bad acts evidence. Appellant’s brief at 14-16.

“[A] trial court has broad discretion in phrasing its instructions, and may choose its own wording so long as the law is clearly, adequately, and accurately presented to the jury for its consideration.” **Commonwealth v. Charleston**, 94 A.3d 1012, 1021 (Pa.Super. 2014), **appeal denied**, 104 A.3d 523 (Pa. 2014) (citation omitted). “A jury charge will be deemed erroneous only if the charge as a whole is inadequate, not clear or has a tendency to mislead or confuse, rather than clarify, a material issue.” **Commonwealth v. Sandusky**, 77 A.3d 663, 667 (Pa.Super. 2013).

Instantly, our review of the record reveals that Appellant has waived any challenge to trial court’s cautionary instruction on prior bad acts evidence by failing to object to these instructions during trial. **See** Notes of testimony,

8/20/24 at 226-227. This Court has long recognized that the failure to object to the jury instructions before the jury retires for deliberation renders the issue waived for appellate review. **See Commonwealth v. Gooding**, 818 A.2d 546, 552 (Pa.Super. 2003) (failure to make a timely, specific objection to jury instruction waives challenge to content of the instruction on appeal), **appeal denied**, 835 A.2d 709 (Pa. 2003); **see also** Pa.R.Crim.P. 647(C) (“No portions of the charge nor omissions from the charge may be assigned as error, unless specific objections are made thereto before the jury retires to deliberate.”); Pa.R.A.P. 302(b) (providing that, to preserve an exception to the jury charge for appeal, “[s]pecific exception shall be taken to the language or omission complained of”).

Notably, an “[a]ppellant may not challenge the adequacy of the trial court’s cautionary instruction where,” as here, “defense counsel agreed to it and never objected.” **Commonwealth v. Gilliam**, 249 A.3d 257, 275 (Pa.Super. 2021), **appeal denied**, 267 A.3d 1213 (Pa. 2021); **see also** notes of testimony, 8/20/24 at 242. Because Appellant failed to object to the trial court’s jury instruction, he has waived this claim.

Alternatively, even if Appellant had not waived his claims, we agree with the trial court that his contentions are entirely devoid of merit. **See** trial court opinion, 8/1/25 at 8-12. Accordingly, we would adopt the trial court’s analysis as our own had Appellant properly preserved his issues.

Judgment of sentence affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 8/28/2026