NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
JOHN HEINRICH GEORGE II	:	
Appellant	:	No. 1796 MDA 2025

Appeal from the Judgment of Sentence Entered November 10, 2025
In the Court of Common Pleas of Cumberland County Criminal Division at No(s): CP-21-CR-0002954-2023

BEFORE: PANELLA, P.J.E., NICHOLS, J., and NEUMAN, J.

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

Appellant John Heinrich George, II, appeals from the judgment of sentence imposed after a jury convicted him of involuntary deviate sexual intercourse (IDSI) with a victim less than 16 years of age, unlawful contact with a minor, aggravated indecent assault of a victim less than 16 years of age, aggravated indecent assault (lack of consent), sexual assault, corruption of minors, endangering the welfare of a child, indecent assault (lack of consent), and indecent assault of a victim less than 16 years of age.[1] On appeal, Appellant challenges the weight of the evidence. After careful review, we affirm.

The trial court provided a thorough review of the facts in this matter:

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[1] 18 Pa.C.S. §§ 3123(a)(7); 6318; 3125(a)(8); 3125(a)(1); 3124.1; 6301(a)(1)(ii); 4304(a)(1); 3126(a)(1); and 3126 (a)(8), respectively.

The victim [("Victim")] testified that [Appellant], her stepfather with whom she lived along with her mother and siblings, took her to the gym every Sunday morning. One Sunday morning in March of 2023, when the [Victim] was 15, and shortly after the [Victim]'s mother [, (Appellant's ex-wife),] gave birth to a child, [Appellant] came into the [Victim]'s bedroom to wake her up to go to the gym, as was typical. On this particular morning, however, [Appellant] got in bed with the [Victim] while she was sleeping and "spooned" her, rubbed her arm, then her chest and vagina. [Appellant] then performed oral sex on the [Victim] and attempted sexual intercourse but it "just wouldn't work and it hurt, so he stopped." The [Victim] said she was scared but "went along with it" because she recalled times when [Appellant] hurt her mother in the past.

On every subsequent Sunday morning until the [Victim] reported the incidents to her mother in May of 2023, [Appellant] came into [Victim]'s room and performed oral sex on the [Victim], and during one incident, [Appellant] made the [Victim] perform oral sex on him. On that occasion, [Appellant] ejaculated onto the [Victim]'s hands and they both cleaned themselves up with a tie-dye beach towel. The [Victim] said she used the same towel to clean herself after other incidents, though [Appellant] used it only after the single time he ejaculated. The [Victim] kept the towel hidden in her room, which she said was typically messy and contained various piles of dirty and clean laundry. The [Victim] said that [Appellant] told her that she can't ever tell anyone what he was doing or they would both "get in a lot of trouble" and she said that [Appellant] would withhold nicotine and marijuana (which he was supplying to and using with her) and otherwise act spitefully toward when she said she didn't want to continue with the sexual encounters.

In May of 2023, the [Victim] told her mother about the foregoing incidents and they reported the matter to police. Though the towel was already in the [Victim]'s bedroom from when she and [Appellant] used it, and the towel never left her room since before the assaults began, the [Victim] laid the towel out at the foot of her bed in her room so police could find it while she was at the police station. A cutting from the tie-dye towel was subsequently tested for sperm by the Pennsylvania State Police's [(PSP)] laboratories and the Commonwealth's expert in serology and DNA analysis testified that the DNA profile from [Appellant]'s DNA sample matched the sperm on the towel. The towel was not tested for saliva or vaginal fluid, and a second DNA contributor was identified but the lab had only [Appellant]'s DNA for comparison

> and therefore the second contributor was unknown. [Appellant] presented an expert in forensic serology and DNA analysis who testified that the other DNA contributor was female, and the PSP lab should have tested more than a single stain on the towel and for more than just sperm, like saliva and vaginal fluid.
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> [Appellant] denied the [Victim]'s accusations in his testimony. He said that it was the [Victim]'s mother's (his ex-wife's) idea to give the [Victim] marijuana at home for her anxiety, though he did supply it, and that he took the [Victim] to the gym to help give her structure while she was struggling academically and socially at school. [Appellant] said, however, that the [Victim]'s mother became jealous of [Appellant] spending so much time with the [Victim] at the gym and asked [Appellant] to spend more time with her, and that the [Victim] had twice previously walked in on [Appellant] when he was naked, which made him uncomfortable and which he reported to others like his wife. [Appellant] said that on the morning that the [Victim] reported the accusations to her mother (which he learned retrospectively), the [Victim]'s mother acted lovingly with [Appellant], thanking him for bringing her toast and telling him she loved him, presumably after the [Victim] report the incidents to her mother. [Appellant] said that he had sex with his wife almost every day and had used the tie-dye towel to clean himself up after and the last place he saw the towel was in his bedroom he shared with his wife. He suggested to detectives, when questioned[,] that his dog may have moved the towel from one room in the house to another.
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> On July 30, 2025, [Appellant] was convicted by jury of all counts charged in the Information: [IDSI] (victim less than 16), unlawful contact with a minor, aggravated indecent assault (victim less than 16), aggravated indecent assault (lack of consent), sexual assault, corruption of minors, endangering the welfare of a child, indecent assault (lack of consent), and indecent assault (victim less than 16). On November 10, 2025, [the trial court sentenced Appellant] to an aggregate term of 120 to 240 months in a state correctional facility.

Trial Ct. Op., 3/4/26, at 1-5 (citations omitted and some formatting altered).

Appellant filed a timely post-sentence motion challenging the weight of the evidence presented at trial which the trial court denied on December 5, 2025. Appellant filed a timely notice of appeal and both Appellant and the trial court complied with Pa.R.A.P. 1925.

On appeal, Appellant presents the following issue:

> Whether the [trial court] erred and/or abused its discretion in denying [Appellant]'s post sentence motion, specifically, in finding that the weight of the evidence presented at trial was sufficient to convict [Appellant] of the crimes charged in this matter?

Appellant's Brief at 4 (some formatting altered).

Appellant argues that the weight of the evidence presented at the trial was insufficient to sustain his convictions. ***Id.*** at 14. Appellant contends that the Victim's testimony was not supported by the physical evidence presented during the trial. ***Id.*** Specifically, Appellant highlights that the evidence shows that the DNA found on the towel was his but that "the other contributor of DNA found on the towel was unknown." ***Id.*** Appellant argues that the towel was a shared family beach towel and was not exclusive to the Victim. ***Id.*** at 17-18. Appellant also contends that he and the Victim's mother, now Appellant's ex-wife, had an active sex life and used towels including the towel in question. ***Id.*** at 18. Appellant argues that the "testimony of both [Appellant] and his ex-wife, make it completely reasonable and possibly that the unknown female DNA sample on the towel was actually" that of his ex-wife. ***Id.*** Appellant also highlights that the Victim testified that the towel was moved around multiple times and that she moved the towel "to where law

enforcement could locate it, and also acknowledged her mother hid the marijuana in the house from law enforcement." ***Id.*** at 18-19. Appellant also mentions that "[l]aw enforcement easily could have tested the DNA sample mixed with the [Appellant]'s by the unknown person and identified whether or not it matched the victim. But they did not." ***Id.*** at 19. Appellant concludes by stating "there is no way to tell how old the DNA samples were of each contributor." ***Id.***

In reviewing a challenge to the weight of the evidence, we are governed by the following standard of review:

> The weight of the evidence is exclusively for the finder of fact, who is free to believe all, none, or some of the evidence and to determine the credibility of the witnesses. Resolving contradictory testimony and questions of credibility are matters for the finder of fact. It is well-settled that we cannot substitute our judgment for that of the trier of fact.
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> Because the trial judge has had the opportunity to hear and see the evidence presented, an appellate court will give the gravest consideration to the findings and reasons advanced by the trial judge when reviewing a trial court's determination that the verdict is against the weight of the evidence. One of the least assailable reasons for granting or denying a new trial is the lower court's conviction that the verdict was or was not against the weight of the evidence and that a new trial should be granted in the interest of justice.
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> Furthermore, in order for a defendant to prevail on a challenge to the weight of the evidence, the evidence must be so tenuous, vague, and uncertain that the verdict shocks the conscience of the court.

Commonwealth v. Spence, 290 A.3d 301, 311 (Pa. Super. 2023) (citations omitted and formatting altered); ***see also Commonwealth v. Blackham***, 909 A.2d 315, 320 (Pa. Super. 2006) (stating that "[i]t is not for [the appellate court] to overturn the credibility determinations of the fact-finder" (citation omitted)). Furthermore, "[o]n appeal, our review is distinct from the standard of review applied by the trial court. We do not review the underlying weight of the evidence question. Instead, we examine the judge's exercise of discretion in ruling on that claim." ***Commonwealth v. Martin***, 323 A.3d 807, 823 (Pa. Super. 2024) (citations omitted and some formatting altered).

Here, the trial court explained:

> [Appellant] averred in his post-sentence motion that the verdicts were against the weight of the evidence because the "[Victim]'s testimony was not supported by the physical evidence presented at trial," specifically, "because of the lack of DNA evidence connecting him to the [Victim]." In support thereof, [Appellant] pointed to the fact that there was a second, unknown DNA contributor which his expert testified was female, that both [Appellant and] his [ex-]wife testified that they had an active sex life, and that [Appellant] testified that the last time he saw the towel was in his own bedroom, and implied that the [Victim] and/or her mother may have moved the towel in an effort to corroborate the [Victim]'s accusations.
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> Nothing about the towel, in our view, turned the tides of the evidence favorably for [Appellant], supported defense's theories for how [Appellant]'s sperm got on the towel, or cast doubt on the [Victim]'s testimony. The [Victim] credibly testified in detail about [Appellant]'s routine of assaulting her in her room on Sunday mornings, how they cleaned up, whether he ejaculated, what she was wearing, what [Appellant] said to her, and so on. The jury was free to credit any or all of this testimony and disbelieve any or all of [Appellant]'s testimony to the contrary, and the Commonwealth did not need to have any part (or all parts) of the towel forensically tested to hold the weight of the evidence in its

favor. That being said, it was uncontested at trial that [Appellant]'s sperm was located on the towel and that a second contributor was present but unknown, as was the type of that DNA (saliva, skin cells, etc.). . .

* * *

Though [Appellant] claimed in his post-sentence motion that the physical evidence was inconsistent with the [Victim]'s testimony, it simply was not. Evidence that [Appellant]'s sperm was on the towel and that a second DNA contributor unknown is consistent with the [Victim]'s testimony that both she and [Appellant] used the towel after the assaults. Most obviously, the second contributor may have been the [Victim] after all, which would make the physical evidence plainly consistent with the [Victim]'s testimony. However, assuming arguendo that the second contributor was not the [Victim's] and was instead [Appellant]'s wife, [Appellant] still would not be exculpated by such evidence. [Appellant]'s own expert testified that "just because a particular bodily fluid isn't present doesn't mean that something didn't happen. It specifically more means that we didn't find anything on it." His expert also testified that it would take 10 laundry cycles to remove DNA from fabric, meaning that [Appellant]'s wife['s] DNA may very well have been present on the towel from her last use of it, especially given the [Victim]'s testimony that she never laundered the towel. It is evident that [Appellant] would have liked the jury to wonder whether the second DNA profile would have matched the [Victim] if tested, and find that the lack of such evidence connecting the [Victim] to [Appellant] was enough for reasonable doubt, or that the possibility that the contributor was someone other than the [Victim] discredited the [Victim]'s testimony. The jury was not required to so find.

We also note that[,] if [Appellant]'s suggestion is to be believed, that the [Victim] surreptitiously moved the towel from [Appellant]'s bedroom into her bedroom (in the blind hope that the towel would bear DNA from [Appellant]'s sperm) in order to corroborate the [Victim]'s allegations that they used the towel together in her room, the [Victim] could have just as easily added her own DNA to the towel after the fact to further corroborate such a cunning plan. Said plainly: [Appellant]'s sperm was on the towel, someone else's DNA was on the towel, the jury did not know whose DNA it was or what kind of DNA it was for the second contributor, but none of this exculpates [Appellant], meaning the jury could reject or accept any theory for his contributor and weigh

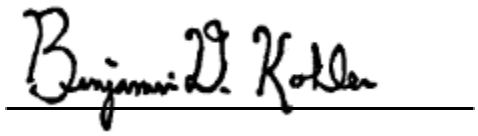
> the evidence as it saw fit. The jury did so, in favor of the Commonwealth, and such verdicts were not remotely surprising.

Trial Ct. Op., 3/4/26, at 5-7 (citations omitted and some formatting altered).

Following our review of the record, we discern no abuse of discretion by the trial court. ***See Martin,*** 323 A.3d at 823; ***Spence***, 290 A.3d at 311; ***Blackham***, 909 A.2d at 320. The finder of fact, the jury in this case, was free to believe all, none, or some of the evidence and to determine the credibility of the witnesses. ***See Spence***, 290 A.3d at 311. Here, Appellant claims that the Victim's "testimony was not supported by the physical evidence presented at trial." Appellant's Brief at 11. As the trial court stated, Appellant wanted the jury to consider "whether the second DNA profile would have matched the [Victim] if tested, and find that the lack of such evidence connecting the [Victim] to [Appellant] was enough for reasonable doubt, or that the possibility that the contributor was someone other than the [Victim] discredited by the [Victim]'s testimony." Trial Ct. Op., 3/6/26, at 7 (some formatting altered). However, finding no abuse of discretion in the trial court's determination that the jury's verdict did not shock the conscience, we conclude that there is no basis to substitute our judgment for that of the trier of fact. ***See Martin,*** 323 A.3d at 823; ***Spence***, 290 A.3d at 311; ***Blackham***, 909 A.2d at 320. Accordingly, Appellant is not entitled to relief.

Judgment of sentence affirmed. Jurisdiction relinquished.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/10/2026