

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
LEON BROWN	:	
	:	
Appellant	:	No. 362 EDA 2026

Appeal from the Judgment of Sentence Entered August 27, 2025
In the Court of Common Pleas of Montgomery County Criminal Division
at No(s): CP-46-CR-0007143-2023

BEFORE: LAZARUS, P.J., MURRAY, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY MURRAY, J.:

FILED SEPTEMBER 10, 2026

Leon Brown (Appellant) appeals from the judgment of sentence imposed following his jury convictions of one count each of aggravated assault, resisting arrest, and possession with the intent to deliver a controlled substance (PWID); and three counts of possession of a controlled substance; and his summary convictions of disorderly conduct and public drunkenness.¹ After careful review, we affirm.

In its opinion, the trial court accurately summarized the trial testimony describing how Appellant came to the attention of police, and his ensuing arrest:

* Retired Senior Judge assigned to the Superior Court.

¹ 18 Pa.C.S.A. §§ 2702(a)(3), 5104; 35 P.S. §§ 780-113(a)(30), (16); 18 Pa.C.S.A. §§ 5503(a)(4), 5505.

[O]n November 19, 2023, ... [Pottstown Police] Sergeant Mark Boyce [(Sergeant Boyce)] was dispatched to 35 King Street in Pottstown[, Pennsylvania,] due to reports of a man yelling, taking off his clothes, and punching the street. N.T., 5/20/25, at 61-62. Upon his arrival at the scene, [S]ergeant [Boyce] observed a man, later identified as [Appellant], who was lying on the side of the road, and was beginning to stand up. **Id.** at 62-63. Sergeant Boyce exited his patrol vehicle and instructed [Appellant] to stop. **Id.** at 65-66. [S]ergeant[Boyce] was in his full police uniform. **Id.** at 63. [Appellant] proceeded to stop and walked towards [S]ergeant[Boyce]. **Id.** at 66. [Appellant] was sweating profusely despite the cold outdoor temperature, and was not paying attention while [S]ergeant [Boyce] asked him questions. **Id.** When Sergeant Boyce asked [Appellant] if he had anything on his person, [Appellant] reached into his pocket and attempted to hand [S]ergeant [Boyce] a cell phone, but proceeded to turn around and walk away. **Id.** Sergeant Boyce suspected [Appellant] was under the influence of alcohol or a controlled substance, and followed [Appellant] when he walked away from the interaction. **Id.** at 66-67.

[S]ergeant [Boyce] subsequently reached out to grab [Appellant's] arm, but [Appellant] pulled himself away. **Id.** at 67. Two (2) additional officers [from the Pottstown Police Department], Corporal Zachary Robinson [(Corporal Robinson)] and Officer Matthew Maciejewski[(Officer Maciejewski)], arrived at the scene, and took control of [Appellant's] arms in an attempt to place him into custody. **Id.** at 67. Both of these officers were also in full police uniform. **Id.** at 98, 110. However, prior to being placed in handcuffs, [Appellant] broke away from the officers and began to run. **Id.** at 67. [The officers] were eventually able to subdue [Appellant], but he continued to pull his hands away and kick his legs in an attempt to prevent the officers from placing him into custody. **Id.** at 68. [Appellant] proceeded to bite Officer Maciejewski on his left leg, and [O]fficer [Maciejewski] instructed [Appellant] to stop biting him. **Id.** at 100-01.

Trial Court Opinion, 2/20/26, at 9-10 (citations and punctuation modified).

The trial court further detailed the evidence, adduced at trial, regarding law enforcement's search of Appellant incident to his arrest:

Authorities were eventually able to place [Appellant] into handcuffs, and Corporal Robinson searched [Appellant's] person. N.T., 5/20/25, at 111-14. During the search, [C]orporal [Robinson] recovered a sandwich bag containing three (3) bundles of suspected fentanyl, a grocery-style bag containing four (4) bundles of suspected fentanyl, eight (8) "snap-top" plastic containers holding suspected cocaine, a bag containing suspected methamphetamine, and another bag containing suspected marijuana. **Id.** at 114-19. Lab testing later confirmed the identity of each of these substances. **Id.** at 159; Exhibit D-7 (Crime Lab Report). Corporal Robinson also recovered a cell phone from [Appellant's] person, and another cell phone from the approximate location where Sergeant Boyce first encountered [Appellant]. **Id.** at 120-21. The two (2) cell phones were identical in appearance. **Id.** at 121.² During a search of the phones, pursuant to a search warrant, [C]orporal [Robinson] observed text messages, ... [sent from one of the cell phones to a contact identified as "Tom,"] stat[ing], "almost done bagging up," in response to inquiries from [Tom] as to whether [the cell phone user and Tom] were "back in the game." **Id.** at 124. Tom also sent messages to the recovered [cell] phones asking whether he can "get those handicap bags." **Id.** at 126. Corporal Robinson noted that some of the bags containing suspected fentanyl, which were recovered from [Appellant], were labeled with a handicapped symbol. **Id.** at 126.

Montgomery County Detective Michael Fedak[(Detective Fedak)], [who was qualified at trial as] an expert in drug trafficking and [drug] jargon, testified that based upon the text messages [he] observed on the cell phones, and the amount of fentanyl recovered from [Appellant's] person, it was his expert

² At trial, the Commonwealth introduced both cell phones, collectively marked as Exhibit 9, which the trial court admitted without objection. N.T., 5/20/25, at 121. Pertinently, Corporal Robinson testified that he was unsure which cell phone was recovered from Appellant's person, and which cell phone was recovered from the ground. **Id.** at 146-47. Commonwealth's Exhibit 10, admitted without objection, was a series of text messages the Commonwealth identified at trial as having been recovered from "those phones." **Id.** at 122. It is unclear from the trial transcript whether the text messages contained in Exhibit 10 were recovered from one or both phones; however, in its appellate brief, the Commonwealth represents that "[o]ne of those phones contained text messages discussing fentanyl sales." Commonwealth Brief at 20.

opinion that [Appellant] possessed the fentanyl with the intent to deliver, and not for personal use. ***Id.*** at 133-34[; ***see also id.*** at 132-33 (Detective Fedak testifying that the seven bundles of fentanyl recovered from Appellant were divided into 87 individual bags, with a street value of \$870)].

Trial Court Opinion, 2/20/26, at 10-11 (citations and punctuation modified; paragraph break and footnote added).

On March 20, 2024, the Commonwealth filed a criminal information charging Appellant with the above-described offenses; two additional counts of PWID;³ one count of simple assault; and five counts of possession of drug paraphernalia.⁴ On February 14, 2024, Appellant (then represented by the Montgomery County Public Defender's Office) filed an omnibus pretrial motion, which contained a boilerplate motion to suppress evidence. On July 24, 2024, Appellant filed a *habeas* petition, in which he alleged insufficient evidence supported his confinement. On October 16, 2024, after conducting a ***Grazier***⁵ hearing, the trial court granted Appellant's oral motion to proceed *pro se*, and appointed Appellant standby counsel.

On November 18, 2024, Appellant filed an amended motion to suppress physical evidence. Therein, Appellant alleged law enforcement arrested and searched him without probable cause or reasonable suspicion. Amended

³ On October 16, 2024, the Commonwealth *nolle prossed* the additional counts of PWID.

⁴ 18 Pa.C.S.A. § 2701(a)(1); 35 P.S. § 780-113(a)(32).

⁵ ***Commonwealth v. Grazier***, 713 A.2d 81 (Pa. 1998).

Suppression Motion, 11/18/24, at 1-2 (unpaginated). The following day, Appellant filed a “Motion to Quash Return of Transcript” (motion to quash), arguing that the Commonwealth failed to present *prima facie* evidence of the charged offenses at his preliminary hearing. Motion to Quash, 11/19/24, at 1-2 (unpaginated).⁶

The trial court conducted a consolidated hearing on Appellant’s motions on January 28 and February 11, 2025. On February 18, 2025, the trial court denied Appellant’s motions. The trial court contemporaneously filed findings of fact and conclusions of law (FFCL), wherein the court made the following, pertinent factual findings:

3. Sergeant Boyce is a multi-year veteran of the police force who has received training in the detection of individuals suspected of being under the influence of alcohol or controlled substances. [S]ergeant [Boyce] also has investigated multiple offenses involving driving under the influence [of drugs and controlled substances] and public intoxication.

4. Upon his arrival at the scene, Sergeant Boyce observed a man, later identified as [Appellant], lying in the middle of the road[,] and noted that a vehicle had just missed striking him. [Appellant] was not wearing a shirt and was profusely sweating, despite the cold temperature that day.⁷

5. [S]ergeant [Boyce] called out to [Appellant], who proceeded to look back ... with a blank stare. [S]ergeant [Boyce] also noted that [Appellant] seemed fidgety.

⁶ Appellant subsequently filed additional motions that are not relevant to this appeal.

⁷ At the suppression hearing, Sergeant Boyce testified that when he encountered Appellant the temperature “might have been 30’s, lower 40’s” degrees Fahrenheit. N.T., 1/28/25, at 35.

6. [Appellant] identified himself as “Josh,” and informed [S]ergeant [Boyce] that he was performing pushups in the street.

7. Based upon his observations, Sergeant Boyce believed [Appellant] was under the influence of drugs or alcohol.

....

15. The [trial] court finds the testimony of Sergeant Boyce to be credible.

FFCL, 2/18/25, at 1-2 (punctuation modified; footnote added); ***see also id.*** at 4 (the trial court concluding “Sergeant Boyce’s initial interaction with [Appellant] constituted an investigative detention[,], which was supported by reasonable suspicion”; and Sergeant Boyce’s “continued interaction with [Appellant,] in which he observed other indicators that [Appellant] was under the influence[of drugs or alcohol,] provided [Sergeant Boyce] with probable cause to effectuate [Appellant’s] arrest for public drunkenness.” (citations omitted)).

The matter proceeded to trial on May 20, 2025. On May 21, 2025, Appellant was convicted of the above-described offenses.⁸ On August 27, 2025, the trial court sentenced Appellant to an aggregate 5½ to 20 years in

⁸ During trial, the Commonwealth *nolle prossed* one count of possession of a controlled substance; four counts of possession of drug paraphernalia; and one count of simple assault. The jury found Appellant not guilty of the remaining count of possession of drug paraphernalia. The trial court served as the trier of fact for the summary offenses of disorderly conduct and public drunkenness.

prison. Appellant timely filed a post-sentence motion, which challenged his guilty verdicts as against the weight of the evidence. Post-Sentence Motion, 9/10/25, at 1-4 (unpaginated).⁹

On September 30, 2025, following a **Grazier** hearing, the trial court determined Appellant wished to have counsel, appointed the Montgomery County Public Defender's Office to represent Appellant on appeal, and directed Appellant's counsel to file an amended post-sentence motion. Order, 9/30/25. Appellant filed counseled amended post-sentence motions on October 6 and 17, 2025.¹⁰ On December 22, 2025, the trial court denied all three of Appellant's post-sentence motions. Appellant filed a timely notice of appeal. Appellant and the trial court have complied with Pa.R.A.P. 1925.

Appellant raises the following issues:

⁹ Observing "the envelope containing [Appellant's] post-sentence motion was post-marked September 2, 2025," the trial court deemed Appellant's post-sentence motion timely filed pursuant to the prisoner mailbox rule. Trial Court Opinion, 2/20/26, at 3 (citing **Commonwealth v. Chambers**, 35 A.3d 34 (Pa. Super. 2011)); **see also** Pa.R.Crim.P. 720(A)(1) (providing that any post-sentence motion must be filed no later than 10 days after imposition of sentence). We discern no error in the trial court's timeliness assessment.

¹⁰ Appellant's October 6, 2025, post-sentence motion challenged the weight of the evidence presented at trial, arguing that "the evidence did not support a finding of [a] specific intent to kill" Post-Sentence Motion, 10/6/25, at 1. Appellant filed a second (apparently corrective) amended post-sentence motion on October 17, 2025. Therein, Appellant argued the jury's verdicts were against the weight of the evidence, in that the evidence did not support findings of (1) a "specific intent to distribute drugs," as required to sustain a PWID conviction; or (2) "substantial pain," as required to sustain an aggravated assault conviction. Post-Sentence Motion, 10/17/25, at 1.

- I. Did the [trial] court err in failing to suppress all evidence recovered from [Appellant's] person, since the initial detention of [Appellant] was not supported by probable cause or a reasonable suspicion?
- II. Was the verdict against the weight of the evidence in light of:
 - a. The failure of each of the arresting officers to state in the affidavit of probable cause for [Appellant's] arrest, and other contemporaneous reports, that they were the officer that recovered the bundles of fentanyl in question?
 - b. The fact that only one cell phone was recovered from [Appellant's] person, and the Commonwealth was unable to definitively establish that the text messages introduced at trial came from the cell phone recovered from [Appellant's] person as opposed to the one lying in the roadway?
 - c. The fact that no officer testified to actually seeing [Appellant] bite Officer Maciejewski, and contemporaneous police reports indicated that Officer Maciejewski was bitten on the right leg as opposed to the left leg?

Appellant's Brief at 3 (punctuation modified).¹¹

¹¹ We note that Appellant did not, in his court-ordered Rule 1925(b) concise statement, specify the verdicts he challenges as against the weight of the evidence. **See Commonwealth v. Juray**, 275 A.3d 1037, 1048 (Pa. Super. 2022) (holding that to preserve a weight claim the appellant must identify the challenged verdicts in his Rule 1925(b) concise statement)). Nevertheless, as (1) Appellant filed a post-sentence motion identifying his weight claim; (2) his argument concerning his weight of the evidence claim is readily apparent; and (3) the trial court prepared a thorough opinion addressing Appellant's weight claim, we decline to deem this issue waived. **See Commonwealth v. Rogers**, 250 A.3d 1209, 1225 (Pa. 2021) (concluding this Court erred in deeming a weight of the evidence claim waived, where the appellant's weight claim was clear from the record; the appellant had filed a post-sentence motion articulating his weight claim; and "the trial court had no difficulty apprehending the claim as set forth in the concise statement and addressing its substance.").

In his first argument, Appellant claims the trial court erred in failing to suppress all physical evidence, because Sergeant Boyce's "repeated orders directing [Appellant] where to go" constituted an investigative detention unsupported by reasonable suspicion. Appellant's Brief at 19. According to Appellant, Sergeant Boyce "was not close enough to him to observe whether [Appellant] was under the influence[of drugs or a controlled substance,]" when Sergeant Boyce "uttered his commands[.]" **Id.** at 19-20.

Appellant further argues that the Commonwealth "failed to establish an assault on Officer Maciejewski[,]" which would have served as an intervening event creating probable cause to arrest" Appellant. **Id.** at 20. Appellant points out that Officer Maciejewski's testimony at the February 11, 2025, hearing "was not being offered in relation to [Appellant's] suppression motion, but [] was being introduced solely to establish a *prima facie* case pertaining to" Appellant's motion to quash. **Id.** at 20-21 (citing N.T., 2/11/25, at 78 (the Commonwealth indicating the suppression evidence was "closed," but immediately thereafter calling Officer Maciejewski as a witness), 86 (the trial court limiting Appellant's cross-examination of Officer Maciejewski to issues relating to Appellant's motion to quash), 90 (same)).

The Commonwealth counters that ample evidence supported Sergeant Boyce's investigative detention of Appellant upon his arrival at the scene. Commonwealth Brief at 12. The Commonwealth notes that Sergeant Boyce's initial observation of Appellant was consistent with the police radio dispatch

he overheard, and that Sergeant Boyce additionally observed Appellant, shirtless and sweating profusely in a roadway, despite the cold weather. ***Id.***; ***see also id.*** (the Commonwealth citing Sergeant Boyce's testimony that Appellant had "a blank stare" and was "fidgety," which Sergeant Boyce suspected were *indicia* of drug or alcohol intoxication).

The Commonwealth further cites Sergeant Boyce's testimony at the suppression hearing, and his body camera video,¹² to support its argument that the evidence presented at the hearing established that Appellant bit Officer Maciejewski during his arrest for public drunkenness, thus "suppl[ying] an independent basis for [Appellant's] arrest." ***Id.*** at 13-14.

We review trial court suppression orders to determine

whether the factual findings are supported by the record and whether the legal conclusions drawn from those facts are correct. Where the record supports the suppression court's factual findings, we are bound by those facts and may reverse only if the legal conclusions drawn therefrom are in error. Our scope of review is limited to the record of the suppression hearing. If the Commonwealth prevailed at the suppression hearing, we consider only the Commonwealth's evidence and so much of the defense's evidence as remains uncontradicted when read in the context of the record as a whole.

Commonwealth v. Lewis, 343 A.3d 1016, 1024 (Pa. 2025) (citations and quotation marks omitted); ***see also Commonwealth v. Cunningham***, 287

¹² At the January 28, 2025, hearing, the Commonwealth introduced as evidence Sergeant Boyce's dash camera video and body camera video, which the trial court admitted, without objection, as Exhibits C-1A and C-1B, respectively. ***See*** N.T., 1/28/25, at 38.

A.3d 1, 7 (Pa. Super. 2022) (“[W]e will not disturb a suppression court’s credibility determinations absent a clear and manifest error.” (citation omitted)).

“At a suppression hearing, the Commonwealth has the burden of establishing by a preponderance of the evidence that the evidence was properly obtained.” **Commonwealth v. Easter**, 331 A.3d 675, 680 (Pa. Super. 2025) (citation and quotation marks omitted). “The preponderance of the evidence is the lowest burden of proof in the administration of justice, and it is defined as the greater weight of the evidence, *i.e.*, to tip a scale slightly in one’s favor.” **Commonwealth v. Shackelford**, 293 A.3d 692, 698 (Pa. Super. 2023) (citation and quotation marks omitted).

“[T]he Fourth Amendment of the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution prohibit unreasonable searches and seizures.” **Commonwealth v. Saunders**, 326 A.3d 888, 896 (Pa. 2024) (citation omitted); **see also Commonwealth v. Ochoa**, 304 A.3d 390, 397 (Pa. Super. 2023) (“It is axiomatic that if a detention violates the Fourth Amendment, then any evidence seized during that stop must be excluded as fruit of an unlawful detention.” (citation and quotation marks omitted)). However, not every interaction between citizens and the police constitutes a seizure. “There are three relevant cognizable categories of interactions between persons and police: a mere encounter, an investigative detention,

and a custodial detention or arrest.” **Lewis**, 343 A.3d at 1028 (citation omitted).

The first, a mere encounter, does not require any level of suspicion or carry any official compulsion to stop or respond. The second, an investigative detention, permits the temporary detention of an individual if supported by reasonable suspicion. The third is an arrest or custodial detention, which must be supported by probable cause.

Commonwealth v. Gibbons, 355 A.3d 960, 964 (Pa. Super. 2026) (citation omitted). The instant case implicates the second and third categories of encounters between law enforcement and citizens.¹³

An investigative detention “constitutes a seizure of a person, and to be constitutionally valid[,] police must have a reasonable suspicion that criminal activity is afoot.” **Commonwealth v. Adams**, 205 A.3d 1195, 1199 (Pa. 2019) (citations omitted). Our Supreme Court has held that a seizure occurs “when a reasonable person would not feel free to leave.” **Id.** at 1196; **see also Commonwealth v. Joyner**, 348 A.3d 230, 237 (Pa. Super. 2025) (observing that, in considering whether a seizure has occurred, the “circumstances must present some level of coercion, beyond the officer’s mere employment status, that conveys a demand for compliance or threat of tangible consequences from refusal.” (citation omitted)).

¹³ Although the Commonwealth argues that Sergeant Boyce’s initial interaction with Appellant was a mere encounter, it maintains that “regardless of how the encounter started,” Sergeant Boyce had reasonable suspicion to conduct an investigative detention of Appellant. Commonwealth Brief at 17.

“To assess reasonable suspicion, we consider the totality of the circumstances known to the officer at the time of the investigative detention.”

Commonwealth v. Rivera, 311 A.3d 1160, 1164 (Pa. Super. 2024) (citation omitted).

In determining whether police had reasonable suspicion to initiate an investigative detention, the fundamental inquiry is an objective one, namely, whether the facts available to police at the moment of the intrusion warrant a person of reasonable caution in the belief that the action taken was appropriate.

This Court has recognized reasonable suspicion exists only where the officer is able to articulate specific observations which, in conjunction with reasonable inferences derived from those observations, led him reasonably to conclude, in light of his experience, that criminal activity was afoot and that the person he stopped was involved in that activity.

To demonstrate reasonable suspicion, the detaining officer must articulate something more than an inchoate and unparticularized suspicion or hunch. To determine whether reasonable suspicion exists, we examine the totality of the circumstances through the eyes of a trained officer and not an ordinary citizen.

Id. at 1164-65 (citation omitted); ***see also Lewis***, 343 A.3d at 1038 (explaining that reasonable suspicion “requires considerably less than proof of wrongdoing by a preponderance of the evidence, and obviously less than is necessary for probable cause. In other words, the reasonable suspicion inquiry falls considerably short of 51% accuracy.” (citations, brackets, and quotation marks omitted)).

We have further observed that “[t]he mere fact that the police receive their information over the police radio does not, of itself, establish or negate

the existence of reasonable suspicion.” ***Commonwealth v. Korenkiewicz***, 743 A.2d 958, 964 (Pa. Super. 1999) (*en banc*) (citation omitted). However, “while an officer is prohibited from relying on an ‘unparticularized suspicion’ or a ‘hunch’ as a basis for [an investigative detention], he or she may rely on a police radio broadcast if the suspect matches the specific description given by the individual who reported the crime.” ***Commonwealth v. Thran***, 185 A.3d 1041, 1046 (Pa. Super. 2018) (citation omitted).

In contrast, “[a] custodial detention occurs when the nature, duration and conditions of an investigative detention become so coercive as to be, practically speaking, the functional equivalent of an arrest.” ***Commonwealth v. Dix***, 207 A.3d 383, 388 (Pa. Super. 2019) (citation omitted). “This level of interaction requires that the police have probable cause to believe that the person so detained has committed or is committing a crime.” ***Commonwealth v. Mackey***, 177 A.3d 221, 227 (Pa. Super. 2017) (citations omitted); ***see also Commonwealth v. Goldman***, 252 A.3d 668, 678 (Pa. Super. 2021) (“It is only the probability and not a *prima facie* showing of criminal activity that is a standard of probable cause.” (citation omitted)). “Probable cause is a practical, non-technical concept that is evaluated under a traditional totality-of-the-circumstances test.” ***Commonwealth v. Saunders***, 326 A.3d 888, 897 (Pa. 2024) (quotation marks and citation omitted).

Pertinently, a person commits the crime of public drunkenness where “he appears in any public place manifestly under the influence of alcohol or a controlled substance ... to the degree that he may endanger himself or other persons or property, or annoy persons in his vicinity.” 18 Pa.C.S.A. § 5505. Police are empowered by statute to effectuate a warrantless arrest for public drunkenness “upon probable cause when there is ongoing conduct that imperils the personal security of any person or endangers public or private property[.]” 42 Pa.C.S.A. § 8902(a)(1).

Instantly, the trial court rejected Appellant’s suppression challenges, and offered the following analysis in its opinion:

Sergeant Boyce’s initial interaction with [Appellant] constituted an investigative detention, which was supported by reasonable suspicion. **See Commonwealth v. Zhahir**, 751 A.2d 1153, 1157 (Pa. 2000). [S]ergeant [Boyce], who possessed extensive training and experience in the detection of individuals under the influence of drugs or alcohol, had specific and articulable facts that criminality was afoot. [**See** N.T., 1/28/25, at 31 (Sergeant Boyce detailing his extensive training and experience related to identifying drug/alcohol intoxicated individuals)]. Specifically, Sergeant Boyce observed [Appellant] in the street, while apparently under the influence of alcohol or a controlled substance, presenting a danger to the general public and himself. **See** 18 Pa.C.S.A. § 5505. [S]ergeant [Boyce’s] continued interaction with [Appellant], in which he observed other indicators that [Appellant] was under the influence, provided [Sergeant Boyce] with probable cause to effectuate [Appellant’s] arrest for public drunkenness. **See Commonwealth v. Williams**, 941 A.2d 14, 27 (Pa. Super. 2008). [Appellant’s] act of resisting attempts by authorities to place him into custody also constituted a statutory violation and provided the requisite probable cause in support of an arrest. **Commonwealth v. Biagini**, 655 A.2d 492, 497 (Pa. 1995). Thus, [Appellant’s] arrest was lawful, and authorities were permitted to search his person incident to arrest. **See Commonwealth v. Simonson**, 148 A.3d 792, 799 (Pa.

Super. 2016). Accordingly, [Appellant] did not have valid grounds to suppress the controlled substances, cell phone, or any other items recovered from his person

Trial Court Opinion, 2/20/26, at 7-8 (some citations and punctuation modified).

The trial court's factual findings are supported by the record, and we agree with its legal conclusions. **See Lewis**, 343 A.3d at 1024.

At the suppression hearing, Sergeant Boyce testified that, upon receiving a police radio dispatch identifying a shirtless man "punching the street," he suspected, based on his training and experience, that he was likely going to encounter an individual under the influence of drugs or alcohol. N.T., 1/28/25, at 35-36. When he arrived at the scene, Sergeant Boyce immediately noted Appellant (consistent with the radio dispatch) "laying on the side of the road," shirtless. **Id.** at 37. Sergeant Boyce testified he observed that a "car that was ahead of me passed by within a few feet of" Appellant. **Id.**

Sergeant Boyce testified that he attempted to pull into an adjacent parking lot, but was delayed because, after Appellant stood up, he began "kind of walking and turn[ing] in circles, so I couldn't pull into the parking lot." **Id.** at 44. Once Appellant stepped aside, Sergeant Boyce pulled into the parking lot and observed that Appellant was sweating profusely, despite the cold weather. **Id.; see also id.** at 34 (Sergeant Boyce testifying that, in his experience, sweating is sometimes an indicator of drug or alcohol

intoxication). Appellant began walking away, at which point Sergeant Boyce “called to [Appellant] a couple of times,” and directed Appellant to approach him. **Id.** at 44; **see also** Exhibit C-1B at 1:01-1:12 (depicting Sergeant Boyce repeatedly calling out to Appellant, and twice directing Appellant to approach him).

When Appellant approached, Sergeant Boyce observed that he had a “blank stare” and appeared “fidgety.” **Id.** at 45. When Sergeant Boyce asked what Appellant was doing, Appellant advised him that he was “doing push-ups,” which Sergeant Boyce found to be unusual. **Id.** at 45-46. Based upon his observations, training, and experience, Sergeant Boyce concluded that Appellant was under the influence of drugs or alcohol, and attempted to place Appellant under arrest. **Id.**; **see also id.** at 34 (Sergeant Boyce testifying that intoxicated individuals may “present a hazard to themselves” by “walking out into traffic”).

We agree with the trial court that Sergeant Boyce seized Appellant for investigative purposes when, as Appellant “started walking away,” Sergeant Boyce repeatedly directed Appellant’s movement, and instructed Appellant to come and speak with him. **Id.** at 44; **see also Commonwealth v. Foster**, 356 A.3d 747, 759 (Pa. 2026) (“Having been expressly commanded by a police officer to stop walking away and return to the officer, a reasonable person, innocent of any crime, would not have felt free to simply disobey the official order and continue on his way.”). **But see Commonwealth v. Rice**,

304 A.3d 1255, 1262 (Pa. Super. 2023) (holding that an officer's "mere statement to 'come here,' without more, did not escalate [a] mere encounter into an investigative detention.").

We further agree with the trial court that Appellant's investigative detention was supported by reasonable suspicion of criminal activity, based upon Sergeant Boyce's observation of Appellant's (1) lying in a roadway; (2) erratic and aimless behavior; and (3) sweating, while partially disrobed, in cold weather. **See Rivera**, 311 A.3d at 1164-65 (stating that we examine the totality of the circumstances "through the eyes of a trained officer" in determining whether reasonable suspicion exists).

Moreover, Appellant's subsequent arrest for public drunkenness, based on Sergeant Boyce's additional observations of Appellant's demeanor, was supported by probable cause. Sergeant Boyce's testimony established that Appellant was likely intoxicated to the degree that he represented a danger to himself and others, as evidenced by a passing vehicle narrowly missing Appellant as he laid in the roadway, and his wandering in front of Sergeant Boyce's vehicle as he attempted to pull into the parking lot. **See** 18 Pa.C.S.A. § 5505; 42 Pa.C.S.A. § 8902(a)(1); **Saunders**, 326 A.3d at 897; **see also Commonwealth v. Weber**, 343 A.3d 187, 2716 EDA 2024 (Pa. Super. 2025) (unpublished memorandum at 6-7) (concluding the appellant's arrest for

public drunkenness was supported by probable cause, where police observed him standing in a roadway while showing signs of intoxication).¹⁴

Based upon the foregoing, we discern no error in the trial court's conclusion that Sergeant Boyce had reasonable suspicion to detain Appellant, which developed into probable cause to arrest him for public drunkenness.¹⁵ Accordingly, Appellant's first issue merits no relief.

In his second issue, Appellant challenges the jury's verdicts as against the weight of the evidence. Appellant's Brief at 21. Rather than directing his argument toward specific offenses, Appellant generally claims that the Commonwealth's evidence was so "riddled with inconsistencies and logical gaps" that the jury's verdicts shock the conscience. *Id.* at 23.

¹⁴ Pursuant to Pa.R.A.P. 126(b), non-precedential decisions filed after May 1, 2019, may be cited for their persuasive value.

¹⁵ Even if Sergeant Boyce did not have probable cause to arrest Appellant for public drunkenness, we would conclude the Commonwealth presented competent evidence, during the suppression portion of Appellant's consolidated hearing, establishing that police had probable cause to arrest Appellant based on his intervening assault against Officer Maciejewski. **See** Exhibit C-1B at 2:22 (depicting Officer Maciejewski stating "stop biting me" while attempting to arrest Appellant); **see also Commonwealth v. Jackson**, 924 A.2d 618, 621 (Pa. 2007) (holding that "where a defendant's assault on a police officer occurs as the result of the officer's attempt to unlawfully arrest him, that assault would justify a subsequent lawful arrest"; and explaining that an initial illegality does not "'poison the tree,' preventing lawful police conduct thereafter—the new crimes are new trees, planted by [the defendant], and the fruit that grows from them is not automatically tainted by the initial lack of probable cause.").

In support of his argument, Appellant advances three groups of purported inconsistencies, or “logical gaps,” in the trial evidence: (1) Sergeant Boyce’s police reports differed from his trial testimony regarding which police officer recovered particular items of evidence; (2) Corporal Robinson was unable to differentiate between the cell phone recovered from Appellant’s person and the cell phone recovered from the ground at the crime scene, or to identify from which cell phone the text messages presented at trial originated; and (3) Officer Maciejewski “never actually saw [Appellant] biting him,” and Corporal Robinson’s report noted Appellant bit Officer Maciejewski on the right thigh, while Officer Maciejewski testified he was bitten on the left thigh. *Id.* at 23-24.

We review a trial court’s ruling on a challenge to the verdict as against the weight of the evidence for an abuse of discretion. ***Commonwealth v. Banniger***, 303 A.3d 1085, 1095 (Pa. Super. 2023).

A verdict is not contrary to the weight of the evidence because of a conflict in testimony or because the reviewing court on the same facts might have arrived at a different conclusion than the fact-finder. Rather, a new trial is warranted only when the jury’s verdict is so contrary to the evidence that it shocks one’s sense of justice and the award of a new trial is imperative so that right may be given another opportunity to prevail. Where, as here, the judge who presided at trial ruled on the weight claim below, an appellate court’s role is not to consider the underlying question of whether the verdict is against the weight of the evidence. Rather, appellate review is limited to whether the trial court palpably abused its discretion in ruling on the weight claim.

One of the least assailable reasons for granting or denying a new trial is the lower court’s determination that the verdict was or was not against the weight of the evidence and that new

process was or was not dictated by the interests of justice. Thus, only where the facts and inferences disclose a *palpable abuse of discretion* will the denial of a motion for a new trial based on the weight of the evidence be upset on appeal.

Commonwealth v. Morales, 91 A.3d 80, 91 (Pa. 2014) (internal citations, brackets, and quotation marks omitted; emphasis in original); ***see also Commonwealth v. Sanchez***, 262 A.3d 1283, 1288 (Pa. Super. 2021) (“Where issues of credibility and weight of the evidence are concerned, it is not the function of the appellate court to substitute its judgment based on a cold record for that of the trial court.”). “It is well settled that the fact-finder is free to believe all, part, or none of the evidence and to determine the credibility of the witnesses....” ***Commonwealth v. James***, 297 A.3d 755, 768 (Pa. Super. 2023) (citation omitted).

Significantly,

[w]hen the challenge to the weight of the evidence is predicated on the credibility of trial testimony, our review of the trial court’s decision is extremely limited. Generally, unless the evidence is so unreliable and/or contradictory as to make any verdict based thereon pure conjecture, these types of claims are not cognizable on appellate review.

Commonwealth v. Kling, 351 A.3d 1274, 1290 (Pa. Super. 2026) (citation omitted).

Here, after outlining the evidence presented at trial, the trial court concluded Appellant’s weight claim merited no relief, analyzing as follows:

The factors [Appellant] raises with respect to his weight claim are simply items which the jury chose not to assign significant (if any) weight. [Appellant] claims the Commonwealth’s alleged failure to definitively establish that the text messages emanated from the

cell phone recovered from his person, as opposed to the phone discovered on the ground at the scene of the incident, diminishes the evidentiary value of these messages. The cell phone recovered from the ground looked identical to the cell phone seized from [Appellant's] person and was located in an area where [Appellant] was observed to have been standing. The jury chose to assign the requisite amount of weight to this supposed weakness in the text message evidence and still found that the totality of the evidence surrounding [Appellant's] actions established that [Appellant] possessed the fentanyl with the intent to deliver.

[Appellant] further identifies several minor inconsistencies or omissions in the official reports describing the incident, which, he claims, severely reduces their evidentiary value. Specifically, [Appellant] cites to discrepancies in the reports detailing which one of Officer Maciejewski's legs [Appellant] had bitten during the incident, and omissions regarding which officer was the actual individual who recovered fentanyl from [Appellant's] person. The jury chose to assign the requisite amount of weight to these *de minimis* alleged discrepancies and omissions, and determined that they did not negatively impact any of the officers' credibility. Additionally, testimony from the other officers regarding [Appellant's] act of biting Officer Maci[e]j[ewski's] leg was not necessary in light of the fact that Officer Maci[e]j[ewski] provided credible testimony at trial with respect to the incident. Specifically, Officer Maci[e]j[ewski] indicated that he felt a sharp pain in his leg, which he associated with being bitten, and he immediately instructed [Appellant] to stop biting him. The jury chose to assign the requisite amount of weight to this testimony and determined that the absence of testimony from the other officers regarding [Appellant's] action did not negatively impact Officer Maciejewski's credibility.

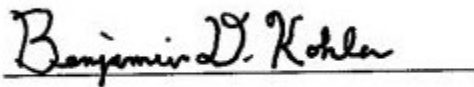
Trial Court Opinion, 2/20/26, at 11-12 (citations omitted; punctuation modified); **see also id.** at 12 (the trial court opining that "the verdict was not so contrary to the weight of the evidence such that it shocks one's sense of justice." (citation omitted)).

Upon review, we discern no palpable abuse of the trial court's discretion in denying Appellant's weight claim. **Morales**, 91 A.3d at 91. Appellant essentially asks that we reweigh the evidence, and replace the jury's credibility determination with our own; this we cannot do. **See Commonwealth v. Torsunov**, 345 A.3d 339, 352 (Pa. Super. 2025) ("The weight to be accorded conflicting evidence is exclusively for the fact[-]finder, whose findings will not be disturbed on appeal if they are supported by the record." (citation omitted)); **see also Commonwealth v. Jacoby**, 170 A.3d 1065, 1081 (Pa. 2017) ("[I]nconsistencies in eyewitness testimony are not sufficient to warrant a new trial on grounds that the verdict was against the weight of the evidence." (citation omitted)).

As we cannot conclude that the Commonwealth's evidence was so "unreliable and/or contradictory as to make any verdict based thereon pure conjecture," Appellant's second issue merits no relief. **Kling**, 351 A.3d 1274, 1290.

Judgment of sentence affirmed.

Judgment Entered.

A handwritten signature in black ink that reads "Benjamin D. Kohler". The signature is written in a cursive style and is positioned above a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/10/2026