NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
JOHNNY COLLAZO	:	
Appellant	:	No. 744 EDA 2026

Appeal from the Judgment of Sentence Entered December 22, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at
No(s): CP-51-CR-0004791-2024

BEFORE: BOWES, J., OLSON, J., and STEVENS, P.J.E.*

MEMORANDUM BY OLSON, J.: **FILED NOVEMBER 16, 2026**

Appellant, Johnny Collazo, appeals from the judgment of sentence entered on December 22, 2025, following his guilty plea to third-degree murder, aggravated assault, persons not to possess a firearm, and firearms not to be carried without a license.[1] We affirm.

The trial court summarized the facts and procedural history as follows:

> Around 3:26 p.m. on March 16, 2024, at [along] East Lippincott Street [in Philadelphia, Pennsylvania], Appellant shot Julius Panero twice in the chest, killing him, and [he also] shot Neureka Fallas once in the left forearm. Appellant was arrested around three hours later the same day and charged with [the aforementioned crimes] and other related charges. Appellant entered an [open] guilty plea [shortly before the commencement

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* Former Justice specially assigned to the Superior Court.

[1] 18 Pa.C.S.A. §§ 2502(c), 2702(a)(1), 6105(a)(1), and 6106(a)(1), respectively.

of trial on July 22, 2025, wherein] the Commonwealth [entered] the following factual findings in the record[:]

> On March 16, 2024, Appellant, wearing a black hooded jacket and black pants, was standing with his partner, Destiny Flemings, next to a white 2008 Acura TSX on the 1800 block of Lippincott Street. Mr. Panero and Ms. Fallas, his girlfriend, were standing on the opposite side of the street. Appellant and Panero were arguing with each other, prompting Appellant to approach Panero. Ms. Fallas tried to push him away while the argument continued, leading Appellant to take out a firearm and fire twice, striking Fallas once in the forearm and Panero twice in the chest. Appellant and Ms. Flemings immediately fled in their vehicle. [The entire incident was captured on surveillance video.]
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> Panero was pronounced dead at Temple University Hospital at 3:42 p.m. the same day. Two ballistic fragments were recovered from Panero. Dr. Victoria Sorokin, an expert in forensic pathology, determined Panero's cause of death to be two gunshot wounds to the chest [and concluded the] manner [of death was] homicide. Fallas was treated at Temple University Hospital for a single gunshot wound to the left forearm and discharged the same day. At the crime scene, Officer Edward Fidler recovered two [fired cartridge casings (FCCs)].
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> Around three hours after the shooting, [two other police officers] spotted the vehicle that fled the crime scene [near the intersection of] 2nd Street and Allegheny Street. They stopped the vehicle and arrested Appellant and his girlfriend. Detectives obtained a search warrant for the vehicle and recovered a black 9mm pistol, a black hooded jacket, and black pants. These items were submitted to the Office of Forensic Science [wherein it was] determined that the two FCCs recovered from the crime scene were fired from the same firearm[, which was] recovered from the vehicle, and there was gunshot residue in multiple areas on the jacket and front of the pants, indicating that the clothing had been worn while firing a firearm.

On July 22, 2025, Appellant waived his right to a jury trial and entered an [open] guilty plea to [the above listed crimes]. Appellant subsequently filed a motion to withdraw [his] guilty plea on October 29, 2025. [The trial court held a hearing] on

> December 18, 2025, at which Appellant claimed that his counsel [] had threatened [him] to accept the guilty plea and that [he] had been intoxicated when he did so. [The trial court] denied the motion [to withdraw] as Appellant had responded in the negative to both the written and oral colloquy on July 22, 2025, when asked if he was under the influence of any substance or being threatened into entering the guilty plea. [The trial court] also observed Appellant during the guilty plea and did not find him to be intoxicated or otherwise unable to understand the proceedings.
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> On December 22, 2025, [the trial court] considered [a] presentence [investigation] report [(PSI)], [a] mental health evaluation, sentencing guidelines, [the] sentencing code, [a] defense mitigation [report], testimony from Commonwealth and defense witnesses, and counsels' arguments. With these considerations in mind, [the trial court] sentenced Appellant to 8 to 40 years [of imprisonment for] third-degree murder, two to four years [of consecutive imprisonment for] aggravated assault, five to 10 years [of] concurrent [imprisonment for carrying a firearm without a license], and three to six years [of current imprisonment for persons not to possess a firearm] for an aggregate term of 20 to 44 years of state incarceration.

Trial Court Opinion, 3/19/2026 (headings, superfluous capitalization, and record citations omitted). This timely, counseled appeal resulted.[2]

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[2] Appellant filed a timely post-sentence motion on December 23, 2025. The trial court did not rule on it. Instead, the clerk of courts prematurely entered an order denying the motion by operation of law on February 27, 2026. ***See*** Pa.R.Crim.P. 720(B)(3)(a) (a trial court must decide a timely post-sentence motion within 120 days); ***see also*** Pa.R.Crim.P. 720(B)(3)(c) (unless a one-time extension is granted, the clerk of courts shall enter an order deeming the motion denied by operation of law after 120 days). Here, Appellant's motion should have been deemed denied on April 22, 2026. Regardless, on March 2, 2026, Appellant filed a timely notice of appeal within 30 days of the date the clerk of clerks erroneously deemed the post-sentence motion denied. ***See*** Pa.R.A.P. 903(a) (notice of appeal must be filed within 30 days after the entry of the order from which the appeal is taken); ***see also*** Pa.R.Crim.P. 720(A)(2)(b) (where there is a timely post-sentence motion filed, the notice of appeal shall be filed within 30 days of the entry of the order denying the motion by operation of law). Thereafter, on March 6, 2026, Appellant filed a
(Footnote Continued Next Page)

On appeal, Appellant presents the following issues[3] for our review:

1. Did the trial court err in not allowing Appellant to withdraw his guilty plea prior to sentencing because Appellant testified that his plea was not voluntary and [] articulated his innocence and the Commonwealth would not [have been] substantially prejudiced by plea withdrawal?

2. Did the trial court abuse its discretion in sentencing Appellant to an aggregate sentence of 20 to 44 years of incarceration because there was at least some provocation, Appellant comes from a broken home and was surrounded by crime, deprivation, and chaos, Appellant has a young child and support in the community, Appellant has a history of drug addiction, Appellant accepted responsibility indicating potential for rehabilitation, Appellant saved [judicial] time and resources by entering a plea, the partial maximum and aggregate sentences imposed are excessive and violate the sentencing norms in that there is a unitary and excessive focus on retribution and protection of society, the sentence goes beyond what is required to protect the public, and Appellant respectfully requests that he be resentenced with increased consideration for background, acceptance of responsibility, and potential for rehabilitation?

Appellant's Brief at 4.

Initially, Appellant contends that the trial court erred by not allowing him to withdraw his guilty plea prior to trial. ***Id.*** at 14-16. He claims that he entered his plea involuntarily and, subsequently, asserted his innocence at the hearing on his motion to withdraw, where he made a colorable demonstration that the withdrawal of his plea would promote fairness and justice. ***Id.*** at 14.

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concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). The trial court issued an opinion pursuant to Pa.R.A.P. 1925(a) on March 19, 2026.

[3] We reordered Appellant's issues for ease of discussion.

Appellant also argues that the Commonwealth would not be substantially prejudiced if the matter were to proceed to trial. ***Id.*** Appellant suggests that "[i]n the present matter, there was a least some pushing of Appellant by the decedent and [] complainant Julius Panero [as] depicted on the video of the underlying incident" to support "colorable claims of innocence *via* a potential self-defense defense." ***Id.*** at 15. As such, Appellant maintains that "the matter should be remanded for trial or at least further testimony on the innocence claim." ***Id.*** at 16.

> We adhere to the following standards:
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> We review the trial court's denial of Appellant's motion to withdraw his guilty plea for abuse of discretion.
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> Where a defendant requests to withdraw his guilty plea before he is sentenced, the trial court has discretion to grant the withdrawal and that discretion is to be liberally exercised to permit withdrawal of the plea if two conditions are present: 1) the defendant demonstrates a fair and just reason for withdrawing the plea and 2) it is not shown that withdrawal of the plea would cause substantial prejudice to the Commonwealth.
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> * * *
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> A plausible claim of innocence, supported by some facts or evidence in the record, constitutes a fair and just reason for allowing pre-sentence withdrawal of a guilty plea. Where, however, the defendant merely makes a bare assertion that he is innocent without any proffer of any supporting basis for that claim, the trial court in its discretion may deny withdrawal on the ground that the defendant has not shown a fair and just reason for withdrawal of the plea.

Commonwealth v. Jamison, 284 A.3d 501, 504–505 (Pa. Super. 2022) (internal citations omitted).

Additionally, this Court has previously determined:

Stated more broadly, the proper inquiry on consideration of such a withdrawal motion is whether the accused has made some colorable demonstration, under the circumstances, such that permitting withdrawal of the plea would promote fairness and justice. Trial courts have discretion to assess the plausibility of claims of innocence.

We review that exercise of discretion as follows:

> When a trial court comes to a conclusion through the exercise of its discretion, there is a heavy burden on the appellant to show that this discretion has been abused. An appellant cannot meet this burden by simply persuading an appellate court that it may have reached a different conclusion than that reached by the trial court; rather, to overcome this heavy burden, the appellant must demonstrate that the trial court actually abused its discretionary power. An abuse of discretion will not be found based on a mere error of judgment, but rather exists where the trial court has reached a conclusion which overrides or misapplies the law, or where the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias or ill-will. Absent an abuse of that discretion, an appellate court should not disturb a trial court's ruling.
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> It is important that appellate courts honor [a] trial court's discretion in these matters, as trial courts are in the unique position to assess the credibility of claims of innocence and measure, under the circumstances, whether defendants have made sincere and colorable claims that permitting withdrawal of their please would promote fairness and justice.

The trial court's discretion, however, is not unfettered. The term discretion imports the exercise of judgment, wisdom and skill so as to reach a dispassionate conclusion, within the framework of the law, and is not exercised for the purpose of giving effect to the will of the judge. The trial court must be mindful that the law requires trial courts to grant presentence plea withdrawal motions liberally and make credibility determinations supported by the record. [In exercising its discretion within the context of a request

> to withdraw a plea before the imposition of sentence, a trial court] should show solicitude for a defendant who wishes to undo a waiver of all constitutional rights that surround the right to trial—perhaps the most devastating waiver possible under our constitution. Finally, this Court must not substitute its judgment for that of the trial court; rather, we must discern whether the trial court acted within its permissible discretion.

Commonwealth v. Garcia, 280 A.3d 1019, 1023–1024 (Pa. Super. 2022) (internal citations, quotations, and original brackets omitted).

Finally, this Court has recognized:

> [O]nce a defendant enters a guilty plea, it is presumed he was aware of what he was doing. A person who elects to plead guilty is bound by the statements he makes in open court while under oath and he may not later assert grounds for withdrawing the plea which contradict the statements he made at his colloquy. In assessing the voluntariness of a guilty plea, we note the law does not require that appellant be pleased with the outcome of his decision to enter a plea of guilty: All that is required is that appellant's decision to plead guilty be knowingly, voluntarily and intelligently made.

Commonwealth v. Alameda, 339 A.3d 504, 510 (Pa. Super. 2025) (internal citations, quotations, and original brackets omitted).

Here, in denying Appellant's motion to withdraw his plea, the trial court opined:

> Appellant claims that his counsel had threatened him and his stepmother to accept the plea lest he be sentenced to life without parole, that he was intoxicated when he accepted the plea, and that the guilty plea [agreement] was "not truly beneficial" and "based on misinformation." For those reasons, he wished to "claim his innocence."
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> [The trial court] found that [Appellant's] wish to claim innocence [was] a bare assertion of innocence. No information [provided by Appellant or his counsel supported] a colorable assertion [of innocence], especially in light of surveillance footage capturing Appellant's actions, Ms. Fallas's identification of Appellant [and her

> description of his conduct], the matching vehicle Appellant was found in, and the clothing and firearm recovered from that vehicle.
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> Instead, Appellant's argument relie[d] on alleged threats received from counsel to accept the guilty plea, his alleged intoxication while accepting the plea, and the unsatisfactory outcome of his plea.
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> At his plea hearing, [the trial court] conducted an oral colloquy. Appellant swore on the record that he understood fully the rights that he was waiving, the charges he was pleading guilty to, was satisfied with [] counsel representation, had not been threatened by anyone to plead guilty, was pleading guilty of his own free will, and was not under the influence of any substance. Moreover, [the trial judge] observed Appellant during his plea hearing and found no issue of understanding or intoxication on Appellant's part nor any issues between Appellant and his counsel. Thus, [the trial court] did not find [Appellant's] later claims of intoxication and dissatisfaction with counsel to be credible. [Thus,] Appellant's claim is meritless and no relief is due.

Trial Court Opinion, 3/19/2026, at 10-11 (record citations omitted; brackets supplied).

Based upon our standard of review, applicable law, and our review of the certified record, we discern no abuse of discretion in denying Appellant's motion to withdraw his guilty plea. At the plea hearing, Appellant testified that he fully discussed his decision to plead guilty with his attorneys and was satisfied with their representation. N.T., 7/22/2025, at 5. He testified that no one threatened him or promised him anything. ***Id.*** at 7. Appellant also agreed that the decision to plead guilty was of his own free will and he was not under the influence of any drugs, alcohol or medication. ***Id.*** at 8. Appellant simply cannot now say that he was untruthful during the plea colloquy in order to support subsequent withdrawal. Moreover, Appellant did

not present any evidence to support a colorable demonstration, under the circumstances, that permitting withdrawal of the plea would promote fairness and justice. Although Appellant currently argues that he had a potential self-defense claim to support his claim of innocence, he did not advance that argument at the plea withdrawal hearing or provide evidence for his contention. Appellant cannot raise this issue for the first time on appeal. ***See*** Pa.R.A.P. 302(a). The trial court properly exercised its discretion in assessing the plausibility of Appellant's claim of innocence. As such, Appellant is not entitled to relief on this first issue.

Next, Appellant argues that the trial court abused its discretion and sentenced him excessively with "an improper singular focus on retribution with no consideration for Appellant's background, mental health issues, and potential for rehabilitation." Appellant's Brief at 8; ***see also id.*** at 11 ("Appellant received consecutive sentences on multiple counts [which] is also indicative of a rigid, solitary focus on retribution with no consideration of Appellant's background or potential for rehabilitation because an excessive [] sentence was imposed without any consideration of the sentencing guidelines and Appellant's background."). Appellant argues that he will "be at least 73 [years old] at the time of the expiration of his maximum sentences and stands a limited chance of making that age." ***Id.*** at 13. Finally, Appellant claims "[t]here is too little consideration for those with mental health issues and societal access to firearms." ***Id.*** at 13. Appellant requests resentencing as a result. ***Id.*** at 14.

This Court has stated:

> Generally, a plea of guilty amounts to a waiver of all defects and defenses except those concerning the jurisdiction of the court, the legality of the sentence, and the validity of the guilty plea. The determination of whether discretionary aspects of sentencing may be challenged after a guilty plea is entered depends upon the actual terms of the plea bargain, specifically, to what degree a sentence agreement has been reached.
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> Where the plea agreement provides specific penalties, an appeal [challenging the discretionary aspects of a] sentence will not stand; however, where the plea agreement provides for no sentencing restrictions, the entry of a guilty plea will not preclude a challenge to the discretionary aspects of sentencing.

Alameda, 339 A.3d at 511 (internal citations, quotations, brackets and ellipses omitted). Here, Appellant entered an open guilty plea that did not purport to limit the sentencing court's discretion. Therefore, he may challenge the discretionary aspects of the sentence.

We review discretionary sentencing challenges with great deference to the sentencing court:

> Sentencing is a matter vested in the sound discretion of the sentencing judge, and a sentence will not be disturbed on appeal absent a manifest abuse of discretion. In this context, an abuse of discretion is not shown merely by an error in judgment. Rather, the appellant must establish, by reference to the record, that the sentencing court ignored or misapplied the law, exercised its judgment for reasons of partiality, prejudice, bias or ill will, or arrived at a manifestly unreasonable decision.

> However, a challenge to the discretionary aspects of a sentence must be considered a petition for permission to appeal, as the right to pursue such a claim is not absolute.[4]
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> To invoke this Court's jurisdiction over this issue, [an appellant] must satisfy a four-part test:
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> > (1) whether appellant has filed a timely notice of appeal, ***see*** Pa.R.A.P. 902 and 903; (2) whether the issue was properly preserved at sentencing or in a motion to reconsider and modify sentence, ***see*** Pa.R.Crim.P. 720; (3) whether appellant's brief has a fatal defect, Pa.R.A.P. 2119(f); and (4) whether there is a substantial question that

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[4] An appellate court shall vacate the sentence and remand the case to the sentencing court with instructions if it finds:

> (1) the sentencing court purported to sentence within the sentencing guidelines but applied the guidelines erroneously;
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> (2) the sentencing court sentenced within the sentencing guidelines but the case involves circumstances where the application of the guidelines would be clearly unreasonable; or
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> (3) the sentencing court sentenced outside the sentencing guidelines and the sentence is unreasonable.
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> In all other cases the appellate court shall affirm the sentence imposed by the sentencing court.
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> (d) Review of record.--In reviewing the record the appellate court shall have regard for:
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> > (1) The nature and circumstances of the offense and the history and characteristics of the defendant.
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> > (2) The opportunity of the sentencing court to observe the defendant, including any presentence investigation.
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> > (3) The findings upon which the sentence was based.
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> > (4) The guidelines promulgated by the commission.

42 Pa.C.S.A. § 9781(c)-(d).

> the sentence appealed from is not appropriate under the Sentencing Code, 42. Pa.C.S.A. § 9781(b).

Id. at 511–512 (internal case citations, quotations, and original brackets omitted; new brackets supplied). Here, Appellant has complied with the first three procedural requirements. Moreover, an appellant's "assertion that the trial court failed to adequately consider mitigating factors, rendering his sentence excessive, raises a substantial question." ***Id.*** at 12 (citation omitted).

In this case, before imposing sentence, the trial court noted that it considered "the presentence investigation report, mental health record[s], sentencing guidelines, sentencing code, mitigation report submitted by the defense, and … the testimony from defense witnesses and the Commonwealth witnesses, and the argument[s] of the lawyers." N.T., 12/22/2025, at 50. Initially, we note that where the trial court has the benefit of a PSI, this Court must:

> presume that the sentencing judge was aware of relevant information regarding the defendant's character and weighed those considerations along with mitigating statutory factors. A pre-sentence report constitutes the record and speaks for itself. In order to dispel any lingering doubt as to our intention of engaging in an effort of legal purification, we state clearly that sentencers are under no compulsion to employ checklists or any extended or systematic definitions of their punishment procedure. Having been fully informed by the pre-sentence report, the sentencing court's discretion should not be disturbed. This is particularly true, we repeat, in those circumstances where it can be demonstrated that the judge had any degree of awareness of the sentencing considerations, and there we will presume also that the weighing process took place in a meaningful fashion. It would be foolish, indeed, to take the position that if a court is in

> possession of the facts, it will fail to apply them to the case at hand.

Alameda, 339 A.3d at 513 (citation omitted).

Moreover, the certified record belies Appellant's sentencing claim. At sentencing, the trial court heard all of the mitigation evidence that Appellant currently relies upon in support of a lesser sentence. The trial court merely rejected it. ***See id.*** ("The court's rejection of the mitigating evidence presented to it is simply not equivalent with the court's failure to consider that evidence."). "Furthermore, sentencing courts are afforded broad discretion in determining whether to run sentences consecutively." ***Commonwealth v. McIntyre***, 2026 WL 2526576, at *5 (Pa. Super. 2026); ***see also*** 42 Pa.C.S.A. § 9721(a)(4) (In determining the sentence to be imposed, the trial court may consider sentences of total confinement and may impose them consecutively or concurrently). Based on our review of the certified record, the trial court's findings set forth above, and our standard of review, we find no evidence or reason to conclude the trial court abused its discretion in sentencing.

Judgment of sentence affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/16/2026