NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
REGGIE WILLIAMS	:	
Appellant	:	No. 972 EDA 2025

Appeal from the PCRA Order Entered March 28, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at No(s): CP-51-CR-0000754-2009

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

MEMORANDUM BY STEVENS, P.J.E.: **FILED NOVEMBER 12, 2026**

Appellant, Reggie Williams, appeals from the order entered in the Court of Common Pleas of Philadelphia County dismissing his first petition filed under the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S.A. §§ 9541-9546, following the appointment of counsel and an evidentiary hearing. After our careful review, we affirm.

The relevant facts and procedural history have been set forth previously, in part, by this Court as follows:

> In the early morning of March 29, 2008, Appellant and his cohort, Bruce Lee, repeatedly kicked and stomped on Victim's head and face. Victim died from his injuries that same day. The Commonwealth charged Appellant and Mr. Lee separately for Victim's murder. When Appellant proceeded to a jury trial in February 2011, Mr. Lee refused to testify, and the trial ended in a mistrial due to a hung jury. Subsequently, on February 22, 2012,

---

* Former Justice specially assigned to the Superior Court.

Mr. Lee entered a guilty plea to third-degree murder for the death of Victim and received a sentence of seven (7) to fourteen (14) years' incarceration. Appellant proceeded to a retrial in July 2013, and Mr. Lee again refused to testify on Appellant's behalf.

[The relevant testimony at Appellant's retrial included that], [o]n March 29, 2008, sometime before 3:20 a.m., [Victim] and his friend Harvey Tilghman went to Club 121, an after-hours nightclub at 35th and Wharton Streets in South Philadelphia. When [Victim] arrived at the nightclub, he was met by Jana Perry, a female friend[.] A short time after Ms. Perry entered the nightclub, she joined a line dance on the second floor of the establishment. While Ms. Perry was dancing, Mr. Tilghman and [Victim] stood on the left side of the dance floor and watched the dancers. [Appellant] and Bruce Lee were standing to the right of Mr. Tilghman and [Victim]. They were also watching the line dancers. Mr. Tilghman spoke to the two men and introduced them to [Victim]. While Ms. Perry was dancing, Bruce Lee tugged at her about three times. Toward the end of the dance, Bruce Lee reached his hand out to Ms. Perry. [Victim] also reached his hand out to her. Ms. Perry chose [Victim].

[Victim] was then knocked to the floor and rendered unconscious, lying flat on his back. His face was swollen and he was barely breathing. Mr. Tilghman kneeled to the floor and attempted to aid his friend. As Mr. Tilghman attended to [Victim], [Appellant] and Bruce Lee proceeded to stomp on [Victim's] face at least twice. [Appellant] was 6'2" tall and weighed 215 pounds. Bruce Lee was 6'5" tall and weighed 260 pounds. Both men were wearing Timberland boots. During the assault on [Victim], Mr. Tilghman and [Appellant] engaged in a shoving match with each other. [Appellant] pushed Mr. Tilghman, causing him to fall over [Victim] who was still lying on the floor. Mr. Tilghman rose and said, "I told you that was my friend, what did you do?" [Appellant] yelled back: "He disrespected me." Within seconds, security responded and separated the two men. The nightclub patrons scattered and some left the establishment. [Appellant] fled the scene. Minutes later, police arrived.

[Victim] was pronounced dead at the Hospital of the University of Pennsylvania on March 29, 2008, at about 4:10 a.m. At trial, Dr. Gary Collins, deputy chief medical examiner, testified as the Commonwealth's forensic pathology expert. After conducting an autopsy of [Victim], Dr. Collins concluded to a reasonable degree of medical certainty that the cause of death was [a] blunt impact facial injury. [Victim] sustained a palpable

fracture of his maxillary, right cheek bone, and nasal bone. His right cheek, right lower and upper eyelids, and right upper lid were bruised and swollen significantly. Dr. Collins further observed a three-point pattern on [Victim's] right cheek. [Victim] also sustained injury to his lower lip, where there were two lacerations: one across his lower lip and one that separated his lower lip from the gum line. Dr. Collins further observed blood stains inside [Victim's] oral and nasal cavities and lungs. There were no other blunt or sharp injuries or wounds to the remainder of his body.

[Victim] bled profusely from his facial injuries. As a result, he suffocated from blood that obstructed his airways. Dr. Collins explained that an individual who is bleeding significantly from the nose and mouth will suffocate if he is unable to clear the accumulating blood from those cavities. The individual will then suffer from a lack of oxygen to the lungs or the brain. In addition to determining the cause of death, Dr. Collins concluded to a reasonable degree of medical certainty that the manner of death was homicide. The blunt impact facial injury and the lack of injury to the remainder of the body was consistent with testimony that [Victim's] face was moderately to significantly impacted at least twice by a hard blunt object.

On March 29, 2008, at 3:20 a.m., Sergeant Michael Davis responded to Club 121 after receiving a radio call about a fight. Within seconds, other officers, including Police Officers Donofrio and Corrado, arrived on the scene and proceeded to the second floor of the nightclub with Sergeant Davis. When they reached the dance floor, [Victim] was still lying on the floor. His face was swollen and covered in blood ,and he was blowing bubbles of blood from his nose and mouth….Unfortunately, [Victim] stopped breathing while rescue was on location.

At about 5:45 a.m., Crime Scene Officer William Trenwith responded and conducted a walkthrough of the crime scene. He collected a swab from the large pool of blood found on the banquet room dance floor, one black baseball cap..., and one pair of eyeglasses found on a nearby table. Officer Trenwith submitted this evidence to the criminalistics laboratory. Officer Trenwith also retrieved cups, glasses, and beer bottles and lifted thirteen (13) fingerprints from these items. He submitted the fingerprints to the Latent Fingerprint Unit.

Mr. Tilghman provided three statements regarding this incident to police. On March 29, 2008, at 3:20 a.m., he gave his first statement to Detective Kevin Conaway on the second floor of

the nightclub. He did not identify either perpetrator during this interview. In his two-page statement, Mr. Tilghman stated that he did not see anything because his back was turned during the incident. Mr. Tilghman stated that, after hearing the commotion, he turned and saw a man lying on the floor with plywood on his face. He further stated that he first recognized his friend by the camouflage vest [Victim] was wearing. After [Victim] was pronounced dead, Detective Conaway transported Mr. Tilghman to the Homicide Unit where he provided a second statement to Detectives Morton and Holmes. In this statement, given on March 29, 2008, at 5:25 a.m., Mr. Tilghman gave an account of the incident and identified a photograph of [Victim]. He did not identify the perpetrators, but he stated that he saw a brown boot stomping on [Victim].

After returning home, Mr. Tilghman could not sleep and continued to think of his deceased friend. On March 31, 2008, at 8:55 a.m., Mr. Tilghman went to the Homicide Unit on his own accord and provided a third statement to detectives. In his third statement, Mr. Tilghman identified [Appellant] as "one of the ones" that he saw stomping on [Victim]. Mr. Tilghman identified [Appellant] from a photograph and told police that he has known him for at least ten years. After identifying [Appellant], Mr. Tilghman was shown a separate photographic array. He identified Bruce Lee from the photographic array and stated that Bruce Lee was with [Appellant] at the nightclub. He described [Appellant] as about 6'2" or 6'3" tall and Bruce Lee as about 6'3" tall. Mr. Tilghman told police that he only saw [Appellant] stomping on [Victim], but he believed that more than one person stomped his friend. He also told police that he saw [Appellant] stomp [Victim] in the face at least once, but that it could have been more than once. However, at trial, Mr. Tilghman stated that he saw...[V]ictim being stomped on at least twice.

At trial, Mr. Tilghman explained his initial failure to identify [Appellant]. He stated that he felt pressured and was afraid of the neighbors' response to his cooperation with police. During his initial interview by Detective Conaway, some of the people inside the nightclub were from his neighborhood. [Appellant] also lived in the neighborhood, about one block away from Mr. Tilghman. At trial, Mr. Tilghman stated that he was "petrified" for his family and for himself. He stated, "If you tell, basically, everybody going to be against you and you can get killed that way, easy." Detective Conaway testified that Mr. Tilghman appeared worried and upset during the first interview. About one month after providing his

third statement to police, Mr. Tilghman moved out of state. He has not returned to Philadelphia except to testify in this case on two separate occasions.

On March 29, 2008, at about 6:50 a.m., Detective George Fetters interviewed Jana Perry. During the interview, Ms. Perry provided a description of one perpetrator. She was also shown a photographic array and asked if she recognized anyone from the incident. Ms. Perry identified Bruce Lee and stated: "Yes, this one. He's the one that was trying to talk with me and he's the one that stomped [Victim] then he rolled out. I didn't see him again after that." At trial, Ms. Perry did not recall providing a description to police. She also claimed to have used the "eeny meeny rainy moe" method when she identified Bruce Lee from the photographic array. However, Detective Fetters testified that Ms. Perry did not hesitate when she made her identification.

On March 29, 2008, at 9:50 a.m., Detective Thomas Gaul interviewed Loretta Epps, who was a nightclub patron when this incident occurred. During the interview, Ms. Epps described two perpetrators: one man was taller than Detective Gaul, who was 6'3", and the other man was even taller and wearing a white baseball cap and red jacket. Ms. Epps was also shown a photographic array and asked if she recognized anyone from the incident. Ms. Epps identified Bruce Lee and stated: "This guy was on the bar second floor can't say for sure he was one of the guys who was stomping on the guy though." At trial, Ms. Epps further described the two perpetrators. The man stomping...[V]ictim's head and neck was about 6'2" or 6'3" tall and a fairly thin person who weighed about 190 to 210 pounds. He was wearing a red jacket, white baseball cap, and tan Timberland boots. The second man may have been a little shorter and slimmer than the first man.

Detective Verrechio was the assigned investigator in this homicide case. Based on his investigation, he obtained arrest warrants for [Appellant] and Bruce Lee on April 5, 2008. He also obtained search warrants for [Appellant's] residence at [****] Oakford Street and Bruce Lee's residence at [****] Oakford Street in Philadelphia. These properties are three doors apart from each other and approximately nine (9) or ten (10) blocks away from Club 121 at 35th and Wharton Streets. Detectives executed the search warrant at [Appellant's] residence, but nothing of evidentiary value was recovered. [Appellant] was not present in his home when police served the arrest warrant. Detective Verrechio left his contact information and a copy of the search

warrant with a female relative. [Appellant] later contacted police and told them that he would surrender on a date certain, but he failed to do so.

On April 5, 2008, Detective Steven Mostovyk executed a search warrant at [****] South 27th Street in Philadelphia, the address of Bruce Lee's friend, Latifa Sharee Allison. This residence is just around the corner from [****] Oakford Street. During the execution of this search warrant, Detective Mostovyk recovered two pairs of size 13 Timberland boots, one tan and one light brown, and submitted them to the criminalistics laboratory. Later that day, Bruce Lee was arrested at his girlfriend's house in Yeadon, Pennsylvania. At that time, Bruce Lee was 6'5" tall and weighed 260 pounds.

In the early morning hours of April 9, 2008, police officers returned to [Appellant's] residence. Shortly after knocking and announcing their presence, Sergeant Davis heard the door latch turn. When Police Officer Thomas Dydra looked through the living room window, he saw a dark shadow walk up to the door and then back up against the wall. Officer Dydra communicated his observation to Sergeant Davis, and the men waited a few minutes. No one responded. Sergeant Davis then knocked harder and announced louder. When no one responded, Sergeant Davis loudly requested a sledgehammer and a halligan bar to assist in opening the door. At that time, [Appellant] opened the door and said: "I'm right here." [Appellant] was arrested and transported to the Homicide Unit. After [Appellant's] arrest Detective John Cahill completed a biographical report of [Appellant] on April 9, 2008. At that time, [Appellant] was 6'2" tall and weighed 215 pounds. He was wearing a white thermal long sleeve shirt, blue denim jeans, and tan Timberland boots size 11½. Detective Cahill confiscated those items from [Appellant] and submitted them to the criminalistics laboratory. In his report, Detective Cahill noted that [Appellant] named Bruce Lee as an associate. After [Appellant] and Bruce Lee were arrested, Detective Singleton obtained two buccal swabs from each man and submitted them to the criminalistics laboratory.

At trial, Gamal Emira testified as a forensic science expert. Mr. Emira analyzed the evidence submitted to the criminalistics laboratory and prepared a report. The dark red stain swab [taken from the pool of blood on the floor of the club] tested positive for blood. Mr. Emira did not see any blood stains on visual examination of the black baseball cap. He observed a rootless human brown hair fragment. He also cut a piece of the sweatband

from the cap for identification purposes. He also swabbed the recovered eyeglasses. His visual examination of the tan size 11½ Timberland boots recovered from [Appellant] reaped one microscopic brown stain on the left side of the left boot. He did not find any other stains. Mr. Emira testified that he suspected that it was blood, but he did not conduct blood testing because of the sample's small size. Instead, he swabbed the stain and submitted it for DNA testing. Mr. Emira also observed brown stains during his visual examination of the two pairs of size 13 Timberland boots recovered from Bruce Lee. Mr. Benjamin Levin, a DNA science expert, received and analyzed the swabs Mr. Emira submitted to the DNA laboratory. Mr. Levin concluded to a reasonable degree of scientific certainty that the dark brown stain swab recovered from the banquet room dance floor was from [Victim]. There were no DNA results from [Appellant's] left Timberland boot, the sweatband, the eyeglasses, or Bruce Lee's right Timberland boot.

On July 26, 2013, the jury convicted Appellant of one count of third-degree murder. The court sentenced Appellant on December 6, 2013, to twenty (20) to forty (40) years' incarceration. Appellant timely filed post-sentence motions, which the court denied on August 8, 2014. On August 28, 2014, Appellant filed a timely notice of appeal.

While Appellant's direct appeal was pending, on June 24, 2015, Appellant filed in the trial court on June 24, 2015, a petition purportedly brought under the [PCRA]. [This PCRA petition was premature because Appellant filed it while his direct appeal was pending in this Court.] In the petition, Appellant stated he had obtained after-discovered evidence in the form of an affidavit from Mr. Lee, in which Mr. Lee said he alone had inflicted the fatal injuries upon Victim. Mr. Lee claimed he had a "change of heart" and was now willing to testify on Appellant's behalf. [On August 7, 2015,] Appellant filed in this Court…a "Petition for Remand," requesting this Court to remand to allow Appellant to present Mr. Lee's affidavit and testimony.

On August 30, 2016, this Court affirmed Appellant's conviction and found no merit to Appellant's challenges to, *inter alia*, the sufficiency and weight of the evidence. This Court, however, also vacated Appellant's judgment of sentence and remanded for the trial court to hold an evidentiary hearing limited to whether Appellant's alleged after-discovered evidence warranted a new trial. Our Supreme Court denied Appellant's petition for allowance of appeal on March 30, 2017.

On August 18, 2017, the trial court conducted an evidentiary hearing upon remand and heard testimony from Mr. Lee, who testified he had an altercation with Victim on the second floor of Club 121 on March 29, 2008, during which he punched Victim in the face, causing Victim to fall to the ground unconscious. Mr. Lee said he then stomped on Victim's face several times. Mr. Tilghman attempted to stop Mr. Lee, but Mr. Lee pushed Mr. Tilghman away and stomped on Victim's face several more times. Mr. Lee stated Appellant was not with Mr. Lee throughout his altercation with Victim, as Appellant was downstairs, on the first floor of the club. Mr. Lee added Mr. Tilghman inaccurately testified as to the events of March 29, 2008, at Mr. Lee's and Appellant's joint preliminary hearing. Mr. Lee noted Mr. Tilghman claimed to have grabbed Appellant during the incident, not Mr. Lee. Mr. Lee said Mr. Tilghman confused Appellant for Mr. Lee throughout his preliminary hearing testimony. Mr. Lee claimed he told his attorneys during Mr. Tilghman's preliminary hearing testimony, "This is what happened between myself and Mr. Tilghman. [Appellant] wasn't with me." When asked why he did not testify at Appellant's first trial, Mr. Lee explained his attorneys advised him against testifying because his criminal charge for Victim's murder was still pending. Mr. Lee acknowledged he had entered a guilty plea to the murder of Victim prior to Appellant's retrial. When asked why he declined to testify at Appellant's retrial, Mr. Lee said, "I was being hot-headed, I was upset pertaining to my situation as far as sentencing." N.T. Remand Hearing, 8/18/17, at 16-28.

During the hearing, Appellant also introduced the statement, which Steven Murphy had given to police on March 29, 2008. [Mr. Murphy testified at Appellant's first trial but not at Appellant's retrial.] In his statement, Mr. Murphy explained he was a part-time manager of Club 121 and was working there when the incident occurred. Mr. Murphy told police he saw Mr. Lee stomp on Victim, but he did not see anyone else strike Victim. ***Id.*** at 75-76, Exhibit "D-6".

On November 7, 2017, the trial court conducted a second remand hearing, during which it heard the testimony of Thomas McGill, Esquire. Mr. McGill explained he represented Appellant at the preliminary hearing and both trials. Mr. McGill said he was near Mr. Lee while waiting for Appellant prior to the start of the preliminary hearing. Mr. McGill recalled that Mr. Lee said to him when Appellant entered, "[Appellant] didn't have anything to do with this. He shouldn't even be here." Mr. McGill added he had

> arranged for Mr. Lee to be brought to the courthouse from prison during Appellant's retrial because Appellant had information Mr. Lee would testify that Appellant was not involved in the incident. Mr. McGill said he met with Mr. Lee in the courthouse cell room during a lunch break during Appellant's retrial to discuss Mr. Lee's testifying on Appellant's behalf. Mr. Lee, however, refused to testify. When Mr. McGill asked why Mr. Lee would not testify, Mr. Lee said, "I'm serving my sentence. I have to come up for parole at some point." Mr. Lee added, "Based on what folks have told me, I probably wouldn't be here if it hadn't been for [Appellant]." N.T. Remand Hearing, 11/7/17, at 5-1.
>
> On March 9, 2018, the trial court stated on the record that it found Mr. Lee incredible. That same day, the court entered an order dismissing Appellant's premature PCRA petition and denying his request for a new trial. Appellant filed a timely notice of appeal on April 9, 2018. The court ordered Appellant on April 10, 2018, to file a concise statement of errors complained of on appeal per Pa.R.A.P. 1925(b); Appellant timely complied. On August 17, 2018, the trial court re-imposed Appellant's December 6, 2013, judgment of sentence.

Commonwealth v. Williams, No. 1090 EDA 2018, at *1-8 (Pa.Super. filed 8/9/19) (unpublished memorandum) (footnote and citations omitted).

Initially, on appeal, this Court noted that Appellant's notice of appeal related forward to August 17, 2018, the date the court reinstated Appellant's judgment of sentence. Therefore, we found we had no jurisdictional impediments to our review. ***See id.***

On appeal, Appellant claimed that, since the testimony of Bruce Lee was so compelling on remand that it met all prongs for after-discovered evidence, the trial court erred in failing to award him a new trial on the basis of this evidence. This Court found no merit to Appellant's claim and found he did not meet the prongs for after-discovered evidence. ***See id.*** Accordingly, we

affirmed his August 17, 2018, judgment of sentence. Appellant filed a petition for allowance of appeal, which our Supreme Court denied on February 12, 2020. Appellant did not file a writ of *certiorari* with the United States Supreme Court.

On or about April 26, 2021, Appellant filed a timely, *pro se* PCRA petition, and the PCRA court appointed counsel to assist Appellant. Counsel filed an amended PCRA petition, and the Commonwealth filed a motion to dismiss the PCRA petition. On March 20, 2024, the PCRA court held an evidentiary hearing at which trial counsel, Mr. McGill, and Appellant testified. Following the hearing, on March 28, 2025, the PCRA court dismissed Appellant's PCRA petition. Appellant filed a timely notice of appeal. The PCRA court directed Appellant to file a Pa.R.A.P. 1925(b) statement, and Appellant timely complied.

On appeal, Appellant sets forth the following issues in his "Statement of the Questions Presented" (verbatim):

> 1. Whether trial counsel was ineffective for failing to subpoena Steven Murphy, failing to order the Notes of Testimony from the first trial, and advising the Appellant not to call the witness, Steven Murphy, to testify at his trial?
>
> 2. Whether trial counsel was ineffective for failing to subpoena [Bruce Lee], failing to order the Notes of Testimony from [Mr. Lee's guilty plea hearing], and advising the Appellant not to call the witness, Bruce Lee, to testify at his trial?

Appellant's Brief at 1 (suggested answers omitted).

Appellant's issues are intertwined. Specifically, Appellant claims his trial counsel was ineffective in failing to call Steven Murphy and Bruce Lee to testify at his July 2013 retrial.

Initially, we note:

> On appeal from the denial of PCRA relief, our standard of review calls for us to determine whether the ruling of the PCRA court is supported by the record and free of legal error. The PCRA court's findings will not be disturbed unless there is no support for the findings in the certified record. The PCRA court's factual determinations are entitled to deference, but its legal determinations are subject to our plenary review.

Commonwealth v. Nero, 58 A.3d 802, 805 (Pa.Super. 2012) (quotation marks and quotations omitted).

To be eligible for relief based on a claim of ineffective assistance of counsel, a PCRA petitioner must demonstrate, by a preponderance of the evidence, that (1) the underlying claim is of arguable merit; (2) no reasonable basis existed for counsel's action or omission; and (3) there is a reasonable probability that the result of the proceeding would have been different absent such error. ***Commonwealth v. Steele***, 599 Pa. 341, 961 A.2d 786, 796 (2008). With regard to the second, *i.e.*, the "reasonable basis" prong, this Court will conclude that counsel's chosen strategy lacked a reasonable basis only if the appellant proves that "an alternative not chosen offered a potential for success substantially greater than the course actually pursued." ***Commonwealth v. Williams***, 587 Pa. 304, 899 A.2d 1060, 1064 (2006) (citation omitted). To establish the third prong, *i.e.*, prejudice, the appellant

must show that there is a reasonable probability that the outcome of the proceedings would have been different, but for counsel's action or inaction. ***Commonwealth v. Dennis***, 597 Pa. 159, 950 A.2d 945, 954 (2008).

In reviewing this determination, we are cognizant that

> [w]hen raising a claim of ineffectiveness for the failure to call a potential witness, a petitioner satisfies the performance and prejudice requirements of the [***Strickland v. Washington***, 466 U.S. 668, 104 S.Ct. 2052 (1984)] test by establishing that: (1) the witness existed; (2) the witness was available to testify for the defense; (3) counsel knew of, or should have known of, the existence of the witness; (4) the witness was willing to testify for the defense; and (5) the absence of the testimony of the witness was so prejudicial as to have denied the defendant a fair trial. To demonstrate ***Strickland*** prejudice, a petitioner "must show how the uncalled witnesses' testimony would have been beneficial under the circumstances of the case." ***Commonwealth v. Gibson***, 597 Pa. 402, 951 A.2d 1110, 1134 (2008). Thus, counsel will not be found ineffective for failing to call a witness unless the petitioner can show that the witness's testimony would have been helpful to the defense. ***Commonwealth v. Auker***, 545 Pa. 521, 681 A.2d 1305, 1319 (1996). "A failure to call a witness is not *per se* ineffective assistance of counsel for such decision usually involves matters of trial strategy." ***Id.***

Commonwealth v. Sneed, 616 Pa. 1, 45 A.3d 1096, 1108-09 (2012) (some citations omitted).

Here, in his appellate brief, Appellant has combined his issues in the Argument section. After setting forth the relevant law as stated above, Appellant's entire appellate argument is as follows:

> Appellant's [trial] counsel, Thomas McGill, proffered his opinion that the first trial "was a hung jury to the amazement of everyone in the courtroom." N.T., PCRA hearing, 3/20/24, at 10. One's common sense in reviewing the notes of testimony of the first trial should indicate to the reasonable person that at least one juror didn't find Harvey Tilghman credible and that was most likely

> due to the testimony of Steven Murphy. He failed to recognize what the Pennsylvania Superior Court pointed out following the retrial; that the Superior Court noted that the Commonwealth's case against [Appellant] depended entirely upon the credibility of their witness, Harvey Tilghman. An effective attorney should have understood the importance of that statement and called two witnesses, Bruce Lee and Steven Murphy, to impeach and rebut the testimony of Harvey Tilghman. Available to Mr. McGill were the notes of testimony of Steven Murphy from the first trial and the notes of testimony from Bruce Lee from his guilty plea. If either changed his testimony in [Appellant's retrial], the Pennsylvania Rules of Evidence would have allowed Mr. McGill to cross them using prior testimony and/or statements. Appellant understood the importance of the witnesses and implored Mr. McGill to call them to the witness stand.

Appellant's Brief at 15.

As is evident, nowhere in Appellant's argument is there an averment that Steven Murphy or Bruce Lee were available to testify at Appellant's July 2013 retrial or that the witnesses were willing to testify for the defense. ***See Sneed***, ***supra***. On this basis alone, we find Appellant is not entitled to relief on his ineffective assistance of counsel claim. ***Id.***

In any event, we note that during the PCRA evidentiary hearing, Mr. McGill testified that he subpoenaed Bruce Lee to testify at Appellant's July 2013 retrial; however, Bruce Lee "refused" to testify. N.T., 3/20/24, at 13-14. Mr. McGill testified that he also went to the cell room where Bruce Lee was in custody and asked him to testify at Appellant's July 2013 retrial; Bruce Lee "said he would not." ***Id.*** at 14. Mr. McGill acknowledged that he could have asked the sheriff to "force" Bruce Lee to be placed in the witness chair; however, he testified that he ultimately decided not to do so for "tactical

reasons." ***Id.*** at 15. Specifically, Mr. McGill testified that, in his experience, calling "a reluctant witness in a homicide case…doesn't usually turn out well for the defense." ***Id.*** He indicated that "he did not know" if Bruce Lee would give favorable evidence for the defense if he was forced to testify, and he was not willing to "take the chance." ***Id.***

The PCRA court found credible Mr. McGill's PCRA hearing testimony, which establishes that Bruce Lee was unwilling to testify for the defense at Appellant's retrial. ***See Sneed***, ***supra***. Additionally, we note Mr. McGill provided a reasonable basis for failing to "force" Bruce Lee to take the witness stand for the defense. ***Williams***, ***supra***. Thus, Appellant did not meet his burden of establishing counsel was ineffective for failing to call Bruce Lee to testify at his retrial. ***See Sneed***, ***supra***.

Further, regarding Steven Murphy, Mr. McGill testified at the PCRA evidentiary hearing that he subpoenaed Mr. Murphy to testify at Appellant's July 2013 retrial. N.T., 3/20/24, at 25. Steven Murphy appeared for Appellant's retrial; however, when Mr. McGill talked to him outside the courtroom before calling him to the stand, Steven Murphy told Mr. McGill he "didn't want to testify." ***Id.*** at 26. Mr. McGill testified that he did not "force" Mr. Murphy to testify because a reluctant witness is generally not useful for the defense. ***Id.*** at 40-41.

Also, Mr. McGill testified that, upon talking with Steven Murphy outside the courtroom just before Appellant's July 2013 retrial, Mr. Murphy gave Mr.

McGill information different from what Mr. Murphy testified to at Appellant's first trial. ***Id.*** at 30. Specifically, Mr. McGill testified that Mr. Murphy told him that he saw Appellant with Bruce Lee and Victim. ***Id.*** at 31. He noted that, if Mr. Murphy had given this testimony during the retrial, it would have been inconsistent with the defense theory that Appellant was downstairs (in a different area of the bar) when the "stomping" murder occurred. ***Id.*** at 32.

The PCRA court found Mr. McGill's testimony credible. On this basis, we note that Appellant has failed to demonstrate Steven Murphy was willing to testify for the defense at Appellant's July 2013 retrial. ***Sneed***, ***supra***. Also, Mr. McGill provided a reasonable basis for failing to call Mr. Murphy to take the stand for the defense. ***Williams***, ***supra***. Thus, Appellant did not meet his burden of establishing counsel was ineffective for failing to call Steven Murphy to testify at his retrial. ***See Sneed***, ***supra***.

Finally, we note Appellant contends trial counsel was ineffective in failing to order the transcript from Appellant's first trial at which Steven Murphy testified, as well as the transcript from Bruce Lee's guilty plea hearing. Appellant contends that, if counsel had called Steven Murphy to testify at Appellant's July 2013 retrial, and Steven Murphy changed his testimony from what he offered during Appellant's first trial, counsel could have used the transcript from Appellant's first trial to impeach his testimony. He further contends that, if counsel had called Bruce Lee to testify at Appellant's July 2013 retrial, and Bruce Lee offered testimony at Appellant's retrial that was

inconsistent with statements he made during his guilty plea colloquy, counsel could have used the guilty plea hearing transcript to impeach his testimony.

Notably, Appellant has not pointed to any specific testimony given by Steven Murphy in Appellant's first trial or any specific statements made by Bruce Lee during his guilty plea colloquy, which would have been beneficial to the defense, available to impeach any possible inconsistent statements, or the absence of which was so prejudicial that Appellant was denied a fair trial at his July 2013 retrial.[1] ***See Sneed***, ***supra***.

For all of the aforementioned reasons, we conclude the PCRA court did not err in dismissing Appellant's PCRA petition. Accordingly, we affirm.

Order affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/12/2026

[1] We also note that, although he refers generally to "the Pennsylvania Rules of Evidence [allowing] Mr. McGill to cross the [witnesses] using prior testimony and/or statements," ***see*** Appellant's Brief at 15, Appellant has neither cited nor analyzed any specific Rules of Evidence in his appellate brief. ***See*** Pa.R.A.P. 2119 (regarding citations to authorities in briefs).