NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
NAVEED ASLAM SHAHEEN	:	
Appellant	:	No. 3098 EDA 2025

Appeal from the Judgment of Sentence Entered October 31, 2025
In the Court of Common Pleas of Montgomery County Criminal Division
at No(s): CP-46-CR-0006142-2023

BEFORE: McLAUGHLIN, J., KING, J., and BECK, J.

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

Naveed Aslam Shaheen ("Shaheen") appeals from the judgment of sentence imposed by the Montgomery County Court of Common Pleas ("trial court") following his guilty plea to indecent assault.[1] On appeal, Shaheen challenges the sufficiency of the evidence supporting his designation as a sexually violent predator ("SVP") and the legality of the sentence imposed. After review, we affirm.

On September 8, 2023, while working at a Sunoco station in Montgomery County, Shaheen kissed customer Megan Doyle ("Doyle") on her face, neck, and hand without her consent. Police arrested Shaheen and the Commonwealth charged him with indecent assault and harassment.

---

[1] 18 Pa.C.S. § 3126(a)(1).

On September 3, 2024, Shaheen agreed to enter a guilty plea to one count of indecent assault in exchange for one to two years of incarceration followed by a consecutive term of three years of probation. Pursuant to the plea, Shaheen also acknowledged that he was required to register as a lifetime Tier III offender pursuant to the Pennsylvania's Sexual Offender Registration and Notification Act ("SORNA").[2] The trial court accepted the terms of the plea and deferred sentencing for an SVP assessment. The trial court directed a psychosexual evaluation as well as an assessment by the Sexual Offenders Assessment Board ("SOAB").

At the subsequent SVP hearing for Shaheen, the trial court heard testimony from Michael Lavetsky, MA, LPC, NCC ("Mr. Lavetsky"), a member of the SOAB since 2021 and a licensed clinician since 2002, who works with individuals who have committed sexual offenses. After the hearing, the trial court found Shaheen was an SVP and further imposed the agreed-upon sentence. Shaheen filed a timely notice of appeal followed by a court-ordered concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b).

He raises the following issues for review:

1. Whether the evidence was sufficient to support an SVP classification?

2. Whether the sentence imposed was illegal?

---

[2] 42 Pa.C.S. §§ 9799.10–9799.42.

Shaheen's Brief at 5.

SVP Determination

Shaheen contends the evidence was insufficient for the trial court to find he was an SVP by clear and convincing evidence. ***Id.*** at 15, 18. He asserts that Mr. Lavetsky's testimony "was not so clear, direct, weighty, and convincing" to establish he was an SVP. ***Id.*** at 18. Shaheen argues that the current offense did not involve multiple victims, no violence or predatory behavior, "only involved non-consensual kissing," and Doyle was not a minor, intoxicated, or have a diminished mental capacity. ***Id.*** at 19. According to Shaheen, although his prior criminal history and some personal characteristics may establish a risk of reoffending, the current offense did not show he has a "lifelong risk of future sexual reoffending." ***Id.***

"A challenge to a trial court's SVP designation presents a challenge to the sufficiency of the evidence for which our standard of review is de novo and our scope of review is plenary." ***Commonwealth v. Steager***, 357 A.3d 137, 145 (Pa. Super. 2026) (citation omitted).

> A challenge to the sufficiency of the evidence to support an SVP designation requires the reviewing court to accept the undiminished record of the case in the light most favorable to the Commonwealth. The reviewing court must examine all of the Commonwealth's evidence without consideration of its admissibility. … We will reverse a trial court's determination of SVP status only if the Commonwealth has not presented clear and convincing evidence that each element of the statute has been satisfied.

Commonwealth v. Aumick, 297 A.3d 770, 776-77 (Pa. Super. 2023) (en banc) (quotation marks and citations omitted). "The clear and convincing standard requires evidence that is so clear, direct, weighty, and convincing as to enable the trier of fact to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue." ***Commonwealth v. Morgan***, 16 A.3d 1165, 1168 (Pa. Super. 2011) (cleaned up).

The procedure for SVP determinations is statutorily mandated. ***Aumick***, 297 A.3d at 777. Following conviction, but before sentencing, the trial court must order an assessment by the SOAB of an individual who has committed a sexually violent offense to determine whether that individual should be classified as an SVP.[3] 42 Pa.C.S. § 9799.24(a)-(b). The assessment must include, but is not limited to, an examination of the following fifteen factors:

> (1) Facts of the current offense, including:
>
> > (i) Whether the offense involved multiple victims.
> >
> > (ii) Whether the individual exceeded the means necessary to achieve the offense.
> >
> > (iii) The nature of the sexual contact with the victim.

---

[3] Under Subchapter H of SORNA, the Commonwealth must first demonstrate that an individual has been convicted of a "sexually violent offense." 42 Pa.C.S. § 9799.24(a). SORNA defines a sexually violent offense as "[a]n offense specified in section 9799.14 (relating to sexual offenses and tier system) as a Tier I, Tier II[,] or Tier III sexual offense committed on or after December 20, 2012, for which the individual was convicted." ***Id.*** § 9799.12. Here, there is no dispute that Shaheen was convicted of indecent assault, which is included under section 9799.14.

(iv) Relationship of the individual to the victim.

(v) Age of the victim.

(vi) Whether the offense included a display of unusual cruelty by the individual during the commission of the crime.

(vii) The mental capacity of the victim.

(2) Prior offense history, including:

(i) The individual's prior criminal record.

(ii) Whether the individual completed any prior sentences.

(iii) Whether the individual participated in available programs for sexual offenders.

(3) Characteristics of the individual, including:

(i) Age.

(ii) Use of illegal drugs.

(iii) Any mental illness, mental disability or mental abnormality.

(iv) Behavioral characteristics that contribute to the individual's conduct.

(4) Factors that are supported in a sexual offender assessment field as criteria reasonably related to the risk of reoffense.

Id. § 9799.24(b)(1)-(4).

There is no requirement that *all* the statutory factors or any number of them be present or absent to support an SVP designation; the factors are not a check list with each one weighing in some necessary fashion for or against SVP designation. Nor does the Commonwealth have to show that any certain factor is present or absent to support an SVP determination. Rather, the presence or absence of one or more factors might simply suggest the presence or absence of one or more particular types of mental abnormalities. Ultimately, it is

> the trial court's task to determine whether the Commonwealth has demonstrated by clear and convincing evidence that a defendant is to be classified as an SVP due to a mental abnormality or personality disorder that makes the individual likely to engage in predatory sexually violent offenses.

Commonwealth v. Person, 325 A.3d 823, 842 (Pa. Super. 2024) (cleaned up; emphasis in original).

As noted above, Mr. Lavetsky testified at Shaheen's SVP hearing. N.T., 10/31/2025, at 4-5. Shaheen's counsel accepted Mr. Lavetsky's qualifications, and the trial court recognized him as an expert in sex offender assessments. ***Id.*** at 13. When conducting an SOAB assessment, Mr. Lavetsky explained that he reviews the current offense, prior offending history (both sexual and non-sexual), and the characteristics of the defendants. ***Id.*** at 16.

Mr. Levetsky recognized that the current offense involved Shaheen kissing Doyle on her neck and hand and an attempt to kiss her on the mouth. ***Id.*** at 18. All physical contact was without her consent. ***Id.*** at 18, 33. He further observed that Shaheen had previously engaged in similar conduct with Doyle, which caused her to stop going to that Sunoco for three months. ***Id.*** at 22, 34. She was the only victim, was twenty-four years old at the time of the offense, and did not have any sort of diminished mental capacity. ***Id.*** at 17, 19, 35, 36. Shaheen did not engage in any display of unusual cruelty with Doyle or physically restrain her. ***Id.*** at 19, 31-33, 35.

As to Shaheen's prior offenses, Mr. Levetsky reported that he had two prior criminal episodes, one of which was for sexual offenses committed

against three separate victims. ***Id.*** at 20. The first victim was a seventeen-year-old girl with whom Shaheen exchanged text messages that included offers by Shaheen to pay the girl for oral sex. ***Id.*** He also touched her breasts without her consent. ***Id.***

The second victim was a twenty-year-old woman with an intellectual disability who went for a job interview at the Sunoco where Shaheen worked. ***Id.*** at 20-21. Shaheen took her to the back room, turned out the lights, pulled up her shirt and began sucking on her breasts without her consent. ***Id.*** at 21. Shaheen continued even when the victim told him to stop and pulled her toward him and grabbed her buttocks. ***Id.*** Shaheen then offered her money to allow him to continue, which she refused. ***Id.*** The victim reported the incident to police, and Shaheen again offered her money to recant the report. ***Id.***

The third victim was a fifteen-year-old girl who worked at Sunoco with Shaheen. ***Id.*** He made comments to her that escalated from compliments to sexual comments. ***Id.*** One day he grabbed her buttocks and breasts over her clothing while they were in the back storage area and did not stop when she asked. ***Id.*** at 21-22. When Shaheen engaged in similar behavior three months later, she quit her job. ***Id.*** at 22.

Following his conviction, Shaheen was sentenced to a period of incarceration and required to complete sex offender treatment. ***Id.*** at 22, 23.

He was still on probation from that sentence at the time he committed the offense against Doyle. ***Id.*** at 22.

Mr. Lavetsky explained that Shaheen's prior convictions for sexual offenses involving similar conduct as the instant offense, completion of sexual offender treatment, and the fact that he was still on probation when he assaulted Doyle speaks to Shaheen's sexual drive and lack of volitional control. ***Id.*** at 22-24, 34-35. He further noted Shaheen was in his thirties when he committed the previous offenses against the minor victims and was over forty years old when he committed the offense against twenty-four-year-old Doyle. ***Id.*** at 24. Mr. Lavetsky perceived the age differences between Shaheen and his victims to be evidence of a power differential. ***Id.*** As to Shaheen's drug use, he noted that there was no information provided regarding whether Shaheen used illicit substances. ***Id.***

Mr. Lavetsky concluded that Shaheen satisfied the criteria in the DSM-5 for the mental abnormality of unspecified paraphilic disorder. ***Id.*** at 25, 26-28. He also stated that Shaheen exhibited predatory behavior with all four victims and determined that he met the statutory definition of an SVP within a reasonable degree of professional certainty. ***Id.*** at 29-30.

The trial court found there was sufficient evidence to designate Shaheen as an SVP based on Mr. Lavetsky's testimony. Trial Court Opinion, 2/20/2026, at 12, 13; ***see also*** N.T., 10/31/2025, at 40. Specifically, it concluded that Shaheen suffers from a mental abnormality that makes him likely to engage

in future predatory sexually violent offenses based upon his prior criminal conduct, following which he completed sex offender treatment, but then committed a substantially similar sexual offense against Doyle while still on probation for his prior sex crimes. Trial Court Opinion, 2/20/2026, at 12-13. According to the trial court, "[Shaheen's] attempt to have this court focus solely on one aspect of one incident with the current victim, only one of [his] four known victims, is sorely misplaced." ***Id.*** at 13.

Based upon our review of the record, in the light most favorable to the Commonwealth, we conclude that the evidence clearly and convincingly supported a finding that Shaheen was an SVP. Although Shaheen is correct that the evidence presented did not support a finding as to all SVP factors, it is improper for this Court to reweigh the evidence presented in his favor. ***See Commonwealth v. Meals***, 912 A.2d 213, 222-23 (Pa. 2006) (concluding that this Court erred in reweighing the SVP evidence presented before the trial court by "giving more weight to the 'absent' factors than those found and relied upon by the trial court"). Again, the SVP factors are not intended to be a "check list." ***See Person***, 325 A.3d at 842. Rather, a trial court examines all the evidence to determine whether the Commonwealth has demonstrated by clear and convincing evidence that a defendant meets the definition of an SVP. ***Id.***; ***see also Aumick***, 297 A.3d at 776-77. Accordingly, based on our review of the record, we agree with the trial court that Shaheen met the

statutory criteria to be designated as an SVP. ***See Aumick***, 297 A.3d at 778-79.

Legality of Sentence

In his second and final issue on appeal, Shaheen argues that because the maximum penalty for a conviction of indecent assault is two years, and he was sentenced to one to two years of incarceration followed by three years of probation, his sentence is illegal. Shaheen's Brief at 20-21.

When reviewing challenge to the legality of a sentence, our standard of review is de novo and our scope of review is plenary. ***Commonwealth v. Talley***, 236 A.3d 42, 52 (Pa. Super. 2020). "If no statutory authorization exists for a particular sentence, that sentence is illegal and subject to correction." ***Commonwealth v. Infante***, 63 A.3d 358, 363 (Pa. Super. 2013) (citation omitted). "Likewise, a sentence that exceeds the statutory maximum is illegal." ***Id.***

SORNA mandates that courts impose a three-year term of probation, consecutive to a sentence of incarceration, in certain circumstances:

> **§ 9718.5. Mandatory period of probation for certain sexual offenders**
>
> **(a) Mandatory probation supervision after release from confinement.—**A person who is convicted in a court of this Commonwealth of an offense under section 9799.14(d) (relating to sexual offenses and tier system) shall be sentenced to a mandatory period of probation of three years consecutive to and in addition to any other lawful sentence issued by the court.
>
> **(b) Imposition.—**The court may impose the term of probation required under subsection (a) in addition to the maximum

> sentence permitted for the offense for which the defendant was convicted.
>
> **(c) Authority of court in sentencing.—**There shall be no authority in a court to impose on an offender to which this section is applicable a lesser period of probation than provided for under subsection (a). Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory period of probation provided under this section.

42 Pa.C.S. § 9718.5(a)-(c).

Section 9799.14(d) provides, in pertinent part, as follows:

> **(d) Tier III sexual offenses.--**The following offenses, or an attempt, conspiracy or solicitation to commit any of the following offenses, shall be classified as Tier III sexual offenses:
>
> * * *
>
> (16) Two or more convictions of offenses listed as Tier I or Tier II sexual offenses.

42 Pa.C.S. § 9799.14.

Shaheen pled guilty to indecent assault without consent, a second-degree misdemeanor. N.T., 9/3/2024, at 4. Shaheen does not dispute that he has two or more prior convictions of offenses listed as Tier I or II offenses under section 9799.14(d)(16). ***See*** SVP Report, 11/15/2024, at 3 (noting Shaheen was previously "convicted of two counts of corruption of minors, unlawful contact with minor, two counts of indecent assault, and intimidation of witnesses or victims"). Both parties agreed on a sentence of one to two years of incarceration with a three-year term of probation, which the court imposed at sentencing. N.T., 9/3/2024, at 5, N.T., 10/31/2025, at 3, 42, 49.

Shaheen's sentence is lawful. Although the maximum term of imprisonment for a second-degree misdemeanor is two years, ***see*** 18 Pa.C.S. § 1104(2), "[s]ubsection 9718.5(b) gives express statutory authorization to permit the three-year term of probation to exceed the statutory maximum for the underlying offense." ***Commonwealth v. Osman***, 362 A.3d 3, 12 (Pa. 2026). Indeed, "[s]ubsection 9718.5(c) declares that a trial court cannot impose a term of probation of less than three years for a qualifying offense." ***Id.*** Thus, there is statutory authority to impose a probationary sentence above the statutory maximum. As such, no relief on this claim is due.

Judgment of sentence affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/16/2026