NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

IN RE: MICHAEL SHELIGA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
APPEAL OF: MICHAEL SHELIGA	:	
	:	No. 420 WDA 2026

Appeal from the Order Entered February 25, 2026
In the Court of Common Pleas of Westmoreland County Criminal Division
at No(s): CP-65-MD-0001356-2025

BEFORE: KING, J., NEUMAN, J., and BENDER, P.J.E.

MEMORANDUM BY NEUMAN, J.: **FILED: November 18, 2026**

Appellant, Michael Sheliga, appeals *pro se* from the trial court's February 25, 2026 order denying and dismissing his petition to review the Westmoreland County District Attorney's Office's disapproval of his private criminal complaint.[1] Due to substantial defects in Appellant's brief, we dismiss his appeal.

We glean the following background from the record. On April 28, 2025, Appellant submitted a private complaint to the Westmoreland County District Attorney's Office, alleging Jordan Grogan violated the penal laws of this Commonwealth in Salem Township, Westmoreland County, on November 14,

[1] Appellant has proceeded *pro se* throughout this litigation.

2024.[2] Appellant alleged Mr. Grogan committed criminal mischief, disorderly conduct, littering, and harassment, after he kicked a sign to pieces, left litter on the road, screamed and yelled, called Appellant a "mother fucker," and was generally disorderly. On August 15, 2025, the District Attorney notified Appellant his private complaint was disapproved because it lacked prosecutorial merit.

On October 8, 2025, Appellant filed a petition for review with the trial court. A hearing on the petition for review took place on February 9, 2026. At the beginning of the hearing, Appellant summarized the alleged November 14, 2024 incident which led to his filing a private complaint as follows:

> I[was] on the side of a public street with a sign commenting on the Pennsylvania State Police who had threatened to arrest me for campaigning for Mr. Trump.[3] After the election, I ha[d] a sign about this, critical [of] Pennsylvania State Police, and an individual I never met before [(Mr. Grogan)], as much as it's on video, c[ame] and he kick[ed] the sign to pieces. This definitely had prosecutorial merit. He le[ft] debris on the street, that's littering, that had prosecutorial merit.
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> In addition to that, on tape -- and we can load the tape here if you would like -- face to face, he call[ed] me an m'er f'er, he

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[2] As discussed further *infra*, Pennsylvania Rule of Criminal Procedure 506 provides a private complaint shall be submitted to an attorney for the Commonwealth, who shall approve or disapprove it. Pa.R.Crim.P. 506(A). If the attorney for the Commonwealth disapproves the complaint, the attorney shall state the reasons on the complaint form and return it to the petitioner, who may then petition the court of common pleas for review of the decision. Pa.R.Crim.P. 506(B)(2).

[3] The record indicates this alleged incident involving the Pennsylvania State Police's threatening to arrest Appellant for campaigning occurred on November 3, 2024. ***See*** Petition for Review, 10/8/25, at ¶¶ 10, 13-15; N.T., 2/9/26, at 16.

> scream[ed] it to one of his friends. There[was] lots of other cussing and swearing because he didn't like my sign. He's free to put up whatever sign he may choose, but I have a constitutional right to go on a public street and put up a sign in relation to a public agency.

N.T. at 4. Jennifer Dupilka, Esq. (an assistant district attorney) and Appellant then testified. Attorney Dupilka — who had reviewed Appellant's private complaint — addressed why the complaint was disapproved, explaining:

> The … allegations are from November 14, 2024. In [Appellant's] petition [for review], he indicates the state police were called beforehand, before this incident, and informed him that he would be arrested in furtherance of his allegations. And normally with a private criminal complaint, the state police are our investigators, also local police. Our office, as assistant [district attorneys], are not investigators; we are attorneys, so we defer to the police. When they do an investigation, we defer to their … recommendation.
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> So if we see in a private criminal complaint that the police have been involved in that criminal complaint, then we defer, certainly, to the police agency that was involved. In this case, it was the state police. They, with regard to the allegations, indicated that they were not going to file … with regard to this individual, in fact, [they] would arrest [Appellant].
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> Also, [Appellant] provided a DVD copy of the … actual incident. I reviewed the DVD. I have it today. … What is viewed on this DVD is [Appellant] did have political signs. Now, these political signs were not printed, they were on cardboard that he put and wrote on, it looks like [with] marker, and he put it on cardboard, and they were laying [*sic*] beside the road. … I didn't, when I viewed this, see that it was on private property; it seemed to be on the road. The other individual he's alleged against[, *i.e.*, Mr. Grogan,] [came] by and [took] the signs and put[] them in the dumpster.
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> I not only reviewed this DVD, but I did review it with my supervisor…, and we agreed that it lacked prosecutorial merit because the police were already involved, and, also, it was *de minimis*. It seemed like a *de minimis* infraction. And we were not interested in pursuing this, and we were deferring to the state police.

Id. at 7-9 (italics added); ***see also id.*** at 28 (Attorney Dupilka's testifying she did not see Mr. Grogan "doing anything wrong" on the video and "[i]t seemed like he was picking up litter[] alongside a public roadway"); ***id.*** at 31 (Attorney Dupilka's stating Mr. Grogan did not come towards Appellant or put his hands on Appellant in the video, and "it was just a couple words exchanged, and [Mr. Grogan] was picking up these cardboard signs that weren't attached to anything and putting them in the dumpster").

Appellant testified he had several signs, some of which were cardboard and some of which were wood. ***Id.*** at 35. He stated he was planning to sit with his signs for three hours, and leaned his signs against either his lawn chair or against the telephone pole, making sure all signs remained propped up. ***Id.*** at 35-36. Afterwards, he said he intended to take his signs with him. ***Id.*** at 36. However, during about the second hour he was there, the incident with Mr. Grogan occurred. ***Id.*** He claimed the video shows a "sign that originally had the word *situation*, now ha[d] two letters missing, and this is some of the rubbish that [Mr. Grogan] left on the street. Before he kicked it, it was property which I wanted. It was my sign. Once he kick[ed] it to pieces, it [became] rubbish." ***Id.*** at 35-36 (italics in original).[4]

Following the hearing, the trial court issued an opinion and order on February 25, 2026, denying and dismissing Appellant's petition. It explained:

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[4] Videos of the incident were played at the hearing. The trial court observed it did not see anybody kicking or destroying a sign, and Appellant indicated he did not have a chance to get his camera out at that time. N.T. at 38.

> Upon a thorough review of the record in this matter and following relevant case law, the [c]ourt finds that the Assistant District Attorney's decision to disapprove the private criminal complaint and thereby decline to bring charges against Mr. Grogan … did not amount to bad faith, did not occur due to fraud, and was not unconstitutional. The [c]ourt finds that [Appellant] has not established[,] and the record is [de]void [of] any evidence[,] that the Assistant District Attorney's decision to disapprove the private criminal complaint was made with a fraudulent, dishonest, or corrupt purpose, occurred due to fraud, or was unconstitutional. To the contrary, the record in this matter reveals that the Assistant District Attorney relied on several sound reasons in declining to approve the private criminal complaint. Namely, the Assistant District Attorney reviewed the private criminal complaint and the video exhibit submitted by [Appellant] with the First Assistant District Attorney[,] and they determined that it "lacked prosecutorial merit" and any alleged conduct was *de minimis*, especially in relation to the multitude of other serious crimes that they prosecute; the Pennsylvania State Police investigated the matter[,] determining that there was no merit[,] and the Westmoreland County's District Attorney's Office largely defers to the recommendation of the police; and there was no direct evidence of Mr. Grogan['s] destroying [Appellant's] sign or ripping the sign(s) from [Appellant's] hand or putting his hands on [Appellant], rather the signs were not secured to anything and the video depicted Mr. Grogan['s] picking up the signs on a public roadway and walking away from [Appellant to] mov[e] them to the trash.

Trial Court Opinion ("TCO"), 2/25/26, at 3.

Appellant subsequently filed a timely notice of appeal. Thereafter, the trial court ordered him to file a concise statement pursuant to Pa.R.A.P. 1925(b), and he timely did so. The trial court then issued a Rule 1925(a) opinion.[5]

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[5] In the trial court's Rule 1925(a) opinion, it claimed Appellant waived all issues on appeal by failing to serve a copy of his concise statement on the trial court. Problematically, however, the trial court's Rule 1925(b) order did not
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Upon review, we are compelled to dismiss Appellant's appeal. Appellate briefs must comply with our Rules of Appellate Procedure. ***See*** Pa.R.A.P. 2101. Moreover, "if the defects are in the brief or reproduced record of the appellant and are substantial, the appeal or other matter may be quashed or dismissed." ***Id.*** Rule 2111 addresses the contents of the appellant's brief and sets forth what the brief must include. Pa.R.A.P. 2111(a).

In this case, the defects in Appellant's brief are substantial. In violation of Rule 2111(a), his brief fails to include: a statement of jurisdiction, the order in question, a statement of both the scope and standard of review, a statement of the questions involved, a statement of the case, a summary of the argument, a short conclusion stating the precise relief sought, a copy of Appellant's Rule 1925(b) statement, and the certificates of compliance required by Pa.R.A.P. 127 and 2135(d).

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comply with Rule 1925(b)(3)(iii). ***See*** Pa.R.A.P. 1925(b)(3)(iii) (requiring the judge's Rule 1925(b) order specify "both the place the appellant can serve the Statement in person and the address to which the appellant can mail the Statement. In addition, the judge may provide an email, facsimile, or other alternative means for the appellant to serve the Statement on the judge."); Order, 3/30/26 (the trial court's instructing only that "Appellant shall serve a copy of this statement on this Judge pursuant to [Rule] 1925(b)(1)"); ***see also Greater Erie Indus. Dev. Corp. v. Presque Isle Downs, Inc.***, 88 A.3d 222, 225 (Pa. Super. 2014) (*en banc*) ("In determining whether an appellant has waived his issues on appeal based on non-compliance with Pa.R.A.P. 1925, it is the trial court's order that triggers an appellant's obligation[. T]herefore, we look first to the language of that order.") (cleaned up). Accordingly, waiver is inappropriate on this basis. To the extent the trial court uses a standard Rule 1925(b) order, we respectfully encourage the trial court to amend its order to strictly comply with the mandates of Rule 1925(b)(3).

We recognize Appellant is *pro se*. Even though this Court is willing to liberally construe materials filed by *pro se* appellants, *pro se* appellants are not entitled to special treatment by virtue of the fact they lack legal training. ***Commonwealth v. Maris***, 629 A.2d 1014, 1017 n.1 (Pa. Super. 1993) (citation omitted). Here, Appellant failed to comply with numerous briefing requirements. Based on the foregoing substantial defects in his brief, we must dismiss his appeal.

However, even if Appellant's appeal was not subject to dismissal for briefing deficiencies, he would not convince us relief is due. Based on our review of his argument, it appears Appellant intends to raise four issues: (1) our Supreme Court's decision in ***In re Ajaj***, 288 A.3d 95 (Pa. 2023), applies too lenient of a standard of review for district attorneys' decisions to disapprove private criminal complaints and should not apply to acts that violate constitutional freedoms, ***see*** Appellant's Brief at 2-5, 15; (2) Attorney Dupilka acted in bad faith because (i) there was no mention of any interaction with or investigation by law enforcement in Appellant's private criminal complaint, (ii) Appellant's petition for review (which mentioned a police investigation) was not filed until two months after the district attorney's disapproval decision, and (iii) the petition for review does not indicate law enforcement investigated the November 14, 2024 incident with Mr. Grogan, but instead a November 3, 2024 incident relating to Appellant's campaigning, ***see id.*** at 5-12; (3) Attorney Dupilka made other false statements at the hearing, such as saying Appellant was cussing at Mr. Grogan, Appellant's signs

constituted litter, and that Mr. Grogan never came toward Appellant, which further proves dishonesty and bad faith, ***see id.*** at 12-15; and (4) the trial court erred by not allowing Appellant to make a closing argument, ***see id.*** at 15-16.

Before addressing Appellant's claims, we preliminarily recognize Rule 506 governs the approval of private complaints and provides:

> (A) When the affiant is not a law enforcement officer, the complaint shall be submitted to an attorney for the Commonwealth, who shall approve or disapprove it without unreasonable delay.
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> (B) If the attorney for the Commonwealth:
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> (1) approves the complaint, the attorney shall indicate this decision on the complaint form and transmit it to the issuing authority;
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> (2) disapproves the complaint, the attorney shall state the reasons on the complaint form and return it to the affiant. Thereafter, the affiant may petition the court of common pleas for review of the decision.

Pa.R.Crim.P. 506.

Our Supreme Court has held:

> [W]hen reviewing a prosecutor's decision disapproving a private criminal complaint under Rule 506, a court of common pleas may only overturn that decision if the private complainant demonstrates that the disapproval decision amounted to bad faith, occurred due to fraud, or was unconstitutional. … In addition, for purposes of determining whether the prosecutor's disapproval decision amounted to bad faith, we … hold that bad faith is demonstrated when the prosecutor acted with a fraudulent, dishonest, or corrupt purpose. We note that the adoption of the foregoing standard of review ensures that a court of common pleas will afford proper deference to the discretionary decision of the prosecutor—a member of the executive branch of the Commonwealth's government.

Ajaj, 288 A.3d at 109-10 (cleaned up).

> With respect to appellate review, this Court has determined:
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> > [T]he appellate standard of review for a trial court's review of a district attorney's disapproval of a private, criminal complaint is the same as any other sufficiency-of-the-evidence review: *de novo*. In conducting such a review, this Court must examine all of the evidence admitted at the hearing, together with any reasonable inferences drawn therefrom, in the light most favorable to the party in whose favor the trial court ruled. Critically, the trial court, as the fact finder, is free to believe all, part, or none of the evidence presented in judging the credibility of the witnesses and the weight to be afforded the evidence produced. Whether all the evidence and inferences drawn therefrom in the favor of the party who prevailed below are sufficient to prove bad faith, fraud, or unconstitutionality is a pure question of law, which this Court reviews *de novo*.

In re Private Crim. Compl. Filed by Animal Outlook, 349 A.3d 229, 234 (Pa. Super. 2025) (cleaned up), *appeal denied*, --- A.3d ----, 2026 WL 2236772 (Pa. filed Aug. 4, 2026).

> Further, this Court has observed:
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> > Ultimately, it is not the function of our courts to direct the day-to-day operations of the district attorney's office. If the voters in a specific county disagree with the executive decisions of their district attorney, the proper recourse is at the ballot box, not in our courts. Absent affirmative proof of bad faith, fraud, or unconstitutionality, the district attorney is free to prosecute whatever crimes he or she chooses.

Id. at 236.

We now turn to Appellant's claims. First, Appellant emphasizes "the importance of free political speech[,]" and argues ***Ajaj*** "should not apply to acts that violate freedoms found in the US and Pennsylvania Constitutions." Appellant's Brief at 2, 4. He says he "should not have to be shoved [by Mr.

Grogan] for his [F]irst [A]mendment rights to be protected[,]" ***id.*** at 4, and insists a different standard from ***Ajaj*** should apply to constitutionally protected activities. ***See id.*** at 2; ***see also id.*** at 4-5 ("The very lenient standard of ***Ajaj*** should not apply in this set of circumstances. Instead, the pre[-]***Ajaj*** standard of review of the asserted basis for the disapproval should apply.").

No relief would be due. Initially, there is no indication in the record that Mr. Grogan was a state actor; thus, Appellant's constitutional rights could not have been violated by Mr. Grogan. ***See Maylie v. Nat'l R.R. Passenger Corp.***, 601 A.2d 308, 313 (Pa. Super. 1991) ("The provisions of the Constitution do not reach the acts of purely private actors.") (citations omitted); ***Western Pa. Socialist Workers 1982 Campaign v. Ct. General Life Ins. Co.***, 485 A.2d 1, 3 (Pa. Super. 1984) ("The right of free speech secured by the federal Bill of Rights is held against the government and cannot be unreasonably infringed. In the absence of 'state action,' however, the acts of purely private actors … do not violate the federal constitution….") (citations omitted). Further, to the extent Appellant argues a standard other than the one announced in ***Ajaj*** should apply, our Supreme Court has made clear "a court of common pleas may ***only*** overturn [the] decision [of the district attorney] if the private complainant demonstrates that the disapproval decision amounted to bad faith, occurred due to fraud, or was unconstitutional." ***Ajaj***, 288 A.3d at 109 (emphasis added). As an intermediate appellate court, we are bound to apply Supreme Court

precedent. ***See Hillbrook Apartments, Inc. v. Nyce Crete Co.***, 352 A.2d 148, 152 (Pa. Super. 1975) ("[W]e are not free, as an intermediate appellate court, to overrule the decisional law enunciated by the Supreme Court of Pennsylvania.") (citations omitted). Thus, even if Appellant's appeal was not subject to dismissal, his first claim would fail.

In Appellant's second claim, he contends Attorney Dupilka acted in bad faith because (i) there was no mention of any investigation by law enforcement in the private complaint; (ii) the petition for review — which mentioned a police investigation — was not submitted until two months after the private complaint was disapproved; and (iii) even setting aside this date discrepancy, the petition for review said police investigated the November 3, 2024 incident relating to Appellant's campaigning, not the November 14, 2024 incident involving Mr. Grogan. Appellant's Brief at 7-11. As such, Appellant says Attorney Dupilka's assertion that she relied upon the police's investigation in disapproving the private complaint is dishonest and represents bad faith. ***Id.*** at 12.

Upon review, Appellant is correct that there was no mention of any police investigation in his private complaint and that the police investigation mentioned in his subsequent petition for review involved only the November 3, 2024 campaigning incident (not the November 14, 2024 incident involving Mr. Grogan). Nevertheless, Attorney Dupilka testified she disapproved the private complaint, in part, because the police were already involved in the matter and she deferred to their decision on whether charges were warranted.

N.T. at 7-9. While this information about a police investigation was not contained in the private complaint reviewed by Attorney Dupilka and the police investigation mentioned did not pertain to the November 14, 2024 incident with Mr. Grogan, the trial court still chose to credit Attorney Dupilka's testimony about disapproving the complaint due to the police's involvement, ***see*** TCO at 3, and "the trial court, as the fact finder, is free to believe all, part, or none of the evidence presented in judging the credibility of the witnesses and the weight to be afforded the evidence produced." ***Animal Outlook***, 349 A.3d at 234.

Even setting aside the police investigation, though, Attorney Dupilka gave two additional reasons for why she disapproved the private complaint. First, she spoke about how Mr. Grogan's alleged conduct was *de minimis*. She stated she "did not feel that it was worth the court's time prosecuting this case[,]" N.T. at 25, and explained "[w]e have much other [*sic*] serious crimes to deal with such as homicide, rape, burglaries, and we felt that this was *de minimis*…." ***Id.*** at 31 (italics added). Second, Attorney Dupilka indicated it did not appear Mr. Grogan did anything wrong. In watching the video footage from the incident, Attorney Dupilka explained, "It seemed like [Mr. Grogan] was picking up litter[] alongside a public road, so I didn't see that Mr. Grogan was doing anything wrong." ***Id.*** at 28.[6] Viewing the evidence in the light

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[6] ***See also*** N.T. at 21 (Attorney Dupilka's testifying, "I hear language from both of you. Again, those signs were propped up. They weren't even attached
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most favorable to the Commonwealth, as the party in whose favor the trial court ruled, the record supports the trial court's determination that Attorney Dupilka's disapproval decision did not amount to bad faith, occur due to fraud, or consist of unconstitutional action. ***See Animal Outlook***, 349 A.3d at 234. Thus, even if Appellant's brief was not subject to dismissal, no relief would be due on his second issue.

In Appellant's third issue, he argues Attorney Dupilka made other false statements at the hearing, such as saying Appellant was cussing at Mr. Grogan, Appellant's signs constituted litter, and that Mr. Grogan never came toward Appellant, which Appellant argues further proves dishonesty and bad faith. Appellant's Brief at 12-15. Appellant asserts the video shows he did not cuss at Mr. Grogan, he did not leave his political signs unattended (such that they could have been considered litter), and that Mr. Grogan came toward Appellant. ***Id.***

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to anything. They were just laying [*sic*] on the side of the road. You saw it in the video how easy it was for [Mr. Grogan] to just pick it up. He's picking up debris, and that's how I viewed the video. [Appellant] littered, [Mr. Grogan's] actually picking it up."); ***id.*** at 25 (Attorney Dupilka's conveying, "[S]omeone calling someone an mf'er isn't a crime."); ***id.*** at 29 (Attorney Dupilka's stating, "I see [Mr. Grogan] walking away from [Appellant]. I see him, to me, diffusing the situation. [Appellant is] kind of coming after him, talking to him, and he's just picking up and walking away from [Appellant]."); ***id.*** at 30-31 (Attorney Dupilka's asserting, "[I]n no way did [Mr. Grogan] ever come towards [Appellant]. [Mr. Grogan's] holding the things in his arms. He didn't push [Appellant].").

The trial court heard Attorney Dupilka's testimony and was able to compare it against the video footage it viewed.[7] To the extent Appellant argues aspects of Attorney Dupilka's testimony conflicted with the video footage, we reiterate "the trial court, as the fact finder, is free to believe all, part, or none of the evidence presented in judging the credibility of the witnesses and the weight to be afforded the evidence produced." ***Animal Outlook***, 349 A.3d at 234. The trial court also did not find that any discrepancies between Attorney Dupilka's testimony and the video footage amounted to bad faith. ***See id.*** at 237 (noting, even if a party offers evidence of bad faith by the district attorney, the trial court is free to reject that evidence). Therefore, Appellant's third issue would fail even if not subject to dismissal.

Finally, in Appellant's fourth issue, he advances the trial court erred by not allowing him to make a closing argument. Appellant's Brief at 15-16. We would deem this claim waived due to Appellant's failure to raise it below. ***See*** Pa.R.A.P. 302(a) ("Issues not raised in the trial court are waived and cannot be raised for the first time on appeal."); ***see also Steiner v. Markel***, 968 A.2d 1253, 1257 (Pa. 2009) ("Because issues not raised in the lower court are waived and cannot be raised for the first time on appeal, a 1925(b) statement can therefore never be used to raise a claim in the first instance.") (cleaned up). Our review of the transcript shows the following, in relevant part:

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[7] This Court has also viewed the video footage.

> [APPELLANT]: Your Honor, can I ask you a question? Do we get to summarize ever? A closing argument?
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> THE COURT: This isn't a trial. This is a hearing for me to determine whether there was any abuse of discretion by the District Attorney's Office in refusing your private criminal complaint. The record should reflect that you have made sufficient argument as to your position. [The Commonwealth's] position has been made satisfactorily on the record for my needs to make a decision on the petition.
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> [APPELLANT]: Thank you, Your Honor. I appreciate it.

N.T. at 43. Because Appellant did not object or raise an issue with the trial court's disallowing closing argument, we would find his fourth issue waived for failure to preserve it below. In sum, even if Appellant's appeal were not being dismissed for briefing deficiencies, his four issues would not warrant relief.

Appeal dismissed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 11/18/2026