

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
NORMAN D. AVILES-GARRIGA	:	
	:	
Appellant	:	No. 284 MDA 2025

Appeal from the Judgment of Sentence Entered October 25, 2024
In the Court of Common Pleas of Lancaster County Criminal Division at
No(s): CP-36-CR-0001640-2023

BEFORE: STABILE, J., SULLIVAN, J., and BENDER, P.J.E.

MEMORANDUM BY SULLIVAN, J.:

FILED SEPTEMBER 10, 2026

Norman D. Aviles-Garriga ("Aviles-Garriga") appeals *nunc pro tunc* from the judgment of sentence imposed after a jury convicted him of sexual crimes against three minor victims including aggravated indecent assault, indecent assault, endangering welfare of children, and corrupting morals of a minor.¹ In this Court, appellate counsel, Christopher P. Lyden, Esquire ("Counsel"), concludes Aviles-Garriga has no non-frivolous issues to raise in this appeal. Thus, Counsel filed a petition to withdraw and a brief pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and ***Commonwealth v. Santiago***, 978 A.2d 349 (Pa. 2009). Because Aviles-Garriga has failed to show the trial court erred in concluding the evidence was sufficient to sustain his convictions or in

¹ **See** 18 Pa.C.S.A. §§ 3125(a)(7), 3216(a)(1),(7), 4304(a)(1), 6301(a)(1) (ii).

sentencing, and our independent review discloses no non-frivolous appellate issues, we grant Counsel's petition to withdraw and affirm.

At trial, J.C., who was thirty years old at the time of trial, testified that in 1998, when she was around five years old, she lived in an apartment with her mother, and her twin sister, J.B. During this time period, Aviles-Garriga, her mother's cousin who she called "Uncle," lived with them briefly. **See** N.T. Vol. I, 6/3/24, at 59-60.² Because J.C.'s mother worked an overnight shift, Aviles-Garriga, who lived with the family for a few months, babysat the young twins at night. **See id.** at 62-63, 90. As J.C. testified at trial, on one occasion, she was watching television with Aviles-Garriga in his room. As J.C. lay on her side, Aviles-Garriga moved his hand from her stomach into her pants and underwear and touched and penetrated the lips of her vagina. **See id.** at 65-66.

Twin sister J.B. testified that one time when she was around six, she awoke from a nap to find Aviles-Garriga putting his hands into her underwear. He caressed her "butt crack" and used two fingers to caress her clitoris because her vaginal lips were open. **See id.** at 112-13. When J.C. told J.B. what Aviles-Garriga had done to her, J.B. said he had done something similar to her. **See id.** at 66-67. J.B. and J.C. revealed the abuse to their mother,

² The notes of testimony for the three days of trial are numbered consecutively.

who got angry and said she “didn’t have time for” what the girls were telling her and took no action. ***Id.*** at 67, 117.

J.R., a “cousin” of J.B. and J.C., testified she and her family moved in with Aviles-Garriga, her step-uncle, when she was about ten years old in approximately 2003. ***See id.*** at 152. J.R. testified she saw Aviles-Garriga as a father figure, and he paid special attention to her. ***See id.*** at 153. When she was around ten and developing as a result of her period, J.R. recounted at trial, “there [were] instances where I was sitting on [Aviles-Garriga’s] lap and he would put his . . . hand under my shirt and play with my chest.” ***See id.*** at 154. Aviles-Garriga told J.R. what he did was her fault because she should be wearing a bra and that, “I shouldn’t be tempting him.” ***Id.*** Aviles-Garriga also told J.R. that J.B. and J.C. were like “the devil” and she should not be around them. ***Id.*** at 157. Later, when J.C. revealed Aviles-Garriga’s abuse to J.R., J.R. told her she had a similar experience with Aviles-Garriga. ***See id.*** at 85-86, 100-02.

Aviles-Garriga, J.C., J.B., their mother, and J.R. were practicing Jehovah’s Witnesses. ***See id.*** at 61. In 2003, Aviles-Garriga became an Elder (a type of priest) in the church. ***See id.*** at 69-71, 95, 152-53. J.C. decided to be baptized. When Aviles-Garriga learned of her intention, he told members of his own congregation she and J.B. were devil worshippers who should not be baptized because of the type of music to which they listened and how they dressed. ***See id.*** at 69-71, 83. J.B. and J.C. reported Aviles-Garriga’s abuse

to the church, which held a “hearing” regarding the sisters’, and J.R.’s, accusations. **See id.** at 72. When questioned at the hearing, J.R. “froze.” Immediately after the hearing, Aviles-Garriga told her, “God didn’t want you to speak[.]” **Id.** at 158. The church ultimately took no action. **See id.** at 71-75.

In 2010, J.B. and J.C. reported Aviles-Garriga’s actions to law enforcement and there was an investigation, but the local prosecutor’s office declined prosecution. **See id.** at 76.³ J.C. ultimately chose disfellowship from the church as did J.B., after Aviles-Garriga made her life a “living hell” by criticizing her and her sister to members of the church; she contemplated suicide and spent two weeks in a residential treatment facility. **See id.** at 121-26, 139. J.C. disclosed the abuse to a therapist, which led to her forensic interview in 2010. **See id.** at 139-40.

Detective Gareth Lowe Jr. (“Detective Lowe”) was assigned in 2010 to investigate J.C.’s and J.B.’s sexual abuse claims. **See** N.T. Vol. 2, 6/4/24, at 177. Detective Lowe testified he reviewed forensic interviews of J.C. and J.B. done by forensic investigators at Lancaster County Children’s Alliance (“Children’s Alliance”). **See id.** at 177-80. Detective Lowe then spoke with Aviles-Garriga, who was not under arrest. Aviles-Garriga denied ever baby-

³ Some years later, Aviles-Garriga sent J.C. a Facebook message saying he would “like with all my heart to be able to go back in time and for our family to be united again[.]” **Id.** at 82.

sitting the girls and said he was never alone with them, never was physically close to them, and never indecently touched them. **See id.** at 180-96, 203-04. As an interviewing technique, Detective Lowe introduced Detective Christopher DePatto ("Detective DePatto") into the interview. Aviles-Garriga then said that "if" the abuse did happen, "it must have happened unconsciously." **Id.** at 197-98. The District Attorney's Office declined to bring charges in the case as a result of the 2010 investigation. **See id.** at 214.

Jimmy James Mummau ("Agent Mummau") testified that in 2019, he worked in the Office of Attorney General and was assigned to the Bureau of Criminal Investigation.⁴ That year, the Attorney General's Office initiated a state-wide investigation into allegations of child sexual abuse within the Jehovah's Witness community. **See id.** at 251. Agent Mummau, who was the primary agent for the Central and Eastern Districts of Pennsylvania, received a document production from Jehovah's Witness congregations within Lancaster County, and through his review of documents and use of subpoenas learned about the allegations against Aviles-Garriga. **See id.** at 255. In 2020, he interviewed J.B. and J.C., who in turn told him about J.R., whom he also then interviewed. **See id.** at 256-57. Upon conclusion of his investigation, Agent Mummau filed charges relating to Aviles-Garriga's abuse of the three

⁴ By the time of trial, Agent Mummau worked for the Inspector General's Office.

girls. **See id.** at 259. When he spoke to Aviles-Garriga, Aviles-Garriga said “he thought this was taken care of years ago.” **Id.**

Lisa Cameron, an expert in the dynamics of sexual abuse of children and delayed reporting, testified about the means by which children are groomed for sexual abuse and the reasons they delay reporting abuse. **See id.** at 224-35.

J.C. and J.B.’s mother (“L.C.” or “mother”) testified as a defense witness, and indicated when interviewed in 2010, she could not recall the girls disclosing abuse to her. **See id.** at 266. Aviles-Garriga, testified at trial and indicated he lived with L.C. and her daughters in 1999, and eventually established a good relationship with the girls. **See id.** at 273-75. He denied sexually abusing J.C. or J.B., and claimed they became disaffected from him when he condemned their lifestyle choices. **See id.** at 275-81. He also denied sexually abusing J.R. **See id.** at 281-84, 320-21. Aviles-Garriga admitted he told a detective that if the abuse happened, he did not remember it. **See id.** at 313-14.

A jury convicted Aviles-Garriga of sexual offenses against all three minor victims: J.C., J.B., and J.R.⁵ Following the preparation of a pre-sentence report, the trial court imposed an aggregate sentence of 11½ to 25 years of

⁵ Aviles-Garriga was convicted of two counts of aggravated indecent assault of a person under thirteen, four counts of indecent assault, three counts of endangering welfare of children, and three counts of corruption of minors.

incarceration. The trial court also determined Aviles-Garriga is a sexually violent predator and ordered that he register as a sex offender for life.

The court granted Aviles-Garriga's trial counsel permission to withdraw from the case and appellate Counsel was appointed. Counsel ultimately filed an **Anders** brief and a petition to withdraw.

When presented with an **Anders** brief, this Court may not review the merits of the underlying issues without first passing on the request to withdraw. **See Commonwealth v. Garang**, 9 A.3d 237, 240 (Pa. Super. 2010). Pursuant to **Anders**, when counsel believes an appeal is frivolous and wishes to withdraw from representation, he or she must do the following:

(1) petition the court for leave to withdraw stating that after making a conscientious examination of the record, counsel has determined the appeal would be frivolous; (2) file a brief referring to any issues that might arguably support the appeal, but which does not resemble a no-merit letter; and (3) furnish a copy of the brief to the defendant and advise him of his right to retain new counsel, proceed *pro se*, or raise any additional points he deems worthy of this Court's attention.

Commonwealth v. Edwards, 906 A.2d 1225, 1227 (Pa. Super. 2006) (internal citation omitted). In **Santiago**, our Supreme Court addressed the second requirement of **Anders**, *i.e.*, the contents of an **Anders** brief, and required that the brief:

- (1) provide a summary of the procedural history and facts, with citations to the record;
- (2) refer to anything in the record that counsel believes arguably supports the appeal;
- (3) set forth counsel's conclusion that the appeal is frivolous; and

- (4) state counsel's reasons for concluding that the appeal is frivolous. Counsel should articulate the relevant facts of record, controlling case law, and/or statutes on point that have led to the conclusion that the appeal is frivolous.

Santiago, 978 A.2d at 361. Once counsel has satisfied these technical requirements, it is then this Court's duty to conduct its own review of the trial court's proceedings and render an independent judgment as to whether the appeal is, in fact, wholly frivolous. **See Commonwealth v. Yorgey**, 188 A.3d 1190, 1197 (Pa. Super. 2018) (*en banc*).

Here, Counsel has filed a petition to withdraw stating that after a conscientious review of the record, he has concluded that there are no non-frivolous issues he can pursue on Aviles-Garriga's behalf. **See** Motion to Withdraw, 5/7/25. Counsel has also filed a brief and provided it to Aviles-Garriga, and advised Aviles-Garriga of his right to proceed in this appeal, with private counsel or *pro se*, and to present to this Court any other information or documentation relevant to his appeal. **See** Exhibit 1 to Motion to Withdraw (Counsel's May 2, 2025, letter to Aviles-Garriga informing him of the right to retain new counsel or to submit additional arguments on his own behalf). Counsel's **Anders** brief includes a summary of the factual and procedural history of the appeal and explains his reasons for concluding that the appeal

is wholly frivolous. **See Anders** Brief at 8-16.⁶ Thus, we conclude that Counsel has complied with the technical requirements of **Anders** and **Santiago**, and we will proceed with an independent review of whether this appeal is frivolous.

Counsel identifies for our review issues regarding the sufficiency of the evidence and the legality, and discretionary aspects, of sentence. **See Anders** Brief at 7.

Our standard of review for sufficiency claims is well established:

A claim challenging the sufficiency of the evidence is a question of law. Evidence will be deemed sufficient to support the verdict when it establishes each material element of the crime charged and the commission thereof by the accused, beyond a reasonable doubt When reviewing a sufficiency claim[,], the court is required to view the evidence in the light most favorable to the verdict winner giving the prosecution the benefit of all reasonable inferences to be drawn from the evidence.

Commonwealth v. Stahl, 175 A.3d 301, 303-04 (Pa. Super. 2017) (emphasis removed). On sufficiency review, evidence is viewed in the light most favorable to the Commonwealth as verdict winner, not the defendant. **See, e.g., Commonwealth v. Brunson**, 347 A.3d 808, 820 (Pa. Super. 2025); **Commonwealth v. Risoldi**, 238 A.3d 434, 454 (Pa. Super. 2020).

In reviewing a sufficiency claim, this Court has also acknowledged that:

we may not weigh the evidence and substitute our judgment for the fact-[]finder The Commonwealth may sustain its burden

⁶ We note that Counsel used the victim's full names which are redacted in cases involving child victims of sexual abuse. Because this is a sealed record, we will not order the **Anders** brief to be stricken and redacted.

of proving every element of the crime beyond a reasonable doubt by means of wholly circumstantial evidence. Moreover, in applying the above test, the entire record must be evaluated and all evidence actually received must be considered. Finally, the finder of fact while passing upon the credibility of witnesses and the weight of the evidence produced, is free to believe all, part or none of the evidence.

Commonwealth v. Burton, 234 A.3d 824, 829 (Pa. Super. 2020) (citation omitted); ***see also Commonwealth v. Fitzpatrick***, 181 A.3d 368, 374 (Pa. Super. 2018) (stating all evidence is considered in conducting sufficiency review).

A person commits aggravated indecent assault where he engages in penetration, however slight, of the anus or genitals of another person's body where that person is less than thirteen years of age. **See** 18 Pa.C.S.A. § 3125(a)(7). A person commits indecent assault when he touches the sexual or other intimate parts of a person for the purposes of arousing or gratifying sexual desire in another person and does so without the other person's consent or the person is less than thirteen years old. 18 Pa.C.S.A. § 3101, 3126(a)(1), (7). A person endangers the welfare of children where when he is supervising a child, he knowingly endangers the welfare of the child by violating a duty of care, protection, or support. **See** 18 Pa.C.S.A. § 4304(a)(1). A person commits corruption of minors where being eighteen years old or older he by any course of conduct commits a sexual offense that corrupts or tends to corrupt the morals of a minor. **See** 18 Pa.C.S.A. § 6301(a)(1)(ii).

As counsel explains, J.C. testified Aviles-Garriga placed his hands inside of her pants and rubbed her vagina when she was five years old; J.B. testified that when she was six years old, Aviles-Garriga placed his hand down her pants and inserted his finger into her vagina; and J.R. testified to multiple occasions when she was approximately ten years old,⁷ that Aviles-Garriga placed his hand inside of her shirt and fondled her breasts. **See Anders** Brief at 10. Plainly, this testimony was sufficient to establish that Aviles-Garriga committed the crimes of which he was convicted. **See Commonwealth v. Juray**, 275 A.3d 1037, 1044-45 (Pa. Super. 2002) (stating that digital penetration of the vagina of a child constitutes aggravated indecent assault); **Commonwealth v. Izurieta**, 171 A.3d 803, 807 (stating digital penetration of the vagina of a child under sixteen years old constitutes indecent assault); **Commonwealth v. Tepo-Martinez**, 349 A.3d 432, 435 (Pa. Super. 2025) (stating that a person commits indecent assault when he touches a woman's breasts to gratify sexual desire); **Commonwealth v. Golphin**, 161 A.3d 1009, 1021 (stating that a live-in boyfriend is a person supervising the welfare of children); **Commonwealth v. Leatherby**, 116 A.3d 73, 79-80 (Pa. Super. 2015) (holding that the defendant committed corruption of minors where he groped a child's chest and buttocks).

⁷ J.R. testified that the time period was around the time she got her period, but also described being about 10 years old. **See** N.T., Vol. I, 6/3/24, at 152-54.

Counsel also identifies possible challenges to the legality of sentence and the discretionary aspects of sentence. **See Anders** Brief at 13-16.

There are four categories of illegal sentencing challenges; those are challenges to sentences: 1) imposed under facially unconstitutional sentencing statutes, 2) imposed by courts without statutory authority, 3) in violation of the constitution, and 4) where the statutory authority for the conviction is void *ab initio*. **See Commonwealth v. Prinkey**, 274 A.3d 554, 562-63 (Pa. 2022).

“[C]hallenges to the discretionary aspects of sentence do not entitle an appellant to an appeal as of right.” **Commonwealth v. Perzel**, 291 A.3d 38, 46 (Pa. Super. 2023). Before reaching the merits of a discretionary sentencing claim, we conduct a four-part analysis to determine: (1) whether the appeal is timely; (2) whether Appellant preserved his issue; (3) whether Appellant’s brief includes a concise statement of the reasons relied upon for allowance of appeal with respect to the discretionary aspects of sentence; and (4) whether the concise statement raises a substantial question that the sentence is appropriate under the Sentencing Code. **See id.** The decision to impose consecutive rather than concurrent sentences generally does not raise a substantial question. **See Commonwealth v. Raven**, 97 A.3d 1244, 1253 (Pa. Super. 2014); **see also Commonwealth v. Moury**, 992 A.2d 162, 171-72 (Pa. Super 2010).

Counsel recognizes that all of Aviles-Garriga's sentences were within the limits of the sentencing statutes, and, thus, a legality of sentence challenge would be frivolous. **See Anders** Brief at 14. Counsel also recognizes that a claim that the imposition of consecutive sentences, as some of Aviles-Garriga's sentences are, does not raise a substantial question. **See id.** at 15. Accordingly, any discretionary sentence would be frivolous.

Finally, pursuant to an independent review of the record by this panel there is a suggestion of an additional claim Aviles-Garriga may advance: that under **Commonwealth v. Kelly**, 102 A.3d 1025 (Pa. Super. 2014) (*en banc*), his corruption of minors convictions did not constitute a course of conduct because he only committed one act of abuse against each of three victims. Upon review, we deem this claim to be frivolous. The evidence showed Aviles-Garriga engaged in a course of conduct for purposes of the corruption of minors statute, and **Kelly** is clearly distinguishable. In **Kelly**, the stepfather of the victim, was prosecuted for fondling his stepson on one occasion. Thus, the prosecution charged him with **one** act of abuse against **one** victim. Aviles-Garriga, by contrast, was prosecuted in one consolidated trial for sexual abuse against **three** victims. Additionally, one of his victims, J.R., testified to sexual touching on more than one occasion. Thus, Aviles-Garriga's conduct constituted a course of conduct against his three victims and against J.R. individually. **See Kelly**, 102 A.3d at 1030 (examining several criminal statutes and determining that a course of conduct "implies more than one act

over time"). Because **Kelly** is distinguishable to the facts presented in this trial, a sentencing challenge asserting that Aviles-Garriga did not engage in a course of conduct would be frivolous.

Consequently, we concur with Counsel's assessment that Aviles-Garriga's appeal is frivolous. As such, we affirm the judgment of sentence and grant counsel's petition to withdraw.

Judgment of sentence affirmed. Petition to withdraw granted.

Judge Stabile joins this decision.

President Judge Emeritus Bender files a dissenting memorandum.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 09/10/2026