NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
CHARLES ANTHONY ACOSTA	:	
Appellant	:	No. 1468 MDA 2025

Appeal from the Judgment of Sentence Entered September 19, 2025
In the Court of Common Pleas of Berks County Criminal Division at
No(s): CP-06-CR-0003343-2023

BEFORE: MURRAY, J., LANE, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY LANE, J.: **FILED: NOVEMBER 17, 2026**

Charles Anthony Acosta ("Acosta") appeals from the judgment of sentence imposed following his jury trial convictions of first-degree murder[1] and related offenses. Acosta's court-appointed counsel, Jason Young, Esquire ("Attorney Young"), has filed a petition to withdraw and accompanying brief pursuant to ***Anders v. California***, 386 U.S. 738 (1967) and ***Commonwealth v. Santiago***, 978 A.2d 349 (Pa. 2009). We grant Attorney Young's petition and affirm the judgment of sentence.

In January 2023, Ana Velez ("Velez") moved into an apartment with her three children— a four-year-old daughter, a two-and-a-half-year-old son, E.V., and an eleven-month-old son — as well as with Acosta, whom she was dating.

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* Retired Senior Judge assigned to the Superior Court.

[1] 18 Pa.C.S.A. § 2502(a).

In May 2023, Acosta's eight-year-old daughter visited them for the summer. During this time, Velez worked and Acosta took care of the children.

However, on May 4, 2023, Velez was off from work. Velez cooked dinner, but E.V. complained of stomach pain and ate very little.[2] Later in the evening, Velez gave E.V. a bath and a bottle. Velez then left the apartment at approximately 9:00 pm to retrieve laundry from her sister's house. Velez left E.V. in Acosta's care because E.V. was ill. Acosta subsequently sent a text message to Velez, indicating that E.V. needed to go to the hospital as he had vomited and his stomach was bloated. When Velez arrived home shortly before 1:00 a.m., Acosta carried E.V. to the car and they drove to the local hospital. Due to the severity of E.V.'s symptoms, the doctor transferred E.V. *via* helicopter to Hershey Hospital for treatment. However, despite additional medical intervention, E.V. died the next day.

That same day, local law enforcement received a Childline report regarding E.V., resulting in them interviewing both Acosta and Velez. Acosta stated the following. He was the only adult in the home after Velez left to retrieve the laundry. E.V. reported stomach pain and vomiting but otherwise appeared to behave normally. Velez reported the same to law enforcement. However, E.V.'s body had swelled by the time Velez returned home. As Acosta

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[2] We note that E.V. had sustained a knee injury and was wearing both a cast and a boot at the time of the incident.

was unable to provide a reasonable explanation as to how E.V. sustained his fatal injuries while in his care, law enforcement arrested Acosta.

The Commonwealth charged Acosta with first-degree murder, third-degree murder, three counts of aggravated assault, and endangering the welfare of children ("EWOC").[3] In April 2025, this matter proceeded to jury trial. The Commonwealth presented testimony from Velez, medical personnel, and law enforcement officers. Velez's testimony accorded with the foregoing account. Additionally, Velez testified that upon her arrival at home that night, she immediately noticed that E.V. "was swollen from head to toe[,]his eyes were rolling back," and he "was unresponsive." N.T., 4/28-30/25, at 35. Velez noted that E.V. had a bruise on his stomach, which she had not observed during his earlier bath. ***See id***. at 35-36.

An emergency department doctor and nurse testified as follows. Upon E.V.'s arrival to the hospital, his skin was a "bluish grey color[,]" he had difficulty breathing, he had "dried blood around his mouth[,]" "his scrotum was very swollen[,]" and "[h]is abdomen was very distended and hard to the touch." ***Id***. 66, 112. E.V. also had four "dime size" bruises on his lower abdomen. ***Id***. at 68, 88.

The medical examiner testified that the autopsy revealed extensive blunt force trauma to E.V.'s body, including multiple abdominal and pelvic

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[3] 18 Pa.C.S.A. §§ 2502(c), 2702(a)(1), (8), (9), 4304(a)(1).

injuries, severe chest compression, damage to the stomach and diaphragm, and internal bleeding. The injuries indicated multiple forceful impacts rather than a single incident. The medical examiner explained that the stomach injury E.V. sustained would have resulted in "severe massive pain [and] suffering . . .." N.T., 4/28-30/25, at 267. E.V. would have also "certainly had nausea, vomiting, [and] bleeding" and would "essentially [be] incapacitated by this injury." ***Id***. (unnecessary capitalization omitted). Internal hemorrhaging around the thyroid gland and neck muscles was consistent with forceful strangulation or grabbing of the neck. E.V. also sustained seven distinct scalp bruises, significant swelling to the back of the head, a subdural hematoma, and brain stem damage. He opined that the injuries to E.V.'s head would have "knock[ed] him unconscious to the point that he wouldn't regain consciousness[.]" ***Id***. at 298. The medical examiner opined that the head and stomach injuries occurred twelve to sixteen hours before death, "consistent with" an injury time of approximately 10:00 p.m. on May 4, 2023. ***Id***. at 293. He opined within a reasonable degree of medical certainty that the cause of death was "multiple traumatic injuries . . . to the head, . . . abdomen and chest." ***Id***. at 295. The manner of death was homicide. ***See id***. at 294.

Acosta's nine-year-old daughter testified in his defense to the following. At some point during the evening of the incident, Velez left the apartment, Acosta was watching E.V., and E.V. began to vomit. Acosta sent a text

message to Velez that they needed to take E.V. to the hospital, and they did so.

Lastly, Acosta testified in his own defense to the following. On the night of E.V.'s death, Velez left the home "between 9 and 9:30" in the evening. N.T., 4/28-30/25, at 318. Acosta was "taking care of" E.V. and attempted to feed him soup. E.V. vomited and Acosta bathed him. Acosta initially informed Velez by text message that E.V. vomited but told her, "[D]on't worry. I got him." ***Id***. at 321. E.V. vomited again and his vomit "was a reddish color." ***Id***. at 320. Acosta and Velez had given all the children burgundy-colored cold medicine, and Acosta initially believed the burgundy color resulted from the medicine and fruit juice E.V. had consumed. E.V. vomited "at least four or five times." ***Id***. at 321. When Acosta "realized" there was blood in E.V.'s vomit and it was "not normal[,]" and E.V.'s stomach was "getting bloated[or] swollen," he told Velez she needed to return to take E.V. to the hospital. ***Id***. at 322-23. Acosta was "devastated" when the nurses took E.V. from him at the hospital and he considered him as his son. ***Id***. at 325. Acosta "never" struck, spanked, or beat E.V. and he did not know what caused his injuries. ***Id***. at 325, 334.

On April 30, 2025, the jury found Acosta guilty of first-degree murder, three counts of aggravated assault, and EWOC.

In May 2025, Acosta requested the appointment of new counsel. The following month, the trial court appointed Attorney Young, who entered his

appearance. On September 19, 2025, the trial court imposed a mandatory term of life imprisonment without the possibility of parole for Acosta's first-degree murder conviction, and a consecutive term of three to twenty years' imprisonment for the EWOC conviction. The three aggravated assault convictions merged with the murder conviction for sentencing purposes. Acosta filed a timely notice of appeal.

On November 6, 2025, the trial court issued an order directing Acosta to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b) within twenty-one days. On December 19, 2025, the trial court filed a statement in lieu of an opinion, explaining that it was unable to prepare an opinion because Acosta had failed to file a concise statement. On December 22, 2025, Attorney Young filed a notice of his intent to withdraw as counsel and served it on Acosta.

In March 2026, Attorney Young filed an ***Anders*** brief and mailed Acosta a copy of the brief, along with a letter advising him of his rights. The letter, however, erroneously advised Acosta that he could petition the court for the new appointment of counsel. In April 2026, this Court directed counsel to provide Acosta with a letter advising him of his right to retain private counsel or proceed *pro se*. Attorney Young failed to comply with that order. In June 2026, this Court issued another order directing counsel to comply with the April 2026 order within five days. Nearly two months later, in July 2026,

Attorney Young filed a copy of a revised letter, dated April 13, 2026, which accurately advised Acosta of his rights.

Before we address the merits of the issues raised in the ***Anders*** brief, we must first assess the petition to withdraw from representation to determine whether it meets certain procedural requirements. ***See Commonwealth v. Goodwin***, 928 A.2d 287, 290 (Pa. Super. 2007) (*en banc*). An ***Anders*** brief that accompanies a request to withdraw must:

> (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. Counsel must also provide a copy of the ***Anders*** brief to the client, and a letter that advises the client of the right to: "(1) retain new counsel to pursue the appeal; (2) proceed *pro se* on appeal; or (3) raise any points that the appellant deems worthy of the court's attention in addition to the points raised by counsel in the ***Anders*** brief." ***Commonwealth v. Orellana***, 86 A.3d 877, 880 (Pa. Super. 2014) (citation omitted). If counsel has satisfied these requirements, we then conduct "a full examination" of the record "to decide whether the case is wholly frivolous." ***Commonwealth v. Dempster***, 187 A.3d 266, 271 (Pa. Super. 2018) (*en banc*) (*quoting* ***Anders***, 386 U.S. at 744). If we so find, we "may grant counsel's request to withdraw and dismiss the appeal[.]" ***Id***.

Here, in the ***Anders*** brief, Attorney Young provides a procedural and factual history of the case with citations to the record, discusses the issues arguably supporting the appeal, and explains why he concluded that they are frivolous. ***See Anders*** Brief at 5-10. Attorney Young mailed a copy of the ***Anders*** brief to Acosta, and in a letter advised him that he could raise any additional issues before this Court *pro se* or with private counsel. ***See*** Response to Order, 4/13/26. As Attorney Young has substantially complied with the requirements of ***Anders*** and ***Santiago***, we will conduct an independent review to determine whether the appeal is frivolous.

Attorney Young raises the following issues for our review: (1) "Was the evidence at trial sufficient to prove every element of the offenses for which [Acosta] was convicted?," and (2) "Did [Acosta] knowingly and voluntarily approve of waiving his direct appellate rights?" ***Anders*** Brief at 4 (unnecessary capitalization omitted).

"In reviewing a sufficiency of the evidence claim, we must determine whether the evidence admitted at trial, as well as all reasonable inferences drawn therefrom, when viewed in the light most favorable to the verdict winner, are sufficient to support all elements of the offense." ***Commonwealth v. Juray***, 275 A.3d 1037, 1042 (Pa. Super. 2022) (citation omitted). "We conduct this review *de novo.* The Commonwealth may sustain its burden with wholly circumstantial evidence, and in matters of credibility, we defer to the finder of fact, who was free to believe all, some, or none of

the evidence." ***Commonwealth v. Hall***, 199 A.3d 954, 960 (Pa. Super. 2018) (citations omitted). "If the Commonwealth has presented some evidence of each element of the crime, we deem the evidence sufficient unless it is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances." ***Commonwealth v. Miller***, 217 A.3d 1254, 1256 (Pa. Super. 2019) (citation and quotation marks omitted).

First-degree murder is an "intentional killing." 18 Pa.C.S.A. § 2502(a). An intentional killing is a "[k]illing by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing. 18 Pa.C.S.A. § 2502(d).

> In order to prove first-degree murder, the Commonwealth must establish that: (1) a human being was killed; (2) the accused caused the death; and (3) the accused acted with malice and the specific intent to kill. . . .
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> Furthermore, the law does not require a lengthy period of premeditation. Indeed, the period of reflection required for premeditation to establish the specific intent to kill . . . can be formulated in a fraction of a second. Premeditation and deliberation exist whenever the assailant possesses the conscious purpose to bring about death.

Commonwealth v. Anderson, 323 A.3d 744, 753 (Pa. 2024) (citations and quotation marks omitted).

> We caution, however, that while a specific intent to kill may be inferred using a deadly weapon on a vital part of another's body, the absence of the use of a deadly weapon against a vital part of the victim's body does not necessarily preclude a finding of specific intent to kill; it only precludes the use of the deadly weapon presumption. In the absence of the presumption, the

> Commonwealth may still prove specific intent through other evidence. The only requirement is that there be sufficient evidence to justify the jury's verdict which imports a finding of specific intent to kill. . . .

Commonwealth v. Newton, 318 A.3d 133, 139 (Pa Super. 2024) (citations and quotation marks omitted).

Subsections 2702(a)(1), (8) and (9) of the Crimes Code[4] define aggravated assault as follows:

> (1) to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;
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> * * * *
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> (8) attempts to cause or intentionally, knowingly or recklessly causes bodily injury to a child less than six years of age, by a person 18 years of age or older; or
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> (9) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to a child less than 13 years of age, by a person 18 years of age or older."

18 Pa.C.S.A. § 2702(a)(1), (8), (9).

18 Pa.C.S.A. § 2301 defines "[s]erious bodily injury" as "[b]odily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ." 18 Pa.C.S.A. § 2301.

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[4] ***See*** 18 Pa.C.S.A. §§ 101-9546.

Section 4304 of the Crimes Code provides: "A parent, guardian or other person supervising the welfare of a child under 18 years of age . . . commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support." 18 Pa.C.S.A. § 4304(a)(1).

> This Court has employed a three-prong test to determine whether the Commonwealth's evidence is sufficient to prove that a defendant knowingly violated a duty of care under Section 4304(a)(1):
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> > (1) the accused must be aware of his or her duty to protect the child; (2) the accused must be aware that the child is in circumstances that could threaten the child's physical or psychological welfare; and (3) the accused either must have failed to act, or must have taken action so lame or meager that such actions cannot reasonably be expected to protect the child's welfare.

***Commonwealth v. Sebolka*,** 205 A.3d 329, 337 (Pa. Super. 2019) (citation omitted).

Attorney Young concludes that the evidence at trial, when viewed in the light most favorable to the Commonwealth as the verdict winner, was "sufficient to prove every element of the offenses of which the jury convicted" Acosta. ***Anders*** Brief at 9. He concludes that while the evidence was circumstantial, it established that the decedent, E.V., was in Acosta's care when he sustained his fatal injuries. Attorney Young states that the "powerful circumstantial evidence that was uncontroverted at trial linked [Acosta] to the crime and established beyond a reasonable doubt the elements of murder in

the first degree, aggravated assault, and endangering the welfare of a child." ***Id***. (unnecessary capitalization omitted).

Based on our review, we conclude that any challenge to the sufficiency of the evidence would be frivolous. Viewing the trial evidence in the light most favorable to the Commonwealth, the evidence established that Acosta was the only adult caring for E.V. when E.V. sustained his injuries. Here, E.V. was two-and-a-half-years old, was under Acosta's exclusive care at 10:00 p.m. on the date of the incident, and sustained fatal injuries, including repeated forceful impacts, internal hemorrhaging consistent with strangulation, multiple scalp bruises, and damage to the brain stem. Additionally, Velez testified that when she bathed E.V. earlier that evening, she did not observe the bruising and swelling that were apparent when she returned home. This undisputed circumstantial evidence supported an inference that Acosta acted with the specific intent to kill him. ***See Newton***, 318 A.3d at 139. ***See*** 18 Pa.C.S.A. § 2502(d). Accordingly, the evidence was sufficient to support the jury's first-degree murder conviction.

Further, the evidence adduced at trial was sufficient to support all three of Acosta's aggravated assault convictions. The circumstantial evidence supported the verdicts as the jury could conclude that Acosta, a twenty-five-year-old adult, intentionally attempted to cause serious bodily injury to E.V., a child under six years of age. The injuries described above and E.V.'s resulting death all constituted serious bodily injury. ***See*** 18 Pa.C.S.A. §§

2702(a)(1), (8), (9), 2301. Additionally, those injuries all reflect an extreme indifference to the value of human life. Accordingly, the evidence is sufficient to support the jury's convictions of aggravated assault under 18 Pa.C.S.A. § 2702(a)(1), (8), (9).

Lastly, incorporating the above analysis, we conclude that the evidence adduced at trial was sufficient to support Acosta's EWOC conviction. Here, Acosta was aware of his duty of care to E.V., as he admitted that he was responsible for E.V.'s care when Velez was not home. ***See Sebolka*,** 205 A.3d at 337. Acosta violated his duty of care, protection or support as the evidence supports an inference that he was aware of the circumstances threatening E.V.'s physical welfare and he failed to act as E.V. died in his care. ***See*** 18 Pa.C.S.A. § 4304(a)(1).

Next, Attorney Young raises the issue of whether Acosta waived his appellate rights. Attorney Young asserts that Acosta informed him that rather than proceeding with the underlying appeal, Acosta wished to "file a Post-Conviction Relief Act[5] petition." ***Anders*** Brief at 10. As Acosta has not discontinued this appeal, we take no further action on this claim.

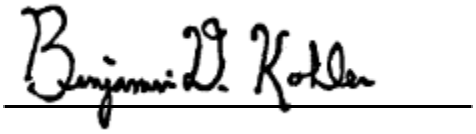
In sum, our independent review does not disclose any non-frivolous issue. ***See Dempster***, 187 A.3d at 271. Accordingly, we grant Attorney Young's petition to withdraw and affirm Acosta's judgment of sentence.

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[5] ***See*** 42 Pa.C.S.A. §§ 9541-9546.

Petition to withdraw granted. Judgment of sentence affirmed.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/17/2026