NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
CLARENCE HOBEREK	:	
Appellant	:	No. 241 WDA 2025

Appeal from the Judgment of Sentence Entered January 30, 2023
In the Court of Common Pleas of Washington County Criminal Division at
No(s): CP-63-CR-0002222-2021

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
CLARENCE HOBEREK	:	
Appellant	:	No. 242 WDA 2025

Appeal from the Judgment of Sentence Entered January 30, 2023
In the Court of Common Pleas of Washington County Criminal Division at
No(s): CP-63-CR-0000891-2022

BEFORE: PANELLA, P.J.E., NICHOLS, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY NICHOLS, J.: **FILED: November 19, 2026**

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* Retired Senior Judge assigned to the Superior Court.

Appellant Clarence Hoberek appeals *nunc pro tunc* from the judgments of sentence[1] imposed following his conviction, on two separate dockets,[2] of one count each of theft by unlawful taking,[3] receiving stolen property, unauthorized use of a motor vehicle, driving under the influence—refusal, and two counts of driving while operating privileges suspended or revoked (third or subsequent violation). Appellant's counsel, Adam Yarussi, Esq. (Counsel), has also filed an application to withdraw from representation on appeal and an accompanying brief pursuant to ***Anders v. California***, 386 U.S. 738 (1967), and ***Commonwealth v. Santiago***, 978 A.2d 349 (Pa. 2009). After careful review, we affirm the judgments of sentence and grant Counsel's application to withdraw.

The trial court set forth the facts of this case as follows:

> Around March of 2021, Bill Verelst invited Appellant, who had recently fallen on[] hard times, to stay with him and his mother at their residence . . . in Burgettstown. While Appellant was staying at Bill Verelst's residence, he was not given consent, either by Bill Verelst or his fiancé[e], Michele Fisher-Rice, to use any of the vehicles located at the residence, as Bill Verelst was aware that Appellant did not possess a driver's license. In October of 2021, Bill Verelst and [] Fisher-Rice traveled to Colorado, while

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[1] On April 1, 2025, our Court *sua sponte* consolidated these appeals. ***See*** Pa.R.A.P. 513.

[2] ***See*** CR-2222-2021 and CR-891-2022. The cases were consolidated for trial. On CR-891-2022, Appellant was acquitted of simple assault, but was found guilty, following a bench trial, of careless driving. ***See*** 75 Pa.C.S. § 3714(a).

[3] 18 Pa.C.S. §§ 3921(a), 3925(a), 3928(a), 75 Pa.C.S. §§ 3802(a)(1), and 1543(b)(1)(iii), respectively.

Bill Verelst's mother, Patsy Verelst, was away in Virginia, leaving Appellant alone at the residence. Prior to Bill Verelst leaving for Colorado, Appellant asked him if he would be able to use the vehicle while he was gone, to which Bill Verelst again informed Appellant that he was not able to drive the vehicle under any circumstances.

While in Colorado, Bill Verelst became sick and had to return home. After returning home, Bill Verelst and [] Fisher-Rice encountered Appellant asleep on the couch. Upon waking up, Appellant stated[,] "I didn't have anything to do with anything. I didn't do anything[,]" and[,] "I didn't do it. I wasn't here all week." Unaware of what Appellant was talking about, Bill Verelst and [] Fisher-Rice proceeded to scour the house, ultimately discovering that the downstairs of the residence was "completely destroyed" and "disheveled." After returning upstairs, Bill Verelst observed that Appellant was no longer in the residence and began to search for him. Unable to find Appellant, Bill Verelst proceeded to call the police and indicated to them that someone had broken into his residence and rifled through his belongings. At this juncture, all three vehicles were still present at Bill Verelst's residence.

After contacting the police, Bill Verelst and [] Fisher-Rice left to attempt to return the[ir] rental car. Bill Verelst drove the rental car, while [] Fisher-Rice accompanied him in the Jeep Compass, leaving [a] Dodge Dart as the sole vehicle at the residence. Upon returning home from attempting to return the rental vehicle, Bill Verelst and [] Fisher-Rice noticed that the Dodge Dart was missing and proceeded to call the police to report that the Dodge Dart had been stolen.

At this point, [] Fisher-Rice left to go to work at the Dollar General store near the residence. While driving to the Dollar General, [] Fisher-Rice encountered the missing Dodge Dart, which she observed was being driven by Appellant. After seeing Appellant driving the Dodge Dart, [] Fisher-Rice called the police and informed them that she had just [seen] the missing vehicle. While Bill Verelst was on the phone with the police, Appellant returned to the residence, driving the Dodge Dart that had been missing. Upon seeing Bill Verelst exit the residence, Appellant re-entered the Dodge Dart and drove away. After Appellant drove away in the Dodge Dart, that was the last time that Bill Verelst saw him that day.

Later that day, at 5:21 p.m., Trooper Fernando Abbondanza of the Pennsylvania State Police visited Bill Verelst at his residence after being dispatched in response to the phone calls that Bill Verelst had made to police earlier in the day. Upon arriving at Bill Verelst's residence, Trooper Abbondanza observed that the house was "in a bit of disarray." Trooper Abbondanza then interviewed Bill Verelst, through which Trooper Abbondanza learned that the Dodge Dart was missing from the residence. Trooper Abbondanza further learned, through his investigation, that Appellant was observed driving the missing Dodge Dart on Paris Colliers Road.

Based upon his investigation, Trooper Abbondanza determined that Appellant was a suspect as it pertained to the missing Dodge Dart. As part of his further investigation into the matter, Trooper Abbondanza queried the information for the Dodge Dart and learned that the vehicle was registered to Patsy Verelst. Trooper Abbondanza also obtained Appellant's demographic information and queried Appellant's driver's license, through which Trooper Abbondanza learned that Appellant's license was DUI suspended. Further utilizing Appellant's information, Trooper Abbondanza was able to provide a photograph of Appellant to Bill Verelst, who identified Appellant [as] the suspect. After concluding his investigation at the scene, Trooper Abbondanza entered the Dodge Dart as a stolen vehicle into the National Criminal Information Center.

Following his conversation with Trooper Abbondanza, Bill Verelst contacted his neighbor, Dylan Wolanski, to inform him that Appellant had stolen the Dodge Dart. The next day, [] Wolanski learned that Appellant was seen driving the Dodge Dart near the start of Paris Colliers Road, specifically, parked in a parking lot of a nearby store. [] Wolanski then proceeded to the location where Appellant was parked and[,] upon arriving at the location, observed Appellant standing next to the Dodge Dart. Eventually, Appellant entered the Dodge Dart and drove down Paris Colliers Road. After Appellant began driving the Dodge Dart, [] Wolanski called Bill Verelst to inform him of what was transpiring and proceeded to follow Appellant down Paris Colliers Road. In addition to calling Bill Verelst, [] Wolanski also called the police and informed them that he was following Appellant.

After Appellant passed the Verelst residence, he became aware that [] Wolanski was following him, at which point, Appellant exited the Dodge Dart and yelled "I don't know who you are. What's your problem? Why are you following me?" After []

Wolanski yelled at Appellant in response, Appellant then proceeded to re-enter the Dodge Dart and turned left onto Bartleyville Road.

While on Bartleyville Road, Appellant again stopped the Dodge Dart and exited the vehicle, at which point he approached [] Wolanski's vehicle and began banging on its windows, while also attempting to open the door to the vehicle. Following Appellant's unfruitful attempt at opening the door to [] Wolanski's vehicle, Appellant again re-entered the Dodge Dart and turned right onto Hanlon Station [Road]. At the end of Hanlon Station [Road], Appellant stopped the Dodge Dart for a third time, exited the vehicle equipped with a walking cane, walked towards [] Wolanski's vehicle, and pulled the cane into the air as if he were going to smash the windows of [] Wolanski's vehicle. At this point, [] Wolanski cracked his window and pulled out his firearm, resulting in Appellant running back to the Dodge Dart.

After re-entering the Dodge Dart once again, Appellant turned right onto Eldersville Road. Eventually, Appellant turned onto a secondary road, stopped and exited the Dodge Dart, and stated[,] "You can have the car. Keep the car. I'm done. I give up" before proceeding to walk down the road. [] Wolanski then proceeded to go over to the Dodge Dart to see if the keys were in the ignition. After failing to observe any keys, [] Wolanski yelled out to Appellant to return the keys, at which point, Appellant ran into the woods. [] Wolanski then re-entered his vehicle and began driving down the road, ultimately spotting Appellant walking in the middle of the road. As [] Wolanski followed, Appellant walked up a nearby driveway. Spotting a lady standing on the front porch of the house, [] Wolanski shouted at her to call the police, as he did not have service at the time.

Throughout the incident, Appellant was continuously speeding, reaching speeds of 65 miles per hour on a road with a speed limit of 25 miles per hour[,] and [was] [driving] erratically, including crossing the center line of the road and driving off of the road "20 or 25 times." In addition to Appellant's dangerous driving, Appellant also smelled of alcohol and had watery eyes during his interactions with [] Wolanski. Further, upon Appellant abandoning the Dodge Dart, the interior of the vehicle was littered with cans of beer and smelled of alcohol.

Shortly after Appellant abandoned the Dodge Dart, Trooper Jared King of the Pennsylvania State Police arrived on the scene, having

> been dispatched in response to the calls made by Bill Verelst and [] Wolanski regarding the stolen Dodge Dart. Upon arriving at the scene, Trooper King was able to observe the Dodge Dart, as well as meet with [] Wolanski. Through his discussion with [] Wolanski, Trooper King was informed that Appellant was the driver of the Dodge Dart and was also provided with a physical description of Appellant. [] Wolanski further informed Trooper King about Appellant's whereabouts at the time, stating that Appellant had fled into the woods.
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> Following his discussion with [] Wolanski, Trooper King overheard a dispatch from Washington County 911 regarding an individual matching Appellant's description [who] was seen walking in a field near 460 Cedar Grove Road. Upon proceeding to the location, Trooper King observed an individual matching Appellant's description walking in the field, at which point Trooper King confronted the individual and placed him into handcuffs. After placing the individual into handcuffs, Trooper King searched the individual and discovered an identification card that confirmed the identity of the individual as Appellant. During the aforementioned interaction with Appellant, Trooper King smelled a strong odor of alcohol emanating from Appellant. In addition to the odor of alcohol, Trooper King further observed that Appellant appeared disheveled, had watery eyes, and was verbally combative. Based upon his observations of Appellant, along with his training and experience, Trooper King believed that Appellant may have been under the influence of alcohol and[,] therefore, was incapable of safely operating a motor vehicle. Trooper King then proceeded to place Appellant under arrest.
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> After Appellant was placed under arrest, he was subsequently transported to the Pennsylvania State Police barracks located in Moon Township. Once at the barracks, Trooper King requested Appellant to submit to chemical testing of his breath and twice read him Form DL-26. Following the first recitation of Form DL-26, Appellant requested to speak with an attorney.[4] Trooper

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[4] The implied consent warnings, as outlined in the Department of Transportation's (DOT) DL-26 form, are as follows:

(Footnote Continued Next Page)

> King then read Appellant Form DL-26 a second time, at which point Appellant became belligerent to a point that Trooper King deemed his conduct to be a refusal to submit to the chemical testing. At no point did Appellant sign Form DL-26.
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> As part of the investigation, Trooper Thomas Schuster of the Pennsylvania State Police conducted an interview of Appellant that same day. Prior to conducting the interview, Trooper Schuster read Appellant his ***Miranda***[5] warnings. Following the recitation of his rights under ***Miranda***, Appellant signed the ***Miranda*** Rights Warning and Waiver form, indicating that he was willing to waive his ***Miranda*** rights and proceed with the interview.
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> During the interview with Trooper Schuster, Appellant admitted to driving the Dodge Dart and stated that he had been drinking

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> 1. You are under arrest for driving under the influence of alcohol or a controlled substance in violation of [s]ection 3802 of the Vehicle Code.
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> 2. I am requesting that you submit to a chemical test of blood.
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> 3. If you refuse to submit to the blood test, your operating privilege will be suspended for at least 12 months. If you previously refused a chemical test or were previously convicted of driving under the influence, your operating privilege will be suspended for up to 18 months. If your operating privilege is suspended for refusing chemical testing, you will have to pay a restoration fee of up to $2,000[.00] in order to have your operating privilege restored.
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> 4. **You have no right to speak with an attorney or anyone else before deciding whether to submit to testing. If you request to speak with an attorney or anyone else after being provided these warnings or you remain silent when asked to submit to a blood test, you will have refused the test.**

Pennsylvania DOT Form DL-26B (6-22), "Chemical Test Warnings and Report of Refusal to Submit to a Blood Test as Authorized by Section 1547 of the Vehicle Code in Violation [of] Section 3802" (emphasis added).

[5] ***Miranda v. Arizona***, 384 U.S. 436 (1966).

> alcohol during the incident. Throughout the interview with Appellant, Trooper Schuster smelled an odor of alcohol emanating from Appellant, which led Trooper Schuster to believe that Appellant was under the influence of alcohol.

Trial Ct. Op., 11/28/23, at 6-12 (citations and footnotes omitted).

Following a jury trial, Appellant was charged and found guilty of the above-enumerated offenses. On January 30, 2023, Appellant was sentenced[6] on both dockets to an aggregate term of five to ten years' imprisonment, followed by twelve months of re-entry supervision. On February 8, 2023, Appellant filed timely post-sentence motions challenging the sufficiency and weight of the evidence. The trial court denied the motions, by order, on September 12, 2023.[7] On October 2, 2023, Appellant filed a timely direct appeal. On September 3, 2024, this Court affirmed Appellant's judgment of sentence, concluding that he had waived his claims on appeal by failing to specify what conviction(s) or elements thereof that he was challenging. ***See Commonwealth v. Hoberek***, 1187 WDA 2023, 2024 WL 4024559 (Pa.

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[6] The trial court had the benefit of a presentence investigation report (PSI) prior to sentencing that was admitted as Commonwealth Exhibit 1. ***See*** N.T. Sentencing Hr'g, 1/30/23, at 5. At sentencing, the Commonwealth noted that Appellant had previously committed the crime of vehicular homicide while driving under the influence and since that offense he had committed eleven DUIs. ***See*** N.T. Sentencing Hr'g, 1/30/23, at 15.

[7] Although Appellant's post-sentence motions were technically denied by operation of law in June 2023, ***see*** Pa.R.Crim.P. 720(B)(3)(a), because the trial court never entered an order deeming the motions denied on that date, this Court found that, due to a court breakdown, Appellant's appeal was timely filed. ***See Commonwealth v. Braykovich***, 664 A.2d 133, 138 (Pa. Super. 1995) (notice of appeal timely when filed within 30 days of the court's untimely order denying post-sentence motion).

Super. filed Sept. 3, 2024). Appellant did not file a petition for allowance of appeal with the Supreme Court of Pennsylvania.

On December 4, 2024, Appellant filed a petition pursuant to the Post-Conviction Relief Act (PCRA)[8] claiming counsel was *per se* ineffective for waiving all of his issues on direct appeal. On February 13, 2025, the PCRA court granted Appellant's petition and reinstated his direct appeal rights *nunc pro tunc*. Appellant filed a *nunc pro tunc* notice of direct appeal and, in lieu of filing a Pa.R.A.P. 1925(b) concise statement of errors complained of on appeal, Counsel subsequently filed a notice of intention to file an ***Anders***/***Santiago*** brief. ***See*** Pa.R.A.P. 1925(c)(4). On April 11, 2025, Counsel sent Appellant a copy of his ***Anders***/***Santiago*** brief,[9] along with his application to withdraw and a letter explaining Appellant's right to proceed *pro se* or with newly retained counsel, and to raise any additional issues he believes might have merit. On June 23, 2025, Appellant filed a *pro se* response to Counsel's petition to withdraw, raising the following claims: (1) the officer on the scene was not one of the officers that testified in court; (2)

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[8] 42 Pa.C.S. §§ 9541-9546.

[9] On April 15, 2025, Counsel filed his ***Anders***/***Santiago*** brief with this Court. However, because Counsel failed to file a contemporaneous petition to withdraw with an attached copy of the notice-of-rights letter sent to Appellant, this Court ordered Counsel to complete those tasks within seven days. ***See*** Order, 5/16/25. On May 20, 2025, Counsel complied with this Court's order, filing a motion for leave to withdraw with this Court which certified he had sent the motion to Appellant and attached a copy of Counsel's April 11, 2025 notice-of-rights letter he sent to Appellant.

the title of the car he allegedly operated without permission was in his name; and (3) with regard to his DUI conviction, he "gave a breathalyzer of 0.00" at the scene.[10] Appellant's *Pro Se* Response to ***Anders*/*Santiago*** Brief, 6/23/25.

Prior to addressing the merits of Appellant's claims, we must determine whether Counsel has complied with the dictates of ***Anders*** and its progeny in his request to withdraw from representation. ***See Commonwealth v. Goodwin***, 928 A.2d 287, 290 (Pa. Super. 2007) (*en banc*) ("this Court may not review the merits of any possible underlying issues without first examining counsel's request to withdraw"). In order to withdraw pursuant to ***Anders*/*Santiago*** counsel must: (1) petition the Court for leave to withdraw, stating that after making a conscientious examination of the record Counsel has determined that the appeal would be frivolous; (2) file a brief referring to

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[10] We have paraphrased Appellant's issues for clarity. Appellant provides no legal argument or analysis of the claims he includes in his response. Accordingly, we find those issues waived. ***See Commonwealth v. Tielsch***, 934 A.2d 81, 93-94 (Pa. Super. 2007) (citation omitted) (holding undeveloped claims will not be considered on appeal). Even if not waived, we note that Troopers Abbondanza, King, and Schuster all testified at Appellant's trial, ***see*** N.T. Trial, 10/18/22, at 28-47, 137-175, that the certificate of title for the Dodge Dart, which was entered as Commonwealth Exhibit 2 at trial, lists Patsy Ann Verelst as the owner of the vehicle, ***see id.*** at 50-51, and that Trooper King testified that Appellant did not submit to a chemical breath test, ***id.*** at 151, and his conduct was interpreted as a refusal. ***Id.***

Additionally, Appellant's response to counsel's ***Anders*/*Santiago*** brief also states "the man following me, I only know hi[m] a[s] Dillon[,] had been sho[o]ting at me with a [.]44 mag. That's why 6 cops surrounded us." ***See Pro Se*** Response to ***Anders*/*Santiago*** Brief, 6/23/25. We can identify no claim in this statement, let alone a non-frivolous claim, for purposes of appeal.

anything that might arguably support the appeal, but which does not resemble a "no merit" letter or *amicus curiae* brief; and (3) furnish a copy of the brief to defendant and advise him or her of the right to retain new counsel, proceed *pro se*, or raise any additional points that he or she deems worthy of the court's attention. ***Commonwealth v. Millisock***, 873 A.2d 748, 751 (Pa. Super. 2005). Further, in ***Santiago***, our Supreme Court held that in order to withdraw under ***Anders***, counsel 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.

Instantly, Counsel has filed an ***Anders***/***Santiago*** brief in which he states that he has examined the record, including the trial transcript, Appellant's post-sentence motion and related hearing, his sentencing order, his first notice of appeal and Rule 1925(b) statement, his brief in his first appeal, and his PCRA petition. ***See Anders***/***Santiago*** Brief at 8. Following his review, Counsel concluded that the appeal is wholly frivolous. ***Id.*** at 14-17. Counsel's brief identifies two issues that would arguably support an appeal and, pursuant to ***Santiago***, explains why he believes the claims to be frivolous. ***See id.*** at 10-14. Finally, Counsel indicates that he supplied Appellant with a copy of the brief, along with his application to withdraw and

a letter explaining Appellant's right to proceed *pro se* or with newly retained counsel, and to raise any additional issues he believes might have merit. ***See id.*** at 17-18. Thus, Counsel has satisfied the procedural requirements for withdrawal. ***See Goodwin***, 928 A.2d at 290; ***see also Millisock***, 873 A.2d at 751; ***Santiago***, 978 A.2d at 361. Accordingly, this Court must now conduct its own review of the proceedings and render an independent judgment as to whether the appeal is, in fact, wholly frivolous. ***See Commonwealth v. Wright***, 846 A.2d 730, 736 (Pa. Super. 2004).

Counsel finds that the "potential issues" he identifies "that may support [an] appeal" were not preserved by trial counsel. ***See Anders***/***Santiago*** Brief at 13; ***see also*** Commonwealth's Brief at 19-21, 23-24, 26, 29. Thus, Counsel states that these issues "should [be] raised in a PCRA [petition] against trial counsel" unless they meet the ***Bomar***[11] exception. ***See Anders***/***Santiago*** Brief, at 14-15. We agree with Counsel that any potential claims of

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[11] In ***Commonwealth v. Bomar***, 826 A.2d 831 (Pa. 2003), our Supreme Court created a limited exception to the general rule that ineffectiveness of counsel claims should be deferred to collateral review. ***See Bomar***, 826 A.2d at 854. In ***Bomar***, the Court found that ineffectiveness claims could be brought on direct appeal where the claims had been properly raised and litigated in the trial court, the trial court had held hearing on the claims, the record on the claims had been developed in the trial court, and the trial court addressed the merits of the claims in its opinion. ***See id.*** However, subsequently in ***Commonwealth v. Holmes***, 79 A.3d 562 (Pa. 2013), our Supreme Court reaffirmed the general rule that trial counsel ineffectiveness claims should be deferred to collateral review except under the very limited circumstance where record-based claims of ineffectiveness with apparent merit are accompanied by a PCRA waiver. ***See Holmes***, 79 A.3d at 576.

ineffectiveness of counsel should be deferred to a timely filed PCRA petition and the limited exception for consideration on direct appeal of a claim of ineffectiveness of counsel as recognized in ***Bomar*** does not apply here. ***See Bomar***, 826 A.2d at 854. Moreover, having conducted our own independent review of the record, we agree with counsel that Appellant's appeal is wholly frivolous and, therefore, that counsel should be permitted to withdraw.[12] ***See Wright***, 846 A.2d at 736.

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[12] On September 11, 2026, Appellant filed a document with this Court, that was docketed as a ***Jette*** letter. In ***Commonwealth v. Jette***, 23 A.3d 1032 (Pa. 2011), our Supreme Court rejected and disapproved of the "***Battle*** procedure," wherein an inmate was entitled to remand for the appointment of new counsel when the inmate alleged ineffectiveness of PCRA counsel for not pursuing other issues on appeal. In Appellant's letter, he asks why he "is still waiting" on this appeal and whether he has a right to a bond "when [he] got granted [his] appeal." ***See Jette*** Letter, 9/11/26. Because Appellant's right to proceed *pro se* commenced upon the filing of counsel's petition to withdraw, ***see Commonwealth v. Muzzy***, 141 A.3d 509, 511-12 (Pa. Super. 2016), the letter is not a ***Jette*** letter but rather is properly classified as a *pro se* response to counsel's ***Anders*** brief. In any event, we recognize the delay in the matter was due, in large part, to the stay that was entered in January 2026. With regard to a bond pending appeal, Pa.R.Crim.P. 534 provides that "[u]nless bail is revoked, a bail bond shall be valid until the full and final disposition of the case, including all avenues of direct appeal to the Supreme Court of Pennsylvania." Pa.R.Crim.P. 534. Moreover, a request for bail pending appeal must be made in the first instance to the trial court. ***See*** Pa.R.A.P. 1762(a). In any event, as the trial court correctly informed Appellant at the conclusion of his sentencing hearing, "[i]f your sentence is less than two years, you have the same right to bail as before a verdict of guilt," but, "[i]f your sentence is two years or longer, the filing of a post-sentence motion or an appeal **will not delay the start of your sentence**." N.T. Sentencing Hr'g, 1/30/23, at 30 (emphasis added).

With regard to the first issue identified by Counsel—that the Commonwealth elicited prejudicial testimony that Appellant had been arrested—we note that under Rule 404(b), "[e]vidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." Pa.R.E. 404(b)(1). Such evidence is admissible, however, when relevant for another purpose, including motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. ***See*** Pa.R.E. 404(b)(2). Our Supreme Court has also recognized the *res gestae* exception, permitting the admission of evidence of other crimes or bad acts to tell "the complete story." ***Commonwealth v. Williams***, 896 A.2d 523, 539 (Pa. 2006). Such evidence may be admitted "only if the probative value of the evidence outweighs its potential for unfair prejudice." Pa.R.E. 404(b)(2).

Even if this claim were not waived due to trial counsel's failure to object, we would find it meritless. ***See*** Pa.R.A.P. 302(a) (stating that "[i]ssues not raised in the trial court are waived and cannot be raised for the first time on appeal"). The record reflects that Appellant's trial counsel, himself, brought the arrest to light in his opening statement and closing argument. ***See*** N.T. Trial, 10/18/22, at 26; N.T. Trial, 10/19/22, at 28. Additionally, Appellant's arrest was relevant under the *res gestae* exception of prior bad acts for the purpose of explaining the history and course of events that occurred on

October 22 and 23, 2021. ***See Williams***, 896 A.2d at 539. Finally, the trial court instructed the jury multiple times that Appellant's arrest was not evidence of guilt. ***See*** N.T. Trial, 10/18/22, at 11; N.T. Trial, 10/19/22, at 40. Based on the entire record, and in light of the trial court's instructions, we do not find that Appellant suffered undue prejudice with the mention of his arrest. ***See Commonwealth v. Hairston***, 84 A.3d 657 (Pa. 2014) (when examining potential for undue prejudice, court's cautionary instruction may ameliorate prejudicial effect of proffered evidence under Rule 404(b)).

With regard to Counsel's next identified claim in his ***Anders***/***Santiago*** brief—that the trial court's jury sequestration order was violated—we note that "[a]t a party's request[,] the court may order witnesses sequestered so that they cannot learn of other witnesses' testimony." Pa.R.E. 615. It is well-established that

> The selection of a remedy for the violation of a sequestration order is within the sound discretion of the trial court. In exercising its discretion, the trial court should consider the seriousness of the violation, its impact on the testimony of the witness, and its probable impact on the outcome of the trial. We will [] disturb the trial court's exercise of its discretion only if there is no reasonable ground for the action taken.

Commonwealth v. Smith, 346 A.2d 757, 760 (Pa. 1975) (citations omitted). The court should also consider whether the party calling the witness procured his or her disobedience. ***Commonwealth v. Rose***, 172 A.3d 1121, 1127 (Pa. Super. 2017). Further, a mistrial is only granted when the violation "is of such a nature that its unavoidable effect is to deprive the defendant of a fair trial

by preventing the jury from weighing and rendering a true verdict." ***Id.*** (citation omitted).

Instantly, Counsel alleges that trial counsel brought out on cross-examination of Commonwealth witness Bill Verelst, Jr. (Bill), that Commonwealth witness Patsy Verelst, Bill's mother, violated the trial court's sequestration order[13] during its case-in-chief when she spoke with Bill after she testified at trial. ***See*** N.T. Trial, 10/18/22, at 77-78. However, the record reflects that trial counsel did not make a specific objection or formally request a mistrial or exclusion of the evidence and, accordingly, the claim is waived on direct appeal. However, even if not waived, we would find no merit to the claim.

When trial counsel asked Bill whether he had a conversation with his mother after she testified, he acknowledged he did speak with her and that she told him "that no one was allowed to drive [the] car but her." ***Id.*** at 78. On redirect-examination, Bill testified that he and his mother had never discussed prior to trial what to testify to, that his mother never told him what to say on the stand after she testified, and that he just testified to the "truth"—that he, his fiancée, and his mother were the only individuals permitted to use the car. ***Id.*** at 82-83.

Under these facts, we find that there is no merit to this sequestration claim where any alleged breach by the Commonwealth witnesses did not

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[13] During trial, trial counsel sought and was granted sequestration of the witnesses. ***See*** N.T. Trial, 10/18/22, at 46.

unfairly prejudice the outcome of trial. ***See Smith***, 346 A.2d at 760. Bill testified that his mother never told him what to testify to, that he had never discussed what their testimony would be ahead of time, and that the truth was that no one but he, his mother, and his fiancée were permitted to drive the car. ***See*** N.T. Trial, 10/18/22, at 82-83. Moreover, Commonwealth witnesses Michele Fisher-Rice, Bill's fiancée, testified similarly that she never gave Appellant permission to drive the Dodge and that he would never have been permitted to drive any car because he was unlicensed. ***Id.*** at 90-91. Finally, there was no testimony that the Commonwealth procured Bill's or Patsy's disobedience in communicating with each other despite the witness sequestration order. ***See Rose***, 172 A.3d at 1127. Accordingly, this claim fails.[14]

Stay lifted.[15] Judgments of sentence affirmed. Petition to withdraw granted. Jurisdiction relinquished.

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[14] We herein deny Appellant's application for relief.

[15] On January 23, 2026, this Court stayed consideration of this appeal pending the determination of this Court's *en banc* decision, ***Commonwealth v. Ramsey***, 2026 EDA 2024. ***See*** Order, 1/23/26 at 1. On July 31, 2026, an *en banc* panel of this Court decided ***Ramsey***, wherein we quashed the appeal for lack of jurisdiction where the defendant's PCRA petition was filed before his judgment of sentence became final. ***See Commonwealth v. Ramsey***,---A.3d---, 2026 WL 2209742 at *9 (Pa. Super. filed July 31, 2026) (*en banc*). Instantly, Appellant's judgment of sentence became final, for purposes of filing a PCRA petition, when the time expired for him to file a petition for allowance of appeal with the Pennsylvania Supreme Court on October 4, 2024. ***See*** Pa.R.A.P. 1113; 42 Pa.C.S. § 9545(b)(3). Because Appellant filed his PCRA petition on December 4, 2024, two months *after* his judgment of sentence became final, ***Ramsey*** is not implicated.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 11/19/2026