NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
FUTURE XAVIER WAID	:	
Appellant	:	No. 1793 MDA 2025

Appeal from the Judgment of Sentence Entered December 1, 2025
In the Court of Common Pleas of Dauphin County Criminal Division at No(s): CP-22-CR-0002943-2024

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

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

Future Xavier Waid ("Waid") appeals from the judgment of sentence imposed following his jury conviction of strangulation[1] and related offenses. Waid's court-appointed counsel, Spencer Bradley, Esquire ("Attorney Bradley"), 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 Bradley's petition and affirm the judgment of sentence.

In June 2024, Malinda Brummell ("Brummell") encountered Waid, her former boyfriend, outside a convenience store while she was running errands. Brummell did not wish to speak to Waid and had previously blocked his phone

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* Retired Senior Judge assigned to the Superior Court.

[1] 18 Pa.C.S.A. § 2718(a)(1).

number. Waid attempted to hug her and prevented her from backing out of her parking space by placing his foot beneath her vehicle's wheel. Waid showed Brummell a "sex tape video" depicting them, produced a knife, and threatened to kill himself. N.T., 8/11/25, at 35-36. He then took and threw her keys. Brummell initially asked store employees to call the police but withdrew the request after Waid returned her keys. They subsequently left together in her car.

Brummell returned home to take dinner to her son. She then drove Waid back to the convenience store, intending to then go running at a nearby elementary school. Waid refused to let her leave, taking her keys and phone. After he returned them, Brummell drove to the school alone. Waid followed her in his car, drove in front of her vehicle, and repeatedly "brake check[ed]" her, preventing her from passing him. ***Id***. at 51. Brummell eventually turned toward the school while Waid continued straight.

When Brummell arrived at the school and began putting on her running shoes, Waid arrived and stopped beside her. He pushed her into the concrete, causing her to hit her head and "black[ed] out for a bit." ***Id***. at 62. Waid also took her phone, keys, and running shoes. He repeatedly took and returned her belongings as she attempted to leave. At one point, he drove toward the school exit, turned around, and asked her to get into his vehicle. He later returned her belongings to her car but again took her phone and keys. Brummell threw a drink at him. Brummell returned to her vehicle, and Waid

entered and sat beside her. He then pushed her, placed both hands around her throat, and squeezed, causing Brummell to urinate and rendering her unable to breathe.

The Commonwealth charged Waid with strangulation, aggravated assault, simple assault, and harassment.[2] In August 2025, this matter proceeded to a jury trial. Brummell testified consistently with the foregoing. Additionally, she rated the pressure of Waid strangling her as a "10" on a scale from "0 to 10" and she believed she was going to die. N.T., 8/11/25, at 69. She further stated that following this incident, she was unable to eat for six months and had pain in her throat. ***See id*** at 73. The Commonwealth called the responding officer, who testified that when she interviewed Brummell, she was rubbing her neck, and her pants appeared to be wet.

Waid did not testify in his own defense or present evidence. The jury found Waid not guilty of aggravated assault, and guilty of simple assault and strangulation. The trial court found Waid guilty of the harassment charge.

On December 1, 2025, the trial court imposed a sentence of ten to twenty years' imprisonment for the strangulation conviction and no further penalty on the remaining convictions. During the sentencing proceedings, the Commonwealth notified Waid that, based on his prior rape conviction, the instant strangulation offense constituted a second-strike violent offense,

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[2] 18 Pa.C.S.A. §§ 2702(a)(1), 2701(a)(1), 2709(a)(1).

requiring the trial court to impose a mandatory minimum sentence of ten years' imprisonment. ***See*** 42 Pa.C.S.A. § 9714. Waid did not file any post-trial motions. Trial counsel filed a timely notice of appeal and a court-ordered Pa.R.A.P. 1925(b) statement. Trial counsel then filed a motion to withdraw, which the trial court ultimately granted after conducting a ***Grazier***[3] hearing.

The trial court then appointed the Public Defender's office to represent Waid, and Attorney Bradley entered his appearance. After a review of the record, Attorney Bradley filed a statement indicating his intent to withdraw.[4] The trial court filed an opinion acknowledging Attorney Bradley's statement and declining to address the merits.

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

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[3] ***See Commonwealth v. Grazier***, 713 A.2d 81, 82 (Pa. 1998) (holding that "[w]hen a waiver of the right to counsel is sought at the post-conviction and appellate stages, an on-the-record determination should be made that the waiver is a knowing, intelligent, and voluntary one").

[4] The Commonwealth has not filed an appellee's brief.

> 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 Bradley 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 Bradley also mailed a copy of the ***Anders*** brief to Waid, and in a letter advised him that he could raise any additional issues before this Court *pro se* or with private counsel. ***See Anders*** Brief, Exhibit C. As Attorney Bradley has substantially complied with the requirements of ***Anders*** and ***Santiago***, we will conduct an independent review to determine whether the appeal is frivolous.

In the ***Anders*** brief, Attorney Bradley does not identify any appellate issues for review in the statement of questions presented, stating instead: "Should [Attorney Bradley] be permitted to withdraw as counsel because any appellate issues in the instant case are frivolous?" ***Anders*** Brief at 4 (unnecessary capitalization omitted). However, within the argument section of the ***Anders*** brief, Attorney Bradley discusses four potential appellate issues: (1) the sufficiency of the evidence; (2) the legality of the sentence; (3) the weight of the evidence; and (4) the discretionary aspects of sentencing.

"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).

Section 2718(a)(1) of the Crimes Code[5] provides that "[a] person commits the offense of strangulation if the person knowingly or intentionally impedes the breathing or circulation of the blood of another person by: . . . applying pressure to the throat or neck . . .." 18 Pa.C.S.A. § 2718(a)(1). "Evidence that the defendant knowingly or intentionally impeded the breathing of another person by applying pressure to the throat or neck is sufficient to prove the offense of strangulation. Causing injury to the victim is not an element of the crime of strangulation." ***Commonwealth v. Weitzel*** 304 A.3d 1219, 1224 (Pa. Super. 2023).

Section 2701(a)(1) provides that "a person is guilty of assault if he: . . . attempts to cause or intentionally, knowingly or recklessly causes bodily injury to another . . .." 18 Pa.C.S.A. § 2701(a)(1). "The Commonwealth need not establish the victim actually suffered bodily injury; rather, it is sufficient to support a conviction if the Commonwealth establishes an attempt to inflict bodily injury." ***Commonwealth v. Wroten***, 257 A.3d 734, 743-44 (Pa. Super. 2021). The Crimes Code defines "bodily injury" as "[i]mpairment of physical condition or substantial pain." 18 Pa.C.S.A. § 2301.

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

A person "commits the crime of harassment when, with intent to harass, annoy or alarm another, the person: strikes, shoves, kicks or otherwise subjects the other person to physical contact, or attempts or threatens to do the same[.]" 18 Pa.C.S.A. § 2709(a)(1). "An intent to harass may be inferred from the totality of the circumstances." ***Commonwealth v. Cox***, 72 A.3d 719, 721 (Pa. Super. 2013).

Attorney Bradley contends that the evidence presented at trial was sufficient to sustain Waid's convictions. As to the strangulation conviction, he described the offense of strangulation as "knowingly or intentionally imped[ing] another's breathing or [applying] pressure to the throat or neck." ***Anders*** Brief at 14 (citation omitted). He then highlights that Brummell testified that Waid placed both his hands on her throat and squeezed hard enough that she urinated and she could not breathe. ***See id***. Accordingly, he concludes that the evidence satisfied the elements of strangulation. He addresses the remaining offenses, similarly, setting forth the elements and citing the evidence establishing each. ***See id***. at 14-17.

Based on our review, we conclude that any challenge to the sufficiency of the evidence would be frivolous. Brummell testified at trial that Waid placed both his hands on her throat and squeezed hard enough that she urinated and she could not breathe. This evidence is sufficient to establish strangulation. ***See*** 18 Pa.C.S.A. § 2718(a)(1); ***see also Weitzel*** 304 A.3d at 1224.

Further, the evidence adduced at trial was sufficient to support Waid's simple assault conviction. While the Commonwealth need not establish bodily injury, Brummell's testified that she could not eat for six months and experienced throat pain long after the strangulation, establishing both physical impairment and substantial pain. ***See*** 18 Pa.C.S.A. §§ 2701(a)(1), 2301; ***see also Wroten***, 257 A.3d at 743-44.

Under the totality of the circumstances, we infer that Waid intended to harass Brummell by pushing or shoving her to the ground, causing her to lose consciousness and subjecting her to physical contact. ***See*** 18 Pa.C.S.A. § 2709(a)(1); ***see also Cox***, 72 A.3d at 721. Thus, we conclude that any challenge to the sufficiency of the evidence would be frivolous.

Next, Attorney Bradley raises the legality of the sentence.

> Questions regarding the legality of a sentence are not waivable and may be raised sua sponte on direct review by this Court. Review of the legality of a sentence presents a pure question of law. As such, our scope of review is plenary and our standard of review de novo. If no statutory authorization exists for a particular sentence, that sentence is illegal and subject to correction.

Commonwealth v. Verma, 334 A.3d 941, 951 (Pa. Super. 2025) (citations and quotation marks omitted).

Under Section 9714(a) of the Sentencing Code:[6]

> Any person who is convicted in any court of this Commonwealth of a crime of violence shall, if at the time of the commission of the current offense the person had previously been convicted of a

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[6] ***See*** 42 Pa.C.S.A. §§ 9701-9799.75.

> crime of violence, be sentenced to a minimum sentence of at least ten years of total confinement, notwithstanding any other provision of this title or other statute to the contrary. . . .

42 Pa.C.S.A. § 9714(a)(1). Subsection (g) defines a "crime of violence" to include "strangulation when the offense is graded as a felony as defined in 18 Pa.C.S. § 2718" and rape. 42 Pa.C.S.A. § 9714(g).

Attorney Bradley concludes that section 9714 requires a mandatory minimum sentence of ten years' imprisonment based on Waid's prior rape conviction and that the imposed sentence fell within the statutory range. "Thus, the sentence of 10-20 for the strangulation [offense] falls within the legally required sentence under 42 Pa.C.S. § 9714." ***Anders*** Brief at 21.

We find that any legality challenge to Waid's sentence would be frivolous. Waid's prior rape conviction and this felony strangulation offense both constituted crimes of violence under section 9714(g). The trial court's ten-year mandatory minimum sentence complied with the applicable statute. ***See*** 42 Pa.C.S.A. § 9714(a)(1).

Next, Attorney Bradley raises a challenge to the weight of the evidence. A defendant must present any weight of the evidence challenge in: (1) an oral motion, on the record, before sentencing; (2) a written motion before sentencing; or (3) a post sentence motion. ***See*** Pa.R.Crim.P. 607(A)(1)-(3). The comment to Rule 607 provides that "[t]he purpose of this rule is to make it clear that a challenge to the weight of the evidence must be raised with the trial judge or it will be waived." Pa.R.Crim.P. 607, *comment*. "An appellant's

failure to avail himself of any of the prescribed methods for presenting a weight of the evidence issue to the trial court constitutes waiver of that claim." ***Commonwealth v. Cox***, 231 A.3d 1011, 1018 (Pa. Super. 2020) (citations omitted).

Attorney Bradley concludes that Waid waived a challenge to the weight of the evidence. Attorney Bradley states that any "challenge[] to the weight of the evidence . . . were waived by failure to file any applicable motions." ***Anders*** Brief at 12 (unnecessary capitalization omitted).

As noted above, Waid did not file any post-sentence motions. Based on our review, we find that Waid did not preserve a challenge to the weight of the evidence through the requisite motion. ***See*** Pa.R.Crim.P. 607(A)(1)-(3). Accordingly, we conclude that any challenge to the weight of the evidence would be frivolous.

Finally, Attorney Bradley addresses a challenge to the discretionary aspect of Waid's sentence. We note:

> In asserting a sentence is harsh and excessive under the circumstances, counsel raises a challenge to the discretionary aspects of appellant's sentence. Challenges to the discretionary aspects of sentence are not appealable as of right. . . .
>
> A written post-sentence motion shall be filed no later than 10 days after imposition of sentence. Objections to the discretionary aspects of a sentence are generally waived if they are not raised at the sentencing hearing or in a motion to modify the sentence imposed.

Dempster, 187 A.3d at 272 (quotation marks, brackets, and citations omitted).

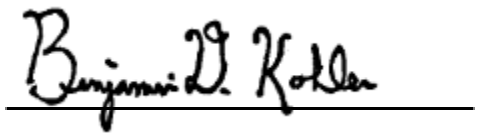
Attorney Bradley concludes that Waid waived any challenge to the discretionary aspects of sentence for "failure to file any applicable motions." ***Anders*** Brief at 12.

Based on our review, we agree that any challenge to the discretionary aspects of sentencing would be waived as Waid did not raise it in an oral or written post-sentence motion. ***See Dempster***, 187 A.3d at 272. Accordingly, this issue would also be frivolous.

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

Petition to withdraw granted. Judgment of sentence affirmed.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/17/2026