NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
DAESHON POINTER	:	
Appellant	:	No. 2504 EDA 2025

Appeal from the Judgment of Sentence Entered May 27, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at No(s): CP-51-CR-0005022-2021

BEFORE: OLSON, J., STABILE, J., and KUNSELMAN, J.

MEMORANDUM BY OLSON, J.: **FILED NOVEMBER 18, 2026**

Appellant, Daeshon Pointer, appeals from his judgment of sentence entered May 27, 2025 in the Court of Common Pleas of Philadelphia County. We affirm.

The trial court laid out the facts as follows:

> On September 24, 2020, Rymeek Martin was shot in the back of the head and killed in broad daylight in a laundromat [along] Vine Street [in] Philadelphia, Pennsylvania. Police recovered and reviewed surveillance footage of an individual shooting the victim in the head in front of a dozen civilians around 4:24 p.m., and subsequently fleeing the crime scene. Based on the footage, identifying witness testimonies, and other digital surveillance, police identified Appellant as a potential suspect[.]

Trial Court Opinion, 4/7/2026, at 2-7.

On October 15, 2024, Appellant waived his right to a jury trial. N.T., 10/15/2024, at 1. That same day, the trial court denied Appellant's motion to suppress certain statements, as well as his motion *in limine* to preclude

testimony regarding his gang affiliation. N.T., 10/15/2024, at 18; N.T., 10/16/2024, at 7. On October 17, 2024, at the conclusion of Appellant's bench trial, the trial judge found him guilty of murder in the third degree, 18 Pa.C.S.A. § 2502(c) and persons not to possess firearms, 18 Pa.C.S.A. §-6105(a)(i). On May 27, 2025, the trial court imposed an aggregate sentence of 24½ to 50 years' incarceration.[1] N.T., 5/27/2025, at 14-20.

On May 28, 2025, new counsel filed a post-sentence motion on Appellant's behalf. Appellant argued that his sentence constituted an abuse of discretion and that his conviction was against the weight of the evidence. ***See*** Appellant's Post-Sentence Motion, 5/28/2025, at 2-3. The trial court denied Appellant's motion on September 26, 2025, and this appeal followed.[2] On appeal, Appellant argues that: 1) the trial court abused its discretion in denying Appellant's motion to suppress allegedly involuntary statements; 2) the trial court abused its discretion in denying Appellant's motion *in limine* to preclude Rule 404(b) evidence relating to Appellant's gang affiliation; and 3)

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[1] More specifically, Appellant received an aggregate sentence of 22½ to 50 years' incarceration for his bench trial convictions. Due to several outbursts during his sentencing hearing, the trial court found Appellant guilty of four counts of direct criminal contempt and added two years to his minimum sentence. Trial Court Opinion, 4/7/2026, at 1 n.1.

[2] Appellant filed his concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b) on October 15, 2025. The trial court issued its Rule 1925(a) opinion on April 7, 2026.

Appellant's conviction was against the weight of the evidence. ***See*** Appellant's Brief at 4.

Appellant first challenges the trial court's denial of his motion to suppress statements he made during a police interview following his arrest. Appellate review of such a challenge proceeds as follows:

> [O]ur standard of review in addressing a challenge to a trial court's denial of a suppression motion is limited to determining whether the factual findings are supported by the record and whether the legal conclusions drawn from those facts are correct. We are bound by the suppression court's factual findings so long as they are supported by the record; our standard of review on questions of law is *de novo*. Where, as here, the defendant [appeals] the ruling of the suppression court, we may consider only the evidence of the Commonwealth and so much of the evidence for the defense as remains uncontradicted. Our scope of review of suppression rulings includes only the suppression hearing record and excludes evidence elicited at trial.

Commonwealth v. Graham, 353 A.3d 225, 229-230 (Pa. Super. 2026) (internal citations omitted), *citing* ***Commonwealth v. Yandamuri***, 159 A.3d 503, 516 (Pa. 2017) (additional citations omitted).

Statements given without the proper ***Miranda***[3] warnings are presumed involuntary and uttered in violation of the Fifth Amendment's proscription against compulsory self-incrimination. ***Commonwealth v. DiStefano***, 782 A.2d 574, 579 (Pa. Super. 2001), *appeal denied*, 806 A.2d 858 (Pa. 2002). Here, however, the trial judge found that proper ***Miranda*** warnings had been provided. N.T., 10/15/2024, at 18. Where ***Miranda*** warnings have been given

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

and challenged statements no longer can be presumed to be involuntary, Appellant's statements may still be deemed coerced if "the interrogation was so manipulative or coercive that it deprived the defendant of his ability to make a free and unconstrained decision to confess." ***Commonwealth v. Foster***, 332 A.3d 1187, 1195-1196 (Pa. 2025), *citing* ***Commonwealth v. Nester***, 709 A.2d 879, 882 (Pa. 1998). Courts weigh the following factors:

> [T]he duration and means of the interrogation; the defendant's physical and psychological state; the conditions attendant to the detention; the attitude exhibited by the police during the interrogation; [] the accused's age and level of education and experience; [the] extent of [his] previous experience with the police; whether the accused was advised of his constitutional rights; whether he was injured, ill, drugged, or intoxicated when he confessed; whether he was deprived of food, sleep or medical attention, and whether he was abused or threatened with abuse.

Foster, 332 A.3d at 1196, *citing* ***Yandamuri***, 159 A.3d at 525.

Appellant claims his statements were involuntary solely because he was not informed, prior to commencement of police interrogation, that he was a prime suspect in a murder investigation.[4] Appellant's Brief at 11. Our Supreme Court recently denied a similar challenge wherein a suspect was affirmatively, but falsely, told he was not a suspect. ***Foster***, 332 A.3d at 1189-1190. Thus, in the absence of coercive circumstances, ***Foster*** compels us to reject Appellant's claim.

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[4] Appellant makes a passing, but undeveloped, comment that he "was not fully apprised" of his rights under ***Miranda***, ***see*** Appellant's Brief at 9, but the trial judge found that Appellant received ***Miranda*** warnings and nothing in the record refutes this conclusion.

The record provides no suggestion that coercive circumstances were present. Moreover, none of the factors courts weigh in making a voluntariness determination, ***see Yandamuri***, 159 A.3d at 525, appear in the record, nor does Appellant allege they were present. The trial judge made an uncontradicted finding that Appellant's police interview presented no psychological coercion. N.T., 10/15/2024, at 18. Additionally, Appellant was 22 years old and had prior experience with the police. Trial Court Opinion, 4/7/2026, at 13-14. In light of the foregoing, classifying Appellant's statements as voluntary did not constitute an abuse of the trial court's discretion.

Appellant next challenges the trial court's denial of his motion *in limine* to preclude Rule 404(b) evidence relating to his affiliation with gangs. Appellant's Brief at 12. We review pre-trial evidentiary rulings to determine whether the trial court has abused its discretion. ***Commonwealth v. Bidwell***, 195 A.3d 610, 616 (Pa. Super. 2018), *citing* ***Commonwealth v. Arrington***, 86 A.3d 831, 842 (Pa. 2014). "An abuse of discretion is not merely an error of judgment, but [instead involves] . . . the exercise of judgment that is manifestly unreasonable, or the result of bias, prejudice, ill-will or partiality, as shown by the evidence of record." ***Bidwell***, 195 A.3d at 616 (citation omitted).

The following principles govern our examination of the trial court's Rule 404(b) assessment.

In general, evidence is admissible only if it is relevant. Pa.R.E. 402. "Evidence is relevant if it tends to make a material fact more or less probable than it would be without the evidence." ***Commonwealth v. Lehman***, 275 A.3d 513, 519 (Pa. Super. 2022), *quoting* ***Commonwealth v. Christine***, 125 A.3d 394, 398 (Pa. 2015); ***see*** Pa.R.E. 401. In a criminal case, evidence of motive is always relevant. ***Commonwealth v. Gwaltney***, 442 A.2d 236, 241 (Pa. 1982), *citing* ***Commonwealth v. Faison***, 264 A.2d 394 (Pa. 1970).

Rule 404 provides for the exclusion of certain evidence that otherwise meets the test for relevance:

(a) Character Evidence.

(1) Prohibited Uses. Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

* * *

(b) Other Crimes, Wrongs, or Acts.

(1) Prohibited Uses. Evidence 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.

(2) Permitted Uses. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. In a criminal case this evidence is admissible only if the probative value of the evidence outweighs its potential for unfair prejudice. Pa.R.E. 404(a)(1), (b)(1)–(2). Under this rule, the Commonwealth may not introduce evidence solely to show that the defendant has a "propensity for committing criminal acts." ***Commonwealth v. Hairston***, 84 A.3d 657, 665 (Pa. 2014), *citing* Pa.R.E. 404(b)(1) and ***Commonwealth v. Lark***, 543 A.2d 491 (Pa. 1988). However, subject to the balancing test of Rule 404(b)(2), evidence of a defendant's other acts can be admitted if it is relevant for another purpose, including motive and the "*res gestae exception*." ***Id.***

Commonwealth v. Flowers, 303 A.3d 777, *7 (Pa. Super. 2023) (non-precedential decision).

Here, the trial judge relied upon two cases that supported his decision to admit evidence of Appellant's gang affiliation. N.T., 10/16/2024, at 6-7. Both cases conclude, in circumstances similar to those presented in Appellant's case, that "[g]ang membership is relevant to prove motive to kill[.]" ***Flowers***, 303 A.3d at *7, *citing* ***Gwaltney***, 442 A.2d at 241. Additionally, "it is well-settled that '[e]ven if prejudicial information was considered by the trial court, a judge, as fact-finder, is presumed to disregard inadmissible evidence and consider only competent evidence.'" ***Commonwealth v. Kearney***, 92 A.3d 51, 61 (Pa. Super. 2014) (citation omitted). Thus, because evidence of gang activity was admissible to prove motive and because it was submitted to a judge as the factfinder, the trial court's decision to admit that evidence was not an abuse of discretion.

Appellant's final argument is that his conviction was against the weight of the evidence because: 1) his identity as the perpetrator was established by body build alone; 2) cellular telephone tower data, on its own, did not establish Appellant's presence at the scene of the shooting; 3) surveillance video evidence of the crime, when compared to Appellant's social media photographs, was inconclusive with regard to the red bracelet worn by Appellant; and, 4) the Commonwealth's theory as to motive was speculative. Appellant's weight of the evidence claim may only be raised on direct appeal

if he preserved it in the trial court through an oral or written motion before sentencing or a written post-sentence motion. Pa.R.Crim.P. 607(a). Because Appellant filed a timely, but unsuccessful, post-sentence motion challenging the weight of the evidence, ***see*** Appellant's Post-Sentence Motion, 5/28/25, at 3-4, he has preserved his claim for appellate review.

A weight of the evidence claim, in contrast to a sufficiency of the evidence claim, admits that sufficient evidence was produced to prove each element of the crime, but contends that the trial court weighed that evidence improperly. ***Commonwealth v. Richard***, 150 A.3d 504, 516 (Pa. Super. 2016). Reviewing a weight of the evidence claim on appeal "is a review of the [trial court's] exercise of discretion, not the underlying question of whether the verdict is against the weight of the evidence." ***Commonwealth v. Stefanowicz***, 315 A.3d 162, 169 (Pa. Super. 2024), *citing* ***Commonwealth v. Widmer***, 744 A.2d 745, 753 (Pa. 2000). "[O]nly a palpable abuse of discretion will cause us to overturn the court's action." ***Commonwealth v. Brown***, 648 A.2d 1177, 1190 (Pa. 1994) (citation omitted). Relief is available only where a verdict is "so contrary to the evidence as to shock one's sense of justice[.]" ***Id.*** at 1191. Because a trial court is uniquely positioned to observe witness testimony and assess credibility, "the [trial] court's conviction that the verdict . . . was not against the weight of the evidence" is "one of the least assailable reasons for . . . denying a new trial[.]" ***Commonwealth v. Garcia Arce***, 352 A.3d 495, 508 (Pa. Super. 2026) (citation omitted).

Appellant's fragmented challenge to the evidence introduced at trial asserts that each piece of evidence, taken alone, is not sufficiently credible to sustain his conviction. Appellant first argues that identification based solely upon his broad shoulders is too general. Appellant's Brief at 19. However, the body-type testimony did not stand alone. As discussed *infra*, Appellant's identification as the shooter was supported by cellular telephone location data and the red bracelet Appellant wore. N.T., 10/16/2024, at 35, 39-65. Moreover, even if evidence of Appellant's broad shoulders stood alone, two witnesses familiar with Appellant testified that they recognized him in the video recording of the crime scene based upon his broad shoulders.[5] ***See id.*** at 79-80 and 103. The physical aspect of the identification evidence was therefore premised on a uniquely identifiable feature of Appellant's frame and supported by two additional types of evidence that established Appellant's identity as the shooter. The trial court's decision to credit that testimony does not shock one's sense of justice.

Appellant next argues that testimony regarding cellular telephone tower data, on its own, did not demonstrate Appellant's presence at the crime scene. Appellant argues that the cellular telephone tower evidence did not place Appellant's location precisely at the shooting site, but only generally in the

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[5] The record reflects that Appellant had the nickname, "Broad Dae," which referred to his unique body build. ***See*** N.T., 5/27/2025, at 6 (explaining stipulation testimony presented at trial).

vicinity of the shooting. Appellant's Brief at 19. Appellant's argument fails. The evidence presented at trial established that location data corresponding to Appellant's cellular telephone was consistent with an individual traveling from South Philadelphia towards the crime scene in West Philadelphia just before the shooting, stopping at the crime scene at the time of shooting, stopping again for about half an hour roughly midway between the crime scene and South Philadelphia, and then traveling back to South Philadelphia and settling in the area in which Appellant resided. N.T., 10/16/2024, at 57. The Commonwealth did not introduce the cellular telephone tower data to definitively locate Appellant's cellular telephone. Instead, the Commonwealth argued that Appellant's general location could be inferred from the locational tower data and that said inference was consistent with the Commonwealth's theory at trial—that Appellant committed the murder. Such an inference is reasonable and supported by the record evidence.

Appellant's third challenge is that the red bracelet worn by the shooter in the video recording of the shooting, when compared to photographs of Appellant's social media posts in which he is depicted with a red bracelet, was inconclusive because the photographs showed multiple individuals wearing a similar bracelet. Appellant does not explain why the surveillance video of the shooting was inconclusive with regard to the bracelet. Moreover, although Appellant is correct that social media photographs show other individuals wearing a similar bracelet, Appellant was the only individual who fit the precise

description of the shooter and who used a cellular telephone near the crime scene at the time of the shooting. Inferring Appellant's identity as the perpetrator through both body-type testimony and cellular telephone tower records demonstrated that the trial court's decision to credit the imagery showing Appellant with a red bracelet similar to the bracelet worn by the shooter in the surveillance video cannot be said to shock one's sense of justice.

Finally, Appellant challenges the Commonwealth's theory as to motive, which was introduced at trial through stipulated evidence. N.T., 10/16/2024, at 112-113. The Commonwealth and defense counsel agreed that Corporal Andrew Martin, if called to testify, would have stated that Appellant was affiliated with a South Philadelphia street gang, the '234,' which was engaged in an ongoing conflict with the victim's gang, 'M-16.' ***Id.*** Appellant's entire argument is that "the entire motive narrative was speculative and obtained under false pretenses." Appellant's Brief at 20. He does not explain why motive based upon gang membership was speculative and there is no suggestion in the record of contradictory evidence that offered countervailing facts which the trial court should have considered. Evidence that the shooting was motivated by a gang conflict aligned with other unchallenged evidence that the Commonwealth presented at trial.[6] Moreover, defense counsel sought

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[6] As previously noted, Appellant also argues that the motive "narrative" was obtained under false pretenses. Without further elaboration by Appellant, we are left to assume that this argument is based upon the voluntariness of Appellant's statements—a claim rejected above.

to exclude evidence of Appellant's gang affiliation because of its lack of relevance; not because Appellant's membership in a gang was contrary to the facts. ***See*** N.T., 10/15/2024, at 28-29. Based upon the foregoing, nothing in the record undermined the Commonwealth's evidence showing that Appellant committed the shooting. As such, the trial court did not abuse its discretion in concluding that the verdict aligned with the weight of the evidence.

Judgment of sentence affirmed.

Judge Stabile joins this Memorandum.

Judge Kunselman concurs in the result.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/18/2026