NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
GIOVANNI ANGEL ORTIZ	:	
Appellant	:	No. 493 MDA 2026

Appeal from the Judgment of Sentence Entered September 16, 2025
In the Court of Common Pleas of Cumberland County Criminal Division at
No(s): CP-21-CR-0001956-2024

BEFORE: BOWES, J., DUBOW, J., and SULLIVAN, J.

MEMORANDUM BY DUBOW, J.: **FILED: NOVEMBER 25, 2026**

Appellant, Giovanni Angel Ortiz, appeals from the September 16, 2025 judgment of sentence entered in the Cumberland County Court of Common Pleas after a jury convicted him of Involuntary Deviate Sexual Intercourse ("IDSI") with a Child, Dissemination of Explicit Sexual Materials to a Minor, Corruption of Minors, and Unlawful Contact with a Minor.[1] He challenges the sufficiency and weight of the evidence supporting his convictions. After careful review, we affirm.

We glean the facts and procedural history from the trial court's opinion and the certified record. Appellant's convictions stem from four sexual encounters with his brother-in-law, J.C. ("Victim"), that occurred when Victim was 11 to 13 years old. The first incident occurred when Victim was 11 or 12

---

[1] 18 Pa.C.S. §§ 3123(b), 5903(c)(1), 6301(a)(1)(ii), and 6318(a)(4), respectively.

years old. Appellant and Victim were alone in the driver and front passenger seats of a car. Appellant asked Victim questions about Victim's sexual experiences and interest in pornography, and then showed Victim a pornographic video on his phone. Appellant masturbated; Victim then started to masturbate.

A second incident occurred in Appellant's living room at night. Appellant stroked Victim's penis. Appellant then offered Victim about $200 to perform oral sex on Appellant, and Victim complied. Appellant asked Victim to perform anal sex on him. Victim tried to do so, but "got grossed out" and stopped. N.T. Trial, 6/2/25, at 64, 72. The following morning, Appellant withdrew money from the bank that he had promised Victim. Victim's mother later caught him with the money, but Victim lied to her about how he got it.

A third incident occurred in a hotel room. Victim had joined his sister, Appellant, and the couple's two young children on vacation. Appellant and Victim shared one bed, and Appellant's wife shared the other bed with her children. While everyone else was sleeping, Victim performed oral sex on Appellant. In return, Appellant gave Victim money or credit to make purchases in a video game.

A fourth incident occurred when Appellant visited Victim's house. While Appellant and Victim watched a movie together, Appellant touched Victim's penis over Victim's clothes.

In October 2023, Detective Rodney Temple of the Mechanicsburg Police Department and Detective Michael Scarlato of the Lower Allen Township Police

Department investigated the allegations. Victim participated in a videotaped forensic interview at the Children's Advocacy Center, during which he again disclosed that Appellant sexually abused him.

With Victim's and his mother's permission, Detective Temple used Victim's phone and pretended to be Victim in text messages and Snapchat messages in an effort to elicit incriminating statements. Appellant initially professed confusion about what Victim meant by "the sex stuff," and asked whether the Victim was referring to their discussion "about sex and how to properly use a condom[.]" N.T. Trial, 6/2/25 at 86-87. However, after Victim further alluded to sexual acts and Appellant paying Victim, Appellant stopped responding and repeatedly called Victim's mother. ***Id.*** at 87-88. Victim's mother answered and put the call on speaker phone, and the detectives could hear that Appellant was frustrated and saying that Victim was accusing him of doing things that he did not do. On a later date, the detectives recorded a phone call between Victim's mother and Appellant, in which Appellant denied Victim's allegations. Appellant subsequently contacted police and provided a statement denying that he had sexual contact with Victim.

Following these incidents, the Commonwealth charged Appellant with the above crimes. On June 2, 2025, Appellant proceeded to a two-day jury trial. Victim testified regarding the four episodes outlined above, and defense counsel thoroughly cross-examined him. In addition, both detectives testified regarding their joint investigation. The Commonwealth presented evidence of screenshots of text and Snapchat messages in which the detectives had

attempted to elicit incriminating statements from Appellant, and the jury heard the recorded phone call between Appellant and Victim's mother. Additionally, Detective Temple testified that Victim participated in a videotaped forensic interview in which Victim disclosed that the sexual abuse occurred. The Commonwealth did not play that tape for the jury.

Appellant testified in his own defense. Appellant conceded that Victim spent a lot of time at Appellant's home and went on vacations with Appellant's immediate family; Appellant alluded that one reason for this was that Victim had difficulties in his own home. Appellant testified that he was never alone with Victim in Appellant's home, and did not share a bed with Victim while on vacation. Appellant also stated that Victim's mother asked him to show Victim how to use a condom, and that he demonstrated that using just his own fingers. Otherwise, Appellant denied participating in any sexual activity with Victim. Appellant did not suggest any reason why Victim would have fabricated the allegations against him.

The jury convicted Appellant of Involuntary Deviate Sexual Intercourse ("IDSI") with a Child, Dissemination of Explicit Sexual Materials to a Minor, Corruption of Minors, and Unlawful Contact with a Minor.[2] On September 16,

---

[2] The Commonwealth had also proceeded to trial on a Sexual Assault charge, 18 Pa.C.S. § 3124.1. However, the court granted Appellant's unopposed motion for judgment of acquittal on that charge.

2025, the trial court imposed an aggregate sentence of 10 to 20 years' incarceration followed by 3 years' reporting probation.[3]

Appellant filed timely post-sentence motions. He moved for a judgment of acquittal based on insufficiency of the evidence, or alternatively, for a new trial because the verdict was against the weight of the evidence. Post-Sentence Motion, 9/24/25, at ¶¶ 6, 8. The trial court denied Appellant's post-sentence motions.

Following the reinstatement of his appellate rights *nunc pro tunc*, Appellant timely appealed. Both the trial court and Appellant complied with Rule 1925.

Appellant raises the following issues for our review:

> A. Whether the trial court erred in finding [] Appellant guilty of harassment where the Commonwealth failed to present sufficient evidence that [] Appellant committed the crimes charged.[4]
>
> B. Whether the trial court erred in finding [] Appellant guilty where the evidence established [] Appellant was not guilty of the offenses.

---

[3] Specifically, the trial court imposed concurrent sentences of 10 to 20 years' incarceration followed by 3 years' reporting probation for IDSI with a Child, 9 to 23 months' incarceration for Dissemination of Explicit Sexual Materials to a Minor, and 3 to 23 months' incarceration for Corruption of Minors. The trial court imposed no further penalty for Unlawful Contact with a Minor. The court imposed a mandatory term of 3 years' reporting probation because IDSI of a child is a Tier III sexual offense under the Sexual Offender Registration and Notification Act ("SORNA"). ***See*** 42 Pa.C.S. §§ 9718.5(a), 9799.14(d)(4).

[4] The Commonwealth did not charge Appellant with, and the jury did not convict him of, harassment.

Appellant's Br. at 4. Notwithstanding Appellant's phrasing of the issues, his brief's argument challenges the sufficiency and weight of the evidence supporting the jury's verdict.

Appellant first contends that the evidence is insufficient to support his convictions of all four offenses. Appellant quotes portions of the statutes criminalizing each offense. ***Id.*** at 12-13. He then "alleges there was insufficient evidence to prove, beyond a reasonable doubt, that he engaged in sexual acts with [Victim]," and asserts his "belie[f] that [Victim's] testimony alone is insufficient to sustain the convictions." ***Id.*** at 13.

To preserve a challenge to the sufficiency of the evidence on appeal, an appellant's court-ordered Rule 1925(b) statement must specify the element or elements of any crimes for which the Commonwealth's evidence was allegedly insufficient. ***Commonwealth v. Carr***, 227 A.3d 11, 18 (Pa. Super. 2020). "Where a 1925(b) statement does not specify the allegedly unproven elements, . . . the sufficiency issue is waived on appeal." ***Commonwealth v. Tyack***, 128 A.3d 254, 260 (Pa. Super. 2015) (citation omitted). ***See also Commonwealth v. Gibbs***, 981 A.2d 274, 281 (Pa. Super. 2009) (reasoning that the specificity of sufficiency issues "is of particular importance in cases where . . . the appellant was convicted of multiple crimes[,] each of which contains numerous elements that the Commonwealth must prove beyond a reasonable doubt.").

Appellant's post-sentence motion and Rule 1925(b) statement did not specify any element of any crime that the Commonwealth failed to prove

beyond a reasonable doubt.[5] Accordingly, he has not preserved his sufficiency of the evidence claim for appellate review.

Additionally, although he recites the statutory offenses in his brief, Appellant fails to delineate which element of which crime the Commonwealth failed to prove. In fact, Appellant's argument makes no reference to the evidence the Commonwealth presented at trial. Rather, he cites only his own testimony and states his "belie[f] that Victim's testimony alone is insufficient to sustain [Appellant's] convictions" of all four crimes. Appellant's Br. 13.

Appellant's argument conflicts with our well-established rule that a victim's uncorroborated testimony **is** sufficient to convict a defendant of sexual offenses, if the jury finds the victim's testimony credible. ***Commonwealth v. Tepo-Martinez***, 349 A.3d 432, 435 (Pa. Super. 2025). Furthermore, Appellant's challenge to the jury's decision to credit Victim's testimony is, in fact, a challenge to the weight of the evidence, not the sufficiency of the evidence. ***Commonwealth v. Juray***, 275 A.3d 1037, 1043 (Pa. Super. 2022). Thus, even if Appellant had preserved his sufficiency argument, we would conclude it merits no relief.

---

[5] Appellant's post-sentence motion vaguely asserted that the Commonwealth's evidence "was insufficient to sustain a conviction for all counts charged." Post-Sentence Motion, 9/24/25, at ¶ 6. His Rule 1925(b) statement asserts that the trial court erred in "accepting the jury verdict where the Commonwealth failed to present proof beyond a reasonable doubt to sustain" all four convicted offenses. Pa.R.A.P. 1925(b) Statement, 4/16/26, at ¶ 1.

In his second issue, Appellant asserts that the jury's verdict is against the weight of the evidence. He emphasizes his own testimony in which he repeatedly denied Victim's allegations of sexual abuse, and avers the jury should have weighed the screenshots of Snapchat messages, the recorded phone conversation between him and Victim's mother, and his voluntary statement to police in his favor. Appellant's Br. 15.

When considering challenges to the weight of the evidence, we apply the following precepts. "The weight of the evidence is exclusively for the finder of fact, who is free to believe all, none[,] or some of the evidence and to determine the credibility of the witnesses." ***Commonwealth v. Talbert***, 129 A.3d 536, 545 (Pa. Super. 2015) (citation omitted). "Resolving contradictory testimony and questions of credibility are matters for the fact[-]finder." ***Commonwealth v. Hopkins***, 747 A.2d 910, 917 (Pa. Super. 2000). It is well-settled that we cannot substitute our judgment for the fact-finder's judgment. ***Id.*** at 914.

Moreover, appellate review of a weight claim is a review of the trial court's exercise of discretion in denying the weight challenge raised in the post-sentence motion; this court does not review the underlying question of whether the verdict is against the weight of the evidence. ***Talbert***, 129 A.3d at 545-46. "Because the trial judge has had the opportunity to hear and see the evidence presented, an appellate court will give the gravest consideration to" the trial judge's findings and reasons for determining that a verdict is not against the weight of the evidence. ***Id.*** at 546 (citation omitted). A trial

court's conclusion that the verdict was not against the weight of the evidence is "[o]ne of the least assailable reasons for . . . denying a new trial[.]" ***Id.*** (citation omitted).

Further, "[i]n order for a defendant to prevail on a challenge to the weight of the evidence, the evidence must be so tenuous, vague[,] and uncertain that the verdict shocks the conscience of the court." ***Id.*** (citation and internal quotation marks omitted). As our Supreme Court has made clear, reversal is appropriate "only where the facts and inferences disclose a palpable abuse of discretion[.]" ***Commonwealth v. Morales***, 91 A.3d 80, 91 (Pa. 2014) (citations and emphasis omitted).

Here, in addressing Appellant's weight issue, the trial court observed that **both** Victim and Appellant proffered "largely uncorroborated testimony," and reasoned that it was "solely within the jury's discretion to credit and discredit the evidence presented and weigh the testimony accordingly." Trial Ct. Op. 15. The trial court concluded that "the verdict [was not] so contrary to the evidence as to shock one's sense of justice." ***Id.*** at 15.

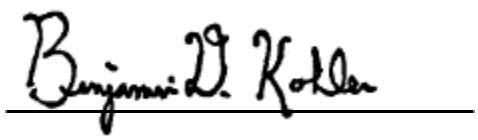
Following our review, we find the trial court properly exercised its discretion in determining that the jury's verdict was not against the weight of the evidence. We agree with the trial court that the evidence at Appellant's trial boiled down to Victim's testimony regarding sexual abuse and Appellant's denials that sexual abuse occurred. The jury heard all the information that Appellant claims to be favorable to him, weighed the evidence, including the Victim's testimony and Appellant's denials, and ultimately concluded that

Appellant had committed the crimes. Appellant essentially asks us to reweigh that evidence and usurp the jury's authority to make credibility determinations. The jury chose to credit Victim's testimony and reject Appellant's testimony. We cannot and will not disturb this credibility determination or reweigh the evidence. Additionally, the jury's verdict was not so contrary to the evidence that it could shock the conscience of the court.

Consequently, we conclude that the trial court did not abuse its discretion in rejecting Appellant's challenge to the weight of the evidence.

Judgment of sentence affirmed.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/25/2026