NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

IN RE: SCOTT LYKENS Appellant	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
	:	No. 491 MDA 2026

Appeal from the Order Entered February 23, 2026
In the Court of Common Pleas of Centre County Civil Division at No(s): 2025-CV-1883-CI

BEFORE: STABILE, J., MURRAY, J., and KING, J.

MEMORANDUM BY MURRAY, J.: **FILED: NOVEMBER 9, 2026**

Scott Lykens (Appellant), *pro se*, appeals from the order denying and dismissing Appellant's petition for review of the District Attorney of Centre County's (DA) disapproval of his private criminal complaint. After careful review, we affirm.

On November 18, 2024, Appellant filed nine private criminal complaints with the DA's office, seeking to file criminal charges against various employees of the federal Bureau of Prisons (BOP). ***See generally*** Motion to Correct and Supplement Record, 3/13/26, Substituted Exhibit 1.[1] In general, Appellant

---

[1] Appellant inadvertently attached blank copies of the private criminal complaint forms to his petition for review. On March 13, 2026, Appellant filed
(Footnote Continued Next Page)

alleged the BOP miscalculated or misapplied his earned time credit under the First Step Act of 2018, ***see*** Pub. L. No. 115-391 (2018), relative to his term of federal incarceration at United States Penitentiary (USP) Lewisburg.[2] The DA denied Appellant's private criminal complaints, explaining that 1) the DA lacked jurisdiction over BOP facilities located outside of Centre County; 2) the DA lacked jurisdiction over Appellant's claims, related to the interpretation of federal law; and 3) Appellant provided insufficient evidence of the actors' criminal intent. Petition for Review, 1/21/26, Exhibit 2 (DA's letter, dated Feb. 24, 2025, denying Appellant's private criminal complaints).[3]

On January 21, 2026, Appellant filed a *pro se* petition for review of the DA's denial of his private criminal complaint.[4] The Commonwealth did not file

---

a motion to correct and supplement the record, wherein he requested permission to substitute the blank forms with copies of the private criminal complaints he submitted to the DA. The trial court granted Appellant's motion.

[2] While the details concerning Appellant's federal sentence do not appear of record, the trial court noted that Appellant had previously pled guilty to one count of willful failure to pay over taxes. ***See*** 26 U.S.C.A. § 7202.

[3] Appellant also attached, as Exhibit 3, a copy of the civil complaint he filed against the BOP employees in the Centre County Court of Common Pleas. ***See*** Petition for Review, 1/21/26, Exhibit 3 (civil complaint).

[4] In July 2025, prior to filing the petition for review, Appellant filed a writ of summons, naming Bernie Cantorna, Esquire (DA Cantorna), in his official capacity as the DA. ***See*** Writ of Summons, 7/15/25. Appellant later filed a *pro se* "Motion to Compel Compliance with Subpoena to Produce Documents or Things," alleging he had issued a subpoena to the BOP, which went unanswered. ***See*** Motion to Compel, 12/29/15. The trial court denied Appellant's motion to compel, explaining that the BOP, a federal agency, could
(Footnote Continued Next Page)

a response. On February 23, 2026, the trial court issued an opinion and order denying and dismissing Appellant's petition for review. This timely appeal followed. Appellant and the trial court have complied with Pa.R.A.P. 1925.[5]

Appellant raises the following issues for our review:

> I. Did the [DA's] disapproval [of Appellant's private criminal complaints] amount to bad faith, fraud, or unconstitutionality under ***In re Ajaj***, [288 A.3d 94 (Pa. 2023),] where each stated ground was legally untenable and the [DA] disapproved without conducting any investigation?
>
> II. Did the trial court err in finding Centre County lacked venue, where thirty-three counts arose while Appellant was held under BOP home confinement at his Centre County residence, and where 18 Pa.C.S.[A.] § 102(a)(1) and ***Commonwealth v. Graham***[, 196 A.3d 661 (Pa. Super. 2018),] fix venue wherever the conduct or its result occurs?
>
> III. Did the trial court err in sustaining the disapproval based on a federal forum preference and premature anticipated defenses, where Pennsylvania retains concurrent jurisdiction to enforce its Crimes Code?
>
> IV. Was disapproval for "insufficient evidence of criminal intent" untenable, where the complaints alleged knowing conduct under 18 Pa.C.S.[A.] § 302(b)(2), supported by direct written notice to

---

not be compelled to comply with a state court subpoena. ***See*** Order, 1/7/26. DA Cantorna, through counsel, praeciped for a rule to file the complaint. Appellant has not filed a separate civil complaint against DA Cantorna at this docket, and our review is limited to the denial and dismissal of Appellant's petition for review of his private criminal complaints. We have corrected the caption accordingly.

[5] In its Rule 1925(a) opinion, the trial court relied on its opinion and order denying and dismissing Appellant's petition for review. The court also briefly addressed Appellant's final claim that the court had improperly relied on Appellant's filing of blank private criminal complaint forms. ***See generally*** Rule 1925(a) Opinion, 4/20/26.

> each defendant and the BOP Deputy Director's recorded admission?
>
> V. Was the [DA's] demand for intent evidence he refused to investigate—and that federal ***Touhy***[6] regulations barred Appellant alone from obtaining—arbitrary and self-defeating, evidencing bad faith under ***In re Ajaj*** and breaching the investigation duty [*sic*] recognized in ***In re Wilson***[, 879 A.2d 199 (Pa. Super. 2005) (*en banc*)]?
>
> VI. Should the trial court's jurisdictional findings be afforded no weight because they rested on a blank Exhibit 1, where the corrected complaints, now in the certified record …, allege the thirty-three Centre County counts the court never addressed?

Appellant's Brief at 11 (footnote added).

We address Appellant's claims simultaneously. Generally, Appellant argues the DA's denial of his private criminal complaints amounted to bad faith, as the asserted bases were the result of "legal untenability" rather than an exercise of discretion. ***Id.*** at 24; ***see also id.*** at 23-46. Appellant claims the DA had jurisdiction over 33 of the 45 counts identified in his private criminal complaints, because he was transferred from USP Lewisburg to home confinement in Spring Township, Centre County, in February 2023. ***Id.*** at 30. ***But see id.*** (acknowledging that home confinement was part of his **federal**

---

[6] ***U.S. ex rel. Touhy v. Ragen***, 340 U.S. 462 (1951). Codified at 28 C.F.R. §§ 16.21 *et seq.*, ***Touhy*** regulations are rules issued by the Department of Justice (DOJ) "concerning responses to subpoenas[.]" ***Gillette v. Warden Golden Grove Adult Corr. Facility***, 109 F.4th 145, 150 (3rd Cir. 2024); ***see also id.*** at 155 ("[T]he DOJ has issued rules … that prohibit its employees from disclosing information contained in, relating to, or based on material contained in DOJ files as part of any proceeding to which the United States is not a party, without prior approval.").

custody).[7] Additionally, Appellant asserts the DA's denial of his private criminal complaints evidenced a preference for federal prosecution, rather than a true jurisdictional limitation. ***Id.*** at 32-33. According to Appellant, the private criminal complaints set forth a *prima facie* cause of action against the BOP employees. ***See id.*** at 34-42. Further, Appellant argues the trial court did not consider the private criminal complaints as amended following his motion to correct and supplemental records, relying instead on the blank forms he originally attached, as well as assumptions the court made after reviewing Appellant's civil complaint. ***Id.*** at 45-46.

Pennsylvania Rule of Criminal Procedure 506 permits a private citizen to file private criminal complaints against another individual before an appropriate issuing authority:

> **Rule 506. Approval of Private Complaints**
>
> (A) When the affiant is not a law enforcement officer, the complaint shall be submitted to an attorney for the Commonwealth, who shall approve or disapprove it without unreasonable delay.
>
> (B) If the attorney for the Commonwealth:

---

[7] Appellant did not assert that he was subject to home confinement in either his petition for review or Exhibit 3 (civil complaint). This claim is therefore waived, as he failed to raise it in the trial court. ***See*** Pa.R.A.P. 302(a) ("Issues not raised in the trial court are waived and cannot be raised for the first time on appeal."). Nevertheless, as any period of home confinement was part of Appellant's federal sentence, his argument lacks merit for the reasons stated herein.

> (1) approves the complaint, the attorney shall indicate this decision on the complaint form and transmit it to the issuing authority;
>
> (2) disapproves the complaint, the attorney shall state the reasons on the complaint form and return it to the affiant. Thereafter, the affiant may petition the court of common pleas for review of the decision.

Pa.R.Crim.P. 506.

"[T]he appellate standard of review for a trial court's review of a district attorney's disapproval of a private, criminal complaint is the same as any other sufficiency-of-the-evidence review: *de novo*." ***In re Private Criminal Complaint Filed by Animal Outlook***, 349 A.3d 229, 234 (Pa. Super. 2025); ***see also In re Ajaj***, 288 A.3d at 109 ("denouncing the prior rubric, where the applicable standard of review depended on the asserted basis for the prosecutor's approval decision."). In ***Ajaj***, our Supreme Court explained that a court of common pleas may only overturn a prosecutor's disapproval decision if

> the private criminal complaint demonstrates that the disapproval decision amounted to bad faith, occurred due to fraud, or was unconstitutional. … [B]ad faith is demonstrated when the prosecutor acted with a fraudulent, dishonest, or corrupt purpose.

In re Ajaj, 288 A.3d at 109; ***see also In re Animal Outlook***, 349 A.3d at 236 ("Absent affirmative proof of bad faith, fraud, or unconstitutionality, the district attorney is free to prosecute whatever crimes he or she chooses.").

Instantly, we discern no impropriety in the trial court's decision to deny and dismiss Appellant's petition for review. Beyond a bald assertion that the

DA denied his private criminal complaints in bad faith, Appellant has not alleged or proven the DA acted with a fraudulent, dishonest, or corrupt purpose in disapproving his private criminal complaint.

In denying and dismissing Appellant's petition for review, the trial court reasoned as follows:

> The record overwhelmingly shows that [the DA] had sound reasons for the disapproval. In this case, [Appellant's] private criminal complaints were disapproved because the conduct alleged to be criminal occurred outside of the jurisdiction of the [DA,] and there was insufficient evidence of criminal intent. [Appellant] was serving a federal sentence in a federal correctional institution outside of Centre County and argues that the federal BOP improperly applied federal law as it relates to earned time credits on that federal sentence. Even if the [c]ourt were to assume there was sufficient evidence regarding the intent element of the crimes charged, the [DA] and the Centre County Court of Common Pleas lack jurisdiction to address [Appellant's] claims.

Opinion and Order, 2/23/26, at 4 (unpaginated).

Additionally, concerning Appellant's final claim, the trial court stated that it "did not rely on the fact that the private criminal complaints in the original Exhibit 1 were blank." Rule 1925(a) Opinion, 4/20/26, at 2 (unpaginated). Instead, the court explained, it had considered Exhibit 3 "and expressly assumed that the private criminal complaints sought to file criminal charges against the individuals named in the separate tort case for the same facts set forth in that case." ***Id.***

We agree with the trial court's reasoning and conclusion. Each of Appellant's claims arises out of the circumstances of his **federal** confinement

and BOP's application of the **federal** statute governing earned time credit related to his **federal** sentence. The BOP is under the direction of the United States Attorney General, and is responsible for myriad aspects of **federal** incarceration, including a prisoner's release and the calculation of time credit. ***See generally*** 18 U.S.C.A. § 4042 (Duties of Bureau of Prisons); ***see also id.*** § 3624 (Release of a prisoner). The DA, and in turn, the trial court, therefore correctly concluded that jurisdiction over Appellant's claims lies within the federal system.

Because our state courts lack jurisdiction over Appellant's claims, the DA's disapproval decision did not amount to bad faith, was not the result of fraud, and was not unconstitutional. ***See In re Ajaj***, 288 A.3d at 109; ***see also id.*** at 111 (stating that "this Court cannot interfere with the prosecutor's discretionary decision given that the evidence of record does not establish that the DA's disapproval decision was improper."). We therefore affirm the trial court's order denying and dismissing Appellant's petition for review.

Order affirmed.

Judgment Entered.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/9/2026