

**[J-14-2026] [MO: Donohue, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

COMMONWEALTH OF PENNSYLVANIA,	: No. 19 MAP 2025
	:
Appellee	: Appeal from the Order of the
	: Superior Court at No. 2977 EDA
	: 2023 dated September 17, 2024
v.	: Affirming the Judgment of
	: Sentence of the Monroe County
	: Court of Common Pleas, Criminal
EBBONI L. GASPARD,	: Division, at No. CP-45-CR-
	: 0000358-2022 dated November
Appellant	: 16, 2023.
	:
	: ARGUED: March 12, 2026

CONCURRING OPINION

JUSTICE MUNDY

DECIDED: October 1, 2026

I join the majority opinion and write to highlight that, in providing that a deception must have pecuniary significance in order to constitute an offense, see 18 Pa.C.S. § 3922(b), it seems to me the General Assembly merely clarified a requirement already embedded, if perhaps by implication, into the wording of subsection (a). That subsection makes it an offense to obtain property “by” deception. *By* in this context is causal preposition, and thus, under the Crimes Code the deception must have been a “but for” cause of Appellant receiving benefits. See 18 Pa.C.S. §303(a)(1) (providing that conduct is the cause of a result when it is “an antecedent but for which the result in question would not have occurred”). The Commonwealth agrees there is a causal element, but it argues, referencing *Commonwealth v. Volk*, 444 A.2d 1182 (Pa. Super. 1982), that as long as the deception was followed by the defendant’s receipt of benefits, that is enough – a *post hoc ergo propter hoc* fallacy. See Brief for Appellee at 13. Notably, *Volk* did not address

whether but-for causation was necessary notwithstanding that the issue was raised by the defendant. See *Volk*, 444 A.2d at 1186. The majority appropriately disapproves that decision. In the instant case, it is undisputed that the prosecution did not prove, or seek to prove, that Appellant would not have received the same benefits absent her deception. Perhaps the prosecution was relying on *Volk* in believing such proof was unnecessary. If so, that reliance was misplaced, as the plain text of the statute takes precedence.

Justice Wecht joins this concurring opinion.