

[J-14-2026]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

TODD, C.J., DONOHUE, DOUGHERTY, WECHT, MUNDY, BROBSON, McCAFFERY, JJ.

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

OPINION

JUSTICE DONOHUE

DECIDED: October 1, 2026

Ebboni L. Gaspard (“Gaspard”), a recipient of public housing benefits, was convicted of one count each of theft by deception and false swearing¹ after she failed to disclose to the Monroe County Housing Authority (“Housing Authority”) that she owned and operated a business. In this appeal, we consider whether the Commonwealth presented sufficient evidence to establish Gaspard’s conviction for theft by deception. For the reasons that follow, we conclude that the Commonwealth failed to establish that Gaspard’s omission had pecuniary significance to meet the definition of “deception” under

¹ 18 Pa.C.S. §§ 3922(a)(1), 4903(a)(2).

18 Pa.C.S. § 3922 (a)(1).² We therefore reverse the Superior Court’s decision to the contrary and vacate Gaspard’s judgment of sentence.

I. Background

In 2016, Gaspard filed an application for housing benefits which she ultimately received through the Monroe County Housing Authority under the Section 8 voucher program.³ N.T., 6/13/2023, at 114-16. She received benefits from March 2017 until July 2021, when she contacted her Housing Authority case worker, Jozie Castaldo, seeking to move into a new housing unit. *Id.* at 26-29. Castaldo assisted Gaspard with the necessary paperwork to initiate the transfer and provided Gaspard with recertification paperwork that was required prior to approval for a new unit. *Id.* During this process,

² According to 18 Pa.C.S. § 3922 **Theft by deception**:

(a) Offense defined.--A person is guilty of theft if he intentionally obtains or withholds property of another by deception. A person deceives if he intentionally:

(1) creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; but deception as to a person’s intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

* * *

(b) Exception.—The term “**deceive**” does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed.

³ Under Section 8 of the United States Housing Act of 1937, the federal government established a system to provide housing assistance payments “[f]or the purpose of aiding low-income families in obtaining a decent place to live and of promoting economically mixed housing[.]” 42 U.S.C. § 1437f(a). The housing payments are managed by local public housing agencies, such as the Housing Authority of Monroe County, and are available to low-income families, elderly persons, veterans and disabled individuals. HCV APPLICANT AND TENANT RESOURCES, <https://www.hud.gov/helping-americans/housing-choice-vouchers-tenants> (last visited August 4, 2026).

Castaldo called Gaspard's phone number to request missing documents, and her call went to a voicemail greeting for Above the Bar Soapery & Gift Company, which Gaspard subsequently confirmed was her business. *Id.* at 29-30.

Castaldo investigated Gaspard's file and discovered that Gaspard had not disclosed her business as employment; she had not disclosed income from the business; and she had not disclosed any asset associated with the business. *Id.* at 30, 33. Castaldo found that in December 2016, Gaspard completed and signed a housing application where she listed all sources of income and assets, but did not identify her business. *Id.* at 32-33; Commonwealth's Exhibit 2 (Application for Admission, 12/15/2016). Gaspard signed a housing choice voucher, indicating that she would report all changes in income and assets to the Housing Authority. N.T., 6/13/2023, at 31-32; Commonwealth's Exhibit 1 (Housing Choice Voucher Form, New Policy Regarding Interim Reporting of Income, 12/15/2016, at 1-2). As the Commonwealth would emphasize at the subsequent trial, Gaspard did not list business income, nor did she list her business as an asset, nor did she identify any employment on her initial application or on her yearly renewal paperwork. N.T., 6/13/2023, at 33, 36-44.⁴ Specifically, the form provided:

[Housing and Urban Development ("HUD")] requires program participants to report all changes in income, family composition and child-care expense [sic] to the [Housing Choice Voucher Program ("HCVP")] between annual reexaminations and within 5 days of the date of the change in household circumstances.

The participant must report all income changes to the HCVP within 5 days of the date of the change in income. The family

⁴ Application for Admission, 12/15/2016, at 5-10; Commonwealth's Exhibit 5 (Personal Declaration Form, 1/2/2019, at 2-3); Commonwealth's Exhibit 7 (Personal Declaration Form, 11/4/2019, at 2-3); Commonwealth's Exhibit 8 (Application for Continued Occupancy, 10/19/2020, at 2-3); Commonwealth's Exhibit 10 (Application for Continued Occupancy, 7/8/2021, at 2-3).

must report any increase in income regardless of the source of income, as well as reporting any decrease in income.

* * *

An increase in [a]ssets such as savings, stocks, bonds, mutual funds and certificate of deposits must be reported within 5 days of the opening of said account.

Housing Choice Voucher Form, New Policy Regarding Interim Reporting of Income, 12/15/2016, at 1-2. Once confronted, Gaspard was forthcoming about her business and provided business receipts and sales information. N.T., 6/13/2023, at 45-50.

After an informal hearing related to Gaspard's benefits through the Housing Authority, Castaldo referred the matter to law enforcement, and Gaspard was charged with one count each of theft by deception and false swearing.⁵ In the meantime, the Housing Authority terminated Gaspard's benefits. Defense Exhibit 1 (Notice of Intent to Terminate Housing Assistance, 7/9/2021, at 1-2).

At trial, Castaldo testified regarding the above-described sequence of events and described each of the forms that Gaspard signed. On each of the forms, Gaspard was making representations about her income, assets, and employment, without disclosing her business. The Commonwealth did not put forth any evidence indicating whether Gaspard's business assets or income, if disclosed, would have made her ineligible for housing benefits or decreased the amount she received. Instead, on direct examination, Castaldo testified that no such determination was made:

Q. Was there, if one is to report income, for example on the initial declaration back in 2017, the application for

⁵ Although the criminal information charged Gaspard with committing theft by deception "on or about January 2, 2019," Criminal Information, 3/14/2022, at 1, at trial, the Commonwealth accused Gaspard of wrongfully obtaining benefits starting in March of 2017. See, e.g., N.T., 6/13/2023, at 178 (focusing on Gaspard's conduct "from 2016 to 2021"); *id.* at 60 (asking Castaldo the total amount of benefits Gaspard received from March 2017 to June 2021).

admission for example, if one was to report income on that through self-employment what would then be done?

A. The business would be considered an asset and income from the business would be counted toward determining the subsidy or qualifications for the program.

Q. Okay, and might one still be eligible for benefits?

A. Sure.

Q. Were you able to do, in 2016, at the end of 2016 when there was an application for admission, if there was a reporting of a business by Ms. Gaspard would there have been an investigation as to the income?

A. We would request verification of the income from the business to determine her eligibility.

Q. Okay, and were you able to do that in this case?

A. No.

Q. And so was there a time, once you had had an opportunity to review these submissions by Ms. Gaspard, and your investigation with respect to now looking into or Googling Above The Bar Soapery, was there a determination that she was not eligible for housing assistance anymore?

A. No.

Id. at 60-61.

Castaldo did not attempt to compute Gaspard's business income,⁶ and, when asked by the Commonwealth, she testified that from March of 2017 to June of 2021, the Monroe County Housing Authority paid \$65,826 to Gaspard's landlord.⁷ *Id.* at 60.

Detective Derek Marshall from the District Attorney's Office testified regarding his investigation into Gaspard and her business. Detective Marshall found the business registered with the Pennsylvania Department of State, and he also found that the

⁶ At trial, the defense maintained that the Housing Authority forms only required Gaspard to disclose net income. For its part, the Commonwealth objected to defining the term "income," N.T., 6/13/2023, at 72-73, and it used the term "business income" as well to characterize the subject of Gaspard's misrepresentations. For instance, the Commonwealth questioned Castaldo whether an analysis of Gaspard's "business income [was] ever done," N.T., 6/13/2023, at 88, and questioned Gaspard why she did not disclose "the income of Above The Bar in ... the[] housing documents," *id.* at 154. Thereafter, the Commonwealth faulted Gaspard for failing to disclose her business's gross revenue or business expenses. See *id.* at 182-83 (arguing in closing with regard to Gaspard's business **expenses** between 2017 and 2020: "that's four years, that's 50, \$60,000, never mentioned"). The Commonwealth's argumentation begs the question of the meaning of income and business income and what Gaspard was required to disclose. However, Gaspard does not challenge the sufficiency of the evidence to establish the falsity of the information on her applications for benefits.

⁷ Castaldo's testimony was consistent with the Commonwealth's position that it need not produce evidence of Gaspard's income, or its impact on her eligibility for benefits. See e.g., N.T., 6/13/2023, at 72 (arguing "[i]ncome isn't part of the equation in this case"); *id.* at 182 (arguing in closing that this was not a question of what Gaspard's income was). Even on the Commonwealth's theory, it was incumbent to establish some level of income, asset or self-employment to demonstrate that Gaspard provided false information to the Housing Authority. Presumably, in recognition of this burden, the Commonwealth introduced into evidence the sales receipts Gaspard disclosed, and it made half-hearted attempts to speculate about Gaspard's income by cross-examining Gaspard regarding her disclosures to other entities and her expenses. See, e.g., *id.* at 53-56 (sales receipts testimony); 128-34 (referring to income disclosed to other agencies); *id.* at 182-83 (arguing that because Gaspard was paying approximately \$950 per month in business expenses, "over the course of 2017, '18, '19, '20, that's four years, that's 50, \$60,000, never mentioned"). As noted in footnote 6, the question of whether Gaspard provided false information is not before us. Instead, we are addressing the Commonwealth's theory that it may establish theft by deception without demonstrating that Gaspard's undisclosed income would have impacted her eligibility for benefits, and we therefore omit further descriptions of the evidence adduced at trial related to income.

business had a storefront in a strip mall. *Id.* at 91-92; *see id.* at 107-08 (Investigator Don Motts from the Public Defender’s Office testifying that the business was in a barren strip mall).

Gaspard testified that at her first appointment with her case worker, she discussed her soap-making business.⁸ As a result of that conversation, she knew that she had to inform the Housing Authority if she received income from her business. *Id.* at 122. Gaspard, however, did not believe that she earned income from her business because her business did not make a profit; all the money she earned from her sales was used to pay for her business expenses. *Id.* at 122-23. Gaspard explained that she received benefits from other public assistance programs and that she reported her business ownership to those programs. *Id.* at 116, 124-28. She stated that she did not report her business to the Housing Authority because she mistakenly believed that the Housing Authority was aware of her business ownership based on her belief that the Housing Authority “operated under the same umbrella” as, and “communicated with[,]” the other government assistance programs that provided benefits to her. *Id.* at 129-30. The defense introduced a form Gaspard was required to sign to obtain benefits which authorized the release of information to HUD. *Id.* at 123-24 (referring to Defense Exhibit 2 (Authorization for the Release of Information/Privacy Act Notice, HUD));⁹ *see similarly id.* at 38-39 (Commonwealth introducing Commonwealth’s Exhibit 6 (Affidavit of Understanding, 11/4/2019) (“I have no objection to the [Housing Authority of Monroe County] conducting income and other background checks ... for the purpose of verification of my statements relative to my application or re-certification”)). Gaspard also

⁸ Around that same time, Gaspard testified, she started her soap-making business to help others and to soothe her anxiety at night. N.T., 6/13/2023, at 118.

⁹ Although this form was unsigned and undated, Gaspard testified that she signed the form for her housing application to be approved. N.T., 6/13/2023, at 123-24.

testified that at the informal hearing with the Housing Authority, she produced receipts and bills which were full and complete. *Id.* at 132. On cross-examination, Gaspard testified regarding the business expenses and explained that when customers purchased her products, she used Square and GoDaddy¹⁰ to manage the transactions. *Id.* at 162-63.

Gaspard was convicted of both counts.¹¹ She filed a motion for judgment of acquittal with respect to her theft by deception conviction, which the trial court denied.¹² Thereafter, the trial court sentenced Gaspard to two years of probation and ordered her to pay \$10,000 in restitution by stipulation of the parties. Stipulation of Restitution and Sentencing, 10/25/2023, at 1.

Gaspard timely appealed to the Superior Court, challenging the sufficiency of the evidence to support her theft by deception conviction because the Commonwealth failed to establish the pecuniary significance of the omission of information on her application for benefits. In deciding this issue, the Superior Court explained that “a person is guilty

¹⁰ The Square operating system is a business technology platform involving a mobile credit card reader to allow businesses to take payments anywhere. About Square, <https://squareup.com/us/en/about> (last visited August 4, 2026). GoDaddy provides templates for websites coordinating sales, shipping, and other business management. GoDaddy Websites + Marketing, <https://squareup.com/us/en/app-marketplace/app/godaddy-websites-marketing> (last visited August 4, 2026). Assisted by her adult daughter, Gaspard set up a business website and conducted online sales.

¹¹ On the verdict slip, the jury was asked to determine whether Gaspard was guilty of theft by deception – false impression in violation of 18 Pa.C.S. § 3922(a)(1) and, if so, to determine whether the amount of the theft was more than \$2,000.00; \$200 or more but less than \$2000.01; \$50.00 or more but less than \$200.00; or less than \$50.00. The jury found her guilty and determined the amount of theft to be more than \$2,000.00. Verdict Slip, 6/13/2023, at 1; see 18 Pa.C.S. § 3903 (grading theft offenses based on the amount involved). The jury was also asked to determine whether Gaspard was guilty of “false swearing – mislead public servant” in violation of 18 Pa.C.S. § 4903(a)(2)—the jury found her guilty of that count as well. *Id.*

¹² Gaspard does not challenge the sufficiency of the evidence with respect to her false swearing conviction. See Petition for Allowance of Appeal, 10/11/2024, at 12, 20.

of theft by deception if she intentionally obtains property from another by deception. The Commonwealth must prove that the victim relied upon the false impression.” *Commonwealth v. Gaspard*, 323 A.3d 1276, 1279 (Pa. Super. 2024) (quoting *Commonwealth v. McSloy*, 751 A.2d 666, 669 (Pa. Super. 2000)).

The Superior Court rejected Gaspard’s reliance on *Commonwealth v. Thomas*, 70 A.2d 458 (Pa. Super. 1950).¹³ Thomas, who was employed, applied for and received public assistance benefits for herself and her children. *Id.* at 459. Thomas did not report her employment income on the affidavit for public assistance and received a higher amount of public assistance as a result. *Id.* Notably, the affidavit did not ask any questions regarding the applicant’s employment status. *Id.* The Commonwealth charged Thomas with cheating by fraudulent pretense, the predecessor statute to theft by deception.¹⁴ *Id.* (citing 18 P.S. § 4836 (repealed)). The Commonwealth argued that because Thomas was employed, she was not eligible for public assistance benefits. *Id.* at 460. The court, however, determined that the Commonwealth did not produce “any evidence of a false representation of existing fact” where Thomas executed an affidavit that did not ask about her employment status. *Id.* at 459-60. Thus, there was no false statement or misrepresentation based on Thomas’ failure to disclose her employment

¹³ This Court disapproved of *Thomas* on other grounds. *Commonwealth v. McCray*, 242 A.2d 229, 230 (Pa. 1968) (expressly disapproving of cases that suggested in dicta that the phrase “chattel, money or valuable security” as contained in the statute for the former crime of cheating by fraudulent pretense encompassed theft of labor or personal services).

¹⁴ That statute provided: “Whoever, by any false pretense, ... obtains from any other person any chattel, money, or valuable security, with intent to cheat and defraud any person of the same, ... is guilty of a felony.” 18 P.S. § 4836 (repealed), Act of June 24, 1939, P.L. 872, as amended. According to the *Thomas* court, a “false pretense” was “the false representation of an existing fact, whether by oral or written words or conduct, which is calculated to deceive, intended to deceive, and does, in fact, deceive, and by means of which one person obtains value from another without compensation.” *Thomas*, 70 A.2d at 460.

status, because the signed affidavits did not require her to disclose that information to receive public assistance benefits. *Id.* at 460.

Here, the Superior Court asserted that Gaspard “signed a certification that specifically required her to report **all changes in income**, as well as **any increase in income regardless of the source of income**[.]” whereas Thomas’ signed certification did not require her to disclose her employment. *Gaspard*, 323 A.3d at 1280 (emphasis in original).¹⁵ The court reasoned that Gaspard intentionally withheld reporting a source of income to the Housing Authority despite her signed certifications that she would report any changes in her income from any source. *Id.* Consistent with the trial court, it also found that the Housing Authority could not investigate whether Gaspard had a net income from self-employment because it was unaware of such employment due to Gaspard’s failure to disclose her business income. *Id.* According to the Superior Court, Gaspard prevented the Housing Authority “from acquiring information which might have affected her entitlement to Section 8 housing, and the [Housing] Authority paid a housing benefit on [Gaspard’s] behalf.” *Id.* The Superior Court thus determined that the evidence was sufficient to sustain Gaspard’s conviction for theft by deception. *Id.*

Gaspard filed a petition for allowance of appeal to this Court. We granted review to consider the following question:

Where an individual fails to disclose a source of income while seeking public benefits, must the Commonwealth, in order to sustain a conviction for theft by deception under 18 Pa.C.S.

¹⁵ *Thomas* is irrelevant to the present case. The Superior Court’s decision was entirely focused on the Commonwealth’s failure to adduce evidence to prove that Thomas made any false representation—an element which is uncontested in the present appeal. Moreover, the *Thomas* court was addressing a predecessor to the theft by deception statute containing significantly different language than Section 3922. *Thomas*, 70 A.2d at 459-61; see *supra* note 14. Gaspard relied on *Thomas* for dicta drawn from language in the repealed statute.

§ 3922, prove that the amount of benefits would have been different if the income had been properly reported?

Commonwealth v. Gaspard, 335 A.3d 303 (Pa. 2025).

II. Parties' Arguments

Gaspard explains that the text of the theft by deception statute requires that the person “intentionally obtain[] or withhold[] property of another by deception.” Gaspard’s Brief at 15-16 (quoting 18 Pa.C.S. § 3922(a)). She notes that the statute further defines deception as having “pecuniary significance.” *Id.* at 16 (citing 18 Pa.C.S. § 3922(b)). Thus, Gaspard maintains that the Commonwealth was required to prove both pecuniary significance and causation to sustain her conviction for theft by deception. *Id.* at 16-20 (discussing *Commonwealth v. Gallo*, 373 A.2d 1109, 1111 (Pa. 1977) (finding the evidence insufficient to sustain a conviction for theft by deception where Gallo’s lie did not affect the victim’s decision to enter the contract that the parties formed, and thus, it lacked pecuniary significance)).

Gaspard asserts that the Commonwealth presented insufficient evidence of theft by deception where it failed to prove that her false statement, i.e., omitting her business income in her annual recertification forms, had pecuniary significance. *Id.* at 21. Gaspard maintains that the Commonwealth failed to establish that she would not have been eligible for housing benefits if she had disclosed her business and instead solely focused on Gaspard’s omission. *Id.* She avers that the Commonwealth’s singular focus on her omission, without more, conflates the elements of theft by deception with those of false swearing. *Id.* She asserts that false swearing “is only concerned with the harm of lies to public officials” whereas “the purpose of [theft by deception] is to protect property interests.” *Id.* at 22 (quoting *Commonwealth v. Joy*, 384 A.2d 1288, 1291-92 (Pa. Super. 1978)). Gaspard maintains that the Commonwealth’s blanket theory that she can be convicted of theft by deception based solely on her omission ignores the causation and

pecuniary significance requirements of theft by deception as well as the statute's intent to protect property interests. *Id.* at 22-23.

Moreover, Gaspard contends that pursuant to the plain meaning of Section 3922, a person does not commit theft by deception where the person would have received the property of another regardless of their misstatement. *Id.* at 23. Gaspard argues that the Superior Court disregarded the plain meaning of Section 3922. She interprets the Superior Court's discussion of the effect of her non-disclosure as impermissibly reversing the burden of proof at trial from the Commonwealth to her. *Id.* at 23-24 (quoting *Gaspard*, 323 A.3d at 1280). She avers that Section 3922 does not redefine the burden of proof "out of concern that the Commonwealth's cases would be harder to prove." *Id.* at 24. Nevertheless, Gaspard maintains that for purposes of proving the elements of Section 3922, the Commonwealth was not at an unfair disadvantage because it could have verified her total assets and liabilities through search warrants and subpoenas, but it chose not to do so. *Id.* at 24-25.

Gaspard also asserts that the Superior Court impermissibly lowered the burden of proof when it held that the Commonwealth need only show that a person's false statement "might have" affected the transfer of property, not that it actually did. *Id.* at 27 (citing *Gaspard*, 23 A.3d at 1280). She reiterates that to sustain a conviction for theft by deception, the Commonwealth must prove both a false impression and that the victim relied upon that impression. *Id.* at 26-27 (citing *Commonwealth v. Fisher*, 682 A.2d 811, 813 (Pa. Super. 1996)). Moreover, to establish pecuniary significance, the false impression must cause a person to gain something of value. *Id.* at 25-26 (citing *Commonwealth v. Imes*, 623 A.2d 859, 862 (Pa. Super. 1993)).

Gaspard argues that she cannot be found guilty of theft by deception by the mere fact that she lied. *Id.* at 30. To hold as much would render Section 3922 absurd and

repetitive because there would be no difference between theft by deception and false swearing. *Id.* She additionally contends that if a lie alone were sufficient to convict her of theft by deception, then 18 Pa.C.S. § 3903, which controls the grading of theft offenses, would be meaningless because the severity of theft offenses is measured by the value of the stolen property. *Id.* at 30-31. (citing 18 Pa.C.S. § 3903; *Commonwealth v. Seladones*, 305 A.3d 83, 87 (Pa. Super. 2023)). Gaspard finally notes that this interpretation would conflict with our restitution statutes, which are concerned with the actual damages caused by criminal conduct. *Id.* at 31-32 (citing 42 Pa.C.S. § 9721(c)).

Conversely, the Commonwealth argues that it is not required to prove whether the Housing Authority would have awarded Gaspard housing benefits had she properly reported her business as income. Commonwealth’s Brief at 8. The Commonwealth maintains that Section 3922’s causation requirement is met “when a person intentionally creates a false impression in the mind of another and then uses the other person’s reliance on the false impression to obtain someone else’s property.” *Id.* at 9 (citing 18 Pa.C.S. § 3922; *McSloy*, 751 A.2d 666; *Imes*, 623 A.3d 859; *Commonwealth v. Linder*, 425 A.2d 1126 (Pa. Super. 1981)). The Commonwealth asserts that, by omitting her business income, Gaspard created the false impression that she earned less money than she actually did. *Id.* at 11.

The Commonwealth likens this case to *Commonwealth v. Volk*, 444 A.2d 1182 (Pa. Super. 1982), wherein appellants received public assistance grants. *Id.* at 1185. Appellants were advised of their responsibility to report changes to their financial circumstances, but they never did so even after they “acquired several large material assets, including a residence, a reasonably new automobile and a rental property.” *Id.* Appellants argued that even if they had made false statements, those statements had no pecuniary significance. *Id.* at 1185-86. The Superior Court rejected this argument, noting

that the record demonstrated that “appellants created and reinforced false impressions as to their acquisition of assets and changes of income[,]” such that it “created the false impression that their circumstances remained unchanged and that they were entitled to the benefits.” *Id.* at 1186.

The Commonwealth maintains that Gaspard similarly failed to disclose the income from her business on her Housing Authority application and annual recertification documents. Commonwealth’s Brief at 13. It contends that, in assessing Gaspard’s eligibility for benefits, the Housing Authority relied on her annual recertification documents. *Id.* at 13-14. The Commonwealth avers that the Housing Authority provided housing benefits to Gaspard, which were of pecuniary value. *Id.* at 14. Thus, the Commonwealth asserts that all elements of theft by deception were met.¹⁶ *Id.*

III. Analysis

Gaspard’s challenge to the sufficiency of the evidence to support her conviction for theft by deception “presents a question of law, for which our standard of review is de novo and our scope of review is plenary.” *Commonwealth v. Packer*, 168 A.3d 161, 166 (Pa. 2017). When reviewing a claim challenging the sufficiency of the evidence, “an appellate court must determine whether the evidence admitted at trial, as well as all reasonable inferences derived therefrom, viewed in favor of the Commonwealth, supports the jury’s finding of all of the elements of the offense beyond a reasonable doubt.” *Commonwealth v. Peck*, 242 A.3d 1274, 1279 (Pa. 2020).

The matter before us concerns the interpretation of the theft by deception prohibition in Section 3922 of the Crimes Code. With respect to matters of statutory

¹⁶ Consistent with its position on appeal, in closing argument the Commonwealth maintained that it did not need to prove Gaspard’s income or ineligibility for benefits. See N.T., 6/13/2023, at 177 (arguing that “[t]his case isn’t about income, it’s about disclosure”); *id.* at 182 (arguing “the question here isn’t about what her income was”).

interpretation, the Statutory Construction Act requires this Court to ascertain the legislature's intent. 1 Pa.C.S. § 1921(a). In so doing, this Court must "give effect to the plain language of a provision whenever that language is clear and free from ambiguity." *Gavin v. Loeffelbein*, 205 A.3d 1209, 1221 (Pa. 2019) (citing 1 Pa.C.S. § 1921(b)). Moreover, this Court "may not ignore unambiguous language under the pretext of pursuing the spirit of the statute, must always read the words of a statute in context, not in isolation, and give meaning to each and every provision." *Gavin*, 205 A.3d at 1221 (citing *Commonwealth v. Giulian*, 141 A.3d 1262, 1267 (2016)).

Theft by deception is defined as follows:

§ 3922. Theft by deception

(a) Offense defined.—A person is guilty of theft if he intentionally obtains or withholds property of another by deception. A person deceives if he intentionally:

(1) creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

(2) prevents another from acquiring information which would affect his judgment of a transaction; or

(3) fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship.

(b) Exception.—The term "**deceive**" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed.

18 Pa.C.S. § 3922.

Thus, a person commits theft by deception if she "intentionally obtains or withholds property of another by deception." *Id.* § 3922(a). To obtain the property of another is "[t]o

bring about a transfer or purported transfer of legal interest in property[.]” *Id.* § 3901 (defining “obtain”). Gaspard was convicted under subsection (a)(1), which provides that a person deceives if he intentionally “creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind[.]” *Id.* § 3922(a)(1). In this case where promises are not involved, Section 3922(a)(1) requires proof that the defendant intentionally brought about the transfer of the legal interest in property of another by creating or reinforcing a false impression.

Importantly, under Section 3922(b), the Commonwealth has not proven deception if the falsity established does not have pecuniary significance or if the falsity is merely “puffing by statements unlikely to deceive ordinary persons in the group addressed.” 18 Pa.C.S. § 3922(b). The two clauses of subsection (b) speak to two different scenarios.

First, deception excludes “falsity as to matters having no pecuniary significance[.]” *Id.* The Crimes Code does not define “pecuniary significance,” however, pecuniary is defined as “consisting of or measured in money.” *Pecuniary*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/pecuniary> (last visited August 6, 2026). Significance means “**the quality of being important[.]**” *Significance*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/significance> (last visited August 25, 2026) (emphasis added). See also *Significance*, DICTIONARY.COM, <https://www.dictionary.com/browse/significance> (last visited August 25, 2026) (defining significance as “importance; consequence”). Thus, the statute’s reference to a falsity as to a matter of pecuniary significance refers to falsity with monetary consequences or importance.

In the second clause, a falsity that constitutes “puffing” that is unlikely to deceive ordinary persons in the group addressed is not deceptive within the meaning of Section 3922. When puffing is involved, the statute is clear that it is not concerned with how the

statement impacted the specific individual involved. Instead, the reference to “ordinary persons” suggests that this is an objective inquiry about how an ordinary person would take the statement. Would an ordinary person be deceived by the puffing? If so, then it is a deception. If an ordinary person would not be deceived by the puffing, then the statement is not deceptive, and there is no theft by deception. Whereas this second clause refers to “ordinary persons in the group addressed[,]” the first clause does not specify that pecuniary significance should be considered from an ordinary person’s vantage point. 18 Pa.C.S. § 3922(b). Instead, the first clause refers to matters “of no pecuniary significance” so that the question of whether the falsity is of monetary importance is not subject to a reasonable person standard.

Because it does not include a reasonable person standard, “of no pecuniary significance” must be analyzed in terms of the falsity’s importance to the specific parties and transaction at issue. We considered the pecuniary significance requirement of Section 3922(b) in *Commonwealth v. Gallo*, 373 A.2d 1109 (Pa. 1977), where we determined that Gallo’s assertion that he was an account executive held no pecuniary significance because the victim, David Leveto, testified that Gallo would have obtained the contract regardless of this false statement. In that case, Gallo, the sole owner of a publishing company, contacted Leveto, a homebuilding contractor, and represented himself as an “account executive.” *Id.* at 1110. Gallo agreed to create a brochure promoting Leveto’s business in exchange for advertising fees as well as the names and contact information of various subcontractors and suppliers. *Id.* Gallo received \$1,750 from Leveto, but after several months, Leveto was unable to contact Gallo. *Id.* Leveto contacted the local police department, and an investigation uncovered that Gallo was not an “account executive.” *Id.* Criminal charges were filed against Gallo, who thereafter

sent the brochures to the printer and forwarded proofs to Leveto. *Id.* Leveto refused to accept the proofs. *Id.*

On appeal, Gallo argued that there was insufficient evidence to sustain his conviction for theft by deception. *Id.* This Court agreed, holding that Gallo's misrepresentations as to his role as an account executive fall within the meaning of the phrase "matters having no pecuniary significance." *Id.* at 1111 (quoting 18 Pa.C.S. § 3922(b)). We highlighted that at trial, Leveto was shown eight brochures Gallo prepared. Leveto testified that the brochures were like the brochures that Gallo originally showed Leveto to obtain the contract. Leveto also testified that he was impressed with the brochures' quality and "was satisfied with the product he was to have received." *Id.* In determining whether Gallo's misrepresentation about his status as an account executive was of pecuniary significance, the Court properly focused on the point of view of the victim, Leveto, to see whether the lie about Gallo's qualifications was of pecuniary significance such that the contract was dependent on it. Leveto's testimony showed he would have entered into the contract with Gallo regardless of the falsity about his status as an account executive and therefore, the falsity was not of pecuniary significance to the transaction.

It is important to highlight that proving a lie and receipt of property alone does not suffice to establish theft by deception. *See Commonwealth v. Peduzzi*, 488 A.2d 29, 34 (Pa. Super. 1985) (stating that "if the appellant was a liar, ... it did not necessarily follow that he was also a thief"). In fact, the General Assembly has criminalized lying elsewhere,¹⁷ and it has indicated that theft by deception occurs only when the lie has a financial consequence so as to undermine the purpose of the transaction.

¹⁷ Notably, the General Assembly has criminalized "false swearing in official matters" and provides that "A person who makes a false statement under oath or equivalent affirmation ... when he does not believe the statement to be true is guilty of a misdemeanor of the (continued...)"

The Commonwealth conflates the language of Section 3922(b) and focuses on whether the resulting transaction is of pecuniary value and not on the pecuniary significance of the falsity. It asserts that the “housing authority conferred to Ms. Gaspard’s benefit Section 8 rent subsidy payments, something of pecuniary value[,]” Commonwealth’s Brief at 14, suggesting that Section 3922(b) requires the result of the transaction be financially significant, not the falsity. Every transaction at issue in a theft by deception case must have financial significance in that the property of another must be taken. As applied in this case, rent subsidy payments are the “property of another” referenced in Section 3922(a). Section 3922(b) clearly provides that the falsity itself must be of pecuniary significance to the transaction, as we established in *Gallo* by considering whether Gallo’s misrepresentation of himself as an account executive was significant to the transaction.

Here, the transaction at issue was Gaspard’s provision of information on an application for public housing benefits for the purpose of determining whether she was eligible for housing benefits. By analogy to *Gallo*, if the information provided was false (by omission), the relevant question is whether that falsity impacted her eligibility for the housing subsidy. If the provision of incomplete information did not impact Gaspard’s eligibility, the omission of the information had no pecuniary significance to the eligibility determination. The Commonwealth’s interpretation that any falsity suffices is untenable. The result would be that even if Gaspard’s business income or the value of the assets of the business was zero, she would still be guilty of the crime even though she was eligible for the housing subsidy she received. This is the reason that the falsity must have pecuniary significance under Section 3922(b) to establish a deception.

second degree if: ... (2) the falsification is intended to mislead a public servant in performing his official function.” 18 Pa.C.S. § 4903(a)(2). Thus, the General Assembly has criminalized the misstatement alone in another provision of the Crimes Code.

The Commonwealth relies on *Volk*, where appellants received public assistance grants via checks. *Volk*, 444 A.2d 1182. They endorsed the checks which contained a printed notice that by endorsing the checks they certified that “neither I nor a member of my family has any earnings from employment or other resources which would affect the eligibility of myself or my family which I have not reported to said board.” *Id.* at 1185. Appellants were advised of their responsibility to report changes to their financial circumstances, but they never did so even after they “acquired several large material assets, including a residence, a reasonably new automobile and a rental property.” *Id.* Appellants argued that even if they had made false statements, those statements had no pecuniary significance because the assets were in fact worthless and the Commonwealth had not proven otherwise. *Id.* at 1185-86; Appellants’ Superior Court Brief at 16. The Superior Court rejected this argument on the basis that appellants had made false statements. *Volk*, 444 A.2d at 1186 (stating that “appellants created and reinforced false impressions as to their acquisition of assets and changes of income[,]” such that it “created the false impression that their circumstances remained unchanged and that they were entitled to the benefits”).

The *Volk* decision was in error, and we overrule it. Contrary to the teaching of *Gallo*, *Volk* did not consider the pecuniary significance of the false statement on Volk’s eligibility for benefits. The *Volk* court found only that appellants “created the false impression ... that they were entitled to benefits.” *Volk*, 444 A.2d at 1186. Such a finding may suffice to prove that appellants were guilty of false swearing, but not that they had stolen benefits. To determine whether the Volks’ deception was of pecuniary significance to support a conviction under Section 3922, it was necessary for the Superior Court to address the Commonwealth’s lack of proof that the Volks’ assets made them ineligible for benefits. The false statement regarding the unreported assets only had a pecuniary

significance if the recipients were not entitled to benefits because of those assets or the amount of benefits would have been decreased.

Where, as here, the property at issue is an income-based public benefit that requires the recipient to fill out forms disclosing all sources of income to determine her eligibility, the Commonwealth proves that a false statement has pecuniary significance by showing that the recipient's failure to list a source of income on the form impacted her eligibility for public benefits such that it caused the payor to award money that the recipient was not entitled to receive. No evidence was produced by the Commonwealth that Gaspard's household income, including the business assets or income from it, made her ineligible for the program or that it would have reduced the benefits she received. To the contrary, Gaspard's caseworker, Castaldo, testified that the Housing Authority made no determination as to whether Gaspard would be eligible for housing benefits considering the information about her business. She testified that if Gaspard had reported the income in 2017, "the business would [have been] counted toward determining the subsidy or qualifications for the program." N.T., 6/13/2023, at 60-61.¹⁸ Even if Gaspard properly reported her business on her recertification forms, according to Castaldo, Gaspard "might still be eligible for benefits." *Id.* Thus, the Commonwealth failed to prove that the falsity surrounding Gaspard's business had any pecuniary significance to the transaction at issue, i.e., her eligibility determination or the amount of benefits paid.

In sum, the Commonwealth did not present any evidence suggesting that Gaspard's business actually impacted her eligibility for housing benefits. The Commonwealth's failure to establish that Gaspard's omission of her business income or

¹⁸ A person's eligibility for housing benefits is based on several factors, including a family's annual income, family size, and location. HCV APPLICANT AND TENANT RESOURCES, <https://www.hud.gov/helping-americans/housing-choice-vouchers-tenants> (last visited August 6, 2026).

assets actually impacted her eligibility for and receipt of housing benefits is fatal to the theft by deception conviction.

The Superior Court failed to answer the sole question presented to it on appeal regarding the sufficiency of the evidence to support the Section 3922(a)(1) conviction: whether proof that Gaspard provided false information can sustain a conviction without proof that she otherwise would not have been entitled to housing benefits based on the truthful information. *Gaspard*, 323 A.3d at 1278. Instead, the Superior Court affirmed the trial court based upon facts that were irrelevant to the actual charge brought against Gaspard. The intermediate appellate court found that Gaspard's failure to report business income prevented the Housing Authority from acquiring information that might have affected her Section 8 housing eligibility. *Id.* at 1279. Two problems. First, Gaspard provided the Housing Authority with authorizations to access information regarding her business, including from other public funding sources to whom she reported the information. Authorization for the Release of Information/Privacy Act Notice, HUD; Affidavit of Understanding, 11/4/2019. Second, Gaspard was not charged under Section 3922(a)(2), which criminalizes "prevent[ing] another from acquiring information which would affect [its] judgment of a transaction[.]" 18 Pa.C.S. § 3922(a)(2).

The Superior Court relied on *Commonwealth v. Grife*, 664 A.2d 116 (Pa. Super. 1995) to support its conclusion. *Gaspard*, 325 A.3d at 1280. In *Grife*, the defendant was charged with a violation of Section 3922(a)(2). Moreover, it makes clear that mere withholding of information was not the basis for its conclusion. The defendant in *Grife* was a title insurance agent who failed to record mortgages so as to prevent the victims of his fraud from discovering the actual priority of the mortgages they received to protect their loans to the defendant. *Grife*, 664 A.2d at 123. This aspect of *Grife* has no application to a challenge under Section 3922(a)(1).

Unfortunately, the Superior Court did not look to the totality of *Grife* to answer the actual question presented to it challenging the sufficiency of the record to support Gaspard's conviction of Section 3922(a)(1) for falsities involving pecuniary significance. In *Grife*, the lenders who were victimized by the defendant's falsities testified that but for the defendant's lies about the priority of their mortgages, they would not have loaned money to the defendant. *Id.* at 121. The *Grife* court highlighted this fact to distinguish it from *Gallo* where the misrepresentation had no pecuniary significance. *Id.* The *Grife* court succinctly stated: "Theft by deception is the machination of deceit to receive property that would not be given save for the falsehoods." *Id.* at 123. Here, by contrast, the Commonwealth failed to establish that Gaspard would not have been entitled to benefits save for the falsehood.

IV. Conclusion

As a result of the Commonwealth's failure to adduce evidence that Gaspard would not have been entitled to the housing benefits she received but for her falsehood, it failed to sustain its burden of proof that the falsity had pecuniary significance. We reverse the decision of the Superior Court and vacate Gaspard's judgment of sentence. The case is remanded to the trial court for resentencing on Gaspard's remaining unchallenged conviction.

Chief Justice Todd and Justices Dougherty, Wecht, Mundy, Brobson and McCaffery join the opinion.

Justice Mundy files a concurring opinion in which Justice Wecht joins.