[J-52A-2021 and J-52B-2021]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

BAER, C.J., SAYLOR, TODD, DONOHUE, DOUGHERTY, WECHT, MUNDY, JJ.

COMMONWEALTH OF PENNSYLVANIA,	:	No. 19 MAP 2021
	:	
Appellant	:	Appeal from the Order of the
	:	Superior Court at No. 2088 MDA
	:	2018 dated November 2, 2020
v.	:	Quashing the Order of the Centre
	:	County Court of Common Pleas,
	:	Criminal Division at Nos. CP-14-CR-
BRENDAN PATRICK YOUNG,	:	0001389-2017, CP-14-CR-0000784-
	:	2018 & CP-14-CR-0001540-2018
Appellee	:	dated November 21, 2018.
	:	
	:	ARGUED: September 21, 2021
COMMONWEALTH OF PENNSYLVANIA,	:	No. 20 MAP 2021
	:	
Appellant	:	Appeal from the Order of the
	:	Superior Court at No. 2089 MDA
	:	2018 dated October 28, 2020
v.	:	Quashing the Order of the Centre
	:	County Court of Common Pleas,
	:	Criminal Division, at Nos. CP-14-
DANIEL CASEY,	:	CR-0001377-2017, CP-14-CR-
	:	0000781-2018 & CP-14-CR-
Appellee	:	0001536-2018 dated November 21,
	:	2018.
	:	
	:	ARGUED: September 21, 2021

OPINION

JUSTICE DOUGHERTY[1] **DECIDED: December 22, 2021**

[1] The matter was reassigned to this author.

This appeal arises from the prosecution of two defendants in connection with alleged hazing rituals at Penn State University in 2016 and 2017 that led to the death of a student. The prosecutions proceeded at multiple docket numbers for each defendant and although the common pleas court consolidated the docket numbers for trial, the docket numbers were not consolidated for all purposes. Defense suppression motions were granted in part and the Commonwealth filed two interlocutory appeals, one for each defendant. The notice of appeal for each defendant contained all docket numbers pertaining to that defendant. The Superior Court determined separate notices of appeal should have been filed for each docket number and quashed the appeals pursuant to this Court's ruling in *Commonwealth v. Walker*, 185 A.3d 969, 976 (Pa. 2018) (when "'one or more orders resolves issues arising on more than one docket or relating to more than one judgment, separate notices of appeals must be filed'"), *quoting* Pa.R.A.P. 341, Official Note. In doing so, the panel expressly denied the Commonwealth's request for leave to correct the procedural defect by filing separate notices of appeal at each docket number.

We granted review to examine whether the intermediate court correctly applied the holding in *Walker* considering the Commonwealth's position the matter is more properly controlled by our subsequent decision in *Always Busy Consulting, LLC v. Babford & Co., Inc.*, 247 A.3d 1033, 1043 (Pa. 2021) ("*ABC*") ("filing a single notice of appeal from a single order entered at the lead docket number for consolidated civil matters where all record information necessary to adjudication of the appeal exists, and which involves identical parties, claims and issues, does not run afoul of *Walker*, Rule 341, or its Official Note"). We conclude the exception to the *Walker* rule enunciated in *ABC* is not broad enough to encompass the present matter. Nevertheless, we remand to the Superior Court to determine, in its discretion, whether the Commonwealth should be granted relief through application of the safe harbor provision of Pa.R.A.P. 902 ("any step other than

the timely filing of a notice of appeal . . . is subject to such action as the appellate court deems appropriate, which may include . . . remand of the matter to the lower court so that the omitted procedural step may be taken.").

I. Factual and procedural history

On the evening of February 2, 2017, the 19-year-old victim, Timothy Piazza ("decedent"), was summoned to a fraternity house for pledging activities, which included rituals involving alcohol consumption. Decedent became extremely intoxicated and ultimately fell down the basement stairs. By mid-morning the following day, he had been carried upstairs to a sofa and was unresponsive. Fraternity members called 911 around 10:45 a.m. According to the Commonwealth, after calling for assistance, appellees Brendan Patrick Young and Daniel Casey, who were officers of the fraternity, attempted to hide evidence of what occurred at the fraternity house during the relevant time. Decedent was transported to the hospital, where he was pronounced dead. A medical examination revealed internal bleeding, brain swelling, a skull fracture, and a shattered spleen. Decedent's abdominal cavity contained substantial amounts of clotted blood, and according to medical personnel, had decedent received timely treatment, he could have survived.

The Commonwealth charged appellees with various offenses including involuntary manslaughter, recklessly endangering another person, evidence tampering, hazing, and furnishing alcohol to minors. Many of the charges were related to the hazing activities described above, though some were related to hazing actions that allegedly occurred in the fall of 2016.[2] After a preliminary hearing, only some of the charges were held for trial,

[2] Other individuals were charged as well. The common pleas court initially granted the Commonwealth's motion to consolidate all matters for trial. *See Commonwealth v. Bonatucci et al.*, Nos. CP-14-CR-1379-2017, *et al.*, Opinion and Order, at 5-6 (C.P. Centre Cty. Oct. 18, 2018). In response to a defense motion, however, the court amended that decision by directing that, although appellees should be tried jointly, their trial should

and the case against each defendant was assigned a docket number. The Commonwealth refiled the dismissed charges and referred the prosecution to the Office of Attorney General due to a conflict of interest. After another preliminary hearing, some of the refiled charges were held for trial, while others were again dismissed. The newly held charges were given distinct docket numbers for each defendant. When the Commonwealth again refiled previously dismissed charges, a third preliminary hearing occurred. Again, some of the refiled charges were held for trial, while the remainder were dismissed. Those newly held charges were also given docket numbers distinct from those previously assigned. Consequently, the proceedings against each defendant included three separate docket numbers, which were consolidated for trial.[3]

Before the third set of charges was filed, appellees each filed an omnibus pre-trial motion listing the docket numbers assigned after the first two preliminary hearings. They later filed supplemental pretrial motions relative to the dockets created after the third preliminary hearing, and sought, *inter alia*, suppression of evidence obtained from their cell phones. In October 2018, the common pleas court held a hearing on the motions as supplemented and ultimately granted the defendants' motions to suppress cell phone evidence on the basis the search warrant was overbroad. *See Commonwealth v. Casey & Young*, Nos. CP-14-CR-1377-2017, *et al.*, Opinion and Order at 35 (C.P. Centre Cty.,

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be severed from that of the other defendants. *See id.* Opinion and Order, at 6-7 (C.P. Centre Oct. 25, 2018). The prosecution of the other individuals is not material to this appeal, and further references to the defendants herein pertain solely to appellees. Additionally, in consolidating appellees' cases for trial, and severing them from the other cases, the court did not designate a lead docket number, but directed that all papers filed at any docket number also be filed at every docket number consolidated with it. *See id.* at 7.

[3] Young's docket numbers are: CP-14-CR-1389-2017, CP-14-CR-0784-2018, and CP-14-CR-1540-2018. Casey's are: CP-14-CR-1377-2017, CP-14-CR-0781-2018, and CP-14-CR-1536-2018.

Nov. 21, 2018). The court's opinion and order reflected a double caption at the top, one for each defendant in which all three docket numbers were listed for that defendant. *See id.* at 1.[4]

The Commonwealth filed two notices of appeal, one for each defendant under Rule of Appellate Procedure 311(d) which allows the Commonwealth to appeal from an interlocutory order if the Commonwealth certifies that the order substantially hinders or terminates the prosecution. Each notice of appeal contained the three docket numbers specific to the defendant in question.[5]

The Superior Court issued a rule to show cause for each appeal directing the Commonwealth to explain why the appeal should not be quashed pursuant to the bright-line rule of *Walker*. In its response, the Commonwealth sought to distinguish *Walker* from the present matter primarily by noting *Walker* involved one notice of appeal for a single suppression order applicable to four separate defendants at four separate docket numbers, whereas in the instant case each notice of appeal applies to a single defendant

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[4] In deciding the motions, the common pleas court rejected the defendants' challenges to the constitutionality of the anti-hazing statute. The court certified that issue for interlocutory appeal, but the intermediate court quashed the appeal based on *Walker*, *see Commonwealth v. Casey*, 218 A.3d 429, 431 (Pa. Super. 2019), and this Court denied the defendants' petition for review. *See Commonwealth v. Casey*, No. 10 MM 2020, Order (Pa. June 2, 2020) (*per curiam*). Nothing in this Court's order foreclosed their ability to litigate a preserved challenge to the constitutionality of the statute in an appeal from a final order if they are ultimately convicted of hazing.

[5] At each of the three docket numbers for each defendant, the record contains a notice of appeal bearing all three docket numbers, suggesting separate notices of appeal were filed at each docket number; however, the notices of appeal at two of the docket numbers are simply photocopies of one original notice of appeal. The Superior Court noted the copies contained yellow highlighting specifying the docket to which they were filed, and the panel "appreciate[ed] the Commonwealth's candor" in admitting in its response to the rule to show cause that it styled the notice of appeal as a single document referencing the three docket numbers at which it sought to appeal. *See Commonwealth v. Casey*, No. 2089 MDA 2018, 2020 WL 6306055 at *2, n.4 (Pa. Super. Oct. 28, 2020) (unpublished memorandum); *Commonwealth v. Young*, No. 2088 MDA 2018, 2020 WL 6392766 at *2, n.4 (Pa. Super. Nov. 2, 2020) (unpublished memorandum).

and includes all three docket numbers for that defendant. The Commonwealth also argued *Walker* is distinguishable from the instant matter because here, even though the case against each defendant involved three docket **numbers**, each criminal case comprised a single docket; the additional numbers existed only because of multiple preliminary hearings. The Commonwealth argued that requiring a separate notice of appeal for each docket **number** would be unduly formalistic and exceed *Walker's* scope. In the alternative, the Commonwealth requested leave to correct the purported procedural defect by filing new, duplicate notices of appeal at each docket number. The Superior Court discharged the rules to show cause and deferred the question to the merits panel.

In nearly identical unpublished opinions, the merits panel quashed the appeals. *See Commonwealth v. Casey*, No. 2089 MDA 2018, 2020 WL 6306055 (Pa. Super. Oct. 28, 2020) (unpublished memorandum); *Commonwealth v. Young*, No. 2088 MDA 2018, 2020 WL 6392766 (Pa. Super. Nov. 2, 2020) (unpublished memorandum). The panel rejected the Commonwealth's position that *Walker* requires separate notices of appeal only in the context of separate dockets, as opposed to separate docket numbers, noting *Walker* did not differentiate between a docket and a docket number. The panel indicated subsequent case law did not limit the holding of *Walker* to cases involving multiple defendants.[6]

[6] The panel noted it had initially stayed the Commonwealth's appeal in the present case pending *en banc* consideration of *Commonwealth v. Johnson*, 236 A.3d 1141 (Pa. Super. 2020) (*en banc*), *alloc. denied*, 242 A.3d 304 (Pa. 2020) (*per curiam*), which addressed whether the inclusion of multiple docket numbers on separate notices of appeal for a single defendant mandated quashal under *Walker*. *See Young*, 2020 WL 6392766 at *1 & n.2. In *Johnson*, the *en banc* court determined such procedural practice was not grounds for quashal under *Walker*. *Johnson*, 236 A.3d at 1148 (*en banc*) (overruling *Commonwealth v. Creese*, 216 A.3d 1142, 1144 (Pa. Super. 2019) ("notice of appeal may contain only one docket number")). The panel ultimately determined *Johnson* had no bearing on the instant matter because the Commonwealth here did not file separate

The panel also reasoned the multiple cases filed against each defendant were not treated as a single case for that defendant but remained distinct through the proceedings; indeed, the trial court had mandated that every paper filed relative to each defendant be filed at all docket numbers. The panel held that although one individual is the defendant at each group of three docket numbers, and the suppression issue at those docket numbers is identical, a separate notice of appeal is still required at each docket number lest the Commonwealth be permitted to unilaterally consolidate the appeals, which *Walker* held would be improper because consolidation lies within the discretion of the appellate court. *See Walker*, 185 A.3d at 976, *citing* Pa.R.A.P. 513.[7] Finally, the panel rejected the Commonwealth's request to amend the notices of appeal, ostensibly because the Commonwealth "fail[ed] to articulate how amendment can remedy its failure to timely file separate notices of appeal at the other two docket numbers at issue." *Casey*, 2020 WL 6306055 at *4; *Young*, 2020 WL 6392766 at *4.

We granted review to consider whether the Superior Court "err[ed] in extending *Commonwealth v. Walker* to require dismissal where the notice of appeal showed multiple docket numbers but there was only one case and one docket, with one defendant, one suppression ruling, and one set of facts and issues[.]" *Commonwealth v. Young & Casey*,

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notices of appeal but filed a single notice of appeal for each defendant containing multiple docket numbers.

The panel additionally noted this Court had recently granted allocatur to determine *Walker's* applicability to a civil matter in which a single notice of appeal was filed at the lead docket number for two consolidated cases, but the appeal had not yet been decided. *Young*, 2020 WL 6392766 at *3 n.6, *citing Always Busy Consulting, LLC v. Babford & Co., Inc.*, 235 A.3d 271 (Pa. 2020) (*per curiam*).

[7] "Where there is more than one appeal from the same order, or where the same question is involved in two or more appeals in different cases, the appellate court may, in its discretion, order them to be argued together in all particulars as if but a single appeal. Appeals may be consolidated by stipulation of the parties to the several appeals." Pa.R.A.P. 513.

251 A.3d 774 (Pa. 2021) (*per curiam*). As this is a question of law, our review is plenary. *Malanchuk v. Tsimura*, 137 A.3d 1283, 1286 (Pa. 2016).

II. Pertinent precedent

Preliminarily, we recognize there were two defendants below, and the issue now before us is whether the Commonwealth was required to file three notices of appeal to Superior Court for each defendant. We also recognize that reference to multiple defendants and six docket numbers would only tend to confuse matters. Accordingly, while our analysis will apply to the Commonwealth and each defendant individually, our discussion will be developed as if there were only one defendant against whom the Commonwealth was proceeding at three docket numbers.

In *Walker*, the police stopped a car after receiving a report of a robbery at an apartment building with a description of the vehicle and individuals involved. Four persons were inside the car, which was searched pursuant to a warrant obtained post-stop. The search yielded items believed to be taken during the robbery, and after being charged, the four defendants moved to suppress the items recovered. The trial court issued one opinion and order granting all four suppression motions on the basis the police lacked reasonable suspicion to stop the vehicle, and the Commonwealth lodged an interlocutory appeal per Pa.R.A.P. 311(d). Unlike the present case, the Commonwealth only filed a single notice of appeal for all defendants, listing the four docket numbers, and the Superior Court quashed the appeal.

In reviewing the propriety of that quashal, this Court began by reviewing decisional precedent relating to appeals from final orders under Rule 341(a), noting the Commonwealth had not presented any compelling argument as to why the rules governing multiple appeals should not apply to appeals from interlocutory orders under Rule 311(d). We noted that although filing a single notice of appeal from multiple final

orders is disfavored, our courts have at times opted not to quash such appeals where the issues raised in those multiple final orders are substantially identical, the appellee raised no objection to the single notice, and the time to file an appeal had expired so that substantive appellate review would otherwise be denied. *See Walker*, 185 A.3d at 974-75 (*discussing*, *inter alia*, *Gen. Elec. Corp. v. Aetna Cas. & Sur. Co.*, 263 A.2d 448 (Pa. 1970)). The *Walker* Court emphasized, however, that in 2013, the Note to Rule 341(a) was amended to clarify that "'separate notices of appeal[ ] must be filed'" where one or more orders resolve issues arising on more than one docket. *Id.* at 976, *quoting* Pa.R.A.P. 341(a), Note. The Court stated this amendment represented a "bright line requirement for future cases[,]" *id.*, but did not "apply the mandate of the Official Note [to Rule 341]" to the *Walker* litigants, in part because it was "contrary to decades of case law" from Pennsylvania courts in which failure to file multiple notices of appeal was disapproved, but the appeals themselves were nevertheless rarely quashed. *Id.* at 977. Thus, the rule announced in *Walker* was prospective only, but going forward, it sometimes engendered conflicting decisions in the lower courts.

For example, in several unreported decisions, the intermediate court deemed the practices of filing one notice of appeal at each docket number, italicizing or otherwise highlighting that docket number, and additionally listing in the notice of appeal all other docket numbers affected by the order, as complying with Rule 341 and *Walker*. *See e.g.*, *Commonwealth v. Williams*, 1173 WDA 2019, 2019 WL 3384926 at *1 n.3 (Pa. Super. July 26, 2019) (unpublished opinion). However, as previously noted, *see* n.5 *supra*, a three-judge panel later interpreted *Walker* as instructing that a notice of appeal which included multiple docket numbers could not be accepted. *See Commonwealth v. Creese*, 216 A.3d 1142, 1144 (Pa. Super. 2019) ("[A] notice of appeal may contain only one docket

number."). The Superior Court sitting *en banc* later expressly overruled *Creese* in *Johnson*.

In *Johnson*, the *en banc* panel recognized its own ruling in *Walker*, which was affirmed by this Court, stemmed from the dual observations that: (1) in a situation where two codefendants attempt to appeal their individual judgments of sentence via a single notice of appeal, *see In re C.M.K.*, 932 A.2d 111 (Pa. Super. 2007), the filing of a single notice of appeal presents difficulties because the two defendants may have been convicted based on distinct conduct and different evidence; and (2) analogous problems may arise where the Commonwealth files one appeal from an order granting suppression to multiple defendants, because the defendants' privacy rights and standing to challenge the lawfulness of the search may differ, and the result of the appeal may impact whether they should be tried jointly. *See Johnson,* 236 A.3d at 1145-46 (discussing *Commonwealth v. Walker*, 2299 EDA 2015, 2016 WL 5845208 at *3 (Pa. Super. Sept. 30, 2016) (unpublished memorandum)). The *Johnson* court noted these types of difficulties do not arise where a single defendant appeals from a judgment of sentence following trial on multiple dockets. Nevertheless, the court indicated *Walker* still requires the filing of multiple notices of appeal. *See id.* at 1146. However, it approved the practice of including all docket numbers on each notice of appeal, as nothing in *Walker* or the rules of appellate procedure precluded it. *See id.* at 1148; *see also id.* ("The fact that the notices contained all four lower court numbers is of no consequence.").

The same day the Superior Court decided *Johnson*, it also decided *Commonwealth v. Larkin*, 235 A.3d 350 (Pa. Super. 2020) (*en banc*), *alloc. denied*, 251 A.3d 773 (Pa. 2021) (*per curiam*). In *Larkin*, a post-conviction petitioner filed a single *pro se* notice of appeal listing both of his criminal docket numbers, which technically violated the *Walker* rule. Nevertheless, the panel credited Larkin's argument that a breakdown in

the operation of the court had occurred when the trial court advised Larkin he had 30 days "to file **an** appeal," which led Larkin to believe he only had to file a single notice of appeal. *Id.* at 354 (emphasis in original; internal citation and quotation omitted). Thus, as in other cases where the intermediate court had discerned a similar breakdown, the *Larkin* panel declined to quash the appeal.[8] *See id.* at 353, *citing*, *inter alia*, *Commonwealth v. Stansbury*, 219 A.3d 157, 160 (Pa. Super. 2019) (appellate courts often decline to quash appeal when defect results from appellant acting in accordance with misinformation relayed by trial court), *alloc. denied*, 235 A.3d 1073 (Pa. 2020) (*per curiam*).

The following year, this Court decided *ABC*, which involved a contractual dispute where an arbitrator awarded damages in favor of Babford & Co. ("Babford"), and against Always Busy Consulting, LLC ("Always Busy"). Always Busy filed a petition to vacate or modify the award and Babford filed a petition to confirm it. The petitions were given distinct docket numbers, but were consolidated by joint motion of the parties, with the court designating one of the docket numbers as the lead. Ultimately, the court denied the petition to vacate and granted the petition to confirm.

Before judgment was entered, Always Busy filed one notice of appeal at the lead docket number, but it listed both docket numbers. Judgment was subsequently entered at the lead docket number, and the Superior Court issued a rule to show cause why the appeal should not be quashed pursuant to *Walker*, as the single notice of appeal

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[8] Notably, Judge Stabile authored a fully joining concurring opinion, joined by Judges Dubow, King, and McCaffery, highlighting that "the harsh quashal required due to technical non-compliance with Pa.R.A.P. 341(a) and *Walker* is not necessary" pursuant to Pa.R.A.P. 902, which "allows an appellate court to take any appropriate action, including remand, to allow a party to correct any procedural misstep in a notice of appeal, excluding of course any defect relating to timeliness. . . . A single notice of appeal referencing more than one docket number in violation of *Walker* presents a procedural misstep that easily can be remedied. A single appeal notice containing more than one court docket easily can be segregated into separate notices for each docket while the filing date of the original notice of appeal is preserved." *Larkin*, 235 A.3d at 356-57 (Stabile, J., concurring) (citation omitted).

pertained to two docket numbers. Always Busy responded by attempting to file a second notice of appeal at the other docket number, but the common pleas prothonotary rejected it based on the local practice of filing notices of appeal involving consolidated cases only at the lead docket number. Thereafter, the Superior Court held it was "'constrained by the strict holding of *Walker*," and "reluctantly quash[ed] the appeal.'" *ABC*, 247 A.3d at 1037, *quoting Always Busy Consulting v. Babford & Co.*, Nos. 94 WDA 2019, 330 WDA 2019, 387 WDA 2019, 2019 WL 4233816 at *4 (Pa. Super. Sept. 9, 2019) (unpublished memorandum).

We granted review to determine whether *Walker's* bright-line separate-notice-of-appeal-for-each-docket-number rule was intended to apply to situations like the one presented in *ABC*. We quoted the rationale of *Walker* as follows:

> [The] practice [of filing a single notice of appeal for multiple cases] utilized in this circumstance by the Commonwealth will often result in unintended consequences, as the appellate court, in deciding the single appeal, must "go behind" the notice of appeal to determine if the same facts and issues apply to all of the appellees. As the Superior Court in this case observed, the suppression order at issue here may affect one or more of the [a]ppellees differently from the rest, including, for example, the remaining evidence (if any) against each [a]ppellee that may be used at trial (which, in turn, may implicate whether all or some of the [a]ppellees should be tried in a single joint trial). The legal issues relating to suppression, *e.g.*, the standing of each defendant to challenge the search and seizure, may also differ from one [a]ppellee to the next.

ABC, 247 A.3d at 1043, *quoting Walker*, 185 A.3d at 977.

We then determined the types of concerns *Walker* addressed were not present in *ABC* because the two cases were consolidated, there was a "complete identity of parties and claims[,]" and a single order disposed of the entire litigation, "which involved two sides of the same coin, *i.e.*, competing petitions to vacate or confirm the same arbitration award." *Id.* at 1042-43. Thus, we held *Walker* did not control as its application under the

circumstances would "elevate[ ] form over substance." *Id*. at 1043. In terms of a rule going forward, we held:

> [F]iling a single notice of appeal from a single order entered at the lead docket number for consolidated civil matters where all record information necessary to adjudication of the appeal exists, and which involves identical parties, claims and issues, does not run afoul of *Walker*, Rule 341, or its Official Note.

Id.

Finally, we expressly referred the issue to our Appellate Procedural Rules Committee to consider corresponding adjustments to the Note to Rule 341. *See id.* at 1043 n.12. [9]

III. Arguments of the parties

The Commonwealth argues the present circumstances — where it filed one notice of appeal reflecting multiple docket numbers that were consolidated for trial — largely duplicate those of *ABC*. It observes the sentence in the Note to Rule 341 on which *Walker* relied and which requires separate notices of appeal where there are separate "dockets" or "judgments," specifically mentioned *C.M.K.* and *Malanchuk*, which are distinguishable

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[9] Justice Mundy authored a concurring opinion reiterating her position in *Walker*, *i.e.*, that the merits of an appeal should be reached despite procedural error where circumstances permit. *See ABC*, 247 A.3d at 1043-44 (Mundy, J., concurring).

Justice Donohue dissented in part, opining the Court's ruling would add confusion compared to the simplicity of the *Walker* rule. She expressed, as well, that the majority's rationale for creating an exception to *Walker* was reminiscent of the analysis in *General Electric*, which had "morphed into different criteria in a variety of applications in our intermediate appellate courts." *Id.* at 1045 (Donohue, J., dissenting). She concurred in the result, however, based on her agreement there had been a breakdown in court operations. *See id.*

from the instant case.[10] The Commonwealth maintains *C.M.K.* involved two criminal defendants attempting to jointly appeal their separate judgments of sentence, and *Malanchuk* involved the appeal of two civil defendants, only one of whom was awarded summary judgment in full. Thus, the Commonwealth argues, the teaching of those decisions is that separate notices of appeal are required "where, in substance, there are different cases, with different parties, facts and issues." Commonwealth's Brief at 17. The Commonwealth maintains the Note's reference to more than one "docket" or "judgment" should be understood to mean more than one "case" — and where there is a complete identity of parties and claims, as in *ABC*, there is only one case. The Commonwealth insists the instant "appeal does not involve separate cases but only separate docket numbers." *Id.*

The Commonwealth further highlights that the Note to Rule 341 uses the term "docket," not "docket number." It suggests a docket consists of a record of all the information relating to a particular case, *see id.* at 18, *quoting* Pa.R.Crim.P. 113, Comment ("The list of docket entries is a running record of all information related to any action in a criminal case in the court of common pleas . . ."), and it analogizes the "docket" here to a library book with three call numbers. Thus, the Commonwealth maintains the

[10] The Note to Rule 341 provides in pertinent part: "Where . . . one or more orders resolves issues arising on more than one docket or relating to more than one judgment, separate notices of appeal must be filed. *Malanchuk v. Tsimura*, 137 A.3d 1283, 1288 (Pa. 2016) ('[C]omplete consolidation (or merger or fusion of actions) does not occur absent a complete identity of parties and claims; separate actions lacking such overlap retain their separate identities and require distinct judgments'); *Commonwealth v. C.M.K.*, 932 A.2d 111, 113 & n.3 (Pa. Super. 2007) (quashing appeal taken by single notice of appeal from order on remand for consideration under Pa.R.Crim.P. 607 on two persons' judgments of sentence)." Note, Pa.R.A.P. 341.

three docket numbers for each defendant are simply three identifiers for a single case[11] because the charges at all three numbers were based on a single criminal episode and, as such, were subject to this Court's compulsory joinder rule. *See id.* at 18-19, *citing*, *inter alia*, *Commonwealth v. Geyer*, 687 A.2d 815, 816 (Pa. 1996). Given this scenario, the Commonwealth insists requiring separate notices of appeal "elevates form over substance" as it did in *ABC*. *Id.* at 19.

In related fashion, the Commonwealth criticizes the intermediate court's suggestion the multiple docket numbers indicate there were multiple cases because the trial court's consolidation order required all papers to be filed at all dockets. The Commonwealth argues this aspect of the case actually shows the three docket numbers represented the same case, because the various docket numbers involved the same defendant and same suppression issue. The Commonwealth posits the Superior Court recognized this fact when it observed that each defendant was the same defendant "at the three docket numbers, and the suppression issue at each docket number is identical." *Id.* at 22 (internal citation and quotation omitted). Going one step further, the Commonwealth posits that requiring three notices of appeal for each defendant would do the very thing *Walker* sought to avoid, *i.e.*, forcing the appellate court to "go behind" the notices of appeal to determine whether the cases can be considered together. *Id.*

The Commonwealth next argues the Superior Court's extension of *Walker* "conflicts with Pa.R.A.P. 902." *Id.* at 20.[12] The Commonwealth observes, "this Court has

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[11]In its argument by analogy, the Commonwealth maintains that in a library, a "call number" is "not the book," and in a court, "a docket number is not the docket[.]" Commonwealth's Brief at 19.

[12] Rule 902 provides:

An appeal permitted by law as of right from a lower court to an appellate court shall be taken by filing a notice of appeal with the clerk of the lower court within the time allowed

consistently rejected rigid construction of its procedural rules that would frustrate a fair and just result, where, as here, there is no prejudice and no substantial impediment to appellate review." *Id*. at 21. The Commonwealth relies on several pre-*Walker* decisions to support its position. *Id.* at 21-22, *citing, e.g., Womer v. Hilliker*, 908 A.2d 269, 276 (Pa. 2006) ("[W]e expect that litigants will adhere to procedural rules as they are written, and take a dim view of litigants who flout them. That said, we have always understood that procedural rules are not ends in themselves, and that the rigid application of our rules does not always serve the interests of fairness and justice.") (citations omitted); *Smith v. Pennsylvania Board of Probation and Parole*, 683 A.2d 278, 282 (Pa. 1996) ("being mindful of the danger of placing form over substance, our courts have, when faced with compelling situations, been willing to take into account the particular facts of a case and have, in the interest of fairness, adopted an interpretation of the rules allowing the appeals to proceed . . . our rules are not intended to be so rigidly applied as to result in manifest injustice where there has been substantial compliance and no prejudice") (citation omitted); *Pomerantz v. Goldstein*, 387 A.2d 1280,1281 (Pa. 1978) ("Procedural rules are not ends in themselves, but means whereby justice, as expressed in legal principles, is administered. They are not to be exalted to the status of substantive objectives . . . [and] should never be used to deny ultimate justice[.]") (citations and quotation marks omitted).

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by Rule 903 (time for appeal). Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is subject to such action as the appellate court deems appropriate, which may include, but is not limited to, remand of the matter to the lower court so that the omitted procedural step may be taken.

Pa.R.A.P. 902. Per the simplification achieved by the rule, the appellant need only file two documents in the trial court — the notice of appeal and the proof of service. The clerk of the trial court transmits one copy of these papers to the appellate court prothonotary, who notes the appellate docket number on the notice of appeal and may then use photocopies of the marked-up notice to advise the parties, the lower court, and the Administrative Office of the fact of docketing. *See id.*, Note.

While insisting *Walker* does not apply to the present circumstances, in cases where it arguably does apply, the Commonwealth requests, "this Court should clarify that appellate courts have discretion to allow non-jurisdictional defects in filing a notice of appeal to be corrected." *Id*. at 23 n. 2. To support its position, the Commonwealth relies on this Court's pre-*Walker* decision in *Commonwealth v. Williams*, 106 A.3d 583 (Pa. 2014), which, according to the Commonwealth, held quashal is just one, least-favored option for the appellate court faced with a defective notice. *Id.*, *quoting Williams*, 106 A.3d at 587-88 ("[i]n the event of a defective notice of appeal, Rule 902 encourages, though it does not require, appellate courts to remand the matter to the lower court so that the procedural defect may be remedied[;]" Rule 902 "creates a preference for correcting procedurally defective, albeit timely, notices of appeal so that appellate courts may reach the merits of timely appeals").

Appellees counter that *ABC* is distinguishable, and the rule of *Walker* should control.[13] Appellees acknowledge the *Walker* rule can be relaxed in cases involving a breakdown in court operations, as occurred in *ABC*, but assert there was no breakdown here. Appellees view the *ABC* exception to *Walker* as applicable only where consolidation was granted upon joint motion of both parties, with a lead docket number designated, and a "'complete identity of parties and claims, such that a single order disposed of the litigation which involved two sides of the same coin[.]'" Appellee's Brief at 14, *quoting ABC*, 247 A.3d at 1043.[14]

[13] Appellees' briefs are identical in all material respects, although their pagination differs in some instances due to spacing. Page numbers herein refer to Casey's brief.

[14] In *ABC*, we considered the breakdown in court operations as a threshold issue, after which we proceeded to determine whether to recognize an exception to the *Walker* rule. *See ABC*, 247 A.3d at 1042. In retrospect, and in the present context, we read *ABC* as embodying alternative holdings, each sufficient to compel the result reached. *See generally Malanchuk*, 137 A.3d at 1286 n.5, *citing Commonwealth v. Markman*, 916 A.2d 586, 606 (Pa. 2007) ("[w]here a decision rests on two or more grounds equally valid, none

Moreover, appellees dispute the Commonwealth's contention the three docket numbers were subject to compulsory joinder. They argue the charges were not based on a single criminal episode — some charges were based on alleged hazing activities in 2016 with one set of victims, and others were based on conduct occurring in 2017 with a different set of victims.[15] Appellees assert this means the *Walker* rule should apply *a fortiori*, because in *Walker* there was only one alleged criminal episode. *See id.* at 20-23. They suggest this circumstance could affect substantive appellate review because an appellate court could "determine that a warrant had sufficient probable cause for seizures limited to one criminal episode but not to a different criminal episode." *Id.* at 23. Appellees argue that could happen in the present matter because the affidavit of probable cause supporting the search warrant was limited to the events of February 2-3, 2017; consequently, appellees maintain the warrant lacked probable cause entirely for the

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may be relegated to the inferior status of obiter dictum"). This reading is consistent with sound logic, as a breakdown that causes a litigant not to comply with *Walker* is reason enough not to quash the appeal, as recognized by our intermediate court. *See, e.g.*, *Larkin*, 235 A.3d at 354 (indicating the requirements of *Walker* may be overlooked where a breakdown occurs in the court system, and the defendant is misinformed or misled regarding his or her appellate rights).

[15] Appellees assert the alleged 2016 conduct is the subject of docket numbers CP-14-CR-1540-2018 (Young) and CP-14-CR-1536-2018 (Casey). *See id.* at 20. In reply, the Commonwealth does not dispute that the charges stemmed from actions that were temporally distinct, but contends all charges relate to "ongoing criminal activity" and, as such, "may amount to one case." Commonwealth's Reply Brief at 2; *see also id.* at 2-3 (citing cases involving compulsory joinder — for purposes of precluding separate prosecutions under 18 Pa.C.S. §110 — where multiple actions were part of a single criminal episode).

Our review of the record confirms that some of the charges against each defendant relate to events in 2016 and others to the February 2017 hazing rituals. This is reflected in the charging documents for each defendant as well as a summary of charges the Commonwealth filed as an exhibit to its motion for consolidation.

docket numbers relating to the charges arising from their conduct in 2016, and the warrant is overbroad as it relates to the 2017 charges. *See id.* at 23-24.[16]

IV. Analysis

Upon review, we find the exception to the *Walker* rule enunciated in *ABC* is not broad enough to encompass the present matter. The *Walker* Court interpreted Rule 341(a) as setting forth "a bright-line mandatory instruction to practitioners to file separate notices of appeal" for each docket. *Walker*, 185 A.3d at 976-77.[17] In *ABC*, we reaffirmed the general rule, and emphasized parties are not permitted unilaterally to consolidate matters for appellate review by filing a single notice of appeal from an order arising on multiple dockets. We observed "consolidation is a determination that must be made by the appellate court, at its discretion, absent a stipulation by all parties to the several appeals." *ABC*, 247 A.3d at 1042, *quoting Walker*, 185 A.3d at 976 (internal citation and quotation omitted). As can be seen from the caption to the Superior Court's memorandum opinions, the Commonwealth's decision to file a single notice of appeal led to a single docket number at the appellate level, thus achieving an effective consolidation at that level inconsistent with the general rule of *Walker* and *ABC*. However, in *ABC*, this Court ultimately found quashal improper because:

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[16] Appellees also suggest that if this Court grants relief to the Commonwealth, it should simultaneously "revive" their interlocutory appeal challenging the constitutionality of the anti-hazing statute. Appellee's Brief at 29. As noted, however, *see supra* n.4, this Court denied appellees' petition for review prior to granting allowance of appeal in the present matter. Significantly, appellees do not direct us to any authority that would permit us to "revive" their former appeal under these circumstances.

[17] We realize the Commonwealth in *Walker* appealed under Rule 311(d) rather than Rule 341(a). However, the *Walker* Court deemed the commentary to Rule 341(a) to be applicable to Rule 311(d) because the Commonwealth had failed to offer any compelling reason why the two rules should operate differently. *See* 185 A.3d at 976 n.3. Here again, the Commonwealth has offered no suggestion regarding why the rules should operate differently, and *Walker's* application of the Rule 341(a) commentary to Rule 311(d) remains binding precedent in the context of this appeal.

> [C]onsolidation of the dockets was sought and granted in the common pleas court, and there existed complete identity of parties and claims, such that a single order disposed of the litigation which involved two sides of the same coin, *i.e.*, competing petitions to vacate or confirm the same arbitration award.

247 A.3d at 1043. Thus, we held:

> [F]iling a single notice of appeal from a single order entered at the lead docket number for consolidated civil matters where all record information necessary to adjudication of the appeal exists, and which involves identical parties, claims and issues, does not run afoul of *Walker*, Rule 341, or its Official Note.

Id.

Here, regardless of whether there is identity of parties and claims, the docket numbers were not different "sides of the same coin" — that is, different ways of litigating the exact same dispute, as in *ABC* — and there was no lead docket number. To the contrary, each docket number encompassed a different set of criminal charges, and each such charge, by its nature, involved different victims, different occasions, or different conduct toward the same victim. Moreover, *ABC's* exception to the *Walker* rule is, by its terms, limited to civil cases, which may better lend themselves to multiple docket numbers representing "two sides of the same coin."

There is some merit in the Commonwealth's contention that this result tends to "elevate form over substance" to a certain degree. A different result would likely obtain if all the ultimately-bound-over charges had been filed initially and then been bound over after the first preliminary hearing — in which case there would have been a single docket number for each defendant encompassing all charges. However, as the cases and charges actually progressed over time, quashal was seemingly required by Rules of Appellate Procedure 341(a) and 311(d) as interpreted in *Walker*.

But, there is another rule with a role to play in matters like this one: Pa.R.A.P. 902 (manner of taking appeal). As noted above, the Commonwealth requests that, should

this Court conclude *Walker* applies to the unique facts of this case, we should clarify that, under Rule 902, appellate courts have discretion to remand a timely-filed notice of appeal to the lower court to remedy a non-jurisdictional defect. Rule 902 provides: "Failure of an appellant to take any step other than the timely filing of a notice of appeal **does not affect the validity of the appeal, but it is subject to such action as the appellate court deems appropriate, which may include, but is not limited to, remand of the matter to the lower court so that the omitted procedural step may be taken**." Pa.R.A.P. 902 (emphasis added). The Note to the rule indicates this sentence was revised in 1986 to reflect a change in approach to formal defects:

> The reference to dismissal of the appeal has been deleted in favor of a preference toward[ ] remanding the matter to the lower court so that the omitted procedural step may be taken, thereby enabling the appellate court to reach the merits of the appeal. Nevertheless, dismissal of the appeal ultimately remains a possibility where counsel fails to take the necessary steps to correct the defect.

Id., Note.

Here, in response to the Superior Court's rule to show cause why the appeal should not be quashed in light of *Walker*, the Commonwealth responded and requested, in relevant part, "an opportunity to amend the notice of appeal to include a separate notice for each lower court number to comply with *Walker*[,]" maintaining "[a]ny error related to the notice of appeal would constitute a formatting error rather than a failure to provide notice as the single notice of appeal apprised all parties of the order being appealed from and should not create a jurisdictional bar to review." Commonwealth's Response to Directive to Show Cause, 3/4/2019, at 7. Presently, and below, as noted by the Superior Court, the Commonwealth candidly admits it submitted only one notice of appeal with respect to each defendant listing the three docket numbers associated with that defendant, and explains "[i]n each case the [filing] clerk made two photocopies of the

notice of appeal and filed three identical notices, one under each of the three docket numbers, for each defendant." Commonwealth's Brief at 10. There is no dispute the Commonwealth's notices of appeal were timely filed. *See* Pa.R.A.P. 903 (notice of appeal to be filed within thirty days after entry of order from which appeal is taken). The only question is whether its error in including three docket numbers on each defendant's notice of appeal — each of which was then photocopied by the clerk and filed under each of the three docket numbers — **requires** quashal. We conclude it does not.

Notably, we did not consider the interplay between Rules 341(a) and 902 in *Walker* or *ABC* because neither the lower courts nor the parties raised it.[18] But other courts have written to it. As noted *supra*, in *Larkin*, Judge Stabile authored a thoughtful concurring opinion that focused on Rule 902 and observed "the harsh quashal required due to a technical noncompliance with Pa.R.A.P. 341(a) and *Walker*, is not necessary, as our court rules provide a remedy to address this variety of rule noncompliance." *Larkin,* 235 A.3d at 356 (Stabile, J., concurring). Judge Stabile elaborated:

> So long as a litigant timely perfects an appeal, Rule 902 allows an appellate court to take any appropriate action, including remand, to allow a party to correct any procedural misstep in a notice of appeal, excluding of course any defect relating to timeliness. . . . A single notice of appeal referencing more than one docket number in violation of *Walker* presents a procedural

[18] The Commonwealth clearly preserved the Rule 902-based claim it now presents to this Court. Although the Commonwealth did not expressly cite the rule in its answer to the rule to show cause, its request for leave to correct any formatting error in its notices of appeal plainly invoked the remedial, ameliorative and equitable relief measures prescribed in Rule 902. *Compare* Commonwealth's Response to Directive to Show Cause, 3/4/2019, at 7 ("the Commonwealth requests an opportunity to amend the notice of appeal . . . to comply with *Walker*") *with* Pa.R.A.P. 902 (promoting "such action as the appellate court deems appropriate, which may include, but is not limited to, remand of the matter to the lower court so that the omitted procedural step may be taken"). *See also, e.g.*, *Commonwealth v. Rogers*, 250 A.3d 1209, 1224 (Pa. 2021) (declining to find waiver where claim "was readily understandable from context"); Pa.R.A.P. 1925(b)(4)(ii) (explaining that a litigant's statement of matters complained of on appeal does "not require citation to authorities or the record").

> misstep that easily can be remedied. A single appeal notice containing more than one court docket easily can be segregated into separate notices for each docket while the filing date of the original notice of appeal is preserved.

Id. at 357 (citation omitted).

Moreover, as Judge Stabile astutely observed in *Larkin*, and as argued by the Commonwealth in its brief, a remedy other than quashal is supported by our own precedent. In *Williams*, this Court considered whether the Philadelphia Clerk of Courts should have accepted a defective, but timely filed, notice of appeal. *Williams*, 106 A.3d at 586. The notice of appeal was defective "because it was missing two docket numbers and/or because the Clerk's office preferred a separate notice for each of the three docket numbers contained therein." *Id.* at 585. We held quashal is just one option in such circumstances, explaining "[i]n the event of a defective notice of appeal, Rule 902 encourages, though it does not require, appellate courts to remand the matter to the lower court so that the procedural defect may be remedied." *Id.* at 587-88. Pointing to the 1986 amendments and the accompanying note, we acknowledged Rule 902's "preference for correcting procedurally defective, albeit timely, notices of appeal so that appellate courts may reach the merits of timely appeals." *Id.* at 588. Ultimately, we held the defective but timely notice of appeal preserved the Commonwealth's appeal.

Here, we agree with the Commonwealth that "there would have been no prejudice" to the defendants had the Superior Court granted its prompt and clear request for remand to correct the procedural defect once it was identified. Commonwealth's Brief at 23 n.2. Further, the Commonwealth convincingly argues that nothing practical is achieved by the reflexive quashal of appeals for easily corrected, non-jurisdictional defects. Indeed, Rule 902 is designed specifically to eliminate such quashals as it "eliminates the 'trap' of failure to perfect an appeal" by making timely notices of appeal "self-perfecting." Pa.R.A.P. 902, Note.

We realize permitting parties to rectify non-jurisdictional procedural missteps relating to notices of appeal will, for all practical purposes, largely blunt the bright-line rule the *Walker* Court sought to impose with respect to Rule 341(a). However, as we also expressly noted in *Walker*, "[p]rocedural rules should be construed to give effect to all their provisions, and a single rule should not be read in a vacuum, especially where there is a relationship between different rules." *Walker*, 185 A.3d at 976 (citations omitted).

Now that Rule 902 is squarely before us, we take it on its terms, notwithstanding any effect its application here may have on the bright-line rule of *Walker*. In doing so, we conclude the relationship between Rules 341(a) and 902 is clear. Rule 341 requires that when a single order resolves issues arising on more than one docket, separate notices of appeal must be filed from that order at each docket; but, where a timely appeal is erroneously filed at only one docket, Rule 902 permits the appellate court, in its discretion, to allow correction of the error, where appropriate.[19] Accordingly, as there were two timely-filed notices of appeal in this case, one for each defendant, that listed additional docket numbers for each defendant, we reverse the Superior Court's order quashing the appeals and, pursuant to Rule 902, we remand to that court to reconsider the Commonwealth's request to remediate its error, "so that the omitted procedural step may be taken." Pa.R.A.P. 902.[20]

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[19] Thus, although we reaffirm *Walker*'s pronouncement that "the proper practice under Rule 341(a) is to file separate appeals from an order that resolves issues arising on more than one docket[,]" we expressly overrule those statements in the opinion indicating "[t]he failure to do so **requires** the appellate court to quash the appeal." *Walker*, 185 A.3d at 977 (emphasis added); *see id*. ("The failure [to file separate notices of appeal] **will** result in quashal of the appeal.") (emphasis added). We also refer this matter once again to the Appellate Procedural Rules Committee for consideration of corresponding adjustments to the Notes to the relevant rules.

[20] Justice Saylor observes our determination "effectively eviscerate[s] *Walker*[,]" Concurring and Dissenting Opinion (Saylor, J.) at 2, and opines our reliance on *Williams* to support the application of Rule 902 is misplaced because *Walker* "post-dated *Williams*,"

Reversed and remanded.

Chief Justice Baer and Justices Todd and Mundy join the opinion.

Justice Mundy files a concurring opinion.

Justice Saylor files a concurring and dissenting opinion in which Justice Donohue joins.

Justice Donohue files a concurring and dissenting opinion.

Justice Wecht files a concurring and dissenting opinion.

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and "the *Walker* Court was well aware that there was a long line of prior decisions, such as *Williams*, favoring remedial measure over quashal." *Id.* Respectfully, the cases discussed in *Walker* all relied on the three-part test announced in *Gen. Elec. Credit Corp. v. Aetna Cas. And Surety Co.*, 263 A.2d. 448 (Pa. 1970), which was, before Rule 902 was adopted five years later, the mechanism crafted "to decide whether quashal was warranted where a single notice of appeal was filed in response to multiple final orders." *Walker*, 185 A.3d at 974. While *Walker* unquestionably rejected the *General Electric* line of cases, it just as surely did not decide the impact of Rule 902. We are not bound in perpetuity to turn a blind eye to the plain terms of Rule 902 — a rule adopted by this Court — for the sake of a harsh, bright-line quashal requirement we considered appropriate when interpreting a different rule. Justice Donohue asserts that post-*General Electric*, "both this Court and our intermediate appellate courts continued to apply the *General Electric* test, with no consideration of Rule 902." Concurring and Dissenting Opinion (Donohue, J.) at 4. However, as noted, *supra*, this Court applied Rule 902 in *Williams*, which is a post-*General Electric* decision.

Notably, Justice Wecht observes *Walker's* "quashal mandate has deprived too many litigants of their right to an appeal because of technical defects," which "seems unwarranted in light of the plain language of Rule 902." Concurring and Dissenting Opinion (Wecht, J.) at 3. Nevertheless, Justice Wecht would not apply Rule 902's safe harbor provision here, as it would, in his view, be inequitable to permit the Commonwealth to receive its benefit, when appellees' requests for permission to file interlocutory appeals were denied by the Superior Court under *Walker*. However, appellees' earlier claims challenge the constitutionality of the hazing statute; if those claims are properly preserved going forward, and appellees are convicted of hazing under the statute, the challenge has not been irrevocably lost. *See* n.4, *supra*.