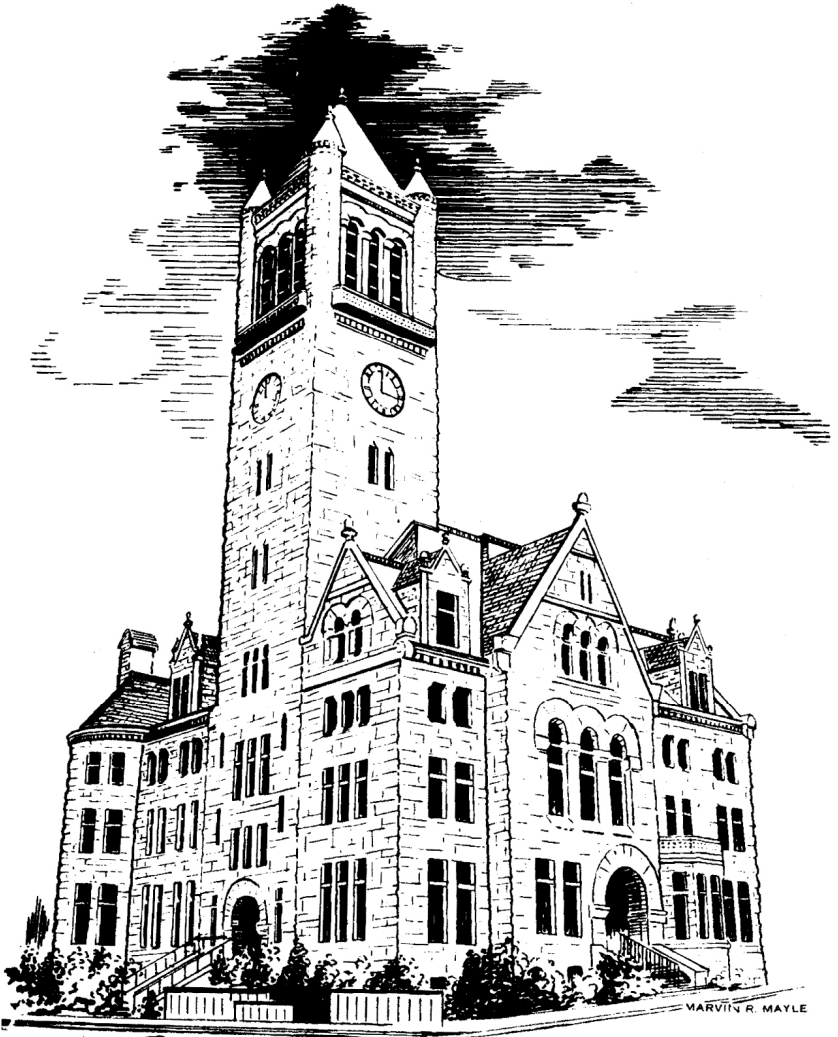


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Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

BETTY E. BURNSWORTH, late of South Union Township, Fayette County, PA (3)

Personal Representative:

Darrell Edward Harper
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

LENA GARCHER, late of Franklin Township, Fayette County, PA (3)

Executor: Joseph P. Garcher

c/o Davis & Davis Attorneys at Law
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

GAYFORD KERNS, late of Uniontown, Fayette County, PA (3)

Personal Representative: Faye Kerns
c/o 178 Oakland Avenue
Uniontown, PA 15401

SANDRA LEE SHOEMAKER, late of South Union Township, Fayette County, PA (3)

Executrix: Susan R. Shoemaker
c/o Goodwin Como, P.C.

92 East Main Street, Suite 1
Uniontown, PA 15401
Attorney: Benjamin F. Goodwin

STEPHEN SKALA, late of McClellandtown, Fayette County, PA (3)

Executrix: April Shuman
c/o Kopas Law Office
556 Morgantown Road
Uniontown, PA 15401
Attorney: John Kopas

EDWARD JOSEPH SULLIVAN, late of Nicholson Township, Fayette County, PA (3)

Administrator: Terrance Sullivan
c/o 4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Sheryl R. Heid

DELBERT ALLEN VALENTINE, late of Adah, German Township, Fayette County, PA

Administrator: Shelly Marie Valentine (3)
c/o 650 Riffle Hollow Road
McClellandtown, PA 15458

Second Publication

RUBY CATHERINE BONNEY, a/k/a CATHERINE BONNEY, a/k/a RUBY C. BONNEY, late of South Union Township, Fayette County, PA (2)

Executor: Thomas E. Bonney
224 East Street Road, Suite 1
Kennett Square, PA 19348
Attorney: John R. Twombly, Jr.

JOSEPHINE C. HAGER, late of Menallen Township, Fayette County, PA (2)

Administratrix: Janet Marie Smearcheck
c/o Newcomer Law Offices
4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Ewing D. Newcomer

JAMES KLINK, late of Uniontown, Fayette County, PA (2)

Executrix: Ashley Zebro
c/o 401 First Street
Chestnut Ridge, PA 15422

PATRICIA TATE, a/k/a PATRICIA A. TATE, a/k/a PATRICIA ANN TATE, late of Redstone Township, Fayette County, PA (2)

Administrator: Paul J. Tate
c/o DePaulis Law, LLC
1711 Lincoln Way
White Oak, PA 15131
Attorney: Amanda DePaulis

First Publication

LOUIS T. CANTALAMESSA, a/k/a LOUIS TITO CANTALAMESSA, late of Uniontown, Fayette County, PA ⁽¹⁾

Executrix: Pamela J. Cantalamessa
c/o Davis & Davis Attorneys at Law
107 East Main Street
Uniontown, PA 15401
Attorney: Samuel J. Davis

GERALD GLENN DALE SR., late of Perryopolis Borough, Fayette County, PA ⁽¹⁾

Administrator: Gerald Glenn Dale, Jr.
101 Morgan Street
PO Box 277
Newell, PA 15466

HOWARD FRANCIS JOHNSTON, a/k/a HOWARD F. JOHNSTON, late of Jefferson Township, Fayette County, PA ⁽¹⁾

Executrix: Karen T. Johnston
c/o Bassi Vreeland & Associates, P.C.
PO Box 144
111 Fallowfield Avenue
Charleroi, PA 15022
Attorney: Bradley M. Bassi

MARY E. SHURM, late of North Union Township, Fayette County, PA ⁽¹⁾

Administrator: Walter B. Shurm III
45 Adele Street
Uniontown, PA 15401

SARAH ETTA WORK, a/k/a SARA E. WORK, late of Springfield Township, Fayette County, PA ⁽¹⁾

Personal Representative: Randall E. Work
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Shane M. Gannon

DAVID ZEPPPO, late of Uniontown, Fayette County, PA ⁽¹⁾

Executrix: Tina W. Wargo
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401

LEGAL NOTICES

ARTICLES OF INCORPORATION

Bart Logistics, Inc. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

Proden & O'Brien
99 East Main Street
Uniontown, PA 15401

NOTICE

NOTICE IS HEREBY GIVEN that a Petition has been filed in the Court of Common Pleas of Fayette County, Pennsylvania, seeking to change the name of Cavan Daniel Pyeritz to Cavan Daniel Colgan. A hearing on the Petition will be held on July 9, 2026, at 9:30 AM in Courtroom No. 4 at the Fayette County Courthouse, Uniontown, Pennsylvania, at which time any persons interested may attend and show cause, if any, why the Petition should not be granted.

Robert & Korrie Colgan for
Cavan Daniel Pyeritz
Dellarose Law Office, PLLC
Melinda Deal Dellarose
111 East Main Street Second Floor
Uniontown, PA 15401
(724) 320-2306

NOTICE

NOTICE IS HEREBY GIVEN that a Petition has been filed in the Court of Common Pleas of Fayette County, Pennsylvania, seeking to change the name of Adalynn Grace Pyeritz to Adalynn Grace Colgan. A hearing on the Petition will be held on July 9, 2026, at 9:30 AM in Courtroom No. 4 at the Fayette County Courthouse, Uniontown, Pennsylvania, at which time any persons interested may attend and show cause, if any, why the Petition should not be granted.

Robert & Korrie Colgan for
Adalynn Grace Pyeritz
Dellarose Law Office, PLLC
Melinda Deal Dellarose
111 East Main Street Second Floor
Uniontown, PA 15401
(724) 320-2306

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

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JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CRIMINAL ACTION

COMMONWEALTH OF PENNSYLVANIA :
Appellee, :
Vs. :
JOHN THOMAS BENDISHAW :
Appellant. : No. 1616 of 2023

COMMONWEALTH OF PENNSYLVANIA :
Appellee, :
Vs. :
JOHN THOMAS BENDISHAW : No. 1614 of 2023
Appellant. : Honorable Joseph M. George, J.

ATTORNEYS

Michelle Kelley, Esquire, Assistant District Attorney,
For the Commonwealth of Pennsylvania
Gregory Kunkel, Esquire, Assistant Public Defender, Trial Counsel for Appellant
Phyllis Jin, Esquire, Appellate Counsel for John Thomas Bendishaw

OPINION

GEORGE, J.

May 15th, 2026

Following a trial by jury that commenced on August 5th, 2024, John Bendishaw, "Appellant", was found guilty at Docket Number 1614 of 2023 at Count 1 for the charge of fleeing or attempting to elude police officer and at Docket Number 1616 of 2023 at Count I for the charge of robbery-threat of immediate serious injury, Count 2 for theft by unlawful taking and at Count 4 for simple assault.

On August 28th, 2024 Appellant was sentenced at 1616 of 2023, Count 1 to a term of incarceration of not less than ten (10) years nor more than twenty (20) years in accordance with the mandatory sentencing provisions of 42 Pa.C.S.A. §9714 with no further penalty at Counts 2 and 4 and a consecutive term of incarceration of not less than eighteen (18) months nor more than five (5) years at 1614 of 2023 with no further penalty at Counts 3, 4, 5, 6, 8 and 9. Appellant filed a post-sentence motion that was denied on September 9th, 2024. No direct appeal followed. On March 9th, 2026 the Court granted a P.C.R.A. petition and reinstated the Appellant's direct appeal rights.

On April 9th, 2026 Appellant filed a Notice of Appeal from the Judgment of Sentence. Appellant filed and served his Concise Statement of the errors complained of on appeal on May 12th, 2026 and this Opinion is in support of the Judgment of Sentence and the verdicts of the jury.

CONCISE ISSUES

Appellant raised the following issues in his Concise Statement of Errors Complained of on Appeal which was filed on May 12th, 2026.

- a. The verdicts were against the weight of the evidence due to the lack of credible eye-witness testimony; the video surveillance evidence played at trial did not support the eye-witness testimony as to what occurred during the incident; the video surveillance of the actor's physical appearance and movement did not match that of the Defendant from earlier in the day; and, neither DNA nor fingerprints of the Defendant were found, according to this testimony of the officers.
- b. The Defendant provided an alibi defense which was not impeached by the Commonwealth in trial.
- c. The trial court erred in the denial of the post-sentence motion to modify the Defendant's sentence. The sentence was unduly harsh and failed to take into consideration the Defendant's age, mental health history, family history and his rehabilitative needs. Additionally, the court erred in the imposition of a consecutive sentence rather than a concurrent sentence at 1614 of 2023.

FACTS

The Commonwealth's first witness was Zachary Vernail, a police officer with the City of Uniontown who was on duty and in full uniform on July 24th, 2023 when he observed a red Hyundai sedan traveling in the area of Lenox Street and Pershing Avenue and failed to use a turn signal. The officer conducted a traffic stop and observed Appellant as the operator of the vehicle with an injury to his leg and crutches inside the vehicle. (T.T. Pg. 22). He also stated the Defendant was wearing a black hat with a logo, blue shirt, black pants and black shoes. (T.T. Pg. 24).

Next the Commonwealth called Kimberly Cleaver who was an employee at the Sunoco A-Plus Gas Station in Uniontown on July 24th, 2023. Ms. Cleaver stated that an individual "mumbled something about money" then "jerked a knife towards me." (T.T. Pg. 99). She was able to retreat to an office and close the door and was pushing the door closed while "he was pushing to open." (T.T. Pg. 100). While in the office she then watched on the monitor the individual take cigarettes and cash. She additionally described the clothing the actor wore which was similar to the clothing the Defendant was wearing during the traffic stop with Officer Vernail and the video depicts the actor walking with an apparent limp. (T.T. Pg. 105).

The Commonwealth also called Detective Alexis Metros who was employed as a police officer with the City of Uniontown. She testified that a few hours later on July 24th, 2023 she responded to Byers Market where the Appellant was taken into custody. During that time cigarettes were taken from Appellant which were the same brand that were earlier taken by the actor at the Sunoco A-Plus. (T.T. Pg. 168). Several items of clothing were taken from the Defendant which included a darker colored baseball cap, blue shirt, dark colored pants and brownish colored croc shoes, matching the description provided by Ms. Cleaver. (T.T. Pg. 171).

The Commonwealth also provided testimony from Lieutenant Thomas Kolencik of

the Uniontown Police Department that he encountered the Appellant who was taken to the hospital for medical clearance for an apparent leg injury before incarceration at the Fayette County Prison. Between the hospital and the Fayette County Prison the Appellant discarded his hat which was later found under a hospital bed. Appellant was later viewed on video throwing his shirt out of the window of the police car which was later retrieved on McClellandtown Road. (T.T. Pg. 186).

Lastly, the jurors saw a recording of a video visit the Appellant made while incarcerated at the Fayette County Prison on the evening of the first day of the trial. The Appellant made the following two statements to Ms. Cramer who later testified as the purported alibi witness for the Appellant:

THE DEFENDANT: (Inaudible) testify he was supposed to be in the store while I robbed it ---
(T.T. Pg. 222).

THE DEFENDANT: Yeah, whenever --- yeah, when I came into the store --- well, I mean, not whenever I came into the store. The similarity between the clothes of the robber and the clothes of the person that got pulled over.
(T.T. Pg. 224).

DISCUSSION

Appellant's first issue addresses whether the verdict was against the weight of the evidence. Appellant does not state which verdict he is challenging therefore this issue is waived as vague and underdeveloped. In the event the Superior Court determines waiver does not apply we will address this issue with regard to the robbery offense.

In *Commonwealth v. Widmer*, 744 A.2d 745 (Pa. 2000), our Supreme Court highlighted the distinction between a challenge to the sufficiency of the evidence, which contests the quantity of the evidence presented at trial, and a challenge to the weight of the evidence, which attacks the quality of that evidence.

The distinction between these two challenges is critical. A claim challenging the sufficiency of the evidence, if granted, would preclude retrial under the double jeopardy provisions of the Fifth Amendment to the United States Constitution, and Article I, Section 10 of the Pennsylvania Constitution, whereas a claim challenging the weight of the evidence if granted would permit a second trial.

A claim challenging the sufficiency of the evidence is a question of law. Evidence will be deemed sufficient to support the verdict when it establishes each material element of the crime charged and the commission thereof by the accused, beyond a reasonable doubt. Where the evidence offered to support the verdict is in contradiction to the physical facts, in contravention to human experience and the laws of nature, then the evidence is insufficient as a matter of law. When reviewing a sufficiency claim the court is required to view the evidence in the light most favorable to the verdict winner giving the prosecution the benefit of all reasonable inferences to be drawn from the evidence.

A motion for new trial on the grounds that the verdict is contrary to the weight of the evidence, concedes that there is sufficient evidence to sustain the verdict. Thus, the trial court is under no obligation to view the evidence in the light most favorable to the verdict winner. An allegation that the verdict is against the weight of the evidence is addressed to the discretion of the trial court. A new trial should not be granted because of a mere conflict in the testimony or because the judge on the same facts would have arrived at a different conclusion. A trial judge must do more than reassess the credibility of the witnesses and allege that he would not have assented to the verdict if he were a juror. Trial judges, in reviewing a claim that the verdict is against the weight of the evidence do not sit as the thirteenth juror. Rather, the role of the trial judge is to determine that notwithstanding all of the facts, certain facts are so clearly of greater weight that to ignore them or to give them equal weight with all the facts is to deny justice.

Id. at 751-52 (citations, footnotes, and quotation marks omitted).

A weight of the evidence claim concedes the evidence is sufficient to sustain the verdict, but it seeks a new trial on the ground that the evidence was so one-sided or so weighted in favor of acquittal that a guilty verdict shocks one's sense of justice. *Commonwealth v. Lyons* ("Lyons"), 79 A.3d 1053, 1067 (Pa. 2013); *Commonwealth v. Johnson* at 101.

The Court's sense of justice was not shocked by the guilty verdict. The jury returned with verdicts consistent with the substantial amount of inculpatory evidence presented by the Commonwealth as discussed above. *Lyons* at 1067; *Commonwealth v. Johnson* at 101. Accordingly in light of the overwhelming circumstantial evidence and the statements made by the Defendant on the video visit, we have determined that the verdict was not against the weight of the evidence as to the charges at 1616 of 2023 and this Court finds Appellant's first issue to be without merit.

The Appellant's next issue is that an alibi defense was not impeached by the Commonwealth. We note the alibi witness testified she was the girlfriend of the Appellant. The jury apparently disregarded her testimony as not credible as they are free to believe all, part or none of a particular witness' testimony. Considering the evidence as a whole and her relationship to the Appellant and her interest in the outcome of the trial we find this issue to be without merit.

The Appellant's last issue is that the sentence was unduly harsh and the Court erred in the imposition of a consecutive sentence rather than a concurrent sentence at 1614 of 2023.

Sentencing is a matter vested in the sound discretion of the sentencing judge, and a sentence will not be disturbed on appeal absent a manifest abuse of discretion. *Commonwealth v. Hoch*, 936 A.2d 515, 517 (Pa. Super. 2007). In this context, an abuse of discretion is not shown merely by an error in judgment. Rather, the appellant must establish, by reference to the record, that the sentencing court ignored or misapplied the law, exercised its judgment for reasons of partiality, prejudice, bias, or ill will, or arrived at a manifestly unreasonable decision. The trial court is afforded broad discretion in sentencing criminal defendants because it is in the best position to determine the

proper penalty for a particular offense based upon an evaluation of the individual circumstances before it. *Id.* at 519.

Sentencing courts must consider the factors provided in 42 Pa.C.S. § 9721(b) before imposing sentence, i.e., the gravity of the offense, its impact on the victim and community, and the defendant's rehabilitative needs. *Commonwealth v. Macias*, 968 A.2d 773, 778 (Pa. Super. 2009). The appeal's court is permitted to reverse a standard-range sentence only if the sentence, when viewed in light of the factors outlined in 42 Pa.C.S. §9781(d) is clearly unreasonable. *Commonwealth v. Walls*, 926 A.2d 957, 961-63 (Pa. 2007). An unreasonable sentence is one that was irrational or not guided by sound judgment. *Walls*, *supra*, at 963. Indeed, "rejection of a sentencing court's imposition of sentence on unreasonableness grounds [should] occur infrequently, whether the sentence is above or below the guidelines ranges," *Id.* at 964.

Where the sentencing court both sentences within the standard range and considers a pre-sentence report, as we have here, the sentence will not be considered excessive. *Commonwealth v. Griffin*, 65 A.3d 932,937 (Pa. Super. 2013). In fact, in this situation, the Appellate Court is required to presume that the Sentencing Court properly weighed the sentencing factors. *Commonwealth v. Devers*, 546 A.2d 12, 18 (Pa. 1988) ("Where pre-sentence reports exist, we ... presume that the sentencing judge was aware of relevant information regarding the defendant's character and weighed those considerations along with mitigating statutory factors.").

The Appellate Courts have long held that the sentencing court has broad discretion regarding whether a defendant serves sentences concurrently or consecutively. *Commonwealth v. Zirkle* 107 A.3d 127 (Pa. Super 2014). Lastly, a defendant convicted of multiple offenses is not entitled to a "volume discount" See *Commonwealth v. Hoag*, 665 A.2d 1212 (Pa. 1995).

At the time of sentence the Court had the benefit of a presentence report and sentenced the defendant to a term of incarceration at 1614 of 2023 within the standard range of the guidelines. Based on the serious circumstances we felt the Appellant was not entitled to a volume discount and therefore imposed the sentence consecutive to the sentence imposed at 1616 of 2023. In accordance with *Griffin* and *Hoag* the Appellant is not entitled to any relief. Additionally, we entered into evidence at the time of sentencing the certified record of the Defendant's prior conviction which triggered a mandatory minimum sentence of ten (10) years for the robbery offense at 1616 of 2023. Therefore, Appellant's challenge to the discretionary aspects of this sentence are without merit since we were obligated to impose the mandatory sentence pursuant to 42 Pa. C.S.A. §9714.

Wherefore, this Court submits that the appeal is without merit and the judgment of sentence should be affirmed.

BY THE COURT:
JUDGE JOSEPH M. GEORGE, JR.

