VOL. 170 NO. 17 AUGUST 26, 2022

PITTSBURGH LEGAL JOURNAL

OPINIONS

ALLEGHENY COUNTY COURT OF COMMON PLEAS

Judges who would like to submit their opinions for publication can do so by emailing their opinions as a Microsoft Word document to *opinions@acba.org*. Paper copies of opinions and .pdf versions of opinions cannot be considered for publication.

PLJ

The Pittsburgh Legal Journal Opinions *are published fortnightly by the*
Allegheny County Bar Association
400 Koppers Building
Pittsburgh, Pennsylvania 15219
412-261-6255
www.acba.org

Circulation 5,303

PLJ Editorial Staff

Opinion Selection Policy

Opinions selected for publication are based upon precedential value or clarification of the law. Opinions are selected by the Opinion Editor and/or committees in a specific practice area. An opinion may also be published upon the specific request of a judge.

Opinions deemed appropriate for publication are not disqualified because of the identity, profession or community status of the litigant. All opinions submitted to the Pittsburgh Legal Journal (PLJ) are printed as they are received and will only be disqualified or altered by Order of Court, except it is the express policy of the Pittsburgh Legal Journal (PLJ) not to publish the names of juveniles in cases involving sexual or physical abuse and names of sexual assault victims or relatives whose names could be used to identify such victims.

Opinions

The Pittsburgh Legal Journal provides the ACBA members with timely, precedent-setting, full text opinions, from various divisions of the Court of Common Pleas. These opinions can be viewed in a searchable format on the ACBA website, www.acba.org.

Sandra Vranka v. Samuel Sampson

Unclaimed Judgment

Under Pennsylvania law, when a judgement remains unclaimed and in repose for a period of twenty years, the law raises a presumption of fact in favor of the debtor.

No. AR-89-004988. In the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division.
McVay, J.—June 13, 2022.

OPINION

PROCEDURAL HISTORY AND FACTS

On July 12, 1989, the Plaintiff, Sandra Vranka ("Vranka") filed a default judgment against the Defendant Samuel Sampson ("Sampson") in the amount of $2,785.87 related to an automobile accident. After Sampson failed to satisfy the judgment, the Allegheny County Prothonotary forwarded a copy of the judgment to the Pennsylvania Department of Transportation ("PennDOT") pursuant to 75 Pa. C.S.A. § 1771(a). PennDOT issued a License Revocation to Sampson pursuant to 75 Pa. C.S.A. § 1772(a).

Over thirty-two plus years later Sampson filed a Petition to Strike Judgment on March 29, 2022, that was presented to me as the General Motions Judge for the Court of Common Pleas of Allegheny County, Civil Division. Sampson averred in his petition that he has not resided in Pennsylvania for a majority of the past thirty-two years and had been a licensed driver in Virginia before recently moving to New Hampshire. Upon applying for a New Hampshire driver's license, Sampson for the first time became aware that his driver's license was suspended in Pennsylvania due to Vranka's default judgment. Sampson also averred that he had maintained a legal Virginia driver's license since leaving Pennsylvania many years ago. The record reflects that Vranka has not taken any action to revive or attempt to collect on the judgment for the past thirty-two plus years.

Sampson argued that since Vranka failed to take any actions to revive or pursue collection of her judgment for more than thirty-two plus years that she has for all practical purposes abandoned it. Sampson relied on the twenty-year limitation in 42 Pa. C.S.A. § 5529 precluding the execution on personal property for judgments more than twenty years old. The legal consequence of this statute is that it precludes Vranka from ever collecting on her judgment through a writ of execution because she failed to take any action in the interim thirty-two plus years. Sampson also averred that he never received notice of entry of the default judgment and does not owe Vranka the judgment related to an automobile accident.

Vranka filed a Response arguing Sampson's reliance on Pa. C.S.A. § 5529 was misplaced, because the statute only deals with her right to execute against Sampson's personal property to collect on the judgment and the priority of her lien against any real property owned by Sampson in Pennsylvania. Vranka also argued that a judgment itself does not have a limited shelf life and cited the Pennsylvania Supreme Court's decision in Shearer v. Naftzinger, 747 A.2d 859 (2000). Vranka argued that even if she could not execute on the judgment, as a matter of law the judgment still exists. On March 29, 2022, I issued an Order striking the judgment based on Vranka's lack of effort to revive or pursue her judgment during the past thirty-two plus years, I also permitted Sampson to try to obtain a driver's license since he had a valid Virginia driver's license for thirty plus years. Vranka filed an appeal on April 27, 2022.

DISCUSSION

Vranka avers in her statement of errors that I struck the judgment and reinstated Sampson's driving privileges in Pennsylvania and that the judgment and revocation are two separate and distinct matters. I agree that the judgment and license revocation exist independently of each other. Sampson's Petition to Strike was limited to striking the thirty-two plus year old default judgment and did not seek restoration of his driver's license. My order striking the judgment did not per se restore Sampson's driving privileges but rather it permitted him to pursue either restoration of his license from PennDOT or obtain a new driver's license from New Hampshire. Vranka's averment of error that I restored Sampson's driving privileges is simply incorrect and my order did not restore his suspended license.

Vranka's alleged errors, two and three, incorrectly aver that I struck the almost thirty-three-year-old judgment simply because of time. First and foremost, it appears that Vranka made no efforts to collect or revive her judgment for nearly thirty-two plus years. Vranka's inaction for thirty-two plus years to preserve her lien or collect on the judgment was indeed a major factor in my decision to strike the judgment. A judgment creditor who after thirty-two plus years takes no affirmative steps to preserve their lien or collect on the judgment has failed to exercise due diligence. See In re Est. of Moskowitz, 115 A.3d 372, 380 (2015). I did not strike the judgment due to the mere age of the judgment, but rather because of Vranka's lack of due diligence to revive her lien or collect on her judgment during the preceding thirty-two plus years.

Vranka further incorrectly avers in her fourth error that I improperly exercised my equitable powers which conflicts with governing statutory provisions to strike a judgment and reinstate Sampson's driver's license. Again, my order did not grant Sampson a driver's license or revoke his license suspension in Pennsylvania, it simply struck the judgment which would permit him to seek reinstatement in Pennsylvania or a new license in New Hampshire.

I struck Vranka's judgment based on my equitable powers. First, I found Sampson's averment that he had no notice and/or knowledge of the default judgment credible, because during the past thirty-two plus years he possessed a valid Virginia driver's license and had no reason to believe his license was suspended in Pennsylvania. Vranka also admitted that she never tried to revive her lien or enforce the judgments which may have provided Sampson with at least constructive notice of his suspension.

I find based on Vranka's lack of due diligence to revive or enforce her judgment that the equitable doctrine of laches applies in this case.

> Laches bars relief when the complaining party is guilty of want of due diligence in failing to promptly institute the action to the prejudice of another. Thus, in order to prevail on an assertion of laches, respondents must establish: a) a delay arising from petitioner's failure to exercise due diligence; and b) prejudice to the respondents resulting from the delay. Id. at 380.

Furthermore, under Pennsylvania law, "when a judgment remains unclaimed and in repose for a period of twenty years, the law raises a presumption of fact in favor of the debtor, which presumption of fact by the law is equivalent to direct proof of payment." Coleman & Stahl v. Weimer, 86 Pa. Super. 303, 306 (1925). Here, Sampson has denied owing the $2,785.87 judgment to Vranka and the debt is well beyond the twenty-year period that triggers the presumption of payment.

Relying on the equitable doctrine of laches and the presumption of payment after twenty years, I properly exercised my equitable powers to strike the judgment in this matter. If Sampson had been given some form of notice of the existence of the judgment, he would have been able to address this matter sooner.

CONCLUSION

In conclusion, because thirty-two plus years had passed before Sampson became aware of the judgment, I relied on the equitable doctrine of laches and the presumption of payment after twenty years to exercise my equitable powers to strike the judgment.

BY THE COURT:
/s/McVay, J.

Date: June 13, 2022

Commonwealth of Pennsylvania v. Helen Jordan

Criminal Appeal—Sufficiency of the Evidence

The standard applied is whether viewing all the evidence admitted at trial in the light most favorable to the verdict winner, there is sufficient evidence to enable the fact-finder to find every element of the crime beyond a reasonable doubt.

No. CC 202009060. In the Court of Common Pleas of Allegheny County, Pennsylvania, Criminal Division.
Beemer, J.—June 23, 2022.

OPINION

Appellant, Helen Jordan, appeals from the judgment of sentence order imposed after a non-jury trial wherein she was found guilty of summary Harassment, 18 Pa.C.S.A. §2709.

On November 24, 2020, Appellant was charged with one (1) count each of: Prohibited Offensive Weapons, 18 Pa.C.S. §908; Resisting Arrest, 18 Pa.C.S. §5104; Defiant Trespass, 18 Pa.C.S. §3503(b)(1)(i); Possession of a Controlled Substance, 35 780-113§(a)(16), and Criminal Mischief, 18 Pa.C.S. §3304(a)(2).[1] On January 10, 2022, the Commonwealth withdrew the charges of Defiant Trespass, Possession of a Controlled Substance, and Criminal Mischief and amended the remaining two counts to reflect one count each of summary Harassment and summary Disorderly Conduct.[2] Thereafter, a bench trial commenced before this Court.[3] At the conclusion, she was found guilty of one count of summary Harassment and not guilty of the remaining summary disorderly conduct. Appellant proceeded directly to sentencing whereafter the Court imposed a 60 day period of probation. Appellant filed a timely appeal on February 23, 2022, followed by a Concise Statement of Matters Complained of on Appeal (hereinafter Statement) on March 22, 2022. This Opinion follows.

During the presentation of the Commonwealth's case, Allegheny County police officers Bryan Urbanec and Robert Babcock testified that on November 23, 2020 around 8:30 p.m., they responded to a dispatch call to a residence in the Borough of Wilmerding.[4] Audio and video recordings captured on the police dash camera were also played at trial.[5] Through this evidence it was established that Officer Urbanec encountered the complainant and owner of the residence, Candycia Adewole. Ms. Adewole is Appellant's sister.[6] Ms. Adewole told Officer Urbanec that it was her birthday and that earlier in the evening, she and Appellant were at a local bar celebrating. However, Appellant was removed from the event due to her level of intoxication.[7] Ms. Adewole then drove Appellant back to her home in Wilmerding, during which time she complained that Appellant struck her about the face.[8] At some point after, Ms. Adewole told Appellant to leave her residence, and after she refused, Ms. Adewole called the police.[9] Both Officer Urbanec and Babcock entered the residence and encountered Appellant sitting in the kitchen dinette area smoking a marijuana cigarette.[10]

Over the next forty minutes, the officers, along with Ms. Adewole, told Appellant multiple times that she was not welcome at the residence and that she needed to leave.[11] During this interaction the officers learned that Appellant lives in Washington County. To facilitate Appellant leaving, the officers called for a taxi. However, Appellant refused the taxi after it arrived.[12] These interactions that occurred inside the residence, including Appellant's repeated refusals to leave, were captured on the audio portion of Officer Urbanec's vehicle dash camera.[13] As Appellant refused all requests and efforts to leave the residence, Officer Urbanec informed Appellant that she was going to be arrested for criminal trespass.[14] In response, Appellant physically resisted by tensing up her arms, and lowering her arms and center of gravity, which resulted in her being taken down to the floor in order to be handcuffed.[15] When Appellant was brought to her feet, she began kicking at Ms. Adewole and both officers, making contact with Officer Babcock.[16] Officer Babcock testified that Appellant kicked him in his left shin, knee and thigh and that Appellant also punched him in the face while they were removing her from the residence.[17] As Appellant continued to physically resist, she had to be carried out to the patrol car with Officer Urbanec holding her by her legs and Officer Babcock holding her by her shoulders.[18] This last interaction, which occurred in part outside of the residence, was captured on the video portion of the dash cam footage in Commonwealth Exhibit 1.

Appellant provided very brief testimony wherein she denied kicking, striking or hurting anyone.[19]

Appellant raises two claims of error in her Statement. First, that the evidence for the summary harassment charge was insufficient to establish the necessary mens rea. Second, that the trial court erred by not dismissing the case as de minimis pursuant to 18 Pa.C.S. §312(a).

As to Appellant's second claim, the Court finds that this claim is waived. It is clear from the record that Appellant never requested dismissal of the charges based on an argument that the case was de minimis. It is well established that an issue cannot be raised for the first time on appeal. A new and different theory of relief not raised before the trial court is waived. Commonwealth v. Cline, 177 A.3d 922, 927 (Pa. Super. 2017).

The remaining claim challenges the sufficiency of the evidence by arguing that the Commonwealth did not satisfy its burden to prove the mens rea for summary Harassment conviction. When examining a challenge to the sufficiency of the evidence:

> The standard we apply...is whether viewing all the evidence admitted at trial in the light most favorable to the verdict winner, there is sufficient evidence to enable the fact-finder to find every element of the crime beyond a reasonable doubt. In applying the above test, we may not weigh the evidence and substitute our judgment for the fact-finder. In addition, we note that the facts and circumstances established by the Commonwealth need not preclude every possibility of innocence. Any doubts regarding a defendant's guilt may be resolved by the fact-finder unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances. The Commonwealth may sustain its burden of proving every element of the crime beyond a reasonable doubt by means of wholly circumstantial evidence. Moreover, in applying the above test, the entire record must be evaluated and all evidence actually received must be considered. Finally, the trier of fact while passing upon the credibility of witnesses and the weight of the evidence produced, is free to believe all, part or none of the evidence.
>
> This standard is equally applicable in cases where the evidence is circumstantial, rather than direct, provided that the combination of evidence links the accused to the crime beyond a reasonable doubt.

Commonwealth v. Greenlee, 212 A.3d 1038, 1042-1043 (Pa. Super. 2019); citing Commonwealth v. Orr, 38 A.3d 868, 872-73 (Pa. Super. 2011) (en banc), appeal denied, 54 A.3d 348 (2012) (internal citations, quotation marks, and emphasis omitted).

A person commits the offense of Harassment if with the intent to harass, annoy or alarm another, in this case, Officer Babcock, a person strikes, shoves, kicks or otherwise subjects the other person to physical contact, or attempts or threatens to do the same. 18 Pa.C.S. §2709(a)(1). Thus, the requisite mens rea that the Commonwealth needed to establish beyond a reasonable doubt was that Appellant intended to "harass, annoy or alarm" Officer Babcock when she punched and kicked him.

Viewing the evidence in the light most favorable to the Commonwealth as verdict winner, it was reasonable for the fact finder to infer Appellant's intent. Officer Babcock and Urbanec spent approximately forty minutes attempting to resolve Ms. Adewole's call to have Appellant removed from her home. Appellant's steadfast refusal to leave her sister's home supports that when she kicked and punched Officer Babcock it was intended to disrupt her arrest and removal and was sufficient to establish that it was done with the intent to harass, annoy or alarm Officer Babcock. She clearly, struck, kicked, and subjected the officer to physical contact while being removed from the home.

Although, Appellant has not challenged the weight of the evidence, the Court did not deem Appellant's trial testimony to be credible. Her testimony, which was extremely brief and limited, was not only inconsistent with the officers' testimony but was in direct contradiction with the available audio and video presented at trial. Evidence which demonstrated that she was irate, and both verbally and physically combative with the responding officers, necessitating her to be carried from Ms. Adewole's residence. The Court found credible the testimony of Officer Babcock that Appellant struck him in the face with a closed fist in a slapping motion and kicked him in the left shin, knee and thigh.

Accordingly, Appellant is not entitled to relief and the judgment of sentence should be AFFIRMED.

BY THE COURT:
/s/Beemer, J.

Date: June 23, 2022

---

[1] Appellant was also charged with 1 count each of: Aggravated Assault, 18 Pa.C.S. §2702(a)(3); Terroristic Threats, 18 Pa.C.S. §2706(a)(1); and Simple Assault, 18 Pa.C.S. §2701(a)(1). These charges were withdrawn by the Commonwealth at the preliminary hearing. Docket No. MJ-05211-CR-0000346-2020.

[2] Non-Jury Transcript (N.T.) January 10, 2022, p. 3.

[3] The trial commenced on January 10, 2022 and was continued until January 24, 2022 on which date it concluded.

[4] N.T. at 6. Continuation of Non-Jury Trial and Sentencing (C.N.T.) January 24, 2022, p. 5.

[5] Commonwealth Exhibit 1.

[6] Id. at 7-8.

[7] Id. at 9-10.

[8] Id. at 10.

[9] Id.

[10] Id. at 15; C.N.T. at 5-6.

[11] Id. at 10-12, 15-16, 19, 21; C.N.T. at

[12] Id. at 12, 15, 21.

[13] Commonwealth Exhibit 1; N.T. at 15-25, 27. Officer Urbanec explained his body worn remote microphone was able to capture the audio from inside the residence.

[14] Id. at 21.

[15] Id.

[16] N.T. at 22. C.N.T. at 7, 9.

[17] C.N.T. at 7, 9-11.

[18] N.T. at 23.

[19] C.N.T. at 14.

Commonwealth of Pennsylvania v. Richard Williamson

Criminal Appeal—Invasion of Privacy—Disorderly Conduct

Appellant's concise statement doesn't specify how the evidence failed to establish any particular element or elements of Invasion of Privacy.

No. CC 201903173. In the Court of Common Pleas of Allegheny County, Pennsylvania, Criminal Division.
Beemer, J.—May 19, 2022.

OPINION

Appellant, Richard Williamson appeals from the judgment of sentence order imposed after a non-jury trial whereafter he was convicted of one (1) count of Invasion of Privacy 18 Pa.C.S. §7507.1 and one (1) count of Disorderly Conduct 18 Pa.C.S. §5503(a)(4).

On September 30, 2021 Appellant proceeded to a non-jury trial before this Court on the above referenced charges. On December 20, 2021 Appellant was sentenced to an aggregate one (1) year period of probation. No Post Sentence Motions were filed. A timely Notice of Appeal was filed on January 14, 2022, and pursuant to an Order, Appellant filed a Concise Statement of Matters Complained of on Appeal on February 17, 2022. This Opinion follows.

STATEMENT OF FACTS

At the trial the Commonwealth offered testimony from the victim, K.Z., that on October 19, 2018, she entered the Wendy's restaurant located on Rodi Road in Penn Hills.[1] As confirmed through the business video surveillance footage, K.Z. immediately proceeded to the restroom after entering the restaurant.[2] Seconds later, Appellant is observed walking towards the restroom, when he then paused, turned in the direction of the men's room, and then looked behind himself before he walked into the women's restroom.[3] K.Z. testified that while seated in a stall and partially undressed while using the toilet, she heard someone enter the bathroom. The bathroom housed only two bathroom stalls and K.Z. observed the person enter the adjoining stall. She could see a pair of black shoes and the bottom of the person's pants facing the toilet. This caught her attention as it was a woman's restroom and feet would be facing the front of the stall.[4] She then watched as both feet disappeared from her sight, which caused her to look up.[5] At this time she saw Appellant looking down at her over the wall of the adjoining stall.[6] She attempted to cover herself as her front and buttock were exposed while screaming at Appellant to "Get out of here." and "What the fuck are you doing?" She described that Appellant's appeared to be shocked as she was looking up at him and mumbled what sounded like an apology.[7] She then jammed her foot up against the door, and did not exit the bathroom until after she heard the door closed. She approached the front of the restaurant asking for the manager and screaming that a man was in the bathroom.[8] During this time, she witnessed Appellant exit the men's room and confronted him about what happened.[9] Appellant denied that he had done anything and remained inside the Wendy's while he ordered food. K.Z. left the restaurant and after returning home called the Penn Hills police to report the incident. At no time did K.Z. observe Appellant gratify himself during the incident in the woman's bathroom.[10] The court also heard from Detective William Skweres from the Penn Hills Police Department who became involved a few days after the October 19, 2018 incident. As part of his investigation, he obtained the surveillance footage from inside the Wendy's which was admitted as an exhibit by the Commonwealth. Additionally, he interviewed Appellant on December 13, 2018.[11] While questioning Appellant regarding the events of October 19, 2018, Appellant admitted that he entered the woman's room while at this Wendy's location. However, he explained that he attempted to enter the men's room but the door was locked, and feeling like he could not wait to use the bathroom, he entered the women's restroom.[12] He denied looking into the adjoining stall and left the bathroom after K.Z. screamed.[13]

During his testimony Appellant confirmed the events as they appeared on the surveillance video, but his testimony diverged from that offered by K.Z. regarding the events not captured on video. As captured by the video surveillance, Appellant admitted entering the women's restroom, but denied that he ever looked over the stall. Contrary to Detective Skweres' testimony, Appellant also offered that he mistakenly entered the woman's restroom because he did not pay attention to the signs on the doors because he had consumed alcohol and marijuana prior to entering Wendy's on that day.[14] Moreover, he testified that he did not recall telling the Detective Skweres that he first attempted to enter the men's room, but it was locked.[15]

After entering the women's room, he explained that after he entered a stall and unzipped his pants he heard a woman scream for him to get out.[16] Appellant then exited and immediately entered the men's room, whereupon leaving, he was confronted by K.Z.[17] He explained that despite being confronted by K.Z. he did not immediately leave Wendy's, but stayed and ordered food.

MATTERS COMPLAINED OF ON APPEAL

Appellant raised the following three issues in his Concise Statement of Matters Complained of on Appeal.

> 1. Whether [18 Pa.C.S.] §7507.1, Invasion of Privacy statute is unconstitutional and void for vagueness because it fails in its definitiveness or adequacy of expression and does not provide reasonable standards by which a person may gauge his/her future conduct.
> 2. Whether 18 [Pa.C.S.] §7507.1, Invasion of Privacy statute is ambiguous where the word "arousing" is not defined under the statute.
> 3. Whether the conviction was against the weight of the evidence and that there was insufficient evidence presented to support the conviction regarding Invasion of Privacy.

Appellant's first two claims attack the constitutionality of the Invasion of Privacy statute. Appellant failed to preserve this issue by filing the proper motion before the trial court. "The law is clear that 'issues, even those of constitutional dimension, are waived if not raised in the trial court. A new and different theory of relief may not be successfully advanced for the first time on appeal.'" Commonwealth v. Cline, 177 A.3d 922, 927 (Pa. Super. 2017) citing Commonwealth v. Santiago, 980 A.2d 659, 666 (Pa. Super. 2009). Based on the holding in Cline, these claims are waived.

Appellant's third claim includes both a challenge to the sufficiency and weight of the evidence. The Invasion of Privacy statute for which Appellant was charged and convicted reads as follows:

> (a) Offense defined.--Except as set forth in subsection (d), a person commits the offense of invasion of privacy if he, for the purpose of arousing or gratifying the sexual desire of any person, knowingly does any of the following:

> (1) Views, photographs, videotapes, electronically depicts, films or otherwise records another person without that person's knowledge and consent while that person is in a state of full or partial nudity and is in a place where that person would have a reasonable expectation of privacy.
>
> (b) Grading.--Invasion of privacy is a misdemeanor of the second degree if there is more than one violation. Otherwise, a violation of this section is a misdemeanor of the third degree.

18 Pa.C.S. §7507.1(a)(1) and (b)

Thus, the statute clearly requires the Commonwealth to prove that Appellant: (1) knowingly viewed, photographed, videotaped, electronically depicted, filmed or otherwise recorded, (2) an individual who was in a state of full or partial nudity, and in a place where he/she had a reasonable expectation of privacy, (3) without the individual's knowledge and consent, and (4) that the defendant did so for the purpose of arousing or gratifying the sexual desire of any person. Commonwealth v. Dinell, 270 A.3d 530, 536 (Pa. Super. 2022).

In reading the scant claims raised within Appellant's third issue, the Court observes the statutory guidance provided by Pa.R.A.P. 1925:

> Opinion in support of order.
>
> (b) Direction to file statement of errors complained of on appeal; instructions to the appellant and the trial court.--If the judge entering the order giving rise to the notice of appeal ("judge") desires clarification of the errors complained of on appeal, the judge may enter an order directing the appellant to file of record in the trial court and serve on the judge a concise statement of the errors complained of on appeal ("Statement").
>
> (4) Requirements; waiver.
>
> (ii) The Statement shall concisely identify each ruling or error that the appellant intends to challenge with sufficient detail to identify all pertinent issues for the judge. The judge shall not require the citation to authorities; however, appellant may choose to include pertinent authorities in the Statement.
>
> (vii) Issues not included in the Statement and/or not raised in accordance with the provisions of this paragraph (b)(4) are waived.

Pa.R.A.P. 1925(b)(4)(ii) and (vii) (emphasis added).

> Additionally, the Court turns to the long-standing principle that:
>
> The Rule 1925(b) statement must be "specific enough for the trial court to identify and address the issue [an appellant] wishe[s] to raise on appeal." [A] [c]oncise [s]tatement which is too vague to allow the court to identify the issues raised on appeal is the functional equivalent of no [c]oncise [s]tatement at all." The court's review and legal analysis can be fatally impaired when the court has to guess at the issues raised. Thus, if a concise statement is too vague, the court may find waiver.

Commonwealth v. Hansley, 24 A.3d 410, 415 (Pa.Super. 2011) (citing Commonwealth v. Reeves, 907 A.2d 1, 2 (Pa.Super.2006)).

> Pa.R.Crim.P 606 governs challenges to the sufficiency of evidence and in relevant part reads:
>
> (A) A defendant may challenge the sufficiency of the evidence to sustain a conviction of one or more of the offenses charged in one or more of the following ways:
>
> (1) a motion for judgment of acquittal at the close of the Commonwealth's case-in-chief;
> (2) a motion for judgment of acquittal at the close of all the evidence;
> ...
> (7) a challenge to the sufficiency of the evidence made on appeal.

Appellant's concise statement does not specify how the evidence failed to establish any particular element or elements of Invasion of Privacy. "In order to preserve a challenge to the sufficiency of the evidence on appeal, an appellant's Rule 1925(b) statement must state with specificity the element or elements upon which the appellant alleges that the evidence was insufficient." Commonwealth v. Garland, 63 A.3d 339, 344 (Pa. Super. 2013). See Commonwealth v. Tyack, 128 A.3d 254, 260 (Pa. Super. 2015). "Even if the trial court correctly guesses the issues Appellant raises on appeal and writes an opinion pursuant to that supposition the issues are still waived." Commonwealth v. Bonnett, 239 A.3d 1096, 1106 (Pa. Super. 2020) citing Kanter v. Epstein, 866 A.2d 394, 400 (Pa. Super. 2004) (citation omitted).

In light of the historical precedent of our appellate courts, the claim that the conviction for Invasion of Privacy was not supported by sufficient evidence is waived for vagueness.

Appellant's second issue raised within the third claim is that the verdict was against the weight of the evidence. This issue is deemed waived for two (2) reasons.

First, Appellant failed to raise this before the trial court pursuant to Pa.R.Crim.P. 607.

> (A) A claim that the verdict was against the weight of the evidence shall be raised with the trial judge in a motion for a new trial:
>
> (1) orally, on the record, at any time before sentencing;
> (2) by written motion at any time before sentencing; or
> (3) in a post-sentence motion.

Pa.R.Crim.P. 607 (in relevant part).

The Comment to this Rule explains the purpose: "to make it clear that a challenge to the weight of the evidence must be raised with the trial judge or it will be waived."

"An allegation that the verdict is against the weight of the evidence is addressed to the discretion of the trial court." Commonwealth v. Wright, 865 A.2d 894 (Pa.Super. 2004). (Rule 607 of the Pennsylvania Rules of Criminal Procedure requires the timely presentation, and preservation, of weight claims. Failure to avail oneself of the prescribed methods of presenting a weight claim to the trial court results in a waiver).

Second, Appellant's weight of the evidence claim is too vague to permit review. Appellant merely states that the verdict was against the weight of the evidence. Commonwealth v. Seibert, 799 A.2d 54, 62 (Pa.Super. 2002) (Appellant waived his weight claim when in his Pa.R.A.P.1925(b) statement, he merely stated that "[t]he verdict of the jury was against the weight of the credible evidence as to all of the charges.")

Cognizant of the applicable rules and case law outlined above, the Court finds that Appellant's third claim, challenging both the sufficiency and weight of the evidence, is waived.

BY THE COURT:
/s/Beemer, J.

Date: May 19, 2022

---

[1] Non-Jury Trial Transcript (T.T.), September 30, 2021, p. 17.

[2] T.T. at 17; Commonwealth Exhibit 1.

[3] Id.; T.T. at 66.

[4] Id.

[5] Id. at 18.

[6] Id.

[7] Id. at 18-19.

[8] Id. at 20.

[9] Id. at 21, 60-62.

[10] Id. 41.

[11] Id. at 43, 48.

[12] Id. at 44.

[13] Id. at 45.

[14] Id. at 57-58, 60.

[15] Id. at 64, 69.

[16] Id. at 60.

[17] Id. at 60-61.