IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Taiki Phillips,	:	
Appellant	:	
	:	No. 747 C.D. 2025
v.	:	
	:	Submitted: October 15, 2026
Detective Stephen Grace	:	

BEFORE: HONORABLE MICHAEL H. WOJCIK, Judge
HONORABLE LORI A. DUMAS, Judge (P.)
HONORABLE STELLA M. TSAI, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY JUDGE DUMAS **FILED: November 17, 2026**

Taiki Phillips appeals from the order entered by the Court of Common Pleas of Philadelphia County (Common Pleas) on April 15, 2025. Through that order, Common Pleas denied Phillips' post-trial motion and declined to remove the involuntary nonsuit it had entered regarding the malicious prosecution claim Phillips had filed against Detective Stephen Grace (Detective Grace). After thorough review, we reverse Common Pleas' order and remand this matter for a new trial.

I. DISCUSSION[1]

On September 6, 2018, Phillips and two other individuals, Tariq Gant and Zayd Thomas, were socializing outside of a corner store in Philadelphia and then encountered Thomas Page on a nearby street. Page briefly engaged with the three

[1] We draw the bulk of this section's substance from Common Pleas' opinion, which it issued on November 13, 2025. *See generally* Common Pleas' Op., 11/13/25.

men, before unsuccessfully attempting to escape on foot as Gant and Thomas pulled out weapons, began firing at Page, and ultimately killed him. Phillips was startled by the gunfire, but then joined with Gant and Thomas as they collectively fled the scene in a vehicle.

During his investigation of Page's murder, Detective Grace discovered that the weapons used by Gant and Thomas had been procured via a straw purchase,[2] as well as that Phillips had been present when those purchases had taken place. Detective Grace subsequently prepared an affidavit of probable cause (Affidavit), which called for charging Phillips with one count each of murder[3] and criminal conspiracy.[4] Anthony Voci, the then-chief of the Philadelphia Office of the District Attorney's (Office) homicide unit (Chief Voci), approved the Affidavit, which led to Phillips' arrest on December 14, 2018. Phillips then spent the next four years in detention, until the Office *nolle prossed* Phillips' charges[5] after Gant and Thomas entered guilty pleas in their related criminal matters.

On June 29, 2023, Phillips filed a civil action against Detective Grace and Officer Sean Cullen (Officer Cullen), in which he asserted that he had been arrested and charged with the aforementioned crimes without probable cause. Detective Grace and Officer Cullen then filed a motion for summary judgment on December 19, 2024, which Common Pleas subsequently denied. Officer Cullen was dismissed from Phillips' suit via joint stipulation on March 20, 2025, after which Common Pleas presided over a two-day jury trial. At the close of Phillips' case-in-

[2] A "straw purchase" is generally understood as occurring when an individual purchases or attempts to purchase a firearm on behalf of another person. *See, e.g.*, *City of Phila. v. Armstrong*, 271 A.3d 555, 564 nn.7-8 (Pa. Cmwlth. 2022).

[3] 18 Pa.C.S. § 2502.

[4] 18 Pa.C.S. § 903.

[5] Phillips was never charged with any crimes that related to the aforementioned straw purchase.

chief, Detective Grace orally moved for the entry of a nonsuit, which Common Pleas verbally granted during the course of the trial proceedings on March 27, 2025. Phillips then filed a post-trial motion on April 4, 2025,[6] which Common Pleas denied on April 15, 2025. This appeal followed shortly thereafter.

II. DISCUSSION[7]

Phillips raises several arguments on appeal, which we reorder and summarize as follows. First, Phillips asserts that Common Pleas improperly granted the nonsuit motion because a reasonable jury could have concluded that Detective Grace intentionally left critical facts out of the Affidavit and maliciously caused Phillips to be arrested without probable cause. Phillips' Br. at 42-55. Second,

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[6] The nonsuit was not formally entered until April 8, 2025. *See* Trial Work Sheet, 4/8/25, at 1. Phillips' post-trial motion was nevertheless timely because it was filed within 10 days of when Common Pleas verbally granted Detective Grace's nonsuit motion. Pa.R.Civ.P. 227.1(c)(1); *see Mitchell v. Milburn*, 199 A.3d 501, 505 (Pa. Cmwlth. 2018).

[7] Our scope of review in an appeal from a trial court's denial of a motion to remove a nonsuit and to grant a new trial is limited to determining whether the trial court abused its discretion or committed an error of law. The standard for reviewing a decision to grant a nonsuit is well established. A nonsuit may not be granted unless, viewing all the evidence and all reasonable inferences arising from it in the light most favorable to the plaintiff, the jury could not reasonably conclude that the elements of the cause of action have been established.

Thomas v. City of Phila., 804 A.2d 97, 103 n.7 (Pa. Cmwlth. 2002) (cleaned up). "Indeed, when a nonsuit is entered, the lack of evidence to sustain the action must be so clear that it admits no room for fair and reasonable disagreement. The fact-finder, however, cannot be permitted to reach a decision on the basis of speculation or conjecture." *Lamberson v. Se. Pa. Transp. Auth.*, 335 A.3d 423, 425 n.3 (Pa. Cmwlth. 2025) (quoting *Munoz v. Child.'s Hosp. of Phila.*, 265 A.3d 801, 805-06 (Pa. Super. 2021)) (cleaned up); *accord Scampone v. Highland Park Care Ctr., LLC*, 57 A.3d 582, 595-96 (Pa. 2012) ("On appeal, entry of a compulsory nonsuit is affirmed only if no liability exists based on the relevant facts and circumstances, with appellant receiving the benefit of every reasonable inference and resolving all evidentiary conflicts in appellant's favor. The compulsory nonsuit is otherwise properly removed and the matter remanded for a new trial." (cleaned up)).

Phillips maintains that Common Pleas abused its discretion by allowing Detective Grace to enter deposition testimony from Chief Voci into the record, as Detective Grace failed to establish Chief Voci was unavailable to be called as a witness during trial. *Id.* at 25-32. Finally, Phillips contends that Common Pleas also abused its discretion by preventing him from introducing a transcript of Chief Voci's testimony from a separate proceeding as impeachment evidence. *Id.* at 33-42.

We address these arguments *seriatim.* Generally speaking, "a successful case for malicious criminal prosecution is both rare and arduous." *Alleyne v. Pirrone*, 180 A.3d 524, 540 (Pa. Cmwlth. 2018). This is because it constitutes "an action which runs counter to obvious policies of the law in favor of encouraging proceedings against those who are apparently guilty[.]" *Corrigan v. Cent. Tax Bureau of Pa., Inc.*, 828 A.2d 502, 506 (Pa. Cmwlth. 2003) (quoting *Miller v. Pa. R. Co.*, 89 A.2d 809, 810 (Pa. 1952)). "A cause of action for malicious prosecution has three elements. The defendant must have instituted proceedings against the plaintiff (1) without probable cause, (2) with malice, and (3) the proceedings must have terminated in favor of the plaintiff." *Kelley v. Gen. Teamsters, Chauffeurs & Helpers, Loc. Union 249*, 544 A.2d 940, 941 (Pa. 1988) (cleaned up). It is the plaintiff's burden to prove by a preponderance of the evidence that each of these elements has been satisfied. *Turano v. Hunt*, 631 A.2d 822, 824 (Pa. Cmwlth. 1993).

In this instance, two of the three prongs are not at issue. There is no dispute that Phillips met the third prong's requirements, as the Office dropped the charges it had lodged against him, and it is well settled that the *nolle prossing* of charges constitutes a disposition in a plaintiff's favor. *Haefner v. Burkey*, 626 A.2d 519, 521 (Pa. 1993). Further, the second prong's satisfaction is contingent upon

satisfaction of the first prong, as the requisite "[m]alice may be inferred from the absence of probable cause." *Kelley*, 544 A.2d at 941.

Thus, the only question is whether, as argued by Phillips, a reasonable jury could have found that Detective Grace caused him to be arrested and charged without probable cause. "['P]robable cause[']is a reasonable ground of suspicion supported by circumstances sufficient to warrant that an ordinary prudent person in the same situation could believe a party is guilty of the offense charged." *Turano*, 631 A.2d at 825. "[I]f probable cause is shown to exist, the arresting officer's motive, even if malicious, is immaterial. Likewise, an acquittal or other adjudication of innocence at a subsequent proceeding does not establish a lack of probable cause at the time of arrest." *Manley v. Fitzgerald*, 997 A.2d 1235, 1239 (Pa. Cmwlth. 2010) (citations omitted).

"Although the want of probable cause is a legal determination made by a court, as an element of malicious prosecution, the jury can have a role in the probable cause determination as well." *Alleyne*, 180 A.3d at 540. "[T]he presence or absence of probable cause is a question exclusively for the court where there are no *material* conflicts in the testimony." *Id.* at 541 (emphasis in original) (quoting *Wainauskis v. Howard Johnson Co.*, 488 A.2d 1117, 1122 (Pa. Super. 1985)). "However, the question of the existence of probable cause may be submitted to the jury when facts material to the issue are in controversy." *Turano*, 631 A.2d at 825. In the latter scenario, "the court can either (1) require the jury to find a special verdict upon which the court may determine the existence of probable cause; or (2) charge the jury under what combination of circumstances, which may be found under the evidence, the defendant did or did not have probable cause for initiating proceedings." *Alleyne*, 180 A.3d at 541.

Phillips asserts that Common Pleas improperly granted Detective Grace's nonsuit motion because Detective Grace omitted seven allegedly critical facts from the Affidavit he submitted to Chief Voci that would have otherwise deprived the Office of probable cause to charge Phillips with murder and criminal conspiracy. These facts are as follows: (1) Page was not with Phillips, Gant, and Thomas at the corner store; (2) Phillips was looking down at his cell phone at the time Gant and Thomas shot Page on the street near the corner store; (3) Phillips was startled by the shooting and jumped backwards as a result; (4) Gant and Thomas fired their weapons in Phillips' direction while shooting at Page; (5) no communications between Page and Phillips were found on Page's phone; (6) Phillips arrived at the location of the shooting after and separately from Gant and Thomas, who had arrived together; and (7) Phillips was not identified as being involved in the straw purchase of the murder weapons, never entered the gun store where the purchase took place, and was merely present outside the store in a vehicle. Phillips' Br. at 45-46; *see also* Trial Ex. P-4 (surveillance camera video). Detective Grace admitted during cross-examination that he had not included these points in the Affidavit. *See* N.T., 3/27/25, at 41-57 (relevant portions of Detective Grace's testimony during cross-examination); *see also* Aff. at 1-3.

Viewing these undisputed omissions in the light most favorable to Phillips, we are constrained to agree that the record contains material issues of fact regarding probable cause. Specifically, a reasonable jury could conclude that Phillips' focus on his phone; inattention to Page; immediate, visceral reaction to the shooting; presence in the line of fire; and/or lack of direct involvement in the straw purchase meant that he was likely unaware of and uninvolved with the plan to murder Page, and that there was thus no lawful basis for his indictment and arrest.

Accordingly, we conclude that Common Pleas should have allowed the jury to consider whether probable cause existed in this instance, and consequently erred by entering a nonsuit in Detective Grace's favor.

Finally, Phillips' challenges to Common Pleas' evidentiary rulings have been rendered moot, on account of our disposition of his first argument. As noted, *supra*, in instances where an appellate court reverses a trial court's entry of nonsuit, the matter should be remanded to the trial court with instructions that it conduct a new trial. *Scampone*, 57 A.3d at 595-96. "By . . . granting a new trial, the cause . . . is precisely in the same condition as if no previous trial had been held. The order granting the new trial has the effect of vacating the former judgment, and to render it null and void, and the parties are left in the same situation as if no trial had ever taken place[.]" *Giles v. Ryan*, 176 A. 1, 3 (Pa. 1935). "Accordingly, . . . on retrial, a ruling of the previous trial court on admissibility of evidence is not binding on the new trial court." *Com. v. Hart*, 387 A.2d 845, 847 (Pa. 1978). Common Pleas' rulings regarding the admissibility of Chief Voci's deposition testimony and the transcript of his testimony from the aforementioned, separate matter have thus been swept away, along with Common Pleas' granting of nonsuit, and consequently will have no effect upon the new trial in this matter.[8]

[8] We note that Phillips asks us to address the merits of his evidentiary arguments, because, in his view, they "will inevitably arise again on remand," and asserts that it is proper for us to "resolve them now to prevent the same errors from recurring at a new trial." Phillips' Br. at 56. We decline Phillips' invitation, as he asks us to issue what amounts to an impermissible advisory opinion. *See Borough of Marcus Hook v. Pa. Mun. Ret. Bd.*, 720 A.2d 803, 804 (Pa. Cmwlth. 1998) ("It is well established that a judicial determination that is unnecessary to decide an actual dispute constitutes an advisory opinion and has no legal effect."); *Brown v. Liquor Control Bd.*, 673 A.2d 21, 23 (Pa. Cmwlth. 1996) ("[No] action, . . . may . . . be employed to determine rights in anticipation of events which may never occur or for consideration of moot cases or as a medium for the rendition of an advisory opinion which may prove to be purely academic."). Furthermore, we disagree with Phillips' contention that these evidentiary issues will undoubtedly reoccur, as the parties will now **(Footnote continued on next page…)**

III. CONCLUSION

In accordance with the foregoing analysis, we reverse Common Pleas' order, entered on April 15, 2025, and remand this matter for a new trial.

LORI A. DUMAS, Judge

have a second chance to either ensure that Chief Voci attends the new trial or secure additional deposition testimony from him.

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O R D E R

AND NOW, this 17th day of November, 2026, it is hereby ORDERED:

1. The order entered by the Court of Common Pleas of Philadelphia County (Common Pleas) on entered on April 15, 2025, is REVERSED;

2. This matter is remanded to Common Pleas, with instructions to conduct a new trial.

Jurisdiction relinquished.

LORI A. DUMAS, Judge