

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Commonwealth of Pennsylvania :
 :
 v. : No. 887 C.D. 2024
 : Submitted: June 16, 2026
 Jason Devoe Follett, :
 Appellant :

BEFORE: HONORABLE ANNE E. COVEY, Judge
 HONORABLE STACY WALLACE, Judge
 HONORABLE STELLA M. TSAI, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE WALLACE

FILED: October 19, 2026

Jason Devoe Follett (Follett) appeals from the judgment of sentence entered in the Court of Common Pleas of York County (trial court) on December 29, 2023, following his bench trial conviction for violating Section 305(a)(1) of the Dog Law,¹ 3 P.S. § 459-305(a)(1), which requires confinement of dogs. Follett's counsel (Counsel) has filed an application to withdraw (Application) and an *Anders-Santiago*² brief. After review, we grant Counsel's Application and affirm the judgment of sentence.

¹ Act of December 7, 1982, P.L. 784, *as amended*, 3 P.S. §§ 459-101 - 459-1206.

² See *Anders v. California*, 386 U.S. 738 (1967); *Commonwealth v. Santiago*, 978 A.2d 349 (Pa. 2009).

BACKGROUND

In April 2022, the police charged Follett with violating Section 305(a)(1) of the Dog Law by allowing his dog to run at large on a neighbor's property. Original Record (O.R.) at 22.³ The trial court held a bench trial on December 29, 2023. At the trial, Follett's neighbor, Denise Getz (Neighbor), testified that on March 31, 2022, she observed Follett's dog on her property, and she took a picture of the dog with her cellular phone's camera, which she provided to law enforcement. Notes of Transcript (N.T.), 12/29/2023, at 11-12. Neighbor explained she lived at the property adjacent to Follett's property, she knew Follett, and she knew the dog belonged to Follett based on prior issues. *Id.* at 7-8. Neighbor indicated she never gave Follett permission to have his dog on her property. *Id.*

Brandon Mitchem, a law enforcement officer with the Department of Agriculture (Dog Warden), testified he received a call indicating Follett's dog was on Neighbor's property. *Id.* at 20. The Dog Warden indicated that he recognized the dog because he had previously interacted with it on numerous occasions when it was running loose, and he knew the dog belonged to Follett. *Id.* at 20-21.

Follett testified on his own behalf and stated he did not see his dog outside on the date of the incident. *Id.* at 25. When shown the photograph of the dog from Neighbor, Follett admitted it was his dog. *Id.* However, he asserted the dog was not on Neighbor's property, but rather, was permissibly on a different neighbor's property. *Id.* at 25-26.

Following the trial, the trial court found Follett guilty of violating Section 305(a)(1) of the Dog Law for permitting his dog to run at large on Neighbor's

³ References to page numbers in the Original Record reflect electronic pagination.

property. *Id.* at 29-30. The trial court sentenced Follett to pay a \$300 fine. *Id.* at 35.

Follett filed a post-sentence motion requesting a new trial, asserting the trial court's verdict was against the weight of the evidence and requesting reconsideration of his sentence, asserting the excessiveness of the \$300 fine. O.R. at 99-101. The trial court denied Follett's post-trial motion. *Id.* at 136. Follett then filed his notice of appeal of the trial court's judgment of sentence. *Id.* at 141. The trial court ordered Follett to file a Pa.R.A.P. 1925(b) Statement of Errors Complained of on Appeal. *Id.* at 149. Counsel filed a statement of intent to file an *Anders-Santiago* brief pursuant to Pa.R.A.P. 1925(c). *Id.* at 156. The trial court issued an order indicating it was constrained to rely on the record. *Id.* at 160.

On appeal, Counsel has filed the Application and accompanying *Anders-Santiago* brief asserting the instant appeal is frivolous. Counsel's Application indicates he sent a copy of the *Anders-Santiago* brief to Follett. Counsel also includes a copy of the letter he sent to Follett advising him of his right to proceed without legal representation, *pro se*, or with new, privately retained counsel. Follett has not filed a *pro se* response or a counseled brief with new counsel.

Counsel's *Anders-Santiago* brief identifies the following issues:

Issue One: Whether the evidence was sufficient to sustain [Follett's] conviction for confinement of dogs.

Issue Two: Whether the weight of the evidence was against Follett's conviction for confinement of dogs.

Issue Three: Whether the trial court imposed an illegal sentence in assessing a fine of \$300 despite the absence of evidence that Follett could afford to pay this amount.

Issue Four: Whether the lower court abused its discretion in admitting evidence that Follett's dog[] had previously been on his [N]eighbor's property.

Counsel's Br. at 5 (bold omitted from original).

DISCUSSION

Before this Court can address the merits of Follett's appeal, we must first address Counsel's Application. The Pennsylvania Superior Court has explained: "When faced with a purported *Anders* brief, this Court may not review the merits of any possible underlying issues without first examining counsel's request to withdraw." *Commonwealth v. Wimbush*, 951 A.2d 379, 382 (Pa. Super. 2008) (citation omitted).⁴ To properly withdraw, counsel must comply with technical requirements including: (1) filing for leave to withdraw indicating that after making a conscientious examination of the record, counsel has determined that the appeal would be frivolous; (2) providing a copy of the brief to the appellant; and (3) advising the appellant that he has the right to retain private counsel, proceed *pro se*, or raise additional arguments that the appellant considers worth the court's attention. *Commonwealth v. Goodwin*, 928 A.2d 287, 290 (Pa. Super. 2007). Additionally, to meet the requirements established by the Pennsylvania Supreme Court in *Santiago*, counsel must:

(1) provide a summary of the procedural history and facts, with citations to the record; (2) refer to anything in the record that counsel believes arguably supports the appeal; (3) set forth counsel's conclusion that the appeal is frivolous; and (4) state counsel's reasons for concluding that the appeal is frivolous. Counsel should articulate

⁴ Although Pennsylvania Superior Court decisions are not binding on this Court, they may provide persuasive authority where they address analogous legal issues. *DeSantis v. Lenox Place Condo Ass'n, Inc.*, 316 A.3d 1119, 1121 n.4 (Pa. Cmwlth. 2024). Accordingly, the Pennsylvania Superior Court cases cited herein are cited for their persuasive authority.

the relevant facts of record, controlling case law, and/or statutes on point that have led to the conclusion that the appeal is frivolous.

978 A.2d 349, 361 (Pa. 2009). Where counsel satisfies the *Anders* and *Santiago* requirements, this Court must then conduct its own review of the trial court's proceedings and render an independent judgment as to whether we agree that the appeal is wholly frivolous. *Goodwin*, 928 A.2d at 291 (citation omitted). Additionally, we review the record to discern if there are any additional, non-frivolous issues overlooked by counsel. *Commonwealth v. Flowers*, 113 A.3d 1246, 1250 (Pa. Super. 2015).

Here, Counsel has complied with the procedural requirements for seeking to withdraw by filing his Application, sending Follett a letter, which he provided to this Court, notifying Follett of his intent to withdraw, explaining to Follett his appellate rights, informing Follett of his right to proceed *pro se* or with private counsel, and supplying Follett with a copy of his *Anders-Santiago* brief. Moreover, Counsel's *Anders-Santiago* brief complies with *Santiago*'s requirements. Counsel includes a summary of the relevant factual and procedural history, refers to the portions of the record that could arguably support Follett's claims, and sets forth his conclusion that the appeal is frivolous, along with the reasons supporting his conclusion. *See Santiago*, 978 A.2d at 361. Accordingly, Counsel has met the technical requirements of *Anders* and *Santiago*, and we will proceed to address the issues presented in Counsel's *Anders-Santiago* brief.

In the *Anders-Santiago* brief, Counsel identifies potential challenges to the sufficiency and weight of the evidence supporting Follett's conviction for violating Section 305(a)(1) of the Dog Law, which makes it unlawful for an owner of a dog to "fail to keep at all times the dog . . . confined within the premises of the owner." *See* Counsel's Br. at 12-16; 3 P.S. § 459-305(a)(1).

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.

Commonwealth v. Widmer, 744 A.2d 745, 751 (Pa. 2000) (internal citations omitted).

Regarding a challenge to the weight of the evidence, the Pennsylvania Supreme Court has explained as follows:

An appellate court's standard of review when presented with a weight of the evidence claim is distinct from the standard of review applied by the trial court:

Appellate review of a weight claim is a review of the exercise of discretion, not of the underlying question of whether the verdict is against the weight of the evidence. Because the trial judge has had the opportunity to hear and see the evidence presented, an appellate court will give the gravest consideration to the findings and reasons advanced by the trial judge when reviewing a trial court's determination . . . [regarding] the weight of the evidence.

Commonwealth v. Clay, 64 A.3d 1049, 1055 (Pa. 2013) (internal citations, quotations, and emphasis omitted). Notably, a trial court sitting as fact-finder has "exclusive province" over witness credibility, and this Court does not reweigh facts or evidence on appeal. *Gaughen LLC v. Borough Council of Borough of Mechanicsburg*, 128 A.3d 355, 362 n.4 (Pa. Cmwlth. 2015). Moreover, a trial court is "free to believe all, part, or none of the evidence when evaluating witness credibility." *Commonwealth v. Crabill*, 926 A.2d 488, 490-91 (Pa. Cmwlth. 2007).

Here, the Commonwealth presented the testimony of Neighbor who observed Follett's dog on her property, without her permission. The Commonwealth submitted a photograph of the dog on Neighbor's property. Follett testified on his own behalf and admitted the dog in the photograph was his dog and the dog was not on his property. The trial court found Neighbor credible and, as noted, the trial court was free to believe all, none, or some of the testimony presented at trial. *See Crabill*, 926 A.2d at 490-91. Following our review of the record, viewing the evidence in a light most favorable to the Commonwealth as verdict winner, we conclude there was sufficient evidence establishing Follett's guilt for violating the Dog Law. Moreover, we discern no abuse of discretion by the trial court regarding the weight of the evidence. Therefore, Follett is not entitled to relief on these claims.

Next, Counsel identifies an issue concerning Follett's sentence. Specifically, Counsel sets forth Follett's claim that the trial court imposed an illegal sentence by failing to obtain evidence regarding Follett's ability to pay before sentencing him to pay a \$300 fine.

Section 9726(c) of the Sentencing Code provides that a sentencing court "shall not sentence a defendant to pay a fine unless it appears of record that the defendant is or will be able to pay it." 42 Pa.C.S. § 9726(c). This ability-to-pay requirement, however, applies only to non-mandatory fines. In *Commonwealth v. Ford*, 217 A.3d 824, 829 (Pa. 2019), the Pennsylvania Supreme Court clarified that a sentencing court lacks authority "to impose **non-mandatory** fines absent record evidence that the defendant is or will be able to pay them." (emphasis added). Consistent with *Ford*, the Superior Court has recognized that "[i]t is well established that [Section 9726(c) of the Sentencing Code] does not apply to mandatory fines." *Commonwealth v. May*, 271 A.3d 475, 482 (Pa. Super. 2022).

Here, the trial court’s imposition of a fine was mandatory. The Dog Law’s enforcement and penalties provision applicable at the time of Follett’s offense provided for a **mandatory** fine of not less than \$100 nor more than \$500 for a first offense conviction for violation of Section 305(a)(1). *See* 3 P.S. § 459-903(b)(1).⁵ Thus, although the sentencing court retained discretion to determine the amount of the fine within the statutorily prescribed range, the imposition of the fine itself was mandatory. Accordingly, Section 9726(c)’s ability-to-pay requirement did not apply. Therefore, Follett’s claim that his sentence was unlawful is meritless.

Finally, Counsel identifies an issue concerning whether the trial court abused its discretion by admitting evidence that Follett’s dog had previously been on Neighbor’s property. Initially, “[r]ulings on the admissibility of evidence are within a trial court’s discretion and those rulings should not be reversed on appeal absent a clear abuse of discretion.” *Sitoski v. Dep’t of Transp., Bureau of Driver Licensing*, 11 A.3d 12, 22 (Pa. Cmwlth. 2010). An abuse of discretion “is not a mere error of judgment; rather, it occurs only where the trial court’s conclusion ‘overrides or misapplies the law, or where the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias or ill-will.’” *Commonwealth v. DiStefano*, 265 A.3d 290, 298 (Pa. 2021) (quoting *Commonwealth v. Gill*, 206 A.3d 459, 466 (Pa. 2019)).

Questions concerning the admissibility of evidence are governed by Rule 402 of the Pennsylvania Rules of Evidence, which provides:

All relevant evidence is admissible, except as otherwise provided by law. Evidence that is not relevant is not admissible.

⁵ We note that Section 903(b)(1) of the Dog Law has since been amended. Because the offense at issue occurred before the amendment took effect, we cite and apply the version of the statute in effect at the time of the offense.

Pa.R.E. 402. Rule 403 of the Pennsylvania Rules of Evidence sets forth the circumstances under which otherwise relevant evidence may be excluded. Rule 403 provides:

The court may exclude relevant evidence if its probative value is outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Pa.R.E. 403. Accordingly, “evidence is admissible if it is relevant- that is, if it tends to establish a material fact, makes a fact at issue more or less probable, or supports a reasonable inference supporting a material fact- and its probative values outweighs the likelihood of unfair prejudice.” *Commonwealth v. Hicks*, 156 A.3d 1114, 1125 (Pa. 2017) (citations omitted).

Here, the trial court explained it admitted Neighbor’s testimony concerning the dog’s prior presence on her property to establish how Neighbor was able to identify the dog as belonging to Follett. *See* N.T., 12/29/2023, at 7. This evidence was relevant to the charged offense, Section 305(a)(1) of the Dog Law, which applies to an “owner or keeper” of the dog at issue. Evidence demonstrating Neighbor’s prior familiarity with the dog made it more probable that the dog involved in the incident was Follett’s dog. Furthermore, although Neighbor’s testimony included allegations that the dog had previously attacked her chickens and caused other problems on her property, the trial court sat as fact-finder and expressly identified the limited purpose for which it considered the evidence, which was to establish Neighbor’s familiarity with the dog and her ability to identify the dog. Accordingly, the trial court did not abuse its discretion by admitting the testimony, and Follett’s claim merits no relief.

CONCLUSION

After our independent review of the record, we conclude the claims identified in Counsel's *Anders-Santiago* brief are frivolous because they would lack merit on appeal. Further, our independent review of the record does not reveal any additional, non-frivolous issues. *See Flowers*, 113 A.3d at 1250; *see also Goodwin*, 928 A.2d at 921. Accordingly, we grant Counsel's Application and affirm the trial court's judgment of sentence.

STACY WALLACE, Judge

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ORDER

AND NOW, this 19th day of October 2026, Senior Assistant Public Defender Brian McNeil's Petition to Withdraw as Counsel is **GRANTED**, and the Court of Common Pleas of York County's judgment of sentence entered December 29, 2023, is **AFFIRMED**.

STACY WALLACE, Judge