

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
MICHAEL WILLIAM MULLINS	:	
	:	
Appellant	:	No. 639 MDA 2025

Appeal from the Judgment of Sentence Entered January 17, 2025
In the Court of Common Pleas of Luzerne County Criminal Division at
No(s): CP-40-CR-0003204-2023

BEFORE: KUNSELMAN, J., LANE, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY KUNSELMAN, J.:

FILED: AUGUST 20, 2026

Michael William Mullins appeals from the judgment of sentence entered after a jury found him guilty of corruption of minors and four counts of indecent assault.¹ He challenges two evidentiary rulings and the denial of a new trial based on the weight of the evidence. We affirm.

On August 30, 2023, the Commonwealth charged Mullins with the above crimes. The charges stemmed from August 2, 2023, when Mullins took his wife's 8-year-old daughter Z.C. and Z.C.'s 9-year-old friend K.R. to a concert and then back to Mullins' house for the night. K.R. was named as the victim.

* Retired Senior Judge assigned to the Superior Court.

¹ 18 Pa.C.S. §§ 3126(a)(7) (indecent assault, complainant less than 13, felony of the third degree), 6301(a)(1)(i) (corruption of minors), 3126(a)(7) (indecent assault, complainant less than 13, two counts), and 3126(a)(8) (indecent assault, complainant less than 16).

On May 16, 2024, the Commonwealth filed a notice of its intent to use **K.R.**'s out-of-court statements at trial, citing Section 5985.1 of the Judicial Code (the tender years hearsay statute). The trial court heard the matter on July 10, where four witnesses testified about K.R.'s statements: Paul Rolando, II, K.R.'s father; Danielle Jablonski, Rolando's girlfriend and mother figure to K.R.; Joanne Supko, a forensic interviewer; and Stacy Miller, a medical examiner. The trial court took the matter under advisement and on July 19, 2024, ordered that K.R.'s out-of-court statements would be admissible at trial.

On July 17, 2024, the Commonwealth filed a notice of its intent to use **Z.C.**'s out-of-court statements at trial, again citing the tender years hearsay statute. The Commonwealth detailed Z.C.'s statements as reported by Rolando and Jablonski:

As referenced in Detective Michael Twerdi's July 3, 2024 Case Review Report, Z.C. disclosed to Paul Rolando and Danielle Jablonski within days of the August 2, 2023 incident that she saw that the defendant had K.R. on his lap while at a concert on August 2, 2023. Z.C. also stated that the defendant yelled at [Z.C.] at the concert that he was having a private conversation with K.R.. Additionally, Z.C. stated that she heard the defendant tell K.R. at the concert that "sex is fucking amazing." Furthermore, Z.C. disclosed that once the defendant, Z.C. and K.R. left the concert and returned to the defendant and Z.C.'s home, Z.C. went downstairs and the defendant yelled at her to leave him and K.R. alone.

Commonwealth's Notice, 7/17/24, at 1-2 ¶6.²

² The notice was filed but did not appear in the certified record. The parties stipulated to supplement the record pursuant to Pa.R.A.P. 1926(b)(2).

At a hearing on the notice, counsel stated that the parties agreed that Z.C.'s statements to Rolando and Jablonski were relevant and had indicia of reliability. N.T., 8/9/24, at 2. The trial court therefore ruled that testimony from Rolando and Jablonski would be admissible under the tender years statute. **Id.** Mullins clarified, "we're limited to the statements that are in the Commonwealth's petition, Your Honor." **Id.** at 3. The Commonwealth agreed. **Id.** The trial court therefore ordered that Rolando and Jablonski's testimony would be permitted at trial. Order, 8/9/24.

The case proceeded to trial beginning on October 22, 2024. K.R. testified that on August 2, 2023, Mullins took her and Z.C. to a Godsmack concert. N.T., 10/22/24–10/24/24, at 44. She said that Mullins sometimes made her sit on his lap, where he rubbed her leg and talked about different types of sex, like sucking and licking. **Id.** at 44–45. "He was rubbing my leg and his thumb was hitting my vagina." **Id.** at 45. K.R. testified that after the concert, she felt scared about what had happened. **Id.** at 46. Over Mullins' objection to relevance, K.R. explained that she was scared "because he kept on touching me." **Id.** at 46–47.

K.R. testified that after the concert, they got McDonald's, then went to Mullins' house where she and Z.C. got into their pajamas. **Id.** at 47–48. K.R. said that while Z.C. was still upstairs getting ready for bed, she went downstairs to say goodnight to Mullins, "and he made me sit down [facing him] on his lap and he started rubbing my legs again and his thumb was hitting my vagina." **Id.** at 48–49. She testified that when she was on Mullins'

lap, he said “that it’s okay to have sex and that sex feels fucking amazing.” **Id.** at 49. K.R. explained that Mullins “asked me if I felt that, and I said, felt what? He said, my penis. I said, no; but I did feel it and I was too scared to tell him.” **Id.** at 49. K.R. testified that she tried to get up but Mullins pulled her back down. **Id.** K.R. said that Mullins nibbled her ear and kissed her head. **Id.** at 49–50, 55. K.R. testified that she called Z.C., who came down, and then Mullins “yelled at her to go right back up.” **Id.** at 50. After Mullins pulled her back down again, K.R. testified, he let her go to bed. **Id.** at 50–51.

Stacy Miller and Joann Supko testified about the forensic interview and examination of K.R.

Z.C. testified that she attended the outdoor Godsmack concert with K.R. and Mullins. N.T., 10/22/24–10/24/24, at 93–94, 98. Z.C. said that she was sitting on a blanket, and Mullins was on a chair. **Id.** at 94. At one point, Z.C. said she saw K.R. sitting on Mullins’ lap because Mullins “just wanted to make sure she was okay.” **Id.** She explained that both girls were on Mullins’ lap, and then Mullins “asked if he could talk to K.R. real quick.” **Id.** at 97–98. Z.C. testified that she did not notice anything when K.R. was on Mullins’ lap, and the only thing she heard Mullins say to K.R. was that “he asked . . . if she was okay and wanted the [noise-cancelling] headset.” **Id.** at 94–95, 98. Z.C. confirmed that she did not hear anything else. **Id.** at 95.

Z.C. testified that when Mullins took her and K.R. back to the house, after they got ready for bed, Mullins called K.R. down for her medication and

told Z.C. to go upstairs and brush her teeth. **Id.** at 95. K.R. “went down there for her meds and then she came right back up” while Z.C. stayed upstairs. **Id.** at 95–96. Z.C. testified that she never went back downstairs and that K.R. never yelled up to her. **Id.** at 96, 100.

The Commonwealth next called Danielle Jablonski to testify; Mullins first asked for an offer of proof. Among other matters, the prosecutor stated his intent to ask about Z.C.’s out-of-court statements to Rolando and Jablonski. Mullins objected that the requirements of the tender years hearsay statute were not met, as Z.C. had not testified about her alleged statements to Rolando and Jablonski. The trial court ruled that the testimony would be admissible.

Jablonski testified on direct and cross-examination without mentioning Z.C.’s out-of-court statements. On redirect, Mullins objected that questions about Z.C.’s out-of-court statements were beyond the scope of direct and cross; the trial court overruled the objection.

Q. . . . Now, did at some point you and Paul [Rolando, K.R.’s father,] question [Z.C.] about this?

A. Paul . . . questioned [Z.C.] about it, not me. I was just present for the conversation.

Q. What did [Z.C.] say when Paul questioned her about it?

A. Paul asked [Z.C.] what happened at the concert and she said that --

[Defense counsel]: Your Honor, I’m going to object. This is well beyond the scope of my cross and his original direct.

[Prosecutor]: Your Honor, it’s all about the same timeframe.

[Defense counsel]: It's beyond the scope regardless, Judge.

THE COURT: It is beyond the scope of the cross examination.

[Prosecutor]: I think that we were talking about this exact time period and the time in between the witness making -- having [K.R.] talk to Paul and the time where they went to the police station and discussions that happened.

THE COURT: I mean, I'll allow it.

[Defense counsel]: Judge, if I may --

THE COURT: I understand the objection. Overruled.

[By the prosecutor]:

Q. . . . What did [Z.C.] say to you -- or say to Paul?

A. Paul asked her what happened at the concert and she just said that she saw [K.R.] on Michael Mullins' lap; and, she said she heard him say something about sex, but she was not 100 percent sure what it was.

Q. Did [Z.C.] say anything to Paul about what she observed at the house after the concert?

A. Yes. Paul asked her what happened at the house, and she said all she knows is she went downstairs and [K.R.] was on his lap and that was it. That's all she said.

Q. Okay. Did she say why she went downstairs?

A. Because [K.R.] called her.

Id. at 125-26.

The Commonwealth then presented testimony from Rolando. When the Commonwealth questioned Rolando about what Z.C. told him, Mullins raised the same objection as he raised before Jablonski testified. The trial court overruled the objection, and Rolando testified about Z.C.'s statements.

Q. Did you speak with [Z.C.] about what she observed back at the house?

A. Yes.

Q. What did [Z.C.] tell you?

A. [Z.C.] said that when she came --

[Defense counsel]: Your Honor, I'm going to raise the same objection that I raised earlier.

THE COURT: Objection is noted. Overruled.

[By the prosecutor]:

Q. You may continue.

A. Basically, when we -- when you're talking about -- it was two days after I was informed. It was a Sunday. She came to our house to pick up her stuff.

Danielle and I had a conversation with her, and I basically explained to her about what happened. I asked [Z.C.], you know, did you, you know, did Michael yell at you to go sit back up front at the concert, and she said yes. I asked her what happened at the house, and she said [K.R.] was sitting on his lap --

Q. Where was [K.R.] sitting on his lap?

A. [K.R.] was at the house. When they were back at the house and everything, [K.R.] called for [Z.C.] to come down. When [Z.C.] came down, she saw that [K.R.] was sitting on Michael Mullins' lap.

Q. When you say come down, do you mean come down the staircase inside the house?

A. Come down the stairs from being upstairs, yes.

Q. Okay. Did she state if she observed anything else at the house?

A. She observed that. Like I said, she was on his lap and the best -- that's the most I remember her saying.

Q. Did she state if she heard the Defendant say anything?

A. Yes. He was talking about sex, again, with [K.R.] at the time. She heard that. Yes.

Q. Okay. Do you recall, with the incident at the house, if [K.R.] stated what the Defendant, if anything, said to [Z.C.] when she came downstairs?

A. Yes, I did.

Q. What did [K.R.] tell you the Defendant said?

A. He basically yelled -- like [Z.C.] came downstairs and everything, because [K.R.] screamed for [Z.C.] to come down.

Michael pretty much yelled at [Z.C.] to go back upstairs.

Q. Did you ask -- do you recall if [Z.C.] witnessed that, being told to go back upstairs?

A. Yes. She said to me at the -- during the conversation that Sunday when she came to pick up her stuff -- which was two days later, after I was told of the incident. So four days later from the concert. Yes, she was told to go back upstairs and was yelled at to go back upstairs.

Id. at 139–41.

Mullins testified, denying the allegations. Mullins presented testimony from Z.C., who authenticated photographs she took at the concert, which showed Mullins wearing different clothing than what K.R. had testified to (a Korn shirt and blue jeans, not a Godsmack shirt and black jeans). Mullins also presented testimony from his wife Marjorie Carney, who explained that she was a truck driver who was on the phone “almost all day” with Mullins.

The jury found Mullins guilty. On January 17, 2025, the trial court sentenced Mullins to an aggregate term of 39 months to 144 months of confinement followed by 9 years of consecutive probation. Mullins filed timely post-sentence motions and amended post-sentence motions by permission, including a motion for a new trial based on the weight of the evidence. The trial court denied Mullins’ post-sentence motions on April 23, 2025. Mullins

timely appealed on May 12, 2025. Mullins and the trial court complied with Pennsylvania Rule of Appellate Procedure 1925.

Mullins presents three issues for review:

1. Did the trial court err as a matter of law or abuse its discretion in admitting the hearsay statements of Z.C. over the objection of counsel, where the statements were admitted through the testimony of Paul Rolando and Danielle Jablonski, and did not fall within the confines of or meet all the requirements of, and were contrary to, the Tender Years Exception (42 Pa.C.S.A. § 5985.1) or any other hearsay exception, and were improperly admitted and used for the purpose of impeaching Z.C. with alleged prior inconsistent statements, when Z.C. did not testify to making said statements and was not specifically asked about the statements during direct examination, thereby depriving the Defendant of due process and a fair trial?
2. Did the trial court err as a matter of law or abuse its discretion in admitting the testimony of K.R. regarding her fear and being scared of the Defendant, where her state of mind was irrelevant to proof of the offenses of which the Defendant was charged, thereby depriving the Defendant of due process and a fair trial?
3. Was the verdict at trial, if sufficient to sustain the verdict as a matter of law, contrary to the weight of the evidence presented to support a finding of guilt beyond a reasonable doubt regarding each offense of indecent assault, Counts 1, 3, 4, and 5 (18 Pa.C.S.A. § 3126(a)(7) & (8)) and corruption of minors, Count 2, as charged in the Amended Criminal Information, because there existed substantial and material inconsistencies which relegated the jury to engage in speculation and conjecture relative to the conclusion that the Defendant engaged in conduct with the complainant and committed the offenses under 18 Pa.C.S.A. §§ 3126(a)(7) & (8) and 6301(a)(1)(i)?

Mullins' Brief at 3.

Mullins' first issue challenges the admission of Rolando's and Jablonski's testimony about Z.C.'s out-of-court statements. He argues the trial court

abused its discretion by allowing Rolando and Jablonski to testify that Z.C. told them matters other than the four items in the Commonwealth's notice. Because the parties' stipulation covered only those four statements, Mullins argues the requirements of the tender years hearsay statute were not met for the other statements. Mullins also notes that these additional statements were not included in the police report associated with the Commonwealth's motion. Mullins further argues that the statements were not admissible for other purposes, *i.e.*, as prior inconsistent statements for impeachment.

A trial court exercises its discretion in ruling on the admissibility of out-of-court statements under the tender years hearsay statute, and appellate review is for an abuse of discretion. ***Commonwealth v. Copenhaver***, 316 A.3d 1020, 1023 (Pa. Super. 2024) (citing ***Commonwealth v. Curley***, 910 A.2d 692, 697 (Pa. Super. 2006)). A reviewing court will not reverse a discretionary ruling merely because it may have reached a different conclusion than the trial court. ***Commonwealth v. Wilson***, 286 A.3d 1288, 1295 (Pa. Super. 2022) (citing ***Commonwealth v. Johnson***, 42 A.3d 1017, 1027 (Pa. 2012)). Rather, to prove that the trial court abused its discretion, the appellant must show that the trial court's ruling was manifestly unreasonable; the result of partiality, prejudice, bias, or ill-will; or was clearly erroneous for lack of support. ***Id.***

Generally, to merit relief on an evidentiary ruling, an appellant must have articulated to the trial court the specific basis for the challenge. ***Id.*** at 1296 & n.4. This gives the trial court the opportunity to address the

appellant's issue in the first instance and prevents a party from injecting a new argument after an appeal has been filed.

"It is well-established that [a] party complaining, on appeal, of the admission of evidence in the court below will be confined to the specific objection there made. **If counsel states the grounds for an objection, then all other unspecified grounds are waived and cannot be raised for the first time on appeal.**" *Commonwealth v. McGriff*, 160 A.3d 863, 871–72 (Pa. Super. 2017) (emphasis added). "[O]ne must object to errors, improprieties or irregularities at the earliest possible stage of the adjudicatory process to afford the jurist hearing the case the first occasion to remedy the wrong and possibly avoid an unnecessary appeal to complain of the matter." *Keffer v. Bob Nolan's Auto Serv., Inc.*, 59 A.3d 621, 645 (Pa. Super. 2012); **see also** *Commonwealth v. Baumhammers*, 960 A.2d 59, 73 (Pa. 2008) (to preserve issue for appellate purposes, party must make timely and specific objection to ensure the trial court has opportunity to correct alleged error). It is well-settled that issues raised for the first time in a Rule 1925(b) statement are waived. *Commonwealth v. Coleman*, 19 A.3d 1111, 1118 (Pa. Super. 2011); Pa.R.A.P. 302(a).

Id. at 1296 n.4 (alterations in *Wilson*).³

Mullins' complaint on appeal is distinct from any of the objections he made to the trial court about Rolando's and Jablonski's testimony about Z.C.'s out-of-court statements. Before Jablonski testified, Mullins protested that her testimony about Z.C.'s statements was not admissible because Z.C. did not include those statements in her testimony. N.T., 10/22/24–10/24/24, at 105. At that point in trial, Mullins acknowledged that he did not know what Jablonski

³ The *Wilson* case itself illustrated one exception to this error-preservation rule: a mandate from the Supreme Court of Pennsylvania. *Wilson*, 286 A.3d at 1296. Here, Mullins argues that he preserved his argument against Z.C.'s out-of-court statements by objecting at trial, not that an exception to the error-preservation rule applies. Mullins' Brief at 16.

would testify Z.C. said. ***Id.*** However, he reiterated his contention that under the Tender Years Hearsay Act, “the content of the [child’s] testimony as offered has to be the same as the content of the hearsay statements that they’re trying to bring in through the third party.” ***Id.*** at 106. Mullins argued that Z.C.’s failure to testify about anything she told Rolando and Jablonski showed that her out-of-court statements were not reliable. ***See id.*** at 106–08. Mullins also suggested that no other exception to the rule against hearsay would apply. ***See id.*** at 109. During Jablonski’s testimony, Mullins’ only objection was that the Commonwealth’s questions on redirect (about Z.C.’s statements) were beyond the scope of direct and cross. ***Id.*** at 125–26. During Rolando’s testimony, Mullins’ only objection to questions about Z.C.’s statements was “that same objection I raised earlier.” ***Id.*** at 139.

Mullins’ trial objections, if sustained, would have excluded all testimony from Jablonski and Rolando about Z.C.’s out-of-court statements, regardless of the pretrial stipulation. None of these objections drew the fine distinction Mullins now articulates on appeal between statements in the stipulation and others: “The error lies not in admitting the agreed statements, but in admitting additional statements not stipulated to and that materially altered their meaning and effect.” Mullins’ Brief at 26–27. Because Mullins did not apprise the trial court of the basis for excluding this evidence he now presents, Mullins has not preserved his issue for review, we find no abuse of discretion, and Mullins’ first issue fails.

Mullins' second issue is a challenge to K.R.'s testimony that Mullins' actions put her in fear. He argues that this was not relevant because it did not establish any element of his charges and because he did not present a delayed-report defense to rebut. Mullins explains that evidence of K.R.'s fear was unfairly prejudicial because it bolstered her credibility, inflamed the jury's emotions, and suggested uncharged misconduct when K.R. said she was scared "because he kept on touching me."

As with any evidentiary issue, we review a trial court's ruling on an objection to relevance for an abuse of discretion. ***Commonwealth v. Smith***, 808 A.2d 215, 225 (Pa. Super. 2002). "Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." Pa.R.E. 401. Relevant evidence is generally admissible, and "[e]vidence that is not relevant is not admissible." Pa.R.E. 402.

Clearly, evidence is relevant if it establishes an element of a criminal charge being tried. ***E.g., Smith***, 808 A.2d at 225 (holding evidence that a defendant drank alcohol was relevant to charges of homicide by vehicle while driving under the influence and driving under the influence). However, neither Rule 401 nor case law limits the definition of relevance to the elements of the charges in a criminal case. Rather, courts have long held evidence to be relevant if it establishes another material fact, such as the history of the case or a motive. ***See, e.g., Commonwealth v. Hairston***, 84 A.3d 657, 666 (Pa. 2014) (explaining *res gestae* evidence, which can be relevant to explain the

course of events in a criminal investigation); ***Commonwealth v. Ward***, 605 A.2d 796, 797 (Pa. 1992) (“[A]lthough motive is not an essential element of the crime, it is always relevant and admissible.”). Furthermore, evidence can be relevant to rebut an **anticipated** defense. ***E.g., Commonwealth v. Tyson***, 119 A.3d 353, 361 (Pa. Super. 2015) (*en banc*).⁴

Here, the trial court posited that K.R.’s fear was relevant to provide the history and sequence of events, to explain why K.R. did not immediately call her parents or disclose the abuse, and to explain why K.R. might not have been able to remember certain details when she testified. Trial Court Opinion, 8/20/25, at 5–6. We discern no abuse of discretion. K.R.’s description of her fear could illustrate her recollection of the events for the jury and aid in their assessment of her credibility. Mullins’ second issue fails.

Mullins’ third issue is a challenge to the denial of his motion for a new trial based on the weight of the evidence. He argues that the jury was forced to speculate and reach a verdict through conjecture. Mullins identifies several inconsistencies between K.R.’s testimony and her prior statements, such as where on her head Mullins put his mouth (ear or neck) and how she came to be downstairs (on her own or being called). Mullins notes that Z.C. contradicted K.R.’s testimony about when K.R. was downstairs and what shirt and jeans Mullins was wearing. Mullins observes that there was no physical

⁴ ***Hairston*** and ***Tyson*** resolved issues under Rule 404, which limits the admissibility of certain evidence. As relevance is required for admissibility, we cite these cases for the conclusion that the evidence involved is relevant.

evidence. Mullins points out that K.R. did not call her parents immediately and otherwise acted inconsistently with being in fear. He adds that Marjorie Carney testified she was on the phone with Mullins almost continuously and could hear what was happening. Finally, Mullins observes that K.R. was predisposed to speak outlandishly about sexual matters, which Jablonski and Rolando acknowledged weeks before the concert when they asked Mullins to speak to K.R. about sex.

Appellate review of the denial of a motion for a new trial is limited to determining whether the trial court abused its discretion. ***Commonwealth v. Wallace***, 244 A.3d 1261, 1276 (Pa. Super. 2021).

A motion for a new trial alleging that the verdict was against the weight of the evidence is addressed to the discretion of the trial court. An appellate court, therefore, reviews the exercise of discretion, not the underlying question of whether the verdict is against the weight of the evidence. The fact-finder is free to believe all, part, or none of the evidence and to determine the credibility of the witnesses. The trial court will award a new trial only when the jury's verdict is so contrary to the evidence as to shock one's sense of justice. In determining whether this standard has been met, appellate review is limited to whether the trial judge's discretion was properly exercised, and relief will only be granted where the facts and inferences of record disclose a palpable abuse of discretion. Thus, the trial court's denial of a motion for a new trial based on a weight of the evidence claim is the least assailable of its rulings.

Id. (quoting ***Commonwealth v. Cousar***, 928 A.2d 1025, 1035–36 (Pa. 2007)) (brackets omitted). Notably, a weight challenge “predicated on the credibility of trial testimony” gives rise to “extremely limited” review of the trial court's discretionary determination. ***Id.*** (quoting ***Commonwealth v.***

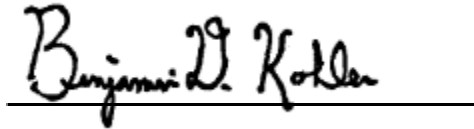
Bowen, 55 A.3d 1254, 1262 (Pa. Super. 2012). We “give the gravest consideration to the findings and reasons advanced by the trial judge” who observed the presentation at trial. **Id.** (quoting **Commonwealth v. Sanders**, 42 A.3d 325, 331 (Pa. Super. 2012)).

Here, the trial court explained: “none of the allegedly ‘substantial and material inconsistencies’ relied on by the Defendant persuaded this Court that the evidence presented to the jury was so tenuous, vague, and uncertain as to render the jury’s verdicts shocking to the Court’s conscience such that the Defendant should be awarded a new trial.” Trial Court Opinion, 8/20/25, at 18. The trial court observed that “the jury was free to believe K.R.’s testimony and to reject the version of events proffered by the Defendant” and provided that the court did not re-weigh K.R.’s credibility. **Id.**

We discern no abuse of discretion. The trial court recognized that the jury was aware of the inconsistencies in K.R.’s testimony, the competing narratives of events, and the prior incident that showed K.R. talking about sex. Mullins has not shown that the trial court’s finding that the verdict did not shock its conscience was manifestly unreasonable, the product of partiality, prejudice, bias, or ill-will, or clearly erroneous. Mullins’ third issue fails.

Judgment of sentence affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a solid horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 8/20/2026