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|------------------------------|---|--------------------------|
| COMMONWEALTH OF PENNSYLVANIA | : | IN THE SUPERIOR COURT OF |
|                              | : | PENNSYLVANIA             |
|                              | : |                          |
| v.                           | : |                          |
|                              | : |                          |
| MIKEL COLLINS                | : |                          |
|                              | : |                          |
| Appellant                    | : | No. 2195 EDA 2025        |

Appeal from the Judgment of Sentence Entered March 27, 2025  
 In the Court of Common Pleas of Philadelphia County Criminal Division at  
 No(s): CP-51-CR-0000892-2024

BEFORE: OLSON, J., DUBOW, J., and FORD ELLIOTT, P.J.E.\*

OPINION BY DUBOW, J.:

**FILED SEPTEMBER 25, 2026**

Appellant, Mikel Collins, appeals from the March 27, 2025 judgment of sentence entered in the Philadelphia County Court of Common Pleas following his convictions after a bench trial of voluntary manslaughter and possession of an instrument of crime ("PIC").<sup>1</sup> Appellant challenges (1) the trial court's admission of testimony from an assistant medical examiner ("AME") who did not conduct the autopsy of the decedent, and (2) the sufficiency of the evidence underlying his convictions. After careful review, we affirm.

We glean the relevant facts and procedural history from the certified record, including the trial court's opinion. On the evening of April 25, 2023, Appellant met Jamal Reeves ("Decedent") on the 7000 block of North 15th Street to sell marijuana to Decedent. Surveillance footage captured by a

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\* Retired Senior Judge assigned to the Superior Court.

<sup>1</sup> 18 Pa.C.S. §§ 2503(a)(1) and 907(a), respectively.

doorbell camera showed Decedent arriving in a Ford Fusion and Appellant entering the rear driver-side seat of the Ford Fusion. About one minute later, Appellant exited the car, ran across the street, and ducked behind parked cars on the opposite side of the street, while repeatedly firing a gun in the direction of the Ford Fusion. While Appellant was shooting, Decedent and a passenger in the car exited through the front passenger door and began to run away. As Decedent ran away, Appellant shot Decedent in the back. Decedent fell to the ground. Appellant returned to the car and appeared to search for something. He then walked to a nearby sewer and appeared to drop something inside it. Appellant called 911, claiming that he was involved in a robbery attempt involving a gun.

Philadelphia Police Officer Nancy Gonzalez found Decedent lying flat on his back and started treatment until medics arrived to transport him to Einstein Hospital. An emergency medical technician observed that Decedent had gunshot wounds in his back. While Officer Gonzalez attended to Decedent, Appellant approached Sergeant Krzysztof Wrzesinski, who noticed a gun tucked in Appellant's waistband. Police frisked Appellant and removed a Glock 26, which is a 9mm caliber handgun, and two magazines from his person. During the frisk, Appellant informed police that he and Decedent had exchanged gun fire. Police officers determined that Appellant had a license to carry the Glock 26.

Decedent died shortly after arriving at the hospital.

Investigating police officers recovered thirteen 9mm fired cartridge casings on the ground at the scene of the shooting. Inside the Ford Fusion, investigators found a .380 caliber handgun and a fired cartridge casing. A firearms expert determined that Appellant's gun fired all thirteen of the cartridge casings recovered from the street near the car. The expert also determined that the firearm recovered from the car had fired the cartridge casing found in the car. Police photographed fifteen bullet holes that were on the outside driver's side of Decedent's car.

Dr. Julia de la Garza-Jordan, an AME in the Philadelphia Medical Examiner's Office ("ME's office"), autopsied Decedent's body and prepared an autopsy report. ("Autopsy Report"). However, because she had left the ME's office before the trial, Dr. Eric Little, an AME from that same office, prepared an independent analysis of the manner and cause of death. Prior to trial, however, Appellant filed a motion *in limine* seeking to preclude "a substitute" medical examiner from testifying at Appellant's trial regarding the manner and cause of Decedent's death. The Commonwealth, however, informed the trial court that it would not introduce the Autopsy Report into evidence and the trial court denied the motion *in limine*.

Appellant proceeded to a two-day bench trial on January 13, 2025. The Commonwealth presented testimony from the police officers and detectives who investigated the crime and one of the paramedics who provided treatment to Decedent. The court admitted the video of the incident captured by surveillance cameras, as well as other records generated during the

investigation. Most relevant to our analysis, Dr. Little testified that he made an analysis of the manner and cause of Decedent's death that was independent of the Autopsy Report. In other words, he testified that he did not rely on the Autopsy Report when opining on the manner and cause of Decedent's death. Appellant's attorney vigorously cross-examined Dr. Little about his independent analysis.

Appellant's defense at trial was that he was acting in self-defense when he shot Decedent. Appellant also waived his right to testify and presented by stipulation testimony of a character witness. The trial judge found Appellant not guilty of third-degree murder, but guilty of voluntary manslaughter and PIC and deferred sentencing pending a mental health evaluation and pre-sentence investigation.

On March 27, 2025, the court sentenced Appellant to five to ten years' incarceration for voluntary manslaughter, followed by six to twelve months' incarceration for PIC. Appellant filed a post-sentence motion, which the court denied.

Appellant appealed. Both Appellant and the court complied with Pa.R.A.P. 1925.

Appellant raises the following issues for our review:

1. Did the trial court err when it permitted a substitute medical examiner to provide an opinion on the manner and cause of death by relying on the testimonial statements of an absent, non-testifying expert as a basis for his opinion in violation of Appellant's rights under the Confrontation Clause as set forth

in ***Smith v. Arizona***, 602 U.S. 779 (2024), and ***Commonwealth v. Brown***, 185 A.3d 316 (Pa. 2018)?

2. Was the evidence sufficient to support Appellant's convictions for voluntary manslaughter and [PIC] where the Commonwealth failed to prove beyond a reasonable doubt that Appellant did not act in self-defense when he shot the decedent?

Appellant's Br. at 4. (suggested answers and some capitalization omitted).

**A.**

Appellant first argues that the trial court erred by permitting Dr. Little to testify about the manner and cause of Decedent's death because Dr. Little relied upon the opinions in the Autopsy Report as a basis for Dr. Little's opinion and such reliance violated Appellant's Sixth Amendment right to confront witnesses against him. We disagree.

Although the admission into evidence of Dr. Little's opinion could be characterized as an evidentiary issue, the issue involves Appellant's constitutional rights. Thus, we are reviewing a question of law and our standard of review is plenary, rather than for an abuse of discretion. ***Commonwealth v. Woeber***, 174 A.3d 1096, 1100 (Pa. Super. 2017).

The Confrontation Clause of the Sixth Amendment, made applicable to the States *via* the Fourteenth Amendment, provides that in criminal prosecutions, the accused has the "right to confront those who bear testimony against him[.]" ***Commonwealth v. Yohe***, 79 A.3d 520, 530–31 (Pa. 2013) (internal citations and quotation marks omitted). Consequently, the Confrontation Clause "prohibits out-of-court testimonial statements by a

witness unless the witness is unavailable and the defendant had a prior opportunity for cross-examination.” **Id.** at 530-31 (footnote and citation omitted); **see also Smith**, 602 U.S. at 784-85 (reiterating that if a witness is unavailable and a criminal defendant has not previously had an opportunity to cross-examine him, then the Confrontation Clause bars the admission of any of the witness’s statements that are (1) hearsay and (2) testimonial). A statement is “testimonial” if, considering all relevant circumstances, the primary purpose for the statement is to prepare for future court proceedings. **Smith**, 602 U.S. at 800-01. An out-of-court statement is hearsay if it is offered “to prove the truth of the matter asserted.” **Id.** at 785 (citation omitted).

In this case, Appellant focuses on the Autopsy Report and argues that since Dr. Little relied on the Autopsy Report as a basis for his opinion about the manner and cause of Decedent’s death, Dr. Little’s testimony violated Appellant’s Sixth Amendment right to confront witnesses. The evidence at trial, however, belies the foundation of Appellant’s argument, i.e., that Dr. Little relied upon the Autopsy Report as a basis for opining about the manner and cause of Decedent’s death. Dr. Little testified, and the trial court found, that Dr. Little did not review the Autopsy Report to render his independent opinion at trial as to the cause and manner of the victim’s death. Trial Ct. Op., 10/9/25, at 5. Rather, the trial court found that Dr. Little independently reviewed the following documents in his office’s relevant case file to prepare for trial: (1) the death certificate; (2) the incident report, (3) internal

investigative notes, (4) the hospital's pronouncement report, (5) photographs, and (6) X-rays. **Id.** Notably, Dr. Little's analysis focused on specific details in photographs and X-rays of Decedent that supported his conclusions that (1) the wounds on Decedent's back appeared to be gunshot entry wounds; (2) two projectiles appeared to be lodged in Decedent's chest in X-rays; (3) Decedent's cause of death was gunshot wounds; and (4) Decedent's manner of death was homicide. **Id.** Since the trial court found, and the record supports the finding, that Dr. Little independently determined the manner and cause of death and did not rely on the Autopsy Report, Dr. Little's testimony did not violate Appellant's confrontation right.<sup>2</sup>

Appellant's reliance on **Smith v. Arizona** is misplaced. In **Smith**, the United States Supreme Court found that the trial court had violated the defendant's right to confrontation because the trial court permitted an expert witness to testify about hearsay statements included in an analyst's report. **See Smith**, 602 U.S. at 803. Here, Dr. Little based his opinion on his independent review and not the Autopsy Report and thus, these facts differ from the facts that the Supreme Court relied upon in **Smith**.

Appellant also relies upon **Commonwealth v. Brown**, 185 A.3d 316 (Pa. 2018), which is equally distinguishable. In **Brown**, the Pennsylvania

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<sup>2</sup> In light of the fact that Dr. Little did not rely on the Autopsy Report, we need not address whether the report met the definition of being "testimonial" evidence.

Supreme Court concluded that the trial court erred in admitting into evidence a non-testifying AME's autopsy report because the admission of such evidence violated the defendant's Confrontation Clause rights. 185 A.3d at 329 (plurality). The justices, however, unanimously found that the error was harmless.<sup>3</sup> The facts of **Brown** are distinguishable from the instant case because here, the Commonwealth did not enter the Autopsy Report into evidence and Dr. Little made his own independent investigation.

We, thus, conclude that the trial court did not violate Appellant's Confrontation Clause rights because the Commonwealth did not introduce into evidence the Autopsy Report and Dr. Little conducted an independent investigation into the manner and cause of Decedent's death.

## **B.**

Appellant next challenges the sufficiency of the Commonwealth's evidence supporting his voluntary manslaughter and PIC convictions, arguing

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<sup>3</sup> We note that the Supreme Court was divided on the question of whether a testifying AME who did not conduct or observe the autopsy had developed a sufficiently independent opinion regarding the cause and manner of the decedent's death. **Cf. id.** at 335-36 (Donohue, J., concurring) (reasoning that the testifying AME's conclusion was not independent from his review of the autopsy report, where he (1) did not participate in the autopsy, (2) "relied on, and vouched for, the accuracy of [the non-testifying AME's] testing and analysis in the autopsy report," and (3) mentioned reviewing autopsy photographs in preparation for trial, but did not discuss any details from those photographs that informed his opinion). As noted above, the Commonwealth in the instant case did not enter the Autopsy Report into evidence and thus, we need not address this divergence of opinion.

that the Commonwealth presented insufficient evidence to disprove that Appellant acted in self-defense. Appellant's Br. 14-18.

We review claims regarding the sufficiency of the evidence by considering 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." ***Commonwealth v. Melvin***, 103 A.3d 1, 39 (Pa. Super. 2014) (citation and quotation marks omitted). In conducting this review, we may not weigh the evidence and substitute our own judgment for that of the fact finder, as the fact finder "is free to believe all, part, or none of the evidence." ***Id.***

Appellant was convicted of voluntary manslaughter under 18 Pa.C.S. § 2503(a)(1). Section 2503(a)(1) provides that a person "commits voluntary manslaughter if at the time of the killing he is acting under a sudden and intense passion resulting from serious provocation by . . . the individual killed[.]" Adequate provocation existed if a reasonable person confronted with the same series of events would have become "impassioned to the extent that his mind was incapable of cool reflection." ***Commonwealth v. Hutchinson***, 25 A.3d 277, 314-15 (Pa. 2011) (citation omitted).

Appellant argues that the Commonwealth failed to establish that he did not act in self-defense in shooting Decedent. A defendant is justified in using deadly force in self-defense if he: (1) reasonably believed that deadly force was necessary to protect himself against imminent death or bodily injury; (2) was free from fault in provoking the use of force against him; and (3) did not

violate any duty to retreat. **Commonwealth v. Mouzon**, 53 A.3d 738, 740 (Pa. 2012); **see also** 18 Pa.C.S. § 505(b)(2) (pertaining to use of deadly force in self-protection). Absent exceptions inapplicable here, a defendant has a duty to retreat if he “knows that he can avoid the necessity of using [deadly] force with complete safety by retreating[.]” 18 Pa.C.S. § 505(b)(2)(ii).

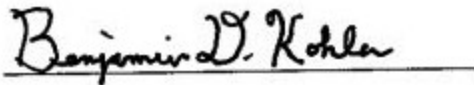
However, it is not the defendant’s burden to prove a self-defense claim; rather, once either party introduces “some evidence” to justify a finding of self-defense, the Commonwealth bears the burden to disprove the defense beyond a reasonable doubt. **Commonwealth v. Torres**, 766 A.2d 342, 345 (Pa. 2001). The Commonwealth can satisfy that burden by disproving any of the elements of self-defense. **Mouzon**, 53 A.3d at 740.

Appellant bases his self-defense justification on a theory that Decedent might have possessed a gun and initiated a fight with Appellant inside the car. Regardless of what happened inside Decedent’s car, our review of the record reflects that Appellant ran from the car and sought cover behind cars across the street. Decedent then fled from the car in a different direction. While Decedent fled, Appellant could have safely retreated in another direction. Instead, Appellant abandoned his relatively safe position and shot the fleeing Decedent in the back. Thus, sufficient evidence supports the Commonwealth’s

position that Appellant, in shooting Decedent in the back, did not act in self-defense.<sup>4</sup>

Judgment of sentence affirmed.

Judgment Entered.

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

Benjamin D. Kohler, Esq.  
Prothonotary

Date: 9/25/2026

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<sup>4</sup> Appellant does not offer a distinct argument as to why the evidence was insufficient to support his PIC conviction; he merely asserts in a footnote that if we vacate his voluntary manslaughter conviction, we must vacate his PIC conviction. Appellant's Br. at 18 n.1. Because we affirm Appellant's voluntary manslaughter conviction, we decline to provide further review of the sufficiency of evidence supporting Appellant's PIC conviction.