

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Respondent	:	
	:	
v.	:	
	:	
DEVIN JOHN MOORE	:	No. 102 WDM 2026
	:	
Petitioner	:	

Appeal from the Order Entered August 24, 2026
In the Court of Common Pleas of Clearfield County Criminal Division at
No(s): CP-17-CR-0000596-2025

BEFORE: BOWES, J., DUBOW, J., and STEVENS, P.J.E.*

OPINION BY DUBOW, J.:

FILED: October 9, 2026

Petitioner, Devin John Moore, has filed in this Court a “Petition for Specialized Review of Bail Revocation Order Pursuant to Pa.R.A.P. 1610”¹ (“Petition”), seeking review of the August 24, 2026 order granting the Commonwealth’s oral motion to revoke pre-trial bail and revoking Petitioner’s bail. After careful review, we find that the Commonwealth failed to present evidence to support its motion and the trial court relied solely on the Commonwealth’s proffer in revoking Petitioner’s bail. Accordingly, we are

* Former Justice specially assigned to the Superior Court.

¹ Rule 1610 provides in relevant part, “[w]here the trial court enters an order under Pa.R.A.P. 1762(b) granting or denying release or modifying the conditions of release before sentence, a party may seek review of that order by filing a petition for specialized review in the appellate court that would have jurisdiction over the appeal from the judgment of sentence.” Pa.R.A.P. 1610.

constrained to reverse the order of the trial court without prejudice to the Commonwealth to file a renewed motion to revoke Petitioner's bail.

The relevant facts are as follows. The Commonwealth charged Appellant with numerous counts of Indecent Assault of a Person Less than 16 Years of Age, Corruption of Minors, and Endangering the Welfare of Children. We glean from record and the notes of testimony of the August 24, 2026 bail revocation hearing that the alleged victim is a minor who resides in the home of Appellant's brother and Chelsea Moore.²

On June 11, 2025, the magistrate court set Appellant's bail at \$1,000,000. On September 2, 2025, the trial court modified bail to \$500,000, and a professional surety posted bond that same day.

On the morning of the commencement of Appellant's August 24, 2026 jury trial, the Commonwealth made an oral motion to revoke Appellant's bail. The trial court indicated it would consider the motion at the conclusion of the day's testimony. However, the trial court declared a mistrial shortly thereafter as the Commonwealth was presenting its case-in-chief.

Immediately following the trial court's decision to grant a mistrial, the court held a hearing on the Commonwealth's motion to revoke bail at which the Commonwealth presented no exhibits, testimony, or other evidence in support of its motion. Rather, the Commonwealth stated to the court that it would "call Chelsea Moore," who was apparently present in the courtroom,

² **See** N.T. Hr'g, 8/24/26, at 6; Trial Ct. Statement of Reasons, 9/10/26, at ¶ 3.

and then proceeded to proffer that Ms. Moore had reported that items, including a toy parrot bearing a pre-printed and commercially-attached statement,³ a duck, a squishy toy, and a small eraser-type toy,⁴ had appeared on the porch of her home the previous morning. According to the prosecutor, the printed statement on the parrot read: "I could talk to you today or quietly fly away. It is up to you to make me stay. It all depends on what you say." N.T. Hr'g, 8/24/26, at 4. Based on the presence of those items, which the prosecutor explained "gives me rise to believe that it was [Petitioner] that put those gifts there," and the ability of the person who brought the items to evade Ms. Moore's security cameras, the prosecutor argued that Petitioner had been at Ms. Moore's home. ***Id.*** at 4-5. The prosecutor believed that because Petitioner had been to Ms. Moore's home in the past and knew where the security cameras were located, Petitioner avoided the driveway, the doorbell, and the cameras. ***Id.*** at 5. The prosecutor surmised that there "would be no other reason, but [Petitioner] doing that" and "no other person" and that the verse was "intimidation of witness based on saying that in and of itself." ***Id.***

Petitioner's counsel argued in response that the Commonwealth's motion was "way, way past the line of speculation." ***Id.*** at 5. Counsel

³ The trial court refers to this toy as a "Beanie Baby." ***See*** Statement of Reasons, 9/10/26.

⁴ It is not clear from the notes of testimony whether the Commonwealth had these items or photographs of them at the hearing. It is clear, however, that the Commonwealth did not move for admission of the items into evidence.

observed that the items bore no signature, and no name or pet name linking Petitioner to the items and were readily available to the public-at-large in retail stores. Counsel also noted that the Commonwealth had no receipts, witnesses, or anything else linking Petitioner to the items and contended that the Commonwealth had no basis to assume that Petitioner was uniquely aware of the presence and location of Ms. Moore's security cameras.

Following the hearing, at which the court did not swear in any witnesses, did not mark or admit any exhibits, did not take any testimony, and did not make any factual findings, the court entered an order indicating that "following argument on the oral motion to revoke bail, upon consideration of same," it was revoking Petitioner's bail.⁵

On September 1, 2026, Petitioner filed the instant Petition pursuant to Pa.R.A.P. 1610, presenting three issues for our review:

1. Did the trial court abuse its discretion by revoking bail on the Commonwealth's unsworn proffer and argument, where no

⁵ On September 10, 2026, pursuant to an order of this Court, the trial court filed a statement of reasons in support of its decision to revoke Petitioner's bail. The court explained that it revoked Petitioner's bail because:

- a. Although it is circumstantial, the wording attached to the Beanie Baby gave this [c]ourt reason to believe it was [Petitioner] who placed the items on the porch.
- b. The [c]ourt was satisfied that there would be no reason for anyone other than [Petitioner] to place these items on the porch, especially since it was done the day before trial and done outside the camera's view.

Statement, 9/10/26, at 2 (unpaginated).

witness testified, no exhibit was admitted, and no legally competent evidence of any kind was placed on the record?

2. Did the trial court abuse its discretion by finding that [Petitioner] committed a bail violation, where the only link between [Petitioner] and the items left on the porch was a chain of stacked inferences and the record contained nothing—no signature, no name, no admissible identification—establishing that he left them or directed anyone to?
3. Did the trial court err by revoking bail without stating its reasons in writing or on the record, as Pa.R.Crim.P. 536 and Pa.R.Crim.P. 529 require?

Pet. at. 7.

“Generally, this Court reviews orders denying bail for an abuse of discretion, reversing only where the trial court misapplies the law, or its judgment is manifestly unreasonable, or the evidence of record shows that its decision is a result of partiality, prejudice, bias, or ill will. ***Commonwealth v. Miller***, 319 A.3d 575, 580 (Pa. Super. 2024). Moreover, this Court’s scope of review from the denial of bail is limited to the record evidence adduced at the bail hearing and the findings of the lower court, reviewed in the light most favorable to the prevailing party. ***Commonwealth v. Talley***, 265 A.3d 485, 527 (Pa. 2021). We will affirm the trial court’s denial of bail if the court’s “factual findings are supported by competent evidence of record, and [its] legal conclusions drawn therefrom are correct.” ***Id.***

The right to bail, with certain exceptions, is enshrined in Article I, Section 14 of the Pennsylvania Constitution, which provides in pertinent part:

All prisoners shall be bailable by sufficient sureties, unless for capital offenses or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of

conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great[.]

Pa. Const. art. I, § 14.

Rule 520 of the Pennsylvania Rules of Criminal Procedure provides that “[b]ail before verdict shall be set in all cases permitted by law. Whenever bail is refused, the bail authority shall state in writing or on the record the reasons for that determination.” Pa.R.Crim.P. 520(A).

Our Supreme Court has concluded that a trial court may deny bail under Article 1 Section 14 when the Commonwealth’s proffered evidence makes it substantially more likely than not that the accused: “(1) committed a capital offense, (2) committed an offense that carries a maximum sentence of life imprisonment, or (3) presents a danger to any person and the community, which cannot be abated using any available bail conditions. That determination requires a qualitative assessment of the Commonwealth’s case.” **Talley**, 265 A.3d at 525-26.

The **Talley** Court also provided a non-exhaustive list of factors a trial court should consider in reviewing bail, including: (1) the defendant’s character; (2) relevant behavioral history or past patterns of conduct; (3) the gravity of the charged offense; (4) the conditions of bail reasonably available to the court; and (5) any evidence that tends to show that those conditions would be inadequate to ensure the protection of any person or the community. **Id.** at 525. In making its determination, the Commonwealth must present a “substantial quantity of legally competent evidence, meaning evidence that is

admissible under either the evidentiary rules or encompassed in the criminal rules addressing release criteria.” **Id.** at 524. The Court stated that “[i]f the balance of the evidence is rife with uncertainty, legally is incompetent, requires excessive inferential leaps, or lacks any indicia of credibility, it simply is not evident proof, nor can it give rise to a great presumption, that the accused is not entitled to bail.” **Id.** at 526. Moreover, “the Commonwealth cannot satisfy its burden of persuasion solely by stacking inference upon inference.” **Id.** at 525 (citation and internal quotation marks omitted). In addition, the trial court must consider more than the allegations in the affidavit of probable cause and the “prosecutor’s proffer” when denying bail.” **Id.** at 528.

In his interrelated first two issues, Appellant claims that the trial court erred when it relied solely on the prosecutor’s proffer and stacked one impermissible inference atop another when revoking his bail. Pet. at 8-11. He argues, relying on **Talley**, that the Commonwealth failed to produce “a substantial quality of legally competent evidence” in support of its motion to revoke his bail. **Id.** at 8 (citing **Talley**, 265 A.3d at 524). He emphasizes that “[t]he record here is even thinner than the one reversed in **Talley**” because there the Commonwealth relied on both the allegations in the affidavit of probable cause and the prosecutor’s proffer whereas here there was merely “a spoken description of items, a recited verse, and the prosecutor’s statement that she ‘believe[d Petitioner] was responsible.” **Id.** at 9 (citing N.T. Hr’g at 5). Petitioner highlights the absence of evidence that he alone knew where

Ms. Moore's security cameras were located, and any store receipts or store witnesses to prove that he bought the items found on the porch. *Id.* at 10.

Following our review of the notes of testimony from the bail revocation hearing, we agree with Petitioner that the trial court erred in revoking his bail. Our review indicates that the Commonwealth did not present any evidence or testimony to support its contention that it was Petitioner who placed the items on Ms. Moore's porch. In particular, the Commonwealth failed to call any witnesses to testify to finding the items, when they appeared, or that Petitioner bought them, and the trial court did not admit any evidence—legally competent or otherwise—to support the Commonwealth's theory that it was Petitioner who delivered or directed the delivery of the items. In light of this absence of evidence, we conclude the trial court improperly relied exclusively on the prosecutor's unsworn proffer in reaching its decision to revoke Petitioner's bail.

Accordingly, having found that trial court abused its discretion in revoking Petitioner's bail, we vacate the order revoking Petitioner's bail and remand to the trial court for reinstatement of the \$500,000 monetary bail and the conditions of release in effect before August 24, 2026.^{6, 7}

Order vacated. Case remanded with instructions. Jurisdiction relinquished.

⁶ We emphasize that make this determination without prejudice to the Commonwealth's right to file a renewed motion to revoke Petitioner's bail.

⁷ In light of our disposition, we need not address Petitioner's third issue.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 10/09/2026