

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
CHARLES CLIFTON WOODSON	:	
	:	
Appellant	:	No. 2014 EDA 2025

Appeal from the Judgment of Sentence Entered March 17, 2025
In the Court of Common Pleas of Montgomery County Criminal Division
at No(s): CP-46-CR-0000273-2022

BEFORE: LAZARUS, P.J., MURRAY, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY LAZARUS, P.J.:

FILED AUGUST 21, 2026

Charles Clifton Woodson appeals from the judgment of sentence, entered in the Court of Common Pleas of Montgomery County, following his conviction for aggravated assault.¹ Woodson's counsel, Sean E. Cullen, Esquire, has filed a motion to withdraw and an accompanying **Anders**² brief. Upon review, we grant, with instructions, Attorney Cullen's application to withdraw and affirm Woodson's judgment of sentence.

The trial court summarized the factual and procedural history of this case as follows:

* Retired Senior Judge assigned to the Superior Court.

¹ 18 Pa.C.S.A. § 2702(a)(1).

² **Anders v. California**, 386 U.S. 738 (1967). **See also Commonwealth v. McClendon**, 434 A.2d 1185 (Pa. 1981); **Commonwealth v. Santiago**, 978 A.2d 349 (Pa. 2009).

At approximately 10:09 a.m. on Thursday, December 16, 2021, Jenkintown Police Officers responded to the report of an assault at 500 York Road in Jenkintown, Montgomery County. Upon arrival, a witness informed officers that the victim ([]Ms. Wright[]) had been involved in a verbal altercation that turned physical, which left her unconscious at the time of the 911 call. Cell phone video taken by a construction worker located in a dump truck with other construction vehicles in the center lane on York Road, as well as surveillance video from Jenkintown Square, a building across the street from the intersection at that location, verify the witness's recitation of the altercation.

As depicted in the video, a silver car [was] stopped at a red light[;] behind that vehicle [was] the Honda hatchback that Ms. Wright was driving, and behind her [was Woodson] driving a black Ford F-150 truck with a black female in the passenger seat. Although it is unclear exactly what triggered the incident, the female passenger, later identified as co[-]defendant[,] September Wingfield, jumped out of the truck, passed in between the two vehicles and went over to the driver's side of Ms. Wright's vehicle. It appears words [were] exchanged before [Wingfield] return[ed] to the passenger side of [Woodson's] truck. Ms. Wright exited her vehicle and threw something, possibly coffee, at [Wingfield], and then threw the empty coffee cup into the driver's side of the truck and returned to her vehicle. [Wingfield] again jumped out of the truck, followed Ms. Wright to her car, and began punching Ms. Wright.

[Woodson] quickly exited his truck, following the pair, and can be heard on surveillance video telling his co[-]defendant to "get it, get it, get it[,]" trapping Ms. Wright in her car. [Woodson], who is six feet, three inches (6'3") tall, then began reaching into Ms. Wright's car, striking her repeatedly. Together, [Woodson] and his co-defendant then dragged Ms. Wright out of her car onto the street, where they both kicked and stomped on her chest, face, and head, rendering her unconscious, before returning to [Woodson's] Ford F-150 truck. Three [] construction workers came to Ms. Wright's aid. Because he was boxed in and could not drive on the street, [Woodson] drove his truck onto the sidewalk, around the car in front of him, and through a red light, to flee the scene, leaving Ms. Wright unconscious on the street.

On March 8, 2023, the court imposed an above[-]aggravated[-]range sentence of seven and one-half (7½) to fifteen (15) years of imprisonment. On March 17, 2023, [Woodson] filed timely

post-sentence motions, which the court denied on August 7, 2023. On August 23, 2023, [Woodson] filed a timely notice of appeal. On February 24, 2024, the Superior Court vacated the judgment of sentence and remanded for resentencing in light of the Pennsylvania Supreme Court's [] decision in **Commonwealth v. Berry**, 323 A.3d 641 (Pa. 2024). Specifically, the Superior Court held that the court's explicit consideration of [Woodson]'s arrest record when imposing sentence, which included arrests without convictions, was in direct violation of the holding in **Berry**. The Superior Court directed the court to resentence without consideration of [Woodson]'s arrest record, other than those resulting in convictions. [**See Commonwealth v. Woodson**, 332 A.3d 1261 (Pa. Super. 2024) (Table).] The Superior Court [] relinquished jurisdiction.

The [Honorable Wendy G. Rothstein] took custody of this matter from Judge [Thomas P.] Rogers upon his retirement on January 3, 2025.

Trial Court Opinion, 8/8/25, at 1-2 (internal citation and footnotes omitted).

In preparation for resentencing, the trial court ordered an updated pre-sentence investigation report (PSI), which excluded reference to the arrests without convictions as directed by this Court. **See** N.T. Sentencing Hearing, 3/17/25, at 7. On March 17, 2025, the court again imposed an above-aggravated-range sentence of seven and one-half (7½) to fifteen (15) years of imprisonment. On March 20, 2025, Woodson filed a timely post-sentence motion, alleging the trial court abused its sentencing powers when it sentenced him to a sentence of incarceration grossly higher than the guidelines prescribed. **See** Appellant's Post-Sentence Motion, 3/20/25, at 1-2. The trial court denied Woodson's motion on July 10, 2025.

On July 25, 2025, Woodson simultaneously filed a timely notice of appeal and a Pa.R.A.P. 1925(b) concise statement of errors complained of on

appeal. The trial court filed its Rule 1925(a) opinion on August 8, 2025. On October 8, 2025, Attorney Cullen filed an **Anders** brief in this Court and an accompanying application to withdraw.³

Notably, in his application to withdraw, Attorney Cullen improperly framed Woodson's ability to respond, proceed *pro se*, or hire new counsel as contingent upon the granting of Attorney Cullen's petition to withdraw. **See** Application to Withdraw, 10/8/25, at 2. Attorney Cullen also failed to attach a letter advising Woodson of his rights to pursue the appeal or proof of service to Woodson of the **Anders** brief. **See Commonwealth v. Harden**, 103 A.3d 107, 110 (Pa. Super. 2014) ("Counsel also must provide a copy of the **Anders** brief to the appellant" as well as a letter that advises client of following rights: "(1) retain new counsel to pursue the appeal; (2) proceed *pro se* on appeal; or (3) raise any points that the appellant deems worthy of the court's attention in addition to the points raised by counsel in the **Anders** brief.") (citation omitted).

As a result, on November 17, 2025, this Court entered an order directing Attorney Cullen to file an amended petition to withdraw as counsel as well as send a letter to Woodson, advising Woodson of his rights to pursue the appeal. Attorney Cullen failed to respond within ten days as directed. On December

³ On October 16, 2025, this Court's Prothonotary notified Attorney Cullen via letter that properly bound paper copies of the brief and reproduced record had not been received. Attorney Cullen did not respond. On October 29, 2025, this Court entered an order directing Woodson to file a paper version of his brief and the requisite number of paper copies within seven days. **See** Order, 10/29/2025. Attorney Cullen again failed to respond.

22, 2025, this Court entered an order directing Attorney Cullen to comply with this Court's order of November 17, 2025, within five days. Again, Attorney Cullen failed to respond.

On January 20, 2026, this Court remanded the appeal for the trial court to determine whether Attorney Cullen had abandoned Woodson. The trial court determined that Attorney Cullen had not abandoned Woodson, because his failure to respond was due to his changing law firms and, as a result, Attorney Cullen had not received the orders from this Court. **See** Trial Court's Response to Order, 2/7/26. On February 2, 2026, Attorney Cullen filed an amended petition to withdraw as well as an undated letter to Woodson. **See** Amended Petition to Withdraw, 2/2/26, at 3 (unpaginated). Accordingly, this Court's Prothonotary updated the contact information for Attorney Cullen with the address and phone number provided on the amended petition. **See** Order, 4/7/26.

However, once again, Attorney Cullen's petition to withdraw was inadequate. Attorney Cullen failed to properly convey Woodson's rights to pursue the appeal. **See** Amended Petition to Withdraw, 2/2/26 at 3 (unpaginated) ("As you know[,], I filed an **Anders** Brief in your matter. **Should my Amended Petition to Withdraw be granted you have the following rights. . . .**") (emphasis added). Furthermore, he failed to provide certification confirming proof of service to Woodson. On April 7, 2026, this Court directed Attorney Cullen to "file an amen[d]ed petition to withdraw as counsel along with a dated letter to Woodson, properly advising Woodson of

his *immediate* right to retain new counsel to pursue the appeal, proceed *pro se* on appeal, or raise any additional points that [Woodson] deems worthy of this Court's attention in addition to the points raised by Attorney Cullen in the **Anders** brief" within seven days of the date of the order. Order, 4/7/26 (*italics in original*). The order also required Attorney Cullen to include certification of service to Woodson. **Id.** Once again, Attorney Cullen neither responded to nor complied with the order.

On May 1, 2026, this Court issued another order, mailed directly to Woodson at his prison address, wherein we advised Woodson of his right to retain new counsel for appeal, proceed *pro se*, or raise any additional arguments he deems worthy of our attention. **See** Order, 5/1/26. This Court also provided Woodson with copies of Attorney Cullen's petitions to withdraw and **Anders** brief and permitted him thirty days to respond. Woodson did not retain alternate counsel or file a *pro se* response raising any additional issues.

When faced with an **Anders** brief and petition to withdraw as counsel, we may not review the merits of the underlying issues or allow withdrawal without first deciding whether counsel has complied with all requirements set forth in **Anders** and **Santiago**. **See Commonwealth v. Orellana**, 86 A.3d 877, 879 (Pa. Super. 2014). We have summarized the technical requirements as follows:

Direct appeal counsel seeking to withdraw under **Anders** must file a petition averring that, after a conscientious examination of the record, counsel finds the appeal to be wholly frivolous. Counsel must also file an **Anders** brief setting forth issues that might

arguably support the appeal along with any other issues necessary for the effective appellate presentation thereof.

* * *

Anders counsel must also provide a copy of the **Anders** petition and brief to the appellant, advising the appellant of the right to retain new counsel, proceed *pro se*[,] or raise any additional points worthy of this Court's attention.

If counsel does not fulfill the aforesaid technical requirements of **Anders**, this Court will deny the petition to withdraw and remand the case with appropriate instructions (e.g., directing counsel either to comply with **Anders** or file an advocate's brief on [a]ppellant's behalf).

Commonwealth v. Woods, 939 A.2d 896, 898 (Pa. Super. 2007) (citations omitted). Additionally, there are substantive requirements governing the content of the **Anders** brief:

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

Commonwealth v. Falcey, 310 A.3d 313, 315 (Pa. Super. 2024), quoting **Santiago**, 978 A.2d at 361.

If counsel has substantially complied with the above requirements, it is then this Court's duty to conduct its own review of the record to determine whether there are any other nonfrivolous issues that the appellant could raise on appeal. **Commonwealth v. Dempster**, 187 A.3d 266, 272 (Pa. Super. 2018) (en banc).

The record reflects that Attorney Cullen filed a petition with this Court stating that, after reviewing the record, he finds this appeal to be frivolous. **See** Petition to Withdraw, 10/8/25, at 2. Attorney Cullen's brief conforms to the requirements of **Santiago**.⁴ His brief includes summaries of the facts and procedural history of this case, states "there are no issues of arguable merit to appeal[,] " and concludes that the trial court, when resentencing Woodson "had the same tools the original sentencing court had, [] did not consider **Berry** evidence, with additional mitigating evidence[,] and no manifest abuse of discretion exists in the record." **Anders** Brief, at 7-13.

As noted above, however, Attorney Cullen repeatedly failed to properly advise Woodson of his rights as well as failing to provide this Court with proof that he served Woodson both the **Anders** brief and letter. Nonetheless, because Woodson received the information regarding his appellate rights and Attorney Cullen's **Anders** brief directly from this Court, **see** Order, 5/1/26, we proceed to review the merits of the claims raised. **See Commonwealth v. Johnson**, 2026 Pa. Super. Unpub. LEXIS 967, at *11-12 (Pa. Super. filed Apr. 13, 2026) (unpublished memorandum decision) (after counsel's

⁴ While we find this brief to be minimally compliant with **Santiago**, we caution Attorney Cullen that his **Anders** brief comes dangerously close to simply agreeing with the trial court. **See Commonwealth v. Boozer**, 222 A.3d 890, at *8 (Pa. Super. 2019) (Table) (counsel's petition to withdraw denied when "[the attorney] has done nothing more than present conclusory statements supporting affirmance of the verdict."). **See also** Pa.R.A.P. 126(a)-(b) (unpublished, non-precedential memorandum decisions of this Court, filed after May 1, 2019, may be cited for persuasive value).

continued failure to inform appellant of his rights, this Court filed order informing appellant of his rights and proceeded to review claims).

Attorney Cullen's **Anders** brief identifies one issue: "Whether the [sentencing] court committed an error of law and/or abuse of discretion when it denied [Woodson]'s post[-]sentence motion for reconsideration of sentence because the sentence was unduly harsh and excessive?" **Anders** Brief, at 9.

This issue presents a challenge to the discretionary aspects of Woodson's sentence. **See Commonwealth v. Lee**, 876 A.2d 408, 411 (Pa. Super. 2005) ("[A] claim that the sentence imposed by the trial court was manifestly excessive is a challenge to the discretionary aspects of the sentence[.]") (citation omitted). There is "no absolute right to appeal when challenging the discretionary aspect of a sentence." **Commonwealth v. Crump**, 995 A.2d 1280, 1282 (Pa. Super. 2010). To invoke this Court's jurisdiction, Woodson must satisfy the following four-part test:

(1) the appellant preserved the issue either by raising it at the time of sentencing or in a post-sentence motion; (2) the appellant filed a timely notice of appeal; (3) the appellant set forth a concise statement of reasons relied upon for the allowance of his appeal pursuant to Pa.R.A.P. 2119(f); and (4) the appellant raises a substantial question for our review.

Commonwealth v. Rivera, 312 A.3d 366, 376-77 (Pa. Super. 2024) (citation and brackets omitted).

A substantial question is determined on a case-by-case basis and exists "only when the appellant advances a colorable argument that the sentencing judge's actions were either: (1) inconsistent with a specific provision of the

Sentencing Code; or (2) contrary to the fundamental norms which underlie the sentencing process.” ***Commonwealth v. McCain***, 176 A.3d 236, 240 (Pa. Super. 2017). A “substantial question determination does not require the court to decide the merits of whether the sentence is clearly unreasonable.” ***Commonwealth v. Dodge***, 77 A.3d 1263, 1270 (Pa. Super. 2013).

The record reflects that Woodson filed a timely appeal and post-sentence motion. Attorney Cullen did not, however, include a Rule 2119(f) statement in his ***Anders*** brief. The Commonwealth did not object to this omission;⁵ therefore, we may ignore it and determine whether Woodson’s claim raises a substantial question. ***See Commonwealth v. Kiesel***, 854 A.2d 530, 533 (Pa. Super. 2004) (where Commonwealth does not object to omission of Rule 2119(f) statement, this Court may either proceed to determination of substantial question or find claim waived sua sponte). Moreover, as this argument is presented in an ***Anders*** brief, we may overlook the absence of the Rule 2119(f) statement on that basis as well. ***See Commonwealth v. Zeigler***, 112 A.3d 656, 661 (Pa. Super. 2015) (“Where counsel files an ***Anders*** brief, this Court has reviewed the matter even absent a separate Pa.R.A.P. 2119(f) statement.”).

Woodson contends his sentence was unfairly harsh and excessive because it was the same as his original sentence, which improperly considered arrests without convictions in violation of ***Berry***. Woodson asserts that,

⁵ The Commonwealth did not file a brief in this matter.

absent that information and considering the mitigating factors, his new sentence is “grossly higher than the guidelines prescribed.” **See** Appellant’s Post-Sentence Motion, 3/20/25, at 2. This claim presents a substantial question. **See Commonwealth v. Beatty**, 227 A.3d 1277, 1287 (Pa. Super. 2020) (claim that sentencing court sentenced defendant outside guidelines without sufficient reason raises substantial question).

Our standard of review is well-established:

Sentencing is a matter vested in the sound discretion of the sentencing judge, and a sentence will not be disturbed on appeal absent a manifest abuse of discretion. Appellant must establish, by reference to the record, that the sentencing court ignored or misapplied the law, exercised its judgment for reasons of partiality, prejudice, bias[,] or ill will, or arrived at a manifestly unreasonable decision.

Commonwealth v. Devine, 326 A.3d 935, 939 (Pa. Super. 2024) (citations omitted).

The Sentencing Code requires a sentencing court to “follow the general principle that the sentence imposed should call for confinement that is consistent with . . . the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the defendant.” 42 Pa.C.S.A. § 9721. “The balancing of the sentencing factors is the sole province of the sentencing court.” **Commonwealth v. Miller**, 275 A.3d 530, 535 (Pa. Super. 2022) (citation omitted).

With respect to a sentence outside of the recommended guidelines:

When evaluating a challenge to the discretionary aspects of [a] sentence . . . it is important to remember that the sentencing

guidelines are advisory in nature. If the sentencing court deems it appropriate to sentence outside of the guidelines, it may do so as long as it offers reasons for this determination. [O]ur Supreme Court has indicated that if the sentencing court proffers reasons indicating that its decision to depart from the guidelines is not [un]reasonable, we must affirm a sentence that falls outside those guidelines.

* * *

A sentencing court, therefore, in carrying out its duty to impose an individualized sentence, may depart from the guidelines when it properly identifies a particular factual basis and specific reasons which compelled [it] to deviate from the guideline range.

Commonwealth v. Shull, 148 A.3d 820, 836 (Pa. Super. 2016) (citations, quotation marks, and emphasis omitted). Notably, where a sentencing court is informed by a PSI, “it is presumed that the court is aware of all appropriate sentencing factors and considerations, and[,]where the court has been so informed, its discretion should not be disturbed.” ***Miller***, 275 A.3d at 535.

Based on our review of the record, we discern no abuse of discretion by the trial court. ***See Devine, supra***. Here, the trial court had the benefit of an updated PSI report excluding reference to any arrests without a conviction,⁶ a psychological evaluation, the testimony of Woodson’s mother, Woodson’s own statements during the sentencing hearing, and several videos and pictures of the incident. ***See*** N.T. Sentencing Hearing, 3/17/25, at 7, 17-23, 28-31. Furthermore, the court considered the sentencing guidelines. ***Id.*** at 6-7. Therefore, the record indicates the court was aware of relevant

⁶ The trial court explicitly stated it did not review the original PSI, nor did it consider any arrests without convictions. ***See*** N.T. Sentencing Hearing, 3/17/25, at 7.

information regarding Defendant's character, including mitigating factors, and weighed those factors when it imposed sentence. **See Commonwealth v. Rhoades**, 8 A.3d 912, 919 (Pa. Super. 2010) (noting that where "the sentencing court had the benefit of a [PSI], we can assume the sentencing court was aware of relevant information regarding the defendant's character and weighed those considerations along with mitigating statutory factors") (citation and quotation marks omitted); **see also** N.T. Sentencing Hearing, 3/17/25, at 35 (trial court taking into account that Woodson pled guilty and "admitted and owned up to [his] involvement"); **id.** at 34 (trial court acknowledging Woodson's efforts to turn life around and make best of time incarcerated).

The court specified its reasons for its deviation from the guidelines on the record, including: the brutality of the assault, **see id.** at 31-33; Woodson's failure to render aid to the victim and his flight from crime scene, **id.** at 33; the impact of the crime on the victim, **id.** at 33-34; and the public outrage over the crime, **id.** at 34. **See Shull, supra.** Succinctly put, the trial court "considered the magnitude of [Woodson]'s actions and determined that, even when taking mitigating factors into account, these factors did not justify a guideline[-]range sentence in light of the brutality of [Woodson]'s crime." Trial Court Opinion, 8/8/25, at 8-9.

Accordingly, Woodson's claim the sentencing court abused its discretion in sentencing him outside the guidelines is meritless. **Commonwealth v. Walls**, 926 A.2d 957, 966-68 (Pa. 2007) (holding that so long as trial court

imposed individualized sentence that was reasonable there was no abuse of discretion even where that sentence exceed guidelines); ***Commonwealth v. Smith***, 206 A.3d 551, 568-69 (Pa. Super. 2019) (affirming outside-guideline-range sentence where trial court considered PSI, appellant's rehabilitative needs, need to protect community, and nature and gravity of offense).

Finally, our independent review of the record reveals no other non-frivolous issues that Woodson could raise on appeal. ***See Dempster***, 187 A.3d at 272; ***see also Commonwealth v. Morrison***, 173 A.3d 286, 290 (Pa. Super. 2017) ("Generally, a plea of guilty amounts to a waiver of all defects and defenses except those concerning the jurisdiction of the court, the legality of the sentence, and the validity of the guilty plea."). We, therefore, grant Attorney Cullen's petition to withdraw and affirm Woodson's judgment of sentence.

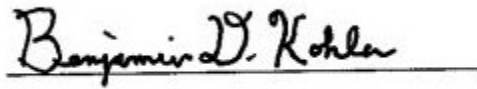
Although we grant the petition to withdraw, we cannot overlook Attorney Cullen's repeated failures to comply with this Court's orders, which necessitated numerous interventions by this Court. This Court issued three orders directing Attorney Cullen to provide correct information to Woodson regarding his appellate rights in the face of an ***Anders*** brief and petition to withdraw. ***See*** Order, 11/17/25; Order, 12/22/25; Order, 4/7/26. Attorney Cullen failed to adequately comply, even after an additional order was sent to the new address Attorney Cullen provided. Additionally, this Court was compelled to remand this appeal to the trial court to ensure Attorney Cullen had not abandoned Woodson on appeal. ***See*** Order, 1/20/26.

We are guided by ***Johnson, supra***, which found counsel's "repeated failures to respond to this Court's orders [] 'both irresponsible and troubling' and antithetical to 'the administration of justice.'" ***Id.*** at *33, quoting ***Commonwealth v. Frazier***, 330 A.3d 822, 824 (Pa. Super. 2024). There, while permitting counsel to withdraw, this Court directed the trial court to withhold attorneys' fees yet to be paid and/or to recover those fees already paid in connection with the appeal, due to the attorney's conduct throughout the appeal, in particular, "his abdication of his duty not only to comply with this Court's orders, but to inform his client of his rights." ***Johnson, supra***, at *33.

Here, due to Attorney Cullen's similar behavior, we direct the trial court to review Attorney Cullen's petition for compensation and determine whether to withhold those fees which would be paid and/or to recover those fees already paid to Attorney Cullen in connection with this appeal. ***See Commonwealth v. Foster***, 560 A.2d 800, 802 (Pa. Super. 1989) (allowing counsel to withdraw, but directing lower court to withhold any fees owed to counsel in connection with his appointment in that case because of counsel's "failure to comply with our explicit directives"); ***see also Commonwealth v. McDaniels***, 785 A.2d 120, 122 (Pa. Super. 2001) (directing trial court to "withhold any fees which would normally be paid for this appeal").

Judgment of sentence affirmed. Petition to withdraw granted, with instructions. Jurisdiction relinquished.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 8/21/2026