

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

**V.**

RASHEAN ANTHONY COTTOM

Appellant

: IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

: No. 1525 WDA 2025

Appeal from the Judgment of Sentence Entered August 29, 2025  
In the Court of Common Pleas of Beaver County  
Criminal Division at No: CP-04-CR-0000234-2024

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

**V.**

RASHEAN ANTHONY COTTOM

Appellant

: IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

: No. 1526 WDA 2025

Appeal from the Judgment of Sentence Entered August 29, 2025  
In the Court of Common Pleas of Beaver County  
Criminal Division at No: CP-04-CR-0000642-2024

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

**V.**

RASHEAN ANTHONY COTTOM

Appellant

: IN THE SUPERIOR COURT OF  
:  
: PENNSYLVANIA

: No. 1527 WDA 2025

Appeal from the Judgment of Sentence Entered August 29, 2025  
In the Court of Common Pleas of Beaver County  
Criminal Division at No: CP-04-CR-0000965-2024

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF  
: PENNSYLVANIA

v.

RASHEAN ANTHONY COTTOM

Appellant

: No. 1528 WDA 2025

Appeal from the Judgment of Sentence Entered August 29, 2025  
In the Court of Common Pleas of Beaver County  
Criminal Division at No: CP-04-CR-0001543-2024

BEFORE: STABILE, J., DUBOW, J., and STEVENS, P.J.E.\*

MEMORANDUM BY STABILE, J.:

**FILED: August 26, 2026**

In these consolidated direct appeals, Appellant, Rashean Anthony Cottom, appeals from his judgment of sentence of 8½ - 27 years' imprisonment for crimes of violence, including rape, and intimidation of witnesses, committed against his ex-girlfriend. Counsel for Appellant has filed an application to withdraw as counsel and a brief pursuant to ***Anders v. California***, 268 U.S. 738 (1967). We grant counsel's application to withdraw and affirm.

The trial court summarized the evidence adduced during trial as follows:

[Appellant] and the victim in this case, [M.W.], met about four years before trial. They began dating, but their relationship "was toxic at points." [Appellant] and [M.W.] were together on-and-off during the course of their relationship. On February 21, 2022, [M.W.] gave birth to their daughter, who lived with her at the time of the criminal incidents that gave rise to this case. [M.W.] and [Appellant] eventually broke up for good in early October 2023, and they never had consensual sex again after they broke up, but they still remained in each other's lives since they had a child

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\* Former Justice specially assigned to the Superior Court.

together. They would take their daughter to parks, family events, and church together. [Appellant] and [M.W.] were not living together during this time period from October 2023 to January 2024.

On Christmas day 2023, [Appellant] accused [M.W.] of having sex with his father, Anthony Cottom. Even though [M.W.] had never even been alone with his father, [Appellant] punched [M.W.] in relation to this allegation. On January 20, 2024, [M.W.] called the police and spoke with Officer Stephen Zubach of the New Brighton Police Department to inquire about obtaining a Protection From Abuse ("PFA") order against [Appellant]. [M.W.] told Officer Zubach that she and [Appellant] had gotten into an argument and since then he had been sending her threatening texts, phone calls, and voice messages. At that point, [M.W.] wanted to obtain a PFA order, but she was not interested in pressing charges yet. Officer Zubach contacted [Appellant] by phone and told him to stop communicating with [M.W.] unless it pertained to their child.

That night, after speaking with Officer Zubach, [M.W.] asked her friend Kamryn Spencer to spend the night with her at her apartment because she was too scared to be there alone because of the threats [Appellant] had made. While Ms. Spencer was at the apartment, she and [M.W.] barricaded the front door to the apartment with a coffee table and chair to prevent [Appellant] from entering, or to at least hear him if he did. That night, at about 2:00 A.M., [Appellant] broke into the apartment and through the barricade, and Ms. Spencer pepper-sprayed him. [Appellant] told Ms. Spencer not to call the police. [Appellant] claimed that he was there to see his daughter. [Appellant] later beat [M.W.] up that night in her bedroom out of Ms. Spencer's view.

A few days later, on the evening of January 24, 2024, [Appellant] arrived at [M.W.]'s apartment uninvited and unannounced. Although he was uninvited, [M.W.] was afraid to call the police because [Appellant] had previously told her that if she called 911 he would kill her before police got inside the building. Eventually [Appellant] and [M.W.] went to bed, and when they woke up, [Appellant] said he had a dream that [M.W.] had sex with his father and then struck her in the face hard enough to cause her to start "seeing stars" and bleed profusely from her nose, which hurt her. [M.W.] then sent a text message to Ms. Spencer describing how [Appellant] had just hit her, and Ms. Spencer

texted her own mother about what [M.W.] told her. Ms. Spencer contacted the New Brighton Area Police Department at about 9:30 A.M. and requested officers to check on [M.W.] because [Appellant] had struck her in the face that morning.

Officer Keith Smith went to [M.W.]'s apartment, and upon reaching her [M.W.] confirmed that [Appellant] had struck her in the face. [M.W.] showed officers pictures of her bloody nose and the bloody bath tissue that she had used to contain the bleeding. [M.W.]'s nose was swollen and painful for a few days after the assault. Officer Smith spoke with the property manager of [M.W.]'s apartment building to have her locks changed after this incident. Based on [M.W.]'s allegations, Officer Smith applied for an arrest warrant for [Appellant], and he was arrested later that day.

On February 9, 2024, the preliminary hearing for the simple assault case was held. At that time, [Appellant] agreed to a final three-year PFA Order, and he acknowledged that he was banned from [M.W.]'s apartment complex, Valley View Gardens, as of that date.

On March 5, 2024, [Appellant] was released from jail on bail. As stated above, a condition of [Appellant]'s bond was that he have no contact with the victim in the case, [M.W.] After [Appellant]'s release from jail, he and [M.W.] had contact limited for the custody and care of their minor daughter. They went to church together, to [Appellant]'s parents' house, and to parks as a family, and spoke on the phone and through text to discuss their child. However, [Appellant] did not spend the night at [M.W.]'s apartment during this time, and they did not reenter into an intimate relationship of any kind; their contact was limited to co-parenting their child.

On the evening of April 3, 2024, without any invitation from [M.W.], [Appellant] arrived at [M.W.]'s apartment and knocked on her door. [M.W.] tried to look through her front door's peephole to see who had knocked, but the peephole was covered. [M.W.] opened the door slightly to see who had knocked, and [Appellant] immediately pushed his way inside the apartment. [M.W.] did not invite [Appellant] to her apartment and did not know that he was coming. Once inside the apartment, [Appellant] grabbed [M.W.]'s phone so that she could not call the police, and he told her that if she called the police he would kill her before they got there.

[Appellant] stated that he was there to see their daughter. [M.W.], the [Appellant], and their daughter laid in [M.W.]’s bed for a while and eventually [M.W.] and the minor fell asleep. [Appellant] woke [M.W.] up and told her to put their daughter in her own bedroom. [M.W.] did so, and when she returned to her own bedroom she told [Appellant] that since the baby was asleep there was no reason for him to be there anymore. Instead of leaving, [Appellant] stated “we’re having sex.” [M.W.] did not want to have sex and told [Appellant] so, but [Appellant] kept repeating that they were going to have sex. [M.W.] continued to say no and that she did not want to have sex. Despite her protestations, [Appellant] pulled down [M.W.]’s shorts and started penetrating her vagina with his penis. [Appellant] and [M.W.] were laying in her bed; [Appellant] was laying behind her with his stomach against her back. [Appellant] used one hand to squeeze her arm hard enough to leave a bruise and his other arm was around her neck in order to restrain [M.W.] [M.W.] was scared for her life because the [Appellant] had strangled her in the past, and she felt that her only option in that moment was to lay there. [M.W.] felt that there was no point in fighting back because every time she had fought back before [Appellant] just hurt her even more. The vaginal penetration hurt [M.W.]; she felt like something inside her was tearing. Eventually [Appellant] ejaculated inside [M.W.]’s vagina and afterward [M.W.] laid on the bed silently crying until she fell asleep.

The next morning, on April 4, 2024, [M.W.] was woken up by her phone alarm, which is when she discovered that her phone was underneath [Appellant]. [M.W.] asked [Appellant] for her phone back so she could go to work but he refused and insisted on driving her to work. [M.W.] got herself and the baby ready for the day, and then [Appellant] drove them to [M.W.]’s place of work, Bullfrogs and Butterflies Child Care Center in New Brighton. During the drive, [M.W.] confronted [Appellant] about the rape, and he stated “sorry, I didn’t think you would cry about it.” Once they arrived at Bullfrogs and Butterflies, [Appellant] gave [M.W.] her cellphone back. [M.W.] allowed [Appellant] to give her a kiss because she was scared that he would “have an episode” if she refused to kiss him.

Once at work, [M.W.] was not acting like her normal self, and she told one coworker, Carlie Smith, that the [Appellant] had raped her the night before. [Appellant] started texting [M.W.] again while she was at work. Next, from 2:05 P.M. to around 4:00 P.M.,

[Appellant] tried to call [M.W.] through Facebook Messenger fifteen times, but she did not answer his calls. [Appellant] claimed that [M.W.] owed him money, even though she did not. [Appellant] was also messaging and calling [M.W.] through Snapchat while he was contacting her through Facebook. [Appellant] texted [M.W.] "where is my money dead person," which [M.W.] took to mean that [Appellant] would kill her if she did not give him the money. [Appellant] also said "send me myMONEY" "FYM 16 BYE" "YOU GON SEE" "Where is my money", and "You'll never see me again or else I want my bread" "That's on [our daughter's] life\*.'" [M.W.] responded to [Appellant] by saying "like the threats sir" and [Appellant] responded "I'm me watch what happens to you". [Appellant] also said "u calling the courthouse n calling them off too or that's ya life On [our daughter's] life." [M.W.] understood this to mean that if she did not drop the charges against [Appellant], at that time meaning the simple assault case, then he would kill her. [Appellant] called [M.W.] through Snapchat fifteen times. In addition, [she saw] that [Appellant] was sharing his location with [M.W.], and she saw that he was sitting in the alley outside the daycare at this time, which also made [M.W.] scared for her safety as well as the safety of the other people at the daycare, including the children there.

While he was calling and messaging [M.W.], [Appellant] also began calling the Bullfrogs and Butterflies daycare office at around 1:00 P.M. Jared Williams, the director of the daycare, answered the first call, and [Appellant] said that he needed to speak with [M.W.] immediately. Mr. Williams told [Appellant] that [M.W.] was in a classroom with children at that time and so she was not available to leave the classroom to talk to him on the phone. [Appellant] demanded that Mr. Williams get [M.W.] on the phone, but Mr. Williams repeated that [M.W.] was not available and hung up. [Appellant] called again and said, "Put Maddie on the fucking phone", and Mr. Williams replied that since [Appellant] was cussing at him he did not have to keep talking to him, so he hung up again. [Appellant] called again, so they had to pull [M.W.] out of her classroom and she showed Mr. Williams the threatening texts that [Appellant] was sending her. [Appellant] called a fourth time and said "put Maddie on the fucking phone" and continued cussing at Mr. Williams. Mr. Williams told [Appellant] that he was harassing him, that [M.W.] would not be talking to him during work hours, and that [Appellant] needed to stop calling the daycare. [Appellant] called [M.W.] at that point, and [M.W.] put him on speaker, so Mr. Williams heard [Appellant] call him a

"corny ass n\*\*\*\*\*." Mr. Williams had never even seen [Appellant] before, so hearing him call him the N-word was upsetting. At that point Mr. Williams, who also lives at the daycare, offered to let [M.W.] stay there that night for her safety. Later on, at around 3:45 P.M., [M.W.] sent Mr. Williams screenshots of [Appellant]'s location showing that he was basically circling the daycare. [M.W.] was crying in one of the classrooms because [Appellant] was trying to get her and he knew that her shift was ending at that time. At that point, Mr. Williams called the police and informed them that the [Appellant] was driving around the building and harassing [M.W.]

At about 3:25 P.M., Officer Zubach performed a traffic stop of a vehicle in the vicinity of Bullfrogs and Butterflies. The driver of the car, later identified as [Appellant], said his name was Sheen Anthony and told Officer Zubach that he was going to pick up his daughter. Along with the misleading name, [Appellant] also provided a fake date of birth. [Appellant]'s friend Christopher Sakony was also in the vehicle.

Shortly after this traffic stop at about 4:00 P.M., Officer Conley was dispatched to Bullfrogs and Butterflies to respond to Mr. Williams' report that [Appellant] was circling the daycare and sending threatening messages to [M.W.] Upon arrival, Mr. Williams directed Officer Conley to [M.W.]'s location. [M.W.] informed Officer Conley that [Appellant] was texting her from outside the daycare threatening to kill her if she did not give him money for his new baby with another woman and call the courthouse to drop the charges in the simple assault case. Based on what [M.W.] told and showed him, Officer Conley decided to arrest [Appellant].

Meanwhile, Officer Zubach had also responded to the 911 call from Bullfrogs and Butterflies. While Officer Conley was inside the daycare speaking to [M.W.], Officer Zubach approached [Appellant] in his car and again spoke with him, this time at about 4:00 P.M. Now, instead of telling the officer that he was going to pick up his daughter like he did previously, [Appellant] told Officer Zubach that he was going to Beaver Falls, then Ambridge.

After talking with [M.W.], shortly after 4:00 P.M., Officer Conley joined Officer Zubach at [Appellant]'s vehicle in the alley next to the daycare and placed him under arrest for witness intimidation and terroristic threats. [Appellant] has remained in jail since April

4, 2024. Once [Appellant] was placed under arrest, Officer Conley went back into the daycare to speak with [M.W.]. Because there was a large amount of people in the vicinity, Officer Conley did not further interview [M.W.] to protect her privacy, so he told her that he would contact her the following Monday to obtain a written statement from her about the incident. In the following days, several of [M.W.]’s coworkers and friends reached out to her to check on her after the events of April 4, 2024, at the daycare, and [M.W.] told them that the [Appellant] had raped her.

That evening, at about 8:45 P.M. on April 4, after [Appellant] had been arrested for his conduct at Bullfrogs and Butterflies, [M.W.] called the New Brighton Police Department to speak with Officer Conley. However, since Officer Conley’s shift had ended by that time, Officer Kyli Hermick spoke with [M.W.] instead. [M.W.] told Officer Hermick that she was waiting for an update from officers following the incident at the daycare earlier that day. [M.W.] then told Officer Hermick that [Appellant] had raped her during the early morning hours of April 4, 2024, prior to the incident at Bullfrogs and Butterflies in the afternoon. Officer Hermick and Corporal Pisano later interviewed [M.W.] at her apartment about the details of the rape.

Three days after his arrest, on April 7, 2024, [Appellant] called his sister, Shaniah Cottom, and had her set up a conference call between himself, Ms. Cottom, and [M.W.]. During this call, [Appellant] told [M.W.] “I know it’s my fault, like I shouldn’t have been drinking.” He also said “I’m sorry” to her and that he would “do anything” to get her to recant her statements and drop the charges against him, and that he would never do something like that again. [Appellant] also said that he fucked up so bad.” [Appellant] had his sister set up several more three-way calls in April 2024, until [M.W.] stopped answering the calls.

After this, while he was incarcerated at Beaver County Jail following his arrest on April 4, 2024, [Appellant] contacted several people and asked them to speak with [M.W.] to try to get her to recant her statements against him and drop the charges at the previous cases.

First, [Appellant] asked his sister Ms. Cottom to contact [M.W.] on his behalf to offer her money in exchange for [M.W.] to change her testimony or drop the charges, specifically the rape charge. Notably, while on a jail call with his sister on June 3, 2024,

[Appellant] stated, "If I end up having to do time, I swear when I get out I'm having somebody hurt her, not gonna lie." On a video call with Ms. Cottom, [Appellant] made another similar comment, this time saying "If I end up having to do time, I'm killing this bitch bro, like seriously." Ms. Cottom did contact [M.W.] several times in late May and early June 2024 via text and told her that [Appellant] would give her money if she recanted her statements against [Appellant]. Ms. Cottom's text messages scared [M.W.], because she believed that the [Appellant] and his family would do anything to stop her from testifying against him.

[Appellant] also asked his cellmate Cortez Roberts to contact [M.W.] on his behalf. [Appellant] instructed Mr. Roberts to contact her and tell her that he would pay her not to appear in court. Immediately after his release from jail, Ms. Roberts called [M.W.] using the number [Appellant] gave him and relayed [Appellant]'s offer. [M.W.] told Mr. Roberts that [Appellant] did not have any money, and that he had raped her and that he should spend the rest of his time in jail; Mr. Roberts did not know that [Appellant] had been charged with rape until [M.W.] told him. Mr. Roberts also texted [M.W.] on June 3, 2024, at 10:01 P.M., and said "If you want to sell the car, I will buy it, but you don't gotta answer right away. Think on it and get at me when you're ready." [Appellant] had told Mr. Roberts that she had a car for sale at that time. [M.W.] responded "NO!" Mr. Roberts' texts scared [M.W.] because [Appellant] was giving her number to people she did not know. Several other people also reached out to [M.W.] on [Appellant]'s behalf asking her to drop the charges, including one person who actually went to her house and several people who texted her from jail. At the time of trial, [M.W.] was still scared for her safety because even after the final PFA order and the bond orders with no-contact provisions, [Appellant] was still attempting to contact her directly and through third parties.

Trial Ct. Post-Sentence Opinion, 11/5/25, at 5-16 (citations omitted; cleaned up).

Appellant was charged with: **(1)** simple assault and harassment for striking her after entering her apartment on January 25, 2024 ("Case 1"); **(2)** intimidation of a witness/victim and terroristic threats for his conduct on April

4, 2024 (“Case 2”); **(3)** rape by threat of forcible compulsion, sexual assault, indecent assault by threat of forcible compulsion, indecent assault without consent, and terroristic threats for his conduct in the early morning hours of April 4, 2024, and **(4)** intimidation of a witness/victim for his conduct in jail between April and June of 2024. The court consolidated these cases for trial, and a jury found Appellant guilty of all charges. On August 29, 2025, the court entered sentence.

Appellant filed timely post-sentence motions challenging the sufficiency and weight of the evidence. On November 5, 2025, the trial court filed a comprehensive opinion denying these motions. Appellant filed timely appeals to this Court in all cases. Without directing Appellant to file a concise statement of matters complained of on appeal, the court filed Pa.R.A.P. 1925 opinion incorporating its opinion denying Appellant’s post-sentence motions.

Counsel for Appellant has filed an **Anders** brief and an application for leave to withdraw in this Court. “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. Goodwin**, 928 A.2d 287, 290 (Pa. Super. 2007). To withdraw pursuant to **Anders**, counsel must:

- (1) petition the court for leave to withdraw stating that after making a conscientious examination of the record it has determined that the appeal would be frivolous;

- (2) file a brief referring to anything that might arguably support the appeal, but which does not resemble a “no merit” letter or *amicus curiae* brief; and
- (3) furnish a copy of the brief to defendant and advise him of his right to retain new counsel, proceed *pro se* or raise any additional points that he deems worthy of the court’s attention.

***Commonwealth v. Millisock***, 873 A.2d 748, 751 (Pa. Super. 2005). The

***Anders*** brief must comply with the following requirements:

- (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.

***Commonwealth v. Santiago***, 978 A.2d 349, 361 (Pa. 2009). “This Court first considers the issues raised by counsel in the ***Anders*** brief and determines whether they are in fact frivolous.” ***Commonwealth v. Weitzel***, 304 A.3d 1219, 1224 (Pa. Super. 2023) (citing ***Commonwealth v. Yorgey***, 188 A.3d 1190, 1196-1197 (Pa. Super. 2018) (*en banc*)). “[I]f the Court finds all of those issues frivolous, this Court conducts a review of the record to ascertain if, on its face, there are other issues of arguable merit overlooked by counsel.” ***Id.*** An appeal is frivolous if it “lacks any basis in law or fact.” ***Commonwealth v. Santiago***, 978 A.2d 349, 356 (Pa. 2009).

Read together, the **Anders** brief and application to withdraw comply with the requirements set forth in **Santiago**. The brief includes a procedural and factual summary with citations to the record, identifies the issues that Appellant wishes to raise, and explains why the issues are frivolous. Although the application to withdraw did not state that counsel completed a conscientious examination of the record or mention counsel's determination regarding frivolousness, Appellant's brief included this language. The **Anders** brief includes counsel's letter to Appellant advising him of his rights in accordance with **Millisock**. Both the **Anders** brief and application to withdraw contain proof of service on Appellant. Accordingly, we turn to the claims identified in the **Anders** brief.

The **Anders** brief raises five issues, which we paraphrase for the sake of convenience. The first four issues address whether the evidence was sufficient to sustain Appellant's conviction for simple assault in Case 1 and all charges in Cases 2, 3 and 4. The fifth issue concerns whether the trial court abused its discretion by determining the verdicts were not against the weight of the evidence.

The first four issues involve challenges to the sufficiency of the Commonwealth's evidence. The following standard governs our review:

When reviewing challenges to the sufficiency of the evidence, we evaluate the record in the light most favorable to the Commonwealth as verdict winner, giving the prosecution the benefit of all reasonable inferences to be drawn from the evidence. 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. However, the Commonwealth need not establish guilt to a mathematical certainty, and it may sustain its burden by means of wholly circumstantial evidence. In addition, this Court may not substitute its judgment for that of the factfinder, and where the record contains support for the convictions, they may not be disturbed. Lastly, we note that the finder of fact is free to believe some, all, or none of the evidence presented.

***Commonwealth v. Smith***, 146 A.3d 257, 261-262 (Pa. Super. 2016).

With regard to Appellant's simple assault conviction in Case 1, the Crimes Code provides that a person is guilty of this offense "if he ... attempts to cause or intentionally, knowingly or recklessly causes bodily injury to another." 18 Pa.C.S.A. § 2701(a)(1). The Commonwealth may sustain a simple assault conviction either by proving that the victim actually suffered bodily injury or by proving that the defendant attempted to inflict bodily injury. ***See Commonwealth v. Weitzel***, 304 A.3d 1219, 1225 (Pa. Super. 2023). "Bodily injury" is "[i]mpairment of physical condition or substantial pain." 18 Pa.C.S.A. § 2301. A "deliberate punch with a closed fist resulting in slight swelling and pain" constitutes bodily injury. ***Commonwealth v. Wroten***, 257 A.3d 734, 744 (Pa. Super. 2021).

M.W. testified that Appellant punched her in the face hard enough to cause her to start "seeing stars" and bleed profusely from her nose. She stated that Appellant's punch hurt, and that her nose was swollen and painful for several days after the assault. The Commonwealth also presented video and photographic evidence to substantiate this testimony. This evidence is sufficient to support the jury's guilty verdict on the simple assault charge.

In Case 2, Appellant was convicted of intimidation of a witness/victim and terroristic threats. for conduct that occurred in the area of Bullfrogs and Butterflies Child Care Center in New Brighton on April 4, 2024.

The witness/victim intimidation statute states, in relevant part:

(a) A person commits an offense if, with the intent to or with the knowledge that his conduct will obstruct, impede, impair, prevent or interfere with the administration of criminal justice, he intimidates or attempts to intimidate any witness or victim to ...

(3) Withhold any testimony, information, document or thing relating to the commission of a crime from any law enforcement officer, prosecuting official or judge.

18 Pa.C.S.A. § 4952(a)(3). A defendant can commit witness/victim intimidation either by actually intimidating the witness/victim or by attempting to do so:

[A]ctual intimidation of a witness is not an essential element of the crime. The crime is committed if one, with the necessary mens rea, "attempts" to intimidate a witness or victim. ...The trier of the facts, therefore, could find that appellant attempted to intimidate his accuser and that he did so intending or, at least, having knowledge that his conduct was likely to, impede, impair or interfere with the administration of criminal justice.... The Commonwealth is not required to prove mens rea by direct evidence. Frequently such evidence is not available. In such cases, the Commonwealth may rely on circumstantial evidence.

***Commonwealth v. Beasley***, 138 A.3d 39, 48 (Pa. Super. 2016).

At trial, M.W. testified, and the Commonwealth's documentary evidence showed, that Appellant messaged her on Snapchat on April 4, 2024, and said "u calling the courthouse n calling them off too or that's ya life." M.W. testified that she took this message to mean that if she did not drop the charges

against Appellant, he would kill her. M.W. testified that Appellant's nonstop calls and messages during the afternoon of April 4, 2024 made her anxious and scared both for her own life as well as the life of her daughter. M.W. was scared for her daughter because Appellant swore on their daughter's life that he would kill her. In addition, the fact that Appellant was threatening her while he was in the alley next to the daycare made her scared for her own safety as well as the safety of the children at the daycare. M.W. even testified that she thought Appellant was going to drive his car into the building. This evidence demonstrates that Defendant intentionally intimidated M.W. to scare her into withholding her testimony against him in the simple assault case. Thus, there was sufficient evidence to support his first conviction of witness/victim intimidation.

A person commits the crime of terroristic threats if the person "communicates, either directly or indirectly, a threat to ... commit any crime of violence with intent to terrorize another." 18 Pa.C.S.A. § 2706(a)(1). "[A] defendant does not need to intend to carry out the consequence of the threat to communicate a threat." **Beasley**, 138 A.3d at 47. The Commonwealth does not have to prove that the defendant had the ability to carry out the threat or that the threatened individual believed the defendant would carry out the threat, as neither is an element of the offense. **Commonwealth v. Crosby**, 226 A.3d 104, 107 (Pa. Super. 2020). Instead, the statute seeks to

prevent the psychological distress that follows from an invasion of another's sense of personal security. ***Id.***

The evidence demonstrates that Appellant made communicated threats of violence to M.W. with intent to terrorize her. Appellant send M.W. a message on Snapchat that read "where is my money dead person," which M.W. testified meant that Appellant would kill her if she did not give him money. Appellant also texted her "I'm me watch what happens to you" and "u calling the courthouse n calling them off too or that's ya life On [our daughter's] life," which M.W. also understood to be death threats. Thus, there was sufficient evidence presented to sustain Appellant's terroristic threats conviction in Case 2.

In Case 3, the jury found Appellant guilty of rape by threat of forcible compulsion, 18 Pa.C.S.A. § 3121(a)(2); sexual assault, 18 Pa.C.S.A. § 3124.1; indecent assault without consent, 18 Pa.C.S.A. § 3126(a)(1); indecent assault by threat of forcible compulsion, 18 Pa.C.S.A. § 3126(a)(3); and terroristic threats, 18 Pa.C.S.A. § 2706(a)(1), for conduct that occurred at M.W.'s apartment from the evening of April 3, 2024, to the morning of April 4, 2024.

The defendant commits rape by forcible compulsion when he "engages in sexual intercourse with a complainant...[b]y threat of forcible compulsion that would prevent resistance by a person of reasonable resolution..." 18 Pa.C.S.A. § 3121(a)(2).

This Court has explained:

Forcible compulsion includes “[c]ompulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied.” 18 Pa.C.S.A. § 3101. Thus, in addition to “sheer physical force or violence,” forcible compulsion encompasses “an act of using superior force, physical, moral, psychological or intellectual[,] to compel a person to do a thing against that person’s volition and/or will.” For these sexual offenses, the object of the force is “to compel a person to engage in sexual intercourse [or deviate sexual intercourse] against that person's will.”

Whether a defendant used forcible compulsion depends on the totality of the circumstances, including this non-exhaustive list of factors:

the respective ages of the victim and the accused, the respective mental and physical conditions of the victim and the accused, the atmosphere and physical setting in which the incident was alleged to have taken place, the extent to which the accused may have been in a position of authority, domination or custodial control over the victim, and whether the victim was under duress.

Our courts have not specified every set of circumstances that can show forcible compulsion, which turns on the facts of each case. Proof of forcible compulsion does not require evidence that the victim resisted. This recognizes that a victim may not struggle against the attack of an assailant who can physically overpower the victim.

***Commonwealth v. Banniger***, 303 A.3d 1085, 1092-93 (Pa. Super. 2023) (citations omitted; cleaned up).

Here, on the night of April 3, 2024, Appellant arrived outside M.W.’s apartment and knocked on the front door. M.W. tried to use her front door’s peephole to see who had knocked, but the person who had knocked was covering it from outside. When M.W. slightly opened the door to see who had knocked, Appellant immediately pushed his way into the apartment. Once

inside, Appellant immediately grabbed M.W.'s phone and told her that if she called the police he would kill her before they got there. Appellant claimed that he was there to see their daughter, but later, once M.W. put her to bed, Appellant remained in the apartment and told M.W. that they were going to have sex. M.W. told Appellant that she did not want to have sex, but Appellant kept telling her that they were going to have sex. M.W. continued to tell him no and that she did not want to have sex. Despite her repeated refusals, Appellant, who was lying in bed behind her, pulled her shorts and underwear down and penetrated her vagina with his penis. While penetrating her, Appellant restrained her by holding her arm in place with one hand, which later developed into a bruise, and wrapping his other arm around her neck. M.W. testified at trial that she was scared for her life because Appellant had strangled her in the past, and she felt that her only option in that moment was to lie there until Appellant was done. M.W. felt that there was no point in fighting back because every time she had fought back before Appellant just hurt her even more.

M.W.'s testimony established that Appellant raped her by threat of forcible compulsion beyond a reasonable doubt. In ***Banniger***, the Superior Court reiterated that a rape conviction "does not require evidence that the victim resisted" because "a victim may not struggle against the attack of an assailant who can physically overpower" them. ***Id.***, 303 A.3d at 1093. Here, the prolonged history of abuse between M.W. and Appellant explains why she

did not resist when he raped her and establishes the element forcible compulsion. She testified extensively about previous times that he had assaulted her, including assaults on December 25, 2023, and January 20, 2024, conduct for which Appellant was not charged or convicted. Also relevant was the assault of January 25, 2024 which led to Appellant's simple assault conviction discussed above. In addition, M.W. testified that Appellant had strangled her in the past, so when Appellant placed his arm around her neck while he penetrated her she was afraid for her life and thought that if she resisted he might kill her. The Commonwealth also furnished evidence that showed Appellant's consciousness of guilt about the rape. On an April 7, 2024, call between Appellant, his sister, and M.W., Appellant said "I know it's my fault, like I shouldn't have been drinking." He also said "I'm sorry" to M.W. and that he would "do anything" to get her to recant her statements and drop the charges against him. Appellant admitted that he "fucked up bad" and that he would never do something like that again. Thus, the evidence is sufficient to sustain Appellant's rape conviction.

The offense of sexual assault takes place when the Appellant "engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent." 18 Pa.C.S.A. § 3124.1.

[F]orcible compulsion subsumes a lack of consent. That is, if the Commonwealth proves that a Appellant exercised forcible compulsion, then it has proved that the victim did not consent. Thus, sexual assault (sexual intercourse or deviate sexual intercourse without consent) is a lesser-included offense of

involuntary deviate sexual intercourse by forcible compulsion (and, by the same logic, of rape by forcible compulsion).

**Banniger**, 303 A.3d at 1093.

Since forcible compulsion subsumes a lack of consent, the evidence of forcible compulsion described above demonstrates that Appellant had sexual intercourse with M.W. without her consent, thus satisfying the elements of sexual assault.

Next, Appellant was found guilty of indecent assault without consent under 18 Pa.C.S.A. § 3126(a)(1) and indecent assault by threat of forcible compulsion under 18 Pa.C.S. § 3126(a)(3). The indecent assault statute provides, in relevant part:

(a) A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:

(1) the person does so without the complainant's consent;...[or]

(3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution. ..

18 Pa.C.S.A. § 3126(a)(1), (3). "Indecent contact" is "[a]ny touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in any person." 18 Pa.C.S.A. § 3101.

The indecent contact in this case was the sexual intercourse that supported Appellant's rape and sexual assault convictions. As explained above, the evidence proved beyond a reasonable doubt that M.W. did not

consent to sexual intercourse, and that Appellant had sexual intercourse with her by threat of forcible compulsion. Thus, the evidence was sufficient to support his convictions under Section 3126.

The evidence also was sufficient to support Appellant's final conviction in Case 3 for terroristic threats. M.W. testified at trial that on the night of April 3, 2024, when Appellant forced his way into her apartment, he immediately grabbed her phone to prevent her from calling the police and stated that if she tried to call the police he would kill her. Appellant communicated a threat to commit a crime of violence with intent to terrorize M.W., thus satisfying all elements of terroristic threats. 18 Pa.C.S.A. § 2706(a)(1).

Case 4 is the second witness/victim intimidation case. Appellant was convicted for conduct that occurred while he was incarcerated at Beaver County Jail following his arrest on April 4, 2024 through June 2024. We have defined the elements of witness/victim intimidation in our discussion of Case 2 above.

Appellant's sister and Appellant's former cellmate testified that Appellant told them to contact M.W. and convince her to drop the charges against him in exchange for money. The Commonwealth also presented numerous jail calls that show that Appellant intentionally got other people to contact M.W. to try to get her to withhold testimony. In one call, Appellant told his sister that he was having Mr. Roberts contact M.W. to get her to drop

the charges, and in several others, Appellant directly instructed his sister to contact M.W. to try to get the charges dropped. In another call, Appellant acknowledged that he was prohibited from contacting M.W. by court order, but that he had other ways of contacting her. M.W. also testified that several other unknown individuals contacted her on Appellant's behalf to try to get her to drop the charges. All of these contacts with M.W. made her afraid for her safety, and she specifically testified as to Ms. Cottom's texts that she was scared "because [she] believed that [Appellant] and his family would do anything to stop [her] from coming" to court. This evidence sufficiently proved that Appellant intentionally, or at least knowingly, used other people to intimidate M.W. into withholding her testimony against him, and M.W. testified that she was in fact intimidated by these efforts. Therefore, there was sufficient evidence to support Appellant's second conviction of witness/victim intimidation.

The final issue in the **Anders** brief was whether the trial court abused its discretion by denying Appellant's post-sentence motion challenging the weight of the evidence.

A motion for a new trial based on the weight of the evidence "concedes that there is sufficient evidence to sustain the verdict." **Commonwealth v. Widmer**, 744 A.2d 745, 751 (Pa. 2000). The role of the trial court in ruling on such a motion is "to determine that notwithstanding all the facts, certain facts are so clearly of greater weight that to ignore them or to give them equal

weight with all the facts is to deny justice.” **Id.** at 752. The defendant may prevail upon such a claim when the evidence is “so tenuous, vague and uncertain that the verdict shocks the conscience of the [trial court].” **Commonwealth v. Talbert**, 129 A.3d 536, 545 (Pa. Super. 2015). “An allegation that the verdict is against the weight of the evidence is addressed to the discretion of the trial court.” **Widmer**, 744 A.2d at 751-52.

Here, the trial court reasoned in its post-sentence opinion:

Review of the evidence presented at trial does not shock the conscience of this Court. The Commonwealth presented testimony from about sixteen witnesses, including law enforcement, expert witnesses, and lay eyewitnesses, as well as extensive documentary evidence comprised of approximately fifty-five exhibits. The victim in this case, [M.W.,] testified extensively at trial about each of the criminal incidents. While the Court finds that the weight of her testimony alone would support Appellant’s convictions, as detailed above, the Commonwealth also presented a substantial amount of evidence corroborating the victim’s testimony. The Court notes in particular the numerous calls that Appellant made from jail, in some of which he shows consciousness of guilt by apologizing to the victim directly. Appellant also stated on two calls that if he had to do time in prison he would either kill the victim himself or have someone else hurt her. In short, the Commonwealth’s evidence, taken in its totality, established Appellant’s guilt as to each of the charges in all four of the consolidated cases. Thus, the Court finds that the jury’s verdict did not shock the conscience and was therefore not against the weight of the evidence.

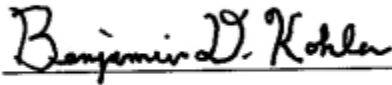
**Id.** at 32 (citations omitted; cleaned up). We hold that this analysis was a proper exercise of discretion.

In short, we agree with counsel for Appellant that the issues addressed in the **Anders** brief are frivolous. Moreover, our own review of the record

does not reveal any other arguably meritorious issues. Therefore, we grant counsel's application to withdraw and affirm Appellant's judgment of sentence.

Application to withdraw granted. 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: 8/26/2026