

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
DANIEL JOSEPH WOLFE	:	
	:	
Appellant	:	No. 1568 WDA 2025

Appeal from the Judgment of Sentence Entered November 19, 2025
In the Court of Common Pleas of Fayette County Criminal Division at
No(s): CP-26-CR-0000262-2025

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

MEMORANDUM BY DUBOW, J.: **FILED: August 26, 2026**

Appellant, Daniel Joseph Wolfe, appeals from the November 19, 2025 amended judgment of sentence entered in the Fayette County Court of Common Pleas following his guilty plea to one count each of Criminal Solicitation—Photograph/Film/Depict on Computer Sex Act and Criminal Use of a Communication Facility (“CUCF”), and seven counts of Disseminate Photo/Film of Child Sex Acts, and his plea of *nolo contendere* to Criminal Solicitation—Rape of a Child and Criminal Solicitation—Statutory Sexual Assault.¹ Appellant contends that his plea was not knowing, intelligent, and voluntary, that his sentence is illegal, and that the Commonwealth presented insufficient evidence to support the court’s determination that he is a sexually

* Former Justice specially assigned to the Superior Court.

¹ 18 Pa.C.S. §§ 902(a), 7512(a), 6312(c), 902(a), and 902(a), respectively.

violent predator ("SVP"). After careful review, we affirm Appellant's convictions and SVP designation but vacate his sentence and remand with instructions.

The relevant facts and procedural history are as follows. From November 2023, through October 2024, Appellant was in online contact via Kick and Telegram with an undercover FBI agent who was posing as the father of a seven-year-old girl. Their communications centered on Appellant having sexual contact with the girl. Appellant forwarded 21 pictures and videos to the agent of underage girls appearing nude, engaging in sexually suggestive poses, and performing sex acts. Appellant stated that he would pay the agent if his daughter could perform certain sex acts on Appellant. He also asked the agent if he knew anyone with a baby so he could perform sex acts on the baby.

In June 2024, Appellant texted the agent that he wanted to perform oral sex on the girl and have the girl perform oral sex on him and offered to pay the agent \$500. Appellant then sent 10 photos of underage girls in sexually suggestive poses and a picture of himself with his face obscured.

In October 2024, Appellant requested photos of the now eight-year-old girl and offered the agent \$500 if he and the agent could perform sex acts on the child. Thereafter, police served subpoenas on Kick and Telegram, and Kick and Telegram provided contact information and an address for Appellant.

The Commonwealth charged Appellant with the above crimes, and on July 7, 2025, Appellant appeared before the court to enter a plea of guilty to

some of the charges and *nolo contendere* to other charges. At the commencement of the hearing, the Commonwealth informed the court that, because Appellant had a prior conviction related to child pornography,² Appellant was subject to a mandatory minimum sentence of 25 to 50 years of incarceration.³ Appellant acknowledged that he was familiar with the mandatory penalty sought by the Commonwealth and did not have any questions regarding the rights he would forfeit by entering a guilty plea.

The court then noticed that Appellant was “cupping his hand behind [his] ear.” N.T. Plea Hr’g, 7/7/25, at 7. Appellant informed the court that he “can’t hear,” but assured the court that he could hear “right now.” ***Id.*** at 8. The court asked Appellant if he could “pick up cues visually and understand” what the court was saying, to which Appellant responded that he could “read your lips a little b[i]t” and “underst[ood] what we are talking about today.” ***Id.***

The court conducted an extensive colloquy regarding the facts underlying the charges and Appellant admitted that he committed the crimes

² On March 2, 2023, Appellant pled guilty to 50 counts each of Child Pornography, 18 Pa.C.S. § 6312(d), and Sexual Abuse of Children—Dissemination Photo/Film of Child Sex Acts, 18 Pa.C.S. § 6312(c) at Docket No. 510-2022.

³ 42 Pa.C.S. § 9718.2, titled “Sentences for sexual offenders,” provides, in relevant part, that any person convicted of one or more of an enumerated list of sexual offenses, including the offenses to which Appellant pled guilty in this case, “shall, if at the time of the commission of the current offense the person had previously been convicted of an offense set forth in section 9799.14[, which includes both Child Pornography and Sexual Abuse of Children—Dissemination Photo/Film of Child Sex Acts] . . . be sentenced to a minimum sentence of at least 25 years of total confinement[.]”

charged but denied “mean[ing] any of it.” **Id.** at 10-11. In response, the court asked the Commonwealth if it was “willing to accept a no contest plea as to whether or not [Appellant] intended to complete the crimes” of Criminal Solicitation—Rape of a Child and Statutory Sexual Assault. **Id.** at 12-13. The Commonwealth replied that it was willing. Appellant continued to explain, however, that he did not believe the agent had a seven-year-old and that he did not intend to complete the act. He further explained that he believed he was “just having a talk with some stranger on the internet” and that “everybody on there lies.” **Id.** at 13-14.

With respect to the charges involving sending the agent photos and videos, Appellant told the court that he did not remember sending nude photos and believed he had only sent non-nude photos. When asked by the court if he wanted to plead guilty to disseminating the photos and acknowledge that they were pornographic and involved children, Appellant replied “I guess, but I honestly don’t remember sending them.” **Id.** at 16. The court explained that it “did not want him to guess,” prompting Appellant to confirm that he did, in fact, want to plead guilty. **Id.**

With respect to the CUCF charge, Appellant admitted using a smartphone or a computer in the course of committing other crimes. Finally, with respect to the final count of Criminal Solicitation, in which the Commonwealth alleged that Appellant “requested and offered to pay for pictures and videos of a seven[-]year[-]old girl in a sexual situation or being sexually abused” Appellant told the court that he didn’t remember if he “said

that. . . I guess I said it.” ***Id.*** at 17. The court then accepted Appellant’s plea to all counts and entered an order directing the Sexual Offenders Assessment Board (“SOAB”) to evaluate Appellant to determine whether he should be deemed an SVP. Appellant did not attempt to withdraw his plea prior to the sentencing hearing.

On November 10, 2025, Appellant appeared for a sentencing and SVP hearing. SOAB evaluator, Julia Lindemuth, testified that Appellant participated in the SVP evaluation process. She confirmed that, in addition to interviewing Appellant, she reviewed information about the instant case as well as Appellant’s prior conviction. She testified that Appellant admitted to engaging in the behavior underlying the charged offenses and emphasized that Appellant committed these acts while on supervision for a previous sexual offense. Ms. Lindemuth testified that she concluded Appellant has Pedophilic Disorder. Based on Ms. Lindemuth’s undisputed testimony, the court found Appellant to be an SVP. The court then imposed a sentence of 25 to 50 years of incarceration on Appellant’s Criminal Solicitation—Rape of a Child conviction and no further penalty on the remaining convictions. Appellant did not file a post-sentence motion.

On November 19, 2025, without holding an additional hearing and outside of Appellant’s presence, the trial court entered an amended sentencing

order “to add the wording for the mandatory sentence and the reentry.”⁴ Order, 11/19/25. Appellant did not file a post-sentence motion following entry of the amended sentencing order.

On December 4, 2025, Appellant filed a notice of appeal. Both Appellant and the trial court complied with Pa.R.A.P. 1925.

Appellant raises the following issues on appeal:

1. Whether Appellant’s plea was knowing, voluntary, and intelligent?
2. Whether the court erred in finding Appellant to be a [SVP]?
3. Whether Appellant’s sentence of twenty-five (25) to fifty (50) years [of] incarceration is excessive or illegal?

Appellant’s Br. at 3 (reordered for ease of disposition).

In his first issue, Appellant claims the trial court should not have accepted his *nolo contendere* plea to Criminal Solicitation—Rape of a Child and Criminal Solicitation—Statutory Sexual Assault because he “specifically and repeatedly” denied that he “had any intent to command, encourage, or request a seven-year-old girl to have sexual intercourse,” thereby demonstrating that he was, in fact, innocent of those charges. ***Id.*** at 15-19. He also claims that the court erred in accepting his guilty plea to Possession of Child Pornography without first having Appellant evaluated for competency

⁴ On the November 19, 2025 form order, the court added a handwritten notation that the 25 to 50 year sentence of incarceration is “the mandatory term” and, for the first time, checked the box indicating that Appellant “shall serve a mandatory state re-entry probation supervision of three (3) years as outlined in 204 Pa. Code § 303.12(f)(3).”

because his “statements show that he was uncertain whether he in fact possessed child pornography” and because the court was aware that Appellant had dementia⁵ and a hearing impairment, but failed to order him evaluated for competency. ***Id.*** at 19-21.

We note that “[i]t is for the court which accepted the plea to consider and correct, in the first instance, any error which may have been committed.” ***Commonwealth v. Monjaras-Amaya***, 163 A.3d 466, 469 (Pa. Super. 2017). Accordingly:

A defendant wishing to challenge the voluntariness of a guilty plea on direct appeal must either object during the plea colloquy or file a motion to withdraw the plea within ten days of sentencing. Failure to employ either measure results in waiver.

Commonwealth v. Lincoln, 72 A.3d 606, 609–10 (Pa. Super. 2013) (citations omitted).

Upon our review, we conclude Appellant has waived his challenge to the court’s acceptance of his guilty and *nolo contendere* pleas as he did not raise this claim before the trial court at the plea hearing or in a post-sentence motion to withdraw his plea. ***See*** Pa.R.A.P. 302(a) (“Issues not raised in the trial court are waived and cannot be raised for the first time on appeal.”).

In his next issue, Appellant asserts that the trial court erred in finding him to be a SVP. Appellant’s Br. at 26-29. He claims that he “is clearly not

⁵ Appellant did not inform the court that he suffered from dementia at the plea hearing. At the plea hearing Appellant he merely stated “I am losing my memory so it’s not so good.” N.T. Plea Hr’g at 9. It was not until the sentencing hearing that Appellant claimed that he “know[s he’s] getting dementia.” N.T. Sent’g Hr’g at 32.

a[n] [SVP] simply because he has never committed an act of sexual violence, or even for that matter, a sexual act with a child”—a “crucial fact” “completely discounted” by Ms. Lindemuth. ***Id.*** at 29. He further claims that Ms. Lindemuth’s conclusion that he is an SVP is incorrect because she “ignored the possibility that Appellant might be suffering from dementia” and “downplayed the fact that Appellant had no physical contact with a child in this case[.]” ***Id.***

The argument Appellant has presented in support of this issue is woefully underdeveloped. While Appellant has cited to boilerplate case law and statutes pertaining to SVP designations, he has not provided this Court with citation to any specific, pertinent authority analyzed under the facts of this case. In particular, Appellant has failed to support his claims that: (1) only defendants who commit an act of sexual violence can be SVPs; (2) defendants suffering from dementia cannot be SVPs; and (3) a defendant must have physical contact with a child to be an SVP. As this Court has made clear, we “will not act as counsel[.]” ***Commonwealth v. Hardy***, 918 A.2d 766, 771 (Pa. Super. 2007). “We shall not develop an argument for an appellant, nor shall we scour the record to find evidence to support an argument[.]” ***Milby v. Pote***, 189 A.3d 1065, 1079 (Pa. Super. 2018). Without any legal basis to support Appellant’s argument, we reject it and conclude the trial court properly designated Appellant an SVP.

In his final issue, Appellant asserts that the court imposed an illegal sentence.⁶ Appellant's Br. at 22-25. He argues that his sentence is "cruel and unusual" because it is "grossly disproportionate to the crime." *Id.* at 23 (citing ***Commonwealth v. Barnett***, 50 A.3d 176, 198 (Pa. Super. 2012)). In support of this disproportionality argument, Appellant compares his sentence with the maximum penalty for assaulting a police officer—20 years of incarceration—and the federal prison sentence imposed on Ghislaine Maxwell—also 20 years of incarceration—and asks rhetorically if "the need to prevent people from fantasizing about having sex with children [is] really greater than the need to protect our police officers from actual physical harm?" *Id.* at 25.

Instantly, Appellant pled guilty to, *inter alia*, Sexual Abuse of Children—Dissemination Photo/Film of Child Sex Acts, 18 Pa.C.S. § 6312(c), an offense our legislature has deemed a Tier II Sexual Offense. 42 Pa.C.S. § 9799.14(c)(4). Prior to entering his guilty plea to this offense, Appellant, in 2023, pled guilty to Child Pornography, 18 Pa.C.S. § 6312(d), and Sexual Abuse of Children—Dissemination Photo/Film of Child Sex Acts, 18 Pa.C.S. §

⁶ To the extent that Appellant also claims his sentence is "excessive" and "unnecessarily harsh" because he "never physically harmed anyone," these claims implicate the discretionary aspects of his sentence. Appellant has, however, waived any challenge to the discretionary aspects of his sentence by failing to raise such a claim in a post-sentence motion. ***See Commonwealth v. Perzel***, 291 A.3d 38, 47 (Pa Super. 2023) (citation omitted) (explaining that "issues challenging the discretionary aspects of a sentence must be raised in a post-sentence motion or by presenting the claim to the trial court during the sentencing proceedings. Absent such efforts, an objection to a discretionary aspect of a sentence is waived.").

6312(c). These prior convictions of Tier I and Tier II Sexual Offenses subjected Appellant to a mandatory minimum sentence of 25 years of incarceration pursuant to 42 Pa.C.S. § 9718.2. The trial court imposed this sentence, as required, for Appellant's Sexual Abuse of Children conviction and imposed no further penalty for any of Appellant's other convictions. The imposition of this mandatory minimum sentence is not unconstitutional as Appellant baldly claims. Appellant is, thus, not entitled to relief.

Nevertheless, although the issues Appellant presents on appeal merit no relief, our review of the record indicates that the trial court imposed an illegal sentence when it modified Appellant's sentence outside of his presence. **See** Pa.R.Crim.P. 602(A) ("The defendant shall be present at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence[.]").

The legality of a criminal sentence is non-waivable, and this Court may raise and review an illegal sentence *sua sponte*. Because the legality of a sentence presents a pure question of a law, our scope of review is plenary, and our standard of review is *de novo*. If no statutory authorization exists for a particular sentence, that sentence is illegal and must be vacated.

Commonwealth v. Derrickson, 242 A.3d 667, 673 (Pa. Super. 2020) (citation omitted).

Pennsylvania law sets forth a requirement for mandatory imposition of reentry supervision in Section 6137.2, which "applies to persons committed to the department with an aggregate minimum sentence of total confinement under 42 Pa.C.S. § 9756(b) (relating to sentence of total confinement) of 4

years or more.” 61 Pa.C.S. § 6137.2(a). The statute mandates that “[a]ny person under subsection (a) shall be sentenced to a period of reentry supervision of 12 months consecutive to and in addition to any other lawful sentence issued by the court.” **Id.** at § 6137.2(b).

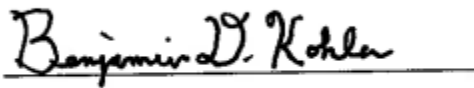
Here, because the trial court sentenced Appellant to a term of 25 to 50 years of incarceration, Appellant was subject to the mandatory reentry supervision requirements of Section 6137.2. The trial court’s initial sentence on November 10, 2025, did not, however, include a term of reentry supervision. Because reentry supervision is mandated by Section 6137.2, the initial sentencing order was an illegal sentence. **See Commonwealth v. Mumford**, 353 A.3d 247, 262 (Pa. Super. 2026) (finding a sentence illegal where the trial court failed to include the mandatory term of reentry supervision in the sentencing order).

Although the trial court amended the sentencing order on November 19, 2025, to include the term of reentry supervision, there is no indication in the record that the trial court conducted a resentencing hearing or that Appellant was present when the amended sentence was imposed. Accordingly, that portion of the sentence is similarly illegal. We, therefore, affirm Appellant’s convictions but vacate his judgment of sentence and remand for a hearing and resentencing on the issue of the mandatory reentry provision only. The remaining portions of Appellant’s sentence shall remain in effect. **See id.** (vacating the defendant’s judgment of sentence and remanding for

resentencing where the trial court had amended the sentence to include mandatory reentry supervision outside of the defendant's presence).

Convictions affirmed. Judgment of sentence vacated. Case remanded 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: 8/26/2026