NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
MILASHIA L. POWELL	:	
Appellant	:	No. 3 EDA 2026

Appeal from the PCRA Order Entered December 19, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at No(s): CP-51-CR-0006065-2019

BEFORE: BOWES, J., OLSON, J., and McLAUGHLIN, J.

MEMORANDUM BY McLAUGHLIN, J.: **FILED NOVEMBER 13, 2026**

Milashia L. Powell appeals from the order dismissing her Post Conviction Relief Act ("PCRA") petition. ***See*** 42 Pa.C.S.A. §§ 9541-9546. Powell raises claims of ineffectiveness of counsel. We affirm.

The PCRA court summarized the facts as follows:

> On July 11, 2019, at approximately 4 P.M., [Johnnie] Johnson, [Jeremy] Gunn's downstairs neighbor, heard a lot of banging and thumping coming from Mr. Gunn's apartment. [Mr. Gunn was Powell's paramour]. Annoyed by the noise, Ms. Johnson decided to take out her trash and see what was going on. As she leaves her apartment, Ms. Johnson observes a man with dreads trying to revive an injured man, later identified as Mr. Gunn, on the sidewalk. After making this observation, Ms. Johnson continued towards the garbage cans and saw a lady, later identified as [Powell], holding a baby in her arms. (N.T. 7/5/22 at 35-39).
>
> When Ms. Johnson turned back towards the two men, the dreadlocked man asked her to call 911. Prior to making the 911 call, Ms. Johnson observes Mr. Gunn had stab wounds

all over his body and a pool of blood around him. Ms. Johnson also heard [Powell] saying things like "I'm sorry" and "I love you." As Ms. Johnson began calling 911, [Powell] began walking down the street. After mulling around for a while, [Powell] went across the street to a store, and Ms. Johnson followed. (N.T. 7/5/22 at 40-42).

At approximately 9:37 P.M., police responded to 950 E. Woodlawn Street for a reported stabbing. Upon their arrival, officers located an unresponsive man, later identified as Jeremy Gunn, lying face down on the sidewalk. Upon locating Mr. Gunn, police rolled him over to determine if there was a need for lifesaving measures. While rolling him over, police observed that Mr. Gunn had a stab wound on his chest and blood covering his face. Upon seeing the severity of his injuries, police began transporting Mr. Gunn to the hospital, where he succumbed to his injuries. (N.T. 7/5/2022 at 10, 12-14).

While Mr. Gunn was being transported, police located [Ms.] Johnson, the initial 911 caller. While talking to the police, Ms. Johnson quickly identified [Powell] as a person of interest. Ms. Johnson also explained that Mr. Gunn had lived in the apartment above her unit for less than a year. While [Powell] did not live with Mr. Gunn, Ms. Johnson reported that [Powell] was around Mr. Gunn's apartment nearly every day. Based on Ms. Johnson's statement, an officer approached [Powell] and observed that she had blood all over her body but had no visible injuries. Based on this information, officers verified that [Powell] was not carrying a weapon and secured the toddler [Powell] was carrying. After [Powell] was placed in handcuffs, police began attempting to locate the crime scene. (N.T. at 24, 27, 41-42, 76, 78-79).

Officers quickly determined that the initial stabbing occurred in Mr. Gunn's apartment by following a blood trail. Crime scene officers then entered Mr. Gunn's apartment to collect evidence. During this search, police observed a trail of blood stain patterns which appeared to start in the rear bedroom of Mr. Gunn's apartment and ended on the sidewalk near where Mr. Gunn was first located by police. After securing the apartment, an officer spoke with Ms. Johnson again to verify what she observed while waiting for police. Ms. Johnson advised that [Powell] had briefly walked

away from Mr. Gunn towards an alleyway on the opposite corner of the apartment building. Based on this information, the officer retraced [Powell's] steps and quickly located a bloody steak knife in the alley[.] (N.T. 7/5/22 at 81-83, 97, 103-08, 121-24).

After police had secured the entire scene, [Powell] was brought to the homicide unit for an interview. While in custody, [Powell] made a post-***Miranda*** statement to police. During this interview, [Powell] denied fighting with Mr. Gunn and stated that she did not stab him. After more than two hours, [Powell] indicated that she would like to end the interview. (N.T. 7/5/22 at 88, 129-30, 137-41).

Following the Commonwealth's case in chief, [Powell] chose to testify. [Powell] explained that she had been dating Mr. Gunn since 2013 and they had a two-year-old child together, Z.P. [Powell] explained that their relationship was tumultuous, and Mr. Gunn was "very violent." [Powell] explained that Mr. Gunn had repeatedly been violent and abusive towards her during their relationship. Despite this violent history, [Powell] still lived with Mr. Gunn approximately four days a week prior to Mr. Gunn's death. (N.T. 7/5/22 at 177, 179-97, 200).

On the day of the stabbing, [Powell] went to Mr. Gunn's apartment to shower. Before entering Mr. Gunn's house, [Powell] repeatedly attempted to inform him that she was going into his apartment. Since [Powell] did not have a key, she entered through a window. After [Powell] entered, she fell asleep on Mr. Gunn's bed. Once Mr. Gunn returned home, he began questioning [Powell] about why she was in his apartment. Mr. Gunn's questioning quickly devolved into accusations of prostitution and ultimately an abusive attack. (N.T. 7/5/22 at 200-02, 204).

[Powell] testifie[d] that Mr. Gunn "grabbed [her] by [her] hair, and dr[agged her] to the ground, and started kicking [her] and hitting [her]." After this beating ended, Mr. Gunn inexplicably ran to the window and began looking out of it. As Mr. Gunn began to walk back towards [Powell], she perceived that Mr. Gunn was looking at a knife on the table with the intent to stab her. Fearing that Mr. Gunn would try to harm her with a knife, [Powell] grabbed the knife first and stabbed him in the chest and head. [Powell] explained that

> "she just wanted him to stop attacking me[a]nd [she] didn't want him to get the knife." (N.T. 7/5/22 at 206-07, 211).
>
> After being stabbed, Mr. Gunn began panicking. During this panic, Mr. Gunn repeatedly said call 911 and ran outside. [Powell] followed Mr. Gunn in a daze while holding the knife. When [Powell] realized that she was still holding the knife, she immediately dropped it and went to retrieve her son from Mr. Gunn's apartment. When [Powell] was asked about why she lied to police about her role in the stabbing, [Powell] explained that she was afraid and believed that "it wouldn't matter that [she] was afraid of him." (N.T. 7/5/22 at 211-13, 216).

PCRA Court Opinion, filed 2/9/26, at 3-7 (footnotes omitted).

After a non-jury trial, Powell was found guilty of voluntary manslaughter, possessing an instrument of crime, and tampering with evidence.[1] Powell was sentenced to an aggregate term of four to ten years' incarceration. Powell filed a post-sentence motion, which was denied. Powell filed a direct appeal. The sole issue on appeal was a challenge to the discretionary aspects of Powell's sentence. On October 25, 2023, this Court affirmed Powell's judgment of sentence. ***Commonwealth v. Powell***, No. 2968 EDA 2022, 2023 WL 7015372 (Pa.Super. filed Oct. 25, 2023) (unpublished mem.).

In February 2024, Powell timely filed the instant PCRA petition. The PCRA court issued notice of its intent to dismiss the petition pursuant to Pennsylvania Rule of Criminal Procedure 907(1). On December 19, 2025, the court dismissed the petition. This appeal followed.

Powell raises the following issues:

---

[1] 18 Pa.C.S.A. §§ 2503, 907, and 4910, respectively.

1. Did the PCRA court err and was dismissal of [Powell's] amended PCRA Petition without a hearing not supported by the record and free from legal error because trial/direct appeal counsel was ineffective for failing to fully perfect an appeal through the filing of a post-sentence Motion to challenge weight of the evidence because [Powell] acted in self-defense?

2. Did the PCRA court err and was dismissal of [Powell's] amended PCRA Petition without a hearing not supported by the record and free from legal error because direct appeal counsel was ineffective for failing to argue sufficiency of the evidence on direct appeal because [Powell] acted reasonably in self-defense given a documented history of abuse by [Gunn] toward [Powell]?

Powell's Br. at 4.

Powell first argues that trial/direct appeal counsel was ineffective "for failing to fully perfect an appeal through the filing of a post-sentence [m]otion to challenge [the] weight of the evidence because [Powell] acted in self-defense." ***Id.*** at 7. She asserts that there was an extensive prior history of violence by Gunn toward her, in which she sustained numerous physical injuries. ***Id.*** at 13. Powell points out that she "was 135 pounds with good relevant prior character[.]" ***Id.*** In her view, "the Commonwealth did not disprove self-defense beyond a reasonable doubt and the weight of the evidence does not support the verdicts because [her] actions were reasonable given the appalling history and circumstances perpetuated by [Gunn]." ***Id.*** at 13-14. Powell maintains that her decision to stab Gunn was reasonable "given the size of [Gunn] as well as the threat of violence and the history of violence." ***Id.*** at 14.

We review an order dismissing a PCRA petition to determine whether the order "is supported by the evidence of record and is free of legal error." ***Commonwealth v. Cruz***, 223 A.3d 274, 277 (Pa.Super. 2019) (citation omitted). We will not disturb the PCRA court's findings "unless there is no support for the findings in the certified record." ***Id.*** "We apply a *de novo* standard of review to the PCRA court's legal conclusions." ***Commonwealth v. Davis***, 326 A.3d 988, 992 (Pa.Super. 2024) (citation omitted).

"[C]ounsel is presumed to be effective and the burden of demonstrating ineffectiveness rests on [the petitioner]." ***Commonwealth v. Rivera***, 10 A.3d 1276, 1279 (Pa.Super. 2010). To obtain relief based on a claim of ineffectiveness, a petitioner must establish: "(1) his underlying claim is of arguable merit; (2) counsel had no reasonable basis for his action or inaction; and (3) the petitioner suffered actual prejudice as a result." ***Commonwealth v. Spotz***, 84 A.3d 294, 311 (Pa. 2014). Prejudice in this context means that, "absent counsel's conduct, there is a reasonable probability the outcome of the proceedings would have been different." ***Commonwealth v. Velazquez***, 216 A.3d 1146, 1149 (Pa.Super. 2019) (citation omitted). A failure to meet any of these prongs bars a petitioner from obtaining relief. ***Commonwealth v. Sneed***, 45 A.3d 1096, 1106 (Pa. 2012). "Counsel will not be deemed ineffective for failing to raise a meritless claim." ***Commonwealth v. Spotz***, 896 A.2d 1191, 1210 (Pa. 2006).

"We review a trial court's order denying a weight challenge for an abuse of discretion." ***Commonwealth v. Fallon***, 275 A.3d 1099, 1107 (Pa.Super.

2022). Because the trial court heard the testimony firsthand, we must "give the gravest consideration to the findings and reasons advanced by the trial judge when reviewing a trial court's determination that the verdict is against the weight of the evidence." ***Id.*** (citation omitted). A weight claim requires the defendant to first convince the trial court that "the evidence is so tenuous, vague and uncertain that the verdict shocks the conscience of the court." ***Commonwealth v. Windslowe***, 158 A.3d 698, 712 (Pa.Super. 2017) (citation omitted). This Court then reviews the trial court's decision in this regard for an abuse of discretion. ***Id.*** Further, "[t]he weight of the evidence is exclusively for the finder of fact who is free to believe all, part, or none of the evidence and to determine the credibility of the witnesses." ***Commonwealth v. Champney***, 832 A.2d 403, 408 (Pa. 2003) (citation omitted). "When the challenge to the weight of the evidence is predicated on the credibility of trial testimony, our review of the trial court's decision is extremely limited." ***Commonwealth v. Bowen***, 55 A.3d 1254, 1262 (Pa.Super. 2012) (citation omitted).

The law regarding the defense of self-defense is well-established:

> Self-defense is a complete defense to a homicide charge if 1) the defendant reasonably believed that he was in imminent danger of death or serious bodily injury and that it was necessary to use deadly force to prevent such harm; 2) the defendant did not provoke the threat that resulted in the slaying; and 3) the defendant did not violate a duty to retreat. Where the defendant has introduced evidence of self-defense, the burden is on the Commonwealth to disprove the self-defense claim beyond a reasonable doubt by proving that at least one of those three elements is

> absent. If the Commonwealth proves that the defendant's belief that deadly force was necessary was unreasonable but does not disprove that the defendant genuinely believed that he was in imminent danger that required deadly force and does not disprove either of the other elements of self-defense, the defendant may be found guilty only of voluntary manslaughter under the defense of imperfect self-defense.
>
> The finder of fact is not required to believe the defendant's testimony that he thought that he was in imminent danger and acted in self-defense. Disbelief of the defendant's testimony, however, is not sufficient to satisfy the Commonwealth's burden to disprove self-defense absent some evidence negating self-defense.

Commonwealth v. Jones, 271 A.3d 452, 458-59 (Pa.Super. 2021) (cleaned up).

Here, the PCRA court found that Powell's claim was without merit because Powell's belief that deadly force was necessary was unreasonable. It explained:

> [T]he record clearly reflects that [Powell's] significant history of abuse likely played some role in her mistaken belief that she needed to defend herself from [Gunn]. See, N.T. 7/5/2022 at 180-97. However, this evidence in no way undermines the court's finding that [Powell's] use of force was unreasonable on the day in question.
>
> [Powell] acknowledged that after the initial beating, "[Gunn] ran away [and] jumped up on the bed [to] look[] out the window." N.T. 7/5/2022 at 206. While [Gunn] momentarily walked away, [Powell] remained "crouched down covering [her] head". N.T. 7/6/2022 at 27. While in this position[, Powell] claims that she initially "thought [that] he was going to shoot me." N.T. 7/5/2022 at 208. Despite cowering in fear, [Powell] then claims that she was able to observe [Gunn] "reach[ing] for the knife first [with the intention of] tr[ying] to stab me with it." N.T. 7/5/2022 at 206. Yet, [Powell] also stated that [Gunn] was merely "looking at the knife" when she decided to stab him. ***Id.*** at

> 206-07. The court, as the finder of fact, found that [Powell's] varying recollections indicate that she was panicked and remained fearful of [Gunn] due to the prior attack, even though the danger had clearly ended.
>
> While the court believes that [Powell's] reaction was the result of genuine fear, the court, sitting as fact finder, also determined that [Powell's] decision to stab the empty-handed [Gunn] after the abusive conduct had ended was unreasonable. N.T. 7/6/2022 at 27. This genuine but unreasonable belief that deadly force was necessary is the basis for which [Powell] was found guilty of voluntary manslaughter due to imperfect self-defense. 18 Pa.C.S. § 2503(b); ***Commonwealth v. Truong***, 36 A.3d 592, 599 (Pa.Super. 2012) [(*en banc*)]. As the use of imperfect self-defense is not a complete defense, it can only "reduce[] [a] murder [charge] to voluntary manslaughter." ***Truong***, 36 A.3d at 599. Based on this determination, the court's sense of justice is not shocked by the verdict, and no relief is warranted. [***Commonwealth v.***] ***Clay***, 64 A.3d [1049, 1055 (Pa. 2013)].

PCRA Ct. Op. at 9-10.

Upon review, we agree with the PCRA court that Powell's claim lacks arguable merit. At trial, Powell testified that after Gunn physically attacked her, Gunn "ran away" and "looked out the window." N.T., 7/5/22, at 206. She stated that they then looked at the knife on the table at the same time. ***Id.*** at 206-07. Powell then grabbed the knife and stabbed Gunn. ***Id.*** at 207. The record thus supports the court's conclusion that Gunn's attack on Powell had concluded before Powell grabbed the knife and Powell could have retreated. Further, the court considered Powell's history of abuse by Gunn and the parties' size disparity. Nonetheless, the trial court, as the finder of fact, concluded that Powell's decision to stab Gunn was unreasonable. Because the underlying weight claim lacks arguable merit, the ineffectiveness claim

predicated on it fails. ***See Commonwealth v. Tedford***, 960 A.2d 1, 31 (Pa. 2008). No relief is due.

In her second issue, Powell argues direct appeal counsel was ineffective "for failing to argue sufficiency of the evidence on direct appeal because [Powell] acted reasonably in self-defense given a documented history of abuse by [Gunn] toward [Powell]." Powell's Br. at 7. Powell asserts that her actions were reasonable given the history of abuse by Gunn, her size, and Gunn's access to weapons. ***Id.*** at 14, 16. She concludes that "[d]irect appeal counsel was ineffective for failing to argue this issue and [she] suffered prejudice." ***Id.*** at 16.

The sufficiency of the evidence is a question of law. Therefore, "[o]ur standard of review is *de novo*, and our scope of review is plenary." ***Commonwealth v. Mikitiuk***, 213 A.3d 290, 300 (Pa.Super. 2019). When reviewing a challenge to the sufficiency of the evidence, we "must determine whether the evidence admitted at trial, and all reasonable inferences drawn therefrom, when viewed in a light most favorable to the Commonwealth as verdict winner, support the conviction beyond a reasonable doubt." ***Commonwealth v. Feliciano***, 67 A.3d 19, 23 (Pa.Super. 2013) (*en banc*) (citation omitted). "Where there is sufficient evidence to enable the trier of fact to find every element of the crime has been established beyond a reasonable doubt, the sufficiency of the evidence claim must fail." ***Id.*** (citation omitted). This Court "may not substitute our judgment for that of the factfinder." ***Commonwealth v. Griffith***, 305 A.3d 573, 576 (Pa.Super.

2023). The factfinder, "while passing on the credibility of the witnesses and the weight of the evidence[,] is free to believe all, part, or none of the evidence." ***Commonwealth v. Miller***, 172 A.3d 632, 640 (Pa.Super. 2017).

Section 2503 of the Crimes Code, entitled "Voluntary manslaughter," provides, in relevant part:

> **(b) Unreasonable belief killing justifiable.--**A person who intentionally or knowingly kills an individual commits voluntary manslaughter if at the time of the killing he believes the circumstances to be such that, if they existed, would justify the killing under Chapter 5 of this title (relating to general principles of justification), but his belief is unreasonable.

18 Pa.C.S.A. §§ 2503(b).

Here, the court found that Powell "stabbed the empty-handed [Gunn] after any imminent threat of bodily injury had ended." PCRA Ct. Op. at 12. It concluded that the evidence was "entirely sufficient to prove that [Powell] genuinely but unreasonably believed that she was acting in self-defense when killing [Gunn]." ***Id.***

Based on our review of the record and viewing the evidence in the light most favorable to the Commonwealth as verdict winner, we find no error in the court's conclusion that the Commonwealth presented sufficient evidence that Powell was guilty of voluntary manslaughter. While the court found that Powell was genuinely fearful, the evidence was sufficient for the court, sitting as factfinder, to conclude Powell's belief was unreasonable. Since Powell's underlying conviction for voluntary manslaughter is supported by sufficient

evidence, her appellate counsel could not have been ineffective for deciding not to argue the issue on appeal. ***Tedford***, 960 A.2d at 31. This claim fails.

Order affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/13/2026