

V.

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 10 WDA 2026

V.

Appellant

[illegible]

V.

Appellant

: IN THE SUPERIOR COURT OF
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No. 12 WDA 2026

BEFORE: STABILE, J., LANE, J., and BENDER, P.J.E.

MEMORANDUM BY STABILE, J.:

FILED: OCTOBER 1, 2026

In these three consolidated appeals, Appellant, Wolfgang Mich Sommer Jr., appeals *pro se* from his judgment of sentence of 20-40 months' imprisonment for failing to comply with sex offender registration requirements under 18 Pa.C.S.A. §§ 4915.1 and 4915.2 and for unsworn falsification to authorities under 18 Pa.C.S.A. § 4904(a)(1). We affirm Appellant's judgments of sentence under Sections 4904 and 4915.2. We reverse Appellant's judgment of sentence under Section 4915.1.

In October 2018, Appellant pled guilty in the Court of Common Pleas of Westmoreland County to indecent assault of a person less than thirteen years of age under 18 Pa.C.S.A. § 3126. The assault had taken place in January 2011. At sentencing, Appellant was classified for registration under the Sexual Offender Registration and Notification Act ("SORNA").¹ In

¹ 42 Pa.C.S.A. §§ 9799.51-9799.75. SORNA's purpose is to "substantially comply with [federal law] and to further protect the safety and general welfare of the citizens of this Commonwealth by providing for increased regulation of sexual offenders, specifically as that regulation relates to registration of sexual offenders and community notification about sexual offenders." 42 Pa.C.S.A. § 9799.11.

SORNA is the General Assembly's fourth enactment of the law commonly referred to as Megan's Law. Megan's Law I was enacted in 1995 but was held unconstitutional by our Supreme Court in **Commonwealth v. Williams**, 733 A.2d 593 (Pa. 1999). In response, the General Assembly enacted Megan's Law II in 2000. In 2003, the Supreme Court held that some portions of Megan's Law II were unconstitutional, **Commonwealth v. Gomer Williams**, 832 A.2d 962 (Pa. 2003), and the General Assembly responded by enacting Megan's Law III. In response, the legislature enacted Megan's Law III at the end of 2004.

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November 2020, the Westmoreland County court held that Appellant was a sexually violent predator (“SVP”).

On September 15, 2025, Appellant entered a negotiated guilty plea in the Court of Common Pleas of Somerset County in the three above-captioned cases. In the first case,² Appellant pled guilty to unsworn falsification to authorities under Section 4904(a)(1) for providing false information to the Pennsylvania State Police (“PSP”) when registering under Megan’s Law. Appellant informed PSP that he was homeless/transient when he was in fact living with a friend at the time.

In the second case,³ Appellant pled guilty under Section 4915.1(a)(1) for failing to register as a sex offender with the PSP in a timely manner. The Commonwealth provided the following factual basis for this offense:

In 2006, the United States Congress expanded the public notification requirements of state sexual offender registries in the Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C. §§ 16901—16945. In 2011, the General Assembly passed SORNA. SORNA went into effect on December 20, 2012, while Megan’s Law III expired on the same date. In 2013, our Supreme Court struck down Megan’s Law III for violating the single subject rule of Article III, Section 3 of the Pennsylvania Constitution. ***Commonwealth v. Neiman***, 84 A.3d 603, 616 (Pa. 2013). By that time, however, SORNA had already replaced Megan’s Law III.

SORNA was originally enacted on December 20, 2011, effective December 20, 2012, replacing Megan’s Law. SORNA has been amended several times, but the amendments are not material to the present case.

² CP-56-CR-0000323-2024.

³ CP-56-CR-0000368-2024.

[It] stems from an incident that occurred on or about June 17th, 2024 in...Somerset County, Pennsylvania, wherein [Appellant] had a window of allowance to report to PSP-Somerset to register as ordered by the Commonwealth. The days of the window were June 9th, 2024, to June 15th, 2024, and [Appellant] did not report until June 17th of 2024.

N.T., 9/15/25, at 4-5 (guilty plea hearing).

In the third case,⁴ Appellant pled guilty under Section 4915.2(a)(1) for failing to give a proper address to the PSP in his registration updates. The Commonwealth gave the following factual basis for this offense:

[It] stems from an incident that occurred on or about May 15th, 2025, in...Somerset County, Pennsylvania, wherein it was discovered that on the last five registration updates, [Appellant] failed to list his address as 121 Cloud Street[,] Jenners, but represented that he was homeless/transient in Somerset Borough.

Id. at 5.

Prior to the guilty plea hearing, Appellant completed an extensive written guilty plea questionnaire with the assistance of counsel. Questions 34 and 35 inquired:

34. Do: you understand that by pleading guilty, you limit the grounds for your appeals to four specific reasons:

(1) That the court did not have jurisdiction in your case.

(2) That the sentence imposed by the court is illegal.

(3) That your guilty plea was not knowingly, intelligently and voluntarily made; and

(4) That your attorney who represented you was incompetent or ineffective.

⁴ CP-56-CR-0000348-2024.

35. Do you understand that by pleading guilty, you will be giving up your right to appeal for any reason except those listed in the preceding Question No. 34?

Written Guilty Plea Questionnaire, 9/25/25. Appellant wrote “yes” in response to both questions. ***Id.***

During his guilty plea hearing, Appellant agreed that the facts placed on the record by the District Attorney were accurate, that he was truly guilty, and that he was satisfied with his attorney’s services. The trial court found that the guilty pleas were entered knowingly and voluntarily and accepted the pleas. N.T., 9/15/25, at 7-8.

On November 17, 2025, the court sentenced Appellant to concurrent terms of 1-24 months’ imprisonment under Section 4904, 6-36 months’ imprisonment under Section 4915.1, and 20-40 months’ imprisonment under Section 4915.2.

Appellant, acting *pro se*, filed a motion to “fire” his attorney. He then filed a timely *pro se* notice of appeal and a timely Pa.R.A.P. 1925 statement. He raised the following issues in his Rule 1925 statement:

Whether the trial court violated due process, thus issuing an illegal and void conviction and sentence, while acting without statutory authority, where said court convicted and sentenced [Appellant] under statutes that do not pertain to him under SORNA II...as the date of the alleged predicate sexual offending was before December 20, 2012, stripping the trial court of subject matter and personal jurisdiction to apply 18 Pa. C.S. § 4915.1 statutes?

Whether the trial court violated due process and the ex post facto clause of the Federal and Pennsylvania Constitutions where said court convicted and sentenced [Appellant] under statutes that

apply to Transients where no statutes governed Transients prior to February 21, 2018/June 12, 2018 as [Appellant's] alleged offending allegedly took place before SORNA I, December 20, 2012, which was held by our Supreme Court in **Commonwealth v. Muniz**, 164 A.3d 1189 (Pa, 2017) to violate the ex post facto clause as applied to [Appellant] whose alleged predicate offending took place before December 20, 2012?

Whether the trial court of Westmoreland County violated due process as said court had no subject-matter jurisdiction nor statutory authority to adjudicate [Appellant] a sexually violent predator at the time of the hearings recorded on the Westmoreland County Docket due to the holdings in **Commonwealth v. Muniz**, 164 A.3d 1189 (Pa. 2017) and **Commonwealth v. Butler**, 173 A.3d 1212 (Pa. Super. 2017) (Butler I), divesting subject matter jurisdiction/statutory authority from the Somerset County Court of Common Pleas, resulting in void proceedings in convicting and sentencing [Appellant]?

Pa.R.A.P. 1925 Statement, 1/13/26, at ¶¶ 1-2.

On February 20, 2026, the trial court filed a Pa.R.A.P. 1925(a) statement. In response to the first issue in the Rule 1925 statement, the court wrote, "[Appellant's] original offense, for which he is required to register under SORNA was committed in January 2011. Since [Appellant's] offense date is pre-December 20, 2012, he is correct that Subchapter H is inapplicable to him." Pa.R.A.P. Statement, 2/20/26, at 2.

Appellant represents himself in this appeal.⁵ The Statement of Questions Presented in his brief lists twelve questions for review. Some

⁵ This Court remanded the case for a hearing under **Commonwealth v. Grazier**, 713 A.2d 81 (Pa. 1998), to determine whether Appellant wished to proceed *pro se* or wanted new counsel. On March 26, 2026, following a **Grazier** hearing, the trial court permitted Appellant to proceed *pro se*, finding
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questions are redundant; others are waived for failure to raise them in his Rule 1925 statement. **See** Pa.R.A.P. 1925(b)(4)(vii) (issues not included in Rule 1925 statement are waived); **Commonwealth v. Davis**, 273 A.3d 1228, 1239 n.5 (appellant waived claim that trial court abused its discretion by allowing prospective jurors to sit in courtroom gallery, 100 feet from counsel, during *voir dire*, since appellant failed to raise this issue in Rule 1925 statement). We limit our review to the issues raised in Appellant's Rule 1925 statement.

The first issue is whether there is any factual basis for Appellant's guilty plea to Section 4915.1. We agree with Appellant that no factual basis exists, and that his conviction under Section 4915.1 cannot stand.

Two preliminary matters deserve mention. First, when, as here, a defendant enters a guilty plea, he waives his right to challenge on appeal all non-jurisdictional defects except the legality of his sentence and the validity of his plea. **Commonwealth v. Pantalion**, 957 A.2d 1267, 1271 (Pa. Super. 2008); **see also** Appellant's Written Guilty Plea Questionnaire (containing same waivers). Under this principle, Appellant waived the right to challenge the factual basis of his Section 4915.1 guilty plea. The Commonwealth, however, waived any objection to Appellant's waiver by failing to argue in its brief that Appellant waived this challenge by pleading guilty. **See**

that he knowingly, intelligently and voluntarily decided to appeal without counsel. Order, 3/26/26.

Commonwealth v. Sanchez, 623 Pa. 253, 82 A.3d 943, 972 n.10 (2013) (where Commonwealth, as appellee, failed to argue that defendant waived arguments by failing to raise them in trial court in timely manner, Commonwealth “waived the waiver”); ***Commonwealth v. Dabney***, 274 A.3d 1283, 1292 n.11 (Pa. Super. 2022) (addressing argument raised for first time on appeal because Commonwealth, as appellee, did not argue that defendant waived issue).

Second, Appellant preserved this argument for appeal in his Rule 1925 statement by asserting that the court “act[ed] without statutory authority” by convicting him “under statutes that do not pertain to him under SORNA...”

We conclude that Appellant’s argument has merit. SORNA consists of two subchapters in the Sentencing Code, Subchapters H⁶ and I⁷. Subchapter H applies to sex offenders who committed offenses on or after December 20, 2012. **See** 42 Pa.C.S.A. §§ 9799.12-13. Subchapter I applies to sex offenders who committed sex offenses on or after April 22, 1996 and before December 20, 2012.

Section 4915.1 criminalizes the failure to comply with Subchapter H of SORNA. Appellant’s sex offense took place in 2011, before the time period governed by Subchapter H (December 20, 2012 to the present). Thus, the

⁶ 42 Pa.C.S.A. §§ 9799.11-9799.42.

⁷ 42 Pa.C.S.A. §§ 9799.51-9799.75.

trial court correctly reasoned in its Rule 1925 opinion that Subchapter H does not apply to Appellant. Consequently, Section 4915.1 does not apply to Appellant, and we must reverse his judgment of sentence under this provision.

Next, Appellant raises two challenges to his conviction under Section 4915.2(a)(1), the statute that criminalizes the failure to register under Subchapter I of SORNA. Appellant contends that his conviction under Section 4915.2 is invalid because (1) Subchapter I does not apply to him, and (2) it is unconstitutional to apply Subchapter I to him under *ex post facto* principles.⁸ We disagree.

Section 4915.2 provides:

(a) Offense defined.--An individual who is subject to registration under 42 Pa.C.S.[A.] § 9799.55(a), (a.1) or (b) (relating to registration) or who was subject to registration under former 42 Pa.C.S.[A.] § 9793 (relating to registration of certain offenders for ten years) commits an offense if the individual knowingly fails to:

(1) register with the Pennsylvania State Police as required under 42 Pa.C.S.[A.] § 9799.56 (relating to registration procedures and applicability).

Id.

We reject Appellant's claim that Subchapter I does not apply to him. In 2020, the Court of Common Pleas of Westmoreland County declared Appellant an SVP. Subchapter I prescribes that SVP's are subject to lifetime

⁸ Once again, Appellant waived these arguments by pleading guilty under Section 4915.2, but the Commonwealth failed to argue waiver in its brief, thus waiving Appellant's waiver. ***See Sanchez; Dabney, supra.***

registration as sex offenders. **See** 42 Pa.C.S.A. § 9799.55(b)(3). Accordingly, Appellant must register for life under Subchapter I,⁹ and his failure to comply with registration requirements constitutes a violation of Section 4915.2.

Next, Appellant raises an *ex post facto* challenge to Subchapter I's provisions governing transients. He claims that (1) the offense that required him to register as a sex offender took place in 2011, prior to SORNA's effective date, (2) there was no law prior to SORNA requiring registration by transients, and therefore (3) Subchapter I's provision requiring registration by transients¹⁰, as applied to him, violates the Ex Post Facto Clauses of the United States and Pennsylvania Constitutions. We disagree. Our Supreme Court has held that Subchapter I is nonpunitive in nature and that its application to offenses before SORNA's effective date does not violate the Ex Post Facto Clauses. **See Commonwealth v. Lacombe**, 234 A.3d 602 (Pa. 2020).¹¹

⁹ Although the trial court did not raise this point in its Rule 1925 opinion, we may affirm based on any valid reason appearing in the record and without regard for the grounds relied upon by the trial court. **See Salsberg v. Mann**, 310 A.3d 104, 108 n.1 (Pa. 2024).

¹⁰ **See** 42 Pa.C.S.A. § 9799.60(b.2) (requiring monthly verification by individuals with temporary habitats located within this Commonwealth).

¹¹ The decision cited by Appellant, **Muniz**, 164 A.3d at 1189, applies only to cases under Subchapter H, not Subchapter I.

Therefore, application of Subchapter I's statute governing transients to the present case does not violate Appellant's constitutional rights.¹²

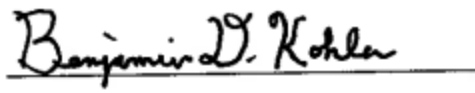
In his final argument, Appellant contends that the Westmoreland County court lacked subject matter jurisdiction to declare him an SVP in 2020. Appellant cannot use the present cases, which originated in Somerset County, to make a collateral attack on the Westmoreland County court's order declaring him an SVP. Any challenge to his SVP designation must be made in the first instance in Westmoreland County. We express no view concerning whether any such challenge would be timely or meritorious.

For these reasons, we affirm Appellant's judgments of sentence for his convictions under Sections 4904 and 4915.2. We reverse his judgment of sentence for his conviction under Section 4915.1. Since the reversal of his judgment of sentence under Section 4915.1 does not upset the trial court's sentencing scheme, it is unnecessary to remand this case for resentencing.

Judgments of sentence affirmed in part and reversed in part.
Jurisdiction relinquished.

¹² Furthermore, as the trial court observed in its opinion, Appellant's argument fails because pre-SORNA law required transients to register. **See Commonwealth v. Wilgus**, 40 A.3d 1201 (Pa. 2012) (transients are required to register with state police under Megan's Law II). Appellant does not point to any change in statutory law that prevented **Wilgus** from continuing to apply to Megan's Law III, the law in effect at the time of his offense.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 10/1/2026