

[J-87-2025]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	: No. 105 MAP 2024
	:
Appellee	: Appeal from the Order of the
	: Superior Court at No. 886 MDA
	: 2022 entered on October 2, 2023,
v.	: Affirming the Judgment of
	: Sentence of the Dauphin County
	: Court of Common Pleas, Criminal
LUIS MANUEL SERRANO-DELGADO,	: Division, at No. CP-22-CR-
	: 0005747-2019 entered on May 9,
Appellant	: 2022
	:
	: ARGUED: October 8, 2025

OPINION IN SUPPORT OF REVERSAL

JUSTICE DONOHUE

DECIDED: July 21, 2026

The Opinion in Support of Affirmance (“OISA”)¹ would hold that 42 Pa.C.S. § 6354(b)(4) of the Juvenile Act (“Section 6354(b)(4)”), “permits the cross-examination of a character witness with the defendant’s juvenile adjudications, notwithstanding use of the word ‘conviction’ in Rule [of Evidence] 405(a)(2).” OISA at 21. I disagree and would instead hold that such evidence is not admissible pursuant to Pennsylvania Rule of Evidence 405(a)(2) (“Rule 405(a)(2)”), which, in a criminal case, precludes the cross-examination of a character witness concerning “allegations of other criminal conduct by the defendant, not resulting in conviction[.]” Pa.R.E. 405(a)(2). Given that Section 6354(a) of the Juvenile Act provides that a juvenile adjudication “is not a conviction of

¹ Justice Mundy and Justice Brobson each author separate opinions in support of affirmance. As I only respond to the opinion authored by Justice Mundy, I will refer to this opinion as the OISA.

crime[.]” 42 Pa.C.S. § 6354(a), Rule 405(a)(2) precludes the introduction of a criminal defendant’s juvenile adjudication during the cross-examination of the defendant’s character witness. I would reverse the Superior Court’s judgment, vacate Serrano-Delgado’s judgment of sentence, and remand for a new trial.

When a character witness is testifying in support of a criminal defendant, the Rules of Evidence contemplate two distinct ways to impeach the character witness’ testimony with respect to prior convictions. First, pursuant to Pennsylvania Rule of Evidence 609 (“Rule 609”), a character witness, or any witness for that matter, may be cross-examined about her own prior criminal convictions involving dishonesty or false statements to impeach the witness’ credibility. See Pa.R.E. 609(a) (“For the purpose of attacking the credibility of any witness, evidence that the witness has been convicted of a crime, whether by verdict or by plea of guilty or nolo contendere, must be admitted if it involved dishonesty or false statement.”). Relatedly, Rule 609(d) also permits the introduction of a witness’ juvenile adjudication to impeach the witness’ credibility, providing that “[i]n a criminal case only, evidence of the adjudication of delinquency for an offense under the Juvenile Act, 42 Pa.C.S. §§ 6301 *et seq.*, may be used to impeach the credibility of a witness if conviction of the offense would be admissible to attack the credibility of an adult.” Pa.R.E. 609(d).² To determine whether a juvenile adjudication “would be admissible to attack the credibility of an adult[.]” *id.*, we must refer back to the general rule in subsection (a). When doing so, it is apparent that a juvenile adjudication is only admissible where there is “evidence that the witness has been [adjudicated delinquent]

² The commentary to Rule 609(d) provides that the purpose of the Rule is to “be consistent with 42 Pa.C.S. § 6354(b)(4)[.]” Pa.R.E. 609, cmt. Section 6354(b)(4) provides: “The disposition of a child under this chapter [(i.e. a juvenile adjudication)] may only be used against him ... in a criminal proceeding, if the child was adjudicated delinquent for an offense, the evidence of which would be admissible if committed by an adult.” 42 Pa.C.S. § 6354(b)(4).

... if it involved dishonesty or false statement.” Pa.R.E. 609(a). Rule 609 thus permits the introduction of a witness’ own *crimen falsi* conviction or juvenile adjudication as a direct way to attack the witness’ credibility.

Conversely, Rule 405, which specifically relates to character witness testimony, allows for the introduction of specific instances of the defendant’s conduct during the cross-examination of the character witness. Rule 405 provides in full:

Rule 405. Methods of Proving Character.

(a) *By Reputation.* When evidence of a person’s character or character trait is admissible, it may be proved by testimony about the person’s reputation. Testimony about the witness’s opinion as to the character or character trait of the person is not admissible.

(1) On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person’s conduct probative of the character trait in question.

(2) In a criminal case, on cross-examination of a character witness, inquiry into allegations of other criminal conduct by the defendant, not resulting in conviction, is not permissible.

(b) *By Specific Instances of Conduct.* Specific instances of conduct are not admissible to prove character or a trait of character, except:

(1) In a civil case, when a person’s character or a character trait is an essential element of a claim or defense, character may be proved by specific instances of conduct.

(2) In a criminal case, when character or a character trait of an alleged victim is admissible under Pa.R.E. 404(a)(2)(B) the defendant may prove the character or character trait by specific instances of conduct.

Pa.R.E. 405.

Subsection (a) creates the general rule that where a person's character or character trait is admissible, it may be proved by reputation testimony but not opinion testimony. Pa.R.E. 405(a). Subsections (a)(1) and (a)(2) each relate to the cross-examination of a character witness. Pursuant to subsection (a)(1), the court may allow a character witness to be cross-examined about "specific instances of the person's conduct probative of the character trait in question." Pa.R.E. 405(a)(1). This Court has interpreted subsection (a)(1) to allow the introduction of a defendant's prior criminal convictions during the cross-examination of the defendant's character witness. See *Commonwealth v. Fletcher*, 861 A.2d 898, 915-16 (Pa. 2004). In *Fletcher*, we explained that where a character witness testifies that a criminal defendant has a reputation for peacefulness and non-violence, this opens the door for the Commonwealth to cross-examine the character witness concerning the defendant's prior convictions for robbery and assault. *Id.* The rationale for this result is that the Commonwealth "is permitted to test t[he character witness'] testimony by inquiry into whether the witness is aware of convictions which tend to refute that reputation." *Id.* at 916 (quoting *Commonwealth v. Albrecht*, 720 A.2d 693, 702 n.10 (Pa. 1998)).

However, subsection (a)(2) limits the scope of subsection (a)(1), clarifying that during the cross-examination of a character witness in a criminal case, "inquiry into allegations of other criminal conduct by the defendant, not resulting in conviction, is not permissible." Pa.R.E. 405(a)(2). Section 6354(a) of the Juvenile Act provides that a juvenile adjudication "is not a conviction of crime[.]" 42 Pa.C.S. § 6354(a). Applying this precept to the language of Rule 405(a)(2), it is apparent that a character witness testifying on behalf of a criminal defendant cannot be cross-examined about the defendant's juvenile adjudications.

The OISA, despite acknowledging that a juvenile adjudication is not a criminal conviction, reasons that the text of Rule 405(a)(2) is unclear because it “does not state one way or another whether a defendant’s prior juvenile adjudications may be utilized to cross-examine a character witness.” OISA at 15. Looking to the commentary of Rule 405(a)(2), the OISA relies on the citation to *Commonwealth v. Morgan*, 739 A.2d 1033 (Pa. 1999), which held that character witnesses cannot be cross-examined about a criminal defendant’s alleged prior criminal conduct which did not lead to a conviction. Based on *Morgan*, the OISA concludes that the intent of Rule 405(a)(2) is to exclude “unfounded allegations of criminal conduct, not juvenile adjudications.” OISA at 16. While *Morgan* is consistent with Rule 405(a)(2)—insofar as both the opinion and rule preclude inquiry into allegations of criminal conduct not resulting in conviction—the OISA here errs by extending *Morgan* to be the exclusive interpretation of Rule 405(a)(2). As *Morgan* did not involve juvenile adjudications, that holding cannot dictate the plain meaning of Rule 405(a)(2) with respect to juvenile adjudications.

The OISA further errs by relying on matters beyond the plain text of Rule 405 to support its conclusion. The OISA suggests that “[t]he due process protections afforded in juvenile proceedings and requirement for proof beyond a reasonable doubt differentiate juvenile adjudications from mere allegations of criminal conduct[.]” *Id.* The OISA believes it is necessary to permit the cross-examination of a defendant’s character witness by introducing the defendant’s juvenile adjudications because it “allows the Commonwealth to respond where not doing so would be fundamentally unfair.” *Id.* at 18 (reasoning that if not, it “would sanction the admission of incomplete trial evidence capable of sowing reasonable doubt of guilt, ... while simultaneously precluding the Commonwealth from cross-examining the character witness with relevant information solely based on the offender’s age”). Thus, the OISA concludes that the Commonwealth must be permitted

to introduce the defendant's juvenile adjudications "to develop a full picture of a defendant." *Id.*

The OISA's analysis is not rooted in the text of Rule 405(a)(2). For as much as it attempts to construe a juvenile adjudication as something on par with a criminal conviction and thus worthy of focus on cross-examination of a character witness, the OISA cannot avoid the plain statement in Rule 405(a)(2) that precludes "inquiry into allegations of other criminal conduct by the defendant, not resulting in conviction[.]" Pa.R.E. 405(a)(2). As the Juvenile Act makes clear that a juvenile adjudication "is not a conviction of crime[.]" 42 Pa.C.S. § 6354(a), there simply is no basis to sanction this practice. The OISA even admits that its interpretation fails to give effect to the language of Rule 405(a)(2) as it reads the phrase "not resulting in conviction" out of the Rule. See OISA at 21 (holding that Section 6354(b)(4) allows for the cross-examination of a character witness concerning the defendant's juvenile adjudications, "notwithstanding use of the word 'conviction' in Rule 405(a)(2)").

In sum, the OISA's interpretation of Rule 405(a)(2) fails to give effect to the clear prohibition against "inquiry into allegations of other criminal conduct by the defendant, not resulting in conviction[.]" Pa.R.E. 405(a)(2). Given that juvenile adjudications are not criminal convictions, Rule 405(a)(2) prohibits a character witness from being cross-examined about a criminal defendant's juvenile adjudications.

Applying this holding to the instant case, I would reverse the judgment of the Superior Court and remand for a new trial because the trial court's error was not harmless beyond a reasonable doubt.³ See *Commonwealth v. Chmiel*, 889 A.2d 501, 528 (Pa.

³ The Opinion in Support of Vacation and Remand ("OISVR"), while agreeing that Rule 405(a)(2) prohibits a character witness from being cross-examined about a criminal defendant's juvenile adjudications, would remand this case to the Superior Court for it to address the harmless error question in the first instance, claiming that this would be "consistent with our typical practice[.]" OISVR at 1 (Dougherty, J.). I disagree. In recent (continued...)

2005) (explaining that because error alone is not enough to grant a new trial, an appellate court must examine whether the error was harmless beyond a reasonable doubt); *Commonwealth v. Fitzpatrick*, 255 A.3d 452, 483 (Pa. 2021) (noting that if “there is a reasonable possibility that an error might have contributed to the conviction, the error is not harmless”). The Commonwealth bears the burden of establishing harmless error, which occurs when:

(1) the error did not prejudice the defendant or the prejudice was de minimis; (2) the erroneously admitted evidence was merely cumulative of other untainted evidence which was substantially similar to the erroneously admitted evidence; or (3) the properly admitted and uncontradicted evidence of guilt was so overwhelming and the prejudicial effect of the error was so insignificant by comparison that the error could not have contributed to the verdict.

Id. (quoting *Chmiel*, 889 A.2d at 521).

A jury convicted Luis Manuel Serrano-Delgado of second-degree murder, robbery, and criminal conspiracy to commit robbery.⁴ Prior to trial, Serrano-Delgado intended to present two character witnesses to testify on his behalf to establish that he had a reputation as a “peaceful, law[-]abiding citizen.” N.T., 4/4/2022, at 9. Serrano-Delgado filed a motion in limine to preclude the Commonwealth from cross-examining the character witnesses about two of his past juvenile adjudications for terroristic threats and

years, this Court has often decided harmless error questions without the Superior Court having first addressed the questions. See *Commonwealth v. Belgrave*, 353 A.3d 550 (Pa. 2026) (reversing the Superior Court and analyzing whether the error was harmless in the first instance); *Commonwealth v. Walters*, 323 A.3d 151 (Pa. 2024) (same); *Commonwealth v. Jones*, 240 A.3d 881 (Pa. 2020) (same); but see *Commonwealth v. Jones*, 325 A.3d 601 (Pa. 2024) (reversing the Superior Court after finding a Sixth Amendment violation but remanding to the intermediate court to address harmless error). While either approach is permissible, I would address harmless error here in the interest of judicial economy because the Commonwealth has not demonstrated beyond a reasonable doubt that the error was harmless.

⁴ 18 Pa.C.S. §§ 2502(b), 3701(a)(1)(ii), 903(a).

flight to avoid apprehension. Motion in Limine, 4/1/2022, ¶ 4. After the trial court denied the motion in limine, Serrano-Delgado opted not to call the character witnesses so as to avoid evidence of these juvenile adjudications from coming in at trial.⁵

Serrano-Delgado testified at trial that on the night of the incident he met up with two other individuals named Kelvo and Alex, who mentioned that Jeremmanuel Negron-Quiles (“Victim”) owed them twenty dollars. N.T., 4/5/2022, at 301-02. Serrano-Delgado permitted Kelvo to drive his mother’s car to confront Victim about the debt while he and Alex were passengers in the vehicle. *Id.* at 302. After arriving on the scene, Serrano-Delgado testified that Victim started an altercation after punching Kelvo and running away. *Id.* at 310. After Kelvo chased Victim down, Serrano-Delgado testified that they began fighting although Serrano-Delgado maintained that he did not hit Victim and was only attempting to break up the fight. *Id.* at 313-316. Kelvo then shot and killed Victim. *Id.* at 317. After running back to the vehicle, Serrano-Delgado drove to pick up Kelvo to take him away from the scene. *Id.* at 321. Serrano-Delgado maintained that he did not know that Kelvo was going to use force or threaten force to take money from Victim. *Id.* at 255.

While there was competing evidence to support Serrano-Delgado’s convictions, this Court has recognized that “[e]vidence of good character is substantive, not mere makeweight evidence, and may, in and of itself, create a reasonable doubt of guilt and, thus, require a verdict of not guilty.” *Commonwealth v. Weiss*, 606 A.2d 439, 442 (Pa. 1992) (remanding for a new trial after concluding that defense counsel was ineffective for

⁵ Serrano-Delgado was also adjudicated delinquent for retail theft and receiving stolen property. Given that these specific *crimen falsi* adjudications were admissible pursuant to Rule 609(d) to impeach the credibility of Serrano-Delgado, who opted to testify, he briefly testified to the circumstances of each offense at trial. N.T., 4/5/2022, at 235-237. However, Serrano-Delgado did not testify regarding his separate adjudications for terroristic threats and flight to avoid apprehension, and evidence of these adjudications did not come in at trial.

failing to present character witnesses at trial). Based on the trial court's denial of his motion in limine, Serrano-Delgado elected not to call his character witnesses so as not to be prejudiced by testimony about his juvenile adjudications for terroristic threats and flight to avoid apprehension. Thus, he was deprived of presenting "substantive" character evidence which "may, in and of itself, [have] create[d] a reasonable doubt of guilt and thus, require[d] a verdict of not guilty." *Id.* Given our lofty view of character evidence, I cannot conclude that the trial court's error was harmless beyond a reasonable doubt.⁶ Accordingly, I would reverse the Superior Court's judgment, vacate Serrano-Delgado's judgment of sentence, and remand for a new trial.

Justice Wecht joins this opinion in support of reversal.

⁶ The OISVR surmises that even if the trial court had precluded the Commonwealth from cross-examining Serrano-Delgado's character witnesses, he "may have decided not to call his character witnesses" to avoid "potentially damaging rebuttal testimony" from an investigating detective. OISVR at 2 n.1 (explaining that if Serrano-Delgado put his reputation as a peaceful, law-abiding citizen at issue, the Commonwealth intended to present testimony to show that he has the opposite reputation). However, what Serrano-Delgado "may" have done had the trial court not erred, is not sufficient to support a harmless error determination beyond a reasonable doubt.