

[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 WECHT

DECIDED: July 21, 2026

This case concerns the interaction between the Pennsylvania Rules of Evidence and the Juvenile Act.¹ Rule 405 of the Pennsylvania Rules of Evidence states that a defense character witness in a criminal case cannot be cross-examined regarding “other criminal conduct by the defendant, not resulting in conviction.”² The Juvenile Act, on the other hand, instructs that juvenile dispositions are *not* criminal convictions, but that they

¹ 42 Pa.C.S. § 6354(b)(4); Pa.R.E. 405.

² Pa.R.E. 405(a)(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.”). This restriction does not apply in civil cases. Pa.R.E. 405(a)(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.”).

nevertheless “may” be used in subsequent criminal proceedings if an adult conviction for the same offense would be admissible.³

At first glance, the Juvenile Act may seem discordant with Rule 405. The Rule suggests that defense character witnesses in criminal cases cannot be cross-examined regarding the accused’s prior juvenile offenses. Juvenile delinquency adjudications are not convictions. Rule 405 only permits inquiry into conduct “not resulting in conviction.” Notwithstanding Rule 405, however, Subsection 6354(b)(4) of the Juvenile Act seems to sanction the use of juvenile dispositions in subsequent criminal proceedings so long as evidence of an (adult) criminal conviction for the same offense could be used. That brings us back to Rule 405, which permits the use of adult criminal convictions to impeach defense character witnesses. So, what now? This hamster-wheel analysis suggests a false tension between Rule 405 and the Juvenile Act, as if one or the other must be given primacy. Must the proposed cross-examination satisfy the unadorned text of Rule 405? Or is it the text of Rule 405 *as modified by Subsection 6354(b)(4)* that governs the inquiry?

The conflict between the Act and Rule 405 is a mirage. Although Subsection 6354(b)(4) permits juvenile dispositions to be used in subsequent criminal cases, the provision does not purport to override evidentiary rules that might prevent the Commonwealth from using a juvenile disposition in a particular case for a particular purpose. Subsection 6354(b)(4) merely lifted what had been a longstanding statutory

³ 42 Pa.C.S. § 6354(a) (“An order of disposition or other adjudication in a proceeding under this chapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment.”); *id.* § 6354(b)(4) (“The disposition of a child under this chapter 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.”).

ban on nearly all uses of juvenile dispositions in criminal court.⁴ But, even after the 1995 enactment of Subsection 6354(b)(4), a prosecutor who sought to mention a defendant's juvenile disposition still had to meet all common law criteria governing the admissibility of such evidence, since Subsection 6354(b)(4) did not supersede those common law rules.⁵

At common law, only a defendant's prior criminal convictions (*i.e.*, not juvenile dispositions) could be used to cross-examine his or her character witnesses.⁶ When this Court issued the Rules of Evidence in 1998, we codified this approach in Rule 405, which continues to this day to preclude the Commonwealth from cross-examining defense character witnesses about allegations of criminal conduct "not resulting in conviction," a category which necessarily includes juvenile dispositions. Given the leeway afforded to us under Subsection 6354(b)(4), this Court could permit juvenile dispositions to be used during cross-examination of defense character witnesses in criminal cases without running afoul of the Juvenile Act. Despite that freedom, we have never wavered from our pre-1995 stance that such questioning should be prohibited. This steadfastness is significant because it contrasts with our Court's approach to other evidentiary rules, such

⁴ Under the original 1972 Juvenile Act, Section 6354 stated that juvenile dispositions could not be used in subsequent criminal proceedings other than "for the purposes of a presentence investigation and report." 42 Pa.C.S. § 6354(b)(1) (1973). The same was true under the Juvenile Act's 1933 predecessor legislation, which stated that "[n]o order made by any juvenile court shall operate to impose any of the civil disabilities ordinarily imposed by the criminal laws of the Commonwealth, nor shall any child be deemed to be a criminal by reason of any such order or be deemed to have been convicted of a crime." Act of June 2, 1933, P.L. 1433, § 19.

⁵ *Commonwealth v. Katchmer*, 309 A.2d 591, 594 (Pa. 1973); see *Metropolitan Prop. & Liability Ins. Co. v. Pa. Ins. Com'r*, 580 A.2d 300, 302 (Pa. 1990) ("[A]n implication alone cannot be interpreted as abrogating existing law. The legislature must affirmatively repeal existing law or specifically preempt accepted common law for prior law to be disregarded.").

⁶ *Katchmer*, 309 A.2d at 594.

as our *crimen falsi* rule (Rule 609), which we overhauled to allow for broader uses of juvenile dispositions after the legislature’s 1995 enactment of Subsection 6354(b)(4).

Mirroring the language of Subsection 6354(b)(4), Rule 609 explicitly embraces the concept that a prior juvenile delinquency adjudication may be used to impeach the credibility of a witness in a criminal case “if conviction of the offense would be admissible to attack the credibility of an adult.”⁷ While this was decidedly not the common law rule, the commentary to Rule 609 clarifies that this Court abandoned the common-law approach in recognition of the General Assembly’s 1995 lifting of the prior statutory ban on the use of juvenile dispositions in criminal cases.⁸ In other words, juvenile adjudications can be used as *crimen falsi* only because *both* Subsection 6354(b)(4) and Rule 609 permit it.

Unlike Rule 609, Rule 405 does not contain Subsection 6354(b)(4)’s language permitting the use of convictions that “would be admissible to attack the credibility of an adult.” As Justice Donohue explains in her opinion in support of reversal (“OISR”), which I join, Rule 405 unambiguously precludes the Commonwealth from cross-examining a defense character witness regarding the defendant’s juvenile adjudication.⁹ The opinion in support of affirmance’s contrary analysis, as Justice Donohue notes, “is not rooted in the text of Rule 405(a)(2).”¹⁰

⁷ Pa.R.E. 609(d).

⁸ Pa.R.E. 609, *comment*. (“Under the [Federal Rules of Evidence], evidence of juvenile adjudications is generally inadmissible to impeach credibility, except in criminal cases against a witness other than the accused where the court finds that the evidence is necessary for a fair determination of guilt or innocence. Pa.R.E. 609(d), to be consistent with 42 Pa.C.S. § 6354(b)(4), permits a broader use[.]”).

⁹ That’s because Rule 405 bars “inquiry into allegations of other criminal conduct by the defendant, not resulting in conviction,” Pa.R.E. 405(a)(2), and the Juvenile Act makes clear that a juvenile adjudication “is not a conviction of crime.” 42 Pa.C.S. § 6354(a).

¹⁰ Opinion in Support of Reversal (Donohue, J.) at 5.

The OISA's conclusion hinges on the comment to Rule 405, which (like the text of the Rule itself) does not support the OISA's interpretation. The comment to Rule 609 simply cites *Commonwealth v. Morgan*,¹¹ a case in which this Court held that defense character witnesses cannot be cross-examined regarding conduct of the defendant that did not result in an arrest or a conviction.¹² Based on the mere mention of *Morgan* in the comment—and based on the fact that *Morgan* does not concern juvenile adjudications—the OISA concludes that Rule 405 only prevents character witnesses from being cross-examined regarding “unfounded allegations of criminal conduct, not juvenile adjudications.”¹³ That is plainly not what the Rule says. It is also not what the comment says.¹⁴

¹¹ 739 A.2d 1033 (Pa. 1999).

¹² Prior to *Morgan*, this Court held in *Commonwealth v. Scott*, 436 A.2d 607 (Pa. 1981), that defense character witnesses could not be cross-examined regarding their knowledge of the defendant's prior arrests that did not result in a conviction. Discussing the holding in *Scott*, the *Morgan* Court stated that “it would be nothing short of illogical to preclude the Commonwealth from cross-examining defense character witnesses about a defendant's prior arrests yet allow it to cross-examine such witnesses about allegations of a defendant's prior criminal misconduct which had never resulted in an arrest.” *Morgan*, 739 A.2d at 1036.

¹³ Opinion in Support of Affirmance at 16 (“Although *Morgan* does not specifically address juvenile adjudications, our reference to that decision indicates this Court's intention to exclude from cross-examination of character witnesses unfounded allegations of criminal conduct, not juvenile adjudications.”).

¹⁴ The OISA discusses the Rules of Judicial Administration at length but then proceeds to violate many of those rules. *Contrast* Pa.R.J.A. 106 (“Words and phrases shall be construed according to rules of grammar and according to their common and approved usage[.]”), *and* Pa.R.J.A. 108(b) (“When the words of a rule are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.”), *with* OISA at 15 (admitting that Rule 405(a)(2) speaks only of convictions but stating: “[w]e nevertheless conclude that it does not preclude the use of a defendant's prior juvenile adjudications”), *and id.* at 21 n. 11 (“[W]e find the intent of the Court clear in that it permits admission of juvenile adjudications in circumstances such as this.”). *Contrast also* Pa.R.J.A. 108(c) (instructing courts to consider extrinsic sources of intent like “the commentary accompanying the rule” or “the consequences of a particular (continued...)”).

Rule 405's commentary does not cite *Morgan* for the reason that the OISA claims.

The first version of Rule 405, adopted in 1998, provided as follows:

(a) *Reputation Evidence*. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation. On cross-examination of the reputation witness, inquiry is allowable into specific instances of conduct probative of the character trait in question, except that in criminal cases **inquiry into arrests of the accused** not resulting in conviction is not permissible.¹⁵

The 1998 Rule's commentary did not cite *Morgan*, a case decided after the Rule was adopted. Rule 405 was subsequently amended in 2000, one year after *Morgan*, to change "arrests of the accused" to "allegations of other criminal misconduct of the accused."¹⁶ It was at that time that the citation to *Morgan* was added to the comment. If the OISA's interpretation is correct, in other words, this Court in the 1998 Rules of Evidence preserved the common law rule precluding character witnesses from being cross-examined regarding the defendant's juvenile adjudications. Under the OISA's analysis, it was only when "arrests" was changed to "allegations of other criminal misconduct" and a citation to *Morgan* was added to the comment that this Court abandoned the longstanding rule that juvenile adjudications cannot be used to cross-examine defense character witnesses. This is not a plausible interpretation of Rule 405

interpretation" only when the text of the rule is "not explicit"), *with* OISA at 15 (stating that the proper interpretation of Rule 405(a)(2) "is clarified by the commentary"), and *id.* at 16 (claiming that a citation to *Morgan* in the comment to Rule 405 "indicates this Court's intention" to allow juvenile adjudications to be used on cross-examination of character witnesses), and *id.* at 18 (arguing that it would be "fundamentally unfair" to preclude the Commonwealth from using the defendant's juvenile adjudications to cross-examine character witnesses). *Contrast also* Pa.R.J.A. 112 ("Rules or parts of rules within a particular body of rules are *in pari materia* when they relate to the same proceedings or class of proceedings."), *with* OISA at 21 (failing to engage with Rule 609, which states explicitly what the OISA claims Rule 405 implies).

¹⁵ Pa.R.E. 405(a) (1998) (emphasis added).

¹⁶ Pa.R.E. 405(a) (2001).

or its comment. The citation to *Morgan* was added to Rule 405's commentary not for reasons relating to juvenile adjudications, but rather to illuminate the 2000 amendment changing "arrests" to "allegations of other criminal misconduct."

If this Court really had intended to allow juvenile adjudications to be used in the fashion that the OISA claims, we would not have put it upon readers to discern that intent from an unadorned commentary citation to *Morgan*. We would have done exactly what we did in Rule 609: we would have stated explicitly that juvenile adjudications can be used in criminal cases whenever "conviction of the offense would be admissible to attack the credibility of an adult."¹⁷

¹⁷ Pa.R.E. 609(d).