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Criminal Justice Updates - December 2020

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Criminal Justice Updates - December 2020

Abstract

The Criminal Justice Update is a monthly newsletter created by the Adams County Bar Foundation Fellow providing updates in criminal justice policy coming from Pennsylvania's courts and legislature as well as the US Supreme Court.

Contents:

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- Updates from the PA Legislature (no updates this month)
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Keywords

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Disciplines

Criminology and Criminal Justice | Public Affairs, Public Policy and Public Administration



CRIMINAL JUSTICE UPDATE



A monthly newsletter produced by the ACBA Fellow at
Gettysburg College

December 2020

Keep up to date with developments in criminal law, criminal procedure, and victims issues via this monthly newsletter.

Comments or questions?
Contact Haley Shultz at
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Updates from PA Governor's Office

**No updates this month*

Updates from the PA Legislature

**No updates this month*

Updates from the Courts

U.S. Supreme Court

Criminal Law & Procedure

DAVID SHINN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS v. GEORGE RUSSELL KAYER
DECIDED: December 14, 2020

https://www.supremecourt.gov/opinions/20pdf/19-1302_8njg.pdf

"The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) restricts the power of federal courts to grant writs of habeas corpus based on claims that were "adjudicated on the merits" by a state court. 28 U. S. C. §2254(d). When a state court has applied clearly established federal law to reasonably determined facts in the process of adjudicating a claim on the merits, a federal habeas court may not disturb the state court's decision unless its error lies "beyond any possibility for fairminded disagreement." *Harrington v. Richter*, 562 U. S. 86, 103 (2011). In this case, the Court of Appeals erred in ordering issuance of a writ of habeas corpus despite ample room for reasonable disagreement about the prisoner's ineffective-assistance-of-counsel claim. In so doing, the Court of Appeals clearly violated this Court's AEDPA jurisprudence. We therefore grant the petition for certiorari and vacate the judgment below."

UNITED STATES v. BRIGGS

DECIDED: December 10, 2020

https://www.supremecourt.gov/opinions/20pdf/19-108_8njq.pdf

"The Uniform Code of Military Justice (UCMJ) has long provided that a military offense, "punishable by death, may be tried and punished at any time without limitation." 10 U. S. C. §843(a). Other military offenses are subject to a 5-year

statute of limitations. §843(b). Respondents are three military service members, each convicted of rape. When they were charged, the UCMJ provided that rape could be “punished by death.” §920(a) (1994 ed.). Because this Court held that the Eighth Amendment forbids a death sentence for the rape of an adult woman, *Coker v. Georgia*, 433 U. S. 584, respondents argue that they could not, in fact, have been sentenced to death, and therefore the UCMJ’s 5-year statute of limitations applies and bars their convictions. Agreeing, the Court of Appeals for the Armed Forces set aside their convictions.

Held: Respondents’ prosecutions for rape under the UCMJ were timely. Pp. 2–9.

(a) Respondents contend that the UCMJ phrase “punishable by death” means capable of punishment by death when all applicable law is taken into account. By contrast, the Government sees the phrase as something of a term of art, meaning capable of punishment by death under the penalty provisions of the UCMJ. Pp. 2–3.

(b) For three reasons, the phrase’s context—appearing in a statute of limitations provision for prosecutions under the UCMJ—weighs heavily in favor of the Government’s interpretation. Pp. 3–9.

(1) First, the UCMJ is a uniform code. As such, a natural referent for a statute of limitations provision within the UCMJ is other law in the UCMJ itself. The most natural place to look for Congress’s answer to whether rape was “punishable by death” within the meaning of §843(a) is §920’s directive that rape could be “punished by death.” That is so even if the UCMJ’s separate prohibition on “cruel or unusual punishment,” §855, would have been held to provide an independent defense against the imposition of the death penalty for rape. Pp. 3–4.

(2) Second, respondents’ interpretation of §843(a) is not the sort of limitations provision that Congress is likely to have chosen. Statutes of limitations typically provide clarity, see *United States v. Lovasco*, 431 U. S. 783, 789, and it is reasonable to presume that clarity is an objective when lawmakers enact such provisions. But if “punishable by death” means punishable by death after all applicable law is taken into account, the deadline for filing rape charges would be unclear. That deadline would depend on an unresolved constitutional question about *Coker*’s application to military prosecutions, on what this Court has described as “evolving standards of decency” under the Eighth Amendment, *Kennedy v. Louisiana*, 554 U. S. 407, 419, and on whether §855 of the UCMJ independently prohibits a death sentence for rape. Pp. 4–7.

(3) Third, the ends served by statutes of limitations differ sharply from those served by provisions like the Eighth Amendment or UCMJ §855. Factors legislators may find important in setting a statute of limitations—such as the difficulty of gathering evidence and mounting a prosecution—play no part in the Court’s Eighth Amendment analysis. Thus, it is unlikely that lawmakers would want to tie a statute of limitations to judicial interpretations of such provisions. Pp. 8–9. No. 19–108, 78 M. J. 289; No. 19–184, 78 M. J. 415 (first judgment) and 79 M. J. 199 (second judgment), reversed and remanded.”

PA Supreme Court

Criminal Law & Procedure

FRANCIS G. GRAHAM v. LARRY CHECK

DECIDED: December 22, 2020

<http://www.pacourts.us/assets/opinions/Supreme/out/J-22-2020omo%20-%20104639799122436919.pdf?cb=1>

“Pennsylvania tort law recognizes that sometimes injurious accidents are not caused by carelessness, but because events conspire to create a situation so urgent and unexpected that the person alleged to be blameworthy had little or no practical opportunity to avert the harm. When the evidence suggests that such “sudden emergencies” may have played a role in a case, the presiding judge may instruct a jury that, should it determine that such an emergency contributed to the accident, it should assess the defendant’s performance commensurately. But since the advent of the

automobile, Pennsylvania law also has imposed a heightened standard of care upon drivers to exercise particular vigilance when it is reasonably foreseeable that a pedestrian will cross their path, particularly at intersections. The case now before us involves such a scenario. Citing darkness, an obstructed view, and a want of evidence of any overtly careless behavior by the driver, the trial court in this case charged the jury on sudden emergency—the pedestrian’s ostensibly abrupt appearance in front of the driver mere moments before impact. We hold that the trial evidence failed to establish a foundation for that instruction here. The decision to charge the jury on sudden emergency was prejudicial error in this case, and the plaintiff is entitled to a new trial.”

COMMONWEALTH OF PENNSYLVANIA v. MICHAEL A. LEHMAN; COMMONWEALTH OF PENNSYLVANIA v. SCOTT CHARLES DAVIS **DECIDED: December 22, 2020**

<http://www.pacourts.us/assets/opinions/Supreme/out/J-43A-2020mo%20-%20104639418122396143.pdf?cb=1>

“We granted discretionary review in these consolidated appeals to determine whether the costs of resentencing a criminal defendant may be recovered by the district attorney from the defendant, when resentencing became necessary because the original sentence was vacated upon a subsequent judicial determination the sentence was unconstitutional. Both lower tribunals correctly determined such costs may not be charged to the defendant, and we therefore affirm the decisions of the Superior Court.”

COMMONWEALTH OF PENNSYLVANIA v. MITCHELL GREGORY PECK, JR. **DECIDED: December 22, 2020**

<http://www.pacourts.us/assets/opinions/Supreme/out/J-54-2020mo%20-%20104639959122546110.pdf?cb=1>

“Mitchell Gregory Peck, Jr. (“Peck”) was convicted of drug delivery resulting in death pursuant to Section 2506 of the Crimes Code, 18 Pa.C.S. § 2506 (“DDRD”), and sentenced to twenty to forty years of imprisonment. In this appeal, we consider the interplay between the territorial application of the Crimes Code, including in particular Section 102, 18 Pa.C.S. § 102, and the sufficiency of the evidence to support a conviction. Specific to this appeal, we address whether Peck’s conviction was supported by sufficient evidence where the drug delivery occurred in Maryland and the resulting death occurred in Pennsylvania. For the reasons that follow, we conclude that while the Commonwealth had subject matter jurisdiction to prosecute Peck for DDRD, it could not present evidence to support his conviction. We therefore reverse the Superior Court’s decision to the contrary and vacate Peck’s judgment of sentence.”

COMMONWEALTH OF PENNSYLVANIA v. KEITH ALEXANDER **DECIDED: December 22, 2020**

<http://www.pacourts.us/assets/opinions/Supreme/out/J-51-2020mo%20-%20104639940122582972.pdf?cb=1>

“We granted Appellant Keith Alexander (“Alexander”)’s petition for allowance of appeal asking this Court to overrule or limit Commonwealth v. Gary, 91 A.3d 102 (Pa. 2014) (OAJC), a plurality result announcing that, without limitation, the federal automobile exception to the warrant requirement of the Fourth Amendment to the United States Constitution applies in Pennsylvania. The United States Supreme Court’s Fourth Amendment jurisprudence “recognizes the exception in a categorical manner and the lawfulness of the search ‘do[es] not require an assessment of whether the policy justifications underlying the exception, which may include exigency-based considerations, are implicated in a particular case.’” Missouri v. McNeely, 569 U.S. 141, 150 n.3 (citing California v. Acevedo, 500 U.S. 565, 569–70 (1991)). What Gary did not settle is whether the federal automobile exception is consistent with Article I, Section 8 of the Pennsylvania Constitution. We have accepted the current appeal to answer that question. For the reasons discussed in this opinion, we hold that Article I, Section 8 affords greater protection to our citizens than the Fourth Amendment, and reaffirm our prior decisions: the Pennsylvania Constitution requires both a showing of probable cause and exigent circumstances to justify a warrantless search of an automobile.”

PA Superior Court

(Reporting only cases with precedential value)

Criminal Law & Procedure

COMMONWEALTH OF PENNSYLVANIA v. JOSEPH A. MCCONNELL

FILED: December 30, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-A29037-200%20-%20104648113124096630.pdf?cb=1>

"Appellant, Joseph A. McConnell appeals from the judgment of sentence imposed following his conviction of the summary offense of disorderly conduct. We affirm."

COMMONWEALTH OF PENNSYLVANIA v. GRACE L. LAMBERT

FILED: December 24, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-A20001-200%20-%20104644002123816503.pdf?cb=1>

"The Commonwealth appeals from the February 5, 2020 order granting Appellee Grace L. Lambert's omnibus pretrial motion for a writ of habeas corpus and dismissing all of the charges. We affirm."

COMMONWEALTH OF PENNSYLVANIA v. SHAUN KARL GIVEN

FILED: December 23, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S31029-200%20-%20104642983123762999.pdf?cb=1>

"Appellant, Shaun Karl Given, appeals from the March 27, 2019 Judgment of Sentence following his non-jury conviction of two counts of Driving Under the Influence ("DUI") – Controlled Substance and one count of Driving Under Suspension ("DUS"). Appellant challenges the sufficiency of the Commonwealth's evidence to convict him of DUI and requests that this Court vacate his sentence for DUS. After careful review, we affirm Appellant's convictions but vacate the Judgment of Sentence for DUI-Controlled Substance under 75 Pa.C.S. § 3802(d)(1)(iii)."

COMMONWEALTH OF PENNSYLVANIA v. EVAN D. BALLARD

FILED: December 22, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S24012-200.pdf?cb=2>

"Evan D. Ballard (Appellant) appeals from the August 5, 2019 judgment of sentence of one year of probation, imposed after he was convicted of access device fraud, 18 Pa.C.S. § 4106(a)(3), and identity theft, 18 Pa.C.S. § 4120(a). Appellant challenges the sufficiency of the evidence to sustain his convictions. After review, we reverse the judgment of sentence following his conviction for identity theft and affirm the judgment of sentence following his conviction for access device fraud."

COMMONWEALTH OF PENNSYLVANIA v. NASEEMA SAMI

FILED: December 22, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-A26038-200%20-%20104641021123497270.pdf?cb=1>

"The Commonwealth of Pennsylvania appeals from the order of the Court of Common Pleas of Montgomery County denying the Commonwealth's motion in limine seeking to introduce prior bad act evidence in the prosecution of Appellee Naseema Sami ("Sami") in her upcoming double murder trial. The trial court's order prohibits the Commonwealth from presenting or attempting to elicit evidence regarding Sami's possession or use of any drug other than marijuana. The Commonwealth has certified that the trial court's ruling will terminate or substantially handicap the prosecution. See Pa.R.A.P. 311(d). After careful review, we affirm the trial court's order."

COMMONWEALTH OF PENNSYLVANIA v. PHIL LEONE

FILED: December 21, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S26037-180%20-%20104639706122413073.pdf?cb=1>

"This matter is before us on remand from the Pennsylvania Supreme Court for reconsideration of our prior holding vacating that portion of the trial court's June 5, 2017, Order finding Appellant Phil Leone to be a sexually violent predator ("SVP") based on Commonwealth v. Muniz, 164 A.3d 1189 (Pa. 2017) and Commonwealth v. Butler, 173 A.3d 1212 (Pa.Super. 2017) in light of the Supreme Court's holding in Commonwealth v. Butler, 226 A.3d 972 (Pa. March 26, 2020).

Appellant previously had filed with this Court an appeal from the judgment of sentence entered in the Court of Common Pleas of Northampton County on June 5, 2017, following his convictions of Involuntary Deviate Sexual Intercourse with a child (IDSI) and related offenses. At that time, Appellant raised nine questions for our consideration.

After review, we vacated the portion of Appellant's sentence requiring him to comply with SORNA, affirmed in all other respects, and remanded for further proceedings with regard to the SORNA issues to determine what, if any, registration requirements apply to Appellant. See *Commonwealth v. Leone*, No. 3307 EDA 2017 unpublished memorandum at * 1-31 (Pa.Super. filed Nov. 6, 2018)."

COMMONWEALTH OF PENNSYLVANIA v. SHAHEED SMITH

FILED: December 21, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S48037-200%20-%20104639664122410141.pdf?cb=1>

"Shaheed Smith (Appellant) appeals, pro se, from the order entered in the Philadelphia County Court of Common Pleas dismissing his first petition filed pursuant to the Post Conviction Relief Act (PCRA), seeking collateral relief from his jury convictions of aggravated assault, robbery, kidnapping, arson, possession of an instrument of crime (PIC), and three counts of criminal conspiracy. On appeal, Appellant argues the PCRA court erred in failing to conduct a hearing on his claims involving the ineffectiveness of all prior counsel. Because we conclude the PCRA court had no jurisdiction to consider Appellant's petition before his judgment of sentence became final, we are constrained to quash this appeal."

COMMONWEALTH OF PENNSYLVANIA v. PHILLIP ANDREW ASHER

FILED: December 21, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S25001-200%20-%20104639617122407581.pdf?cb=1>

"Phillip Andrew Asher appeals from the judgment of sentence, entered in the Court of Common Pleas of Luzerne County, following his conviction of 500 counts of child pornography, seven counts of dissemination of photographs/film of child sex acts, and four counts of criminal use of a communication facility. After careful review, we vacate the order denying Asher's post-sentence motion and remand in accordance with our Supreme Court's recent decision in *Commonwealth v. Torsilieri*, 232 A.3d 567 (Pa. 2020). Otherwise, we affirm the judgment of sentence."

COMMONWEALTH OF PENNSYLVANIA IN THE SUPERIOR COURT OF PENNSYLVANIA v. MARK ANTHONY CARLSON

FILED: December 21, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S43020-200%20-%20104639323122389116.pdf?cb=1>

"Appellant Mark Anthony Carlson appeals from the November 21, 2019 judgment of sentence entered in the Court of Common Pleas of McKean County ("trial court"), following his jury convictions for strangulation, aggravated assault, two counts of terroristic threats, simple assault, three counts of recklessly endangering another person ("REAP"), and harassment. Upon review, we vacate Appellant's judgment of sentence and remand for further proceedings."

"In sum, based upon our review of the record, we find that Appellant's constitutional right to counsel was violated numerous times at some of the most critical stages of this criminal proceeding—trial and sentencing—because the trial court failed to determine on the record whether Appellant was entitled to appointed counsel. Given the trial court's numerous failures to protect Appellant's Sixth Amendment right to counsel, Appellant was compelled to appear pro se at trial, where, as the trial transcript reveals, Appellant remained reluctantly silent. Accordingly, we vacate Appellant's judgment of sentence and remand this matter, consistent with this Opinion, for a new trial where the trial court shall first take all necessary and required steps to ensure that Appellant's right to counsel is protected. Should the trial court determine Appellant is not entitled to appointed counsel, it shall state so on the record with appropriate findings of fact supported by an evidentiary record."

COMMONWEALTH OF PENNSYLVANIA v. MICHAEL D. DONOUGHE

FILED: December 18, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S49043-200.pdf?cb=2>

"Appellant, Michael D. Donoughe, appeals from the judgment of sentence entered in the Court of Common Pleas of Westmoreland County, which, sitting as finder of fact in his non-jury trial, found him guilty of both counts of Driving Under the Influence of Alcohol or Controlled Substance ("DUI"), 75 Pa.C.S.A. § 3802(a)(1), and (a)(2), and one count of summary Maximum Speed Limits, 75 Pa.C.S.A. § 3362(a)(2). Herein, Appellant contends the court erred in denying his pretrial Motion to Dismiss raising a *Brady* claim centered on failure of the Pennsylvania State Police to preserve a Mobile Video Recording ("MVR") of Appellant's traffic stop, and he raises a challenge to the sufficiency of DUI-General Impairment evidence. We affirm."

COMMONWEALTH OF PENNSYLVANIA v. ADAM MICHAEL RESLINK

FILED: December 18, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S21008-200%20-%20104638268122308207.pdf?cb=1>

"Adam Michael Reslink appeals from the judgment of sentence, entered in the Court of Common Pleas of Erie County. After careful review, we affirm."

"Here, Reslink did not raise these claims before the trial court, in a motion to bar application of SORNA, or in post-sentence motions. Rather, Reslink raises these claims for the first time on appeal. We, therefore, are constrained to find that Reslink has waived these claims. Pa.R.A.P. 302(a). No relief is due."

COMMONWEALTH OF PENNSYLVANIA v. CHARLES FLOYD

FILED: December 16, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S54035-190%20-%20104635970122165799.pdf?cb=1>

"Appellant, Charles Floyd, has appealed from two Judgments of Sentence entered in the Dauphin County Court of Common Pleas, one entered after Appellant entered a negotiated guilty plea to Possession with Intent to Deliver ("PWID"), Criminal Use of a Communication Facility, and Possession of Drug Paraphernalia, and the other entered following the consequent revocation of Appellant's sentence of intermediate punishment ("IP") imposed for a prior conviction. On January 4, 2019, Appellant timely filed one Notice of Appeal listing both lower court docket numbers. We conclude that because the trial court did not inform Appellant of his appellate rights as required by our rules of criminal procedure, a breakdown in the operation of the court as discussed in *Commonwealth v. Larkin*, A.3d , 2020 PA Super 163, at *3 (Pa. Super. filed July 9, 2020) (en banc) occurred. Thus, we decline to quash this appeal based on *Commonwealth v. Walker*, 185 A.3d 969, 977 (Pa. 2018).

Additionally, with this appeal, Appellant's counsel, James J. Karl, Esquire, seeks to withdraw from representing Appellant pursuant to Anders. Following our review of the record, we conclude that the trial court committed reversible error by failing to provide appropriate waiver-of-counsel colloquies before allowing Appellant to proceed pro se at each critical stage of the proceeding. Accordingly, we vacate Appellant's guilty plea, vacate Appellant's Judgments of Sentence, deny counsel's Application for Leave to Withdraw as Counsel, and remand for further proceedings."

COMMONWEALTH OF PENNSYLVANIA v. EDWARD FRIEDLAND

FILED: December 11, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S45020-200%20-%20104631599121851993.pdf?cb=1>

"Edward Friedland appeals from the order denying his first petition filed pursuant to the Post Conviction Relief Act. 42 Pa.C.S.A. §§ 9541-9546. We affirm."

"In sum, because the PCRA court did not abuse its discretion in refusing Friedland's request for counsel to assist him in re-litigating this matter before the PCRA court, we affirm its order denying him post-conviction relief."

COMMONWEALTH OF PENNSYLVANIA v. GARY FRAME

FILED: December 11, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S49039-200%20-%20104632008121880346.pdf?cb=1>

"Appellant, Gary Frame, appeals from the order entered in the Court of Common Pleas of Erie County dismissing his petition for collateral relief filed pursuant to the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S.A. §§ 9541- 9546, as untimely. He contends his PCRA petition, filed 31 years after his judgment of sentence became final, qualifies for an exception to the PCRA timeliness requirements that vests the PCRA court with jurisdiction to entertain his appeal. After careful review, we find Appellant's argument is at odds with a recent precedential decision of the Pennsylvania Supreme Court, and for that reason, we affirm."

COMMONWEALTH OF PENNSYLVANIA v. BERTRAND GBOKO

FILED: December 10, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-S46042-200%20-%20104630454121756629.pdf?cb=1>

"Bertrand Gboko ("Gboko") appeals from the judgment of sentence imposed following his conviction of recklessly endangering another person and possession of an instrument of crime. We affirm."

"The trial court stated in its Opinion that the parties stipulated that Gboko is a peaceful and law-abiding person. Trial Court Opinion, 6/29/20, at 1 (unnumbered). Our review of the record confirms that, initially, defense counsel intended for at least three of Gboko's character witnesses to testify at trial. See N.T., 8/20/19, at 88. However, following subsequent discussion, defense counsel agreed to stipulate that each of Gboko's character witnesses would testify that Gboko is a peaceful and law-abiding person. See N.T., 8/20/19, at 93 (wherein defense counsel stated, "there's been an [sic] stipulation by and between counsel...."). Additionally, the trial court had the opportunity to speak with each of Gboko's character witnesses, and to learn the nature of each witness's relationship to Gboko. See id. at 89-93. Defense counsel objected only after the Commonwealth stated it would not agree to stipulate to Gboko's truthfulness, and the trial court agreed that such stipulation would not be appropriate. See id. at 96. Thus, Gboko's claim that the trial court prevented him from presenting character witnesses is belied by the record.

Moreover, truthfulness is not relevant to the offenses of recklessly endangering another person or possession of an instrument of crime. Additionally, Gboko testified on his own behalf at trial, and the Commonwealth did not attack Gboko's general reputation for truthfulness. See Kennedy, *supra*; see also id. (stating that "when truthfulness is not relevant to the underlying criminal offense, a defendant may only call witnesses to testify as to his or her truthfulness when (a) he or she chooses to testify on his or her own behalf, and (b) the Commonwealth attacks the defendant's truthfulness through either cross-examination or by other witness' testimony." (emphasis added)). Accordingly, Gboko was not entitled to a stipulation regarding his character for truthfulness, nor was he entitled to introduce such evidence under either Rule 404 or Rule 608."

COMMONWEALTH OF PENNSYLVANIA v. JAMES HAWKINS

FILED: December 10, 2020

<http://www.pacourts.us/assets/opinions/Superior/out/J-A20025-200%20-%20104630485121761167.pdf?cb=1>

"Appellant, James Hawkins, appeals from the order entered on September 16, 2019, which denied his petition filed under the Post-Conviction Relief Act ("PCRA"), 42 Pa.C.S.A. §§ 9541-9546. We affirm."

"This is not a case where the police observed a scar, with the initial injury having been inflicted years ago. Rather, in this case, Officer Abel observed bruising, which is temporary in nature, from an attack that occurred one or two days prior. Allowing for the one day of delay between the report and the arrest, we conclude that a lapse of two to three days after the injurious event – while the temporary bruising from the injurious event is still observable – unquestionably qualifies as a "recent" physical injury under Section 2711(a). To be sure, Section 2711(a) specifically authorizes the warrantless arrest of perpetrators of domestic violence. By using such a vague term as "recent" in Section 2711(a), the legislature apparently realized that victims of domestic violence might delay reporting abuse "because they [might] believe it is a private matter or for fear that the violence would intensify" and that there might be some delay between the report and the police action. See S.K.C. v. J.L.C., 94 A.3d 402, 415 n.17 (Pa. Super. 2014) ("[m]ore often than not, female domestic violence victims do not report the abuse because they believe it is a private matter or for fear that the violence would

intensify”), quoting, Christina Samons, Same–Sex Domestic Violence: The Need for Affirmative Legal Protections at All Levels of Government, 22 S. CAL. REV. L. & SOC. JUST. 417, 420 (2013) (citation omitted). In such context, a delay of two to three days from the injurious event undoubtedly qualifies as “recent.” C.f. 23 Pa.C.S.A. § 6303 (defining “recent act” under the Child Protective Services Law as: “[a]ny act committed within two years of the date of the report to the department or county agency”). Appellant’s claim on appeal thus fails.”

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