

SUPERIOR COURT OF PENNSYLVANIA

Commonwealth v. Rivera

2026 Pa. Super. 68 · No. No. 226 MDA 2025 · Decided April 10, 2026

SUMMARY

The Pennsylvania Superior Court affirmed Jonathan Rivera’s judgment of sentence following his retrial and convictions for sexual offenses involving minors. The court held that the presumption of sentencing vindictiveness was rebutted by objective information available at resentencing, including Rivera’s sexually violent predator designation, victim-impact evidence, and lack of remorse. It also rejected Rivera’s ex post facto challenge to his felony corruption-of-minors sentence because the record supported that at least some conduct occurred after the relevant statutory effective date.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	McLaughlin, J.; Kunselman, J.; Lane, J.
JURISDICTION	Pennsylvania Superior Court
DECIDED	April 10, 2026
DOCKET	No. 226 MDA 2025
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rivera appealed from the judgment of sentence imposed after a second jury trial and resentencing following the Pennsylvania Supreme Court’s reversal of his convictions and grant of a new trial.
STANDARD OF REVIEW	De novo review with a plenary scope of review for claims that a sentence is presumptively vindictive or otherwise illegal; questions of law concerning the legality of a sentence are reviewed plenary.
PRECEDENTIAL VALUE	binding
PARTIES	Jonathan Rivera v. Commonwealth of Pennsylvania

TOPICS

- criminal procedure
- sentencing
- due process
- ex post facto
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- sentencing
- constitutional law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the increased sentence imposed after Rivera's successful appeal and retrial was presumptively vindictive and violated due process.
2. Whether sentencing Rivera for corruption of minors as a third-degree felony violated the state and federal Ex Post Facto Clauses because the charged conduct allegedly occurred before the effective date of 18 Pa.C.S.A. § 6301(a)(1)(ii).
3. Whether the ex post facto sentencing claim was waived because it was first raised in Rivera's Rule 1925(b) statement.

HOLDINGS

1. When the same judge imposes a greater sentence after a new trial, a presumption of vindictiveness applies, but the presumption may be rebutted by objective information or legitimate sentencing concerns not presented to or considered at the original sentencing, including new information concerning the defendant's character and suitability for rehabilitation. The trial court rebutted the presumption here, and the increased sentence did not violate due process.
2. An ex post facto challenge to a sentence is a legality-of-sentence claim and cannot be waived by failure to raise it before the trial court.
3. Sentencing Rivera for corruption of minors as a third-degree felony did not violate the state or federal Ex Post Facto Clauses because the record supported that at least some of the abuse occurred after December 6, 2010, the effective date of 18 Pa.C.S.A. § 6301(a)(1)(ii).

KEY QUOTATIONS

“Due process of law . . . requires that vindictiveness against a defendant for having successfully attacked his first conviction must play no part in the sentence he receives after a new trial.” (at 5-6)

“A challenge to an ex post facto violation falls within the third category of legality challenges, as it alleges a violation of a substantive, constitutional restriction upon the court’s authority to impose the sentence.” (at 11)

FACTUAL BACKGROUND

Rivera was convicted of multiple offenses arising from repeated sexual abuse of four minor girls. After the Pennsylvania Supreme Court ordered a new trial, a second jury again convicted him of all 11 charges, with one corruption-of-minors count involving S.C. reduced in grading. At resentencing, the court considered Rivera's sexually violent predator designation, additional victim-impact information, and his trial testimony and lack of remorse, and imposed a sentence greater than the original sentence.

PROCEDURAL HISTORY

Rivera was convicted after his first trial in 2019 and received an aggregate sentence of eight to 52 years' incarceration. The Pennsylvania Supreme Court found constitutional errors, reversed, and granted a new trial. After the second trial, the jury again convicted Rivera of all 11 charges, and the original sentencing judge

imposed an aggregate sentence of 10 years and three months to 64 years' incarceration. The Superior Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Rivera, 296 A.3d 1141 (Pa. 2023)
- Commonwealth v. Prinkey, 277 A.3d 554 (Pa. 2022)
- Commonwealth v. McFarland, No. 498 WDA 2022 (Pa. Super. Dec. 4, 2023)
- Commonwealth v. Lowman, No. 279 EDA 2023 (Pa. Super. Oct. 18, 2023)
- Commonwealth v. Neidig, No. 1455 MDA 2021 (Pa. Super. Apr. 4, 2023)
- Commonwealth v. Asbury, 299 A.3d 996 (Pa. Super. 2023)
- Commonwealth v. Speight, 854 A.2d 450 (Pa. 2004)
- Commonwealth v. Barnes, 167 A.3d 110 (Pa. Super. 2017) (en banc)
- Commonwealth v. Cruz, 320 A.3d 1257 (Pa. Super. 2024) (en banc)
- Commonwealth v. Ali, 197 A.3d 742 (Pa. Super. 2018)
- North Carolina v. Pearce, 395 U.S. 711, 89 S. Ct. 2072, 23 L. Ed. 2d 656 (1969)
- Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201, 104 L. Ed. 2d 865 (1989)
- Texas v. McCullough, 475 U.S. 134, 106 S. Ct. 976, 89 L. Ed. 2d 104 (1986)
- United States v. Goodwin, 457 U.S. 368, 102 S. Ct. 2485, 73 L. Ed. 2d 74 (1982)
- Commonwealth v. Seals, 2026 PA Super 29 (Pa. Super. Feb. 17, 2026) (en banc)
- Commonwealth v. Atanasio, 997 A.2d 1181 (Pa. Super. 2010)
- Commonwealth v. Carey, 249 A.3d 1217 (Pa. Super. 2021)
- Commonwealth v. McGarry, 172 A.3d 60 (Pa. Super. 2017)
- Commonwealth v. Wood, 208 A.3d 131 (Pa. Super. 2019) (en banc)
- Commonwealth v. Talbert, 129 A.3d 536 (Pa. Super. 2015)