

SUPERIOR COURT OF PENNSYLVANIA

Commonwealth v. Vializ-Rios

2025 Pa. Super. 77 · No. 390 MDA 2024 · Decided March 28, 2025

SUMMARY

The Pennsylvania Superior Court affirmed Jonathan Vializ-Rios’s judgment of sentence for aggravated assault and related offenses. The court held that aggravated assault convictions under 18 Pa.C.S. § 2702(a)(1) and (a)(4) did not merge under 42 Pa.C.S. § 9765 because the deadly-weapon offense contains an element not required by the serious-bodily-injury offense. The court deemed moot Vializ-Rios’s challenge to the no-contact condition because the trial court had vacated that condition.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Beck, J.; Lazarus, P.J.; Bender, P.J.E.
JURISDICTION	Pennsylvania Superior Court
DECIDED	March 28, 2025
DOCKET	390 MDA 2024
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of sentence entered after a jury convicted Vializ-Rios of aggravated assault, recklessly endangering another person, endangering the welfare of a child, simple assault, and stalking.
STANDARD OF REVIEW	The legality-of-sentence merger claim presents a pure question of law reviewed de novo. The no-contact-condition claim was reviewed for mootness after the trial court vacated the condition.
PRECEDENTIAL VALUE	Published precedential opinion of the Superior Court of Pennsylvania
PARTIES	Jonathan Vializ-Rios v. Commonwealth of Pennsylvania

TOPICS

- sentencing
- criminal procedure
- statutory interpretation
- mootness
- appellate procedure

PRACTICE AREAS

- criminal law
- sentencing
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the sentences for aggravated assault under 18 Pa.C.S. § 2702(a)(1) and § 2702(a)(4) merged under 42 Pa.C.S. § 9765 because the convictions arose from the same act and allegedly inflicted only one harm.
2. Whether the trial court had authority to impose a no-contact condition on a state sentence, and whether that issue remained justiciable after the trial court vacated the condition.

HOLDINGS

1. The aggravated-assault convictions under § 2702(a)(1) and § 2702(a)(4) do not merge for sentencing because § 2702(a)(4) includes the additional statutory element that the bodily injury be caused or attempted with a deadly weapon, an element not required by § 2702(a)(1).
2. The trial court lacked statutory authority to impose the no-contact condition on Vializ-Rios's state sentence, but the appellate challenge was moot because the trial court vacated the condition during the appeal.

KEY QUOTATIONS

“No crimes shall merge for sentencing purposes unless the crimes arise from a single criminal act and all of the statutory elements of one offense are included in the statutory elements of the other offense.” (-4)

“As Rhoades held, the sentences imposed here do not merge under section 9765, and we are bound to apply that statute to this merger claim.” (-7)

“We therefore disagree that the concurrent sentence imposed by the trial court at count two is illegal.” (-7)

“trial courts do not have statutory authority to impose conditions on a state sentence” (-7)

FACTUAL BACKGROUND

Vializ-Rios struck Amy Castro repeatedly in the face with a closed fist and then hit her with a bottle while they were traveling in a vehicle. Castro suffered severe facial and dental injuries, including an alveolar ridge fracture, required emergency treatment and stitches, and remained on an all-liquid diet for approximately six weeks. Their one-year-old child, I.V., was also involved in the incident and was the subject of the child-endangerment conviction.

PROCEDURAL HISTORY

Following a jury trial, the Lancaster County Court of Common Pleas sentenced Vializ-Rios on October 10, 2023, including consecutive incarceration terms and a no-contact condition. His post-sentence motion was denied by operation of law. He timely appealed, and the trial court later vacated the no-contact condition after the appeal was filed.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Lomax, 8 A.3d 1264, 1267 (Pa. Super. 2010)
- Commonwealth v. Baldwin, 985 A.2d 830, 835, 837 (Pa. 2009)
- Commonwealth v. Rhoades, 8 A.3d 912, 918 (Pa. Super. 2010)
- Commonwealth v. Shannon, 608 A.2d 1020, 1021, 1024 (Pa. 1992)
- Commonwealth v. Provenzano, 50 A.3d 148 (Pa. Super. 2012)
- Commonwealth v. Williams, 871 A.2d 254 (Pa. Super. 2005)
- Commonwealth v. Dobbs, 682 A.2d 388, 392 (Pa. Super. 1996)
- Commonwealth v. Owens, 649 A.2d 129, 138 (Pa. Super. 1994)
- Commonwealth v. Rhoads, 636 A.2d 1166, 1167 (Pa. Super. 1994)
- Commonwealth v. Merced, 308 A.3d 1277, 1283-1284 (Pa. Super. 2024)
- Commonwealth v. James, 46 A.3d 776, 781 (Pa. Super. 2012)
- Commonwealth v. Holmes, 933 A.2d 57, 65-67 (Pa. 2007)
- Commonwealth v. Coulverson, 34 A.3d 135, 141 (Pa. Super. 2011)

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