

SUPERIOR COURT OF PENNSYLVANIA

Commonwealth v. Swift

2026 Pa. Super. 66 · No. No. 860 WDA 2023 · Decided March 31, 2026

SUMMARY

The Pennsylvania Superior Court held that the unit of prosecution under the arson-endangering-property statute is each act of arson, rather than each endangered or damaged property. Because James Michael Swift set only one fire, the court concluded that the trial court improperly imposed separate consecutive sentences for two arson-endangering-property convictions, vacated the judgment of sentence, and remanded for resentencing.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Lane, J.; Dubow, J.; Stevens, P.J.E.
JURISDICTION	Pennsylvania Superior Court
DECIDED	March 31, 2026
DOCKET	No. 860 WDA 2023
DISPOSITION	vacated
PROCEDURAL POSTURE	Partial remand from the Pennsylvania Supreme Court for reconsideration of whether Swift received illegal separate and consecutive sentences for two convictions of arson-endangering property.
STANDARD OF REVIEW	Legality of sentence is reviewed de novo, with a plenary scope of review.
PRECEDENTIAL VALUE	Published and precedential Pennsylvania Superior Court opinion
PARTIES	James Michael Swift v. Commonwealth of Pennsylvania

TOPICS

- sentencing
- criminal procedure
- sentencing guidelines
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate procedure
- sentencing

QUESTIONS PRESENTED

1. Whether the unit of prosecution under 18 Pa.C.S.A. § 3301(c)(2), arson-endangering property, is each act of arson or each damaged building or occupied structure.
2. Whether the trial court imposed an illegal sentence by imposing separate consecutive sentences for two arson-endangering-property convictions arising from one act of setting a fire.

HOLDINGS

1. The unit of prosecution under 18 Pa.C.S.A. § 3301(c)(2) is each act of arson, not each damaged building or occupied structure.
2. The trial court erred by imposing separate sentences for Swift's two arson-endangering-property convictions because both convictions arose from a single act of setting a fire.

KEY QUOTATIONS

“Accordingly, we hold that the unit of prosecution in the arson- endangering property statute is each act of arson, and not each damaged building or occupied structure.” (-8-)

“As our decision upsets the overall sentencing scheme, we vacate Swift’s judgment of sentence and remand to the trial court for resentencing consistent with this memorandum.” (-8-)

FACTUAL BACKGROUND

In July 2019, Swift set fire to his ex-girlfriend's home, causing substantial damage to that home and two adjoining residences. The jury found him guilty of two counts of arson-endangering property because the fire spread to and damaged the adjoining residences. The trial court imposed two consecutive sentences for those two property offenses, although the record showed that Swift intentionally started only one fire.

PROCEDURAL HISTORY

After a jury convicted Swift of arson-endangering persons, arson-inhabited building, and two counts of arson-endangering property, the Court of Common Pleas of Allegheny County imposed consecutive sentences on the two property counts. The Superior Court initially affirmed the judgment of sentence. The Pennsylvania Supreme Court later decided *Commonwealth v. Smith*, granted Swift partial relief, vacated the Superior Court's affirmance, and remanded for reconsideration in light of *Smith*.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The judgment of sentence is vacated and the case is remanded to the trial court for resentencing consistent with the opinion. Jurisdiction is relinquished.

CASES CITED

- Commonwealth v. Smith, 346 A.3d 1251 (Pa. 2025)
- Commonwealth v. Smith, 298 A.3d 1140 (Pa. Super. 2023) (en banc)
- Commonwealth v. Swift, 339 A.3d 390 (Pa. Super. 2025) (unpublished memorandum)
- Commonwealth v. Swift, 2026 WL 112621 (Pa. 2026) (order)
- Commonwealth v. Lekka, 210 A.3d 343, 355 (Pa. Super. 2019)
- Dunn v. United States, 442 U.S. 100 (1979)

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