No. 25– 7050

IN THE SUPREME COURT OF THE UNITED STATES

TAAJ QAADIR BLAN,
Petitioner

VS.

PENNSYLVANIA,
Respondent

ON PETITION FOR WRIT OF CERTIORARI TO THE PENNSYLVANIA SUPERIOR COURT

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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COUNTERSTATEMENT OF THE FACTS

On August 8, 2022, at approximately 11:30 p.m., the Petitioner, Taaj Blan, shot Pernell Simmons multiple times in the chest, killing him. On August 5, 2024, Blan was convicted of Third Degree Murder. He was later sentenced to 18 to 40 years imprisonment.

On the night in question, Blan went to the housing complex where Pernell Simmons resided to confront him because Ryan Haynes (the son of Taaj Blan's father's girlfriend) was having trouble with him. (N.T., 8/2/23 (p.m.) Jury Trial, pp. 51-52). When Blan & Haynes arrived at the housing complex in Blan's Toyota Scion, Blan beeped his horn and Simmons came out to the parking lot and he and Blan exchanged words. *Id.* at 53-54. Both Haynes and Blan testified that Simmons stated that he would "air out the car", which Blan understood to mean he would shoot. *Id.* at 34, 53-54; (N.T., 8/3/23 (a.m.) Jury Trial, pp. 47, 48, 55). Blan then shot Simmons from his vehicle, seven times. (N.T., 8/3/23 (a.m.) at 57); (N.T., 8/1/23 (a.m.) Jury Trial, p. 93).

Blan exited the car and picked up the shell casings from the ground. (8/3/23 (a.m.) at 57). He then immediately left the scene without rendering aid or calling 911. *Id.* at 57-58. Blan fled to his home and told his father, Angelo Smith, what had occurred. *Id.* at 58-59.

Video surveillance of the crime scene revealed that at no point did the victim, Pernell Simmons, display a weapon. (N.T., 8/1/23 (a.m.) at 98). When the scene was processed, no firearm was found near Simmons' body. *Id.*

The videos showed the sliver Scion registered to Taaj Blan in the parking lot outside Simmons' residence, revealed that seven shots were fired out the driver's side window of the silver vehicle, and captured Blan as he exited his vehicle to retrieve shell casings from the ground after the shooting and then fleeing the scene. *Id.* at 93-94, 99.

Blan's trial was joined with that of his three co-defendants, Angelo Smith (his father), Margaret DelCastillo (his mother), and Erica Searcy (his father's girlfriend). Each of these co-defendants was charged with hindering apprehension, tampering with evidence, and obstructing the administration of law. Although the co-defendants were acquitted of the charges against them, testimony regarding their and Blan's actions in the aftermath of the shooting remains relevant to the issue of joinder.

Trooper Graziano testified at trial that he was assigned to conducting surveillance at 46 Cemetery Street, the residence of the defendants, the morning after the shooting. (N.T., 8/2/23 (p.m.) at 85). When he pulled up there about 7:00 a.m., the Trooper observed Angelo Smith raking leaves until a marked police unit left the area. *Id.* at 86-87, 88-90. Smith then retrieved an unknown object out of a

white Chrysler 300 parked in front of the residence. *Id.* at 90-91. Smith re-entered the house and came back out with Blan, who entered the front passenger seat of the Chrysler. *Id.* at 91. When Smith re-entered the house, Blan remained in the vehicle. *Id.* at 91-92.

The Trooper next observed DelCastillo exiting the house, carrying a bag which was later determined to contain the clothing Blan wore at the time of the shooting and placing it in the Scion. *Id.* at 92. It appeared she then spoke with Blan, then re-entered the house while Blan remained in the white Chrysler. *Id.* at 92-93.

Searcy then came out carrying a backpack which was later determined to be carrying the gun used in the shooting. *Id.* at 93. Searcy placed the backpack in the back of the vehicle, entered the Chrysler with Blan seated in it, and drove off. *Id.*

DelCastillo then exited the house again, entered the driver's side of the silver Scion registered to Blan, and drove away in the opposite direction. *Id.* at 94. The silver Scion was later observed stuck in traffic behind a traffic stop of the white Chrysler 300. *Id.*

The police stopped the Toyota Scion and the Chrysler 300, and obtained search warrants for both vehicles. (N.T., 8/1/23 (a.m.) at 107-108). The police recovered the bag containing the clothes Blan wore at the time of the shooting from the car driven by DelCastillo. *Id.* at 109, 117. They recovered a Glock 26

wrapped in a blue towel in the backpack from the back seat of the Chrysler 300 which Erica Searcy and Taaj Blan occupied. *Id.* at 117-119, 122-123.

While Blan was testifying at his trial in his own defense, he indicated that he had just lost his first cousin to gun violence and had buried him three weeks prior to the incident. (N.T., 8/3/23 (a.m.) at 49). Counsel for Blan then asked him, "You had a cousin who was a victim of gun violence?" *Id.* The Commonwealth objected. *Id.* Counsel for Blan stated at a sidebar that this goes to Mr. Blan's state of mind at the time of the incident. *Id.* at 49-50. He asserted that the gunman in that instance said to Blan's cousin, "I'm going to air you out", the same words that Simmons had spoken. *Id.* at 50.

Because counsel was introducing evidence of facts not in the record and that was hearsay, the court allowed limited testimony with regard to the prior shooting of Blan's cousin to show Blan's state of mind. *Id.* at 53, 54. The court would give an appropriate cautionary instruction when the question was asked. *Id.* at 54. The defense, however, never reached that point. *Id.* at 55.

Among the instructions the judge gave to the jury at the end of Blan's trial was one regarding self-defense, or justification. (N.T., 8/3/23 (p.m.) at 125). The instruction included a description of the use of deadly force and an explanation of the duty to retreat. *Id.* at 126-128.

During their deliberations, the jury sent out several questions, one of which asked for a description of the charges and the definition of malice. (N.T., 8/4/23 at 3). The judge sent the written instruction of these descriptions and the definition of malice to the jury. *Id.* at 7. The judge initially denied Blan's counsel's request for the written self-defense instruction to go to the jury at that time. *Id.* The jury later asked for clarity on the duty to retreat. The court observed that the jury instruction on retreat was contained in the self-defense instruction. *Id.* at 8. The judge then agreed to send out that entire written instruction on self-defense to the jury. *Id.* at 9-10.

Following Blan's conviction and sentencing for Third Degree Murder, the Pennsylvania Superior Court affirmed the judgment of sentence on March 31, 2025. Blan filed a petition for allowance of appeal with the Pennsylvania Supreme Court, who denied allocatur on September 15, 2025. Blan filed a timely petition for writ of certiorari on December 3, 2025.

All of the issues raised in the petition for writ of certiorari had been raised in both the Superior Court and the Supreme Court of Pennsylvania. All three were raised as questions of State law.

ARGUMENT

1. This Honorable Court is without jurisdiction to consider Petitioner's claims.

This Court's jurisdiction is based on 28 U.S.C. § 1257, which provides that final judgments or decrees rendered by the highest court of a State in which a decision could be had may be reviewed by the Supreme Court by writ of certiorari: (1) where the validity of a treaty or statute of the United States is drawn in question; (2) where the validity of a statute of any State is drawn in question on the ground of it being repugnant to the Constitution, treaties, or laws of the United States, or (3) where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States. 28 U.S.C. § 1257(a).

In *Illinois v. Gates,* 462 U.S. 213 (1983), this Honorable Court observed that "[w]e held early on that § 25 of the Judiciary Act of 1789 furnished us with no jurisdiction unless a federal question had been both raised and decided in the state court below." *Id.* at 218 (citing *Crowell v. Randell,* 10 Pet. 368, 391, 9 L. Ed 458 (1836)). "If both of these requirements do not appear on the record, the appellate jurisdiction fails." *Id.*

Similarly, Supreme Court Rule 12 provides reasons this Court considers as to whether to grant certiorari. With regard to state court decisions, the Rule provides that certiorari would be considered when a state court has decided an

important federal question that conflicts with the decision of another state court of last resort or of a United States court of appeals, or an important federal question yet to be settled or that conflicts with relevant decisions of this Court. Rule 12(a), (b), Rules of the Supreme Court of the United States.

Petitioner raised three claims in the Pennsylvania Superior Court and the Pennsylvania Supreme Court, the same ones raised here, none of which presented a federal question. Because no federal question was raised and decided in State court, this Court is without jurisdiction to consider Petitioner's claims, so that the claims should be rejected at the outset.

Respondent will, nonetheless, briefly address those issues that Blan raises, which will demonstrate that they are limited to State law questions.

2. Petitioner's claim that the trial court erred and abused its discretion by not severing his trial from that of his co-defendants has been deemed waived. In the alternative, the trial court did not abuse its discretion in declining to sever Appellant's trial from that of his co-defendants.

Blan was tried jointly with his co-defendants, Angelo Smith, Erica Searcy, and Margaret DelCastillo, all of whom were charged with hindering apprehension, tampering with evidence, and obstructing the administration of law. Blan contends that the trial court erred and abused its discretion by not severing his trial from that of these co-defendants, where Blan was charged with homicide and the co-defendants were charged with significantly less serious offenses.

However, Blan never filed a motion for severance or raised the issue of severance before the trial court. The only time the issue of severance appeared in a filing by Blan with the trial court was after he filed his appeal to the Superior Court and was ordered to file a statement pursuant to Pa.R.A.P. 1925(b). Consequently, the trial court was not given the opportunity to consider the issue at the appropriate time, *i.e.*, prior to the commencement of trial.

Under Pennsylvania law, "[i]ssues not raised in the trial court are waived and cannot be raised for the first time on appeal." Pa.R.A.P. 302(a). "Appellate courts in Pennsylvania routinely decline to entertain issues raised on appeal for the first time." *Commonwealth v. Spotz,* 870 A.2d 822, 836 (Pa. 2005). Moreover, "[a] party cannot rectify the failure to preserve an issue by proffering it in response to a Rule 1925(b) order." *Commonwealth v. Monjaras-Amaya,* 163 A.3d 466, 469 (Pa. Super. 2017) (citations omitted). Because Blan never raised this issue at the trial court level, the Superior Court correctly found that the issue is waived. (Appendix A to Petition for Writ of Certiorari, pp. A22-23).

The Superior Court nonetheless addressed Blan's first claim on the merits. The claim that severance should have been granted would fail under State law even if it was considered on the merits.

Blan correctly states that, with respect to the issue of severance, Pennsylvania Rules of Criminal Procedure 582 and 583 apply.

Pa.R.Crim.P. 582, as applicable to co-defendants, provides:

> (2) Defendants charged in separate indictments or informations may be tried together if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses.

Pa.R.Crim.P. 582(A)(2). "This rule of joinder parallels the case law which recognized that joint trials of co-defendants is advisable when the crimes charged grew out of the same acts and much of the same evidence is necessary or applicable to both defendants." *Commonwealth v. Morales,* 494 A.2d 367, 2372 (Pa. 1985) (citations omitted).

Pennsylvania Criminal Rule 583 states:

> The court may order separate trials of offenses or defendants, or provide other appropriate relief, if it appears that any party may be prejudiced by offenses or defendants being tried together.

Pa.R.Crim.P. 583. "The critical question in this analysis is whether the accused has been prejudiced by the decision not to sever, and the accused bears the burden of demonstrating prejudice." *Commonwealth v. Holt,* 273 A.3d 514, 541 (Pa. 2022) (citing *Commonwealth v. Lopez,* 739 A.2d 485, 501 (Pa. 1999) (determining that trial court did not abuse its discretion in declining to order separate trials of co-defendants)).

"The decision whether to grant a motion for severance is within the sound discretion of the trial court and will not be overturned absent a manifest abuse of discretion." *Commonwealth v. Rivera,* 773 A.2d 131, 137 (Pa. 2001). "The general

policy of the law is to encourage joinder of offenses and consolidation of indictments when judicial economy can thereby be effected, especially when the result will be to avoid the expensive and time-consuming duplication of evidence." *Commonwealth v. Patterson,* 546 A.2d 596, 600 (Pa. 1988).

In the instant case, Blan was convicted of Murder in the Third Degree as a result of his killing the victim, Pernell Simmons, by shooting him multiple times with a 9 mm pistol (Glock 26). Blan's co-defendants were charged with concealing that gun in a backpack and placing it in a vehicle, concealing the clothes Blan wore at the time of the homicide and placing them in a vehicle, and providing transportation to Blan after the homicide. Blan was being transported in the vehicle that contained the gun he used in the shooting, wrapped in a blue towel and in a backpack in the back seat, when the police stopped it. A second vehicle contained the clothes Blan wore during the shooting, and this vehicle was travelling with the one that was transporting Blan. The police recovered the murder weapon and Blan's clothing, both evidence of his crime and the crimes charged against his co-defendants, by conducting traffic stops of the vehicles carrying them.

These actions in which Blan and his co-defendants were alleged to have participated occurred in the immediate aftermath of the shooting by Blan, constituted the offenses against the co-defendants, and were part of the series of acts that formed the case against Blan. This evidence, although relevant to the

charges against Blan's co-defendants, is nevertheless clearly connected to Blan and the crime he had just committed. Therefore, Blan was properly tried together with his co-defendants pursuant to Pa.R.Crim.P. 582(A)(2).

Regarding the demonstration of prejudice from the fact of the defendants being tried together, "[t]he defendant must show real potential for prejudice and not mere speculation." *Patterson,* 546 A.2d at 599. "The mere fact that a co-defendant might have a better chance of acquittal if tried separately is not sufficient to grant a motion to sever." *Id.*

The Superior Court correctly found that "Appellant could not have suffered undue prejudice from having the jury consider evidence of the co-defendants' attempts to dispose of evidence linking Appellant to the shooting." (Appendix A to Petition for Writ of Certiorari, p. A25). The Court reasoned that the allegations against the co-defendants were interrelated with Blan's case, and that Blan's participation in their crimes was admissible as it evidenced consciousness of guilt. *Id.* at 25-26. The jury was therefore free to consider the co-defendants' conduct when considering whether Blan was guilty of the charges against him. *Id.* at 26. The Superior Court's reasoning aptly demonstrates how Blan's claim of prejudice fails.

3. The trial court did not err or abuse its discretion where it did allow limited testimony about the homicide death of Appellant's cousin three weeks prior to this homicide to show Appellant's state of mind on the date in question.

Blan next asserts that the trial court erred or abused its discretion by not allowing him to testify about the homicide death of his cousin in the weeks leading up to the death in this case where such testimony would have helped the jury understand Blan's state of mind and actions on the date in question. The Commonwealth denies that Blan was not allowed to testify about his cousin's death.

"It is well settled that evidentiary rulings are within the sound discretion of trial courts." *Commonwealth v. Distefano,* 265 A.3d 290, 297 (Pa. 2021). "Accordingly, when a party adverse to a trial court's evidentiary ruling seeks appellate review of that determination, that party carries a heavy burden to demonstrate that the trial court abused its discretion." *Distefano*, 265 A.3d at 297 (citing *Commonwealth v. Norton,* 201 A.3d 112, 120 (Pa. 2019)).

In the instant case, the trial court did not abuse its discretion where the court did allow limited testimony about the homicide of Blan's cousin. Blan, testifying in his own defense, stated that the victim, Pernell Simmons, said he was going to shoot them and "air out the car". (N.T., 8/3/23 (a.m.) at 47). Soon afterward, Blan testified that he had just lost his first cousin to gun violence and had buried him

three weeks prior to the incident. *Id.* at 49. Counsel for Blan asked him, "You had a cousin who was a victim of gun violence?" The Commonwealth objected. *Id.*

At a sidebar, Blan's counsel argued that this goes to Mr. Blan's state of mind at the time of the incident. *Id.* at 49-50. He asserted that the gunman who killed Blan's cousin said to him, "I'm going to air you out", which were the same words that Simmons had spoken. *Id.* at 50. Because counsel was introducing evidence of facts not in the record and that was hearsay, the trial judge allowed limited testimony with regard to the prior shooting of Blan's cousin to show Blan's state of mind. *Id.* at 53, 54. The judge said that she could tell the jury that they were not to take the statement for the truth of the matter asserted, but that it was being offered only for a very limited purpose. *Id.* at 54.

When the sidebar discussion concluded, counsel asked Blan, "Taaj, you had mentioned that your cousin was – you would have been to a funeral just briefly before this?" to which Blan replied, "Yes. Three weeks before this incident." *Id.* at 54-55. Counsel then asked, "And was your thoughts of that homicide going through your mind while you were there that evening?" to which Blan replied, "Yes. Because - -" *Id.* at 55. The judge stopped Blan because there was not a question pending, saying "The question was: Were thoughts of that homicide going through your mind that night?' *Id.* Blan answered, "Yes." *Id.* The judge said, "The question is answered. Next question." *Id.*

Counsel then changed the subject, asking how far away Blan was from Mr. Simmons and what Simmons was saying. *Id.* Blan's assertion that the judge "cut off counsel's questioning on the matter before he could get to the language about "airing the victim out" is contrary to the record.

Although Blan argues that the judge disallowed him from testifying about the homicide death of his cousin, Respondent's position is that he *was* allowed to testify about it, even about the statement "I'm going to air you out." Counsel could have asked Blan at the point where the judge said, "Next question" what was said to his cousin before he got shot. If he had, the judge would have issued a cautionary instruction to the jury that they were not to take the statement for the truth of the matter asserted and that it was being offered for a very limited purpose. Because the questioning never got that far, the judge did not issue the instruction.

The Superior Court correctly found the record shows that Blan was in fact permitted to testify about his cousin's death, including testimony about what his cousin's murderer had stated. (Appendix A to Petition for Writ of Certiorari, pp. A26-27). Therefore, there was no merit to Blan's claim that the state-of-mind testimony was erroneously excluded. *Id.* at A27.

4. The trial court did not err or abuse its discretion when the court did send out to the jury the written self-defense instruction after the jury requested information contained in it.

Lastly, Blan contends that the trial court erred and abused its discretion by not sending out a printed copy of the justification/self-defense instruction along with the charges when the jury requested a written description of the counts against him and a definition of malice. The Commonwealth denies that this claim would entitle Blan to relief.

Pa.R.Crim.P. 646 provides that "The trial judge may permit members of the jury to have for use during deliberations written copies of the portion of the judge's charge on the elements of the offenses, lesser included offenses, and any defense upon which the jury has been instructed." Pa.R.Crim.P. 646 (B). Whether written documents should be allowed to go out with the jury during its deliberation is within the sound discretion of the trial judge. *Commonwealth v. Barnett,* 50 A.3d 176, 194 (Pa. Super. 2012) (citing *Commonwealth v. Merbah,* 411 A.2d 244, 247 (Pa. Super. 1979) (citing *Commonwealth v. Pitts,* 301 A.2d 646 (Pa. 1973))). In the instant case, the judge sent out some written instructions to the jury in direct response to questions from the jury during their deliberations.

The first request from the jury was for a written description of each of the charges, as well as the definition of malice. (N.T., 8/4/23 at 3). While the judge was discussing written instructions on these topics, defense counsel stated that he

believed the jury should have the justification (self-defense) instruction as well. *Id.* at 4. At that point, the judge declined.

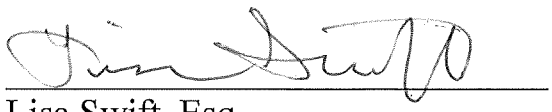
The jury later had a second set of questions. These included the need for clarity on the duty to retreat and whether that duty needed to be safe retreat in that moment. *Id.* at 7. The judge observed that the jury instruction on retreat was contained in the self-defense instruction. *Id.* at 8. Defense counsel reminded the judge that she said she would send out the self-defense instruction if the jury requested it. *Id.* at 9. The judge and the attorneys agreed that the jury would be provided with an instruction in which retreat was discussed, which *was* the self-defense instruction. *Id.* at 13.

The Superior Court correctly concluded that the jury ultimately received all of the written materials it sought during deliberations, including the written instruction on self-defense. (Appendix A to Petition for Writ of Certiorari, p. A30). The Court found, correctly, that Blan failed to show he was prejudiced by the delay in providing the instruction on self-defense, and that it was entirely speculative whether the timing affected the verdict. *Id.*

CONCLUSION

Because there is no federal question before this Court nor was a federal question raised in State court, and because there is nonetheless no merit to Petitioner's claims, the petition for writ of certiorari should be denied.

Respectfully submitted,



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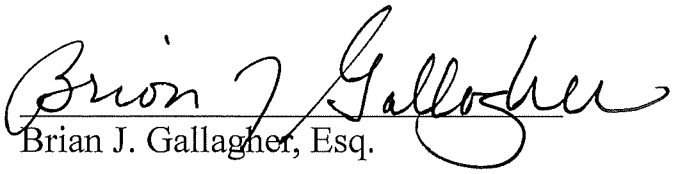

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