

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

: NO. CR – 495 – 2010

vs.

EBONY BAINES,

Defendant

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OPINION IN SUPPORT OF ORDER OF JANUARY 7, 2011,
IN COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

Following a non-jury trial on November 4, 2010, Defendant was convicted of one count of retail theft, one count of receiving stolen property and one count of criminal conspiracy. She now appeals this Court's sentencing order of January 7, 2011, which sentenced her to two concurrent terms of three years supervision by the Lycoming County Probation Department. In her Concise Statement of Matters Complained of on Appeal, Defendant contends that the evidence failed to establish beyond a reasonable doubt that Defendant was involved in the retail theft and not merely present.

At trial, the Commonwealth presented the testimony of the assets protection leader employed by the Target store where the theft took place, as well as the testimony of Defendant's co-conspirator, Terrence Williams, a cashier at Target. According to that testimony, for a few months up to and including the transaction which was the subject of the trial, Mr. Williams would ring up and then void items presented by Defendant, and then would give the items to Defendant without her making any payment.¹ Also presented was a video recorded by a security camera at the store, which showed Defendant and another female at the cash register while Mr. Williams, as cashier, rang up and then placed in a bag items presented for purchase. The video also showed that no

¹ Mr. Williams testified that sometimes he would not even ring the items up, just put them in the bag, and also that

money was given in exchange for the items. A photograph taken by the security camera at the exit to the store showed Defendant and the other female leaving with the bag of items.

While the evidence did show that another person was at the store with Defendant, her argument that the Commonwealth failed to sufficiently prove that she was involved is completely without merit. Mr. Williams testified that the thefts began when Defendant came through his line and indicated she did not have enough money to pay for her items, and he offered to simply give them to her, which offer she accepted. He testified that she then began bringing other people into the store and having him “give” items to them as well. Mr. Williams testified that Defendant offered to “repay” him by taking items he might want, but that he declined her offer. The Court found this testimony credible and believes that not only did it show beyond a reasonable doubt that on the date in question Defendant was involved in the theft, it showed it beyond all doubt.

Dated: April 18, 2011

Respectfully Submitted,

Dudley N. Anderson, Judge

sometimes he did this for people other than Defendant.

cc: DA
James Protasio, Esq.
Gary L. Weber, Esq.
Hon. Dudley Anderson