

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-590-2013  
vs. :  
 : CRIMINAL DIVISION  
 :  
 :  
 :  
TIRRELL WILLIAMS, :  
Appellant : 1925(a) Opinion

**OPINION IN SUPPORT OF ORDER IN  
COMPLIANCE WITH RULE 1925(a) OF  
THE RULES OF APPELLATE PROCEDURE**

This opinion is written in support of this court's judgment of sentence dated September 16, 2014 and its denial of Appellant's post sentence motion on December 16, 2014. The relevant facts follow.

On November 12, 2013, police stopped a vehicle being driven by Appellant because they had a warrant for his arrest. The police removed Appellant from the vehicle, searched him incident to arrest, and found \$111 and a cell phone. The police handcuffed Appellant and placed him in the back of Officer Justin Snyder's cruiser.

There were four other occupants in the vehicle. The other occupants also were removed from the vehicle and patted down. Two of the occupants possessed controlled substances. The front seat passenger possessed heroin and cocaine, and another occupant possessed marijuana and cocaine.

Officer Snyder transported Appellant back to police headquarters. When Officer Snyder removed Appellant from the vehicle, he discovered a clear plastic sandwich bag (sometimes referred to as a distribution bag) on the floor board of the cruiser in the area

where Appellant had just been sitting. The distribution bag contained a knotted sandwich bag with rice and twenty-one (21) blue waxen bags of heroin stamped “American Idol” and another knotted sandwich bag with twenty (20) baggies of crack cocaine. No controlled substances were in the cruiser when Officer Snyder began his shift, and Appellant was the first person to be placed in the back of Officer Snyder’s cruiser.

The police also did not discover any paraphernalia to ingest the controlled substances on Appellant’s person, in Appellant’s vehicle or in Officer Snyder’s police cruiser.

Officer Snyder charged Appellant with possession with intent to deliver heroin and possession with intent to deliver cocaine.

On August 29, 2104, Appellant filed a motion in limine in which he sought to preclude the Commonwealth from introducing evidence that other occupants of the vehicle were found in possession of drugs with similar packaging as the drugs allegedly possessed by Appellant. He asserted that the relevancy of the similar packaging was outweighed by its prejudicial nature and the confusion it would cause. The court held an argument on Appellant’s motion and denied it on September 15, 2014 on the basis that the evidence was circumstantial evidence of intent to distribute. N.T., 9-15-14, at 7.

A jury trial was held on September 16, 2014. The jury convicted Appellant of both charges. Appellant requested immediate sentencing, and the court sentenced him to incarceration in a state correctional institution for one and one-half (1½) to three (3) years.

Appellant filed a post sentence motion in which he requested a new trial, because the court erred in denying his motion in limine. The court denied Appellant’s post sentence motion on December 16, 2014. Two days later, Appellant filed his notice of appeal.

The sole issue on appeal is whether the trial court erred in denying Appellant's motion to preclude the Commonwealth from admitting evidence of drugs found on other occupants of the vehicle that Appellant was driving.

It is well-established that the admissibility of evidence is within the discretion of the trial court, which will only be reversed upon a showing that the trial court abused that discretion. *Commonwealth v. Hoover*, 107 A.3d 723, 729 (Pa. 2014); *Commonwealth v. Adams*, 104 A.3d 511, 517 (Pa. 2014). An abuse of discretion requires a showing that the court's decision was the result of manifest unreasonableness, or partiality, prejudice, bias or ill-will, or such lack of support so as to be clearly erroneous. *Hoover*, supra; *Adams*, supra. Further, discretion is abused when the law is either overridden or misapplied. *Hoover*, supra.

“All relevant evidence is admissible, except as otherwise provided by law.” Pa.R.E. 402. Evidence is relevant if it tends to prove or disprove a fact of consequence in the action. Pa.R.E. 401. In determining the admissibility of evidence, the court must determine if the probative value of the evidence is outweighed by the danger of unfair prejudice. Pa.R.E. 403. “‘Unfair prejudice’ means the tendency to suggest a decision on an improper basis or to divert the jury’s attention away from its duty of weighing the evidence impartially. Pa.R.E. 403, comment; *Commonwealth v. Page*, 965 A.2d 1212, 1220 (Pa. Super. 2009).

Evidence will not be prohibited merely because it is harmful to the defendant. *Page*, supra. “[E]xclusion is limited to evidence so prejudicial that it would inflame the jury to make a decision based on something other than the legal propositions relevant to the case.” *Id.* (citing *Commonwealth v. Owens*, 926 A.2d 1187, 1191 (Pa. Super. 2007)).

The jury found that Appellant possessed the controlled substances found in

the back of Officer Snyder's cruiser. There were twenty-one blue waxen bags of heroin stamped "American Idol" and rice in a knotted plastic sandwich baggie, and there were twenty baggies of crack cocaine in another knotted plastic sandwich baggie.

The front seat passenger possessed ten blue waxen bags of heroin stamped "American Idol" and rice in a plastic bag and five baggies of crack cocaine in a knotted plastic sandwich baggie. N.T., 9/16/14, at 25-32.

The evidence of possession of similar drugs and packaging by another occupant of the vehicle was admitted into evidence as circumstantial evidence that Appellant possessed the controlled substances with the intent to deliver them. The fact that others who were with Appellant and in the same vehicle possessed controlled substances similar in packaging and type to those possessed by Appellant had a tendency to establish that Appellant possessed controlled substances with the intent to deliver them. A jury could easily conclude that Appellant gave or sold the drugs to the others because in his possession were a distribution bag with similarly packaged controlled substances, money and a cell phone.

The evidence in this case admitted by the court did not suggest a decision on any improper basis. It did not suggest a decision based on sympathy for anyone or any animus toward Appellant. Instead, the evidence was highly probative and the court fails to see how there was any danger of undue prejudice. The fact that others had in their possession drugs similar to those possessed by Appellant went directly to the issue in this case, i.e., whether the drugs possessed by Appellant were with the intent to deliver them. The effect of the evidence was to prove the Commonwealth's case. The court avoided any prejudice by not permitting the Commonwealth to introduce evidence of controlled

substances or other items possessed by the other which would not have been similar to those possessed by Appellant and which formed the basis of the charges.

Since this evidence was relevant and not unduly prejudicial, the court properly admitted it into evidence at Appellant's trial.

DATE: \_\_\_\_\_

By The Court,

---

Marc F. Lovecchio, Judge

cc: Martin Wade, Esquire (ADA)  
Jeffrey Frankenburger, Esquire (APD)  
Work file  
Gary Weber, Esquire (Lycoming Reporter)  
Superior Court (original & 1)