

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CP-41-CR-1217-2014
:
vs. :
:
:
ERICA LAMBERT, :
Appellant : 1925(a) Opinion

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

On September 30, 2016, following a non-jury trial, Defendant Erica Lambert (“Lambert”) was found guilty of Count 1, hindering apprehension or prosecution, a felony of the third degree; Count 2, hindering apprehension or prosecution, a felony of the third degree; and Count 3, false reports to law enforcement officers, a misdemeanor of the third degree.

On December 5, 2016, the court sentenced Lambert to undergo incarceration for a period of six months to two years minus one day plus two years’ probation with respect to Count 1. With respect to Count 2, the court imposed an identical sentence concurrent to Count 1. The court determined that Count 3 merged with Counts 1 and 2 for sentencing purposes.

On December 15, 2016, Lambert filed a post-sentence motion, in which she asserted that the verdict was against the weight of the evidence because the Commonwealth did not prove that she had knowledge that the underlying crime had been committed, particularly that there had been a shooting at the Hookah Lounge. The court summarily

denied said motion by Order dated December 21, 2016.

On January 20, 2017, Lambert filed a notice of appeal. On January 31, 2017, the court ordered Lambert to file a concise statement of errors complained of on appeal (“Statement”) within 21 days. Lambert did not file the Statement within 21 days, but rather filed the Statement on May 25, 2017.

Lambert raises two issues on appeal: (1) whether the verdict was against the weight of the evidence “where [Lambert] had no knowledge that the underlying crime, a shooting, had been committed;” and (2) whether the evidence was insufficient to meet the elements of the criminal offenses.

Count 1 was based on an allegation that Lambert hindered the apprehension of Rashawn Williams by transporting him in her vehicle from Pennsylvania to North Carolina. Williams was wanted for shooting and killing Aaron Lowry outside of the Hookah Lounge on June 1, 2014.

Count 2 was based on an allegation that Lambert hindered Rashawn Williams’ apprehension by reporting to the police on June 4, 2014 that her vehicle was stolen by Williams and the last time she had contact with him was on June 1, 2014 at 4:30 a.m., knowing, however, that she had driven him to North Carolina.

As noted, Lambert contends that the verdicts with respect to both counts 1 and 2, hindering apprehension, were against the weight of the evidence. Lambert argues that there was no evidence that she had knowledge of an underlying crime.

In assessing a weight of the evidence claim, an appellate court will not reverse a verdict unless it is so contrary to the evidence as to shock one’s sense of justice.

Commonwealth v. Fortson, 2017 PA Super 162, 2017 Pa. Super. LEXIS 377, *8 (May 26,

2017)(citing *Commonwealth v. Giordano*, 121 A.3d 998, 1007 (Pa. Super. 2015)).

“One of the least assailable reasons for granting or denying a new trial is the lower court’s conclusion that the verdict was or was not against the weight of the evidence and that a new trial should be granted in the interest of justice. *Commonwealth v. Biesecker*, 2017 PA Super 126, 2017 Pa. Super. LEXIS 299, *19 (April 26, 2017)(citing *Commonwealth v. Leatherby*, 116 A.3d 73, 82 (Pa. Super. 2015)).

In fact, the standard of review is well settled. Specifically, where the trial court has ruled on the weight claim below, an appellate court’s role is not to consider the underlying question of whether the verdict is against the weight of the evidence.

Commonwealth v. Champney, 832 A.2d 403, 408 (Pa. 2003). “Rather, appellate review is limited to whether the trial court palpably abused its discretion in ruling on the weight claim.” *Id.*; *Fortson, id.*

Lambert’s weight claim clearly lacks merit. A person commits the offense of hindering apprehension or prosecution if, with intent to hinder the apprehension, prosecution, conviction or punishment of another for a crime..., he: (1) harbors or conceals the other; (2) provides or aids in providing...transportation...or other means of avoiding apprehension or effecting escape; or...(5) provides false information to a law enforcement officer. 18 Pa. C.S. § 5105; *Commonwealth v. Beasley*, 138 A.3d 39, 49 (Pa. Super. 2016).

Lambert is correct that the statute has been interpreted to require that the Commonwealth prove beyond a reasonable doubt that the other person committed a crime or was wanted in connection with a crime. *Commonwealth v. Johnson*, 100 A.3d 207, 211 (Pa. Super. 2014). Furthermore, the Commonwealth must establish that the actor knew that the conduct charged against the aided person or which was liable to be charged against the aided

person, would constitute a felony of the first or second degree. *Id.*

In this case, however, and contrary to what Lambert asserts, there was an abundance of evidence to prove that Williams was wanted in connection with a crime and that Lambert knew that Williams was liable to be charged with a shooting and/or murder.

“Running on Empty” is the title of a song written and performed by Jackson Browne, a musical icon. It was first recorded in 1977. It has become one of Browne’s signature songs. Its lyrics aptly describe Lambert’s conduct in this case: “Looking at the road rushing under my wheels...I’m just running on...gotta do what you can to keep your love alive trying not to confuse it with what you do to survive.”

The shooting occurred at the Hookah Lounge at approximately 2:36 a.m. on Sunday, June 1, 2014. (Trial Transcript, at 57). Although Lambert claimed she did not know Williams was involved in the shooting until Williams’ sister, Kimyatta, told her either late on Sunday evening or early Monday morning (Trial Transcript, at 129, 148), the evidence presented at trial showed that this was a lie, and Lambert was aware that Williams was involved in the shooting before she left Williamsport.

In her interview with Agent Kontz on June 4, 2014, Lambert stated that she heard something happened at the Hookah Lounge and heard it had something to do with somebody being shot. She also knew that Williams was at the Hookah Lounge but she claimed that she didn’t know if he was involved, so she called his sister, Yatta. She noted that she was concerned that she was involved with someone who was “mixed up in trouble like this.” She noted that she was concerned that she was “seeing somebody who could have possibly done something like this.” Commonwealth’s Exhibit 6 (Recorded Interview of Lambert by Agent Kontz on June 4, 2014).

The evidence presented at trial showed that Lambert had several phone conversations and text messages with Williams and his sister between 3:00 a.m. and 4:08 a.m. Agent Kevin Stiles of the Williamsport Bureau of Police testified that the police obtained Lambert's phone records. Those records showed that: Williams called Lambert at 3:52 a.m. and the call lasted 2 minutes and 25 seconds; Williams called Lambert again at 3:57 a.m. and the call lasted 2 minutes and 2 seconds; Lambert called Williams at 4:08 a.m. and the call lasted 45 seconds; and at 4:14 a.m. Williams called Lambert and the call lasted 2 minutes and 45 seconds. (Trial Transcript, at 57.) There were also phone calls between Lambert and Williams' sister between 3:10 and 3:36 a.m., as well as a text message from Williams' sister to Lambert which said, "Call me when you can." (Trial Transcript, at 58.)

Lambert admitted in her trial testimony that she and Williams left Williamsport between 4:30 and 5:00 a.m. Trial Transcript, at 142-144. Williams drove her gold car to her home and they left "pretty much immediately." (Trial Transcript, at 142.) They weren't planning on leaving then, and Lambert left in such a hurry that she forgot her bag with her toiletries, cash, and cell phone charger. (Trial Transcript, at 128, 145.) Lambert drove the car from Williamsport to a Sheetz gas station in Selinsgrove. At 6:08 a.m. while they were at the Sheetz in Selinsgrove, Lambert called her friend Amelia Nance, who lived in Chambersburg, and asked her if she could borrow \$100. Lambert made arrangements to meet Ms. Nance at the Sheetz in Chambersburg at around 8:00 a.m. to get the \$100. (Trial Transcript, 88-90.) After Lambert spoke to Ms. Nance, she shut her phone off because she didn't want anyone calling her and asking her "50 million questions." Commonwealth's Exhibit 6 (Recorded Interview).

According to Lambert, Williams said he had been jumped but they did not

discuss it during their trip. Specifically, they had “no discussions whatsoever” about the incident. (Trial Transcript, at 150). Yet, they drove from Williamsport to North Carolina without any reason, without any verifiable explanation and clearly in haste to avoid prosecution.

Lambert had numerous conversations with others, including Kimyatta. While she claims that she left because she was very scared for the safety of Mr. Williams who claimed he had been jumped, she did not report the matter to the police nor did she stop at the police station. (Trial Transcript, at 144). Even though she had a child and other family members, she only told her mother that she was leaving. (Trial Transcript, at 144). She left so quickly that she didn't take any money, her phone charger or any toiletries. (Trial Transcript, at 144, 145). She had numerous telephone conversations with Mr. Williams both before and after the shooting (Trial Transcript, at 146) and had telephone calls with Kimyatta before they even reached Selinsgrove. (Trial Transcript, at 147). When they reached Selinsgrove at approximately 6:00 in the morning on June 1, 2014, she needed to call a friend for money. (Transcript, at 127-128).

One could infer from Lambert's actions and comments that she was aware that Williams was involved in the shooting at the Hookah Lounge. If Williams “got jumped,” there was no need to immediately flee the state of Pennsylvania. Lambert and Williams simply needed to go to the police station and report the incident. Furthermore, why would Lambert think people would be asking her “50 million questions” unless she knew about the shooting at the Hookah Lounge? One could also infer that, by borrowing cash from her friend and shutting off her phone, Lambert was trying to prevent her and Williams' location from being discovered through electronic means such as credit card or debit card transactions

or signals off of cell towers.

Lambert tried to explain away the phone records showing her contacts with Williams after the shooting and before they left Williamsport by claiming that she was angry with Williams and they were bickering back and forth in their brief phone conversations. If Lambert was angry with Williams and told him not to call her as she claimed in her interview with Agent Kontz (Commonwealth's Exhibit 6), why did she: answer his calls; call him back; call his sister; and abruptly drive from Williamsport to North Carolina with him at 4:30 or 5:00 a.m.? Furthermore, it also only takes a matter of seconds to tell someone to quit calling you, not two or three minutes.

Lambert took an Amtrak train from High Point, North Carolina to Philadelphia, Pennsylvania on June 3, 2014. (Trial Transcript, at 147-148.) The next day she appeared at the Williamsport Bureau of Police headquarters to report her car stolen, even though she and Williams had driven it to High Point, North Carolina. She initially spoke to the Watch Commander, Sergeant Frederick Miller, but when he realized that the individual who allegedly stole the car was Williams, who was wanted for murder, he called Agent Kontz. Agent Kontz told Sergeant Miller that he and Lieutenant Arnold Duck were trying to find Lambert.

Lambert tried to portray herself to Agent Kontz as a damsel in distress. She claimed that when everything hit the news she was terrified she would be connected and her family would disown her. She told Agent Kontz that the last time she talked to Williams was not long after 4:00 a.m. on Sunday, June 1, 2014. When asked where she was for the last three days, Lambert claimed she was at a friend's, but she refused tell Agent Kontz her friend's name. She made it seem as if Williams had fled from the Hookah Lounge in her car

immediately after the shooting or shortly thereafter and she had not seen or heard from him since then, when in fact she and Williams had driven to High Point, North Carolina together. Commonwealth's Exhibit 6 (Recorded Interview).

Not only did Lambert's lies evidence her consciousness of guilt for hindering William's apprehension by transporting him to North Carolina, her lies formed the basis of the second count of hindering apprehension which was based on her providing false information to the police.

Clearly, Lambert provided false information to Officer Miller and Agent Kontz with the intent to hinder the apprehension and prosecution of Mr. Williams. Lambert admitted that, before she returned to Williamsport, she knew Mr. Williams was wanted and allegedly involved in the shooting on June 1, 2014. (Trial Transcript, at 128, 129 and 152). The evidence established that the shooting occurred on June 1, 2014 at approximately 2:30 a.m. She admitted to driving Williams to North Carolina after leaving Williamsport at approximately 4:30 or 5:00 a.m. on Sunday, June 1, 2014. (Trial Transcript, at 130). When she arrived in North Carolina, she went to Mr. Williams' sister Kimyatta's house. (Transcript, at 145). She was told by Kimyatta either late Sunday on June 1 or early Monday morning on June 2 that the shooting had occurred and that Mr. Williams was allegedly involved. (Transcript, at 129, 148).

Yet, she went to the Williamsport Bureau of Police on June 4, 2014 to file a report that her car had been stolen by Williams. (Trial Transcript, at 31, 132; Commonwealth's Exhibit 6). She clearly knew her car was not stolen because she drove Mr.

Williams to North Carolina and she knew that he had the vehicle.¹ When Lambert spoke to Agent Kontz, she was aware that there was a warrant for Williams' arrest and the Williamsport police were interested in determining where he was. She knew she had driven Williams to High Point, North Carolina, but did not share that information with Agent Kontz or Lieutenant Duck. (Trial Transcript, at 148-149).

In her trial testimony, she claimed that her car was stolen from Brentwood Street in High Point, North Carolina when Williams dropped her off at Kimyatta's house and did not return. (Trial Transcript, at 138.) If that were the case, though, she would have reported her car stolen to the police in High Point, North Carolina on Monday, June 2, 2014 or Tuesday, June 3, 2014 before she left North Carolina on the Amtrak train. Lambert didn't believe her car was stolen; rather, she was trying to keep the police from discovering the whereabouts of Williams and her role in his flight from Pennsylvania.

Furthermore, she lied to Agent Kontz when she told him that the last time she had spoken to Mr. Williams was 4:00 or 4:30 a.m. on June 1. She admitted that when they pulled up at his sister's house in the afternoon, Williams told her to grab her stuff and he was going to go park the car. (Trial Transcript, at 130, 145). She claims that she answered the question referring to the phone when in fact the question related to talking to him generally. (Trial Transcript, at 133, 134).

Regarding Lambert's second claim that the evidence was insufficient to meet the elements of the two counts of hindering apprehension or prosecution as well as the one

¹ Lambert was purchasing the vehicle through Brenner Car Credit, which had installed GPS on the vehicle. The Williamsport police discovered that the vehicle was in Danville Virginia through the GPS. (Trial Transcript, at 43-45). The vehicle was abandoned in Danville, Virginia. (Trial Transcript, at 93-94). The license plate had been removed. (Trial Transcript, at 94). Danville, Virginia is approximately three-quarters of a mile away from the North Carolina/Virginia state line.

count of false reports to law enforcement authorities, this court finds that her boilerplate assertion results in waiver of this claim. Where an appellant simply declares in boilerplate fashion that the evidence has been insufficient to support a conviction, the issue is waived. *Commonwealth v. Roche*, 153 A.3d 1063, 1072 (Pa. Super. 2017); *Commonwealth v. Tyack*, 128 A.3d 254, 260 (Pa. Super. 2015). Instead, an appellant must state the element or elements upon which the evidence was insufficient. *Roche, id.*

Even if this court wanted to consider the merits of Lambert's sufficiency claim, it could not do so. It has little to no idea what elements allegedly were not met through the Commonwealth's witnesses. Utilizing the language in *Roche*, Lambert's

allegations of error are quintessentially vague and woefully inadequate in that they are comprised of 'merely boilerplate statements precluding any meaningful review and resulting in waiver'.... [C]ounsel has not only failed to identify any element or elements of any crime or crimes,...there is not the slightest suggestion as to how or in what manner the evidence adduced...renders the evidence in the instant matter insufficient.

Id. at 1071.

Assuming the element that is allegedly not met is Lambert's knowledge of Williams' underlying crime, the court would deny this claim based on the same evidence and rationale as her claim that the verdict was against the weight of the evidence.

DATE: _____

By The Court,

Marc F. Lovecchio, Judge

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