

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

PATRICIA E. GADALETA

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 49 EDA 2014

Appeal from the Judgment of Sentence November 22, 2013

In the Court of Common Pleas of Carbon County

Criminal Division at No(s): CP-13-CR-0000746-2010

BEFORE: ALLEN, J., LAZARUS, J., and MUNDY, J.

MEMORANDUM BY LAZARUS, J.:

FILED JANUARY 16, 2015

Patricia E. Gadaleta appeals from her judgment of sentence, imposed by the Court of Common Pleas of Carbon County, following Gadaleta's convictions for theft by deception,¹ receiving stolen property,² and two counts of issuing a bad check.³ Upon review, we affirm Gadaleta's judgment of sentence based on the opinion of the Honorable Joseph J. Matika.

In July 2010, Gadaleta contacted Cheri Conway, a dog breeder, to inquire about purchasing a dog. Using the pseudonym Meg Kippler,

¹ 18 Pa.C.S. § 3922(a)(1).

² 18 Pa.C.S. § 3925(a).

³ 18 Pa.C.S. § 4105(a)(1).

Gadaleta negotiated the purchase of two Labrador retrievers⁴ from Conway for the price of \$5,018.00.⁵ Gadaleta signed the agreement of sale as Meg Kippler and returned it to Conway. After Conway received two bad checks from Gadaleta, she notified her local police, who in turn contacted the Pennsylvania State Police in Leighton. On September 23, 2010, Pennsylvania State Trooper Nicolas De La Iglesia obtained and executed a search warrant at Gadaleta's residence.

While searching Gadaleta's home, Trooper De La Iglesia found the two dogs and their shipping crates as well as the agreement of sale signed by "Meg Kippler." The Trooper also found FedEx shipment slips with the name "Kippler" on them in addition to email correspondences between "Kippler" and Conway.

On September 9, 2013, the jury convicted Gadaleta of the aforementioned offenses. On November 22, 2013, the court sentenced Gadaleta to 12 to 24 months' incarceration, followed by one year of probation. This timely appeal followed.

On appeal, Gadaleta presents the following issues for our review:

1. Did the court err in allowing testimony over objection concerning the contents of the cell phones received from

⁴ Gadaleta agreed to purchase Romeo, a yellow Labrador retriever, and Winston, a chocolate Labrador retriever. Both dogs were micro-chipped.

⁵ This price included the two dogs, airfare to ship the dogs from Sacramento to Philadelphia, two new shipping crates, and health certificates.

Anthony Gadaleta months after the search of the residence?

2. Is the verdict contrary to the law in that there was no evidence connecting the person known to the victim as Meg Kippler with Patricia Gadaleta?
3. Is the verdict contrary to the law in that there is absolutely no evidence the party that issued the checks with insufficient funds was Patricia Gadaleta?
4. Is the verdict contrary to the law in that there is absolutely no evidence the email address referenced in the communications between seller and buyer was that of Patricia Gadaleta?

Brief of Appellant, at 7.

Gadaleta's first issue on appeal implicates the admissibility of evidence. Our standard of review is as follows:

The admissibility of evidence is solely within the discretion of the trial court and will be reversed only if the trial court has abused its discretion. An abuse of discretion is not merely an error of judgment, but is rather the overriding or misapplication of the law, or the exercise of judgment that is manifestly unreasonable, or the result of bias, prejudice, ill-will or partiality, as shown by the evidence of record.

Commonwealth v. Dent, 837 A.2d 571, 577 (Pa. Super. 2003) (citations and quotations omitted).

Gadaleta's remaining issues challenge the sufficiency of the evidence sustaining her convictions. Our standard of review for sufficiency of the evidence claims is well settled:

We must determine whether the evidence admitted at trial, and all reasonable inferences drawn therefrom, when viewed in a light most favorable to the Commonwealth as verdict winner, support the conviction beyond a reasonable doubt. Where there is sufficient evidence to enable the trier of fact to find every

element of the crime has been established beyond a reasonable doubt, the sufficiency of the evidence claim must fail.

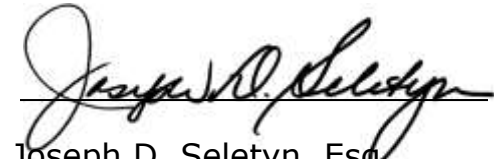
The evidence established at trial need not preclude every possibility of innocence and the fact-finder is free to believe all, part, or none of the evidence presented. It is not within the province of this Court to re-weigh the evidence and substitute our judgment for that of the fact-finder. The Commonwealth's burden may be met by wholly circumstantial evidence and any doubt about the defendant's guilt is to be resolved by the fact finder unless the evidence is so weak and inconclusive that, as a matter of law, no probability of fact can be drawn from the combined circumstances.

Commonwealth v. Tarrach, 42 A.3d 342, 345 (Pa. Super. 2012) (citations omitted).

We have reviewed the record on appeal and the relevant law, and find that the well-reasoned opinion of Judge Matika thoroughly, comprehensively and correctly disposes of the issues Gadaleta raises on appeal. Specifically, the trial court did not abuse its discretion when it admitted testimony regarding the contents of Gadaleta's cell phones because the evidence of calls placed to Conway was relevant to establishing who placed the calls to Conway. **See** Pa.R.E. 401. Additionally, the evidence connecting Gadaleta to the identity of "Meg Kippler" was overwhelming. Accordingly, we affirm based on Judge Matika's opinion. Counsel is directed to attach a copy of the trial court opinion in the event of further proceedings in this matter.

Judgment of sentence affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", is written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 1/16/2015