

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA,

Appellee

v.

IBRAHIM S. BAH,

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 2826 EDA 2013

Appeal from the Judgment of Sentence September 4, 2013  
In the Court of Common Pleas of Bucks County  
Criminal Division at No(s): CP-09-CR-0004992-2012

BEFORE: FORD ELLIOTT, P.J.E., BOWES, and SHOGAN, JJ.

MEMORANDUM BY BOWES, J.:

**FILED JUNE 23, 2014**

Ibrahim S. Bah appeals from the aggregate judgment of sentence of four to eight years incarceration to be followed by seven years probation imposed by the trial court after a jury found Appellant guilty of four counts each of receiving stolen property and unauthorized use of a motor vehicle, criminal conspiracy to commit receiving stolen property and unauthorized use of a motor vehicle.<sup>1</sup> We affirm.

The trial court provided the salient facts of this matter as follows.

The investigation involved in the instant case was initiated in the summer of 2011 as a result of a rash of thefts of vehicles

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<sup>1</sup> The criminal information refers to conspiracy to commit receiving stolen property; however, the jury was also instructed on conspiracy to commit unauthorized use of a motor vehicle and returned a guilty verdict as to each crime.

from car dealerships located in New Jersey, Delaware and Southeast Pennsylvania, including Bucks County. At trial, the Commonwealth established that the Defendant and a number of other individuals engaged in a conspiracy to acquire 'high end' stolen vehicles and ship them to Africa. The conspirators conducted the operation as follows: New vehicles were stolen from car dealerships. They were then made available for purchase by other members of the conspiracy through a "broker" identified as Akim Lane. The stolen vehicles were parked at various locations in Philadelphia so that the potential purchasers could inspect each vehicle prior to purchase. If the vehicle was deemed acceptable, the purchaser would pay Lane in cash. The vehicles were then driven to separate locations, including Deptford, New Jersey and Wilmington, Delaware where they were loaded into shipping containers mounted on trucks. The containers were then hauled by truck to the Port of Newark, New Jersey, for shipment overseas. The Defendant was identified as one of the individuals who bought stolen vehicles and arranged for them to be shipped overseas.

Three of the Defendant's co-conspirators, Mohamad Fornah, Dennis Koroma and Akim Lane, testified at trial. All three admitted that they were members of and actively participated in this conspiracy to purchase high-end stolen vehicles for shipment overseas. All three testified that the Defendant was also a member and active participant.

Mohamad Fornah testified that he and the Defendant purchased stolen vehicles from Lane. He testified that an individual identified as Morris Keita arranged for the stolen vehicles to be loaded into shipping containers at a trucking facility in Deptford, New Jersey and that Keita received \$800 for every container loaded there. He testified that on September 13, 2011, he and the Defendant purchased two stolen Mercedes Benz vehicles from Lane, that the Defendant arranged for delivery of a shipping container, that he and the Defendant met with the individual who delivered the container, that he and the defendant paid for the shipping container, and that they arranged for two other members of the conspiracy, Abdulai Daboh and Umaru Sheriff-Riley, to drive the stolen vehicles to Deptford. He testified that the stolen vehicles were loaded into the shipping container in Deptford and then were transported to the Port of Newark. Fornah further testified that the Defendant, Koroma, Daboh, Sheriff-Riley and he were stopped by police on

the drive back to Philadelphia. Fornah's testimony regarding this transaction and its participants was corroborated by police surveillance (see *infra* p. 5). Finally, Fornah testified that on another occasion he observed the Defendant pay Lane \$3,000 for a stolen Audi Q-7.

Dennis Koroma testified that he was a member of the conspiracy to buy stolen vehicles and ship them overseas and also identified the Defendant as a member of that conspiracy. He testified that one of his responsibilities was to chauffeur the Defendant. In that capacity, he witnessed the Defendant speak with other key conspirators.

Akim Lane testified that he served as the "middleman" between the individuals who stole the vehicles and the individuals who purchased those vehicles. Lane identified the Defendant (A.K.A. "Sean") as one of the individuals to whom he sold stolen automobiles. He testified that the Defendant told him that he wanted to buy high-end stolen cars to ship to Africa and that he agreed to provide the Defendant with stolen vehicles. Lane testified that on one occasion he met the Defendant and Koroma in Darby, Pennsylvania. At that meeting, he sold the Defendant a stolen black Audi Q-7 for \$6,500. Lane testified that he later again met the Defendant and Koroma in Darby and sold him a stolen Range Rover. On each occasion, although the sale occurred in Darby, the vehicles were parked in Philadelphia.

The testimony of the Defendant's co-conspirators was corroborated by ground and aerial police surveillance. In July of 2011, police located an Audi Q-5 stolen out of Wilmington, Delaware, parked at 60th Street and Buist Avenue in Southwest Philadelphia. The vehicle was placed under surveillance. Approximately five days later, police watched as it was loaded into an overseas shipping container at 60th Street and Springfield Avenue in Philadelphia. The container was then moved to 54th and Grays Avenue. Approximately 45 minutes later, the container was moved again. The truck carrying the container was stopped by police before it crossed into New Jersey. Inside the container police found the stolen Audi Q-5 as well as two other stolen vehicles, a BMW 550 and an Infiniti FX-35.

On September 1, 2011, a surveillance detail utilizing ground and aerial surveillance recorded a portion of another stolen vehicle transaction. This transaction was arranged by Fornah. Fornah paid Lane \$6,000 for two stolen vehicles, an Audi Q7 and a Mercedes Benz S-550, and arranged for them to be transported from Philadelphia to Deptford. Fornah used Koroma to deliver the money to Lane. Fornah paid co-conspirators Abdulai Daboh and Umaru Sheriff-Reilly \$100 to drive the stolen vehicles to Deptford. Surveillance footage showed a maroon Nissan Altima being driven by Koroma and a truck hauling an overseas shipping container travel from 54th Street and Grays Avenue in Philadelphia to Schurr Trucking in Deptford, the location prearranged by Keita. Shortly thereafter, an Audi Q-7 and a Mercedes Benz S-550 drove into the lot and were driven into the shipping container. Once loaded, the vehicles were transported to the Port of Newark. The container was intercepted by law enforcement agents in the Port of Newark. When investigators opened the container, they found the stolen Audi Q-7 and Mercedes Benz S-550 inside.

The Defendant was convicted of receiving four specific stolen vehicles: a silver 2006 Mercedes Benz ML-500, a black 2009 Mercedes Benz GL-550, a white 2009 Range Rover, and a red 2009 Toyota Highlander on September 13, 2011 and September 21, 2011. These transactions were described by Fornah, Koroma and Lane. Police surveillance confirmed the Defendant's active participation in shipping stolen vehicles from Philadelphia to the Port of Newark.

On September 13, 2011, the Defendant paid Keita to have a container and a truck available in Deptford, New Jersey for the purpose of transporting two stolen vehicles, a 2006 silver Mercedes Benz ML-500 and a 2009 black Mercedes Benz GL-550, to Newark for shipment overseas (see *supra* p. 2). Pennsylvania State Police who were conducting surveillance on that date observed a maroon Nissan Altima at 54th Street and Grays Avenue, the same maroon Nissan Altima they had observed on September 1st. The Altima, driven by Koroma, and a truck hauling a shipping container then drove to Deptford. Upon arriving at the Deptford facility, police observed the two stolen Mercedes arrive. Surveillance cameras recorded the vehicles being loaded into the shipping container. Police then observed five people enter the Altima. The Altima was stopped on its return to Philadelphia. Five people were in the car—Dennis

Koroma, Mohamad Fornah, Abdulai Daboh, Umaru Sheriff-Riley and the Defendant. The truck carrying the shipping container proceeded to the Port of Newark. Police recovered the stolen vehicles during a search of the container on September 15, 2011.

On the night of September 21, 2011, at approximately 9:00 pm, police observed an individual from the trucking company at 54th Street and Grays Avenue speaking to the occupants in a Chevrolet Impala known to be utilized by Koroma. The Impala then drove away followed by a truck carrying an overseas shipping container. Police followed the vehicles to a warehouse located in Wilmington, Delaware. The truck and the Impala drove into the warehouse. Police observed the same Nissan Altima they had previously observed travelling on 12th Street, the road leading to the warehouse. Police also observed a stolen white 2009 Range Rover travelling on 12th Street. Approximately twenty minutes after the Impala and truck arrived, the Impala, the truck carrying the shipping container and the Altima drove out of the warehouse. All three vehicles travelled together, the Impala in front of the truck, the Altima behind it, onto Northbound Route 495, and then proceeded onto Route I-95 into Pennsylvania.

The Impala was stopped by police on I-95 after it entered Pennsylvania. There were two occupants in the vehicle one of whom was the Defendant. During the course of that car stop, the driver of the Altima also stopped. The occupants of that vehicle were identified as Dennis Koroma, Abu Bakarr-Jalloh, Umaru Sheriff-Riley and Jameel Wilson. The shipping container arrived at the Port of Newark on September 22nd. On Sept 29, police searched the container and found a stolen red 2009 Toyota Highlander and stolen white 2009 Range Rover.

Trial Court Opinion, 12/4/13, 1-6 (internal footnotes omitted).

Following Appellant's jury trial, the court sentenced Appellant to four consecutive one-to-two-year periods of incarceration on the receiving stolen property counts. In addition, the court imposed a consecutive seven-year term of probation for the conspiracy charge. The court did not impose a

penalty for the remaining convictions. Appellant's trial counsel did not file a post-sentence motion, and Appellant retained current counsel after the period for filing a timely post-sentence motion.

Appellant timely appealed. The court directed Appellant to file and serve a Pa.R.A.P. 1925(b) concise statement of errors complained of on appeal. Appellant requested an extension, which the court granted. Thereafter, Appellant timely filed his concise statement. The trial court authored its Rule 1925(a) opinion and the matter is now ready for our review. Appellant presents the following issues for this Court's consideration.

- A. Did the trial court err when it found Mr. Bah guilty of the criminal offenses of criminal conspiracy, receiving stolen property and unauthorized use of automobiles as the Bucks County Court of Common Pleas was improper venue for this matter?
- B. Did the trial court err when it found that there was sufficient evidence to prove, beyond a reasonable doubt, the criminal offenses of criminal conspiracy, receiving stolen property and unauthorized use of automobiles?
- C. Did the trial court err when it found Mr. Bah guilty of the criminal offenses of criminal conspiracy, receiving stolen property and unauthorized used [sic] of automobiles as the verdict was against the weight of the evidence?

Appellant's brief at 4.

We may summarily dispose of Appellant's first and final issue as they are both waived. With respect to Appellant's venue claim, he did not object to venue prior to trial and did not raise the issue until he filed his Rule

1925(b) statement. As Appellant did not object to venue in this matter, the issue is waived. **See Commonwealth v. Bethea**, 28 A.2d 1066, 1073 n.3 (Pa. 2003) (“venue may always be waived”);<sup>2</sup> Pa.R.A.P. 302(a). We add that because this case involved a multicounty investigating grand jury, venue is governed by 42 Pa.C.S. § 4551(d). That statute allows the supervising judge of the grand jury to choose the county in which the trial is to take place. The supervising judge selected Bucks County.

In addition, a weight of the evidence claim must be preserved in a post-sentence motion or raised either orally or in a motion before sentencing. **Commonwealth v. Lofton**, 57 A.3d 1270 (Pa.Super. 2012); Pa.R.Crim.P. 607. Appellant did not file a post-sentence motion and did not present his weight issue until he filed his concise statement. Accordingly, this issue is waived.

We now proceed to examine Appellant’s sufficiency of the evidence claim. In deciding a sufficiency challenge, “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.”

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<sup>2</sup> Our Supreme Court’s decision in **Commonwealth v. Bethea**, 28 A.2d 1066 (Pa. 2003), effectively abrogates this Court’s earlier decision in **Commonwealth v. Ziegler**, 380 A.2d 420 (Pa.Super. 1977), and cases cited therein, that treated venue as a question of subject matter jurisdiction. **See also Commonwealth v. Duden**, 473 A.2d 614 (Pa.Super. 1984) (treating venue as an issue of subject matter jurisdiction).

**Commonwealth v. Brown**, 52 A.3d 320, 323 (Pa.Super. 2012). The Commonwealth can meet its burden “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.” **Id.** This Court cannot “re-weigh the evidence and substitute our judgment for that of the fact-finder.” **Id.** Additionally, “the entire record must be evaluated and all evidence actually received must be considered.” **Id.**

Further, we must draw all reasonable inferences from the evidence in favor of the Commonwealth as the verdict-winner. **Commonwealth v. Hopkins**, 67 A.3d 817, 820 (Pa.Super. 2013). “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.” **Brown, supra** at 323. “[T]he 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.” **Id.**

Appellant contends that the evidence is insufficient as to “every element of the criminal offenses of [c]riminal [c]onspiracy, [r]eceiving [s]tolen [p]roperty and [u]nauthorized [u]se of [a]utomobiles beyond a reasonable doubt.” Appellant’s brief at 31. According to Appellant, the record is devoid of evidence that Appellant agreed with Mohamad Fornah, Dennis Koroma, and Akim Lane to receive stolen property or that he



intentionally received the four specific cars that underlie his charges. Appellant continues that the evidence also does not establish accomplice liability for either receiving stolen property or unauthorized use of automobiles. In his view, the only evidence linking him to the crimes is that he was a passenger in the same car as Fornah, Koroma, and Lane.

The Commonwealth responds that each of the aforementioned individuals testified that Appellant “was an active participant in the criminal conspiracy to purchase stolen high-end vehicles and ship them overseas.” Commonwealth’s brief at 15. It highlights that Fornah, Lane, and Koroma all testified as to Appellant’s involvement in the car theft ring. The Commonwealth further points out that this testimony was buttressed by police surveillance. In sum, the Commonwealth maintains that its evidence showed that Appellant “personally paid for stolen vehicles, made arrangements to obtain shipping containers, participated in the convoy from Philadelphia to the various out-of-state loading yards, and paid off the managers of those yards.” *Id.* at 21. We agree that there was ample evidence supporting Appellant’s convictions. Appellant simply fails to view the evidence in a light most favorable to the verdict winner and disregards the logical inferences based on the evidence arrayed against him.

We summarized the law governing criminal conspiracy in ***Commonwealth v. Feliciano***, 67 A.3d 19 (Pa.Super. 2013) (*en banc*). The ***Feliciano*** Court opined,

“To sustain a conviction for criminal conspiracy, the Commonwealth must establish the defendant: 1) entered into an agreement to commit or aid in an unlawful act with another person or persons; 2) with a shared criminal intent; and 3) an overt act was done in furtherance of the conspiracy.” **Commonwealth v. Devine**, 26 A.3d 1139, 1147 (Pa.Super. 2011). “The conduct of the parties and the circumstances surrounding such conduct may create a web of evidence linking the accused to the alleged conspiracy beyond a reasonable doubt.” **Id.** The conspiratorial agreement “can be inferred from a variety of circumstances including, but not limited to, the relation between the parties, knowledge of and participation in the crime, and the circumstances and conduct of the parties surrounding the criminal episode.” **Id.**

**Id.** at 25-26.

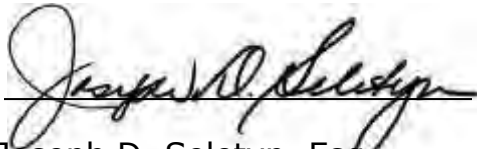
Receiving stolen property requires proof that an individual intentionally receive, retain, or dispose of moveable property of another knowing that it has been or stolen or believing that it probably was stolen. **See** 18 Pa.C.S. § 3925. Further, unauthorized use of automobile is where a person “operates the automobile, airplane, motorcycles, motorboat, or other motor-propelled vehicle of another without consent of the owner.” A person may be guilty of receiving stolen property and unauthorized use of an automobile as an accomplice or a conspirator, and the court instructed the jury accordingly.

Instantly, the Commonwealth’s evidence established that Appellant purchased stolen cars, arranged for those cars to be delivered via a shipping container, and paid for the containers. Appellant was implicated in the theft ring by multiple co-conspirators and police surveillance showed him with those individuals on several occasions arriving and leaving shipping

warehouses to arrange for transportation of stolen vehicles via containers in which the stolen cars were recovered. Appellant purchased a stolen Range Rover and Audi Q-7 as part of his role in the theft operation. In addition, he paid an individual to have a container transport a stolen 2006 Mercedes Benz ML-500 and 2009 Mercedes Benz GL-550. The evidence in this case establishes each element of criminal conspiracy as well as receiving stolen property and unauthorized use of automobiles. Appellant's position is meritless.

Judgment of sentence affirmed.

Judgment Entered.

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

Joseph D. Seletyn, Esq.  
Prothonotary

Date: 6/23/2014