

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

IN THE SUPERIOR COURT
OF
PENNSYLVANIA

Appellee

v.

JAHEED HYMON

Appellant

No. 2151 EDA 2015

Appeal from the Judgment of Sentence Entered June 17, 2015
In the Court of Common Pleas of Philadelphia County
Criminal Division at No: CP-51-CR-0011353-2014

BEFORE: FORD ELLIOTT, P.J.E. , STABILE, and MUSMANNO, JJ.

JUDGMENT ORDER BY STABILE, J.:

FILED DECEMBER 29, 2017

Appellant, Jaheed Hymon, appeals from the June 17, 2015 judgment of sentence imposing two years of probation for unauthorized use of a motor vehicle plus restitution.¹ We affirm.

The trial court recited the pertinent facts and procedural history in its Pa.R.A.P. 1925(a) opinion:

This is an appeal by [Appellant], who appeals this court's order denying [Appellant's] motion to dismiss pursuant to 18 Pa.C.S.A. § 110. On July 10, 2014, a Philadelphia police officer observed a vehicle being operated with a driver's side rear brake light out in violation of [75 Pa.C.S.A. § 4303(b)]. The officer did an NCIC check on the vehicle and discovered that the vehicle was stolen. [Appellant] attempted to exit the vehicle without placing it in park when the officers pulled the vehicle to initiate a stop. Officers placed the vehicle, in park, secured [Appellant], and subsequently charged him with receiving stolen property, and unauthorized use

¹ 18 Pa.C.S.A. § 3928.

of a motor vehicle. The officer also issued [Appellant] a traffic citation for operating a vehicle without a license and operating a vehicle without rear headlights.

On September 11, 2014, [Appellant] was found guilty in absentia for traffic violations before the Municipal Court-Traffic Division. On April 17, 2015, [Appellant] filed a motion to dismiss his criminal charges pursuant to 18 Pa.C.S.A. § 110. On June 17, 2015, this court denied the motion and found [Appellant] guilty of unauthorized use of motor/other vehicles following a non-jury trial.

Trial Court Opinion, 11/9/2015, at 1-2.

Immediately after the non-jury trial, the trial court sentenced Appellant as set forth above. This timely appeal followed. Appellant raises one issue:

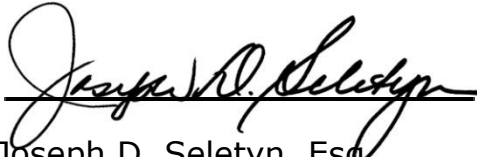
Did not the lower court err in denying [Appellant's] motion to dismiss pursuant to 18 Pa.C.S.A. § 110 where [Appellant] had previously been convicted of an offense that arose from the same criminal episode as the offense in the instant case?

Appellant's Brief at 4. Section 110 normally bars a subsequent prosecution where a former prosecution, arising out of the same facts or criminal episode, resulted in an acquittal or conviction in the same judicial district. 18 Pa.C.S.A. § 110(1)(ii). In ***Commonwealth v. Perfetto***, 169 A.3d 1114 (Pa. Super. 2017)(*en banc*), this Court delineated an exception to § 110's compulsory joinder requirement unique to Philadelphia County. Under ***Perfetto***, a former prosecution for a summary traffic offense within the jurisdiction of the traffic division of the Philadelphia Municipal Court does not bar a subsequent prosecution arising out of the same facts or criminal episode. In light of ***Perfetto***, Appellant cannot obtain relief.

Judgment of sentence affirmed.

J-S44023-16

Judgment Entered.

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

Joseph D. Seletyn, Esq.
Prothonotary

Date: 12/29/17