

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

PATTI LYNN SPICKERMAN

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 695 MDA 2012

Appeal from the Judgment of Sentence February 21, 2012
In the Court of Common Pleas of Luzerne County
Criminal Division at No(s): CP-40-CR-0002573-2010

BEFORE: PANELLA, J., OTT, J., and STRASSBURGER, J.*

MEMORANDUM BY OTT, J.:

Filed: January 31, 2013

Patti Lynn Spickerman appeals from the judgment of sentence imposed on February 21, 2012 in the Court of Common Pleas of Luzerne County following her convictions by a jury on theft by unlawful taking-movable property, \$200 or more, not exceeding \$2,000, and forgery-unauthorized act in writing.¹

Spickerman claims the trial court erred in sustaining the Commonwealth's objection to the defense witness's in court identification of the business owner/victim's signature on the alleged forged checks.

* Retired Senior Judge assigned to the Superior Court.

¹ 18 Pa.C.S. §§ 3921(a) and 4101(a)(2), respectively.

Appellant's Brief at 1. After a thorough review of the submissions by the parties, official record, and relevant law, we affirm.

In June 2009, Chris Rappolt, the owner of Animal Emergency & Referral Hospital, hired Spickerman as the business's bookkeeper/office manager. Spickerman was paid a weekly salary of \$1,307.00. Spickerman was entrusted to run the business end of the practice. Specifically, she was to oversee the office, processing of payments and bills, depositing of payments, payment of the company's bills, and providing information to the payroll firm. Spickerman was a registered signatory on the company's two bank accounts for payroll and business operations. Payroll was processed by an independent firm and Spickerman's duties were to give them information for and make necessary deposits. Rappolt testified Spickerman was not authorized to write checks to herself on either account, or to take loans or advances from the business. Spickerman was provided with a stamp containing Rappolt's signature. The stamp was not to be used on a regular basis and she was told several times she was to sign the checks rather than use the stamp.

In late November or early December 2009, Spickerman became concerned regarding the finances of the business and suggested to Rappolt it be closed. Within days, after both Spickerman and the resident surgeon left to form a new company, Rappolt closed his hospital. In April 2010, Rappolt hired his former bookkeeper, Deborah Dodson, to reconcile the business's

accounts and assist with tax filings. Dodson found four checks written to Spickerman from the business account that did not have accompanying payment vouchers or receipts. The checks totaled \$ 3,107 and consisted of a check for \$150 written on August 8, 2009; a check for \$ 1,050 written on August 28, 2009; a check for \$600 written on September 24, 2009; and a check for \$1,307 written on December 8, 2009, Spickerman's last day of employment. Commonwealth's Exhibits Nos. 2, 1, 3, 4, respectively (photocopies of the original checks). Spickerman was arrested and charged with one count each of theft by unlawful taking - movable property, and forgery - unauthorized act in writing. She was found guilty by a jury on April 14, 2011 and sentenced on February 21, 2012² to concurrent terms of 48 months' probation and \$2,000 restitution. Spickerman appeals the evidentiary ruling of the trial court, which sustained the Commonwealth's objection made during the testimony of a defense witness.

Our standard and scope of review for evaluating the admission of evidence is settled.

The admission of evidence is committed to the sound discretion of the trial court, and a trial court's ruling regarding the admission of evidence will not be disturbed on appeal unless that ruling reflects manifest unreasonableness, or partiality, prejudice, bias, or ill-will, or such lack of support to be clearly erroneous.

² The delay in sentencing was a result of the sentencing court granting at least three continuances requested by Spickerman.

Where the evidentiary question involves a discretionary ruling, our scope of review is plenary.

Commonwealth v. Stokes, 38 A.3d 846, 867 -868 (Pa. Super. 2011) (citing ***Commonwealth v. Mollett***, 5 A.3d 291, 304 (Pa. Super. 2010)).

Spickerman argues the sustaining of the objection precluded the defense's lay witness, Nichole A. Danova, D.V.M., from identifying Rappolt's signature, which testimony "could have shown that [Spickerman] did not commit any acts of forgery." Appellant's Brief at 5. The record shows the question and objection were as follows:

Q. Is it his signature or a stamp?^[3]

[Counsel for the Commonwealth]: Objection, Your Honor. Defense has not laid out a foundation that Dr. Danova can distinguish between a signature and a stamp.

THE COURT: Sustained.

N.T., 4/14/2011, at 116. Spickerman argues, "[a] proper foundation was laid by defense counsel and the testimony should have been allowed." Appellant's Brief, at 5. We disagree.

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are rationally based on the perception of the witness, helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and

³ The "it" is the signature reflected on the checks which were evidenced by Commonwealth's Exhibits Nos. 1, 2, 3, and 4 (photocopies of the original checks). The "his" is referring to Rappolt.

not based on scientific, technical, or other specialize knowledge within the scope of Rule 702.

Pa.R.E. 701.

The court's sustaining of the objection required Dr. Danova to testify as to how she knew the difference between a handwritten signature and a signature executed by an ink stamp. However, this inquiry was not made because defense counsel immediately abandoned the examination of whether Rappolt's signature on the Commonwealth's exhibits was real or stamped, and instead asked another line of questions.

Accordingly, the trial court did not err in sustaining the Commonwealth's objection.

Judgment of sentence affirmed.