

COMMONWEALTH OF PENNSYLVANIA  
v. HELEN L. CROUSE, Defendant  
Court of Common Pleas of the 39th Judicial District of Pennsylvania,  
Franklin County Branch  
Criminal Action No. 2269 of 2007

*Appeal from jury trial guilty verdict on charge of false reports;  
Evidentiary ruling on credibility; Evidence sufficient to support verdict.*

1. The admission of evidence is within the sound discretion of the trial court and is not reversible absent an abuse of discretion; discretion is abused when the course pursued by the court represents not merely an error of judgment, but where the judgment is manifestly unreasonable, the law is not applied, or the record shows that the action is a result of partiality, prejudice, bias or ill will.
2. The court properly precluded the defendant from testifying about her cooperation with law enforcement by supplying helpful information during prior investigations where she failed to make a specific offer of proof as to the particular cases she was allegedly involved in and whether the information she provided had indeed been helpful; even if she made such an offer, her testimony most likely would have been precluded as an improper bolstering of her credibility and prejudicial to the Commonwealth without a specific offer of extrinsic evidence such as testimony from a law enforcement officer connected with those investigations that the information she provided had indeed been helpful.
3. Evidence supports a guilty verdict when it establishes beyond a reasonable doubt every element of the crime and its commission by the defendant; if the evidence to support the verdict contradicts the physical facts, human experience or the laws of nature, such evidence is insufficient as a matter of law; the court views the evidence in the light most favorable to the Commonwealth as the verdict winner and the Commonwealth receives the benefit of all reasonable inferences which can be drawn from the evidence.
4. The evidence was sufficient to support the verdict where the verdict turned on the jury's evaluation of the credibility of the witnesses, including the defendant, with regard to different versions of the events in question; the assessment of witness credibility is a matter squarely within the province of the jury as finder of fact, and the jury was not required to accept the defendant's version insofar as the Commonwealth's version did not contradict the physical facts, human experience, or the laws of nature.

Appearances:

OPINION SUR Pa.R.A.P. 1925(a)

Herman, J., August 20, 2008

Introduction

The defendant was charged with making false reports to a law enforcement officer. <sup>[1]</sup> She was found guilty on March 17, 2008 after a jury trial. The court sentenced her on April 30, 2008 to serve 3–23 months at the Franklin County Jail. She filed a post-sentence motion to modify the sentence which the court denied on May 22, 2008. She filed a notice of appeal on June 18, 2008 and a concise statement of matters complained of on appeal on July 9, 2008 as directed. The defendant challenges an evidentiary ruling made by the court during the trial. She also alleges the evidence was insufficient to support the guilty verdict.

Evidence Presented at Trial

Michael Crouse testified he drove to the Arby's Restaurant in Chambersburg on July 29, 2007. He and the defendant are divorced and an Order was in place under which he had physical custody of their 4-year-old son Mick during the week and the defendant had custody on the weekends. This Order had been in place for approximately 2 years. The defendant was to bring Mick to the Arby's at 6:00 p.m. that night to return him to his father's custody. With Mr. Crouse was 13-year-old Zach Jones, a neighbor and family friend who sometimes accompanied him to observe the exchange because the custody litigation had been contentious and exchanges had not always gone smoothly.

Mr. Crouse and Zach were sitting on the hood of Mr. Crouse's car when the defendant arrived and parked approximately 3-4 spaces away at a distance of 15-20 feet. Mr. Crouse could see his son in the backseat. Instead of removing Mick from her vehicle, the defendant made a cell phone call which lasted for several minutes. She eventually exited her car, approached Mr. Crouse and Zach and tossed a small plastic bag containing Mick's clothes toward them and returned to her car. Mr. Crouse continued sitting on the hood of his car for several minutes while waiting for the defendant to produce Mick.

Four Chambersburg police officers arrived at the scene shortly thereafter to investigate a reported assault. Officer Corey Fegan saw Mr. Crouse and Zach Jones near Mr. Crouse's car and asked them if anything was amiss. Mr. Crouse pointed at the defendant's vehicle and said she was the mother of his son and he was waiting to get custody. He appeared calm even in the face of four officers and a marked patrol car with lights and sirens activated. Officer Fegan told Mr. Crouse the defendant alleged he had assaulted her. Mr. Crouse was surprised by this, denied any assault had taken place and repeated his denial at trial.

The defendant told Officer Fegan that Mr. Crouse had pushed her against her car and spat on her. She appeared upset and had a laceration on her arm which was fresh but not bleeding. Officer Fegan saw no signs of a struggle such as red marks or bruises, the defendant did not go to the hospital for treatment and neither vehicle was damaged. Based on his prior experiences investigating such incidents, he did not believe an assault had occurred and did not charge Mr. Crouse with any crime because he had no independent evidence to corroborate the defendant's report and he normally does not file charges based solely on one person's assertions. He considered the incident closed at that point and told both Mr. Crouse and the defendant to go home. The defendant then left the parking lot. Mr. Crouse did not receive his son that evening.

The defendant told the jury Mr. Crouse came to the side of her car. When she opened the door to let Mick out, Mr. Crouse grabbed her arm. She jerked away and he spun her around, pushed her up against the truck, spat in her face and called her a fucking bitch. She got into the passenger side, closed the door and called the police. When they arrived, she told them her version of the incident and showed them what she testified were two 6- to 8-inch scratches on her arms from Mr. Crouse's watchband. The defendant testified the officer said she should retain Mick in her custody and contact her attorney to get an emergency hearing.

Chambersburg Police Detective William Frisby, a criminal investigator for 15 years, testified Mr. Crouse came to the police station on August 2, 2007 to discuss the July 29th incident, to deny he assaulted the defendant and to tell Detective Frisby about Zach Jones's presence at the scene. Detective Frisby then spoke to the defendant on the phone on August 6th and invited her to come to the station but she declined. He spoke that same day by phone to Zach Jones whom he considered an independent witness. Zach's description of the incident to Detective Frisby was consistent with Mr. Crouse's. Detective Frisby eventually learned the Franklin County Court of Common Pleas held a hearing later in August at which the defendant was found in contempt for violating the custody Order because she failed to return Mick to his father on the evening of July 29th. Zach Jones testified at the contempt hearing and his version of the incident was a confirmation of Mr. Crouse's and the court found Zach credible. It was Detective Frisby's conclusion after a full investigation that no assault had taken place but instead the defendant had fabricated the allegations in order to retain custody of Mick.

Both Mr. Crouse and Zach testified at trial that Zach has accompanied Mr. Crouse on at least two other custody exchanges. Zach denied ever having received any money or promises from Mr. Crouse for accompanying him or which might bias him against telling the truth about the July 29th incident. Mr. Crouse denied paying Zach anything or making any promises to him in exchange for his presence at the exchanges or for telling police what transpired on July 29th.

## Discussion

### **The Court's Evidentiary Ruling**

The defendant alleges the court erred in refusing to allow her to testify about undercover work she did for the Hagerstown, Maryland police department. "If this information had been allowed, it is likely that the jury would have viewed defendant as a person who cooperates with law enforcement, rather than one who provides false information to law enforcement. As such the improper exclusion of his testimony had a significant impact on the jury's ability to render an accurate verdict."

It is well-established that the admission of evidence is within the sound discretion of the trial court and is not

reversible absent an abuse of that discretion. Commonwealth v. Albrecht, 720 A.2d 693 (Pa. 1998). “Discretion is abused when the course [pursued by the trial court] represents not merely an error of judgment, but where the judgment is manifestly unreasonable or where the law is not applied or where the record shows that the action is a result of partiality, prejudice, bias or ill will.” Id at 704 (citations omitted).

The Commonwealth made an objection at the start of the defendant’s testimony and the court held a sidebar discussion. Although the specifics of the discussion do not appear of record, the court recalls the defendant wanted to tell the jury about her experience providing information to law enforcement during criminal investigations. This evidence was offered for the purpose of bolstering credibility. We sustained the Commonwealth’s objection because the defendant failed to make a specific offer of proof as to the particular case or cases she was allegedly involved in and whether the information she provided was indeed credible and helpful to law enforcement. Had the defendant made such an offer, most likely this evidence would have been precluded by Pa.R.E. 608(b)(1). Even assuming the proposed testimony was relevant to the current charge, without a specific offer consisting of extrinsic evidence such as testimony from a law enforcement officer connected with those investigations, admission of the defendant’s testimony would have constituted an improper bolstering of her credibility and would have prejudiced the Commonwealth. Pa.R.E. 103(a)(2); 401-403. Although the defendant has preserved this issue for appellate review, she cannot establish that the ruling was manifestly unreasonable, constituted a misapplication of the law or was the result of partiality, prejudice or ill will towards her. Albrecht, *supra*.

### **Sufficiency of the Evidence**

The defendant also alleges the evidence presented at trial was insufficient to support her conviction:

The defendant testified that she had been grabbed and shoved by Michael Crouse, causing a cut on her right arm. That testimony matches the information she provided to the police when she initially made the complaint against Mr. Crouse. Further this testimony was corroborated by the testimony of Officer Fegan of the Chambersburg Police Department, who testified that he did see a cut on defendant’s right arm when he investigated at the scene of the accident. . . Under the circumstances, and considering the ongoing custody dispute between Defendant and Mr. Crouse, the testimony provided by Mr. Crouse and Zach Jones was not credible.

An allegation of insufficient evidence raises a question of law for the court. Evidence is sufficient when it establishes beyond a reasonable doubt every element of the crime charged and its commission by the defendant. If the evidence to support the verdict contradicts the physical facts, human experience or the laws of nature, such evidence is insufficient as a matter of law. The court must view the evidence in the light most favorable to the Commonwealth as the verdict winner and the Commonwealth receives the benefit of all reasonable inferences which can be drawn from the evidence. Commonwealth v. Hall, 830 A.2d 537 (Pa. 2003); Pa.R.Crim.P. 606. We were guided by these principles in summarizing the trial testimony. We also point out the well-established principle that the assessment of witness credibility is a matter squarely within the province of the finder of fact, in this case the jury. Commonwealth v. Johnson, 838 A.2d 663 (Pa. 2003); Commonwealth v. Miller, 724 A.2d 895 (Pa. 1999).

We see no basis for the defendant’s contention that, as a matter of law, the Commonwealth failed to prove the elements of the crime of making false reports to a law enforcement officer, specifically (1) she made a

statement to a law enforcement officer; (2) the statement was false; (3) defendant knew the statement was false; and (4) the defendant intended to implicate another person. §4906(a); Commonwealth v. Soto, 650 A.2d 108 (Pa.Super. 1994). The jury's conclusion that the Commonwealth's testimony was sufficient to find the defendant guilty beyond a reasonable doubt in no way constituted a contradiction of the physical facts, human experience or the laws of nature. Hall, supra. Although we agree with the defendant that her trial testimony was generally consistent with the statements she gave to the police, in no sense did this require the jury to find her version of events more credible than the one provided by Mr. Crouse and Zach Jones nor does it mean the evidence was insufficient to support the verdict. In addition the mere fact that both the defendant and Officer Fegan testified the defendant had a cut on her arm at the scene and Officer Fegan conceded the cut looked fresh did not require the jury to believe the defendant the cut was bleeding or that Mr. Crouse caused the cut. This part of the evidence, like the rest of the testimony, was open to scrutiny by the jury and it was wholly within the jury's province to evaluate the witnesses' testimony and decide whom to believe.

We submit no error was committed in any aspect of this proceeding and respectfully request the appellate court to affirm the jury's verdict of March 17, 2008, the court's sentence Order of April 30, 2008 and the court's May 22, 2008 Order denying the defendant's post-sentence motion for modification of sentence.

#### ORDER OF COURT

Now this 20th day of August 2008, pursuant to Pennsylvania Rule of Appellate Procedure 1931(c), it is hereby ordered that the Clerk of Courts of Franklin County shall promptly transmit to the Prothonotary of the Superior Court the record in this matter along with the attached Opinion sur Pa.R.A.P. 1925(a).

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[\[1\]](#) 18 P.S. §4906(a): Falsely incriminating another.—Except as provided in subsection (c), a person who knowingly gives false information to any law enforcement officer with intent to implicate another commits a misdemeanor of the second degree;

§4906(b): Fictitious reports.—Except as provided in subsection (c), a person commits a misdemeanor of the third degree if he: (1) reports to law enforcement authorities an offense or other incident within their concern knowing that it did not occur; or (2) pretends to furnish such authorities with information relating to an offense or incident when he knows he has no information relating to such offense or incident;

§4906(c): Grading.—If the violation of subsection (a) or (b) occurs during a declared state of emergency and the false report causes the resources of the law enforcement authority to be diverted from dealing with the declared state of emergency, the offense shall be graded one step greater than that set forth in the applicable subsection.