

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

COMMONWEALTH OF PENNSYLVANIA

Appellee

v.

SADIQ TAJ-ELIJAH BEASLEY

Appellant

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1133 MDA 2013

Appeal from the Judgment of Sentence April 16, 2013  
In the Court of Common Pleas of Cumberland County  
Criminal Division at No(s): CP-21-CR-0001971-2012

BEFORE: LAZARUS, J., STABILE, J., and MUSMANNO, J.

MEMORANDUM BY LAZARUS, J.:

**FILED JULY 25, 2014**

Sadiq Beasley appeals from the judgment of sentence imposed by the Court of Common Pleas of Cumberland County, following his convictions for unlawful possession with intent to deliver ("PWID") heroin;<sup>1</sup> criminal conspiracy to unlawfully manufacture heroin;<sup>2</sup> criminal conspiracy to unlawfully possess heroin with intent to deliver;<sup>3</sup> and unlawful possession of drug paraphernalia.<sup>4</sup> After careful review, we affirm.

---

<sup>1</sup> 35 P.S. § 780-113(a)(30).

<sup>2</sup> 18 Pa.C.S. § 903(a)(1); 35 P.S. § 780-113(a)(30).

<sup>3</sup> 18 Pa.C.S. § 903(a)(1); 35 P.S. § 780-113(a)(30).

<sup>4</sup> 35 P.S. § 780-113(a)(32).

On Saturday, June 23, 2012, Sergeant James Lynam of the Pennsylvania State Police was on routine patrol when he saw a vehicle in a hotel parking lot that matched the description of a vehicle involved in a recent shooting. Sergeant Lynam ran the registration of the vehicle and found Beasley to be the registered owner. Sergeant Lynam's search also revealed an active arrest warrant originating from Philadelphia County for Beasley. N.T. Suppression Hearing, 10/1/12, at 7. After learning from the hotel that Beasley had rented a room there, Sergeant Lynam set up surveillance of the vehicle and called for back-up. Trooper Joseph Manning of the Pennsylvania State Police arrived on scene to provide assistance.

At approximately 7:30 a.m., Sergeant Lynam and Trooper Manning observed an individual, later identified to be Hasan Manson, approach the vehicle with keys, open the passenger side door, and reach inside. Sergeant Lynam and Trooper Manning approached and questioned Manson about Beasley's whereabouts.

Approximately two minutes later, Beasley approached Trooper Manning and Manson and identified himself. At that point, Sergeant Lynam and Trooper Manning placed both men in handcuffs and sat them on the curb near the vehicle. ***Id.*** at 8. The officers instructed Beasley that he was being detained due to the active arrest warrant. ***Id.*** at 15. Sergeant Lynam asked Beasley for his consent to search his vehicle and hotel room. Beasley initially denied this request, but quickly changed his mind and consented. ***Id.*** at 16. Beasley was asked for his consent to search his vehicle and hotel

room a second time by Lieutenant Jeffery Mohn. **Id.** at 24. Again Beasley consented to a search of his vehicle and hotel room.

The search of the vehicle produced nothing of significance. Trial Court Opinion, 10/9/13, at 4. The search of the hotel room, however, revealed drugs and drug paraphernalia. **Id.** Officers found twelve bags of heroin, wrapped together in a bundle, inside a pair of sneakers located near a nightstand. **Id.** In the hotel room's drop ceiling, officers found 243 bags of heroin, packaged in the identical manner as the bundle found in the pair of sneakers. **Id.** Drug paraphernalia found in the hotel room included a digital scale, small plastic bags, glassine bags, rubber bands, razor blades, straws with the ends partially cut off, a coffee grinder, a box of vinyl gloves, and a box of surgical facemasks. **Id.**

Following the search, Detective Christopher Collare of the Cumberland County Drug Task Force read Beasley his Miranda warnings. Beasley said that he had rented the hotel room, was responsible for everything in the hotel room and, therefore, should be charged with anything in the hotel room. **Id.** at 5. Robert Arnold, who worked at the hotel's front desk, confirmed that Beasley rented the hotel room by paying in cash for each night. **Id.**

On August 2, 2012, Beasley filed a motion to suppress all evidence on the basis that the police conducted an unlawful warrantless search of his hotel room. On August 16, 2012, the court held a hearing, and on October

12, 2012, it denied the motion. The matter proceeded to a jury trial on March 18-22, 2013.

At trial, Lieutenant Mohn, testified that the hotel room was being used for the purpose of re-packaging the heroin for distribution and resale on the street. N.T. Trial, 3/18/13, at 240, 242, 264. He further testified that there was no indication that anyone was using heroin for personal use because there were no means of ingesting heroin found in the hotel room. ***Id.*** at 81-82, 240. Lieutenant Mohn also testified that Philadelphia is a source city for heroin. ***Id.*** at 235. He explained that frequent trips by a seller of heroin to a source city, like Philadelphia, are not unusual because sellers of heroin need to keep a supply available to their buyers. ***Id.*** at 235-36.

Beasley also testified at trial, stating that he had been in town to visit his half-brother, Manson, whom he had known for most of his life, and that three other individuals had been staying in the room for a number of the nights he rented the room. ***Id.*** at 365, 383, 388. Beasley further testified that he and Manson went to Philadelphia where he spent the night, and when he returned, he found that the three individuals were still staying in his hotel room. ***Id.*** at 397.

On March 18, 2013, the jury found Beasley guilty on all counts, and on April 16, 2013, the court sentenced him to an aggregate term of four to six years' imprisonment. Beasley was also required to pay fines totaling \$15,100. On April 26, 2013, Beasley filed a post-sentence motion, which the court denied on May 15, 2013. On June 14, 2013, the trial court entered

an order granting Beasley's counsel's petition to withdraw. It appointed a public defender to represent Beasley on appeal, and granted Beasley leave to file an appeal *nunc pro tunc*. Accordingly, Beasley filed a timely notice of appeal on June 26, 2013.

On appeal, Beasley raises the following issues:

(1) Did the trial court err by not granting [Beasley]'s motion to suppress physical evidence when, under the totality of the circumstances, [Beasley] did not voluntarily consent to the search and no exigent circumstances were present to justify the warrantless search?

(2) Was the evidence presented at trial sufficient to sustain a conviction on all charges when Beasley was neither in actual or constructive possession of the drugs or drug paraphernalia, and the Commonwealth did not prove Beasley was part of a conspiratorial agreement to commit the crimes?

Brief of Appellant, at 6.

In his first issue, Beasley argues that the trial court erred in denying his motion to suppress on the basis that the police conducted an unlawful, warrantless search. Specifically, Beasley argues that the search of his vehicle and hotel room were unlawful because the police coerced him into consenting to the search. When reviewing a trial court's decision to deny a motion to suppress:

Our standard of review . . . is whether the record supports the trial court's factual findings and whether the legal conclusions drawn therefrom are free from error. Our scope of review is limited; we may consider only the evidence of the prosecution and so much of the evidence for the defense as remains uncontradicted when read in the context of the record as a whole. Where the record supports the findings of the suppression court, we are bound by those facts and may reverse

only if the court erred in reaching its legal conclusions based upon the facts.

***Commonwealth v. McRae***, 5 A.3d 425, 429 (Pa. Super. 2010). Further, “[i]t is within the suppression court’s sole province as fact finder to pass on the credibility of witnesses and the weight to be given their testimony.” ***Commonwealth v. Baker***, 946 A.2d 691, 693 (Pa. Super. 2008).

Beasley first contends that in order for consent to validate an otherwise illegal search, the consent must be “unequivocal, specific, and voluntary.” ***Commonwealth v. Cleckley***, 738 A.2d 427, 430 (Pa. 1999). In determining whether consent is free and voluntary, the following factors may be considered:

[T]he person’s knowledge of the right to refuse to consent to the search; the maturity, sophistication and mental or emotional state of the defendant (including age, intelligence and capacity to exercise free will); and the presence or absence of physical contact or police direction of the subject’s movements, the demeanor of the police officer, the manner of expression used by the officer in addressing the subject, the location of the encounter, and the content of the interrogatories or statements.

***Commonwealth v. Rosas***, 875 A.2d 341, 349 (Pa. Super. 2005).

In support of his argument that the police coerced him into consenting to a search, Beasley cites ***Commonwealth v. Mamon***, 297 A.2d 471 (Pa. 1972), where our Supreme Court found that the defendant’s consent was involuntary because she had been in custody at police headquarters for hours, surrounded by four or five police officers, before the police procured her consent. However, the instant case is distinguishable from ***Mamon*** for a number of reasons. First, although police officers were present, Beasley was

only in custody for a matter of minutes before consenting to the search. Trial Court Opinion, 10/9/13, at 3-4. Second, testimony deemed credible by the trial judge demonstrated that the officers treated Beasley in a non-aggressive manner, procured his consent twice, and did not draw their weapons at any time. Opinion in Support of Denial of Suppression Motion, 10/12/12, at 10-11. Third, although Beasley was in handcuffs at the time he consented to the search, he was not at police headquarters, and being in handcuffs is only one factor to consider in determining whether consent is freely given. **See Rosas**, 875 A.2d at 349.

Here, the trial court denied Beasley's motion to suppress based on the totality of the evidence presented at the suppression hearing, with a specific focus on the actions of the police officers involved. The trial court stated, "[b]ased on the totality of the circumstances, this court finds that [Beasley], while detained, freely and voluntarily consented to the search of his vehicle and his hotel room. This court found the testimony of Trooper Manning and Lieutenant Mohn regarding their encounter with [Beasley] to be credible." Opinion in Support of Denial of Suppression Motion, 10/12/12, at 2. As such, the trial court made a credibility determination, in favor of the officers testifying on behalf of the Commonwealth, and found that Beasley voluntarily consented to a search of his vehicle and hotel room. **See Baker**, 946 A.2d at 693; **Rosas**, 875 A.2d at 349. The record supports this determination. **McRae**, 5 A.3d at 429. Accordingly, the trial court did not err in denying Beasley's motion to suppress.

In his second issue, Beasley argues that the Commonwealth did not present sufficient evidence to prove: (1) that Beasley actually or constructively possessed the controlled substance, as required to support a conviction for possession with intent to deliver; or (2) that he entered into a conspiratorial agreement to commit the crimes.

We review a challenge to the sufficiency of the evidence as follows:

[W]hether viewing all the evidence admitted at trial in the light most favorable to the verdict winner, there is sufficient evidence to enable the fact-finder to find every element of the crime beyond a reasonable doubt. In applying the above test, we may not weigh the evidence and substitute our judgment for the fact-finder. In addition, we note that the facts and circumstances established by the Commonwealth need not preclude every possibility of innocence. Any doubts regarding a defendant's guilt may be resolved by the fact-finder unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances. The Commonwealth may sustain its burden of proving every element of the crime beyond a reasonable doubt by means of wholly circumstantial evidence. Moreover, in applying the above test, the entire record must be evaluated and all evidence actually received must be considered. Finally, the trier of fact while passing upon the credibility of witnesses and the weight of the evidence produced, is free to believe all, part or none of the evidence.

***Commonwealth v. Caban***, 60 A.3d 120, 132 (Pa. Super. 2012).

In order to sustain a conviction for PWID, the Commonwealth must prove “beyond a reasonable doubt that the defendant possessed a controlled substance with the intent to deliver it.” ***Commonwealth v. Little***, 879 A.2d 293, 297 (Pa. Super. 2005). When actual possession is not established, the Commonwealth is required to prove that the individual



maintained constructive possession of the controlled substance in question. **See Commonwealth v. Kirkland**, 831 A.2d 607, 610 (Pa. Super. 2003). "Constructive possession is the ability to exercise conscious control or dominion over the illegal substance and the intent to exercise that control. The intent to exercise conscious dominion can be inferred from the totality of the circumstances." **Id.** (citations omitted).

Here, Beasley contends that, because other individuals had access to the hotel room where the police located the controlled substance, the Commonwealth did not prove beyond a reasonable doubt that Beasley maintained constructive possession. However, as the record shows, Beasley rented and paid for the hotel room in which the heroin was found, and occupied the hotel prior to and on the day the police located the drugs. Trial Court Opinion, 10/9/13, at 8. Further, Beasley stated he "was responsible for everything in the hotel room and, therefore, should be charged with anything in the hotel room." **Id.** at 5. Viewing the facts in the light most favorable to the Commonwealth, the trial court did not err in holding that there was sufficient evidence to prove that Beasley had constructive possession of the controlled substance. **See Kirkland**, 831 A.2d at 610.

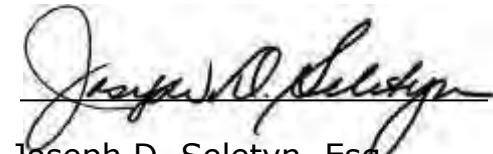
In order to sustain a conviction for criminal conspiracy, the Commonwealth must establish that the defendant "(1) entered into an agreement to commit or aid in an unlawful act with another person or persons, (2) with a shared criminal intent and (3) an overt act was done in furtherance of the conspiracy." **Commonwealth v. Murphy**, 795 A.2d

1025, 1037-38 (Pa. Super. 2002). "Because it is difficult to prove an explicit or formal agreement to commit an unlawful act, such an act may be prove[n] inferentially by circumstantial evidence." **Commonwealth v. Thomas**, 65 A.3d 939, 943 (Pa. Super. 2013).

Here, Beasley contends that there is insufficient evidence to find that he conspired with Manson to manufacture and deliver the controlled substance. Again, we are unable to weigh the facts, but instead must view the facts in the light most favorable to the Commonwealth. The police recovered more than 200 bags of heroin individually packaged for resale from the hotel room that Beasley rented. Trial Court Opinion, 10/9/13, at 4. Further, Beasley was in town to visit Manson, spent a majority of his time while in the area with Manson, and both Beasley and Manson were together at the hotel when the police arrived to investigate the scene. **Id.** at 14. Viewing the facts in the light most favorable to the Commonwealth, the circumstantial evidence supports an agreement between Beasley and Manson to conspire in the production and manufacture of the controlled substance, heroin. **See Caban**, 60 A.3d at 132. As such, the trial court did not err in holding that Beasley entered into a conspiratorial agreement with Manson to manufacture and deliver a schedule I controlled substance.

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: 7/25/2014