NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
ANTHONY FELIX SANTIAGO	:	
Appellant	:	No. 96 EDA 2025

Appeal from the Judgment of Sentence Entered October 23, 2024
In the Court of Common Pleas of Northampton County Criminal Division
at No(s): CP-48-CR-0002179-2023

BEFORE: KUNSELMAN, J., NICHOLS, J., and SULLIVAN, J.

MEMORANDUM BY SULLIVAN, J.: **FILED NOVEMBER 10, 2026**

Anthony Felix Santiago ("Santiago") appeals from the judgment of sentence following his jury convictions for burglary, conspiracy to commit burglary, three counts of robbery, conspiracy to commit robbery, and simple assault.[1] Santiago challenges the sufficiency of the evidence and the legality of the trial court's separate sentences for conspiracy to commit burglary and conspiracy to commit robbery. Because, under the facts of this case, Santiago could not be sentenced to consecutive terms of conspiracy to commit burglary and conspiracy to commit robbery, and the trial court sentenced him consecutively, we are constrained to vacate Santiago's conviction for conspiracy to commit burglary and remand on all counts for resentencing.

---

[1] ***See*** 18 Pa.C.S.A. §§ 3502(a)(1)(i), 903(a)(1), 3701(a)(1)(ii), 2701(a)(3).

We summarize the evidence presented at Santiago's trial as follows. Millito Delgado ("Delgado") testified that around midnight one day in April 2023, Santiago and his friend, Francis Ferrando ("Ferrando"), came to the house where Delgado was living to ask him for help with "a job." N.T., 10/8/24, at 58, 60.[2] Delgado testified that at first he believed the job involved painting, and that he, Santiago, and Ferrando walked to Santiago's residence, a few blocks away. ***See id***. at 60-61. Once at Delgado's house, Santiago talked about doing "a lick," which Delgado understood to mean a robbery. ***See id***. at 63, 84, 88. Santiago's friend, Michael Matas ("Matas"), arrived at Santiago's residence, and a few minutes later, an individual only identified as "Sabi" arrived with a car. ***See id***. at 63-65, 83.[3]

Delgado testified that once Sabi arrived, Santiago told him, Ferrando, and Matas to get in the car. ***See id***. at 66. Sabi drove for approximately ten minutes and parked. ***See id***. at 68. Santiago, Delgado, Ferrando and Matas got out of the car, and Santiago led them to the back of a home approximately one block away, while Sabi remained in the car. ***See id***. at 68-69. Santiago gave Delgado a hammer and told him to break the glass door at the back of the home. ***See id***. at 70. Delgado complied, and Ferrando and Matas, who

---

[2] Delgado testified he had known Santiago, his cousin's brother, for five years, and Santiago would occasionally hire him for painting and other jobs. ***See*** N.T., 10/8/24, at 52-53.

[3] Sabi's legal name does not appear in the record and, based on the record, it is unclear to this Court whether he was charged or prosecuted.

were both wearing masks, entered the home followed by Delgado and then Santiago. ***See id***. at 70-71.[4] Delgado testified he and Santiago remained on the first floor while Ferrando and Matas went upstairs. ***See id***. at 71-72. He testified Santiago told him to go upstairs, and he did. ***See id***. at 72.

The residents of the home, Alberto Rivera ("Rivera"), his girlfriend, Nicole Sicher ("Sicher"), and his sister, Barbara Ojeda ("Ojeda") were upstairs when the home invasion started. Rivera, who was watching television in his and Sicher's bedroom, heard his dog growling, the gate to his backyard open, and glass shattering; he woke up Sicher and looked down the stairs. ***See*** N.T., 10/7/24, at 111-14. His dog went downstairs to confront the invaders. ***See id***. at 114. Rivera went back into his bedroom and retrieved his gun from a safe. ***See id***. at 114-15, 118. Sicher called the dog back to their bedroom and used her body to block the door as someone tried to force it open. ***See id***. at 114-16. The door then flew open, and a person toppled in. ***See id***. at 118. Rivera fired approximately three shots and saw two people run downstairs.[5] ***See id***. at 117-19.

Ojeda, who was in a separate bedroom, heard a commotion on the steps and Rivera yelling Sicher's name in distress. ***See id***. at 76-77. She tried to open her bedroom door but was unable to. ***See id***. She tried to find her

---

[4] Delgado testified he did not see Ferrando or Matas wearing masks on the drive. ***See id***. at 67.

[5] Rivera's shots hit Matas and Ferrando.

phone in the dark, then heard a bang and felt someone grab her. ***See id***. at 77-78. Someone turned on the lights in her bedroom, and she saw a masked person pointing a gun at her forehead. ***See id***. at 78. That person asked, "Where is it at?" and ripped a chain off her neck. ***See id***. at 79-80. Ojeda testified there was another person behind her. ***See id***. at 78. She then heard a "pop" and closed her eyes. ***See id***. at 79. When she opened her eyes, the person who grabbed her chain was gone. ***See id***. at 79-80. She turned to face Delgado, the person who had been behind her. ***See id***. at 80-81. When she told him to leave, he responded, "No[,] I can't leave[, h]e's going to shoot me," at which point, Ojeda saw Rivera with his gun. ***Id***. at 79. Delgado told Ojeda that he should have listened to his girlfriend, he did not want to do it, and "Ant Live" pressured him into participating. ***See id***. at 86, 122. Sicher called 911, and police responded. ***See id***. at 136.

At trial, Rivera, Sicher, and Ojeda testified they were familiar with Santiago but did not see him on the night of the home invasion. Rivera testified he previously sold Santiago, known as "Ant Live" on Facebook, marijuana at his home on a few occasions, and they rode ATV's together. ***See id***. at 102-05. Weeks before the home invasion, Rivera had posted pictures of a $14,000 Miami Cuban link necklace he bought. ***See id***. at 105-06. Rivera testified he met Matas once before at Santiago's residence but never met Ferrando or Delgado before the home invasion. ***See id***. at 109-10. Sicher and Ojeda similarly testified that they had previously seen Santiago at their home on several prior occasions. ***See id***. at 89-90, 137-39. Sicher testified

she never saw Matas, Ferrando, or Delgado before the home invasion. ***See id***. at 137-39.

In October 2024, a jury convicted Santiago of the above-listed offenses. The trial court sentenced Santiago to an aggregate term of twenty to forty years of incarceration, consisting of four consecutive sentences of five to ten years of incarceration for burglary, conspiracy to commit burglary, one count of robbery, and conspiracy to commit robbery.[6]

Santiago timely filed a post-sentence motion, which the trial court denied. Santiago timely filed a notice of appeal. Santiago filed a Pa.R.A.P. 1925(b) statement, and the trial court issued a Rule 1925(a) "statement" referring generally to the testimony and exhibits presented at trial, but without citations to the record. This Court directed the trial court to file an amended Rule 1925(a) opinion and include the reasons for its rulings or other errors complained of on appeal, with specific reference to the record. ***See*** Order, 3/27/26. This Court allowed the parties thirty days from the date of the amended opinion to file supplemental briefs. The trial court filed its amended opinion on April 14, 2026; neither Santiago nor the Commonwealth filed a supplemental brief with this Court.

Santiago raises the following issues for our review:

---

[6] The court imposed concurrent five-to-ten-year sentences for the other two counts of robbery, and a concurrent sentence of six months to two years for simple assault.

1. Was the evidence to support [Santiago's] convictions for burglary, robbery, conspiracy to commit burglary, and conspiracy to commit robbery legally insufficient?

2. Was the evidence to support [Santiago's] conviction for simple assault legally insufficient?

3. Alternatively, may [Santiago] be convicted and sentenced for both conspiracy to commit robbery and conspiracy to commit burglary?

Santiago's Brief at 4.

Santiago's first and second issues implicate the sufficiency of the evidence for his convictions of burglary, conspiracy to commit burglary, robbery, conspiracy to commit robbery, and simple assault. Both of these claims are contingent upon Santiago's argument that the Commonwealth failed to present sufficient evidence to prove the agreement element of conspiracy.[7]

Our standard of review for sufficiency claims is as follows:

> As a general matter, our standard of review of sufficiency claims requires that we evaluate the record in the light most favorable to the verdict winner giving the prosecution the benefit of all reasonable inferences to be drawn from the evidence. Evidence

---

[7] For an appellant's Rule 1925(b) statement to preserve a challenge to the sufficiency of the evidence, it "must state with specificity the element or elements upon which the appellant alleges that the evidence was insufficient." ***Commonwealth v. Garland***, 63 A.3d 339, 344 (Pa. Super. 2013) (citation omitted). In his 1925(b) statement, Santiago stated "[w]ithout limitation as to other reasons, all of [Santiago's] convictions lacked sufficient evidence because no evidence was presented that [he] ***agreed to or even knew*** that his alleged co-conspirators would commit [the crimes.]" Santiago's 1925(b) Statement at 1 (emphasis added). Accordingly, only Santiago's argument that there was insufficient evidence that he agreed to or knew of the crimes is preserved for our review.

> will be deemed sufficient to support the verdict when it establishes each material element of the crime charged and the commission thereof by the accused, beyond a reasonable doubt. Nevertheless, the Commonwealth need not establish guilt to a mathematical certainty. 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.
>
> The Commonwealth may sustain its burden by means of wholly circumstantial evidence. Accordingly, the fact that the evidence establishing a defendant's participation in a crime is circumstantial does not preclude a conviction where the evidence coupled with the reasonable inferences drawn therefrom overcomes the presumption of innocence. Significantly, we may not substitute our judgment for that of the fact finder; thus, so long as the evidence adduced, accepted in the light most favorable to the Commonwealth, demonstrates the respective elements of a defendant's crimes beyond a reasonable doubt, the appellant's convictions will be upheld.

Commonwealth v. Sebolka, 205 A.3d 329, 336-37 (Pa. Super. 2019) (bracket, internal citation, and indentation omitted).

> A person may be found guilty of conspiracy if
>
> with the intent of promoting or facilitating its commission [he]: (1) agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or (2) agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime.

18 Pa.C.S.A. § 903(a).

> This Court has articulated the law for conspiracy liability as follows:
>
> To convict a defendant of conspiracy, the trier of fact must find that: (1) the defendant intended to commit or aid in the commission of the criminal act; (2) the defendant entered into an agreement with another (a "co-conspirator") to engage in the crime; and (3) the defendant or one or more of the other co-

> conspirators committed an overt act in furtherance of the agreed upon crime. ***See*** 18 Pa.C.S.[A.] § 903. The essence of a criminal conspiracy, which is what distinguishes this crime from accomplice liability, is the agreement made between the co-conspirators.
>
> Mere association with the perpetrators, mere presence at the scene, or mere knowledge of the crime is insufficient to establish that a defendant was part of a conspiratorial agreement to commit the crime. There needs to be some additional proof that the defendant intended to commit the crime along with his co-conspirator. Direct evidence of the defendant's criminal intent or the conspiratorial agreement, however, is rarely available. Consequently, the defendant's intent as well as the agreement is almost always proven through circumstantial evidence, such as by the relations, conduct or circumstances of the parties or overt acts on the part of the co-conspirators. Once the trier of fact finds that there was an agreement and the defendant intentionally entered into the agreement, that defendant may be liable for the overt acts committed in furtherance of the conspiracy regardless of which co-conspirator committed the act.

Commonwealth v. Dunkins, 229 A.3d 622, 633 (Pa. Super. 2020) (internal citation and indentation omitted). As we have explained, "a conspiracy may be inferentially established by showing the relation, conduct, or circumstances of the parties, and the overt acts on the part of co-conspirators have uniformly been held competent to prove that a corrupt confederation has in fact been formed." ***Commonwealth v. Knox***, 417 A.2d 1192, 1193 (Pa. Super. 1980) (internal citation and quotation omitted).

Santiago asserts there was no evidence he agreed to commit burglary and robbery, and as such, could not be convicted of the counts of conspiracy or the underlying offenses of burglary or robbery or simple assault. ***See*** Santiago's Brief at 15-18. His argument is primarily supported by his criticism of Delgado's testimony. ***See id***. at 15-16. Santiago argues Delgado was the

only witness who would have been in a position to establish conspiracy or accomplice liability against him. ***See*** Santiago's Brief at 15. He characterizes Delgado's testimony as "woefully short" of proof of agreement and argues Delgado's testimony did not reference an agreement to burglarize the house. ***See id***. at 15-16. While Santiago concedes that handing Delgado a hammer and telling him to break the glass door could suggest an agreement to commit criminal trespass, he asserts there was no agreement his cohorts would place the residents of the home in fear of immediate serious bodily injury once inside. ***See id***. at 16. Similarly, with respect to simple assault, Santiago claims there was no evidence he had a shared intent to commit simple assault. ***See id***. at 19. Further, Santiago asserts, there was no evidence he knew anyone was home. ***See id***. at 16.[8]

The trial court considered Santiago's claim and concluded it merited no relief. It explained that the evidence at trial established Santiago's plan to

---

[8] To the extent Santiago's argument challenges the weight of Delgado's testimony, this claim is waived for failure to properly present it in his brief. Further, nowhere in his Rule 1925(b) statement does he specifically allege Delgado's testimony was not credible; he simply states his conviction was against the weight of the evidence. ***See Commonwealth v. Arnold***, 284 A.3d 1262, 1279 (Pa. Super. 2022) (explaining a 1925(b) statement that is too vague is waived). Moreover, to the extent he advances a credibility claim in his sufficiency challenge, we note a weight challenge "concedes that sufficient evidence exists to sustain the verdict but questions which evidence is to be believed." ***Commonwealth v. Thompson***, 106 A.3d 742, 758 (Pa. Super. 2014). This Court cannot and will not "reassess the credibility of the eyewitnesses and reweigh the testimony and evidence presented at trial." ***Commonwealth v. Miller***, 172 A.3d 632, 643 (Pa. Super. 2017).

break into Rivera's home to steal an expensive necklace. ***See*** Supplemental Trial Court Opinion, 4/16/26, at 6. Specifically, the trial court pointed to Ojeda and Rivera's testimony, which established that Santiago knew Rivera and had been to the residence previously, and that Santiago was friends with Rivera on Facebook, where Rivera had posted about a $14,000 necklace. ***See id***. at 3-4. The trial court also explained that Delgado's testimony established Santiago had asked him to do a "job," which was revealed to be the robbery and burglary at issue. ***See id***. at 5. Thus, the evidence showed that it was Santiago's plan and he recruited the coconspirators. ***See id***. at 6-7.

Viewing the evidence in the light most favorable to the Commonwealth as the verdict winner, we agree with the trial court that the Commonwealth presented sufficient evidence for the jury to find Santiago formed an agreement to commit robbery and burglary. As noted above, agreement is almost always proven by circumstantial evidence. ***See Dunkins***, 229 A.3d at 633. Here, Delgado testified Santiago initially came to his home with Ferrando and talked about a "job"; the three then went to Santiago's house where Santiago began talking about a robbery and waited for Matas and their ride; they drove to a location near Rivera's home, where Santiago gave Delgado a hammer and Delgado broke the glass door at Santiago's direction; and Delgado, again at Santiago's direction, went to the second floor of the house. That was sufficient evidence to prove Santiago's agreement to participate in the burglary and robbery. ***See id***. (explaining circumstantial evidence includes the relations, conduct or circumstances of the parties or overt acts

on the part of the co-conspirators); ***Commonwealth v. French***, 578 A.2d 1292, 1294 (Pa. Super. 1990) (explaining such factors, taken together, can establish conspiratorial agreement beyond a reasonable doubt when one of the factors alone might fail). Delgado's, Ojeda's, and Rivera's testimonies, taken together, establish Santiago knew Rivera and was familiar with the layout and residents of Rivera's home, while the others did not. Further, Santiago knew Rivera was selling marijuana and through his Facebook friendship could see Rivera's post about the $14,000 Miami Cuban link necklace. Additionally, Santiago gave Delgado the hammer, led the group to the glass door at the back of Rivera's home, and instructed Delgado to break the glass door with the hammer, after which Matas and Ferrando, who were wearing masks at that time, went inside and upstairs; and one of the individuals entered Ojeda's room and held a gun to her head while asking where something was and placing Ojeda in fear of bodily injury. ***See Dunkins***, 229 A.3d at 633. Therefore, the evidence was sufficient to prove the "agreement" element of conspiracy.

To the extent Santiago challenges his convictions for burglary and robbery, his challenge to the sufficiency of the evidence is similarly meritless. ***See Commonwealth v. Jones***, 339 A.3d 493, 501-03 (Pa. Super. 2025) (explaining a conspirator can be convicted of both the conspiracy and substantive offense once conspiracy is established beyond a reasonable doubt). Moreover, because Santiago is liable for the overt acts of his co-conspirators, his argument the evidence was insufficient to prove simple

assault is equally meritless. ***See Commonwealth v. Golphin***, 161 A.3d 1009, 1019 (Pa. Super. 2017) (internal citation omitted) (stating that "[o]nce the trier of fact finds that there was an agreement and the defendant intentionally entered into the agreement, that defendant may be liable for the overt acts committed in furtherance of the conspiracy regardless of which co-conspirator committed the act.").

Santiago next challenges the legality of his sentences for conspiracy to commit burglary and conspiracy to commit robbery. For the first time in his appellate brief, he asserts the separate sentences for those conspiracies violated 18 Pa.C.S.A. § 903(c) ("Section 903(c)"), which states: "If a person conspires to commit a number of crimes, he is guilty of only one conspiracy so long as such multiple crimes are the object of the same agreement or continuous conspiratorial relationship." 18 Pa.C.S.A. § 903(c).

Generally, "[i]ssues relating to the legality of a sentence are questions of law, as are claims contesting a court's application of a statute. Our scope of review in such matters is plenary." ***Commonwealth v. Bongiorno***, 905 A.2d 998, 1002 (Pa. Super. 2006) (*en banc*) (citation omitted). Legality of sentence issues are not subject to issue preservation and cannot be waived. ***See Commonwealth v. Seals***, 353 A.3d 747, 759 (Pa. Super. 2026).[9]

---

[9] Our Supreme Court previously addressed a legality of sentence claim implicating Section 903(c) and concluded such a claim "is more properly presented as a challenge to the sufficiency of the evidence" and "should be submitted to the jury in the first instance together with an appropriate
(Footnote Continued Next Page)

To determine whether a single conspiracy or multiple conspiracies have been established, this Court considers several factors in a totality of the circumstances analysis, including:

> the number of overt acts in common; the overlap of personnel; the time period during which the alleged acts took place; the similarity in methods of operation; the locations in which the alleged acts took place; the extent to which the purported conspiracies share a common objective; and, the degree to which interdependence is needed for the overall operation to succeed.

Commonwealth v. Rivera, 238 A.3d 482, 503 (Pa. Super. 2020) (internal citation omitted).

Santiago argues that Delgado's testimony described an ongoing conspiratorial relationship and that "[b]oth crimes involved the same incident, the same actors, the same victims, and the same house." ***Id***. at 20. He further contends robbery was the underlying crime required to convict him of burglary. ***See id***.

---

instruction." ***Commonwealth v. Andrews***, 768 A.2d 309, 314 (Pa. 2001) (footnote omitted). ***Andrews*** thus suggests a Section 903(c) claim is a guilt-phase matter that should be preserved in the trial court. ***See id***. There remains conflicting authority over whether a Section 903(c) claim implicates a non-waivable legality of the sentence issue or a waivable sufficiency of the evidence claim. ***Compare Rivera***, 238 A.3d at 503 (addressing a Section 903(c) claim *sua sponte* as an illegal sentence) *and* ***Commonwealth v. Barnes***, 871 A.2d 812, 821 n.6 (Pa. Super. 2005) (suggesting the same), *with* ***Commonwealth v. Lynch***, 242 A.3d 339, 347 (Pa. Super. 2020) ("whether Section 903(c) bars multiple convictions for conspiracy is a question of the sufficiency of the evidence"). Because Santiago raises this is a legality of sentence issue, we will address it as such.

In contrast, the Commonwealth contends that Santiago "entered into two separate conspiracies, with different people, at different times[, t]he parties in each conspiracy were unaware of Santiago's agreement with the parties in the other conspiracy[, and] the two conspiracies involved separate and distinct conduct." Commonwealth's Brief at 16.[10]

Applying the above-listed factors to the instant case, we conclude the trial court erred as a matter of law. Section 903(c) barred separate findings of guilt for separate conspiracies to commit burglary and robbery because Santiago engaged in a continuing conspiratorial relationship to break into Rivera's home in order to commit a robbery. ***See Rivera***, 238 A.3d at 504 (finding agreement to rob the victim at gunpoint encompassed plan to break into the victim's home). The record facts show a substantial overlap in the personnel involved in the conspiracies to burgle Rivera's home and rob him, *i.e.*, Santiago, Delgado, Ferrando, and Matas; the alleged acts in support of the conspiracy took place at Rivera's residence, where the predicate crimes took place; the time period during which the co-conspirators gathered and the alleged acts occurred between midnight and three a.m.; and the purported conspiracies shared a common objective, namely, taking property from

---

[10] Although Santiago did not raise this claim in his Rule 1925(b) statement, the trial court, in a footnote, cited ***Commonwealth v. Dortch***, 343 A.3d 298, 309 (Pa. Super. 2025), and stated that "because robbery and burglary require proof of different elements, a defendant may be properly convicted of both conspirac[ies] . . . even when the factual averments supporting both charges are identical." Supplemental Trial Court Opinion, 4/16/26, at 10 n.1.

Rivera. Critically, there was a high degree of interdependence on the break-in for the robbery plan to succeed.

We acknowledge the Commonwealth's arguments that Santiago was a "mastermind," who cobbled together a group of disparate co-conspirators by separate agreements. Moreover, the evidence suggested Santiago recruited Delgado in the final hours to participate in the "lick," then used Delgado as an accomplice in the actual breaking of the glass door with the hammer to enter the home and, once in the home, eventually directed Delgado to go upstairs. Nevertheless, viewing the circumstances in their totality, the commonalities between personnel involved, the temporal relationship in the overt acts, as well as the overarching criminal objective, compel a determination that Santiago engaged in a continuous conspiratorial relationship to burgle Rivera's home and rob him of property. Thus, we are constrained to find that based on the language of Section 903(c) and the record facts Santiago can only be found guilty of conspiracy to commit robbery because the robbery was "the underlying foundation of the agreement upon which the conspiracy charges were based." ***Commonwealth v. Barnes***, 871 A.2d 812, 821 (Pa. Super. 2005); ***Rivera***, 238 A.3d at 504 (vacating conspiracy to commit burglary sentence where conspiracy to commit robbery was underlying foundation of conspiratorial agreement).[11]

---

[11] Our review of the Commonwealth's trial evidence is further supported by the manner in which the Commonwealth charged and proceeded at trial. The
(Footnote Continued Next Page)

Accordingly, we affirm in part, reverse in part and vacate Santiago's conviction and sentence for conspiracy to commit burglary. ***See id***. Moreover, because the trial court sentenced Santiago consecutively on both conspiracy to commit burglary and conspiracy to commit robbery, we must vacate the judgment of sentence in its entirety and remand for resentencing. ***See Commonwealth v. Bernard***, 218 A.3d 935, 944 (Pa. Super. 2019) (stating we must remand when "the trial court imposed consecutive sentences[and] our disposition upsets the overall sentencing scheme . . . [so] the trial court can restructure its sentence plan").[12]

Judgment of sentence vacated. Case remanded for resentencing consistent with this decision. Jurisdiction relinquished.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/10/2026

---

language used in the criminal information and jury instructions does not establish that Santiago formed one agreement with Delgado and a separate agreement with Matas and Ferrando. Indeed, the language used and evidence presented establishes that these acts were committed together with a common goal, and that the robbery was dependent upon breaking into the residence.

[12] Santiago's conviction for conspiracy to commit robbery is unaffected by our disposition. Moreover, he may be found guilty of the underlying crime of burglary as an act committed in furtherance of the conspiracy to commit robbery. ***See Golphin***, 161 A.3d at 1019.