

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

v.

NASEEM ROBERSON

Appellant

: No. 3053 EDA 2024

Appeal from the Judgment of Sentence Entered October 15, 2024
In the Court of Common Pleas of Chester County Criminal Division at
No(s): CP-15-CR-0003972-2022

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

v.

NASEEM ROBERSON

Appellant

: No. 3054 EDA 2024

Appeal from the Judgment of Sentence Entered October 15, 2024
In the Court of Common Pleas of Chester County Criminal Division at
No(s): CP-15-CR-0003982-2022

BEFORE: LAZARUS, P.J., SULLIVAN, J., and STEVENS, P.J.E.*

MEMORANDUM BY SULLIVAN, J.:

FILED OCTOBER 15, 2026

Naseem Roberson ("Roberson") appeals from the judgment of sentence following his convictions for sexual assault, conspiracy to commit sexual assault, indecent assault, conspiracy to commit indecent assault, and flight.¹

* Former Justice specially assigned to the Superior Court.

¹ **See** 18 Pa.C.S.A. §§ 3124.1, 903(a)(1), 3126(a)(1), 5126(a).

Following our review, we affirm the convictions and judgment of sentence in their entirety except for one erroneous conspiracy conviction—for which Roberson received a sentence of no further penalty—which the parties and court agree was improper, and which we accordingly vacate.

We glean the following facts from the trial court’s opinion, which the record supports. On July 6, 2022, J.H. (or, alternatively, “the victim”) went to Roberson’s house to have sex with him. Two days earlier, Roberson and the victim had a discussion via text message regarding Johnathan Fields (“Fields”); Roberson had asked the victim if she should be willing to engage in a threesome with him and Fields, and she said no. When she arrived at Roberson’s house on the later date, J.H. was surprised to see Fields there. The three of them hung out in the basement. Roberson again suggested a threesome, and J.H. again declined. Fields went upstairs, and Roberson and J.H. stayed downstairs and had consensual sex with the lights and television on. **See** Trial Court Opinion, 8/22/25, at 1.

When they were done, Roberson went upstairs for a few minutes to shower. When he returned, he asked J.H. if she “wanted to go again,” and she agreed. Roberson then turned off the lights and the television, placing the room in total darkness. J.H. performed oral sex on Roberson, during which they were facing each other. He then told her to “face the front.” She positioned herself “on all fours,” and a man behind her, whom she believed to be Roberson, initiated rear penetration. Finding that person’s penis was

initially limp, J.H. began to suspect Fields, not Roberson, was involved in the sexual conduct, a suspicion confirmed when she felt dreadlocks on her neck matching the ones Fields wore; Roberson, by contrast, had short hair. J.H. then felt shoes sliding against her feet even though Roberson had previously been barefoot. J.H. tried to turn around, but the person behind her held her neck down. Convinced Fields, not Roberson, was having sex with her, J.H. kicked her leg back attempting to stop it, and told him to stop. Roberson asked, "You don't want to keep going?" Fields remained silent. The man behind her took between twenty to thirty seconds and two minutes to stop. When the lights were turned back on, Roberson was the only person in the room. ***See id.*** at 1-2.

Immediately after the event, before she even left Roberson's house, J.H. texted her friend and told her she had just been raped and asked if she could stay at her house. J.H. was upset, crying, in shock, and had makeup running down her face. She went directly to the hospital, where she reported the abuse to a sexual assault nurse examiner. She also said that she was nauseous and had a headache. ***See id.*** at 2.

After obtaining an arrest warrant for Roberson, the police called him and told him they wanted to talk to him about a sexual assault. Roberson denied involvement. When the police stated they had an arrest warrant, Roberson claimed their previously clear phone connection had a bad connection and hung up. On July 30, 2022, Officer Christopher Fox ("Officer Fox"), of the

East Brandywine Township Police Department, attempted to make contact with Roberson. He waited in Roberson's neighborhood in a marked police car. The officer saw Roberson walking down the street, dressed in all black with a ski mask over his head and carrying a bookbag. Officer Fox began following Robertson at a distance while waiting for assistance from other officers. Upon the sound of the sirens of approaching police cars, Roberson then dropped the bookbag and started running. Officer Fox activated his lights and sirens and began pursuit, but lost Roberson after he ran into the woods. Officer Fox secured the bookbag, which contained bus tickets to Pittsburgh in someone else's name, Roberson's driver's license, clothing, and other miscellaneous items. On August 3, 2022, Roberson turned himself into police. ***See id.*** at 2-3.

At a joint trial with Fields, the trial court convicted Roberson of the aforementioned crimes. The court concluded that, but for Roberson's assistance, Fields would not have sexually assaulted the victim. On October 15, 2024, the court imposed an aggregate term of four to eight years of incarceration for Roberson's offenses. ***See id.*** at 3.

Roberson timely appealed. The trial court ordered him to file a concise statement of matters complained of on appeal. After receiving a continuance, he complied.

Roberson raises the following issues for our review:

1. Was the evidence adduced at trial insufficient to support the convictions with respect to sexual assault, conspiracy to

commit sexual assault, indecent assault, conspiracy to commit indecent assault, and flight to avoid apprehension in so far as:

a. With respect to sexual assault:

- i. There was insufficient evidence that [] Roberson, even reviewed in the light most favorable to the verdict winner, engaged in sexual intercourse or deviate sexual intercourse with [J.H.] without consent.
- ii. The court's finding that [] Roberson was "talking to her throughout. . . as if it is you" is not supported by the record[,] as [J.H.] never testified to what [] Roberson purportedly said.
- iii. The evidence adduced at trial does not fit within the statutory definition of the crime and instead creates a new crime, *to wit* sexual assault by deception.

b. With respect to conspiracy in count [five]:

- i. There was insufficient evidence that [] Roberson, even reviewed in the light most favorable to the verdict winner, engaged in conduct as alleged by count [five, *i.e.*, conspiracy to commit sexual assault.]
- ii. The evidence adduced at trial does not fit within the statutory definition of the crime and instead creates a new crime, *to wit* conspiracy to commit sexual assault by deception.

c. With respect to indecent assault:

- i. T[h]ere was insufficient evidence that [] Roberson, even reviewed in the light most favorable to the verdict winner, caused [Fields] to have indecent contact with [J.H].
- iii. The evidence adduced at trial does not fit within the statutory definition of the crime and instead creates a new crime, *to wit* indecent assault by deception.

d. With respect to [count nine,] conspiracy to commit indecent assault:

- i. There was insufficient evidence that [] Roberson, even reviewed in the light most favorable to the verdict winner, engaged in conduct as alleged by count [nine, *i.e.*, conspiracy to commit indecent assault without consent].
- ii. The evidence adduced at trial does not fit within the statutory definition of the crime and instead creates a new crime, *to wit* conspiracy to commit indecent assault by deception.
- iii. In the alternative, it was error to find that there existed two [] separate conspiracies, and even if the [court] correctly found that there existed a conspiracy, it was one [] single conspiracy to commit a sexual assault and not two [] separate conspiracies that would support two [] separate substantive charges.

e. With respect to flight to avoid apprehension:

- i. The evidence adduced at trial was not sufficient to show that [] Roberson intended to avoid apprehension, willfully concealed himself, nor that he knew that there was a warrant/charges for his arrest.

2. Was [] Roberson denied of state and federal due process as the averments made in the bills of information did not match the facts adduced at trial thereby allowing for a constructive amendment of the charging document?

Roberson's Brief at 10-12 (unnecessary capitalization omitted).

Roberson's first issue implicates the sufficiency of the evidence for his convictions. 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 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, [t]he 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)

(internal citation and indentation omitted).

Roberson challenges the sufficiency of the evidence for the following offenses: (1) sexual assault; (2) conspiracy to commit sexual assault; (3) indecent assault; (4) conspiracy to commit indecent assault; and (5) flight to avoid apprehension. We first address sexual assault and indecent assault together, as the arguments are related.

The sexual assault statute provides, in relevant part, that a person commits that crime when he “engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant’s consent.” 18 Pa.C.S.A. § 3124.1. A person commits indecent assault “if the person has indecent contact with the complainant, causes the complainant to have

indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid . . . for the purpose of arousing sexual desire in the person or the complainant and[] the person does so without the complainant's consent[.]” 18 Pa.C.S.A. § 3126(a)(1). Indecent contact is defined as “[a]ny touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire, in any person.” 18 Pa.C.S.A. § 3101.

A person is an accomplice and “equally criminally liable for the acts of another if he acts with the intent of promoting or facilitating the commission of an offense and agrees, aids, or attempts to aid such other person in either planning or committing that offense.” ***Commonwealth v. Chambers***, 188 A.3d 400, 415 (Pa. 2018) (internal citation and quotations omitted); ***see also*** 18 Pa.C.S.A. § 306(b)(3), (c)(1) (setting forth the requirements for accomplice liability). The “least degree of concert or collusion in the commission of the offense is sufficient to sustain a finding of responsibility as an accomplice.” ***Commonwealth v. Kimbrough***, 872 A.2d 1244, 1251 (Pa. Super. 2005).

Roberson first argues he did not directly assault J.H. ***See*** Roberson's Brief at 24. Roberson acknowledges the trial court convicted him as an accomplice; he asserts a mistake of fact defense, namely, that he was mistaken about the scope of J.H.'s consent, and believed that when she consented to have sex with him, she was consenting to have sex with both

him and Fields. **See id.** at 26-27. Thus, he argues, he did not have the requisite *mens rea* for accomplice liability, because he did not act knowingly or recklessly. **See id.** at 28-29; **see also id.** at 32-33.² Roberson also assails J.H.'s credibility based on purported inconsistencies in her testimony about the assault, including how she knew it was Fields penetrating her and how it would have been possible for her to feel his hair on her while he was holding her down. **See id.** at 33-37.

The trial court considered Roberson's arguments and determined they warrant no relief:

. . . [T]he Commonwealth presented ample testimony and evidence from which the fact finder could find that [Roberson] was guilty of all of the crimes of which he was convicted. In this case, the court acknowledges that [Roberson] had consensual sexual contact with the victim. He, however, knew that the victim was not interested in having sexual contact with [] Fields, either individually or while engaging in a "threesome." Despite this knowledge, it is clear that he and [] Fields worked in concert to facilitate sexual contact between [] Fields and the victim without her knowledge or consent. This is demonstrated by the fact that [Roberson] made sure it was pitch black in the basement by turning off the lights and the television even though they were previously on during the consensual sexual contact between [Roberson] and the victim. He told her to face away from him when [] Fields took his turn so that the victim would not know that it was him. [Roberson] spoke to [the victim] while [] Fields was having sex with her so she would think it was still [Roberson]. Her head was held down so that she could not turn around. Finally, [] Fields left the basement before the lights were turned on so that

² While not a paragon of clarity, Roberson's 1925(b) statement evinces his intent to challenge the convictions because he did not directly assault J.H. and he disputes that he caused Fields to have non-consensual sex with J.H. The trial court comprehended Roberson's arguments, as do we. Accordingly, we decline the Commonwealth's invitation to find waiver.

the victim would not see him. Even though [Roberson] tried to claim that the events did not occur as the witnesses testified, the trial judge sitting as fact finder chose not to believe him.

* * * *

Based on the facts that were established at trial, as well as the relevant case and statutory law, it is clear that [Roberson] was properly found guilty of all crimes.

Trial Court Opinion, 8/22/25, at 10-11, 14.

Following our review, we conclude Roberson's challenges to the sexual assault and indecent assault convictions, predicated on accomplice liability, merit no relief. In the days prior to the assault, Roberson and J.H. exchanged messages wherein Roberson indicated he "wanted to catch a vibe," and that Fields was with him and also "wanted to catch a vibe," after which J.H. told Roberson she was "not down for anything weird." N.T., 5/28/24, at 10-11. The day of the assault, when J.H. came to Roberson's house, Roberson did not tell her Fields was present, led her down to the basement, and then went back upstairs to take a shower. **See id.** at 15-16. Fields then came down, which surprised J.H.; however, she and Fields conversed until Roberson came back. **See id.** at 16-17. While Roberson and Fields were downstairs with her, J.H. Face-Timed a friend and said Fields was "cute," but said she doesn't "do groupies," and, when Roberson told her he "wanted to have fun," which J.H. interpreted as a request for a threesome, J.H. replied, "No, I came here for you." **Id.** at 21. Fields then left, and J.H. and Roberson had consensual, vaginal sex with the TV and lights on. **See id.** at 22.

After J.H. and Roberson finished having sex, he left to go upstairs, returned a few minutes later, asked J.H. if she wanted to “go again,” and J.H. agreed. Roberson then turned the TV and lights off, leaving the room in darkness, and received oral sex from J.H. Then Fields, whom J.H. did not know had come downstairs, penetrated her from behind, and held her down by the neck, while Roberson talked to her. **See id.** at 23-29.

The evidence shows that Roberson, Fields, and J.H. were all aware of the possibility of J.H. and Fields having sex, and J.H. expressly declined **to Roberson** that she wanted to, or consented to, have sex with Fields, yet Roberson, having just had intercourse with J.H. with the lights and TV on, returned, created the conditions for Fields to have sex with J.H. without her knowing by turning off the lights and TV, telling J.H. to face away so she could not look behind her, and talking to her so she believed he, not Fields, was penetrating her. The foregoing shows that Roberson colluded with Fields to have Fields assault J.H., knowing she had expressly declined to have sex with Fields, which establishes Roberson’s accomplice liability for sexual assault and indecent assault. **See Kimbrough**, 872 A.2d at 1251.³

³ To the extent Roberson alleges J.H. consented, or appeared to consent, to sex with Fields, the record rebuts this, as J.H. said in the presence of both that she was there for Roberson, not Fields; thus, Roberson’s argument that J.H. consented, or apparently consented, to sex with Fields is meritless.

Next, Roberson argues the evidence was insufficient to prove he conspired with Fields to commit sexual assault and indecent assault. 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).

Roberson argues the evidence was insufficient to prove conspiracy because there was no evidence he and Fields entered into an agreement for Fields to sexually assault J.H. or that they had a shared criminal intent. **See**

Roberson's Brief at 39. He asserts the Commonwealth failed to prove that Roberson knew Fields did not have J.H.'s consent. **See id.** at 39.

As noted above, the trial court considered Roberson's issue and determined it merits no relief as the evidence was sufficient to sustain all the convictions. **See** Trial Court Opinion, 8/22/25, at 14.

Following our review, we conclude the record refutes Roberson's arguments, and the evidence was sufficient to prove he conspired with Fields to assault J.H.: Firstly, J.H. stated in the presence of Roberson and Fields that she did not want to have sex with Fields, and that she was "there for [Roberson]." N.T., 5/28/24, at 21. Thereafter, although he had previously had sex with J.H. with the lights and television on, Roberson turned off the lights and TV and directed J.H. to bend over. Fields then re-entered the basement, and without either of them obtaining consent from J.H., penetrated J.H. Roberson took affirmative steps to conceal from J.H. the fact that Fields, not he, was having sex with her. In context of the discussions about a threesome and J.H.'s repeated and express refusal to have sex with Fields, the evidence established that Roberson and Fields agreed that they would act together to facilitate Fields' sexual assault of J.H. The court was not required to credit Fields's later self-serving denials in a phone conversation with J.H. that he believed she had consented. **See Dunkins**, 229 A.3d at 633.

Roberson next argues the trial court erred in finding him guilty of two counts of conspiracy because, per section 903(c), "if a person conspires to

commit a number of crimes, he is guilty of only one conspiracy so long as multiple crimes are the object of the same agreement or continuous conspiratorial relationship.” Roberson’s Brief at 41. He maintains his agreement with Fields involved the same “alleged assault,” and that he could only be sentenced for one count of conspiracy, and, accordingly, this Court should vacate one of the conspiracy convictions.

The trial court considered Roberson’s argument and conceded it erred in convicting him of a second count of conspiracy:

. . . 18 Pa.C.S.A. § 903(c) 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). The Pennsylvania Superior Court has stated, “that section 903(c) prohibited convictions for multiple counts of conspiracy when all conspiracy counts pertained to one conspiracy derived from the “continuous conspiratorial relationship.” **Commonwealth v. Wellman**, [344] A.3d [13, 19 (Pa. Super. 2025)] . . . The court concedes that [Roberson] should have only been convicted of one [] count of conspiracy. . . .

Trial Court Opinion, 8/22/25, at 14-15 (unnecessary capitalization omitted).⁴

The Commonwealth likewise concedes the court erred. **See** Commonwealth’s Brief at 34.

Following our review, we agree that Roberson’s conviction for conspiracy to commit indecent assault, count nine, must be vacated because the conspiratorial agreement pertained to one act against J.H. **See Wellman**,

⁴ The court, however, concluded this error was harmless because it did not impose a sentence for the second conspiracy.

344 A.3d at 19. However, as Roberson received no further penalty for this conviction, we need not remand for resentencing. **See** Sentencing Sheet, 10/25/24. Accordingly, we vacate the conviction at count nine for conspiracy to commit indecent assault.

In his final sufficiency claim, Roberson challenges his conviction for flight. Section 5126 of the Crimes Code provides that a “person who willfully conceals himself or moves or travels within or outside this Commonwealth with the intent to avoid apprehension” has committed flight. 18 Pa.C.S.A. § 5126.

Roberson argues the evidence was insufficient to prove he intended to avoid apprehension, willfully concealed himself, or knew there was a warrant for his arrest. **See** Roberson’s Brief at 44. He argues that his phone experienced connectivity issues and thus he did not hear that there was a warrant for his arrest. **See id.** at 46.

The trial court considered Roberson’s issue and determined it merited no relief:

With regard to flight . . . , the Commonwealth established that [Roberson] knew there was a warrant for his arrest. Despite this knowledge, he ran from the police when they tried to apprehend him in his neighborhood. [] Fields already fled the area; he was later detained in California. [Roberson] was carrying a bus ticket to Pittsburgh. All of these facts support his conviction for flight

Trial Court Opinion, 8/22/25, at 14 (unnecessary capitalization omitted).

Based on our review, the record supports the trial court's conclusion that Roberson engaged in flight knowing there was a warrant for his arrest. Detective Daniel Orris ("Detective Orris") testified he informed Roberson on July 29, 2022, of the warrant. **See** N.T., 5/28/24, at 127-28, 141, 148-49. Detective Orris had no issues communicating with Roberson during the call until he told Roberson he had a warrant for Roberson's arrest, **after which** Roberson started to act as if he had a bad connection and hung up. **See id.** at 144, 148-49. The next day, July 30, 2022, at around 9:30 p.m., Officer Fox observed Roberson, and, believing Roberson might be armed, followed him in a marked police vehicle, turned on the lights and siren, after which Roberson fled into a wooded area, **see id.** at 154; in his backpack were bus tickets (in someone else's name), Roberson's driver's license, and miscellaneous personal items. **See id.**⁵ The record thus shows that Roberson heard Detective Orris's statement that he had a warrant prior to claiming his phone had bad reception, and thereafter fled from Officer Fox. **See** 18 Pa.C.S.A. § 5126. Roberson is due no relief.

In his second issue, Roberson argues his state and federal due process rights were infringed by his convictions for accomplice liability. **See** Roberson's Brief at 52-56. This Court has recently explained with respect to accomplice liability:

⁵ Roberson later turned himself in on August 3, 2022. **See** N.T., 5/28/24, at 163.

A defendant may be convicted of a crime under an accomplice liability theory even though charged as a principal. **See, e.g., Commonwealth v. Spatz**, [] 716 A.2d 580, 588 ([Pa.] 1998). Unlike conspiracy, an inchoate crime, accomplice liability is an uncharged theory of criminal liability that the Commonwealth may use to prove guilt of a substantive criminal offense. Moreover, even at trial, the Commonwealth's failure to initially proceed on the theory of accomplice liability does not later preclude a defendant's conviction under this theory as long as the defendant knows the Commonwealth may pursue theories of liability that link the defendant and another in the commission of crimes. **See, e.g., id.** at 588; **Commonwealth v. Potts**, [] 566 A.2d 287, 293 ([Pa.] 1989).

Commonwealth v. Jones, 339 A.3d 493, 504 n.8 (Pa. Super. 2025).

Roberson essentially argues the information charged him as a principal for the sex offenses, yet he was convicted as an accomplice, and therefore, he had no notice of the theory the Commonwealth would proceed on at trial, and was thereby unfairly prejudiced. **See** Roberson's Brief at 55-56.

Following our review, we conclude Roberson's issue is meritless.⁶ While the sexual assault and indecent assault offenses, as charged, do not indicate that Roberson was being charged as an accomplice, there is no requirement that accomplice liability be so charged. **See** Information, 7/19/23, at 3; **Jones**, 339 A.3d at 504 n.8. What is required is that Roberson have notice that the Commonwealth may pursue accomplice liability at trial. **See id.** at 504 n.8.

⁶ We note initially that conspiracy to commit sexual assault—the only conspiracy charge remaining following our present disposition—was charged in the information. **See** Information, 7/19/23, at 3.

Our review of the record indicates that Roberson was on notice from the initiation of the case of the facts the Commonwealth would allege at trial, namely, that he turned off the lights and television and aided Fields in surreptitiously assaulting J.H. The criminal complaint hews closely to the facts that J.H. testified to at trial, including that J.H. believed it was Roberson who penetrated her from behind in the dark, when, really, Roberson had allowed Fields to come in, in the dark, and assault J.H., he remained in the room, and tried to mislead J.H. by speaking to her while Fields raped her. **See** Affidavit of Probable Cause, 7/28/22, at 1-2.

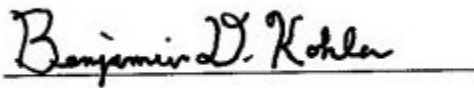
Additionally, at a habeas/motion to quash hearing **prior to trial**, Roberson's counsel argued, "The other thing I wanted to make a point about briefly is if the Commonwealth is going to make this as an accomplice liability type of case, first, there's no evidence of . . . shared intent[,] and that's required for accomplice liability." N.T., 9/25/23, at 4-5. Further, at trial, Roberson moved for a judgment acquittal following the Commonwealth's case, arguing that "it's not charged as an accomplice liability," and the trial court indicated, "That has been the theory all along." N.T., 5/29/24, at 5. Counsel then replied, "Right, right." **Id.** The court further explained, "That's why I didn't grant the [h]abeas regarding sexual assault because [of the] accomplice liability theory." **Id.** On this record, there is no basis for Roberson to claim that he was taken unaware of the possibility of the Commonwealth

prosecuting his case under an accomplice theory of liability. Roberson's claim is meritless.

In sum, we affirm Roberson's convictions and judgment of sentence, except for the conviction for conspiracy to commit indecent assault at count nine, which we vacate.⁷

Judgment of sentence affirmed in part, vacated in part. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/15/2026

⁷ As discussed above, we need not remand for resentencing, given the sentence for this conviction was no further penalty.