

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA : IN THE SUPERIOR COURT OF
: PENNSYLVANIA

Appellant

v.

JAVON WILSON : No. 1028 EDA 2025

Appeal from the Order Entered March 31, 2025
In the Court of Common Pleas of Philadelphia County Criminal Division at
No(s): MC-51-CR-0001446-2025

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No(s): MC-51-CR-0001447-2025

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

MEMORANDUM BY STEVENS, P.J.E.:

FILED AUGUST 28, 2026

The Commonwealth of Pennsylvania appeals from the order entered by the Court of Common Pleas of Philadelphia County denying the Commonwealth's motions for permission to refile charges against Appellee Javon Wilson. The Commonwealth claims the trial court erred in finding the

* Former Justice specially assigned to the Superior Court.

prosecution failed to establish a *prima facie* case that Appellee committed the charged offenses: criminal conspiracy, aggravated assault, attempted murder, receiving stolen property, unauthorized use of a vehicle, firearms not to be carried without a license, carrying firearms in public in Philadelphia, possession of a firearm by a minor, and possession of a firearm prohibited. We reverse in part and remand for further proceedings.

Appellee was charged with these crimes in connection with his involvement in the June 9, 2024 shooting of two men in Philadelphia. The charges were listed on two separate dockets which related to the two victims: Rashaan Wright (Docket 1447-2025) and Angelo Wright¹ (1446-2025). On February 13, 2025, the Honorable Joffie C. Pittman held a preliminary hearing on both dockets where the following evidence was presented.

Rashaan Wright ("Rashaan") testified that on the afternoon of June 9, 2024, at approximately 4:30 p.m., he walked with his cousin, Angelo Wright ("Angelo") to the neighborhood corner store. Notes of Testimony (N.T.), 2/13/25, at 5-7. After Rashaan and Angelo exited the store and crossed the street, Rashaan noticed an individual get out of a blue Jeep near the intersection of 66th Avenue and North 20th Street in Philadelphia. ***Id.*** The man walked in the same direction ahead of Rashaan and Angelo, crossed the street in front of them, and passed behind a wall. ***Id.*** at 7.

¹ Although the parties refer to one of the victims as "Angelo Wright," the original criminal complaint filed in case 1446-2005 lists his name as "Angelo Dorman." The notes of testimony refer to this individual simply as "Angelo."

Within a few seconds, the individual popped out from behind the wall and began shooting at Rashaan and Angelo. **Id.** At the sound of the gunshots, Rashaan and Angelo ran in different directions. **Id.** at 6-8. The shooter chased Rashaan into an alley and repeatedly shot him, hitting him in the leg, lower back, and butt. **Id.** Rashaan recalled hearing about ten gunshots. **Id.** at 8. Rashaan indicated that he was hospitalized for two to three weeks and underwent multiple surgeries as a result of his gunshot wounds. **Id.** at 13.

The Commonwealth presented multiple surveillance videos which captured the shooting from different angles. **See** Cmwlt. Exh. C-1 (surveillance video from the corner store); Cmwlt. Exh. C-2 and C-3 (residential surveillance videos from the alley). Detective Jeffrey Opalski, who investigated the shooting, testified that he recovered surveillance video showing Appellee getting in and out of the driver's seat of a blue Jeep near the scene of the shooting minutes before it occurred. **Id.** at 27-28. When Detective Opalski brought Appellee in for questioning, Appellee admitted he transported the shooter to and from the crime scene in a blue Jeep. **Id.**

Detective Opalski indicated that Appellee told investigators that on the day of the shooting, he had rented the blue Jeep for a day for \$1,000 from a boy he went to high school with his freshman year and had rented vehicles from him for seven years. **Id.** at 22. Appellee claimed this individual was sitting in the front passenger seat of the Jeep, and the individual's friend was sitting in the backseat of the Jeep. **Id.** However, Appellee claimed he did not

know the name of either individual. **Id.** When Appellee was asked what he was doing that day, he replied that he “had to go do some things.” **Id.**

When Detective Opalski questioned Appellee further about the time of the shooting, Appellee admitted he was driving the blue Jeep and pulled up near the store in question. **Id.** at 22. Appellee indicated that the individual sitting in his front passenger seat got out of the car. **Id.** After Appellee heard gunshots, the individual got back in the Jeep and told Appellee to drive. **Id.** at 22-23. Detective Opalski could not get a definitive answer from Appellee as to where he went in the blue Jeep after the shooting. **Id.**

Investigators recovered the blue Jeep, which was reported to have been stolen in New Jersey on May 19, 2024, three weeks before the shooting. **Id.** at 23. The stolen Jeep displayed a Pennsylvania license plate that did not match the VIN number of the stolen Jeep; officers discovered the plate had been reported stolen two days earlier. **Id.** at 23-24. The officers observed that the majority of the Jeep had been spray-painted black, but its original blue color was still visible on the roof. **Id.** at 23-25; Cmwlth. Exh. C-4.

Detectives obtained a warrant to search the Jeep and discovered the original New Jersey license plate was still in the front passenger side of the vehicle. **Id.** at 23-24. When the officers submitted the stolen New Jersey plate for fingerprint analysis, it was discovered that Appellee’s right index fingerprint was on it. **Id.** at 26-27 (Cmwlth. Exh. C-5). The Commonwealth also presented a court summary report showing Appellee was twenty years

old at the time of the shooting and had a prior conviction which made him ineligible to carry a firearm. N.T., 2/13/26, at 34; Cmwlt. Exh. C-6.

Judge Pittman took the matter under advisement and subsequently convened the parties on February 20, 2025 to announce his decision to dismiss all charges. N.T., 2/20/25, at 4-7. Judge Pittman reasoned that there was insufficient evidence for a factfinder to infer that Appellee had conspired with either of the Jeep's occupants to commit any of the charged crimes. ***Id.***

On the same day, the Commonwealth obtained a stay of the municipal court's ruling and filed notice of its intent to refile its complaints in both dockets in the Court of Common Pleas. On March 31, 2025, the Honorable Scott O'Keefe held a hearing on the motion to refile the charges.

At this hearing, the Commonwealth moved into evidence the testimony and exhibits presented at the preliminary hearing. The Commonwealth also pointed out that surveillance video C-1 shows that before the shooting, the blue Jeep passed by the store just seconds after the victims entered it, made a U-turn, passed by the store again, and then parked on the next street. N.T. 3/31/26, at 30-31; Cmwlt. Exh. C-1. Thus, the Commonwealth claimed the driver of the blue Jeep stalked the victims, waited on a nearby street to allow the shooter to ambush them, and served as the shooter's getaway driver. ***Id.***

The prosecution also presented two additional surveillance videos that recorded the occupants of the blue Jeep. In one of those videos, Appellee can be seen exiting and entering the blue Jeep approximately thirteen minutes before the shooting occurred. ***Id.*** at 27-28; Cmwlt. Exh. C-7. In another

video, the shooter exits the passenger side of the blue Jeep where it had been parked on North 20th Street moments before the shooting; the video shows the shooter crossing 66th Avenue before reaching the location where he opened fire at Rashaan and Angelo. N.T. 3/31/25, at 15; Cmwlth. Exh. C-8.

At the conclusion of this hearing, Judge O’Keefe denied the prosecution’s motions to refile the charges. On April 8, 2025, the Commonwealth filed motions for reconsideration, which the trial court denied on April 14, 2025. On April 22, 2025, the Commonwealth filed a notice of appeal at each docket.² The Commonwealth complied with the trial court’s direction to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b).

On appeal, the Commonwealth challenges the trial court’s denial of its motion to refile the charges against Appellee, arguing the trial court erred in finding the Commonwealth failed to present a *prima facie* case on all charges. Our standard of review is well-established:

It is well-settled that the evidentiary sufficiency of the Commonwealth’s *prima facie* case is a question of law to which this Court’s review is plenary. The trial court is afforded no discretion in deciding whether, as a matter of law and in light of the facts presented to it, the Commonwealth has carried its burden to make out the elements of a charged crime.

As our Supreme Court explained:

at the preliminary hearing stage of a criminal prosecution, the Commonwealth need not prove the defendant’s guilt beyond a reasonable doubt, but rather, must merely put

² As the Commonwealth’s appeals (docketed at 54 EDA 2026 and 55 EDA 2026) involve related parties and issues and the Commonwealth filed identical briefs in both appeals, we consolidate the appeals pursuant to Pa.R.A.P. 513.

forth sufficient evidence of each of the material elements of the crime charged and establishes probable cause to warrant the belief that the accused committed the offense. Furthermore, the evidence need only be such that, if presented at trial and accepted as true, the judge would be warranted in permitting the case to be decided by the jury.

Weight and credibility of evidence are not factors at the preliminary hearing stage. All evidence must be read in the light most favorable to the Commonwealth, and inferences reasonably drawn therefrom which would support a verdict of guilty are to be given effect. Courts must employ a “more-likely-than-not” test to assess the reasonableness of inferences relied upon. Anything less amounts only to suspicion or conjecture.

Commonwealth v. Munson, 261 A.3d 530, 540 (Pa.Super. 2021) (citations and brackets omitted).

Specifically, the Commonwealth argues that the trial court should have found that it established a *prima facie* case of Appellee’s guilt on all charges given that the prosecution presented evidence that Appellee drove the shooter to and from the scene of an ambush shooting in a vehicle that Appellee knew was stolen. Further, the Commonwealth points out that while Appellee denied any involvement in the shooting, a factfinder could easily find Appellee’s explanation for being in possession of the Jeep was “bizarre, false, and evidence of his consciousness of guilt.” Commonwealth’s Brief, at 4.³

Appellee argues that the trial court correctly found the Commonwealth failed to present a *prima facie* case of his guilt on any of the charged offenses.

³ On October 20, 2025, the Commonwealth filed a motion to supplement the original record after noticing it did not contain the transcript of the February 20, 2025 hearing or any of the exhibits presented. On November 10, 2025, this Court denied this motion without prejudice to Commonwealth’s right to apply directly to the trial court for relief. We received the notes of testimony and the relevant exhibits and have reviewed them in deciding this case.

Although Appellee admits one of his passengers was the individual who shot the victims, Appellee asserts that he was merely present at the scene of the shooting as he “had no idea the person in the back was going to commit a robbery or a shooting.” Appellee’s Brief, at 31. Appellee also denies having a firearm and denies having any knowledge that the Jeep had been stolen, maintaining that he had rented the Jeep that day. Further, Appellee contends he had no motive to shoot the victim whom he did not know.

As noted above, the trial court denied the Commonwealth’s motions to refile the charges against Appellee: aggravated assault, conspiracy, attempted murder, receiving stolen property, unauthorized use of an automobile, firearms not to be carried without a license, carrying firearms in public in Philadelphia, possession of a firearm by a minor, and possession of a firearm prohibited. The prosecution’s theory for the majority of these crimes was accomplice and conspiratorial liability.

In its Pa.R.A.P. 1925(a) opinion, the trial court did not address why it found the Commonwealth had failed to present sufficient evidence for each of the elements of all of the crimes charged. The trial court did not question that Appellee’s passenger targeted Rashaan and Angelo or that the shooter fired more than ten shots at Rashaan as he ran away. Instead, the trial court explained that it had denied the Commonwealth’s motions to refile the charges on the sole basis that the prosecution had failed to show Appellee engaged in a conspiracy to shoot the victims, rather than being an unwitting participant.

Upon review of the evidence presented in the light most favorable to the Commonwealth, we find the prosecution did present sufficient evidence to establish the material elements of conspiracy and established probable cause to warrant the belief that Appellee engaged in a conspiracy to commit the shooting in this case.

The crime of conspiracy is defined in Section 903 of the Crimes Code:

(a) Definition of conspiracy.—A person is guilty of conspiracy with another person or persons to commit a crime 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.

This Court has also set forth the following principles:

"To sustain a conviction for criminal conspiracy, the Commonwealth must establish 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. Devine**, 26 A.3d 1139, 1147 (Pa.Super. 2011). "The conduct of the parties and the circumstances surrounding such conduct may create a web of evidence linking the accused to the alleged conspiracy beyond a reasonable doubt." **Id.** The conspiratorial agreement "can be inferred from a variety of circumstances including, but not limited to, the relation between the parties, knowledge of and participation in the crime, and the circumstances and conduct of the parties surrounding the criminal episode." **Id.**

Commonwealth v. Feliciano, 67 A.3d 19, 25–26 (Pa.Super. 2013).

This Court has held that “[t]he driver of a getaway car can be found guilty as a co-conspirator if it is reasonable to infer that he was aware of the actual perpetrator's intention.” **Commonwealth v. Davalos**, 779 A.2d 1190, 1194 (Pa.Super. 2001) (citing **Commonwealth v. Brown**, 505 A.2d 295, 297 (Pa.Super. 1986)). In **Davalos**, this Court upheld the appellant’s convictions for conspiracy, aggravated assault, and possession of an instrument of crime as the appellant drove the shooter to the scene of the crime, circled the block five times before the shooter began firing at men outside of the vehicle, drove away from the scene, changed cars, and evaded police for two hours before being arrested. **Davalos**, 779 A.2d at 1194. **See also Brown**, 505 A.2d at 296-97 (finding sufficient evidence to support conspiracy conviction when the appellant waited outside a residence that his companion was burglarizing and drove away after his companion placed a stolen television set in the car).

Based on the same logic, we find the Commonwealth provided a *prima facie* case of Appellee’s guilt as a co-conspirator to the shooting as the circumstantial evidence presented supports reasonable inferences that Appellee was aware of the shooter’s intention to ambush the victims as he stalked the victims and served as the shooter’s getaway drive in a stolen car.

Our analysis includes a close inspection of the surveillance video from the corner store (Cmwlt. Exh. C-1), which captured a three-minute time period that occurred before, during, and after the shooting. At timestamp 16:25:29, Rashaan and Angelo appear about a block and a half away from the

camera location. They turn right and walk down the sidewalk towards the store, crossing the street at 16:26:00 and entering the store at 16:26:25.

Just seventeen seconds after the victims enter the store, at 16:26:42, a bright blue Jeep appears in the same place that the men were first seen on the camera, turns right, and passes the store at 16:26:52. At 16:27:10, a bright blue Jeep can be seen traveling down the same street in the opposite direction, passing the store a second time, turning right on the next block, and driving out of view. After Rashaan and Angelo exit the store at 16:27:22, the shooter appears on the video at 16:27:59, walking towards the victims. The shooter opens fire at the victims at 16:28:18.

Further, Commonwealth's Exhibit C-3, a residential surveillance video from the alley where Rashaan attempted to escape, shows the shooter firing shots at Rashaan; fourteen gunshots can be heard. This video shows that the shooter continued to attempt to shoot at Rashaan, but fled after his gun stopped firing. This video contains the subsequent sounds of the squealing tires of a vehicle leaving the scene of the shooting.

Viewing this evidence in the light most favorable to the Commonwealth, a factfinder could make a reasonable inference that Appellee, who was driving the blue Jeep, stalked or hunted the victims as he trailed behind them as they walked towards the store, passed the store twice while the victims were inside, parked on the next block to provide a position for the shooter to ambush the victims, and sped away in the blue Jeep with the shooter immediately after the shooting. When viewing the sequence and timing of Appellee's

movements in the blue Jeep, the factfinder could also infer that the deliberate movements of the Jeep showed Appellee had agreed with the shooter to design a plan to shoot the victims and escape prosecution.

We are not persuaded by the trial court's finding that the prosecution was unable to show that claim Appellee was stalking the victims before the shooting. While the trial court acknowledged that the surveillance video C-1 showed a blue Jeep traveling past the victims on two occasions in opposite directions, the trial court found that the prosecution "failed to show this is the same jeep, nor that it performed a U-turn." T.C.O., at 5. This finding is untenable as Appellee admitted that he did make a U-turn after passing the store when the victims entered and drove by the store again in the opposite direction. N.T., 2/13/26, at 22; Appellee's Brief, at 30. Even if the defense did not admit this fact, the trial court was required to draw all inferences in the Commonwealth's favor at this stage of the litigation and determine whether a *prima facie* case had been shown. The question of whether the video surveillance showed Appellee following the victims in a bright blue Jeep in two different directions in a matter of seconds would be resolved by the factfinder at trial.

In addition, the evidence presented suggested that Appellee knew that he was driving a stolen vehicle while participating in the ambush shooting. Appellee's fingerprint was found on the Jeep's original license plate that had been replaced with a Pennsylvania license plate that had been stolen two days before the shooting. It would be reasonable for a factfinder to infer that

Appellee's fingerprint on the stolen New Jersey license plate was evidence that Appellee took it off the Jeep and replaced it with a stolen Pennsylvania plate, or at a minimum, had handled the stolen New Jersey license plate.

Further, we agree with the Commonwealth that it would be logical for a factfinder to view Appellee's improbable explanation for his possession of the blue Jeep with skepticism. Appellee told investigators that he merely rented the blue Jeep for a fee of \$1,000/day from his front seat passenger whom Appellee conveniently could not name even though Appellee had known him from high school and had rented cars from him for seven years. Even though Appellee had allegedly paid an exorbitant rental fee, he had no explanation for why he rented the Jeep other than he had to "go do some things." Further, Appellee admitted that he spent his extremely expensive rental period driving the person he had rented the Jeep from around to take care of his unspecified errands. As such, the implausibility of Appellee's explanation could reasonably be rejected by a factfinder and viewed as an attempt to mislead investigators and evidence of Appellee's consciousness of guilt. ***See Commonwealth v. Gallaway***, 674 Pa. 458, 468–69, 283 A.3d 217, 223 (2022) (finding that "a defendant's omissions and lies in statements to police are relevant as evidence of consciousness of guilt").

In sum, as the Commonwealth presented evidence to support a finding that Appellee knowingly employed a stolen vehicle to stalk two victims, served as a getaway driver for the perpetrator of an ambush shooting, and provided a presumably false statement to investigators demonstrating his

consciousness of guilt, we conclude that the Commonwealth met its burden to establish a *prima facie* case that Appellee engaged in a conspiracy to commit this shooting.

This Court has held that “[o]nce there is evidence of the presence of a conspiracy, conspirators are liable for acts of co-conspirators committed in furtherance of the conspiracy.” ***Commonwealth v. Lambert***, 795 A.2d 1010, 1016 (Pa.Super. 2002) (citation omitted). In other words, “[e]ven if the conspirator did not act as a principal in committing the underlying crime, he is still criminally liable for the actions of his co-conspirators taken in furtherance of the conspiracy.” ***Id.***

As such, the Commonwealth presented a *prima facie* case of Appellee’s guilt for the crime of conspiracy, there was also sufficient evidence to support a reasonable inference of vicarious conspiratorial or accomplice liability as to the charges related to the shooting and weapon possession, namely, aggravated assault, attempted murder, firearms not to be carried without a license, carrying firearms in public in Philadelphia, and possession of a firearm prohibited.⁴

⁴ We note that a defendant may be held liable for possessory weapons offenses as a principal (via theories of actual, constructive, or joint possession) or through vicarious liability as an accomplice or co-conspirator. ***Commonwealth v. Knox***, 629 Pa. 467, 472–73, 105 A.3d 1194, 1197–98 (2014). ***See also Commonwealth v. Gross***, 627 Pa. 383, 395, 101 A.3d 28, 35 (2014) (finding sufficient evidence to prove the defendant could be convicted as an accomplice in the illegal possession of a firearm).

We also note that the trial court failed to provide any rationale for its dismissal of the charges of receiving stolen property or unauthorized use of a vehicle. In fact, at the preliminary hearing, defense counsel suggested that there was enough evidence in support of the unauthorized use charge. N.T., 2/13/25, at 34. In light of our finding that the Commonwealth presented sufficient evidence to support an inference that Appellee possessed and operated the Jeep with knowledge that it was stolen, we conclude that the Commonwealth also presented a *prima facie* case on these charges as well.

However, we decline to overturn the trial court's dismissal of the charge of a possession of a firearm by a minor under 18 Pa.C.S.A. § 6110.1, which provides that as a general rule, "a person under 18 years of age shall not possess or transport a firearm anywhere in this Commonwealth." While the trial court did not provide any explanation for dismissing this charge, we cannot find in our review of the record any evidence or indication that either Appellee or his co-conspirators/accomplices were under the age of eighteen. As noted above, Appellee was twenty years old at the time of the shooting. As such, we affirm the trial court's dismissal of the Section 6110.1 charge.

Lastly, we acknowledge that Appellee asks that this Court affirm the dismissal of the charge of carrying a firearm on public streets in Philadelphia (18 Pa.C.S.A. § 6108) on an alternative basis, specifically, this Court's decision in ***Commonwealth v. Sumpter***, 340 A.3d 977 (Pa.Super. 2025), which found this statute unconstitutional on an equal protection basis as applied to that particular appellant.

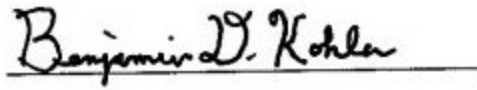
Appellee has never raised any argument regarding the constitutionality of this statute. **See Commonwealth v. Spone**, 305 A.3d 602, 609 (Pa.Super. 2023) (reiterating that issues of constitutional dimension cannot be raised for first time on appeal). As such, Appellee has not preserved this claim for review.⁵

In conclusion, as the trial court erred in finding the Commonwealth had not established a *prima facie* case on the charges of conspiracy, aggravated assault, attempted murder, receiving stolen property, unauthorized use of a vehicle, firearms not to be carried without a license, carrying firearms in public in Philadelphia, and possession of a firearm prohibited, we reverse the trial court's order as it relates to the dismissal of these charges. However, as we conclude the Commonwealth failed to present a *prima facie* case with respect to the charge of possession of a firearm by a minor under Section 6110.1, we affirm the trial court's order with respect to the dismissal of this charge.

Order reversed in part and affirmed in part. Case remanded. Jurisdiction relinquished.

⁵ Further, we note that **Sumpter** analyzed the constitutionality of Section 6108 "insofar as it prohibits the unlicensed **open** carry of firearms on public streets and public property in the city of Philadelphia." **Id.** at 981 (emphasis added). The record in this case shows that the relevant firearm in this case was not carried openly, but rather concealed on the shooter's person and in the vehicle Appellee was driving.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 8/28/2026