NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
NIA C. STALLWORTH	:	
Appellant	:	No. 76 EDA 2024

Appeal from the Judgment of Sentence Entered November 7, 2023
In the Court of Common Pleas of Philadelphia County
Criminal Division at No: CP-51-CR-0004354-2021

BEFORE: PANELLA, P.J.E., STABILE, J., and NICHOLS, J.

MEMORANDUM BY STABILE, J.: **FILED APRIL 29, 2025**

Appellant, Nia C. Stallworth, appeals from the judgment of sentence entered on November 7, 2023, by the Court of Common Pleas of Philadelphia County, and made final by the denial of her post-sentence motion. Appellant was found guilty of criminal mischief, graded as a felony of the third degree, based upon her causing a pecuniary loss in excess of $5,000.[1] On appeal, Appellant challenges the sufficiency and weight of the evidence underlying her conviction. Upon review, we affirm.

On November 4, 2019, at approximately 4:30 a.m., Timothy Rawls was awoken by his wife who smelled smoke. N.T. Bench Trial, 8/29/23, at 19-10. Rawls followed the smoke to the garage where he found a fire. ***Id.*** at 20. Rawls, a firefighter, quickly extinguished the fire. ***Id.*** Lieutenant Teodosio

---

[1] 18 Pa.C.S.A. § 3304.

Santiago of the City of Philadelphia Fire Department was dispatched to the Rawls' home at 7:09 a.m. ***Id.*** at 50, 54. His investigation revealed that the fire originated "in the garage within the interior east wall" and the ignition source was "an open flame of some type applied to ignitable liquid vapors," such as "gasoline, charcoal, [and] lighter fluid." ***Id.*** at 51. Lieutenant Santiago determined it to be an incendiary fire. ***Id.*** at 52. There was a private security camera in the area of the fire, but Lieutenant Santiago was unsuccessful in retrieving it. ***Id.*** at 55. Rawls testified the garage door cost $1,200, and the fire estimate he received from 911 Restoration to repair the damage was $5,940, all of which he paid. ***Id.*** at 22.

Appellant is Rawls' ex-wife and mother of his children. ***Id.*** at 23-24. Their relationship has been contentious since the divorce. ***Id.*** at 24. At some point before the fire, Rawls suspected that Appellant drove her vehicle into his garage, causing extensive damage. ***Id.*** at 40. The night before the fire, Appellant and Rawls' current wife were in a fight during a custody exchange. ***Id.***

Within a week or two of the fire, Rawls' wife received a text message from her cousin. ***Id.*** at 34, 46-47. It was a screenshot of a Facebook post by Consuela Stall Worth with two photographs of Rawls' damaged garage and captioned "These mutha Fuckas know I'm fucking crazy!! Yeah I set your shit on [fire emoji] bitch." ***Id.***, Exhibit C-1. Rawls believed that the Facebook post was authored by Appellant because (1) the profile picture was of Appellant; (2) Appellant's middle name is Consuela and she had utilized social

media accounts with that name in the past; (3) the language used in the post matched the way Appellant speaks; and (4) the photographs were of his damaged garage. ***Id.*** at 27. However, Rawls was unable to confirm whether the post was on Facebook because he blocked her on social media, and vice versa. ***Id.*** at 34. While Rawls never interacted with Appellant on the "Consuela Stall Worth" account, he testified, without further explanation, that he had seen Appellant use that account. ***Id.*** at 36.

At the bench trial, the Commonwealth introduced a copy of the text message with the screenshot of the Facebook post and authenticated it through Rawls' testimony. Defense counsel objected and was overruled. The trial court found Appellant guilty of criminal mischief and not guilty of arson. She was sentenced to two years of county probation. Appellant filed a post-sentence motion challenging the sufficiency and weight of the evidence. The trial court denied the motion on December 12, 2023. This appeal followed. Both Appellant and the trial court have complied with Pa.R.A.P. 1925. Appellant raises the following issues for our consideration, which we have renumbered for ease of discussion:

> 1. Whether the trial court erred in admitting an obviously fabricated, ostensibly incriminating Facebook post where the witness had not even seen the post himself on Facebook but instead relied on double hearsay in concluding that [Appellant] must have created the post?
>
> 2. Whether the evidence was insufficient to convict [Appellant] of all charges because the Commonwealth failed to introduce any real, non-hearsay evidence that [Appellant] set the fire in question?

3. Whether the trial court erred in denying the post-sentence motion for a new trial because the verdict was against the weight of the evidence?

Appellant's Brief, at 5.

Appellant first argues that the evidence was insufficient to convict because a) the Commonwealth, relying solely upon a Facebook post to prove Appellant's identity, failed to properly authenticate the post under Pa.R.E. 901(b)(11), Appellant's Brief, at 19-25, b) that the circumstantial evidence of ownership of the account or authorship of the post presented by the Commonwealth did not satisfy the admissibility requirements under Rule 901 because it constituted double hearsay, ***see id.*** at 24-25, and c) that in any event there was insufficient evidence to prove Appellant caused more than $5,000 in damage. ***Id.*** at 28-29. Since Appellant's sufficiency claims are interrelated, we will proceed to address them together.

Appellant's sufficiency claims are dependent upon the admissibility of the Commonwealth's evidence. Our standards of review are as follows. Our standard of review when faced with a challenge to the sufficiency of the evidence is:

> whether 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 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. Brown, 23 A.3d 544, 559-60 (Pa. Super. 2011) (*en banc*) (citations omitted). "Whether evidence was properly admitted does not factor into our analysis, as sufficiency is not determined upon a diminished record." ***Commonwealth v. Williamson***, 330 A.3d 407, 417 (Pa. Super. 2025) (citation omitted).

It also is well settled that evidentiary rulings are within the sound discretion of the trial court. ***Commonwealth v. DiStefano***, 265 A.3d 290, 297 (Pa. 2021). A trial court's ruling on the admissibility of evidence will only be reversed where there has been an abuse of discretion:

> An appellate court will not find an abuse of discretion based on a mere error of judgment, but rather . . . where the [trial] court has reached a conclusion which overrides or misapplies the law, or where the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias or ill-will.

Id. at 298 (internal citation and quotation marks omitted).

Authentication of evidence is governed by Pa.R.E. 901, which requires the proponent to "produce evidence sufficient to support a finding that the item is what the proponent claims it is," and this is a relatively low burden of proof. Pa.R.E. 901; ***Commonwealth v. Nabried***, 327 A.3d 315, 323 (Pa.

Super. 2024). In 2020, the Pennsylvania Supreme Court amended Rule 901 to address the authentication of digital evidence:

> (b) Examples. The following are examples only – not a complete list – of evidence that satisfies the [authentication] requirement:
>
> * * * *
>
> (11) Digital evidence. To connect digital evidence with a person or entity:
>
> (A) direct evidence such as testimony of a person with personal knowledge; or
>
> (B) circumstantial evidence such as:
>
> (i) identifying content; or
>
> (ii) proof of ownership, possession, control, or access to a device or account at the relevant time when corroborate by circumstances indicating authorship.

Pa.R.E. 901(b)(11). The comments to Rule 901 explain that "[t]he proponent of digital evidence is not required to prove that no one else could be the author. Rather, the proponent must produce sufficient evidence to support a finding that a particular person or entity was the author." ***Id.***, cmt. Circumstantial evidence of identifying content "may include self-identification or other distinctive characteristics, including a display of knowledge only possessed by the author." ***Id.***, cmt. "Circumstantial evidence of ownership, possession, control, or access to a device or account alone is insufficient for authentication of authorship [, but such evidence may be enough] in combination with other evidence of the author's identity." ***Id.***, cmt. (citing

Commonwealth v. Mangel, 181 A.3d 1154, 1163 (Pa. Super. 2018)). Further,

> We have also recognized that social media evidence presents challenges for authentication because of the ease with which a social media account may be falsified, or a legitimate account may be accessed by an imposter. However, we have acknowledged that the same uncertainties can exist with other types of evidence, such as written documents where signatures could be forged, or a letterhead copied.

Commonwealth v. Jackson, 283 A.3d 814, 818-19 (Pa. Super. 2022) (citations omitted).

The record does not support Appellant's argument that there was insufficient circumstantial evidence to authenticate the Facebook post. She contends that "the Facebook post is identical to the Facebook evidence in ***Mangel*** in that anyone could have made that profile and post and claimed that it was [Appellant's]." Appellant's Brief, at 23. We disagree.

While the Commonwealth did not present user information for the Facebook account or proof that it was posted on the "Consuela Stall Worth" account, it presented much more evidence than in ***Mangel*** to authenticate that Appellant authored the post. There, the only evidence presented to authenticate the Facebook account was that the account "bore Mangel's name, hometown and high school[,]" and there were no contextual clues that identified Mangel as the person who sent the messages. ***Mangel***, 181 A.3d at 1154.

Conversely, the Facebook post in the instant case provided ample circumstantial evidence and contextual clues that Appellant authored the post: (1) the user name utilized Appellant's middle and last names; (2) the profile picture was Appellant; (3) the language used was similar to how Rawls knew Appellant to speak; (4) Rawls and Appellant had a contentious history; (5) Appellant and Rawls' current wife were in a fight the day before the fire; and (6) the photographs were of Rawls' damaged garage. Therefore, the trial court did not abuse its discretion in finding the Commonwealth sufficiently authenticated the Facebook post as being written by Appellant.

We also reject Appellant's argument that the Facebook post should not have been authenticated because Rawls' testimony, on which the authentication was based, constituted double hearsay. ***See*** Appellant's Brief, at 23-25. Appellant argues "[t]he first level of hearsay was that his wife told him someone else told her that they found the post. The second level was that someone else told Rawls' wife that they found the post." ***Id.*** at 24-25.

Hearsay is a statement, other than one made by the declarant while testifying at trial or hearing, offered in evidence to prove the truth of the matter asserted. Pa.R.E. 801(c). Hearsay is inadmissible unless an exception applies. Pa.R.E. 802. The comment to Rule 801 is instructive:

> A statement is hearsay only if it is offered to prove the truth of the matter asserted in the statement. There are many situations in which evidence of a statement is offered for a purpose other than to prove the truth of the matter asserted.

> Sometimes a statement has direct legal significance, whether or not it is true. For example, one or more statements may constitute an offer, an acceptance, a promise, a guarantee, a notice, a representation, a misrepresentation, defamation, perjury, compliance with a contractual or statutory obligation, etc.
>
> More often, a statement, whether or not it is true, constitutes circumstantial evidence from which the trier of fact may infer, alone or in combination with other evidence, the existence or non-existence of a fact in issue.

Pa.R.E. 801(c), cmt.

Appellant contends that Rawls' statements that (1) his wife showed him the Facebook post and (2) his wife's cousin sent her the post constitute hearsay. However, those statement were not offered to prove the truth of the matter, *i.e.* that Rawls' wife's cousin sent the Facebook post to Rawls' wife who then showed Rawls. Rather, they were offered to explain the sequence of events which led to Appellant's ultimate arrest. The post was shared with Rawls' wife, who in turn shared it with him, who then turned it over to police as part of their investigation. Thus, these statements do not constitute hearsay and no relief is due.

We also reject Appellant's contention that the evidence was insufficient to prove that she caused more than $5,000 in damages, thereby increasing the grading of the offense to a third-degree felony. ***Id.*** Without citation to any authority, Appellant claims that the evidence was insufficient to support this amount of damage because the complainant offered nothing but his own testimony to support the amount of this loss, *i.e.*, he produced no receipts or

proof of payment.[2] At trial, the complainant testified that after he and his wife smelled smoke in the house, he went downstairs to follow the smoke patterns. N.T. 8/29/23 at 20. Complainant is a fireman. ***Id.*** at 39. He found a fire in the garage, the garage door was blasted open, and the fire was crawling up the walls. ***Id.*** at 20. He testified the garage door itself was about $1,200 and the fire estimate he received from 911 Restoration for repair was $5,940. ***Id.*** at 22. When asked if he had to pay for all these repairs, he stated "Yes. Yes." ***Id.*** at 22. This testimony was admitted without any objection from the defense.

A witness may testify to the fact of damages without documentation if the amount of damages is based upon the witnesses' own knowledge. ***See Ragnar Benson, Inc. v. Bethel Mart Assoc.,*** 454 A.2d 599, 603-04 (Pa. Super. 1982) (project manager allowed to testify to the amount of damages within his own knowledge without calling witnesses to testify to the authenticity of bills); Pa.R.E. 602 (a witness may testify to a matter to which the witness has personal knowledge). Even were we to give some credence to Appellant's argument that the garage door had existing damage, the cost of the 911 Restoration alone exceeded the threshold amount of $5,000 to

---

[2] Arguably, Appellant may have waived her challenge to the sufficiency of the evidence of the amount of damage caused by the fire because she failed to develop the argument in her brief without citation to authority. ***See Commonwealth v. Johnson***, 985 A.2d 915, 924 (Pa. 2009) ("where an appellate brief fails to provide any discussion of a claim with citation to relevant authority or fails to develop the issue in any other meaningful fashion capable of review, that claim is waived.").

support a third-degree felony conviction for criminal mischief. Thus, there is no merit to Appellant's sufficiency or evidentiary claims.

Alternatively, Appellant challenges the weight of the evidence upon the bases she alleged the evidence was insufficient to support her conviction for criminal mischief. Appellant's Brief, at 25-29.

A challenge to the weight of the evidence concedes that there was sufficient evidence to sustain the verdict. ***See Commonwealth v. Widmer***, 744 A.2d 745, 751-52 (Pa. 2000). We employ an abuse of discretion standard:

> Appellate review of a weight claim is a review of the exercise of discretion, not of the underlying question of whether the verdict is against the weight of the evidence. Because the trial judge has had the opportunity to hear and see the evidence presented, an appellate court will give the gravest consideration to the findings and reasons advanced by the trial judge when reviewing the trial court's determination that the verdict is against the weight of the evidence.

Id. at 753. For the same reasons that Appellant is not entitled to relief on her sufficiency and evidentiary claims, we conclude the trial court did not abuse its discretion in rejecting Appellant's weight claim.

Judgment of sentence affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 4/29/2025