

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
CUONG NAM LY	:	
	:	
Appellant	:	No. 1996 EDA 2025

Appeal from the Judgment of Sentence Entered March 21, 2025
In the Court of Common Pleas of Montgomery County Criminal Division
at No(s): CP-46-CR-0006549-2023

BEFORE: NICHOLS, J., McLAUGHLIN, J., and KING, J.

MEMORANDUM BY KING, J.:

FILED OCTOBER 16, 2026

Appellant, Cuong Nam Ly, appeals from the judgment of sentence entered in the Montgomery County Court of Common Pleas, following his bench trial convictions for dealing in proceeds of unlawful activities, theft by deception, receiving stolen property, and organized retail theft.¹ We affirm Appellant's convictions but vacate and remand for resentencing.

The trial court set forth the relevant facts and procedural history of this matter as follows:

In September of 2022, Gerald D'Angelo, a corporate investigator for Home Depot, received a call from Upper Moreland Township Police Department Detective Vincent Small regarding a retail theft case he was investigating for Lowe's that the detective believed may also involve Home Depot. Running an American Express credit card number provided by the detective, Mr. D'Angelo found numerous

¹ 18 Pa.C.S.A. §§ 5111(a)(1), 3922(a)(1), 3925(a), and 3929.3(a), respectively.

online and in-store purchases followed by returns and refunds for an amount greater than the original purchase. As his investigation continued, Mr. D'Angelo discovered a second card from MasterCard used for Home Depot purchases and returns. Both cards were in the name of Cuong Ly. Mr. D'Angelo meticulously gathered transaction receipts, store videos and photographs, and visited Home Depot locations to view the returned merchandise when time permitted. Online purchases from homedepot.com were addressed and shipped to Appellant at an address on North 12th Street in Philadelphia.

Law enforcement in Upper Moreland Township had first been notified of a potential retail theft organization operating in the tri-state area by Lowe's in July of 2022. Detective Small obtained a search warrant for Appellant's American Express credit card records in September of 2022. The detective obtained a similar search warrant for Appellant's Mastercard credit card records in November of 2022. A PennDOT driver's license search resulted in the discovery of Appellant's license bearing the same residence address as that of his credit cards and the address where Home Depot online orders were being shipped.

Detective Small and Montgomery County Detective Rick Beaghley, together with other law enforcement officers, began a joint investigation in November of 2022. They met with Mr. D'Angelo who provided them with his findings. Additionally, surveillance video from Home Depot captured images of Appellant, as well as his brother Chung Ly, charged as a co-defendant, and others arriving or departing in Appellant's 2011 white Dodge pickup truck from various Home Depot stores after fraudulently returning various items. Appellant is observed in the driver's seat of that truck in some of the photos. The Dodge pickup truck was registered to Appellant at the same address as the two credit cards on North 12th Street in Philadelphia.

In addition, the detectives investigated a Facebook Marketplace account in Appellant's name that listed sales postings including various tools, power tools, batteries, and jump starter kits, advertised as new.

On June 16, 2023, law enforcement executed search

warrants on two (2) residences in Philadelphia, one previously noted on North 12th Street and a second nearby on North Front Street, also in Philadelphia. Evidence admitted at trial shows Appellant entering and exiting both of these residences on multiple occasions. Recovered items from the searches include, among others: jump starters, batteries, battery chargers, numerous tools, circular saws, fans, grinders, sanders, bit and drill sets, a jack, printable labels, a label maker, an HP printer, iPads, and iPhones. Mr. D'Angelo accompanied law enforcement during the execution of the search warrants and documented several tools and other goods that are sold at Home Depot located inside of both houses.

Further, law enforcement recovered approximately \$90,000[.00] in United States currency from the address on Front Street in Philadelphia. Specifically, a Tupperware container containing approximately \$50,000.00, or the bulk of the recovered cash, was located in Appellant's basement bedroom at the Front Street residence. Law enforcement also located the majority of the batteries and the DeWalt products in the basement where Appellant resided. Some of those products, including the Vector chargers, recovered from the basement had fake UPC barcode stickers on them.

(Trial Court Opinion, 10/2/25, at 1-5) (internal citations to the record omitted).

Following an investigation, the Commonwealth charged Appellant with over 300 offenses. Additionally, the Commonwealth charged Appellant's brother and co-defendant, Chung Ly, in connection with the case.² The Commonwealth alleged Appellant was the leader of a corrupt organization, purchasing merchandise from Home Depot's online website using one of two credit cards in his name. The goods would be shipped to Appellant's address.

² Chung Ly has also separately appealed his judgment of sentence, which is docketed at 26 EDA 2026.

With the assistance of others in the organization, Appellant placed fake UPC barcode stickers on the goods, then returned them for a refund at a higher price than the value of the returned merchandise, with all amounts refunded to his credit cards. Sometimes Appellant returned the goods in person and sometimes he waited in the driver's seat of his truck while another person returned the goods.

The matter proceeded to a two-day bench trial on August 12, 2024. At trial, the Commonwealth presented the testimony of Mr. D'Angelo, as well as the testimony of Detectives James Carbo, James Reape, Vincent Small, and Richard Beaghly.

On November 4, 2024, the court convicted Appellant of 63 counts each of the following charges: dealing in proceeds of unlawful activities, theft by deception, receiving stolen property, and organized retail theft. The court acquitted Appellant of corrupt organizations and retail theft-altered label. On March 14, 2025, the court sentenced Appellant; the court subsequently amended the sentence on March 21, 2025, to an aggregate term of 11½ to 23 months of incarceration, plus a period of probation.³ Appellant timely filed a post-sentence motion, which the court denied on June 26, 2025.

Appellant timely filed a notice of appeal on July 23, 2025.⁴ On July 28,

³ We discuss the original and amended sentences in greater detail *infra*.

⁴ Appellant incorrectly appealed from the March 14, 2025 judgment of sentence; however, where the trial court amends the judgment of sentence (*Footnote Continued Next Page*)

2025, the court ordered Appellant to file a Pa.R.A.P. 1925(b) statement of errors complained of on appeal. Following an extension of time, Appellant timely filed his statement on August 27, 2025.

On appeal, Appellant raises the following issue for review:

Given that Conspiracy was not charged in the above matter, was the evidence insufficient to establish the offenses of Dealing in Proceeds of Unlawful Activities (Intent to Promote Stolen Property (F3), and Organized Retail Theft (F3) relating to the following refund/return transactions: 9/2/22 (Roosevelt Blvd. Home Depot), 9/7/22 (Willow Grove Home Depot), 10/2/22 (Willow Grove Home Depot), 10/2/22 (Warrington Home Depot), 10/2/22 (Upper Darby Home Depot), 10/5/22 (Cheltenham Home Depot), 10/5/22 (Montgomeryville Home Depot), 10/6/22 (Montgomeryville Home Depot), 10/7/22 (Cheltenham Home Depot), 11/4/22 (Roosevelt Blvd. Home Depot), 11/4/22 (Bensalem Home Depot), 11/4/22 (Neshaminy Home Depot), 11/7/22 (Bustleton Ave. Home Depot), 11/7/22 (Neshaminy Home Depot), 11/14/22 (E. Reading), 11/19/22 (Plymouth Twp. Home Depot), 11/19/22 (King of Prussia Home Depot), 11/19/22 (W. Norriton Home Depot), 12/6/22 (Plymouth Township Home Depot), 12/6/22 (King of Prussia Home Depot), 12/23/22 (Willow Grove Home Depot), 12/23/22 (Warrington Home Depot), 12/26/22 (King of Prussia Home Depot), 1/1/23 (Port Richmond Home Depot), 1/1/23 (Port Richmond Home Depot), 2/23/23 (Roosevelt Blvd. Home Depot), 2/24/23 (Plymouth Twp. Home Depot), 2/24/23 King of Prussia Home Depot), 3/11/23 (Plymouth Twp. Home Depot), 3/11/23 (King of Prussia Home Depot),

during the period it maintains jurisdiction pursuant to 42 Pa.C.S. § 5505, the direct appeal properly lies from the amended judgment of sentence. **See Commonwealth v. Garzone**, 993 A.2d 1245, 1254 n.6 (Pa.Super. 2010). **See also Commonwealth v. Shamberger**, 788 A.2d 408, 410 n.2 (Pa.Super. 2001) (*en banc*), *appeal denied*, 569 Pa. 681, 800 A.2d 932 (2002) (correcting caption when appellant misstated date from which appeal lies). As the trial court amended the judgment of sentence within the 30-day period, we have amended the caption to reflect that this appeal lies from the March 21, 2025 amended judgment of sentence.

3/20/23 (Plymouth Twp. Home Depot), 3/22/23 (King of Prussia Home Depot), 3/22/23 (W. Norriton Home Depot), 3/23/23 (Warrington Home Depot), 4/2/23 (Cheltenham Home Depot), 4/2/23 (Roosevelt Blvd. Home Depot), 4/4/23 (Port Richmond Home Depot), 4/4/23 (Roosevelt Blvd. Home Depot), 4/12/23 (Roosevelt Blvd. Home Depot), 4/12/23 (Port Richmond Home Depot), 4/21/23 (Montgomeryville Home Depot), 4/21/23 (Montgomeryville Home Depot), 5/15/23 (Roosevelt Blvd. Home Depot), 5/15/23 (Cheltenham Home Depot), 5/19/23 (Port Richmond Home Depot), 6/2/23 (Plymouth Twp. Home Depot), 6/2/23 (W. Norriton Home Depot), 6/2/23 (King of Prussia Home Depot), 6/2/23 (Lower Pottsgrove Home Depot), in that the Commonwealth failed to establish that [Appellant] was present for or even aware of any of these transactions or that [Appellant] in any way acted with an intent to promote or facilitate the transactions?

(Appellant's Brief at 3-4).

In Appellant's single issue on appeal, he challenges the sufficiency of the evidence to support his convictions. Initially, we note that Appellant does **not** challenge the sufficiency of the evidence concerning specific elements of the crimes for which he was convicted, nor does he provide any meaningful discussion of those elements. Rather, Appellant argues that although he was convicted of 63 counts of each separate offense, he was only present for 14 transactions. Appellant asserts that, while the evidence showed that the orders giving rise to each transaction were placed in Appellant's name, no evidence was adduced to prove that Appellant actually placed those orders, that Appellant was aware that the fraudulent UPC stickers were placed on the items, or that the items were returned. Appellant emphasizes that the Commonwealth did not charge him with conspiracy, meaning that Appellant could only be convicted of the remaining 49 counts of each offense under the

theory of accomplice liability. Finding the evidence lacking to support accomplice liability, Appellant concludes that the Commonwealth presented insufficient evidence to sustain the 49 counts for each of the offenses where he was not present. We disagree.

In reviewing a challenge to the sufficiency of the evidence, our standard of review 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) (quoting ***Commonwealth v. Franklin***, 69 A.3d 719, 722-23 (Pa.Super. 2013)).

Additionally:

[A] defendant, who was not a principal actor in committing the crime, may nevertheless be liable for the crime if he was an accomplice of a principal actor. **See** 18 Pa.C.S.[A.] § 306; **see also Commonwealth v. Bradley**, 481 Pa. 223, 392 A.2d 688, 690 (1978) (the actor and his accomplice share equal responsibility for commission of a criminal act). A person is deemed an accomplice of a principal if “with the intent of promoting or facilitating the commission of the offense, he: (i) solicit[ed the principal] to commit it; or (ii) aid[ed] or agree[d] or attempt[ed] to aid such other person in planning or committing it.” 18 Pa.C.S.[A.] § 306; **Commonwealth v. Spatz**, 552 Pa. 499, 716 A.2d 580, 585 (1998). Accordingly, two prongs must be satisfied for a defendant to be found guilty as an “accomplice.” **See Commonwealth v. Woodward**, [614 A.2d 239, 242 (Pa.Super.] 1992). First, there must be evidence that the defendant intended to aid or promote the underlying offense. **See id.** Second, there must be evidence that the defendant actively participated in the crime by soliciting, aiding, or agreeing to aid the principal. **See id.** While these two requirements may be established by circumstantial evidence, a defendant cannot be an accomplice simply based on evidence that he knew about the crime or was present at the crime scene. **See Commonwealth v. Wagaman**, [627 A.2d 735, 740 (Pa.Super.] 1993). There must be some additional evidence that the defendant intended to aid in the commission of the underlying crime, and then did or attempted to do so. **See id.** With regard to the amount of aid, it need not be substantial so long as it was offered to the principal to assist him in committing or attempting to commit the crime. **See Commonwealth v. Cox**, 546 Pa. 515, 686 A.2d 1279, 1286 (1997).

Commonwealth v. Murphy, 577 Pa. 275, 285-86, 844 A.2d 1228, 1234

(2004). In other words:

An actor and his accomplice share equal responsibility for the criminal act if the accomplice acts with the intent of promoting or facilitating the commission of an offense and agrees or aids or attempts to aid such other person in either

the planning or the commission of the offense. There is no minimum amount of assistance or contribution requirement, for it has long been established that intent of the parties is a consideration essential to establishing the crime of aiding and abetting a felony. Thus, even non-substantial assistance, if rendered with the intent of promoting or facilitating the crime, is sufficient to establish complicity. **Absence or presence at the scene and the participant's role in the complicity are not dispositive of whether accomplice liability exists.** Accomplice liability does not create a new or separate crime; it merely provides a basis of liability for a crime committed by another person.

Commonwealth v. Gross, 627 Pa. 383, 101 A.3d 28, 35 (2014) (cleaned up) (emphasis added). ***See also Commonwealth v. Ratliff***, 328 A.3d 1024, 1053-54 (Pa.Super. 2024) (holding sufficient evidence supported conviction for dealing in proceeds of unlawful activities where, although defendant had not conducted hand-to-hand transactions, he aided co-defendant and acted with intent of facilitating commission of offenses, where he had come up with idea for crime, selected firearms to be purchased, provided cash for transactions, carried most of firearms out of store, and ultimately kept firearms).

Regarding the specific offenses charged, the Pennsylvania Crimes Code provides in relevant part, as to dealing in proceeds of unlawful activities:

§ 5111. Dealing in proceeds of unlawful activities

(a) Offense defined.--A person commits a felony of the first degree if the person conducts a financial transaction under any of the following circumstances:

- (1) With knowledge that the property involved, including stolen or illegally obtained property, represents the proceeds of unlawful activity, the person acts with the

intent to promote the carrying on of the unlawful activity[.]

18 Pa.C.S.A. § 5111. Additionally,

Section 5111(f) defines “financial transaction” as “a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments. The term includes any exchange of stolen or illegally obtained property for financial compensation or personal gain.” **Id.** The same subsection defines “unlawful activity” as “any activity graded a misdemeanor of the first degree or higher under Federal or State law.” **Id.** “Section 5111 thus presents explicit language which clearly defines unlawful activity as any felony or first degree misdemeanor, and targets the dealing in proceeds derived from any of those various illegal activities.” **Commonwealth v. Barnhart**, 722 A.2d 1093, 1096 (Pa.Super. 1998).

Commonwealth v. Hill, 210 A.3d 1104, 1112-13 (Pa.Super. 2019), *appeal denied*, 656 Pa. 345, 220 A.3d 1066 (2019).

Regarding theft by deception, the Pennsylvania Crimes Code provides, in relevant part:

§ 3922. Theft by deception

(a) Offense defined.--A person is guilty of theft if he intentionally obtains or withholds property of another by deception. A person deceives if he intentionally:

(1) creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; but deception as to a person’s intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise[.]

18 Pa.C.S.A. § 3922. In general, “the Commonwealth must demonstrate the presence of a false impression and that the victim relied on that impression.”

Commonwealth v. Thomas, 684 A.2d 1085, 1086 (Pa.Super. 1996). This

Court has explained that criminal intent may be “inferred from acts or conduct or the attendant circumstances.” ***Commonwealth v. Grife***, 664 A.2d 116, 122 (Pa.Super. 1995), *appeal denied*, 544 Pa. 654, 676 A.2d 1196 (1996).

Regarding receiving stolen property, the Pennsylvania Crimes Code provides:

§ 3925. Receiving stolen property

(a) Offense defined.--A person is guilty of theft if he intentionally receives, retains, or disposes of movable property of another knowing that it has been stolen, or believing that it has probably been stolen, unless the property is received, retained, or disposed with intent to restore it to the owner.

(b) Definition.--As used in this section the word “**receiving**” means acquiring possession, control or title, or lending on the security of the property.

18 Pa.C.S.A. § 3925.

Finally, regarding organized retail theft, the Crimes Code provides:

§ 3929.3. Organized retail theft

(a) Offense defined.--A person commits organized retail theft if the person organizes, coordinates, controls, supervises, finances or manages any of the activities of an organized retail theft enterprise.

18 Pa.C.S.A. § 3929.3.

Instantly, as noted, ***supra***, Appellant does not provide any discussion of the elements of each crime, instead arguing that he was not present during the commission of certain crimes and had no knowledge of the fact that fraudulent stickers had been utilized in returns, or even that items were

returned. The trial court examined the evidence and concluded that the Commonwealth proved Appellant was engaged in a scheme in which Appellant ordered less expensive tools and other equipment using credit cards in his name, had them shipped to his address, and following the return of the items with fraudulent UPC stickers, had the higher dollar amount refunded to his credit cards. The court noted that although Appellant was not present for all of the incidents, sufficient circumstantial evidence established Appellant's participation in the ongoing fraudulent scheme.

The record supports the trial court's determination. Specifically, Mr. D'Angelo's investigation revealed that numerous transactions were made with two credit cards bearing Appellant's name. (**See** N.T. Trial, 8/12/24, at 20). Over 600 transactions were made from September 2022 to June 2023 using those cards. (**Id.** at 21-22). During his investigation, Mr. D'Angelo downloaded and collected surveillance video for each return transaction, as well as receipts, and the surveillance video featured both Appellant and his brother, separately and together. (**Id.** at 23-52). The transactions made with those cards were shipped, in Appellant's name, to 4831 N. 12th Street, Philadelphia, Pennsylvania. (**Id.**) Mr. D'Angelo described the return transactions, many of which were made by either one of the brothers, but some of which were made by both Appellant and Chung Ly. (**Id.** at 30-61). Mr. D'Angelo also described the Home Depot merchandise recovered from Appellant's home, and the abnormal UPC stickers placed on the merchandise. (**Id.** at 64-73).

Detective James Carbo was present at the execution of the search warrant at 5824 Front Street, where almost \$90,000.00 was recovered. (**See id.** at 106). Detective James Reape described the search warrant conducted at 4831 North 12th Street, Philadelphia, Pennsylvania, and at 5824 North Front Street, Philadelphia, Pennsylvania. (**Id.** at 114-124). Officers recovered evidence, including cash, various tool materials, shipping boxes, receipts, a pricing list for various materials being offered for sale, as well as a computer, from the foyer entry way and several second-floor rooms. (**Id.**) As well, officers recovered court paperwork addressed to Appellant at that address. (**Id.** at 121-22).

Detective Vincent Small testified regarding his involvement in the investigation, which began when he was advised by Mr. D'Angelo that a credit card in Appellant's name had been used to purchase \$10 drill bits and return them for a credit of approximately \$770. (**See** N.T. Trial, 8/13/24, at 11-12). He reviewed security footage of Appellant's brother making the return, as well as Appellant accompanying his brother in the store. (**Id.** at 12).

Detective Small applied for a search warrant to American Express to examine Appellant's account records. (**See id.**) The customer information listed on the account was Appellant's name, with his address as 481 North 12th Street in Philadelphia, Pennsylvania. (**Id.** at 14). While examining the transactions, Detective Small noticed "an abnormal" amount of credits. (**See id.** at 14-15). As well, Detective Small obtained a search warrant for MasterCard account records in Appellant's name and address, which were

processed through Barclay's Bank of Delaware. (***Id.*** at 16-17). These records also reflected an abnormal amount of credits. (***Id.*** at 18). While examining the transaction histories, Detective Small and Mr. D'Angelo were able to match the transactions with incident dates and surveillance footage. (***Id.*** at 19-20).

Additionally, Detective Small obtained a search warrant for Appellant's Facebook account and discovered that he had joined a number of groups for buying and selling tools on Facebook marketplace. (***See id*** at 26-29). In those groups, Appellant posted images of DeWalt tools for sale and exchanged messages with other Facebook members about selling the tools, with the items and money to be exchanged at 101 East Olney Avenue with "his partner." (***Id.*** at 30-34).

Detective Small described the surveillance he conducted in the investigation. (***See id.*** at 21). He surveilled the 12th Street address but did not see anything. (***Id.***) Detective Small then surveilled the Front Street address and observed the same white Dodge pickup truck that had been seen on Home Depot footage. (***Id.*** at 22). The vehicle was registered to Appellant at the 12th Street address. (***Id.*** at 23). As well, Detective Small observed Chung Ly exit the Front Street address and get into another pickup truck. (***Id.***) Shortly thereafter, Appellant exited the Front Street address, carrying a box, and got into the Dodge pickup truck. (***Id.***) Detective Small followed him on his path, which led back to the 12th Street residence, where Appellant went inside. (***Id.*** at 24). On another day, Detective Small observed both brothers coming in and out of the Front Street location. (***Id.*** at 25). On that

day, Appellant left the house carrying a DeWalt box. (***Id.***). Detective Small observed Appellant drive the box to 101 East Olney Avenue, where he appeared to sell the box to an unidentified male.⁵ (***Id.***). Finally, Detective Small was present for the execution of the search warrants at both 12th and Front Streets. (***Id.*** at 24).

Detective Richard Beaghley also described his involvement in the investigation and the examination of Appellant's Facebook account activity, which involved numerous sales postings for brand new tools. (***See id.*** at 56-57). The sales were for pickup at 101 East Olney Avenue. (***Id.*** at 61). Detective Beaghley, using a fake account, arranged the purchase of one of the tools. (***Id.*** at 63-65). Detective James Carbo made the buy, from Chung Ly. (***Id.*** at 66).

Detective Beaghley was also present for the execution of the search warrant at 5824 North Front Street. (***See id.*** at 68). He described DeWalt tools, tool bags, and jump starter boxes recovered from the basement and front living room, DeWalt batteries recovered from a bedroom, and power tools and battery chargers from an additional front bedroom. (***Id.*** at 69-70). From a dresser in the basement area bedroom, officers recovered a pill bottle in Appellant's name and approximately \$50,000 in cash. (***Id.*** at 71, 97). From the bedroom in which Chung Ly was located, police recovered a DeWalt

⁵ At an earlier date, Detective James Carbo made an undercover purchase, arranged through Facebook messages, from Chung Ly at the same Olney Avenue address. (***See*** N.T. Trial, 8/12/24, at 101-105).

fan, cellular phone, driver's license, and medical marijuana cards. (*Id.* at 72-78). As well, detectives recovered from the Front Street address several packages from Home Depot, addressed to Appellant at 4831 North 12th Street, as well as credit cards in Appellant's name, large amounts of United States currency, and label makers and stickers. (*Id.* at 73-75, 83). All of the products recovered had fake UPC code stickers on them. (*Id.* at 103).

Appellant relies largely upon ***Commonwealth v. Chambers***, 647 Pa. 92, 188 A.3d 400 (2018) to support his argument that he could not be convicted under the accomplice liability theory because the record was devoid of evidence that he placed the orders or was aware the orders had been made. In that case, Chambers was standing on the street next to a Jeep, talking to individuals inside. ***See Chambers, supra*** at 97, 188 A.3d at 403. Chambers began to argue with the victim and a fistfight ensued. ***See id.*** at 96-98, 188 A.3d at 403-04. Chambers pinned the victim to the ground and began to strike his ribs and midsection and, at that time, a woman got out of the Jeep and sprayed mace in the victim's face. ***Id.*** at 97-98, 188 A.3d at 403-04. Chambers was subsequently convicted of aggravated assault with a deadly weapon (mace). ***Id.*** at 103-04, 188 A.3d at 407.

This Court affirmed Chambers' judgment of sentence under the theory of accomplice liability, but the Supreme Court reversed, finding that there was a dearth of evidence demonstrating that Chambers had any agreement with the woman, or that he had aided or attempted to aid the woman. ***See id.*** at 115-117, 188 A.3d at 415. Our High Court determined that there was no

indication that Chambers knew she was going to join the fight, had mace, or would use mace, nor was there any evidence that Chambers had assisted her in deploying the mace. **See id.** Rather, the record established only that Chambers held the victim to the ground to continue his own assault, but not to facilitate the woman's aggravated assault. **Id.**

Chambers is easily distinguishable from the instant case. Unlike **Chambers**, where there was insufficient evidence to establish that Chambers had any idea that the woman he was with would deploy the use of mace, there was ample evidence establishing Appellant's awareness of and intimate involvement with the scheme. Items used in the scheme were recovered from two residences linked to Appellant by numerous pieces of evidence, as well as large amounts of currency. Appellant's name was on the credit cards used to make the purchases and the purchases were shipped to his address, and he was caught on camera either making the returns himself or accompanying his brother to the store while he made the return. Appellant and his brother both had equal access to the 12th and Front Street residences. Label makers and sticker paper were recovered from the residences, and the boxes recovered bore fake UPC stickers. As well, Appellant sent messages from his personal Facebook account, coordinating additional sales of fraudulently purchased items.

On this record, the evidence was sufficient to find Appellant guilty of all of the offenses for which he was convicted, even where he was not physically present to conduct the return, under the theory of accomplice liability. **See**

Ratliff, supra. The record established that Appellant was the mastermind behind the scheme, and that in addition to personally making some of the fraudulent returns, he had provided the means and opportunity to purchase the merchandise being returned, and that his own residence and bedroom contained proof of items recovered from the stores as well as items bearing fake UPCs and a large amount of cash, indicating both his awareness of and aid given when committing the crimes. **See Spotz, supra; Ratliff, supra.** Viewing the evidence in the light most favorable to the Commonwealth as the verdict winner, there was sufficient direct and circumstantial evidence of Appellant's direct involvement, or involvement as an accomplice, to sustain his convictions. **See Murphy, supra.**

Although the issue that Appellant presents on appeal merits no relief, our review of the record calls into question the validity of Appellant's amended sentence. This Court has explained:

The legality of a criminal sentence is non-waivable, and this Court may raise and review an illegal sentence *sua sponte*. Because the legality of a sentence presents a pure question of a law, our scope of review is plenary, and our standard of review is *de novo*. If no statutory authorization exists for a particular sentence, that sentence is illegal and must be vacated.

Commonwealth v. Derrickson, 242 A.3d 667, 673 (Pa.Super. 2020) (quoting **Commonwealth v. Pi Delta Psi, Inc.**, 211 A.3d 875, 889-90 (Pa.Super. 2019)).

In **Commonwealth v. Mumford**, 353 A.3d 247 (Pa.Super. 2026), this

Court recently held that a sentence is illegal where it is amended outside of the defendant's presence. **See id.** at 261-62. Here, the court amended Appellant's sentence on March 21, 2025. Although the amended sentencing order checks the box indicating that the sentence was amended "orally in open Court on the record," the record itself does not confirm whether Appellant was present for this amendment. (**See** Amended Sentencing Order, 3/21/25). Further complicating matters, there appears to be a discrepancy in the original and amended sentencing orders.

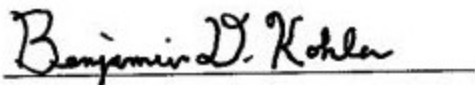
Specifically, the court originally imposed an aggregate term of incarceration of 11½ to 23 months, with a consecutive 8-year probationary tail, at the majority of the counts. As well, the court imposed "separate" but concurrent 10-year term of probation for **counts 258 to 321**. (**See** N.T. Sentencing, 3/14/25, at 43-45). The original written sentencing order is consistent with the court's oral remarks at sentencing. (**See** Sentencing Order, 3/14/25).

The amended sentencing order, however, reads "the sentence on **Counts 258 through Counts 267**, graded as Felonies of the Third degree is Seven (7) years probation, concurrent to Counts 66 through 129 and Counts 130 through 193[.]" (**See** Amended Sentencing Order, 3/21/25) (emphasis added). Aside from this change, the amended sentencing order left the original sentencing order intact. (**See id.**) Thus, it appears that the amended sentencing order reduced the term of probation at Counts 258 through Counts 267, but the court did not alter the original "separate" ten-year probationary

term originally imposed at Counts 268 through 321. Neither the amended sentencing order nor the court's Rule 1925(a) opinion explains the rationale of the court's amended sentencing. Further, the parties appear to dispute the length of the probationary term imposed. (**See** Appellant's Brief at 34) (referencing aggregate eight-year probationary term). (**Compare** Commonwealth's Brief at 4) (referencing eight-year probationary term plus separate ten-year probationary term imposed at sentencing). In light of these issues, the best resolution is to vacate and remand for resentencing such that the court can clarify its amended sentence. The court shall do so in Appellant's presence. **See Mumford, supra.**⁶

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

Judgment Entered.

A handwritten signature in black ink that reads "Benjamin D. Kohler". The signature is written in a cursive style and is positioned above a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 10/16/2026

⁶ We recognize that in **Mumford**, this Court deemed the amended sentence illegal where the trial court had **added** a term of reentry supervision to the appellant's sentence outside of the appellant's presence. In this case, the court appears to have reduced Appellant's sentence, at least at some counts, concerning the probationary tail imposed. Given the sentencing discrepancies described above, however, resentencing is appropriate, even if this sentence is not illegal under **Mumford**, to clarify the sentence imposed.